

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ALISSA ZWICK

Plaintiff,

v

Case No. 06-12639

REGENTS OF THE UNIVERSITY OF MICHIGAN,  
a constitutional body corporate; MARILYN LANTZ,  
individually and in her official capacity;  
WILHELM A. PISKOROWSKI, individually and in his  
official capacity; MARK SNYDER, individually and  
in his official capacity; FRED BURGETT,  
individually and in his official capacity,  
Jointly and Severally,

Defendants.

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EXCERPT OF JURY TRIAL PROCEEDINGS

BEFORE THE HONORABLE MARIANNE O. BATTANI  
United States District Judge  
272 US Courthouse & Federal Building  
231 Lafayette Boulevard West  
Detroit, Michigan  
Monday, November 10, 2008

APPEARANCES:

DEBORAH L. GORDON  
CAROL A. LAUGHBAUM  
33 Bloomfield Hills Parkway  
Bloomfield Hills, MI 48226  
On behalf of the Plaintiffs.

To Obtain a Certified Transcript:  
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APPEARANCES: (continuing)

TIMOTHY H. HOWLETT  
KATHRYN S. WOOD  
DICKINSON WRIGHT  
500 Woodward Avenue  
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On behalf of the Defendants.

**C O N T E N T S**

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**IDENTIFICATION**

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**WITNESSES**

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Plaintiff's Exhibit 42	45
Plaintiff's Exhibit 152	96 (per stip.)

1 Detroit, Michigan

2 Monday, November 10, 2008

3 11:33 a.m.

4 (Excerpt of proceedings)

5 (Whereupon the witness was then sworn)

6 DIRECT EXAMINATION

7 BY MS. GORDON:

8 Q Good morning, Dean Polverini.

9 A I apologize for being late.

10 Q You don't have to apologize, you're not late.

11 Everything's fine.

12 I'm Deborah Gordon. You know I

13 represent Alissa?

14 A Yes, ma'am.

15 Q I took your deposition up in Ann Arbor?

16 A Yes.

17 Q Okay.

18 You are the Dean of the University of

19 Michigan Dental School?

20 A Yes, I am.

21 Q How long have you had that position?

22 A Since 2003.

23 THE COURT: Could you spell his last name?

24 MS. GORDON: Of course.

25 THE WITNESS: P-o-l-v-e-r-i-n-i.

1 BY MS. GORDON:

2 Q So just -- I think you said you became Dean in  
3 '03?

4 A Yes.

5 Q But you have previous history at the Dental  
6 School, correct?

7 A Yes, I did.

8 Q What was that?

9 A I came to the University of Michigan Dental  
10 School in 1992 as chief of oral maxillofacial  
11 pathology.

12 Q You left --

13 A I left in 2000 to become Dean of the University  
14 of Minnesota School of Dentistry, then returned as  
15 Dean of Michigan --

16 Q All of the deans report to you?

17 A Yes, they do.

18 Q How many deans are there?

19 A Associate Dean for Academic Affairs, Associate  
20 Dean for Research, Associate Dean for Patient  
21 Services.

22 So those are the three senior  
23 associate deans.

24 Q One of those deans would be Marilyn Lantz,  
25 correct?

1 A Correct.

2 Q You didn't hire Marilyn Lantz?

3 A No, I did not.

4 Q She was there when you arrived on the scene?

5 A Yes.

6 Q Okay. And tell us, for the jury's sake, what  
7 her exact title was?

8 A Dr. Lantz's title is Associate Dean for  
9 Academic Affairs.

10 Q What does that mean?

11 A She's responsible for all of the academic  
12 activities of the school including curriculum, also  
13 in terms of chairing the Curriculum Committee, which  
14 is a predoctoral education program; that's her  
15 primary responsibility.

16 Q Okay. The Dental School, as I understand it,  
17 is four years; is that correct?

18 A Correct.

19 Q So it's a four year program?

20 A Yes.

21 Q How many students, roughly, are in each class?

22 A Approximately, 105 students in each class.

23 Q As I understand it, you break down the  
24 dentist -- the Dental School experience into two  
25 parts, the first part being years 1 and 2?

1 A Correct.

2 Q And the second part being years 3 and 4?

3 A Correct.

4 Q Okay. And can we call -- am I correct your  
5 terminology is D1, D2, D3 and D4?

6 A Yes.

7 Q There's an Academic Review Board --

8 A Correct.

9 Q -- that goes with those two years?

10 A Yes.

11 Q Okay. That's called the Academic Review Board

12 I?

13 A Correct.

14 Q That does what?

15 A That essentially monitors student progress and  
16 determines if students have met all of their  
17 requirements for promotion to the next year.

18 Q Okay. That board meets regularly?

19 A Yes, it does.

20 Q Every semester?

21 A I believe so.

22 Q So when you're D1, D2, you're under the  
23 regulation of the ARB I?

24 A Yes.

25 Q And they meet every semester?



1 A Yes.

2 Q They go through the list to see which students  
3 are having problems in various classes?

4 A Yes.

5 Q Okay. And then if they see there's a problem  
6 like somebody's failed --

7 A Yes.

8 Q -- what are there options at that point?

9 A Depending upon what the student has had a  
10 problem with, they could have them repeat a portion  
11 of a course, repeat the entire course.

12 They could have them ask them to  
13 repeat the year, for example, and so forth, until  
14 finally, if necessary, to dismiss them from school.

15 Q There's such a thing called the Warned List?

16 A I'm not sure what that is.

17 Q Have you heard of a list where students are  
18 given a warning, a list is kept. Watch out for your  
19 grades you may have gotten a D?

20 A I believe so. I just don't know. I've never  
21 seen it.

22 Q All righty.

23 Now am I correct that the Dental  
24 School, under your written procedures, allow years I  
25 and II to be completed in three years' time?

1 A I believe it can take up to that time.

2 Q So we all understand this, you realize that not  
3 every dental student can complete two years of  
4 Dental School in two years; it might take a third  
5 year?

6 A On occasion, yes.

7 Q That's because people might struggle in certain  
8 areas?

9 A Yes.

10 Q And you're willing to give that student extra  
11 time?

12 A Yes.

13 Q Okay. So you have three years for your first  
14 two years.

15 By the same token, Dean, you've got  
16 D-III and D-IV that's under the ARB II?

17 A Yes.

18 Q Okay. And that's a similar committee?

19 A Correct.

20 Q But it's for the second two years.

21 A Yes.

22 Q Am I correct once you get through your first  
23 two years, your done with the ARB I?

24 A Yes.

25 Q You're starting with kind of a fresh start?

1 A Yes.

2 Q Academically?

3 A Unless there's some lingering concerns but so  
4 they'll be monitored. But, generally, you come in a  
5 different group.

6 Q Again, you're given three years to get through  
7 your second two years of Dental School?

8 A You can, right.

9 Q Because the Dental School allows six years for  
10 a student to go start to finish.

11 A Okay. Yes.

12 Q Right?

13 That's in writing as part of your  
14 policies?

15 A Yes.

16 Q Again, you understand may take some load longer  
17 then two years to finish the last two years, you  
18 give them that extra year?

19 A Yes.

20 Q Okay. And the Dental School sometimes makes  
21 people repeat a full year, correct?

22 A Yes.

23 Q Okay. And that, again, may be a reason you  
24 give an extra year?

25 A Yes.

1 Q So if you've got somebody failing or  
2 struggling, they may be given an option to repeat  
3 they're second year --

4 A Yes.

5 Q -- or leave?

6 A Correct.

7 Q That's all allowed under your rules?

8 A Yes, it is.

9 Q You know, sitting here today, that Alissa Zwick  
10 was never told to repeat a year?

11 A I'm not aware she was told to repeat a year.

12 Q Nobody ever said to her, as far as you know,  
13 Alissa, you're really doing a bad job.

14 We're going to make you repeat if you  
15 don't make it.

16 A I'm not aware.

17 Q That didn't happen as far as you know?

18 A As far as I know.

19 Q She wasn't given six years to get through  
20 Dental School?

21 A Correct.

22 Q Now just a little more background.

23 There are classes at the Dental  
24 School which we've heard a term called didactic?

25 A Yes.

1 Q Classes called clinical?

2 A Yes.

3 Q Didactic, you can explain them.

4 As I understand it, it's a more of a  
5 traditional college classes; reading, writing?

6 A They're basic science or preclinical courses we  
7 call them, where students are in lectures or small  
8 groups.

9 Q And then in the second year, you add an element  
10 to the curriculum; that's kind of a clinical course,  
11 isn't it?

12 A It's preclinical, usually early introduction  
13 into the clinic.

14 Q Pre-clinic. You're not working on people?

15 A They're seeing patients later in the second  
16 year, but most of it is preclinical.

17 Q All right.

18 When you're preclinical, you're  
19 working on things like models of teeth?

20 A Correct.

21 Q We've heard the term already in the case that  
22 students remediate courses.

23 You're familiar with that  
24 terminology?

25 A Yes, I am.

1 Q That's true for clinical courses as well as  
2 didactic courses?

3 A For certain rotations, they may be remediated.  
4 Correct.

5 Q Just to jump ahead here for a second.

6 When the students are actually  
7 working in the clinic, they are required to cover a  
8 certain number of patient procedures before they  
9 graduate?

10 A Correct.

11 Q So if I might be trying to do, let's say,  
12 restoration's in my D-III year.

13 And I, for some reason, am  
14 struggling. I don't get enough or do well, I can  
15 continue working on that in my D-IV year?

16 A There may be some closer monitoring, but I  
17 believe to a limited extent that they can, yes.

18 Q Yes. Okay.

19 Now by the D-III year, the students  
20 are put right into the clinic?

21 A Yes. Much of the D-III year is clinical  
22 dentistry.

23 Q With live patients?

24 A Correct.

25 Q And am I correct that you have observed over

1 the years that some students, when they first get  
2 into the clinic, tend to be very cautious?

3 A Yes.

4 Q Little nervous?

5 A Yes.

6 Q Because they're drilling on people's teeth for  
7 the first time?

8 A Yes.

9 Q And by the same token, some people are a little  
10 too overly enthusiastic?

11 A Yes.

12 Q And they might drill a little too far and cause  
13 a needless root canal?

14 A Correct.

15 Q The Dental School understands that?

16 A Yes.

17 Q You're prepared to deal with people at both  
18 ends of the spectrum?

19 A Yes, we are.

20 Q You know it takes time for people to work  
21 through these clinical procedures and gain  
22 confidence?

23 A Yes.

24 Q The school is prepared to deal with that?

25 A Yes, we are.

1 Q And by the way, you know every year somebody  
2 takes out a wrong tooth or it's common. You've  
3 heard of that?

4 A Not sure how common it is. It does  
5 occasionally --

6 MR. HOWLETT: Your Honor, we're getting  
7 into area of performance of other students.

8 I would object.

9 MS. GORDON: Just the overview of the  
10 clinic, how people perform in general.

11 THE COURT: Overruled.

12 BY MS. GORDON:

13 Q Now I want to talk a little bit about once  
14 people, again, are in the clinic for their third and  
15 fourth year, how they're graded.

16 A We have what they call bubble sheets. These  
17 are sort of given a series of scores I think one,  
18 two, three or unsatisfactory. I don't know what the  
19 range is, but essentially an instructor evaluates  
20 different aspects of their performance patient  
21 management procedure.

22 Q If you want to look at the board for a second,  
23 we've put up an example that's one of the exhibits  
24 in the case, it will come in.

25 I think that's actually one of Alissa



1 Zwick's bubble sheets.

2 Is that what you're referring to?

3 A Yes.

4 Q We know there's categories on there  
5 independence preparedness, technical contents?

6 A Uh-huh.

7 Q And the instructor, just so we all understand,  
8 I don't want to bore everybody in the courtroom.

9 Just so we know a student gets  
10 assigned a patient?

11 A Yes.

12 Q And puts the patient in the chair, is working  
13 with a course I'm going to call it a real dentist,  
14 certified dentist that's on your staff?

15 A Correct.

16 Q Overseeing the patient?

17 A Yes.

18 Q Then at the end of the procedure, the professor  
19 or assistant professor fills out this bubble sheet?

20 A Yes.

21 Q Okay. And you can give the student either an  
22 exceeds expectations --

23 A Correct.

24 Q -- meets or a does not meet. Correct?

25 A Correct.

1 Q Okay. And then I know there's a place for  
2 comments.

3 You're aware of that, aren't you?

4 A Yes.

5 Q What's the point of that?

6 A You know they're subtleties that are obvious in  
7 a particular grade a comment should be made by an  
8 instructor.

9 Q That's the place if the instructor, for  
10 example, is having a significant problem with the  
11 way a student is conducting himself?

12 A That would be one mechanism.

13 Q Another mechanism might be, what, send the  
14 student an email?

15 A It could be called call a student in, talk to  
16 them personally.

17 Q Have a meeting?

18 A Reporting to the clinic director. So there's  
19 different opportunities to report concerns.

20 Q Then, ultimately, the student gets a grade for  
21 the entire clinical --

22 A Yes.

23 Q -- year.

24 A Yes.

25 Q Now I want to go through -- we've gone through

1 the Academic Review Board I and Academic Review  
2 Board II.

3                   There's also something called  
4 Executive Committee at the school?

5 A Yes.

6 Q You're the chair?

7 A Yes.

8 Q What is that?

9 A Elected members of the faculty. They may  
10 represent all faculty at the Dental School in  
11 matters of student affairs, faculty promotion,  
12 faculty appointments.

13                   They also advise me on the budgetary  
14 matters they're essentially responsible for the  
15 day-to-day running how the schools operated. Advise  
16 me on that.

17 Q They also deal with honor code issues?

18 A Correct. They do.

19 Q You have written honor code at the school?

20 A Yes, we do.

21 Q Are they subject to dismissal for violating the  
22 honor code?

23 A Yes, they can be.

24 Q You've had problems with honor code violations?

25 A There have been students that have been

1 reprimanded for violations.

2 Q Not thrown out of the school?

3 A I believe students -- I don't recall for sure.

4 Students may have been dismissed for honor code.

5 Q Then reinstated?

6 A Yes, they can be reinstated.

7 Q In fact, one of your procedures at the school  
8 if you do dismiss somebody for having difficulties,  
9 you have the option of reinstating that student?

10 A Yes, that can happen.

11 Q That's happened several times?

12 A It has happened in the past.

13 MR. HOWLETT: Your Honor, I'm going to  
14 object to the relevance. One, this is not an honor  
15 code.

16 THE COURT: I think you're done with this?

17 MS. GORDON: I am. I'm done with that  
18 area.

19 BY MS. GORDON:

20 Q Dental School is set up to assist students who  
21 have problems in any area aren't they?

22 A Yes, we are.

23 Q In fact, a dismissal from the school is a last  
24 resort?

25 A Yes, it is.

1 Q After all else has been tried?

2 A Yes.

3 Q You select your students very carefully to be  
4 admitted to the Dental School?

5 A Yes, we do.

6 Q You've taken people that have proven themselves  
7 to be worthy?

8 A Correct.

9 Q Now, of course, you met Dr. Lantz when you came  
10 on board in 2003; is that correct?

11 A Yes.

12 Q Okay. And you have -- do you review her  
13 performance?

14 A Yes, I do.

15 Q You get comments about her from other faculty  
16 members, don't you?

17 A Yes, I do.

18 Q You have heard that she is considered to be  
19 thin skinned by some; am I correct by that?

20 A What I've heard is she could be demanding of  
21 them.

22 Q I didn't ask you that. I said thin skinned.

23 A I haven't heard the word "thin skinned",  
24 specifically. At least I don't recall that.

25 Q I've got your deposition there.

1                   You've given me some different  
2 answers.

3                   Do you remember telling me at your  
4 deposition you had heard from people that she could  
5 be thin skinned?

