

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

**FRIENDS FOR ALL CHILDREN, INC., as legal
guardian and next friend of the named 150
infant individuals, et al.,**

Plaintiff

-against-

Civil Action No. 76-0544

LOCKHEED AIRCRAFT CORPORATION

Defendant and Third-Party Plaintiff

-against-

THE UNITED STATES OF AMERICA

Third-Party Defendant

Deposition of:

DR. EMANUEL TANAY

Monday, December 21, 1981

Washington, D. C.

**GASDOR REPORTING COMPANY
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Deposition of DR. EMANUEL TANAY was taken, pursuant to notice, before Albert J. Gasdor, a Notary Public in and for the District of Columbia, commencing at 2:30 p.m., Monday, December 21, 1981, in the law offices of Haight, Gardner, Poor & Havens, Suite 1000, 1819 H Street, N. W., Washington, D. C.

APPEARANCES:

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Monday, December 21, 1981

Washington, D. C.

DEPONENT:

DIRECT EXAMINATION

DR. EMANUEL TANAY

6

EXHIBITS

	<u>FOR ID.</u>	<u>TRANSCRIPT REFERENCE</u>
DD-2547-1	Summary of Documentary Evidence Reviewed by Dr. Tenay	6 4, 6, 15, 16, 17, 75, 102
DD-2547-2	Black Binder	17 17, 101, 102

MR. FRICKER: Mr. Almy, before we begin to help expedite this deposition and maybe to get some clarification as to what we are doing, I would like to ask a couple of questions and make an initial comment, if I may.

It is my understanding -- and correct me if I am wrong -- that we are here on an agreed four-hour maximum deposition of Doctor Tanay. Is that correct?

MR. ALMY: That is my understanding.

MR. FRICKER: For your information and for the record, we have produced today two documents, if we can call them two documents, the first of which was three pages of yellow pages, legal length, which has now been marked DD-2547-1, which represents a summary of the documentary evidence which the Doctor has reviewed in preparation for this deposition or over the time since he has been consulting with us.

In addition to that, you will see here in this room a black bound volume captioned "C5A History and Accident Environment, Excerpts from Trial Testimony." That is in effect two captions on the cover of the binder, inside the front cover of which is a table of contents, which you may also wish to copy but which I believe you will find from a review includes certain of the documents that are listed on

2 This black bound volume had been provided to
3 Doctor Tanay. It is my understanding he has reviewed that
4 and that has been produced today so you might be able to
5 refer to it, if you wish. I don't believe you want a copy.

6 In addition, for your guidance, in view of the
7 manner in which Doctor Busby's deposition was conducted last
8 Friday by Mr. Dubuc, I thought it would be helpful if I
9 indicated at the outset what the scope of Doctor Tanay's
10 testimony here and at trial is intended to be.

11 In that connection we referred to the narrative state-
12 ment of expected testimony that we previously filed and which
13 I think you happen to have a copy of in front of you. That
14 has been reviewed and in essence the Doctor is prepared to
15 testify today and at upcoming trials with respect to every-
16 thing that is contained in that narrative paragraph with the
17 exception of matters that are addressed in the second and
18 third lines of that paragraph. In effect, he is not going
19 to be talking about nor is he in effect one with particular
20 expertise in financial cost estimates of the kind of rehabili-
21 tation that is referred to in that paragraph.

22 In fact, the Doctor is not going to be testifying
or dealing with G forces, hypoxia or other specific forces

1 associated with the C5A crash. He will not be dealing with
2 specific injuries to specific children.

3 His testimony in general relates to the distortion
4 that arises in the accounts by victims of trauma, such as the
5 C5A occurrence.

6 I thought it necessary that I put that on the
7 record at the outset.

8 [Document marked Defendant's Exhibit
9 DD-2547-1 for identification.]

10 Whereupon,

11 EMANUEL TANAY

12 was called as a witness and, having been duly sworn by the
13 Notary Public, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ALMY:

16 Q Let me show you a copy of your curriculum vitae and
17 ask if that is, indeed, what it is and if it is up-to-date?

18 A Yes, I believe it is essentially up-to-date.

19 Q You say "essentially up-to-date." Is there anything
20 new that you would like to add that might be related to your
21 testimony in this case?

22 A I notice it must be an old address on it. I moved

1 about two years ago in the building. I did not read that
2 very carefully. If you want me to read it that carefully, I
3 will be very glad to.

4 Q Let me ask you a couple of questions about it.

5 Are you presently associated with any universities?

6 A Yes.

7 Q As an instructor or professor?

8 A Yes.

9 Q What ones are those?

10 A I am clinical professor of psychiatry at the Medical
11 School of Wayne State University.

12 Q Is that the only affiliation you have right now?

13 A Yes.

14 Q I see that you were a visiting professor at Antioch
15 Law School. Are you a lawyer?

16 A No.

17 Q Have you ever been to law school?

18 A No. I was visiting professor in the Department of
19 Forensic Sciences of the Antioch Law School.

20 Q What were you teaching?

21 A Psychiatry.

22 MR. FRICKER: Mr. Almy, I also note apparently in

1 the preparation of the narrative, which I was referring to
2 initially, that in listing the Doctor's name and address, the
3 first line does indicate that he had a J.D. degree and, in
4 fact, the error of that was pointed out to me personally today
5 and I should have mentioned that at the outset.

6 BY MR. ALMY:

7 Q You have indicated that you are a psychiatrist;
8 is that correct?

9 A Yes.

10 Q Do you have any specialty within that area?

11 A Yes.

12 Q What would that be?

13 A I have focused upon two areas in the past and that
14 has to do with the study of aggressive behavior and study of
15 psychic trauma. As a result of it, I do have a subspecialty
16 of forensic psychiatry.

17 Q When you say forensic psychiatry, what do you mean
18 by that?

19 A The application of psychiatry to the administration
20 of justice.

21 Q Do you have a clinical practice?

22 A Yes.

1 Q Could you describe that practice, please.

2 A I am in the private practice of psychiatry in
3 addition to my teaching. That practice consists in the
4 last two years of consultations and in the last two years
5 I do not accept psychotherapy patients but I still have a
6 small psychotherapy practice.

7 Q You indicated your present practice is more in
8 consulting?

9 A That is right.

10 Q Could you expand on that and describe what you mean
11 by that.

12 A I limit my new patients that I accept to consul-
13 tations only which come from a variety of sources like the
14 attorneys, courts, insurance companies, other physicians.

15 Q When you say consultations, does that mean you give
16 an exam or you examine the patient in question yourself?

17 MR. FRICKER: I object to the form -- some of the
18 time, all the time, ever.

19 BY MR. ALMY:

20 Q In the consultations you have just mentioned.

21 MR. FRICKER: Same objection.

22 You can answer if you understand the question.

1 THE DEONENT: I think I do.

2 Yes, I do examine the patients myself, yes.

3 BY MR. ALMY:

4 Q During any time during your practice of psychiatry,
5 have you specialized in children?

6 A Briefly I have been a consultant to a child guidance
7 clinic years ago but I would not call it specializing in
8 children.

9 Q During your private practice, have you, in fact,
10 had children as patients?

11 A On rare occasions.

12 Q Have you ever dealt with a person or persons as
13 patients who were survivors of aircraft accidents?

14 A Yes.

15 Q On how many occasions?

16 A On quite a few occasions I have had both for eval-
17 uation and long-term treatment patients who were survivors
18 of plane crashes.

19 Q Approximatley how many?

20 A I couldn't give you a number but on a number of
21 occasions.

22 Q Can you give a ball park figure? Is it over ten or
over a hundred?

1 MR. FRICKER: I object to the form.

2 THE DEPONENT: I would have to guess. I can't give
3 you an estimate here.

4 BY MR. ALMY:

5 Q Were any of those patients children, say, under
6 the age of 10?

7 A No.

8 Q Were those patients all men?

9 A No.

10 Q Did any of those patients exhibit memory distortion?

11 A Yes.

12 Q How many?

13 A I can't give you a number.

14 Q Can you give me an estimate?

15 A In fact, I would say that all patients that suffered
16 a psychic trauma do exhibit memory distortion.

17 Q Did all the patients you saw, having been in these
18 aircraft accidents, have what you are calling psychic trauma?

19 A Yes.

20 Q Does every one in an airplane accident suffer from
21 psychic trauma?

22 A It depends on the extent of the airplane accident,

1 the nature of the accident and the person involved.

2 Q Do I understand it, then, that not everyone would
3 necessarily suffer psychic trauma as the result of an airplane
4 accident?

5 A It would depend on the nature of the circumstances,
6 the event in question.

7 Q Were any of the patients that you treated that were
8 in aircraft accidents in the Air Force?

9 A Yes.

10 Q Do you recall the rank of that person or persons?

11 A No. You have to keep in mind I have been a consul-
12 tant for some twenty years to the Veterans Administration so
13 I have had occasion to see quite a few pilots, but I can't
14 give you specific ranks.

15 Q When was the last time you treated a patient who
16 was in the Air Force who had been in an aircraft accident?

17 A That was in the Air Force?

18 A Yes.

19 MR. FRICKER: And was in an aircraft accident?

20 MR. ALMY: Yes.

21 THE DEPONENT: When you say treated, you are not
22 referring to evaluation but prolonged treatment?

1 BY MR. ALMY:

2 Q Let's start with treatment.

3 A It would not be in the recent past.

4 Q Can you be more specific? What does recent past
5 mean?

6 A The last few years.

7 Q How about evaluating such a person?

8 A I have seen in the recent past a number of veterans
9 who have been involved in a variety of airplane crashes,
10 particularly in Vietnam because I see weekly three or four
11 veterans.

12 Q For what purpose do you see these men?

13 A I am a consultant in vocational rehabilitation to
14 the Veterans Administration, and once a week I meet with the
15 staff of the regional office in Detroit and they present to
16 me a case that I interview and determine what is known as
17 feasibility for rehabilitation.

18 Q During those evaluations, are you directing yourself
19 to a diagnosis?

20 A That is part of it, yes.

21 Q Are any of those patients suffering from psychic
22 trauma?

1 A Some of them, yes.

2 Q About how many?

3 A I could not answer that.

4 Q Have you ever testified in a deposition before?

5 A Yes.

6 Q Have you ever testified in a trial before?

7 A Yes.

8 Q How many times have you testified actually in trial?

9 A On many occasions.

10 Q Can you give me an estimate of the number?

11 A No.

12 Q When was the last time you testified in trial?

13 A Last week -- I believe Tuesday.

14 Q How often on an average do you testify either at a
15 deposition or a trial?

16 MR. FRICKER: At what point in time?

17 BY MR. ALMY:

18 Q During the past year?

19 A I would have to guess but I would say once or twice
20 a month.

21 Q On those occasions, are you employed as an expert
22 witness?

1 A Yes.

2 Q Approximately how much percentagewise of your income
3 is derived from testifying at a deposition or trial as an
4 expert witness?

5 MR. FRICKER: Could I have that read back. I may
6 have an objection.

7 [The reporter read the pending question.]

8 THE DEPONENT: I can't give you an estimate. I
9 have never looked into it in that fashion as to what percent-
10 age of my income comes from testimony.

11 BY MR. ALMY:

12 Q Can you give an estimate?

13 A If you expand it to include not only testimony but
14 testimony and consultation, then I would say at this time the
15 major portion of my income in fact comes from such activities.

16 Q Doctor Tanay, I show you what has been marked
17 Defendant's Exhibit DD-2547-1 and ask if you can identify
18 that.

19 A This is a list of the materials that I have reviewed
20 in connection with this case.

21 MR. FRICKER: Mr. Almy, may I add at this point, as
22 I think I said or I intended to say up front, DD-2547-1 is a

1 to three weeks.

