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CAUSE NO. 2011-CCV-61850-5

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

ORAL DEPOSITION OF
 DAVID SHAFFER, DVM
 APRIL 4, 2012

ORAL DEPOSITION OF DAVID SHAFFER, DVM, produced as
 a witness at the instance of the Defendant, and duly sworn,
 was taken in the above-styled and numbered cause on APRIL
 4, 2012, from 1:20 p.m. to 4:05 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 DAVID SHAFFER, 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 So I'm going to go over a couple of rules,
8 but you've probably heard them before. The Court reporter
9 is taking down everything we say. I would ask that your
10 responses be verbal. The court reporter can't take down a
11 shake of the head or a nod. Also, if I ask you a question
12 and you don't understand, please stop me and let me know.
13 Otherwise, we'll assume that you understand all of the
14 questions and your answers are in response to the question.
15 If you have to take a break at any time, please let me know
16 and we'll take a break. Have you ever had your deposition
17 taken before?

18 A No, I have not.

19 Q Did you discuss Dr. Ferris' deposition with
20 him or your attorney?

21 MS. CANTU: Objection, form. That's
22 attorney-client privilege and I'm instructing you not to
23 answer.

24 Q Did you do anything to prepare for this
25 deposition?

1 A Yes, I did.

2 Q And what did you do?

3 MS. CANTU: You can tell her if you
4 reviewed any documents or met with me but not the substance
5 of any conversations you had with me.

6 A Just the meeting with my attorney.

7 Q Okay. And what -- Did you review any
8 documents?

9 A No, I did not. That's not right. I actually
10 skimmed through the deposition of Dr. Rogers.

11 Q So, you reviewed Dr. Rogers' deposition?

12 A Briefly.

13 Q Okay. So, you have a copy of that before he
14 signed off on it as being correct?

15 A I don't know that I know about him signing
16 off or not.

17 Q Okay. But you have a copy of his deposition?

18 A Yes.

19 Q At the beginning of Dr. Rogers' deposition, I
20 believe I asked Ms. Cantu what -- you know, why you were
21 attending the deposition, and she informed me that you were
22 attending as an officer of the company. Is that correct?

23 A That's correct.

24 MS. CANTU: No. I informed you that
25 he's a designated corporate rep. There's a difference,

1 ma'am. He's the corporate representative for our defendant
2 corporate entity.

3 MS. GONZALEZ: Okay. So, explain what a
4 corporate representative for South Texas Veterinarian
5 Association entails?

6 MS. CANTU: Are you talking about in
7 context to this litigation?

8 MS. GONZALEZ: Well, obviously -- I'm
9 not sure. I'm asking you to explain to me what that means.
10 That's how you introduced him?

11 MS. CANTU: I'll be happy to do that.
12 You've sued a corporate entity. An entity is not a human
13 person. It can only speak through a person. A corporate
14 rep for a sued defendant corporate entity is the person who
15 has the most knowledge of facts relevant to the disputed
16 issue. Dr. Shaffer is a treating veterinarian for your
17 disputed claims; therefore, he has the most knowledge of
18 the incident in question and the treatment in question;
19 therefore, he's the designated corporate rep.

20 MS. GONZALEZ: Okay. For the record, I
21 specifically recall you said he was an officer here, as an
22 officer of the company.

23 MS. CANTU: I don't think we were on the
24 record.

25 MS. GONZALEZ: No. We weren't.

1 MS. CANTU: I believe you misunderstood.
2 He's the corporate rep.

3 MS. GONZALEZ: Okay.

4 MS. CANTU: And if you're saying we were
5 on the record and you can show me that, then I'll represent
6 to you that it was a misstatement. He's the corporate rep.

7 MS. GONZALEZ: Okay.

8 MS. CANTU: An officer doesn't have a
9 right to be here, so I don't think I told you that. What I
10 said was that he's the corporate rep.

11 Q (By Ms. Gonzalez) Can you explain or detail
12 your past employment history?

13 A I graduated from veterinary school in May of
14 1987. My first job out of school was at a veterinary
15 hospital in Garland, Texas. I worked there from June of
16 '87 until September of '88, at which time I left that
17 practice and moved to Corpus, and I went to work here in
18 Corpus at South Staples Animal Hospital, and to the best of
19 my recollection, it's from October of '88 until sometime in
20 '89 or '90, early '90, at which time I moved up to the Fort
21 Worth area, and I practiced as a relief veterinarian for
22 two years there until moving back to Corpus to come to work
23 for Dr. Ferris at Santa Fe Animal Hospital.

24 In 2005, I decided to move up to Round Rock
25 area and I went to work at Forest Creek Animal Hospital,

1 where I worked for about three years and I moved back to
2 Corpus. At the time, my mother was diagnosed for about the
3 fourth time with a recurrence of ovarian cancer and I moved
4 home to take care of her. I've been employed at Santa Fe
5 Animal Hospital ever since.

6 Q Okay. And what veterinarian college did you
7 graduate from?

8 A Texas A&M.

9 Q And are you still employed at Forest Creek?

10 A I do part-time work there once a month.

11 Q Like can you explain your schedule once a
12 month?

13 A I go up on a Friday or Thursday night and I
14 work a full day on Friday and then the Saturday 8:00 to
15 12:00 shift. So, basically, a day and a half once a month
16 every four weeks.

17 Q Okay. And what vaccine schedule does Forest
18 Creek use?

19 MS. CANTU: Objection, form. Go ahead.

20 A In reference to dogs or cats?

21 Q Cats.

22 A Currently -- Well, I guess, right now, they
23 have recently changed. They use a three year rabies
24 vaccine in the cat. They use the three year FVRCP, and
25 then annual leukemia.

1 Q Tell me again the FVRCP.

2 A Yeah. That's the rhino, calici,
3 panleukopenia vaccine. That one is the use of three year
4 there.

5 Q Okay. Three year there. And the leukemia
6 is?

7 A Annual. Their protocol changed in the last
8 two years.

9 Q So, that's why I was going to ask you. So,
10 you think, two years ago, they were still using the annual
11 vaccine?

12 A Yes.

13 Q But now they're doing the three years?

14 A Yes.

15 Q And which cats do they recommend the leukemia
16 vaccine for?

17 A Predominantly outdoor cats or cats that have
18 exposure to outdoor cats, and/or.

19 Q And do you know what brand they use?

20 A No. I sure don't.

21 Q Do you know what brand the three year rabies?

22 A I think it is the Merial rabies vaccine. The
23 trade name, I do not know.

24 Q Do you, when you're working there one time a
25 month, do you give rabies injections?

1 A If a cat is in for annual vaccines, yes, or
2 tri-annual now.

3 Q And you don't recall the name of the vaccine
4 you use?

5 A No.

6 Q Do you recall the name of the FVRCP vaccine
7 that you use?

8 A No.

9 Q Do you -- I may have asked you this. I can't
10 recall. Do you know the name of the leukemia vaccine you
11 use?

12 A No. I sure don't.

13 Q And at Forest Creek, is it practice that the
14 veterinarians discuss with their clients like what types of
15 vaccines they recommend for their felines and what possible
16 risks or benefits they have, what they're for?

17 A Yes, it is.

18 Q So, they would tell the client, "This is the
19 rabies vaccine, this is what it's for, these are certain
20 things that could happen, adverse events that could
21 happen"?

22 A Yes.

23 Q Okay. And the same with the FVRCP and the
24 leukemia?

25 A Yes.

1 Q Okay. What type of adverse events do they
2 warn could happen with these particular vaccines?

3 A Mostly more acute events, acute local
4 swelling, fevers, lethargy, vomiting.

5 Q Okay. Regarding the leukemia vaccine, are
6 you familiar that that vaccine has been linked to the
7 formation of vaccine associated sarcoma?

8 A That --

9 MS. CANTU: Objection, form. Go ahead.

10 A That specific vaccine?

11 Q Yeah. Just the leukemia.

12 A Not that that specific vaccine has, that
13 exact one, but that some vaccines in some cats have.

14 Q Could you restate your answer?

15 A In terms of a specific vaccine manufactured
16 by a specific company, I do not have knowledge that that
17 particular specific vaccine causes vaccine sarcoma.

18 Q So you haven't heard or read studies that the
19 leukemia might be more likely to cause it than any other
20 type of vaccine?

21 MS. CANTU: Objection, form.

22 A Specifically that vaccine in -- Vaccines as
23 a whole, I have read studies that feline leukemia vaccine
24 may be more associated with vaccine sarcomas.

25 Q After -- Well, any -- Since you've worked a

1 couple of -- or several places, several veterinarian
2 hospitals, was there ever any policy that you report
3 vaccine adverse reactions to the U.S. Department of
4 Agriculture?

5 A No.

6 Q So, no place you've ever worked has
7 recommended that you report --

8 A Not to the USDA, but to the vaccine
9 manufacturer.

10 Q Okay. So, has that ever been a policy at any
11 of the places that you worked, that you would report an
12 adverse event to the manufacturer, or was it left up to the
13 vet?

14 A There's no standard policy written. It was
15 basically left up to the veterinarian.

16 Q Okay. And how many, in your career, adverse
17 events have you seen, would you say, to vaccines?

18 A In cats or dogs?

19 Q In cats.

20 A In 25 years, maybe 15 or so, that were cats
21 that spiked a fever and subsequently, you know, the fevers
22 went down.

23 Q Okay. And out of those 15, did you report
24 any of them to the manufacturer?

25 A I did not.

1 Q What is your knowledge of the feline
2 leukemia -- or what is your knowledge regarding -- oh, my
3 God, I can't think of the word -- regarding natural
4 immunity in adult cats regards to the leukemia virus?

