

Amended Complaint and the depositions were done with an agreement between the feuding parties not to mention the 2.6 million dollars worth of chemotherapy profits in four years for two oncologists gut to only discuss chemotherapy profits in general and the \$385,000.00 1997 overdraw of compensation. Nevertheless, the accounting exhibits, Plaintiffs' Exhibit No. 33, Defendants' Exhibit No. 12 and Plaintiffs' Exhibit No. 34 show the tremendous profits in "reimbursement" for chemotherapy infusion and other infusion drugs from Medicare over the actual costs in obtaining the drugs from the manufacturers.

The following are some excerpts from the depositions in the case:

1. Geetha Kamath, M.D. is one of the oncologist defendants, the wife of the gastroenterologist defendant who allegedly changed the accounting system so that the oncologists got all the benefit from the sales of oncology drugs. You will note that the oncologists testified that it was common knowledge among all the partners, administration and all physicians generally that huge profits were made from the sale of oncology drugs. However, the gastroenterologists and some administrators (and physicians that we have interviewed in other specialties that oncology) testified that they had no idea that huge profits were made by oncologists merely from the sale of the drugs from their reimbursement from Medicare and Medicaid.

EXCERPTS OF TESTIMONY OF THE DEPOSITION OF
GEETHA KAMATH, M.D.

(A) Deposition of November 6, 1998 of Geetha Kamath, M.D.

Page 156, Line 21.—I always thought that it was such a well known fact that drugs are profitable; it's a known fact in the medical community as far as I am concerned.

Page 163-164.—Exhibit No. 34 is a history of gastro and onco collections which reflect the increase in collections by oncologists between 1987 and 1995.

(B) Deposition of November 11, 1998 of Geetha Kamath, M.D.

Page 8, line 25 through Page 9, line 5.—Profit from chemotherapy drugs went to the oncologists. Profits from the sale of chemotherapy drugs were not shared by the gastroenterologists.

2. Belur S. Sreenath, M.D. is a gastroenterologist plaintiff. He sued the defendant oncologists because of their failure to distribute money from chemotherapy profits.

EXCERPTS OF TESTIMONY OF THE DEPOSITION OF
BELUR S. SREENATH, M.D.

(C) Deposition of September 17, 1998 of Belur S. Sreenath, M.D.

Page 23, line 6 through 23.—The gastroenterologists do not make any money from the sales of drugs. They write a prescription and the patients go to the patients' pharmacists and get their prescriptions filled. (essentially the same testimony on page 24, line 20-25)

Page 39, line 21 through Page 40, line 5.—He sued the oncologists because they diverted the profits from chemotherapy drugs in the amount of \$385,000.00

Page 72.—The gastroenterologists were aware that oncologists were being paid more from insurance companies and Medicare; however, they didn't know that the large profits were from the sale of chemotherapy drugs.

Page 124.—That Dr. Sreenath knew in 1997 the revenue from one oncologist, Dr. Geetha Kamath was \$2,490,000.00 and Dr. Sreenath's total revenue was only \$363,909.00 but he only

understood that each oncologist was making a lot more money than he was but he didn't know that it came from the profits from the sale of chemotherapy infusion drugs.

Page 127.—He first realized that there was so much chemotherapy profits in the end of the year of 1997.

3. Pothan Jacob is a gastroenterologist partner suing for his share of the 2.6 million dollars in chemotherapy drug profits.

EXCERPTS OF TESTIMONY OF THE DEPOSITION OF
POTHAN JACOB

(D) Deposition of July 14, 1998 of Pothan Jacob:

Page 107.—More than 2.6 million dollars in profits from chemotherapy drugs were paid by GOA to the defendants from 1993 to the filing of the suit in April 1997.

Page 51.—The oncologists are paid for a professional component when they administer the chemotherapy drugs and they also get reimbursed separately for the oncology drugs administered.

