

Exhibit 607

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

Case No. 7:34-CV-00897

IN RE:)
CAMP LEJEUNE WATER LITIGATION)
-----)

V I D E O D E P O S I T I O N
o f

DAMIAN LABER, M.D.,
taken on behalf of Defendants

DATE: July 9, 2025

TIME: 9:21 a.m. to 5:37 p.m.

PLACE: Veritext
201 East Kennedy Boulevard
Suite 712
Tampa, Florida 33602
BEFORE: Dawn A. Hillier, RMR, CRR
Stenographic Reporter
Notary Public - State of
Florida, at Large

JOB NO: 7360161

1 APPEARANCES:

2
3 ON BEHALF OF THE PLAINTIFFS AND WITNESS:

4 ROBIN GREENWALD, ESQUIRE
WEITZ & LUXENBERG
5 700 Broadway
New York, New York 10003
6 (212) 558-5500
rgreenwald@weitzlux.com

7 - and -

8 DIANA GJONAJ, ESQUIRE (via Zoom)
9 WEITZ & LUXENBERG
Fisher Building
10 3011 West Grand Blvd., 24th Floor
Detroit, Michigan 48202
11 (313) 800-4170
dgjonaj@weitzlux.com

12 - and -

13 PATRICK TELAN, ESQUIRE (via Zoom)
14 BELL LEGAL GROUP
Raleigh, NC Office
15 751 Corporate Center Drive, Suite 300
Raleigh, North Carolina 27607
16 (919) 277-9299
ptelan@bellllegalgroup.com

17
18 ON BEHALF OF THE DEFENDANTS:

19 DAVID ORTIZ, ESQUIRE
20 MARCUS TUBIN, ESQUIRE
U.S. DEPARTMENT OF JUSTICE
21 Civil Division, Environmental Torts Litigation
1100 L Street, N.W.
22 Washington, D.C. 20005
(202) 616-8367
23 david.ortiz@usdoj.gov
marcus.tubin@usdoj.gov

24 ALSO PRESENT:

25 Erik Nelson, videographer

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REPORTER'S KEY TO PUNCTUATION:

-- At end of question or answer references
interruption.

... References a trail-off by the speaker.

No testimony omitted.

"Uh-huh" "Um-hum" References affirmative sound.

"Huh-uh" "Um-um" References negative sound.

CERTIFIED STENOGRAPHER'S NOTE: All quotations from
exhibits are reflected in the manner in which they
were read into the record and do not necessarily
denote an exact quote from the document.

1 VIDEOGRAPHER: Good morning. We are now
2 on the record. My name's Erik Nelson and I'm a
3 videographer for Golkow, a Veritext division.
4 Today's date is July 9th, 2025 and the time is
5 9:21 a.m.

6 This is -- this video deposition is being
7 held in Tampa, Florida in the matter of, In Re,
8 Camp Lejeune Water Litigation for the United
9 States District Court for the Eastern District
10 of North Carolina.

11 The deponent is Damian Laber, M.D., FACP.

12 Will counsel please identify themselves
13 for the record?

14 MS. GREENWALD: Robin Greenwald for the
15 plaintiffs.

16 MR. ORTIZ: And David Ortiz and Marcus
17 Tubin for the United States.

18 VIDEOGRAPHER: The court reporter is Dawn
19 Hillier and will now swear in the witness.

20 DAMIAN LABER, M.D.,
21 was called as a witness and, having first been duly
22 sworn, was examined and testified as follows:

23 THE WITNESS: Yes, I do.

24 CERTIFIED STENOGRAPHER: Thank you.

25 EXAMINATION

1 BY MR. ORTIZ:

2 Q All right, Dr. Laber. Can you please
3 state your full name for the record?

4 A Damian Abel Laber.

5 Q And we met off the record, but my name is
6 David Ortiz. I'm an attorney with the Department of
7 Justice, and along with my colleague, Mr. Tubin, we
8 represent the United States in the Camp Lejeune
9 water litigation.

10 I know you've been deposed before and know
11 the rules so I won't -- I'll just briefly hit the
12 high points and then we'll move on.

13 You understand that you're under oath and
14 you're required to answer all my questions
15 truthfully and completely as if you were testifying
16 in court before a judge or jury. If you don't
17 understand a question, just ask me to repeat it or
18 rephrase it and I'll be happy to do so. And I'll
19 assume you understood my question if you don't ask
20 me to do that.

21 We can take a break at any time you like.
22 I just ask that you answer any pending question.
23 Does all that sound good to you?

24 A Yes.

25 Q Okay. And is there any reason you're

1 aware of that we can't proceed today? Any
2 medications or anything that would prevent you from
3 understanding my questions?

4 A No.

5 Q Okay. Did you bring anything to this
6 deposition?

7 A I have a backpack with my usual things.

8 Q Okay. Nothing pertinent to this
9 litigation in there?

10 A I don't think so.

11 Q Okay. I'm going to hand you what's been
12 marked as Laber Exhibit 1.

13 (Exhibit 1 was marked.)

14 BY MR. ORTIZ:

15 Q Do you recognize Laber Exhibit 1 as a copy
16 of a first amended notice of deposition and subpoena
17 that was served on June 10th of 2025?

18 A Yes, I do.

19 Q Have you ever seen this document before?

20 A Yes.

21 Q Okay. And I'm going to hand you what's
22 been marked as Laber Exhibit 2.

23 (Exhibit 2 was marked.)

24 BY MR. ORTIZ:

25 Q And do you recognize Laber Exhibit 2 as a

1 copy of Plaintiff's Objections and Responses to
2 Defendant's First Amended Notice of Videotaped
3 Deposition of Dr. Damian Laber?

4 A Yes.

5 Q And have you seen that document before?

6 A I think I have. I don't remember the
7 details, but...

8 Q Okay. You can put those aside. We'll
9 come back to those later on.

10 And I'm just going to continue with
11 handing you some exhibits. But here's Laber
12 Exhibit 3.

13 (Exhibit 3 was marked.)

14 BY MR. ORTIZ:

15 Q And do you recognize Laber Exhibit 3 as a
16 copy of your report in the case of Robert Fiolek
17 versus United States of America?

18 A Yes, I do.

19 Q Okay. And just for the record, this copy
20 omits the CV, fee schedule, and list of cases that
21 you originally had appended to it. But you prepared
22 and signed this report; correct?

23 A Yes, I did.

24 Q And it's dated February 7th of 2025;
25 correct?

1 A Yes.

2 Q And it contains a complete statement of
3 your opinions in the Fiolek case?

4 A As far as I thought at that moment. But
5 if something else comes up, because I don't know
6 what questions you're going to ask me.

7 Q Do you have any -- any new opinions since
8 the date of this report that --

9 A Not that I can think of.

10 Q Okay. And I should have said at the
11 beginning, for the court reporter's sake, I'll try
12 not to talk over you if you try not to talk over me,
13 but I can't promise that I won't do it to you, so...

14 But no problem.

15 So just to be clear, you have no new
16 opinions that you presently hold since the date of
17 this report; is that correct?

18 A Not that I can think of at this moment.

19 Q Okay. And does Laber Exhibit 3 contain
20 all the bases and reasons for your opinions in the
21 Fiolek case?

22 A As far as of the things that I thought
23 when I prepared it.

24 Q Okay. And same answer as before. Do you
25 have any -- any present -- anything new presently in

1 your mind?

2 A No.

3 Q Okay. I'm going to hand you what's been
4 marked as Laber Exhibit 4.

5 (Exhibit 4 was marked.)

6 BY MR. ORTIZ:

7 Q And do you recognize Laber Exhibit 4 as a
8 copy of your report in the case of Joseph Gleesing
9 vs. United States of America?

10 A Yes, I do.

11 Q And you prepared and signed this report;
12 correct?

13 A Yes, I did.

14 Q And it's also dated February 7th of 2025;
15 correct?

16 A Yes.

17 Q And does it also contain a complete
18 statement of your opinions in the Gleesing case?

19 A Same answer. As far as I can think of,
20 unless you ask me something different or something
21 else come up.

22 Q Okay. And it also contains all the bases
23 and reasons for your opinions in the Gleesing case?

24 A Everything I thought about that time, yes,
25 I included in the report.

1 Q Okay. And Laber Exhibit 3 and 4 are the
2 only reports that you've prepared in this
3 litigation; correct?

4 A As far as I remember, yes.

5 Q Okay. Did anyone assist you in preparing
6 your reports?

7 A It depends on what you call "assist."
8 I've had many meetings with the attorneys and we
9 were discussing the findings.

10 MS. GREENWALD: Just one thing. You're
11 not supposed to discuss any conversations with
12 attorneys, but you can say that you
13 discussed -- you had discussions with attorneys
14 but nothing -- no content.

15 THE WITNESS: I got you.

16 So I had discussions with the attorneys
17 when I was making this report.

18 BY MR. ORTIZ:

19 Q Did anyone who was not an attorney assist
20 you in preparing these reports?

21 A I don't know what their qualifications
22 were, you know, the people that were in some
23 meetings. Maybe there was an assistant or things
24 like that, but I don't remember anybody that is not
25 an attorney.

1 Q Okay. But no assistance from your
2 clinical practice or anybody like that?

3 A Not from my side.

4 Q Okay.

5 A My side, it was only me.

6 Q Okay. And both reports contain a list of
7 materials that you considered in forming your
8 opinions in the reports?

9 A Yes.

10 Q And we'll discuss them later. But are you
11 aware that counsel served Supplemental Materials
12 Considered list on July 3rd of 2025?

13 A I don't know exactly when they served and
14 the communications that the attorneys had with you,
15 but they told me that they shared with you
16 everything I have.

17 Q Okay. And did you review all the
18 documents that are cited in these reports yourself?

19 A Yes. Whatever I cited, I reviewed.

20 Q And did you review any summaries of any
21 documents?

22 A I don't remember whether there were
23 summaries or not, but in general, I usually ask for
24 the full documents.

25 Q Okay. How did you get those documents

1 that are cited in those reports?

2 A Some of them I actually find them myself,
3 some of them, they were provided by the attorneys.

4 Q Is it fair to say that plaintiff-specific
5 documents were provided by the attorneys?

6 A What do you mean plaintiff-specific?

7 Q Sure. So there are medical records and
8 military records of Mr. Gleesing and Mr. Fiolek that
9 are cited in these reports; correct?

10 A Yes. They are provided by the attorneys.
11 I did not contact any healthcare facility to request
12 documents or anything like that.

13 Q Okay. And then there's scientific
14 materials that are also cited in these reports;
15 correct?

16 A Yes.

17 Q And some of those you found on your own?

18 MS. GREENWALD: Objection, form.

19 THE WITNESS: I think I did but I don't
20 remember exactly how I actually came up with
21 that.

22 I remember when we started, before I -- or
23 when I was taking the case, I did look at the
24 literature that I could find on my own.

25 BY MR. ORTIZ:

1 Q Okay.

2 A So independently tried to look at that. I
3 don't want to be influenced by one or the other.

4 Q Okay. Were there any documents you
5 requested but did not receive?

6 A Not that I remember.

7 Q And you are an oncologist and
8 hematologist; correct?

9 A Yes.

10 Q You're not an attorney; correct?

11 A Correct.

12 Q You're not an epidemiologist; correct?

13 A Correct.

14 Q You're not a toxicologist; correct?

15 A Correct.

16 Q You're not an exposure scientist; correct?

17 A Yes.

18 Q That's --

19 A Correct. Correct.

20 Q -- correct how I said it?

21 A Correct. Yes. I was trying to change the
22 word but I'll keep it the same.

23 Q That's totally fine. Happens all the
24 time.

25 You've never published any peer-reviewed

1 literature on the effects of TCE on leukemia;
2 correct?

3 A As far as I can remember. But, you know,
4 many times I help with publications but I don't
5 remember basically focusing on that.

6 Q As you sit here, do you specifically
7 recall any publications that discuss TCE?

8 A The only thing I can recall is many, many
9 years ago, I wrote the review article in kidney
10 cancer. And I think I included many of the risk
11 factors and many of these exposures were included.

12 Q Okay. And was that review article solely
13 focused on kidney cancer?

14 A I think so but sometimes when you -- when
15 you write a review article, you might cite other
16 cancers and things like that, so...

17 Q Do you remember what year it was
18 published?

19 A Not exactly but I suspect it was somewhere
20 between 2003 and 2010, something like that.

21 Q Was that a peer-reviewed document?

22 A Yes.

23 Q Do you remember the title?

24 A It was not perfectly right but it was
25 something like etiology and diagnoses of renal cell

1 carcinoma or something like that, somewhere in those
2 lines.

3 Q And would it be listed in your CV, I
4 assume?

5 A Yes.

6 Q Okay. And for the record, TCE is
7 trichlorethylene; correct?

8 A Yes.

9 Q And if I refer to it as TCE today, you'll
10 understand what I'm referring to?

11 A Yes.

12 Q Have you ever published any peer-reviewed
13 literature on the effects of PCE on leukemia?

14 A Not that I can recall.

15 Q And for the record, PCE is
16 perchloroethylene or tetrachloroethylene; correct?

17 A Yes.

18 Q And if I refer to that chemical as PCE
19 today, you'll understand what I'm referring to?

20 A Yes.

21 Q And you've never published any
22 peer-reviewed literature on the effects of benzene
23 on leukemia; is that correct?

24 A Not that I can recall.

25 Q Have you ever examined Plaintiff Robert J.

1 Fiolek?

2 A No.

3 Q Have you ever met him?

4 A No.

5 Q Have you ever examined Plaintiff Joseph M.
6 Gleesing?

7 A No.

8 Q Have you ever met him?

9 A No.

10 Q Okay. If you would please turn to page
11 three of Laber Exhibit 3, your Fiolek report. Just
12 let me know when you're there.

13 A I'm there.

14 Q And there's a section entitled
15 methodology; correct?

16 A Yes.

17 Q And you state that you used a differential
18 etiology analysis; correct?

19 A Yes.

20 Q And you described that methodology as the
21 following: "Differential etiology is a standard
22 scientific technique used to identify those
23 contributing factors to the development of a disease
24 by eliminating potential causes until the most
25 probable ones are isolated."

1 Did I read that correctly?

2 A Yes, you did.

3 Q And if you turn, please, to page three of
4 Laber Exhibit 4.

5 A I'm there.

6 Q And do you see that the same language that
7 I just read appears there as well?

8 A Yes.

9 Q And so is it fair to say that you used the
10 same methodology in both reports?

11 A Yeah. I think it's fair.

12 Q Okay. And is that a methodology that you
13 use in your clinical practice as an oncologist and
14 hematologist?

15 A No.

16 Q Okay. And Mr. Fiolek and Mr. Gleesing
17 both have chronic lymphocytic leukemia; correct?

18 A Yes.

19 Q And that is often referred to as CLL;
20 correct?

21 A Yes.

22 Q If I refer to it as CLL, you'll understand
23 what I'm referring to today?

24 A Yes.

25 Q And you understand that both of them have

1 alleged claims against the United States seeking
2 money damages based on the allegations that they
3 were exposed to TCE, PCE, and benzene while they
4 were at Camp Lejeune and that those chemicals or
5 those exposures caused their CLL; correct?

6 A That's my understanding, yes.

7 Q And TCE, PCE, and benzene are all
8 chemicals that are called volatile organic compounds
9 or VOCs; correct?

10 A Yes.

11 Q Have you ever studied VOCs?

12 A Yes.

13 Q Okay. Tell me about that.

14 A When I was in medical school many years
15 ago.

16 Q What did you learn about them?

17 A I don't remember all the details on that.
18 There were many industries. And they are used in
19 many industries. And they can cause health harms
20 and some of them are related to these cancer
21 exposures.

22 I also learned that in the history of
23 humanity, many industrial problems caused by these,
24 like factories polluting, you know, the water.

25 I also remember many years ago we were

1 starting the incidence of different cancers in
2 different locations. I think this was in the state
3 of Kentucky. And then we -- we could actually map
4 areas that where you have factories polluting the
5 area. And there were more incidences of cancers.
6 And I think that has been a theme in many locations,
7 not in one, but I don't remember much more of the
8 specifics.

9 Q Okay. Have you studied them at all since
10 medical school?

11 A Like, when we were looking at the
12 locations of different cancers, that was after
13 medical school.

14 Q Okay. When you refer -- when you say
15 "when we were looking at the locations of different
16 cancers," what are you referring to there?

17 A Many years ago when I was in Kentucky, I
18 think we published a paper on the incidence of lung
19 cancer on different -- I think we started by county.
20 And then we were looking at location of different
21 industries.

22 I was not the lead investigator on that.
23 I was just helping. So I don't remember all the
24 details on that.

25 Q And would that article or publication be

1 listed on your CV as well?

2 A Yes. There was one article that I
3 participate in more, and I list it. There were
4 other publications that are probably not listed
5 because I did not contribute enough to be listed.

6 Q Okay. Okay. And have you ever diagnosed
7 a patient with leukemia caused by a VOC?

8 A I'm sure I have but I usually don't look
9 at the details on the cause of the leukemia. I'm
10 more involved on the management, once they get the
11 diagnosis, and the treatments and so forth.

12 Q And before this litigation, have you ever
13 been retained as an expert in a case involving VOCs?

14 A I don't think so. I don't recall anything
15 like that.

16 Q Have you ever diagnosed a patient with
17 leukemia caused by Agent Orange?

18 A I am sure, yes. I have many people that
19 were exposed in Vietnam. And I took care of them.

20 Q Going back to that language in Laber
21 Exhibit 3 that I read aloud, do you recall that
22 language that I read aloud from your report?

23 A Yes, I do.

24 Q Where did you get that language from?

25 A I think it was --

1 MS. GREENWALD: Objection, form.

2 Go on.

3 THE WITNESS: I don't remember exactly but
4 I think it was just when I write, I am sure I
5 am influenced by everything I have read in the
6 past.

7 But I don't recall basically pulling a
8 particular reference and all that. So
9 sometimes when you write, say, if there is
10 something that is a disagreement, then I'm
11 happy to correct it. But I don't remember
12 quoting anybody.

13 BY MR. ORTIZ:

14 Q Okay. Do you recall reviewing any legal
15 cases before writing these reports?

16 A Reviewing -- what do you mean reviewing
17 other legal cases?

18 Q Sure. Do you recall reviewing any
19 opinions by any federal courts before writing these
20 reports?

21 A Regarding this case, before I wrote this
22 report, I reviewed everything, all the materials I
23 received. So some included reports, like you
24 mentioned, that might be there, but a particular
25 one, I don't remember.

1 Q Okay. What is CLL?

2 A Chronic lymphocytic leukemia.

3 Q And what kind of disease is it?

4 A It's considered a cancer of the blood.

5 Q Is it sometimes classified as leukemia and
6 sometimes as a Non-Hodgkin's lymphoma?

7 A Yes. There is an equal disease. People
8 think it's identical, it's the same. It's either
9 CLL or SLL.

10 Q And it's really the same disease?

11 A It's the same disease. One is called
12 small lymphocytic lymphoma, which would be a
13 lymphoma. The other one is chronic lymphocytic
14 leukemia.

15 Q And are you aware that the World Health
16 Organization recently reclassified CLL as a subtype
17 of Non-Hodgkin's lymphoma or NHL?

18 A Yeah. That's what I meant. So -- so the
19 classifications constantly keep being updated as we
20 get more information. And then people argue whether
21 to classify it under one or the other.

22 Q Do you consider the World Health
23 Organization's reclassification to be a reliable
24 authority about CLL?

25 A I think it's one of them. You know, we --

1 we don't -- there are many classifications and
2 different groups consider one or the other.

3 Q Would you agree that the etiology or cause
4 of CLL is unknown?

5 MS. GREENWALD: Object to the form.

6 BY MR. ORTIZ:

7 Q You can go ahead and answer.

8 A It really depends on what you call unknown
9 or -- or not. I think we're still trying to figure
10 out the exact cause. And if you mean the exact
11 final cause, yes. We don't know exactly why that
12 happened but we do believe there is an interaction
13 of many factors causing some genetic mutations that
14 caused the cancer.

15 Q I'm going to hand you what I will mark as
16 Laber Exhibit 5.

17 (Exhibit 5 was marked.)

18 BY MR. ORTIZ:

19 Q And have you ever seen this document
20 before, sir?

21 A Not exactly the way you are showing it to
22 me.

23 Q Does it -- do you recognize it as excerpts
24 from the WHO Classification of Tumours, 5th Edition?

25 A That's what it looks like.

1 Q Okay. And if you would turn to the fourth
2 page of the document. And at the bottom, it says
3 page 369. And just let me know when you're there.

4 A Did you say page 369 or --

5 Q Correct. Correct.

6 A Okay. I got it right now.

7 Q Okay. And do you see on the left-hand
8 column, there's a section that says Etiology and it
9 reads "The etiology is unknown"?

10 A Yes.

11 Q And did I read that correctly?

12 A You did.

13 Q Okay. And a cancer with an unknown cause
14 is considered to be idiopathic; correct?

15 A That's the definition of idiopathic, yeah.
16 It's the same thing.

17 Q Can you tell me what percentage of CLL
18 cases are idiopathic?

19 A It really depends on how you want to use
20 that word or that definition.

21 Scientists, we keep questioning our
22 findings. So even if we see something or we believe
23 there is something caused by that, we might still
24 say that we don't know the final answer so it's just
25 a -- we can spend many days talking about that. I

1 don't think I can just simplify this, as you just
2 did.

3 Q Can you give me a numerical percentage
4 between 0 and 100 percent as to what percentage of
5 cases is, CLL cases are idiopathic?

6 MS. GREENWALD: Objection, form. Asked
7 and answered.

8 THE WITNESS: I think it depends on how
9 you use that definition, how do you say
10 something is idiopathic or not.

11 So far, if we believe we don't know the
12 cause, the final cause, then everybody will be.
13 But if we start thinking, well, we think we
14 know the cause, the cause is genetic mutations,
15 then all of them, we know the cause. So it's
16 just how we interpret those definition of was
17 the cause known or unknown, and which one is
18 the cause.

19 BY MR. ORTIZ:

20 Q Can you tell me what percentage of CLL
21 cases have an identifiable cause?

22 MS. GREENWALD: Objection, form.

23 THE WITNESS: I think I just explained it.
24 I'm sorry that it looks a little bit redundant.
25 But it really depends on the people that you

1 believe you know the cause or you don't know
2 the cause.

3 BY MR. ORTIZ:

4 Q But as you sit here, you can't tell me a
5 numerical percentage of cases in which there's an
6 identifiable cause?

7 A I don't think I have looked at that
8 question.

9 Q Okay. Fair enough.
10 And in your clinical practice, you treat
11 patients with CLL; is that correct?

12 A Yes.

13 Q What percentage of your overall -- well,
14 let me ask you this first: You also treat other
15 patients with cancer; correct?

16 A Yes, I do.

17 Q Okay. What percentage of your overall
18 cases are CLL cases?

19 A I haven't even quantified that.

20 Q Do you have a ballpark?

21 A No, I do not. I don't want to -- since
22 I'm under oath, I really want to make sure my
23 answers are...

24 Q Okay. Understood.

25 Has the number remained the same over the

1 years or has it changed, just generally speaking?

2 A No. I haven't practiced the same one year
3 to the next. It completely changes. It also
4 changes according to the needs of the institution
5 that I work for.

6 Q Okay. And when you treat patients with
7 CLL, do they ever ask you what the cause or causes
8 of their CLL might be?

9 A I don't remember the last patient have
10 ever asked me that. I think the only times that
11 something that I have come up if it was like a clear
12 exposure. I do believe -- you know, you ask me
13 about Agent Orange and people that have been in
14 Vietnam and things, yeah, those peoples, usually
15 they ask.

16 Q Okay.

17 A But I don't remember the regular
18 population asking me.

19 And maybe if I get somebody that has a
20 family member that have the same disease.

21 Q Okay. Have you ever told a patient the
22 cause of causes of CLL are unknown or idiopathic?

23 A I don't remember having a discussion like
24 that.

25 Q Okay. And what kind of questions do you

1 typically ask a new patient with CLL during an
2 initial consultation?

3 A That would be too extensive for today but
4 we go through the whole medical history and
5 everything that includes on that.

6 Q Do you ask them if they've ever been
7 exposed to Agent Orange?

8 A I don't think we asked that particular
9 question. We might ask if they think they've been
10 exposed or what kind of profession they have or
11 things like that, as general questions. I don't
12 remember specifically asking for one or the other,
13 unless they tell me. Usually those people that have
14 been exposed, they know, they work in a certain
15 industry or something like that.

16 Q Would it be fair to say that you don't ask
17 specifically if they've been exposed to TCE, PCE, or
18 benzene?

19 A I think that's fair. I don't ask
20 specifically that question.

21 Q Can you tell me in what percentage of your
22 CLL cases have you been able to identify a cause?

23 MS. GREENWALD: Objection, form, asked and
24 answered.

25 THE WITNESS: Yeah. I think we went

1 through that. It really depends on how do you
2 define the cause and all that, so...

3 BY MR. ORTIZ:

4 Q Right. So, before, I was asking
5 generally. But in your clinical practice, is there
6 a percentage where you've been able to identify a
7 cause?

8 MS. GREENWALD: Same objection.

9 BY MR. ORTIZ:

10 Q You can answer.

11 A I think that's the same question as
12 before, whether -- whether -- but I don't look at
13 that question.

14 Q Okay. Have you ever published any
15 peer-reviewed articles or studies about CLL?

16 A I don't know if it was only about CLL but
17 it might have been included on studies that we did
18 for more than CLL or something like that.

19 Q Okay. But you don't recall a publication
20 specifically about CLL, as you sit here?

21 A No, I do not.

22 Q Okay. Can you turn to page four of -- I
23 guess we can stick with your Fiolek report.

24 A Okay.

25 Q And let me know when you're there.

1 A You say page four? Is that --

2 Q Correct, sir.

3 A I'm there now. Thank you.

4 Q And you have a section there that's
5 entitled Standard in this Case; correct?

6 A Yes.

7 Q And that's the same section -- the same
8 section appears in your Gleesing report as well?

9 A I think the format was similar, yes.

10 Q Okay. And you quote from the Camp Lejeune
11 Justice Act of 2022; correct?

12 A Yes.

13 Q And specifically, you quote the language,
14 "at least as likely as not"; is that correct?

15 A Yes.

16 Q And you state that you define the phrase
17 "at least as likely as not" to mean a 50 percent or
18 more likelihood based on your training and
19 experience; is that correct?

20 A I don't know if I defined it. Yes.
21 Actually, I say that. Isn't it -- I have it right
22 here. "I have defined 'at least as likely as not'
23 to mean a 50 percent or greater likelihood that the
24 Camp Lejeune water contaminants caused the patient's
25 disease at issue."

1 Q Okay. Do you agree that "as likely as
2 not" is a legal standard?

3 A I do, yes.

4 Q Okay. Have you ever offered any opinions
5 in another case under the "as likely as not"
6 standard?

7 A I don't remember that. Most of the time
8 is more likely than not.

9 Q And you agree that that is also a legal
10 standard?

11 A Yes.

12 Q And would you agree that that means more
13 than 50 percent?

14 A That's my interpretation. And that's what
15 the legal scholars that I talked to told me.

16 Q Okay. And given that those are legal
17 standards, those aren't standards that you use in
18 your clinical practice as an oncologist and
19 hematologist; is that correct?

20 A I don't think I use any of that in my
21 clinical practice.

22 Q Okay. Have you ever heard about -- heard
23 the term "equipoise"?

24 A Yes.

25 Q And what's your understanding of that

1 term?

2 A That is equal.

3 Q Have you ever seen a scientific study or
4 publication use that term?

5 A I probably have because I read a lot but I
6 cannot recall a particular one.

7 Q You can't identify a specific one as you
8 sit here?

9 A Not as I sit here.

10 Q And then you state in section four, in --
11 "In the event the differential etiology analysis
12 results in more than one potential cause of the
13 disease, and I am unable to conclude which of the
14 factors is the most likely cause, I would express my
15 opinion that each factor is as likely as not
16 causally related to the disease."

17 Did I read that correctly, sir?

18 A Yes, you did.

19 Q Have you ever applied that principle in
20 any other case in which you were an expert?

21 A I don't recall, no.

22 Q Is that a principle that you only apply in
23 this case in light of the "as likely as not"
24 standard?

25 MS. GREENWALD: Objection, form.

1 BY MR. ORTIZ:

2 Q You can go ahead and answer.

3 A I think my understanding is in this case
4 that was the requirement, to be at least as likely
5 as not. And that's why we use those terminologies.

6 Q Would you agree with the statement that if
7 you're going to claim that something is the cause of
8 something else, you'd have to have some proof of it?

9 MS. GREENWALD: Objection, form.

10 THE WITNESS: That's a general statement,
11 but sounds reasonable.

12 BY MR. ORTIZ:

13 Q Would you agree with the statement that
14 people can theorize so much, and that means
15 absolutely nothing?

16 MS. GREENWALD: Objection, form.

17 THE WITNESS: I cannot really agree or
18 disagree to these general statements. I think
19 they have to have a place and it depends on the
20 context on how we use those statements.

21 BY MR. ORTIZ:

22 Q Do you recall giving those statements in a
23 prior deposition?

24 A I might have but it really depends on the
25 context. I think things that you take out of

1 context don't reflect basically the true thinking.

2 Q I'm going to show you what will be marked
3 as Laber Exhibit 6, sir.

4 (Exhibit 6 was marked.)

5 BY MR. ORTIZ:

6 Q There you go.

7 A Thank you.

8 Q Do you recognize this as a copy of a
9 transcript of a deposition you gave on November 14th
10 of 2023 in the case of Sim Rice, Jr., vs. George D.
11 Munday, M.D., et al., 28CV-21-341?

12 A Well, you mentioned so many things that I
13 don't really recall at all, but I see this copy that
14 state this is a deposition.

15 Q Okay. And you recognize your name on the
16 first page?

17 A Yes, I do.

18 Q Do you remember being retained as an
19 expert in this case?

20 A I don't remember the specifics.

21 Q Okay. And were you retained on behalf of
22 the plaintiff in that case? Do you recall?

23 A Again, I don't remember the specifics but
24 I'm sure you can see that on the deposition
25 somewhere.

1 Q And you were under oath and answered all
2 your -- all the questions put to you truthfully?

3 A Yes.

4 Q And the attorney for the party retaining
5 you was present during the deposition; correct?

6 A I don't remember if they were present or
7 electronically or...

8 Q Okay.

9 A Or maybe another attorney was present and
10 things like that.

11 Q Can you turn to page 22, please?

12 Let me know when you're there.

13 A I'm there now. Thank you.

14 Q I'm going to read from line 10.

15 Question: In doing your own literature
16 review, did you come across any additional
17 peer-reviewed literature that references a
18 theory that heparin can cause priapism?

19 Answer: I was not looking for theories.
20 I was looking for just proofs. People can
21 theorize so much and that means absolutely
22 nothing.

23 Did I read that correctly, sir?

24 A Yes, you did.

25 Q Okay. If you'd turn, please, to page 23.

1 I'm going to read from line 19.

2 Question: So in medicine and research,
3 are there often rare conditions that are
4 reported only through case reports because they
5 are so rare and the difficulty in being able to
6 run studies to prove or disprove the theories?

7 Answer: In general, things can be
8 reported for many different reasons. But if
9 you're going to claim that something is the
10 cause of that, then you have to have some proof
11 of that.

12 Did I read that correctly, sir?

13 A Yes.

14 Q And that was your testimony in that case?

15 A Yes.

16 Q And is it fair to say then in that case
17 you were insisting on having proof of causation for
18 a medical condition?

19 MS. GREENWALD: Objection, form.

20 THE WITNESS: No, I don't think that's
21 fair to say. I think that was just a general
22 question asked before we started talking about
23 the case.

24 BY MR. ORTIZ:

25 Q Okay. Now, in Laber exhibit -- I'm

1 turning back to your report, Laber Exhibit 3, you
2 opined that Mr. Fiolek had substantial exposure to
3 contaminants at Camp Lejeune; is that correct?

4 A Let me go back. Tell me, where are you
5 looking at?

6 Q If you turn to page 16, sir.

7 A Page 16 of the Fiolek report or the
8 Gleesing?

9 Q That's correct.

10 A Okay. I'm there. Tell me which part you
11 want me to look at.

12 Q Do you see the sentence above Section 9,
13 Analysis and Opinions. And it reads "Given that he
14 lived and worked on base and was exposed nearly
15 daily to the VOCs, Mr. Fiolek would have had
16 substantial exposure during his time stationed at
17 Camp Lejeune."

18 Did I read that correctly?

19 A Yes, you did.

20 Q And you give the same opinion on page 16
21 of Laber Exhibit 4, your report in the Gleesing
22 case; is that correct?

23 A I don't know. Let me look.

24 Q Sure. No problem.

25 A There's a good chance that that would be

1 the case, yes.

