

# **Exhibit C**

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**SPITZFADEN ET AL VS DOW CORNING CORP ET AL**

**ROUGH DRAFT OF TRANSCRIPT APRIL 9, 1997 AM**

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CONDENSED TRANSCRIPT AND CONCORDANCE

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- (1) that you were involved in the unauthorized
- (2) release of scientifically, unsubstantiated
- (3) material consisting of a memorandum and
- (4) internal report to the media on the Meme
- (5) breast implant. That was number one,
- (6) correct?
- (7) A. That's what it says.
- (8) Q. Second thing, second instance, and I
- (9) highlighted that in blue, I don't want to
- (10) take the time to read it, but it related to
- (11) a charge that you had not followed the
- (12) policies and procedures for logging in
- (13) implant materials that had been received?
- (14) A. No. That's not at all what it says.
- (15) It says that I had collected specimens
- (16) associated with breast implant studies,
- (17) which is very funny because it's on my job
- (18) description.
- (19) Q. You collected specimens and the charge
- (20) was that there was a policy in the agency?
- (21) A. I wrote the policy. I was in charge of
- (22) the program. This is why it's even funnier.
- (23) Q. I understand your position. I respect
- (24) your position, Dr. Blais.
- (25) But the position was, whoever

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- (1) wrote the policy, the charge that was
- (2) brought against you, was that you had failed
- (3) to follow the policy, and had received
- (4) tissue samples improperly, and you had been
- (5) insubordinate, correct?
- (6) A. Yes. I had refused to perform what is
- (7) stated.
- (8) Q. Number three, Dr. Liston, in the
- (9) agency, said that you had been insubordinate
- (10) because a memo or report you had written,
- (11) you had been asked to destroy and rewrite it
- (12) by your superiors, correct?
- (13) A. It was much more than a report or a
- (14) memo. It was -- what is said there is true.
- (15) That was indeed asked.
- (16) Q. I understand that. Your position was
- (17) that the memo was right. Your superiors
- (18) said it was inaccurate and unsubstantiated?
- (19) A. No. My contention is that government
- (20) property is what is written. It's records.
- (21) You do not destroy government records. It
- (22) is my oath of office.
- (23) Q. Your superiors --
- (24) A. Instructed me to destroy government
- (25) property.

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- (1) Q. They believe it was unsubstantiated and
- (2) inaccurate. Whether they are right or
- (3) wrong; that's what they said?
- (4) A. That's in the document.
- (5) Q. They gave you an opportunity to
- (6) resubmit and redraft that?
- (7) A. Correct.
- (8) Q. You were given that opportunity several
- (9) times?
- (10) A. Correct.
- (11) Q. No documents were destroyed, were they?
- (12) A. I did not destroy anything. However,
- (13) files were indeed destroyed, not by me.
- (14) Q. You didn't do any, correct?
- (15) A. You're correct.
- (16) Q. Your position, the position of your
- (17) superior, Dr. Liston, the assistant deputy
- (18) minister, is that, in light of the foregoing
- (19) three things -- you said there was a fourth?
- (20) A. You're correct.
- (21) Q. Well, at least we've read thru. of
- (22) them, I can see in the letter. In light of
- (23) the foregoing, I consider your infractions
- (24) to be serious acts of misconduct, which are
- (25) totally inappropriate and unacceptable,

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- (1) demonstrating your unsuitability for
- (2) employment in the public service, correct?
- (3) A. That's exactly what it says.
- (4) Q. What happened after that is you filed a
- (5) grievance or appeal, or someone on your
- (6) behalf filed --
- (7) A. Yes.
- (8) Q. Then a grievance hearing was held, and
- (9) the hearing officer, Cathy Parson, upheld
- (10) your discharge, correct?
- (11) A. That's correct, exactly it.
- (12) Q. In the fall of that year, there was the
- (13) settlement, the next document I see, that
- (14) there was a settlement satisfactory to the
- (15) parties that resolved the matter, and there
- (16) was no further appeal hearing, correct?
- (17) A. That's correct.
- (18) Q. You left employment of the Canadian
- (19) FDA, and haven't worked there since?
- (20) A. Exactly.
- (21) Q. Some two years later in 1991, a
- (22) company, Natural Y Company, withdrew the
- (23) product from the market?
- (24) A. That is. Correct, actually that is
- (25) another story, and that should, perhaps, be

