

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 19-23649-rdd

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5 In the Matter of:

6

7 PURDUE PHARMA L.P.,

8

9 Debtor.

10 - - - - - x

11 United States Bankruptcy Court

12 Tele/Video Proceedings

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 September 13, 2021

17 10:12 AM

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21 B E F O R E :

22 HON ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: ART

1 HEARING re Notice of Agenda / Agenda for September 13, 2021
2 Hearing (ECF #3750)

3

4 HEARING re Motion to Shorten Time / The Ad Hoc Group of
5 Individual Victims' Ex Parte Motion for Entry of an Order
6 Shortening Notice with Respect to the Motion of the Ad Hoc
7 Group of Individual Victims for Entry of a HIPAA-Qualified
8 Protective Order (related document(s) 3486) filed by J.
9 Christopher Shore on behalf of Ad Hoc Group of Individual
10 Victims of Pharma L.P. (ECF #3487)

11

12 HEARING re Daniel L. Carpenter Late Claim Motion / Motion to
13 File Proof of Claim After Claims Bar Date (ECF #3526)

14

15 HEARING re Application for Final Professional Compensation
16 for The Examiner, Other Professional, period: 6/24/2021 to
17 7/19/2021, fee:\$197,423.16, expenses: \$2,576.84 (ECF #3753)

18

19 HEARING re Motion to Authorize I Debtors Motion Pursuant to
20 11 U.S.C. 105(a) and 363(b) for Entry of an Order (I)
21 Authorizing the Debtors to Fund Establishment of the
22 Creditor Trusts, the Master Disbursement Trust and Topco,
23 (II) Directing Prime Clerk LLC to Release Certain Protected
24 Information, and (III) Granting Other Related Relief
25 (ECF #3484)

1 HEARING re Objection to Motion for Entry of an Order
2 Shortening Notice With Respect to the Debtors Motion
3 Pursuant to 11 U.S.C. §§ 105(a) and 363(b) for Entry of an
4 Order (I) Authorizing the Debtors to Fund Establishment of
5 the Creditor Trusts, the Master 1 Disbursement Trust, and
6 Topco, (II) Directing Prime Clerk LLC to Release Certain
7 Protected Information, and (III) Granting Other Related
8 Relief (related document(s)3485) filed by Brian Edmunds on
9 behalf of State Of Maryland. (ECF #3493)

10

11 HEARING re Objection to Motion /Objection of the United
12 States Trustee to Debtors Ex Parte Motion for Entry of an
13 Order Shortening Notice with Respect to the Debtors Motion
14 Pursuant to 11 U.S.C. 105(a) and 363(b) for Entry of an
15 Order (I) Authorizing the Debtors to Fund Establishment of
16 the Creditor Trusts, the Master Disbursement Trust
17 and TopCo, (II) Directing Prime Clerk LLC to Release Certain
18 Protected Information, and (III) Granting Other Related
19 Relief (related document(s)3484, 3485) (ECF #3555)

20

21 HEARING re Objection Joinder of Canadian Municipality
22 Creditors and Canadian First Nations to the Objecting
23 States and Office of the U.S. Trustee Objection to Debtors'
24 Motion Pursuant to 11 U.S.C. Sections 105(A) and 363(B) for
25 Entry of An Order (I) Authorizing The Debtors to Fund

1 Establishment of the Creditor Trusts, The Master
2 Disbursement Trust and Topco, (II) Directing Prime Clerk LLC
3 to Release Certain Protected Information (related
4 document(s) 3555, 3493) filed by Allen J. Underwood on
5 behalf of Certain Canadian Municipality Creditors and
6 Canadian First Nation Creditors. (ECF #2463)

7

8 HEARING re Reply to Motion/ Debtors Reply to the Objections
9 of the Objecting States, the United States Trustee, and the
10 Canadian Municipality Creditors and Canadian First Nations
11 Creditors to the Debtors Motion Pursuant to 11 U.S.C. §§
12 105(A) and 363(B) for Entry of an Order (I) Authorizing the
13 Debtors to Fund Establishment of the Creditor Trusts,
14 the Master Disbursement Trust and Topco, (II) Directing
15 Prime Clerk LLC to Release Certain Protected Information,
16 and (III) Granting Other Related Relief (related
17 document(s) 3484) filed by Eli J. Vonnegut on behalf of
18 Purdue Pharma L.P. (ECF #3743)

19

20 HEARING re Debtors' KEIP/KERP Motion, Solely Respect to the
21 2021 KEIP - Motion of Debtors for Entry of an Order
22 Authorizing Implementation of 2021 Key Employee Incentive
23 Plan and 2021 Key Employee Retention Plan filed by Eli J.
24 Vonnegut on behalf of Purdue Pharma L.P. (ECF #3077)

25

1 HEARING re Objection to Motion of Debtors for Entry of an
2 Order Authorizing Implementation of 2021 Key Employee
3 Incentive Plan and 2021 Key Employee Retention Plan (related
4 document(s) 3077) filed by Paul Kenan Schwartzberg on behalf
5 of United States Trustee (ECF #3137)

6

7 HEARING re Objection to Motion/ THE NON-CONSENTING STATES'
8 OBJECTION TO MOTION OF DEBTORS FOR ENTRY OF AN ORDER
9 AUTHORIZING IMPLEMENTATION OF 2021 KEY EMPLOYEE INCENTIVE
10 PLAN AND 2021 KEY EMPLOYEE RETENTION PLAN (related
11 document(s) 3077) filed by Andrew M. Troop on behalf of Ad
12 Hoc Group of Non-Consenting States. (ECF #3320)

13

14 HEARING re Objection to Motion of Debtors for Entry of an
15 Order Authorizing Implementation of 2021 Key Employee
16 Incentive Plan filed by Matthew J. Gold on behalf of State
17 of Washington. (ECF #3624)

18

19 HEARING re Objection to Motion/ The Non-Consenting States'
20 Limited Objection to Motion of Debtors for Entry of an Order
21 Authorizing Implementation of 2021 Key Employee Incentive
22 Plan (related document(s) 3077) filed by Andrew M. Troop on
23 behalf of Ad Hoc Group of Non-Consenting States. (ECF #5625)
24 Reply to Motion / Debtors' Omnibus Reply in Support of
25 Motion of Debtors for Entry of an order Authorizing

1 Implementation of 2021 Key Employee Incentive Plan arid 2021
2 Key Employee Retention Plan (related document(s) 3077) filed
3 by Eli J. Vonnegut on behalf of Purdue Pharma L.P.
4 (ECF #3334)

5

6 HEARING re Reply to Motion / Debtors Supplemental Omnibus
7 Reply in Support of Motion of Debtors for Entry of an Order
8 Authorizing Implementation of 2021 Key Employee Incentive
9 Plan and 2021 Key Employee Retention Plan (related
10 document(s) 3077) filed by Marshall Scott Huebner on behalf
11 of Purdue Pharma L.P. (ECF #3744)

12 Ellen Isaacs's Request for Immediate Injunction and Due
13 Process. Request for Immediate Injunction and Hearing for
14 Due Process, Production for Evidentiary Documents & Other
15 Relief (ECF #3582)

16

17 Objection to Motion/ Debtors Objection to Ellen Isaacs
18 Emergency Request for Immediate Injunction and Hearing for
19 Due Process, Production for Evidentiary Documents & Other
20 Relief (related document(s) 3582) filed by James I. McClammy
21 on behalf of Purdue Pharma L.P. (ECF #3734)

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25 Transcribed by: Sonya Ledanski Hyde

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4 WITNESSES:

5 JOSEPHINE GARTRELL (TELEPHONICALLY)
6 JONATHAN LOWNE (TELEPHONICALLY)

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8 ALSO PRESENT TELEPHONICALLY:

9 ROXANA ALEALI
10 ANDREW VINCENT ALFANO
11 ANNE ANDREWS
12 MICHAEL ATINSON
13 JASMINE BALL
14 BROOKS BARKER
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6 MICHELE MEISES
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1 P R O C E E D I N G S

2 THE COURT: Good morning. This is Judge Drain and
3 we are here in In re Purdue Pharma L.P. et al. I have the
4 proposed agenda for today's hearing, and I'm happy to go
5 down that agenda in order unless someone believes they need
6 to make an introductory remark on something else.

7 MR. HUEBNER: Your Honor, nothing from this end.
8 Good morning. For the record, Marshall Huebner. That was
9 exactly our vision. We have three uncontested matters and
10 three contested matters. And I guess we will just go down
11 the order, which is what I was going to recommend.

12 The first motion is actually going to be presented
13 by White & Case. That is the Ad Hoc Group of Individual
14 Victims' Protective Order Motion. So with the Court's
15 permission, I will turn the virtual podium over to them on
16 behalf of the personal injury claimants.

17 THE COURT: Okay, that's fine. Thank you.

18 MR. SHORE: Good morning, Your Honor. Chris Shore
19 from White & Case.

20 THE COURT: Good morning.

21 MR. SHORE: Does Your Honor have any questions?

22 THE COURT: I have reviewed the motion and I think
23 it's clear as to its purpose, which is to authorize the
24 initial work to be done on behalf of the PI trust pending
25 the effective date of the plan. And tied into that is,

1 subject to the terms of the protective order and this order,
2 the access of certain people who will be working on behalf
3 of the trust to information that constitutes, "protected
4 health information" under 45 CFR § 160.103.

5 So this appears to me to be reasonable relief
6 under the circumstances. One of the goals of the Ad Hoc
7 Group of Individual Victims and other personal injury
8 claimants is to expedite the treatment of their claims and
9 distributions on allowed claims from the trust to be set up
10 under the plan, and a considerable amount of work needs to
11 be done to facilitate that. So it seems clear to me.

12 I don't know if you have anything more to say on
13 it, Mr. Shore, or are you going to rely on the motion?

14 MR. SHORE: I will rely on the motion, and I will
15 when we get to the contested matter address the issue of the
16 importance, if it's necessary to do so, the importance of
17 getting this process started so that when we get to an
18 effective date, we could be up and running with the trust.

19 THE COURT: Okay. So I understand that the motion
20 is unopposed. It was originally sought on an expedited
21 basis when it was filed, but that was on August 6th. Now
22 it's September 13th. There's been plenty of time for
23 regular notice of the motion. And given that time, there
24 are no objections to it. So unless anyone has anything
25 further to say on it, I will grant the motion.

1 MR. SHORE: Thank you, Your Honor.

2 THE COURT: Okay. Hearing no one, I will grant
3 the motion. Mr. Shore, you can email the order to chambers.

4 MR. SHORE: We'll do that.

5 THE COURT: Okay.

6 MR. SHORE: Thank you, Your Honor.

7 Your Honor, the second motion is a motion by
8 Daniel Carpenter that will be handled by Ms. Kathryn
9 Benedict of Davis Polk.

10 THE COURT: Okay.

11 MS. BENEDICT: Good morning, Your Honor. For the
12 record, Kathryn Benedict of Davis Polk & Wardwell LLP on
13 behalf of the debtors. Can you hear me clearly?

14 THE COURT: Yes, I can hear you and see you fine.
15 Thanks.

16 MS. BENEDICT: Thank you. Mr. Carpenter's late
17 claim motion is at Docket Number 3526. Based on the
18 individualized assertions in Mr. Carpenter's motion, the
19 Debtors believe there is a colorable basis for granting Mr.
20 Carpenter's request.

21 In addition, the Debtors consulted with the
22 Creditors' Committee and the Ad Hoc Group of Individual
23 Victims regarding the individualized circumstances
24 surrounding Mr. Carpenter's request, and each has consented
25 to the relief requested.

1 Accordingly, the Debtor's request that the
2 proposed order submitted at Docket Number 3733 be entered.

3 I am happy to answer any questions Your Honor may have.

4 THE COURT: Okay. I don't have any questions. I
5 have reviewed Mr. Carpenter's motion. Let me just ask, does
6 anyone have anything further to say on his motion? Okay.

7 I will grant the motion. I agree with the
8 Debtor's decision not to oppose it. Mr. Carpenter's motion
9 lays out clearly that having contracted COVID and having
10 been incarcerated during most of the COVID period as a
11 result without access to information regarding the bar date,
12 he has shown excusable neglect for purposes of Bankruptcy
13 Rule 9006 in the Supreme Court's Pioneer case.

14 So you can email the proposed order to chambers
15 and it will be entered shortly.

16 MS. BENEDICT: Thank you, Your Honor. With that,
17 I'll turn over the podium to Mr. Lerner at Squire Patton
18 Boggs.

19 THE COURT: Okay.

20 MR. LERNER: Good morning, Your Honor. Stephen
21 Lerner of Squire Patton Boggs. Can you hear me okay?

22 THE COURT: Yes. I can hear you and see you fine.
23 Thanks.

24 MR. LERNER: Thank you, Your Honor. We, as you
25 know, obviously I served as an examiner in the case for

1 roughly three to four weeks. We filed our fee application
2 consistent with the order approving my appointment, limiting
3 the fees to the \$200,000 amount. And we have received no
4 objections and response of any kind and filed a certificate
5 to that effect on Friday. And unless the Court has specific
6 questions of me, I'll stand on the application.

7 THE COURT: Okay. I don't have any questions. I
8 have reviewed the application, including the time and
9 expense records. Obviously there was a lot of work done in
10 a short period, and the time here is reasonable. Indeed,
11 you're taking somewhat of a discount because of the cap that
12 I placed on the fees.

13 So I will grant the application. I believe you or
14 someone from your firm already emailed the proposed order
15 and schedules A and B to chambers. So those will be entered
16 shortly.

17 MR. LERNER: Thank you, Your Honor.

18 THE COURT: And I want to thank you for
19 undertaking this task and completing it within the timeframe
20 set.

21 MR. LERNER: Thank you, Your Honor.

22 MR. HUEBNER: Your Honor, I think that brings us
23 to the contested part of the hearing. The first motion I
24 will turn the podium over to Mr. Vonnegut.

25 MR. VONNEGUT: Thank you. Good morning, Your

1 Honor. For the record, Eli Vonnegut of Davis Polk &
2 Wardwell on behalf of the Debtors. Can you hear me, Your
3 Honor?

4 THE COURT: Yes, I can hear you fine. Thanks.

5 MR. VONNEGUT: Thank you. I will be brief on the
6 Trust Authorization Motion, Your Honor, because I think our
7 papers mostly speak for themselves. But I believe some
8 basic (indiscernible) will be helpful.

9 The plan has a lot of infrastructure in it that
10 needs to be established in order to reconcile all of the
11 claims and actually get money out the door and into the
12 hands of personal injury claimants and the abatement
13 initiative (indiscernible) that the plan distributes
14 (indiscernible) funds. There is a network of five abatement
15 trusts, the PI Trust, which has sub-comments for NAS and
16 non-NAS personal injury claims, as well as the Master
17 Disbursement Trust and Topco, which will both help direct
18 distributions to all of these different trusts.

19 I think the most salient example is the Personal
20 Injury Trust, which before it's going to be able to get
21 distributions out to claimants will need to establish a
22 claims database, a web portal, online forms, and test all of
23 that to make sure that it works so that the PI Trust will be
24 able to reconcile approximately 140,000 filed claims as it's
25 required to do under the plan.

1 So in other words, this isn't a simple case in
2 which emergence comes, we press a button, we send a couple
3 wires and we call it a day. There's a lot more work
4 necessary to actually get money into the hands of creditors.

5 If we waited until emergency to do all of that
6 work, the trusts would receive their distributions on the
7 effective date of the plan, but then they would have to sit
8 on the cash for several months while they built the
9 infrastructure necessary to process the claims and get
10 distributions out.

11 And so knowing that we would have at least a
12 couple of months of lag time between confirmation and
13 emergency for regulatory processes and the DOJ settlement,
14 several months ago the Ad Hoc Group of Individual Victims
15 reached out to us and suggested that an advanced
16 distribution to the PI trust following confirmation would
17 help reduce that lag time and enable the trust to be much
18 more ready on the emergency date to start actually sending
19 money out.

20 That struck the Debtor as a great idea. We
21 thought other creditor groups might likewise appreciate
22 having a bit of lead time in order to get their legal
23 vehicles ready. So we coordinated with all of our
24 creditors, compiled proposed budgets. That's what led to
25 the comprehensive proposal reflected in the motion.

1 We got a limited number of objections filed by a
2 subset of the states that are still opposing the plan,
3 Maryland, Connecticut, Oregon, and Washington, as well as
4 the U.S. Trustee. And then a very brief joinder filed by
5 the Canadian municipal claimants.

6 All of the objectors effectively have variations
7 on the theme that they believe these payments are in one way
8 or another really an effort to equitably move appeals of the
9 confirmation of the plan before we've actually been able to
10 emerge. So I just want to address those concerns briefly.

11 The total amount that we are seeking authority to
12 spend under this motion is \$6.855 million. None of those
13 funds are going to creditors. It's all just being used to
14 build plan infrastructure. None of the money is coming from
15 the Sacklers. This is all estate cash on hand.

16 I think a helpful reference point in terms of size
17 here is that the estate has spent an average of \$8.7 million
18 per month to date on creditor professional fees. We,
19 frankly, don't really view these expenditures as any
20 different, and we think it would be ridiculous for us to
21 argue that these payments would somehow moot appeals of
22 confirmation of a plan and a settlement before the plan and
23 the settlement before the plan and the settlement are
24 consummated.

25 We didn't hear from the objectors before they

1 filed their pleadings. But as soon as we saw them, we
2 reached out to make very clear to them that we were not
3 attempting to moot appeals, that we were not trying to treat
4 consummation of the plan as a foregone conclusion, and
5 offered to stipulate on the point to try to resolve the
6 objection.

7 The concern that we heard in response was, well,
8 what about the Sacklers? What about other creditors? How
9 do I know that they won't make these arguments? That's a
10 fair point. So we reached out to every organized creditor
11 group that we have and we confirmed that they all agree with
12 the Debtors, that these payments pre-emergence would not
13 have the effect of mooting appeals during the pre-emergence
14 window.

15 So we took that back to the objectors, and we've
16 heard two different things in response. One is a concern
17 that even if we, the Debtors, and all the creditors agree to
18 this language in the order, that some other parties might
19 not be bound by it or that an appellate court might conclude
20 sua sponte that somehow these payments do moot appeals of
21 the plan.

22 The four states that are objecting suggested that
23 the stipulation that these payments wouldn't equitably moot
24 appeals of confirmation doesn't go far enough, but that
25 instead we and all the creditors should stipulate that full

1 consummation of the plan and the settlement also would not
2 moot appeals. So we took that suggestion to the creditors.
3 We discussed it with them. We all just don't think that's
4 correct substantively. We don't think it's right to hold up
5 this motion over an unrelated issue. And the suggestions
6 that were made as to how the settlement and the plan might
7 be adjusted to make that work we just didn't think were
8 practical.

9 So where that leaves us, Your Honor, is the
10 Debtors and the overwhelming majority of all of the
11 creditors in the case are just trying to do what we think is
12 a good and simple thing; we are trying to get creditors
13 their money faster. We think that we've addressed all of
14 the objectors' concerns, and we don't think that asking
15 creditors to accept more delay over a theoretical concern
16 that somebody might make an argument that we all think is
17 crazy is the right way to be arranging our priorities in
18 this case.

19 I continue to believe that the creditors'
20 preferences are much more important than the Debtor's
21 preferences in this case, and I know they feel very strongly
22 about this. But if it's okay with Your Honor, how we would
23 propose to proceed is to ask the objectors to speak for
24 themselves as to what their remaining concerns are. And
25 then I know Mr. Preis would like to address this matter, as

1 well as Mr. Eckstein and potentially others.

2 THE COURT: Okay.

3 MR. VONNEGUT: Thank you, Your Honor.

4 MR. HIGGINS: Your Honor, Ben Higgins for the U.S.
5 Trustee. I can start for the objecting side if that's
6 acceptable to Your Honor.

7 THE COURT: Okay.

8 MR. HIGGINS: Thank you, Your Honor. I agree with
9 Mr. Vonnegut that we are concerned with preserving the
10 status quo so that there can be an appellate review of the
11 merits of the Court's decision approving the plan.

12 And to be clear, we do appreciate the efforts of
13 the Debtors to craft language providing that the proposed
14 funding won't support an equitable mootness argument. And
15 we also appreciate the reference to get a consent among the
16 various parties for this principle. But we don't know for
17 certain that such an order would be binding on an appellate
18 court or binding on all the parties to this case.

19 And there is ample caselaw in the Second Circuit
20 that shows that an appellant that does not diligently
21 attempt to preserve the status quo runs the risk of having
22 its appeal dismissed as equitably moot. And just to
23 illustrate that concern, at the last hearing on the KERP
24 motion back in July, Your Honor referenced a recent district
25 court decision in Harrington v. LSC Communications. And in

1 that case, the debtor appellees argue that bonus payments to
2 six officer which totaled less than a million dollars
3 rendered the U.S. Trustee's appeal as equitably moot because
4 the payments constituted a change in circumstances.

5 And now the district court ruled in the U.S.
6 Trustee's favor on that point and decided that we could
7 reach the merits, but the district court didn't say the
8 appellee's argument was frivolous or crazy, as Mr. Vonnegut
9 suggests, and it did warn that an appellant's failure to
10 obtain a stay in the context of plan confirmation would be
11 dire. And the purpose of the current motion is to perform
12 work necessary to implement the plan. And we are highly
13 concerned, and I think justifiably so based on Second
14 Circuit law, that any steps taken to implement the plan
15 could constitute grounds for an appellate court to dismiss
16 an appeal as equitably moot.

17 And to be clear, we do intend to move
18 expeditiously with any appellate practice. And the question
19 of the stay of the confirmation order is not yet before the
20 Court, but we are also concerned about whether there are
21 actions that the Debtors could undertake even before the
22 effective date under the Confirmation Order or the
23 Restructuring Steps Memorandum that could have the effect of
24 scrambling the eggs or ringing the bell that can't be
25 unrung, or choose whatever metaphor you want, Your Honor.

1 But the Second Circuit law was clear that if we just sit on
2 our hands, we allow comprehensive change in circumstances to
3 take place, then we do run the risk that an appellate court
4 will never hear the merits of an appeal.

5 And it's also worth noting that the Debtors have
6 bound themselves under the shareholder agreement at Section
7 2.09 to oppose any request for a stay pending appeal. And
8 if no stay is granted and the plan is consummated, or even
9 if before consummation there are sufficient changes in
10 circumstances, there is a real danger that an appeals court
11 will never reach the merits.

12 And from our perspective, that is a problem. And
13 frankly, regardless of the outcome of an appeal on this
14 case, we believe the integrity of the bankruptcy system is
15 best served by an appeals court deciding that appeal on the
16 merits.

17 And so we would request that just hold this motion
18 in abeyance pending the outcome of (indiscernible).

19 THE COURT: Okay.

20 MR. HIGGINS: Thank you.

21 MR. GOLD: Good morning, Your Honor. Matthew
22 Gold, Kleinberg, Kaplan, Wolff & Cohen for the State of
23 Washington. Can you hear me, Your Honor?

24 THE COURT: Yes. I can hear you fine.

25 MR. GOLD: Okay, thank you. Your Honor, we

1 support what the United States Trustee's office has said. I
2 don't have any feeling I need to repeat that.

3 I would just add that, as Mr. Higgins alluded to,
4 we are expecting that sometime soon there will be an order
5 confirming the plan and that then there will be motions for
6 a stay pending appeal. And we suggest that at a minimum,
7 this motion is premature until a stay pending appeal as to
8 (indiscernible) granted, then this would be a preparation
9 for something that may not occur. And simply put, it would
10 be more efficient to (indiscernible) --

11 THE COURT: You froze. But you were about to say
12 that this would be more efficiently dealt with as part of a
13 stay pending appeal motion. Is that what you were about --
14 you broke up right when you --

15 MR. GOLD: Yes, Your Honor. That is correct.

16 THE COURT: Okay.

17 MR. GOLD: Your Honor, I have nothing to add.

18 THE COURT: All right.

19 MR. UNDERWOOD: Your Honor, this is Allen
20 Underwood on behalf of the Canadian Municipal Creditors and
21 First Nations Creditors. I just wanted to indicate --
22 obviously we filed a joinder pleading. But I think we went
23 further, and we completely agree with statements made by the
24 U.S. Trustee and the non-consenting states. We went a step
25 further even to say that this is a case where we have the

1 ability to case management, a likely appellate process, have
2 a global consent order that might give all a path and some
3 level of confidence. Expedition, cost production in terms
4 of where this is going so that there can be a relatively
5 defined and short appellate process as necessary here if
6 that's where this all ends up going. I know that's beyond
7 the scope of the motion, but I wanted to make it clear that
8 that's something that the Canadian Municipalities and First
9 Nations are more than happy to negotiate and assist them
10 with --

11 THE COURT: As far as I'm concerned, there is no
12 need for negotiation there. Every appellant should be
13 moving for expedited review, and I assume they'll get it.

14 We just lost the picture. It came back.

15 MR. GOLDMAN: Your Honor, good morning.

16 THE COURT: Good morning.

17 MR. GOLDMAN: Irve Goldman, Pullman & Comley, for
18 the State of Connecticut. I just wanted to put our support
19 for the position of the U.S. Trustee and the State of
20 Washington on record.

21 It does seem anomalous, if you will, that this
22 amount of money would go out the door until a Court rules on
23 a stay. And of course there is the potential for reversal.
24 So this money could be retrievable.

25 THE COURT: Could I -- maybe I am operating under

1 a misimpression here. As I read the proposed order,
2 Paragraph 11 provides that if the Debtors are unable to
3 consummate the plan after some or all of the proposed
4 advances have been issued. Any unused portion will be
5 required to be returned to the Debtors. And then it
6 provides further the Debtors shall be required to prenotice
7 the motion, and absent further authorization from the Court,
8 payment of the proposed advances to the PI Trust, the NAS
9 Monitoring Trust, the Third Party Payor Trust, TAFT, the
10 Hospital Trust, and NOAT shall be recharacterized and/or
11 reallocated pursuant to Sections 502 or 506(b) of the
12 Bankruptcy Code as payments on account of the claims
13 asserted by the holders of the applicable claims, and
14 payment of the Topco advance shall be recharacterized and/or
15 reallocated pursuant to Sections 502 and 506(b) of the
16 Bankruptcy Code.

17 So how is this going out the door?

18 MR. GOLDMAN: Well, actually if the money was
19 recharacterized in that manner, it wouldn't actually be in
20 the pockets of any creditors.

21 THE COURT: Right. It doesn't go out the door.
22 It's recharacterized.

23 MR. GOLDMAN: To the extent it's unused. But by
24 the time a ruling comes down on a stay motion, and certainly
25 if we can make it through the appellate process, a ruling on

1 appeal, I would say there is a substantial likelihood that
2 all of the money would be spent at that point. So that is
3 my point. I did notice the provision that Your Honor just
4 quoted, but that was my thinking on it.

5 THE COURT: Okay.

6 MR. GOLDMAN: I would also -- if Your Honor is
7 inclined to grant the motion, I would just ask that there be
8 an express finding in the order that this money spent and
9 the preparatory actions taken wouldn't constitute
10 substantial consummation.

11 THE COURT: Well, I'm perfectly happy to make that
12 finding as well as state that the appellee in any appeal,
13 which would be the Debtors only since they are the proponent
14 of the plan, has waived the right to argue equitable
15 mootness.

16 MR. VONNEGUT: Your Honor, we're fine with all of
17 that. And just to briefly respond to a few things that --

18 THE COURT: No, you don't need to respond. This
19 is just an absurd opposition. It truly is. It truly is. I
20 understand why you would make it so you could get it on the
21 record. But now that it's on the record, it's entirely
22 clear. No court, given what I've just laid out, would find
23 that these payments to expedite distributions to creditors
24 represents an argument for equitable mootness, let alone
25 would justify equitable mootness. And the Debtors have

1 waived the argument. I don't know what more one could want.

2 Now, I understand you want to have that on the
3 record. That's fine. But I don't see why we should be
4 prolonging this.

5 MR. EDMUNDS: Your Honor, if I may, Brian Edmunds
6 for Maryland. I don't want to prolong this. I have nothing
7 to add, but just for the record. Thank you.

8 THE COURT: Okay, very well.

9 So, look, everyone in this case is, rightly so,
10 being a careful lawyer. So I'm not faulting people for
11 making the objection. But I think the record is clear under
12 these circumstances that the concern that the U.S. Trustee
13 and the others have raised is simply not a legitimate
14 concern with respect to this motion somehow creating a basis
15 for equitable mootness with respect to an appeal of a plan.

16 Mr. Preis, I gather you wanted to say something.

17 MR. PREIS: For the record, Your Honor, Arik
18 Preis, Akin Gump Strauss Hauer & Feld. I was going to say
19 what you said.

20 THE COURT: Okay.

21 MR. PREIS: I was going to do it a lot more
22 colorfully. So if that's the way Your Honor is going to
23 rule (indiscernible).

24 THE COURT: Okay. All right. Does anyone else
25 have anything more to say on this motion?

1 MR. TROOP: Your Honor, Andrew Troop for the non-
2 consenting state group. Just a cleanup matter, I think Mr.
3 Underwood referred to the objecting parties in this motion
4 with the non-consenting state group. The non-consenting
5 state group has not objected to this motion.

6 THE COURT: Right.

7 MR. TROOP: Just so the record is clear. Thank
8 you, Your Honor.

9 THE COURT: Okay. Thank you.

10 MR. ECKSTEIN: Your Honor, this is Kenneth
11 Eckstein of Kramer Levin. We support the motion and its
12 entry. I have nothing further to add. Thank you.

13 THE COURT: Okay. All right. I will grant the
14 motion. This motion seeks authorization to use up to --
15 slightly over -- well, \$6.8 million in cash to establish the
16 various trusts under the plan as far as the advance work to
17 be done on them, including creating website and other
18 mechanisms to expedite distributions to the beneficiaries of
19 the trust under the plan.

20 The parties in these cases, including those who
21 have objected to this motion, as well as those who support
22 it, have all recognized that given the number of deaths on a
23 daily basis because of the effects of opioids, there is a
24 clear purpose, both as a public health matter as well as a
25 bankruptcy matter, to expedite the distribution of funds to

1 abate the effects of opioids. These measures provided for
2 in this order would do that, I believe, by a number of
3 months, which translates into real lives being saved because
4 of that.

5 The motion has appropriate safeguards in it, as
6 just quoted from paragraph 11 of the proposed order as far
7 as any reallocation and/or return of the funds if for some
8 reason the plan does not go forward to the effective date.
9 Further, the Debtors have agreed to waive the argument of
10 equitable mootness on appeal insofar as it could be argued
11 with respect to the grant of this motion and the expenditure
12 of these funds. They are the only appellees on the appeal
13 given that they are the only proponents of the plan. Of
14 course many other groups in these cases would support them
15 on that appeal, but it is their right to argue equitable
16 mootness. They are fully within their rights to preserve
17 that argument generally, but they recognize that they are
18 not really giving up anything meaningful to waive equitable
19 mootness based on the grant of this motion given the fact
20 that it is almost inconceivable to believe that any court
21 would conclude that the grant of this motion and its
22 implementation would render the plan equitably moot.

23 So I will grant the motion. You should add the
24 waiver point, Mr. Vonnegut, to the order. And then you can
25 email it to chambers.

1 MR. VONNEGUT: Thank you very much, Your Honor.

2 We'll do that.

3 THE COURT: Okay. Thanks.

4 MR. HUEBNER: Your Honor, for the record, I think
5 that brings us to the second contested matter, Item 5 on the
6 agenda, which is the 2021 KEIP which is, of course as the
7 Court knows, split off from the KERP that was approved at
8 the end of July. So if I can be heard clearly, for the
9 record, Marshall Huebner. I will be presenting this motion
10 for the Debtors.

11 THE COURT: Okay, very well.

12 MR. HUEBNER: So, Your Honor, first to set the
13 stage. On this matter, as on so many other matters, we
14 adjourned consideration of this motion because, as always,
15 we went to our creditors and engaged in extensive
16 negotiation with key stakeholders. And as the motion papers
17 lay out, we made a bunch of modifications, which I'll get to
18 in a few minutes, that led to the Ad Hoc Committee, the MSGE
19 Group, and of course the UCC itself not having any remaining
20 objections to the substantially amended 2021 KEIP plan.

21 Your Honor, of course much of the program is going
22 to be quite familiar to the Court, as it is in fact nearly
23 identical to the incentive plan approved by this Court last
24 year and quite similar to the one approved by the Court the
25 year before that. This is an annual plan, and we'll talk in

1 a few minutes about timing and the U.S. Trustee's kind of
2 alleged concerns about timing and the like.

3 Your Honor, with respect to the evidence, once
4 again, it is all on our side and it's quite substantial.
5 There are two supporting declarations. There were
6 originally two supporting declarations from Jon Lowne, the
7 Debtor's CFO. I have one from Josephine Gartrell, a senior
8 director at Willis Tower Watson, who was the independent
9 compensation consultant who advised the Comp Committee.

10 Your Honor, you already entered those declarations
11 into evidence in July at the KERP hearing. There is a
12 supplemental further declaration from Mr. Lowne, the second
13 supplemental declaration, which is Docket Number 3744 that
14 addresses the modifications that were done subsequent to his
15 original declarations and some of the issues raised in the
16 objections. We would ask that the Court enter the
17 declaration into evidence at this time.

18 I would note that we have communicated with the
19 parties and as we understand it, Mr. Schwartzberg will have
20 a few questions for Mr. Lowne. I don't think anyone has
21 questions for Ms. Gartrell. And then the other parties, the
22 other two objectors, which we'll get to, either don't intend
23 to cross-examine, or I think Mr. Troop reserved his rights
24 in case something comes up and they want to ask a question
25 or two. But I think that's probably the evidentiary lineup

1 for today.

2 So I would like to move formally to have Docket
3 Number 3744 entered into evidence as another declaration in
4 support of the motion.

5 THE COURT: Well, let me -- were you going to
6 present Ms. Gartrell first and then Mr. Lowne?

7 MR. HUEBNER: So, Your Honor, there is no -- I
8 wasn't going to present Ms. Gartrell because nobody wants to
9 cross-examine her and her declaration is already admitted
10 into evidence as of July. And so I think that's just in and
11 done. I was going to present the motion first. And I
12 assume Mr. Schwartzberg would cross-examine Mr. Lowne. He
13 said he had a few questions for him, which of course he is
14 well within his rights to want to ask.

15 THE COURT: Okay. I did admit Ms. Gartrell's
16 declaration in the hearing in July, which was on the KERP.
17 But let me ask Ms. Gartrell to go under oath with respect to
18 the declaration regarding the KEIP.

19 Ms. Gartrell, would you raise your right hand,
20 please? Do you swear or affirm to tell the truth, the whole
21 truth, and nothing but the truth, so help you God?

22 MS. GARTRELL: I do.

23 THE COURT: So, Ms. Gartrell, in a declaration
24 dated June 28th, 2021, you submitted your testimony in
25 support of the Debtor's motion, which sought both approval

1 of the 2021 KERP and the 2021 KEIP. We are here today on
2 the Debtor's request for approval of the 2021 KEIP, which
3 request had been adjourned pending the conclusion of the
4 confirmation hearing.

5 Sitting here today, September 13th, and knowing
6 that the Debtor's motion itself as supplemented in its reply
7 and by Mr. Lowne's second supplemental declaration updates,
8 the Court, on changes to the KEIP that have since negotiated
9 and the like. Is there anything that you would wish to
10 change in your June 28th declaration?

11 MS. GARTRELL: Your Honor, nothing more than
12 what's in the motion and the reply. So the payments of the
13 KEIP have changed, and the fact that there is no
14 acceleration upon emergence has changed. So that is
15 different from what's in my declaration. But I don't have
16 anything else to add.

17 THE COURT: Okay. So does anyone want to cross-
18 examine Ms. Gartrell on her declaration?

19 All right. I will admit it for purposes of this
20 motion, this aspect of the motion, that is.

21 Okay, so you can go ahead, Mr. Huebner, to Mr.
22 Lowne's declaration. And again, there are two of those. I
23 would propose to swear him in now and then we can have
24 argument after his testimony.

25 Mr. Lowne, would you raise your right hand,

1 please? Do you swear or affirm to tell the truth, the whole
2 truth, and nothing but the truth, so help you God?

3 MR. LOWNE: I do.

4 THE COURT: Okay. Mr. Lowne, you submitted an
5 initial declaration in support of the Debtor's motion for
6 approval of a KERP and a KEIP for 2021. It was dated June
7 28th, 2021. Recognizing that you have since submitted a
8 second declaration in support of that portion of the motion
9 seeking approval of the KEIP that's dated September 9th,
10 2021, which I'll refer to as your second declaration, is
11 there anything in your first declaration, the one from June,
12 that you wish to change?

13 MR. LOWNE: No, other than the updates that were
14 made in the second declaration, which included for example
15 an update in the performance of the scorecard metrics,
16 nothing else that I would want to change.

17 THE COURT: Okay. And let me ask you the same
18 question regarding your second declaration. It's only been
19 a few days, but is there anything that you would wish to
20 update in that one, knowing that it would constitute your
21 direct testimony for this aspect of the motion?

22 MR. LOWNE: Nothing to update, no.

23 MR. HUEBNER: Okay. Does anyone want to cross-
24 examine Mr. Lowne on either of his declarations?

25 MR. SCHWARTZBERG: Your Honor, Paul Schwartzberg

1 for the U.S. Trustee's Office. I do have a limited cross of
2 Mr. Lowne.

3 THE COURT: Sure. You can go ahead.

4 MR. SCHWARTZBERG: Thank you, Your Honor.

5 CROSS-EXAMINATION OF JONATHAN LOWNE

6 BY MR. SCHWARTZBERG:

7 Q Mr. Lowne, can you hear me okay?

8 A I can.

9 Q Great. Just initially, Mr. Lowne, it is a pleasure to
10 see you again. We haven't spoken in quite some time.

11 A Likewise.

12 Q I wanted to first examine the innovation and efficiency
13 metrics that you list.

14 A Sure.

15 Q The payment is contingent upon the Debtor achieving
16 certain performance metrics, correct?

17 A Correct.

18 Q And there is a threshold level that needs to be met
19 before an award can be paid for that metric, correct?

20 A Correct.

21 Q And I believe it's 75 percent of the award is earned
22 when the threshold level is met, correct?

23 A That is the threshold, correct.

24 Q Please turn to -- I'm going to reference your initial
25 declaration. It's Paragraph 29, which I believe is Page 71

1 of 107 of the PDF. And there is a Table 4.

2 A Yes, I've got it. Thank you.

3 Q All right, excellent. That table lists the target
4 metrics that need to be met for the innovation and
5 efficiency performance metric, correct?

6 A That's correct.

7 Q And the target level metric needs to be met for the
8 full award for each metric to be paid, correct?

9 A That is correct.

10 Q Table 4 does not list the threshold metric that needs
11 to be met for the 75 percent award. Is that correct?

12 A Correct. The 75 metric is an aggregate across every
13 single metric. But we do have the scales that are in effect
14 for each of these financial metrics in Table 4 that would
15 determine the payouts upon achieving or exceeding or not
16 achieving each of these financial metrics you refer to.

17 Q I want to go through these and figure out what the
18 threshold metric is for each.

19 A Yes.

20 Q If you look at the first one, the consolidated total
21 business operating profit, it's a target of \$69 million.
22 What is the threshold metric for that performance award?

23 A You know, I don't have the numbers in front of me.
24 It's a scale that goes from -- all the way from zero to
25 above a hundred percent, from my recollection. And there's

1 different dollar amounts that would determine the payout.

2 So, again, the 75 percent is across the totality of all of
3 the metrics that are in the scorecard.

4 Q So are you saying if I took 25 percent off of \$69
5 million, that would give me the threshold metric?

6 A No. The scale wasn't a perfectly linear scale from my
7 recollection. So 25 percent more doesn't mean 25 percent
8 more for this individual objective. And equally, 25 percent
9 less doesn't equal 25 percent less on this individual
10 metric. We had a non-linear scale to the best of my
11 recollection that determined the payout for each of these
12 financial metrics.

13 Q So just to be clear, as you're sitting here today, you
14 cannot give me the dollar amount for the threshold metric
15 for the consolidated total business operating profit?

16 A I apologize. I haven't committed the entire scale to
17 memory, but about six months ago I presented it, or it was
18 presented.

19 Q I understand. Just to save time, I assume that would
20 be the same answer for the Adhansia XR net sales, the Avrio
21 net sales, and the Rhodes reduced funding metric as well.
22 You couldn't give me the dollar amount for the threshold for
23 those?

24 A Yeah, exactly. I can't give you the scale for
25 exceeding or not achieving each of the financial metrics

1 Correct.

2 Q Okay. Thank you. I am going to stay at that table and
3 I have a few other questions regarding historical financial
4 information.

5 A Sure.

6 Q The Debtor's 2020 performance metrics -- this is on
7 Table 4 -- the 2020 performance, or the results of the 2020
8 are not included in Table 4 or your declaration. Is that
9 correct?

10 A That's correct.

11 Q Okay. So let me look at the first one, the
12 consolidated total business operating profit metric.
13 According to the supplement you filed on Paragraph 15, that
14 metric was not part of the 2020 incentive plan. Is that
15 correct?

16 A Correct.

17 Q And in fact it's a combination of three metrics that
18 were used in the 2020 KEIP plan.

19 A That is correct.

20 Q And just so we could be more specific, it deals with
21 the combination of three older metrics, or the Purdue
22 Branded Operating Profit Metric from 2020, the Adhansia XR
23 Operating Loss Metric, and the Avrio Operating Profit
24 Metric, all from 2020. Is that correct?

25 A That is correct. They would be three components of the

1 total consolidated business profit. Correct.

2 Q Okay. I'm just going to see if you know these numbers.

3 Do you know what the 2020 Purdue Branded Business Operating
4 Profit was?

5 A I don't recall the exact number. I don't have that in
6 front of me, no.

7 Q Whether that -- I'm sorry, I apologize.

8 A No, that's really all I was going to say.

9 Q Okay. What about the 2020 Adhansia XR Operating Loss?
10 Do you have the 2020 results from that?

11 A I don't have it in front of me, no.

12 Q And just the last one, the 2020 Avrio Operating Profit,
13 if I'm pronouncing that correctly.

14 A Again, I don't have that in front of me, no.

15 Q Okay. Let me go to the next innovation and efficiency
16 performance metric, the Adhansia XR Net Sales. Do you know
17 what the 2020 results were for the Adhansia XR Net Sales?

18 A Again, I'm going on memory, but I believe it was about
19 \$4 million, in that vicinity.

20 Q I'm sorry, did you say 40 or four?

21 A Four.

22 Q And the Avrio net sales?

23 A The Avrio net sales was in the vicinity of about \$94
24 million. Again, that's out of memory without having the
25 number in front of me.

1 Q And then that fourth metric, the reduced Rhodes
2 (indiscernible) 2021.

3 A Yeah.

4 Q That was not -- that's a new metric, correct?

5 A It's a newly-worded metric, yes.

6 Q And the old metric was an operating loss, a Rhodes
7 operating loss at \$35 million, correct?

8 A The 2020 metric was worded that way, yes.

9 Q Okay. And what was the 2020 Rhodes operating loss?

10 A The 2020 operating loss I think was in the region of
11 about \$35 million.

12 Q So to your recollection when figuring out the 2020 KEIP
13 payments, did they make the target or did they not make the
14 target? Because they are about the same number, and it's
15 hard to say from your testimony which occurred.

16 Q From my memory, I think they were directionally very
17 close to that target, but I'd have to go back and look and
18 compare for the Rhodes business the actual loss versus the
19 target.

20 Q Okay. Now, just turning back to consolidated total
21 business operating profit. That metric is \$69 million,
22 correct?

23 A That's correct.

24 Q And that \$69 million is less than the aggregate of the
25 three metrics used in 2020 to make up the consolidated total

1 business operating profit. Is that correct?

2 A That is correct.

3 Q And if my math is correct, the three 2020 metrics that
4 make up the consolidated total business operating profit
5 added up to \$79.6 million?

6 A I trust your math for those three metrics, yes.

7 Q Just your 2020 declaration in support of the 2020 KEIP,
8 which you probably don't have in front of you. That's ECF
9 1674. There was a table that you may recall that listed the
10 metrics. I've reviewed that, and I'll tell you my math came
11 out that those were \$79.6 million. You have no reason to
12 disagree with me, do you?

13 A I have no reason to disagree with you, and I don't have
14 it in front of me.

15 Q So assuming my math is correct, the \$69 million
16 consolidated -- 2021 consolidated total business operating
17 profit metric is approximately \$10.6 million less than the
18 2020 metric for the three that are consolidated into the
19 current metric.

20 A I don't disagree with your math and your statement,
21 correct.

22 Q I just want to go down one, the next one. The Adhansia
23 XR net sales. The 2021 Adhansia XR net sales target metric
24 was \$14 million, correct?

25 A That's correct.

1 Q And that's less than the 2020 Adhansia XR net sales --
2 or less than the 2020 Adhansia XR net sales target. Is that
3 correct?

4 A It's correct, with the comment that the actual sales in
5 2020 were \$4 million. So this target of \$14 million was
6 pretty significant growth over the 2020 actual. And that
7 reflects the challenges of launching any new product in a
8 COVID environment when a salesforce have more limited access
9 to calling upon healthcare providers.

10 Q And just to close the loop, the 2020 target for that
11 was \$18 million, correct?

12 A That's correct, which we didn't achieve.

13 Q I want to turn to -- I guess it's Paragraph 30 of your
14 declaration. It's Page 71 of 107. It's right below Table
15 4.

16 A Yes.

17 Q That's the People and Culture Metric, correct?

18 A Correct.

19 Q And that requires the Debtor to conduct readiness
20 activities to prepare for emergence from bankruptcy as well
21 as establish and support implementation of a diversity,
22 equity, and inclusion roadmap through the end of 2021,
23 correct?

24 A That's correct.

25 Q Could you give an example of a readiness activity to

1 prepare for an emergency from bankruptcy?

2 A Yeah, there's many. I mean, it involves many, many
3 people from our company working on that. I'll speak just to
4 the groups that report to me. I mean, we have significant
5 IT implementation going on in our SAP financial systems to
6 set up (indiscernible) Pharma as the new entity that will be
7 transacting the entirety of our business. As many of the
8 creditor groups know because we presented to them many
9 times, the significant amount of work with our insurance
10 companies to provide the new director and officer insurance
11 and also renew every single line of our insurance policies
12 under (indiscernible) Pharma. We've got new bank accounts
13 to set up. We've got to configure our treasury workstation
14 for the cash movements between the new company and the
15 existing companies. We have work going on to get all of the
16 required state licensures for us to do business in all of
17 the different states. That's just some examples of the
18 workstreams that are going on. But they are significant.

19 Q And how do you determine if a particular workstream
20 actually is successful and meets the requirement for an
21 award?

22 A So like all of the objectives in our scorecard,
23 ultimately a decision related to meeting an objective is
24 based upon the decision of our compensation committee.

25 So in approximately late January or February of next

1 year, there will be a presentation to the compensation
2 committee on all of the activities that have gone into the
3 People and Culture Objectives that we're talking about now,
4 which represent ten percent of our scorecard. All of the
5 other objectives in our scorecard, other than People and
6 Culture are point-based objectives. You either achieve them
7 or you don't. These People and Culture objectives that
8 we're now discussing will be based upon a presentation from
9 management in terms of all of the activities that have been
10 performed. And then ultimately the payout percentage will
11 be based upon the judgement of the compensation committee
12 based upon the number of initiatives and their perceived
13 performance against those objectives.

