

CAUSE NO. D-1GN--12-000003
IN THE DISTRICT COURT FOR THE 250th JUDICIAL DISTRICT
TRAVIS COUNTY, TEXAS

DR. ANDREW J. WAKEFIELD, MB., BS

vs

THE BRITISH MEDICAL JOURNAL,
a d/b/a of BMJ PUBLISHING GROUP, and
BMJ, BRIAN DEER, individually, and
DR. FIONA GODLEE, individually

Deposition of Jane Smith

Thursday June 28th, 2012

At the offices of:
Vinson & Elkins
Citypoint, 33rd Floor
One Ropemaker Street
London EC2Y 9UE

1 APPEARANCES

2 For the Plaintiffs:

3 Mr. William M. Parrish
4 DiNOVO PRICE ELLWANGER & HARDY LLP
5 7000 North MoPac
6 Suite 350
7 Austin, Texas 78731
8 Tel: 512 539 2627
9 bparrish@dpelaw.com

10 For the Defendants:

11 David P. Blanke:
12 VINSON & ELKINS LLP
13 2801 Via Fortuna, Suite 100
14 Austin, Texas, 78746-7568
15 Tel: 512 542 8622
16 dblank@velaw.com

17 Marc Fuller
18 VINSON & ELKINS LLP
19 Trammell Crow Center, 2001 Ross Avenue, Suite 3700
20 Dallas, Texas 75201-2975
21 Tel: 214 220 7881
22 mfuller@velaw.com

23 Also Present:

24 Dr Andrew Wakefield
25 Clifford Miller

The Court Reporter:

Kay Hendrick

The Videographer:

David Ross

I N D E X

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Thursday, 28th June 2012

1
2
3 THE VIDEOGRAPHER: Good morning. This is
4 Thursday, 28th June 2012 and the time on the video screen is
5 9.21 am. We are at the offices of Vinson & Elkins to take
6 an oral videotaped deposition of Miss Jane Smith. This is
7 in the matter of Dr Andrew J Wakefield MB, BS versus the
8 British Medical Journal a d/b/a of BMJ Publishing Group
9 Limited, also BMJ group and BMJ Brian Deer individually and
10 Dr Fiona Godlee individually. The videographer myself, here
11 today is David Ross of Fredricks Reporting and the Court
12 Reporter is Kay Hendrick also of Fredricks Reporting.
13 Would counsel once again please introduce
14 yourselves.
15 MR PARRISH: Bill Parrish, DiNovo Price Ellwanger
16 & Hardy on behalf of the plaintiff Dr Wakefield. With me in
17 the room today is Clifford Miller who is counsel in England
18 for Dr Wakefield.
19 MR BLANKE: David Blanke and Marc Fuller of Vinson
20 & Elkins for the witness, Brian Deer, Dr Godlee and the
21 British Medical Journal.
22
23
24
25

1 JANE SMITH
2 having been duly affirmed,
3 testified as follows:
4 Examination by Mr Parrish:
5 Q. Miss Smith, you understand that the testimony
6 you are giving today is under oath just as if you were
7 testifying live in the presence of the judge and the jury?
8 A. I do.
9 Q. And you are here as a designated
10 representative of BMJ on certain topics, correct?
11 A. Yes.
12 Q. I would like to ask you about some of the
13 Exhibits that I have put in front of you that you have had a
14 few minutes to flip through. Let's start with Exhibit 24
15 please Ma'am.
16 (Exhibit 24 marked for identification)
17 A. Yes.
18 Q. And with the first page of Exhibit 24. Is
19 this a true and correct copy of a BMJ record that shows the
20 number of subscribers the BMJ had for the British Medical
21 Journal in the years 2010, 2011 and 2012?
22 A. It is.
23 Q. And under the Subscriptions column there's the
24 term "Sum of Quantity" then "ROW", "R-O-W Labels", what does
25 ROW labels stand for?

1 A. I think it is just the way the print-out comes
2 out of the database. It is the labels of those rows below
3 it, Texas USA worldwide grand total.
4 Q. Okay. So let's focus on 2011. This document
5 indicates that as of January 2011 for the British Medical
6 Journal there were 62 subscribers in the State of Texas and
7 1,322 subscribers in the USA; is that correct?
8 A. Yes.
9 Q. Then reading down below that under the section
10 "Breakdown", am I reading that properly, that indicates that
11 the British Medical Journal in 2011, out of the 62 total
12 Texas subscribers 18 of them were print subscribers, 38 were
13 on-line subscribers and six were print and on-line
14 subscribers?
15 A. That is correct.
16 Q. And that is an accurate representation of the
17 number of subscribers in January 2011 for the British
18 Medical Journal, that one journal in Texas; is that correct?
19 A. Yes, that is an accurate representation of
20 doing a search on the database for records with Texas in
21 them.
22 Q. Okay. So you might have had more subscribers
23 than that in Texas but these are the ones that showed Texas
24 in the name?
25 A. We wouldn't have had more. We wouldn't have

1 had more. When we explored -- we went back to this database
2 more than once in response to your requests and when we
3 actually got the names, which I think you are going to come
4 on to later, we realised that there was some duplicates and
5 some Consortia that didn't actually relate to Texas, and
6 I can talk you through those.
7 Q. But there were 62 Texas subscribers --
8 A. Yes.
9 Q. -- in January 2011?
10 A. Yes.
11 Q. And are these as of -- you do it month by
12 month or how did you pick the dates?
13 A. The month at the top of the column.
14 Q. Okay. So you keep the statistics month by
15 month?
16 A. We can get any extract from the database that
17 people want. With a live subscriber database it fluctuates
18 from day-to-day.
19 Q. Alright. Let's look at the second page of
20 Exhibit 24, and I want to make sure that I am reading this
21 directly. The BMJ publishes other journals in addition to
22 the British Medical Journal, correct?
23 A. Correct.
24 Q. So am I reading this correctly to say:
25 "As of January 2011 there were 468 Texas

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1 subscribers to BMJ journals other than the British Medical
 2 Journal."?

3 A. Yes.

4 Q. And there were 7,654 USA subscribers to BMJ
 5 journals other than the British Medical Journal?

6 A. Yes.

7 Q. And on those the geographic format is there
 8 were, for example, 342 on-line subscribers from Texas to
 9 those other journals?

10 A. Yes.

11 Q. Okay. So it accurately represents the facts
 12 and it reads by title. It is pretty self-explanatory,
 13 correct?

14 A. Yes.

15 Q. Now, the third page with the reference BMJ
 16 00003 it has a breakdown of subscription types, and this is
 17 just for the British Medical Journal at the top; is that
 18 correct?

19 A. Yes.

20 Q. And it says there were 13 Consortia
 21 subscribers in Texas; is that right?

22 A. Yes.

23 Q. What is a Consortia?

24 A. A Consortia is a group of libraries that group
 25 together to improve their purchasing power and buy journals

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1 for several libraries.

2 Q. For example, a university might have several
 3 libraries in the university --

4 A. No, it would be several universities that,
 5 libraries that group together to purchase collectively.

6 Q. Okay. And is there a way to know in
 7 a Consortia -- that there is one Consortia subscriber is
 8 there a way to know how many libraries there are within that
 9 Consortia?

10 A. Yes, there will be a way of knowing that.

11 Q. So am I reading this correctly that in
 12 January 2011 there were 13 different Consortia subscribers
 13 and each of those Consortias might have supplied multiple
 14 libraries, or would have supplied multiple libraries or
 15 entities?

16 A. Sorry, can you repeat the question?

17 Q. Yes, Ma'am. In January 2011 there were 13
 18 Consortia subscribers to the BMJ in Texas, correct?

19 A. With Texas addresses, yes.

20 Q. And each of those Consortias would have had
 21 more than one member?

22 A. Correct.

23 Q. And each of those would have had multiple
 24 libraries, for example, within this Consortia who would be
 25 receiving the BMJ, the British Medical Journal?

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1 A. I am less sure of that. Universities that
 2 have -- that are multi disciplinary, it would be the medical
 3 library that led on the BMJ subs but, yes, it would be the
 4 medical school library.

5 Q. Now, you said they would have led, but the
 6 Consortia would all have access to the different libraries?

7 A. Sorry, are we talking about the individual
 8 members of the Consortia or the Consortia as a whole?

9 Q. Would the individual members of the Consortia
 10 have access through this Consortia subscription?

11 A. Yes. Yes, they would.

12 Q. So in January 2011 there were 13 Consortia
 13 subscribers to the BMJ, British Medical Journal in Texas
 14 There were 13 free exchange and society --

15 A. Yes.

16 Q. -- subscriptions. There were 26 institutional
 17 subscribers?

18 A. Yes.

19 Q. And there were 10 personal subscribers?

20 A. Yes.

21 Q. And do both institutional and Consortia have
 22 different price points depending on the number of FTEs
 23 within them?

24 A. They do.

25 Q. Okay. Finally if you would look at the last

Page 12

1 page of Exhibit 24, I want to make sure I am understanding
 2 that, is this a record of the number of visits to the
 3 British Medical Journal website that the BMJ was able to
 4 determine were made from Texas locations?

5 A. Yes.

6 Q. So you were able to determine that there were
 7 22,993 visits to the BMJ website from Texas in January 2011?

8 A. Yes.

9 Q. And that's just in that month alone?

10 A. Yes.

11 Q. And you would have a record month by month, or
 12 could determine month by month how many visitors there were
 13 from Texas -- well, you could determine the numbers, you
 14 could figure out were from Texas but there might be more but
 15 you couldn't tell because of the address?

16 A. No, we could tell how many hits were from
 17 Texas, that is not visitors.

18 Q. Right?

19 A. You were right that people might have been in
 20 Texas without a Texas IP address, that is correct.

21 Q. And so in January 2011 alone the British
 22 Medical Journal had 429,505 hits from computers with a Texas
 23 IP address?

24 A. No, no. That is US, isn't it?

25 MR PARRISH: Didn't I say US.

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1 MR BLANKE: You said Texas.
 2 MR PARRISH: I apologize, I meant Texas -- I meant
 3 the United States. Let me go back and clarify that. You
 4 had 22,993 hits from Texas in January 2011?
 5 A. Yes.
 6 Q. And you had 429,505 hits from the United
 7 States in January 2011?
 8 A. Yes.
 9 Q. Look if you would, please, at Exhibit 25?
 10 A. Yes.
 11 Q. Does Exhibit 25 list the -- talking about the
 12 first page -- the Texas subscribers to the BMJ as of
 13 January 5, 2011?
 14 (Exhibit 25 marked for identification)
 15 A. Yes.
 16 Q. And just to see that we are reading this
 17 right, for example, the first line indicates that the
 18 Medical Research Library at the Texas Department of State
 19 Health Services was a subscriber and it was considered an
 20 institutional subscriber?
 21 A. Correct.
 22 Q. And they are based in Austin, Texas?
 23 A. Yes.
 24 Q. And each of these major hospitals and
 25 universities that are listed were subscribers and the

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1 category of subscription that they had is on the far right
 2 column?
 3 A. Yes.
 4 Q. So, for example, the Houston Academy of
 5 Medicine is a Consortia subscriber that is in the large
 6 full-time equivalent category, correct?
 7 A. Correct.
 8 Q. And we have got in Exhibit 25 just the same
 9 type of record, one based on the date January 5, 2011 and
 10 one as of January 11, 2011 and one as of January 18, 2011
 11 but they are all read the same way?
 12 A. Yes.
 13 Q. And going back to that issue of the number of
 14 hits that we talked about just a moment ago, do those hits
 15 include Consortia and institutional subscribers, or are
 16 these just general web hits?
 17 A. They are measured in a completely different
 18 system, they are measured through Google Analytics, but they
 19 will include all hits from Texas so they should include
 20 those from subscribing institutions.
 21 Q. So let's take a medical library. Let's say
 22 one of the medical universities in Texas, if there are 10
 23 different hits -- let me revise that.
 24 If 10 different people go on-line to the BMJ from
 25 that same medical library that will be one address, would

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1 that be one hit or 10 hits?
 2 A. That would be 10 hits.
 3 Q. Okay.
 4 A. Well, it might be more than 10 hits.
 5 Q. I gave you the example of 10, you got the
 6 concept. Look if you would, please, Ma'am, at Exhibit 26
 7 (Exhibit 26 marked for identification)
 8 Describe for me briefly what this document is,
 9 please?
 10 A. This is page views in the months from
 11 January 2011 until April 2012. Again it is web hits, it is
 12 page views from January 2011 until April 2012 for each of
 13 the articles by Brian Deer and the editorials by Fiona
 14 Godlee.
 15 Q. So, for example, in the top block on the top
 16 of Exhibit 26 the article or the editorial that was titled
 17 "Wakefield's article linking MMR Vaccine and autism was
 18 fraudulent," this will tell us month by month during the
 19 year of 2011, and this shows part of 2012 --
 20 A. Yes.
 21 Q. -- how many times that particular editorial
 22 was viewed?
 23 A. Yes.
 24 Q. And it shows both from the United States and
 25 from Texas?