2 Q Did you also review a black volume, which I will
3 have marked as DD-2547-2, prior to this deposition?

4 A Yes.

5 [Document marked Defendant's Exhibit
6 DD-2547-2 for identification.]

7 BY MR. ALMY:

8 Q When did you review that?

9 A I believe that was one of the first items sent to
10 me, if not the first one.

11 Q You then received the items listed in DD-2547-1
12 subsequent to receiving that black volume?

13 A Yes.

14 Q Did you review any other material other than what
15 has been indicated by Mr. Fricker or what is here before us
16 related to this case?

17 A No.

18 I have to make a change in this. I did see today
19 also a document that did deal with, I believe it is Captain
20 Tate, some medical information.

21 Q Do you recall what information that was?

22 A That had to do with some diagnosis in the military.

1 Q Did you review any other medical records?

2 A No.

3 Q You have indicated the circumstances of the crash
4 are important to you in reaching your opinions about psychic
5 trauma; is that correct?

6 A Yes.

7 Q Can you tell me, then, what assumptions you were
8 making about the circumstances of this crash which are sig-
9 nificant to you?

10 A That it was an accident of major proportions associ-
11 ated with a life-threatening experience for those who sur-
12 vived and death for those who didn't.

13 Q Can you be more specific? Can you tell me what
14 assumptions you are making about, say, the troop compartment?

15 Are you aware of what I mean when I say the troop
16 compartment?

17 A Yes.

18 Q What assumptions did you make about the troop
19 compartment in terms of it being a life-threatening environ-
20 ment for those in the troop compartment?

21 MR. FRICKER: I object to the form to the extent
22 that it assumes that the doctor approached his analysis of

1 the situation in the context in which you are phrasing your
2 question.

3 I further object to the extent you characterized
4 the question in terms of assumptions he made as opposed to
5 facts that he understands are not disputed. It is not an
6 assumption that a picture that he necessarily reviewed is a
7 fact. The picture is a fact and accurately discloses some-
8 thing. So I object to your form on both bases.

9 BY MR. ALMY:

10 Q What facts or assumptions are you making about the
11 troop compartment and the people who were in the troop com-
12 partment?

13 A In my opinion, that everyone aboard that particular
14 plane experienced a life-threatening situation regardless of
15 where they were located.

16 Q Why do you say it was a life-threatening situation?

17 A Based upon the description of the physical events
18 as they have occurred, based upon the accounts given by the
19 survivors, I am of the opinion that anyone who was aboard
20 that plane was experiencing a life-threatening experience.

21 Q How are you defining life-threatening experience?

22 A The fact that the person faced imminent death.

1 Q Were all the survivors on board thet aircraft or
2 did all of the survivors on that aircraft believe they were
3 facing imminent death?

4 MR. FRICKER: Are you asking him of his own know-
5 ledge or opinion or assumption?

6 BY MR. ALMY:

7 Q Based on the information you reviewed.

8 MR. FRICKER: Making no distinction between infants
9 and adults?

10 MR. ALMY: I am making no distinction, infants or
11 adults.

12 THE DEPONENT: I am making the assumption that all
13 of those persons aboard that plane did face a situation that
14 is associated with imminent death. Some of them, however,
15 might not have been able to perceive it due to their state
16 of infancy or due to the psychic mechanism of denial.

17 BY MR. ALMY:

18 Q Do you know whether any of the adults used the
19 psychic mechanism of denial?

20 A Yes.

21 Q Which ones?

22 A For example, the pilot -- I believe Major Traynor.

1 I may not be recalling his remark accurately. He did de-
2 scribe the situation in a fashion which, in my opinion, is
3 based upon an adoptive use of the mechanism of psychic
4 denial.

5 Q What other adults?

6 A I believe that the physician, the pediatrician,
7 Doctor Stark, certainly adoptively and appropriately uti-
8 lized at the time the psychic mechanism of denial. So did
9 the nurse, Tate.

10 Q Any others?

11 A Just relying upon my memory, nothing comes to
12 mind right now.

13 Q Is that inappropriate behavior under the circum-
14 stances?

15 MR. FRICKER: I object. Inappropriate in what
16 context?

17 MR. ALMY: Inappropriate in the context of the
18 C5A plane.

19 THE DEPONENT: I would say it is highly approp-
20 riate. It was adoptive, it was necessary, and it allowed
21 the crew to perform their functions which they performed, I
22 would say, with a great deal of efficiency considering the

1 circumstances, so I would say it was highly appropriate.

2 BY MR. ALMY:

3 Q Did all of the crew utilize, then, the psychic
4 denial mechanism? By "the crew," I mean those in the posi-
5 tion of operating the airplane on the flight deck.

6 A My reading of their testimony would lead me to
7 say yes, and I might add appropriately.

8 Q Does such a use of psychic denial mechanism have
9 any long-term effect on any individual who uses it?

10 A Yes.

11 Q The use of denial when faced with the exceedingly
12 demanding, traumatic situation is adoptive but it occurs at
13 a price. The emotion is not expressed and the person
14 generally continues to adhere to believe that the experience
15 was less traumatic than, indeed, it was.

16 Q What effect on the significance of this flight
17 being life-threatening would it have if the person involved
18 was not aware that it was particularly life-threatening?

19 MR. FRICKER: I object to the form. I think you
20 may need to define "aware." Do you mean subliminal, actual
21 conscious? If you can answer the question, Doctor, you may.

22 THE DEPONENT: Obviously, a person perceives on

1 various levels. An experience of this magnitude, in my
2 opinion, would both on a conscious and unconscious level be
3 perceived as life-threatening.

4 BY MR. ALMY:

5 Q You just said an experience of this magnitude.
6 What did you mean by that?

7 A I mean by that a situation where a major portion
8 of the airplane separates from it, that this is a rather
9 life-threatening experience on a plane of this size; that a
10 crash landing under these circumstances where the pilot has
11 no control over the aircraft and the aircraft is of this
12 size and the disintegration of the plane and all the circum-
13 stances associated with it would invariably convey to any
14 person that this is a life-threatening experience.

15 Q What if you are not aware, if you are not able
16 to perceive on any level that the wing is ripping off or
17 the pilot did not have control or the plane is disinteg-
18 ing?

19 A That is realistically impossible unless you were
20 in anesthesia.

21 Q How did one of the nurses then in the troop
22 compartment become aware of those three things, for instance?

1 MR. FRICKER: I object as overly broad, possibly
2 argumentative, calling for speculation.

3 If you have a question about a mechanism by which
4 a specific crew member or nurse may have become aware, pos-
5 sibly the witness can answer that, but I don't see how the
6 question as phrased is answerable. For that reason, I
7 object to it.

8 BY MR. ALMY:

9 Q You have indicated that they would have to be
10 aware of it?

11 A They would be aware unless they were unconscious.
12 Anyone aboard that plane, in my judgment, would become aware
13 of the nature of the events as they are developing.

14 Q You are saying, in your judgment they would become
15 aware of it?

16 A Yes.

17 Q On what facts are you basing that judgment?

18 A Upon the testimony that I have read, upon the
19 description of the experts of what occurred, upon the de-
20 scription of the crash, upon the pictures and movies of the
21 site. Based upon all of these circumstances, I am of the
22 opinion that any human being aboard that plane would be

1 aware that they were facing a life-threatening experience
2 unless they could not comprehend it due to their infancy,
3 but they would still experience it as terrifying.

4 Q Are you suggesting from what you told me earlier
5 that the adults in the troop compartment either saw or some-
6 how sensed that the wings were ripping off the airplane?

7 A No, sir, I never said that. I never spoke of
8 wings or anything of that sort.

9 Q Could any of those adults have been aware that the
10 pilot was unable to control the aircraft?

11 A I would certainly conclude they would arrive at
12 that conclusion once the plane was bouncing up and down and
13 jumping over the Saigon River.

14 Q What bouncing up and down are you referring to?

15 A Referring to the fact that the plane did not land
16 but crash-landed.

17 Q You indicated that the plane hopped over the
18 river, so you are aware of the fact that there were two
19 touchdowns?

20 MR. FRICKER: I would object to the form of the
21 question. That is your interpretation of the evidence, Mr.
22 Almy.

1 THE DEPONENT: It is my knowledge that the plane
2 did crash-land.

3 BY MR. ALMY:

4 Q I don't think anyone will argue with that.

5 MR. FRICKER: If that be the case, Mr. Almy, then
6 I cannot resist observing that if no one will argue with that
7 fact, why are we belaboring the point that it is this wit-
8 ness' opinion that those other than infants or unconscious
9 people had to be aware that the plane was crashing?

10 BY MR. ALMY:

11 Q Are you aware of the testimony from some of the
12 people in the troop compartment that the first impact of
13 the airplane was no different than a normal landing?

14 A I would state that it is my opinion that this is
15 a distortion based upon, at the time, adoptive use of the
16 mechanism of denial. It is misperception on the part of the
17 persons who so testified.

18 Q Then it is your understanding, I assume, that the
19 plane impacted that first time harder than a normal landing;
20 is that correct?

21 A It is my understanding that the plane did not land
22 normally when it did hit the ground.

1 list of documentary evidence or exhibits.

2 In addition to that, Doctor Tanay has also reviewed
3 that which I can tell you are the following.

4 He has reviewed the short and longer movies, which
5 I believe have been marked as Whilhite and Tarbell Exhibit.

6 He has also reviewed eight-by-ten inch prints, color
7 or black and white that are the Tarbell 2, 3 and 4 series,
8 the Bandy series, the Walker three pictures to the extent that
9 they have been identified in various exhibit lists by us --
10 identified by us from our exhibit lists, the Norton, Howard,
11 Schwene and Afisc-N prints, all in print form and all in our
12 office in black bound volumes that we have prepared and which
13 I believe you, Mr. Almy, or others have seen us have in our
14 offices during depositions.

15 When I say the latter group, the Horward, Norton
16 group, only so much as had been marked earlier by us or that
17 were reviewed today in our conference room and in my presence.

18 BY MR. ALMY:

19 Q When did you review the material listed on DD-2547-1?

20 A The first batch of materials came sometime in July
21 of this year and the last would have been very recently, within
22 the last few weeks, like what is on page three, the last two

1 Q It is your understanding that it only hit the
2 ground once?

3 A No, it is my understanding that the plane hit the
4 ground a number of times before it disintegrated.

5 Q How many times?

6 A A number of times on the east side of the Saigon
7 River, and then it did crash after it crossed the river.

8 Q On what are you basing your understanding that the
9 plane touched down -- is that the phrase -- more than once
10 or a number of times on the east side of the river?

11 A Upon having reviewed the photographs which clearly
12 indicate that the plane did make contact with the rice
13 paddy there and the pictures that I have seen, and also the
14 reconstruction of experts.

15 Q Which experts?

16 A There was the report of Doctor Stanley Morain,
17 a report of Doctor Charlie Turner, as well as the accounts
18 of the crew.

19 Q So, it is your assumption, in order to say
20 that these people are not remembering as they should, that
21 the plane first touched down harder than it would in a
22 normal landing?

A All I was saying is that the plane did not land

1 normally and that any person would perceive in the short
2 period of time that this was not a normal landing, particu-
3 larly in view of what preceded the crash landing.

4 Q How would they perceive that it was not a normal
5 landing? For instance, one of the nurses in the troop
6 compartment?

7 A By the fact that there were unusual circumstances
8 prior to the crash landing, by the fact that the landing,
9 itself, was not a normal landing; by the fact that the plane
10 was not approaching the landing site in a usual manner.

