

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF FLORIDA  
3 WEST PALM BEACH DIVISION

4 CASE NO. 20-md-02924-ROSENBERG

5 **IN RE: ZANTAC (RANITIDINE)** .  
6 **PRODUCTS LIABILITY** . West Palm Beach, FL  
7 **LITIGATION.** . November 10, 2021  
8 .

9 DISCOVERY CONFERENCE (through Zoom)  
10 BEFORE THE HONORABLE BRUCE REINHART  
11 UNITED STATES MAGISTRATE JUDGE

12 FOR THE PLAINTIFFS: **ELIZABETH A. FEGAN, ESQ.**

13 FeganScott  
14 150 S. Wacker Drive  
15 24th Floor  
16 Chicago, IL 60606  
17 844-399-5171

18 **ROBERT C. GILBERT, ESQ.**

19 Kopelowitz Ostrow Ferguson  
20 Weiselberg Gilbert  
21 2800 Ponce de Leon Boulevard  
22 Suite 1100  
23 Miami, FL 33134  
24 305-384-7270

25 **CONLEE WHITELEY, ESQ.**

Kanner & Whiteley LLC  
701 Camp Street  
New Orleans, LA 70130  
504-524-5777

FOR THE DEFENDANTS: **WILL SACHSE, ESQ.**

Dechert LLP  
Cira Centre  
2929 Arch Street  
**Philadelphia, PA 19104**  
215-994-4000

**ANNIE SHOWALTER, ESQ.**

Williams & Connolly  
725 12th Street NW  
Washington, D.C. 20005  
202-434-5567

**PATRICK L. OOT, ESQ.**

Shook Hardy & Bacon LLP  
1800 K Street NW  
Suite 1000  
Washington, D.C. 20006  
202-783-8400

**STEPHEN DEVEREAUX, ESQ.**

King & Spalding LLP  
1180 Peachtree Street Suite 1600  
Atlanta, GA 30309  
404-572-4600

**CHRISTOPHER M. YOUNG, ESQ.**

DLA Piper  
4365 Executive Drive  
Suite 1100  
San Diego, CA 92121  
619-699-4748

Official Court Reporter: Pauline A. Stipes  
HON. ROBIN L. ROSENBERG  
West Palm Beach/Ft. Pierce FL  
561-803-3434

1           *THE COURT:* Good morning, everybody.

2           This is Case Number 20-2924, In re: Zantac  
3           (Ranitidine) Multi District Product Liability Litigation. We  
4           are here this morning for a discovery hearing relating to the  
5           economic loss complaint and the medical monitoring complaint,  
6           consolidated complaints.

7           It is my understanding that Defendants have served  
8           requests for production and interrogatories on the named class  
9           representatives, and there is a dispute as to the responses.

10          Before I get to all of that, let me have the parties  
11          make appearances. Let me recognize the Plaintiffs, please.

12          *MS. FEGAN:* Good morning, your Honor, Elizabeth Fegan  
13          on behalf of Plaintiffs.

14          *MR. GILBERT:* Good morning, your Honor, Robert Gilbert  
15          on behalf of the Plaintiffs.

16          *THE COURT:* Good morning. Anyone else on behalf of  
17          the Plaintiffs?

18          *MS. WHITELEY:* Good morning, your Honor, Conlee  
19          Whiteley on behalf of Plaintiffs.

20          *THE COURT:* Good morning, Ms. Whiteley. On behalf of  
21          the Defense?

22          *MS. SHOWALTER:* Good morning, your Honor, Annie  
23          Showalter, I represent Pfizer, and I will be speaking today for  
24          the Defendants.

25          *THE COURT:* Good morning. Anyone else on behalf of

1 the Defense?

2 MR. OOT: Good morning, your Honor, Patrick Oot for  
3 GSK.

4 MR. YOUNG: Your Honor, Christopher Young for the  
5 Sanofi Defendants.

6 MR. DEVEREAUX: Good morning, your Honor, Stephen  
7 Devereaux for Boehringer Ingelheim.

8 MR. SACHSE: Good morning, your Honor, this is Will  
9 Sachse also for GSK.

10 THE COURT: Good morning to all of you gentlemen, but  
11 I am confident Ms. Showalter is going to handle this just fine.

12 MR. SACHSE: Me too.

13 THE COURT: Good to see all of you. I did have a  
14 chance to review the materials that were submitted at Docket  
15 Entries 4600 -- I don't think I have ever said that before --  
16 and all the attachments, as well as Docket Entry 4633, the  
17 response to the motion to compel.

18 So, I have a couple of preliminary questions to help  
19 me frame the issues and frame the discussion this morning.

20 So, I guess the first question is, it's my  
21 understanding that the requests for production and  
22 interrogatories that were served relating to the named class  
23 representatives in the economic loss and medical monitoring  
24 consolidated complaints, Ms. Showalter, is that discovery  
25 directed to these Plaintiffs solely in their capacity as the

1 class representative, or is it meant to be discovery also on  
2 the merits of their individual cases as Plaintiffs?

3 *MS. SHOWALTER:* No, your Honor, this discovery is  
4 directed both to the merits of the individual claims and to  
5 class certification related issues.

6 *THE COURT:* Thank you. Ms. Fegan, do you agree that  
7 is your understanding of the scope of the request?

8 *MS. FEGAN:* Yes.

9 *THE COURT:* I just want to make sure, if we are  
10 responding to a request, we all understand the scope of the  
11 request. Thank you.

12 It appears that the Plaintiffs have objected on  
13 multiple legal grounds, but primarily on the grounds of  
14 relevance and proportionality to request for production 41  
15 through 52, 56 through 59 and 70, as well as interrogatories 13  
16 and 21.

17 I know that since those objections were lodged, the  
18 parties have been conferring and at least it appears to me the  
19 issues may be more limited than to those specific requests for  
20 productions, there has been some limiting.

21 Let me start with that, if I could.

22 Ms. Fegan, I am looking, for example, at request for  
23 production 41.

24 *MS. FEGAN:* Yes.

25 *THE COURT:* Let me go back a step.

1           It seems to me there are four questions we need to  
2 address this morning, and this is the order I would like to  
3 address them in. I will give you the agenda.

4           The first question is: What substantive topics are  
5 the Plaintiffs required to collect or search for? That is the  
6 relevance question.

7           Then, once we figure out what you are supposed to look  
8 for, we get to the where do you have to look for it question,  
9 which to me is the proportionality, Rule 26(g) question. I  
10 think those are two sides of the same question, what are you  
11 required to do to satisfy your obligations under Rule 26(g) as  
12 bounded by the proportionality rules.

13           Then the next question is, how should that collection  
14 occur, search terms, centralized collection of all ESI into one  
15 platform, can it be done individually, can it be done by the  
16 parties, does it have to be done by the lawyers, those series  
17 of questions.

18           And then last, how does whatever responses are  
19 provided get documented such that there is transparency and the  
20 Defendants know they have gotten what they are going to get.

21           I think the Defendants have asked for written signed  
22 Rule 26(g) certifications from each of the named Plaintiffs. I  
23 am not sure the rule requires that, but I do think there is --  
24 in the unique context of an MDL, I think a single discovery  
25 response may not be sufficient either, but we can talk about

1 that. That seems to me to be the least contentious of the  
2 issues we need to address today.

3 That's the order I would like to address them in. So,  
4 to save anyone the trouble of saying, of course subject to our  
5 later objections, I am going to now ask you questions about  
6 what you agree is relevant or not, understanding there are all  
7 sorts of objections about where we have to look and how we have  
8 to look and all that, but I am putting that to the side for a  
9 second.

10 With that understanding, let me continue my question  
11 to Ms. Fegan. It seems to me, for example, request for  
12 production 41, which calls for evidence -- prepared by you or  
13 on your behalf relating to the allegations in the complaint. I  
14 assume you still have a relevance objection to that because  
15 that would seem to sweep in some of the topics that are  
16 discussed in the pleadings; am I correct?

17 *MS. FEGAN:* In part, your Honor. I think that what is  
18 important to note here is that in Defendants' chart they note  
19 our objections, but they don't note what we did agree to  
20 produce.

21 *THE COURT:* That is where I am going right now. Maybe  
22 this is the easier way to go about it, rather than ask what you  
23 have agreed, let me focus on what, it appears from the  
24 pleadings anyway, you are objecting to producing, or they are  
25 wanting me to order you to produce.

1           From their pleading I was able to discern the  
2 following topics: Cancer risk factors, that is something they  
3 have referenced, risky behaviors, other lawsuits, economic  
4 losses, alternative causation, and the Statute of Limitations.

5           Maybe I should turn to Ms. Showalter first. Is that  
6 really what is remaining in dispute on the relevance side,  
7 understanding you may have other problems with process, but in  
8 terms of the relevance question, are those really the six items  
9 that are still in dispute?

10          *MS. SHOWALTER:* Yes, your Honor. I wasn't sure if you  
11 listed other cancer related lawsuits.

12          *THE COURT:* I said other lawsuits.

13          *MS. SHOWALTER:* Then yes.

14          *THE COURT:* Ms. Fegan, do you agree that is at least  
15 what is at issue that I need to resolve today?

16          *MS. FEGAN:* Some of that we have already agreed to  
17 produce. I don't think the other lawsuits issue is still in  
18 contention.

19           The only thing that we have held back is related to  
20 divorce or child custody issues, but we have agreed to do a  
21 linear review, as well as a search term review for -- that  
22 would identify other lawsuits, and I believe we have also  
23 produced some information related to that, but I believe that  
24 that is a resolved issue.

25          *THE COURT:* I think Ms. Showalter was careful to say



1 it is other cancer related lawsuits, not a divorce or contract  
2 dispute over the contractor who built your addition on your  
3 house, this is cancer related lawsuits.

4 Ms. Fegan, you have agreed to produce that  
5 information?

6 MS. FEGAN: Yes.

7 THE COURT: I will flip it. You are not objecting to  
8 the relevance of that information. You may be objecting to the  
9 process of how you get it, and what you get, and all that, but  
10 you are not objecting to the relevance of that information.

11 MS. FEGAN: We would contend that it is not relevant,  
12 but in order to resolve this dispute we have agreed to produce  
13 it.

14 THE COURT: Okay. But as to the other ones, the  
15 cancer risk factors, economic loss, risky behaviors, Statute of  
16 Limitations, and alternative causation -- and at some point,  
17 Ms. Showalter, I am going to ask you what that means -- those  
18 issues are still in dispute. The Plaintiffs are objecting on  
19 relevance grounds to those issues.

20 MS. FEGAN: No, we are not objecting on the basis of  
21 economic loss. With respect to economic loss, we have agreed  
22 to produce, for example, receipts, evidence of purchase, and  
23 ultimately, your Honor, with respect to economic loss and our  
24 refund theory, that will also be the subject of expert  
25 testimony.

1           So, that is part of the expert disclosures with  
2     respect to our motion for class certification, but with respect  
3     to any evidence of out-of-pocket payments for Zantac, those  
4     have been and will be produced if we find more.

5           *THE COURT:* Okay. Again, you are sort of arguing the  
6     next issue, which is fine, but we will get to that in a second.  
7     I am just trying to understand what I need to resolve today.

8           You agree that some evidence of economic loss is  
9     relevant, you have agreed to produce it. We just need to  
10    resolve an issue of where you have to look, how you have to  
11    look, and what you are going to produce, but you have agreed it  
12    is relevant, you will produce that.

13          *MS. FEGAN:* Absolutely.

14          *THE COURT:* Understood. How about cancer risk  
15    factors, is that still in dispute as to relevance or simply  
16    only as to proportionality and process?

17          *MS. FEGAN:* Your Honor, we would contend that cancer  
18    risk factors are not relevant, but to resolve the dispute we  
19    produced thousands of pages of medical records, so it becomes a  
20    proportionality issue.

21          *THE COURT:* You are only riding on proportionality on  
22    that one, okay.

23          How about what I believe the Defense calls risky  
24    behaviors? I think the paradigm they keep pointing to is  
25    smoking, but evidence of risky behaviors, is there an ongoing

1 relevance objection or just a proportionality objection to  
2 that?

3 *MS. FEGAN:* There is an ongoing relevance objection,  
4 but again, some of that would be captured in the medical  
5 records we have produced. The idea that risky behaviors  
6 generally is a relevant topic, we would dispute that.

7 *THE COURT:* Okay. Thank you. Statute of Limitations  
8 related evidence, is there a relevance objection? Again, I am  
9 not quite sure exactly what that is, but maybe you two  
10 understand it.

11 *MS. FEGAN:* I don't understand it.

12 *THE COURT:* Let me turn to Ms. Showalter, if you could  
13 help us focus more specifically. You talked about, in the  
14 pleading at least, evidence of alternative causation and  
15 Statute of Limitations related evidence. Can you maybe give us  
16 a little flavor of what you think that is?

17 *MS. SHOWALTER:* Sure. For example, on Statute of  
18 Limitations related evidence, if you have a Plaintiff  
19 indicating, for example, that they saw a litigation related ad  
20 and they thought about responding to that ad, but elected not  
21 to do so, and then we find out that some period of potentially  
22 years later, whatever the relevant Statute of Limitations in  
23 one of these dozens of states is, they file their claim and the  
24 time has lapsed we'd have a Statute of Limitations argument  
25 there. That is one Statute of Limitations example.

1           Your Honor had also asked about alternative causation.  
2       That is closely tied in the way we use it in the papers to this  
3       risky behaviors type evidence and the cancer risk factors  
4       related evidence, those are sort of a piece, your Honor, so  
5       those refer to things like smoking.

6           *THE COURT:* I understand. That is helpful.

7           Ms. Fegan, now that we understand a little better the  
8       Statute of Limitations concept, do you have a relevance  
9       objection to that? If there is evidence, for example, that a  
10      client knew five years ago, or had reason to believe five years  
11      ago that Zantac causes cancer and they never did anything, is  
12      that the kind of thing you think is relevant?

13          *MS. FEGAN:* I do, your Honor, and I think that would  
14      be captured by the searches we have agreed to do.

15          *THE COURT:* All right. So, just a proportionality  
16      argument, then, not necessarily a relevance one. Okay. That  
17      is helpful to me.

18          Now, Ms. Showalter, as to the one or two areas where  
19      they are continuing to assert a relevance objection -- let me  
20      start with the risky behaviors like smoking, sky diving, I  
21      don't know what else, eating lots a bacon -- I don't know what  
22      you consider to be risky behaviors -- how is that relevant to  
23      the medical monitoring complaint?

24          *MS. SHOWALTER:* Your Honor, let's take the medical  
25      monitoring law of Florida as an example, and it is important to

1 emphasize that that is only an example because these medical  
2 monitoring claims are being brought under many states' law on  
3 behalf of the nationwide class. There are seven elements of a  
4 Florida medical monitoring claim and the fourth one of those  
5 elements -- and here I am quoting the *Petito versus A.H. Robins*  
6 *Company* case at 750 So.2d 103, the date is 1999.

7 The fourth element is, and I quote "as a proximate  
8 result of that exposure, Plaintiff has a significantly  
9 increased risk of contracting a serious latent disease."

10 That fourth element requires the Plaintiff to  
11 demonstrate that it was use of Zantac as opposed to something  
12 else that significantly increased the risk that they would  
13 contract cancer.

14 In the *Perez versus Metabolife* case, for example,  
15 that's 218 F.R.D. 262, a Southern District of Florida case, the  
16 Court observed that that, quote, "will necessarily depend upon  
17 the varied circumstances of the class members' exposure and  
18 other factors which may increase the risk of disease."

19 So, the search terms, for example, around smoking,  
20 around bacon eating and obesity, around a history of drinking,  
21 and other cancer risk factors go directly to that element of  
22 the individual economic loss Plaintiffs' medical monitoring  
23 claims and they are also relevant to class certification.

24 In that same *Perez versus Metabolife* case the Court  
25 declined to certify the class because of observations about

1 variations in, for example, health histories and other risk  
2 factors. So, that is exactly the evidence we are seeking.

3 *THE COURT:* Very well. Ms. Fegan, let me let you  
4 respond to their theory of relevance, at least as to medical  
5 monitoring.

6 *MS. FEGAN:* Yes, your Honor. I think it is important  
7 to frame this that this issue just goes to 27 Plaintiffs in 12  
8 states. So, we are not talking about a lot of nationwide laws,  
9 we are talking about 27 Plaintiffs that fit within the medical  
10 monitoring group. As we go forward and frame this, it is  
11 important to note that 84 of them are solely economic loss  
12 Plaintiffs.

13 Nonetheless, your Honor, whether someone eats bacon is  
14 going to be the type of question that could be asked at their  
15 deposition. So, I would not agree at all that this is relevant  
16 in the context of a deep dive in social media.

17 We are not contesting that these types of questions  
18 can be asked and I understand that gets into proportionality,  
19 but ultimately, your Honor, all of the types of information  
20 with respect to weight, with respect to whether they smoke,  
21 whether they drink, whether their doctors are concerned,  
22 whether their doctors require them already to be monitored and  
23 therefore for some reason the Defendants might argue that they  
24 don't need additional monitoring, that is all going to be in  
25 the medical records and that can all be developed there.

1           They also asserted that they intend to take the  
2       depositions of the treating physicians, so all of this is going  
3       to be explored. I will not concede that whether someone eats  
4       bacon is going to be relevant to the NDMA inquiry, but there  
5       are alternative ways to get to this information that do not  
6       require this type of deep dive into social media.

7           *THE COURT:* All right. Thank you. Ms. Showalter, let  
8       me shift to the other complaint, how is -- how is that same  
9       evidence, the risk factors you have talked about, how is that  
10      relevant to the economic loss complaint?

11          *MS. SHOWALTER:* Sure. As to the economic loss  
12      Plaintiffs, there are three sort of buckets of claims,  
13      consumer protection claims, warranty claims, and unjust  
14      enrichment claims. I will take as my example California  
15      law under which the economic loss class Plaintiffs have brought  
16      consumer protection claims.

17          In those cases there are extensive discussions of two  
18      important elements, which are reliance and materiality. Those  
19      are elements to which the evidence we are seeking about cancer  
20      risk factors is directly relevant, and I will use a case to  
21      illustrate my point.

22          In *Krouch versus Wal-Mart Stores*, 2014 WestLaw  
23      5463333, a Northern District of California case, a Plaintiff  
24      suing under the exact same statutes as the economic loss  
25      Plaintiffs here, alleged that the oil change window sticker

1 that Wal-Mart placed on her car caused her injury by leading  
2 her to obtain early oil changes.

3 Now, the Court didn't just look at the date on the  
4 sticker and Plaintiff's statement that she relied on the  
5 sticker and credit the claim. The Court looked behind the  
6 sticker at Plaintiff's actual behavior and found, based on the  
7 oil levels when she went to get a change, that it was the check  
8 engine light on which she was relying and which therefore  
9 caused her alleged damages, and not the sticker itself.

10 Now, here is the tie-in to our cases, the California  
11 class members are alleging that we failed to disclose facts --  
12 now I am quoting paragraph 543 from the Florida Plaintiffs'  
13 economic loss count -- "that would be considered material by a  
14 reasonable consumer, and they were in fact material to  
15 Plaintiff and the class members who consider such facts to be  
16 important to their purchase decisions."

17 They are alleging that the facts that Defendants  
18 allegedly failed to disclose include that there was a cancer  
19 risk related to this product. Defendants' proposed cancer  
20 search terms go directly to whether Plaintiffs relied on our  
21 alleged omissions and whether those alleged omissions were  
22 material.

23 Again, I will use smoking as an example. Imagine that  
24 someone is doubling their cancer risk by smoking despite clear  
25 carton warnings about cancer. We are entitled to argue that



1 that undercuts their purported reliance on our alleged  
2 omissions, your Honor. So, that is one example.

3 *THE COURT:* Okay. What about the other so-called  
4 cancer risk factors or risky behaviors? I understand the  
5 smoking one because the argument is you take risks all the  
6 time, therefore you wouldn't have relied on this, or it  
7 wouldn't have been material. I understand that theory of  
8 relevance.

9 Why does it matter if the person is obese or the  
10 person has a bad diet or likes to go sky diving or otherwise  
11 engage in risky behaviors? Why would that matter to the  
12 economic loss complaint that they are obese?

13 *MS. SHOWALTER:* We are entitled to challenge the  
14 economic loss element of materiality and reliance using  
15 evidence that people who expose themselves to a much higher  
16 risk of cancer through not just smoking, but also through diet,  
17 through drinking habits, have a weaker argument that the  
18 disclosure of a much smaller risk associated with the NDMA  
19 levels in Zantac would have changed their purchasing decision,  
20 which is what they need to show.

21 *THE COURT:* Thank you. Ms. Fegan, I will let you  
22 respond.

23 *MS. FEGAN:* Your Honor, while that case was not cited  
24 in their brief, I would like to address it.

25 California law is very specific when you are talking

1 about safety and safety disclosures, and the case that she  
2 cited to you did not deal with a safety disclosure. California  
3 law -- when you have an omission of a safety disclosure, or  
4 here a cancer risk warning, or the other types of things we  
5 have alleged, California law presumes reliance, and California  
6 law presumes that that disclosure would be material to a  
7 purchasing decision.

8 So, the idea that under California law you would have  
9 to go to each individual's purchasing history or smoking  
10 history, or whether they are chubby or not is irrelevant under  
11 California law. I am happy after this hearing to provide your  
12 Honor with several case cites on that issue.

13 *MS. SHOWALTER:* Your Honor --

14 *MS. FEGAN:* When you are talking about safety, and  
15 actually there are many states that follow that law, when you  
16 are talking about safety, materiality can be presumed on a  
17 class-wide basis.

18 *THE COURT:* Ms. Showalter, I will let you respond.

19 *MS. SHOWALTER:* Your Honor, we are entitled to  
20 evidence that could be used to rebut that presumption, and  
21 those same elements go directly to the class certification  
22 issue -- your Honor, those same issues go directly to class  
23 certification.

24 For example, in California in the In Re: Vioxx cases  
25 there was an affirmance of the conclusion that whether Merck's

1 misrepresentations about safety were material and therefore  
2 induced reliance was a matter on which individual issues  
3 predominated, and on that basis class certification was denied.

4 So, regardless of whether there is a presumption, we  
5 are entitled to evidence that could be used to rebut it and the  
6 same evidence goes to whether a class can be certified.

7 *THE COURT:* Thank you both very much. Let's move to  
8 the next issue.

9 Let's assume for the sake of further discussion that I  
10 agree there is some theory of relevance that all the  
11 evidence -- that the six categories of documents or materials  
12 that Defendants are asking for are relevant, we get over that  
13 hurdle, let's turn to proportionality and Rule 26(g).

14 Before I do that, Ms. Fegan, I did have to ask you one  
15 question about your spreadsheet that was appended to your  
16 letter. There is a reference in there to something called  
17 class position, and I just wasn't sure what that is, we are not  
18 going to turn this over because of class position. Can you  
19 just educate me on what that is?

20 *MS. FEGAN:* Absolutely. That was just where we were  
21 taking a position that, for example, Snapchat or Instagram are  
22 not relevant for anyone because Snapchat is designed to  
23 immediately delete itself, Instagram is solely pictures. It  
24 was just our class position that even if people had those  
25 accounts we weren't going to search them.

1           *THE COURT:* I see. It wasn't that this particular  
2 Plaintiff held a particular position within the class, it was  
3 that you are taking a litigation position on behalf of all  
4 members of the class.

5           *MS. FEGAN:* That is correct, your Honor.

6           *THE COURT:* Thank you for clarifying that for me.

7           Let's go to the proportionality question here.

8 Ms. Fegan, it is more your objection, so let me allow you to  
9 have the first word on these different things. You started to  
10 go down this road, but let me have you fully develop your  
11 argument.

12           *MS. FEGAN:* Thank you, your Honor. Perhaps I will  
13 start with the Vioxx case that Ms. Showalter just mentioned  
14 because I was in that case, and there what was really critical  
15 evidence was developed either through medical records or  
16 through depositions of the Plaintiffs. We did not do search by  
17 search terms of emails, of social media, of text messages. So,  
18 clearly Vioxx shows that a defense can be developed through  
19 traditional discovery.

20           Your Honor, if I can, I would like to share my screen.  
21 I have tried to capture a summary of what we propose to do and  
22 why we believe it is proportional.

23           *THE COURT:* That is fine. I have read your letter,  
24 but if you want to put it up and walk me through it, that is  
25 fine.

1           Try now, Ms. Fegan, you should have that authority.

2           *MS. FEGAN:* All right. Over the course of the last 18  
3 months we have had a team of lawyers who have spent nearly 1500  
4 hours communicating with our class reps, and the point of that  
5 was not just to identify the relevant documents individually,  
6 but also to identify relevant sources.

7           We went through questionnaires, we went through teams  
8 of people, we have done followup interviews, and we have done  
9 another round of interviews in preparation for the spreadsheets  
10 that we provided to the Court and to Defense counsel to ensure  
11 that we have a handle on exactly what repositories there were  
12 and why they should or should not be searched.

13           For example, we have agreed to search all text  
14 messages for all Plaintiffs. We can get to search terms in a  
15 second, but I am focusing here on repositories. With respect  
16 to email, we have identified 137 email accounts that may or may  
17 not have relevant information, but are used to communicate, and  
18 so we have agreed to search those accounts.

19           We have identified 48 accounts, and we have identified  
20 them in our spreadsheets and that is fully disclosed, that we  
21 are proposing not to search, for example, because it is solely  
22 work related or, for example, it is only for the person to  
23 receive spam ad, but they do all of their communicating through  
24 a separate account. We have disclosed the specific reasons why  
25 we are proposing not to search those accounts.

1           We have similarly done the same for document  
2     repositories such as computers, laptops, tablets, USB drives,  
3     and again, we have identified all the potential locations and  
4     suggested that it would be appropriate to search 47 of  
5     them because the particular Plaintiff may keep documents on it.  
6     We don't know what they are, but it appears that we should make  
7     sure that we have used our search terms to search that.