6 A     Which page?

7 Q     16.

8 A     Let me -- sorry about that.

9                                 (After a short delay, the  
10                                 proceedings continued)

11

12                   THE WITNESS: Yes.

13                   MR. HOWLETT: Your Honor, I object.

14 That's --

15                   MS. GORDON: Can I --

16                   THE COURT: Wait a minute.

17                   What is the objection?

18                   MR. HOWLETT: Well, I think she's taking  
19 the context --

20                   THE WITNESS: I see. I see that she's --  
21 I said no at the time.

22 BY MS. GORDON:

23 Q     Okay. Well you said you've heard?

24 A     I've heard. That I'm sorry. Yes. I  
25 apologize.

1 Q You've heard that, that Dr. Lantz is thin  
2 skinned?

3 A I've heard in the hall talk. Right.

4 Q Yes. And you've also heard you said that she  
5 can be demanding.

6 You just said that, correct?

7 A Correct.

8 Q And you've also heard she can be difficult to  
9 work with, haven't you?

10 A Again, nobody's told me directly. I've heard  
11 it in hall talk. Correct.

12 Q You've heard that she --

13 MR. HOWLETT: Your Honor, I'm going to  
14 object to hall talk. I mean this is double hearsay.  
15 Nobody has told him either of these things.

16 THE COURT: Sustained.

17 MS. GORDON: Let me lay a foundation here.

18 BY MS. GORDON:

19 Q You were Dr. Lantz's superior?

20 A Yes.

21 Q Your job is to pick up information how she's  
22 doing with fellow faculty, correct?

23 A Right.

24 Q The people she's supervising?

25 A Correct.

1 Q People send you anonymous comments, don't they?

2 Don't you get anonymous written  
3 comments?

4 A Yes, I do. Yes, I do.

5 Q You take those into account --

6 A Yes, I do.

7 Q -- when you're assessing somebody?

8 A Yes.

9 Q Not everybody will say to you directly Dr.  
10 Lantz's fill in the blank?

11 A Yes.

12 Q But, nonetheless, you want to know what the  
13 general talk is?

14 A Correct.

15 Q So you keep your ear to the ground and try to  
16 find out --

17 A Yes.

18 Q -- what the thinking is?

19 A Right.

20 Q You do take into -- things into account what  
21 you heard?

22 A I listen to what they say, yes.

23 Q Okay.

24 You're the person, Dean who  
25 ultimately gave the ultimatum to Professors Jaarda



1 and Stoffers?

2 A Correct.

3 Q Let me finish my question.

4 Jaarda and Stoffers, that they had to  
5 either accommodate Alissa Zwick as Dr. Lantz  
6 proscribed or leave the program, correct?

7 A Correct.

8 Q You're also the person who ultimately approved  
9 the decision made by the ARB, chaired by Dr. Lantz,  
10 to dismiss Alissa from school?

11 A I sustained the decision, yes.

12 Q Okay. Now you knew Alissa Zwick as a student;  
13 am I correct?

14 A Yes, I did.

15 Q She sought you out on one or more occasions to  
16 talk to her.

17 You knew her in general?

18 A Yes.

19 Q You found her to be a good decent person,  
20 didn't you?

21 A Yes.

22 Q You found her to be a very pleasant student?

23 A Yes.

24 Q You found her to be a reliable student?

25 A Could you explain that?

1 Q No. Using the word in the general sense.

2 A Okay. Generally, yes.

3 Q Okay. And you found her to be trustworthy,  
4 didn't you?

5 A To my understanding, yes.

6 Q You found her to be a conscientious student,  
7 right?

8 A To my understanding, yes.

9 Q You found her to be very hard working?

10 A My understanding she was, yes.

11 Q She was very respectful of you?

12 A Yes, she was.

13 Q She was very respectful of all faculty she  
14 worked with?

15 A Yes.

16 Q She tried to comply as far as you observed with  
17 any directive she was given from the Dental School?

18 A Yes.

19 Q You thought he was intelligent, didn't you?

20 A Yes, I did.

21 Q You thought she was honest?

22 A Yes.

23 Q Now is it your understanding that at some point  
24 during Alissa Zwick D2 year --

25 A Yes.

1 Q -- she ran into some difficulties at the Dental  
2 School.

3 A Yes. I believe it was in her preclinical  
4 education class, that's what my first became aware  
5 of the problem.

6 Q That would be -- for the record, that would  
7 be -- the section number is 621 and 631; am I right?

8 A I'm not sure.

9 Q You're not sure?

10 A I'm not sure what the course corresponded to.

11 Q The transcript will reflect that's the  
12 preclinical foundation.

13 A Yes. All right.

14 Q And it's two semesters?

15 A Yes.

16 Q 621 is in the Fall?

17 A I believe so.

18 Q 631 is Winter?

19 THE COURT: Wait a minute. He said he  
20 didn't know the numbers.

21 THE WITNESS: I'm not sure. I'm guessing.

22 THE COURT: So let's not.

23 MS. GORDON: I think it's uncontested in  
24 this case, judge.

25 Maybe that's the best way to do it.

1 Everybody agrees the clinical foundation course is  
2 preclinical foundation.

3 MR. HOWLETT: I would agree the Fall is  
4 621 and Winter is 631. So we can proceed along  
5 those lines.

6 THE COURT: Okay.

7 BY MS. GORDON:

8 Q Now this clinic is an opportunity for the  
9 students to actually work in a room on typo-dent  
10 models, that kind of thing?

11 A Correct.

12 Q Hands on work?

13 A Yes.

14 Q That clinic, when you came back on the scene in  
15 2003, was being run by who?

16 A Doctors Jaarda and Stoffers.

17 Q Have they been running that for a long time?

18 A It's my understanding they had been, yes.

19 Q They were long time preclinical directors?

20 A Correct.

21 Q They worked closely with the student body?

22 A In that course, yes.

23 Q All right.

24 They were highly thought of, as you  
25 understood it?

1 A Yes, they were.

2 Q You liked them, didn't you?

3 A Yes.

4 Q They were knowledgeable?

5 A Yes, they were.

6 Q Now did there come a time when you learned that  
7 there was some issue involving their giving an  
8 accommodation --

9 A Yes.

10 Q -- to Alissa Zwick?

11 A Yes.

12 Q And as far as you knew, had Alissa Zwick when  
13 you learned about this -- did you know what required  
14 the accommodation?

15 A It was -- at the time, my understanding was  
16 that she had attention deficit disorder.

17 And that she -- they were required to  
18 provide accommodations for her in that course.

19 Q Okay. The accommodations were what?

20 A I don't know specifically, but certainly to be  
21 able to work, take exams without the pressures of  
22 other people around her.

23 To accommodate her so she doesn't  
24 have all that stimulation around her to get the work  
25 done.

1 Q Okay. Jaarda and Stoffers were also very  
2 popular with the student body, correct?

3 A Yes, they were.

4 Q Did you ever become aware that Dr. Lantz had  
5 suggested to Alissa when she began to have  
6 difficulties in the clinical course in the first  
7 semester, that she should go in and see if she could  
8 get an A.D.D. diagnosis?

9 Have you ever heard that?

10 A I believe I have.

11 Q Then you learned that Alissa followed up on Dr.  
12 Lantz's directive and did do that?

13 MR. HOWLETT: Your Honor, these are  
14 hearsay questions --

15 THE COURT: Sustained.

16 MR. HOWLETT: -- clearly.

17 THE COURT: Sustained.

18 MS. GORDON: I'm just asking him what he  
19 learned. If she did, in fact, get it.

20 THE COURT: They are hearsay.

21 MS. GORDON: The last one I don't know if  
22 it is, judge.

23 THE COURT: I said it is so.

24 MS. GORDON: Okay.

25

1 BY MS. GORDON:

2 Q Did there come a time when you were advised  
3 officially in your position as Dean, as to whether  
4 or not Alissa Zwick received some kind of diagnosis?

5 A I was told, yes.

6 Q And there came a time when Dr. Lantz came into  
7 your office and discussed this entire situation with  
8 you?

9 A This is at a time when she discussed it, the  
10 problem of not being given the accommodation with  
11 me, yes.

12 Q And did she tell you that she felt Alissa  
13 needed to be accommodated?

14 A Yes.

15 Q Okay. And she told you that Jaarda and  
16 Stoffers had a very different idea?

17 A Yes.

18 Q And she told you was this at a meeting she  
19 discussed this with you?

20 A Yeah. I can't recall. It may have been. I  
21 just don't recall exactly when.

22 Q Okay. And she told you that Jaarda and  
23 Stoffers were refusing to accommodate Alissa?

24 A They were not providing accommodations, yes.

25 Q Did she explain to you why?

1 A No, I'm not -- don't recall.

2 Q Am I correct that you were aware at the time  
3 she came in to discuss all this with you, that Dr.  
4 Lantz had had -- already had a history of some  
5 conflict with Doctors Jaarda and Stoffers?

6 A Specifically related to this matter that I was  
7 aware of that.

8 I wasn't aware of what happened  
9 previously.

10 Q Let me change my question.

11 Were you aware when Dr. Lantz came in  
12 to complain to you about this, that there was a  
13 conflict between Dr. Lantz and Jaarda and Stoffers  
14 that predated, predated this situation with Alissa?

15 A I don't know. I'm not sure. I'm really not  
16 sure.

17 Q Do you remember at your deposition that you did  
18 recall? I'd be happy to direct you.

19 A Sure.

20 Q Bottom of 134 top of 135.

21 (After a short delay, the  
22 proceedings continued)

23 When I asked did you know what Dr. Lantz's  
24 attitude was --

25 A Yes. Yes.



1 Q -- or had been prior to this?

2 A Yes, I believe so.

3 Q You said you believed there was some conflict  
4 with Jaarda and Stoffers and Lantz prior to anything  
5 involving Alissa Zwick.

6 MR. HOWLETT: I'll object. That's not --

7 THE COURT: Pardon me. That's not what?

8 MR. HOWLETT: I'm sorry. That's not what  
9 the deposition said.

10 MS. GORDON: I'm asking the witness from  
11 the witness stand.

12 THE WITNESS: I can't recall any specific  
13 events that occurred.

14 The fact is from what I said, so I can't  
15 give you specific events that occurred prior to  
16 that.

17 BY MS. GORDON:

18 Q But did you know?

19 A But I heard there had been some conflict.

20 Q Did they cross swords previously in some way or  
21 another?

22 MR. HOWLETT: Objection, calls for  
23 hearsay.

24 THE COURT: I'm wondering what is the  
25 purpose this is being offered for?

1 MS. GORDON: This is being offered to show  
2 that what Dr. Lantz's motive was in setting up this  
3 entire situation where Jaarda and Stoffers were  
4 dismissed.

5 THE COURT: You're offering it for the  
6 truth?

7 MS. GORDON: No. I'm just offering it for  
8 what the Dean's understanding was of her  
9 relationship with Jaarda and Stoffers.

10 I'm going to use it later to show that Dr.  
11 Lantz already had an ongoing battle with these two  
12 gentlemen which then my client --

13 THE COURT: But -- all right. But this  
14 can't be used, in fact, she was having problems or  
15 some problem that predated this.

16 You're using this to show his knowledge.  
17 I'm not sure if it's relevant at this point.

18 But only using it to show the knowledge, I  
19 will allow it.

20 MR. HOWLETT: We have Dr. Lantz and  
21 Dr. Stoffers, Dr. Jaarda. I object to asking this  
22 witness about conflicts among them when he has no  
23 firsthand knowledge of it.

24 THE COURT: But he has knowledge of it and  
25 that seems to be the purpose she's offering it.

1                   So overruled.

2 BY MS. GORDON:

3 Q       Now am I correct that there came a day when Dr.  
4 Lantz and perhaps it was the same day in your office  
5 and told you that Alissa needed to be accommodated  
6 by Doctors Jaarda and Stoffers?

7 A       Yes. Yes.

8 Q       And did she tell you time was of the essence?

9 A       That it had been going on far too long and  
10 something had to be done soon.

11 Q       Did she tell you if they did not do so, that  
12 they should be forced or should have to step down  
13 from their positions?

14 A       Well, if they did not meet the accommodations,  
15 I certainly would ask them to step down.

16 Q       That's what Dr. Lantz recommended; am I  
17 correct?

18 A       I believe so.

19 Q       Okay.

20                   By the way Dr. Lantz -- you're  
21 explaining to us was involved in this whole issue of  
22 giving somebody an accommodation for a disability.

23                   That doesn't fall under her area at  
24 the school, does it?

25 A       Well, she's also got the responsibility for

1 Student Services.

2 There is an assistant aid for Student  
3 Services. Ultimately, it does eventually get to her  
4 office.

5 So, eventually, if the curriculum has  
6 a role. As Student Affairs even shows she has an  
7 assistant dean to assist her.

8 Q Dean Woolfolk is the person?

9 A Correct.

10 Q Dean Woolfolk reports to Dr. Lantz?

11 A Correct.

12 Q Dean Woolfolk never told you Jaarda and  
13 Stoffers were refusing to accommodate Alissa?

14 A No.

15 Q Now the information you got from Dr. Lantz at  
16 your meeting with her when she told you that Jaarda  
17 and Stoffers were refusing to accommodate Alissa and  
18 they needed to do so or be removed was all verbal;  
19 am I correct on that?

20 A Yes.

21 Q Okay.

22 And at that time you were told by Dr.  
23 Lantz that if Alissa Zwick was not accommodated,  
24 there was going to be litigation, weren't you?

25 A We're told we could be subject to litigation.

1 Q Okay. You were told that if there was no  
2 accommodation, you could be sued by Alissa Zwick.  
3 Right?

4 A I don't believe Alissa Zwick was specifically  
5 mentioned.

6 But my concern was that because it  
7 was federal law that was not being followed, that  
8 that would be the case.

9 Q Well, she did mention Alissa Zwick -- strike  
10 that.

11 You understood when she said  
12 potential litigation?

13 A I included Alissa as an individual who could do  
14 that.

15 Q Let's go back to your deposition testimony  
16 because I did previously ask you whether she  
17 indicated to you there would be potential litigation  
18 by Alissa. You answered correct.

19 That's on page 131 at the bottom of  
20 the page, line 23.

21 Do you see that?

22 A Yes, I do.

23 Q Did she tell you you would lose your federal  
24 funding or was that something you concluded?

25 A No. Concluded we would be subject to federal

1 litigation.

