

EARNINGS QUALITY ANALYTICS



RESEARCH REPORT TASER International, Inc. (TASR) January 21, 2005



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Earnings Quality Grade:

F

TASER International, Inc.
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Primary Exchange: *NASDAQ*

Ticker Symbol: *TASR*

Year-End: *12/31*

Statements For: *NA*

Recent Closing Price: *\$17.57 (01/20/05)*

Market Capitalization: *1.02 billion*

Price-Earnings Ratio: *64.58*

Industry: *Aerospace/Defense Products*

Earnings Quality Analysis Grade

Earnings Quality Grade: ***F***

(Scale: A – F, A is highest)

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Introduction and Summary

Our prior coverage on Taser International (TASR) focused primarily on slowing sales growth, valuation and (subsequently) concerns about end-of-quarter deals that may have been accounted for aggressively. In the brief update, we discuss issues that pertain to corporate governance at the firm. The results of this analysis lend further support to our theory that TASR faces an unusually high level of earnings quality risk at the present time. In particular, we address the following issues:

- In the January 2005 edition of the *Pacing and Clinical Electrophysiology (PACE)* journal, a study entitled “Cardiac Safety of Neuromuscular Incapacitating Defensive Devices” has been provided by TASR management as evidence that its guns are safe. However, a number of issues call into question the independence of the report and the validity of its findings.
- All four researchers have potential conflicts of interest – ranging from employment ties to TASR, to a history of research co-authored with TASR employees, to the acknowledgement of cash and option-related compensation for research conducted.
- One particular researcher was dismissed as an expert witness in a case involving the possible use of an “Air TASER” in conjunction with a killing. He was dismissed after it was shown that he had failed to disclose his relationship to TASR, had previously been compensated in cash and options by TASR and had ignored pertinent evidence that appeared to indicate the use of a TASER in the commission of the crime.
- We also provide evidence that the dollar amount of gains potentially realized by consultants – such as the researchers involved in the PACE study – exceeded \$1 million for grants issued in 2003 alone.

Is the PACE Study Biased?

One of the most basic threats to the validity of any scientific research is called “bias of the experimenter.” In a book intended entitled “Voodoo Science: The Road from Foolishness to Fraud,”¹ University of Maryland physics professor Robert Park notes that the design of some studies is constructed in such a way that “they introduce all sorts of opportunities for uncertainty and error.” Dr. Park goes on to say that the inherent problem with such studies is how “error has a way of seeming to support the biases of the experimenter.”² Finally, Dr. Park concludes that the problem is made all the more complex because, those involved in biased studies,

“will work every bit as hard to fool themselves as they will to fool others.”

In other words, the researchers may not intentionally set out to produce biased results. But, their biased world view may still impact the experiment. Specifically, we (Gradient) note that both the experimental design and the measurement of the experimental treatment can be impacted – intentionally or inadvertently – by the researcher.

¹ “Voodoo Science: The Road from Foolishness to Fraud,” Robert Park, Oxford University Press, 2000.

² Similarly, in one of the more widely read books on experimental design, authors Cook and Campbell (both professors specializing in experimental design) comment that “[w]hen this happens, it will not be clear whether the causal treatment is the treatment-as-labeled or the expectations of the persons who deliver the treatment to respondents.” “Quasi-Experimentation: Design & Analysis for Field Settings,” Thomas D. Cook and Donald T. Campbell, Houghton Mifflin, 1979.

Is There Any Reason to be Concerned about Bias on the Part of the Taser Researchers? Last week, TASR cited a study forthcoming in the *Pacing and Clinical Electrophysiology (PACE)* journal (“Cardiac Safety of Neuromuscular Incapacitating Defensive Devices”) as providing evidence that its guns are safe. However, *we have uncovered evidence that at least three of the authors responsible for the PACE study have significant ties to TASR that we believe is likely to have impaired (intentionally or unintentionally) their objectivity.* Concerns about the objectivity of the fourth author are also expressed – although we found no prior ties to TASR. In the case of Dr. Robert A. Stratbucker, in particular, the evidence of bias is extremely compelling – as detailed next.