5 MS. CANTU: Objection, form.

6 A I'm not a research oriented veterinarianian.
7 There are published articles describing the possibility of
8 an increased amount of protection actually derived in older
9 cats to feline leukemia; however, the certainty of why it's
10 there is not totally understood.

11 Q Would you agree that that's well known in the
12 veterinary community, that adult cats basically have
13 natural immunity to the feline leukemia virus?

14 MS. CANTU: Objection, form. Go ahead.

15 A I think there would be agreement that some
16 do, but far from 100 percent.

17 Q What professional organizations are you a
18 member of?

19 A The AVMA and the PVMA and the American Animal
20 Hospital Association.

21 Q And do you test a cat for feline leukemia
22 prior to administering the feline leukemia vaccine?

23 A Typically, I do.

24 Q Can you explain then why you did not test
25 Kitty Kat for feline leukemia prior to administering the

1 feline leukemia vaccine?

2 A I don't know exactly why. On that day, I did
3 not. Generally, overall healthy cats that are adults, we
4 have before vaccinated for the feline leukemia without a
5 test. Typically, we test all the kittens before they
6 begin.

7 Q Do you recall your answer to that question
8 during the small claims under oath?

9 A No.

10 Q I believe I asked you why you didn't feel it
11 was necessary to perform the required feline leukemia blood
12 test prior to administering the feline leukemia vaccine.
13 Do you recall what your answer was to that?

14 A I do not.

15 Q And what would your answer to that be today,
16 why you didn't feel it was necessary to perform the
17 required blood test?

18 MS. CANTU: Objection, form; and,
19 objection, asked and answered already. If you have a
20 different answer than the one you just gave, you can, I
21 guess, give it.

22 A I've answered already.

23 Q Okay. If Kitty Kat had tested positive for
24 the feline leukemia virus prior to administering the
25 vaccine, what would have been your recommended treatment

1 for her?

2 A Recommended treatment? We would have wanted
3 to do a complete blood count, mainly to assess what kind of
4 red blood cell and white blood cell number she had, and
5 then kitties that are basically asymptomatic, we just
6 mainly discuss monitoring and then having that cat that's
7 an outside cat become an indoor cat, since she would
8 potentially be a source of exposure to any cat she came in
9 contact with.

10 If she was symptomatic, then, typically, we
11 use antibiotics, you know, to protect them from secondary
12 bacterial infections, depending on how sick as well, either
13 intravenous fluids, blood transfusions, subcutaneous fluids
14 for lesser -- you know, especially if they only have low
15 grade fever, and then, you know, sometimes, though it's
16 been very rare, the use of immunomodulating drugs to try to
17 improve their resistance to the virus.

18 Q Would you had given all the vaccines on that
19 day had she tested positive for the feline leukemia virus?

20 A No, I would not.

21 Q And why not?

22 A It would require assessing whether or not she
23 was systemically ill; and then, if she was, managing a
24 course of therapy for, you know, two to four weeks, and
25 then not reevaluating the feline leukemia -- we usually

1 wait six months to retest, because there are some false
2 positives that occur in testing, and then, you know, if the
3 cat was genuinely healthy with no immune suppression
4 obvious, based on lab work, then we would have proceeded or
5 recommended at least the rabies stay in compliance with the
6 law in the City of Corpus Christi. Sick cats, we do not
7 vaccinate.

8 Q Okay. On 12/17/08 was the first time you
9 examined Kitty Kat, and she was specifically brought in for
10 a facial wound?

11 A Uh-huh. Yes.

12 Q And you determined that an injection of
13 Covenia (sic) --

14 A Convenia.

15 Q -- Convenia was warranted; is that correct?

16 A Yes.

17 Q So, earlier, you stated you do not vaccinate
18 unhealthy cats?

19 A Yes.

20 Q In your opinion, a cat that has a facial
21 wound that needs an injection of Convenia is healthy?

22 A In this particular cat, she was afebrile,
23 meaning she had no fever, in overall good health, as
24 determined by me on physical exam. The notation, you know,
25 was that because she had no fever and she was an outside

1 cat potentially exposed to other cats, and she was healing
2 her wound on her nose or appeared to be the adjunct of
3 adding Convenia to help improve the rate of remission of
4 the apparent infection on her nose seemed reasonable at the
5 same it's vaccinated.

6 Q But we also determined, earlier in our
7 conversation, that she could have had the feline leukemia
8 virus, in which case you wouldn't have vaccinated her, but,
9 of course, we won't know that; is that correct?

10 MS. CANTU: Objection, form, misstates
11 prior testimony of the witness.

12 Q Can you tell me why you chose the Convenia
13 injection?

14 A Convenia is a broad spectrum syphilis foreign
15 antibiotic that has a longevity in the cat system or
16 increased half-life. It allows the treatment of skin
17 infections with improved compliance, mainly because you're
18 not having to force an oral medication into the cat. An
19 original intent was to treat abscesses or soft tissue skin
20 legions on cats, you know, upon presentation.

21 MS. GONZALEZ: Would you mark this as an
22 exhibit?

23 (EXHIBIT NO. 1 WAS MARKED
24 FOR IDENTIFICATION.)

25 Q And I apologize for the small copy. That is

1 the only one I could find.

2 MS. CANTU: Let me look at it.

3 Q If you can read it, I specifically would like
4 you to read the part about the dosage, I think it says.
5 It's highlighted in blue, not the first blue highlight, but
6 the second.

7 A You want me to read that?

8 Q Yes, please.

9 A "General Dosing Information. A sample of the
10 lesion should be obtained for culture and susceptibility
11 testing prior to beginning antimicrobial therapy."

12 Q And did you perform any type of testing
13 before determining that that was the best medication?

14 A No, I did not.

15 Q Okay.

16 (EXHIBIT NO. 2 WAS MARKED
17 FOR IDENTIFICATION.)

18 MS. CANTU: Can you see that, and read
19 it before you answer the question, please.

20 Q I'm just talking about the highlighted part.
21 You don't have to read the whole article.

22 A Well, I have to --

23 MS. CANTU: No.

24 A I just have to keep it all in context.

25 Q Oh. Okay. Because I don't think that's the

1 whole article.

2 A No. Yeah. Okay. Would you like me to read
3 it?

4 Q Well, I just would like you to say what does
5 that -- What does the article indicate as the percentage
6 of an increased risk of vaccine associated sarcoma with
7 three injections?

8 MS. CANTU: Objection, form.

9 A Specifically, it does not -- it does not say
10 three injections in one area. So, that the overall
11 perception of this, I can't fully understand. 175 percent
12 higher after three or more vaccinations, it references. Is
13 that all in one spot or all over the body? They don't make
14 it clear.

15 Q Okay. Where, on the body, did you inject the
16 Convenia?

17 A I cannot recall that.

18 Q Let me get you to -- You can have a pen. I
19 guess draw a cat the best you can and indicate where you
20 injected the rabies.

21 A I guess if I do a BV view of a kitty cat,
22 this being the rear legs, this being the left side, these
23 are my frog legs, this being the right side, the top being
24 dorsal, the bottom being ventral, this being lateral on the
25 thigh, the outer most part of the thigh. Typically, the

1 rabies vaccine is administered in the distal third of the
2 femoral area.

3 Q The rabies?

4 A Rabies.

5 Q Could you --

6 A In this case, Purevax, that combine the
7 rabies with the FVRCP all in one.

8 Q Okay. Could you put that rabies -- Just
9 list rabies there?

10 A Okay.

11 Q And then also show where the feline leukemia
12 vaccine went.

13 A Once again, dorsal, right, left. This is
14 lateral on the thigh. The distal part of the thigh is
15 where the leukemia is vaccinated.

16 Q Okay. And, so, you don't recall where the
17 Convenia was injected?

18 A I will tell you that if rabies is put here,
19 which I claim that it was, and leukemia here (indicating),
20 which I claim that it was, I can only tell you that the
21 Convenia would have been injected either on the right
22 subcutaneously, under the right scapular skin or -- the
23 right or the left, but, which side, I do not know. They
24 would not have been injected in the same place.

25 Q Okay. And is any of that information

1 documented in the patient records?

2 A It is not.

3 Q And why is it not documented? Or why -- Is
4 it your practice to never document locations?

5 A It is our practice now to document location.

6 Q But at the time?

7 A At the time, the reasonable consistency was
8 that. Both Dr. Ferris and I typically give cat or dog
9 rabies in the right side. In the case of the cat, it's a
10 combination of the rabies mixed with the FVRCP and that the
11 leukemia is injected on the left side. In the dog, just
12 accordingly, rabies on the right and then distemper/parvo
13 on the left, influenza on the left in the dog and
14 injectable bordetella, when used, is on the right, towards
15 the front. It's just our way. I've been doing it for
16 years.

17 Q And why is that?

18 A It just is easier to keep up with, especially
19 if anybody came back with acute inflammation in an area.
20 Then we would know which vaccine was given. If we
21 vaccinated with a rabies on the right rear leg and they had
22 a swelling on their right foreleg, we would know it would
23 not be directly related to the vaccine.

24 Q So you agree that the recommendation of
25 rabies-right, leukemia-left was a recommendation

1 specifically to track vaccine associated sarcoma?

2 MS. CANTU: Objection, form.

3 A For that directly, no. I think it has become
4 subsequently so in general, but, for the most part, people
5 just did what they did to be consistent.

6 (EXHIBIT NO. 3 WAS MARKED
7 FOR IDENTIFICATION.)