11 Q How do you know what was not approaching the site
12 in the usual manner?

13 A First of all, the description of the decompression
14 would indicate there was something rather remarkable hap-
15 pening. It was big enough to take a significant portion of
16 the plane away from it. Then the pilot testified that he
17 had to control at first the plane by applying power so
18 that the plane would go in a different manner down than a
19 plane would normally approach a landing site.

20 Q Did any of the people in the troop compartment in
21 the testimony you reviewed indicate that the people in the
22 troop compartment were aware of anything unusual in the

1 descent?

2 A I recall that certainly the crew certainly were
3 aware of it. If you are asking me specifically about people
4 in the troop compartment, I have a recollection that one of
5 the persons broke an arm. Another one held the hand of some-
6 one who died. So, these were all circumstances that would
7 make one believe that something unusual was happening.

8 Q Didn't the latter things happen after the impact
9 of the plane, after the disintegration?

10 A Yes, but I am talking about the whole experience.
11 Clearly, we are not going to subdivide the experience into
12 a few-second intervals. The perception of the whole exper-
13 ience has to be considered.

14 Q I want to go back to my asking you about the fact
15 that some of the people in the troop compartment described
16 the first impact the very first time the plane touched down
17 was nothing more than a normal landing. You are indicating
18 that is a denial or distortion of the events?

19 A Distortion of the perception. I am not really
20 that interested, you see, in the physical forces involved.
21 Given the circumstances, anyone who would say I perceived
22 it as a normal landing, in my judgment would suffer from some

1 distortion of perception given all of the circumstances
2 of the event.

3 Q Limiting it to the area of the description of how
4 it felt when the plane first touched down, do you still
5 think that is a distortion?

6 MR. FRICKER: I object to the form of the question,
7 as well as substantively, because the witness is making
8 clear, at least as I understand his responses, that it
9 is not possible or inappropriate at least to break up the
10 events into increments, and that one can only appreciate
11 the significance or potential for the psychic injury viewed
12 in the context of the whole thing or as the events trans-
13 pired and concluded.

14 Therefore, I think it is inappropriate and argu-
15 mentative to attempt to get this witness to answer in terms
16 of the segments he said he could not, would not or should
17 not answer in those terms.

18 BY MR. ALMY:

19 Q I will still repeat the question.

20 Do you believe the description of how that first impact
21 felt as being no more than a normal landing, do you believe
22 that is a distortion?

A I believe that anyone who would say that they did
eve that they were engaged in something approaching the
al landing, if that is what they would testify that is
they believed, I would not question their veracity but
ld question the accuracy of their perception given all
he circumstances that we know about. Obviously, a split
d would not determine a person's perception over a
turous event.

0 I am not clear now.

Are you telling me, then, that the person or persons who would say that, their perception of the event at the time was not correct, or that their memory, looking back on it, is now distorted?

MR. FRICKER: I am sorry, I have to object again. Now, it is not clear to me whether your question relates to an individual's perception of the entire sequence of events or if it only relates to a person's perception of an initial first impact.

BY MR. ALMY:

Q Directing yourself to those statements about the first impact a firm, normal landing, was their perception at the time distorted or is their perception, now looking

1 back, distorted?

2 A I would say both, if they so stated. If somebody
3 would say that this felt like a normal landing in terms of
4 their perception of the event, I would say there was a dis-
5 tortion, and if they retrospectively would say that at the
6 time they believed that this was something like a normal
7 landing, I would say -- since they were two questions, I
8 believe -- I would say those would be the result of a dis-
9 tortion.

10 It is inconceivable that a person under these circum-
11 stances could arrive at such a conclusion without the massive
12 use of the mechanism of denial.

13 Q Assume for the moment that that fact happened,
14 that the first impact did not feel any harder than a normal
15 or firm landing on a runway, would that affect your analysis
16 as to memory distortion?

17 MR. FRICKER: I object. Why should this witness
18 assume a fact that is certainly not stipulated to? At the
19 very least, it is at substantial disagreement. Why should
20 this witness be asked to assume something that is contrary
21 to his understanding of the facts?

22 MR. ALMY: Because I asked him to.

1 MR. FRICKER: I object to this approach. I think
2 it is inappropriate. You may answer, if you can, Doctor.

3 MR. ALMY: There is certainly plenty of factual
4 support for that assumption.

5 THE DEPONENT: Would you mind repeating the ques-
6 tion? I think I can answer it but I am not sure I fully
7 remember what you asked.

8 BY MR. ALMY:

9 Q I am probably inartfully phrasing it, but basically
10 I would like you to assume that, in fact, when the plane
11 touched down for the first time, it was similar to that of
12 a normal, firm landing on a runway and whether or not that
13 affects your analysis that that is correct, that the per-
14 ception of the adults in that troop compartment was correct.
15 Does that affect your analysis as to the use of psychic
16 denial or memory distortion?

17 MR. FRICKER: I will object on the further grounds
18 it seems we are now asking a question that assumes the
19 perception of all adults in the troop compartment was the
20 same, for starters, when in fact, as you know, Mr. Almy,
21 there is considerable variance in terms of the perceptions
22 as testified to. That is one problem.

1 The second problem is your interchange and use of
2 words as though synonymous between firm and normal landing --
3 I think that that is vague, especially when Air Force types
4 use the term "firm landing" almost as a phrase of art and
5 it may mean something substantially different from a lay's
6 person view of what is a "firm" or "normal" landing.

7 The third problem is first impact as distinguished
8 from touchdown. An impact need not be contact with the
9 ground. Indeed, as you know, our experts testified there
10 was a series of contacts between wing and trees. I think
11 to get to the answer you have posed would be totally mean-
12 ingless. I would object on that basis.

13 Maybe you would want the court reporter to read it
14 back so you don't have to restate it.

15 MR. ALMY: We can have it read back if you like,
16 but I think the Doctor can answer it now.

17 THE DEPONENT: I think I can answer it. My
18 answer really psychiatrically has to be one cannot break
19 up a human experience into fragments consisting of seconds.
20 That is like saying that a drowning person perceived the
21 first contact with the water as if they were taking a bath.
22 You can't subdivide a human experience and take it out of

1 context of what is all involved in it -- what preceded
2 it, what follows half a second later -- it is a total
3 experience of the human being involved in the event.

4 BY MR. ALMY:

5 Q Are you then saying the memories of these people
6 who were in the troop compartment among the survivors are
7 somewhat distorted -- in other words, some parts may be in-
8 correct and some parts may be in error?

9 MR. FRICKER: I object to the form. I don't
10 recall any testimony in that respect.

11 BY MR. ALMY:

12 Q Am I right?

13 A I think it is a general proposition, not that I
14 testified to it, that it is a general proposition that I
15 would certainly agree with.

16 Q You are apparently going to testify that the
17 various people in the troop compartment, the victims, had
18 massively-distorted memories. If that is the case, are you
19 able to testify that their memory is totally distorted
20 as to the entire event or that some parts of the event are
21 correct and some are in error?

22 A Let me add I would not be restricting myself to

1 the people in the troop compartment. I believe that is
2 a qualification you have added to a portion of your questions

3 My opinion involves all adults whether they were in
4 troop compartments or they were the flying crew.

5 Q I will include the flight deck crew. Are their
6 memories totally distorted or are some parts of it correct
7 and some parts incorrect?

8 A I did not say that their memories are totally
9 distorted, no.

10 Q We are now referring to what has been referred to
11 as massive psychic trauma. Is that what we have been talk-
12 ing about?

13 MR. FRICKER: I object. We have been talking about
14 a lot of things, including CV. I object to the form of the
15 question.

16 BY MR. ALMY:

17 Q Are you familiar with the term massive psychic
18 trauma?

19 A Yes.

20 Q Is that the basis for your testimony that the
21 memories of the adults on the troop compartment or flight
22 deck was massively distorted?

1 A I base my opinion that a person who was involved
2 in this experience did suffer psychic trauma.

3 Q When you say "psychic trauma," does that mean
4 massive psychic trauma?

5 MR. FRICKER: I object. Are you asking him to
6 define the terms or quantify them in the context of this
7 situation?

8 MR. ALMY: Define the terms.

9 THE DEPONENT: I am of the opinion that it was
10 psychic trauma; that the experience was psychic trauma.
11 Whether or not it was massive, it would depend on the indi-
12 vidual, various factors that are specific to the person and
13 not only part of the event, itself.

14 BY MR. ALMY:

15 Q Is there a distinction between psychic trauma and
16 massive psychic trauma other than the degree?

17 A The word "massive" is an indication of the degree.

18 Q The psychic trauma that you are referring to, is
19 that the same condition labeled "survivor syndrome" by
20 Doctor Niederling?

21 A That is part of it.

22 Q Which part is which?

1 A Certain individuals who suffer psychic trauma do
2 also suffer survivor guilt.

3 Q Did they, or are they now, any of the adults in
4 the troop compartment or on the flight deck suffering from
5 survivor guilt?

6 A It would be based upon my knowledge of the facts,
7 and not from personal examination since I did not have the
8 opportunity to do so, that person who survived this exper-
9 ience would be very likely to suffer survivor guilt.

10 Q Do you have an opinion whether any of the adults
11 in this troop compartment or flight deck are suffering from
12 survivor guilt?

13 A I have an opinion based upon the events as they
14 have transpired that all of the survivors are very likely
15 to suffer survivor guilt.

16 Q Can you testify to a reasonable medical certainty
17 that the Captain on the aircraft, the pilot, is suffering
18 from survivor guilt?

19 A I can testify to a reasonable medical certainty
20 that it is very likely that the Captain, given the circum-
21 stances, would suffer survivor guilt.

22 Q Based on what?

1 Q Based upon the fact that a large number of people
2 died and he survived.

3 Q That's it?

4 A That is not entirely it. If you wish, I will go
5 into a description of the event, the circumstances, but the
6 fact is he was in control. He performed remarkably well
7 under the circumstances but nevertheless it would be my
8 opinion, inasmuch as he was in control, no matter how well
9 and how remarkably well he performed, he would still feel
10 guilt that members of the crew and some of the children
11 died while he was in command.

12 Q How about, say, the Air Force nurse who is now
13 called Harriet Neil? Is she suffering from survivor guilt?

14 A Again, I can only repeat what I already stated,
15 that given the circumstances, it is my opinion that it is
16 very likely that any person, including the person you just
17 mentioned, would suffer survivor guilt.

18 Q Can you point to any specific facts that suggest
19 that Mrs. Neil is suffering from survivor guilt?

20 A I base my opinion upon the circumstances. I have
21 had no opportunity to examine any person, so I can only
22 state that there is a high likelihood that persons who have

1 survived this disaster would suffer survivor guilt.

2 Q Is there any way of knowing whether she suffers
3 from survivor guilt?

4 A Yes.

5 Q How?

6 A By examining her.

7 Q What would you look for?

8 A I would ask her questions as an experienced psychi-
9 atrist, and then I would be able to arrive at an opinion
10 whether she does or does not.

11 I would expect, however, based upon the circumstances
12 that there is a high likelihood that she does suffer from
13 survivor guilt in view of the circumstances under which she
14 survived.

15 Q What symptoms would she show of this survivor
16 guilt?

17 A There would be depression, either overt or masked
18 depression. There would be memory and some preoccupation of
19 the event. There would be intrusive recollections of the
20 event, possibly dreams.

