

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION

3 ALLERGAN, INC. * Civil Docket No.
4 * 2:09-CV-97
4 VS. * Marshall, Texas
5 * August 3, 2011
5 SANDOZ, INC. * 1:15 P.M.

6 TRANSCRIPT OF BENCH TRIAL
7 BEFORE THE HONORABLE JUDGE T. JOHN WARD
8 UNITED STATES DISTRICT JUDGE

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25 (Proceedings recorded by mechanical stenography,
transcript produced on CAT system.)

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12 P R O C E E D I N G S

13
14 COURT SECURITY OFFICER: All rise.

15 THE COURT: Please be seated.

16 Ms. Brooks.

17 MS. BROOKS: Thank you, Your Honor.

18 ANGELO P. TANNA, M.D., DEFENDANTS' WITNESS,

19 PREVIOUSLY SWORN

20 DIRECT EXAMINATION

21 BY MS. BROOKS:

22 Q. Good afternoon, Dr. Tanna.

23 A. Good after, Ms. Brooks.

24 Q. Right before the lunch break, I was

25 frantically looking for a copy of Walters. We now have

1 one before you in your binder. And it's DTX138.

2 Oh, I'm sorry. That's the abstract actually, which you
3 did look at. Now, let's look at DTX137. And that is
4 the Walters paper.

5 So you say, Dr. Tanna, you had not had a
6 chance to look at this before rendering your opinion; is
7 that right?

8 A. No, that's not true. Now that I see it, I do
9 recognize it. I have looked at this reference.

10 Q. So you did consider it in rendering your
11 opinion?

12 A. I did consider it, yes.

13 Q. All right. Then let's look, if we could,
14 please, at Bates No. 346, the page ending in that Bates
15 number.

16 MS. BROOKS: And highlight, if we could,
17 in the right-hand column where it begins similar
18 means -- mean decreases in IOP.

19 A. 346?

20 Q. (By Ms. Brooks) Yeah, 346. It should be the
21 bottom right-hand corner, the Bates No. 000346.

22 Do you have that?

23 A. Yes, I do.

24 Q. Okay. And it's also up on the screen.

25 So let's see what Walters also disclosed about

1 this study. It says: Similar mean decreases in IOP
2 were noted for both dosing regimens at hours 2, 4, and 7
3 in the diurnal measurements.

4 In the three-times-daily group, an additional
5 mean decrease in IOP of 3.5 millimeters of mercury was
6 observed at hour 9, after the morning dosing, or two
7 hours following the afternoon dosing.

8 Do you see that, Dr. Tanna?

9 A. Yes, I do.

10 Q. So isn't it true that one of skill in the art
11 would look at Walters and see that there was a
12 statistically significant decrease in IOP at 9.0 hours
13 after morning dosing on the three-times-a-day
14 Brimonidine?

15 A. Yes. And it is overall, in my opinion, that
16 three-times-a-day Brimonidine is more effective than
17 twice-a-day Brimonidine. And, in fact, that is in my
18 expert opinion, and I used a different reference as the
19 main reference for that, specifically Konstas.

20 THE COURT: Doctor, she hadn't asked you
21 any of that.

22 THE WITNESS: I'm sorry, Your Honor.

23 THE COURT: If they want you to repeat
24 that testimony or what's in your expert report, they'll
25 ask you. But unless everybody's not listening to me,

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