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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Appellate Case No. 2022-001385
Case No. 2017-CP-08-02238

Matthew Zetz,

Appellant,

v.

Daniel Island Company, Inc.,

Respondent.

RECORD ON APPEAL – VOLUME 4

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1 hey, man, we can't do this here, this high school
2 gymnasium looks great but look at those doors, we're
3 going to kill people if the fire alarm goes off.
4 Nonobvious danger, right?

5 A Um-hum.

6 Q So that's what I'm asking about is, did
7 anyone have the training to look for nonobvious
8 dangers? Did anyone actually go and look for those
9 things?

10 MR. SOBOCINSKI: Object to the form.
11 You can answer.

12 A No, sir.

13 BY MR. JEFFERIES:

14 Q No training?

15 A No looking, I guess, for the nonobvious.

16 Q Okay. Fair enough.

17 A The venue was a very wide open venue,
18 and certainly not the same as what you were -- you
19 know, you're using a different analogy.

20 Q Right.

21 A But --

22 Q So you assumed it was safe 'cause it was a
23 wide open venue?

24 MR. SOBOCINSKI: Object to the form.
25 You can answer.

1 A For that particular type of event, I
2 think it's as safe as any other venue that would
3 be similar to host an event like that, yes.

4 BY MR. JEFFERIES:

5 Q And that's based on?

6 A Just my own personal observation, events
7 that I've been to, that sort of thing.

8 Q Not any formal analysis?

9 A No, sir.

10 Q Not any sort of professional opinion?

11 A No.

12 Q Not any sort of trained opinion or
13 background, formal background, in determining what's
14 dangerous and what's not dangerous?

15 A Right. I think that, you know, by
16 having to get the City of Charleston permit, you
17 know, that's a situation where you're around a
18 table of people who are going to look at the
19 venue, and they were all familiar with that
20 particular venue, children's park and Wando fields
21 and, you know, that they -- I don't recall any
22 reservations from them. And it had been held
23 there for so many years with a gradual increase of
24 numbers over the time.

25 Q So an understandable position, your

1 thought was, well, we've done it there before, City
2 of Charleston's giving us the permit, it must be
3 safe?

4 MR. SOBOCINSKI: Object to the form.
5 You can answer.

6 BY MR. JEFFERIES:

7 Q I mean, is that fair?

8 A That's fair.

9 Q I have --

10 MR. JEFFERIES: And, Evan, I'll hand
11 this over to you. You-all produced this
12 to us, I believe.

13 BY MR. JEFFERIES:

14 Q McLaughlin 1 through 11, if you want to
15 just take a peek through that real quick.

16 MR. SOBOCINSKI: Is this hers?

17 MR. JEFFERIES: Yeah, if you'd pass
18 that to her, please.

19 MR. SOBOCINSKI: Do you want it
20 marked?

21 MR. JEFFERIES: Yeah, let's go ahead
22 and mark it.

23 (Plaintiff's [Exhibit Number 1](#) was marked
24 for identification.)
25

1 BY MR. JEFFERIES:

2 Q While you're taking a look through that
3 stack of documents, McLaughlin 0001 through 0011,
4 just take a peek through there and when you're
5 finished, let me know.

6 A Okay. Let me see.

7 Okay. I think I've got a good
8 gist of it.

9 Q So you're looking through what we've
10 marked as [Exhibit 1](#). And it has in the bottom
11 right-hand corner what we call Bates numbers which
12 is McLaughlin 0001 through McLaughlin 0011, is that
13 right?

14 A Yes.

15 Q All right. After looking through
16 [Exhibit 1](#), tell me what Exhibit 1 consists of,
17 please.

18 A [Exhibit 1](#), 0001?

19 Q Right, the whole -- well, the whole stack
20 of documents.

21 A Oh.

22 Q Yeah, just tell me generally what that is.

23 A So this is a pre-event and a post-event
24 to-do list, basically, of some -- of probably a
25 majority of what I would ask Chris and his field

1 ops team to assist us with either pre -- you know,
2 before the event or after the event.

3 Obviously there may have been a
4 few -- you know, maybe something -- as in any
5 situation, possibly something else could have been
6 added that wasn't documented here just from a, hey,
7 Chris, we're in the office kind of thing. But I
8 would say this was a good list of everything that I
9 asked him to do.

10 Q Is it safe to presume that when you make a
11 list of stuff to do, that if something gets left
12 off, it's going to be the less important stuff, not
13 the most important stuff, for instance?

14 A I would say that's true.

15 Q Yeah, I mean, my wife sends me to the
16 store to get the ingredients to cook a pot roast.
17 She might leave off, you know, some bizarre spice,
18 but she's not going to leave off the pot roast,
19 right?

20 A Yes.

21 Q So, all right. Are there any other
22 emails, any other instructions between you and Chris
23 Hamil with respect to setup for Park Day in 2016
24 aside from what we're looking at here in [Exhibit 1](#)?

25 A Not that I'm aware of that were emails,

1 no, sir.

2 Q Okay. And if there were some other oral
3 instructions, they would be last-minute smaller
4 things that you might have forgotten about but then
5 remembered?

6 A That's right. And it could --

7 MR. SOBOCINSKI: Object to the form.

8 You can answer.

9 A It could have happened on site, it could
10 have happened in the office, you know, but it
11 would have been, I would think, verbal because I
12 did pull the emails.

13 BY MR. JEFFERIES:

14 Q Okay. If I understand you correctly,
15 then, there wouldn't be something outside of these
16 emails that said, oh, by the way, while you're at
17 it, do a risk assessment of the Daniel Island
18 children's park. If you were going to have him do
19 that, that would be in the email somewhere?

20 MR. SOBOCINSKI: Object to the form.

21 A Yes.

22 BY MR. JEFFERIES:

23 Q Okay. All right. So as you look through
24 the email, this stack of emails as [Exhibit 1](#), is
25 there anything from a safety perspective that you

1 told Chris to do that we haven't already talked
2 about?

3 A Let me look. I would -- you know, I
4 think that some of these sign requests, signage
5 requests for golf cart parking and no parking,
6 whatever, those are more directional in nature
7 which could flow over into safety, but
8 directional, more or less.

9 Q Sure. All right. So in addition to the
10 stuff we've already talked about, about keeping the
11 cars away from the people, picking up limbs, turning
12 off the water, picking up dog poop, directional
13 signage could be a safety-related thing as well?

14 A Yes, sir.

15 Q All right. Anything besides those items
16 we just listed with respect to safety?

17 A Not that I recall, or not that I would
18 be aware of.

19 Q And you'd be the one to be aware of it,
20 right?

21 A Yes, sir.

22 Q Okay. Because you're the event planner?

23 A Yes, sir.

24 Q And what do we call it, Park Day manager.
25 Yeah. All right.

1 Barb, would you consider
2 emergency planning to be an important component of
3 event planning?

4 A Yes.

5 Q And what -- when you think about emergency
6 planning, what does that bring to mind, you know,
7 for you?

8 A Fire, shootings, things such as that
9 nature.

10 Q Okay.

11 A Which we had police there to
12 hopefully -- we're also fortunate to have a Team 5
13 police station on Daniel Island. So they were
14 very close by had we needed any type of fire or
15 police help as well, which is a very comforting
16 thing to have as an event planner on Daniel
17 Island, I will say that.

18 Q Right. So with respect to emergencies,
19 fire emergencies, police emergencies, you felt like
20 you had that covered because you had the police and
21 the fire department there?

22 A And an EMT as well.

23 Q And an EMT?

24 A Um-hum.

25 Q Okay. All the sorts of folks who respond

1 to emergencies?

2 A Yes.

3 Q All right. Anything with respect to
4 preventing emergencies?

5 A Well, I mean, I guess the -- if you want
6 to think about not necessarily the fire part of it
7 but traffic is a huge thing.

8 Q Right.

9 A So by limiting access to the venue once
10 the event had started, that that's a huge relief
11 and a huge safety matter that, you know, I feel
12 like is --

13 Q Right, would prevent a -- as we've seen so
14 often, a mass collision where a car runs through a
15 crowd?

16 A Yes, sir.

17 Q That's a preventive sort of thing.

18 Okay. Aside from restricting
19 vehicular traffic, anything else from a preventive
20 standpoint with respect to emergencies?

21 A So I don't know that this would actually
22 fall under what you're trying to find out, but we
23 had a sign at the information tent that said first
24 aid.

25 Q Okay.

1 A And I think there was either one or two
2 of those. And they were clearly marked right at
3 the information tent so that if somebody did have
4 a problem with that, they could come there, and
5 our EMT was based out of the information tent all
6 day long.

7 Q So somewhat reactive, treating, but also
8 proactive in preventing something from getting
9 worse?

10 A Yes, sir.

11 Q All right. Any other proactive measures
12 to prevent or reduce the likelihood of there being
13 some sort of emergency or injury?

14 A None that come to mind.

15 Q Okay. You'd be the person to know, right?

16 A I was the manager --

17 Q Okay.

18 A -- of the event, so.

19 Q All right.

20 A But, you know, we are a collaborative
21 team, as well. So I would like to add that, if I
22 can, that Chris in his position as a manager of --
23 one of the managers, we're sort of on the same
24 tier, if you want to say, as far as a hierarchy,
25 if he would feel that there was something, again,

1 that he would have spotted prior to or day of
2 event, I feel that within his capability, he would
3 take care of it.

4 Q Okay. But nothing on the planning side?
5 It sounds like -- let me say that another way.
6 Sounds like what you're saying is, yes, if Chris is
7 out there, he's looking around, if he sees something
8 dangerous, he'll deal with it. If I see something
9 dangerous, I'll deal with it. And I get that and
10 that makes sense. It's good. That's better than
11 not doing that.

12 In terms of the planning side of
13 it, anything like that? We've discussed some of
14 them. We've talked about tree limbs and dog poop
15 and sprinklers running and --

16 A Right.

17 Q Anything besides those things?

18 A Well, obviously if the weather -- so we
19 can talk weather because that's a huge thing.

20 Q Right.

21 A That's an unforeseen thing that's sort
22 of what you were referring to I think a while
23 back. So we did have a weather plan that should
24 the event have had severe weather with lightning
25 and thunder and that would have caused a danger to

1 our attendees or our performers, then we would
2 have hosted it the following day.

3 Q Okay.

4 A So there was a rain date planned. So I
5 guess that's a contingency plan.

6 Q Yes, absolutely. If there's going to be
7 lightning, get these people out of this field, we'll
8 do it another day.

9 A Yes, sir.

10 Q And that's -- I think that's mentioned
11 somewhere in your exhibit -- your emails, right,
12 [Exhibit 1](#)? Isn't there something about a rain date
13 for bad weather?

14 A Could be, it probably was; if not, I
15 know it was on our website and it was everywhere.
16 We wanted to make sure that people knew, you know,
17 that if we had to cancel it --

18 Q That you had a rain date.

19 A Reschedule it, I should say, not cancel,
20 yeah. Yes.

21 Q Okay. All right. Because you wouldn't
22 want people out getting struck by lightning, and
23 that makes sense. All right.

24 Anything besides that, the
25 lightning danger?

1 A No. I do know that in one -- this is
2 another safety feature, I guess, or a safety
3 comment, when we sent out the -- all of the tents
4 that we would have put up for sponsors were staked
5 or water-barreled. So they were -- they met the
6 specifications of what a rental company should do.

7 If somebody brought their own
8 tent, then we did request, you know, that they would
9 ballast it in some way, shape, or form. We didn't
10 say, you have to use this particular type of
11 ballast, but that they would do that so that it did
12 not become -- if the wind came up or something like
13 that.

14 Q It would not blow it.

15 A Yeah.

16 Q Okay. So another proactive measure.

17 Any others that you can think
18 of?

19 A I don't know. If I sit here long
20 enough, I might be able to think about of a few
21 more, but that's all that come to mind right now.

22 Q Okay. Where is your office, Barb?

23 A I am at 130 River Landing Drive,
24 Suite 1C, which is the Daniel Island Property
25 Owners Association office.

1 Q You and everybody else I've talked to.

2 A All of us.

3 Q All of us.

4 A One big happy family.

5 Q Where is the Daniel Island -- well, let me
6 back up, because it's not there anymore, right?
7 Where was the Daniel Island children's park back in
8 2016 in relation to the office of your one big happy
9 family?

10 A About a block down at the end of River
11 Landing Drive on the banks of the Wando River.

12 Q Did you ever -- could you see it from your
13 office?

14 A Yes, you could if you were in the street
15 and you could see down there.

16 Q Okay. You couldn't see it from like your
17 office window, but you could --

18 A No.

19 Q Outside your office you could see it?

20 A Right, once you're outside, yes, sir.

21 Q Did you ever go down there?

22 A Sure.

23 Q A lot? A little?

24 A I take walks down there occasionally.
25 But I stay pretty busy doing other things, so --

1 Q I imagine you do. Do you live on Daniel
2 Island?

3 A I do not.

4 Q Okay. Far away?

5 A Mount Pleasant.

6 Q Okay. Well, that's not bad.

7 But you go down to the park on
8 occasion?

9 A Yes.

10 Q Daytime, nighttime, anytime, or --

11 A I would say daytime. I was not normally
12 down there at night.

13 Q 'Cause you left work and went back to
14 Mount Pleasant? You were coming back over --

15 A That's correct, yes, sir.

16 Q Okay.

17 A Unless I had an event there. Well,
18 maybe it could have been another event that I
19 would have hosted there.

20 Q Sure.

21 A Park Day wasn't the only event that we
22 hosted there.

23 Q When you would go down in the park -- and
24 I imagine, listen, if my office weren't far from
25 that park, I'd have gone down there too in the

1 middle of the day, nice place to sit and have a cup
2 of coffee, especially when it's not, you know,
3 August.

4 When you would go down to the
5 park, would there be people there, or would it just
6 be you or --

7 A Yeah, there would be people there, yeah.

8 Q Lots? A little?

9 A It would just depend. I mean, I think a
10 lot of times people -- it's more of a traversing
11 type of park where people traverse it through the
12 trails, biking, walking, jogging.

13 And then just, you know, some
14 people would sit in the park, but a lot of people
15 were more -- maybe a little more interested in the
16 trails and being right on the water. The
17 recreational part of it, I would say.

18 Q Okay. When you would be in the park,
19 would there be half a dozen people, two dozen
20 people? I doubt there would ever be a hundred
21 people.

22 A No, I never saw that on just a regular
23 day.

24 Q Right.

25 A It would vary. I really don't know.

1 Q Handful of folks?

2 A It could be five, it could be none, it
3 would just depend.

4 Q And if you were sitting down there at the
5 park and there were two dozen people, would you
6 think, wow, that's kind of a lot for just a regular
7 day?

8 A Probably not, because it could just be a
9 family down there with two families or maybe
10 somebody was having a birthday party or just a
11 gathering possibly. I probably wouldn't have
12 thought much about it.

13 Q Aside from special events, did you ever
14 see, you know, as many as 50 people in the park at
15 one time just on a regular day?

16 A That would be a rarity if I ever saw it.
17 I can't say for sure that I never saw it but...

18 Q It would be rare?

19 A Yeah.

20 Q What about a hundred people, ever seen
21 that many except during special events?

22 A Normally, no.

23 Q And I think we talked earlier, so I'm not
24 going to belabor it, but the -- when you-all left
25 Governor's and decided to go to the children's park

1 for the 2016 Park Day, that site selection process
2 was essentially, we've been there before, it's big
3 enough, let's go back again?

4 A And it was a favorite of everyone who --
5 of all of our -- the event is normally a Daniel
6 Island event. I mean, I feel like it's -- it was
7 more attended by Daniel Island residents. Of
8 course, we allowed anybody to come to it.

9 But there were certainly, you
10 know, a lot of families that would walk and bike and
11 that sort of thing there. And so it just seemed it
12 was the natural, you know, why -- I guess a good
13 expression would be why break something that's not
14 necessarily broken --

15 Q Right.

16 A -- if it's working.

17 Q Right. Been there before, big enough
18 people liked it?

19 A Correct.

20 Q All right. So not what you'd call like a
21 formal site selection process, like how close is it
22 to the airport or --

23 A No, sir.

24 Q No, as we talked about, like risk
25 analysis, safety analysis, nothing like that?

1 A Correct.

2 Q Just, we've used it before, let's use it
3 again. People liked it?

4 A Yes, sir.

5 Q Okay. And am I correct that aside from
6 potentially some small minor items with respect to
7 setup of the children's park for Park Day, the rest
8 of your communication about setup was by email, and
9 those are these emails that are here in [Exhibit 1](#)?

10 A Now, are you talking about with our
11 staff?

12 Q Yeah. I'm talking about the sort of
13 things, you know, inspecting the park, planning,
14 setting up with your own people?

15 A Sure. So -- and I'm glad you asked that
16 question again, because it did sort of jar my
17 memory.

18 Prior to that event and almost
19 all events that I do for the community, we have our
20 weekly staff meetings which are on Tuesdays. And so
21 the staff would be there and we would go over -- we
22 would helicopter the event from A to Z from someone
23 entering on River Landing Drive to going down, we
24 had multiple discussions about that during our staff
25 meetings.

1 And I want to say the week of
2 the event, which would have been the Tuesday before
3 the event, I believe we even invited some of the key
4 people that would be a part of execution of the
5 event, that they be there, and we just sort of go
6 everything.

7 So everybody would say, do you
8 have any questions, do you have any questions about
9 anything. And I'm sure that, you know, Jane would
10 interject as she does because she's a great manager,
11 and she would say something like, Chris, how do we
12 look on this, how do we -- you know, whatever.

13 But it was a team -- I mean, it
14 was a team effort. We're a small office and
15 everybody pitched in on the day of. But a lot of us
16 did the prework of it, you know, the planning, the
17 execution, the invoicing, all that stuff, which is a
18 big -- it's a big job to keep track of all that.

19 So -- but, yeah, so we had
20 multiple conversations during staff meetings leading
21 up to that event about the -- about the event. It's
22 not like we just threw it and, hey, you know, here
23 we go.

24 Q Right. Why did you put some of that stuff
25 into emails that we're looking at here in [Exhibit 1](#)

1 but other stuff not? Like for instance, it's really
2 specific in these emails about where the sandwich
3 board signs go on this particular roundabout and
4 that particular grass intersection.

5 A Yes.

6 Q And so there's some -- picking up limbs.
7 There's stuff in here that is spelled out. Why did
8 you choose this stuff to spell out versus the other
9 stuff?

10 A I'm not sure I know which other stuff
11 you're referring to.

12 Q Well, anything else that you-all just
13 talked about but that's not in these emails. I
14 mean, you're talking about having these meetings and
15 you talked about other things in addition to what's
16 in [Exhibit 1](#).

17 A Right. Well, those tasks that are on
18 there were specific to Chris and his field ops
19 team. And so there would be, you know -- we
20 probably talked about it -- knowing me, we
21 probably talked about it on multiple occasions
22 both on the staff meeting as well as that.

23 But, you know, after you've done
24 events with a particular teammate, which Chris is,
25 he knows -- you know, he expects me to give him that

1 information, and I gave it to him.

2 Those were locations of where
3 the signage needed to be for a marketing. Some of
4 that was obviously marketing of the event. Hey,
5 remember Park Day is going to be on such-and-such a
6 day, that kind of thing.

7 Q And why did you spell -- I mean, Chris is
8 a bright guy, I've talked to him for several hours.
9 Why did you spell out specifically for Chris where
10 to put these sandwich boards? Why didn't you just
11 give him five sandwich boards and tell him to figure
12 it out? 'Cause, I mean, he's a pretty smart dude.

13 A To make it easy for him. He liked -- he
14 enjoyed that I did that for him. He appreciated
15 it he told me on many occasions. So it was just
16 more of a gesture to try and help him out.

17 Q All right. You didn't want to leave it to
18 him, or he insisted that you tell him where to put
19 them?

20 A You know, they've got a lot on their
21 plate and events are, you know, not the biggest
22 portion of what he does, and so I wanted to make
23 it as user friendly for him as I could.

24 Q Gotcha. Do you know if Chris kept any
25 other kind of checklists or lists for himself for

1 anything else that you didn't give him a list for?

2 A That I don't know. You would have to
3 ask him. I'm not sure.

4 Q Did you give lists of to-do to anybody
5 else with respect to the 2016 Park Day? And I'm
6 thinking with respect to the physical planning and
7 setup of the Park Day, not with respect to like, you
8 know, selling sponsorships and that -- those
9 aspects?

10 A Yeah. Well, so when we would have the
11 staff meetings leading up to that, to the event,
12 we knew -- I knew which employees were going to be
13 able to volunteer that day. And so most of their
14 jobs were things like -- their duties, I should
15 say, would be things like checking people in.

16 So Mary -- I'm just going to use
17 the word Mary. Mary, you have this particular
18 section in Wando field. These are the people that
19 are supposed to be in your section. Your duties are
20 to check them in, check them off the page, and let
21 me know once everybody's been -- once everyone's
22 there. And if there are missing people that day,
23 let me know so I can figure out, you know, why are
24 they missing.

25 But so those types of duties

1 were very well understood by our staff because they
2 had done them before, a lot of those people had done
3 them before.

4 Q And how did they know the first time how
5 to do it? I mean, did you just -- did you write it
6 down for them, or did you just tell them orally,
7 this is how you do it, this is what I need you to
8 do?

9 A I'm sure both. But that particular
10 event, I don't remember that I had anything else
11 in writing to anyone. I do know that I may have,
12 I may have.

13 Q All right. So you have staff people that
14 are out there --

15 A This was strictly for Chris. So that's
16 why that was --

17 Q Was just for Chris. All right.

18 So the other folks that are -- I
19 know Mary is a made-up name, you're just using that
20 as an example. Mary is out in the field doing
21 certain things. Somebody, you or one of your
22 people, meet with Mary and say, Mary, this is what I
23 need you to do, I need you to do this, this, this,
24 this, and this. And she'll go, okay, and she'd do
25 that?

1 A Yes.

2 Q And you or somebody on your staff met with
3 all those folks doing all those things to tell them
4 what they needed to do?

5 A Yes. It was a combination of myself and
6 Rona.

7 Q Okay.

8 A We were a team. And if I was busy, she
9 would answer a question. If she was busy, I would
10 try and help. We really were a collaborative
11 team. And she was involved with Park Day for
12 years before I was, so she was very valuable.

13 Q And the two of you-all didn't leave it --
14 you didn't leave it to those folks to guess, you
15 told them what they needed to do?

16 A They could have made their own decision
17 on some things depending on spur of the moment.
18 They're all leaders and manage -- some of them are
19 managers, but I don't know that I could -- I would
20 tell them every single thing to do, but if they
21 felt that it warranted my opinion --

22 Q The important parts?

23 A Yes, sir.

24 Q The important parts. You'd tell them the
25 important parts?

1 A Yes, sir.

2 Q Something was important, you would tell
3 them to do it?

4 A Yes, sir.

5 Q Okay. Did you forget any of the things
6 that you considered to be important, or you're
7 pretty sure you told them all the important stuff?

8 A I'm pretty sure I told them all the
9 important stuff, yes.

10 Q There's a fountain in the middle of --
11 there was, in 2016, a fountain in the middle of the
12 children's park, right?

13 A Yes, sir.

14 Q And I know you've asked Chris and his
15 folks to cut off the irrigation water, the plant
16 watering water. What about the fountain, was it on
17 or off, or was it supposed to be on or off during
18 Park Day?

19 A I do not recall, and that would be --
20 because he managed the common areas and the ponds
21 and the parks and that sort of thing, that would
22 fall under his -- there was a separation of duties
23 that, you know, just like he doesn't do --
24 everything that I do, he doesn't flow into what I
25 do. Everything he does, I don't flow into

1 everything he does.

2 So a lot of those things I'm
3 sure were normal operational things that he would
4 look at, but I was not involved with that part of
5 it.

6 Q Would that be a Chris -- I mean, if
7 somebody were to turn the fountain on and off, that
8 would be a Chris Hamil job?

9 A I would imagine that would be either
10 Chris Hamil doing it or assigning it to someone to
11 do.

12 Q Did you tell Chris Hamil or anyone else
13 specifically anything with respect to the fountain,
14 either make sure it's running or make sure it's off?
15 Or was that just not something that mattered to you?