Evidence of Potential Bias on the Part of Dr. Robert A. Stratbucker

Dr. Stratbucker was named medical director for TASR in 2002 and prior to that appointment had a relationship with the firm involving work related to certain animal studies for an early-generation TASER device.³ *In regards to Dr. Stratbucker, we cite the following concerns that indicate a significant risk of (intentional or unintentional) experimenter bias.*

Professional Reputation: For all practical purposes, Dr. Stratbucker’s professional reputation has been staked on the safety of TASR weapons. In addition to scientific studies and testimonies given – all apparently in support of the TASR cause – Dr. Stratbucker was also responsible (at least in part) for the DOD’s decision to order nearly \$2.0 million in TASR guns and accessories this past summer.⁴ In this context, it is also interesting to note that both the Defense Department and Dr. Stratbucker are integral players in TASR’s efforts to defend the safety of its product. Given issues surrounding the ethical treatment of prisoners and adherence to the rules of engagement, can the DOD afford to say anything else?

Monetary Gain: It is no secret that TASR has issued options to various consultants and employees. Indeed, in the same Wolf v. Ramsey deposition cited above (see note 3), Dr. Stratbucker admits that he was compensated by TASR to conduct research into the safety of its devices. First, with regard to the first study conducted on behalf of TASR, Dr. Stratbucker stated that he was:

“... compensated by stock option [3,000 shares] exclusively for work that I did for them several years ago on animal studies for their device.”

He also admitted to receiving “\$40,000” in profits “over the exercise price.” This acknowledgment is particularly interesting given recent concerns expressed with regard to TASR’s compensation of various consultants via stock options. Unfortunately, as Dr. Stratbucker is not classified by the company as an insider for Section 16 purposes⁵, there is no publicly available record of his stock or option trades.

And with regard to the subsequent DOD study, Dr. Stratbucker acknowledged the following:

³ The aforementioned information was derived from a videotaped deposition made by Dr. Stratbucker on May 30, 2002 in the case Wolf v. Ramsey, 1:00-CV-1187.

⁴ Our assertion that he is at least partially responsible for the DOD’s decision is based on (1) the fact that the DOD sponsored his research in this area and (2) the results of his research support the DOD’s claims that TASR weapons are safe, and therefore appropriate, for use by the military.

⁵ The company itself is responsible for determining which individuals are considered insiders for purposes of Section 16. It is not a determination made by regulatory authorities.

“Within this last month [May 2002], we have managed to negotiate a contract with the Department of Defense, which is actually channeled through TASER International in Phoenix, Arizona, a research project for the Marine Corps. And that is a sizable research program that I am very much involved in and one of the reasons I have been so tied up this month.”

He further stated that he was “*paid by check from TASER International*” for the work, and that the firm had proposed paying him a “retainer of \$1,000 a month” plus hourly fees which the doctor claimed to bill at “\$125 an hour.”

Finally, on the topic of monetary gain, we were unable to find any specific evidence on pay received by Dr. Stratbucker in connection with the PACE study. However, historical precedent suggests that he may also have been highly compensated for this recent research project. And, given the monetary gains realized by Dr. Stratbucker from his TASR research, two concerns arise?

- Can Dr. Stratbucker truly be objective if he is paid handsomely by TASR?
- Could Dr. Stratbucker expect to be paid by TASR for his research if he were to find results that were unfavorable to TASR?

Next we discuss more concrete evidence that points to bias on the part of Dr. Stratbucker.

Evidence of Potentially Biased Expert Testimony: It is also clear from the *Wolf v. Ramsey* case discussed above that the defendant’s attorney in the case was successful in establishing that Dr. Stratbucker may have intentionally misled the judge in the matter at hand. *In fact, the defense was so successful in establishing concerns about bias on the part of Dr. Stratbucker that the plaintiff’s attorney voluntarily withdrew Stratbucker as an expert witness and stated that it would no longer use the doctor for any expert witness work in the case of Wolf v. Ramsey.* We cite excerpts from this testimony in support of this conclusion. In the end, we ask one very important question: If Dr. Stratbucker was biased in his testimony during this engagement, is there an increased likelihood that he has also been biased in other research conducted on behalf of TASR? We believe that the answer is yes.

