

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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WARSAW ORTHOPEDIC, INC., : Case No.:
Plaintiff, : 3:08-CV-1512 MMA(AJB)
vs. :
NUVASIVE, INC., : Judge:
Defendant. : Hon. Michael M. Anello

- - - - - X
NUVASIVE, INC., :
Counterclaimant, :
vs. :
MEDTRONIC SOFAMOR DANEK :
USA, INC.; WARSAW :
ORTHOPEDIC, INC; MEDTRONIC : CONFIDENTIAL
PUERTO RICO OPERATIONS CO.; :
and MEDTRONIC SOFAMOR DANEK :
DEGGENDORF, GmbH, :
Counterclaim Defendants. :

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Cary, North Carolina
Friday, December 3, 2010

Videotaped Deposition of LAWRENCE BOYD, Ph.D.,
a witness herein, called for examination by counsel for
the Plaintiff/Counterclaim Defendants in the
above-entitled matter, pursuant to notice, the witness
being duly sworn by MAREN M. FAWCETT, a Registered
Professional Reporter and Notary Public in and for the



09:01:13 1 P R O C E E D I N G S

09:01:14 2 THE VIDEOGRAPHER: This is the videotaped

09:01:17 3 deposition of Larry Boyd. Today's date is

09:01:20 4 December 3rd, 2010. The time is 9:01.

09:01:21 5 The court reporter's name is Maren Fawcett.

09:01:25 6 The videographer is Larry Schadle. Would counsel

09:01:27 7 please introduce themselves.

09:01:28 8 MR. DAUCHOT: I'm Luke Dauchot. I'm here on

09:01:31 9 behalf of the Plaintiff and the Counterdefendants.

09:01:33 10 MR. MILLER: Todd Miller of Fish & Richardson

09:01:36 11 on behalf of Nuvasive and Fish & Richardson.

09:01:37 12 THE VIDEOGRAPHER: Would the court reporter

09:01:40 13 please swear in the witness.

09:01:41 14 MR. MILLER: I'm sorry.

09:01:42 15 MR. DAUCHOT: You said you're on behalf of

09:01:47 16 Fish & Richardson?

09:01:48 17 MR. MILLER: It's a little early in the

09:01:51 18 morning. On behalf of Nuvasive and Dr. Boyd.

09:01:51 19 THE VIDEOGRAPHER: Oh, I'm sorry.

09:02:01 20 MR. MILLER: There we go.

09:02:01 21 THE WITNESS: You ready?

09:02:01 22 Whereupon,

09:02:01 23 LAWRENCE BOYD, Ph.D.,

09:02:01 24 called as a witness by counsel for the

25 Plaintiff/Counterdefendants, and having been duly sworn

09:02:01 1 by the Notary Public, was examined and testified as
09:02:01 2 follows:
09:02:04 3 DIRECT EXAMINATION
09:02:09 4 BY MR. DAUCHOT:
09:02:10 5 Q. Dr. Boyd, good morning.
09:02:11 6 A. Good morning.
09:02:14 7 Q. My name is Luke Dauchot. I don't know that
09:02:16 8 we've met before.
09:02:18 9 A. We haven't, no.
09:02:20 10 Q. We haven't. Congratulations on becoming a
09:02:22 11 doctor. I guess that's relatively recent.
09:02:24 12 A. Last deposition I was not Dr. Boyd, so.
09:02:27 13 Q. All right. Well, you've been deposed before,
09:02:27 14 I know that.
09:02:28 15 A. A few times, yeah.
09:02:31 16 Q. A couple reminders to help the process along
09:02:33 17 today. First, if you don't understand a question, let
09:02:38 18 me know. I'll do what I can to make it clearer. But if
09:02:41 19 you do answer, I'll assume you understood. Fair enough?
09:02:41 20 A. Fair.
09:02:44 21 Q. Be sure to keep all of your answers both
09:02:50 22 verbal and audible. I understand a nod of the head, but
09:02:54 23 a court reporter can't take that down.
09:02:55 24 A. Great. Yeah, I will try to do that.
25 Q. All right. Third, let me finish my question

09:25:36 1 MR. MILLER: Why are you giving it a new
09:25:37 2 number?
09:25:38 3 MR. DAUCHOT: That's a fair question. I'm not
09:25:40 4 sure I need to.
09:25:41 5 MR. MILLER: Yeah, I think what we've --
09:25:45 6 MR. DAUCHOT: The only reason I am giving it a
09:25:49 7 new number is because it says Lukianov.
09:25:50 8 MR. MILLER: I think what we've done in the
09:25:52 9 past is just reuse the exhibit.
09:26:03 10 MR. DAUCHOT: Okay. Let's do that. Undo
09:26:05 11 here. Do a revision procedure.
09:26:11 12 THE WITNESS: Careful.
09:26:12 13 MR. DAUCHOT: There we go, I'm going to hand
09:26:14 14 you what's been previously marked Lukianov's
09:26:19 15 Exhibit 133. Todd, did I hand you that?
09:26:20 16 MR. MILLER: You did. Thank you.
09:26:22 17 BY MR. DAUCHOT:
09:26:26 18 Q. All right. Take a moment to look that over,
09:26:46 19 if you would. I know you recognize the document.
09:26:48 20 A. I believe I've seen this document a few times.
09:26:50 21 Q. All right.
09:26:53 22 A. Just give me a second to review it if you
09:26:53 23 will.
09:27:57 24 Q. Sure.
25 A. Okay. I've reviewed it.

09:28:02 1 Q. All right. This is a document that you
09:28:03 2 authored?
09:28:06 3 A. Yes, I dictated this.
09:28:12 4 Q. And at the time that you drafted this
09:28:18 5 memorandum, so we're now January 11, '94, according to
09:28:21 6 your curriculum vitae, you were a product development
09:28:25 7 manager at Sofamor Danek?
09:28:27 8 A. Correct.
09:28:30 9 Q. All right. Question, why is product -- strike
09:28:31 10 the question.
09:28:34 11 I take it that you drafted this memo because
09:28:36 12 this was something that you did in the ordinary course
09:28:43 13 of your -- your practice back then as an employee of
09:28:44 14 Sofamor Danek, fair?
09:28:46 15 A. You're asking me that I wrote this because it
09:28:48 16 was part of my job?
09:28:49 17 Q. Yeah.
09:28:49 18 A. Yes.
09:28:56 19 Q. Okay. Part of your job was to communicate to
09:29:03 20 individuals, such as Mr. Pafford, Mr. Brumfield, who are
09:29:07 21 the recipients, along with others who you've copied
09:29:13 22 about product development meetings that you had with,
09:29:18 23 among others, surgeons, fair enough?
09:29:20 24 A. To communicate with them in general about any
25 activities that I performed in the course of business.

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