8 Q Okay. So, is it true that according to that
9 article, which was published by the Vaccine Associated
10 Feline Sarcoma Task Force in 1996, that the AAHA, the VCS,
11 the AAFP, and the AVMA determined to make a standard
12 protocol of rabies-right and leukemia-left to
13 specifically --

14 MS. CANTU: Objection, form.

15 A I think they were trying to establish
16 protocol for recommendations, but, you know, I just assumed
17 that most all veterinarians did it that way to start with.

18 Q Is that what they taught you in Texas A&M
19 University?

20 A I couldn't be specific on exact protocol, as
21 we were taught, basically, that -- The theory more still,
22 even then, was that I.M. injections of vaccines created a
23 better immune response and subsequently, through the years,
24 everyone went to a subcutaneous, mainly based on the pain
25 at the site of injection when vaccines are administered

1 intramuscularly. That was the mid to late 80's. There
2 were originally only two types of vaccine until, you know,
3 the mid 80's, and then feline leukemia came out, and, you
4 know, it was always just recommended not to give all in one
5 spot. And, so, they were spread accordingly from early on.
6 Maybe it was because it was the way the original
7 veterinarian and I worked with did things. We just moved
8 them around.

9 Q So, if I understand you correctly, you've
10 been doing rabies-right, leukemia-left since the 80's?

11 A The late 80's, yes.

12 Q Before the studies ever came out, or it was
13 recommended?

14 A Yeah. Probably so.

15 Q Okay. We're back to the feline leukemia
16 vaccine. Do you recall which feline leukemia vaccine you
17 administered to Kitty Cat?

18 A Feligen maybe, I think is the name. I may be
19 --

20 Q Okay. This is --

21 MS. GONZALEZ: Oh. I need to let you
22 mark that. I'm sorry.

23 (EXHIBIT NO. 4 WAS MARKED
24 FOR IDENTIFICATION.)

25 MS. CANTU: Again, under the Rule of

1 Optional Completeness, if you're going to ask him questions
2 about the reports that were done, he's testified there was
3 more than one, and this is not the one with his signature.

4 MS. GONZALEZ: That doesn't have a
5 signature on it?

6 MS. CANTU: It does not. No. You
7 presented one as an exhibit earlier that did.

8 MS. GONZALEZ: Well, there were so many
9 submitted, it's hard for me to determine which one is the
10 correct. That's why I need him to look at them.

11 MS. CANTU: Well, if you'll show him all
12 that.

13 MS. GONZALEZ: Well, I was getting to
14 that. I just wanted to ask him a question about this one
15 first.

16 Q I was wondering why, on the very -- that's
17 the very first adverse event, I believe, that you
18 completed.

19 A Uh-huh.

20 Q -- why you didn't list all the vaccines that
21 were administered?

22 A I think, at this time, I was under the
23 impression I was listing the vaccine in question, as I
24 would have given it in the right rear leg, and the disease
25 was in the right rear leg of Kitty Kat.

1 Q Okay.

2 A So, I just -- I mean, that's why I filled it
3 out this way.

4 Q Okay. And then you indicate, on that adverse
5 event report, that you, on the second page, that you
6 reported the adverse event to the manufacturer; is that
7 correct?

8 A Yes, I did.

9 Q And do you have any documentation that that
10 was reported to the manufacturer?

11 A With me, no, I do not.

12 Q But you do have --

13 A Other than notations in the record, I don't
14 believe I have any other documentation.

15 Q So, they don't send you anything confirming
16 the report, you reporting an adverse event?

17 A I don't recall that they did.

18 Q Okay. And then this is the adverse event,
19 number two.

20 MS. CANTU: Well, you're not talking
21 about a separate adverse event. You just mean this is the
22 second report, Ms. Gonzalez? You're not talking about a
23 separate event? You're calling it an adverse event number
24 two.

25 MS. GONZALEZ: Right. With different --

1 MS. CANTU: You mean the same event,
2 different report?

3 MS. GONZALEZ: Yes.

4 MS. CANTU: Okay.

5 A This is basically a completed report.

6 Q And, so, is the Fervaxyn (sic) the leukemia
7 vaccine you administered?

8 A Fervaxyn?

9 Q Fer -- However you say that.

10 A Fevaxyn, I believe. Yes.

11 MS. CANTU: Are you talking about what's
12 listed under item number two? Just so I understand what
13 you're talking about, Ms. Gonzalez.

14 MS. GONZALEZ: Uh-huh. The leukemia.

15 MS. CANTU: Okay.

16 Q (By Ms. Gonzalez) And then, again, it asks
17 you if the event was reported to the manufacturer. So, on
18 this report, we have the Fevaxyn listed?

19 A Uh-huh.

20 Q So, did you report to that manufacturer?

21 A Yes, I did.

22 Q And do you have any documentation?

23 A No, I do not.

24 Q Okay. And I believe you said earlier -- I
25 asked you if you recalled what leukemia vaccine you

1 administered and I thought you said Fermacyn (sic)?

2 A Feligen. I thought that's what it was.

3 Q Feligen. Okay. So I just wanted to make
4 sure you didn't say the same thing because, sometimes, I
5 don't know what these names are.

6 A I know. The company subsequently changed the
7 name of the product.

8 Q Okay. So, did this used to be Feligen?

9 A The Schering-Plough vaccine was -- whatever
10 that says -- Feligen. Schering-Plough was subsequently
11 purchased by Intervet Veterinary Pharmaceuticals or
12 something and the name of the vaccine changed to Nobivac,
13 which is the same vaccine and has since been purchased by
14 Merck. So, Merck owns the biologicals that were normally
15 and independently held by these individual companies.

16 Q Okay. I'm confused.

17 A That's the vaccine that was given. It was
18 Intervet -- I mean, it was a Schering-Plough product.

19 Q Okay. And, so, do you pronounce this Fevaxyn
20 or Fevaxyn?

21 A It could be either one. I've not ever seen
22 an exact pronunciation.

23 Q Okay. So, earlier, when you said --

24 A Feligen. I just --

25 Q Is this what you meant or is there something

1 called --

2 A That's what I meant.

3 Q Or is there something called Feligen, too?

4 A Not that I know of. I'm just trying to
5 recall the name of the vaccine.

6 Q Okay. Okay. I got you.

7 (EXHIBIT NO. 5 WAS MARKED
8 FOR IDENTIFICATION.)

9 Q So, I guess this brings me to the next
10 question that you just mentioned.

11 A Okay.

12 Q Because, in that letter, you stated that she
13 received the Nobivac. So, you're going to have to explain
14 that to me again in your expertise.

15 A Well, when I wrote this, when I wrote this
16 letter to the Board, I'd gone to the refrigerator and
17 pulled out the vaccine and wrote down the name Nobivac FeLV
18 killed virus, and when I wrote the letter, I included that
19 name. I just inadvertently didn't go to the record and
20 write down the actual name of the same product at the time
21 I vaccinated Kitty Kat. It's the same product, different
22 company. I mean, it's the same company, basically. When
23 you called in, it's Schering-Plough, Intervet, Merck. It's
24 all one now.

25 Q Okay.

1 A So, I just simply misstated the name of the
2 vaccine for the same vaccine.

3 Q So, is Nobivac --

4 A Was the subsequent name to that Fevaxyn.

5 Q So, they're the exact same thing, different
6 names?

7 A They're the same product, different name.

8 Q The company changed the name?

9 A Yes.

10 Q So there's no longer, today, the Fevaxyn or
11 Fevaxyn on the market?

12 A Right.

13 Q Okay. So -- Oh. Okay.

14 A Okay.

15 Q So, according to the Fevaxyn label
16 instructions, can you read the part that I put the asterisk
17 by?

18 A Initial?

19 Q Right, right.

20 A Initial vaccination?

21 Q Uh-huh.

22 A "Inject one dose, 1 mil subcutaneously or
23 intramuscularly three to four -- at nine weeks of age or
24 older. Second vaccination, inject 1 dose, 1 mil
25 subcutaneously or intramuscularly three to four weeks

1 following the initial vaccine. Two doses are required for
2 primary immunization. Annual re-vaccination with one dose
3 as recommended."

4 Q Okay. Was that -- What that dosage
5 instruction followed with regards to the vaccination of
6 Kitty Kat?

7 A And this one was not.

8 Q So, if she received her initial dose on
9 12/17/08 and her second dose on 3/15/10, which is 15 months
10 apart, would she have even been protected from the feline
11 leukemia virus?

12 A Clinically, I believe she would have.

13 Q And what information do you base that, what
14 report or --

15 A It's not on reports or information. Just
16 clinical experience, 25 years. I believe that vaccine, in
17 its inherentness, creates immune response. A subsequent
18 vaccine enhances the response. Clinically speaking, you
19 know, I feel as though she would have been adequately
20 protected.

21 Q Okay. Okay. Can I see that? And could you
22 go ahead and read the three highlighted parts?

23 MS. CANTU: Including the one he just
24 read?

25 MS. GONZALEZ: No. The three at the

1 bottom.

2 A "Some reports suggest that, in cats, the
3 administration of certain veterinary biologicals may induce
4 the development injection site fibrosarcomas. Prior
5 exposure to the disease, or disease latency, are conditions
6 in which the vaccination will not alter the course of the
7 disease. Therefore, diagnostic testing of all cats for
8 FeLV antigen prior to vaccination is recommended. It is
9 important to advise the cat owner of the situation prior to
10 vaccination."

11 Q And do you advise cat owners of that, of the
12 recommendations on there?

13 A Typically, I do.

14 Q You advise them it's possible they could get
15 a sarcoma?

16 A Not necessarily a sarcoma. It's such a rare
17 event that we advise more in regard to the risk to benefit
18 ratio, side strongly on the prevention of a disease that,
19 most often, is fatal.

