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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SOUTH CAROLINA

Workers' Compensation Commission

Appellate Case No.: 2021-000633

Rachel J. Turner, Employee, ... Appellant-Respondent,

v.

Medustrial Healthcare Staffing Service and Condustral, Inc.;
Guarantee Insurance Company; Countrywide Staffing Solutions
Group, Inc.; South Carolina Department of Corrections; State
Accident Fund; and South Carolina Uninsured Employer's Fund, ... Respondents

of which Condustral, Inc. f/k/a Medustrial Healthcare Staffing
Service, Employer, is the Respondent-Appellant.

RECORD ON APPEAL

Stephen B. Samuels, Esq.
Samuels Reynolds Law Firm, LLC
1320 Richland St.
Columbia, SC 29201

ATTORNEY FOR APPELLANT

James P. Newman, Jr., Esq.
Howser, Newman & Besley, LLC
PO Box 12009
Columbia, SC 29211

ATTORNEY FOR COUNTRYWIDE

VOLUME II

Beth B. Richardson
1310 Gadsden Street
PO Box 11449
Columbia, SC 29211

Grady L. Beard
Robinson Gray & Lafitte, LLC
PO Box 11449
Columbia, SC 29201

Jasmine D. Smith
Robinson Gray & Lafitte, LLC
PO Box 11449
Columbia, SC 29211

**ATTORNEYS FOR
GUARANTEE INSURANCE CO.**

Erin F. Farthing, Esq.
State Accident Fund
PO Box 1166
Lexington, SC 29071

**ATTORNEY FOR SC STATE ACCIDENT
FUND AND SC DEPARTMENT OF
CORRECTIONS**

Gregory M. Alford, Esq.
Alford Law Firm, LLC
PO Drawer 8008
Hilton Head Island, SC 29938

ATTORNEY FOR COUNTRYWIDE

Lisa C. Glover, Esq.
SC Uninsured Employers' Fund
PO Box 1815
Lexington, SC 29071

**ATTORNEY FOR SC
UNINSURED EMPLOYERS' FUND**

George D. Gallagher, Esq.
1122 Lady Street Suite 1000
PO Box 11669
Columbia, SC 29201
ATTORNEY FOR CONDUSTRIAL.

INDEX

I.	ORDERS	1
	SCDEW Administrative Determination Regarding Condustrial Nurses	
	dated February 16, 2016	1
	Single Commission Order dated July 31, 2020.	7
	Full Commission Order dated April 6, 2021	79
	Order Granting Partial Remand dated September 2, 2021	127
	Order Denying Motion to Submit Additional Evidence dated September 20, 2021 ...	129
II.	PLEADINGS	130
	Form 50 dated October 1, 2015	130
	Condustrial's Brief to the Full Commission dated October 10, 2020	
	Pgs. 1, 17-18	131
	Guarantee Insurance Co. Brief to the Full Commission dated October 19, 2020.	134
	Guarantee Insurance Co. and Countrywide's Joint Brief to the Full Commission	
	dated November 3, 2020	169
	Guarantee Insurance Co. Brief in Response to Claimant's Appeal	
	dated November 3, 2020	198
	Defendant Condustrial's Motion to Reconsider dated April 12, 2021	213
	Claimant's Motion to Submit Additional Evidence dated May 4, 2021	218
	Claimant's Renewed Motion to Submit Additional Evidence	
	dated September 3, 2021	228
	Condustrial's Initial Brief dated January 7, 2022	235

III. TRANSCRIPTS	290
Deposition Transcript of Zach Collier dated April 19, 2017	290
Direct Examination by Mr. Goodwyn.	294
Deposition transcript of George Kaspars dated July 6, 2017	357
Direct Examination by Mr. Goodwyn.	360
Cross Examination by Mr. Harbison.	408
Redirect Examination by Mr. Goodwyn.	409
Hearing Transcript dated July 24, 2017	416
Justin Gudvagen	474
Direct Examination by Mr. Samuels.	474
Cross Examination by Mr. Goodwyn	499
Cross Examination by Mr. Harbison.	510
Cross Examination by Ms. Farthing	525
Redirect Examination by Mr. Samuels	535
Rachel J. Turner	543
Direct Examination by Mr. Samuels	543
Cross Examination by Mr. Harbison.	601
Cross Examination by Mr. Goodwyn	697
Cross Examination by Ms. Farthing	733
Redirect Examination by Mr. Samuels	739
Recross Examination by Mr. Harbison.	755
Recross Examination by Mr. Goodwyn	758

Redirect Examination by Mr. Samuels	761
Hearing Transcript dated October 12, 2017	768
Tommy Burgess	819
Direct Examination By Mr. Samuels	819
Cross Examination by Mr. Goodwyn	837
Cross Examination by Mr. Newman.	842
Cross Examination by Mr. Beard	849
Cross Examination by Ms. Farthing	860
Cross Examination by Ms. Glover	875
Redirect Examination by Mr. Samuels	876
Recross Examination by Mr. Goodwyn	885
Recross Examination by Mr. Alford.	893
Recross Examination by Ms. Richardson	913
Recross Examination by Ms. Farthing	920
Redirect Examination by Mr. Samuels	926
Tom Sears	930
Direct Examination by Mr. Goodwyn.	930
Hearing Transcript dated October 13, 2017	1003
Tom Sears	1014
Direct Examination by Mr. Goodwyn.	1014
Cross Examination by Mr. Samuels	1127
Cross Examination by Mr. Newman.	1236

Cross Examination by Mr. Beard	1246
Cross Examination by Mr. Alford.	1285
Cross Examination by Ms. Richardson.	1368
Cross Examination by Ms. Farthing	1428
Cross Examination by Ms. Glover	1483
Redirect Examination by Mr. Goodwyn.	1486
Recross Examination by Mr. Samuels	1492
Recross Examination by Ms. Richardson.	1531
Hearing Transcript dated November 2, 2017	1535
Jo Anne Whitaker	1546
Direct Examination by Mr. Goodwyn.	1546
Cross Examination by Mr. Samuels	1570
Cross Examination by Mr. Alford.	1576
Cross Examination by Ms. Richardson.	1590
Cross Examination by Ms. Farthing	1633
Redirect Examination by Mr. Goodwyn.	1637
Recross Examination by Mr. Samuels	1643
Recross Examination by Mr. Alford.	1653
Recross Examination by Ms. Richardson.	1662
Redirect Examination by Mr. Goodwyn.	1664
Recross Examination by Mr. Samuels	1666
Albert Hyndshaw	1671

Direct Examination by Mr. Goodwyn.	1671
Cross Examination by Mr. Samuels.	1692
Cross Examination by Mr. Alford.	1704
Cross Examination by Ms. Richardson.	1741
Cross Examination by Ms. Farthing.	1760
Redirect Examination by Mr. Goodwyn.	1761
Recross Examination by Mr. Samuels.	1772
Recross Examination by Mr. Alford.	1784
Redirect Examination by Mr. Goodwyn.	1804
Recross Examination by Mr. Samuels.	1820
Dolores Lissette Collachi.	1822
Direct Examination by Mr. Goodwyn.	1822
Cross Examination by Mr. Samuels.	1836
Cross Examination by Ms. Richardson.	1862
Cross Examination by Ms. Farthing.	1877
Redirect Examination by Mr. Goodwyn.	1882
Recross Examination by Mr. Samuels.	1888
Recross Examination by Ms. Farthing.	1895
Hearing Transcript dated November 3, 2017.	1940
Tony Durham.	1944
Direct Examination by Mr. Goodwyn.	1944
Cross Examination by Mr. Samuels.	2082

Cross Examination by Mr. Beard	2145
Cross Examination by Mr. Alford.	2149
Cross Examination by Ms. Richardson.	2259
Cross Examination by Ms. Farthing	2287
Redirect Examination by Mr. Goodwyn.	2323
Recross Examination by Mr. Samuels	2354
Recross Examination by Mr. Alford.	2357
Recross Examination by Ms. Richardson.	2377
Redirect Examination by Mr. Goodwyn.	2394
Hearing Transcript dated November 4, 2017	2398
Avery Rebecca Barnette	2403
Direct Examination by Ms. Richardson	2403
Cross Examination by Mr. Samuels	2506
Cross Examination by Mr. Goodwyn	2514
Cross Examination by Mr. Alford.	2584
Recross Examination by Mr. Samuels	2592
Recross Examination by Mr. Goodwyn	2596
Hearing Transcript dated November 6, 2017	2600
Sandra Sidney	2622
Direct Examination by Mr. Goodwyn.	2622
Cross Examination by Mr. Samuels	2633
Cross Examination by Mr. Newman.	2639

Cross Examination by Mr. Beard	2644
Cross Examination by Ms. Farthing	2647
Recross Examination by Mr. Samuels	2651
Charles Edward Lee, Jr.	2655
Direct Examination by Mr. Goodwyn.	2655
Cross Examination by Mr. Samuels	2660
Cross Examination by Mr. Beard	2667
Cross Examination by Ms. Glover	2668
Russell Lloyd Rush	2671
Direct Examination by Ms. Farthing.	2671
Cross Examination by Ms. Glover	2678
Cross Examination by Mr. Samuels	2682
Cross Examination by Mr. Goodwyn	2683
Cross Examination by Mr. Alford.	2685
Cross Examination by Mr. Beard	2686
Recross Examination by Ms. Glover	2687
IV. EXHIBITS	2694
Claimant's APA Submissions.	2694
1. Palmetto Health Richland (9/5/15)	2701
2. J. Robert Dunn, III, M.D. (9/16/15 - 9/30/15).	2715
3. InMed Dyagnostics (10/14/15)	2721
4. Ryan Hess, M.D. (10/20/15)	2723

5. Palmetto Behavioral Day Treatment (10/21/15 - 11/20/15)	2733
6. Lexington County Mental Health (11.12.15 - 5/02/17)	2791
7. Mt. Hebron Counseling (10/12/15 - 12/15/15)	2909
8. Progressive Physical Therapy (2/17/16 - 3/03/16)	2913
9. W. Daniel Westerkam, MD(5/18/17)	2923
Claimant's Exhibits.	2929
A. Shatto v. McLeod Reg'l Med Ctr., 406 S.C. 470, 753 S.E.2d 416 (S.C., 2013)	2928
B. Shelton v. Oscar Mayer Foods Corp., 481 S.E.2d 706, 325 S.C. 248 (S.C. 1996)	2937
C. Condustrual Payroll Records (5/01/14 - 10/21/15)	2942
D. Independent Contractor Agreement (2/08/13)	2948
E. Independent Contractor Agreement (10/09/14)	2954
F. Service Agreement between Countrywide and Condustrual (3/26/15)	2960
G. Personnel Services agreement between Medustrial Healthcare and SCDC (9/15/08)	2971
H. Employment Application (2/07/13)	2979
I. Form I-9 (2/07/13)	2982
J. FCRA Disclosure & Authorization (2/07/13)	2984
K. AMS Staff Leasing Application for Employment (2/07/13)	2986
L. Second Injury Fund Knowledge Statement (2/07/13)	2990
M. Facility and Client Requirements (2/07/13)	2994

N. Terms of Employment (2/07/13)	2996
O. Form W-4 (2/07/13)	2998
P. Employee Acknowledgment (2/14/13)	3000
Q. Attendance Policy (10/09/14)	3002
R. Facility and Client Requirements (10/09/14)	3004
S. New Hire Checklist/Terms of Employment (10/09/14)	3006
T. Form I-9 (10/09/14)	3008
U. Application Form Waiver (10/09/14)	3013
V. Client Clinical Feedback (2/11/15)	3015
W. Weekly Time Sheets (2013)	3017
X. SCDC Nursing Staff Schedule (9/02/15)	3022
Y. Crime Victims' Compensation Application (09/2015)	3024
Z. MedFirst Website (5/18/17)	3033
AA. Medustrial Website (5/18/17)	3042
BB. www.coladaily.com article (12/01/15)	3046
CC. CPOF.org, Vol. 26, No. 2 (Autumn 2016)	3049
DD. Calculation of AWW and C/R (5/19/17)	3052
Condustral's Exhibits.	3054
10. LPN Job Description (undated).	3058
11. Rachel Turner Daily Log dated (9/05/ 2015) - (9/24/2015)	3060
12. Medustrial Letter dated (9/24/2015)	3063
13. Nurses Code Payments (undated)	3064

20. Claimant's Tax Returns (2013).....	3065
21. Claimant's Tax Returns (2014).....	3079
24. SC Workers' Compensation Class Code (undated)	3100
25. IRS Independent Contractor Questionnaire and Instructions	3103
26. Signed Countrywide Service Agreement dated (3/11/ 2015)	3107
27. Procedural Amendment to Contract Labor Service Agreement (3/26/2015)	3119
SCDC Exhibits	3122
2. Certificates of Liability Insurance (7/07/15 - 1/04/17)	3122
Guarantee Insurance Co.'s Exhibits(6/02/2017).....	3125
9. Facility Expectations (2/07/13)	3130
10. Consent Form as a Contractor (2/07/13).	3131
13. Independent Contractor Application (10/09/14).....	3132
24. Guarantee Insurance Co. Policy for Countrywide (7/30/ 2015 - 7/30/ 2016)	3133
25. Guarantee Insurance Co. Endorsement to Policy (7/30/2015)	3292
26. Guarantee Insurance Co. Audit Information and Summary (7/30/ 2015 - 4/22/ 2016)	3325
32. List of Locations from Condustrail to Countrywide (undated).....	3349
51. Policy Endorsement dated (7/ 207 2015)	3352
V. CERTIFICATE OF COUNSEL	3382

1 BY MR. SAMUELS:

2 YOUR HONOR, THE CLAIMANT CALLS JASON GUDVANGEN.

3 BY MS. FARTHING:

4 JUSTIN.

5 BY MR. SAMUELS:

6 JUSTIN GUDVANGEN.

7 BY THE COMMISSIONER:

8 WE'LL GET THE SPELLING ON THAT.

9 BY MR. SAMUELS:

10 G-U-D-V-A-N-G-E-N.

11 (OFF THE RECORD)

12 BY THE COMMISSIONER:

13 MR. GUDVANGEN, IF YOU WOULD RAISE YOUR RIGHT
14 HAND FOR ME, PLEASE, SIR.

15 * * * * *

16 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
17 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
18 MATTER HEREIN:

19 JUSTIN GUDVANGEN,

20 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS
21 FOLLOWS:

22 BY THE COMMISSIONER:

23 MR. SAMUELS, YOUR WITNESS.

24 DIRECT EXAMINATION BY MR. SAMUELS:

25 Q. PLEASE STATE YOUR NAME FOR THE RECORD.

1 A. JUSTIN GUDVANGEN.

2 Q. MR. GUDVANGEN, WHAT DO YOU DO FOR A LIVING?

3 A. NURSE ADMINISTRATOR FOR THE SOUTH CAROLINA
4 DEPARTMENT OF CORRECTIONS.

5 Q. WHAT ARE YOUR TRAINING QUALIFICATIONS AS A NURSE?

6 A. I HAVE A BACHELOR OF SCIENCE IN NURSING, AND I WAS
7 AN EMERGENCY MEDICAL TECHNICIAN PRIOR TO GOING TO
8 SCHOOL FOR THAT.

9 Q. DO YOU HAVE A PARTICULAR NURSING DEGREE?

10 A. I HAVE A BACHELOR'S DEGREE, AND I'M A REGISTERED
11 NURSE.

12 Q. TELL US YOUR CAREER PATH AT THE SOUTH CAROLINA
13 DEPARTMENT OF CORRECTIONS.

14 A. I STARTED OFF AS A CONTRACTOR WITH MEDUSTRIAL, AND I
15 WORKED -- I THINK IT WAS ABOUT SIX MONTHS THAT I
16 WORKED FOR THEM -- OR, I'M SORRY, THREE -- AND THEN
17 I BECAME A TEMPORARY EMPLOYEE OF THE DEPARTMENT OF
18 CORRECTIONS, THEN A PERMANENT FULL TIME. AND THEN
19 FROM THERE, AFTER A COUPLE OF YEARS I WAS PROMOTED
20 TO HEAD NURSE AT KIRKLAND CORRECTIONAL INSTITUTION
21 IN COLUMBIA, AND AFTER THAT I GOT TRANSFERRED TO
22 BROAD RIVER, OPENED A UNIT. THAT WAS IN MARCH OF
23 LAST YEAR. AND THEN I GOT PROMOTED TO NURSE
24 ADMINISTRATOR IN OCTOBER OF LAST YEAR.

25 Q. WHAT WAS YOUR ROLE OR YOUR JOB IN SEPTEMBER OF 2015?

1 A. I WAS THE HEAD NURSE AT KIRKLAND CORRECTIONAL
2 INSTITUTION. I WAS THE HEAD NURSE FOR THE
3 PSYCHIATRIC HOSPITAL, THE INTERMEDIATE CARE SERVICE
4 UNIT, AND ALSO MAXIMUM SECURITY UNIT AT KIRKLAND.

5 Q. DO YOU KNOW RACHEL TURNER?

6 A. I DO.

7 Q. WHAT WAS YOUR RELATIONSHIP TO HER PROFESSIONALLY IN
8 SEPTEMBER 2015?

9 A. SHE WAS ONE OF THE NURSES THAT WORKED IN MY AREAS
10 THROUGH MEDUSTRIAL AT THAT TIME.

11 Q. YOU, IN FACT, WERE HER SUPERVISOR?

12 A. THAT'S CORRECT.

13 Q. I WANT TO ASK YOU SOME QUESTIONS JUST SORT OF
14 GENERALLY ABOUT THE NURSING STAFF AT THE KIRKLAND
15 CORRECTIONAL INSTITUTION. ARE THERE NURSES WHO ARE
16 EMPLOYED DIRECTLY BY THE DEPARTMENT OF CORRECTIONS?

17 A. YES.

18 Q. ARE THERE NURSES WHO ARE EMPLOYED THROUGH OUTSIDE
19 AGENCIES?

20 A. YES.

21 Q. WHAT PERCENTAGE OF THE NURSES ARE EMPLOYED THROUGH
22 OUTSIDE AGENCIES?

23 A. IT DEPENDS ON THE INSTITUTION, AND IT'S HARD FOR ME
24 TO SAY LIKE, YOU KNOW, HOW MANY BECAUSE SOME OF THEM
25 MAYBE ONLY WORK ONE SHIFT A MONTH, OR A COUPLE A

1 WEEK, AND THEN THERE'S OTHERS THAT WORK SEVERAL.
2 SO, I KNOW AT THE TIME, SEPTEMBER 2015,
3 APPROXIMATELY 70 PERCENT OF MY NURSING SHIFTS WERE
4 COVERED BY CONTRACT STAFF.

5 Q. WHAT AGENCIES WERE YOU GETTING CONTRACT STAFF FROM
6 AT SCDC IN SEPTEMBER 2015?

7 A. MEDFIRST, MEDUSTRIAL, MSN. I THINK I HAD SOMEBODY
8 FROM FAVORITE STAFFING AND SOMEBODY FROM
9 CONSOLIDATED, IF I'M NOT MISTAKEN. IT WAS -- I
10 THINK IT WAS ABOUT FIVE AGENCIES I HAD -- ACTUALLY
11 HAD PEOPLE THAT WERE WORKING AT THE INSTITUTION
12 THROUGH.

13 Q. I'M GOING TO SHOW YOU A DOCUMENT, WHICH IS AT PAGE
14 288 OF THE APA SUBMISSIONS. CAN YOU PLEASE IDENTIFY
15 WHAT THAT DOCUMENT IS?

16 A. THIS IS THE MONTHLY SCHEDULE FOR THE NURSING MEDICAL
17 STAFF THAT WORKED AT THE -- IN THE AREAS I
18 SUPERVISED.

19 Q. IF I'M LOOKING AT THAT, IT LOOKS LIKE YOU HAVE
20 SEVERAL NURSES FROM MEDFIRST, THREE FROM MEDUSTRIAL,
21 AND THEN I GUESS A SUPPLEMENTAL. IS THAT FAIR TO
22 SAY?

23 A. THAT'S RIGHT. AND THEN I HAD ONE PERSON FROM
24 FAVORITE.

25 Q. IS FAVORITE A COMPANY?

- 1 A. YEAH, IT'S -- IT'S A NAME OF A STAFFING AGENCY.
- 2 Q. QUICK QUESTION ABOUT WHEN YOU WORKED FOR MEDUSTRIAL
- 3 BEFORE YOU CAME TO SCDC AS A PERMANENT EMPLOYEE.
- 4 WHEN YOU WENT TO WORK FOR MEDUSTRIAL, IF YOU'D BEEN
- 5 TOLD YOU WOULD NOT HAVE ANY INSURANCE IF YOU GOT
- 6 HURT, WOULD YOU HAVE ACCEPTED THAT JOB AND GONE TO
- 7 WORK AT SCDC?
- 8 A. NO, I WOULDN'T HAVE.
- 9 Q. DID YOU, AT THE TIME YOU WERE AT MEDUSTRIAL, HAVE
- 10 ANY BELIEF OR EXPECTATION THAT IF YOU GOT HURT ON
- 11 THE JOB AT SCDC THAT THERE WOULD BE SOME INSURANCE
- 12 TO TAKE CARE OF YOU?
- 13 A. WELL, I KNEW THAT I DIDN'T HAVE HEALTH INSURANCE,
- 14 AND I ALSO KNEW I HAD TO PAY -- WITHHOLD MY OWN
- 15 TAXES AND PAY THOSE MYSELF, AND THERE WAS NO
- 16 RETIREMENT AND NO TIME OFF. I DID KNOW THAT. BUT
- 17 AS FAR AS WORKMAN'S COMP INSURANCE IS CONCERNED, I
- 18 WAS NOT AWARE THAT I DIDN'T HAVE COVERAGE THROUGH
- 19 THAT.
- 20 Q. YOU THOUGHT YOU DID?
- 21 A. I THOUGHT I DID, YES.
- 22 Q. OKAY. LET ME ASK YOU ABOUT HOW THE NURSES THAT ARE
- 23 COMING FROM THE AGENCY AS OPPOSED TO THE DIRECT
- 24 EMPLOYEES WERE. IF I WOULD WALK IN ON THE FLOOR AT
- 25 KIRKLAND AND SEE THE NURSES WORKING, WOULD I BE ABLE

1 TO TELL WHETHER THE NURSE WAS GETTING PAID BY SCDC
2 OR BY MEDFIRST OR MEDUSTRIAL?

3 A. YOU COULD DETERMINE WHETHER OR NOT THAT THEY WERE AN
4 EMPLOYEE OF SCDC OR THEY WERE THERE FOR A
5 CONTRACTING AGENCY BECAUSE THEIR I.D. WOULD SAY
6 EMPLOYEE IN BLUE LETTERS IF THEY WERE AN EMPLOYEE
7 AND IF IT WERE A CONTRACTOR IT WOULD SAY TEMPORARY
8 AND IT WOULD BE IN RED LETTERS.

9 Q. ALL RIGHT. WERE THERE ANY OTHER -- WOULD THERE BE
10 ANY OTHER WAY TO TELL WHO WAS DIFFERENT IN TERMS OF
11 THEIR INTERACTION WITH THE PATIENTS OR SUPERVISORS
12 OR DOCTORS OR CHARGE NURSES?

13 A. NO, NOT REALLY. THEY INTERACT WITH THE SAME STAFF.

14 Q. WHAT IS SCDC'S REQUIREMENT ABOUT WHERE THE NURSES
15 PARK?

16 A. USUALLY ---

17 **BY MR. HARBISON:**

18 OBJECTION TO THE FORM, COMMISSIONER; LEADING
19 THE WITNESS ABOUT A REQUIREMENT. I THINK HE CAN
20 JUST REPHRASE IT.

21 **BY THE COMMISSIONER:**

22 SUSTAINED. IF YOU'LL JUST REPHRASE, PLEASE.

23 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

24 Q. DOES SCDC HAVE A REQUIREMENT AS TO WHERE THE NURSES
25 PARK?

- 1 A. EACH INSTITUTION USUALLY HAS A DESIGNATED AREA FOR
2 STAFF PARKING AND FOR VISITOR PARKING, AND THEY
3 WOULD BE ASKED TO PARK IN STAFF PARKING SINCE
4 THEY'RE WORKING AT THE INSTITUTION.
- 5 Q. OKAY. SAME AS THE -- NO DIFFERENCE THERE BETWEEN
6 THE AGENCY NURSES AND THE SCDC DIRECT-EMPLOY NURSES?
- 7 A. RIGHT.
- 8 Q. IS THERE A REQUIREMENT THAT THE NURSES WEAR A BADGE?
- 9 A. YES.
- 10 Q. AND THAT'S THE ONE YOU INDICATED THE ONLY DIFFERENCE
11 IS GOING TO BE ONE SAYS TEMPORARY AND THE OTHER ONE
12 SAYS EMPLOYEE?
- 13 A. RIGHT.
- 14 Q. DOES SCDC REQUIRE NURSES TO BE SEARCHED BEFORE THEY
15 COME IN?
- 16 A. YES.
- 17 Q. DOES IT REQUIRE THEM TO BE PATTED DOWN AND GO
18 THROUGH A METAL DETECTOR?
- 19 A. YES.
- 20 Q. DOES IT REQUIRE THAT THEY SCAN IN WITH THEIR I.D.
21 BADGE BEFORE THEY'RE ALLOWED TO ENTER THE
22 INSTITUTION?
- 23 A. YES.
- 24 Q. DOES SCDC REQUIRE NURSES TO WEAR A UNIFORM?
- 25 A. YES.

1 Q. WHAT DO THEY REQUIRE?

2 A. SPECIFICALLY THERE'S NO REQUIREMENTS AS FAR AS
3 COLORS OR PATTERNS, BUT IT HAS TO BE A NURSING-TYPE
4 UNIFORM. SHOES HAVE TO BE CLOSED-TOED. HAIR HAS TO
5 BE A NATURAL COLOR. THERE CAN'T BE ANY FACIAL
6 PIERCINGS, AND NAILS HAVE TO BE SHORT, THINGS LIKE
7 THAT.

8 Q. THE THINGS ABOUT THE NAIL PIERCINGS (SIC), THE SHORT
9 HAIR, THOSE GO BEYOND -- DO THOSE GO BEYOND THE
10 REGULATIONS FOR NURSES TO WEAR STERILE CLOTHING?

11 A. I'M SORRY; SAY THAT AGAIN.

12 Q. ARE THOSE -- ARE THOSE RESTRICTIONS OR THOSE
13 REQUIREMENTS SPECIFIC TO SCDC?

14 A. YES. YEAH.

15 Q. AND IF A NURSE WANTS TO WORK THERE AND ENTER THE
16 INSTITUTION, SHE'S GOING TO HAVE TO COMPLY WITH THE
17 DRESS AND APPEARANCE CODE; IS THAT CORRECT?

18 A. RIGHT.

19 Q. DOES SCDC REQUIRE THE NURSES TO COMPLY WITH POLICIES
20 AND PROCEDURES MANUAL FOR HEALTH PERSONNEL?

21 A. YES.

22 Q. GOING BACK TO THE EXHIBIT I'VE GOT IN FRONT OF YOU,
23 PAGE 288, WHO PREPARED THAT WORK SCHEDULE?

24 A. I DID.

25 Q. HOW OFTEN WOULD YOU PREPARE A WORK SCHEDULE?

1 A. ONCE A MONTH. I WOULD HAVE THIS VERSION OF THE
2 SCHEDULE WHERE I HAD EVERYBODY ON IT, AND I HAD THE
3 ENTIRE MONTH. BUT THERE WAS ALSO A WEEKLY
4 ASSIGNMENT SHEET THAT I WOULD DO ONCE A WEEK THAT
5 WOULD DESIGNATE WHO WAS SUPPOSED TO BE WORKING IN
6 WHAT SPECIFIC AREAS. AND SINCE THE NEEDS OF THE
7 UNIT AND THE STAFFING WERE DYNAMIC, I HAD TO DO THAT
8 ON A, YOU KNOW, SHORTER WINDOW.

9 Q. SO HOW FAR IN ADVANCE WOULD THIS SCHEDULE COME OUT
10 BEFORE THAT TIME PERIOD STARTED?

11 A. I'D TRY TO HAVE IT OUT BY THE 15TH OF THE PREVIOUS
12 MONTH, SO -- BUT SOMETIMES, YOU KNOW, IT TOOK A
13 LITTLE WHILE TO FILL OUT BECAUSE I MIGHT NOT HAVE
14 HAD ENOUGH PEOPLE. BUT I CAN'T TELL YOU EXACTLY.
15 WELL, I CAN, ACTUALLY. I REVISED THIS ON SEPTEMBER
16 2ND, BUT IT WAS PROBABLY PUT OUT INITIALLY SOMETIME
17 IN THE MIDDLE OF AUGUST.

18 Q. ONCE SOMEBODY IS ON THAT SCHEDULE, ARE THEY REQUIRED
19 TO APPEAR FOR THEIR SHIFT?

20 A. YES.

21 Q. REGARDLESS OF WHETHER THEY ARE A DIRECT SCDC
22 EMPLOYEE OR ONE OF THE NURSES FROM THE AGENCIES?

23 A. RIGHT. THEY ARE EXPECTED TO APPEAR FOR THE SHIFT.
24 THEY CAN -- IF IT'S A CONTRACT PERSON, THEY CAN
25 CANCEL IT WITHIN A CERTAIN TIME LIMIT WINDOW. IT

1 HAS TO BE AT LEAST FOUR HOURS' NOTICE. AND I GUESS
2 IT DEPENDS ON THE COMPANY, YOU KNOW, THAT THEY'RE
3 WORKING WITH AS WELL. BUT WE, YOU KNOW, REQUIRE AT
4 LEAST A FOUR HOUR NOTICE. AND SAME THING WOULD GO
5 FOR EMPLOYEES THAT ARE SICK OR WHATNOT.

6 Q. WHAT HAPPENS IF SOMEBODY CALLS IN SICK? HOW DID YOU
7 -- LET'S SAY FOUR HOURS BEFORE THEY'RE SUPPOSED TO
8 BE THERE. HOW DID YOU GO ABOUT REPLACING THEM FOR
9 THAT SHIFT?

10 A. IF THEY WERE WORKING THROUGH AN AGENCY, THEY WERE
11 SUPPOSED TO NOTIFY THE WORK AREA, WHICH WOULD
12 GENERALLY BE ME OR SOME SUPERVISOR THAT WOULD GET IN
13 TOUCH WITH ME ABOUT IT, AND THEY WERE ALSO REQUIRED
14 TO NOTIFY THEIR AGENCY THAT THEY WEREN'T GOING TO BE
15 THERE FOR THE SHIFT. IF IT WAS AN EMPLOYEE OF MINE,
16 THEY WOULD JUST CONTACT ME DIRECTLY, AND AT THAT
17 POINT I WOULD CONTACT THE AGENCIES TRYING TO FIND
18 SOMEBODY TO REPLACE THEM AND REACH OUT TO THE STAFF
19 THAT I HAD THAT WOULD BE AVAILABLE THAT WEREN'T
20 ALREADY WORKING.

21 Q. SO, IF I UNDERSTOOD YOU, IT WOULD BE THE AGENCY WHO
22 WOULD PROVIDE A REPLACEMENT; IT WOULDN'T BE THE SICK
23 NURSE HERSELF?

24 A. RIGHT.

25 Q. AND YOU MENTIONED SOMETHING ABOUT ONCE A WEEK THAT

1 YOU WOULD DO AN ASSIGNMENT SHEET. EXPLAIN WHAT THE
2 ASSIGNMENT SHEET IS.

3 A. IT'S A SHEET THAT HAS WHAT AREA THE NURSES ARE
4 SUPPOSED TO BE WORKING IN FOR THAT PARTICULAR SHIFT.
5 IT WOULD SAY WHETHER OR NOT THEY'RE WORKING IN
6 PSYCHIATRIC HOSPITAL, I.C.S., OR MAXIMUM SECURITY
7 UNIT, AND WHO THEY WERE WORKING WITH, AND THEN WHO
8 THE CHARGE PERSON WAS FOR THAT UNIT IF THERE WAS
9 MORE THAN ONE OF THEM.

10 Q. WAS IT -- HOW DETAILED WAS IT?

11 A. IT JUST WAS A LIST OF WHO WAS WHERE. THAT'S ALL
12 THAT SAID.

13 Q. WERE THERE STEP-BY-STEP INSTRUCTIONS AS TO WHAT THE
14 PARTICULAR NURSE WAS SUPPOSED TO DO IN THAT
15 PARTICULAR ASSIGNMENT THAT DAY?

16 A. NOT ON THAT SHEET. BUT THAT INFORMATION WAS
17 PROVIDED TO THE PERSON DURING THE ORIENTATION
18 PERIOD. WHEN THEY WERE ORIENTED TO A SPECIFIC AREA,
19 THEY WERE GIVEN THE LIST OF DUTIES FOR THAT
20 ASSIGNMENT, AND I USUALLY HAD IT POSTED IN THE AREA,
21 LIKE IN THE NURSES' STATION AS WELL, WHAT EACH
22 PERSON IS SUPPOSED TO BE DOING.

23 Q. WERE THEY REQUIRED TO FOLLOW THOSE INSTRUCTIONS?

24 A. YES.

25 Q. REGARDLESS OF WHETHER THEY WERE AN AGENCY NURSE OR A

1 DIRECT SCDC EMPLOYEE?

2 A. RIGHT.

3 Q. DID YOU MAKE ANY DISTINCTION BETWEEN THE DIRECT SCDC
4 EMPLOYEES AS OPPOSED TO THE NURSES FROM MEDUSTRIAL
5 AND MEDFIRST WHEN YOU MADE THE ASSIGNMENTS?

6 A. NOT USUALLY. USUALLY IT WAS WHETHER OR NOT THE
7 PERSON WAS AN R.N. OR L.P.N., WHATEVER THEIR
8 CREDENTIALS WERE.

9 Q. WHEN PEOPLE ARE ASSIGNED, WHAT ARE THEY ASSIGNED TO?
10 BY THAT I MEAN IS IT A UNIT OR A WING, OR WHAT WOULD
11 YOU CALL IT?

12 A. AT THE PSYCHIATRIC HOSPITAL THEY WERE ASSIGNED
13 WINGS. I HAD A CHARGE NURSE, AND I HAD ONE NURSE
14 THAT WORKED EACH WING. AND THEN IN INTERMEDIATE
15 CARE SERVICE UNIT I HAD -- IT WAS BASICALLY TEAM-
16 BASED NURSING, WHERE I HAD SPECIFIC TASKS ASSIGNED
17 TO CERTAIN INDIVIDUALS. SO, THEY WERE ALL
18 RESPONSIBLE FOR THE ENTIRE UNIT COLLECTIVELY, BUT
19 THEY EACH HAD DIFFERENT TASKS TO DO FOR IT.

20 Q. IS IT REQUIRED THAT THEY DO ALL OF THOSE TASKS?

21 A. YES.

22 Q. WITH A NURSE LIKE MS. TURNER, WHO IS AN L.P.N., IS
23 THERE GOING TO BE ANYBODY WHO'S IN CHARGE OF HER
24 WHILE SHE'S ON THE UNIT?

25 A. USUALLY I HAVE AN R.N. IF SHE'S WORKING IN A UNIT

1 THAT HAS MORE THAN ONE NURSE, I GENERALLY WOULD HAVE
2 AN R.N. THAT'S WORKING -- THAT'S THE CHARGE NURSE
3 FOR THAT UNIT. AND SO SHE WOULD GENERALLY HAVE
4 SOMEBODY IN THE UNIT KIND OF SUPERVISING HER. BUT
5 IT'S NOT NECESSARILY THAT'S EXCLUSIVE TO SCDC; IT'S
6 SOMETHING THAT'S, YOU KNOW, PRETTY COMMON IN NURSING
7 PRACTICE.

8 Q. COMMON IN NURSING PRACTICE THAT L.P.N.s ARE GOING TO
9 BE SUPERVISED BY R.N.s AND CHARGE NURSES?

10 A. RIGHT.

11 Q. IF A CHARGE NURSE WERE TO GIVE AN L.P.N. LIKE MS.
12 TURNER SPECIFIC INSTRUCTIONS, WOULD DEPARTMENT OF
13 CORRECTIONS REQUIRE MS. TURNER TO FOLLOW THOSE
14 INSTRUCTIONS?

15 A. YES.

16 Q. HOW ABOUT IF A DOCTOR DIRECTED HER TO DO SOMETHING
17 SPECIFIC? WOULD SHE BE REQUIRED TO FOLLOW THOSE
18 INSTRUCTIONS FROM THE DOCTOR?

19 A. ASSUMING THAT WHAT THE -- WHAT SHE WAS BEING ASKED
20 TO DO WAS LEGAL AND WITHIN HER SCOPE OF PRACTICE,
21 YES.

22 Q. SO SHE COULDN'T DO SOMETHING THAT ONLY AN R.N. COULD
23 DO?

24 A. RIGHT.

25 Q. BUT IF SHE WAS LICENSED AS AN L.P.N. AND IT WAS

1 WITHIN THE SCOPE OF AN L.P.N. AND A DOCTOR TOLD HER
2 TO DO IT, SHE WOULD BE REQUIRED TO DO IT?

3 A. RIGHT.

4 Q. AND NURSES ARE PROFESSIONALS, SO THEY KNOW HOW TO DO
5 A LOT OF THINGS ALREADY BECAUSE OF THEIR TRAINING;
6 IS THAT FAIR TO SAY?

7 A. RIGHT.

8 Q. WHAT WOULD BE SOME OF THE THINGS THEY KNOW HOW TO DO
9 AS PART OF THEIR TRAINING?

10 A. HOW TO, YOU KNOW, COLLECT VITAL SIGN INFORMATION,
11 HOW TO EXAMINE WOUNDS, HOW TO TREAT INJURIES, HOW
12 TO, YOU KNOW, TREAT CARDIAC ARREST. THOSE ARE
13 PRETTY COMMON THINGS THAT THEY ENCOUNTER.

14 Q. ARE THERE GOING TO BE SPECIFIC TASKS THAT THEY WILL
15 HAVE AT THE DEPARTMENT OF CORRECTIONS THAT THEY NEED
16 TO BE -- THAT REQUIRE DIRECT SUPERVISION?

17 A. USUALLY THERE'S NOT ANYTHING SPECIFICALLY THAT THEY
18 HAVE TO HAVE DIRECT OVERSIGHT OVER. I MEAN, IT'S
19 ALL -- I MEAN, YOU'RE DOING NURSING; YOU'RE JUST
20 DOING IT IN A DIFFERENT ENVIRONMENT.

21 Q. ON -- DO THEY HAVE TO BE DIRECTED ON MEDICATION
22 MONITORING?

23 A. NO.

24 BY MR. SAMUELS:

25 BEG YOUR HONOR'S INDULGENCE?

1 BY THE COMMISSIONER:

2 CERTAINLY.

3 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

4 Q. MR. GUDVANGEN, I'M GOING TO SHOW YOU A PAGE FROM
5 YOUR DEPOSITION. I'M SIMPLY JUST GOING TO ASK YOU
6 TO CLARIFY THIS LAST POINT. I'M SHOWING YOU PAGE 24
7 OF YOUR DEPOSITION, AND I'M GOING TO ASK YOU TO
8 START AT LINE 15, IF YOU WOULD. AND ON PAGE 24, AT
9 LINE 15, YOU WERE ASKED THE QUESTION, "DID SHE
10 REQUIRE DIRECTION OR SUPERVISION ON MONITORING OF
11 MEDICATION?" AND YOUR ANSWER THEN WAS YES, AND YOU
12 HAD AN EXPLANATION. I WONDER IF YOU COULD EXPLAIN
13 THAT SITUATION TO US NOW.

14 A. OKAY. WE HAD -- I SAID HERE A LOT OF THOSE TASKS
15 THE SUPERVISOR OVERSEES WHETHER OR NOT THEY ARE
16 BEING COMPLETED. SO IN THAT ASPECT, WE WOULD CHECK
17 THE MEDICATION RECORDS AND MAKE SURE THAT THE
18 MEDICATION IS BEING SIGNED OFF ON, AND IF THE PERSON
19 HAS MISSED, YOU KNOW, A CERTAIN NUMBER OF DOSES,
20 THAT THE DOCTOR HAS BEEN NOTIFIED IN THAT REGARD,
21 YEAH. SO, I MEAN, AS A SUPERVISOR WE DO HAVE TO
22 SPOT CHECK, BUT MY UNDERSTANDING WAS THE QUESTION
23 THAT YOU ASKED ME PREVIOUSLY, DOES SHE REQUIRE
24 SOMEBODY TO SIT THERE AND WATCH HER DO HER JOB? SO,
25 I'LL CLARIFY IT AND SAY THAT, NO, SHE DIDN'T REQUIRE

1 CONSTANT EYES ON HER TO PERFORM HER TASKS, BUT WE
2 DID HAVE TO, YOU KNOW, SPOT CHECK AND DO AUDITS,
3 CHECK THE MEDICATION RECORDS AND MAKE SURE THE MEDS
4 WERE GIVEN. BUT IT DIDN'T REQUIRE A CONSTANT LEVEL
5 OF OVERSIGHT; IT JUST REQUIRED SPOT CHECKS AND
6 AUDITS.

7 Q. THAT WAS THE SAME FOR ALL THE NURSES?

8 A. YES.

9 Q. YOU'RE MONITORING HER WORK, AND AS A SUPERVISOR
10 WOULD YOU ALSO ADDRESS ANY PROBLEMS WITH HER
11 PERFORMANCE IF THERE WERE ANY?

12 A. I WOULD DISCUSS THEM WITH HER. IN REGARDS TO MS.
13 TURNER, HER BEING A CONTRACTOR, THERE WAS NO
14 DISCIPLINARY MEASURES THAT I COULD TAKE OTHER THAN
15 TO INFORM HER AGENCY THAT WE HAD AN ISSUE, YOU KNOW,
16 UP UNTIL -- UP TO THE POINT OF ME REQUESTING HER NOT
17 TO COME BACK OR THAT THEY NOT SEND HER BACK OR NOT
18 ALLOWING HER BACK IN THE INSTITUTION. BUT IN MOST
19 CASES, WITH THE CONTRACTORS, YOU KNOW, DISCUSSING
20 THE ISSUE, IT'S GENERALLY A MINOR THING. YOU CAN
21 DISCUSS IT, AND THAT'S GENERALLY ENOUGH TO TAKE CARE
22 OF IT UNLESS IT'S SOMETHING SEVERE.

