UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,

Plaintiff(s),

v.

EDWARDS LIFESCIENCES CORPORATION, et al.,

Defendant(s).

Civil Case
No. 25-02569 RC

Washington, D.C.

November 18, 2025
**Afternoon Session**

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EVIDENTIARY HEARING
BEFORE THE HONORABLE RUDOLPH CONTRERAS
UNITED STATES DISTRICT JUDGE

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| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| JOHN KILCOYNE | | | | |
| BY MR. ANDERSON | 4 | | | |
| BY MR. MUSALLAM | | 108 | | |

The following portion of the proceedings began at 2:09 p.m.:

THE COURT: When I think about what I was doing this time last year, I was watching a lot of videos of rioters beating up on police officers in tunnels. This is a little different pace.

Go ahead.

MR. ANDERSON: Thank you, Your Honor.

JOHN KILCOYNE

Having been previously duly sworn on oath, was examined and testified as follows:

DIRECT EXAMINATION (Resumed)

BY MR. ANDERSON:

Q Mr. Kilcoyne, before the break, we were looking at a presentation, an internal JenaValve presentation. Do you remember that?

A I do.

Q I would like to put that back up, PX2323. We were on slide No. 12.

Mr. Kilcoyne, this is my mistake. I wanted to make sure that I clarified the record because I had asked a question that was inartful. I just wanted to look at the R&D column where it says deal terminates. And I wanted to clarify that if the deal terminates, the plan that the company has on this slide is to expend significant effort on large valve. That's what this slide says, correct?

A Yes, we will continue to develop the large valve.

Q Thank you. Just to clarify the record. We can take that slide down.

Mr. Kilcoyne, I would like to move on now to a new topic. I would like to ask you about the TAVR-AR competitive landscape. Is it fair to say that JenaValve tracks the development of other TAVR-AR devices besides J-Valve?

A Yes.

Q You are familiar with a device made by a company in China, the device being called Ken-Valve?

A Yes.

Q I would like to look at document PX1292.

Mr. Kilcoyne, this is an email from your JenaValve work account dated March 28, 2024 to someone named Irma Darmali. Who is Ms. Darmali?

A Irma works in the business development office at Edwards.

Q She's an Edwards employee?

A Yes.

Q The subject is weekly check-in, 3/27/2025. You write in the body of the email, Irma, just heard from Peijia. That refers -- excuse me, Peijia refers to a Chinese company called Peijia Medical?

A Yes.

Q Peijia Medical licenses Trilogy technology from JenaValve for use in China, correct?
A Yes.
Q You reached out to Peijia around March 2025 to find out information about Ken-Valve, correct?
A Yes.
Q In the email, the next line says, Ken-Valve is transapical. Do you see that?
A Yes.
Q Transapical refers to a device access route that a physician uses to access the patient's heart to implant the device, correct?
A Yes.
Q The transapical access route is when a physician cuts an incision into the patient's chest wall and implants directly into the apex of the heart?
A Yes.
Q Another possible access route for medical devices like the TAVR-AR device is the transfemoral route?
A Yes.
Q Transfemoral is through the femoral artery in the groin?
A Yes.
Q Transfemoral devices are less invasive for an AR patient?
Transfemoral are less invasive?

A Yes.
Q Transfemoral devices allow patients to recover faster?
A Yes.
Q Transfemoral devices generally have better outcomes?
A I don't know. Transapical is effective. I'm not as facile with the clinical data on transapical. So a direct comparison, I would be making the assumption that -- excuse me, transapical would be a more benign approach.
Q Is it your testimony that --
A Less complications possibly.
Q Is it your testimony that transapical devices do not have worse outcomes for AR patients compared to transfemoral devices?
A Again, I'm not a student of the transapical clinical data. I know that transfemoral is the desired approach for the procedure at this time.
Q Okay. Mr. Kilcoyne, do you recall when I deposed you at your 30(b)(6) deposition on October 7, 2025?
A Yes.
Q I would like to look at the transcript from that deposition.
Excuse me, October 6, 2025. Do you see that on the front page of this transcript here, Mr. Kilcoyne?
A Yes.
Q Do you recognize this as the transcript from that

30(b)(6) deposition?
A Yes.
Q Is that a yes?
A Yes.
MR. ANDERSON: Go ahead and flip to the last page.
Do we have the errata page for this transcript?
BY MR. ANDERSON:
Q Okay. Mr. Kilcoyne, do you recall providing errata for this 30(b)(6) deposition transcript?
A Yes.
Q Do you recall being given the chance to review and correct this transcript?
A I would have, yes, I assume.
Q And do you recall being under oath when you were asked questions at this deposition?
A Yes.
Q I would like to look at page 68 of the transcript.
We are looking at lines 7 through 14. Mr. Kilcoyne, please read silently while I read aloud.
Did JenaValve know why physicians were not interested in using the transapical device?
Answer, I would, not being there at this time, I would suggest that it was similar to what I expressed before.
Question, because it's more invasive, has longer recovery times, and worse outcomes?

Answer, correct.

I read that correctly, didn't I?

A I don't disagree with my answer at that time.

Q I read that correctly?

A Yeah. No, it's fine.

MR. ANDERSON: We can take that down.

We can go back to PX1292.

BY MR. ANDERSON:

Q Mr. Kilcoyne, it's fair to say that given the differences in transapical and transfemoral devices, physicians in the United States prefer transfemoral devices?

A Yes, that's what I said.

Q And U.S. physicians are not interested in using transapical devices?

A Not really, no.

Q Mr. Kilcoyne, JenaValve's first TAVR-AR valve was a transapical device, correct?

A Yes.

Q JenaValve no longer offers a transapical device?

A Correct.

Q Looking back at your email in PX1292, the last line you write here is, not a real concern.

Mr. Kilcoyne, Ken-Valve is not a real concern because the market for transapical devices is not the same as the market for transfemoral devices?

A The approach is different. When you say market, this would be the same patient population indication, but it's a different access route, so it's not as desirable an approach as transfemoral.

Q Mr. Kilcoyne, is it your testimony that the market for transapical devices is the same as the market for transfemoral devices?

A The patient indication would likely be the same. It's just the access route.

Q Mr. Kilcoyne, I just want to clarify, when you wrote not a real concern, did you mean that the market of the transfemoral market is not the same as the market for the transapical market?

A Could you ask me that question again. Sorry.

Q Yes. Mr. Kilcoyne, to clarify, was it your testimony that when you wrote not a real concern, that you intended to convey that the markets for these devices were different?

A No.

Q Okay.

A The indication that the market, if you will describe it as a market, would be similar. The access is different. The access of a transapical access is not as desirable with the clinician as a transfemoral.

Q Okay. I would like to turn to page 129 in the 30(b)(6) testimony that we just looked at.

Mr. Kilcoyne, if you could come with me to lines 15 through 18 of that page. This is page 129. Please read silently while I read aloud.

Question, when you say, quote, not a real concern, end quote, what did you mean?

Answer, the market of the transfemoral market, well, it's -- yeah, it's not the same.

A Okay. I can see where you are coming from in your question. But I still would suggest what I just told you is more accurate, a more accurate description. The indication is the same. It's just different access. So it's the same -- we have a transapical device. We are treating the same population. We moved away from it because of the clinician's desire for a transfemoral approach.

So it was the same patient population, so it was the same -- clarifying my statements maybe, same market, a different indication -- excuse me, same indication, but less desirable from a clinician's standpoint.

Q Mr. Kilcoyne, I read that correctly, that question and answer, in your deposition?

A I'm sorry?

Q Did I read it correctly into the record?

A You read my comments correctly, yes.

Q We can put that down.

I would like to talk to you about some of the other

devices that JenaValve tracks.

You remember at your deposition we talked about a list of devices that JenaValve as a company provided during this litigation? Do you remember that?

A Yes.

Q And you had the opportunity in that deposition to confirm that the list was correct, correct?

A Yes.

Q In fact, you even added a device to it. Do you remember that?

A Yes.

Q Okay. We have created a demonstrative with the devices on that list.

MR. ANDERSON: Your Honor, request permission to have an assistant assist me with the demonstrative?

THE COURT: You may.

BY MR. ANDERSON:

Q Mr. Kilcoyne, if you could take a look at the TAVR-AR product column on the far left, and after you have taken a look at it, confirm for me that that's the list of devices that we talked about at your deposition?

A Okay. There's a quiz coming, I see. Okay. I believe that's it, yes.

Q Okay. And you see, the second from the bottom, there is the Myval made by Meril. That's the device you added in the

deposition?
A Yes.
Q I just wanted to make sure.
Let's start at the top with the J-Valve. Mr. Kilcoyne, you agree that J-Valve is owned by Edwards, and that's located in the United States?
A Yes.
MR. ANDERSON: Okay. Mr. Pasupula, if you could write U.S. under country.
BY MR. ANDERSON:
Q Mr. Kilcoyne, do you agree that Edwards has U.S. employees, that J-Valve has a pending U.S. clinical trial, and that there are plans to market J-Valve in the United States?
A Yes. Assuming approval, yes.
MR. ANDERSON: Okay. If we could put green checks in all of those boxes.
BY MR. ANDERSON:
Q Mr. Kilcoyne, I would now like to drop your attention to the bottom of the chart where you see Cusper under TAVR-AR product. Do you see that?
A Yes.
Q Cusper is made Cuspa Medical, is that correct?
A Yes.
MR. ANDERSON: Mr. Pasupula, if you could write X

U.S. in red under country.
BY MR. ANDERSON:
Q Mr. Kilcoyne, I would like to take a step back for a moment. The R in TAVR-AR -- excuse me, the R just in TAVR stands for replacement, correct?
A Yes.
Q Cusper is not a valve replacement?
A Repair. It's a repair device.
Q Cusper is designed instead to repair a valve, correct?
A Correct.
Q Valve repair devices are a different design than TAVR-AR devices?
A It would be, yes.
Q And the FDA-approved indication for a valve repair device like the Cusper would be different from that of a TAVR-AR product?
A Yes.
MR. ANDERSON: Okay. Mr. Pasupula, if you could put a cross through the Cusper device, we will use this chart for TAVR-AR products.
THE WITNESS: It still would be for likely severe symptomatic AR patients but just one that could undergo -- that needs repair versus replacement, just to clarify.
BY MR. ANDERSON:
Q Mr. Kilcoyne, the list was TAVR-AR products. You agree