20 Q So, you don't feel like that -- In other
21 words, the vaccine company feels it's important enough to
22 put it on their label, that that's a possibility, and that
23 you should inform the cat owner, but you don't feel the
24 same way?

25 A I think, in reference to the basic accepted

1 standard of care, we don't lean towards, you know,
2 expressing the least likely of side effects that could
3 occur.

4 Q Do you consider the AVAM, the AAHA, Texas A&M
5 University, Dr. Gene Dodd, Dr. Alice Wolf -- do you
6 consider them to be authoritative in their information that
7 they distribute?

8 MS. CANTU: Objection, form.

9 A In reference to authoritative, I don't know
10 that I can speak for their authority, for their knowledge
11 of veterinary medicine, you know, in reference to that. I
12 think that they're -- With the except of one whose name I
13 didn't recognize, I think that they are balancing, you
14 know, massive amounts of information. Not trying to
15 specifically regulate how we practice veterinary medicine,
16 leaving really the intent of veterinarians to be
17 veterinarians to practice in a method using approved
18 vaccines and approved ways to provide for, in our
19 individual areas, Corpus Christi being different than
20 Houston, being different than New York or in Los Angeles,
21 protocols we feel necessary to meet what we feel are the
22 dangers that exist in the environment to our locale. I
23 respect that everyone has an opinion as to, you know, the
24 way they'd like uniformity to exist all barriers, but, in
25 the end, it's up to the individual veterinary practices

1 within a community to kind of work among themselves and
2 best -- with the best ways to try to eradicate or minimize
3 potentially infectious diseases.

4 MS. GONZALEZ: Objection, nonresponsive.

5 Q So, does Santa Fe Animal Hospital offer the
6 three year panleukopenia, rhinotracheitis, and calicivirus?

7 MS. CANTU: Objection, form.

8 A At this time, we do not.

9 Q And why not?

10 A It's been our practice within our guidelines
11 of our practice to continue to vaccinate annually. We have
12 a large amount of boarding that occurs, especially cats and
13 small dogs, and in the stress of that situation, we feel
14 like, you know, to date, keeping their immunity level as
15 high as we can against common infections that could come in
16 at any time is what's most important to us.

17 Q Do you all currently offer the three year
18 rabies vaccine?

19 A The vaccine that we give right now is a three
20 year rabies for the dog, and the same one could be used in
21 the cat.

22 Q And which one is that?

23 A It's the Merial product. I couldn't tell you
24 the name. I just don't know the name.

25 Q Okay. So, currently --

1 A Currently, we give annual rabies, FVRCP, and
2 leukemia to outdoor cats, or we recommend that, and then,
3 for dogs, it's the annual rabies DHLPP, and Bordetella. I
4 know the Bordetella is biannual. We do it twice a year.
5 That is currently what our protocol is.

6 Q Okay. In cats, why do you not offer a three
7 year rabies vaccine?

8 A It's just in the policy. If the client does
9 not want the other vaccines, but they want to stay
10 compliant with the law, then that is the vaccine that we
11 give.

12 Q The --

13 A But only recently, in Nueces County, have
14 they lifted the three year we used to have to give to dogs,
15 three year vaccine, every year.

16 Q For the record, let's not bring in the dogs,
17 unless I specifically ask you about a dogs, because it's
18 just, kind of, confusing everything, and it's confusing me.

19 MS. CANTU: Didn't you ask him
20 originally if they gave dogs versus cats?

21 MS. GONZALEZ: Huh-uh. Not him. I
22 think I asked -- I think I later asked Dr. Ferris that.

23 Q (By Ms. Gonzalez) Okay. So, right now, you
24 currently do not offer a three year rabies for cats?

25 A We do offer the three year rabies for cats,

1 if they choose not to get any of the other vaccinations.

2 Q Okay. And when -- And when did the Nueces
3 County law change to where you could be able to offer the
4 three year cat vaccine?

5 A It's been several months ago.

6 Q Okay. So, several months ago, when you found
7 out that Nueces County will allow a three year rabies
8 vaccine --

9 A It actually allowed for the rabies vaccine to
10 stand for three years.

11 Q Right. Okay.

12 A If it's an approved three year rabies
13 vaccine.

14 Q Do you offer that three year to all cat
15 patients? Do you give them the option of a one or a three
16 year?

17 A No, we do not, unless they request that they
18 want all the vaccines on that day. Then we give them the
19 three year vaccine, but, until recently, the three year
20 vaccine had to be given every year.

21 Q And what three year vaccine would that be
22 that had to be given?

23 A It's the Merial vaccine. All of them have
24 catchy names. I do not know specifically the name.

25 Q Well, how many three year feline vaccines are

1 on the market?

2 A There are as being as there are manufacturers
3 of vaccine. In our clinic, we have separate rabies or, for
4 most cat patients, we use the Purevax vaccine. The rabies
5 and the Purevax is only a one year rabies vaccine, and it's
6 mixed with the upper respiratory viruses and distemper of
7 the cat.

8 Q Okay. So the Merial Purevax is the one you
9 offer each year?

10 A For the cats that are getting complete
11 vaccinations.

12 Q Okay. And then if a client asks about the
13 three year rabies, you will give them that one, but you
14 don't know the name; is that correct?

15 A It's the Merial rabies three year product.

16 Q So, Merial has a three year rabies for cats
17 that you use?

18 A We have a three year rabies vaccine from
19 Merial that can be used in both dogs or cats.

20 Q Okay. So, back to Kitty Kat and the vaccine
21 she received on 12/17/08 and 3/15/10. We talked about the
22 leukemia virus. Now, let's talk about the panleukopenia.

23 A Rhino and calici.

24 Q Yes. This is already marked as an exhibit.

25 MS. CANTU: Just so the record is clear,

1 Ms. Gonzalez is referring to Ferris Exhibit No. 8, which
2 are guidelines from 2006 of the American Association of
3 Feline Practitioners, and this is a summary chart.

4 Q And, so, even according to -- That's the
5 American Association of Feline Practitioners, right?

6 A yes.

7 Q In 2006, they were recommending the
8 panleukopenia calici herpes virus every three years, and
9 then, on the second column, I believe, is where it states
10 that an initial vaccine is recommended, and then two to
11 four weeks later a secondary vaccine is recommended in
12 order to be effective in an adult cat; is that pretty much
13 what that says?

14 A I believe it just says it's recommended to be
15 given, but it doesn't state in order to be effective.

16 Q What does it say in the column highlighted in
17 blue, where it says "adult cat"? It says "initial"?

18 A Primary series, adolescent, slash, adult,
19 greater than 16 weeks, two doses three to four weeks
20 apart.

21 Q Right.

22 A But it doesn't say to be effective.

23 Q So, why do you think they would -- Why do
24 you think they would recommend that and it would be listed
25 as that on the vaccine dosage label directions?

1 A Typically, the aim of the vaccine, under this
2 type of protocol, is what we all adhere to in kittens,
3 kittens born of -- you know, vaccinated mothers, in
4 particular, have a natural maternal antibody they receive
5 from their mother either via the blood or more commonly
6 from the consumption of early milk or colostrum. Those
7 antiviral antibodies that kitty cats subsequently get into
8 their -- you know, through their mucus membranes of their
9 GI tracts offer these kittens protection for the first
10 anywhere from, you know, birth to 12 weeks, 16 weeks. It's
11 different among every individual in the cat population.
12 Typically, a second booster-- An initial vaccine is in the
13 hopes that there's not so much maternal antibody present
14 that it interferes with the formation of antibodies. The
15 subsequent vaccine coming behind that ensures that if there
16 was too much maternal antibody at, say, eight weeks,
17 technically, theoretically, there should be less at 12
18 weeks, then again at 16 weeks that it is steadily being
19 replaced by vaccine induced antibodies.

20 MS. GONZALEZ: Okay. Objection,
21 nonresponsive.

22 Q I'm talking about an adult cat with no known
23 vaccine history.

24 MS. CANTU: Objection, form. If you can
25 answer it different based on what the chart is geared to,

1 go ahead.

2 Q What does that chart indicate to you in an
3 adult cat -- Okay. Can we agree that an adult cat with no
4 known vaccine history comes to you and they get their first
5 set of shots that anybody knows of is considered an initial
6 series?

7 MS. CANTU: Please stop yelling at the
8 witness, Ms. Gonzalez.

9 MS. GONZALEZ: I don't think I was
10 yelling.

11 MS. CANTU: Well --

12 MS. GONZALEZ: I can yell. I don't
13 think that was a yell.

14 MS. CANTU: Object to the side-bar.
15 Please stop speaking so loudly where it's hurting, at
16 least, my ears, and I have a loud voice myself. You may
17 answer the question if you remember it.

18 A You may have to ask it again.

19 Q Okay.

20 A The cat with no known vaccine history?

21 Q Right.

22 A Assumption that this would be the first set
23 of shots.

24 Q Would that be considered initial, what
25 they're referring to?

1 A Yes.

2 Q Okay. And in an adult cat who has their
3 initial vaccines, are they recommending to give a second
4 set two to four weeks later?

5 A Three to four weeks later.

6 Q Three to four weeks later. Okay.

7 A Two doses three to four weeks apart.

8 Q Okay. But -- Okay. That's good on that.
9 Do you ever offer any of your feline clients a titer test
10 to check for levels of immunities?

11 A If the client comes in and asks for it, then
12 we do, but we do not offer it up front.

13 Q Okay.

14 (EXHIBIT NO. 6 WAS MARKED
15 FOR IDENTIFICATION.)