14 Q And when would that presentation to management
15 regarding whether they accomplished or did not accomplish a
16 task, when would that take place?

17 A I think the timing of that is typically in February
18 because we close our books for the -- our financial records
19 for the year in late January. So it's typically February
20 where the compensation committee is presented with the
21 results against the scorecard.

22 Q And I want to turn to the next metric within the People
23 and Culture Metric. Did you disappear, Mr. Lowne?

24 A Sorry. If I don't move, my lights go off. Sorry.

25 Q I understand that. Do the Debtors have a Diversity and

1 Inclusion employee or officer?

2 A We have a team of people that are involved in the
3 diversity, equity, and inclusion initiatives for our
4 company.

5 Q So there's not one point person?

6 A Well, there's an individual that is leading that team,
7 but I don't believe that they've had any titling that
8 reflects that they're leading that team, similar to we have
9 a COVID task force that is setting the policies for our
10 company. We have a lead person for that team. I don't
11 believe they have that reflected in their titles.

12 Q Could you give an example of an activity that would
13 accomplish this task?

14 A Sure. So we have sub-teams. One of our sub-teams is
15 headed up by our head of HR. And as you can imagine,
16 there's members on that sub-team. And what they're looking
17 to do is ensure that diversity and equity considerations are
18 built into our hiring processes, how we retain employees,
19 and how we look to provide opportunities for people to grow
20 within the company considering diversity and equity. So
21 that's one example of an initiative that's ongoing at the
22 moment.

23 Q And similar to your other People and Culture metric,
24 that's presented in February of 2020 to management?

25 A February of 2021, yeah.

1 THE COURT: I'm sorry, 2022, wouldn't it be?

2 THE WITNESS: Oh, 2022.

3 THE COURT: Yeah. Okay

4 THE WITNESS: Thank you.

5 MR. SCHWARTZBERG: Thank you, Your Honor.

6 BY MR. SCHWARTZBERG:

7 Q I want to turn to the Value Creation Metric, which I
8 believe -- if we could go to -- I guess it's Paragraph 11,
9 Page 4 of your supplemental application. And do you see
10 there is a table that starts at the bottom of Page 4 that
11 spills over to Page 5 and 6?

12 A Yes.

13 Q Do you see the first -- it's under Public Health
14 Initiatives, "Provides support to HRT to allow an NDA filing
15 for OTC intranasal Naloxone"?

16 A Yes.

17 Q Now, it seemed to indicate that that metric needs to be
18 met by Q3 and it's behind schedule, correct?

19 A Yes.

20 Q If that metric gets met in Q4, will there still be an
21 award paid? Or once Q3 is done, there can't be an award on
22 that?

23 A So, similar to the financial metrics that I describe,
24 for each quarter that a metric is behind schedule, there is
25 a reduced payout percentage. And for each quarter that a

1 metric is ahead of schedule, there is a percentage payout
2 above target or above the hundred percent. I can't remember
3 that exact scale. I don't have that in front of me. But
4 it's the same concept. So that was how I came up -- why I
5 made the comment earlier that the 75 percent threshold or
6 how we measure the scorecard is an aggregate rollup of the
7 map of every single objective using those tiered scales.

8 Q So if they complete this in Q3 -- Q4, I apologize,
9 there is a bonus -- I'm sorry, an award above compensation
10 paid, but not the full amount.

11 A Well, no. If it's in Q4, it would be one quarter
12 behind schedule, so it would be something south of 11
13 percent -- a hundred percent.

14 Q And if it was in Q1 of 2022, something could be
15 awarded. But, once again, even further south.

16 A That's exactly right. Yeah. Yeah.

17 Q I want to flip to the next page. And I guess sort of
18 towards the bottom under the (indiscernible) and
19 progressing, the generic pipeline. Do you see that box?

20 A I do.

21 Q And I reference you to that box because, I apologize,
22 I'm going to have a little difficulty with the third sub-box
23 down, Dihydroergotamine nasal spray?

24 A Yes.

25 Q My first question is can you please pronounce that?

1 A Um...

2 Q Okay, then it's not just me. Okay, that's fine.

3 A Yeah. I wouldn't pronounce it any different from you.

4 You do a better job.

5 Q Okay. Now, that indicates that it's not achieved by

6 the target date, but it's due on Q3. Is that correct?

7 A That's correct.

8 Q So even though it's Q3, which is behind the target

9 date, an award will be paid, yet south of what would be paid

10 if they did it on Q2. Is that correct?

11 A That's correct.

12 Q And the same question with the last sub-box, the

13 Varenicline tablets. Once again, if it's done by Q4,

14 although it's beyond the Q3 target, something less would be

15 paid. Is that correct?

16 A That's correct.

17 Q And I want to go down to the next sub-box, Innovation

18 and Efficiency Performance Metrics.

19 A Yes.

20 Q Do you see the Adhansia XR Net Sales, on track to fall

21 short?

22 A I do.

23 Q Is that on track to fall short the target or the

24 threshold?

25 A I think at this stage of the year it is borderline

1 whether it will hit the threshold 75 percent based upon the
2 scale, which I can't remember the details of. But Adhansia
3 is performing quite a bit below the \$14 million target. So
4 I think the payout percentage will be less than the
5 threshold in this example.

6 Q I just have one last question. And this was from the
7 supplement, so it's not from your declaration. But I just
8 want to be clear on the record. Maybe Mr. Huebner would
9 talk to it. But the KEIP awards now that -- the timeline
10 for payment has been changed. So nothing is going to be
11 paid until June 30th, 2022?

12 A That's correct.

13 MR. SCHWARTZBERG: Your Honor, I don't have any
14 more questions.

15 And I thank you for your time, Mr. Lowne.

16 THE COURT: Okay.

17 THE WITNESS: No problem.

18 THE COURT: Does anyone else want to cross-examine
19 Mr. Lowne?

20 Okay. Do the Debtors have any redirect?

21 MR. HUEBNER: Your Honor, Mr. Kaminetzky and I are
22 in two different locations, so I'm going to ask Ms. Benedict
23 to answer that question for us.

24 THE COURT: Okay.

25 MS. BENEDICT: No, Your Honor. No redirect.

1 THE COURT: All right. So I did have a couple of
2 questions, Mr. Lowne. And this may lead to redirect.

3 Mr. Schwartzberg took you through the chart that
4 is in Paragraph 11 of your supplemental declaration. And I
5 think with the exception perhaps of Adhansia where that
6 chart shows that some metric is behind schedule or not to be
7 achieved, your answer was that it still might well warrant
8 payment above the threshold, albeit below the target. Do
9 you recall that testimony?

10 THE WITNESS: Yes. And if I wasn't clear, my
11 recollection based upon our midyear review is that for this
12 individual metric, the payout may actually be less than the
13 75 percent threshold.

14 THE COURT: Right. That's for Adhansia. But for
15 the other ones on the chart, my understanding was that where
16 your chart had said not achieved by target date, behind
17 schedule in a number of places. With the exception of
18 Adhansia, the measurement might still lead to a payment
19 under the KEIP, albeit one that is below the target, but
20 still above the threshold?

21 THE WITNESS: That's correct. Yeah.

22 THE COURT: Okay.

23 THE WITNESS: If it's helpful, Your Honor, we did
24 do a midyear review in the aggregate across all of the
25 metrics, some of which are overperforming, some of which are

1 underperforming, and some are on track. We estimated then
2 that the payout would be something around 95 percent. So
3 that's the aggregate.

4 THE COURT: So let me ask you, what is the
5 rationale for having a payment above the threshold, albeit
6 below the target, if the target is not met?

7 THE WITNESS: Well, I think the two parts to my
8 answer -- I mean, we do look at the scorecard in aggregate,
9 which -- so we look at all of the metrics, add up the scores
10 of all of them, and that was the 95 percent that I came up
11 with. But I think the rationale for coming up with a 75
12 percent threshold as opposed to -- I think what your
13 question is, if all of the individual metrics added up in
14 aggregate to 70 percent, why wouldn't you pay 70 percent
15 versus 75 percent. I think the answer is that as we were
16 considering the KEIP program, we wanted to be incentivizing
17 enough given the uncertainty of the situation to our
18 insiders. And similarly when we presented the KERP, to have
19 some minimum level that would -- the insiders would
20 understand given that uncertainty and given the fact that
21 these payments are now not going to happen until June 30th
22 of next year.

23 THE COURT: Okay. So is achieving -- or when
24 these metrics were set -- and I gather they were set -- even
25 though you're seeking approval for them now, they were set

1 many months ago. In achieving these metrics, is it hard to
2 achieve the threshold?

3 THE WITNESS: I think we set the objectives, they
4 were finalized in early February. We presented to all of
5 the employees in early February. And there was certainly no
6 certainty that we could achieve all of the metrics. As you
7 can see, some of them are overperforming and
8 underperforming. So achieving 75 percent as a threshold,
9 there was no guarantee. But obviously I now have the
10 benefit of hindsight with being nine-and-a-half months into
11 the year. And it certainly appears that we are going to be
12 above the threshold. And if you ask me my best guess now in
13 the aggregate, it would probably be in the mid-ninety
14 percent.

15 THE COURT: Okay. What was the basis, if this was
16 the case, for thinking back last February that the threshold
17 would be difficult to achieve?

18 THE WITNESS: So to the best of my recollection,
19 the concept of the threshold was not discussed back in
20 February of last year to the best of my recollection. I
21 think this was something that we discussed in light of the
22 fact that we couldn't confirm to our insiders the incentive
23 plan. It was something that was discussed at approximately
24 the time of filing the various declarations to the Court.
25 That's my memory, and any of the lawyers can correct my

1 memory if that's incorrect.

2 THE COURT: Let me make sure I understand that.

3 So the metrics were set in February, but the threshold was
4 set later?

5 THE WITNESS: To the best of my memory. I don't
6 recall what we presented to the compensation committee back
7 in February the 75 percent threshold. But I think when we
8 updated the compensation committee on the plan, that was
9 when the 75 percent was discussed.

10 THE COURT: And the rationale for the 75 percent
11 was what again? If I heard you right, I think I heard that
12 it was the delay in implementing the incentive plan. Was
13 that the rationale behind it?

14 THE WITNESS: A combination of the delay in
15 implementing the plan, the delay of the payout until June
16 30th, the agreement to pay a reduced amount for the long-
17 term incentive. They were all factors in having the 75
18 percent threshold added.

19 THE COURT: Okay. All right. Okay. Any
20 questions on that set of questions by me from either Mr.
21 Schwartzberg or the Debtors?

22 MR. SCHWARTZBERG: Not from me, Your Honor, thank
23 you.

24 THE COURT: Okay. Any redirect on that by the
25 Debtors?

1 MR. KAMINETZKY: No, Your Honor. Ben Kaminetzky,
2 Davis Polk.

3 THE COURT: All right.

4 MR. HUEBNER: Your Honor, one just note from me if
5 I may. You know, a lot of the Court's questions relate to
6 the fundamental structuring of the plan. And obviously Mr.
7 Lowne is not our expert witness on that topic. He is the
8 CFO of the company. Ms. Gartrell did obviously put in a
9 declaration that I think is pretty complete and quite
10 detailed about the fact that Willis Towers Watson was
11 actually the group that worked with the compensation
12 committee on structuring of the plan. And I believe that her
13 testimony is that both as to structure and content, the plan
14 is typical, appropriate, and reasonable.

15 Your Honor was essentially asking questions about
16 kind of is there a cliff, sort of reverse cliff vesting.
17 And my general understanding -- I'm obviously not the
18 witness -- is that that type of structuring is actually
19 quite typical. And I actually believe the Gartrell
20 declaration covers the topics that Your Honor asked Mr.
21 Lowne about. To his credit, he does many things for the
22 company, he is not our compensation expert. He is the CFO.
23 And I just want to point that out so the record is clear
24 that, you know, we do have someone whose job it was to
25 ensure that the design of the plan was appropriate, industry

1 standard, typical, and incentivizing.

2 THE COURT: Well, is she still available?

3 MS. GARTRELL: I am here.

4 THE COURT: Okay. Ms. Gartrell, I want to ask you
5 I guess then the same questions I asked Mr. Lowne.

6 MS. GARTRELL: Sure.

7 THE COURT: So you are still under oath. My focus
8 was really on the rationale for a threshold award that is
9 below the performance targets.

10 MS. GARTRELL: Yes.

11 THE COURT: And what is your understanding as to
12 when the threshold award aspect of the KEIP was adopted?

13 MS. GARTRELL: My understanding was that it's a
14 historical measurement. So in the 2020 KEIP as well as the
15 2021 KEIP, there was the concept of having a threshold
16 performance metric at 75 percent of target and then a
17 target/max at 100 percent. A typical plan, and Purdue's
18 plan prior to entering bankruptcy, was to have a 150 percent
19 upside in their program as well, which is typical in the
20 pharmaceutical industry. But due to the circumstances,
21 there is no upside in this plan. So there is only the
22 downside. And so if they hit the 75 percent threshold, then
23 on a sliding scale go up to a hundred percent is the maximum
24 that can be achieved under this plan.

25 THE COURT: Okay. And what is the rationale in an

1 incentive plan to have the plan provide for a threshold
2 amount even if the target is not met by 25 percent or less?

3 MS. GARTRELL: So if you don't hit the threshold,
4 there is no payment. But companies typically want to have
5 some performance sensitivity and still incentivize their
6 senior leadership team to continue to try to achieve target,
7 but recognize that they still need to have skin in the game
8 and that it's not just a make or miss target. You don't
9 just get your target bonus at a make or miss level, but
10 there is some sliding scale at a threshold level up to
11 target.

12 THE COURT: And is that a common feature for
13 incentive plans?

14 MS. GARTRELL: Yes, it is.

15 THE COURT: Were you or your team involved in
16 setting the targets, or was that a management function?

17 MS. GARTRELL: It's typically a management
18 function. My team was involve in helping set the 75 percent
19 threshold, the 100 percent target, and suggesting that there
20 be no maximum or upside for exceeding target.

21 THE COURT: So then you and our team were involved
22 in setting the 75 percent threshold I gather from your
23 answer.

24 MS. GARTRELL: Yes.

25 THE COURT: And the rationale for that was -- I'm

1 taking from your answer, tell me if I'm wrong, two things.
2 One, there was no -- the upside under the prior compensation
3 arrangement has been removed. And why particularly that it
4 was a 75 percent threshold met as opposed to say 90 percent
5 or 65 percent?

6 MS. GARTRELL: Typically, Your Honor, the
7 threshold is set somewhere either at 50 percent or 75
8 percent. And then targets at a hundred percent. And the
9 upside maximum can be somewhere between 150 to 200 percent.
10 And so 75 percent seemed like a conservative and reasonable
11 threshold performance metric.

12 THE COURT: Did it have anything to do with the
13 market assessment of base compensation for these five
14 people?

15 MS. GARTRELL: No. It's purely a design feature.

16 THE COURT: Well, maybe I wasn't clear. The
17 declaration states that for four of the executives, their
18 base level of compensation is between 45 percent and 60
19 percent of executives that perform similar functions in the
20 industry. The one exception being the general counsel. Are
21 you saying to me that the -- saying a below target threshold
22 for an incentive plan really had nothing to do with that
23 factor or that fact?

24 MS. GARTRELL: So my answer is two parts. So the
25 bonus opportunities are set typically as a percentage of

1 base salary. In this case -- so it does have -- so the
2 actual amount that you would receive as a bonus is generally
3 set at the percentage of base salary. So from that
4 perspective, it is relevant. But here, the KEIP pays out at
5 75 percent of threshold. That's how the bonus is
6 determined. And then a hundred percent at target.

7 THE COURT: Okay. So really it's more -- the
8 choice of the 75 percent threshold was simply more focused
9 on what a threshold structure is generally in the industry?

10 MS. GARTRELL: Yes, it is, Your Honor. It's
11 whether you have hit 75 percent of your target from a
12 performance perspective then determines the payout. And
13 it's actually a conservative number because it's typically
14 50 percent.

15 THE COURT: Okay. All right. Does anyone have
16 any questions of Ms. Gartrell related to that discussion?

17 MR. HUEBNER: Your Honor, just to clear my own
18 mind, I'm going to have about 35 seconds of redirect for her
19 if that's okay.

20 THE COURT: Okay.

21 REDIRECT EXAMINATION OF JOSEPHINE GARTRELL

22 BY MR. HUEBNER:

23 Q So, Ms. Gartrell, just to make sure I'm following,
24 because frankly I was not expecting to get into all this
25 detail, and I thank you for -- and you are under oath. You

1 have been recalled to the witness stand. So just to be
2 clear, you testified that there is typically 150 to 200
3 percent upside opportunity if target is exceeded.

4 A Correct.

5 Q And here we don't have that at all?

6 A That's correct.

7 Q Okay. And that the threshold that begins the sliding
8 scale, the concept of the threshold and the concept of the
9 sliding scale is absolutely typical?

10 A Yes, that's correct.

11 Q And the threshold normally starts at 50 percent, but
12 here, to use your words, it's 75 percent. So it's actually
13 also conservative or less compensatory than industry norms
14 would be.

15 A Correct.

16 Q Okay. And then the Judge asked you a few minutes ago
17 about sort of overall compensation numbers. I think you
18 said that's a little bit different than the structural
19 design of plans. Do you remember that testimony?

20 A Correct, yes.

21 Q Okay. But to be clear, your testimony, if I have it
22 right -- and if you need to turn to your declaration, please
23 do -- is that the KEIP group, leaving out the GC for a
24 minute, without the KEIP would be 27 percent below the 25th
25 percentile of industry compensation. Is that correct?

1 A That's correct.

2 Q And even -- and that they would be 46 percent below the
3 50th percentile. So they would be making 46 percent less
4 than median compensation without the KEIP. Is that correct?

5 A Correct.

6 Q Okay. And while it's not related to the structure of
7 the KEIP, I assume the fact that the KEIP puts the
8 participants according to your declaration --

9 MR. SCHWARTZBERG: Your Honor, I object. These
10 are leading questions.

11 THE COURT: It's true. You shouldn't be leading,
12 Mr. Huebner.

13 MR. HUEBNER: Okay. I apologize. These are just
14 facts in the declaration. But let me rephrase it.

15 Mr. Schwartzberg, you're right. I apologize. As
16 I said, I didn't know we were going to this level of detail.
17 So let me ask my last couple of questions a different way.

18 BY MR. HUEBNER:

19 Q Ms. Gartrell, can you -- do you remember what
20 percentile of overall compensation the insiders, leaving
21 aside the general counsel, are at assuming the KEIP payments
22 are made?

23 A Yes. They're right at median in the aggregate.

24 Q And when you say median, can you explain what you mean?

25 A It's the 50th percentile compared to market. So we

1 compare the total direct compensation, which is represented
2 in our pharmaceutical survey in 2020, to the total amounts
3 under the KEIP plus base salary to figure out how they
4 compared to market in the pharmaceutical industry. And they
5 are right in the middle.

6 Q Okay. And did that go into your ultimate determination
7 about the overall reasonableness of the plan?

8 A It did, yes.

9 Q Okay.

10 A It's a reasonable -- I mean, they have to be paid
11 competitive to market. And they're right at median. So
12 they are not overly paid under our market competitive
13 analysis.

14 Q Okay.

15 MR. HUEBNER: Your Honor, I'll leave it at that.
16 Because, again, I think the declaration is quite detailed
17 and speaks for itself. But I just think it's important
18 context for some of the questions that the Court had.

19 THE COURT: Okay. All right. Let me ask again,
20 does anyone else have any questions for either Mr. Gartrell
21 or Mr. Lowne on this last set of questions?

22 MR. SCHWARTZBERG: Your Honor, just two quick
23 questions, I believe.

24 RECROSS EXAMINATION OF JOSEPHINE GARTRELL
25 BY MR. SCHWARTZBERG:

1 Q Ms. Gartrell?

2 A Mm-hmm.

3 Q Can you hear me?

4 A I can.

5 Q My name is Paul Schwartzberg. I am an attorney with
6 the U.S. Trustee's Office. I just wanted to confirm, you
7 had indicated that it's management that sets the threshold
8 and target dollar amounts.

9 A They set the actual goals, yes.

10 Q And is it correct that management did not, as Mr. Lowne
11 said, did not determine the thresholds until they filed the
12 motion, or the declarations as he indicated?

13 A I don't know the answer to that question. The
14 threshold number, the 75 percent, is a historical
15 percentage. That was the same as the 2020 design. And so
16 it just carries over to 2021. But I don't know when they
17 actually set the metrics.

18 Q Okay. Thank you.

19 THE COURT: Ms. Gartrell, I want to just follow up
20 on one point from Mr. Schwartzberg. When you said
21 management set these goals, were these goals then reviewed
22 by the compensation committee and the Board?

23 MS. GARTRELL: Yes. So the typical process is
24 that management sets the goals and they can change year over
25 year. And it's my understanding that they've had some

1 moderate changes this year as well based on business
2 circumstances. And so the management typically sets the
3 goals in the beginning of the year, and then they assess the
4 achievement of those goals toward the end of the year. And
5 it's my understanding that they will assess the achievement
6 of those goals at the beginning of 2022.

7 THE COURT: And what is the role of the Board and
8 the Compensation Committee in setting the goals?

9 MS. GARTRELL: Management presents the goals to
10 the compensation committee based on various operational,
11 financial, and individual achievements. And the
12 Compensation Committee approves those and recommends them to
13 the Board.

14 THE COURT: Okay.

15 MR. HUEBNER: Your Honor, I have just a couple of
16 redirect questions on that exact point.

17 FURTHER REDIRECT EXAMINATION OF JOSEPHINE GARTRELL
18 BY MR. HUEBNER:

19 Q Ms. Gartrell, the distinction is actually quite
20 important. And so I'm going to actually have to pause you
21 on that. I think in your initial testimony, you said the
22 company. And then Mr. Schwartzberg, I'm not sure
23 intentionally or not, introduced the kind of management.
24 And you responded. And I just -- we need to stop on that.
25 Who actually approves the goals and the metrics in the

1 compensation plan? Is it the compensation committee or is
2 it management? Who has the ultimate --

3 A The Compensation Committee has the ultimate
4 responsibility for approving that, and they would recommend
5 those to the Board.

6 Q Okay. And to your knowledge, is that what happened
7 here?

8 A Yes.

9 Q Okay, thank you. I think that clarification is quite
10 important, and I think we may have gone by too quickly.

11 A Sorry about that.

12 THE COURT: Okay. All right. I don't recall
13 whether I told you you could sign off, Mr. Lowne, but you
14 can sign off at this point.

15 And, Ms. Gartrell, you can as well.

16 MS. GARTRELL: Thank you.

17 MR. HUEBNER: Your Honor, is it okay to proceed
18 with argument now?

19 THE COURT: Yes. It's my understanding that no
20 one else had any evidence. So hearing no one, yes, we
21 should go ahead with oral argument.

22 MR. HUEBNER: Okay. Thank you, Your Honor.

23 So, Your Honor, the 2021 KEIP, like the KERP, was
24 designed to parallel last year's program that was approved
25 by this Court after substantial negotiation with multiple

1 creditor groups and the, you know, not particularly
2 contested, but somewhat contested hearing.

3 The adjustments and concessions that were
4 negotiated last year were actually put in, and in many ways
5 deepened even further this year, which I'll talk bout in a
6 few minutes. And so it is important to note that like the
7 2021 KERP approved in July, the 2021 KEIP is essentially a
8 renewal of the program.

9 And, Your Honor, it's a renewable program, but as
10 we have now been discussing at hearings for over three
11 years, programs that are 20 and 30 years old. These are not
12 special bankruptcy bonuses, nothing of the kind. In fact,
13 this is a degradation of the components of annual
14 compensation that have been at this company, and frankly
15 other companies in their industry, because the programs are
16 entirely typical, for literally decades, except that they
17 have been adjusted not in the executives' favor in the
18 context of these Chapter 11 cases for various reasons.
19 Right? We've already heard testimony about how the overall
20 levels were reduced, the percentiles, the payout timing.
21 And in fact, it's even lower market positioning than last
22 year's programs that were approved. And that's the evidence
23 in the record that was uncontroverted. This is a lower
24 market position for these participants than what the Court
25 approved last year after extensive negotiation with

1 creditors that got virtually everyone from the entire case
2 on board or in a no objection situation.

3 Your Honor, it should be noted that, as I
4 sometimes point out, it's easy to think of Purdue merely as
5 a debtor or merely as a defendant. But Purdue is actually
6 23 complicated operating pharmaceutical companies. And the
7 challenges of 2021 are almost unthinkable, running a
8 pharmaceutical company making complex, and frankly dangerous
9 products in COVID with quarantines and outages and on-site
10 testing and supply chain disruptions and tremendous
11 dislocation in the world.

12 And as Your Honor knows, very often the cash
13 balance and the value of debtors dwindle by hundreds of
14 millions or billions of dollars during the bankruptcy case.
15 And one thing that I think gets lost in the maelstrom of
16 litigation about the proper end of these cases and which
17 creditors get what and all of that, is that the actual
18 maintenance of the value of these enterprises, all of which
19 is going to their victims, is due to actual human beings who
20 come to work all day, every day, in circumstances that are
21 very, very challenging to say the least.

22 Your Honor, let's now look at the numbers for a
23 minute. The 2021 KEIP all in is \$5.39 million for all five
24 participants. That's what we're talking about. That's the
25 annual award. And that's basically the same except for very

1 small annual salary increases in COLA and the like of the
2 \$5.21 million approved by this Court last year.

3 The 2021 long-term award is \$1.71 million for all
4 five, which is the same exact amount as last year. So in
5 terms of COLA and purchasing power, it's actually, you know,
6 in consistent dollars, it's actually less than last year.
7 And all of the payments under the KEIP are subject to the
8 metrics which I'll talk about in a few minutes.

9 It's important to note that the changes that were
10 made in weeks of negotiations with the UCC, the AHC, and the
11 MSGE are very material, and frankly, very much serve the
12 goals that many of us are working to accomplish in these
13 Chapter Elevens.

14 First of all, the payments are now not being paid
15 until June 30, 2022. None of them. Not part of it in
16 October and part of it in March. And for the last many
17 decades, as you've been hearing for years as is typically in
18 pretty much every company that has any sort of deferred
19 compensation, it's often paid in February or March of the
20 following year once you can sort of validate that the goals
21 were met and the comp committee goes through it in detail.
22 You know, the creditors ask that we essentially turn it into
23 an extra duty plan to also hold people in connection with
24 the transition into a new situation. And that was agreed
25 to. And so that's not a small change at all.

1 Second, Your Honor, the long-term award, which I
2 think was also quite typical, originally had a clawback only
3 until 2022. Again, at the request of creditors, that was
4 extended to March 15th, 2024. So, again, this plan is now
5 doing sort of unheard of double duty as a sort of multi-year
6 retentive element that is quite atypical in some
7 circumstances and is unusual here.

8 Three, the Debtors agreed, and of course everybody
9 saw it -- we always keep our (indiscernible), that goes
10 without saying -- not to seek to assume the employment
11 contracts of any KEIP participants. Right? What often
12 happens at the end of Chapter 11 is that, you know,
13 management that has stayed on through the case doesn't have
14 their contracts rejected. They have their contracts
15 assumed. Not all the time. Sometimes they are
16 renegotiated. But we all know what this really means,
17 right? Which is that if the creditors make the decision to
18 release any of the participants post-emergence, they
19 essentially are leaving not only with no severance during
20 the case, which is a 503 issue, but no severance even for
21 staying post-emergence to continue to assist with the
22 transition. And certainly I think at least until June, if
23 not far beyond given the structure of the timing.

24 And then we gave consultation rights to the AHC,
25 MSGE, and the UCC with respect to measuring the performance

1 against the 2021 metrics and developing the metrics for
2 calendar year 2022. And so, again, quite unusual. We are
3 inviting sort of multiple large creditor group to
4 collectively speak for pretty much all of, a huge
5 (indiscernible) of the creditors in this case to help ensure
6 that this is implemented correctly and to be involved in
7 2022.

8 And of course the revised order, Your Honor, goes
9 without saying, includes the language that we all ended up
10 coming up with in connection with Your Honor's ruling at the
11 July 2021 KERP hearing, which essentially just makes
12 somewhat more concrete and adds more procedure to the
13 standard that we agreed to six hearings ago in early 2020
14 with respect to ensuring sort of (indiscernible).

15 So, Your Honor, we already discussed the
16 percentiles, and so I'm not going to repeat that. But to
17 say that this KEIP shouldn't be approved is essentially to
18 ask five senior executives who work for 27 below the 25th
19 percentile of compensation for their industry peers, which
20 is probably something like 75 percent less than market comp
21 or something like that. And I'm not even talking about --
22 which nobody contests the very material attrition laid out
23 in the documents, the unfilled positions, the length of time
24 to fill the positions, and the fact that we are now down to
25 five insiders as opposed to eight and we have to keep

1 consolidating further work in the hands of fewer people
2 because people leave and we can't replace them or choose not
3 to replace them as part of cost saving and running this
4 estate as efficiently as possible. And so fewer people are
5 doing the work or more people, which frankly is another kind
6 of totally unrecognized but very important structural
7 feature of where we are.

8 So, Your Honor, the good news is there were only
9 three objections, and some of them were -- at least one of
10 them was pretty surgical. So let me turn to those now, Your
11 Honor.

12 WE have objections from the State of Washington,
13 from the NCSG, the so-called NCSG. Of course, 62 percent of
14 whose members support the plan. And so I continue to find
15 that name bewildering and not helpful at all. And of course
16 the U.S. Trustee.

17 Let's start with Washington. Your Honor, the
18 Washington objection, to say the least, much like the
19 pleading they filed in the middle of the confirmation
20 hearing that literally was a mid-hearing unauthorized brief
21 in support of their objections, continues -- and we say this
22 very rarely -- to be in our mind outside the scope of what
23 we believe to be acceptable legal practice. Once again,
24 they just put a whole bunch of facts in their pleading that
25 if they were in a declaration, I would sure love to cross-

1 examine the witness. Because they just say many things that
2 are untrue. They are flatly false. And there is no simpler
3 way to say it, and I'm not going to sugarcoat it. So let's
4 just talk about it.

5 First, they argue that because we have paid market
6 compensation in the past and each year we've had a hearing,
7 in which they did not directly participate. And we put on
8 substantial evidence and the Court found that the
9 compensation was market and appropriate and necessary. But
10 somehow, they just say that because people got market
11 compensation in the past, they should work for half off or
12 two-thirds off at present, not because they were overpaid in
13 the past, but because they were paid what was found to be
14 reasonable and appropriate.

15 Second, Your Honor, Washington argues that because
16 Purdue is going to become essentially a public benefit
17 oriented company that in 2021, employees should work for
18 substantially below market compensation. I mean, we
19 disagree. I don't even understand the theory, and I think
20 that it is not appropriate at all, including the fact that
21 whatever guise this company is in, it is a very complex,
22 multi-billion-dollar pharma company, among other things,
23 making Class 2 narcotics. And it needs talented,
24 appropriate executives. And the irony of course, and we'll
25 talk about it in a few minutes, is that two of these

1 executives are purely technical folks. And this is exactly
2 the kind of people we need the highest quality of to ensure
3 the safety and efficacy and propriety of our products in our
4 supply chain, including to continue to protect the American
5 public with respect to products that are not simple, to say
6 the least.

7 Third, Washington points to the compensation paid
8 to the board of directors and in a really inappropriate
9 sleight of hand attacks as a continuing practice of
10 enriching insiders.

11 As Washington knows perfectly well, the majority
12 of the Board was brought in new and clean, as we discussed
13 at many, many hearings now, in 2018 to undertake one of the
14 most difficult board assignments I think any of us has ever
15 seen. And you need look no further than the (indiscernible)
16 statement for the dozens and dozens of formal meetings which
17 also obviously involve the less-formal thousands of phone
18 calls, email communications and the like to bring the
19 Debtors to where they are today. So the notion that board
20 compensation even has relevance is challenging, to say the
21 least. The notion that appropriate board compensation for a
22 majority -- for a board, the majority of which is brand new
23 and has worked, you know, basically as hard as any board any
24 of us have probably ever seen in our careers I think has no
25 relevance whatsoever.

1 Then, just to double down, quite astonishingly,
2 with no facts, Washington says that the key participants are
3 all released parties who aren't paying anything and they,
4 "helped to craft and have pressed for the plan's
5 implementation," and that's why they should work for less
6 than half of market compensation. This is a flatly untrue
7 statement that they had no basis making. It's just
8 inappropriate in the extreme.

9 First of all, the notion that an employee of a
10 debtor who takes on, even if were true, takes on part of the
11 task of crafting and advocating for a plan that is
12 profoundly in the public interest, supported by virtually
13 all stakeholders and confirmed by the Court, should
14 essentially be penalized for doing so. It is to say the
15 least a proportion to which I think very few people would
16 agree. But more importantly, it's just factually flatly
17 false.

18 So as we laid out in our declarations and in our
19 reply brief, with the sole exception of Mr. Kesselman, none
20 of the five participants pressed for the plan's
21 implementation. Just not true. And Mr. Kesselman, as we'll
22 talk about in a few minutes, arrived in 2018. And this was
23 exactly his job, which was to try to get control of one of
24 the most complicated, litigious situations probably ever in
25 U.S. history and help everyone get to the best possible

1 outcome. The notion that because he helped bring this plan
2 together, you know, he should be economically penalized is
3 just ridiculous.

4 And, Your Honor, if you look at the Lowne Second
5 Supplemental Declaration at Paragraph 9, after going through
6 in prior paragraphs the roles of Mr. Mancinelli and Mr.
7 Lundie, who don't even live in or near New York and work
8 down in operations, who obviously had basically nothing at
9 all to do with the plan. Paragraph 9 also confirms that
10 even Dr. Landau has never attended a single meeting with
11 stakeholders to advocate for implementation of the plan.

12 So this canard of Washington that these five have
13 been running around trying to get themselves releases and
14 that there's something untoward going on here, he, frankly,
15 owes an apology to people.

16 Next, Your Honor, as if this wasn't bad enough,
17 Washington then claims as to both Mr. Kesselman and Dr.
18 Landau, and I quote, "Even if they themselves did not
19 participate in wrongdoing, they bear at least some modicum
20 of responsibility for directing the actions and setting the
21 culture of a company that has caused untold destruction and
22 immiseration, a company that by its own admission engaged in
23 a decades-long series of felonies."

24 As every party in this Court, including
25 Washington, which has been involved from the first moments

1 of these cases, is perfectly well aware, Marc Kesselman
2 joined this company in July 2018, after all the conduct at
3 issue had occurred, after the entire opioid salesforce had
4 been eliminated, after all detailing to prescribers and the
5 like had stopped. He joined from a distinguished career in
6 both public service at very high levels and in the private
7 sector leading American companies, and was hired precisely
8 because of extraordinary qualifications. To say that he had
9 a role in setting a culture of wrongdoing for decades, it's
10 just so irresponsible that it's just shocking to me that
11 somebody felt comfortable even signing a pleading that says
12 that.

13 As to Dr. Landau, Your Honor, just to be clear --
14 because this is stuff the Court knows, but somehow
15 Washington's counsel maybe just forgot -- Dr. Landau was
16 appointed in June '17 as CEO, after four years at a
17 different company in Canada, a separate company. All of the
18 conduct which Purdue admitted as part of the guilty please
19 took place before Dr. Landau became the CEO. What Dr.
20 Landau actually did as CEO quite soon after arriving was
21 voluntarily stopping all use of sales representatives to
22 promote opioids to prescribers. He supported and went to
23 the Board and got them to agree to eliminate entirely the
24 opioid salesforce. They discontinued the last of the
25 speaker programs relating to opioids and ceased all

1 sponsorship of outside pain groups. Those are the facts in
2 the record, and they have been in the record for over two
3 years.

4 Now, the NCSG, to their credit, filed a much more
5 limited objection and take issue with what Dr. Landau both
6 did and did not do in 2021. And there are fair questions,
7 but the answers are better than the questions.

8 The NCSG essentially says that Dr. Landau should
9 work for a fraction of market comp because he did not insert
10 himself into investigations of misconduct. We strongly
11 disagree. In fact, Dr. Landau, having no involvement in the
12 investigations, was in fact the most appropriate way to
13 approach the situation. Dr. Landau was named as a defendant
14 by two states and in several other civil lawsuits and has
15 been the subject of personal attack in several KEIP hearings
16 during this case.

17 While he vigorously denies the allegations against
18 him, I think it would have been entirely inappropriate had
19 DR. Landau involved himself to investigation when he was,
20 stated simply, not disinterested. This is why companies
21 have special committees and general counsels and outside law
22 firms and boards of directors where people recuse themselves
23 when they have a potential connection to the issues under
24 consideration.

25 And as the Court knows perfectly well, and so do

1 the objectors, Purdue has been investigated exhaustedly by
2 the Department of Justice and also by the attorneys general
3 of many states. We're not going to repeat for the nth time
4 at this hearing the scope of the information provision and
5 the hundreds of millions of pages and the 400 parties to the
6 protective order, including I believe all the states.

7 THE COURT: So could I interrupt you on this
8 point? What is being done and by whom to determine whether
9 there are current employees who should not be employees
10 because of their role in the conduct to which Purdue pled
11 guilty in November of 2020?

12 MR. HUEBNER: Your Honor, I need to choose my
13 words very carefully, because this is really primarily a
14 Skadden Arps, you know, civil and criminal sort of experts
15 thing. But I'll say it like this, and I guess I will ask
16 somebody from Skadden to please correct me if I misspeak.

17 First of all, all of the company's lawyers have
18 been directed from inception to keep their eyes and ears
19 open as they work on and review and produce tens and
20 hundreds of millions of pages of documents so that if there
21 are issues of wrongdoing of any remaining employees that
22 come to light, those are to be immediately brought to the
23 attention of the Special Committee.

24 Secondly, Your Honor, we, and I personally, have
25 told and advised and requested of all of our creditor groups

1 -- who, as the Court knows, have done extremely, extremely
2 extensive discovery of their own -- that if comes to their
3 attention that they believe that in their reviews, which
4 collectively the estate has paid probably well over a
5 hundred million dollars for, that if anyone comes to their
6 attention as being likely or potential wrongdoer, that that
7 also must immediately be brought to the Special Committee.

8 Third, Your Honor, in connection with the KERP
9 motion of course, a yet additional layer of review is now
10 being done. And we always had in there from the beginning,
11 we actually -- it was consensual from the start, the
12 standard in all of the compensation motions that if it came
13 to light that any employee triggered either of the two
14 prongs of the standard -- which I don't want to state from
15 memory because I would get it slightly wrong. But obviously
16 there is a disgorgement obligation. That has been now sort
17 of furthered at the Court's direction into kind of -- there
18 is an entire process going on. In fact, there's a multi-
19 hour -- I shouldn't say this, but there's actually a multi-
20 hour Special Committee meeting later today on exactly this
21 topic and on the work plan and the structure and the
22 approach to continue to work on all of these issues.

23 So, Your Honor, the short answer is quite a lot is
24 being done. And I would venture a guess to say that as the
25 Court probably knows, Purdue has been downsized in terms of

1 reductions in force by something like 80 percent since 2017
2 when the company had a salesforce and was detailing. So,
3 you know, the people who led all of this activity of the
4 sales and marketing side by and large have been gone for
5 years, as have all of the opioid salesforce people, perhaps
6 with very limited exceptions. So there are reasons why it
7 may not be such a surprise this Purdue and the few hundred
8 remaining employees is just a radically different company
9 than the Purdue of several thousand employees that detailed
10 opioids in the period prior to March 2018.

11 So, Your Honor, let me ask my colleagues from
12 Skadden. I'm not sure they were expecting to speak at a
13 bankruptcy hearing. But if I have misstated anything about
14 the way in which the multiple law firms have gone about
15 their sort of involvement in this topic, I would ask someone
16 to correct me. Because this is a very important issue. And
17 I am, frankly, just a bankruptcy lawyer. And so I want to
18 make sure that I'm not getting it wrong.

19 Okay. So, Your Honor, that I think is the
20 response. I do want to reiterate something that I can speak
21 to very directly. I have said to probably every major
22 stakeholder group in this case, if you bring to our
23 attention that you believe that somebody was specifically
24 involved in wrongdoing and that turned out to be correct,
25 they will be exited from this company faster than you can

1 snap your fingers. And that's always been our position.

2 There is no safe haven for wrongdoers at this company, god
3 forbid.

4 Your Honor, I see Mr. Troop has turned on his
5 video. I'm assuming that it's not inadvertent, even though
6 I guess I'm in the middle of argument, I guess I would see
7 what he would like to add on this point.

8 MR. TROOP: Your Honor, if you don't mind, since
9 Mr. Huebner just testified, I thought it might be a good
10 time to (indiscernible). You reported facts. And
11 therefore, you are the only person that I can ask the
12 question of, and I'd like to ask it now so that I can think
13 about it before I actually (indiscernible). And that is if
14 any lawyer who is so tasked with identifying anyone with any
15 misconduct, report anyone to the special committee
16 (indiscernible).

17 MR. HUEBNER: Your Honor, obviously I don't have a
18 choice but to, nor would I refuse to answer questions from
19 the Court -- and, frankly, you know, since lawyers are not
20 supposed to testify, I don't actually think that answering
21 the Court's question is sort of, you know, a lawyer
22 testifying. I don't actually think that expanding this into
23 cross-examining me by other parties --

24 THE COURT: No, but I would ask the question as to
25 whether there has been a report of anyone to the Special

1 Committee.

2 MR. HUEBNER: And, Your Honor, with apologies.

3 Because I need to get this right. Report of anyone in
4 connection with what?

5 THE COURT: Well, that had been identified either
6 by counsel within -- an employee of the company or by a
7 constituent in the case as being still an employee and
8 having grounds for being fired because of misconduct related
9 to the company's past practices.

10 MR. HUEBNER: Your Honor, I can tell you what I
11 know, which is the best I can do. I do not know of any
12 creditor having brought to our attention at all an employee
13 and having them say this is someone we think should be
14 terminated based on things we know. I don't even think that
15 example was brought to us.

16 As the Court remembers because it was all public,
17 in connection with last year's KERP hearing -- sorry, I'm
18 going to actually amend -- I will amend my testimony, Your
19 Honor. In connection with last year's KERP hearing, in
20 fact, the UCC and the NCSG did raise questions about eight
21 individuals. And we deferred the payment of the KERP to
22 these eight individuals and further kind of investigation
23 was done. Investigation may not be the right word, because
24 Skadden hates it when I use the word investigation because I
25 guess it's a technical thing. Substantial further work was

1 done. Detailed presentations were made, including after we
2 got a document set from the UCC and the NCSG as to those
3 eight. And ultimately, everybody got comfortable that the
4 KERP payments could be made to those eight people.

5 So I guess the answer is yes, which is last year
6 certain of our individual creditor groups brought eight
7 individuals to our attention. We went and did the work. We
8 had multi-hour calls with them on the eight individuals,
9 presented our sort of findings on what we found and why we
10 thought that some documents that they had brought to our
11 attention in fact did not suggest or support potential
12 misconduct. And everybody to my knowledge was satisfied,
13 and they agree to have those final eight people get their
14 KERP payments.

15 That's the only example I know of, Your Honor,
16 where individual creditors brought people to our attention.
17 We jumped on it immediately and ultimately got everybody
18 comfortable. And had there been others, I assume the same
19 progress would have obtained.

20 THE COURT: And are you aware of examples where
21 outside counsel to the company or in-house counsel to the
22 company raised similar types of issues with employees and
23 whether they were looked into?

24 MR. HUEBNER: I think the answer is no, Your
25 Honor. But again, I am a bankruptcy lawyer, and I was not

1 running the workstreams --

2 THE COURT: I understand. Even though you're the
3 lead counsel in the bankruptcy case, you don't have the
4 perspective on the whole case. I'm just asking you as to
5 what you're aware of.

6 MR. HUEBNER: Yeah. I think the answer is no. I
7 don't believe that -- primarily it would be Skadden and
8 (indiscernible), who were the Special Committee counsel,
9 brought to the Special Committee's attention people who were
10 involved in the detailing of opioids in the pre-2018 era who
11 were still employed with the company, where they believed
12 that the conduct was problematic. Because, remember, under
13 the KERP orders, Your Honor, we could not allow someone to
14 get or keep their 2019 and 2020 KERPs, which it came to our
15 attention that we believed that they violated the standard.
16 And so people were all made aware of that in blazing
17 technicolor. And I do not believe that anybody was brought
18 to the Special Committee's attention.

19 We also, with respect to indemnification, Your
20 Honor, have a similar process where before the Special
21 Committee agrees to permit the indemnification of any
22 present or former employees' legal fees, they first review
23 it and form a view that they believe that they are, you
24 know, likely to satisfy the standard for indemnification.

25 So there are a whole bunch of checks and balances

1 in place on the Special Committee side that I believe the
2 Special Committee counsel and the Skadden folks and the like
3 feel are appropriate.

4 THE COURT: Okay. I kind of interrupted you, Mr.
5 Troop. I don't know if you had anything more to say on this
6 point.

7 MR. TROOP: No, Your Honor. You covered the
8 (indiscernible).

9 THE COURT: Okay. So why don't you go ahead, Mr.
10 Huebner?

11 MR. HUEBNER: Just to finish up Dr. Landau for a
12 minute. The numbers are that without the KEIP payments
13 which bring him in fact to below 50th percentile even with
14 the payments. But without them, he would be 55 percent
15 below median compensation. He would be working for 45
16 percent of median compensation. And here, again, the only
17 objection that we really see is that he didn't personally
18 deal with investigations with potential consequences of
19 those. And that's just not the role of a CEO in this fact
20 pattern where the CEO himself is just simply not
21 disinterested. In fact, if I were on the other side, I
22 would be, you know, howling if I found out he was involved
23 at all. He has no place in the room when these decisions
24 and conversations and issues I think are being raised.

25 And, Your Honor, you've expressed several times

1 that the NCSG over the last couple of years has sort of
2 shifted its theory as to why Dr. Landau should not be paid
3 market compensation. And, frankly, each time you say, you
4 know, you need someone to run the company, you need people
5 here to sort of stay and maximize value. And, frankly, the
6 judgment of the Compensation Committee and the Board was
7 paying the CEO somewhat below median market compensation.
8 And of course it's really much more below median when you
9 consider the payment terms now, which are highly unfavorable
10 and highly atypical and also turn into sort of a multi-month
11 retention plan and a multi-year retention plan with the
12 2024. And so I know there is no way to work that into the
13 math, but I think that these are actually well below the
14 median when you consider that they're actually doing the job
15 of multiple plans, but they are only one plan.

16 Your Honor, that brings us to the U.S. Trustee.
17 So the U.S. Trustee again presents no evidence at all -- I
18 know it's our burden and I'm not saying they had to present
19 evidence, but they chose not to put on their own experts
20 with their own testimony. They didn't depose anybody to my
21 knowledge. They did ask a few questions of Mr. Lowne. And,
22 frankly, I thought his answers were quite helpful in showing
23 exactly what types of things were done to ensure that these
24 were incentivizing.