- (1) Q. More than half?
- (2) A. From the competitors, but Dow Corning
- (3) is represented, and Dow Chemical is also
- (4) represented. I will agree.
- (5) Q. Well, let me - we'll come to Dow
- (6) Chemical. Dow Corning one, two, three,
- (7) four, five, six, seven - 26, including this
- (8) case, 26 out of whatever it is, forty or
- (9) forty-five, roughly half, isn't it?
- (10) A. I agree that Dow Corning is
- (11) represented, but I don't agree that they
- (12) dominate my list.
- (13) Q. Well, they are - you testified however
- (14) many times is on here, right?
- (15) A. I will agree to it.
- (16) Q. Since 19 - in recent years, since
- (17) 1994, your time spent on breast implant
- (18) litigation has been increasing every year,
- (19) has it not?
- (20) A. Correct, through no wish of mine.
- (21) Q. So, if we looked at 1994, and let me
- (22) just put a column over here for percent of
- (23) your time, okay, a hundred percent is here,
- (24) fifty percent is here. In 1994, about fifty
- (25) percent of your time, if I draw that right,

- (1) was spent on breast implant litigation,
- (2) correct?
- (3) A. Well, you're, again, not quite telling
- (4) the whole truth. It depends how you
- (5) calculate it. But I did spend a lot of time
- (6) on breast implant, and I did spend some time
- (7) on litigation, preparing for it and I do
- (8) accept that.
- (9) Q. Okay. Your words in the deposition,
- (10) approximately fifty percent, is that better
- (11) than fifty percent?
- (12) A. But you gave a very special meaning to
- (13) how to compute this time. There are many
- (14) ways of computing time and percentage.
- (15) Q. 1995, I guess I had '94 squinched over
- (16) there. '95, it went up to approximately
- (17) seventy percent of your time, correct?
- (18) A. Again, calculated in a different way.
- (19) It was a different question at a different
- (20) time, and it would got a different answer,
- (21) but still I did spend a lot of time.
- (22) Q. Was it approximately seventy percent?
- (23) A. The question was formulated in a
- (24) special way. If you mean time involving
- (25) litigation, it was much, much less than

- (1) that. If you mean time on breast implants,
- (2) which could possibly be used for litigation,
- (3) I don't know. If you mean time to do
- (4) research development, that could be used for
- (5) breast implant technology it's a lot of
- (6) time.
- (7) Q. Spitzfaden deposition, December 18 of
- (8) last year, Dr. Blais, were you asked these
- (9) questions at 113, line 17, what percentage
- (10) of your time did you spend on breast implant
- (11) litigation in 1995.
- (12) Answer, by litigation,
- (13) yes, you just introduced a difference in
- (14) your question.
- (15) Question, that's what your
- (16) testimony was.
- (17) Answer, no it wasn't.
- (18) Questions were so convoluted I had to split
- (19) a them into bits, exactly as we are doing.
- (20) Please read the original testimony
- (21) correctly.
- (22) What percentage of your time
- (23) in 1995 did you spend on breast implant
- (24) related matters.
- (25) Answer, okay. 1995, now a

- (1) year before.
- (2) Answer, on average, maybe
- (3) seventy percent; is that correct?
- (4) A. It is, but remember what your question
- (5) was. You just asked me how much time I
- (6) spent on breast implant-related matters.
- (7) That is seventy percent. In fact, I may
- (8) have slightly under estimated. I was
- (9) looking at my work a few days ago. It's
- (10) much more than seventy percent.
- (11) Q. More than seventy percent?
- (12) A. Even though it doesn't appear on the
- (13) label of breast implants. When I work on
- (14) brain electrodes, there is still information
- (15) taken out of this that can be used for
- (16) breast implants, but that is not
- (17) litigation. That is research.
- (18) Q. Are we in agreement now that more than
- (19) seventy percent of your time in 1995 was
- (20) spent on breast implant-related matters,
- (21) correct?
- (22) A. I'll agree with that. I might even
- (23) agree to a bit more.
- (24) Q. Which includes litigation, correct?
- (25) A. Of course.