2 Yes. I see a similar sentence, yes.

3 Q And you don't define substantial exposure
4 in either report; correct?

5 A Correct.

6 Q And you don't quantify substantial
7 exposure in either report; correct?

8 A Correct.

9 Q Can you tell me when exposure is not
10 substantial?

11 A No, I cannot.

12 Q Did you independently calculate the amount
13 of TCE, PCE, or benzene to which Mr. Fiolek was
14 allegedly exposed at Camp Lejeune?

15 A No, I have not.

16 Q Did you independently calculate the amount
17 of TCE, PCE, or benzene to which Mr. Gleesing was
18 allegedly exposed at Camp Lejeune?

19 A No, I have not.

20 Q And you reviewed some military records for
21 both plaintiffs; correct?

22 A Military records, I don't think I've
23 reviewed personally.

24 Q Okay. And can you tell me a little bit
25 more about that?

1 A I don't know what you want to know.

2 Q Well, you say you didn't review them
3 personally; correct?

4 A Yeah. I don't think I have access to
5 military records.

6 Q Okay. Did somebody else review them and
7 prepare summaries for you?

8 A I think what I read was listed on the
9 medical records, depositions, things that I was able
10 to review but I don't know if I had access to
11 military records.

12 Q Can you turn to page 14 of your Fiolek
13 report, please?

14 A Okay.

15 Q And you see the section that begins
16 "Robert Fiolek Exposure History" and there are
17 various footnotes throughout that section.

18 Do you see that?

19 A You said -- I think I might be in the
20 wrong document. Can you point me again to which
21 one?

22 Q Sure. Page 14 of your Fiolek report,
23 Laber Exhibit 3.

24 A Let me see which one is which. This is
25 Gleesing.

1 Okay.

2 Q And you see the section that begins
3 "Robert Fiolek Exposure Summary"?

4 A Yes.

5 Q Did you write this section?

6 A Yes.

7 Q And you see there are various footnotes
8 throughout this section?

9 A Yes.

10 Q And those footnotes cite to records that
11 are -- the Bates numbers are 0062_FIOLEK_NARA?

12 A Yes.

13 Q And then there are various numbers?

14 A Yes.

15 Q Did you personally review those documents?

16 A I think I did but I also had some help
17 with all these footnotes because I'm not really so
18 versed on the records that are not medical records.
19 But I am very versed in medical records.

20 Q Okay. When you say you had some help with
21 the footnotes, what do you mean?

22 A I think I might have asked one of the
23 attorneys to help me out, locate exactly where those
24 documentations were.

25 Q Have you ever reviewed military records

1 before?

2 A Not that I can recall.

3 Q Is it your understanding that the entirety
4 of Camp Lejeune was contaminated during the entire
5 time that Mr. Fiolek and Mr. Gleesing was there?

6 A I think followed whatever it says on the
7 toxicology report from the US Department -- what is
8 it? The AT --

9 Q ATSDR?

10 A That's right.

11 Q Agency for Toxic Substances and Disease
12 Registry?

13 A Yeah. I just relied on what they say. I
14 don't have a personal opinion on that.

15 Q Okay. And so you're aware that certain
16 areas at Camp Lejeune such as Montford Point or Camp
17 Geiger were not contaminated?

18 A I don't trust what you say but I will
19 follow what the ATSDR report says.

20 Q You'd defer to ATSDR about which areas
21 were contaminated and when?

22 A Yes, I do.

23 Q Okay.

24 A Because -- not that I don't trust you,
25 it's that you might make a mistake also, same as --

1 that's just normally human.

2 Q It has happened.

3 A Yes.

4 Q Do you rely on the exposure calculations
5 of Dr. Kelly Reynolds?

6 A I do, yes.

7 Q And are you aware that Dr. Reynolds used
8 cumulative total mass in units of total micrograms
9 as an exposure metric in her report?

10 MS. GREENWALD: Objection, form.

11 Go ahead.

12 THE WITNESS: I apologize. I'm not going
13 to get into the details of that. If I have the
14 report in front of me and you want to show me,
15 I'm happy to agree with the citation. Not from
16 my memory.

17 BY MR. ORTIZ:

18 Q Okay. Dr. Laber, I'm going to put before
19 you Laber Exhibit 7, I believe.

20 (Exhibit 7 was marked.)

21 BY MR. ORTIZ:

22 Q Do you recognize this document, sir?

23 A I have two documents, isn't it, you just
24 gave me?

25 Q It's one document. Did I give you two on

1 accident?

2 A Okay. Yeah. You gave me two. Thank you.

3 Q Thank you. Can you take a look at that
4 document and tell me whether you recognize it,
5 please?

6 A Appendix 13, Robert J. Fiolek, leukemia.
7 Summed variables. These are a list of different
8 tables.

9 Q And is that the -- do you recognize it as
10 the appendix containing Dr. Reynolds' calculations
11 for Mr. Fiolek?

12 A It doesn't say anything on that. It just
13 says "summed variable." So I'm not going to trust
14 my memory. But if you tell me that's the case, I'll
15 trust that you're telling me correctly.

16 Q Do you recall -- let me ask you this: You
17 reviewed Dr. Reynolds' report; correct?

18 A Yes, I did.

19 Q And do you recall that there were 25
20 appendices following her report, one for each of the
21 25 Bellwether plaintiffs in this litigation?

22 A No, I do not recall --

23 Q Okay.

24 A -- exactly how many tables or how many
25 appendices there were there, but if I had it, I did

1 review the report.

2 Q Okay. And is it fair to say that you did
3 not review the report in detail?

4 MS. GREENWALD: Objection, form.

5 THE WITNESS: No. That's unfair. When I
6 review a report, I usually look at details.

7 BY MR. ORTIZ:

8 Q Okay. And if you turn to the first page,
9 please.

10 A Of the Appendix 13?

11 Q It's the second page.

12 Yes, please.

13 A Okay.

14 Q You see there are four columns?

15 A Yes.

16 Q And the first column --

17 A Actually, five columns.

18 Q Five columns. And you see the first
19 column, something at the top says cumulative?

20 A That would be the second column, yes.

21 Q Says cumulative micrograms per liter per
22 month; correct?

23 A Well, I don't know what this says. This
24 says ug/lm.

25 Q Do you know what that stands for?

1 A No, I do not --

2 Q Okay.

3 A -- because it doesn't specify it here.

4 Q Okay. And then the next column, it says
5 cumulative consumption, total ug.

6 Do you see that?

7 A Yes, I do.

8 Q Do you know what that stands for?

9 A No, I do not.

10 Q And would the answer be the same for the
11 next two columns?

12 A Yes. Usually when you write it there, we
13 have to specify what you mean with all those.

14 Q And what's your understanding of
15 Dr. Reynolds' methodology?

16 A My understanding, it was appropriate for
17 the field that she studied.

18 Q Okay. But do you understand how she
19 performed those calculations?

20 A I do understand but I don't remember the
21 details. If I have it in front of me, I have an
22 understanding of the methodology and the things that
23 people do, scientifically in general, but I cannot
24 recall because you have too many status and too many
25 files to review for this.

1 Q Okay. Are you aware that Dr. Reynolds
2 calculated the cumulative exposure dose for
3 Mr. Fiolek and Mr. Gleesing?

4 A Yes. I am aware.

5 Q And what is exposure dose?

6 A You can ask her. I'm relying on her
7 findings.

8 But my understanding is how much of these
9 chemicals the people were exposed. And you said
10 over a period of time?

11 Q And do you know what the concept of
12 absorbed dose is?

13 A I do, yes.

14 Q What is it?

15 A Basically the estimate of how much of the
16 exposed agent was absorbed in the body.

17 Q And that's different from exposure dose;
18 is that correct?

19 A One is exposure, one is absorption.

20 Q Okay. And Dr. Reynolds calculated
21 exposure, not absorption?

22 A If you show me the paper. I'm not going
23 to trust my memory because...

24 I think she probably calculated all of
25 them, but we can look it up together if you want to.

1 Q Okay. And are you aware that Dr. Reynolds
2 has been deposed in this litigation?

3 A I think she was but I don't remember
4 reading a deposition on her.

5 Q So you did not review a transcript of her
6 deposition; is that correct?

7 A I don't think I have.

8 Q Okay. And so if she testified that she
9 did not calculate absorbed dose, would you defer to
10 her testimony?

11 A I don't know. I would have do review it.
12 I'm not going to defer to things that I haven't
13 seen.

14 Q Fair enough.

15 Would you agree that you're assuming that
16 Dr. Reynolds' methodology was reliable?

17 MS. GREENWALD: Objection, form.

18 BY MR. ORTIZ:

19 Q You can answer.

20 A Really reliable depending on what? What
21 do you mean with that?

22 I think -- you know, you have to define
23 those words when we go scientifically.

24 Q Would you agree that you lack the
25 expertise -- well, strike that.

1 Do you know what a maximum contaminant
2 level or MCL for a chemical is?

3 A No, I do not.

4 Q Okay. Do you know who sets the maximum
5 contaminant levels for chemicals?

6 A No, I do not.

7 Q Are you aware that there are very few
8 actual samples of water from Camp Lejeune from the
9 1980s?

10 MS. GREENWALD: Objection, form.

11 THE WITNESS: Again, that's a relative
12 term, depending on what you mean with that.

13 BY MR. ORTIZ:

14 Q Are you aware that there are no samples of
15 water from Camp Lejeune from before the 1980s?

16 MS. GREENWALD: Objection, form.

17 THE WITNESS: I don't think I have looked
18 at that so I'm not aware or not aware. I
19 haven't looked at that.

20 BY MR. ORTIZ:

21 Q Okay. And you're aware, though, as you
22 mentioned earlier, that ATSDR has modeled levels of
23 TCE, PCE, and benzene at some areas of Camp Lejeune;
24 correct?

25 A Yes.

1 Q And are you aware that they did that, in
2 part, because there were no samples from before the
3 1980s?

4 MS. GREENWALD: Objection, form.

5 THE WITNESS: I don't remember looking at
6 that particular question so I don't think I can
7 answer that.

8 MR. ORTIZ: Okay. We can go off the
9 record real quick.

10 VIDEOGRAPHER: We're going off the record
11 at 10:07.

12 (A brief recess is had from 10:07 a.m. to
13 10:16 a.m.)

14 VIDEOGRAPHER: We're back on the record at
15 10:16.

16 BY MR. ORTIZ:

17 Q Dr. Laber, could you please look at Laber
18 Exhibit 7?

19 A Yes.

20 Q And turning to the second page after the
21 cover page. Is it -- that page, sir, that you were
22 on.

23 A Okay.

24 Q The first page. Do you understand what
25 these numbers on this chart mean?

1 A I don't have the references but I do
2 believe I have an understanding of what they're
3 trying to show.

4 Q And what is that understanding?

5 A They're trying to show the -- it seems
6 like the exposure by some unit measurement over
7 time --

8 Q Okay.

9 A -- for the different agents.

10 Q And apologies if I --

11 A No.

12 Q -- started speaking before you there.

13 A I actually paused there, so...

14 Q And if you turn, please, to -- I believe
15 it's the sixth page. It will say Appendix 14,
16 Joseph Mark Gleesing, leukemia.

17 A You're -- you're referring to whatever it
18 says the page number on top or...

19 Q No. I believe it's --

20 A Oh, the Appendix 14?

21 Q Yes.

22 A The next one?

23 Q Correct.

24 A I have. Yes.

25 Q And could you turn to the next page,

1 please?

2 A Yes.

3 Q And do you have an understanding of what
4 these numbers mean?

5 A Again, same answer. There are no
6 quotation of references in this table. But I do
7 believe it's similar to the other one.

8 Q Your answer would be the same as to the
9 Appendix 13 concerning Mr. Fiolek?

10 A Yeah. It would be similar. So it says
11 cumulative consumption and is some form of
12 measurement over time exposure.

13 Q And if you --

14 A I don't have methodology of this table or
15 anything like that.

16 Q Can you tell from this table how much TCE
17 Mr. Gleesing was exposed to?

18 A Again, since I don't have the references,
19 I wouldn't make any of the assumptions. But if
20 you're telling me that this is -- the exposure for
21 Mr. Gleesing over a certain period of time, that
22 might make sense, but I don't have the details of
23 what's the time and -- on everything else.

24 Q And would you give the same answer as to
25 the other three chemicals listed on here?

1 A Yes. I think there is no details on this
2 table. It's taken out of context so I cannot tell
3 for sure what it is.

4 Q Okay. And would you give the same answers
5 as to the table for Mr. Fiolek in Appendix 13?

6 A Let me see. Yeah. It looks like, again,
7 a table with no references and no context.

8 Q Okay. And do you see the letters VC?

9 A VC? Yes, I do see that.

10 Q Do you know what those refer to?

11 A I think it's vinyl chloride.

12 Q Would you agree that you do not express
13 any opinions about vinyl chloride in your reports?

14 A I don't think I talk about that, no.

15 Q Okay. Have you ever spoken to
16 Dr. Reynolds?

17 A I don't remember if I did. I don't think
18 I did.

19 Q Do you recall speaking to any other
20 experts retained by plaintiffs in this litigation?

21 A I don't recall as we speak, but I think
22 maybe somebody talked to me about the life
23 expectancy and things like that when they did some
24 calculations. Usually that's more of my part.

25 Q Okay.

1 A The prognosis of the cancer.

2 Q And do you recall which plaintiff that was
3 for?

4 A It should have been one of these two, one
5 of these two, but I don't remember the details.

6 Q Do you think it was likely Mr. Gleesing?

7 A I don't know. One of them looks like he's
8 still in remission for many, many years. The other
9 one was a little bit more difficult care, so it
10 probably was the more difficult one.

11 Q Okay. But as you sit here, you don't
12 recall who that expert was that you spoke to?

13 MS. GREENWALD: Objection. Objection,
14 form.

15 THE WITNESS: I don't remember exactly the
16 name on all that, but I do believe it was
17 somebody measuring life expectancy or damages
18 or things like that, you know, like what kind
19 of treatment they received, the cause, the side
20 effects, things like that.

21 BY MR. ORTIZ:

22 Q And do you recall, before the break, we
23 talked a little bit about exposure dose and absorbed
24 dose. Do you recall that?

25 A I remember we talk about that, yes.

1 Q And do you recall that you testified the
2 absorbed dose is the amount that's absorbed of some
3 sort of agent into the body; is that correct?

4 MS. GREENWALD: Objection, form.

5 THE WITNESS: Sorry. Can you repeat the
6 question?

7 BY MR. ORTIZ:

8 Q Well, let me just ask you. Can you state
9 again what your understanding of the phrase
10 "absorbed dose" is?

11 A Sure. It's how much of the agent that was
12 exposed gets absorbed into the body.

13 Q And would you agree that not all of an
14 agent, if someone's exposed to it, gets absorbed
15 into the body?

16 A I think it really depends on the agent.
17 Some might be absorbed. But I do expect not all of
18 it would be absorbed.

19 Q Would some be metabolized and some passed
20 out of the body; is that correct?

21 A Well, metabolized means it was absorbed.

22 Q Right. And some would be absorbed and
23 some would not be absorbed and would be passed out
24 of the body; is that correct?

25 A That would be reasonable, yes.

1 Q For TCE, do you know how much of it would
2 be metabolized?

3 A I don't think I looked at those questions.

4 Q Same for PCE?

5 A Same for PCE. I don't think I looked at
6 that.

7 Q And same for benzene?

8 A Same for benzene. Yeah. I don't think I
9 looked at that.

10 Q And in trying to understand the possible
11 health effects of exposure, do you think that it's
12 important to understand what the absorbed dose of
13 the chemical may be?

14 A Yes. I think it's important.

15 Q And why is that?

16 A Because you want to know how much of the
17 agent was absorbed into the body.

18 Q And have you ever heard of the phrase
19 "target organ specificity"?

20 A I might have heard about that but honestly
21 I don't know the particulars of that.

22 Q And for -- would you agree that for a
23 chemical to affect a particular organ, it needs to
24 reach that organ within the body; is that correct?

25 MS. GREENWALD: Objection, form.

1 THE WITNESS: No, not necessarily. You
2 can -- you can have indirect effects into the
3 organs. Maybe that agent doesn't get there but
4 a metabolite can, or maybe they cause damage to
5 other parts of the body, and then they're
6 affecting a third organ.

7 BY MR. ORTIZ:

8 Q Can you give me an example?

9 A Yeah. There are many medicines. There
10 are many drugs that we use that maybe the main drug
11 doesn't do anything, but the metabolites cause a lot
12 of complications.

13 Q Can you give me a specific example?

14 A Sure. There's a medicine called
15 capecitabine that we use for treatment of many of
16 the gastrointestinal cancers. That is basically a
17 prodrug.

18 And when it gets absorbed into the body,
19 that gets metabolized by the liver. And the
20 metabolites are the ones that can cause side effects
21 and can also attack the cancer cells.

22 Q And you referred before the break to the
23 water modeling that was done by ATSDR; is that
24 correct?

25 A Yes.

1 Q And you reviewed some of the documents
2 pertaining to the water modeling in preparing your
3 reports; is that correct?

4 A Yes.

5 Q And do you know what Hadnot Point is?

6 A It's a location within Camp Lejeune.

7 Q Okay. And do you know what Tarawa
8 Terrace?

9 A I think it's also another one. Either/or
10 or all around that. I think it was related to
11 either places where the Marines lived or trained.

12 Q Okay.

13 A But I don't know the specifics. I haven't
14 been to Camp Lejeune.

15 Q Okay. Fair enough.

16 A I don't know the layout of the base or
17 anything.

18 Q Okay. I'm going to hand you what's been
19 marked as Laber Exhibit 8.

20 (Exhibit 8 was marked.)

21 BY MR. ORTIZ:

22 Q And do you recognize this document, sir?

23 A Recognize as in what?

24 Q Have you ever seen it before?

25 A I might have seen it before but...

1 Q And does it appear to be Chapter A,
2 Summary and Findings of ATSDR's water modeling
3 pertaining to Hadnot Point and Holcomb Boulevard?

4 A Yes.

5 Q And for the record, this is excerpts from
6 the fuller report.

7 Do you recall reviewing this document in
8 preparing your reports?

9 A I did review the ATSDR full report.

10 Q Okay.

11 A Not just a summary.

12 Q Okay.

13 A So, you know, parts of it.

14 Since I'm under oath, again, I'm afraid of
15 giving you an incorrect answer saying that I haven't
16 seen it when I really did see it.

17 Q Sure. And I don't want that answer.

18 A When I see excerpts of that, so sorry for
19 that.

20 Q That's fine. Can you please turn to page
21 A162?

22 And it's near the back.

23 A You said?

24 Q A162.

25 A I don't have those kind of -- oh, here.

1 Q It's in the bottom left corner.

2 A On the left side. I'm sorry. Yeah.
3 Because some of them, they have a different
4 numbering.

5 Q Correct.

6 A The A is not on all of them. A162. Yeah.
7 The first part don't even have these A numbers. I
8 think it's at the bottom. Yeah. I got you. I'm
9 there now.

10 Q Okay. And would you agree that this table
11 sets out reconstructed monthly mean concentrations
12 in finished water for PCE, TCE, DCE, and vinyl
13 chloride at the Hadnot Point water treatment plant?

14 A You just read the title. Isn't it
15 Appendix A7 on that where it says reconstructed
16 (simulated) monthly mean concentrations in finished
17 water for all these agents.

18 Yeah, the table is concentrations in
19 finished water in micrograms per liter.

20 Q And this table includes the period
21 September 1964 through July of 1965; correct?

22 A It says January 1964 to December 1966.
23 And it continues on the next page.

24 Q Correct. I want to focus on this page.

25 A I got you.

1 So from this page, it's January 1964 to
2 December 1966.

3 Q Okay. And focusing on the September 1964
4 to July of 1965 time period, do you -- do you see
5 that ATSDR modeled PCE as 0 micrograms per liter?

6 A You said September 1964 to --

7 Q July 1964 to --

8 A July '64, then?

9 Q Excuse me. You were right. It's
10 September 1964 through July of 1965. Thank you.

11 A Thank you. I'm sorry that I need to.

12 Q That's fine.

13 A Okay. And your question was that the PC
14 was 0 in this table?

15 Q Correct. 0 micrograms per liter; is that
16 correct?

17 A That's what it says.

18 Q Okay. And would you agree that in water,
19 1 microgram per liter is equivalent to 1 part per
20 billion?

21 Are you aware of that?

22 A No. I haven't looked at that. I usually
23 don't use that in my practice, so --

24 Q Okay.

25 A -- I cannot answer truthfully on that.

1 Q Okay. So you're unsure about that
2 conversion?

3 A I have no opinions on that.

4 Q Okay. And just continuing to look at the
5 chart during the September 1964 to July of 1965 time
6 period, would you agree that a ATSDR modeled TCE as
7 between 19 and 26 micrograms per liter?

8 A There is only one month that is 19. And
9 you said it's one month that is 26. And then the
10 other ones are 21, 22, 23, 24, 25. That's what it
11 says in the table.

12 Q They all fall within 19 and 26 micrograms
13 per liter; correct?

14 A That's what I can see, yes.

15 Q And during that time, do you see benzene
16 all the way on the right-hand column?

17 A Yes.

18 Q And during that September 1964 to
19 July 1965 time period, ATSDR modeled benzene as
20 between 0 and 1 microgram per liter; is that
21 correct?

22 MS. GREENWALD: Objection to form.

23 THE WITNESS: It looks like only one month
24 was 0. All of the other months is 1.

25 BY MR. ORTIZ:

1 Q Okay. And would you agree that Mr. Fiolek
2 was at Hadnot Point generally from September 1964 to
3 July of 1965; correct?

4 A Are you talking about Fiolek?

5 Q Yes.

6 A I don't want to trust my memory. But I
7 have it in my report.

8 Q Okay. Well, let's turn to page 15 of your
9 Fiolek report, sir.

10 A Fifteen, yes.

11 Q And do you see that there's a chart on the
12 bottom half of the page?

13 A Yes.

14 Q And there are columns for work, residence,
15 start date, end date, and total days?

16 A Yes.

17 Q And do you see on the second row, it says
18 "Work, Hadnot Point; residence, barracks; start
19 date, September 4th, 1965; end date, October 1965;
20 days, 36."

21 Do you see that?

22 A Yes.

23 Q And do you see the next row is also at
24 Hadnot Point; is that correct?

25 A Yes.

1 Q And the next row is also at Hadnot Point;
2 is that correct?

3 A Yes.

4 Q But it says "Residence, off base"?

5 A Yes.

6 Q And that starts January 11th of 1965;
7 correct?

8 A Yes.

9 Q And the next row is Hadnot Point; correct?

10 A Yes.

11 Q And the residence is off base there as
12 well?

13 A Yes.

14 Q And the next row says "Hadnot Point";
15 correct?

16 A Yes.

17 Q And the residence is off base as well?

18 A Yes.

19 Q And the start date for that one is
20 July 25th, 1965 and the end date is August 2nd of
21 1965.

22 Do you see that?

23 A I do, yes.

24 Q Are you aware that Mr. Fiolek began
25 language school in Monterey, California on

1 August 3rd of 1965?

2 A I think I was aware. I don't remember the
3 details.

4 Q Okay. Would you agree that given that
5 Mr. Fiolek began language school in Monterey,
6 California on August 3rd of 1965, it's highly
7 unlikely that he was at Camp Lejeune, North Carolina
8 on August 2nd of 1965?

9 A I honestly can't answer that. I don't
10 know that. Sometimes the school, they -- like, my
11 work, they started on one day but I was not at the
12 location. I was at another location. So the school
13 might have started but he might have been in another
14 location.

15 Q And are you aware that Mr. Fiolek, during
16 the September 1964 to July 1965 time period would
17 have had some times where he was off base for leave
18 or deployments; is that correct?

19 MS. GREENWALD: Objection, form.

20 THE WITNESS: I don't know.

21 BY MR. ORTIZ:

22 Q You don't recall?

23 A I cannot answer that question because I
24 don't know whether he was stationed in one place and
25 stayed there all the days or he was ordered to go to

1 other locations and come back.

2 I don't know the details on that.

3 Q Would you agree that using what ATSDR
4 modeled in Laber Exhibit 8, Mr. Fiolek was exposed
5 to 26 micrograms per liter of TCE or less while he
6 was living or working at Hadnot Point during the
7 September 1964 to July of 1965 time period?

8 MS. GREENWALD: Objection, form.

9 THE WITNESS: No. I cannot agree with
10 that. I would just defer to the experts on
11 that on exposure.

12 BY MR. ORTIZ:

13 Q Would you defer to this table?

14 A This table gives you some of the
15 information. But you're not applying -- this table
16 doesn't tell you what any of these patients drank or
17 took or things like that.

18 Q Sure. This table's telling us the
19 finished water at the Hadnot Point water treatment
20 plant -- is that correct? -- the concentrations of
21 these chemicals at that location?

22 A That's what it looks like, yes.

23 Q So we don't have information about what
24 Mr. Fiolek might have drank in his house, the number
25 of cups of water he drank, number of cups of coffee,

1 things like that; correct?

2 A Depending on what you call "we don't have
3 information." We do have some information but I'm
4 not capable of quantifying exactly the amount of
5 water or the amount of exposure or things like that.

6 Q Okay.

7 A Because I didn't do those calculations.

8 Q Okay. And would you agree that using what
9 ATSDR modeled, Mr. Fiolek was exposed to one part or
10 1 microgram per liter or less of benzene while he
11 was living or working at Hadnot Point September of
12 1964 to July of 1965?

13 A I don't know the question. Did you ask me
14 a question?

15 Q I can repeat.

16 A Sorry about that.

17 Q That's fine.

18 Would you agree that using what ATSDR
19 modeled, Mr. Fiolek was exposed to 1 microgram per
20 liter or less of benzene while he was living or
21 working at Hadnot Point during the September 1965 to
22 July of 1965 time period?

23 MS. GREENWALD: Objection, form.

24 THE WITNESS: I honestly cannot agree or
25 disagree. I haven't done those calculations so

1 I have no -- I'm relying on the exposure
2 experts.

3 BY MR. ORTIZ:

4 Q And would that be Dr. Reynolds?

5 A I think she did a very detailed analysis.

6 Q Okay.

7 A And I quoted her analysis on my report.

8 Q Would you agree that using what ATSDR
9 modeled, Mr. Fiolek was not exposed to PCE while he
10 was living or working at Hadnot Point during the
11 September 1964 to July of 1965 time period?

12 A Again, I'm relying on the expert report
13 for that.

14 Q Okay.

15 A I haven't done those calculations myself.

16 Q And you've been an expert witness in prior
17 litigation; correct?

18 A Yes, I have.

19 Q Have you ever assessed somebody's exposure
20 to a chemical in any of those prior engagements?

21 A Not that I can recall.

22 Q Can you please turn to page A167 of Laber
23 Exhibit 8?

24 A Okay.

25 Q And this is a continuation of the same

1 chart that we were looking at; is that correct?

2 A Yes.

3 Q And it includes the time period of
4 January 1979 to August of 1981; correct?

5 A Yes. December 1981.

6 Q Correct. But it includes the time period
7 that I just specified?

8 A Yes, it does. It did.

9 Q Okay.

10 A It does.

11 Q And would you agree that during the
12 January 1979 to August 1981 time period, ATSDR in
13 this chart modeled PCE as 30 micrograms per liter or
14 less; is that correct?

15 A Let me go through all the lines.

16 Q That's fine. Take your time.

17 A Yeah. It looks that the highest number I
18 can find on these rows is 30.

19 Q Okay. And would you agree that during the
20 January 1979 to August 1981 time period in this
21 chart, ATSDR modeled benzene as between 0 and
22 9 micrograms per liter; is that correct?

23 MS. GREENWALD: Objection, form.

24 THE WITNESS: From all the rows I can see,
25 the maximum number is a 9, yes. And there's

1 one that is 0.

2 BY MR. ORTIZ:

3 Q Okay. And would you agree that during the
4 January 1979 to August 1981 time period in this
5 chart, ATSDR modeled TCE as between 71 and
6 631 micrograms per liter; correct?

7 A The highest number I can see, 631. The
8 lowest number --

9 Q Can I direct your attention to the number
10 for October 1979?

11 A Oh. October 1971 [sic] is 71. That's the
12 lowest I can find.

13 Q And so the answer --

14 A I hope I'm not making a mistake, so...

15 Q That's fine. So the answer to my question
16 is yes?

17 A If you say 71 as the lowest and 631 as the
18 highest, the answer is yes.

19 Q Thank you.

20 A I don't remember exactly. Sorry about
21 that.

22 Q And Mr. Gleesing worked at Hadnot Point
23 from January 1979 to August 1981; is that correct?

24 A Hadnot Point? I don't know. You just
25 confused me little bit. I don't want to give you

1 the wrong information.

2 Q Let me direct you to page 15 of Laber
3 Exhibit 4 --

4 A Yes.

5 Q -- which is your Gleesing report. Can you
6 please turn to that, sir?

7 A I have it now with me.

8 Q Are you looking at the Fiolek or the
9 Gleesing report?

10 A This is Fiolek. You want me Gleesing?

11 Q Yes, please.

12 A Sorry about that.

13 Q That's fine.

14 A You said page 15.

15 Q Correct. And let me know when you're
16 there.

17 A I am almost there.

18 I'm there now. Thank you.

19 Q And do you see the chart that's there?

20 A Yes, I do.

21 Q And is that the same numbers as what we
22 were just looking at on page A167 of Laber
23 Exhibit 8?

24 A So the numbers start January 25, 1979 and
25 end I think August 9, 1981, for this table.

1 Q Right. And so those would be the dates
2 that Mr. Gleesing was there?

3 A Yes.

4 Q And you see the columns for PCE, TCE,
5 vinyl chloride and benzene; correct?

6 A Yes.

7 Q And those numbers come from the chart on
8 page A167 of Laber Exhibit 8?

9 A What do you mean, come from?

10 Q They're the same numbers?

11 A The same numbers as what? Which numbers
12 are you talking about?

13 Q You see the top row where it says -- it
14 says PCE 12; TCE, 268; vinyl chloride, 16; and
15 benzene, 6.

16 Do you see that?

17 A I do.

18 Q Then if you look at the top row of
19 page A167, are you looking at that? Do you see it
20 says PCE, 12; TCE, 268; vinyl chloride, 16; and
21 benzene, 6; is that correct?

22 A As you can see on my report -- let me just
23 show you so we are on the same page. I don't want
24 to give you the wrong information.

25 So these, I think, were taken for the

1 appendices H1, J, and K of the expert report by
2 Morris L. Maslia dated October 25, 2024. So I
3 personally did not do this table and put those
4 numbers there. So I was relying on the other expert
5 report.

6 Q Okay.

7 A So if there is a typo or anything like
8 that, I apologize for that, in one of those numbers.

9 Q Okay. Thank you, sir.

10 Would you agree that Mr. Gleesing lived at
11 Midway Park between January of 1979 to August of
12 1981?

13 A He was -- sorry. I was just -- I didn't
14 listen correctly to your question. It was not you.
15 It was me on that one.

16 Q Would Mr. -- would you agree that
17 Mr. Gleesing lived at Midway Park between January of
18 1979 and August 1981?

19 A Did I put that Midway Park? Are you using
20 that?

21 Q If you turn to page 14 of your Gleesing
22 report, sir.

23 A So I think we were at Hadnot Point. Now
24 you are at Midway Park.

25 Yes. I think --

1 Q Do you see the first full paragraph?

2 A I do.

3 Q And it reads "On January 25th, 1979,
4 Mr. Gleesing moved to Midway Park. During his time
5 at Camp Lejeune, he and his family moved from one
6 trailer to another, still in Midway Park, but he
7 lived at Midway Park during his entire time at Camp
8 Lejeune."

9 Did I read that correctly?

10 A Yes, you did.

11 Q And you're aware that Midway Park is a
12 different part of Camp Lejeune?

13 A Well, again, I don't have the specifics.
14 I don't know the details of the locations and then
15 that.

16 For me, also they look the same but I know
17 that they are not.

18 Q Do you know where the water -- the
19 drinking water at Midway Park would have come from?

20 A I do believe, on the report by the AT, I
21 think is the report, they specified the drinking
22 water plants and what they can and all so forth.
23 But I personally, you know, cannot remember or
24 recall which one is which.

25 Q Have you ever heard of the Holcomb

1 Boulevard water treatment plant?

2 A I have, yes.

3 Q And are you aware that water at Midway
4 Park came from the Holcomb Boulevard water treatment
5 plant?

6 A Being aware doesn't mean I can corroborate
7 that.

8 Q Okay. Does that ring any bells, though?

9 A It ring bells but I cannot corroborate
10 what you're saying. I think I will trust that the
11 report was correct.

12 Q Would you refer to the -- I guess to the
13 ATSDR water modeling documents on that?

14 A Yes. Thank you for helping with that.

15 Q Okay. Can you turn, please, to page A174
16 of Laber Exhibit 8?

17 A I'm there now.

18 Q And would you agree that this is
19 Table A8.1 and it's reconstructed monthly mean PCE
20 concentrations and finished water distributed to
21 Holcomb Boulevard family housing areas?

