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CAUSE NO. 2011-CCV-61850-5

JENA GONZALEZ	)	IN THE COUNTY COURT
	)	
Plaintiff(s)	)	
	)	
VS.	)	AT LAW NUMBER FIVE (5)
	)	
	)	
ASSOCIATES, INC.	)	
	)	
Defendant(s)	)	NUECES COUNTY, TEXAS

\*\*\*\*\*

ORAL DEPOSITION OF

ALAN GARETT, DVM

APRIL 5, 2012

\*\*\*\*\*

ORAL DEPOSITION OF ALAN GARETT, DVM, produced as a witness at the instance of the Pro Se Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on APRIL 5, 2012, from 9:21 a.m. to 1:33 p.m., before MARCY A. WELLS, CSR in and for the State of Texas, reported by machine shorthand, at the offices of DepoTexas-Corpus Christi, 1450 Wells Fargo Tower, 615 North Upper Broadway, Corpus Christi, Texas, pursuant to the Texas Rules of Civil Procedure.

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A P P E A R A N C E S

FOR THE PLAINTIFF(S):

PRO SE

FOR THE DEFENDANT:

MS. VALERIE L. CANTU  
O'Connell & Avery  
13750 San Pedro, Suite 110  
San Antonio, Texas 78232

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1                                   ALAN GARRETT, DVM,  
2   having been first duly sworn, testified as follows:

3

4

E X A M I N A T I O N

5

6   BY MS. GONZALEZ:

7           Q       Okay.  So, today, I'm just going to go over a  
8   couple of rules, which you probably already know them.  The  
9   court reporter is taking down everything we say.  I ask  
10   that your responses be verbal.  She can't write down a  
11   shake of the head or a nod.  So, if you would, verbalize  
12   that.  Also, I ask if I ask a question and you don't  
13   understand it, please stop me and let me know.  Otherwise,  
14   we'll assume you understand all of the questions and that  
15   your answers are in response to the questions, and if you  
16   have to take a break at any time, let me know and we'll  
17   take a break.

18           A       Certainly.

19                           MS. CANTU:  Are you in the meter?

20                           THE WITNESS:  No.  Last time, I got two  
21   tickets.  I found the garage parking this time.  Thanks.

22                           MS. CANTU:  Just checking.

23   (OFF THE RECORD.)

24           Q       Okay.  **What was your assignment in this case?**

25           A       **My assignment was to testify as to the**

1     **standard of care by the local veterinarians in Corpus**  
2     **Christi** as to -- as it applies to vaccinations,  
3     specifically of cats.

4             Q       And what was the date you were first  
5     contacted on this case?

6             A       That's a long time ago. I can't give you an  
7     exact date. Perhaps --

8             Q       Can you estimate?

9             A       Can I ask Ms. Cantu?

10                    MS. CANTU: No. If you know, tell her.  
11     If you don't, tell her you don't. That's fine.

12             A       It's been several months. That's all I can  
13     say, ma'am.

14             Q       Okay. About how many hours have you spent on  
15     the matter pertaining to this case?

16             A       Including -- What I did in the JP?

17             Q       Sure.

18             A       Okay. Between the JP and this one, so far,  
19     probably -- I think I have it written. Let me look it  
20     over real quickly. It's here somewhere. The last time, it  
21     was seven and a half hours, and the clock hasn't stopped  
22     ticking on this aspect of the case yet.

23             Q       So, on this case, what is your total hours to  
24     date? Or are you saying --

25             A       The last of the JP situation was seven and a

1 half hours. I have that written down, ma'am.

2 Q Okay.

3 A And, so far, this go-around?

4 Q Uh-huh.

5 A It's probably been -- Not including today.

6 Q Right.

7 A Probably maybe two hours so far.

8 Q Okay. And do you have an idea of future  
9 hours you may be spending on this case?

10 MS. CANTU: Objection, form. Now, you  
11 may answer.

12 A I guess that depends on how long you keep me  
13 here.

14 Q Okay. What are your future intentions?  
15 Sorry. Okay.

16 A Thank you, ma'am.

17 Q Do you intend to do any future work regarding  
18 this case?

19 A I would assume that if it goes to trial, I  
20 would be held over. I don't know that for a fact, but I  
21 would assume I would continue to be on call until the case  
22 comes to a final verdict or an end or a resolve.

23 Q But do you -- Okay. Do you intend to do any  
24 future expert studies, reports?

25 A On this specific case?

1 Q Yes.

2 A If asked to do so regarding standard of care,  
3 I would. As of right now, I don't see that in the  
4 foreseeable future, but we don't know what tomorrow will  
5 bring.

6 Q Okay. What is your expert fee?

7 A My expert fee for this?

8 Q Uh-huh.

9 MS. CANTU: Are you talking about the  
10 rate? Is that what you're asking? She means your rate per  
11 hour.

12 THE WITNESS: Oh. Okay. Thank you. I  
13 didn't know.

14 A **I'm charging 250 per hour**, as recommended by  
15 who I've consulted with.

16 Q And how is that being paid?

17 MS. CANTU: Objection, form. But you  
18 can answer.

19 A I prefer cash, but I'll take a check.

20 Q Are you -- Are you just totaling your hours  
21 and submitting a bill?

22 A Yes, ma'am. Yes, ma'am, of course.

23 Q Okay. Have you -- So, have you submitted a  
24 bill yet? Have you been paid for anything yet?

25 A For the JP portion of this case, yes, ma'am.

1 Q Okay. But for the two hours in preparing --

2 A Oh, heavens, no.

3 Q -- for this?

4 A I was told wait until everything came to an  
5 end.

6 Q Okay. And then you'll submit a bill?

7 A Yes, ma'am.

8 Q And you'll be paid by Ms. Cantu's law firm?

9 A No. Actually, last time, I was stunned. I  
10 submit the bill to Avery and O'Connell, or O'Connell and  
11 Avery, whatever it is.

12 Q Uh-huh.

13 A But I got a check from Zurich Insurance,  
14 because I believe that's a company that handles the  
15 malpractice of veterinarian insurance for the veterinary  
16 industry.

17 Q Okay. Have you ever been an expert witness  
18 before?

19 A As a veterinarian, or any other time, not  
20 that I can recall.

21 Q Is this your first deposition.

22 A I've had -- Veterinary-wise, yes, but I've  
23 had a previous deposition in life.

24 Q And what was that previous deposition?

25 A It had to do with the estate of a deceased



1 lady in which I was the executor -- and the executor.

2 Q And can you explain why your deposition was  
3 taken in that case?

4 A As the executor, I was responsible for the  
5 disposition of certain personal properties, and there  
6 appeared to be some discrepancies as to who was entitled to  
7 what in this estate, and it's still ongoing.

8 Q And what is the name of the estate?

9 A Doris L. Simmons.

10 Q And how did you become the executor of Doris  
11 Simmons' estate? Was she a relative?

12 A No. Mr. and Mrs. Simmons were dear clients  
13 of mine. They had no children, as far as other relatives.  
14 The few they were, I guess they didn't trust them, like  
15 them. I do not know, but after Mr. Simmons passed away, in  
16 2006, Mrs. Simmons summoned me to her house. What a dear  
17 lady she was. And asked that if the time came, if I would  
18 take charge of her affairs, including taking care of her  
19 pet, which, three years later, is still living at my  
20 clinic, and I told her I would do the best of my ability to  
21 do so. She just trusted me, liked me. I guess my love for  
22 animals, the way I always cared for all of her pets. I  
23 guess she saw me something decent and humane and honorable.

24 Q So, she -- So, she was a client of yours at  
25 your clinic, correct?

1           A       Yes, ma'am.

2           Q       Okay.  And about how much -- Executors are  
3 paid, correct?

4           A       That's correct.

5           Q       And so how much -- I wouldn't say income.  
6 How much money have you --

7           A       You have to pay a lot of tax on that income.

8           Q       -- derived from being the executor of her  
9 estate?

10          A       I was paid a sum of.  It was based on a  
11 percentage, as she and I talked about it, and she told me  
12 to use a certain percentage, and I think the net was  
13 30,000.

14          Q       Can you explain or can you go over your past  
15 employment history?

16          A       Certainly.  I assume you want me to limit it  
17 to veterinary medicine; is that correct?

18          Q       Yes.  Well, you know what?  Let's start with,  
19 where did you graduate from?

20          A       High school or college?

21          Q       Veterinarian.

22          A       Texas A&M, 1978.

23          Q       Okay.  And then after you graduated?

24          A       My first job was in Houston.

25          Q       Okay.

1           A       Little York Veterinary Clinic, if you want to  
2 know the name of it.

3           Q       Okay.

4           A       My second job was overseas in Sydney,  
5 Australia, Aruba District Animal Hospital; and, from Sidney  
6 Australia, I moved here to Corpus Christi. That was 1980.

7           Q       So, in Corpus Christi, what clinics have you  
8 worked at?

9           A       Just the one, Everhart Animal Hospital.

10          Q       And did you establish that practice on your  
11 own?

12          A       No. When I moved here in 1980, it had been  
13 established for seven years already.

14          Q       Okay. And who did you purchase that from?

15          A       Dr. Steven Stoops.

16          Q       Okay. And, in your practice, do you have a  
17 professional library?

18          A       I have several reference books, yes, ma'am.

19          Q       Okay. And can you name those reference  
20 books?

21          A       Not all of them.

22          Q       Can you name the ones you predominantly go  
23 to?

24                   MS. CANTU: Objection, form.

25          A       Probably the most common would be Five Minute

1 Consult. I have three editions of that book. That's  
2 probably the most common one that I use nowadays. If I  
3 have a specific problem, I may go to a more specific book.  
4 In other words, if I'm having a urology problem, I go to a  
5 urology book. If I'm having problems understanding a  
6 pathology report, I go to a pathology book. But for the  
7 day to day practice, Five Minute Consult would be my bible,  
8 I guess you would say.