16 A No.

17 MR. SOBOCINSKI: Object to the form.

18 You can answer.

19 A That was not something I told him
20 anything about.

21 BY MR. JEFFERIES:

22 Q Okay. Did you give any thought to the
23 fountain in any respect?

24 A Probably not. It's a daytime event.
25 It's been there forever. We've never had any

1 other injuries that I was aware of, so --

2 Q Well, I'm thinking more generally than
3 just in Mr. Zetz' injury. I'm just thinking with
4 respect to the fountain. I mean, for instance, you
5 know, you buy a fountain that's spraying all over
6 the place on a windy day, you can get wet if you're
7 close to it. And that's probably not a problem if
8 there's only six people in the park. If there's a
9 thousand people in the park, it might be an issue.

10 So was there any -- and I'm not
11 saying you should have thought of that, I'm just
12 offering that as an example. Was there any thought
13 given to that fountain one way or another about, we
14 should do this or do that, or was it just --

15 A I don't recall any conversation about
16 it.

17 Q Okay. And no instruction about it?

18 A No, sir.

19 Q Okay. Did you make any notes about it?

20 A No, sir.

21 Q Okay. What about lighting? Obviously,
22 it's a daytime event. I get that. But there were
23 folks coming in through arrangement with you-all to
24 set up at night, certain folks, right? The camel
25 guy, right?

1 A That was a -- again, that was a --
2 nothing that -- I don't even think I was aware of
3 that, but Rona was and she talked with him about
4 it. She and her -- I believe her daughter was
5 with her that night, met him there.

6 She would not have -- I know
7 Rona, and she would not have let him go there by
8 himself. He needed to be shown where to go. And
9 so, you know, that would be between she and he. But
10 I didn't --

11 MR. JEFFERIES: The court reporter is
12 asking a question, so.

13 MS. HAYWARD: Yeah, I just got a note
14 that she's on mute.

15 MR. SOBOCINSKI: Yeah, apparently
16 they can't hear and no one can hear them
17 or something --

18 MR. JEFFERIES: Well, let's pause for
19 a moment and fix that.

20 THE VIDEOGRAPHER: Off the record,
21 1357.

22 (Recess.)

23 THE VIDEOGRAPHER: Back on the
24 record, 1358.

25 MR. JEFFERIES: Technical difficulty

1 there, it looks like we got it squared
2 away.

3 BY MR. JEFFERIES:

4 Q I was asking you about lighting and folks
5 coming into the park for setup at night. My
6 understanding from our conversation earlier was that
7 you really didn't want anybody coming in to set up
8 at night unless they couldn't do it during the day
9 and made some sort of specific arrangement with
10 you-all.

11 A Yes.

12 Q Okay. And you indicated you sent out an
13 email the Tuesday of that week, which would be I
14 think the 8th, saying, here are the times you should
15 come on Friday, here are the times you can come on
16 Saturday morning, is that right?

17 A Yes.

18 Q All right. And but the email didn't say
19 anything about, but do not come at night on Friday.
20 That was just the implication?

21 A I don't think it went to that extent.
22 But those were the parameting (phonetic) hours.

23 Q Nonetheless it appears that at least one
24 person made arrangements with you-all to come at
25 night, I'm thinking of the camel guy.

1 A Um-hum.

2 Q Okay. Was there any thought given to how
3 the camel guy or anyone else that came at night was
4 going to see where the -- I mean, did anyone say,
5 hey, maybe we should leave the lights on or tell the
6 security guard where the switch is or whatever?

7 A I don't think so. I think it was just
8 between Rona and he, and they met and she knew
9 exactly the location of where he was going, and he
10 had his lights on, and I'm sure she probably had
11 her lights on. And that's how that worked.

12 But -- because we just didn't
13 feel that there would be a need for anybody else to
14 be there. I think his was maybe an extenuating
15 circumstance where he was coming from another town
16 somewhere and he could not get there before the
17 4 o'clock time frame.

18 So pretty sure he would have
19 done that -- you know, arranged that with her. He
20 wasn't just coming willy-nilly, hey, let me set up
21 in the dark.

22 Q Right. The -- tell me about the lights to
23 the extent you know anything about the lights in the
24 children's park back in 2016. Obviously you don't
25 really need lighting during the day.

1 A No, sir.

2 Q And it appears that at least some of the
3 time the lights were off at night. So I'm curious
4 when the lights would have been on. If they weren't
5 on during the day when you didn't need them and they
6 were off at night, was it just like around dusk and
7 dawn?

8 A I don't know that they were off at night
9 in the children's park.

10 Q Okay.

11 A A circular park area, okay.

12 Q Okay.

13 A That's where the -- as I'm pretty sure,
14 that's where all the landscape lighting would be,
15 in that area.

16 Q So it's just really something you-all
17 didn't think about, I mean, one way or the other
18 about the lighting?

19 A Since it was a daytime event, yeah,
20 not -- no.

21 Q When you look through these emails in
22 [Exhibit 1](#) -- and you mentioned this already --
23 there's several places where it talks about signage.
24 One is five sandwich boards going at these various
25 very specific places. And then elsewhere it talks

1 about some other -- potentially some other signs
2 being placed out, navigational signs.

3 A Yes, sir.

4 Q So some are advertising, some are
5 navigational.

6 Were there any other signs like
7 of a warning variety, like stay away from here,
8 don't go there, danger, high-voltage danger, you
9 know, ledge without rail, whatever?

10 A Probably if we -- if we saw -- if we had
11 seen an area that -- and I don't recall that this
12 is the case, but we utilize, you know, orange
13 cones and that sort of thing. If we had seen
14 something like that, we probably may have put
15 that.

16 But there were alcohol -- no
17 alcohol beyond a certain point signs. I guess that
18 would sort of fall in what you're talking about.
19 But that was for the day of the event. And we had
20 an EPI person there to monitor the exiting and
21 entering of people in those different areas.

22 Q What were the orange cones for? Because I
23 saw that email as well, 20 orange cones.

24 A Trying to remember what that was used
25 for. A lot of times, we would have cones just

1 available because they're great to use to -- you
2 know, if we did need them. Trying to remember
3 what the specific need for those were.

4 Q And they might have just --

5 A It could have been to keep people from
6 parking in a certain area.

7 Q Gotcha.

8 A Generally that's what it would be used
9 for would be a parking -- no parking past this
10 area, in that particular area.

11 Q Do you recall any signs at the Daniel
12 Island children's park that said not to enter after
13 dark, park closes at dusk, or anything like that?

14 A I don't recall any signs like that.

15 Q Did you-all put out any sort of signs on
16 any of these setup nights from Wednesday, Thursday,
17 Friday, saying, hey, we're setting up, don't come in
18 this park after dark?

19 A No.

20 Q Why did you-all not do that?

21 A So we were -- well, we set up during the
22 daytime, and then we would exit it. It would -- I
23 don't know, it would be huge to do something like
24 that. I don't know. We just -- we didn't do it.

25 Q What do you mean it would be huge to do

1 something?

2 A I mean it's a big wide-open area, you
3 know. So you've got multiple entries and exits
4 everywhere coming into that park, not just from
5 one entry. But --

6 Q How many entrances are there?

7 A There's trails. There's the street.

8 Q But not even one sign like at a really
9 popular park where you'd come in saying, hey, we're
10 setting up, stay out of here, don't come in here at
11 night?

12 MR. SOBOCINSKI: Object to the form.

13 A We did not put any sign up like that.

14 BY MR. JEFFERIES:

15 Q Even though you didn't want people to come
16 in there at night?

17 A We didn't put any signs up like that.

18 Q Did you-all talk about doing it?

19 A Not that I recall.

20 Q I mean, it wouldn't have been expensive,
21 right? I mean, you're already buying lots of signs.

22 MR. SOBOCINSKI: Object to the form.

23 You may answer.

24 A We would have -- I don't know how we
25 would have monitored that being as though it's not

1 a gated situation. There's not a fence around the
2 property. So it would have entailed more
3 additional funding from police or other people to
4 do that. And it had never been done previously,
5 so.

6 BY MR. JEFFERIES:

7 Q Well, you already had a police officer
8 there, right, Friday night?

9 A For Friday night.

10 Q Yeah.

11 A Um-hum.

12 Q And I'm sure she wasn't free.

13 A No.

14 Q No.

15 And you would have liked it if
16 somebody would have told Officer Craven, don't let
17 anyone in here at night that doesn't have an
18 appointment?

19 MR. SOBOCINSKI: Object to the form.

20 BY MR. JEFFERIES:

21 Q That's what you wanted, right?

22 A That would be our goal, yes.

23 Q Unfortunately, Officer Craven says nobody
24 told her that.

25 A Okay.

1 Q But had there been a sign that said, don't
2 come in here at night, she would have known,
3 wouldn't she?

4 MR. SOBOCINSKI: Object to the form.

5 A That would have been a visual cue for
6 her.

7 BY MR. JEFFERIES:

8 Q Yeah. Would you agree with me that an
9 event manager should proactively look for and
10 resolve issues before they turn into a crisis or an
11 injury?

12 A That is certainly a good goal to shoot
13 for, yes, sir, you should.

14 Q And I asked this question a little
15 differently earlier, but, so you tell me if the
16 answer is any different. I asked you if you
17 conducted any sort of safety analysis, and you said,
18 no, we did a walk-through. Did you conduct any sort
19 of risk assessment of the park, the Daniel Island
20 children's park?

21 A I did not. I don't know whether
22 Chris -- not for -- I did not do that and I don't
23 know whether that -- that would probably fall more
24 under Chris Hamil's type of job duties in that he
25 has reserve studies and that sort of thing. And

1 that would be more something that maybe would fall
2 into line with his duties since he manages those
3 common areas. I don't really know. I can't
4 answer that question, though.

5 Q So you didn't do a risk assessment?

6 A I did not.

7 Q And you don't know whether Chris Hamil did
8 one?

9 A I do not, no.

10 Q As the event planner, did you instruct
11 Chris Hamil to do a risk assessment of the park?

12 A I did not instruct him to do a risk
13 assessment.

14 Q We talked earlier and you indicated that
15 you-all looked for some certain kind of obvious
16 hazards but not nonobvious hazards?

17 MR. SOBOCINSKI: Object to the form.

18 You can answer.

19 BY MR. JEFFERIES:

20 Q Is that accurate?

21 A Yes.

22 Q And when you look for hazards, I mean, how
23 would you -- to start off, to look for hazards, you
24 have to know what one is. What would you say you're
25 looking for? What is a hazard?

1 A Something that can cause injury to
2 someone, I suppose. But that can be anything.
3 It's pretty wide open.

4 Q Yeah. Hazard could be depending on the
5 circumstances, right?

6 A Um-hum.

7 Q Sharp knife on this table probably not a
8 hazard. Sharp knife on a kindergarten table,
9 probably a hazard, right?

10 MR. SOBOCINSKI: Object to the form.

11 A May be.

12 BY MR. JEFFERIES:

13 Q So did you look to any nonobvious hazards
14 in the context of the event that you-all were
15 getting ready to do to bring five, six, 7,000 people
16 through the Daniel Island children's park?

17 MR. SOBOCINSKI: Object to the form.

18 A None that I haven't already mentioned.

19 BY MR. JEFFERIES:

20 Q Okay. Did you consider the water feature,
21 that fountain and those concrete trenches that kind
22 of emanate from it, did you consider that to be a
23 hazard in any way?

24 A I did not.

25 Q You didn't think that under any

1 circumstance, that sort of thing could cause harm to
2 somebody?

3 MR. SOBOCINSKI: Object to the form.

4 A I didn't think about it that way. I
5 thought it just as a feature of the park.

6 BY MR. JEFFERIES:

7 Q Not as something that potentially somebody
8 could drown in or fall in and become injured?

9 MR. SOBOCINSKI: Object to the form.

10 You can answer.

11 A I suppose that could happen, anything
12 can happen.

13 BY MR. JEFFERIES:

14 Q But that's not how you considered it back
15 in 2016 when planning the event?

16 MR. SOBOCINSKI: Object to the form.

17 You can answer.

18 A That was not foremost in my mind, was
19 not something that I thought about.

20 MR. JEFFERIES: Let's take a brief
21 break. We're going to stay on the record,
22 we're going to excuse the deponent, and
23 Evan and I are going to talk about his
24 objections to form. If you want to just
25 take a step outside.

1 THE VIDEOGRAPHER: Don't forget your
2 microphone.

3 And just to be clear, we're
4 staying on video record?

5 MR. JEFFERIES: Yeah, we're staying
6 on the record.

7 THE VIDEOGRAPHER: Yes, sir.

8 THE WITNESS: I'm going to get some
9 water if that's okay.

10 MR. JEFFERIES: Oh, absolutely. Take
11 your time.

12 So, listen, I know you can
13 object to the form, but you're only
14 supposed to do it when there's a valid
15 objection to the form, not as a way of
16 coaching the witness what questions to
17 watch out for. And you've been objecting
18 to a whole bunch of questions that have no
19 problem with their form.

20 So I'm just going to ask you
21 respectfully, when we go forward, if
22 they're objectionable, object, if they're
23 not objectionable, please don't be
24 coaching the witness.

25 MR. SOBOCINSKI: Noted. I'm not

1 coaching the witness in the intention of
2 my objections.

3 MR. JEFFERIES: Read back, if you
4 would, Madam Court Reporter, the last
5 question I asked.

6 MR. SOBOCINSKI: I'm not going to
7 explain to you my work product either.

8 MR. JEFFERIES: Well, that's the
9 whole point of an objection to form is to
10 give me the opportunity to cure it. And
11 very difficult to cure it if you don't
12 tell me what the problem is.

13 And now if you would, please
14 read back the last question that I asked.
15 (The pending question was read as
16 follows:)

17 Q But that's not how you considered it
18 back in 2016 when planning the event?

19 MR. JEFFERIES: And what's wrong with
20 the form of that question, Mr. Sobocinski?

21 MR. SOBOCINSKI: The purpose of my
22 objection is to preserve my objection for
23 the record and not to give you a chance to
24 cure it.

25 MR. JEFFERIES: Well, that's actually

1 exactly the purpose of objecting to form
2 and why we don't object to other things
3 like hearsay. Because there is no cure in
4 hearsay.

5 But in any event, if you don't
6 want to explain, that's fine. If you
7 raise one more objection to form that is
8 without any basis -- and I assume if you
9 won't explain it, it's without any
10 basis -- then we're going to suspend the
11 deposition and we'll go get in front of
12 Judge Young and we'll sort out your
13 coaching objections, and then we'll come
14 back and resume.

15 So as long as we're clear on
16 that, you ready to get back going again?

17 MR. SOBOCINSKI: I'm fine. I'm not
18 coaching my witness.

19 MR. JEFFERIES: We'll give her a
20 moment. She'll be back with her water and
21 we'll resume.

22 Ready?

23 THE VIDEOGRAPHER: We're still going.

24 MR. JEFFERIES: Did you get a glass
25 of water?

1 THE WITNESS: I did. Thank you.

2 MR. JEFFERIES: Outstanding. Good,
3 good, good. Well, if you need another,
4 tell me and we'll pause and do it.

5 Jan, what was the last question
6 I asked aside from the one about the glass
7 of water?

8 (The pending question was read as
9 follows:)

10 Q But that's not how you considered it
11 back in 2016 when planning the event?

12 BY MR. JEFFERIES:

13 Q I'll ask that a different way.

14 Back in 2016 when you were
15 planning the Park Day event, did you consider the
16 water feature that was in the children's park to
17 present a hazard under any set of circumstances?

18 A I did not.

19 Q Did you reach that conclusion by making
20 some sort of assessment of the risk of an injury and
21 the severity of that injury, or did you simply
22 determine it was not a hazard and not conduct that
23 assessment?

24 A Knowing myself, probably if I had known
25 that there had been a previous or other injuries

1 or there had been -- you know, when you're in
2 property management, you do get complains about
3 certain things on a property which is what keys
4 you into it.

5 We can't be everywhere all the
6 time and see everything, so we do rely on the eyes
7 and ears of the people that live there. So I
8 just -- it wasn't something that came to mind
9 because I didn't ever think that it had been an
10 issue.

11 Q Okay. You're not aware of any other
12 injuries from that?

13 A I am not aware of any other injuries.

14 Q I think we said -- I asked you earlier to
15 the extent that you-all considered any risk, not
16 just the fountain but any risks, there's no sort of
17 written report or even handwritten report saying
18 these are the things we considered, here's what we
19 thought of the risks, here's what we plan to do?

20 A No.

21 Q Okay.

22 A Nothing that I would have originated. I
23 cannot speak for Chris Hamil.

24 Q All right. In addition to anything of
25 that nature that you would have originated, was

1 there anything that you received or are aware of
2 regardless of who created it?

3 A Regarding?

4 Q Regarding an assessment of risk, a written
5 down assessment of risk?

6 A Nothing that I'm aware. But, again, I
7 mean, that -- I was not made aware of that. I'm
8 not saying it doesn't exist, I'm just saying I
9 don't know about it.

10 Q Okay. If Chris Hamil did one, he didn't
11 show it to you?

12 A That's right.

13 Q And he didn't tell you about it?

14 A That's right.

15 Q Okay. Did you-all have some sort of site
16 plan for where stuff was going to go in the various
17 parks for 2016?

18 A We did, yeah, we sure did.

19 Q And is that something that you still have?

20 A There's -- as far as a site plan, so we
21 had where all of the sponsors, entertainers,
22 vendors would be in a particular area. So it may
23 not have been pinpointed on a -- on the map that
24 would have said, number one is this person, number
25 two is this person, this company, because it was

1 sort of fluid.

2 But we knew that generally we
3 had stakes that Rona would put and we did together
4 that would mark where those people would be -- would
5 go. And she did most of that placement because she
6 liked to do it. That was her background. She sort
7 of had done that previously when she was with Park
8 Day.

9 Q And so somewhere there was a sheet of
10 paper that had a drawing of these various parks that
11 said, you know, put the --

12 A Yes.

13 Q -- put the band here and put the sponsors
14 there?

15 A Yes, sir.

16 Q Okay. I don't know if I've seen that
17 before. If I have, I didn't recognize it for what
18 it was.

19 Do you know if that is something
20 that you-all have produced to your attorneys?

21 A I don't recall if it is or not, but --

22 Q Today a look --

23 A -- we do have it. There was also a --
24 at the information tent, right before you got to
25 the information tent that, that same map was on a

1 big board there for anybody who came into the
2 venue, they could see where they were supposed to
3 be.

4 You know, like if they had a
5 friend and they wanted to know where that company
6 was located, they could find them on that map. And
7 we also had the maps at the information tent.

8 Q If you don't mind -- and it might be
9 something that your attorneys produced and I've just
10 overlooked it. If you don't mind, have a look and
11 just see if you have one; if you do, make sure to
12 let them know so they can let me know.

13 A Sure.

14 Q And I'm sure they'll let me know if
15 they've already given it to me.

16 A Okay.

17 Q Do you know what the Daniel Island
18 children's park was originally designed for, like
19 what its purpose was, its design criteria was?

20 A I do not.

21 Q Do you know what the maximum safe
22 occupancy --

23 A I do not.

24 Q Did you-all have any plan to deal with
25 that if you got too many people in there during Park

1 Day? Let me ask it another way. How would you know
2 when you had too many people?

3 A That's a great question. I don't know.
4 It's a -- I think because -- I mean, people
5 obviously come and go through the day, so there's
6 always people, there's people leaving. It's a
7 little different. I mean, I guess it's not really
8 different. But sort of, you know, people come,
9 they go, they stay for a little while. And so
10 they're not all encapsulated at one given time.

11 Q Do you know if the Daniel Island
12 children's park was designed to accommodate five,
13 six, 7,000 people passing through it in the course
14 of a single day?

15 A It didn't seem like it had ever been a
16 problem for people -- that many people to be
17 there. We hadn't had an issue with too many
18 people there. I mean, it was just a -- there were
19 a lot of people, but it wasn't --

20 Q Well, that wasn't really my question. My
21 question was, do you know if Daniel Island
22 children's park was designed to accommodate five or
23 six or 7,000 people?

24 A I do not know the answer to that.

25 Q Would you agree with me that just because

1 something hasn't been a problem in the past does not
2 necessarily mean it's not dangerous?

3 A I would agree with that.

4 Q I mean, any given night, lots of drunk
5 drivers make it home just fine, right?

6 A Yes.

7 Q That doesn't make it safe?

8 A Yes.

9 Q And it doesn't make it smart?

10 A Right.

11 Q But so you could do something really
12 dangerous and get away with it potentially for
13 years?

14 A Sure.

15 Q Did you-all consider at any point putting
16 up any kind of cones or temporary barriers around
17 the deeper part of that water feature, that concrete
18 trench water feature in the middle of the park,
19 knowing that thousands of people are going to have
20 to pass through there to get to the info tent?

21 A Well, that was never discussed, no.

22 Q Okay.

23 A 'Cause there were people -- remember,
24 there were people set up in that circular area,
25 too, so you had to have it to where people could

1 walk around. You didn't want to make it so that
2 people couldn't access, you know, certain things.

3 Q Right.

4 A So...

5 Q Would you agree with me that whatever the
6 usual level of precaution is, that when you have a
7 whole bunch more people, probably should take some
8 extra precautions?

9 A Sure.

10 Q And that's because, really, things that
11 might not be that dangerous when there's only a few
12 folks around could become very dangerous when
13 there's a lot of folks around?

14 A That could happen, yes.

15 Q Or under other circumstances like when
16 it's dark, fair?

17 A Fair.

18 Q You described Park Day as a family sort of
19 event earlier.

20 A Yes.

21 Q Do you think Daniel Island in general
22 portrays itself as a family-friendly safe kind of
23 place to be?

24 A I sure think so.

25 Q Not the place that most folks would be on

1 high alert for danger?

2 A Can't imagine that they would feel that
3 way. I guess some people could. It depends on
4 how they look at things.

5 Q Correct.

6 A Yeah. You know, COVID's brought out the
7 craziness in everybody, but, yeah.

8 Q Fair enough. Yeah. So, I mean, I might
9 have one level of vigilance with my children, for
10 instance, if we're walking through downtown
11 Charleston, and another if we're walking through
12 downtown Detroit, and probably a lot less if we're
13 walking through downtown Daniel Island, 'cause it's
14 a pretty safe place?

15 A It's a pretty safe place, yeah, I feel
16 that it is.

17 Q Or certainly looks to be, right?

18 A Yes, sir.

19 Q As the event planner for the Daniel Island
20 Park Day back in 2016, do you feel responsible for
21 the health and the safety of your guests there at
22 Park Day?

23 A Sure. Yes, sir.

24 Q So we've talked a pile about Park Day.
25 What else do you do besides Park Day? And these

1 events. I mean, there's -- is there another
2 component to your job besides Park Day and the other
3 various events?

4 A Yes, there is.

5 Q Tell me what those things are.

6 A I am the -- along with Larry Whetsell,
7 we are the code enforcement part of Daniel Island,
8 which I'm sure all of you-all, if you live in an
9 HOA, you understand what that is with the
10 covenants, conditions, and restrictions of a
11 community. We enforce those covenants.

12 We inspect the community as far
13 as homes, single-family homes, you know, townhomes,
14 that kind of thing, the exterior, to make sure that
15 the property values are being upheld, to make sure
16 that people are not going against the covenants and
17 restrictions.

18 Q So code enforcement, very first thing,
19 event planning, right?

20 A Um-hum, well --

21 Q And then the next thing, code enforcement?

22 A I don't know that there's a -- they
23 are -- I don't remember how you would weigh those
24 two, because code enforcement is an everyday thing
25 pretty much.

1 Q Right, fair.

2 Besides code enforcement, what
3 else?

4 A Well, you know, we're sort of the face
5 of the community, so we are who the owners call
6 for any questions that they have. A lot of the
7 questions, you know, where do I go for this, what
8 do I do for this?

9 We're sort of the sounding
10 board, customer service for any kind of service,
11 whether it be something that we do from the POA, or
12 perhaps it's a City of Charleston question or
13 complaint about anything from trash to streetlights
14 to you name it. We run a little town there.

15 Q And that's -- I'm looking at your title
16 here. This is you-all's website, property owner
17 association website. Manager of community services.
18 So that's a pretty broad kind of title?

19 A It is broad, yeah.

20 Q So people call up. Any kind of question
21 they have, they might be asking you and you're
22 fielding it somehow?

23 A If it's dealing with parks, common
24 areas, boat landings, pools, that would fall more
25 on Chris and Dani Hermann in our office.

1 Q Right.

2 A If it's dealing with concerns about a
3 neighbor, their neighbor's dog is barking or we
4 need them to move their boat, the typical property
5 management type of questions, those are usually --
6 those are ones I handle along with Larry.