25 So let me just quickly scan what is in the record

1 on this, as it is very important I think for all parties.
2 All parties deserve comfort that people are being paid to do
3 their jobs and do them appropriately in a way that hopefully
4 pays for itself many times over and maximizes value.

5 So Mr. Lowne's sworn testimony is that the metrics
6 are "ambitious, having threshold hard targets that are
7 difficult to achieve both individually and when considered
8 in combination". It's just uncontested testimony. Right?
9 He testified that achieving the metrics requires "Diligent
10 and committed efforts" and that at the time of their
11 approval by the Board, the metrics were "Challenging,
12 require extensive achievement, and presented a meaningful
13 risk of not being met," even at the threshold. And it's
14 actually not surprising at all that as we sit here much
15 farther into the year, as the evidence also makes clear,
16 some are not being met. Some are barely being met. Some
17 are being met. Which is exactly what we would expect if
18 metrics were properly set. Obviously if it was just target,
19 target, target, target, target, that would suggest that the
20 targets would have been set too low, which is not where we
21 are. Which is why I think the updated declarations serve as
22 the proof.

23 You know, the U.S. Trustee again, just kind of
24 xeroxing its pleadings from prior years, again, just sort of
25 calls the targets lay-ups. And it's just not what the

1 evidence shows. It's just not.

2 Your Honor, strangely enough, the U.S. Trustee in
3 part attacks the metrics because the numbers are somewhat
4 different than last year. But that's the way the world
5 works. Every year, every time, in every company. The
6 cashflows are different, the budges are different, the
7 volumes are different, the profitability is different, the
8 costs are different. The job of a board of directors is in
9 fact to reset and customize the metrics for every single
10 year. And among other things, Purdue is getting smaller,
11 which is one of the reasons that some of the numbers are
12 getting lower.

13 But other metrics are getting higher. You know,
14 where products or companies or divisions are (indiscernible)
15 better than expected, those metrics are higher than last
16 year.

17 Similarly, Your Honor, I think Mr. Lowne already
18 sort of testified about this both in response to Mr.
19 Schwartzberg's questions and his declaration. We didn't
20 drop any of last year's metrics. In order to make the plan
21 -- and this is what the evidence is -- more industry-
22 standard and have somewhat fewer metrics rather than
23 industries with smaller metrics, they combined three of last
24 year's metrics, Purdue Branded Business Operating Profit,
25 Adhansia XR Operating Loss and Avrio Operating Profit, into

1 a single, consolidated operating profit metric. This was
2 done for the salutary and entirely typical reasons set forth
3 in the declarations.

4 So all these changes just show that we keep
5 refining the plan as the years go by to best match the
6 better business reality.

7 The last issue, Your Honor, is the question of
8 timing of approval, which it's sort of like *déjà vu* all over
9 again. We just keep having the same argument and the Court
10 keeps ruling, and then we just keep seeing that argument
11 again in the next pleading. And I just -- I just don't
12 really understand it.

13 The notion that the post-emergence board should
14 deal with the 2021 compensation plan is just completely
15 misguided. In fact, if I were a board member that came onto
16 a company in 2022, I would refuse to do that. I wasn't
17 there, I didn't set the goals, I didn't measure them, I
18 couldn't assess the people. For all we know, none of those
19 people might even be there by the time a new board is
20 seated. So to say that a new board should responsibly or
21 could responsibly even accept that obligation I think
22 misunderstands what a serious board would and would not
23 agree to do.

24 And with respect to timing, Your Honor, we've now
25 talked about it, I think, seven hearings. You know, it is

1 typical in this company and all companies for the metrics
2 and the plan to be baked and done near the end of the first
3 quarter of the calendar year. You need to sort of finish up
4 the prior year and get an assessment of how things turned
5 out and what the final numbers are, audited or not, and then
6 early enough in the year to incentivize people and know what
7 the right numbers are, you announce that calendar year's
8 plan.

9 You know, we filed this rather late in the year
10 and we adjourned it multiple times specifically to get
11 broader creditor support and to give us time to negotiate
12 and make the multiple very material concessions that I
13 described before that were done at the request of creditors.
14 And more importantly, Your Honor, I only need to ask the
15 Court to look at Pages 55-58 of the Court's own ruling from
16 the July 29, 2021 KERP Hearing, because this exact argument
17 verbatim was made six weeks ago and for the, I think, sixth
18 time or so, the Court ruled on it and found that the timing
19 of the motions, which actually came very late in the year,
20 and then their actual hearing, which was held even far later
21 yet in the year, precisely to allow for appropriate
22 commercial negotiations and concessions in no way detracted
23 from the propriety of the programs or their timing but, in
24 fact, supported them. I think Your Honor ruled for about
25 four pages on this topic, and I have to say, and it's a

1 little bit frustrating that we're discussing it yet again,
2 given that I think we already have a ruling from the Court.

3 So, Your Honor, I'll leave it at that. Obviously,
4 our initial motion had a lot in it. Our reply brief on the
5 KEIP had a lot in it. We have multiple declarations. And
6 there are only three objections. I think the primary
7 creditor groups, of which Your Honor knows there's something
8 like 11, have no objection. We negotiated this thing and
9 made very material changes at the request of the UCC, AHC
10 and MSGE. And we're at or below median, even with the full
11 program, and we ask that it be approved. Your Honor, I'll
12 hopefully have little to no rebuttal but I'd like to save a
13 little bit of time based on what the objectors argue. And,
14 of course, I'm happy to answer any questions from the Court.

15 THE COURT: Okay. Well, why don't I hear from the
16 objectors?

17 MR. SCHWARTZBERG: Hi, Your Honor, Paul
18 Schwartzberg from the U.S. Trustee's Office. Is it okay if
19 I go first?

20 THE COURT: Sure.

21 MR. SCHWARTZBERG: Thank you, Your Honor. Your
22 Honor, this is the third motion by which the Debtors seek
23 authority to pay compensation above base salary. And in
24 this particular motion, the Debtors seek to pay, I believe,
25 up to 7.5 million to five insiders pursuant to a Key

1 Employee Incentive Plan. However, before additional
2 compensation could be paid, the Debtors must pass a
3 threshold test to demonstrate that the payments do not
4 violate Section 503(c)(1). That the payments are not
5 (indiscernible). Only if this is passed can the Debtors
6 turn to demonstrate the facts -- demonstrate the payments
7 are justified by the facts and circumstances of the case
8 such as what is market compensation? And as Mr. Huebner
9 said, the burden is on the Debtor to demonstrate that this
10 plan is not a retention plan.

11 Now, I know Mr. Huebner had indicated that this is
12 a removal of past programs but the numbers chance in each
13 program and we're here testing the numbers to make sure that
14 it is a true incentive plan and not a retention plan. And
15 the Debtors set three metrics to be met for awards to be
16 paid: The value creating metric, the innovation and
17 efficiency metric and the people and culture metric.

18 First, Your Honor, for the innovation and
19 efficiency metric, the threshold level for the award
20 (indiscernible) is not disclosed. Only the target level is
21 disclosed. Therefore, it's impossible to determine if the
22 minimum metric that needs to be met before payments are
23 made... In fact, 75 percent of the payments are being made
24 at this threshold level, which is not disclosed.

25 Second, initially, no historical information --

1 financial information is provided to compare the metrics
2 with the past results. Mr. Huebner had indicated that Mr.
3 Lowne had testified that these are actually hard metrics to
4 achieve, but those are conclusions. We need to see the
5 numbers to make informed decisions.

6 And, in fact, for example, for the consolidated
7 total business operating profit, I believe that's the
8 largest metric in the innovation in the performance metric -
9 - we're not providing the historical information to
10 determine if the \$69 million target is, in fact, an
11 incentivized target.

12 THE COURT: Can I interrupt you on this point?

13 MR. SCHWARTZBERG: Yes, Your Honor.

14 THE COURT: Section 503(c)(1) addresses, in a way
15 that makes it essentially impossible, a transfer to an
16 inside for the purpose of inducing such person to remain
17 with the Debtor's business. Right?

18 MR. SCHWARTZBERG: Yes, Your Honor.

19 THE COURT: And then says in (c)(3), which is the
20 basis that the Debtor is moving under, that other transfers
21 or obligations that are outside the ordinary course of
22 business and not justified by the facts and circumstances
23 also cannot be made.

24 So, I guess my question is -- you referred to
25 "base salary", right?

1 MR. SCHWARTZBERG: Yes, Your Honor.

2 THE COURT: So, you agree, I guess, that "base
3 salary" is not a transfer to induce someone to remain with
4 the Debtor's business, right?

5 MR. SCHWARTZBERG: Yes, Your Honor, it's very
6 complicated.

7 THE COURT: Because if you're not paid a salary,
8 obviously you will leave because you're not being paid. But
9 that's not what Congress had in mind, right?

10 MR. SCHWARTZBERG: I believe what they had in mind
11 was, as we indicated, bonuses, awards, things above a
12 person's base salary.

13 THE COURT: Well, that's two different things,
14 right? Because a bonus -- and this is what Congress, I
15 think, really was focusing on -- can be a bonus to stay,
16 i.e., the practice that developed now many years ago where
17 debtors sought stay bonuses for executives simply, you know,
18 that they hadn't awarded before -- bonuses had not gotten --
19 executives had not gotten such payments before the
20 bankruptcy, and the rationale for the bonus was that it was
21 hard to work in a bankruptcy environment and so, therefore,
22 they should have this increase.

23 But the evidence is really quite clear in this
24 matter, as it has been when compensation levels for 2019-
25 2020 were sought, that the actual compensation for

1 executives of these companies for decades included a
2 contingent payment as well as a "base salary". And it was
3 only when you have both of those together, as the evidence
4 shows, that you actually are in the median for your
5 competitors.

6 To me, that doesn't seem like the type of bonus,
7 retention bonus, that Congress is addressing in 503(c)(1).
8 To me, it seems like a payment that is, yes, it's required
9 by people to be competitive and not to go somewhere else but
10 it's essentially part of their salary.

11 MR. SCHWARTZBERG: Your Honor --

12 THE COURT: Do you have any cases or legislative
13 history to support otherwise? That in a context like this,
14 as opposed to where someone gets something that they had
15 never gotten before and it was tied to just staying in place
16 in the bankruptcy case -- but, rather, an element of
17 compensation that had always been there and is necessary to
18 make you in the median for people in your industry. That's
19 somehow a bonus, as opposed to a risk you're taking that you
20 won't get enough to be in the median?

21 MR. SCHWARTZBERG: Well, Your Honor, I'm looking
22 at the section -- or the statute and it says transfers. So,
23 we believe this is a transfer. And that's where we've come
24 up with that.

25 THE COURT: But so is a base salary. So is base

1 salary. And if you need both to be in the middle and you're
2 actually running the risk with the portion of the
3 compensation to get to the middle, i.e., that you don't meet
4 the targets, to me that doesn't seem like getting a leg up.
5 It seems like staying in the middle or even risking being
6 before the middle.

7 MR. SCHWARTZBERG: Well, Your Honor, we believe
8 you don't get to (c) (3) until you've passed the (c) (1) test.

9 THE COURT: I understand. But how is the (c) (1)
10 test applicable to these facts? I understand clearly that
11 if someone is getting what I would view as a true bonus just
12 to hang around or just to do their job, that they haven't
13 gotten in the past but they're getting it now in a
14 bankruptcy case -- because, as courts were told in the '90s,
15 before this statute was enacted, you've got to incentivize
16 them, Judge, because it's really hard on the bankruptcy case
17 -- I understand your point completely. I think that's what
18 the statute addresses.

19 I'm having a very hard time seeing how it
20 addresses a situation where the evidence shows that this is
21 -- this is actually necessary to get them to the middle of
22 compensation and that the so-called base salary is way below
23 the middle.

24 MR. SCHWARTZBERG: Your Honor, two responses:
25 One, I guess I'll harken back to what Mr. Huebner has said.

1 The timing of the payments was put out to now June 30th to
2 ensure that they get or stick around until post-emergence.
3 So, that --

4 THE COURT: Well, clearly, that's something that
5 people want, is that they'll stick around. Yes, that's
6 true. That is true. That's fair. But that just puts
7 another risk, another burden on the employee, right?

8 MR. SCHWARTZBERG: Well, I think the fact that
9 they're being timed that way because they stick around is
10 another evidence or demonstration that they are retention
11 payments.

12 And, second, Your Honor, we're turning to the
13 chart that I went over with Mr. Lowne -- it appears they're
14 going to get a bonus for everything except for one, or an
15 award for everything. And, in fact, he testified are the
16 ones that they're not going to meet. If they meet them
17 later, after the target, they still get an award. So, it
18 seems like these are less incentivizing and more guarantee
19 paid.

20 THE COURT: I agree with you to some extent. I
21 think that the targets are incentivizing, but the threshold,
22 notwithstanding Ms. Gartrell's testimony that this is also
23 common in the industry -- in fact, usually the threshold can
24 be lower -- is more akin to, you know, not as hard an
25 achievement.

1 But, again, if the -- if the outcome is that you
2 get paid what is the median in the industry, with a risk
3 that you don't get that even because you're below the target
4 and perhaps even below the threshold, I have a really hard
5 time seeing that that is a bonus. It's a bonus in the sense
6 that you get more than your base salary but it's not a bonus
7 over the people who are working as the head of the
8 equivalent of Rhodes Pharma for some other pharmaceutical
9 company or the CEO of that company. It's just -- it doesn't
10 really seem like a bonus to me. It's a bonus in the sense
11 that you have some risk that if you don't get it, you'll get
12 paid less. But it doesn't really -- it seems like
13 compensation.

14 MR. SCHWARTZBERG: Your Honor, we believe it's a
15 transfer. And we --

16 THE COURT: Well, so is salary. Salary is a
17 transfer, too.

18 MR. SCHWARTZBERG: But that would make the statute
19 -- some have said nonsensical if it included salary, base
20 salary. I think they're talking about transfers above base
21 salary. You can call them bonuses, you can call them awards
22 --

23 THE COURT: It doesn't say transfers above base
24 salary. In fact, the language could actually apply to
25 transfers that include base salary. I don't think Congress

1 meant it that way but if you take that meaning of a
2 transfer, clearly every dollar that you receive is "for the
3 purpose of inducing such person to remain with the Debtor's
4 business" -- otherwise you wouldn't have an HR Department.
5 You wouldn't have a business.

6 So, it -- I -- look, I just -- it's -- it's easy,
7 too easy, in fact, to say that an incentive program is
8 always a bonus. It actually could be a risk and not a
9 bonus. It's a risk in that -- or if, A, at most, if you
10 achieve the targets, you get paid market compensation
11 because you may not achieve the targets. You never have a
12 chance of getting above market. At best, you can get two
13 market.

14 I mean, it's just -- I think -- there's a lot of
15 rhetoric around these types of programs and I guess, to some
16 extent, rightly so. It really was pretty outrageous that
17 before this statute was enacted, firms would say to their
18 managers, you know, you can actually make more in a
19 bankruptcy. We'll call it a stay bonus and we'll pay you
20 more. Congress dealt with that.

21 But if someone's being paid on essentially a
22 combination of flat salary and if you get the metrics,
23 median compensation, it's hard for me to see that that
24 outrage that Congress reflected in (c) (1) really would
25 apply.

1 MR. SCHWARTZBERG: Your Honor, I see where you're
2 going so I just would like to get on the record just that
3 our concern is that the thresholds were not disclosed, in
4 fact, even today. The historic information to compare it,
5 rather than the conclusions by Mr. Lowne were not -- were
6 not set forth. And then, as he indicated, it appears
7 everything that's in his table on Page 4 of his declaration,
8 even if they miss the target that's listed (indiscernible) -
9 -

10 THE COURT: No, I actually don't think he said
11 that. I think he said that the -- let me turn to his thing
12 -- the Adhansia 10 percent wouldn't be met and that overall,
13 however -- and I do agree with you on this point -- it's
14 above 90 percent of what the target would provide.

15 MR. SCHWARTZBERG: Yes, Your Honor, everything but
16 Adhansia was going to be met, even if it didn't hit the
17 target.

18 THE COURT: Well, at a threshold but not the whole
19 -- not the whole target.

20 MR. SCHWARTZBERG: Yes. But we don't know what
21 that threshold is, Your Honor.

22 THE COURT: Right. Okay.

23 MR. SCHWARTZBERG: Thank you, Your Honor.

24 THE COURT: Okay. All right.

25 MR. SCHWARTZBERG: I'll defer to Mr. Gold, Your

1 Honor, for the last (indiscernible) --

2 THE COURT: Okay. All right.

3 MR. GOLD: Thank you, Your Honor. Matthew Gold,

4 Kleinberg Kaplan. Can you hear me?

5 THE COURT: Yes and I can see you fine, too.

6 MR. GOLD: Okay, thank you, Your Honor, and I

7 apologize for the unstable interface. Simply I have nothing

8 --

9 THE COURT: It just looks like a 1970s Italian
10 movie, it's fine. It's like Vittorio De Sica.

11 MR. GOLD: I would be honored to be put in that
12 presence, Your Honor. In any event, I have nothing to add
13 to our papers on this matter and we rest on that.

14 THE COURT: Okay. Okay.

15 MR. TROOP: Thank you, Your Honor. Andrew Troop
16 for the Nonconsenting State Group. Your Honor, we are left
17 with the compensation program the way it was presented to
18 us, with base salary and the consented compensation. And
19 we're here today to object because a significant portion, as
20 we set forth in our statements -- this company's
21 (indiscernible) --

22 THE COURT: I'm sorry, you're cutting in and out,
23 I'm afraid, Mr. Troop.

24 MR. TROOP: I'm sorry, hold on one second, Your
25 Honor. See if that's better. We're having some air

1 conditioning issues today so I thought it as better
2 (indiscernible).... Your Honor, as I was saying, we've heard
3 from the beginning of the (indiscernible) again today that
4 the fundamental purpose of this Chapter 11 was an evolution,
5 an evolution of this company and its culture, and its
6 culture with respect to its practices.

7 There is responsibility for that culture. That
8 culture, as we established, at the KERP hearing in July
9 includes ensuring that participants in this case, the
10 retention plan -- in that case, the retention plan -- did
11 not, through their own inaction or misconduct advance the
12 wrongdoing of this company over time or during the course of
13 business. You made that clear in 2019 as well.

14 But we've learned that notwithstanding that
15 instruction from 2019, the special committee is meeting just
16 today to take on the responsibility of ensuring that
17 bonuses, however described, are not paid out and really to
18 evaluate the workforce in light of this company
19 (indiscernible) misconduct. It's not a defense by the
20 Debtors to argue that the criminal investigations into the
21 company took the place of the company's own responsibility
22 to ensure the integrity of its workforce against this
23 culture. And it is no defense for Dr. Landau to say that
24 parties would have complained had he inserted himself into -
25 - I believe the word that Mr. Huebner used was

1 investigations of misconduct -- the words. And accepting
2 that as true, as the CEO, Dr. Landau still had
3 responsibility to make sure that the process was in place.

4 Dr. Landau could not rely, should not have relied,
5 solely on (indiscernible).

6 THE COURT: I'm sorry -- I'm sorry, should not
7 have relied on?

8 MR. TROOP: On legal counsel being engaged in
9 criminal investigative conduct, their own counsel, to
10 substitute for the company's own responsibilities. And at
11 the end of the day, they were his responsibilities as CEO.

12 In some ways the objection by the Debtor is that
13 we were too surgical, we were too surgical in focusing on
14 Dr. Landau. But at the end of the day, as I said, he is the
15 CEO and he could've directed the appropriate conduct
16 undertaken by this company in response to what I understood
17 their directives from Ms. Wood back in October of 2019, and
18 which we learned from his own testimony during the 2004 --
19 the 2004 depositions in this case, that the company did not,
20 in fact, undertake any (indiscernible)...

21 They said they didn't do it, notwithstanding the
22 Practice Fusion deferred compensation program, which
23 (indiscernible) identified participation by people at
24 Purdue. They did not --

25 THE COURT: Well, can I interrupt you? Because I

1 guess, given the seriousness of what your objection
2 asserted, I would've expected more a cross-examination of
3 more of an analysis here of who did what. But, to your
4 understanding, is there anyone at the company who was
5 identified with the Practice Fusion admissions or
6 activities?

7 MR. TROOP: If we're going to use Practice Fusion,
8 Your Honor, I believe an unnamed Purdue employee identified
9 as a brand manager was identified. And if we'd matched up
10 that person correctly, that person is still at the company.

11 THE COURT: And is that one of the eight or is
12 that someone else?

13 MR. TROOP: That was one of the eight. But if you
14 recall at the time, Your Honor, we were instructed -- in
15 fact, in part, I will give Mr. Huebner credit. Yes, our
16 arguments have modified over time in response to what's
17 happened in the case and in response to your focus on these
18 hearings. But at the time, you may recall, Your Honor, it
19 was that if someone committed -- if someone did something
20 criminal, right, that's what we should be focused on. And
21 we worked on that claw-back language, which really focused
22 on criminal more than anything else.

23 We continued to raise our objections that the
24 company had an independent obligation. And as time has
25 passed where practice (indiscernible) practice

1 (indiscernible) agreement (indiscernible) by the company's
2 own (indiscernible) -- and, Your Honor, there's another
3 guilty plea in Practice Fusion by an individual but it's not
4 in front of you, which also talks about for the -- which
5 suggests that there was a process that should have been
6 undertaken by the company to do what it obviously wanted to
7 do.

8 And at some level, Your Honor, regardless of the
9 level of the investigation that the parties were able to do,
10 there were whole swaths of documents (indiscernible) that
11 did not... There was a level of investigation allegedly
12 undertaken by the (indiscernible) there was an investigation
13 undertaken by the Special Committee where we did not receive
14 a fair analysis, we did not receive (indiscernible) and it
15 seems that the responsibility -- if we went outside of
16 bankruptcy, Your Honor, this responsibility would clearly
17 have been on the company and there'd be no defense that
18 would've said creditors can do investigations. Creditors
19 had access to 2004 examinations.

20 THE COURT: Can I -- again, I didn't hear you
21 clearly. I am having kind of a hard time hearing you. I
22 don't know if other people are, too. But I think you said
23 that there was some separate work on this issue by the
24 Special Committee that --

25 MR. TROOP: No, Your Honor. What I was saying is

1 that there's been a lot of talk about the access to
2 information which creditor constituencies (indiscernible).

3 THE COURT: Right.

4 MR. TROOP: I think that it continues to pale in
5 comparison to what was available to the Special Committee,
6 including, Your Honor, information that we know was produced
7 to the Department of Justice, which was not produced to us
8 under -- because the Department of Justice, among other
9 things, objected.

10 Your Honor, at the end of the day, the question is
11 whether or not you establish the culture of a company with a
12 responsibility that it's (indiscernible) based. And for us,
13 that is -- that is the fundamental issue here. I think that
14 our pleading was clear about that, I hope that it's clear to
15 the Court about that, and otherwise we will rest on our
16 papers --

17 THE COURT: Well, I think the issue that the
18 Debtors have raised with your contention, which I don't
19 think they disagree with the underlying premise, which is
20 that Purdue's culture that existed, you know, through some
21 period in 2017 needed to change -- is whether and what role
22 Dr. Landau should play in that. The Debtors say that,
23 particularly given the Special Committee and the role played
24 by outside counsel in the criminal investigation and Dr.
25 Landau's own inherent conflict, given that he was named in

1 some complaints, meant that Dr. Landau, although the CEO, is
2 not the person to take the lead on this point but, rather,
3 it would ultimately depend upon the board as advised by
4 counsel. What is your response on that point?

5 MR. TROOP: As I said, Your Honor, perhaps we were
6 too narrow.

7 THE COURT: Well, but the issue before me is his
8 compensation where there is, again, a carve-out. So, you
9 may have been too narrow but I'm just focusing on him at
10 this point.

11 MR. TROOP: Understood, Your Honor. So, Your
12 Honor, what's the best analogy? Your Honor, there is a
13 distinction between being involved in an -- I'm going to use
14 the word investigation or a review (indiscernible) and
15 making clear that that review has to be undertaking, even if
16 you can't do it yourself for all the reasons the Debtors
17 have articulated, but accepting them as truth for these
18 purposes, it's still the CEO's responsibility to say we need
19 to make sure -- we need to make sure that we are reviewing
20 (indiscernible) in plans and reviewing --

21 THE COURT: Okay, no, I understand that point.
22 But I guess what is -- what is your basis for saying that
23 that isn't -- or hasn't been properly addressed?

24 MR. TROOP: The basis, Your Honor, includes the
25 deposition transcript that was attached to our KERP

1 objection, for one.

2 THE COURT: No, that says that he doesn't know
3 about it. And that's the first part of my question, and you
4 answered that. But I'm trying to figure out whether it
5 hasn't been done.

6 Clearly, Dr. Landau has not been involved in it
7 and I don't think there's any testimony that he directed
8 some sort of inquiry. But the issue is, I guess,
9 ultimately, whether there has been a failure to do it.

10 MR. TROOP: Well, Your Honor, I can only look at
11 some facts, right, that we have, and those facts are that,
12 to my knowledge, no one's been disciplined. Part of his
13 testimony was that no one was disciplined and no one was
14 fired. The second part is that they were -- if I understood
15 Mr. Huebner earlier, I understand that for the first time
16 the Special Committee is leading the institute process. And
17 if I misunderstood Mr. Huebner, I'm sure he'll correct me.

18 But it is -- we are unaware... For example, Your
19 Honor, when we raised this objection (indiscernible) no one
20 advised us that there was process underway or in place that
21 undertook a review. No evidence was presented in connection
22 with the KERP, to my memory, that, in fact, any such process
23 was employed. What we heard then as we heard today was that
24 well, there were criminal investigations going on and people
25 were looking -- and outside lawyers were looking at lots of

1 documents. And that, Your Honor, doesn't mitigate the
2 company's internal responsibilities with respect to its
3 culture and its future, which doesn't line up with the
4 criminal law. It doesn't line up with the... So, Your
5 Honor, I don't --

6 THE COURT: Well, I mean, the Debtors have
7 identified many steps that I think were quite far-reaching
8 that Dr. Landau took to change the culture, right? So --

9 MR. TROOP: So, Your Honor --

10 THE COURT: I guess -- I --

11 MR. TROOP: Your Honor, let me use this as not a
12 perfect example, okay? In the last monitor report, the
13 monitor reports on the fact that in Customer Service,
14 someone -- someone reached out directly to (indiscernible)
15 rather than referring. And the Debtors jumped all over
16 that. I don't want to take anything away from the Debtors
17 when they learned about it.

18 But it reflects a cultural question. It's a
19 cultural question. How do you -- how do you make sure the
20 (indiscernible) that these (indiscernible) are more than
21 second nature to everyone within the organization? And,
22 Your Honor, this was the vehicle in which this issue came
23 up. And, as I said, at the end of the day, when you're the
24 head of the organization, it is your responsibility. If you
25 can't do it yourself, then make it very clear that

1 (indiscernible).

2 THE COURT: Okay.

3 MR. TROOP: Thank you, Your Honor.

4 THE COURT: Okay.

5 MS. IMES: Your Honor, may I be heard? Linda
6 Imes, for Dr. Landau?

7 THE COURT: Okay.

8 MS. IMES: Thank you for hearing me, Your Honor.

9 I appreciate that this is the Debtor's motion, not Dr.
10 Landau's, but the objectors have challenged both his
11 leadership of Purdue and his integrity. And Dr. Landau is a
12 highly principled man who has always been committed to doing
13 the right thing at Purdue, and we just can't sit by while
14 they make unfounded smears against him, Your Honor. So,
15 with your indulgence I'd like to address two main points,
16 one of which Mr. Huebner touched upon.

17 First of all, there's no evidence whatsoever to
18 what Mr. Troop just alluded to that somehow his inept or
19 misconduct advanced any wrongdoing. There's not a shred of
20 evidence to support that. Similarly, Washington is trying
21 to link Dr. Landau to the misconduct to which Purdue pled
22 guilty by saying that he bears responsibility for directing
23 actions and setting a culture that resulted in a decades'
24 long series of felonies.

25 Yet, number one, Dr. Landau has testified under

1 oath twice, once at his 2004 deposition where anyone
2 could've asked him any question they wanted to in this case,
3 and once before Congress that he did not participate in and
4 was not aware of that criminal activity. And this is --
5 Your Honor, it's in the testimony that's attached to the
6 Nonconsenting State group's motion at Page 85, 87 and 91.

7 Secondly, the timeframe for the criminal conduct
8 that Purdue admitted to in its 2020 guilty plea preceded Dr.
9 Landau's onboarding as CEO of Purdue. The long and short of
10 it, Your Honor, is that he was not CEO during the period of
11 (indiscernible) conduct. And for four years of that period
12 of time, he worked at a separate company, Purdue Canada in
13 Canada.

14 So, there's not a single action that he directed
15 that resulted in the committing of felonies. Also, since
16 they've alluded to a decades' long series of felonies, I
17 gather they're referring that to the 2007 plea. What Your
18 Honor should know about that is that Dr. Landau had no
19 responsibility for the sales and marketing functions at this
20 time, and he had no involvement with any of the conduct at
21 issue in the 2007 criminal plea. That conduct that was
22 alleged occurred before July 2001, when he had been working
23 as a junior employee in the R&D for less than two years.
24 So, there's just no truth at all to the aspersions they're
25 trying to cast upon Dr. Landau.

1 The second point I wanted to address, Your Honor,
2 was the one that you raised about the culture needing to
3 change. One of the things Washington talked about in its
4 allegations was that somehow Dr. Landau set the culture of
5 the company that enabled this criminal activity. And,
6 again, that's just completely false. And, in fact, what Dr.
7 Landau has done is he's been a problem-solver and a change
8 agent. And I'd like to just run through some of the things
9 that he has done to change the culture and business of
10 Purdue.

11 Your Honor, much of this is set out in the written
12 statement that Dr. Landau presented to Congress in December
13 of 2020 at Page 2-3 and 4-5, and there's a link to that
14 referenced in Mr. Huebner's brief. But among the many
15 things he's done for the company since becoming CEO in June
16 of 2017 are the following things:

17 First, he ended the company's promotion of opioids
18 by sales reps to prescribers, and he did this without being
19 asked to do so or directed by anyone, including regulators.

20 Two, he eliminated the company's entire opioid
21 salesforce. He discontinued the last of the company's
22 opioid-related speakers programs. He ceased the company's
23 sponsorship of all outside pain groups. He assembled a new
24 management team. He renewed the company's focus on R&D. He
25 prioritized the advancement of three programs intended to

1 address specific elements of the opioid crisis, namely, the
2 approval and availability of buprenorphine and naloxone; the
3 development of an over-the-counter version of intranasal
4 naloxone, and the development of injectable minalfene.
5 These are obviously all important to NewCo as well.

6 And since September 2019, he's paid a crucial role
7 in driving workforce productivity, maintaining employee
8 morale, limiting attrition as much as possible, and even
9 recruiting new talent.

10 So, Your Honor, there's just absolutely no truth
11 to the notion -- and it is merely someone's notion -- that
12 somehow Dr. Landau was part of or contributed to a corrupt
13 culture that promoted wrongdoing. It's just not so.

14 And one final point, Your Honor, is that --
15 unrelated to what I was just talking about -- is that -- and
16 this follows up on a conversa -- question you were asking
17 Dr. Lowne about diversity and so on. It's my understanding
18 that Dr. Landau created the Presidential Committee on
19 Diversity, Equity & Inclusion at the company over a year
20 ago, and that he communicated that as a high priority for
21 the company.

22 As for the alleged failure for Dr. Landau to
23 conduct an investigation, I think Mr. Huebner addressed that
24 and made the critical points and I gather that Your Honor
25 has followed up on those observations. Unless you have any

1 questions, Your Honor, I have nothing else.

2 THE COURT: No, that's fine. Thank you.

3 MR. HUEBNER: Your Honor, a few quick things from
4 my end, and I will be pretty brief. Your Honor, first with
5 respect to the United States Trustee, candidly, if Mr.
6 Schwartzberg believed that the many conclusion in our four
7 declarations were not sufficiently supported or granular,
8 then he probably should have asked for a deposition because
9 that's what someone does when they think that a witness can
10 be sort of like, knocked over by incisive questioning.

11 The fact that he asked Mr. Lowne to recite a
12 series of highly specific numbers from memory with no prior
13 notice in open court I really don't think provides any
14 support whatsoever to any sort of argument that these -- the
15 conclusions that these are ambitious, challenging, real
16 targets gets trammeled in any way whatsoever.

17 The second, Your Honor, and you said it now at
18 about five hearings. There was a very tawdry world, in
19 which I'm glad to say I don't think I ever participated,
20 where people got big extra bonuses in Chapter 11. That is
21 not this and has never been this. This is regular annual
22 compensation that's been going on for 30 years, split into a
23 part paid biweekly as base salary and a part that is
24 essentially deferred and put at risk to get them to median
25 comp if it goes as expected. It's not extra, it's not new,

1 it's not bonuses, it's not retention, except for one thing.
2 And you want to talk about returning bad -- good for bad --
3 it's just completely unbelievable that we were originally
4 going to make these payments essentially, you know, in March
5 of 2022, as has been done for decades. And three of our
6 creditor groups said, no. We don't want you to pay it until
7 June because we want buy one, get one free. We also want to
8 have to hold them until July 1st.

9 And now the Trustee is saying because we agreed to
10 accommodate the needs of our priority economic stakeholders,
11 this is now an illegal retention plan? You know what, Your
12 Honor? I'll make the offer right now. If people would like
13 us to go back to paying it in March exactly as we proposed,
14 we would be delighted to. But to say that it's been made
15 unlawful because we made a concession to creditors to
16 benefit the estate and increase its value, I mean, it's just
17 -- you can't even make this stuff up.

18 Your Honor, with respect to Mr. Troop's comments,
19 I just -- I found myself bewildered as he was talking.
20 Because, essentially, he actually did testify incorrectly at
21 great length about what Purdue, and the board, and the
22 Special Committee has done and not done, which was not in
23 his two-page objection that said one thing only, which is
24 Dr. Landau did not oversee investigations or personally fire
25 or discipline people. And somehow out of the blue we're in

1 a referendum on whether the culture of Purdue has
2 sufficiently turned over.

3 So, let me be very clear because this is actually
4 -- while inappropriately raised, is actually quite central
5 to everything some of us are trying to accomplish. First of
6 all, the notion that one person in Customer Service appears
7 to have made one phone call that may not have been okay and
8 that everyone agrees that the company, and the monitor, and
9 the compliance function jumped on instantly, and this is
10 somehow evidence that something is still not right? I mean,
11 please. Seriously.

12 Like, to even suggest that in the case of this
13 publicity as evidence of impropriety or a not completely
14 clean culture as opposed to the opposite -- you know, I
15 invite anyone who wants to read every single monitor report,
16 which have been filed exactly on scale, about the
17 extraordinary compliance, and the extraordinary change in
18 culture, and the extraordinary safety ad propriety in so
19 many areas.

20 Second, Mr. Troop has grossly misheard me and
21 misunderstood me, and he repeated it multiple times. I did
22 not say they're meeting just today or today for the first
23 time. I said, ironically, there is also a multi-hour
24 meeting later today on this exact topic. This is not the
25 first meeting, it's not the second meeting, it's not the Nth

1 meeting -- well, I guess it is the Nth meeting because that
2 can be any number. The Special Meeting has been on these
3 issues for years, and I already described at some length,
4 because we ended up going very far afield from one objection
5 on one person on one part of their compensation, in
6 connection with things like indemnity, the Special Committee
7 demanded voluminous information from the Debtor's primary
8 law firms to be comfortable that before anybody got
9 indemnified, who was likely to be appropriate.

10 I described to Your Honor, again, impromptu and
11 with some trepidation, the many implicit layers of netting
12 and review that had been in place for a long time. We
13 didn't put the onus in creditors. We said, and in addition
14 to all the things we're doing, if you see anything, then
15 your hundreds of million -- hundred million dollars of legal
16 fees' worth of review that suggest that a wrongdoer is still
17 at the company, bring it to our attention and we will jump
18 on it right away. It's an additional layer of care for
19 people who are highly adversarial to the old Purdue and with
20 very good reason, and had every incentive in the world to
21 help us all ensure that no wrongdoers remain at the company.

22 Your Honor, with respect to Practice Fusion, to be
23 clear, Mr. Troop I assume is right in matching up that one
24 person who was mentioned in a document is still at the
25 company. That doesn't mean that that person was a wrongdoer

1 or satisfied the original standards under the KERP. Those
2 are all things that the Skadden folks and the Special
3 Committee had been looking at consistently, and there
4 obviously a tremendous amount of discussion about Practice
5 Fusion both when the information statement or whatever it
6 was, indictment or plea agreement with Practice Fusion
7 itself came out. And then obviously in connection with the
8 negotiation of Purdue's own guilty plea.

9 Your Honor, at the end of the day, the NCSG,
10 again, very inaptly named, is really the only objector that
11 is making these, I think, really dangerous and unfounded,
12 unexpected claims that somehow the culture of the company
13 has not been sufficiently changed. We have a UCC, we have
14 an AHC, we have an MSGE, we have a huge group of PIs, we
15 have a group of tribes, we have a group of hospitals, we
16 have the MAS babies, we have the MAS baby monitorings, we
17 have Main Justice. No one is joining Mr. Troop in his
18 extensive musings to this Court that maybe things aren't
19 fully corrected yet, because it's not true and it's not
20 fair. And to pull out of the blue this one person in
21 Customer Service dialed a phone number and maybe that should
22 be looked into, it only proves the opposite, which is there
23 are microscopes, and magnifying glasses, and multiple
24 processes going on to ensure that this company is all the
25 things that the Debtors and, frankly, the employees

1 drastically reduced the number from the company this once
2 was are working so hard to deliver to the American people.

3 What's actually up for today, and with this I'll
4 close, is a compensation motion for five people, two of whom
5 are in Technical Operations, one of whom is a finance
6 executive, one of whom is a brand new general counsel, who
7 is basically Mr. Clean with years of government service at
8 the Department of Justice as the general counsel of the
9 Department of Agriculture and other august positions, who
10 was brought in to help figure this out and make it right;
11 and a CEO who is doing his job. He is where he is supposed
12 to be and he's not where he's not supposed to be.

13 And we have nothing that I think -- you know,
14 what's presented today that comes close to suggesting that
15 paying basically below median compensation for the five
16 people who have worked so hard to preserve the actual value
17 with the cash balance of a billion dollars should not be
18 approved. That's all I have, Your Honor.

19 THE COURT: Okay, thank you.

20 MR. SCHWARTZBERG: Your Honor, Paul Schwartzberg.
21 Could I make two quick points, Your Honor?

22 THE COURT: Okay.

23 MR. SCHWARTZBERG: The first, Your Honor, you had
24 some questions regarding salary and 503(c). I just wanted
25 to point out, Your Honor, that salary is referenced in

1 503(b) and then 503(c) the indicates, notwithstanding
2 Subsection B. So, I wanted to point that out, Your Honor.

3 And, second, Mr. Huebner had asserted that we did
4 not provide any evidence, but I just wanted to also point
5 out that we did file an objection that indicated for, among
6 other things, there was no historical information. And the
7 Debtors filed a response and it didn't include it. And
8 that's why we had to cross Mr. Lowne today, Your Honor.

9 THE COURT: All right. Well, the Debtors do have
10 the burden of proof but notwithstanding the resources of
11 your office, there are such things as depositions.

12 Okay, I'm assuming that that closes oral argument.
13 I have before me a motion by the Debtors to obtain approval
14 of their 2021 Key Employee Incentive Plan, which would apply
15 to five current employees of the Debtors that would qualify
16 as insiders under the Bankruptcy Code. The Bankruptcy Code
17 in Section 503(c)(1) establishes an extraordinarily
18 difficult, if not de facto, impossible standard that must be
19 met before a Debtor may make a transfer to or incur an
20 obligation for the benefit of an insider of the Debtor for
21 the purpose of inducing such person to remain with the
22 Debtor's business. 11 USC, Section 503(c)(1).

23 That subsection is premised by the phrase:
24 Notwithstanding Subsection B, there shall neither be allowed
25 nor paid -- and then the language that I just quoted. Mr.

1 Schwartzberg for the U.S. Trustee is correct that 503(b)(1)
2 includes as an administrative expense wages, salaries and
3 commissions for services rendered after the commencement of
4 the case. But, again, 503(c) is introduced by
5 notwithstanding Section B, which would seem to indicate that
6 if one read the provision as broadly as I think the U.S.
7 Trustee might be trying to, it would not even -- it would
8 apply even to and notwithstanding the allowance of wages,
9 salaries and commissions if they fit into a transfer made
10 for the purpose of inducing a person who was an insider to
11 remain with the Debtor's business.

12 The courts have not adopted that interpretation of
13 Section 503(c)(1), largely because it makes no sense, but
14 also because they have recognized almost since the enactment
15 of 503(c)(1) that all payments to employees and executives
16 included within that definition have some retentive effect.
17 Obviously, if you don't receive wages, salaries and
18 commissions or if you're not paid market rates, then
19 generally you will, as soon as you can, leave the employ of
20 your employer and find a better paying job or a more
21 satisfying job elsewhere. In re Dana Corp., 358 B.R. 567
22 671, (Bankr. S.D.N.Y. 2006).

23 The Debtors acknowledge that the five people that
24 are covered by the Key Employee Incentive Plan are insiders
25 under the Bankruptcy Code definition, found at 11 USC

1 Section 101(31). And therefore they seek allowance or
2 approvals, rather, of the KEIP under 503(c)(3), which
3 applies to other transfers or obligations that are outside
4 the ordinary course of business, and does not permit them if
5 they are not justified by the facts and circumstances of the
6 case. 11 USC Section 503(c)(3).

7 Otherwise, because they would be out of the
8 ordinary course of business, the Court applies the general
9 standard applied under Section 363(b) of the Bankruptcy
10 Code, i.e., whether the proposed transfer or obligation is a
11 proper exercise of business judgment. *In re Velo Holdings,*
12 Inc., 472 B.R. 201 (2012) (Bankr. S.D.N.Y. 2012), and *In re*
13 *Borders Group, Inc.*, 453 B.R., 459473 (Bankr. S.D.N.Y 2011),
14 and *In re Dana Corp.*, 358 B.R. at 576-77.

15 In that case, tying his analysis to the particular
16 facts and circumstances of a key incentive employee program,
17 Judge Lifland asked whether the program sufficiently
18 answered the following questions in deciding whether it made
19 good business sense to approve it:

20 First. Is there a reasonable relationship between
21 the plan proposed and the results to be obtained -- i.e.,
22 will the employee be properly incentivized? Is the plan
23 calculated to achieve the desired performance?

24 Second. Is the cost of the plan reasonable in the
25 context of the Debtor's assets, liabilities and earning

1 potential?

2 Third. Is the scope of the plan fair and
3 reasonable? Does it apply to all employees? Does it
4 discriminate unfairly?

5 Fourth. Is the plan proposal consistent with
6 industry standards?

7 Five. What were the due diligence efforts of the
8 Debtor in investigating the need for a plan, analyzing which
9 key employees need to be incentivized? What is available?
10 What is generally applicable in the particular industry?

11 And, last, did the Debtor receive independent
12 counsel in performing due diligence and in creating and
13 authorizing the incentive compensation. *Id.* It is very
14 much a fact-based inquiry based upon the Debtor's resources,
15 the stage in the case, where the relief is being sought, the
16 nature of the compensation to the executives who would be
17 covered by the plan, how other employees are being treated,
18 the cost of the plan and the like.

19 Ultimately, I believe that Congress clearly enough
20 set forth the determination to be made by the Court as to
21 whether the plan is, in fact, proper compensation with an
22 incentive element to it. Or, instead, tantamount to
23 improper favoritism to an insider based upon their insider
24 relationship and their being benefitted beyond good business
25 practice merely to report to work. See, for example, again,

1 In re Residential Capital, LLC, 478 B.R. at 170; In re
2 Hawker Beechcraft, Inc., 479 B.R. 308-313 (Bankr. S.D.N.Y
3 2012), and In re Velo Holdings, Inc., 472 B.R. 201 at 207.
4 See also In re PG&E Corp., 2019 WL, 468 67 65 at Page 3
5 (Bankr. N.D. Cal. August 30, 2019)

6 The Debtor/Movant has the burden of proof to
7 establish both that 503(c)(1) does not apply to the plan and
8 that 503(c)(3)'s facts and circumstances test for an out of
9 the ordinary course action is also satisfied.

10 I have three objections to the proposed Key
11 Employee Incentive Plan, one of which is a limited objection
12 applying to only the Debtor's CEO, Dr. Landau. The first
13 objection is by the state of Washington, the second is by
14 the United States Trustee, and the third is by the so-called
15 Nonconsenting States Group, which as a group still acts
16 under common counsel, although it is now made up of states
17 that both consent to confirmation of the plan and those that
18 have objected to the confirmation of the plan.

19 The motion clearly has a context that could be, in
20 many respects, viewed as law of the case, although they
21 filed their petitions late in 2019 and the metrics for a Kay
22 Employee Incentive Program would generally be set in the
23 early part of the year, i.e., in early 2019. The Debtors in
24 2019, after their petition date, sought approval of the 2019
25 program which would largely apply retroactively since by

1 that point, we were in the fall of 2019. These plans are
2 updated and addressed on a yearly basis to reflect the
3 Debtor's circumstances as they evolve each year and,
4 therefore, in 2020, the Debtors also sought approval of the
5 2020 KEIP program and did so again in the fall of that year.
6 They have done so again for the 2021 program seeking
7 approval at the end of September, even though the company
8 developed the metrics for the program in early 2021 for 2021
9 performance.

10 The program has been modified in light of
11 negotiations with most of the creditor groups in these cases
12 in material ways that are detrimental to the executives
13 covered by the program. First, the Debtors have agreed that
14 the annual award and the long-term award for 2021 will not
15 be subject to acceleration upon the effective date of the
16 Chapter 11 plan. Instead, they have further agreed that the
17 entire 2021 KEIP annual award will be paid on June 30, 2022
18 as opposed to having a substantial portion of it paid in
19 calendar year 2021, as was the case with the prior awards
20 for the year in which they were earned.

21 Similarly, the potential claw-back from the 2021
22 long-term award has been extended through March 15, 2024 if
23 a recipient resigns or is terminated for any reason other
24 than by the Debtors without cause -- roughly, a two-year
25 extension. The Debtors have agreed not to seek to assume

1 any of the employment contracts of any of the 2021 KEIP
2 participants, therefore, not locking in those contracts as
3 part of the plan process.

4 And, lastly, Debtors have agreed to consult with
5 the Ad Hoc Committee of States and Other Governmental
6 Entities, the Multistate Governmental Group and the
7 Unsecured Creditors Committee with respect to measuring
8 corporate performance against the 2021 corporate metrics, a
9 function that would normally be performed solely by the
10 Compensation Committee and ultimately the board based on
11 presentations by management as to compliance or performance
12 compliance with the metrics.

13 And, further, have agreed that those committees
14 will consult with the Debtors in developing performance
15 metrics for calendar year 2022, although the normal time
16 when one would do that in February of 2022 may not come
17 before the effective date of the Chapter 11 plan.

18 All of those measures, as I said, are to the
19 detriment of the executives in that they delay their payment
20 and make their right to access to the long-term payment
21 subject to a more lengthy claw-back period. The plan
22 amounts are also premised upon the reductions in the prior
23 years' KEIP programs, which aggregate approximately \$4.8
24 million of reductions across the board.