9 Q Okay. And what professional organizations  
10 are you a member of?

11 A The American Veterinary Medical Association.

12 Q Is that all?

13 A That's it.

14 Q You're not a member of the Texas --

15 A No, I'm not.

16 Q Okay. And when types of continuing education  
17 have you attended in the past two years?

18 MS. CANTU: Objection, form.

19 A I normally -- Well, I go to the Western  
20 States Veterinary Conference in Las Vegas. And this year,  
21 for the first time, I went to **North American Veterinary**  
22 **Conference in Orlando, Florida**, and I've gone to a couple  
23 of continuing education courses here in Corpus as well.

24 Q And when you attend those conferences, what  
25 is the subject matter that you -- that you're sitting in on

1 or receiving your education in?

2 MS. CANTU: Objection, form.

3 A It's very -- It's always quite varied. I  
4 like to sit in on a lot of dermatology lectures simply  
5 because I see a lot of dermatology problems here in Corpus  
6 **Christi**. I sit in on just a wide variety of different  
7 lectures of gastrointestinal, pulmonary, neurologic. You  
8 know, whatever I think, sort of, strikes a cord with me,  
9 I'll sit in on it.

10 Q Can you tell me what the continuing education  
11 requirements are regarding your Texas veterinarian license?

12 A I'm required to have 17 continuing hours of  
13 education per year.

14 Q And what are the specific requirements of  
15 those hours?

16 MS. CANTU: Objection, form.

17 A I guess the specific requirements is that I  
18 sit my but in a lecture hall and listen to somebody tell me  
19 how I can improve the quality of medicine, and that's it.

20 Q Okay. And, so, for the preceding year,  
21 because we're in 2012, so I'm assuming you haven't met the  
22 17 hours yet --

23 A Yes, I have.

24 Q Does it go calendar year?

25 A It's a calendar year, but I always -- I'm

1       sorry.  Finish your question.  I apologize.

2               Q       Okay.  So, you finished your hours for 2012?

3               A       The required hours, but I'll probably go to  
4       some more locally.

5               Q       Okay.

6               A       The way the conference works, ma'am, it  
7       allows veterinarians, in a three or four day period, to  
8       basically, depending on the state, I guess, you're living  
9       in, I can get all 17 hours done in three days, you know, in  
10      Las Vegas or Orlando, and the quality of speaker is usually  
11      much better at a national convention than here in Corpus  
12      Christi, so I get it all done at the national conventions,  
13      and then, if something good comes along in Corpus, I don't  
14      have to go, but I'll still go.  There's nothing wrong with  
15      having too much education.

16              Q       Okay.  So, this year, where did you receive  
17      your 17 hours, in 2012?

18              A       As I mentioned, North American Veterinary  
19      Conference in Orlando.

20              Q       Okay.

21              A       Sorry.  That was in January of this year.

22              Q       Okay.  And what specific courses did you sit  
23      in on for this year?

24              A       If I had known you were going to ask that  
25      question, I would have brought it with me.  I sat in some

1 orthopedic cases, some dermatology cases, some  
2 gastrointestinal cases. I can't remember all of them. I  
3 apologize, ma'am.

4 Q That's okay. I think I did ask you to bring  
5 those, and the response was being over-broad in scope and  
6 time and subject matter.

7 THE WITNESS: What does that mean?

8 MS. CANTU: She didn't ask you any  
9 questions. She's just scanning.

10 THE WITNESS: Okay.

11 A I would be more than happy to call my office  
12 right now and have them fax over a copy of that, if you'd  
13 like.

14 Q Sure.

15 A I'll have to go to my --

16 Q We can do that during the break, that  
17 you'll --

18 A Okay. Fine.

19 Q Okay. So, regarding -- Let me see. Let me  
20 see. So, what are the specific areas you intend to testify  
21 in this case?

22 A **I was asked to testify as to the standard of**  
23 **care as it applies to vaccinations by my colleagues here in**  
24 **Corpus Christi, specifically for cats.**

25 Q Okay. And have you taught any seminars on

1 the standard of care regarding feline vaccines?

2 A Taught?

3 Q Yes.

4 A No, ma'am.

5 Q Have you ever conducted any professional  
6 trainings on the standard of care regarding feline  
7 vaccines?

8 A No, ma'am.

9 Q Have you written any papers regarding the  
10 standard of care on feline vaccines?

11 A No, ma'am.

12 Q What professional articles have you read  
13 regarding the standard of care for feline vaccines?

14 A As it applies to Corpus Christi or in  
15 general?

16 Q Both.

17 A Well, there are no --

18 MS. CANTU: Objection, form.

19 Q Let's do Corpus Christi first. What  
20 professional articles have you read?

21 A As you might have guessed, there's no  
22 articles written on standard of care for vaccinations or  
23 cats in Corpus Christi.

24 Q Okay. What about written for your  
25 profession?



1 MS. CANTU: Objection, form.

2 A I've not written any, ma'am.

3 Q No, no, no. What professional articles, peer  
4 reviewed information, have you read regarding the standard  
5 of care in feline vaccines in your profession?

6 MS. CANTU: That, you can answer.

7 A I can't name specific titles, but I have  
8 certainly --

9 MS. CANTU: Are you talking about other  
10 than what he produced today? Do you want him to list all  
11 the --

12 Q I reviewed those and I -- Yeah. I'm  
13 specifically asking as a standard of care.

14 A You have me confused. Standard of care?

15 Q What is your testimony regarding the standard  
16 of care of feline vaccines?

17 A As it applies to Corpus Christi? Is that  
18 your question, ma'am?

19 Q No. I'm asking you: What is the standard of  
20 care regarding feline vaccines?

21 MS. CANTU: Objection, form.

22 A You want to know how I personally administer  
23 and what I personally believe is the standard of care for  
24 vaccines in cats? Is that what you're asking, ma'am?

25 Q Well, you stated that your testimony was

1 going to be regarding the standard of care with regards to  
2 feline vaccines. What --

3 A In Corpus Christi.

4 Q No. I'm not asking you Corpus Christi.

5 MS. CANTU: Then objection, form,  
6 because he's already told you his testimony is limited to  
7 the relevant standard, which is Corpus Christi.

8 A That's why I was invited to be here, ma'am.

9 MS. CANTU: Now, if you'd like him to  
10 testify to his actual expert opinions, he will do that.

11 Q So, then your -- So, is there a different  
12 standard of care for Corpus Christi versus your profession?

13 A I cannot speak for the rest of my profession  
14 as it applies to New York City, Los Angeles, Bismarck,  
15 North Dakota --

16 Q Let me -- Let me --

17 MS. CANTU: Excuse me, Ms. Gonzalez. Let  
18 Dr. Garrett finish his answer.

19 A I'm trying to appease you, ma'am.

20 Q Uh-huh.

21 A **My expertise applies to the city limits of**  
22 **Corpus Christi when it comes to standard of care.** I did  
23 not take the time, nor had the inclination to call every  
24 city, village, county in the country to ask my various  
25 colleagues what is their standard of care. I think it

1 varies from municipality to municipality. For whatever  
2 reasons, I do not know. If you want to ask me specific  
3 questions on the standard of care of Corpus Christi, I'll  
4 be happy to answer those questions for you.

5 MS. GONZALEZ: Okay. Objection,  
6 nonresponsive.

7 A Oh, I responded. You just didn't like the  
8 answer.

9 Q Your veterinarian license, you're licensed  
10 for the State of Texas?

11 A Yes, ma'am.

12 Q So, in your profession, and which you're  
13 licensed for the State of Texas --

14 A Yes, ma'am.

15 Q -- what is the standard of care regarding  
16 feline vaccines?

17 MS. CANTU: Objection, form.

18 A The State of Texas does not mandate what we,  
19 as veterinarians, have to do other than rabies. That is  
20 the only state law that I'm aware of when it comes to  
21 vaccinations, and that varies, by the way, from county to  
22 county. They determined, years ago, that -- in Austin --  
23 that the Texas Department of Health officials deferred to a  
24 local county health director, that which they deemed  
25 important for that county. So, even within Texas, you'll

1 find different standards when it comes to rabies.

2 Q Okay. **And what is the rabies ordinance in**  
3 **the City of Corpus Christi?**

4 A As of today, we vaccinate -- **By law, we just**  
5 **need to vaccinate every three years in Nueces County, in**  
6 **which Corpus Christi exists. Some veterinarians, I**  
7 **believe, are still using annual vaccinations? Why? I do**  
8 **not know.**

9 Q And when did -- When did that ordinance in  
10 Corpus Christi become available to use a three year rabies?

11 A The option to go every three years became  
12 effective in 2011.

13 Q Do you know when in 2011?

14 A I would assume January 1st, ma'am.

15 (EXHIBIT NO. 1 & 2 WERE  
16 MARKED FOR IDENTIFICATION.)