7 Q Gotcha. All right. So aside from those
8 three things -- code enforcement, event planning,
9 and customer service very broadly -- is there any
10 other role that you have there with the Property
11 Owners Association?

12 A Those pretty much sum it up.

13 Q Okay. I mean, that's enough.

14 A It's a big town.

15 Q I get it, it's a big town.

16 With code enforcement, my
17 understanding -- you tell me if I'm right -- is that
18 there are different sorts of rules depending on
19 where you are on Daniel Island?

20 A I'm not aware of any difference in
21 rules. We enforce the covenants consistently
22 whether it's -- depending -- you know, doesn't
23 matter which association it might be.

24 Q So I guess that's my question. Are there
25 different -- are there different covenants in a

1 Daniel Island Community Association area versus a
2 park association versus a town association? Like,
3 one, I can have my mailbox this close to the road
4 and the other I can't, or one I can have a satellite
5 dish and the other I can't?

6 A They're all extremely similar. You
7 know, we go off of our Exhibit C, which is the
8 prohibited and restricted activities within the
9 community. And I would venture to say they're all
10 pretty close to each other.

11 Q All right. Can you think of any
12 differences between them?

13 A I can think more of similarities than I
14 can differences. I mean, we have our common
15 violations. If that's kind of where you're going
16 with this, I -- the common violations are pretty
17 much the same everywhere as far as boats and lawns
18 and trashcans, barking dogs. We would handle
19 somebody that lives in the Park Association the
20 same which we would the Town or the Community.

21 Q Right.

22 A So I think it's -- we don't ever
23 differentiate, it's just a call that comes in.

24 Q Gotcha. Can you think of anything that if
25 somebody calls in and says X, Y, Z is happening, and

1 you say, well, whether that's a problem or not
2 depends on whether you're in Park Association,
3 Community Association, or Town Association, 'cause
4 it's allowed in some but not in others?

5 A We're pretty consistent on what we do
6 and say. I wouldn't say that there is. It's just
7 not coming to my mind anything that I would
8 standardly get a question on that would be
9 different in one association than another.

10 There are sub regimes of
11 townhomes and condos. So they have their own --
12 they may have their own property management company
13 for that particular condo association, but we're
14 still the master association.

15 Q Okay. And as far as you're sitting here
16 today -- maybe something will come to you later, I'd
17 be interested to know -- you can't think of any real
18 difference in the codes between Community
19 Association, Town Association, and Park Association?
20 They're more or less the same?

21 A More or less.

22 Q And you're the code enforcement person,
23 so --

24 A More or less.

25 Q -- you'd know?

1 A Um-hum.

2 Q Do you have any idea why there are three
3 separate associations with essentially the same
4 rules? I mean, why not just one?

5 A I do not know the answer to that.

6 Q Do you know who decided that?

7 A I don't. That was, I would imagine, in
8 the development agreement somewhere or -- before I
9 started. I wasn't involved with that
10 decision-making.

11 Q Gotcha. No. Understood.

12 When you do code enforcement --
13 so how does that actually work? So say I have
14 pulled my boat on its trailer almost entirely into
15 my garage but the tongue doesn't quite fit and the
16 door has come down, you know, and it's still a foot
17 up and the tongue of the trailer is sticking out.
18 That's got to be not okay on Daniel Island?

19 A That wouldn't -- we wouldn't want that.

20 Q You wouldn't want that. And it wouldn't
21 matter whether I was in Community Association, Park
22 Association, or Town Association. That would not be
23 okay?

24 A Right. That's correct.

25 Q So you spot it. Barb McLaughlin's riding

1 around, you see that, what do you? Do you get out
2 and like have a -- do you like come write me a
3 ticket with a -- like a cop ticket book? Or how
4 does it actually work?

5 A So Larry is our code enforcement
6 officer, if you want to call it that. He either
7 would spot something like that on his own via his
8 neighborhood inspections, or we would get a call
9 from a neighbor that doesn't like it.

10 Q Right.

11 A We get both.

12 Q Right. And so then what does Larry do?
13 He rides out and he sees that it's really true.

14 A He goes out, he has to go out and check
15 it. He has to take a picture so that we can see
16 what it is, and then we make a determination, he
17 and I make a determination of -- and especially if
18 it's lawns, because that's up for anybody. We've
19 got A-type personalities and then those who think
20 that their lawns -- you know, whatever. So that's
21 sort of a -- we look at what the community
22 standard is supposed to be.

23 Q Right.

24 A And we make -- I make that judgment or
25 he and I make it together at times, I lean on him,

1 we're a team.

2 Q And when you're looking at a lawn that
3 maybe is eight inches high, you're applying the same
4 standard, really, as whether they're in Community
5 Association, Park Association, or Town Association.
6 Whatever the rule is, it's the same rule?

7 A Correct. Correct.

8 Q Okay. And so let's say you determine,
9 man, this is not cool, this guy is in violation, how
10 do you actually -- do you fine him?

11 A No. We usually will start off with --
12 it depends on how much information we have in the
13 system on that particular individual.

14 If we have -- sometimes we'll
15 have a phone. Sometimes we won't have a phone,
16 we'll have an email address. Sometimes we don't
17 have either and we just have a billing address. But
18 normally we have emails and we'll reach out to them.
19 We've done -- we do phone calls. We do emails. And
20 generally sort of a did you -- if it's a first
21 offense --

22 Q Did you know?

23 A -- did you know, kind of thing.

24 Q Where do you look up that -- like so say
25 it happens and you have the address, here's where it

1 is, and you look at the picture and you're like,
2 yep, this is terrible, we got to deal with this.
3 How do you get that person's phone number, address,
4 email, and all that information?

5 A We have a system, Genarc system, that's
6 what we use for our database of residents, and
7 it's tied in with our accounting department.

8 Q Okay. And it's one big database?

9 A Yes, sir.

10 Q There's not like a separate Community
11 Association database and Town Association database
12 and --

13 A They're all in one, you just have to
14 know if you plug in the address, it might be in a
15 certain association, but you would -- it's all in
16 that same --

17 Q It's all in that one database?

18 A -- database, yes.

19 Q There's just one field to describe that
20 person, like their phone number, their address, what
21 association they're in?

22 A Different fields, yep.

23 Q Their hair color, their eye color, if you
24 have that?

25 A Different fields.

1 Q Okay. And then so you write them a letter
2 and hopefully it gets fixed; if not, they have to
3 pay some money, I'm guessing?

4 A We give them a couple of times to fix
5 something, to remedy it. There may be an
6 extenuating circumstance. We have a good -- we
7 feel like we have a very good record of
8 compliance.

9 Q All this that's going on with enforcing
10 the code, there's, I think you said, essentially one
11 code covers all three of the associations, all the
12 same rules. There's Larry out there riding around.
13 And I'm guessing he has one vehicle that he rides
14 around in, not one for Community Association and one
15 for Town Association, one for Park Association?

16 A Right. That's correct.

17 Q And he's taking pictures presumably with
18 one camera. He doesn't have separate cameras for
19 the associations?

20 A No, it's with his phone.

21 Q And then it comes back to you and you do
22 your thing regardless of which association it is?

23 A That's right.

24 Q So for all practical purposes, there's one
25 association?

1 A That's why we call it the Property
2 Owners Association just to make it easier for
3 everybody to kind of understand. It's just a
4 catch-all term that people are familiar with.
5 Some people call them HOAs, we call it a POA.

6 Q I gotcha. And that's what's on the sign
7 at you-all's office, right, is like POA?

8 A That's correct.

9 Q Is there any distinction within you-all's
10 office between this is the Community Association
11 area and this is the Park Association area and the
12 Town Association area?

13 A No, sir.

14 Q Do those distinctions between Community
15 Association, Park Association, and Town Association,
16 do they matter at all to you-all?

17 A They don't matter to me.

18 Q You, Barbara, who do you report to in the
19 office?

20 A Jane Baker.

21 Q Okay. You report to Jane. And what is
22 Jane Baker's title?

23 A I believe president.

24 Q And president of the Property Owners
25 Association?

1 A Yes, sir.

2 Q Okay. So your boss is Jane Baker. Who is
3 Jane Baker's boss?

4 A I would imagine the boards, the board,
5 board of directors.

6 Q Okay. And that's the board --

7 A And the officers and the board.

8 Q All right. And are there separate -- are
9 there different boards for Community Association,
10 Property Association, and Town Association?

11 A There are -- ask the question again.
12 I'm sorry.

13 Q Jane reports -- if I understood you
14 correctly, Barb, you report to Jane Baker?

15 A Correct.

16 Q And then Jane Baker reports to the
17 officers and boards of the Property Owners
18 Association?

19 A Yes, correct.

20 Q Which is really three associations,
21 although nobody seems to know that except for us.

22 Do you know who those board
23 members are on those associations? Or the officers,
24 do you know who any of those people are?

25 A Matt Sloan, Frank Brumley, David

1 Crawford, and then we have a couple of resident
2 board members on the Community Association Board
3 at this point.

4 Q And what is Matt Sloan's role on the
5 various boards?

6 A I think he's the president of the Daniel
7 Island Company. That's what I would say on that.

8 Q Okay. Is he the president of the boards
9 as well, or was he in 2016?

10 A I don't know.

11 Q Okay.

12 A I don't know.

13 Q And the Daniel Island Company, is that the
14 developer of Daniel Island?

15 A That's correct. Frank Brumley, of
16 course.

17 Q And Frank Brumley. Okay. So, yeah,
18 Matt Sloan, Frank Brumley. And then David Crawford,
19 is he an attorney, I'm thinking?

20 A He is an attorney.

21 Q Okay. And he's on the boards as well, as
22 far as you know?

23 A He is. Yes, sir.

24 Q All right. You mentioned earlier when I
25 asked you about the creation of associations, you

1 said, well, I think the developer would have done
2 that. So that would be the Daniel Island Company,
3 then, that like actually created the associations?

4 A I would assume that. I would assume
5 that. Through their original declarations and
6 that sort of thing, I would assume that.

7 Q Gotcha. All right. Back in 2016 -- and
8 you might not know the answer to this question --
9 did Daniel Island Company as a developer still
10 control those three boards?

11 A Yes.

12 Q Okay. It hadn't handed it over to the
13 homeowners or anything?

14 A Correct.

15 Q Okay. So top of the pyramid, you got
16 Matt Sloan, Frank Brumley, and David Crawford who
17 control the boards of the associations?

18 A Yes.

19 Q And then down from them, you have
20 Jane Baker?

21 A Yes.

22 Q And down from them, we have you?

23 A We have -- and I'm sort of at a level of
24 Kay and Chris.

25 Q Other folks at your level as well?

1 A Yes.

2 Q Okay.

3 A We are the -- those department managers,
4 I guess you could say.

5 Q Right. So Jane manages you. Matt Sloan,
6 Frank Brumley, David Crawford and the boards manage
7 Jane?

8 A Yes.

9 Q All right. And if Jane thought -- and I'm
10 not suggesting you're doing a bad job or a good job.
11 I don't know what kind of job you do. I presume
12 it's good. You're doing a good job, Jane Baker
13 would be the one to say, nice work?

14 A She would.

15 Q And if there were something you were doing
16 that she didn't like, she'd be the one to say, Barb,
17 I need you to correct this?

18 A She sure would.

19 Q All right. And up the ladder from her,
20 she'd get the same kind of feedback from Matt Sloan,
21 Frank Brumley, and David Crawford?

22 A I would guess, but I can't say that for
23 sure. I can only speak for Jane and I. That's
24 who I have direct contact with.

25 Q Gotcha. When you talked to Jane about

1 moving the 2016 Park Day over to the children's
2 park, did she give you any kind of instruction? Did
3 she say, you know what, Barb, that sounds great but,
4 you know, we haven't done it there in a little
5 while, I want you to make sure it's safe, go do a
6 risk assessment? Did she give you any kind of
7 instruction like that?

8 A No instruction like that.

9 Q Okay. If she had, you'd have done it,
10 right?

11 A Yes, sir.

12 Q And judging from your --

13 A To the best of my ability to do that
14 without having a professional person involved.

15 Q Well, I was -- and I was going to say, you
16 know, from -- judging from your personality, I think
17 you've done a pretty good job, because you seem
18 like --

19 A I like to think I have.

20 Q Yeah, I mean -- but nobody told you to do
21 that?

22 A No, sir.

23 Q That's too bad.

24 Do you -- I want to ask you
25 about some of the lawyers. I know you're familiar,

1 obviously, with Evan Sobocinski who's sitting right
2 here.

3 A Yes.

4 Q I'm going to ask you a few questions, but
5 I want to make sure I'm really clear on this. I
6 don't want you to tell me anything about what you
7 would have talked to any lawyer about. I don't want
8 to know the subject.

9 The closest I'll come to that is
10 maybe to ask you, did you talk about this lawsuit or
11 something unrelated to this lawsuit. Because we
12 talk to lawyers all the time, not all of it is
13 obviously about this lawsuit.

14 Have you talked to
15 Mr. Sobocinski before today?

16 A Yes.

17 Q Okay. When was the most recent time you
18 talked to Mr. Sobocinski?

19 A I don't recall the exact day but a
20 couple of days ago.

21 Q A few days ago.

22 And when was the first time you
23 talked to Mr. Sobocinski?

24 A Oh, wow, I don't want to say the wrong
25 date if it was -- back in March maybe.

1 Q Okay. So it's been a while?

2 A I don't know. Maybe -- that's, for some
3 reason, sticking out in my mind. And don't ask me
4 why. With COVID, it's like I don't remember half
5 the -- but, yeah.

6 Q And with respect to this lawsuit. I mean,
7 if you saw him in the grocery store, I don't need to
8 know about that.

9 A Yeah.

10 Q Okay. Are you familiar with an attorney
11 named Jennifer Nutter?

12 A Yes.

13 Q When was the most recent time you've
14 spoken with Miss Nutter?

15 A I think it was two days -- maybe a
16 couple days ago as well.

17 Q Okay. Same time you spoke with
18 Mr. Sobocinski or just --

19 A Right around that same time.

20 Q Around there. But not together, not like
21 a group meeting?

22 A Not that I recall, no.

23 Q What about the first time you spoke with
24 Miss Nutter?

25 A Wow, I don't -- again, I hate to

1 stipulate a particular date, because it's not
2 going to be accurate.

3 Q No, that's fine.

4 A But I would say probably around the same
5 time frame with Evan.

6 Q March of this year, 2021?

7 A Yes, sir.

8 Q Okay. I promise I only have one more
9 lawyer to go. Do you know a lawyer by the name of
10 Cordes Ford?

11 A I know the name. I do not know him
12 personally.

13 Q Have you ever spoken to Mr. Ford?

14 A The only -- nothing regarding this
15 particular case.

16 Q Okay.

17 A If that's what you're wanting to know.

18 Q Right. Not about this case. Maybe about
19 other business things, but not this case?

20 A Right.

21 Q Okay. Are there any lawyers besides
22 Mr. Sobocinski and Miss Nutter that you have spoken
23 to regarding this case?

24 A No, sir.

25 Q You told me about some insurance, you

1 thought that there was an insurance, perhaps a rider
2 purchased specifically with respect to Park Day from
3 I think you said Beacon. Is that the name of the
4 company?

5 A Yes, sir.

6 Q And would it have covered a very narrow
7 time frame, like just a few days of setup and the
8 actual event?

9 A Most likely, yes, sir.

10 Q Okay. And you're not aware of the amount
11 of that policy, just that it was a policy?

12 A I am not aware of the amount. Kay would
13 know that.

14 Q I've been down this particular path with a
15 lot of your colleagues, and they all give exactly
16 the same answer, so I'm not going to go down this
17 path in detail with you. I just want to ask you if
18 you're going to give a different answer.

19 With respect to your office, is
20 there any aspect of the office or the signage or the
21 equipment or the phone numbers or the office
22 machines or time tracking or logbooks wherein you
23 distinguish between work that you're doing for
24 Community Association and work you're doing for Park
25 and work you're doing for Town Association?

1 A Not that I can recall.

2 Q Okay. It's the same thing everybody else
3 said. That makes it easy.

4 Now, you, yourself, do not live
5 in Berkeley County, do you?

6 A I myself do not.

7 Q Do you have relatives who live in
8 Berkeley County?

9 A I don't -- let's see, no, I do not, no.
10 I was thinking about my daughter, and I was like,
11 no, she lives in Charleston County.

12 Q All right. Would you take a look at this
13 and just let me know if that looks like you-all's
14 website with your picture on it?

15 A That is it.

16 Q All right.

17 MR. JEFFERIES: Jan, what exhibit are
18 we at?

19 MR. SOBOCINSKI: 2.

20 MR. JEFFERIES: 2. Let's make that
21 Number 2. I'm not going to ask you
22 anything about it. I just want to make
23 sure it's you.

24 A It is.
25

1 (Plaintiff's [Exhibit Number 2](#) was marked
2 for identification.)

3 BY MR. JEFFERIES:

4 Q No changes to it or anything? I mean,
5 it's not -- I haven't secretly hacked it. That's
6 the way it looks on the web.

7 A That looks familiar from the last time I
8 went on there. So these all look like friendly
9 familiar people.

10 Q Tell me about why you-all stopped having
11 Park Day?

12 A So I think it was -- it just became --
13 it was -- it's a very intensive -- manpower
14 intensive. It takes -- you know, it takes our
15 staff to pull it off. And it's -- it is expensive
16 as well, you know, to put on.

17 And it just became something
18 that, I don't know, maybe they felt like it just
19 couldn't go on forever. You know, some things just
20 have to eventually have an end. And it's just -- it
21 was one of the events that took more time,
22 obviously, because of the scope of the event to put
23 on.

24 Q And so you stopped doing that and are
25 going to do different things?

1 A Some of the same things we're still
2 doing. We are, I feel like -- you know, some of
3 the marquee events, like the Concert in the
4 Park -- oh, I forgot to mention a very large event
5 that we do is July 3rd. I don't know how I forgot
6 that. That's another biggie.

7 So that would be -- we used to
8 do a holiday festival which was at the Volvo Tennis
9 Center, but due to their construction renovation, I
10 doubt that we'll be doing that again there. And I
11 think that's more just from a logistical kind of
12 thing that, you know, maybe they want to do
13 something on their own with that.

14 But most of the events, you
15 know, we help a lot of people with other events that
16 take place on the island. Everybody wants to have
17 events there, obviously, cause it's a great place to
18 do that. We don't let everybody do it, by the way.

19 But, you know, we have
20 organizations such as the Rotary Club, the Exchange
21 Club, and I'm involved with helping them, whatever
22 kind of campaign they may want to do. I'm kind of
23 the person from our office that helps them with
24 guiding them on events or just to be a sounding
25 board to them.

1 But I'd say, you know, we've
2 always mainly had maybe four or five what we would
3 call marquee events, and Park Day obviously was one
4 of those.

5 Q Have you had -- you'd be the person to
6 know. Has there been another instance where
7 somebody got hurt at one of these events on Daniel
8 Island seriously enough that they had to be
9 hospitalized?

10 A Not that I'm aware of.

11 Q So Matthew Zetz is the only one that you
12 know of?

13 A Yes.

14 Q And any changes that you-all have made
15 with respect to planning or safety since
16 Matthew Zetz got injured?

17 A I'm trying to think if there have been.
18 You know, COVID sort of really put a kibosh on
19 everything for two years.

20 Q Fair.

21 A So we just weren't able to host events.

22 Q Right.

23 A And so we're just starting to come back
24 from that whole situation again. And, you know, I
25 think that you weigh in and you look at various

1 things. We prefer daytime events, you know, and
2 that's what we're going to try and -- I think
3 we're going to try and keep that. Almost all of
4 our events I think are daytime events, so.

5 Q Was there anything that somebody said --
6 just so you know, November 2016 he gets hurt. Was
7 there any point since then where somebody said to
8 you, you know, Barbara, we got to make sure this
9 never happens again, this kind of thing, what we
10 need to do is we need to do X or we need to stop
11 doing Y? Is there anything like that?

12 A I don't think per se there was anything
13 like that, no.

14 Q If you think of something, let me know. I
15 mean not let me know, let Mr. Sobocinski know, he'll
16 let me know.

17 A Not -- and that may come across as being
18 cavalier. It's not meant to be like that.

19 Q Oh, no.

20 A It's just that I don't -- you know,
21 obviously it was a horrible thing to happen.

22 Q Of course, yeah.

23 A But, you know, I don't remember anything
24 other than -- and we look at expenses, we look at
25 everything as far as cost of things. And so I'm

1 sure that we will be more cautious moving forward.
2 But again, that event was not a nighttime event,
3 it was a daytime event, so.

4 Q Understood.

5 If you did it again in the park,
6 which the park's not there anymore, but if you did
7 it again in a venue like that that had something
8 that could be dangerous at night, would you put out
9 a sign say, don't come in here?

10 A Possibly, yes, yes. If we can manage
11 it, you know what I'm saying, 'cause it's one
12 thing to have signs everywhere, it's another to be
13 able to -- actually be able to enforce that
14 through your staff and liability for that reason
15 too.

16 Q Well, you know, that's another question I
17 didn't really think of. I mean, if you had that to
18 do over again, would you be more explicit with
19 somebody like Officer Craven, sit her down and say,
20 listen, when we say they need to come in between
21 10:00 -- blah, blah, blah, and 4:00 or 5:00 or
22 whatever it is, that's what we mean, we don't want
23 them in here at night, don't let them in here at
24 night?

25 A I think that would be a great thing to

1 learn from, sure.

2 Q Can you take a look --

3 MR. JEFFERIES: And, Evan, I'll show
4 this to you.

5 BY MR. JEFFERIES:

6 Q It's an article, appears to be from a
7 Daniel Island newspaper. You're quoted in it in a
8 couple places.

9 A Okay.

10 Q You've probably seen the article before.
11 It's about the demise of Park Day, sadly.

12 A Okay.

13 Q And after Mr. Sobocinski looks through
14 that, all I really want to ask you about it is
15 whether there's anything in it that's not right. I
16 just -- you know, I -- if you were misquoted, I'd
17 like to know.

18 A Okay.

19 Q So whenever he's had a chance to have a
20 peek.

21 MR. SOBOCINSKI: It's not produced,
22 right?

23 MR. JEFFERIES: You know, I don't
24 think so.

25 MR. SOBOCINSKI: I'll just meet with

1 her for a second.

2 MR. JEFFERIES: Yeah. So what's
3 going to happen is you-all are entitled to
4 meet and discuss this, but only this. If
5 you talk about anything else, I get to ask
6 you about it, so --

7 THE WITNESS: Okay.

8 MR. JEFFERIES: But take your time.

9 Yeah, we can go off the record.

10 THE VIDEOGRAPHER: Off the record,
11 14:42.

12 (Recess.)

13 (Plaintiff's [Exhibit Number 3](#) was marked
14 for identification.)

15 THE VIDEOGRAPHER: Back on the
16 record, 14:59.

17 BY MR. JEFFERIES:

18 Q Barb, you had a moment to look over this
19 [Exhibit 3](#) with Mr. Sobocinski, and I'm just going to
20 ask you a few questions about it real quick. First
21 is, have you seen that article before?

22 A I have.

23 Q And the copy that you're looking at, does
24 that look the same as when you first saw it on the
25 web or --

1 A It does.

2 Q Okay. You're quoted in there and
3 referenced in there in a few places. Is there
4 any -- are you misquoted in any way or is that
5 accurate?

6 A I think it's accurate.

7 Q All right. Is there anything in that
8 article that you've -- aside from what you said that
9 you think is not right, you're like, oh, I don't
10 know about that?

11 A I don't think so, no.

12 Q Okay. So the article looks truthful,
13 quotes you correctly, et cetera?

14 A It does quote me correctly, yes.

15 Q Those are the only questions I had about
16 that.

17 I know you mentioned you don't
18 live in Berkeley County. You don't have any
19 relatives in Berkeley County. Do you go to church
20 in Berkeley County?

21 A I do not.

22 Q I know this is going to sound like a
23 strange question but I got to ask it of everybody.
24 Have you ever been convicted of a crime other than
25 a, you know, minor traffic violation?

1 A No, sir.

2 Q Thank heaven.

3 I have asked you a pile of
4 questions over the past three hours. You've been
5 very kind in indulging me. I only have a very few
6 more. Then we're going to turn it over to these
7 others lawyers. They might have some questions; and
8 if they do, I might have some questions to follow up
9 on their questions and back and forth. It could go
10 for a long time, but let's hope not.