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1 A. Yes.
 2 Q. So in the month of January 2011, 1,181 page
 3 views of that editorial were made from Texas?
 4 A. From the US.
 5 Q. I am looking at Texas page views, 1,181,
 6 wasn't it 25,692 from the US?
 7 A. Sorry, I completely lost which line you are
 8 on.
 9 Q. Are you looking at the bottom right-hand
 10 corner of the BMJ 94 number?
 11 A. I am, yes.
 12 Q. Let's take the top block?
 13 A. Yes.
 14 Q. January 2011?
 15 A. Yes.
 16 Q. There were 25,692 US page views, correct?
 17 A. Yes, correct.
 18 Q. And there were 1,181 page views from Texas?
 19 A. Yes.
 20 Q. Of just that editorial in just that month?
 21 A. Yes.
 22 Q. And each month we can see the number of page
 23 views there were from Texas for just that editorial?
 24 A. Yes.
 25 Q. And in the block below that for the article

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1 "Secrets of the MMR scare, how the case against the MMR
 2 Vaccine was fixed", in January 2011 alone there were 3,851
 3 page views from Texas?
 4 A. Yes.
 5 Q. And 74,048 from the US?
 6 A. Yes.
 7 Q. And we can total up these columns and
 8 determine how many there were in any year for just those
 9 articles; is that correct?
 10 A. Yes.
 11 Q. Look, if you would, please at Exhibit 27?
 12 (Exhibit 27 marked for identification)
 13 A. Yes.
 14 Q. The first page of Exhibit 27, does that
 15 reflect the number of peer reviewers that the British
 16 Medical Journal had from Texas in the years 2010 and 2011?
 17 A. Yes.
 18 Q. And it had nine from Texas in 2010 and nine
 19 from Texas in 2011?
 20 A. Yes.
 21 Q. The second page of Exhibit 27, does that
 22 accurately represent who the sales executive for the State
 23 of Texas for the BMJ was, an individual by the name of Sean
 24 Keough, K-E-O-U-G-H?
 25 A. It shows the sales executive who covers the

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1 south-east of the States which includes Texas but isn't
 2 confined to Texas.
 3 Q. So Sean Keough would be responsible for the
 4 south-east including the State of Texas, and he was based in
 5 the United States, correct?
 6 A. He is based in Florida.
 7 Q. And the manager, Denise McComb, would be over
 8 Sean Keough; is that right?
 9 A. She's customer support. I think -- I don't
 10 think she line manages Sean Keough.
 11 Q. Did she have responsibility for activities in
 12 Texas as it relates to customer support?
 13 A. She covers the entire North American continent
 14 customer support.
 15 Q. How about Tiffany Whited, would she cover all
 16 of North America including Texas for customer support?
 17 A. Yes.
 18 Q. And Trish Joyce would be the marketing manager
 19 for all of the United States and Canada, including Texas?
 20 A. Yes.
 21 Q. Look at Exhibit 28, if you would, please?
 22 (Exhibit 28 marked for identification)
 23 Can you tell me what that document is, please?
 24 A. Yes, this is an extract from a sales ledger
 25 that the Finance Department maintained for ad hoc invoices

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1 and some institutional subscription and Consortia
 2 subscriptions.
 3 Q. So, for example, the third line down there is
 4 a reference to the University of Texas at Arlington?
 5 A. Yes.
 6 Q. Central Library?
 7 A. Yes.
 8 Q. And then there is the address and the dollar
 9 amount?
 10 A. Yes.
 11 Q. What is that dollar amount?
 12 A. The 25,000?
 13 Q. And \$11?
 14 A. And \$11, yes.
 15 Q. And what does that \$25,011 relate to?
 16 A. That is for a 12 month subscription for two of
 17 our products, non-journal products, Best Practice and
 18 Clinical Evidence.
 19 Q. Okay. And these were revenues derived from
 20 the State of Texas during the year 2011?
 21 A. 2011 and 2012, yes.
 22 Q. In addition to these revenues you had the
 23 revenues from the other subscriptions that we have talked
 24 about?
 25 A. Yes.

Page 20

1 Q. And is it your understanding that there was
 2 another document produced that would reflect what those
 3 subscriptions revenues were?
 4 MR BLANKE: For the University of Texas Arlington.
 5 MR PARRISH: No, for the State of Texas. Have you
 6 all produced the revenues from the State of Texas? I am
 7 just asking her if it is her understanding that that is in
 8 the mix?
 9 MR FULLER: I will represent to you it has been.
 10 MR PARRISH: Okay. Look if you would, please, at
 11 Exhibit 29?
 12 (Exhibit 29 marked for identification)
 13 If you would go down to the line that is numbered
 14 116 on the left-hand column?
 15 A. Yes.
 16 Q. Now, this document as a whole is a list of
 17 conference attendants by representatives of the BMJ at
 18 various conferences and at various locations during the year
 19 2010, right?
 20 A. Yes, that's right.
 21 Q. And it indicates on-line 116 that both Sean
 22 Keough and Trish attended a conference in Austin, Texas?
 23 A. Yes.
 24 Q. On October 18th, 2010; is that correct?
 25 A. Yes, that is correct.

Page 21

1 Q. And is that some type of sales conference?
 2 A. No, it is described as a South Central Chapter
 3 and that is the South Central Chapter of the Medical Library
 4 Association.
 5 Q. Okay?
 6 A. So it is a conference of librarians but
 7 publishers go to it, obviously.
 8 Q. Okay. So this would have likely been medical
 9 librarians --
 10 A. Yes?
 11 Q. -- and others?
 12 A. Yes.
 13 Q. So the British Medical Journal had sales reps
 14 at a conference of medical school librarians and other
 15 medical librarians in October 2010?
 16 A. Yes.
 17 Q. Look if you would, please, at Exhibit 30?
 18 (Exhibit 30 marked for identification)
 19 This is a record of the British Medical Journal
 20 indicating that -- record of the BMJ indicating that for the
 21 British Medical Journal since January 1st, 2010 --
 22 A. Yes.
 23 Q. -- as of the date this was produced there were
 24 11 reviewers in Texas for the British Medical Journal,
 25 correct?

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1 A. That doesn't quite tally with the information
 2 on the previous sheet, which was nine in 2010 and nine in
 3 2011.
 4 Q. Yes.
 5 A. The previous Exhibit is more accurate.
 6 Q. And how do you know it is more accurate?
 7 A. Because a different person did it who works in
 8 the BMJ. These were collected from, collected by somebody
 9 who works on the BMJ journals who did the whole lot
 10 together.
 11 Q. When you say "these" you are referring to
 12 Exhibit 30?
 13 A. I am referring to Exhibit 30.
 14 Q. Let me make sure I understand also Exhibit 30.
 15 Let's go down, for example, line 17?
 16 A. Yes.
 17 Q. Gut, it is the name of a journal published by
 18 the BMJ; is that right?
 19 A. It is.
 20 Q. And this indicates that for that journal there
 21 were 13 Texas reviewers since January 2010 and nine authors
 22 based in Texas whose articles had been accepted for
 23 publication in Gut?
 24 A. Yes.
 25 Q. Look if you would, please, at Exhibit 31?

Page 23

1 (Exhibit 31 marked for identification)
 2 BMJ group offers support services to its
 3 institutional subscribers, correct?
 4 A. Yes.
 5 Q. And those are offered to the institutional
 6 subscriber in Texas?
 7 A. They are offered to all institutional
 8 subscribers, yes.
 9 Q. Okay. And this indicates under the heading
 10 "News Letter" that it is a monthly News Letter that is sent
 11 to subscribers; is that right?
 12 A. Yes.
 13 Q. So on a monthly basis BMJ sends news letters
 14 to its subscribers in Texas and elsewhere?
 15 A. If they subscribe to the News Letter.
 16 Q. Okay. And that is one of the services that is
 17 offered?
 18 A. Yes.
 19 Q. And this lists other services that are offered
 20 to subscribers in Texas and elsewhere?
 21 A. Yes.
 22 Q. Look if you would, please at Exhibit 32?
 23 (Exhibit 32 marked for identification)
 24 How would you describe what this document is?
 25 A. This is figures from High Wire who provide our

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1 website platform on how often a specific article has been
 2 accessed month by month.
 3 Q. So if I understand it correctly the first page
 4 of Exhibit 32 relates specifically to the article How the
 5 Case Against the MMR Vaccine Was Fixed, and it shows that in
 6 January 2011 the full article was accessed 112,924 times?
 7 A. Yes.
 8 Q. And then in February it was accessed 10,628
 9 times for the full article?
 10 A. Yes.
 11 Q. And on the other pages it is the same thing,
 12 just for the editorial on the second page and the editor's
 13 choice article on the third page, correct?
 14 A. Yes.
 15 Q. And if you look at Exhibit 33 please, Ma'am.
 16 Now, when someone goes on-line to read an article or an
 17 editorial there is something called a rapid response that
 18 they can give, correct?
 19 A. Yes.
 20 Q. And in order to give a rapid response they are
 21 required, according to Exhibit 33, to provide their name and
 22 e-mail address?
 23 A. Yes.
 24 Q. And their organization or individual address,
 25 correct?

1 A. Yes.
 2 Q. So for people who sent in rapid responses to
 3 any of the articles or editorials at issue in this lawsuit
 4 they would have been required to identify their name, e-mail
 5 address and actual address, correct?
 6 A. Yes.
 7 Q. So there would be a way to determine the
 8 number of rapid responders who provided Texas addresses,
 9 whether it be Texas e-mail address or a Texas physical
 10 address, correct?
 11 A. Yes, as long as the word "Texas" appeared.
 12 Q. Or so long as their e-mail address indicated
 13 Texas?
 14 A. Included the words "Texas".
 15 Q. It would have to include the word "Texas"?
 16 A. Yes, the way of finding this out would be to
 17 do a text search.
 18 Q. But what about the Texas IP addresses, would
 19 you know from this?
 20 A. No, not from this. That is not the way that
 21 we would find that information.
 22 Q. Right. What if the address was
 23 Austinroadrunner.com and didn't have the word Texas in it
 24 but it had a city in Texas?
 25 A. If you search for Austin it would come up, but

1 Q. And in connection with the Secret Series it
 2 was the intent of the BMJ to get as widespread a press
 3 coverage as they could, correct?
 4 A. We press release a lot of our articles. Our
 5 intention in general is to get widespread coverage, yes.
 6 Q. And when you issued press releases for the
 7 Secret Series it was your intent that people in Texas would
 8 find out about the articles and read the articles, correct?
 9 A. No, we sent it to our normal database of
 10 people. We didn't do anything different from normal. There
 11 are some Texas people on that database.
 12 Q. And you intended them to get it and to
 13 publicize it?
 14 A. We intended all the recipients of our press
 15 releases to get it.
 16 Q. I understand that it is all, but you knew when
 17 you did that that it would be going to Texas, you wanted it
 18 to go to Texas as well as every other State, correct?
 19 A. Yes, but nobody had a particular intention to
 20 target Texas.
 21 Q. I didn't say target Texas. You intended it to
 22 be distributed throughout the United States, correct?
 23 A. Yes.
 24 Q. Okay. You wanted publicity for the BMJ
 25 throughout the United States?

1 if you just search for Texas it wouldn't.
 2 Q. Alright. Finally, for this is section I want
 3 to ask you about Exhibit 34.
 4 (Exhibit 34 marked for identification)
 5 I am shifting gears from the statistics now and
 6 I am going to ask you about press releases. The BMJ issued
 7 press releases regarding the Secret Series that they
 8 published in January 2011, correct?
 9 A. Yes.
 10 Q. Describe for us, if you would, please, the
 11 process that BMJ uses in issuing press releases?
 12 A. Once they are written there is a context
 13 database maintained by our press officer and the BMA's press
 14 office, which includes all people who have signed up for BMJ
 15 press releases, and the e-mail goes into that system and is
 16 married up with the e-mail addresses in the database and
 17 they get automatically sent out to all those people.
 18 Q. And do you send them out on things like -- to
 19 different wire services then --
 20 A. Yes.
 21 Q. -- so that they get wide distribution?
 22 A. Yes, some of the people --
 23 Q. I didn't want to speak over you, so
 24 I apologise. We need to take turns so she can take it down.
 25 A. I am sorry.

1 A. And throughout the world.
 2 Q. And that included Texas?
 3 A. Because Texas is part of the United States,
 4 yes.
 5 Q. Yes. And in the case of the Secret Series
 6 efforts were made to time the release to get maximum
 7 publicity, correct?
 8 A. Not specifically. We have -- our press
 9 officer has a series of time slots on which she releases
 10 press releases and these weren't on one of those normal
 11 slots.
 12 Q. These weren't in?
 13 A. These went in one of the normal time slots.
 14 Q. But there was discussion back and forth
 15 between the BMJ and Mr Deer regarding the most effective
 16 timing for issuing these releases with respect to whether
 17 there were holidays involved, or with respect to whether or
 18 not it would get greater coverage at a certain period of
 19 time than in another period of time?
 20 A. Yes, this was just after Christmas so there
 21 was an issue around Christmas about whether it made sense to
 22 do it. That was partly for logistic reasons internally.
 23 Q. Okay. And do you know whether the press
 24 release was issued to any specific Texas press sources like
 25 the Dallas Morning News or Houston Chronicle?