8           We have proposed not to search 75 locations, and as  
9     your Honor will see, there are two main reasons in the  
10    spreadsheets for that; one, because is a work-related computer  
11    and it is only used for work-related information; or two, they  
12    don't save documents to the particular locations. Somebody  
13    might have an iPad, for example, but they do not save anything  
14    to it. Again, we have identified and disclosed all of the  
15    locations so that there is full transparency.

16          Similarly, we have gone through with respect to social  
17    media, and we have identified that 58 of the Plaintiffs have  
18    Facebook accounts, 27 have Twitter accounts, and 28 have  
19    WhatsApp accounts. WhatsApp is kind of a messaging service  
20    that may be used similar to text messages.

21          *THE COURT:* You need to update this because Facebook  
22    has changed its name in the last week. They own WhatsApp.

23          *MS. FEGAN:* That's true. Then, your Honor, we have  
24    suggested -- and this is kind of the class position column --  
25    with respect to social media not to be searched, it's

1 Instagram, TikTok and Snapchat, but we have nonetheless gone  
2 through and identified which Plaintiffs have each of those  
3 types of social media applications.

4 I think focusing here we have really done our due  
5 diligence in terms of identifying appropriate sources, and  
6 sources are separate from how they will be searched, but the  
7 idea that we would go search work emails or work-related  
8 laptops, or that type of thing, really does not make sense, and  
9 there is no support in the case law for that type of search.

10 We have also gone through and identified search terms  
11 that would identify information related to Zantac, Ranitidine  
12 or NDMA, which is a portion of the search that we have already  
13 conducted, but we will do it again in these additional social  
14 media locations.

15 We have also identified certain risk factors related  
16 to the reasons that people were taking Zantac. We have used  
17 very broad terms to capture lawsuits, Plaintiff, class action,  
18 class representative, and then anything related to the  
19 Defendants or to the stores at which they bought Zantac.

20 That particular search is very broad and broader than  
21 what Defendants suggested in terms of the stores. For example,  
22 we are going to get a whole lot of CVS ads and potentially  
23 receipts that are completely unrelated, but in the first  
24 instance we have agreed to collect them and then do the review  
25 of them.

1           *THE COURT:* Before you move on, if I could go back  
2 real quick just to your -- that one, okay.

3           I understood when you talked about the repositories,  
4 you said the 75 that you are not going to search, you are not  
5 going to search them because they were either in a work only  
6 computer or the person doesn't save documents to that device.

7           *MS. FEGAN:* That is generally correct. There were a  
8 couple, I believe -- and I can pull up the spreadsheets. There  
9 were a couple that said they only save pictures to a USB drive.  
10 We put the reasons why we wouldn't search it in there.

11           *THE COURT:* Okay. On the email, and you may have said  
12 this and I just didn't capture it, the 48 email accounts that  
13 you are proposing not to search, what is the dividing line  
14 there? Why are you determining those emails should not be  
15 searched? Is it because they are only work email accounts or  
16 something like that?

17           *MS. FEGAN:* Many of them are work email accounts.  
18 Some of them -- the person, for example, identified that they  
19 had an AOL account or a hot mail account a long time ago, they  
20 said they haven't accessed it, they don't know how to access  
21 it, but we disclosed it because we wanted it to be clear so  
22 they do not contest that at their deposition.

23           Some of the people said that they just get spam there.  
24 So, they have a main email account, so for some people we  
25 identified more than one email account and we said, here is



1     their main gmail account, this is where they get all their  
2     communication and we'll search that. Here is the one that they  
3     use when somebody asks for their email, and all the spam is  
4     going to go there.

5             *THE COURT:* I have one of those and use it for  
6     shopping only.

7             *MS. FEGAN:* Exactly. I will say that shopping only,  
8     for example, where they would get their CVS receipts, we did  
9     delve into that to ensure we weren't excluding an account where  
10    that type of information might lie. So, we have gone through  
11    and done that due diligence.

12            *THE COURT:* Let me push you to the right side of this  
13    chart. What is the factual basis for excluding the Instagram,  
14    TikTok, and Snapchat accounts? I think you covered this in  
15    your letter, but I want to give you a chance to flesh that out  
16    further if you'd like to.

17            *MS. FEGAN:* Thank you, your Honor. Instagram is  
18    solely pictures, and we don't believe that pictures are  
19    relevant. The idea that we go through and identify  
20    people holding a cigarette or people sky diving or people on  
21    their family vacations -- Instagram is going to be mostly  
22    family vacations. The idea that we would have to produce every  
23    family vacation where somebody potentially used sun screen  
24    because they were on the beach, that can be explored in a  
25    deposition. That would just be an overwhelming and fairly

1       useless production.

2               With respect to TikTok, your Honor, TikTok is videos  
3       that people post. I am not sure if your Honor has been on  
4       TikTok.

5               *THE COURT:* I know how it works. I can't say I have  
6       been on it personally, but I am familiar with what TikTok is  
7       and how it works.

8               *MS. FEGAN:* People doing dances to preset tunes. We  
9       don't believe that there is going to be anything on there.

10              Again, we talked to them, to the individual  
11       Plaintiffs, and nothing about what they have said leads us to  
12       believe that anything that they have posted would be relevant  
13       to this case. And again, that can be explored and challenged  
14       in their deposition, and we are happy to revisit that, but from  
15       what we can tell, and having talked to each of the Plaintiffs  
16       to confirm, producing their dance videos of their daughters  
17       isn't really going to add much to this case.

18              *THE COURT:* Okay. And Snapchat?

19              *MS. FEGAN:* Snapchat, your Honor, is designed to --  
20       the whole purpose of it is designed to immediately delete.

21              It is not something that we have the ability to  
22       change, the way that Snapchat works, but even notwithstanding  
23       that, we did talk to each of the 13 people that have Snapchat  
24       accounts to confirm that -- for example, one of them just uses  
25       it to speak with her daughters, they send funny pictures with

1 filers on them back and forth to each other. It is not the  
2 type of thing that they are using as their communication system  
3 for important things like lawsuits, or cancer, or health. It  
4 is a fun way to communicate and send silly pictures.

5 Again, that is something that can be challenged and  
6 discussed and the person can be deposed about, but as a general  
7 matter, this is not the type of account that is relevant.

8 *THE COURT:* Thank you. I cut you off, I think you had  
9 moved several slides further into your presentation, so let me  
10 let you catch up.

11 *MS. FEGAN:* Thank you, your Honor. I covered the  
12 Plaintiffs' search terms with respect to searchable  
13 information. We have also proposed for Facebook and Twitter  
14 profiles to do a linear review, and a linear review is not the  
15 use of search terms because this is the type of information  
16 that cannot be downloaded in a traditional way and search terms  
17 run on it.

18 So we have offered to go into each person's Facebook  
19 account that we have identified and actually look at all of  
20 their posts and see if there is anything in there related to  
21 any health or medical condition. So, if they are posting about  
22 cancer, if they are posting about a reaction to the COVID  
23 vaccine, whatever it may be, if it is related to a health or  
24 medical condition we have agreed to pull that and produce it,  
25 as well as lawsuits.

1           Again, we didn't limit it to cancer-related lawsuits,  
2       but we would go through and actually screen shot and pull that  
3       information and produce it.

4           So, this linear review in the context of the amount of  
5       time that it would take us is not captured by the amount of  
6       time in Mr. Forrest's declaration where he talks about using  
7       search terms and collecting information and how long that might  
8       take, but this is something that we think is the most  
9       appropriate way to go about it and the least burdensome in  
10      terms of just having an attorney look at all the posts in  
11      somebody's feed for production.

12           *THE COURT:* Okay.

13           *MS. FEGAN:* I will stop screen sharing, your Honor,  
14      unless you have other questions about this.

15           *THE COURT:* Not about this, I don't think. Let me  
16      look at my notes here. No. I will let you continue if you  
17      have any further on your argument on proportionality.

18           *MS. FEGAN:* Your Honor, I think we are about at the  
19      end here. I think the case law is clear that the idea that  
20      there is one post of two Plaintiffs holding cigarettes doesn't  
21      justify for every Plaintiff these deep dives that are being  
22      suggesting.

23           Certainly the Plaintiffs that they have identified,  
24      they can look at the medical records, they can test it with the  
25      treating physicians, they can use that to challenge the

1 Plaintiffs, but identifying one picture for a particular  
2 Plaintiff does not justify a deep dive into all Plaintiffs for  
3 all reasons.

4 All of the case law is very clear and recognizes that  
5 this is expensive and it is not proportional, that the amount  
6 of time it would take for someone to review all the pictures  
7 they posted on social media is really not relevant, and the  
8 cases we have cited recognize, even where there were just ten  
9 search terms the Court thought that it would not be appropriate  
10 to use those to do a deep dive into social media.

11 I will actually note that there is a case that just  
12 came out this morning, it is in Law 360. There, to the extent  
13 that there was a production, the Court limited it to one day,  
14 even though it related to an employment issue that had gone on  
15 for years relating to someone posting discriminatory things on  
16 Facebook related to videos that the person watched that were  
17 related to white supremacy, and the magistrate just said the  
18 idea that somebody would have to go through years and years of  
19 social media is disproportionate to being able to develop  
20 through testimony what you are suggesting would otherwise be a  
21 deep dive.

22 So, your Honor, we do ask that the Court look very  
23 closely at what we have offered to do, because we haven't taken  
24 the position that we won't do it; we just think it needs to be  
25 proportional to the needs of the case.

1           *THE COURT:* Thank you, Ms. Fegan. You sort of said  
2 they can explore that in deposition and see where that leads.  
3 Is it your view -- let's say hypothetically they explore this  
4 in deposition, and based upon that, they want to then come back  
5 to the Court and say, okay -- let's assume I rule in your  
6 favor, and they depose your person and your person goes, oh,  
7 yeah, there is a whole lot of pictures of me smoking and  
8 complaining and whatevering on my social media which we never  
9 looked for.

10           Do you believe that under the current scheduling order  
11 the Defendants would be allowed to then say, hey, we want that,  
12 give it to us?

13           *MS. FEGAN:* I think there are two pieces to that  
14 question that I would like to address. The first is, just as  
15 we did with Defendants, where information was identified at  
16 depositions that hadn't originally been searched, for example,  
17 there were particular text messages from one of the Defendant's  
18 witnesses that hadn't been searched, then during a deposition  
19 we identified that there was relevant information there, we met  
20 and conferred, and the Defendant produced it. That is the  
21 normal way that this goes about.

22           If it comes out in a deposition that there is  
23 information somewhere that wasn't caught through this process,  
24 we are happy to meet and confer.

25           Your Honor, with respect to the specific example that

1 you brought up of pictures of smoking, if it is in their depo  
2 that they smoked, I don't know that you need a hundred pictures  
3 of them smoking. I think there is a balance there to what we  
4 are talking about.

5 If there is a repository that has relevant information  
6 that would be caught with search terms, we are happy to meet  
7 and confer, but pictures is a thing that, as a general matter,  
8 we think is cumulative and disproportionate.

9 *THE COURT:* Let me change my hypothetical slightly  
10 just so the record is clear. Let's say they testify in their  
11 deposition, oh, you know what, I recently remembered I had a  
12 different email account that I never told my lawyer about and  
13 so that has never been searched.

14 *MS. FEGAN:* We would agree to run the search terms,  
15 your Honor, absolutely.

16 *THE COURT:* Okay. That sort of circles back to one of  
17 my first questions of Ms. Showalter, which was, are we doing  
18 discovery on the whole case here or are we just doing discovery  
19 on class cert? You all are the MDL experts, this is my first  
20 one, so I am learning as I go.

21 I assume, if we get past Daubert and we get past all  
22 the other things that Judge Rosenberg is going to do, and the  
23 cases get remanded back to their mother ships, there is some  
24 additional discovery done at that point, isn't there, on the  
25 individual cases?

1           *MS. FEGAN:* Your Honor, the class works slightly  
2 differently. We do full class merits discovery at this stage  
3 and really it is presented at the motion for class  
4 certification. Post class certification, if the cases get  
5 remanded back to their original courts, they go back as a class  
6 and really at that point we are focused on 26(a)(2) reports in  
7 terms of liability and damages for trial.

8           So, some of that is presented with the class reports  
9 and some of that is going into trial, but at that point we  
10 represent a certified class and it becomes about the aggregate  
11 and not the individual.

12           *THE COURT:* Thank you, Ms. Fegan. Ms. Showalter, you  
13 have been very patient, let me allow you to respond to Ms.  
14 Fegan's presentation.

15           *MS. SHOWALTER:* Of course. There is a lot to unpack  
16 there, your Honor.

17           *THE COURT:* Take your time, go slowly for Ms. Stipes,  
18 and I'm here to listen. Go ahead.

19           *MS. SHOWALTER:* Wonderful. Speaking a bit off the  
20 top, because I have seen some of their content, but not those  
21 exact slides, starting with the sources that Plaintiffs have  
22 set forward as the sources that they are not agreeing to  
23 search, so it struck me that in the final box they did not  
24 include Twitter Messenger, Facebook Messenger.

25           Their papers are very clear that what they are



1 proposing to do is a linear review of the feed, but they are  
2 declining to search those messaging services, and it is unclear  
3 to us why that is when they are used exactly the same way as  
4 text messages, and perhaps by some people even more frequently,  
5 so those I didn't see.

6 I also wanted to note that on the search term slide  
7 there is some degree of dissidence between what Plaintiffs have  
8 said they searched for and the search terms of ours that they  
9 are now rejecting.

10 For example, Plaintiffs have said that they are  
11 agreeing to produce information about lawsuits that have to do  
12 with cancer, but they have declined many of our search terms  
13 that we are proposing they run through, for example, email that  
14 go directly to cancer related lawsuits about talc or about  
15 asbestos.

16 I don't see any substantive search terms they have  
17 proposed that get at those same issues other than the word  
18 "lawsuit", which we would say is unduly narrow, your Honor, and  
19 might exclude someone discussing, for example, if they said  
20 talc case or asbestos case.

21 *THE COURT:* Let me pause you, Ms. Showalter, for a  
22 second. I am going to ask Ms. Fegan to respond to your  
23 inquiry, because that will inform how you want to deal with the  
24 Twitter Messenger and Facebook Messenger. As to the specific  
25 search terms, let's put that to the side for the time being.

1 I'll talk to you about my view on search terms when we get to  
2 that. Let's address that separately, if we could.

3 Ms. Fegan, you didn't talk in your remarks, although  
4 it was in the papers, about how you were going to deal with  
5 Facebook Messenger and Twitter Messenger. Can you clarify for  
6 us what your position is on that?

7 MS. FEGAN: Yes, your Honor, and I apologize for  
8 omitting it from the presentation, but it was in our documents.

9 We have taken the position that it is not relevant.  
10 We have -- again, we have disclosed specifically each person  
11 that has a messenger -- because they have a Facebook account,  
12 you automatically have a Messenger account; same with Twitter,  
13 if you have a Twitter account, you automatically have a Twitter  
14 Messenger account.

15 We have gone through and spoken to every Plaintiff  
16 and, as a general matter, that is not where they communicate  
17 information that is at all relevant. Some people use Facebook  
18 Messenger, for example, just with respect to Facebook  
19 Marketplace because they sell jewelry on Facebook. Others use  
20 it just for their Oculus gaming system.

21 So, we have gone through and determined that it is not  
22 a place where there is relevant information, and again, they  
23 can test that during depositions.

24 But I will also note that, unlike text messages and  
25 emails, Messenger is not something that you can just pop in and

1 run search terms on. Even if it is downloaded, it is not  
2 downloaded clean, it is not downloaded pretty, Facebook and  
3 Twitter make it very difficult, so there is also a burden and  
4 cost that doesn't make sense given what we have learned from  
5 our Plaintiffs in terms of the lack of relevant information  
6 there.

7 *THE COURT:* Thank you for clarifying that.

8 Ms. Showalter, now that you don't have a moving target  
9 anymore, I will let you respond.

10 *MS. SHOWALTER:* First I will respond to the remarks  
11 that Ms. Fegan just gave. Our declaration that we submitted  
12 sets out that you can freely download, for example, your  
13 Facebook Messenger account and the search terms --

14 *THE COURT:* Hold on one second. I muted that  
15 individual. Go ahead, Ms. Showalter.

16 *MS. SHOWALTER:* Our position is that this can be done  
17 easily at little to no cost. It won't surprise you, your  
18 Honor, that we don't find satisfactory that Plaintiffs simply  
19 didn't recollect as a general matter that there was nothing  
20 relevant to the issues in this case in their messenger.

21 This goes directly to the same issue we have with the  
22 argument that we can simply figure out during depositions where  
23 there might be relevant ESI.

24 So, the first problem with that is that, as we are  
25 painfully aware, all you are entitled to on the day of the

1 deposition is the Plaintiff's best recollection on that day,  
2 and we have all seen many times that those recollections can be  
3 incomplete or inaccurate without any intent on the part of the  
4 deponent. They simply happen not to remember.

5 We are entitled to evidence about which to question  
6 these Plaintiffs during their deposition, and this goes  
7 directly to the argument that the combination of depositions  
8 and medical records should suffice for our purposes. It is not  
9 surprising that Courts in MDLs like this one frequently require  
10 the production of medical records and also the production of  
11 some Plaintiffs' personal ESI, because there can be  
12 inconsistencies in medical records.

13 For purposes of this argument, I happened to flip  
14 through the 27 medical monitoring Plaintiffs' records before  
15 this hearing, and I found at least four examples of medical  
16 records where there was a record saying a Plaintiff was a  
17 former smoker, and then sometime after that, a record saying  
18 they were never a smoker.

19 There is a clear conflict there, and I don't know how  
20 that conflict would be resolved during a deposition of any of  
21 these specific people, but one could imagine they might take  
22 the position I am actually a never smoker, or that was a  
23 scrivener's error, or someone heard me incorrectly, and if  
24 there is a contemporaneous picture of that person with a  
25 cigarette on social media, we are entitled to show that person

1 that photo and say, you have testified here today that you are  
2 not a smoker, this is a picture of you smoking that came from  
3 your social media account. This is important separate  
4 contemporaneous evidence that we are entitled to to inform our  
5 depositions.

6 Your Honor, you asked a question that goes to this,  
7 but I think it bears reiterating. The timeline here is tight,  
8 and the idea that we would set depositions of 110 people and  
9 their health care providers, and then after those depositions  
10 search social media, get productions, do additional depositions  
11 where needed, it just isn't realistic under the schedule that  
12 the MDL Court has provided, and as to Plaintiffs' statements  
13 about declining to search Instagram, TikTok, and Snapchat.

14 So, first of all, we disagree for the reasons I have  
15 just explained with the blanket position that photos and videos  
16 are irrelevant to the issues in this case.

17 It is also not true, your Honor, that that is all  
18 those sources contain. There are direct messaging features, or  
19 DMs, on Instagram, on TikTok, on Snapchat, where Plaintiffs can  
20 effectively text each other back and forth for all intents and  
21 purposes. Those are also a part of what can be collected and  
22 searched in those sources.

23 Your Honor, it is also not true that Snapchat is  
24 purely ephemeral. We cite a big sanctions case in our brief  
25 about that precise issue, that there is content that is

1 retained on Snapchat that is searchable, that is proper ESI  
2 discoverable in a case like this.

3 Your Honor, this, I just have to reiterate, is our one  
4 bite at the apple as to these 110 people's individual cases as  
5 to class certification in a nationwide MDL, the putative class  
6 for which encompasses millions of people and which is seeking  
7 billions of dollars in damages.

8 We have proposed search terms that we think are  
9 narrowly tailored, but it is also worth mentioning that there  
10 wasn't much of a discussion about them up until this point. We  
11 provided them, they responded with their 13, and it isn't that  
12 there isn't productive room at the margins to tailor it at all  
13 further. You know, this is where we are today and we just  
14 think that wholly excluding these searches based on blanket  
15 assertions about what can be done through depositions and  
16 medical records and the relevance of pictures and videos is  
17 just highly prejudicial.

18 *THE COURT:* Understood. Okay. I will come back to  
19 search terms in one second.

20 Let me ask, Ms. Fegan, can you respond directly to  
21 their expert's position that Twitter Messenger and Facebook  
22 Messenger, it isn't that hard to download and search?

23 I took a quick look at your chart while I was  
24 listening to Ms. Showalter. My quick looking at the column of  
25 Twitter Messenger, I think there were less than ten people for

1 which you said they even had a Twitter Messenger account that  
2 they used. Can you respond to that argument?

3 Your position seems to be you can't do it, it is very  
4 burdensome, it is hard to do. Their expert says, no, it is  
5 not, there is a free tool, just go do it. Can you just address  
6 that?

7 *MS. FEGAN:* Yes, your Honor. There are two pieces to  
8 it. My first position was that we did talk to them about those  
9 sources and determined that they don't use them in the way that  
10 Ms. Showalter is suggesting. So, what I am suggesting in the  
11 first instance is there is not going to be relevant information  
12 there.

13 In the second instance, they talked a lot about free  
14 tools. Free tools are not how we are going to go about this.  
15 We are going to go about this through an expert who can do the  
16 appropriate collection, and when it is downloaded, it doesn't  
17 download in the traditional sense of being clean, but there are  
18 ways to do it, it just takes more time and it is  
19 disproportionate given the fact that we have done the leg work  
20 to talk to the Plaintiffs and identify relevant spaces.

21 On that point, your Honor, there is something that I  
22 would like to note. During the course of working on discovery  
23 with Defendants, and in particular Sanofi, the issue came up  
24 about the use of teams, and the use of teams is another  
25 chatting function that is used in corporations, and Sanofi

1 said, look, we have talked to all of our people, and they use  
2 it to schedule meetings, they use it to do this or that. They  
3 don't use it for substantive discussions.

4 We went down that path, and at the end of the day,  
5 part of discovery is not the other side saying you have to  
6 exhaust every repository; it's you have to speak with your  
7 clients, you have to understand where potential information may  
8 exist and then you have to disclose what you are or aren't  
9 searching.

10 So, this idea that the Defendants now want to say just  
11 because a repository exists it must be searched is beyond what  
12 discovery requires.

13 Your Honor, I am not aware of any other class action,  
14 MDL or not, that has required what the Defendants are  
15 suggesting here.

16 *THE COURT:* Okay. Just real quick, and I will turn  
17 back to Ms. Showalter, when you said -- I asked Facebook  
18 Messenger and Twitter Messenger, you said you conferred with  
19 your clients, and I think you said they said they don't use it  
20 for that purpose, and I just want to be careful.

21 There is a difference between saying -- for example, I  
22 have a Twitter account, I don't do much with it. I probably  
23 have a Twitter Messenger account somewhere, I have never used  
24 it because I couldn't figure out how to use it if I wanted to.  
25 I have a Facebook account, which I don't use very much, and we



1 have a Facebook Messenger functionality that my children use to  
2 communicate with my wife and me, but we don't use it for  
3 anything else.

4 I just want to be clear, when you are making this  
5 representation right now and in the spreadsheet, if it says on  
6 the spreadsheet no, is that that the client says I have Twitter  
7 Messenger and I don't use it at all, or I have Twitter  
8 Messenger, but I don't use it for these purposes?

9 *MS. FEGAN:* Where we have said no, the N is intended  
10 to mean that they don't have it. Where we have said yes -- and  
11 I think we have tried to be very clear with respect to Facebook  
12 Messenger and Twitter, although we didn't go into reasons, we  
13 disclosed if they do have it.

14 What we could update the Court with and certainly  
15 Defendants with is what each person told us in terms of, for  
16 example, one person only uses it for selling jewelry on  
17 Facebook Messenger, another only uses it in connection with his  
18 Oculus gaming VR system.

19 So, just because it exists doesn't mean that it is a  
20 relevant repository. That is part of the leg work we have done  
21 and the representations that we are making to the Court.

22 Your Honor, I would like to note one thing. It wasn't  
23 until after Defendants insisted on this hearing that they gave  
24 us their search terms. We have been going down this path for  
25 18 months, and we are really at a time where it is time to

1 narrow, determine what the relevant issues are, get to the  
2 discovery and get to depositions.

3 *THE COURT:* I understand. I am going to deal with  
4 search warrants -- search terms -- sadly, most of what I know  
5 about all these messenger services and Facebook is from signing  
6 search warrants where the Government is going to get all this  
7 stuff. Anyway, search terms in a second.

8 Ms. Showalter, I want to give you a chance to respond  
9 to the one thing -- well, you can respond to anything else you  
10 want, but in particular, Ms. Fegan just said they are not aware  
11 of any other class action or large scale MDL where this level  
12 of social media related discovery has been ordered. Do you  
13 have an example where that has been addressed? And then  
14 otherwise address any other comments that Ms. Fegan has made.

15 *MS. SHOWALTER:* Sure. Let me first start with some  
16 other comments she has made, and then I might call on Mr. Oot  
17 because I -- this is also my first MDL, your Honor, but I  
18 believe that similar social media discovery was ordered in the  
19 TDF litigation where I think Facebook Messenger has been one of  
20 the largest produced ESI sources, and in the Essure litigation.

21 We are by no means asking for something novel here,  
22 and I want to reiterate, your Honor, with respect to  
23 questioning Plaintiffs about whether generally there is  
24 anything relevant on their messaging history, that is  
25 problematic for clear reasons. To the extent it is true that

1     only 30 some-odd or 40 some-odd people have this freely  
2     downloadable, easily searchable source in a billion-dollar  
3     case, we think that there is no reason why they shouldn't go  
4     about collecting that ESI and running the search terms.

5             It is essentially taking the same position that we  
6     should just go into a deposition and ask Plaintiffs whether  
7     they have any recollection about ever posting or messaging  
8     something related to these topics. All you are getting is  
9     their best recollection on that day, unless Plaintiffs are  
10    representing that their clients were in real time going back  
11    and looking at what they had in fact messaged.

12            *THE COURT:* I guess the question is this: What is the  
13    baseline we start from? You seem to start from the assumption  
14    that the evidence you want exists, and they need to go find it  
15    because it exists. I don't know that that is the right  
16    baseline. Why is there reason to believe that on anybody's  
17    Facebook Messenger feed there is going to be relevant evidence?

18            *MS. SHOWALTER:* I think, your Honor, the question  
19    arises on behalf of Defense because we have 110 people here who  
20    are concerned enough about their exposure that they have sued,  
21    and across those 110 people, and across what we see as relevant  
22    topics as broad as cancer risk factors like smoking, excessive  
23    drinking, obesity, people are saying that they have nothing in  
24    their ESI that is relevant to those topics.