Cusper is not a TAVR-AR product?
A That's correct.
Q Moving forward, the next down from J-Valve is Alpha Valve, Zeta Value made by a company named Laguna Tech?
A Yes.
Q That's a company located in the United States?
A Yes.
MR. ANDERSON: Mr. Pasupula, if you could write U.S. in green under Laguna Tech.
BY MR. ANDERSON:
Q Fair to say, Mr. Kilcoyne, that you are not aware right now of an ongoing U.S. clinical trial for either of Laguna Tech's valves?
A I am not.
MR. ANDERSON: Mr. Pasupula, if you could put a red X under U.S. clinical next to Laguna Tech.
BY MR. ANDERSON:
Q Mr. Kilcoyne, you don't know when Laguna Tech would start or might start implanting any valves in U.S. patients, correct?
A Correct.
MR. ANDERSON: If we could put an X next to U.S. market plans.
BY MR. ANDERSON:
Q Mr. Kilcoyne, you don't know the status of Laguna Tech

as a company right now, do you?
A No.
MR. ANDERSON: If you could put a red X under U.S. employees.
BY MR. ANDERSON:
Q Mr. Kilcoyne, the next on here is Ken-Valve. That is the transapical device we talked about before in China, correct?
A Yes.
MR. ANDERSON: Okay. We put X U.S. in red under country under Ken-Valve.
BY MR. ANDERSON:
Q We will take this as a group to be efficient, Mr. Kilcoyne. VitaFlow, Pioneer Valve, Hanchor Valve, and DOCS Valve, the next four, are all located in China, correct?
A Yes.
MR. ANDERSON: Mr. Pasupula, if you could write X U.S. by those four valves.
BY MR. ANDERSON:
Q Mr. Kilcoyne, while he's doing that, the SAT AR valve system next on the list, that's located in South Africa?
A I believe so.
Q It's outside of the United States?
A Yes.

MR. ANDERSON: If we could write X U.S.

BY MR. ANDERSON:

Q And the last valve on here that you identified at your deposition by Meril, that's in India, correct?

A Yes.

MR. ANDERSON: Please write X U.S. by that as well.

BY MR. ANDERSON:

Q I would like to take all of these X U.S. devices that we have looked at. Mr. Kilcoyne, you are not aware of any U.S. offices or U.S. employees for any of these X U.S. companies, correct?

A Correct.

MR. ANDERSON: Let's put red Xes by each of those for U.S. employees.

BY MR. ANDERSON:

Q Mr. Kilcoyne, you are not aware of any currently pending U.S. clinical trials for any of these X U.S. devices, correct?

A Correct.

MR. ANDERSON: Put a red X by each of those.

BY MR. ANDERSON:

Q Mr. Kilcoyne, you are not aware of any plans by any of these X U.S. companies to bring those valves to the U.S. market, correct?

A I am not aware. It doesn't mean they won't, but I'm not

aware.

Q You sitting here right now are not aware of any plans to bring them to the U.S. market?

A Not aware.

MR. ANDERSON: Let's put red Xes by all of those.

BY MR. ANDERSON:

Q Mr. Kilcoyne, other than Trilogy made by JenaValve and J-Valve made by Edwards, you are not aware of any other TAVR-AR device currently in clinical trials in the United States?

A No.

Q Other than Trilogy and J-Valve, you are not aware of any other TAVR-AR device that has been successfully implanted in a United States AR patient, correct?

A Not to my knowledge.

MR. ANDERSON: Thank you, Mr. Pasupula.

Your Honor, at this time, under Federal Rule of Evidence 107(c), I would like to preserve the demonstrative in its current shape for the record.

THE COURT: Sure.

MR. ANDERSON: Mr. Pasupula, please take a photograph of it just to make sure.

BY MR. ANDERSON:

Q Mr. Kilcoyne, I would like to go ahead and move on to a new topic. I would like to ask you about the events leading

up to the proposed transaction with Edwards.

Before agreeing to the proposed acquisition, JenaValve talked with other potential acquirers, correct?

A Yes.

Q Those potential acquirers are called strategic buyers, sometimes referred to as strategics, correct?

A Yes.

Q The strategics that JenaValve reached out to are large multinational companies that participate in the structural heart market?

A Yes.

Q Other than Edwards, some of the strategics that JenaValve talked with include Medtronic?

A Yes.

Q Boston Scientific?

A Yes.

Q Abbott Laboratories?

A Yes.

Q And it's fair to say that JenaValve also spoke with Johnson & Johnson, correct?

A Yes.

Q Mr. Kilcoyne, much of the discussions with those strategics has been marked confidential so we can't discuss it in open court. I am going to just ask you some general facts about it.

It's fair to say in connection with the interest from those strategics, JenaValve had its bankers value the company?

A Ask me that question again. I'm sorry.

Q In connection with interest from strategics, JenaValve's bankers provided valuations of JenaValve?

A Yes.

MR. ANDERSON: Introduce document PX2177.

BY MR. ANDERSON:

Q Mr. Kilcoyne, this is an email from your work account dated December 6, 2023. The subject line is JenaValve.

Mr. Kilcoyne, can you confirm that the individuals in the to line are the JenaValve investment committee?

A Yes.

Q We talked about the investment committee earlier. The investment committee in JenaValve is group of investors who hold predominant share of ownership in JenaValve?

A Yes.

MR. ANDERSON: I would like to turn to page 4 of this email. There is a section there titled strategics.

BY MR. ANDERSON:

Q Mr. Kilcoyne, we will be talking about the redacted information, so if you could open your binder now to the document labeled PX2177, 2177.

A 77, you said?

Q Yes, 2177. We are now looking at page No. 2.

Excuse me. I'm sorry. Page No. 4. Mr. Kilcoyne, page No. 4 has the section titled strategics on the middle of the page. Do you see that?

A Yes.

Q The first bullet point says, high degree of interest exhibited by Edwards followed by Abbott. Do you see that?

A Yes.

Q Then down on the same section under process, about two-thirds of the way down the bottom, it says, two interested parties create an auction opportunity.

Mr. Kilcoyne, auction opportunity refers to JenaValve's strategy to create a bidding war between strategics for the company?

A Yes. You would present to multiple strategics in an effort to have interest, multiple party interest.

Q In connection with that interest, the last section of this part of the email says valuation. Again, please do not speak the numbers that you see in the red box in that bullet point, but this last bullet point says, DCFs from both BAML and Piper attached. Identify standalone valuation range from -- and the rest is redacted.

Piper in this sentence refers to Piper Sandler?

A Yes.

Q And that's an investment bank?

A Yes.
Q JenaValve retained Piper to advise it on potential interest from strategics, correct?
A Yes.
Q BAML, does that refer to Bank of America?
A Yes.
Q JenaValve retained Bank of America in 2021 in connection with a possible IPO?
A Yes.
Q IPO refers to initial public offering?
A Correct.
Q And DCFs here stands for discounted cash flow analysis?
A Yes.
Q Fair to say that's a method of valuing a company?
A Yes.
Q Looking at the numbers in the red box, please answer yes or no if they accurately represent the value for JenaValve that JenaValve's bankers estimated at this time.
A Yes.
Q Taking a step back, Mr. Kilcoyne, Edwards provided the term sheet that resulted in the proposed acquisition in May of 2024, is that correct?
A Yes.
Q After you received the offer from Edwards, there was no formal plan by JenaValve to tell other strategics about that

offer, correct?
A When we signed the LOI, letter of intent, there would have been an exclusivity component with that.
Q Mr. Kilcoyne, before you signed the merger agreement, when you received the offer from Edwards, there was no formal plan to inform other strategics about the offer that JenaValve had received from Edwards, correct?
A I don't recall.
Q You didn't reach out personally in your role as CEO to tell the strategics that you had received an offer from Edwards?
A I think up until the receipt, we were talking to other strategics, so they would have -- we would have been having conversations with them. Is that your question? I'm sorry.
Q No. Mr. Kilcoyne, my question is more specific. When you received the offer from Edwards, you didn't reach out to the strategics to tell them that you had received the offer from Edwards. You don't recall that?
A I don't remember that we did, no.
Q You didn't instruct Piper or BOA to inform the strategics about the offer that you had received from Edwards?
A I don't recall.
Q Prior to signing the merger agreement with Edwards, JenaValve never announced to the public that it was for

sale?
A Question again.
Q Prior to signing the merger agreement, JenaValve never announced to the public that it was for sale?
A No.
MR. ANDERSON: We can put that document to the side.
BY MR. ANDERSON:
Q Mr. Kilcoyne, I would like to ask you now about the merger agreement at issue in this case. It's fair to say you signed it on behalf of JenaValve?
A Yes.
MR. ANDERSON: Okay. At this time I would like to introduce a document that has been fully redacted, PX1166. I am introducing it now simply so that Mr. Kilcoyne has it in front of him.
BY MR. ANDERSON:
Q So, Mr. Kilcoyne, PX1166.
We are going to save the discussion of specific elements of this merger agreement until the sealed session. I am asking you simply about some of the general terms, Mr. Kilcoyne.
The first thing I want to ask you about is the exclusivity clause you mentioned earlier. Now, it's fair to say that the exclusivity clause prohibits anyone who is representing JenaValve from having any further discussions

with other strategics about a potential acquisition?

MR. SHORES: Your Honor, may I interrupt? I think this is more appropriate for the closed session given the confidentiality issues we talked about before.

MR. ANDERSON: Your Honor, may I respond?

THE COURT: Yes.

MR. ANDERSON: The parties provided redacted versions of the transcripts. This was not a redacted portion of the transcript; therefore, we understood it to not be a confidential issue.