23 Q. YOU HAVE THE ABILITY TO REQUIRE HER, IF SHE VIOLATED
24 SOMETHING, TO LEAVE THE PREMISES AND NOT COME BACK?

25 A. RIGHT.

1 Q. IS THAT CORRECT?

2 A. ABSOLUTELY.

3 Q. AND YOU HAVE THE AUTHORITY TO DO THAT?

4 A. YES.

5 Q. DID YOU, AS PART OF YOUR ROLE AS A SUPERVISOR, EVER
6 DO PERFORMANCE EVALUATIONS ON HER?

7 A. I DID. THE DIFFERENT CONTRACT COMPANIES WOULD SEND
8 ME PERFORMANCE EVALUATIONS TO COMPLETE ON THE PEOPLE
9 THAT WORKED IN MY SITE, AND SHE -- HER COMPANY DID
10 SEND ME EVALUATIONS TO COMPLETE ON HER BEFORE.

11 Q. I'M GOING TO SHOW YOU ANOTHER DOCUMENT, PAGE 283 OF
12 THE APA SUBMISSIONS. CAN YOU IDENTIFY THIS DOCUMENT
13 FOR US?

14 A. YEAH. THAT'S A CLINICAL FEEDBACK FORM THAT
15 MEDUSTRIAL GAVE ME TO COMPLETE FOR MS. TURNER.

16 Q. LOOKS LIKE THAT WAS DONE FEBRUARY 11TH, 2015?

17 A. RIGHT.

18 Q. AND WHAT ARE YOU LISTED AS NEXT TO YOUR NAME?
19 WHAT'S THE TITLE THEY GAVE YOU?

20 A. MANAGER/SUPERVISOR.

21 Q. AND WHAT SORT OF EVALUATION DID YOU GIVE HER?

22 A. I GAVE HER EXCEEDS STANDARDS IN ALL CATEGORIES.

23 Q. DID YOU MAKE ANY COMMENTS?

24 A. I DID. I SAID, "MS. TURNER IS VERY MOTIVATED AND
25 ANTICIPATES THE NEEDS OF HER COWORKERS IN THE UNIT."

1 Q. AND IN TERMS OF MEETING STANDARDS, ARE THOSE SCDC
2 STANDARDS THAT AN EMPLOYEE IS REQUIRED TO MEET TO
3 CONTINUE IN EMPLOYMENT, OR AT LEAST TO CONTINUE
4 WORKING IN THE UNIT?

5 A. THEY WOULD BE EQUIVALENT OF THE TERMS THAT THE
6 EMPLOYEES WOULD BE REQUIRED TO MEET, YES.

7 Q. YOU MENTIONED SHE ANTICIPATES THE NEEDS OF HER
8 COWORKERS. WHO WOULD HER COWORKERS BE?

9 A. OTHER NURSES THAT ARE WORKING WITH HER IN THE UNIT,
10 DOCTORS, SECURITY OFFICERS, ANYBODY THAT SHE'S
11 COMING INTO CONTACT IN THE INSTITUTION THAT'S NOT AN
12 INMATE.

13 Q. I'LL MOVE ON TO ASKING YOU ABOUT EQUIPMENT AND
14 SUPPLIES. ARE THERE EQUIPMENT AND SUPPLIES THAT ARE
15 NECESSARY FOR A NURSE TO DO HER JOB?

16 A. RIGHT.

17 Q. DID ANY OF THE NURSES, EITHER EMPLOYEES OR -- OF
18 SCDC OR PEOPLE SENT OVER BY THE AGENCIES, WERE THEY
19 -- DID THEY PROVIDE ANY OF THEIR OWN EQUIPMENT?

20 A. SOME OF THEM BROUGHT THEIR OWN STETHOSCOPES, BUT FOR
21 THE MOST PART ALL THE OTHER EQUIPMENT WAS FURNISHED
22 BY THE DEPARTMENT OF CORRECTIONS.

23 Q. WHAT ABOUT SMALL THINGS LIKE SCISSORS, BANDAGE
24 SCISSORS, FORCEPS, AND SO FORTH?

25 A. NO. THOSE AREN'T ALLOWED TO BE BROUGHT IN BECAUSE

1 OF THE POTENTIAL TO BE USED AS A WEAPON. SO WE
2 SUPPLY THEM, AND THEY ARE ASSIGNED AND ACCOUNTED FOR
3 EACH SHIFT.

4 Q. AND SO NOT ONLY DOES SCDC PROVIDE THOSE, BUT ANY
5 NURSE WORKING THERE IS NOT ALLOWED TO BRING ANY OF
6 THOSE THINGS INTO THE INSTITUTION?

7 A. THEY ARE -- UNDER SPECIAL CIRCUMSTANCES WE HAVE HAD
8 THE WARDEN APPROVE IT. BUT ON A DAY-TO-DAY BASIS,
9 NO.

10 Q. WHAT ABOUT LARGER EQUIPMENT, MAJOR INVESTMENTS, LIKE
11 HOSPITAL BEDS, IVs, MONITORS, EKG MACHINES, ALL THE
12 MYRIAD THINGS YOU SEE IN A MEDICAL SITUATION?

13 A. NO. THEY DON'T BRING THOSE IN FROM HOME.

14 Q. THOSE ARE PROVIDED BY SCDC?

15 A. THAT'S RIGHT.

16 Q. SO ESSENTIALLY THE NURSES PROVIDE THEIR SKILLS AND
17 LABOR?

18 A. THAT'S CORRECT.

19 Q. I'LL MOVE YOU TO SEPTEMBER 5TH, 2015.

20 A. UH-HUH.

21 Q. WAS RACHEL TURNER WORKING THAT DAY?

22 A. SHE WAS.

23 Q. WAS THERE A HOSTAGE SITUATION?

24 A. I'M SORRY; DO YOU MEAN THE 15TH? OR WAS IT THE 5TH?

25 Q. I BELIEVE THAT THE HOSTAGE SITUATION WAS ON THE 5TH.

1 A. OKAY. YOU MAY BE RIGHT. I FORGET THE SPECIFIC DAY.

2 Q. HOW DID YOU HEAR ABOUT THAT SITUATION?

3 A. I GOT -- AT THE TIME I WAS -- I HAD TO TAKE CALL,
4 AND I HAD A BEEPER, AND I GOT BEEPED BY THE HEAD
5 NURSE AT GILLIAM PSYCHIATRIC HOSPITAL THAT SHE HAD
6 TRIED TO CALL I.C.S., INTERMEDIATE CARE SERVICES,
7 WHERE MS. TURNER WAS WORKING AT, AND SHE SAID THAT
8 SHE WAS CALLING ABOUT A MEDICATION, TO SEE IF THEY
9 HAD AN EXTRA MEDICATION THAT THEY COULD USE AND THAT
10 AN INMATE ANSWERED THE PHONE. AND WHEN I RETURNED
11 THE PAGE BACK, THAT WAS THE MESSAGE THAT WAS RELAYED
12 TO ME BY THAT CHARGE NURSE, AND I TOLD HER THAT SHE
13 NEEDED TO NOT TALK TO THE INMATE, THAT SHE NEEDED TO
14 HANG UP THE PHONE AND CALL FIRST RESPONDERS, AND I
15 WAS GONNA TRY TO GET IN CONTACT WITH THE WARDEN.

16 Q. DID YOU GET IN CONTACT WITH THE WARDEN?

17 A. I DID. I WANT TO SAY IT WAS NOT IMMEDIATE BECAUSE
18 HE WASN'T IN THE INSTITUTION EITHER. THIS WAS ON
19 SATURDAY, SO MOST OF THE ADMINISTRATIVE PEOPLE WERE
20 NOT THERE. I DID GET IN TOUCH WITH HIM LATER IN THE
21 DAY, THOUGH.

22 Q. WHAT WERE YOU ATTEMPTING TO DO THAT DAY?

23 A. LIKE BEFORE I GOT NOTIFIED ABOUT THIS?

24 Q. NO, WHEN YOU GOT NOTIFIED, ONCE YOU GOT NOTIFIED.

25 A. OH. I ENDED UP CALLING THE WARDEN WHEN HE GOT INTO

1 THE INSTITUTION, AND I WANTED TO BE ABLE TO COME IN
2 AND BE THERE FOR THE SITUATION, BUT OUR PROCEDURES
3 DURING AN INSTITUTIONAL DISTURBANCE, WHICH THIS IS
4 -- WAS CONSIDERED ONE BECAUSE WE HAD TWO HOSTAGES,
5 IS THAT NOBODY IS ALLOWED IN OR OUT OF THE
6 INSTITUTION OTHER THAN THE EMERGENCY RESPONSE TEAMS
7 AND THE PEOPLE THAT ARE IN THE CHAIN OF COMMAND FOR
8 THE INCIDENT RESPONSE. SO, BEING THAT I WASN'T IN
9 THE CHAIN OF COMMAND FOR THE INCIDENT RESPONSE AND
10 THAT I WASN'T ON A TEAM, I WASN'T -- I WAS DENIED
11 BEING LET IN DURING THE SITUATION. BUT I WANTED TO
12 COME AND BE THERE FOR -- TO SUPPORT THE NURSES THAT
13 WERE IN THE SITUATION, AND, YOU KNOW, I PROBABLY
14 COULDN'T HAVE NEGOTIATED ANYTHING AS A HOSTAGE
15 NEGOTIATOR 'CAUSE I WAS THEIR SUPERVISOR, BUT I AT
16 LEAST WANTED THEM TO KNOW THAT SOMEBODY WAS THERE
17 FOR THEM. YOU KNOW, THEIR FAMILIES WEREN'T THERE.
18 THEIR COWORKERS WERE EXTREMELY UPSET AND DISTURBED
19 AND WORRIED ABOUT THEM, AND I WANTED TO BE THERE FOR
20 -- YOU KNOW, FOR THEM AND EVERYBODY ELSE AND TO MAKE
21 SURE, YOU KNOW, THEY HAD SOMEBODY TO LOOK AT ONCE
22 THEY GOT OUT, YOU KNOW, A FAMILIAR FACE TO KNOW THAT
23 SOMEBODY WAS THERE FOR THEM.

24 Q. HAD YOU EVER PERSONALLY DEALT WITH A SITUATION LIKE
25 THAT INVOLVING YOUR NURSES BEFORE?

1 A. NEVER.

2 Q. SINCE?

3 A. SINCE? NO, FORTUNATELY.

4 Q. IS IT UNUSUAL FOR NURSES TO BE INVOLVED IN A
5 SITUATION LIKE THAT AT SCDC?

6 A. IT'S VERY UNUSUAL. IN THE DEPARTMENT OF
7 CORRECTIONS, VIOLENCE DIRECTED TOWARDS STAFF IS NOT
8 EXTREMELY COMMON AND IT'S NOT USUALLY SEVERE. THE
9 VIOLENCE THAT ARE -- THAT'S IN OUR PRISON SYSTEM IS
10 GENERALLY INMATE-ON-INMATE, AND WHEN IT DOES INVOLVE
11 THE STAFF, IT'S NOT OF THE SEVERITY AS IT IS TO
12 OTHER INMATES. BUT ONE OF THE THINGS THAT'S VERY
13 RARE IS FOR IT TO BE A MEDICAL STAFF PERSON BEING
14 TARGETED FOR THE VIOLENCE. SO THAT WAS SOMETHING
15 THAT WAS -- I'D NEVER ENCOUNTERED BEFORE.

16 Q. WHO ARE THE NURSES THAT WERE BEING HELD HOSTAGE?

17 A. IT WAS RACHEL TURNER AND KRISTIN HILDEBRAND.

18 Q. IS MS. HILDEBRAND A DIRECT SCDC EMPLOYEE?

19 A. SHE IS.

20 Q. WERE YOU ABLE AT SOME POINT TO GET INTO THE
21 INSTITUTION?

22 A. I WAS. I WAS ABLE TO GET IN. THE FIRST PERSON TO
23 GET RELEASED WAS MS. TURNER. THEY HAD NEGOTIATED TO
24 RELEASE ONE OF THE HOSTAGES, AND MS. HILDEBRAND WAS
25 TRYING TO CONVINCE THE INMATES TO LET MS. TURNER OUT

1 FIRST, BECAUSE MS. TURNER, DURING THE SITUATION, HAD
2 BEEN THE TARGET OF THE MAJORITY OF THE VIOLENCE.
3 SHE HAD RECEIVED -- YOU KNOW, THEY BEAT HER UP
4 PRETTY BAD. AND MS. HILDEBRAND WAS AFRAID THAT IF
5 THEY LET HER OUT AND TURNER WAS IN THERE BY HERSELF
6 THAT SHE MIGHT GET KILLED. SO, SHE WANTED THEM TO
7 LET TURNER OUT AND SHE NEGOTIATED THAT. SO TURNER
8 HAD ALREADY BEEN OUT. WHEN THEY RELEASED HER,
9 THAT'S WHEN THEY AUTHORIZED ME TO BE ABLE TO COME
10 INTO THE INSTITUTION. BUT THEY TOOK HER DIRECTLY TO
11 AN AMBULANCE AND TO THE EMERGENCY ROOM.

12 Q. DID YOU HAVE THE OPPORTUNITY TO TALK TO HER AT ANY
13 TIME THAT DAY?

14 A. I GOT A -- I WANT TO SAY I TALKED TO HER LATER THAT
15 NIGHT. YOU'LL HAVE TO FORGIVE ME ABOUT THE TIME
16 FRAME BECAUSE THIS WHOLE SITUATION LASTED -- YOU
17 KNOW, IT LASTED A LONG TIME, AND SEVERAL THINGS
18 HAPPENED OVER THE COURSE OF SEVERAL DAYS, AND IT WAS
19 ALL A BLUR, AND I DIDN'T SLEEP DURING ANY OF IT.
20 SO, TO ME IT ALL SEEMS LIKE THE SAME DAY, SO I MIGHT
21 NOT BE ABLE TO RECALL SPECIFIC TIME FRAMES THAT
22 WELL, BUT I DID TALK TO HER. I BELIEVE SHE WAS IN
23 THE HOSPITAL WHEN I TALKED TO HER. SO IT WAS EITHER
24 THAT NIGHT AFTER SHE GOT THERE OR EARLY THE NEXT
25 MORNING BEFORE THEY DISCHARGED HER I SPOKE WITH HER.

1 Q. HOW DID SHE SEEM WHEN YOU SPOKE TO HER?

2 A. SHE SEEMED -- WELL, SHE SEEMED REALLY SHAKEN UP, AND
3 SHE WAS -- YOU KNOW, SHE TOLD ME THAT SHE WAS HURT.
4 SHE SAID THAT SHE WOULD BE OKAY, BUT -- YOU KNOW,
5 BUT SHE WASN'T OKAY THEN. AND SHE WAS THE TYPE OF
6 PERSON THAT WAS PRETTY STRONG AND -- STRONG-WILLED,
7 INDEPENDENT, AND, YOU KNOW, NOT TO ASK ANYBODY FOR
8 HELP. AND SHE WAS HAVING A VERY DIFFICULT TIME.

9 Q. DID SHE EVER RETURN TO WORK AT KIRKLAND?

10 A. SHE NEVER DID, NO.

11 Q. HAVE YOU HAD ANY COMMUNICATION WITH HER AFTER THAT
12 ONE CONVERSATION?

13 A. I DID. I HAD -- I DON'T REMEMBER HOW MANY TIMES
14 AFTER THAT, BUT I TALKED TO HER A LOT SINCE THAT
15 HAPPENED. MOST OF IT WAS TRYING TO, YOU KNOW, SEE
16 HOW SHE WAS AND HOW SHE WAS DOING AND, YOU KNOW, IF
17 SHE NEEDED HELP WITH STUFF. AND IT WASN'T JUST ME;
18 IT WAS A LOT OF OTHER PEOPLE THAT REACHED OUT TO HER
19 AS WELL AT THE -- YOU KNOW, AFTER THAT HAPPENED.
20 BUT THE LAST TIME I SPOKE TO HER WAS PROBABLY MARCH
21 OF LAST YEAR.

22 Q. HOW WAS SHE DOING THEN?

23 A. SHE WAS STARTING TO DO BETTER, AND I MEAN STARTING.
24 SHE WASN'T BACK TO HER OLD SELF, BUT SHE HAD STARTED
25 ACTUALLY GETTING HELP, AND I THINK THAT WAS ROUGHLY

1 SIX MONTHS AFTER THE INCIDENT HAPPENED THAT SHE HAD
2 GOTTEN INTO COUNSELING SERVICES WITH A CHURCH. AND
3 SOME OF THE FINANCIAL STUFF THAT WAS GOING ON WITH
4 HER WAS STARTING TO BALANCE OUT TO WHERE SHE WASN'T
5 LOSING THINGS, YOU KNOW, WHERE SHE WAS STARTING TO
6 MAINTAIN, AND AT THAT POINT IT SEEMED LIKE SHE WAS
7 STARTING TO RECOVER. AND I KIND OF PULLED AWAY FROM
8 HER BECAUSE I THOUGHT IF, YOU KNOW, SHE KEEPS
9 GETTING PEOPLE THAT ARE RELATED TO THE SITUATION
10 BROUGHT INTO IT, IT WOULD SLOW HER DOWN. SO, I KIND
11 OF BACKED OFF.

12 Q. YOUR IMPRESSION WAS THAT IT WOULD NOT BE GOOD FOR
13 HER TO BE ASSOCIATED AROUND PEOPLE HAVING TO DO WITH
14 HER JOB AS A NURSE?

15 A. NOT THAT, JUST TO DO WITH THE HOSTAGE SITUATION.
16 SHE -- SHE WAS THE TYPE OF PERSON THAT WAS REALLY --
17 PREFERRED TO BE BY HERSELF AND INDEPENDENT. SHE
18 DIDN'T WANT A WHOLE BUNCH OF PEOPLE AROUND. SHE WAS
19 VERY PRIVATE. SO -- AND I WAS INVOLVED AS MUCH AS I
20 WAS WITH HER PRIOR TO THAT JUST AS FROM ONE HUMAN
21 BEING TO ANOTHER CONCERNED ABOUT HER WELL-BEING AND
22 CONCERNED ABOUT IF SHE'S GOING TO BE HOMELESS, YOU
23 KNOW, WHAT'S GOING ON WITH HER. BUT WHEN I SAW THAT
24 SHE WAS STARTING TO GET HELP, THAT'S WHEN I PULLED
25 BACK, 'CAUSE I WANTED TO RESPECT PRIVACY AS WELL.

1 Q. BY GETTING -- YOU'RE REFERRING TO GETTING SOME
2 MENTAL HEALTH COUNSELING?

3 A. EXACTLY, YEAH.

4 BY MR. SAMUELS:

5 THANK YOU FOR YOUR CARE AND CONCERN FOR HER.
6 PLEASE ANSWER ANY QUESTIONS THE OTHER ATTORNEYS
7 HAVE.

8 BY THE WITNESS:

9 OKAY.

10 BY THE COMMISSIONER:

11 MR. GOODWYN?

12 CROSS EXAMINATION BY MR. GOODWYN:

13 Q. MR. -- IS IT GUDVANGEN?

14 A. GUDVANGEN.

15 Q. I REPRESENT CONDUSTRIAL AND MEDUSTRIAL IN THIS CASE.
16 I'VE GOT A FEW QUESTIONS FOR YOU. YOU TESTIFIED
17 THAT YOU ACTUALLY WORKED FOR MEDUSTRIAL PRIOR TO
18 GOING TO WORK AT SCDC DIRECTLY, CORRECT?

19 A. THAT'S CORRECT.

20 Q. DID YOU UNDERSTAND THAT MEDUSTRIAL AND CONDUSTRIAL
21 WERE THE SAME COMPANY AT THAT TIME?

22 A. I DID. I KNEW THAT CONDUSTRIAL -- WELL, FROM WHAT I
23 UNDERSTOOD, CONDUSTRIAL WAS THE MAIN COMPANY AND
24 MEDUSTRIAL WAS A SUBSIDIARY OF IT THAT JUST HANDLED
25 THE MEDICAL STUFF. BUT CONDUSTRIAL DID CONSTRUCTION

1 CONTRACTING.

2 Q. OKAY. I BELIEVE YOU TESTIFIED THAT YOU -- YOU SAID
3 THAT YOU KNEW YOU HAD TO WITHHOLD YOUR OWN TAXES?

4 A. UH-HUH.

5 Q. DID YOU -- IS THAT A YES?

6 A. YES.

7 Q. DID YOU BELIEVE -- DID YOU UNDERSTAND THAT YOU WERE
8 A 1099 INDEPENDENT CONTRACTOR WITH MEDUSTRIAL?

9 A. I DID.

10 Q. DID YOU -- YOU WERE ASKED A QUESTION ABOUT WORKERS'
11 COMPENSATION COVERAGE, AND I THINK YOU RESPONDED
12 THAT YOU THOUGHT YOU HAD IT, BUT IN HINDSIGHT
13 REALIZED THAT YOU PROBABLY DIDN'T HAVE IT?

14 A. RIGHT.

15 Q. DID YOU EVER ASK SPECIFICALLY IF YOU WERE GOING TO
16 BE COVERED BY WORKERS' COMPENSATION?

17 A. NO, I NEVER DID.

18 Q. OKAY. SO, IS IT FAIR TO SAY THAT MEDUSTRIAL OR
19 CONDUSTRIAL NEVER MISLED YOU TO BELIEVE THAT YOU
20 WOULD?

21 A. NO, THEY DIDN'T.

22 Q. OKAY. I'M ASSUMING YOU SIGNED AN INDEPENDENT
23 CONTRACTOR AGREEMENT WITH MEDUSTRIAL AS WELL?

24 A. I BELIEVE I DID.

25 Q. DID YOU BUY ANY INSURANCE ON YOUR OWN?

1 A. I HAD PERSONAL LIABILITY INSURANCE THAT WAS GOOD
2 UNTIL DECEMBER. SO I HAD AN ACTIVE POLICY AT THE
3 TIME.

4 Q. LIKE PROFESSIONAL LIABILITY?

5 A. RIGHT, AND THAT WAS CARRIED OVER FROM WHEN I WAS A
6 STUDENT. I HAD TO HAVE MALPRACTICE INSURANCE.

7 Q. OKAY. AND HAD YOU BEEN SET CLEAR ON THE WORKERS'
8 COMPENSATION ISSUE, WOULD YOU HAVE BOUGHT YOUR OWN
9 OCCUPATIONAL ACCIDENT POLICY?

10 A. NO. I THINK I WOULD HAVE JUST WORKED FOR AN AGENCY
11 THAT PROVIDED IT AND WITHHELD TAXES.

12 Q. OKAY.

13 A. THAT'S -- YEAH, THAT'S WHAT I WOULD HAVE DONE.

14 Q. OKAY. WELL, POSSIBLY, IF THEY PAID YOU MORE, YOU
15 COULD AFFORD YOUR OWN OCCUPATIONAL ACCIDENT POLICY.
16 WOULD THAT HAVE SOLVED THAT PROBLEM?

17 A. IF -- IF IT WAS, I MEAN, NEGLIGIBLE. I MEAN, I
18 DON'T KNOW HOW MUCH ANY OF THAT COSTS.

19 Q. YOU JUST DIDN'T LOOK INTO IT AT THE TIME?

20 A. RIGHT.

21 Q. OKAY. ALL RIGHT. YOU WERE TESTIFYING EARLIER IN
22 RESPONSE TO QUESTIONS FROM MR. SAMUELS ABOUT SOME
23 GUIDELINES THAT THE NURSES HAVE TO FOLLOW. ARE
24 THOSE SCDC GUIDELINES AND REQUIREMENTS?

25 A. SOME OF IT IS JUST SOUTH CAROLINA NURSE PRACTICE

1 ACT, YOU KNOW. IT'S STATE LAW. IT'S REQUIREMENTS
2 OF NURSING IN GENERAL. SOME OF IT IS SPECIFIC TO
3 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.

4 Q. OKAY. ARE ANY OF THESE GUIDELINES GUIDELINES OF
5 CONDUSTRIAL?

6 A. I -- I DON'T KNOW. I DON'T RECALL CONDUSTRIAL'S
7 GUIDELINES BEING ANYTHING OTHER THAN, YOU KNOW,
8 CANCELLING SHIFTS AND, YOU KNOW, SHOWING UP TO WORK
9 ON TIME, I MEAN, FROM WHEN I WORKED FOR THEM. I
10 DON'T KNOW WHAT THEIR, YOU KNOW, REQUIREMENTS WERE
11 AT THAT TIME. I WORKED FOR THEM IN 2011; SO...

12 Q. OKAY. BUT THE GUIDELINES THAT YOU HAVE FOR YOUR
13 STAFF, WHICH WOULD INCLUDE MS. TURNER, ---

14 A. RIGHT.

15 Q. --- WERE THOSE MEDUSTRIAL OR CONDUSTRIAL GUIDELINES?

16 A. NO, NO.

17 Q. OKAY. DOES CONDUSTRIAL OR MEDUSTRIAL HAVE ANY
18 GUIDELINES FOR THESE CONTRACT NURSES?

19 A. I DON'T KNOW. AND, LIKE I SAID, WHEN I WORKED FOR
20 THEM IN 2011 THOSE WERE THE ONLY THINGS I COULD
21 RECALL, WERE SOMETHING TO DO WITH ATTENDANCE AND
22 SHIFT CANCELLATION.

23 Q. OKAY. I BELIEVE YOU TESTIFIED THAT MS. TURNER WAS
24 SUPERVISED BY AN R.N. OR A CHARGE NURSE, IS THAT
25 RIGHT?

1 A. GENERALLY, YES.

2 Q. OKAY. ARE THOSE -- ARE THOSE SCDC EMPLOYEES?

3 A. USUALLY THEY ARE, YEAH.

4 Q. OKAY. I BELIEVE YOU TESTIFIED THAT YOU COULD NOT
5 DISCIPLINE MS. TURNER BECAUSE SHE WAS A CONTRACT
6 NURSE, CORRECT?

7 A. THAT'S CORRECT.

8 Q. I THINK YOU ALSO TESTIFIED ABOUT SOME EQUIPMENT AND
9 SUPPLIES THAT WERE PROVIDED. DID CONDUSTRIAL OR
10 MEDUSTRIAL SUPPLY ANY OF THOSE EQUIPMENT OR
11 SUPPLIES?

12 A. NO.

13 Q. OKAY. AND YOU MAY HAVE TESTIFIED TO THIS. THE
14 CONTRACT NURSES, WERE THEY REQUIRED TO WORK ANY
15 PARTICULAR SHIFT?

16 A. THEY GAVE US THEIR AVAILABILITY OF WHAT SHIFT THEY
17 WOULD BE AVAILABLE TO WORK, AND WE HAD TO SCHEDULE
18 THEM ACCORDING TO THAT. THEY BASICALLY PICKED THEIR
19 OWN SCHEDULE, EXCEPT -- OR, THEY PICKED THEIR OWN
20 SHIFTS. THEY COULDN'T SAY, "I WANT TO COME IN AT 5
21 A.M.," AND THE SHIFT STARTS AT SEVEN, YOU KNOW.

22 Q. THE SHIFT IS THE SHIFT?

23 A. RIGHT.

24 Q. OKAY.

25 A. THEY GOT TO PICK THE SHIFTS.

1 Q. BUT THEY DIDN'T -- DID SCDC HAVE ANY CONTROL OVER
2 WHAT THEY SAID THEIR AVAILABILITY WAS?

3 A. NO.

4 Q. OKAY. THEY DIDN'T HAVE TO WORK ANY SHIFT, RIGHT?

5 A. NO. THEY DIDN'T HAVE TO WORK AT ALL.

6 Q. OKAY. ALL RIGHT. YOU TESTIFIED THAT THE NURSES --
7 ALL NURSES HAVE TO PROVIDE THEIR OWN UNIFORMS?

8 A. UH-HUH.

9 Q. CORRECT?

10 A. THAT'S RIGHT.

11 Q. DOES THAT INCLUDE SHOES?

12 A. RIGHT.

13 Q. OKAY. WOULD YOU SAY THAT THERE'S A LOT OF AUTONOMY
14 WITH THESE NURSING CONTRACTOR -- WITH THE NURSING
15 CONTRACTOR WORK THAT MS. TURNER DID?

16 A. I WOULD SAY THAT WITH -- YOU KNOW, THE SAME AUTONOMY
17 WITH ANYBODY ELSE THAT IS WORKING THAT ASSIGNMENT,
18 WHETHER THEY BE A CONTRACTOR OR AN EMPLOYEE. THE --
19 YOU KNOW, THE LICENSED PROFESSIONALS -- AND WE HAVE
20 PRETTY CLEAR GUIDELINES OF WHAT TO DO IN EVERY
21 SITUATION. AS A LICENSED PROFESSIONAL, THERE'S SOME
22 JUDGMENT INVOLVED AND YOU GET A LITTLE LEEWAY WITH
23 THAT BECAUSE YOU HAVE THE TRAINING. BUT SHE HAD AS
24 MUCH AUTONOMY AS ANYBODY ELSE DID.

25 Q. OKAY. AND IS IT FAIR TO SAY THAT THE JOB -- IT WAS

1 A VERY LIGHT SUPERVISION TYPE JOB?

2 A. RIGHT.

3 Q. TELL ME ABOUT THE TRAINING FOR THE EMPLOYEE NURSES.
4 WHAT TYPE OF TRAINING DO THE EMPLOYEE NURSES
5 RECEIVE?

6 A. AT THAT TIME THEY HAD EIGHT HOUR NEW EMPLOYEE
7 ORIENTATION CLASS, AND THEN THAT WAS FOLLOWED UP
8 WITH A WEEK OF BASIC TRAINING AT THE TRAINING
9 ACADEMY, AND IT WAS USUALLY DONE WITHIN THE FIRST
10 SIX MONTHS OF EMPLOYMENT, AND THEN THEY HAD SOME
11 NURSING-SPECIFIC CLASSES THAT THEY WOULD TAKE WITHIN
12 THE FIRST YEAR.

13 Q. OKAY. WAS THERE ALSO TRAINING EVERY QUARTER?

14 A. NO, THERE WAS NOT. IT WAS ANNUAL.

15 Q. ANNUAL TRAINING. OKAY. WHAT ABOUT THE CONTRACT
16 NURSES? HOW DID THE -- WHAT TYPE OF TRAINING, IF
17 ANY, DID THE CONTRACT NURSES RECEIVE?

18 A. THEY GOT A THREE-DAY, I GUESS, ORIENTATION SHIFTS.
19 THEY GOT THREE PRECEPTOR SHIFTS.

20 Q. OKAY. I THINK, IF I REMEMBER RIGHT, YOU DESCRIBED
21 IT AS A JOB SHADOW?

22 A. YEAH. YEAH, LIKE A JOB SHADOW, AND THEN THEY
23 TRANSITIONED THEM INTO DOING THE JOB WITHIN THOSE
24 THREE DAYS.

25 Q. OKAY. IS THERE A SKILLS CHECKOFF ---

- 1 A. THERE IS.
- 2 Q. --- TO MAKE SURE THEY HAVE THE RIGHT SKILLS?
- 3 A. THERE IS SKILLS CHECKOFF.
- 4 Q. FAIR TO SAY THAT THEY DO NOT HAVE TO GO THROUGH THE
- 5 SAME TRAINING THAT THE EMPLOYEE NURSES DO?
- 6 A. YES.
- 7 Q. OKAY. THE EMPLOYEES, DO THEY HAVE A YEARLY
- 8 EMPLOYMENT MANAGEMENT SYSTEM REVIEW?
- 9 A. THEY DO.
- 10 Q. DO THE CONTRACTORS?
- 11 A. NO. OR, I'D HAVE TO SAY IT DEPENDS ON THE COMPANY.
- 12 YOU KNOW, IN MEDUSTRIAL'S CASE, THEY SENT ME AN
- 13 EVALUATION TO COMPLETE ON THE PERSON, AND I DON'T
- 14 KNOW HOW OFTEN THAT WAS. AND THERE'S SOME -- MAYBE
- 15 ONE OTHER AGENCY THAT DOES THE SAME THING. BUT
- 16 THERE ARE SEVERAL OF THEM THAT NEVER SEND ME
- 17 ANYTHING OR ASK FOR INPUT.
- 18 Q. OKAY. DO EMPLOYEE NURSES QUALIFY FOR BONUSES?
- 19 A. YES.
- 20 Q. DO THE CONTRACT NURSES?
- 21 A. NO.
- 22 Q. DO EMPLOYEE NURSES HAVE TO REQUEST LEAVE?
- 23 A. YES, THEY DO.
- 24 Q. DO CONTRACT NURSES?
- 25 A. NO.

1 Q. DO EMPLOYEE NURSES RECEIVE BENEFITS SUCH AS HEALTH
2 AND GENERAL?

3 A. THEY DO.

4 Q. DO CONTRACT NURSES?

5 A. NO.

6 **BY MR. SAMUELS:**

7 YOUR HONOR, IF I COULD POSE AN OBJECTION, FOR
8 CLARITY'S SAKE, AS TO WHETHER THE QUESTION IS DO
9 THEY QUALIFY FOR HEALTH AND VACATION FROM DEPARTMENT
10 OF CORRECTIONS, THAT WOULD BE SPECIFICALLY REFERRING
11 TO, OR IS IT FROM THE AGENCY?

12 **BY MR. GOODWYN:**

13 OKAY. I'M TALKING ABOUT FROM DEPARTMENT OF
14 CORRECTIONS.

15 **CROSS EXAMINATION RESUMED BY MR. GOODWYN:**

16 Q. THAT'S ALL YOU WOULD KNOW ABOUT, CORRECT?

17 A. RIGHT.

18 Q. OKAY. DOES DEPARTMENT OF CORRECTIONS OFFER ANY
19 HOSTAGE TRAINING TO THE EMPLOYEE NURSES?

20 A. THEY DO.

21 Q. WHAT ABOUT THE CONTRACT NURSES?

22 A. NO.

23 Q. DID ANY OVERTIME FOR THE CONTRACT NURSES HAVE TO BE
24 APPROVED?

25 A. IT'S -- I THINK IT DEPENDS ON THE COMPANY THAT THEY

1 WORK WITH BECAUSE SOME COMPANIES ASK FOR AN
2 AUTHORIZATION THAT THE PERSON IS GOING OVER 40
3 HOURS, AND THEY HAVE TO HAVE AN APPROVAL SENT TO
4 THEM BEFORE THEY'LL LET THE PERSON WORK THAT AMOUNT.
5 OTHER CONTRACT COMPANIES DON'T DO THAT. SO...

6 Q. WAS THAT THE CASE WITH CONDUSTRIAL AND MEDUSTRIAL?

7 A. I THINK MEDUSTRIAL, THEY REQUIRED THERE TO BE AN
8 APPROVAL IF THEY WENT OVER 40 HOURS.

9 Q. OKAY. DO YOU KNOW THAT FROM YOUR TIME YOURSELF
10 WORKING FOR -- AS A CONTRACTOR FOR MEDUSTRIAL OR
11 JUST FROM YOUR WORK AT SCDC AS THE SUPERVISOR OF THE
12 NURSES THAT WORK FOR ---

13 A. I KNOW THAT FROM BOTH, BECAUSE THEY ASK ME AS THE
14 SUPERVISOR FOR THE APPROVAL OF SOMEBODY GOING OVER
15 40 HOURS, AND WHEN I WORKED WITH MEDUSTRIAL, THEY
16 WOULD ASK -- YOU KNOW, THEY WOULD HAVE TO GET IT
17 APPROVED BEFORE I COULD PICK THE SHIFT UP.

18 Q. OKAY. AND WERE OVERTIME HOURS EVER NOT APPROVED?

19 A. NO.

20 Q. THEY WERE -- WERE THEY ALWAYS APPROVED?

21 A. YEAH, PRETTY MUCH.

22 Q. WAS THAT OUT OF A REQUEST FROM SCDC?

23 A. I THINK THAT WAS, YEAH.

24 Q. YOU JUST NEEDED SOME SHIFTS COVERED, DIDN'T HAVE
25 ANYBODY ELSE OR ---

1 A. RIGHT, RIGHT. IN BOTH CASES, IT WOULD BE I DIDN'T
2 HAVE ANYBODY ELSE TO COVER THE SHIFT, OR WHEN I WAS
3 WORKING WITH MEDUSTRIAL, THEY DIDN'T HAVE ANYBODY
4 ELSE TO COVER IT AND I WAS THE ONLY ONE AVAILABLE;
5 SO...

6 Q. WERE THERE TIMES WHERE THE OVERTIME SHIFTS WERE NOT
7 -- IT WAS NOT ASKED OF MEDUSTRIAL FOR APPROVAL OR
8 MAYBE ASKED AFTER THE FACT?

9 A. I DON'T RECALL. I MEAN, I DON'T RECALL THAT
10 HAPPENING.

11 Q. WAS THAT YOUR RESPONSIBILITY TO MAKE THAT REQUEST OR
12 WAS THAT SOMEBODY ELSE'S RESPONSIBILITY?

13 A. NO. MEDUSTRIAL WOULD BE THE ONE TO ALERT ME IF
14 THERE WAS A CONCERN ABOUT IT. SO, IT WOULDN'T BE --
15 AS A SUPERVISOR, I WOULDN'T BE THE ONE REACHING OUT
16 ABOUT THAT.

17 Q. DID MEDUSTRIAL ALWAYS CONTACT YOU IN ADVANCE OF THE
18 SHIFTS THAT WOULD PUT THE CONTRACTOR INTO AN
19 OVERTIME POSITION OR WOULD THAT BE AN AFTER-THE-FACT
20 SITUATION?

21 A. I ONLY RECALL THEM CONTACTING ME AHEAD OF TIME.

22 Q. OKAY. ESSENTIALLY ASKING YOU FOR PREAPPROVAL?

23 A. RIGHT, EXACTLY.

24 Q. OKAY. I SEE.

25 BY MR. GOODWYN:

1 ALL RIGHT. I THINK THAT'S ALL I HAVE.

2 BY THE COMMISSIONER:

3 MR. HARBISON?

4 CROSS EXAMINATION BY MR. HARBISON:

5 Q. OKAY. I'M SO SORRY; I'M GOING TO HAVE TO ASK YOU TO
6 PRONOUNCE YOUR NAME AGAIN. I APOLOGIZE.

7 A. GUDVANGEN.

8 Q. ALL RIGHT. MR. GUDVANGEN, WHAT IF I CALL YOU
9 JUSTIN?

10 A. THAT'S FINE.

11 BY MR. HARBISON:

12 IS THAT OKAY, COMMISSIONER?

13 BY THE COMMISSIONER:

14 WHATEVER YOU GENTLEMEN ARE COMFORTABLE WITH.

15 BY MR. HARBISON:

16 ALL RIGHT. I'M GOING TO DO THAT BECAUSE I'M
17 GOING TO STRUGGLE HERE.

18 CROSS EXAMINATION RESUMED BY MR. HARBISON:

19 Q. AND I'M NOT GOING TO TRY TO REPEAT ANY OF THE
20 QUESTIONS THAT YOU'VE BEEN ASKED, BUT I WAS TRYING
21 TO WRITE DOWN STUFF AS QUICKLY AS I COULD.

22 A. OKAY.

23 Q. BUT I MAY BE A LITTLE BIT REPETITIVE, BUT I'LL TRY
24 NOT TO BE. YOU WERE MS. TURNER'S SUPERVISOR AT
25 KIRKLAND AT THE TIME OF THIS INCIDENT; IS THAT

- 1 CORRECT?
- 2 A. RIGHT.
- 3 Q. ALL RIGHT. AND THERE ARE TWO DIFFERENT KINDS OF
- 4 NURSES THAT WORK AT DEPARTMENT OF CORRECTIONS,
- 5 CORRECT?
- 6 A. RIGHT.
- 7 Q. RIGHT. YOU'VE GOT THE INDEPENDENT CONTRACTOR
- 8 NURSES?
- 9 A. RIGHT.
- 10 Q. AND YOU'VE GOT THE EMPLOYEE NURSES?
- 11 A. RIGHT.
- 12 Q. OKAY. AND MS. TURNER WAS A CONTRACT NURSE?
- 13 A. YEAH, AS FAR -- YEAH. SHE WORKED THROUGH
- 14 MEDUSTRIAL.
- 15 Q. AND YOU KNEW AT THE TIME OF HER ALLEGED WORK
- 16 ACCIDENT THAT SHE WAS A CONTRACT NURSE?
- 17 A. RIGHT.
- 18 Q. NOW, IT'S MY UNDERSTANDING THAT THE SCHEDULING --
- 19 MR. SAMUELS ASKED YOU ABOUT SOME SCHEDULING, BUT
- 20 IT'S MY UNDERSTANDING THAT SCHEDULING WORKS A LITTLE
- 21 BIT DIFFERENTLY FOR INDEPENDENT CONTRACTOR NURSES AS
- 22 OPPOSED TO THE EMPLOYEE NURSES, CORRECT?
- 23 A. RIGHT.
- 24 Q. ALL RIGHT. THE DEPARTMENT OF CORRECTIONS TENDS TO
- 25 WORK THE EMPLOYEE NURSES ON A ROTATING SCHEDULE?

- 1 A. FOR THE MOST PART, YEAH.
- 2 Q. OKAY. AND AS A SUPERVISOR, YOU HAVE THE AUTHORITY
- 3 TO MAKE THE W-2 OR THE EMPLOYEE NURSES WORK A
- 4 PARTICULAR SHIFT?
- 5 A. RIGHT.
- 6 Q. AND IF THEY REFUSE, IT WOULD BE INSUBORDINATION?
- 7 A. PRETTY MUCH.
- 8 Q. BUT WITH THE CONTRACT NURSES, YOU CAN'T MAKE THEM
- 9 WORK SPECIFIC SHIFTS?
- 10 A. RIGHT.
- 11 Q. YOU CAN'T MAKE THEM, FOR EXAMPLE, WORK LIKE ON A
- 12 SATURDAY NIGHT?
- 13 A. THAT'S RIGHT.
- 14 Q. OKAY. IN SHORT, THE CONTRACT NURSES HAVE THE
- 15 AUTHORITY AT KIRKLAND TO SAY NO?
- 16 A. RIGHT.
- 17 Q. AND THAT WAS THE CASE IN SEPTEMBER OF 2015?
- 18 A. YES, AND IT'S STILL THE CASE TODAY.
- 19 Q. STILL THE CASE TODAY.
- 20 A. YEAH.
- 21 Q. BUT THEY HAVE THE AUTHORITY, JUST TO CLARIFY -- MY
- 22 QUESTION WAS POORLY WORDED. IN SEPTEMBER 2015 THE
- 23 CONTRACT NURSES, SUCH AS MS. TURNER, HAD THE
- 24 AUTHORITY TO SAY NO TO SHIFTS?
- 25 A. THAT'S RIGHT.