16 Q Just the highlighted part, unless you want to
17 read the whole thing.

18 A What year is this?

19 Q 1998.

20 A Okay.

21 Q So, basically, that article is from Texas A&M
22 University, and I believe Alice Wolf wrote it?

23 A And Dr. Zoran.

24 Q And they're basically stating that the -- I
25 don't have it in front of me -- that panleukopenia,

1 calicivirus, herpes, back in 1998, they were recommending
2 that it be given every three years because they're finding
3 out that the immunity from those vaccines last longer than
4 they think. Is that, pretty much, what that says?

5 A I believe that's what it's saying.

6 Q Okay.

7 A If I may, it also says, "This document is
8 here for your information to let you know what we are doing
9 and recommending for our clients. Each of you should weigh
10 the data and evidence carefully and make recommendations to
11 your own clients that are determined to be to your
12 interpretation of available scientific information,
13 individual patient needs, and personal practice
14 philosophy."

15 Q Of course, we already established that those
16 options weren't discussed with me in regards to my cat.

17 MS. CANTU: Objection, form.

18 Q I mean --

19 MS. CANTU: Ms. Gonzalez, we've been
20 going about an hour and a half. I need a restroom break.

21 MS. GONZALEZ: Okay.

22 (A BRIEF RECESS WAS TAKEN.)

23 Q (By Ms. Gonzalez) This is Ferris Exhibit
24 No. 2, and it's the Defendant South Texas Veterinary
25 Associates' objections and answers to Plaintiff's first set

1 of interrogatories. And, in this, in your answer, it
2 states that you believed upon examination of Kitty Kat, on
3 3/15/10, that she had a severe case of cellulitis. What is
4 cellulitis?

5 A It's basically severe or inflammation of
6 tissues under the skin. Most often, bacteria caused?

7 (EXHIBIT NO. 7 WAS MARKED
8 FOR IDENTIFICATION.)

9 Q This is Kitty Kat's records for that visit.
10 Anywhere in your notes, is it indicated that you suspected
11 that she had a severe case of cellulitis?

12 A Is -- The word "cellulitis" is not written
13 there.

14 Q What is written there that would indicate it
15 was cellulitis?

16 A That I prescribed Clavamox drops, another
17 antimicrobial.

18 Q And so based on prescribing antibiotics, we
19 would --

20 A It's based on physical exam, the discussion
21 we had at the time, looking at that, at that time,
22 perception that this was an acute swelling that was
23 draining. I had aspirated out a cloudy material that was
24 very purulent looking. I deduced, with my personal medical
25 experience that, at the time, the most relevant thing

1 seemed to be an infection under the skin, most typically
2 caused by foreign body punctures or cat fight wounds to the
3 skin.

4 MS. GONZALEZ: Objection, nonresponsive.

5 Q Dr. Ferris stated earlier in his deposition
6 that Dr. Melody Guzeldere is now an employee at Santa Fe;
7 is that correct?

8 MS. CANTU: Well, objection, form. For
9 the record, I believe what he stated, Ms. Gonzalez, is that
10 she's a contract -- independent contractor. She's not
11 actually an employee.

12 MS. GONZALEZ: Okay. So, she works
13 there three to four days a week?

14 A Three days a week.

15 Q Okay. What information or knowledge do you
16 have regarding her treatment of Kitty Kat?

17 A Based on the information that we got that
18 was, I guess, part of the original receipts, that she had
19 tentatively diagnosed the spindle cell tumor and
20 recommended amputation, and the amputation was done.

21 Q Dr. Ferris also stated that since 1986, he
22 has been accredited by the American Animal Hospital
23 Association.

24 MS. CANTU: Just to clarify the record,
25 Ms. Gonzalez, I don't believe he said he personally is

1 accredited. That's a hospital clinic accreditation. Santa
2 Fe Animal Hospital holds the AAHA accreditation.

3 Q Okay. Since 1986, Santa Fe Animal Hospital
4 has been accredited by the American Animal Hospital
5 Association. Can you explain to me what that means?

6 A Basically, the American Animal Hospital
7 Association is an organization to try to improve veterinary
8 facilities both in architectural design all the way through
9 the care of, you know, individual pets, and they have, you
10 know, certain absolutes that you must comply to. Then they
11 have recommendations that they would like you to comply to.

12 Q And what would be some examples of some
13 absolutes?

14 A Absolute, you're -- For instance, prep room
15 and surgical suites have to be separate from one another
16 and separated by a door that can close and open by just
17 pushing it. You've got to have a separate scrub sink from
18 the prep table, and then there's vast amounts of record
19 keeping things that they basically require, emergency exit
20 plans for emergencies in-house, if they should occur,
21 surgical monitoring, especially including pulsoxymetrie and
22 blood pressure, and -- Right off the bat, I can't --
23 There's ton. They're just clouding all through there.

24 Q Okay. Are there any specific standards
25 related to vaccines?

1 A The standards for -- as I'm currently aware
2 is that, initially, when you want to become an AAHA
3 certified hospital, they come and make an inspection, and
4 they give you a stack of things you need to change; and,
5 initially, they reinspect you frequently, like every year
6 or so, and as you become more and more compliant, the time
7 span for which your subsequent inspections occur gets wider
8 and wider. Currently, at the last letter that Dr. Ferris
9 had received from AAHA, they're recommending -- and they
10 have been recommending, you know, the use of a protocol of
11 a three year vaccine with approved three year vaccine and
12 the basis for it is to try to get everyone on that page,
13 but, at the same time, it enables the veterinary clinic
14 that does that, that's AAHA certified, to stretch to that
15 next level of, you know, time space in between inspections
16 once you're compliant. It is not a governing body.

17 Q Do you have any -- Well, Dr. Ferris stated
18 that Santa Fe Animal Hospital has a whole library of
19 veterinarian reports, books, journals that is available.
20 Do you have any specific ones that you reference more than
21 others?

22 MS. CANTU: Objection, form.

23 A I use -- The two we use the most, the Five
24 Minute -- I can't think of the exact name. It's like we're
25 in the fourth edition now, the Five Minute Veterinarian

1 Diagnostic or Treatment Book, and then we have another
2 manual, Small Animal Medicine that we defer to. We defer
3 to Dr. Norsworthy Feline Practitioner book, multiple
4 formularies, the most significant which is the Plumb's
5 Veterinary Handbook. We have a parasitology book. We have
6 anatomy books. We have physiology books. We have some
7 very limited small or pocket pet books. So there are a
8 vast array in terms of texts that we keep in the book and
9 keep them updated with new editions as they come available.

10 Q Okay. I'm going to ask this question, and I
11 apologize if I've already asked it. I can't remember. Are
12 you aware that the Court ordered mediation in this case?

13 A I did not know the Court ordered mediation.

14 Q I believe we were ordered to set a date to
15 the mediate.

16 A I just know that mediation was discussed, but
17 I did not know that the Court actually ordered it.

18 Q Okay. And did you have -- Were you -- Were
19 you the one that made the decision whether or not to set a
20 date on mediation?

21 A No, I was not.

22 Q Does Santa Fe Animal Hospital have anything
23 in writing regarding vaccines; for example, how to store
24 them, how to -- I don't know what else they would have
25 other than that -- for technicians that prepare them? Is

1 there anything in writing that lists, "Okay, the technician
2 needs to get this and do this and write this down,"
3 anything in writing?

4 A We do not have a written protocol.

5 Q So, how do technicians know, when they're
6 hired, what they're supposed to do?

7 A They're trained. Existing experienced
8 technicians go over, you know, basically starting from
9 putting the person into the exam room, pulling their
10 file, reading the file, seeing what the patient is in for,
11 and then if it's annual vaccines and exam, they get the
12 vaccines together and they get the doctor and we go into
13 the room. The technicians then restrain the animals most
14 of the time while the doctor examines and then gives the
15 vaccinations.

16 Q And do you recall who the technician was that
17 was present during Kitty Kat's visit?

18 A I do not.

19 Q So, the technician that prepares the vaccines
20 doesn't have to document anywhere that they were the ones
21 that took the vial out and drew it up and --

22 A Typically, the technician that comes into the
23 room is the one that drew up the vaccines.

24 Q But that's not documented anywhere?

25 A No.

1 Q So, if there was ever an issue with a
2 technician mistakenly putting the wrong sticker on the
3 wrong vaccine or getting the wrong vaccine out of the
4 refrigerator, you have no way of referencing the
5 technician?

6 A The reference in such an acute event would be
7 to go straight to the technician holding the animal and to
8 inquire with them. If they -- You know, if there was a
9 different one that makes the vaccine, but there's no
10 written protocol standards. It's a basic understanding of
11 what we do and how we do it, and it's coached into them and
12 they are all very competent, and we've -- you know, we take
13 pride in how good a job they do day in and day out at all
14 tasks that are involved as a veterinary technician.

15 Q So there's no -- no type of vaccine log?

16 A Vaccine log? No.

17 Q Okay. This is marked as Ferris Exhibit No.
18 9, and it is Defendant South Texas Veterinary Associates
19 objections and answers to plaintiff's second set of
20 interrogatories, and it states here that Dr. Shaffer shall
21 testify that within the relevant veterinarian community,
22 the applicable standard of care does not include disclosure
23 and warning of potential risk of sarcoma from adjuvanted
24 vaccines. I'll let you see that if you need to.

25 A Okay.

1 Q So, can you name the veterinarians that you
2 have spoken to that have told you that they do not mention
3 vaccine associated sarcoma as a risk?