MR. SHORES: I don't know where these questions are going. Quickly it can get into confidential information. I'm not trying to stop any testimony on this, but this is a sensitive area.

MR. ANDERSON: Your Honor, we are happy to move into sealed session. I think I have been toeing the line pretty well.

THE COURT: Object question by question.

Go ahead.

BY MR. ANDERSON:

Q Mr. Kilcoyne, in order to avoid confidentiality issues, I am going to ask you to be very precise, yes or no, with your answers. Under the exclusively provision, if another strategic were interested in acquiring JenaValve today, JenaValve would not be able to allow it to conduct due

diligence?
A Correct.
Q JenaValve would not be able to discuss possible deal terms with another strategic?
A Correct.
Q JenaValve would not be allowed to explore interest from that other strategic in any way?
A Correct.
Q I would like to talk to you about the structure of the proposed acquisition. I am going to ask you about a few of the milestones, but I do not want you to say the numbers. Okay, Mr. Kilcoyne?
The potential total value of the deal is public, and that is $945 million, correct?
A Yes.
Q That comes from three different payments, is that right?
A Yes.
Q One payment is due on the close of the acquisition?
A Yes.
Q And then there are two milestone payments, correct?
A Yes.
Q Now, the PMA -- one of the milestones is called the PMA milestone?
A Yes.
Q PMA stands for premarket approval, correct?

A Yes.
Q That's a payment due on the FDA approval of Trilogy?
A Yes.
Q Without saying a number, it's fair to say that the PMA milestone gets lower over time as PMA approval is delayed?
A Yes.
Q The other milestone is the sales milestone, correct?
A Yes.
Q And that milestone is calculated using Trilogy sales figures calculated based on a certain amount of time after commercialization, correct?
A Yes.
Q There must be a minimum amount of Trilogy sales to even achieve the sales milestone, correct?
A Yes.
Q Now, the merger agreement also contains a termination fee or a breakup fee, correct?
A Yes.
Q Edwards would pay JenaValve the breakup fee if Edwards is unable to achieve antitrust approval for the proposed acquisition, correct?
A Yes.
Q Fair to say that the breakup fee is protection for JenaValve in case Edwards fails to get antitrust approval?
A I don't know what protection means.

Q It's fair to say that the breakup fee is JenaValve's protection for deal certainty that was negotiated as part of the MA, correct?

A Protection is a strong word.

Q Mr. Kilcoyne, let me ask it like this. You negotiated the breakup fee in order to ensure that the deal, the proposed acquisition, closed as planned, correct?

A Yes.

Q And if it didn't close as planned, JenaValve would receive the payment, correct?

A Yes.

MR. ANDERSON: We can put the merger agreement to the side for now.

BY MR. ANDERSON:

Q Mr. Kilcoyne, I would like to move on to another topic. When you signed the merger agreement on behalf of JenaValve, you did not know that Edwards had already acquired J-Valve?

A Did not know.

Q You first learned that Edwards had acquired J-Valve the same day JenaValve announced the proposed acquisition with Edwards?

A Yes.

MR. ANDERSON: I would like to look at document PX2162.

BY MR. ANDERSON:

Q Mr. Kilcoyne, this document is dated July 26, 2024, and it relates to a call that occurred on July 24, 2024. Do you see that?

A I'm sorry, PX --

Q Mr. Kilcoyne, this has not been redacted, so we can use the screens, unless you would like to, but this is PX2162.

Looking on the screen, Mr. Kilcoyne, this document is dated July 26, 2024, is that fair?

A Yes.

Q And it relates to a Teams call on July 24, 2024. Do you see that?

A Yes.

Q And the participants in that call are Don Bobo and yourself?

A Yes.

Q Who is Mr. Bobo?

A Senior vice president corporate strategies and development.

Q He is the primary negotiator for Edwards in the proposed acquisition, correct?

A Yes.

Q The topic of this call says, call to review the merger prior to Edwards' press release being issued at 1:15 p.m. Pacific Standard Time.

Midway through the first paragraph where it says, he then said, he said he had a surprise to share with me. We also acquired JC Medical.

Do you see where it says that?

A Yes.

Q Mr. Kilcoyne, could you please read the next sentence.

A This totally blindsided me. This was never discussed, intimated, or socialized in any of our negotiation from May 20 signing to the LOI to signing of the MA.

Q LOI is letter of intent?

A Yes.

Q MA is merger agreement?

A Yes.

Q Before you signed the merger agreement, Mr. Bobo never mentioned that Edwards was looking to acquire J-Valve and JenaValve at the same time?

A Correct.

Q No one at Edwards mentioned that they were looking to acquire J-Valve and JenaValve at the same time?

A Correct.

Q You were upset to learn that Edwards was going to and had acquired J-Valve?

A I was what?

Q You were upset.

A Yes.

Q You shared your concerns with Mr. Bobo on this call?
A Yes.
Q Looking down on this document, let's look up a little bit where it says I shared my concerns. The first concern you shared was potential impact on antitrust. Do you see that?
A Yes.
Q Mr. Kilcoyne, you thought that by putting two TAVR-AR companies together, it would increase the number of questions from antitrust regulators, correct?
A Yeah. Anything to offset deal certainty was important to us. That would be one of them.
Q Just to be clear, you thought putting two TAVR-AR companies together would increase antitrust scrutiny, correct?
A I thought that putting two companies together may draw out the decision and the closing, yes.
Q You thought that it could delay the proposed acquisition?
A That was a worry, yes.
Q The second concern you raised was about the PMA milestone, correct?
A PMA milestone, yes.
Q And you were worried that it would distract Edwards from executing on the PMA which would adversely impact the PMA

milestone payment, correct?

A That was a concern, yes.

Q The third concern that you listed was about the sales milestone, is that right?

This bullet says on the document, I shared with him that our sales milestone does not start until first U.S. commercial sale with the performance period being 30 to 42 months later. By that time, you will likely be selling JC Medical J-Valve which will potentially materially reduce the dollar amount of Trilogy sales making it much more difficult and unlikely that we would be able to achieve our sales milestone payment.

Mr. Kilcoyne, you were concerned that J-Valve's sales would cannibalize sales of Trilogy?

A Potentially.

Q Mr. Kilcoyne, you were concerned about that, correct?

A Yes.

Q Mr. Bobo verbally told you on this call that J-Valve sales would contribute to JenaValve's sales milestone?

A Yes.

Q That verbal promise from Mr. Bobo was never written down?

A I'm sorry?

Q That verbal promise was never written down?

A No.

Q It was never added to the merger agreement?
A Correct.
MR. ANDERSON: You can put that document to the side.
BY MR. ANDERSON:
Q Mr. Kilcoyne, you learned from other JenaValve employees that they were also surprised to learn that Edwards had acquired J-Valve, correct?
A Yes.
MR. ANDERSON: I would like to introduce PX2108.
BY MR. ANDERSON:
Q Let's look first at the email in the middle of the page, Mr. Kilcoyne. This is an email from your JenaValve work account dated July 25. July 25 was a day after the proposed acquisition was announced?
A Yes.
Q This was sent to DL senior staff. That's the distribution list for all senior staff at JenaValve, correct?
A Yes.
Q You wrote, All, I have learned more about J-Valve. I will update you at our 7:45 a.m. meeting.
It's fair to say that senior staff had been asking about the J-Valve acquisition, correct?
A They had been.
Q They had been asking about the J-Valve acquisition?

A Yes.
Q If we look up at the top email, this is from someone named Vivian Khalil. Who is Ms. Khalil?
A Vice president of valve development.
Q Vice president of valve development.
Ms. Khalil responds to you and to the entire DL senior staff. Do you see that?
A Yes.
Q She writes, That's good, John. The J-Valve thing has gotten out to a few people and is making them very nervous.
Mr. Kilcoyne, fair to say that not only were JenaValve employees surprised, they were also expressing concerns about the J-Valve acquisition?
A They wanted to know more, yes.
MR. ANDERSON: We can put that document to the side.
BY MR. ANDERSON:
Q Now, after your call with Mr. Bobo on July 24, you spoke to him again about the J-Valve acquisition in January of 2025, correct?
Is that a yes?
A I assume you are going to show me a document that says that --
Q Mr. Kilcoyne --
A -- so we will go with you.
MR. ANDERSON: Let's look at PX2346.

BY MR. ANDERSON:

Q Mr. Kilcoyne, you recall from your depositions that this is the format in which the company produced text message conversations, is that right?

A Yes.

Q The short message report indicates that it is a text message conversation. But look at the date range here. It says January 14, 2025. Now, the phone numbers here are redacted for confidentiality, but let's look at the next page and see what the messages say.

Look at the first message there, Mr. Kilcoyne. It says the name Jan after it. Do you recognize who you are texting with in this conversation?

A Yes.

Q Who are you texting with?

A Jan Keltjens.

Q Who is Mr. Keltjens?

A Chairman of JenaValve.

Q Chair of the board of directors?

A Correct.

Q And that's K-E-L-T-J-E-N-S?

A Yes.

Q I would like to look now down at the message you sent at 8:52 p.m. You write to Mr. Keltjens, message that we discussed clearly delivered. He knows our position re

J-Valve.

The he in this two sentences here is Mr. Bobo, correct?

A Yes.

Q The message you delivered was to reiterate your concern about the impact of the J-Valve acquisition on the JenaValve acquisition's deal certainty, correct?

A Yes.

Q You then follow that with a quotation. It says, we are committed to having both.

That's what Mr. Bobo responded to you, correct?

That's what Mr. Bobo responded when you delivered the message?

A Yes.

Q Sorry, that's a yes?

A Yes.

MR. ANDERSON: Okay. We can put that to the side.

BY MR. ANDERSON:

Q A few days after this January 14 meeting, it's fair to say you had another phone call with Mr. Bobo, correct?

Let's look at PX23 --

THE COURT: You have to answer yes or no.

THE WITNESS: Yes. I'm sorry. Yes.

BY MR. ANDERSON:

Q Thank you, Mr. Kilcoyne, PX2373. Let's look at the top line here. This says, Don Bobo talking points January 22,

'25.