1 Q. AND IF THEY DID, YOU WOULD NOT HAVE BEEN ABLE TO
2 REPRIMAND?

3 A. THERE IS NO RECOURSE, RIGHT.

4 Q. OKAY. I THINK YOU MENTIONED SOMETHING ABOUT
5 PARKING. THE PARKING FACILITY AT KIRKLAND, YOU SAID
6 THERE'S A STAFF AND THEN A VISITOR'S ---

7 A. RIGHT.

8 Q. --- SECTION?

9 A. ACTUALLY, THINKING BACK ON KIRKLAND'S PARKING LOT
10 SPECIFICALLY, I DON'T KNOW. IT MIGHT NOT -- I DON'T
11 THINK KIRKLAND ACTUALLY SPLITS IT UP INTO TWO
12 SECTIONS. I KNOW BROAD RIVER DOES, BUT KIRKLAND, I
13 THINK, IS JUST A FREE-FOR-ALL.

14 Q. OKAY. SO ANYBODY CAN PARK ANYWHERE THEY WANT AT
15 KIRKLAND?

16 A. YEAH.

17 Q. ALL RIGHT. AND THE SOUTH CAROLINA DEPARTMENT OF
18 CORRECTIONS DOES NOT CHARGE NURSES FOR PARKING?

19 A. NO.

20 Q. IS THAT CORRECT?

21 A. THAT'S RIGHT.

22 Q. WOULDN'T YOU THINK -- YOU'VE BEEN A NURSE FOR A
23 WHILE, RIGHT?

24 A. RIGHT.

25 Q. WOULDN'T YOU THINK IT WOULD BE A LITTLE STRANGE FOR

1 A FACILITY TO HAVE A SPECIFIC PLACE FOR CONTRACT
2 NURSES FOR PARKING AND THEN EMPLOYEE NURSES FOR
3 PARKING?

4 A. I THINK EVEN AT THE HOSPITAL I DON'T -- I'VE NEVER
5 SEEN THEM DO THAT. I'VE WORKED A FEW PLACES. I'VE
6 NEVER SEEN THEM DO THAT.

7 Q. ALL RIGHT. AND THE DEPARTMENT OF CORRECTIONS DOES
8 NOT PROVIDE THE CONTRACT NURSES WITH UNIFORMS?

9 A. NO.

10 Q. AND THE NURSES ARE REQUIRED TO MAINTAIN THOSE
11 UNIFORMS?

12 A. RIGHT.

13 Q. THEY'RE REQUIRED TO CLEAN THEM?

14 A. RIGHT.

15 Q. OKAY. MR. SAMUELS ASKED ABOUT BEING PATTED DOWN.
16 THE CONTRACT NURSES ARE PATTED DOWN WHEN THEY COME
17 INTO THE KIRKLAND FACILITY?

18 A. THAT'S RIGHT.

19 Q. AND ALL THE PRISON FACILITIES?

20 A. RIGHT.

21 Q. IF I WENT OVER THERE TODAY AS A VISITOR, WOULD I BE
22 PATTED DOWN?

23 A. YES.

24 Q. I WOULD HAVE TO GO THROUGH THE SAME THING SHE DID IN
25 TERMS OF A SAFETY CHECK, MS. TURNER?

1 A. RIGHT.

2 Q. EXCUSE ME. YOUR TITLE IS EXACTLY THE HEALTH CARE
3 AUTHORITY NURSE ADMINISTRATOR?

4 A. WELL, MY -- MY STATE POSITION TITLE IS NURSE
5 ADMINISTRATOR/MANAGER TWO. MY SCDC POSITION IS
6 HEALTH CARE ADMINISTRATOR -- OR NURSE ADMINISTRATOR
7 MANAGER, I THINK. I GET CONFUSED BECAUSE THEY BOTH
8 SAY TWO DIFFERENT THINGS BUT THEY MEAN THE SAME.

9 Q. AT THE TIME THAT THIS OCCURRED IN SEPTEMBER OF 2015,
10 YOU HAD THE RIGHT TO FIRE EMPLOYEE NURSES, CORRECT?

11 A. THAT'S RIGHT.

12 Q. BUT YOU COULD NOT DIRECTLY FIRE CONTRACT NURSES?

13 A. NO.

14 Q. YOU CAN PUT THEM ON A DO-NOT-USE LIST?

15 A. EXACTLY. I COULD PUT THEM ON A DO-NOT-USE LIST AND
16 I COULD CANCEL THEIR SHIFTS, BUT I COULDN'T -- WHAT
17 I DID WOULD NOT NECESSARILY HAVE ANY INFLUENCE ON
18 THEIR STATUS WITH MEDUSTRIAL, OR WHEREVER THEY
19 WORKED FOR.

20 Q. OKAY. NOW, IT'S MY UNDERSTANDING -- SO THEY COULD
21 HAVE -- IF YOU PUT THEM ON A DO-NOT-USE LIST, THE
22 CONTRACT NURSES COULD SIMPLY GO START WORKING WITH
23 ANOTHER LOCATION?

24 A. THAT'S RIGHT.

25 Q. ALL RIGHT.

- 1 A. THAT'S RIGHT. IMMEDIATELY THEY COULD DO THAT, YEAH.
- 2 Q. THE PERFORMANCE REVIEWS -- WELL, LET -- I THINK YOU
- 3 TESTIFIED EARLIER THAT YOU GAVE MS. TURNER A
- 4 PERFORMANCE REVIEW IN WHICH YOU FOUND THAT SHE
- 5 EXCEEDED ALL EXPECTATIONS?
- 6 A. THAT'S RIGHT.
- 7 Q. AND THAT'S AS AN L.P.N., CORRECT?
- 8 A. THAT'S RIGHT.
- 9 Q. AND AN L.P.N. -- I'M SORRY; I'M NOT FAMILIAR WITH
- 10 ALL THE FUNCTIONS. BUT THEY DO A LOT OF DIFFERENT
- 11 THINGS; IS THAT CORRECT?
- 12 A. RIGHT.
- 13 Q. THEY MAINTAIN RECORDS, PATIENTS' HISTORIES?
- 14 A. RIGHT.
- 15 Q. THEY DRESS AND BATHE AND ASSIST IN CERTAIN SETTINGS?
- 16 A. RIGHT. NOT IN PRISON, BUT...
- 17 Q. OKAY. JUST NOT -- THEY MEASURE VITAL SIGNS?
- 18 A. THAT'S RIGHT.
- 19 Q. AND THAT WOULD INCLUDE BODY TEMPERATURE? IS THAT A
- 20 VITAL SIGN?
- 21 A. YES.
- 22 Q. BLOOD PRESSURE?
- 23 A. YES.
- 24 Q. PULSE RATE?
- 25 A. YES.

1 Q. OKAY. AND SHE EXCEEDED ALL OF HER EXPECTATIONS --
2 OR ALL OF YOUR EXPECTATIONS IN THOSE AREAS?

3 A. RIGHT.

4 Q. AND SHE KNEW HOW TO DO ALL THOSE FUNCTIONS, DIDN'T
5 SHE?

6 A. RIGHT.

7 Q. THAT'S WHY SHE WAS EXCEEDING EXPECTATIONS AS A
8 LICENSED PRACTICAL NURSE, CORRECT?

9 A. YEAH, AND SHE WOULD HELP OUT WITH OTHER THINGS THAT
10 OTHER PEOPLE WERE DOING. SHE WOULD HELP ANY WAY SHE
11 COULD.

12 Q. AND I THINK YOU SAID -- YOU DESCRIBED HER. IT
13 SOUNDED LIKE YOU KNEW HER FAIRLY WELL?

14 A. WELL, I KNOW ALL MY -- YOU KNOW, THE PEOPLE THAT
15 WORKED IN MY AREAS, I KNEW THEM ALL PRETTY -- YOU
16 KNOW, I KNOW THEM ALL.

17 Q. IT SOUNDS LIKE, THOUGH, THAT YOU REGARDED HER AS A
18 VERY INDEPENDENT PERSON?

19 A. YEAH. OH, YEAH, YEAH. YEAH, SHE WAS.

20 Q. WHAT DO YOU MEAN BY THAT?

21 A. WELL, SHE DIDN'T SHARE HER PERSONAL BUSINESS WITH
22 OTHER PEOPLE. SHE WAS REALLY PROFESSIONAL IN HOW
23 SHE, YOU KNOW, WENT ABOUT HER JOB. SHE DIDN'T
24 GOSSIP. SHE KEPT TO HERSELF. NOBODY REALLY KNEW
25 MUCH ABOUT HER OUTSIDE OF WORK. I BECAME MORE

1 FAMILIAR WITH HER AFTER THIS -- THE HOSTAGE
2 SITUATION HAPPENED. SO, BUT THAT'S WHAT I MEAN BY
3 SHE WAS INDEPENDENT AND SHE DIDN'T REALLY NEED TO
4 ASK ANYBODY FOR HELP EITHER. SHE JUST KIND OF DID
5 HER OWN THING, AND, YOU KNOW, SHE DID HELP EVERYBODY
6 ELSE OUT. BUT...

7 Q. SHE DIDN'T HAVE TO ASK ANYONE FOR HELP IN DOING HER
8 JOB DUTIES AT DEPARTMENT OF CORRECTIONS?

9 A. I MEAN, WITHIN REASON, YOU KNOW. SOMETIMES A LOT OF
10 THINGS HAPPEN AND IT'S MORE THAN ONE PERSON CAN
11 HANDLE. SHE WOULD DEFINITELY ASK FOR HELP WITH
12 THAT, BUT ---

13 Q. BUT IN TERMS OF HOW TO ACTUALLY PERFORM HER JOB
14 DUTIES?

15 A. RIGHT. SHE DIDN'T NEED ANYBODY TO HOVER OVER HER.

16 Q. OKAY. AND I'M SORRY IF YOU TESTIFIED TO THIS. I
17 WAS A LITTLE CONFUSED ABOUT THE TRAINING. IT SOUNDS
18 LIKE THERE WERE DIFFERENT SETS OF TRAINING FOR THE
19 EMPLOYEE NURSES AS OPPOSED TO THE CONTRACT NURSES?

20 A. THAT'S RIGHT.

21 Q. ALL RIGHT. SO THE EMPLOYEE NURSES -- AND I'M
22 TALKING ABOUT SEPTEMBER OF 2015 -- THEY WERE
23 SCHEDULED FOR A WEEK LONG BASIC TRAINING SESSION?

24 A. THAT'S RIGHT.

25 Q. BUT THE CONTRACT NURSES WERE JUST ENTITLED TO A

1 THREE-DAY JOB SHADOW?

2 A. THAT'S CORRECT.

3 Q. AND THEN FOR THE EMPLOYEE NURSES, EVEN AFTER THE
4 WEEK LONG BASIC TRAINING COURSES, THEY WERE
5 SCHEDULED FOR MORE TRAINING COURSES AFTER THAT; IS
6 THAT CORRECT?

7 A. THAT'S RIGHT.

8 Q. EXCUSE ME?

9 A. YES.

10 Q. OKAY. THAT DID NOT APPLY TO THE CONTRACT NURSES?

11 A. NO, IT DIDN'T.

12 Q. AND THE CONTRACT NURSES WERE NOT EVEN REQUIRED TO GO
13 THROUGH THE TRAINING THAT THE EMPLOYEE NURSES WERE?

14 A. THAT'S CORRECT; THEY WERE NOT.

15 Q. THE WAY YOU REPRIMANDED EMPLOYEE NURSES VERSUS
16 INDEPENDENT CONTRACTOR NURSES IS DIFFERENT AS WELL,
17 CORRECT?

18 A. RIGHT.

19 Q. IF YOU NEEDED TO REPRIMAND AN EMPLOYEE NURSE FOR
20 SOMETHING, YOU WOULD GIVE THEM -- THEY WOULD HAVE TO
21 HAVE AN OPPORTUNITY TO HAVE A HEARING, IS THAT
22 RIGHT?

23 A. I'M SORRY. THE EMPLOYEE NURSES; IS THAT WHAT YOU'RE

24 ---

25 Q. YEAH, THE EMPLOYEE NURSES.

1 A. YEAH, THEY WOULD HAVE A HEARING. A CORRECTIVE
2 ACTION REVIEW MEETING IS WHAT THEY CALL IT.

3 Q. AND THEY CAN PRESENT THEIR CASE?

4 A. THEY COULD, AND ANY SUPPORTING DOCUMENTATION THEY
5 HAVE, MITIGATING CIRCUMSTANCES. AND THE PERSON
6 THAT'S THE REPRIMANDING AUTHORITY WOULD DETERMINE
7 WHAT THE SANCTION WOULD BE AFTER HEARING THE CASE.

8 Q. AND WOULD THOSE -- AND THOSE SANCTIONS WOULD BE
9 PLACED IN THE EMPLOYEE NURSE'S PERSONNEL FILE?

10 A. THAT'S RIGHT. ANYTHING FROM A WRITTEN WARNING ABOVE
11 WOULD BE PLACED IN THE PERSONNEL FILE. SOMETIMES
12 THERE'S SOME INFORMAL RESOLUTIONS AND THEY AREN'T
13 PUT ON FILE.

14 Q. BUT THEY DIFFER QUITE SIGNIFICANTLY FOR CONTRACT
15 NURSES, CORRECT?

16 A. RIGHT.

17 Q. IF YOU HAVE A PROBLEM WITH A CONTRACT NURSE, YOU
18 WOULD GENERALLY JUST PULL THEM ASIDE?

19 A. THAT'S RIGHT.

20 Q. AND THIS APPLIES TO THE TIME WHEN MS. TURNER WAS
21 THERE?

22 A. RIGHT.

23 Q. AND IF THAT DIDN'T CORRECT THINGS, THEN YOU WOULD
24 SIMPLY REFER -- FALL BACK ON THE AGENCY?

25 A. RIGHT.

1 Q. AND, AGAIN, I APOLOGIZE IF THIS IS REDUNDANT, BUT I
2 WANT TO MAKE SURE. YOU TESTIFIED THAT DEPARTMENT OF
3 CORRECTIONS EMPLOYEE NURSES QUALIFY FOR BONUSES?

4 A. YES.

5 Q. BUT CONTRACT NURSES DO NOT?

6 A. RIGHT.

7 Q. EMPLOYEE NURSES SUCH AS -- OR EMPLOYEE NURSES HAVE
8 TO ASK FOR VACATION LEAVE?

9 A. YES.

10 Q. BUT CONTRACT NURSES ---

11 **BY MR. SAMUELS:**

12 ASKED AND ANSWERED.

13 **BY MR. HARBISON:**

14 OKAY. AND I'M SORRY; I COULD NOT READ MY
15 WRITING, BUT ---

16 **BY THE COMMISSIONER:**

17 SUSTAINED.

18 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

19 Q. EMPLOYEE NURSES HAVE TO ASK FOR SICK LEAVE?

20 A. YES.

21 Q. EMPLOYEE -- CONTRACT NURSES DO NOT?

22 A. NO.

23 Q. SAME AS PERSONAL LEAVE?

24 A. YES.

25 Q. THE DEPARTMENT OF CORRECTIONS OFFERED RETIREMENT

1 BENEFITS FOR EMPLOYEE NURSES, CORRECT?

2 A. RIGHT.

3 Q. THEY DID NOT OFFER RETIREMENT BENEFITS FOR CONTRACT
4 NURSES, CORRECT?

5 A. THAT'S CORRECT. AND I'LL CLARIFY THAT. WE HAVE
6 DIFFERENT LEVELS OF EMPLOYEES AT THE DEPARTMENT OF
7 CORRECTIONS, AND NOT EVERYBODY IS AVAILABLE FOR ALL
8 THE SAME BENEFITS. IT DEPENDS ON WHETHER OR NOT
9 THEY'RE FULL TIME OR TEMPORARY AND HOW MANY HOURS
10 THEY WORK.

11 Q. BUT CERTAIN EMPLOYEES AT THE DEPARTMENT OF
12 CORRECTIONS ARE ---

13 A. RIGHT.

14 Q. --- ENTITLED TO RETIREMENT BENEFITS?

15 A. RIGHT, YEAH. I JUST -- YEAH. EXACTLY.

16 Q. AND CONTRACT NURSES ARE NOT?

17 A. NO.

18 Q. SUCH AS MS. TURNER?

19 A. RIGHT.

20 Q. OKAY. AND AS FAR AS YOU KNOW, THE SOUTH CAROLINA
21 DEPARTMENT OF CORRECTIONS DID NOT PROVIDE ANY TYPE
22 OF BENEFITS TO CONTRACT NURSES BACK IN SEPTEMBER OF
23 2015, CORRECT?

24 A. THAT'S CORRECT.

25 Q. YOU'VE ASKED ABOUT BRINGING -- YOU WERE ASKED ABOUT

1 BRINGING IN EQUIPMENT TO THE PRISON FACILITY. IT
2 SOUNDS LIKE THE DEPARTMENT OF CORRECTIONS KEEPS A
3 CLOSE WATCH ON THAT, CORRECT?

4 A. RIGHT.

5 Q. AND THAT'S GENERALLY FOR SAFETY REASONS?

6 A. RIGHT.

7 Q. YOU DON'T WANT WORKERS THAT ARE COMING IN THERE,
8 SUCH AS MS. TURNER, TO BRING IN ANYTHING THAT COULD
9 BE USED AS A WEAPON?

10 A. RIGHT.

11 Q. AND IN TERMS OF MEDICAL EQUIPMENT, I'M SURE YOU
12 DON'T WANT WORKERS COMING IN BRINGING THEIR OWN
13 MEDICAL EQUIPMENT?

14 A. THAT'S RIGHT.

15 Q. FOR SAFETY REASONS?

16 A. RIGHT.

17 Q. I MEAN, YOU DON'T WANT DIRTY NEEDLES BEING USED BY A
18 WORKER IN YOUR FACILITY?

19 A. RIGHT.

20 Q. SO, ISN'T IT TRUE THAT IN MOST HOSPITAL SETTINGS THE
21 HOSPITAL PROVIDES ALMOST ALL THE EQUIPMENT FOR THE
22 NURSES?

23 A. YES; THAT'S TRUE.

24 Q. WHETHER THEY'RE EMPLOYEE OR CONTRACT NURSES?

25 A. RIGHT.

1 BY MR. HARBISON:

2 EXCUSE ME ONE SECOND, COMMISSIONER. BEG YOUR
3 INDULGENCE JUST ONE SECOND, COMMISSIONER.

4 CROSS EXAMINATION RESUMED BY MR. HARBISON:

5 Q. YOU TESTIFIED THAT YOU WORK -- THE DEPARTMENT OF
6 CORRECTIONS WORKS WITH SOME OTHER NURSING AGENCIES
7 OTHER THAN MEDUSTRIAL?

8 A. RIGHT.

9 Q. AND SOME OF THOSE AGENCIES PROVIDE THEIR OWN
10 WORKERS' COMPENSATION INSURANCE FOR THEIR NURSES,
11 CORRECT?

12 A. I DON'T KNOW. I HAVE NO IDEA WHAT THEY PROVIDE FOR
13 THEIR PEOPLE. I KNOW JUST PERSONALLY MEDFIRST DOES.
14 I KNOW THAT BECAUSE I SPOKE TO THEM.

15 Q. THEY DO?

16 A. YEAH.

17 Q. OKAY. SO IT'S NOT REALLY CLEAR WHO DOES OR WHO DOES
18 NOT PROVIDE WORKERS' COMP FOR THEIR NURSES, CORRECT?

19 A. NOT TO ME. THAT'S SOMETHING THAT I DON'T GENERALLY
20 DEAL WITH IN MY DAY-TO-DAY JOB DUTIES. I'M SURE
21 THERE'S OTHER PEOPLE THAT DO KNOW THAT.

22 BY MR. HARBISON:

23 ALL RIGHT. THAT'S ALL I HAVE RIGHT NOW. THANK
24 YOU.

25 BY THE WITNESS:

1 YOU'RE WELCOME.

2 BY THE COMMISSIONER:

3 DEPARTMENT OF CORRECTIONS?

4 CROSS EXAMINATION BY MS. FARTHING:

5 Q. I GUESS WE'RE IN THE AFTERNOON NOW, SO GOOD
6 AFTERNOON. I DON'T THINK I HAVE TOO MANY QUESTIONS
7 TO ASK YOU, AND I'M GOING TO TRY MY HARDEST NOT TO
8 GO OVER ANY THAT HAVE ALREADY BEEN ASKED.

9 A. OKAY.

10 Q. BUT IT IS MY UNDERSTANDING WHEN YOU -- I KNOW THAT
11 MR. SAMUELS ASKED YOU ABOUT SCHEDULING AND HOW YOU
12 DO THE SCHEDULING. IT'S MY UNDERSTANDING -- DO YOU
13 SCHEDULE THE EMPLOYEE NURSES FIRST?

14 A. IDEALLY, IF I HAD MORE EMPLOYEES AND LESS CONTRACT,
15 THAT'S HOW I WOULD DO IT, AND I WOULD HAVE -- I
16 WOULD PUT ALL MY SHIFTS AVAILABLE TO ALL THE
17 AGENCIES AND HAVE THE DIFFERENT AGENCIES HAVE THEIR
18 NURSES PICK THEM UP. BUT WHEN YOU'RE -- THIS
19 SCHEDULE DOESN'T LOOK TOO BAD AS FAR AS LIKE MY
20 RATIO. IT'S LIKE HALF AND HALF. BUT SHORTLY AFTER
21 THIS INCIDENT I WENT UP TO 70 PERCENT AGENCY STAFF.
22 SO, I GET THEIR AVAILABILITIES FROM THE AGENCIES OR
23 FROM THE INDIVIDUAL THEMSELF WHEN THEY COME IN TO
24 WORK. THEY'LL GIVE ME THE DAYS THAT THEY CAN WORK.
25 AND I BASICALLY FILL THEM IN AND THEN SCHEDULE MY

1 FULL-TIME STAFF AROUND THEM.

2 Q. OKAY.

3 A. SO IN PRACTICE THAT'S HOW IT WORKS. IT'S NOT IDEAL,
4 THOUGH.

5 Q. DO THE NEEDS VARY AS FAR AS WHAT YOU -- THE NUMBER
6 OF AGENCY NURSES THAT YOU'LL NEED? DO THOSE VARY
7 DAY BY DAY, WEEK BY WEEK?

8 A. MY TOTAL NUMBER OF NURSES I NEED DOES VARY DAY BY
9 DAY, NOT NECESSARILY WEEK BY WEEK 'CAUSE YOU PRETTY
10 MUCH HAVE THE SAME POPULATION. IT'S JUST CERTAIN
11 DAYS CERTAIN THINGS ARE BEING DONE, LIKE DOCTOR'S
12 CLINICS AND THINGS LIKE THAT.

13 Q. IS IT POSSIBLE FOR A NURSE TO COME IN FROM ONE OF
14 THESE AGENCIES, FOR INSTANCE MEDUSTRIAL, WORK ONE
15 SHIFT AND NEVER AGAIN WORK FOR THE DEPARTMENT OF
16 CORRECTIONS?

17 A. OH, YEAH. THAT HAPPENED TO ME LAST WEEK. SO, YES,
18 THAT HAPPENS AND IT'S POSSIBLE. IT'S POSSIBLE AND
19 IT HAPPENS, YES.

20 Q. OKAY. AND YOU INDICATED EARLIER -- THIS IS JUST
21 KIND OF MORE OF A POINT FOR CLARIFICATION. MR.
22 SAMUELS ASKED YOU IF YOU WERE MS. TURNER'S
23 SUPERVISOR. YOU WERE ONLY HER SUPERVISOR WHEN SHE
24 WORKED AT KIRKLAND CORRECTIONAL INSTITUTION WITH THE
25 DEPARTMENT OF CORRECTIONS, RIGHT?

1 A. THAT'S RIGHT. I WAS ONLY HER SUPERVISOR WHILE SHE
2 WAS ON SITE AT THE FACILITY WORKING.

3 Q. AND, AGAIN, KIND OF ANOTHER POINT OF CLARIFICATION.
4 THERE'S BEEN DISCUSSION OF A UNIFORM. WAS THERE
5 ACTUALLY A SET SCDC UNIFORM FOR THE NURSES THAT
6 WORKED THERE?

7 A. NOT REALLY. IT WAS JUST THE SET OF DRESS CODE
8 GUIDELINES. BUT AS FAR AS AN ISSUED UNIFORM OR IT
9 HAVING TO BE A SPECIFIC COLOR, THERE WAS NOT A
10 STANDARD UNIFORM FOR THE NURSES.

11 Q. AND I KNOW THAT YOU ALSO TALKED A LITTLE BIT ABOUT
12 SOME OF THE GUIDELINES AND WHETHER THOSE WERE
13 DEPARTMENT OF CORRECTIONS GUIDELINES OR MEDUSTRIAL.
14 HAVE YOU REVIEWED THE CONTRACT BETWEEN THE
15 DEPARTMENT OF CORRECTIONS AND MEDUSTRIAL?

16 A. NO.

17 Q. HOW ABOUT THE CONTRACT BETWEEN MEDUSTRIAL AND MS.
18 TURNER?

19 A. NO.

20 Q. AND YOU ALSO TALKED ABOUT SOME OF THE RESTRICTIONS
21 ON BOTH DRESS AND HOW AN INDIVIDUAL KEPT THEM -- YOU
22 KNOW, THE HAIRSTYLE, ---

23 A. RIGHT.

24 Q. --- THE VISIBLE TATTOOS AND PIERCINGS AND KIND OF
25 GROOMING REQUIREMENTS. ARE THOSE FAIRLY TYPICAL OF

1 ANYWHERE THAT YOU'D WORK AS A NURSE?

2 A. YES, YES. ACTUALLY, IF I HAD TO COMMENT, I'D SAY
3 OURS IS A PROBABLY A LITTLE MORE RELAXED.

4 Q. NOW, IF MS. TURNER HAD DECIDED PRIOR TO SEPTEMBER
5 5TH, 2015, THAT SHE WAS NO LONGER INTERESTED IN
6 WORKING WITH THE DEPARTMENT OF CORRECTIONS, TAKING
7 ANY MORE SHIFTS, WOULD SHE NEED TO RESIGN?

8 A. NO.

9 Q. IF AN AGENCY NURSE OR A NURSE WITH ONE OF THESE
10 CONTRACTING COMPANIES WAS EVER NOT PERMITTED TO
11 RETURN -- I KNOW THAT YOU INDICATED THAT THERE WAS A
12 DO-NOT-USE LIST?

13 A. RIGHT.

14 Q. DID THEY HAVE ANY KIND OF GRIEVANCE PROCEDURE?

15 A. NO.

16 Q. SOME OF THE PRACTICES THAT YOU OUTLINED, IN
17 PARTICULAR KIND OF YOUR PRACTICE OF DISCUSSING
18 PROBLEMS WITH SOME OF THESE AGENCY NURSES IF THERE
19 WAS AN ISSUE THAT CAME UP, ARE THOSE DEPARTMENT OF
20 CORRECTIONS POLICIES OR ARE THOSE JUST KIND OF HOW
21 YOU CONDUCTED ---

22 A. NO, IT'S JUST HOW I PERSONALLY CHOSE TO MANAGE THOSE
23 -- YOU KNOW, THE ISSUES WITH THEM. YOU KNOW, I JUST
24 THOUGHT THAT TALKING TO ANYBODY INDIVIDUALLY AND
25 GIVING THEM A HEADS UP -- I DID IT WITH MY

- 1 EMPLOYEES, TOO, BEFORE WE TOOK IT UP THE NEXT STEP.
- 2 Q. SO THE DISCUSSING OF THESE KIND OF ISSUES WAS MORE A
- 3 COURTESY TO THAT INDIVIDUAL?
- 4 A. RIGHT.
- 5 Q. AND ALSO TO KIND OF MAKE SURE THEY WEREN'T DOING THE
- 6 SAME THING WRONG OVER AND OVER AND OVER AGAIN?
- 7 A. EXACTLY, YES.
- 8 Q. MAKES SENSE. COULD AN AGENCY NURSE, OR IN THIS
- 9 SITUATION MS. TURNER, ELECT ONLY TO ACCEPT SHIFTS AT
- 10 CERTAIN INSTITUTIONS WITH THE DEPARTMENT OF
- 11 CORRECTIONS?
- 12 A. YES.
- 13 Q. COULD THEY ELECT TO WORK AT DIFFERENT INSTITUTIONS
- 14 WITHIN THE DEPARTMENT OF CORRECTIONS?
- 15 A. YES.
- 16 Q. CAN AN EMPLOYEE DO THAT?
- 17 A. THEY CAN REQUEST, BUT, YOU KNOW, IT DOESN'T
- 18 NECESSARILY MEAN THEY'LL BE GUARANTEED. IT HAS TO,
- 19 YOU KNOW, BE APPROVED.
- 20 Q. AT THE TIME OF THE INCIDENT THAT WE'RE HERE FOR
- 21 TODAY, YOU WORKED AT KIRKLAND R&E, CORRECT?
- 22 A. THAT'S RIGHT.
- 23 Q. AND NOW YOU WORK AT BROAD RIVER?
- 24 A. RIGHT.
- 25 Q. DO YOU EVER STILL WORK AT KIRKLAND?

1 A. NO.

2 Q. COULD YOU GO WORK AT CAMILLE GRAHAM FOR THE DAY?

3 A. I -- I COULD IDEALLY. I MEAN, OR THEORETICALLY I
4 COULD DO THAT, YOU KNOW, IF THEY NEED HELP. I WOULD
5 HAVE TO CHECK WITH THE SUPERVISOR OF THAT
6 INSTITUTION AND SAY, YOU KNOW, IS IT OKAY FOR ME TO
7 DO THIS, AND THEN MY SUPERVISOR TO MAKE SURE IT'S
8 OKAY I CAN DO IT.

9 Q. BUT YOU COULDN'T WALK IN TODAY AND SAY, "I DON'T
10 WANT TO WORK AT BROAD RIVER TODAY. I WANT TO GO
11 WORK AT CAMILLE GRAHAM"?

12 A. I COULD NOT.

13 Q. BUT AN AGENCY NURSE, ONE OF THESE NURSES COMING FROM
14 ONE OF THESE AGENCIES, COULD ELECT TO WORK ONLY AT
15 CAMILLE GRAHAM OR ONLY AT BROAD RIVER OR WORK AT
16 SOME COMBINATION OF DIFFERENT INSTITUTIONS?

17 A. THAT'S CORRECT.

18 Q. DID YOU MAINTAIN A PERSONNEL FILE ON EMPLOYEE
19 NURSES?

20 A. I DID ON EMPLOYEE NURSES, YES.

21 Q. DID YOU MAINTAIN A PERSONNEL FILE ON THE AGENCY
22 NURSES?

23 A. NO. I HAD A FOLDER THAT USUALLY HAD COPIES OF THE
24 TIME SHEETS OR MESSAGES, EMAILS OR SOMETHING THEY
25 MIGHT SEND ME, OR COPIES OF DISCUSSIONS I MIGHT HAVE

1 WITH THEM, LIKE, YOU KNOW, LITTLE NOTES THAT I MIGHT
2 HAVE JUST FOR MY OWN INFORMATION, BUT IT WAS NOT AN
3 OFFICIAL PERSONNEL FILE OF ANY SORT.

4 Q. YOU WEREN'T REQUIRED TO MAINTAIN THAT?

5 A. NO.

6 Q. DID YOU EVER DISCUSS THE POSSIBILITY OF BECOMING A
7 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS EMPLOYEE
8 WITH MS. TURNER?

9 A. IT'S HARD FOR ME TO RECALL 'CAUSE IT'S BEEN A WHILE
10 AGO. BUT I HAD TO -- FOR A WHILE I HAD NO AVAILABLE
11 POSITIONS TO HIRE ANYBODY INTO, AND AROUND THE TIME
12 THAT MS. TURNER WAS WORKING WITH US, I WAS GRANTED,
13 I THINK, 16 FULL-TIME POSITIONS. AND I MADE SURE AT
14 THAT TIME THAT I OFFERED THOSE POSITIONS FIRST TO
15 ALL THE AGENCY NURSES THAT WERE WORKING IN MY AREAS,
16 AND THAT WOULD HAVE INCLUDED MS. TURNER. I CAN'T
17 RECALL SPECIFICALLY WHAT I SAID OR WHEN I SAID IT TO
18 HER, BUT I WANT TO SAY IT WAS -- THAT I DID HAVE
19 THAT DISCUSSION WITH HER.

20 Q. OKAY. DO YOU RECALL WHAT HER RESPONSE WAS?

21 A. I'M PRETTY SURE THAT SHE SAID, "NO, I CAN'T DO THAT
22 'CAUSE Y'ALL DON'T PAY ENOUGH."

23 Q. AND WHAT IS THE PROCESS FOR BECOMING A SOUTH
24 CAROLINA DEPARTMENT OF CORRECTIONS EMPLOYEE NURSE?

25 A. THE REQUIREMENTS?

1 Q. JUST THE -- HOW DOES IT HAPPEN?

2 A. OH, THE PROCESS. OKAY. WE -- THEY SUBMIT AN
3 APPLICATION TO RECRUITING. I'M TRYING TO THINK BACK
4 TO 2015 'CAUSE IT WAS A LITTLE BIT DIFFERENT THAN IT
5 IS NOW. THEY SUBMITTED A PAPER APPLICATION, IT'S 26
6 PAGES LONG, AND A SKILLS INVENTORY, WHICH IS ANOTHER
7 12, AND THEN RECRUITING DOES BACKGROUND CHECK AND
8 MAKES SURE THAT THE PERSON IS ACTUALLY ABLE TO WORK
9 AT THE DEPARTMENT OF CORRECTIONS AND THEY DON'T HAVE
10 ANY FELONIES OR ANYTHING LIKE THAT. THEN THEY SEND
11 A MESSAGE OUT TO THE SUPERVISORS IN THE REGIONS
12 WHERE THE PERSON IS INTERESTED IN WORKING, 'CAUSE
13 THEY SELECT WHAT COUNTIES THEY WANT TO WORK IN, AND
14 THEN THOSE SUPERVISORS ARE PROVIDED THE CONTACT
15 INFORMATION TO CALL THE PERSON UP TO SCHEDULE THE
16 INTERVIEW. OR THAT'S HOW IT WORKED AT THE TIME.
17 AND THEN THE SUPERVISOR DOES AN INTERVIEW, COMPLETED
18 A PAPER RECOMMENDATION WHETHER OR NOT TO HIRE OR NOT
19 HIRE THE PERSON OR WHETHER OR NOT THEY SHOULD GO TO
20 A DIFFERENT INSTITUTION AND NOT THE ONE THAT THEY'RE
21 INTERVIEWING FOR. THEY WOULD SEND THAT TO THE
22 REGIONAL MANAGER, WHO WOULD SEND IT TO H.R., AND AT
23 THAT POINT I GUESS THEY WOULD GO THROUGH PROCESSING
24 THE EMPLOYEE AND OFFERING THEM A POSITION.

25 Q. AND THEN ONCE THEY ARE OFFERED AND ACCEPTED THE

1 POSITION, IS THERE ADDITIONAL PAPERWORK THEY'D HAVE
2 TO FILL OUT AT THE TIME?

3 A. THERE IS. THERE IS -- I CAN'T REMEMBER SPECIFICALLY
4 WHAT IT IS, BUT THEY HAVE TO GO THROUGH AN EMPLOYEE
5 PHYSICAL. THEY HAVE TO HAVE A TUBERCULOSIS TEST.
6 THEY HAVE TO SIGN BENEFITS PAPERWORK. THERE IS A
7 LOT OF STUFF THAT WENT INTO THAT.

8 Q. THE PROCESS THAT YOU DESCRIBED, IS THAT THE SAME
9 PROCESS THAT AN AGENCY NURSE WOULD HAVE TO GO
10 THROUGH BEFORE THEY COULD COME START WORKING AT
11 DEPARTMENT OF CORRECTIONS?

12 A. NO.

13 Q. WOULD THEY HAVE TO DO ANY OF THAT?

14 A. I DON'T -- I NEVER HANDLED THE CLEARANCE PROCESS FOR
15 THE CONTRACT NURSES, BUT FROM WHAT I UNDERSTAND, IT
16 CONSISTS OF THE CONTRACTING AGENCY SENDING SOME
17 PAPERWORK OVER TO H.R. FOR THE PERSON TO HAVE A
18 BACKGROUND CHECK AND TO GET A BADGE. BUT THAT'S
19 ABOUT IT.

20 Q. AND YOU REFERENCED A BADGE, AND I KNOW YOU INDICATED
21 THAT THE EMPLOYEES HAVE A BADGE THAT SAY EMPLOYEES
22 AND THE INDIVIDUALS THERE THROUGH AN AGENCY HAVE ONE
23 THAT SAYS TEMPORARY. DO ALL VISITORS TO THE
24 DEPARTMENT OF CORRECTIONS NEED TO WEAR A BADGE WHILE
25 ON -- EITHER WHILE IN AN INSTITUTION OR IN

1 HEADQUARTERS?

2 A. THEY DO.

3 Q. SO THEY ---

4 A. WELL, IN AN INSTITUTION. I DON'T KNOW IF THEY NEED
5 A BADGE AT HEADQUARTERS.

6 Q. OKAY. SO IF THIS HEARING WERE TO TAKE PLACE AT ONE
7 OF THE INSTITUTIONS, ALL OF US WOULD BE WEARING A
8 BADGE RIGHT NOW?

9 A. YES.

10 Q. I KNOW YOU ALSO DESCRIBED ITEMS -- I THINK YOU WERE
11 ASKED ABOUT FORCEPS, BANDAGE SCISSORS, THINGS ALONG
12 THOSE LINES, ASKED IF NURSES WERE ALLOWED TO BRING
13 THEM IN. IF I WERE WALKING INTO AN SCDC INSTITUTION
14 TODAY, WOULD I BE ABLE TO BRING THOSE SAME ITEMS IN?

15 A. NO.

16 Q. AND I KNOW YOU DESCRIBED -- YOU'VE DISCUSSED WHETHER
17 -- YOU SAID EMPLOYEE NURSES ARE ELIGIBLE FOR BONUSES
18 AND CONTRACT OR AGENCY NURSES ARE NOT. DO YOU MAKE
19 ANY KIND OF RECOMMENDATIONS AS FAR AS RAISES FOR
20 EMPLOYEE NURSES?

21 A. YEAH, I DO.

22 Q. DO YOU HAVE ANY KIND OF CONTROL OR MAKE ANY KIND OF
23 RECOMMENDATIONS AS FAR AS RAISES FOR CONTRACT
24 NURSES?

25 A. NO.

1 Q. DO YOU HAVE ANY CONTROL OVER WHAT THEY ARE PAID,
2 AGENCY NURSES?

3 A. I DON'T.

4 Q. DO ALL SHIFTS HAVE TO BE APPROVED BY THE INDIVIDUAL
5 AGENCY BEFORE THE AGENCY NURSE CAN COME WORK FOR
6 THEM?

7 A. IN MOST CASES, YES. IN EMERGENCY CASES, YOU KNOW,
8 WE NOTIFY THEM AS SOON AS WE CAN.

9 Q. IF YOU INDICATED TO ONE OF THESE AGENCIES THAT YOU
10 WANTED A PARTICULAR NURSE TO COME AND WORK A SHIFT,
11 COULD THEY DECLINE THAT?

12 A. YES.

13 Q. COULD THEY SEND SOMEBODY ELSE INSTEAD?

14 A. YES.

15 **BY MS. FARTHING:**

16 I THINK THAT'S ALL THAT I HAVE. THANK YOU.

17 **BY THE COMMISSIONER:**

18 MS. GLOVER?

19 **BY MS. GLOVER:**

20 I DON'T HAVE ANY QUESTIONS, COMMISSIONER.

21 **BY THE COMMISSIONER:**

22 MR. SAMUELS?

23 **BY MR. SAMUELS:**

24 THANK YOU, YOUR HONOR.

25 **REDIRECT EXAMINATION BY MR. SAMUELS:**

1 Q. MR. GUDVANGEN, THIS IS WHAT WE CALL REDIRECT, WHICH
2 MEANS IT'S MY SHOT TO GET BACK AT YOU ---

3 A. OKAY.

4 Q. --- ONE MORE TIME. MR. HARBISON, THIS FELLOW OVER
5 HERE, ASKED YOU ABOUT -- HE SORT OF PHRASED THE
6 QUESTION THERE ARE TWO TYPES OF NURSES, EMPLOYEES
7 AND INDEPENDENT CONTRACTORS.

8 A. UH-HUH.

9 Q. CAN WE BE CLEAR THAT THERE ARE SCDC EMPLOYEES AND
10 THERE ARE AGENCY NURSES, BUT YOU DON'T KNOW WHETHER
11 THOSE AGENCY NURSES ARE NECESSARILY EMPLOYEES OR
12 INDEPENDENT CONTRACTORS?

13 A. THAT'S -- YES, WE CAN SAY THAT.

14 Q. SO, I THINK YOU TESTIFIED IT WAS POSSIBLE FOR AN
15 EMPLOYEE NURSE TO QUIT ON HER FIRST DAY -- EXCUSE
16 ME, AN AGENCY NURSE TO QUIT ON HER FIRST DAY. WOULD
17 YOU AGREE IT'S ALSO POSSIBLE FOR AN EMPLOYEE NURSE
18 TO QUIT ON HER FIRST DAY?

19 A. YEAH.

20 Q. THERE WERE A LOT OF DISCUSSIONS ABOUT BONUSES,
21 BENEFITS, VACATION, ETCETERA, THAT ARE PROVIDED TO
22 SCDC DIRECT EMPLOYEE NURSES. WHETHER THOSE BENEFITS
23 ARE PROVIDED TO THE NURSES BY THEIR AGENCIES IS
24 BETWEEN THEM AND THEIR AGENCIES, ISN'T IT?

25 A. RIGHT.

1 Q. WHAT YOU'RE REALLY SAYING IS SCDC PAYS THE AGENCY
2 FOR THESE NURSES, AND THE AGENCY PAYS THE NURSES?

3 BY MR. HARBISON:

4 OBJECTION. I THINK ---

5 BY MR. GOODWYN:

6 I'LL OBJECT.

7 BY MR. HARBISON:

8 --- IT CALLS FOR SPECULATION ON BONUSES AND
9 BENEFITS PAID BY THE AGENCIES THAT HE WOULDN'T BE
10 FAMILIAR WITH IN HIS ROLE AS SCDC.

11 BY MR. GOODWYN:

12 IT'S LEADING AS WELL.

13 BY MR. HARBISON:

14 THAT'S RIGHT.

15 BY THE COMMISSIONER:

16 COULD YOU REPHRASE THE QUESTION, MR. SAMUELS?

17 BY MR. HARBISON:

18 IT'S STILL YOUR WITNESS, SO I THINK YOU COULD
19 DO A DIRECT EXAMINATION INSTEAD OF LEADING.

20 REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:

21 Q. WHEN YOU WORKED AT MEDUSTRIAL AND DID YOUR WORK AT
22 SCDC UNDER THE DIRECTION OF A STAFF NURSE AND CHARGE
23 NURSE, WERE YOU PAID BY SCDC OR WERE YOU PAID BY
24 MEDUSTRIAL?