25            It is a surprising assertion, your Honor, when you

1 consider how much the average American uses various social  
2 media platforms and the various categories of evidence we are  
3 talking about, that there is truly one page of producible ESI  
4 in this case.

5 *THE COURT:* I hear you, I understand that, but one  
6 could also say, well, they need to go search their trash can  
7 because they may have thrown out a picture of them smoking and  
8 they need to go look through every scrapbook they have going  
9 back to when they were 18 years old, and all the pictures of  
10 them from college because maybe they were drinking at a college  
11 party.

12 There is a point at which -- that is when the  
13 proportionality rule kicks in, that is my job. I understand.  
14 So, I am not necessarily disagreeing with you, but you  
15 understand to sit there and simply say they have to look  
16 everywhere that I can think of because there might be something  
17 that I might want to use is a lot of mights piled on top of one  
18 another and it gets speculative after a point, doesn't it?

19 *MS. SHOWALTER:* That is not what we are asking for,  
20 your Honor. We are asking for productions related to commonly  
21 used social media sources, sources that are used to communicate  
22 and post information. We are not asking Plaintiffs to go  
23 through their trash cans. We are asking for discovery of  
24 traditional ESI sources in a multi district litigation.

25 *THE COURT:* I understand that, but again, can you make

1     that as a cross-cutting statement? Let me tell you, my parents  
2     could be Plaintiffs in this lawsuit, you know, they -- I have  
3     disclosed this, my father took Zantac. He is 88 years old,  
4     there is no chance he has a Facebook Messenger account or  
5     Twitter feed or anything of that sort.

6             I understand for certain generations of people the use  
7     of social media is ubiquitous and there is reason to believe  
8     there would be evidence, but how do I make the generalized  
9     conclusion that across these 110 people all of them are going  
10    to have this and therefore it should be looked for?

11            *MS. SHOWALTER:* In the case of someone like your  
12    Honor's father where there is no account, of course we wouldn't  
13    require a search. That seems to be the case for many, many of  
14    these Plaintiffs, that there simply is no messenger, there is  
15    no active email, there is no Twitter, and we can't ask  
16    Plaintiffs to search a source that doesn't exist. We  
17    acknowledge that, we are not fighting that point.

18            *THE COURT:* I guess where you are drawing the line is  
19    that they are trying to exclude certain sources based upon the  
20    client saying that was only a work email, I never used it for  
21    anything other than work, or it is my spam account that I use  
22    for junk spam, or I don't save anything on that device, things  
23    of that sort.

24            So, you are objecting to the Plaintiffs making that  
25    kind of unilateral decision that we are going to accept that

1 representation from the client, not go behind it, not double  
2 check it, and we are just going to accept it and act upon it.

3 At a high level, is that kind of where your objection  
4 is, that their process doesn't go far enough, that they  
5 shouldn't rely on the clients' representation and they should  
6 go beyond that?

7 MS. SHOWALTER: As to these critical sources of  
8 information, your Honor, yes.

9 THE COURT: All right. That's helpful, thank you very  
10 much. I apologize, Ms. Showalter, I sort of took you aside and  
11 asked you some questions. If you want to go back and respond  
12 further to anything else, I will let you look at your notes,  
13 and if you want to phone a friend to Mr. Oot, I think you get  
14 at least one of those. So, you can talk to him if you need to.

15 MS. SHOWALTER: I think that the only other that I  
16 would emphasize, your Honor, is I just don't want to stray away  
17 from the point that there are wholesales sources that are being  
18 excluded here, right, not just because they have asked a client  
19 and it doesn't exist, but because they are just asserting there  
20 is unlikely to be any relevant information there in anybody's  
21 account.

22 I just don't want that point to get lost in the  
23 shuffle, and I certainly don't want to silence Mr. Oot, but I  
24 think having cited TDF and Essure, those are two examples of  
25 litigations where this material has been produced.

1           *THE COURT:* Thank you. I am certainly not suggesting  
2 Mr. Oot needs to speak, but you mentioned he might want to  
3 speak up. If you do, I am happy to hear from him, but if there  
4 is nothing else to add -- Mr. Oot, anything else you want to  
5 add in terms of answering that particular question about other  
6 large scale MDLs or classes where this sort of discovery was  
7 ordered?

8           *MR. OOT:* Yes, your Honor. Ms. Showalter is doing a  
9 great job. I will just add that Judge Milazzo in the Taxotere  
10 litigation and Judge North ruled that social media is relevant.  
11 There is even a required certification under pretrial order  
12 71-A that Plaintiffs need to submit to saying that they  
13 searched the relevant sources, and we could provide that to  
14 your Honor.

15           *THE COURT:* Okay. Pretrial order 71-A in this case or  
16 in the Taxotere litigation?

17           *MR. OOT:* In the Taxotere litigation.

18           *THE COURT:* I can find it. Thank you. Look, I hear  
19 you. Ms. Fegan, correct me if I am wrong, I don't hear the  
20 Plaintiffs saying social media is irrelevant and it shouldn't  
21 be searched. I hear them saying they are making a  
22 proportionality argument, some should be searched and some  
23 shouldn't, and we are just disagreeing about where that line  
24 is.

25           Am I correct, Ms. Fegan, you are not making a

1 categorical argument that social media in toto should not be  
2 searched?

3 *MS. FEGAN:* Correct, your Honor. We followed the same  
4 exact path that the Defendants did in terms of their clients  
5 identifying the relevant depositories and offering to search  
6 those. That is the process we went through as we went through  
7 meet and confers with the Defendants, and they said, look, we  
8 need to focus here on this marketing repository, but not on  
9 this human resources category, and that is the way that  
10 discovery works.

11 We would not ask the Defendants to go run our search  
12 terms in their human resources functions because they have  
13 talked to their clients and there wouldn't be relevant  
14 information as we have defined it here. It is a balancing, and  
15 certainly as lawyers, our job is to work with our clients and  
16 make representations to the Court and then allow those  
17 representations to be tested and meet and confer if it is  
18 discovered that there is something we didn't know about.

19 That is the normal discovery process, your Honor,  
20 particularly here where we are talking about already having  
21 invested 1500 hours with each of these Plaintiffs and we are  
22 suggesting basically starting anew, and we have suggested a  
23 process that makes sense based on the education and the  
24 information we have already gathered.

25 *THE COURT:* Again, to summarize your position, tying



1     it back to the rules, Rule 26(g) doesn't require -- I should  
2     just quote Mr. Oot, last year he made this argument better than  
3     I am going to make it now, but that it doesn't require a  
4     comprehensive review of every document and every source known  
5     to mankind. It requires a reasonable search under all of the  
6     circumstances to try to find discoverable evidence, but it is  
7     not endless.

8             Your position is, the process you laid out to me is a  
9     reasonable process and what it has generated, to the extent you  
10    are not looking -- I am sorry, that the outcome it has  
11    generated is proportional to the needs of the case. And  
12    Ms. Showalter is saying it is not a reasonable process because  
13    you should be downloading it to these free tools, you should  
14    have a common ESI hub, and should be searching in different  
15    techniques, and therefore it is not proportional to the needs  
16    of the case.

17            Ms. Fegan, did I more or less summarize your position  
18    correctly as applying it to the rule?

19            *MS. FEGAN:* Yes.

20            *THE COURT:* Ms. Showalter, did I more or less  
21    summarize your position at a high level, applying it to the  
22    rules? You are saying their process is not reasonable under  
23    Rule 26(g), and therefore what they are proposing is not  
24    proportional to the needs of the case, you need more?

25            *MS. SHOWALTER:* Correct, your Honor, that both the

1 process itself is deficient in its operation and in its scope.

2           *THE COURT:* Okay, that is helpful. Thank you. I am  
3 not going to rule from the bench today on this one, I have a  
4 lot to think about and I want to go back and review some of the  
5 materials before I -- but I will get a written order out very  
6 quickly because I know this is an important topic for  
7 everybody.

8           Let me talk about two other issues, the first one is  
9 somewhat easy, the second one I am going to make easy for me  
10 and hard for you.

11           The easy one is, I think the Defendants asked for  
12 individualized Rule 26(g) certifications. Technically, there  
13 is no such thing as a Rule 26(g) certification, it is the  
14 signing of the discovery response that is the certification  
15 under the rule. That is usually when you are in a one party or  
16 two party case and it's a little easier to say, when you get  
17 this signed by a Defense lawyer, it is certifying for that one  
18 Defendant. Here, if the Plaintiffs sign it, are they signing  
19 it for 110 people? It gets a little more confusing.

20           I am going to throw this back to you in this way,  
21 going all the way back to what I said when the tables were  
22 turned. I think there is a need for transparency and I think  
23 there is a need that the Defendants are entitled to walk the  
24 Plaintiffs down to what they did, what they have given, what  
25 they are holding back and why. You were very good about

1 following that to date.

2 At the end of the process, whatever rulings I make,  
3 there will then be a process after my rulings, and at some  
4 point that will end. At that point, I do believe that the  
5 Defendants are entitled to have some certification from the  
6 Plaintiffs that everything that is coming has come, there is  
7 nothing else we're holding back, et cetera, the equivalent of  
8 what Rule 26(g) would require.

9 So, you can do an amended discovery response, you can  
10 work amongst yourselves and come up with some other  
11 certification. I am not going to micro manage that process. I  
12 don't imagine the Plaintiffs are objecting to providing that  
13 sort of representation at the end of the process.

14 Am I correct, Ms. Fegan?

15 *MS. FEGAN:* Your Honor, generally, that is correct. I  
16 am objecting to what they propose to be a Rule 26(g)  
17 certification, but I have no issue with, as we go through this  
18 and the scope of the Court's order, doing amended responses to  
19 the RFPs and being very clear for each person, like we did in  
20 our spreadsheet, about what was searched and what it was  
21 searched for. We have tried to be very transparent and there  
22 would be no reason for us to change tacks.

23 *THE COURT:* Okay. I am going to order you to do that,  
24 but the format in which that sort of transparent assurance is  
25 done, I am going to let you work that out with the other side.

1 I am not adopting their proposal, you haven't been heard on  
2 that. I am confident that the parties, and if necessary with  
3 the special master, can come up with an inoffensive document  
4 that everybody can agree to and can sign. I will leave it at  
5 that.

6 Let me circle up to search terms. Here is my view on  
7 search terms, folks. You know your case better than I do, so  
8 what I generally say when parties come to me and say they can't  
9 decide on search terms is, you can each submit your proposed  
10 search terms, and me knowing absolutely nothing about the deep  
11 intricacies of your case, I will pick one or the other. I may  
12 not have a rational process by which I can pick one or the  
13 other, but I will pick one, and that is what I will order and  
14 you will live with it; or you can continue to talk to each  
15 other and try to agree on search terms, which is always the  
16 preferred method here.

17 So, I will give you that option. I haven't issued my  
18 ruling yet, but when I issue my ruling I will leave open the  
19 question of which -- if you all want to live on the two  
20 proposed sets of search terms you have submitted to me I will  
21 pick one. I am not going to split the baby, I am not going to  
22 share. I am going to pick one or the other.

23 If you want to talk amongst yourselves and either  
24 propose agreed upon search terms, or each side wants to propose  
25 modified search terms, I will pick one or the other. I am not

1 going to split the baby.

2 That is the process I employ with search terms. I try  
3 to push it back on the parties because I am just not in a  
4 position to really assess that at the depth that you can assess  
5 it. I joke when I say I won't impose a rational process. I  
6 will, but my rational process is not going to be as good as  
7 what you can develop on your own, but if you want to, that is  
8 the way I do it. Each side submits a proposal and I pick one.

9 Any questions about that, Ms. Fegan?

10 *MS. FEGAN:* No, your Honor.

11 *THE COURT:* Ms. Showalter?

12 *MS. SHOWALTER:* No questions about that, your Honor, I  
13 suppose just the observation that depending on how you rule,  
14 there has been no explanation of how search terms will be  
15 applied under the methodology they are proposing for some of  
16 these. I assume we would have that conversation once we learn  
17 more from you.

18 *THE COURT:* Yes. Thank you for clarifying that. My  
19 intention is, I am going to do an order that addresses three of  
20 the four questions maybe that I have framed for this hearing,  
21 right.

22 What are the relevant topics, although I think we have  
23 really narrowed that down substantially, but it seems to me  
24 there is still some dispute as to whether some of the cancer  
25 risk factors and some of the risky behavior evidence is really

1 discoverable and should be searched for at all. I will resolve  
2 that issue.

3 I will presage that one, I am inclined to find that it  
4 is relevant. I think Ms. Showalter has articulated as to both  
5 the medical monitoring and the economic loss complaint a theory  
6 under which that sort of evidence could be relevant. I am  
7 going to give it deeper thought, but that is my inclination  
8 right now.

9 Then I have to resolve the question of what needs to  
10 be searched, and that is what we have really been talking about  
11 here. Do the Plaintiffs need -- is the Plaintiffs' -- the  
12 process that the Plaintiffs have laid out, is that enough under  
13 Rule 26(g)? Do they need to do more? Do they need to look at  
14 Facebook Messenger, do they need to look at Twitter Messenger?  
15 I need to resolve that issue. Okay.

16 After I resolve those two issues, then I think we can  
17 get to the question of having now been told what they have look  
18 for and where they have to look for it, you can maybe talk and  
19 say, okay, given the Judge's rulings, now we know what search  
20 terms to apply.

21 Because if I rule that you are not entitled to  
22 evidence of cancer risk factors, then all those search terms  
23 drop out. If I say you are entitled to them, maybe the  
24 Plaintiffs are more pliable about agreeing to some search terms  
25 that target that because now they know they are going to have

1 to do it.

2 So, yes, Ms. Showalter, that is a long way to  
3 answering your observation, but also clarifying for the parties  
4 that that is my intention, is to issue an order as to the first  
5 two issues, and then throw it back to you as to agreed upon  
6 search terms and as to the fourth issue, which was the  
7 certification.

8 MS. SHOWALTER: Understood.

9 THE COURT: Any other questions, sort of either  
10 process related questions or clarifications, Ms. Showalter, on  
11 behalf of the Defense?

12 MS. SHOWALTER: I just want to make absolutely clear,  
13 as to the second issue, you will be ruling both on what they  
14 are required to search and how they are being required to  
15 search it. So, on our contentions, for example, that a linear  
16 review of Facebook does not capture posts on other people's  
17 walls or comments and it's -- okay.

18 THE COURT: I phrased it maybe the flip side of what  
19 you are talking about, which is whether their proposed process  
20 comports with Rule 26(g). If it does not, I have to think  
21 about whether if I say it does not, I am going to then tell  
22 them what they have to do to get it to comply with Rule 26(g),  
23 or whether I will just say it doesn't comply with Rule 26(g),  
24 give me a proposal for how you can get there. I am not there  
25 every day, I don't know.

1           Yes, Ms. Showalter, does that clarify your question?

2           *MS. SHOWALTER:* Yes, your Honor, thank you.

3           *THE COURT:* All right. Ms. Fegan.

4           *MS. FEGAN:* She just mentioned something that we  
5 haven't discussed, so I would like to address it. She  
6 mentioned, for example, if I am on my Facebook profile and I  
7 don't make a post, but I am scrolling through and I post on  
8 somebody's wall, hey, you look fat, or that outfit makes you  
9 look chubby, that type of information is not information that  
10 you just download. There is an activity section and it  
11 requires an entirely different process.

12           So, I just want to be clear, when we talk about  
13 Facebook, we have offered to do a linear review of posts  
14 somebody has made, all their vacation pictures, all their  
15 pictures of them smoking, all their posts about whether smoking  
16 is good for you or not, all the lawsuits they have been  
17 involved in, but we would object to this idea that I need  
18 to produce the post of me being rude to you and telling you  
19 that you look chubby in whatever outfit you're wearing. I do  
20 want to be very clear about that.

21           Secondarily, your Honor, I appreciate the process that  
22 you have set out. It sounds like it is going to be iterative  
23 as we go forward, so just in terms of timing, I want to be sure  
24 that when we get there, that it is going to take time to work  
25 with each of these Plaintiffs because it is not a centralized



1 system, and one of the ways that we have thought about this,  
2 just to put a thought in your Honor's court, although we don't  
3 necessarily need to rule on it now, is that part of the  
4 discovery protocol for the Defendants, and I believe it is PTO  
5 54, required (inaudible) file productions 15 days before a  
6 deposition.

7 So, one of the ways that we may start to think about  
8 this as we go forward, because the Defendants are starting to  
9 push us for deposition dates, and we think it is appropriate to  
10 start talking about a deposition plan, is this could be a way  
11 to roll it out and do it in a way that is not 115 people in 30  
12 days, which is what Defendants want us to do, but doing it in a  
13 way that is going to be reasonable, controllable, and  
14 manageable as we go through and working with all the 100 plus  
15 class members.

16 *THE COURT:* Again, the parties can work through that.  
17 You have worked through a lot more complicated things than that  
18 issue. It would seem to me, for example -- well, to the extent  
19 the Plaintiffs have already agreed they are going to produce  
20 certain things, I assume they are in the process of collecting  
21 and processing and producing, or should be, producing and  
22 collecting all the stuff you have already agreed to produce.

23 To the extent -- I'm sorry, yes, Ms. Fegan.

24 *MS. FEGAN:* Your Honor, I want it to be clear that we  
25 are going to apply -- we have already produced a lot. We are

1 going to apply these search terms one time in this next  
2 process. So, we are not going to take it and do multiple  
3 iterative groups of search terms. So, once we get the set  
4 search terms, and whatever your Honor orders us to run them on,  
5 they will be run or the linear review will be conducted. We  
6 are not doing searches of 111 now and another set in 30 days.

7 *THE COURT:* Understood. That is beyond the scope of  
8 what I am going to rule on today, but I understand.

9 Yes, Ms. Showalter, go ahead.

10 *MS. SHOWALTER:* I just wanted to respond briefly on  
11 the Facebook. This gets to the how issue here, right, is that  
12 that advocates for a very one-sided collection just of things  
13 people have posted on their walls, not of what they have posted  
14 in groups, not of what they have messaged privately, not of  
15 what they have posted on other people's walls, and I  
16 will direct you to our declarations by X1 and by Mr. Acker.  
17 Those things can be centrally downloaded, search terms will be  
18 applied, and clearly things like the example Ms. Fegan gave  
19 would drop out in a relevance review of these posts.

20 *THE COURT:* I understand.

21 *MR. OOT:* Your Honor, may I say one thing?

22 *THE COURT:* Yes, Mr. Oot.

23 *MR. OOT:* It's related to the linear review and I  
24 think this was also covered in the declaration. A liner review  
25 of a social media feed is not a chronological review, so you

1 are not necessarily capturing everything in the feed because  
2 Facebook has an algorithm that runs and presents information to  
3 you as you are looking at the feed. That is why we are  
4 suggesting using litigation support tools like X1 and the tools  
5 that Mr. Acker suggested.

6 *THE COURT:* Okay. Thank you for clarifying that.

7 Let me go back one last time. Ms. Showalter, I don't  
8 think I have actually ruled on anything, but not waiving any  
9 objections you may have to anything I have said or done here  
10 this morning, have I at least addressed all the issues and  
11 given you the opportunity to be heard on all the issues you  
12 wanted to be heard on this morning?

13 *MS. SHOWALTER:* Yes, your Honor, you have given me the  
14 opportunity to be heard on all those issues. I would just  
15 reiterate the importance of our declarations as it goes to the  
16 importance of the collection method here.

17 *THE COURT:* I understand. Ms. Fegan, again, not  
18 waiving any objections you might have either today or later to  
19 whatever I have said or done this morning, have you at least  
20 been heard on all of the issues you want to be heard on?

21 *MS. FEGAN:* Yes, your Honor. I would also ask that  
22 you take a look specifically at pages 5 and 6 of Mr. Forrest's  
23 declaration.

24 *THE COURT:* I did read both declarations before today,  
25 but I will be happy to go back and read them again.

1 All right. Well, thank you, everybody, it has been a  
2 very interesting hearing. I have some work to do. I will try  
3 to get an order out as quickly as I can. For the time being,  
4 we will be in recess, and I look forward to actually meeting  
5 some of you in person in a few weeks.

6 Have a good day, everybody, and have a good weekend.

7 *(Thereupon, the hearing was concluded.)*

8 \* \* \*

9 I certify that the foregoing is a correct transcript  
10 from the record of proceedings in the above matter.

11  
12 Date: November 11, 2021

13 /s/ Pauline A. Stipes, Official Federal Reporter

14 Signature of Court Reporter  
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Pauline A. Stipes, Official Federal Reporter

<b>MR. DEVEREAUX:</b> [1] 4/5 <b>MR. GILBERT:</b> [1] 3/13 <b>MR. OOT:</b> [5] 4/1 47/7 47/16 58/20 58/22 <b>MR. SACHSE:</b> [2] 4/7 4/11 <b>MR. YOUNG:</b> [1] 4/3 <b>MS. FEGAN:</b> [43] 3/11 5/7 5/23 7/16 8/15 9/5 9/10 9/19 10/12 10/16 11/2 11/10 12/12 14/5 17/22 18/13 19/19 20/4 20/11 21/1 22/22 24/6 24/16 25/6 25/16 26/7 26/18 27/10 28/12 28/17 30/12 31/13 31/25 34/6 39/6 41/8 48/2 49/18 51/14 53/9 56/3 57/23 59/20 <b>MS. SHOWALTER:</b> [27] 3/21 5/2 8/9 8/12 11/16 12/23 15/10 17/12 18/12 18/18 32/14 32/18 35/9 35/15 42/14 43/17 44/18 45/10 46/6 46/14 49/24 53/11 55/7 55/11 56/1 58/9 59/12 <b>MS. WHITELEY:</b> [1] 3/17 <b>THE COURT:</b> [76]	<b>218</b> [1] 13/15 <b>24th</b> [1] 1/12 <b>26</b> [15] 6/9 6/11 6/22 19/13 32/6 49/1 49/23 50/12 50/13 51/8 51/16 54/13 55/20 55/22 55/23 <b>262</b> [1] 13/15 <b>27</b> [4] 14/7 14/9 22/18 36/14 <b>28</b> [1] 22/18 <b>2800</b> [1] 1/15 <b>2924</b> [1] 3/2 <b>2929</b> [1] 1/22	<b>9</b> <b>92121</b> [1] 2/12 <b>A</b> <b>a billion-dollar</b> [1] 43/2 <b>A.H</b> [1] 13/5 <b>ability</b> [1] 26/21 <b>able</b> [2] 8/1 29/19 <b>about</b> [77] <b>above</b> [1] 60/10 <b>absolutely</b> [5] 10/13 19/20 31/15 52/10 55/12 <b>accept</b> [2] 45/25 46/2 <b>access</b> [1] 24/20 <b>accessed</b> [1] 24/20 <b>account</b> [24] 21/24 24/19 24/19 24/24 24/25 25/1 25/9 27/7 27/19 31/12 34/11 34/12 34/13 34/14 35/13 37/3 39/1 40/22 40/23 40/25 45/4 45/12 45/21 46/21 <b>accounts</b> [13] 19/25 21/16 21/18 21/19 21/25 22/18 22/18 22/19 24/12 24/15 24/17 25/14 26/24 <b>Acker</b> [2] 58/16 59/5 <b>acknowledge</b> [1] 45/17 <b>across</b> [3] 43/21 43/21 45/9 <b>act</b> [1] 46/2 <b>action</b> [3] 23/17 40/13 42/11 <b>active</b> [1] 45/15 <b>activity</b> [1] 56/10 <b>actual</b> [1] 16/6 <b>actually</b> [7] 18/15 27/19 28/2 29/11 36/22 59/8 60/4 <b>ad</b> [3] 11/19 11/20 21/23 <b>add</b> [4] 26/17 47/4 47/5 47/9 <b>addition</b> [1] 9/2 <b>additional</b> [4] 14/24 23/13 31/24 37/10 <b>address</b> [10] 6/2 6/3 7/2 7/3 17/24 30/14 34/2 39/5 42/14 56/5 <b>addressed</b> [2] 42/13 59/10 <b>addresses</b> [1] 53/19 <b>adopting</b> [1] 52/1 <b>ads</b> [1] 23/22 <b>advocates</b> [1] 58/12 <b>affirmance</b> [1] 18/25 <b>after</b> [7] 18/11 36/17 37/9 41/23 44/18 51/3 54/16 <b>again</b> [18] 10/5 11/4 11/8 16/23 22/3 22/14 23/13 26/10 26/13 27/5 28/1 34/10 34/22 44/25 48/25 57/16 59/17 59/25 <b>agenda</b> [1] 6/3 <b>aggregate</b> [1] 32/10 <b>ago</b> [3] 12/10 12/11 24/19 <b>agree</b> [10] 5/6 7/6 7/19 8/14 10/8 14/15 19/10 31/14 52/4 52/15 <b>agreed</b> [17] 7/23 8/16 8/20 9/4 9/12 9/21 10/9 10/11 12/14 21/13 21/18 23/24 27/24 52/24 55/5 57/19 57/22 <b>agreeing</b> [3] 32/22 33/11
<b>/</b> <b>/s</b> [1] 60/13 <b>1</b> <b>10</b> [1] 1/5 <b>100</b> [1] 57/14 <b>1000</b> [1] 2/5 <b>103</b> [1] 13/6 <b>11</b> [1] 60/12 <b>110</b> [6] 37/8 38/4 43/19 43/21 45/9 50/19 <b>1100</b> [2] 1/16 2/12 <b>111</b> [1] 58/6 <b>115</b> [1] 57/11 <b>1180</b> [1] 2/8 <b>12</b> [1] 14/7 <b>12th</b> [1] 2/2 <b>13</b> [3] 5/15 26/23 38/11 <b>137</b> [1] 21/16 <b>15</b> [1] 57/5 <b>150</b> [1] 1/11 <b>1500</b> [2] 21/3 48/21 <b>1600</b> [1] 2/8 <b>18</b> [3] 21/2 41/25 44/9 <b>1800</b> [1] 2/5 <b>19104</b> [1] 1/23 <b>1999</b> [1] 13/6	<b>3</b> <b>30</b> [3] 43/1 57/11 58/6 <b>30309</b> [1] 2/9 <b>305-384-7270</b> [1] 1/17 <b>33134</b> [1] 1/16 <b>3434</b> [1] 2/16 <b>360</b> [1] 29/12 <b>4</b> <b>40</b> [1] 43/1 <b>4000</b> [1] 1/23 <b>404-572-4600</b> [1] 2/9 <b>41</b> [3] 5/14 5/23 7/12 <b>4365</b> [1] 2/11 <b>4600</b> [2] 2/9 4/15 <b>4633</b> [1] 4/16 <b>47</b> [1] 22/4 <b>4748</b> [1] 2/13 <b>48</b> [2] 21/19 24/12 <b>5</b> <b>504-524-5777</b> [1] 1/20 <b>5171</b> [1] 1/13 <b>52</b> [1] 5/15 <b>54</b> [1] 57/5 <b>543</b> [1] 16/12 <b>5463333</b> [1] 15/23 <b>5567</b> [1] 2/3 <b>56</b> [1] 5/15 <b>561-803-3434</b> [1] 2/16 <b>5777</b> [1] 1/20 <b>58</b> [1] 22/17 <b>59</b> [1] 5/15 <b>6</b> <b>60606</b> [1] 1/12 <b>619-699-4748</b> [1] 2/13 <b>7</b> <b>70</b> [1] 5/15 <b>701</b> [1] 1/19 <b>70130</b> [1] 1/19 <b>71-A</b> [2] 47/12 47/15 <b>725</b> [1] 2/2 <b>7270</b> [1] 1/17 <b>75</b> [2] 22/8 24/4 <b>750</b> [1] 13/6 <b>8</b> <b>84</b> [1] 14/11 <b>8400</b> [1] 2/6 <b>844-399-5171</b> [1] 1/13 <b>88</b> [1] 45/3	<b>9</b> <b>92121</b> [1] 2/12 <b>A</b> <b>a billion-dollar</b> [1] 43/2 <b>A.H</b> [1] 13/5 <b>ability</b> [1] 26/21 <b>able</b> [2] 8/1 29/19 <b>about</b> [77] <b>above</b> [1] 60/10 <b>absolutely</b> [5] 10/13 19/20 31/15 52/10 55/12 <b>accept</b> [2] 45/25 46/2 <b>access</b> [1] 24/20 <b>accessed</b> [1] 24/20 <b>account</b> [24] 21/24 24/19 24/19 24/24 24/25 25/1 25/9 27/7 27/19 31/12 34/11 34/12 34/13 34/14 35/13 37/3 39/1 40/22 40/23 40/25 45/4 45/12 45/21 46/21 <b>accounts</b> [13] 19/25 21/16 21/18 21/19 21/25 22/18 22/18 22/19 24/12 24/15 24/17 25/14 26/24 <b>Acker</b> [2] 58/16 59/5 <b>acknowledge</b> [1] 45/17 <b>across</b> [3] 43/21 43/21 45/9 <b>act</b> [1] 46/2 <b>action</b> [3] 23/17 40/13 42/11 <b>active</b> [1] 45/15 <b>activity</b> [1] 56/10 <b>actual</b> [1] 16/6 <b>actually</b> [7] 18/15 27/19 28/2 29/11 36/22 59/8 60/4 <b>ad</b> [3] 11/19 11/20 21/23 <b>add</b> [4] 26/17 47/4 47/5 47/9 <b>addition</b> [1] 9/2 <b>additional</b> [4] 14/24 23/13 31/24 37/10 <b>address</b> [10] 6/2 6/3 7/2 7/3 17/24 30/14 34/2 39/5 42/14 56/5 <b>addressed</b> [2] 42/13 59/10 <b>addresses</b> [1] 53/19 <b>adopting</b> [1] 52/1 <b>ads</b> [1] 23/22 <b>advocates</b> [1] 58/12 <b>affirmance</b> [1] 18/25 <b>after</b> [7] 18/11 36/17 37/9 41/23 44/18 51/3 54/16 <b>again</b> [18] 10/5 11/4 11/8 16/23 22/3 22/14 23/13 26/10 26/13 27/5 28/1 34/10 34/22 44/25 48/25 57/16 59/17 59/25 <b>agenda</b> [1] 6/3 <b>aggregate</b> [1] 32/10 <b>ago</b> [3] 12/10 12/11 24/19 <b>agree</b> [10] 5/6 7/6 7/19 8/14 10/8 14/15 19/10 31/14 52/4 52/15 <b>agreed</b> [17] 7/23 8/16 8/20 9/4 9/12 9/21 10/9 10/11 12/14 21/13 21/18 23/24 27/24 52/24 55/5 57/19 57/22 <b>agreeing</b> [3] 32/22 33/11