Page 60.—Medicare pays for the chemotherapy drugs at a parallel or same time that the oncologists have to pay the manufacturers for the chemotherapy drugs.

Page 61.—The dramatic difference in revenues between the oncologists and the gastroenterologists are the chemotherapy drug profits received by the oncologists.

Page 66.—Gastroenterology physicians' receipts were lower in 1995 and 1996 because reimbursement was lowered for gastroenterology services and the cost of malpractice insurance was higher.

Pages 71-72.—Endoscopic procedures are personally done by gastroenterologists. Chemotherapy is not personally administered by an oncologist but by a nurse.

Page 83.—For drugs by gastroenterologist, the patient pays the cost, either buying from GOA at cost or buying it from the pharmacy.

Page 155.—The first time he learned of the extent of chemotherapy sales' profits in GOA was in the middle of 1997 when they were investigated entering MSO.

4. Debra Mitchell was the administrative nurse who was demoted in salary by the administrator physician partner, Dr. Jay Kamath, husband of one of the oncologists. He hired a second administrator just to work for the two oncologists.

EXCERPTS OF TESTIMONY OF THE DEPOSITION OF
DEBRA MITCHELL

(E) Deposition of July 14, 1998 of Debra Mitchell, R.N.:

Page 75-76.—In December of 1997, oncologist Dr. Geetha Kamath had revenue of \$2,497,938.00 and oncologist Anil Raiker had revenue of \$1,327,570.00

Page 82-83.—The old reports only showed Medicare allowables. The new reports showed the amounts being reimbursed by Medicaid (reviewing Exhibit 11).

Page 83.—GOA first began tracking the cost of the chemotherapy drugs in November of 1996.

Page 85.—The only doctors that saw the chemotherapy reports were the oncologists. The GI doctors were never given copies of the chemo reports.

Page 86-87.—In November of 1996, the witness was told by the accountant Odalys Lara there's profit in chemotherapy drugs. Exhibit No. 12 sets up the spread sheet showing the month to date and the year to date profits for each of the oncologists for the sales of chemotherapy drugs.

5. Odalys Lara was the CPA for GOA from April 1994 to the date of her deposition on September 3, 1998.

EXCERPTS OF TESTIMONY OF THE DEPOSITION OF
ODALYS LARA

(F) Deposition of September 3, 1998 of Odalys Lara, C.P.A.:

Page 14.—When she began, she did not know that there was any profit in the sale of chemotherapy drugs.

Page 25-26.—She first found out there was profits in the sale of chemotherapy drugs in July or August of 1997.

Page 32-33.—Plaintiffs' Exhibit No. 4 is a report of infusion and chemotherapy drug profits by year in 1994, 1995, 1996 and 1997.

Page 35.—In 1994 profits from the sale of infusion and chemotherapy drugs for two oncologists went from \$489,000.00 in 1994 to \$814,000.00 in 1997. From 1994 to 1997, 2.6 million dollars in chemotherapy and infusion drug profits were made by the two oncologists. Those totals do not indicate the reimbursements from private insurance which is a separate figure. These figures only include Medicare's reimbursements. It is a conservative figure because insurance companies reimburse more.

There's some very good gem testimony regarding the huge profits made by oncologists from Medicare for the sale of infusion and chemotherapy drugs. Also there is excellent testimony about how the knowledge of these huge chemotherapy drug sales profits was kept secret from partner physicians who were not oncologists. However, these gems are buried in a morass of deposition harangue.

I trust that this information will be useful for people reviewing the frauds against the Medicare and Medicaid Programs in the infusion, and oncology drug business.

STUDENT CONGRESSIONAL TOWN MEETING

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 2000

Mr. SANDERS. Mr. Speaker, today I recognize the outstanding work done by participants in my Student Congressional Town Meeting held this summer. These participants were part of a group of high school students from around Vermont who testified about the concerns they have as teenagers, and about what they would like to see the government do regarding these concerns.