25 The Court heard testimony by two parties, two

1 witnesses, rather, in support of the KEIP: Josephine
2 Gartrell and Mr. Lowne, who submitted two declarations in
3 support of the motion. Both of them had also previously
4 testified at the two earlier hearings on the 2019 and 2020
5 KEIP program, where the United States Trustee made almost
6 exactly the same objection.

7 Based on my review of that testimony and
8 especially the testimony in the current witness declarations
9 as well as the live testimony today by Ms. Gartrell and Mr.
10 Lowne, it appears to me that the Debtors have carried their
11 burden of proof to show, first, that the proposed KEIP is
12 not the type of retentive bonus program that Congress had in
13 mind in 503(c)(1) and that the KEIP was designed to be
14 consistent with, although provide materially less
15 compensation than, the roughly three decades of compensation
16 history that these Debtors provided to their executives.
17 And, more importantly, was designed to enable these five
18 employees to be compensated on an aggregate basis, including
19 the KEIP, at median compensation rates compared to their
20 company's competitors or the Debtor's competitors.

21 That testimony by Ms. Gartrell was unchallenged
22 and credible. The record is clear that when one looks at
23 the base salary of four of the five people covered by the
24 KEIP, that base salary is well-below, dramatically below in
25 fact, median compensation in the Debtor's industry. 25

1 percent below the 25th percentile.

2 With the KEIP, if the target metrics are met, the
3 compensation for those four executives, including the fifth
4 one, the company's general counsel, will be at median. The
5 company's general counsel is being paid well in excess of
6 media compensation, but no one has challenged his
7 compensation, and I believe rightly so given the evidence
8 before me and the evidence from the prior hearings in 2019
9 and 2020, which reflect the fact which is throughout these
10 cases -- I believe an obvious one, that his role as general
11 counsel is far more complex and difficult than general
12 counsel of a competitor in this industry, given the myriad
13 complex legal issues that, as general counsel, he needs to
14 deal with.

15 These payments, again, if the target is met, will
16 lead to median compensation in the industry. There is no
17 ability under the KEIP to get more than the targeted
18 payment, notwithstanding the fact, as Ms. Gartrell has
19 testified, that it is common practice in the industry to
20 have such an ability going up to payment of 150 percent of
21 the target. Here, the target is the limit and can be
22 reduced based on a right to get some payment between 75 and
23 100 percent for meeting metrics in part but not in whole,
24 and below the failure to meet the metrics there would be no
25 payment of the KEIP. So, ultimately, what the KEIP enables

1 is the opportunity to bring aggregate compensation for these
2 five individuals up to the median in their industry.

3 No doubt my ruling will be construed by some as
4 authorizing large bonuses to executives. I do not believe
5 that that is, in fact, the case here. A bonus is something
6 that you get over and above median compensation. What
7 Congress addressed in 503(c)(1) was, in essence, an unearned
8 bonus for simply staying and working at the company; not
9 something, as is the case here, to bring compensation up to
10 a competitive level if one meets the metrics that are set on
11 a yearly basis or a somewhat lesser amount if those metrics
12 are not completely met up to a 75 percent threshold.

13 That structure of a KEIP Ms. Gartrell testified
14 to, again without any cross or contravention, is a typical
15 structure in the industry. Indeed, the threshold, according
16 to her testimony, often goes all the way down to 50 percent
17 compensation for lesser performance than the target, as
18 opposed to the higher requirement of the present KEIP which
19 cuts off compensation at the level provided for here.

20 The state of Washington has objected to the KEIP
21 in a way that has been entirely refuted by Mr. Lowne's
22 second supplemental declaration. The state of Washington
23 contended that Dr. Landau and Mr. Kesselman, the CEO and
24 general counsel, "bear at least some modicum of
25 responsibility for directing the actions and setting the

1 culture of a company that has caused untold destruction and
2 immiseration. A company that by its own admission engaged
3 in a decades-long series of felonies."

4 What the state of Washington got wrong and,
5 indeed, its assertion is scurrilous in light of its failure
6 to get it right, is that Mr. Kesselman arrived at Purdue in
7 2018, well after the conduct that it rightly complains of.
8 Similarly, Dr. Landau became CEO of Purdue in June of 2017,
9 well after the conduct that is the subject or was the
10 subject of a DOJ investigation and the decades of misconduct
11 referred to in the objection. Why would anyone having the
12 role of an attorney general of a state make such allegations
13 is perhaps better left for the voters.

14 The state of Washington and the United States
15 Trustee also argued, in their pleadings at least, not at the
16 oral argument, that the decision as to the 2021 KEIP should
17 be left to the post-effective date board of these Debtors.
18 We're talking about this year, performance and compensation
19 for 2021, where we're already at September 13th. There will
20 not be a new board for this company in all likelihood until
21 2022. There is, literally, no way that they should be
22 setting the compensation for 2021.

23 Indeed, in a recent and cogent article, the
24 deferral of that type of analysis has been highlighted as
25 something that shouldn't be done. Similarly, the Debtors'

1 waiting to set a KEIP after the petition date as opposed to
2 issuing the payments in 2019 before the petition date is
3 lauded as a best practice in the article. Similarly, the
4 Debtor's agreement not only not to include the KEIP as part
5 of a plan but also to eschew assumption of the employment
6 agreements is lauded as a best practice. Arguments to the
7 contrary are just boneheaded. See Jared A. Elias,
8 *Regulating Bankruptcy Bonuses*, 92 Southern California Law
9 Review 653, 695 (March 2019).

10 What the Debtors have done which is laudable is
11 agreed to include a wide swath of creditor groups in
12 advising their current Compensation Committee and board on
13 compliance with the metrics for 2021 and in helping to set
14 the metrics for 2022.

15 The U.S. Trustee has also argued that because
16 certain of the metrics are reduced in light of the company's
17 performance, there is something wrong with them. Based on
18 Mr. Lowne's testimony including cross-examination, I
19 conclude to the contrary that the metrics -- the target
20 metrics, that is, were established or recommended by
21 management to the Compensation Committee and established by
22 the board to reflect the current condition of Purdue and, in
23 fact, in some respect, reflect better performance than last
24 year. And in one respect, which covers two categories,
25 reflect understandably worse performance than last year, a

1 \$10 million shortfall as far as the performance target for
2 Adhansia XR net sales, which is also reflected in a roughly
3 \$10 million drop in the performance target for consolidated
4 total business operating profit, as testified by Mr. Lowne;
5 Adhansia being a new product was run out in a COVID
6 environment that made it difficult to actually engage in
7 sales of that non-opioid product.

8 The declaration and testimony by Mr. Lowne also
9 addressed the U.S. Trustee's assertion that the people and
10 culture metric was vague and difficult to objectively
11 determine without further information. Mr. Lowne detailed
12 numerous additional activities required of the Debtors to
13 prepare for emergence from Chapter 11 that are unique one-
14 year tasks, and also reflected what I believe is a proper
15 focus on establishing and supporting implementation of a
16 diversity, equity and inclusion roadmap through the end of
17 2021. One would question how one could be more specific on
18 that than as described by Mr. Lowne, including as described
19 in the policies of the U.S. courts and the U.S. Trustee.
20 The objections of the U.S. Trustee therefore are overruled,
21 as are the objections of the state of Washington. That
22 leaves the more limited objection by the Nonconsenting
23 States Group, which again was an objection only to the KEIP
24 for the Debtor's CEO, Dr. Landau.

25 And before I get to that, I guess I should mention

1 an objection by both the U.S. Trustee and the State of
2 Washington, although it hardly deserves being addressed.
3 Both of them have contended that because the Debtors
4 implemented and the Court approved a keep for 2019 and a
5 keep for 2021. In essence, that's enough, they shouldn't
6 have to do it, or they shouldn't be allowed to do it for
7 2021 and presumably thereafter. The reason for that is
8 really not at all articulated.

9 As I noted, each year is part of the normal
10 compensation for key employees of this company. This
11 company has proposed this type of compensation and will
12 continue to do so. To contend that the annual review of
13 that compensation should simply stop for some reason really
14 makes no sense. It appears to me to the contrary, that the
15 reason the argument is made is simply to inflame people who
16 do not listen to the hearing and to the Court's ruling into
17 thinking that the Debtors are constantly seeking bonuses and
18 piling them on year after year, as opposed to proposing an
19 element of market compensation that puts the senior
20 executives at risk of not being paid at market, and does not
21 pay them above market.

22 So, again, returning to the last objection, which
23 is the limited one by the Nonconsenting States, in some
24 respects that objection raises important issues. Clearly,
25 and I say this based in part upon the record of the

1 confirmation hearing that I just conducted, and in part as
2 brought out thoroughly in that record, although I was well
3 aware of it beforehand, given the Court's approval of the
4 Debtors' November 2020 civil and criminal settlement with
5 the United States, that the culture, the corporate culture
6 of Purdue was sick, was in -- simply not the type of
7 corporate culture that a corporation should have.

8 It is important, obviously, to change that
9 culture, and there is considerable evidence in the record
10 that, in fact, under Dr. Landau's leadership such changes
11 have taken place, including the pre-petition termination of
12 the opioid sales force, the end of detailing, and the like.
13 The Debtors' Board was also substantially changed with the
14 appointment of an independent Special Committee that had
15 extraordinary power, and the appointment post-petition of a
16 monitor.

17 The Nonconsenting States have argued in their
18 four-page objection that Dr. Landau did not do enough to
19 change the corporate culture. They have not identified what
20 in addition needs to be done. But they have stated, and
21 there is some cogency to this, that Dr. Landau should have
22 at least directed those who were in a position to change the
23 corporate culture as to employees for past alleged
24 misconduct, to do so. The Nonconsenting States have pointed
25 out that Dr. Landau does not appear to have been directly

1 involved in either determining or recommending to others
2 that they determine whether any current employees should be
3 terminated because of their improper conduct in the period
4 before he became CEO, or even thereafter; although, they
5 have not really identified any improper conduct of any
6 employee that arose thereafter.

7 The Debtors have quite cogently pointed out that
8 because Dr. Landau was himself named as a defendant in some
9 complaints against Purdue and the Sacklers, pre-petition,
10 albeit that he strongly denies the claims that were asserted
11 against him in that litigation, it would have been improper
12 for him to inject himself into the process of determining
13 who acted properly or improperly at Purdue, who was still an
14 employee there. I agree with that argument. That role
15 really needs to have been assumed by other parties, whether
16 that would be the Special Committee or outside counsel, as
17 opposed to by Dr. Landau.

18 There is no evidence before me to show that any
19 current employee does deserve to be fired or any evidence
20 that the Debtors have turned a blind eye to any improper
21 past conduct. Indeed, it appears the Debtors have been very
22 attentive and responsive to allegations of specific --
23 regarding specific current employees' alleged past improper
24 conduct, as well as to any allegations of current improper
25 conduct.

1 Ultimately, of this record, I do not believe that
2 therefore is sufficient evidence to deny the Debtors' motion
3 as to Dr. Landau. On the other hand, I will note that since
4 the first order granting a keep motion, and this will be the
5 case for this order, I have provided for disgorgement if it
6 turns out later that any recipient of a payment has engaged
7 in misconduct. And the current language was further beefed
8 up in my order approving the KERP motion, and will be in
9 this order as well.

10 If any party believes that these Debtors are
11 continuing to employ people who should not be employed
12 because of their role in prior misconduct, that issue should
13 be addressed with a proper evidentiary record and not by
14 insinuation or innuendo or request to prove a negative.

15 It's a serious issue and should be addressed with
16 the seriousness that it warrants, i.e., with a proper and
17 full record, not a four-page objection, and in essence,
18 requests to approve -- I'm sorry, to deny the relief based
19 on the failure to prove a negative.

20 So, I will grant the motion as it has been revised
21 based on this ruling. And so, the Debtors can email the
22 proposed order to chambers doing that.

23 MR. HUEBNER: Thank you, Your Honor. I believe
24 that brings us to the last item on the agenda for today.

25 THE COURT: Right.

1 MR. HUEBNER: Which I believe is also being
2 handled by Ms. Benedict of our office. If I could ask her
3 to take over the podium, I'd be appreciative.

4 THE COURT: Okay.

5 MS. BENEDICT: Thank you, Mr. Huebner. Thank you,
6 Your Honor. Once again, this is Kathryn Benedict, of Davis
7 Polk & Wardwell LLP on behalf the Debtors. Can you hear me?

8 THE COURT: Yes, I hear you fine.

9 MS. BENEDICT: Thank you. The last item on the
10 agenda is Ms. Isaacs's motion, and I believe we've seen Ms.
11 Isaacs, so I'd ask her to turn on her video if she'd like to
12 be heard. Thank you. And as Ms. Isaacs is movant, we will
13 turn the podium over to her.

14 THE COURT: Okay. Good afternoon, Ms. Isaacs.
15 And I can tell you I've reviewed the motion. I've read it
16 and read the Debtors' objection, but I'm happy to hear for
17 you.

18 MS. ISAACS: Thank you, Your Honor. All right.
19 This is going to be really hard to do, Your Honor, so please
20 bear with me. All right. My name is Ellen Isaacs. I'm
21 here representing my beloved son, Ryan, myself, many unborn
22 fetus's that were born -- never born, due to mothers that
23 were prescribed OxyContin, the over 500,000 who have died,
24 for those that are currently addicted to opioids, to give
25 voice to those who under the Fourteenth Amendment of the

1 Constitution, have been denied their rights to be heard, for
2 the millions of families, friends, and associates with
3 mental health disorders caused by those suffering substance
4 use disorder, and to give warning and notice to the rest of
5 the world as these proceedings only have standing in the
6 United States of America.

7 Your Honor, thank you for allowing me to take the
8 Court's time and energy by allowing me to bring forth this
9 motion on behalf of myself and the American people.
10 Although I was never personally notified, I read the
11 Debtors' objection and understand as part of our legal
12 procedures, I can't say that Debtors made a full search and
13 not all the creditors agree. If that were the case, I would
14 not have received a call from my former counsel telling me
15 they liked my motion, the very attorney's office that is
16 representing some of the people's claims. These
17 incongruencies are exactly why I'm here today.

18 The attorneys are playing games on paper and
19 humans are dying. Mr. Huebner, in a prior motion, talked
20 about howling. I am here for my family and the families
21 across the nation howling. We are outraged, as you have
22 verbally confirmed bankruptcy prior to hear this emergency
23 motion that was previously on the calendar and filed well
24 prior to Confirmation, and reviewing the objection in this
25 matter, it now falls under due process and other relief.

1 The broken legal justice system is part of the
2 problem contributing to all the death, dismemberment, and
3 personal injury that in the people's nation is now a full-
4 blown mental health pandemic.

5 The opioid pandemic that was permitted to develop
6 due to Purdue Pharma and the FDAs nonadherence to their
7 responsibilities as business owners and government employees
8 has been ineffectively addressed by the government for more
9 than two decades.

10 As this case has progressed, I have read,
11 observed, and heard the most outrageous rationalizations,
12 excuses and justifications by most everyone, including my
13 prior counsel, Andrew & Thornton and ASK, LLC, and had many
14 epiphanies. Because of this, here is where I began to
15 follow many of the moving pieces in this case to put my
16 boots on the ground to uncover many truths.

17 Over the years, I've spoken to many people in
18 recovery, recovery professionals, homeless, afflicted,
19 grieving parents, policy makers, legal professionals,
20 business owners, nonprofits, college students, pharmacists,
21 physicians, medical examiners, law enforcement personnel,
22 press, advocates, activists, and many more in between. For
23 clarification, Your Honor, the Sacklers are Purdue Pharma.
24 The family is the controlling members of Purdue Pharma.

25 A corporation, a legal entity does not take any

1 action on its own. A corporation does not create,
2 manufacture, distribute, or sell a product without the
3 individuals to be the decisionmakers. We are in the midst
4 of the largest fraud ever perpetrated in the United States
5 and the world, and I intend to show how this began and still
6 exists today.

7 Our bankruptcy system is for corporations and
8 individuals that are insolvent. It is not to be utilized by
9 the wealthy for manipulation to be self-serving.
10 Manipulation is highly referred to in the Securities Act in
11 1933, and the Securities Fraud Enforcement Act of 1988. The
12 Securities Fraud Act was developed due to securities fraud
13 schemes. Here in the 21st century, we now have bankruptcy
14 and corporation fraud that is surfaced behind decades of
15 death, dismemberment, personal injury, pain, and sorrow.

16 The Webster's Dictionary's definition of
17 manipulation is (1) to manage skillfully and especially with
18 intent to deceive, and (2) the candidates try to manipulate
19 the public. The definition of fraud is wrongful or criminal
20 deception intended to result in financial or personal gain.

21 The Sackler Family is hiding behind the
22 corporation named Purdue Pharma. The Sacklers have been
23 continually and systematically using the already broken
24 justice system through their attorneys with perpetual
25 manipulation fraud for decades. They've used these tactics

1 at the minimum since the inception of OxyContin.

2 I could go back to Purdue's launch of Valium and
3 Librium in the 1960s and all those harmed, but that is not
4 why we're here today. All of the senseless deaths,
5 dismemberment, personal injury, and trauma imposed on the
6 families across the nation were created by the Sacklers'
7 manipulation and fraud towards the U.S. people and the U.S.
8 government.

9 In October 2020, they admitted defrauding
10 regulators and paying illegal kickback to doctors. The DOJ
11 also reported the Sacklers, "criminal guilty pleas, a
12 federal settlement of more than \$8 billion, and a
13 dissolution of a company, and repurposing its assets."

14 Then we have their admitting to wrongdoing back in
15 2007 with the misleading labeling in their marketing
16 materials. Back then, according to the Justice Department,
17 "Purdue Pharma pled guilty to violating federal requirements
18 to monitor promotion and sales of OxyContin, and making
19 false claims to Medicare and Medicaid" and "the company,
20 which manufactured millions of OxyContin pills during the
21 height of the opioid pandemic, was accused of marketing and
22 offering kickbacks to doctors in violation of federal
23 statute."

24 They are guilty. 2007 was the first wave of
25 deception unto the government by the Sacklers following a

1 spike in opioid related deaths. They got a slap on the
2 wrist and paid a fine. They did a reset and began their
3 marketing antics all over again, and the sales
4 representatives became more aggressive. The Sacklers have
5 one motive, money. They will use any means, including
6 manipulation and fraud to achieve their end goal, which is
7 keeping their wealth intact and creating more wealth.

8 The blood money of my son, current injury to
9 myself, and millions around the globe with very similar
10 circumstances behind the decades of the Sacklers clear
11 intentions and actions that harm millions. This has all
12 been laid out by the Senate Oversight Committee, the DOJ,
13 the FBI, and multitude of governmental agencies across the
14 nation, and these proceedings because it has been, and
15 continuously profits over the health and safety of the
16 American people. Even the attorneys are putting profits
17 over the health of the families and the grassroots of our
18 communities.

19 Much of the timeline of the facts have been laid
20 in a plethora of documents filed with this Court. It is all
21 so confusing unless you have your docket numbers, the
22 keywords of exactly what you're looking for. It's very
23 difficult to field through the myriad of discovery. For a
24 layperson who cannot afford an attorney, and not have the
25 knowledge to seek such information, and these proceedings

1 are not fair and impartial. For those here in the know, I
2 will not waste everyone's time that's here and reverberate
3 the timeline the Sacklers domestic genocide that has taken
4 over 500,000 loving humans from us, with the death toll
5 inflicted climbing.

6 The Sacklers are not bankrupt, nor is their shield
7 of Purdue Pharma. Purdue Pharma is now selling another
8 habitual extended-release stimulant drug, Adhansia, XR.
9 Let's be fully transparent. This drug is much like
10 methamphetamine, approved for children six and over -- an
11 extended-release stimulant for children.

12 They also purchased a \$6.8 million office building
13 in West Palm Beach, Florida. I have many more examples of
14 how the Sacklers or the shield of Purdue Pharma are not
15 insolvent. They are operating just fine and are
16 fraudulently abusing the legal justice system and costing
17 our government endless amounts of money to hold these
18 proceedings.

19 The Sacklers, by way of their attorneys, who are
20 trained find loopholes in our legal justice system, are
21 continuing to systematically manipulate the bankruptcy laws
22 and Your Honor to evade justice and protect their own money,
23 alongside shielding more than 1,000-plus others they
24 clearly, and on the record, have been in collusion with.
25 The Sacklers are withholding 30 million internal documents

1 from the public. It's all fraud, and it's been decades of
2 death, dismemberment, and permanent personal injury,
3 physical, and emotional trauma, and a (indiscernible) by the
4 Sackler Family.

5 How we are all sitting here today with David
6 Sackler threatening this very Court to pull the settlement
7 if the Court does not agree to the family's terms is very
8 alarming. If one person murdered one person, they are
9 looking at life in jail or death row. Here, we are
10 listening to one entire family manipulate the legal justice
11 system over and over again with little to no consequences
12 for the public health and safety emergency they created with
13 over 500,000 deaths.

14 Why? I would argue because they can afford to do
15 so. The laypeople collectively do not have the wealth to go
16 up against Purdue Pharma. I do not have the wealth, but I
17 have the wherewithal, perseverance, and moral compass to
18 stand up for myself and the American people.

19 It's unconscionable for the governing members of
20 Purdue Pharma, the Sackler Family, to believe that \$4.3
21 billion over nine years is going to be adequate compensation
22 to relieve the pressure valve and the mental health pandemic
23 that is rippling like a pebble in a pond across the entire
24 nation. No one should forget that from 2016 to 2018, the
25 government paid out over \$650 billion for services, and

1 there has been little to no relief with the numbers of
2 deaths and hospital admissions soaring.

3 This does not include the (indiscernible)
4 financial impact of the mental health services paid by the
5 government for the family members that sought and continue
6 to seek mental health services behind the death,
7 dismemberment, personal injury, and those family members'
8 mental anguish, trying to keep those afflicted alive.

9 This brings me to millions of people that have
10 viable claims against Purdue Pharma and were not effectively
11 notified. There were millions of OxyContin prescriptions
12 written since the very first prescription and
13 administrations during trial studies. I personally would
14 have never known this lawsuit was going on had I not been on
15 a social networking platform in a bereaved parents' group.
16 This is where the law firm set their traffic on the web,
17 using keywords to send clients to advertising.

18 (Indiscernible) reports show approximately 21
19 million to 23 million are currently afflicted with substance
20 use disorder. Many of the 21 million to 23 million
21 afflicted, and many of which are viable claimants, they
22 aren't sitting on social networking seeking comfort from
23 another grieving, nor are they watching television to see
24 infomercials about possible lawsuits when they've been
25 taken. Many are just looking for help to get off of the

1 poisonous drugs, or out seeking more drugs so they're not
2 physically sick from withdrawal.

3 In my travels, many have asked how they can
4 participate in this legal action, and it was passed the
5 filing deadline. These people had no idea these proceedings
6 were happening. There were millions of loving humans that
7 have not received their due process to file claims in this
8 very proceeding.

9 U.S. Attorney of this New York Southern District
10 recently quoted, "the Plan violated the constitutional
11 rights to due process for those with potential opioid
12 claims." Here is where we can get into the constitution.

13 My son's life has been taken. My life has been
14 forever altered. I do not have the liberty or free rein to
15 do what I want to do with the physical harm inflicted on me
16 by the Sacklers. I spend my days trying to survive and
17 navigating the physicians and the insurance company. My
18 property is all but gone and I cannot get my attorneys to do
19 anything I ask them to do.

20 Myself and the people of this nation have had no
21 say in these proceedings. As these tedious, time-consuming,
22 keystroke-slamming, paper-shuffling, thumb-drive jamming,
23 mincing words proceedings are going on, the CDC reports
24 approximately 200,000 more loving humans have died from
25 opioid related deaths. Many of these aggrieved families

1 that had a love one pass on that was precipitated by
2 OxyContin, also should be able to file claims against the
3 Sacklers. There should never be a deadline on protection
4 for taking of a human life financially.

5 The latest statistics from President Biden of over
6 93,000 drug-related deaths in 2020, reduces it to a death
7 every five minutes. This number does not include drug-
8 related suicides and murders, nor does this number
9 demonstrate all the drug-related nonfatal overdoses pouring
10 into medical facilities and inundating the healthcare
11 system, or the overdoses that civilians revive people from
12 in their homes and on the streets around the nation daily.

13 Here is just one example of the severity of the
14 rise in nonfatal overdoses from one medical facility in our
15 nation. Using data from a single emergency department in
16 Richmond, Virginia, researchers compared unintentional
17 nonfatal opioid overdoses between March 1st and June 30th,
18 2020, with the same time period in 2019. There were more
19 than twice as many visits for nonfatal opioid overdoses in
20 2020. The number was 227 in 2020, compared with 2019 of
21 102, despite roughly 10,000 fewer emergency department
22 visits in 2020. Black patients accounted for the highest
23 number of overdoses in both years, and the proportion was 17
24 percent higher in 2020 than in 2019.

25 We are all wise to the non-debtor loopholes, Your

1 Honor, which is why we are in your particular court with
2 you. Your Honor, for this Court to permit such wide-
3 reaching third-party relief is creating a precedent for
4 every big pharma corporation to do the same as the Sacklers,
5 who are manipulating and defrauding our government at the
6 expense of the life, liberty, property, and due process of
7 the American people. It will also permit every single
8 corporation to do the same, anyone will be permitted to tell
9 the corporation, behave unscrupulously, harm the public, and
10 walk away by declaring bankruptcy.

11 Bankruptcy was never created to protect a
12 corporation or family to keep their wealth over that of a
13 human life. The unraveling of this case and the precedent
14 being set will be an undertaking that will cost our
15 government billions. The cost of appeals will be in the
16 billions for the Sacklers and the claimants, and the only
17 ones that will profit is the attorneys, attorneys that were
18 to represent the people.

19 How many more claimants beside myself requested
20 their attorneys to file motions that were met with
21 resistance, yet the attorneys was 33 percent of the fund for
22 partaking in this charade. Only 7.5 percent of this
23 settlement is being allocated for the victims. What? And
24 approximately \$250 million of that will be paid to the
25 claimants' attorneys, leaving only \$500 million of the \$4.3

1 billion settlement of the 130,000 victims that filed claims.

2 This makes no sense.

3 The victims are getting the least compensation in
4 this agreement. The claimants' voices were not permitted to
5 be heard in these proceedings, and I have an overwhelming
6 objection -- because the people were not heard, I have an
7 overwhelming objection to the payment to the attorneys.

8 Your Honor, I have looked into your history on the
9 bench as a bankruptcy judge, and found that you've done a
10 lot of great things over the years. No disrespect, Your
11 Honor, as an outsider looking in, it is very apparent that
12 the Sacklers via their counsel, used you to get to the ends
13 of their means.

14 It's so sad. I'm sure this is not shocking for
15 anyone to hear as it's been all over the news and the
16 Internet. It's a well-known fact that the Sacklers hand-
17 picked White Plains to file their bankruptcy proceedings
18 because of your well-known history of providing widespread
19 third-party releases. You are the only bankruptcy judge in
20 this District that the Sacklers preyed upon you like they
21 have the American people. They will stop at nothing, not
22 even creating a public health and safety emergency to create
23 and retain their wealth.

24 Again, no disrespect to you, Your Honor. However,
25 you need to know the facts. I asked my counsel to request

1 for you to be recused from this case for your protection for
2 a fair and impartial outcome for the people. My attorney's
3 office advised me they would not file the motion because you
4 "are too liked by all of your peers." This statement made
5 me pause and engage with Sean Higgins, the once highly
6 hopeful attorney and in the end of all was no longer
7 exhibiting hope. It was clear, reading between the lines,
8 an exit strategy in these proceedings was underway. The
9 attorneys were not in a financial position to stay in the
10 fight, and now wanted the abatement to start.

11 Despite it all being unfair and unjust to the
12 victims, I was left scratching my head and wondering, who do
13 the attorneys work for, and does anyone in these proceedings
14 have a moral compass or has everyone got a tie in to save
15 their jobs, companies, or elected seats. I'll show you how
16 in my travels, the Sacklers are terrorists. If this had
17 been a terrorist attack like that of 9/11, the military
18 would be called in.

19 Here, we have over 500,000 deceased by one family
20 and our government is idly standing by watching the mental
21 health statistics of the American people per the latest
22 (indiscernible) report soared over 52 percent.

23 The Sacklers are (indiscernible) to a power to
24 because powers and racketeers, they are addicted to money.
25 Their fraud comes in many forms and it's mostly all part of

1 the record. Lack of due process of the citizens and far-
2 reaching, widespread, third-party releases, extremely
3 disturbing Board Room conversations, hideous emails, texts,
4 and messaging to push OxyContin sales, thwart any
5 wrongdoing, to retain their personal wealth.

6 Then we have deception in these proceedings by
7 (indiscernible) Perkin, ASK, LLC, prompting the claimants to
8 vote in favor of the Bankruptcy Plan with no explanation.
9 My ballot came through that said that I wanted to vote yes.
10 That's coercion.

11 The filing of the affidavit for the Court that
12 depicts this unscrupulous act by Prime Clerk and it was
13 never addressed. The Attorney General's filing suit against
14 Purdue Pharma and then reversing course under duress by the
15 Sacklers and their attorneys despite this case having the
16 most overwhelming amount of hours of discovery,
17 interrogatories, depositions, filthy pleas, and the DOJ
18 evidence of fraud. There are conditions in the Settlement
19 Agreement that prohibit funds for those government entities
20 that did not agree to the Settlement Agreement, and that is
21 coercion.

22 Although Kathe Sackler would like to confuse the
23 Court by reminding everyone on camera, the company pled
24 guilty, and not the individuals. I would like to remind
25 this Court that the Sacklers are Purdue Pharma. They are

1 one in the same. The corporation is a piece of paper. The
2 corporation does not have hundreds of investors to attack.
3 It is one family, and one family alone. And it has had
4 controlling interest, deceived the public and our government
5 to create a mental health crisis of pandemic proportions.
6 They were the decisionmakers that created the wave of death,
7 dismemberment, and personal injury, and mental anguish to
8 millions.

9 Here is the most egregious fact. The real part is
10 the Sacklers are not giving up anything to the American
11 people. They have used smoke and mirrors to fool our
12 government and American people for decades.

13 Please follow along, Your Honor. In 2018, it was
14 reported that Purdue Pharma's net profits since the
15 inception of OxyContin was \$31 billion. In 2019, one year
16 later, Purdue Pharma's net profits increased to \$36 billion,
17 a \$5 billion increase in profits in that one year. In that
18 same year of record, the Sacklers were aggressively moving
19 money around to off-shore accounts, and there are accounts
20 still unaccounted for in excess of \$4.3 billion.

21 The Sacklers' wealth is shielded in a web of
22 companies and trusts, some registered off-shore tax havens.
23 In one example, the Board instructed that the money pass
24 through three layers of holding companies and split equally
25 between (indiscernible) Company and Rosebay Medical Company,

1 the other ultimate parent company of Purdue. Both are
2 controlled by Sackler Trusts.

3 An examination of Sacklers' web shows striking
4 complexity and desire for secrecy while pursuing lengths
5 between (indiscernible) Holdings. The family has worked
6 with (indiscernible) to move money out of Purdue to insulate
7 their fortune.

8 The fact remains, the money they're reported to be
9 paying is coming from the parties that paid for their
10 prescriptions to start with, the victims, the insurance
11 companies, Medicare, and Medicaid. It's not their money.

12 Then to add insult to injury, they wish to deceive
13 the American people with two heart-wrenching presents, a
14 cancerous corporation has been determined to have killed
15 over 500,000 loving humans at this juncture, and a
16 nationwide public and health and safety emergency. Note, a
17 corporation is a trigger to every family member or friend
18 that has been -- had a love one pass on or to those
19 afflicted and are in recovery as a result of domestic
20 genocide fueled by the Sacklers.

21 Also, analysts have calculated the Sacklers' \$11
22 billion disclosed wealth they should be walking away with
23 has the potential to earn \$4.3 billion, they're offering in
24 exchange for any future liability of Purdue Pharma or the
25 Sacklers personally by 2024.

1 I'd like to go back a moment to the public
2 corporation. Why would I or anyone else ever agree to
3 taking this corporation is beyond comprehension? To hear
4 the revenue of the corporation, including OxyContin sales,
5 is going to be used to rehabilitate the communities and
6 mitigation the opioid epidemic is absolutely startling. The
7 mere suggestion to the public, but really the government
8 will run the entity, will be selling deadly opioids and
9 benzodiazepines that are causing death, dismemberment,
10 personal injury, mental, and physical disease to our
11 citizens, and ripping families apart, virtually causing
12 everyone harm, and then turn around and use the revenues
13 obtained as the citizens continue to be harmed, and then try
14 to rehabilitate them. This makes absolutely no sense.
15 There isn't more illogical.

16 To expand on how illogical it all is, the FBI will
17 be in control of the public corporation. The FBI, who has
18 investigated the Sacklers for criminal misconduct in
19 deceptive opioid marketing and sales, will be the nation's
20 new drug dealer.

21 The Sacklers are also Purdue Pharma -- or
22 Mundipharma of Frankfurt, Germany. And as of May 2021, has
23 a presence in over 120 countries, along with a multitude of
24 corporations the Sacklers own. They have layered these
25 companies and moved money around between the companies,

1 confusing investigations to shield their wealth. Why the UN
2 is not involved is baffling. Why a world court is not
3 overseeing this case is also baffling.

4 The Sacklers have invited a worldwide
5 investigation into the domestic genocide by their own
6 unscrupulous actions. In 1991, the Sacklers claimed to be
7 "pioneering developing medications for reducing pain, a
8 principal cause of human suffering." That is the furthest
9 statement from the truth. The truth is, they were and
10 continue to be the pioneers of creating the worst public
11 health and safety emergency in American history. The human
12 suffering they created, will carry forward into generations
13 to come with all the grieving family members and
14 insurmountable amount of emotional and physical pain.

15 Then there are the parentless children. What
16 about the children? Like many of the children that are
17 victims, my granddaughter will never know her father. Her
18 mental health is at risk and she's predisposed for substance
19 use disorder. The irreparable damage the Sacklers have
20 caused my family and millions of families around the globe
21 is reprehensible.

22 Your Honor, the temperature is rising and humans
23 with feelings and emotions are getting angrier. It was once
24 said it was hard to navigate the system. I say you can't
25 navigate through a locked channel, or in this case, a broken

1 system. There are people like Susan Osterman, who's here,
2 Your Honor, I'd like her to speak after me, myself and more,
3 that care with compassion, empathy, and love, with no
4 financial vested interest in these proceedings, that will
5 continue to help humanity and ensure the next right thing
6 gets done by the people for the people.

7 The Sacklers continuing systematically undermine
8 the very institution of our Founding Forefathers, and this
9 very Bankruptcy Court to keep the harm from their wealth.
10 Drug dealers do not get to keep their assets. All assets
11 and property are seized and they go directly to jail.

12 Please refer this case to the Justice Department
13 for criminal prosecution, overrule the corporate and
14 bankruptcy laws, and escalation to a world court to stop the
15 Sacklers from conducting business in the pharmaceutical
16 industry worldwide.

17 Based on the facts of fraud, I respectfully
18 request on behalf of myself and the American people, that
19 Your Honor reverse course and reconsider the bench ruling
20 for confirmation and enter an order denying this Settlement
21 Agreement in its entirety, along with an order for an
22 immediate investigation by a third-party into the entire
23 bankruptcy proceedings so this never happens again. Then
24 please recuse yourself from this case.

25 I have a few last things. One, Your Honor, it's

1 your choice. I believe that you do not want to go home at
2 night worried and saying to yourself, I should have done
3 more, I should have done something differently. Nor do I
4 want this stress of this particular case to make you sick
5 like it has many and many across our nation. Please stand
6 up and make the right decisions and the best intention of
7 not only the people here in the United States, but for
8 everyone around the globe, and the 120 countries that the
9 Sacklers are currently conducting business in under
10 Mundipharma, Mundipharma International, all the corporations
11 the Sacklers own under the guise of trust.

12 Two, Your Honor, I'm not an attorney. I'm a
13 grieving mother seeking to save humanity from the physical
14 and emotional pain rippling around the globe. I will
15 continue to be here to represent the people unless Alan
16 Dershowitz or Ryan Zant comes out of retirement, or possibly
17 some nonvested person in the outcome alone comes along to
18 represent the people.

19 Three, you've had many letters submitted to your
20 office by the bereaved family members for your review. And
21 out of the parties involved, I have yet to submit my letter
22 on this matter. And up until the last few months, I still
23 wanted to believe my former attorney had my family's best
24 interests at heart, but it's just false. Everybody's about
25 the money. So, I will share this letter with you now.

1 Dear Judge Drain, I am the bereaved mother of
2 Patrick "Ryan" Wroblewski. Ryan's happy-go-luck -- Ryan was
3 a happy-go-lucky child with a zest and zeal for life. He
4 had a spirit and energy about him that I had never
5 experienced before. He was smart. He could do a
6 complicated math problem in the millions without a
7 calculator.

8 He loved to be outdoors at the beach, playing
9 paintball, going on adventures, camping, working, listening
10 to music, playing video games, board games, and playing
11 cards, but most of all enjoying time with his brothers and
12 friends. When he laughed, it was contagious. He was very
13 crafty with his hands and loved being a master carpenter.
14 Very rarely did he need directions to put anything together.

15 Ryan would light up the room when he walked in.
16 Ryan had a magical charm about him. He was a human being
17 that had real feelings and emotions for others in humanity.

18 On the flip side to all of his attributes, Ryan
19 experienced a 17-year slow and emotionally and physically
20 painful cancerous death behind OxyContin. In 1999, when
21 Ryan was about 16 years old, he had an injury to his spine.
22 The physicians placed him on OxyContin. Yes, a 16-year-old
23 was prescribed 40 mg of OxyContin every eight hours. As the
24 parent, I was told by the physician this new drug was less
25 harmful than the other drugs on the market and there was to

1 be less potential for abuse. This was far from true, as we
2 all know. When the physician decided that Ryan no longer
3 needed the medication, he became physically sick and no one
4 could explain how to stop or alleviate the withdrawal
5 symptoms. This was when he began seeking other avenues to
6 obtain OxyContin.

7 He and a few of his friends that had now also
8 found their way to this drug, began a laborious process of
9 physician shopping to not be sick. They would share their
10 medication between each other and look out for one another.

11 Ryan went through 17 years of physical and
12 emotional torture. The angst that he internalized was
13 severe. When Ryan became 18, I could no longer help him.
14 The HIPAA laws would not permit me to gain access to his
15 records to get him the help he needed. As a parent, I felt
16 helpless. The government was prohibiting me from helping my
17 child.

18 By 21, the cravings for OxyContin were so severe
19 that some of his decision-making processes became
20 questionable. The craving for the drug superseded any
21 rational thought because that is what the opiates do to the
22 human brain.

23 By 24, 25, everything in his world as he knew it
24 spun out of control and he lost nearly everything. He lost
25 his girlfriend of eight years, his housing, his job, and two

1 of his brothers turned the other cheek, along with nearly
2 the entire extended family. The once family-oriented child
3 told me he felt like an adult child of a single mom. Yet,
4 he physically had a biological father and three brothers.
5 OxyContin tore our family to shreds.

6 Also, at this time the pill mills spawned and they
7 could all pick a doctor on the same block. Then when the
8 raids came on the pill mills, to not be physically sick,
9 Ryan slowly disintegrated into heroin. During the next 10
10 years his heroin use became more extensive. I would suggest
11 that he go to treatment, and I was met with resistance.
12 Ryan believed he had to work to sustain a life, and if he
13 was in treatment there would be no income to provide basic
14 essentials. His mind was caught in a trap. Like with
15 OxyContin and all pain medication, the human body builds a
16 tolerance to the medication and the dose needs to be
17 increased to reduce pain or increase euphoria. It also
18 takes away your ability to think clearly. Either way, it's
19 a lose-lose situation because coming off higher doses of
20 pain medication and heroin is much more difficult and
21 dangerous.

22 He also began to experience weeks of homelessness
23 as he became a recluse out of shame and stigma. One of his
24 dear friends told me that Ryan told him, "I am a huge
25 disappointment to my mother." No, the government is a huge

1 disappointment to me. The very people that are supposed to
2 protect and serve the people, the Sacklers, and the
3 physicians, the pharmacists, killed Ryan.

4 In those 10 years, no matter what was going on
5 with him, Ryan always showed up for me and wanted nothing
6 more than to have a cohesive family unit with his brothers.

7 He has also had a lot of emotional ups and downs
8 behind his feelings and yearning for the family unit. He
9 would describe the feelings of abandonment, worthlessness,
10 unloved, disrespected, mistreated, inferior, lonely, and so
11 on. One evening he explained to me that when he is on
12 opioids all of his emotions go away and he feels free from
13 society ridiculing him and labeling him.

14 At the latter part of the 10 years, Ryan called to
15 say he was having a child. The day I got this call, was the
16 happiest I had heard from him since before the physician
17 first prescribed him OxyContin at 16 years old.

18 Also, during this 10 years, I received a
19 disturbing call from my grandmother, Ryan's great-
20 grandmother. Ryan was on the living room floor curled up in
21 a ball saying he wanted to die and crying. I was devastated
22 for the two of them, and sent in the troops to go get him
23 and bring him to me again. This was one of the many times a
24 core group of us would go get one of the many afflicted.
25 This was one of multiple times it was my son. I am truly

1 grateful for these persons and they know who they are.

2 When the Medicated-Assisted Treatment drugs
3 Suboxone and Subutex came out, he thought he had found the
4 answer to not being sick and tapering off of the opioids.
5 No, that was not the answer. Suboxone and Subutex are also
6 being abused by individuals in the grassroots of our
7 communities. These prescribing physicians have taken
8 advantage of what was to be a short-use drug to get people
9 off of the opioids and are also further harming the public
10 for profits and providing these drugs long-term which is
11 adding to the public health and safety emergency. These
12 unscrupulous doctors are taking cash only just like the pill
13 mills did. It's all about the money.

14 Ryan changed geographic locations and ended up on
15 heroin with methamphetamine. In a panic from the
16 methamphetamine, he returned home and started seeking out
17 help. He would spend night after night outside the local
18 state-funded facility for a bed. He would ask me why do I
19 have to get high each night to get a bed in treatment when I
20 am trying to get off the drugs. None of what was going on
21 at this state-funded facility made any sense. I could not
22 explain to him that they get paid for every intake whether
23 they have a bed or not, and it's all a game of government
24 monopoly. This was his life he was fighting for and I was
25 trying to give him a lot of hope and love.

1 He eventually heard from another client about the
2 money scheme and decided he was not going back there to be
3 shuffled around so they could get a check at his personal
4 expense. He had integrity.

5 Then he was approached by a gentleman who says he
6 can get him into treatment. Ryan goes to treatment and
7 there -- while there learns that the fellow was an insurance
8 broker that got paid by someone else to refer him and the
9 center paid for his insurance. I then get another call; he
10 doesn't know what to do. He wants to stay because he
11 believes this is the best chance, he has to get clean, yet
12 is conflicted and wants to leave because he does not want to
13 get in trouble. He decided the benefit of himself getting
14 better over the next few weeks outweighed the risk of
15 getting in trouble and reverting back to a life he no longer
16 wanted to live.

17 Shortly after Ryan's graduation, the center was
18 shut down. Ryan stayed off opioids for about a year.
19 During this period of time he was gainfully employed,
20 playing cards, video games, enjoying the beach, laughing
21 with his youngest brother and friends. Then he had an
22 epiphany. I already said he was smart. He began recalling
23 the timeline of events that occurred from his childhood in
24 his moment of clarity. Ryan called furious and just know,
25 it took a lot to get him mad. He realized that the

1 physician that put him on OxyContin when his life -- was
2 when his life went tilt. He was livid.

3 Ryan wanted to talk about this and offered to take
4 me out to dinner. At dinner, he expressed he could not
5 shake off the internal rage towards the physicians,
6 hospitals, and the government for playing Russian roulette
7 with his life.

8 Just before our last holidays together, Ryan
9 shocked me. He brought me home to a completely decorated
10 house, inside and out; although, this was Ryan, tender,
11 loving, kind, thoughtful, and caring. However, we did not
12 get through the 2017 holidays without another wave of
13 emotions that turned him back to the drugs.

14 At this time, Ryan was dealing with the grief of
15 the loss of a friend from a tragic overdose and he had a lot
16 of fear surrounding a loved one. Unfortunately, these
17 personal matters and the holidays without his daughter in
18 his life became really intense and became too much for him
19 to bear. Many things were going on, but the worst thing
20 always nagging at his emotions and heartstrings was the
21 yearning to hear his daughter's voice. She was the
22 motivator and driving force when he started to turn his life
23 around. The more he would try to engage with no positive
24 results, the more upset he would get. Then he wouldn't call
25 because the pain of rejection was too great. The

1 combination of everything was a perfect storm brewing.

2 This was also the first time he was shunned by my
3 landlord and requested to leave the property. I was
4 threatened with eviction if he returned. Due to the stigma
5 and fear, the landlord had no compassion and empathy for
6 Ryan. He was once again homeless. In the past he would
7 have a few weeks of homelessness and rebound. This time it
8 went on for months. Once again, he reluctantly turned to
9 the state-funded facility for help. Again, I was sitting
10 with him night after night to keep him safe while he
11 injected, smoked, or snorted drugs to produce a positive
12 drug screen so they could get a check at his personal
13 expense.

14 It was complete lunacy what I was witnessing at
15 the treatment center and the hospital's facilities. One
16 night he overdosed inside of a hospital's locked-down detox
17 after just being revived from an overdose. They had not
18 done his intake properly and never removed the drugs from
19 him.

20 Around this time is also when the arrests started.
21 He was trying to get clean, appear in court, and look for a
22 job all at the same time. He became so overwhelmed. The
23 background check continued to prohibit him from his gainful
24 employment, this kept him on the street, he had no
25 transportation to freely get around at his liberty, his

1 property was all gone except for what he had in his
2 backpack, and he was getting tossed around the government's
3 broken systems penniless.

4 The Sackler's stripped him of all of his self-
5 worth, his life, liberty, property, and due process.

6 Over the 17 long years, I spent many hours with
7 Ryan crying in my arms. He would ask me questions like,
8 what is wrong with my brain, why is there no help, why
9 doesn't anyone care, what is wrong with me. He also began
10 to make statements like, I'm going to die before I'm 30, the
11 government doesn't care enough to help someone like me, and
12 when I die, please donate my brain to science. That's all a
13 mother needs to hear.

14 That last statement threw me into high gear after
15 years of trying to get him help in our local community. The
16 most families across -- like most families across the
17 nation, we could not afford attorneys. Since the local
18 state-funded facility was forced to take court ordered
19 patients, I filed for a Marchman Act on Ryan to get him into
20 treatment by court order.

21 The order was obtained but the place for him to go
22 to treatment was not around the corner. Just when I thought
23 we had finally got him a bed, and things went awry. The
24 county legal justice system is just as broken as this
25 bankruptcy court and the DOJ.

1 Before Ryan passed on, we had one last mini-
2 vacation together Labor Day weekend 2018. Ryan was so
3 happy. He was dancing, and for Ryan that was huge. Anyone
4 that knew Ryan, knew he did not dance. He was smiling and
5 laughing for the first time in 10 months. I could see a ray
6 of sunshine in his eyes. I had hope for him. So much so
7 that when he asked me if we could move to another state to
8 be near his brother -- youngest brother and get treatment
9 services there, I agreed.