4 A Dr. Alan Garrett, Dr. Dale Rasco, Dr. Pigott,
5 who is in his practice, whose first name I do not know.

6 Q Do you know how to spell the last name?

7 A P-I-G-O-T-T. Those are the ones that I have
8 spoken with. And Dr. Guzeldere.

9 Q And I know Dr. Garrett has his own practice,
10 right?

11 A Yes.

12 Q Okay. And Rasco, does he -- what is the name
13 of his practice?

14 A It's Doddridge Animal Hospital.

15 Q Oh. Okay. That's the one. And Pigott?

16 A Pigott.

17 Q Pigott?

18 A Yeah. It's Doddridge.

19 Q Oh, he's at Doddridge, too?

20 A She.

21 Q Oh, she's at Doddridge too?

22 A Yeah.

23 Q have you ever personally been in the room
24 with them while they examine a cat and explain?

25 A No.

1 Q And about how many veterinarians are
2 practicing in the Corpus Christi area? Do you have any
3 idea?

4 A Oh, in Corpus itself, it's got to be around
5 20, 24 or so, 26 maybe. I don't know exactly.

6 Q What about if we encompass Nueces County?

7 A I couldn't tell you all of them. There are
8 several more in the outskirts.

9 Q Do you have any idea?

10 A Not an exact number, no.

11 Q A guess?

12 A 35 maybe, including all.

13 Q Okay. Did you get that back? Okay. Okay.
14 On this same exhibit, No. 9, Ferris, it says that you shall
15 also testify that no acts or omissions caused the alleged
16 injuries. What is your belief that caused the vaccine
17 associated sarcoma?

18 MS. CANTU: Objection, form. You're
19 assuming facts not in evidence, that it was a vaccine
20 associated sarcoma.

21 (EXHIBIT NO. 8 WAS MARKED
22 FOR IDENTIFICATION.)

23 Q There's the pathology report.

24 A Okay.

25 MS. CANTU: I think he's ready,

1 Mrs. Gonzalez.

2 Q What, based on that, if it's not a vaccine
3 associated sarcoma, what is it?

4 A High grade fibrosarcoma are the microscopic
5 findings.

6 Q And what other -- What reports are you aware
7 of that when they're referring to fibrosarcoma means
8 something other than vaccine associated at the injection
9 site with high mitotic cells and necrosis?

10 MS. CANTU: Objection, form. Again,
11 you're misstating the evidence. The sarcoma was not at the
12 site of the leukemia vaccine you're alleging was improperly
13 administered.

14 A Okay. Ask it again.

15 Q I don't think the injection site has been
16 proved.

17 MS. CANTU: Object to Ms. Gonzalez'
18 side-bar. If you have a question, please ask it.

19 Q Do you know -- Are you aware that the Merial
20 Purevax vaccine has never caused a vaccine associated
21 sarcoma?

22 A I'm aware that they have non-reported, yes.

23 Q And do you have a copy of that report?

24 A No.

25 Q And what -- Do you recall who wrote that

1 report?

2 A No.

3 Q So, based on -- What do you base that
4 comment on?

5 A Basically, that to date, when I spoke to the
6 veterinarian, technical veterinarian for Merial at the time
7 of the request to submit the adverse reaction report, they
8 said they had not at that time had -- and mind you, this is
9 two years ago -- they had not at that time had any reports
10 of adverse reactions to the extent that a fibrosarcoma may
11 have been formed.

12 Q But the reporting that she refers to is
13 voluntary, correct?

14 A That is correct.

15 Q So, it's possible that sarcomas could have
16 developed from that vaccine and we don't have -- a report
17 was not made; is that possible?

18 MS. CANTU: Objection, form.

19 A All that we have is that at the site of
20 regrowth, a fibrosarcoma was diagnosed by the pathologist
21 in question, whose name I don't see on this sheet. I think
22 it's part of the report.

23 Q Yeah. The second page, I left it, but it's
24 already been submitted.

25 A Okay.

1

2

(EXHIBIT NO. 9 WAS MARKED

3

FOR IDENTIFICATION.)

4

Q I just want to go and submit this. As you

5

recall, that was submitted to you in the small claims

6

trial. Do you still -- I put a S by the circle that you

7

made and that's still --

8

A Yes.

9

Q Okay. And if you'll sign and date that?

10

A (Witness complies.)

11

(EXHIBIT NO. 10 WAS MARKED

12

FOR IDENTIFICATION.)

13

Q I think that's all I have for you.

14

E X A M I N A T I O N

15

BY MS. CANTU:

16

Q Dr. Shaffer, I had a few questions to clarify

17

some of your testimony. How long have you practiced in

18

Corpus Christi, Nueces County?

19

A A grand total of 17 years.

20

Q And during your 17 years of practice in

21

Corpus Christi and Nueces County, have you had an

22

opportunity to confer with other veterinarians in Corpus

23

Christi regarding their practices and procedures?

24

A Yes.

25

Q Including regarding vaccines used by them and

1 vaccination protocols, practices, and procedures for
2 administering vaccines?

3 A Yes.

4 Q And in any of those discussions, would you
5 and these other Corpus Christi vets discuss any changes in
6 vaccines or vaccination procedures that you learned in vet
7 schools that have evolved over the years of practice?

8 A Yes.

9 Q And if a specific change was made by one of
10 your colleagues regarding warnings or risks that are
11 disclosed to patients regarding a vaccine or an anesthesia
12 or any other type of therapeutic medicine given to patients
13 in Corpus Christi, is that also something that would be
14 discussed by you and your colleagues in Corpus Christi?

15 A Yes.

16 Q Have you ever, in your 17 years of practice,
17 been advised by any of your colleagues in Corpus Christi,
18 Texas that practice small animal veterinary medicine that
19 they specifically warn and disclose the 1 in 10,000 to 1 in
20 40,000 risks of a vaccine associated sarcoma from any
21 vaccine?

22 MS. GONZALEZ: Objection, form.

23 Q You can answer.

24 A No.

25 Q Isn't that the type of information that you,

1 as Corpus Christi small animal vets, confer on and discuss,
2 as part of your communications with one another?

3 A Yes.

4 Q Do you know of any of your colleagues in
5 Corpus Christi that practice small animal feline veterinary
6 medicine that specifically warn of the risks of fibro -- or
7 vaccine associated fibrosarcomas?

8 A I do not.

9 MS. GONZALEZ: Objection, form.

10 MS. CANTU: And what's the basis for
11 your objection?

12 MS. GONZALEZ: Well, I had my list last
13 time I was here and you wouldn't let me give my --

14 MS. CANTU: No. I asked you to comply
15 with the rule.

16 MS. GONZALEZ: Right. And you said I
17 was only allowed to say "objection, form."

18 MS. CANTU: Ma'am, I showed you the rule
19 and I told you my position was you were limited to
20 "objection, form." However, had you read the rule, if I
21 ask you the basis, you're required to give it. So, what
22 please, is the basis for your objection to my question?

23 MS. GONZALEZ: Well, I don't have my
24 list here today.

25 MS. CANTU: You can't tell me what the

1 basis for your objection is?

2 MS. GONZALEZ: Not the legal term, no.

3 Q (By Ms. Gonzalez) All right. Let me ask
4 you again a different question, Dr. Shaffer. In all the
5 years that you've practiced small animal veterinary
6 medicine in Corpus Christi, Texas, have you worked at any
7 vet clinic that specifically disclosed and warned of the 1
8 in 10,000 to upwards of 1 in 40,000 risk of a vaccine
9 associated sarcoma for cats given certain vaccines?

10 A I have not.

11 Q Do you know of any colleagues that work in
12 Corpus Christi at their current practices who have also
13 worked in other practices within the area?

14 A That --

15 Q They've moved around from one practice to
16 another?

17 A Yes.

18 Q Okay. And some of the doctors that you
19 mentioned earlier today, Dr. Garrett, Dr. Rasco, Dr. Pigott,
20 do they own outright or have some partial ownership in
21 their practices?

22 A Dr. Garrett owns his practice; Dr. Rasco, his
23 practice. Dr. Pigott is an associate.

24 Q Okay. And of those practices that those
25 doctors own in Corpus Christi, have they had, through your

1 17 years of being in this city as a practicing vet, have
2 those doctors had multiple veterinarians working under them
3 as well?

4 A Yes.

5 Q And, so, when they're discussing with you
6 their clinic vaccinations, policies, practices, and
7 procedures, isn't it true, sir, they're not speaking just
8 about their own personal practices; it's the multiple vets
9 who have worked under them over the years as well?

10 A Yes.

11 Q And were you accused of veterinary
12 malpractice through a grievance filed by Ms. Gonzalez with
13 the Texas State Board of Veterinary Medical Examiners?

14 A Yes.

15 MS. GONZALEZ: Objection, form.

16 MS. CANTU: What's the basis of your
17 objection, please?

18 MS. GONZALEZ: Hearsay.

19 Q Okay. In terms of the grievance filed by
20 Ms. Gonzalez against you with the State Board, was there an
21 investigation conducted by the State Board?

22 A Yes, there was.

23 MS. GONZALEZ: Objection, form.

24 Q And, as part of that investigation, were any
25 veterinarians charged with the duty of investigating all of

1 Ms. Gonzalez' complaints against you?

2 A Yes, they were.

3 MS. GONZALEZ: Objection, form.

4 Q And are you familiar with what the general
5 duties and charges of the Texas State Board of Veterinary
6 Medical Examiners is with regard to veterinarians in Texas?

7 A Yes.

8 MS. GONZALEZ: Objection, form.

9 Q What are they generally charged with doing
10 according to their own website and publication?

11 A It's mainly a monitoring of -- that the
12 standard of care is not abused in any particular area, in
13 any particular clinic, and it's relatively consistent
14 state-wide.

15 Q Okay.

16 A In terms of what is accepted.

17 Q And if the Board finds that a vet is in
18 violation of the prevailing community standard of care that
19 it's supposed to uphold and enforce, can it sanction or
20 discipline or even take away the license of a vet found in
21 noncompliance?