BSA ROUGH DRAFT OF TRANSCRIPT 4/9/97 AM SPITZFADEN ET AL VS DOW CORNING CORP ET AL MAX(14/14)

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- (1) Q. Isn't it true, in fact, Dr. Blais, that
- (2) you've been involved in litigation so much
- (3) that you do not even use the term litigation
- (4) anymore because you have no means of
- (5) differentiating between what is litigation
- (6) and what is not?
- (7) A. Contrary. I have a very precise way of
- (8) measuring what is litigation and what is
- (9) not. If it's litigation, I lose money on
- (10) it. If it's work, I get something for it.
- (11) Q. Dr. Blais, in the Spitzfaden
- (12) deposition, last December, page 109, line 6,
- (13) were you asked this question, and did you
- (14) give this answer?
- (15) Question, I want to know the
- (16) dollars coming in, checks or in cash or in
- (17) any way, I don't care from where it is,
- (18) dollars coming in in the last twelve months
- (19) to you and members of your family, what
- (20) percentage of those dollars are derived from
- (21) activities related to breast implant
- (22) litigation.
- (23) Answer, it is not income.
- (24) The actual amount, if I were to tally up the
- (25) totality of all checks which have anything

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- (1) to do with breast implants, and I don't even
- (2) use the term litigation anymore because I
- (3) have no means of differentiating what is
- (4) litigation and what is not, it amounts to
- (5) approximately to thirty-five to forty
- (6) thousand dollars.
- (7) A. That's correct. You're discussing
- (8) money, but notice, again, you forgot to ask
- (9) me how much the expenses were to generate
- (10) this amount.
- (11) Q. Was that your testimony under oath?
- (12) Did I read it correctly, Dr. Blais?
- (13) A. It was, and it is still correct today.
- (14) Q. Then in 1996, your time on breast
- (15) implants went up closer to ninety percent,
- (16) didn't it?
- (17) A. Again, calculated in a different way,
- (18) but go ahead.
- (19) Q. Ninety percent, approximately the right
- (20) number?
- (21) A. It's close. It's rising.
- (22) Q. It's rising even now this year, getting
- (23) close to a hundred?
- (24) A. Well - no, it is not. Right now it is
- (25) one hundred percent today, but what it will

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- (1) be tomorrow, I don't know.
- (2) Q. Okay. We'll stick with ninety percent
- (3) for '96. In fact, isn't it true, Dr. Blais,
- (4) that you have become so immersed in breast
- (5) implant litigation that whether or not
- (6) you'll offer a scientific opinion on a
- (7) particular topic is, in your words, quote, a
- (8) case strategy issue? Isn't that correct?
- (9) A. I remember a question, in fact, several
- (10) questions like this. I'm not really sure
- (11) what you mean, but go on. Maybe I can give
- (12) you a answer.
- (13) Q. Case strategy, that's something lawyers
- (14) do generally, isn't it?
- (15) A. Case strategy could mean anything. It
- (16) means the way in which one conducts
- (17) litigation, I assume.
- (18) Q. At page -
- (19) A. I would not normally use that context
- (20) unless the question was specifically worded.
- (21) Q. Well, let's look at your Turner
- (22) deposition, page 929.
- (23) MR. O'QUINN:
- (24) Which page?
- (25) BY MR. DONLEY:

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- (1) Q. I'm sorry, Turner, in April of 1993.
- (2) You were asked this question, line -
- (3) MR. O'QUINN:
- (4) What page.
- (5) MR. DONLEY:
- (6) Page 929.
- (7) Q. Question -
- (8) MR. O'QUINN:
- (9) Can I look over your shoulder?
- (10) MR. DONLEY:
- (11) Certainly.
- (12) BY MR. DONLEY:
- (13) Q. Question, I don't know what that
- (14) means. Are you or are you not going to
- (15) offer an expert opinion regarding the
- (16) chemical composition of Silastic-II's?
- (17) Answer, I don't really know.
- (18) It will depend. It's a case strategy issue.
- (19) Was that your testimony?
- (20) A. It was. It still is. What was asked
- (21) of me is what the lawyer, who was acting for
- (22) the plaintiff, was going to do. I do not
- (23) conduct cases. I have nothing to do with
- (24) the cases. I'm simply a tool.
- (25) Q. Simply a what?