11-17250

August 12, 2013

From:	TO: Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103-1526 ATTN: Chief Judge Alex Kozinski	*CC, Courtesy Copy To:* **President Obama** The White House 1600 Pennsylvania Avenue NW Washington, DC 20500 Fax: (202) 456-2461
Karin Klein 6880 Longmeadow Dr. Pahrump, NV 89061 email: k_klein_ok@yahoo.com telephone (775) 764-8897		

Attn: President Obama, Senator Reid, Senator Harkin & Congressman Waxman
*Please **respond in writing by email or mail,** I cannot receive faxes, I can only send faxes.*

CC, Courtesy Copy To:	*CC, Courtesy Copy To:*	*CC, Courtesy Copy To:*
US Senator Harry Reid 522 Hart Senate Office Bldg Washington, DC 20510 Fax: (202) 224-7327	**US Senator Tom Harkin** 731 Hart Senate Office Building Washington, DC 20510 Fax: (202) 224-9369 In February 2013 Senator Harkin Supported a Victim, Injured by Rx Drug, With Amicus Appeal	**Congressman Henry A. Waxman** 2204 Rayburn House Office Bldg. Washington, DC 20515 Fax: (202) 225-4099 In Feb 2013 Congressman Waxman Supported a Victim, Injured by Rx Drug, With Amicus Appeal

27 Pages Total - 4 Page Letter + 23 Pages Attachments/Enclosures Sent Via UPS Next Day Air Signature Confirmation and CC Via Fax to President Obama, Senator Reid, Senator Harkin & Congressman Waxman

Subject: *Docket/Case: 11-17250 Karin Klein v. Tap Pharmaceutical Products, et al and Abbott Laboratories*

Important Public Interest Case - Supported By Amicus (Chief Judge Was Not Notified)
Due to Error, Full Panel Was Hindered from Reviewing the Amended Petition for Rehearing

Exceptional Circumstances & Emergency Situation
Chief Judge & Full Panel Need to Take Notice & Review Amended Petition

To the Honorable Chief Judge Alex Kozinski:

Please see, review the attached amended petition for rehearing and allow judges to vote on the rehearing. I have to send this via mail, because due to an error the full panel did not get our amended petition for rehearing, thus you and the full panel judges were hindered from reviewing the important public interest issues.

Due to Error – Full Panel Was Hindered from Reviewing Amended Petition for Rehearing

Due to exceptional circumstances, I was put into a significant emergency situation. I was not able to reach my appeal attorney Beau Sterling and I'm hindered from filing a motion online. It would be a travesty of justice, and nightmare for my future, if my rights would be denied, due to injustice and this error (one wrong mouse click, draft PC error, thus the full panel did not get our amended petition). Judges Clifton, Bea, Duffy decision directly conflicts with US Supreme Court cases, other federal and state court cases, federal law, the truth, facts, evidence and justice, hurting the rights of consumers/patients. Their short order does not reference case law. Creating a circuit split and held-in clear conflict with The Law. Granting a rehearing is strongly needed to ensure justice has a chance. A rehearing is deeply needed, raising questions of exceptional national importance, consumer/patient rights, affecting important civil litigation. My name is Karin Klein, age 25. In 2005, at the age of 17, I suffered serious permanent injuries and total disability due to Lupron (a dangerous nightmare injection drug). I'm severely suffering, begging for help, open mind and justice. Due to Abbott Laboratories I'm hurting physically, emotionally and financially trying in tears to pursue justice.

Because of Error - Full Appeal Panel Was Hindered from Reviewing the Amended Petition for Rehearing of Panel Decision and for Rehearing on Banc

10 Pages Were Missing - Correct Error - Full Panel Needs to Take Notice & Review Amended Petition

Judges Clifton, Bea, Duffy ordered that Ms. Klein's **amended petition for rehearing "will not be filed.**" Thus, the amended petition was not shown to the full appeal panel, and other judges of the court were hindered from taking notice of and not able to review the corrected amended petition, the whole truth. It is necessary that other judges look at this important matter. This Court should correct this error.

Consumer Attorneys of California Amicus Supporting Klein's Appeal

Ms. Klein's appeal was supported by Consumer Attorneys of California *(amicus brief Docket # 28)*, because this case raises very important public interest issues, supporting *Klein's Opening Brief (Docket # 24)*, *Klein's Reply Brief (Docket # 58)*. Unfortunately, for unknown reasons, **Honorable Chief Judge Alex Kozinski was not informed about amicus and this important case.**

Many women complain that they suffered lifetime disability after Lupron treatments. These important appeal issues will affect general civil litigants. There is a strong tension in this case between the search for truth and justice, and good public policy. Because of an unforeseeable error, that can be, and needs to be corrected by this Court, **the full panel was hindered from taking notice of and not able to review Ms. Klein's Amended Petition for Rehearing of Panel Decision and for Rehearing on Banc.** The full panel and Chief Judge Kozinski should please take notice and review Ms. Klein's amended petition, here attached to this letter (previously filed online on June 25, 2013 – Docket # 82 – but omitted by the court).

Incomplete 6 Page Draft Petition - 10 Pages Missing
Thus 1 Day Later Filed 16 Page Amended Petition (11 Page Petition + 5 Page Attachment)

Omitted by Court - Amended Petition Included U.S. Supreme Court Precedence Cases & Strong Legal Merits

Ms. Klein, by and through her counsel Beau Sterling submitted a *6 page incomplete draft petition* (with an abrupt ending) for rehearing, on June 24, 2013 in compliance with the deadline, as previously extended by the court. A few minutes shortly thereafter, counsel realized that 10 pages were missing, including important portions of the petition that had inadvertently been omitted (not attached - panel's 3 page decision, important U.S. Supreme Court Precedence cases, legal arguments with strong merits missing), due to PC draft errors, these were unforeseeable circumstances. The *6 page incomplete draft petition* was revised accordingly with these corrections (16 pages total), the panel's decision was attached and the amended petition included, U.S. Supreme Court Precedence cases, important legal arguments with strong merits for granting the petition, and resubmitted to the Court, filed immediately in amended form on June 25, 2013 *(Docket # 82)*.