2 Q Now Dr. Lantz came into your meeting with you  
3 with a piece of paper; is that correct?

4 A Correct.

5 Q And what was the piece of paper?

6 A That listed specific accommodations that needed  
7 to occur in their class for Alissa.

8 Q And I don't know if you have your book up  
9 there. If you can read that, Dean, that's your dep.

10 But do you see we put Exhibit 38 up  
11 on the board. Let's see if we can read that.

12 That's the document Exhibit 3 --

13 A Yes.

14 Q -- that Dr. Lantz marched into your office  
15 with?

16 A Correct.

17 Q Okay. And she wanted you to give this document  
18 to Stoffers and Jaarda?

19 A Yes.

20 Q Okay. You agreed with her that you would do  
21 this, didn't you?

22 A I did, yes.

23 Q You told her that if they would not agree to  
24 these terms, you would have them removed as long  
25 time clinical --

1 A Directors. Yes, I would.

2 Q You never called Alissa in?

3 A No, I did not.

4 Q You never asked Jaarda and Stoffers what was  
5 going on?

6 A No, I did not.

7 Q You relied on Dr. Lantz?

8 A On the information given to me, yes.

9 Q Eventually, you did talk to Jaarda and Stoffers  
10 when you called them in to tell them --

11 A Yes.

12 Q -- they were being given an ultimatum, right?

13 A Correct.

14 Q They told you that they had been blind sided by  
15 Dr. Lantz, didn't they?

16 A Correct.

17 Q These were people you respected?

18 A Yes.

19 Q Didn't that concern you?

20 A It concerned me in the sense that as long time  
21 instructors of the school, they were not willing to  
22 provide the accommodations for Alissa's education.  
23 That's what concerned me most.

24 Q What about their point they had been blind  
25 sided?

1                   They felt Dr. Lantz was trying to  
2 blind sided them, make something out of nothing?

3     A     Well --

4     Q     Did that concern you?

5     A     No. Because I don't think it was something out  
6 of nothing.

7     Q     Doctors Jaarda and Stoffers were very, very  
8 upset?

9     A     Yes, they were.

10    Q     They felt their integrity was at stake here,  
11 didn't they?

12    A     Yes.

13    Q     You knew, yourself, that they were not the kind  
14 of individuals who would ever harm a student.

15    A     Not purposely. Correct.

16    Q     In fact, they were the kind of individuals who  
17 bent over backwards, as I understand it, see if you  
18 agree, to work with students to do whatever they had  
19 to do?

20    A     Yes, they would.

21    Q     So at this point, you handed Exhibit 38, which  
22 was up on the board, to each of them?

23    A     Yes.

24    Q     You knew they were likely to not want to sign  
25 that, weren't you?



1 A Yes.

2 Q You figured they would say -- because they're  
3 strong personalities, right?

4 A Yes, they are.

5 Q Dr. Stoffers is a long time military man?

6 A I believe so.

7 Q Long time in the dentist -- dentistry?

8 A Dental court, yes.

9 Q And you knew they would be likely to stick to  
10 their guns, do what they felt was right?

11 A Correct.

12 Q You knew this was heading for crisis?

13 A Yes.

14 Q At the time you gave them the letter to sign, I  
15 suppose you were not aware that Alissa had met with  
16 Doctors Jaarda and Stoffers, had worked out with  
17 them a resolution to the issue?

18 A At that time I did not. Correct.

19 Q You later learned that?

20 A Yes.

21 Q Okay.

22 At the time Dr. Lantz asked you to  
23 give them that five point page, you had no idea?

24 A Correct.

25 Q You felt Alissa was the one demanding

1 accommodations, I guess?

2 A Yes.

3 Q And you told them, I guess, keeping in mind  
4 that you'd been told litigation was coming or could  
5 be coming, that they would not be defended in a suit  
6 by the Dental School if there was a disability  
7 discrimination case, correct?

8 A Yes.

9 Q Now at this point you realized, Dean, that you  
10 had a situation of great concern to you because you  
11 now had a lot of bad blood between Doctors Lantz,  
12 Stoffers and Jaarda. Correct?

13 A Yes.

14 Q Doctors Jaarda and Stoffers resigned?

15 A Yes, they did.

16 Q Okay. Let's go to Exhibits 40 and -- two  
17 different pages.

18 And this is the letter that was  
19 signed by Dr. Stoffers?

20 A Yes.

21 MR. HOWLETT: Your Honor, lack of  
22 foundation.

23 She hasn't established that he knows  
24 whether Dr. Stoffers signed it or not.

25

1 BY MS. GORDON:

2 Q Dr. Stoffers gave this to you?

3 A I believe so, yes.

4 Q You see that notation on the bottom?

5 A Yes, I do.

6 Q You don't doubt that this is Dr. Stoffers'  
7 writing what he gave to you, do you?

8 A No, I don't.

9 Q You maintained this in your files?

10 A I believe so.

11 Q Okay. And it states:

12 On Thursday February 5, Dean Polverini asked  
13 me to come to his office at 0945 hours.

14 He and Lopatin were present.

15 Dean Polverini gave me this piece of paper  
16 and told me that I had to agree to it within  
17 24 hours or be removed as the course  
18 director and that the university would not  
19 defend me in suit.

20 A Correct.

21 Q Did he take 24 hours to think about it?

22 A I don't believe so.

23 Q Now at the same time -- we'll go to the next  
24 page of Exhibit 40. That would be Dr. Jaarda's  
25 letter. That's his handwriting on the side here.

1                   That's with he gave you, Dean?

2    A    Yes.

3    Q    Okay. He said he'd met with you at 11:45?

4    A    Correct.

5    Q    He said:

6           I agreed to sign, but I asked to resign as  
7           course director for fear of accusations from  
8           the students which I could not defend.

9           Do you see that?

10   A    Yes. Yes.

11   Q    My guess is you were very upset now.

12           Your two beloved clinical directors  
13   were gone?

14   A    It wasn't a particularly happy time.

15   Q    It was a very difficult part of that year,  
16   wasn't it?

17   A    Yes.

18   Q    You quickly learned not only were Jaarda and  
19   Stoffers very upset, but all of the students that  
20   were taught by these gentlemen were very upset,  
21   weren't they?

22   A    Yes, they were.

23   Q    What did you hear in that regard?

24   A    Well, that they were treated unfairly.

25           And that, you know, I shouldn't have

1 done that to them.

2 And, you know, pretty much that sums  
3 up everything.

4 Q Were there class meetings going on?

5 A There may have been.

6 Q Was there a petition delivered to your office?

7 A Yes, there was.

8 Q Who was it signed by?

9 A I don't recall.

10 Q A lot of students?

11 A Perhaps.

12 Q You don't have exhibit books up there, do you?

13 MS. GORDON: Excuse me, judge. I  
14 apologize.

15 I'm going to hand you Exhibit 42. We'll  
16 put it up on the board. It's several pages.

17 BY MS. GORDON:

18 Q The first page is a letter from the student  
19 body.

20 A Correct.

21 Q In this --

22 MS. GORDON: Your Honor, move admission of  
23 Exhibit 42, by the way, as well as 40.

24 THE COURT: Any objection?

25 MR. HOWLETT: No objection, Your Honor.

1 THE COURT: One minute.

2 BY MS. GORDON:

3 Q 42 is addressed directly to you correct, Dean?

4 A Yes.

5 Q They go on to talk about Jaarda, Stoffers, how  
6 much they care for them and how frustrated and upset  
7 they are?

8 A Yes.

9 Q And that nobody's given them the reason why  
10 these two clinical instructors have been removed,  
11 correct?

12 A Correct.

13 Q They go down the first page and they give you a  
14 whole list of wonderful things about Doctors Jaarda  
15 and Stoffers. Correct?

16 A Yes.

17 Q Enthusiasm, clear expectation, clear  
18 application, performance?

19 A Yes.

20 Q The next page we begin to see the signatures,  
21 don't we?

22 A Yes.

23 Q How many signatures do we have altogether? I  
24 think they're numbered.

25 A Well, it's up to 86.

1 Q Then a couple more pages after that?

2 A Yes. So most of the class.

3 Q Almost the entire class, if not the entire  
4 class sent you a petition they were so upset about  
5 the removal of these two individuals, correct?

6 A Correct.

7 Q Did you hear about the tee shirts that were  
8 made and worn around the school with their pictures  
9 on them?

10 A I did.

11 Q You did?

12 A Yes, I did.

13 Q Did you see the tee shirts?

14 A Yes, I did.

15 Q Now you realized at some point that Alissa had  
16 gotten caught in the cross wire, didn't you?

17 A Yes.

18 Q You realized that people worth believing that  
19 Alissa were the reason Doctors Jaarda and Stoffers  
20 had stepped down?

21 A That's what I was told.

22 Q Right.

23 In fact, this created a very  
24 difficult, difficult situation for Alissa, didn't  
25 it?

1 A Yes, it did.

2 Q Did you become aware Alissa wanted to issue a  
3 statement for her class -- to her class explaining  
4 what had really occurred?

5 A I believe so, but I don't recall specifically.  
6 But I believe so.

7 Q Okay. Were you aware that Dr. Lantz did not  
8 allow her to do that?

9 A I'm not aware of that.

10 Q Do you know whether Alissa ever issued a  
11 statement to her class?

12 A I do not know.

13 Q You did become aware, though, didn't you, Dr.  
14 Lantz, when all this hit, came in and told Alissa to  
15 leave school, take a week off?

16 A Yes.

17 Q You know that she told her to go home, get a  
18 manicure and pedicure, right?

19 A Yes.

20 Q And have a home-cooked meal, right?

21 A Yes.

22 Q That's not very professional or appropriate, is  
23 it?

24 A Well, I didn't take it that way.

25 I think she was really concerned



1 about her that she was really in a tough spot.

2 Q Okay. So she's in a tough spot through no  
3 fault of her own, correct?

4 A As far as I know, yes.

5 Q She wasn't the reason Jaarda and Stoffers  
6 resigned?

7 A I believed they resigned because if they  
8 didn't, I would tell them to step down.

9 Q It wasn't because of Alissa demanding they be  
10 told to resign?

11 A No. Because they weren't meeting the  
12 accommodations.

13 Q But you later learned that Alissa had worked  
14 everything out with them, right?

15 A I didn't know the details of that. I really  
16 didn't.

17 Q Okay. We'll get to that in a minute.

18 So you think Dr. Lantz told Alissa to  
19 take a week off of school because she was concerned  
20 about her?

21 A I believe so.

22 Q A week off of dental school is quite a  
23 significant period of time when you're in clinical  
24 class, isn't it?

25 A Yes. It's easily made up.

1 Q Okay. And do you think it's appropriate to  
2 tell a student she could go get a manicure and  
3 pedicure while all these events are swirling around  
4 and she wants to clear her name?

5 A I, I -- I can't judge that if that's  
6 inappropriate.

7 Q That's not something you would ever tell a  
8 student, is it?

9 A No.

10 Q Did it ever cross your mind that there was no  
11 good to come to Alissa by leaving dental school for  
12 a week and allowing people to continue to talk about  
13 her?

14 A No.

15 Q Did it ever occur to you that Dr. Lantz wanted  
16 Alissa gone so that the truth would not come out  
17 through Alissa?

18 A No. It never, never did.

19 Q Now Doctors Jaarda and Stoffers became  
20 extremely concerned that their resignation would  
21 have a major impact on Alissa being able to get  
22 through that second year of Dental School.

23 Am I right?

24 A I believe so.

25 Q Did you say I believe so?

1 A Yes.

2 Q Okay. They had great concern for her overall  
3 well being, correct?

4 A That was my understanding.

5 Q Okay. And this chaotic situation with the key  
6 foundation, directors and teachers being removed,  
7 continued all through the rest of that term, didn't  
8 it?

9 A Yes.

10 Q Began in January right after -- is that when  
11 the Winter term begins?

12 A Yes.

13 Q Began in January and continued through  
14 February, March, April and into May, correct?

15 A I believe so, yes.

16 Q So Alissa remained under pressure that entire  
17 time, correct?

18 A As far as I know, yes.

19 Q And were you aware that or did you ever hear  
20 that some of her classmates weren't speaking to her?

21 A That's -- I had been told that was the case  
22 people were not talking to her.

23 Q In fact, you were told that people were  
24 actually calling her names, weren't you?

25 A Yes. Yes.

1 Q And they were threatening her. I think you  
2 were told that, too.

3 Dr. Lantz told you that, didn't she?

4 A Yes. Yes.

5 Q You became aware that because of all of this  
6 swirling around, Alissa got behind in her work,  
7 right?

8 A I believe so, yes.

9 Q There came a time, Dean, when you learned more  
10 about what had really happened leading up to the  
11 Jaarda/Stoffers resignation during the time you  
12 resigned?

13 A Could you explain?

14 Q Of course.

15 As time went on, you came to have  
16 more information about some of the background to  
17 this.

18 I think you called it bad blood  
19 between Lantz, Jaarda and Stoffers and what happened  
20 to Alissa.

21 A You know, prior history. I didn't get anymore  
22 details then we already had.

23 Q Didn't Alissa come in and see you?

24 A She did come to talk to me.

25 Q That was her request to see you?

1 A Correct. Yes.

2 Q She was still so upset in April she wanted to  
3 get into your office?

4 A Yes.

5 Q Discuss with you exactly what her situation  
6 was?

7 A Yes.

8 Q Okay. Did you know at this time or had you  
9 noticed that Alissa is a very proactive student who  
10 tried, if she saw a problem coming, tried to --

11 A In this particular instance, she was and came  
12 to me.

13 Q Sure. So let's look at Exhibit 87, Dean.

14 MS. GORDON: Can the jury see it okay?

15

16 BY MS. GORDON:

17 Q Dean, it's on the board. But it is in your  
18 book. Whatever's easier for you.

19 What's not in front of everybody is  
20 the date on this.

21 MS. GORDON: Can we scroll up Sharon?

22 BY MS. GORDON:

23 Q It says Monday April 5th. Okay?

24 This is from Alissa to you. Let's go back to the body of  
25 it.

1 Alissa says: Dear Dean Polverini,  
2 First of all, thanks for taking the time to  
3 meet with me today. I really appreciate  
4 your concern.

5 I was just wondering if you have come up  
6 with any suggestions that would help me  
7 handle this situation.

8 As of now, it's very unlikely I will be able  
9 to pass the semester.

10 If that's the case, then I really don't  
11 want to continue on and take finals.

12 I've already spent so much time and effort  
13 trying to get caught up and I'm not making  
14 any progress.

15 Let me stop right there.

16 You knew she meant with everything  
17 going on she'd gotten behind?

18 A Correct.

19 Q Okay.

20 I was told by Dr. Lopatin and Dr. Lantz to  
21 work with faculty. I've not received much  
22 help.

23 I really wanted to remain in dental school  
24 which is why I've not given up, but I've had  
25 such a terrible semester I don't think I can

1 physically or mentally repeat the year.

2 So just to stop there.

3 An option would be if she failed the  
4 clinical course, the Jaarda/Stoffers course, she  
5 could repeat?

6 A That was a possibility.

7 Q She says:

8 I don't want to repeat. I've been very  
9 determined to finish the semester.

10 But if you think I will not be allowed to do  
11 so, please let me know as soon as possible.

12 Then I want to highlight this part.

13 I don't know why the situation had to  
14 happen. I would like to find out. It  
15 certainly did not benefit me.

16 I feel like the administration has put me in  
17 this situation and has not done their best  
18 to help me overcome it. Thanks again.