<b>A</b> <b>agreeing...</b> [1] 54/24 <b>ahead</b> [3] 32/18 35/15 58/9 <b>algorithm</b> [1] 59/2 <b>all</b> [67] <b>allegations</b> [1] 7/13 <b>alleged</b> [6] 15/25 16/9 16/21 16/21 17/1 18/5 <b>allegedly</b> [1] 16/18 <b>alleging</b> [2] 16/11 16/17 <b>allow</b> [3] 20/8 32/13 48/16 <b>allowed</b> [1] 30/11 <b>already</b> [8] 8/16 14/22 23/12 48/20 48/24 57/19 57/22 57/25 <b>also</b> [25] 4/9 5/1 8/22 9/24 12/1 13/23 15/1 17/16 21/6 23/10 23/15 27/13 33/6 34/24 35/3 36/10 37/17 37/21 37/23 38/9 42/17 44/6 55/3 58/24 59/21 <b>alternative</b> [5] 8/4 9/16 11/14 12/1 15/5 <b>although</b> [4] 34/3 41/12 53/22 57/2 <b>always</b> [1] 52/15 <b>am</b> [52] 4/11 5/22 6/23 7/5 7/8 7/16 7/21 9/17 10/7 11/8 13/5 16/12 18/11 21/15 26/3 26/6 31/20 33/22 36/22 39/10 40/13 42/3 44/14 47/1 47/3 47/19 47/25 49/3 49/10 50/2 50/9 50/20 51/11 51/14 51/16 51/23 51/25 52/1 52/2 52/21 52/21 52/22 52/25 53/3 53/19 54/3 54/6 55/21 55/24 56/6 56/7 58/8 <b>amended</b> [2] 51/9 51/18 <b>American</b> [1] 44/1 <b>amongst</b> [2] 51/10 52/23 <b>amount</b> [3] 28/4 28/5 29/5 <b>and Facebook</b> [1] 33/24 <b>anew</b> [1] 48/22 <b>ANNIE</b> [2] 2/1 3/22 <b>another</b> [5] 21/9 39/24 41/17 44/18 58/6 <b>answering</b> [2] 47/5 55/3 <b>any</b> [15] 10/3 27/21 28/17 33/16 36/3 36/20 40/13 42/11 42/14 43/7 46/20 53/9 55/9 59/8 59/18 <b>anybody's</b> [2] 43/16 46/20 <b>anymore</b> [1] 35/9 <b>anyone</b> [4] 3/16 3/25 7/4 19/22 <b>anything</b> [16] 12/11 22/13 23/18 26/9 26/12 27/20 41/3 42/9 42/24 45/5 45/21 45/22 46/12 47/4 59/8 59/9 <b>anyway</b> [2] 7/24 42/7 <b>AOL</b> [1] 24/19 <b>apologize</b> [2] 34/7 46/10 <b>appearances</b> [1] 3/11 <b>appears</b> [4] 5/12 5/18 7/23 22/6 <b>appended</b> [1] 19/15 <b>apple</b> [1] 38/4	<b>applications</b> [1] 23/3 <b>applied</b> [2] 53/15 58/18 <b>apply</b> [3] 54/20 57/25 58/1 <b>applying</b> [2] 49/18 49/21 <b>appreciate</b> [1] 56/21 <b>appropriate</b> [6] 22/4 23/5 28/9 29/9 39/16 57/9 <b>Arch</b> [1] 1/22 <b>are</b> [174] <b>are not</b> [1] 49/10 <b>areas</b> [1] 12/18 <b>aren't</b> [1] 40/8 <b>argue</b> [2] 14/23 16/25 <b>arguing</b> [1] 10/5 <b>argument</b> [13] 11/24 12/16 17/5 17/17 20/11 28/17 35/22 36/7 36/13 39/2 47/22 48/1 49/2 <b>arises</b> [1] 43/19 <b>around</b> [3] 13/19 13/20 13/20 <b>articulated</b> [1] 54/4 <b>as</b> [68] <b>asbestos</b> [2] 33/15 33/20 <b>aside</b> [1] 46/10 <b>ask</b> [11] 7/5 7/22 9/17 19/14 29/22 33/22 38/20 43/6 45/15 48/11 59/21 <b>asked</b> [9] 6/21 12/1 14/14 14/18 37/6 40/17 46/11 46/18 50/11 <b>asking</b> [6] 19/12 42/21 44/19 44/20 44/22 44/23 <b>asks</b> [1] 25/3 <b>assert</b> [1] 12/19 <b>asserted</b> [1] 15/1 <b>asserting</b> [1] 46/19 <b>assertion</b> [1] 43/25 <b>assertions</b> [1] 38/15 <b>assess</b> [2] 53/4 53/4 <b>associated</b> [1] 17/18 <b>assume</b> [6] 7/14 19/9 30/5 31/21 53/16 57/20 <b>assumption</b> [1] 43/13 <b>assurance</b> [1] 51/24 <b>Atlanta</b> [1] 2/9 <b>attachments</b> [1] 4/16 <b>attorney</b> [1] 28/10 <b>authority</b> [1] 21/1 <b>automatically</b> [2] 34/12 34/13 <b>average</b> [1] 44/1 <b>aware</b> [3] 35/25 40/13 42/10 <b>away</b> [1] 46/16 <b>B</b> <b>baby</b> [2] 52/21 53/1 <b>back</b> [25] 5/25 8/19 24/1 27/1 30/4 31/16 31/23 32/5 32/5 37/20 38/18 40/17 43/10 44/9 46/11 49/1 50/4 50/20 50/21 50/25 51/7 53/3 55/5 59/7 59/25 <b>bacon</b> [5] 2/4 12/21 13/20 14/13 15/4 <b>bad</b> [1] 17/10 <b>balance</b> [1] 31/3 <b>balancing</b> [1] 48/14 <b>based</b> [5] 16/6 30/4 38/14	45/19 48/23 <b>baseline</b> [2] 43/13 43/16 <b>basically</b> [1] 48/22 <b>basis</b> [4] 9/20 18/17 19/3 25/13 <b>be</b> [107] <b>beach</b> [4] 1/2 1/5 2/16 25/24 <b>Beach/Ft</b> [1] 2/16 <b>bears</b> [1] 37/7 <b>because</b> [42] 7/14 13/1 13/25 17/5 19/18 19/22 20/14 21/21 22/5 22/10 22/21 24/5 24/15 24/21 25/24 27/15 29/23 32/20 33/23 34/11 34/19 36/11 40/11 40/24 41/19 42/17 43/15 43/19 44/7 44/10 44/16 46/18 46/19 48/12 49/12 50/6 53/3 54/21 54/25 56/25 57/8 59/1 <b>becomes</b> [2] 10/19 32/10 <b>been</b> [22] 5/18 5/20 10/4 17/7 26/3 26/6 30/16 30/18 31/13 32/13 41/24 42/12 42/13 42/19 46/25 52/1 53/14 54/10 54/17 56/16 59/20 60/1 <b>before</b> [9] 1/8 3/10 4/15 19/14 24/1 36/14 50/5 57/5 59/24 <b>behalf</b> [11] 3/13 3/15 3/16 3/19 3/20 3/25 7/13 13/3 20/3 43/19 55/11 <b>behavior</b> [2] 16/6 53/25 <b>behaviors</b> [10] 8/3 9/15 10/24 10/25 11/5 12/3 12/20 12/22 17/4 17/11 <b>behind</b> [2] 16/5 46/1 <b>being</b> [10] 13/2 28/21 29/19 33/25 39/17 46/17 51/19 55/14 56/18 60/3 <b>believe</b> [15] 8/22 8/23 10/23 12/10 20/22 24/8 25/18 26/9 26/12 30/10 42/18 43/16 45/7 51/4 57/4 <b>bench</b> [1] 50/3 <b>best</b> [2] 36/1 43/9 <b>better</b> [3] 12/7 49/2 52/7 <b>between</b> [2] 33/7 40/21 <b>beyond</b> [3] 40/11 46/6 58/7 <b>big</b> [1] 37/24 <b>billion</b> [1] 43/2 <b>billions</b> [1] 38/7 <b>bit</b> [1] 32/19 <b>bite</b> [1] 38/4 <b>blanket</b> [2] 37/15 38/14 <b>Boehringer</b> [1] 4/7 <b>both</b> [6] 5/4 19/7 49/25 54/4 55/13 59/24 <b>bought</b> [1] 23/19 <b>Boulevard</b> [1] 1/15 <b>bounded</b> [1] 6/12 <b>box</b> [1] 32/23 <b>brief</b> [2] 17/24 37/24 <b>briefly</b> [1] 58/10 <b>broad</b> [3] 23/17 23/20 43/22 <b>broader</b> [1] 23/20 <b>brought</b> [3] 13/2 15/15 31/1 <b>BRUCE</b> [1] 1/8 <b>buckets</b> [1] 15/12
---	--	--

<p><b>B</b></p> <p><b>built</b> [1] 9/2</p> <p><b>burden</b> [1] 35/3</p> <p><b>burdensome</b> [2] 28/9 39/4</p> <p><b>C</b></p> <p><b>CA</b> [1] 2/12</p> <p><b>California</b> [10] 15/14 15/23 16/10 17/25 18/2 18/5 18/5 18/8 18/11 18/24</p> <p><b>call</b> [1] 42/16</p> <p><b>called</b> [2] 17/3 19/16</p> <p><b>calls</b> [2] 7/12 10/23</p> <p><b>came</b> [3] 29/12 37/2 39/23</p> <p><b>Camp</b> [1] 1/19</p> <p><b>can</b> [59] 6/15 6/15 6/25 11/15 14/18 14/25 18/16 19/6 19/18 20/18 20/20 21/14 24/8 25/24 26/13 26/15 27/5 27/6 28/24 28/24 28/25 30/2 34/5 34/23 34/25 35/12 35/16 35/22 36/2 36/11 37/19 37/21 38/15 38/20 39/2 39/5 39/15 42/9 44/6 44/16 44/25 46/14 47/18 51/9 51/9 52/3 52/4 52/4 52/9 52/12 52/14 53/4 53/7 54/16 54/18 55/24 57/16 58/17 60/3</p> <p><b>can't</b> [4] 26/5 39/3 45/15 52/8</p> <p><b>cancer</b> [27] 8/2 8/11 9/1 9/3 9/15 10/14 10/17 12/3 12/11 13/13 13/21 15/19 16/18 16/19 16/24 16/25 17/4 17/16 18/4 27/3 27/22 28/1 33/12 33/14 43/22 53/24 54/22</p> <p><b>cancer-related</b> [1] 28/1</p> <p><b>cannot</b> [1] 27/16</p> <p><b>cans</b> [1] 44/23</p> <p><b>capacity</b> [1] 4/25</p> <p><b>capture</b> [4] 20/21 23/17 24/12 55/16</p> <p><b>captured</b> [3] 11/4 12/14 28/5</p> <p><b>capturing</b> [1] 59/1</p> <p><b>car</b> [1] 16/1</p> <p><b>care</b> [1] 37/9</p> <p><b>careful</b> [2] 8/25 40/20</p> <p><b>carton</b> [1] 16/25</p> <p><b>case</b> [38] 1/3 3/2 13/6 13/14 13/15 13/24 15/20 15/23 17/23 18/1 18/12 20/13 20/14 23/9 26/13 26/17 28/19 29/4 29/11 29/25 31/18 33/20 33/20 35/20 37/16 37/24 38/2 43/3 44/4 45/11 45/13 47/15 49/11 49/16 49/24 50/16 52/7 52/11</p> <p><b>cases</b> [9] 5/2 15/17 16/10 18/24 29/8 31/23 31/25 32/4 38/4</p> <p><b>catch</b> [1] 27/10</p> <p><b>categorical</b> [1] 48/1</p> <p><b>categories</b> [2] 19/11 44/2</p> <p><b>category</b> [1] 48/9</p> <p><b>caught</b> [2] 30/23 31/6</p> <p><b>causation</b> [4] 8/4 9/16 11/14 12/1</p>	<p><b>caused</b> [2] 16/1 16/9</p> <p><b>causes</b> [1] 12/11</p> <p><b>centralized</b> [2] 6/14 56/25</p> <p><b>centrally</b> [1] 58/17</p> <p><b>Centre</b> [1] 1/22</p> <p><b>cert</b> [1] 31/19</p> <p><b>certain</b> [4] 23/15 45/6 45/19 57/20</p> <p><b>certainly</b> [5] 28/23 41/14 46/23 47/1 48/15</p> <p><b>certification</b> [16] 5/5 10/2 13/23 18/21 18/23 19/3 32/4 32/4 38/5 47/11 50/13 50/14 51/5 51/11 51/17 55/7</p> <p><b>certifications</b> [2] 6/22 50/12</p> <p><b>certified</b> [2] 19/6 32/10</p> <p><b>certify</b> [2] 13/25 60/9</p> <p><b>certifying</b> [1] 50/17</p> <p><b>cetera</b> [1] 51/7</p> <p><b>challenge</b> [2] 17/13 28/25</p> <p><b>challenged</b> [2] 26/13 27/5</p> <p><b>chance</b> [4] 4/14 25/15 42/8 45/4</p> <p><b>change</b> [5] 15/25 16/7 26/22 31/9 51/22</p> <p><b>changed</b> [2] 17/19 22/22</p> <p><b>changes</b> [1] 16/2</p> <p><b>chart</b> [3] 7/18 25/13 38/23</p> <p><b>chatting</b> [1] 39/25</p> <p><b>check</b> [2] 16/7 46/2</p> <p><b>Chicago</b> [1] 1/12</p> <p><b>child</b> [1] 8/20</p> <p><b>children</b> [1] 41/1</p> <p><b>CHRISTOPHER</b> [2] 2/10 4/4</p> <p><b>chronological</b> [1] 58/25</p> <p><b>chubby</b> [3] 18/10 56/9 56/19</p> <p><b>cigarette</b> [2] 25/20 36/25</p> <p><b>cigarette or</b> [1] 25/20</p> <p><b>cigarettes</b> [1] 28/20</p> <p><b>Cira</b> [1] 1/22</p> <p><b>circle</b> [1] 52/6</p> <p><b>circles</b> [1] 31/16</p> <p><b>circumstances</b> [2] 13/17 49/6</p> <p><b>cite</b> [1] 37/24</p> <p><b>cited</b> [4] 17/23 18/2 29/8 46/24</p> <p><b>cites</b> [1] 18/12</p> <p><b>claim</b> [3] 11/23 13/4 16/5</p> <p><b>claims</b> [8] 5/4 13/2 13/23 15/12 15/13 15/13 15/14 15/16</p> <p><b>clarifications</b> [1] 55/10</p> <p><b>clarify</b> [2] 34/5 56/1</p> <p><b>clarifying</b> [5] 20/6 35/7 53/18 55/3 59/6</p> <p><b>class</b> [39] 3/8 4/22 5/1 5/5 10/2 13/3 13/17 13/23 13/25 15/15 16/11 16/15 18/17 18/21 18/22 19/3 19/6 19/17 19/18 19/24 20/2 20/4 21/4 22/24 23/17 23/18 31/19 32/1 32/2 32/3 32/4 32/5 32/8 32/10 38/5 38/5 40/13 42/11 57/15</p> <p><b>class-wide</b> [1] 18/17</p> <p><b>classes</b> [1] 47/6</p> <p><b>clean</b> [2] 35/2 39/17</p>	<p><b>clear</b> [15] 16/24 24/21 28/19 29/4 31/10 32/25 36/19 41/4 41/11 42/25 51/19 55/12 56/12 56/20 57/24</p> <p><b>clearly</b> [2] 20/18 58/18</p> <p><b>client</b> [5] 12/10 41/6 45/20 46/1 46/18</p> <p><b>clients</b> [6] 40/7 40/19 43/10 48/4 48/13 48/15</p> <p><b>clients'</b> [1] 46/5</p> <p><b>closely</b> [2] 12/2 29/23</p> <p><b>collect</b> [2] 6/5 23/24</p> <p><b>collected</b> [1] 37/21</p> <p><b>collecting</b> [4] 28/7 43/4 57/20 57/22</p> <p><b>collection</b> [5] 6/13 6/14 39/16 58/12 59/16</p> <p><b>college</b> [2] 44/10 44/10</p> <p><b>column</b> [2] 22/24 38/24</p> <p><b>combination</b> [1] 36/7</p> <p><b>come</b> [6] 30/4 38/18 51/6 51/10 52/3 52/8</p> <p><b>comes</b> [1] 30/22</p> <p><b>coming</b> [1] 51/6</p> <p><b>comments</b> [3] 42/14 42/16 55/17</p> <p><b>common</b> [1] 49/14</p> <p><b>commonly</b> [1] 44/20</p> <p><b>communicate</b> [5] 21/17 27/4 34/16 41/2 44/21</p> <p><b>communicating</b> [2] 21/4 21/23</p> <p><b>communication</b> [2] 25/2 27/2</p> <p><b>Company</b> [1] 13/6</p> <p><b>compel</b> [1] 4/17</p> <p><b>complaining</b> [1] 30/8</p> <p><b>complaint</b> [8] 3/5 3/5 7/13 12/23 15/8 15/10 17/12 54/5</p> <p><b>complaints</b> [2] 3/6 4/24</p> <p><b>completely</b> [1] 23/23</p> <p><b>complicated</b> [1] 57/17</p> <p><b>comply</b> [2] 55/22 55/23</p> <p><b>comports</b> [1] 55/20</p> <p><b>comprehensive</b> [1] 49/4</p> <p><b>comprehensive review</b> [1] 49/4</p> <p><b>computer</b> [2] 22/10 24/6</p> <p><b>computers</b> [1] 22/2</p> <p><b>concede</b> [1] 15/3</p> <p><b>concept</b> [1] 12/8</p> <p><b>concerned</b> [2] 14/21 43/20</p> <p><b>concluded</b> [1] 60/7</p> <p><b>conclusion</b> [2] 18/25 45/9</p> <p><b>condition</b> [2] 27/21 27/24</p> <p><b>conducted</b> [2] 23/13 58/5</p> <p><b>confer</b> [3] 30/24 31/7 48/17</p> <p><b>CONFERENCE</b> [1] 1/8</p> <p><b>conferred</b> [2] 30/20 40/18</p> <p><b>conferring</b> [1] 5/18</p> <p><b>confers</b> [1] 48/7</p> <p><b>confident</b> [2] 4/11 52/2</p> <p><b>confirm</b> [2] 26/16 26/24</p> <p><b>conflict</b> [2] 36/19 36/20</p> <p><b>confusing</b> [1] 50/19</p> <p><b>CONLEE</b> [2] 1/18 3/18</p> <p><b>connection</b> [1] 41/17</p> <p><b>Connolly</b> [1] 2/1</p> <p><b>consider</b> [3] 12/22 16/15 44/1</p>
---	---	---