17 MS. CANTU: Can we go off the record for  
18 a second, please.

19 (A BRIEF RECESS WAS TAKEN.)

20 Q (By Ms. Gonzalez) So, before we took a  
21 break, I had given you -- or we were talking about the  
22 rabies ordinance in Corpus Christi?

23 A Okay.

24 Q And you said that that three year ordinance  
25 went into effect January, 2011?

1           A       That's when our clinic started selling three  
2 year city tags. That's correct.

3           Q       Was January, 2011?

4           A       I believe that's correct.

5           Q       Okay.

6           A       I've got to ask my secretary, but it sounds  
7 right to me.

8           Q       Can you tell, from the documents that I gave  
9 you, when the ordinance was passed?

10          A       Yeah, I guess, according to this. It looks  
11 like Elizabeth Hundley, who is the assistant city attorney,  
12 stamped it July 1st, 2010.

13          Q       Okay. Okay. So, on July 1st, 2010, the City  
14 of Corpus Christi passed an ordinance that allows  
15 veterinarians to give three years rabies vaccines. And, at  
16 your clinic, when did you start offering a three year  
17 rabies vaccine, or do you offer a three year rabies  
18 vaccine?

19          A       Well, actually, we've been giving three year  
20 rabies vaccine for many, many years.

21          Q       For dogs?

22          A       Dogs and cats.

23          Q       When would you have given? Can you state a  
24 date when you started giving three years?

25          A       I would think, probably because of the state

1 ordinance that existed at the time, probably over ten years  
2 ago.

3 Q So, over ten years ago --

4 A You're probably not aware, Ms. Gonzalez, that  
5 many years ago, the state ordinance in Texas was that we  
6 were required to give three year rabies vaccine annually in  
7 the State of Texas, as imposed by the Texas Department of  
8 Health. Dr. Keith Clark was in charge of the program at  
9 the time. So, we were mandated by law to give three year  
10 rabies vaccine every year.

11 Q Okay. I think we're confused on what we're  
12 talking about then.

13 A I guess we are. I apologize.

14 Q Because you're talking about giving a vaccine  
15 that the manufacturer states is a three year?

16 A Correct.

17 Q Giving it annually?

18 A That was the state law in Texas for a long  
19 time.

20 Q Right. Okay. I'm talking about giving now a  
21 vaccine manufactured for three years every three years.  
22 Does your practice do that currently?

23 A Oh. I'm sorry. Yes. We do that currently.  
24 We didn't communicate well on that one. Yes.

25 Q Okay. So, when did you start offering your

1 clients at your practice --

2 A Got you.

3 Q -- a three year rabies vaccine?

4 A I believe it was July -- I believe it was  
5 January 1st, 2011. I believe that's correct.

6 Q Okay. So, do you currently use a one year  
7 rabies vaccine?

8 A We use a three year rabies vaccine.

9 Q In cats?

10 A Cats and dogs.

11 Q Okay. Cats and dogs. And what vaccine is  
12 that that you use for cats?

13 A I believe the current brand is Rabvac 3.

14 Q And does that -- Is that just a rabies  
15 component?

16 A Yes, ma'am.

17 Q Okay. And then what else do you vaccinate  
18 felines for in your practice?

19 A The -- We use a vaccine that is a  
20 combination of feline leukemia, panleukopenia,  
21 rhinotracheitis, calici, and pneumonitis. It's a five way  
22 vaccine.

23 Q And what is the brand name for that?

24 A The current one we have is -- well, it's  
25 called **Fel-O-Vax Lv-K IV plus CaliciVax.**

1 Q Okay. **And is that a killed virus vaccine?**

2 A **Yes, it is.** It also has chlamydia, by the  
3 way.

4 Q Can I see that?

5 A Yeah. Sure.

6 Q And how long have you been using the  
7 particular vaccine?

8 A I can't answer that question. We order  
9 different brands. We have this one this time we've used in  
10 the past.

11 Q And how often do you administer this vaccine?

12 A To adults or kittens?

13 Q To adults.

14 A As the instructions say on the manufacturer's  
15 package insert, their research indicates that we are  
16 supposed to give it annually, so we just follow the  
17 instructions on the package insert.

18 MS. GONZALEZ: Could you mark that as an  
19 exhibit.

20 (EXHIBIT NO. 3 WAS MARKED

21 FOR IDENTIFICATION.)

22 Q Is it a recommendation that the  
23 panleukopenia -- Let me find that note here, because I  
24 don't remember these names right offhand. Okay. **Is it a**  
25 **recommendation that the panleukopenia, rhinotracheitis,**



1     **calicivirus are considered core vaccines to be given every**  
2     **three years?**

3             A       A recommendation?

4             Q       Uh-huh.

5                     MS. CANTU:  Objection, form.

6             A       **Recommended by who?**

7             Q       The American Veterinary Medical Association?

8             A       I do not know all the various recommendations  
9     as recommended by the various organizations.  **I run my**  
10    **practice based on the written instruction of the**  
11    **manufacturers** who have done the research who are licensed  
12    by FDA, and those are the recommendations that I tend to  
13    pay attention to.  If it was a mandate or a law, then I  
14    would have to go with the mandate and the law, not the  
15    recommendations.  That's a personal choice, I guess.

16                     MS. GONZALEZ:  Objection, nonresponsive.  
17    Will you mark that as an exhibit, please.

18                             (EXHIBIT NO. 4 WAS MARKED  
19                             FOR IDENTIFICATION.)

20             A       Just so we're clear as to why I'm here,  
21    regardless of the recommendations that you wish to quote --  
22    I think that's admirable and commendable of you to remind  
23    me of that -- **but I'm basing my testimony on the standard**  
24    **of care in Corpus Christi.**

25                     MS. GONZALEZ:  Objection, no question

1 asked, side-bar.

2 Q Could you read the statement that I  
3 highlighted in blue on that exhibit, please?

4 A Yes, ma'am. Read it out loud, ma'am?

5 Q Yes.

6 A **"The American Association of Feline  
7 Practitioners recommends vaccinating against feline  
8 panleukopenia, distemper, feline viral rhinotracheitis, and  
9 feline calicivirus every three years."**

10 Q And you're a member of that professional  
11 organization, correct, as you stated earlier?

12 A No, I'm not.

13 Q The American Veterinarian Medical  
14 Association?

15 A Well, that, I am, ma'am, but you asked me to  
16 read what you highlighted personally. It says the American  
17 Association of Feline Practitioners.

18 Q Let me see.

19 A Perhaps you'd like to read it again, ma'am.  
20 Can you show me where it says the American Veterinarian  
21 Medical Association?

22 Q Oh.

23 A But you didn't highlight that, ma'am.

24 Q Let me highlight that.

25 A Thank you, ma'am.

1           Q       Okay. Well, for now, we will just go with  
2 this. Okay. So, the American Association of Feline  
3 Practitioners recommends that the panleukopenia, the  
4 rhinotracheitis, and the calicivirus be administered every  
5 three years. Although I understand that is a  
6 recommendation, why do you choose not to follow that  
7 recommendation?

8           A       It is my opinion, and when asked by clients,  
9 I get the same answer, because vaccines are not 100 percent  
10 guaranteed, especially for my clients' cats that are  
11 outdoors, **in Corpus Christi, we have a staggering amount of**  
12 **stray and feral cats.** If you've lived here for any length  
13 of period, you would know that. As a result, I tell my  
14 clients that I consider it good insurance to keep their  
15 immunity level as high as possible by **vaccinating on an**  
16 **annual basis.** Nothing is guaranteed, but I like to booster  
17 my clients just to be on the safe side in light of the fact  
18 that we have so many stray and feral cats who, more than  
19 likely, have never been vaccinated and thus carrying many  
20 harmful diseases.

21           Q       And what studies reports do you have that  
22 indicates Corpus Christi has a high incidence of cats  
23 having panleukopenia, rhinotracheitis, calicivirus?

24           A       There's no written reports. I just know that  
25 the cat population is -- **the feral cat population and stray**

1 **population is a horrific problem in Corpus Christi.**

2 Q And how do you know that information?

3 A I used to sit on the Animal Advisory Control  
4 Board for Corpus Christi, appointed by City Council, maybe  
5 about five or six years ago. I worked intimately with  
6 animal control people at the time.

7 Q And do you have any reports or data on the  
8 stray and feral cat population in Corpus Christi?

9 A I do not. They were just estimates at the  
10 time.

11 Q And do you have any data that stray and feral  
12 cats in Corpus Christi have diseases?

13 A Unless you catch them and test them, the  
14 answer would be no. So, nobody has that information. **When**  
15 **the City of Corpus Christi catches these, they're put to**  
16 **sleep, unfortunately, at a high rate, and I don't believe**  
17 **the City of Corpus Christi does -- they do not spend any**  
18 **money to diagnose them before they euthanize them.**

19 Q Okay. So, the Texas A&M University, American  
20 Association of Feline Practitioners, the American  
21 Veterinarian Medical Association all recommend that  
22 panleukopenia, rhinotracheitis, and calicivirus be given  
23 every three years, and do you have knowledge as to why they  
24 recommend vaccines, those particular vaccines, every three  
25 years?

1 MS. CANTU: Objection, form.

2 A Texas A&M, the American Association of Feline  
3 Practitioners -- and the other one was the AVMA, you said,  
4 ma'am?