1. **Establishment of Undisclosed TASR Connection:** The defense first attacked Dr. Stratbucker’s representations regarding his affiliation with TASR. Earlier in his deposition, it had been established that Dr. Stratbucker had not disclosed his relationship to TASR on his resume that was provided to the court. When confronted with this issue, he stated that he was appointed to the role of Medical Director at TASR just two weeks prior and that his resume did not yet reflect the recent appointment. After establishing these facts, *the defendant’s attorney established that, in fact, Dr. Stratbucker had represented himself as TASR’s Medical Director at a much earlier point in time – and that he may have been intentionally deceptive.* In the dialogue that follows, the defendant’s attorney handed Dr. Stratbucker a letter printed on the Taser International company letterhead, and proceeded to inquire about the document.

Q: Let me hand you what has been marked for purposes of identification to your deposition as Defendants' Exhibit-4 and ask you to take a moment, Dr. Stratbucker, and ask you to review that letter, and I have some questions for you about that letter.

- A. All right.
- Q. Are you familiar with that letter, sir?
- A. Yes.
- Q. What is the date on the letter?
- A. January 16, 2002.
- Q. Five months ago?
- A. Yes.
- Q. Flip to the signature page, sir. Is that, in fact, your signature?
- A. Yes, it is.
- Q. And you wrote that letter, as indicated on it, in your capacity of being the medical director for TASER International, Inc.; did you not?
- A. Yes, I did.
2. **Establishment of Apparent Bias:** Next, the defendant’s attorney questioned whether Dr. Stratbucker’s had taken on the engagement with the specific objective of making a case that an “Air TASER” was not used in the killing of the victim in this case – rather than objectively evaluating the evidence and rendering an unbiased opinion. During this extensive line of questioning, the defense establishes that:
- The witness had not only failed to disclose his relationship to TASR in the Wolf v. Ramsey case, but he had also done so in other prior engagements. ***A prior employer had even tried to fire him due to failure to disclose outside relationships.***
 - The witness failed to review all certified crime scene photos, including the most detailed set available from the county courthouse. ***The implication was that those more detailed photos appeared to contain evidence that may have been consistent with the use of an Air TASER device, but that the witness may have intentionally (or negligently) failed to review those photos*** – despite indicating in his written statement that he had reviewed those photos.
 - ***The witness had undertaken the expert witness engagement on a pro bono basis (no charge to the plaintiffs) although it was implied that he stood to gain monetarily by compensation received from TASR.***

It appears that the defense was successful in this argument as, in the end, ***the plaintiff’s attorney voluntarily withdrew Stratbucker as an expert witness and agreed not to use the doctor in any future work related to the case.*** In our opinion, this dialogue (provided in the appendix to this report and summarized above) persuasively indicates a bias on the part of Dr. Stratbucker.

Select highlights of a very long dialogue are provided in Appendix A to our report. The full dialogue can also be obtained from court records or upon request from Gradient Analytics.

Evidence of Potential Bias on the Part of Magne “Max” Nerheim

According to a company announcement found on *Business Wire* (04/08/02) Magne “Max” Nerheim serves as TASR’s Electrical Engineering & Research Manager and was named to that position in April 2002. Prior to that, Mr. Nerheim worked as an independent consultant for TASR, involved in designing the power supply and microprocessor circuits of the ADVANCED TASER M26. In light of the above, we see several conflicts of interest that may bias Mr. Nerheim’s scientific research involving the safety of stun gun devices.