It's fair to say, Mr. Kilcoyne, that these are talking points you prepared for that call which happened on January 22, 2025?

A Yes.

Q Let's now look at the first bullet. It says, initial negotiation focus, key JVT stipulated requirements, April '24. The second bullet point here says deal certainty.

We have heard that word before, that phrase before, Mr. Kilcoyne. Deal certainty to you means actually closing the proposed acquisition, correct?

A Yes.

Q Actually closing the proposed acquisition was a key requirement of JenaValve when negotiating the proposed acquisition?

A That was a high priority, yes.

Q The last part of that top bullet says, we entered MA after much negotiation as we believed that both factors were addressed.

Do you see that?

A Yes.

Q The first part of the second bullet says, deal certainty, however, was materially impaired with the non-disclosed and misleading J-Valve acquisition which now -- and the rest is redacted for privilege.

Mr. Kilcoyne, you agree that the deal certainty was impaired because Edwards was not forthcoming with its plans to acquire J-Valve?

A There was concern that it would slow it down, yes.

Q You agree that the deal certainty was impaired, correct?

A Yes.

Q Fair to say that this lawsuit today is an example of how Edwards' J-Valve deal threatens the certainty of the JenaValve deal?

A Again? I'm sorry.

Q The lawsuit today is one example of the deal certainty being threatened, correct?

A Yes, part of it.

Q Now, below that you write, This is not the transaction we signed on for. We would have negotiated different transaction terms, breakup fee, IP, divestiture, but more than likely no deal.

More than likely no deal. When you wrote that, you meant that if JenaValve had known about the planned acquisition of J-Valve, it more than likely would not have agreed to the terms of the merger agreement in its current form?

A That's true. It doesn't mean that we wouldn't have done a deal. It might have just been done under different terms.

Q You wouldn't have agreed to the merger agreement as it

is today?
A Unlikely with these terms.
Q If JenaValve had known of the J-Valve deal, it would have, for example, negotiated a higher termination fee?
A As an example, that would be maybe one thing that we would look at.
Q All right. What are some other things that you would have done?
A Consideration, price consideration.
Q That means the total value of the deal?
A Yes.
Q You would have negotiated for a higher total value?
A Possibly.
Q If we look down at bullet point No. 3, this is titled our concerns with EW approach. And the first bullet says, lack of transparency re J-Valve acquisition. It was kept secret while you were aware of our sensitivity particularly re IP.
What does IP stand for here?
A Intellectual property.
Q Mr. Kilcoyne, JenaValve believes that it has strong IP for TAVR-AR technology?
A We believe our IP is strong, yes.
Q JenaValve believes its IP may cover J-Valve's technology?

A We believe our portfolio was quite robust.
Q Including that it could cover J-Valve's technology?
A It could possibly, yes.
Q JenaValve has communicated its sensitivity about its IP to Edwards while it was negotiating the proposed acquisition?
A Yes.
Q In connection with the proposed acquisition, JenaValve signed a clean team agreement with Edwards to protect its confidential information, correct?
A I'm sorry. Say that again.
Q JenaValve and Edwards signed a clean team agreement to protect JenaValve's confidential information?
A Yes.
Q That's because Edwards and JenaValve are two independent companies and JenaValve would be sharing with Edwards competitively sensitive information?
A Yes.
Q That competitively sensitive information could include the names of potential customers?
A Yes.
Q Could include your intellectual property?
A Yes.
Q Could include design elements of the Trilogy system?
A The what?

Q Design elements of the Trilogy system.
A Possibly, yeah, design.
Q Under the clean team agreement, JenaValve would only share sensitive information with specifically named Edwards employees, correct?
A Correct.
Q Those specific Edwards employees were not to share that information with their colleagues who are not on the clean team, correct?
A Correct.
Q Mr. Kilcoyne, after you learned that Edwards had acquired J-Valve, you specifically asked Edwards to ensure that members of the clean team, and I quote, do not currently or historically have or had access to or have responsibilities slash engagement with the JC Medical, J-Valve transaction, integration, or ongoing operations?
A Correct.
Q You did not want JenaValve's confidential information to be shared within Edwards with employees involved with their acquisition of J-Valve, correct?
A Correct.
MR. ANDERSON: Let's return to PX2373.
BY MR. ANDERSON:
Q The second bullet here says, the deal has been challenged clearly and explicitly due to J-Valve in Austria,

Germany while being strongly signaled in the United States.

You recall at this time, in January 2025, antitrust regulators had raised concerns about the overlap between J-Valve and Trilogy, correct?

A Yes.

Q The third bullet here says, unwillingness to leverage IP and engage regulators to understand possible remedies include divest.

I would like to look at that last phrase, the include divest. That refers to a proposed divestiture of J-Valve by Edwards, correct?

A Yes.

Q Mr. Kilcoyne, you are aware that FTC has stated that if Edwards was to divest the J-Valve, that would resolve the antitrust issues with the proposed transaction?

A As I understand.

Q You believe that the proposed acquisition between JenaValve and Edwards would be more likely to close if Edwards were to divest J-Valve?

A I would assume, yes.

Q Let's look down to section 5.

The very top says, for us to continue to follow your high stakes strategy of no divestiture and moving to litigation in all geographies, we need a different game plan now.

Mr. Kilcoyne, Edwards' high stakes strategy refers to the strategy of not considering divesting J-Valve to allow the proposed acquisition to close?

A Yes.

Q I would like to look up on the page now to section No. 4, which is largely redacted, but we can see some bullet points underneath, the first of which says, significant delay in all JenaValve programs, purgatory, and opportunity loss.

Mr. Kilcoyne, you were concerned that Edwards' high stakes strategy would slow down JenaValve's forward momentum, correct?

A That was a concern.

Q Let's look at the second bullet. Significant unforeseen litigation expenses. Now, the specific amount of those litigation expenses is confidential, so do not say it out loud, but it is fair to say JenaValve is incurring significant litigation expenses connected with this proposed acquisition, correct?

A Yes.

Q The third bullet point says, significant delay in patient access to Trilogy while EW/J-Valve aggressively moves forward with the JOURNEY study and J-Valve integration.

Fair to say that Edwards has not kept you informed of

its progress in integrating J-Valve into the company?
A Say that again.
Q Edwards has not kept you apprised of its integration efforts with J-Valve, correct?
A With J-Valve?
Q With J-Valve.
A No.
Q You don't know how far Edwards has gotten with integrating J-Valve, correct?
A I do not.
MR. ANDERSON: Let's flip to the second page of these talking points.
BY MR. ANDERSON:
Q Mr. Kilcoyne, you proposed on that call with Mr. Bobo that Edwards agreed to modify the merger agreement to address these issues, correct?
A Yes.
Q Let's look at the bullet points here. The first one says, legal expense 100 percent payment for expenses associated with transaction litigation.
Edwards has not agreed to that?
A Correct.
Q The second bullet, increased interim funding target plus 1.5 million per month start now.
Let's talk about what the interim funding is,

Mr. Kilcoyne.

It's fair to say that JenaValve is receiving interim funding in the form of monthly pages on a loan, advanced monthly payments on a loan, from Edwards to JenaValve?

A We are receiving payments on a monthly basis. I'm not sure I would characterize it as a loan.

Q They are the terms of an interim funding note, correct?

A Interim funding.

Q It's a note between Edwards and J-Valve, correct?

A The deal closed. It's forgiven, so...

Q At present, before the deal closes, it's in the form of a note, correct?

A It's in the merger agreement as part of the merger agreement. Interim funding agreement is part of the merger agreement.

Q Now, JenaValve needs that interim funding, as it says here on the document, to prepare for and execute the commercial launch of Trilogy, correct?

A Yes.

Q That includes hiring supply chain personnel?

A Yes, all of the items that are on that list.

Q Sorry, Mr. Kilcoyne. I didn't mean to interrupt.

Does it mean hiring field support staff?

A Yes.

Q It includes investing in JenaValve's infrastructure and

pipeline, correct?
A Yes.
Q We will talk more about the precise amounts of that in a sealed session. Let's look at section C here where it says, increased breakup fee increased by six times extra funding to $60 million.
Do you see that?
A Yes.
Q Edwards has not agreed to increase the breakup fee?
A Correct.
Q And then section D, provide a plan to us with your proposed strategy and anticipated time lines and expected outcomes and confidentially discuss possible remedies.
Edwards has not agreed to that one either, correct?
A Correct.
MR. ANDERSON: You can put that document to the side.
BY MR. ANDERSON:
Q Following this call, Mr. Kilcoyne, Edwards and JenaValve continued to engage on the topic of divesting J-Valve?
A What was the date on this?
Q That was January 2025.
A Yes.
MR. ANDERSON: I would like to introduce PX2370. That's PX2370.
Let's start with the email on the middle of page 3,

page ending in 003.

BY MR. ANDERSON:

Q This email in the middle is from someone name Patrick Bock. If we look at the signature line, we can see that he's a lawyer with the law firm Cleary Gottlieb.

Fair to say Cleary Gottlieb represents Edwards in connection with the proposed acquisition?

Cleary Gottlieb represents Edwards?

A I believe so, yes.

Q If we look at the sent line, it says, Friday, January 31, 2025. The subject is, forward Edwards slash JenaValve.

Now, the first name in the to line there is Ruchit Patel. Who is Mr. Patel?

A Rope's counsel in London.

Q And is he representing JenaValve in connection with the proposed acquisition?

A Yes.

Q That was a yes?

A Yes.

Q Let's look at the body of the email.

Mr. Bock writes in the second paragraph, consistent with its rights under the merger agreement, Edwards has no obligation to divest JC Medical or any other business. Your frequent reversion to this extreme and detrimental course of

action continues to be unproductive and an unnecessary distraction to our attempts to get this transaction cleared.

Mr. Kilcoyne, you don't believe that it's extreme for JenaValve to request that Edwards divest J-Valve, correct?

A I think it's a fair question.

Q You don't believe it's detrimental for JenaValve to request?

A I do not.