25 A. WHERE I RECEIVED THE MONEY IN MY BANK FROM?

- 1 Q. YES, SIR.
- 2 A. OKAY. FROM MEDUSTRIAL.
- 3 Q. OKAY. AND THE AGENCY NURSES, THEY MAY NOT UNDERGO
- 4 THE SAME TRAINING, BUT THEY STILL HAVE TO UNDERGO AN
- 5 ORIENTATION; ISN'T THAT TRUE?
- 6 A. THAT'S RIGHT.
- 7 Q. IF THEY DON'T -- IF THEY DO NOT SUCCESSFULLY
- 8 COMPLETE THE ORIENTATION, CAN THEY WORK AT SCDC?
- 9 A. I DON'T THINK SO. WE -- WE MAKE THE RECOMMENDATION,
- 10 YOU KNOW, THAT THEY'RE NOT SUITABLE TO WORK AT A
- 11 DIFFERENT SITE EITHER.
- 12 Q. DO YOU HAVE AUTHORITY TO ACCEPT AN OVERTIME SHIFT
- 13 FROM AN AGENCY NURSE WITHOUT GETTING PERMISSION FROM
- 14 THE AGENCY?
- 15 A. NO.
- 16 Q. DO YOU HAVE TO GET PERMISSION FROM THAT NURSE'S
- 17 SUPERVISOR AT THAT AGENCY?
- 18 A. RIGHT.
- 19 Q. WHO WAS YOUR SUPERVISOR AT MEDUSTRIAL?
- 20 A. NATASHA RATHBURN.
- 21 Q. IF I UNDERSTOOD YOUR TESTIMONY, DID THE AGENCY
- 22 CONTROL WHETHER THE PARTICULAR NURSE COULD WORK A
- 23 PARTICULAR OVERTIME SHIFT OR PARTICULAR SHIFT AT
- 24 ALL?
- 25 A. I BELIEVE SO. I KNOW THEY CAN TELL ME NO IF I

1 REQUESTED.

2 Q. IF THEY TOLD YOU NO, DID YOU HAVE TO ACCEPT THEIR
3 NO?

4 A. YES.

5 Q. EVEN IF THE AGENCY NURSE WANTED TO WORK THAT SHIFT,
6 WAS IT STILL UP TO THE AGENCY WHETHER THEY GOT TO
7 WORK THAT SHIFT?

8 A. RIGHT.

9 Q. WE WERE TALKING ABOUT THIS EMPLOYEE THING AND THE
10 AGENCY NURSE THING. I THINK YOU MENTIONED YOU SPOKE
11 TO MEDUSTRIAL AND YOU LEARNED THAT THEIR EMPLOYEES
12 -- THEIR NURSES ARE TREATED AS EMPLOYEES?

13 A. MEDFIRST.

14 Q. MEDFIRST.

15 A. YEAH.

16 Q. THAT MEDFIRST PAYS THEIR EMPLOYEES ON A W-2?

17 A. RIGHT.

18 Q. PROVIDES WORKERS' COMP INSURANCE?

19 A. YES.

20 Q. PROVIDES OTHER BENEFITS?

21 A. YES.

22 Q. IS THERE ANY DIFFERENCE AT SCDC BETWEEN THE LEVEL OF
23 CONTROL YOU HAVE OVER MEDFIRST NURSES AS OPPOSED TO
24 MEDUSTRIAL NURSES?

25 A. NO.

1 Q. ARE YOU STILL ABLE TO, WITH THOSE NURSES, DIRECT AND
2 SUPERVISE THEIR ACTIVITIES WHILE THEY ARE PERFORMING
3 THE JOB AT SCDC?

4 A. YES.

5 Q. AND ONCE THEY ARE OFF THE PREMISES, YOU DON'T HAVE
6 ANY CONTROL; THAT'S BETWEEN THE AGENCY AND THE
7 NURSE; IS THAT ---

8 A. THAT'S CORRECT.

9 Q. AND IF YOU HAD KNOWN THAT WORKERS' COMP WAS NOT
10 AVAILABLE THROUGH MEDUSTRIAL, WOULD YOU HAVE
11 ACCEPTED THEIR PLACEMENT AT SCDC?

12 A. NO.

13 Q. WHAT WOULD YOU HAVE DONE?

14 A. I WOULD HAVE TRIED TO FIND A DIFFERENT AGENCY THAT
15 PROVIDED IT, OR I WOULD HAVE JUST WAITED UNTIL I GOT
16 HIRED AS AN EMPLOYEE WITH THE DEPARTMENT OF
17 CORRECTIONS.

18 Q. ANOTHER AGENCY SUCH AS MEDUSTRIAL?

19 A. RIGHT.

20 **BY MR. SAMUELS:**

21 THANK YOU.

22 **BY THE WITNESS:**

23 YOU'RE WELCOME.

24 **BY MR. SAMUELS:**

25 THAT'S ALL THE QUESTIONS I HAVE. I APPRECIATE

1 IT.

2 BY THE COMMISSIONER:

3 MEDUSTRIAL/CONDUSTRIAL, IS THERE ANY RECROSS?

4 BY MR. GOODWYN:

5 NO, YOUR HONOR.

6 BY THE COMMISSIONER:

7 ON BEHALF OF COUNTRYWIDE/GUARANTEE, IS THERE

8 ANY RECROSS?

9 BY MR. HARBISON:

10 CAN YOU GIVE ME ONE SECOND, COMMISSIONER?

11 WE'RE FINE, COMMISSIONER.

12 BY THE COMMISSIONER:

13 OKAY. DEPARTMENT OF CORRECTIONS?

14 BY MS. FARTHING:

15 NOTHING FROM US.

16 BY THE COMMISSIONER:

17 UNINSURED?

18 BY MS. GLOVER:

19 NOTHING FROM THE UNINSURED EMPLOYERS' FUND.

20 BY THE COMMISSIONER:

21 ALL RIGHT. THANK YOU, SIR. YOU MAY STEP DOWN.

22 BY THE WITNESS:

23 THANKS.

24 BY THE COMMISSIONER:

25 MAY THIS WITNESS BE EXCUSED?

1 BY MR. SAMUELS:

2 NO OBJECTION.

3 BY MR. GOODWYN:

4 AS FAR AS WE'RE CONCERNED.

5 BY THE COMMISSIONER:

6 THANK YOU, SIR.

7 BY THE WITNESS:

8 THANKS.

9 BY THE COMMISSIONER:

10 LET'S GO OFF RECORD FOR JUST A MOMENT.

11 (OFF THE RECORD)

12 BY THE COMMISSIONER:

13 MS. TURNER, IF YOU'D RAISE YOUR RIGHT HAND FOR
14 ME, PLEASE, MA'AM.

15 * * * * *

16 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
17 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
18 MATTER HEREIN:

19 RACHEL J. TURNER,

20 BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS
21 FOLLOWS:

22 BY THE COMMISSIONER:

23 YOUR WITNESS, MR. SAMUELS.

24 BY MR. GOODWYN:

25 DID YOU WANT ME TO GO AHEAD AND ---

1 BY THE COMMISSIONER:

2 NO. WE'RE ON THE WITNESS TESTIMONY RIGHT NOW.

3 BY MR. GOODWYN:

4 I MISUNDERSTOOD YOU. I'M SORRY.

5 DIRECT EXAMINATION BY MR. SAMUELS:

6 Q. RACHEL, THAT BOTTLE OF WATER UP THERE IS FOR YOU IF
7 YOU NEED IT.

8 A. OKAY.

9 Q. RACHEL, DO YOU KNOW WHERE YOU ARE?

10 A. I DON'T KNOW THE BUILDING, BUT I KNOW I'M SOMEWHERE
11 ON MAIN STREET.

12 Q. DID YOU HAVE ANY DIFFICULTY GETTING INTO THIS
13 BUILDING?

14 A. I DON'T LIKE GOING IN ELEVATORS.

15 Q. WHAT HAPPENED WHEN YOU WENT INTO THE ELEVATOR?

16 A. I GET CHEST PAINS. I GET SHORT OF BREATH. I FEEL
17 LIKE EVERYTHING IS CLOSING IN ON ME. I FEEL LIKE
18 I'M TRAPPED AGAIN.

19 Q. RACHEL, WERE YOU THAT WAY BEFORE SEPTEMBER 5TH,
20 2015?

21 A. NO. I WAS NEVER AFRAID OF ANYTHING.

22 Q. RACHEL, HOW OLD ARE YOU?

23 A. FORTY-FOUR.

24 Q. DO YOU HAVE ANY CHILDREN?

25 A. I HAVE THREE KIDS.

1 Q. HOW OLD ARE THEY?

2 A. TWENTY-SIX, TWENTY-TWO, AND TWENTY-ONE. TWENTY-TWO,
3 TWENTY-ONE, AND TWENTY-SIX.

4 Q. OKAY. ARE ANY OF YOUR CHILDREN DEPENDENT ON YOU FOR
5 SUPPORT?

6 A. MY DAUGHTERS.

7 Q. TWO DAUGHTERS?

8 A. YES.

9 Q. WHAT ARE THEIR NAMES?

10 A. QUIANA AND KYANN, RICHARD.

11 Q. WHERE WERE YOU BORN, RACHEL?

12 A. WHERE OR WHEN?

13 Q. WHERE.

14 A. I WAS BORN IN ENGLAND.

15 Q. WHEN DID YOU MOVE TO THE UNITED STATES?

16 A. 1980.

17 Q. DO YOU HAVE A GREEN CARD?

18 A. YES.

19 Q. WHERE DID YOU GO TO SCHOOL?

20 A. CALIFORNIA.

21 Q. DID YOU GRADUATE FROM HIGH SCHOOL?

22 A. YES.

23 Q. WHAT HIGH SCHOOL?

24 A. HORIZON. HORIZON HIGH SCHOOL.

25 Q. WHAT YEAR DID YOU GRADUATE?

- 1 A. '90.
- 2 Q. DID YOU ALSO GO TO NURSING SCHOOL?
- 3 A. YES.
- 4 Q. WHERE DID YOU GO?
- 5 A. PACIFIC COAST COLLEGE.
- 6 Q. DID YOU GET ANY KIND OF DEGREE OR LICENSE FROM
- 7 PACIFIC COAST COLLEGE?
- 8 A. LPN.
- 9 Q. WHEN DID YOU BECOME AN LPN?
- 10 A. '93.
- 11 Q. WHAT DO YOU LIKE ABOUT BEING AN LPN?
- 12 A. I LIKE TAKING CARE OF PEOPLE.
- 13 Q. WHERE HAVE YOU WORKED ONCE YOU BECAME AN LPN?
- 14 A. DIFFERENT PLACES. I'VE WORKED IN NURSING HOMES,
- 15 HOSPITALS, PRISON SYSTEMS, PSYCH CARE. I'VE WORKED
- 16 IN ALMOST EVERY SETTING IN THE HOSPITAL, MED/SURG,
- 17 TELE, SUBQ, POSTPARTUM, E.R., PSYCH UNITS. I'VE
- 18 WORKED WITH ADOLESCENT ADULTS IN CORRECTIONS.
- 19 Q. IS THERE A PARTICULAR AREA OF NURSING THAT YOU LIKE?
- 20 A. I LIKE A VARIETY.
- 21 Q. HAVE YOU WORKED FOR NURSING AGENCIES?
- 22 A. YES, MOST OF MY CAREER.
- 23 Q. WHAT NURSING AGENCIES HAVE YOU WORKED FOR?
- 24 A. MEDICAL STAFFING NETWORK, MEDAMERICA, MEDFIRST -- I
- 25 MEAN, MEDAMERICA, MEDUSTRIAL. I CAN'T REMEMBER ALL

1 OF THEM. I CAN'T REMEMBER THE NAMES OF ALL OF THEM.

2 Q. DID ANY OF THOSE NURSING ---

3 A. MEDICAL EXPRESS.

4 Q. DID ANY OF THOSE NURSING AGENCIES WITHHOLD TAXES
5 FROM YOUR PAYCHECKS?

6 A. MEDICAL STAFFING NETWORK AND MEDAMERICA.

7 **BY THE COMMISSIONER:**

8 MA'AM, I'M GOING TO ASK YOU TO SPEAK UP JUST A
9 LITTLE BIT. I'M HAVING A LITTLE BIT OF TROUBLE
10 HEARING YOU, AND THAT ANSWER I COULD NOT HEAR.

11 **BY THE WITNESS:**

12 MEDAMERICA AND MEDICAL STAFFING NETWORK.

13 THERE'S OTHERS, BUT I CAN'T REMEMBER THEIR NAMES.

14 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

15 Q. OTHER THAN THE -- WELL, DID ANY -- OTHER THAN THE
16 WAY THEY PAID YOU IN TERMS OF TAKING OUT TAXES FROM
17 YOUR PAYCHECK, WAS THERE ANY DIFFERENCE IN THE WAY
18 ANY OF THESE AGENCIES TREATED YOU?

19 **BY MR. HARBISON:**

20 OBJECTION, COMMISSIONER. I THINK HE'S LEADING
21 THE WITNESS. I THINK IF YOU WANT TO SAY HOW HAVE
22 YOU BEEN TREATED, DIFFERENT WAYS. BUT I THINK THE
23 -- HE'S SUGGESTING ANSWERS IN HIS QUESTIONS.

24 **BY THE COMMISSIONER:**

25 ANY DIFFERENCES, I DON'T SEE AS BEING LEADING.

1 I'M GOING TO ALLOW THE QUESTION. YOU CAN REPEAT IT,
2 SIR.

3 **BY MR. SAMUELS:**

4 THANK YOU.

5 **WITNESS ANSWERS:**

6 A. I WASN'T TREATED ANY DIFFERENT AT ANY OF THE
7 AGENCIES. THE ONLY DIFFERENCE IS SOME TOOK OUT
8 TAXES AND SOME DIDN'T.

9 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

10 Q. DID ANY OF THEM PROVIDE YOU BENEFITS, SUCH AS HEALTH
11 INSURANCE, PAID VACATION, ANYTHING LIKE THAT?

12 A. NO.

13 Q. NO?

14 A. NO.

15 Q. NOT EVEN THE ONES THAT WITHHELD TAXES FROM YOU?

16 A. NO.

17 Q. WHEN YOU WENT AND FILED YOUR TAXES, DID YOU DO YOUR
18 TAXES YOURSELF?

19 A. NO. I HAD A TAX PREPARER.

20 Q. WHAT WOULD YOU TAKE TO THE TAX PREPARER?

21 A. MY LOG BOOK AND WHATEVER TAX PAPER I GOT THE END OF
22 THE YEAR FROM THE IRS.

23 Q. WOULD YOU TAKE THE W-2 OR 1099 THAT YOU GOT FROM ---

24 A. YES. THAT'S THE PAPER THAT YOU GET AT THE END OF
25 THE YEAR.

1 Q. WHEN YOU WERE PLACED AT A NURSING JOB, WERE THERE
2 ANY REQUIREMENTS THAT YOU HAD TO MEET?

3 A. YES.

4 Q. CAN YOU TELL US WHAT SOME OF THOSE WERE?

5 A. WE HAD TO DO DIFFERENT CHECKLISTS TO CHECK OFF OUR
6 SKILLS, WHERE WE WERE SKILLED, AND LET THEM KNOW OF
7 OUR EXPERIENCES. I'M SORRY; I'M GETTING CONFUSED.
8 CAN YOU REPEAT THE QUESTION AGAIN? I'M CONFUSED.

9 Q. LET ME ASK IT A DIFFERENT WAY.

10 A. OKAY.

11 Q. WHEN YOU WERE HIRED BY A NURSING AGENCY, DID YOU
12 HAVE TO BRING ANY PROOF OR DOCUMENTATION BEFORE THEY
13 WOULD HIRE YOU?

14 A. YES.

15 **BY MR. GOODWYN:**

16 OBJECT TO THE FORM, YOUR HONOR. THE QUESTION
17 ASSUMES THAT SHE WAS HIRED BY A NURSING AGENCY. I
18 THINK THE POSITION THAT -- OUR POSITION IS THAT SHE
19 WAS AN INDEPENDENT CONTRACTOR. SHE WAS NEVER HIRED
20 IN THE FIRST PLACE.

21 **BY THE COMMISSIONER:**

22 CAN YOU REPHRASE THE QUESTION, MR. SAMUELS?

23 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

24 Q. WHEN YOU WENT TO AN AGENCY AND YOU SIGNED UP WITH
25 THEM, WHAT DID YOU THINK YOU WERE SIGNING UP TO DO?

1 A. SIGNING UP TO BE EMPLOYED.

2 Q. AND TO GET EMPLOYED, WHAT SORT OF DOCUMENTATION DID
3 YOU HAVE TO PROVIDE THEM?

4 A. A NURSING LICENSE, CPR CARD, P.P.D., RECENT PHYSICAL
5 FOR SOME OF THE JOBS, AND JUST CREDENTIALS, I GUESS,
6 PROOF THAT YOU'RE CAPABLE OF DOING THE JOB.

7 **BY MR. HARBISON:**

8 I'M SORRY, COMMISSIONER; I DIDN'T HEAR THAT.

9 **BY THE WITNESS:**

10 I SAID PROOF THAT YOU'RE CAPABLE OF DOING THE
11 JOB THAT THEY'RE HIRING YOU FOR.

12 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

13 Q. AND WHEN YOU WERE ACTUALLY PLACED AT A JOB, ANY OF
14 THESE JOBS WHERE YOU WORKED AS A NURSE, DID YOU HAVE
15 ANYBODY WHO YOU HAD TO REPORT TO?

16 A. YES.

17 Q. WHO DID YOU HAVE TO REPORT TO?

18 A. NURSING SUPERVISORS, AT EVERY FACILITY, WORKED IN
19 THE HOSPITALS, NURSING SUPERVISOR, DIRECTOR OF
20 NURSING. BUT NURSING SUPERVISORS.

21 Q. AND AS AN LPN, DID THESE PEOPLE YOU REPORTED TO HAVE
22 AUTHORITY TO DIRECT YOUR WORK?

23 A. YES.

24 Q. CAN YOU EXPLAIN SOME OF THE WAYS THAT THEY WOULD
25 DIRECT YOUR WORK?

1 **BY MR. HARBISON:**

2 OBJECTION. AGAIN, COMMISSIONER, I DO BELIEVE
3 THIS IS LEADING. DID THEY HAVE AUTHORITY TO DIRECT
4 YOUR WORK, INSTEAD OF HOW DID THEY HANDLE YOU. I'M
5 NOT TRYING TO BE DIFFICULT. I'M TRYING TO GIVE
6 LEEWAY. BUT, I MEAN, I DON'T KNOW HOW ELSE -- IT'S
7 ABOUT AS LEADING AS I ---

8 **BY MR. SAMUELS:**

9 YOUR HONOR, IT'S NOT LEADING. IT DOESN'T
10 SUGGEST AN ANSWER.

11 **BY THE COMMISSIONER:**

12 WELL, I THINK IT'S ---

13 **BY MR. HARBISON:**

14 DID THEY HAVE AUTHORITY TO DIRECT YOUR ---

15 **BY THE COMMISSIONER:**

16 WELL, SHE'S ALREADY ANSWERED THAT QUESTION. SO
17 THE OBJECTION WOULD COME TO THE -- REALLY TO THE --
18 AND I UNDERSTAND IT'S ---

19 **BY MR. HARBISON:**

20 WELL, I GUESS I'LL -- I WAS TRYING TO GIVE
21 LEEWAY, BUT I GUESS I'LL -- TO ESTABLISH THE RECORD,
22 I WILL GO AHEAD AND START -- I WAS ALWAYS TOLD IT
23 DID -- THE QUESTION, IT DID...

24 **BY THE COMMISSIONER:**

25 ALL RIGHT. MR. SAMUELS, CAN YOU REPEAT THE

1 QUESTION THAT YOU -- SPECIFIC QUESTION THAT YOU
2 ASKED SO THAT I CAN RULE ON IT? DID YOU ASK HER
3 WHAT DIRECTIVES THEY GAVE HER?

4 **BY MR. SAMUELS:**

5 I ASKED HER WHAT -- SHE ALREADY TESTIFIED THAT
6 THEY COULD SUPERVISE HER AND GIVE HER DIRECTIONS.
7 SO I WAS ASKING IF SHE COULD GIVE SOME EXAMPLES OF
8 WAYS IN WHICH THEY GIVE HER DIRECTION.

9 **BY THE COMMISSIONER:**

10 I'LL ALLOW THE ANSWER. GO AHEAD, MA'AM.

11 **WITNESS ANSWERS:**

12 A. THEY WOULD GIVE US AN ASSIGNMENT FOR THE DAY, TELL
13 US WHERE WE WERE WORKING, WHAT WE WERE GONNA BE
14 DOING FOR THAT DAY. SOMETIMES I WOULD WORK IN THE
15 PILL ROOM. I WOULD HAVE TO PASS OUT PILLS TO THE
16 PILL LINE. SOMETIMES I WOULD HAVE TO WORK IN THE
17 CLINIC AND I'D HAVE TO DO SICK CALL. IF I WAS
18 ASSIGNED TO SICK CALL -- IF I WASN'T ASSIGNED TO
19 SICK CALL, SOMETIMES WE WERE ASSIGNED TO EMERGENCIES
20 OR TAKING OFF NOTES AND DOCTORS' ORDERS. IT DEPENDS
21 ON WHAT THEY ASSIGNED YOU FOR FOR THAT DAY.

22 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

23 Q. DID YOU SIGN ON WITH A COMPANY CALLED MEDUSTRIAL?

24 A. YES.

25 Q. HOW DID YOU HEAR ABOUT THE JOB WITH MEDUSTRIAL?

1 A. A NURSE FRIEND TOLD ME ABOUT IT.

2 Q. WHEN YOU WENT TO MEDUSTRIAL, DID YOU HAVE TO FILL
3 OUT ANY PAPERWORK?

4 A. YES. YES, I DID.

5 Q. I'M GOING TO SHOW YOU A DOCUMENT, WHICH IS TAB "H,"
6 PAGE 261 OF THE APA SUBMISSIONS. RACHEL, CAN YOU
7 TAKE A LOOK AT THIS?

8 A. YES.

9 Q. HAVE YOU SEEN THIS DOCUMENT BEFORE?

10 A. I THINK SO.

11 Q. OKAY. IS THAT YOUR SIGNATURE AT THE BOTTOM?

12 A. IT IS.

13 Q. OKAY. AND WHAT DOES IT SAY UP HERE ABOVE ---

14 A. EMPLOYMENT APPLICATION.

15 Q. IS THIS SOMETHING THAT MEDUSTRIAL GAVE YOU?

16 A. YES.

17 Q. WHAT WERE YOU APPLYING FOR?

18 A. LPN POSITION AT THE DEPARTMENT OF CORRECTIONS OR
19 WHATEVER THEY HAD AVAILABLE.

20 **BY THE COMMISSIONER:**

21 I'M SORRY; COULD YOU REPEAT THAT, MA'AM?

22 **BY THE WITNESS:**

23 I SAID I WAS APPLYING FOR AN LPN POSITION,
24 NURSING JOB.

25 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

1 Q. DID YOU THINK THIS WOULD BE ANY DIFFERENT THAN ANY
2 OF THE OTHER AGENCIES YOU WORKED FOR?

3 A. NO.

4 Q. WERE YOU INTERVIEWED?

5 A. YES.

6 Q. WHO INTERVIEWED YOU?

7 A. AT THE TIME IT WAS A PERSON NAMED NATASHA.

8 Q. DO YOU REMEMBER NATASHA'S LAST NAME?

9 A. I DON'T REMEMBER HER LAST NAME.

10 Q. WHAT DID NATASHA INTRODUCE HERSELF TO YOU AS?

11 A. SHE WAS THE OFFICE MANAGER. SHE WAS A SUPERVISOR IN
12 THE OFFICE, THE COORDINATOR, SOMETHING LIKE THAT.

13 Q. HOW MUCH PAPERWORK DO YOU THINK YOU HAD TO FILL OUT?

14 A. THERE WAS A PACKAGE THAT WE HAD TO FILL OUT. I KNOW
15 WE ALSO HAD TO DO SKILLS CHECKLIST AND DO TESTING,
16 CERTAIN TESTS TO SEE IF WE WOULD PASS, MEDICATION
17 TEST, DIFFERENT TESTS AS FAR AS SAFETY PROTOCOL.

18 Q. DO YOU REMEMBER SIGNING A LICENSED PROFESSIONAL
19 INDEPENDENT CONTRACTOR AGREEMENT?

20 A. I DON'T REMEMBER ALL THE DOCUMENTS. I JUST SIGNED
21 WHATEVER THEY GAVE ME TO SIGN.

22 Q. I'M GOING TO SHOW YOU ANOTHER DOCUMENT. RACHEL, CAN
23 YOU SEE THIS DOCUMENT?

24 A. YES.

25 BY MR. HARBISON:

1 STEPHEN, CAN YOU IDENTIFY IT?

2 **BY MR. SAMUELS:**

3 THIS IS PAGE 233, TAB "D."

4 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

5 Q. DO YOU REMEMBER BEING SHOWN THIS DOCUMENT DURING
6 YOUR DEPOSITION?

7 A. YES.

8 Q. JUST TO VERIFY, IS THAT YOUR SIGNATURE?

9 A. YES.

10 Q. AT PAGE 237 IS YOUR SIGNATURE?

11 A. YES.

12 Q. OKAY. DID YOU READ THE DOCUMENT?

13 A. NO.

14 **BY MR. SAMUELS:**

15 YOUR HONOR, READING FROM THE DOCUMENT, PAGE
16 236, QUOTE, "THE INDEPENDENT CONTRACTOR SHALL
17 MAINTAIN THROUGHOUT THE TERM OF THIS AGREEMENT AND
18 SHALL PROVIDE TO THE BROKER A CERTIFICATE OF
19 PROFESSIONAL LIABILITY AND MALPRACTICE INSURANCE IN
20 THE AMOUNT OF \$1,200,000 AND CONTAIN AN EXPRESS
21 PROVISION THAT SUCH POLICY CANNOT BE CANCELLED
22 UNLESS BY WRITTEN NOTICE TO THE BROKER OF THE INTENT
23 TO DO SO," END QUOTE.

24 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

25 Q. RACHEL, DID YOU TAKE OUT MALPRACTICE INSURANCE?

1 A. NO.

2 Q. DID ANYBODY TELL YOU YOU HAD TO TAKE OUT MALPRACTICE
3 INSURANCE?

4 A. NO.

5 Q. DID ANYBODY AT MEDUSTRIAL ASK YOU TO PROVIDE THEM A
6 CERTIFICATE OF MALPRACTICE INSURANCE?

7 A. NO.

8 Q. DO YOU BELIEVE YOU WERE AN EMPLOYEE OR AN
9 INDEPENDENT CONTRACTOR?

10 A. EMPLOYEE.

11 Q. WOULD YOU PLEASE EXPLAIN WHY?

12 A. 'CAUSE I HAD TO FOLLOW THEIR RULES AND REGULATIONS.
13 I HAD TO FOLLOW THEIR RULES AND REGULATIONS.

14 Q. HOW DID THEY TREAT YOU?

15 **BY MR. GOODWYN:**

16 OBJECT TO THE EXTENT THAT WE HAVEN'T DEFINED
17 "THEY." IS SHE REFERRING TO SCDC, CONDUSTRIAL?

18 **BY THE WITNESS:**

19 BOTH. I HAD TO FOLLOW RULES AND REGULATIONS AS
20 FAR AS THE AGENCY'S CONCERNED, AS WELL AS SCDC.

21 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

22 Q. WHEN YOU TALK ABOUT RULES AND REGULATIONS, CAN YOU
23 EXPLAIN? DO YOU MEAN RULES SET BY THE COMPANY, BY
24 MEDUSTRIAL AND SCDC?

25 A. YES.

- 1 Q. YOU'RE NOT JUST REFERRING TO STATE LAW?
- 2 A. NO.
- 3 Q. YOU SIGNED THE EMPLOYMENT APPLICATION AND THE
- 4 INDEPENDENT CONTRACTOR AGREEMENT. DO YOU REMEMBER
- 5 SIGNING ANY OTHER DOCUMENTS?
- 6 A. I DON'T REMEMBER ALL THE DOCUMENTS THAT I SIGNED FOR
- 7 EMPLOYMENT. WHATEVER THEY GAVE ME, WHATEVER THEY
- 8 TOLD ME I HAD TO SIGN IN ORDERED TO BE EMPLOYED BY
- 9 THEM, I SIGNED.
- 10 Q. I'M GOING TO SHOW YOU JUST A COUPLE OF DOCUMENTS.
- 11 A. OKAY.
- 12 Q. I'M SHOWING YOU PAGE 263, AT TAB "I." THIS IS A
- 13 FORM, ONLINE EMPLOYMENT ELIGIBILITY VERIFICATION.
- 14 A. YES.
- 15 Q. IS THIS A DOCUMENT THAT MEDUSTRIAL GAVE YOU TO SIGN?
- 16 A. YES.
- 17 Q. AND DID YOU, IN FACT, SIGN IT?
- 18 A. THAT IS MY SIGNATURE.
- 19 Q. ON FEBRUARY 7TH, 2013?
- 20 A. THAT'S THE DATE IT WAS WRITTEN.
- 21 Q. I'M GOING TO SHOW YOU PAGE 264, AT TAB "J." IS THIS
- 22 YOUR SIGNATURE AT THE BOTTOM?
- 23 A. IT IS.
- 24 Q. AND THE DATE IS FEBRUARY 7TH, 2013?
- 25 A. CORRECT.

1 Q. AND THIS SAYS CONDUSTRIAL FAIR CREDIT REPORTING ACT
2 DISCLOSURE AND AUTHORIZATION?

3 A. THAT'S WHAT IT SAYS.

4 Q. AND WHEN YOU SIGNED THIS, WERE YOU AWARE THAT YOU
5 WERE AUTHORIZING CONDUSTRIAL TO OBTAIN CONSUMER
6 REPORTS FROM CONSUMER REPORTING AGENCIES AND TO
7 CONSIDER THE INFORMATION WHEN MAKING DECISIONS
8 REGARDING YOUR EMPLOYMENT WITH THE COMPANY?

9 A. I DIDN'T READ EVERYTHING THAT THEY HAD ME SIGN. I
10 JUST SIGNED WHAT THEY TOLD ME TO SIGN.

11 Q. I'M GOING TO SHOW YOU ANOTHER FORM, PAGE 267. I'LL
12 ASK YOU -- THIS SAYS AT THE TOP AMS STAFF LEASING.
13 DO YOU KNOW WHO AMS STAFF LEASING IS?

14 A. NO.

15 Q. YOU SEE AT THE TOP? WHAT IS THIS DOCUMENT CALLED?

16 A. APPLICATION FOR EMPLOYMENT, EQUAL OPPORTUNITY
17 EMPLOYER. DO YOU WANT ME TO KEEP READING?

18 Q. I'M GOING TO ASK YOU -- ACTUALLY, YOU DON'T NEED TO
19 KEEP READING. I'LL MOVE YOU ON TO THE NEXT ONE. DO
20 YOU REMEMBER A DOCUMENT CALLED FACILITY AND CLIENT
21 REQUIREMENTS, WHICH IS AT PAGE 271?

22 A. LIKE I SAID, I DON'T REMEMBER ALL THE DOCUMENTS THAT
23 I SIGNED. I JUST SIGNED WHATEVER THEY TOLD ME I HAD
24 TO SIGN IN ORDER TO BE EMPLOYED.

25 **BY THE COMMISSIONER:**

1 I CAN'T UNDERSTAND. IF YOU'D ---

2 **BY THE WITNESS:**

3 I SAID I DON'T REMEMBER ALL THE DOCUMENTS THEY
4 HAD ME SIGN. I JUST SIGNED WHATEVER THEY TOLD ME I
5 NEEDED TO SIGN TO BE EMPLOYED.

6 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

7 Q. LET ME ASK YOU, WHAT DOES IT SAY DOWN HERE AT THE
8 BOTTOM UNDER THE WORD PENALTIES?

9 A. FAILURE TO COMPLY WITH MY -- WITH ANY OF THE ABOVE
10 WILL PREVENT YOU FROM WORKING AS AN EMPLOYEE OF
11 MEDUSTRIAL UNTIL SUCH TIME AS THE NON-COMPLIANT
12 ISSUE HAS BEEN RESOLVED.

13 Q. I'M GOING TO SHOW YOU ANOTHER DOCUMENT, PAGE 272.
14 WHAT DOES IT SAY AT THE TOP OF THIS?

15 A. TERMS OF EMPLOYMENT.

16 Q. OKAY. THERE'S A NUMBER OF DIFFERENT PARAGRAPHS
17 THERE, AND SOMEBODY HAS INITIALED IN THE BLANKS.
18 WHOSE INITIALS ARE THOSE?

19 A. THOSE ARE MINE.

20 Q. OKAY. IS THIS YOUR SIGNATURE AT THE BOTTOM LEFT?

21 A. YES.

22 Q. AND NATASHA RATH (PHONETIC), IT APPEARS TO BE, IS
23 THAT THE PERSON WHO ---

24 A. YES. THAT WAS THE PERSON THAT I DID MY APPLICATION
25 WITH.

1 Q. MOVE TO PAGE 273.

2 A. YES.

3 Q. RACHEL, DO YOU RECOGNIZE THIS FORM?

4 A. YES.

5 Q. WHAT'S IT CALLED?

6 A. EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATE, W-4,
7 2012.

8 Q. DO YOU UNDERSTAND THAT BY SIGNING A W-4, ENTERING
9 PERSONAL ALLOWANCES, THAT YOU ARE ASKING YOUR
10 EMPLOYER TO WITHHOLD TAXES?

11 **BY MR. HARBISON:**

12 OBJECTION, COMMISSIONER; LEADING THE WITNESS.

13 **BY THE COMMISSIONER:**

14 SUSTAINED.

15 **BY THE WITNESS:**

16 I KNOW THE DIFFERENCE BETWEEN A 1099 AND W-4.
17 A W-4 IS WHERE THEY'RE TAKING OUT TAXES; 1099 THEY
18 DON'T TAKE OUT TAXES.

19 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

20 Q. LET ME JUST ASK YOU, RACHEL, TO READ THE VERY FIRST
21 PARAGRAPH ON THE FORM UNDER PURPOSE.

22 A. PURPOSE. COMPLETE FORM W-4 SO THAT YOUR EMPLOYER
23 CAN WITHHOLD THE CORRECT FEDERAL INCOME TAX FROM
24 YOUR PAY.

25 Q. NOW THAT YOU'VE READ THAT, DOES THAT REMIND YOU OF

1 THE PURPOSE BEHIND THE FORM?

2 A. YES.

3 Q. WHEN YOU WERE WORKING AT MEDUSTRIAL, WHERE DID THEY
4 FIRST SEND YOU?

5 A. THEY SENT ME TO A NURSING HOME.

6 BY MR. GOODWYN:

7 OBJECT TO THE FORM, YOUR HONOR.

8 BY THE WITNESS:

9 A NURSING HOME.

10 BY MR. GOODWYN:

11 WHERE DID THEY FIRST SEND YOU? I THINK BOTH
12 PARTIES HAVE TESTIFIED SHE GETS TO PICK WHEN AND
13 WHERE AND HOW SHE WANTS TO WORK. THEY DON'T SEND
14 HER ANYWHERE.

15 BY MR. SAMUELS:

16 YOUR HONOR, THAT'S AN ALLEGATION ON HIS PART.
17 THAT IS A POSITION HE'S TAKING. BUT THE FACT OF THE
18 MATTER IS THAT SHE'S ENTITLED TO TESTIFY TO WHAT
19 THEY DID. THEY CHOSE WHERE TO PLACE HER.

20 BY THE COMMISSIONER:

21 WELL, I THINK YOU NEED TO ---

22 BY MR. GOODWYN:

23 ESTABLISH THAT FACT FIRST.

24 BY THE COMMISSIONER:

25 YOU NEED TO ESTABLISH AS TO ---

1 **BY THE WITNESS:**

2 DO I NEED TO ESTABLISH IT? 'CAUSE YOU GUYS
3 ASSIGNED ME TO WHERE I WAS SUPPOSED TO GO, IF I NEED
4 TO ESTABLISH IT. I WAS NEVER -- I NEVER WENT TO ANY
5 FACILITY WITHOUT MEDUSTRIAL. I NEVER WAS TOLD TO GO
6 TO ANY FACILITY WITHOUT MEDUSTRIAL. I HAD TO GO
7 THROUGH MEDUSTRIAL IN ORDER TO GO ANYPLACE I'VE EVER
8 WORKED THROUGH MEDUSTRIAL. I NEVER WALKED UP TO ANY
9 NURSING HOME, HOSPITAL, PRISON AND INTRODUCED MYSELF
10 AND SAID, "CAN I WORK HERE? BY THE WAY, MY AGENCY
11 WILL BE PAYING YOU." EVERYWHERE I'VE EVER WORKED
12 THROUGH MEDUSTRIAL, THEY HAVE ASSIGNED ME. THEY
13 HAVE TOLD ME WHERE TO GO.

14 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

15 Q. ALONG THAT LINE, RACHEL, WHEN YOU WENT AND GOT HIRED
16 BY MEDUSTRIAL, ---

17 A. YES.

18 Q. --- DID YOU HAVE A DISCUSSION WITH THEM ABOUT WHERE
19 YOU WANTED TO WORK?

20 A. NO.

21 Q. HOW DID IT WORK TO WHERE YOU ENDED UP WORKING
22 SOMEWHERE?

23 A. THEY TOLD ME THAT THEY HAD AN OPENING AT CORRECTIONS
24 AND DO I WANT TO WORK CORRECTIONS, AND I SAID FINE;
25 I CAN WORK CORRECTIONS, 'CAUSE I WORKED CORRECTIONS

1 BEFORE. AND THEN THEY HAD ME SET UP FOR THE
2 ORIENTATION CLASS THROUGH THE CORRECTIONS. BEFORE
3 WE COULD START WORKING THERE, WE HAD TO TAKE AN
4 ORIENTATION CLASS. AND THEY SCHEDULED THE
5 ORIENTATION CLASS, AND I STARTED WORKING THERE.

6 Q. DID THEY PAY YOU FOR THE ORIENTATION CLASS?

7 A. YES.

8 Q. WHO PAID YOU FOR THE ORIENTATION CLASS?

9 A. MEDUSTRIAL.

10 Q. I WANT TO SHOW YOU THIS DOCUMENT, WHICH IS PAGE 274.

11 A. YES.

12 Q. DO YOU RECOGNIZE THIS DOCUMENT?

13 A. IT'S THE ORIENTATION DOCUMENTATION.

14 Q. OKAY. AND THIS SAYS, "I AM ORIENTING AT D.M.H.
15 THROUGH MEDUSTRIAL HEALTHCARE"?

16 A. YES.

17 BY MR. HARBISON:

18 I'M SORRY. CAN YOU -- WHAT PAGE?

19 BY MR. SAMUELS:

20 TWO SEVENTY-FOUR.

21 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

22 Q. OKAY. WHERE DID YOU GET THIS DOCUMENT?

23 A. FROM MEDUSTRIAL.

24 Q. DID YOU TYPE THIS OR DID THEY TYPE IT?

25 A. NO, THEY TYPED IT.

1 Q. OKAY. AND WHAT DOES THE SECOND SENTENCE STATE?

2 A. I AM AN EMPLOYEE OF CONDUSTRIAL, INC.

3 **BY THE COMMISSIONER:**

4 IF -- I'M JUST -- I HATE TO KEEP INTERRUPTING,
5 BUT JUST A LITTLE BIT LOUDER. THE ROOM IS BIG AND
6 ---

7 **BY THE WITNESS:**

8 I'M SORRY.

9 **BY THE COMMISSIONER:**

10 OKAY.

11 **WITNESS RESUMES:**

12 A. I AM AN EMPLOYEE OF CONDUSTRIAL, INC.

13 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

14 Q. LET ME MOVE ON TO PAGE 275. I WANT TO ASK YOU ABOUT
15 THIS ONE BECAUSE THIS IS DATED OCTOBER 9TH, 2014.

16 A. OKAY.

17 Q. DID YOU HAVE TO COME IN AND SIGN NEW PAPERWORK WITH
18 CONDUSTRIAL?

19 A. WE HAD TO SIGN PAPERWORK EVERY YEAR.

20 Q. OKAY. THIS SAYS ATTENDANCE POLICY.

21 A. YES.

22 Q. OKAY. AND IS THAT YOUR SIGNATURE UNDER EMPLOYEE
23 SIGNATURE?

24 A. YES.

25 Q. AND THERE'S ANOTHER SIGNATURE THAT APPEARS TO BE

- 1 HOLLY SEEBY. WHO IS HOLLY SEEBY?
- 2 A. SHE'S ONE OF THEIR OFFICE WORKERS.
- 3 Q. IT SAYS SHE WOULD BE -- UNDER THE SIGNATURE IT SAYS
- 4 DIRECTOR OF OPERATIONS.
- 5 A. YEAH, SHE'S -- SHE'S ONE OF THE DIRECTORS IN THERE.
- 6 IT'S HER AND LISSETTE.
- 7 Q. OKAY. LISSETTE? DO YOU KNOW LISSETTE'S LAST NAME?
- 8 A. I DON'T REMEMBER LAST NAMES. I'M SORRY.
- 9 Q. I'M JUST GOING TO ASK YOU GENERALLY, WHAT DOES IT
- 10 SAY IS THE PURPOSE BEHIND THIS DOCUMENT?
- 11 A. TO GET GUIDELINES REGARDING NO CALLS, NO SHOWS,
- 12 TARDINESS, ABSENCES FOR ALL EMPLOYEES OF MEDUSTRIAL
- 13 HEALTHCARE.
- 14 Q. DID MS. SEEBY REQUIRE YOU TO SIGN THIS DOCUMENT?
- 15 A. YES. ALL DOCUMENTS WERE REQUIRED.
- 16 Q. AND HERE UNDER ABSENCE, DOWN TOWARDS THE BOTTOM, IT
- 17 SAYS, "IF AN EMPLOYEE LEAVES A TEXT MESSAGE, IT WILL
- 18 BE CONSIDERED A NO CALL, NO SHOW, AND THE NO CALL,
- 19 NO SHOW POLICY WILL BE ENFORCED. THIS COULD/MAY
- 20 RESULT IN FURTHER DISCIPLINARY ACTIONS UP TO
- 21 TERMINATION OF EMPLOYMENT."
- 22 A. YES.
- 23 Q. IS THAT WHAT IT SAYS?
- 24 A. YES.
- 25 Q. WHAT WOULD HAPPEN IF YOU COULDN'T MAKE IT TO ONE OF

1 YOUR SHIFTS BECAUSE YOU WERE SICK OR HAD
2 TRANSPORTATION PROBLEMS AND ---

3 A. I HAD TO CALL FOUR HOURS IN ADVANCE.

4 Q. OKAY. TELL ME ABOUT THE FOUR HOURS IN ADVANCE.

5 A. WE HAD TO CALL FOUR HOURS IN ADVANCE BEFORE OUR
6 SHIFT OR ELSE WE'LL GET REPRIMANDED OR POSSIBLY
7 DOCKED.

8 Q. OKAY. AND ACCORDING TO THIS, POSSIBLY TERMINATED?

9 A. EVENTUALLY, IF IT'S A REPETITIVE THING.

10 Q. AND WHOSE RULE WAS THAT?

11 A. MEDUSTRIAL.

12 Q. SO, HOW LONG DID YOU WORK AT D.M.H.?

13 A. FROM THE TIME THAT I WAS WITH THEM -- I WORKED OTHER
14 CORRECTIONS. BUT WITH THEM FROM, I THINK IT WAS,
15 MARCH, MARCH OF THAT YEAR, 2012, I STARTED WORKING
16 AT CORRECTIONS.