5 Q Uh-huh.

6 A Well, they base their recommendations on  
7 nationwide basis. **They don't practice in Corpus Christi,**  
8 **where things are different.**

9 Q **And what's different in Corpus Christi?**

10 A **What's different is the fact that every**  
11 **veterinarian that I have spoken with vaccinates annually,**  
12 probably because the aforementioned items that I talked  
13 about, the incredible stray population, harboring diseases,  
14 you don't need test them to know that these feral cats are  
15 not clean. Common sense would probably dictate that the  
16 vast majority are probably carrying diseases. That's an  
17 assumption, but I dare say that's right of the vast  
18 majority. So, because of the high exposure, we recommend  
19 annually. National organizations base it on a nationwide  
20 situation. Again, it goes back to what I said earlier,  
21 ma'am. Even the Texas Department of Health deferred to  
22 county health directors on the rabies situation. It's why  
23 we were every year in Corpus Christi for so long while  
24 Harris County, Bexar County, Dallas County were every three  
25 years on rabies. It's a localized situation, and that's

1 what I'm here to testify about, ma'am.

2 Q So, does the Corpus Christi City Ordinance  
3 dictate the schedule for panleukopenia, rhinotracheitis,  
4 and calicivirus?

5 A No, ma'am. They do not.

6 Q Because that's what I had asked you on.

7 MS. GONZALEZ: Object to Ms. Gonzalez'  
8 side-bar and argumentative comments.

9 Q **Texas A&M University also put out that**  
10 **recommendation.**

11 A Okay.

12 Q **Would you agree that that recommendation was**  
13 **based on Texas?**

14 A I'm not sure what they base their data on. I  
15 can tell you they never called me to get my opinion. They  
16 never had called me to ask if I had any data.

17 Q So --

18 A You have to ask Texas A&M researchers why  
19 they made that comment, made that recommendation, ma'am.

20 Q So, is it your understanding that a three  
21 year panleukopenia, rhinotracheitis, calicivirus vaccine  
22 does not provide protection for three years?

23 A I've never seen the data to prove or disprove  
24 that statement. There are -- There may be some vaccines  
25 that might, but I will almost rest assured guaranty the

1 company will not guaranty it. They'll say based on their  
2 studies in-house. So, I don't know that anybody could give  
3 100 percent guaranty that it will actually last three  
4 years, ma'am.

5 Q But is that your opinion, why you don't use a  
6 three year?

7 A I believe I stated previously the reason I  
8 don't use it is because I feel that there's no guaranty and  
9 because of the high exposure of cats in Corpus Christi to  
10 the tremendous stray population we have here. I would not  
11 recommend every three years. My own cat gets vaccinated  
12 every year because she goes inside, outside, and we have  
13 strays in my neighborhood. I wouldn't dare take a chance  
14 and risk her life.

15 Q But you would agree that if a vaccine  
16 manufacturer makes a vaccine and licensed it for three  
17 years, that they're stating the cat would be protected for  
18 three years; is that correct?

19 MS. CANTU: Objection, form.

20 THE WITNESS: Do I answer it now?

21 MS. CANTU: Yes. I'm sorry.

22 A Go ahead. I'm sorry. Okay. If it's  
23 licensed for three years, do I think it gives protection  
24 for three years? I would assume, since it's licensed by  
25 the FDA, there had to be some studies to indicate that

1 there was protection for three years with some cats. I  
2 don't know if there was 100 percent protection for all  
3 cats. I never saw the data. I don't know of anybody who  
4 has, except for that company.

5 Q But you don't feel like the three year  
6 panleukopenia, rhinotracheitis, calicivirus vaccines on the  
7 market are -- provide protection for three years, which is  
8 why you don't use them?

9 A They don't guaranty 100 percent. They do not  
10 guaranty 100 percent protection for 100 percent of the  
11 cats, and that's the basis of why I don't vaccinate every  
12 three years.

13 Q Okay. So, why is it that you use the three  
14 year rabies vaccine?

15 A Because the state law now says every three  
16 years.

17 Q No. I believe that's an op -- I'm sorry.  
18 Go ahead.

19 A It's not an option, as you were about to say.

20 Q Okay. Let's back up.

21 A Thank you.

22 Q So, state law indicates that you cannot give  
23 an annual rabies vaccine?

24 A No. I did not say that, ma'am. The state  
25 law -- Maybe I didn't read it properly. I apologize. The



1 state law says that we can vaccinate every three years for  
2 rabies with a three year rabies vaccination. You have the  
3 option to do annuals if you so desire, okay? There is  
4 still counties in Texas where you have to do annual  
5 vaccinations, I believe. It depends on, you know, the  
6 county health director. My hospital has always done three  
7 years, even when the -- When Texas went to every three  
8 years -- When Texas went to every three years, I was still  
9 doing -- Because people move around -- move all over the  
10 state, **I did not use an annual vaccine at my hospital, even**  
11 **though the state law was every three years and the county**  
12 **law was every year.** I still used a three year vaccine,  
13 because if I had a client that moved from Corpus Christi to  
14 Houston, they would not be legal, so I used a three year  
15 vaccine. Had I used a single year vaccine in Corpus, then  
16 they would have had to have received another one in  
17 Houston. I did it as a courtesy for my clients who might  
18 move into a county where every three years was now legal.  
19 Did that confuse you? I'm sorry.

20 Q Yes.

21 MS. GONZALEZ: Objection, nonresponsive.

22 A It was very responsive.

23 Q Corpus Christi will allow a rabies vaccine  
24 that is licensed for three years to be injected into a cat  
25 every three years; is that correct?

1           A        You can give a three year vaccine every three  
2 years to a cat. That is correct.

3           Q        In Corpus Christi, can you also give a one  
4 year rabies vaccine licensed for one year to a cat?

5           A        Yes, you may.

6           Q        Why do you choose to give the three year  
7 licensed vaccine every three years to your cats in your  
8 practice?

9                   MS. CANTU: Objection, asked and just  
10 answered. You can answer it again.

11          A        I give the three year rabies every three  
12 years to cats because it is not only the state law, it is  
13 now the city ordinance. The city says we can give every  
14 **three years -- excuse me -- the county, not the city.** When  
15 Corpus Christi went to every three years, we now give it  
16 every three years.

17                   MS. GONZALEZ: Objection, nonresponsive.

18          A        Will you please -- I'm trying my best to  
19 answer your question, ma'am.

20          Q        You have the option of giving your feline  
21 patients a one year rabies vaccine; is that correct?

22          A        That is correct.

23          Q        Why do you not do that?

24          A        Why do I not give annual vaccinations?

25          Q        Yes. On the rabies.

1           A       On the rabies?

2           Q       Yes.

3           A       Because -- I guess because the ordinance is  
4 now every three years. I just choose -- I choose not to.  
5 If clients -- I think I just answered that question. I  
6 also worry about if my clients move out of the area. If  
7 they go from Corpus -- If I give an annual vaccination  
8 and, a year from now, they move to Houston, now they have  
9 to get another vaccination, but if I gave a three year  
10 vaccine here, they would still be legal in Houston for two  
11 more years.

12           Q       So, it's in your opinion that a three year  
13 rabies vaccine licensed for three years is effective and  
14 protects the cat for three years?

15           A       I don't know that it's 100 percent protected,  
16 but I just go by what the law says.

17           Q       Okay.

18           A       Does that make sense? Did I answer your  
19 question finally?

20           Q       Uh-huh. Okay. So, regarding the feline  
21 leukemia virus vaccine --

22           A       Yes, ma'am.

23           Q       -- do you follow the recommended -- the  
24 recommendation of the American Association of Feline  
25 Practitioners, The American Veterinarian Medical

1 Association, Texas A&M University, that you will conduct a  
2 blood test for feline leukemia on a cat with no known  
3 vaccination history?

4 A So, in other words -- so we're clear, a  
5 client walks in and says, "I found this cat, I want to  
6 vaccinate it, you're asking me do I test them all for  
7 feline leukemia"? Is that your question, ma'am?"

8 Q Yes.

9 A Okay. I tell the clients in that situation  
10 that I highly recommend it. I tell them that I think it's  
11 good medicine, but I don't insist. I let the client make  
12 the choice. I tell them about leukemia, stray cat  
13 population. I try to guide them and counsel them as best  
14 as I can. Do I think it's good medicine? Yes. But, in  
15 the end, that cat is our client's personal piece of  
16 property and they have to make the best decision for their  
17 pet based on the information I gave them.

18 Q And do you believe that the vets and  
19 veterinarians in Corpus Christi feel the same way as you  
20 regarding that statement?

21 MS. GONZALEZ: Objection, form.

22 A I have a lot of admiration for a lot of my  
23 colleagues here in town. I know it's been discussed. I  
24 can't give you specific names, but I know we all probably  
25 think the same thing. I think sometimes clients, when they

1 find a stray, they want to be a good Samaritan without  
2 getting soaked for a lot of money and they want to do the  
3 best that they can.

4 Q Uh-huh.

5 A And, sometimes, feline leukemia testing is  
6 not always 100 percent accurate anyway, as I'm sure we all  
7 know. I have gotten burned too many times in the past,  
8 where I tested a cat that was negative, we vaccinate, and  
9 lo and behold, years down the road, they show up with  
10 feline leukemia.

11 Q Okay. So now regarding -- We're still  
12 talking about the feline leukemia vaccine. An adult cat  
13 comes to your clinic, no known vaccine history. You and  
14 the client, after the discussion you have about it,  
15 determines that they want the vaccine.