Q If we look at page 2, this is a response from Mr. Patel to Mr. Bock dated February 3, 2025. I would like to look at the portion of his email at the beginning where he says, We don't agree with your analysis of whether Edwards is under an obligation to divest. The merger agreement was negotiated and agreed at a time when J-Valve was kept secret from us. As such, the clause you referred to was not intended to apply to nor does it apply to Edwards' deliberately concealed acquisition of J-Valve which was secretly signed immediately prior to the merger agreement and not announced so as to avoid detection.

Mr. Kilcoyne, what I just read is JenaValve's position with respect to Edwards' acquisition of J-Valve, correct?

A Yes.

Q The first sentence of the next paragraph says, your repeated attempts to dismiss discussion on this topic and characterize them as unnecessary distraction further reveals

bad faith.

Mr. Kilcoyne, you agree that Edwards was acting in bad faith by refusing to even discuss divesting J-Valve?

A It was their position, yes.

Q So, Mr. Kilcoyne, just to be clear, you agree Edwards was acting in bad faith?

A It was their position. I mean, it was their position, bad faith. We can call it bad faith if you want to call it bad faith. But yes, I mean, that's the words that were used.

Q Mr. Kilcoyne, you would call it bad faith? I just want to make sure the record is clear.

A Yes.

Q After this email exchange that we just looked at, Edwards sent JenaValve a letter accusing it of breaching the merger agreement. Do you recall that letter?

Say yes, please.

A Yes.

Q Thank you.

MR. ANDERSON: Let's look at PX2372.

BY MR. ANDERSON:

Q This is a letter dated February 7, 2025. It's to Ropes & Gray. And it is from, if we look in the upper right corner, Brian M. Lutz from Gibson Dunn.

It's fair to say, Mr. Kilcoyne, Gibson Dunn is also

representing Edwards with respect to the proposed acquisition?

A Yes.

Q The subject of this letter says, demand to comply with obligations under merger agreement. I would like to flip to page 4 and look at a specific part of this letter.

In the second paragraph from the bottom, Mr. Lutz writes, JenaValve also -- you see it starts in the middle of the paragraph? JenaValve also must cease attempting to engage any regulatory authority in discussions regarding divesture of JC Medical, a remedy that Edwards contractually is not required to and will not undertake. Edwards expects that JenaValve will take these steps voluntarily. But if JenaValve fails to do so, Edwards will take all necessary actions to enforce its rights under the agreement.

Mr. Kilcoyne, that's language I read correctly?

A Yes.

Q JenaValve responded to this letter?

A JenaValve?

Q Responded to this letter?

A Yes.

MR. ANDERSON: I would like to introduce PX2371. This is an email. Let start with the middle email on page No. 2.

BY MR. ANDERSON:

Q This is an email from Peter Welsh. And Peter Welsh is at Ropes & Gray. You recognize the name Pete Welsh, correct?

A Yes.

Q Dated February 8, 2025, and it's sent to Mr. Lutz at Gibson Dunn.

The first sentence of the second paragraph of this email states, your letter presses a willfully false narrative including for reasons already communicated to Cleary Gottlieb, communications with which you are undoubtedly familiar.

Mr. Kilcoyne, that refers to the emails we just looked at between Mr. Patel and Mr. Bock?

A Yes.

Q The last sentence of the middle paragraph, in short this narrative is pretextual and offered in bad faith effort to deflect from Edwards' fraud in signing its deal from JenaValve while concealing from JenaValve and its advisers Edwards' near simultaneous acquisition of JC Medical.

Mr. Kilcoyne, it is JenaValve's position that Edwards committed fraud by concealing its J-Valve acquisition from you?

A I don't know the legal definition of fraud. I can share that we were upset.

Q Mr. Kilcoyne, just to make sure I'm clear, it is fair to say that JenaValve's lawyers had accused Edwards of committing fraud in concealing the acquisition from J-Valve?
A These were counsel's words, yes.
MR. ANDERSON: You can put that document to the side.
BY MR. ANDERSON:
Q Mr. Kilcoyne, after JenaValve accused Edwards of fraud, Edwards sent JenaValve another letter. Do you remember that?
A Yes.
MR. ANDERSON: Let's look at that letter, PX2473.
BY MR. ANDERSON:
Q Much of this letter has been redacted, and we will wait to discuss the specifics in a sealed session, but I want to draw your attention to a few things at the top.
Mr. Kilcoyne, this is dated February 11, 2025 from Gibson Dunn to JenaValve. The subject here says, request to comply with obligations under interim funding note. And then the rest is redacted.
It's fair to say the interim funding note is the agreement under which Edwards is providing monthly payments to JenaValve, correct?
A Yes.
Q In this February 11 letter, Edwards demanded that JenaValve comply with certain terms in the interim funding

note, correct?
A Yes.
Q Let's turn to -- well, we can't look at page 2 because it is redacted, but, Mr. Kilcoyne, it's fair to say that in this letter, Edwards said it would revoke interim funding if JenaValve did not comply with those terms?
A Yes.
Q Mr. Kilcoyne, you believe that JenaValve has complied with the interim funding note, correct?
A We have complied with the interim funding agreement.
Q We will talk more about that in a sealed session as well, but it's fair to say that since you received this letter, no one at JenaValve has attempted to raise with Edwards the possibility of divesting J-Valve?
A One more time.
Q No one at JenaValve has raised the possibility of divesting J-Valve with anybody at Edwards since receiving this letter?
A I don't recall specific. I would say probably not, but I don't believe we have.
Q It's fair to say there are no discussions today about Edwards possibly divesting J-Valve, correct?
A There have been no recent discussions.
MR. ANDERSON: We can set that letter to the side.

BY MR. ANDERSON:

Q Mr. Kilcoyne, let's talk about JenaValve's relationship with Edwards since these exchanges that we just looked at.

As of today, it's fair to say there's no process in place for integrating JenaValve into Edwards if the proposed acquisition closes?

A No formal plans, no.

Q The companies have not started any integration planning for JenaValve at all?

A Correct.

Q Mr. Bobo indicated to you that he does not want to begin integration planning until after the proposed acquisition closes, correct?

A As I recall, yes.

Q JenaValve still has ongoing obligations to Edwards under the merger agreement though, isn't that right?

A Yes.

Q One of those obligations is that JenaValve must send its proposed contracts related to clinical trials to Edwards for review and approval?

A Yes. Not all.

Q Certain of these contracts have to be sent to Edwards, correct?

A About $250,000.

Q Anything above $250,000, is that correct?

A Yes.
Q JenaValve is not able to move forward with any contracts above that amount until it receives approval from Edwards, correct?
A Correct.
Q Mr. Kilcoyne, Edwards has delayed approval of certain important contracts related to the ARTIST trial, correct?
A When you say ARTIST trial, it took longer than we would have liked.
MR. ANDERSON: Let's introduce PX2380. Let's look at the email that starts in the middle of the page.
BY MR. ANDERSON:
Q This is an email, Mr. Kilcoyne, from your work account dated May 2, 2025. If we look at the names in the to line, does that appear to be the JenaValve board of directors and investment committee?
A Yes, these are board members. Investment committee is part of the board. It's a subgroup of that list, yes.
Q If we flip to the second page, on this page there's a section called ARTIST. Let's blow that up and look at the fourth bullet point down where it says, note, Edwards' delayed approval of the trial commitment spend covenant requirement by approximately two months, thus, we are three months behind first patient enrollment.
Mr. Kilcoyne, you recall that it took three months from

the time you started discussing the proposed ARTIST spending for Edwards to give its final approval, correct?

A Again.

Q You recall that it took three months from the time you started discussing the proposed ARTIST spending for Edwards to give its final approval?

A I said in the email here approximately two months. We were three months behind because of the work that needed to be done after the fact once they approved.

Q So it's fair to say that Edwards' delay caused a three-month delay behind first patient enrollment, correct?

A We were slow, yeah, by about three months.

Q Mr. Kilcoyne, you agree that three months was longer than it should have taken?

A In the context, just to put maybe ARTIST into context, it's a ten-year study. It's a hundred-million-dollar commitment from either JenaValve or Edwards. The specific request that we are addressing in this note, $13 million request for purchase from the Core Lab, so --

Q Mr. Kilcoyne, I have to caution you not to say any specific names out loud.

A It was a large sum of money.

Q I am just asking yes or no that you thought it was taking longer than it should have to get approval for those contracts, correct?

A One of the things about the startup, early stage company, is you want things to move very quickly. You are impatient because you don't have the cash. In this situation, we were asking somebody to commit to a ten-year trial. Significant capital outlay in the long term and a significant capital outlay in the short term.

In retrospect, I can understand why they would do such a thing, to make sure that they are fully committed and understand the agreement, the spend that we are asking them.

So I think in retrospect, we would have liked it to move faster, and the reality of if I'm in Edwards' shoes, I want to make sure that I understand everything.

Q All right. Mr. Kilcoyne, directing you back to my question, you thought it took longer than it should have to get approval, correct?

A At a startup, everything is longer than it should have been. So yes, we would have liked it to move faster, but in context, it probably was not inappropriate in time.

Q I would like to open your deposition. If we could display page 188. This is the personal deposition we looked at before on September 29, 2025.

We are looking at page 188, lines 18 through 189, line 1.

Take one moment to make sure this can pop up on the screen for us.

Please read silently, Mr. Kilcoyne, while I read aloud for the Court.

Question, and so it is fair to say that your understanding was that EW was delaying the ARTIST study trial?

Answer from the witness, I thought that it was taking longer than it should to get approval.

MR. MUSALLAM: Improper impeachment, probably the third time. I have ignored it, but just for the record.

THE COURT: Go ahead.

MR. ANDERSON: Thank you.

BY MR. ANDERSON:

Q Mr. Kilcoyne, I read that correctly, didn't I?

A I'm sorry?

Q I read that correctly?

I read that correctly?

A Yes.

MR. ANDERSON: We can put that to the side.

