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1 law firm, and if there was, it would seem to me that
2 those documents would be subject to attorney-client
3 privilege anyway.

4 DR. FRIEDMAN: They may be subject to
5 that, but I'm only asking what the name of the law
6 firm was.

7 MR. LAPAT: I don't see how that in any
8 way bears on the allegations in the Complaint.

9 MS. NEWMAN: Well, why don't we try
10 getting a yes or no question. Was there a law firm
11 involved?

12 THE WITNESS: No.

13 MS. NEWMAN: Okay.

14 MR. LAPAT: Would this be an
15 appropriate time to take a quick break?

16 DR. FRIEDMAN: No, it's not, unless you
17 want to take a very short break.

18 MR. LAPAT: I was just hoping to run to
19 the men's room.

20 DR. FRIEDMAN: Okay. Then it's an
21 appropriate time.

22 (A break was taken from 1:15 p.m. to
23 1:22 p.m.)

24 BY DR. FRIEDMAN:

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1 A. No.

2 Q. I'm going to show you what was given to me
3 before by counsel for Dr. Herbert Nevyas, and this
4 is page 1102, and is this the protocol that you're
5 talking about?

6 A. **(Examines document.) Yes.**

7 MS. NEWMAN: At least one page of the
8 protocol.

9 Q. Well, does that page reflect the title of the
10 protocol?

11 A. **It looks like it, yes.**

12 MS. NEWMAN: Can we have that attached
13 as an exhibit so we know later what page you're
14 talking about?

15 DR. FRIEDMAN: It's page 1102.

16 MS. NEWMAN: Okay.

17 Q. Does that protocol have what are called
18 inclusion criteria and exclusion criteria?

19 A. **Yes.**

20 Q. I'm going to show you . . .

21 MS. NEWMAN: Hold on one second.

22 DR. FRIEDMAN: You can take time to
23 talk with your counsel, if you wish.)

24 (A discussion took place off the record

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1 Q. Doctor, for the operation of the LASIK device
2 in April 1998 was there a protocol that you were
3 following?

4 A. **What was the question?**

5 DR. FRIEDMAN: Read the question.

6 (The pending question was read by the
7 court reporter.)

8 A. **Yes.**

9 Q. And what was that protocol?

10 A. **It was a protocol with the FDA in which data
11 was reported.**

12 Q. Did the protocol specify who was to have LASIK
13 surgery performed?

14 A. **Yes.**

15 Q. And did the protocol specify who was not to
16 have LASIK surgery performed?

17 A. **Yes.**

18 Q. Did you use that protocol when you operated on
19 Mr. Morgan?

20 A. **Yes.**

21 Q. Did you adhere to that protocol when you
22 operated on Mr. Morgan?

23 A. **Yes.**

24 Q. Do you know the name of that protocol?

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1 between the witness and Ms. Newman.)

2 MS. NEWMAN: I'm sorry. Please ask
3 your question.

4 Q. I'm going to show you what is marked page 1118
5 of what was given to me by counsel for Dr. Herbert
6 Nevyas, and ask you is this the inclusion criteria
7 and the beginning of the exclusion criteria?

8 A. **(Examines document.) Yes.**

9 Q. Is this page, which is 1119, the rest of the
10 exclusion criteria?

11 A. **(Examines document.) Yes.**

12 Q. Now, under inclusion criteria number 6 it
13 says, "Best corrected visual acuity of 20/40 or
14 better in both eyes"; is that correct?

15 A. **Yes.**

16 Q. Was Mr. Morgan's visual acuity 20/40 or better
17 in both eyes?

18 A. **Yes.**

19 Q. And where in the record does it say his visual
20 acuity was 20/40 or better in both eyes?

21 A. **3/24/97, subjective refraction to 20/40
22 minus.**

23 Q. Is 20/40 minus the same as 20/40?

24 A. **It is considered 20/40.**