

“Masimo has made the biggest strides in technology advancement”

DORIS EVELYN ENGIBOUS (Nellcor President) TESIMONY

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Q. BY MS. WEIL: If we can call up on Exhibit 3078, page NC 04274. And I would like to direct your attention, Ms. Engibous, to the end of the first paragraph, to the sentence that starts, "To date." And it reads: "To date, Masimo has made the biggest stride in technology advancement. The quick introduction of the 395 bedside oximeter is vital for NPB to maintain our technology leadership position." Do you see that?

A. Yes.

Q. And NPB refers to Nellcor Puritan Bennett?

A. Yes, it does.

Q. And the 395 is the N-395 that we've been discussing?

A. Yes.

Q. And is this one of the concepts that was reviewed by you in connection with this document?

A. Well, again, the reason that I'm struggling is because the two sentences that you read are written by a marketing person, and those aren't necessarily statements that – you know, the whole purpose of the N-395 was to bring our next generation technology to market. And this -- there is no question in my mind that we were competing against Masimo. So whether the concept of Masimo making the biggest stride in technology advancement, that seems -- strikes me as a bit much.

Q. This was written by somebody at Nellcor; right?

A. Yes, more specifically, I believe that that was written by Jim Rekela, R-E-K-E-L-A, product manager.