16 A Okay.

17 Q So, you give them the vaccine. When do you  
18 give them their second feline leukemia vaccine?

19 A We recommend -- With no known history of  
20 vaccinations?

21 Q Yes.

22 A If it was a kitten, we always do it three  
23 weeks later. An adult cat in good health, without  
24 testing -- that's a tough question to answer. It's not  
25 carved in stone, that answer, unfortunately.

1 Q What do you do? That's what I'm asking you.

2 A Right.

3 MS. CANTU: Objection, form.

4 A It --

5 MS. CANTU: I'm sorry. Can you just  
6 read the question back, please, Court Reporter?

7 Q (By Ms. Gonzalez) I said we've determined  
8 that an adult cat comes to your clinic with no known  
9 vaccine history.

10 A Okay.

11 Q You've discussed the feline leukemia  
12 information with them?

13 A Yes, ma'am.

14 Q You've given them the option to do the blood  
15 test. I don't know what their decision is, but,  
16 regardless, the client agrees to the feline leukemia  
17 vaccine and you give the injection.

18 A Yes, ma'am.

19 Q When do you give a second feline leukemia  
20 injection to the adult cat with an unknown vaccine history?

21 MS. CANTU: Objection, form?

22 A If the cat is going to be strictly indoors  
23 and it's already an adult cat, I'd probably say -- and this  
24 may not be scientifically correct. I'd say I think this  
25 would be good enough. If the cat is going to be

1 indoor/outdoor or outdoor, I would probably -- or be  
2 exposed to other cats, in other words, if this cat was  
3 going to be strictly indoors, but the owner had another cat  
4 that was indoor/outdoor, I'd say get a booster, but if it's  
5 strictly indoors, isolated, a one-time shot would probably  
6 do it, if they don't test. If it's going to be outdoors, I  
7 would probably recommend a booster in three to four weeks.

8 Q Okay.

9 A There's different scenarios there and I  
10 apologize.

11 Q No, no. In your -- Well, okay. Let's keep  
12 on the feline leukemia vaccine for a minute.

13 A Sure.

14 Q The feline leukemia contains a killed virus,  
15 correct?

16 A Yes.

17 Q The killed virus -- The killed viruses  
18 contain adjuvants?

19 A I'm not sure about all the brands.

20 Q The brand that you use?

21 A I get different brands. I don't read all of  
22 them.

23 Q And you would probably understand this better  
24 than me. It doesn't say the word "adjuvant," but the  
25 thimerosal might. Is the thimerosal an adjuvant?

1           A       The thimerosal is a -- they're just  
2       preservatives and antibacterial, antifungals. I don't  
3       see -- That is in Spanish. I don't see the adjuvant on  
4       here. I can't answer this question by reading this label.  
5       I apologize. Do you want this back?

6           Q       Yes. So, when a new client comes to your  
7       office with a cat, what is your procedures? Can you just  
8       kind of walk through that?

9           A       On a stray cat or when they purchase --

10          Q       Okay. Let's just say --

11          A       It does make a difference.

12          Q       -- an eight year adult cat --

13          A       Okay.

14          Q       -- that the owner has had for five years, but  
15       there's no known history of any vet visits.

16          A       Okay. Can I ask you more specific? Is the  
17       cat indoors or outdoors?

18          Q       Both.

19          A       Okay. So, you know, Mrs. Jones comes to me,  
20       "I've had this cat for five years, Dr. Garrett, and we think  
21       he's about eight years of age, he's inside, outside, never  
22       been vaccinated." Is that the scope of the question?

23          Q       Yes.

24          A       Okay. Good. I would tell that client  
25       that -- I would say, "Well" -- I would chastise her in a



1 nice way for waiting so long to come in. I wouldn't be  
2 rude about it. I'd say, "You are playing Russian roulette  
3 by letting your cat go outside where the exposure rate for  
4 this community is high for strays," and I'd say, "Has your  
5 cat been healthy or sickly?" If she says, "Well, it's been  
6 a healthy cat, never been sick a day in his life, never  
7 been in a cat fight, hangs on the front porch, goes to the  
8 backyard," all those wonderful things, I would say -- you  
9 know, of course, by law, you have to do the rabies. As far  
10 as the distemper/leukemia, the five way vaccination that I  
11 showed you, that you have the label of, I would tell her  
12 that, theoretically, every cat should be tested before  
13 vaccinating; however -- And I would say, "If your cat had  
14 been a sickly cat, I could not -- I would not, in good  
15 conscience, like to vaccinate." If she insisted that I do,  
16 I probably would, but I think it would not be the proper  
17 thing to do. I would tell her about the testing once again  
18 and let her make the decision. I hate to say this: A lot  
19 of it comes down to money for people.

20 Q And would you explain what the panleukopenia,  
21 rhinotracheitis, calicivirus -- would you mention those  
22 names and explain --

23 A Oh, yeah, yeah, yeah, absolutely.

24 Q -- what they are?

25 A We tell them that the vaccination we give

1 here basically has feline distemper, and I'll say, "It's  
2 very similar to parvo in dogs," and then the other one is a  
3 respiratory. Of course, leukemia is like an analogy to  
4 human aids, you know. It suppresses the immune system. I  
5 don't go into a lot of detail, but what I just told you  
6 took 15 seconds, and that's, basically, what I tell them.

7 Q Okay.

8 A If they have more specific questions, I try  
9 my best to be as accurate as I can.

10 MS. CANTU: We've been going about two  
11 hours and I need to call my office.

12 MS. GONZALEZ: Sure. No problem. Take  
13 a break.

14 (A BRIEF RECESS WAS TAKEN.)

15 Q (By Ms. Gonzalez) Now, after you explain,  
16 you know, the names of them, what they're for, and all  
17 that, do you explain any of the risks that could happen  
18 with these vaccines and what they should be aware of?

19 A The only one I mention is -- I will tell the  
20 client that as adult vaccinations, sometimes, the patient  
21 or the cat might be a little bit sore or achy, just like  
22 when a child gets immunized, and they may feel a bit  
23 ornery. You tell them to give -- you know, here is where  
24 we give the shot, you know, it may be sensitive there, and  
25 that is basically it.

1 Q So you don't tell them to look for any  
2 swelling or lumps in the injection site?

3 A No, we do not.

4 Q And where -- Can you describe to me where on  
5 the body you give the rabies vaccine?

6 A On the right side.

7 Q Let's do a picture.

8 A For the rabies?

9 Q Yeah. And I'm going to ask you for the other  
10 two, so I don't know how you want to draw your cat.

11 A Okay. I need a pen. I'm not a very good  
12 artist here. You'll forgive me.

13 Q That's okay.

14 A Okay. I don't know if you can read that.

15 Q Okay. So, it's kind of hard to tell. Is  
16 this actually on the leg or the hip or --

17 A I guess you would call it -- We try to give  
18 it around the upper leg, not too far down.

19 Q Would it be close to the -- how do you  
20 pronounce that -- the ischemia?

21 A Ischemia? No.

22 Q Or more closer to the hip joint?

23 A More the coccygeal femoral joint, try to.

24 Q Could you write that on there? I'm not even  
25 going to try to spell coccygeal or femoral.

1 A That's okay.

2 Q And then if you could do the same -- Would  
3 that be the same on the left side?

4 A That is the left side, ma'am.

5 Q Oh.

6 A I'm sorry. See, right there, it says "left"?

7 Q Okay. Would that be the same on the right  
8 side?

9 A No, no, no.

10 Q Okay. Where?

11 A (Witness complies.)

12 Q So that's more on the side of the rib cage?

13 A Yes, ma'am. The rabies.

14 Q And could you explain to me why you vaccinate  
15 in those locations? Okay. Let's take the rabies first,  
16 which you inject on the right --

17 A Uh-huh.

18 Q -- rib cage area?

19 A **Why? I've been doing it for 34 years. I**  
20 **don't know why.** I guess I just started doing it that way.  
21 I guess when I was in vet school, that's how I did it, so I  
22 guess I've been doing it ever since.

23 Q So, has any of the protocols or  
24 recommendations or anything changed in the last 30 years  
25 that would indicate maybe that rabies shot should be given

1 in another location?

2 A If it has, I guess I haven't been really too  
3 bothered by it because I've never had a reaction or a  
4 problem with it. I assume, if I had a problem, I guess I  
5 would change the way I do things, but, in 34 years, no  
6 problems.

7 Q You haven't had any problems?

8 A Yes, ma'am. That's correct.

9 Q Are you aware of any problems in your  
10 veterinary profession with regards to a change in a  
11 location or a recommendation for a rabies shot?

12 A I've heard things, you know, that there could  
13 be potential problems.

14 Q And what would those things be?

15 A Well, since we all know why we're here,  
16 there's been reports that, depending on which article you  
17 wish to believe, and which author or which expert you wish  
18 to believe in, that it's been alleged that certain  
19 vaccinations can cause a reaction known as a sarcoma.

20 Q And, so, what recommendations have been --  
21 Or, so, regarding the rabies vaccine, what recommendations  
22 have been made in regards to the rabies vaccine in light of  
23 possible vaccine associated sarcoma?

24 MS. CANTU: Objection, form.

25 A Well, will you repeat that, please? I'm not

1 sure what you're trying to ask me for. I'm sorry.

2 Q Okay. Since the possibility of vaccine  
3 associated sarcoma from vaccines, what recommendations have  
4 been made with regards to the location of the rabies  
5 injection?

