

# Beverly Hills Eye Medical Group, Inc.

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## DECLARATION OF JAMES J. SALZ, M.D.

I, James J. Salz, M.D. make this declaration subject to the penalties of 18 Pa.C.S.A. Sec. 4904 relating to unsworn falsification to public authorities:

1. I update my curriculum vitae and that of Dr. O'Brien: I am Chair and Dr. O'Brien is Secretary of the International Society of Refractive Surgery/American Academy of Ophthalmology Executive Committee for 2003. Dr. O'Brien and I are both well acquainted with the standards of care regarding the selection of patients for LASIK.
2. Dominic Morgan had (and still has) Retinopathy of Prematurity (**ROP**), a disease of the retinas caused by premature birth. In other words, Dominic had significant pre-existing retinal disease.
3. Everyone agrees Mr. Morgan's ROP was significant. Defense expert Dr. Orlin stated, "His past ophthalmic history was **complicated and significant for retinopathy of prematurity.**" [Orlin report 2/1/02, p.1, emphasis added] Defense expert Dr. Willis stated, "**ROP is a clinically-significant abnormality** in the sense that it represents a **pre-existing abnormality** in the eye..." [Willis report 5/29/02, p. 1, emphasis added]
4. The patient information brochure distributed by defense expert Dr. Orlin to his patients warns, "Laser vision correction is not for everyone....Patients who are 21 years of age or older, and have **healthy eyes which are free of retinal problems**, corneal scars, **and any eye disease** are suitable." [*Laser Vision Correction/ LASIK* brochure of Scheie Eye Institute, pp.1, 13, emphasis added]
5. Defendant Nevyas-Wallace claimed that she "used," "followed," and "adhered to" [Nevyas-Wallace deposition p.103] her written protocol calling for exclusion of any person who had, "any **clinically significant abnormality on physical or ophthalmic examination** that would contraindicate outpatient refractive surgery." [Nevyas-Wallace's protocol for LASIK, Exclusion Criteria, emphasis added]
6. LASIK is **elective** surgery. Because it is elective, the **standard of care** requires a high degree of predictability of results. People who are candidates for LASIK are those with conditions for which there is **adequate experience to predict** (not guarantee) a **good result**. It is not the standard of care to say, as does defense expert Dr. Willis, "The fact that no one has a significant degree of experience in operating on patients with ROP does not suggest that it is inappropriate to perform elective surgery on these patients." [Willis report 5/29/02, p.1] To the contrary, no one (except Nevyas-Wallace) has **any** experience performing LASIK on patients with ROP, so no one can predict a good result, and it is below the standard of care to perform the surgery.