<b>C</b> <b>considered</b> [1] 16/13 <b>consolidated</b> [2] 3/6 4/24 <b>consumer</b> [3] 15/13 15/16 16/14 <b>consumer protection</b> [1] 15/13 <b>contain</b> [1] 37/18 <b>contemporaneous</b> [2] 36/24 37/4 <b>contend</b> [2] 9/11 10/17 <b>content</b> [2] 32/20 37/25 <b>contention</b> [1] 8/18 <b>contentions</b> [1] 55/15 <b>contentious</b> [1] 7/1 <b>contest</b> [1] 24/22 <b>contesting</b> [1] 14/17 <b>context</b> [3] 6/24 14/16 28/4 <b>continue</b> [3] 7/10 28/16 52/14 <b>continuing</b> [1] 12/19 <b>contract</b> [2] 9/1 13/13 <b>contracting</b> [1] 13/9 <b>contractor</b> [1] 9/2 <b>controllable</b> [1] 57/13 <b>conversation</b> [1] 53/16 <b>corporations</b> [1] 39/25 <b>correct</b> [10] 7/16 20/5 24/7 47/19 47/25 48/3 49/25 51/14 51/15 60/9 <b>correctly</b> [1] 49/18 <b>cost</b> [2] 35/4 35/17 <b>could</b> [14] 5/21 11/12 14/14 18/20 19/5 24/1 34/2 36/21 41/14 44/6 45/2 47/13 54/6 57/10 <b>couldn't</b> [1] 40/24 <b>counsel</b> [1] 21/10 <b>count</b> [1] 16/13 <b>couple</b> [3] 4/18 24/8 24/9 <b>course</b> [5] 7/4 21/2 32/15 39/22 45/12 <b>court</b> [17] 1/1 2/15 13/16 13/24 16/3 16/5 21/10 29/9 29/13 29/22 30/5 37/12 41/14 41/21 48/16 57/2 60/14 <b>Court's</b> [1] 51/18 <b>courts</b> [2] 32/5 36/9 <b>covered</b> [3] 25/14 27/11 58/24 <b>COVID</b> [1] 27/22 <b>credit</b> [1] 16/5 <b>critical</b> [2] 20/14 46/7 <b>cross</b> [1] 45/1 <b>cross-cutting</b> [1] 45/1 <b>cumulative</b> [1] 31/8 <b>current</b> [1] 30/10 <b>custody</b> [1] 8/20 <b>cut</b> [1] 27/8 <b>cutting</b> [1] 45/1 <b>CVS</b> [2] 23/22 25/8	<b>date</b> [4] 13/6 16/3 51/1 60/12 <b>dates</b> [1] 57/9 <b>Daubert</b> [1] 31/21 <b>daughters</b> [2] 26/16 26/25 <b>day</b> [7] 29/13 35/25 36/1 40/4 43/9 55/25 60/6 <b>days</b> [3] 57/5 57/12 58/6 <b>de</b> [1] 1/15 <b>deal</b> [4] 18/2 33/23 34/4 42/3 <b>Dechert</b> [1] 1/21 <b>decide</b> [1] 52/9 <b>decision</b> [3] 17/19 18/7 45/25 <b>decisions</b> [1] 16/16 <b>declaration</b> [4] 28/6 35/11 58/24 59/23 <b>declarations</b> [3] 58/16 59/15 59/24 <b>declined</b> [2] 13/25 33/12 <b>declining</b> [2] 33/2 37/13 <b>deep</b> [7] 14/16 15/6 28/21 29/2 29/10 29/21 52/10 <b>deeper</b> [1] 54/7 <b>Defendant</b> [2] 30/20 50/18 <b>Defendant's</b> [1] 30/17 <b>DEFENDANTS</b> [27] 1/21 3/7 3/24 4/5 6/20 6/21 14/23 16/17 19/12 23/19 23/21 30/11 30/15 39/23 40/10 40/14 41/15 41/23 48/4 48/7 48/11 50/11 50/23 51/5 57/4 57/8 57/12 <b>Defendants'</b> [2] 7/18 16/19 <b>defense</b> [8] 3/21 4/1 10/23 20/18 21/10 43/19 50/17 55/11 <b>deficient</b> [1] 50/1 <b>defined</b> [1] 48/14 <b>degree</b> [1] 33/7 <b>delete</b> [2] 19/23 26/20 <b>delve</b> [1] 25/9 <b>demonstrate</b> [1] 13/11 <b>denied</b> [1] 19/3 <b>depend</b> [1] 13/16 <b>depending</b> [1] 53/13 <b>depo</b> [1] 31/1 <b>deponent</b> [1] 36/4 <b>depose</b> [1] 30/6 <b>deposed</b> [1] 27/6 <b>deposition</b> [16] 14/15 24/22 25/25 26/14 30/2 30/4 30/18 30/22 31/11 36/1 36/6 36/20 43/6 57/6 57/9 57/10 <b>depositions</b> [12] 15/2 20/16 30/16 34/23 35/22 36/7 37/5 37/8 37/9 37/10 38/15 42/2 <b>depositories</b> [1] 48/5 <b>depth</b> [1] 53/4 <b>designed</b> [3] 19/22 26/19 26/20 <b>despite</b> [1] 16/24 <b>determine</b> [1] 42/1 <b>determined</b> [2] 34/21 39/9 <b>determining</b> [1] 24/14 <b>develop</b> [3] 20/10 29/19 53/7 <b>developed</b> [3] 14/25 20/15	20/18 <b>DEVEREAUX</b> [2] 2/7 4/7 <b>device</b> [2] 24/6 45/22 <b>did</b> [17] 4/13 7/19 12/11 18/2 19/14 20/16 25/8 26/23 30/15 32/23 39/8 48/4 49/17 49/20 50/24 51/19 59/24 <b>didn't</b> [8] 16/3 24/12 28/1 33/5 34/3 35/19 41/12 48/18 <b>Diego</b> [1] 2/12 <b>diet</b> [2] 17/10 17/16 <b>difference</b> [1] 40/21 <b>different</b> [4] 20/9 31/12 49/14 56/11 <b>differently</b> [1] 32/2 <b>difficult</b> [1] 35/3 <b>diligence</b> [2] 23/5 25/11 <b>direct</b> [2] 37/18 58/16 <b>directed</b> [2] 4/25 5/4 <b>directly</b> [9] 13/21 15/20 16/20 18/21 18/22 33/14 35/21 36/7 38/20 <b>disagree</b> [1] 37/14 <b>disagreeing</b> [2] 44/14 47/23 <b>discern</b> [1] 8/1 <b>disclose</b> [3] 16/11 16/18 40/8 <b>disclosed</b> [7] 21/20 21/24 22/14 24/21 34/10 41/13 45/3 <b>disclosure</b> [4] 17/18 18/2 18/3 18/6 <b>disclosures</b> [2] 10/1 18/1 <b>discoverable</b> [3] 38/2 49/6 54/1 <b>discovered</b> [1] 48/18 <b>discovery</b> [24] 1/8 3/4 4/24 5/1 5/3 6/24 20/19 31/18 31/18 31/24 32/2 39/22 40/5 40/12 42/2 42/12 42/18 44/23 47/6 48/10 48/19 50/14 51/9 57/4 <b>discriminatory</b> [1] 29/15 <b>discussed</b> [3] 7/16 27/6 56/5 <b>discussing</b> [1] 33/19 <b>discussion</b> [3] 4/19 19/9 38/10 <b>discussions</b> [2] 15/17 40/3 <b>disease</b> [2] 13/9 13/18 <b>disproportionate</b> [3] 29/19 31/8 39/19 <b>dispute</b> [10] 3/9 8/6 8/9 9/2 9/12 9/18 10/15 10/18 11/6 53/24 <b>dispute over</b> [1] 9/2 <b>dissidence</b> [1] 33/7 <b>district</b> [6] 1/1 1/1 3/3 13/15 15/23 44/24 <b>dive</b> [5] 14/16 15/6 29/2 29/10 29/21 <b>dives</b> [1] 28/21 <b>dividing</b> [1] 24/13 <b>diving</b> [3] 12/20 17/10 25/20 <b>DIVISION</b> [1] 1/2 <b>divorce</b> [2] 8/20 9/1 <b>DLA</b> [1] 2/11 <b>DMs</b> [1] 37/19 <b>do</b> [60] 5/6 6/8 6/11 6/23 8/14 8/20 11/21 12/8 12/13
<b>D</b> <b>D.C</b> [2] 2/2 2/6 <b>damages</b> [3] 16/9 32/7 38/7 <b>dance</b> [1] 26/16 <b>dances</b> [1] 26/8		



<b>D</b> <b>do...</b> [51] 12/14 15/5 19/14 20/16 20/21 21/23 22/13 23/13 23/24 24/22 27/14 29/10 29/22 29/23 29/24 30/10 31/22 32/2 33/1 33/11 37/10 39/3 39/4 39/5 39/15 39/18 40/2 40/22 41/13 42/12 45/8 47/3 51/4 51/9 51/23 52/7 53/8 53/19 54/11 54/13 54/13 54/13 54/14 55/1 55/22 56/13 56/19 57/11 57/12 58/2 60/2 <b>Docket</b> [2] 4/14 4/16 <b>doctors</b> [2] 14/21 14/22 <b>document</b> [3] 22/1 49/4 52/3 <b>documented</b> [1] 6/19 <b>documents</b> [6] 19/11 21/5 22/5 22/12 24/6 34/8 <b>does</b> [9] 6/16 6/18 17/9 23/8 29/2 55/16 55/20 55/21 56/1 <b>doesn't</b> [12] 24/6 28/20 35/4 39/16 41/19 44/18 45/16 46/4 46/19 49/1 49/3 55/23 <b>doing</b> [7] 26/8 31/17 31/18 47/8 51/18 57/12 58/6 <b>dollar</b> [1] 43/2 <b>dollars</b> [1] 38/7 <b>don't</b> [38] 4/15 7/19 8/17 11/11 12/21 12/21 14/24 22/6 22/12 24/20 25/18 26/9 28/15 31/2 33/16 35/8 35/18 36/19 39/9 40/3 40/19 40/22 40/25 41/2 41/7 41/8 41/10 43/15 45/22 46/16 46/22 46/23 47/19 51/12 55/25 56/7 57/2 59/7 <b>done</b> [16] 6/15 6/15 6/16 21/8 21/8 22/1 23/4 25/11 31/24 35/16 38/15 39/19 41/20 51/25 59/9 59/19 <b>double</b> [1] 46/1 <b>doubling</b> [1] 16/24 <b>down</b> [5] 20/10 40/4 41/24 50/24 53/23 <b>download</b> [4] 35/12 38/22 39/17 56/10 <b>downloadable</b> [1] 43/2 <b>downloaded</b> [6] 27/16 35/1 35/2 35/2 39/16 58/17 <b>downloading</b> [1] 49/13 <b>dozens</b> [1] 11/23 <b>drawing</b> [1] 45/18 <b>drink</b> [1] 14/21 <b>drinking</b> [4] 13/20 17/17 43/23 44/10 <b>drive</b> [3] 1/11 2/11 24/9 <b>drives</b> [1] 22/2 <b>drop</b> [2] 54/23 58/19 <b>due</b> [2] 23/4 25/11 <b>during</b> [6] 30/18 34/23 35/22 36/6 36/20 39/22	52/14 52/24 53/8 56/25 <b>early</b> [1] 16/2 <b>easier</b> [2] 7/22 50/16 <b>easily</b> [2] 35/17 43/2 <b>easy</b> [3] 50/9 50/9 50/11 <b>eating</b> [2] 12/21 13/20 <b>eats</b> [2] 14/13 15/3 <b>economic</b> [18] 3/5 4/23 8/3 9/15 9/21 9/21 9/23 10/8 13/22 14/11 15/10 15/11 15/15 15/24 16/13 17/12 17/14 54/5 <b>economic loss</b> [1] 14/11 <b>educate</b> [1] 19/19 <b>education</b> [1] 48/23 <b>effectively</b> [1] 37/20 <b>either</b> [6] 6/25 20/15 24/5 52/23 55/9 59/18 <b>elected</b> [1] 11/20 <b>element</b> [4] 13/7 13/10 13/21 17/14 <b>elements</b> [5] 13/3 13/5 15/18 15/19 18/21 <b>ELIZABETH</b> [2] 1/10 3/12 <b>else</b> [10] 3/16 3/25 12/21 13/12 41/3 42/9 46/12 47/4 47/4 51/7 <b>email</b> [13] 21/16 21/16 24/11 24/12 24/15 24/17 24/24 24/25 25/3 31/12 33/13 45/15 45/20 <b>emails</b> [4] 20/17 23/7 24/14 34/25 <b>emphasize</b> [2] 13/1 46/16 <b>employ</b> [1] 53/2 <b>employment</b> [1] 29/14 <b>encompasses</b> [1] 38/6 <b>end</b> [5] 28/19 40/4 51/2 51/4 51/13 <b>endless</b> [1] 49/7 <b>engage</b> [1] 17/11 <b>engine</b> [1] 16/8 <b>enough</b> [3] 43/20 46/4 54/12 <b>enrichment</b> [1] 15/14 <b>ensure</b> [2] 21/10 25/9 <b>entirely</b> [1] 56/11 <b>entitled</b> [12] 16/25 17/13 18/19 19/5 35/25 36/5 36/25 37/4 50/23 51/5 54/21 54/23 <b>Entries</b> [1] 4/15 <b>Entry</b> [1] 4/16 <b>ephemeral</b> [1] 37/24 <b>equivalent</b> [1] 51/7 <b>error</b> [1] 36/23 <b>ESI</b> [10] 6/14 35/23 36/11 38/1 42/20 43/4 43/24 44/3 44/24 49/14 <b>ESQ</b> [8] 1/10 1/14 1/18 1/21 2/1 2/4 2/7 2/10 <b>essentially</b> [1] 43/5 <b>Essure</b> [2] 42/20 46/24 <b>et</b> [1] 51/7 <b>even</b> [8] 19/24 26/22 29/8 29/14 33/4 35/1 39/1 47/11 <b>ever</b> [2] 4/15 43/7 <b>every</b> [8] 25/22 28/21 34/15 40/6 44/8 49/4 49/4 55/25 <b>everybody</b> [5] 3/1 50/7 52/4	60/1 60/6 <b>everything</b> [2] 51/6 59/1 <b>everywhere</b> [1] 44/16 <b>evidence</b> [31] 7/12 9/22 10/3 10/8 10/25 11/8 11/14 11/15 11/18 12/3 12/4 12/9 14/2 15/9 15/19 17/15 18/20 19/5 19/6 19/11 20/15 36/5 37/4 43/14 43/17 44/2 45/8 49/6 53/25 54/6 54/22 <b>exact</b> [3] 15/24 32/21 48/4 <b>exactly</b> [5] 11/9 14/2 21/11 25/7 33/3 <b>example</b> [39] 5/22 7/11 9/22 11/17 11/19 11/25 12/9 12/25 13/1 13/14 13/19 14/1 15/14 16/23 17/2 18/24 19/21 21/13 21/21 21/22 22/13 23/21 24/18 25/8 26/24 30/16 30/25 33/10 33/13 33/19 34/18 35/12 40/21 41/16 42/13 55/15 56/6 57/18 58/18 <b>examples</b> [2] 36/15 46/24 <b>excessive</b> [1] 43/22 <b>exclude</b> [2] 33/19 45/19 <b>excluded</b> [1] 46/18 <b>excluding</b> [3] 25/9 25/13 38/14 <b>Executive</b> [1] 2/11 <b>exhaust</b> [1] 40/6 <b>exist</b> [3] 40/8 45/16 46/19 <b>exists</b> [4] 40/11 41/19 43/14 43/15 <b>expensive</b> [1] 29/5 <b>expert</b> [4] 9/24 10/1 39/4 39/15 <b>expert's</b> [1] 38/21 <b>experts</b> [1] 31/19 <b>explained</b> [1] 37/15 <b>explanation</b> [1] 53/14 <b>explore</b> [2] 30/2 30/3 <b>explored</b> [3] 15/3 25/24 26/13 <b>expose</b> [1] 17/15 <b>exposure</b> [3] 13/8 13/17 43/20 <b>extensive</b> [1] 15/17 <b>extent</b> [5] 29/12 42/25 49/9 57/18 57/23
<b>E</b> <b>each</b> [17] 6/22 18/9 23/2 26/15 26/23 27/1 27/18 34/10 37/20 41/15 48/21 51/19 52/9		<b>F</b> <b>F.R.D</b> [1] 13/15 <b>Facebook</b> [30] 22/18 22/21 27/13 27/18 29/16 32/24 33/24 34/5 34/11 34/17 34/18 34/19 35/2 35/13 38/21 40/17 40/25 41/1 41/11 41/17 42/5 42/19 43/17 45/4 54/14 55/16 56/6 56/13 58/11 59/2 <b>fact</b> [3] 16/14 39/19 43/11 <b>factors</b> [15] 8/2 9/15 10/15 10/18 12/3 13/18 13/21 14/2 15/9 15/20 17/4 23/15 43/22 53/25 54/22 <b>facts</b> [3] 16/11 16/15 16/17 <b>factual</b> [1] 25/13 <b>failed</b> [2] 16/11 16/18 <b>fairly</b> [1] 25/25

<b>F</b> <b>familiar</b> [1] 26/6 <b>family</b> [3] 25/21 25/22 25/23 <b>far</b> [1] 46/4 <b>fat</b> [1] 56/8 <b>father</b> [2] 45/3 45/12 <b>favor</b> [1] 30/6 <b>features</b> [1] 37/18 <b>Federal</b> [1] 60/13 <b>feed</b> [7] 28/11 33/1 43/17 45/5 58/25 59/1 59/3 <b>FEGAN</b> [30] 1/10 3/12 5/6 5/22 7/11 8/14 9/4 12/7 14/3 17/21 19/14 20/8 21/1 30/1 32/12 33/22 34/3 35/11 38/20 42/10 42/14 47/19 47/25 49/17 51/14 53/9 56/3 57/23 58/18 59/17 <b>Fegan's</b> [1] 32/14 <b>FeganScott</b> [1] 1/11 <b>Ferguson</b> [1] 1/14 <b>few</b> [1] 60/5 <b>fighting</b> [1] 45/17 <b>figure</b> [3] 6/7 35/22 40/24 <b>file</b> [2] 11/23 57/5 <b>filers</b> [1] 27/1 <b>final</b> [1] 32/23 <b>find</b> [7] 10/4 11/21 35/18 43/14 47/18 49/6 54/3 <b>fine</b> [4] 4/11 10/6 20/23 20/25 <b>first</b> [17] 4/20 6/4 8/5 20/9 23/23 30/14 31/17 31/19 35/10 35/24 37/14 39/8 39/11 42/15 42/17 50/8 55/4 <b>fit</b> [1] 14/9 <b>five</b> [2] 12/10 12/10 <b>FL</b> [3] 1/5 1/16 2/16 <b>flavor</b> [1] 11/16 <b>flesh</b> [1] 25/15 <b>flip</b> [3] 9/7 36/13 55/18 <b>Floor</b> [1] 1/12 <b>FLORIDA</b> [5] 1/1 12/25 13/4 13/15 16/12 <b>focus</b> [3] 7/23 11/13 48/8 <b>focused</b> [1] 32/6 <b>focusing</b> [2] 21/15 23/4 <b>folks</b> [1] 52/7 <b>follow</b> [1] 18/15 <b>followed</b> [1] 48/3 <b>following</b> [2] 8/2 51/1 <b>followup</b> [1] 21/8 <b>foregoing</b> [1] 60/9 <b>format</b> [1] 51/24 <b>former</b> [1] 36/17 <b>Forrest's</b> [2] 28/6 59/22 <b>forth</b> [2] 27/1 37/20 <b>forward</b> [5] 14/10 32/22 56/23 57/8 60/4 <b>found</b> [2] 16/6 36/15 <b>four</b> [3] 6/1 36/15 53/20 <b>fourth</b> [4] 13/4 13/7 13/10 55/6 <b>frame</b> [4] 4/19 4/19 14/7 14/10 <b>framed</b> [1] 53/20 <b>free</b> [4] 39/5 39/13 39/14	49/13 <b>freely</b> [2] 35/12 43/1 <b>frequently</b> [2] 33/4 36/9 <b>friend</b> [1] 46/13 <b>Ft</b> [1] 2/16 <b>full</b> [2] 22/15 32/2 <b>fully</b> [2] 20/10 21/20 <b>fun</b> [1] 27/4 <b>function</b> [1] 39/25 <b>functionality</b> [1] 41/1 <b>functions</b> [1] 48/12 <b>funny</b> [1] 26/25 <b>further</b> [6] 19/9 25/16 27/9 28/17 38/13 46/12 <b>G</b> <b>GA</b> [1] 2/9 <b>gaming</b> [2] 34/20 41/18 <b>gathered</b> [1] 48/24 <b>gave</b> [3] 35/11 41/23 58/18 <b>general</b> [4] 27/6 31/7 34/16 35/19 <b>generalized</b> [1] 45/8 <b>generally</b> [5] 11/6 24/7 42/23 51/15 52/8 <b>generated</b> [2] 49/9 49/11 <b>generations</b> [1] 45/6 <b>gentlemen</b> [1] 4/10 <b>get</b> [35] 3/10 6/8 6/19 6/20 9/9 9/9 10/6 15/5 16/7 19/12 21/14 23/22 24/23 25/1 25/8 31/21 31/21 31/23 32/4 33/17 34/1 37/10 42/1 42/2 42/6 46/13 46/22 50/5 50/16 54/17 55/22 55/24 56/24 58/3 60/3 <b>get remanded</b> [1] 31/23 <b>gets</b> [4] 14/18 44/18 50/19 58/11 <b>getting</b> [1] 43/8 <b>GILBERT</b> [3] 1/14 1/15 3/14 <b>give</b> [8] 6/3 11/15 25/15 30/12 42/8 52/17 54/7 55/24 <b>given</b> [6] 35/4 39/19 50/24 54/19 59/11 59/13 <b>gmail</b> [1] 25/1 <b>go</b> [48] 5/25 7/22 13/21 14/10 16/20 17/10 18/9 18/21 18/22 20/7 20/10 23/7 24/1 25/4 25/19 27/18 28/2 28/9 29/18 31/20 32/5 32/17 32/18 33/14 35/15 39/5 39/14 39/15 41/12 43/3 43/6 43/14 44/6 44/8 44/22 46/1 46/4 46/6 46/11 48/11 50/4 51/17 56/23 57/8 57/14 58/9 59/7 59/25 <b>goes</b> [8] 14/7 19/6 30/6 30/21 35/21 36/6 37/6 59/15 <b>going</b> [60] 4/11 6/20 7/5 7/21 9/17 10/11 14/14 14/24 15/2 15/4 19/18 19/25 23/22 24/4 24/5 25/4 25/21 26/9 26/17 31/22 32/9 33/22 34/4 39/11 39/14 39/15 41/24 42/3 42/6 43/10 43/17 44/8 45/9 45/25 46/2 49/3 50/3 50/9 50/20 50/21 51/11 51/23 51/25 52/21 52/21 52/22 53/1 53/6 53/19 54/7 54/25 55/21	56/22 56/24 57/13 57/19 57/25 58/1 58/2 58/8 <b>gone</b> [7] 22/16 23/1 23/10 25/10 29/14 34/15 34/21 <b>good</b> [18] 3/1 3/12 3/14 3/16 3/18 3/20 3/22 3/25 4/2 4/6 4/8 4/10 4/13 50/25 53/6 56/16 60/6 60/6 <b>gotten</b> [1] 6/20 <b>Government</b> [1] 42/6 <b>great</b> [1] 47/9 <b>grounds</b> [3] 5/13 5/13 9/19 <b>group</b> [1] 14/10 <b>groups</b> [2] 58/3 58/14 <b>GSK</b> [2] 4/3 4/9 <b>guess</b> [3] 4/20 43/12 45/18 <b>H</b> <b>habits</b> [1] 17/17 <b>had</b> [10] 12/1 12/10 19/24 21/3 24/19 27/8 29/14 31/11 39/1 43/11 <b>hadn't</b> [2] 30/16 30/18 <b>handle</b> [2] 4/11 21/11 <b>happen</b> [1] 36/4 <b>happened</b> [1] 36/13 <b>happy</b> [6] 18/11 26/14 30/24 31/6 47/3 59/25 <b>hard</b> [3] 38/22 39/4 50/10 <b>Hardy</b> [1] 2/4 <b>has</b> [26] 5/20 11/24 13/8 17/10 22/22 26/3 31/5 31/13 34/11 37/12 40/14 42/12 42/13 42/14 42/16 42/19 45/4 46/25 49/9 49/10 51/6 53/14 54/4 56/14 59/2 60/1 <b>have</b> [204] <b>haven't</b> [5] 24/20 29/23 52/1 52/17 56/5 <b>having</b> [5] 26/15 28/10 46/24 48/20 54/17 <b>he</b> [5] 28/6 45/3 45/4 47/2 49/2 <b>health</b> [5] 14/1 27/3 27/21 27/23 37/9 <b>hear</b> [5] 44/5 47/3 47/18 47/19 47/21 <b>heard</b> [7] 36/23 52/1 59/11 59/12 59/14 59/20 59/20 <b>hearing</b> [7] 3/4 18/11 36/15 41/23 53/20 60/2 60/7 <b>held</b> [2] 8/19 20/2 <b>help</b> [2] 4/18 11/13 <b>helpful</b> [4] 12/6 12/17 46/9 50/2 <b>her</b> [5] 16/1 16/1 16/2 16/9 26/25 <b>here</b> [31] 3/4 7/18 13/5 15/25 16/10 18/4 20/7 21/15 23/4 24/25 25/2 28/16 28/19 31/18 32/18 37/1 37/7 40/15 42/21 43/19 46/18 48/8 48/14 48/20 50/18 52/6 52/16 54/11 58/11 59/9 59/16 <b>hey</b> [2] 30/11 56/8 <b>high</b> [2] 46/3 49/21 <b>higher</b> [1] 17/15 <b>highly</b> [1] 38/17
--	---	--