6 A I believe they have talked about giving it in  
7 an area that is more easily excisable.

8 Q And what would that area be?

9 A **Some have recommended giving it on the leg in**  
10 **a distal manner. I disagree with that, but that's what**  
11 **they recommend.**

12 Q And, now, regarding the FVRCP and leukemia  
13 that's given on the left, and you say you give this close  
14 to the coccyx femoral?

15 A Yes.

16 Q And why do you choose that location?

17 A It depends, but I was -- When we gave --  
18 When I got out of veterinary school, they didn't have  
19 leukemia. Just the four way back then, but I guess that's  
20 how I was taught.

21 Q And --

22 A I don't know how to explain it. **I guess old**  
23 **habits die hard. I've always done it like that.** That's a  
24 hard question to answer.

25 Q And, so, in 30 years, you've never changed

1 where you give that vaccine based on new information?

2 A Not based on new information, no. I mean,  
3 no. Dealing with a fractious cat or aggressive, it's hard  
4 to, sometimes, hit a moving target, and know exactly where  
5 you're going to get him. There is some exceptions,  
6 obviously.

7 Q Can you explain to me why you give rabies  
8 right and the others in the left?

9 A It's just a mnemonic device, rabies-right,  
10 RR. It flows. It goes together.

11 Q And, so, how long have you been doing  
12 rabies-right, leukemia-left?

13 A I guess I graduated in 1978, so there's your  
14 answer. 34 years now.

15 Q And was that something that you learned in  
16 college?

17 A I would assume so.

18 MS. CANTU: Let's clarify the record.  
19 You mean vet school?

20 Q Veterinarian school?

21 A Yes. And, you know, I did work for  
22 veterinarians in Houston before I got in veterinary school,  
23 and maybe I learned it from them as well. I can't  
24 remember. It's so many years ago. We try to do the same  
25 location. We're not always successful. We try.

1 Q Okay. Regarding the vaccine locations at  
2 your practice, do you document that anywhere?

3 A No, I do not.

4 Q Let me get you to go ahead and sign and date  
5 that and we'll enter it as an exhibit.

6 A Can I confer with my attorney about something  
7 real fast?

8 Q Can you what?

9 A I need to ask her a quick question. Is that  
10 possible?

11 Q No.

12 A Can we take break then?

13 Q No. Not to confer.

14 A Okay. I wanted to ask her a question.

15 Q What are you writing?

16 A Something for clarification for you.

17 Q Oh. Okay.

18 A There you go. Sometimes --

19 Q Let me see if I can read it.

20 A We try to give it as far back as we can.

21 Sometimes, we'll give it on the left side as well.

22 Q Okay.

23 A We're not 100 percent on where we give it.

24 We try our best.

25 Q Okay. **Would you agree that if the cat**



1     **developed a fibrosarcoma in that area, would it be harder**  
2     **to exercise (sic) at all, exercise it all?**

3                     MS. CANTU:  Objection.

4             Q       Excise it all.

5                     MS. CANTU:  Objection form.  The same  
6     objection.

7             Q       You still get to answer.

8             A       Oh.  Okay.  What area are you talking about,  
9     ma'am?

10            Q       In any of the areas that you -- Okay.  Let's  
11     take this one first.  The --

12            A       **Rib cage area?**

13            Q       Yes.

14            A       **Actually, to me, the rib cage area is a much**  
15     **easier place to remove it versus the leg, much easier, by**  
16     **far and away.**

17            Q       **And what studies do you rely on for that**  
18     **information?**

19            A       **Common sense.**  Rib cage, you have skin that's  
20     very stretchable.  You can remove a lot of it and you can  
21     stretch it so you can get a much wider excision margin  
22     around the tumor; whereas, over the leg, not much  
23     stretchable skin there, so you can't make as wide an  
24     incision around the tumor.  A lot of it depends on the  
25     size.  If you have some the size of, let's say, a little

1 fingernail, it would probably be easier to do regardless,  
2 but if you get a big one, there's not enough skin in the  
3 leg to cover the wound deficit. So, from a surgical point  
4 of view, you want to be able to make as wide an incision  
5 and have enough skin left over to cover the wound deficit,  
6 and the rib cage certainly affords that, more so than the  
7 leg. Any surgeon will tell you that.

8 Q Do you agree that the American Association of  
9 Feline Practitioners, Texas A&M University, American  
10 Veterinary Medical Association has made the recommendation  
11 to give the leukemia vaccine and rabies vaccine as low on  
12 the leg as possible?

13 MS. CANTU: Objection, form.

14 Q Are you aware of those recommendations?

15 MS. CANTU: Objection, form.

16 Q You get to answer, yeah.

17 A I am aware of it, yes.

18 Q And are you aware as to the reason why they  
19 make that recommendation?

20 A I am aware of this.

21 Q Okay. And what do they make that  
22 recommendation?

23 A Not having discussed it with them, I can only  
24 assume they're making that recommendation based on the fact  
25 that should, I guess, a sarcoma develop -- I'm not sure.

1 It's a lot easier to remove. I really don't know. I mean,  
2 from a surgical point of view, I find it very difficult to  
3 cover a wound deficit in that area. There's just not  
4 enough skin on a big tumor. A small one, yes, but a big  
5 one, no. Maybe they're looking at -- I don't know. I  
6 can't read their mind. I apologize, ma'am.

7 Q Okay. So, have you read any professional  
8 journals or articles on vaccine associated sarcoma?

9 A I have.

10 Q And do you recall any of those articles  
11 indicating the recommendation being low so that the leg  
12 could be amputated?

13 A I did not read that, no.

14 Q Have you ever had any complaints made against  
15 you to the Texas Veterinary Medical Board?

16 A One time.

17 Q And could you explain that?

18 A Absolutely.

19 Q Go ahead.

20 A One of my employees was walking a dog and it  
21 escaped from them, and that was basically it. We got the  
22 dog back, but the owner of the dog felt that since I was  
23 the owner of the clinic, even though it happened on a  
24 Saturday night, I was responsible; and, as the owner of the  
25 hospital, like a captain of a ship, I'm responsible for my

1 employees' actions. They filed a complaint and it was  
2 later dismissed.

3 Q Dismissed by who?

4 A The State Board.

5 Q Okay. Regarding adverse vaccine reactions,  
6 have you ever had of your clients return after a vaccine  
7 with the cat, having a reaction?

8 A Other than an acute allergic reaction, you  
9 see that once in a while, yes, ma'am.

10 Q And do you file an adverse reaction form with  
11 the U.S. Department of Agriculture?

12 A Not for that, I don't. An allergic reaction,  
13 no, I do not.

14 Q Have you ever filed an adverse event reaction  
15 with the U.S. Department of Agriculture?

16 A For vaccinations?

17 Q Yes.

18 A No.

19 Q If -- Okay. Okay. Let me see how to phrase  
20 this. So, a Kitty Cat is presented to you for a  
21 vaccination.

22 A Uh-huh.

23 Q And they have an abscess on their face.

24 A Okay.

25 Q And you determine that a Convenia -- Am I

1 saying that right?

2 A Convenia, yes, ma'am.

3 Q -- injection is warranted?

4 A Uh-huh.

5 Q Would you, on the same visit, also administer  
6 annual vaccines?

7 A I would ask the client how the cat was acting  
8 otherwise. I would get his temperature, of course. If it  
9 was afebrile and very localized -- I've done it in the  
10 past. So, the answer to your question, have I done it in  
11 the past? Yes, I have. It guess it would depend on, I  
12 guess, the size of the abscess. If it's just dripping a  
13 lot of pus, you know, you know, swollen face, you know, I  
14 might give it a second thought before I would do that. So,  
15 the answer to your question, it would depend on the  
16 individual situation, but I have done it in the past, to  
17 answer your question.

18 Q And can you repeat what you said regarding --  
19 or did you say you would discuss that with the client, or  
20 would you -- You know, if -- Because you're the doctor.

21 A Right, right, right.

22 Q You know, the patient -- I mean the layperson  
23 like me is not.

24 A Okay.

25 Q So, would you give them the option? Would

1 you explain, "Okay, they have an abscess, we're giving them  
2 a Convenia injection"? Would you somehow explain and give  
3 the client the option, whether or not they wanted to  
4 vaccinate on that same visit or not? Would you give your  
5 recommendation? Would there be any discussion regarding  
6 that, or would you just simply inject the Convenia and the  
7 vaccines and go on your business?

8 A It's a hypothetical. I guess if the cat was  
9 afebrile. If they came in for vaccinations and said, "By  
10 the way, doc, you know, I have this little cut," or  
11 whatever here, or if they came in and said, "Look, doc, you  
12 know, here's a cut, and, by the way, she's due for  
13 vaccinations," it depends on how they would word it also,  
14 okay." There's a lot of hypotheticals here in play also.

15 Q If they came in -- I'm sorry. Were you  
16 finished?

17 A No. I would take the cat's temperature, and  
18 if it was normal, I would say, "Mrs. Jones, Mrs. Smith,"  
19 whatever, "there's no fever here, this is very localized,  
20 you know let's nick this in the butt, and I see no harm in  
21 giving your cat vaccinations," you know. I would say that.  
22 If they questioned me, I could say, "If you want to come  
23 back at another time, you can, but I see no harm in doing  
24 it right now." I mean, it just depends on how the  
25 questions were asked, I guess, more than anything else.