- Mr. Nerheim is employed by TASR. ***His employment relationship may be jeopardized if his research is not viewed as supportive of TASR devices.***
- Mr. Nerheim had previously been engaged by TASR as a scientific consultant. ***As established previously, TASR has historically paid its consultants – and potentially Mr. Nerheim – in both cash and options. The value of any such options would be dependent on the safety of the company’s devices.***
- Mr. Nerheim is currently compensated by TASR. TASR has acknowledged that it broadly distributes options to its employees. ***Again, the value of any such options would be dependent on the safety of the company’s devices.***

Evidence of Potential Bias on the Part of Professor Wayne C. McDaniel

Lead author of the study, Wayne C. McDaniel, is also no stranger to TASER International. According to the bibliography provided at the end of the recently published PACE study, ***Prof. McDaniel has been involved in at least three separate research publications with TASR employees dating back to 2000 (including the PACE study).*** All three studies were co-authored with Dr. Stratbucker of TASR; two of those studies were co-authored with Mr. Nerheim.⁶ TASR co-founder Rick Smith was also a co-author on one of Prof. McDaniel’s earlier papers.⁷ In this context, a number of concerns are apparent with regard to Prof. McDaniel’s objectivity:

- As established already, Dr. Stratbucker was previously compensated in the form of options by TASR. ***Was Prof. McDaniel also compensated by stock options?***
- Prof. McDaniel serves as the head of the office of technology at the University of Missouri and as an electrical engineering professor. ***According to Prof. McDaniel, the university has received an amount related to TASR research contracts that is, “something less than \$100,000.”*** (*Dow Jones Newswires, 01/14/05*)

Concerns About the Objectivity of James E. Brewer

The final author on the study, James E. Brewer, appears to have engaged in at least two prior studies involving cardiology. In both of those instances, his affiliation was stated to be with a known hospital

⁶ Stratbucker, R, Roeder R, and Nerheim, M (2003), Cardiac Safety of High Voltage TASER X26C Waveform, Proceedings of the Annual Conference of the IEEE Eng Med Bio Soc.

⁷ Stratbucker, Nerheim, M and Smith, R.W. (2000), Surface Application of TASER Stun Guns Does Not Cause Ventricular Fibrillation in Canines, Proceedings of the Annual Conference of the IEEE Eng Med Bio Soc.

or research center.^{8,9} However, in this particular case, Mr. Brewer listed his affiliation as “Brewer Consulting”; we could find no information on Brewer Consulting in any our information searches. Given TASR’s compensation practices with regard to consultants, a logical question arises: ***did Mr. Brewer receive cash or options for his work conducted in this research?***

Other Concerns with the Recently Published Paper

In addition to questions regarding the independence – or lack thereof – of the PACE study’s authors, we also noted a number of other concerns involving the research results presented. These concerns are briefly outlined below.

Relationship between Weight and Voltage – Are TASERs Safe When Used on Children? The PACE study concludes specifically that “the safety index for an NMI discharge was significantly and positively related with weight.” That is, ***the heavier the subject, the less likely they are to experience ventricular fibrillation***. It follows that children, and possibly even lighter weight adults are at greater risk when TASER shocks are employed. The study does not make any attempt to draw conclusions about the impact of NMI shocks when applied to children.

Concerns about External Validity of Results: We also have concerns with regard to the study’s external validity – i.e., the relevance of the results in a real world setting. Specifically, ***the study makes no attempt to control for confounds that may impact the safety of the device when applied in a real world setting***. In this context, we cite the following factors that may impact the safety of the device when used by law enforcement:

- The presence of certain drugs (or even alcohol) in the subject’s bloodstream.
- An elevated heart level due to stress or agitation.
- Medical conditions that may predispose the subject to ventricular fibrillation.
- Age of the subject.
- Overall health of the subject.
- Aspects of the human anatomy that differ from those of the subject pigs (such as the percentage of water in the subject’s body, the resistance provided by the subject’s skin, the structure of the subject’s heart, and so on).

We hypothesize that, in cases where a TASR device is used by law enforcement, the subject is (1) always agitated (and his/her heart rate will be elevated) and (2) very often under the influence of drugs or alcohol. In other cases where TASR-related deaths are alleged, it has also been found that other factors may have contributed to the fatality – including age and medical conditions. ***In light of the failure to control for the above factors, we believe that the authors’ conclusion that “NMI devices have an extremely low probability of inducing VF” is both premature and incomplete***. In fact, we would not be inclined to place any reliance on the study’s results.