1 A. In the information that we provided you with
2 there are the names of a few Texas newspapers, so we do know
3 it did go to some places in Texas.

4 MR PARRISH: Alright, let's take a quick break and
5 I will get some other Exhibits marked for you and we will
6 shift topics.

7 THE VIDEOGRAPHER: Going off-the-record at 9.55 am
8 as indicated on the video screen.

9
10 (Short Recess)

11
12 THE VIDEOGRAPHER: Back on the record at 10.14 am
13 as indicated on the video screen.

14 MR PARRISH: Miss Smith, you have in front of you
15 there a copy of the declaration of Fiona Godlee and
16 supported defendants Anti-SLAPP motion to dismiss, correct?

17 A. Yes.

18 Q. Look, if you would, please, Ma'am, at page 8,
19 paragraph 22. In this paragraph Dr Godlee says:

20 "I also assigned one of my deputy editors, Jane
21 Smith, to do a fact check of the first three articles,
22 specifically reviewing the GMC transcripts on which so much
23 of the article's content was based."

24 Is that accurate, did she assign you to do a fact
25 check of the first three articles.

1 format?

2 A. I had them on a memory stick.

3 Q. And did you have them where you could search
4 text and find information in them?

5 A. I could search text and find information in
6 them, yes.

7 Q. And Mr Deer offered to assist you in searching
8 the text as well, right?

9 A. He did.

10 Q. And he offered you his underlying documents
11 from his years of investigation, correct?

12 A. He brought them with him to a session that we
13 had to go through the article and the transcripts.

14 Q. He also even in writing offered to make them
15 available to you or whoever at BMJ wanted to do
16 investigation and fact checking and review of the article,
17 correct?

18 A. I don't remember him referring to all his
19 documents. What he brought to our meeting was the GMC
20 transcripts indexed and organized.

21 Q. Okay. But there was nothing that prevented
22 you from asking Mr Deer to review his underlying documents?

23 A. No, there was nothing.

24 Q. Now, looking back in this same affidavit, just
25 look briefly, if you would, at paragraph 8. It is fair to

1 A. She asked me to do a fact check of the first.

2 Q. Of the first article?

3 A. Yes.

4 Q. And she seems highly complimentary of you and
5 your career in this paragraph. I don't want you to seem
6 immodest, but you have been quite successful as an editor at
7 the BMJ; is that correct?

8 A. Yes.

9 Q. You are highly trusted?

10 A. Yes.

11 Q. You are experienced at editing a medical
12 journal?

13 A. Yes.

14 Q. You are careful and thorough in what you do?

15 A. Yes.

16 Q. And you applied those skills in connection
17 with your review of the transcripts and the evidence in
18 support, or relating to the first article in the Secret
19 Series?

20 A. I did.

21 Q. You had full access to the GMC, General
22 Medical Council hearing transcripts; is that right?

23 A. Yes.

24 Q. And I know that Mr Deer said that he had those
25 indexed and organized, did you have them in a searchable

1 say that you and others at the BMJ were aware of the fact
2 that the Lancet had issued an earlier statement claiming
3 that all but one of Deer's allegations could be dismissed,
4 correct?

5 A. If you are referring to what they published in
6 2004, yes.

7 Q. Yes. That is?

8 A. Yes.

9 Q. And you are aware that the GMC proceedings
10 were detailed proceedings in which both sides presented
11 evidence on both sides of the various issues at rest,
12 correct?

13 A. I know there were very detailed proceedings in
14 which there was lots of evidence presented.

15 Q. And you know that Dr Wakefield testified,
16 correct?

17 A. I'm not sure whether Dr Wakefield testified or
18 not.

19 Q. You know that Doctor -- Professor Walker-Smith
20 testified, don't you?

21 A. Yes, I know that.

22 Q. And you know Professor Murch testified, or
23 Dr Murch?

24 A. Yes.

25 Q. But you say you don't know whether Andrew

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1 Wakefield testified?

2 A. He must have testified. I cannot tell you

3 what he said in testimony.

4 Q. But you know he testified?

5 A. I don't know for a fact that he testified.

6 Q. So what you are telling us is that in all of

7 your extensive review of the BM -- of the GMC proceedings

8 you never looked at the testimony that Mr Wakefield --

9 Dr Wakefield gave, correct?

10 MR BLANKE: Objection to form.

11 MR PARRISH: In all of your extensive review did

12 you look to see what Dr Wakefield said about any of these

13 issues?

14 A. I was checking what Brian Deer had said in his

15 article, that it faithfully represented what was in the GMC

16 transcripts.

17 Q. Objection, non-responsive. Did you understand

18 my question?

19 A. Can you repeat it?

20 Q. Yes. In all of your review and fact checking

21 on behalf of the BMJ with respect to the truth and accuracy

22 of the statements in the first article in the series, did

23 you never look to see what Dr Wakefield testified?

24 A. I cannot remember that I did.

25 Q. Okay. But you certainly could have. The

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1 whole GMC transcript was there for you to look at?

2 A. They were. I didn't find it necessary.

3 Q. You chose not to look at his testimony,

4 correct?

5 A. I didn't need to to check the things that

6 I was looking at.

7 Q. So you made a decision not to look at his

8 testimony?

9 A. I didn't need to.

10 Q. Objection, non-responsive. I heard you say

11 that. You made a conscious choice not to look at the

12 testimony of Dr Wakefield in your fact checking of the Deer

13 articles, correct?

14 A. No, I didn't make a conscious choice.

15 Q. You didn't look at it?

16 A. I didn't look at it, correct, but it wasn't a

17 conscious choice not to look at Mr Wakefield's testimony.

18 Q. It was at least an unconscious choice because

19 you never did it?

20 MR BLANKE: Objection to form.

21 MR PARRISH: Look at paragraph 13 of Dr Godlee's

22 declaration. This says that Deer submitted the first drafts

23 of his next three articles in June and July 2010. By next

24 three I think you can see the context, she's talking about

25 the three articles that ultimately became the Secret Series,

Page 35

1 correct?

2 A. Yes.

3 MR PARRISH: So he submitted those drafts in June

4 and July 2010, correct?

5 A. Yes.

6 MR PARRISH: So he had already written the basic

7 articles months before the GMC transcripts came out?

8 A. He had written something before we got hold of

9 the GMC transcripts. He had, of course, sat through the GMC

10 hearings.

11 MR PARRISH: Objection, non-responsive. Did you

12 understand my question?

13 A. Can you repeat it?

14 MR PARRISH: Yes. Mr Deer had written drafts of

15 the three articles that became the Secret Series months

16 before the GMC transcripts came out and were available?

17 MR BLANKE: Objection to form.

18 MR PARRISH: Correct? What is the objection?

19 MR BLANKE: Assumes a fact not in evidence that

20 there is some general availability date for everybody to

21 have access to these transcripts.

22 MR PARRISH: Well, you know the GMC transcripts

23 weren't available in June and July 2010, weren't you?

24 MR BLANKE: The same issue. If you want me to

25 receipt repeat the objection?

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1 MR PARRISH: You can repeat the objection. It is

2 your understanding that the GMC transcripts were not

3 available in June and July 2010, correct?

4 A. We were not able to get hold of them until

5 December.

6 MR PARRISH: And Mr Deer didn't have them

7 available in June and July 2010, did he?

8 MR BLANKE: Objection to form.

9 A. I don't know.

10 MR PARRISH: You don't know?

11 A. I don't know.

12 Q. You didn't ask him if he had them available?

13 A. No.

14 Q. Did he offer to make them available to you in

15 June and July 2010?

16 A. No.

17 Q. Do you have any real belief that he had them

18 available in June and July 2010?

19 A. I actually don't know and I can't remember,

20 but it didn't stop him from writing the articles.

21 Q. And, in fact, he told you and told Dr Godlee

22 and others at the BMJ when he submitted the articles that

23 the transcripts were not yet available and that they would

24 need, the articles would need checking once the transcripts

25 were available, isn't that right?

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1 A. Yes.

2 Q. So you do know that he did not have them

3 available when he wrote the drafts of the articles?

4 MR BLANKE: Objection to form. (Pause) There is a

5 question pending.

6 A. Sorry, what was the question that I need to

7 answer?

8 MR PARRISH: You do know that Mr Deer did not have

9 the transcripts available at the time he submitted the

10 drafts of the three articles to the BMJ?

11 A. I cannot recollect exactly what Mr Deer did

12 and didn't have available to him in June and July. I do

13 know that we didn't get the transcripts until later.

14 Q. Well, look, for example, at Exhibit 19, if

15 that is in front of you there?

16 A. Yes.

17 Q. Exhibit 19 was marked in the deposition

18 yesterday, but if you see at the top of the first page of

19 Exhibit 19 there is an e-mail from you to Dr Godlee copied

20 to other people, do you see that?

21 A. I do.

22 Q. And it starts off at the top:

23 "Dear all, I have not reread the first one yet but

24 have read two plus three. I have put some comments in red

25 in both attached."

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1 Do you see that?

2 A. I do.

3 Q. That is indicating that you put editing

4 comments in the attached drafts of articles, correct?

5 A. Correct, yes.

6 Q. Now, part of the same string of e-mails

7 includes one further down, and it is on the second page, and

8 at the bottom of that page is an e-mail from Brian Deer. It

9 is the e-mail through which Brian Deer transmitted drafts of

10 the articles, correct?

11 A. Yes.

12 Q. And he says in the second paragraph:

13 "There is a lot of work still to do especially

14 when the GMC releases the transcripts."

15 Do you see that?

16 A. I do.

17 Q. So it is clear that as of July 13 when he

18 submitted the articles the GMC hadn't released the

19 transcripts, correct?

20 A. That would be a reasonable inference to draw

21 from what he says there, yes.

22 Q. And back at that time on July 14 Dr Godlee had

23 stated on the second page of Exhibit 17 that with respect --

24 MR BLANKE: 17 or 19?

25 MR PARRISH: 19. Thank you very much for

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1 clarifying that. If you look at the second page of

2 Exhibit 19 in that first full paragraph it is referring to

3 the second article which looks at the discrepancies in the

4 Lancet Paper, that is the one that became the first article,

5 right?

6 A. Yes. Yes.

7 Q. And she indicates as early as July 14th that

8 she thinks the paper should be peer reviewed, correct?

9 A. She says, "I think it would be worth getting

10 this paper peer reviewed." Yes.

11 Q. And you worked closely with Dr Godlee

12 throughout this time period, correct?

13 A. I worked very closely with her towards the end

14 of this period when I started doing the checking of the

15 transcripts.

16 Q. Okay. And you would communicate with her

17 regarding what you were and were not finding and what you

18 were doing in this regard?

19 A. Yes.

20 Q. And you talked to her about whether it would

21 be a good idea to have the article peer reviewed?

22 A. We did discuss that because in the end we sent

23 it to Harvey Markovich.

24 Q. Okay. Now, look at that next paragraph, still

25 on the second page of Exhibit 19?

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1 A. Umm hmm.

2 Q. It says:

3 "The third paper will be the most challenging for

4 us. It expresses Brian's fury about the way Richard Horton

5 dealt with him."

6 It goes on to say:

7 "The BMJ will need to be handled in a different

8 way with much less of Brian in it and a cooler more

9 objective tone generally. Achieving this will not be easy."

10 Did you discuss that issue with Dr Godlee?

11 A. Yes.

12 Q. It was very clear that Brian Deer was

13 expressing very personal emotional feelings in that third

14 article, wasn't it?

15 A. In his original drafts, yes.

16 Q. And he had very strong feelings about the way

17 he was treated, didn't he?

18 A. I believe so.

19 Q. And it is fair to say that throughout the

20 process Mr Deer exhibited a very large ego, correct?

21 A. I am not sure I would describe it as a large

22 ego actually. He was touchy at times.

23 Q. In fact, he kind of threw a few tantrums in

24 the process?

25 A. Yes.

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1 Q. But he tended to write extensively about
2 himself and take credit for things?
3 A. He had a style of writing that was appropriate
4 to his background as an investigative journalist used to
5 writing for the lay press, so there was lots of human
6 interest stuff in it.
7 Q. Objection, non-responsive. My question was
8 about whether he wrote about himself a lot and made it very
9 personal in his writing style?
10 A. Well, I have made a comment on one of these
11 articles that I thought there is too much of Brian in it.
12 I don't think that would apply to the other two.
13 Q. And what does the phrase mean to say "it is
14 purple"?
15 A. Oh, rather florid, verbose, overwritten.
16 Q. Okay. In any event you knew at that time, and
17 Dr Godlee knew at that time that Brian Deer had a tendency
18 to have strong emotional feelings about the issues that were
19 being written about, correct?
20 MR BLANKE: Objection to form.
21 A. He was worked up about Richard Horton and the
22 way that he felt he had been treated over -- when he brought
23 this material to Richard Horton.
24 MR PARRISH: And don't you think he was also
25 worked up about Dr Wakefield?