10 Although, sadly, we never got there. Ryan went
11 down again, but not before there was one last act of
12 goodwill. You see, the previous day, Ryan took his food and
13 gave it to another family to feed their grandchildren who
14 had no food. He always made sure children and animals had
15 their needs met before that of his own.

16 At this point, I had lost track of how many times
17 I had received calls about another overdose. However, this
18 time I was in the next room and there was no need for a
19 phone call, just a huge crash against the wall and the
20 floor. And what I witnessed next was the four of the most
21 traumatic experiences of my life. The first being my son's
22 lifeless body on the floor. The second was sitting with him
23 for nine days, hooked up to life support and a plethora of
24 machines and wires. The third was watching the medical
25 staff take him off of life support to move him to hospice.

1 And the fourth was physically crossing him over myself and
2 tucking him in and kissing him on the forehead to say
3 goodbye for the last time when there was nothing else that
4 the doctors could do.

5 Ryan didn't choose to live his life this way. The
6 Sacklers poisoned my son's mind as a child with harmful
7 chemicals that changed the chemistry in his brain. The
8 Sacklers used their marketing team and physicians to
9 administer synthetic heroin to my son. The Sacklers planted
10 the cancerous opioids in my son's body that slowly killed
11 his soul over 17 years.

12 OxyContin fractured the entire family unit.
13 Everyone in our family is suffering a form of trauma,
14 conscious or unconscious, from the Sacklers' manufacturing
15 and sales of OxyContin and the absence of Ryan's physical
16 presence.

17 At 33, Ryan's pain and suffering stopped when he
18 took his last breath. The pain and suffering to myself and
19 my family, physically and emotionally, continues daily, in
20 part because we miss Ryan. The largest part is due to our
21 government's ineffective dealing with the Sacklers and the
22 public health and safety emergency they all created, along
23 with living in the devastation of our communities with
24 little to no resources.

25 At this point, the effective resources are coming

1 from the people, for the people. The people are the real
2 humanitarians, cleaning up behind the Sacklers and our
3 government's wave of public devastation.

4 As I walked out the hospital, I threw my hands in
5 the air and said, enough is enough, and I meant it. And
6 that's why I'm here today, Your Honor.

7 Your Honor, since your bench ruling, all I hear is
8 the Sacklers really got away with murder. That's what
9 people say when they call me on my phone. The Sacklers
10 really got away with murder. If this is not revoked, yes,
11 indeed, the Sacklers will not only have gotten away with
12 murder, they will continue to murder through Mundipharma,
13 and they will have defrauded the people and American
14 government again.

15 This is the worst crime against humanity since
16 Adolf Hitler, that is being swept under, aside, and paper-
17 pushing and high paid attorneys. The case is in the wrong
18 court.

19 Lastly, through all of my travels and speaking to
20 various people and visiting with different organizations and
21 groups and processing the volumes of information, I have
22 hope, the destruction to our families in the grassroots in
23 our communities can be stopped and remedies can begin to
24 heal the nation and the world. Several key activists have
25 solutions that would benefit the families, the Court, the

1 Justice Department, the Sacklers, and the afflicted, who
2 would like to speak to the Sacklers.

3 With the new information and perspective, please
4 take the proper legal and humanitarian action now. Please
5 stop the biggest fraud ever perpetrated on the American
6 people.

7 Your Honor, I didn't do a second letter about
8 myself. That could be just as cumbersome and grossly -- the
9 overdosing and what they did to me in the hospitals, by
10 doctors, that went on -- I could go through all kinds of
11 stories and people that I've seen along my journey, but I
12 would like to please let you listen to Susan Ousterman.

13 And I want to thank you for your time. And I
14 appreciate everybody for being here. I know this is a very
15 difficult situation for everybody, but we have to do the
16 right thing for our citizens, for the love of the people.
17 This is not about the Sacklers and their wealth. This is
18 about the people getting the help that they need in the
19 grassroots of their communities.

20 Keeping this corporation going is not helping the
21 people.

22 THE COURT: Okay.

23 MS. ISAACS: Your Honor, thank you.

24 THE COURT: Thank you, Ms. Isaacs. This is
25 actually in a legal setting where I'm dealing with Ms.

1 Isaacs's motion. So, I'm going to hear from the Debtors and
2 then give you my ruling.

3 MS. BENEDICT: Thank you, Your Honor. Your Honor,
4 the Debtors will rest on our papers, unless you have any
5 questions for us.

6 THE COURT: All right. That's fine. All right.
7 I have an -- I mean, the title of the document, an emergency
8 "Request for Immediate Injunction and Hearing for Due
9 Process, Production for Evidentiary Documents and Other
10 Relief." It was filed by Ms. Isaacs in this case shortly
11 before the start of the -- actually, during the Confirmation
12 Hearing of this -- of the -- after the 11th --

13 MS. ISAACS: No.

14 THE COURT: -- or shortly before, on August 16th.
15 And I've heard Ms. Isaacs at length at this point. And I
16 would just ask you, ma'am, to listen to me as carefully as I
17 listened to you.

18 First, it is crystal clear to me and has been
19 since the start of these cases that the products, primarily
20 OxyContin, that these Debtors produced, has caused
21 unimaginable harm to people like yourself, ordinary, good
22 people.

23 It's also clear to me that from the very start of
24 these cases, everyone in these cases, including the Debtors,
25 was opposed to the Sackler Family. The Sackler Family did

1 not run these Debtors when they filed, and has nothing to do
2 with these Debtors, other than be a target during these
3 cases.

4 I have ruled at length, and I will file shortly a
5 modified bench ruling that lays out, I hope, even more
6 clearly my assessment of the Plan in these cases, which was
7 prepared and negotiated to resolve as best as a bankruptcy
8 case can, the civil claims against these Debtors and the
9 very closely related claims against the Sacklers. It was
10 negotiated on one side of the table by states, governmental
11 entities, Indian Tribes, representatives of personal injury
12 claimants, and NAS Babies, and their parents and
13 grandparents, and the Official Unsecured Creditors
14 Committee.

15 Those negotiations were fierce, both among the
16 creditors and against the Sacklers. They were fierce among
17 the creditors because each creditor believed that its
18 particular group was entitled to most of the value.

19 I have heard six days of testimony and had two
20 days of oral argument on that Plan, and I've evaluated it
21 very carefully and concluded that although it's not perfect,
22 it is worthy of Confirmation, and I've approved
23 Confirmation.

24 I want to be clear because you have said today as
25 well as in your pleading, which preceded my ruling, that the

1 Plan enables the Sacklers to get away with criminal conduct
2 and that this case should be somehow moved to a criminal
3 proceeding. The Plan does not release anyone of any
4 criminal conduct. Throughout these cases and after the
5 Plan's Confirmation, any governmental entity with the
6 criminal power can exercise that power.

7 What the Plan does is resolve civil claims, claims
8 for money in the way that has been not only extensively
9 negotiated, but I think thoughtfully negotiated, in large
10 measure to try to dedicate the money to abatement. The
11 abatement procedures are intentionally open to people like
12 yourself and other representatives who live this for input
13 as to what works or doesn't work.

14 Importantly, and this is something only a
15 bankruptcy order can do, the money can be used only for
16 abatement. It can't be spent for some other purpose, which
17 is what happened for example with the cigarette settlements.
18 And equally importantly I think, there's reporting often to
19 the Court about the use of the money for abatement, so that
20 people like yourself can read it and say, well, this doesn't
21 work. For example, you know, the system of treatment isn't
22 working, as you described it. It gives people like yourself
23 that input to try to help people, unfortunately not your
24 son, but like your son, who are still going through that
25 hell.

1 So, I've heard you and others a lot. Believe me.
2 And I certainly have no love loss for the Sacklers. And I
3 can tell you, that I do not feel manipulated by anyone in
4 these cases, nor do I believe that the attorneys general
5 were manipulated. They're beyond manipulation. Or the
6 Creditors Committee.

7 We do live under a system of laws in this country.
8 Every person has the right to try to change those laws, but
9 the precedent in the Second Circuit, and the majority of the
10 precedent throughout the country supports this Plan.

11 I did not become a judge to get things wrong.
12 I've tried as hard as I can throughout my 20-year career to
13 get things right. I could have stayed in private practice
14 and made in one year the amount of money that I made in that
15 20 years. That's not my -- that's not what I wanted to do.
16 I became a judge to try to get things right, and that's what
17 I've tried to do here.

18 People are certainly free to disagree with it.
19 But I do urge you to read my ruling and see where a lot of
20 people in this case have tried to do the right thing in a
21 very difficult situation.

22 So, I'm not going to reconsider my ruling, which I
23 think is the proper context at this point given the evidence
24 that I've heard and the basis for that ruling.

25 And I wish with all my heart that some of the

1 value in this case goes to you personally, but more
2 importantly, to help abate the opioid crisis, which is
3 coming not from the government, it's coming from the
4 judicial system. And it's setting a precedent for how the
5 states and the public deal with these settlements from other
6 parties who are being sued around the country for enormous
7 amounts of liability.

8 So, I thank you for sharing with us what is truly
9 difficult, even after all these years, a difficult account.
10 And I thank you for that.

11 So, I will ask the Debtors to submit the order
12 denying the motion, which at this point I will treat as a
13 motion for reconsideration.

14 Thank you, ma'am.

15 MS. ISAACS: Thank you, Your Honor.

16 THE COURT: Okay. I think that concludes today's
17 hearing.

18 MS. BENEDICT: Thank you, Your Honor.

19 (Whereupon these proceedings were concluded at
20 2:50 PM)

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1 **I N D E X**

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3 **RULINGS**

		Page	Line
5	Personal injury claimants motion granted	16	25
6	Carpenter motion granted	18	7
7	Squire Patton Boggs fee application granted	19	13
8	Trust authorization motion granted	34	23
9	Debtors' KEIP/KERP Motion granted	140	20
10	Motion to reconsider ruling denied	179	12

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1 C E R T I F I C A T I O N

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3 I, Sonya Ledanski Hyde, certified that the foregoing
4 transcript is a true and accurate record of the proceedings.

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Sonya M. Ledanski Hyde

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Sonya Ledanski Hyde

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25 Date: September 15, 2021

&	51:8 52:12 55:4 70:18 73:12 95:8 106:4 118:20 124:22 125:25 126:6 129:16 130:17 136:13 157:21	1960s 145:3 197,423.16 2:17 1970s 105:9 1988 144:11 1991 159:6 1999 162:20 1st 119:8 151:17	156:15 2020 43:6,7,7,14 43:18,22,24 44:3 44:9,10,12,17 45:8,9,10,12,25 46:3,7,7,18 47:1,2 47:5,6,10 50:24 60:14 66:2 67:15 74:13 82:11 88:14
0	11501 181:23 1177 9:18 11th 175:12 12 180:10	2 2 76:23 144:18 2,576.84 2:17 2-3 116:13 2.09 27:7 20 70:11 178:12 178:15 180:9	116:13 129:4,5 131:4 132:9 138:4 145:9 151:6,18,20 151:20,22,24 2021 1:16 2:1 4:21 4:22,23 5:2,3,9,10 5:15,21 6:1,1,8,9 35:6,20 37:24 38:1,1,2 39:6,7,10 45:2 46:16,23 47:22 50:25 60:15 67:16 69:23 70:7 70:7 71:7,23 72:3 74:1,11 76:17 81:6 93:14 94:16 124:14 129:6,8,8 129:14,17,19,21 130:1,8 134:16,19 134:22 135:13 136:17 137:5,7 158:22 181:25
1	120 158:23 161:8 1201 8:11 1221 7:14 13 1:16 2:1 180:7 130,000 153:1 13th 16:22 38:5 134:19 14 46:24 47:5 54:3 140 180:9 140,000 20:24 15 43:13 129:22 181:25 150 60:18 62:9 64:2 132:20 15th 73:4 16 162:21,22 165:17 180:5 160.103. 16:4 1674 46:9 16th 175:14 17 151:23 162:19 163:11 170:6 172:11 170 128:1 179 180:10 18 47:11 163:13 180:6 19 180:7 19-23649 1:3 1900 7:21 1933 144:11	200 10:3 62:9 64:2 200,000 19:3 150:24 2001 115:22 2004 107:18,19 109:19 115:1 2006 125:22 2007 115:17,21 145:15,24 201 7:21 8:3 10:18 126:12 128:3 2011 126:13 2012 126:12,12 128:3 2016 148:24 2017 84:1 110:21 116:16 134:8 168:12 2018 77:13 78:22 80:2 84:10 88:10 134:7 148:24 156:13 171:2 2019 88:14 98:24 106:13,15 107:17 117:6 128:4,5,21 128:23,24,24 129:1 131:4 132:8 135:2,9 137:4 151:18,20,24	2022 51:1,2 52:14 54:11 68:6 72:15 73:3 74:2,7 93:16 119:5 129:17 130:15,16 134:21 135:14 2024 73:4 90:12 129:22 157:25 207 128:3 20852 10:4 21 149:18,20 163:18
10	10601 1:14 107 41:1 47:14 10:12 1:17 11 2:20 3:3,14,24 4:11 30:2 34:6		

21st 144:13	3485 3:8,19	5	97:10
227 151:20	3486 2:8	5 35:5 51:11	695 135:9
23 71:6 149:19,20 180:8	3487 2:10	156:17	6th 16:21
24 163:23	3493 3:9 4:4	5.21 72:2	7
2463 4:6	35 45:7,11 63:18	5.39 71:23	7 180:6
248 1:13	3526 2:13 17:17	50 62:7 63:14	7.5 95:25 152:22
25 42:4,7,7,8,9 61:2 131:25 163:23 180:5	3555 3:19 4:4	64:11 133:16	7/19/2021 2:17
250 152:24	358 125:21 126:14	500 8:18 152:25	70 56:14,14
25th 64:24 74:18 132:1	3582 6:15,20	500,000 141:23	7006 9:3
27 64:24 74:18	36 156:16	147:4 148:13	71 40:25 47:14
28th 37:24 38:10 39:7	3624 5:17	154:19 157:15	75 40:21 41:11,12
29 40:25 94:16	363 2:20 3:3,14,24 4:12 126:9	502 30:11,15	42:2 52:5 54:1
2:50 179:20	3733 18:2	503 73:20 96:4	55:13 56:11,15
3	3734 6:21	97:14 99:7 123:24	57:8 58:7,9,10,17
3 97:19 100:8 126:2,6 128:4,8	3743 4:18	124:1,1,17,22	60:16,22 61:18,22
30 47:13 70:11 72:15 118:22 128:5 129:17 147:25 170:10	3744 6:11 36:13 37:3	125:1,4,13,15	62:4,7,10 63:5,8
300 1:13 181:22	3750 2:2	126:2,6 128:7,8	63:11 64:12 67:14
3077 4:24 5:4,11 5:22 6:2,10	3753 2:17	131:13 133:7	74:20 96:23
308-313 128:2	4	506 30:11,15	132:22 133:12
30th 54:11 56:21 58:16 101:1 151:17	4 41:1,10,14 43:7 43:8 44:19 47:5 47:15 51:9,10 104:7	50th 65:3,25 89:13	79.6 46:5,11
31 9:10 126:1 156:15	4.5 116:13	52 154:22	8
3137 5:5	4.3 148:20 152:25 156:20 157:23	52nd 9:10	8 145:12
33 152:21 172:17	4.8 130:23	55 89:14	8.7 22:17
330 181:21	40 44:20 162:23	55-58 94:15	80 84:1
3320 5:12	400 82:5	5625 5:23	85 115:6
3334 6:4	45 16:4 62:18 89:15	567 125:21	850 9:3
34 180:8	450 7:5	570 8:11	87 115:6
3484 2:25 3:19 4:17	45202 7:22	576-77 126:14	9
	453 126:13	6	9 79:5,9
	459473 126:13	6 51:11	9/11 154:17
	46 65:2,3	6.8 33:15 147:12	90 62:4 104:14
	468 128:4	6.855 22:12	9006 18:13
	472 126:12 128:3	6/24/2021 2:16	90s 100:14
	478 128:1	60 62:18	91 115:6
	479 128:2	62 75:13	92 135:8
		65 62:5 128:4	93,000 151:6
		650 148:25	94 44:23
		653 135:9	95 56:2,10
		67 128:4	9th 39:9
		671 125:22	
		69 41:21 42:4 45:21,24 46:15	

a	accurate 181:4 accused 145:21 achieve 47:12 49:6 57:2,6,17 61:6 91:7 97:4 103:10,11 126:23 146:6 achieved 53:5 55:7,16 60:24 achievement 68:4 68:5 91:12 101:25 achievements 68:11 achieving 40:15 41:15,16 42:25 56:23 57:1,8 91:9 acknowledge 125:23 act 144:10,11,12 155:12 170:19 171:11 acted 139:13 action 115:14 128:9 144:1 150:4 174:4 actions 26:21 31:9 79:20 114:23 133:25 146:11 159:6 activists 143:22 173:24 activities 47:20 49:2,9 108:6 136:12 activity 47:25 50:12 84:3 115:4 116:5 acts 128:15 actual 45:18 47:4 47:6 63:2 67:9 71:17,19 94:20 98:25 123:16	ad 2:4,6,9 5:11,23 7:13 9:9,16 15:13 16:6 17:22 21:14 35:18 120:18 130:5 adam 12:9 add 28:3,17 32:7 33:12 34:23 38:16 56:9 85:7 105:12 157:12 added 46:5 56:13 58:18 addicted 141:24 154:24 adding 166:11 addition 17:21 121:13 138:20 additional 83:9 96:1 121:18 136:12 address 16:15 22:10 24:25 114:15 116:1 117:1 addressed 24:13 111:23 117:23 129:2 133:7 136:9 137:2 140:13,15 143:8 155:13 addresses 36:14 97:14 100:18,20 addressing 99:7 adds 74:12 adequate 148:21 adhansia 42:20 43:22 44:9,16,17 46:22,23 47:1,2 53:20 54:2 55:5 55:14,18 92:25 104:12,16 136:2,5 147:8 adjourned 35:14 38:3 94:10	adjusted 24:7 70:17 adjustments 70:3 administer 172:9 administrations 149:13 administrative 125:2 admission 79:22 134:2 admissions 108:5 149:2 admit 37:15 38:19 admitted 37:9 80:18 115:8 145:9 admitting 145:14 adolf 173:16 adopted 60:12 125:12 adult 164:3 advance 30:14 33:16 106:11 advanced 21:15 114:19 advancement 116:25 advances 30:4,8 advantage 166:8 adventures 162:9 adversarial 121:19 advertising 149:17 advised 36:9 82:25 111:3 112:20 154:3 advising 135:12 advocate 79:11 advocates 143:22 advocating 78:11 afanador 8:8 affidavit 155:11
----------	---	--	--

affirm 37:20 39:1	155:19,20 160:21	alluded 28:3 114:18 115:16	andrews 11:11
afflicted 143:18 149:8,19,21 157:19 165:24 174:1	agreements 135:6 agrees 88:21 120:8	alongside 147:23	angrier 159:23
afford 146:24 148:14 170:17	agriculture 123:9	altered 150:14	angst 163:12
afield 121:4	ahc 72:10 73:24 95:9 122:14	amanda 13:11	anguish 149:8 156:7
afraid 105:23	ahead 38:21 40:3 52:1 69:21 89:9	ambitious 91:6 118:15	animals 171:14
afternoon 141:14	air 105:25 173:5	amend 86:18,18	anne 11:11
agencies 146:13	aisling 13:12	amended 35:20	announce 94:7
agenda 2:1,1 15:4 15:5 35:6 140:24 141:10	akin 10:8 32:18 101:24	amendment 141:25	annual 35:25 70:13 71:25 72:1 118:21 129:14,17
agent 116:8	al 15:3	america 142:6	anomalous 29:21
aggregate 41:12 45:24 52:6 55:24 56:3,8,14 57:13 65:23 130:23 131:18 133:1	alan 161:15	american 77:4 80:7 123:2 142:9	answer 18:3 42:20 54:23 55:7 56:8
aggressive 146:4	alarming 148:8	146:16 148:18	56:15 61:23 62:1
aggressively 156:18	albeit 55:8,19 56:5 139:10	152:7 153:21 154:21 156:10,12	62:24 67:13 83:23 85:18 87:5,24
aggrieved 150:25	aleali 11:9	157:13 159:11 160:18 173:13	88:6 95:14 166:4 166:5
ago 21:14 42:17 57:1 64:16 74:13 94:17 98:16 117:20	alexander 12:19	174:5	answered 112:4 126:18
agree 18:7 23:11 23:17 25:8 28:23 78:16 80:23 87:13 93:23 98:2 101:20 104:13 139:14 142:13 148:7 155:20 158:2	alfano 11:10	americas 7:14 9:18	answering 85:20
agreed 34:9 72:24 73:8 74:13 119:9 129:13,16,25 130:4,13 135:11 171:9	alice 14:3	amount 16:10	answers 81:7 90:22
agreement 27:6 58:16 109:1 122:6 135:4 153:4	alive 149:8	19:3 22:11 29:22 42:14,22 48:9	antics 146:3
	allegations 81:17 116:4 134:12 139:22,24	52:10 58:16 61:2	anybody 88:17 90:20 121:8
	alleged 36:2 115:22 117:22 138:23 139:23	63:2 72:4 122:4 133:11 155:16 159:14 178:14	apart 158:11
	allegedly 109:11	amounts 42:1 66:2 67:8 130:22 147:17 179:7	apologies 86:2
	allen 4:4 8:14 28:19	ample 25:19	apologize 42:16 44:7 52:8,21 65:13,15 105:7
	alleviate 163:4	analogy 111:12	apology 79:15
	allison 14:7	analysis 66:13 108:3 109:14	apparent 153:11
	allocated 152:23	126:15 134:24	appeal 25:22 26:3 26:16 27:4,7,13
	allow 27:2 51:14 88:13 94:21	analysts 157:21	27:15 28:6,7,13
	allowance 125:8 126:1	analyzing 127:8	31:1,12 32:15
	allowed 16:9 124:24 137:6	andrew 5:11,22 9:13 11:10 33:1	34:10,12,15
	allowing 142:7,8	105:15 143:13	appeals 22:8,21 23:3,13,20,24 24:2 27:10,15

152:15	76:20,24 77:21	38:24 69:18,21	assertions 17:18
appear 138:25	81:12 89:3 94:21	85:6 93:9,10	assess 68:3,5
169:21	107:15 121:9	94:16 118:14	93:18
appears 16:5	appropriately	124:12 134:16	assessment 62:13
57:11 101:13	91:3	137:15 139:14	94:4 176:6
104:6 120:6	approval 37:25	176:20	assets 126:25
131:10 137:14	38:2 39:6,9 56:25	arguments 23:9	145:13 160:10,10
139:21	91:11 93:8 117:2	108:16 135:6	assignments
appellant 25:20	124:13 128:24	arid 6:1	77:14
29:12	129:4,7 138:3	arik 10:14 32:17	assist 29:9 73:21
appellant's 26:9	approvals 126:2	arms 170:7	assisted 166:2
appellate 23:19	approve 126:19	arose 139:6	associates 142:2
25:10,17 26:15,18	140:18	arps 82:14	assume 29:13
27:3 29:1,5 30:25	approved 35:7,23	arrangement 62:3	37:12 42:19 65:7
appellee 31:12	35:24 69:24 70:7	arranging 24:17	73:10 87:18
appellees 26:1	70:22,25 72:2	arrests 169:20	121:23 129:25
34:12	74:17 95:11	arrived 78:22	assumed 73:15
appellee's 26:8	123:18 137:4	134:6	139:15
applicable 30:13	147:10 176:22	arriving 80:20	assuming 46:15
100:10 127:10	approves 68:12	art 1:25	65:21 85:5 124:12
application 2:15	68:25	article 134:23	assumption 135:5
19:1,6,8,13 51:9	approving 19:2	135:3	astonishingly
180:7	25:11 69:4 140:8	articulated	78:1
applied 126:9	approximately	111:17 137:8	atinson 11:12
applies 126:3,8	20:24 46:17 48:25	aside 65:21	attached 111:25
apply 102:24	57:23 130:23	173:16	115:5
103:25 124:14	149:18 150:24	asked 59:20 60:5	attack 81:15
125:8 127:3 128:7	152:24	64:16 115:2	154:17 156:2
128:25	ardavan 11:23	116:19 118:8,11	attacks 77:9 92:3
applying 128:12	areas 120:19	126:17 150:3	attempt 25:21
appointed 80:16	aren't 78:3	153:25 171:7	attempting 23:3
appointment 19:2	122:18	asking 24:14	attended 79:10
138:14,15	argue 22:21 26:1	59:15 88:4 117:16	attention 82:23
appreciate 21:21	31:14 34:15 76:5	aspect 38:20	83:3,6 84:23
25:12,15 114:9	95:13 106:20	39:21 60:12	86:12 87:7,11,16
174:14	148:14	aspersions 115:24	88:9,15,18 121:17
appreciative	argued 34:10	assembled 116:23	attentive 139:22
141:3	134:15 135:15	asserted 30:13	attorney 7:4 8:17
approach 81:13	138:17	108:2 124:3	10:1,2 67:5
83:22	argues 76:15	139:10	134:12 146:24
approached 167:5	argument 24:16	assertion 134:5	150:9 154:6
appropriate 34:5	25:14 26:8 31:24	136:9	155:13 161:12,23
59:14,25 76:9,14	32:1 34:9,17		

attorney's 142:15 154:2	51:21,21 52:9 53:9 60:8,12	balances 88:25 ball 11:13 165:21 ballot 155:9 baltimore 10:4 bank 48:12 bankr 125:22 126:12,13 128:2,5	135:17 137:25 140:18,21 160:17
attorneys 7:13,20 8:2,9 9:2,9,16 10:9,17 82:2 142:18 144:24 146:16 147:19 150:18 152:17,17 152:20,21,25 153:7 154:9,13 155:15 170:17 173:17 178:4	71:25 72:3 73:1 96:19 101:15,17 129:14,14,17,22 awarded 52:15 98:18 awards 54:9 96:15 98:11 102:21 129:19 aware 80:1 87:20 88:5,16 115:4 138:3 awry 170:23	bankrupt 147:6 bankruptcy 1:1 1:11,23 18:12 27:14 30:12,16 33:25 47:20 48:1 60:18 70:12 71:14 84:13,17 87:25 88:3 98:20,21 99:16 100:14,16 103:19 109:16 124:16,16 125:25 126:9 135:8 142:22 144:7,13 147:21 152:10,11 153:9,17,19 155:8 160:9,14,23 170:25 176:7 177:15	basis 16:21 17:19 32:14 33:23 57:15 78:7 97:20 111:22 111:24 129:2 131:18 133:11 178:24
attributes 162:18	b	beach 147:13 162:8 167:20	beach 147:13 162:8 167:20
attrition 74:22 117:8	b 1:21 2:20 3:3,14 3:24 4:12 19:15 30:11,15 124:1,2 124:24 125:1,5 126:9	bear 79:19 133:24 141:20 168:19	bear 79:19 133:24 141:20 168:19
atypical 73:6 90:10	b.r. 125:21 126:12 126:13,14 128:1,2 128:3	bears 114:22	bears 114:22
audited 94:5	babies 122:16 176:12	becoming 116:15	becoming 116:15
august 16:21 123:9 128:5 175:14	baby 122:16	bed 166:18,19,23 170:23	bed 166:18,19,23 170:23
authority 22:11 95:23	back 23:15 25:24 29:14 45:17,20 57:16,19 58:6 100:25 107:17 108:21 119:13 129:21 130:21 145:2,14,16 158:1 167:2,15 168:13	beechnraft 128:2	beechnraft 128:2
authorization 20:6 30:7 33:14 180:8	background 169:23	beefed 140:7	beefed 140:7
authorize 2:19 15:23	backpack 170:2	began 143:14 144:5 146:2 163:5 163:8 164:22 167:22 170:9	began 143:14 144:5 146:2 163:5 163:8 164:22 167:22 170:9
authorizing 2:21 3:4,15,25 4:12,22 5:2,9,15,21,25 6:8 127:13 133:4	bad 79:16 119:2,2	beginning 68:3,6 83:10 106:3	beginning 68:3,6 83:10 106:3
availability 117:2	baffling 159:2,3	begins 64:7	begins 64:7
available 60:2 110:5 127:9	baked 94:2	behalf 2:9 3:9 4:5 4:17,24 5:4,11,16 5:23 6:3,10,21	behalf 2:9 3:9 4:5 4:17,24 5:4,11,16 5:23 6:3,10,21
avenue 7:5,14 8:18 9:18	balance 71:13 123:17	15:16,24 16:2 17:13 20:2 28:20 141:7 142:9 160:18	15:16,24 16:2 17:13 20:2 28:20 141:7 142:9 160:18
avenues 163:5		behave 152:9	behave 152:9
average 22:17		beings 71:19	beings 71:19
avrio 42:20 43:23 44:12,22,23 92:25		believe 17:19 19:13 20:7 22:7	believe 17:19 19:13 20:7 22:7
award 40:19,21 41:8,11,22 48:21		24:19 27:14 34:2 34:20 40:21,25 44:18 50:7,11	24:19 27:14 34:2 34:20 40:21,25 44:18 50:7,11

51:8 59:12,19 66:23 75:23 82:6 83:3 84:23 88:7 88:17,23 89:1 95:24 97:7 98:10 99:23 100:7 102:14 106:25 108:8 127:19 132:7,10 133:4 136:14 140:1,23 141:1,10 148:20 161:1,23 178:1,4 believed 88:11,15 118:6 164:12 176:17 believes 15:5 140:10 167:11 bell 26:24 beloved 141:21 ben 8:6 25:4 59:1 bench 153:9 160:19 173:7 176:5 benedict 7:9 17:9 17:11,12,16 18:16 54:22,25 141:2,5 141:6,9 175:3 179:18 beneficiaries 33:18 benefit 57:10 76:16 119:16 124:20 167:13 173:25 benefitted 127:24 benzodiazepines 158:9 bereaved 149:15 161:20 162:1 bernard 11:23 best 27:15 42:10 57:12,18,20 58:5 78:25 86:11 93:5	103:12 111:12 135:3,6 161:6,23 167:11 176:7 better 53:4 81:7 92:15 93:6 105:25 106:1 125:20 134:13 135:23 167:14 bewildered 119:19 bewildering 75:15 beyond 29:6 53:14 73:23 127:24 158:3 178:5 bickford 11:15 biden 151:5 big 118:20 152:4 biggest 174:5 billion 76:22 123:17 145:12 148:21,25 153:1 156:15,16,17,20 157:22,23 billions 71:14 152:15,16 binding 25:17,18 biological 164:4 bit 21:22 54:3 64:18 95:1,13 biweekly 118:23 blabey 11:16 black 151:22 blazing 88:16 blind 139:20 block 164:7 blood 146:8 blown 143:4 blue 119:25 122:20 board 67:22 68:7 68:13 69:5 71:2 77:8,12,14,19,21	77:22,23 80:23 90:6 91:11 92:8 93:13,15,19,20,22 111:3 119:21 130:10,24 134:17 134:20 135:12,22 138:13 155:3 156:23 162:10 boards 81:22 body 164:15 171:22 172:10 boggs 7:19 18:18 18:21 180:7 boneheaded 135:7 bonus 26:1 52:9 61:9 62:25 63:2,5 98:14,15,20 99:6 99:7,19 100:11 101:14 102:5,5,6 102:10,10 103:8,9 103:19 131:12 133:5,8 bonuses 70:12 98:11,17,18 102:21 106:17 118:20 119:1 133:4 135:8 137:17 books 49:18 boots 143:16 borderline 53:25 borders 126:13 born 141:22,22 bottom 51:10 52:18 bound 23:19 27:6 bout 70:5 box 9:3 52:19,21 52:22 53:12,17 brain 163:22 170:8,12 172:7	brand 77:22 108:9 123:6 branded 43:22 44:3 92:24 brauner 11:17 breath 172:18 brewing 169:1 brian 3:8 10:6 12:25 32:5 bridgeport 9:4 brief 20:5 22:4 75:20 78:19 95:4 116:14 118:4 briefly 22:10 31:17 bring 77:18 79:1 84:22 89:13 121:17 133:1,9 142:8 165:23 brings 19:22 35:5 90:16 140:24 149:9 broad 8:11 broader 94:11 broadly 125:6 broke 28:14 broken 143:1 144:23 159:25 170:3,24 broker 167:8 brooks 11:14 brother 167:21 171:8,8 brothers 162:11 164:1,4 165:6 brought 77:12 82:22 83:7 86:12 86:15 87:6,10,16 88:9,17 123:10 138:2 168:9 bryant 10:11 budges 92:6
---	--	---	---

budgets 21:24 build 22:14 building 147:12 builds 164:15 built 21:8 50:18 bunch 35:17 75:24 88:25 buprenorphine 117:2 burden 90:18 96:9 101:7 124:10 128:6 131:11 business 41:21 42:15 43:12 44:1 44:3 45:18,21 46:1,4,16 48:7,16 68:1 92:24 93:6 97:7,17,22 98:4 103:4,5 106:13 116:9 124:22 125:11 126:4,8,11 126:19 127:24 136:4 143:7,20 160:15 161:9 button 21:2 buy 119:7	california 135:8 call 21:3 102:21 102:21 103:19 120:7 142:14 165:15,19 167:9 168:24 171:19 173:9 called 75:13 100:22 128:14 154:18 165:14 167:24 calling 47:9 calls 77:18 87:8 91:25 171:17 camera 155:23 camping 162:9 canada 80:17 115:12,13 canadian 3:21,22 4:5,6,10,10 8:9,10 22:5 28:20 29:8 canard 79:12 cancerous 157:14 162:20 172:10 candidates 144:18 candidly 118:5 can't 26:24 42:24 51:21 52:2 54:2 75:2 111:16 113:25 114:13 119:17 cap 19:11 capital 128:1 cards 162:11 167:20 care 121:18 160:3 170:9,11 career 80:5 178:12 careers 77:24 careful 32:10 carefully 82:13 175:16 176:21	caring 168:11 caroline 12:3 carpenter 2:12 17:8 162:13 180:6 carpenter's 17:16 17:18,20,24 18:5 18:8 carried 131:10 carries 67:16 carry 159:12 carve 111:8 case 1:3 7:12 15:13,19 18:13,25 21:1 24:11,18,21 25:18 26:1 27:14 28:25 29:1 32:9 36:24 57:16 63:1 71:1,14 73:13,20 74:5 81:16 84:22 86:7 88:3,4 96:7 99:16 100:14,16 106:9,10 107:19 108:17 115:2 120:12 125:4 126:6,15 127:15 128:20 129:19 133:5,9 140:5 142:13 143:10,15 152:13 154:1 155:15 159:3,25 160:12,24 161:4 173:17 175:10 176:8 177:2 178:20 179:1 caselaw 25:19 cases 33:20 34:14 70:18 71:16 80:1 99:12 129:11 132:10 175:19,24 175:24 176:3,6 177:4 178:4 cash 21:8 22:15 33:15 48:14 71:12	123:17 166:12 cashflows 92:6 cast 115:25 categories 135:24 caught 164:14 cause 129:24 159:8 caused 79:21 134:1 142:3 159:20 175:20 causing 158:9,11 cdc 150:23 ceased 80:25 116:22 center 167:9,17 169:15 central 120:4 century 144:13 ceo 80:16,19,20 89:19,20 90:7 102:9 107:2,11,15 111:1 115:9,10 116:15 123:11 128:12 133:23 134:8 136:24 139:4 ceo's 111:18 certain 2:23 3:6 3:17 4:3,5,15 8:9 16:2 25:17 40:16 87:6 135:16 certainly 30:24 57:5,11 73:22 178:2,18 certainty 57:6 certificate 19:4 certified 181:3 cfo 36:7 59:8,22 cfr 16:4 chain 71:10 77:4 challenged 114:10 132:6
c c 7:1 11:21 12:4 13:1 15:1 96:4 97:14,19 99:7 100:8,8,9 103:24 123:24 124:1,17 124:22 125:4,13 125:15 126:2,6 128:7,8 131:13 133:7 181:1,1 cal 128:5 calculated 126:23 157:21 calculator 162:7 calendar 74:2 94:3,7 129:19 130:15 142:23			

challenges 47:7 71:7	children 147:10 147:11 159:15,16 159:16 171:14	150:7,12 151:2 153:1 176:8,9 177:7,7	climbing 147:5 clint 11:22 close 45:17 47:10 49:18 123:4,14
challenging 71:21 77:20 91:11 118:15	choice 63:8 85:18 161:1	clarification 69:9 143:23	closely 176:9 closes 124:12
chambers 17:3 18:14 19:15 34:25 140:22	choose 26:25 75:2 82:12 172:5	clarity 167:24	code 30:12,16 124:16,16 125:25 126:10
chance 96:12 103:12 167:11	chose 90:19	class 76:23	coercion 155:10 155:21
change 26:4 27:2 38:10 39:12,16 67:24 72:25 110:21 113:8 116:3,7,9 120:17 138:8,19,22 178:8	chris 15:18	claudia 13:24	cogency 138:21
changed 38:13,14 54:10 122:13 138:13 166:14 172:7	christopher 2:9 7:17 13:18	claw 108:21 129:21 130:21	cogent 134:23
changes 27:9 38:8 68:1 72:9 93:4 95:9 138:10	cicero 11:18	clawback 73:2	cogently 139:7
channel 159:25	cigarette 177:17	clean 77:12	cohen 8:16 27:22
chapter 70:18 72:13 73:12 106:4 118:20 129:16 130:17 136:13	cincinnati 7:22	120:14 123:7 167:11 169:21	cohesive 165:6
charade 152:22	circuit 25:19 26:14 27:1 178:9	cleaning 173:2	cola 72:1,5
charm 162:16	circumstances	cleanup 33:2	colleagues 84:11
chart 55:3,6,15,16 101:13	16:6 17:23 26:4 27:2,10 32:12 60:20 68:2 71:20	clear 15:23 16:11 23:2 25:12 26:17 27:1 29:7 31:22 32:11 33:7,24	collectively 74:4 83:4 148:15
check 167:3 169:12,23	73:7 96:7 97:22 126:5,16 128:8 129:3 146:10	42:13 54:8 55:10 59:23 62:16 63:17 64:2,21 80:13	college 143:20
checks 88:25	citizens 155:1	91:15 98:23	collusion 147:24
cheek 164:1	158:11,13 174:16	106:13 110:14,14	colorable 17:19
chemicals 172:7	civil 81:14 82:14 138:4 176:8 177:7	111:15 113:25	colorfully 32:22
chemistry 172:7	civilians 151:11	120:3 121:23	combination
child 162:3 163:17 164:2,3 165:15 172:6	claim 2:12,13 17:17	131:22 146:10 154:7 175:18,23 176:24	43:17,21 58:14 91:8 103:22 169:1
childhood 167:23	claimants 9:17 15:16 16:8 20:12	clearly 17:13 18:9 35:8 100:10 101:4	combined 92:23
	20:21 22:5 149:21 152:16,19,25	103:2 109:16,21 112:6 127:19	come 71:20 82:22 99:23 130:16
	153:4 155:7 176:12 180:5	128:19 137:24 147:24 164:18	159:13
	claimed 159:6	176:6	comes 21:2 30:24 36:24 83:2,5 123:14 154:25
	claims 2:13 16:8,9 20:11,16,22,24	clerk 2:23 3:6,17 4:2,15 155:12	161:16,17
	21:9 30:12,13	client 167:1	comfort 91:2 149:22
	79:17 122:12	clients 149:17	comfortable
	139:10 142:16	cliff 59:16,16	80:11 87:3,18
	145:19 149:10		121:8

179:3,3 comley 9:1 29:17 commencement 125:3 comment 47:4 52:5 comments 20:15 119:18 commercial 94:22 commissions 125:3,9,18 committed 42:16 91:10 108:19 114:12 committee 9:16 10:9 17:22 35:18 36:9 48:24 49:2 49:11,20 58:6,8 59:12 67:22 68:8 68:10,12 69:1,3 72:21 82:23 83:7 83:20 85:15 86:1 88:8,21 89:1,2 90:6 106:15 109:13,24 110:5 110:23 112:16 117:18 119:22 121:6 122:3 130:5 130:7,10 135:12 135:21 138:14 139:16 146:12 176:14 178:6 committees 81:21 130:13 committee's 88:9 88:18 committing 115:15 common 61:12 101:23 128:16 132:19 communicated 36:18 117:20	communications 25:25 77:18 communities 146:18 158:5 166:7 172:23 173:23 174:19 community 170:15 comp 36:9 72:21 74:20 81:9 118:25 companies 48:10 48:15 61:4 70:15 71:6 80:7 81:20 92:14 94:1 99:1 154:15 156:22,24 157:11 158:25,25 company 48:3,14 50:4,10,20 59:8 59:22 68:22 70:14 71:8 72:18 76:17 76:21,22 79:21,22 80:2,17,17 84:2,8 84:25 85:2 86:6 87:21,22 88:11 90:4 92:5 93:16 94:1 102:9,9 106:5,12,18,21 107:16,19 108:4 108:10,24 109:6 109:17 110:11 115:12 116:5,15 117:19,21 120:8 121:17,21,25 122:12,24 123:1 129:7 133:8 134:1 134:2,20 137:10 137:11 145:13,19 150:17 155:23 156:25,25 157:1 company's 82:17 86:9 105:20 106:21 107:10 109:1 113:2	116:17,20,21,22 116:24 131:20 132:4,5 135:16 compare 45:18 66:1 97:1 104:4 compared 65:25 66:4 131:19 151:16,20 comparison 110:5 compass 148:17 154:14 compassion 160:3 169:5 compensated 131:18 compensation 2:15 36:9 48:24 49:1,11,20 52:9 58:6,8 59:11,22 62:2,13,18 64:17 64:25 65:4,20 66:1 67:22 68:8 68:10,12 69:1,1,3 70:14 72:19 74:19 76:6,9,11,18 77:7 77:20,21 78:6 83:12 89:15,16 90:3,6,7 93:14 95:23 96:2,8 98:24,25 99:17 100:3,22 102:13 103:10,23 105:17 105:18 107:22 111:8 118:22 121:5 123:4,15 127:13,16,21 130:10 131:15,15 131:19,25 132:3,6 132:7,16 133:1,6 133:9,17,19 134:18,22 135:12 135:21 137:10,11 137:13,19 148:21	153:3 compensatory 64:13 competitive 66:11 66:12 99:9 133:10 competitor 132:12 competitors 99:5 131:20,20 compiled 21:24 complained 106:24 complains 134:7 complaints 111:1 139:9 complete 52:8 59:9 169:14 completely 28:23 93:14 100:17 116:6 119:3 120:13 133:12 168:9 completing 19:19 complex 71:8 76:21 132:11,13 complexity 157:4 compliance 120:9 120:17 130:11,12 135:13 complicated 71:6 78:24 98:6 162:6 components 43:25 70:13 comprehension 158:3 comprehensive 21:25 27:2 concept 52:4 57:19 60:15 64:8 64:8 concern 23:7,16 24:15 25:23 32:12 32:14 104:3
--	--	--	---

concerned 25:9 26:13,20 29:11	confirmed 23:11 78:13 142:22	considering 50:20 56:16	contention 110:18 contested 15:10 16:15 19:23 35:5 70:2,2
concerns 22:10 24:14,24 36:2	confirming 28:5	consistent 19:2 72:6 127:5 131:14	contests 74:22 context 26:10 66:18 70:18 99:13 126:25 128:19 178:23
concession 119:15	conflict 110:25	consistently 122:3	contingent 9:17 40:15 99:2
concessions 70:3 94:12,22	conflicted 167:12	consolidated 41:20 42:15 43:12 44:1 45:20,25 46:4,16,16,18 93:1 97:6 136:3	continually 144:23
conclude 23:19 34:21 135:19	confuse 155:22 159:1	consolidating 75:1	continue 24:19 61:6 73:21 75:14
concluded 176:21 179:19	confusing 146:21	constantly 137:17	77:4 83:22 137:12 149:5 158:13 159:10 160:5 161:15 173:12
concludes 179:16	congress 98:9,14 99:7 102:25	constituencies 110:2	continued 108:23 169:23
conclusion 23:4 38:3 118:6	103:20,24 115:3 116:12 127:19 131:12 133:7	constituent 86:7	continues 75:21 110:4 172:19
conclusions 97:4 104:5 118:15	connecticut 9:2 22:3 29:18	constitute 26:15 31:9 39:20	continuing 77:9 140:11 147:21 160:7
concrete 74:12	connection 72:23	constituted 26:4	continuously 146:15
condition 135:22	74:10 81:23 83:8 86:4,17,19 112:21	constitutes 16:3	contracted 18:9
conditioning 106:1	121:6 122:7	constitution 142:1 150:12	contracts 73:11 73:14,14 130:1,2
conditions 155:18	consala 11:19	constitutional 150:10	contrary 135:7,19 137:14
conduct 47:19 80:2,18 82:10 88:12 107:9,15 115:7,11,20,21 117:23 134:7,9 139:3,5,21,24,25 177:1,4	conscious 172:14	construed 133:3	contravention 133:14
conducted 138:1	consensual 83:11	consult 130:4,14	contributed 117:12
conducting 160:15 161:9	consent 25:15 29:2 128:17	consultant 36:9	contributing 143:2
confidence 29:3	consented 17:24 105:18	consultation 73:24	control 78:23 158:17 163:24
configure 48:13	consenting 5:7,12 5:19,23 9:9 28:24 33:2,4,4	consulted 17:21	controlled 157:2
confirm 57:22 67:6	consequences 89:18 148:11	consuming 150:21	
confirmation 21:12,16 22:9,22 23:24 26:10,19,22 38:4 75:19 128:17 128:18 138:1 142:24 160:20 175:11 176:22,23 177:5	conservative 62:10 63:13 64:13	consummate 30:3	
	consider 90:9,14	consummated 22:24 27:8	
	considerable 16:10 138:9	consummation 23:4 24:1 27:9 31:10	
	consideration 35:14 81:24	contagious 162:12	
	considerations 50:17	contend 137:12	
	considered 91:7	contended 133:23 137:3	
		content 59:13	

controlling	corrupt	117:12	25:2,7,18,25 26:5	126:8 127:20
143:24 156:4	cost	29:3 75:3	26:7,15,20 27:3	130:25 137:4
conversa	126:24	127:18	27:10,15,19,24	140:25 141:4,8,14
conversations	152:14,15		28:11,16,18 29:11	146:20 148:6,7
89:24 155:3	costing	147:16	29:16,22,25 30:7	152:1,2 155:11,23
coordinated	costs	92:8	30:21 31:5,11,18	155:25 159:2
21:23	couldn't	42:22	31:22 32:8,20,24	160:9,14 169:21
core	57:22	93:18	33:6,9,13 34:20	170:18,20,25
corner	could've	107:15	35:3,7,11,22,23	173:18,25 174:22
corp	115:2		35:24 36:16 37:5	174:24 175:6,14
125:21	counsel	62:20	37:15,23 38:8,17	177:19 179:16
126:14 128:4	65:21	80:15 86:6	39:4,17 40:3 51:1	court's 137:16
corporate	87:21,21	88:3,8	51:3 54:16,18,24	138:3 142:8
130:8,8	89:2	107:8,9	55:1,14,22 56:4	courts 100:14
138:5,7,19,23	110:24	111:4	56:23 57:15,24	125:12 136:19
160:13	123:6,8	127:12	58:2,10,19,24	court's 15:14
corporation	128:16	132:4,5,11	59:3 60:2,4,7,11	18:13 25:11 59:5
138:7	132:12,13	133:24	60:25 61:12,15,21	83:17 85:21 94:15
143:25 144:1,14	139:16	142:14	61:25 62:12,16	covered 89:7
144:22 152:4,8,9	143:13	153:12,25	63:7,15,20 65:11	125:24 127:17
152:12 156:1,2	counsels	81:21	66:18,19 67:19	129:13 131:23
157:14,17 158:2,3	counter	117:3	68:7,14 69:12,19	covers 59:20
158:4,17 174:20	countries	158:23	69:25 70:24 72:2	135:24
corporations	161:8		76:8 78:13 79:24	covid 18:9,10 47:8
144:7 158:24	country	178:7,10	80:14 81:25 82:7	50:9 71:9 136:5
161:10	179:6	181:21	83:1,25 85:19,24	craft 25:13 78:4
correct	county	170:24	86:5,16 87:20	crafting 78:11
24:4 28:15	couple	21:2,12	88:2 89:4,9 93:9	crafty 162:13
40:16,17,19,20,22	55:1	65:17 68:15	94:15,18 95:2,14	crash 171:19
40:23 41:5,6,8,9	90:1		95:15,20 97:12,14	craving 163:20
41:11,12 43:1,9	course	29:23	97:19 98:2,7,13	cravings 163:18
43:10,15,16,19,24	34:14	35:6,19,21	99:12,25 100:9	crazy 24:17 26:8
43:25 44:1 45:4,7	37:13	73:8 74:8	101:4,20 102:16	create 144:1
45:22,23 46:1,2,3	75:13,15	76:24	102:23 104:10,18	153:22 156:5
46:15,21,24,25	83:9	90:8 95:14	104:22,24 105:2,5	created 117:18
47:3,4,11,12,17	97:21	106:12	105:9,14,22 107:6	145:6 148:12
47:18,23,24 51:18	126:4,8	128:9	107:25 108:11	152:11 156:6
53:6,7,10,11,15	155:14	160:19	109:20 110:3,15	159:12 172:22
53:16 54:12 55:21	court	1:1,11 15:2	110:17 111:7,21	creating 32:14
57:25 64:4,6,10	15:17,20,22	16:19	112:2 113:6,10	33:17 96:16
64:15,20,25 65:1	17:2,5,10,14	18:4	114:2,4,7 118:2	127:12 146:7
65:4,5 67:10	18:19,22	19:5,7	118:13 122:18	152:3 153:22
82:16 84:16,24	19:18	20:4 23:19	123:19,22 124:9	159:10
112:17 125:1				
corrected				
correctly				
44:13				
74:6 108:10				

creation 51:7	40:1,5 54:18	damage 159:19	deals 43:20
credible 131:22	75:25 85:23 108:2	dana 125:21	dealt 28:12
credit 59:21 81:4	124:8 133:14	126:14	103:20
108:15	135:18	dance 171:4	dear 162:1 164:24
creditor 2:22 3:5	crossing 172:1	dancing 171:3	death 143:2
3:16 4:1,13 21:21	crucial 117:6	danger 27:10	144:15 147:4
22:18 23:10 48:8	crying 165:21	dangerous 71:8	148:2,9 149:6
70:1 74:3 82:25	170:7	122:11 164:21	151:6 156:6 158:9
86:12 87:6 94:11	crystal 175:18	daniel 2:12 17:8	162:20
95:7 110:2 119:6	ct 9:4	danielle 12:22	deaths 33:22
129:11 135:11	cultural 113:18	data 151:15	145:4 146:1
176:17	113:19	database 20:22	148:13 149:2
creditors 3:22 4:5	culture 47:17 49:3	date 2:13 15:25	150:25 151:6
4:6,10,11 8:9,10	49:6,7,23 50:23	16:18 18:11 21:7	debtor 1:9 21:20
10:10 21:4,24	79:21 80:9 96:17	21:18 22:18 26:22	26:1 40:15 47:19
22:13 23:8,17,25	106:5,6,7,8,23	34:8 53:6,9 55:16	71:5 78:10 96:9
24:2,11,12,15	110:11,20 113:3,8	128:24 129:15	97:20 107:12
28:20,21 30:20	114:23 116:2,4,9	130:17 134:17	124:19,20 127:8
31:23 35:15 71:1	117:13 120:1,14	135:1,2 181:25	127:11 128:6
71:17 72:22 73:3	120:18 122:12	dated 37:24 39:6	151:25
73:17 74:5 87:16	134:1 136:10	39:9	debtors 2:19,21
94:13 109:18,18	138:5,5,7,9,19,23	daughter 168:17	3:2,4,12,13,15,23
119:15 121:13	cumbersome	daughter's 168:21	3:25 4:8,11,13,20
130:7 142:13	174:8	david 11:16 13:9	4:21 5:1,8,14,20
176:13,16,17	curled 165:20	148:5	5:24,25 6:6,7,17
178:6	current 26:11	davis 7:3 17:9,12	7:4 17:13,19,21
creditors' 17:22	46:19 82:9 124:15	20:1 59:2 141:6	20:2 23:12,17
24:19	131:8 135:12,22	day 21:3 71:20,20	24:10 25:13 26:21
crime 173:15	139:2,19,23,24	107:11,14 110:10	27:5 30:2,5,6
criminal 82:14	140:7 146:8	113:23 122:9	31:13,25 34:9
106:20 107:9	currently 141:24	165:15 171:2,12	35:10 49:25 54:20
108:20,22 110:24	149:19 161:9	days 39:19 150:16	58:21,25 71:13
112:24 113:4	customer 113:13	171:23 176:19,20	73:8 77:19 95:22
115:4,7,21 116:5	120:6 122:21	de 105:10 124:18	95:24 96:2,5,15
138:4 144:19	customize 92:9	deadline 150:5	98:17 106:20
145:11 158:18	cuts 133:19	151:3	110:18,22 111:16
160:13 177:1,2,4	cutting 105:22	deadly 158:8	113:6,15,16
177:6	d	deal 89:18 93:14	122:25 124:7,9,13
crisis 117:1 156:5	d 1:22 12:13,20	132:14 179:5	124:15 125:23
179:2	15:1 180:1	dealer 158:20	128:23 129:4,13
critical 117:24	daily 33:23	dealers 160:10	129:24,25 130:4
cross 36:23 37:9	151:12 172:19	dealing 168:14	130:14 131:10,16
37:12 38:17 39:23		172:21 174:25	134:17 135:10