19 You knew what she meant by that last  
20 part which was she'd been placed in a situation with  
21 the accommodation and the fight?

22 A Yes.

23 Q -- and now she's was behind --

24 A Yes.

25 Q -- and she was looking to you for suggestions?

1 A Right. Right.

2 Q Did you write her back?

3 A No, I did not.

4 Q But you understood why she was behind?

5 A Yes.

6 Q And you also learned Alissa gave you some  
7 different background on what the accommodation was.

8 And Dr. Lantz told you, didn't she?

9 A Perhaps. I don't recall.

10 Q Okay.

11 You learned there were two very  
12 different versions of what happened with Jaarda and  
13 Stoffers, Alissa and Dr. Lantz, right?

14 A Yes.

15 Q You learned Alissa never anticipated that  
16 Doctors Jaarda and Stoffers would be told they had  
17 to accommodate her or there would be consequences?

18 A After the effect, yes.

19 Q And you learned that never in a million years  
20 did Alissa want anybody to tell Doctors Jaarda and  
21 Stoffers to accommodate her or leave, correct?

22 A Yes.

23 Q Okay. And you learned she was extremely upset  
24 about the way they'd been treated?

25 A Yes.



1 Q And, in fact, you formed the opinion once you  
2 got all the information, that Dr. Lantz had not  
3 given you the full picture, didn't you?

4 A It didn't get to the point.

5 I believe the information she gave me  
6 was the information that was truthful.

7 Q Okay. Well, do you remember at your deposition  
8 me asking you:

9 Well, you certainly know today she didn't  
10 give you the full picture. Correct?  
11 Looking back on it she made you think there  
12 might be litigation.

13 Your answer was yes?

14 A Yes. There might be the way of litigation,  
15 yes.

16 Q At your deposition, you stated Dr. Lantz did  
17 not give you the full picture.

18 Do you recall that now?

19 A You know, I don't.

20 Q Let's go to page 165.

21 A Okay. I'm sorry.

22 Q Do you see that?

23 A This is 165; is that correct?

24 Q The bottom of 165.

25 Question: Well you certainly know today

1 she, Dr. Lantz, didn't give you the full  
2 picture. Correct?

3 A Okay.

4 Q Looking back on it, she made you think there  
5 might be litigation.

6 Your answer: Yes.

7 Then I said:

8 And Alissa was demanding this, right?

9 Your answer: That's true.

10 A Yes.

11 Q I'll make a note.

12 So with that, you made a decision,  
13 didn't you, to change course?

14 A Yes.

15 Q And your change of course was what?

16 A I don't recall. Could you --

17 Q You decided to bring back --

18 A Yes. That's correct. Yes, I did.

19 Q You realized an egregious error had been made?

20 A I realized that this could have been handled  
21 much better.

22 Q Let's go to Exhibit 97.

23 You've got it there, Dean and we'll  
24 put it up on the board.

25 And this one is a letter to

1 Dr. Jaarda, but it's the same letter to both.

2 And dated May 10 '04. Correct?

3 A Correct.

4 Q Alissa came to see you in April, correct?

5 A Yes.

6 Q This is now at the end.

7 Is this the beginning of '04 or end  
8 of '03?

9 A I believe it is the end of '03. I believe it's  
10 '03. I'm not sure.

11 Q Briefly go over this.

12 Dr. *Merle, Merle Jaarda.*

13 This letter is written to acknowledge my  
14 support of you as a member of the faculty  
15 and the School of Dentistry and apologize  
16 for causing you unnecessary embarrassment by  
17 not resolving in a proactive manner the  
18 unfortunate events that resulted in your  
19 resignation as course director of  
20 preclinical prosthodontics.

21 This calamity should not have occurred.

22 Do you see that?

23 A Uh-huh.

24 Q You considered what occurred with these  
25 clinical directors to actually be a calamity.

1 A Yes.

2 Q Okay. Anybody write a letter like that to  
3 Alissa from the dental school telling her you were  
4 sorry this calamity occurred, that she was now  
5 behind and embarrassed?

6 A Not that I'm aware of.

7 Q One year later Alissa was -- almost one year  
8 later, Dr. Lantz's committee recommended she be  
9 dismissed from the school. Correct?

10 A Yes.

11 Q And she was dismissed?

12 A Yes.

13 Q I want to talk about Alissa's D2 year where she  
14 took the clinical course.

15 621 and 622 are taken in the second  
16 year, we've covered that.

17 That's the Jaarda and Stoffers  
18 course?

19 A Correct.

20 Q I want to look at that, ask you some of your  
21 understanding on that.

22 So as I understand it, I think this  
23 is uncontested in this case, that if you fail your  
24 first semester of clinical foundations, you're  
25 allowed to keep going into the second semester.

1 Correct?

2 A Correct.

3 Q And this happens to students, doesn't it?

4 A It does.

5 Q Okay. There are students that fail the Fall  
6 semester of the clinical?

7 A I believe so, yes.

8 Q They're allowed to go on.

9 A Uh-huh.

10 Q If they pass in the second half, that failing  
11 grade is no longer at issue. They keep going on to  
12 the D3 year.

13 That's been my understanding.

14 A Yes. Uh-huh.

15 Q So now with Alissa, all of us came up with  
16 Doctors Jaarda and Stoffers in the Fall.

17 She did not do well her Fall semester  
18 in clinical foundation; is that correct?

19 A Correct.

20 Q So she could have been forced to repeat that,  
21 couldn't she?

22 A That could have been an option.

23 Q Apparently people at the dental school thought  
24 she was a good enough student that she should just  
25 go on. Correct?

1 A Okay. Yes.

2 Q So she went on and she took the second  
3 semester. Is that your understanding?

4 A My understanding.

5 Q At the same time she was trying to make up the  
6 things she missed the first semester?

7 A Yes.

8 Q Are you aware that Dr. Fitzgerald was working  
9 with her --

10 A Yes.

11 Q -- to help her remediate?

12 A Yes.

13 Q Okay. And are you aware that he did give her a  
14 test at the end of the year and the test was graded  
15 and she passed, but it was then changed to all  
16 zeros?

17 A I'm not aware of that.

18 Q You're not aware of that?

19 A No.

20 Q He ended up writing a memo saying Alissa had  
21 successfully remediated the course?

22 A I'm not aware of that.

23 Q Are you aware she did finally -- excuse me.

24 We're using the term remediate. I  
25 want to be clear with the jury. We've used repeat

1 and remediate.

2 What's the difference?

3 A Repeat means you do everything from start all  
4 over again.

5 Remediate, there may be portions in  
6 your procedures or course you do again.

7 Q So I assume you must have known at some point  
8 or another Alissa did successfully get through the  
9 second year?

10 A Yes. Correct.

11 Q Whatever was a problem was taken care of?

12 A It was my understanding, yes.

13 Q And as far as you know, no one's ever been  
14 dismissed from the dental school for failing the  
15 dental admissions course?

16 THE COURT: I'm sorry. What?

17 MR. HOWLETT: Objection. We're getting  
18 into other students.

19 MS. GORDON: It's a policies of the  
20 school, that's what I'm examining. I haven't asked  
21 about any other students.

22 I'm asking about the policies of the  
23 school, not anything about any individual.

24 THE WITNESS: I don't know. I don't  
25 recall.

1 THE COURT: Overruled.

2 BY MS. GORDON:

3 Q Nobody you know of?

4 A Correct. Not that I'm aware of.

5 Q You're the final stop on the appeal process,  
6 aren't you?

7 A Well, with the Executive Committee, yes.  
8 Right.

9 Q You don't ever remember if that ever occurred?

10 A I don't recall.

11 Q Have you ever seen the letters that go out from  
12 the ARB to the students putting them on notice that  
13 they're having difficulty?

14 A If they were included.

15 If a student would request an appeal,  
16 I perhaps would see them then. I would not see the  
17 original letter at the time, no.

18 Q Okay. Now Alissa began her D3 year in the Fall  
19 of 2004.

20 Do you remember that?

21 A Yes.

22 Q Okay. Now let's talk little about the D3 year  
23 before we go any further. I don't want to spend a  
24 lot of time on it.

25 The D3 year is the year when the



1 students go into clinic for the first time?

2 A Yes. Their first major clinical activities  
3 occur.

4 Q Give us an overview.

5 I've heard a term called vertically  
6 integrated clinic, without spending a lot of time,  
7 so we have a working knowledge?

8 A We have four clinics that, that our  
9 pre-operative students work with students from  
10 second year, third year will be in there.

11 And it's primarily focused on total  
12 patient care rather than just doing a particular  
13 type of procedure.

14 They do all procedures up there.  
15 It's a general clinic that the students are involved  
16 in. They start in that.

17 Q Who are they working on?

18 A They're working on patients, patients series of  
19 instructors in clinic, some general practitioners,  
20 specialists that help the students monitor them and  
21 guide them through the procedures.

22 Q Okay. There is a grade given?

23 A Correct.

24 Q What's the name of the class?

25 A I don't recall the name of the class.

1 Q Is it called a Comprehensive Care Clinic?

2 A Yes.

3 Q I want to make a note of that. I think we can  
4 agree that is course 720.

5 I can show it to you, Dean.

6 A Okay.

7 Q I'm sure you don't remember all these numbers.

8 A No.

9 Q Let me bring this over. I'm showing you  
10 Plaintiff's 161.

11 You see?

12 A Yes. 720. Yes.

13 Q Comprehensive Care Clinic.

14 A Yes.

15 MS. GORDON: Okay. So, Sharon, could we  
16 go to page that has at the top Spring-Summer '04?  
17 Page 3 of 5?

18 Just want to cover a couple things with  
19 the Dean. I want to go to 720 and just highlight  
20 that section.

21 Let's do our best with this. Okay. So  
22 I'm going to walk over, if I may, to the board.

23 THE WITNESS: Yes.

24 BY MS. GORDON:

25 Q I'll point this out to you. So 720 says

1 Comprehensive Care Clinic.

2 And the student gets one grade in

3 Comprehensive Care Clinic. Correct?

4 A Correct.

5 Q This transcript has what grade there?

6 A B.

7 Q That's Alissa's grade for the course.

8 And that would be for Fall of '04,

9 correct?

10 A Yeah.

11 Q Underneath that -- I hope the jury can see, we

12 have 720 A, 720 B, 720 C, 720 D.

13 A Yes.

14 Q And those are various -- do we call those

15 rotations or sections?

16 A I think they're rotations.

17 Q So 720 A, the student has to rotate through

18 oral medicine, same with B and C trying these

19 techniques. Correct?

20 A Correct.

21 Q And the student is given bubble sheets for 720

22 A, B, C, D. Correct?

23 A I believe so, yes.

24 Q The bubble sheets create the student's grade?

25 A Yes.

1 Q Right?

2 A Yes.

3 Q Okay. Now all of these grades here 720 A, B,  
4 C, D, those do not go into the final  
5 comprehensive -- excuse me.

6 Those don't go into the grade point  
7 average, do they?

8 A I'm not sure. If that's the case then, okay.  
9 I don't know.

10 Q Okay. But you see there is one grade in 720  
11 comprehensive care?

12 A Yes.

13 Q And let's go the next page, look at Alissa's  
14 Comprehensive Clinic Care grade.

15 We know she got a B in the Fall.

16 What did she get in Winter? See she  
17 got a B?

18 A Yes.

19 Q Okay. And these grades reflect her performance  
20 in the clinic as told to her on her transcript.

21 A Correct.

22 Q A B is, obviously, a good grade. Correct?

23 A Uh-huh.

24 Q Now it's your belief that Alissa was dismissed  
25 from the dental school based on something that

1 occurred during her D3 year.

2 Am I correct?

3 A I believe so.

4 Q And you believe she had some kind of deficits  
5 in clinical care --

6 A Correct.

7 Q -- excuse me.

8 Clinical performance; is that  
9 correct?

10 A Correct.

11 Q Are you aware that she started her D3 year in  
12 the clinic later than her fellow students?

13 A I would suspect she did because she was making  
14 up some earlier work in the previous year.

15 Q Let's take a minute, just explain how this  
16 works.

17 When you come to the clinic, you come  
18 in is it June or July of your D3 year?

19 A I think it's July. I'm not sure.

20 Q You get a list of patients at that time?

21 A I believe so.

22 Q And you begin working immediately in the  
23 clinic.

24 You're shaking your head yes?

25 A Yes.

1 Q But in July, Alissa was making up her 621 and  
2 631 rotation.

3 Do you recall that?

4 A I don't recall specifically, but I suspect that  
5 that's what she was doing at that time.

6 Q Okay. And she was working with Dr. Fitzgerald  
7 on that?

8 A I believe so.

9 Q So by the time she arrived at the clinic, once  
10 again she was behind. Correct?

11 A Yes.

12 Q Did that create some problems for her, if you  
13 know?

14 A I don't know of any specific problems other  
15 than the fact that she had to work harder to catch  
16 up. But --

17 Q When she came in, for example, other people may  
18 have already learned how to give a shot and had been  
19 doing it over a month.

20 She would be doing it for her first  
21 time?

22 A Perhaps. I don't know for sure.

23 Q Okay. Okay.

24 So what were the clinical deficits  
25 that year based on her transcripts, if you know?

1 A I don't know.

2 I know that there was a problem in  
3 one the rotations in pediatric dentistry.

4 Q Okay. You believe she was dismissed because of  
5 her D3 year.

6 And you believe she had clinical  
7 deficiencies and you're not sure what they are?

8 A I don't know specifically which particular  
9 aspects of the program she was deficient in.

10 MS. GORDON: Judge, I don't know what your  
11 plans are for lunch, but this is a good breaking  
12 point.

13 THE COURT: All right. You may step down,  
14 doctor.

15 Ladies and gentlemen of the jury, we'll  
16 break for lunch. And we will resume about 2:15.

17 I have a 2:00 matter I think will take  
18 about 15 minutes. I'm going to ask you to be back  
19 by 2:15. Please do not discuss the case.

20 (Whereupon the court was  
21 in recess at 1:00 p.m. and was  
22 back in session at 2:20 p.m.  
23 and the jury was brought out  
24 into the courtroom)

25 THE COURT: Good afternoon, ladies and

1 gentlemen of the jury.

2 JURORS: Hi.

3 THE COURT: All right. You may proceed.

4 MS. GORDON: May I proceed, Your Honor?

5 Thank you. Good afternoon, members of the  
6 jury.

7 BY MS. GORDON:

8 Q Dean, let's try to pick up where we left off as  
9 best we can.

10 We had just talked about Alissa  
11 getting into her D3 year.

12 A Yes.

13 Q You said -- just to get us back to where we  
14 were, that something happened during her D3 year  
15 that led to her dismissal.

16 Do you recall that?

17 A Yes.

18 Q It was your understanding it was the D3 year?

19 A Correct.

20 Q Okay. So before we dig into that thoroughly, I  
21 want to ask you questions about Alissa's status at  
22 the school for her first and second year. Okay?

23 A Right.

24 Q Because there's been -- there will be some  
25 testimony with regard to some warning letters she



1 got and the like. All right?

