

# **Exhibit E**

ORIGINAL

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CIVIL ACTION NO. 2:14-CV-06428-KSH-CLW

AMERICAN BOARD OF INTERNAL :  
MEDICINE, :  
Plaintiff, :  
 :  
v. :  
 :  
JAIME A. "JIMMY" SALAS :  
RUSHFORD, M.D., :  
Defendant. :

Transcript of the videotape deposition of  
RAJENDER K. ARORA, M.D., called for Oral Examination  
in the above-captioned matter, said deposition taken  
by and before SILVIA P. WAGE, a Certified Shorthand  
Reporter, Certified Realtime Reporter, Registered  
Professional Reporter, and Notary Public for the  
State of New Jersey, New York, Pennsylvania and  
Delaware, at the offices of NICOLL DAVIS & SPINELLA,  
LLP, 95 Route 17 South, Suite 316, Paramus, New  
Jersey, on January 21, 2016, commencing at 12:27  
p.m.

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I N D E X

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EXAMINATION BY MR. GONZALEZ	7

E X H I B I T S

EXHIBIT NO.	DESCRIPTION	PAGE
Arora 1	12-page Arora Board Review marketing materials	30
Arora 2	one-page Continuing Medical Education Certificate from Arora Board Review for Jaime Salas-Rushford, MD	52
Arora 3	16-page Process Receipt and Return filed in the Eastern District of Pennsylvania against Dr. Arora	66
Arora 4	five-page Civil Docket for Case No. 2:09-cv-05707-JCJ	74
Arora 5	22-page Complaint in the Eastern District of Pennsylvania, ABIM v. Dr. Arora and Anise Kachadourian	74
Arora 6	one-page color printout of A. Benjamin (Ben) Mannes from Philadelphia InfraGard	82
Arora 7	two-page e-mail string	83
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Arora 10	Notice of Subpoena Duces Tecum to Rajender K. Arora, M.D.	104

1 A. Yes, sir.

2 Q. Poke. Do you remember when that took  
3 place?

4 A. Sometime in 2010.

5 Q. Okay. Did that settlement produce a  
6 settlement, a written settlement agreement between  
7 you and ABIM?

8 A. Yes, sir.

9 Q. Do you have a copy of that?

10 A. I don't have it with me. But my  
11 lawyer has it.

12 Q. Okay. And you don't have it with you  
13 right now?

14 A. No, I don't.

15 Q. Why didn't you produce that document  
16 today to pursuant to the subpoena?

17 MR. RIVERA-SOTO: Is it called for?

18 MR. MENA: Yes, I think so.

19 Q. Let me point you to request No. 5,  
20 sir. Request No. 5 requests, "All documents that  
21 relate to any and all allegations or claims in the  
22 lawsuit entitled "American Board of Internal  
23 Medicine versus Rajender K. Arora, No. 2-09-CV-05707  
24 in the United States District Court for the Eastern  
25 District of Pennsylvania."

1           That's the case that you testified to at  
2 length this morning of the case that ABIM had  
3 against you; is that correct?

4           A.           Yes.

5           MR. RIVERA-SOTO: Actually, this  
6 afternoon.

7           Q.           This afternoon, I'm sorry.

8           And your testimony is that you reached a  
9 settlement with them including a settlement  
10 agreement, a written settlement agreement; is that  
11 correct?

12          A.           Yes, uh-huh, yes.

13          Q.           And your testimony is that either you  
14 or your attorney have copies of that settlement  
15 agreement?

16          A.           Yes, sir.

17          Q.           But you did not produce that with you  
18 today?

19                       MS. MILLER: [INSTRUCTION] And I'm  
20 going to instruct him not to answer.

21           Any communications he had with me regarding  
22 why we did or did not produce the settlement  
23 agreement -- and, quite frankly, it's clearly of  
24 record. It's in many e-mails. It is irrelevant.  
25 And I don't see at all it how affects the

1 allegations in this case.

2 MR. GONZALEZ: My question is not  
3 about the communications you had with him about the  
4 settlement agreement. My question is that he did  
5 not produce --

6 MS. MILLER: No, your question is why  
7 did he not -- why did he not produce it. And,  
8 again, we can go back, if you chose to take.

