

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 08-00026-03/05-CR-W-FJG
)
TROY R. SOLOMON, et. al.,)
)
Defendants.)

GOVERNMENT’S SUPPLEMENTAL NOTICE OF EXPERT WITNESSES

COMES NOW, the United States of America, by Matt J. Whitworth, Acting United States Attorney, Rudolph R. Rhodes IV, Assistant United States Attorney, and James Curt Bohling, Assistant United States Attorney, all for the Western District of Missouri, and hereby files its supplemental notice of expert witnesses.

A. Richard Morgan, M.D.

1. In support of Dr. Morgan’s testimony, you were provided a copy of his Curriculum Vitae on December 10, 2008.
2. Be advised that Dr. Morgan has been provided the following items to date.
 - a. Indictment.
 - b. Prescriptions: Undated, filed 09-22-2004 (start #194639) and Dated 10-19-2004, filed 10-19-2004 (start #195913)
 - c. Fax Cover Sheets: Add Promethazine with Codeine
Dated 11-30-2004, filed 12-01-2004 through 12-04-2004 (start #198748)
Dated 12-06-2004, filed 12-06-2004 (start #199288)
Dated 12-20-2004, filed 12-21 through 12-28-2004 (start #201076)
Dated 12-27-2004, filed 12-28 through 12-30-2004 (start #201653)
 - d. Fax Cover Sheets: Delete Alprazolam
(4 patients) Dated 06-02-2005, filed 06-04-2005 (start #217712)
(remaining patients) dated 06-13-2005 (start #218573)

3. You have been provided Dr. Morgan's written report, which is a summary of the evidence the government intends to offer.

B. John Kowal, Police Officer

1. In support of Officer Kowal's testimony, you were provided a copy of his Curriculum Vitae on December 10, 2008.

2. Be advised that Officer Kowal has been provided the following items to date.

- a. Indictment.
- b. Two Compact Disks containing initial discovery in *United States v. Mary Lynn Rostie, et al.*
- c. DEA Report of Investigation, dated 11-17-2008, regarding Interview of Tyla Spann on 11-06-2008.
- d. DEA Report of Investigation, dated 11-19-2008, regarding Interview of Quan Pham on 11-05-2008.
- e. DEA Report of Investigation, dated 01-28-2009, regarding Interview of Elora Dominick on 01-27-2009.

3. Be advised that Officer Kowal is expected to describe his training and experience as a police officer with the Houston Police Department. Since December 1986, Officer Kowal has specialized in drug diversion investigations. During his employment as a Police Officer, he was a member of a Drug Enforcement Administration Task Force in Houston, Texas, as a Task Force Officer in the Tactical Diversion Squad from October 1999 to January 2007. Since January 2007, he has been assigned to HIDTA Squad Diversion Investigations. During his experience, he has participated in numerous narcotic investigations. He has debriefed numerous defendants, informants, and witnesses who had personal knowledge regarding narcotic trafficking organizations. Additionally, he has participated in many aspects of drug investigations including undercover operations, conducting surveillance, and arrests. He is familiar with the methods of pharmaceutical diversion, including inappropriate prescribing, prescription rings, doctor shopping, and "crew boss" conspiracies.

4. Be advised that Officer Kowal will explain that Houston, Texas, has a rampant problem with the abuse of prescription drugs, and in particular Hydrocodone (sold under the trade names Lorcet and Lortab), Soma, and codeine-containing cough syrup, known together as a "Houston Cocktail." Houston is a source city for these substances, and abusers travel to Houston from Louisiana and other places to acquire these drugs.

Medical clinics throughout the city provide these drugs to “patients” after cursory examinations and without regard to the “patient’s” medical need for the drugs. Patients pay in cash for their clinic visits, and they typically visit multiple clinics to acquire drugs. He will explain how “patients” are recruited. These prescription drugs are also sold on the street. He will also articulate the estimated street value of the prescription drugs.

C. Carmen A. Catizone, M.S., R.Ph., D.Ph.

1. In support of Dr. Catizone’s testimony, you were provided a copy of his *Curriculum Vitae* on January 3, 2008.
2. Be advised that Dr. Catizone has been provided the following items to date.
 - a. Indictment
 - b. Two Compact Disks containing initial discovery
 - c. Charts prepared through ARCOS to be presented through the testimony of June Howard, specifically reflecting the sales of hydrocodone to pharmacies.
3. You have been provided Dr. Catizone’s written report, which is the summary of the evidence the government intends to offer.
4. Be advised that Dr. Catizone is expected to describe his training and experience, and his role as the Executive Director of the National Association of Boards of Pharmacy. Dr. Catizone will describe the definition of a “rogue pharmacy”, a “doctor-patient relationship,” “outside the usual course of medical practice,” and “not for a legitimate medical purpose.” Dr. Catizone will identify the things pharmacists can look for when trying to verify whether a prescription has been issued within “the usual course of medical practice and for a legitimate medical purpose.” This information includes, but is not limited to, observing that doctor and patient are geographically distant, that the doctor is issuing a large number of prescriptions in any one day, that the percentage of controlled substances is very high, and that all the patients are getting the same drug regardless of age, health or complaint. Dr. Catizone will identify the actions pharmacists can take in order to follow up on concerns that a prescription may not be valid. This includes, but is not limited to, speaking with the doctor, speaking with the patient, reviewing records and if not satisfied, refusing to fill the prescription. Finally, based upon Dr. Catizone’s review of the above information provided, he will opine that in this case, the prescriptions were issued “outside the usual course of medical practice, and not for a legitimate medical purpose.” He will also opine that a reasonable pharmacist should have made these observations.

D. Tom Glenski, R. Ph.

1. In support of Mr. Glenski's testimony, you were provided a copy of his Curriculum Vitae.
2. Be advised that Mr. Glenski has been provided the following items to date:
 - a. Indictment.
 - b. Defendant Elder's Prescriptions.
 - c. Dr. Okose's Prescriptions, particularly the Ls, Ms, and Ws patient names.
 - d. Faxes with list of patient names for refills.
 - e. Charts prepared through ARCOS to be presented through the testimony of June Howard, specifically reflecting the sales of hydrocodone to pharmacies.
3. You were provided a copy of his grand jury testimony, which is a summary of the evidence the government intends to offer.
4. He will opine that the prescriptions were not issued in the usual course of professional practice and not for a legitimate medical purpose. He will also explain the standards of practice for pharmacists in Missouri.
5. The reasons Mr. Glenski will reach these conclusions is because of the following observations made by him:
 - a. The volume of how many prescriptions were involved and the types of drugs that were involved.
 - b. Defendant Troy Solomon's unusual role as an agent for the physicians.
 - c. Defendant Troy Solomon paid for the prescriptions with cash.
 - d. The doctor(s) prescribed for almost all of their patients the same large number of dosage units of a very powerful painkiller.
 - e. The patients received the same doses, same doing schedules, and were refilled on the same day.

- f. The volume of hydrocodone sold to The Medicine Shoppe during the period in question substantially exceeds the amount of hydrocodone sold to the rest of the pharmacies in Missouri.

Respectfully submitted,

Matt J. Whitworth
Acting United States Attorney

By */s/ Rudolph R. Rhodes, IV*

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Assistant United States Attorney

By */s/ James C. Bohling*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on June 26, 2009, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

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