2 A All right.

3 Q If you could bear with me.

4 Her D1 year -- and if you could look  
5 at the exhibit book.

6 Let me ask you to look at Alissa's  
7 transcript which is 161. We'll try to put that up  
8 on the board, too. But here's my question to you.

9 It's our understanding from this case  
10 that she had difficulty with one course her freshman  
11 year, that's called Clinical Foundations 1.

12 That's course 519. Okay?

13 A Okay.

14 Q Are you with me?

15 A Yeah. Could you point it out on here?

16 THE COURT: Can you highlight that?

17 MS. GORDON: Yes, I will.

18 THE COURT: I meant on the computer.

19 MS. GORDON: I'll try to point you to the  
20 chart. Winter '03.

21 So it would be right here Clinical  
22 Foundations 1.

23 A I see it.

24 Q She got I think a D. Then she remediated,  
25 became a C minus.

1                   Can everybody see that? It's not  
2 real crisp. So here's my question to you on that.

3                   Are you aware it was not unusual also  
4 in the first year to have to retake Clinical  
5 Foundations 1?

6 A     I'm not aware.

7 Q     Did you know that 15 students had to remediate  
8 that course?

9 A     I did not know.

10 Q    That doesn't surprise you, though, does it?

11 A    I'm not sure that many students remediated.

12                   I don't know what to say about that.

13 It's certainly a large number. But --

14 Q    But you do know every year some remediate?

15 A    Correct.

16 Q    That's not grounds for dismissal?

17 A    Most cases not.

18 Q    Nor does it mean you can't be a dentist.

19 A    That's true.

20 Q    Are you aware Alissa did successfully remediate  
21 that class?

22                   If you want to go to Exhibit 7 in  
23 your book.

24                   MS. GORDON: Sharon, can you put that up.

25

1 BY MS. GORDON:

2 Q There's a letter saying that Alissa had  
3 successfully remediated.

4 You know --

5 A Yes.

6 Q -- that that was fine.

7 A She got through that and she then moved on to  
8 her second year.

9 Q Fair point.

10 MR. HOWLETT: I'll object to the  
11 foundation.

12 I mean, she's going through a bunch of  
13 letters. He isn't shown writing or receiving copies  
14 on them.

15 THE COURT: Is this a letter -- stipulated  
16 letter I take it?

17 MS. GORDON: Yes.

18 MR. HOWLETT: It is.

19 THE COURT: Okay. What are you going to  
20 do with this letter Ms. Gordon, if he didn't write  
21 it or receive it?

22 MS. GORDON: I'm just -- as the Dean of  
23 the Dental School and the person Marilyn Lantz  
24 reports to, I want to get his understanding of  
25 Alissa's fate, as to whether she --

1 THE COURT: You'll have to establish first  
2 he saw it.

3 MS. GORDON: Okay.

4 THE COURT: Right.

5 MS. GORDON: Well, may I ask him based on  
6 a letter from the university, whether or not he sees  
7 it and she understands remediated?

8 I want to establish with this witness that  
9 now seeing this letter, whether he knew or didn't  
10 know before this, shows him she remediated so we can  
11 move on from the first year.

12 I'm just trying --

13 THE COURT: You may answer the question.

14 THE WITNESS: Yes. Yes.

15 MS. GORDON: All right.

16 BY MS. GORDON:

17 Q Then at the end -- just to go back to our  
18 transcript.

19 At the end of the first year, Alissa  
20 had a cumulative GPA of 2.9.

21 Do you see that?

22 A Yes. Okay.

23 Q Now we get into the D2 year. We've already  
24 spent quite a bit of time on that. I'm certainly  
25 not going to go back over it.

1                   D2 is the year she has a preclinical  
2 course with Jaarda and Stoffers which caused, as you  
3 called it, a calamity?

4   A    Correct.

5   Q    She was struggling that year to get everything  
6 done.

7   A    Yes.

8   Q    You've already testified that you did learn  
9 that she failed the first session, was then allowed  
10 to try to salvage it by taking the second semester.  
11 True?

12   A    Yes. That's correct.

13   Q    Okay. Now let's take a look at what happened  
14 with that. Let's go to Exhibit 96, if we could.

15                   This is a letter to the Academic  
16 Review Board.

17                   MR. HOWLETT: Your Honor, I've the same  
18 objection.

19                   It's not the letter from him -- to him. I  
20 don't know why we're going through all these  
21 letters.

22                   THE COURT: Sustained.

23                   MS. GORDON: Okay.

24                   MS. GORDON: I'm trying to show, Your  
25 Honor, what Alissa -- this witness has said that the

1 problem arose in the D3 year.

2 I just want to clarify what my client's  
3 academic status was at that time.

4 THE COURT: You can ask him. If he needs  
5 this to refresh his memory, that's one thing.

6 We're not going to go through all the  
7 letters he did not receive.

8 BY MS. GORDON:

9 Q Do you know that she -- according to Mark  
10 Fitzgerald, you said you knew he helped Alissa try  
11 to remediate it.

12 He took the position at the end of  
13 his remediation period Alissa had been under a lot  
14 of stress.

15 She performed very well in under  
16 remediation?

17 MR. HOWLETT: Objection.

18 THE COURT: You have to see if this  
19 letter -- if he received this letter.

20 BY MS. GORDON:

21 Q This says to the Academic Review Board.

22 Was this part of the package you got  
23 under Alissa --

24 A I can't recall.

25 Q Okay. So leaving that aside for a moment.

1                   Now that you read the letter, do you  
2 see pursuant to the person remediating with Alissa,  
3 he felt that she was -- had made great improvements  
4 in her clinical skills?

5                   MR. HOWLETT: Same objection. She hasn't  
6 established he read it.

7                   Dr. Fitzgerald is noticed as a witness in  
8 this case.

9                   Ms. Zwick is noticed as a witness in this  
10 case.

11                  THE COURT: Sustained.

12 BY MS. GORDON:

13 Q       Let's move on to the issue of the clinical  
14 foundation course as a whole.

15                   And I think you did testify you knew  
16 that Alissa remediated that, got through the course  
17 and started her D3 fresh, ready to go.

18 A       Correct.

19 Q       But you also know she started late.

20 A       Correct.

21 Q       Okay. That the other students were already in  
22 the clinic at that time.

23 A       Yes.

24 Q       Okay.

25                   Now there's been some testimony

1 earlier about what happened to Alissa. Not some  
2 testimony.

3 There will be some testimony about  
4 what happened after Alissa failed in her D2 year  
5 these courses before she remediated.

6 Did you ever become aware that Dr.  
7 Lantz recommended or actually dismissed her from the  
8 dental school?

9 A No. No.

10 Q You've never heard that before?

11 A No. No.

12 Q Okay. Then I guess you're not aware she went  
13 through the appellate process and got reinstated.

14 A No, I didn't know that.

15 Q Okay. Wouldn't it have been important to know  
16 at the time you were reviewing all this at the  
17 Executive Committee level, that Dr. Lantz had  
18 already once before try to kick Alissa out of the  
19 school?

20 A Well, it may have been part of the record. I  
21 don't recall. I'm sorry.

22 Q My question is, wouldn't that have been  
23 important to know?

24 A Yes.

25 But it's unlikely any one



1 individual -- that Dr. Lantz could have the  
2 authority to have Alissa dismissed.

3 Q Well, she actually sent her a letter saying she  
4 was dismissed.

5 Were you aware of that?

6 A No. But, again, she has no authority to  
7 dismiss anybody.

8 Q Well, she's the chairman of the ARB, isn't she?

9 A No, she's not.

10 Q She doesn't sit at the chair, sir?

11 A I don't believe so.

12 Q Are you sure about that?

13 A I'm not sure.

14 Q Are you aware she's the person who writes the  
15 letters dismissing the people from the school?

16 A Yes. She may write the letter, but it's based  
17 on what she's told to write.

18 Q Are you aware she, from time to time, tells  
19 other people what's going to be in the letter?

20 A No, I'm not. No, I'm not.

21 Q Alissa told you at the Executive Committee  
22 appellate level when you were involved, that she  
23 felt that Dr. Lantz was treating her unfairly and  
24 had been?

25 A That's what she said, yes.

1 Q So would it be correct for me to say that when  
2 this got to you at the Executive Committee level,  
3 you did not go back to see what happened in her  
4 first or second year or did you?

5 A I don't recall.

6 Whatever information is submitted as  
7 part of the appeal process, we look at.

8 Q You don't recall here today what that was?

9 A I don't know the specific details.

10 Q All right.

11 Am I correct that the dental school  
12 has very specific criteria academic guidelines as to  
13 how a student can be dismissed?

14 A Yes, they have guidelines. Correct.

15 Q And I think we looked at those earlier. That  
16 would be Plaintiff's Exhibit 1.

17 You followed those guidelines?

18 A Yes, we do.

19 Q Each and every instance where somebody is  
20 disciplined, those guidelines are followed?

21 A Yes, they are.

22 Q Okay. Now I'd like to take a look at what  
23 happened on May 12, 2005 leading into her dismissal  
24 from the school.

25 Did you get all of the minutes, Dean?

1                   And just to refresh where we are,  
2 Alissa gets dismissed by something called the  
3 Academic Review Board II.

4                   She then appeals to the Academic  
5 Review Board II.

6                   Then it goes to your committee?

7 A       Correct.

8 Q       Did you get all of the earlier minutes?

9 A       The only time I would receive anything from  
10 them would be at the time of the appeal process.

11                  I get nothing ahead of time nor do I  
12 look at it.

13 Q       Would you get the minutes?

14 A       Only during the appeal.

15 Q       Okay. At that time you would get them?

16 A       Right.

17 Q       So I'd like --

18 A       I believe so.

19 Q       -- I'd like to start off with Exhibit 125.

20                  These would be minutes from the  
21 Academic Review Board II.

22                  And you see on the bottom the  
23 document?

24 A       Yes.

25 Q       Most of the discussion here is all about Alissa

1 Zwick?

2 A Correct.

3 Q I'd like to you go to the last line of the  
4 letter. Probably easier for you to read it right  
5 there.

6 It states: She needs to get a letter saying  
7 that faculty in her clinic have serious  
8 concerns about her clinical judgment and  
9 ability to perform.

10 Do you see that?

11 A Yes.

12 Q Do you know what that's referring to?

13 A I presume it's referring to what she may  
14 have -- what she has done in the clinic and her  
15 ability to deal with making clinical judgments and  
16 clinical patients was problematic.

17 Q We've already looked at her grade.

18 It was a B, wasn't it?

19 A Overall, that was -- what was that for?

20 Was that for the same year?

21 Q Yes. It was a B. Do you recall that?

22 A Okay. Yes.

23 Q Okay.

24 And then the last line says:

25 Doctors Lantz, Heys and Pisokorowski will

1 meet and formulate a letter to her.

2 Do you see that?

3 A Yes, I do.

4 Q Okay. You would have expected if the ARB voted  
5 to have a letter sent to Alissa alerting her to the  
6 fact that the ARB thought she had some problems, you  
7 would expect that letter to be sent, wouldn't you?

8 A I don't know if, in fact, ARB routinely sends a  
9 letter.

10 Q I didn't ask you to that.

11 A I don't know.

12 Q Here's the question.

13 You would expect that that letter  
14 would be sent. Am I correct?

15 A No, because I don't know if they send a letter.

16 Q No.

17 I said if it's in the minutes and the  
18 committee has voted that Alissa will get a letter.

19 A Then, yes.

20 Q You would expect that the letter would have  
21 been sent. Am I correct?

22 A Yes.

23 Q Did you ever become aware that that letter was  
24 never sent?

25 A No, I was not.

1 Q Sitting here today, you never heard that  
2 before?

3 A No.

4 Q Didn't it come up at your deposition with me?

5 A I don't recall.

6 Q Okay. So I think you'll hear it's uncontested  
7 in this case that that letter was never sent.

8 That's a problem, isn't it?

9 A It could be, yes.

10 Q Okay. Now are you aware that instead of  
11 sending a letter to Alissa, instead Dr. Lantz on her  
12 own, solicited three letters about Alissa from three  
13 professors?

14 A Correct.

15 Q You're aware of that?

16 A Yes.

17 Q When did you become aware that the letters were  
18 actually solicited by Dr. Lantz instead of just that  
19 the faculty on their own decided to send in a  
20 letter?

21 A I don't recall. I'm sorry.

22 Q Isn't it correct that you thought during your  
23 Executive Committee, that those letters had just  
24 been offered voluntarily by the faculty?

25 A We did not make that assumption.

1                   The fact is, we knew information was  
2 provided. We didn't assume who did what.

3 Q     Nobody told you, sir, that Lantz had actually  
4 gone to these doctors and asked they write something  
5 about Alissa.

6                   Am I right?

7 A     Correct. Yes.

8 Q     Nobody told you at the Executive Committee  
9 level that Alissa had never gotten the letter she  
10 was supposed to get, did they?

11 A     I don't recall, but I don't believe so.

12 Q     Now I'd like to look at 127 just to get our  
13 chronology.

14                   Dr. Lantz --

15                   MR. HOWLETT: I'll object, Your Honor.  
16 There's no indication the witness received this  
17 email, that it was addressed to him or was part of  
18 the packet that came to the committee.

19                   MS. GORDON: This is stipulated, I  
20 believe. And --

21                   MR. HOWLETT: Not stipulated for this  
22 witness.

23                   MS. GORDON: Okay. I'm going to ask him.

24                   THE COURT: Just a minute.

25                   What are you going to ask him?

1 MS. GORDON: If he ever saw or knew about  
2 it.

3 THE COURT: You may ask that question.

4 BY MS. GORDON:

5 Q This is a letter from Dr. Lantz to Alissa Zwick  
6 on May 24th '05.

7 Are you with me?

8 A Yes.

9 Q And this is a response.

10 It will be -- there will be testimony  
11 to her request for information about Alissa.

12 Okay. Do you --

13 MR. HOWLETT: Okay.

14 BY MS. GORDON:

15 Q Did you ever see Exhibit 127?

16 A I don't believe so. I don't recall ever seeing  
17 that.

18 Q Okay. So at the Executive Committee letter --  
19 level, nobody told you Dr. Pisokorowski had  
20 submitted Exhibit 127 to Dr. Lantz?

21 A I'm not aware. I don't know.

22 Q Was this a part of the materials you reviewed?

23 A I cannot recall if it was in the packet of  
24 material.

25 Q Let me get your opinion about this, sir.



1                   If Dr. Lantz asked for input from Dr.  
2 Piskorowski about Alissa and her performance for  
3 purposes of deciding what her discipline should be.

4                   And if you provided that in Exhibit  
5 127, you would have wanted to see that at the  
6 Executive Committee level, wouldn't you?

7 A     I would assume, yes.

8 Q     But you can't tell us here today whether you  
9 saw it or you didn't?

10 A    I cannot.

11 Q    Did you know or ever learn that after Dr. Lantz  
12 asked Dr. Piskorowski for his, he provided her with  
13 Exhibit 127, she then went to him and called him  
14 into her office to have a different letter typed?