9 MR. GONZALEZ: Let me rephrase the  
10 question.

11 MS. MILLER: He didn't produce it on  
12 the advice of counsel.

13 Q. Sir, you don't have a copy of that  
14 agreement with you today; is that correct?

15 A. No, I don't have with me.

16 Q. And you've read request number --  
17 Production No. 5, correct?

18 A. Yes.

19 Q. And the settlement agreement relates  
20 to the case that's referenced in document production  
21 request No. 5 that's in the subpoena; is that  
22 correct? It relates to --

23 MS. MILLER: If you understand.

24 Q. The settlement agreement relates to  
25 the case that ABIM had against you; is that correct?

1 A. (No response.)

2 Q. You have to state it verbally, sir.

3 A. No. My presumption is that you have  
4 that record or my lawyer has that record and I have  
5 at home. I can bring it.

6 Q. I don't have a copy of the  
7 settlement.

8 What I'm asking is that you or your lawyer  
9 have a copy of that agreement, that's what you  
10 testified, but you did not bring that with you  
11 today; is that correct?

12 A. No, I did not bring today.

13 MS. MILLER: And I'm putting on the  
14 record that he did not bring it today on the advice  
15 of counsel. And we've clearly undergone several  
16 meet and confer conferences --

17 MR. GONZALEZ: What's the basis -- -

18 MS. MILLER: Please let me finish and  
19 put it on the record.

20 MR. GONZALEZ: Sure, go ahead.

21 MS. MILLER: We've clearly undergone  
22 many meet and confer conferences on this. You've  
23 not chosen to pursue this at all or pursue it with  
24 the Court beforehand.

25 I've been very clear from the first meet and



1 confer conference that I've had that any  
2 confidential settlement agreement is irrelevant to  
3 the allegations of this case, particularly, since  
4 all of the duties of Dr. Arora are in encompassed  
5 within an injunction, which is of record, and you  
6 can pull it. There is nothing in the settlement  
7 agreement that isn't already of record.

8 MR. GONZALEZ: Anything else?

9 MS. MILLER: I think I'm done.

10 MR. GONZALEZ: Okay. You did not  
11 file a motion to quash.

12 MS. MILLER: I don't need to. I have  
13 written objections pursuant to Rule 45.

14 MR. GONZALEZ: That's fine.

15 But you did not file a motion to quash and  
16 the Doctor was obligated to produce --

17 MS. MILLER: I disagree entirely.

18 MR. GONZALEZ: Please, I didn't  
19 interrupt, do not interrupt me.

20 And the Doctor was obligated on this  
21 subpoena by rule to produce documents that he may  
22 have had in possession, custody or control relating  
23 to the case between him and ABIM and that was not  
24 produced and I want to make that clear for the  
25 record.

1 MS. MILLER: And I want to make clear  
2 for the record --

3 MR. GONZALEZ: Please, I'm not done.  
4 I'm not done. Please don't interrupt. I didn't  
5 interrupt you.

6 And that we're going to make appropriate --  
7 seek appropriate intervention by the Court because  
8 the Third Circuit and it's well settled case law --

9 MR. RIVERA-SOTO: Mr. Gonzalez --

10 MR. GONZALEZ: Please, let me finish  
11 and then I'll -- no, no.

12 MR. RIVERA-SOTO: We don't need to  
13 argue it now. We really don't.

14 MR. GONZALEZ: I know. I just want  
15 to make it for the record, sir.

16 MR. RIVERA-SOTO: Okay.

17 MR. GONZALEZ: That the Third Circuit  
18 -- there is no settlement privilege in the Third  
19 Circuit and this document should have been produced.

20 MS. MILLER: Well, why wasn't it  
21 produced by ABIM, who is a party to the litigation?

22 MR. GONZALEZ: Well, we're going to  
23 address that tomorrow with the Judge.

24 MS. MILLER: Don't you think it's a  
25 little late?

1 MR. GONZALEZ: No.

2 MS. MILLER: Okay.

3 MR. RIVERA-SOTO: Okay. Can we move  
4 on, please?

5 MR. GONZALEZ: Yes.

6 MR. RIVERA-SOTO: Thank you.

7 Q. So, Doctor, your testimony is that  
8 you have no documents with you whatsoever in  
9 connection with all of the requests that are stated  
10 in the subpoena; that correct?

11 A. Yes, sir. Yes, sir.

12 Q. With the exception of any documents  
13 relating to the settlement with ABIM including the  
14 settlement agreement, is it your testimony that all  
15 of the other documents that you may have had have  
16 been shredded or discarded?

17 MS. MILLER: Objection. You're  
18 misstating his testimony. Why don't you ask him a  
19 question.

20 MR. GONZALEZ: I did ask him a  
21 question.

22 MS. MILLER: No, a non-leading  
23 question.

24 Q. Doctor, other than the documents that  
25 you testified that you shredded and other than the