Full Appeal Panel Was Hindered from Taking Notice & Reviewing Amended Petition, Whole Truth

On July 12, 2013 *(Docket # 85)* Judges Clifton, Bea, and Duffy, due to the error, denied: Appellant's (1) Motion for Extension of Time (Amended Petition for Rehearing) and (2) Motion for Leave to File Amended Petition. The order also read that the **amended petition "will not be filed."** The 1 day extension request was for the sole purpose to correct the error, filing the amended petition including the 10 important previously missing pages. Unfortunately, the Court overlooked that this 1 day extension was for good cause and a substantial need. Thus, Ms. Klein was hindered from getting a fair and full review of her amended petition. The full appeal panel did not get the whole truth, the amended petition that had strong merits and legal arguments for a rehearing.

On July 30, 2013 *(Docket # 86)* judges Clifton, Bea, Duffy denied Ms. Klein's petition, based on the petition error, and thus the full panel was hindered from taking notice of and to review the corrected amended petition. The Order read: "The petition for rehearing and petition for rehearing en banc, filed on June 24, 2013, are denied." This error ruling was based on the June 24th incomplete 6 page draft petition, with an abrupt ending (10 missing pages, missing very critical legal merits, U.S. Supreme Court precedence cases). The amended 16 page petition (including very critical legal merits and U.S. Supreme Court precedence cases) was omitted by the Court. Due to the error, no judge of the court has requested a vote on whether to rehear the matter en banc. If the full panel would have been able to review the amended petition, which had strong merits and legal arguments, the full panel could have voted to grant the petition. Permanently disabled Plaintiff survived summary judgment, because her case has merits with sufficiently strong evidence. Later, the trial court had wrongfully excluded critical, reliable and admissible evidence that would have proven Plaintiff's failure to warn claim and burden of proof (experts' testimonies, Lupron labels, scientific journal articles, MedWatch adverse event reports). That exclusion guaranteed the unjust jury verdict in favor of Abbott/TAP.

Panel Judges Clifton, Bea, Duffy – Oral Argument Canceled
Chief Judge Not Notified of Important Case - Opinion of Chief Judge & Full Panel Necessary

In the 9th Circuit, civil cases are usually decided 9-12 months after completion of briefing (as per the court's website), but Klein's brief was handled unusually, differently than other cases. Klein's Reply Brief (completion of briefing) was filed April 8, 2013. The panel did not notify Honorable Chief Judge Alex Kozinski of the amicus brief, and Klein's appeal, addressing very important public interest issues. An oral argument was scheduled for May 14, 2013. On May 6, 2013 the panel ordered to cancel the May 14th oral argument, hindering public notice and media coverage. It appears that the panel did not adequately review Klein's Opening, Reply Briefs and Amicus Brief, leading to wrongful denial. Submitted May 14, 2013 by the court and decided on May 17, 2013. The 9th Circuit website reads: "A decision on a petition for rehearing en banc may take a few months." Ms. Klein's case, was again handled unusually. The amended petition, filed June 25, 2013 but omitted by the court, hindered from full panel review and thus wrongfully denied petition on July 30, 2013.

Abbott/TAP's Bribery, Conspiracy, Fraud – Criminal Conviction
U.S. Senate Report, Investigation of Abbott's Potential Fraud - Abbott's Mob Threat Silence Journalist

On November 16, 2010 **my trial attorney**, Joe Huggins, **told me that Abbott offered him money (attorney's fees & costs) to drop my case!** Joe said he does not drop his clients. Previously: TAP (Takeda Abbott Pharmaceuticals) had a criminal history/conviction and **pleading guilty to bribery, conspiracy** and **fraud** in regard to their drug **Lupron**. They defrauded the U.S. Government, including Medicare & Medicaid and patients. TAP paid $ 875 million in civil penalties and criminal fines in this regard. http://www.justice.gov/opa/pr/2001/October/513civ.htm Defendants have shown extremely evil motives using illegal tactics in general (repeat offenders) to try everything to cover up the truth, threaten, harm and intimidate people who tell the truth about Abbott. Abbott even **threatened to silence a journalist with the mob**, in writing, in Abbott's corporate communications email **U.S. Senate Report, investigating Abbott's potential fraud**, link: http://finance.senate.gov/library/prints/download/?id=51c772ba-9b32-4f81-8f8e-688f22415617 see PDF page 169, Abbott's mob threat via email): Abbott's corporate communication, threat email: "Don't you have connections in Baltimore????? Someone needs to take this writer outside and kick his a**! Do I need to send the Philly mob?" Abbott/TAP have committed unethical acts during the whole litigation and appeal process in Klein vs. Abbott/TAP. Defendants have unnecessarily caused Plaintiff to incur substantial burden and costs arising from their uncooperative actions of 1) outrageous discovery abuse; and 2) instigated to exclude Plaintiff's evidence to mislead/deceive the jury; and 3) 9th Circuit appeal court was mislead by Abbott's creation of false allegations, taking information out of context to mislead, distorting the truth and misinterpreting the law.

Please take notice and review Ms. Klein's 16 page Amended Petition for Rehearing of Panel Decision and for Rehearing on Banc (attached hereto this letter) rule for justice, granting the Amended Petition. Thank you for your time in this important matter!

Respectfully Submitted, Karin Klein

Please See Attachment/Enclosure

Karin Klein

Attachments, Enclosures:

For: Honorable Chief Judge Alex Kozinski

and Courtesy Copy to: President Obama, Senator Reid, Senator Harkin & Congressman Waxman

Petition for Rehearing of Panel Decision and for Rehearing on Banc (Amended)
16 pages, including panel decision attached
filed by Appellant Karin Klein on June 25, 2013 – Docket Number 82

Because of Error (see details in letter above) - Full Appeal Panel Was Hindered from Taking Notice of & to Review Amended Petition

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For: President Obama, Senator Reid, Senator Harkin & Congressman Waxman

Please share my letter (including attachments) and discuss with Congress in Washington.