I submit these statements into the CONGRESSIONAL RECORD, as I believe that the views of these young persons will benefit my colleagues.

PRESCRIPTION DRUG COSTS

KAYLA GILDERSLEEVE: To start off, good afternoon, Congressman Sanders. We sincerely thank you for providing some time for young people to be able to voice their opinions and concerns for our state and our country. And today we have come to you to encourage you to continue the battle with pharmaceutical companies for our senior citizens.

ANGELA DEBLASIO: In the Year 2000 the United States of America as well as our fine State of Vermont have a problem, the soaring cost of prescription drugs. There are millions of Americans, an estimated 13 million elderly Americans who need drugs; they cannot afford them because they do not have prescription drug coverage. This just does not affect poor people. Many middle class seniors without additional private insurance struggle to pay for what they need. Those who cannot afford the prescription drugs pay for their drugs by taking their limited

amount of money out of their food budget or not adequately heating their homes in the winter season; thus their quality of life deteriorates. The result is that some do without their prescribed medications, take half a dose or in extreme cases use their partner's medication, assuming they are one in the same, and so they suffer, die, or travel to the emergency room with higher cost to the health care and Medicare systems.

TESS GROSSI: Congressman Sanders, you have stated in a May 3rd press release that, and we quote, "The industry is continuing to fleece Americans while working to kill major prescription drug legislation in Congress." As the Fortune 500 number shows us, pharmaceutical companies took in more profit than the top auto, oil and airline companies. This is approximately an 18.9 percent profit, the highest margin of any industry in the nation. These pharmaceutical companies are raking in more profit, and the elderly and the sick all over can't afford the care and the help they desperately need.

KAYLA GILDERSLEEVE: Of course these companies make claims that their high profit margins are necessary to support research and development.

These development costs do not even begin to explain the rising prices of existing drugs which are projected from the price competition by patent. However, only 20 to 30 cents of each dollar is spent in actual research and development and less; between 5 to 25 cents is spent on actual production of the drug. The remaining 40 to 70 cents is spent in marketing, selling and administration.

Many industry critics call the R & D warning a scare tactic, noting a huge percent return on revenues for the previous year. The reality is that they are earning a lot more than they spend on research and development. In addition, drug companies spend approximately \$30 million on ad campaigns to combat any attempts to regulate drug pricing. They spend even more on state and federal lobbying efforts.

TESS GROSSI: Congressman Sanders, we have an industry that makes an exorbitant profit off of sickness, misery and illness of people, and that is disgusting. Drug companies come close to getting \$4 billion every year in tax breaks and still Americans pay more and more for these drugs than citizens from other countries. There should be a way that consumers can afford the prescription drugs and at the same time a way for drug companies to make a modest profit and continue research and development. Senior citizens need fair, modest drug prices and it is in America's best interest to do so.

ANGELA DEBLASIO: Therefore, we urge you to continue your work with the International Prescription Drug Parity Act which allows pharmacists, wholesalers and distributors to re-import prescription drugs from other countries as long as those drugs meet strict FDA standards. We also encourage you to continue to take bus trips to Canada to help our elderly fill or refill their prescriptions. It is one of those random act advantages in living in a border state that not every American has access to which is why continuing to push for prescription drug legislation is necessary and vital to our economy and the lives of our country's senior citizens. We must fulfill our responsibility to protect elderly Americans and to do this we must provide affordable prescription medication.

KAYLA GILDERSLEEVE: Thank you for your time.

NEED FOR ALTERNATIVE ACTIVITIES TO KEEP KIDS FROM ALCOHOL, DRUGS AND TOBACCO

APRIL NILES: I am April and I am the PR outreach worker for Youth services and I work with Kids Against Tobacco group which is these guys, and we are basically here to talk about alternatives to doing drugs and alcohol and just trying to think up some activities to keep teens from doing drugs. And as it is now we have one activity night a week down at the Living Room where I work, and we just basically play pool and watch movies and we cook a dinner every Thursday but we would like to have more activities to do. And that is about it.