22 A Yes.

23 Q Okay. And you see that there are, for
24 different years and months, there are charts setting
25 out what those values are in micrograms per liter?

1 Do you see that?

2 A Yes, I do.

3 Q And do you see the initials MP?

4 A Yes.

5 Q Would you agree that stands for Midway
6 Park?

7 A Let me see at the bottom.

8 Q I think it's actually at the top.

9 A At the top.

10 Q In the brackets. It says MP, Midway Park.

11 A Yes, I see that.

12 Q And if you look at the January 1979 to
13 August 1981 time period, would you agree that ATSDR
14 modeled 0 PCE during that time period?

15 A So you're talking -- so they have PP, MP,
16 BM, WV, and you're talking about the MP --

17 Q Correct.

18 A -- stays as 0?

19 Q Correct. During that entire January 1979
20 to August 1981 time period?

21 A Yeah. Here it says 0. Yeah.

22 Q Okay. If you turn to the next page, sir.

23 A Um-hum.

24 Q And this is Table A8.2 which is -- sets
25 out reconstructed monthly mean TCE concentrations in

1 finished water distributed to Holcomb Boulevard
2 family housing areas; is that correct?

3 A Yes.

4 Q And it's set up just like the previous
5 table that we looked at; correct?

6 A It looks similar, yes.

7 Q And would you agree that ATSDR modeled
8 levels of TCE that are 8 micrograms per liter or
9 less between January 1979 and August of 1981; is
10 that correct?

11 A Tell me again the dates.

12 Q January 1979 to August 1981.

13 A January 1970...

14 Hold on. Nine. So here to August.

15 That's what it looks like.

16 Q The highest TCE concentration was
17 8 micrograms per liter; is that correct?

18 A I don't know. You want me to go row by
19 row just to confirm that?

20 Q I do.

21 A Okay. So tell me again which row to look.
22 So you're talking about January?

23 Q January 1979 --

24 A Hold on. Hold on.

25 Q -- to August 1981.

1 A You're going too fast.

2 January 1979 to August -- August 1981?

3 Q Correct.

4 A And you want me to look at the column that
5 says MP?

6 Q Correct.

7 A So I see one, two, eight, four, four, two.
8 Yeah. I see numbers all over the board.

9 Q And would you agree eight is the highest
10 number?

11 A That I can find, yes, as we speak today.

12 Q Can you turn to A178, please?

13 A A178. Okay.

14 Q You see Table 8A.5 sets out values for
15 reconstructed monthly mean benzene concentrations in
16 finished water distributed to Holcomb Boulevard
17 family housing areas?

18 A Yes.

19 Q And it's set up like the previous two
20 tables that we looked at; correct?

21 A Yes.

22 Q And if you look at the January 1979 to
23 August 1981 time period, would you agree that ATSDR
24 modeled 0 benzene during that time period?

25 A Yeah. In the column for MP, I see 0s all

1 over.

2 Q Do you recall the levels of TCE that ATSDR
3 modeled with respect to the time that Mr. Fiolek was
4 on -- was at Camp -- was at Hadnot Point?

5 A No, I don't recall that.

6 Q Okay. If you could go back to A162,
7 please. Are you there?

8 A Not yet.

9 Q No problem.

10 A You say 162, isn't it?

11 Q Correct.

12 A I'm there now. Thank you.

13 Q And as we talked about earlier, the
14 modeled concentration of TCE was 26 micrograms per
15 liter or less during that time period; is that
16 correct?

17 A You're talking about TCE and we're going
18 for what time period?

19 Q The September 1964 to July 1965 time
20 period.

21 A And you want me to look at the TCE?

22 Q Do you recall discussing this earlier in
23 the deposition?

24 A I recall but I don't know exactly which
25 one you asked me because I'm a little bit confused

1 without the numbers in front of me since it's not
2 what I do all the time. I see patients.

3 But I'm happy to help you with this, so...

4 Q Do you see that the highest value in that
5 time period is 26 micrograms per liter?

6 A I do, yes.

7 Q Would you agree that that was higher
8 levels -- higher concentrations of TCE than
9 Mr. Gleesing was exposed to?

10 MS. GREENWALD: Objection, form.

11 THE WITNESS: I haven't done any --

12 BY MR. ORTIZ:

13 Q I'll withdraw that question and move on.

14 All right. I'm going to show you Laber
15 Exhibit 9, sir. And then I promise we'll be done
16 with those.

17 (Exhibit 9 was marked.)

18 BY MR. ORTIZ:

19 Q Do you recognize this document?

20 A Same as before. I have looked at all the
21 ATSDR reports. I cannot say that I truly recognize
22 one in the document.

23 Q That's fine. I'll represent to you that
24 it's excerpts of a report prepared by ATSDR about
25 its water modeling for Tarawa Terrace.

1 Could you turn to page A87? And it's near
2 the back.

3 A Okay. I'm there now.

4 Q And would you agree that this is
5 Appendix A2, which sets out simulated
6 tetrachloroethylene and its degradation byproducts
7 in finished water, Tarawa Terrace water treatment
8 plant?

9 A Yes.

10 Q And it includes the time period of
11 June 1967 to March 1968; is that correct?

12 A You're talking about June 1967. Did you
13 say March?

14 Q Correct.

15 A '69?

16 Q '68.

17 A March '68. Okay.

18 Q And you see that there are two columns
19 that have PCE.

20 Do you see that?

21 A PCE, PCE. Yes.

22 Q Do you have any understanding of why there
23 are two columns there?

24 A They have a footnote that says 4 and 5.
25 And I don't have the footnotes here. Maybe the

1 footnote is at the end of all this.

2 Q Let me ask you this: Do you --

3 A Here, it says the footnote is -- four is
4 results from Chapter F report. And the footnote 5
5 is result from Chapter G report.

6 Q Okay. Let me ask you this: Do you know
7 what the MT3DMS model is?

8 A Not on top of my -- my brain.

9 Q And do you know what the TechFlowMP model
10 is?

11 A Same answer.

12 Q Okay.

13 A Not as we speak now.

14 Q That's fine.

15 Would you agree that looking at both
16 columns, ATSDR modeled the mean monthly
17 concentrations for PCE from between approximately 50
18 to 60 micrograms per liter during the June 1967 to
19 March 1968 time period?

20 A You're talking about the first -- the
21 column that says 4 or the 5?

22 Q I'm talking about both columns.

23 A So for both numbers. You want me to look
24 for the highest number and the lowest number?

25 Q No. I'm just asking. Are those

1 concentrations generally between about approximately
2 49 to 60 -- a little over 60 micrograms per liter?

3 A Approximately look fair. Yeah.

4 Q Okay. And turning to the column for TCE.
5 Do you see that?

6 A TCE, yes.

7 Q And would you agree that during the
8 June 1967 to March 1968 time period, ATSDR modeled
9 TCE as between about approximately 1 to 2 -- a
10 little under 2, a little over 2 micrograms per
11 liter.

12 Do you see that?

13 MS. GREENWALD: Objection, form.

14 THE WITNESS: In the TCE column, yes,
15 somewhere between 1 or 2.

16 I'm going to ask you for a break but I'll
17 finish your answer because I don't want to
18 break your thinking, but I need to take a call.

19 BY MR. ORTIZ:

20 Q That's fine. I'll just ask one more
21 question. You don't see any columns for benzene on
22 this table; correct?

23 A No, I don't see anything for benzene.

24 MR. ORTIZ: Okay. We can take a break.

25 THE WITNESS: Thank you for that.

1 VIDEOGRAPHER: We're going off the record
2 at 10:57. And this ends media unit number one.

3 (A brief recess is had from 10:57 a.m. to
4 11:07 a.m.)

5 VIDEOGRAPHER: We're back on the record at
6 11:07. And this begins media unit number two.

7 BY MR. ORTIZ:

8 Q All right. Dr. Laber, did you talk to
9 anybody about the substance of your deposition
10 during the break?

11 A No.

12 Q And when we left off, we were looking at
13 Laber Exhibit 8 and Appendix A2 concerning Tarawa
14 Terrace. You would agree that Mr. Fiolek lived at
15 Tarawa Terrace during the June 1967 to March 1968
16 time period; is that correct?

17 A Mr. Gleesing?

18 Q Mr. Fiolek.

19 A Mr. Fiolek. I have it in my report.

20 Q Could you turn to page 16 of your Fiolek
21 report, sir?

22 A Yes. I'm there now.

23 Q And you see the second row under what
24 would be -- what would be work -- the work column
25 that says Montford Point, then under the residence

1 column, it says Tarawa Terrace, start date June 2nd,
2 1967? You see that?

3 A Yes.

4 Q And you see the next two rows, the
5 residence is also Tarawa Terrace and the end date of
6 the last row with the residence at Tarawa Terrace is
7 March 11th of 1968.

8 Do you see that?

9 A Yes, I do.

10 Q And as the chart states, Mr. Fiolek was
11 working at Montford Point during that time; correct?

12 A Yes.

13 Q Would you agree that Montford Point was
14 not contaminated during that time?

15 A I don't know. Again, same answer. I
16 would rely on the ATSDR report.

17 Q Okay.

18 A I don't have an opinion on one or the
19 other.

20 Q Okay. Do you ever recall reviewing any
21 water modeling data from ATSDR concerning Montford
22 Point?

23 A I reviewed the ATSDR report as they are.

24 Q Okay.

25 A So whatever is there, I reviewed it.

1 Q Dr. Laber, I don't mean any offense by
2 this at all, as I would answer this question the
3 same way. But would you agree that you lack the
4 education, training, or experience to determine
5 whether or not the water modeling for Hadnot Point
6 and Tarawa Terrace is accurate?

7 MS. GREENWALD: Objection, form.

8 THE WITNESS: I'm not an expert
9 epidemiologist. But I can actually detect
10 gross mistakes and things because I'm a
11 scientist but I have a general understanding of
12 what this means and what they're trying to do,
13 but I haven't gone into every detail of the
14 methodology of each one of those reports and
15 all that. I'm really relying that the experts
16 that were hired by the United States agency
17 were qualified to do that.

18 BY MR. ORTIZ:

19 Q And you're referring to?

20 A ATSDR.

21 Q You're referring to ATSDR. Thank you.

22 A Yes.

23 Q You're not an engineer; correct?

24 A Correct. I'm not.

25 Q You're not an expert in groundwater

1 hydrology; correct?

2 A Correct.

3 Q You're not a computer scientist; correct?

4 A Correct.

5 Q Did you review the reports of any of the
6 United States experts in phase one of this case
7 which concerns ATSDR's water modeling?

8 A I think I might have reviewed some
9 reports. I don't recall everything. I reviewed
10 some of them, like, two years ago.

11 Q Did you review any of the reports of the
12 United States experts that were submitted in phase
13 one of expert discovery in this litigation?

14 A When you use terminology like phase one,
15 phase two, I'm not really -- since I'm not a lawyer.
16 I apologize. I don't know exactly what you refer.

17 Q No. That's fine.

18 A If it is listed on my -- on the materials
19 provided to me, then I did review them.

20 Q And if it's not listed there, then is it
21 fair to say you didn't review it?

22 A Correct.

23 Q Do you know who Dr. Remy Hennet is?

24 A No, I do not.

25 Q Okay. And you did review the report of

1 Dr. Mustafa Aral; correct?

2 A Is he listed on the list of things?
3 Because I see 20 to 30 patients a day, and names, I
4 don't want to give you the wrong one. Some Mustafa
5 might be the wrong one, Mustafa, so I don't know.

6 Q Is it fair to say that you assume that
7 ATSDR's water modeling was accurate?

8 A I do believe it was.

9 Q Is that an assumption?

10 MS. GREENWALD: Objection, form.

11 THE WITNESS: No, I'm not assuming
12 anything. It's a belief.

13 BY MR. ORTIZ:

14 Q So what do you form that belief on?

15 A That I do believe they were performed
16 appropriately by qualified experts.

17 Q And why do you believe that?

18 A Because I trust the United States agency
19 on that.

20 Q Did you review --

21 A And what I look at that, when I review the
22 report, it looks accurate, but...

23 Q How can you say that it looks accurate?

24 A After reading it, it made sense to me the
25 way it was done and reported.

1 Q Okay. And as we discussed, you're not an
2 engineer, expert in groundwater hydrology, or a
3 computer scientist; correct?

4 A Correct.

5 Q Have you ever built a water modeling -- a
6 water model that attempted to estimate contaminant
7 levels going back historically over decades?

8 A No.

9 Q Have you ever built any water modeling of
10 any kind?

11 A No.

12 Q Would you agree that using what ATSDR
13 modeled, Mr. Fiolek was exposed to trace amounts of
14 benzene, if any?

15 MS. GREENWALD: Objection, form.

16 THE WITNESS: I don't have an opinion on
17 that.

18 BY MR. ORTIZ:

19 Q And as we saw on the chart, the highest
20 modeled level of benzene that Mr. Fiolek was exposed
21 to was 1 microgram per liter; correct?

22 A You showed me so many numbers, I don't
23 want to give you the wrong information. If you
24 really want me to go back to those numbers in those
25 tables, we can review. But if you're not mistaken

1 and you're telling me the truth, I have no reason to
2 disagree with you.

3 Q And would you agree that using what ATSDR
4 modeled, Mr. Gleesing was exposed to very low levels
5 of benzene, if any; correct?

6 MS. GREENWALD: Objection, form.

7 THE WITNESS: I think same answer as
8 before.

9 BY MR. ORTIZ:

10 Q Do you recall that the highest
11 concentration that ATSDR modeled during the time
12 Mr. Gleesing was there was no more than 9 micrograms
13 per liter?

14 A No. I don't recall exactly because we
15 went through so many columns and I don't want to
16 give you the wrong answer.

17 But I do believe if you give me the
18 correct number, I have no reason to disagree with
19 you.

20 Q Is it your opinion there's no safe level
21 of benzene exposure in terms of CLL risk?

22 A No, I have not formed that opinion.

23 Q So do you think that there is a threshold
24 level of benzene exposure that must be reached in
25 order to cause CLL?

1 MS. GREENWALD: Objection, form.

2 THE WITNESS: No. I have not formed that
3 opinion.

4 BY MR. ORTIZ:

5 Q Do you have any opinion on whether or not
6 there's a threshold level of benzene required to
7 cause CLL?

8 A No, I do not have an opinion on that.

9 Q Is it your opinion that Mr. Fiolek was
10 exposed to a sufficient level of benzene at Camp
11 Lejeune to cause his CLL?

12 A I think that's a fair assumption, yes.

13 Q And what do you base that opinion on?

14 A I think we have a lot of the reports and
15 experts showing that the exposure to benzene is a
16 risk factor for CLL. And I do believe he was
17 exposed to that during those times. And that's what
18 I base my opinion.

19 Q And you're referring to some of the
20 epidemiological studies that are referenced in your
21 report; correct?

22 A Yes.

23 Q Okay. And would you agree that
24 Mr. Gleesing was not exposed -- well, strike that.

25 Is it your opinion that Mr. Gleesing was

1 exposed to a sufficient level of benzene at Camp
2 Lejeune to cause his CLL?

3 A Yes.

4 Q And is that based on the same
5 epidemiological studies that we just referenced?

6 A We didn't reference anything, but, yes,
7 whatever I put on my report.

8 Q Dr. Laber, are you aware that we're all
9 exposed to some carcinogens every day?

10 A Yes, I am.

11 Q Are you aware that we're exposed to
12 benzene in foods, for example?

13 A Exposed to benzene where?

14 Q In foods, for example?

15 A In some foods, I believe probably yes. I
16 just haven't looked at exactly which foods or all
17 those details.

18 Q Are you aware that samples for raw bananas
19 have had as much as 132 parts per billion of benzene
20 in them?

21 A No, I was not aware of that.

22 Q Are you aware that avocados have had as
23 much as 30 parts per billion of benzene in them?

24 A Thank you for that. I hate avocados.

25 Q Were you aware of that?

1 A No, I was not. Sorry about that.

2 Q And incidentally, you state in your
3 reports that you don't consider diet to be a risk
4 factor for CLL; is that correct?

5 A They haven't proven to be a risk factor.
6 Now, things might change in the future, but so far,
7 we have not.

8 Q Science is always changing. Is that fair?

9 A That's exactly right. Yes.

10 Q Are you concerned about possible levels of
11 benzenes in different foods?

12 MS. GREENWALD: Objection, form.

13 THE WITNESS: No. I have never been
14 concerned about that. But now maybe I am.

15 BY MR. ORTIZ:

16 Q Are you -- would you agree that 132 parts
17 per billion or 30 parts per billion exceeds the
18 model levels of benzene during the times that
19 Mr. Fiolek and Mr. Gleesing were at Camp Lejeune?

20 MS. GREENWALD: Objection, form.

21 THE WITNESS: I have no opinion on that.

22 BY MR. ORTIZ:

23 Q So you wouldn't agree that those numbers
24 exceed what was modeled by ATSDR?

25 MS. GREENWALD: Objection, form.

1 THE WITNESS: I have no opinion so I
2 haven't looked at that question so I don't have
3 a good answer for you.

4 BY MR. ORTIZ:

5 Q Do you know whether there are background
6 exposures to TCE in everyday life?

7 A Now, depending on what you mean with
8 everyday life. But I do believe there is background
9 exposure. I don't know exactly where because I'm
10 not an expert on that.

11 Q Have you ever studied what those
12 background exposure levels to TCE might be?

13 A No.

14 Q Same question about PCE. Have you ever
15 studied what the background exposure levels to PCE
16 might be?

17 A No.

18 Q And would you agree that you don't
19 consider, in your reports, how background exposures
20 to TCE, PCE, or benzene for Mr. Fiolek or
21 Mr. Gleesing might compare to their alleged
22 exposures to those chemicals at Camp Lejeune?

23 MS. GREENWALD: Objection, form.

24 THE WITNESS: I don't think I looked at
25 that.

1 BY MR. ORTIZ:

2 Q Are background exposures to those
3 chemicals something that you might want to consider
4 in your differential etiology analyses?

5 MS. GREENWALD: Objection, form.

6 THE WITNESS: I think it makes sense to
7 look at all the possibilities. But I don't
8 think we have an estimate of the background
9 exposure in these people.

10 BY MR. ORTIZ:

11 Q And to be clear, you haven't considered or
12 analyzed Mr. Fiolek's or Mr. Gleesing's possible
13 exposures to those chemicals from any source other
14 than water at Camp Lejeune; is that correct?

15 MS. GREENWALD: Object to the form.

16 THE WITNESS: No, that's not correct.

17 BY MR. ORTIZ:

18 Q Why not?

19 A Because I have considered that.

20 Q Where did you consider it?

21 A When I was thinking about the case and
22 writing my report.

23 Q Where specifically?

24 A Where? In my brain.

25 Q In your report.

1 A No. When I was writing the report and
2 thinking about the report.

3 Q Can you point me to where in your report
4 you considered that?

5 A I just told you what I was thinking. I
6 can point you when I was thinking about that.

7 Q Did you write it down in your report?

8 A I don't think I had.

9 Q Why not?

10 A Because I didn't find anything, any
11 information to write.

12 Q Are there any documents that would show
13 that that was something you considered?

14 MS. GREENWALD: Objection, form.

15 THE WITNESS: No, not that I can think of.
16 BY MR. ORTIZ:

17 Q Did you compare Mr. Fiolek's or
18 Mr. Gleesing's alleged exposures at Camp Lejeune to
19 any data in any epidemiological studies?

20 A I relied on the experts on exposures for
21 that part of my report. So if that shows
22 comparisons, then that will be there, but I
23 personally did not because I was relying on experts
24 for that.

25 Q Is it your opinion that Mr. Fiolek and

1 Mr. -- well, let me just break it up by plaintiff.

2 Is it your opinion that Mr. Fiolek had
3 enough exposure to TCE, PCE, and benzene at Camp
4 Lejeune to cause his CLL?

5 A You went through some of them might not
6 having enough exposure, because there were no
7 exposures, some of the levels were not there.

8 But I do believe, yes, if we look at all
9 the exposures he had, I do believe he had enough
10 exposure to cause the CLL.

11 Q And what is that based on?

12 A My own --

13 MS. GREENWALD: Objection, asked and
14 answered.

15 Go on.

16 THE WITNESS: As I said before, all the
17 knowledge that I have, all the reports that I
18 wrote, all the information we gathered.

19 BY MR. ORTIZ:

20 Q Do you have the same opinion as to
21 Mr. Gleesing?

22 MS. GREENWALD: Objection, form.

23 THE WITNESS: Yes. Sounds a reasonable
24 opinion about this. Yes.

25 BY MR. ORTIZ:

1 Q And on the same basis?

2 A Yes.

3 Q If I doubled their exposure, would you be
4 able to tell me if and to what extent that would
5 affect your opinions?

6 MS. GREENWALD: Objection, form.

7 THE WITNESS: I think that's speculation.

8 I don't have enough data to tell you one way or
9 the other.

10 BY MR. ORTIZ:

11 Q What if I tripled it?

12 MS. GREENWALD: Same objection.

13 THE WITNESS: I don't understand your
14 question.

15 BY MR. ORTIZ:

16 Q What if I cut it in half?

17 A Again, I don't understand your question.
18 I don't know what trying to say, but it seems like
19 all speculative things.

20 Q Is it fair to say that if I increased or
21 decreased their exposure, you would not be able to
22 tell me whether and to what degree that would affect
23 your causation opinion as to their CLL?

24 MS. GREENWALD: Objection, form.

25 THE WITNESS: I haven't looked at those

1 questions.

2 BY MR. ORTIZ:

3 Q Dr. Laber, what's a risk factor?

4 A I think I wrote it in my report. But I'll
5 give you the informal explanation, which will not be
6 a perfect or a complete one.

7 But usually a risk factor is something
8 that would predispose you to get something.

9 Q Are some risk factors for CLL known?

10 A Well, it depends on what you mean with
11 "known." Okay. I think what we have found, the
12 evidence in some studies is that you have a family
13 member that has CLL and there's an increased risk so
14 that's considered a risk factor. But I do believe a
15 lot of the other risk factors are probably unknown
16 or not well studied because it's very difficult to
17 study risk factors. You're not going to do an
18 experiment in which you're going to put all the
19 humans under the risk factor and see what happens.
20 That would be unethical.

21 Q Can you tell me what you consider risk
22 factors for CLL to be?

23 A I think I listed all that there. I do
24 believe family history is there.

25 We also find that CLL is most common as we

1 age but we don't know if that's really a true risk
2 factor or just a population that we find it because
3 it's difficult to change that, how you change
4 somebody from aging.

5 And the same as being a man versus a
6 woman. We see it a little more commonly in men,
7 but...

8 And we also see it in some ethnicities.

9 But the studies with ethnicities are very
10 difficult now because most of the populations are
11 mixed so the genetic background, somebody because he
12 was born in one country might be this -- might not
13 differ that much, but we see more European descent
14 versus, like, more Asian or African descent. We
15 still don't know how to interpret those.

16 And I do believe the exposure to these
17 chemicals increase the risk of cancer and it does
18 increase the risk of leukemias and lymphomas, so
19 those -- those are risk factors.

20 Others, general risk factors, for example,
21 people argue about obesity. You know, in general,
22 we do believe obesity is a risk factor for cancer,
23 in general, but we haven't done studies on more
24 specific, for leukemias and lymphomas, even though
25 we believe it probably is some component of that,

1 but can't tell for sure.

2 So I think I gave you a good answer. It's
3 not really a complete answer, so don't expect me to
4 list you everything, but...

5 Q Do you consider Agent Orange exposure to
6 be a risk factor for CLL?

7 A I do believe it's a risk factor for
8 leukemias and lymphomas.

9 Q And we talked about this earlier in the
10 deposition. But you describe your differential
11 etiology methodology on page three to four; correct?

12 A Yes.

13 Q Of your reports?

14 Incidentally, are you familiar with the
15 term "differential diagnosis"?

16 A Yes.

17 Q What is that term?

18 A Usually it's a process that we use in
19 clinical practice in which we look at the
20 differential diagnosis which means what are the
21 diagnoses that the patient -- they can explain the
22 signs and symptoms, all of the problems that the
23 patient's manifesting.

24 Q And do you consider that to be separate --
25 a separate kind of methodology from differential

1 etiology?

2 MS. GREENWALD: Objection, form.

3 THE WITNESS: Even though some people make
4 a mistake or don't put in those terminologies,
5 even in my analysis, I say that some people
6 might actually use these terms interchangeable.
7 I do believe they are two separate things.

8 BY MR. ORTIZ:

9 Q And on page four of your reports you state
10 that the final step in your differential etiology
11 analysis is determining whether a possible risk
12 factor is a contributing factor in the development
13 of an individual's cancer; is that correct?

14 A Let me see. On page four?

15 Q That's correct. You see the second full
16 paragraph there? And the first sentence -- I'll
17 just read it. The first sentence says "Finally, for
18 each risk factor that could apply, I draw upon
19 available scientific knowledge and a continuing
20 evaluation of the literature and evidence to
21 determine whether the specific risk factor was more
22 likely than not a contributing factor in the
23 development of the individual's cancer."

24 Did I read that correctly?

25 A Yes, you did.

1 Q What does contributing factor mean?

2 A That contributes to the process of cancer.

3 Q Would you agree that cancers caused by the
4 interaction of multiple factors including genetic
5 and environmental factors?

6 A Again, as a scientist, things might
7 change, but that's a current understanding, yes.

8 Q And when you performed your differential
9 etiology analysis, would you agree that you can't
10 calculate a precise percentage that an individual
11 risk factor may have contributed to someone's
12 cancer; is that correct?

13 A With the current evidence and the current
14 literature and the current research, that is
15 correct. We don't have a way to calculating exactly
16 the influence of each one of them.

17 Q You don't weigh quantitatively individual
18 risk factors against each other; is that correct?

19 MS. GREENWALD: Objection, form.

20 THE WITNESS: If we have that information,
21 then we could do that. For this particular
22 situation, we don't have that information.

23 BY MR. ORTIZ:

24 Q Do you attempt to weigh individual risk
25 factors against each other at all?

1 A In some cases, yes.

2 Q What would those cases be?

3 A For example, when I see patients, they
4 have -- a common one that we use is when we see
5 people with abnormal blood clots, and that we know
6 that certain disease double your risk of developing
7 a blood clot and certain disease will actually
8 exponentially give you. So there's some diseases
9 that, compared to the normal population, they give
10 you 16 times more chance of developing a blood clot.

11 So if you had to compare something that
12 give you 16 times more risk of having a blood clot
13 versus something that gives you only twice, I would
14 be more concerned about the one that gives you 16
15 times more.

16 But we have studies that have actually
17 look at that question and was able to quantify that.

18 This particular situation, we don't have
19 studies that look at that and have quantified that.

20 Q Okay. On page 16 of your Fiolek report,
21 you refer to the concept of a significant -- I'm
22 looking at the Gleesing report.

23 MS. GREENWALD: The Gleesing or Fiolek?

24 MR. ORTIZ: The Fiolek report.

25 MS. GREENWALD: Okay.

1 BY MR. ORTIZ:

2 Q Near the bottom, you say "My opinion is
3 that, after considering other potential causes of
4 CLL besides Mr. Fiolek's exposure to the
5 contaminated water at Camp Lejeune, none are
6 significant contributors."

7 Do you see that?

8 A So you're talking about the section that
9 says Analysis and Opinion?

10 Q Correct.

11 A And you say which paragraph of that?

12 Q Near the bottom, it says --

13 A The one that says "After conducting the
14 differential etiology analysis"? That one?

15 Q After that sentence that says, "My opinion
16 is that after considering other potential causes of
17 CLL besides Mr. Fiolek's exposure to the
18 contaminated water at Camp Lejeune, none are
19 significant contributors."

20 Do you see that?

21 A Yes, I do.

22 Q What does "significant" mean?

23 A Significant is with the knowledge that we
24 have today, then makes a significant change.

25 Q Is it a quantitative determination?

1 A No, as significant. No, it's more a
2 qualitative.

3 Q And what does that rely upon?

4 A Rely upon the evidence that we have.

5 Q Is it subjective?

6 MS. GREENWALD: Objection, form.

7 THE WITNESS: I think significant could be
8 subjective. But the evidence will be
9 objective. So I can give you objective
10 evidence. But for you might be significant,
11 for me, might not. So there is a level of
12 subjectivity.

13 BY MR. ORTIZ:

14 Q Okay. And Section 9 of your Fiolek
15 report, on pages 16 to 17 contains your analysis and
16 opinions for your differential etiology analysis
17 concerning Mr. Fiolek; is that correct?

18 A Analysis and opinion includes my analysis
19 and opinion.

20 Q All right. And your opinion after
21 conducting your differential etiology is that it's
22 more likely than not that Mr. Fiolek's CLL was
23 caused by his exposure to TCE, PCE, and benzene at
24 Camp Lejeune; is that correct?

25 A Yes.

1 Q And as you just said, your analysis
2 supporting that opinion is set out on pages 16 to 17
3 of your report?

4 A Yes.

5 Q And you ruled out several possible
6 alternative causes for Mr. Fiolek's CLL; isn't that
7 right?

8 A Yes.

9 Q And one of those was Agent Orange exposure
10 for Mr. Fiolek; is that correct?

11 A Yes. I discuss that. I considered that
12 and I discuss that.

13 Q And you stated earlier that you consider
14 Agent Orange exposure to be a potential risk factor
15 for CLL; correct?

16 A Yes.

17 Q Are you aware that the institute of
18 medicine has concluded that there's sufficient
19 evidence of an association between Agent Orange
20 among other pesticides in CLL?

21 A If I'm aware that that agency said that,
22 as a general knowledge, maybe yes. I don't think I
23 have looked at what they say and what they didn't
24 say.

25 Q Okay. I'm going to hand you what's been

1 marked as Laber Exhibit 10.

2 (Exhibit 10 was marked.)

3 BY MR. ORTIZ:

4 Q Have you ever seen this document before,
5 sir?

6 A I don't remember seeing this document.

7 Q I'll represent to you it's a copy of
8 excerpts from a document entitled Veterans and Agent
9 Orange, Update 2008, from the Institute of Medicine.
10 Could you turn to page -- it's numbered 412 of this
11 document. Just let me know when you're there.

12 A I don't know where the page numbers are.

13 Q They're at the top left.

14 A Oh, exactly left.

15 Top left is nothing.

16 MS. GREENWALD: Yeah. It's towards the --
17 it's like -- this is how far it is. Yeah. Let
18 me -- I know --

19 THE WITNESS: Oh, it's 412 of that?

20 MS. GREENWALD: -- I can find it for you.

21 THE WITNESS: That's okay. I'll get it.

22 MS. GREENWALD: Yeah.

23 THE WITNESS: Okay. I found it.

24 BY MR. ORTIZ:

25 Q And the highlighted text, which I

1 highlighted for convenience, it says "Conclusion:
2 On the basis of the evidence reviewed here and in
3 previous VAO reports, the committee concludes
4 there's sufficient evidence in association between
5 exposure to the chemicals of interest and CLL,
6 including HCL and all other chronic B-cell
7 hematoproliferative diseases."

8 Did I read that correctly?

9 A Yes, you did.

10 Q Okay. And, again, you stated that you
11 consider Agent Orange to be a possible risk factor
12 for CLL?

13 A Yes.

14 Q And as to Mr. Fiolek, you rule out Agent
15 Orange exposure as a risk factor in part because you
16 say that the literature on Agent Orange and NHL has
17 not demonstrated a consistent association or a
18 causal relationship between exposure to the chemical
19 and lymphoid cancers; is that correct?

20 MS. GREENWALD: Objection, form.

21 THE WITNESS: Is that what I wrote?

22 BY MR. ORTIZ:

23 Q Can you look at the top of page 17 of your
24 report?

25 A Page 17. Okay.

1 Q And it reads, the first sentence -- or
2 sorry, the last sentence at the top says "Moreover,
3 the literature on Agent Orange and NHL has not
4 demonstrated a consistent association or a causal
5 relationship between exposure to the chemical and
6 lymphoid cancers"; is that correct?

7 A Yes, that is correct.

8 Q And if you turn to page 10 of your report,
9 please.

10 A Yes.

11 Q The last sentence reads "Agent Orange
12 exposure during the Vietnam War has also been linked
13 to NHL, however, the results are inconsistent across
14 different studies. There is no clear pattern of
15 increased risk with increased exposure. And the
16 current data are not enough to definitively say that
17 the exposure causes NHL."

18 Did I read that correctly?

19 A Yes, you did.

20 Q So is it fair to say that you rule out
21 Agent Orange exposure as a risk factor for
22 Mr. Fiolek in part because your assessment that the
23 literature on Agent Orange and NHL is inconsistent?

24 MS. GREENWALD: Objection, form.

25 THE WITNESS: In part, yes.

1 BY MR. ORTIZ:

2 Q Okay. Can you tell me whether the
3 literature concerning Agent Orange -- excuse me,
4 concerning -- strike that. Let me start over.