136:12 137:3,17 138:4,13 139:7,20 139:21 140:2,10 140:21 141:7,16 142:11,12 175:1,4 175:20,24 176:1,2 176:8 179:11 180:9 debtors' 134:25 debtor's 18:1,8 24:20 36:7 37:25 38:2,6 39:5 43:6 97:17 98:4 103:3 114:9 121:7 124:22 125:11 126:25 127:14 128:12 129:3 131:20,25 135:4 136:24 decades 70:16 72:17 79:23 80:9 99:1 119:5 131:15 134:3,10 143:9 144:14,25 146:10 148:1 156:12 decades' 114:23 115:16 deceased 154:19 deceive 144:18 157:12 deceived 156:4 december 116:12 deception 144:20 145:25 155:6 deceptive 158:19 decided 26:6 163:2 167:2,13 deciding 27:15 126:18 decision 18:8 25:11,25 48:23,24 73:17 134:16 163:19	decisionmakers 144:3 156:6 decisions 89:23 97:5 161:6 declaration 36:12 36:13,17 37:3,9 37:16,18,23 38:7 38:10,15,18,22 39:5,8,10,11,14 39:18 40:25 43:8 46:7 47:14 54:7 55:4 59:9,20 62:17 64:22 65:8 65:14 66:16 75:25 79:5 92:19 104:7 133:22 136:8 declarations 36:5 36:6,10,15 39:24 57:24 67:12 78:18 91:21 93:3 95:5 118:7 131:2,8 declaring 152:10 decorated 168:9 dedicate 177:10 deepened 70:5 defendant 71:5 81:13 139:8 defense 106:19,23 109:17 defer 104:25 deferral 134:24 deferred 72:18 86:21 107:22 118:24 defined 29:5 definition 125:16 125:25 144:16,19 defrauded 173:13 defrauding 145:9 152:5 degradation 70:13	delay 24:15 58:12 58:14,15 130:19 delighted 119:14 deliver 123:2 demanded 121:7 demonstrate 96:3 96:6,6,9 151:9 demonstration 101:10 denied 142:1 180:10 denies 81:17 139:10 deny 140:2,18 denying 160:20 179:12 depalma 8:8 department 8:1 10:16 82:2 103:4 110:7,8 123:8,9 145:16 151:15,21 160:12 174:1 depend 111:3 depicts 155:12 depose 90:20 deposition 111:25 115:1 118:8 depositions 107:19 124:11 155:17 dershowitz 161:16 describe 51:23 165:9 described 94:13 106:17 121:3,10 136:18,18 177:22 deserve 91:2 139:19 deserves 137:2 design 59:25 62:15 64:19 67:15	designed 69:24 131:13,17 desire 157:4 desired 126:23 despite 151:21 154:11 155:15 destruction 79:21 134:1 173:22 detail 63:25 65:16 72:21 detailed 59:10 66:16 84:9 87:1 136:11 detailing 80:4 84:2 88:10 138:12 details 54:2 determination 66:6 127:20 determine 41:15 42:1 48:19 67:11 82:8 96:21 97:10 136:11 139:2 determined 42:11 63:6 157:14 determines 63:12 determining 139:1,12 detox 169:16 detracted 94:22 detriment 130:19 detrimental 129:12 devastated 165:21 devastation 172:23 173:3 develop 143:5 developed 98:16 129:8 144:12 developing 74:1 130:14 159:7 development 117:3,4
---	--	--	--

dialed 122:21 dictionary's 144:16 didn't 22:25 24:7 26:7 47:12 65:16 89:17 90:20 92:19 93:17,17 104:16 107:21 109:20 121:13 124:7 172:5 die 165:21 170:10 170:12 died 141:23 150:24 different 20:18 22:20 23:16 38:15 42:1 48:17 53:3 54:22 64:18 65:17 80:17 84:8 92:4,6 92:6,7,7,8 98:13 173:20 differently 161:3 difficult 57:17 77:14 91:7 124:18 132:11 136:6,10 146:23 164:20 174:15 178:21 179:9,9 difficulty 52:22 dihydroergotam... 52:23 diligence 127:7,12 diligent 91:9 diligently 25:20 dinner 168:4,4 dire 26:11 direct 20:17 39:21 66:1 directed 82:18 107:15 112:7 115:14 116:19 138:22	directing 2:23 3:6 3:17 4:2,14 79:20 114:22 133:25 direction 83:17 directionally 45:16 directions 162:14 directives 107:17 directly 76:7 84:21 113:14 138:25 160:11 director 36:8 48:10 directors 77:8 81:22 92:8 disagree 46:12,13 46:20 76:19 81:11 110:19 178:18 disappear 49:23 disappointment 164:25 165:1 disbursement 2:22 3:5,16 4:2,14 20:17 discipline 119:25 disciplined 112:12,13 disclosed 96:20,21 96:24 104:3 157:22 discontinued 80:24 116:21 discount 19:11 discovery 83:2 146:23 155:16 discriminate 127:4 discussed 24:3 57:19,21,23 58:9 74:15 77:12 discussing 49:8 70:10 95:1	discussion 63:16 122:4 disease 158:10 disgorgement 83:16 140:5 disintegrated 164:9 disinterested 81:20 89:21 dislocation 71:11 dismemberment 143:2 144:15 145:5 148:2 149:7 156:7 158:9 dismiss 26:15 dismissed 25:22 disorder 142:4 149:20 159:19 disorders 142:3 disrespect 153:10 153:24 disrespected 165:10 disruptions 71:10 dissolution 145:13 distinction 68:19 111:13 distinguished 80:5 distribute 144:2 distributes 20:13 distribution 21:16 33:25 distributions 16:9 20:18,21 21:6,10 31:23 33:18 district 1:2 25:24 26:5,7 150:9 153:20 disturbing 155:3 165:19	diversity 47:21 49:25 50:3,17,20 117:17,19 136:16 divisions 92:14 docken 11:22 docket 17:17 18:2 36:13 37:2 146:21 doctor 164:7 doctors 145:10,22 166:12 172:4 174:10 document 2:8 3:8 3:19 4:4,17 5:4,11 5:22 6:2,10,20 87:2 121:24 175:7 documents 6:14 6:19 74:23 82:20 87:10 109:10 113:1 146:20 147:25 175:9 doesn't 23:24 30:21 42:7,9 73:13 99:6 100:4 102:9,12,23 112:2 113:1,3,4 121:25 doing 73:5 75:5 78:14 90:14 114:12 121:14 123:11 140:22 doj 21:13 134:10 145:10 146:12 155:17 170:25 dollar 42:1,14,22 67:8 76:22 103:2 dollars 26:2 71:14 72:6 83:5 121:15 123:17 domestic 147:3 157:19 159:5 donate 170:12 don't 16:12 18:4 19:7 22:19 24:3,4 24:14 25:16 28:2
---	---	---	---

31:18 32:1,3,6 36:20,22 38:15 41:23 44:5,5,11 44:14 46:8,13,20 49:7,24 50:7,10 52:3 54:13 58:5 61:3,8 64:5 67:13 67:16 69:12 76:19 79:7 83:14 85:8 85:17,20,22 86:14 88:3,7 89:5,9 93:11 95:15 100:3 100:8 102:3,11,25 104:10,20 109:22 110:18 112:7 113:5,16 118:13 118:19 119:6 125:17 door 20:11 29:22 30:17,21 dose 164:16 doses 164:19 double 73:5 78:1 doubt 133:3 downs 165:7 downside 60:22 downsized 83:25 dozens 77:16,16 dr 79:10,17 80:13 80:15,19,19 81:5 81:8,11,13,19 89:11 90:2 106:23 107:2,4,14 110:22 110:24 111:1 112:6 113:8 114:6 114:9,11,21,25 115:8,18,25 116:4 116:6,12 117:12 117:17,18,22 119:24 128:12 133:23 134:8 136:24 138:10,18 138:21,25 139:8	139:17 140:3 drain 1:22 15:2 162:1 dramatically 131:24 drastically 123:1 drive 150:22 driving 117:7 168:22 drop 92:20 136:3 drug 147:8,9 151:6,7,9 158:20 160:10 162:24 163:8,20 166:8 169:12 drugs 150:1,1 162:25 166:2,10 166:20 168:13 169:11,18 due 6:12,14,19 53:6 60:20 71:19 127:7,12 141:22 142:25 143:6 144:12 150:7,11 152:6 155:1 169:4 170:5 172:20 175:8 duress 155:14 duty 72:23 73:5 dwindles 71:13 dying 142:19 dylan 11:19 d'angelo 11:20 d'apice 11:21 déjà 93:8 e e 1:21,21 7:1,1,21 11:16 13:13,14 15:1,1 180:1 181:1 earlier 52:5 112:15 131:4	early 57:4,5 74:13 94:6 128:23,23 129:8 earn 157:23 earned 40:21 129:20 earning 126:25 ears 82:18 easy 71:4 103:6,7 ecf 2:2,10,13,17 2:25 3:9,19 4:6,18 4:24 5:5,12,17,23 6:4,11,15,21 46:8 eck 14:5 eckstein 9:21 25:1 33:10,11 economic 119:10 economically 79:2 ecro 1:25 edgar 12:4 edmunds 3:8 10:6 32:5,5 edward 13:13 effect 19:5 23:13 26:23 41:13 125:16 effective 15:25 16:18 21:7 26:22 34:8 129:15 130:17 134:17 172:25 effectively 22:6 149:10 effects 33:23 34:1 efficacy 77:3 efficiency 40:12 41:5 44:15 53:18 96:17,19 efficient 28:10 efficiently 28:12 75:4 effort 22:8	efforts 25:12 91:10 127:7 eggs 26:24 egregious 156:9 eight 74:25 86:20 86:22 87:3,4,6,8 87:13 108:11,13 162:23 163:25 either 36:22 39:24 49:6 58:20 62:7 66:20 83:13 86:5 139:1 164:18 elected 154:15 element 73:6 99:16 127:22 137:19 elements 117:1 elevens 72:13 eli 4:17,23 6:3 7:10 20:1 eliminate 80:23 eliminated 80:4 116:20 elisa 12:12 ellen 6:12,17 11:2 141:20 ellias 135:7 email 17:3 18:14 34:25 77:18 140:21 emailed 19:14 emails 155:3 emerge 22:10 emergence 21:2 23:12,13 38:14 47:20 73:18,21 93:13 101:2 136:13 emergency 6:18 21:5,13,18 48:1 142:22 148:12 151:15,21 153:22 157:16 159:11
---	---	---	--

166:11 172:22 175:7 emotional 148:3 159:14 161:14 163:12 165:7 emotionally 162:19 172:19 emotions 159:23 162:17 165:12 168:13,20 empathy 160:3 169:5 employ 125:19 employed 88:11 112:23 140:11 167:19 employee 4:22,23 5:2,3,9,10,15,21 6:1,2,8,9 50:1 78:9 83:13 86:6,7 86:12 96:1 101:7 108:8 115:23 117:7 124:14 125:24 126:16,22 128:11,22 139:6 139:14,19 140:11 employees 50:18 57:5 76:17 82:9,9 82:21 84:8,9 87:22 122:25 124:15 125:15 127:3,9,17 131:18 137:10 138:23 139:2,23 143:7 employees' 88:22 employer 125:20 employment 73:10 130:1 135:5 169:24 enable 21:17 131:17 enabled 116:5	enables 132:25 177:1 enacted 100:15 103:17 enactment 125:14 ended 74:9 116:17 121:4 166:14 endless 147:17 ends 29:6 153:12 energy 142:8 162:4 enforcement 143:21 144:11 engage 136:6 154:5 168:23 engaged 35:15 79:22 107:8 134:2 140:6 enjoying 162:11 167:20 enormous 179:6 enriching 77:10 ensure 50:17 59:25 74:5 77:2 90:23 101:2 106:22 121:21 122:24 160:5 ensuring 74:14 106:9,16 enter 36:16 160:20 entered 18:2,15 19:15 36:10 37:3 entering 60:18 enterprises 71:18 entire 42:16 71:1 80:3 83:18 116:20 129:17 148:10,23 160:22 164:2 172:12 entirely 31:21 70:16 80:23 81:18 93:2 133:21	entirety 48:7 160:21 entities 130:6 155:19 176:11 entitled 176:18 entity 48:6 143:25 158:8 177:5 entry 2:5,7,20 3:1 3:3,12,14,25 4:12 4:21 5:1,8,14,20 5:25 6:7 33:12 environment 47:8 98:21 136:6 epidemic 158:6 epiphanies 143:14 epiphany 167:22 equal 42:9 equally 42:8 156:24 177:18 equitable 25:14 31:14,24,25 32:15 34:10,15,18 equitably 22:8 23:23 25:22 26:3 26:16 34:22 equity 47:22 50:3 50:17,20 117:19 136:16 equivalent 102:8 era 88:10 eric 13:25 escalation 160:14 eschew 135:5 eskandari 11:23 especially 131:8 144:17 essence 133:7 137:5 140:17 essentially 59:15 70:7 72:22 73:19 74:11,17 76:16 78:14 81:8 97:15 99:10 103:21	118:24 119:4,20 essentials 164:14 establish 20:21 33:15 47:21 110:11 128:7 established 20:10 106:8 135:20,21 establishes 124:17 establishing 136:15 establishment 2:21 3:4,15 4:1,13 estate 22:15,17 75:4 83:4 119:16 estimated 56:1 et 15:3 ethan 12:16 euphoria 164:17 evade 147:22 evaluate 106:18 evaluated 176:20 evan 12:14 evening 165:11 event 105:12 events 167:23 eventually 167:1 everybody 73:8 87:3,12,17 174:14 174:15 everybody's 161:24 everyone's 147:2 eviction 169:4 evidence 36:3,11 36:17 37:3,10 69:20 70:22 76:8 90:17,19 91:15 92:1,21 98:23 99:3 100:20 101:10 112:21 114:17,20 120:10 120:13 124:4 132:7,8 138:9
--	---	---	--

139:18,19 140:2 155:18 178:23 evidentiary 6:14 6:19 36:25 140:13 175:9 evolution 106:4,5 evolve 129:3 ex 2:5 3:12 exact 44:5 52:3 68:16 72:4 94:16 120:24 exactly 15:9 42:24 52:16 77:1 78:23 83:20 90:23 91:17 119:13 120:16 131:6 142:17 146:22 examination 40:5 63:21 66:24 68:17 108:2 135:18 157:3 examinations 109:19 examine 36:23 37:9,12 38:18 39:24 40:12 54:18 76:1 examiner 2:16 7:20 18:25 examiners 143:21 examining 85:23 example 20:19 39:14 47:25 50:12 50:21 54:5 86:15 87:15 97:6 112:18 113:12 127:25 151:13 156:23 177:17,21 examples 48:17 87:20 147:13 exceeded 64:3 exceeding 41:15 42:25 61:20	excellent 41:3 exception 55:5,17 62:20 78:19 exceptions 84:6 excess 132:5 156:20 exchange 157:24 excusable 18:12 excuses 143:12 executive 123:6 executives 62:17 62:19 74:18 76:24 77:1 98:17,19 99:1 125:15 127:16 129:12 130:19 131:16 132:3 133:4 137:20 executives' 70:17 exercise 126:11 177:6 exhaustedly 82:1 exhibiting 154:7 existed 110:20 existing 48:15 exists 144:6 exit 154:8 exited 84:25 expand 158:16 expanding 85:22 expect 91:17 expected 92:15 108:2 118:25 expecting 28:4 63:24 84:12 expedite 16:8 31:23 33:18,25 expedited 16:20 29:13 expedition 29:3 expeditiously 26:18	expenditure 34:11 expenditures 22:19 expense 19:9 125:2 152:6 167:4 169:13 expenses 2:17 experience 164:22 experienced 162:5,19 experiences 171:21 expert 59:7,22 experts 82:14 90:19 explain 65:24 163:4 166:22 explained 165:11 explanation 155:8 express 31:8 expressed 89:25 168:4 extended 73:4 129:22 147:8,11 164:2 extension 129:25 extensive 35:15 70:25 83:2 91:12 122:18 164:10 extensively 177:8 extent 30:23 101:20 103:16 extra 72:23 118:20,25 extraordinarily 124:17 extraordinary 80:8 120:17,17,18 138:15 extreme 78:8 extremely 83:1,1 155:2	eye 139:20 eyes 82:18 171:6 f f 1:21 13:23 181:1 facilitate 16:11 facilities 151:10 169:15 facility 151:14 166:18,21 169:9 170:18 fact 34:19 35:22 38:13 43:17 56:20 57:22 59:10 62:23 65:7 70:12,21 74:24 76:20 81:11 81:12 83:18 86:20 87:11 89:13,19,21 92:9 93:15 94:24 96:23 97:6,10 101:8,15,23 102:24 103:7 104:4 107:20 108:15 112:22 113:13 116:6 118:11 127:14,21 131:25 132:9,18 133:5 135:23 138:10 153:16 156:9 157:8 facto 124:18 factor 62:23 factors 58:17 facts 65:14 75:24 78:2 81:1 85:10 96:6,7 97:22 100:10 112:11,11 126:5,16 128:8 146:19 153:25 160:17 factually 78:16 failure 26:9 112:9 117:22 132:24 134:5 140:19
---	---	---	--

fair 23:10 81:6 101:6 109:14 122:20 127:2 147:1 154:2 fall 53:20,23 129:1,5 falls 142:25 false 76:2 78:17 116:6 145:19 161:24 familiar 35:22 families 142:2,20 145:6 146:17 150:25 158:11 159:20 170:16,16 173:22,25 family 142:20 143:24 144:21 148:4,10,20 149:5 149:7 152:12 154:19 156:3,3 157:5,17 159:13 159:20 161:20 164:2,2,5 165:6,8 171:13 172:12,13 172:19 175:25,25 family's 148:7 161:23 far 23:24 29:11 33:16 34:6 73:23 94:20 113:7 121:4 132:11 136:1 155:1 163:1 farrell 11:24 farther 91:15 faster 24:13 84:25 father 159:17 164:4 faulting 32:10 favor 26:6 70:17 155:8 favoritism 127:23	fbi 146:13 158:16 158:17 fdas 143:6 fear 168:16 169:5 feature 61:12 62:15 75:7 february 48:25 49:17,19 50:24,25 57:4,5,16,20 58:3 58:7 72:19 130:16 federal 145:12,17 145:22 fee 2:17 19:1 180:7 feed 171:13 feel 24:21 89:3 178:3 feeling 28:2 feelings 159:23 162:17 165:8,9 feels 165:12 fees 19:3,12 22:18 88:22 fees' 121:16 feld 10:8 32:18 fellow 167:7 felonies 79:23 114:24 115:15,16 134:3 felt 80:11 163:15 164:3 femino 11:25 fetus's 141:22 fewer 75:1,4 92:22 151:21 field 146:23 fierce 176:15,16 fifth 8:18 132:3 fight 154:10 fighting 166:24 figure 41:17 66:3 112:4 123:10	figuring 45:12 file 2:13 124:5 150:7 151:2 152:20 153:17 154:3 176:4 filed 2:8 3:8 4:4 4:17,23 5:4,11,16 5:22 6:2,10,20 16:21 19:1,4 20:24 22:1,4 23:1 28:22 43:13 67:11 75:19 81:4 94:9 120:16 124:7 128:21 142:23 146:20 153:1 170:19 175:10 176:1 filming 51:14 57:24 150:5 155:11,13 fill 74:24 filthy 155:17 final 2:15 87:13 94:5 117:14 finalized 57:4 finally 170:23 finance 123:5 financial 41:14,16 42:12,25 43:3 48:5 49:18 51:23 68:11 97:1 144:20 149:4 154:9 160:4 financially 151:4 find 31:22 75:14 125:20 147:20 finding 31:8,12 findings 87:9 fine 15:17 17:14 18:22 20:4 27:24 31:16 32:3 53:2 105:5,10 118:2 141:8 146:2 147:15 175:6	fingers 85:1 finish 89:11 94:3 fire 119:24 ired 86:8 112:14 139:19 firm 19:14 149:16 firms 81:22 84:14 103:17 121:8 first 3:22 4:6,10 8:10 15:12 19:23 28:21 29:8 35:12 37:6,11 39:11 40:12 41:20 43:11 51:13 52:25 72:14 76:5 78:9 79:25 82:17 88:22 94:2 95:19 96:18 112:3 112:15 114:17 116:17 118:4 120:5,22,25 123:23 126:20 128:12 129:13 131:11 140:4 145:24 149:12 165:17 169:2 171:5,21 175:18 fit 125:9 fitzsimmons 12:1 five 20:14 62:13 71:23 72:4 74:18 74:25 78:20 79:12 95:25 118:18 123:4,15 124:15 125:23 127:7 131:17,23 133:2 151:7 flat 103:22 flatly 76:2 78:6,16 flip 52:17 162:18 floor 165:20 171:20,22 florida 147:13
--	---	--	--

focus 60:7 108:17 116:24 136:15	forward 34:8 159:12	frivolous 26:8 front 41:23 44:6 44:11,14,25 46:8 46:14 52:3 109:4	future 113:3 157:24
focused 63:8 108:20,21	found 76:8,13 87:9 89:22 94:18 119:19 125:25 153:9 163:8 166:3	froze 28:11 frustrating 95:1	g
focusing 98:15 107:13 111:9	founding 160:8	fueled 157:20	g 15:1
fogelman 12:2	four 19:1 23:22 44:20,21 62:17 80:16 94:25 115:11 118:6 131:23 132:3 138:18 140:17 171:20	full 23:25 41:8 52:10 95:10 140:17 142:12 143:3	gain 144:20 163:14
folks 77:1 89:2 122:2	fourteenth 141:25	fully 34:16 122:19 147:9	gainful 169:23 gainfully 167:19
follow 67:19 143:15 156:13	fourth 7:21 45:1 127:5 172:1	function 61:16,18 120:9 130:9	game 61:7 166:23 games 142:18 162:10,10 167:20
followed 117:25	fraction 81:9	functions 62:19 115:19	gange 12:3
following 21:16 63:23 72:20 116:16 126:18 145:25	fractured 172:12	fund 2:21 3:4,15 3:25 4:13 152:21	gartrell 11:5 36:7 36:21 37:6,8,17 37:19,22,23 38:11 38:18 59:8,19
follows 117:16	frankel 9:15	fundamental 59:6 106:4 110:13	60:3,4,6,10,13 61:3,14,17,24 62:6,15,24 63:10 63:16,21,23 65:19
food 171:12,14	frankfurt 158:22	funded 166:18,21 169:9 170:18	66:20,24 67:1,19 67:23 68:9,17,19
fool 156:11	frankly 22:19 27:13 63:24 70:14 71:8 72:11 75:5 79:14 84:17 85:19 90:3,5,22 122:25	funding 25:14 42:21	69:15,16 131:2,9 131:21 132:18 133:13
forbid 85:3	fraud 144:4,11,12 144:12,14,19,25 145:7 146:6 148:1 154:25 155:18 160:17 174:5	funds 20:14 22:13 33:25 34:7,12 155:19	gartrell's 37:15 101:22
force 50:9 84:1 138:12 168:22	fraudulently 147:16	furious 167:24	gather 32:16
forced 170:18	free 119:7 150:14 165:12 178:18	further 16:25 18:6 28:23,25 30:6,7 33:12 34:9 36:12 52:15 68:17 70:5 75:1 77:15 86:22,25 129:16	56:24 61:22 115:17 117:24
forefathers 160:8	freely 169:25	furthered 83:17	gc 64:23
foregoing 181:3	friday 19:5	furthest 159:8	gear 170:14
foregone 23:4	friend 157:17 168:15	fusion 107:22 108:5,7 109:3 121:22 122:5,6	general 10:1 59:17 62:20 65:21 81:21 82:2 123:6 123:8 126:8 132:4 132:5,10,11,13 133:24 134:12 178:4
forehead 172:2	friends 142:2 162:12 163:7 164:24 167:21	general's 155:13	
forever 150:14		generally 34:17 63:2,9 125:19 127:10 128:22	
forget 148:24			
forgot 80:15			
form 88:23 172:13			
formal 77:16,17			
formally 37:2			
former 88:22 142:14 161:23			
forms 20:22 154:25			
forth 93:2 104:6 105:20 127:20 142:8			
fortune 157:7			

generations	37:17 38:21 40:3 159:12	162:9 165:4 41:17 44:15 45:17	government's 172:21
generic	52:19	46:22 49:24 51:8	graduation 167:17
genocide	147:3 157:20 159:5	53:17 60:23 66:6 69:21 89:9 93:5 95:19 99:9 119:13	grandchildren 171:13
gentle	12:4	145:2 148:15 158:1 160:11	granddaughter 159:17
gentleman	167:5	161:1 162:2,3 164:11 165:12,22	grandmother 165:19,20
geoffrey	12:6	165:24 170:21 174:10	grandparents 176:13
geographic	166:14	goal 146:6	grant 16:25 17:2 18:7 19:13 31:7 33:13 34:11,19,21 34:23 140:20
gerard	11:18 13:2 14:4	goals 16:6 67:9,21 67:21,24 68:3,4,6 68:8,9,25 72:12 72:20 93:17	granted 27:8 28:8 180:5,6,7,8,9
germany	158:22	god 37:21 39:2 85:2	granting 2:24 3:7 3:18 4:16 17:19 140:4
getting	16:17 84:18 92:10,12,13 100:4,11,13 103:12 153:3 159:23 167:13,15 170:2 174:18	goes 41:24 72:21 73:9 74:8 118:25 133:16 167:6 179:1	granular 118:7 grassroots 146:17 166:6 173:22 174:19
girlfriend	163:25	going 15:11,12 16:13 20:20 22:13 29:4,6 30:17	grateful 166:1
give	29:2 42:5,14 42:22,24 47:25 50:12 94:11 108:15 141:24 142:4 166:25 175:2	32:18,21,22 35:21 37:5,8,11 40:24 43:2 44:2,8,18 48:5,15,18 52:22 54:10,22 56:21 57:11 63:18 65:16	great 21:20 40:9 119:21 153:10 165:19 168:25
given	16:23 31:22 33:22 34:13,19 56:17,20,20 73:23 95:2 108:1 110:23 110:25 132:7,12 138:3 178:23	68:20 71:19 74:16 76:3,16 79:5,14 82:3 83:18 86:18 101:14,16 104:2	green 12:8 greenberg 8:8 gregory 12:15 grief 168:14 grieving 143:19 149:23 159:13 161:13
gives	177:22	104:16 108:7 111:13 112:24	grossly 120:20 174:8
giving	34:18 156:10	118:22 119:4 121:4 122:24	ground 143:16
glad	118:19	132:20 141:19	grounds 26:15 86:8
glasses	122:23	148:21 149:14	group 2:4,7,9 5:12 5:23 7:13 9:9
gleit	12:5	150:23 158:5	
global	29:2		
globe	146:9 159:20 161:8,14		
go	15:4,10 23:24 29:22 30:21 34:8		

15:13 16:7 17:22 21:14 23:11 33:2 33:4,5 35:19 59:11 64:23 74:3 84:22 105:16 122:14,15,15 126:13 128:15,15 130:6 136:23 149:15 165:24 176:18 groups 21:21 34:14 48:4,8 70:1 81:1 82:25 87:6 95:7 116:23 119:6 129:11 135:11 173:21 group's 115:6 grow 50:19 growth 47:6 guarantee 57:9 101:18 guess 15:10 47:13 51:8 52:17 57:12 60:5 82:15 83:24 85:6,6 86:25 87:5 97:24 98:2 100:25 103:15 108:1 111:22 112:8 113:10 121:1 136:25 guilty 80:18 82:11 109:3 114:22 115:8 122:8 145:11,17,24 155:24 guise 76:21 161:11 gump 10:8 32:18	hadn't 98:18 half 57:10 76:11 78:6 hand 22:15 37:19 38:25 77:9 140:3 153:16 handled 17:8 141:2 hands 20:12 21:4 27:2 75:1 162:13 173:4 hang 100:12 happen 56:21 happened 69:6 108:17 177:17 happening 150:6 happens 73:12 160:23 happiest 165:16 happy 15:4 18:3 29:9 31:11 95:14 141:16 162:2,3 171:3 hard 45:15 57:1 77:23 91:6 97:3 98:21 100:16,19 101:24 102:4 103:23 109:21 123:2,16 141:19 159:24 178:12 harken 100:25 harm 146:11 150:15 152:9 158:12 160:9 175:21 harmed 145:3 158:13 harmful 162:25 172:6 harming 166:9 harold 12:13 harrington 25:25	hasn't 111:23 112:5 hates 86:24 hauer 10:8 32:18 haven 85:2 havens 156:22 haven't 40:10 42:16 100:12 hawker 128:2 head 50:15 102:7 113:24 154:12 headed 50:15 heal 173:24 health 16:4 33:24 51:13 142:3 143:4 146:15,17 148:12 148:22 149:4,6 153:22 154:21 156:5 157:16 159:11,18 166:11 172:22 healthcare 47:9 151:10 hear 17:13,14 18:21,22 20:2,4 22:25 27:4,23,24 40:7 67:3 95:15 105:4 109:20 106:14 110:1 123:10 149:25 141:7,8,16 142:22 153:15 158:3 168:21 170:13 173:7 175:1 heard 23:7,16 35:8 58:11,11 70:19 106:2 harmed 112:23,23 114:5 130:25 141:12 142:1 143:11 153:5,6 165:16 167:1 175:15 176:19 178:1,24 hearing 2:1,2,4,12 2:15,19 3:1,11,21	4:8,20 5:1,7,14,19 6:6,13,18 15:4 17:2 19:23 25:23 36:11 37:16 38:4 69:20 70:2 72:17 74:11 75:20,20 76:6 82:4 84:13 86:17,19 94:16,20 106:8 109:21 114:8 137:16 138:1 175:8,12 179:17 hearings 70:10 74:13 77:13 81:15 93:25 108:18 118:18 131:4 132:8 heart 157:13 161:24 178:25 heartstrings 168:20 height 145:21 held 94:20 hell 177:25 help 20:17 21:17 37:21 39:2 74:5 78:25 121:21 123:10 149:25 160:5 163:13,15 166:17 169:9 170:8,11,15 174:18 177:23 179:2 helped 78:4 79:1 helpful 20:8 22:16 55:23 75:15 90:22 helping 61:18 135:13 163:16 174:20 helpless 163:16 heroin 164:9,10 164:20 166:15 172:9
h			
h 9:21 14:7 haberkorn 12:9 habitual 147:8	harming 166:9 harold 12:13 harrington 25:25		

he'll 112:17	hold 24:4 27:17	87:15,25 88:13,20	hospice 171:25
he's 116:7,15	72:23 105:24	89:7,25 90:16	hospital 30:10
117:6 123:12,12	119:8 147:17	92:2,17 93:7,24	149:2 173:4
hi 95:17	holders 30:13	94:14,24 95:3,7	hospital's 169:15
hideous 155:3	holding 156:24	95:11,17,21,22	169:16
hiding 144:21	holdings 126:11	96:18 97:13,18	hospitals 122:15
higgins 8:6 12:10	128:3 157:5	98:1,5 99:11,21	168:6 174:9
25:4,4,8 27:20	holidays 168:8,12	100:7,24 101:12	hour 83:19,20
28:3 154:5	168:17	102:14 104:1,15	87:8 120:23
high 80:6 117:20	home 161:1	104:21,23 105:1,3	hours 155:16
166:19 170:14	166:16 168:9	105:6,12,15,16,25	162:23 170:6
173:17	homeless 143:18	106:2 108:8,14,18	house 87:21
higher 92:13,15	169:6	109:2,8,16,25	168:10
133:18 151:24	homelessness	110:6,10 111:5,11	housing 163:25
164:19	164:22 169:7	111:12,12,24	howling 89:22
highest 77:2	homes 151:12	112:10,19 113:1,5	142:20,21
151:22	hon 1:22	113:9,11,22 114:3	hr 50:15 103:4
highlighted	honor 15:7,18,21	114:5,8,14 115:5	hrt 51:14
134:24	17:1,6,7,11 18:3	115:10,18 116:1	huebner 6:10 7:8
highly 26:12 90:9	18:16,20,24 19:17	116:11 117:10,14	15:7,8 19:22 35:4
90:10 114:12	19:21,22 20:1,3,6	117:24 118:1,3,4	35:9,12 37:7
118:12 121:19	24:9,22 25:3,4,6,8	118:17 119:12,18	38:21 39:23 54:8
144:10 154:5	25:24 26:25 27:21	121:10,22 122:9	54:21 59:4 63:17
hindsight 57:10	27:23,25 28:15,17	123:18,20,21,23	63:22 65:12,13,18
hipaa 2:7 163:14	28:19 29:15 31:3	123:25 124:2,8	66:15 68:15,18
hired 80:7	31:6,16 32:5,17	140:23 141:6,18	69:17,22 82:12
hiring 50:18	32:22 33:1,8,10	141:19 142:7	85:9,17 86:2,10
historic 104:4	35:1,4,12,21 36:3	143:23 147:22	87:24 88:6 89:10
historical 43:3	36:10 37:7 38:11	152:1,2 153:8,11	89:11 96:8,11
60:14 67:14 96:25	39:25 40:4 51:5	153:24 156:13	97:2 100:25
97:9 124:6	54:13,21,25 55:23	159:22 160:2,19	106:25 108:15
history 78:25	58:22 59:1,4,15	160:25 161:12	112:15,17 114:16
99:13 131:16	59:20 62:6 63:10	173:6,7 174:7,23	117:23 118:3
153:8,18 159:11	63:17 65:9 66:15	175:3,3 179:15,18	124:3 140:23
hit 54:1 60:22	66:22 68:15 69:17	honored 105:11	141:1,5 142:19
61:3 63:11 104:16	69:22,23 70:9	honor's 74:10	huebner's 116:14
hitler 173:16	71:3,12,22 73:1	hooked 171:23	huge 74:4 122:14
hmm 67:2	74:8,15 75:8,11	hope 110:14 154:7	164:24,25 171:3
hoc 2:4,6,9 5:12	75:17 76:15 79:4	166:25 171:6	171:19
5:23 7:13 9:9,16	79:16 80:13 82:12	173:22 176:5	hugh 13:4
15:13 16:6 17:22	82:24 83:8,23	hopeful 154:6	human 71:19
21:14 35:18 130:5	84:11,19 85:4,8	hopefully 91:3	151:4 152:13
	85:17 86:2,10,19	95:12	159:8,11 162:16