The Whole Truth & Nothing But the Truth – Which Was All Hidden from the Jury

My Nightmare With Lupron – Thousands of Lupron Victims – Abbott/TAP's Outrageous Fraud History

Plus see more sad case details, The Whole Truth, including links to famous consumer advocate Erin Brockovich interested in Lupron Victims, 7 x Lupron Victims Las Vegas ABC News Videos, Lupron Victim's Petition to Congress (thousands of Lupron Victims begging for help) etc.

see on online on www.LupronVictimsHub.com under lawsuits

1) **Appellant's, Karin Klein's Opening Brief**
131 pages, filed by Appellant Karin Klein on June 6, 2012 – Docket Number 24

2) **Amicus Brief – Supporting Appellant (Karin Klein) & Supporting Reversal**
14 pages, filed by by CAOC (Consumer Attorneys of California) Kevin Green, Esq.
filed on June 15, 2012 – Docket Number 28

3) **Appellant's, Karin Klein's Reply Brief**
46 pages, filed by Appellant Karin Klein on April 8, 2013 – Docket Number 58

Amended Petition for Rehearing and unjust rulings of Judges Clifton, Bea, Duffy are also on www.LupronVictimsHub.com *under lawsuits*

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KARIN KLEIN, Plaintiff – Appellant, v. TAP PHARMACEUTICAL PRODUCTS, INC.; ABBOTT LABORATORIES. Defendants – Appellees.	No. 11-17250 D.C. No. 2:08-cv-00681-RLH-RJJ District of Nevada, Las Vegas **Petition for Rehearing of Panel Decision and for Rehearing on Banc (Amended)**

Appeal from the United States District Court
for the District of Nevada
Roger L. Hunt, Senior District Judge, Presiding

Submitted May 14, 2013
San Francisco, California

Decided May 17, 2013

Before: CLIFTON and BEA, Circuit Judges, and DUFFY,[1] District Judge.

Plaintiff – Appellant Karin Klein hereby petitions the Court for rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1) and for rehearing en banc (Fed. R. App. P.

[1] The Honorable Kevin Thomas Duffy, U.S. District Judge for the Southern District of New York, sitting by designation.

35; 9th Cir. R. 35-1 to -3) of the panel decision affirming the judgment of the district court.

This appeal arises out of a failure-to-warn, pharmaceutical products liability lawsuit brought by Ms. Klein, who alleged serious injuries caused by her treatment with Lupron, beginning when she was 17 years old and resulting in total disability. The jury ruled in favor of the drug companies and the district court entered judgment accordingly. The panel affirmed. Ms. Klein seeks rehearing on the ground that the panel appears to have overlooked or misapprehended several material points of fact and law in reaching its decision, including, *inter alia*: (1) the panel's erroneous belief that the Lupron taken by Ms. Klein contained a different formulation of the drug than the Lupron referenced in the prior labels that the district court prohibited her from introducing at trial and (2) the panel's erroneous conclusion that adverse incident reports (known as MedWatch reports) were properly excluded on the basis of hearsay, and because they were irrelevant on the issue of causation, when, in fact, they were relevant and admissible on the issue of notice (an offered for that purpose).

This case involves questions of exceptional importance—to the many women who believe they have been injured by Lupron after inadequate warning of the drug's potential adverse effects and even more broadly to the many would-be plaintiffs in drug cases who will now will be barred from use of adverse incident reports in proving their cases. For the same reason, consideration by the full Court

is necessary to secure or maintain uniformity of the Court's decisions and because the panel's decision substantially affects a rule of national application (admission of MedWatch and other prior adverse event reports to prove knowledge of potentially dangerous drug side effects) in which there is an overriding need for national uniformity.

ARGUMENT

I. The Panel Overlooked or Misapprehended Several Material Points of Fact and Law in Reaching its Decision

A. The Excluded Lupron Labels Contained Information Regarding the Same Formulation of Lupron, Not a Different Formulation

In the panel's Memorandum Decision, the court concluded that,

> **[t]he district court did not abuse its discretion in excluding the challenged Lupron labels because they all contained information regarding the side effects of different formulations of Lupron, rendering them insufficiently relevant, unduly prejudicial, and likely to confuse the jury.**

To the contrary, all the proffered labels contained information regarding the same formulation of Lupron, as clearly reflected in the record. Ms. Klein received Lupron 3.75 mg ("Leuprolide Acetate") with the 2005 U.S. labeling. The excluded 1995 and 1996 U.S. labels also were for Lupron 3.75 mg ("Leuprolide Acetate")—the same formulation. *See* 2 ER at 275-77 (1995 label), 280-83 (1996 label) (also attached to the Opening Brief at Addendum B-1, B2, B-3). The 2010 Danish label

for Lupron 3.75 ("Leuprorelin Acetate") is also the same formulation.[2] *See* 2 ER 295-305, 308 (Danish label).

In fact, there is no evidence whatsoever in the record that the excluded prior Lupron 3.75 mg labels are for a different formulation than the Lupron 3.75 mg that Ms. Klein was administered to treat her endometriosis.

The confusion here perhaps emanates from the fact that there also was an excluded prior label for a Lupron 7.50 mg formulation, which was approved prior to 1990 for the treatment of advanced prostate cancer in men (approved prior to 1990, when the label for Lupron 3.75 mg was approved with an indication for treatment of endometriosis). Prior to the panel's memorandum decision, it has never been asserted or held that the Lupron 3.75 mg approved in 1990 (the subject of the excluded prior labels) is a different formulation from the Lupron 3.75 mg that was administered to Ms. Klein. They are the exact same drug—only the label has changed.

This issue lies at the heart of Ms. Klein's appeal. Not only are the 1995-1996 Lupron Depot 3.75 mg labels for the same formulation of the drug, they *essentially admit* the allegation that Lupron 3.75 mg is associated with thyroid enlargement and extreme bone density loss—two of the adverse events suffered by

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[2] Please refer, for example, to the label information listed for Leuprorelin Acetate on the National Institutes of Health's National Library of Medicine DailyMed service at http://dailymed.nlm.nih.gov/dailymed/lookup.cfm?setid=60aad237-e1da-4705-cbbb-b3ca79e89ad8 (permanent link).

Ms. Klein and omitted from the 2005 label she was given. *See id.*; *see also* CR 136 at 2-3 [2 ER 221-22] (Stipulated Facts); 1 SER 173–188 (2005 Lupron label—also attached to Ms. Klein's reply brief at Addendum B–5); *Opening Brief* at 6-8 and 18-22). Moreover, the exclusion of the prior labels was devastating to Ms. Klein's presentation of her case. In particular, it deprived her of the best means of rebutting the emphatic testimony of appellees' expert that the association she was claiming (the association contained in the prior labels, but missing from the 2005 label) ***was biologically impossible***.[3]

The district court never found that the prior Lupron 3.75 mg labels were for different formulations, as the Memorandum Decision erroneously assumes; rather, the district court concluded that the *Lupron 7.50 mg* labels and the *foreign* labels were not admissible because they were for different formulations. *See* 7/15/2011 *Trans.* at 13:11-15:6 [1 ER 84-86]; 8/2/2011 AM *Trans.* (CR 277) at 130:24-25 [1 ER 68]. In fact, all the Lupron 3.75 mg formulations are the same. The district court nevertheless held that only the label for the 2005 Lupron 3.75 actually