⁸ Charge-Burping Theory Correctly Predicts Optimal Ratios of Phase Duration for Biphasic Defibrillation Waveforms, Charles D. Swerdlow, MD; Wei Fan, MD; James E. Brewer, MS, the Division of Cardiology, Cedars-Sinai Medical Center, Los Angeles, Calif.

⁹ Optimal Small-Capacitor Biphasic Waveform for External Defibrillation, Influence of Phase-1 Tilt and Phase-2 Voltage Yoshio Yamanouchi, MD; James E. Brewer, MS; Kent A. Mowrey, MS; Ann M. Donohoo, MS; Bruce L. Wilkoff, MD; Patrick J. Tchou, MD From the Department of Cardiology, Cleveland Clinic Foundation, Cleveland, Ohio, and SurVivaLink Corp, Minneapolis, Minn (J.E.B., A.M.D.).

What “Probability” of Fatality is Acceptable?

The central issue that remains undecided at this point is the probability that a TASR shock may contribute to a fatality. In this regard, we note that a very simple and reliable metric could easily be employed. The metric we suggest is the ratio of number of deaths following TASR use divided by the number of cases in which a TASR was utilized in apprehending subjects. This metric can then be compared to the number of deaths that have occurred following other means of apprehension (when the subject does not voluntarily surrender).

Why hasn't this metric ever been used? We cannot say for certain. But, we surmise that it may be due to what Dr. Park referred in his explanation for the popularity of experimental studies when examining “junk science” (the author's words). Specifically, Dr. Park hypothesizes that the researchers choose experimental methods over other more reliable approaches because “they introduce all sorts of opportunities for uncertainty and error” and that “error has a way of seeming to support the biases of the experimenter.”

A Note on TASR's Use of Options to Compensate “Consultants”

Questions surrounding TASR's compensation practices surfaced last week in light of concerns noted by another independent research provider. In light of the concerns noted last week, and the fact that at least some research in support of TASR product safety has been compensated in part by the grant of options, management's unwillingness to disclose more granularity about its compensation practices (such as a breakdown of options granted to police officers, researchers, etc.) is more than a little disconcerting. In the remainder of our report, we provide an estimate of the amount of options provided to consultants in 2003.

TASR's 2003 10K discloses the granting of 939,600 options in the aggregate. The 2003 10K also discloses that the Black-Scholes value of options granted to consultants was \$177,142, while the total dollar amount of options granted was \$3.2 million. Thus, the amount of options granted to consultants was approximately 5.6% of the total.

To arrive at a share count associated with options granted to consultants, we divided the dollar amount by \$3.38 and arrived at ***an estimate of 52,618 shares granted to consultants in 2003. Multiply that by 8 (2³) as a result of the three splits in 2004 and you get an estimated 420,944 in today's shares that were granted to TASR consultants in 2003 alone.***

When you consider that TASR closed at \$31.65 at the end of 2004 and that the split-adjusted strike price of the 2003 options would have been \$3.38/8, or \$0.42 by this time, it is clear that the monetary gain realized by consultants was very material. In fact, by our estimates, consultants could have realized gains as high as \$13.5 million (420,944 shares*profit per option of around \$32.00 (\$32.59-\$0.42) on options granted in 2003 alone. Further, management indicated that it had granted options to 11 individuals in 2004 (per statements made by management on CNBC). If we assume a similar number of consultants received grants in 2003, then ***the average gain per consultant may have been in excess of \$1 million.*** No doubt this is a highly material amount of compensation – and it could very well cause bias on the part of your typical academic researcher (with an annual salary that is likely in the \$100,000-\$200,000 range).

It is also worth noting that our estimate of the number of options provided to consultants differed materially from a figure given to us by TASR Chairman Phil Smith. He claimed the figure was around 100,000 options, but he has not responded to our follow up questions (regarding whether the figures

he provided were split-adjusted, for example) and he has since asked us to refrain from contacting the company with any questions in the future.