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1 A. I didn't see, I didn't see in his -- in the
2 way he wrote about Wakefield the bits of anger that I saw in
3 the way that he wrote about Horton.
4 MR PARRISH: But you did see that he took a very
5 personal interest in it?
6 MR BLANKE: Objection to form.
7 MR PARRISH: In the claims against Dr Wakefield.
8 A. He had followed and unearthed the story from a
9 long time earlier.
10 MR PARRISH: He took a very personal interest in
11 his writing about Dr Wakefield, did he not?
12 A. I don't know -- can you rephrase the question,
13 I am not sure what you mean.
14 MR PARRISH: Well, you knew that he had been sued
15 by Dr Wakefield before, correct?
16 A. Yes, I think I did know that.
17 MR PARRISH: And you knew that he was highly
18 offended by having been sued by Dr Wakefield?
19 A. Well, clearly one doesn't like being sued.
20 MR PARRISH: Right. And so you knew that he was
21 very intense in his feelings about Dr Wakefield?
22 MR BLANKE: Objection to form.
23 A. I don't know. I don't know what his emotions
24 are. I know that he had pursued this case and thought that
25 there was evidence that should be out in the public domain

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1 because he thought that it was a bad thing that had
2 happened. He wanted it exposed.
3 MR PARRISH: Look, if you would, on Exhibit 19,
4 the page in the bottom right-hand corner that is BMJ 8496?
5 A. Yes.
6 MR BLANKE: Then you said something about a part
7 of it -- oh, right-hand corner. Okay.
8 MR PARRISH: Look at the second paragraph from the
9 bottom. This is the line he wrote:
10 "The father needn't have worried. My
11 investigation into the MMR issue nailed Wakefield like few
12 doctors in living memory."
13 And that is your comment that says:
14 "Bit purple, bit self-congratulatory." Right?
15 A. Yes.
16 Q. So in this document the things in brackets are
17 comments that you made?
18 A. Certainly some of them are. I think most of
19 them are.
20 Q. And look up further on the page at the end of
21 the second, in the middle of the second full paragraph. The
22 paragraph starts:
23 "Children with enteritis disintegrative disorder."
24 Do you see that?
25 A. Yes.

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1 Q. There is a bracketed statement: "Is
2 'regressive autism' a recognised term? Does it need,"
3 I think it was supposed to be defining questions mark?
4 A. Yes.
5 Q. That is a comment that you made, is it not?
6 A. I honestly can't recollect. It could have
7 been from Fiona. It could have been from me. I can't
8 remember.
9 Q. But it is a comment that was made in
10 connection with the very earliest draft, or the very first
11 draft that the BMJ got from Brian Deer, correct?
12 A. Yes, it is a comment made by one of us.
13 Q. Okay. Look at the next page of the Exhibit,
14 it has the number 8497 in the lower right-hand corner.
15 There is a reference to a statement by someone that Mr Deer
16 interviewed:
17 "The following day she filed a complaint with my
18 editors at the Sunday Times."
19 Do you see that?
20 A. Yes, I do.
21 Q. Do you remember what this is about?
22 A. This refers to the quotations above it.
23 Q. He is talking about a memory, an interview he
24 conducted with the mother of Child 2, correct?
25 A. Yes.

1 Q. If you look at the bottom of page 8496?
 2 A. Yes, yes.
 3 Q. And you recall learning at the earliest draft
 4 that he had conducted an interview with a mother and that
 5 mother had accused him of using gutter tactics, correct?
 6 A. She apparently accused him to the Sunday Times
 7 of accusing tactics against the press.
 8 Q. Now, did Mr Deer tell you that he had misled
 9 the mother of Child 2 in connection with the interview that
 10 he had conducted?
 11 MR BLANKE: Objection to form.
 12 A. I don't remember talking to Brian Deer about
 13 this interview.
 14 MR PARRISH: So in your fact checking of the story
 15 that became How the Case Against the MMR Vaccine was Fixed,
 16 you didn't ever talk to Mr Deer about the interview he
 17 conducted with Miss Kessick who had accused him of using
 18 gutter tactics?
 19 A. May I clarify my role in fact checking?
 20 MR PARRISH: Let me first ask you to answer that
 21 question. Do you need it read back?
 22 A. Yes, would you mind? Sorry.
 23 MR PARRISH: In your fact checking of the story
 24 that became How The MMR Vaccine was Fixed, you didn't ever
 25 talk to Mr Deer about the interview he conducted with Miss

1 ever asking him for the tape or reviewing the tape?
 2 A. I don't know.
 3 Q. You are not aware if it if it happened?
 4 A. If it happened, that specific point I'm not
 5 aware of, no.
 6 Q. Okay. And are you aware of anyone questioning
 7 him regarding what the mother of Child 2 did or didn't say?
 8 A. Brian Deer was questioned about nearly all the
 9 statements in these articles over the period of the six
 10 months on which they were being worked on. I wasn't present
 11 at those questions so I don't know the specifics of what was
 12 asked. I do know that we came away feeling that we could
 13 rely absolutely on what he had said.
 14 Q. Objection, non-responsive. My question was
 15 very specific and clear, I believe. Are you aware of anyone
 16 questioning him regarding what the mother of Child 2 did or
 17 didn't say?
 18 A. I don't know.
 19 Q. So the answer is you are not aware?
 20 A. It may have happened.
 21 Q. But if it did you are not aware of it?
 22 A. Yes.
 23 Q. Look at the page BMJ 008502. We are still in
 24 Exhibit 19. If you would look at the bottom paragraph, this
 25 is again a draft of what became How the Case Was Fixed

1 Kessick who had accused him of using gutter tactics?
 2 A. I personally didn't, no. Am I allowed to
 3 clarify my role in the fact checking?
 4 MR PARRISH: No, your lawyers can ask that later,
 5 right now I have limited time?
 6 A. Okay.
 7 MR PARRISH: You could have gotten the tape of the
 8 interview from Mr Deer had you asked, correct?
 9 MR BLANKE: Objection to form.
 10 A. What I don't know is whether somebody else in
 11 our editorial team asked Mr Deer about that. There was a
 12 lot of checking of these articles that went on by Fiona
 13 Godlee, by our legal advisor before I got involved with this
 14 article.
 15 MR PARRISH: Objection, non-responsive. My
 16 question was whether or not you could have gotten the tape
 17 of the interview from Mr Deer?
 18 MR BLANKE: Objection to form.
 19 A. I don't know whether he taped it.
 20 MR PARRISH: I believe Mr Deer testified that he
 21 did tape it?
 22 A. Okay.
 23 Q. You never asked him for the tape?
 24 A. I personally didn't, no.
 25 Q. And you are not aware of anyone at the BMJ

1 article, correct?
 2 A. Yes.
 3 Q. And I will show you Exhibit 2, the final
 4 article to let you orientate yourself. If you look at
 5 Exhibit 2, which is the actual article on page 81.
 6 Beginning in the bottom right-hand corner there is the final
 7 version of that paragraph that says: "Wakefield however
 8 denies any wrongdoing."
 9 Do you see that?
 10 A. Yes.
 11 Q. Now, in the draft you inserted an editorial
 12 comment in that paragraph saying:
 13 "Where does Wakefield say all this? Are these
 14 quotes of what he said at the GMC hearing or has he said
 15 them separately to Brian?"
 16 Do you believe that is your editorial note?
 17 A. I think it probably is, yes.
 18 Q. So you knew that Wakefield had made denials?
 19 A. Yes.
 20 Q. And you knew, in fact, that he had denied it
 21 line by line, word for word according to Mr Deer?
 22 A. Yes.
 23 Q. And in your fact checking you never looked at
 24 Wakefield's testimony to see what exactly he did say, did
 25 you?

1 A. I didn't, you are right, because that bit had
 2 already been --
 3 MR BLANKE: Just answer the question.
 4 MR PARRISH: And did he respond about when you
 5 asked: "Where does Wakefield say all this?"
 6 A. I didn't ask him that question. This was an
 7 early draft and these were comments batting backwards and
 8 forwards internally in the office.
 9 Q. Well, that language made it into the final
 10 version. Did you ever question him or --
 11 A. Somebody questioned him, but it wasn't me.
 12 Q. Who questioned him about that?
 13 A. Fiona Godlee would have questioned him.
 14 Q. You know that as a matter of fact, or you are
 15 assuming that happened?
 16 A. I know that these articles were pored over and
 17 anything that had a query against it, yes. I know I wasn't
 18 there but I am sure it was.
 19 Q. You know that -- you knew that Dr Wakefield
 20 had written a book, correct?
 21 A. I think I did, yes.
 22 Q. But you never went to his book to see what he
 23 said about these issues?
 24 A. I didn't, no.
 25 Q. And do you know whether someone on behalf of

1 Q. Now I understand there were people editing the
 2 articles who besides was responsible for fact checking the
 3 articles?
 4 A. Fiona Godlee, our legal advisor.
 5 Q. What is that person's name?
 6 A. Can I consult with counsel about whether that
 7 is privileged?
 8 Q. The name isn't. I am not going to ask you
 9 what they said?
 10 A. Godwin Busuttill, B-U-S-U-T-T-I-L.
 11 Q. Anyone else?
 12 A. No.
 13 Q. Just one more question about the Godlee
 14 declaration. Paragraph 21, it is on page 7?
 15 A. Yes.
 16 Q. It says: "All three articles, however, were
 17 subjected to rigorous internal editorial review and fact
 18 checking processes."
 19 Was the fact checking rigorous?
 20 A. Yes.
 21 Q. So if it is rigorous someone should have
 22 checked what Dr Wakefield said about these issues, correct?
 23 A. Not necessarily.
 24 Q. Well, this was an article that you knew could
 25 do substantial damage to Dr Wakefield, correct?

1 the BMJ, as opposed to Mr Deer, went and looked at the book
 2 to see what he said?
 3 A. I don't know whether they went and looked at
 4 the book, but the reference in the article is to the Press
 5 Complaints Commission complaint.
 6 Q. And that is the only reference in there other
 7 than to articles written by Mr Deer regarding what
 8 Mr Wakefield said?
 9 A. That is one reference in that statement. I am
 10 sure there are other places it could have been referred to.
 11 Q. But you don't know?
 12 A. I don't know.
 13 Q. But certainly the book was available to you
 14 had you wanted to use it for fact checking, and the Press
 15 Commission's complaint was available to you if you wanted to
 16 use it for fact checking, and there was lots of information
 17 available to you had you chosen to use it, correct?
 18 A. There is a wealth of information available to
 19 editors all the time. They make choices about what they
 20 use.
 21 Q. But these things were easily available to you.
 22 It was easy for you to get the book. It was easy for you to
 23 get the Press Commission complaint. You knew, in fact, that
 24 Mr Deer had those documents?
 25 A. Yes.

1 A. Yes.
 2 Q. You are accusing Dr Wakefield of fraud, of
 3 doctoring records, of altering records?
 4 A. This is articles two and three.
 5 Q. It says all three articles?
 6 A. Sorry, yes.
 7 Q. "Were subjected to rigorous internal editorial
 8 review and fact checking."?
 9 A. Yes.
 10 Q. So back to the question. Let's talk about the
 11 first article, the one right in front of you. What Exhibit
 12 number is that?
 13 MR BLANKE: 2.
 14 MR PARRISH: Exhibit 2. You knew that in that
 15 article and, in fact, in the editorial that you signed on
 16 you were accusing Dr Wakefield of fraud, correct?
 17 A. Yes.
 18 MR PARRISH: In fact, you accused him of altering
 19 records, correct?
 20 A. We accused him of altering the account of what
 21 happened to those children in the article.
 22 MR PARRISH: You accused him of undisclosed
 23 alterations?
 24 A. Yes, in the article.
 25 MR PARRISH: And you accused him of intentional

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1 fraud, correct?

2 A. Yes.

3 MR PARRISH: So you knew that this was something

4 very serious that was being alleged, don't you think if

5 there was going to be rigorous fact checking you should have

6 made some effort to find out what Dr Wakefield said about

7 those issues?

8 A. Well, Mr Deer in general knows what

9 Mr Wakefield says about those issues. We were satisfied

10 from the checking that we did that everything Brian said in

11 those articles stacked up.

12 MR PARRISH: Objection, non-responsive. Mr Deer,

13 if you ever looked at his website you would see he has it

14 out for Dr Wakefield and he has for years. I am not asking

15 about Mr Deer, I am asking about you as an independent fact

16 checker. This was the British Medical Journal --

17 A. Yes.

18 MR BLANKE: Let him finish whatever number of

19 questions he has.