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[3] TAP-Abbott's expert, Dr. Richard Blackwell, testified at trial that it was "biologically impossible" for Lupron to affect the thyroid gland:

> Well, you might say, well, okay. What about the thyroid gland itself? Right? There are no receptors for GnRH. So there is no basic key on the thyroid gland for Lupron. Therefore, it is absolutely biologically impossible for Lupron to affect the thyroid gland. No textbook, no article has ever supported that contention. ***It's simply biologically impossible.***

8/5/2011 PM *Trans.* at 818:5-10 [1 ER 22] (emphasis added).

administered to Ms. Klein was relevant and admissible, disregarding that the prior labels for Lupron Depot 3.75 mg—the same drug Ms. Klein was administered—had essentially already admitted the association she was attempting to prove at trial. The panel makes the same error based on its incorrect assumption that the formulations are different. Rehearing should be granted.

B. As a Matter of Law, MedWatch Reports Should be Admissible to Show Notice, Even if they are Insufficiently Reliable, by Themselves, to Prove Causation

The panel concludes that MedWatch reports concerning Lupron 3.75 mg were properly excluded, characterizing them as

> **hearsay reports of uncertain reliability, lacking information relevant to causation.**

Overlooked by the panel is that Ms. Klein presented other evidence on the issue of causation—The MedWatch reports were relevant to the issue of *notice*. Moreover, given that federal regulations require that adverse incident reports be monitored and reviewed by manufacturers for reasonable evidence of an association of a serious hazard with an approved drug, the admissibility of such reports to prove notice in a product liability action should be determined by this Court as a matter of law, not based on deference to the district court's findings in a particular case.

Federal regulations require that drug manufacturers, "shall revise their drug labeling to include a warning as soon as there is reasonable evidence of an association of a serious hazard with a drug; a causal relationship need not have been proved." 21 CFR 201.80(e). A drug manufacture's required diligence includes taking into account "new safety information," in particular "information derived from a clinical trial, an *adverse event report*, a post approval study, or *peer-reviewed biomedical literatur*e." 21 U.S.C. § 355-1(b) (emphasis added). Ms. Klein attempted to introduce both adverse even reports (MedWatch) and medical journals and each was excluded by the district court. *See* 7/15/2011 *Trans.* at 8:20 – 10:10; and 24:9 – 25:8 [1 ER 79-81, 95-96]); 8/2/2011 AM *Trans.* at 69:3-24, 70:1-15, 76:20-82 [1 ER 43-51]; CR 281 (Ms. Klein's Trial Brief submitted as Offer of Proof Regarding Evidence of Certain Adverse Event Reports); CR 209 (Ms. Klein's objection to Defendants' MIL re Adverse Events Reports); 8/5/2011 PM *Trans.* at 868:17-870:5 [1 ER 34-36]); CR 169 Ms. Klein's Motion in *Limine* No. 10 regarding admission of similar incidents) at 1-5; CR 167 (Ms. Klein's Motion *in Limine* No. 8 regarding admission of MedWatch reports and adverse events) and CR 169; *Opening Brief* at 8-10. This was error.

Even if they are insufficiently reliable by themselves to prove causation, adverse incident reports, such as MedWatch reports, clearly are admissible to prove other facts in issue, such as notice. *See, e.g.*, *Weyth v. Levine*, 555 U.S. 555, 129 S. Ct. 1187 (2009) and *Delaware v. Rowatt*, 244 P.3d 765 (Nev. 2010)

(adverse event reports admitted at the trial). In *Benedi v. McNeil–P.P.C., Inc.*, 66 F.3d 1378 (4th Cir. 1995), the Fourth Circuit ruled that the district court properly admitted case reports known as Drug Experience Reports ("DERs") to show that the defendant had notice that its product could cause the type of injury sustained by the plaintiff. The court noted that adverse reaction reports offered to show the defendant's knowledge of the potential hazard are not hearsay because they are not offered to prove the truth of the matter asserted but rather to show the defendant's state of mind.[4] Id., 66 F.3d at 1385.

21 CFR 201.80(e) requires that drug manufacturers such as TAP-Abbott craft adequate labels and ensure that the warnings remain adequate. *Wyeth v. Levine*, 555 U.S. 555 (2009). The Supreme Court recently undertook an in-depth analysis of the importance of attention to adverse event reporting data—and their relevance to questions of notice—in *Matrixx Initiatives, Inc. v. Siracusano*, — U.S. —, 131 S.Ct. 1309 (2011), a shareholder securities fraud action based on a pharmaceutical company's concealment of adverse event data. The Court

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[4] The court also rejected the defendant's contention that the reports were unduly prejudicial and should have been excluded under Fed. R. Evid. Rule 403. The court concluded that the dissimilarities between the plaintiff's situation and those described in the DERs "do not affect the admissibility of the evidence, but rather go to the weight the jury gives to the evidence." *Id.* at 1386. Accord *Smith v. Wyeth-Ayerst Labs.*, 278 F. Supp. 684, 704 (W.D. N.C. 2003) (because the evidence was offered to prove notice and was accompanied by a limiting instruction, "the Court cannot find that the probative value is substantially outweighed by the danger of unfair prejudice to Defendant.").

considered a great deal of evidence and argument from both the medical and scientific research community about the importance of adverse event data in formulating an opinion about causation and its relevance to placing everyone on notice of potential serious hazards associated with pharmaceutical drugs. *Id.* at 1319-1320 (citing briefing from a group of preeminent medical researchers who routinely rely on adverse event data). The Supreme Court held that even though adverse event reports may not be statistically significant of causation in and of themselves, a lack of statistical significance does not itself render them unreliable. *Id.* at 1320-1321. To the contrary, the Supreme Court deemed adverse event reports material to any consideration of whether a pharmaceutical company had notice of certain dangers associated with its drug and the possibility–even if not statistically significant—of a causative link. *See id.* at 1322-1323. The panel's conclusion that the MedWatch reports in this case were nevertheless inadmissible hearsay, and unreliable, misunderstands purpose for which the evidence was offered—proof of notice—and its probative value and admissibility for this purpose. Rehearing is warranted on this basis as well.