15 A    I'm not aware of that.

16 Q    Have you ever heard that before today?

17 A    Not before today.

18 Q    Really?

19                   You don't remember that from your  
20 deposition?

21 A    I don't recall. I really don't.

22 Q    Okay.

23                   Well, it's uncontested in this case  
24 that Dr. Lantz received 127, called Dr. Piskorowski  
25 in and he sat down at her computer and typed a

1 different letter to sign on letterhead.

2                   It's really your testimony?

3 A     If that's what it was, then that's what it was.

4 I don't recall. I'm sorry.

5 Q     Sir, you're in charge of the committee that  
6 made the decision whether to kick Alissa Zwick out  
7 of school, weren't you?

8 A     Yes, I was. I was the chair of the committee.

9 Q     And you sent her the letter kicking her out,  
10 right?

11 A     The letter was based upon information provided  
12 by faculty who know her better than I do and know  
13 her abilities in the clinic.

14 Q     Who are those faculties?

15 A     Whoever they were at the time that oversaw her  
16 during patient care.

17 Q     You did have Dr. Pisokorowski's letter, didn't  
18 you?

19 A     I'm assuming we did.

20 Q     Okay. That would be Exhibit 128. I believe  
21 this was provided to you.

22                   This was a letter that was in front  
23 of the ARB.

24                   The ARB had this letter when they  
25 decided to put Alissa out the school.

1                   And, presumably, it was then given to  
2 you. Okay?

3 A     Okay.

4 Q     You with me?

5 A     Yes.

6 Q     Were you aware when you got this letter, that  
7 this letter had actually been typed and composed by  
8 Dr. Lantz?

9 A     I was not aware she composed it. I was not  
10 aware of that.

11 Q     Were you aware it's different then the original  
12 document sent by Dr. Pisokorowski, in that the  
13 original document never recommended dismissal?

14 A     No, I did not know that.

15 Q     Wouldn't you have wanted to know that?

16 A     Yes.

17 Q     And in order for Alissa to get a completely  
18 impartial fair hearing from you, it would have been  
19 important for you to know how this Dr. Pisokorowski  
20 letter came to be, wouldn't it?

21 A     Yes.

22 Q     Now in addition, apparently, part of your  
23 packet was a letter from a Dr. Burgett.

24                   Do you remember that?

25 A     Yes.

1 Q Exhibit 127. I'm sorry.

2 MS. GORDON: I'm sorry. 126.

3 THE COURT: Is this stipulated to, because  
4 I don't have it as stipulated.

5 MS. GORDON: This is one that was raised  
6 in front of Your Honor this morning about possibly  
7 redacting something. I'm not going to get into that  
8 part of it. I'm just going to ask him about the  
9 letter.

10 BY MS. GORDON:

11 Q I'm going to ask you about this letter from Dr.  
12 Burgett.

13 This would have been presented to ARB  
14 then.

15 It would have been, I presume --

16 A Part of the packet.

17 Q Didn't you say at deposition you were -- you  
18 feel the ARB actually made the decision on Alissa?

19 A They made the recommendation. But the final  
20 decision was the Executive Committee.

21 Q You told me at your dep they made the decision.

22 Do you remember that?

23 A No, I don't. I don't.

24 Q Go to back 66.

25 Question, Dean:

1           You made the decision.

2           And your answer was no. The decision was  
3           made by the Academic Review Board.

4           That's what you told me.

5    A       The decision --

6    Q       Did you see that?

7    A       Could I -- the decision or review board makes  
8           the recommendation a student not continue.

9                        It's up to the Executive Committee to  
10           sustain it or not.

11   Q       So it's based upon their judgment.

12                       Did you say at the deposition that  
13           they made -- in fact, you disagreed with me because  
14           I'm the one who said you made the decision, sir.

15                       Then you said no, I didn't. The ARB  
16           did.

17   A       They made the decision that she should be  
18           recommended for discontinuance.

19   Q       No. They had already thrown her out of the  
20           school, sir.

21                       By the time they -- this got to you,  
22           Alissa received a letter from the ARB putting her  
23           out of the school in June, June 20th. Okay --

24   A       Okay.

25   Q       -- signed.

1                   It wasn't like we're making a  
2 recommendation.

3                   It was Alissa, you're out of the  
4 school.

5 A     Okay.

6 Q     I'd be happy to show you that.

7 A     No. No.

8 Q     That was in June.

9 A     Okay.

10 Q    You with me?

11 A    Okay. I am.

12 Q    I just want to clarify.

13                   You told me at your dep that the  
14 decision was made by the ARB.

15 A    Correct.

16 Q    Then you said you reviewed the decision to give  
17 it a ya or a nay?

18 A    Correct.

19 Q    But it's their decision, right?

20                   You have to say yes --

21 A    Yes.

22 Q    -- or no. You have to say something verbal.

23                   Okay. I want to go back to Dr.  
24 Burgett's letter which is up on the screen. It's  
25 Exhibit 126.

1                   Now this was in front of you when you  
2 decided to uphold the decision of the ARB and put  
3 Alissa out of the school.

4                   Did you know that Dr. Burgett had  
5 also sent a previous email to Dr. Lantz which she  
6 was dissatisfied with?

7 A     No, I did not.

8 Q     Have you ever heard that before today?

9 A     No, I did not.

10 Q    So you didn't know 126 is not his original  
11 letter?

12 A    No.

13 Q    Okay. Again, wouldn't that have been important  
14 for you to know if you were going to give Alissa a  
15 fair hearing?

16 A    Yes. If it was dramatically different  
17 information, sure.

18 Q    Wouldn't it have been important for you to know  
19 Dr. Lantz was so involved in this procedure that she  
20 was actually directing people to rewrite the  
21 material they sent her originally?

22 A    Yes.

23 Q    Dr. Stoffer also wrote a letter for Alissa. I  
24 believe it's Exhibit 129.

25                   That was part of your material?

1 A Yes.

2 Q Okay. He writes a negative letter about  
3 Alissa. Is that correct?

4 A Yes.

5 Q Are you aware of how many times he worked with  
6 her?

7 A No, I am not.

8 Q I'm going to hand you, sir, the second volume  
9 of our exhibits there.

10 Tell you what. Let me take you to  
11 152 which is stipulated to, Your Honor.

12 MS. GORDON: Sharon, if we could put the  
13 first page up of 152.

14 BY MS. GORDON:

15 Q Okay. What I'm handing you is --

16 THE COURT: Is it stipulated to? I don't  
17 have it marked, that's why I'm asking.

18 MS. GORDON: Yes. It's the bubble sheets  
19 for Dr. Stoffer who wrote a letter about Alissa.

20 THE COURT: I just want to know if it's  
21 stipulated to.

22 MR. HOWLETT: Yes, Your Honor. No  
23 objection.

24 BY MS. GORDON:

25 Q Okay. So I'm going to now have you take a look



1 at the bubble sheets.

2 Because Dr. Stoffer, would you agree  
3 with me, wrote a negative letter about Alissa?

4 A Yes.

5 Q He calls her emotionally -- he says she has  
6 emotional instability.

7 A Yes.

8 Q Okay. So one would expect, wouldn't it, that  
9 when he worked with her in this clinic, he would  
10 have reflected that in his grades of her?

11 A Perhaps, he would have.

12 Q You would have expected he would have written a  
13 note or comment on the bottom so she would know.

14 Because the student gets a copy of  
15 the bubble sheet that day, doesn't she?

16 A I believe so. I don't know for sure.

17 Q Okay. I think the record will show that's  
18 uncontested everybody gets a different color copy.

19 Isn't the idea of the bubble sheet so  
20 the student is put on notice, hey, you're doing well  
21 or not doing so well?

22 A Yes. Yes.

23 Q That's all Alissa ever gets from Dr. Stoffer,  
24 isn't it, is the bubble sheets?

25 A I don't know that, but if you say that.

1 Q Do you have any better ideas?

2 A No.

3 Q Okay. So if we can now look at this Exhibit  
4 152.

5 MS. GORDON: Sharon has the first page of  
6 it up.

7 We can count the number of contacts.

8 BY MS. GORDON:

9 Q Look at your notebook, if you would, Dean.

10 A Yes, I have it right here. I'm counting up the  
11 pages under Exhibit 152.

12 I believe I'm seeing about 15 bubble  
13 sheets that Dr. Stoffer gave to Alissa Zwick.

14 Q Are you with me so far?

15 A Yes, I am.

16 Q This means 15 times he worked with Alissa in  
17 the clinic, right?

18 A Yes.

19 Q Okay. Now do you see here, sir, that every  
20 single time Dr. Stoffer worked with Alissa Zwick in  
21 the clinic, he gave her all 3's and 2's?

22 A Yes. I see this.

23 Q Okay. He wrote the letter criticizing her.

24 But in 15 encounters, she had all  
25 exceeds expectations, right --

1 A Yes.

2 Q -- or meets. Right?

3 A Correct.

4 Q Does he have any comments written on those  
5 bubble sheets, sir, like Alissa, you're emotionally  
6 unstable. You're too whatever?

7 A I do not see any.

8 Q Okay.

9 So how is Alissa to know if she  
10 worked with Dr. Stoffer day in and day out, that he  
11 was having some significant problem with her, if you  
12 know?

13 A I don't know. I don't know.

14 Q But you can see from the bubble sheets she was  
15 not put on notice by Dr. Stoffer, was she?

16 A Based on this information, I would concede no.

17 Q All right.

18 Didn't you find it -- did you look at  
19 her bubble sheets at the Executive Committee and  
20 say, whoa, whoa, whoa.

21 Here's a really negative letter from  
22 Dr. Stoffer. Let's look and see how he graded her.

23 Did you ever go through that  
24 exercise?

25 A We may have. And I think we looked at all the

1 information. I can't recall specific conversations.

2 Q You don't know you even looked at the bubble  
3 sheets, do you?

4 A Actually, we did. We did look at them. But I  
5 can't tell you.

6 I don't recall the conversation we  
7 had specifically on this particular instance.

8 Q Sir, weren't you very upset that one of your  
9 faculty members who had given somebody passing out  
10 above grades was now saying these things about her?

11 Wasn't that like, well, what's wrong  
12 with our program. Don't we have problem here?  
13 We're not communicating to the student.

14 A It was -- certainly was other information that  
15 was problematic.

16 Q That may be. I was asking about Dr. Stoffer.

17 A I did not have the comments at the time.

18 Q You say there was other information that was  
19 problematic.

20 I know of three letters you received;  
21 the letter from Dr. Pisokorowski which we just saw,  
22 the letter from Dr. Burgett and the letter from Dr.  
23 Stoffer.

24 Is there other information you  
25 received?

1 A Other than the Academic Review Board's comments  
2 why she was actually dismissed. That's all.

3 Q And their minutes?

4 A Yes. Correct.

5 Q So I'm just wondering if after all was said and  
6 done, even up until today's date, you've ever talked  
7 with Dr. Stoffer, asked him why in the world he gave  
8 her all meets and exceeds and then recommends she be  
9 dismissed from the school.

10 Has that ever been something you  
11 followed up on?

12 A No, I have not.

13 Q Doesn't it seem like there's something wrong  
14 with your system?

15 A I don't believe so.

16 Q With regard to Dr. Burgett.

17 Are you aware he only worked with  
18 Alissa on only three occasions?

19 A No, I was not.

20 Q Okay. Other than these three letters, was  
21 there anything else you were concerned about with  
22 regard to Alissa Zwick's performance or that you  
23 took into account?

24 A I don't recall.

25 Q Okay. How am I to find that out, sir?

1                   Is there any minutes or notes, any  
2 way I can learn how you decided the way you decided?

3 A     I don't know about the minutes.

4                   MS. GORDON: Bear with me one second,  
5 please.

6                                   (After a short delay, the  
7                                   proceedings continued)

8                   You mentioned -- right before we broke for  
9 lunch, you mentioned something; you heard something  
10 about pediatrics. And we talked a little bit about  
11 that before lunch.

12                   Do you recall that?

13 A     Yes.

14 Q     And you had heard that Alissa had struggled in  
15 pediatrics?

16 A     Correct.

17 Q     I'm not sure if we covered this before lunch.  
18 If I'm repeating myself, I apologize to one and all.

19                   Am I correct that we covered the fact  
20 that Alissa started clinic late?

21 A     Yes.

22 Q     Did you know that when she got into the clinic  
23 for the very first time, she was put immediately  
24 into pediatrics?

25 A     I was not aware. I know she was in it. I

1 didn't know what the sequence was.

2 Q Again, it's uncontested she was put immediately  
3 into pediatrics.

4 Am I correct of all the various  
5 disciplines that you go through, in some ways,  
6 pediatrics can be the most difficult because your  
7 patients are children?

8 A Yeah, for some it can be.

9 Q You've got Mom and Dad there; perhaps a child  
10 that's worried or concerned.

11 A For some, yes.

12 Q And in this case, Alissa would have needed, for  
13 example, to give a child a shot.

14 But she had never given a shot to an  
15 adult before because this was her first time in  
16 clinic?

17 A Okay.

18 Q You can understand, I guess, that that would  
19 be -- she would be a little bit concerned about  
20 that?

21 A For some students, yes.

22 Q You don't want your first -- your first shot  
23 out of the box trying to give a shot on a child  
24 ideally, correct?

25 A Well, sometimes children can be easier.

1 Q Fair point.

2 But, obviously, we're all going be  
3 more concerned putting our hands on a child and  
4 perhaps hurting a child.

5 A Okay.

6 Q Okay.

7 Were you aware that Dr. Lantz  
8 solicited, in addition to the letters I've mentioned  
9 to you as negative, a letter about Alissa from  
10 pediatrics?

11 A No.

12 Q Have you ever heard that before today?

13 A No, I did not.

14 Q Are you aware she, in fact, wrote a letter to  
15 pediatrics?

16 A I'm not aware of have.

17 Q Was -- excuse me. Wrote a letter to pediatrics  
18 for pediatrics to sign?

19 A I'm not aware of that.

20 Q Did you have a letter from pediatrics in your  
21 packet at the Executive Committee?

22 A I suspect we did.

23 Q You suspect you did?

24 A I don't remember.

25 Q Let's try to find that then, if you suspect you



1 did.

2 MS. GORDON: Judge, I apologize.

3 (After a short delay, the  
4 proceedings continued)

5 BY SMS. GORDON:

6 Q Doctor, I had it out. I apologize. 135.

7 If you could look at Exhibit 131,  
8 Dean.

9 That's a letter that was in your  
10 packet from pediatrics?

11 MS. GORDON: Can you put that up, Sharon.

12 THE WITNESS: I'm sorry. Did you say 135?

13 MS. GORDON: 131. Second page.

14 THE WITNESS: I have it.

15 BY MS. GORDON:

16 Q My question to you is, was this letter from  
17 pediatrics a part of your materials at the Executive  
18 Committee yes or no, if you recall?

19 A I don't recall. I don't recall.

20 Q I'd like to put up Exhibit 138 which I believe  
21 was stipulated to.

22 This letter's dated what,  
23 December 20th?

24 MR. HOWLETT: Your Honor, I'm going to  
25 object to examination about this.

1           There's no indication this witness  
2 received this. It's not directed towards him.

3           There's testimony already that's coming in  
4 through a deposition *de bene esse* on these  
5 documents.

6           MS. GORDON: That's a different issue.  
7 But if I could respond, judge?

8           It's very important for me to know on what  
9 basis the Dean approved this decision by the ARB.

10          He mentioned pediatrics earlier in his  
11 testimony that he thought there was some problem in  
12 pediatrics.

