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1 judgment? She said that. You're looking at me like
2 how can I say that? Because she just said that,
3 Steve.

4 DR. FRIEDMAN: I would like to hear her
5 answer, not yours.

6 MS. NEWMAN: No, no, other than what
7 she's already said?

8 DR. FRIEDMAN: She hasn't answered.

9 MR. LAPAT: She just said those words.

10 MS. NEWMAN: She said what I just said,
11 Steve. Those are not my words, those are her words.
12 You just asked her the question.

13 DR. FRIEDMAN: And then I asked her why
14 is it appropriate and she said in her judgment.

15 MS. NEWMAN: Right.

16 DR. FRIEDMAN: I'm trying to find out
17 is she just repeating what is in the protocol or is
18 she using her own judgment as a physician as to why
19 she is agreeing with the FDA on that 20/40 level.

20 MS. NEWMAN: She just said it seemed
21 appropriate in her judgment.

22 BY DR. FRIEDMAN:

23 Q. Why was it appropriate in your judgment,
24 Doctor?

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1 **acuity without an improvement in his best corrected**
2 **acuity.**

3 Q. Doctor, how much of the cornea is used for
4 focusing in a patient like Mr. Morgan?

5 **A. How much of the cornea?**

6 Q. How much of focusing of the eye is due to the
7 cornea in a patient such as Mr. Morgan?

8 MR. LAPAT: Objection; vague.

9 MS. NEWMAN: Can you answer that? I
10 don't know what you mean in terms of "a patient such
11 as Mr. Morgan."

12 Q. Specifically in Mr. Morgan in April 1998, was
13 his focusing for visual acuity more dependent upon
14 his lens or his cornea?

15 **A. Both were essential.**

16 Q. I understand. Which would have the greater
17 effect on his visual acuity?

18 MR. LAPAT: Objection.

19 MS. NEWMAN: If you can answer, go
20 ahead.

21 **A. Effect compared to what?**

22 Q. Effect in focusing, Doctor.

23 **A. If which were suddenly absent, what would have**
24 **the more profound impact on his refraction?**

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1 MS. NEWMAN: If you can answer it any
2 further than you did, you can go ahead.

3 **A. I believe that's a complete answer.**

4 Q. Do you have any foundation for why that would
5 be appropriate in your judgment?

6 MS. NEWMAN: Other than the hour that
7 we spent at the beginning of the deposition on her
8 training and experience in this area?

9 Q. Doctor, what concerns would you have about
10 doing LASIK on a patient whose best corrected visual
11 acuity was worse than the 20/40 level?

12 MS. NEWMAN: I object to the point that
13 it's put in a vacuum, but to the degree that she
14 can, she can answer.

15 **A. That even an excellent refractive result might**
16 **not be pleasing to the patient.**

17 Q. Why would that be any different for vision
18 worse than the 20/40 level as compared to vision
19 better than the 20/40 level?

20 MS. NEWMAN: I don't understand that.
21 If the doctor does, she can answer it.

22 **A. A patient whose vision is diminished is likely**
23 **to be unhappy with his best corrected acuity and may**
24 **not be happy with an improvement in his unaided**

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1 Q. Okay. You can answer that question. Go
2 ahead.

3 MR. LAPAT: That's an absurd question.

4 DR. FRIEDMAN: She is asking her own
5 questions.

6 MS. NEWMAN: No. She's asking you what
7 you just asked.

8 MR. LAPAT: She's asking you to clarify
9 the question because she said basically . . .

10 Q. Doctor, if there is such a thing as focusing
11 and Mr. Morgan focused and when he focused he did
12 100 percent of his focusing, you said that both the
13 cornea and the lens were important for focusing.
14 And I'm just asking you was the cornea responsible
15 for 50 percent of his focusing, 75 percent, 99
16 percent?

17 MS. NEWMAN: As compared only to the
18 lens?

19 DR. FRIEDMAN: As compared to the
20 lens.

21 MS. NEWMAN: If you can answer that
22 question, you can do it. If you can't, tell him.

23 MR. LAPAT: Objection.

24 **A. I can't.**