Finally, to close, we note the following limitations to our calculation:

1. We assume that consultant options were valued using the same methodology as employee, executive and director options. This may not be the case. That being said, ***there is no logical reason to expect a material difference in this regard.***
2. It is possible that some individuals who are representing TASR in a legislative or other context may be employees of the company. For example, a lobbyist or police officer could also be classified as a TASR employee. We have no way to confirm or disconfirm this possibility and the company has not replied to our questions on this matter. ***If this is the case, then our estimate will be significantly lower than the true level of options granted to those who may have conflicting interests.***

Appendix A
Select Highlights of Deposition Given by Dr. Stratbucker
in the Case of Wolf v. Ramsey

Note: Dashed lines are used to separate different sections of the dialogue. Additionally, we have provided emphasis (bold, italicized text) to draw attention to some of the more pertinent questions and admissions made during the deposition – i.e., those that appear to have led to the withdrawal of the witness.

Q. So in 2001, you are getting back and forth e-mails and discussions with Mr. Tuttle at Air TASER or TASER International, Inc. about whether one of that company's stun guns might have been used on JonBenet Ramsey; and then you represent in January of 2002 that are you the medical director for TASER International, Inc.; and you have previously done work that at least enriched you by some \$40,000 from stock options that were exercised and subsequently sold. And ***you don't think that coming into this case to give a Rule 26 report as an expert witness in federal court that you had any responsibility, an obligation professionally to disclose your relationship with Air TASER or TASER International, Inc.; is that your testimony, sir?***

A. No, that is not my testimony.

Q. Well, what is your testimony?

A. My testimony is that I did not and still do not view it as a requirement anymore than I would have to disclose the fact that ***I have had associations with other stun gun companies over the years and done practically the same kind of thing for them that I have done for Air TASER.*** If, for example, this one, which is made in Taiwan and is prominently displayed in the work that Dr. Doberson and I did in Colorado several years ago, ***I didn't disclose the fact that I did a test for this company on their stun gun to determine its electrical characteristics.***

Q. Did you get involved in some civil litigation as an expert witness that involved that particular stun gun?

A. Yes, I did.

Q. ***And you didn't disclose in that litigation that you had worked for this company in the past?***

A. I did not disclose -- I probably presented the report that I did for them as the kind of evidence that usually is required in those cases.

Q. ***Sir, you have a history of not disclosing information about your relationship with certain electronic firms?***

A. No, I don't have a history of any such a thing.

Q. Well, you were -- ***there were two attempts to fire you from the faculty at the University of Nebraska Medical School because you refused to disclose your relationship as a consultant with Marquette Electronics, true?*** Is that true or not, sir?

A. Yes, sir.¹⁰

¹⁰ The doctor went on to argue that the department wanted him fired for other reasons and that the failure to disclose an outside relationship was a subterfuge used by the department head to justify the attempted action.

Q. ***Does the contract that TASER International has recently been awarded by the United States Government involve the purchase by the government of stun guns?***

A. The specific nature of that contract confidential.

Q. Does TASER International manufacture anything other than stun guns?

A. Not anymore. They had a product at one time which was an electrically operated car theft preventer, and they no longer make that.

Q. To your knowledge, are they about to start making a new product other than a stun gun?

A. No.

Q. Look at your Rule 26 report for me. The introduction page, probably the third page, Expert Witness Report, February 26 2002. Do you see it?

A. Yes.

Q. "Counsel for the plaintiff Chris Wolf in the above case has retained me as an expert witness. I have been asked to examine the 12/27/96 Boulder County Coroner's Autopsy Report of JonBenet Ramsey along" -- And I assume "with" as meant to be in there.

A. Yeah, the --

Q. It says "along the," but it should say "along with the PowerPoint presentation of Detective Lou Smit." Have I read that correctly?

A. Yes.

Q. You have never seen the digital crime scene photographs as they exist in Lou Smit's PowerPoint presentation, that generation of photograph with that level of clarity; you have never seen them, have you, sir? A. My recollection is that the NBC network claimed that that's what they had. Q. They had a video image from the television show?

A. They had a video image from Lou Smit's PowerPoint presentation.

Q. And you are just not comfortable sitting around and giving an expert opinion based on photographs that you don't really yourself have any level of comfort with in terms of knowing if they are authentic or not; do you, sir?