20 MR PARRISH: I am going to start over this

21 question. The British Medical Journal holds itself out to

22 be one of the most prestigious medical journals in the

23 world, correct?

24 A. Yes.

25 Q. The British Medical Journal is respected in

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1 the medical profession because it is supposed to be

2 legitimate and careful in what it does and what it says,

3 correct?

4 A. Yes.

5 Q. Now, as the British Medical Journal don't you

6 think you had obligation in fact checking these serious

7 allegations to look beyond what Mr Deer said and to look and

8 see what was said on the other side of the coin?

9 MR BLANKE: Are you done?

10 MR PARRISH: Yes.

11 MR BLANKE: Objection to form.

12 A. We were satisfied that, no, we didn't feel we

13 had an obligation to do that.

14 MR PARRISH: So the British Medical Journal thinks

15 it doesn't have an obligation in accusing a man of fraud to

16 find out what the facts are relating to what that man says

17 he did or didn't do?

18 MR BLANKE: Objection to form.

19 MR PARRISH: Go ahead and answer?

20 A. There is plenty on record of what Mr Wakefield

21 has said, and the information in these three articles

22 stacked up to provide no other explanation but fraud.

23 MR PARRISH: Objection, non-responsive. Let's

24 talk about the article that's been marked as Exhibit 2.

25 A. Yes. Are you telling this judge and this jury

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1 under oath that when accusing a man of fraud in an article

2 like this you don't think you had any obligation to

3 investigate the facts of what that individual said about the

4 issues?

5 MR BLANKE: Objection to form.

6 A. The information in article one comes from,

7 largely from the GMC transcripts and the GMC hearing. There

8 is a formidable body of evidence that the way that these

9 cases were described in the Lancet Paper was a complete

10 fabrication, and we were satisfied with that. There wasn't

11 much point asking Mr Wakefield what he thought because we

12 know he would deny it. We knew that before we started.

13 MR PARRISH: But you didn't even make the effort

14 to look at what the facts were in that extensive GMC record

15 regarding what did or didn't happen from Mr Wakefield's

16 perspective?

17 MR BLANKE: Objection to form.

18 MR PARRISH: You can answer.

19 A. We were satisfied from the checking that we

20 did and what was said in the GMC hearing, together with the

21 GMC judgment that everything in this article stacks up.

22 MR PARRISH: Well, you said you were satisfied

23 from what was said in the GMC hearing, but you don't know

24 what was said in the GMC hearing by Dr Wakefield or

25 Professor Walker-Smith or those who testified on behalf of

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1 Dr Wakefield or Professor Walker-Smith, do you?

2 MR BLANKE: Hang on here. I want to read this.

3 MR FULLER: Objection to form.

4 MR PARRISH: You can answer.

5 A. Sorry, remind me of the question.

6 MR PARRISH: Do you know what was said in the GMC

7 hearing by Professor Walker-Smith about the issues referred

8 to in Exhibit 2, the How the Case Was Fixed article?

9 A. I can't remember, but I do know that the facts

10 that we put in this article, which were not challenged at

11 the GMC hearing, are correct.

12 Q. Let me ask you just as an example, look at the

13 box that is in that article?

14 A. Yes.

15 Q. That box contains what were the key

16 allegations of fraud against Dr Wakefield, correct?

17 A. Yes.

18 Q. And let's just take the first one, for

19 example, in the box. It is the first bullet point. It

20 says:

21 "In fact three of nine children reported with

22 regressive autism did not have autism diagnoses at all."

23 Correct?

24 A. That is what it says.

25 Q. And that is a very serious allegation in

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1 connection with this paper, isn't it?

2 A. It is one of the allegation of the paper, yes.

3 Q. And it is a serious one?

4 A. Yes.

5 Q. And it is one that could easily be checked in

6 the GMC record, is it not?

7 A. Yes.

8 Q. In fact, you knew that the GMC record had the

9 medical records of the children that were being discussed?

10 A. Yes.

11 Q. And Mr Deer has testified yesterday, and I am

12 sure he made clear to you that he was talking about the

13 three were Child 6, 7 and 12. I am sure you knew that at

14 the time you were doing your fact check, did you not?

15 A. I am sure I did, yes.

16 Q. Look at what has been marked as Exhibit 44.

17 I will represent to you that this is testimony from Day 7,

18 page 18 of the transcript relating to Child 12.

19 (Exhibit 44 marked for identification)

20 A. Okay.

21 Q. Read to me beginning at the top of the page?

22 A. "Can I ask you to go to the clinical records

23 and GP notes at page 11?"

24 Q. And you understand that GP notes refers to

25 general practitioner notes?

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1 A. I do, yes.

2 Q. Keep reading, please?

3 A. "There is a note at the top of the page 19th

4 July 1996, that note says: 'D for diagnosis. Autism. M,

5 for mother. Anxious Re MMR and autism and Crohns, but no

6 blood PR, per rectum. Zero, no symptoms of obstruction'."

7 Q. That is quoting the general practitioner notes

8 for Child 12 saying there was a diagnosis autism, correct?

9 A. The GP note says diagnosis autism, correct.

10 Q. Yet you printed in the British Medical Journal

11 that that child had no diagnosis of autism at all. Did you

12 fact check whether or not there was a diagnosis of autism?

13 A. You have given me one piece of evidence out of

14 a whole load. I would need to go back and look at

15 transcripts, remind myself of the context for this.

16 Q. But clearly there was a diagnosis of autism

17 that was in the records before the GMC transcript?

18 MR BLANKE: Objection to form.

19 A. What I don't know is when that diagnosis was

20 made in relation to MMR.

21 MR PARRISH: That is not the issue of whether it

22 was in relation to MMR, it was on 19th July 1996, which was

23 before the child was ever examined in the Clinic, correct?

24 A. I am sorry, it is one bit of information out

25 of a huge mass. I am now willing to comment on it without

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1 seeing --

2 Q. I am not asking you what was said elsewhere.

3 I am asking you was there or was there not a diagnosis of

4 autism for Child 12 in the records that were before the GMC?

5 A. This line says that the GP's notes says that

6 there was.

7 Q. Okay?

8 A. But, as I say, that is one piece of

9 information in a tiny little bit.

10 Q. Well, you say it is one piece of information

11 in a tiny little bit. Did you ever make any effort to

12 determine whether there actually was a diagnosis of autism

13 for Child 12 or Child 7 or Child 6?

14 A. I remember going through all the information

15 on the children referred to in the article. I can't

16 remember the detail.

17 Q. So you did go through all the testimony with

18 respect to each child?

19 A. I went through all the relevant testimony with

20 regard to each child.

21 Q. Who determined what was relevant?

22 A. I did.

23 Q. So obviously you would have looked at the

24 testimony of the expert witnesses?

25 A. Yes.

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1 Q. And you would have considered -- Mr Deer would

2 have told you that Mr Rutter was an expert witness, right?

3 A. Yes.

4 Q. And did you in examining the evidence look at

5 the testimony that Mr Rutter gave?

6 A. I believe I did.

7 Q. And isn't it true that Dr Rutter, the expert

8 for the GMC, said that Aspergers is a mild form of autism?

9 A. He may well have done.

10 Q. In fact, many experts may have said that

11 Aspergers was a form of autism, correct?

12 A. They are, in fact, definitionally different,

13 they appear in different chapters of the DSM.

14 Q. Objection, non-responsive. Did you not

15 understand my question?

16 A. I did understand your question. I don't know

17 the answer to that question.

18 Q. So you don't know whether several experts

19 during the GMC hearing testified that Aspergers is a form of

20 autism, or a mild form of autism?

21 A. I don't know how many people said that.

22 Q. Did you look at that issue in fact checking

23 the article that's been marked as Exhibit 2, or did you just

24 accept Brian Deer's interpretation?

25 A. No, we did check that.

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1 Q. So if that was there in multiple forms in the
2 GMC transcript you chose to ignore it?
3 A. No, we relied on the fact that the DSM defines
4 them as separate conditions. They are related.
5 Q. Well, tell me, where does the DSM define the
6 term autism with a lowercase A?
7 A. Sorry, I don't understand the question.
8 Q. Are you telling this judge and this jury under
9 oath that the DSM 4 defines autism, lowercase A autism as it
10 was used throughout, as a defined term?
11 A. I am not familiar with DSM 4 but I understand
12 it to be the case that autism and Aspergers appear in
13 different sections of the DSM.
14 Q. Well, before you told me -- where is that
15 understanding obtained from, is it Mr Deer?
16 A. Mr Deer certainly used it but we also checked
17 it with our peer reviewer.
18 Q. Wait a minute. The peer reviewer, you didn't
19 check it with a psychiatrist or a psychologist, did you?
20 A. We checked it with a pediatrician.
21 Q. With a pediatrician? You say you had this
22 article peer reviewed but there was no peer review by
23 anybody who was a gastroenterologist, right?
24 A. Correct.
25 Q. No peer review by anybody who was a

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1 psychiatrist, whether a child psychiatrist or an adult
2 psychiatrist, right?
3 A. Correct.
4 Q. No peer review by somebody involved in
5 histology?
6 A. Not at this article, no.
7 Q. So with respect to the issue of whether or not
8 Aspergers is considered a form of autism, if there was
9 testimony in the record that suggested that it is, from
10 experts, no less, you chose to ignore that?
11 A. We must have done. I can't actually
12 recollect.
13 Q. And yet even though there is testimony in the
14 record from experts, including Dr Rutter that Aspergers is a
15 mild form of autism, you made the determination that the
16 authors of the Lancet report committed fraud when they
17 called it autism?
18 MR BLANKE: Objection to form.
19 MR PARRISH: Is that correct?
20 A. We made that determination taking all the
21 evidence together. There was so many things that just
22 didn't stack up in this whole story.
23 Q. Let's --
24 A. You know, one little piece on its own.
25 Q. But this is not a little piece. This is a

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1 significant piece. You put it in a box and highlighted it
2 and it is the first bullet point of whether or not three of
3 the nine children reported with regressive autism did not
4 have autism diagnoses at all?
5 A. There are six points in that box.
6 Q. That is right, and this is the first one
7 listed, isn't it?
8 A. Yes, but there are six points listed in that
9 box.
10 Q. Mr Deer said that characterizing these three
11 children -- that the representation that these three
12 children had autism was fraud, is that part of the BMJ's
13 characterization of the fraud in this case?
14 A. The fraud consists of all the discrepancies
15 between what actually happened and what was said in the
16 Lancet Paper.
17 Q. Is it fraud for Mr Deer to have said that
18 three of the nine children reported with regressive autism
19 did not have autism diagnoses at all if, in fact, there were
20 diagnoses of autism for those children?
21 A. But we know there weren't.
22 Q. No, we don't know that. In fact, I have just
23 shown you with respect to one of them that there was?
24 A. You showed me a tiny piece of evidence from a
25 huge transcript.

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1 Q. And if I had half the time I needed I could
2 show you a lot more?
3 MR BLANKE: Do you have a question?
4 MR PARRISH: Yes. The question was is it fraud
5 for Mr Deer to have said three of the nine children reported
6 with regressive autism did not have autism diagnoses at all
7 if, in fact, there were diagnoses of autism for those
8 children? So I want you to assume with me that there was a
9 diagnosis of autism?
10 MR BLANKE: Objection to form.
11 A. We were pretty convinced there wasn't a
12 diagnosis of autism.
13 MR PARRISH: But you are convinced without even
14 looking at the evidence that was submitted on the other
15 side. How is that fairly being convinced?
16 MR BLANKE: Objection to form.
17 A. We were also convinced by the GMC's findings.
18 MR PARRISH: So you had been convinced before you
19 ever did your alleged fact checking, right?
20 A. There is no reason to doubt the GMC's findings
21 on the basis of its extensive case -- extensive hearings.
22 Q. Wait a minute. Go back and look at the
23 article that we are talking about, Exhibit 2, How the Case
24 Against the MMR Vaccine was Fixed?
25 A. Yes.

1 Q. Look at the language that the BMJ highlighted
2 in that article. It says:

3 "The regulators' main focus was whether the
4 research was ethical. Mine was whether it was true."?

5 A. Yes.

6 Q. The GMC did not focus on whether or not the
7 statements in the Lancet article were true or not. They
8 focused on whether there was ethical approval, right,
9 correct?

10 A. They focused a lot -- yes, their main area of
11 focus was whether there was ethical approval, but that
12 didn't mean to say they didn't make an extensive set of
13 judgments about what they thought was false or true.

14 Q. But you are not telling us that the GMC made a
15 finding that these children did not have autism, the three
16 that Deer is referring to?

17 A. The GMC made a whole host of findings and
18 I cannot remember the specifics now. I don't know whether
19 they made a finding on that specific point.

20 Q. So you are not representing, as I thought
21 maybe you were in your prior answers, that the GMC made
22 findings on whether these specific children had autism?