17 Q. MARCH OF 2012?

18 A. I BELIEVE IT WAS MARCH OF 2012. I'M NOT SURE
19 EXACTLY. I WAS HIRED. IT TOOK THEM ABOUT MAYBE --
20 I DON'T REMEMBER THE EXACT DATE, TO TELL YOU THE
21 TRUTH. BUT SOMEWHERE AROUND MAYBE A MONTH, MONTH
22 AND A HALF, MAYBE TWO MONTHS AFTER I STARTED WORKING
23 FOR MEDUSTRIAL.

24 Q. OKAY. LET ME ASK YOU TO CLARIFY, BECAUSE YOUR
25 EMPLOYMENT APPLICATION WITH MEDUSTRIAL IS DATED

1 FEBRUARY 7TH, 2013.

2 A. YES.

3 Q. SO DID YOU WORK AT -- WHEN DID YOU GO TO WORK AS A
4 ---

5 A. I'M NOT SURE THE EXACT DATE OF WHEN IT STARTED --
6 WHEN I STARTED OVER AT CORRECTIONS. I HAD TO WAIT
7 FOR AN ORIENTATION CLASS TO COME BACK UP, SO I'M NOT
8 SURE EXACTLY THE DATE.

9 Q. AND BEFORE YOU WENT OVER TO THE DEPARTMENT OF
10 CORRECTIONS, DID YOU WORK AT THE DEPARTMENT OF
11 MENTAL HEALTH?

12 A. DEPARTMENT OF MENTAL HEALTH WAS -- I'VE WORKED THE
13 DEPARTMENT OF MENTAL HEALTH BEFORE, BUT NOT THROUGH
14 THEM. I DON'T THINK SO. I DON'T REMEMBER WHAT THE
15 FACILITY WAS THEY FIRST SENT ME TO THE FIRST TIME I
16 WORKED WITH THEM 'CAUSE I DON'T -- IT WAS LIKE ONCE
17 OR TWICE MAYBE THEY SENT ME THERE BEFORE THEY
18 STARTED TALKING ABOUT SENDING ME TO CORRECTIONS.
19 I'M NOT SURE EVEN THE NAME OF THE FACILITY I WENT TO
20 OR ANYTHING.

21 Q. HAD YOU EVER WORKED FOR AN AGENCY AT THE DEPARTMENT
22 OF CORRECTIONS BEFORE FEBRUARY 2013?

23 A. YES.

24 Q. WHEN?

25 A. IT'S BEEN '97 AND 2005, I BELIEVE. IT'S BEEN THAT

1 AREA. I WAS WORKING THROUGH MEDICAL STAFFING
2 NETWORK, AND I WORKED AT KIRKLAND CORRECTIONAL
3 INSTITUTION. I ALSO HAD WORKED AT JUST CARE ON
4 FARROW ROAD.

5 Q. JUST CARE, IS THAT THE AGENCY?

6 A. NO. I WORKED THROUGH MEDICAL STAFFING NETWORK, AND
7 I WORKED AT JUST CARE, WHICH IS A CORRECTIONAL
8 HOSPITAL ON FARROW ROAD.

9 Q. I UNDERSTAND.

10 A. IT'S WHERE THEY SEND REALLY SICK INMATES FOR MEDICAL
11 CARE, TO BE HOSPITALIZED-TYPE SETTING.

12 Q. WHEN YOU WORKED AT DEPARTMENT OF CORRECTIONS IN THE
13 LATE '90s AND EARLY 2000s, DID THE AGENCY YOU WORKED
14 FOR WITHHOLD TAXES FROM YOUR PAYCHECK?

15 A. YES.

16 Q. DID THEY ISSUE YOU A W-2 OR 1099 AT THE END OF THE
17 YEAR?

18 A. W-2.

19 Q. LET ME ASK YOU ABOUT SHIFTS AT KIRKLAND.

20 A. OKAY.

21 Q. HOW DID YOU GET ON THE SCHEDULE?

22 A. EITHER MEDUSTRIAL WOULD CALL ME WITH A SHIFT OR SOME
23 OF THE SUPERVISORS THAT I WORKED WITH ON A REGULAR
24 BASIS WOULD ASK ME IF I WANTED TO WORK A SHIFT.

25 Q. IF THE SUPERVISOR -- WHEN YOU SAY SUPERVISOR, ARE

1 YOU TALKING ABOUT A SUPERVISOR AT SCDC?

2 A. YES. A SUPERVISOR AT SCDC OR AT THE AGENCY WOULD
3 ASK ME IF I WOULD LIKE TO WORK A SHIFT.

4 Q. IF THE SUPERVISOR AT SCDC ASKED YOU IF YOU COULD
5 WORK A SHIFT, COULD YOU JUST ACCEPT OR DID ANYTHING
6 ELSE HAVE TO HAPPEN?

7 A. I HAVE TO GET ALL MY SHIFTS PRE-APPROVED BY
8 MEDUSTRIAL BEFORE I CAN WORK ANY SHIFT.

9 Q. HOW FAR IN ADVANCE DID YOU HAVE TO SCHEDULE YOUR
10 SHIFTS?

11 A. IT DEPENDS ON HOW THEY SCHEDULED IT. IF THEY DID IT
12 BI-WEEKLY, THEN IT WAS EVERY TWO WEEKS THEY WOULD
13 SEND IN A SCHEDULE, OR SOMETIMES THE FLOOR WOULD DO
14 IT WEEKLY. SO THEY WOULD SEND IN A SCHEDULE AND LET
15 THEM KNOW WHAT AVAILABILITY THEY HAD. IF THEY
16 WANTED ME TO WORK THE DAYS AND THEY TALKED TO ME,
17 THEN THEY WOULD ALSO CONTACT MEDUSTRIAL TO VERIFY
18 THAT IT'S OKAY FOR ME TO WORK THAT SHIFT, AND THEN I
19 WOULD ALSO HAVE TO VERIFY WITH MEDUSTRIAL THAT I'M
20 GONNA WORK THE SHIFT AND IF IT'S OKAY WITH THEM.

21 Q. IF YOU WERE OFFERED A SHIFT, SAY, THURSDAY AND
22 HADN'T BEEN SCHEDULED YET, COULD YOU TURN DOWN THE
23 SHIFT?

24 A. IF I HADN'T BEEN SCHEDULED YET?

25 Q. IF IT HADN'T BEEN SCHEDULED. LET'S SAY THE

1 SUPERVISOR AT SCDC COMES TO YOU AND SAYS, "HEY, CAN
2 YOU WORK ON THURSDAY," AND YOU'VE GOT SOMETHING ELSE
3 GOING ON SO YOU DON'T WANT TO WORK, COULD YOU TURN
4 IT DOWN?

5 A. YES.

6 Q. ONCE THE SCHEDULE WAS MADE UP AND POSTED, COULD YOU
7 TURN DOWN THE SHIFT?

8 A. NO. I HAD TO FOLLOW THEIR CALL-OUT POLICY.

9 **BY MR. HARBISON:**

10 I'M SORRY; I DIDN'T HEAR THAT, COMMISSIONER.

11 **BY THE WITNESS:**

12 I HAD TO FOLLOW THE CALL-OUT POLICY OF
13 MEDUSTRIAL, IF YOU NEED CLARIFICATION.

14 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

15 Q. WERE YOU ALLOWED TO WORK WITH MEDUSTRIAL AND ANOTHER
16 NURSING AGENCY AT THE SAME TIME?

17 A. WAS I ALLOWED TO WORK MULTIPLE AGENCIES?

18 Q. YES.

19 A. YES.

20 **BY MR. HARBISON:**

21 EXCUSE ME, COMMISSIONER?

22 **BY THE WITNESS:**

23 YES.

24 **BY THE COMMISSIONER:**

25 DID YOU HEAR THAT, MR. HARBISON?

1 BY MR. HARBISON:

2 YES, I DID. THANK YOU.

3 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

4 Q. WERE YOU ALLOWED TO WORK FOR MEDUSTRIAL AND WORK
5 DIRECTLY FOR SCDC AT THE SAME TIME?

6 A. NO.

7 Q. HOW DO YOU KNOW THAT?

8 A. BECAUSE WHEN I FOUND OUT THAT THEY WERE NOT TAKING
9 OUT TAXES FOR US, I WENT TO THE NURSING SUPERVISOR
10 AT THE PRISON 'CAUSE I WANTED TO SWITCH OVER TO
11 MEDFIRST, WHICH IS ONE OF THE AGENCIES THAT THEY USE
12 THAT TAKE OUT TAXES AND PAY OUT OVERTIME, 'CAUSE
13 THEY WEREN'T PAYING OUT OVERTIME THROUGH MEDUSTRIAL.
14 AND SO I WANTED TO TRANSFER TO -- ME AND A FEW
15 NURSES WANTED TO TRANSFER OVER TO MEDFIRST. SO WE
16 SPOKE WITH THE NURSING SUPERVISOR THAT WE WERE
17 WORKING FOR AT BROAD RIVER, AND SHE SAID SHE WOULD
18 TALK TO THE H.R. DEPARTMENT AND GET BACK TO US. AND
19 WHEN SHE GOT BACK TO US, SHE TOLD US THAT IN ORDER
20 FOR US TO SWITCH AGENCIES, WE WOULD NOT BE ABLE TO
21 WORK FOR THE CORRECTIONAL DEPARTMENT FOR THREE TO
22 SIX MONTHS PER THE CONTRACT WITH THE AGENCY.

23 Q. WHAT WAS THE SUPERVISOR'S NAME?

24 A. TAKISHA SMITH.

25 Q. WHY DIDN'T YOU LEAVE AND WAIT OUT THE THREE TO SIX

1 MONTHS?

2 A. 'CAUSE I AM A SINGLE MOTHER OF TWO KIDS, AND I
3 NEEDED MY INCOME.

4 Q. YOU MENTIONED SOMETHING ABOUT OVERTIME. DID YOU
5 EVER TRY TO ADDRESS THE ISSUE OF OVERTIME WITH
6 MEDUSTRIAL?

7 A. YES. I SPOKE WITH LISSETTE ABOUT THE OVERTIME AT
8 FIRST, AND THEN I ENDED UP SPEAKING WITH TOM SEARS
9 ABOUT IT.

10 Q. AND WHAT DID THEY TELL YOU?

11 A. THEY TOLD ME THAT SCDC DOESN'T PAY NO OVERTIME, SO
12 THEY'RE NOT GONNA PAY US OVERTIME. BUT IF WE WORK
13 ON PSYCH UNITS, THEN WE WOULD GET PAID OUR OVERTIME.
14 SO WHEN I WORKED FOR G.P.H. WITHIN THE SAME
15 CORRECTIONAL FACILITY -- AT KIRKLAND I WORKED
16 MULTIPLE UNITS, AND WHEN I WORKED THE PSYCH UNIT, I
17 WAS PAID OVERTIME. WHEN I WORKED THE INFIRMARY OR
18 R.N.E., I WAS NOT PAID OVERTIME. I WORKED FOR
19 GENERAL POPULATION. SO THERE'S SCDC SIDE, AND
20 THERE'S GILLESPIE PSYCH SIDE, AND IT'S IN
21 CORRECTIONAL WITHIN KIRKLAND.

22 Q. AND EVEN IF YOU WORKED -- IF YOU WORKED OVER 40
23 HOURS BUT NOT IN THE PSYCH UNIT ---

24 A. THEY WOULDN'T PAY US OVERTIME. THEY STOPPED PAYING
25 AFTER SIX HOURS. IF YOU WORKED ANYTHING OVER SIX

1 HOURS OF OVERTIME, IT WAS STRAIGHT PAY. BUT THEY
2 PAID US FOR THE FIRST SIX HOURS. BUT IF I WORKED AT
3 GILLESPIE PSYCH UNIT, LIKE THE CUTTERS UNIT, THE
4 I.C.S. UNIT, OR THE MAXIMUM SECURITY UNIT IN G.P.H.,
5 I WAS PAID OVERTIME.

6 Q. HOW MUCH WERE YOU PAID WHEN YOU WORKED FOR
7 MEDUSTRIAL?

8 A. TWENTY-TWO DOLLARS AN HOUR. I STARTED AT TWENTY-
9 ONE, BUT THEY RAISED ME UP, SAYING THAT I WAS A GOOD
10 EMPLOYEE, SO THEY GAVE ME A RAISE TO TWENTY-TWO
11 DOLLARS AN HOUR.

12 Q. DID THEY TELL YOU YOU WERE A GOOD EMPLOYEE IN THOSE
13 WORDS?

14 A. YES.

15 Q. WHO TOLD YOU THAT?

16 A. IT WAS NATASHA AT THE TIME, BUT THEY ALSO BOUGHT ME
17 LUNCHES AND STUFF LIKE THAT FOR BEING ONE OF THE
18 BEST EMPLOYEES THEY HAD. AND THAT WAS LISSETTE AND
19 HOLLY THAT WOULD DO THAT.

20 Q. DID THEY EVER PAY FOR YOUR ORIENTATIONS OR ANYTHING,
21 OR TRAINING CLASSES?

22 A. THEY PAID FOR MY CPR CLASS OUT THERE THROUGH SCDC.
23 WHENEVER WE'D HAVE TO COME IN FOR THE ANNUAL TESTING
24 AND PAPERWORK.

25 Q. GOING BACK TO YOUR HOURLY PAY, IT WAS \$22 AN HOUR AT

1 MEDUSTRIAL. TELL US THE PAY RATE FOR THE VARIOUS
2 AGENCIES YOU'VE WORKED FOR.

3 A. I EARNED DIFFERENT PAY, ANYWHERE FROM 18 TO \$30 AN
4 HOUR. I'VE WORKED -- AT MEDICAL STAFFING NETWORK I
5 WAS GETTING PAID, I BELIEVE IT WAS, 21. I'M NOT
6 SURE EXACTLY THE SPECIFIC. BETWEEN 19 AND 21. WHEN
7 I WORKED FOR MEDAMERICA, I WAS PAID \$25, AND IT ALSO
8 DEPENDED IN WHAT STATE I WORKED. IF I WORKED AT
9 MEDICAL STAFFING NETWORK HERE, I GOT PAID LESS THAN
10 I DID WHEN I WAS IN CALIFORNIA.

11 Q. OKAY. HOW MUCH DID YOU GET PAID IN CALIFORNIA?

12 A. TWENTY-FIVE DOLLARS AN HOUR.

13 Q. AND HOW ABOUT IN SOUTH CAROLINA?

14 A. IT WAS \$19 AN HOUR.

15 Q. AND \$19 AN HOUR, WHAT YEAR WAS THAT?

16 A. THAT WAS BACK IN '97 TO 2001, 2005 AREA, AT THAT
17 TIME.

18 Q. OKAY. SO, ROUGHLY 12 TO 20 YEARS AGO?

19 A. YES.

20 Q. HAVE PAY RATES FOR NURSES GONE UP IN THAT TIME?

21 A. YES.

22 Q. AND THE HOURLY RATES YOU JUST DESCRIBED, WHEN YOU
23 WERE PAID THOSE RATES, WAS THAT -- DID THOSE
24 EMPLOYERS TAKE OUT TAXES FROM YOUR PAYCHECK?

25 A. SOME TOOK OUT TAXES, YES.

1 Q. LET ME ASK YOU ABOUT YOUR ACTUAL WORK AT DEPARTMENT
2 OF CORRECTIONS.

3 A. OKAY.

4 Q. WAS THERE ANYBODY AT THE DEPARTMENT OF CORRECTIONS
5 THAT YOU WERE SUPPOSED TO REPORT TO?

6 A. I HAD TO REPORT TO THE UNIT THAT THEY ASSIGNED ME TO
7 FOR THE DAY AND THEN IF -- DEPENDS ON THE WEEKENDS.
8 THEY HAD NOBODY THERE. SUPERVISORS WERE ALREADY
9 GONE. BUT THERE'S A SUPERVISOR. A NURSING
10 SUPERVISOR WAS ALWAYS THERE. BUT WE REPORTED TO THE
11 UNIT. THEY USUALLY HAD LIKE A CHARGE NURSE ON THE
12 UNIT. THEN THEY HAD THE SUPERVISORS. SO, WHOEVER
13 WAS IN CHARGE. LIKE WHEN I WORKED THE INFIRMARY,
14 THE CHARGE NURSE WAS ON THE FLOOR, AND SHE WOULD
15 GIVE YOU YOUR ASSIGNMENT FOR THE DAY. AND THEN THE
16 SUPERVISOR WAS IN HIS OFFICE USUALLY. WOULD COME
17 OUT IF THERE WAS NEED FOR IT OR IF THERE WAS UPDATED
18 INFORMATION THAT THEY NEEDED TO GIVE US. IF THEY
19 WERE CHANGING THE WAY THEY WERE DOING THINGS, THEN
20 THEY WOULD LET US KNOW. IF WE HAD ANY PROBLEMS,
21 THEY WERE THERE FOR US TO GO TO.

22 Q. WHAT DID THE SUPERVISOR DO IN TERMS OF SUPERVISING
23 YOU?

24 A. LIKE I SAID, THEY WERE THERE WHEN WE HAD ANY
25 PROBLEMS THAT WE NEEDED RESOLVING, IF MEDICATIONS

1 WEREN'T BE ORDERED PROPERLY, OR, YOU KNOW, IF THERE
2 WAS MED ERRORS BEING MADE AND YOU WERE THE ONE THAT
3 FOUND IT, THEN YOU'D HAVE TO REPORT IT TO A
4 SUPERVISOR, STUFF LIKE THAT. THEY WERE THERE TO
5 TROUBLESHOOT AND MAKE SURE THAT EVERYTHING'S RUNNING
6 SMOOTHLY ON THE FLOOR. THEY WERE THE LEAD.

7 Q. DID THEY DIRECT YOUR WORK?

8 A. IT DEPENDS ON WHAT YOU MEAN BY DIRECT.

9 **BY MR. HARBISON:**

10 OBJECTION, COMMISSIONER. AGAIN, LEADING THE
11 WITNESS. DID THEY DIRECT YOUR WORK? HOW DID THE
12 WORK PROCESS GO MAYBE, THOSE KIND OF QUESTIONS.

13 **BY THE COMMISSIONER:**

14 I THINK HE CAN ASK WHAT, IF ANY, I MEAN, AS
15 OPPOSED TO ---

16 **BY MR. HARBISON:**

17 HE CAN LEAD LIKE THAT?

18 **BY THE COMMISSIONER:**

19 I DON'T THINK THAT'S LEADING. I MEAN, IT'S
20 WHAT, IF ANY. WHAT, IF ANY, COMPLICATIONS YOU HAD
21 IN A MATTER. WHAT, IF ANY -- YOU KNOW? I DON'T ---

22 **BY MR. HARBISON:**

23 OKAY.

24 **BY THE COMMISSIONER:**

25 WHAT, IF ANY, PROBLEMS YOU HAD. I DON'T KNOW

1 THAT THAT'S SUGGESTING THE ANSWER.

2 BY MR. HARBISON:

3 WELL, THE QUESTION WAS DID THEY DIRECT YOU.

4 BY THE COMMISSIONER:

5 I UNDERSTAND. I THINK THE QUESTION NEEDS TO BE
6 REPHRASED.

7 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

8 Q. RACHEL, WHAT, IF ANY, DIRECTION DID THE SUPERVISORS
9 PROVIDE TO YOU?

10 A. WELL, THEY WOULD -- THEY WOULD -- THE SUPERVISORS
11 THEMSELVES, IF YOU -- IF YOU HAD ANY PROBLEMS ON THE
12 FLOOR, BASICALLY THEY WERE THERE TO HELP YOU RESOLVE
13 THESE PROBLEMS. IF YOU NEEDED SUPPLIES THAT WEREN'T
14 BEING ORDERED CORRECTLY, THEY WERE THE ONES TO GO
15 TO. AS FAR AS DIRECTION ON THE FLOOR, AS FAR AS OUR
16 ASSIGNMENT WAS CONCERNED, OUR ASSIGNMENTS WERE MADE
17 BY THE SUPERVISOR PRIOR TO US GETTING THERE. ONCE
18 WE GOT THERE, OUR SUPERVISOR -- OUR ASSIGNMENTS WERE
19 ALREADY MADE. THE CHARGE NURSE GAVE US DIRECTION.
20 THE SUPERVISOR WAS THERE TO MAKE THE ASSIGNMENT AND
21 TROUBLESHOOT, LIKE ANY OTHER DIRECTOR OF NURSING.
22 THEY DON'T GO ON THE FLOOR AND DIRECT THEIR STAFF.
23 THEY HAVE A CHARGE NURSE FOR THAT. AND THE CHARGE
24 NURSE OF THE UNIT WOULD TELL US WHAT TO DO.
25 SOMETIMES I WAS -- I WAS ASSIGNED TO BE A CHARGE

1 NURSE; SO...

2 Q. AND THE CHARGE NURSE -- WHAT, IF ANY, DIRECTION,
3 SPECIFIC DIRECTION, DID THE CHARGE NURSE PROVIDE TO
4 YOU?

5 A. THEY GAVE US OUR WORK ASSIGNMENT, WHERE WE WAS GONNA
6 WORK. IF I HAD TO DO SICK CALL OR IF I HAD TO DO
7 PILL ROOM, THEY GAVE ME MY ASSIGNMENT FOR THE DAY.
8 IF THERE WAS GOING TO BE ANYTHING GOING ON IN THE
9 UNIT, IT CAME THROUGH THE CHARGE NURSE OR THE
10 SUPERVISOR ON WHAT WE HAD TO DO FOR THAT DAY.

11 Q. ANY SPECIFIC POLICIES YOU HAD TO FOLLOW AT SCDC AS
12 TO HOW YOU DID YOUR WORK?

13 A. YES. THERE'S ALWAYS SPECIFIC POLICIES. WE HAD --
14 WE HAD NURSING ORDERS THAT WE HAD TO TAKE OFF OF THE
15 COMPUTER THAT WAS THROUGH THEIR SYSTEM, AND THEY
16 REQUIRED CHARTING. THEY REQUIRED US TO TAKE OFF
17 DOCTORS' ORDERS THROUGHOUT THE DAY, TRANSCRIBE THEM
18 ON THE MEDICAL RECORDS FOR MEDICATIONS TO BE
19 CHANGED. IF WE WERE ASSIGNED TO THE CLINIC, THEN WE
20 HAD TO -- WE WERE ASSIGNED TO DO SICK CALL AND TAKE
21 THE SICK CALL NOTE, AND THERE WAS PROCEDURES IN
22 WHICH THE SICK CALL NOTE WAS ENTERED TO THE DOCTOR.
23 IF IT WAS SOMETHING THAT WAS HANDLED BY A STANDING
24 ORDER, THEN WE WOULD TAKE CARE OF THE STANDING
25 ORDER. BUT IF IT'S SOMETHING THAT SUPERCEDED THE

1 STANDING ORDER, THEN WE NEEDED A DOCTOR TO BE SEEN,
2 AND WE WOULD HAVE TO PUT THEM ON THE DOCTOR'S BOARD.
3 AND IT JUST DEPENDED ON THE ASSIGNMENT YOU HAD FOR
4 THE DAY. IF YOU WERE IN THE PILL ROOM, YOU HAD
5 THREE, FOUR PILL LINES TO DO THROUGHOUT THE DAY, AND
6 YOU HAD TO DO THESE PILL LINES AT A CERTAIN TIME PER
7 SCDC AND THE SUPERVISORS OF SCDC. YOU COULDN'T CALL
8 PILL LINE WHENEVER YOU WANTED TO. SCDC CALLED PILL
9 LINE. AND THEN WE DO PILL LINE AT CERTAIN TIMES.
10 IF THEY WERE DOING SICK CALL BECAUSE IT'S THE
11 ASSIGNMENT, THEY ASSIGNED IT TO BE.

12 Q. WERE THERE ANY GROOMING OR APPEARANCE THAT YOU HAD
13 TO FOLLOW AT SCDC?

14 A. WE HAD TO BE -- OUR HAIR TIED, UNIFORMS, SNEAKERS OR
15 NURSING SHOES, I.D. BADGE, AND CLEAR BAGS, STUFF
16 THAT THEY COULD SEE THROUGH. YOU WEREN'T ALLOW TO
17 BRING CERTAIN THINGS INTO THE PRISON SYSTEM. WE
18 WERE SEARCHED AT THE GATE EVERY TIME WE WOULD ENTER.

19 Q. LET ME ASK ABOUT THE I.D. BADGE. WHO PROVIDED YOU
20 THE I.D. BADGE?

21 A. I HAD AN I.D. BADGE FROM BOTH SCDC AND MEDUSTRIAL.

22 Q. WERE YOU REQUIRED TO WEAR BOTH OF THOSE?

23 A. I WAS REQUIRED TO WEAR THE SCDC BADGE. THEY DIDN'T
24 REQUIRE YOU -- THEY REQUIRED YOU TO CARRY YOUR
25 MEDUSTRIAL BADGE, BUT YOU DIDN'T HAVE TO WEAR IT.

- 1 Q. WHO REQUIRED YOU TO CARRY THE MEDUSTRIAL BADGE?
- 2 A. BOTH.
- 3 Q. WHAT DID IT SAY ON THE DEPARTMENT OF CORRECTIONS
- 4 BADGE?
- 5 A. TEMPORARY EMPLOYEE.
- 6 Q. IS THAT SOMETHING THAT YOU WOULD KEEP AND TAKE HOME
- 7 WITH YOU, OR WOULD IT BE KEPT AT THE INSTITUTION?
- 8 A. NO. WE'D KEEP IT AND TAKE IT HOME WITH US. WE HAD
- 9 TO BRING IT BACK AND FORTH. THAT'S HOW WE CLOCKED
- 10 IN AND OUT OF THE PRISON.
- 11 Q. DID YOU ALSO HAVE TO FILL OUT TIME SHEETS?
- 12 A. YES, I ALSO HAD TO FILL OUT TIME SHEETS.
- 13 Q. I'M GOING TO SHOW YOU SOME MORE DOCUMENTS. PAGE
- 14 284, TAB "T." RACHEL, I'M GOING TO ASK YOU, HAVE
- 15 YOU SEEN THIS TYPE OF DOCUMENT BEFORE?
- 16 A. YES.
- 17 Q. OKAY. WHAT'S IT CALLED?
- 18 A. WEEKLY TIME SHEET.
- 19 Q. WHERE DID YOU GET IT FROM?
- 20 A. MEDUSTRIAL.
- 21 Q. AND WHAT DOES IT SAY RIGHT UNDER WEEKLY TIME SHEET?
- 22 A. "THIS TIME SHEET MUST BE PERSONALLY FILLED OUT AND
- 23 SIGNED BY EMPLOYEE AND SUPERVISOR." THOSE ARE THE
- 24 NURSING SUPERVISOR'S SIGNATURES THERE. THAT'S MY
- 25 SIGNATURE, AND THAT IS MY NAME.

1 Q. OKAY.

2 A. AND THOSE ARE THE HOURS AND WHERE I WORKED, THE
3 FACILITY THAT I WORKED AT. AND IT WOULD BE MORE
4 SPECIFIC WHEN I WORKED AT KIRKLAND 'CAUSE I WORKED
5 DIFFERENT UNITS. IT WOULD TELL YOU R.N.E. OR I.C.S.
6 OR G.P.H., OR WHATEVER, WOULD BE RIGHT THERE UNDER
7 -- SO THE UNIT STUFF WAS AT KIRKLAND CORRECTIONAL
8 INSTITUTION.

9 Q. THANK YOU FOR THAT.

10 A. YOU'RE WELCOME.

11 **BY THE WITNESS:**

12 IS THERE ANY WAY I CAN GET A BREAK? CAN WE
13 TAKE A BREAK, PLEASE?

14 (OFF THE RECORD)

15 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

16 Q. RACHEL, WHO PROVIDED THE EQUIPMENT YOU USED?

17 A. FOR THE PRISON?

18 Q. YES, AT THE PRISON.

19 A. THE PRISON.

20 Q. WHAT DID THEY PROVIDE?

21 A. VITAL SIGN EQUIPMENT, TREATMENT CARE EQUIPMENT,
22 WHATEVER THE INMATES NEEDED AS FAR AS PROVIDING
23 THEIR CARE, MEDICATIONS. EVERYTHING WAS PROVIDED BY
24 THE PRISON.

25 Q. WHAT EQUIPMENT DID YOU, YOURSELF, PROVIDE?

1 A. MY UNIFORMS AND MY SNEAKERS AND STUFF LIKE THAT. I
2 HAVE MY OWN STETHOSCOPE, BUT I DIDN'T LIKE BRINGING
3 IT INTO THE PRISON. WE'RE LIMITED ON WHAT SUPPLIES
4 WE COULD BRING IN.

5 Q. NOW, AS FAR AS MEDUSTRIAL IS CONCERNED, THE
6 PAPERWORK, AFTER THE INITIAL APPLICATION WERE YOU
7 REQUIRED TO GO IN AND SIGN ANY ADDITIONAL PAPERWORK?

8 A. YES.

9 Q. AND HOW OFTEN WOULD YOU DO THAT?

10 A. EVERY YEAR WE HAD TO DO OUR ANNUAL PAPERWORK, UPDATE
11 OUR FILE WITH MEDUSTRIAL, OUR EMPLOYEE FILE, WHICH
12 CONSISTS OF THE WHOLE PAPERWORK ALL OVER AGAIN, THE
13 TESTING, THE APPLICATION, THE -- EVERYTHING. WE'D
14 HAVE TO BRING AN UPDATED P.P.D., AND IF OUR CPR CARD
15 WAS EXPIRED THAT YEAR WE HAD TO BRING AN EXPIRED --
16 NEW CPR CARD AND LICENSE. DEPENDS ON WHEN IT WAS
17 EXPIRING. LICENSE AND CPR CARD IS EVERY TWO YEARS,
18 BUT A P.P.D. IS EVERY YEAR.

19 Q. CAN YOU TELL US WHAT JCAHO CERTIFICATION IS?

20 A. JCAHO CERTIFICATION IS A CERTIFICATION THAT'S
21 REQUIRED BY THE HOSPITAL. I'M NOT SURE EXACTLY WHAT
22 IT STANDS FOR. IT STANDS FOR -- EACH LETTER STANDS
23 FOR SOMETHING, BUT IT'S SHORT; IT'S JCAHO.

24 Q. IS IT J-C-A-H-O?

25 A. YES.

- 1 Q. WAS JCAHO CERTIFICATION REQUIRED TO WORK AT THE
2 DEPARTMENT OF CORRECTIONS?
- 3 A. NO.
- 4 Q. WHAT ABOUT TO WORK AT MEDUSTRIAL?
- 5 A. THEY CAME -- WHEN THEY TRIED TO START DOING HOSPITAL
6 -- THEY WERE STARTING TO OPEN A CONTRACT IN
7 HOSPITALS, AND THEY SAID THAT ALL THEIR EMPLOYEES
8 HAD TO BECOME JCAHO CERTIFIED FOR THEM TO OPEN UP
9 THE CONTRACT. THEY MANDATED THAT WE CAME IN AND GET
10 JCAHO CERTIFIED.
- 11 Q. DID YOU GO IN AND GET JCAHO CERTIFIED?
- 12 A. YES.
- 13 Q. DID THEY DO ANYTHING TO FORCE YOU TO BECOME JCAHO
14 CERTIFIED?
- 15 A. THEY TOLD US IF WE WERE NOT -- IF WE DIDN'T COMPLY
16 WITH THEM AND BECOME JCAHO CERTIFIED, THAT THEY
17 WOULD NO LONGER SCHEDULE OUR SHIFTS.
- 18 Q. DID THEY DO ANYTHING ELSE TO YOU?
- 19 A. NOT FOR THAT, NO. THEY JUST TOLD US THAT WE HAD TO
20 COME IN, AND WE WERE COMPLIANT BECAUSE WE NEEDED TO
21 GET OUR SHIFTS. IF WE DIDN'T COMPLY, THEY SAID THAT
22 WE WOULD NOT BE SCHEDULED.
- 23 Q. DID THEY WITHHOLD YOUR PAY?
- 24 A. FOR -- THEY WITHHELD MY PAY FOR A CPR CARD. WHEN I
25 RE-UPDATED MY CPR CARD, I UPDATED IT THROUGH SCDC,

1 AND I HAD -- SCDC HAD A COPY OF MY CPR CARD. I HAD
2 A COPY OF MY CPR CARD, BUT MEDUSTRIAL DIDN'T, AND
3 THEY WITHHELD MY PAYCHECK. THEY ACTUALLY HAD PUT IT
4 ON MY PAY AND THEN REMOVED IT. AND WHEN I CALLED MY
5 BANK TO FIND OUT WHERE MY MONEY WENT, THEY TOLD ME
6 THE COMPANY THAT ISSUED THE MONEY HAD TOOK IT BACK.
7 AND WHEN I CONTACTED THE AGENCY TO FIND OUT WHY THEY
8 HAD TOOK BACK MY MONEY, THEY TOLD ME THAT IT WAS
9 BECAUSE I HADN'T TURNED IN MY CPR CARD YET AND THAT
10 THEY WERE INSTRUCTED BY TOM SEARS NOT TO PAY ME
11 UNTIL I TURNED IN THE CPR CARD. I ASKED THEM IF
12 THEY -- HOW IS THAT LEGAL, AND THEY TOLD ME HE'S A
13 LAWYER, SO HE SHOULD KNOW IF IT'S LEGAL. SO I ENDED
14 UP TAKING MY CPR CARD -- I HAD TO GO TO THE H.R., TO
15 MY SUPERVISOR, AND GET A COPY OF THE CPR CARD FROM
16 THEM, AND I HAD TO TURN IT IN TO MEDUSTRIAL ON MY
17 LUNCH BREAK.

18 Q. RACHEL, I WANT TO ASK YOU ABOUT SEPTEMBER 5TH, 2014
19 (SIC).

20 A. YES.

21 Q. IS THAT THE LAST DAY YOU WORKED?

22 A. YES.

23 Q. WHAT PHYSICAL INJURIES DID YOU SUFFER ON THAT DAY?

24 A. MY NECK HURT, MY BACK, MY RIGHT SHOULDER, MY RIGHT
25 ELBOW, AND I HAD SOME BLURRED VISION IN MY RIGHT

1 EYE. MY LEFT LEG FEELS LIKE IT GOES OUT FROM UNDER
2 ME FROM TIME TO TIME. BUT MOSTLY MY BACK, MY NECK,
3 MY SHOULDER, AND MY ELBOW AS FAR AS MY PHYSICAL
4 INJURIES ARE CONCERNED.

5 Q. TELL ME SPECIFICALLY WHAT'S WRONG WITH YOUR RIGHT
6 ARM OR YOUR ELBOW.

7 A. WELL, MY RIGHT SHOULDER, I GET A LOT OF PAIN IN THIS
8 RIGHT SHOULDER, AND THEN MY RIGHT ELBOW DOESN'T
9 STRAIGHTEN OUT. MY ARM DOESN'T STRAIGHTEN ALL THE
10 WAY. THIS IS AS FAR AS IT CAN STRAIGHTEN, AND THEN
11 IT DOESN'T ROTATE ANYMORE ALL THE WAY. I HAVE SOME
12 DIFFICULTY AS FAR AS FINE MOTOR FUNCTION IN MY RIGHT
13 HAND.

14 Q. WITH THAT RIGHT ARM, ARE YOU ABLE TO LIFT OR REACH
15 ABOVE YOUR HEAD?

16 A. I CAN'T REACH ABOVE MY HEAD. THIS IS AS FAR AS I
17 CAN GO WITHOUT PAIN. I CAN PUSH IT FURTHER, BUT THE
18 PAIN -- IT'S A LOT OF PAIN, AND IT FEELS LIKE IT'S
19 GONNA POP RIGHT HERE OUT OF JOINT.

20 Q. AND YOU'RE INDICATING ---

21 A. THIS RIGHT SHOULDER, RIGHT JOINT.

22 Q. OKAY.

23 A. WHERE THE SHOULDER MEETS MY COLLARBONE. THAT'S
24 WHERE MOST OF THE PAIN IN MY SHOULDER IS.

25 BY MR. SAMUELS:

1 YOUR HONOR, I THINK FOR THE DEMONSTRATION THAT
2 WE JUST SAW, SHE'S INDICATED A SIGNIFICANTLY REDUCED
3 RANGE OF MOTION IN HER RIGHT ARM, AS WELL AS THE
4 INABILITY TO FULL EXTEND HER RIGHT ELBOW.

5 BY MR. HARBISON:

6 I WOULD OBJECT TO HIS CHARACTERIZATION. I
7 WOULD ASK YOU, PERHAPS, COMMISSIONER, TO DETERMINE
8 SIGNIFICANT.

9 BY THE COMMISSIONER:

10 WELL, I USUALLY DO NOT LIKE TO MYSELF DESCRIBE.
11 I USUALLY LET THE WITNESS DESCRIBE. BUT I WILL SAY
12 THAT -- IF THIS IS AN ACCURATE CHARACTERIZATION --
13 AND YOU ALL CAN CORRECT ME IF YOU DO NOT BELIEVE IT.
14 SO THAT WHEN SHE RAISED HER RIGHT ARM IT WAS IN THE
15 FORM OF REQUESTING A QUESTION. HOWEVER, IT WAS NOT
16 STRAIGHT UP IN THE AIR. THE BICEPS AREA WAS
17 PARALLEL WITH THE SHOULDER SO THAT IT WOULD BE MORE
18 IN THE NATURE OF A TURN SIGNAL IF SOMEBODY WAS USING
19 THE OLD-FASHIONED TURN SIGNALS TO THE LEFT.

20 BY MR. HARBISON:

21 OR THE RIGHT.

22 BY THE COMMISSIONER:

23 IF ANYBODY HAS -- ACTUALLY, RIGHT IS -- LEFT IS
24 -- IF YOU ALL REMEMBER, LEFT IS THIS WAY. I GUESS
25 THAT'S ABOUT AS ACCURATE AS I CAN DESCRIBE IT. YOU

1 ALL CAN TRY TO DO IT FROM THERE IF YOU WISH.

2 **BY MR. HARBISON:**

3 I THINK RIGHT IS A 45-DEGREE ANGLE. LET'S --
4 OH, YOU'RE RIGHT.

5 **BY THE COMMISSIONER:**

6 NO. I MAY BE WRONG. LET'S TAKE THAT BACK.
7 AGAIN, THAT'S WHY I LIKE FOR YOU ALL TO DO THE
8 DESCRIPTION. IN OTHER WORDS, IT WAS REQUESTING A
9 QUESTION, BUT THE BICEPS WAS NOT ABOVE THE SHOULDER.
10 SO, IN OTHER WORDS, THE ARM WAS NOT STRAIGHT UP IN
11 THE AIR.

12 **BY MR. HARBISON:**

13 THANK YOU, COMMISSIONER.

14 **BY THE COMMISSIONER:**

15 THANK YOU.

16 **BY MR. SAMUELS:**

17 IF I MAY, YOUR HONOR, THE RIGHT ARM WAS ALSO
18 NOT FULLY EXTENDED STRAIGHT. SHE INDICATED SHE WAS
19 UNABLE TO EXTEND IT FULLY.

20 **BY THE WITNESS:**

21 MY RIGHT ARM DOESN'T STRAIGHTEN MORE THAN THIS.
22 I CAN'T -- I CAN'T PUSH IT ANY FURTHER THAN THIS,
23 AND THEN IT DOESN'T ROTATE ALL THE WAY. THIS IS AS
24 FAR AS I CAN ROTATE MY HAND. THIS ARM I CAN DO
25 FLAT, BUT THIS ONE I CAN'T ROTATE THE WHOLE HAND,

1 LIKE TURN IT FLAT. I DON'T KNOW HOW YOU -- AND THEN
2 I HAVE TROUBLE WITH FINE MOTOR FUNCTION IN MY RIGHT
3 HAND.

4 BY THE COMMISSIONER:

5 ALL RIGHT. AND FROM THIS ANGLE THE BEST I CAN
6 DESCRIBE THAT IS THAT SHE IS JUST NOT ABLE TO DO A
7 PALMS UP. THAT'S WHAT SHE'S DEMONSTRATING.

8 WITNESS RESUMES:

9 A. MY BACK LOCKS UP ON ME. MY NECK GETS STIFF AND VERY
10 HARD TO TURN. MY HIP -- LIKE I SAID, MY LEFT HIP,
11 IT FEELS LIKE THERE'S SHARP PAIN IN WHERE THE HIP
12 MEETS THE JOINT, AND THEN SOMETIMES IT FEELS LIKE MY
13 LEG IS GONNA GO OUT FROM UNDER ME. I CAN FEEL IT,
14 BUT IT JUST FEELS LIKE -- I DON'T KNOW HOW TO
15 EXPLAIN IT. IT JUST FEELS LIKE IT'S GONNA COME OUT
16 FROM UNDER ME.

17 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

18 Q. DID YOU HAVE ANY PHYSICAL DEFICITS SUCH AS YOU'VE
19 DESCRIBED BEFORE SEPTEMBER 5TH, 2014 (SIC)?

20 A. NO.

21 Q. ARE YOU ABLE TO WORK AS AN LPN, GIVEN THE INJURIES
22 YOU'VE JUST DESCRIBED?

23 A. NO.

24 Q. HAVE YOU BEEN ABLE TO GET TREATMENT?

25 A. NO.

1 Q. HAVE YOU HAD ANY TREATMENT?

2 A. I HAD SOME TREATMENT WHEN I HAD HEALTHCARE
3 INSURANCE, BUT THEN AFTER I LOST MY HEALTHCARE
4 INSURANCE, I COULDN'T GET FURTHER TREATMENT.