II. This Case Involves Questions Of Exceptional National Importance

The questions presented here are questions of national health, and women's health in particular. Abbott has plead guilty to criminal conduct in connection with its marketing of Lupron, and paid hundreds of millions of dollars in civil penalties

and criminal fines in this regard. Essentially, Plaintiff alleges that Abbott purposefully removed the thyroid disease and bone density loss warnings, which existed in prior Lupron 3.75 mg labels, for the indication of endometriosis, in order to bolster its sales of the drug she was administered. Had she and her doctor been given the prior warnings for thyroid disease and extreme bone density loss, she never would have taken the drug, and it is safe to assume that other women across the nation are in the same position now that Ms. Klein was in during the 2005 period, when she was administered the drug.

CONCLUSION

For the reasons set forth above, it is respectfully requested that this Court grant rehearing, vacate the judgment of the district court, and remand this case for new trial before a new judge and without regard to the court's previous evidentiary and discovery rulings.

DATED: June 25, 2013.

STERLING LAW, LLC

/s/ Beau Sterling

BEAU STERLING
Counsel for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this date, June 25, 2013, I electronically filed the foregoing **Petition for Rehearing of Panel Decision and for Rehearing on Banc (Amended)** with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. All parties in this matter are registered users.

/s/ Beau Sterling

BEAU STERLING

Certificate of Compliance Pursuant to

Circuit Rules 35-4 and 40-1

I certify that pursuant to Circuit Rule 35-4 or 40-1, the attached petition for panel rehearing/petition for rehearing en banc (amended) is in compliance with Fed. R. App. Proc. 32(c) and does not exceed 15 pages.

Dated: June 25, 2013

/s/ Beau Sterling

BEAU STERLING

Panel Decision

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KARIN KLEIN, Plaintiff - Appellant, v. TAP PHARMACEUTICAL PRODUCTS, INC.; ABBOTT LABORATORIES, Defendants - Appellees.	No. 11-17250 D.C. No. 2:08-cv-00681-RLH-RJJ MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Roger L. Hunt, Senior District Judge, Presiding

Submitted May 14, 2013**
San Francisco, California

Before: CLIFTON and BEA, Circuit Judges, and DUFFY, District Judge.***

*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

**The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

***The Honorable Kevin Thomas Duffy, U.S. District Judge for the Southern District of New York, sitting by designation.

Karin Klein claimed that TAP Pharmaceuticals and Abbott Laboratories[1] failed to warn her adequately of the severe side effects she experienced after taking Lupron Depot 3.75 mg. The case was tried to a jury, and Klein lost. She now argues that the district court abused its discretion in several evidentiary and discovery rulings and that the district court was unfairly biased. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Klein challenges the district court's exclusion of several Lupron labels, adverse event reports, scientific articles, and supplemental expert reports. The district court did not abuse its discretion in excluding the challenged Lupron labels because they all contained information regarding the side effects of different formulations of Lupron, rendering them insufficiently relevant, unduly prejudicial, and likely to confuse the jury. *See* Fed. R. Evid. 403. Similarly, the district court did not err in excluding the adverse event reports. They were hearsay reports of uncertain reliability, lacking information relevant to causation. We also affirm the district court's rulings excluding the scientific articles on hearsay grounds because Klein failed to establish that any exception applied. *See* Fed. R. Evid. 803. Finally, the district court appropriately deemed the supplemental expert reports untimely

[1]Defendant-Appellee Takeda Chemical Industries, Ltd. has been removed from the caption because it was never served, did not make an appearance, and is not a party to this action.

because Klein submitted the reports two years after the deadline for expert reports and within one month of the start of trial. *See* Fed. R. Civ. P. 26(e) (parties must supplement materially incomplete or incorrect information in a "timely manner").

Klein also challenges the district court's supervision of discovery. The district court acted within its discretion in granting Klein's narrowed motion to compel and requiring Klein to bear the cost of reproducing documents that had already been produced. The district court's denial of Klein's motion to extend discovery was also reasonable because the motion was filed too close to the discovery deadline. D. Nev. Local R. 26-4.

Finally, Klein has not even remotely established that the district court exhibited "such a high degree of favoritism or antagonism as to make fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994). Judicial bias cannot be demonstrated simply by pointing to rulings that disfavored the complaining party.

AFFIRMED.

To: President Obama, Senator Reid, Senator Harkin & Congressman Waxman August 12, 2013

From: Lupron Victim, Karin Klein telephone (775) 764-8897
6880 Longmeadow Dr.
Pahrump, NV 89061 email: k_klein_ok@yahoo.com

Please respond in writing by email or mail, I cannot receive faxes, I can only send faxes.
Please also see my letter of August 12, 2013 to Chief Judge Alex Kozinski to the 9th Cir. Appeal Court.
What are your efforts to help me with the 9th Circuit, ensuring justice is served, granting a rehearing?

Please share my letter and discuss with Congress in Washington.

The Truth About Lupron & Abbott/TAP
The Whole Truth & Nothing But the Truth – Which Was All Hidden from the Jury

My Nightmare With Lupron – Thousands of Lupron Victims – Abbott/TAP's Outrageous Fraud History

The health and safety of the American people and justice are important for our country's present and future. Many Lupron victims, lawyers, consumer organizations and the media are following my case. They were all outraged by the unjust outcome of my case! My name is Karin Klein, age 25. In 2005, at the age of 17, I suffered serious permanent injuries and total disability due to Lupron (a dangerous nightmare injection drug). I'm severely suffering, begging for help, open mind and justice. Due to Abbott Laboratories I'm hurting physically, emotionally and financially trying in tears to pursue justice. In August 2011 defendants (previously pleading guilty to crimes and fraud with Lupron) instigated outrageous injustice and created an unjust loss, jury verdict against me. What remedies are left for me and other Lupron victims when justice is denied? What are your efforts to help me and other Lupron victims? Abbott/TAP have committed unethical acts during the whole litigation and appeal process in Klein vs. Abbott/TAP. Defendants have unnecessarily caused Plaintiff to incur substantial burden and costs arising from their uncooperative actions of 1) outrageous discovery abuse; and 2) instigated to exclude Plaintiff's evidence to mislead/deceive the jury; and 3) the 9th Circuit appeal court was mislead by Abbott's creation of false allegations, taking information out of context to mislead, distorting the truth and misinterpreting the law.