11 So my final few questions are
12 these. Have you understood everything I've asked
13 you?

14 A I have.

15 Q Good. Have you answered everything
16 truthfully?

17 A I have.

18 Q And you've answered it completely?

19 A Yes.

20 Q Okay. Is there any reason that if one of
21 these other lawyers now or in the future would ask
22 you the same question you might give a different
23 answer than the one you gave me?

24 A I don't think so.

25 Q Okay. If any change comes about where you

1 realize, oh, my heavens, I was wrong about this, I
2 said X when I should have said Y, will you let
3 Mr. Sobocinski know so he can let me know?

4 A I will.

5 Q Okay. With that in mind, I am done with
6 everything I came prepared to ask you.

7 MR. SOBOCINSKI: I'll let colleagues
8 on Zoom go first. See if they have
9 anything.

10 THE VIDEOGRAPHER: Miss McLaughlin,
11 if you'll fix your microphone. It fell
12 down on you.

13 THE WITNESS: Okay. You know what, I
14 think it's user error here again. I'm
15 sorry. This thing is so...

16 MR. JEFFERIES: It happens, I'm
17 telling you.

18 THE VIDEOGRAPHER: It's okay, no
19 worries.

20 THE WITNESS: Do I need that little
21 black thing?

22 THE VIDEOGRAPHER: No.

23 THE WITNESS: Okay.

24 MR. JEFFERIES: All right. Zoom
25 folks?

1 I don't think they can hear us.

2 THE VIDEOGRAPHER: Does anybody on
3 Zoom have any questions?

4 MS. HAYWARD: They're flicking on and
5 off, but they don't say anything.

6 MR. JEFFERIES: Evan, do you want to
7 text Jennifer and see if she can hear us?

8 MR. WILSON: I said no questions.
9 Thank you. Maybe you didn't hear me. I'm
10 fine.

11 MR. JEFFERIES: Thanks.

12 Anyone else?

13 (No response.)

14 MR. JEFFERIES: Evan, I think it's
15 you.

16 MR. SOBOCINSKI: Okay. Barbara,
17 thanks for your time today. I don't have
18 any questions for you.

19 MR. JEFFERIES: You're lucky, 'cause
20 then I don't have any follow-ups to his
21 questions. We're done.

22 Thank you for your time. I
23 appreciate it very, very much.

24 THE VIDEOGRAPHER: This will conclude
25 the video deposition. We're off the

Barbara McLaughlin - October 5, 2021
Video Deposition

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record at 15:04 on October 5th, 2021.
(The deposition concluded at 3:04 PM.)

---oOo---

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Video Deposition

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF DORCHESTER) CERTIFICATE

3 I, Janice D. Hayward, Registered Merit
4 Reporter and Notary Public, certify that I was
5 authorized to and did stenographically report the
6 foregoing deposition via Zoom, and that the
7 transcript is a true record of the testimony given
8 by the witness.

9 I further certify that the witness was
10 duly sworn/affirmed and cautioned by me via Zoom to
11 tell the truth, the whole truth, and nothing but the
12 truth. I certify that the same was reduced to
13 typewritten form from my original stenograph notes
14 by computer-aided transcription.

15 I further certify that I am not of
16 counsel or kin to any of the parties to this cause
17 of action nor am I interested in any manner in
18 its outcome.

19 IN WITNESS WHEREOF I have hereunto set
20 my hand and seal this the 11th day of October 2021.

21 
22

23 Janice D. Hayward, RMR
24 Notary Public, South Carolina
25 My Comm. Expires 10-10-22

Video Deposition

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1 ATTESTATION

2 In Re: Zetz v. Daniel Island Company, et al.
 Case No.: 2017-CP-08-02238
 3 Deposition of: Barbara McLaughlin
 Date Taken: Tuesday, October 5, 2021
 4 Taken Before: Janice D. Hayward, RMR, Notary Public

5 I have read the transcript of my deposition
 and find that no changes are necessary.
 6

7 _____
 Name of Deponent

8 Having read the transcript of my deposition,
 I wish to make the following corrections:
 9 (State reason.)

10 Page Line :

11

12 Page Line :

13

14 Page Line :

15

16 Page Line :

17

18 Page Line :

19

20

21 _____
 Name of Deponent
 22 Sworn to and subscribed before me this _____
 day of _____, 2021, in _____ County,
 South Carolina.

23

24

25

 Notary Public
 State of South Carolina
 My Comm. Expires: _____

Janice D. Hayward, RMR
 843.478.6756

Video Deposition

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1 October 11, 2021

2
3 Barbara McLaughlin
4 c/o Jennifer F. Nutter
5 Hood Law Firm
6 172 Meeting Street
7 Charleston, South Carolina 29401

8 Dear Deponent,

9 Please find a copy of your deposition. You will
10 also find enclosed the attestation page from the
11 original deposition.

12 This is a verbatim transcript. If, however, you
13 feel that it is necessary to make any corrections
14 or changes, you may do so on the attestation page,
15 indicating page and line number. You must state
16 your reason for making the change.

17 Upon completion, please sign and date the
18 attestation page from the original transcript in
19 front of a notary public and return within 30 days
20 to Janice D. Hayward, 240 Oak View Way, Summerville,
21 South Carolina 29483.

22 If you have any questions, feel free to contact me.

23 Yours truly,

24
25 Janice D. Hayward, RMR
Court Reporter

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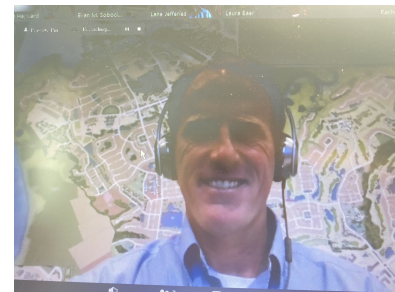
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In The Matter Of:
Zetz v.
Daniel Island Company, et al.

Zoom Video Deposition

G. Chris Hamil
March 16, 2021



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Original File 03-16-21 G. Chris Hamil.txt

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1

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
 2 COUNTY OF BERKELEY) CASE NO. 2017-CP-08-02238

3
 4
 5 MATTHEW ZETZ,)
 6 Plaintiff,)
 7 vs.)
 8 DANIEL ISLAND COMPANY INC.;)
 9 DANIEL ISLAND COMMUNITY)
 10 FOUNDATION INC.; DANIEL ISLAND)
 11 TOWN ASSOCIATION INC.; DANIEL)
 12 ISLAND COMMUNITY ASSOCIATION)
 13 INC.; AND MGR RESOURCES INC.)
 14 D/B/A MOONLIGHTING LANDSCAPE)
 15 LIGHTING SYSTEMS,)
 16 Defendants.)
 17 -----

VIDEO ZOOM DEPOSITION

18
 19 WITNESS: G. CHRIS HAMIL
 20 DATE: Tuesday, March 16, 2021
 21 TIME: 10:06 AM
 22 LOCATION: Zoom Videoconference
 23 REPORTED BY: Janice D. Hayward, RMR
 24 NCRA Registered Merit Reporter
 25 240 Oak View Way
 Summerville, South Carolina 29483
 843.478.6756
 JanHayward1@Gmail.com

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16 Rachel Ferguson, Videographer
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Zoom Video Deposition

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No exhibits marked.

1 (The deposition began at 10:06 AM.)

2 THE VIDEOGRAPHER: We are now on the
3 record at 10:06 AM on March 16th, 2021.
4 This is the videotaped deposition of
5 G. Chris Hamil. Counsel has waived the
6 reading of the caption.

7 Counsel, please state your
8 appearances for the record.

9 MR. JEFFERIES: Hi. Good morning.
10 Lane Jefferies with the Anastopoulo Law
11 Firm for the plaintiff Matthew Zetz.

12 MR. SOBOCINSKI: Evan Sobocinski for
13 defendant Daniel Island Town Association.

14 MR. BARFIELD: This is Michael
15 Barfield for defendant Daniel Island
16 Company.

17 MS. BAER: This is Laura Baer,
18 B-a-e-r, Collins and Lacy, for defendant
19 Daniel Island Community Association.

20 MR. REESER: This is Brandon Reeser
21 for Daniel Island Community Foundation.
22 (G. CHRIS HAMIL, after being
23 sworn/affirmed via Zoom, testified as
24 follows:)

25 EXAMINATION

1 BY MR. JEFFERIES:

2 Q Good morning, Mr. Hamil. Again, my name
3 is Lane Jefferies. Unfortunately, I'm the reason
4 you are here today. I drug you away from your
5 productive activity to do this. But I am going to
6 do it as rapidly as possible so you can return to
7 the rest of your life.

8 I'll give you a heads up. My
9 internet has been kind of funky this morning so if
10 my video disappears, don't worry about it. As long
11 as you can still hear me, we'll keep on going.

12 Let me ask you this. Have you
13 had your deposition taken before at any time?

14 A Not that I know of, no.

15 Q All right. Well, I'll run through just a
16 few ground rules to make this quick and simple.

17 This is simply a
18 question-and-answer session under oath. You've been
19 sworn in. So if you'd confirm that you understand
20 you got to tell the truth, the whole truth, and
21 nothing but the truth?

22 A I do.

23 Q Excellent. I'm going to ask you
24 questions. Some of these other attorneys are going
25 to ask you questions afterward potentially. I hope

1 that my questions will be well-worded and clear and
2 intelligent. If they're not, look to me for
3 clarification, not to anybody else. Just ask me to
4 rephrase or restate it or explain or whatever, and I
5 will until you understand the question. Okay?

6 A (No audible response.)

7 Q And if you would, to make life a little
8 easier for Jan who's writing all this down, give us
9 verbal oral yeses and noes instead of headshakes
10 because it's hard for her to write down the
11 headshakes.

12 A Yes.

13 Q All right. Anything that would prevent
14 you today, Mr. Hamil, from being able to give
15 complete and truthful answers, like being under the
16 influence of a medication or undue stress or
17 anything along those lines?

18 A No.

19 Q Excellent. If you answer a question, I'm
20 going to conclude two things from that. I'm going
21 to conclude, first, that you understood it, and
22 second, that you gave us a truthful and complete
23 answer. Is that fair?

24 A Yes.

25 Q Outstanding. All right, listen, let's get

1 started. If you need a break partway through, just
2 after you answer the question say, hey, I need a
3 break and we'll take one. No trouble at all.

4 Just a word of caution.

5 Anything you talk about on the break I can ask you
6 about. So things that might ordinarily be
7 privileged aren't if you talk about it on the break.
8 So best not to talk to anybody on a break.

9 So with that in mind, I think
10 you know that you're here as a result of a lawsuit
11 that arises out of a fall on November 11th of 2016.
12 Is that correct?

13 A To my knowledge, yes.

14 Q All right. Do you know anything about
15 that particular -- you know, the plaintiff, Matthew
16 Zetz, the one who fell, do you know anything in
17 particular about his fall at firsthand or you just
18 know what you've learned from other people later?

19 A I would call it hearsay.

20 Q Okay. You've heard from others but you
21 didn't actually witness Matthew Zetz fall or
22 anything like that?

23 A Correct.

24 Q Let's go back to 2016. Who did you work
25 for during the year of 2016?

1 A The Daniel Island Town Association.

2 Q And is that who you work for still today?

3 A Yes, sir.

4 Q Okay. So no change there. So you worked
5 for the Daniel Island Town Association. And what
6 did you do for the Daniel Island Town Association?

7 A My title is field operations manager and
8 I manage close to 400 acres of common area, close
9 to 50 storm management ponds, and three swimming
10 pool facilities. And the -- all the associated
11 subcontracts in order to maintain those entities
12 or common areas.

13 Q So tell me what you mean by that. You
14 hire outside contractors to do certain things, is
15 that right?

16 A Yes.

17 Q Okay. Tell me again your title. Did you
18 say field operations manager?

19 A Yes.

20 Q How long have you been the field
21 operations manager for Daniel Island Town
22 Association?

23 A Six years.

24 Q So you would have started, what, 2015, is
25 that right?

1 A Yes.

2 Q Okay. Do you remember when in 2015 you
3 started?

4 A I believe I'm just celebrating six
5 years, so in March, yesterday or the day before.

6 Q Okay. So you started March of 2015. So
7 by the time of this incident in November 2016, you
8 had been on the job about a year and a half roughly?

9 A Yes.

10 Q What did you do before you became field
11 operations manager for the town association?

12 A I worked for Carolina Landscape as their
13 landscape maintenance manager.

14 Q Okay. All right. So at the town
15 association, who do you -- well, let me back up.

16 I want to -- I don't want to ask
17 about who you report to now. I'm thinking about
18 back in 2016. In 2016, who did you report to? Who
19 was your boss at the town association?

20 A The person who hired me, Jane Baker.

21 Q Jane Baker, okay.

22 And do you have any idea who at
23 the time back in 2016 Jane Baker's boss was?

24 A I would say Matt Sloan.

25 Q Matt Sloan. Okay.

1 And do you have any idea who
2 Matt Sloan's boss was back in 2016?

3 A No, sir.

4 Q Do you know if he had a boss or was he the
5 head guy?

6 A I'm not really sure.

7 Q All right. So Jane Baker hired you and
8 your understanding is -- well, you know she's your
9 boss. You reported to Jane, and your understanding
10 is Jane reported to Matt Sloan?

11 A To the best of my knowledge, yes.

12 Q Okay. Do you know what either of their
13 titles was back in 2016, if they had an official
14 title with the town association?

15 A I believe Jane's was vice president of
16 community relations.

17 Q And what about Mr. Sloan's title?

18 A I'm unsure.

19 Q Okay. So back in 2016, as field
20 operations manager, you had responsibility for
21 400 acres of common areas, roughly 50 ponds, and
22 three swimming pools. Is that correct?

23 A Well, I'd say back in 2016 it was
24 probably a little less than 400 and a little --
25 probably 40 ponds. So we've expanded since then,

1 so.

2 Q I gotcha. And still three swimming pools?

3 A At that time I think it was just two
4 swimming pools, not three.

5 Q Okay. Where does the Daniel Island
6 Children's Park fall into these categories? I'm
7 guessing it's not a swimming pool. Is it a pond?
8 Is it a common area? What is it?

9 A Common area.

10 Q Okay. And were all -- 400 acres is a lot
11 of common area. Were all these 400 acres like the
12 Daniel Island Children's Park where they were, you
13 know, improved in some way or some open fields, some
14 woods? What were they?

15 A We had a combination of everything from
16 wetland buffers to large-scale parks to walking
17 trails. It's a diverse array of common area.

18 Q Gotcha. Do you remember roughly how many
19 parks there were at the time back in 2016?

20 A No, I do not.

21 Q All right. So let's go back -- scratch
22 that. I want to ask you a different question.

23 With respect to the Daniel
24 Island Children's Park and your role as field
25 operations manager, what did you have to actually do

1 with respect to the park?

2 A We had two contracts that -- well, three
3 contracts that were a part of Children's Park.
4 One was the landscape maintenance for that area.
5 That was a part of the larger-scale landscape
6 maintenance package.

7 Then we had another one for
8 Children's Park which managed all the pump features,
9 keeping the pool water clean, chemically treated.

10 And then we also had a contract
11 with Moonlighting that was responsible for all the
12 lighting or existing lighting for the park.

13 Q Okay. Contract with Moonlighting to
14 maintain the lighting?

15 A Yes, sir.

16 Q A contract with another entity to maintain
17 the pumps and the chemicals and the stuff that
18 relates to the water?

19 A That was The Greenery.

20 Q Greenery. Okay.

21 And then who did the landscape?

22 A The Greenery.

23 Q The Greenery did that as well, okay. Two
24 separate contracts, one for landscape and one for
25 pumps and chemicals?

1 A Yes, sir.

2 Q And what did the landscape maintenance
3 contract with The Greenery entail?

4 A On a weekly basis, removal of and
5 cleaning of garbage cans, weeding, weed-eating,
6 pruning, mowing, edging, blowing.

7 Q Pretty much standard landscape stuff?

8 A Yes.

9 Q Was there any sort of, in addition to
10 these three types of contracts, was there any sort
11 of contract for security or for safety?

12 A No.

13 Q Do you know -- and I'm talking here just
14 general contracts, you know, throughout the year,
15 not special event contracts quite yet. But no
16 contract with like a security guard company to -- to
17 handle security for any of these areas?

18 A No.

19 Q And no contract with any sort of safety
20 consultancy or safety sort of company to make sure
21 that these areas were -- well, were safe?

22 A I mean, other than our insurance
23 companies that did -- I think they did either
24 annual or biannual reviews on things, but nothing
25 of that sort.

1 Q The annual or biannual reviews that you
2 just mentioned by the insurance companies, would
3 that be something that -- would those reviews go to
4 you or where would they go?

5 A That would go through I believe -- well,
6 I can't remember if Kay Fabrizio was employed in
7 2016, but whoever our HR payroll officer was at
8 the time was responsible for the insurance of
9 that.

10 Q Okay. So if there would have been -- if
11 there would have been an insurance company review
12 and the insurance company spotted something that
13 they didn't like, that report would go to the HR
14 payroll officer which might have been Kay Fabrizio
15 but you're not certain?

16 A Correct.

17 Q Okay. Have you ever been made aware of
18 any reports, reviews from the insurance -- from any
19 insurance company with respect to safety that, you
20 know, said you-all were doing something wrong or
21 needed to do something additional or needed to make
22 a change?

23 A Pertaining to Children's Park solely?

24 Q Well, let's start with that and then --
25 then more broadly with the rest of the common area.

1 A Children's Park, no. But I believe it
2 was maybe two years ago when the insurance -- I
3 met with the insurance adjuster, whomever, and I
4 believe he made a report and we made changes on
5 that. I don't have it in front of me, of course,
6 but there wasn't anything that I would have
7 considered significant or hazardous. It was just
8 more maintenance-type things that we addressed
9 immediately.

10 Q Okay. And that was in areas not -- not
11 the Children's Park?

12 A That's correct.

13 Q Do you remember, was it in other sorts of
14 parks or was it, like, you know, did it relate to
15 wetlands and those sorts of things?

16 A I believe it dealt with -- we took -- we
17 leased some trails from the City of Charleston
18 approximately two years ago and there were some
19 bridges that we kind of -- became ours as far as
20 maintenance, so the adjuster had some comments
21 about some things, about maintenance, as well as
22 some adjustments which again we addressed
23 immediately, took pictures and sent them to him to
24 signify that we had addressed any concerns that
25 they may have had.

1 Q Okay. And as far as you know, no
2 insurance company raised any concerns with respect
3 to the Children's Park?

4 A Correct.

5 Q All right. And if an insurance company
6 had, is that something that you would have wanted to
7 know about so that you could address it?

8 A Yes, sir.

9 Q In terms of who we could ask who would
10 know about those reviews back in 2016, anyone
11 besides Kay Fabrizio that we should be asking?

12 A Jane Baker.

13 Q Jane Baker. Okay.

14 And how do you spell Kay's name?

15 A K-a-y. And you don't want to take a
16 stab at her last name?

17 Q Well, I already did, Chris. I don't know
18 if I did very well. Do you want to hear my guess?

19 A No. It's F-a-b-r-i-z-i-o.

20 Q I got it right. All right. Excellent.
21 We'll ask Miss Fabrizio about that. Okay.

22 So shift gears for a little bit.
23 Park Day, which my understanding occurred every fall
24 for a series of years and it kind of occurred in
25 different places over the years. What do you

1 remember about the history of Park Day, where it
2 started out, what your involvement was, that sort of
3 thing?

4 A My understanding of Park Day initially
5 was to instigate curiosity, attention for Daniel
6 Island and for all it can present anyone, resident
7 or nonresident to want to come live, work, and
8 play. And so Park Day was one of those big
9 events.

10 And when I came on board, my
11 responsibility was to work directly with Barbara
12 McLaughlin and Rona Bobey for preparations for Park
13 Day that occurred at Children's Park and that, well,
14 it used to be a vacant plot to the left and to the
15 right of Children's Park.

16 Q In terms of preparations for Park Day in
17 2016, what did that entail for you? What did you
18 have to organize as field operations manager to pull
19 off Park Day in 2016?

20 A Well, number one, make sure that the
21 landscape maintenance contracts were being
22 fulfilled, the Moonlighting contract was being
23 fulfilled, that the pool and pump features were
24 operating as they should be.

25 But as I told someone else, you

1 know, Barbara and I worked fairly closely on
2 multiple events throughout the year and when I first
3 started, she would want to meet about the event
4 prior to it and it would take a considerable amount
5 of time.

6 So through our partnership I
7 asked her to create a Barbara McLaughlin dossier of
8 everything she wanted my field operations department
9 to do and we would do it to the T, just kind of like
10 a general giving the infantryman their orders, we
11 would follow those orders. So whatever she gave me
12 during that Park Day, we followed it, and then
13 anything else that may have popped up.

14 Q Gotcha. Okay. So you would have, at the
15 time, and I don't know if you still have it, you
16 would have some sort of written document from
17 Barbara that said, this is -- Chris, this is what I
18 need you and your department to do for us to get
19 ready for Park Day?

20 A Yes, but I'm pretty sure I don't have
21 it. Just because it's five years old, I'm pretty
22 sure I don't have it.

23 Q Do you know anyone who would still have
24 that -- that document? I mean, is that something
25 that maybe Barbara would have or Rona Bobey or Jane

1 Baker?

2 A I would say Barbara would be the best
3 one.

4 Q All right. How was that -- that document
5 delivered to you, Mr. Hamil?

6 A Normally it was either hand given to me
7 or she sent it to me via email.

8 Q Do you remember which it was back in 2016?
9 I know it's a long time ago.

10 A No, I don't.

11 Q All right.

12 A And also, it may have -- you know, that
13 was my first year here, so there's a lot of stuff
14 going on on Park Day. I know that from that point
15 forward I asked for those dossiers. So most of
16 the events I know after that we did.

17 I felt like we started it around
18 then but we may not have, too, so I don't want to
19 give you -- I don't want to give you any
20 misinformation.

21 Q No. Understood. What sort of things
22 would be in that dossier? What types of subjects
23 would be in there?

24 A So Barbara would contract folks to set
25 up tents. And under those tents had supporters or

1 contractors that help -- or sponsors that
2 sponsored the event.

3 So she would have these plastic
4 foam boards that had the sponsor's name on it. So
5 we would zip tie the sponsor's name on their tent so
6 they would know where to go, tons of where to park,
7 where not to park, golf cart parking only, lay out
8 cones, places to stake for the animals and the
9 corral so where are you going to put the bales of
10 hay, those kind of things.

11 Q Understood. Was there any component to
12 that dossier or to any oral instructions given to
13 you that involved safety inspections or safety
14 generally?

15 A You know, looking for sharp objects,
16 anything sticking out of the ground. Like if
17 there were any tree stakes that may have been up,
18 we would take those down. General trash cleanup.
19 Any potholes that may have been around the
20 landscape, filling them in, that type of general
21 safety.

22 Q Okay. Anything more specific than that?
23 You know, I'm thinking it could be anything. It
24 could be fire safety, you know, security, anything
25 along -- anything along those lines more specific

1 than tree stakes and whatnot?

2 A No. To my knowledge, she had already
3 contacted EMS, fire department, and also had a
4 City of Charleston police officer there on-site, I
5 think, the night before and throughout the day of
6 Park Day.

7 Q Did you have any -- any interaction with
8 that -- that off-duty City of Charleston police
9 officer that was working security?

10 A I did not.

11 Q Okay. Did you see her around at all
12 yourself?

13 A I did not.

14 Q Your understanding was that she was there,
15 however?

16 A Yes.

17 Q During Park Day, you know, the day before
18 and the actual Park Day itself, and the night that
19 fell in between there when Mr. Zetz was injured,
20 where -- where were you? Were you around on the
21 property somewhere or tell us about how your day
22 goes. And I'm wondering if you're -- you've got
23 hundreds of acres. Are you kind of all around on
24 all of them or were you pretty much focused on that
25 Children's Park area?

1 A Again, on any event, it's all hands on
2 deck, especially the day before. But Barbara had
3 given me a list of instructions, whether verbally
4 or via this dossier, which I just can't remember
5 what, but usually we had -- excuse me -- we had
6 that completed about mid morning the day before
7 and were just there as support for Barbara for
8 anything else she may -- she may need.

9 Q Okay.

10 A And our -- our staff works from 7:00 to
11 3:00, 3:30 Monday through Friday, not on the
12 weekends.

13 Q Gotcha. Gotcha. All right. In the
14 preparation and in dealing with the subcontractors,
15 one of them obviously is the lighting company. Did
16 you have the lighting company come out and check all
17 the lighting, make sure all the lighting that was
18 there was working?