BY MR. ANDERSON:

Q I would like to look back at the email that we were just looking at, PX2380, page 2. If we look back at the section, it says here, the second part of that -- excuse me, the bottom bullet says, this adversely impacts our ability to meet our corporate goal, 203 patients enrolled by December 31, 2025.

It is fair to say that the delay adversely impacted JenaValve's ability to achieve its corporate goal of enrolling patients in ARTIST?

A Yes.

MR. ANDERSON: We can put that document down.

BY MR. ANDERSON:

Q Mr. Kilcoyne, another issue that you have been dealing with is JenaValve employees' negative views of Edwards, correct?

A I'm sorry?

Q Another issue you have been hearing about is JenaValve's negative attitudes towards Edwards?

A Hearing about it from whom?

Q From JenaValve employees.

A It was concerning.

MR. ANDERSON: Let's introduce PX2282.

BY MR. ANDERSON:

Q Mr. Kilcoyne, this is an email from Mr. Dearen, Mr. Dan Dearen, dated August 8, 2025. Who is Mr. Dearen?

A He's a member of the board of directors.

Q And he sends an email to you, subject line JenaValve.

A Yes.

Q Let's look all the way to the bottom of this page where there is the beginning of an email. It says on August 8, 2025 at 2:50 p.m. Do you see that that is from your email

account at JenaValve?
A Yes.
Q You are writing to Mr. Dearen in this email. I would like to look at the third sentence of the email.
You say, we have a real flight risk situation brewing. The redacted FTC filing, very bad look for EW, is online, many employees have read it. There is a strong and growing sentiment that -- we are not going to go through all of these bullet points, Mr. Kilcoyne, but I would like to look at the fourth bullet point.
It says, based upon what I read in the FTC report, I don't trust EW and don't think I would want to work there anyway.
Mr. Kilcoyne, JenaValve employees told you that they questioned Edwards' intent with respect to the proposed acquisition, correct?
A Again, context. What they are reading is off the FTC website with quotes in the FTC website that promote the FTC's opinion. So what they are getting for news is the FTC sound bites. Based upon what you would read in the FTC website, you may come to this conclusion.
Q Mr. Kilcoyne, my question was that JenaValve employees said to you that they questioned Edwards' intent with respect to the proposed acquisition. That's fair, correct?
A Based upon the information that they have read from the

FTC website.
Q That's a yes to my question, Mr. Kilcoyne, correct?
A Contextually, yes.
Q One of the things that gained the attention of JenaValve employees was Edwards' claim that but for Edwards, JenaValve would not be able to move forward with Trilogy, correct?
A Yes.
Q One of the things that gained their attention was Edwards' claim that but for Edwards, JenaValve will not be able to get approval for Trilogy from the FDA?
A Stated for effect, yes.
Q One of the things that gained their attention was the claim that but for Edwards, JenaValve will not be able to perform or provide Trilogy product to customers, correct?
A Stated for effect, yes.
Q Mr. Kilcoyne, you do not agree that Edwards is necessary for JenaValve to successfully commercialize the Trilogy product?
A A lot of things have to happen in order for us to commercialize the value. First we need approval, then we need to raise money, significant capital, to launch the product. If we, in fact, end up able to launch, it will be, as we have said, a pilot controlled or a managed launch. So it's all relative.
Q Mr. Kilcoyne, yes or no, do you agree that without

Edwards, JenaValve will not be able to proceed forward with commercializing Trilogy?

A Commercializing would be very different.

Q In your opinion, Trilogy is the best TAVR-AR device out there?

A Yes.

Q You agree that JenaValve has recruited top doctors to use the Trilogy product?

A Yes.

Q Has recruited top doctors to tell others about Trilogy's benefits?

A Yes.

Q You believe that Trilogy will change lives?

A It has already.

Q In your opinion, Trilogy will change lives whether JenaValve is part of Edwards or an independent company?

A Yes.

MR. ANDERSON: Okay. We can put that document to the side.

BY MR. ANDERSON:

Q Mr. Kilcoyne, I would like to talk to you a little bit about what JenaValve is doing to advance its manufacturing and supply chain.

Let's start with the basics. The Trilogy valve has two components, a valve and a delivery system?

A Yes.
Q JenaValve manufactures its own valves?
A Yes.
Q JenaValve assembles the delivery systems from components sourced from outside the company?
A Correct.
Q JenaValve has been increasing its manufacturing capacity?
A Yes.
Q We will talk about the specifics in a sealed session, Mr. Kilcoyne, but it's fair to say that JenaValve has been expanding its facilities for manufacturing valves?
A In context, yes.
Q And it's fair to say JenaValve is bringing a new facility online for assembling delivery systems?
A For assembling?
Q Delivery systems.
A Possibly. It's not been approved by the board.
Q JenaValve has even discussed constructing an entirely new production facility from the ground up, correct?
An entirely new production facility in another country, correct?
A We have traveled to other countries looking at the opportunity to build our valves in one of the countries. No decision has been made to do that.

Q It's fair to say that JenaValve is obligated to get Edwards' approval before investing in any of these manufacturing projects?
A If it exceeds 250,000, yes.
Q Mr. Kilcoyne, as of October 6 when we had our last deposition, Edwards had not approved the spending for a new assembly facility. Is that still true?
A It has not been approved yet.
Q If the proposed acquisition closes, Edwards intends, as far as you understand, to keep manufacturing Trilogy valves at JenaValve's current facilities?
A That's what I understand, yes.
Q You are not aware of any plans by Edwards to move Trilogy manufacturing to Edwards' preexisting facilities?
A Not to my knowledge.
Q JenaValve is not aware of Edwards -- of any Edwards plans with respect to manufacturing Trilogy?
A Correct.
Q I would like to move on now, Mr. Kilcoyne, to the plans for the commercial launch that JenaValve has put together.
Let's start by introducing a document we have looked at before, PX2303. And these are the July 2025 board of directors slides.
Mr. Kilcoyne, let's take us to page No. 9. This is the lead slide for the section on the United States launch and

WW revenue plan. WW stands for worldwide?
A Yes.
Q Now, Mr. Kilcoyne, I'm not going to go through all these slides because they are heavily redacted. It's fair that this section contains the slides about the commercial launch plans that JenaValve has for Trilogy in the United States?
A Yes.
Q And these slides include an overview of sales and inventory, correct?
A The only thing I have is the cover page so...
Q Mr. Kilcoyne, we can open in your binder to confirm, PX2303, and we are looking at slide starting on 9.
A Okay.
Q If you flip all the way to slide 27, it's fair to say that that is the section on the U.S. commercial launch plan, correct?
That's the end of that section?
A Yes.
Q So these 18 slides, Mr. Kilcoyne, it's fair to say that JenaValve has plans to commercially launch Trilogy and project sales and inventory as part of that, correct?
A Pending approval.
Q It's fair to say JenaValve has plans on metrics and goals for site engagement and key launch targets?
A That would be standard procedure, yes, for any company.

Q It has plans for hiring and training new field staff across the United States?
A Again, upon approval.
Q It has plans for educating physicians on how to use Trilogy, correct?
A Same.
Q It has plans on ensuring that Trilogy is covered by Medicare after launch, correct?
A That is outstanding, but yes, there is different scenario planning.
Q Planning for -- the company is planning for different scenarios, correct?
A Yes.
Q JenaValve also has plans to obtain financing to replace the loss of the monthly loan payments if the deal terminates, correct?
A We've had discussions.
Q I would like to flip to --
A We have not committed.
Q Sorry.
A Nothing is committed.
Q Let's flip to page 65 and talk about those plans.
This slide is titled, funding strategies steps post-merger agreement termination.
A What page? The page again is?

Q This is page 65.
A 65.
Q Okay. Mr. Kilcoyne, I would like to look down at the bullet in the middle of the page that says, series C extension emergency round will provide a runway for the company to explore and close on alternative M&A.
Do you see that?
A Yes.
Q M&A refers to merger and acquisition?
A Yes.
Q Alternative M&A could include JenaValve getting acquired by a different strategic than Edwards?
A It could.
Q Now, without getting into specifics, as you can see, there are lots of confidential markings on here, it's fair to say that you have discussed with JenaValve's investors the possibility of a series C extension?
A Yes, scenario planning. Yes.
Q And you generally agree that the feedback has been positive? Feedback from series C investors has been positive?
A Yes. There's always caveats, but overall.
Q If we look at the fourth -- the bullet right below the one we just looked at, Mr. Kilcoyne, management would initiate series D outreach to potential new lead investors.

It's fair to say that a series D funding would bridge the gap until JenaValve could go through an IPO. That's the plan, correct?

A That would be the goal, but that's redacted, so that amount of money is not a guarantee. That would carry us through a public offering. It's important to put all these in context. Asking individually doesn't really tell the story. I understand why you are doing it, but it doesn't really tell the story.

Q Mr. Kilcoyne, your counsel will have all the opportunity to tell that story. I am simply asking you right now that management would initiate a series D outreach, and that would bridge the gap through a potential IPO, correct?

A Yes.

MR. ANDERSON: We can put that document to the side.

BY MR. ANDERSON:

Q Around the time that JenaValve was negotiating the proposed acquisition, it received inquiries from investors, correct?

A Yes.

Q I would like to look at PX2173.

A PX?

Q 2173. This one has not been redacted, Mr. Kilcoyne. This one has not been redacted, so to save some time, we can look at the screen if you like.

This is an email from your work account dated February 13, 2024. I will give you a second, Mr. Kilcoyne.

A Yes.

Q Do you see that, February 13, 2024?

A Yes.

Q And that is before the proposed transaction was announced?

A I'm sorry?

Q That was before the proposed transaction was announced?

A Yes.

Q Let's look at the body of the email. Sorry. This was sent to the investment committee. That's the subject line there, re JenaValve IC, is that correct?

A Yes.

Q The first line you write, All, yesterday afternoon, both PuraVita and Omega called to inquire about the financing.

The second sentence says, we shared with them that very recently there was outreach from a strategic and that we needed a couple of weeks to understand the seriousness of their interest.

Let's pause there. It's fair to say that the outreach from a strategic there was Edwards, correct?