U.S. Senate Report, Investigation of Abbott's Potential Fraud
Abbott's Mob Threat to Silence Journalist

Defendants have shown extremely evil motives using illegal tactics in general (repeat offenders) to try everything to cover up the truth, threaten, harm and intimidate people who tell the truth about Abbott. Abbott even **threatened to silence a journalist with the mob**, in writing, in Abbott's corporate communications email **U.S. Senate Report, investigating Abbott's potential fraud**, link: http://finance.senate.gov/library/prints/download/?id=51c772ba-9b32-4f81-8f8e-688f22415617 see PDF page 169, Abbott's mob threat via email): Abbott's corporate communication, threat email: "Don't you have connections in Baltimore????? Someone needs to take this writer outside and kick his a**! Do I need to send the Philly mob?"

Abbott/TAP Offered My Lawyer Money to Drop My Case

On November 16, 2010 **my trial attorney**, Joe Huggins, **told me that Abbott offered him money (attorney's fees & costs) to drop my case!** Joe said he does not drop his clients.

Abbott/TAP's Bribery, Conspiracy, Fraud - Lupron Fraud $875 Million Dollar Fine

TAP (Takeda Abbott Pharmaceuticals) have a criminal history/conviction and pleading guilty to bribery, conspiracy and fraud in regard to their drug Lupron. They defrauded the U.S. Government, including Medicare & Medicaid and patients. TAP paid $ 875 million in civil penalties and criminal fines in this regard. http://www.justice.gov/opa/pr/2001/October/513civ.htm

$100,000 Bribe to Doctors - Including $100,000 Money Offer to My Expert Dr. Redwine

Abbott/TAP offered $100,000 bribes to doctors, for them do prescribe Lupron. Leading to TAP's criminal conviction: http://lupronvictimshub.com/home/TAP_RTP_Memo001.pdf

Our expert, Dr. Redwine, declined to take TAP/Abbott's attempted money offer. Dr. Redwine wrote in his expert report "Lupron Depot was very aggressively marketed to gynecologists for endometriosis treatment. The marketing ploy was to give Lupron Depot free or at a cut rate to physicians who then could charge the patient full price for the medicine. I was personally contacted by a TAP pharmaceutical rep about this sometime in the mid-1990's, with the suggestion that I could earn over $100,000 annually by treating all my patients with Lupron Depot. This widespread aggressive marketing resulted in criminal prosecution of TAP and fines in excess of $ 850 million dollars." The trial judge did not allow Dr. Redwine to testify about TAP's money offer. He was also not allowed to testify about his medical opinions and was hindered to talk about his experience with many of his endometriosis patients, who are very sick after Lupron.

Celebrity & Powerful Media Interested in My Lupron Case
Our Expert Report Was Downloaded 98,000 Times

We received a lot of media attention. The truth and our evidence are very powerful.

1) **Erin Brockovich** (famous, celebrity and consumer advocate) became interested in my case and gets thousands of emails from Lupron victims, her website: **www.LupronSideEffects.net**

2) News media, ABC Action **News** Las Vegas, **Darcy Spears**, chief investigator

7 x Videos ABC News Lupron Victims, Including Me Desperate After Outrageous Injustice Torture Our Expert Dr. David Redwine, Is Also In the Videos:

Search "Lupron Spears" or click link:
http://www.youtube.com/results?search_query=Lupron+Darcy+Spears

3) Journalist, **Rhiannon Gregory-Roux** (Facebook) plans to produce a documentary film about this Lupron nightmare, my case and my injustice torture.

Lynne Millican, disabled Lupron victim, nurse and paralegal's website: www.LupronVictimsHub.com Lynne is intensively following my case and posting the court documents on the website to warn others of this Lupron nightmare and injustice. Lynne said that our March 2008 medical expert witness report by Dr. Gueriguian, former FDA officer, who reviewed and warned the FDA about Lupron, was recently downloaded 98,000 times from her website. She gets an enormous amount of emails from Lupron victims nationwide, also desperately crying for help.

There are **Lupron Victims' 5,325 signatures** growing daily, begging **Congress** for help!
http://www.petition2congress.com/1902/investigation-lupron-side-effects-leuprolide-acetate/

There are Lupron Victims groups on Facebook and many articles about Lupron Victims available.

I had to Pay $4,074.60 to Abbott To Protect My Rights - Extortion Style

During my discovery, the magistrate **sanctioned me, a disabled Lupron victim (no income or resources), to pay $4,074.60 "forthwith" to Abbott**, for producing the documents to us that Abbott had willfully withheld in bad faith with outrageous discovery abuse. Abbott was allowed to rob me

with legal abuse. They threatened me with case dismissal, forcing me to pay. My senior parents (dad US Military Veteran) and I had to financially bleed, solely to protect my rights (**extortion style**).

Abbott Is Demanding $17,577.12 for Destroying My Life, Health, and My Rights

Abbott created a judgment/jury verdict against Ms. Klein, where I (the disabled victim, with no resources and income) will owe these wrongdoers a nightmare sum, $17,577.12. Abbott wrongfully gained billions of dollars by making thousands of people sick, disabled and poor with their nightmare injection Lupron. Our economic expert calculated my economic loss of $3.7 million (due to Lupron injury and disability), not including severe pain/suffering for a lifetime and punitive damages for Abbott's extremely outrageous fraud. This evidence was also wrongfully excluded.

Right to Fair Trial & Due Process – Wrongfully Denied

The US District Court in Nevada, judge denied my right to a fair trial and due process, excluding all critical and admissible evidence and expert testimony, which guaranteed leading to an unfair trial and outrageously unjust jury verdict. The wrongfully excluded evidence and testimony would have proven my failure to warn claim, injury case. The trial judge constantly objected and argued against my lawyers and lead jurors to believe the judge is advocating for Abbott. The jury was mislead, deceived and the powerful evidence (which would have proven my case) was hidden from the jury. The truth was kept hidden from the jury. The Due Process Clause acts as a safeguard from arbitrary denial of liberty. Witnesses swore to "Tell the Whole Truth and Nothing But The Truth". The trial judge forbade experts to tell the whole truth and hindered my attorneys from rebutting Abbott's experts. Abbott's experts and lawyers raised false allegations to maliciously deceive the jury and instigated a loss, verdict against me. The trial judge took senior status (ca. Aug 2011). The magistrate is retired in Dec 2012.