5 Can you tell me whether the literature
6 concerning Agent Orange and CLL is more or less
7 consistent than the literature concerning TCE and
8 CLL?

9 MS. GREENWALD: Objection, form.

10 THE WITNESS: I haven't done a comparison.

11 BY MR. ORTIZ:

12 Q Can you tell me whether the literature
13 concerning Agent Orange and CLL is more or less
14 consistent than the literature concerning PCE and
15 CLL?

16 MS. GREENWALD: Objection, form.

17 THE WITNESS: I haven't -- I haven't done
18 that comparison.

19 BY MR. ORTIZ:

20 Q Can you tell me whether the literature
21 concerning Agent Orange and CLL is more or less
22 consistent than the literature concerning benzene
23 and CLL?

24 MS. GREENWALD: Objection, form.

25 THE WITNESS: I haven't done that

1 comparison.

2 BY MR. ORTIZ:

3 Q And if you haven't done that comparison,
4 how do you know that the literature is less
5 consistent than the literature concerning those
6 chemicals in CLL?

7 MS. GREENWALD: Objection, form.

8 THE WITNESS: When I review these,
9 whatever I wrote in my report was what I
10 believe is my opinion.

11 BY MR. ORTIZ:

12 Q And if the literature concerning TCE and
13 CLL is less consistent than the literature
14 concerning Agent Orange and CLL, would you agree
15 that would be a reason to rule out TCE exposure as a
16 possible cause of Mr. Fiolek's CLL?

17 MS. GREENWALD: Objection, form.

18 THE WITNESS: No.

19 BY MR. ORTIZ:

20 Q Why not?

21 MS. GREENWALD: Objection, form.

22 THE WITNESS: Because we're not trying to
23 compare one versus the other. We're actually
24 including and considering them.

25 Like I said, and I did, I considered all

1 these exposures.

2 BY MR. ORTIZ:

3 Q But the basis that you excluded Agent
4 Orange exposure as a risk factor for Mr. Fiolek was,
5 in part, that the literature was inconsistent. And
6 if that was the basis, how do you know that that
7 basis would not similarly apply to TCE and CLL?

8 MS. GREENWALD: Objection, form.

9 THE WITNESS: I don't think I -- I
10 completely excluded the possibilities. I
11 actually said that Agent Orange can cause that
12 also. But the literature is inconsistent
13 because there's some studies that might show
14 one thing and other studies that show different
15 things.

16 BY MR. ORTIZ:

17 Q And my previous question, the same would
18 be true as to PCE or benzene and CLL; correct?

19 MS. GREENWALD: Objection, form.

20 THE WITNESS: I couldn't understand your
21 question. I'm sorry, the last one.

22 BY MR. ORTIZ:

23 Q Sure. So one of the bases that you
24 excluded Agent Orange exposure as a possible cause
25 in Mr. Fiolek's case was that the literature is

1 inconsistent concerning whether there's an
2 association or causal relationship between those
3 chemicals. And my question is: If you haven't done
4 a comparison of the literature concerning PCE or
5 benzene and CLL, how do you know that's not a basis
6 to rule out those exposures as well?

7 MS. GREENWALD: Objection, form.

8 Go on.

9 THE WITNESS: I think you're misconstruing
10 what I said. I said "Even though he was in
11 Vietnam during the time when Agent Orange was
12 used, he was not involved in field operations
13 where he could have been directly exposed to
14 it."

15 BY MR. ORTIZ:

16 Q And --

17 A So I clearly stated -- I'm not saying that
18 Agent Orange cannot cause CLL. Your line of
19 questioning is that, and that's not true. I just
20 said that he was not involved in field operations
21 where he could have been directly exposed it to.

22 Q Could you turn back to page 10 of your
23 report, please?

24 A Yes.

25 Q And the sentence that I read previously,

1 the last clause in that sentence is "The current
2 data are not enough to definitively say that the
3 exposure causes NHL."

4 Did I read that correctly?

5 A Yes.

6 Q And that's referring to Agent Orange
7 exposure?

8 A Yes.

9 Q And NHL -- CLL is categorized as a subtype
10 of NHL; isn't that correct?

11 A Yes.

12 Q And so what you're saying there -- would
13 you agree with me that what you're saying is that
14 the current data are not enough to definitively say
15 that the exposure causes NHL, NHL would include CLL;
16 is that correct?

17 MS. GREENWALD: Objection, that
18 mischaracterizes his statement.

19 THE WITNESS: No, that's not correct.

20 BY MR. ORTIZ:

21 Q Why is it not correct?

22 A Because that's not what I said.

23 Q Is it your testimony that NHL does not
24 include CLL?

25 MS. GREENWALD: Objection, form.

1 THE WITNESS: No.

2 BY MR. ORTIZ:

3 Q And you also cite Mr. Fiolek's testimony
4 in his deposition that he was not involved in field
5 operations in Vietnam where he would have been
6 directly exposed to Agent Orange; is that correct?

7 A I think so, yes.

8 Q Is it possible that Mr. Fiolek might not
9 recall whether he was exposed to Agent Orange in
10 Vietnam?

11 MS. GREENWALD: Objection, form.

12 BY MR. ORTIZ:

13 Q You can go ahead and answer.

14 A I don't know why we see -- why would you
15 think that.

16 Q He was in Vietnam in 1969 to 1970; is that
17 correct?

18 A Yeah. We have it on the report, exact
19 dates.

20 Q Are you aware that Mr. Fiolek applied for
21 and received disability benefits from the veterans'
22 administration for his CLL based on presumed
23 exposure to Agent Orange during his service in
24 Vietnam?

25 A Yes. I'm aware of that.

1 Q Going back to page 17 of your Fiolek
2 report. Let me know when you're there, sir.

3 A Seventeen?

4 Q Yes.

5 A I'm there now. Thank you.

6 Q You rule out smoking and alcohol use as
7 risk factors for his CLL; is that correct?

8 A I actually documented that. And I said
9 that he smoked during his younger years, however, he
10 ceased smoking several decades prior to his
11 diagnosis.

12 Q And do you agree that Mr. Fiolek had a
13 significant smoking history?

14 A Yeah. I --

15 MS. GREENWALD: Objection, form.

16 THE WITNESS: I don't know what
17 significant means for you but I actually
18 documented that, so I am aware of that.

19 BY MR. ORTIZ:

20 Q And you reviewed his deposition; correct?

21 A Yes.

22 Q And do you recall his testimony there that
23 he smoked approximately one to 1.5 packs a day from
24 about 1956 to the early 1970s?

25 A No, I don't recall the details.

1 Q You don't consider smoking to be a risk
2 factor for CLL; correct?

3 A I think I documented that. And it's so
4 far on the risk factors for CLL. And I don't think
5 we have -- find a strong association between smoking
6 and CLL.

7 Q And it's your opinion that benzene
8 exposure at Camp Lejeune is causally related to CLL;
9 correct?

10 A I do believe it can because exposure at
11 Camp Lejeune, yes, and related to CLL.

12 Q Specifically including benzene; correct?

13 A Well, it's impossible to know one versus
14 the other because he was exposed to all of them.

15 Q Are you aware that tobacco smoke contains
16 benzene?

17 A No. Honestly, I was not aware of that.

18 Q Do you know how much benzene might be in a
19 cigarette?

20 MS. GREENWALD: Objection, form.

21 THE WITNESS: No.

22 BY MR. ORTIZ:

23 Q Do you know how much benzene a typical
24 smoker would inhale from cigarettes on a daily
25 basis?

1 MS. GREENWALD: Objection, form.

2 THE WITNESS: No.

3 BY MR. ORTIZ:

4 Q I'm going to hand you what's marked as
5 Laber Exhibit 11.

6 (Exhibit 11 was marked.)

7 BY MR. ORTIZ:

8 Q Have you ever seen this document before,
9 sir?

10 A I don't remember seeing this document.

11 Q And I'll represent to you that it's a copy
12 of a study by Lance Wallace, et al. entitled
13 Exposures to Benzene and Other Volatile Compounds
14 from Active and Passive Smoking, 1997, I believe.

15 And in the abstract, it states --

16 MS. GREENWALD: Objection.

17 It's '87, by the way.

18 MR. ORTIZ: Thank you.

19 BY MR. ORTIZ:

20 Q And looking at the abstract, it says
21 "Based on direct measurements of benzene and
22 mainstream cigarette smoke, it is calculated that a
23 typical smoker inhales 2mg benzene daily compared to
24 0.2mg per day for the non-smoker. Thus, cigarette
25 smoking may be the most important source of exposure

1 to benzene for about 50 million citizens of the
2 United States."

3 Did I read that correctly?

4 A Yes, you did.

5 Q You -- 2mg stands for 2 milligrams; is
6 that correct?

7 A I don't know. I haven't reviewed these
8 studies, but that would be my assumption. In
9 general, that's true.

10 Q And a milligram -- in general, a milligram
11 is equivalent to a thousand micrograms?

12 A Yes.

13 Q So 2mg or 2 milligrams would be equivalent
14 to 2,000 micrograms; correct?

15 A Yes.

16 Q And are you aware of whether that's more
17 or less than what Dr. Reynolds calculated for
18 Mr. Fiolek's cumulative exposure to benzene from
19 water at Camp Lejeune?

20 A I haven't looked at the details on the
21 numbers.

22 Q Would you agree that Mr. Fiolek likely
23 would have been exposed to benzene from cigarettes
24 at much higher levels than water -- than from water
25 at Camp Lejeune?

1 MS. GREENWALD: Objection, form.

2 THE WITNESS: No, I cannot agree, not
3 necessarily to that.

4 BY MR. ORTIZ:

5 Q You don't have an opinion one way or the
6 other?

7 A Correct.

8 Q It's not something you considered or
9 analyzed; is that correct?

10 A I considered everything I could consider
11 at that time. But you're showing me a study that I
12 have not reviewed. I don't know if it's valid. I
13 don't know who wrote it, where they wrote it, who
14 reviewed it. So I'm not going to make any comments
15 based on the study you just showed me.

16 Q And as we said before, you don't consider
17 smoking to be a risk factor for CLL; correct?

18 MS. GREENWALD: Objection, form.

19 THE WITNESS: I think I already said
20 everything I have to say on that.

21 BY MR. ORTIZ:

22 Q Is the answer to my question yes or no?

23 MS. GREENWALD: Objection, form.

24 THE WITNESS: I already answered that. We
25 already talked about smoking and that.

1 BY MR. ORTIZ:

2 Q And you agree that given that there's
3 benzene in cigarette smoke, do you think it's --
4 strike that. I'll move on.

5 You rule out family history next; correct?

6 A I don't know when you say "rule out."
7 What do you mean?

8 Q In your differential etiology analysis,
9 you rule out family history as a possible
10 alternative cause of Mr. Fiolek's CLL; is that
11 correct?

12 A I don't think I ruled out or ruled in. He
13 didn't have any family history.

14 Q Okay. Can you look at page 17 of your
15 report?

16 A Yeah.

17 Q And it reads, the final sentence of the
18 first full paragraph, "While Mr. Fiolek does have
19 some family history of cancer, including a sister
20 with ALL, a condition that has not been demonstrated
21 to be a risk factor for CLL, I am not aware of any
22 first-degree relatives who have been diagnosed with
23 CLL."

24 Did I read that correctly?

25 A Yes.

1 Q And Mr. Fiolek's sister passed away from
2 acute lymphocytic leukemia or ALL; correct?

3 A Yes.

4 Q Do you know if she was an adult when she
5 had that ALL?

6 A I don't remember the details on that.

7 Q Would you agree it's very unusual, in
8 general, for adults to have ALL?

9 A Yeah, it's a rare disease.

10 Q It's usually -- ALL is the form of
11 childhood leukemia; correct?

12 A But it's also rare. It's a rare disease.

13 Q All these types of leukemia are fairly
14 rare diseases; correct?

15 MS. GREENWALD: Objection, form.

16 THE WITNESS: Depending what you consider
17 one way or the other, but those are general
18 statements. If you tell me what your point is,
19 I might be able to give you a better answer.

20 BY MR. ORTIZ:

21 Q And you reviewed Mr. Fiolek's medical
22 records; correct?

23 A Yes.

24 Q Do you recall seeing any references to a
25 brother with a form of leukemia?

1 A Did I document that in my report, that
2 there's a brother with some form of leukemia? If I
3 did, then I saw it. If I didn't, that means I
4 didn't find it.

5 Q And would you agree that Mr. Fiolek's
6 mother passed away from bladder cancer?

7 A You want me to go back to the record? If
8 I documented that, then I did.

9 Q Dr. Laber, if you want to take a second to
10 review your report, that's fine. If you'd like
11 to -- if it's going to be more than a minute, I'm
12 happy to go off the record and let you do that.

13 A Either/or. But if you ask me about a
14 particular -- I see so many patients and I know the
15 family history of each one. So usually when I get a
16 question -- a particular question about a patient, I
17 make sure I have the medical record in front of me
18 because I don't want to confuse one with the other.
19 That would be devastating for my patients.

20 So I think I documented in my record
21 everything I knew about the medical history and the
22 family history. So if you want me to review that
23 again, I'm more than happy to. You tell me.

24 Q If you turn to page 14 of your report.

25 A Yes.

1 Q Are you there?

2 A I'm there now.

3 Q And it states that Mr. Fiolek's mother,
4 Genevieve Potter, died from bladder cancer.

5 Do you see that?

6 A Yes.

7 Q So do you recall that now?

8 A Yes, I do.

9 Q So that's at least two, maybe three close
10 relatives with cancer; is that correct?

11 MS. GREENWALD: Objection, form.

12 THE WITNESS: I think whatever I listed
13 there would be the appropriate number.

14 BY MR. ORTIZ:

15 Q That's at least two?

16 A Yeah. There is the sister, Joanie, with
17 ALL and the mother with bladder cancer.

18 Q Do you agree that if there's a family
19 history of a hematological malignancy, then there's
20 an increased risk of other blood cancers, including
21 CLL?

22 MS. GREENWALD: Objection, form.

23 THE WITNESS: I think no, as a general
24 statement, not really, because you're putting
25 too many things there.

1 If there is a family history of CLL, yes.

2 For the other blood cancers, it's not clear.

3 BY MR. ORTIZ:

4 Q So is it your opinion that it would only
5 be a family history of CLL that would increase a
6 person's risk for CLL?

7 A So far that's what we know from the
8 literature. But that can change.

9 Q So the fact that Mr. Fiolek's sister had
10 ALL does not increase his risk of CLL. Is that your
11 opinion?

12 A So far, that's the evidence that we have
13 in the literature.

14 Q And so if another plaintiff's expert
15 stated that having one blood cancer increases the
16 risk of another blood cancer, including CLL, you
17 would disagree?

18 MS. GREENWALD: Objection, form.

19 THE WITNESS: I don't know. I would have
20 to look at what he's basing that on and what
21 evidence and the details. I don't give you a
22 blank statement like that without reviewing it.

23 BY MR. ORTIZ:

24 Q And you consider obesity next in your
25 Fiolek report; is that correct?

1 A Next to what? But I did consider that.

2 Q You considered that. Turn back to page 17
3 of your Fiolek report. You see the second full
4 paragraph, you consider obesity?

5 A Yes, I did.

6 Q And you were not able to exclude obesity
7 as a risk factor for Mr. Fiolek's CLL; is that
8 correct?

9 A It says Mr. Fiolek, medical records
10 indicate he was obese.

11 Q And you were not able to exclude that as a
12 risk factor for his CLL; is that correct?

13 A What do you mean, exclude it? I said
14 obesity is known to be heightened the risk of
15 various diseases, including cancers. Mr. Fiolek's
16 case, his obesity likely contributed to an elevated
17 risk for developing cancer.

18 Q Do you agree that in those sentences you
19 just read, you are not able to exclude it as a risk
20 factor for his CLL?

21 A I couldn't follow. You have a negative
22 sentence there.

23 Q Do you understand what it means to say
24 that you're excluding a possible alternative cause
25 or risk factor for CLL?

1 A I do understand what that means.

2 Q And do you understand that you were not
3 able to do that with respect to obesity?

4 A I don't think I had to. I don't -- I'm
5 not --

6 Q That's not my question.

7 A Well, but that's my answer. So my answer
8 is I don't think I had to exclude everything. I had
9 to acknowledge. And in this particular case, he was
10 obese. We don't know how much that will increase
11 his risk of having CLL or not.

12 Q So is the answer to my question "yes"?

13 A I -- I already gave you the answer. I
14 don't think I could give you a blank yes to the
15 statements that you have because you put some
16 statements that might not be the way I say things.

17 Q Did you assume that obesity and exposure
18 to TCE, PCE, and benzene at Camp Lejeune were each
19 as likely as not a cause of Mr. Fiolek's CLL?

20 MS. GREENWALD: Objection, form.

21 MR. ORTIZ: Are you getting a call, sir?

22 THE WITNESS: Yeah. Sorry about that.

23 MR. ORTIZ: Do you want to go off the
24 record?

25 THE WITNESS: If you can.

1 MR. ORTIZ: That's fine.

2 THE WITNESS: Okay. Thank you.

3 VIDEOGRAPHER: We're going off the record
4 at 11:55.

5 (A brief recess is had from 11:55 a.m. to
6 12:06 p.m.)

7 VIDEOGRAPHER: We're back on the record at
8 12:06.

9 BY MR. ORTIZ:

10 Q All right. Dr. Laber, we were discussing
11 Mr. Fiolek's obesity before the break. And I wanted
12 to follow up on something. Did you assume that both
13 obesity and exposure to TCE, PCE, and benzene at
14 Camp Lejeune were each as likely as not a cause of
15 Mr. Fiolek's CLL?

16 MS. GREENWALD: Objection, form.

17 THE WITNESS: I considered that
18 possibility.

19 BY MR. ORTIZ:

20 Q Do you have an opinion as to which one is
21 the more likely cause?

22 A Yes. I believe the chemical exposures
23 were more likely.

24 Q And what is that based on?

25 A I think the evidence was stronger. I

1 don't think the other risk factors were sufficient
2 to cause his cancer. So that's the reason.

3 Q What evidence are you referring to?

4 A Evidence from all the literature that
5 we've been discussing for the last few hours and
6 everything that I reported on my -- wrote in my
7 report and I quoted and so forth.

8 Q Mr. Fiolek was 74 years old when he was
9 diagnosed with CLL; is that correct?

10 A Yes.

11 Q He's of Caucasian descent; is that
12 correct?

13 A Yes.

14 Q He's male; is that correct?

15 A Yes.

16 Q You did not consider or rule out a
17 idiopathy as a potential alternative cause; is that
18 correct?

19 A Idiopathy?

20 Q Yes.

21 A I don't think we used that word. You're
22 talking about idiopathic?

23 Q Yes.

24 A Idiopathic means there is none, no cause.

25 Q Correct. You did not consider or rule out

1 idiopathic causation; is that correct?

2 A How are you going to rule out that there
3 is no cause?

4 Q So you did not consider or rule it out?

5 A No. I think it's just -- just nonsense.

6 Q Can you --

7 A I did consider all the options.

8 Q Are you finished with your answer?

9 A Now, I am. Yes. Thank you.

10 Q Can you quantify the degree to which
11 Mr. Fiolek's age, race, sex, obesity, or his alleged
12 exposures to chemicals at Camp Lejeune may have
13 contributed in causing his CLL?

14 A No. I don't think I can quantify with him
15 accurate measurements.

16 Q And you're aware that Mr. Fiolek was
17 diagnosed with bladder cancer more recently;
18 correct?

19 A Yes.

20 Q And specifically, he was diagnosed with
21 stage one bladder cancer and upper tract urothelial
22 cancer, or UTUC in spring of 2024; is that correct?

23 A If that's what I wrote there, yes.
24 Everything I was aware, I put it in my report.

25 Q Is it your opinion that Mr. Fiolek's CLL

1 or treatment for CLL caused his bladder cancer and
2 UTUC?

3 A It's one of the main causes, yes.

4 Q Did you write that in your report?

5 A I think I did. Whatever I --

6 Q Can you point me to it?

7 A My opinions are, I wrote it there.

8 You're talking about this is Fiolek, isn't
9 it?

10 Q Correct.

11 A The report?

12 So if you look at page 13 at the bottom of
13 that, it says "2024, persistent and progressive
14 invasive blood carcinoma despite local resections,
15 intravesical BCG and intravesical chemotherapy.

16 Q Correct. But do you -- anywhere in your
17 report, do you actually opine that his CLL or CLL
18 treatment, in fact, caused his bladder cancer and
19 UTUC?

20 MS. GREENWALD: Objection, form.

21 THE WITNESS: I think on page 17, so
22 there's the end of the previous page,
23 paragraph, and then you start paragraph one,
24 two, three.

25 It says "Mr. Fiolek developed high-risk

1 invasive bladder cancer following his CLL
2 diagnosis and treatment, and his treatment for
3 the cancer is ongoing. It is well known that
4 prior chemotherapy and CLL both predispose
5 patients to secondary malignancies.

6 "In addition, it is very likely that the
7 intravesical BCG and the intravesical
8 chemotherapy gemcitabine were not effective for
9 Mr. Fiolek due to the presence of immune
10 dysregulation of his CLL and the increased
11 resistance to therapy in secondary malignancies
12 as compared to primary one.

13 "Failure to achieve a complete response
14 after induction of BCG is associated with a
15 significant risk of the worsening event and
16 death for patients with carcinoma in situ or a
17 Ta or a T1 bladder cancer at the increased risk
18 of recurrence."

19 That's my opinion.

20 BY MR. ORTIZ:

21 Q And do you, anywhere in that paragraph
22 that you just read, actually state that Mr. Fiolek's
23 CLL or CLL treatment, in fact, caused his bladder
24 cancer and UTUC?

25 MS. GREENWALD: Objection, form.

1 THE WITNESS: My opinion is what I wrote,
2 not what you're mentioning.

3 BY MR. ORTIZ:

4 Q Okay. Did you perform a differential
5 etiology analysis as to Mr. Fiolek's bladder cancer
6 and UTUC?

7 A In this particular case, I perform it in
8 my brain. I did not have to write about that
9 because the request was to write about CLL. So this
10 was not a report about bladder cancer. It was a
11 report about CLL.

12 Q And you did not consider or rule out
13 smoking as a risk factor for Mr. Fiolek's bladder
14 cancer and UTUC; is that correct?

15 A No. That's incorrect. I did consider
16 that.

17 Q You considered it in your brain?

18 A That's one way of putting that.

19 Q But you didn't -- you did not, in your
20 report, consider or rule out smoking as a risk
21 factor for Mr. Fiolek's bladder cancer and UTUC; is
22 that correct?

23 A As I said that, I did consider it. I did
24 not write that in the report but I did consider
25 that.

1 Q And you did not, in your report, consider
2 or rule out family history as a risk factor for
3 Mr. Fiolek's bladder cancer and UTUC; is that
4 correct?

5 A This report was not focusing on bladder
6 cancer so I did not spend too much time on too much
7 detail or every detail about the bladder cancer.

8 Q So the answer to my question is "yes"?

9 A No. Your question is not a correct one.
10 I don't agree with that because you put other things
11 in the wording of your question so I cannot give you
12 a blank yes agreement to your question.

13 Q Did you write anything about family
14 history as a risk factor for Mr. Fiolek's bladder
15 cancer and UTUC in your report?

16 A I don't think I have. But, actually, I
17 did. Didn't we say that the mother died of bladder
18 cancer, so...

19 Q But you did not analyze the fact that
20 Mr. Fiolek's mother died of bladder cancer as a
21 potential risk factor for his bladder cancer and
22 UTUC; isn't that correct?

23 A No. That's incorrect. I did analyze
24 that.

25 Q Where is that your report?

1 A It's not in my report.

2 Q And you did not consider or rule out
3 obesity as a risk factors for Mr. Fiolek's bladder
4 cancer and UTUC; isn't that correct?

5 A No, that's not correct. I did not write
6 it but I did consider it.

7 Q All of those things you only considered in
8 your brain; is that correct?

9 MS. GREENWALD: Objection, form.

10 THE WITNESS: No. It could be in other
11 places but that's one way of saying that.

12 BY MR. ORTIZ:

13 Q None of them you wrote in your report?

14 A What I wrote in my report is in front of
15 you.

16 Q And none of those things are there;
17 correct?

18 A Some of the things are there, actually.
19 You have the mother with bladder cancer. You have
20 the obesity. I don't know why you say it's not
21 there.

22 Q So let me try to clarify. You state that
23 his mother died of bladder cancer, but nowhere in
24 your report do you actually analyze whether that
25 affect -- whether that fact affects his risk of

1 bladder cancer; isn't that correct?

2 A I don't think the point of this report was
3 to analyze the causes of bladder cancer.

4 Q So the answer to my question is "yes"?

5 A No. The answer to your question is
6 whatever is written is written. That doesn't mean
7 that I didn't consider that.

8 Q Are you aware that smoking, family
9 history, and obesity are all considered risk factors
10 for bladder cancer and UTUC?

11 A Yes.

12 Q And you --

13 A Also chemical exposures.

14 Q Which chemical exposures?

15 A Many.

16 Q Can you give me some specifically?

17 A Yeah. Bladder cancer was initially
18 reported on chimney workers in England for many,
19 many years. They were exposed to a lot of toxins.

20 Q Do you know which ones they were exposed
21 to?

22 A No. I don't -- actually, I probably do
23 know but I don't remember them.

24 Q Can you identify any specific chemical
25 linked to bladder cancer?

1 A As we speak today, no, because I was not
2 reviewing that for this deposition. This deposition
3 was focusing on CLL.

4 Q And you're not a urologist; correct?

5 A No, I'm not a urologist. But for more
6 than 10 years, I was a director of research in all
7 genital/urinary cancers which include bladder
8 cancers.

9 Q Have you treated bladder cancer?

10 A Yes. I even published a lot of things.

11 Q All those would be listed on your CV;
12 correct?

13 A Yes.

14 Q You did not review the report of the
15 United States expert urologist, Dr. Max Kates
16 concerning Mr. Fiolek's bladder cancer and UTUC; is
17 that correct?

18 A I don't think I have.

19 Q Is it your belief that Mr. Fiolek received
20 chemotherapy prior to his diagnosis with bladder
21 cancer in spring of 2024?

22 A Whatever I believe is written on the
23 report. So whatever treatments he received that I'm
24 aware of, I wrote it on the report.

25 Q Did you review the report of the United

1 States expert Dr. Harry P. Erba concerning
2 Mr. Fiolek?

3 A Yes.

4 Q And did you see in that report his
5 statement that Mr. Fiolek did not, in fact, receive
6 chemotherapy prior to his diagnosis with bladder
7 cancer in spring of 2024?

8 A I don't remember the details of that
9 report. But you can ask him about that.

10 Q Is obinutuzumab considered to be
11 chemotherapy?

12 A So the nomenclature for the medications
13 changes over time. But obinutuzumab is called a
14 monoclonal antibody. So technically, we don't call
15 it the chemotherapy.

16 Q How about venetoclax?

17 A Venetoclax is more like a targeted
18 therapy. We don't consider that a chemotherapy.

19 Q How about -- I won't pronounce it
20 correctly, but ibrutinib?

21 A Also. Same answer. Is not.

22 Q Do you recall seeing any indication in the
23 medical records that Mr. Fiolek ever received
24 fludarabine?

25 A You talking about Fiolek?

1 Q Yes.

2 A Did I write that? If I didn't write that,
3 then that means no.

4 Q I don't believe --

5 A If I wrote that, then, yes.

6 Q I don't believe -- I don't believe that
7 you did, but can you point me to anywhere in your
8 report that would correct that?

9 A Let me see.

10 You're talking about Fludarabine?

11 Q Correct.

12 A I don't think I wrote that there. So if I
13 didn't write it, that means I'm not aware that he
14 has received that.

15 Q And do you see anything in your report
16 indicating that he received Bendamustine?

17 A Not that I know.

18 Q And do you see anything in your report
19 indicating that he took -- ever took
20 cyclidophosphidimide [phonetic]?

21 A You're probably saying cyclophosphamide,
22 but --

23 Q Thank you.

24 A -- I'm not trying to --

25 Q That's fine.

1 A No, I don't think I wrote that.

2 Q Did you see anything in your report about
3 Mr. Fiolek ever taking chlorambucil?

4 A Well, he was initially planned to receive
5 that. I don't know if -- there's a confusion in the
6 record, I couldn't read clearly, whether he ever
7 received a dose or not, but he might as well have
8 never received it.

9 Q Okay. Just to try --

10 A But he was -- he was planned to get a
11 combination of chlorambucil and Obinutuzumab.

12 Q I'm going to hand you what's been marked
13 as Laber Exhibit --

14 MR. TUBIN: 12.

15 MR. ORTIZ: 12. Thank you.

16 (Exhibit 12 was marked.)

17 THE WITNESS: Thank you.

18 BY MR. ORTIZ:

19 Q Have you ever seen this document before,
20 sir?

21 A No, I have not.

22 Q Does it appear to be excerpts from the
23 transcript of the deposition of Dr. John M. Cho in
24 the case of Robert Fiolek v. United States of
25 America?

1 A That's what it says.

2 Q And if you turn to page 90.

3 A Yes.

4 Q And there's a highlighted portion that
5 I'll read aloud starting at page 90, line 19.

6 "On the day that Mr. Fiolek had his
7 treatment, if, when you read the HPI, you'll
8 know that he had a very significant reaction
9 during the chemotherapy treatment. Had lots of
10 problems, as outlined over there. And we
11 actually did not complete any of his therapy.
12 He got some of it. I can't tell you exactly
13 how much. And we had planned to abandon the
14 rest of the treatment because of the reaction.
15 You can't give that type of treatment if the
16 patient is going to have that type of allergic
17 reaction to it.

18 "Question: Okay. So my understanding he
19 had an allergic reaction to the treatment and
20 it was ceased?

21 "Answer: Yes, it was stopped."

22 Did I read that all correctly?

23 A Yes.

24 Q Are you aware of who Dr. John Cho is?

25 A No. But I think he -- actually, I'm

1 aware. I think he's the oncologist that took care
2 of him but I don't know him personally.

3 Q Okay. And did you review the transcript
4 of his deposition?

5 A No. I don't think I have.

6 Q And I'm going to hand you what's been
7 marked as Laber Exhibit 13.

8 A Thank you.

9 (Exhibit 13 was marked.)

10 BY MR. ORTIZ:

11 Q And have you ever seen this document
12 before, sir?

13 A I don't think I have.

14 Q And I'll represent to you that it's
15 excerpts from Exhibit 3 to the deposition of
16 Dr. Cho. It's an excerpt from Mr. Fiolek's medical
17 record.

18 Can you turn to -- it says page 333 of 901
19 at the bottom.

20 A Yes.

21 Q And do you recognize this as a medical
22 note dated December 4th, 2015 by Kimberly Hess?

23 If you see the top left corner.

24 A Yeah. But I'm looking at the signature
25 because sometimes the record might indicate that

1 it's a patient, but, yes.

2 Q It says --

3 A She's the nurse practitioner that looks
4 like she signed the note.

5 Q On December 4th, 2015 at 1:02 p.m.?

6 A Yes.

7 Q Okay. And the highlighted text on
8 page 333, I'll read it. "He" -- referring to
9 Mr. Fiolek -- "was in the office on December 1st for
10 his first cycle of obinutuzumab and significant
11 infusion-related reactions and his infusion was
12 ultimately stopped. His chlorambucil was held and
13 was scheduled to return on December 15th for
14 follow-up, Dr. Cho."

15 Did I read that correctly?

16 A Yes, you did.

17 Q And if you turn to page 335.

18 The highlighted text reads "Chronic
19 lymphocytic leukemia. Mr. Fiolek had a severe
20 infusion reaction with his first cycle of
21 Obinutuzumab and it was decided to abandon further
22 treatment. His chlorambucil was held and he will
23 return on December 15th for follow-up with Dr. Cho
24 to discuss continuation of care."

25 Did I read that correctly?

1 A Yes.

2 Q So having reviewed those documents, would
3 you agree that Mr. Fiolek ultimately did not receive
4 chlorambucil?

5 A No.

6 Q Why not?

7 A Because you didn't give me all the
8 information. You didn't give me the pharmacy notes,
9 the other clinic notes. You just gave me an
10 expert -- excerpt of something on a deposition. And
11 we have established before that Obinutuzumab is not
12 a chemotherapy, but here it says it's chemotherapy
13 treatment.

14 So I don't even know what you're referring
15 to these. And this is highly incomplete to make
16 that assumption that he never received.

17 Q Are there any other medical records that
18 you could specifically identify, as you sit here
19 today, that would indicate that he received
20 chlorambucil?

21 A Well, he got the pharmacy records that he
22 filled out the prescription. And he got the pills.
23 So I don't know how many pills he took or he ever
24 took it. And in the note that you gave me, they say
25 they held the chlorambucil, but he has an

1 appointment to follow up with Dr. Cho two weeks
2 later.

3 So we will have to continue in following,
4 reviewing the records what happened two weeks later
5 and have a confirmation whether he took any of the
6 pills and so forth.