A Yes.

Q And PuraVita and Omega are potential investors in JenaValve?

A Yes.
Q JenaValve told them that it would not discuss financing because of the discussions with Edwards, correct?
A It would not make sense to engage them. It would be a waste of their time.
Q The last sentence here says, both, I believe, were accepting of our posture and expressed continued interest.
I read that correctly?
A Yes.
MR. ANDERSON: Okay. We can put that document to the side.
BY MR. ANDERSON:
Q Mr. Kilcoyne, JenaValve received interest from investors even after the proposed acquisition was announced, correct?
A You're going to show me something. I don't recall off the top of my head, no.
Q Let's look at PX2170. This email at the top is from Tim Becaj. Who is Mr. Becaj?
A Yes.
Q Who is Mr. Becaj?
A Tim is director of finance.
Q This is dated August 19, 2024. That was a few weeks after the proposed acquisition was announced?
A Yes.
Q Mr. Becaj writes, hi, John. We received the below

inquiry from an investment group GEM looking to explore investing in JenaValve.

The last sentence says, are you okay if I just let them know after the announcement of the acquisition by Edwards? We currently have financings on pause.

Mr. Kilcoyne, fair to say that all financings from outside investors were paused after signing the merger agreement?

A Yes.

MR. ANDERSON: We can put that document to the side.

BY MR. ANDERSON:

Q We were just talking about, Mr. Kilcoyne, the possibility of JenaValve proceeding with an IPO. Do you recall that?

A Yes.

MR. ANDERSON: I would like to introduce a document, PX2418.

BY MR. ANDERSON:

Q I would like to start with the email in the middle of the page. This one is from your work account dated May 30, 2025. Do you see that, Mr. Kilcoyne?

A Yes.

Q And this -- the to line there is a number of other JenaValve employees, correct?

A Yes.

Q The subject, JenaValve confidential. Let's look at the body of the email.

As you are aware, we are working towards obtaining FTC approval and closing the transaction with Edwards. In the event the FTC doesn't approve the deal, we are planning several contingencies. One of our contingencies is an IPO.

It's fair to stay that IPO is still a contingency for the company, correct?

A We do a lot of scenario planning, so yes, this would be something that we would work on -- or contemplate, not work on, but contemplate.

Q Okay. That sentence continues, along that line, we are working with Piper Sandler to draft our S1 for an IPO.

Mr. Kilcoyne, what is an S1?

A That's a selling document you use when you go out on a public offering to raise money with potential investors.

Q Fair to say that JenaValve prepared an S1 for a possible IPO in early 2021?

A Early 2021?

Q Yes.

A Yes.

Q And that S1 process got all the way through review by the SEC?

A Yes.

Q In fact, Mr. Kilcoyne, before you were appointed CEO of

JenaValve, you served as CEO of another company called Micrus?

A Yes.

Q You led Micrus through a successful IPO, correct?

A Yes.

Q In your experience, it takes about six to nine months to prepare for an IPO?

A Yes.

Q It's fair to say that JenaValve will need a solid leadership team ready to execute an IPO if needed, correct?

You will need a solid leadership team to execute an IPO?

A Yes.

Q Mr. Kilcoyne, am I correct that I learned that Steve Sloan was just promoted to chief financial officer at your company?

A Interim.

Q Interim chief financial officer?

A Interim.

MR. ANDERSON: We can put that document to the side.

THE WITNESS: No activity occurred on that email.

BY MR. ANDERSON:

Q I'm sorry?

A There was no activity -- there was no planning ever --

Q There's no question pending, Mr. Kilcoyne. Thank you.

A Just wanted to clarify.

Q I would like to now talk about JenaValve's commercial sales projections for the Trilogy product.

MR. ANDERSON: Let's look at PX0031.

BY MR. ANDERSON:

Q Mr. Kilcoyne, you recognize this as a December 2023 presentation about aortic regurgitation market opportunity?

A Yes.

Q I would like to flip to page 19 in this presentation. As you can see here, the numbers are redacted, but we will be looking at them in a sealed session in a moment with the Court's permission. I would like to briefly talk about the development of these projections with you.

The top box here is U.S. commercial forecast JenaValve. These are projected sales if JenaValve were to stay an independent company, correct?

A I'm sorry?

Q These are the projected sales if JenaValve were to stay an independent company?

A Yes.

Q The bottom box says, U.S. commercial forecast accelerated?

A Yes.

Q The accelerated forecast was something that JenaValve prepared as a sales tool to Edwards, correct?

A It was part of our presentation deck, yes.
Q Mr. Kilcoyne, you did not create this accelerated forecast for the purpose of analyzing the number of lives that could be saved by the proposed acquisition?
A We indicated -- it's redacted, but if I recall, we indicated how many patients -- the difference between the JenaValve launch and an Edwards launch, how much more patients would be treated. By definition, with a 25 percent annual mortality rate, it's not hard to figure out how many patients' lives you would be saving based upon the information provided.
Q Mr. Kilcoyne, it's fair to say that JenaValve did not create this forecast to analyze the number of patient lives that could be saved by a proposed transaction?
A That was not included in this slide, but again, by definition, it's not hard to do the math. But I would agree that this specific slide did not call that out.
Q Mr. Kilcoyne, I want to be very precise. It was not the intent when creating this projection to use it to project the amount of lives that could be saved from the proposed transaction?
A The projection was the number of patients that would be treated by JenaValve over five years and Edwards over five years, number of patients treated.
Q Mr. Kilcoyne, yes or no, it was not the intent of these

forecasts to analyze lives saved?
A Correct.
Q That's correct?
A Yes.
Q These accelerated projections are based on assumptions that you made about Edwards' capabilities to market Trilogy?
A Yes.
Q You did not get information from Edwards to create this accelerated forecast, correct?
A Correct.
Q No one from Edwards was involved in creating the accelerated forecast?
A Correct.
Q Let's talk briefly about the assumptions that you used. One was you assumed the size of Edwards' sales force, correct?
A We made an assumption.
Q You did not know the size of Edwards' sales force?
A Directionally, but not exact.
Q A second assumption was the number of accounts that you believed that Edwards could reach with that sales force?
A Correct.
Q You did not know the number of accounts Edwards had, correct?
A Correct.

Q A third assumption you made was how many sales Edwards could make per site, correct?
A On a monthly basis, I believe, yes.
Q You did not know how many sales Edwards was making per site, correct?
A Correct.
Q When you created this accelerated forecast, you did not know that Edwards was going to acquire J-Valve, correct?
A Correct.
Q The accelerated forecast does not take into account that Edwards could also be marketing J-Valve at the same time as Trilogy?
A Correct.
Q J-Valve has not updated this accelerated forecast since it was created in 2023?
A JenaValve has not updated.
Q Excuse me, JenaValve has not updated the accelerated forecast since it was created in 2023?
A Correct.
MR. ANDERSON: We can put that down.
BY MR. ANDERSON:
Q Mr. Kilcoyne, JenaValve sent this accelerated forecast to other strategics, isn't that right?
A Yes.
MR. ANDERSON: Let's look at PX2144.

THE WITNESS: Do I need to open the binder?

BY MR. ANDERSON:

Q No. PX2144. Let's look at the email at the top. This is an email from Brandon Rice. Mr. Rice works at Piper, correct?

A Correct.

Q And he is working with JenaValve on the interest from proposed -- excuse me, the interest from possible acquirers?

A Yes.

Q This email is dated January 22, 2024. Mr. Kilcoyne, it's sent to your work email account and someone named Justin Castelli. Who is Mr. Castelli?

A Business development at Boston Scientific.

Q Boston Scientific is another strategic acquirer, correct?

A Correct.

Q Okay. Let's take a look at page 006. This is the same slide that we were just looking at in the presentation given to Edwards, is that correct?

A Yes.

Q Let's look back at page 1. Mr. Rice writes, hey, Justin a couple of additional slides that should be helpful. It's a brief review of our U.S. commercialization plans which shows our standalone commercial ramp versus what things could look like in a more accelerated manner where sales rep

infrastructure is already established.

Mr. Kilcoyne, fair to say that Mr. Rice does not mention that this accelerated forecast was created for Edwards?

A Correct.

Q He doesn't say it was created based on assumptions about Edwards, correct?

A No.

Q Mr. Kilcoyne, you believe that Boston Scientific could accelerate sales in the same way suggested by this accelerated forecast?

A They can accelerate from us for sure. It's directionally similar to Edwards.

Q So you thought Boston Scientific could also accelerate sales, correct?

A I'm sorry?

Q You believed that Boston Scientific could also accelerate sales?

A Over us, yes.

Q You believe Medtronic could also accelerate sales, correct?

A Yes.

Q You believe any company with a bigger sales force and clinical team could accelerate sales in the same way, correct?

A Yes.

MR. ANDERSON: We can put that document down.

Your Honor, at this time we have reached the end of our open court section, and we would request to move into a sealed session.

THE COURT: All right. This is probably a good time for our afternoon break, so we will take a 15-minute break, and then the courtroom will be cleared.

(A recess was taken at 3:45 p.m.)

(The courtroom was clear, and the following was heard in closed session.)

(The courtroom was opened, and the following was heard in open session.)

MR. MUSALLAM: May I proceed?

THE COURT: You may.

MR. MUSALLAM: Mr. Kilcoyne, you were shown correspondence between JenaValve's counsel and Edwards' counsel.

A Yes.

Q Did those exchanges change your view of the transaction's purpose?

A No.

Q What is your view today?

A The view today is it's the right -- I mean, I hope I can -- you guys appreciate the passion which I have for this company. But this is the right transaction. This is a transaction that would absolutely benefit patients. 40 years in this business, I can tell you that this is the time for the transition. This would benefit patients.

Q How did you first learn that Edwards was acquiring JC Medical?

A How did I first learn?

Q Yes.

A Through the phone call with Mr. Bobo.

Q What was your initial reaction once you learned that?

A I was concerned. I was concerned that we would slow down the transaction and compromise the certainty of the close.