23 A. I can't remember.

24 Q. And you did not look to see, did you?

25 A. I read the GMC's hearing -- I read the GMC's

1 numerous facts about the patients medical histories in order
2 to support his claim to have identified a new syndrome."

3 Do you see that?

4 A. I do.

5 Q. In all of the investigation that you did was
6 there ever anything on a single page of the GMC record, or
7 in any document that you looked at that showed that
8 Dr Wakefield had altered a document, that he had erased
9 something or written over something, or changed the language
10 on a document?

11 A. I did not see anything of that sort.

12 Q. And you never heard anyone say that
13 Dr Wakefield altered any documents or medical records,
14 correct?

15 A. I don't remember hearing that.

16 Q. Okay. Now, look down a little further in your
17 editorial, the third full paragraph where it starts off
18 with: "The office of research integrity", do you see that?

19 A. I do.

20 Q. It says:

21 "Deer unearthed clear evidence of falsification.
22 He found that not one of the 12 cases recorded in the 1998
23 Lancet Paper was free of misrepresentation or undisclosed
24 alteration, and that in no single case could the medical
25 records be fully reconciled with the descriptions, diagnoses

1 judgments.

2 Q. Well, let's ask about a few more Exhibits here
3 real quick. Let me show you -- let me go back to one other
4 thing before I switch to Exhibit 35. Look if you would,
5 please, at the editorial that I think has been marked as
6 Exhibit number --

7 A. 5.

8 Q. 5, yes. This is the editorial that Dr Godlee,
9 you and Dr Markovich wrote entitled "Wakefield's article
10 linking MMR Vaccine and autism was fraudulent"; is that
11 right?

12 A. Yes.

13 Q. And it says:

14 "Clear evidence of falsification of data should
15 now close the door on this damaging vaccine scare." As part
16 of this title, correct?

17 A. Yes.

18 Q. So you and Dr Godlee and Dr Markovich were
19 representing here that there was clear evidence of
20 falsification of data, right?

21 A. Yes.

22 Q. Now look at the bottom right-hand corner of
23 Exhibit 5, and it says:

24 "Drawing on interviews, documents and data made
25 public at the GMC hearings Deer shows how Wakefield altered

1 or histories published in the journal."

2 Do you see that?

3 A. I do.

4 Q. And here in this editorial you are suggesting
5 to the readers of the BMJ that that is a fact?

6 A. Yes.

7 Q. And you are suggesting that it is true that
8 there was no case that was free of misrepresentation or
9 undisclosed alteration, right?

10 A. Yes.

11 Q. And just so it is clear, there is no evidence
12 that he actually altered any documents or any medical
13 records, any charts, anything like that, correct?

14 MR BLANKE: What do you mean, when you say charts,
15 you mean --

16 MR PARRISH: Medical charts.

17 MR BLANKE: -- in the normal course as opposed
18 to --

19 MR PARRISH: Correct.

20 A. That is correct. What we are talking about is
21 the discrepancy between what was actually the underlying
22 facts in the stuff that came out of the GMC and what was
23 said in the article.

24 Q. So things like whether or not Child 12 had a
25 diagnosis of autism or not?

1 A. When diagnosis of autism occurred in relation
 2 to MMR Vaccine, yes, things like that.
 3 Q. Well, there is nothing -- you have read the
 4 Lancet article, haven't you?
 5 A. I have, yes.
 6 Q. And the Lancet article doesn't say anything
 7 about when the child was diagnosed with autism in connection
 8 with the giving of the MMR?
 9 A. If I recollect rightly there is a table that
 10 gives that information.
 11 Q. Well, why don't you look at the article.
 12 I think it is --
 13 A. The Lancet article?
 14 Q. Yes, I think it was Exhibit 1. Here it is?
 15 A. Table 2, neuropsychiatric diagnosis.
 16 Behavioral diagnosis in the second column, and on the fourth
 17 column interval from exposure to first behavioral symptom.
 18 Q. That doesn't say that the diagnosis of autism
 19 occurred on that date, does it?
 20 A. It doesn't say that, no, but it does say it is
 21 the behavioral diagnosis.
 22 Q. Well, wait a minute. Column one says what the
 23 overall behavioral diagnosis is, correct?
 24 A. Yes.
 25 Q. And it doesn't say the diagnosis as of a

1 A. Yes.
 2 Q. Is your claim in the editorial and otherwise
 3 based in part on your interpretation of this table that the
 4 column for interval from exposure to first behavioral
 5 symptom was the time of the diagnosis of autism?
 6 A. Sorry, it is some time since I have looked in
 7 detail at this and some time since I did the fact checking.
 8 Can I take a break to review that?
 9 Q. If you take the break in here without going
 10 and talking to your counsel, that's fine. Let's go
 11 off-the-record?
 12 THE VIDEOGRAPHER: This is the end of tape one,
 13 Volume One in the video deposition of Miss Jane Smith.
 14 Going off-the-record now at 11.15 am, as indicated on the
 15 video screen.
 16
 17 (Short Recess)
 18
 19 THE VIDEOGRAPHER: This is the beginning of tape
 20 two Volume One in the video deposition of Miss Jane Smith.
 21 We are back on the record at 11.24 a.m. as indicated on the
 22 video screen.
 23 MR PARRISH: Can you answer the question now or do
 24 I need to rephrase it or read it back to you?
 25 A. Would you, please.

1 specific day or date, correct?
 2 A. Correct, but I am interpreting it as a
 3 reasonable reader would interpret it.
 4 Q. You are saying -- are you saying that the --
 5 you interpreted this on the basis of your presentation of
 6 the editorial and the article is your interpretation that
 7 the behavioral diagnosis of autism was made at the time
 8 column four reports interval from exposure to first
 9 behavioral symptom?
 10 A. The thrust of this original article was about
 11 the relationship.
 12 Q. Please answer my question?
 13 MR BLANKE: He is trying to understand what you
 14 were just saying, so just respond.
 15 MR PARRISH: You have got the Lancet article in
 16 front of you, Exhibit Number 1?
 17 A. Yes.
 18 Q. Do you see the first column deals with the
 19 child identification number?
 20 A. Yes.
 21 Q. The second deals with the child's behavioral
 22 diagnosis overall?
 23 A. Yes.
 24 Q. The fourth column says: "Interval from
 25 exposure to first behavioral symptom."?

1 MR BLANKE: Why don't we get it just read back.
 2 MR PARRISH: Is your claim in the editorial and
 3 otherwise based in part on your interpretation of this table
 4 that the column for interval from exposure to first
 5 behavioral symptom was the time of the diagnosis of autism?
 6 A. In part.
 7 Q. Let me ask you about a few additional Exhibits
 8 before we run out of time. I ask you about what has been
 9 marked as Exhibit 38.
 10 (Exhibit 38 marked for identification)
 11 Actually, before I do that tell me your basis for
 12 the interpretation that that column represents the date of
 13 diagnosis of autism?
 14 A. It represent the first behavioral symptoms,
 15 because in the text --
 16 Q. Wait a minute. I am asking you just to make
 17 sure you understand, not whether it represents first
 18 behavioral symptom, but if that is what you are claiming
 19 represents the date of diagnosis of autism, tell me the
 20 basis of that?
 21 A. On page 638, the bottom of the first column,
 22 it talks the paragraph -- the bottom paragraph starts "In
 23 eight children -- "In these eight children later on the
 24 average interval from exposure to first behavioral symptoms
 25 was 6.3 days."

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1 Q. And that's the basis for your interpretation?
 2 A. Yes.
 3 Q. Anything else?
 4 A. Nothing specific, the whole tenure of the
 5 paper.
 6 Q. I think I have given you what has been marked
 7 as Exhibit 38, did I not?
 8 A. Yes, you have.
 9 MR PARRISH: Did I give you that, David?
 10 MR BLANKE: Yes.
 11 MR PARRISH: Exhibit 38 is a chain of e-mails
 12 exchanged between you and Brian Deer, correct?
 13 A. Three e-mails, correct.
 14 Q. Okay. Let's look at the one -- and there is
 15 also one from Brian Deer to Fiona Godlee that begins at the
 16 bottom of page 38 -- Exhibit 38, do you see that?
 17 A. Yes.
 18 Q. And you were copied on that, correct?
 19 A. Yes.
 20 Q. That is November 20th, 2010?
 21 A. Yes.
 22 Q. I want to ask you about that e-mail, so I am
 23 looking at the second page of the Exhibit, it has BMJ 8404
 24 on it. I can't tell the paragraphs here, but do you see the
 25 ones that starts off: "I copied this e-mail to Jane

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1 because."
 2 A. I do.
 3 Q. You read this at the time, correct?
 4 A. Yes.
 5 Q. Was Mr Deer claiming that the BMJ does not
 6 work to as high a standard as he and other journalists do,
 7 is that how you interpreted that?
 8 A. I interpret this as saying that peer review
 9 journals have a different set of processes and a different
 10 approach to things from main line newspapers.
 11 Q. When he said: "However, journalism must often
 12 work to a higher standard, particularly in matter of
 13 reputation."
 14 A. Yes, he does say that.
 15 Q. "As you will realize that standard is not
 16 plausibility, it is accuracy and truth. Names are named,
 17 facts can be checked by others."
 18 A. Umm hmm.
 19 Q. Now, you understood that to mean that he
 20 thought that the BMJ needed to work to that high standard?
 21 A. He wanted us to check his facts.
 22 Q. And again in this article, or this e-mail in
 23 the next paragraph he says:
 24 "Wakefield denies any lapses whatsoever line by
 25 line, word for word. On his account he is the victim of

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1 what must be the most sustained and malicious campaign of
 2 libel that has ever been waged against anybody. On his
 3 account I must be an immensely unscrupulous and devious
 4 individual, hell bent on his unwarranted destruction."
 5 Did I read that accurately?
 6 A. You read that accurately.
 7 Q. So you knew that there were allegations being
 8 made that Mr Deer was biased, was out to get Dr Wakefield,
 9 and Mr Deer was even saying: You know what, you need to
 10 really check these facts because you are aware that that
 11 controversy is there?
 12 A. Yes.
 13 Q. And the BMJ was on full notice of that?
 14 A. Yes.
 15 Q. He also said in this e-mail:
 16 "When it comes to the first story and the tables
 17 that go with it I hope that Jane feels entirely comfortable
 18 about checking my evidence to the absolute nth degree for
 19 any factual assertion which takes her fancy."
 20 And here the first article is referring to How the
 21 Case was Fixed, Exhibit 2?
 22 A. Yes.
 23 Q. So he specifically suggested that you fact
 24 checked the tables, correct?
 25 A. Yes.

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1 Q. And remember in his on-line version he has
 2 some special tables and there is a kind of summary of the
 3 table --
 4 A. Yes.
 5 Q. -- in the print version?
 6 A. Yes.
 7 Q. Did you rigorously check those tables?
 8 A. I checked the tables.
 9 Q. But not rigorously?
 10 A. I checked the tables.
 11 Q. Did you do it rigorously?
 12 A. Whatever rigorously means I did it. I didn't
 13 just skim over them.
 14 Q. Okay. Did you go to the transcripts as they
 15 related to each of those tables, the GMC transcripts?
 16 A. Yes. Remind me how many tables there were in
 17 Brian's on-line article?
 18 Q. In the on-line we have it here, and we have
 19 what he called the BMJ Extra which is linked to it. The
 20 on-line article here is 3 and the BMJ Extra which he said
 21 was part of it is Exhibit 4. These were color tables?
 22 A. Yes. Yes.
 23 Q. My question is whether you reviewed the
 24 transcript evidence as it relates to the claims made in
 25 those tables?