21 There would be phobic reactions toward flying.

22 Q Is that the complete list?

1 A No, that is not the complete list, and I don't
2 mean to imply that you find this like a shopping list, that
3 you find all of it at one time. But these are some of the
4 manifestations that one can discover in examining a person
5 who has been a victim of psychic trauma in which some have
6 died.

7 Q You have read her testimony, have you not?

8 A I have.

9 Q Have you seen any symptoms from reading that testi-
10 mony that would suggest that she is suffering from survivor
11 guilt?

12 MR. FRICKER: We are not talking about Harriet
13 Mary Goffinet Neil.

14 MR. ALMY: That is correct.

15 THE DEPONENT: I have reviewed testimony of
16 questions by lawyers and certainly that is not a setting
17 that would provide psychiatric history, as such.

18 BY MR. ALMY:

19 Q So, you are saying you can't, without a psychiatric
20 examination, determine whether, in fact, Mrs. Neil is
21 suffering from survivor guilt?

22 A No, I am not saying that at all. I am saying it

1 is my opinion, based upon my knowledge of the circumstances,
2 that all persons involved in it are very likely to suffer
3 from survivor guilt and psychic trauma.

4 Q But you can't point to any specific symptoms as
5 to any individual?

6 A I can point to some symptoms, yes.

7 Q Such as?

8 A Such as the description that this was like a
9 normal landing. I would say that that is certainly a symptom
10 indicating that the person is having difficulty to deal with
11 the event and deals with it through the use of the mechanism
12 of denial.

13 Q What other specific symptom can you point to?

14 A I am sorry, I did not hear you.

15 Q What other specific example can you point to?

16 A For example -- and again, I am now relying upon
17 my memory -- when the doctor wandered around the plane, he
18 certainly seemed a bit disorganized, which would be more
19 than understandable considering that he lost his daughter
20 in the cargo compartment. That would be a reaction that I
21 would consider symptomatic. Even though there was no hope
22 that she would be there, he did. He still expected to find

her. Nevertheless, that is still symptomatic of the whole horrible experience that he was subjected to.

Q In order for this to be a horrible experience, in order to suffer from massive psychic trauma, do you have to be able to perceive it while it is happening or can this take place after the events have taken place? In other words, looking back.

A Both would apply. A person can perceive an event or can look back at it and recognize the magnitude of it.

Q What is the cause of the memory distortion?

A It is the effort of the mind to deal with an overwhelming experience and that is based upon a cardinal, basic mechanism that one sees in psychic trauma, and that is, one, denial of the experience; two, reliving of it. A person who has been through such an experience utilizes both of these mechanisms.

Q Why is this particular event to the adults in the troop compartment an overwhelming experience?

A Because it was an event that was life-threatening, that was disastrous in its result and the people involved were helpless in affecting the outcome. They had no control. They were passive victims of something that brought about

1 death and destruction.

2 Q In this case, why would being a passive participant
3 be so dramatic with them?

4 A If you are faced with a disastrous event, a life-
5 threatening experience, and you are helpless at the same
6 time, you are flooded by impulses which cannot be handled
7 by the personality, particularly what we call the ego
8 and the result is permanent injury to the mind.

9 Q Are you suggesting that the minds of all the per-
10 sons, the adults in the troop compartment and the flight
11 deck, have been permanently injured?

12 A Yes.

13 Q In what way?

14 A In the way that they have suffered psychic trauma.
15 That is an injury to the mind in no way different than the
16 term "trauma" implies injury to the body.

17 The mind is an organ just like any other organ and
18 can be injured under certain circumstances.

19 Q Like physical trauma, are some people more sus-
20 ceptible to this than others?

21 A Yes.

22 Q I take it, then, that all the adults are not

1 suffering psychic trauma to the same degree?

2 A True.

3 Q Which of the individuals is suffering the most?

4 A Without examining them, I am unable to answer
5 that.

6 Q Do you intend to examine any of these people?

7 A I think it would be advisable for me to examine
8 some or all of them.

9 Q Have you been advised that you will be examining
10 them?

11 A I have not been advised.

12 MR. FRICKER: Would Lockheed consent for its part,
13 Mr. Almy, to request that we might examine the surviving
14 adults?

15 MR. ALMY: I am not in any position to answer that.

16 Suppose we take a short break.

17 (Whereupon, a short recess was taken.)

18 BY MR. ALMY:

19 Q Doctor, you indicated earlier that you had some
20 experience with military people in working through the VA
21 hospital.

22 Are you aware of the fact that the Air Force personnel,

1 both those on the flight deck and the Air Force nurses who
2 were in the troop compartment, are given specific training
3 concerning just the types of emergencies they were experiencing
4 in the air during this flight?

5 MR. FRICKER: Objection. I don't know that everything
6 you might be implying in your question has been es-
7 tablished -- just the type of training with respect to the
8 type of experience that they had in this flight. I don't
9 know that they have had, as an example, experience in evacuat-
10 ing children from a troop compartment.

11 MR. ALMY: Let me be more specific.

12 BY MR. ALMY:

13 Q Are you aware of the fact that the Air Force's
14 nurses had training and experience with decompression and
15 hypoxic situations and they understood the need for bracing
16 and assuring that people were strapped in appropriately,
17 and they were familiar with the oxygen equipment on board
18 and they have been trained in these types of equipment?

19 MR. FRICKER: I object to the form of the question.

20 THE DEPONENT: I have read the testimony as to the
21 decompression school, I believe, so I am aware of what the
22 testimony was in this case.

1 As far as decompression is concerned, I am not
2 aware of any training that would be given people in dealing
3 with psychic trauma.

4 Q In your experience, though, would training and
5 experience within the training situation and certain types
6 of training situations such as the loss of pressurization
7 in this case enable these people to better cope with the
8 emergency?

9 A Yes.

10 Q You have indicated that these people are suffering
11 from psychic trauma, these adults. I probably already asked
12 this question, but are all of their memories distorted
13 concerning the crash?

14 A No.

15 Q In what sense are they not distorted?

16 MR. FRICKER: I am sorry, forgive me. The last
17 question which was answered without objection, I believe,
18 was were all their memories distorted? I think I need, and
19 the record needs to be sure as to where that word "all"
20 belongs. What is it modifying? I interpreted your question
21 meaning were the memories of all of the individuals dis-
22 torted. Is that how you meant the question, as distinguished

1 from were all aspects of all individuals' memories dis-
2 torted. Was it the former?

3 MR. ALMY: It was the former.

4 BY MR. ALMY:

5 Q Your answer, then, to that question was no, they
6 were not all distorted. In other words, there would be some
7 adult individuals whose memories would not be distorted?

8 A True.

9 Q Which individuals, if you can identify them?

10 A You asked me that question and I interpreted it
11 the same way as before. Is everything a person remembers
12 distorted. My answer is no.

13 Certain aspects of the recollection or the perception
14 would be distorted and other aspects would not.

15 Q Which aspects would not be distorted?

16 A The aspects which did not deal with the life-
17 threatening, emotionally overwhelming technical activity,
18 for example, of the pilot. This went on in a remarkably
19 competent fashion considering circumstances, and that was
20 in part the result of the ability of the pilot, if we use
21 him as an example, to use the mechanism of denial so that
22 certain functions were preserved at the price, at the expense

1 of other functions.

2 Q But which of his memories would be distorted?

3 A I believe I just answered that.

4 Q Specifically.

5 A Specifically, I can only describe an area. I can-
6 not address myself to a specific issue unless you ask
7 me that.

8 I can only say that the general area that dealt with
9 the overwhelming nature of the experience, the danger was
10 minimized because the pilot or the other members of the crew
11 had a function, had a job to do, and their perception of
12 their duty was such that they focused upon it and disregarded
13 to some extent the life-threatening, the dangerous aspect
14 of the situation.

15 Q Then the pilot's memory of the functioning of
16 the aircraft, how fast it was going up and down, how it
17 reacted, should remain clear because that is the technical
18 activity you referred to, and that is the thing he was
19 trained to do?

20 A To an extent it should be and to the extent I am
21 capable of judging that, in reading his testimony, if we
22 use him as an example, I was impressed with his ability to

1 handle this dire emergency with a great deal of resource-
2 fulness.

3 Q Would then his memory of those aspects of it be
4 clear, then, as opposed to other things which might be dis-
5 torted?

6 A Some of them would be clear and some would not.

7 Q Do you know which?

8 A You would have to ask me a specific question.

9 Q Can you point to a specific example of something
10 that Major Traynor said that represents a distortion of his
11 memory?

12 A Yes, again relying purely on my memory here, I
13 can say, for example, that his description that it was some-
14 thing akin to a normal landing, that that is a distortion;
15 that the whole tenor of his description which minimizes the
16 horrifying nature of the experience is a distortion. Clearly
17 if he were a journalism student assigned to describe the
18 event, he would not get a passing mark for what he was
19 describing, at least as I recall his description of the event
20 but, again, that is part of his function. It was his func-
21 tion to do as much as he could to preserve his ability to
22 use his technical resources and that occurred at a price.

1 Q Where did his description of the events differen-
2 tiate from what you understand the reality of the situation
3 to have been?

4 A The reality of the situation was horrifying. Here
5 was this mammoth plane full of children and adults going
6 down towards disaster. If he really perceived it in that
7 sense he would have to be overwhelmed and couldn't function.
8 Part of it was his training and part his personality that
9 enabled him to disassociate himself from the horrible events
10 that were transpiring.

11 Q What horrible events were transpiring that he
12 knew about?

13 A There was a portion of the plane that just separ-
14 ated itself from the plane, there was the loss of control of
15 the plane. The controls were not responding as he described.
16 What more horrible experience can a pilot have than to have
17 a situation where he is in control and he knows that he is
18 going down toward a disaster with a plane of such tremendous
19 force and such tremendous dimensions.

20 Q Does every pilot involved in an airplane crash
21 then suffer memory distortion and psychic trauma?

22 A I did not say that.

1 Q I am asking.

2 A No.

3 Q In what way is this particular accident different
4 from any other airplane accident?

5 MR. FRICKER: Objection. That is an absurd ques-
6 tion. It may be -- I don't know -- that this witness believes
7 that this is a unique plane crash but we have been sitting
8 here for some time now, Mr. Almy, it seems to me, debating
9 how many angels can dance on the head of a pin and we talk
10 about disassociation. It may well be that this deposition --
11 and I am not casting aspersions on you, personally -- is the
12 best evidence of how one can disassociate. How can we pos-
13 sibly ask or how can anyone who has seen any of the pictures
14 really debate it and is there really any need to have this
15 doctor who has testified to what he has reviewed both in
16 terms of photographic and documentary evidence -- is there
17 really any purpose in having him delineate that that flight
18 deck ends upside down, the plane is all over the place in
19 pieces.

20 Talk about non-reality, I think this is a tremendous
21 waste of time and insult to our own professionalism and this
22 doctor.

1 I would suggest with all due respect you move on
2 to something else that will enhance your state of knowledge
3 about this case and what this doctor is going to testify
4 about.

5 MR. ALMY: I am going to answer that with a speech.

6 You are giving your version of the facts. You have
7 not given the doctor the other experts' reports which would
8 indicate for those who died it was a horrible accident, but
9 through quirks of fate, miracles, how many angels on the
10 head of a pin or for whatever other reasons, there is the
11 troop compartment and there is the flight deck. Surely
12 those people did not experience the same thing in the troop
13 compartment, nor did those in the troop compartment exper-
14 ience what those in the flight deck experienced. It is
15 their experience and what they say. They are the only
16 witnesses.

17 This witness is saying they don't really remember
18 what happened. You are suggesting because the cargo com-
19 partment was ground into a great number of pieces that,
20 therefore, all the people in the troop compartment had to
21 suffer the same experiences. The fact is that that is not
22 the case and you know it.