22 A Yes.

23 Q And in its investigation of the complaint
24 made by Ms. Gonzalez against you, did the Board reach a
25 decision as to whether you violated the prevailing standard

1 of care for Corpus Christi?

2 A Yes.

3 MS. GONZALEZ: Objection, form.

4 Q And what was the finding that you personally
5 received from the Board?

6 MS. GONZALEZ: Objection, form.

7 MS. CANTU: What's your objection?

8 MS. GONZALEZ: Hearsay.

9 Q You personally received a letter from the
10 Board?

11 A Yes.

12 Q With a ruling on the complaint filed by
13 Ms. Gonzalez?

14 A Yes.

15 Q And you talked to the investigator, actually
16 the director of enforcement, Karen Phillips, personally?

17 A Yes.

18 Q What was the finding given to you by
19 Ms. Phillips in your phone calls with her and in the letter
20 she subsequently sent you?

21 A No violation.

22 MS. CANTU: We'll reserve the rest of
23 our questions for the time of trial.

24 MS. GONZALEZ: I have further questions.

25 MS. CANTU: Then we reserve our right to

1 re-examine the witness pending Ms. Gonzalez' further
2 questioning.

3 R E E X A M I N A T I O N

4 BY MS. GONZALEZ:

5 Q I'm going to refer to Ferris Exhibit No. 10,
6 and that is a pamphlet that Oso Creek in Corpus Christi
7 gives out?

8 MS. CANTU: For clarity of the record,
9 let the record reflect that this pamphlet wasn't
10 distributed and published until June of 2010.

11 Q Okay. So, let's clarify then your answers to
12 her earlier question. Are you saying prior to June 2010,
13 no veterinarians in Corpus Christi warned of the risk of
14 vaccine associated sarcoma?

15 MS. CANTU: Objection, form. You're
16 misstating the evidence in the record, ma'am. This does
17 not warn a vaccine associated fibrosarcoma specifically.
18 It just states that, very rarely, a tumor may develop. It
19 doesn't use the words you're referencing to.

20 MS. GONZALEZ: The tumor, though, is
21 called vaccine associated sarcoma.

22 MS. CANTU: Again, you specifically are
23 referencing a term that is not in this document, and I
24 stand on my objection.

25 Q (By Ms. Gonzalez) Okay. Regarding the

1 document, they're warning of a tumor at the injection site;
2 is that correct?

3 MS. CANTU: Objection, form.

4 Q Okay. Let's read it. Okay. Just read the
5 blue highlighted part.

6 MS. CANTU: Stop yelling at Dr. Shaffer,
7 please, and then you may read it.

8 A "Very rarely, a tumor may develop in cats at
9 the injection site," and then, "Call us if any lumps
10 develop in your cat's skin."

11 Q Okay. And Oso Creek in Corpus Christi is
12 owned by VCA hospitals that produce that pamphlet; is that
13 correct?

14 A Yes.

15 Q Okay. So, now I would like clarification on
16 all your conversations with veterinarians in Corpus
17 regarding whether or not they warn or mention the fact of a
18 tumor at a vaccine site. You said previously that they
19 don't mention that to clients, is that correct, in your
20 conversations with them?

21 A Because of the rareness of the event, the
22 veterinarians I have spoken to in question don't give that
23 as an advanced warning before vaccinating the cat.

24 Q So, they don't explain that as part of a risk
25 when they're explaining other risks of vaccines?

1 MS. CANTU: Are you limiting it, again,
2 back to the time in question? You prefaced your first
3 question with that. I want to make sure you're still
4 limiting it to the time in question for these subsequent
5 questions.

6 MS. GONZALEZ: Well, I don't recall you
7 saying a time in his questions, so I'm trying to clarify
8 that.

9 MS. CANTU: I absolutely did. I said in
10 all the years he's practiced here, have they ever advised
11 him that they specifically warn of that risk. So, you
12 qualified your question, saying, "I want to go back to the
13 timeframe in question," and then you proceeded with your
14 question. Are you limiting your question to that same
15 timeframe going forward?

16 MS. GONZALEZ: Well, he's --

17 Q (By Ms. Gonzalez) Okay. So, the whole time
18 you've been in practice here would encompass two years ago
19 and today, correct?

20 A Yes.

21 Q Okay. And, so, it's your testimony that two
22 years ago or even today, vets in Corpus Christi do not
23 mention the fact that a lump could appear at a vaccine site
24 in a cat that could possibly turn into cancer?

25 MS. CANTU: Objection, form.

1 A I will tell you that specifically, up until
2 right now, I knew of none. I would tell you that the
3 accepted standard of care, however, in South Texas in the
4 Nueces county area still stands that, you know, I made no
5 violation of that.

6 MS. GONZALEZ: Objection, nonresponsive.

7 Q I asked you if, in your 17 years, which
8 includes two years ago and yesterday and today, if you have
9 any knowledge of any veterinarians in any of your
10 discussions with them, indicating that they mention the
11 fact that a vaccine injection could cause a lump in a
12 feline that could possibly turn into cancer?

13 A And my answer before was: Until I saw that
14 document right now, I did not know that anybody in Nueces
15 County and Corpus Christi, in particular, made that
16 statement directly.

17 Q Okay.

18 A That is their clinic standard of care. In
19 general, for Nueces County, it is as Dr. Ferris and I
20 practice at Santa Fe Animal Hospital.

21 (EXHIBIT NO. 11 WAS MARKED
22 FOR IDENTIFICATION.)

23 Q Okay. Do you consider -- Okay. Let me
24 rephrase this. Do lumps periodically show up as a result
25 of vaccines in cats?

1 MS. CANTU: Objection, form.

2 A I'm trying to think if I've ever seen one.

3 In my personal experience, yes, but rare.

4 Q I didn't ask you if the lump turned into
5 cancer. I asked you, due to the vaccine, is it common or
6 possible that right after the vaccine, a lump may appear,
7 and that lump could dissipate in two weeks?

8 A Yes.

9 Q How common is that?

10 A Once again, at the instant of injection, a
11 small blood forms under the skin, which we rub out, and
12 it's gone in seconds. How common is a swelling in our
13 practice that lasts for any length of time is extremely
14 rare in the feline patient.

15 Q Okay. Would you consider a lump of any kind
16 at the site of a vaccine injection to be an adverse event?

17 A It is technically an adverse event.

18 Q Okay. And you indicate there that the client
19 is informed or you advertise that the client is informed of
20 all the risks and benefits, but you're saying you don't
21 inform them of the risk of a lump and to look for that that
22 could possibly turn into, in a rare instance, turn into
23 cancer?

24 A Well, typically, in discussion with a client
25 in the room, what we ask them, especially if anyone asks in

1 particular about any side effects to expect, because it's a
2 commonly asked question, and we tell them an inappetence,
3 fever, lethargy, swelling at the site, those are the most
4 common things that can occur. How often does that occur,
5 which is the previous question, is extremely rare. I
6 cannot recollect, on this day, exactly our conversation on
7 the day in question that you came in, but I can tell you
8 the standard that I mention to people, that, sometimes,
9 after vaccines, cats feel a little puny. It's a common
10 word that I use, puny, defined as, you know, just not
11 feeling good at that time, and the owners are instructed,
12 if you have any concerns, to bring them back. And we
13 trust, at that time, that they're observing the activities
14 and behaviors of their pet; and, subsequently, they return
15 if anything is abnormal, other than to what they normally
16 experience with their pet.

17 Q So then it would be a true statement, in your
18 17 years of practice in Corpus Christi, that other vets
19 would tell their clients to look for a swelling at the
20 injection site?

21 A The specifics of the conversation that they
22 have, I do not know exactly. I do know, talking with close
23 friends, veterinarians in the area, that it's not a common
24 conversation piece, to talk about a 1 in 10 to 20 to 40,000
25 chance that a vaccine administered may, in some way,

1 whether it is the vaccine itself, the adjuvant, or the act
2 of the needle entering the skin may cause a sarcoma or any
3 other tumor for that matter, but, you know, it is
4 considered such a rare thing; and, once again, going back,
5 originally, in this area, the risk of feline leukemia is
6 still relatively high. The notion that we vaccinated it
7 into eradication is somewhat absurd, because we all -- not
8 to the frequency of 1980's or '90's, we still diagnose
9 feline leukemia positive in cats, typically at end stage;
10 and, so, that happens considerably more often than a
11 vaccine sarcoma. So, what they say, specifically, I
12 couldn't tell you, other than, you know, they err on the
13 side of telling people what is most commonly seen, not what
14 is most least commonly seen?

15 MS. GONZALEZ: Objection, nonresponsive.

16 Q So, you can definitely say -- or you can --
17 You say you can't definitely say what they tell their
18 clients regarding swelling, but you can definitely say that
19 they don't tell them about cancer?

20 A I can tell you that every time a person is in
21 the room and you go in as the doctor, it's an individual
22 case to case thing. If a client asks specific questions, I
23 would think that any of our colleagues would be remiss if
24 they didn't disclose specifics.

25 In the case of the people I talked of, they

1 have no informed consent signed by the owners ahead of
2 time, that that is not currently what is considered part of
3 the standard of care in Corpus Christi or in South Texas in
4 general.

5 Q Okay.

6 A Now, if there are exceptions to that, it
7 doesn't mean everyone else is in the wrong and one is in
8 the right.

9 Q But would you agree that informed consent
10 does not have to be in writing?

11 A Right.

12 Q That informed concept would be just having a
13 conversation with the client about the types of vaccines
14 you're recommending and their possible risks and benefits?

15 A Yeah.

16 Q Okay. So, with all your conversations with
17 your colleagues in Corpus Christi, how many of them offer
18 three year vaccines?