1 Too many variables here. I'm sorry, ma'am. I see no harm  
2 in doing it, if that's what you're asking, if everything  
3 else is normal. If the cat is in, otherwise, good health,  
4 there's probably not harm done, no harm done.

5 Q And how serious does an infection need to be  
6 to recommend a Convenia injection?

7 MS. CANTU: Objection, form.

8 A Again, there's some variables there. You  
9 know, a small cut at the beginning is nothing, but left  
10 untreated, it can result into a problem. So, you err on  
11 the side of caution and say, "Well, let's just watch it,"  
12 and then, all of a sudden, the client comes back in three  
13 days and now the patient is really sick, "But why did you  
14 wait, doc?" You know, every disease process begins on day  
15 one, and it could be a small little cut or a major abscess.  
16 So, there's no definitive right answer for that.

17 Q Okay. And do you routinely use Convenia  
18 injections for small cuts?

19 MS. CANTU: Objection, form.

20 A **Again, I use a lot of Convenia, a lot in**  
21 **cats.** It has probably saved more cats' lives, not having  
22 to prescribe any pills or liquids anymore to cats, but,  
23 again, I guess it depends on if I feel the potential is  
24 there, that this could develop into something, I guess I  
25 would go ahead and do it.

1           Q       When deciding whether or not to use a  
2       Convenia injection versus liquid or pills, is that a  
3       discussion you have with your client, or do you just --

4           A       **On cats? I reach for Convenia as my first**  
5       **drug of choice these days.**

6           Q       So, you don't offer pills or liquid to the  
7       clients or have that discussion? You just --

8           A       I say, "Mrs. Jones, Mrs. Smith, I'm going to  
9       give your cat an injection that's time released that will  
10      last seven days." That way, you don't need to give any  
11      pills or liquids," and they drop to their knees and bow and  
12      say, "Thank you very much," when it comes to their cats.  
13      They're grateful. That was no sarcasm.

14          Q       And are you aware that studies have shown  
15      that the risk of vaccine associated sarcoma increases with  
16      the number of injections a cat receives?

17          A       I was not aware of that.

18          Q       Okay. I asked you, on the feline leukemia  
19      vaccine, about the interval. I can't recall if I asked you  
20      about the rabies, but if an adult cat with unknown vaccine  
21      history comes into your clinic and you give them the  
22      initial rabies, when are they required to have a second  
23      dose of the rabies?

24          A       The rabies?

25          Q       Uh-huh.



1           A       For rabies, it's every three years in Corpus  
2 Christi.

3           Q       So, we determined the leukemia virus needed a  
4 booster, but that's not the same for the rabies?

5                   MS. CANTU:  Objection, form.

6           A       The --  Okay.  On a healthy cat, you said?

7           Q       Yes.

8           A       There are a lot of times where the cat -- the  
9 healthy cat that the --  It's a little bit confusing here,  
10 depending --  There's a lot of required natural immunity;  
11 and, a lot of times, I don't know that it's absolutely  
12 necessary to give that second distemper leukemia.

13          Q       Say that again.

14          A       If the cat is an otherwise healthy cat --  I'm  
15 trying to word this properly.  You know, when they come in  
16 for the first time for rabies and the distemper leukemia,  
17 we give the rabies.  That's required in three years again  
18 under local law.  That same healthy cat, if it's an older  
19 cat, we give it distemper leukemia, otherwise healthy --  I  
20 guess acquired natural immunity comes into play here and it  
21 may not be absolutely necessary to give it.  It's a  
22 judgement call, I guess, in the end.

23          Q       Okay.  Objection --

24          A       Is it absolutely necessary to give?  No.  
25 It's just not absolutely necessary to give, I don't

1 believe, because there is some acquired natural immunity.  
2 I think that's been documented, probably, in a lot of  
3 articles also.

4 Q With regard to the rabies?

5 A No. I'm sorry. With distemper leukemia.  
6 I'm sorry. Distemper leukemia. I'm sorry. I  
7 misunderstood the question. Did you say rabies or  
8 distemper leukemia?

9 MS. GONZALEZ: Objection, nonresponsive.

10 Q I'll restate the question.

11 A Thank you.

12 Q Regarding the rabies vaccine, you give an  
13 initial dose. When is the second dose required, or is a  
14 second dose required?

15 A On rabies?

16 Q Yeah. Or is a second dose required? I'm  
17 asking you.

18 A On rabies?

19 Q On rabies?

20 A If they're -- It's once every three years.  
21 You did say distemper leukemia back in that first question.  
22 You mentioned that, didn't you?

23 Q No. I think I stated that you said earlier  
24 that a booster -- **you would give a booster on the leukemia**  
25 **two to four weeks after the initial**, but I was asking you

1 if you do the same on the rabies?

2 MS. CANTU: Objection, form. Ma'am, you  
3 changed our hypothetical. You just asked him -- He asked  
4 you specifically, "Are you talking now about an adult,  
5 healthy cat," and you said yes. When I asked you if you  
6 were talking about an adult, healthy cat before, you said  
7 no, an adult cat only. So, to clarify the record, you  
8 changed your hypothetical.

9 A Yeah. I think you did. You just said adult  
10 healthy cat at the beginning of this line of questioning.

11 Q I don't think the question was whether  
12 healthy or not. I think the question was regarding a  
13 rabies vaccine, and your answer was in response to a  
14 leukemia vaccine.

15 MS. CANTU: But you changed your  
16 hypothetical. When you were talking about leukemia, you  
17 said adult cat only. Go back --

18 MS. GONZALEZ: I had nothing to do with  
19 leukemia. I specifically said -- If I said leukemia, it  
20 was an error, but I specifically was asking to rabies. I  
21 referenced the fact that earlier in our conversation, we  
22 had --

23 MS. CANTU: Stop yelling.

24 MS. GONZALEZ: We had referenced the  
25 leukemia virus. That's what I said. I said, "Earlier, we

1 referenced the leukemia virus," but my question was in  
2 regards to the rabies. So, let me just restate the  
3 question so that we're all on the same page.

4 MS. CANTU: And clarify if you mean  
5 healthy cat or not, please, or he will be instructed not to  
6 answer.

7 Q (By Ms. Gonzalez) Okay. Let's define  
8 healthy cat first so that I can know whether or not to say  
9 healthy or non-healthy. Is a cat with an abscess --

10 MS. CANTU: Lower your voice with my  
11 witness, please, Ms. Gonzalez.

12 Q Is a cat with an abscess on the face  
13 healthy --

14 MS. CANTU: Let the record reflect  
15 Ms. Gonzalez is whispering in sarcasm and harassing my  
16 witness.

17 MS. GONZALEZ: Let the record know that  
18 Ms. Cantu has been over there rolling her eyes, throwing  
19 her head, and making very loud sighs throughout this whole  
20 deposition.

21 MS. GONZALEZ: That is not true. Let  
22 the record reflect Ms. Gonzalez has made that up and is now  
23 laughing at her prior testimony.

24 Q Let's start over.

25 A Are we talking about -- Okay.

1 Q Let's start over. Let's just start over.

2 A Okay. Start over with what?

3 Q With regard -- Okay. First, we have to  
4 define what is healthy.

5 A Okay. You want me to define what is healthy?

6 Q Yeah. What is healthy?

7 A To me, a healthy cat would be one that is in  
8 good flesh, afebrile, eating, acting normal in the eyes of  
9 the owner.

10 Q Okay. If the owner brought a cat in or a cat  
11 that is not acting normal and has a facial abscess, would  
12 that be a healthy cat?

13 A If the owner says it's acting sluggish,  
14 lethargic, not eating? What, do you mean by not acting  
15 normal? What does that mean to you, ma'am? I don't  
16 understand.

17 Q Well, I'm --

18 A What do you mean by not normal, I guess?

19 Q I'm trying to define what you determine is  
20 normal or not.

21 A I'm trying to answer. To me -- To me,  
22 normal would be -- when we do a yearly exam on a cat for  
23 vaccinations, "How is Feefee or foofoo doing? Fine. Any  
24 problems you want me to address? Fine." And I'll address  
25 those. If there's no fever, if there's -- the cat is

1 eating, those are -- and the chest, the lungs, do some  
2 palpations. If the vitals signs are normal, that, to me,  
3 is a healthy patient, unless the client tells me otherwise.  
4 Did that answer your question?

5 Q No.

6 A I don't know what else to give you.

7 Q In a healthy cat with a facial abscess that  
8 required an injection of Convenia and a rabies shot is  
9 given, when is the second rabies shot recommended?

10 A Rabies shot?

11 Q Yes.

12 A Rabies is required every three years in the  
13 State of Texas and in Nueces County.

14 Q Okay. Thank you. How many practicing vets  
15 are in Corpus Christi?

16 A Oh, gosh. I'd probably say maybe about 30, I  
17 guess. I've never counted.

18 Q How many veterinarian hospitals, clinics,  
19 facilities that provide animal care are in Corpus Christi?  
20 Because I realize some of the 30 may work at the same  
21 place.

22 A That is exactly right. Yeah. Do you include  
23 the Human Society and the City of Corpus Christi veterinary  
24 services?

25 Q Well, do they provide care?

1           A       Humane Society provides it for their own  
2 patients, not for walk-ins. The City of Corpus Christi  
3 does provide low cost spay and neuter and low cost  
4 vaccinations.