7 So you're giving me incomplete
8 information.

9 Q And would you have to review the complete
10 medical record in order to confirm whether or not he
11 received chlorambucil at any time?

12 A I think that would be the appropriate way
13 to confirm it, now, if you really want the true
14 confirmation to the best possible -- for the most
15 accurate information.

16 Q Can you turn to page 12 of your Fiolek
17 report?

18 A Yes.

19 Q Let me know when -- are you there?

20 A I'm there now.

21 Q Page 12.

22 And it says "Robert Fiolek Medical
23 History"?

24 A Yes.

25 Q And the second full paragraph reads "In

1 approximately December of 2015, he was treated with
2 a combination of chlorambucil and Obinutuzumab. He
3 developed a severe infusion reaction to Obinutuzumab
4 but recovered and was able to complete therapy. He
5 responded to the treatment as demonstrated by the
6 decrease in the CLL cells in his body, but over
7 time, the CLL returned and he required change in
8 therapy."

9 Did I read that correctly?

10 A Yes.

11 Q Is that still your belief, that he
12 recovered and was able to complete therapy, having
13 reviewed Laber Exhibits 12 and 13?

14 MS. GREENWALD: Objection, form.

15 Go on.

16 THE WITNESS: I think from the information
17 that I had, that was my belief. But, again,
18 these records can be inaccurate in many things,
19 so maybe I actually took it from an inaccurate
20 assumption or an inaccurate record that I saw.

21 BY MR. ORTIZ:

22 Q And anywhere else on this page or this
23 section of your report, do you see any other
24 references to chlorambucil?

25 A No.

1 Q And Mr. Fiolek later received ibrutinib?

2 A Yes.

3 Q And he later received venetoclax?

4 A Yes.

5 Q And he -- in fact, he's still on
6 venetoclax; is that correct?

7 A I don't know as of today if he's taking it
8 or not.

9 Q You don't recall?

10 A No.

11 Q Do you recall any other medications that
12 Mr. Fiolek received for his CLL?

13 A Whatever I wrote in the chart is what I
14 was able to find out.

15 Q Whatever you wrote on pages 12 to 13 -- 12
16 to 14 of your report?

17 A Yes.

18 Q So if it's not listed in there, you didn't
19 find it in the medical records?

20 A Correct.

21 Q And would you agree that if Mr. Fiolek did
22 not receive chemotherapy before his bladder cancer
23 and UTUC diagnosis in spring of 2024, it could not
24 have been a cause of that bladder cancer and UTUC?

25 A Well, we're not going to blame it on

1 something that he didn't receive.

2 Q Correct. And you don't opine in your
3 report that Mr. Fiolek's alleged exposures to
4 contaminants at Camp Lejeune independently caused
5 his bladder cancer and UTUC; is that correct?

6 MS. GREENWALD: Objection, form.

7 THE WITNESS: I'm not opining one way or
8 the other because I was not asked to opine on
9 that question.

10 BY MR. ORTIZ:

11 Q Is it your opinion that CLL increases the
12 risk of bladder -- secondary bladder cancer, in
13 particular?

14 A In particular? What do you mean with "in
15 particular"?

16 Q Is it your opinion that CLL increases the
17 risk of secondary malignancies?

18 A Yes.

19 Q Secondary malignancies would be a more
20 general category referring to all kinds of cancers?

21 A Yes.

22 Q And is it your opinion that CLL increases
23 the risk of bladder cancer as a secondary cancer, in
24 particular?

25 A I think as a general opinion, that

1 increases the risk of cancer, the answer is yes. As
2 of the question of whether CLL has been completely
3 demonstrated to increase the risk of bladder cancer,
4 I'm not aware of really excellent studies showing
5 that.

6 Q Okay. I want to turn to Mr. Gleesing's
7 case. And let me know when you have page 16 of
8 Mr. Gleesing's report in front of you.

9 A I have it now. Thank you.

10 Q Okay. And you conducted the same
11 differential etiology analysis for Mr. Gleesing as
12 you did for Mr. Fiolek; correct?

13 A This one is Gleesing. I'm sorry. I have
14 to find Fiolek. Let me see. One of Fiolek.

15 But the answer to your question is yes, I
16 did conduct a similar differential etiology.

17 Q I'm just pausing for a second so you can
18 get that in front of you.

19 A I appreciate.

20 You say 16.

21 Q Page 16, sir.

22 A I'm there now.

23 Q Okay. And your opinion after conducting
24 the differential etiology analysis is that
25 Mr. Gleesing's CLL was caused by his exposures to

1 TCE, PCE, and benzene at Camp Lejeune; correct?

2 A Yes.

3 Q And your analysis supporting that opinion
4 is set out on pages 16 to 17 of your report in
5 Mr. Gleesing's case; is that right?

6 A Yes.

7 Whenever you have a -- we can do a break?
8 I just got a text from the hospital, but...

9 MR. ORTIZ: We can do a quick break.

10 THE WITNESS: I can do it any time you
11 want.

12 MR. ORTIZ: Okay. Would a few minutes be
13 all right, and then we can take a quick break?

14 THE WITNESS: Yeah.

15 MR. ORTIZ: If it's an emergency, we can
16 take a break.

17 THE WITNESS: No emergency. No
18 emergencies.

19 BY MR. ORTIZ:

20 Q Okay. And you state that the differential
21 etiology analysis was straightforward because
22 Mr. Gleesing had no other risk factors for CLL other
23 than his alleged exposures to TCE, PCE, and benzene
24 at Camp Lejeune?

25 A Yes.

1 MS. GREENWALD: Objection, leading.

2 Objection, form.

3 Go on.

4 THE WITNESS: I thought -- I thought it
5 was -- I thought what you said was right, but
6 if you misconstrue some of my --

7 MS. GREENWALD: No. Mine is just a form
8 objection. You should go ahead and answer. I
9 stated my objection.

10 THE WITNESS: Oh.

11 BY MR. ORTIZ:

12 Q And I probably should have said that at
13 the beginning or reminded you, you know,
14 Ms. Greenwald will object from time to time for
15 legal reasons. But unless she instructs you not
16 answer, you can just go ahead and answer my
17 question.

18 A Thank you.

19 Q All right. Would your opinion be the same
20 for any person who gets CLL and who was at Camp
21 Lejeune between 1953 and 1987?

22 MS. GREENWALD: Objection, form.

23 THE WITNESS: I don't know. I think every
24 case has to be reviewed. I don't know if it
25 would be exactly the same or not. I would have

1 to review the case.

2 BY MR. ORTIZ:

3 Q If somebody was at Camp Lejeune between
4 1953 and 1987 and they had no other risk factors for
5 CLL, would it be your opinion that it was their
6 exposure to water at Camp Lejeune that caused their
7 CLL?

8 MS. GREENWALD: Objection, form.

9 THE WITNESS: I cannot tell you with
10 absolute certainty without reviewing a case.
11 But I think the way you're phrasing the
12 question seems reasonable. In a similar
13 situation, my opinions would be similar? I
14 would say yes.

15 BY MR. ORTIZ:

16 Q Do you agree that Mr. Gleesing is a man
17 over the age of 50?

18 A Yes.

19 Q Do you agree that Mr. Gleesing is obese?

20 A That's what the record indicate.

21 Q And you can't quantify the degree to which
22 Mr. Gleesing's age, race, sex, or his alleged
23 exposure to chemicals at Camp Lejeune may have
24 contributed to causing his CLL; is that correct?

25 MS. GREENWALD: Objection, form.

1 THE WITNESS: I think there has been some
2 estimates of some studies trying to quantify
3 that, but I personally cannot quantify that
4 right now.

5 BY MR. ORTIZ:

6 Q And you didn't consider or rule out
7 idiopathic causation as a potential alternative
8 cause for Mr. Gleesing's CLL; is that correct?

9 MS. GREENWALD: Objection, form.

10 THE WITNESS: I think it's just,
11 considering no cause, or idiopathic, yeah, we
12 always think about that. But if we find
13 causes, that that means we consider it and we
14 move on.

15 BY MR. ORTIZ:

16 Q And Mr. Gleesing was diagnosed in
17 September of 2015; is that right?

18 A Let me see.

19 He presented on August 31st, 2015.
20 On 9/3, he was -- yeah. September 2015.

21 Q Can you identify which page of your report
22 you're looking at, just for the record?

23 A Page 12.

24 Q Thank you. And he did not require therapy
25 until March or April of 2018; isn't that correct?

1 A Yes, that is correct.

2 Q And then in April of 2018, he started a
3 clinical trial combining ibrutinib with FCR
4 chemotherapy; is that right?

5 A Yes. That is right.

6 Q And he had a complete response to therapy,
7 that therapy; correct?

8 A Yes.

9 Q And a bone marrow biopsy in November of
10 2018 after the completion of his treatments in the
11 clinical trial found no evidence of CLL; is that
12 right?

13 A Yes.

14 Q And he received ibrutinib until
15 October 2020 and then he stopped it completely?

16 A I don't know exactly when it was stopped.
17 But there's a good chance that that was -- what you
18 said might be correct but I don't think I documented
19 exactly when he stopped.

20 Q Would you just -- would you defer to the
21 medical records on that?

22 A Yes.

23 Q Okay. And he's off therapy currently;
24 correct?

25 A Yes.

1 Q And if you turn to the last paragraph of
2 your Gleesing report, could do you that, on page 17,
3 sir?

4 A You said the last page?

5 Q Correct. Page 17.

6 A Yeah. Without adding all the references
7 and all that, yes.

8 Q Correct. Do you see that final paragraph
9 there?

10 A Yes.

11 Q Above your signature?

12 A Yes, I do.

13 Q And you opine that Mr. Gleesing's CLL will
14 likely limit his ability to work.

15 Do you see that?

16 A I see how I wrote it. It's not exactly
17 how you said it.

18 Q You wrote that he remains at risk of
19 developing infections that will likely limit his
20 ability to work.

21 A If he develops an infection. If he
22 doesn't, then, no.

23 Q Are you aware of when he retired?

24 A No.

25 Q Are you aware that it was in 2016?

1 A Well, maybe I was aware. I was not paying
2 attention to that. I just...

3 Q And if you turn to page 17 of your Fiolek
4 report, sir.

5 A I have, yes.

6 Q You have page 17 of your Fiolek report in
7 front of you?

8 A Oh, Fiolek is the other one, isn't it?

9 Q Yes. Sorry.

10 A I'm there now. Thank you.

11 Q And the last paragraph right above your
12 signature is very similar to the last paragraph in
13 your Gleesing report; is that correct?

14 MS. GREENWALD: Objection, form.

15 THE WITNESS: I don't know. There will be
16 some similarities and there will be some
17 changes.

18 BY MR. ORTIZ:

19 Q And you state that "Mr. Fiolek remains at
20 higher risk of developing infections that will
21 likely limit his ability to work"; is that correct?

22 MS. GREENWALD: Objection, form.

23 THE WITNESS: I don't think that's the way
24 I wrote it.

25 BY MR. ORTIZ:

1 Q You wrote "He remains at higher risk than
2 the normal population of developing severe
3 infections that will likely limit his ability to
4 work and have a normal life."

5 Did I read that correctly?

6 A Now you did, yes.

7 Q And are you aware of when Mr. Fiolek
8 retired?

9 A I'm not aware as we speak, no.

10 Q Are you aware that both Mr. Fiolek and
11 Mr. Gleesing are retired?

12 A Now, I am. You just told me.

13 Q You were not aware of that when you wrote
14 your report?

15 A Maybe I was. I don't remember noting
16 that.

17 Q Would you agree if they're both retired,
18 that their CLL or infections related to their CLL
19 will not limit their ability to work?

20 MS. GREENWALD: Objection, form.

21 THE WITNESS: I don't know why you say
22 that. Somebody can retire and still work.

23 BY MR. ORTIZ:

24 Q Are you aware of either of them working
25 after their retirement?

1 A No. I haven't looked at that.

2 Q Would you agree that Mr. Fiolek's CLL has
3 been well controlled since October of 2018?

4 MS. GREENWALD: Objection, form.

5 THE WITNESS: So we're going to
6 Mr. Fiolek.

7 October 2018. That's when he started
8 treatment, isn't it?

9 BY MR. ORTIZ:

10 Q That's when he started venetoclax;
11 correct?

12 A Yeah. He responded very nicely. And then
13 he remained in very well control on that, yes.

14 Q And you state for both Mr. Fiolek and
15 Mr. Gleesing that their treatment was reasonable and
16 necessary; correct?

17 A Yes.

18 Q Why did you opine about their treatment?

19 A Because I thought it was important.

20 Q Why?

21 A Because I am an expert oncologist. So
22 it's just one of the ways that I said I agree with
23 the treatment and the treatment was reasonable and
24 was appropriate.

25 Q Did you review any medical bills for

1 either plaintiff?

2 A I don't remember doing that. But
3 sometimes if they send it to me, I do.

4 Q If you look back to your report on
5 Mr. Gleesing's case on page 17, there's a list of
6 complications; isn't that correct?

7 A Yes.

8 Q And the first one is anxiety due to his
9 diagnosis and concerns about the effect this may
10 have on his family; isn't that correct?

11 A Yes.

12 Q And you're not a psychologist or
13 psychiatrist or any kind of mental health
14 professional; is that correct?

15 A That is correct. I'm none of that.

16 Q And are you aware that Mr. Gleesing has
17 not been diagnosed with any mental health condition?

18 A I'm not aware whether he was or was not
19 diagnosed. I don't think I looked at that.

20 Q Did you review his deposition transcript?

21 A I think I did.

22 Q Do you recall his testimony about that?

23 A I don't recall the testimony about that.

24 Q And you opine the next one is numbness in
25 his feet likely related to the medications used to

1 treat his CLL; is that correct?

2 A Yes.

3 Q Which medications?

4 A So in the case of Mr. Gleesing?

5 Q Correct.

6 A I will just tell you what the treatments
7 that he received so I don't confuse one with the
8 other.

9 So he received the combination of
10 ibrutinib plus FCR. And then he received -- he
11 received ibrutinib and then he received venetoclax.
12 Those are the treatments that he received.

13 Q Mr. Gleesing or Mr. Fiolek?

14 A I think --

15 Q Which report do you have in front of you?

16 A So the one that I have now is Gleesing.

17 Q Okay. And which medication, is it your
18 opinion, caused or is related to the numbness in his
19 feet?

20 A So many of them can do that but most
21 common -- in his case, I think it would be maybe the
22 venetoclax, in his case. Rarely the Fludarabine and
23 the cyclophosphamide is much more rare. And
24 ibrutinib is much rare also.

25 Q And you don't cite any data in your report

1 about whether those medications can cause numbness
2 in someone's feet; is that correct?

3 A We can look at the package inserts from
4 the medications as approved by the Food and Drug
5 Administration and you will see the list of all the
6 side effects and it will include this.

7 Q But you don't cite any of those box
8 package inserts or anything?

9 A I don't feel the need to cite them because
10 it's common knowledge.

11 Q And so you did not cite them; correct?

12 MS. GREENWALD: Objection, form, asked and
13 answered.

14 THE WITNESS: I just told you.

15 BY MR. ORTIZ:

16 Q And you refer to -- well, strike that.

17 Do you treat fatty liver disease? I'll
18 stop there. Do you treat fatty liver disease?

19 A If one of my patients have fatty liver
20 disease, I'll consider that. Normally there is no
21 good treatment for that. But many times we have to
22 discontinue some medications that we're giving them.
23 So in those cases, that might be involved. If not,
24 then I refer it to a hepatologist to manage that, if
25 it's not related to a malignancy or a blood

1 disorder.

2 Q So is it fair to say that your involvement
3 is to assess the impact of the fatty liver disease
4 on the cancer that you're treating?

5 A That's past my judgment of the case.

6 Q Do you treat ascending aortic aneurysm?

7 A No.

8 Q Do you treat blocked coronary artery?

9 A As long as there is no cancer, usually
10 not. It would be exceedingly rare that I will have
11 to start aspirin or cardiac medications for that.

12 Normally, I work in an academic center so
13 we have the availability of cardiologists who do
14 that.

15 Q So assume you don't treat prediabetes; is
16 that correct?

17 A Many of my patients might have that so I
18 could recommend diet and exercise in those patients,
19 so that means there is treatment.

20 Q But beyond recommending diet and exercise?

21 A That is the treatment for -- usually for
22 that, or the most important treatment.

23 Q How old is Mr. Fiolek?

24 A Talking about Fiolek. Let me see.

25 Q Would 84 sound correct to you?

1 Eighty-four, 85?

2 A I'm just looking for the date of birth to
3 calculate that if you want the exact number, since
4 I'm under oath, but --

5 Q Sure. I believe it's [REDACTED].

6 A Yeah. [REDACTED] So '40 -- so he
7 would be at least 65. No. Eighty-five.

8 Q Eighty-five.

9 A Something like that.

10 Q And do you know how old Mr. Gleesing is?
11 Mid to late 60s?

12 A If you tell me the truth, I believe you.
13 If you want me to look at the date of birth...

14 Q Would you defer to the medical records, I
15 guess, on his date of birth?

16 A Yes.

17 MR. ORTIZ: Okay. All right. We can go
18 off the record.

19 VIDEOGRAPHER: We're going off the record
20 at 12:47. And this ends media unit number two.

21 (A luncheon recess is had from 12:47 p.m.
22 to 1:33 p.m.)

23 VIDEOGRAPHER: We're back on the record at
24 1:33. And this begins media unit number three.

25 BY MR. ORTIZ:

1 Q All right, Dr. Laber. Did you talk to
2 anyone about the substance of your deposition during
3 the break?

4 A No.

5 Q And you testified earlier that you're not
6 an epidemiologist; is that correct?

7 A Yes.

8 Q And you'd agree with me that you do cite
9 some epidemiological studies in your report and rely
10 upon those studies; is that correct?

11 A I cite some of them. I don't know what
12 you mean with "rely upon them."

13 Q Okay. I want to ask you some questions
14 about your understanding of some epidemiological
15 concepts. Would you agree that epidemiologists
16 study possible associations between an exposure and
17 health effect?

18 A That epidemiologists study that? Yeah. I
19 think it sounds reasonable.

20 Q Would you agree that association's not the
21 same as causation?

22 A Yes.

23 Q Are you familiar with what are called odds
24 ratios or risk ratios or point estimates in
25 epidemiological studies?

1 A Yes.

2 Q Do you know how to interpret them?

3 A In general, yes.

4 Q You'd agree that 1.0 is the normal result,
5 meaning that there's no association between that
6 exposure and that health effect?

7 A It would depend on study by study. We
8 would have to look at what is the plan -- the study
9 planning to -- to evaluate and what they want to do
10 and what will they consider important or not. So as
11 a general statement, 1.0 would be similar to
12 whatever they're studying or the same as whatever
13 they're studying.

14 But it also depends on whatever they're
15 trying to and how are they trying to do that.

16 Q So let me make sure I try to understand.

17 Is it your testimony that in some studies,
18 1.0 does not necessarily refer to the null result?

19 A No. My testimony's what I said. When you
20 rephrase it, I'm afraid that there could be some
21 changes made in the way you phrased them and the way
22 I phrase it.

23 What I meant is whatever 1.0 might be
24 important and you had to know the context of every
25 study.

1 Q Are you referring to the concept of
2 statistical significance?

3 A That's another concept. One thing is
4 different than the other.

5 Q Going back to odds ratios or point
6 estimates, would you agree that generally results
7 above 1.0 are a positive association?

8 A No. It really depends what you put as an
9 association and what are you studying and how are
10 you studying it.

11 Q Would you agree that anything below 1.0 is
12 a negative association?

13 A Same answer as before. It will depend on
14 many factors.

15 Q Are you familiar with confidence
16 intervals?

17 A Yes.

18 Q What are they?

19 A It's basically the range of the numbers
20 that can occur according to many factors, including
21 the number of subjects that you're putting and then
22 so forth.

23 Q Do you know how to interpret them?

24 A Yes.

25 Q Do you agree that a confidence interval

1 that includes 1.0 is not statistically significant?

2 A No. It depends on many factors. I cannot
3 agree with blank statements like that.

4 Q Do you agree that that is the traditional
5 convention employed in epidemiological studies?

6 A I don't know what you mean with
7 "traditional convention." Usually when you write a
8 study, you have to determine how is your
9 methodology. And each one might use different
10 things.

11 Q Would you defer to an expert in
12 epidemiology about that?

13 A It depends on what I'm trying to look at.

14 Q Do you agree that statistically
15 significant results are less likely to be due to
16 chance or random error as compared to
17 non-statistically significant results?

18 MS. GREENWALD: Objection, form.

19 THE WITNESS: Again, that's a general
20 statement. I cannot agree with that.

21 Everything has to have a context.

22 BY MR. ORTIZ:

23 Q Do you agree that epidemiologists
24 generally do not reach conclusions about causation
25 from a single study but try to replicate their

1 findings in different populations?

2 A I think, again, it's a general statement
3 that doesn't apply to all studies. We'll have to
4 find the context on that.

5 Q Do you know what the Bradford Hill factors
6 or considerations are?

7 A Not on top of my thinking today.

8 Q Have you ever tried to apply them?

9 A Personally, no.

10 Q And you didn't do that in your reports
11 here; correct?

12 A I don't think I did.

13 Q Would you be able to tell me what level of
14 positive association above 1.0 reflects a modest
15 association?

16 MS. GREENWALD: Objection, form.

17 THE WITNESS: I think it would depend on
18 the context.

19 BY MR. ORTIZ:

20 Q Do you know who Dr. David Savitz is?

21 A Not as we speak right now.

22 Q So you're not aware that he's an
23 epidemiologist retained as an expert by plaintiffs
24 in this litigation?

25 A I think it might be. Just, if you want to

1 show me the reports. I might have reviewed the
2 reports or not, but I don't remember the name in
3 particular.

4 Q Are you aware that he was deposed in this
5 litigation?

6 A I don't know if I'm aware or not. At this
7 moment, that doesn't ring a bell.

8 Q Okay.

9 A But I might have read it if I saw it or
10 not, so if you are doing this as a memory test, I
11 think that's not a good idea.

12 Q Okay. Do you know what a dose response
13 relationship is?

14 A Yes.

15 Q What is it?

16 A Usually when we find that different doses
17 will have different responses.

18 Q Do you know what a monotonic dose response
19 relationship is?

20 A I haven't used that terminology.

21 Q Okay.

22 A But monotonic means one tone.

23 Q Are you aware that certain epidemiological
24 study designs also generally carry more weight than
25 other study designs?

1 MS. GREENWALD: Objection, form.

2 THE WITNESS: Everything has a context.

3 BY MR. ORTIZ:

4 Q Are you aware that there are different
5 epidemiologic study designs?

6 A Yes.

7 Q Can you identify some of those for me?

8 A No.

9 Q Do you know what a cohort study?

10 A Yes.

11 Q Can you define it for me?

12 A Usually when we look at a group and then
13 we study a group, we call it a cohort.

14 Q Do you know what a case controlled study
15 is?

16 A Yes.

17 Q Can you define it for me?

18 A In general, my definition is personal.
19 And, again, not perfect, but usually when we have a
20 certain thing that we want to study in certain
21 patients, and we find patients with similar
22 characteristics that we can match to the ones that
23 we're studying.

24 Q Do you know what ecological studies are?

25 A I think, yes, but, say, if I look at the

1 definition, I probably can -- can find out.

2 Q As you sit here today, can you define them
3 for me?

4 A No, not on top of my head at this moment.

5 Q Are you aware that they lack data about
6 individual exposures?

7 A No. I don't know the details on that.

8 Q Okay. Can you turn to page 11 of your
9 Fiolek and Gleesing reports, please, sir? Just let
10 me know when you're there.

11 A I'm there now. Thank you.

12 Q And the second-to-last paragraph reads "I
13 have independently reviewed the ATSDR
14 epidemiological studies as well as the ATSDR's
15 assessment of the evidence. I also have read
16 materials relating to general causation for benzene,
17 TCE, and PCE, including the general causation
18 reports of Drs. Felsher, Hu, Gilbert, Bird, and
19 Mallon, which I rely on based on their experiences
20 in the field of epidemiology.

21 "I conclude that it is more likely than
22 not that there is a causal relationship between TCE,
23 PCE, and benzene exposure at Camp Lejeune and CLL."

24 Did I read that correctly?

25 A Yes, you did.

1 Q And that same paragraph is identical in
2 both reports; correct?

3 A Yes.

4 Q And you reference the concept of general
5 causation there in that paragraph.

6 Do you see that?

7 A Yes.

8 Q Do you know what that concept is?

9 A Yes.

10 Q What is it?

11 A I think you are using the legal
12 terminology as a general causation, that this agent
13 caused cancer.

14 Q And are you aware of the term "specific
15 causation"?

16 A I am aware of that.

17 Q And what does that term mean?

18 A I think it would be when we go case by
19 case. That's my understanding. But if I'm wrong,
20 I'm not the legal scholar.

21 Q That's fine.

22 Do you agree that in the paragraph I just
23 read aloud, you are expressing a general causation
24 opinion as to TCE, PCE, and benzene at Camp Lejeune
25 and CLL?

1 MS. GREENWALD: Objection, form.

2 THE WITNESS: No, I don't agree with you.

3 BY MR. ORTIZ:

4 Q Why not?

5 A Because I'm not expressing my personal
6 opinion. I am basically looking at the assessment
7 of the evidence, the materials relating to the
8 general causation. And this is just my conclusion
9 from reading that.

10 Q And in that paragraph that I read, you
11 stated that you independently reviewed certain ATSDR
12 studies as well as ATSDR's assessment of the
13 evidence; correct?

14 A Yes.

15 Q And then you state that you reviewed some
16 other materials, including a general causation
17 reports of Drs. Felsher, Hu, Gilbert, Bird, and
18 Mallon; correct?

19 A Yes.

20 Q And those are all general causation
21 experts retained by plaintiffs in this litigation;
22 is that correct?

23 A I'm not good with names. So if you show
24 me that, I will try to confirm that. But let's say
25 I agree with you.

1 Q Okay. And then the last sentence --

2 A Providing that you're not giving me the
3 wrong information.

4 Q Okay. And the last sentence, it says "I
5 conclude that it's more likely than not that there
6 is a causal relationship between TCE, PCE, and
7 benzene exposure at Camp Lejeune and CLL."

8 Is that your own independent opinion?

9 A The opinion as a legal terminology, as you
10 perfectly well know, is different than my
11 conclusion. And I just put it as a conclusion, not
12 as an opinion.

13 And I also wrote there something that you
14 failed to read, which is, which I rely on.

15 Q And that's what I'm trying to get at, sir.
16 Are you independently opining that there's a causal
17 relationship between TCE, PCE, and benzene exposure
18 at Camp Lejeune and CLL or are you relying solely on
19 the general causation reports of Drs. Felsher, Hu,
20 Gilbert, Bird, and Mallon?

21 MS. GREENWALD: Objection, form.

22 THE WITNESS: Well, you added words like
23 "solely" and things like that, which I don't
24 agree. But I already answered that question,
25 that I'm not giving you this as an opinion.

1 BY MR. ORTIZ:

2 Q Is that your own independent conclusion?

3 A That I'm not giving you an opinion?

4 Q No. Is this -- is your conclusion that
5 it's more likely than not that there's a causal
6 relationship between TCE, PCE, and benzene exposure
7 at Camp Lejeune and CLL, is that your own
8 independent conclusion?

9 MS. GREENWALD: Objection, form.

10 THE WITNESS: Whatever I wrote here is the
11 correct one. The way you're reading it and
12 you're failing to read parts or taking other
13 things, I don't agree with the way you read it
14 or the way you express it.

15 I do agree with the way I wrote it. And I
16 think it's very clear. I'm not offering this
17 as a general causation opinion.

18 BY MR. ORTIZ:

19 Q Have you ever been an expert in a toxic
20 tort case before?

21 A I don't think so. I think I'm an expert
22 on another large case which was for a pharmaceutical
23 company called Zantac but I don't think it was a
24 tort or anything like that, but if I'm wrong,
25 apologize for the mistake.

1 Again, I'm not a legal scholar. I look at
2 the medical facts.

3 Q That's fine. And I'm not trying to ask
4 you to be a legal scholar. But were you referring
5 to the Zantac litigation?

6 A Yes.

7 Q And you're an expert retained in that
8 litigation?

9 A Yes.

10 Q Are you an expert retained on behalf of
11 the plaintiffs or the defense?

12 A I think on that one, on the defense.

13 Q And have you disclosed a report in that
14 litigation?

15 A I disclose whatever I need to disclose. I
16 don't know which report you're mentioning on.

17 Q Did you, like you did in this case --
18 well, let me ask you this: Do you agree in this
19 case that you disclosed two reports; correct?

20 A What do you mean did I disclose two
21 reports?

22 Q The counsel for the party that retained
23 you served two reports to the opposing counsel and
24 those reports summarize your opinions as required by
25 Rule 26 of the Federal Rules of Civil Procedure?

1 MS. GREENWALD: Objection, form.

2 THE WITNESS: I'm sorry. I don't follow
3 you.

4 BY MR. ORTIZ:

5 Q Okay.

6 A I couldn't understand what you're trying
7 to say.

8 Q Do you know if you prepared a report in
9 the Zantac litigation?

10 A I don't think I have.

11 Q Okay. Have you testified in that
12 litigation?

13 A I don't think so.

14 Q And you independently reviewed the ATSDR
15 epidemiological studies that are cited there in your
16 report; correct?

17 A I think I already answered that and I
18 clearly wrote it also.

19 Q Okay. And you agree that sticking with
20 your Fiolek report, there's a footnote for
21 references 25 to 31.

22 Do you see that?

23 A Fiolek report. Which footnotes are you
24 referring to?

25 Q You see on page 11 of your Fiolek report,

1 after the first sentence of that paragraph that I
2 read aloud, there's a reference to footnotes 25 to
3 31.

4 A I see those footnotes, yeah.

5 Q And if you turn to page 20 of your Fiolek
6 report, sir.

7 A Uh-huh.

8 Q Sorry. Yes. Page 20.

9 A Yes.

10 Q And you see the corresponding references,
11 25 to 31?

12 A I do.

13 Q And then if you look at your Gleesing
14 report, sir.

15 A Yes.

16 Q And you see after the first sentence of
17 the paragraph I read aloud, there's a reference to
18 footnotes 22 to 28?

19 A Yes.

20 Q And if you turn, please, to page 19 of
21 your Gleesing report.

22 A Yes.

23 Q And you see references 22, 23, 24, and on
24 the next page, 25 to 28; is that correct?

25 A Yes, I see that.

1 Q And those are the same as references 25 to
2 31 in your Fiolek report; correct?

3 A I don't know. Let me check.
4 You're talking which ones are the same to
5 which?

6 Q Twenty-two to 28 of your Gleesing report
7 and 25 to 31 of your Fiolek report.

8 A Twenty-two...
9 Yes.

10 Q Okay. And so you independently reviewed
11 all those studies?

12 A Yes.

13 Q One follow-up.
14 When were you retained as an expert in the
15 Zantac litigation?

16 A I don't know exactly when but it was two
17 years ago, around that time.

18 Q 2023?

19 A I think so.

20 MR. ORTIZ: What exhibit number are we on?

21 CERTIFIED STENOGRAPHER: Next one will be
22 14.

23 MR. ORTIZ: Thank you.

24 BY MR. ORTIZ:

25 Q All right, Dr. Laber. I'm going to hand

1 you what I'll mark as Laber Exhibit 14.

2 (Exhibit 14 was marked.)

3 THE WITNESS: Thank you.

4 BY MR. ORTIZ:

5 Q And do you recognize Laber Exhibit 14 as
6 Bove, et al, 2014, Evaluation of Mortality Among
7 Marines and Navy Personnel Exposed to Contaminated
8 Drinking Water at USMC Base Camp Lejeune: A
9 Retrospective Cohort Study; is that correct?

10 A Yes.

11 Q This is one of the studies you
12 independently reviewed; correct?

13 A Yes.

14 Q Now, on your report, you don't quote,
15 discuss, or cite any of the data that is in Laber
16 Exhibit 14; correct?

17 A I don't know. I haven't looked at that,
18 according to that.

19 Q Can you point me to anywhere in your
20 report where you quote, discuss, or cite any of the
21 data that's in this document?

22 A I don't know. We can actually look that
23 up.

24 So let me see which. This was...

25 I think I'm referencing this, when I say

1 that I reviewed these studies.

2 Q Correct.

3 A I don't think I personally pulled that up
4 on this particular study for my report.

5 Whether there's some data on the other
6 tables that I took from other reports, I don't know
7 about that, but...

8 Q Okay.

9 A I don't see that I took a particular piece
10 of numbers from these --

11 Q Okay. Thank you for --

12 A -- and put it in my report.

13 Q Thank you for confirming that. If you can
14 turn to page seven, please, of Laber Exhibit 14.

15 A Seven of this report?

16 Q Correct, sir.

17 A Okay.

18 Q And you see Table 4. They're setting out
19 standardized mortality ratios; correct?

20 A Yes.

21 Q And I've highlighted, for convenience,
22 three categories. The first for hematopoietic
23 cancers, the second for NHL, and the third for
24 leukemias. Do you see that?