<b>H</b> <b>him</b> [2] 46/14 47/3 <b>his</b> [1] 41/17 <b>histories</b> [1] 14/1 <b>history</b> [4] 13/20 18/9 18/10 42/24 <b>Hold</b> [1] 35/14 <b>holding</b> [4] 25/20 28/20 50/25 51/7 <b>HON</b> [1] 2/15 <b>Honor</b> [76] <b>Honor's</b> [2] 45/12 57/2 <b>HONORABLE</b> [1] 1/8 <b>hot</b> [1] 24/19 <b>hours</b> [2] 21/4 48/21 <b>house</b> [1] 9/3 <b>how</b> [28] 6/13 6/18 7/7 9/9 10/10 10/14 10/23 12/22 15/8 15/8 15/9 23/6 24/20 26/5 26/7 28/7 33/23 34/4 36/19 39/14 40/24 44/1 45/8 53/13 53/14 55/14 55/24 58/11 <b>hub</b> [1] 49/14 <b>human</b> [2] 48/9 48/12 <b>hundred</b> [1] 31/2 <b>hurdle</b> [1] 19/13 <b>hypothetical</b> [1] 31/9 <b>hypothetically</b> [1] 30/3	<b>individual's</b> [1] 18/9 <b>individualized</b> [1] 50/12 <b>individually</b> [2] 6/15 21/5 <b>induced</b> [1] 19/2 <b>inform</b> [2] 33/23 37/4 <b>information</b> [32] 8/23 9/5 9/8 9/10 14/19 15/5 21/17 22/11 23/11 25/10 27/13 27/15 28/3 28/7 30/15 30/19 30/23 31/5 33/11 34/17 34/22 35/5 39/11 40/7 44/22 46/8 46/20 48/14 48/24 56/9 56/9 59/2 <b>Ingelheim</b> [1] 4/7 <b>injury</b> [1] 16/1 <b>inoffensive</b> [1] 52/3 <b>inquiry</b> [2] 15/4 33/23 <b>insisted</b> [1] 41/23 <b>Instagram</b> [8] 19/21 19/23 23/1 25/13 25/17 25/21 37/13 37/19 <b>instance</b> [3] 23/24 39/11 39/13 <b>intend</b> [1] 15/1 <b>intended</b> [1] 41/9 <b>intent</b> [1] 36/3 <b>intention</b> [2] 53/19 55/4 <b>intents</b> [1] 37/20 <b>interesting</b> [1] 60/2 <b>interrogatories</b> [3] 3/8 4/22 5/15 <b>interviews</b> [2] 21/8 21/9 <b>intricacies</b> [1] 52/11 <b>invested</b> [1] 48/21 <b>involved</b> [1] 56/17 <b>iPad</b> [1] 22/13 <b>irrelevant</b> [3] 18/10 37/16 47/20 <b>is</b> [326] <b>isn't</b> [6] 26/17 31/24 37/11 38/11 38/12 38/22 <b>issue</b> [23] 8/15 8/17 8/24 10/6 10/10 10/20 14/7 18/12 18/22 19/8 29/14 35/21 37/25 39/23 51/17 52/18 54/2 54/15 55/4 55/6 55/13 57/18 58/11 <b>issued</b> [1] 52/17 <b>issues</b> [20] 4/19 5/5 5/19 7/2 8/20 9/18 9/19 18/22 19/2 33/17 35/20 37/16 42/1 50/8 54/16 55/5 59/10 59/11 59/14 59/20 <b>it</b> [212] <b>it's</b> [6] 4/20 22/25 40/6 50/16 55/17 58/23 <b>items</b> [1] 8/8 <b>iterative</b> [2] 56/22 58/3 <b>its</b> [3] 22/22 50/1 50/1 <b>itself</b> [3] 16/9 19/23 50/1	<b>just</b> [67] <b>justify</b> [2] 28/21 29/2 <b>K</b> <b>Kanner</b> [1] 1/18 <b>keep</b> [2] 10/24 22/5 <b>kicks</b> [1] 44/13 <b>kind</b> [5] 12/12 22/19 22/24 45/25 46/3 <b>King</b> [1] 2/8 <b>knew</b> [1] 12/10 <b>know</b> [20] 5/17 6/20 12/21 12/21 22/6 24/20 26/5 31/2 31/11 36/19 38/13 42/4 43/15 45/2 48/18 50/6 52/7 54/19 54/25 55/25 <b>knowing</b> [1] 52/10 <b>known</b> [1] 49/4 <b>Kopelowitz</b> [1] 1/14 <b>Krouch</b> [1] 15/22 <b>L</b> <b>LA</b> [1] 1/19 <b>lack</b> [1] 35/5 <b>laid</b> [2] 49/8 54/12 <b>lapsed</b> [1] 11/24 <b>laptops</b> [2] 22/2 23/8 <b>large</b> [2] 42/11 47/6 <b>largest</b> [1] 42/20 <b>last</b> [5] 6/18 21/2 22/22 49/2 59/7 <b>latent</b> [1] 13/9 <b>later</b> [3] 7/5 11/22 59/18 <b>law</b> [14] 12/25 13/2 15/15 17/25 18/3 18/5 18/6 18/8 18/11 18/15 23/9 28/19 29/4 29/12 <b>law under</b> [1] 15/15 <b>laws</b> [1] 14/8 <b>lawsuit</b> [2] 33/18 45/2 <b>lawsuits</b> [14] 8/3 8/11 8/12 8/17 8/22 9/1 9/3 23/17 27/3 27/25 28/1 33/11 33/14 56/16 <b>lawyer</b> [2] 31/12 50/17 <b>lawyers</b> [3] 6/16 21/3 48/15 <b>leading</b> [1] 16/1 <b>leads</b> [2] 26/11 30/2 <b>learn</b> [1] 53/16 <b>learned</b> [1] 35/4 <b>learning</b> [1] 31/20 <b>least</b> [10] 5/18 7/1 8/14 11/14 14/4 28/9 36/15 46/14 59/10 59/19 <b>leave</b> [2] 52/4 52/18 <b>leg</b> [2] 39/19 41/20 <b>legal</b> [1] 5/13 <b>Leon</b> [1] 1/15 <b>less</b> [3] 38/25 49/17 49/20 <b>let</b> [32] 3/10 3/11 5/21 5/25 7/10 7/23 11/12 12/19 14/3 14/3 15/7 17/21 18/18 20/8 20/10 25/12 27/9 27/10 28/15 28/16 31/9 32/13 33/21 35/9 38/20 42/15 45/1 46/12 50/8 51/25 52/6 59/7 <b>let's</b> [10] 12/24 19/7 19/9 19/13 20/7 30/3 30/5 31/10 33/25 34/2
<b>I</b> <b>I'll</b> [1] 34/1 <b>I'm</b> [2] 32/18 57/23 <b>idea</b> [10] 11/5 18/8 23/7 25/19 25/22 28/19 29/18 37/8 40/10 56/17 <b>identified</b> [15] 21/16 21/19 21/19 22/3 22/14 22/17 23/2 23/10 23/15 24/18 24/25 27/19 28/23 30/15 30/19 <b>identify</b> [6] 8/22 21/5 21/6 23/11 25/19 39/20 <b>identifying</b> [3] 23/5 29/1 48/5 <b>IL</b> [1] 1/12 <b>illustrate</b> [1] 15/21 <b>imagine</b> [3] 16/23 36/21 51/12 <b>immediately</b> [2] 19/23 26/20 <b>importance</b> [2] 59/15 59/16 <b>important</b> [9] 7/18 12/25 14/6 14/11 15/18 16/16 27/3 37/3 50/6 <b>impose</b> [1] 53/5 <b>inaccurate</b> [1] 36/3 <b>inaudible</b> [1] 57/5 <b>inclination</b> [1] 54/7 <b>inclined</b> [1] 54/3 <b>include</b> [2] 16/18 32/24 <b>incomplete</b> [1] 36/3 <b>inconsistencies</b> [1] 36/12 <b>incorrectly</b> [1] 36/23 <b>increase</b> [1] 13/18 <b>increased</b> [2] 13/9 13/12 <b>indicating</b> [1] 11/19 <b>individual</b> [9] 5/2 5/4 13/22 19/2 26/10 31/25 32/11 35/15 38/4	<b>J</b> <b>jewelry</b> [2] 34/19 41/16 <b>job</b> [3] 44/13 47/9 48/15 <b>joke</b> [1] 53/5 <b>JUDGE</b> [4] 1/9 31/22 47/9 47/10 <b>Judge's</b> [1] 54/19 <b>junk</b> [1] 45/22	

<b>L</b> <b>letter</b> [3] 19/16 20/23 25/15 <b>level</b> [3] 42/11 46/3 49/21 <b>levels</b> [2] 16/7 17/19 <b>liability</b> [3] 1/5 3/3 32/7 <b>lie</b> [1] 25/10 <b>light</b> [1] 16/8 <b>like</b> [21] 6/2 7/3 12/5 12/20 17/24 20/20 24/16 25/16 27/3 30/14 36/9 38/2 39/22 41/22 43/22 45/11 51/19 56/5 56/22 58/18 59/4 <b>likes</b> [1] 17/10 <b>limit</b> [1] 28/1 <b>Limitations</b> [9] 8/4 9/16 11/7 11/15 11/18 11/22 11/24 11/25 12/8 <b>limited</b> [2] 5/19 29/13 <b>limiting</b> [1] 5/20 <b>line</b> [3] 24/13 45/18 47/23 <b>linear</b> [9] 8/21 27/14 27/14 28/4 33/1 55/15 56/13 58/5 58/23 <b>liner</b> [1] 58/24 <b>listed</b> [1] 8/11 <b>listen</b> [1] 32/18 <b>listening</b> [1] 38/24 <b>litigation</b> [11] 1/5 3/3 11/19 20/3 42/19 42/20 44/24 47/10 47/16 47/17 59/4 <b>litigations</b> [1] 46/25 <b>little</b> [5] 11/16 12/7 35/17 50/16 50/19 <b>live</b> [2] 52/14 52/19 <b>LLC</b> [1] 1/18 <b>LLP</b> [3] 1/21 2/4 2/8 <b>locations</b> [5] 22/3 22/8 22/12 22/15 23/14 <b>lodged</b> [1] 5/17 <b>long</b> [3] 24/19 28/7 55/2 <b>look</b> [28] 6/7 6/8 7/7 7/8 10/10 10/11 16/3 27/19 28/10 28/16 28/24 29/22 38/23 40/1 44/8 44/15 46/12 47/18 48/7 54/13 54/14 54/17 54/18 56/8 56/9 56/19 59/22 60/4 <b>looked</b> [3] 16/5 30/9 45/10 <b>looking</b> [5] 5/22 38/24 43/11 49/10 59/3 <b>loss</b> [17] 3/5 4/23 9/15 9/21 9/21 9/23 10/8 13/22 14/11 15/10 15/11 15/15 15/24 16/13 17/12 17/14 54/5 <b>losses</b> [1] 8/4 <b>lost</b> [1] 46/22 <b>lot</b> [9] 14/8 23/22 30/7 32/15 39/13 44/17 50/4 57/17 57/25 <b>lots</b> [1] 12/21	35/3 35/4 44/25 45/8 48/16 49/3 50/9 51/2 55/12 56/7 <b>makes</b> [2] 48/23 56/8 <b>making</b> [5] 41/4 41/21 45/24 47/21 47/25 <b>manage</b> [1] 51/11 <b>manageable</b> [1] 57/14 <b>mankind</b> [1] 49/5 <b>many</b> [7] 13/2 18/15 24/17 33/12 36/2 45/13 45/13 <b>margins</b> [1] 38/12 <b>marketing</b> [1] 48/8 <b>Marketplace</b> [1] 34/19 <b>Mart</b> [2] 15/22 16/1 <b>master</b> [1] 52/3 <b>material</b> [7] 16/13 16/14 16/22 17/7 18/6 19/1 46/25 <b>materiality</b> [3] 15/18 17/14 18/16 <b>materials</b> [3] 4/14 19/11 50/5 <b>matter</b> [8] 17/9 17/11 19/2 27/7 31/7 34/16 35/19 60/10 <b>may</b> [17] 5/19 6/25 8/7 9/8 13/18 21/16 21/16 22/5 22/20 24/11 27/23 40/7 44/7 52/11 57/7 58/21 59/9 <b>maybe</b> [9] 7/21 8/5 11/9 11/15 44/10 53/20 54/18 54/23 55/18 <b>md</b> [1] 1/3 <b>MDL</b> [7] 6/24 31/19 37/12 38/5 40/14 42/11 42/17 <b>MDLs</b> [2] 36/9 47/6 <b>me</b> [51] 3/10 3/11 4/12 4/19 5/18 5/21 5/25 6/1 6/9 7/1 7/10 7/11 7/23 7/25 11/12 12/17 12/19 14/3 15/8 19/19 20/6 20/8 20/10 20/24 25/12 27/9 28/15 30/7 31/9 32/13 32/23 33/21 36/23 38/20 41/2 42/15 45/1 47/19 49/8 50/8 50/9 52/6 52/8 52/10 52/20 53/23 55/24 56/18 57/18 59/7 59/13 <b>mean</b> [2] 41/10 41/19 <b>means</b> [2] 9/17 42/21 <b>meant</b> [1] 5/1 <b>media</b> [23] 14/16 15/6 20/17 22/17 22/25 23/3 23/14 29/7 29/10 29/19 30/8 36/25 37/3 37/10 42/12 42/18 44/2 44/21 45/7 47/10 47/20 48/1 58/25 <b>medical</b> [23] 3/5 4/23 10/19 11/4 12/23 12/24 13/1 13/4 13/22 14/4 14/9 14/25 20/15 27/21 27/24 28/24 36/8 36/10 36/12 36/14 36/15 38/16 54/5 <b>meet</b> [4] 30/24 31/6 48/7 48/17 <b>meeting</b> [1] 60/4 <b>meetings</b> [1] 40/2 <b>members</b> [4] 16/11 16/15 20/4 57/15 <b>members'</b> [1] 13/17 <b>mentioned</b> [4] 20/13 47/2 56/4 56/6 <b>mentioning</b> [1] 38/9	<b>Merck's</b> [1] 18/25 <b>merits</b> [3] 5/2 5/4 32/2 <b>messaged</b> [2] 43/11 58/14 <b>messages</b> [6] 20/17 21/14 22/20 30/17 33/4 34/24 <b>messaging</b> [5] 22/19 33/2 37/18 42/24 43/7 <b>messenger</b> [32] 32/24 32/24 33/24 33/24 34/5 34/5 34/11 34/12 34/14 34/18 34/25 35/13 35/20 38/21 38/22 38/25 39/1 40/18 40/18 40/23 41/1 41/7 41/8 41/12 41/17 42/5 42/19 43/17 45/4 45/14 54/14 54/14 <b>met</b> [1] 30/19 <b>Metabolife</b> [2] 13/14 13/24 <b>method</b> [2] 52/16 59/16 <b>methodology</b> [1] 53/15 <b>Miami</b> [1] 1/16 <b>micro</b> [1] 51/11 <b>might</b> [12] 14/23 22/13 25/10 28/7 33/19 35/23 36/21 42/16 44/16 44/17 47/2 59/18 <b>mights</b> [1] 44/17 <b>Milazzo</b> [1] 47/9 <b>millions</b> [1] 38/6 <b>misrepresentations</b> [1] 19/1 <b>modified</b> [1] 52/25 <b>monitored</b> [1] 14/22 <b>monitoring</b> [12] 3/5 4/23 12/23 12/25 13/2 13/4 13/22 14/5 14/10 14/24 36/14 54/5 <b>months</b> [2] 21/3 41/25 <b>more</b> [15] 5/19 10/4 11/13 20/8 24/25 33/4 39/18 49/17 49/20 49/24 50/19 53/17 54/13 54/24 57/17 <b>morning</b> [19] 3/1 3/4 3/12 3/14 3/16 3/18 3/20 3/22 3/25 4/2 4/6 4/8 4/10 4/19 6/2 29/12 59/10 59/12 59/19 <b>most</b> [2] 28/8 42/4 <b>mostly</b> [1] 25/21 <b>mother</b> [1] 31/23 <b>motion</b> [3] 4/17 10/2 32/3 <b>move</b> [2] 19/7 24/1 <b>moved</b> [1] 27/9 <b>moving</b> [1] 35/8 <b>Mr</b> [11] 28/6 42/16 46/13 46/23 47/2 47/4 49/2 58/16 58/22 59/5 59/22 <b>Ms</b> [22] 3/20 4/11 8/14 9/17 17/21 18/18 30/1 31/17 32/12 32/12 32/13 33/21 35/11 35/15 46/10 47/19 51/14 55/2 55/10 56/1 57/23 58/9 <b>Ms.</b> [39] 4/24 5/6 5/22 7/11 8/5 8/25 9/4 11/12 12/7 12/18 14/3 15/7 19/14 20/8 20/13 21/1 32/17 33/22 34/3 35/8 38/20 38/24 39/10 40/17 42/8 42/10 42/14 47/8 47/25 49/12 49/17 49/20 53/9 53/11 54/4 56/3 58/18 59/7 59/17 <b>Ms. Fegan</b> [20] 5/6 5/22 7/11 9/4 12/7 14/3 19/14 20/8 21/1 33/22 34/3 38/20 42/10
<b>M</b> <b>made</b> [4] 42/14 42/16 49/2 56/14 <b>magistrate</b> [2] 1/9 29/17 <b>mail</b> [1] 24/19 <b>main</b> [3] 22/9 24/24 25/1 <b>make</b> [14] 3/11 5/9 22/6 23/8		

<b>M</b> <b>Ms. Fegan...</b> [7] 42/14 47/25 49/17 53/9 56/3 58/18 59/17 <b>Ms. Showalter</b> [18] 4/24 8/5 8/25 11/12 12/18 15/7 20/13 35/8 38/24 39/10 40/17 42/8 47/8 49/12 49/20 53/11 54/4 59/7 <b>Ms. Stipes</b> [1] 32/17 <b>much</b> [9] 17/15 17/18 19/7 26/17 38/10 40/22 40/25 44/1 46/10 <b>multi</b> [2] 3/3 44/24 <b>multiple</b> [2] 5/13 58/2 <b>must</b> [1] 40/11 <b>muted</b> [1] 35/14 <b>my</b> [31] 3/7 4/20 7/10 15/14 15/21 20/20 28/16 30/8 31/9 31/12 31/17 31/19 34/1 38/24 39/8 41/1 41/2 42/17 44/13 45/1 45/3 45/21 51/3 52/6 52/17 52/18 53/6 53/18 54/7 55/4 56/6	43/23 47/4 51/7 52/10 <b>notwithstanding</b> [1] 26/22 <b>novel</b> [1] 42/21 <b>November</b> [2] 1/5 60/12 <b>now</b> [19] 7/5 7/21 12/7 12/18 16/3 16/10 16/12 21/1 33/9 35/8 40/10 41/5 49/3 54/8 54/17 54/19 54/25 57/3 58/6 <b>Number</b> [1] 3/2 <b>NW</b> [2] 2/2 2/5	24/15 25/6 25/7 41/16 41/17 43/1 45/20 46/15 <b>OOT</b> [9] 2/4 4/2 42/16 46/13 46/23 47/2 47/4 49/2 58/22 <b>open</b> [1] 52/18 <b>operation</b> [1] 50/1 <b>opportunity</b> [2] 59/11 59/14 <b>opposed</b> [1] 13/11 <b>option</b> [1] 52/17 <b>or messaging</b> [1] 43/7 <b>order</b> [14] 6/2 7/3 7/25 9/12 30/10 47/11 47/15 50/5 51/18 51/23 52/13 53/19 55/4 60/3 <b>ordered</b> [3] 42/12 42/18 47/7 <b>orders</b> [1] 58/4 <b>original</b> [1] 32/5 <b>originally</b> [1] 30/16 <b>Orleans</b> [1] 1/19 <b>Ostrow</b> [1] 1/14 <b>other</b> [38] 8/3 8/7 8/11 8/12 8/17 8/22 9/1 9/14 13/18 13/21 14/1 15/8 17/3 18/4 27/1 28/14 31/22 33/17 37/20 40/5 40/13 42/11 42/14 42/16 45/21 46/15 47/5 50/8 51/10 51/25 52/11 52/13 52/15 52/22 52/25 55/9 55/16 58/15 <b>Others</b> [1] 34/19 <b>otherwise</b> [3] 17/10 29/20 42/14
<b>N</b> <b>name</b> [1] 22/22 <b>named</b> [3] 3/8 4/22 6/22 <b>narrow</b> [2] 33/18 42/1 <b>narrowed</b> [1] 53/23 <b>narrowly</b> [1] 38/9 <b>nationwide</b> [3] 13/3 14/8 38/5 <b>NDMA</b> [3] 15/4 17/18 23/12 <b>nearly</b> [1] 21/3 <b>necessarily</b> [5] 12/16 13/16 44/14 57/3 59/1 <b>necessary</b> [1] 52/2 <b>need</b> [25] 6/1 7/2 8/15 10/7 10/9 14/24 17/20 22/21 31/2 43/14 44/6 44/8 46/14 47/12 48/8 49/24 50/22 50/23 54/11 54/13 54/13 54/14 54/15 56/17 57/3 <b>needed</b> [1] 37/11 <b>needs</b> [7] 29/24 29/25 47/2 49/11 49/15 49/24 54/9 <b>never</b> [8] 12/11 30/8 31/12 31/13 36/18 36/22 40/23 45/20 <b>New</b> [1] 1/19 <b>next</b> [4] 6/13 10/6 19/8 58/1 <b>no</b> [22] 1/3 5/3 9/20 23/9 28/16 35/17 39/4 41/6 41/9 42/21 43/3 45/4 45/12 45/14 45/15 45/15 50/13 51/17 51/22 53/10 53/12 53/14 <b>nonetheless</b> [2] 14/13 23/1 <b>normal</b> [2] 30/21 48/19 <b>North</b> [1] 47/10 <b>Northern</b> [1] 15/23 <b>not</b> [117] <b>not the</b> [1] 27/14 <b>note</b> [9] 7/18 7/18 7/19 14/11 29/11 33/6 34/24 39/22 41/22 <b>notes</b> [2] 28/16 46/12 <b>nothing</b> [6] 26/11 35/19	<b>O</b> <b>obese</b> [2] 17/9 17/12 <b>obesity</b> [2] 13/20 43/23 <b>object</b> [1] 56/17 <b>objected</b> [1] 5/12 <b>objecting</b> [9] 7/24 9/7 9/8 9/10 9/18 9/20 45/24 51/12 51/16 <b>objection</b> [9] 7/14 11/1 11/1 11/3 11/8 12/9 12/19 20/8 46/3 <b>objections</b> [6] 5/17 7/5 7/7 7/19 59/9 59/18 <b>obligations</b> [1] 6/11 <b>observation</b> [2] 53/13 55/3 <b>observations</b> [1] 13/25 <b>observed</b> [1] 13/16 <b>obtain</b> [1] 16/2 <b>occur</b> [1] 6/14 <b>Oculus</b> [2] 34/20 41/18 <b>odd</b> [2] 43/1 43/1 <b>off</b> [2] 27/8 32/19 <b>offered</b> [3] 27/18 29/23 56/13 <b>offering</b> [1] 48/5 <b>Official</b> [2] 2/15 60/13 <b>oh</b> [2] 30/6 31/11 <b>oil</b> [3] 15/25 16/2 16/7 <b>okay</b> [21] 9/14 10/5 10/22 11/7 12/16 17/3 24/2 24/11 26/18 28/12 30/5 31/16 38/18 40/16 47/15 50/2 51/23 54/15 54/19 55/17 59/6 <b>old</b> [2] 44/9 45/3 <b>omission</b> [1] 18/3 <b>omissions</b> [3] 16/21 16/21 17/2 <b>omitting</b> [1] 34/8 <b>once</b> [3] 6/7 53/16 58/3 <b>one</b> [55] 6/14 10/22 11/23 11/25 12/16 12/18 13/4 17/2 17/5 19/14 22/10 24/2 24/25 25/2 25/5 26/24 28/20 29/1 29/13 30/17 31/16 31/20 35/14 36/9 36/21 38/3 38/19 41/16 41/22 42/9 42/19 44/3 44/5 44/17 46/14 50/3 50/8 50/9 50/11 50/15 50/17 52/11 52/12 52/13 52/21 52/22 52/25 53/8 54/3 57/1 57/7 58/1 58/12 58/21 59/7 <b>one page</b> [1] 44/3 <b>one-sided</b> [1] 58/12 <b>ones</b> [1] 9/14 <b>ongoing</b> [2] 10/25 11/3 <b>only</b> [16] 8/19 10/16 10/21 13/1 21/22 22/11 24/5 24/9	8/17 8/22 9/1 9/14 13/18 13/21 14/1 15/8 17/3 18/4 27/1 28/14 31/22 33/17 37/20 40/5 40/13 42/11 42/14 42/16 45/21 46/15 47/5 50/8 51/10 51/25 52/11 52/13 52/15 52/22 52/25 55/9 55/16 58/15 <b>Others</b> [1] 34/19 <b>otherwise</b> [3] 17/10 29/20 42/14 <b>our</b> [29] 7/4 7/19 9/23 10/2 16/10 16/20 17/1 19/24 21/4 21/20 22/7 23/4 33/12 34/8 35/5 35/11 35/16 36/8 37/4 37/24 38/3 40/1 48/11 48/15 48/15 51/20 55/15 58/16 59/15 <b>ours</b> [1] 33/8 <b>out</b> [19] 6/7 10/3 11/21 25/15 29/12 30/22 35/12 35/22 40/24 44/7 49/8 50/5 51/25 54/12 54/23 56/22 57/11 58/19 60/3 <b>out-of-pocket</b> [1] 10/3 <b>outcome</b> [1] 49/10 <b>outfit</b> [2] 56/8 56/19 <b>over</b> [4] 9/2 19/12 19/18 21/2 <b>overwhelming</b> [1] 25/25 <b>own</b> [2] 22/22 53/7
		<b>P</b> <b>PA</b> [1] 1/23 <b>page</b> [1] 44/3 <b>pages</b> [2] 10/19 59/22 <b>painfully</b> [1] 35/25 <b>PALM</b> [3] 1/2 1/5 2/16 <b>papers</b> [3] 12/2 32/25 34/4 <b>paradigm</b> [1] 10/24 <b>paragraph</b> [1] 16/12 <b>parents</b> [1] 45/1 <b>part</b> [7] 7/17 10/1 36/3 37/21 40/5 41/20 57/3 <b>particular</b> [10] 20/1 20/2 22/5 22/12 23/20 29/1 30/17 39/23 42/10 47/5 <b>particularly</b> [1] 48/20 <b>parties</b> [8] 3/10 5/18 6/16