163:22 164:15 humanitarian 174:4 humanitarians 173:2 humanity 160:5 161:13 162:17 173:15 humans 142:19 147:4 150:6,24 157:15 159:22 hundred 41:25 52:2,13 60:23 62:8 63:6 83:5 84:7 121:15 hundreds 71:13 82:5,20 121:15 156:2 hurley 12:11 hyde 6:25 181:3,8 hyder 12:12	i i.e. 98:16 100:3 126:10,21 128:23 140:16 idea 21:20 150:5 identical 35:23 identified 86:5 107:23 108:5,8,9 113:7 138:19 139:5 identifying 85:14 idly 154:20 ii 2:23 3:6,17 4:2 4:14 iii 2:24 3:7,18 4:16 12:4 illegal 119:11 145:10 illogical 158:15,16 illustrate 25:23 imagine 50:15	imes 11:1 114:5,6 114:8 immediate 6:12 6:13,18 160:22 175:8 immediately 82:22 83:7 87:17 immiseration 79:22 134:2 impact 149:4 impartial 147:1 154:2 implement 26:12 26:14 implementation 4:22 5:2,9,15,21 6:1,8 34:22 47:21 48:5 78:5,21 79:11 136:15 implemented 74:6 137:4 implementing 58:12,15 implicit 121:11 importance 16:16 16:16 important 24:20 66:17 68:20 69:10 70:6 72:9 75:6 84:16 91:1 117:5 137:24 138:8 importantly 78:16 94:14 131:17 177:14,18 179:2 imposed 145:5 impossible 96:21 97:15 124:18 impromptu 121:10 improper 127:23 139:3,5,11,20,23 139:24	improperly 139:13 impropriety 120:13 inaction 106:11 inadvertent 85:5 inappropriate 77:8 78:8 81:18 inappropriately 120:4 inaptly 122:10 incarcerated 18:10 incentive 4:22 5:3 5:9,16,21 6:1,8 35:23 43:14 57:22 58:12,17 61:1,13 62:22 96:1,14 103:7 121:20 124:14 125:24 126:16 127:13,22 128:11,22 incentivize 61:5 94:6 100:15 incentivized 97:11 126:22 127:9 incentivizing 56:16 60:1 90:24 101:18,21 inception 82:18 145:1 156:15 incisive 118:10 inclined 31:7 include 102:25 124:7 135:4,11 149:3 151:7 included 39:14 43:8 99:1 102:19 125:16 includes 74:9 106:9 111:24 125:2
--	---	---	--

indictment	122:6	64:13,25 66:4	injury	15:16 16:7	intact	146:7
indiscernible	20:8	70:15 74:19 92:21		20:12,16,20 143:3	intake	166:22
20:13,14 27:18		99:18 101:23		144:15 145:5		169:18
28:8,10 32:23		102:2 127:6,10		146:8 148:2 149:7	integrity	27:14
45:2 48:6,12		131:25 132:12,16		156:7 157:12		106:22 114:11
52:18 73:9 74:5		132:19 133:2,15		158:10 162:21		167:4
74:14 77:15 85:10		160:16		176:11 180:5	intend	26:17
85:13,16 88:8		ineffective	172:21	innovation	36:22 144:5	
89:8 92:14 96:5		ineffectively	41:4 44:15 53:17		intended	116:25
96:20 104:8 105:1		143:8	96:16,18 97:8			144:20
105:21 106:2,3,19		inept	114:18	innuendo	intense	
107:5,20,23		inferior	165:10	140:14	168:18	
108:25 109:1,1,2		inflame	137:15	input	intent	
109:10,12,14		inflicted	147:5	177:12,23	144:18	
110:2,12 111:14		150:15		inquiry	intention	
111:20 112:19		infomercials		112:8	161:6	
113:14,20,20		149:24		127:14	intentionally	
114:1 115:11		information	2:24	insert	68:23 177:11	
148:3 149:3,18		3:7,18 4:3,15 16:3		81:9	intentions	
154:22,23 155:7		16:4 18:11 43:4		106:24	146:11	
156:25 157:5,6		82:4 96:25 97:1,9		inside	interest	
individual	2:5,7,9	104:4 110:2,6		97:16	78:12	
7:13 15:13 16:7		121:7 122:5 124:6		168:10 169:16	156:4 160:4	
17:22 21:14 42:8		136:11 146:25		insider	interests	
42:9 50:6 55:12		173:21 174:3		124:20	161:24	
56:13 68:11 87:6		informed	97:5	125:10 127:23,23	interface	
87:16 109:3		infrastructure		insiders	105:7	
individualized	17:18,23	20:9 21:9 22:14		56:18,19	internal	
individually	91:7	inherent	110:25	57:22 65:20 74:25	113:2	
individuals	86:21	initial	15:24 39:5	77:10 95:25	147:25 168:5	
86:22 87:7,8		40:24 68:21 95:4		124:16 125:24	internalized	
133:2 144:3,8		initially	40:9	insinuation	163:12	
155:24 166:6		96:25		140:14	international	
induce	98:3	initiative	20:13	insofar	161:10	
inducing	97:16	50:21		34:10	internet	
103:3 124:21		initiatives	49:12	insolvent	153:16	
125:10		50:3 51:14		144:8	interpretation	
indulgence	114:15	inject	139:12	147:15	125:12	
industries	92:23	injectable	117:4	instantly	interrogatories	
industry	59:25	jected	169:11	120:9	155:17	
60:20 62:20 63:9		injunction	6:12	institute	interrupt	
		6:13,18 175:8		112:16	82:7	
				institution	97:12 107:25	
				instructed	interrupted	
				108:14	89:4	
				156:23	intranasal	
				instruction	51:15	
				106:15	117:3	
				insulate	introduced	
				157:6	68:23	
				insult	125:4	
				157:12	introductory	
				insurance	15:6	
				48:9,10	inundating	
				48:11 150:17	151:10	
				157:10 167:7,9	investigated	
				insurmountable	82:1	
				159:14	158:18	

investigating	179:15	91:8,13,25 92:1	j
127:8	isaacs's 6:12	93:8 94:25 96:21	j 2:8 4:4,17,23
investigation	141:10 175:1	98:5 99:8,10	5:16 6:3 7:17 8:14
81:19 86:22,23,24	isley 12:7	100:16 102:5,6,9	8:21 9:6 12:22
109:9,11,12	isn't 21:1 111:23	102:10,14 103:6,6	13:19 14:2
110:24 111:14	israel 12:13	103:9,14,23	jail 148:9 160:11
117:23 134:10	issue 16:15 24:5	104:13 105:10,10	james 6:20 12:8
159:5 160:22	73:20 80:3 81:5	106:19 109:3	13:3
investigations	84:16 93:7 109:23	110:12,14 111:18	jamming 150:22
81:10,12 89:18	110:13,17 111:7	113:18 115:5	january 48:25
106:20 107:1	112:8 113:22	117:13,17 118:25	49:19
109:18 112:24	115:21 140:12,15	118:25 119:1,1,3	jared 135:7
119:24 159:1	issued 30:4	119:14,16 120:25	jasmine 11:13
investigative	issues 36:15 81:23	120:25 121:18	jeffrey 12:5,23
107:9	82:21 83:22 87:22	122:19,19	13:19
investors 156:2	89:24 106:1 121:3	i'd 45:17 85:12	jeremey 13:21
invite 120:15	132:13 137:24	95:12 114:15	jerome 14:1
invited 159:4	issuing 135:2	116:8	jersey 8:12
inviting 74:3	italian 105:9	i'll 18:17 19:6	job 53:4 59:24
involve 61:18	item 35:5 140:24	35:17 39:10 46:10	78:23 90:14 92:8
77:17	141:9	48:3 66:15 70:5	100:12 123:11
involved 50:2	its's 53:14	72:8 82:15 95:3	125:20,21 163:25
61:15,21 74:6	it's 15:23 16:16	95:11 100:25	169:22
79:25 81:19 84:24	16:22 20:20,24	104:25 119:12	jobs 91:3 154:15
88:10 89:22	22:13 24:4,22	123:3	joinder 3:21 22:4
111:13 112:6	27:5 30:22,23	i'm 15:4 29:11	28:22
139:1 159:2	31:21,21 36:4	31:11 32:10 40:24	joined 80:2,5
161:21	39:18 40:21,25	44:2,7,13,18,20	joining 122:17
involvement	41:21,24 43:17	51:1 52:9,22	jon 36:6
81:11 84:15	45:5,14 47:4,13	54:22 59:17 61:25	jonathan 11:6
115:20	47:14,14 49:19	62:1 63:18,23	40:5
involves 48:2	51:8,13,18 52:11	68:20,22 74:16,21	jones 12:14
ironically 120:23	53:2,5,6,8,13 54:7	76:3 84:12,18	jordan 14:6
irony 76:24	55:23 60:13 61:8	85:5,6 86:17 88:4	joseph 12:15
irreparable	61:17 62:15 63:7	90:18 95:14 99:21	josephine 11:5
159:19	63:10,13,13 64:12	100:19 105:22,23	36:7 63:21 66:24
irresponsible	64:12 65:6,11,25	105:24 107:6,6	68:17 131:1
80:10	66:10,17 67:7,25	111:9,13 112:4,17	journey 174:11
irve 9:6 29:17	68:5 69:19 70:9	118:19 124:12	jr 12:8 14:8
isaacs 6:17 11:2	70:21 71:4 72:5,6	i've 31:22 41:2	judge 1:23 15:2
141:11,12,14,18	72:19 78:7,16	46:10	64:16 100:16
141:20 174:23,24	80:9,10 85:5		126:17 153:9,19
175:10,13,15	86:25 90:8,18		162:1 178:11,16

judgement 49:11	kathleen 13:10	122:1 140:8 180:9	89:5,22 90:4,12
judgment 90:6	kathryn 7:9 17:8	kerps 88:14	90:18 91:23 92:13
126:11	17:12 141:6	kesselman 12:18	93:18,25 94:6,9
judicial 179:4	kay 128:21	78:19,21 79:17	96:11 98:17
july 25:24 35:8	keep 73:9 74:25	80:1 133:23 134:6	101:24 103:18
36:11 37:10,16	82:18 88:14 93:4	kevin 12:24	104:20 109:22
70:7 74:11 80:2	93:9,10 137:4,5	key 4:22,23 5:2,3	110:6,20 112:2
94:16 106:8	140:4 149:8	5:9,10,15,21 6:1,2	115:18 119:4,11
115:22 119:8	152:12 160:9,10	6:8,9 35:16 78:2	120:14 123:13
jump 121:17	169:10	95:25 124:14	147:1 153:25
jumped 87:17	keeping 146:7	125:24 126:16	159:17 163:2
113:15 120:9	174:20	127:9 128:10	166:1 167:10,24
juncture 157:15	keeps 93:10	137:10 173:24	174:14 177:21
june 37:24 38:10	keip 4:20,21 35:6	keystroke 150:22	knowing 21:11
39:6,11 54:11	35:20 37:18 38:1	keywords 146:22	38:5 39:20
56:21 58:15 72:15	38:2,8,13 39:6,9	149:17	knowledge 69:6
73:22 80:16 101:1	43:18 45:12 46:7	kickback 145:10	87:12 90:21
116:15 119:7	54:9 55:19 56:16	kickbacks 145:22	112:12 146:25
129:17 134:8	60:12,14,15 63:4	killed 157:14	known 149:14
151:17	64:23,24 65:4,7,7	165:3 172:10	153:16,18
junior 115:23	65:21 66:3 69:23	kind 19:4 36:1	knows 35:7 71:12
justice 8:1 10:16	70:7 71:23 72:7	59:16 68:23 70:12	77:11 80:14 81:25
82:2 110:7,8	73:11 74:17 81:15	75:5 77:2 83:17	83:1,25 95:7
122:17 123:8	89:12 95:5 126:2	86:22 89:4 91:23	kramer 9:15
143:1 144:24	129:5,17 130:1,23	109:21 168:11	33:11
145:16 147:16,20	131:1,5,11,13,19	kinds 174:10	I
147:22 148:10	131:24 132:2,17	kissing 172:2	1 2:12 14:5
160:12 170:24	132:25,25 133:13	kleinberg 8:16	l.p. 1:7 2:10 4:18
174:1	133:18,20 134:16	27:22 105:4	4:24 6:3,11,21
justifiably 26:13	135:1,4 136:23	knew 163:23	15:3
justifications	180:9	171:4,4	labeling 145:15
143:12	kenan 5:4	knocked 118:10	165:13
justified 96:7	kenneth 9:21	know 16:12 18:25	labor 171:2
97:22 126:5	33:10	23:9 24:21,25	laborious 163:8
justify 31:25	kept 169:24	25:16 29:6 32:1	lack 155:1
k	kerp 4:20 25:23	41:23 44:2,3,16	lag 21:12,17
kaminetzky 12:16	35:7 36:11 37:16	48:8 59:5,24	laid 31:22 74:22
54:21 59:1,1	38:1 39:6 56:18	65:16 67:13,16	78:18 146:12,19
kane 12:17	69:23 70:7 74:11	70:1 72:5,22	landau 79:10,18
kaplan 8:16 27:22	83:8 86:17,19,21	73:12,16 77:23	80:13,15,19,20
105:4	87:4,14 88:13	79:2 82:14 84:3	81:5,8,11,13,19
kathe 155:22	94:16 106:8	85:19,21 86:11,11	89:11 90:2 106:23
	111:25 112:22	86:14 87:15 88:24	107:2,4,14 110:22

111:1 112:6 113:8 114:6,11,21,25 115:18,25 116:4,7 116:12 117:12,18 117:22 119:24 128:12 133:23 134:8 136:24 138:18,21,25 139:8,17 140:3 landau's 138:10 landau's 110:25 114:10 115:9 landlord 169:3,5 language 23:18 25:13 74:9 102:24 108:21 124:25 140:7 large 74:3 84:4 133:4 177:9 largely 125:13 128:25 largest 97:8 144:4 172:20 lastly 130:4 173:19 late 2:12 17:16 48:25 49:19 94:9 94:19 128:21 latest 151:5 154:21 laudable 135:10 lauded 135:3,6 laughed 162:12 laughing 167:20 171:5 launch 145:2 launching 47:7 laura 11:25 lauren 14:9 law 26:14 27:1 81:21 84:14 113:4 121:8 128:20 135:8 143:21	149:16 lawrence 12:2 laws 147:21 160:14 163:14 178:7,8 lawsuit 149:14 lawsuits 81:14 149:24 lawyer 32:10 84:17 85:14,21 87:25 lawyers 57:25 82:17 85:19 112:25 lay 35:17 91:25 layer 83:9 121:18 layered 158:24 layers 121:11 156:24 laypeople 148:15 layperson 146:24 lays 18:9 176:5 lead 21:22 50:10 55:2,18 88:3 111:2 132:16 leadership 61:6 114:11 138:10 leading 50:6,8 65:10,11 80:7 112:16 learned 106:14 107:18 113:17 learns 167:7 leave 66:15 75:2 95:3 98:8 125:19 167:12 169:3 leaves 24:9 136:22 leaving 64:23 65:20 73:19 152:25 led 21:24 35:18 84:3	ledanski 6:25 181:3,8 lees 12:19 left 105:16 134:13 134:17 154:12 leg 100:4 legal 21:22 75:23 88:22 107:8 121:15 132:13 142:11 143:1,19 143:25 147:16,20 148:10 150:4 170:24 174:4,25 181:20 legislative 99:12 legitimate 32:13 length 74:23 119:21 121:3 175:15 176:4 lengths 157:4 lengthy 130:21 lerner 7:24 12:20 18:17,20,21,24 19:17,21 lesser 133:11,17 letter 161:21,25 174:7 letters 161:19 let's 71:22 75:17 76:3 level 29:3 40:18 40:22 41:7 56:19 61:9,10 62:18 65:16 96:19,20,24 109:8,9,11 133:10 133:19 levels 70:20 80:6 98:24 leventhal 12:21 levin 9:15 33:11 levine 12:22 lexington 7:5	liabilities 126:25 liability 157:24 179:7 liberty 150:14 152:6 169:25 170:5 librium 145:3 licensures 48:16 liesenmer 12:23 life 148:9 150:13 150:13 151:4 152:6,13 162:3 164:12 166:24 167:15 168:1,2,7 168:18,22 170:5 171:21,23,25 172:5 lifeless 171:22 lifland 126:17 light 57:21 82:22 83:13 106:18 129:10 134:5 135:16 162:15 lights 49:24 liked 142:15 154:4 likelihood 31:1 134:20 likewise 21:21 40:11 limit 132:21 limited 5:20 22:1 40:1 47:8 81:5 84:6 128:11 136:22 137:23 limiting 19:2 117:8 linda 11:1 114:5 line 48:11 113:3,4 180:4 linear 42:6,10 lines 154:7
---	--	--	--

lineup 36:25	115:9,16 121:12	loved 162:8,13	maintaining
link 114:21	129:14,22 130:20	168:16	117:7
116:13	134:3 166:10	loving 147:4	maintenance
list 40:13 41:10	170:6	150:6,24 157:15	71:18
listed 46:9 104:8	longer 154:6	168:11	major 84:21
listen 137:16	163:2,13 167:15	low 91:20	majority 24:10
174:12 175:16	look 32:9 41:20	lower 70:21,23	77:11,22,22 178:9
listened 175:17	43:11 45:17 50:19	92:12 101:24	makers 143:19
listening 148:10	56:8,9 71:22	lowne 11:6 36:6	making 32:11
162:9	77:15 79:4 94:15	36:12,20 37:6,12	65:3 71:8 76:23
lists 41:3	103:6 112:10	38:25 39:3,4,13	78:7 111:15
lite 8:8	163:10 169:21	39:22,24 40:2,5,7	122:11 145:18
literally 70:16	looked 87:23	40:9 49:23 54:15	163:19
75:20 134:21	122:22 153:8	54:19 55:2 59:7	man 114:12
litigation 9:17	looking 50:16	59:21 60:5 66:21	manage 144:17
71:16 139:11	99:21 112:25,25	67:10 69:13 79:4	management 29:1
litigious 78:24	122:3 146:22	90:21 92:17 97:3	49:9,14 50:24
little 52:22 64:18	148:9 149:25	101:13 104:5	61:16,17 67:7,10
95:1,12,13 148:11	153:11	117:17 118:11	67:21,24 68:2,9
149:1 172:24	looks 105:9	124:8 131:2,10	68:23 69:2 73:13
live 79:7 131:9	131:22	136:4,8,11,18	116:24 130:11
167:16 172:5	loop 47:10	lowne's 38:7,22	135:21
177:12 178:7	loopholes 147:20	91:5 133:21	manager 108:9
lives 34:3	151:25	135:18	managers 103:18
livid 168:2	lose 164:19,19	lsc 25:25	mancinelli 79:6
living 165:20	loss 43:23 44:9	luck 162:2	manipulate
172:23	45:6,7,9,10,18	lucky 162:3	144:18 147:21
livy 13:7	92:25 168:15	lunacy 169:14	148:10
llc 2:23 3:6,17 4:2	178:2	lundie 79:7	manipulated
4:15 8:8 9:1 128:1	lost 29:14 71:15	m	178:3,5
143:13 155:7	163:24,24 171:16	m 5:11,22 9:13	manipulating
llp 7:3,12 9:8,15	lot 19:9 20:9 21:3	12:14 13:4,5	152:5
10:8 17:12 141:7	32:21 59:5 83:23	ma'am 175:16	manipulation
local 166:17	95:4,5 103:14	179:14	144:9,10,17,25
170:15,17	110:1 153:10	machines 171:24	145:7 146:6 178:5
locations 54:22	165:7 166:25	maclay 12:24	manner 30:19
166:14	167:25 168:15	mad 167:25	manufacture
locked 159:25	178:1,19	maelstrom 71:15	144:2
169:16	lots 112:25	magical 162:16	manufactured
locking 130:2	love 75:25 151:1	magnifying	145:20
lonely 165:10	157:18 160:3	122:23	manufacturing
long 58:16 72:3	166:25 174:16	main 9:3 114:15	172:14
73:1 79:23 114:24	178:2	122:17	

map 52:7	mathew 11:24	measuring 73:25	memorandum
mara 12:21	matter 1:5 16:15	130:7	26:23
marc 12:18 13:23	24:25 33:2,24,25	mechanisms	memory 42:17
14:2 80:1	35:5,13 98:24	33:18	44:18,24 45:16
march 72:16,19	105:13 142:25	media 132:6	57:25 58:1,5
73:4 84:10 119:4	161:22 165:4	median 65:4,23	83:15 112:22
119:13 129:22	matters 15:9,10	65:24 66:11 89:15	118:12
135:9 151:17	35:13 168:17	89:16 90:7,8,14	mental 142:3
marchman	matthew 5:16	95:10 99:4,18,20	143:4 148:22
170:19	8:21 12:1 27:21	102:2 103:23	149:4,6,8 154:20
mario 11:20	105:3	118:24 123:15	156:5,7 158:10
market 62:13	maura 13:10	131:19,25 132:4	159:18
65:25 66:4,11,12	max 60:17	132:16 133:2,6	mention 136:25
70:21,24 74:20	maxcy 13:1	medicaid 145:19	mentioned 121:24
76:5,9,10,18 78:6	maximize 90:5	157:11	mere 158:7
81:9 90:3,7 96:8	maximizes 91:4	medical 143:21	merely 71:4,5
103:10,12,13	maximum 60:23	151:10,14 156:25	117:11 127:25
125:18 137:19,20	61:20 62:9	171:24	merits 25:11 26:7
137:21 162:25	mcCarthy 13:2	medicare 145:19	27:4,11,16
marketing 84:4	mcclammy 6:20	157:11	messaging 155:4
115:19 145:15,21	13:3	medicated 166:2	met 40:18,22 41:4
146:3 158:19	mcdonald 13:4	medication 163:3	41:7,11 51:18,20
172:8	mcnulty 13:5	163:10 164:15,16	56:6 61:2 62:4
markman 12:7	md 10:4	164:20	72:21 91:13,16,16
marshall 6:10 7:8	mean 42:7 48:2,4	medications 159:7	91:17 96:15,22
15:8 35:9	56:8 65:24 66:10	meet 100:3 101:16	104:12,16 124:19
maryland 3:9	76:18 103:14	101:16 132:24	132:2,15 133:12
10:1,2 22:3 32:6	113:6 119:16	meeting 48:23	152:20 164:11
mas 122:16,16	120:10 121:25	79:10 83:20	171:15
master 2:22 3:5	175:7	106:15 120:22,24	metaphor 26:25
3:16 4:1,14 20:16	meaning 103:1	120:25,25 121:1,1	methamphetamine
162:13	meaningful 34:18	121:2 132:23	147:10 166:15,16
masumoto 12:25	91:12	meetings 77:16	metric 40:19 41:5
match 93:5	means 73:16	meets 48:20	41:7,8,10,12,13
matched 108:9	146:5 153:13	133:10	41:18,22 42:5,10
matching 121:23	meant 103:1	meises 13:6	42:14,21 43:12,14
material 72:11	111:1 173:5	melissa 14:5	43:22,23,24 44:16
74:22 94:12 95:9	measure 52:6	member 93:15	45:1,4,5,6,8,21
129:12	93:17 177:10	157:17	46:17,18,19,23
materially 131:14	measurement	members 50:16	47:17 49:22,23
materials 145:16	55:18 60:14	75:14 143:24	50:23 51:7,17,20
math 46:3,6,10,15	measures 34:1	148:19 149:5,7	51:24 52:1 55:6
46:20 90:13 162:6	130:18	159:13 161:20	55:12 60:16 62:11

93:1 96:16,17,17 96:19,22 97:8,8 136:10 metrics 39:15 40:13,16 41:4,14 41:16 42:3,12,25 43:6,17,21 45:25 46:3,6,10 51:23 53:18 55:25 56:9 56:13,24 57:1,6 58:3 67:17 68:25 72:8 74:1,1 91:5,9 91:11,18 92:3,9 92:13,15,20,22,23 92:24 94:1 96:15 97:1,3 103:22 128:21 129:8 130:8,12,15 132:2 132:23,24 133:10 133:11 135:13,14 135:16,19,20 mezei 13:7 mg 162:23 michael 11:12 13:22 michele 13:6 microscopes 122:23 mid 57:13 75:20 middle 66:5 75:19 85:6 100:1,3,5,6 100:21,23 midst 144:3 midyear 55:11,24 military 154:17 miller 13:8 million 22:12,17 26:2 33:15 41:21 42:5 44:19,24 45:7,11,21,24 46:5,11,15,17,24 47:5,5,11 54:3 71:23 72:2,3 83:5	95:25 97:10 121:15,15 130:24 136:1,3 147:12,25 149:19,19,20,20 152:24,25 millions 71:14 82:5,20 142:2 145:20 146:9,11 149:9,11 150:6 156:8 159:20 162:6 mills 164:6,8 166:13 minalfene 117:4 mincing 150:23 mind 63:18 75:22 85:8 98:9,10 131:13 164:14 172:6 mineola 181:23 mini 171:1 minimum 28:6 56:19 96:22 145:1 minute 64:24 71:23 89:12 minutes 35:18 36:1 64:16 70:6 72:8 76:25 78:22 151:7 mirrors 156:11 misconduct 81:10 85:15 86:8 87:12 106:11,19 107:1 114:19,21 134:10 138:24 140:7,12 158:18 misguided 93:15 misheard 120:20 misimpression 30:1 misleading 145:15 misspeak 82:16	misstated 84:13 mistreated 165:10 misunderstands 93:22 misunderstood 112:17 120:21 mitchell 12:11 mitigate 113:1 mitigation 158:6 mm 67:2 moderate 68:1 modicum 79:19 133:24 modifications 35:17 36:14 modified 108:16 129:10 176:5 molton 13:9 mom 164:3 moment 50:22 158:1 167:24 moments 79:25 monaghan 13:10 money 20:11 21:4 21:19 22:14 24:13 29:22,24 30:18 31:2,8 146:5,8 147:17,22 154:24 156:19,23 157:6,8 157:11 158:25 161:25 166:13 167:2 177:8,10,15 177:19 178:14 monitor 113:12 113:13 120:8,15 138:16 145:18 monitoring 30:9 monitorings 122:16 monopoly 166:24 month 22:18 90:10	months 21:8,12 21:14 34:3 42:17 57:1,10 161:22 169:8 171:5 moot 22:21 23:3 23:20,23 24:2 25:22 26:3,16 34:22 mooting 23:13 mootness 25:14 31:15,24,25 32:15 34:10,16,19 moral 148:17 154:14 morale 117:8 morales 13:11 morning 15:2,8 15:18,20 17:11 18:20 19:25 27:21 29:15,16 mother 161:13 162:1 164:25 170:13 mothers 141:22 motion 2:4,5,6,12 2:12,19,19 3:1,2 3:11,12,13,24 4:8 4:11,20,21 5:1,7,8 5:14,19,20,24,25 6:6,7,17 15:12,14 15:22 16:13,14,19 16:23,25 17:3,7,7 17:17,18 18:5,6,7 18:8 19:23 20:6 21:25 22:12 24:5 25:24 26:11 27:17 28:7,13 29:7 30:7 30:24 31:7 32:14 32:25 33:3,5,11 33:14,14,21 34:5 34:11,19,21,23 35:9,14,16 37:4 37:11,25 38:6,12
--	---	--	---

38:20,20 39:5,8 39:21 67:12 83:9 95:4,22,24 114:9 115:6 123:4 124:13 128:19 131:3 140:2,4,8 140:20 141:10,15 142:9,15,19,23 154:3 175:1 179:12,13 180:5,6 180:8,9,10 motions 28:5 83:12 94:19 152:20 motivator 168:22 motive 146:5 movant 128:6 141:12 move 22:8 26:17 37:2 49:24 157:6 171:7,25 moved 158:25 177:2 movements 48:14 movie 105:10 moving 29:13 97:20 143:15 156:18 msge 35:18 72:11 73:25 95:10 122:14 multi 73:5 76:22 83:18,19 87:8 90:10,11 120:23 multiple 69:25 74:3 84:14 90:15 94:10,12 95:5 120:21 122:23 165:25 multistate 130:6 multitude 146:13 158:23	mundipharma 158:22 161:10,10 173:12 municipal 22:5 28:20 municipalities 29:8 municipality 3:21 4:5,10 8:9 murder 173:8,10 173:12,12 murdered 148:8 murders 151:8 murray 13:12 music 162:10 musings 122:18 myriad 132:12 146:23 n n 7:1 15:1 180:1 181:1 n.d. 128:5 naftalis 9:15 nagging 168:20 naloxone 51:15 117:2,4 name 67:5 75:15 141:20 named 81:13 110:25 122:10 139:8 144:22 narcotics 76:23 narrow 111:6,9 nas 20:15,16 30:8 176:12 nasal 52:23 nathalie 13:14 nathaniel 13:8 nation 4:6 8:10 142:21 143:3 145:6 146:14 148:24 150:20 151:12,15 161:5	170:17 173:24 nation's 158:19 nations 3:22 4:10 28:21 29:9 nationwide 157:16 nature 113:21 127:16 navigate 159:24 159:25 navigating 150:17 ncsg 75:13,13 81:4,8 86:20 87:2 90:1 122:9 nda 51:14 near 79:7 94:2 171:8 nearly 35:22 163:24 164:1 necessary 16:16 21:4,9 26:12 29:5 76:9 99:17 100:21 need 15:5 20:21 28:2 29:12 31:18 41:4 61:7 64:22 68:24 77:2,15 82:12 86:3 90:4,4 94:3,14 97:4 100:1 111:18,19 127:8,9 153:25 162:14 171:18 174:18 needed 110:21 163:3,15 needing 116:2 needs 16:10 20:10 40:18 41:7,10 51:17 76:23 96:22 119:10 132:13 138:20 139:15 164:16 170:13 171:15	negative 140:14 140:19 neglect 18:12 negotiate 29:9 94:11 negotiated 38:8 70:4 95:8 176:7 176:10 177:9,9 negotiation 29:12 35:16 69:25 70:25 122:8 negotiations 72:10 94:22 129:11 176:15 neiger 13:13 neither 124:24 net 42:20,21 44:16,17,22,23 46:23,23 47:1,2 53:20 136:2 156:14,16 netting 121:11 network 20:14 networking 149:15,22 never 27:4,11 79:10 99:15 103:11 118:21 141:22 142:10 149:14 151:3 152:11 155:13 159:17 160:23 162:4 169:18 171:10 new 1:2 7:6,15 8:4 8:12,19 9:11,19 10:12,19 45:4 47:7 48:6,10,12 48:14 72:24 77:12 77:22 79:7 93:19 93:20 116:23 117:9 118:25 123:6 134:20
---	--	---	---

136:5 150:9 158:20 162:24 174:3 newark 8:12 newco 117:5 newly 45:5 news 75:8 153:15 nieves 13:14 night 161:2 166:17,17,19 169:10,10,16 nine 57:10 148:21 171:23 ninety 57:13 noat 30:10 non 5:7,12,19,23 9:9 20:16 28:24 33:1,4,4 42:10 136:7 151:25 nonadherence 143:6 nonconsenting 105:16 115:6 128:15 136:22 137:23 138:17,24 nonfatal 151:9,14 151:17,19 nonprofits 143:20 nonsensical 102:19 nonvested 161:17 normal 130:15 137:9 normally 64:11 130:9 norms 64:13 note 36:18 59:4 70:6 72:9 140:3 157:16 noted 71:3 137:9 notice 2:1,6 3:2,13 16:23 31:3 118:13 142:4	notified 142:10 149:11 noting 27:5 notion 77:19,21 78:9 79:1 93:13 117:11,11 120:6 notwithstanding 101:22 106:14 107:21 124:1,10 124:24 125:5,8 132:18 november 82:11 138:4 nth 82:3 120:25 121:1 number 17:17 18:2 22:1 33:22 34:2 36:13 37:3 44:5,25 45:14 49:12 55:17 63:13 67:14 114:25 121:2 122:21 123:1 151:7,8,20 151:23 numbers 41:23 44:2 64:17 71:22 89:12 92:3,11 94:5,7 96:12,13 97:5 118:12 146:21 149:1 numerous 136:12 ny 1:14 7:6,15 8:4 8:19 9:11,19 10:12,19 181:23 o o 1:21 15:1 181:1 oath 37:17 60:7 63:25 115:1 object 65:9 105:19 objected 33:5,21 110:9 128:18 133:20	objecting 3:22 4:9 23:22 25:5 33:3 objection 3:1,11 3:11,21,23 5:1,7,8 5:14,19,20 6:17 6:17 23:6 32:11 71:2 75:18 81:5 89:17 95:8 107:12 108:1 112:1,19 119:23 121:4 124:5 128:11,13 131:6 134:11 136:22,23 137:1 137:22,24 138:18 140:17 141:16 142:11,24 153:6,7 objections 4:8 16:24 19:4 22:1 35:20 36:16 75:9 75:12,21 95:6 108:23 128:10 136:20,21 objective 42:8 48:23 52:7 objectively 136:10 objectives 48:22 49:3,5,6,7,13 57:3 objector 122:10 objectors 22:6,25 23:15 24:23 36:22 82:1 95:13,16 114:10 objectors' 24:14 obligation 83:16 93:21 108:24 124:20 126:10 obligations 97:21 126:3 observations 117:25 observed 143:11	obtain 26:10 124:13 163:6 obtained 87:19 126:21 158:13 170:21 obvious 132:10 obviously 18:25 19:9 28:22 57:9 59:6,8,17 77:17 79:8 83:15 85:17 91:18 95:3 98:8 109:6 117:5 122:4 122:7 125:17 138:8 occur 28:9 occurred 45:15 80:3 115:22 167:23 october 72:16 107:17 145:9 offer 119:12 offered 23:5 168:3 offering 145:22 157:23 office 3:23 10:1 28:1 40:1 67:6 95:18 124:11 141:2 142:15 147:12 154:3 161:20 officer 26:2 48:10 50:1 official 10:9 176:13 oh 7:22 51:2 okay 15:17 16:19 17:2,5,10 18:4,6 18:19,21 19:7 24:22 25:2,7 27:19,25 28:16 31:5 32:8,20,24 33:9,13 35:3,11 37:15 38:17,21
--	---	---	---

39:4,17,23 40:7 43:2,11 44:2,9,15 45:9,20 51:3 53:2 53:2,5 54:16,20 54:24 55:22 56:23 57:15 58:19,19,24 60:4,25 63:7,15 63:19,20 64:7,16 64:21 65:6,13 66:6,9,14,19 67:18 68:14 69:6 69:9,12,17,22 84:19 89:4,9 95:15,18 104:22 104:24 105:2,6,14 105:14 111:21 113:12 114:2,4,7 120:7 123:19,22 124:12 141:4,14 174:22 179:16	44:9,12 45:6,7,9 45:10,21 46:1,4 46:16 71:6 92:24 92:25,25 93:1 97:7 136:4 147:15 operational 68:10 operations 79:8 123:5 opiates 163:21 opioid 80:3,24 84:5 116:20,22 117:1 136:7 138:12 143:5 145:21 146:1 150:11,25 151:17 151:19 158:6,19 179:2 opioids 33:23 34:1 80:22,25 84:10 88:10 116:17 141:24 158:8 165:12 166:4,9 167:18 172:10	5:25 6:7 15:5,11 15:14 16:1,1 17:3 18:2,14 19:2,14 20:10 21:22 23:18 25:17 26:19,22 28:4 29:2 30:1 31:8 34:2,6,24 74:8 82:6 92:20 170:21 177:15 179:11 ordered 170:18 orders 88:13 ordinary 97:21 126:4,8 128:9 175:21 oregon 22:3 organization 113:21,24 organizations 173:20 organized 23:10 oriented 76:17 164:2 original 36:15 122:1 originally 16:20 36:6 73:2 119:3 otc 51:15 ousterman 13:15 160:1 174:12 99:19 120:14 129:18 133:18 135:1 137:18 139:17 175:25 oppose 18:8 27:7 opposed 56:12 62:4 74:25 99:14 122:22 opposing 22:2 opposite 120:14 122:22 opposition 31:19 oral 69:21 124:12 134:16 176:20 order 2:5,8,20 3:1 3:4,13,15,25 4:12 4:21 5:2,8,15,20	109:15 110:24 112:25 116:23 126:3 139:16 166:17 outsider 153:11 outweighed 167:14 overall 64:17 65:20 66:7 70:19 104:12 overdose 168:15 169:17 171:17 overdosed 169:16 overdoses 151:9 151:11,14,17,19 151:23 overdosing 174:9 overly 66:12 overpaid 76:12 overperforming 55:25 57:7 overrule 160:13 overruled 136:20 oversee 119:24 overseeing 159:3 oversight 146:12 overwhelmed 169:22 overwhelming 24:10 153:5,7 155:16 owes 79:15 owners 143:7,20 oxycontin 141:23 145:1,18,20 149:11 151:2 155:4 156:15 158:4 162:20,22 162:23 163:6,18 164:5,15 165:17 168:1 172:12,15 175:20
---	---	--	---

p	paper	particular	payment
p 7:1,1 12:9 15:1	142:18 150:22 156:1 173:16	48:19 95:24 126:15 127:10 152:1	30:8,14 40:15 54:10 55:8 55:18 56:5 61:4
p.c. 8:16	papers 20:7 35:16	161:4 176:18	86:21 90:9 99:2,8
p.o. 9:3	105:13 110:16 175:4	particularly 62:3 70:1 110:23	130:19,20 132:18 132:20,22,25
page 40:25 47:14 51:9,10,11 52:17 104:7 115:6 116:13 119:23 128:4 138:18 140:17 180:4	paragraph 30:2 34:6 40:25 43:13 47:13 51:8 55:4 79:5,9	parties 23:18 25:16,18 33:3,20 36:19,21 78:3 82:5 85:23 91:1,2	140:6 153:7
pages 82:5,20 94:15,25	paragraphs 79:6	106:24 109:9	payments 22:7,21
paid 40:19 41:8 51:21 52:10 53:9 53:9,15 54:11 66:10,12 72:14,19 76:5,13 77:7 83:4 90:2 91:2 96:2,16 98:7,8 101:19 102:2,12 103:10 103:21 106:17 117:6 118:23 124:25 125:18 129:17,18 132:5 137:20 146:2 148:25 149:4 152:24 157:9 166:22 167:8,9 173:17	parallel 69:24	130:25 139:15	23:12,20,23 26:1
pain 81:1 116:23 144:15 159:7,14 161:14 164:15,17 164:20 168:25 172:17,18	parent 157:1 162:24 163:15	157:9 161:21 179:6	26:4 30:12 31:23
painful 162:20	parentless 159:15	parts 56:7 62:24	38:12 45:13 56:21
paintball 162:9	parents 143:19 149:15 176:12	party 30:9 79:24 140:10 152:3 153:19 155:2 160:22	65:21 72:7,14 87:4,14 89:12,14
pale 110:4	park 10:11	pass 96:2 151:1 156:23 157:18	96:3,4,6,22,23
palm 147:13	part 19:23 28:12 43:14 72:15,16 75:3 78:10 80:18 92:3 99:10 108:15 112:3,12,14 117:12 118:23,23 121:5 128:23 130:3 132:23 135:4 137:9,25 138:1 142:11 143:1 154:25 156:9 165:14 172:20,20	passed 96:5 100:8 108:25 150:4 171:1	98:19 101:1,11
pandemic 143:4,5 145:21 148:22 156:5	partaking 152:22	path 29:2	119:4 125:15 132:15 135:2
panic 166:15	parte 2:5 3:12	patients 151:22 170:19	payor 30:9
	participants 65:8 70:24 71:24 73:11 73:18 78:2,20 106:9 130:2	patrick 13:1 162:2	payout 42:1,11
	participate 76:7 79:19 115:3 150:4	pattern 89:20	49:10 51:25 52:1
	participated 118:19	patton 7:19 18:17 18:21 180:7	54:4 55:12 56:2
	participation 107:23	paul 5:4 10:3,21 13:20 39:25 67:5 95:17 123:20	58:15 63:12 70:20
		pause 68:20 154:5	payouts 41:15
		pay 56:14 58:16 95:23,24 103:19 119:6 137:21	pays 63:4 91:4
		paying 78:3 90:7 119:13 123:15	pdf 41:1
		125:20 145:10 157:9	pebble 148:23
			peers 74:19 154:4
			penalized 78:14 79:2
			pending 15:24 27:7,18 28:6,7,13 38:3
			penniless 170:3
			people 16:2 32:10 47:17 48:3 49:3,5 49:7,22 50:2,19
			50:23 62:14 72:23
			75:1,2,4,5 76:10 77:2 78:15 79:15
			81:22 84:3,5 87:4
			87:13,16 88:9,16
			90:4 91:2 93:18
			93:19 94:6 96:17

99:9,18 101:5 102:7 107:23 109:22 112:24 118:20 119:12,25 121:19 123:2,4,16 125:23 131:23 136:9 137:15 140:11 142:9 143:17 145:7 146:16 148:18 149:9 150:5,20 151:11 152:7,18 153:6,21 154:2,21 156:11,12 157:13 160:1,6,6,18 161:7,15,18 165:1 165:2 166:8 173:1 173:1,1,9,13,20 174:6,11,16,18,21 175:21,22 177:11 177:20,22,23 178:18,20 people's 142:16 143:3 perceived 49:12 percent 40:21 41:11,25 42:2,4,7 42:7,8,9 49:4 52:2 52:5,13,13 54:1 55:13 56:2,10,12 56:14,14,15 57:8 57:14 58:7,9,10 58:18 60:16,17,18 60:22,23 61:2,18 61:19,22 62:4,4,5 62:7,8,8,9,10,18 62:19 63:5,6,8,11 63:14 64:3,11,12 64:24 65:2,3 67:14 74:20 75:13 84:1 89:14,16 96:23 104:12,14 132:1,20,23	133:12,16 151:24 152:21,22 154:22 percentage 49:10 51:25 52:1 54:4 62:25 63:3 67:15 percentile 64:25 65:3,20,25 74:19 89:13 132:1 percentiles 70:20 74:16 perfect 113:12 169:1 176:21 perfectly 31:11 42:6 77:11 80:1 81:25 perform 26:11 62:19 performance 39:15 40:16 41:5 41:22 43:6,7 44:16 49:13 53:18 60:9,16 61:5 62:11 63:12 73:25 97:8 126:23 129:9 130:8,11,14 133:17 134:18 135:17,23,25 136:1,3 performed 49:10 130:9 performing 54:3 127:12 period 2:16 18:10 19:10 84:10 110:21 115:10,11 130:21 139:3 151:18 167:19 perkin 155:7 permanent 148:2 permission 15:15 permit 88:21 126:4 152:2,7 163:14	permitted 143:5 152:8 153:4 perpetrated 144:4 174:5 perpetual 144:24 perseverance 148:17 person 50:5,10 85:11 97:16 103:3 108:10,10 111:2 120:6 121:5,24,25 122:20 124:21 125:10 148:8,8 161:17 178:8 personal 15:16 16:7 20:12,16,19 81:15 143:3 144:15,20 145:5 148:2 149:7 155:5 156:7 158:10 167:3 168:17 169:12 176:11 180:5 personally 82:24 89:17 119:24 142:10 149:13 157:25 179:1 personnel 143:21 persons 166:1 person's 98:12 perspective 27:12 63:4,12 88:4 174:3 peter 11:21 petition 128:24 135:1,2 138:11,15 139:9 petitions 128:21 pg&e 128:4 pharma 1:7 2:10 4:18,24 6:3,11,21 15:3 48:6,12 76:22 102:8 143:6	143:23,24 144:22 145:17 147:7,7,14 148:16,20 149:10 152:4 155:14,25 157:24 158:21 pharma's 156:14 156:16 pharmaceutical 60:20 66:2,4 71:6 71:8 102:8 160:15 pharmacists 143:20 165:3 phone 77:17 120:7 122:21 171:19 173:9 phrase 124:23 physical 148:3 150:15 158:10 159:14 161:13 163:11 172:15 physically 150:2 162:19 163:3 164:4,8 172:1,19 physician 162:24 163:2,9 165:16 168:1 physicians 143:21 150:17 162:22 165:3 166:7 168:5 172:8 pi 15:24 20:15,23 21:16 30:8 pick 164:7 picked 153:17 picture 29:14 piece 156:1 pieces 143:15 piling 137:18 pill 164:6,8 166:12 pills 145:20 pillsbury 9:8
---	---	---	---

pioneer 18:13	128:17,18 129:16	pockets 30:20	possible 75:4
pioneering 159:7	130:3,17,21 135:5	podium 15:15	78:25 117:8
pioneers 159:10	150:10 155:8	18:17 19:24 141:3	149:24
pipeline 52:19	176:6,20 177:1,3	141:13	possibly 161:16
pis 122:14	177:7 178:10	pohl 13:16	post 73:18,21
pittman 9:8	plan's 177:5	point 22:16 23:5	93:13 101:2
place 10:3 27:3	plans 61:13 64:19	23:10 26:6 31:2,3	134:17 138:15
49:16 80:19 89:1	90:15 111:20	34:24 49:6 50:5	potential 29:23
89:23 99:15	129:1	59:23 67:20 68:16	81:23 83:6 87:11
106:21 107:3	planted 172:9	69:14 71:4 82:8	89:18 127:1
112:20 121:12	plan's 78:4,20	85:7 89:6 97:12	129:21 150:11
138:11 170:21	platform 149:15	100:17 104:13	157:23 163:1
placed 19:12	play 110:22	111:2,4,10,21	potentially 25:1
162:22	played 110:23	116:1 117:14	pouring 151:9
places 55:17	playing 142:18	123:25 124:2,4	power 72:5
plains 1:14 153:17	162:8,10,10	129:1 171:16	138:15 154:23
plan 4:23,23 5:3,3	167:20 168:6	172:25 175:15	177:6,6
5:10,10,16,22 6:1	plea 109:3 115:8	178:23 179:12	powers 154:24
6:2,9,9 15:25	115:17,21 122:6,8	pointed 138:24	practical 24:8
16:10 20:9,13,25	pleading 28:22	139:7	practice 26:18
21:7 22:2,9,14,22	75:19,24 80:11	points 77:7	75:23 77:9 98:16
22:22,23 23:4,21	93:11 110:14	114:15 117:24	107:22 108:5,7,25
24:1,6 25:11	176:25	123:21	108:25 109:3
26:10,12,14 27:8	pleadings 23:1	poisoned 172:6	121:22 122:4,6
28:5 30:3 31:14	91:24 134:15	poisonous 150:1	127:25 132:19
32:15 33:16,19	pleas 145:11	policies 48:11	135:3,6 178:13
34:8,13,22 35:20	155:17	50:9 136:19	practices 86:9
35:23,25 43:14,18	please 37:20 39:1	policy 143:19	106:6
57:23 58:8,12,15	40:24 52:25 64:22	polk 7:3 17:9,12	pre 23:12,13
59:6,12,13,25	80:18 82:16	20:1 59:2 141:7	88:10 138:11
60:17,18,21,24	120:11 141:19	pond 148:23	139:9
61:1,1 62:22 66:7	156:13 160:12,24	portal 20:22	preceded 115:8
69:1 72:23 73:4	161:5 170:12	portion 30:4 39:8	176:25
75:14 78:11 79:1	174:3,4,12	100:2 105:19	precedent 152:3
79:9,11 83:21	pleasure 40:9	129:18	152:13 178:9,10
90:11,11,15 92:20	pled 82:10 114:21	position 29:19	179:4
93:5,14 94:2,8	145:17 155:23	70:24 85:1 138:22	precipitated
96:1,10,10,14,14	plenty 16:22	154:9	151:1
106:10,10 119:11	plethora 146:20	positioning 70:21	precisely 80:7
124:14 125:24	171:23	positions 74:23,24	94:21
126:21,22,24	plus 66:3 147:23	123:9	predisposed
127:2,5,8,17,18	pm 179:20	positive 168:23	159:18
127:21 128:7,11		169:11	

preferences 24:20 24:21	preserve 25:21 34:16 123:16	83:25 84:21 118:8	productivity 117:7
preis 10:14 24:25 32:16,17,18,21	preserving 25:9	problem 27:12 54:17 116:7 143:2 162:6	products 71:9 77:3,5 92:14 175:19
premature 28:7	president 151:5	problematic 88:12	professional 2:15 2:16 22:18
premise 110:19	presidential 117:18	procedure 74:12	professionals 143:18,19
premised 124:23 130:22	press 21:2 143:22	procedures 142:12 177:11	profit 41:21 42:15 43:12,22,23 44:1
prenotice 30:6	pressed 78:4,20	proceed 24:23 69:17	44:4,12 45:21 46:1,4,17 92:24
preparation 28:8	pressure 148:22	proceeding 150:8 177:3	92:25 93:1 97:7 136:4 152:17
preparatory 31:9	presumably 137:7	proceedings 1:12	profitability 92:7
prepare 47:20 48:1 136:13	pretty 47:6 59:9 72:18 74:4 75:10 103:16 118:4	142:5 146:14,25 147:18 150:5,21	profits 146:15,16 156:14,16,17 166:10
prepared 176:7	previous 171:12	150:23 153:5,17	profoundly 78:12
prescribed 141:23 162:23 165:17	previously 131:3 142:23	154:8,13 155:6 160:4,23 179:19	program 35:21 56:16 60:19 69:24
prescribers 80:4 80:22 116:18	preyed 153:20	181:4	70:8,9 95:11
prescribing 166:7	primarily 82:13 88:7 175:19	process 6:13,14 6:19 16:17 21:9 29:1,5 30:25	96:13 103:7
prescription 149:12	primary 95:6 121:7	67:23 83:18 88:20 107:3 109:5	105:17 107:22
prescriptions 149:11 157:10	prime 2:23 3:6,17 4:2,15 155:12	112:16,20,22	126:16,17 128:22
presence 105:12 158:23 172:16	principal 159:8	prior 60:18 62:2 79:6 84:10 91:24 94:4 118:12	processes 21:13 50:18 122:24
present 11:8 37:6 37:8,11 76:12 88:22 90:18 133:18	principle 25:16	129:19 130:22 132:8 140:12	163:19
presentation 49:1 49:8,14	principled 114:12	142:25 150:7,11 152:6 155:1 163:8	programs 70:11 70:15,22 80:25
presentations 87:1 130:11	prior 60:18 62:2 79:6 84:10 91:24 94:4 118:12	170:5 175:9	94:23 96:12
presented 15:12 42:17,18 48:8 49:20 50:24 56:18 57:4 58:6 87:9 91:12 105:17 112:21 116:12 123:14	priorities 24:17	processing 173:21	103:15 116:22,25 130:23
presenting 35:9	prioritized 116:25	produce 82:19 169:11	progress 87:19
presents 68:9 90:17 157:13	priority 117:20 119:10	produced 110:6,7 175:20	progressed 143:10
	private 80:6 178:13	product 47:7 136:5,7 144:2	progressing 52:19
	pro 11:1,2	production 6:14 6:19 29:3 175:9	prohibit 155:19 169:23
	probably 36:25 46:8 57:13 74:20 77:24 78:24 83:4		prohibiting 163:16

prolong 32:6 prolonging 32:4 promote 80:22 promoted 117:13 promotion 116:17 145:18 prompting 155:7 prongs 83:14 pronounce 52:25 53:3 pronouncing 44:13 proof 2:13 91:22 124:10 128:6 131:11 proper 71:16 126:11 127:21 136:14 140:13,16 174:4 178:23 properly 91:18 111:23 126:22 139:13 169:18 property 150:18 152:6 160:11 169:3 170:1,5 proponent 31:13 proponents 34:13 proportion 78:15 151:23 proportions 156:5 proposal 21:25 127:5 propose 24:23 38:23 proposed 15:4 18:2,14 19:14 21:24 25:13 30:1 30:3,8 34:6 119:13 126:10,21 128:10 131:11 137:11 140:22 proposing 137:18	propriety 77:3 94:23 120:18 prosecution 160:13 protect 77:4 147:22 152:11 165:2 protected 2:23 3:7 3:18 4:3,15 16:3 protection 151:3 154:1 protective 2:8 15:14 16:1 82:6 prove 140:14,19 proves 122:22 provide 48:10 50:19 61:1 104:14 124:4 131:14 164:13 provided 34:1 97:1 131:16 133:19 140:5 providers 47:9 provides 30:2,6 51:14 118:13 providing 25:13 97:9 153:18 166:10 provision 31:3 82:4 125:6 public 33:24 51:13 76:16 77:5 78:12 80:6 86:16 144:19 148:1,12 152:9 153:22 156:4 157:16 158:1,7,17 159:10 166:9,11 172:22 173:3 179:5 publicity 120:13 pull 122:20 148:6 pullman 9:1 29:17	purchased 147:12 purchasing 72:5 purdue 1:7 4:18 4:24 6:3,11,21 15:3 43:21 44:3 71:4,5 76:16 80:18 82:1,10 83:25 84:7,9 92:10,24 107:24 108:8 114:11,13 114:21 115:8,9,12 116:10 119:21 120:1 121:19 prove 140:14,19 proves 122:22 provide 48:10 50:19 61:1 104:14 124:4 131:14 164:13 provided 34:1 97:1 131:16 133:19 140:5 providers 47:9 provides 30:2,6 51:14 118:13 providing 25:13 97:9 153:18 166:10 provision 31:3 82:4 125:6 public 33:24 51:13 76:16 77:5 78:12 80:6 86:16 144:19 148:1,12 152:9 153:22 156:4 157:16 158:1,7,17 159:10 166:9,11 172:22 173:3 179:5 publicity 120:13 pull 122:20 148:6 pullman 9:1 29:17	q q1 52:14 q2 53:10 q3 51:18,21 52:8 53:6,8,14 q4 51:20 52:8,11 53:13 qualifications 80:8 qualified 2:7 qualify 124:15 quality 77:2 quarantines 71:9 quarropas 1:13 quarter 51:24,25 52:11 94:3 question 26:18 36:24 39:18 52:25 53:12 54:6,23 56:13 67:13 85:12 85:21,24 93:7 97:24 110:10 112:3 113:18,19 115:2 117:16 136:17 questionable 163:20 questioning 118:10 questions 15:21 18:3,4 19:6,7 36:20,21 37:13 43:3 54:14 55:2 58:20,20 59:5,15 60:5 63:16 65:10 65:17 66:18,20,21 66:23 68:16 81:6 81:7 85:18 86:20
---	--	--	--