Q And why was the time and deal certainty so important to you as a CEO?

A We needed capital to run the company, and we wanted to close for patients, to get the product into patients, and for our own employees so they have an understanding of what path they are going to be on, whether Edwards or on our own.

Q And you were asked about raising the possibility of divesting JC Medical with Mr. Bobo --

A Yes.

Q -- at Edwards.

Why did you raise that option with Mr. Bobo?
A Because, again, it goes back to deal certainty. Anything that gets in the way of closing the transaction on a timely basis, that was going to be a concern. It was expressed prior to signing the merger agreement. It didn't change with the merger agreement.
Q And I think Mr. Barrett (sic) asked you about a number of various contingencies, and you have described some of the challenges. Why even have those contingencies in place if they are so uncertain?
A Well, I think you need to always have a plan for multiple situations. So it's a fiduciary responsibility to -- that I have to the board and to my employees and the shareholders that we are prepared, depending upon what happens, we are prepared.
Q I want to chat briefly about the ARTIST trial. We talked a little bit about it. At a really high level, I want you to remind Your Honor what the ARTIST trial actually is.
A ARTIST is a trial for severe symptomatic regurgitation patients that are at low or intermediate risk. The ALIGN-AR is four severe symptomatic high surgical risk. ARTIST, low intermediate risk.
Q How long is that trial?
A To enroll the trial?

Q Yes.
A It's roughly a thousand-patient trial. We are anticipating at least 18 months.
Q And how long is the entire trial?
A It's a ten-year trial. I mean, follow-up it's a ten-year trial.
Q How much does that cost?
A As I mentioned previously, it's in excess of a hundred million dollars.
Q How does the ARTIST trial fit into JenaValve's overall strategy for Trilogy?
A I think we are focused on two aspects. One is to innovate in devices. The other is to innovate in indication. This broadens the patient population that can receive JenaValve, so we are offering or making the device available to a broader population of patients. So expanding the patient population to be able to treat a broad number of patients. That's why.
Q Okay. I want to show you an Exhibit DX3, please.
And this is a September 28, 2016 board deck.
And, Mr. Kilcoyne, you were not at the company in 2016, but based on your role as CEO today, are you familiar with how JenaValve maintains and stores historical board materials?
A Yes.

Q And is this the type of board presentation the company maintains in its regularly kept corporate files?
A Yes.
Q And is maintaining these kinds of board presentations regular practice?
A Yes.
Q Any reason to believe this isn't a true and accurate copy of the 2016 presentation?
A Yes.
Q Yes, you believe it's true and accurate, just to make sure?
You have no reason to believe this is not true and accurate?
A I believe this is the September 28, 2016 board deck, yes.
MR. MUSALLAM: If we can turn to page 61, please.
BY MR. MUSALLAM:
Q And in the middle you see it says -- well, the title is aortic therapy technology pipeline. And the middle says horizon 2 programs.
What does this slide show, first of all, about expanding indications?
A It clearly suggests that you are going to expand, I mean, expand indications to intermediate risk. There are additional valve in valve, bicuspid --

(There was an interruption by the court reporter.)

THE WITNESS: -- expanding indications to intermediate risk patients, valve in valve, bicuspid, and low coronary.

BY MR. MUSALLAM:

Q And what does this slide then tell you about when JenaValve began considering expanding indications like the ARTIST trial?

A I mean, this would suggest in 2016 that this was on the mind of the management board at that point along with, you know, different size valves as well.

Q Let's go to that first bullet point.

A So 29 and 33 annulus valves, those would be the larger valves. It obviously was identified in 2016 as a gap for us that we knew we probably needed larger valves as we went through the ALIGN-AR trial and realized that we had the clinical data suggesting we are missing 20 percent of the patients. It became not only clear from a board deck, it became clear clinically that this is a patient population that we need to address.

Q And how often has that come up, the need to have a larger valve since you have been at JenaValve?

A I am exaggerating, but only a little bit if I said daily.

Q What is your understanding of when J-Valve began

conducting clinical trials in the U.S.?

A What?

Q What is your understanding of when J-Valve began conducting --

A 2023.

Q Sorry. Let me finish the question.

A Okay. I'm sorry.

Q That's okay. What is your understanding of when J-Valve began conducting clinical trials in the U.S.?

A 2023.

Q Okay. Now, during cross-examination, you were shown slides titled why ARTIST now, why large valves now. Do you recall that?

A Yes.

Q Can you provide some context for us for what was going on at JenaValve at that time? This is March 2024.

A Yeah. I mean, from the large valve, as I was just saying, we knew we needed a large valve prior to my arrival. 2016 we are suggesting. It became clearly apparent in our clinical trial we needed a larger valve.

We had, as articulated before, a number of our accounts saying that we need larger valves to treat this patient population, it put our field sales force in a position that we had to say we are working on it, but we don't have one right now. We had a group of individuals in the field sales

force also that were having, you know, the prideful group that they had an issue with being able to deliver valves to patients and to physicians to treat. So there was a concern that we were falling behind, we are not holding up our part of the bargain of being a leader.

Q And so what did that translate into?

A With regard to?

Q With respect to that slide, the why ARTIST now, why large valves now.

A Yeah. I mean, it was a situation where, again, we wanted to make sure we were able to address and provide the physicians what they needed. We had a group that was becoming demoralized because they didn't have product and able to deliver product to physicians. They became very anxious.

What you saw was a tactical response. But I think we have clearly demonstrated through the slides that were presented that from a strategic standpoint, we had identified that we needed a valve back in 2016.

Q There was some reference to block J-Valve in that. Do you recall that?

A Yes.

Q Let me just -- to put it into context here, how many TAVR centers are there in the United States?

A About 800.

Q And how many TAVR centers is JenaValve currently in?
A 30.
Q And what trials are you conducting there? Which clinical trials are you conducting in those 30 sites?
A The ALIGN-AR cap and the ARTIST trial.
Q To your knowledge, how many of those 30 sites are also running J-Valve's pivotal trial?
A About six or seven.
MR. MUSALLAM: Your Honor, I misestimated how much time I have, and I recognize it is 5:30.
THE COURT: How much longer do you have?
MR. MUSALLAM: I think I probably have ten minutes.
THE COURT: Go ahead.
MR. MUSALLAM: Would you like me to continue?
THE COURT: Yes.
MR. MUSALLAM: Thank you.
Let's turn to PX2323 real quick, please.
BY MR. MUSALLAM:
Q If we flip to the page with the slide you were shown earlier, do you remember looking at this slide?
A Yes.
Q And you said, Mr. Sloan, VP of finance at that time, prepared this?
A Yes.
Q What responsibility does Mr. Sloan have for commercial

decisions at JenaValve?
A None.
Q Okay. And what responsibilities does Mr. Sloan have for R&D decisions at JenaValve?
A None.
Q And what responsibility does Mr. Sloan have for clinical decisions at JenaValve?
A None.
Q What responsibility does he have for operational decisions?
A None.
Q How about for HR?
A None.
Q Okay. Was this slide ever presented to the board?
A It was not.
Q Okay. And how much weight do you give this slide?
A Very little. Actually, I put it in the appendix. It was not presented to the board.
Q From JenaValve's perspective, what visibility do you have into Edwards' post-closing plans?
A I do not have visibility.
Q Okay. You were asked a bunch of questions about what Edwards is going to do. Do you have any visibility into that?
A I don't.

Q Okay. You were also asked a couple of questions about the merger agreement and the requirement to submit contracts to Edwards for approval.

MR. MUSALLAM: I want to introduce DX196.

BY MR. MUSALLAM:

Q This is a February 11, 2025 email that you are cc'd on. Do you recognize this document?

A Yes.

Q What is the date?

A February 11, 2025.

Q Okay. And so based on this document -- what was being sent over to Edwards here?

A I'm sorry?

Q What was being sent over to Edwards here?

A This was the RFP, the agreement with CRF, Clinical Research Foundation, for the data development and entry platform in which we can run the ARTIST trial.

Q Okay. So this was what you had been discussing with counsel about what was taking so long --

A Yes.

Q -- to --

MR. MUSALLAM: Okay. So if we can introduce also DX217, please.

BY MR. MUSALLAM:

Q And you see it's a March 28, 2025 email chain. And can

you tell the Court what is being reflected in this email?
A Can you make it a little bigger?
Q Yeah.
A There we go. Thank you.
This was Edwards agreeing to fund the 11 and a half million dollars to support the ARTIST trial.
Q Okay. So based on these two documents, JenaValve submitted its request February 11, 2025 and received approval in March 28, 2025. Is that what your testimony is?
A Yes.
Q Okay. And during the pendency of this transaction, has Edwards rejected any requests from JenaValve under the merger agreement?
A They have not rejected any.
Q You mentioned that the ARTIST trial is a ten-year trial. In practical terms, did the timing of Edwards' approval materially impede site activation or patient enrollment for ARTIST?
A It does not.
MR. MUSALLAM: No further questions, Your Honor.
THE COURT: All right. Thanks. That's probably a good time to break.
MR. MUSALLAM: Thank you for your indulgence.
THE COURT: No problem. Anything we need to deal with before tomorrow?

MR. ANDERSON: No.

MR. MUSALLAM: We are beginning in closed session tomorrow? Were you going to do a redirect?

MR. ANDERSON: Yes. We can discuss how to proceed tomorrow. I will need a sealed session tomorrow, Your Honor.

MR. MUSALLAM: With Mr. Kilcoyne?

MR. ANDERSON: Yes.

THE COURT: Is Edwards going to have examination of this witness?

MR. SHORES: I don't believe so, Your Honor, pending what the government asks though.

THE COURT: Of course.

MR. SHORES: Thank you.

THE COURT: We will start at 10:00 a.m. sharp. We have been able to move every other matter I have had off, so we will go uninterrupted until Tuesday. So you can leave things at the desk if you feel comfortable doing that.

All right. Have a good evening.

(The hearing adjourned at 5:37 p.m.)

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C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of the proceedings in the above-entitled matter.

11/18/25

s/ Tammy Nestor
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