BLAKE KINCAID: I am Blake and we just recently held a dance in our group and it was Kids Against Tobacco and we had facts on the walls for students to read, and we had speakers and we held a raffle and Craig will tell you about the speakers.

CRAIG STEVENS: We had two speakers at the dance, one of them was Wes who lost his voice box and used a machine to project his voice. Another one we had was Lola, and she lost her father to emphysema or lung cancer.

NATE POWERS: Some of the activities that we are trying to do, we are trying to have the towns build board parks or skate board parks. Also we have a very strange question. We have asked local officials why they are worried about giving two-dollar parking tickets instead of smoking underage tickets for \$1.50 and why they are more worried about two-dollar tickets than students' lives. So we have come to—Blake and I and one of our other CAT members went to a job share a few days ago and we were asked to ask a couple questions about exactly—Blake asked why they were doing two dollar tickets instead of \$2.50 tickets. Mine was how many fires start with tobacco use, and there was a significant amount of fires and deaths the last two years that I have know. And that is about it.

BLAKE KINCAID: The activities we would like to do beside the skate park, we would also like to have bike paths and we would like to have better places for students to go because The Living Room is only open from one until five, so that does not give students much time to do what they have got to do because from five on they are out on the streets and they cannot do anything about that. It is just one to five without funding.

NATE POWERS: And around St. J. our local bike path is in Newport which transportation for these children is a big problem. These children say the reason that they are smoking is because there are not any activities for them to do. I have to agree with the clubs, drug-free clubs, yeah, I agree with that. But I think it is our officials that let that happen because I mean some children ruin it for other students.

We have had significant changes in Lyndonville's local restaurants. They have had a lot of business since the smokers had to be kicked out, and we just want to put out the smoking instead of the children, and I just think that the dance with Wes was talking to children, made a lot of children screaming because it was pretty horrible when they saw what happened to these children when they smoked, and Wes is a nice guy.

SAME SEX MARRIAGE

KELLI FREEMAN: I am here today to tell you about an issue that I have a strong opinion about. That issue is how Vermont gets dumped on because of the Civil Unions Bill. I think that for the safety of one's state the

law should have been talked about more carefully. I have heard some pretty mean and nasty jokes that have been said about Vermont and I do not agree with it. Sometimes in different towns and states people spray painted signs, saying "Vermont, the Gay State" and "Take a Fairy to Vermont" and comments like that. Vermonters do not need to hear or see stuff like that because we are upset as it is. We are afraid to leave the state because we are embarrassed about our license plates because we are afraid of what other people are going to say. That is the main reason why I am talking about this today; we should not be afraid or threatened of what people are going to say about us and we should not be embarrassed because we are Vermonters.

The people who harass us about the law that was passed, they do not know what it is like to live in a state that everyone discusses in a negative way all the time. We are sick and tired being called the Gay and Lesbian State and if you care at all about the people in this state, then you would think they absolutely would hate what is going on. They are probably scared and just as upset as you are. So when you see a Vermont license plate or a Vermont sign before you say "The Gay State," look at the other citizens and then ask yourself what are they going through because they have to live there and they do not like how they are being pictured either.

YOUTH ADVOCACY RIGHTS

STEVE HOFFMAN: We work in Burlington, that is where the majority of our work is with Club Speak Out around Chittenden County, and I am just going to read off our vision and our mission to give you an idea of what Club Speak Out is and our goals.

Our vision is Club Speak Out envisions the ability for youth to take the initiative without any constraints, being able to embody positive outcomes in our own lives with the feelings of being valued by the community through interests that arise in the area of youth development.

And our mission is, Club Youth Speak Out's mission has become a resource for all the youth in all aspects of their life, empowering youth to help themselves in creating healthy developmental programs and resources that will impact their lives positively, using businesses, legislators, schools, the community, and any other area where outcomes can be positive. And that is what this program was designed for, was to go out in Chittenden County and we worked in Burlington to build a model and to give children something to do, take them out of risky behavioral situations and put them where the outcomes can be positive.