13          THE COURT: If he saw it, used it in his  
14 decision, he may reference it.

15          If he did not, then say so.

16          MS. GORDON: I think you're saying you're  
17 not sure.

18          THE WITNESS: I know we had some  
19 information about performance in pediatrics. I'm  
20 assuming.

21          MR. HOWLETT: I don't know if he got the  
22 email.

23          My objection is this exhibit --

24          THE WITNESS: I've never seen that.

25          THE COURT: Excuse me, counsel. I'm

1 sorry. Your objection's what?

2 MR. HOWLETT: Is to the exhibit that's up  
3 there now, which is an email which has no reference  
4 to the Dean.

5 The timing on it --

6 THE COURT: That should not be up. I  
7 don't have it stipulated.

8 Did you mark stipulated on all of these if  
9 they were stipulated?

10 MR. HOWLETT: We stipulated -- that one I  
11 think was -- that should be stipulated. That was  
12 used in a deposition.

13 MS. GORDON: 138 is stipulated, I believe.

14 BY MS. GORDON:

15 Q Here's my simple question on 138. If you could  
16 take a look at this.

17 Do you see in 138 here, sir, that Dr.  
18 Lantz wrote this letter for pediatrics to sign?

19 THE COURT: No. I agree he doesn't have  
20 to read it to say that, it's whether he used this.

21 MS. GORDON: Fair point. Okay.

22 BY MS. GORDON:

23 Q Did you know when you looked at the letter that  
24 Dr. Lantz had, herself, drafted a letter for the  
25 Pediatrics Department to sign?

1 A No.

2 Q Nobody ever brought that to your attention?

3 A No.

4 Q If that's true, that's something you would have  
5 wanted to know, isn't it?

6 A Yes.

7 Q Are you aware with regard to the letters we've  
8 talked about that were in front of your committee  
9 from Doctors Pisokorowski, Burgett and Snyder, that  
10 Alissa Zwick never saw those letters until after she  
11 was dismissed from the school?

12 A No. No I was not.

13 Q Okay. I showed you the minutes a few moments  
14 ago from the May 15, 2005 ARB.

15 And the last line: Alissa would get  
16 a letter.

17 Do you remember that?

18 A Yes.

19 Q Now I'd like to go to the next thing that  
20 occurred with the ARB and the dismissal of Alissa.  
21 I'd like to go to Exhibit 130.

22 A Is this the handwritten --

23 Q Yeah.

24 A Okay.

25 MR. HOWLETT: I object to using this

1 exhibit with this witness unless there's testimony  
2 he saw this before.

3 MS. GORDON: He said he did receive it as  
4 part of his packet all of the minutes.

5 MR. HOWLETT: I don't think he said for  
6 certain.

7 THE WITNESS: I don't know. I've never  
8 seen this.

9 MS. GORDON: Okay. Well, just for the  
10 record, these are the minutes that dismissed Alissa  
11 from the school.

12 THE WITNESS: What we saw was a  
13 typewritten letter and the recommendation.

14 I've never seen handwritten notes from the  
15 ARB.

16 MS. GORDON: These aren't notes, these are  
17 minutes taken at the meeting where a vote was taken.

18 THE WITNESS: I don't recall seeing these.  
19 I'm sorry.

20 BY MS. GORDON:

21 Q Fair point.

22 Shouldn't you have been given a copy  
23 of the minutes where the vote was taken to terminate  
24 Alissa Zwick from the school?

25 A Perhaps. I don't know.

1 Q Because the minutes contain the actual  
2 rationale behind the decision to terminate, don't  
3 they?

4 Only the minutes say why she'll be  
5 terminated.

6 A Usually, it would be included in the letter  
7 they sent her and sort of a paraphrase would be  
8 perhaps what was in the minutes.

9 Q Okay. But you, yourself, know that the minutes  
10 are much more lengthy and thorough.

11 And then the letter comes after  
12 summing up what happened?

13 A Yes. In most cases.

14 Q I have very specific question to you.

15 Was Exhibit 130, the actual minutes  
16 handwritten and notarized by the registrar ever  
17 shown to the Executive Committee so you knew and saw  
18 the actual style of the meeting that threw Alissa  
19 out of the school?

20 A I don't recall.

21 Q Wouldn't you have wanted to know that the ARB  
22 met in a hurry up manner with handwritten notes and  
23 wouldn't you have wanted to know what they said  
24 about Alissa for the reason?

25 A Yes.

1 Q But you're saying you never got that?

2 A I say I don't recall getting it.

3 Q All right.

4 MR. HOWLETT: Your Honor, I object to  
5 continuing to question the witness about this  
6 document when he said he never saw it.

7 MS. GORDON: May I respond, judge?

8 THE COURT: Yes.

9 MS. GORDON: Okay. It makes no sense for  
10 the defense to object to me questioning --

11 THE COURT: Pardon?

12 MS. GORDON: I think it's not an  
13 appropriate objection for me to ask the Dean of the  
14 Dental School about minutes of an ARB meeting that  
15 dismissed a student, whether he's seen them or not.

16 These are official university records  
17 which he should have had. And I'd like to get his  
18 reaction to some the material in the minutes.

19 Now if he didn't get the minutes, that's  
20 indicative of lack of due process. But if he knows  
21 about the material in the minutes anyway, perhaps  
22 that means something else.

23 But these minutes -- this document up here  
24 is the reason my client was dismissed from the  
25 school.

1 THE COURT: Let me hear what your question  
2 is.

3 MS. GORDON: I'd like to go to the second  
4 page of the minutes. And at the top there's a  
5 comment.

6 They refused all our help. She accused us  
7 of talking about her. Yet, she ran around  
8 the school talking to anyone who would  
9 listen to her.

10 Perceives she is getting treated unfairly.

11 Do you see that?

12 A Yes, I do.

13 Q As somebody who passed on the decision that  
14 that occurred in this set of minutes, what does this  
15 mean to you, if anything?

16 A I'm not sure what it means. I can't interpret  
17 it.

18 THE COURT: I'm sorry. I'm sorry, doctor.  
19 I can't hear you.

20 THE WITNESS: I'm not sure how to  
21 interpret it. I don't know what it means.

22 It's a fragmented sentence. I don't know  
23 what it means.

24 BY MS. GORDON:

25 Q Shouldn't you have known before you decided to



1 approve the dismissal of Alissa Zwick?

2 A We needed to have all the information we felt  
3 we needed to make the decision.

4 And at the time, we felt we had the  
5 information we needed.

6 Q Doesn't this language indicate:

7 Dr. Lantz is still upset about the Jaarda  
8 and Stoffers incident.

9 And all of this time later, she's referring  
10 to Alissa accusing us of talking about her.  
11 Yet, she ran around the school talking to  
12 anyone who would listen and perceived she's  
13 getting treated unfairly.

14 MR. HOWLETT: Objection, Your Honor.

15 THE COURT: Just a minute.

16 MR. HOWLETT: Objection.

17 There's no testimony that -- who made this  
18 statement among all those people at the meeting.

19 And I renew my objection that these are  
20 minutes of a meeting he didn't attend, said he  
21 didn't see them.

22 THE COURT: She may ask some questions on  
23 minutes.

24 But I agree with your first objection and  
25 I sustain the question -- objection to the question

1 based on that.

2 BY MS. GORDON:

3 Q Reading through these minutes, did you see --

4 THE COURT: He hadn't read through the  
5 minutes.

6 He said he didn't remember them, so can we  
7 move along with something else?

8 MS. GORDON: Okay. They're not lengthy.  
9 I'd like to ask him a question, though, about the  
10 content of the minutes.

11 Whether by reading the copy of the minutes  
12 that sets forth, allegedly the dismissal of Alissa  
13 Zwick, he can discern from these minutes what the  
14 reason is.

15 THE WITNESS: Could you repeat your  
16 question?

17 BY MS. GORDON:

18 Q They're not long. Read through these minutes.

19 I'd like your opinion as Dean of the  
20 Dental School, if you can tell me which of the -- if  
21 these minutes make clear to you which of the  
22 academic rules Alissa violated such she should be  
23 dismissed.

24 A No. They're fragmented. They're shorthand.  
25 They're cryptic.

1                   It really doesn't give me a sentence  
2 I can make a judgment on based on this.

3 BY MS. GORDON:

4 Q     Aren't you a little concerned, sir, that these  
5 minutes that caused Alissa to be dismissed are such  
6 you can't even figure out what the reason is?

7 A     No, because I believed at the time we met we  
8 had fairly detailed information of why the  
9 recommendation was to dismiss.

10 Q     What did you have?

11 A     Well, we had the letters.

12 Q     What letters?

13 A     Letters from faculty who oversaw her in the  
14 clinic. I don't know the specific faculty.

15                   Typically with this, we'll get  
16 letters from faculty, collection of performances.

17 Q     Stop for a second. I don't know what you  
18 typically get. I don't want to know. I want to  
19 know what you got for Alissa Zwick.

20                   So you said letters from faculty?

21 A     Right.

22 Q     I know of three letters from faculty.

23                   Anything else?

24 A     I'm sure copies of bubble sheets.

25 Q     Why are you sure?

1 A Because that's typically included in a packet.

2 Q Okay. What else?

3 A I just don't remember what else is in there.

4 Q Let's go to Exhibit 131.

5 This is the letter that Dr. Lantz did  
6 write to Alissa Zwick telling her she was no longer  
7 a part of the Dental School. Okay?

8 A Okay.

9 Q The date is June 20 '05, correct?

10 A Correct.

11 Q Okay. Did you get this letter, sir?

12 A This was written after the committee met, so I  
13 would see it after the decision was made.

14 We'd see this part of the Executive  
15 Committee meeting deliberations.

16 Q You got this letter?

17 A Yes.

18 Q Let's go through it.

19 It says toward the bottom:

20 The board met, again, June 16 '05 to review  
21 your case.

22 That would be these handwritten notes,  
23 regarding your functioning in the clinic was  
24 so extreme that the Board is recommending to  
25 the Executive Committee that you be

1 dismissed from the School of Dentistry.

2 Do you see that?

3 A Yes.

4 Q Do you see where it says that:

5 The concern regarding your functioning in  
6 clinic are so extreme that the Board is  
7 recommending to the Executive Committee that  
8 you be dismissed.

9 Do you know what that means?

10 A No, I don't right now. I don't recall.

11 Q By the way, just let me take a step back to the  
12 minutes I showed you a moment ago.

13 Those handwritten minutes, are those  
14 technically usable by the university in that they're  
15 not signed by the registrar?

16 A I don't know. I'm not sure if our minutes are  
17 signed officially. I don't know.

18 Q Okay. So now the next step is that Alissa  
19 files an appeal?

20 A Correct.

21 Q And it works its way up to your Executive  
22 Committee; is that correct?

23 A Correct.

24 Q Okay. And over time, Alissa asks for some  
25 delays as I understand it. Is that correct?

1 A I believe so.

2 Q Eventually, the meeting is set for  
3 January 11 '06.

4 MS. GORDON: Go to Exhibit 143.

5 BY MS. GORDON:

6 Q See that there, Dean?

7 A Yes, I see it.

8 Q That's your agenda?

9 A That's our summary minutes.

10 Q I'm sorry?

11 A That's just redacted minutes.

12 Q No. I think that's an agenda. Am I wrong?

13 A Yes, I see it. Yes, I do.

14 Q This is the agenda for the meeting where you're  
15 going to review Alissa Zwick's being thrown out of  
16 the school. Right?

17 A Yes. That's a student appeal hearing.

18 Q That's the name of the committee members?

19 A Correct.

20 Q It says you're the chair?

21 A That's correct.

22 Q Okay. So now let's go to the actual -- were  
23 there minutes kept of the meeting?

24 A You know, I don't recall.

25 You know, I'm sure if we had them --

1 I don't know where they are.

2 Q There should be minutes kept of the meeting,  
3 sir, shouldn't there?

4 A I don't have them.

5 Q My question is isn't it true --

6 A Usually are.

7 Q Let me finish my sentence.

8 Isn't it University policy to keep  
9 minutes of the Executive Committee?

10 A Yes.

11 Q Particularly when someone's future is at stake?

12 A Yes.

13 Q Because we need to be able to go back and look  
14 to see what was said in the basis for the decision.

15 A Correct.

16 Q So let's look at next document which is 144.

17 Now these, sir, are called summary  
18 minutes, aren't they?

19 A Yes.

20 Q These are not the regular full minutes, are  
21 they?

22 A They don't include the deliberations.

23 Q Okay. Well, they're called summary minutes,  
24 not minutes, right?

25 A Right.

1 Q They don't include anything other than a  
2 hearing held and documents were reviewed?

3 A Right.

4 Q They don't indicate who said what?

5 A Correct.

6 Q Right.

7 They don't indicate the basis for  
8 your decision?

9 A Correct.

10 Q You told me at your dep there were actually  
11 other minutes around somewhere, didn't you?

12 A Yes. And I don't know where they are. I  
13 haven't -- I don't know where they are.

14 Q We do not have in this courtroom the full set  
15 of minutes where your committee deliberated over  
16 Alissa's future. Is that correct?

17 A If you don't have them, then I don't know where  
18 that are.

19 Q You're aware they haven't been found, as I  
20 understand it. Right?

21 A Yes.

22 Q This is all we have?

23 A Yes.

24 Q It doesn't set forth your reasoning, the  
25 committee's Reasoning, does it?



1 A Correct.

2 Q Now as another important part of the procedure  
3 so that everybody gets due process, you have a  
4 policy whereby you promise students that the entire  
5 proceedings will be tape recorded, don't you?

6 A Yes.

7 Q What's the purpose of that?

8 A That's just to keep a record.

9 Q Okay. I'm going to hand you the last page to  
10 Exhibit 131.

11 Alissa got her letter from Dr. Lantz,  
12 just so we know what we're talking about here, Dean,  
13 dismissing her from the school.

14 Attached to that were all these  
15 letters from Pisokorowski, Burgett, Snyder. Okay?

16 Then also attached at the very back  
17 was something called School of Dentistry Student  
18 Appeal Procedures. Okay?

19 A Yes.

20 Q This was to alert Alissa to her appeal  
21 possibility?

22 A Yes.

23 Q So that's now up on the board.

24 MS. GORDON: Any way to make it bigger?

25 BY MS. GORDON:

1 Q Do you see under 3B:  
2 That you will have an opportunity to present  
3 your point of view and may be accompanied by  
4 a personal adviser of your choice who may be  
5 an attorney.

6 A tape recording of the hearing shall be  
7 kept. Okay?

8 A Yes.

9 Q We don't have a tape recording of this hearing,  
10 do we?

11 A Not that I'm aware of.

12 Q It was tape recorded, wasn't it?

13 A As far as I know it was.

14 Q What happened?

15 A I don't know. I have no idea.

16 Q Did the secretary tape over?

17 A It's a possibility. I don't know.

18 Q Did somebody destroy it?

19 A Nobody would destroy something purposely like  
20 this, that's for sure.

21 Q Okay. So just to sum up what the jury will  
22 have in front of it to figure out why you did what  
23 you did, is something called summary minutes, which  
24 are not the complete minutes according to your  
25 admission.