Permanently Severely Crippled & Disabled
Drug Induced Menopause at Age 17

In 2005 at the age of 17, the highly toxic, dangerous and ineffective drug, LUPRON 3.75 mg, a nightmare injection made me permanently disabled. Lupron, used for my pelvic pain with menstruation (endometriosis symptoms), put me into artificial menopause (stopped menstruation) and caused severe crippling permanent injuries. I have to suffer for the rest of my life. Lupron robbed me of my life, health and future. I'm prevented from living a normal life: getting further education, family (husband and children), career, hobbies, sports, socializing/friends are impossible. My life before Lupron excellent school grades (videos, photos and medical records before Lupron show me very healthy, active, friends, sports, happy, singing, dancing etc).

My internal medicine specialist (medical degree from Harvard) [and confirmed by two (2) military physicians] diagnosed me as totally and permanently disabled. Medical records prove severe injuries, confirmatory test results, lab, radiology (e.g. lab - high thyroid antibodies, ultrasound – goiter, enlarged thyroid). I was diagnosed with **chronic autoimmune Hashimoto's thyroiditis** (thyroiditis main injury, Abbott knew about these Lupron side effects and failed to warn).

My immune system is constantly fighting, severe pain and tired all the time, muscles and bones are inflamed (lab: severely elevated inflammatory markers). Fibromyalgia, spinal disc degeneration, I can barely function. Menopause symptoms continue (infertile), hormonal functioning and nerve/brain functioning damaged (brain neurotransmitters disturbances) and severe crippling disability, diseases of old age e.g. significant bone density loss. Medical records before Lupron showed healthy spine and bones vs. after Lupron bone density and crippling spinal disc degeneration.

Powerful Evidence Proves (All Wrongfully Excluded)

Manufacturer Abbott Knew & Failed to Warn

Disability & Injuries I Suffered – Abbott Admitted Injuries Related to Lupron

The Lupron label is severely deceiving, alleging "side effects will disappear after Lupron treatment finished". Evidence has proven Abbott knew Lupron causes permanent injuries, menopause symptoms and permanent low menopause estrogen continues years after finished Lupron treatment, disability, thyroiditis, spinal disc degeneration and even proven actual causation – Lupron causally related to my injuries – proven by Abbott's own studies (hidden). Abbott admitted that 98% of Lupron patients suffer side effects, admitted causally related to Lupron.

Prior label, same Lupron 3.75 mg, Abbott admitted "thyroiditis causally related to Lupron". Abbott made a conscious business decision to maliciously remove "thyroiditis, enlarged thyroid (goiter)" and "significant bone density loss" warnings from label, without FDA approval, to satisfy their evil fanatic greed, to increase drug sales.

Lupron 12,000 MedWatch Reports & Scientific Medical Journal Articles

There are more than **12,000** Lupron adverse event reports **MedWatch**, including: death, hospitalization, permanent disability, permanent injuries, chronic autoimmune thyroid disorder, spinal disc degeneration, severe bone density loss. Many **Lupron scientific medical journal articles** show thyroid disorder, severe bone density loss, fibromyalgia and nerve injury (neurotransmitter/brain disturbances). The Endometriosis Research Center found that many Lupron victims suffer permanent injuries; Surgery for endometriosis is more effective and less dangerous than Lupron. Medical evidence has proven Lupron is dangerous and ineffective.

Lupron is considered a hazardous drug by NIOSH (The National Institute for Occupational Safety and Health). The label misleads that Lupron is "not hazardous". Lupron is a widespread risk for children, women and men. Lupron is a **highly toxic chemotherapy drug**, originally approved for men with advanced prostate cancer, where it is also just as toxic and ineffective, Lupron killed many men. The severe risks do not justify the pelvic pain treatment in women with endometriosis, zero percent cure rate and 98% risks of serious side effects. The label does not warn that Lupron is a chemotherapy drug and toxic. Lupron is also used for precocious puberty in children (girls and boys) to stop growing – inhibiting bone development, dissolving bones, bone density loss.

Abbott's Fabricated & Fraudulent Lupron Studies

Lupron efficacy studies were manipulated by Abbott, alleging temporary pelvic pain relief, but almost all Lupron study patients were given strong pain medication e.g. opiate Morphine; and even some patients using illegal Marijuana, in addition to Lupron. Also, Dr. Andrew Friedman, funded by Abbott, admitted that he falsified and fabricated 80% of his pro Lupron studies, in Abbott's favor.

After findings of Dr. Friedman's Scientific Misconduct, the fraudulent study results were retracted, but Abbott still misused this fabricated study to mislead the FDA, and thus getting approval with fraudulent data from Dr. Friedman's studies. Dr. Friedman, Lupron, Findings of Scientific Misconduct: http://grants.nih.gov/grants/guide/notice-files/not96-125.html

Trial Judge's Accused Me of Character Assassination, Because I Had Evidence Against Abbott

The trial judge accused me and my lawyers of an intent to perform character assassination, because we wanted to introduce evidence that is unfavorable to Abbott, evidence of Dr. Andrew Friedman's fabricated Lupron study and Abbott's misuse of it. This was one document with much evidence, unfavorable to Abbott, thus excluded by the trial judge. (7/15/2011 Motion in Limine Hearing Trans. PM at 20:10 – 20:11) THE COURT: "....It's clear from plaintiff's opposition their intent and this is to perform character assassination....."

Magistrate (Now Retired) Promised/Guaranteed Me a Hard Fight

The magistrate said that he will send his law clerks to watch my trial, who should reported back to the magistrate. Abbott tried to enforce that the magistrate will be the trial judge, which was denied. My lawyers said that it is very unusual for a magistrate being very interested in a negative outcome of my case. My lawyers said that they saw the magistrates' three (3) law clerks everyday watching my trial.

Right to Equal Treatment – Wrongfully Denied

Judges must treat everyone equally before the law regardless of their disability, without privilege, discrimination, but people's rights are denied due to Abbott's evil actions, they have the influence and power with their unlimited resources. During discovery, my lawyers and I cooperated and produced our evidence to Abbott and we did not demand money from Abbott. But when we requested documents from Abbott, they demanded money from me, destroying my rights.

The magistrate denied me equal treatment: 1) Supporting Abbott's outrageous discovery abuse, shielding Abbott. The magistrate kept important discovery documents in his chambers for nine months until expert deadlines passed, and denied access to full discovery. During this time we had no access to the important adverse events reports that Abbott refused to turn over to us until compelled to do so.