5 Q. WHEN DID YOU HAVE HEALTH INSURANCE?

6 A. I HAD HEALTH INSURANCE FROM SEPTEMBER TO -- THEY
7 STOPPED LETTING ME USE IT IN NOVEMBER, BUT I HAD IT
8 'TIL DECEMBER. THEY WOULDN'T LET ME USE THE
9 INSURANCE BECAUSE MY PREMIUMS HADN'T BEEN PAID. BUT
10 I WAS COVERED UNTIL DECEMBER. I DON'T KNOW HOW THAT
11 MAKES SENSE, BUT THAT'S WHAT THEY TOLD ME.

12 Q. WAS THAT INSURANCE THAT YOU PAID FOR YOURSELF?

13 A. YES.

14 Q. IT WAS NOT PROVIDED TO YOU BY SCDC OR ---

15 A. NO.

16 Q. --- MEDUSTRIAL?

17 A. IT WAS THROUGH THE OBAMACARE.

18 Q. ARE YOU ABLE TO WORK IN ANY JOB IN YOUR CURRENT
19 CONDITION?

20 A. NOT ACCORDING TO MY DOCTORS, NO.

21 Q. WHAT ABOUT ACCORDING TO YOU?

22 A. I CAN'T BE IN SMALL, CLOSED PLACES. I HAVE TROUBLE
23 WITH DOORS CLOSING. I GET CLAUSTROPHOBIC. I GET
24 SHORT OF BREATH. I HAVE TO WORK ON MY COPING
25 TECHNIQUES THAT THE COUNSELOR HAD TAUGHT ME. I LOSE

1 FOCUS A LOT WHEN I'M IN CLOSED PLACES. IT'S HARD
2 FOR ME TO CONCENTRATE.

3 Q. CAN YOU GIVE ME SOME EXAMPLES OF SOME CLOSED PLACES
4 YOU'RE TALKING ABOUT?

5 A. THIS PLACE RIGHT HERE IS BIGGER, BUT IT'S STILL
6 CLOSED. I DON'T LIKE THE FACT THAT THAT DOOR IS
7 CLOSED, AND I KEEP FOCUSING ON THE DOOR MOST OF THE
8 TIME. I LIKE TO SEE MY EXIT. I LIKE TO SEE THAT
9 I'VE GOT A WAY OUT.

10 Q. WHEN YOUR DEPOSITION WAS TAKEN, WHERE WAS YOUR
11 DEPOSITION TAKEN?

12 A. AT YOUR OFFICE.

13 Q. WHERE WERE YOU SITTING?

14 A. IN A CHAIR TO WHERE I COULD SEE THE DOOR.

15 Q. OKAY. DID WE HAVE TO DO ANYTHING ABOUT THE DOORS TO
16 ASSIST YOU?

17 A. MAKE SURE THE DOOR IS OPEN; IT'S VISIBLE FOR ME TO
18 SEE THE FRONT DOOR.

19 Q. SO IF WE WERE SITTING IN THE CONFERENCE ROOM WITH
20 THE DOORS OPEN, COULD YOU SEE THE FRONT DOOR?

21 A. NO.

22 Q. I MEAN ---

23 A. IN YOUR OFFICE? YES.

24 Q. CAN YOU SEE THE FRONT DOOR FROM WHERE YOU'RE SITTING
25 NOW?

1 A. I ONLY CAN SEE THAT DOOR RIGHT THERE.

2 Q. HOW IS THAT AFFECTING YOU?

3 A. I DON'T LIKE IT. IT MAKES ME FEEL LIKE I'M TRAPPED
4 AGAIN. IT MAKES ME FEEL LIKE I CAN'T -- I JUST FEEL
5 LIKE IF ANYTHING'S BLOCKING THAT DOOR I'M GONNA
6 FREAK OUT. I'VE GOTTA BE ABLE TO SEE THAT I CAN GET
7 OUT OF A BUILDING OR ELSE I CAN'T GO IN THERE.

8 Q. ARE THERE ANY OTHER THINGS THAT CAUSE YOU TO BE
9 UPSET?

10 A. I HAVE A FEW TRIGGERS. I HAVE TRIGGERS SUCH AS
11 CLOSED PLACES, STRANGE WHITE MALES, PEOPLE THAT --
12 ESPECIALLY NOW THAT I'VE BEEN WORKING WITH MY
13 COUNSELOR IT'S MORE RELATED TO MALES THAT ARE --
14 THAT KIND OF LOOK LIKE THEM. AT FIRST IT WAS ALL
15 WHITE MALES, BUT NOW IT'S AT THE POINT WHERE I'M --
16 WHITE MALES THAT LOOK LIKE THEM. THE SOUND OF DOORS
17 DRIVES ME OUT OF MY MIND, CLOSING. CONFINED PLACES.
18 I'M TRYING TO CONCENTRATE. I'M SORRY. I JUST HAVE
19 A LOT OF TROUBLE WITH A LOT OF THINGS. I DON'T LIKE
20 ANYBODY WALKING BEHIND ME. I GET REALLY FREAKED OUT
21 IF SOMEBODY WALKS UP BEHIND ME. JUST DIFFERENT
22 THINGS LIKE THAT, JUST A MATTER OF FEELING TRAPPED
23 ANYWHERE ENCLOSED, CONFINED.

24 Q. ARE YOU GETTING ANY TREATMENT NOW?

25 A. YES, I AM BEING TREATED THROUGH LEXINGTON COUNTY

1 MENTAL HEALTH. I ALSO HAVE A PHOBIA OF MEN IN
2 UNIFORM, ESPECIALLY OFFICERS OF THE LAW.

3 Q. DID YOU HAVE ANY OF THESE PHOBIAS BEFORE SEPTEMBER
4 5TH, 2014 (SIC)?

5 A. I'VE NEVER BEEN AFRAID OF ANYTHING IN MY LIFE.

6 Q. WHAT KIND OF PERSON WERE YOU BEFORE ALL OF THIS
7 HAPPENED?

8 A. INDEPENDENT, SINGLE, STRONG WOMAN, TOOK CARE OF MY
9 THREE KIDS, RAISED ALL MY KIDS PRETTY MUCH BY MYSELF
10 EVEN WHEN MY CHILDREN'S FATHER WAS THERE. I WAS THE
11 BREADWINNER OF THE FAMILY. I WORKED ALL MY LIFE. I
12 WORKED ALL THE TIME TAKING CARE OF MY CHILDREN. I
13 FINALLY GOT MY LAST ONE IN COLLEGE WHEN THIS
14 HAPPENED TO ME. I WORKED SO HARD FOR THAT DAY.
15 'CAUSE SHE HAD TO QUIT SCHOOL TWICE SINCE THIS HAS
16 HAPPENED. I FEEL LIKE ALL THAT HARD WORK JUST FOR
17 NOTHING.

18 Q. WHY DID SHE HAVE TO QUIT SCHOOL, RACHEL?

19 A. 'CAUSE WHEN I LOST MY JOB, WHEN I STOPPED WORKING,
20 MY PARENT PLUS LOAN WAS DENIED AFTER. IT WAS
21 APPROVED AT FIRST, BUT THEN THEY DENIED THE SECOND
22 PORTION OF IT 'CAUSE MY CREDIT HAD CHANGED 'CAUSE I
23 HAD CARS REPOSSESSED AND MY CREDIT SCORE CHANGED.
24 SO, I NO LONGER QUALIFIED FOR THE PARENT PLUS LOAN.
25 SHE HAD TO DROP OUT.

1 Q. YOU SAID YOUR CAR WAS REPOSSESSED. WHAT OTHER
2 FINANCIAL DIFFICULTIES HAVE YOU HAD?

3 A. BASICALLY, HOMELESSNESS. I LOST EVERYTHING, MY
4 FURNITURE, MY HOME. I LOST EVERYTHING. THE ONLY
5 THING I KEPT HOLD OF WAS ONE CAR, AND IT'S 'CAUSE I
6 ONLY HAD A PAYMENT OR TWO LEFT WHEN THIS HAPPENED,
7 AND WITH THE HELP OF AN ORGANIZATION IT WAS PAID
8 OFF, AND IT'S IN MY SON'S NAME NOW. BUT I LOST
9 EVERYTHING. THE ONLY THING I HAD WHEN I WAS EVICTED
10 FROM MY APARTMENT WAS THE CLOTHES ON MY BACK.

11 Q. IF YOU WERE ABLE TO WORK AND EARN MONEY, WOULD YOU
12 BE WORKING?

13 A. YES. I'VE ALWAYS TAKEN CARE OF MYSELF AND MY
14 FAMILY. I'VE NEVER BEEN AT A POINT IN MY LIFE WHERE
15 I DIDN'T WORK FOR WHAT I NEEDED IN MY LIFE. I'VE
16 ALWAYS WORKED FOR EVERYTHING.

17 Q. WOULD YOU HAVE BEEN ABLE TO WORK IN AN OFFICE,
18 EITHER NOW OR BACK UNTIL SEPTEMBER 2014 (SIC)?

19 A. I WASN'T AT THE TIME. WHEN THEY CAME TO MY HOUSE
20 ASKING ME TO WORK IN AN OFFICE, I WASN'T ABLE TO
21 LEAVE MY HOUSE AT THAT TIME. AND AT THIS POINT I
22 STILL HAVE TROUBLE DEALING AND CONCENTRATING IN
23 CLOSED PLACES AND GETTING SHORT OF BREATH AND
24 ANXIOUS WHEN I'M IN SMALL, CLOSED ROOMS.

25 Q. RACHEL ---

1 A. AND MY DOCTOR HAS NOT WRITTEN ME BACK TO WORK YET.
2 Q. WHICH DOCTOR IS THAT?
3 A. DR. CHERRY.
4 Q. WHAT DOES DR. CHERRY TREAT YOU FOR?
5 A. PTSD. I BELIEVE THERE'S ANOTHER DIAGNOSIS, BUT PTSD
6 IS MY MAIN DIAGNOSIS.
7 Q. WHEN DR. CHERRY WRITES YOU BACK TO WORK, DO YOU
8 INTEND TO TRY TO WORK?
9 A. YES. I HAVE GONE TO VOCATIONAL REHAB ONCE DURING
10 THIS TIME BECAUSE OF THE TIME I WAS -- THEY WERE
11 TRYING TO KICK ME OUT OF MY HOUSE. I WAS TRYING NOT
12 TO GET KICKED OUT. SO, I ASKED THEM ABOUT
13 VOCATIONAL REHAB, AND I TRIED TO GO THERE, BUT THE
14 LADY AT VOCATIONAL REHAB TOLD ME I NEEDED MORE
15 THERAPY BEFORE I COME BACK TO HER. I'VE NOT GONE
16 BACK SINCE.
17 Q. RACHEL, I'VE NEVER ASKED YOU THIS BEFORE, BUT WOULD
18 YOU PLEASE TELL EVERYBODY IN THE COURTROOM ABOUT
19 SEPTEMBER 5TH, 2014 (SIC), AND WHAT HAPPENED.
20 A. OKAY.
21 Q. IT'S IMPORTANT. PLEASE.
22 A. OKAY. THIS MIGHT BE A LITTLE BIT ALL OVER THE PLACE
23 'CAUSE IT'S KIND OF ALL OVER THE PLACE STILL IN MY
24 HEAD. I WENT TO GO GET COFFEE AFTER OUR MORNING
25 PILL LINE IN ANOTHER UNIT. BECAUSE IT WAS A

1 WEEKEND, WE DIDN'T HAVE COFFEE. SO, WHEN I
2 RETURNED, WHEN THE NURSE LET ME BACK IN THE PILL
3 ROOM, THE INMATES PUSHED IN BEHIND ME. ONE INMATE
4 PUSHED ME IN THE ROOM, AND ANOTHER INMATE FOLLOWED
5 HIM. AND I WAS TRYING TO RESIST, TRYING TO GET BACK
6 OUT OF THE ROOM, AND HE STARTED PUNCHING ME IN MY
7 FACE, PUNCHING ME, MY BACK. AND I KEPT PUSHING
8 TOWARDS THE DOOR. I KEPT TRYING TO GET TO THAT DOOR
9 AND TRYING TO GET OUT OF THERE. THEY KEPT PUNCHING
10 ME AND PUSHING ME BACK. I DON'T KNOW WHERE THE
11 OTHER INMATE WAS AT THIS TIME 'CAUSE IT WAS JUST THE
12 ONE THAT WAS PUSHING ME AT FIRST, AND PUNCHING ME.
13 AND THEN I SAW THE OTHER INMATE COME FROM AROUND
14 BEHIND ME, AND HE TOOK A FILE CABINET AND HE THREW
15 IT IN FRONT OF THE DOOR, AND THEN THE DOOR CLOSED.
16 THE DOOR CLOSED, AND I THOUGHT I WAS GONNA DIE IN
17 THERE.

18 THEN HE STARTED TO TIE MY HANDS BEHIND MY BACK,
19 AND I KEPT PLEADING WITH HIM NOT TO AND KEPT TELLING
20 HIM, "PLEASE DON'T. I'LL COOPERATE. I WON'T FIGHT
21 NO MORE. JUST PLEASE DON'T TIE MY HANDS BEHIND MY
22 BACK." AND HE KEPT YANKING MY ARMS AND TRYING TO
23 PUT THEM BEHIND MY BACK, AND I KEPT RESISTING, AND
24 THEN THE OTHER INMATE STARTED PUNCHING AND KICKING
25 ON ME, TOO, AND I STILL KEPT TELLING THEM I DON'T

1 WANT THEM TO TIE MY HANDS BEHIND MY BACK. AND THEN
2 HE TOOK A KNIFE AND HE SLUNG IT AT MY FACE. I
3 THOUGHT HE HAD CUT MY NECK. BUT ONE INMATE WAS
4 HOLDING MY ARMS IN FRONT OF ME, SO I COULDN'T TOUCH
5 MY BODY; I COULDN'T SEE WHETHER I WAS BLEEDING A
6 LOT. SO I KEPT RUBBING MY NECK AGAINST MY SHIRT TO
7 SEE IF I WAS BLEEDING A LOT, AND THE INMATES WERE
8 TELLING ME I NEEDED TO STOP FIGHTING THEM OR ELSE
9 THEY WERE GONNA KEEP FIGHTING ME. AND I KEPT
10 TELLING THEM I WASN'T GONNA FIGHT NO MORE; JUST
11 DON'T TIE MY HANDS BEHIND MY BACK, PLEASE. SO THEY
12 TIED MY HANDS IN FRONT OF ME. THEY TOOK WHAT LOOKED
13 LIKE SHREDDED SHEETS AND TIED MY HANDS WITH THEM.
14 THEN THEY MADE ME SIT AGAINST THE WALL BETWEEN THE
15 PILL CART AND THE PILL BOXES, ON A CHAIR WITH MY
16 BACK AGAINST THE WALL. THAT'S WHEN I SAW WHERE THE
17 OTHER NURSE WAS SITTING. THEY MADE HER SIT IN THE
18 CORNER AGAINST THE OTHER WALL. AND THEN THEY
19 STARTED TAPING UP THE WINDOWS, PUTTING STUFF IN THE
20 WINDOWS. I COULD SEE ALL THE OFFICERS RUNNING
21 AROUND FRANTIC IN THE WINDOWS, STILL TRYING TO CLEAR
22 INMATES OUT OF THE HALLWAY. AND THEN ONE OF THE
23 LIEUTENANTS CAME TO THE WINDOW, AND HE WAS TALKING
24 TO THE INMATES AS THEY WERE TAPING UP THE WINDOWS.
25 THEY KEPT TELLING US THEY NEEDED US TO SHUT UP AND

1 SIT DOWN, DON'T MOVE.

2 I'M SORRY. I MADE A MISTAKE. THE LIEUTENANT
3 WAS THERE WHEN I WAS GETTING MY -- GETTING PUNCHED.
4 WHEN THEY WERE TRYING TO TIE MY HANDS BEHIND MY
5 BACK, HE WAS ALREADY THERE, AND HE'S THE ONE THAT
6 LOOKED AT ME AND TOLD ME TO PLEASE COOPERATE WITH
7 THEM, 'CAUSE I KEPT RESISTING AND THEY KEPT PUNCHING
8 ME. AND I REMEMBER SEEING HIS FACE IN THE WINDOW,
9 AND HE JUST KIND OF LOOKED AT ME WITH THAT PLEADING
10 LOOK, LIKE PLEASE DON'T LET THEM KILL YOU BACK
11 THERE. SO, I COOPERATED, AND THEY -- THEY TIED THEM
12 IN FRONT OF ME, AND THEY MADE ME SIT DOWN. THEN
13 THEY TOLD THE OFFICERS THAT THEY BETTER CLEAR THE
14 HALLWAY OR THEY'RE GONNA KILL US, AND IF ANYBODY
15 TRIES ANYTHING THEY WERE GONNA KILL US 'CAUSE THEY
16 WANTED TO GO TO DEATH ROW. THEY DIDN'T WANT TO DO
17 THEIR SENTENCE ANYMORE. SO THEY TIED ME UP AND SAT
18 ME ON THE WALL.

19 IN ABOUT 45 MINUTES MY HANDS STARTED TURNING
20 PURPLE, THEY HAD TIED IT SO TIGHT. SO I PLEADED
21 WITH THEM TO UNTIE ME BECAUSE MY HANDS WERE TURNING
22 PURPLE. SO THEY TOOK THE TIES OFF ME AND TAPED MY
23 HANDS TOGETHER WITH BOX TAPE. THEY MADE ME PUT MY
24 HANDS IN A PRAYER POSITION AND TAPED MY FINGERS AND
25 MY WRISTS TOGETHER. IT'S ALL OVER THE PLACE IN

1 HERE.

2 Q. THAT'S OKAY. WERE THE INMATES WHITE MALES?

3 A. I'M SORRY?

4 Q. THE INMATES, WERE THEY WHITE MALES?

5 A. AS FAR AS I KNOW, YES.

6 Q. WHO ELSE WAS IN THE ROOM WITH YOU AND THE TWO
7 INMATES?

8 A. ANOTHER SCDC NURSE.

9 Q. DO YOU REMEMBER HER NAME?

10 A. I KNEW IT BEFORE NOW. HILDEBRAND. WE ALL WENT
11 THROUGH LAST NAMES. IT WAS HILDEBRAND. SHE WAS
12 THERE WITH ME. THEY HAD HER ON THE OTHER WALL.
13 LIKE I WAS ON THIS WALL; SHE WAS ON THAT WALL. THEY
14 MADE HER SIT OVER THERE. THEY STARTED MAKING
15 DEMANDS TO THE OFFICER, TELLING THEM THEY WANTED A
16 PHONE CALL. THEY WANTED TO CALL THE NEWSPAPER SO
17 THEY COULD TELL THEM HOW THE PRISON IS TREATING THE
18 INMATES. AND TOLD THEM THAT THEY WANTED TO HAVE ONE
19 LAST PARTY BEFORE THEY GO TO DEATH ROW. THEY TOLD
20 US THAT THEY WERE GONNA KILL THE NURSES. I PLEADED
21 WITH THEM NOT TO KILL US. THEN WHILE I WAS SITTING
22 AGAINST THE WALL THROUGHOUT THIS, THEY STARTED
23 TAKING MEDICATION AND CRUSHING IT AND SNORTING THE
24 MEDICINE. THEY ALSO WERE MAKING THE OTHER NURSE
25 GIVE THEM SHOTS OF BENADRYL OR (UNINTELLIGIBLE) OR

1 SOME OF THE PSYCHOTROPIC DRUGS SO THEY COULD GET
2 HIGH. AND THEN -- THEN BEFORE IT ALL FINISHES THEY
3 WERE GONNA KILL US SO THEY COULD GO TO DEATH ROW. I
4 KEPT PLEADING WITH THEM NOT TO DO SO. I KEPT
5 PRAYING AND PLEADING WITH THEM NOT TO KILL US.

6 THEN AT ONE POINT I REALLY THOUGHT IT WAS GONNA
7 BE OVER WHEN THEY SWITCHED TO NEGOTIATORS. THEY
8 TOOK THE LIEUTENANT AWAY AND BROUGHT TWO OTHER
9 PEOPLE, AND THE INMATES WENT CRAZY. THEY STARTED
10 JUMPING ON THE FILE CABINET. THEY STARTED UP
11 PICKING UP PILL CRUSHERS AND TOENAIL CLIPPERS, AND
12 THEY SAID THEY WERE GONNA CUT OFF MY FINGERTIPS AND
13 THROW IT OUT THE PILL WINDOW IF THEY SEE ANY MORE
14 PEOPLE IN THE HALLWAY. THEY SAID THEY WERE GONNA
15 TAKE THAT PILL CRUSHER AND SMASH MY HEAD IN LIKE HE
16 DID HIS WIFE.

17 THEY TOLD ME AT ONE POINT -- IT'S ALL OVER.
18 I'M SORRY. IT'S JUST ALL OVER THE PLACE IN HERE.
19 IT'S LIKE A PING PONG BALL OF INFORMATION. IT JUST
20 KEEPS BOUNCING BACK AND FORTH.

21 Q. DO YOU STILL DREAM ABOUT IT, RACHEL?

22 A. YES.

23 Q. DO YOU -- DO YOU HAVE FLASHBACKS?

24 A. YES. DOOR SOUNDS MAKE THE FLASHBACKS THE WORST.
25 THE SOUND OF THAT DOOR CLOSING IS THE WORST.

1 Q. DID HILDEBRAND GET YOU OUT OF THERE AND STAY BEHIND?

2 A. WHAT HAPPENED?

3 Q. DID HILDEBRAND GET YOU OUT OF THERE AND SHE STAYED
4 BEHIND?

5 A. THE INMATES WANTED US TO CHOOSE BETWEEN EACH OTHER
6 ON WHO GETS TO GO OUT FIRST. AT FIRST THEY WERE
7 GONNA LET HER GO FIRST. THEN THEY -- THEN THE
8 INMATE THAT WAS GETTING SHOTS ALL THE TIME, HE
9 DIDN'T WANT HER TO LEAVE. THEY DIDN'T WANT TO UNTIE
10 ME TO GIVE THEM THE SHOTS. THEY WANTED TO KEEP HER
11 THERE SO THEY COULD KEEP PARTYING. THEY COULDN'T
12 PARTY IF I STAYED 'CAUSE I WAS TIED UP AND I
13 COULDN'T GIVE THEM THE SHOTS. SO THEY WERE TALKING
14 WITH EACH OTHER AND TRYING TO NEGOTIATE WHO GOES OUT
15 FIRST. THEY ASKED ME TO CHOOSE WHO GOES FIRST, AND
16 I COULDN'T. I COULDN'T CHOOSE AND LEAVE HER BEHIND.
17 THEY KEPT TELLING US WE HAD TO PICK, AND WE
18 WOULDN'T. SO THEY DECIDED TO SEND ME OUT FIRST
19 INSTEAD BECAUSE THEY WANTED TO STILL PARTY WHEN I
20 LEFT. THAT'S WHAT THEY TOLD ME.

21 Q. WHEN YOU GOT OUT, DID YOU GO TO THE HOSPITAL?

22 A. YES.

23 Q. DID YOU GO BY AMBULANCE?

24 A. NO, I WENT IN MY CAR. MY BROTHER DROVE ME. MY
25 BROTHER DROVE ME TO THE HOSPITAL, AND THEY FOLLOWED

1 US.

2 Q. DID -- WAS AN AMBULANCE CALLED FOR YOU?

3 A. THERE WAS AN AMBULANCE THERE, YES.

4 Q. WHY DIDN'T YOU GET IN THE AMBULANCE?

5 A. I DON'T REMEMBER WHO THEY CALLED IT FOR, BUT THERE
6 WAS AN AMBULANCE AT THE PRISON WHEN I GOT OUT.

7 Q. WHY DIDN'T YOU GET INTO THE AMBULANCE?

8 A. I COULDN'T GET BACK IN THAT SMALL PLACE. I COULDN'T
9 GET BACK IN THAT SMALL PLACE AGAIN. THEY'D JUST LET
10 ME OUT OF A PLACE I WAS LOCKED IN, AND THEY WANTED
11 ME TO GET BACK INTO A BOX. I COULDN'T DO IT. SO I
12 TOLD THEM MY BROTHER WOULD DRIVE ME AND THEY COULD
13 FOLLOW US IF THEY WANT, AND THEY SAID OKAY.

14 Q. RACHEL, I'M NOT GOING TO ASK YOU TO TELL ME ANY
15 MORE. I'M SORRY FOR PUTTING YOU THROUGH THAT.

16 A. IT'S OKAY. IT'S JUST ALL -- IT'S SO ALL OVER THE
17 PLACE. IT'S JUST SO MUCH MORE. IT'S JUST KIND OF
18 IN HERE, AND IT'S LIKE TIME FRAMES. I REMEMBER
19 EVERYTHING, BUT TIME AND SPECIFICALLY THE
20 CHRONOLOGICAL ORDER OF HOW IT HAPPENED IS KIND OF
21 BOUNCY IN HERE. IT IS.

22 **BY MR. SAMUELS:**

23 THAT'S ALL THE QUESTIONS I HAVE. THE OTHER
24 ATTORNEYS MAY HAVE QUESTIONS FOR YOU.

25 **BY THE WITNESS:**

1 CAN I GET A BREAK REAL QUICK?

2 BY THE COMMISSIONER:

3 YES, MA'AM.

4 (OFF THE RECORD)

5 BY THE COMMISSIONER:

6 ALL RIGHT. WE ARE BACK ON RECORD. THE CROSS
7 EXAMINATION WILL BEGIN WITH COUNTRYWIDE/GUARANTEE.

8 MR. HARBISON.

9 BY MR. HARBISON:

10 THANK YOU, COMMISSIONER.

11 CROSS EXAMINATION BY MR. HARBISON:

12 Q. MS. TURNER, IT'S GOOD TO SEE YOU AGAIN. MY NAME IS
13 WILL HARBISON. WE'VE MET ONCE BEFORE AT YOUR
14 DEPOSITION. I'M AN ATTORNEY HERE IN COLUMBIA, AND I
15 REPRESENT COUNTRYWIDE STAFFING SOLUTIONS GROUP AND
16 GUARANTEE INSURANCE COMPANY. INITIALLY I WANT YOU
17 TO KNOW, AND HOPEFULLY I SPEAK FOR ALL OF US, THAT
18 WE'RE SORRY FOR WHAT YOU WENT THROUGH. OKAY? I
19 HOPE YOU KNOW THAT.

20 A. I DO NOT BELIEVE YOU, BUT THAT'S OKAY.

21 Q. WELL, IT WAS TOUGH ORDEAL. THAT'S FOR SURE. YOU
22 ARE A HIGH SCHOOL GRADUATE, CORRECT?

23 A. YES.

24 Q. EXCUSE ME?

25 A. YES.

1 Q. YOU COMPLETED NURSING SCHOOL FOR 18 MONTHS AT A
2 COLLEGE IN CALIFORNIA?

3 A. YES.

4 Q. YOU'RE A LICENSE PRACTICAL NURSE?

5 A. CORRECT.

6 Q. YOU CAN READ WITHOUT DIFFICULTY?

7 A. YES.

8 Q. YOU CAN WRITE WITHOUT DIFFICULTY?

9 A. NOT THE SAME AS I USED TO, NO.

10 Q. WELL, IN TERMS OF INTELLECTUALLY, YOU CAN WRITE?
11 YOU DON'T HAVE TROUBLE WRITING, DO YOU?

12 A. NO.

13 Q. OKAY. ARE YOU RIGHT-HANDED OR LEFT-HANDED?

14 A. I'M RIGHT-HANDED.

15 **BY MR. HARBISON:**

16 IF I MAY APPROACH THE WITNESS, YOUR HONOR.

17 **BY THE WITNESS:**

18 WILL YOU TELL HIM TO KEEP A CERTAIN DISTANCE,
19 PLEASE?

20 **BY THE COMMISSIONER:**

21 MA'AM, HE NEEDS TO BRING THE DOCUMENT UP TO
22 YOU. HE CAN AT LEAST -- HE'LL JUST HAND IT UP TO
23 YOU.

24 **BY THE WITNESS:**

25 OKAY.

1 BY MR. HARBISON:

2 I DON'T HAVE AN EXTRA. WILL YOU HAND ME
3 STEPHEN'S 233 THROUGH 237?

4 CROSS EXAMINATION RESUMED BY MR. HARBISON:

5 Q. I JUST ASKED YOU A LITTLE BIT ABOUT YOUR EDUCATIONAL
6 BACKGROUND, AND I'M GOING TO SHOW YOU WHAT HAS BEEN
7 MARKED AS PAGES 233 THROUGH 237 FROM YOUR ATTORNEY'S
8 EVIDENTIARY SUBMISSIONS.

9 A. OKAY.

10 Q. AND THIS IS A LICENSED PROFESSIONAL INDEPENDENT
11 CONTRACTOR AGREEMENT. THOSE ARE THE FIRST WORDS ON
12 THAT DOCUMENT, CORRECT? MA'AM?

13 A. THAT'S WHAT IT STATES, YES.

14 Q. AND THAT IS YOUR SIGNATURE ON THE LAST PAGE UNDER
15 LICENSED PROFESSIONAL CONTRACTOR?

16 A. THAT IS MY SIGNATURE.

17 Q. EXCUSE ME?

18 A. THAT IS MY SIGNATURE.

19 Q. OKAY. AND THIS IS DATED FEBRUARY 13 -- EXCUSE ME --
20 FEBRUARY 8, 2012, CORRECT, ON THE FIRST PAGE?

21 A. YES.

22 Q. AND YOU WERE LIVING AT 135 VILLAS COURT AT THAT
23 TIME?

24 A. YES.

25 Q. AND ARE YOU AWARE THAT THIS -- BY SIGNING THIS AND

1 EXECUTING THIS YOU WERE REPRESENTING YOURSELF TO BE
2 AN INDEPENDENT CONTRACTOR?

3 A. I DIDN'T KNOW THIS WAS IN THE EMPLOYEE PACKAGE.
4 THIS WAS STUFFED IN THE EMPLOYEE PACKAGE.

5 Q. WELL, I'VE COUNTED UP AND IN THIS DOCUMENT IT SOUNDS
6 -- IT'S ABOUT -- THERE ARE ABOUT 78 TIMES THAT THEY
7 MENTION THE TERM INDEPENDENT CONTRACTOR AND ABOUT 17
8 TIMES THAT THIS AGREEMENT MENTIONS THE TERM
9 CONTRACTOR. NOW, YOU CLAIM YOU DIDN'T READ THIS?

10 A. NO.

11 Q. DIDN'T YOU NOTICE THE TERM INDEPENDENT CONTRACTOR
12 ABOUT 78 TIMES OVER THE COURSE OF THREE OR FOUR
13 PAGES?

14 A. I DIDN'T READ IT.

15 Q. WELL, NO ONE FORCED YOU TO SIGN IT; IS THAT CORRECT?
16 LET ME BACK UP. THEY DIDN'T -- MEDUSTRIAL DIDN'T
17 PREVENT YOU FROM READING IT, DID THEY?

18 A. NO.

19 Q. AND YOU DIDN'T ASK MEDUSTRIAL TO EXPLAIN IT TO YOU,
20 DID YOU?

21 A. NO.

22 Q. YOU SIGNED IT VOLUNTARILY?

23 A. CORRECT.

24 Q. AND YOU VOLUNTARILY CHOSE NOT TO READ IT?

25 A. CORRECT. IT WAS ALSO TOLD THAT IT WAS AN EMPLOYEE

1 APPLICATION PACKAGE. I WAS NEVER TOLD ANYTHING
2 ABOUT A CONTRACTOR PACKAGE.

3 Q. YOU'RE A ---

4 A. I WAS TOLD -- WHEN I CAME INTO THE FACILITY AND THEY
5 ASKED ME TO SIGN PAPERWORK, THEY HANDED ME A PACKAGE
6 FULL OF PAPERWORK AND TOLD ME, "THIS IS YOUR
7 EMPLOYEE PACKAGE. WE NEED YOU TO FILL OUT THIS
8 EMPLOYEE PACKAGE, SIGN IT, AND THEN GIVE IT BACK TO
9 US."

10 Q. OKAY.

11 A. THEY NEVER SAID IT WAS YOUR CONTRACTOR PACKAGE AND
12 THIS IS YOUR CONTRACTOR'S AGREEMENT. THEY SAID IT
13 WAS YOUR EMPLOYEE PACKAGE AND YOUR EMPLOYEE
14 APPLICATION.

15 Q. SO THEY SAID THAT?

16 A. YES.

17 Q. BUT WHAT WAS WRITTEN ON HERE IS THE VERY FIRST
18 WORDS, LICENSED PROFESSIONAL INDEPENDENT CONTRACTOR
19 AGREEMENT, CORRECT?

20 A. THE TOP PAGE THAT THEY HANDED TO ME WAS AN EMPLOYEE
21 APPLICATION.

22 Q. WELL, I'M ASKING YOU ABOUT THIS DOCUMENT.

23 A. IT WAS -- WELL, I GUESS IT WAS WITHIN THAT PACKAGE.
24 I TOLD YOU BEFORE THAT I HADN'T READ THEM.

25 Q. EXCUSE ME?

1 A. I DIDN'T READ ALL THE DOCUMENTS WITHIN THE PACKAGE.
2 I SIGNED THEM.

3 Q. I'M SORRY?

4 A. I SAID I DIDN'T READ ALL THE PACKAGES -- ALL THE
5 PAPERS WITHIN THE PACKAGE. I SIGNED THEM.

6 Q. OKAY. AND I THINK WE JUST CONFIRMED THAT -- YOU
7 CONFIRMED THAT MEDUSTRIAL DIDN'T PREVENT YOU FROM
8 READING IT, CORRECT?

9 A. NO. THEY DIDN'T PREVENT ME FROM READING IT, BUT
10 THEY DIDN'T EXPLAIN THAT IT WAS A CONTRACT EITHER.
11 THEY TOLD ME IT WAS AN EMPLOYEE APPLICATION. IN
12 FACT, THE FIRST TIME I EVER HEARD THE WORD CONTRACT
13 WAS WHEN THEY BROUGHT THIS TO THE DEPOSITION. AND I
14 CALLED FOR ASSISTANCE TOM SEARS. HE TOLD ME I WAS
15 NOT HIS EMPLOYEE. THAT'S THE FIRST TIME I HEARD
16 THAT.

17 Q. OKAY. I'M GOING TO SHOW YOU WHAT'S -- IF I MAY
18 APPROACH -- PAGE NUMBER 263 OF YOUR ATTORNEY'S
19 SUBMISSIONS. HE ASKED YOU ABOUT THIS A LITTLE BIT
20 EARLIER, I BELIEVE. IT'S A FORM I-9.

21 A. OKAY.

22 Q. CAN I SEE IT FOR A SECOND? AND YOU COMPLETED THAT
23 IN FEBRUARY OF 2013, CORRECT?

24 A. YES. YES, THAT'S THE SAME PAPER THEY SHOWED ME
25 EARLIER. YES.

1 Q. OKAY. DID YOU READ THAT?

2 A. I DIDN'T READ ANY OF THEM. I SIGNED THE PAPERWORK
3 THAT IT WAS REQUIRED FOR ME TO SIGN.

4 Q. OKAY. AFTER THAT I-9 ---

5 BY MR. HARBISON:

6 I'M GOING TO APPROACH THE WITNESS, YOUR HONOR.

7 CROSS EXAMINATION RESUMED BY MR. HARBISON:

8 Q. I'LL SHOW YOU WHAT'S BEEN MARKED AS EXHIBITS FROM
9 YOUR ATTORNEY, PAGES 238 THROUGH 242. IF YOU'LL
10 TAKE A LOOK AT THAT.

11 A. OKAY.

12 Q. AND THIS APPEARS TO BE ANOTHER LICENSED PROFESSIONAL
13 INDEPENDENT CONTRACTOR AGREEMENT, CORRECT?

14 A. THAT'S WHAT IT LOOKS LIKE.

15 Q. AND IT'S DATED OCTOBER 9, 2014?

16 A. THAT'S WHAT IT SAYS.

17 Q. AND THIS WAS AFTER YOUR I-9 THAT WE JUST LOOKED AT,
18 CORRECT?

19 A. I'M ASSUMING SO. THAT'S A DIFFERENT DATE. YEAH, I
20 GUESS SO.

21 Q. OKAY. AND THAT'S YOUR SIGNATURE ON THE LAST PAGE
22 THERE?

23 A. YES.

24 Q. AND RIGHT AFTER YOUR NAME -- I MEAN, THROUGHOUT THE
25 DOCUMENT IT AGAIN MENTIONS THE TERM INDEPENDENT

1 CONTRACTOR 70-SOMETHING TIMES?

2 A. OKAY.

3 Q. AND, AGAIN, YOU'RE CLAIMING YOU DIDN'T READ IT?

4 A. NO.

5 Q. NOW, AGAIN, MEDUSTRIAL DIDN'T PREVENT YOU FROM
6 READING THIS INDEPENDENT CONTRACTOR AGREEMENT, DID
7 THEY?

8 A. NO. BUT THEY WERE NEVER REPRESENTED AS A CONTRACTOR
9 AGREEMENT.

10 Q. AND YOU DIDN'T ASK THEM TO EXPLAIN IT TO YOU?

11 A. THEY SAID THIS WAS YOUR EMPLOYEE PACKAGE; YOU HAVE
12 TO FILL THIS OUT HERE.

13 Q. YOU DIDN'T ASK THEM TO EXPLAIN THIS TO YOU?

14 A. I NEVER ASKED ANYBODY TO EXPLAIN AN EMPLOYEE PACKAGE
15 TO ME BEFORE. I NEEDED THE JOB. THEY TOLD ME I
16 NEEDED TO SIGN THE PAPERWORK, SO I SIGNED THE
17 PAPERWORK IN ORDER TO HAVE THE JOB.

18 Q. I WANT YOU TO TAKE A LOOK AT PAGE TWO OF THIS
19 LICENSED PROFESSIONAL INDEPENDENT CONTRACTOR
20 AGREEMENT, IF YOU WOULD, MS. TURNER.

21 A. UH-HUH.

22 Q. PAGE FOUR -- EXCUSE ME; THE SECOND PAGE, WHICH IS
23 PAGE 239, PARAGRAPH FOUR, COMPETITION. THIS
24 PROVIDES THAT INDEPENDENT CONTRACTORS ARE ENCOURAGED
25 TO PROVIDE HIS OR HER SERVICES TO OTHER BROKERS,

1 CORRECT?

2 A. THAT'S WHAT IT SAYS.

3 Q. COULD YOU JUST TAKE A GLANCE THROUGH IT? IT SAYS A
4 LOT OF THINGS ABOUT WHAT YOU WERE SUPPOSED TO DO AS
5 AN INDEPENDENT CONTRACTOR. IS THAT FAIR TO SAY?

6 A. THIS SAYS I NEEDED TO DO WHAT, NOW? WHAT DOES THIS
7 SAY? IT SAYS SOMETHING ABOUT ---

8 Q. WELL, ON PAGE SEVEN ---

9 A. --- THE BROKER ACKNOWLEDGES THAT THE INDEPENDENT
10 CONTRACTOR HOLDS THEMSELVES OUT TO THE PUBLIC AS
11 AVAILABLE TO PROVIDE LICENSED PROFESSIONAL SERVICES
12 AND PERFORM ALL SERVICES UNDER THEIR OWN BUSINESS
13 NAME. EVERY JOB AND EVERY ASSIGNMENT THAT I EVER
14 WORKED FOR WAS UNDER MEDUSTRIAL'S NAME, NOT MINE.

15 Q. AND UNDER PARAGRAPH SEVEN IT SAYS THE INDEPENDENT
16 CONTRACTOR AGREES THAT THE CONTRACTOR IS NOT AN
17 EMPLOYEE OF THE BROKER OR THE CLIENT, CORRECT?

18 A. CAN YOU BACK UP, PLEASE?

19 Q. DO I FIT THE DESCRIPTION OF THE INMATES, MS. TURNER?

20 A. SIR, YOU'RE A WHITE MALE I DON'T KNOW, AND I'M STILL
21 WORKING ON THAT. THANK YOU. I JUST TOLD YOU THAT.
22 I JUST TESTIFIED TO THE FACT THAT I AM STILL WORKING
23 ON THE WHITE MALE THING. I'M WORKING ON EVERYTHING.
24 SO, YOU'RE A WHITE MALE I DON'T KNOW.

25 Q. OKAY. MS. TURNER, I'M GOING TO SHOW YOU A FEW MORE

1 DOCUMENTS, IF I MAY. YOU SAID YOU GOT SOME
2 DOCUMENTS, WHAT YOU DETERMINED IS AN EMPLOYEE
3 PACKAGE; IS THAT CORRECT?

4 A. YES.

5 Q. OKAY. I'M GOING TO WALK UP TO YOU, MS. TURNER. YOU
6 CAN PUT THAT DOWN RIGHT NOW. ALL RIGHT. WOULD YOU
7 LIKE SOMEONE ELSE TO WALK UP HERE AND GIVE YOU THE
8 DOCUMENTS?

9 A. I PREFER A FEMALE.

10 Q. OKAY.

11 A. I APPRECIATE THAT.

12 Q. MS. TURNER, THIS IS PART OF MY APA SUBMISSIONS,
13 NUMBER NINE, TAB NUMBER NINE, AND ON TOP THERE IT
14 STATES FACILITY EXPECTATIONS, CORRECT?

15 A. YES.

16 Q. AND THAT'S YOUR SIGNATURE ON THE BOTTOM?

17 A. YES.

18 Q. AND THEN RIGHT UNDER YOUR SIGNATURE, WHERE YOU HAD
19 TO LOOK IN ORDER TO PUT YOUR SIGNATURE, IT SAYS
20 CONTRACTOR SIGNATURE, CORRECT?

21 A. YES.

22 BY MR. SAMUELS:

23 FORGIVE ME, WILL. WHAT PAGE?

24 BY MR. HARBISON:

25 TAB NINE, PAGE 313.

1 BY MR. SAMUELS:

2 THANK YOU.

3 CROSS EXAMINATION RESUMED BY MR. HARBISON:

4 Q. AND YOU GAVE VERY SPECIFIC TESTIMONY EARLIER, DIDN'T
5 YOU, ABOUT THE FOUR HOUR NO CALL REQUIREMENT?

6 A. YES.

7 Q. AND THAT ACTUALLY IS SET FORTH HERE, ISN'T IT? AND,
8 IN FACT, THE WAY THAT IT'S PHRASED READS, "ALL
9 INDEPENDENT CONTRACTORS ARE REQUIRED TO GIVE FOUR
10 HOURS NOTICE OF CANCELLATION," CORRECT?

