

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

NOVARTIS PHARMACEUTICALS)
CORPORATION and NOVARTIS AG,)
Plaintiffs,)

v.

C.A. No. 14-1043-RGA

BRECKENRIDGE PHARMACEUTICAL, INC.,)
Defendant.)

NOVARTIS PHARMACEUTICALS)
CORPORATION and NOVARTIS AG,)
Plaintiffs,)

v.

C.A. No. 14-1196-RGA

ROXANE LABORATORIES, INC.,)
Defendant.)

NOVARTIS PHARMACEUTICALS)
CORPORATION and NOVARTIS AG,)
Plaintiffs,)

v.

C.A. No. 14-1289-RGA

PAR PHARMACEUTICAL, INC.,)
Defendant.)

VIDEOTAPED DEPOSITION OF MARK J. RATAIN, M.D.
Monday, April 11, 2016
Chicago, Illinois

Reporter by:
Janice M. Kocek, CSR, CLR
Job No. 105588

1 M. RATAIN, M.D.

2 THE VIDEOGRAPHER: This is the start
3 of DVD labeled Number 1 of the videotaped
4 deposition of Mark J. Ratain, M.D., in the
5 matter of Novartis Pharmaceuticals
6 Corporation versus Breckenridge
7 Pharmaceutical, Incorporated, Case Number
8 14-1043-RGA; and Novartis Pharmaceuticals
9 Corporation versus Roxane Laboratories,
10 Incorporated, Case Number 14-1196-RGA;
11 and Novartis Pharmaceuticals Corporation
12 versus Par Pharmaceuticals, Incorporated,
13 Case Number 14-1289-RGA in the United
14 States District Court for the District of
15 Delaware.

16 This deposition is being held at
17 Latham & Watkins, LLP, 330 North Wabash,
18 Chicago, Illinois, on April 11, 2016, at
19 approximately 9:35 a.m.

20 My name is Renato Velarde. I'm the
21 legal video specialist from TSG Reporting,
22 Incorporated, headquartered at 747 Third
23 Avenue, New York, New York. The court
24 reporter is Janice Kocek in association
25 with TSG Reporting.

1 M. RATAIN, M.D.

2 Will counsel please introduce
3 yourself?

4 MS. JACOBSEN: Charlotte Jacobsen
5 from Fitzpatrick on behalf of the
6 plaintiffs; and with me is
7 Susanne Flanders, also from Fitzpatrick.

8 MS. DANEK: Brenda Danek from
9 Latham & Watkins on behalf of Par.

10 MS. BIRBACH: Naomi Birbach from
11 Goodwin Procter on behalf of Roxane
12 Laboratories.

13 THE VIDEOGRAPHER: Will the court
14 reporter please swear in the witness?

15 (Witness sworn.)

16 M A R K J. R A T A I N , M. D. ,

17 called as a witness, having been duly
18 sworn by a Notary Public, was examined
19 and testified as follows:

20 EXAMINATION BY

21 MS. JACOBSEN:

22 Q. Good morning.

23 A. Good morning.

24 Q. Can you state your full name for the
25 record?

1 M. RATAIN, M.D.

2 Q. Okay. Why did you never publish
3 them?

4 A. I couldn't get results that I felt
5 were publishable quality. I also did some in
6 vitro studies with hydroxyurea in combination
7 with etoposide, which I did publish.

8 Q. And what does it mean to be of
9 publishable quality?

10 A. Something that I really felt told a
11 story.

12 Q. Which story were you trying to tell?

13 A. I was trying to understand why --
14 you know, why there were differences between
15 vincristine and vinblastine, because the two
16 drugs were very similar, yet vincristine had
17 more neurotoxicity than vinblastine and
18 vinblastine had more myelosuppression than
19 vincristine.

20 And, and, you know, that was really
21 something that I thought was important -- that,
22 that was of interest to me to try and
23 understand that.

24 Q. Are there differences in the side
25 effects of vincristine and vinblastine?

1 M. RATAIN, M.D.

2 BY MS. JACOBSEN:

3 Q. I'm asking you about -- well, let's
4 take a step back. Strike that.

5 So as I understood your testimony,
6 you were saying that activity means evidence of
7 some shrinkage in some patients, and that was a
8 reference to humans; is that correct?

9 A. Yes. You can talk about activity
10 also in a different context, activity in, in
11 models of cancer, but that's not the same as
12 activity in cancer X. So, you know, they're
13 different, different meanings of the word
14 "activity."

15 Q. Can you demonstrate activity in
16 cancer X by running a test in models of cancer?

17 A. That would demonstrate activity of,
18 of the drug in a model of cancer X.

19 Q. It would not demonstrate activity in
20 cancer X?

21 A. No.

22 Q. Okay. Can we look at your expert
23 report at paragraph 16. And there you state as
24 one example, "I designed and led the Phase II
25 randomized discontinuation trial of sorafenib,

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