A. That is right. But I have a tremendous amount of reliance on the autopsy report.

Q. ***You have never reviewed the PowerPoint presentation of Detective Lou Smit; have you, sir?***

A. ***Not in any form that I could attest to its authenticity.***

Q. Page 3 of your statement in your Rule 26.

A. Page 3? Yeah. Go ahead.

Q. It says under Opinion: ***I have reached the following opinion: A comprehensive examination and review of JonBenet's autopsy report and Detective Lou Smit's PowerPoint presentation.*** Let me ask you again -- Mr. Smit's PowerPoint presentation is on CD-ROM -- you have never seen it; have you?

- A. I never have seen this. I have never had the CD-ROM in my possession.
- Q. No, sir. You never have seen his PowerPoint presentation. That is the truth; isn't it, sir?
- A. No. I have seen things that were represented as his PowerPoint presentation.
- Q. By whom? Represented by whom?
- A. By NBC, by lines on the internet, by websites that traffic in this information. It is wherever you want to look you can find this stuff.

-
- Q. What efforts have you ever made to try to get the crime scene photographs?
- A. Well, one of the efforts that I made was to make a special trip to New York City to try to find out whether or not –
- Q. ***Don't you think you might have wanted to say maybe I should see those before I go into federal court in Atlanta, Georgia with a Rule 26 affidavit giving an opinion that there is no way these are stun gun marks?***
- A. No, I don't.
- Q. You don't need that kind of information; do you?
- A. It would be nice if it were available and it were provable and reliable.
- Q. You relied on solely photographs in the case in North Carolina, and you denied relying in any part on the autopsy photograph -- I mean the autopsy report; didn't you, sir?
- A. And there was an impeccable chain of custody in those photographs –
- Q. Hello. There is an impeccable chain of custody that exists with respect to the crime scene photographs and the autopsy photographs of JonBenet Ramsey. And if you really do monitor the internet, sir, check it out. Lou Smit, as acknowledged by the Boulder District Attorney's office, had on his CD-ROM PowerPoint presentation that you claim you had comprehensively reviewed in your Rule 26 report –
- A. No, I didn't say comprehensive.
- Q. Excuse me. -- he has those photographs authenticated as the crime scene and autopsy photographs by the Boulder District Attorney's office.

-
- Q. ***Why did you choose professionally, for free, pro bono, to team yourself up with Chris Wolf in a lawsuit that says that my client murdered her daughter?***
- A. Well –
- Q. Pro bono.
- A. Yeah, pro bono is correct, yes.
- Q. You bet. I don't even need an answer to that question. We'll take a recess.

MR. HOFFMAN: -- due to the testimony of the deposition today and to consider not only the witness but also the testimony from the witness and looking at it in relation to my theory of the case, ***I have decided at this point to withdraw Dr. Robert Stratbucker as an expert witness***

in this particular case with the understanding, of course, that this testimony, of course, can be sealed if counsel for the defense would like that and there will certainly be no either public reference to any of Dr. Stratbucker's theories to this Rule 26 report, to any of the things that he stated today, any conversations he may have had with me formally or informally, or any other communication involving his theory of whether or not stun gun -- a stun gun was used on JonBenet Ramsey.

MR. WOOD: Well, let me say this on behalf of the Ramseys. We do not seek for this testimony to be sealed. I mean, we don't have any plans to use it. I mean, the bottom line is with no conditions whatsoever, *do you formally and unequivocally withdraw Dr. Stratbucker as an expert witness in this case?*

MR. HOFFMAN: *Yes, I do, formally and without any conditions.*

MR. WOOD: And, likewise, *will you stipulate that under no circumstances will you reengage him in any fashion with respect to the Wolf v. Ramsey case in the future?*

MR. HOFFMAN: *Absolutely. I will not reengage him in any way.*

MR. WOOD: With that stipulation, then there is obviously no reason for us to continue the deposition today. So the deposition is terminated in light of the witness' withdrawal by counsel for plaintiff.