19 A I believe so, yes, 'cause we had done
20 some enhancements to the water feature and to the
21 deck. We had added painting. You know, that
22 scape was like a cityscape and all the three
23 rivers that converge, the Wando, the Cooper River,
24 and the Ashley. And so during that process also
25 was ensuring that all of the existing lighting

1 were working appropriately.

2 Q And was all -- all that lighting up and
3 running before the end of the day on the 10th or was
4 some of that repair done later on?

5 A No. The direction was have it all ready
6 prior to the event.

7 Q And would there be any sort of work orders
8 or invoices or anything along those lines that would
9 show what was done prior to the event, what was done
10 after the event?

11 A Generally I communicated with these
12 contractors. We've recently, probably three or --
13 two or three years ago we created a work order
14 system to have better -- better efficiency and
15 productivity for all of our contractors, including
16 my staff. But then we haven't had it. So it was
17 generally through email or text.

18 Q Okay. Going back to the question of
19 preparations in terms of safety, any sort of safety
20 audit or review prior to and in preparation for Park
21 Day in 2016?

22 A Can you say your question again? You
23 kind of broke up a little bit.

24 Q Sure. Sure. In preparation for the 2016
25 Park Day, was there any sort of formal safety audit

1 or safety review conducted that you're aware of?

2 A Not that I'm aware of, no.

3 Q And in terms -- you mentioned a sort of
4 informal safety inspection of, you know, looking for
5 stakes, tree stakes and that sort of thing.

6 Anything aside from that informal safety inspection
7 in preparation for the 2016 Park Day?

8 A (No response.)

9 Q I don't know whether I lost you or you
10 lost me. Can you hear me all right?

11 THE VIDEOGRAPHER: Lane, I don't have
12 him either.

13 MR. JEFFERIES: All righty. Let's --
14 hopefully he'll come back on here
15 momentarily.

16 THE VIDEOGRAPHER: Okay. Do you want
17 me to go off the record here?

18 MR. JEFFERIES: Yeah, that's fine.

19 THE VIDEOGRAPHER: Off the record,
20 10:35 AM.

21 (Recess.)

22 THE VIDEOGRAPHER: On the record,
23 10:36 AM.

24 MR. JEFFERIES: Thanks, Rachel.
25 Sorry about that.

1 BY MR. JEFFERIES:

2 Q Mr. Hamil, the question that might have
3 been cut off was this: In preparation for the 2016
4 Park Day, was there any sort of formal safety
5 inspection of the area that you're aware of?

6 A None other than, you know, Barbara
7 walking, inspecting the entire area prior and Rona
8 walking the entire area prior and then getting
9 with me if I missed -- if I have missed anything
10 in my walk.

11 The three of us would do it all
12 separately and then, if they saw anything, they of
13 course would get with me. But there was not a hey,
14 we're going to meet and do a safety audit together
15 about it.

16 Q And when you did those independent walks
17 of the area, did you have a checklist that you would
18 work from, like specific things that you were
19 checking, or did you just kind of observe and see
20 what you saw?

21 A Just observe what I saw.

22 Q Okay. And I think you said no sort of
23 specific safety meetings with respect to Park Day,
24 is that right?

25 A Correct.

1 Q The areas that you manage, Mr. Hamil, the
2 400 acres of common areas, the 50 or so ponds and
3 three swimming pools, do any of those have specific
4 hours of operation?

5 A The City of Charleston statute says
6 basically from dawn to dusk, so it's understood
7 that that's the case.

8 Q And you say understood. Understood by
9 you, right?

10 A Correct.

11 Q If I went to the -- one of these three
12 swimming pools -- and what are those three swimming
13 pools? Do they have names?

14 A Pierce Park Pool, Scott Park Pool, and
15 Edgefield Park Pool. And those are all fob
16 activated so you'd have to be a member in order to
17 get in. And they have -- they have times on them
18 where they lock down. I believe it's after
19 10 o'clock.

20 Q 10 o'clock at night?

21 A Opens up at 5:00 AM for the lap swimmers
22 and 10:00 PM in the evening.

23 Q All right. So the pools aren't really
24 dawn to dusk, 'cause 10:00 PM is well after dusk.

25 A Correct. I thought you were

1 specifically meaning common areas, not amenities.

2 Q Oh, okay. Yeah, yeah, all right. So with
3 respect to the pools, they're open from 5:00 to
4 10:00. I'm guessing there's a sign that indicates
5 that, that's how you know how late you can stay?

6 A Most of the time, yes. Sometimes they
7 get vandalized and we have to replace them, but
8 generally it's posted.

9 Q Generally it's posted. And if I were a
10 homeowner and I had a key fob and I got down to the
11 Pierce pool at ten minutes after 10:00, I'm guessing
12 my key fob would not let me through the gate. I
13 couldn't get in?

14 A That's correct.

15 Q Okay. So the hours on the swimming pools
16 are posted and enforced through the use of a gate
17 and key fob system, is that correct?

18 A Correct.

19 Q All right. Now the -- leave aside the
20 swimming pools for a little bit.

21 The ponds and the common areas,
22 any sort of posting of signs there that says hours
23 of these area are such and such?

24 A No, sir.

25 Q And any sort of gate or key fob system

1 that would prevent access to any of those areas?

2 A No, sir.

3 Q So if I were -- I don't live in Daniel
4 Island, but let's say I have the good fortune to do
5 really well and I buy a nice house on Daniel Island,
6 move down there. How would I know what the
7 operating hours of the ponds and the common areas
8 are?

9 A Well, other than the City of Charleston
10 statute stating that any open common areas,
11 playgrounds are from dusk to dawn, then you
12 probably wouldn't know.

13 Q And that statute's not posted in any of
14 these common areas, is that right?

15 A No. But I believe we have signage on
16 several of our parks that say, "Under police
17 jurisdiction."

18 Q Okay.

19 A 'Cause we've had a lot of vandalism in
20 the past, and in order to allow police to patrol
21 it a lot better, we had to put the signage to
22 allow them to have that jurisdiction.

23 Q Any sort of under police jurisdiction sign
24 at the Children's Park back in 2016?

25 A I don't recall.

1 Q So if I understand you correctly, like a
2 walking trail would be subject to the City of
3 Charleston's dawn to dusk rule, is that right?

4 A To the best of my knowledge, yes.

5 Q But a sidewalk, I mean, you could walk on
6 a sidewalk in the City of Charleston at any time of
7 the day or night, right?

8 A To the best of my knowledge, yes.

9 Q I would be shocked if you couldn't walk on
10 a sidewalk in Charleston after dusk 'cause, you
11 know, King Street's pretty busy at that time.

12 A Well, I mean, when you have a sidewalk
13 that -- let's say Pierce Park Pool. They have a
14 sidewalk around the parking lot. So, if
15 there -- someone is meandering around there at night
16 and the police just happen to drive in there, then,
17 you know, that's a -- it's their jurisdiction to,
18 you know, ask that person what they're doing.

19 Q Gotcha. So let's think about the
20 Children's Park for a moment. If I'm walking down
21 the sidewalk there by the sales center and all that,
22 I'm fine, I'm on the city sidewalk, I'm not
23 violating any sort of dawn to dusk rule.

24 But if I cross the street and
25 enter the Children's Park and walk on that sidewalk,

1 I'm now subject to the dawn to dusk rule. Is that
2 your understanding?

3 A To the best of my knowledge, yes.

4 Q All right. And I would just have to know
5 that because I'm an avid reader of the Charleston
6 City statutes, right, 'cause there's no sign or
7 anything?

8 A Right, but I'd say it's a little
9 different in respect to Park Day because it is my
10 understanding that every vendor and every
11 contractor was directed that -- to get all of
12 their material, whatever their swag was that they
13 were going to hand out on Park Day, the day before
14 and could not be there at night, period.

15 And if they did not get their
16 stuff in before a certain time the day before Park
17 Day, then they had to wait until the day of Park Day
18 to get there early to prepare for whatever they were
19 going to handle. So it's kind of two separate
20 conditions there.

21 Q Gotcha. Based on that, would it -- would
22 it surprise you if you learned that folks showed up
23 after dusk and the security guard hired by town
24 association said, come on in?

25 A It would surprise me because, again, my

1 understanding was the direction was for that guard
2 to not allow people within that area, period.

3 Q To actually keep them out at night?

4 A Correct.

5 Q And certainly not to invite them in at
6 night?

7 A Correct.

8 Q We talked about some people. We talked
9 about Matt Sloan, Jane Baker, Barbara McLaughlin. I
10 want to ask you about some other folks. I don't
11 know if you know these people or not. If you don't
12 know them, that's fine. If you do, I might have
13 some other questions.

14 Do you know Harry Frampton?

15 A No.

16 Q Do you know Amy Meyer?

17 A Yes.

18 Q How about Amy Moyer?

19 A Only through Jane Baker and that she
20 works for the Daniel Island Company.

21 Q Okay. Do you have any interaction
22 yourself with Amy Moyer?

23 A No.

24 Q Did you back in 2016 have any interaction
25 with Amy Moyer?

1 A No.

2 Q Do you have an understanding of what
3 Amy Moyer does with the Daniel Island Company?

4 A No.

5 Q And how did you become aware of Amy Moyer
6 through Jane Baker?

7 A I think I may have met her once through
8 Jane. That's about it.

9 Q Okay. So Jane introduced her but you
10 didn't have any kind of, like, working relationship
11 with Jane?

12 A Oh, never, no.

13 Q What about Frank Brumley, do you know
14 Frank Brumley?

15 A Yes.

16 Q And how do you know Frank Brumley?

17 A Just because everybody knows Frank on
18 Daniel Island.

19 Q Why does everybody know Frank Brumley?

20 A Well, he's an extremely nice man and was
21 one of the, I guess, frontiersmen to help create
22 what is Daniel Island.

23 Q Back in 2016, what was Frank Brumley's
24 role, to the extent that you know?

25 A Oh, I -- I never, never communicated or

1 had, you know, face to face with Frank. Again,
2 that was mostly, you know, through maybe a
3 meeting, an initial meeting with Jane.

4 Q So your understanding was Frank Brumley
5 was one of the founders, for lack of a better word,
6 of Daniel Island?

7 A Yes, sir, he and Matt Sloan.

8 Q Okay. Do you know if one of them reported
9 to the other or were they co-equals?

10 A I'm not sure.

11 Q Okay. What about -- I hate mispronouncing
12 someone's last name, so I'm going to spell it, and
13 if you know this person, you can tell me how to
14 pronounce it. Last name is spelled O-e-l-k-e-r-s,
15 first name Galen?

16 A Doesn't ring a bell.

17 Q Okay. How about William McKenzie or Bill
18 McKenzie?

19 A Yes.

20 Q Tell me what you know about Bill McKenzie?
21 He goes by Bill, doesn't he?

22 A Yes.

23 Q What do you know about Bill McKenzie?

24 A He worked closely with Matt Sloan.

25 Q Do you know what Mr. McKenzie did with

1 Matt Sloan?

2 A Not really.

3 Q Did Mr. McKenzie have a role with Daniel
4 Island Town Association that you're aware of?

5 A Not that I'm aware of.

6 Q Okay. And in working with Matt Sloan, he
7 worked with Matt Sloan at some other entity, is that
8 right?

9 A I believe so, yes.

10 Q And do you know which entity or entities
11 that would be?

12 A I'm unsure.

13 Q Okay. There's a lot of different entities
14 out at Daniel Island that begin with the words
15 Daniel Island, aren't there?

16 A Yes.

17 Q Do you have an overall picture of how they
18 all fit together?

19 A Just on my part.

20 Q And what's -- what's your understanding?

21 A So we have the Daniel Island Property
22 Owners Association. And under that umbrella of
23 the Daniel Island Property Owners Association,
24 there's the Daniel Island Town Association, which
25 is its own separate entity; the Daniel Island Park

1 Association; and the Daniel Island Community
2 Association.

3 And I work for the town
4 association which manages all the common areas; and
5 again, amenities and ponds for those three
6 associations.

7 Until the time where they're a
8 resident-controlled board, you know, it becomes the
9 majority, and at that time they could make a
10 decision to have their own management of each
11 association. And each of them would have their own
12 resident control board.

13 Q Okay. So you mentioned that the town
14 association, the park association, and the community
15 association were under the umbrella of the property
16 owners association. Is that right?

17 A To the best of my knowledge, yes.

18 Q Tell me what you mean by that, under the
19 umbrella of the property owners association?

20 A Well, I know my office says the Daniel
21 Island Property Owners Association. And I know
22 that the colleagues and I all work through the
23 Daniel Island Town Association. Our salaries,
24 they're through the Daniel Island Town Association
25 while we manage these three different entities.

1 Most of the common areas that
2 are not activated are under the -- under the --
3 under the Daniel Island Town Association.

4 There's the pools, three pools
5 and the one boat landing which are in the Daniel
6 Island Community Association. That's all that they
7 have.

8 And then in the park association
9 there's a boat landing. The rest of the several
10 hundred acres are under the town association.

11 Q And the three pools and the boat landing
12 that are under the community association, that's --
13 that's not the pools we just talked about?

14 A It is.

15 Q Oh, it is, okay.

16 A Um-hum.

17 Q Pierce, Scott, and Edgefield pools?

18 A Correct.

19 Q All right. And what's the name of the
20 boat landing?

21 A Beresford Creek Boat Landing.

22 Q Beresford Creek Boat Landing.

23 And then the park association
24 has a boat landing?

25 A Great Oak Park.

1 Q Great Oak Park. All right.

2 So you -- you draw a paycheck
3 that says town association on it. You get paid by
4 the town association?

5 A Yes, sir.

6 Q All right. And you manage 400 acres of
7 common areas and 50 ponds and you also -- and those
8 are all owned by the town association, is that
9 right, or leased?

10 A To my knowledge, based on tax records,
11 they're owned.

12 Q Okay.

13 A Minus -- minus the lease agreement that
14 the City of Charleston and Daniel Island had with
15 the walking trails along the Wando River that go
16 to Governor's Park.

17 Q Okay. So everything's owned, as far as
18 you know, common areas, ponds, owned by the town
19 association; walking trails, leased by the town
20 association or by somebody else?

21 A Again, the only thing that I believe is
22 just leased through the City of Charleston is just
23 that trail section that goes from the --

24 Q Okay.

25 A -- beginning of Children's Park to

1 Governor's Park. The rest of the trails are owned
2 by Daniel Island, yeah, if they're on our
3 property, yes.

4 Q Okay. And when you say owned by Daniel
5 Island, do you mean owned by the town association
6 or --

7 A Town association. Town association.
8 And the whole purpose of this was to allow a
9 smooth transition between a developer-controlled
10 board to a resident-controlled board and to keep
11 the equality, the integrity of what Daniel Island
12 is as it's passed down from developer-controlled
13 board to resident-controlled board.

14 Q And when you say the developer, who is the
15 developer of Daniel Island?

16 A Daniel Island Development Company, I
17 believe, or Daniel Island Associates.

18 Q And then there's one called Daniel Island
19 Company. Is that some version of that?

20 A It's the Daniel Island Development
21 Company, I believe, or Daniel Island Associates.
22 I don't know which one.

23 Q Okay. And that's the developer. And back
24 in 2016, were the boards of the town association,
25 park association, community association, were those

1 still all developer-controlled?

2 A I believe so, yes.

3 Q All right. So your office is in a
4 building and the sign says property owners
5 association?

6 A Yes.

7 Q What's the address of your office?

8 A 130 River Landing Drive, Suite 1C,
9 Charleston, South Carolina 29492.

10 Q All right. And then where's the office of
11 the Daniel Island Park Association?

12 A They do not have an office. As I -- as
13 I stated before, we managed those. Until it's
14 completely resident owned and controlled, right
15 now it's under our management, the Daniel
16 Island --

17 Q Okay.

18 A Yeah.

19 Q Okay, so -- so you manage the Great Oak
20 Park Boat Landing for the park association?

21 A Yes, sir.

22 Q And do you have some sort of contract
23 between the town association and the park
24 association to do that management or is it just a
25 handshake? Or how does that work?

1 A Well, right now the developer still has
2 majority control of the park association.

3 Q Okay.

4 A So the developer would still have, I
5 guess, direction and leadership on who manages it.

6 Q All right. So when the park association
7 engaged the town association to manage the Great Oak
8 Boat Landing, how did that happen? Like who called
9 you from the park association and said, please
10 manage our boat landing?

11 A There may be some confusion here. The
12 developer created these associations so that in
13 the future there would be a smooth transition from
14 a developer-control to a resident-control.

15 And so until -- it has
16 everything to do with number of homes sold or
17 residents that live within the park area before it's
18 transitioned from a developer-control board to a
19 resident-control board.

20 And there's like a phased-in
21 process whereas they get closer to whatever those
22 numbers are, a board member gets elected to -- it's
23 called like a transition board, to kind of welcome
24 residents who live in that area to become a part of
25 that board. Does that make sense?

1 Same thing that the community
2 association did back in 2016. It was still a
3 developer-control board but it was starting to
4 transition to a more resident-control board in the
5 future. So they started having elections for
6 residents to become part of that board.

7 Q So --

8 A It's a way for the developer to step out
9 seamlessly instead of it being a complete break
10 and no one knowing what to do and how to maintain
11 the property.

12 Q Back in 2016, in November of 2016, were
13 any of these associations, as far as you know,
14 independent of the developer at that time or were
15 they still developer-controlled?

16 A To my knowledge, developer-controlled.

17 Q All right. With respect to the three
18 pools and the boat landing that the community
19 association owned, you-all at the town association
20 managed those as well, is that correct?

21 A Correct.

22 Q And is there any sort of written agreement
23 between the community foundation and the town
24 association -- pardon me, the community association
25 and the town association that engaged you to do that

1 work?

2 A Again, it hadn't transitioned from a
3 resident-controlled board yet, so it was still a
4 developer-controlled. So our direction came from
5 the developer on management of those entities.

6 Q Okay. Okay. So to manage, for instance,
7 the Pierce pool, Pierce Park Pool, you didn't get a
8 call from somebody at the community association
9 saying, hey, town association, we'd like to hire you
10 to do this and let's sign a contract, you got
11 instruction from the developer, take care of this
12 pool, is that right?

13 A Well, from my experience, the existing
14 conditions were already there. When I moved into
15 my role, we were already managing the pool
16 facilities and the ponds and Great Oak Park.
17 Those conditions were already existing.

18 Q Okay. So you weren't there when the
19 original arrangement was made?

20 Can you hear me all right,
21 Mr. Hamil?

22 A Yeah. What did you say? I may have
23 missed something.

24 Q The arrangement of management, you were
25 saying that that existed when you arrived there.

1 You weren't there when those arrangements were
2 originally made, is that correct?

3 A Correct.

4 Q Okay. While you were there in 2016, are
5 you aware of how much the town association charged
6 the park association and the community association
7 for managing those other associations' properties?

8 A I was not.

9 Q Do you know who would be aware of what the
10 charges for that were?

11 A Whomever our financial director or our
12 treasurer was at the time.

13 Q Okay. Now, the community association,
14 back in 2016, did it have an office?

15 A Well, again, no, it didn't have its own
16 office as we were managing that -- the existing
17 setup, whatever it was.

18 Q And the property owners association, back
19 in 2016, did it have an office?

20 A At 130 River Landing.

21 Q And was that office separate from your
22 office at 130 River Landing?

23 A No.

24 Q No. So the property owners association
25 office at 130 River Landing and your town

1 association office at 130 River Landing were the
2 same office, is that correct?

3 A Yes.

4 Q And park association didn't have an office
5 and community association didn't have an office, is
6 that correct?

7 A Correct.

8 Q And all of these things, property owners
9 association, town association, park association,
10 community association, were all
11 developer-controlled, is that correct?

12 A At this time -- in 2016, to the best of
13 my knowledge, yes.

14 Q Okay. And Matt Sloan was the boss of the
15 developer, Matt Sloan was the guy running the
16 development company, is that right?

17 MR. BARFIELD: Object to the form.

18 BY MR. JEFFERIES:

19 Q You can go ahead and answer if you know.
20 Was Matt Sloan the guy in charge of the development
21 company?

22 A I'm unsure. I don't want to speculate.

23 Q Since 2016, have you seen any -- any
24 change in control of any of these associations from
25 developer-controlled to homeowner-controlled?

1 A Yes.

2 Q All right. Which ones?

3 A Just the Daniel Island Community
4 Association.

5 Q And when did that change?

6 A I'm unsure, but I believe it was two or
7 three years ago.

8 Q Okay. Does the town association continue
9 to manage the Pierce, Scott and Edgefield pools and
10 the Beresford Landing for the community association
11 today?

12 A Yes.

13 Q You broke up a little on me. I think you
14 said "yes."

15 A Yes.

16 Q And is there any sort of written contract
17 at this time between the community association and
18 the town association for the management of those
19 properties?

20 A No, because I believe it's still
21 developer-controlled as far as the board. So
22 those existing conditions are still there.

23 Q I thought you had indicated the community
24 association wasn't developer-controlled anymore.

25 A No, my understanding from your question

1 was has it started. And it's started, but it's
2 not completely turned over.

3 Q Oh, I understand. Okay, I understand.

4 A Sorry.

5 Q So the process of turning over control of
6 the community association, as far as you know, has
7 begun but it is not completed?

8 A Correct.

9 Q Okay. If in 2016 I had gone down to your
10 office at 130 River Landing, would I have seen any
11 other sign there besides property owners
12 association? I mean, would I have seen a town
13 association, park association, community association
14 sign or just that one that says Daniel Island
15 Property Owners Association?

16 A You would just see the one.

17 Q Do you know back at the time in 2016 if
18 the park association had any employees of its own?

19 A No, it did not.

20 Q No, you don't know, or no, it didn't have
21 any?

22 A It didn't have any.

23 Q Yeah. And what about the community
24 association, did it have any employees of its own?

25 A No.

1 Q I'll tell you what I'd like to do. I've
2 got a few more people I want to ask you about.
3 We've been at this for about an hour. Let's just
4 take a brief break, maybe five minutes or so, and
5 then circle back with each other. I don't have a
6 whole lot more after this.

7 A Okay.

8 THE VIDEOGRAPHER: We're off the
9 record at 11:05 AM.

10 (Recess.)

11 THE VIDEOGRAPHER: We're back on the
12 record at 11:10 AM.

13 BY MR. JEFFERIES:

14 Q Mr. Hamil, a few more questions. I think
15 I asked you about, let's see, Bill McKenzie. Did I
16 ask you about David Crawford?

17 A No, you didn't, but yes, I know him.

18 Q Okay. How do you know David Crawford?

19 A Every year we have annual meetings for
20 every association that discuss, you know, projects
21 that we have done, and usually he and Frank and
22 Matt at times are at those annual meetings. But
23 that happens once a year, normally at the end of
24 the year or the beginning of the following year.
25 That's all the -- all that I know about David.

1 Q And do you know what -- what David
2 Crawford's role along with Frank Brumley and Matt
3 Sloan is at those annual meetings?

4 A I would be speculating, so, no.

5 Q Well, what -- yeah, I don't want you to
6 speculate, but if you have an understanding, I'd be
7 curious to know what it is.

8 A I don't. I kind of try to stay in my
9 wheelhouse 'cause that's the one I'm good at, and
10 stay out of the others.

11 Q I gotcha. Now, you mentioned that David
12 Crawford, Matt Sloan and Frank Brumley are at those
13 various association meetings once a year, is that
14 right?

15 A Yes.

16 Q And that's -- would that have been the
17 same back in 2016?

18 A Yes.

19 Q When you say associations, is that the
20 town association, park association, community
21 association, property owners association?

22 A There would be three meetings. There
23 would be a Daniel Island Community Association
24 meeting, and then another separate Daniel Island
25 Park Association meeting, and then another

1 separate Daniel Island Town Association meeting.

2 Q And who comes to all these meetings?

3 Sounds like the same people.

4 A Well, from a community standpoint, it
5 would be folks that live on the south side of
6 Daniel Island. And then from a town standpoint,
7 that would be townhome regimes, store owners
8 within the town area. And then from a park
9 association, that would be the north side, so golf
10 course area and the neighborhoods in between.