25 A Yes.

1 Q And do you see that the standardized
2 mortality ratio is below 1.0 for each one of those
3 categories?

4 A Yes.

5 Q And do you know what a standardized
6 mortality ratio is?

7 A Let's look at what they put for this
8 study. We'll have to go to the methods and see if
9 they state here.

10 Q You're not aware of what it is, generally?

11 A It's not generally. It's how can you
12 apply it. Because you say ratios. Ratio means
13 you're comparing other variables so you have to
14 actually specify which variables you are putting
15 there.

16 Q Is it your testimony that standardized
17 mortality ratios can mean different things in
18 different studies?

19 A If you have to put it on a context. You
20 have to put it on the context on this study and its
21 ratio to what.

22 Q Do you know how to interpret the numbers
23 in table four?

24 A If I have the background of how they did
25 it and the methodology, of course, yes. If you just

1 give me this out of context without telling me what
2 they did, no.

3 Q Can you turn to page eight of the
4 document, sir?

5 A Page eight of the document? Yes.

6 Q Do you see Table 5 there?

7 A Yes.

8 Q Table 5 sets out hazard ratios comparing
9 Camp Lejeune and Camp Pendleton; is that correct?

10 A Camp Lejeune, yes.

11 Q And I've highlighted, for convenience,
12 three categories, hematopoietic cancers, NHL, and
13 leukemias.

14 Do you see that?

15 A Yes, I do.

16 Q And do you see that the hazard ratio for
17 hematopoietic cancers is 1.05 with a confidence
18 interval of 0.82 to 1.33.

19 Do you see that?

20 A I see that.

21 Q And for NHL, it's 0.81, a confidence
22 interval of 0.56 to 1.18.

23 Do you see that?

24 A Yes.

25 Q And for leukemias, it's 1.11 with a

1 confidence interval of 0.75 to 1.62.

2 Do you see that?

3 A Yes.

4 Q And do you know how to interpret those
5 numbers?

6 MS. GREENWALD: Objection, form.

7 THE WITNESS: Yes, I do, but you still
8 have to add the methodology what they use.

9 BY MR. ORTIZ:

10 Q And what do you mean by that?

11 A Well, this one, they have a 95 percent
12 confidence interval adjusted by sex, race, rank, and
13 education. Why do they choose that? Why do they
14 choose rank? Why do they choose education? Why
15 would that be important? So the numbers change.
16 The more variables you put, the numbers get smaller
17 and smaller. And the ratios get more difficult to
18 establish because you're being so specific. So you
19 have to say, why are you using all those numbers.
20 Are these just out of the hat? Is this something
21 important? Do they have data that this makes a
22 difference?

23 Q And do you consider any of those hazard
24 ratios to be meaningfully elevated?

25 A Not without knowing the details. I would

1 have to know all the details of that, how do they do
 2 it, why do they do it, what information they plug
 3 in. And not only that. Also, what's the population
 4 size? If you only have a small number of
 5 hematopoietic cancers and small numbers of leukemia,
 6 then they won't be able to come up with a reasonable
 7 conclusion. You need the certain numbers to really
 8 have a meaningful analysis.

9 So all that -- all those informations,
 10 you're lacking all that.

11 Q And would you agree that Laber Exhibit 14
 12 did not conduct an evaluation of leukemia subtypes?

13 A What was your question again?

14 Q Do you agree that Laber Exhibit 14 did not
 15 conduct an evaluation of leukemia subtypes?

16 A Laber Exhibit 14?

17 Q Do you agree that this document did not
 18 conduct an evaluation of leukemia subtypes?

19 A I don't know. I haven't -- have reviewed
 20 this a long time ago. You want me to read the paper
 21 again to see if they did that or not?

22 Q And you independently reviewed this study
 23 when preparing your report; is that correct?

24 A Yes, I did.

25 Q Can you turn to page eight, if you're not

1 already there?

2 A Page eight of which document?

3 Q Of this document, Laber Exhibit 14.

4 A Okay.

5 Q And do you see the right-hand column, the
6 paragraph there that begins "an evaluation of
7 leukemia subtypes was not conducted because a
8 considerable percentage (22.7 percent) of the
9 leukemias were classified as acute leukemia, not
10 otherwise specified"?

11 A I see that.

12 Q "And the Camp Lejeune cohort compared to
13 the percentage 9.4 percent occurring in the Camp
14 Pendleton cohort."

15 Did I read that correctly, sir?

16 A Yes, you read that correct.

17 Q Can you tell me whether this document
18 supports your opinion that it's more likely than not
19 that there's a causal relationship between TCE, PCE,
20 and benzene exposure at Camp Lejeune and CLL?

21 MS. GREENWALD: Objection, form.

22 THE WITNESS: I don't think that was my
23 opinion. I already answered you at least three
24 or four times that that was not one of my
25 opinions. You keep -- you kept misstating.

1 BY MR. ORTIZ:

2 Q Can you tell me -- I'll repeat my
3 question.

4 Can you tell me whether this document
5 supports your conclusion that it's more likely than
6 not that there's a causal relationship between TCE,
7 PCE, and benzene exposure at Camp Lejeune and CLL?

8 A I believe this is part of the document
9 that support my conclusions.

10 So if you take one thing out of context,
11 you might or might not be more or less. But at this
12 moment, yes, this is part of a group of information
13 that I have evaluated that support my conclusions.
14 That's why I list it out, that's why I referenced
15 that.

16 Q And was there any data specifically within
17 this document that you would point to to support
18 your conclusion?

19 MS. GREENWALD: Objection, form.

20 THE WITNESS: I haven't looked at that as
21 we now speak. I will have to read the paper
22 again and go -- and go into more and more
23 details because you're asking a very specific
24 question that I was not prepared to answer at
25 this moment.

1 BY MR. ORTIZ:

2 Q And you independently, as we've said
3 several times, reviewed this document; correct?

4 MS. GREENWALD: Objection, form, asked and
5 answered.

6 BY MR. ORTIZ:

7 Q You can answer.

8 A I independently reviewed all of the
9 documents that I listed on my report.

10 Q Did you -- are you aware that there was an
11 Additional File 2 for Laber Exhibit 14?

12 A You use my name so freely that I don't
13 know what you're talking about.

14 Q That's for the record. But are you aware
15 of Additional File 2 for Bove 2014? Does that ring
16 a bell?

17 A You're asking me if this paper has more
18 than what you're just showing me now?

19 Q Yeah. I'll --

20 A Is that your question?

21 Q I'll just show you. I think that will be
22 clear.

23 (Exhibit 15 was marked.)

24 BY MR. ORTIZ:

25 Q Here you go, sir.

1 A Thank you.

2 Q And have you ever seen the document that
3 I've marked as Laber Exhibit 15 before?

4 A As we speak right now, I don't recall this
5 but I might have seen it. If this is part of the
6 other paper that I quoted on my report, I definitely
7 saw it.

8 Q And do you recall if you've reviewed the
9 data that's within Laber Exhibit 15?

10 A If I said I did, then I did.

11 Q And I'll represent to you that it wasn't
12 listed specifically in your Materials Considered
13 list. So does that -- can I assume that you did not
14 review it when preparing your report?

15 MS. GREENWALD: Objection, form.

16 THE WITNESS: No. I wouldn't assume
17 anything.

18 BY MR. ORTIZ:

19 Q Okay. Everything you considered is listed
20 in your Materials Considered list; correct?

21 A Whatever I wrote in my report is correct.
22 Whatever you ask, I don't know if it's correct or
23 not.

24 Q Okay. And I've highlighted, for
25 convenience, certain data relating to hematopoietic

1 cancers, multiple myeloma, leukemia, Non-Hodgkin
2 Lymphoma, Hodgkin.

3 Do you see that?

4 A I see that.

5 Q And hopefully we don't have to go through
6 all of these, but you agree that CLL's not
7 specifically listed here?

8 A CLL is not listed in this table.

9 Q Okay. And since you have not reviewed
10 this document before, that you can recall, sitting
11 here, can I take it that you can't tell me, as you
12 sit here, whether this data supports or does not
13 support your conclusion concerning TCE, PCE, and
14 benzene exposure at Camp Lejeune and CLL?

15 MS. GREENWALD: Objection, form.

16 THE WITNESS: I think you said so many
17 things, that I don't agree that I cannot...

18 BY MR. ORTIZ:

19 Q Well, what do you not agree with?

20 A The way you phrase what I did and what I
21 didn't do.

22 Q Is there a different way that you prefer
23 me to phrase it?

24 A No. You can phrase it any way you want,
25 but I'm not going to answer your question. I cannot

1 tell you what to do or how to ask your questions,
2 but you -- you phrase a lot of things, like I did
3 and I didn't do, and I don't really agree with that.

4 Q And looking back at Laber Exhibit 2014
5 [sic], the Bove 2014 document, do you agree that CLL
6 is not specifically listed as a category here?

7 A On the table that you showed me, I did not
8 see CLL listed.

9 Q Okay.

10 A I see Non-Hodgkin Lymphoma and I see
11 leukemias.

12 Q And do you know if the authors of Bove
13 2014 categorize CLL as a leukemia or a lymphoma for
14 purposes of this study?

15 A No, I do not. But I don't know if they
16 really had that information because you read me on
17 the paragraph that they couldn't because the way it
18 was -- the data was cataloged.

19 Q You're --

20 A They don't give them that information so
21 you can't tell one way or the other.

22 Q You're referring to the paragraph where
23 they say that they did not conduct an evaluation of
24 leukemia subtypes; is that correct?

25 A No.

1 Q Are you referring to something else?

2 A Yes.

3 Q Can you identify for me what you're
4 referring to?

5 A In page eight out of 14 --

6 Q Uh-huh.

7 A -- it says "An evaluation of leukemia
8 subtypes was not conducted because of a considerable
9 percentage of the leukemias were classified as acute
10 leukemia, not otherwise specified."

11 So I think the classification of the data
12 that they have, they don't allow them to look at
13 that information.

14 Q Okay. And that's what I was referring to
15 a moment ago; correct?

16 A At some point, you actually read these
17 with me, yes.

18 Q Okay. All right. If you look back,
19 please, at -- well, let me just do it this way. I'm
20 going to hand you what's been marked as Laber
21 Exhibit 16, sir.

22 (Exhibit 16 was marked.)

23 BY MR. ORTIZ:

24 Q And do you recognize Laber Exhibit 16 as
25 Bove, et al., 2014 the Mortality Study of Civilian

1 Employees Exposed to Contaminated Drinking Water at
2 USMC Base Camp Lejeune, a Retrospective Cohort
3 Study?

4 A Yes.

5 Q And you independently reviewed this study;
6 correct?

7 A I think it's listed on my references.
8 That means yes.

9 Q And you'd agree this study's about
10 civilians; correct?

11 A In the title, it says that. Mortality
12 study of civilian employees.

13 Q And Mr. Fiolek was not at Camp Lejeune as
14 a civilian; correct?

15 A That was my understanding.

16 Q And Mr. Gleesing was not at Camp Lejeune
17 as a civilian; correct?

18 A That's also my understanding. I don't
19 know if they were also as civilians or not, but my
20 understanding is they were there as Marines.

21 Q Do you agree that a serious limitation of
22 the study was the small numbers of most causes of
23 death resulting in wide confidence intervals?

24 MS. GREENWALD: Objection, form.

25 BY MR. ORTIZ:

1 Q And if you'd like, I can refer you to
2 page 11 --

3 A Well, I cannot agree or disagree with
4 something in this study if I'm not allowed to read
5 it again.

6 Q Do you want --

7 A I read it a long time ago so I'm trying to
8 get to the part that will comment about the
9 limitation of the studies.

10 Q Sure. Let me direct you to page 11.

11 A Thank you.

12 In the discussion of this article, the
13 authors list many limitations. They said -- I will
14 actually refer you to what the authors said about
15 the limitations. I don't have a separate opinion of
16 what the authors discussed.

17 Q That's fine. But one of those is what I
18 just referenced? It says, on page 11, "One serious
19 limitation of the study was the small numbers of
20 most causes of death which resulted in wide
21 confidence intervals for the measures of effect."

22 Did I read that correctly?

23 A Yes.

24 Q There's a few other limitations referenced
25 on this page; correct?

1 A Yes.

2 Q Do you have any opinion as to whether or
3 not civilians would have different exposures at Camp
4 Lejeune than Marines?

5 A No, I have no opinions on that.

6 Q Is that something that you've considered
7 or analyzed?

8 A I was not asked to review a civilian. I
9 only reviewed these two patients.

10 Q Okay. You can put that aside.

11 I'm going to hand you what's been marked
12 as Laber Exhibit 17, sir.

13 (Exhibit 17 was marked.)

14 BY MR. ORTIZ:

15 Q And do you recognize ATSDR -- or do you
16 recognize Laber Exhibit 17 as ATSDR's assessment of
17 the evidence?

18 A ATSDR Assessment of the Evidence for the
19 Drinking Water Contaminants at Camp Lejeune and
20 Specific Cancers and Other Diseases from January 13,
21 2017.

22 Q And you independently reviewed this study;
23 correct?

24 A Yes.

25 Q Do you know who Dr. Frank Bove is?

1 A No. I don't know him personally.

2 Q Are you aware that he was the sole author
3 of this study?

4 A Well, if you have it in front of me and
5 the author says that, then, yes, I am aware.

6 Q And are you aware that he completed this
7 study in just about six weeks?

8 A No.

9 MS. GREENWALD: Objection, form.

10 THE WITNESS: I did not look at how long
11 it take him to do this.

12 BY MR. ORTIZ:

13 Q Can you turn to page six of the document,
14 sir? Let me know when you're there.

15 A I'm there now. Thank you.

16 Q And do you see at the top of the page,
17 there are numbers one, two, three, and four. After
18 one, it says "sufficient." After two, it says
19 "equipoise and above." And after three, it says
20 "below equipoise." And after four, it says
21 "against."

22 Do you see that?

23 A Yes, I do.

24 Q I want to focus on three, below equipoise.
25 It reads "The evidence is not sufficient to conclude

1 that a causal relationship is at least as likely as
2 not or is not sufficient to make a scientifically
3 informed judgment."

4 Did I read that correctly?

5 A Yes.

6 Q And can you turn to page 13 of the
7 document, sir?

8 A Whenever it's okay, I will need, like, 10
9 minutes or five minutes just to answer the hospital.

10 Q That's fine.

11 A No emergency.

12 Q Are you okay for a few minutes?

13 A Yeah. Yeah. I'm okay. Thank you.

14 Q Are you at page 13, sir?

15 A Yes.

16 Q And do you see that there's an overall
17 summary of the evidence?

18 A Yes.

19 Q And do you see that for PCE and leukemias,
20 ATSDR concluded that there was below equipoise
21 evidence for causation.

22 Do you see that?

23 A Yes.

24 Q So do you agree that for PCE and
25 leukemias, ATSDR's conclusion was that the evidence

1 is not sufficient to conclude that a causal
2 relationship is at least as likely as not or is not
3 sufficient to make a scientifically informed
4 judgment; correct?

5 MS. GREENWALD: Objection, form.

6 THE WITNESS: I personally cannot agree or
7 disagree. I can read it, what they say but I'm
8 not agreeing or disagreeing because I haven't
9 reviewed all the information that they say for
10 that particular part.

11 And, again, this is a table and it depends
12 on which evidence they look.

13 BY MR. ORTIZ:

14 Q Dr. Laber, I just read to you the ATSDR's
15 own definition of "below equipoise"; correct?

16 A Yes, you did.

17 Q And I'm now showing you a table where
18 ATSDR provides an overall summary of the evidence in
19 which ATSDR states that their conclusion is that
20 there was below equipoise evidence for causation
21 between PCE and leukemia; is that correct?

22 A You're showing me a line that says that on
23 a table.

24 Q And this is within their overall summary
25 of the evidence; isn't that right?

1 A Yes.

2 Q And in your report, you conclude, in part
3 relying on this document, that there's a causal
4 relationship between PCE exposure, Camp Lejeune, and
5 CLL; isn't that correct?

6 MS. GREENWALD: Objection, form.

7 THE WITNESS: I don't know exactly how you
8 phrase it but I will stick to the way I wrote
9 it.

10 BY MR. ORTIZ:

11 Q And do you see that there are various meta
12 analysis citations here --

13 A Yes, I do.

14 Q -- in the leukemias box?

15 A Yes.

16 Q Did you review any of those documents
17 independently?

18 A I might have.

19 Q Do you know whether or not you did?

20 A I suspect I did for some.

21 Q Okay. Which ones do you suspect you did?

22 A I don't remember.

23 Q Do you know if they're listed on your
24 Materials Considered list?

25 A I don't know.

1 Q If they're not listed there, does that
2 mean that you did not review them?

3 A No.

4 Q So there are things that you reviewed that
5 are not listed on your Materials Considered list; is
6 that correct?

7 A Yes.

8 Q And could you identify what those things
9 are for me?

10 A I don't think so, no.

11 Q Could anybody identify what those things
12 are?

13 A I don't know if other people can identify,
14 but not me.

15 Q You don't recall at this time?

16 A I don't recall at this time.

17 MR. ORTIZ: Okay. We can take a break
18 here.

19 THE WITNESS: Thank you.

20 VIDEOGRAPHER: We are going off the record
21 at 2:18. And this -- no. We're just going off
22 at 2:18.

23 (A brief recess is had from 2:18 p.m. to
24 2:38 p.m.)

25 VIDEOGRAPHER: We're back on the record at

1 2:38.

2 BY MR. ORTIZ:

3 Q Dr. Laber, did you talk to anybody about
4 the substance of your deposition during the break?

5 A No, I have not.

6 Q Okay. Could you please turn to 53 of
7 Laber Exhibit 17, page 53, sir?

8 A Page 53?

9 Q Um-hum. Excuse me. Let's -- let's
10 actually go to page 54.

11 A I'm there. Thank you.

12 Q On page 54?

13 A Yes.

14 Q And do you see the last paragraph says
15 Conclusion? Do you see that there?

16 A Yes, I do.

17 Q And I've highlighted a little bit for
18 convenience, but it says "Conclusion: ATSDR
19 concludes that the epidemiological evidence for TCE
20 and leukemia from the occupational drinking water
21 studies is not strong but nevertheless sufficient to
22 at least reach equipoise."

23 Did I read that correctly?

24 A Yes, you did.

25 Q So do you agree that ATSDR concluded that

1 the evidence is not sufficient for causation as
2 between TCE and leukemias?

3 A Again, I haven't reviewed in details to
4 agree or disagree but I am looking at the findings.

5 Q Could you turn to page 55, sir?

6 A Yes.

7 Q You see the highlighted portion that says
8 Conclusion?

9 A Yes.

10 Q And I'll read it. "Conclusion. Because
11 of the limited number of epidemiological studies,
12 the mixed results in the studies of dry cleaning
13 workers who most likely have the highest exposures
14 to PCE, and the uncertainties regarding the
15 relevance of the finding of mononuclear-cell
16 leukemia in the rat, ATSDR concludes that there is
17 below evidence for causation -- below equipoise
18 evidence for causation for PCE and leukemias."

19 Did I read that correctly?

20 A Yes.

21 Q And could you go to the next page, sir?
22 And do you see the highlighted line next to a
23 paragraph in about the middle of the page?

24 A Yes, I do.

25 Q And I'll read it. "Conclusion: Based on

1 the results of the meta analyses, the recent cohort
2 studies and the finding that occupational benzene
3 exposures associated with reductions in both
4 lymphoid and myeloid cell types, ATSDR concludes
5 there's sufficient evidence for causation for
6 benzene and all leukemia types, i.e., ALL, CLL, AML,
7 and CML."

8 Did I read that correctly?

9 A Yes, you did.

10 Q And you'd agree with me that ATSDR does
11 not identify what level of benzene exposure might be
12 required to cause leukemias; correct?

13 A No, incorrect. I don't think that's what
14 you read. You just read a final conclusion.

15 Q Right.

16 A I haven't reviewed all that with the
17 levels and all that.

18 Q Okay. Can you identify anywhere in this
19 document where they identify what level of benzene
20 exposure is required to cause leukemias?

21 A I don't know. I haven't gone through all
22 these studies looking for that particular question.

23 But since I'm not an expert on that, I
24 don't know if you want to spend the next seven hours
25 on that, reviewing this, how many pages? Hundreds

1 of pages.

2 Q And, again, sir, this was a document that
3 you independently reviewed; correct?

4 A Yes, I did.

5 Q Okay. I'm going to hand you what's marked
6 as Laber Exhibit 18.

7 (Exhibit 18 was marked.)

8 BY MR. ORTIZ:

9 Q I'm sorry. If you want to put some of the
10 papers aside to clean up over there, that's fine
11 with me.

12 A Thank you.

13 MS. GREENWALD: Too many dead trees.

14 THE WITNESS: Nice and heavy.

15 BY MR. ORTIZ:

16 Q Do you recognize Laber Exhibit 18 as
17 ATSDR's public health assessment?

18 A Yes.

19 Q And this is a document that you
20 independently reviewed; correct?

21 A Yes.

22 Q And could you turn to page 80, please?

23 MS. GREENWALD: I'm sorry. What page did
24 you say?

25 MR. ORTIZ: Eighty.

1 MS. GREENWALD: Thank you.

2 THE WITNESS: I'm there now.

3 BY MR. ORTIZ:

4 Q Okay. I want to give your counsel a
5 second to get there.

6 MS. GREENWALD: It's okay. I'm good.
7 Thank you.

8 BY MR. ORTIZ:

9 Q And do you see --

10 A I beat you.

11 Q Do you see at the top, it says "Cancer
12 Health Effects"?

13 A Yes.

14 Q And the -- I'll just read the first
15 sentence of the second paragraph. "Because of the
16 uncertainties and conservatism inherent in deriving
17 the CSFs and IURs, this is only an estimate of risk;
18 the true risk is unknown and could be as low as
19 zero."

20 Did I read that correctly?

21 A Yes.

22 Q And CSFs, would you agree with me, refers
23 to cancer slope factors?

24 A I don't know. I cannot agree with you as
25 I don't see that here, but...

1 Q Do you see that in the first paragraph?

2 A No, I don't.

3 Q And does IURs, would you agree with me
4 that that refers to inhalation unit risk?

5 A I don't know. I don't see that anywhere.

6 Q Okay. I'll read the first sentence of the
7 first paragraph, "The estimated risk of developing
8 cancer resulting from exposure to the contaminants
9 was calculated by multiplying the site-specific
10 child and adult exposure dose, by USEPA's
11 corresponding cancer slope factor exposure
12 concentration by the unit -- by the inhalation unit
13 risk."

14 Do you see that?

15 A I see that.

16 Q Okay. And you independently reviewed this
17 document to support your conclusion that it's more
18 likely than not that there's a causal relationship
19 between TCE, PCE, and benzene exposure in Camp
20 Lejeune and CLL?

21 MS. GREENWALD: Objection, form.

22 THE WITNESS: I think I already said that.
23 I did review this. And my conclusion is the
24 one that's stated in my report.

25 BY MR. ORTIZ:

1 Q Is there anything in particular that you
2 can identify within this document acknowledging that
3 it's a large document to support that conclusion?

4 MS. GREENWALD: Objection, form.

5 THE WITNESS: I haven't looked at that
6 particular question to answer that.

7 BY MR. ORTIZ:

8 Q And I'm going to hand you what will be
9 marked as Laber Exhibit 19.

10 (Exhibit 19 was marked.)

11 BY MR. ORTIZ:

12 Q Do you recognize Laber Exhibit 19 as
13 ATSDR's morbidity study published in April 2018?

14 A Yes, I do.

15 Q And you independently reviewed this
16 document; correct?

17 A Yes.

18 Q Can you please turn to page 74 of the
19 document? And just let me know when you're there.

20 A I'm there now.

21 Q Okay. And you see Table 6 sets out odds
22 ratios comparing cancers and other disease among
23 Camp Lejeune Marines with those of Camp Pendleton
24 Marines?

25 A I can see that.

1 Q And I've highlighted the results for
2 leukemia and lymphomas.

3 Do you see that?

4 A Yeah. I see what you highlighted, yes.

5 Q And you see the result for leukemia was
6 0.97 with a confidence interval of 0.61 to 1.52.

7 Do you see that?

8 A Yes.

9 Q And do you agree that that finding does
10 not provide support hypothesis that exposure to
11 contaminated drinking water at Camp Lejeune
12 increases the risks of leukemia?

13 A No. I don't agree with that.

14 Q Why not?

15 A Because I haven't looked at the details on
16 that. You just gave me one table. I will have to
17 go again.

18 Q All right.

19 A What they did and all the analysis and the
20 variables that they considered, so...

21 Q Can you turn to page eight of the
22 document, sir? And I've highlighted two sentences
23 near the bottom and I'll read those aloud. "Some
24 ORs for specific diseases in the tables are below
25 1.0 (e.g., for male infertility and lupus in the

1 internal analyses of Camp Lejeune Marines). These
 2 ORs are interpreted as providing no support for our
 3 hypotheses that the exposures to contaminated
 4 drinking water at Camp Lejeune increased the risk
 5 for these diseases."

6 Did I read that correctly?

7 A Yes.

8 Q And going back to page 74. We mentioned
 9 this earlier, but I don't think we discussed it in
 10 any detail.

11 You're aware of the concept of statistical
 12 significance?

13 A Yes.

14 Q And do you recall testifying about that a
 15 little bit earlier today?

16 A Testifying what?

17 Q You recall testifying about what it is,
 18 generally?

19 A That I know the concept of statistical
 20 significance? Yes.

21 Q Would you agree that finding for leukemia
 22 there is not statistically significant?

23 A No, I cannot agree outside of the context.
 24 Like I explained you, depends on how you do the
 25 study, which variables you input. The more

1 variables, the less variables, the statistical
2 significance will change, also, depending what they
3 consider statistical significant, what level of
4 statistics they want.

5 Q Do you see the result for lymphomas that
6 I've highlighted there?

7 A Yes, I do.

8 Q And it's 1.06 with a confidence interval
9 of 0.75 to 1.50; is that correct?

10 A Yes, it is.

11 Q Do you regard 1.06 as a elevated odds
12 ratio?

13 A It really depends on the variables and the
14 context and all that.

15 Taken out of context, I cannot say much.

16 Q Do you have any kind of -- well, strike
17 that.

18 THE WITNESS: Sorry. Need to put less.

19 MR. ORTIZ: That's fine.

20 BY MR. ORTIZ:

21 Q Do you know what selection bias is?

22 A Yes.

23 Q What is it?

24 A When we are biased, according to the
25 population that were selected.

1 So if we want to find out something, but
2 we're only looking at the population that we want
3 to, the results might be different. And, again, I'm
4 not giving you the scientific definition. I'm just
5 giving you a personal interpretation of that.

6 Q Do you agree that selection bias could
7 have impacted some of the analyses in this study?

8 MS. GREENWALD: Objection, form.

9 THE WITNESS: Yes. I think why not.

10 BY MR. ORTIZ:

11 Q Okay. I'm going to -- could you please
12 look at page 11, sir? And let me know when you're
13 there.

14 A Page 11. Yes. I'm there now.

15 Q I'll read at the top, the highlighted
16 portion. "Second, selection bias could have
17 impacted analyses comparing Camp Lejeune to Camp
18 Pendleton, likely biasing results away from the null
19 (potentially overestimating the effects of the
20 exposures) because those at Camp Lejeune with health
21 problems may have been more likely to participate
22 than those at Camp Pendleton with health problems.
23 The Camp Lejeune participants with health problems
24 may have been more likely to participate because
25 they were aware of the contaminated drinking water

1 and believe they were affected by their exposures."

2 Did I read that correctly?

3 A I think so.

4 Q And can you turn to the next page, page
5 12, sir? And it says "Given the major limitations
6 of this study, ATSDR is conducting additional
7 research of the Camp Lejeune cohorts to help further
8 evaluate the incidence of cancer in this
9 population."

10 Did I read that correctly, sir?

11 A Yes.

12 Seems like you're a good reader.

13 Q Thank you.

14 Can you turn to page 76 of the document?
15 And let me know when you're there.

16 A I'm there now. Thank you.

17 Q And page 76 contains Table 7, which is
18 odds ratios for cumulative TCE exposure in Marines
19 at Camp Lejeune compared with those at Camp
20 Pendleton; is that correct?

21 A Odds ratio...

22 Yes.

23 Q And I've highlighted the results for
24 convenience for leukemia and lymphomas.

25 Do you see that?

1 A I do.

2 Q And there's three categories: Low
3 exposure, medium exposure, and high exposure; is
4 that correct?

5 A Yes.

6 Q Do you know whether that data shows a
7 monotonic dose response relationship or not?

8 A I did not look at that.

9 Q Okay. Can you turn to 78, please? Let me
10 know -- are you there, sir?

11 A I'm there. Thank you.

12 Q Fantastic.

13 Do you see that page 78 sets out Table 8
14 which is odds ratios for cumulative PCE exposure in
15 Marines at Camp Lejeune compared with those at Camp
16 Pendleton?

17 A Yes.

18 Q And, again, there are three categories,
19 low exposure, medium exposure, and high exposure?

20 A Yes.

21 Q And I've highlighted the results for
22 leukemia and lymphomas for convenience.

23 Do you see that?

24 A Yes.

25 Q And just as before, can you tell me

1 whether those results show a monotonic dose response
2 relationship or not?

3 A No, I cannot.

4 Q Are you aware that this document was never
5 published in a peer-reviewed journal?

6 A No. I didn't know what happened with this
7 document after this.

8 Q And what is peer review?

9 A It's a process in which peers review
10 manuscripts, in general.

11 Q Is it an important part of the process of
12 publishing scientific literature?

13 A For some people, it is. For some people,
14 might not. But it is something that we regularly
15 do.

16 Q Is it an important part of the process of
17 publishing scientific literature for you?

18 A I believe it's important.

19 Q And why is that?

20 A Because it allows peers to review that and
21 give opinions. That doesn't mean that the peers
22 will know or will detect all the nuances of the
23 manuscript but it's at least one way to take a look
24 by somebody more detailed before publishing it.

25 Q I'm going to show you -- am I on 19?

1 MS. GREENWALD: 20.

2 MR. ORTIZ: 20?

3 MS. GREENWALD: 19 was the last one. This
4 will be 20.

5 MR. ORTIZ: Thank you.

6 (Exhibit 20 was marked.)

7 BY MR. ORTIZ:

8 Q I'm going to show you what's been marked
9 as Laber Exhibit 20. And do you recognize Laber
10 Exhibit 20 as a copy of Bove, et al., 2024 entitled
11 Cancer Incidence Among Marines and Navy Personnel
12 and Civilian Workers Exposed to Industrial Solvents
13 in Drinking Water at US Marines Corps Base Camp
14 Lejeune: A Cohort Study?

15 A Yes.

16 Q And you independently reviewed this
17 document; correct?

18 A Yes.

19 Q And it's a cohort study involving two
20 different cohorts; is that correct?

21 A Yes.

22 Q And the first cohort consists of Marines
23 and Navy personnel stationed at Camp Lejeune and
24 Camp Pendleton between 1975 and 1985; correct?

25 A Yes.

1 Q And the second cohort consists of
2 civilians employed at Camp Lejeune and Camp
3 Pendleton between October 1972 and December 1985;
4 correct?

5 A That's what it says here on the Methods.

6 Q Can you turn to page seven of the
7 document, sir?

8 A I'm there now. Thank you.

9 Q Okay. And page seven contains Table 3
10 which sets out a comparison of cancer outcomes at
11 Camp Lejeune versus Camp Pendleton among the
12 Marines/Navy personnel subgroup who began active
13 duty and were stationed at either base between 1975
14 and 1985; is that correct?

15 A Yes.

16 Q And you see there are results for chronic
17 lymphocytic leukemia that I've highlighted below?

18 A Yes.

19 Q And you see the adjusted hazard ratio is
20 1.02 with a confidence interval of one point -- or
21 I'm sorry -- of 0.79 to 1.32?

22 A I see that.

23 Q Do you agree that an odds ratio of 1.02
24 means that the risk is essentially unchanged?

25 A No. By itself, no. You really need to

1 know the numbers and you need to know the other
2 variables.

3 Q So when you refer to the numbers, what are
4 you referring to?

5 A You need to know the -- how many patients
6 they included. These numbers are quite small. And
7 with the confidence intervals are quite wide. So
8 they won't be able to make any conclusions based on
9 that.

10 Q Okay. And for the record, the number of
11 CLL cases at Camp Lejeune was 114 and the number of
12 CLL cases at Camp Pendleton was 122; is that
13 correct?

14 A Yes. But if you look at the confidence
15 interval, this could be highly statistical
16 significant at 1.3 or could be less than 1.78 so you
17 can't tell.