1 MR. FRICKER: I am certainly not suggesting that any
2 two individuals experienced the same thing. Far be it from
3 me to hold myself as such an expert, nor do I think this
4 doctor is suggesting that.

5 My comment was prompted by questions as to what
6 makes this accident such a horrible experience for anyone
7 associated with it. That is all I was addressing.

8 MR. ALMY: We were talking about Major Traynor
9 and what it was he perceived that made this such a horrible
10 accident for him.

11 MR. FRICKER: I believe the witness has given you
12 some examples. Do you want more?

13 BY MR. ALMY:

14 Q You indicated that a portion of the plane broke
15 off. I don't understand how that particular piece of
16 information made this a horrible accident for the pilot who
17 was well forward in the very nose of the aircraft and
18 couldn't see what was going on behind him.

19 A It is my recollection that the pilot testified
20 that the decompression took place. He testified that he
21 became aware of the fact that he lost control of the plane.
22 I would arrive at the opinion, given these circumstances,

1 this would be a horrifying experience for a pilot to realize
2 that he has no control over the plane or has difficulty in
3 controlling it and then he discovers that he has some
4 control by use of the additional power.

5 I would submit that that knowledge that he is
6 heading for a disaster, and he is a person who is responsible
7 and in control of this situation, that he has these children
8 and the significance and importance of the mission that
9 was assigned to him -- all of that combined would certainly
10 combine to an overwhelming experience which he handled
11 remarkably well.

12 Q But despite his ability to handle that, you are
13 suggesting as a result he is distorting his memory?

14 A In fact, I am suggesting that he was able to
15 handle it so remarkably well only by focusing upon the
16 immediate necessities of his job. Many a soldier in the heat
17 of battle lost an arm and was not aware of it for a time-
18 being. That does not mean the anatomical fact of losing an
19 arm was not there.

20 Similarly, I submit that Major Traynor performed so
21 well because he dissociated himself from the horrible events
22 that were taking place and were going to take place in a

1 very near future.

2 Q Let me phrase this correctly.

3 Are all of the adults suffering memory distortion?

4 A I am of the opinion that all of the adults who
5 were aboard that plane suffered psychic trauma and, therefore,
6 I am of the opinion that there is a very high likelihood
7 that all of them have suffered some degree, varying degree
8 of distortion of perception of the event.

9 Q Is that distortion based on a feeling of guilt?

10 A That can be one of the factors in retrospect, yes.

11 Q What are the other factors?

12 A The other factors are that the person over-
13 whelmed by the events as they transpired cannot be assumed
14 to be a good observer.

15 Q Why is that?

16 A The mind can handle only so much. There are so
17 many impressions that are being fed into that computer, if
18 you will, that leads to a breakdown and therefore the
19 function of that piece of equipment, namely, the mind, is
20 not reliable under such circumstances.

21 Q You read the testimony of the Air Force nurses and
22 the other civilians as well as the flight deck personnel. Are

1 they making up what they are testifying about?

2 MR. FRICKER: I object to the form of the question,
3 "making up." The witness has already testified he is not
4 testifying to the veracity of the witnesses and their term.

5 I object to the form of the question.

6 THE DEPONENT: The term "making up" would indicate
7 to me a deliberate conscious attempt to distort which I
8 have no reason to assume at all one of these individuals
9 would have motivation to do so.

10 My opinion is that contrary to their best intentions,
11 these individuals would distort not because they want to but
12 because their perceptive equipment, if I may use such a
13 term, suffered a very understandable breakdown.

14 BY MR. ALMY:

15 Q Putting aside the issue for a moment of whether
16 they are doing it intentionally or not, without going to
17 that, these people testified that certain things happened.
18 Are they making up what happened from whole cloth or are
19 they shading what actually happened?

20 MR. FRICKER: I object to the form of the question
21 in that it assumes that sworn testimony necessarily results
22 in the rendition of facts as they occurred. Indeed, we all

1 know in the practice of law that sworn testimony is nothing
2 more than a party's or person's best recollection of what he
3 observes. Therefore, I think the form of the question as
4 juxtaposed against making up or shading is an unfair charac-
5 terization in an objectionable form.

6 You may answer.

7 THE DEPONENT: I am of the opinion that the essen-
8 tial features of the descriptions given are accurate. It
9 is only the matter of emphasis, of perception. It is well
10 known that victims of psychic trauma have a tendency to
11 minimize the experience in order to cope with it. It is my
12 view that the testimony of the adults, as I have read it,
13 has these characteristics that we commonly observe in victims
14 of psychic trauma.

15 BY MR. ALMY:

16 Q We have talked a great deal about the pilot and
17 his feelings that he was in charge. The nurses were in
18 charge of the children but not the airplane. Would they be
19 less susceptible to the psychic trauma than, say, possibly
20 the pilot?

21 A I am of the opinion that all adults on this plane
22 suffered psychic trauma. There are situations that are of

1 such degree of magnitude that any human being is expected
2 to be injured by it. That applies to both physical as well
3 as to psychic events.

4 Q How rapidly will there be an onset of mental dis-
5 tortion?

6 A It is immediate. We were describing the percep-
7 tion. You cannot describe accurately something that, at the
8 time you were perceiving it, were already misperceiving it,
9 because the nature of the experience demanded that the
10 experience to some degree be distorted.

11 Q Are you willing to make any kind of psychiatric
12 diagnosis as to any of the adults on the flight deck or in
13 the troop compartment?

14 A Yes.

15 Q That is?

16 A It is very likely that they have suffered post-
17 traumatic stress disorder.

18 Q Is that diagnosis based on the DSM-3 Diagnostic
19 and Statistical Manual

20 A Yes.

21 Q Isn't it required under DSM-3 that the patient or
22 person be exhibiting certain symptoms, psychological

1 symptoms?

2 A Yes.

3 Q Taking one of the Air Force nurses, Mrs. Neil,
4 say, what psychological symptoms is she exhibiting which
5 would suggest substantiation of your diagnosis of Mrs. Neil?

6 A May I point out to you, Mr. Almy, I just indicated
7 that in my opinion there would be high likelihood that a
8 person involved in this disaster would suffer from post-
9 traumatic stress disorder. Clearly, not having had access
10 to an examination of any of these individuals, I am not
11 saying that they are having that diagnosis. I am stating
12 that there is a high likelihood, given the circumstances,
13 and given the fact that they were exposed to what could be
14 called an absolute psychic trauma that there is a high
15 likelihood that all of the adults to varying degrees would
16 show evidence of post-traumatic stress disorder.

17 Q I take it, then, you are basing your entire
18 opinion on the accident, the factual nature of the accident
19 and what you know about the accident as opposed to what
20 specific psychiatric symptoms that any of these adults might
21 be exhibiting now or might have shown in the past since the
22 accident?

1 copies of the various surviving crew members' medical
2 records, Lockheed has also. Is that a fair statement? We
3 received certain things.

4 BY MR. ALMY:

5 Q Based on your examination of her medical records,
6 can you testify with reasonable medical certainty that she,
7 in fact, is suffering from post-traumatic stress disorder?

8 A To my best recollection, there was reference to
9 her having experienced a phobic reaction to flying.

10 I do not believe, although I am relying again upon my
11 recollection, there was a reference there to psychic trauma
12 in that record that I have reviewed.

13 Q Do you recall the fact that they say post-
14 traumatic anxiety syndrome, mild, completely resolved?

15 MR. FRICKER: Do you recall that, Doctor?

16 THE DEPONENT: Yes, I do.

17 BY MR. ALMY:

18 Q Do you disagree with that, Doctor?

19 A Yes, I do.

20 Q What symptoms then is she showing that you are
21 basing your diagnosis on other than the phobic which you
22 have mentioned?

1 A With the exception of Captain Tate, whose medical
2 or at least a portion of whose medical record I have seen,
3 I have no way of knowing whether or not one or all of these
4 individuals have, for example, experienced certain symptoms
5 or have had certain limitations of function or have suffered
6 certain phobic reactions one would expect, or suffer from
7 intrusive recollections; clearly I don't have that knowledge
8 because I have had no opportunity to examine these persons.

9 Q Without having had the opportunity to examine or
10 at any rate without knowing whether they are or are not
11 exhibiting these symptoms, can you give a definitive opinion
12 they are suffering from psychic trauma?

13 MR. FRICKER: That has been asked and answered.

14 BY MR. ALMY:

15 Q I take it you have seen Captain Tate's medical
16 records from the military?

17 A Yes.

18 MR. FRICKER: I think for clarification, I should
19 say he has seen what we have received from the government.
20 Whether those are all the medical records is something else
21 again.

22 It is my understanding that, as we have received

1 A I am not basing my diagnosis upon a personal exam-
2 ination which I have not conducted. I am merely stating
3 that the person under these circumstances would be very
4 likely to suffer from post-traumatic stress disorder.

5 Q But on the basis of the records that you have
6 seen concerning the Air Force nurse, Tate, you are not able
7 to conclusively diagnose that she is suffering from post-
8 traumatic stress disorder?

9 A I am able to express the opinion that there is a
10 very high likelihood that she suffers from post-traumatic
11 stress disorder.

12 Q Can you point to any other symptoms, though,
13 other than the phobic?

14 A I cannot.

15 Q You indicated that guilt may be one of the factors
16 involved in memory distortion. You indicated that earlier,
17 I think. Am I correct?

18 A I believe you asked me about guilt as part of
19 psychic trauma and I said that that can be a factor, yes.

20 Q Is it a factor in this case?

21 A In my opinion, yes.

22 Q Why don't I ask you to define what you mean, then,

1 by the factor of guilt?

2 A We have a situation where certain people lived and
3 certain people died. It is a common experience of a psychi-
4 atrist that such circumstances lead to what has been described
5 as survivor guilt.

6 Q How will that affect the memories of these people?

7 A It would affect the person's perception of the event,
8 possibly, likely.

9 Q How would it affect that perception?

10 A That can vary.

11 Q What would be the factors that would cause it to
12 vary?

13 A It would depend on the specific circumstances of
14 an event.

15 Q We are talking about the C5A.

16 A We have here a situation where, by sheer accident
17 of location, some lived and some died. That certainly would
18 affect the person's perception of the event.

19 Q In what way would it affect their perception?

20 A It would affect them in the sense that it would
21 contribute to the distortion of the event, itself, specific-
22 ally how it would manifest itself. I cannot answer without

1 having the opportunity to examine the persons in question
2 or being faced with some specific question.

3 Q Earlier we talked about the denial and you indi-
4 cated the memory would tend to screen out certain things and
5 it would lessen their perception of things that actually
6 happened and make them less severe. How would this feeling
7 of guilt affect their perception of what happened?

8 A I think I have answered that. It would depend on
9 the circumstances. It is a powerful force that experiences
10 guilt in association with an event. That kind of a force is
11 likely to affect the person's perception of the experience.

12 Q Would this massive psychic trauma affect the mem-
13 ories of each individual in precisely the same way?

14 MR. FRICKER: Object. It must have been asked
15 and answered a half a dozen times.

16 BY MR. ALMY:

17 Q Doctor, when would this guilt have developed in
18 the adult passengers?

19 A Sometime after they perceived that they have lived
20 and others have died.

21 Q How long after?

22 A Anytime after the perception of the event.

1 Q Would it vary from individual to individual?

2 A Yes.

3 Q Let me ask a very general question.

4 What are you going to testify about concerning the
5 following sentence:

6 "Doctor Tanay has evaluated during his long career in
7 the evaluation of central nervous system dysfunction and
8 massive psychic trauma the position of defendants, wrong-
9 doers, attempting to deny the reimbursement and rehabilitation
10 of the victim."