11 A. THAT'S WHAT IT SAYS.

12 Q. SO YOU KNEW BY THIS DOCUMENT THAT YOU WERE AN
13 INDEPENDENT CONTRACTOR?

14 A. I TOLD YOU I DIDN'T READ ALL THE DOCUMENTS.

15 Q. WELL, YOU KNEW ABOUT THE FOUR HOUR NO CALL?

16 A. I KNEW THE FOUR HOUR NO CALL BECAUSE I WAS TOLD THAT
17 VERBALLY.

18 Q. OKAY. YOU DIDN'T READ THIS DOCUMENT?

19 A. NO. I WAS TOLD THAT VERBALLY. THEY HAVE A CALL
20 POLICY.

21 Q. MEDUSTRIAL DIDN'T PREVENT YOU FROM READING ANY OF
22 THE DOCUMENTS, DID THEY?

23 A. THEY DIDN'T PREVENT ME FROM READING ANY OF THE
24 DOCUMENTS, NO.

25 Q. MS. TURNER, JUST TO BE CLEAR, YOU SAID YOU HAVEN'T

1 READ THESE DOCUMENTS, CORRECT?

2 A. CORRECT.

3 Q. YOU'RE NOT SUGGESTING, ARE YOU, THAT YOU'RE NOT
4 BOUND BY THESE DOCUMENTS, ARE YOU, BECAUSE YOU
5 DIDN'T READ THEM?

6 A. WHAT DID YOU ASK ME, NOW?

7 Q. YOU UNDERSTAND THE IMPORTANCE OF SIGNING A DOCUMENT,
8 DON'T YOU?

9 A. YES.

10 Q. I MEAN, YOU'VE SIGNED RENT APPLICATIONS BEFORE FOR
11 APARTMENTS?

12 A. I HAVE.

13 Q. CAR LOANS?

14 A. I HAVE.

15 Q. STUDENT LOANS? MA'AM?

16 A. I'M SORRY?

17 Q. STUDENT LOANS?

18 A. YES.

19 Q. OKAY. SO WHEN YOU SIGNED THESE DOCUMENTS, YOU
20 UNDERSTOOD BY PUTTING YOUR SIGNATURE DOWN THAT'S AN
21 IMPORTANT THING, ISN'T IT?

22 A. I'M SORRY?

23 Q. WOULDN'T YOU AGREE WITH ME THAT BY SIGNING SOMETHING
24 YOU'RE ADHERING TO WHAT YOU SIGNED; YOU'RE ACTUALLY
25 MAKING A SIGNIFICANT DECISION?

1 A. I'M SIGNING WHAT PAPERWORK THEY TOLD ME IN ORDER TO
2 BE EMPLOYED. IN ORDER FOR ME TO WORK FOR THEM, I
3 HAD TO SIGN THE PAPERWORK. I NEEDED A JOB, SO I
4 SIGNED PAPERWORK FOR THE JOB.

5 Q. I'M GOING TO SHOW YOU WHAT'S BEEN ENTERED AS
6 DEFENDANTS' APA NUMBER TEN FOR CSSG, COUNTRYWIDE
7 STAFFING SOLUTIONS GROUP. THIS IS A VERY SHORT
8 DOCUMENT.

9 BY THE COMMISSIONER:

10 CAN YOU USE THE PAGE NUMBER?

11 BY MR. HARBISON:

12 YES, MA'AM. I'M SORRY, COMMISSIONER. 314.

13 CROSS EXAMINATION RESUMED BY MR. HARBISON:

14 Q. THAT'S YOUR SIGNATURE, MS. TURNER?

15 A. THAT'S MY SIGNATURE.

16 Q. AND IN THE VERY FIRST LINE YOU STATE, "I, RACHEL
17 TURNER, CONSENT AS A CONTRACTOR TO PERMIT MEDUSTRIAL
18 TO OBTAIN A COPY OF MY SLED REPORT, AS REQUIRED BY
19 SOUTH CAROLINA STATE LAW," CORRECT?

20 A. THAT'S WHAT IT SAYS.

21 Q. NOW, ARE YOU TESTIFYING THAT YOU DIDN'T READ THIS
22 SHORT DOCUMENT?

23 A. I DIDN'T READ ANYTHING. I SIGNED WHAT THEY TOLD ME
24 TO SIGN.

25 Q. IS THAT YES, YOU DIDN'T READ THE ---

1 A. CORRECT.

2 Q. --- DOCUMENT THAT CONSISTS OF TWO LINES?

3 A. CORRECT. THEY SAID PRINT HERE, SIGN HERE, PRINT
4 HERE, SIGN HERE.

5 Q. AND YOU CLAIM THEY MADE YOU SIGN THESE DOCUMENTS?

6 A. IN ORDER TO GET THE JOB, YEAH.

7 Q. WELL, YOU COULD HAVE GONE SOMEPLACE ELSE TO GET A
8 JOB, CORRECT?

9 A. EVERY PLACE IS LIKE THAT, ISN'T IT?

10 Q. WELL, NO. ACTUALLY, THEY AREN'T.

11 A. WELL, EVERY PLACE I'VE EVER WORKED YOU HAD TO SIGN
12 AN EMPLOYEE PACKAGE IN ORDER TO GET THE JOB THERE.

13 Q. YOU'RE TESTIFYING IN YOUR OPINION EVERY PLACE MAKES
14 YOU SIGN INDEPENDENT CONTRACTOR DOCUMENTS?

15 A. EVERY PLACE MAKES ME SIGN PAPERWORK. EVERY PLACE
16 I'VE EVER WORKED MAKES ME SIGN EMPLOYEE PAPERWORK IN
17 ORDER TO BE EMPLOYED BY THEM. I'VE NEVER BEEN AN
18 INDEPENDENT CONTRACTOR, SO I DON'T KNOW WHAT YOU'RE
19 TALKING ABOUT. I DON'T ANSWER TO MYSELF. THEY
20 DON'T PAY ME DIRECTLY.

21 Q. WHEN YOU SIGN ---

22 A. I DON'T GO TO A JOB AND GO TO SCDC AND SAY, "HEY,
23 I'M AN LPN. I WANT TO WORK FOR YOUR COMPANY. HOW
24 ABOUT YOU PAY ME DIRECTLY, AND I WILL BE AN LPN FOR
25 YOUR FACILITY." I HAVE TO GO THROUGH THIS AGENCY.

1 I HAVE TO WORK THROUGH THEM. THEY SEND ME TO THE
2 PRISON. I DON'T SEND MYSELF ANYWHERE. I'VE NEVER
3 WORKED FOR ANYBODY AND PAID MYSELF OR BEEN PAID
4 DIRECTLY.

5 Q. WERE YOU BEING TRUTHFUL WHEN YOU SIGNED THESE
6 DOCUMENTS THAT WE'VE BEEN TALKING ABOUT?

7 A. WAS I BEING TRUTHFUL?

8 **BY MR. SAMUELS:**

9 OBJECT, YOUR HONOR. THAT'S ARGUMENTATIVE.

10 **BY THE WITNESS:**

11 AM I BEING TRUTHFUL ABOUT WHAT? WHAT
12 DOCUMENTS?

13 **BY THE COMMISSIONER:**

14 IT'S CROSS EXAMINATION.

15 **BY MR. SAMUELS:**

16 IT'S STILL ARGUMENTATIVE, YOUR HONOR. HE'S
17 ASKED HER IF SHE'S BEING TRUTHFUL WHEN SHE SIGNED
18 THESE DOCUMENTS. SHE'S ALREADY TESTIFIED THAT SHE
19 DIDN'T READ THEM; SHE SIGNED THEM. AND THAT TYPE OF
20 QUESTION IS NOT A QUESTION TO ELICIT A FACT. IT'S
21 SIMPLY BEING ARGUMENTATIVE. THEREFORE, I WOULD
22 OBJECT TO THE QUESTION.

23 **BY MR. HARBISON:**

24 ELICITING A FACT OF WHETHER SHE WAS BEING
25 TRUTHFUL DURING THE HIRING PROCESS, I THINK, IS A

1 FACT.

2 **BY THE COMMISSIONER:**

3 ALL RIGHT. YOU CAN ANSWER THE QUESTION, MA'AM.

4 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

5 Q. WERE YOU BEING TRUTHFUL WHEN YOU COMPLETED ALL OF
6 THESE DOCUMENTS FOR MEDUSTRIAL?

7 A. I WAS TRUTHFUL IN MY -- IN EVERYTHING THAT I SIGNED
8 THAT STATED WHAT I WAS AS AN LPN, I WAS TRUTHFUL.
9 WHAT MY EXPERIENCES WERE, I WAS TRUTHFUL. WHATEVER
10 I -- WHAT THEY ASKED ME TO SIGN DIDN'T TELL ME --
11 DIDN'T SAY, OKAY, YOU NEED TO ANSWER THESE QUESTIONS
12 ON THERE AND BE TRUTHFUL ABOUT IT. MY NAME, MY
13 DATE, MY BIRTH, MY ADDRESS, ALL TRUTHFUL. WHERE
14 THEY NEEDED ME TO SIGN THINGS FACTUAL WAS TRUTHFUL.
15 WHEN I SIGNED EVERY DOCUMENTATION THAT THEY HANDED
16 IN FRONT OF ME IN THEIR EMPLOYEE PACKAGE, NO, I
17 DIDN'T READ THEM. I SIGNED THEM. WAS I TRUTHFUL
18 WHEN I TOLD THEM THE AMOUNT OF YEARS EXPERIENCE I
19 HAD? YES, I WAS TRUTHFUL. WHERE I HAD WORKED
20 BEFORE? YES, I WAS TRUTHFUL. THESE ARE THE THINGS
21 THAT YOU'RE ASKING ME? IS THAT WHAT YOU'RE ASKING
22 ME? BECAUSE I DIDN'T READ THE DOCUMENTS THAT YOU'RE
23 -- THAT ARE HERE SIGNED. I DID NOT READ THEM.

24 Q. I KNOW THAT'S WHAT YOU CLAIM. BUT ---

25 A. SO YOU'RE TELLING ME I'M LYING?

1 Q. NO. I'M JUST ---

2 A. YOU SAID THAT I CLAIMED IT; SO...

3 Q. YEAH.

4 **BY MR. HARBISON:**

5 I'LL JUST MOVE ON, COMMISSIONER.

6 **WITNESS RESUMES:**

7 A. WHAT DO YOU MEAN BY THAT?

8 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

9 Q. WHEN YOU GO TO APPLY FOR JOBS, DON'T YOU THINK IT'S
10 FAIR FOR AN EMPLOYER TO RELY ON THE DOCUMENTS THAT
11 YOU SIGN FOR THEM? OR DON'T YOU THINK IT'S FAIR FOR
12 THE COMPANY TO RELY ON THE DOCUMENTS YOU SIGN FOR
13 THEM?

14 A. I THINK THEY SHOULD LET YOU KNOW THAT YOU'RE SIGNING
15 A CONTRACT AND NOT AN EMPLOYEE APPLICATION. I THINK
16 THAT.

17 Q. I MEAN, DON'T YOU THINK IT'S FAIR, THOUGH ---

18 A. I THINK THAT THEY SHOULD NOT TRY TO PASS IT OFF AS
19 AN EMPLOYEE APPLICATION. THAT'S WHAT I DO THINK.
20 IF IT'S A CONTRACT, THEN THEY SHOULD ALSO OFFER YOU
21 THE ABILITY TO TAKE IT TO AN ATTORNEY AND HAVE THE
22 ATTORNEY GO OVER THAT CONTRACT BEFORE YOU AGREE TO
23 THE CONTRACT. THAT'S WHAT I THINK THEY SHOULD DO,
24 IF YOU WANT TO KNOW WHAT I THINK.

25 Q. WELL, MEDUSTRIAL DIDN'T PREVENT YOU FROM GOING TO AN

- 1 ATTORNEY?
- 2 A. THEY NEVER SAID IT WAS A CONTRACT. THEY SAID IT WAS
- 3 AN EMPLOYEE APPLICATION. THEY NEVER TOLD ME IT WAS
- 4 A CONTRACT BETWEEN ME AND THEM.
- 5 Q. OKAY. SO THEY MISREPRESENTED THE EMPLOYEE
- 6 APPLICATION TO YOU?
- 7 A. THEY SURE DID.
- 8 Q. ALL RIGHT. MS. ---
- 9 A. THAT'S WHAT YOU'RE TELLING ME IT IS, IS A CONTRACT.
- 10 Q. MS. TURNER, I'M GOING TO SHOW YOU WHAT'S BEEN
- 11 SUBMITTED AS DEFENDANTS' PAGE -- APA PAGE NUMBER
- 12 318. CAN YOU TAKE A QUICK LOOK AT THAT?
- 13 A. SURE.
- 14 Q. YOU JUST TESTIFIED THAT MEDUSTRIAL MISREPRESENTED
- 15 THE EMPLOYEE APPLICATION TO YOU, CORRECT?
- 16 A. CORRECT.
- 17 Q. AT THE VERY TOP THERE IT SAYS, QUOTE, "INDEPENDENT
- 18 CONTRACTOR APPLICATION," CLOSE QUOTE.
- 19 A. CAN I HAVE THE ONE THAT WAS DATED ON THE TIME THAT
- 20 THEY HIRED ME? CAN I HAVE THAT ONE UP HERE, PLEASE?
- 21 Q. WELL, THIS WAS THE DATE OF THE NEW ---
- 22 A. NO, THIS IS NOT THE ORIGINAL ONE I SIGNED. THIS IS
- 23 THE ONE THAT THEY MAKE YOU SIGN EVERY YEAR AND COME
- 24 IN AND SIGN ALL THE PAPERWORK THAT THEY MANDATE YOU
- 25 SIGN NOW IN ORDER FOR YOU TO KEEP SHIFTS. THESE ARE

1 PAPERWORK THEY MAKE YOU SIGN EVERY YEAR IN ORDER FOR
2 YOU TO CONTINUE WORKING FOR THEM.

3 Q. WELL, WOULDN'T YOU AGREE THEY DIDN'T ---

4 A. THEY WILL TELL YOU THAT YOU WILL NOT GET SHIFTS IF
5 YOU DO NOT COME IN AND DO YOUR ANNUAL PAPERWORK.
6 THEY WILL TELL YOU YOU CANNOT GET ANY MORE SHIFTS IF
7 YOU DO NOT COME IN AND SIGN YOUR ANNUAL PAPERWORK,
8 YOUR ANNUAL EMPLOYEE PAPERWORK, YOUR ANNUAL EMPLOYEE
9 PACKAGE. THIS IS NOT THE ORIGINAL ONE THAT I
10 SIGNED. CAN I SEE THE COPY OF THE ONE THAT I SIGNED
11 ON TWO WHATEVER -- 2/7/13 ---

12 Q. WELL, I'M ---

13 A. --- THAT MATCHES THIS RIGHT HERE? CAN I SEE THAT
14 ONE, PLEASE?

15 Q. I WAS GOING TO ASK YOU ABOUT -- I'LL LET YOUR
16 ATTORNEY ASK YOU ABOUT THAT ONE IF HE NEEDS TO.

17 A. OKAY.

18 Q. I UNDERSTAND WHY ---

19 A. I'M ASKING TO SEE THE ---

20 Q. --- YOU MAY NOT WANT TO ---

21 A. --- ORIGINAL ONE.

22 Q. WELL, I'M GOING TO ASK YOU ABOUT THIS ONE.

23 A. OKAY. WELL, YOU CAN ASK ME ABOUT THIS ONE. IT DOES
24 SAY INDEPENDENT CONTRACTOR APPLICATION. BUT THIS
25 WAS MANDATED ---

1 Q. IT DOESN'T SAY EMPLOYEE APPLICATION, DOES IT?

2 A. NOT ON THIS ONE, NO.

3 Q. AND THAT'S YOUR SIGNATURE AT THE BOTTOM?

4 A. THAT IS MY SIGNATURE. BUT THIS WASN'T SIGNED FOR ME
5 TO GET EMPLOYMENT; THIS WAS SIGNED FOR ME TO KEEP
6 SHIFTS. THE ONE THAT I SIGNED TO GET EMPLOYMENT
7 WITH THEM IS MARKED 2/7/2013, NOT 10/9/2014. AND
8 MORE THAN LIKELY THIS WAS UPDATED AFTER WE STARTED
9 QUESTIONING THEM ABOUT OUR TAXES AND OUR OVERTIME.

10 Q. EXCUSE ME?

11 A. THIS WAS MORE THAN LIKELY CHANGED AFTER WE STARTED
12 CONTACTING THEM ABOUT OUR OVERTIME AND OUR -- AND
13 OUR TAXES.

14 Q. OKAY. SO THIS WAS SIGNED AFTER ---

15 BY MR. GOODWYN:

16 OBJECT, YOUR HONOR, TO THE EXTENT THAT CALLS
17 FOR SPECULATION AS TO WHY SHE THINKS DOCUMENTS WERE
18 CHANGED.

19 BY THE COMMISSIONER:

20 ALL RIGHT. SHE'S ANSWERING AS TO HER
21 REFERENCING A TIME FRAME. IF YOU CAN MOVE ON.

22 CROSS EXAMINATION RESUMED BY MR. HARBISON:

23 Q. SO YOU SIGNED THIS AFTER YOU HAD RAISED SOME
24 CONCERNS TO MEDUSTRIAL?

25 A. IT WAS -- THE DATE IS AFTER THAT, YES.

- 1 Q. THE DATE OF THE APPLICATION THERE?
- 2 A. I BELIEVE SO.
- 3 Q. SO, EVEN THOUGH YOU WERE CONCERNED ABOUT CERTAIN
- 4 THINGS AT MEDUSTRIAL, YOU STILL WENT AHEAD AND
- 5 SIGNED A NEW APPLICATION?
- 6 A. WELL, I HAD TO SIGN IT EVERY YEAR IN ORDER TO
- 7 CONTINUE WORKING SHIFTS. I WAS A SINGLE MOTHER. I
- 8 NEEDED MY MONEY. I NEEDED TO WORK.
- 9 Q. BUT YOU AGREED TO DO IT?
- 10 A. IN ORDER TO GET SHIFTS, YES.
- 11 Q. OKAY. DID YOU GO OUT AND APPLY ANY OTHER PLACES?
- 12 A. NOT AT THE TIME, NO. IT'S NOT EASY GETTING WORK AS
- 13 AN LPN IN THE STATE OF SOUTH CAROLINA, YOU KNOW.
- 14 THEY'RE TRYING TO, YOU KNOW, WEAN US OUT OF THE
- 15 HOSPITALS AND WEAN US OUT OF HERE, THERE, AND
- 16 EVERYWHERE. SO, YEAH, IT'S DIFFICULT GETTING WORK
- 17 NOW AS AN LPN AS OPPOSED TO AN RN. IT'S NOT THE
- 18 SAME.
- 19 Q. YOU KEEP SAYING SINGLE MOTHER. YOUR AGES OF YOUR
- 20 CHILDREN ARE 26, 21, ---
- 21 A. YEAH.
- 22 Q. --- AND 22?
- 23 A. CORRECT.
- 24 Q. SO IN 2014 THEY WOULD HAVE BEEN AROUND 23, 18, 17,
- 25 SOMETHING LIKE THAT?

- 1 A. CORRECT. MY DAUGHTER JUST GRADUATED HIGH SCHOOL,
2 AND I JUST GOT HER IN COLLEGE. YEAH. MY YOUNGEST
3 DAUGHTER WAS JUST IN COLLEGE, THE ONE THAT HAD TO
4 GET -- STOP GOING TO COLLEGE BECAUSE OF ALL THIS,
5 YEAH.
- 6 Q. THE COSMETOLOGY STUDENT?
- 7 A. THE COSMETOLOGY STUDENT, YES.
- 8 Q. WELL, ACTUALLY, SHE TOOK HER BOARDS FOR THE
9 COSMETOLOGY?
- 10 A. NO, THAT WAS MY OLDER DAUGHTER. MY YOUNGEST
11 DAUGHTER ALSO WENT TO COSMETOLOGY SCHOOL. MY OLDEST
12 DAUGHTER TOOK HER BOARDS.
- 13 Q. IS SHE WORKING?
- 14 A. IS SHE WORKING? YES, SHE'S WORKING.
- 15 Q. OKAY. AND YOUR SON?
- 16 A. MY SON? WHAT ABOUT HIM?
- 17 Q. HOW OLD IS ---
- 18 A. HE'S STILL GOING TO SCHOOL AND WORKING PART TIME.
- 19 Q. OKAY. AND HOW OLD IS HE?
- 20 A. TWENTY-SIX.
- 21 Q. IS HE STILL LIVING WITH YOU?
- 22 A. HE'S NOT RIGHT NOW. HE'S LIVING WITH HIS
23 GRANDMOTHER.
- 24 Q. YOU WERE AN LPN AT THE TIME OF YOUR WORK INCIDENT;
25 IS THAT CORRECT?

- 1 A. CORRECT.
- 2 Q. MS. TURNER, I'M GOING TO ASK MS. GOODWIN TO SHOW YOU
- 3 WHAT'S NUMBERED CSSG'S APA NUMBER 322.
- 4 A. OKAY.
- 5 Q. THIS IS A SUBSTANCE ABUSE POLICY CONSENT FORM.
- 6 A. OKAY.
- 7 Q. IS THAT CORRECT?
- 8 A. UH-HUH.
- 9 Q. MA'AM?
- 10 A. THAT'S WHAT IT SAYS.
- 11 Q. I UNDERSTAND WHAT YOU'RE SAYING. I'VE GOT TO GET
- 12 YOU TO SAY YES OR NO FOR THE RECORD.
- 13 A. THAT'S WHAT IT SAYS.
- 14 Q. AND THAT'S YOUR SIGNATURE?
- 15 A. THAT IS MY SIGNATURE.
- 16 Q. AND THAT'S YOUR NAME THERE, RACHEL TURNER?
- 17 A. CORRECT.
- 18 Q. AND RIGHT UNDER THAT, YOUR NAME, IS "CONTRACTOR
- 19 NAME," QUOTE, UNQUOTE?
- 20 A. THAT'S WHAT THIS PAPER SAYS, YES.
- 21 Q. AND UNDER YOUR SIGNATURE IT SAYS THE CONTRACTOR
- 22 SIGNATURE?
- 23 A. THAT'S WHAT THIS PAPER SAYS, YEAH.
- 24 Q. IT'S DATED OCTOBER 9, 2014, CORRECT?
- 25 A. YEAH.

1 Q. WITNESSED BY HOLLY SEEBY?

2 A. UH-HUH.

3 Q. MA'AM?

4 A. THAT'S WHAT IT SAYS.

5 Q. OKAY. AND IN IT, IT REFERS TO YOU AS THE PERSON

6 SIGNING AS A CONTRACTOR ON SEVERAL OCCASIONS,

7 DOESN'T IT?

8 A. THAT'S WHAT THE WORDING HERE IS.

9 Q. AND YOU VOLUNTARILY CHOSE TO EXECUTE THIS?

10 A. I SIGNED ALL DOCUMENTATION IN ORDER TO WORK, YES.

11 Q. VOLUNTARILY? MA'AM?

12 A. THEY DIDN'T TIE MY HANDS BEHIND MY BACK LIKE THE

13 INMATES, NO.

14 Q. OKAY. YOU CHOSE TO DO IT VOLUNTARILY, CORRECT?

15 A. YES.

16 Q. MA'AM?

17 A. YES.

18 Q. AND -- OH, I'M SORRY. YOU SAID YOU DIDN'T READ THIS

19 DOCUMENT I JUST SHOWED YOU?

20 A. I DIDN'T READ ANY OF THE DOCUMENTS. I SIGNED WHERE

21 IT SAID TO SIGN.

22 Q. OKAY. ON EITHER -- IN EITHER FEBRUARY OF 2013 OR

23 OCTOBER OF 2014?

24 A. CORRECT. I READ SOME OF THEM SINCE, BUT...

25 Q. NOW, YOU TESTIFIED A LITTLE BIT EARLIER WHEN YOUR

1 ATTORNEY WAS QUESTIONING YOU THAT YOU HAD WORKED FOR
2 -- PREVIOUSLY WORKED FOR SOME AGENCIES; IS THAT
3 CORRECT?

4 A. CORRECT.

5 Q. AND THOSE WERE NURSING AGENCIES?

6 A. YES.

7 Q. AND YOU SAID ALL THOSE AGENCIES ESSENTIALLY TREATED
8 YOU THE SAME?

9 A. CORRECT.

10 Q. BUT, ACTUALLY, THEY DIDN'T, DID THEY?

11 A. WHAT DO YOU MEAN BY THEY DIDN'T?

12 Q. WELL ---

13 A. CAN YOU EXPLAIN TO ME HOW THEY DIDN'T?

14 Q. OKAY. MEDUSTRIAL DIDN'T TAKE TAXES OUT FOR YOU?

15 A. THEY'RE NOT THE ONLY AGENCY.

16 Q. IS THAT CORRECT?

17 A. THEY DIDN'T TAKE OUT TAXES, NO.

18 Q. OKAY. BUT IMMEDIATELY BEFORE MEDUSTRIAL -- YOU
19 DIDN'T MENTION THIS COMPANY. IMMEDIATELY BEFORE
20 MEDUSTRIAL, YOU WORKED FOR A COMPANY CALLED
21 INTERMEDICAL HOSPITAL?

22 A. YES, I DID.

23 Q. EXCUSE ME?

24 A. YES. THAT'S NOT AN AGENCY, THOUGH. THE QUESTION
25 WAS AGENCY. THAT'S NOT AN AGENCY. THAT'S A

1 HOSPITAL.

2 Q. OKAY. AND THEY TOOK OUT WITHHOLDINGS?

3 A. CORRECT.

4 Q. AND YOU RESIGNED THERE BECAUSE THEY -- YOU ACCUSED

5 THEM OF HIPAA VIOLATIONS; IS THAT CORRECT?

6 A. CORRECT.

7 Q. ALL RIGHT. YOU SAID YOU PREVIOUSLY WORKED FOR

8 MEDAMERICA?

9 A. YES.

10 Q. THAT WAS AN AGENCY?

11 A. CORRECT.

12 Q. AND THEN YOU SAID YOU WORKED FOR MEDICAL STAFFING

13 ---

14 A. CORRECT.

15 Q. --- NETWORK?

16 A. YES.

17 Q. AND IF I UNDERSTAND YOU CORRECTLY FROM EARLIER, YOU

18 TESTIFIED THAT BOTH OF THOSE AGENCIES WITHHELD

19 TAXES?

20 A. BOTH OF THEM WITHHELD TAXES? MEDICAL EXPRESS DID

21 NOT WITHHOLD TAXES.

22 Q. EXCUSE ME?

23 A. I SAID MEDICAL -- ONE OF THEM, MEDICAL EXPRESS OR

24 MEDAMERICA, ONE OF THEM DIDN'T HOLD OUT TAXES. I'VE

25 WORKED ONE OTHER COMPANY -- AGENCY THAT DIDN'T TAKE

1 OUT TAXES.

2 Q. OKAY. SO WE HAVE MEDICAL STAFFING NETWORK.

3 A. MEDICAL STAFFING NETWORK TOOK OUT TAXES, AS FAR AS I
4 KNOW.

5 Q. OKAY. SO THAT'S DIFFERENT FROM HOW MEDUSTRIAL
6 HANDLED IT?

7 A. THAT'S THE ONLY DIFFERENCE.

8 Q. ALL RIGHT. THEN MEDICAL EXPRESS, DID THEY TAKE OUT
9 TAXES?

10 A. MEDICAL EXPRESS? NO, I DON'T BELIEVE THAT THEY WERE
11 THE ONE THAT DID.

12 Q. ALL RIGHT. AND THEN YOU MENTIONED ANOTHER ONE. I'M
13 SORRY; I WAS TRYING TO WRITE IT DOWN.

14 A. MEDAMERICA.

15 Q. EXCUSE ME?

16 A. MEDAMERICA.

17 Q. OKAY. AND DID THEY TAKE OUT TAXES ---

18 A. I BELIEVE SO.

19 Q. --- FROM YOUR PAY?

20 A. YES.

21 Q. OKAY. SO REALLY YOU WERE TREATED DIFFERENTLY BY
22 DIFFERENT AGENCIES?

23 A. NO.

24 Q. I THINK WE JUST WENT OVER FOUR. TWO WITHHELD TAXES
25 AND TWO DIDN'T?

1 A. THAT'S THE ONLY DIFFERENCE, THE ONLY DIFFERENCE.

2 Q. OKAY. SO THERE WERE ---

3 A. AS FAR AS HOW WE SCHEDULED OUR SHIFTS, AS FAR AS THE
4 WAY THAT WE SCHEDULED OUR SHIFTS, AS FAR AS THE
5 MANDATES THAT THEY MADE FOR US, THEY WERE THE SAME.

6 Q. WELL ---

7 A. I HAD TO -- I HAD TO BE PRE-APPROVED FOR ALL SHIFTS
8 BEFORE I COULD WORK THEM. THEY HAD TO BE VERIFIED
9 AND APPROVED BY THE STAFF AT ALL AGENCIES THAT I'VE
10 EVER WORKED FOR BEFORE I COULD EVER WORK THE SHIFT,
11 IF THAT'S WHAT YOU'RE ASKING ME.

12 Q. WELL, YOUR ATTORNEY ASKED YOU ABOUT HOW MUCH YOU
13 WERE PAID.

14 A. OKAY. THE PAYS WERE DIFFERENT IN EVERY JOB I'VE
15 EVER WORKED FOR.

16 Q. YEAH. BUT THAT'S AN IMPORTANT PART OF ---

17 A. FULL TIME AND AN AGENCY.

18 Q. THAT'S A PART OF -- IMPORTANT PART OF ACCEPTING A
19 JOB, RIGHT?

20 A. CORRECT, I GUESS.

21 Q. SO, REALLY, IN FACT, IT'S PROBABLY THE MOST
22 IMPORTANT PART AT TIMES?

23 A. DEPENDS ON WHAT YOU'RE LOOKING FOR, I GUESS.

24 Q. ALL RIGHT. WELL, WAS IT IMPORTANT TO YOU?

25 A. OF COURSE. MONEY'S ALWAYS IMPORTANT.

1 Q. ALL RIGHT. SO THE MOST IMPORTANT THING TO YOU, OR
2 ONE IMPORTANT THING TO YOU, WAS YOUR PAY. SO THAT'S
3 A PRETTY SIGNIFICANT DIFFERENCE THERE, BECAUSE
4 WITHHOLDING OF TAXES AFFECTS WHAT YOUR WEEKLY
5 PAYCHECK IS, RIGHT?

6 A. I'M NOT SURE WHAT YOU'RE ASKING ME. CAN YOU BE MORE
7 SPECIFIC?

8 Q. THEY TREATED YOU DIFFERENT. YOU SAID THAT WAS THE
9 ONLY WAY IN WHICH THESE AGENCIES TREATED YOU
10 DIFFERENTLY?

11 A. MY PAY WAS DIFFERENT FOR EVERY JOB I'VE EVER WORKED
12 FOR. NO JOB EVER PAID ME THE SAME AS ANY OTHER JOB,
13 NO JOB. I WORKED FOR A NURSING HOME. THEY PAID ME
14 MORE THAN IF I WORKED FOR THE HOSPITAL. IF I WORKED
15 IN A NURSING HOME, THEY PAID ME MORE THAN IF THEY
16 PAID ME IN A HOSPITAL. THE HOSPITAL, THE NURSE GETS
17 PAID THE LEAST. EVERY TIME YOU WORK IN A HOSPITAL,
18 THEY PAY YOU THE LEAST. YOU WORK FOR AN AGENCY,
19 THEY PAY YOU A LITTLE MORE. YOU WORK FOR A NURSING
20 HOME, THEY PAY YOU MORE. YOU WORK PSYCH, THEY PAY
21 YOU MORE. IT ALL DEPENDS ON WHERE YOU WORK. NO JOB
22 HAS EVER PAID ME THE SAME, NONE.

23 Q. I WAS NOT NECESSARILY TALKING ABOUT THE RATE OF PAY;
24 I'M TALKING ABOUT WITHHOLDING MONEY FROM YOUR WEEKLY

25 ---

- 1 A. LIKE I TOLD YOU, I WORKED AGENCIES THAT TAKE OUT
2 TAXES AND I WORKED AGENCIES THAT DON'T TAKE OUT
3 TAXES. THAT IS THE ONLY WAY THEY TREATED ME
4 DIFFERENT. THEY STILL MANDATED AND TOLD ME WHEN I
5 SHOULD TO GO WORK AND WHEN I SHOULD NOT TO GO TO
6 WORK. IF THEY -- IF THEY WANTED ME TO WORK A SHIFT,
7 I HAD TO GET IT APPROVED FROM THEM BEFORE I COULD
8 WORK THE SHIFT, NO MATTER IF A SUPERVISOR AT THE
9 HOSPITAL WANTED ME TO WORK THERE OR NOT. IF MY
10 AGENCY TOLD ME NO, I COULD NOT WORK.
- 11 Q. YOU'VE BEEN REPRESENTED NOW BY AN ATTORNEY FOR A
12 COUPLE YEARS IN THIS CASE, CORRECT?
- 13 A. SOMETHING LIKE THAT, YEAH.
- 14 Q. NOW, YOU'VE HAD ---
- 15 A. SINCE IT HAPPENED, I GUESS. IT'S NOT A COUPLE YEARS
16 BECAUSE IT'S NOT BEEN A COUPLE YEARS SINCE IT
17 HAPPENED. IT'S ONLY BEEN A YEAR AND SOME CHANGE.
- 18 Q. AND YOU SEE ---
- 19 A. SEPTEMBER 2017 WILL BE TWO YEARS, MY TWO-YEAR
20 ANNIVERSARY FROM THE INCIDENT.
- 21 Q. YOU HAVEN'T PRODUCED TODAY ANY DOCUMENTS FROM THESE
22 OTHER AGENCIES CONFIRMING HOW THEY DID OR DID NOT
23 TREAT YOU, HAVE YOU?
- 24 A. I HAVE TO PRODUCE THAT?
- 25 Q. WELL, YOU HAVE ---

1 A. WAS I SUPPOSED TO BE PRODUCING IT?

2 Q. WELL, YOU COULD HAVE PRODUCED IT.

3 A. DID YOU ASK FOR THAT AT DEPOSITION?

4 Q. ACTUALLY, I DID.

5 A. THEN YOU HAD THE RIGHT TO GET IT BECAUSE I DID TELL

6 YOU AT DEPOSITION THAT YOU HAD THE RIGHT TO SUBPOENA

7 ANY INFORMATION FROM ANY OF MY OTHER EMPLOYERS. I

8 ALSO TOLD YOU YOU HAD THE RIGHT TO SUBPOENA ANY OF

9 MY MEDICAL RECORDS DURING THE DEPOSITION. I DO

10 BELIEVE I TOLD YOU THAT. DID I NOT? DID YOU HAVE

11 THE PERMISSION TO DO SO?

12 Q. I DON'T THINK YOU DID, BUT ---

13 A. I THINK I DID.

14 Q. --- I CAN'T FIND IT.

15 A. I THINK YOU ACTUALLY ASKED FOR MY DEPOSITION TO BE

16 CONTINUED SO YOU COULD RE-ASK ME QUESTIONS ABOUT

17 THOSE THINGS, TAXES, ANY OF MY PREVIOUS EMPLOYERS,

18 AND MY MEDICAL. YOU SURE DID, BECAUSE I WASN'T VERY

19 HAPPY ABOUT HAVING TO COME BACK AND BE DEPOSED

20 AGAIN.

21 Q. YOU WEREN'T?

22 A. NO, BECAUSE I HAVE TO DEAL WITH COMING IN THESE

23 FACILITIES AND COMING AROUND PEOPLE I DON'T KNOW AND

24 BEING IN CLOSED PLACES AND HAVING TO DEAL WITH ALL

25 OF THIS. NO, I WASN'T LOOKING FORWARD TO IT.

- 1 Q. OKAY. I WANTED TO ASK YOU A LITTLE BIT ABOUT YOUR
2 WORK AT THE DEPARTMENT OF CORRECTIONS THROUGH
3 MEDUSTRIAL.
- 4 A. YES.
- 5 Q. YOU HAD THE ABILITY TO CHOOSE WHICH SHIFTS YOU
6 WANTED TO WORK?
- 7 A. BUT THEY HAD TO BE PRE-APPROVED BY THE AGENCY.
- 8 Q. YOU HAD ---
- 9 A. I DID HAVE THE CHOICE TO CHOOSE WHETHER I WANTED TO
10 WORK THEM. I HAD TO TELL THEM I CAN WORK THESE
11 SHIFTS. I HAD TO CALL THEM AND LET THEM KNOW THESE
12 ARE THE SHIFTS THE SUPERVISORS WANT ME TO WORK, AND
13 I WOULD LIKE TO WORK THEM, BUT THEY HAD TO APPROVE
14 IT. THEY HAD THE LAST SAY-SO BEFORE I EVER WALKED
15 IN THAT BUILDING AND WORKED THAT SHIFT.
- 16 Q. WELL, YOU HAD THE RIGHT TO DECLINE SHIFTS?
- 17 A. I HAD THE RIGHT TO DECLINE SHIFTS PRIOR TO THEM
18 BEING SCHEDULED. ONCE THEY WERE SCHEDULED, I HAD TO
19 FOLLOW THEIR CALL-OUT POLICY.
- 20 Q. OKAY. SO, AT LEAST BEFORE THE FOUR HOUR CALL-OUT
21 POLICY YOU HAD THE RIGHT TO DECLINE A SHIFT?
- 22 A. CORRECT.
- 23 Q. AND YOU HAD THE ABILITY TO CHOOSE WHICH SHIFTS YOU
24 WANTED TO WORK?
- 25 A. CORRECT. I DID WHEN I WORKED THE HOSPITAL, TOO.

- 1 YOU KNOW, HOSPITALS NOWADAYS, THEY ACTUALLY TALK TO
2 THEIR NURSES AND SEE WHAT SCHEDULES THAT THEY WANT
3 TO WORK EVEN AT THE HOSPITAL. SO, MY TWO-WEEKLY
4 SCHEDULE WAS MADE BY ME, TOLD TO THE SUPERVISORS AT
5 THE HOSPITAL, AND THE SUPERVISOR ACCOMMODATED YOU
6 THE BEST WAY THEY COULD TO MAKE SURE THAT YOU HAD
7 THE DAYS OFF THAT YOU NEEDED OFF, YES.
- 8 Q. SUPERVISORS AT THE SCDC ---
- 9 A. AND THE MEDICAL, TOO.
- 10 Q. SUPERVISORS AT THE SCDC, WHEN YOU WERE WORKING
11 THROUGH MEDUSTRIAL, THEY ACCOMMODATED YOU?
- 12 A. WHAT DO YOU MEAN, THEY ACCOMMODATED ME?
- 13 Q. WELL, I THINK YOU JUST SAID THEY WOULD WORK WITH YOU
14 ON YOUR SCHEDULE?
- 15 A. I'M TALKING ABOUT AT THE HOSPITAL, WHEN I WORKED
16 ACTUALLY AT INTERMEDICAL HOSPITAL. OUR SCHEDULES
17 ---
- 18 Q. I'M NOT TALKING ABOUT INTERMEDICAL. I'M TALKING
19 ABOUT SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.
- 20 A. OKAY. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.
21 ANY SHIFT THAT WAS THERE, THE SUPERVISOR WOULD COME
22 TO ME AND SAY, "HEY, RACHEL, I HAVE WEDNESDAY,
23 THURSDAY, FRIDAY FOR YOU IF YOU NEED IT, SEVEN TO
24 SEVEN. DO YOU WANT TO WORK IT?" I WOULD SAY YES.
- 25 Q. OR YOU COULD SAY NO?

1 A. I COULD SAY NO.

2 Q. AND AT TIMES YOU CALLED MEDUSTRIAL AND ASKED FOR
3 SHIFTS?

4 A. CORRECT.

5 Q. NOW, YOU ALSO ---

6 A. BUT I ALSO HAD TO CALL THEM TO VERIFY THOSE SHIFTS
7 BEFORE I COULD WORK THEM. EVERY WEEK I CALLED THEM.
8 EVERY TIME THE SCHEDULE WAS MADE, I CALLED IN TO
9 CONFIRM THE SHIFTS WITH THEM. ALL SHIFTS HAD TO BE
10 CONFIRMED THROUGH THE AGENCY BEFORE WE COULD WALK
11 INTO THE PRISON AND WORK THEM.

12 Q. YES. THEY DIDN'T ---

13 A. IF THEY TURNED AROUND AND SAID I COULD NOT WORK THAT
14 SHIFT, I COULD NOT WORK THAT SHIFT EVEN IF I WANTED
15 TO. HOW ABOUT THAT?

16 Q. YES, BECAUSE THEY DIDN'T WANT TO ---

17 A. IF THEY DID NOT WANT ME TO WORK THAT SHIFT, I COULD
18 NOT WORK IT.

19 Q. THEY DIDN'T WANT TO DOUBLE-BOOK A SHIFT?

20 A. IF THEY DID NOT WANT ME TO WORK THAT SHIFT, I COULD
21 NOT WORK IT.

22 Q. IT'S LIKE ---

23 A. FOR WHATEVER REASON THEY DIDN'T WANT ME TO WORK THAT
24 SHIFT, IF THEY SAID, NO, YOU CANNOT WORK THAT SHIFT,
25 I COULD NOT GO TO WORK. NO, I COULD NOT.

1 Q. IF WE'RE LOOKING TO PAINT MY HOUSE AND MY WIFE HIRES
2 A PAINTER AND I HIRE A PAINTER, ONE OF THEM IS NOT
3 GOING TO GET THE JOB?

4 A. WHO DO YOU PAY; THE PAINTER? WHO WOULD YOU PAY; THE
5 PAINTER OR SOME OTHER COMPANY?

6 Q. NO, I'D PAY THE PAINTER.

7 A. OH, OKAY. WHO DID THEY PAY? THEY PAID THE COMPANY.

8 Q. DID YOU -- WHEN YOU WERE WORKING THROUGH MEDUSTRIAL
9 ---

10 A. AND THEY PAID ME AN HOURLY SALARY.

11 Q. WHEN YOU WERE WORKING THROUGH MEDUSTRIAL AT THE TIME
12 OF YOUR INJURY -- OR, EXCUSE ME, AT THE TIME OF THIS
13 INCIDENT ---

14 A. YES.

15 Q. --- YOU DIDN'T HAVE TO ASK PERMISSION TO TAKE
16 VACATION?

17 A. NO.

18 Q. AND ISN'T IT TRUE MEDUSTRIAL NEVER FORBADE YOU OR
19 FORBID YOU FROM TAKING CERTAIN DAYS OFF?

20 A. NO.

21 Q. IS THAT CORRECT?

22 A. CORRECT.

23 Q. AND MEDUSTRIAL NEVER ADVISED YOU THAT YOU WERE NOT
24 PERMITTED TO WORK WITH ANOTHER AGENCY?

25 A. DID THEY SAY THAT I COULDN'T WORK THROUGH ANOTHER

1 AGENCY?

2 Q. YEAH. THEY NEVER TOLD YOU THAT YOU COULDN'T?

3 A. NO, BUT WHEN I WENT TO -- WENT TO TRY TO WORK FOR
4 ANOTHER AGENCY, I WAS TOLD THAT WE WERE CONTRACTED
5 NOT TO BE ABLE TO LEAVE -- IN ORDER TO WORK ANOTHER
6 FACILITY I'D HAVE TO LEAVE SCDC FOR THREE TO SIX
7 MONTHS.

