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- 1 **A. I told him that his vision would not be any**
 2 **better than the best correction and that it might**
 3 **drop.**
 4 Q. When you told him that his vision might drop,
 5 did you indicate to him how much it might drop?
 6 **A. Yes. I told him he could lose one or both**
 7 **eyes or he could die.**
 8 Q. Where does it indicate that?
 9 **A. I didn't write that here, but that is what I**
 10 **told him. Here I wrote, "Discussed in detail that**
 11 **visual acuity will not improve and that damage to**
 12 **retina from ROP is not going to improve. Also**
 13 **discussed that best corrected visual acuity could**
 14 **decrease."**
 15 Q. Did you discuss how much the visual acuity
 16 could decrease?
 17 MR. LAPAT: She just said she told him
 18 he could lose both eyes or die.
 19 DR. FRIEDMAN: Counsel, let me have it
 20 from the witness.
 21 **A. I told him he can go completely blind.**
 22 Q. In April 1998, what was the visual acuity
 23 defect beyond which you would not perform LASIK?
 24 **A. What do you mean by "visual acuity defect"?**

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- 1 Q. Well, how bad would a visual acuity have to
 2 be, how abnormal would a visual acuity have to be in
 3 1998 beyond which you would not perform LASIK?
 4 **A. How many diopters of myopia?**
 5 Q. Let's do diopters and let's do Snellen's.
 6 MS. NEWMAN: I'm going to object only
 7 to the form of the question that it excludes all
 8 other indications or exclusions, et cetera, for
 9 LASIK, and with that she can answer your question.
 10 **A. How many diopters of myopia would I have**
 11 **operated?**
 12 Q. That's the first part of the question.
 13 **A. Okay. About 11.**
 14 Q. And the second part of the question, visual
 15 acuity in terms of Snellen's Eye Chart?
 16 **A. Best corrected acuity needed to be the 20/40**
 17 **level.**
 18 Q. The 20/40 level?
 19 **A. (Witness nods head.)**
 20 Q. Is the 20/40 level different than the 20/50
 21 level?
 22 **A. The 20/40 level is different from the 20/50**
 23 **level.**
 24 Q. Are you answering yes, it is, or are you

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- 1 repeating my question?
 2 **A. I was answering.**
 3 Q. I'm sorry. My question was is the 20/40 level
 4 different from the 20/50 level, and do I understand
 5 your answer is yes, it is different?
 6 **A. Yes.**
 7 Q. And, Doctor, why would the 20/40 level have
 8 been your cutoff for performing LASIK in April of
 9 1998?
 10 **A. It was stipulated in our protocol.**
 11 Q. Was there any other reason?
 12 **A. It seemed appropriate to me.**
 13 Q. It seemed appropriate?
 14 **A. It seemed appropriate.**
 15 Q. And why did it seem appropriate?
 16 **A. Because that was my judgment.**
 17 Q. Doctor, why was it your judgment that it was
 18 appropriate to have a cutoff in the 20/40 level for
 19 doing LASIK surgery in April 1998?
 20 MS. NEWMAN: Is there something that
 21 you're getting at here? Because I'm not hearing
 22 it. She is answering your questions and I'm not
 23 really understanding where you're going. Doctor, do
 24 you understand?

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- 1 DR. FRIEDMAN: She hasn't answered
 2 anything.
 3 MS. NEWMAN: She has answered.
 4 DR. FRIEDMAN: No. She said, first of
 5 all, that it was a protocol and then I said, "Well,
 6 are there other reasons," and she said, "Well, it
 7 seemed appropriate," and I'm trying to find out why
 8 she feels it's appropriate.
 9 MS. SANDS: She told you.
 10 DR. FRIEDMAN: Because it's in her
 11 judgment.
 12 MS. NEWMAN: Right.
 13 DR. FRIEDMAN: I'm trying to find out
 14 why in her judgment it's appropriate.
 15 MS. NEWMAN: I don't understand that
 16 question. If the doctor can understand it, she can
 17 answer it. Go ahead.
 18 **A. I don't understand the question.**
 19 Q. Doctor, did you have any thoughts, opinions or
 20 feelings as to a cutoff point of the 20/40 level for
 21 LASIK surgery in April 1998 that were separate from
 22 what the FDA had put in the protocol?
 23 MS. NEWMAN: Other than what she had
 24 already said, that it seemed appropriate and was her