11 Q And in addition to those folks, there's
12 you and David Crawford, Matt Sloan and Frank
13 Brumley?

14 A Normally, because we have a decent size
15 staff, we would alternate on going to one of those
16 three. And so -- but David and Matt and Frank
17 would normally be there --

18 Q Okay.

19 A -- at all three.

20 Q At all three.

21 What about Jane Baker, would she
22 go to -- go to those meetings?

23 A Yes. She was the presenter of all
24 three.

25 Q Of all three?

1 A Um-hum. Moderator too, for that matter.

2 Q You mentioned that your office, the sign
3 says property owners association, but you said
4 there's only three meetings. Wouldn't there be
5 four? Wouldn't there be a town association meeting,
6 a park association meeting, a community association
7 meeting, and a property owners association meeting?

8 A No. It's just the three, to my
9 knowledge. The POA manages, and maybe I misspoke
10 before, but manages all three. My salary comes
11 from the town association.

12 Q Okay.

13 A If that makes sense.

14 Q So now I understand, when you said like an
15 umbrella, the property owners association really
16 isn't a thing, it's a collection of other
17 associations?

18 A Managing those associations, yes.

19 Q And at each one of those annual meetings,
20 community association, park association, town
21 association -- those three annual meetings, David
22 Crawford shows up, Matt Sloan shows up, Frank
23 Brumley shows up, Jane Baker shows up, and she's the
24 moderator of the meeting?

25 A To the ones I attended, that's who was

2 Q Okay. Do you know Janine Malloy?

4 Q Tell me what you know about Janine.

8 Q HR for the property owners association?

13 Q Okay. And if the park association had had
14 any employees, that's who they would go to as well
15 for those things, right?

17	Q	But it didn't?
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23 Q Okay. What about Brad Forster?

25 Q Do you know Mike Rollins?

1 A Yes.

2 Q How do you know Mike Rollins?

3 A He's the -- one of the owners or the
4 owner of Moonlighting.

5 Q Okay. And that's the lighting
6 subcontractor?

7 A Correct.

8 Q Or contractor, I should say. Okay.

9 A He and Doug Wickenhoefer.

10 Q Okay. Mr. Hamil, what county do you live
11 in in South Carolina?

12 A Charleston County.

13 Q Do you have any relatives who live in
14 Berkeley County?

15 A Not that I know of.

16 Q Okay. And the reason I ask is simply
17 this, if this case goes to trial, we're going to be
18 in trial in Berkeley County, we're going to be
19 polling a jury in Berkeley County, and if you live
20 in Berkeley County, you might end up on the jury.
21 And to avoid any surprises of, you know, your
22 brother showing up on the jury or whatever, since
23 you're likely going to be a witness, just like to
24 know those sorts of things.

25 Any sort of organizations

1 that -- clubs or whatever that you're a member of,
2 sporting clubs, yacht clubs, social clubs, anything
3 like that?

4 A Just -- you mean just in general?

5 Q Yeah, just in general.

6 A Oh, okay. No. I was -- well, I am a
7 pastor, but I stepped aside for a sabbatical at
8 The Church at Sewee Bay, which is in Awendaw.
9 That's about it.

10 Q Okay. And where do you -- you go to
11 church now?

12 A I worship with my family from home.

13 Q Okay. My church conducted services for
14 11-1/2 months from my back porch through COVID, so
15 if you ever go on Facebook and look at St. Anne's
16 Episcopal church, you'll see almost a year's worth
17 of videos of church services on my back porch. But
18 thank heaven we are getting back into a building
19 now, so, maybe this whole COVID nonsense will be
20 behind us before too long.

21 All right. What else -- any
22 other -- any other details about yourself that you
23 feel are particularly interesting? Anything about
24 your background you would want people to know about
25 you, or not to know about you?

1 A It's a weird way you phrased that, but I
2 would still say no.

3 Q Safe. I like it.

4 Listen, I might have some
5 follow-up questions if these other attorneys have
6 questions. If they don't have any, then I'm
7 finished.

8 EXAMINATION

9 BY MS. BAER:

10 Q This is Laura Baer for Daniel Island
11 Community Association. I have no questions. Thank
12 you for your time today, though.

13 MR. BARFIELD: Nothing from me.

14 MR. SOBOCINSKI: Thanks, Chris. I
15 don't have any questions either.

16 MR. JEFFERIES: Brandon, anything
17 from you?

18 MR. REESER: No, no questions from
19 me. Thank you.

20 MR. JEFFERIES: Outstanding.

21 Mr. Hamil, I appreciate your time very
22 much. Thank you. I hope you have a great
23 rest of your day. Hopefully we don't have
24 to call you at trial and this is the last
25 you'll hear of this.

1 THE WITNESS: My pleasure. Take
2 care.

3 MR. JEFFERIES: You do the same.

4 THE VIDEOGRAPHER: This concludes the
5 videotape deposition of G. Chris Hamil.
6 We are off the record at 11:20 AM.

7 MR. SOBOCINSKI: Chris, you have the
8 option to read through your deposition for
9 any, like, clerical errors. You can't
10 really change anything other than maybe
11 some spellings and stuff like that. Or
12 you can waive that right. It's up to you.
13 Most people waive it.

14 THE WITNESS: I'll waive it.

15 MR. JEFFERIES: Wise choice.

16 THE VIDEOGRAPHER: And Chris, I also
17 have to ask if you would like to view the
18 video at this time.

19 THE WITNESS: No, thanks. But you
20 did a great job.

21 MS. HAYWARD: Copies everyone?

22 MR. SOBOCINSKI: E-tran for me, no
23 video.

24 MS. BAER: PDF, no video.

25 MR. BARFIELD: E-tran, no video for

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me.

MR. REESER: Jan, e-tran would be
just fine.
(Signature waived, and the deposition
concluded at 11:22 AM.)

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF DORCHESTER) CERTIFICATE

3 I, Janice D. Hayward, Registered Merit
4 Reporter and Notary Public, certify that I was
5 authorized to and did stenographically report the
6 foregoing deposition via Zoom, and that the
7 transcript is a true record of the testimony given
8 by the witness.

9 I further certify that the witness was
10 duly sworn/affirmed and cautioned by me via Zoom to
11 tell the truth, the whole truth, and nothing but the
12 truth. I certify that the same was reduced to
13 typewritten form from my original stenograph notes
14 by computer-aided transcription.

15 I further certify that I am not of
16 counsel or kin to any of the parties to this cause
17 of action nor am I interested in any manner in
18 its outcome.

19 IN WITNESS WHEREOF I have hereunto set
20 my hand and seal this the 24th day of March 2021.

21 
22

23 Janice D. Hayward, RMR
24 Notary Public, South Carolina
25 My Comm. Expires 10-10-22

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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

) COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
) CASE NO. 2017-CP-08-02238

MATTHEW ZETZ,

)
)
) PLAINTIFF,)
)

-VS-

)
) DANIEL ISLAND COMPANY, INC., DANIEL
) ISLAND COMMUNITY FOUNDATION, INC.,)
) DANIEL ISLAND TOWN ASSOCIATION, INC.,)
) DANIEL ISLAND COMMUNITY ASSOCIATION,)
) INC., and MGR RESOURCES, INC. d/b/a)
) MOONLIGHTING LANDSCAPE LIGHTING)
) SYSTEMS,)
)

) DEFENDANTS.)
)
_____)

VIDEOTAPED

DEPOSITION OF:

MATTHEW R. SLOAN

MAY 9, 2022

11:57 a.m.

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19 Also present: Womble Bond Dickinson
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24 Videographer: Kevin O'Quinn
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(No exhibits marked.)

1 VIDEOGRAPHER: We're now on the record, 11:57
2 a.m. on May 9th, 2022. This is the Video Deposition
3 of Matt Sloan. Counsel has waived the reading of the
4 caption. Counsel, please state your appearances for
5 the record.

6 MR. BARFIELD: Michael Barfield, I represent
7 Daniel Island Company.

8 MR. SOBOCINSKI: Evan Sobocinski for Daniel
9 Island Town Association.

10 MR. JEFFERIES: Lane Jefferies for the
11 Plaintiff. And present is Cordes Ford, but you're not
12 chiming in, are you?

13 MR. FORD: I'm attending but not appearing
14 for any party.

15 MR. JEFFERIES: Fair enough.

16 VIDEOGRAPHER: Please swear or affirm the
17 witness.

18 MATTHEW R. SLOAN,
19 having been duly sworn, testified as follows:

20 EXAMINATION

21 BY MR. BARFIELD:

22 Q Matt, could you state your full name for the
23 record, please.

24 A My name is Matt Sloan. My given name is
25 Matthew Richard Sloan.

1 Q All right. Matt, we know each other. I'm
2 going to be very brief with my questioning, and then
3 these other lawyers may have some questions for you,
4 but first off, can you tell us about your educational
5 and professional background from college forward?

6 A Yes. Sorry, I was fixing this mic. I'm not
7 sure what went wrong there. Give me one second.

8 I am from New York City. I've been in
9 Charleston since 1991. I have an undergraduate degree
10 in industrial engineering. I have a graduate degree
11 in real estate development from Columbia University,
12 and I've been a master-planned community developer
13 since, again, 1991.

14 Q And what communities have you developed?

15 A I have been, in my previous role, the primary
16 developer for Daniel Island and then, after that, a
17 community called Carnes Crossroads up in Goose Creek,
18 and then, at the moment, I am the primary developer
19 representative, not owner but representative, for a
20 community called Point Hope --

21 Q Okay.

22 A -- on Clements Ferry Road.

23 Q I understand that you have had a long-term
24 relationship with the Guggenheim Family?

25 A Yeah.

1 Q Okay.

2 A Yeah, as recently as five minutes ago.

3 Q Okay.

4 A They are -- they are my client, and that is
5 my classmate from graduate school.

6 Q Okay. And --

7 A He's going to call while we're sitting here.

8 Q Okay. All right. Well, if we need to take a
9 break, we can do that.

10 A No, no, no. It won't be -- it will be
11 something silly, so...

12 Q The Guggenheims have a connection to Daniel
13 Island, at least they did, correct?

14 A Yes, sir.

15 Q All right. So can you give us a little
16 backstory on Daniel Island?

17 A Okay. So Harry Guggenheim bought a property,
18 which is still known as Cainhoy Plantation, in the
19 1930s, and Daniel Island was a series of truck farms,
20 but he was able to assemble them into one parcel in
21 the 1940s, so he added Daniel Island on in the 1940s.
22 And then, if you want me to go further, say the
23 question --

24 Q Sure.

25 A -- I will. So -- so the properties were very

1 different. The Cainhoy property, which is now being
2 rebranded as a community called Point Hope, which is
3 an island that's part of the assemblage, is a timber
4 property. And the main use of the property is
5 recreation, so quail hunting, turkey hunting, things
6 like that. Daniel Island, which he added in the
7 1940s, was agrarian, and apparently he loved that use,
8 so that was crops, mostly corn, and then also cattle.

9 And the way we got to where we are is in his
10 will, it said upon his passing he would leave Daniel
11 Island on to his foundation that he had -- it was
12 bequeathed to his foundation that he established
13 called the Harry Frank Guggenheim Foundation. I'm a
14 former employee of one of their subsidiaries, and
15 that's how we got to where we are.

16 Q Okay. So he passed away, it went to the
17 foundation. And how did -- how did it get from
18 ownership by the foundation to being a -- the planned
19 community that it's turned into today?

20 A A lot of that goes back to Mayor Riley, who
21 saw early on in -- around 1990, leading into late '91,
22 that the Mark Clark Expressway was going to be built
23 and that this large assemblage of land was going to be
24 sitting there. It was fairly inaccessible before, and
25 now it was going to become very accessible, and he

1 wanted that to be part of the city. He felt -- he had
2 a vision for the city, and he felt that that would
3 help make the city complete. He wanted a place for
4 big business, which is hard to do here, your parking
5 deck's full.

6 Q Right.

7 A It took me a little bit to find a spot. He
8 wanted a place for big business. He wanted a place
9 for events. He wanted a place for sports. He wanted
10 a place for upper-scale bedroom communities but also
11 affordable housing. He had a whole vision. He
12 annexed that into the city. We did that on behalf of
13 the Guggenheim Foundation. So it's called the Harry
14 Frank Guggenheim Foundation. There's multiple
15 Guggenheim Foundations. This is Harry Frank, who is
16 the landowner or the landowner's -- the landowner's
17 foundation.

18 And that's what sort of brought us into, you
19 know, the development stage. He brought water and
20 sewer to the property. He had a plan for what it
21 might become. We began to execute that on behalf of
22 the Guggenheim Foundation. And then, over time, it
23 was not an appropriate use of foundation assets, so to
24 speak. So it was acquired by a partnership that is
25 the Daniel Island Company, which I guess is the

1 Defendant here today.

2 Q That's right. Excellent summary. So who
3 initially made up the Daniel Island Company? Who were
4 the owners?

5 A The owners were Frank Brumley, who it sounds
6 like you guys spent the morning with. His late
7 brother, George, and his family's business endeavors,
8 and myself.

9 Q Okay. And --

10 A I am -- I am a minority owner there.

11 Q All right. And so you mentioned a little bit
12 about the -- Mayor Riley's vision for the island. Did
13 he have a -- once the Daniel Island Company was
14 formed, was the city, and I guess Mayor Riley
15 individually, involved pretty heavily in the master
16 plan?

17 A Yes. Everything. Everything you build in
18 this town goes through the city.

19 Q Right. So --

20 A And Mayor Riley, he was a visionary. He
21 still is a visionary, obviously. And if you read the
22 papers over the weekend, I mean, he's -- he's a man
23 with a plan.

24 Q Yeah. Definitely. Mr. Brumley testified
25 earlier that one of his requirements was that there

1 were to be no gated communities on Daniel Island.

2 A Yeah, he hates gates.

3 Q Right. And also that there would be a number
4 of public parks out there?

5 A He was not in favor of private parks, nor
6 were we.

7 Q Okay.

8 A All parks were meant to be public. The only
9 things that we've ever built in the three communities
10 that I've been responsible for that are private are
11 swimming pools, and that's strictly for liability and
12 capacity issues, but all parks are open to all.

13 Q Okay. And is it accurate that the Daniel
14 Island Company largely owned and developed the parks
15 and then turned them over to other entities?

16 A Yeah, that's what we do. So we -- in my job,
17 one of the great things is you get to build parks, and
18 you try and figure out what uses, you know, people
19 might like, and you build a park programmed along
20 those uses. You build it -- you own it for a little
21 bit, just to make sure -- it's like building a house
22 and having a punch list. And so you make sure
23 everything is just right, and then you turn it over to
24 a property owners' association; and that is what is
25 industry custom in our business.

1 So we would hold for a year or less until all
2 the details are done, and then we would turn over to,
3 in this case, I guess, your client, the Daniel Island
4 Town Association.

5 Q All right. And is it true that in some
6 cases, some of those parks are actually turned over
7 directly to the City of Charleston?

8 A No, it doesn't -- that's a little different.
9 In some cases, the City of Charleston builds a park,
10 and so we just give them the land, and then they
11 build, and then it is their responsibility from that
12 point forward.

13 Q Got it. Okay.

14 A I don't recall us ever building a park that
15 we've turned over to the city.

16 Q Okay.

17 A Because we would prefer that to be maintained
18 by the property owners' association, which typically
19 can offer a higher level of maintenance.

20 Q Okay. Now, the park that we're -- that this
21 case is about is a park that was commonly known as the
22 Childrens Park; are you familiar with that parcel?

23 A Yeah.

24 Q All right. Do you remember the -- sort of
25 the concept for the design of that park and how that

1 came about?

2 A Yes, I do.

3 Q All right. Can you tell us a little bit
4 about how it came to be?

5 A I mean, it's a nice story. We were trying to
6 -- we decided to build our sales office down by the
7 Wando River as opposed to up by the Mark Clark
8 Expressway. And we said, you know, it's a beautiful
9 spot there, there's an allée of oaks, and we wanted to
10 do something special there as a way to kind of
11 incentivize others to possibly build around us because
12 we had our office there, and we were kind of alone in
13 a field.

14 And we came up with a concept -- this is --
15 you met Frank Brumley this morning. His brother was
16 all about children. He was a retired head of
17 pediatrics at Emory, at the time. He was all about
18 early childhood development, and he said, well, let's
19 build something that children will enjoy and they will
20 learn something.

21 So we engaged an architectural firm who
22 specialized in children's museums and said, okay, you
23 know, I know how to build a park, and I'll put a
24 playground in and I'll put a basketball court in but
25 as far as engaging with children, we brought in a

1 specialist, best-in-class, he had just finished
2 designing a children's museum in Chattanooga,
3 Tennessee, and we said, what can we do that's special
4 here? And he came up with the concept that we then
5 developed, and then we hired best-in-class as far as
6 landscaping contracting firms to develop it.

7 Q Okay. So what -- I understand that the park
8 has since been -- the original park has since been
9 razed and redeveloped with a new concept but the
10 original concept, can you kind of just briefly
11 describe what was out there?

12 A Yeah, it was meant to be -- it was. It
13 wasn't meant to be. It was -- it turned into an
14 interactive map of Charleston, and it was very cool in
15 that Charleston's defined by bridges and rivers, and
16 you could enter that park as a child or an adult or an
17 adult leading a child and say okay, I'm like at West
18 Ashley now. So I see a little placard that explains
19 that, and now I'm going to walk over a bridge, and now
20 I'm in downtown Charleston. And now I can walk over
21 another bridge, and now I'm in Mount Pleasant and walk
22 over another little footbridge and now I'm on Daniel
23 Island, and you learn things along the way. And it
24 was defined by these water channels or trenches that,
25 you know, water -- water flowed through, and you got a

1 sense of the rivers. So it was great. It was a
2 wonderful, exploratory thing.

3 Q Got you. And as I recall, there was like a
4 shrimp boat that -- that the --

5 A Yeah, it --

6 Q -- kids would get on and play on?

7 A Yeah, the water feature -- the water features
8 ended in an oversized area which was meant to signify
9 the Charleston Harbor, and there's a shrimp trawler
10 entering the harbor there. So that was -- that was
11 our concept.

12 Q Got you. All right. And do you remember
13 about when that park was constructed?

14 A I remember the dedication plaque said 2000 on
15 it, and -- and I don't know where that plaque is right
16 now, but we must have started on it in 1998, as far as
17 getting it approved, and we must have built it in
18 1999. And then, if we opened it in 2000, that would
19 be a logical chronology.

20 Q Okay. And then shortly thereafter, was it
21 turned over to one of the property owners'
22 associations?

23 A It would have been turned over to the Daniel
24 Island Town Association either immediately upon
25 completion or after a shorter period, and I don't know

1 -- somebody can look up that transfer date.

2 Q Okay.

3 A I'm sure it was turned over quickly.

4 Q All right.

5 A And so our company, we -- we -- you know,
6 we're a for-profit developer. We come up with ideas,
7 we design them, we build them, we implement them, but
8 we don't maintain. All -- they're dedicated off to
9 POAs. They're open to -- property owners'
10 associations, excuse me. They're open to all, but the
11 property owners' association has to maintain them.

12 Q Okay. And -- and so as a for-profit
13 developer, Daniel Island Company derives its income
14 from, what, the development and sale of real estate?

15 A Yeah. Yeah. What we do -- I'm not there
16 anymore --

17 Q Okay.

18 A -- but what we have done and very
19 successfully is we put in infrastructure, and we
20 create either home sites for residential or commercial
21 sites for office and retail and whatnot, and we
22 enhance the values of those places by buildings parks.

23 Q Okay. And the -- do you recall about how
24 many property owners' associations there are on Daniel
25 Island?

1 A There are three.

2 Q Okay. And so what -- what distinguishes one
3 from the other; is it geography?

4 A It's geography. So there are three: One is
5 the Daniel Island Community Association, which is all
6 of the residential on the south side of Daniel Island.
7 One is the Daniel Island Park Association, which is
8 all the residential on the north side of Daniel
9 Island. And then one is the Daniel Island Town
10 Association, which is all of the commercial, and
11 commercial is a bit of a misnomer because it also
12 includes condominiums and apartment complexes and
13 things like that, so --

14 Q Got you.

15 A -- it's our mixed-use district.

16 Q So how -- and are all of those associations
17 non-profit companies?

18 A Yeah, of course.

19 Q Okay.

20 A That's -- that's the case with every property
21 owners' association that I've ever heard of.

22 Q Okay. And so how -- how do these non-profit
23 associations, how are they funded?

24 A There -- there's dues formulas on each of
25 them. Some are very simple. It's like okay, if you

1 have 100 houses, each house pays, you know, a dollar,
2 and then some are more complicated. So the Daniel
3 Island Town Association is funded on this very
4 complicated formula of land and building points. So
5 if you have a big piece of land and a big building,
6 you get assessed based on the size of the amount of
7 acreage you have and then the size of your building.

8 If you have a big piece of land and a small
9 building, you pay less; if you have a small site but a
10 really big building on the small site, you would pay
11 more, but that's how it is. It's an annual
12 assessment. It happens once a year.

13 Q Okay. And did the Daniel Island -- does the
14 Daniel Island Town Association, or did it as of 2016,
15 have any employees?

16 A I think so.

17 Q Okay. And who kind of ran the day-to-day
18 operations of that entity?

19 A That would be Jane Baker at the time, in
20 2016 --

21 Q Okay.

22 A -- but she had a staff there. We -- she
23 would have outsourced for landscaping and things like
24 that, but she had in-house staff for admin and
25 customer service, if a property owner has a concern or

1 a complaint or, you know, the streetlight's out and
2 they don't know where to go, all that, so she would
3 have had staff. I don't know what their names may
4 have been at that time or how many there were.

5 Q Okay. And what -- what -- out of what
6 facility did Jane Baker and her staff work?

7 A She had -- at that time, I believe she had
8 moved into an office on River Landing Drive, and I
9 apologize, but I can't remember the exact street
10 address.

11 Q Perfectly fine. Perfectly fine.

12 A I think you could Google it right now and
13 find it. It's the same -- I believe she's -- she and
14 her staff are at the same office now as she was in
15 2016.

16 Q Okay. And what about your office, where did
17 you physically work when you were out there?

18 A At that time, in 2016, I was at a building on
19 230, two three zero, Seven Farms Drive above a Synovus
20 Bank branch, and that's where we ran our development
21 office. So we had departments there, development,
22 finance, marketing, and myself, and that's where we
23 were.

24 Q Okay. Now, we've heard some -- we had some
25 testimony in the record of this case about the fact

1 that the Daniel Island Company, as part of the master
2 deed or development plan, what have you, would have
3 control of the boards of the various property owners'
4 association for a given period of time or up till some
5 triggering event. Can you tell me -- tell us why that
6 is, why -- why the developer would keep control or the
7 right to control those boards?

8 A Well, that's just how it is -- that's
9 industry standard in my world. The developer always
10 controls up to a certain point. Sometimes it's tied
11 to you sold a certain percentage of your property, or
12 sometimes there's an end date. So as an example, the
13 Daniel Island Town Association, which this gentleman
14 represents, has a turnover date of 2025, regardless of
15 how many people own what, but as the developer, you're
16 putting all of your assets into -- and all of your
17 energy into building a community, and you want to be
18 able to control what is built and how it is managed
19 and add value to the community that way.

20 Q Okay.

21 A So that's what people in my job do.

22 Q Got you. So if there was a -- well, let me
23 ask you this: Did the various POAs, including town
24 association, have annual meetings?

25 A Yeah. Yeah. Yeah, those were a big thing

1 for us --

2 Q Okay.

3 A -- actually, and we would do that at the end
4 of the year before we sent assessments out. And so we
5 would have three: Daniel Island Community
6 Association; Daniel Island Park Association; and
7 Daniel Island Town Association.

8 Q Okay. And were those meetings open to the
9 residents who were under the auspices of one of those
10 associations?

11 A Yeah, of course. They were actually open to
12 all. They were open to media, because the media would
13 attend, but that's a chance for the residents or the
14 business owners, depending on your association, to
15 come in and state what's on their minds and things
16 like that, so they were open meetings.

17 Q Okay. What about -- what about board
18 meetings with Daniel Island Company, are those open
19 meetings or -- the for-profit entity?

20 A No. No. Those are not open.

21 Q Okay.

22 A That's a -- you guys were just with Frank
23 this morning. That's a closed -- that's a closed
24 meeting.

25 Q Right.

1 A We're a closely-held private company.

2 Q All right.

3 A The difference between Daniel Island Company
4 meetings and association meetings is night and day.

5 Q Got it. Now, were -- for association
6 meetings, I'm assuming some notice was sent out to the
7 community?

8 A You should ask Ms. Baker but, yes. There's a
9 -- she was earnest in making sure that those protocols
10 were followed and that proxy votes were tallied and
11 things like that. I think it was a 30-day notice.
12 I'm not knowledgeable about that.