And what we are here today is to ask a question: What can the government do or have in order to increase positive outcomes in the lives of youths? And some of the things that we came up with is provide less competitive monetary funds for programming, and give it to the state and local governments in order to give out to the organizations that are around for youth. What happens is that when you go to apply for a grant there is not that much money out there and there is a lot of competition, and when a new program does come in, a lot of people are scared and they try to stop it. And that is just not right because as long as the program has the right passion and it is designed to work functionally with other programs and positive outcomes can be made then they all have should be given a chance because every little bit helps and counts. If the federal government can provide more money that would

be great, and they did just decrease the safe school money I believe, National Safe School money, that was just decreased by 17 percent which is tremendous. And a lot of the grants given out now the money has to be cut which is not too good when we are trying to build programs to build healthy communities.

Another thing is increase the ability for youth to utilize the resources that state and federal representatives offer; more awareness for youth to be able to come to your office or come to Senator Jeffords and Leahy's office and their local governments and be able to come up and say, This is an issue that we have, how can you help us, what steps do we have? And then form youth governmental boards that have the ability for youth to have a say in working and forming youth policies in accordance with adult policymakers, and we feel that that is real important.

One issue that did come up today was the dance club and that is something we are working on because we had a Speak Out and with other youth have come up and said we really need something to do, we need a dance club. 242 is a nice club but unfortunately it is not diverse enough and does not really fit the mission and the original reason why it was in place. So we want to kind of start a dance club where all students can go with a game room without any drinking so if they didn't want to dance there is other stuff that they can do that is open until twelve o'clock at night every night. We hire youth, it is run by youth, the money goes right back to the youth, it is not in any business's hands.

So that would be nice to get definitely some money and support from the government for that too, because we can easily go out and get different companies to donate their services, but as far as the funds and stuff it does cost a lot of money to fundraise that, and it is just a lot, especially with the skateboard park where we had to raise \$50,000 for that, and it adds up, and when you keep asking people they are like How much do we have to give? So we feel that is very important.

JONATHAN CUMMINGS: We would just really like to see youth be involved. When youth run their own organizations they accomplish a lot more and they are a lot more connected with what they are doing which is why our mission is both youth and not necessarily have adults run our programs. I am trying—like my group, I run myself now and I see that students that I work with are a lot more involved when it is youth leading them rather than an adult.

TRIBUTE TO DONALD BIEDERMAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 2000

Mr. BERMAN. Mr. Speaker, I rise today to honor an outstanding attorney and model citizen, Mr. Donald Biederman who will be saluted tonight by Southwestern University Law School on his appointment as the head of its Entertainment and Media Law Institute. I have been proud to call Don a friend for almost twenty years. He is a man of enormous energy, intellect and integrity, who is an outstanding choice for this position.

As a J.D. and LL.M. recipient from Harvard and New York University Law Schools respectively, Don has enjoyed an illustrious legal ca-

reer in both the private sector and academia. He first began practicing entertainment law in 1972, when he became the chief legal officer at CBS Inc. From there, he moved to ABC Records Inc., where he served as the Vice President for Legal Affairs and Administration. Prior to starting his most recent position to the private sector, Executive Vice President and General Counsel at Warner/Chapell Music, Don was a partner at the law firm of Mitchell, Silberberg and Knupp.

Throughout his legal career, Don has been a vigilant and outspoken opponent of intellectual piracy. The Record Industry Association of America and Billboard are just two of the many organizations that have honored him for his efforts in this area.

Despite leading a distinguished career in the corporate world, Don has found the time for an equally outstanding tenure in academia. He has taught at such institutions of higher learning as: Pepperdine University School of Law, USC Law Center, the UCLA School of Law, the Anderson School of Management, Vanderbilt, Harvard and Stanford. Prior to assuming his current position at Southwestern, Don was the director of USC's Entertainment Law Institute.