5           Q       I would say yes, we would count them.

6           A       City of Corpus Christi? Okay. I guess  
7 hospitals, maybe about 18 to 20, I guess. I don't know.

8           Q       And is that number the same for Nueces  
9 County? I guess what I'm getting at: Those numbers, is  
10 that just for the City of Corpus Chris?

11          A       Oh, yes. City of Corpus Christi, yes, ma'am.

12          Q       So, how many practicing vets would you say  
13 are in Nueces County?

14          A       I don't know. I don't know what else is in  
15 the county. I can give you a guess. Is that acceptable to  
16 you?

17          Q       Sure.

18          A       Maybe 35 to 40, if you count the entire  
19 county.

20          Q       35 to 40?

21          A       Veterinarians, total.

22          Q       So, if there's approximately 30 in Corpus  
23 Christi --

24          A       Okay.

25          Q       And approximate --

1           A        Maybe 40 in the county. I just don't know.

2           Q        Okay. So then I guess you wouldn't know how  
3 many clinics, buildings?

4           A        No. I'm sorry, ma'am.

5           Q        How many out of those 30 have you contacted  
6 to discuss this case with?

7           A        I called -- I did write something down. May  
8 I count real fast?

9           Q        Sure.

10          A        Thank you. There would be, I guess, 13  
11 animal hospitals that I spoke to in the City of Corpus  
12 Christi, which 11 responded.

13          Q        Have you ever operated a mobile vaccination  
14 clinic?

15          A        No, I do not.

16          Q        No? What would be your procedure if a feline  
17 patient came to your clinic for a necrotic draining tract,  
18 a lesion at the site of vaccines?

19                   MS. CANTU: Objection, form.

20          A        If I gave the shot and I knew that's exactly  
21 where I gave the shot?

22          Q        Yes.

23          A        I guess my initial thought would be that it  
24 was a vaccination abscess. In other words, when you inject  
25 the needle, even though we prep the area, it's not



1 impossible for dirt or debris to be carried in with the  
2 injection. So, I would assume it was probably just a  
3 vaccine abscess. That's what I would probably think.

4 Q And how would you -- Would you test it or, I  
5 mean --

6 A You mean like a culture?

7 Q Yeah. Or would you just observe it, make  
8 that -- Or explain your whole procedure.

9 A Okay. I guess what I would tell the owners,  
10 I would say, again, "Mrs. Smith" -- my hypothetical  
11 person -- "it probably had a little abscess from the  
12 injection." I would say, "Let's just put it on an  
13 antibiotic, probably Convenia. If there's no improvement  
14 within, you know, 72 hours, please come back and we can  
15 maybe go to next level of diagnostics." Hopefully, the  
16 client will return. If I don't hear back from the client,  
17 I assume the problem is resolved.

18 Q Are you aware of the -- Nevermind. Scratch  
19 that.

20 MS. CANTU: Ms. Gonzalez, I need to go  
21 put some money in my meter, please.

22 MS. GONZALEZ: Okay. You want to just  
23 break for lunch?

24 MS. CANTU: If you have a lot more, then  
25 yes.

1 MS. GONZALEZ: Okay.

2 (A BRIEF RECESS WAS TAKEN.)

3 Q (By Ms. Gonzalez) Okay. I want to  
4 reference all the documents that you brought again. I know  
5 I showed them to you -- you showed them to me this morning,  
6 but I just want to go ahead and mark the whole stack.

7 A Yes, ma'am.

8 Q Is that all of this and that?

9 MS. CANTU: And this.

10 Q Let me just -- I'm just going to stack it.

11 A Okay. Certainly.

12 Q And she's going to --

13 MS. GONZALEZ: You're going to mark the  
14 whole thing, correct?

15 MS. CANTU: Marcy, and if you can, if  
16 you will make exact duplicate copies, mark that as the  
17 exhibit, and then return the original to me for his return,  
18 because it's his originals.

19 THE WITNESS: This also?

20 MS. CANTU: Everything that you brought.

21 (EXHIBIT NOS. 6 & 7 WERE  
22 MARKED FOR IDENTIFICATION.)

23 Q (By Ms. Gonzalez) Can you explain for the  
24 record what that document is?

25 A **Yes. It's a transcript, an official**

1 transcript, of a conversation that I had with your expert witness,  
2 myself, that took place in  
3 Florida, at the North American Veterinary Conference.

4 Q And what date was that?

5 A January 14th, 2012.

6 Q And how is it that you have the transcript of  
7 that conversation?

8 A I had -- I had a recording, -- I had a  
9 recording of Bob and myself talking.

10 Q A tape-recorder?

11 A Uh --

12 Q Oh. Phone?

13 A iPhone, and then -- I had it on an iPhone.

14 Q Oh. Okay. And was Dr. Ware that you  
15 were recording the conversation?

16 A Not as far as I'm aware.

17 Q Are you aware that Florida has a wiretapping  
18 law?

19 A I'm not aware of that.

20 Q Their wiretapping law states that it's a  
21 felony to disclose the conversation without the other  
22 party's consent. Is Dr. Ware aware that that information  
23 contained in that taping is being disclosed today?

24 MS. CANTU: Objection, form.

25 A I have no idea what Dr. Ware knows and what he

1 doesn't know.

2 Q So, you haven't told him you taped him or  
3 given him a copy of that?

4 A That's correct.

5 Q If you're charged with a felony, would that  
6 affect your veterinarian license in Texas?

7 A I do not know.

8 Q Okay.

9 MS. GONZALEZ: I reserve further  
10 questioning for the trial.

11 MS. CANTU: We will reserve all our  
12 questions for the time of trial.

13 (THE DEPOSITION CONCLUDED AT 1:33

14 P.M., ON APRIL 5, 2012

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CHANGES AND SIGNATURE

WITNESS NAME: \_\_\_\_\_ DATE OF DEPOSITION: \_\_\_\_\_

PAGE/LINE	CHANGE	REASON
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1 I, ALAN GARETT, DVM, have read the foregoing  
 2 deposition and hereby affix my signature that same is true  
 3 and correct, except as noted above.

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\_\_\_\_\_   
 ALAN GARETT, DVM

6

7 STATE OF TEXAS

8 COUNTY OF \_\_\_\_\_

9 Before me, \_\_\_\_\_, on this day  
 10 personally appeared ALAN GARETT, DVM, known to me (or  
 11 proved to me under oath or through \_\_\_\_\_  
 12 (description of identity card) to be the person whose name  
 13 is subscribed to the foregoing instrument and acknowledged  
 14 to me that they executed the same for the purposes and  
 15 consideration therein expressed.

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17 Given under my hand and seal of office this \_\_\_\_\_  
 18 day of \_\_\_\_\_, 2012.

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\_\_\_\_\_  
 NOTARY PUBLIC IN AND FOR  
 24 THE STATE OF \_\_\_\_\_

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CAUSE NO. 2011-CCV-61850-5

JENA GONZALEZ	)	IN THE COUNTY COURT
	)	
Plaintiff(s)	)	
	)	
VS.	)	AT LAW NUMBER FIVE (5)
	)	
	)	
ASSOCIATES, INC.	)	
	)	
Defendant(s)	)	NUECES COUNTY, TEXAS

REPORTER'S CERTIFICATION

DEPOSITION OF ALAN GARRETT, DVM

APRIL 5, 2012

I, MARCY A. WELLS, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, ALAN GARRETT, DVM, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on \_\_\_\_\_, 2012 to the witness or to the attorney for the witness for examination, signature, and to be returned to DepoTexas-Corpus Christi by \_\_\_\_\_, 2012;

That the amount of time used by each party at the

1 deposition is as follows:

2 MS. VALERIE L. CANTU - 0:06

3 MS. JENA GONZALEZ - 2:05

4 That pursuant to information given to the  
5 deposition officer at the time said testimony was taken,  
6 the following includes all parties of record:

7 MS. VALERIE L. CANTU, attorney for Defendant

8 MS. JENA GONZALEZ, Plaintiff Pro Se

9 I further certify that I am neither counsel for,  
10 related to, nor employed by any of the parties or attorneys  
11 in the action in which this proceeding was taken, and  
12 further that I am not financially or otherwise interested  
13 in the outcome of the action.

14 Further certification requirements pursuant to Rule  
15 203 of TRCP will be certified to after they have occurred.

16  
17 Certified to by me this 17th day of April, 2012.

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MARCY A. WELLS, Texas CSR 2777  
Expiration Date: 12/31/13  
Firm Registration No. 644  
615 N. Upper Broadway, Suite 1450  
Corpus Christi, Texas 78477  
(361) 883-3400



1 FURTHER CERTIFICATION UNDER RULE 203 TRCP

2 The original deposition \_\_\_\_ was \_\_\_\_ was not  
3 returned to the deposition officer on \_\_\_\_\_.

4 If returned, the original deposition was delivered  
5 to JENA GONZALEZ, custodial Pro Se Plaintiff;

6 That \$ \_\_\_\_\_ is the deposition officer's  
7 charges to the Pro Se Plaintiff for preparing the original  
8 deposition transcript and any copies of exhibits;

9

10 That the deposition was delivered in accordance  
11 with Rule 203.3 and that a copy of this certificate was  
12 served on all parties herein and filed with the Clerk.

13

14 Certified to by me this \_\_\_\_\_ day of \_\_\_\_\_,  
15 2012.

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\_\_\_\_\_  
MARCY A. WELLS, Texas CSR 2777  
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