13 Q Got you. Were meeting minutes maintained?

14 A Yes.

15 Q And were separate accounting books maintained
16 for all of those associations?

17 A Oh, of course.

18 Q Okay. And --

19 A And I think each association had their own.
20 Well, actually I know that to be true. Each
21 association had their own, and those are completely
22 independent from the Daniel Island Company, the
23 financial records, and done by different firms, and I
24 don't know anything about those.

25 Q Okay. And did the various associations

1 maintain separate insurance policies?

2 A I believe so. I believe each -- I believe
3 each association had their own -- first of all, their
4 policies were completely different from the Daniel
5 Island Company policies, but I believe each
6 association had their own.

7 Q Got you. So there's another entity that's
8 been discussed in this case called the Daniel Island
9 Community Foundation. Can you -- do you know anything
10 about that entity?

11 A Yeah. Yeah. So we have an entity called the
12 Daniel Island Community Fund, which is funded by
13 enhancement fees. That -- that's a fancy way of
14 saying every time a piece of property resells, a half
15 a percentage point up to a certain max goes to this
16 Daniel Island Community Fund. It's a -- it's a
17 private 501(c)(4). It's got an amazing record of
18 philanthropy, something that I'm very, very proud of.
19 And then -- but because it's a (c)(4), contributions
20 to it are not tax deductible because the contribution
21 is mandatory. It comes off the resale.

22 So we set up a (c)(3) called the Daniel
23 Island Community Foundation, which was meant to be --
24 it still is meant to be a way for people who want to
25 give but also receive a taxable benefit from it.

1 Q So was one or both of those entities directly
2 involved in the event that's called Park Day?

3 A Apparently. I don't know, but -- but I think
4 -- the purpose of Park Day was to raise money for
5 charities, and that's why everyone was out there was
6 to gain awareness and things like that. And we
7 offered these opportunities, as I understand it, from
8 -- for these different charities, and somehow the
9 foundation got in the middle of -- a conduit in that
10 regard.

11 Q Okay. Did Daniel Island Company make any
12 money on the Park Day event?

13 A No. No. We didn't -- we didn't know it was
14 going on.

15 Q Okay.

16 A As my partner probably explained this
17 morning.

18 Q Yeah. Yeah.

19 A We started it years and years ago because we
20 -- the charitable mission is a big thing with us, but
21 by 2006, we were long gone from that, and that was
22 something that was run by the Daniel Island Town
23 Association.

24 Q Okay. To your knowledge, had there -- prior
25 to the Plaintiff, Mr. Zetz, sustaining injuries in the

1 Childrens Park, to your knowledge, had there ever been
2 another person injured out there?

3 A No.

4 Q Okay. So if that park had been there since
5 '99 or 2000, that's 16 or 17 years of no problems that
6 you're aware of at that park?

7 A This is the first incident that I'd ever
8 heard of.

9 Q And did Daniel Island Company, you or the
10 other owners of Daniel Island Company have anything to
11 do with the operations of that park after ownership
12 was turned over to Daniel Island Town Association?

13 A No. No. I don't even know who was
14 maintaining it.

15 Q Okay. But there were people in place whose
16 jobs it was to maintain various common areas of the
17 Daniel Island community?

18 A There are three associations on Daniel
19 Island, as stated earlier, and each of those
20 associations maintained the spaces that were allocated
21 to them, and so there was the Daniel Island Town
22 Association, which was responsible for that
23 maintenance.

24 Q Okay. And -- but as a -- as a -- so what was
25 your role as a member of the board of town association

1 in a broad sense? If you were not involved in the
2 day-to-day operations, what was your function as a
3 board member?

4 A Well, as a former board member, the function
5 is pretty limited. You approve a budget once a year.
6 As somebody who works alongside professional
7 colleagues, Ms. Baker was my colleague there. So I
8 was the person that she would speak to if something
9 good happened, if something -- you know, if there was
10 an issue, things like that. And then I think the only
11 formal decision would be once every couple years, she
12 would let the maintenance contract out for bid, and
13 she would come in and say, "Okay. We've put this out
14 for bid. Here are the bids. This is the firm I think
15 we should go with."

16 Q Okay.

17 A That kind of thing, but nothing -- no daily
18 type of discussion, other than being there for her as
19 a professional colleague.

20 MR. BARFIELD: Okay. All right. I think
21 that's all I have. Please answer any questions that
22 Mr. Jefferies might have for you.

23 MR. SOBOCINSKI: I don't have any.

24 THE WITNESS: I'm a little -- I'm a little
25 confused. You're representing the town association?

1 MR. SOBOCINSKI: Correct.

2 THE WITNESS: So are you going to be
3 questioning me?

4 MR. SOBOCINSKI: I don't have any questions
5 for you at this time.

6 THE WITNESS: Okay. Yeah, I didn't expect
7 it. So that's not -- that's fine.

8 (Off the record briefly.)

9 EXAMINATION

10 BY MR. JEFFERIES:

11 Q Tell us, if you would, Mr. Sloan, about your
12 relationship with Frank Brumley. And what I mean is
13 like just give us the history, like when did you meet
14 Mr. Brumley? What kind of work did y'all do together?
15 I don't need all the detail, but kind of catch us up
16 on how you got from not knowing him all the way up
17 through today.

18 A I met Frank Brumley in 1991. I came here to
19 start to figure out how Daniel Island could be
20 developed. That was driven by Mayor Riley, who had
21 annexed it into the city. I was given a list of names
22 with people to talk to. It was a long list, and it
23 was in alphabetical order. So I met Frank on my first
24 day here in Charleston.

25 Of course, his long-deceased senior partner

1 at what was Buist Moore was Harry Guggenheim's
2 attorney. I met with him. I went over the list. He
3 said, "Go talk to these people, blah, blah, blah." So
4 I met Frank, and we -- I was the development project
5 manager. Frank became our commercial real estate
6 representative. And then, as things progressed, we,
7 alongside his brother, became the owners of Daniel
8 Island in 1996, it might be '97.

9 Q So --

10 A So Frank and I have been partners forever.

11 Q For a long time?

12 A Yeah.

13 Q You started alphabetically and got as far as

14 B --

15 A I never made it to Charlie Way.

16 Q Okay. There you go.

17 A That's a joke between me and Charlie, by the
18 way.

19 Q Why did you -- what did you like about Frank
20 that made you stop and say, "This is my guy?"

21 A I wasn't in a position to say "this is my
22 guy." I was young, and I was in a position that --
23 like to gather information, and Frank was informed,
24 and Frank knew the politics of the city, and we needed
25 help. And so we -- we -- we became -- we weren't

1 partners then, but we established our professional
2 relationship very quickly.

3 Q Right. Frank, earlier -- Mr. Brumley earlier
4 told us about his relationship with Charles Fraser and
5 then the work he did with Sea Pines and that
6 development concept, which was kind of -- was
7 pioneered, really, by -- by Fraser.

8 A Charles Fraser was a visionary.

9 Q He was.

10 A I knew him briefly. Frank was trained by
11 him.

12 Q That's kind -- so that's kind of -- it's to
13 some degree like your intellectual heritage in
14 development is Fraser and Brumley and Sloan?

15 A Fraser is a different level. He influenced
16 people who are working all across the country right
17 now.

18 Q Why do you think that is? Why do you think
19 his concept -- other than he was brilliant and he
20 hired more MBAs out of -- out of Ivy League schools
21 than, I think, anybody else at the time, why did his
22 concept catch on?

23 A He understood what people wanted and how they
24 wanted to live, and he built an incredible team of
25 professionals that would also be working under Sea

1 Pines -- the Sea Pines umbrella today, were it not for
2 Sea Pines imploding due to some bad decisions, but he
3 understood what people wanted, and it started at
4 Hilton Head. And there at Hilton Head, he understood
5 that people wanted to live with nature, and that was
6 one concept, and then -- I can't speak for Frank, but
7 Frank got put in my job at Kiawah in the 1970s to
8 carry that same concept forward. So it's an
9 unbelievable pedigree of people that have been
10 involved there.

11 Q And -- and that was really pioneering work.
12 I mean, that -- prior to that, people, by and large,
13 as I understand it, if you were a developer, you
14 bought a big chunk of land, you broke it up, you sold
15 it in lots, and there might not really be any
16 continuing control over that land, so who knows what
17 was going to happen. The nature might be wiped out by
18 the subsequent owners.

19 A And Charles Fraser was really a pioneer, as I
20 -- this was before my time --

21 Q Right.

22 A -- you know, I was a kid, but he was a
23 pioneer in setting up CCRs, Covenants Conditions
24 Restrictions, and governance on how communities work,
25 and the developer does this, turn it over to the POA,

1 ultimately, the developer leaves, the POA assumes
2 control, all of this goes back to Sea Pines.

3 Q And that was -- that was cutting edge at the
4 time. Now it's kind of the standard, I mean, pretty
5 much --

6 A Yeah. I was in high school.

7 Q Right. One of the things Mr. Brumley told
8 us, and I'm curious if you agree with it, is that by
9 using that method, by doing the CCRs and having a POA,
10 the developer can keep some control and also could
11 increase the value of the lots that they were selling
12 because they did have that control, that -- that the
13 market was willing to pay more for a lot in an HOA
14 community where they knew their neighbor wasn't going
15 to have a car up on blocks in the driveway or build a
16 chain-link fence or keep dogs or anything like that
17 than they were when all those things were the case.
18 That was actually a -- not only was it good
19 aesthetically, it was profitable; would you agree with
20 that?

21 A I'm not -- I'm not -- of course, I do. And
22 I'm not sure where you're going with that, but what
23 people like myself and Frank, you know, do is you try
24 and create place. And if you create place, then the
25 value of the place you've created adds value to the

1 surrounding properties that you own. So you're using
2 Charles Fraser as an example, Harbour Town is a great
3 example. I don't think Charles Fraser made a nickel
4 off of Harbour Town. In fact, I'm -- I'm sure he lost
5 tens of millions of dollars and things like that
6 because that was an expensive place to build, but look
7 what it did.

8 Q Right.

9 A And it put Hilton Head on the map.

10 Q Right.

11 A So that's -- that's the mindset that you
12 have.

13 Q And the idea of that was to add value. He
14 didn't intend to lose money on it, on Harbour Town.
15 He meant to make money, right?

16 A I think he -- I don't know. I can't -- you
17 know, I was -- I was a kid.

18 Q Right. You meant to make money though, in
19 your developments. Not only to do good work but to
20 make money?

21 A Our developments have been proven that if we
22 create a nice sense of place that the value permeates.
23 The residents -- you attract more residents because
24 you've created a nice place, and, perhaps, they pay a
25 little bit more for the place they are buying because

1 there's something nice there.

2 Q Right. And -- and an assurance that that
3 something nice will stay, that there's not -- they're
4 not just relying on what the current neighbor is
5 doing, because there's some rules?

6 A There's rules and then -- I think you're
7 hitting on something that's relevant. So I don't know
8 if you live in a planned community or not or --

9 Q I live in a very tiny one, but yes.

10 A You live in a place where there's a POA?

11 Q Right.

12 A So -- so what -- if your POA controls the
13 open space, you should have peace of mind because you
14 then have a vote in it. If the developer continues to
15 own it -- and this has happened, actually, it happened
16 at Sea Pines of all places. If the developer
17 continues to own it, then you never know: The
18 developer may say, "Hey, you know what? Let's put a
19 condo there."

20 Q Right.

21 A Or something like that, so that's -- that's
22 how it works. You turn it over to the property
23 owners' association and -- and -- and people have
24 comfort and -- and pay for and oversee the ongoing
25 maintenance of it.

1 Q Right. Yeah, and you saw that a lot in
2 Myrtle Beach, where the developers kept the golf
3 courses, and now they're all becoming condos, Litch --
4 Deerfield and all of these --

5 A I'm not telling you anything you don't know.

6 Q Yeah, that's -- now, there's the transitional
7 period, right? So there's -- when the developer first
8 develops, they own everything. And ultimately,
9 there's a property owners' association that's going to
10 own everything and control itself. And somewhere in
11 the middle there, there's the property owners'
12 association that owns the stuff but it's still
13 controlled by the developer; is that fair?

14 A Yeah, that's -- that's how it works. So his
15 client will have complete control in 2025. One of our
16 three associations on Daniel Island, I turned over
17 last year.

18 Q Which one was that?

19 A That was the Daniel Island Community
20 Association.

21 Q Okay.

22 A And that was tied to a percentage of
23 build-out. So that turned over last year, and then
24 the third association will turn over no later than
25 2025 and possibly earlier.

1 Q And that's the park --

2 A The Daniel Island Park Association.

3 Q Park Association, okay. Back in -- well, let
4 me ask you this first: What's your relationship with
5 the Daniel Island Company now?

6 A I'm an owner.

7 Q Okay. Do you have a role other than being an
8 owner?

9 A No.

10 Q Okay. You're not an officer any longer?

11 A No.

12 Q All right. When was the last time you held
13 an officer position with the Daniel Island Company?

14 A I think it was two years ago.

15 Q Okay. And what made you choose to get out of
16 that operational role and --

17 A It was a long -- it was a long relationship,
18 and it was time for it to transition to the --

19 Q Okay. And you would go do some other things?

20 A I am doing other things.

21 Q Back in 2016, you were an owner -- a part
22 owner of Daniel Island Company?

23 A The same percentage as I am today.

24 Q Okay. Can you tell us what that percentage
25 is?

1 A 20.

2 Q 20, okay. Who are the other owners?

3 A The other owners are Frank Brumley, who
4 you've met, and his -- I don't know how to describe
5 his brother's family's interest because most of them
6 were killed in a plane crash.

7 Q Oh, I'm sorry.

8 A So -- all at once. So there's an -- you
9 would -- you should ask Frank about that, but that's
10 50 percent. So Frank and I, he's 30, I'm 20, and then
11 the other 50 --

12 Q Is his family in some fashion --

13 A And I'm not -- yeah. I'm not the right
14 person to speak about that.

15 Q Right. What -- back in 2016, what officer
16 were you with at Daniel Island Company?

17 A I was the president.

18 Q The president, okay. When you started
19 working with Mr. Brumley back in the early '90s and
20 developed the concept of -- of developing Daniel
21 Island, did he at that time share with you kind of
22 Charles Fraser's vision for this is -- this is how you
23 do it, this is how you do one of these planned
24 communities so that -- so that people want to live
25 there, so that you add value, so that you preserve

1 things?

2 A No. You know, it wasn't like that. It
3 wasn't like a -- you know, him lecturing on this. I
4 did -- I did note -- I've met Charles several times
5 before his passing. Charles wanted to put a theme
6 park. He wanted to put a -- it wasn't Disneyland. It
7 was one of the other -- so it was Six Flags. He
8 wanted to put a Six Flags where the tennis stadium is.
9 That was -- that was his -- his idea.

10 Q That was not your vision?

11 A Well, maybe he was right. I don't know, but
12 -- but no, Mayor Riley laid out -- laid out a vision
13 for the community. He laid out what he wanted. I
14 said this earlier and I'm on tape about it, and -- and
15 -- and then you kind of go from there, and you just
16 try and create places where people want to be, which
17 is what I do. I've been doing it my whole adult
18 career.

19 Q I want to run through and just make sure I
20 have the various offices that you held correct. So
21 back in 2016, you would have been president --
22 president of the Daniel Island Company, right?

23 A Yeah, I think so.

24 Q Okay. And back in 2016, with respect to the
25 Daniel Island Community Association, you would have

1 also been president of the community association?

2 A I don't think so. I -- I think Frank -- I
3 knew you were going to ask this. I think -- and I'm
4 sorry, I got bogged down over the weekend because I
5 meant to look this up. But I believe Frank was the
6 president, and I was like the secretary or something.

7 Q Okay.

8 A That's a question for -- for Ms. Baker.

9 Q Okay. I can tell you, I'll represent to you
10 that when we asked the community association what
11 roles you and Frank had back in 2016, the answer was
12 Matthew Sloan, president; Frank Brumley, vice
13 president; David Crawford as secretary and treasurer.
14 Could that be right?

15 A Okay. You might be right --

16 Q Okay.

17 A -- in that regard. I don't know.

18 Q And if not, you think you might have been
19 secretary or treasurer at the time?

20 A I -- I don't know if I was the president or
21 not.

22 Q Right, but you held one of the four offices?

23 A I certainly did.

24 Q Okay.

25 A And the board -- the board was Frank, myself,

1 and David Crawford.

2 Q Okay. And then two other people that were
3 like property owners or something would have been on
4 the board of the community association?

5 A It's complicated. On the community fund, we
6 had others. I don't know who -- I don't recall others
7 being on the community association boards. Is that
8 right? Am I -- do you -- you don't know?

9 MR. BARFIELD: I can't tell you.

10 THE WITNESS: Okay.

11 BY MR. JEFFERIES:

12 Q And I promise, I'm not trying to trip you up.

13 A No, I get it. I'm just thinking about being
14 at all these annual meetings.

15 Q Right.

16 A And it was only me, Frank, David sitting
17 there. If there were two other guys involved, then --

18 Q They might have --

19 A -- then why the heck didn't they show up?

20 Q Right. Got you. So the common theme is --
21 is Matt Sloan, Frank Brumley, David Crawford at the
22 various board meetings?

23 A Yes.

24 Q Okay. So the community association,
25 community foundation, town association, park

1 association --

2 A We kept that all in sync. The community fund
3 -- the community fund board is larger --

4 Q Right.

5 A -- and that includes residents, but that has
6 nothing to do with this deposition.

7 Q Okay. So -- and that -- of course, that
8 makes sense because back in 2016, all of the property
9 owners' associations were still controlled by the
10 developer. I mean, that's why y'all were on the
11 board?

12 A That's -- that's how it works.

13 Q Right. Yeah, they had -- none of them had
14 been handed over at that stage.

15 A And just -- I'll give you an education, if
16 you want. The developers don't want to control the --
17 as soon as the developer is able to turn things
18 over --

19 Q They want to?

20 A -- you want to.

21 Q Sure.

22 A Yeah, because it's the residents' money.

23 Q Right.

24 A And so you're making decisions with other
25 people's money.

1 Q Right.

2 A And let them decide but while you're in your
3 control period and you're developing, you want to have
4 some guidance on that.

5 Q Right.

6 A And then, you know, I can give you half an
7 hour on this off -- off -- you know, offline about why
8 it works that way, but that's -- that's commonplace,
9 that's every single community --

10 Q Right.

11 A -- that's being built in this country right
12 now.

13 Q Nothing unusual about the developer having
14 control of the property owner board for some period of
15 time; that's the industry standard?

16 A 100 percent.

17 Q Okay. And, of course, there -- you wouldn't
18 be surprised as a legal matter that there are always
19 consequences for having control of something. If you
20 have control of something, there's going to be some
21 consequence of that?

22 MR. BARFIELD: Object to the form.

23 BY MR. JEFFERIES:

24 Q Would that surprise you at all?

25 THE WITNESS: What's that?

1 MR. JEFFERIES: You get to answer.

2 MR. BARFIELD: Oh, I just lodged an
3 objection. You can go ahead.

4 MR. JEFFERIES: You can go ahead and answer.

5 THE WITNESS: I -- sorry, I got distracted.
6 What was your question?

7 BY MR. JEFFERIES:

8 Q Would it surprise you to know that there are
9 always legal consequences from having control over
10 someone or something?

11 A Of course.

12 Q That's normal, right?

13 A It comes with the territory.

14 Q It comes with the territory. I control my
15 paralegal, if he or she screws something up, I'm on
16 the hook for it because I have control, right? Do you
17 agree with that?

18 A Yes --

19 Q Okay.

20 A -- to a point.

21 Q Okay. What would be that point; is there
22 something beyond which --

23 A If your paralegal does something that's
24 completely off-base, like --

25 Q Right.

1 A -- commits a criminal act or something like
2 that --

3 Q Right.

4 A -- yeah, I mean, I think there's limits. So
5 your question is a little --

6 Q Yeah. It's hypothetical, of course. So back
7 in 2016, when Daniel Island Company had control over
8 the boards of town association and park association
9 and community association and I think you said as
10 well, community foundation; is that right?

11 A Community fund and then this community
12 foundation.

13 Q Back when Daniel Island Company as the
14 developer had control over those entities, it could
15 listen to resident input, of course, and probably did,
16 right?

17 A Of course.

18 Q It could choose to honor that input, do what
19 the residents wanted, if it wanted to, right?

20 A Of course.

21 Q It could also choose to consider that
22 resident input and go a different way and say, "Nope,
23 we're not going to do that. We're still in control.
24 We are going to overrule you guys. We're going to do
25 something else?"

1 A Of course, you're asking me questions you
2 know the answer to, so...

3 Q Did y'all -- how much control did Daniel
4 Island Company exercise back in 2016? It had this
5 control; did it really exercise it?

6 A That's a really broad statement, that --
7 you're covering every single issue --

8 Q Right.

9 A -- that -- that the associations deal with,
10 and the -- there's no clear answer because it varies
11 by the issue.

12 Q Okay.

13 A And if you want to tie it down to the park in
14 question, well, I can answer it that way but --

15 Q Sure. Yeah. Yeah.

16 A How much influence did we have? Very, very
17 little. We paid attention. And by "we," I mean me,
18 because I was Jane Baker's colleague, and if she had a
19 good day, she would let me know she had a good day and
20 if she had a bad day, she would let me know she's
21 having a bad day, and you're going to get a chance to
22 talk to her, but if something was making her, you
23 know, upbeat, I would be the one she'd let know and if
24 something was dragging her down, she would have called
25 me at that time, but as far as day-to-day, you know,

1 "are you cutting the grass," zero.

2 Q But you could have exercised -- Daniel Island
3 Company could have exercised day-to-day control over
4 cutting the grass had it wanted to? That's just a
5 silly example --

6 A That's not what we do.

7 Q Right.

8 A The Daniel Island Company is about -- my job
9 is to make money. We're a for-profit company. So
10 every hour I spend dealing with the non-profit is an
11 hour that I'm not making money for -- for our company
12 or was not making money for our company at that time.
13 So to the extent that everything was successfully
14 delegated, that's what good managers do.

15 Q And how would you know, how would the Daniel
16 Island Company know that everything was successfully
17 delegated as opposed to just delegated?

18 A We would rely on -- well, first of all, it's
19 -- you live in a place with a POA. If people are
20 pissed off, you're going to know about it. Your phone
21 is going to ring, you're going to get e-mails saying,
22 "Why is this happening, what's that," et cetera, et
23 cetera," but you rely on your manager. And so that
24 was -- that was Jane -- Ms. Baker's job was to say if
25 things are going good or if we got a little bit of a

1 problem.

2 Q What if it's the kind of thing that wouldn't
3 piss off the average -- to use your terminology,
4 wouldn't piss off the average homeowner? I'll give
5 you an example. In my community, we're a small
6 community. We are probably the smallest HOA community
7 I've ever heard of. We have seven homes in our
8 community. We did that to build a community pool, a
9 community pool. Because it's a community pool, there
10 is a rope that goes across the middle to separate the
11 shallow end from the deep end --

12 A Yeah. You've got to have that for liability
13 purposes, by the way.

14 Q Right. And DHEC will bust you if you don't,
15 if they ever come by and check, right? Our homeowners
16 routinely take that rope down and put it off on the
17 side of the pool because they don't like it being
18 there. So when it's missing, nobody is pissed off, in
19 fact, they're happy, but we always have to put it
20 back; that's the sort of thing that no resident is
21 going to complain, "hey, the thing is missing." It's
22 the president's job -- because we only have seven
23 people, we don't have a full-time staff. It's the
24 president's job to make sure it's up so we don't get
25 popped by DHEC. So what about things like that that

1 wouldn't make a resident angry but ought to be on
2 somebody's radar, how do you know as the developer
3 that you successfully delegated?

4 A I'm -- I'm not trying to push things off to
5 Ms. Baker, but that's her job, to say, "We've got a
6 problem. God darn it, somebody took the rope down,
7 get -- somebody needs to get out there and swim across
8 the pool and put it back up." That would never --
9 that would never enter the developer spectrum.

10 Q How do you know the Jane Baker person or
11 whoever's responsible, how do you, as the controller
12 and developer, know that they're doing their job and
13 doing it well?

14 A How do you know that your paralegal is doing
15 her job and doing it well?

16 Q Well, I'll answer: I monitor, and I check.
17 So how do y'all do it? Like how did you know, back in
18 2016, that Jane Baker or whoever was doing that job
19 was looking at the things that needed to be looked at?