11 It is the middle sentence.

12 A I am sure you realize I have not written this,
13 so I have to read it.

14 MR. FRICKER: For the record, your question is
15 picking up from the narrative statement of expected testimony
16 as submitted by plaintiff's counsel.

17 MR. ALMY: That is correct.

18 MR. FRICKER: I confess it may not be as artfully
19 put as either the doctor or we would have liked.

20 THE DEPONENT: I can say in regard to it, if I
21 fully understand the sentence, that I have had considerable
22 experience in evaluating people who have been victims of

1 psychic trauma, and that I have also had experience in the
2 impact that various methods of compensation have upon victims
3 of psychic trauma.

4 BY MR. ALMY:

5 Q What are you going to testify about relating to
6 that concerning the C5A case?

7 A That I would testify depending upon the questions
8 that were posed to me in connection with this general subject
9 Generally speaking, however, I can say that the results of
10 psychic trauma are affected by how certain organizations,
11 for example, Veterans Administration or the German Govern-
12 ment, in compensating victims of psychic trauma associated
13 with concentration camps, that these manners of how the
14 compensation was handled does affect the adjustment of the
15 victims.

16 Q How are the adults in the troop compartment or
17 flight deck being affected in this case?

18 A I would say if you limit it to adults, they were
19 members of the armed forces. Certainly there are certain
20 mechanisms in existence to assist victims of psychic trauma
21 within the armed forces. That is one example.

22 Then, obviously, there are other victims of that

1 experience, namely, the children.

2 Q I am still not quite certain.

3 How about Doctor Stark? How is he being affected?

4 A By what?

5 Q By whatever reimbursement might be involved.

6 A Again, I must emphasize that I have not formulated
7 that statement. I am addressing myself to what you are
8 asking me and generally stating that the manner of compensa-
9 tion, no matter how the claims of the victim are handled, do
10 affect the ultimate adjustment and are a factor.

11 For example, the manner in which the Veterans' Admin-
12 istration handles claims differs from the manner in which
13 claims are handled by, let's say, our personal injury
14 system; and these will affect the outcome.

15 Given identical circumstances that would be theoretically
16 postulated, depending on how that victim is handled after
17 the event will either minimize the deleterious effect or
18 maximize it. If asked, I would testify that it is beneficial
19 for a person to be treated, compensated in as expeditious
20 manner as possible and as quickly after the traumatic event as
21 possible. If that question were posed to me, I would
22 certainly answer it along these lines.

1 Q I also see here you are projected to testify that
2 Lockheed's medical experts are ignoring the past significance
3 of the C5A aircraft disaster. Can you testify as to that?
4 Admittedly, I am pulling some part of that question out of
5 context.

6 MR. FRICKER: I object to the form.

7 If , indeed, you are going to be asking a question
8 in the context of a narrative of expected testimony, I would
9 ask that you quote that sentence it is entirety.

10 MR. ALMY: It says, "Doctor Tanay is expected to
11 testify that Lockheed Aircraft Corporation's medical experts,
12 in ignoring the past significance of the C5A aircraft disaster
13 near Saigon, Vietnam and their willingness to rely on the
14 massively distorted memories of victims of named accidents,
15 tend to mislead the court and the jury in their just evalua-
16 ation of the plaintiff's case presented to them."

17 BY MR. ALMY:

18 Q I would like to go back to the "significance of the
19 C5A aircraft disaster near Saigon."

20 A First, I would have to try to interpret the signif-
21 icance of that question and I assume it deals with the data
22 base of experts and to the accident that the experts rely

1 upon testimony, data provided by individuals who, due to their
2 psychic trauma, distorted the event unintentionally, then the
3 conclusions in some respect would not be entirely accurate.

4 Q Would it be your testimony then that the medical
5 experts should not rely on the testimony of anyone in the
6 troop compartment or flight deck, any adults?

7 A No, I would not say that at all. What I am saying
8 is that an expert would have to take into account the various
9 factors, such as the perceptions of the witnesses.

10 Q Do you have any reason to believe that any of the
11 experts for plaintiffs or defendants are not capable of taking
12 those factors into consideration?

13 A To the extent that they would take the descriptions
14 at face value. If they did, I would then question their ability
15 to see it in realistic light.

16 Q Did the children in the troop compartment suffer
17 any kind of injury based on your review of the records that
18 have been presented to you?

19 MR. FRICKER: I object on several grounds.

20 Are you talking physical, psychic, both?

21 Can you clarify that question?

22 I told you up front he has not reviewed any of the

1 medical records, if you are asking him that.

2 MR. ALMY: I am asking for any injury and I am not
3 being exclusive at all.

4 MR. FRICKER: I think it is a waste of time and I
5 strenuously object.

6 THE DEPONENT: I am of the opinion that they most
7 certainly have suffered injuries.

8 BY MR. ALMY:

9 Q Within the area of your expertise, have they suffered
10 injury?

11 A As a physician, as a psychiatrist and as a human
12 being, I can certainly say that they have suffered injury.

13 Q What kind of injury?

14 A They have been subjected to a physically harmful
15 event. They have been subjected to a mentally harmful event,
16 and they will live with the memory that they have lived and
17 others have died.

18 Q Is this true of all of the children?

19 A It is my opinion that there is a great likelihood
20 that that would be true of all of the children.

21 Q Have you examined any of the children?

22 A No.

1 Q Have you examined any of the medical records of
2 any of the children?

3 MR. FRICKER: I object.

4 I am going to flat out advise the witness not to
5 answer because I told you up front that he hadn't and why we
6 are taking time unless you are questioning my veracity to go
7 into this. I told you also he is not being offered to testify
8 with respect to the injuries of a specific child.

9 I see that there is a relevant area of injury which
10 you might address by virtue of the opinion he has previously
11 given, that being that the manner in which compensation of
12 victims is handled may affect the rehabilitation. But please
13 let us not at this particular hour, which is close to 5
14 o'clock, spend time going into something we have told you he
15 is not going to be testifying about.

16 MR. ALMY: He is not going to be testifying about
17 any injury to these children.

18 MR. FRICKER: His expected testimony is that which
19 I indicated to you and which is disclosed as modified in the
20 narrative of expected testimony and in specific response to
21 your question, the only aspect of his testimony that in any
22 way relates to the injuries of the children is an effect of

1 of the proposed testimony that the manner of handling compen-
2 sation for victims of psychic trauma may affect the rehabili-
3 tation of such victims generally.

4 MR. ALMY: You were complaining because I was ask-
5 about whether he --

6 MR. FRICKER: I will withdraw my advice not to
7 answer.

8 I just don't want this Doctor's time or any person's
9 time wasted unnecessarily in an area where we said he would
10 not be asked to testify about.

11 BY MR. FRICKER:

12 Q Have you examined any infant plaintiff's medical
13 records, Doctor?

14 A It depends on how you define records. Individual
15 records I have not examined but I have examined descriptions
16 of the pathology and testimony of some of the children.

17 Q As contained in the black bound volum and documents
18 referenced in the three yellow sheets?

19 A Yes, I reviewed materials dealing -- I hate to
20 contradict you, Mr. Fricker.

21 Q You are not contradicting me.

22 A But depending on how that is described, I have

1 reviewed materials dealing with that aspect.

2 BY MR. ALMY:

3 Q What rehabilitation are you suggesting is needed
4 by these children?

5 MR. FRICKER: I object.

6 THE DEPONENT: I have not suggested any.

7 BY MR. ALMY:

8 Q Do you believe they need rehabilitation?

9 A Yes.

10 Q But you have not reviewed any individual medical
11 records of any of the children?

12 A I have reviewed a summary from the National Medical
13 Center prepared by a professor of psychiatry, Doctor Conners,
14 and I have reviewed a report from Children's Hospital, and I
15 have read some of the testimony in that volume that is on
16 the table here where there was testimony pursuant to the
17 difficulties that the children have suffered, specifically
18 in the Schneider case, the Marchetti case. I have read that
19 part of it.

20 Q What is included in the children's report, National
21 Medical Center? It says 53 pages.

22 A To my best recollection, it is an analysis of all

1 of the expert examinations for both plaintiffs and defendants.
2 It is a sort of scientific comparison of all of the evaluations
3 performed on behalf of the guardian, and the conclusion being
4 that there was a remarkable degree of agreement between these
5 various experts on the issue of the various injuries suffered
6 by the children.

7 Q That is Doctor Conners' report?

8 A Yes.

9 Q Looking at your Exhibit DD-2547-1, if you go down
10 the entries, you will see a report from Children's Hospital.
11 What did that include?

12 A That included, I believe, a variety of letters, but
13 my recollection is not perfect on that score.

14 Q What did the letters contain?

15 A I don't exactly recall.

16 Q I see in parens after that entry "Brook Schuelein"
17 -- I can't read it after that.

18 A "Et cetera."

19 Q Were those letters from those individuals or to
20 those individuals, do you recall?

21 A I don't recall specifically now.

22 Q Doctor, are you suggesting these children on the

1 to me, pursuant to treatment and rehabilitation.

2 Q Are you familiar with the term ADD, attentional
3 deficit disorder?

4 A Yes.

5 Q Do you consider yourself an expert in that area?

6 A No, not in the medical sense, no. In the legal
7 sense, yes, but not in the medical.

8 Q Are you familiar with the term minimal brain dys-
9 function?

10 A Yes.

11 Q Do you consider yourself a medical expert in that
12 area?

13 A That is not the area of my medical specialization,
14 but I do have more than average knowledge about the subject.

15 Q What systems of rehabilitation are being referred
16 to in the second line of this narrative of your proposed
17 testimony?

18 A Since I did not write it, I cannot answer about
19 systems or what is meant by it. If you ask me a specific
20 question, I will be able to answer it.

21 Q I am just trying to find out what you are going
22 to testify about, to be perfectly honest.

1 C5A suffered massive psychic trauma, in the troop compartment?

2 A That concept would be difficult to apply to children
3 in view of their age, but obviously the children did perceive
4 the stimuli that were imposed upon them by the experience.
5 Those would be overwhelming, particularly to children whose
6 ability to cope is much less than the ability of adults.

7 Q The rehabilitation that you say the children need,
8 is that based entirely on the reports that you have read,
9 either from Doctor Conners' summary reports or the other
10 reports from the Children's Hospital.

11 A No, it is based upon my total information about
12 the case.

13 Q What specific kind of rehabilitation are you recom-
14 mending then?

15 MR. FRICKER: Objection.

16 He said he was not making any specific recommenda-
17 tions.

18 BY MR. ALMY:

19 Q Let me just ask a general question then.

20 What are you going to testify about concerning
21 rehabilitation of these infants?

22 A That depends upon the questions that are directed

1 A If you ask me a question, I will answer it to the
2 best of my ability.

3 Q What research and studies have you done concerning
4 systems of rehabilitation?

5 A I have conducted research with the survivors of
6 concentration camps and organized at Wayne State University
7 workshops on that subject in which various presentations
8 were made.

9 I have worked with victims of psychic trauma, and
10 I have written papers on the subject.

11 Q What was the source of that psychic trauma written
12 on these victims?

13 A There were various sources. Some of them were
14 survivors of concentration camps. Some suffered psychic
15 trauma in World War II experiences, military, Vietnam, Korea.
16 Some were persons who suffered psychic trauma in transpor-
17 tation disasters. The sources vary. The results, the psycho-
18 pathology often is quite similar.