18 Q Okay. And can you turn -- can you turn to
19 page 10 of the document?

20 A Yes.

21 Q And you see that this contains Table 5,
22 cancer outcomes by duration stationed at Camp
23 Lejeune compared with Camp Pendleton between 1975
24 and 1985?

25 A Yes.

1 Q Marine/Navy personnel subgroup.

2 Do you see that?

3 A Yes, I do.

4 Q And I've highlighted the results for CLL
5 below. You see that?

6 A Yes.

7 Q And there's low duration at Camp Lejeune,
8 medium duration at Camp Lejeune, and high duration
9 at Camp Lejeune.

10 Do you see that?

11 A Yes.

12 Q Do you know whether that data shows a
13 monotonic dose response relationship for CLL?

14 A I haven't looked at that question so I
15 cannot answer that.

16 Q All right. I'm handing you what's been
17 marked as Laber Exhibit 21.

18 (Exhibit 21 was marked.)

19 BY MR. ORTIZ:

20 Q Do you recognize Laber Exhibit 21 as a
21 copy of Bove, et al., 2024, "Evaluation of Mortality
22 Among Marines, Navy Personnel, and Civilian Workers
23 Exposed to Contaminated Drinking Water at USMC Base
24 Camp Lejeune: A Cohort Study"?

25 You see that?

1 A Yes, I do.

2 Q And you independently reviewed this
3 document; correct?

4 A Did I listed this on my -- this is one of
5 the new ones.

6 Q And if you turn to page 20 of your Fiolek
7 report.

8 A Uh-huh. It's this one?

9 Q Yes. If you look at reference --

10 A Then, yes.

11 Q -- 30. Okay. So you agree that this is
12 one of the ones you independently reviewed?

13 A If it's listed on my references, the
14 answer is yes.

15 Q Okay. And if you -- and this study
16 concerns the same cohorts as the previous study;
17 correct?

18 A I don't know. I don't know if it's
19 exactly the same or they have added a subset of some
20 patients or they limit it to some with others.

21 I'm not looking at the details of how they
22 performed this study. I don't think it would be
23 exactly the same study because otherwise, you know,
24 probably it's the same twice.

25 Q This is a mortality study and the previous

1 study was an incidence study; is that correct?

2 A Let me see. That's one of the
3 differences. I don't know if there are more than
4 that.

5 Q Okay. Could you turn to page eight of the
6 mortality study, sir?

7 A Page eight. Okay.

8 Q And it contains Table 4, which sets out
9 hazard ratios and 95 percent confidence intervals
10 for the Marines/Navy personnel subgroup analysis of
11 base location at Camp Lejeune versus Camp Pendleton?

12 A Um-hum. Yes.

13 Q And about two-thirds down the page -- I
14 apologize, I didn't highlight this one, but do you
15 see that there are results for CLL?

16 A Yes, I do.

17 Q Okay. And do you see that the adjusted HR
18 is 0.89 with a confidence interval of 0.32 to 2.48.

19 Do you see that?

20 A Yes.

21 Q Do you agree 0.89 reflects an 11 percent
22 decrease in mortality from CLL for those at Camp
23 Lejeune compared to those at Camp Pendleton?

24 A No.

25 Q Why not?

1 A Because you have a total of 15 patients.

2 Q Is that number just too low to draw that
3 conclusion?

4 A Right. And, plus, you have a confidence
5 interval that goes as high as 2.59. So there's a
6 chance that they will have a two and a half chance
7 of increased mortality or they could even live
8 longer if they have that, which would be highly
9 unlikely to diagnosis somebody with cancer and tell
10 them that you're going to live longer than the
11 normal population.

12 Q Would you agree that result is not
13 statistically stable?

14 A I don't know what you mean with
15 "statistically stable." I haven't used that
16 terminology.

17 Q Okay. I'm going to hand you what will be
18 marked as Laber Exhibit 22.

19 (Exhibit 22 was marked.)

20 BY MR. ORTIZ:

21 Q Here you go, sir. And do you recognize
22 Laber Exhibit 22 as Cohn, et al.? And it --

23 A Is it Cohn, et al.?

24 Q It's an article -- my apologies. It's an
25 article written by Perry Cohn and colleagues,

1 entitled "Drinking Water Contamination and the
2 Incidence of Leukemia and Non-Hodgkin's Lymphoma."

3 Do you see that?

4 A Yes, I do.

5 Q And you cite this document in your
6 reports; correct? Well, let me -- let me direct you
7 to page 11 of your Fiolek report.

8 A Page 11. Okay.

9 Q And the final -- the last paragraph on
10 page 11 reads -- and I'll read it -- "I have
11 reviewed the New Jersey study conducted by Cohn, et
12 al., 1994, which reports that in areas with total
13 volatile organic compound concentrations above 20
14 parts per billion, there was an observed increased
15 risk of Non-Hodgkin lymphoma among women.

16 "The study further identified that
17 exposure to trichlorethylene at levels of five parts
18 per billion was associated with an increased risk of
19 NHL in both women and men.

20 "Additionally, exposure to
21 tetrachloroethylene at the same concentration level
22 was linked to an increased risk of NHL, particularly
23 high grade NHL among women."

24 Do you see that?

25 A I do.

1 Q And did I read that correctly?

2 A Yes, you did.

3 Q Did you assume that in the Cohn article
4 that they categorized CLL as a subtype of
5 leukemia -- or sorry, as a subtype of NHL?

6 MS. GREENWALD: Objection, form.

7 THE WITNESS: I did not assume anything.

8 BY MR. ORTIZ:

9 Q Okay. Let me direct you to page 558 of
10 the Cohn study. And let me know when you're there,
11 sir.

12 A I'm there. Thank you.

13 Q And do you see Table 1 sets out the number
14 of reported cases, age-adjusted rate ratios, and
15 95 percent confidence intervals for leukemias in the
16 study by TCE exposure category. You see that?

17 A Tell me again what you're trying to show.

18 Q Yeah.

19 A Because I see that Table 1.

20 Q You see Table 1?

21 A I do.

22 Q And you see that there is data for chronic
23 lymphocytic leukemia. It's the third one down.

24 Do you see that?

25 A Yes, I do.

1 Q And you did not cite or discuss that data
2 in your reports; correct?

3 A Why do you say that?

4 Q On page 11 of your reports, which I just
5 read, you referred to certain data concerning
6 Non-Hodgkin's lymphoma; is that correct?

7 A Yes.

8 Q And you don't refer to the data concerning
9 CLL; is that correct?

10 A No. I don't see that that's correct.

11 Q So do you refer to the CLL data in your
12 reports?

13 A Well, it's a general reference. So I'm
14 referring to the whole paper. I might quote certain
15 parts of the paper but that doesn't mean I'm not
16 quoting the other parts when I'm not using the other
17 parts. I'm referring to the whole paper.

18 Q On page 11, do you set out any of the data
19 specifically concerning CLL that's set out in
20 Table 1?

21 A I might not felt like writing this on the
22 report but I did put this as a reference on my
23 paper.

24 Q Can you turn to page 560 of this document,
25 sir?

1 MS. GREENWALD: You said 550?

2 MR. ORTIZ: 560.

3 MS. GREENWALD: Sixty. Sorry.

4 THE WITNESS: Thank you. I'm there.

5 BY MR. ORTIZ:

6 Q And you see Table 3?

7 A Yes, I do.

8 Q And you see that there is data concerning
9 CLL and PCE -- or sorry. Yes. PCE. Do you see
10 that there?

11 A I think it's TCE, isn't it?

12 Q It threw me off. I didn't notice this. I
13 believe that there's a typo in the document. But
14 Table 3 at the top says number of reported cases,
15 age-adjusted rate ratios and confidence interval for
16 leukemias in the northern New Jersey study area,
17 1979 to 1987, by perchloroethylene, PCE exposure
18 category and sex, all races.

19 But then you're correct, the table at the
20 top left says TCE exposure, but I believe that's
21 just a typo.

22 A Okay.

23 Q And do you see that there's data for CLL
24 listed down there in Table 3?

25 A I see that.

1 Q And, like as with the data from Table 1
2 concerning CLL, would you agree that you didn't
3 specifically cite or quote that data concerning CLL
4 in Table 3?

5 A No. I don't think I agree with you. I
6 think by just me citing the paper, it was beyond the
7 scope of my review to cite every detailed table of
8 every paper I received on my expert report.

9 Q Okay.

10 A It was way beyond the scope of my expert
11 report.

12 Q Could you turn to the bottom of page 559
13 of this study? And let me know when you're there.

14 A I'm there now.

15 Q It says -- I'm going to start with the
16 last two words, "However, this," and then going to
17 page 560. "This study is susceptible to
18 misclassification of exposure due to the lack of
19 individual information on long-term residence and
20 actual exposure which varies according to the
21 quantity of water consumed from the tap, use of home
22 water filtration, and the amount of inhaled
23 compounds volatilized during non-drinking uses such
24 as showering, laundering, and dish washing."

25 Did I read that correctly?

1 A I missed part of your reading. You read
2 faster than I was reading.

3 Q I apologize.

4 A You want to read it again?

5 Q You want me to read it again?

6 A Yeah. That would be great.

7 Q Okay. It says "However, this study is
8 susceptible to misclassification of exposure due to
9 the lack of individual information on long-term
10 residence and actual exposure, which varies
11 according to the quantity of water consumed from the
12 tap, use of home water filtration, and the amount of
13 inhaled compounds volatilized during non-drinking
14 uses such as showering, laundering, and dish
15 washing."

16 Did I read that correctly?

17 A Yeah. You read it better than I would
18 have. Thank you.

19 Q Thank you. Could you look back at
20 page 559? And do you see the part that says Other
21 Contaminants, that header?

22 A Yes, I do.

23 Q And under it, it says "No association was
24 detected between leukemia or NHL incidence and THMs
25 or with other non-THM VOCs, such as benzene,

1 1,1,1-trichloroethylene, carbon tetrachloride, and
2 trans-1,2-dichloroethylene."

3 Did I read that correctly?

4 A I think so.

5 Q So they found no association between
6 leukemia or NHL incidence and benzene; correct?

7 A No. I'm not here to say what they found
8 or what they found. We're just reading from it.

9 Q That's what the authors of this study say;
10 is that correct?

11 A I'm not here to argue with what the author
12 says. If you want to take it as it says, then we'll
13 just stay with what they say. But I'm not going to
14 agree or disagree with what the author says.

15 Q Dr. Laber, returning to page 11 of your
16 reports, which are Laber Exhibits 3 and 4, you state
17 "I also have read materials relating to general
18 causation for benzene, TCE, and PCE."

19 A Tell me again where to start that, please.

20 Q Page 11.

21 A Page 11. Are you at a particular part?

22 Q Yeah. The paragraph, second from the
23 bottom. And you state "I also have read materials
24 relating to general causation for benzene, TCE, and
25 PCE, including the general causation reports of

1 Drs. Felsher, Hu, Gilbert, Bird, and Mallon, which I
2 rely on based on their experiences in the field of
3 epidemiology."

4 Do you see that?

5 A I do.

6 Q Did you review -- other than the
7 material -- other than the studies that we've
8 discussed so far and the general causation reports
9 that are listed there, did you review any other
10 materials relating to general causation?

11 A Yes.

12 Q Can you tell me what those are?

13 A No.

14 Q Why not?

15 A Whatever I remembered, I wrote it down.
16 But at the same time, I was actually doing
17 literature search and looking at things that I
18 didn't write down. So it's not that I don't want
19 to. I would love to, but I did review other things.

20 Q Okay. And did you perform any independent
21 literature search or review?

22 A Yes. As I said, I performed many
23 independent literature search and review, many
24 papers.

25 When I'm briefing through papers, most of

1 the time I read them online and then move on to
2 another one.

3 Q Okay. And did you retain a list of the
4 search terms that you used to conduct that
5 independent literature search?

6 A No.

7 Q And did you retain a copy of any of the
8 results that were generated by any search terms for
9 that independent literature search?

10 A No. Just for the records, I do multiple
11 literature search every week, sometimes every day.
12 But some days I actually rest from this. So it
13 would be exhausting to keep all of them.

14 Q And -- are you done?

15 A Yes. Thank you. Sorry about that.

16 Q And do you recall that in the general
17 causation reports of Drs. Felsher, Hu, Gilbert,
18 Bird, and Mallon, there were many studies cited?

19 A Yes. Each one of the reports cited
20 studies.

21 Q Did you independently review any of those
22 studies?

23 A Some of them, yes.

24 Q Can you tell me which ones?

25 A I don't recall.

1 Q Did you write down anywhere which ones?

2 A I don't think so.

3 Q So is there any way to tell, now, which
4 ones you might have reviewed and which ones you
5 didn't?

6 A If I know the answer, maybe I'll remember
7 which one. But if I don't know the answer or I
8 forgot, then that would be very difficult.

9 Q There's no document or source or anything
10 that I could look at to determine which ones you
11 reviewed and which ones you didn't?

12 A Not that I know of. I did not make any
13 document on that.

14 Q So short of you remembering a specific
15 study, there'd be no way to tell. Is that fair?

16 MS. GREENWALD: Objection, form.

17 THE WITNESS: No. I don't know. I don't
18 know exactly what would be fair or not but I
19 think that's how it is.

20 BY MR. ORTIZ:

21 Q Did you review any reports that were
22 authored by United States expert, Dr. Julie Goodman?

23 A I probably did.

24 Q Do you recall if you did or not?

25 A I'm almost sure I did because when I read

1 from these authors, many times I go back and I take
2 a look at what they have done. But I cannot recall
3 a particular study that I can quote at this moment.

4 Q Do you know who Dr. Julie Goodman is?

5 A I think you just said, is an
6 epidemiologist.

7 Q And do you know who Dr. Peter Shields is?

8 A I suspect another epidemiologist, but I'm
9 guessing.

10 Q Did you review the report that Dr. Peter
11 Shields disclosed on behalf of the United States in
12 this --

13 A I think it's confusing for me when you
14 just quote names. If we attach the names with
15 something that happens, that will actually be more
16 helpful and I can give you a more accurate answer.

17 Q Okay. Did you review Dr. Peter Shields'
18 report in this litigation?

19 A If I documented that and I gave you as a
20 list of things, then, yes, I did.

21 Q And if it's not listed on your Materials
22 Considered list, then is it fair --

23 A Then I might or might not.

24 Q You might have or not. Okay. Have you
25 ever heard of the National Academy of the Sciences?

1 A Yes.

2 Q What is the National Academy of the
3 Sciences?

4 A I don't know the details on that. I heard
5 of that but I don't know the details.

6 Q Are you aware that they issued a report
7 concerning Camp Lejeune in 2009?

8 A If I've listed there, then I am aware. If
9 I don't list it, then I'm not.

10 Q Have you reviewed any transcripts of the
11 depositions of any other experts in this litigation?

12 A Only the ones that I listed.

13 Q Would you agree that if there is not a
14 causal relationship between TCE, PCE, and benzene
15 exposure at Camp Lejeune and CLL, then exposure to
16 those chemicals at Camp Lejeune could not have
17 caused Mr. Fiolek's CLL?

18 MS. GREENWALD: Objection, form.

19 THE WITNESS: I lost you.

20 BY MR. ORTIZ:

21 Q I'll repeat the question. Would you agree
22 that if there is not a causal relationship between
23 TCE, PCE, and benzene exposure at Camp Lejeune and
24 CLL, then exposure to those chemicals at Camp
25 Lejeune could not have caused Mr. Fiolek's CLL?

1 MS. GREENWALD: Same objection.

2 THE WITNESS: I think you read on my
3 report and my conclusions, that there is an
4 association, and so I don't know why you're
5 saying the opposite. You're trying for me to
6 say the opposite of what I wrote in my report?

7 BY MR. ORTIZ:

8 Q No, sir. I'm saying, if there is not a
9 causal relationship between TCE --

10 A But that's not what I said in my report.

11 Q For the --

12 A The exact opposite is what I said in my
13 report.

14 Q Dr. Laber, let me finish the question,
15 please, sir.

16 A Sorry about that. Apologize.

17 Q My question is: If there is not a causal
18 relationship between PCE, TCE, and benzene exposure
19 at Camp Lejeune and CLL, would you agree that
20 exposure to those chemicals at Camp Lejeune could
21 not have caused Mr. Fiolek's CLL?

22 MS. GREENWALD: Same objection.

23 THE WITNESS: I think it's pure
24 speculation. Really, I do. I don't agree with
25 your statement.

1 BY MR. ORTIZ:

2 Q And would the answer be the same as to
3 Mr. Gleesing?

4 MS. GREENWALD: Same objection.

5 THE WITNESS: Yes.

6 MR. ORTIZ: Do you all want to take a
7 break? I'm at a good point.

8 THE WITNESS: That would be great.

9 MS. GREENWALD: It's up to you.

10 THE WITNESS: Thank you. Thank you. You
11 see me jittery.

12 VIDEOGRAPHER: One second. We are going
13 off the record at 3:21.

14 (A brief recess is had from 3:21 p.m. to
15 3:33 p.m.)

16 VIDEOGRAPHER: We're back on the record at
17 3:33. And this begins media unit number four.

18 BY MR. ORTIZ:

19 Q Dr. Laber, did you talk to anyone about
20 the substance of your deposition during the break?

21 A No.

22 Q All right. I want to go back to Laber
23 Exhibit 2, or Laber Exhibit 2, excuse me, the
24 responses and objections to our subpoena. Do you
25 have that in front of you, sir?

1 A I do.

2 Q Can you turn to page nine of the document?
3 Or sorry, excuse me. Page 13 of the document. My
4 fault.

5 A I'm there now.

6 Q And do you see -- well, before I ask that.
7 Do you understand that we served a subpoena in this
8 case that requested certain documents?

9 A I understand that.

10 Q Okay. And one of our requests was set out
11 here, is request number nine. Do you see that?

12 A I do.

13 Q And it requests a current copy of any and
14 all medical questionnaires and/or intake forms you
15 utilized in your medical practice with your patients
16 or provide to your patients in your medical practice
17 for their completion; is that correct?

18 A I see that, yes.

19 Q Does your practice utilize such medical
20 questionnaires?

21 A I don't know.

22 Q So would you -- do you have any knowledge
23 about what those questionnaires say on them?

24 A No.

25 Q Okay. And could you turn to page 14?

1 A Yes.

2 Q Well, actually, let me take that back.
3 Let me refer you back to request number 10 on
4 page 13. Do you see that?

5 A Yes.

6 Q And request number 10 requests a copy of
7 all publications, articles, reports, studies, or
8 documents including toxicological, epidemiological,
9 or medical studies that you reviewed after
10 February 7, 2025 and that are not identified in your
11 reports, reference lists, or Materials Considered
12 list; is that correct?

13 A Yes.

14 Q And are you aware that your counsel served
15 a supplemental Materials Considered list on July 3rd
16 of 2025?

17 A Yes.

18 Q I'm going to hand you what's been marked
19 as -- we're on 22; correct?

20 CERTIFIED STENOGRAPHER: 23.

21 MR. ORTIZ: 23. Thank you.

22 (Exhibit 23 was marked.)

23 BY MR. ORTIZ:

24 Q And do you recognize Laber Exhibit 23 as
25 the Additional Materials Considered dated July 3rd,

1 2025 in the case of Mr. Fiolek?

2 A I see that.

3 Q And it identifies four United States
4 reports and then two sets of plaintiff medical
5 records. You see that?

6 A I see that.

7 Q And I'm going to hand you Laber
8 Exhibit 24.

9 (Exhibit 24 was marked.)

10 BY MR. ORTIZ:

11 Q And do you agree that -- or do you
12 recognize Laber Exhibit 24 as Additional Materials
13 Considered dated July 3rd of 2025 in Mr. Gleesing's
14 case?

15 A Yes, I see that.

16 Q And there are four United -- reports of
17 United States experts listed there as well as three
18 sets of plaintiff medical records?

19 A Yes.

20 Q Is there anything else that you considered
21 after February 7th of 2025 that is not listed on
22 these two supplemental materials considered lists?

23 A Not that I can think of, no.

24 Q Dr. Laber, when were you first retained as
25 a testifying expert in this litigation?

1 A I think I already answered that. I think
2 that was about two years ago.

3 Q I believe that was in reference to the
4 Zantac litigation. But is that the same answer in
5 reference to this litigation?

6 A What?

7 Q I believe your answer before was in
8 reference to the Zantac litigation.

9 A No. I never told you anything about that.
10 I never told you when I was retained for the Zantac.

11 Q You don't recall giving that testimony
12 earlier today?

13 A Well, then I -- then I misunderstood your
14 question.

15 Q Okay.

16 A I never -- I never answered -- as far as I
17 know, I do not know when I was retained for the
18 Zantac litigation.

19 Q Okay. How about this litigation? Do you
20 know?

21 A So if I -- let me just correct. For the
22 record, if, in my -- in this deposition, at any
23 given point, I made you think that I answered to
24 when I was retained for the Zantac litigation, that
25 was not accurate because I do not know the answer to

1 that.

2 When I answered in the past during this
3 deposition about when I was retained, my impression
4 was that I was asked when I was retained for this
5 Camp Lejeune litigation.

6 Q Okay.

7 A So my impression for the Camp Lejeune is
8 about two years ago.

9 Q Okay. Well, thank you. I appreciate the
10 clarification.

11 Do you recall who contacted you?

12 A No.

13 Q Before your retention, do you recall what
14 you were told about this litigation?

15 A No.

16 MS. GREENWALD: Again, to the extent these
17 are discussions with attorneys before -- never
18 mind. I withdraw what I'm about to say.

19 BY MR. ORTIZ:

20 Q Do you need me to repeat the question?

21 MS. GREENWALD: He already answered it
22 before I spouted, but...

23 MR. ORTIZ: Okay. I'll move on.

24 BY MR. ORTIZ:

25 Q Before your retention, what information

1 were you given about this litigation?

2 A I don't remember.

3 Q Before your retention, had you read
4 anything about Camp Lejeune?

5 A I don't remember. I think the first time
6 I really read more detail was when I was contacted
7 for this case.

8 Before that, it was just regular news that
9 I might have heard in the past but not much more
10 than that.

11 Q You had never studied it in any detail
12 before your retention. Is that fair to say?

13 A I don't think so.

14 Q Okay. Why not?

15 Oh, it's correct how I said it?

16 A (No verbal response.)

17 Q You're agreeing with me?

18 Thank you.

19 And did any information you received or
20 reviewed before your retention affect your opinions
21 that you gave in your two reports?

22 MS. GREENWALD: Objection, form.

23 THE WITNESS: I don't understand the
24 question, honestly. What are you trying to ask
25 me?

1 BY MR. ORTIZ:

2 Q Sure. I can rephrase.

3 Was there any information about Camp
4 Lejeune and the water contamination issues there
5 that you became aware of before your retention that
6 affected your opinions that you gave in this
7 litigation?

8 MS. GREENWALD: Objection, form.

9 THE WITNESS: Before my retention, I don't
10 think I had enough information to have any kind
11 of opinion.

12 BY MR. ORTIZ:

13 Q Okay. I'm going to hand you Laber
14 Exhibit 25, sir.

15 (Exhibit 25 was marked.)

16 THE WITNESS: Thank you.

17 BY MR. ORTIZ:

18 Q And Laber Exhibit 25 is a copy of your CV
19 dated January 10th of 2025; is that correct?

20 A Yes.

21 Q And this is the most current copy of your
22 CV; is that correct?

23 A Yes.

24 Q And it supersedes the copy of your CV that
25 was attached to your reports and dated August 2022?

1 A Yes.

2 Q And you prepared your CV?

3 A Yes.

4 Q And it accurately sets out your education,
5 training, and experience?

6 A I think so. Mistakes can happen but I
7 think it's accurate.

8 Q You're not aware of any mistakes?

9 A No. If I was aware, I would have
10 corrected it.

11 Q And you didn't omit anything from your CV?

12 A I don't know what you mean with "omit." I
13 do lots of things that are not included in my CV.

14 Q Can you think of anything specifically
15 that you didn't include in your CV?

16 A Yeah. There are multiple lectures,
17 conferences that I do on a regular basis that I
18 don't include because it would be too much.

19 Q And is that why you don't include them?
20 It would just be too much?

21 A Correct.

22 Q Do you know if any of those lectures or
23 other things that you omitted had anything to do
24 with the chemicals at issue?

25 MS. GREENWALD: Objection, form.

1 THE WITNESS: I cannot recall anything
2 important on that.

3 BY MR. ORTIZ:

4 Q Did they have anything to do with CLL?

5 A Yes. CLL, I speak about that all the
6 time. So I teach fellows, residents, on a regular
7 basis.

8 Q And is there any way to identify what
9 those lectures or other things that are not on your
10 CV but relate to CLL, is there any way to identify
11 what those are?

12 A Yes. By me telling you.

13 Q Could you tell me what those are?

14 A Yeah, just regular lectures about CLL.

15 Q Could you tell me specifically what they
16 are?

17 A Yeah. About the management, treatment,
18 drugs, side effects.

19 Q But you couldn't -- not to be pedantic,
20 but you couldn't tell me on a specific date that the
21 contents of a lecture you gave on CLL, you wouldn't
22 be able to tell me that level of detail; is that
23 right?

24 A On a particular day? I can hardly
25 remember what I had for breakfast today. Actually,

1 I knew. I know. Nothing, but...

2 Q And you practice as an oncologist and
3 hematologist here in Tampa, Florida; correct?

4 A Yes, I do.

5 Q You're employed with the Moffitt Cancer
6 Center here?

7 A Cancer center, yes.

8 Q How many hours a week do you see cancer
9 patients?

10 A Too many.

11 Q Do you have an estimate?

12 A Some weeks, I work 24/7 and I'm on call
13 two weeks straight. For example, today, while we
14 were running here, I have three nurse practitioners,
15 each one reporting about eight to 10 patients. And
16 tomorrow, I am going need to see all of those.

17 Monday, on top of that, I also have a
18 clinic that I saw another 17 patients. So it
19 depends on the week, it depends on the day.

20 Q And you've been retained before as an
21 expert in litigation; correct?

22 A Yes.

23 Q And you get paid to do all that work; is
24 that right?

25 A Same as you, I work for money, otherwise I

1 wouldn't do it.

2 Q Do you have an estimate as to how much
3 money you've received for that work since 2020?

4 MS. GREENWALD: Objection, to form.

5 THE WITNESS: No, I do not.

6 BY MR. ORTIZ:

7 Q Can you provide any kind of estimate?

8 A I haven't counted that. But it is the
9 minority of my salary. The big part of my salary is
10 basically -- I'm a professor of medicine, tenured
11 with 25 years of experience in oncology. So I'm at
12 the highers salary cap for a professor at Moffitt.

13 Q And you've sort of anticipated my next
14 question. Can you give me any kind of percentage of
15 your annual income, let's say, in 2024, that came
16 from your work as a witness in litigation?

17 A I haven't quantified so it would not be
18 accurate, but I would expect maybe no -- no more
19 than five, 10 percent, at the most.

20 Q Does your payment ever depend on the
21 outcome of a case?

22 A No.

23 Q Does your payment in these cases depend on
24 the outcome of the case?

25 A No.

1 Q I'm going to hand you Laber Exhibit 26,
2 sir.

3 (Exhibit 26 was marked.)

4 BY MR. ORTIZ:

5 Q Do you recognize Laber Exhibit 26 as a
6 copy of your fee schedule for your work in these
7 cases?

8 A Yes, I do.

9 Q Do you know how much you billed to date in
10 this litigation?

11 A No, I do not.

12 Q Do you have any ability to give me a
13 ballpark estimate?

14 A I think they have provided you the billing
15 records so you should have it instead of me
16 guessing.

17 Q And is your fee schedule in this case the
18 same as fee schedules you've used in other cases?

19 A Yes.

20 Q Before this litigation, have you ever
21 worked as an expert witness for any of the law firms
22 that are part of the PLG or Plaintiffs' Leadership
23 Group?

24 A I don't know exactly what you call the
25 leadership group.

1 Q Sure.

2 A There is a firm that even called me for a
3 couple of cases of medical malpractice also that I
4 think are part of this also, but I don't know what
5 leadership group is.

6 Q Is it -- is it fair to say that -- well,
7 do you recall earlier testifying that you have not
8 been an expert in a toxic tort case before?

9 A Well, I told you that -- that's not what I
10 said. What I said is I was not sure what that means
11 and what it is. Usually I don't focus exactly on
12 the legal part. I focus more on the medical part.
13 I leave the legal part to the attorneys.

14 Q Are you most often retained as an expert
15 in cases alleging medical malpractice?

16 A Yes.

17 Q And you're opining on the standard of care
18 and whether or not that standard of care was met or
19 not met in a particular case?

20 A Majority's more causation than standard of
21 care.

22 Q More causation than standard of care?

23 A Yes.

24 Q And those would be cases -- do they often
25 involve claims about failure to diagnose cancer?

1 A The majority, yes. That's my thinking,
2 but...

3 Q I'm going to hand you Laber Exhibit 27,
4 sir.

5 (Exhibit 27 was marked.)

6 BY MR. ORTIZ:

7 Q Do you recognize Laber Exhibit 27 as a
8 list of cases in which you've given testimony at
9 deposition or at trial?

10 A Yes.

11 Q And there's over 40 cases listed here; is
12 that correct?

13 A Yes. I haven't counted it, but, yes.
14 Looks like.

15 Q And there's a column that lists attorney
16 names.

17 Do you see that?

18 A I do.

19 Q Are those attorneys who retained you on
20 behalf of his or her client?

21 A It might have been the one that retained
22 me or the one that took over the case or something
23 like that. It's the one that I just remember.

24 Q The one that was responsible for your
25 engagement?

1 A Yeah. But sometimes they change because
2 attorneys might leave a practice and another one
3 takes over and things like that.

4 Q Understood.

5 In any of these cases, can you identify
6 any one where you were retained on behalf of a
7 defendant?

8 A I don't think I put there which one was
9 defendant and which one was plaintiff, so I don't
10 want to make mistakes.

11 But so I can't tell you for sure.

12 Q Would you be surprised if I said that I
13 looked up the lawyers, many of the lawyers on this
14 list, and what I saw online, they represent
15 plaintiffs typically?

16 A No. I wouldn't be surprised. I think the
17 majority that get to deposition, which is this list,
18 this is to deposition or trial, are usually from
19 plaintiff. So most of the time when I'm involved on
20 the defense, they usually settle quicker and we
21 don't get to depositions.

22 Q Have you been retained as an expert in
23 cases that are not on this list?

24 A Yes. This is not a -- this is not an
25 extensive. That's why -- even on top, I put an

1 approximately because I don't keep a list. So this
2 list is not accurate.

3 Q So let me just make sure I can clarify.

4 So this list contains all the cases where
5 you gave testimony at deposition or trial; right?

6 A No.

7 Q It does not? There are other cases where
8 you gave testimony at deposition or trial?

9 A There could be. This is the ones that I
10 could remember or I could find anything that I could
11 call.

12 Q Okay.

13 A But that's why I say it's approximate. I
14 don't keep a list so I cannot state the accuracy of
15 this. I think it's pretty good, but I cannot tell
16 you it includes all of them.

17 Q Do you know how many times you've been
18 retained as an expert regardless of whether or not
19 you gave testimony?

20 A I don't know what you mean with that. Is
21 that -- so when you say "testimony," that means that
22 I had to give a deposition or a trial?

23 Q Correct.

24 A So that I have -- so cases that I've
25 reviewed that never got to the deposition or trial?

1 Q Correct.

2 A I think the vast majority.

3 Q No. So sorry. Let me try that again.

4 Do you know how many cases you've been
5 retained as an expert at all?

6 A No.

7 Q Okay. More than 40, is it fair to say?

8 A Yes.

9 Q More than a hundred?

10 A I don't think so.

11 Q Somewhere between 40 and a hundred?

12 A That would be my guess. But, again,
13 highly inaccurate.

14 Q Did you prepare for this deposition?

15 A Yes.

16 Q How did you do so?

17 A I went back and reviewed a lot of the
18 material that I have reviewed in the past and I
19 looked at -- tried to search for other things, if
20 anything was happening. I discussed with the
21 attorneys.

22 Q Did you meet with the attorneys?

23 A We meet via electronically.

24 Q And I don't want to know what was said,
25 but who did you meet with?

1 A I think Attorney Greenwald and Attorney
2 Gjonaj, if I say correctly.

3 Sorry, Diana.

4 Q And was there anyone else there?

5 A For the preparation for the deposition, I
6 don't think so, unless there was somebody at their
7 firm that I didn't identify electronically.

8 Q Do you know how many times you met to
9 prepare for this deposition?

10 A Two.

11 Q Do you know how long those meetings
12 lasted?

13 A About an hour and a half to two hours.

14 Q Do you recall the dates of those meetings?

15 A One was yesterday. The other one was last
16 week.

17 Q Did you review any documents to prepare
18 for this deposition?

19 A Yes.

20 Q Do you recall what documents?

21 A Many of the ones that are listed there.

22 Q And was that to refresh your recollection
23 about them?

24 A Yes.

25 Q Could you tell me specifically what

1 documents you reviewed to refresh your recollection?