19 A I don't know the specific numbers there.

20 Q Do you have any idea?

21 A Not a clue.

22 Q So, you do discuss with them whether or not
23 they inform their clients of vaccine associated sarcoma
24 which is directly related to injections and the number of
25 injections a cat receives, but no where in the conversation

1 does it come up if they still give all those injections
2 every year or every three year?

3 MS. CANTU: Objection, form. Go ahead.

4 A Once again, right in the middle of all that,
5 the indication that three vaccines given at three different
6 places is equivalent to three vaccines given in one place,
7 I'm not sure that that article clarified the difference
8 there. Each individual vaccine creates an individual
9 response accordingly; different antigen, different reaction
10 for antibody production. I cannot say, verbatim, what
11 everyone says. I can only tell you that if people
12 specifically ask, then, you know, I am definitely candid.
13 You know, the extent of which fibrosarcoma has happened in
14 our practice in general as a non-injection site tumor,
15 probably, in 25 years, I've seen seven or eight. It's as
16 far away from any injection site as the end of the foot.
17 You know, in terms of feline leukemia infection, it's
18 happened quite a bit more often, so it is still accepted by
19 our practice and multiple practices, that first and
20 foremost, it's the immediate risk that we take under
21 consideration, and the fact that feline leukemia has not
22 extinguished itself from the population of cats in general,
23 and that all recommendations by all somewhat authoritative
24 or directly authoritative, in particular, the Texas State
25 Board, basically alludes to, you know, in some areas, this

1 is protocol that is taken. This is one of the
2 recommendations. However, it almost always refers directly
3 after that, that individual clinics in certain areas, you
4 know, they balance their practice with what they're used to
5 seeing, and I can only say, when you're not used to seeing
6 like a sarcoma, then you defer towards the thing you see
7 the most, which is chronic bone marrow suppression caused
8 by feline leukemia virus invading the blood and bone marrow
9 in every age cat.

10 MS. GONZALEZ: Objection, nonresponsive.

11 Q What I was specifically talking to with
12 regards to the number of injections is, you would agree
13 that if you give injections every year versus every three
14 years, the cat would have had more injections in their body
15 on a one year schedule versus a three year schedule; is
16 that correct?

17 MS. CANTU: Objection, form.

18 A Yes.

19 Q Okay. I'm glad we got that established.
20 Okay. So, in speaking with your colleagues, what -- do
21 they -- do they follow a one year vaccine schedule or a
22 three year?

23 A Until now, everyone has been yearly for
24 rabies, in particular, and following subsequently with the
25 other vaccines yearly as well in regards to outside cats,

1 in particular. Though, now, there's been looseness on the
2 rabies scheduling. Some of them are going to go ahead and
3 go to the three year rabies vaccine, but not everybody is
4 convinced of the long-term protection of three years,
5 especially rhino-calici and panleukopenia viral infections,
6 because if you board at all, it only takes one sick cat to
7 contaminate an entire clinic and kennel. So, once again,
8 it falls to individual needs of that particular practice in
9 the community at large; and, once again, it's still the
10 accepted standard of practices, as most of us practice in
11 the city.

12 Q Are you familiar with Dr. John Miller here in
13 Corpus?

14 A I only know who he is. I've only spoken to
15 him a couple of times.

16 Q Animal Medical and Surgical Hospital?

17 A Uh-huh.

18 (EXHIBIT NO. 12 WAS MARKED
19 FOR IDENTIFICATION.)

20 Q Here is his vaccine protocols?

21 MS. CANTU: And for clarity of the
22 record, let the record reflect that Exhibit 12 was only
23 printed on April 2nd, 2012, which is more than four years
24 after the initial vaccines to this cat in question and more
25 than two years from the second set of vaccines.

1 Q (By Ms. Gonzalez) And I believe you would
2 probably know this better than me, but doesn't Banfield own
3 the clinic that's in Pets Mart here in Corpus Christi?

4 A Yeah.

5 (EXHIBIT NO. 13 WAS MARKED
6 FOR IDENTIFICATION.)

7 MS. CANTU: And, again, for clarity of
8 the record, Exhibit 13 was printed on April 2nd, 2012, more
9 than four years after the initial vaccination of the cat in
10 question and two years after the second round of
11 vaccinations.

12 (EXHIBIT NO. 14 WAS MARKED
13 FOR IDENTIFICATION.)

14 MS. CANTU: For clarity of the record,
15 Exhibit No. 14 was printed April 2nd, 2012, four years
16 after the initial treatment of the cat in question and more
17 than two years after the second vaccination of the cat in
18 question.

19 (EXHIBIT NO. 15 WAS MARKED
20 FOR IDENTIFICATION.)

21 Q Just the highlighted part.

22 MS. CANTU: It's out of order.

23 Ms. Gonzalez, do you want her to mark it in the correct
24 order that you printed it? It's out of order.

25 MS. GONZALEZ: Yeah. I mean, I don't

1 even need to give you the other two sheets, if you want to
2 just give them to me. I'm just referencing the --

3 MS. CANTU: No. It's already been
4 marked and I want the entire document into the record. For
5 clarity, Exhibit 15 also was printed on April 2nd, 2012,
6 approximately four years after the initial treatment of the
7 cat in question and two years after the second vaccination
8 of the cat in question. Also, for clarity of the record,
9 document 15 did not discuss vaccine associated sarcomas
10 under its risk of vaccinations, even though it's postdate
11 of the time in question.

12 Q (By Ms. Gonzalez) Okay. So, my whole point
13 in showing those to you was regarding your statement and
14 belief that all Corpus Christi vets today are still
15 adhering to an annual vaccination protocol.

16 MS. CANTU: Objection, form. Misstates
17 the deponent's prior testimony.

18 A Is there a question?

19 MS. CANTU: Do you have a question? Do
20 you have a question? You just made a statement. You said,
21 "My point is showing you that is" X. Where is the
22 question, please?

23 Q Let me think how to word it. After viewing
24 those exhibits, do you still believe that all Corpus -- or
25 that the majority of Corpus Christi vets adhere to an

1 annual vaccination protocol versus a three year vaccine
2 protocol?

3 A After reading that, then, obviously, some do
4 not, but, once again, it's recommendations based on
5 situations. We don't know the total content. So,
6 obviously, not all are holding to that. Clinics that do a
7 large amount of boarding may be different than that. And
8 it also -- we're two years or four years post the event,
9 two years, I guess, since, you know, everything has come
10 out, and I'm sure people are scrambling to some degree.
11 However, it doesn't change the fact that the risk of
12 vaccine associated sarcoma is still extremely rare.

13 MS. GONZALEZ: Objection, nonresponse.

14 Q Based on your statement that vaccine
15 associated sarcoma is extremely rare, what do you base that
16 statement on?

17 A I've been a practicing veterinary for 25
18 years and have not seen it.

19 Q When you examined my cat, did you diagnose it
20 as vaccine associated sarcoma?

21 A I did not.

22 Q Is it possible you have seen them and did not
23 realize that's what it was?

24 A If that's what they look like and that's what
25 the diagnosis was, yet -- I've not yet seen, in talking

1 with pathologists and veterinarians -- or vaccine
2 manufacturers, veterinary technical advisors, there's no
3 definitive test to say that a vaccine is the sole cause of
4 what may develop into a sarcoma. So, no. I can honestly
5 say I've seen nothing like that before. I've seen
6 fibrosarcomas, once again, very rare, but they were not at
7 the site of injections.

8 MS. GONZALEZ: Objection, nonresponsive.

9 Q So, is it possible, in your years of
10 practice, as in the case with my cat, a diagnosis of severe
11 cellulitis was made, and perhaps they went somewhere else
12 and it was later diagnosed as fibrosarcoma?

13 MS. CANTU: Objection, form. It
14 misstates the evidence and facts in the record. If you
15 have an answer, you can answer.

16 A I would tell you that had Kitty Kat come
17 back, the next logical step would have been, you know, a
18 biopsy sample and sent to the lab and had a pathological
19 evaluation done.

20 MS. GONZALEZ: Objection, nonresponsive.

21 Q Is it possible you have examined cats in the
22 past and diagnosed severe cellulitis when, in fact, it
23 wasn't?

24 MS. CANTU: Objection, form.

25 A If they responded to antibiotics and the

1 lesion went away and they, you know, came in for subsequent
2 follow-ups, if those events didn't occur, then cellulitis
3 would not have been, but, in my experience, that has not
4 occurred.

5 MS. GONZALEZ: Objection, nonresponsive.
6 I reserve further questioning for the trial.

7 MS. CANTU: We'll also reserve the rest
8 of our questions for the time of trial.

9 (THE DEPOSITION CONCLUDED AT 4:05
10 P.M., ON APRIL 4, 2012.)

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CHANGES AND SIGNATURE

WITNESS NAME: _____ DATE OF DEPOSITION: _____

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1 I, DAVID SHAFFER, DVM, have read the foregoing
 2 deposition and hereby affix my signature that same is true
 3 and correct, except as noted above.

4

5

 DAVID SHAFFER, DVM

6

7 STATE OF TEXAS

8 COUNTY OF _____

9 Before me, _____, on this day
 10 personally appeared DAVID SHAFFER, 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.

16

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

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23

 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)
)	
SOUTH TEXAS VETERINARY)	
ASSOCIATES, INC.)	
)	
Defendant(s))	NUECES COUNTY, TEXAS

REPORTER'S CERTIFICATION

DEPOSITION OF DAVID SHAFFER, DVM

APRIL 4, 2012

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

That the witness, DAVID SHAFFER, 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 - 0:07

3 MS. JENA GONZALEZ - 2:34

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.

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17 Certified to by me this 16th 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.

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

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