19 Q Were the papers that you wrote or the studies that
20 you did on transportation disasters published?

21 A I did not say that I published specific papers
22 on transportation disasters.

1 You asked me about the sources and I included
2 various sources as you asked me. I did not say that I
3 published papers specifically on transportation disasters.

4 Q Have you published papers that include data on
5 transportation disasters?

6 A I believe in a paper on psychic trauma, which was
7 published a few years ago, I did make reference to at least
8 some cases that resulted from automobile accidents, yes, I
9 believe so.

10 Q Can you remember the name of that paper?

11 A Yes.

12 Q What was it?

13 A It was called, "Psychic Trauma in the Law," and
14 it was published in the Wayne Law Review in 1968 or 1969.

15 Q Have you ever published anything incorporating
16 data for victims or about victims in aircraft accidents?

17 A I don't recall that, no.

18 I have lectured specifically on that subject
19 utilizing aircraft situations, but I don't recall that that
20 was included in any published material.

21 Q From the studies, what kind of rehabilitation
22 systems did you develop or study?

A I would not address myself to rehabilitation systems.

1 I would speak in terms of treatment. Being a psychiatrist,
2 I don't deal with systems. I deal with persons if you are
3 talking about treatment, but if you are talking about methods
4 of compensation, that is another story.

5 Q I understood from Mr. Fricker's earlier proffer
6 that you were not going to talk about financial compensation.

7 MR. FRICKER: Maybe we are all on different wave
8 lengths.

9 Can we go off the record a second.

10 [Off-the-record discussion.]

11 MR. FRICKER: On the record.

12 Mr. Almy, in the interest of trying to expedite
13 the deposition and to be absolutely certain that the Doctor's
14 understanding of what he will be asked to testify about com-
15 ports with ours as attorneys for the children and yours in
16 reviewing the narrative of expected testimony, I requested
17 and took approximately one minute to confirm that in my own
18 mind. We are now back on the record and I can state to you
19 and for your benefit, as I had earliery off the record, that
20 Doctor Tanay has not and will not be asked to develope or
21 recommend any specific or even any general rehabilitation
22 plan with respect to any individual or group of infant

1 plaintiffs; nor will he be asked to cost any such plan as
2 might be suggested or prescribed by any other expert. His
3 anticipated testimony in the area of "rehabilitation" would
4 in effect be that, assuming these children have suffered a
5 psychic, psychiatric or other type of impairments, that their
6 rehabilitation will have the greatest prospect or greater
7 prospect for success by an early, expeditious compensation of
8 those injuries rather than prolonged, drawn-out methods
9 associated with, as he described earlier, personal injury.
10 I think he used the word mechanism or system. That is the
11 nature of his expected testimony.

12 BY MR. ALMY:

13 Q Doctor, of what significance is the "expeditious
14 compensation" of these children important to you?

15 A I did not hear the last few words.

16 Q How is the "expeditious compensation" important in
17 this case to you?

18 A Compensation is intimately involved with diagnosis,
19 evaluation and treatment and delay, particularly when you deal
20 with children whose time frame is quite different than that
21 of adult delays, are not to their best benefit.

22 Q I take it you are speaking in general terms there,

1 Any child who has a problem as opposed to the specific
2 children in this case?

3 A I am speaking generally of illness, psychic trauma
4 or any kind of illness, and it would apply to the situation
5 at hand.

6 Q I am curious about the phrase "defendants, wrong-
7 doers." What does that mean?

8 A I don't know. I didn't write it.

9 Q Are you aware of the fact that the defendant has
10 already paid over a half a million dollars to plaintiffs for
11 diagnosis, evaluation and treatment of these children?

12 MR. FICKER: I object; argumentative, not accurate
13 in the way it is phrased. Defendant has, as you know, paid
14 money by virtue of a stipulation for, among other purposes,
15 medical evaluation and, indeed, by reason of defendant's
16 insistence upon bringing the children and their parents to
17 Washington, D. C., for evaluation and taking as much as a
18 week for two sets of examining the children, a substantial
19 portion of that has already been expended in connection with
20 those examinations. To suggest half a million dollars or more
21 has been paid by Lockheed exclusively for those purposes and
22 not to state that it was also paid to defray the litigation

1 expenses by agreement is misleading and I object to the form
2 of the question.

3 BY MR. ALMY:

4 Q But are you aware?

5 A I was aware there was an agreement under which some
6 funds were disbursed. I did not know the exact amounts.

7 Q I think you said earlier that some of your studies
8 have been based on the concentration camps in Germany. Is
9 that an analogous situation to what we have here?

10 MR. FRICKER: I object to the form.

11 BY MR. ALMY:

12 Q You can answer.

13 A In some respects, yes, and in other respects, no.

14 Q In what respects is it analogous?

15 A It is similar in the sense that the mental apparatus
16 has been overwhelmed by a life-threatening experience. It is
17 similar by the fact that some people have lived and others
18 have died and that there was no control that the survivors
19 have really had over it.

20 It would be dissimilar by the fact that this was
21 not an effort of a group to inflict death upon another group.
22 So that obviously has some significance. So, there are

1 similarities and there are dissimilarites.

2 BY MR. ALMY:

3 Q The adults in the troop compartment and flight
4 deck -- would the pressures that we talked about earlier be
5 categorized under the term stress?

6 A Yes, that could be used as a term. Certainly there
7 was stress.

8 Q You have indicated that their memories and per-
9 ceptions were affected by stress.

10 MR. FRICKER: I object to the form.

11 BY MR. ALMY:

12 Q Would they also indicate or show other symptoms as
13 a result?

14 A I am not sure I understand your question.

15 Q You have indicated the adults have a distortion
16 of their memory or perception of events. As a result of the
17 stress they were under during this incident, would there be
18 other symptoms of that stress?

19 A Psychological symptoms.

20 Q Other than that.

21 Other than the memory distortion?

22 A Yes, I think we covered that in some detail, yes.

1 Q Will the psychic trauma improve in some of the
2 adults as opposed to others?

3 MR. FRICKER: I object to the form.

4 BY MR. ALMY:

5 Q In the troop compartment?

6 MR. FRICKER: I still object to the form. I am no
7 doctor but psychic trauma, as I understand it, is a term to
8 describe an injury, and to ask, thus, will the injury improve
9 is objectionable in form.

10 MR. ALMY: Maybe I am being inarticulate.

11 BY MR. ALMY:

12 Q Will the injury heal?

13 A To an extent, yes.

14 Q Will it vary from individual to individual?

15 A Yes.

16 Q Is it possible to tell which individuals are
17 progressing more than the others?

18 A Upon examination, one would expect that one could
19 make such an assessment?

20 Q I want to go back to the testimony a little bit and
21 some of the areas we didn't cover.

22 We have talked about the impact and discussed whether

1 it was a normal or firm landing and, therefore, that being a
2 distortion. Can you give me any other examples?

3 MR. FRICKER: Of what?

4 MR. ALMY: In the distortion of the memories of the
5 adults in the troop compartment.

6 THE DEPONENT: I cannot give you an answer to that.

7 If you ask me a specific question, maybe I can
8 answer.

9 BY MR. ALMY:

10 Q You are testifying that their memories are distorted.
11 I am just trying to find out specifically where the distortion
12 is.

13 A I believe I have repeatedly described in response to
14 your questions that the accounts given of the event which
15 tend to portray it as a relatively insignificant or less than
16 disastrous event are, in my opinion, based upon a distortion.

17 Q Does it make a difference that the adult might be
18 in the troop compartment as opposed to the cargo compartment
19 in terms of being a disastrous event, assuming they both
20 survived?

21 MR. FRICKER: I object to the form.

22 Are you asking in the absolute sense or in the

1 opinion of this expert?

2 MR. ALMY: In the opinion of Doctor Tanay.

3 MR. FRICKER: Maybe I am only muddying the waters.

4 Are you asking the Doctor whether his opinion that
5 this crash was a disastrous event is affected by the positions
6 of its victims?

7 MR. ALMY: No.

8 MR. FRICKER: That is what I understood you asked.

9 BY MR. ALMY:

10 Q Whether the perception of the individuals of this
11 being a disastrous accident, so the stress builds up on them,
12 does it make a difference where they are located in the air-
13 plane?

14 A It is my opinion that every surviving person of this
15 event would be likely to perceive it as a disaster. Individual
16 variations would be expected based upon individual person-
17 alities and some variations are possible based upon one's
18 location.

19 For example, if one were next to a person who got
20 killed or if one discovered a child that was dead, that might
21 have some variation in their reaction of that particular
22 person.

1 Q If you had an emotional attachment to anyone who was
2 killed, would that have an impact? I am specifically referencing
3 Doctor Stark.

4 A Certainly it would. Certainly it would.

5 Q If you were afraid for the life of one of the
6 children to which you had an emotional attachment, would that
7 also have an emotional impact?

8 A It would be a factor, yes.

9 Q Assume for the moment that in the troop compartment
10 the forces, the physical environment were such that injury
11 to an adult who was standing up, holding on to the seat
12 was minimal, would that person still have massive psychic
13 injury?

14 A Are you asking me to assume on that plane that a
15 person stood and held on to a seat?

16 Q Yes.

17 A It would be my opinion that any person on that plane
18 would suffer psychic trauma.

19 Q Why would that particular person who does not
20 suffer any physical problems themselves suffer from psychic
21 trauma?

22 A Because psychic trauma is not the result of any

1 physical injury. It is the result of mental injury and the
2 circumstances of this event, the nature of this disaster
3 would, in my opinion, affect any human being who was on that
4 plane regardless of whether or not they had suffered physical
5 injury.

6 In fact, there is some evidence that some degreee
7 of physical injury has some minimizing effect upon psychic
8 trauma. That observation was made a long time ago by Freud.

9 Q If there was some minor physical injury, the memory
10 might be better?

11 A It might minimize it under certain circumstances.
12 We are now talking about a setting which I would characterize
13 as absolute trauma. We are talking about minor variations
14 on a theme but we cannot forget the overall setting in which
15 all of this occurs.

16 Q Is it the fact that the setting is life-threatening

17 ---

18 A Might we take a short break?

19 MR. ALMY: Yes.

20 [A short recess was taken.]

21 THE DEPONENT: The fact that the setting is life-
22 threatening, as I have inidcated, is important, yes.

1 BY MR. ALMY:

2 Q What else is important about the setting?

3 MR. FRICKER: Objection.

4 Your question does not seem to make any sense.

5 I object to the form -- what else about the setting?

6 MR. ALMY: This is going back about three questions.

7 We were asking what was causing the problem and we went to the
8 setting. I asked whether the setting was life-threatening
9 was the problem.

10 THE DEPONENT: I believe I have described it
11 repeatedly and if you wish, I will describe it again.

12 We have a situation where there is one disaster
13 which indicates that another disaster will occur, and that
14 people are in that setting of an impending disaster proceeding
15 toward a situation which there is a great likelihood that
16 some of them or all of them will die a horrible death. That
17 creates a situation combined with helplessness which in my
18 opinion constitutes an experience which would virtually and
19 invariably lead to psychic trauma in any human being.

20 BY MR. ALMY:

21 Q I take it, as a result of this life-threatening
22 situation and helplessness, that these individuals would

1 exhibit certain symptoms; is that correct?

2 MR. FRICKER: I object. Asked and answered.

3 THE DEPONENT: Yes.

4 BY MR. ALMY:

5 Q Can you point to anywhere in the material you have
6 reviewed where any of those individuals are exhibiting
7 symptoms of massive psychic trauma?