2 A I think the one that are listed.

3 Q In your reports?

4 A In my reports and in the list of documents
5 that were provided to me.

6 Q Do you recall when you reviewed them?

7 A During the last week. Well, some on
8 Saturday, some on Sunday, some on Monday, some on
9 Friday.

10 Which one, which day, I cannot tell you
11 for sure. Sorry for that.

12 Q And many of those documents we've
13 discussed today?

14 A Yes.

15 Q And in many instances, you were unable to
16 recall details about those documents; is that
17 correct?

18 A Well, I can never predict what you are
19 going to ask me. If I knew what you were going to
20 ask me, I could have actually looked at those
21 details.

22 Q And you've testified at trial twice; is
23 that correct?

24 A Yes. I think so. I don't remember a
25 third time so, so far, I can tell you that.

1 Q And you testified at trial in the Teresa
2 Hendrix case in December of 2022?

3 A Yes.

4 Q Did you testify on behalf of the plaintiff
5 in that case?

6 A On behalf of -- yes.

7 Q What was that case about?

8 A It was a colon cancer case.

9 Q Do you recall what you testified about?

10 A It was I think a missed diagnosis, that
11 they failed to diagnose a colon cancer. And by the
12 time she was diagnosed was -- I don't remember
13 exactly how much time later. So it was a more
14 advanced stage than when it should have been
15 diagnosed.

16 Q Do you have a copy of the trial transcript
17 that contains your testimony?

18 A No, I do not.

19 Q And you also testified at trial in the
20 Lohman case in November of 2023; is that correct?

21 A Yes.

22 Q And you testified on behalf of plaintiff
23 in that case?

24 A I think so too.

25 Q And what was that case about?

1 A I don't remember exactly the details but I
2 think it was a lung cancer case. But apologize if
3 I'm mistaken.

4 Q That's fine.

5 And what did you testify about?

6 A I think it was also some failure to
7 diagnose. By the time it was diagnosed, it was
8 later.

9 But, again, I cannot tell you with
10 certainty. If I am mistaken, I apologize.

11 Q Do you have a copy of the trial transcript
12 containing your testimony?

13 A No, I do not.

14 Q Have you ever testified about CLL before?

15 A I don't remember, but it could certainly
16 be possible.

17 Q Have you ever testified about leukemia
18 before?

19 A I am almost sure, yes.

20 Q Would that be in the context of a failure
21 to diagnose-type claim?

22 A There's a good likelihood like that or
23 maybe the wrong treatment or some complications from
24 that that were mismanaged or something like that.

25 Q Have you ever testified about bladder

1 cancer or UTUC before?

2 A I think so.

3 Q And do you recall -- well, was that also
4 in a failure to diagnose-type claim?

5 A Most likely but I cannot tell you for
6 sure. I don't have the records in front of me to
7 tell you accurate.

8 Q Have you ever testified about causation of
9 either of those cancers before?

10 A I think so, but, again, I'm not -- can't
11 tell you for sure.

12 Q Can you identify the case in which you
13 gave such testimony?

14 A No.

15 Q You can't identify it from the list of
16 cases --

17 A No.

18 Q -- in which you've testified?

19 A Not by the name or the name of the
20 attorney or the city.

21 Q So there's no way for me to discover what
22 case that was?

23 A The number of patients that I see every
24 day in clinic and in the hospital, there could be a
25 similar name with different cancers that I will be

1 afraid of my memory tricking me and giving you the
2 wrong information.

3 Q Can you give me to the best of your
4 recollection?

5 MS. GREENWALD: Objection to form, asked
6 and answered.

7 THE WITNESS: That's what I just did.

8 BY MR. ORTIZ:

9 Q Is the -- okay. Strike that.

10 Have you ever testified about TCE before?

11 A TCE? What do you mean with TCE?

12 Q Have you ever testified about TCE before?

13 A What do you mean with TCE? What --

14 Q Trichloroethylene.

15 A I don't remember doing that, no.

16 Q How about PCE?

17 A No.

18 Q How about benzene?

19 A I don't think so. But if I'm mistaken,
20 apologize for that.

21 Q Have you ever been sued before?

22 A For what?

23 Q Anything.

24 A Yes. I went through a divorce. That was
25 not fun.

1 Q Anything besides that?

2 A No.

3 Q Okay. Have you ever sued somebody before?

4 A Yes.

5 Q And what was that?

6 A I sued the University of Oklahoma for not
7 paying the bonuses that they owe me. And I won.

8 Q You were an employee of the University of
9 Oklahoma?

10 A Yes, I was.

11 Q And your employment came to an end?

12 A Yes.

13 Q And why did it come to an end?

14 A Because I moved to Florida.

15 Q And the claim in that case related to
16 unpaid bonuses?

17 A Yes. Yes. Sorry about that.

18 Q Were there any other claims in that case?

19 A Not that I recall.

20 Q Do you recall a defamation claim in that
21 case?

22 A But that was not -- they actually removed
23 that and they apologized. So we never even got to
24 that.

25 Q So you did allege a claim for defamation

1 in that case?

2 A Well, they -- they actually wrote the
3 wrong things, yes. And they had to write a letter
4 and apologize and all that.

5 Q But that was one of the legal claims that
6 you made against them?

7 A But that was removed, I think, because
8 once they -- we basically agreed.

9 Q Have you been a plaintiff in any other
10 lawsuits?

11 A Not that I can recall.

12 MR. ORTIZ: Maybe we just take a
13 five-minute break so I can make sure I'm done?

14 THE WITNESS: Yeah.

15 MR. ORTIZ: We are going off the record at
16 3:58.

17 (A brief recess is had from 3:58 p.m. to
18 4:09 p.m.)

19 VIDEOGRAPHER: We're back on the record at
20 4:09.

21 BY MR. ORTIZ:

22 Q Dr. Laber, did you talk to anybody about
23 the substance of your deposition during the break?

24 A No.

25 Q And I want to follow up on one thing. You

1 recall we were speaking about a defamation claim
2 that you alleged against the University of Oklahoma.
3 Do you recall that?

4 A I do.

5 Q What was the basis of the defamation
6 claim?

7 A I don't remember all the details, no.

8 Q Do you remember --

9 A It was too far.

10 Q Apologies. Do you remember what the
11 University of Oklahoma said that you alleged to be
12 defamatory?

13 A No. I don't remember the details on that.

14 Q You can't provide any details concerning
15 that event?

16 MS. GREENWALD: Objection, form, asked and
17 answered.

18 THE WITNESS: I don't remember.

19 BY MR. ORTIZ:

20 Q Have we discussed all your opinions as to
21 Mr. Fiolek?

22 A As far as I can think so, yes.

23 Q Have we discussed all your opinions as to
24 Mr. Gleesing?

25 A I think so, yes.

1 Q Are there any answers to my questions that
2 you want to change?

3 MS. GREENWALD: Objection, form.

4 BY MR. ORTIZ:

5 Q You can go ahead and answer.

6 A I think I already mentioned if I misstate
7 some of that.

8 And I want to state, again, that my
9 opinions, at least in my expert report, if one of
10 your questions misstated what I said, and I might
11 have agreed by mistake, that was just wrong, I'm
12 going back to what I wrote in my expert report.

13 Q Is there anything else you'd like to add?

14 A No. I think that's good.

15 MR. ORTIZ: And before I pass the witness,
16 I want to put on the record that it's clear
17 that Mr. -- Dr. Laber's Materials Considered
18 lists are incomplete and we're going to reserve
19 the right to hold open this deposition pending
20 clarification of what he actually considered.
21 So we want to put that on the record.

22 MS. GREENWALD: Okay. Well, we can take
23 that up another time.

24 Are you passing?

25 MR. ORTIZ: Yeah.

1 MS. GREENWALD: Okay. So I need a little
2 bit of time. So -- are you in that room there?
3 I'll just knock on the door when we're ready.

4 MR. ORTIZ: That's fine with me.

5 MS. GREENWALD: Okay. I don't think we'll
6 need more than 15 minutes, but you'll probably
7 want --

8 VIDEOGRAPHER: One minute.

9 MS. GREENWALD: Sorry.

10 VIDEOGRAPHER: We're going off the record
11 at 4:11.

12 (A brief recess is had from 4:11 p.m. to
13 5:01 p.m.)

14 VIDEOGRAPHER: We're back on the record at
15 5:01.

16 EXAMINATION

17 BY MS. GREENWALD:

18 Q Okay. So, Dr. Laber, I have a few
19 questions. I'm going to jump around a little bit.
20 I apologize, but it's a function of following
21 someone else's questions.

22 So you were asked today about a number of
23 documents that appear on your Materials Considered
24 list. And I want to just go over some of them
25 generally. But before I get there, can you tell me

1 approximately how much time you spent reviewing
2 documents in preparation for your deposition today?

3 A During the last week?

4 Q No.

5 A Or --

6 Q In preparing for your -- no. I'm not
7 talking about --

8 A Oh, just for the deposition?

9 Q Yes.

10 A I think reviewing documents, like I say,
11 for somewhere around three or four hours, give or
12 take, approximate time. Maybe a little bit over
13 four or something like that.

14 Q So I want to ask you whether any of these
15 documents were documents you reviewed in preparation
16 for your deposition. And rather than going to your
17 pile, I'm just going to hold it up. And if you need
18 to look at it again, we'll get your official copy;
19 okay?

20 A Okay.

21 MR. ORTIZ: Objection.

22 BY MS. GREENWALD:

23 Q Do you recall whether you looked at
24 Exhibit 8 in preparing for your deposition today?

25 A During the last week, no, I did not look

1 at that.

2 Q Do you know -- remember whether you ever
3 read this in detail in preparing anything in this
4 case?

5 A I don't --

6 MR. ORTIZ: Objection.

7 THE WITNESS: I think I read it when this
8 was provided to me, depending what you call
9 "detail." Of course, I did not really think of
10 the detail. I skimmed through some parts, and
11 some parts that I thought that were important
12 for me to understand the concepts, I read it.

13 BY MS. GREENWALD:

14 Q Do you recall whether you read number 9 in
15 preparation for your deposition?

16 MR. ORTIZ: Objection.

17 THE WITNESS: Not in preparation for the
18 deposition.

19 MS. GREENWALD: What's the basis of your
20 objection?

21 MR. ORTIZ: Form.

22 MS. GREENWALD: I'm asking him if he read
23 a deposition. What's the form objection?

24 MR. ORTIZ: I'll withdraw the objection.

25 You can go ahead.

1 BY MS. GREENWALD:

2 Q Okay. I'm going to show you now what's
3 been -- what was marked earlier as number 14. Do
4 you recall being asked questions about that today?

5 A Yeah. I did not read that in the last
6 week when I preparing for this.

7 Q Okay. Same for Exhibit 15.

8 A I did not read in preparation for this.

9 Q Okay. Same for 16.

10 A I did not read that in preparation for
11 this deposition.

12 Q Same for 17.

13 A I did not read that in preparation for
14 this deposition.

15 Q Same for 18.

16 A I did not read that in preparation for the
17 deposition.

18 Q Same for 19.

19 A I did not read this in the preparation for
20 this deposition.

21 Q Almost done.

22 Twenty?

23 A Same answer. I did not read this in
24 preparation for the deposition.

25 Q Twenty-one?

1 A Same answer. I did not read this in the
2 preparation for this deposition.

3 Q And last, but not least, 22.

4 A I did not read this in preparation for
5 this deposition.

6 Q Okay. What did you understand your task
7 was as an expert witness in this case?

8 MR. ORTIZ: Objection.

9 THE WITNESS: My understanding is and was
10 that I was an expert for what we call a
11 specific causation, which is to look at my
12 opinions on the CLL on these two patients,
13 Mr. Fiolek and Mr. Gleesing, and whether their
14 exposure to these toxic agents caused the CLL
15 or were, as likely or not, or more likely than
16 not, the cause of the CLL compared to other
17 risk factors.

18 BY MS. GREENWALD:

19 Q Okay. In your three to four hours, I
20 believe you just testified preparing for the
21 deposition for today, what -- what did you review?

22 A I reviewed my report. I reviewed the
23 reports for the -- some of the general causation
24 experts. I reviewed information about CLL. And
25 that's what I spent most of my time.

1 Q And what kind of information about CLL?

2 A If there were any studies looking at other
3 risk factors or other things that I might not have
4 looked in the past.

5 Q Okay. I want to show you what's been
6 marked as Exhibit 28.

7 (Exhibit 28 was marked.)

8 THE WITNESS: Thank you.

9 BY MS. GREENWALD:

10 Q And you have read that before?

11 A Yes.

12 Q Okay. Did you review Exhibit 28 in
13 forming your opinions in this case?

14 A Yes, I did.

15 Q When you reviewed Exhibit 28, did you read
16 Dr. Reynolds' qualifications?

17 A Yes.

18 Q Did you find her qualifications sufficient
19 to rely on her report for exposure calculations?

20 A Yes, I have.

21 MR. ORTIZ: Objection.

22 THE WITNESS: Oh, sorry.

23 BY MS. GREENWALD:

24 Q You were shown Appendix 13 and 14 earlier,
25 which is Exhibit 7. Do you remember that?

1 A Yes.

2 Q Okay. Do you know where those appendices
3 came from?

4 A Now, I do. At the time when I was asked
5 about that, I did not know.

6 Q What do you -- what do you now understand
7 where those appendices come from?

8 A They came from Kelly Reynolds' cumulative
9 expert -- exposure expert report.

10 Q Okay. And did you --

11 A That's why --

12 Q I'm sorry.

13 A That's why my concern when I answered the
14 questions before about this, is that there were no
15 references and there were no indications of this,
16 where it came from and -- and any of those
17 abbreviations or anything like that.

18 Q Okay. So now that you've reviewed -- now
19 that you understand, excuse me, that Exhibit
20 [sic] 13 and 14 is part of Dr. Reynolds' report, do
21 you have an understanding of the terms that are used
22 on -- on exhibit -- on Exhibit 7, the first page?

23 A Yes.

24 Q Okay. We'll get to that in a minute.

25 Okay. Now, if you look at Exhibit 28,

1 please, can you turn to page four?

2 Okay. And I'd like to draw your attention
3 to a sentence in -- on Exhibit 28 that's in the
4 second full paragraph. It starts with "Once the
5 total number of days," that paragraph.

6 A Yes.

7 Q And the sentence, it starts "The ATSDR has
8 provided." Can you read that?

9 A "The ATSDR has provided monthly modeled
10 levels for TCE, PCE, vinyl chloride, advancing on a
11 microgram per liter month basis."

12 Q And can you read the next sentence? I'm
13 sorry.

14 A "I have used the ATSDR's peer-reviewed
15 values for each applicable month and corresponding
16 volatile organic compounds, VOCs, and modeled
17 projections in my exposure analysis to calculate
18 cumulative exposures."

19 Q And did you understand that's what she was
20 doing in her report, the time you prepared your
21 report for Mr. Fiolek and Mr. Gleesing?

22 A Yes.

23 MR. ORTIZ: Objection.

24 BY MS. GREENWALD:

25 Q Okay. Do you understand what Dr. Reynolds

1 used those model concentrations -- I'm sorry.

2 Do you understand whether Dr. Reynolds
3 used those modeled concentrations to estimate
4 exposure over time based on an individual's service
5 record --

6 A Yes.

7 Q -- and reported base location?

8 A Yes, I do.

9 Q Okay. Is it your understanding that
10 Dr. Reynolds was looking at cumulative water
11 ingestion?

12 A Yes.

13 Q Was she looking at dermal exposure?

14 A I think she looked at all of them. She
15 looked at the dermal exposure and then the
16 ingestions and the -- she made comments about
17 different things.

18 Q But does she calculate in Appendix 13 and
19 14, this here, Exhibit 7? Does she calculate
20 anything other than water ingestion?

21 A This is -- no. This is water ingestion.
22 This is for cumulative consumption.

23 Q Okay. Now, if you can look at page three
24 of Dr. Reynolds' report, please. And the last full
25 paragraph on page three. Can you read the sentence

1 that says "I consulted historical documents"? It's
2 the second full sentence.

3 A "I consulted historical documents,
4 including official military personnel records such
5 as DD-214 and reviewed deposition testimony
6 regarding their time on base and their water
7 consumption."

8 Q And what do you understand "their" to be?
9 Those are the plaintiffs?

10 A Yes.

11 Q Okay. So in this case, it would be
12 Mr. Fiolek and Mr. Gleesing; right?

13 A Yes.

14 Q Okay. Okay. On page five -- on page
15 five, in the second full paragraph, if you could
16 read the sentence that's the second sentence, "If no
17 activity or ingestion information was given," can
18 you read that?

19 A "If no activity or ingestion information
20 was given in the activities for a marine in training
21 to calculate cumulative contaminant exposure
22 concentrations (ATSDR ingestion 6 liters per day,
23 three days per week, and 3.1 liters a day, four days
24 per week, or a combined reasonable maximum exposure,
25 RME, and central tendency exposure, CTE, of

1 4.334 liters per day)."

2 Q Okay. And so is it your understanding
3 that Dr. Reynolds applied ATSDR's ingestion rate
4 assumptions for Marines in training?

5 A Yes.

6 MR. ORTIZ: Objection.

7 BY MS. GREENWALD:

8 Q And non-training roles?

9 A Yes.

10 Q Okay. And when you were doing your
11 report, did you understand that she was calculating
12 6 liters per day as the assumption on a
13 three-day-a-week schedule --

14 MS. GREENWALD: Objection.

15 BY MS. GREENWALD:

16 Q -- for exposure?

17 A Yes. My --

18 Q And -- keep going.

19 A My understanding is that she was
20 estimating that for three days they were training,
21 so much more physical activity, much more
22 requirement for water intake. And then the other
23 four days a week, they were not training as hard so
24 they had less water intake.

25 Q And what was the lesser amount for those

1 days?

2 A For those days was 3.1 liters per day.

3 Q Okay. And you considered those -- that
4 information in forming your opinions in this case?

5 A Yes.

6 Q Okay. Do you also understand that
7 Dr. Reynolds adjusted the numbers based on whether
8 someone was training, working, or at home?

9 MR. ORTIZ: Objection.

10 THE WITNESS: That was my understanding.

11 BY MS. GREENWALD:

12 Q Okay. If you want to turn to page four.
13 Sorry. I have to find this. I thought I had
14 highlighted it. Apologies.

15 Okay. I can't find it. I'm going to have
16 to move on. Let's see if I can find it.

17 Okay. I want to talk to you about
18 locations on base for a moment; okay?

19 A Okay.

20 Q If someone worked at Hadnot Point but
21 lived at Midway Park, is it your understanding that
22 Dr. Reynolds would apply different contamination
23 concentrations for each location?

24 MR. ORTIZ: Objection.

25 THE WITNESS: That was my understanding.

1 BY MS. GREENWALD:

2 Q So in other words, if someone lived
3 somewhere where there wasn't contaminated water, but
4 worked somewhere where there was contaminated water,
5 what do you understand Dr. Reynolds would do?

6 A I understand Dr. Reynolds estimated the
7 amount of time they were at each location and the
8 amount of activities they did at each location. So,
9 if, for example, they spent eight hours in a place
10 where they trained, still, the consumption was
11 higher than the place where they lived because many
12 of those hours would be sleeping or resting or
13 things like that.

14 Q Okay. So let's go to Exhibit 7 for a
15 moment.

16 A Page seven?

17 Q 7. Exhibit 7. I'm sorry. And the first
18 plaintiff here is Mr. Fiolek's exposure summary.

19 Do you see that?

20 A Yes, I do.

21 Q Okay. Now I've got to get mine too.

22 Now, I think you just mentioned that you
23 now understand that these appendices are part of
24 Dr. Reynolds' reports; right?

25 A Right.

1 Q Okay. So do you see, on the first page --
2 and I'm just focusing on the first page -- under the
3 chart two, see that, chart two on the top?

4 A Yes.

5 Q Okay. Chart two refers to the ATSDR
6 assumptions; is that right?

7 A Yes, it is.

8 Q Okay. And what is the cumulative value
9 for TCE?

10 A So this is -- was the one that
11 Dr. Reynolds produced as part of the cumulative
12 exposure.

13 So -- and this is the cumulative
14 consumption. For TCE, was 15,900.

15 Q Okay.

16 A And this is in micrograms per days.

17 Q And did you use that information in
18 forming your opinions in this case?

19 A Yes.

20 Q Okay. And what about PCE for TechFlowMP
21 model?

22 A That's 26,731.

23 Q And what about for MT3DMS model?

24 A That's 31,528.

25 Q And, again, did you use this information

1 in forming your opinions in this case?

2 A Yes, I did.

3 Q Okay. And what about for benzene?

4 A For benzene, is 625.

5 Q Okay. Now, let's go to 14, please, for
6 Dr. -- for doctor -- for Mr. Gleesing. Again, just
7 the first page. Okay. Again, the same column for
8 the ATSDR.

9 A For the ATSDR, cumulative consumption.

10 Q What about for TCE?

11 A For TCE, was 1,000 -- no, actually,
12 1,021,121.

13 Q Okay. And what about for PCE?

14 A For PCE, was 47,376.

15 Q And benzene?

16 A 16,097.

17 Q Okay. And you used these numbers in
18 your -- reaching your opinions in this case?

19 A Yes, I did.

20 Q Okay. So you were asked a number of
21 questions today. And the term "independently
22 reviewed" was used in a number of those questions.
23 And frankly, I can't remember who used it first but
24 I want to make sure that the record is clear on what
25 that means when you use that term; okay?

1 A Okay.

2 MR. ORTIZ: Objection.

3 BY MS. GREENWALD:

4 Q So when you use the word "independently
5 reviewed," what does that mean in the context of
6 your work in this case in general causation?

7 MR. ORTIZ: Objection.

8 THE WITNESS: For me, independently
9 reviewed is that I read a paper and nobody was
10 telling me what to read or what not to read.
11 So I reviewed the parts of the manuscripts or
12 the paper that I thought that were important
13 for me to understand it.

14 BY MS. GREENWALD:

15 Q Okay. Did that mean that you did a
16 thorough evaluation of something that you reviewed?

17 MR. ORTIZ: Objection.

18 THE WITNESS: It really depends on what
19 you mean with thorough evaluation. But it
20 means to me -- I didn't do the calculations, or
21 anything like that, at least on the tables or
22 statistical analysis or anything like that.

23 BY MS. GREENWALD:

24 Q Um-hum.

25 A For me, independent review is that I am

1 reviewing it by myself. So I'm reading it by
2 myself, by skimming the part that I'm not interested
3 or think is not important for me without having
4 somebody else next to me telling me what to do or
5 what not to do or what to read or what not to read.

6 Q And if the materials that you
7 independently reviewed relating to issues of general
8 causation, would you have been reviewing those
9 documents and those materials in depth to reach
10 opinions in this case?

11 MR. ORTIZ: Objection.

12 THE WITNESS: No. No. I was not trying
13 to reach opinions on general causation. I was
14 just trying to independently review it which
15 means, for me, read the parts that I found
16 interesting or things that I need to understand
17 a little bit more and skip the parts that I
18 don't think that were interesting for me, so I
19 can basically understand the concepts. So I
20 was not trying to review what the authors did
21 or criticized the work, or see if the numbers
22 were correct and all that.

23 Independently means nobody else was
24 sitting by me or telling me what to do.

25 BY MS. GREENWALD:

1 Q Okay. So to be clear, Dr. Laber, are you
2 offering a general causation expert opinion in this
3 case?

4 MR. ORTIZ: Objection.

5 THE WITNESS: I have already answered
6 that. The answer's "no."

7 BY MS. GREENWALD:

8 Q Okay. I know you have down on your
9 Materials Considered list several expert reports
10 that you did consider, general causation expert
11 reports. And one of them is Exhibit 29, which is
12 the report of Dr. Bird.

13 (Exhibit 29 was marked.)

14 BY MS. GREENWALD:

15 Q Do you recall reviewing Dr. Bird's report
16 in preparation for your expert report for Mr. Fiolek
17 and Mr. Gleesing?

18 A Yes.

19 Q And did you rely on that report in forming
20 your opinions in this case?

21 A Yes.

22 Q And did you rely on that report in
23 reaching your own conclusions?

24 A Yes.

25 Q As to specific causation or to general

1 causation?

2 A As to general causation.

3 Q Well, you -- did you rely on his report in
4 reaching your conclusions as to each of the
5 plaintiffs?

6 A I don't think I understand your question.

7 Q Okay.

8 A I'm sorry about that.

9 Q So -- that's okay. No. No. No. So you
10 relied on Dr. Bird's report? Am I correct?

11 A Yes.

12 Q For general causation?

13 A Yes.

14 Q Is it accurate to say that you applied
15 those principles that he and other experts put forth
16 in applying that to your opinions on specific
17 causation in this case?

18 MR. ORTIZ: Objection.

19 THE WITNESS: I think that's a fair
20 statement, yes.

21 BY MS. GREENWALD:

22 Q Okay. I'd like to draw your attention to
23 pages 10 and 11 of Dr. Bird's report. And do you
24 see on those pages -- do you recall on those pages
25 that Dr. Bird identifies the various levels of PCE,

1 TCE, and benzene exposure and the -- and how the --
2 and studies that show those levels, either
3 supporting or not supporting leukemia and
4 Non-Hodgkin's lymphoma.

5 MR. ORTIZ: Objection.

6 THE WITNESS: That's what my understanding
7 is.

8 BY MS. GREENWALD:

9 Q And did you rely on the information
10 contained not only in his report generally but on
11 pages 10 and 11 --

12 A Yes.

13 Q -- in assessing -- let me finish. I'm
14 sorry.

15 In assessing whether exposures that were
16 estimated by Dr. Reynolds for Mr. Gleesing and
17 Mr. Fiolek were causally linked to their diagnoses?

18 MR. ORTIZ: Objection.

19 THE WITNESS: Yes.

20 BY MS. GREENWALD:

21 Q Did you read the entirety of Dr. Bird's
22 report?

23 A The entirety, no. There was some parts
24 that I was -- skim through that.

25 Q Did you also review general causation

1 reports of Dr. Felsher?

2 A Yes.

3 Q And Dr. Hu?

4 A Yes.

5 Q Did you rely on their opinions as well in
6 their analyses in forming your opinions in this
7 case?

8 A Yes, I did.

9 MR. ORTIZ: Objection.

10 MS. GREENWALD: I might not have any more
11 questions. Can I have two minutes?

12 MR. ORTIZ: Yeah, of course.

13 MS. GREENWALD: Go off the record.

14 VIDEOGRAPHER: We are going off the record
15 at 5:26.

16 (A brief recess is had from 5:26 p.m. to
17 5:33 p.m.)

18 VIDEOGRAPHER: We're back on the record at
19 5:33.

20 BY MS. GREENWALD:

21 Q I just have one more question, Dr. Laber.
22 Did you consider spontaneous mutations as a cause?

23 MR. ORTIZ: Objection.

24 THE WITNESS: Yes.

25 MS. GREENWALD: Thank you. I don't have

1 any other questions.

2 EXAMINATION

3 BY MR. ORTIZ:

4 Q Just a few questions, Dr. Laber.

5 Now, you recall earlier, before your
6 counsel began asking you questions, we took a
7 lengthy break. Do you recall that? Do you recall
8 that, sir?

9 MS. GREENWALD: Objection, form.

10 THE WITNESS: That we take a break? Yes,
11 I recall taking a break.

12 BY MR. ORTIZ:

13 Q And did you speak with counsel during that
14 break?

15 A Yes.

16 Q And did you speak about the substance of
17 the deposition?

18 A We talked about the deposition, yes.

19 Q Can you tell me what you said?

20 MS. GREENWALD: I'm not -- I'm not going
21 to let him answer those questions. I talked to
22 him about questions I was asking him. And I'm
23 not going to let him answer those questions.
24 Those are attorney-client privilege.

25 MR. ORTIZ: Are you going to --

1 MS. GREENWALD: We didn't talk about the
2 substance of your deposition. We talked about
3 things I was going to ask him.

4 MR. ORTIZ: Are you going to instruct him
5 not to answer?

6 MS. GREENWALD: I am going to instruct him
7 not to answer.

8 BY MR. ORTIZ:

9 Q And are you going to follow that
10 instruction?

11 A Yes.

12 Q Okay. And you referenced earlier that in
13 preparation for this deposition, you reviewed some
14 additional studies about CLL that identified some
15 new risk factors that you might not have been aware
16 of. Do you recall that testimony?

17 A That's not how I said it.

18 I reviewed papers that was CLL to see if
19 they have any things that I haven't identified.

20 Q And can you tell me what studies those
21 were?

22 A No. A particular study on top of my head?
23 No. But I review studies every day so it's
24 difficult for me to tell you one or the other.

25 Q And do you know if those studies are on

1 your Materials Considered list?

2 A No. I don't think I find anything that
3 was worthwhile adding to my material list.

4 Q And none of those are on your supplemental
5 Materials Considered list that we looked at earlier
6 in this deposition?

7 A None of them made any change on my
8 opinions.

9 Q So you're not relying on any of those?

10 A Correct. I'm not relying on any of that.

11 Q Can I direct your attention to Laber
12 Exhibit 29, which is the general causation report of
13 Dr. Bird? And let me know when you have that in
14 front of you.

15 A Yes, I have it.

16 Q And counsel directed you to page 10 to 11.
17 Could you flip to that page, please?

18 A Yes. I'm there.

19 Q And your testimony, do you recall
20 testifying earlier that you used these levels that
21 are identified here to form your opinions that
22 Mr. Fiolek and Mr. Gleesing's exposures at Camp
23 Lejeune caused their CLL.

24 Do you recall that testimony?

25 A I do recall that.

1 Q How did you use these levels to inform
2 those opinions?

3 A I think they were very -- these levels
4 were very important to document the general
5 causation that these agents caused CLL, or are a
6 strong risk factors of CLL. So I applied that to my
7 differential etiology and I considered these when I
8 was forming my opinions.

9 MR. ORTIZ: I don't think I have any
10 further questions.

11 MS. GREENWALD: I do not either.

12 THE WITNESS: Thank you.

13 VIDEOGRAPHER: This -- this concludes the
14 video-recorded deposition of Damian Laber,
15 M.D., FACP on June 9th, 2025. And we're going
16 to go off the video record at 5:37 p.m.

17 CERTIFIED STENOGRAPHER: Can I get your
18 transcript orders, though, before we conclude?

19 MS. GREENWALD: Ours is whatever the
20 standing order is. I don't know. I'm sorry.

21 MR. ORTIZ: We'll order a rough draft,
22 please.

23 CERTIFIED STENOGRAPHER: Do you need a
24 rough draft?

25 MS. GREENWALD: I don't think so.

1 (The reading and signing of the deposition
2 is not waived.)

3 (At 5:37 p.m. the deposition was
4 concluded.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, the undersigned authority, certify that
DAMIAN LABER, M.D. appeared before me remotely and
was duly sworn.

WITNESS my hand and official seal this 18th day
of July 2025.

DAWN A. HILLIER, RMR, CRR, CLR
Notary Public - State of Florida
My Commission No.: HH 300744
Expires: 12-15-2026

CERTIFICATE

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, DAWN A. HILLIER, RMR, CRR, CLR certify that I was authorized to and did stenographically report the deposition of DAMIAN LABER, M.D.; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

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

DATED this 18th day of July 2025.

DAWN A. HILLIER, RMR, CRR, CLR

1 July 18, 2025

2
3 IN RE: CAMP LEJEUNE WATER LITIGATION

4
5 Dear Dr. Laber:

6
7 Herein, you will find the transcript of your
8 deposition taken on July 9, 2025, and a Errata Sheet
9 for your use in entering any changes to the
10 deposition.

11 Please do not edit or make marks on the
12 transcript itself. If you desire to make any
13 changes, they should be noted on the Errata Sheet.
14 If no changes are to be noted, please indicate that
15 on the Errata Sheet so counsel are aware that no
16 changes were made.

17
18 After reading the transcript, please execute
19 the Errata Sheet, including date and place of
20 signing and return to Golkow, a Veritext Company at
21 the address indicated below.

22 Thank you for your prompt attention.

23
24 Sincerely,

25
26 Dawn A. Hillier, RMR, CRR, CLR
27 GOLKOW LITIGATION SERVICES, LLC
28 1650 Market Street, Suite 5150
29 Philadelphia, PA 19103
30 877.370.3377

I, DAMIAN LABER, M.D., have read the foregoing pages of my deposition given on July 9, 2025 in the case of IN RE: CAMP LEJEUNE WATER LITIGATION, Case No. 7:34-CV-00897, and wish to make the following additions, deletions or corrections:

This image shows a blank sheet of handwriting practice paper. It features three vertical columns of horizontal dashed lines. The first column on the left has 10 rows of lines. The second column in the middle also has 10 rows of lines. The third column on the right is wider than the others and contains 10 rows of lines as well. All lines are evenly spaced and extend across their respective columns, providing a guide for letter height and placement.

DAMIAN LABER, M.D.

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

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