20 A Because that's what you do as a manager, and
21 Jane is my professional colleague, or was at that
22 time, and she would let me know. Now, the pool -- the
23 rope in the pool could have been off for three weeks,
24 I would never have known about it, but I would have
25 counted on Jane to say, "We've got this problem:

1 Every time we put the rope back up in the pool,
2 somebody takes it down," but that was the basis of the
3 professional relationship. If she had something on
4 her mind, she would let me know. Could she have kept
5 things from myself and the board members? Certainly,
6 but that's not her; she's a professional.

7 Q If she notices?

8 A Or if her staff notices.

9 Q Back in 2016, as the developer in control of
10 the town association and community and park, what sort
11 of routine reports would you require from those
12 entities to make sure they were doing a good job?

13 A Nothing formal, and it was informal
14 discussion, so it was, you know, talking pretty much
15 every day.

16 Q Nothing written?

17 A No.

18 Q What sort of instructions did -- back in 2016
19 and prior to that, did Daniel Island Company as the
20 controlling developer give to these various entities
21 that it controlled, including town association, about
22 safety policies and safety procedures?

23 A Zero.

24 Q But it could have had it wanted to, right?

25 A It was not needed. We relied on the

1 association to come up with their own protocols. We
2 would have communal discussions about like hurricane
3 stuff, which like in my office -- probably in your
4 office, if a hurricane comes, fairly simple, but for
5 Jane, in her world, hurricanes are a major issue, so
6 we would have conversations about that, but we've
7 never had a conversation about a swimming pool or --
8 or the park in question.

9 Q And Daniel Island Company never gave any
10 instruction to any of these entities about develop a
11 policy around parks, pools, et cetera, with respect to
12 safety?

13 A They had been developed. The policies had
14 been -- had been -- whatever policies there were were
15 in place.

16 Q Okay. And so we would have copies of those
17 by now, had we -- we requested them, so--

18 A I don't know if they --

19 Q -- if they existed, we would have them?

20 A I have no idea if they were written --

21 Q Okay.

22 A -- policies. I don't think they were.

23 Q Would anyone at Daniel Island Company,
24 besides yourself, have an idea as to the existence of
25 such policies if they existed?

1 A No.

2 Q So you're the guy?

3 A I'm the guy, and they were -- I've never --
4 just to cut to the chase: There's never been a policy
5 for the maintenance of Childrens Park that -- that's
6 in writing. It was: We are going to bid this out;
7 it's going to go to this contractor; they're going to
8 do it, and that's it. There's no -- the booklet
9 you're looking for never existed.

10 Q Okay. Now, just to make sure I'm clear, if
11 I'm understanding you correctly: Had Daniel Island
12 Company wanted to, it could have told the town
13 association, "Listen, you need to come up with a
14 written policy to ensure the safety of our guests at
15 all of these parks?"

16 MR. BARFIELD: Object to the form.

17 BY MR. JEFFERIES:

18 Q They could have done that, right?

19 A We had no need for that.

20 Q I'm sorry, that really wasn't my question.
21 My question was: Could Daniel Island Company, had it
22 wanted to, as the controlling developer, instructed
23 town association to come up with a written policy for
24 safety at the parks?

25 A No. The Daniel -- The Daniel Island Town

1 Association board could have said, "Hey, let's have
2 things in writing," and that was not needed, so the --
3 the association boards never did that.

4 Q And the town association board was controlled
5 by the developer at that time, the Daniel Island
6 Company?

7 A Yeah, but it's different roles.

8 Q But controlled, right?

9 A The votes at the town association were
10 controlled by Daniel Island Company officers,
11 specifically myself and Frank.

12 Q Right. So if Daniel Island Company had woken
13 up one day and said, "We want a policy for X," you
14 could have at the next Daniel Island Town Association
15 board meeting said, "Guys, you've got to give us a
16 policy for X," because you had that level of control,
17 you could have done that?

18 A We did not see any need for that. Our level
19 of performance is second to none -- not ours, the
20 association's level of performance is second to none,
21 and this has never been an issue.

22 Q Had you seen a need though, you could have
23 done it?

24 A Had we seen a need, we would have called Ms.
25 Baker and said, "Hey, you know, how do you feel about

1 this?"

2 Q Right. And you could have given a command,
3 had you -- had you seen a need that you felt strongly
4 enough about?

5 A Obviously, as a board member.

6 Q Yeah. You mentioned the plaque, the
7 dedication plaque. I think you said you're not sure
8 where that dedication plaque is now, why not? Is it
9 not still in the ground?

10 A It's not -- it wouldn't be in its original
11 spot, but hopefully, it's -- it's nearby.

12 Q Why would it not be in its original spot?

13 A The park was redone.

14 Q What kind of park is there now?

15 A Similar.

16 Q On the -- on the same footprint, there's a
17 children's park with water and a shrimp boat and all
18 that?

19 A Not that similar, there's a water feature.

20 Q Okay.

21 A And by the way, the plaque may be there. I
22 don't -- I don't work there anymore --

23 Q Understood. So --

24 A -- so I don't know what's actually there.

25 Q I got you. I got you. All right.

1 A And we were talking about this as we were
2 preparing for this, I've actually never been to the
3 site at night, which I'm not proud of, but -- it's
4 probably lovely, but I've never been there.

5 Q You've probably heard that there's -- there's
6 lighting on the site at night. You've never seen the
7 lighting because you haven't been there at night,
8 personally, but there is some light?

9 A There -- there was a -- all I know is that
10 there's a wonderful allée of live oak trees, and they
11 were uplit.

12 Q Uplit, okay.

13 A But I've never set foot in the -- never set
14 foot in the park as it was at that time at night.

15 Q This is hypothetical, because obviously, the
16 park has some lighting, but had you gone out there
17 back in 2016 at night and it had been just entirely
18 dark, not a single light, and you thought, "oh, my
19 goodness, we -- this is terrible, it should be lit,"
20 the Daniel Island Company could have, using its level
21 of control over town association, said, "Town
22 association, light the park up. Make it lit at
23 night," you could have done that, right? You didn't
24 need to, but you could have done it had you wanted to?

25 A As a board member, we could have expressed to

1 -- to the manager in charge to, perhaps, pick up the
2 garbage, that kind of thing.

3 Q Right, or light the park, whatever?

4 A It's not what you do, and we're -- we're
5 managing so many different things.

6 Q Right.

7 A And you trust your manager to make sure that
8 the park is adequately lit.

9 Q And it's more than just a board member
10 because there were three of y'all that are on the
11 board?

12 A Yes.

13 Q Frank and you and David Crawford, so it's the
14 controlling block of the board, right?

15 A It wouldn't take a board vote to make a
16 suggestion.

17 Q Right, but you could get -- also do more than
18 make a suggestion; you could give an order. The board
19 could vote, take a board vote and say, "Light the park
20 up at night?"

21 A The board -- in the board's responsibilities,
22 they don't go -- myself included, don't go to the
23 parks. That's not what -- what the board's supposed
24 to do. The board is supposed to say, are the
25 assessments going in on time? Are people paying their

1 HOA dues? Are they funding the seven-person community
2 pool? And if you don't pay, what do you do about it?

3 Q What if you, as a board member and as an
4 officer of the Daniel Island Company, went to one of
5 these places, you went to a park and observed
6 something that you thought was dangerous, just
7 something that you were like "oh, my heavens, that's
8 dangerous," could you make them fix that dangerous
9 thing back in 2016?

10 A "Make them" is an interesting term. The
11 board would never meet on that, and you're mixing
12 roles. So in my role -- and in Frank's role, because
13 Frank -- Frank drives around a good bit and if he sees
14 something he likes, he points it out, and if he sees
15 something that he doesn't like, he would point it out.
16 It would be a suggestion to Ms. Baker of, you know,
17 "are you happy about this," or "what's going on," and
18 she'd respond --

19 Q Right.

20 A -- you know, as she saw fit.

21 Q But ultimately --

22 A But the board would never -- to get to your
23 question, and I'm just trying to nail it down, the
24 board would never like meet and say, "Let's discuss,
25 you know, the maintenance of this park over here," or

1 anything like that; that doesn't happen.

2 Q But it could, if the board wanted to, right?
3 And that's what I'm getting at, that if it were
4 important enough, a board member could raise it as an
5 issue?

6 A That has never happened and would never have
7 happened, and frankly, that's because the associations
8 do an exemplary job of maintaining their assets, so --

9 Q I think you're -- I think you're --

10 A You're asking -- you're asking a
11 hypothetical, to use your words, that has not existed.

12 Q Right. Well, it is a hypothetical, so --

13 A But if anybody's upset, if anybody -- it
14 could be a property owner or it could be a board
15 member, it could be -- it could be, you know, a
16 visitor, if anybody is upset, they have a venue, an
17 avenue to make their concerns known.

18 Q Right. Well, and I understand what you're
19 saying about --

20 A The board -- the board -- the board never
21 does stuff like that. I've told you what the board
22 does: Approve the budget, what are the assessments,
23 did people pay us, and if not, what do we do about it,
24 and you keep capital reserves; those are the things.

25 Q Those are the things that the board chooses

1 to do?

2 A Those are the things that the board is tasked
3 with, yes, and the board is not chosen to do anything
4 other than that.

5 Q Other than that, okay.

6 A The board has to do those things.

7 Q Back to my hypothetical: If you saw
8 something, if you had seen something personally, and I
9 know you didn't because you didn't -- number one, you
10 didn't go out there at night but if you had gone to
11 any park, not just the Childrens Park, and seen
12 something that really, really bothered you, could you
13 have ensured through the control that the Daniel
14 Island Company had that it was addressed?

15 A In my role?

16 Q Does Daniel Island Company as the controlling
17 developer, could you have told that association,
18 "Guys, I know you disagree. I know you think it's not
19 that important, but we, as the developer, think it's
20 really important to do it?"

21 MR. BARFIELD: Object to the form.

22 THE WITNESS: That's what developers --
23 that's what -- that's what developers do.

24 BY MR. JEFFERIES:

25 Q Okay. So you could have done that? I get

1 that. That makes sense. I mean, listen, I've got a
2 lot of lawyers who work for me. I like to give them
3 suggestions. Occasionally, I've got to give them an
4 order, so they've got to take it when I give it to
5 them.

6 A So -- so if you go out and your seven-person
7 -- seven-household swimming pool is dirty --

8 Q Right.

9 A -- you know, at some point, you go, "why is
10 this dirty, what's the pool maintenance guy doing,
11 let's clean this up." That's basic business.

12 Q Right. And that's something you, as the
13 developer, could do?

14 A It's the same thing as Michael coming in and
15 seeing the lobby in this building is dirty.

16 Q Right.

17 A And he could do something about that.

18 Q Well, and the difference between Michael and
19 the lobby of this building and Daniel Island Company
20 and the town association is that Michael doesn't
21 control the building.

22 A Well, it's -- and then The Beach Company
23 comes in and says --

24 Q Right.

25 A -- "hey, why is this lobby at the Majestic

1 Square dirty? Clean it."

2 Q So y'all had your sales office like right
3 there, I think you were describing, from right by
4 where the park is?

5 A Yeah. Immediately adjacent, yes.

6 Q Right. And the park's never been so dirty
7 that y'all felt like you had to take action, I take
8 it?

9 A Never.

10 Q Right. But had it been, had you said to Jane
11 "I think you ought to clean it up," and it didn't get
12 cleaned up, and you said, "Jane, I think you ought to
13 clean it up," and it didn't get cleaned up and this
14 went on and on, eventually, you could have given an
15 order, something more than a suggestion that said,
16 "You do this now," because you're the controlling
17 developer, you could do that, had y'all needed to?

18 MR. BARFIELD: Object to the form.

19 THE WITNESS: How do I proceed?

20 BY MR. JEFFERIES:

21 Q You just answer the question. Just a "yes"
22 or "no," could you have done it?

23 A I would have said to Jane, "this is not
24 right, fix it. You haven't fixed it." And at some
25 point, I would have talked to the board and said,

1 "Jane may need to go."

2 Q Okay.

3 A Because she's not fixing it.

4 Q Right.

5 A And that has never been the case --

6 Q Right.

7 A -- at all, and -- and Jane agonized over the
8 park in question. And I would say -- and I guess
9 you're going to get to, you know, have this road show
10 with her. She spent more energy on that park and
11 brain cells on that park than probably any other park
12 here; it was complicated. It involved water features
13 and -- and, you know, it was dated, so -- it wasn't
14 dated, you know, in '16. It was dated last year when
15 -- when she and others decided to overhaul and replace
16 it.

17 Q Last year being 2021? So that was --

18 A Starting -- starting -- I think it started --
19 I think it started in '20 and then finished -- it
20 finished in 2021.

21 Q But it was built in 1999 --

22 A There was never -- it was built, I think, in
23 '99. It opened in 2000, and there was never any
24 reason to talk to her or her staff about that because
25 they worked their butts off trying to make sure that

1 it was maintained to the highest standards.

2 Q And did Daniel Island Company do anything to
3 check behind them to make sure that was the case or
4 you just trusted Jane?

5 A We trusted Jane. I would also drive by it
6 every time I went down to our sales office and look at
7 it, and that place mattered to me; I was proud of it.

8 Q But you didn't go at night?

9 A No, I'm not on Daniel -- I live in West
10 Ashley. I'm -- I'm not out there at night.

11 Q You never leave the office late?

12 A No. If I do -- well, my office was not
13 there, and if I do, I'm not going there, so -- I've
14 actually never -- I didn't think about this until we
15 were talking the other day; I've never been there at
16 night.

17 Q It is what it is.

18 A I had dinner at the new restaurant out there
19 a few weeks ago, but it was still daylight when we
20 left, so...

21 Q As to exactly what Jane did -- Jane Baker did
22 or didn't do, would you defer to her as to her
23 specific memory of "this is what I did with respect to
24 the park, this is what I did with respect to Park
25 Day," et cetera?

1 A Of course.

2 Q Okay. You --

3 A I didn't -- I didn't even know Park Day was
4 going on.

5 Q Back in 2016?

6 A No.

7 Q Do you know of anyone in the Daniel Island
8 Company that would have known that Park Day was going
9 on that day back in 2016?

10 A No, that was completely led by the community
11 association. So within our web of community
12 associations, of the three, it was led by the Daniel
13 Island Town Association, but yeah, I honestly, didn't
14 know what weekend it was --

15 Q Right.

16 A -- or who was going there. It was something
17 that I participated in very, very early on but by
18 2016, it was not on my radar or anybody in our -- in
19 the Daniel Island Company's radar.

20 Q Had you --

21 A I think Frank went there once.

22 Q Once, all right. If you had taken an
23 interest, you could have looked into it. I mean, if
24 you wanted to, you could have called Jane and said,
25 "Hey, what's going on with this?"

1 A She -- everything was completely delegated.
2 I had complete confidence.

3 Q Right.

4 A She's an incredible manager.

5 Q But she is -- she could miss things, right?

6 A Well, she has a staff. I mean, you know,
7 you're -- everybody can miss things.

8 Q Right.

9 A But she -- she, frankly, had a bigger staff
10 at that time than I did, and that's what they were
11 trained to do.

12 Q Do you remember ever checking in with Jane
13 Baker with respect to Park Day?

14 A Like other than casual conversation, like
15 "how was Park Day," which I wouldn't even have known
16 to ask her how the Park Day was because I wouldn't
17 have known the Park Day occurred, but she may have
18 said, "Hey, we had a great Park Day," or -- or, you
19 know, "we didn't have a great Park --" I don't know,
20 but no, that -- that was not our thing.

21 MR. JEFFERIES: Okay. You know, that's all
22 the questions I have for now. If these other lawyers
23 have some questions, I might have some follow-up, but
24 otherwise, I think I'm good.

25 MR. SOBOCINSKI: There's none for me.

1 MR. BARFIELD: Just one clarification, I want
2 to kind of --

3 THE WITNESS: I've never done this before, so
4 bear with me. It's all new.

5 RE-EXAMINATION

6 BY MR. BARFIELD:

7 Q We -- you know, we kind of talk -- talked
8 about control and, you know, developer control and
9 board control and all of these terms. I want to -- I
10 want to dial down on this, to clarify. So Daniel
11 Island Company is the developer, right?

12 A Yes, sir.

13 Q Three property owners' associations were
14 created on Daniel Island, right?

15 A Yes, sir.

16 Q Including Daniel Island Town Association,
17 that's one of them, correct?

18 A Yes, sir.

19 Q Okay. Daniel Island Company had the right to
20 appoint the board members of those associations,
21 right?

22 A Yes, sir.

23 Q Okay. But that -- but -- and this is -- this
24 is kind of splitting hairs, but it's important because
25 the boards control those associations, right?

1 A Yes, sir.

2 Q Okay. Not -- not Daniel Island Company
3 directly?

4 A Yes, sir.

5 Q Okay. And so Daniel Island Company, we know,
6 appointed you and Frank and David Crawford to those
7 boards, right?

8 A Yes.

9 Q Okay. But it could have appointed anybody?

10 A It could have.

11 Q Right?

12 A (Nods head up and down.)

13 Q Okay. And so had it -- had they appointed,
14 you know, Tom, Dick, and Harry instead of you guys
15 then Tom, Dick, and Harry would have management or --
16 or oversight of those associations, right?

17 A Yes, sir.

18 Q And then you guys would be up here at Daniel
19 Island Company, and Daniel Island Company would have
20 fulfilled its obligation by appointing Tom, Dick, and
21 Harry, right?

22 A (Nods head up and down.) I like that you
23 chose Tom, Dick, and Harry but --

24 Q Well, I was going to say Larry, Moe, and
25 Curly, but I didn't want to -- didn't want to --

1 A People would be thinking like what are these
2 three stooges doing?

3 Q That's right. That's right. So, again, the
4 Daniel Island Company, just to kind of close the loop,
5 has the ability to appoint the people that have
6 authority over those associations, but Daniel Island
7 Company does not have direct control over those
8 associations?

9 A No. The associations are turned over, and
10 direct control is turned over to the manager, and
11 sometimes the manager's a third-party. So as an
12 example, at our project on Cainhoy at Clements Ferry
13 Road, we use a third-party firm. There is no Jane.
14 We use this firm and, you know, I -- the only
15 influence that I would have there is "do we still want
16 to use this firm? Are we happy with this firm or not
17 happy with this firm?" It's completely delegated out.

18 Q Got you.

19 A The only difference with Daniel Island is
20 Jane and I are friends, and everybody needs somebody
21 to talk to, like I need somebody to talk to after this
22 experience. So I would be that -- and Jane would talk
23 to people in our company about "I'm having a good day.
24 I'm having a bad day. My car has a flat tire. The
25 traffic was terrible," that kind of thing, so I served

1 in that role.

2 Q Okay. And I think you said earlier that
3 Jane, as part of her role as manager for town
4 association, part -- part of her job is to make sure
5 that vendors, for lack of a better term -- service
6 people like landscapers and such are -- are hired and
7 are doing a satisfactory job?

8 A And are paid in a prompt and timely manner.

9 Q Okay. And so the lighting design at the
10 Childrens Park was done many years ago, correct?

11 A In 1999.

12 Q Okay. And a -- and a vendor called
13 Moonlighting was -- was hired to maintain that
14 lighting and were doing so in 2016, I believe; are you
15 aware of that?

16 A Well, yes, because you told me it was
17 Moonlighting, and they have an exemplary reputation,
18 but I had no idea that they were handling it there,
19 and I didn't -- I still don't know -- whoever had the
20 overall maintenance contract had the lighting as a --
21 as a subcontractor or if the lighting was handled
22 completely separately, I had no idea.

23 Q Got you.

24 A And no idea who was maintaining it. I could
25 guess, but that -- that contract would never have come

1 before anybody at the Daniel Island Company.

2 Q Do you believe it's -- it's okay for a
3 developer to rely on the professionals that it hires
4 to do a competent job of design and construction?

5 A Of course, it is.

6 Q Okay.

7 A It has to be; it's kind of like relying on
8 your lawyers.

9 Q Right.

10 A In which case is him (indicating).

11 Q Right. And likewise, a --

12 A That's a great question.

13 Q Likewise, would a property manager, in your
14 opinion, have the right to rely on the professional
15 vendors that it vets and hires to maintain the
16 property to a high standard and -- and a safe
17 standard?

18 A Of course.

19 MR. BARFIELD: Okay. All right. That's all
20 I have.

21 MR. JEFFERIES: A quick follow-up question.

22 THE WITNESS: I thought you were done?

23 MR. JEFFERIES: I would be but for my dear
24 friend, Mr. Barfield.

25 RE-EXAMINATION

1 BY MR. JEFFERIES:

2 Q Just to make sure I'm clear about the
3 industry standard and how it works: You have a
4 development, there's an amenity, it gets turned over
5 to a property owners' association?

6 A Yes.

7 Q So far, so good? That property owners'
8 association is going to be for some period of time
9 what they call developer-controlled before it gets
10 turned over completely to the property owners; is that
11 correct?

12 A That's how it works.

13 Q Okay. And the way the developer actually
14 exercises that control is by putting its own people on
15 the board; is that correct?

16 A Yep.

17 Q Right. Because obviously the developer
18 entity is not a person, it can't sit on the board, so
19 it has to send people to sit on the board?

20 A The -- the developer entity sets up the board
21 and finds, you know, the poor guy that has to like
22 represent the developer entity on the board, which is
23 me.

24 Q Right. And it could pick people at random
25 out of the phonebook if it wants to?

1 A It could, and then it gets -- at some point
2 it's turned over to a vote.

3 Q Right.

4 A So right now, one of the associations, the
5 five people that are on that board were elected by
6 their peers.

7 Q Right. Back in 2016, though, that wasn't the
8 case, it was still developer controlled --

9 A It was.

10 Q -- all of these boards? And Daniel Island
11 Company, when it exercised its power of the people on
12 the boards of town association, park association,
13 community association, and I guess even the
14 foundation, the community foundation, it did not
15 choose to pick names at random out of the phonebook,
16 did it?

17 A No. We --

18 Q Picked the same three guys, right?

19 A Well -- and this is kind of funny because the
20 principal's -- Frank's late brother was in Atlanta,
21 and he was, you know, absentee, and Frank and I, as
22 the developer people within our company, said "this is
23 something we do." And then we said we needed a
24 grownup in the room, so we appointed his former
25 partner, David Crawford, who actually knows things

1 like Robert's Rules of Order --

2 Q Right.

3 A -- and resolutions and minutes and whatnot,
4 and David was a gentleman and kind enough to serve.

5 Q Right. And so you ended up with a board
6 composed of several of the owners of Daniel Island
7 Company and a lawyer who was loyal to them. That
8 makes sense. That's how I'd do it too. Is that -- I
9 mean, that's right?

10 A Well, you know the answer to the question,
11 so...

12 Q "Yes," it's right?

13 A That was our board.

14 Q That was your board of -- and it was not only
15 the board of town association, it was the board of
16 park association, community association, community
17 foundation, all three of you, Matt, Frank, David, each
18 time?

19 A Of the three associations, yes. And there
20 was efficiency in that because all the associations
21 have to work together and coordinate things, and there
22 are things that are common costs, so they all have to
23 agree. And that's how it's done. And then one
24 association's been turned over to resident control;
25 you'll have to ask Jane about that. I don't know

1 who's on that board, and then the other two are
2 getting ready to be turned over.

3 Q Back in 2016, though, it was -- it was Frank,
4 Matt, and David?

5 A That was the board.

6 MR. JEFFERIES: That's all I've got.

7 THE WITNESS: Okay. You know the answer to
8 your questions, so...

9 MR. BARFIELD: All right. We're done.

10 VIDEOGRAPHER: This is the end of the Video
11 Deposition of Matt Sloan. Off the record at 1:15, May
12 9th, 2022.

13 MR. BARFIELD: Original of both and e-Trans.

14 MR. SOBOCINSKI: E-trans of both.

15 MR. JEFFERIES: E-Trans, absolutely fabulous.

16
17 * * *

C-E-R-T-I-F-I-C-A-T-E

I, Lisa A. McCarn, Professional Court Reporter and Notary Public for the State of South Carolina, certify that the witness in the foregoing deposition was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the deposition was taken at Barnwell Whaley, 211 King Street, Suite 300, Charleston, South Carolina; that the foregoing pages constitute a true and accurate transcript of the deposition proceeding.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 19th day of May, 2022.



Lisa A. McCarn
Notary Public for South Carolina
My Commission Expires:
April 30, 2025