8 A I would like to indicate to you that I have answered
9 that already, and I do recall my answer. I could repeat it.

10 MR. FRICKER: Doctor, I don't want you to repeat
11 it.

12 MR. ALMY: I am looking for specifics.

13 MR. FRICKER: At least by my own recollection,
14 Mr. Almy, he has given you the following specifics: He has
15 referred to Nurse Tate's medical records. We discussed that.
16 He has referred to, I believe, Doctor Stark and Doctor Stark's
17 wandering around the plane. He has referred to Captain or
18 Major Traynor's recollections and conduct and demeanor. Those
19 are the ones I recall.

20 BY MR. ALMY:

21 Q Let's be specific. What about Nurse Oune? She
22 was an Air Force nurse in the troop compartment.

1 MR. FRICKER: I object to the form of the question.

2 Are you asking if the Doctor can specifically point
3 to any documents that he reviewed to symptoms of psychic
4 trauma? Is that your question?

5 MR. ALMY: Yes.

6 THE DEPONENT: Let me remind both of you gentlemen,
7 I did indicate, as far as specific symptoms are concerned,
8 that that would be a matter of actual, personal examination.
9 That was my testimony.

10 So, if we are going over old grounds, let me just
11 remind both of you that that is what I testified, and I
12 certainly would not like to contradict myself.

13 BY MR. ALMY:

14 Q It is possible in reviewing the testimony to
15 determine which aspects are factually accurate and which are
16 not?

17 MR. FRICKER: I object to the form.

18 THE DEPONENT: I think it is possible in general
19 terms, yes.

20 BY MR. ALMY:

21 Q What do you mean by "in general terms"?

22 A To be specific about in general, if an individual

1 describes the situation in terms that are designed to minimize
2 what is obviously a disastrous situation, I think both common
3 sense and psychiatric knowledge and experience would indicate
4 that this is the result of some emotional need that the person
5 has.

6 Q Within this disastrous situation, as you have just
7 called it, is it possible, then, for the specific facts of a
8 short-term fact and a given fact between the first touch-
9 down and the time the troop compartment stopped to be accurate
10 even though the adult in the troop compartment is aware of
11 the overall danger of the situation?

12 A I am under the impression we are back to the
13 fragmentation of seconds of the experience.

14 Q Yes. Is it possible for that part to be accurate?

15 A Would you be more specific as to what part you have
16 reference to?

17 Q It is how the forces in the troop compartment moved
18 along.

19 A I still don't understand your question.

20 Q Could the person accurately describe what they
21 were feeling in terms of physical motion, whether or not they
22 could feel their body being pushed up or down? Could they

1 accurately describe that even within the entire situation,
2 realizing that it is overall?

3 A I recall that testimony of Major Traynor, which
4 I believe you have reference to, and that specific aspect
5 of it would, in my view, be an example of a distortion, because
6 here he describes horrendous events and yet he talks about
7 it as if it were of little significance.

8 Assumed that that is what you were referring to.

9 Q Well, Doctor, you have read Major Traynor's testi-
10 mony and the copilot and the third member of the crew that
11 was there. Does it strike you as odd that they all have very
12 similar testimony?

13 A No, it does not strike be as odd. It simply con-
14 firms what I have testified so far. These individuals
15 described a horrendous event and yet they try to, for obvious
16 reasons, minimize it. They don't know where they are, it is
17 turning over, it is dark, and the plane disintegrates, and
18 yet they are talking about it in a very matter-of-fact fashion.

19 BY MR. ALMY:

20 Q Are you suggesting, then, that it did not turn black?

21 A No, on the contrary. I accept what they describe.

22 I am only pointing out the fact that due to the nature of the

1 experience, there has been a distortion of their preception.

2 Q I am trying to find out specifically what that
3 distortion is in their testimony. What was distorted?

4 MR. FRICKER: Mr. Almy, at this hour, having had
5 the witness since here after 2 o'clock, we started at 2:30,
6 and it is now 10 minutes of 6, to ask this witness from his
7 own recollection to go down a list of witness statements is a
8 little bit preposterous. If you want to take the remaining
9 time until 6:30 to display witness statements to the witness
10 and ask him if he views this as a distortion, I suppose you
11 can do that. He may be able to respond and he may not. You
12 are certainly not maximizing your time efficiently if you
13 really want to find out facts. It seems to me we have been
14 going over things repeatedly. He may be able to help you if
15 you show him a witness statement.

16 MR. ALMY: He is relying on the witness statements
17 he just listed. He said they are distorted in some manner.
18 All I want to know specifically is how are they distorted.

19 THE DEPONENT: To the extent that an effort is made
20 to describe things as if, to use a simple term, business as
21 usual, that is a distortion, given all of what we know about
22 the event as it is transpiring and as it is being described.

1 BY MR. ALMY:

2 Q The flight crew described it as sliding through
3 grass. Is that a distortion?

4 A To the extent that the nature of the event as a
5 disaster, as a life-threatening event or given any prominence
6 in the account, to that extent it is a distortion.

7 I am almost tempted to tell you about that story
8 of the man who jumped from the Empire State Building and as
9 he went by the 50th floor somebody asked him, "How are you
10 doing?" He said, "So far, so good." If you ask a person
11 on their way to a disaster, that is a distortion.

12 Q However, had that man reported at the bottom
13 that what he said to the man at the 50th floor was accurate

14 --

15 MR. FRICKER: Objection.

16 MR. ALMY: I should strike that.

17 THE DEPONENT: It is getting late and we are all
18 getting tired.

19 BY MR. ALMY:

20 Q Is the testimony about it sliding through the grass,
21 the feeling of it sliding through the grass, a distortion
22 of the facts or is it accurate or can you tell?

1 A I can tell from all of the information that I have
2 that this was not a situation of sliding through the grass
3 if one wishes to imply that this was not a disaster, life-
4 threatening event.

5 Whether there is specifically grass or not under
6 this mamouth plane, that really is of no significance for
7 my purposes, whether it was a rice paddy or whatever.

8 Q If the flight deck was indeed sliding through
9 grass or a rice paddy, would their testimony not be accurate?

10 MR. FRICKER: Are you talking about troop compartment
11 or flight deck?

12 MR. ALMY: Flight deck.

13 MR. FRICKER: Repeat your question.

14 BY MR. ALMY:

15 Q If the flight deck were sliding through the grass
16 or a rice paddy, as stated by the crew members, would not their
17 testimony describing it as such be accurate?

18 MR. FRICKER: Objection.

19 That question is not consistent with the facts which,
20 indeed, even Lockheed submits that at some point on the west
21 side of the river the flight deck came loose and flew through
22 the air and not in continuous contact with the ground ended

1 up upside down. Even Lockheed's pictorial views of the plane
2 depict the flight deck coming apart from the rest of the
3 plane and doing a flipflop, not sliding along the grass. So
4 to characterize or suggest that as a fact, I think, is highly
5 objectionable. If you find that in some sworn testimony of
6 a witness, I would like you to display that to this Doctor
7 rather than asking him something that is totally out in left
8 field. I object.

9 BY MR. ALMY:

10 Q Can you answer the question?

11 A The nature of the terrain would be of no great
12 significance for my purposes.

13 Q If, in fact, that is true, that they were sliding
14 through grass or a rice paddy as they testified, wouldn't
15 their testimony therefore be correct?

16 MR. FRICKER: I object.

17 THE DEPONENT: I don't think so. If they used
18 the term sliding, I think it would be more accurate to
19 describe the experience as crashing. But whatever words
20 are used, we are not really talking about the words or the
21 substance. We are talking about the emotional impact and
22 perception associated with a horrible event; and to the

1 extent there is an effort made to describe it as sort of
2 sliding through the grass in the sense of it not being a
3 horrible, terrifying experience, to that extent, I would say
4 it is a distortion.

5 BY MR. ALMY:

6 Q Would not your premise be incorrect if they were,
7 in fact, accurately describing what happened?

8 MR. FRICKER: Objection. It is overly broad and
9 vague.

10 Who is they? What period of time? What are you
11 referring to in the question?

12 MR. ALMY: The preceding question and answer.

13 MR. FRICKER: I object to the form of the question.

14 You may answer.

15 THE DEPONENT: I do not question the accuracy of
16 their description of the underlying terrain. I do question
17 the perception, the report of the experience. One can just
18 as well get killed on the grass as on cement.

19 BY MR. ALMY:

20 Q I take it, then, you are taking as given that the
21 slide or motion of the flight deck was not a smooth slide,
22 that it was something other than that?

1 A I make the assumption that the flight deck is not
2 designed to move through the country side on its own separated
3 from other portions of the plane and that this would be an
4 unusual and terrifying experience whether it was occurring
5 on the grass or other terrain.

6 Q Then, as a result, because it is a terrifying
7 experience that their memories are distorted or their percep-
8 tion of what happened is distorted and what they have reported
9 in their testimony is inaccurate or distorted?

10 A My testimony has been the fact that these individuals
11 suffered psychic trauma would significantly affect their
12 ability to describe and to report and testify about the
13 event.

14 Q However, if their report is accurate, if, in fact,
15 the troop compartment did slide through the grass in a sort
16 of every-day motion other than a crash, would not that suggest
17 that their memory at least as to that particular testimony is
18 accurate?

19 MR. FRICKER: The same objection as before.

20 THE DEPONENT: Accurate as to the nature of the
21 terrain or the nature of the experience?

1 BY MR. ALMY:

2 Q Accurate as to what was happening and as to what
3 they felt.

4 MR. FRICKER: I object to that. It is compound.

5 THE DEPONENT: It would be my opinion that the
6 description of what they felt is incomplete. When you
7 describe that you were sliding on grass in a flight deck that
8 has just separated from the rest of the plane and you don't
9 perceive what is going on, then something is missing and then
10 the question becomes, "Why is it missing?"

11 Q What are you suggesting is missing?

12 A I am suggesting that what is missing is a descrip-
13 tion of what a disastrous, horrendous event this was.

14 Q Does massive psychic trauma always affect the memory?

15 A Psychic trauma will affect one's perception of the
16 traumatic event, yes.

17 Q In every case?

18 A Yes.

19 MR. ALMY: I have no other questions.

20 Thank you, Doctor.

21 For the record, I referred to a document earlier,
22 a black binder as Exhibit DD-2547-2, which we will mark and

1 I believe I accurately represent it is the remainder of the
2 material reviewed by Doctor Tanay prior to his deposition
3 other than that listed in Exhibit DD-2547-1 and that listed
4 by Mr. Fricker at the beginning of the deposition.

5 MR. FRICKER: I am not in a position to say myself
6 whether the black bound volume which has now been marked
7 DD-2745-2 is in addition to the documents listed in -1 or
8 contains part of the documents in -1.

9 As far as the document itself, I am going to leave
10 it with counsel for Lockheed since it is being produced for
11 inspection and have marked it. If they wish a copy, they
12 can mark it and return the original to us so that we might
13 return it to Doctor Tanay because I believe that a review of
14 it during the last four hours would have disclosed what the
15 contents are and it is a variety of testimony and if you
16 wish a copy, I think you should undertake to do so, Mr. Almy.

17 MR. ALMY: I shall be happy to do that.

18 [Whereupon, the deposition concluded at 6:10 p.m.]

CERTIFICATE OF NOTARY PUBLIC/REPORTER

I, ALBERT J. GASDOR, a Notary Public in and for the District of Columbia, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness is a true and accurate transcription of the stenographic notes taken by me and thereafter reduced to written form by me and/or under my direction and supervision.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed my notarial seal this 26th day of December,
1981.



Albert J. Lasker

Albert J. Gasdor
Notary Public in and for
the District of Columbia

My Commission expires:
July 31, 1985