While in academia, Don co-authored Law and Business of Entertainment Industries, a widely-used textbook on Media Law. He also wrote articles for a variety of publications including: the Hastings Communication/Entertainment Law Journal, Entertainment and Sports Lawyer, and the Vanderbilt Journal of Entertainment Law and Practice.

I am proud to be a friend to such an accomplished individual, and it is my distinct pleasure to ask my colleagues to join with me in saluting Professor Donald E. Biederman on his new position as the Director of Southwestern University Law School's Entertainment and Media Law Institute. Southwestern could not have chosen a finer individual.

THE HIGH COST OF PRESCRIPTION DRUGS AND THE IMPORTANCE OF GENERIC MEDICINES

HON. THOMAS H. ALLEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 2000

Mr. ALLEN. Mr. Speaker, I rise to speak about the importance of generic drugs and competition in the pharmaceutical market. This year, as in the past, brand drug manufacturers are asking Congress to support legislation that will extend patents on their most profitable medicines. The most profitable industry in the world is asking Congress for permission to continue gouging consumers, especially seniors and the uninsured.

The most notable bills now before us are S. 1172 and H.R. 1598, commonly known as the "Claritin" bills. Claritin's manufacturer, Schering-Plough is pushing these bills to protect its popular allergy drug, Claritin, and six drugs commonly used by seniors for less costly generic competitors.

Researchers at the University of Minnesota School of Pharmacy estimate high consumer costs if the Claritin bills pass. Americans may

be forced to pay an additional \$11 billion for this medicine over the life of the patent extension because more affordable alternatives will be barred from the market. That is an enormous burden to place on consumers, seniors and taxpayers, especially at a time when health costs are escalating.

Fortunately, the Claritin bills are stalled. Unfortunately we expect Schering-Plough and other brand companies to continue to push patent extension bills in years to come, because patents are scheduled to expire on tens of billions of dollars worth of drugs.

For the sake of 15 million seniors who lack adequate prescription drug coverage, we must stop all patent extensions whether they are offered directly, or are couched in supposedly consumer friendly language. Consumer and senior groups throughout the nation oppose these bills. We must too.

INTRODUCTION OF THE COMPREHENSIVE IMMUNOSUPPRESSIVE DRUG COVERAGE FOR TRANSPLANT PATIENTS ACT OF 2000

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 2000

Mr. CAMP. Mr. Speaker, today, I introduced the Comprehensive Immunosuppressive Drug Coverage for Transplant Patients of 2000 Act which will help Medicare beneficiaries who have had organ transplants. Every year, over 6,000 people die waiting for an organ transplant. Currently, over 67,000 Americans are waiting for a donor organ.

Given that organs are extremely scarce, Federal law should not compromise the success of organ transplantation. Yet that is exactly what current Medicare policy does, because Medicare denies certain transplant patients coverage for the drugs needed to prevent rejection. Medicare does this in three different ways.

First, Medicare has time limits on coverage of immunosuppressive drugs. Medicare law only provides immunosuppressive drug coverage for three years with expanded coverage totaling 3 years and 8 months between 2000 and 2004. However, 61 percent of patients receiving a kidney transplant after someone has died still have the graft intact five years after transplantation. Nearly 77 percent of patients receiving a kidney from a live donor still have their transplant intact after five years. For livers, the graft survival rate after five years is 62 percent. For hearts, the five year graft survival rate is nearly 68 percent. So many Medicare beneficiaries lose coverage of the essential drugs that are needed to maintain their transplant.

Second, Medicare does not pay for anti-rejection drugs of Medicare beneficiaries, who received their transplant prior to becoming a Medicare beneficiary. So for instance, if a person received a transplant at age 64 through their health insurance plan, when they retire and rely on Medicare for their health care they will no longer have immunosuppressive drug coverage.