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1 A. Yes, I did.
 2 Q. And you were the person with the BMJ
 3 responsible for doing that?
 4 A. Yes.
 5 Q. And again you are a highly competent editor
 6 with years of experience?
 7 A. I have been doing it for a long time, yes.
 8 Q. And in the same e-mail Mr Deer says:
 9 "I have the GMC transcript all indexed and cute."
 10 He wanted you to get your separate copy but he
 11 offered to bring his index one to make it easy for you to do
 12 your checking?
 13 A. Yes.
 14 Q. Now, at the end of that e-mail he says:
 15 "While I can't set the agenda for checking I can
 16 steer Jane quickly through the evidence there as well as the
 17 various documents which I have in my files." Right?
 18 A. Yes.
 19 Q. So he offered to direct you to places in the
 20 BMJ transcript and to documents from his files that related
 21 to the issues in the tables and otherwise?
 22 A. He offered to steer me quickly through the
 23 evidence.
 24 Q. Now, both with respect to the tables and --
 25 strike that. Both with respect to the GMC transcript and

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1 the various documents which he has in his files?
 2 A. He offered to do that, yes.
 3 Q. And did you ever choose to take him up on the
 4 portion that dealt with the files, the documents in his
 5 files?
 6 A. As far as I can recollect we confined
 7 ourselves to the GMC transcripts.
 8 Q. Even though the files were available?
 9 A. He brought a lot of files with him.
 10 Q. But you chose not to look at those?
 11 A. I confined myself to the GMC transcripts.
 12 Q. Let me show you what has been marked as
 13 Exhibit 39.
 14 (Exhibit 39 marked for identification)
 15 Is this another series of e-mails between Brian
 16 Deer and Dr Godlee, and I believe you are copied on some of
 17 them as well?
 18 A. I think not.
 19 Q. Okay. Well, let me ask you about the e-mail
 20 from Brian Deer to Dr Godlee that's at -- that begins on
 21 page 8400, do you see that?
 22 A. Yes.
 23 Q. Two things here. At the top of the e-mail he
 24 is talking about two books to be published in January on the
 25 MMR Vaccine issue from major New York publishers. Do you

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1 recall there being a concern on his part that his thunder
 2 would be stolen if those books got published before these
 3 articles went out?
 4 A. I recall he had that concern.
 5 Q. So he was pushing to get the articles
 6 published quickly so that they would get out before those
 7 books, right?
 8 A. Yes.
 9 Q. Then I want to ask you about this third
 10 paragraph down. Mr Deer tells Dr Godlee:
 11 "So obviously I am getting a little nervous about
 12 others stepping in and claiming my investigation as their
 13 own, and I am also slightly anxious lest we have another
 14 communication breakdown and your people go off trying to
 15 check my work, which I requested, without talking to me
 16 about how this might be done."
 17 Did I read that accurately?
 18 A. Yes.
 19 Q. Do you remember or do you know what he was
 20 talking about with respect to the communication breakdown
 21 when people were checking his work?
 22 A. I don't, actually.
 23 Q. Did he try to control the fact checking that
 24 was being done by directing you to certain parts of the
 25 transcript and not others?

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1 A. Not at all. I had already looked at the
 2 transcript before I met him.
 3 Q. So you had the full ability to check whatever
 4 facts were there, and he was just going to help you check
 5 those facts?
 6 A. Correct.
 7 Q. Alright. Now, Dr Markovich was brought in
 8 as -- wait a minute. Before we get to that let me ask you
 9 about one other document which has been marked as Exhibit
 10 40.
 11 (Exhibit 40 marked for identification)
 12 Exhibit 40 is another series of e-mails back and
 13 forth relating to the BMJ articles; is that correct?
 14 A. Yes, it looks like it.
 15 Q. Okay. Now throughout a period of time there
 16 was anxiousness on Mr Deer's part about the money that he
 17 was to be paid for these articles, correct?
 18 A. I wasn't part of that. They were discussions
 19 that he had with Fiona.
 20 Q. Do you know how much he was paid to write
 21 these articles ultimately?
 22 A. I don't actually, no.
 23 Q. Do you have any idea what people are normally
 24 paid to write articles either for newspapers or medical
 25 journals?

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1 A. For medical journals they are not usually paid
 2 very much to write articles.
 3 Q. So payment of £5,700 would be a lot for
 4 writing these three articles?
 5 A. No, it is not a lot for writing these three
 6 articles. It would be unusual for us to pay that amount,
 7 but we were not usually commissioning articles of this
 8 length or depth.
 9 Q. I am going to direct your attention to the
 10 e-mail that starts with the page BMJ 8522?
 11 A. Yes.
 12 Q. This is one from Brian Deer to Dr Godlee with
 13 a copy to you?
 14 A. Yes.
 15 Q. From August 6th, 2010?
 16 A. Yes.
 17 Q. There was a discussion in this e-mail about
 18 peer review and editorial processes for reviewing the
 19 documents; is that correct?
 20 A. Yes.
 21 Q. Look, if you would, please, at the second page
 22 marked BMJ 8523?
 23 A. Yes.
 24 Q. The first full paragraph says: "editorial
 25 process."?

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1 A. Yes.
 2 Q. Read the last sentence of that paragraph that
 3 Mr Deer wrote to Dr Godlee and you?
 4 A. The one starting out "freely"?
 5 Q. Yes, please?
 6 A. "I freely admit to being semi-notorious for
 7 packing into single highly readable and apparently bland
 8 sentence rats nests of complexity and implication."
 9 Q. What did you understand that to mean?
 10 A. I'm not sure that I actually registered that
 11 sentence at the time.
 12 Q. How would you register it sitting here right
 13 now?
 14 A. That we need to check his stuff carefully
 15 because he is making statements that need justification.
 16 Q. Alright. Look at the bottom portion under
 17 paragraph B, "The Wakefield neuropsychiatrics"?
 18 A. Umm hmm.
 19 Q. He suggested that the allegations should be
 20 put to Professor Walker-Smith; is that correct?
 21 A. Yes.
 22 Q. Now he wanted to draft the letter but have the
 23 BMJ send it out in the BMJ's name; is that right?
 24 A. That is what he says.
 25 Q. In fact, there was several occasions where he

Page 83

1 drafted things for the BMJ, is that not right?
 2 A. I don't believe in the end he did draft the
 3 letter. We consulted him over it.
 4 Q. He did a draft of the points to go in the
 5 editorial, didn't he?
 6 A. No, I don't think he did. I don't remember
 7 that.
 8 Q. You don't remember. Well, we will look at the
 9 documents on that --
 10 A. Okay.
 11 Q. -- on that issue. Look at the next point
 12 down -- well, did you put the allegations to Professor
 13 Walker-Smith?
 14 A. We did.
 15 Q. And to Dr Murch?
 16 A. I don't think we did put them to Dr Murch but
 17 I can't recollect.
 18 Q. But were you actually going to provide
 19 Professor Walker-Smith with a copy of the article in
 20 advance?
 21 A. No, we put a draft of the allegations.
 22 Q. How about to Horton, did you provide Horton a
 23 copy of the article in advance, the one about Horton?
 24 A. We didn't provide a copy of the article in
 25 advance.

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1 Q. I am sorry, how about the allegations?
 2 A. I think we did, but I am not one 100% sure.
 3 I think we did.
 4 Q. How about Dr Wakefield, did you put the
 5 allegations that you were making about him?
 6 A. No, we didn't.
 7 Q. Regarding fraud?
 8 A. No, we didn't.
 9 Q. You had the opportunity to do that if you
 10 wanted to, correct?
 11 A. We did.
 12 Q. And you made a conscious decision not to?
 13 A. Yes.
 14 Q. And why is that?
 15 A. Because we didn't think that -- many of these
 16 allegations have been put to him before and we didn't think
 17 we would get any useful information.
 18 Q. Let me ask you about paragraph, the three
 19 (i)s, do you see that still on this page?
 20 A. Yes.
 21 Q. It says: "If you plan to use my tables, which
 22 I think are rather powerful, you might need to peer review
 23 the legitimacy of the exercise I have carried out since they
 24 are freshly generated by me and involve interpretation of
 25 the paper."

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1 Did I read that accurately?

2 A. Yes.

3 Q. And you recall him making that suggestion to

4 the BMJ?

5 A. Not specifically.

6 Q. The BMJ did not have those tables peer

7 reviewed, did they?

8 A. I believe that is right, I don't think that we

9 did.

10 Q. At the time that there was a discussion of

11 putting the allegations to Professor Walker-Smith you at the

12 BMJ were aware that he had an appeal pending in process,

13 correct?

14 A. His response was that he had an appeal pending

15 so he didn't want to comment.

16 Q. Okay. And you are familiar with the results

17 of that appeal, are you not?

18 A. I am.

19 Q. In the last paragraph on that page Mr Deer's

20 estimated that it would take one to two days for him to go

21 through the GMC transcripts, which as of this date hadn't

22 yet been published?

23 A. Yes.

24 Q. But he thought that he could do it in one to

25 two days, right?

Page 86

1 A. That is what he says.

2 Q. Now, look at the next paragraph, it is at the

3 top of the page 8524?

4 A. Yes.

5 Q. And it is called "The Horton Story"?

6 A. Yes.

7 Q. And he starts off by saying:

8 "I don't really agree with what you say about this

9 piece which I don't think adopts a tone different for Horton

10 than the one I used for Wakefield."

11 That is what he said, right?

12 A. Yes.

13 Q. And there he was talking about that article

14 that you and Dr Godlee and others felt was too personal and

15 showed too much anger?

16 A. Yes.

17 Q. So Brian Deer didn't think the tone of that

18 article was any different than the tone he used for

19 Wakefield?

20 A. That is what he says.

21 Q. Then there was a discussion of someone named

22 Clare redoing that article under certain conditions. What

23 is Clare's last name?

24 A. Dyer.

25 Q. Clare Dyer is a reporter on the staff for the

Page 87

1 BMJ?

2 A. No, she's our freelance legal correspondent.

3 Q. Okay. She writes a number of articles?

4 A. She does.

5 Q. In fact, she wrote an article about

6 Dr Wakefield mentioning that he was at Thoughtful House in

7 Texas; is that right?

8 A. Yes, I believe she did.

9 Q. And she was someone that you all considered

10 doing this rewrite, but Mr Deer's condition for rewrite was

11 that he actually be supplied with the publication itself

12 with the text before you published it, correct?

13 A. That is what it says in (ii), yes.

14 Q. Look if you would, please, at Exhibit 6. It

15 is the editor's choice article. There should be a color

16 copy of it there in front of you?

17 A. Yes.

18 Q. This is the piece. Was this written by

19 Dr Godlee?

20 A. It was.

21 Q. Did you participate in writing these?

22 A. No.

23 Q. It says at the bottom of the first column:

24 "Thanks to the recent publication of the GMC's

25 6 million word transcript the BMJ was able to check Deer's

Page 88

1 findings and confirm extensive falsification."

2 In supposedly confirming Deer's findings is it

3 fair to say that you did not make an effort to look at what

4 Dr Wakefield testified in that 6 million word transcript

5 about those findings, or the issues covered by those

6 findings?

7 A. Yes.

8 Q. Would it be accurate to say that in terms of

9 affirmative effort you only looked at the GMC transcript to

10 see if there was a reference or a piece of information that

11 Mr Deer cited to claiming support of his position, and not

12 to all of the evidence on that issue?

13 A. I looked, obviously I looked specifically at

14 the bits that Mr Deer cited but I did also read around --

15 read around a bit more widely to other bits of evidence.

16 Q. By that you mean the few paragraphs before and

17 after, or do you mean everything that was written about the

18 issue in the transcripts?

19 A. Not everything that was written.

20 Q. Only the testimony provided by the

21 prosecution, the GMC?

22 A. Much of that was extracts from documents.

23 Q. I didn't understand that answer?

24 A. Sorry. Yes, I was looking at discrepancies

25 between documents and what the articles said.

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1 Q. Okay.

2 MR BLANKE: I don't know that I am a reliable

3 timekeeper Bill, but I think you are getting close.

4 MR PARRISH: Okay. So in looking at the GMC

5 transcript you looked for things that might support

6 Mr Deer's allegation but not for the evidence that supported

7 what was said in the Lancet article, correct?

8 A. I certainly looked to see that what Mr Deer

9 had said was substantiated by where he said it was said, but

10 I did actually read a bit more broadly. I can't remember

11 precisely what.

12 Q. Objection, non-responsive. I may not have

13 made my question clear. In looking at the GMC transcript

14 did you look to see what evidence was there that supported

15 the Lancet article that was at issue?

16 A. I did.

17 Q. So you weren't just looking at what supported

18 Mr Deer's position, you were also looking to see if there

19 was evidence to support what was said in the Lancet article?

20 A. I did a bit of that, yes.

21 Q. But in trying to look for evidence that

22 supported the Lancet article you didn't look at the

23 testimony of Dr Wakefield or Professor Walker-Smith?

24 A. I don't remember seeing anything from

25 Dr Wakefield. I think I probably did look at a bit from

Page 90

1 Walker-Smith.

2 Q. So there was some evidence from Professor

3 Walker-Smith that supported the Lancet article on issues

4 that were addressed, and you chose the testimony that

5 Mr Deer pointed to over the testimony that supported the

6 article?

7 A. I actually can't recollect but I must have

8 done.

9 Q. You are guessing -- okay?

10 A. I cannot recollect precisely.

11 MR PARRISH: Okay. I think are you calling time?

12 MR BLANKE: Bill, it is much like the other

13 evening, if there is some document you want to make sure

14 that you understand it correctly or something like that, but

15 if it is a new area.

16 MR PARRISH: Got it.

17 MR BLANKE: A new area of testimony.

18 MR PARRISH: There is just one letter I wanted to

19 get her to identify. Can we go off for just a second and

20 I will find that?

21 MR BLANKE: Yes, why don't we take a moment?

22 I want to see if I can get Marc. Is it alright to take five

23 minutes or something?

24 MR PARRISH: Sure.

25 THE VIDEOGRAPHER: Going off-the-record at 11.54

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1 am as indicated on the video screen.

