

150

1 A. To let people know that there is a possibility
2 that they might be candidates to be more independent
3 from their glasses and contact lenses.

4 Q. And in that KYW advertisement what were the
5 patients instructed to do to find out that
6 information?

7 MS. NEWMAN: Do you remember?

8 MS. SANDS: Objection.

9 MR. LAPAT: Objection.

10 MS. NEWMAN: Do you remember, Doctor?

11 THE WITNESS: I think I remember.

12 MS. NEWMAN: Tell him to the best of
13 your recollection.

14 A. I think they were instructed to call a phone
15 number for more information.

16 Q. What phone number was that? I mean, who owned
17 that phone number?

18 MS. NEWMAN: I object to the form of
19 "who owned it," but go ahead, you can answer.

20 A. I don't know what number ran in the ad.

21 Q. Doctor, who were they supposed to call? I
22 know there was a number, but who was being called at
23 the other end of that number?

24 A. Nevyas Eye Associates.

151

1 Q. Did the Food and Drug Administration ever give
2 you or Nevyas Eye Associates any parameters as to
3 what you could advertise?

4 MS. NEWMAN: I'm going to object. I
5 don't believe there is anything legally by the Food
6 and Drug Administration having anything to do with
7 monitoring a physician's advertising.

8 Q. Doctor, what are the visual requirements for
9 driving in Pennsylvania?

10 A. 20/50 or better in one eye. I'm not sure.

11 MS. NEWMAN: Is that an amendment to
12 your answer?

13 THE WITNESS: It's an amendment to my
14 answer.

15 Q. Are you saying you don't know what the
16 requirements are for driving?

17 A. I'm saying that I think I just quoted the
18 requirements for night driving.

19 Q. Let me get this straight. 20/50 vision in one
20 eye?

21 A. In one eye.

22 Q. 20/50 vision or better in one eye is the
23 requirement for night driving in Pennsylvania?

24 A. Yes.

152

1 Q. What is the requirement for daytime driving in
2 Pennsylvania?

3 A. I'm not sure.

4 Q. What is the requirement for nighttime driving
5 in New Jersey?

6 A. I don't know.

7 Q. What is the requirement for daytime driving in
8 New Jersey?

9 A. I don't know.

10 Q. In April of 1998 were you aware of the
11 requirements but have since forgot, for example, in
12 either Pennsylvania or New Jersey?

13 MS. NEWMAN: Do you know what you have
14 forgotten is the question.

15 A. I don't know what I've forgotten.

16 Q. When you first saw Mr. Morgan in 1998 was he
17 working or not, do you have any recollection or can
18 you tell from your . . .

19 A. He was a computer worker is what I have
20 written here.

21 Q. Was he working full time, part time? Do you
22 have any indication of that?

23 A. No.

24 Q. Was he working daytime or nighttime?

153

1 Q. No. I don't have any indication.
2 Q. Doctor, is LASIK surgery considered elective
3 surgery?

4 A. Yes.

5 Q. Are there any situations where LASIK surgery
6 is not elective surgery?

7 A. What do you mean by "elective"?

8 Q. Well, in your consent form that you use, do
9 you describe LASIK surgery as being elective or not?

10 A. (Examines documents.) Yes.

11 Q. Yes, you describe LASIK surgery as being what?

12 A. Elective.

13 Q. Are there any circumstances where LASIK
14 surgery is not elective?

15 A. No.

16 Q. Can LASIK surgery improve a patient's visual
17 acuity over his best corrected visual acuity before
18 the LASIK surgery?

19 A. Can it ever? Has it ever?

20 Q. Yes.

21 A. It's been reported.

22 Q. Did you tell that to Mr. Morgan?

23 A. I told him the opposite.

24 Q. What did you tell Mr. Morgan?