

NO. 77684-9

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

ROBERT C. WOO, D.D.S.,

Petitioner,

v.

FIREMAN'S FUND INSURANCE COMPANY, a California
corporation; and NATIONAL SURETY CORPORATION, an Illinois
corporation,

Respondents,

and

DEPOSITORS INSURANCE COMPANY, an Iowa corporation; and
THE PACIFIC UNDERWRITERS CORPORATION, a Washington
corporation,

Defendants.

CLERK

BY C. J. MERRITT

2006 SEP 12 P 1:24

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

**SUPPLEMENTAL CITATION OF AUTHORITIES FROM ORAL
ARGUMENT**

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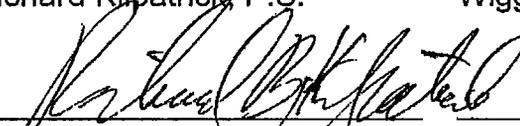
At oral argument this morning the Chief Judge asked if there was any reference in the record supporting Mr. Wiggins statement that patient eyelids are pulled back as a normal part of anesthesia monitoring. Petitioners represented that testimony was in the record from the trial proceedings and promised to provide the citation to the court.

Appendix A is a true and correct copy of pages 474 and 475 of the Verbatim Report of Proceedings from the trial below. The testimony there details precisely what Mr. Wiggins attempted to convey to the court.

DATED this 29th day of June 2006.

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CERTIFICATE OF FAX SERVICE

I certify that I faxed a copy of the foregoing SUPPLEMENTAL CITATION OF AUTHORITIES FROM ORAL ARGUMENT to the following counsel of record and also sent a copy of the e-mail transmitting this pleading to the clerk, at the following numbers.

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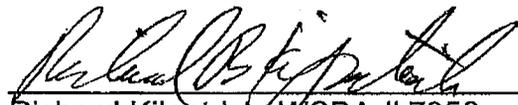
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Richard Kilpatrick, WSBA # 7058
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1 Q So while the -- after the extraction took
2 place you placed the flipper you had had made with the
3 boar's teeth?

4 A Yes, I did.

5 Q And had some pictures taken?

6 A Yes.

7 Q There was a particular comment on the fact
8 that Tina's eyelids were pulled back. Is that something
9 unusual during a surgery?

10 A No.

11 Q Why not?

12 A Because one of the way we can gauge the
13 depth of anesthesia on a patient is by looking at their
14 pupils. And the way to do that is we put both eyes up,
15 look at the constriction or restriction of pupils and then
16 the direction of the gaze; where they're looking at. Then
17 I know how much more time they be under anesthesia and what
18 I can do with them. And so pulling the eyelid up is a
19 very, very common thing that we do every few minutes during
20 anesthetic.

21 Q And that's done by one of the assistants?

22 A Either myself or my assistants.

23 Q All right. And one of the assistants took
24 the picture in this case?

25 A Yes.

APPENDIX A-1

1 Q And what kind of equipment was used?

2 A Well, we have special what we call a dental
3 camera that we take pictures in the office all the time.

4 Q Was there anything that -- any of the steps
5 taken with respect to this that were different than you do
6 when you do this type of procedure on any other patient?

7 A I don't understand the question.

8 Q Sure.

9 We've got two flippers.

10 A Yes.

11 Q Are they made from the same mold?

12 A Made from the same mold.

13 Q Did you have to go through the same process
14 to be sure each one fit?

15 A Yes.

16 Q Who has to do that?

17 A I have to do that.

18 Q Why can't an assistant do that?

19 A Because assistant not trained to adjust the
20 flipper into the mouth. Not to damage anything.

21 Q That's something a doctor has to do?

22 A Yes, because if you don't make the
23 flipper -- fit the flipper correctly it can damage gingiva,
24 it can damage bone, it can damage teeth.

APPENDIX A-2