<p><b>P</b></p> <p><b>parties...</b> [5] 52/2 52/8 53/3 55/3 57/16</p> <p><b>party</b> [3] 44/11 50/15 50/16</p> <p><b>past</b> [2] 31/21 31/21</p> <p><b>path</b> [3] 40/4 41/24 48/4</p> <p><b>patient</b> [1] 32/13</p> <p><b>PATRICK</b> [2] 2/4 4/2</p> <p><b>Pauline</b> [2] 2/15 60/13</p> <p><b>pause</b> [1] 33/21</p> <p><b>payments</b> [1] 10/3</p> <p><b>Peachtree</b> [1] 2/8</p> <p><b>people</b> [28] 17/15 19/24 21/8 23/16 24/23 24/24 25/20 25/20 25/20 26/3 26/8 26/23 33/4 34/17 36/21 37/8 38/6 38/25 40/1 43/1 43/19 43/21 43/23 45/6 45/9 50/19 57/11 58/13</p> <p><b>people holding</b> [1] 25/20</p> <p><b>people's</b> [3] 38/4 55/16 58/15</p> <p><b>Perez</b> [2] 13/14 13/24</p> <p><b>perhaps</b> [2] 20/12 33/4</p> <p><b>period</b> [1] 11/21</p> <p><b>person</b> [16] 17/9 17/10 21/22 24/6 24/18 27/6 29/16 30/6 30/6 34/10 36/24 36/25 41/15 41/16 51/19 60/5</p> <p><b>person's</b> [1] 27/18</p> <p><b>personal</b> [1] 36/11</p> <p><b>personally</b> [1] 26/6</p> <p><b>Petito</b> [1] 13/5</p> <p><b>Pfizer</b> [1] 3/23</p> <p><b>Philadelphia</b> [1] 1/23</p> <p><b>phone</b> [1] 46/13</p> <p><b>photo</b> [1] 37/1</p> <p><b>photos</b> [1] 37/15</p> <p><b>phrased</b> [1] 55/18</p> <p><b>physicians</b> [2] 15/2 28/25</p> <p><b>pick</b> [7] 52/11 52/12 52/13 52/21 52/22 52/25 53/8</p> <p><b>picture</b> [4] 29/1 36/24 37/2 44/7</p> <p><b>pictures</b> [15] 19/23 24/9 25/18 25/18 26/25 27/4 29/6 30/7 31/1 31/2 31/7 38/16 44/9 56/14 56/15</p> <p><b>pictures to</b> [1] 24/9</p> <p><b>piece</b> [1] 12/4</p> <p><b>pieces</b> [2] 30/13 39/7</p> <p><b>Pierce</b> [1] 2/16</p> <p><b>piled</b> [1] 44/17</p> <p><b>Piper</b> [1] 2/11</p> <p><b>place</b> [1] 34/22</p> <p><b>placed</b> [1] 16/1</p> <p><b>Plaintiff</b> [12] 11/18 13/8 13/10 15/23 16/15 20/2 22/5 23/17 28/21 29/2 34/15 36/16</p> <p><b>Plaintiff's</b> [3] 16/4 16/6 36/1</p> <p><b>PLAINTIFFS</b> [57] 1/10 3/11 3/13 3/15 3/17 3/19 4/25 5/2 5/12 6/5 6/22 9/18 14/7 14/9 14/12 15/12 15/15 15/25 16/20 20/16 21/14 22/17 23/2 26/11 26/15 28/20 28/23 29/1</p>	<p>29/2 32/21 33/7 33/10 35/5 35/18 36/6 37/19 39/20 42/23 43/6 43/9 44/22 45/2 45/14 45/16 45/24 47/12 47/20 48/21 50/18 50/24 51/6 51/12 54/11 54/12 54/24 56/25 57/19</p> <p><b>Plaintiffs'</b> [7] 13/22 16/12 27/12 36/11 36/14 37/12 54/11</p> <p><b>plan</b> [1] 57/10</p> <p><b>platform</b> [1] 6/15</p> <p><b>platforms</b> [1] 44/2</p> <p><b>pleading</b> [2] 8/1 11/14</p> <p><b>pleadings</b> [2] 7/16 7/24</p> <p><b>please</b> [1] 3/11</p> <p><b>pliable</b> [1] 54/24</p> <p><b>plus</b> [1] 57/14</p> <p><b>pocket</b> [1] 10/3</p> <p><b>point</b> [15] 9/16 15/21 21/4 31/24 32/6 32/9 38/10 39/21 44/12 44/18 45/17 46/17 46/22 51/4 51/4</p> <p><b>pointing</b> [1] 10/24</p> <p><b>Ponce</b> [1] 1/15</p> <p><b>pop</b> [1] 34/25</p> <p><b>portion</b> [1] 23/12</p> <p><b>position</b> [22] 19/17 19/18 19/21 19/24 20/2 20/3 22/24 29/24 34/6 34/9 35/16 36/22 37/15 38/21 39/3 39/8 43/5 48/25 49/8 49/17 49/21 53/4</p> <p><b>post</b> [7] 26/3 28/20 32/4 44/22 56/7 56/7 56/18</p> <p><b>posted</b> [5] 26/12 29/7 58/13 58/13 58/15</p> <p><b>posting</b> [4] 27/21 27/22 29/15 43/7</p> <p><b>posts</b> [6] 27/20 28/10 55/16 56/13 56/15 58/19</p> <p><b>potential</b> [2] 22/3 40/7</p> <p><b>potentially</b> [3] 11/21 23/22 25/23</p> <p><b>precise</b> [1] 37/25</p> <p><b>predominated</b> [1] 19/3</p> <p><b>preferred</b> [1] 52/16</p> <p><b>prejudicial</b> [1] 38/17</p> <p><b>preliminary</b> [1] 4/18</p> <p><b>preparation</b> [1] 21/9</p> <p><b>prepared</b> [1] 7/12</p> <p><b>presage</b> [1] 54/3</p> <p><b>presentation</b> [3] 27/9 32/14 34/8</p> <p><b>presented</b> [2] 32/3 32/8</p> <p><b>presents</b> [1] 59/2</p> <p><b>preset</b> [1] 26/8</p> <p><b>presumed</b> [1] 18/16</p> <p><b>presumes</b> [2] 18/5 18/6</p> <p><b>presumption</b> [2] 18/20 19/4</p> <p><b>pretrial</b> [2] 47/11 47/15</p> <p><b>pretty</b> [1] 35/2</p> <p><b>primarily</b> [1] 5/13</p> <p><b>privately</b> [1] 58/14</p> <p><b>probably</b> [1] 40/22</p> <p><b>problem</b> [1] 35/24</p> <p><b>problematic</b> [1] 42/25</p> <p><b>problems</b> [1] 8/7</p> <p><b>proceedings</b> [1] 60/10</p>	<p><b>process</b> [28] 8/7 9/9 10/16 30/23 46/4 48/6 48/19 48/23 49/8 49/9 49/12 49/22 50/1 51/2 51/3 51/11 51/13 52/12 53/2 53/5 53/6 54/12 55/10 55/19 56/11 56/21 57/20 58/2</p> <p><b>process after</b> [1] 51/3</p> <p><b>processing</b> [1] 57/21</p> <p><b>produce</b> [16] 7/20 7/25 8/17 9/4 9/12 9/22 10/9 10/11 10/12 25/22 27/24 28/3 33/11 56/18 57/19 57/22</p> <p><b>produced</b> [8] 8/23 10/4 10/19 11/5 30/20 42/20 46/25 57/25</p> <p><b>producible</b> [1] 44/3</p> <p><b>producing</b> [4] 7/24 26/16 57/21 57/21</p> <p><b>product</b> [2] 3/3 16/19</p> <p><b>production</b> [10] 3/8 4/21 5/14 5/23 7/12 26/1 28/11 29/13 36/10 36/10</p> <p><b>productions</b> [4] 5/20 37/10 44/20 57/5</p> <p><b>productive</b> [1] 38/12</p> <p><b>PRODUCTS</b> [1] 1/5</p> <p><b>profile</b> [1] 56/6</p> <p><b>profiles</b> [1] 27/14</p> <p><b>proper</b> [1] 38/1</p> <p><b>proportional</b> [6] 20/22 29/5 29/25 49/11 49/15 49/24</p> <p><b>proportionality</b> [14] 5/14 6/9 6/12 10/16 10/20 10/21 11/1 12/15 14/18 19/13 20/7 28/17 44/13 47/22</p> <p><b>proposal</b> [3] 52/1 53/8 55/24</p> <p><b>propose</b> [4] 20/21 51/16 52/24 52/24</p> <p><b>proposed</b> [8] 16/19 22/8 27/13 33/17 38/8 52/9 52/20 55/19</p> <p><b>proposing</b> [7] 21/21 21/25 24/13 33/1 33/13 49/23 53/15</p> <p><b>protection</b> [2] 15/13 15/16</p> <p><b>protocol</b> [1] 57/4</p> <p><b>provide</b> [2] 18/11 47/13</p> <p><b>provided</b> [4] 6/19 21/10 37/12 38/11</p> <p><b>providers</b> [1] 37/9</p> <p><b>providing</b> [1] 51/12</p> <p><b>proximate</b> [1] 13/7</p> <p><b>PTO</b> [1] 57/4</p> <p><b>pull</b> [3] 24/8 27/24 28/2</p> <p><b>purchase</b> [2] 9/22 16/16</p> <p><b>purchasing</b> [3] 17/19 18/7 18/9</p> <p><b>purely</b> [1] 37/24</p> <p><b>purported</b> [1] 17/1</p> <p><b>purpose</b> [2] 26/20 40/20</p> <p><b>purposes</b> [4] 36/8 36/13 37/21 41/8</p> <p><b>push</b> [3] 25/12 53/3 57/9</p> <p><b>put</b> [4] 20/24 24/10 33/25 57/2</p> <p><b>putative</b> [1] 38/5</p> <p><b>putting</b> [1] 7/8</p> <p><b>Q</b></p> <p><b>question</b> [22] 4/20 6/4 6/6</p>
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<b>Q</b> <b>question...</b> [19] 6/8 6/9 6/10 6/13 7/10 8/8 14/14 19/15 20/7 30/14 36/5 37/6 43/12 43/18 47/5 52/19 54/9 54/17 56/1 <b>questioning</b> [1] 42/23 <b>questionnaires</b> [1] 21/7 <b>questions</b> [13] 4/18 6/1 6/17 7/5 14/17 28/14 31/17 46/11 53/9 53/12 53/20 55/9 55/10 <b>quick</b> [4] 24/2 38/23 38/24 40/16 <b>quickly</b> [2] 50/6 60/3 <b>quite</b> [1] 11/9 <b>quote</b> [3] 13/7 13/16 49/2 <b>quoting</b> [2] 13/5 16/12	23/18 27/20 27/23 28/1 29/14 29/16 29/17 33/14 42/12 43/8 44/20 55/10 58/23 <b>relating</b> [4] 3/4 4/22 7/13 29/15 <b>relevance</b> [20] 5/14 6/6 7/14 8/6 8/8 9/8 9/10 9/19 10/15 11/1 11/3 11/8 12/8 12/16 12/19 14/4 17/8 19/10 38/16 58/19 <b>relevance grounds</b> [1] 9/19 <b>relevant</b> [47] 7/6 9/11 10/9 10/12 10/18 11/6 11/22 12/12 12/22 13/23 14/15 15/4 15/10 15/20 19/12 19/22 21/5 21/6 21/17 25/19 26/12 27/7 29/7 30/19 31/5 34/9 34/17 34/22 35/5 35/20 35/23 39/11 39/20 41/20 42/1 42/24 43/17 43/21 43/24 46/20 47/10 47/13 48/5 48/13 53/22 54/4 54/6 <b>reliance</b> [5] 15/18 17/1 17/14 18/5 19/2 <b>relied</b> [3] 16/4 16/20 17/6 <b>rely</b> [1] 46/5 <b>relying</b> [1] 16/8 <b>remaining</b> [1] 8/6 <b>remanded</b> [2] 31/23 32/5 <b>remarks</b> [2] 34/3 35/10 <b>remember</b> [1] 36/4 <b>remembered</b> [1] 31/11 <b>Reporter</b> [3] 2/15 60/13 60/14 <b>reports</b> [2] 32/6 32/8 <b>repositories</b> [4] 21/11 21/15 22/2 24/3 <b>repository</b> [5] 31/5 40/6 40/11 41/20 48/8 <b>represent</b> [2] 3/23 32/10 <b>representation</b> [4] 41/5 46/1 46/5 51/13 <b>representations</b> [3] 41/21 48/16 48/17 <b>representative</b> [2] 5/1 23/18 <b>representatives</b> [2] 3/9 4/23 <b>representing</b> [1] 43/10 <b>reps</b> [1] 21/4 <b>request</b> [6] 5/7 5/10 5/11 5/14 5/22 7/11 <b>requests</b> [3] 3/8 4/21 5/19 <b>require</b> [7] 14/22 15/6 36/9 45/13 49/1 49/3 51/8 <b>required</b> [7] 6/5 6/11 40/14 47/11 55/14 55/14 57/5 <b>requires</b> [5] 6/23 13/10 40/12 49/5 56/11 <b>resolve</b> [9] 8/15 9/12 10/7 10/10 10/18 54/1 54/9 54/15 54/16 <b>resolved</b> [2] 8/24 36/20 <b>resources</b> [2] 48/9 48/12 <b>respect</b> [15] 9/21 9/23 10/2 10/2 14/20 14/20 21/15 22/16 22/25 26/2 27/12 30/25 34/18 41/11 42/22 <b>respond</b> [13] 14/4 17/22 18/18 32/13 33/22 35/9 35/10 38/20 39/2 42/8 42/9 46/11	58/10 <b>responded</b> [1] 38/11 <b>responding</b> [2] 5/10 11/20 <b>response</b> [4] 4/17 6/25 50/14 51/9 <b>responses</b> [3] 3/9 6/18 51/18 <b>result</b> [1] 13/8 <b>retained</b> [1] 38/1 <b>review</b> [18] 4/14 8/21 8/21 23/24 27/14 27/14 28/4 29/6 33/1 49/4 50/4 55/16 56/13 58/5 58/19 58/23 58/24 58/25 <b>revisit</b> [1] 26/14 <b>RFPs</b> [1] 51/19 <b>riding</b> [1] 10/21 <b>right</b> [14] 7/21 12/15 15/7 21/2 25/12 41/5 43/15 46/9 46/18 53/21 54/8 56/3 58/11 60/1 <b>risk</b> [22] 8/2 9/15 10/14 10/18 12/3 13/9 13/12 13/18 13/21 14/1 15/9 15/20 16/19 16/24 17/4 17/16 17/18 18/4 23/15 43/22 53/25 54/22 <b>risks</b> [1] 17/5 <b>risky</b> [11] 8/3 9/15 10/23 10/25 11/5 12/3 12/20 12/22 17/4 17/11 53/25 <b>road</b> [1] 20/10 <b>ROBERT</b> [2] 1/14 3/14 <b>ROBIN</b> [1] 2/15 <b>Robins</b> [1] 13/5 <b>roll</b> [1] 57/11 <b>room</b> [1] 38/12 <b>ROSENBERG</b> [3] 1/3 2/15 31/22 <b>round</b> [1] 21/9 <b>rude</b> [1] 56/18 <b>rule</b> [24] 6/9 6/11 6/22 6/23 19/13 30/5 44/13 49/1 49/18 49/23 50/3 50/12 50/13 50/15 51/8 51/16 53/13 54/13 54/21 55/20 55/22 55/23 57/3 58/8 <b>ruled</b> [2] 47/10 59/8 <b>rules</b> [3] 6/12 49/1 49/22 <b>ruling</b> [3] 52/18 52/18 55/13 <b>ruling I</b> [1] 52/18 <b>rulings</b> [3] 51/2 51/3 54/19 <b>run</b> [7] 27/17 31/14 33/13 35/1 48/11 58/4 58/5 <b>running</b> [1] 43/4 <b>runs</b> [1] 59/2
<b>R</b> <b>RANITIDINE</b> [3] 1/4 3/3 23/11 <b>rather</b> [1] 7/22 <b>rational</b> [3] 52/12 53/5 53/6 <b>re</b> [3] 1/4 3/2 18/24 <b>reaction</b> [1] 27/22 <b>read</b> [3] 20/23 59/24 59/25 <b>real</b> [3] 24/2 40/16 43/10 <b>realistic</b> [1] 37/11 <b>really</b> [14] 8/6 8/8 20/14 23/4 23/8 26/17 29/7 32/3 32/6 41/25 53/4 53/23 53/25 54/10 <b>reason</b> [6] 12/10 14/23 43/3 43/16 45/7 51/22 <b>reasonable</b> [6] 16/14 49/5 49/9 49/12 49/22 57/13 <b>reasons</b> [8] 21/24 22/9 23/16 24/10 29/3 37/14 41/12 42/25 <b>rebut</b> [2] 18/20 19/5 <b>receipts</b> [3] 9/22 23/23 25/8 <b>receive</b> [1] 21/23 <b>recently</b> [1] 31/11 <b>recess</b> [1] 60/4 <b>recognize</b> [2] 3/11 29/8 <b>recognizes</b> [1] 29/4 <b>recollect</b> [1] 35/19 <b>recollection</b> [3] 36/1 43/7 43/9 <b>recollections</b> [1] 36/2 <b>record</b> [4] 31/10 36/16 36/17 60/10 <b>records</b> [11] 10/19 11/5 14/25 20/15 28/24 36/8 36/10 36/12 36/14 36/16 38/16 <b>refer</b> [1] 12/5 <b>reference</b> [1] 19/16 <b>referenced</b> [1] 8/3 <b>refund</b> [1] 9/24 <b>regardless</b> [1] 19/4 <b>REINHART</b> [1] 1/8 <b>reiterate</b> [3] 38/3 42/22 59/15 <b>reiterating</b> [1] 37/7 <b>rejecting</b> [1] 33/9 <b>related</b> [31] 5/5 8/11 8/19 8/23 9/1 9/3 11/8 11/15 11/18 11/19 12/4 16/19 21/22 22/10 22/11 23/7 23/11 23/15		<b>S</b> <b>SACHSE</b> [2] 1/21 4/9 <b>sadly</b> [1] 42/4 <b>safety</b> [7] 18/1 18/1 18/2 18/3 18/14 18/16 19/1 <b>said</b> [27] 4/15 8/12 24/4 24/9 24/11 24/20 24/23 24/25 26/11 29/17 30/1 33/8 33/10 33/19 39/1 40/1 40/17 40/18 40/19 40/19 41/9 41/10 42/10 48/7 50/21 59/9 59/19 <b>sake</b> [1] 19/9 <b>same</b> [14] 6/10 13/24 15/8 15/24 18/21 18/22 19/6 22/1 33/3 33/17 34/12 35/21 43/5 48/3

<p><b>S</b></p> <p><b>San</b> [1] 2/12</p> <p><b>sanctions</b> [1] 37/24</p> <p><b>Sanofi</b> [3] 4/5 39/23 39/25</p> <p><b>satisfactory</b> [1] 35/18</p> <p><b>satisfy</b> [1] 6/11</p> <p><b>save</b> [6] 7/4 22/12 22/13 24/6 24/9 45/22</p> <p><b>saw</b> [1] 11/19</p> <p><b>say</b> [21] 8/25 25/7 26/5 30/3 30/5 30/11 31/10 33/18 37/1 40/10 44/6 44/15 50/16 52/8 52/8 53/5 54/19 54/23 55/21 55/23 58/21</p> <p><b>saying</b> [12] 7/4 36/16 36/17 40/5 40/21 43/23 45/20 47/12 47/20 47/21 49/12 49/22</p> <p><b>says</b> [3] 39/4 41/5 41/6</p> <p><b>scale</b> [2] 42/11 47/6</p> <p><b>schedule</b> [2] 37/11 40/2</p> <p><b>scheduling</b> [1] 30/10</p> <p><b>scope</b> [5] 5/7 5/10 50/1 51/18 58/7</p> <p><b>scrapbook</b> [1] 44/8</p> <p><b>screen</b> [4] 20/20 25/23 28/2 28/13</p> <p><b>scrivener's</b> [1] 36/23</p> <p><b>scrolling</b> [1] 56/7</p> <p><b>search</b> [81]</p> <p><b>searchable</b> [3] 27/12 38/1 43/2</p> <p><b>searched</b> [18] 21/12 22/25 23/6 24/15 30/16 30/18 31/13 33/8 37/22 40/11 47/13 47/21 47/22 48/2 51/20 51/21 54/1 54/10</p> <p><b>searches</b> [3] 12/14 38/14 58/6</p> <p><b>searching</b> [2] 40/9 49/14</p> <p><b>second</b> [10] 7/9 10/6 21/15 33/22 35/14 38/19 39/13 42/7 50/9 55/13</p> <p><b>Secondarily</b> [1] 56/21</p> <p><b>section</b> [1] 56/10</p> <p><b>see</b> [8] 4/13 20/1 22/9 27/20 30/2 33/5 33/16 43/21</p> <p><b>seeking</b> [3] 14/2 15/19 38/6</p> <p><b>seem</b> [3] 7/15 43/13 57/18</p> <p><b>seems</b> [6] 6/1 7/1 7/11 39/3 45/13 53/23</p> <p><b>seen</b> [2] 32/20 36/2</p> <p><b>sell</b> [1] 34/19</p> <p><b>selling</b> [1] 41/16</p> <p><b>send</b> [2] 26/25 27/4</p> <p><b>sense</b> [4] 23/8 35/4 39/17 48/23</p> <p><b>separate</b> [3] 21/24 23/6 37/3</p> <p><b>separately</b> [1] 34/2</p> <p><b>series</b> [1] 6/16</p> <p><b>serious</b> [1] 13/9</p> <p><b>served</b> [2] 3/7 4/22</p> <p><b>service</b> [1] 22/19</p> <p><b>services</b> [2] 33/2 42/5</p> <p><b>set</b> [5] 32/22 37/8 56/22 58/3 58/6</p> <p><b>sets</b> [2] 35/12 52/20</p> <p><b>seven</b> [1] 13/3</p>	<p><b>several</b> [2] 18/12 27/9</p> <p><b>share</b> [2] 20/20 52/22</p> <p><b>sharing</b> [1] 28/13</p> <p><b>she</b> [7] 16/4 16/7 16/8 18/1 42/16 56/4 56/5</p> <p><b>shift</b> [1] 15/8</p> <p><b>ships</b> [1] 31/23</p> <p><b>Shook</b> [1] 2/4</p> <p><b>shopping</b> [2] 25/6 25/7</p> <p><b>shot</b> [1] 28/2</p> <p><b>should</b> [19] 6/13 8/5 21/1 21/12 21/12 22/6 24/14 36/8 43/6 45/10 46/5 47/22 48/1 49/1 49/13 49/13 49/14 54/1 57/21</p> <p><b>shouldn't</b> [4] 43/3 46/5 47/20 47/23</p> <p><b>show</b> [2] 17/20 36/25</p> <p><b>SHOWALTER</b> [32] 2/1 3/23 4/11 4/24 8/5 8/25 9/17 11/12 12/18 15/7 18/18 20/13 31/17 32/12 33/21 35/8 35/15 38/24 39/10 40/17 42/8 46/10 47/8 49/12 49/20 53/11 54/4 55/2 55/10 56/1 58/9 59/7</p> <p><b>shows</b> [1] 20/18</p> <p><b>shuffle</b> [1] 46/23</p> <p><b>side</b> [9] 7/8 8/6 25/12 33/25 40/5 51/25 52/24 53/8 55/18</p> <p><b>sided</b> [1] 58/12</p> <p><b>sides</b> [1] 6/10</p> <p><b>sign</b> [2] 50/18 52/4</p> <p><b>Signature</b> [1] 60/14</p> <p><b>signed</b> [2] 6/21 50/17</p> <p><b>significantly</b> [2] 13/8 13/12</p> <p><b>signing</b> [3] 42/5 50/14 50/18</p> <p><b>silence</b> [1] 46/23</p> <p><b>silly</b> [1] 27/4</p> <p><b>similar</b> [2] 22/20 42/18</p> <p><b>similarly</b> [2] 22/1 22/16</p> <p><b>simply</b> [6] 10/15 35/18 35/22 36/4 44/15 45/14</p> <p><b>since</b> [1] 5/17</p> <p><b>single</b> [1] 6/24</p> <p><b>sit</b> [1] 44/15</p> <p><b>six</b> [2] 8/8 19/11</p> <p><b>sky</b> [3] 12/20 17/10 25/20</p> <p><b>slide</b> [1] 33/6</p> <p><b>slides</b> [2] 27/9 32/21</p> <p><b>slightly</b> [2] 31/9 32/1</p> <p><b>slowly</b> [1] 32/17</p> <p><b>smaller</b> [1] 17/18</p> <p><b>smoke</b> [1] 14/20</p> <p><b>smoked</b> [1] 31/2</p> <p><b>smoker</b> [4] 36/17 36/18 36/22 37/2</p> <p><b>smoking</b> [17] 10/25 12/5 12/20 13/19 16/23 16/24 17/5 17/16 18/9 30/7 31/1 31/3 37/2 43/22 44/7 56/15 56/15</p> <p><b>Snapchat</b> [12] 19/21 19/22 23/1 25/14 26/18 26/19 26/22 26/23 37/13 37/19 37/23 38/1</p> <p><b>so</b> [58] 4/18 4/20 7/3 10/1 10/19 11/21 12/4 12/15 13/19 14/2 14/8 14/15 15/2 17/2 17/3 18/8 19/4 20/8 20/17 21/18 22/15 24/21 24/24</p>	<p>24/24 25/10 27/9 27/18 27/21 28/4 29/22 31/10 31/13 31/20 32/8 32/23 33/5 34/21 35/3 35/24 37/14 39/10 40/10 41/19 44/14 45/24 46/14 51/9 52/7 52/17 55/2 55/15 56/5 56/12 56/23 57/7 58/2 58/3 58/25</p> <p><b>so-called</b> [1] 17/3</p> <p><b>So.2d</b> [1] 13/6</p> <p><b>social</b> [23] 14/16 15/6 20/17 22/16 22/25 23/3 23/13 29/7 29/10 29/19 30/8 36/25 37/3 37/10 42/12 42/18 44/1 44/21 45/7 47/10 47/20 48/1 58/25</p> <p><b>solely</b> [5] 4/25 14/11 19/23 21/21 25/18</p> <p><b>some</b> [38] 5/20 7/15 8/16 8/23 9/16 10/8 11/4 11/21 14/23 19/10 24/18 24/23 24/24 31/23 32/8 32/9 32/20 33/4 33/7 34/17 36/11 42/15 43/1 43/1 46/11 47/22 47/22 50/4 51/3 51/5 51/10 53/15 53/24 53/24 53/25 54/24 60/2 60/5</p> <p><b>some-odd</b> [2] 43/1 43/1</p> <p><b>somebody</b> [5] 22/12 25/3 25/23 29/18 56/14</p> <p><b>somebody's</b> [2] 28/11 56/8</p> <p><b>someone</b> [8] 14/13 15/3 16/24 29/6 29/15 33/19 36/23 45/11</p> <p><b>something</b> [14] 8/2 13/11 19/16 24/16 26/21 27/5 28/8 34/25 39/21 42/21 43/8 44/16 48/18 56/4</p> <p><b>sometime</b> [1] 36/17</p> <p><b>somewhat</b> [1] 50/9</p> <p><b>somewhere</b> [2] 30/23 40/23</p> <p><b>sorry</b> [2] 49/10 57/23</p> <p><b>sort</b> [13] 10/5 12/4 15/12 30/1 31/16 45/5 45/23 46/10 47/6 51/13 51/24 54/6 55/9</p> <p><b>sorts</b> [1] 7/7</p> <p><b>sounds</b> [1] 56/22</p> <p><b>source</b> [3] 43/2 45/16 49/4</p> <p><b>sources</b> [16] 21/6 23/5 23/6 32/21 32/22 37/18 37/22 39/9 42/20 44/21 44/21 44/24 45/19 46/7 46/17 47/13</p> <p><b>SOUTHERN</b> [2] 1/1 13/15</p> <p><b>spaces</b> [1] 39/20</p> <p><b>Spalding</b> [1] 2/8</p> <p><b>spam</b> [5] 21/23 24/23 25/3 45/21 45/22</p> <p><b>speak</b> [4] 26/25 40/6 47/2 47/3</p> <p><b>speaking</b> [2] 3/23 32/19</p> <p><b>special</b> [1] 52/3</p> <p><b>specific</b> [6] 5/19 17/25 21/24 30/25 33/24 36/21</p> <p><b>specifically</b> [3] 11/13 34/10 59/22</p> <p><b>speculative</b> [1] 44/18</p> <p><b>spent</b> [1] 21/3</p> <p><b>split</b> [2] 52/21 53/1</p> <p><b>spoken</b> [1] 34/15</p> <p><b>spreadsheet</b> [4] 19/15 41/5</p>
--	--	--