2) Magistrate forcing me to pay Abbott for producing Abbott's withheld documents. The trial judge denied me equal treatment: allowing Abbott everything they wanted, evidence and expert testimony, frivolous objections, forbidding my lawyers the right to speak and to show evidence to the jury,

Trial Judge's Objection Withdrawn Because Defendants Wanted It To Be Withdrawn

The trial judge made his own objection to an exhibit that Plaintiff wanted to introduce. Then Defendants' counsel, Mr. Reidy, stated that they want to have this evidence introduced, and then the trial judge withdrew his own objection and agreed with and ruled in favor of Abbott and allowed the evidence.

Q. Dr. Gueriguian, I'm going to put up -- actually I'll offer it as Plaintiff's Exhibit 171, which is M86-039.

(Plaintiff's Exhibit 171 was offered into evidence.)

THE COURT: Well, counsel, I haven't heard whether there's an objection yet or not but, the Court objects to the lack of foundation for the exhibit.

MR. REIDY: Your Honor, we have prediscussed this with the other side and we will stipulate to the foundation with respect to this document.

THE COURT: All right. Do you object to its introduction?

MR. REIDY: We do not, Your Honor.

THE COURT: It will be received. (8/2/2011 Trans. AM at 140:20 – 141:8)

Right to Safety, Liberty & Pursuit of Happiness – Wrongfully Denied

The court's decision, supporting Abbott's malicious removal of warnings from the Lupron label, and hiding known risks, put a significant number of people at a serious health risk. Destroying the health, lives, liberty and right to pursue happiness of thousands of disabled Lupron Victims.

US Constitution Seventh Amendment – Right to Jury Trial – Wrongfully Denied

Amendment VII "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." The 9th Circuit panel Clifton, Bea, Duffy denied my right to a new trial, stripping away my seventh amendment right, right to jury trial. The 9th Circuit panel Clifton, Bea, Duffy decision directly conflicts with US Supreme Court cases, federal law, the truth, facts, evidence and justice. Significantly unjust rulings by the US Nevada District Court (and wrongfully affirmed by the 9th Circuit) unfairly stripped away my constitutional rights, federal, civil rights, human rights and god given rights (natural rights).

7 x Arguments to Take Actions Against Lupron & Abbott/TAP

Justice & The Truth, Common Sense, Humanity Must Carry More Weight Than Corporate Greed!

Lupron => Widespread Permanent Disability =

1) Inhuman, Injustice to Allow Lifetime Pain & Suffering and Knowingly **Risking Health of Many**, and Destroying Lives

2) **Not Affordable Healthcare** Costs Due to Lifetime Crippling Injuries, Significant Burden on Healthcare System, Including Medicare & Medicaid

3) Lifetime **Unemployment** (Job & Career Killer)

4) Young Lives Destroyed (Children/Teenagers and Young Women), **Cannot Get Further Education**

5) More **Bankruptcies** Due to Enormous Medical Expenses & Large Corporation Can Abuse the Legal System, Demanding Money from Plaintiffs, Victims, Who Are Powerless, Poor and Vulnerable

6) Significant Lifetime **Burden** on **Tax Funded Programs** Social Security Disability System & Welfare

7) Lupron Drug Induced Menopause, Destroys Hormones and Body Functioning = **Infertility**

We have to continue fighting for consumer/patients rights, setting strong precedents, land-mark case, and make a difference. Judges should follow the law and make just rulings, not destroy people's rights, people who are already sick, disabled and poor. We need more legal and political action to save people from this Lupron nightmare and injustice.

Moved to the USA at Age 16
At Age 17 Disabled Due to Drug Lupron – Nightmare Injection

Tortured By Outrageous Injustice
Destroyed: Health, Future, Rights, Liberty, Justice & Opportunities

I'm the daughter of a US Army Veteran. My dad served in the military for 20 years and 10 years civil service for the US government. He was stationed overseas in Europe, I was born there. I loved the politeness, friendliness and attitude of the American military people, who were stationed in Europe. In 2004 when I was 16 years old, I moved with my mom and dad to the USA, Nevada. I was excited to move to this great country promising liberty, justice and opportunities. I never expected that my life will turn into a miserable nightmare. After just a few months (less than a year) living in the USA, I became a victim of Lupron and legal abuse, crippled and disabled for the rest of my life. I'm hurting physically, emotionally and financially trying in tears to pursue justice. Many people, my family and I are outraged that legal abuse hurt us, also many others, and continues to hurt people across the country. Abbott creates widespread unreasonable risks with their nightmare injection, Lupron.

Abbott's Outrageous Discovery Abuse

Abbott made the decision to cause my lawyers significant burden with discovery abuse: refusing to answer interrogatories and production of documents, denying important depositions. Abbott is still hiding their internal corporate communications, showing the Defendants' motives behind the label changes (maliciously removing warnings). My lawyer had to fly from Las Vegas to Chicago to go through 25 boxes of discovery documents. All boxes were marked as "scanned". Abbott also admitted in writing that they have electronic documents, but rather put the burden on my lawyers for the sole purpose to harass. The boxes were not placed in numerical order, generally disorganized and did not have an index. Abbott kept documents hidden (removed from boxes) and later accused my lawyer that she did not find the documents. But Abbott later admitted in writing that these documents had not been previously produced with the boxes.

The magistrate allowed Abbott to grossly violate the discovery rules from the very beginning, refusal to compel Abbott to provide answers to discovery, then holding the discovery production in chambers for over nine months (requiring me to pay in excess of $4,074.60 "forthwith" in order to receive the "in chambers" production). In Chicago, there were over 10,000 pages of documents that were available to view in electronic format. My lawyer purchased two 4 GB flash drives to download all of the electronic documents. However, counsel for TAP-Abbott refused to allow my attorney to download the electronic documents so that she could review them upon returning to Las Vegas. Instead, TAP-Abbott demanded another protective order. The electronic documents were received on March 28, 2009, eight days after the expert report deadline. We were justified in moving to compel production of adverse events and labeling materials for Lupron, which TAP-Abbott admitted after the fact by their production and by their letter stating that the discovery materials were misplaced in various warehouses due to "collection or filing error or oversight."

Your Efforts to Help Me

What remedies are left for me and other Lupron victims when justice is denied? What are your efforts to help me and other Lupron victims? Abbott causes widespread death, injury and injustice with Lupron.

Sincerely,

Karin Klein

Karin Klein

I'm a Permanently Disabled Lupron Victim at age 17 - Now Age 25

I'm Raising my Voice for all Lupron Victims, Fighting for Justice and the Truth!