1                   They do not have the tape that you  
2 promised the students will be made and kept so we  
3 can hear what actually happened in your  
4 deliberations. Correct?

5       A       Correct.

6                   If I may comment? Usually when after  
7 Alissa or anyone else comes in for appeal, those  
8 deliberations are usually not taped, the  
9 discussions.

10                   What's kept is usually just the  
11 proceedings.

12                   But whenever somebody's dismissed,  
13 it's just us. Those deliberations are kept private.

14       Q       You don't have anything.

15                   You don't even have what was  
16 presented or what questions were asked or who raised  
17 a concern, do you?

18       A       No, I do not.

19       Q       Was this meeting a closed meeting, the  
20 Executive Committee meeting?

21       A       After the appeal and the student's excused from  
22 the meeting, then it's closed, just the Executive  
23 Committee.

24       Q       I'm sorry?

25       A       After the student has made their appeal, the

1 student and everyone else is excused except for the  
2 Executive Committee when they deliberate.

3 Q Isn't it correct that the only way you are  
4 allowed to consider the dismissal, suspension or  
5 disciplining or hear complaints of charges is if the  
6 named person requests a closed hearing. Otherwise,  
7 the hearing is open.

8 Is that correct?

9 A Yes, the hearing is open while they're there.  
10 Anybody can -- but the deliberations among the  
11 committee members after this individual is given  
12 appeal is usually not.

13 Q Are you aware of the Michigan Open Meetings Act  
14 that applies to the University Dental School?

15 Have you availed yourself of the  
16 opportunity to look at that?

17 A No, I have not.

18 Q Alissa Zwick did not request a closed hearing,  
19 did she?

20 A I'm not aware she did.

21 MS. GORDON: Your Honor, I'd like the  
22 Court to take judicial notice of Act 15 point --

23 THE COURT: We'll discuss that later --

24 MS. GORDON: Okay.

25 THE COURT: -- at the end of the day.

1 BY MS. GORDON:

2 Q You sent Alissa a letter approving the decision  
3 of the ARB. Is that correct?

4 A Correct.

5 Q ARB II?

6 A Correct.

7 Q We'll have you take a look at 146, Dean.

8 A Yes.

9 Q Okay. So is this the letter you sent to Alissa  
10 Zwick?

11 A Yes.

12 Q Okay. And this is the letter where you say  
13 that a hearing held on Wednesday January 11 --

14 THE COURT: Could you stay by the podium  
15 with the microphone, please, so I can hear.

16 MS. GORDON: Sorry. 146.

17 This is the letter where you say:

18 At a meeting held on Wednesday January 11,  
19 2006, the Executive Committee --

20 THE COURT: Not too close.

21 MS. GORDON: -- met with you to hear your.

22 appeal regarding the Academic Review Board  
23 II decision to withhold further enrollment  
24 from the Dental School.

25 Executive Committee reviewed school records,

1 statements from your instructors, your  
2 written statement and extensive  
3 documentation that you provided.  
4 After hearing your oral statement and your  
5 responses to questions, the Committee  
6 deliberated and decided to uphold the  
7 Academic Review Board II's decision and  
8 dismiss you from the School of Dentistry.

9 Then we say:

10 Reason for the decision is as follows:

11 I think I'll wait, let Sharon pull that  
12 up. If we can go to the part in the middle.

13  
14 Reason for the decision is as follows:

15 Past and continuing clinical performance  
16 deficits that made it apparent that you are  
17 unsuited for the practice of dentistry.

18 Are you with me on that, Dean?

19 A Yes, I am.

20 Q So what were the past and continuing clinical  
21 performance deficits that you are referring to in  
22 your letter specifically, please, sir?

23 A Specifically, I don't recall verbatim what  
24 specifically they were.

25 Q Can you give me any specifics sitting here

1 today?

2 A I cannot right now.

3 Q Well, since we don't have the minutes and we  
4 don't have the recording, how will we ever find out  
5 what the specifics are?

6 A Well, presumably from faculty who perhaps will  
7 be here to describe what they were.

8 Q You chaired the meeting?

9 A Yes. That's correct.

10 Q You wrote the letter?

11 A That's right.

12 Q The faculty did not write the letter?

13 A That's right.

14 Q You chose the wording?

15 A Yes.

16 Q Past and continuing clinical performance  
17 deficits.

18 You're telling us sitting here today  
19 you cannot tell us what that was?

20 A I cannot recall specifics today.

21 Q Okay. Didn't you, in fact, tell me at your  
22 deposition, you felt Alissa was kicked out because  
23 of her grades?

24 A Performance, that includes her grades.

25 Q Okay.

1 A Among others. It's not just one single thing.

2 Q Okay. Well, how are clinical continuing  
3 clinical performance deficits reflected at the  
4 University of Michigan Dental School on a person's  
5 report card or transcript?

6 A Grades.

7 It's judgment calls faculty made  
8 about how a student performs, how they interact with  
9 patients. That's what I think would be the sort of  
10 things I would look at.

11 Q Okay. So I'm going to hand you Plaintiff's  
12 Exhibit 1. Go to Exhibit 1 which is the Academic  
13 Rules.

14 You can go to page paragraph eight.  
15 So who -- while Sharon's pulling it up in the bigger  
16 type, Plaintiff's Exhibit 1 is the guidelines for  
17 scholarship and promotion.

18 And paragraph eight says: Category  
19 of academic discipline.

20 BY MS. GORDON:

21 Q Do you see that?

22 A Yes.

23 Q Number D says or letter D says all the reasons  
24 a student can be dismissed. Okay?

25 Now I notice in your letter, in your



1 letter, you don't cite to any specific categories by  
2 letter, do you, in the letter you sent to Alissa?

3 A No, I did not.

4 Q Why not?

5 A It was a summary letter. We did not.

6 That was indicated in the Academic  
7 Review Board letter that she got.

8 Q You didn't know the reason, did you?

9 You didn't know what reason to even  
10 point to.

11 You didn't have any idea, sir, which  
12 one of these rules she violated?

13 A I can't give you a letter, which one, but --

14 Q Why?

15 A It was very clear she had received some failing  
16 grades, so I can't pick them out of there right now.

17 At the time it was very clear she had  
18 received some failing grades.

19 Q If that required somebody to be dismissed from  
20 the Dental School, you'd be dismissing about a third  
21 of the class each year, wouldn't you?

22 A No.

23 Q A quarter?

24 A I can't tell you that.

25 Q Well, people get failing grades every year,

1 don't they?

2 A Yes, they do.

3 Q They're not kicked out of school?

4 A That's correct.

5 Q Let's focus our attention on paragraph eight D.

6 A student will be dismissed from the School

7 of Dentistry for any of the following.

8 Okay? Then it has A through G.

9 Sitting here today in front of the

10 jury, am I correct that you cannot tell us A through

11 G which one of these, if any, apply?

12 A Correct.

13 Q But, again, you reference her clinical

14 performance.

15 So I'd like to now go back to Exhibit

16 161 which is her transcript. And I'd like you to

17 look at her clinical grade. I've already got it on

18 here.

19 Her comprehensive clinical, she got a

20 B, sir, didn't she?

21 A I'm sorry. Which?

22 Q Comprehensive clinic third year. She got a B.

23 A What page is that? Excuse me. I'm sorry.

24 What page are you on?

25 Q On the transcript. Are you with me?

1 A Yes, I am.

2 Q You have to agree with me, don't you, your  
3 letter referencing that Alissa has continuing  
4 political performance deficits does not comport with  
5 the grade she got from the University of Michigan  
6 Dental School.

7 Isn't that correct?

8 A Based upon that. And then there's also --

9 Q Excuse me. Based on the grade.

10 She had one clinical course in the  
11 third year, didn't she?

12 A I believe she did, yes. I don't know.

13 Q She had 720.

14 That's the clinical course for the  
15 whole year, right?

16 A Correct.

17 Q Then under disciplines -- but those disciplines  
18 don't go into grade point average; we've already  
19 establish that. Correct?

20 A Correct.

21 Q So you have to agree with me that if Alissa got  
22 a B, that does not comport with what you said in  
23 your letter that she's being dismissed for past and  
24 continuing clinical performance deficits.

25 Am I correct?

1 A No. Because getting a grade is not the only  
2 thing that's used to judge a student's ability to  
3 practice dentistry.

4 Q Well, what else do we use, excuse me, in the  
5 clinic?

6 She has the bubble sheets and she has  
7 the grades.

8 How were her bubble sheets?

9 How does she do on her overall bubble  
10 sheets?

11 A The ones I had seen, she did okay. She did  
12 fine.

13 Q What are we relying on here, Dean?

14 We got a B in the course and fine on  
15 the bubble sheets.

16 You're telling her in a letter she's  
17 getting kicked out for past and continuing clinical  
18 performance.

19 What are we talking about; do you  
20 know?

21 A I can't give you verbatim what they were.

22 They were certainly areas she was not  
23 doing well enough. You can get a B here and still  
24 not be particularly adept.

25 Q How does that give her notice if she gets a B?

1 Does Alissa have any way to be on  
2 notice she's not performing?

3 A I'm assuming instructors will talk with her.

4 Q You never asked that, did you?

5 A Not at the time of the ARB review.

6 Q You went along with what Dr. Lantz had already  
7 set in place.

8 You just rubber stamped, didn't you?

9 A No, I did not.

10 Q You would agree with me that based on Alissa's  
11 transcript, there is nothing to support your  
12 statement that she had deficits?

13 A I disagree.

14 Q Let's look and see what you said at your  
15 deposition. Page 89:

16 Question: So is there anything on her  
17 transcript that you can see that would  
18 legitimize your statement that the reason  
19 for the decision is past and continuing  
20 clinical performance deficits?

21 Answer: If this is the only information I  
22 have with which this deposition is based, I  
23 would say she has a B in clinical.

24 Question: So let me just sum this up then.  
25 Based on her transcript alone, just alone,

1           you do not see any basis for your statement  
2           that she is being dismissed on past and  
3           continuing clinical performance deficits.  
4           Your answer: Just based on that, I can't  
5           extract anything other than that she did B  
6           work.

7   A       Okay. I will -- I agree.

8   Q       Correct?

9   A       Yes.

10   Q       She's one of the few students in the D3 level  
11   that's ever been dismissed, correct?

12   A       I can't recall who in the past has.

13   Q       Very few, correct?

14   A       Correct.

15   Q       This was very unusual, wasn't it?

16   A       Yes.

17   Q       Alissa told you at that meeting she felt this  
18   all stemmed from the Jaarda and Stoffers and Lantz  
19   crossing of swords and that Lance had turned against  
20   her, didn't she?

21   A       I don't recall.

22   Q       Your Executive Committee never took that factor  
23   into account, did it?

24   A       I presume they did. But --

25                 MS. GORDON: Nothing further.

1 THE COURT: Nothing further?

2 MS. GORDON: No, judge. Thank you.

3 THE COURT: Cross examination?

4 MR. HOWLETT: May I have a minute, Your  
5 Honor please?

6 (After a short delay, the  
7 proceedings continued)

8 CROSS EXAMINATION

9 BY MR. HOWLETT:

10 Q Good afternoon, Dean.

11 A Afternoon.

12 Q I think you testified that Dean Lantz is one of  
13 three or four deans who report to you?

14 A Correct.

15 THE COURT: Could you pull that  
16 microphone? I'm sorry. I'm having a hard time  
17 hearing.

18 BY MR. HOWLETT:

19 Q I think you testified that Dean Lantz was one  
20 of three or four deans to report to you?

21 A Correct.

22 Q And there was some questions about -- well,  
23 first of all, has any faculty ever come to you and  
24 complained about Dr. Lantz?

25 A Never any one has seen me about Marilyn.

1 Q Anyone ever otherwise formally complain about  
2 her?

3 A No. No. No one's formally complained about  
4 her.

5 Q There was some discussion about anonymous  
6 notes.

7 Can you explain what the anonymous  
8 notes are?

9 A If I requested to a department chair for  
10 feedback from their faculty, that's what the extent  
11 was or hall talk.

12 Q Is this something you do with all of your  
13 reports?

14 A Yeah. Usually with all the reports I do that.

15 Q And have you ever had occasion to counsel Dr.  
16 Lantz because of her performance?

17 A Other than her annual reviews, no, nothing  
18 special.

19 Q Have you ever disciplined her at all?

20 A No, I did not.

21 Q If we could look at Plaintiff's Exhibit 38,  
22 please.

23 Do you have that in front of you?

24 A Yes, I do.

25 Q Now who's decision was it to provide Exhibit 38



1 to both Dr. Jaarda and Dr. Stoffers?

2 A It was my decision.

3 Q Then if we could look at Exhibit 97, please.

4 Do you have that in front of you?

5 A Yes, I do.

6 Q And that's the May 10, 2004 letter?

7 A Correct.

8 Q Why did you decide to send that letter to Dr.

9 Jaarda?

10 I think we've already established Dr.

11 Stoffers received a similar letter.

12 A There had been a considerable period of time  
13 since the event occurred that they resigned.

14 Alissa was no longer going to be in  
15 that course.

16 There was -- I had met with both of  
17 them. We had talked about the -- what we need to do  
18 for a sufficient cooling off period.

19 I felt they were good teachers. They  
20 deserved to be back in the classroom.

21 Q When would they be back in the classroom?

22 A The following year.

23 MR. HOWLETT: And then we can look at  
24 Plaintiff's Exhibit 139, please.

25 BY MR. HOWLETT:

1 Q Do you have that?

2 A Yes, I do.

3 Q And that's a pretty substantial exhibit?

4 A Yes.

5 Q Is that correct?

6 A Yes.

7 Q Have you seen that document before?

8 A No.

9 Q Is that -- well, is that the document -- if you  
10 will look at it then look at the --

11 A Oh, okay. Let me go through it.

12 Q Is that the document that was presented by  
13 Alissa to the Executive Committee?

14 A I believe so.

15 Q Do you remember that there was a document that  
16 had been submitted?

17 A I just don't recall. I don't recall.

18 Q And in terms of the Executive Committee, we  
19 looked.

20 They're several other members on the  
21 committee?

22 A Yes.

23 Q These are elected members?

24 A They're elected members.

25 Q And did you vote on the decision whether to --

1 A I vote only to break a tie.

2 Q Was there a tie in this situation?

3 A No.

4 MR. HOWLETT: Thank you.

5 THE COURT: That's it?

6 MS. GORDON: That's all, Mr. Howlett?

7 We'd call our next witness, Your Honor.

8 It will be Dr. Stoffers.

9 Ask Mr. Howlett if this is it for this  
10 witness, Dean Polverini?

11 MR. HOWLETT: Yes.

12

13 (Whereupon the witness

14 was excused at 3:33 p.m.)

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**CERTIFICATE OF COURT REPORTER**

I certify the above-entitled case is a true, accurate and correct transcript, transcribed to the best of my ability.

s/Carol S. Sapala, RMR, FCRR

November 13, 2008