<p><b>S</b></p> <p><b>spreadsheet...</b> [2] 41/6 51/20</p> <p><b>spreadsheets</b> [4] 21/9 21/20 22/10 24/8</p> <p><b>stage</b> [1] 32/2</p> <p><b>start</b> [8] 5/21 12/20 20/13 42/15 43/13 43/13 57/7 57/10</p> <p><b>started</b> [1] 20/9</p> <p><b>starting</b> [3] 32/21 48/22 57/8</p> <p><b>statement</b> [2] 16/4 45/1</p> <p><b>statements</b> [1] 37/12</p> <p><b>states</b> [5] 1/1 1/9 11/23 14/8 18/15</p> <p><b>states'</b> [1] 13/2</p> <p><b>Statute</b> [9] 8/4 9/15 11/7 11/15 11/17 11/22 11/24 11/25 12/8</p> <p><b>statutes</b> [1] 15/24</p> <p><b>step</b> [1] 5/25</p> <p><b>STEPHEN</b> [2] 2/7 4/6</p> <p><b>sticker</b> [5] 15/25 16/4 16/5 16/6 16/9</p> <p><b>still</b> [6] 7/14 8/9 8/17 9/18 10/15 53/24</p> <p><b>Stipes</b> [3] 2/15 32/17 60/13</p> <p><b>stop</b> [1] 28/13</p> <p><b>stores</b> [3] 15/22 23/19 23/21</p> <p><b>stray</b> [1] 46/16</p> <p><b>Street</b> [5] 1/19 1/22 2/2 2/5 2/8</p> <p><b>struck</b> [1] 32/23</p> <p><b>stuff</b> [2] 42/7 57/22</p> <p><b>subject</b> [2] 7/4 9/24</p> <p><b>submit</b> [2] 47/12 52/9</p> <p><b>submits</b> [1] 53/8</p> <p><b>submitted</b> [3] 4/14 35/11 52/20</p> <p><b>substantially</b> [1] 53/23</p> <p><b>substantive</b> [3] 6/4 33/16 40/3</p> <p><b>such</b> [4] 6/19 16/15 22/2 50/13</p> <p><b>sued</b> [1] 43/20</p> <p><b>suffice</b> [1] 36/8</p> <p><b>sufficient</b> [1] 6/25</p> <p><b>suggested</b> [5] 22/4 22/24 23/21 48/22 59/5</p> <p><b>suggesting</b> [8] 28/22 29/20 39/10 39/10 40/15 47/1 48/22 59/4</p> <p><b>suing</b> [1] 15/24</p> <p><b>Suite</b> [4] 1/16 2/5 2/8 2/12</p> <p><b>summarize</b> [3] 48/25 49/17 49/21</p> <p><b>summary</b> [1] 20/21</p> <p><b>sun</b> [1] 25/23</p> <p><b>support</b> [2] 23/9 59/4</p> <p><b>suppose</b> [1] 53/13</p> <p><b>supposed</b> [1] 6/7</p> <p><b>supremacy</b> [1] 29/17</p> <p><b>sure</b> [11] 5/9 6/23 8/10 11/9 11/17 15/11 19/17 22/7 26/3 42/15 56/23</p> <p><b>surprise</b> [1] 35/17</p> <p><b>surprising</b> [2] 36/9 43/25</p>	<p><b>sweep</b> [1] 7/15</p> <p><b>system</b> [4] 27/2 34/20 41/18 57/1</p> <p><b>T</b></p> <p><b>tables</b> [1] 50/21</p> <p><b>tablets</b> [1] 22/2</p> <p><b>tacks</b> [1] 51/22</p> <p><b>tailor</b> [1] 38/12</p> <p><b>tailored</b> [1] 38/9</p> <p><b>take</b> [12] 12/24 15/1 15/14 17/5 28/5 28/8 29/6 32/17 36/21 56/24 58/2 59/22</p> <p><b>taken</b> [2] 29/23 34/9</p> <p><b>takes</b> [1] 39/18</p> <p><b>taking</b> [4] 19/21 20/3 23/16 43/5</p> <p><b>ta1c</b> [2] 33/14 33/20</p> <p><b>talk</b> [12] 6/25 26/23 34/1 34/3 39/8 39/20 46/14 50/8 52/14 52/23 54/18 56/12</p> <p><b>talked</b> [8] 11/13 15/9 24/3 26/10 26/15 39/13 40/1 48/13</p> <p><b>talking</b> [11] 14/8 14/9 17/25 18/14 18/16 31/4 44/3 48/20 54/10 55/19 57/10</p> <p><b>talks</b> [1] 28/6</p> <p><b>target</b> [2] 35/8 54/25</p> <p><b>Taxotere</b> [3] 47/9 47/16 47/17</p> <p><b>TDF</b> [2] 42/19 46/24</p> <p><b>team</b> [1] 21/3</p> <p><b>teams</b> [3] 21/7 39/24 39/24</p> <p><b>Technically</b> [1] 50/12</p> <p><b>techniques</b> [1] 49/15</p> <p><b>tell</b> [3] 26/15 45/1 55/21</p> <p><b>telling</b> [1] 56/18</p> <p><b>ten</b> [2] 29/8 38/25</p> <p><b>term</b> [2] 8/21 33/6</p> <p><b>terms</b> [57] 6/14 8/8 13/19 16/20 20/17 21/14 22/7 23/5 23/10 23/17 23/21 27/12 27/15 27/16 28/7 28/10 29/9 31/6 31/14 32/7 33/8 33/12 33/16 33/25 34/1 35/1 35/5 35/13 38/8 38/19 41/15 41/24 42/4 42/7 43/4 47/5 48/4 48/12 52/6 52/7 52/9 52/10 52/15 52/20 52/24 52/25 53/2 53/14 54/20 54/22 54/24 55/6 56/23 58/1 58/3 58/4 58/17</p> <p><b>test</b> [2] 28/24 34/23</p> <p><b>tested</b> [1] 48/17</p> <p><b>testified</b> [1] 37/1</p> <p><b>testify</b> [1] 31/10</p> <p><b>testimony</b> [2] 9/25 29/20</p> <p><b>text</b> [7] 20/17 21/13 22/20 30/17 33/4 34/24 37/20</p> <p><b>than</b> [10] 5/19 7/22 23/20 24/25 33/17 38/25 45/21 49/2 52/7 57/17</p> <p><b>thank</b> [22] 5/6 5/11 11/7 15/7 17/21 19/7 20/6 20/12 25/17 27/8 27/11 30/1 32/12 35/7 46/9 47/1 47/18 50/2 53/18 56/2 59/6 60/1</p> <p><b>that</b> [504]</p> <p><b>that's</b> [4] 7/3 13/15 22/23</p>	<p>46/9</p> <p><b>the medical</b> [1] 54/5</p> <p><b>their</b> [57] 4/25 5/2 8/1 11/23 14/4 14/14 14/21 14/22 16/16 16/24 17/1 17/19 17/24 21/23 24/22 25/1 25/1 25/3 25/8 25/21 26/14 26/16 26/16 27/2 27/20 31/1 31/10 31/23 32/5 32/20 32/25 34/20 35/20 36/6 37/9 38/11 38/21 39/4 41/24 42/24 43/9 43/10 43/20 43/24 44/6 44/23 46/4 48/4 48/12 48/13 49/22 52/1 55/19 56/14 56/14 56/15 58/13</p> <p><b>them</b> [29] 6/3 7/3 14/11 14/22 19/25 21/20 22/5 23/24 23/25 24/5 24/17 24/18 26/10 26/24 27/1 31/3 38/10 38/11 39/8 39/9 44/7 44/10 45/9 47/21 54/23 55/22 56/15 58/4 59/25</p> <p><b>them because</b> [1] 22/5</p> <p><b>themselves</b> [1] 17/15</p> <p><b>then</b> [24] 6/7 6/13 6/18 8/13 11/21 12/16 22/23 23/18 23/24 30/4 30/11 30/18 36/17 37/9 40/8 42/13 42/16 48/16 51/3 54/9 54/16 54/22 55/5 55/21</p> <p><b>theory</b> [5] 9/24 14/4 17/7 19/10 54/5</p> <p><b>there</b> [113]</p> <p><b>therefore</b> [7] 14/23 16/8 17/6 19/1 45/10 49/15 49/23</p> <p><b>Thereupon</b> [1] 60/7</p> <p><b>these</b> [23] 4/25 11/23 13/1 14/17 20/9 23/13 28/21 36/6 36/21 38/4 38/14 41/8 42/5 43/8 45/9 45/14 46/7 48/21 49/13 53/16 56/25 58/1 58/19</p> <p><b>they</b> [145]</p> <p><b>thing</b> [9] 8/19 12/12 23/8 27/2 31/7 41/22 42/9 50/13 58/21</p> <p><b>things</b> [12] 12/5 18/4 20/9 27/3 29/15 31/22 45/22 57/17 57/20 58/12 58/17 58/18</p> <p><b>think</b> [49] 4/15 6/10 6/21 6/23 6/24 7/17 8/17 8/25 10/24 11/16 12/12 12/13 14/6 23/4 25/14 27/8 28/8 28/15 28/18 28/19 29/24 30/13 31/3 31/8 37/7 38/8 38/14 38/25 40/19 41/11 42/19 43/3 43/18 44/16 46/13 46/15 46/24 50/4 50/11 50/22 50/22 53/22 54/4 54/16 55/20 57/7 57/9 58/24 59/8</p> <p><b>this</b> [100]</p> <p><b>those</b> [43] 5/17 5/19 6/10 6/16 8/8 9/17 9/19 10/3 12/4 12/5 13/4 15/17 15/18 16/21 18/21 18/22 19/24 21/18 21/25 23/2 24/14 25/5 29/10 32/20 33/2 33/5 33/17 36/2 37/9 37/18 37/21 37/22 39/8 43/21 43/24 46/14 46/24 48/6 48/16 54/16 54/22 58/17</p>
---	---	--

<p><b>T</b></p> <p>those... [1] 59/14</p> <p>though [1] 29/14</p> <p>thought [5] 11/20 29/9 54/7 57/1 57/2</p> <p>thousands [1] 10/19</p> <p>three [2] 15/12 53/19</p> <p>through [37] 1/8 5/15 5/15 17/16 17/16 17/17 20/15 20/16 20/18 20/24 21/7 21/7 21/23 22/16 23/2 23/10 25/10 25/19 28/2 29/18 29/20 30/23 33/13 34/15 34/21 36/14 38/15 39/15 44/8 44/23 48/6 48/6 51/17 56/7 57/14 57/16 57/17</p> <p>throw [2] 50/20 55/5</p> <p>thrown [1] 44/7</p> <p>tie [1] 16/10</p> <p>tie-in [1] 16/10</p> <p>tied [1] 12/2</p> <p>tight [1] 37/7</p> <p>TikTok [8] 23/1 25/14 26/2 26/2 26/4 26/6 37/13 37/19</p> <p>time [16] 11/24 17/6 24/19 28/5 28/6 29/6 32/17 33/25 39/18 41/25 41/25 43/10 56/24 58/1 59/7 60/3</p> <p>timeline [1] 37/7</p> <p>times [1] 36/2</p> <p>timing [1] 56/23</p> <p>to produce [1] 56/18</p> <p>to text [1] 22/20</p> <p>today [10] 3/23 7/2 8/15 10/7 37/1 38/13 50/3 58/8 59/18 59/24</p> <p>told [3] 31/12 41/15 54/17</p> <p>too [1] 4/12</p> <p>took [3] 38/23 45/3 46/10</p> <p>tool [1] 39/5</p> <p>tools [5] 39/14 39/14 49/13 59/4 59/4</p> <p>top [2] 32/20 44/17</p> <p>topic [2] 11/6 50/6</p> <p>topics [7] 6/4 7/15 8/2 43/8 43/22 43/24 53/22</p> <p>toto [1] 48/1</p> <p>traditional [4] 20/19 27/16 39/17 44/24</p> <p>transcript [1] 60/9</p> <p>transparency [3] 6/19 22/15 50/22</p> <p>transparent [2] 51/21 51/24</p> <p>trash [2] 44/6 44/23</p> <p>treating [2] 15/2 28/25</p> <p>trial [2] 32/7 32/9</p> <p>tried [3] 20/21 41/11 51/21</p> <p>trouble [1] 7/4</p> <p>true [4] 22/23 37/17 37/23 42/25</p> <p>truly [1] 44/3</p> <p>try [5] 21/1 49/6 52/15 53/2 60/2</p> <p>trying [2] 10/7 45/19</p> <p>tunes [1] 26/8</p> <p>turn [5] 8/5 11/12 19/13 19/18 40/16</p>	<p>turned [1] 50/22</p> <p>Twitter [21] 22/18 27/13 32/24 33/24 34/5 34/12 34/13 34/13 35/3 38/21 38/25 39/1 40/18 40/22 40/23 41/6 41/7 41/12 45/5 45/15 54/14</p> <p>two [15] 6/10 11/9 12/18 15/17 22/9 22/11 28/20 30/13 39/7 46/24 50/8 50/16 52/19 54/16 55/5</p> <p>tying [1] 48/25</p> <p>type [10] 12/3 14/14 15/6 23/8 23/9 25/10 27/2 27/7 27/15 56/9</p> <p>types [4] 14/17 14/19 18/4 23/3</p> <p><b>U</b></p> <p>ubiquitous [1] 45/7</p> <p>ultimately [2] 9/23 14/19</p> <p>unclear [1] 33/2</p> <p>under [15] 6/11 13/2 15/15 15/24 18/8 18/10 30/10 37/11 47/11 49/5 49/22 50/15 53/15 54/6 54/12</p> <p>undercuts [1] 17/1</p> <p>understand [19] 5/10 10/7 11/10 11/11 12/6 12/7 14/18 17/4 17/7 40/7 42/3 44/5 44/13 44/15 44/25 45/6 58/8 58/20 59/17</p> <p>understanding [6] 3/7 4/21 5/7 7/6 7/10 8/7</p> <p>understood [5] 10/14 24/3 38/18 55/8 58/7</p> <p>unduly [1] 33/18</p> <p>unilateral [1] 45/25</p> <p>unique [1] 6/24</p> <p>UNITED [2] 1/1 1/9</p> <p>unjust [1] 15/13</p> <p>unless [2] 28/14 43/9</p> <p>unlike [1] 34/24</p> <p>unlikely [1] 46/20</p> <p>unpack [1] 32/15</p> <p>unrelated [1] 23/23</p> <p>until [2] 38/10 41/23</p> <p>up [10] 20/24 24/8 27/10 31/1 38/10 39/23 47/3 51/10 52/3 52/6</p> <p>up of [1] 31/1</p> <p>update [2] 22/21 41/14</p> <p>upon [6] 13/16 30/4 45/19 46/2 52/24 55/5</p> <p>us [13] 11/13 11/15 26/11 28/5 30/12 33/3 34/6 41/15 41/24 51/22 57/9 57/12 58/4</p> <p>USB [2] 22/2 24/9</p> <p>use [27] 12/2 13/11 15/20 16/23 25/3 25/5 27/15 28/25 29/10 34/17 34/19 39/9 39/24 39/24 40/1 40/2 40/3 40/19 40/24 40/25 41/1 41/2 41/7 41/8 44/17 45/6 45/21</p> <p>used [15] 18/20 19/5 21/17 22/7 22/11 22/20 23/16 25/23 33/3 39/2 39/25 40/23 44/21 44/21 45/20</p> <p>useless [1] 26/1</p>	<p>uses [4] 26/24 41/16 41/17 44/1</p> <p>using [4] 17/14 27/2 28/6 59/4</p> <p>usually [1] 50/15</p> <p><b>V</b></p> <p>vacation [2] 25/23 56/14</p> <p>vacations [2] 25/21 25/22</p> <p>vaccine [1] 27/23</p> <p>variations [1] 14/1</p> <p>varied [1] 13/17</p> <p>various [2] 44/1 44/2</p> <p>versus [4] 13/5 13/14 13/24 15/22</p> <p>very [21] 14/3 17/25 19/7 23/17 23/20 29/4 29/22 32/13 32/25 35/3 39/3 40/25 41/11 46/9 50/5 50/25 51/19 51/21 56/20 58/12 60/2</p> <p>videos [5] 26/2 26/16 29/16 37/15 38/16</p> <p>view [3] 30/3 34/1 52/6</p> <p>Vioxx [3] 18/24 20/13 20/18</p> <p>VR [1] 41/18</p> <p><b>W</b></p> <p>Wacker [1] 1/11</p> <p>waiving [2] 59/8 59/18</p> <p>Wal [2] 15/22 16/1</p> <p>Wal-Mart placed [1] 16/1</p> <p>Wal-Mart Stores [1] 15/22</p> <p>walk [2] 20/24 50/23</p> <p>wall [1] 56/8</p> <p>walls [3] 55/17 58/13 58/15</p> <p>want [32] 5/9 20/24 25/15 30/4 30/11 33/23 40/10 40/20 41/4 42/8 42/10 42/22 43/14 44/17 46/11 46/13 46/16 46/22 46/23 47/2 47/4 50/4 52/19 52/23 53/7 55/12 56/12 56/20 56/23 57/12 57/24 59/20</p> <p>wanted [5] 24/21 33/6 40/24 58/10 59/12</p> <p>wanting [1] 7/25</p> <p>wants [1] 52/24</p> <p>warning [1] 18/4</p> <p>warnings [1] 16/25</p> <p>warrants [2] 42/4 42/6</p> <p>warranty [1] 15/13</p> <p>was [38] 8/1 8/25 13/11 16/7 16/8 16/18 17/23 18/25 19/2 19/3 19/15 19/20 19/24 20/2 20/14 20/14 20/15 21/5 29/13 30/15 30/19 31/17 34/4 34/8 35/19 36/16 36/16 36/22 38/23 39/8 42/18 45/20 47/6 51/20 51/20 55/6 58/24 60/7</p> <p>Washington [2] 2/2 2/6</p> <p>wasn't [6] 8/10 19/17 20/1 30/23 38/10 41/22</p> <p>watched [1] 29/16</p> <p>way [17] 7/22 12/2 26/22 27/4 27/16 28/9 30/21 33/3 39/9 48/9 50/20 50/21 53/8 55/2 57/10 57/11 57/13</p> <p>ways [4] 15/5 39/18 57/1</p>
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<p><b>W</b></p> <p><b>ways...</b> [1] 57/7</p> <p><b>we</b> [238]</p> <p><b>we'd</b> [1] 11/24</p> <p><b>we'll</b> [1] 25/2</p> <p><b>we're</b> [1] 51/7</p> <p><b>weaker</b> [1] 17/17</p> <p><b>wearing</b> [1] 56/19</p> <p><b>week</b> [1] 22/22</p> <p><b>weekend</b> [1] 60/6</p> <p><b>weeks</b> [1] 60/5</p> <p><b>weight</b> [1] 14/20</p> <p><b>Weiselberg</b> [1] 1/15</p> <p><b>well</b> [9] 4/16 5/15 8/21 14/3 27/25 42/9 44/6 57/18 60/1</p> <p><b>went</b> [6] 16/7 21/7 21/7 40/4 48/6 48/6</p> <p><b>were</b> [24] 4/14 4/22 5/17 16/14 16/21 19/1 19/20 21/11 23/16 24/5 24/7 24/9 25/24 29/8 29/16 30/17 34/4 36/18 38/25 43/10 44/9 44/10 50/21 50/25</p> <p><b>weren't</b> [2] 19/25 25/9</p> <p><b>WEST</b> [3] 1/2 1/5 2/16</p> <p><b>WestLaw</b> [1] 15/22</p> <p><b>what</b> [82]</p> <p><b>whatever</b> [7] 6/18 11/22 27/23 51/2 56/19 58/4 59/19</p> <p><b>whatevering</b> [1] 30/8</p> <p><b>WhatsApp</b> [3] 22/19 22/19 22/22</p> <p><b>when</b> [23] 16/7 17/25 18/3 18/14 18/15 24/3 25/3 33/3 34/1 39/16 40/17 41/4 43/25 44/9 44/12 50/15 50/16 50/21 52/8 52/18 53/5 56/12 56/24</p> <p><b>where</b> [37] 6/8 7/7 7/21 10/10 12/18 19/20 25/1 25/8 25/9 25/23 28/6 29/8 30/2 30/15 34/16 34/22 35/22 36/16 37/11 37/19 38/13 40/7 41/9 41/10 41/25 42/6 42/11 42/13 42/19 45/12 45/18 46/3 46/25 47/6 47/23 48/20 54/18</p> <p><b>whether</b> [19] 14/13 14/20 14/21 14/21 14/22 15/3 16/20 16/21 18/10 18/25 19/4 19/6 42/23 43/6 53/24 55/19 55/21 55/23 56/15</p> <p><b>which</b> [31] 6/9 7/12 10/6 13/18 15/15 15/18 15/19 16/8 16/8 17/20 19/2 23/2 23/12 23/19 30/8 31/17 33/18 36/5 38/6 38/6 39/1 40/25 44/12 51/24 52/12 52/15 52/19 54/6 55/6 55/19 57/12</p> <p><b>while</b> [2] 17/23 38/23</p> <p><b>white</b> [1] 29/17</p> <p><b>WHITELEY</b> [4] 1/18 1/18 3/19 3/20</p> <p><b>who</b> [6] 9/2 16/15 17/15 21/3 39/15 43/19</p> <p><b>whole</b> [4] 23/22 26/20 30/7 31/18</p> <p><b>wholesales</b> [1] 46/17</p> <p><b>wholly</b> [1] 38/14</p>	<p><b>why</b> [12] 17/9 17/11 20/22 21/12 21/24 24/10 24/14 33/3 43/3 43/16 50/25 59/3</p> <p><b>wide</b> [1] 18/17</p> <p><b>wife</b> [1] 41/2</p> <p><b>will</b> [57] 1/21 3/23 4/8 6/3 9/7 9/24 10/4 10/6 10/12 13/16 15/3 15/14 15/20 16/23 17/21 18/18 20/12 22/9 23/6 23/13 25/7 28/13 28/16 29/11 33/23 34/24 35/9 35/10 38/18 40/16 46/12 47/9 50/5 51/3 51/4 52/4 52/11 52/13 52/13 52/14 52/17 52/18 52/20 52/25 53/6 53/14 54/1 54/3 55/13 55/23 58/5 58/5 58/16 58/17 59/25 60/2 60/4</p> <p><b>will direct</b> [1] 58/16</p> <p><b>Williams</b> [1] 2/1</p> <p><b>window</b> [1] 15/25</p> <p><b>within</b> [2] 14/9 20/2</p> <p><b>without</b> [1] 36/3</p> <p><b>witnesses</b> [1] 30/18</p> <p><b>won't</b> [3] 29/24 35/17 53/5</p> <p><b>Wonderful</b> [1] 32/19</p> <p><b>word</b> [2] 20/9 33/17</p> <p><b>work</b> [18] 21/22 22/10 22/11 23/7 23/7 24/5 24/15 24/17 39/19 41/20 45/20 45/21 48/15 51/10 51/25 56/24 57/16 60/2</p> <p><b>work-related</b> [3] 22/10 22/11 23/7</p> <p><b>worked</b> [1] 57/17</p> <p><b>working</b> [2] 39/22 57/14</p> <p><b>works</b> [5] 26/5 26/7 26/22 32/1 48/10</p> <p><b>worth</b> [1] 38/9</p> <p><b>would</b> [52] 6/2 7/3 7/15 8/22 9/11 10/17 11/4 11/6 12/13 13/12 14/15 16/13 17/11 17/19 17/24 18/6 18/8 20/20 22/4 23/7 23/11 25/8 25/22 25/25 26/12 28/2 28/5 29/6 29/9 29/18 29/20 30/11 30/14 31/6 31/14 33/18 36/20 37/8 39/22 41/22 45/8 46/16 48/11 51/8 51/22 53/16 56/5 56/17 57/18 58/19 59/14 59/21</p> <p><b>wouldn't</b> [5] 17/6 17/7 24/10 45/12 48/13</p> <p><b>written</b> [2] 6/21 50/5</p> <p><b>wrong</b> [1] 47/19</p> <hr/> <p><b>X</b></p> <hr/> <p><b>x1</b> [2] 58/16 59/4</p> <hr/> <p><b>Y</b></p> <hr/> <p><b>yeah</b> [1] 30/7</p> <p><b>year</b> [1] 49/2</p> <p><b>years</b> [8] 11/22 12/10 12/10 29/15 29/18 29/18 44/9 45/3</p> <p><b>years of</b> [1] 29/18</p> <p><b>yes</b> [21] 5/8 5/24 8/10 8/13 9/6 14/6 34/7 39/7 41/10 46/8 47/8 49/19 53/18 55/2 56/1 56/2 57/23 58/9 58/22 59/13 59/21</p>	<p><b>yet</b> [1] 52/18</p> <p><b>you</b> [234]</p> <p><b>you respond</b> [1] 38/20</p> <p><b>you'd</b> [1] 25/16</p> <p><b>you're</b> [1] 56/19</p> <p><b>YOUNG</b> [2] 2/10 4/4</p> <p><b>your</b> [118]</p> <p><b>yourselves</b> [2] 51/10 52/23</p> <hr/> <p><b>Z</b></p> <hr/> <p><b>ZANTAC</b> [10] 1/4 3/2 10/3 12/11 13/11 17/19 23/11 23/16 23/19 45/3</p> <p><b>Zoom</b> [1] 1/8</p>
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