90:21 92:19 95:14 118:1 123:24 126:18 170:7 175:5 quick 66:22 118:3 123:21 quickly 69:10 90:25 quire 7:19 quite 35:22,24 36:4 40:10 54:3 59:9,19 66:16 68:19 69:9 73:2,6 74:2 78:1 80:20 83:23 90:22 98:23 113:7 120:4 139:7 quo 25:10,21 quote 79:18 quoted 31:4 34:6 124:25 150:10	rationale 56:5,11 58:10,13 60:8,25 61:25 98:20 rationalizations 143:11 ray 171:5 rdd 1:3 reach 26:7 27:11 reached 21:15 23:2,10 113:14 reaching 113:7 152:3 155:2 read 30:1 120:15 125:6 141:15,16 142:10 143:10 177:20 178:19 readiness 47:19 47:25 reading 154:7 ready 21:18,23 real 27:10 34:3 118:15 156:9 162:17 173:1 reality 93:6 realized 167:25 reallocating 30:11 30:15 reallocation 34:7 really 22:8,19 34:18 44:8 60:8 62:22 63:7 73:16 77:8 82:13 89:17 90:8 93:12 98:15 98:23 100:16 102:4,10,12 103:16,24 106:17 108:21 118:13 122:10,11 137:8 137:13 139:5,15 141:19 158:7 168:18 173:8,10 reason 34:8 46:11 46:13 121:20	129:23 137:7,13 137:15 reasonable 16:5 19:10 59:14 62:10 66:10 76:14 126:20,24 127:3 reasonableness 66:7 reasons 70:18 84:6 92:11 93:2 111:16 rebound 169:7 rebuttal 95:12 recall 44:5 46:9 55:9 58:6 69:12 108:14,18 recalled 64:1 recalling 167:22 receive 21:6 63:2 103:2 109:13,14 125:17 127:11 received 19:3 142:14 150:7 165:18 171:17 recharacterized 30:10,14,19,22 recipient 129:23 140:6 recite 118:11 recluse 164:23 recognize 34:17 61:7 recognized 33:22 125:14 recognizing 39:7 recollection 41:25 42:7,11 45:12 55:11 57:18,20 recommend 15:11 69:4 recommended 135:20	recommending 139:1 recommends 68:12 reconcile 20:10,24 reconsider 160:19 178:22 180:10 reconsideration 179:13 record 15:8 17:12 20:1 29:20 31:21 31:21 32:3,7,11 32:17 33:7 35:4,9 54:8 59:23 70:23 81:2,2 90:25 104:2 131:22 137:25 138:2,9 140:1,13,17 147:24 155:1 156:18 181:4 records 19:9 49:18 163:15 recovery 143:18 143:18 157:19 recross 66:24 recruiting 117:9 recuse 81:22 160:24 recused 154:1 redirect 54:20,25 55:2 58:24 63:18 63:21 68:16,17 reduce 21:17 164:17 reduced 42:21 45:1 51:25 58:16 70:20 123:1 132:22 135:16 reduces 151:6 reducing 159:7 reductions 84:1 130:22,24
r r 1:21 7:1 11:15 12:5 15:1 181:1 r&d 115:23 116:24 rachael 13:17 racketeers 154:24 radically 84:8 rage 168:5 raids 164:8 raise 37:19 38:25 86:20 108:23 raised 32:13 36:15 87:22 89:24 110:18 112:19 116:2 120:4 raises 137:24 rarely 75:22 162:14 rates 125:18 131:19 rational 163:21			

refer 39:10 41:16 160:12 167:8	rejected 73:14 rejection 168:25	remedies 173:23 remember 52:2 54:2 64:19 65:19 88:12	176:11 177:12 represented 66:1 representing 141:21 142:16
reference 22:16 25:15 40:24 52:21	relate 59:5 related 2:8,24 3:7 3:8,18,19 4:3,16 4:16 5:3,10,22 6:2 6:9,20 48:23 63:16 65:6 86:8 116:22 146:1 150:25 151:6,8,9 176:9	remembers 86:16 remind 155:24 reminding 155:23 removal 96:12 removed 62:3 169:18	represents 31:24 reps 116:18 repurposing 145:13 request 6:12,13 6:18 17:20,24 18:1 27:7,17 38:2 38:3 73:3 94:13 95:9 140:14 153:25 160:18 175:8
referendum 120:1	relating 80:25 relationship 126:20 127:24	renegotiated 73:16	requested 17:25 82:25 152:19 169:3
referred 33:3 97:24 134:11 144:10	relatively 29:4 release 2:23 3:6 3:17 4:3,15 73:18 147:8,11 177:3	renew 48:11 renewable 70:9 renewal 70:8 renewed 116:24	requests 140:18 require 91:12 required 20:25 30:5,6 48:16 99:8 136:12
referring 113:15 115:17	released 78:3 releases 79:13 153:19 155:2	repeat 28:2 74:16 82:3	requirement 48:20 133:18
refining 93:5	relevance 77:20 77:25	repeated 120:21 rephrase 65:14	requirements 145:17
reflect 129:2 132:9 135:22,23 135:25	relevant 63:4 relied 107:4,7 relief 2:24 3:8,19 4:16 6:15,20 16:5	replace 75:2,3 reply 4:8,8 5:24 5:24 6:6,7 38:6,12 78:19 95:4	requires 47:19 91:9
reflected 21:25 50:11 103:24 136:2,14	relief 17:25 127:15 140:18 142:25 149:1 152:3	report 48:4 85:15 85:25 86:3 113:12 120:15 127:25 154:22	researchers 151:16
reflects 47:7 50:8 113:18	region 17:23 18:11 37:18 39:18 43:3 49:15 123:24 139:23	reported 85:10 145:11 156:14 157:8	reserved 36:23
refuse 85:18 93:16	registered 156:22 regular 16:23 118:21	reporting 177:18 reports 113:13 149:18 150:23	reset 92:9 146:2
refuted 133:21	regulating 135:8 regulators 116:19 145:10	reprehensible 159:21	residential 128:1
regarding 17:23 18:11 37:18 39:18 43:3 49:15 123:24 139:23	regulatory 21:13 rehabilitate 158:5 158:14	represent 49:4 152:18 161:15,18	resigns 129:23 resistance 152:21 164:11
regardless 27:13 109:8	remain 97:16 98:3 103:3 121:21 124:21 125:11	representatives 80:21 146:4	resolve 23:5 176:7 177:7
region 45:10	remaining 24:24 35:19 82:21 84:8		resources 124:10 127:14 172:24,25
registered 156:22	remains 157:8		respect 2:6 3:2,13 4:20 32:14,15
regular 16:23 118:21	remark 15:6		
regulating 135:8			
regulators 116:19 145:10			
regulatory 21:13			
rehabilitate 158:5 158:14			
rein 150:14			
reiterate 84:20			

34:11 36:3 37:17 73:25 74:14 77:5 88:19 93:24 106:6 113:2 118:5 119:18 121:22 130:7 135:23,24	retain 50:18 153:23 155:5 retention 4:23 5:3 5:10 6:2,9 90:11 90:11 96:10,14 99:7 101:10 106:10,10 119:1 119:11	revive 151:11 revived 169:17 revoked 173:10 rhetoric 103:15 rhodes 42:21 45:1 45:6,9,18 102:8	ringing 26:24 ripping 158:11 rippling 148:23 161:14 rise 151:14 rising 159:22 risk 25:21 27:3 91:13 99:19 100:2 101:7 102:2,11 103:8,9 118:24
respectfully 160:17	retentive 73:6 125:16 131:12	retirement 161:16	right 24:4,17 28:14,18 30:21
respects 128:20 137:24	retrievable 29:24	retroactively 128:25	137:20 159:18 167:14
respond 31:17,18		return 34:7	risking 100:5
responded 68:24		returned 30:5	road 181:21
response 19:4 23:7,16 84:20 92:18 107:16 108:16,17 111:4 124:7		166:16 169:4	roadmap 47:22 136:16
responses 100:24	returning 119:2 137:22	returning 119:2	robert 1:22
responsibilities 107:10,11 113:2 143:7		59:3 63:15 64:22 65:15,23 66:5,11	robertson 13:18
responsibility 69:4 79:20 106:7 106:16,21 107:3 109:15,16 110:12 111:18 113:24 114:22 115:19 133:25		revenue 158:4	role 68:7 80:9 82:10 89:19
responsibly 93:20 93:21		revenues 158:12	110:21,23 117:6
responsive 139:22		reverberate 147:2	132:10 134:12
rest 105:13 110:15 142:4 175:4		reversal 29:23	139:14 140:12
restructuring 26:23		reverse 59:16 160:19	roles 79:6
result 18:11 144:20 157:19		reversing 155:14	rollup 52:6
resulted 114:23 115:15		reverting 167:15	room 1:13 89:23 155:3 162:15 165:20 171:18
results 43:7 44:10 44:17 49:21 97:2 126:21 168:24		review 25:10 29:13 55:11,24 82:19 83:9 88:22	rosebay 156:25
		111:14,15 112:21	rosen 13:19
		121:12,16 131:7	rothstein 13:20
		135:9 137:12	roughly 19:1 129:24 131:15
		161:20	136:2 151:21
		reviewed 15:22 18:5 19:8 46:10	roulette 168:6
		67:21 141:15	row 148:9
		reviewing 111:19	roxana 11:9
		111:20 142:24	rule 18:13 32:23
		reviews 83:3	ruled 26:5 94:18 94:24 176:4
		revised 74:8 140:20	rules 29:22
			ruling 30:24,25 74:10 93:10 94:15

95:2 133:3 137:16 140:21 160:19 173:7 175:2 176:5 176:25 178:19,22 178:24 180:10 rulings 180:3 run 27:3 90:4 116:8 136:5 158:8 176:1 running 16:18 71:7 75:3 79:13 88:1 100:2 runs 25:21 russian 168:6 ryan 13:21 141:21 161:16 162:2,2,15 162:16,18,21 163:2,11,13 164:9 164:12,24 165:3,5 165:14,20 166:14 167:6,18,24 168:3 168:8,10,14 169:6 170:7,19 171:1,2 171:3,4,10,12 172:5,20 ryan's 162:2 165:19 167:17 172:15,17	144:22 145:6,11 145:25 146:4,10 147:3,6,14,19,25 150:16 151:3 152:4,16 153:12 153:16,20 154:16 154:23 155:15,25 156:10,18,21 157:3,20,21,25 158:18,21,24 159:4,6,19 160:7 160:15 161:9,11 165:2 172:6,8,9 172:14,21 173:2,8 173:9,11 174:1,2 174:17 176:9,16 177:1 178:2 sad 153:14 sadly 171:10 safe 85:2 169:10 safeguards 34:5 safety 77:3 120:18 146:15 148:12 153:22 157:16 159:11 166:11 172:22 saint 10:3 salaries 125:2,9 125:17 salary 63:1,3 66:3 72:1 95:23 97:25 98:3,7,12 99:2,10 99:25 100:1,22 102:6,16,16,19,20 102:21,24,25 103:22 105:18 118:23 123:24,25 131:23,24 sales 42:20,21 44:16,17,22,23 46:23,23 47:1,2,4 53:20 80:21 84:4 115:19 116:18	136:2,7 138:12 145:18 146:3 155:4 158:4,19 172:15 salesforce 47:8 80:3,24 84:2,5 116:21 salient 20:19 salutary 93:2 sap 48:5 sara 11:17 satisfied 87:12 122:1 128:9 satisfy 88:24 satisfying 125:21 save 42:19 95:12 154:14 161:13 saved 34:3 saving 75:3 saw 23:1 73:9 saying 42:4 62:21 62:21 73:10 74:9 90:18 106:2 109:25 111:22 114:22 119:9 161:2 165:21 says 78:2 80:11 81:8 97:19 99:22 112:2 167:5 scale 41:24 42:6,6 42:10,16,24 52:3 54:2 60:23 61:10 64:8,9 120:16 scales 41:13 52:7 scan 90:25 schedule 51:18,24 52:1,12 55:6,17 schedules 19:15 scheme 167:2 schemes 144:13 schwartzberg 5:4 10:21 36:19 37:12 39:25,25 40:4,6	51:5,6 54:13 55:3 58:21,22 65:9,15 66:22,25 67:5,20 68:22 95:17,18,21 97:13,18 98:1,5 98:10 99:11,21 100:7,24 101:8 102:14,18 104:1 104:15,20,23,25 118:6 123:20,20 123:23 125:1 schwartzberg's 92:19 science 170:12 scope 29:7 75:22 82:4 127:2 scorecard 39:15 42:3 48:22 49:4,5 49:21 52:6 56:8 scores 56:9 scott 6:10 7:8 11:15 12:17 scrambling 26:24 scratching 154:12 screen 169:12 scurrilous 134:5 se 11:1,2 sean 12:10 154:5 search 142:12 seated 93:20 seats 154:15 second 17:7 25:19 26:13 27:1 35:5 36:12 38:7 39:8 39:10,14,18 73:1 76:15 79:4 96:25 101:12 105:24 112:14 113:21 116:1 118:17 120:20,25 124:3 126:24 128:13 133:22 171:22 174:7 178:9
s s 2:8 3:8,19 4:4,17 5:4,11,22 6:2,10 6:20 7:1 12:6,8,25 13:20 14:9 15:1 s.d.n.y 126:13 128:2 s.d.n.y. 125:22 126:12 sackler 144:21 148:4,6,20 155:22 157:2 175:25,25 sackler's 170:4 sacklers 22:15 23:8 139:9 143:23	salary 63:1,3 66:3 72:1 95:23 97:25 98:3,7,12 99:2,10 99:25 100:1,22 102:6,16,16,19,20 102:21,24,25 103:22 105:18 118:23 123:24,25 131:23,24 sales 42:20,21 44:16,17,22,23 46:23,23 47:1,2,4 53:20 80:21 84:4 115:19 116:18	scale 41:24 42:6,6 42:10,16,24 52:3 54:2 60:23 61:10 64:8,9 120:16 scales 41:13 52:7 scan 90:25 schedule 51:18,24 52:1,12 55:6,17 schedules 19:15 scheme 167:2 schemes 144:13 schwartzberg 5:4 10:21 36:19 37:12 39:25,25 40:4,6	

secondly 82:24 115:7	senate 146:12 send 21:2 149:17 sending 21:18 senior 36:7 61:6 74:18 137:19 sense 102:5,10 125:13 126:1,6,9 137:14 153:2 158:14 166:21 senseless 145:4 sensitivity 61:5 sent 165:22 separate 80:17 109:23 115:12 september 1:16 2:1 16:22 38:5 39:9 117:6 129:7 134:19 181:25 series 79:23 114:24 115:16 118:12 134:3 serious 93:22 140:15 seriously 120:11 seriousness 108:1 140:16 serve 72:11 91:21 165:2 served 18:25 27:15 service 80:6 113:13 120:6 122:21 123:7 services 125:3 148:25 149:4,6 171:9 serving 144:9 set 16:9 19:20 35:12 48:6,13 56:24,24,25 57:3 58:3,4,20 61:18 62:7,25 63:3 66:21 67:9,17,21	87:2 91:18,20 93:2,17 96:15 104:6 105:20 116:4,11 127:20 128:22 133:10 135:1,13 149:16 152:14 sets 67:7,24 68:2 setting 50:9 61:16 61:22 68:8 79:20 80:9 114:23 133:25 134:22 174:25 179:4 settlement 21:13 22:22,23,23 24:1 24:6 138:4 145:12 148:6 152:23 153:1 155:18,20 160:20 settlements 177:17 179:5 seven 93:25 severance 73:19 73:20 severe 163:13,18 severity 151:13 shake 168:5 shame 164:23 shannon 13:5 share 161:25 163:9 shareholder 27:6 sharing 179:8 shaw 9:8 she'd 141:11 shepherd 13:22 shield 147:6,14 159:1 shielded 156:21 shielding 147:23 shifted 90:2 shocked 168:9	shocking 80:10 153:14 shopping 163:9 shore 2:9 7:17 15:18,18,21 16:13 16:14 17:1,3,4,6 156:19,22 short 19:10 29:5 53:21,23 83:23 115:9 166:8 shorten 2:4 shortening 2:6 3:2 3:13 shortfall 136:1 shortly 18:15 19:16 167:17 175:10,14 176:4 shouldn't 65:11 74:17 83:19 134:25 show 93:4 131:11 139:18 144:5 149:18 154:15 showed 165:5 showing 90:22 shown 18:12 shows 25:20 55:6 92:1 99:4 100:20 157:3 shred 114:19 shreds 164:5 shuffled 167:3 shuffling 150:22 shunned 169:2 shut 167:18 sica 105:10 sick 138:6 150:2 161:4 163:3,9 164:8 166:4 side 25:5 36:4 84:4 89:1,21 162:18 176:10
--------------------------------	---	---	--

sign 69:13,14	skapof 13:23	son's 150:13	109:13,24 110:5
significant 47:6	skillfully 144:17	172:6,10	110:23 112:16
48:4,9,18 105:19	skin 61:7	sonya 6:25 181:3	119:22 121:2,6
signing 80:11	slamming 150:22	181:8	122:2 138:14
similar 35:24 50:8	slap 146:1	son's 171:21	139:16
50:23 51:23 62:19	sleight 77:9	soon 23:1 28:4	specific 19:5
87:22 88:20 146:9	sliding 60:23	80:20 125:19	43:20 117:1
similarly 56:18	61:10 64:7,9	sorrow 144:15	118:12 136:17
92:17 114:20	slightly 33:15	sorry 44:7,20	139:22,23
129:21 134:8,25	83:15	49:24,24 51:1	specifically 84:23
135:3	slow 162:19	52:9 69:11 86:17	94:10
simple 21:1 24:12	slowly 164:9	105:22,24 107:6,6	spend 22:12
77:5	172:10	140:18	150:16 166:17
simpler 76:2	small 72:1,25	sort 52:17 59:16	spent 22:17 31:2,8
simply 28:9 32:13	smaller 92:10,23	64:17 72:18,20	170:6 177:16
63:8 81:20 89:20	smart 162:5	73:5,5 74:3,14	spike 146:1
98:17 105:7 133:8	167:22	82:14 83:16 84:15	spills 51:11
137:13,15 138:6	smears 114:14	85:21 87:9 90:1,5	spine 162:21
single 41:13 48:11	smiling 171:4	90:10 91:24 92:18	spirit 162:4
52:7 79:10 92:9	smoke 156:11	93:8 94:3 112:8	split 35:7 118:22
93:1 115:14	smoked 169:11	118:10,14	156:24
120:15 151:15	snap 85:1	sought 16:20	spoken 40:10
152:7 164:3	snorted 169:11	37:25 98:17,25	143:17
sit 21:7 27:1 91:14	soared 154:22	127:15 128:24	sponsorship 81:1
114:13	soaring 149:2	129:4 149:5	116:23
site 71:9	social 149:15,22	soul 172:11	sponte 23:20
sitting 38:5 42:13	society 165:13	south 52:12,15	spray 52:23
148:5 149:22	sole 78:19	53:9	springer 13:24
169:9 171:22	solely 4:20 107:5	southern 1:2	spun 163:24
situation 56:17	130:9	135:8 150:9	squire 18:17,21
71:2 72:24 81:13	solutions 173:25	spawned 164:6	180:7
100:20 164:19	181:20	speak 20:7 24:23	staff 171:25
174:15 178:21	solver 116:7	48:3 74:4 84:12	stage 35:13 53:25
situations 78:24	somebody 24:16	84:20 160:2 174:2	127:15
six 26:2 42:17	80:11 82:16 84:23	speaker 80:25	stakeholder 84:22
74:13 94:17	someone's 103:21	speakers 116:22	stakeholders
147:10 176:19	117:11	speaking 173:19	35:16 78:13 79:11
sixth 94:17	somewhat 19:11	speaks 66:17	119:10
size 22:16	70:2 74:12 90:7	special 70:12	stand 19:6 64:1
skadden 82:14,16	92:3,22 133:11	81:21 82:23 83:7	148:18 161:5
84:12 86:24 88:7	son 141:21 146:8	83:20 85:15,25	standard 60:1
89:2 122:2	165:25 172:9	88:8,9,18,20 89:1	74:13 83:12,14
	177:24,24	89:2 106:15	88:15,24 92:22

124:18 126:9 standards 122:1 127:6 standing 142:5 154:20 start 21:18 25:5 75:17 83:11 154:10 157:10 175:11,19,23 started 16:17 166:16 168:22 169:20 startling 158:6 starts 51:10 64:11 state 3:9 5:16 8:17 9:2 10:1,2 27:22 29:18,19 31:12 33:2,4,5 48:16 75:12 83:14 105:16 115:6 128:13 133:20,22 134:4,12,14 136:21 137:1 166:18,21 169:9 170:18 171:7 stated 81:20 138:20 statement 46:20 77:16 78:7 116:12 122:5 154:4 159:9 170:14 statements 28:23 105:20 170:10 states 1:1,11 3:12 3:23 4:9,9 5:5,7 5:12,19,23 8:1 9:9 10:16 22:2 23:22 28:1,24 48:17 62:17 81:14 82:3 82:6 118:5 128:14 128:15,16 130:5 131:5 134:14 136:23 137:23	138:5,17,24 142:6 144:4 161:7 176:10 179:5 statistics 151:5 154:21 status 25:10,21 statute 99:22 100:15,18 102:18 103:17 145:23 stay 26:10,19 27:7 27:8 28:6,7,13 29:23 30:24 43:2 90:5 98:15,17 103:19 154:9 167:10 stayed 73:13 167:18 178:13 staying 73:21 99:15 100:5 133:8 step 28:24 stephen 7:24 12:20 13:16 18:20 steps 26:14,23 113:7 stick 101:2,5,9 stigma 164:23 169:4 stimulant 147:8 147:11 stipulate 23:5,25 stipulation 23:23 stodola 13:25 stop 68:24 137:13 153:21 160:14 163:4 174:5 stopped 80:5 172:17 173:23 stopping 80:21 stories 174:11 storm 169:1 strangely 92:2 strategy 154:8	strauss 10:8 32:18 street 1:13 7:21 8:3,11 9:3,10 10:18 169:24 streets 151:12 stress 161:4 striking 157:3 stripped 170:4 strongly 24:21 81:10 139:10 struck 21:20 structuring 59:12 structural 64:18 75:6 structure 59:13 63:9 65:6 73:23 83:21 133:13,15 structuring 59:6 59:18 students 143:20 studies 149:13 stuff 80:14 119:17 sua 23:20 sub 20:15 50:14 50:14,16 52:22 53:12,17 subject 16:1 72:7 81:15 129:15 130:21 134:9,10 submit 161:21 179:11 submitted 18:2 37:24 39:4,7 131:2 161:19 suboxone 166:3,5 subsection 124:2 124:23,24 subsequent 36:14 subset 22:2 substance 142:3 149:19 159:18 substantial 31:1 31:10 36:4 69:25	76:8 86:25 129:18 substantially 35:20 76:18 138:13 substantively 24:4 substitute 107:10 subutex 166:3,5 successful 48:20 sued 179:6 suffering 142:3 159:8,12 172:13 172:17,18 sufficient 27:9 140:2 sufficiently 118:7 120:2 122:13 126:17 sugarcoat 76:3 suggest 28:6 87:11 91:19 120:12 121:16 164:10 suggested 21:15 23:22 suggesting 61:19 123:14 suggestion 24:2 158:7 suggestions 24:5 suggests 26:9 109:5 suicides 151:8 suit 155:13 suite 7:21 8:3,11 10:18 181:22 sunshine 171:6 superseded 163:20 supplement 43:13 54:7 supplemental 6:6 36:12,13 38:7
--	---	--	---

51:9 55:4 79:5 133:22	swath 135:11 swaths 109:10 swear 37:20 38:23 39:1	talent 117:9 talented 76:23 talk 35:25 54:9 70:5 72:8 76:4,25 78:22 110:1 119:2 168:3	tawdry 118:18 tax 156:22 team 50:2,6,8,10 50:16 61:6,15,18 61:21 116:24 172:8
supplemented 38:6	swept 173:16 sworn 91:5	talked 93:25 116:3 142:19	teams 50:14,14
supply 71:10 77:4	symptoms 163:5	talking 49:3 71:24 74:21 102:20 117:15 119:19 134:18	technical 77:1 86:25 123:5
support 5:24 6:7 25:14 28:1 29:18 33:11,21 34:14 37:4,25 39:5,8 46:7 47:21 51:14 75:14,21 87:11 94:11 99:13 114:20 118:14 131:1,3 171:23,25	synthetic 172:9 system 27:14 143:1 144:7,24 147:16,20 148:11 151:11 159:24 160:1 170:24 177:21 178:7 179:4	talks 109:4	technicolor 88:17 tedious 150:21 tele 1:12 telephonically 7:8 7:9,10,17,24 8:6 8:14,21 9:6,13,21
supported 78:12 80:22 94:24 118:7	systematically 144:23 147:21 160:7	tantamount 127:22	10:6,14,21 11:1,2 11:5,6,8
supporting 36:5,6 136:15	systems 48:5 170:3	tapering 166:4	television 149:23
supports 178:10		tapley 14:1	tell 37:20 39:1 46:10 62:1 86:10
supposed 85:20 123:11,12 165:1		target 41:3,7,21 45:13,14,17,19 46:23 47:2,5,10 52:2 53:6,8,14,23 54:3 55:8,16,19 56:6,6 60:16,17 61:2,6,8,9,11,19 61:20 62:21 63:6 63:11 64:3 67:8 91:18,19,19,19,19 96:20 97:10,11	141:15 152:8 178:3
supreme 18:13		tablets 53:13	telling 142:14
sure 20:23 40:3 40:14 43:5 50:14 58:2 60:6 63:23 68:22 75:25 84:12 84:18 95:20 96:13 107:3 111:19,19 112:17 113:19 153:14 171:14		tactics 144:25	temperature 159:22
surfaced 144:14		taft 30:9	ten 49:4
surgical 75:10 107:13,13		take 27:3 49:16 81:5 103:1 106:16 111:2 113:16 141:3 142:7 143:25 168:3 170:18 171:25 174:4	tender 168:10
surprise 84:7		taken 26:14 31:9 138:11 147:3 149:25 150:13 166:7	tens 82:19
surprising 91:14		takes 78:10,10 164:18	term 58:17 72:3 73:1 129:14,22 130:20 166:10
surrounding 17:24 168:16			terminated 86:14 129:23 139:3
survey 66:2			termination 138:11
survive 150:16			terms 16:1 22:16 29:3 49:9 72:5 83:25 90:9 148:7
susan 13:15 160:1 174:12			terrorist 154:17
sustain 164:12			terrorists 154:16

testified 64:2 85:9 91:9 92:18 97:3 101:15 114:25 131:4 132:19 133:13 136:4 testify 85:20 119:20 testifying 85:22 testimony 37:24 38:24 39:21 45:15 55:9 59:13 64:19 64:21 68:21 70:19 86:18 90:20 91:5 91:8 101:22 107:18 112:7,13 115:5 130:25 131:7,8,9,21 133:16 135:18 136:8 176:19 testing 71:10 96:13 texts 155:3 thank 15:17 17:1 17:6,16 18:16,24 19:17,18,21,25 20:5 25:3,8 27:20 27:25 32:7 33:7,9 33:12 35:1 40:4 41:2 43:2 51:4,5 54:15 58:22 63:25 67:18 69:9,16,22 95:21 104:23 105:3,6,15 114:3 114:8 118:2 123:19 140:23 141:5,5,9,12,18 142:7 174:13,23 174:24 175:3 179:8,10,14,15,18 thanks 17:15 18:23 20:4 35:3 that's 15:17 21:24 23:9 24:3 25:5	29:6,6,8 32:3,22 36:25 37:10 39:9 41:6 43:10 44:8 44:24 45:4,23 46:8,25 47:1,12 47:17,24 48:17 50:21,21,24 52:16 53:2,7,11,16 54:12 55:14,21 56:3 57:25 58:1 63:5,19 64:6,10 64:18 65:1 70:22 71:24,24,25 72:25 78:5 85:1 87:15 89:19 92:4 97:7 98:9,13 99:18,23 100:17 101:4,5,6 104:7,8 105:25 108:20 112:3 115:5 116:6 118:2 118:9,22 123:18 124:8 theme 22:7 theodore 14:8 theoretical 24:15 theory 76:19 90:2 there'd 109:17 there's 16:22 21:3 41:25 48:2 50:5,6 50:16 79:14 83:18 83:19 95:7 103:14 109:2 110:1 112:7 114:17,19 115:14 115:24 116:13 117:10 they'll 29:13 101:5 they're 50:8,16 65:23 66:11 90:14 100:13 101:9,13 101:16 102:20 115:17,24 120:22	they've 50:7 67:25 115:16 thing 24:12 71:15 82:15 86:25 95:8 104:11 114:13 119:1,23 160:5 168:19 174:16 178:20 things 23:16 31:17 59:21 62:1 76:1,22 86:14 90:23 92:10 94:4 98:11,13 110:9 116:3,8,15,16 118:3 121:6,14 122:2,18,25 124:6 124:11 153:10 160:25 168:19 170:23 178:11,13 178:16 think 15:22 19:22 20:6,19 22:16,20 24:3,4,7,11,13,14 24:16 26:13 28:22 32:11 33:2 35:4 36:20,23,25 37:10 45:10,16 49:17 53:25 54:4 55:5 56:7,11,12,15 57:3,21 58:7,11 59:9 64:17 66:16 66:17 68:21 69:9 69:10 71:4,15 73:2,22 76:19 77:14,24 78:15 81:18 84:19 85:12 85:20,22 86:13,14 87:24 88:6 89:24 90:13 91:1,21 92:17 93:21,25 94:17,24 95:2,6 98:15 100:17 101:8,21 102:20	102:25 103:14 104:10,11 109:22 110:4,13,17,19 112:7 113:7 117:23 118:9,13 118:19 122:11 123:13 125:6 164:18 177:9,18 178:23 179:16 thinking 31:4 57:16 137:17 third 30:9 52:22 77:7 83:8 95:22 127:2 128:14 152:3 153:19 155:2 160:22 171:24 thirds 76:12 thornton 143:13 thoroughly 138:2 thought 21:21 85:9 87:10 90:22 106:1 163:21 166:3 170:22 thoughtful 168:11 thoughtfully 177:9 thousand 84:9 thousands 77:17 threatened 169:4 threatening 148:6 three 15:9,10 19:1 43:17,21,25 45:25 46:3,6,18 70:10 73:8 75:9 92:23 95:6 96:15 116:25 119:5 128:10 131:15 156:24 161:19 164:4 threshold 40:18 40:22,23 41:10,18 41:22 42:5,14,22 52:5 53:24 54:1,5
--	--	---	---

55:8,13,20 56:5 56:12 57:2,8,12 57:16,19 58:3,7 58:18 60:8,12,15 60:22 61:1,3,10 61:19,22 62:4,7 62:11,21 63:5,8,9 64:7,8,11 67:7,14 91:6,13 96:3,19 96:24 101:21,23 102:4 104:18,21 133:12,15 thresholds 67:11 104:3 threw 170:14 173:4 thumb 150:22 thwart 155:4 tie 154:14 tied 15:25 99:15 tiered 52:7 tilt 168:2 time 2:4 16:22,23 19:8,10 21:12,17 21:22 30:24 36:17 40:10 42:19 54:15 57:24 73:15 74:23 82:3 85:10 90:3 91:10 92:5 93:19 94:11,18 95:13 100:19 102:5 106:12 108:14,16 108:18,24 109:21 112:15 115:12,20 120:23 121:12 130:15 142:8 147:2 150:21 151:18 162:11 164:6 167:19 168:14 169:2,7,20 169:22 171:5,18 172:3 174:13	timed 101:9 timeframe 19:19 115:7 timeline 54:9 146:19 147:3 167:23 times 48:9 89:25 91:4 94:10 120:21 165:23,25 171:16 timing 36:1,2 49:17 70:20 73:23 93:8,24 94:18,23 101:1 title 175:7 titles 50:11 titling 50:7 tobak 14:2 today 37:1 38:1,5 42:13 77:19 83:20 104:4 105:19 106:1,3,16 112:23 120:22,22,24 123:3,14 124:8 131:9 140:24 142:17 144:6 145:4 148:5 173:6 176:24 today's 179:16 today's 15:4 told 69:13 82:25 100:14 162:24 164:3,24,24 tolerance 164:16 toll 147:4 topco 2:22 3:6,17 4:2,14 20:17 30:14 topic 59:7 83:21 84:15 94:25 120:24 topics 59:20 tore 164:5	torture 163:12 tossed 170:2 total 22:11 41:20 42:15 43:12 44:1 45:20,25 46:4,16 66:1,2 97:7 136:4 totaled 26:2 totality 42:2 totally 75:6 touched 114:16 tower 36:8 towers 59:10 track 53:20,23 56:1 171:16 traffic 149:16 tragic 168:15 trained 147:20 trammeled 118:16 transacting 48:7 transcribed 6:25 transcript 111:25 181:4 transfer 97:15 98:3 99:23 102:15 102:17 103:2 124:19 125:9 126:10 transfers 97:20 99:22 102:20,23 102:25 126:3 transition 72:24 73:22 translates 34:3 transparent 147:9 transportation 169:25 trap 164:14 trauma 145:5 148:3 172:13 traumatic 171:21 travels 150:3 154:16 173:19	treasury 48:13 treat 23:3 179:12 treated 127:17 treatment 16:8 164:11,13 166:2 166:19 167:6,6 169:15 170:20,22 171:8 177:21 tremendous 71:10 122:4 trepidation 121:11 trial 149:13 tribes 122:15 176:11 tried 178:12,17,20 trigger 157:17 triggered 83:13 troop 5:11,22 9:13 33:1,1,7 36:23 85:4,8 89:5 89:7 105:15,15,23 105:24 107:8 108:7,13 109:25 110:4 111:5,11,24 112:10 113:9,11 114:3,18 120:20 121:23 122:17 troops 165:22 troop's 119:18 trouble 167:13,15 true 65:11 78:10 78:21 96:14 100:11 101:6,6 107:2 122:19 163:1 181:4 truly 31:19,19 165:25 179:8 trust 2:22 3:5,16 4:2,14 15:24 16:3 16:9,18 20:6,15 20:17,20,23 21:16 21:17 30:8,9,9,10
--	---	--	--

33:19 46:6 161:11 180:8 trustee 3:12,23 4:9 5:5 8:2 10:17 22:4 25:5 28:24 29:19 32:12 75:16 90:16,17 91:23 92:2 118:5 119:9 125:1,7 128:14 131:5 134:15 135:15 136:19,20 137:1 trustee's 26:3,6 28:1 36:1 40:1 67:6 95:18 136:9 trusts 2:22 3:5,16 4:1,13 20:15,18 21:6 33:16 156:22 157:2 truth 37:20,21,21 39:1,2,2 111:17 115:24 117:10 159:9,9 truths 143:16 try 23:5 61:6 78:23 144:18 158:13 168:23 177:10,23 178:8 178:16 trying 23:3 24:11 24:12 79:13 112:4 114:20 115:25 120:5 125:7 149:8 150:16 166:20,25 169:21 170:15 tsier 14:3 tucking 172:2 turn 15:15 18:17 19:24 40:24 47:13 49:22 51:7 64:22 72:22 75:10 90:10 96:6 104:11 141:11,13 158:12	168:22 turned 84:24 85:4 94:4 120:2 139:20 164:1 168:13 169:8 turning 45:20 101:12 turns 140:6 twice 115:1 151:19 two 23:16 36:5,6 36:22,25 38:22 54:22 56:7 62:1 62:24 66:22 76:12 76:25 81:2,14 83:13 98:13 100:24 103:12 114:15 115:23 116:20 119:23 123:4,21 129:24 130:25,25 131:2,4 135:24 143:9 157:13 161:12 163:25 165:22 176:19 tying 126:15 type 59:18 99:6 131:12 134:24 137:11 138:6 types 87:22 90:23 103:15 typical 59:14,19 60:1,17,19 64:9 67:23 70:16 73:2 93:2 94:1 133:14 typically 49:17,19 61:4,17 62:6,25 63:13 64:2 68:2 72:17 u u.s. 1:23 3:23 8:2 10:17 22:4 25:4 26:3,5 28:24	29:19 32:12 36:1 40:1 67:6 75:16 78:25 90:16,17 91:23 92:2 95:18 125:1,6 135:15 136:9,19,19,20 137:1 145:7,7 150:9 u.s.c. 2:20 3:3,14 3:24 4:11 ucc 35:19 72:10 73:25 86:20 87:2 95:9 122:13 ultimate 66:6 69:2 69:3 157:1 ultimately 48:23 49:10 87:3,17 111:3 112:9 127:19 130:10 132:25 140:1 um 53:1 un 159:1 unable 30:2 unaccounted 156:20 unauthorized 75:20 unaware 112:18 unbelievable 119:3 unborn 141:21 uncertainty 56:17 56:20 unchallenged 131:21 unconscionable 148:19 unconscious 172:14 uncontested 15:9 91:8 uncontroverted 70:23	uncover 143:16 underlying 110:19 undermine 160:7 underperforming 56:1 57:8 understand 16:19 31:20 32:2 36:19 42:19 49:25 56:20 58:2 76:19 88:2 93:12 100:9,10,17 111:21 112:15 142:11 understandably 135:25 understanding 55:15 59:17 60:11 60:13 67:25 68:5 69:19 108:4 117:17 understood 107:16 111:11 112:14 undertake 26:21 77:13 107:20 undertaken 107:16 109:6,12 109:13 undertaking 19:19 111:15 152:14 undertook 112:21 underway 112:20 154:8 underwood 4:4 8:14 28:19,20 33:3 unearned 133:7 unexpected 122:12 unfair 154:11 unfairly 127:4
---	--	--	---

unfavorable 90:9	untoward 79:14	varick 8:3 10:18	vision 15:9
unfilled 74:23	untrue 76:2 78:6	various 25:16	visiting 173:20
unfortunately	unused 30:4,23	33:16 57:24 68:10	visits 151:19,22
168:16 177:23	unusual 73:7 74:2	70:18 173:20	vittorio 105:10
unfounded	update 39:15,20	vehicle 113:22	voice 141:25
114:14 122:11	39:22	vehicles 21:23	168:21
unheard 73:5	updated 58:8	velo 126:11 128:3	voices 153:4
unimaginable	91:21 129:2	venture 83:24	volumes 92:7
175:21	updates 38:7	verbally 142:22	173:21
unintentional	39:13	verbatim 94:17	voluminous 121:7
151:16	ups 91:25 165:7	veritext 181:20	voluntarily 80:21
unique 136:13	upset 168:24	version 117:3	vonnegut 4:17,24
unit 165:6,8	upside 60:19,21	versus 45:18	6:3 7:10 19:24,25
172:12	61:20 62:2,9 64:3	56:15	20:1,5 25:3,9 26:8
united 1:1,11 3:11	urge 178:19	vested 160:4	31:16 34:24 35:1
4:9 5:5 8:1 10:16	usc 124:22 125:25	vesting 59:16	vote 155:8,9
28:1 118:5 128:14	126:6	viable 149:10,21	voters 134:13
131:5 134:14	use 33:14 64:12	vicinity 44:19,23	vu 93:8
138:5 142:6 144:4	80:21 86:24 108:7	victims 2:5,7,10	
161:7	111:13 113:11	7:13 16:7 17:23	w
unjust 154:11	142:4 146:5	21:14 71:19	wages 125:2,8,17
unlawful 119:15	149:20 158:12	152:23 153:1,3	waited 21:5
unloved 165:10	159:19 164:10	154:12 157:10	waiting 135:1
unnamed 108:8	166:8 177:19	159:17	waive 34:9,18
unopposed 16:20	usually 101:23	victims' 15:14	waived 31:14 32:1
unraveling	utilized 144:8	video 1:12 85:5	waiver 34:24
152:13	uzzi 14:4	141:11 162:10	walk 152:10
unrecognized		167:20	walked 162:15
75:6	v	view 22:19 88:23	173:4
unrelated 24:5	v 25:25	100:11	walking 157:22
117:15	vacation 171:2	viewed 128:20	wall 171:19
unrung 26:25	vague 136:10	vigorously 81:17	want 19:18 22:10
unscrupulous	validate 72:20	vincent 11:10	26:25 32:1,2,6
155:12 159:6	valium 145:2	violate 96:4	36:24 37:14 38:17
166:12	value 51:7 71:13	violated 88:15	39:16,23 41:17
unscrupulously	71:18 90:5 91:4	150:10	46:22 47:13 49:22
152:9	96:16 119:16	violating 145:17	51:7 52:17 53:17
unsecured 10:9	123:16 176:18	violation 145:22	54:8,18 59:23
130:7 176:13	179:1	virginia 151:16	60:4 61:4 67:19
unstable 105:7	valve 148:22	virtual 15:15	83:14 84:17,20
unthinkable 71:7	van 14:5	virtually 71:1	101:5 113:16
untold 79:21	varenicline 53:13	78:12 158:11	119:2,6,7,7
134:1	variations 22:6		150:15 161:1,4
			167:12 174:13

176:24	92:4 94:22 97:14	105:19,25 108:7	wolff 8:16 27:22
wanted 28:21	100:22 101:9	119:25 121:14	wondering 154:12
29:7,18 32:16	103:1 105:17	134:18,19	won't 23:9 25:14
40:12 56:16 67:6	118:16 133:16,21	we've 22:9 23:15	99:20
109:6 115:2 116:1	134:21 147:19	24:13 48:12,13	wood 107:17
123:24 124:2,4	163:8 164:18	70:19 76:6 93:24	word 86:23,24
154:10 155:9	172:5 177:8	99:23 106:2,14	106:25 111:14
161:23 165:5,21	ways 70:4 107:12	whatsoever 77:25	worded 45:5,8
167:16 168:3	129:12	114:17 118:14,16	words 21:1 64:12
178:15	we've 141:10	what's 38:12,15	82:13 107:1
wants 37:8 120:15	wealth 146:7,7	108:16 111:12	150:23
167:10,12	148:15,16 152:12	123:3,14	work 15:24 16:10
wardwell 7:3	153:23 155:5	wherewithal	19:9 21:3,6 24:7
17:12 20:2 141:7	156:21 157:22	148:17	26:12 33:16 48:9
warn 26:9	159:1 160:9	white 1:14 7:12	48:15 71:20 74:18
warning 142:4	174:17	15:13,19 153:17	75:1,5 76:11,17
warrant 55:7	wealthy 144:9	wide 135:11 152:2	78:5 79:7 81:9
warrants 140:16	web 20:22 149:16	widespread	82:19 83:21,22
washington 5:17	156:21 157:3	153:18 155:2	86:25 87:7 90:12
8:17 22:3 27:23	weber 14:6	willis 36:8 59:10	98:21 109:23
29:20 75:12,17,18	website 33:17	window 23:14	127:25 154:13
76:15 77:7,11	webster's 144:16	winthrop 9:8	164:12 177:13,21
78:2 79:12,17,25	weekend 171:2	wires 21:3 171:24	worked 59:11
114:20 116:3	weeks 19:1 72:10	wise 151:25	77:23 108:21
128:13 133:20,22	94:17 164:22	wish 38:9 39:12	115:12 123:16
134:4,14 136:21	167:14 169:7	39:19 157:12	157:5
137:2	weiss 14:7	178:25	workforce 106:18
washington's	wells 14:8	withdrawal 150:2	106:22 117:7
80:15	went 28:22,24	163:4	working 16:2 48:3
wasn't 37:8 42:6	35:15 80:22 87:7	withholding	72:12 89:15 102:7
55:10 62:16 79:16	101:13 109:15	147:25	115:22 123:2
93:16	163:11 168:2	witness 51:2,4	133:8 162:9
waste 147:2	169:8 170:23	54:17 55:10,21,23	177:22
watching 149:23	171:10 174:10	56:7 57:3,18 58:5	works 20:23 92:5
154:20 171:24	west 9:10 147:13	58:14 59:7,18	177:13
watson 36:8 59:10	we'd 108:9	64:1 76:1 118:9	workstation
wave 145:24	we'll 17:4 35:2,25	131:8	48:13
156:6 168:12	36:22 76:24 78:21	witnessed 171:20	workstream
173:3	103:19,19	witnesses 11:4	48:19
way 22:7 24:17	we're 31:16 49:3	131:1	workstreams
32:22 41:24 45:8	49:8 71:24 82:3	witnessing 169:14	48:18 88:1
65:17 76:3 81:12	95:1,10 96:13	wl 128:4	world 71:11 92:4
84:14 90:12 91:3	97:9 101:12		118:18 121:20

142:5 144:5 159:2 160:14 163:23 173:24 worldwide 159:4 160:16 worried 161:2 worse 135:25 worst 159:10 168:19 173:15 worth 27:5 121:16 170:5 worthlessness 165:9 worthy 176:22 wouldn't 23:23 30:19 31:9 51:1 53:3 56:14 103:4 103:5 104:12 would've 108:2 109:18 wrenching 157:13 wrist 146:2 written 116:11 149:12 wroblewski 162:2 wrong 62:1 83:15 84:18 134:4 135:17 170:8,9 173:17 178:11 wrongdoer 83:6 121:16,25 wrongdoers 85:2 121:21 wrongdoing 79:19 80:9 82:21 84:24 106:12 114:19 117:13 145:14 155:5 wrongful 144:19	xr 42:20 43:22 44:9,16,17 46:23 46:23 47:1,2 53:20 92:25 136:2 147:8 y yeah 42:24 45:3 48:2 50:25 51:3 52:16,16 53:3 55:21 88:6 year 35:24,25 49:1,19 53:25 56:22 57:11,20 67:24,25 68:1,3,4 70:4,5,25 72:2,4,6 72:20 73:5 74:2 76:6 87:5 90:11 91:15 92:4,5,10 92:16 94:3,4,6,9 94:19,21 117:19 128:23 129:3,5,19 129:20,24 130:15 134:18 135:24,25 136:14 137:9,18 137:18 156:15,17 156:18 162:19,22 167:18 178:12,14 yearly 129:2 133:11 yearning 165:8 168:21 years 70:11,11 72:17 80:16 81:3 84:5 90:1 91:24 93:5 98:16 115:11 115:23 118:22 121:3 123:7 143:17 148:21 151:23 153:10 162:21 163:11,25 164:10 165:4,14 165:17,18 170:6 170:15 172:11	178:15 179:9 years' 130:23 year's 69:24 70:22 86:17,19 92:20,24 94:7 york 1:2 7:6,15 8:4,19 9:11,19 10:12,19 79:7 150:9 youngest 167:21 171:8 you'll 102:11 you're 19:11 42:13 56:25 65:15 88:2,5 98:7,8 99:19 100:1 102:3 104:1 105:22 113:23 125:18 you've 72:17 89:25 100:8,15 z z 13:24 zabel 14:9 zant 161:16 zeal 162:3 zero 41:24 zest 162:3 ,
x x 1:4,10 180:1 xeroxing 91:24	'17 80:16 's 128:8	