2

3 (Short Recess)

4

5 THE VIDEOGRAPHER: Back on the record at 12 p.m.

6 MR PARRISH: Look, if you would, please, Ma'am at

7 Exhibit 35.

8 (Exhibit 35 marked for identification)

9 A. Yes.

10 Q. This is a series of e-mails between you and

11 Dr Harvey Markovich; is that correct?

12 A. Yes, correct.

13 Q. Look at the second page of the Exhibit. Just

14 above the middle of the page there is an e-mail from you to

15 Dr Markovich dated Thursday, 9th December, 2010, do you see

16 that?

17 A. Yes.

18 Q. Does this accurately reflect the level of

19 review that Dr Markovich was asked to do by the BMJ?

20 A. This is the letter in which I asked him to

21 review the paper.

22 Q. I understand that. My question goes to the

23 level of the review. In the first paragraph you ask whether

24 he might do a "swift review"; isn't that correct?

25 A. Yes.

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1 Q. And in the second paragraph you say:

2 "We thought the piece would benefit from a review

3 from a pediatrician 'just to make sure that what it says all

4 makes medical sense'."?

5 A. Yes.

6 Q. Then you said in the next paragraph:

7 "So it is not a heavy review we are after - just a

8 sense check really."?

9 A. Yes.

10 Q. That is the level of review that you asked for

11 Dr Markovich, correct?

12 A. Yes, we asked him exactly what I have said in

13 that letter.

14 Q. And that didn't change, you didn't ask for a

15 heavier review at a later date?

16 A. No.

17 Q. So it wasn't really a peer review of all the

18 science in the article, it was a brief review to make sure

19 that what was said in the article made medical sense?

20 A. It wasn't necessarily brief. It needed to be

21 done quite quickly. We weren't asking him to be brief, but

22 exactly that, that we needed to make sure it made medical

23 sense.

24 Q. You weren't asking him to investigate whether

25 what Dr Wakefield --

1 THE VIDEOGRAPHER: I have a very loud mobile phone
 2 interruption, one is near a microphone. (Pause)
 3 MR PARRISH: Let me go back and state the
 4 question. You weren't asking Dr Markovich to investigate
 5 whether what Dr Wakefield and the other 12 authors in the
 6 Lancet article had said was medically or scientifically
 7 accurate, correct?
 8 A. Sorry, can you repeat that question?
 9 MR PARRISH: Certainly. (Read back from the
 10 Livenote screen)
 11 A. Correct, we weren't.
 12 Q. And you weren't asking Dr Markovich to examine
 13 the tables that were in the web Extra version of the on-line
 14 article, correct?
 15 A. I believe that is correct, yes.
 16 Q. And you weren't asking Dr Markovich to make a
 17 determination as to whether the children in the Lancet
 18 study, for example, had or had not been diagnosed with
 19 autism, correct?
 20 A. I didn't ask him to do that.
 21 Q. And to your knowledge did he do that?
 22 A. I think you have a copy of what he responded,
 23 and he didn't do that.
 24 Q. He did, however, raise a question about
 25 whether or not regressive autism was an appropriate term to

1 A. Yes.
 2 Q. And Dr Markovich tells you:
 3 "I cannot find such a statement in the Lancet
 4 Paper. It refers variously in different parts of the paper
 5 to autism (9), developmental regression, no number stated,
 6 pervasive and developmental disorder with loss of acquired
 7 skills, behavioral regression and neuropsychiatric
 8 dysfunction." And in the summary to regressive
 9 developmental disorders. I didn't read out every word for
 10 word?
 11 A. Sure.
 12 Q. He points out to you and to the BMJ that in
 13 the Lancet Paper the paper did not say the children had
 14 diagnoses of "regressive autism", correct? So you knew that
 15 that was an issue that should be checked?
 16 A. Yes.
 17 Q. And Mr Deer gave you his simplistic answer in
 18 the all caps here, but you didn't do any checking beyond
 19 that; is that right?
 20 A. Not that I remember.
 21 Q. Now, let me ask you about another issue that
 22 was raised here by Dr Markovich. He says:
 23 "Finally, does Deer know if the 12 were truly
 24 'consecutively referred' as stated in patients and methods
 25 of the Lancet Paper."

1 use and pointed out that the Lancet authors had not stated
 2 in the article that the children were diagnosed with
 3 regressive autism, do you recall that?
 4 A. Have you got a copy of that document?
 5 MR PARRISH: It is in this stack. If we go
 6 off-the-record I can find it.
 7 THE VIDEOGRAPHER: Going off the record at six
 8 minutes past 12 p.m.
 9 (off-the-record)
 10 THE VIDEOGRAPHER: We are back on the record at
 11 eight minutes past 12 p.m.
 12 MR PARRISH: I have shown you what has been marked
 13 as Exhibit 43 which on the second page contains the e-mail
 14 that Harvey Markovich wrote to you on December 10th, 2010
 15 with interlineations from Mr Deer with his comments, Deer's
 16 comments in all capitals, correct?
 17 (Exhibit 43 marked for identification)
 18 A. Yes.
 19 Q. So Dr Markovich in writing to you about his
 20 review of the paper says:
 21 "In the same para", meaning paragraph, "Deer
 22 states nine children it said had diagnosis of regressive
 23 autism."
 24 So that is referring to Deer's description of what
 25 was in the Lancet Paper, correct?

1 And you pass that on to Mr Deer for his response,
 2 and what did Mr Deer tell you about the phrase
 3 "consecutively referred"?
 4 A. I can read you what he says.
 5 Q. Well, he said: "Nobody has ever been able to
 6 work out what that is supposed to mean." Correct?
 7 A. That is what he says.
 8 Q. So what did you do to work out what that is
 9 supposed to mean?
 10 A. I don't recall. I think Brian's next
 11 statement: "I think your man is really only asking out of
 12 personal interest," is the view that I took of that
 13 statement too.
 14 Q. So you all assumed that Dr Markovich was only
 15 asking out of interest, that is what Mr Deer suggested to
 16 you and you took Mr Deer's suggestion?
 17 A. I had already thought that.
 18 Q. So your view was that was not a significant
 19 issue to determine?
 20 A. I believe that is correct.
 21 Q. And Dr Markovich could have gotten access to
 22 the GMC transcripts had he desired?
 23 A. Yes.
 24 Q. But you did not provide him with copies of the
 25 GMC transcripts?

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1 A. No.

2 Q. And Dr Markovich, is he an advisory editor or

3 some form of editor with the BMJ?

4 A. He was billed as an associate editor at the

5 time because he had a small connection with us, he used to

6 assess our filler paper articles, which are very short

7 personal pieces by doctors.

8 Q. So Dr Markovich at the time he conducted the

9 review was an associate editor of the BMJ?

10 A. Yes.

11 MR PARRISH: I represented to your lawyer that

12 I had one more topic and so although I have hours more

13 questions to ask, if you are calling time I will stop here?

14 MR BLANKE: Well, as I said if it is something

15 that you want to cover to make sure that you have a document

16 that you understand correctly and in order and things like

17 that, but if you are done with that topic and have nothing

18 that falls under that category I have just a few follow-up

19 questions for Miss Smith. Is that fair Bill, does that

20 fairly represent what you are at? I know that you have

21 hours more questions.

22 MR PARRISH: And I would have other questions

23 about Dr Markovich if we had more time, and I am happy to do

24 those right now, but if you want me to finish Markovich now

25 as opposed to some time later I will do that.

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1 MR BLANKE: I think you know the sort of topic

2 that we are after. If there is something that is very brief

3 and you have not had a chance to get into it all and you

4 want to authenticate a document or something like that.

5

6 Cross-examination by Mr Blanke

7 Q. Miss Smith, just a few questions.

8 Dr Markovich spent how much time reviewing this?

9 A. He told me he spent about three to four hours

10 on it.

11 Q. Okay. And there is this mention of swift

12 review there, is three to four hours consistent with how

13 much time he typically spends, or is it less time than he

14 typically spends, or what?

15 A. He tells me it was actually rather longer than

16 he would normally spend.

17 Q. And do you have any sense of what his normal

18 period is?

19 A. About two hours.

20 Q. You also mentioned a fellow whose name I am

21 sure to butcher Godwin Busuttil?

22 A. Yes.

23 Q. And he was a barrister or an attorney, is that

24 right?

25 A. Correct.

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1 Q. And did you determine how much time he devoted

2 to reviewing the article or articles?

3 A. Yes, I did, he devoted rather a long time to

4 it, about 60 hours.

5 Q. Sixty hours.

6 A. Yes.

7 Q. And is that broken out so you can determine

8 how many hours were devoted to looking at the first article

9 as opposed to the others?

10 A. I haven't got that information with me. It

11 probably is possible to find it out.

12 Q. Okay. 60 hours in total over the three; is

13 that right?

14 A. Yes.

15 Q. Then on Exhibits 25 and 24, if you get those

16 in front of you, are there differences in terms of the

17 numbers of Texas subscribers or Texas users between

18 Exhibit 25 and Exhibit 24?

19 A. Yes, 25 --

20 MR PARRISH: Hold on for a second until I get that

21 in front of me.

22 MR BLANKE: Miss Smith, let me ask you this,

23 I believe you told us there are differences. Can you

24 explain for us the differences between Exhibits 25 and 24 on

25 what they show in terms of Texas subscribers or Texas users?

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1 A. Yes, the first thing to notice is if you look

2 at the 25, in January 2011 there are 47 entries compared

3 with 24 in January 2011, 62 Texas entries. That is

4 explained by the fact that when we first did a search we

5 just searched addresses for Texas. When we actually pulled

6 out the detailed records of who those subscriptions were for

7 we discovered some duplicates and, in particular, the 13

8 Consortia which are page 3 of Exhibit 24, in fact is the 13

9 institutions in the Consortia, and although they are

10 coordinated by one of those institutions in Texas the other

11 ones that we removed from this list were not in Texas, they

12 were in Arkansas or Mississippi, other states. So the

13 numbers came down. Exhibit 25 is a more accurate

14 representation of Texas subscribers.

15 Q. Because it removes the duplications of out of

16 State users?

17 A. Yes, correct.

18 MR BLANKE: Nothing further.

19

20 Re-examination by Mr Parrish

21 Q. A quick follow-up. You said Dr Markovich

22 normally spends two hours. What types of articles is he

23 normally spending about two hours on?

24 A. When he is asked for an ordinary review for a

25 journal.

1 Q. Are those medical journal articles or outside
 2 articles?
 3 A. They will be medical journal articles from us
 4 and from other journals.
 5 Q. I think I must have misunderstood then what
 6 you said. He is an associate editor because he sometimes
 7 edits --
 8 A. I beg your pardon, I'm sorry I misunderstood.
 9 The fact that he is an associate editor because he at the
 10 time read some of our fellow submissions is irrelevant to
 11 this. We were using him as a pediatrician reviewer. His
 12 association with the journal on the fillers is irrelevant.
 13 So he was referring to when he is asked to peer review
 14 articles for medical journals ours and others, he will
 15 normally spend about two hours on it.
 16 Q. I see. But in this case in the two to
 17 three -- excuse me, three to four hours he spent he didn't
 18 review the GMC transcripts or the childrens medical records?
 19 A. Not to my knowledge.
 20 Q. So he wasn't really looking to see whether the
 21 science in the Lancet article was correct, he was just
 22 looking to see whether it was plausible that what Mr Deer
 23 said in the BMJ article was correct?
 24 A. Yes, it made sense.
 25 MR PARRISH: Right. Thank you for your time

1
 2 CERTIFICATE OF DEPONENT
 3
 4 I, Jane Smith, hereby certify that I have read the foregoing
 5 pages of my deposition of testimony taken in these
 6 proceedings Thursday, 28th June 2012 and, with the exception
 7 of the changes listed on the next page and/or corrections,
 8 if any, find them to be a true and accurate transcription
 9 thereof.
 10
 11
 12
 13
 14 Signed:
 15 Name: Jane Smith
 16
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 25

1 today.
 2 MR BLANKE: Yes, thank you.
 3 THE VIDEOGRAPHER: This is the end of tape two,
 4 Volume One and the video deposition today of Miss Jane
 5 Smith. Going off-the-record at 12.21 p.m. as indicated on
 6 the video screen.
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1 CERTIFICATE OF COURT REPORTER
 2
 3 I, Kay Hendrick, an Accredited Court Reporter, hereby
 4 certify that the testimony of the witness Jane Smith, in the
 5 foregoing transcript taken on Thursday, 28th June 2012, was
 6 recorded by me in machine shorthand and was thereafter
 7 transcribed by me; and that the foregoing transcript is a
 8 true and accurate verbatim record of the said testimony.
 9
 10 I further certify that I am not a relative, employee,
 11 counsel or financially involved with any of the parties to
 12 the within cause, nor am I an employee or relative of any
 13 counsel for the parties, nor am I in any way interested in
 14 the outcome of the within cause.
 15
 16 Signed:
 17 KAY HENDRICK
 18 Dated:
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 21
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