8 Q. OKAY. YEAH. BUT THEY NEVER TOLD YOU YOU COULDN'T
9 GO WORK FOR ANOTHER NURSING AGENCY? IN OTHER WORDS,
10 YOU COULD HAVE TAKEN THREE MONTHS OFF AND GONE BACK
11 TO WORK FOR THIS OTHER AGENCY?

12 A. I WORKED FULL-TIME JOBS AND WORKED AGENCY. I WORKED
13 AT INTERMEDICAL HOSPITAL AND WAS STILL WORKING AN
14 AGENCY. I WORKED AT A NURSING HOME AND STILL
15 WORKING AN AGENCY. SO, NO, NOBODY HAS TOLD ME I
16 COULDN'T WORK AGENCY ON THE SIDE OR ANOTHER AGENCY
17 OR WORK TWO JOBS.

18 Q. OKAY. FAIR ENOUGH. THAT'S GOOD. AND THAT INCLUDES
19 MEDUSTRIAL?

20 A. INCLUDES ALL THE JOBS I'VE EVER HAD. NONE OF THEM
21 HAVE EVER TOLD ME I COULDN'T WORK MORE THAN ONE JOB
22 OR DO ANOTHER JOB.

23 Q. AND YOU NEVER ASKED MEDUSTRIAL TO PLACE YOU ON A SET
24 SCHEDULE? FOR EXAMPLE, NINE TO FIVE MONDAY THROUGH
25 FRIDAY?

- 1 A. MY SET SCHEDULE WAS SEVEN "A" TO SEVEN "P."
- 2 Q. YOU NEVER ASKED THEM TO GIVE YOU A SET SCHEDULE,
3 CERTAIN NUMBER OF DAYS EACH WEEK AND CERTAIN NUMBER
4 OF HOURS; IS THAT CORRECT?
- 5 A. I NEVER ASKED FOR A SET SCHEDULE, NO. BUT I ASKED
6 FOR A SET SHIFT, IF THAT'S WHAT YOU NEED TO KNOW.
7 SEVEN "A" TO SEVEN "P" IS THE SHIFTS THAT I WORKED.
8 SOME -- OCCASIONALLY I WOULD WORK NIGHT SHIFT IF
9 THEY REALLY WANTED ME TO WORK. MOST OF THE TIME MY
10 SHIFTS WERE SEVEN "A" TO SEVEN "P."
- 11 Q. AND YOU NEVER REQUESTED TO BECOME DIRECTLY EMPLOYED
12 WITH THE DEPARTMENT OF CORRECTIONS, CORRECT?
- 13 A. I NEVER ASKED TO BE DIRECTLY EMPLOYED WITH
14 CORRECTIONS, NO.
- 15 Q. AND THAT'S BECAUSE YOUR SCHEDULE WOULDN'T BE
16 FLEXIBLE ENOUGH?
- 17 A. IT'S NOT AS FLEXIBLE, NO.
- 18 Q. WELL, IT WOULDN'T BE FLEXIBLE ENOUGH; THAT'S THE
19 REASON YOU DIDN'T DO IT, CORRECT?
- 20 A. IT'S NOT AS FLEXIBLE AS AN AGENCY, NO. I LIKE THE
21 FLEXIBLE -- MORE FLEXIBLE SCHEDULE.
- 22 Q. AND WHAT DO YOU MEAN BY THAT, MS. TURNER?
- 23 A. IT MEANS THAT I COULD WORK SHIFTS; I COULD GET MY
24 SCHEDULE TO WORK THREE DAYS A WEEK.
- 25 Q. YOU COULD WORK WHEN YOU WANTED TO WORK?

1 A. NO. TO A CERTAIN EXTENT, YEAH, I COULD WORK WHEN I
2 WANTED TO WORK. I COULD ASK FOR THE SHIFTS THAT I
3 WANTED, BUT THEY STILL HAD TO APPROVE IT. I
4 COULDN'T WORK WHEN I WANTED TO. I COULDN'T JUST GO
5 INTO SCDC AND SAY, OH, I FEEL LIKE WORKING TODAY;
6 LET ME GO TO WORK. NO, I COULD NOT. THEY HAD TO BE
7 APPROVED BY BOTH THE SCDC AND THE AGENCY BEFORE I
8 COULD WORK THEM. SO, NO, I COULDN'T JUST GO TO WORK
9 WHENEVER I WANTED TO. OH, TODAY IS SATURDAY; LET ME
10 GO TO WORK AND FINISH THAT ROOF OR THAT FLOOR. NO.

11 Q. YEAH, BECAUSE IF THAT ---

12 A. I COULDN'T DO IT.

13 Q. YEAH, BECAUSE IF THAT WERE A HOMEOWNER THEY WOULD
14 HAVE TO ALLOW YOU TO DO IT, CORRECT? CORRECT?

15 A. I GUESS.

16 Q. OKAY. NOW, THE -- YOU WERE AWARE THAT DEPARTMENT OF
17 CORRECTIONS NURSES WERE GIVEN -- WERE MANDATED TO
18 WORK A CERTAIN NUMBER OF DAYS PER WEEK, CORRECT?

19 A. I DON'T KNOW WHAT THEY'RE MANDATED. I DON'T WORK
20 FOR SCDC.

21 Q. WELL, DO YOU REMEMBER WHEN I TOOK YOUR DEPOSITION
22 THE FIRST TIME?

23 A. CORRECT.

24 Q. IF -- I HAVE ANOTHER COPY.

25 BY MR. HARBISON:

1 IF I MAY APPROACH THE WITNESS, COMMISSIONER.

2 BY THE COMMISSIONER:

3 CERTAINLY. OR IF MS. GOODWIN CAN.

4 CROSS EXAMINATION RESUMED BY MR. HARBISON:

5 Q. I'M GOING TO SHOW YOU PAGE 155 OF YOUR DEPOSITION.

6 A. OKAY. ACTUALLY, I'LL START ON PAGE 154.

7 BY MS. GOODWIN:

8 WHAT LINE, WILL?

9 BY MR. HARBISON:

10 LINE 23.

11 CROSS EXAMINATION RESUMED BY MR. HARBISON:

12 Q. IF YOU CAN FOLLOW ALONG WITH ME. I ASKED YOU,
13 "DURING THAT TIME DID YOU EVER CONSIDER ACTUALLY
14 APPLYING TO DEPARTMENT OF CORRECTIONS TO BECOME A
15 NURSE THAT'S DIRECTLY EMPLOYED WITH THE DEPARTMENT
16 OF CORRECTIONS?" YOU ANSWERED, "NO."

17 A. OKAY.

18 Q. QUESTION: "IS THERE A REASON WHY NOT?" ANSWER: "MY
19 SCHEDULE WASN'T FLEXIBLE ENOUGH."

20 A. OKAY.

21 Q. QUESTION: "YOUR SCHEDULE WASN'T FLEXIBLE?" ANSWER:
22 "YES." QUESTION: "BECAUSE I KNOW THAT -- I'M
23 FAMILIAR WITH THE CORRECTIONAL OFFICERS' SCHEDULE A
24 LITTLE BIT MORE..." -- AND THIS ACTUALLY MAY HAVE
25 BEEN MS. FARTHING WHO WAS QUESTIONING YOU ON THIS.

1 "BECAUSE I KNOW THAT -- I'M FAMILIAR WITH THE
2 CORRECTIONAL OFFICERS' SCHEDULE A LITTLE BIT MORE
3 THAN, I THINK, I AM THE NURSES, WHERE IT'S KIND OF
4 THAT THE 12-HOUR SHIFT, AND I THINK IT'S TWO DAYS
5 ON, THREE DAYS OFF, OR THREE DAYS ON, TWO DAYS OFF,
6 SOMETHING ALONG THOSE LINES." AND YOUR ANSWER WAS,
7 "I'M NOT SURE HOW THEIRS IS, BUT..." AND THEN MS.
8 FARTHING SAID, "IS THAT HOW THE NURSES WORKED AS
9 WELL?" QUESTION. ANSWER: "I'M NOT SURE HOW THEY
10 WAS GETTING ON AND OFF, BUT YOU GET MANDATED SO MANY
11 DAYS A WEEK." THAT WAS YOUR ANSWER, RIGHT?

12 A. OKAY.

13 Q. SO YOU KNEW THAT THESE NURSES AT DEPARTMENT OF
14 CORRECTIONS THAT WERE EMPLOYEES THERE WERE GETTING
15 MANDATED -- THEY WERE HAVING TO WORK A CERTAIN
16 NUMBER OF DAYS A WEEK?

17 A. OKAY. THEY -- THEY WORKED SEVERAL DAYS A WEEK. HOW
18 THEY MANDATED -- YOU ASKED ME HOW DID THEY MANDATE
19 THEM. I DON'T KNOW HOW THEY DO. I DON'T KNOW HOW
20 THEY MANDATE THEM. I DON'T KNOW WHAT THEIR ACTUAL
21 SPECIFIC SCHEDULE IS.

22 Q. WELL, I THOUGHT YOU SAID YOU DIDN'T KNOW WHAT THE
23 WORD MANDATED IS ALSO?

24 A. WHAT'S THAT?

25 Q. I THOUGHT YOU SEEMED CONFUSED BY THE TERM MANDATED?

- 1 A. NO, I JUST -- I DIDN'T UNDERSTAND THE WAY YOU WERE
2 ASKING THE QUESTION. I DON'T KNOW HOW SPECIFICALLY
3 THEY MANDATE THEIR EMPLOYEES, THEIR SCHEDULE. ALL I
4 KNOW IS THAT THEY WERE TOLD -- THEY WORKED THREE TO
5 FOUR DAYS A WEEK.
- 6 Q. WELL, THEN I ---
- 7 A. I DON'T KNOW HOW THEY MANDATED -- HOW THEY ACTUALLY
8 MAKE THEM DO IT OR WHAT IS THEIR PAPERWORK THAT THEY
9 SIGN SAYING THAT THEY HAVE TO DO THAT. I DON'T KNOW
10 NONE OF THAT.
- 11 Q. AND THEN IMMEDIATELY THEREAFTER YOU WERE ASKED,
12 QUESTION: "OKAY. AND YOU WANTED MORE FLEXIBILITY
13 THAN THAT?" ANSWER: ---
- 14 A. I WANTED TO BE ABLE TO HAVE A FLEXIBLE SCHEDULE,
15 YES.
- 16 Q. --- "YEAH, BECAUSE I'M A SINGLE MOTHER OF THREE
17 KIDS"?
- 18 A. CORRECT.
- 19 Q. OKAY. ALL RIGHT. WITH RESPECT TO YOUR ---
- 20 A. IT'S THE SAME REASON I WORKED ALL THE AGENCIES, FOR
21 THE FLEXIBLE SCHEDULE.
- 22 Q. MEDUSTRIAL NEVER WITHHELD TAXES FROM YOUR PAY,
23 CORRECT?
- 24 A. NO.
- 25 Q. IS THAT CORRECT?

- 1 A. CORRECT.
- 2 Q. THEY NEVER WITHHELD FICA FOR SOCIAL SECURITY
- 3 RETIREMENT AND MEDICARE, CORRECT?
- 4 A. CORRECT.
- 5 Q. THEY NEVER MADE ANY WITHHOLDINGS AT ALL, CORRECT?
- 6 A. CORRECT.
- 7 Q. YOU'RE AWARE, AREN'T YOU, THAT IT'S MANDATORY FOR
- 8 EMPLOYERS TO WITHHOLD FICA? ARE YOU AWARE OF THAT?
- 9 A. I DON'T KNOW WHAT IT'S MANDATORY FOR EMPLOYERS TO
- 10 DO. I KNOW THAT WHEN I FILE MY TAXES I HAVE TO PAY
- 11 IT AT THE END OF THE YEAR IF I DO A 1099. THAT'S
- 12 THE ONLY THING I REALLY KNOW. IF I DO A -- IF THEY
- 13 GIVE ME A 1099 AT THE END OF THE YEAR, I HAVE TO PAY
- 14 IT AT THE END OF THE YEAR.
- 15 Q. WHEN THEY GIVE YOU A 1099 AS AN CONTRACTOR AT THE
- 16 END OF THE YEAR?
- 17 A. WHEN THEY GIVE ME A 1099, AT ANY EMPLOYMENT THAT
- 18 THEY'VE GIVEN ME A 1099, I'VE HAD TO PAY MY OWN FICA
- 19 AND MEDICARE.
- 20 Q. ARE YOU SUGGESTING THAT YOU'VE GOTTEN 1099s AS AN
- 21 EMPLOYEE?
- 22 A. I'VE GOTTEN 1099s AS AN EMPLOYEE.
- 23 Q. MEDUSTRIAL NEVER PROVIDED YOU WITH DENTAL INSURANCE?
- 24 A. NO.
- 25 Q. IS THAT CORRECT?

1 A. NO. NO AGENCY HAS PROVIDED ME WITH INSURANCE.

2 Q. OKAY. I'M TALKING ABOUT MEDUSTRIAL. ISN'T IT TRUE
3 THAT THEY NEVER PROVIDED YOU WITH DENTAL INSURANCE?

4 A. NO AGENCY HAS PROVIDED ME WITH DENTAL INSURANCE, NOT
5 ANY OF THE ONES THAT I'VE LISTED, INCLUDING
6 MEDUSTRIAL.

7 Q. AND MEDUSTRIAL NEVER PROVIDED YOU WITH
8 TRANSPORTATION ---

9 A. NO.

10 Q. --- TO AND FROM WORK?

11 A. NONE OF THE AGENCIES DID.

12 Q. AND MEDUSTRIAL NEVER PROVIDED YOU WITH MILEAGE
13 REIMBURSEMENT?

14 A. NONE OF THE AGENCIES DID.

15 Q. IS THAT CORRECT?

16 A. CORRECT.

17 Q. AND MEDUSTRIAL NEVER PROVIDED YOU WITH VACATION PAY?

18 A. NONE OF THE AGENCIES DID.

19 Q. IS THAT CORRECT?

20 A. CORRECT.

21 Q. MEDUSTRIAL NEVER PROVIDED YOU WITH SICK PAY,
22 CORRECT?

23 A. NONE OF THEM DID.

24 Q. IS THAT CORRECT?

25 A. CORRECT.

- 1 Q. AND MEDUSTRIAL NEVER PROVIDED YOU WITH A RETIREMENT
2 PLAN, INCLUDING A 401-K, CORRECT?
- 3 A. CORRECT.
- 4 Q. AND YOU WORE NURSING SCRUBS; IS THAT CORRECT?
- 5 A. CORRECT.
- 6 Q. AND YOU PAID FOR THE SCRUBS YOURSELF?
- 7 A. AT EVERY JOB I'VE EVER WORKED FOR.
- 8 Q. WELL, THAT INCLUDES MEDUSTRIAL?
- 9 A. IT INCLUDES ALL OF THEM.
- 10 Q. MEDUSTRIAL?
- 11 A. CORRECT.
- 12 Q. AND MEDUSTRIAL DIDN'T PAY A PORTION OF THAT, DID
13 THEY?
- 14 A. CORRECT. NEITHER DID ANY OF MY EMPLOYERS.
- 15 Q. AND YOU WORE APPROPRIATE FOOTWEAR, CORRECT?
- 16 A. CORRECT.
- 17 Q. AND MEDUSTRIAL DIDN'T PAY FOR ANYTHING CONNECTED
18 WITH THAT?
- 19 A. NO EMPLOYER HAS EVER PAID FOR ANY OF THAT.
- 20 Q. AND THAT INCLUDES MEDUSTRIAL?
- 21 A. CORRECT.
- 22 Q. IN FACT, MEDUSTRIAL DIDN'T PROVIDE ANY TYPE OF
23 UNIFORM, DID THEY?
- 24 A. CORRECT. NEITHER DID ANY OF MY OTHER JOBS.
- 25 Q. AND THERE WAS NOTHING ON THE SCRUBS THAT YOU WORE

1 EVERY DAY THAT IDENTIFIED MEDUSTRIAL, WAS THERE?

2 A. NO, NOTHING BUT MY BADGE.

3 Q. MEDUSTRIAL DIDN'T PROVIDE YOU WITH BUSINESS CARDS?

4 A. NO.

5 Q. CELL PHONE?

6 A. NO.

7 Q. LAPTOP?

8 A. THEY DIDN'T PROVIDE IT, NO. NEITHER DID ANY OF MY
9 OTHER JOBS.

10 Q. AND AT THE TIME OF THIS INCIDENT YOU HAD HEALTH
11 INSURANCE; IS THAT CORRECT?

12 A. THROUGH OBAMACARE, YES.

13 Q. YEAH. BUT YOU OBTAINED IT ON YOUR OWN?

14 A. CORRECT.

15 Q. OKAY. SO MEDUSTRIAL DIDN'T -- YOU DIDN'T OBTAIN IT
16 THROUGH MEDUSTRIAL?

17 A. NO. IT'S THE SAME WITH ALL THE AGENCIES I'VE EVER
18 WORKED FOR. I'VE BEEN DOING AGENCY FOR A LONG TIME,
19 AND I'VE NEVER HAD BENEFITS THROUGH THE AGENCIES.

20 Q. WHAT WAS INTERMEDICAL?

21 A. INTERMEDICAL WAS A HOSPITAL.

22 Q. WHERE ARE THEY LOCATED?

23 A. SEVENTH FLOOR OF BAPTIST HOSPITAL.

24 Q. IT'S A HOSPITAL WITHIN A HOSPITAL?

25 A. CORRECT.

1 Q. MEDUSTRIAL ALSO NEVER PROVIDED YOU WITH ANY FORMAL
2 TRAINING, CORRECT?

3 A. NO.

4 Q. IS THAT CORRECT?

5 A. CORRECT.

6 Q. NOW, AS AN LPN YOU HAVE TO PAY YEARLY FEES, IT'S MY
7 UNDERSTANDING, TO KEEP YOUR LICENSE?

8 A. I HAVE TO PAY FOR MY NURSING LICENSE. IT'S EVERY
9 TWO YEARS.

10 Q. OKAY. AND HOW MUCH IS THAT?

11 A. DIFFERS FROM TIME TO TIME. I BELIEVE THE LAST TIME
12 I PAID FOR IT, IT WAS \$85, SOMEWHERE AROUND THERE.

13 Q. OKAY. AND MEDUSTRIAL NEVER PAID FOR THOSE FEES, DID
14 THEY?

15 A. NO. NO HOSPITAL, NO NURSING HOME, NONE OF THAT HAS
16 EVER PAID FOR THAT.

17 Q. OKAY. NOW, LET ME TAKE YOU THROUGH YOUR TYPICAL DAY
18 AT THE DEPARTMENT OF CORRECTIONS ---

19 A. OKAY.

20 Q. --- AT THE TIME OF THIS INCIDENT.

21 A. OKAY.

22 Q. YOU REPORTED DIRECTLY TO THE PRISON FACILITY?

23 A. CORRECT.

24 Q. YOU DIDN'T REPORT TO MEDUSTRIAL FIRST BEFORE GOING
25 TO THE PRISON, DID YOU?

1 A. I HAD TO GET THE SHIFT APPROVED BEFORE I COULD DO
2 THERE, YEAH.

3 Q. BUT YOU DIDN'T REPORT TO MEDUSTRIAL AND THEN GO ---

4 A. I DIDN'T STOP AT MEDUSTRIAL BEFORE I WENT TO WORK,
5 NO, BECAUSE MY SHIFT WAS ALREADY PRE-APPROVED BEFORE
6 I WOULD GO TO WORK.

7 Q. OKAY. AND THEN YOU ---

8 A. IF IT WASN'T PRE-APPROVED, THEN YOU -- THEY HAD TO
9 APPROVE IT. IF IT -- IF THE -- IF THE NURSING
10 SUPERVISOR CALLED ME AT 7:00 IN THE MORNING OR
11 CONTACTED ME IN ANY WAY AND SAID, "OH, RACHEL
12 TURNER, CAN YOU COME IN TODAY? WE NEED YOU TO
13 WORK," IT HAD TO BE APPROVED THROUGH THE AGENCY.
14 SO, THEREFORE, I WOULD HAVE TO CALL THE AGENCY AND
15 GET THEM TO APPROVE THE SHIFT AND CONFIRM THE SHIFT
16 BEFORE I COULD GO TO WORK.

17 Q. AND, AGAIN, YOU COULD HAVE JUST SAID NO AND ROLLED
18 OVER AND GONE BACK TO SLEEP?

19 A. I COULD HAVE.

20 Q. OKAY. NOW, YOU ALSO DIDN'T HAVE -- AFTER THE END OF
21 YOUR SHIFT YOU WENT DIRECTLY HOME?

22 A. CORRECT.

23 Q. AND YOU DIDN'T HAVE TO STOP BY MEDUSTRIAL TO CHECK
24 IN WITH THEM BEFORE YOU WENT HOME, DID YOU?

25 A. NO. NOT EVERY DAY, NO.

1 Q. YOUR ATTORNEY ASKED YOU ABOUT SOMETHING, AND IT IS
2 PAGE 284 FROM MR. SAMUELS' BRIEF, AND HE SPENT SOME
3 TIME TALKING TO YOU ABOUT THIS. DO YOU REMEMBER
4 THAT?

5 A. HE SHOWED ME THIS PAPER.

6 Q. OKAY. AND I ASSUME YOU READ YOUR TIME SHEETS,
7 DIDN'T YOU?

8 A. I READ THE PART THAT -- WHERE I NEEDED TO FILL OUT
9 MY TIME AND STUFF, YEAH.

10 Q. OKAY. AND AT THE TOP OF THE WEEKLY TIME SHEET IT
11 SAYS, QUOTE, "CONTRACTOR, RACHEL TURNER," CLOSE
12 QUOTE, DOESN'T IT?

13 A. YES.

14 Q. PLEASE TELL ME YOU'RE NOT GOING TO TESTIFY THAT YOU
15 DIDN'T READ THIS EITHER?

16 A. I READ IT TODAY.

17 Q. YOU DIDN'T READ IT WHEN YOU TURNED THESE WEEKLY TIME
18 SHEETS IN?

19 A. I JUST FILLED OUT THE PAPERWORK AND GIVE MY TIME.
20 BUT AS I READ IT TODAY, IT ALSO SAYS, "THIS TIME
21 SHEET MUST BE PERSONALLY FILLED OUT AND SIGNED BY
22 EMPLOYEE AND SUPERVISOR." WHO ARE THEY TALKING
23 ABOUT WHEN THEY SAY EMPLOYEE?

24 Q. SURE. AND IT ALSO ---

25 A. WHO WERE THEY TALKING ABOUT WHEN THEY SAID EMPLOYEE?

1 Q. AND IT ALSO SAID -- IDENTIFIED YOU AT THE VERY TOP
2 IN BOLD LETTERS ---

3 A. SO YOU SEE HOW I COULD BE CONFUSED ABOUT WHEN THEY
4 HANDED ME AN EMPLOYEE APPLICATION AND SAID THIS IS
5 AN EMPLOYEE APPLICATION, WHY I WOULD NOT CONSIDER IT
6 A CONTRACTOR APPLICATION, BECAUSE THEY DID NOT
7 INFORM ME THAT IT WAS A CONTRACTOR APPLICATION.
8 THEY SAID EMPLOYEE APPLICATION. HERE IS A
9 DOCUMENTATION THAT BOTH HAS EMPLOYEE AND CONTRACTOR.
10 SO HOW AM I SUPPOSED TO KNOW WHAT I AM?

11 Q. OKAY. SO, WHEN YOU ARRIVED AT THE SCDC, EACH FLOOR,
12 IT'S MY UNDERSTANDING, AT THE HOSPITAL HAS ITS OWN
13 SUPERVISOR?

14 A. EACH UNIT, YES.

15 Q. EACH UNIT?

16 A. CORRECT.

17 Q. OKAY. AND THOSE ARE ALWAYS SCDC EMPLOYEES?

18 A. YES.

19 Q. AND NO SUPERVISORS FOR MEDUSTRIAL WORKED INSIDE THE
20 HOSPITAL FACILITY, DID THEY?

21 A. NO. WORK INSIDE THE FACILITY? NO.

22 Q. OKAY. AND WHEN YOU ARRIVED, THE SUPERVISOR FROM THE
23 SCDC GAVE YOU YOUR ASSIGNMENT FOR THAT DAY?

24 A. CORRECT.

25 Q. AND THAT WAS FOR WHAT UNIT OR FLOOR YOU WOULD BE ON

1 OR IN?

2 A. FOR WHAT UNIT AND WHAT TASK WE HAD TO DO FOR THE

3 DAY, YES.

4 Q. OKAY. AND THERE WAS A NURSE IN CHARGE OF THAT UNIT?

5 A. CORRECT.

6 Q. OKAY. AND, AGAIN, THAT NURSE WAS WITH THE SCDC?

7 A. YES.

8 Q. OKAY. AND THEN YOU ---

9 A. IF I WORKED THE CUTTERS UNIT, THEN I WOULD WORK

10 THERE BY MYSELF.

11 Q. YOU WOULD?

12 A. ON WEEKENDS, YES, I WAS THERE BY MYSELF.

13 Q. OKAY. AND WHAT'S THAT UNIT CALLED?

14 A. THE CUTTERS UNIT.

15 Q. WHAT IS CUTTERS?

16 A. THE CIB UNIT.

17 Q. I'M SORRY; I DON'T KNOW WHAT THAT MEANS. CAN YOU

18 SPELL IT? CIB?

19 A. CIB UNIT, C-I-B.

20 Q. DOES THAT STAND FOR -- WHAT DOES THAT STAND FOR?

21 A. I DON'T KNOW WHAT THEY CALL IT NOW.

22 Q. WHAT DO THEY DO THERE?

23 A. THE PEOPLE WITH SELF-INFLICTED BEHAVIORS.

24 Q. OKAY. SO YOU WORKED WITH -- TOTALLY WITHOUT

25 SUPERVISION AT TIMES IN THE CIB UNIT?

1 A. I WORKED WEEKENDS BY MYSELF IN THE CIB UNIT.

2 Q. SO, THAT'S A YES?

3 A. I WAS TOLD WHAT I HAD TO DO FOR THE DAY, YES.

4 Q. BUT YOU WERE TOTALLY WITHOUT SUPERVISION?

5 A. TOTALLY WITHOUT SUPERVISION.

6 Q. AND THAT SOUNDS LIKE A PRETTY SERIOUS UNIT THERE,

7 SELF-INFLICTED WOUNDS?

8 A. OKAY. I'VE WORKED NURSING HOMES AND WORKED A WHOLE

9 UNIT BY MYSELF WITHOUT A SUPERVISOR. I'VE BEEN

10 CHARGE NURSES IN NURSING HOMES.

11 Q. ALL RIGHT. SO, AND THEN LET'S ---

12 A. WHERE THEY TAKE OUT TAXES FOR YOU.

13 Q. EXCUSE ME?

14 A. WHERE THEY TAKE OUT TAXES FOR ME, YOU KNOW, THOSE

15 NURSING HOMES THAT YOU WORK FOR AND THEY MANDATE

16 WHAT HOURS YOU GO AND ALL THAT. YOU'RE TRYING TO

17 DEFER AND SAY THAT THERE'S A DIFFERENCE.

18 Q. THE -- ONCE YOU GOT ---

19 A. I'VE WORKED THEM BY MYSELF. I'VE WORKED 40-PATIENT

20 UNITS BY MYSELF. I'VE WORKED AT CIB UNIT BY MYSELF,

21 BUT I WAS INSTRUCTED ON WHAT I WAS SUPPOSED TO DO

22 WHILE I WAS THERE BY A SUPERVISOR. WHETHER SHE WAS

23 THERE OR NOT, I STILL HAD TO FOLLOW HER INSTRUCTIONS

24 OR I COULDN'T COME BACK TO THAT UNIT. EVEN WHEN

25 THEY'RE NOT THERE STANDING OVER YOUR HEAD

1 SUPERVISING OR TELLING YOU WHEN TO GO DO YOUR -- ALL
2 YOUR EMPLOYEES HAVE TO HAVE YOU STANDING THERE TO DO
3 THEIR WORK. BUT ONCE YOU'VE TOLD THEM WHAT THEY'RE
4 SUPPOSED TO DO, THEY KNOW WHAT TO DO WHETHER YOU'RE
5 THERE OR NOT. AND THEY STILL ANSWER TO YOU WHEN
6 YOU'RE NOT THERE, CORRECT?

7 Q. IT SOUNDS LIKE YOU WERE PRETTY GOOD AT YOUR JOB?

8 A. YES. I WAS A VERY GOOD NURSE.

9 Q. AS A LICENSED PRACTICAL NURSE?

10 A. CORRECT.

11 Q. AND I'M JUST ---

12 A. IN FACT, THEY TOLD ME I WAS ONE OF THEIR BEST
13 EMPLOYEES.

14 Q. AND I'M JUST KIND OF GETTING FAMILIAR WITH WHAT A
15 LICENSED PRACTICAL NURSE IS. BUT ISN'T IT TRUE THAT
16 YOU KNEW HOW TO DO ALL OF THE FOLLOWING -- I'M GOING
17 TO TRY TO SPEED UP AND READ THROUGH IT -- BASED ON
18 YOUR EXPERIENCE AND TRAINING WITHOUT TAKING
19 DIRECTION FROM ANYONE ELSE? TAKING BLOOD PRESSURE
20 OF INMATES?

21 A. CORRECT.

22 Q. TAKING TEMPERATURE OF INMATES?

23 A. CORRECT.

24 Q. MEASURING PATIENTS' HEIGHT?

25 A. CORRECT.

1 Q. WEIGHING PATIENTS?
2 A. CORRECT.
3 Q. TAKING DOWN A PATIENT'S HISTORY?
4 A. CORRECT.
5 Q. WRITING DOWN MEDICAL COMPLAINTS?
6 A. CORRECT.
7 Q. GIVING SHOTS?
8 A. CORRECT.
9 Q. CORRECT?
10 A. UH-HUH.
11 Q. YES?
12 A. YES.
13 Q. I KNOW WHAT YOU'RE SAYING NOW. I'VE GOT TO GET YOUR
14 ANSWER FOR THE COURT REPORTER.
15 A. OKAY. YES.
16 Q. AND GIVING I.V. THERAPY?
17 A. YES. I HAD TO TAKE I.V. CERTIFICATION CLASSES TO BE
18 I.V. CERTIFIED AS AN LPN. OTHERWISE, I WOULDN'T BE
19 ABLE TO DO I.V.s AS AN LPN.
20 Q. OKAY. AND YOU WERE ABLE TO DO THAT WITHOUT
21 DIRECTION FROM ANYONE ELSE AT SCDC?
22 A. THAT WAS MY TRAINING, MY NURSING TRAINING. I DON'T
23 GET DIRECTION FROM ANYPLACE I WORK ON HOW TO TAKE
24 VITAL SIGNS. THEY DON'T COME TELL ME HOW TO TAKE A
25 VITAL SIGN OR PUT A BLOOD PRESSURE CUFF ON. MY

1 SUPERVISOR DOESN'T DO THAT, AND EVEN AT A HOSPITAL,
2 BECAUSE THEY EXPECT ME TO KNOW THOSE THINGS. AND
3 THESE ARE THE THINGS THAT I TELL THEM THAT I HAVE
4 SKILLS IN BEFORE I COME TO WORK. THOSE
5 DOCUMENTATIONS THAT YOU ASKED ME ABOUT BEFORE, ABOUT
6 WHAT KIND OF THINGS THAT THEY WANT TO KNOW ABOUT YOU
7 AND WHAT YOU DO, HOW YOU'RE QUALIFIED FOR THE JOB,
8 THOSE ARE THE THINGS THAT THEY KNOW BEFORE I GET THE
9 JOB, THAT I'M QUALIFIED TO DO NURSING JOBS, NURSING
10 DUTIES. NOW, AS FAR AS WHAT I WAS TOLD TO DO AS FAR
11 AS THEIR POLICIES, I HAD TO FOLLOW THEIR POLICIES
12 AND LEARN THEIR POLICIES, BE ORIENTED TO THEIR
13 POLICIES, BECAUSE NOT EVERY FACILITY DOES EVERYTHING
14 THE SAME.

15 Q. AND THEN DURING THE COURSE OF YOUR SHIFT YOU WERE
16 NOT REQUIRED TO CALL MEDUSTRIAL AND GIVE THEM AN
17 UPDATE ON HOW THE SHIFT WAS GOING, WERE YOU?

18 A. NO.

19 Q. AND AT THE END OF THE DAY YOU DIDN'T HAVE TO CALL
20 MEDUSTRIAL AND TELL THEM ---

21 A. NO.

22 Q. --- HOW THE DAY WENT, DID YOU?

23 A. NO.

24 Q. OKAY. NOW, THE JCAHO TESTING, I THINK THAT'S J-C-A-
25 H-O, I BELIEVE?

1 A. UH-HUH.

2 Q. MA'AM?

3 A. YES.

4 Q. OKAY. YOU -- I THINK YOU TESTIFIED EARLIER THAT

5 MEDUSTRIAL REQUIRED IT?

6 A. CORRECT.

7 Q. BUT THAT SCDC DIDN'T REQUIRE IT?

8 A. CORRECT.

9 Q. NOW, THE JCAHO, ISN'T THAT A -- LIKE A NONPROFIT,

10 INDEPENDENT ORGANIZATION THAT ACCREDITS AND

11 CERTIFIES HEALTHCARE ORGANIZATIONS?

12 A. I'M NOT SURE EXACTLY WHAT THE ORGANIZATION IS, BUT I

13 KNOW IT'S REQUIRED FOR YOU TO WORK IN A HOSPITAL.

14 Q. IS IT POSSIBLE THAT JCAHO DOES APPLY TO THE SCDC;

15 YOU MAY BE CONFUSED ABOUT THAT?

16 A. THEY DIDN'T REQUIRE US TO GET JCAHO CERTIFIED TO

17 WORK SCDC, BUT WHEN THEY WERE OPENING UP CONTRACTS

18 FOR THE HOSPITAL, THEY MANDATED THAT WE COME AND GET

19 JCAHO CERTIFIED.

20 Q. WHO IS THEY?

21 A. MEDUSTRIAL.

22 Q. ARE YOU SURE THAT ---

23 A. MEDUSTRIAL TOLD US IF WE DO NOT COME AND GET JCAHO

24 CERTIFIED -- AND THEY TOLD ME WHY THEY NEEDED IT.

25 THEY TOLD ME SPECIFICALLY THEY WERE GETTING READY TO

1 OPEN UP NEW CONTRACTS TO THE HOSPITAL AND THAT THE
2 HOSPITAL REQUIRES ALL THEIR EMPLOYEES TO BE JCAHO
3 CERTIFIED. SO IN ORDER FOR THEM TO COMPLETE THEIR
4 CONTRACTS AND HAVE MORE SHIFTS FOR NURSES OUTSIDE OF
5 THE PRISON SYSTEM, THAT THEY WOULD HAVE TO BE JCAHO
6 CERTIFIED IN ORDER TO GET THESE CONTRACTS. SO THEY
7 TOLD US IF WE DO NOT COME IN AND GET JCAHO CERTIFIED
8 THEY WOULD NO LONGER BOOK US ANY SHIFTS, SCHEDULE US
9 ANYWHERE, OR ACCEPT ANY SHIFTS THAT WE GET BOOKED
10 FOR.

11 Q. WELL, OTHER THAN THE SCDC?

12 A. AT SCDC OR ANYWHERE ELSE.

13 Q. ARE YOU SURE THAT SCDC IS NOT JCAHO CERTIFIED?

14 A. AS FAR AS I KNOW, I'M NOT JCAHO CERTIFIED -- I
15 DIDN'T GET JCAHO CERTIFIED TO GO TO SCDC.

16 Q. ALL RIGHT.

17 A. JCAHO -- THEY MAY BE JCAHO CERTIFIED, BUT THEY
18 DIDN'T MANDATE US TO BE JCAHO CERTIFIED TO GO THERE.
19 THE HOSPITAL DOES.

20 Q. THE -- YOU MENTIONED SOME PROBLEMS WITH YOUR RIGHT
21 ARM; IS THAT CORRECT?

22 A. CORRECT.

23 Q. AND IT LOOKS LIKE YOU WENT TO USC ORTHOPAEDICS ONE
24 TIME FOR THAT; IS THAT CORRECT?

25 A. CORRECT.

1 Q. AND YOU DIDN'T GO BACK TO A DOCTOR FOR YOUR RIGHT
2 ARM, HAVE YOU?

3 A. NO. I WENT TO THE -- ONE OF THE ATTORNEYS THAT YOU
4 MENTIONED THAT I HAD THAT I'VE BEEN TRYING TO SUE
5 THEM FOR A WHILE, HE SENT ME TO WHAT WAS RECOMMENDED
6 TO GO TO. WHAT WAS THAT? FOR PHYSICAL THERAPY.

7 Q. ALL RIGHT. SO ---

8 A. BUT I ONLY ENDED UP COMPLETING A WEEK OF PHYSICAL
9 THERAPY BEFORE HE QUIT BEING MY ATTORNEY, AND THEN
10 THEY CANCELLED THE ATTORNEY LIEN.

11 Q. OKAY. SO, JUST TO MAKE SURE, YOU'VE JUST BEEN TO
12 ONE ORTHOPEDIC SURGEON FOR -- AT USC ORTHOPAEDICS?

13 A. CORRECT.

14 Q. OKAY. AND THAT WAS WHEN YOUR ATTORNEY SENT YOU TO
15 DR. WESTERKAM?

16 A. CORRECT.

17 Q. OKAY. AND DID YOU GO THERE BY YOURSELF?

18 A. DID I GO THERE BY MYSELF? I WENT WITH MY DAUGHTER.

19 Q. OKAY. WERE YOU IN THE ROOM BY YOURSELF WITH DR.
20 WESTERKAM?

21 A. I WAS IN THE ROOM WITH THE DOOR OPEN WITH DR.
22 WESTERKAM.

23 Q. OKAY. AND HE'S A WHITE MALE?

24 A. YES.

25 Q. YOU WERE ABLE TO GO THROUGH THAT ---

1 A. MY DAUGHTER WAS IN THE HALLWAY WAITING FOR ME, WHERE
2 I COULD SEE HER.

3 Q. YOU'VE SUED YOUR ATTORNEY BEFORE THIS -- MR.
4 SAMUELS; IS THAT WHAT YOU SAID?

5 A. I SAID I SUED AN ATTORNEY? I DIDN'T SAY I SUED AN
6 ATTORNEY. I SAID ONE OF THE ATTORNEYS THAT YOU
7 MENTIONED THAT I HAD CLAIMED FOR THS LAWSUIT, 'CAUSE
8 YOU SAID I -- YOU SAID I'VE BEEN TRYING TO SUE THEM
9 FOR -- ONE OF THOSE ATTORNEYS ---

10 Q. OH, I THOUGHT YOU SAID YOU ---

11 A. --- SENT ME TO THE PHYSICAL THERAPY ON AN ATTORNEY
12 LIEN AND SHORTLY QUIT AFTER THAT. SO I NEVER
13 COMPLETED PHYSICAL THERAPY, IS WHY I TOLD YOU THAT.
14 NEVER COMPLETED THE REQUIREMENTS OR THE
15 RECOMMENDATIONS FROM THE ORTHOPEDIC OF THE SIX WEEKS
16 OF PHYSICAL THERAPY AND THEN RETURN TO HIS OFFICE
17 FOR FURTHER EVALUATION AND FURTHER TREATMENT. I
18 NEVER GOT TO DO THAT BECAUSE I LOST MY INSURANCE
19 BECAUSE I HAVE NO MONEY TO PAY MY BILLS.

20 Q. WELL, YOU RECEIVED SOME MONEY TO PAY YOUR BILLS?

21 A. I PAID WHAT I -- PAID MY HOUSE, PAID MY RENT. I
22 HAVE ---

23 Q. YOU'VE RECEIVED \$7,000 FROM THE ---

24 A. YEAH.

25 Q. --- SOUTH CAROLINA VICTIM'S ASSISTANCE NETWORK?

1 A. CORRECT. AND I HAVE \$2,500 WORTH OF BILLS A MONTH.
2 Q. AND YOU RECEIVED -- YOU WERE GETTING YOUR MEDICATION
3 FREE THROUGH WELVISTA?
4 A. HUH?
5 Q. YOU WERE GETTING YOUR MEDICATION FREE?
6 A. NO, YEAH.
7 Q. OKAY. AND AT ONE POINT, WHEN YOU SAID YOU DIDN'T
8 HAVE ANY MONEY, YOUR MEDICATION WAS ONLY COSTING YOU
9 ABOUT \$8 A WEEK?
10 A. I WOULDN'T KNOW. I WASN'T ABLE TO GET IT. I DIDN'T
11 HAVE \$8 A WEEK.
12 Q. WELL ---
13 A. YOU LOSE ALL YOUR INCOME, WHERE DO YOU GET \$8 A WEEK
14 FROM?
15 Q. DO YOU STILL SMOKE?
16 A. YEAH.
17 Q. HOW MUCH DO YOU SMOKE?
18 A. OCCASIONALLY. A PACK PROBABLY LASTS ME AROUND ABOUT
19 THREE DAYS, SOMEWHERE AROUND THERE.
20 Q. ALL RIGHT. HOW MUCH DOES A PACK OF CIGARETTES COST?
21 A. I DON'T KNOW. MY DAUGHTER BUYS THEM.
22 Q. YOU DON'T PAY FOR ANY OF YOUR CIGARETTES?
23 A. NO. I DON'T PAY FOR ANYTHING. I DON'T HAVE ANY
24 INCOME WHERE I CAN PAY FOR STUFF. DO YOU SEE SOME
25 INCOME I'M MISSING? 'CAUSE I'D SURE LIKE IT.

1 Q. WELL, LET'S TALK ABOUT THAT. THAT'S A GOOD POINT.

2 **BY THE WITNESS:**

3 CAN I TAKE A LITTLE BREAK, PLEASE?

4 **BY THE COMMISSIONER:**

5 YES, MA'AM.

6 **BY THE WITNESS:**

7 THANK YOU.

8 (OFF THE RECORD)

9 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

10 Q. ALL RIGHT. MS. TURNER, WE'RE BACK ON THE RECORD.

11 YOU UNDERSTAND YOU'RE STILL UNDER OATH?

12 A. YES.

13 Q. OKAY. I'M GOING TO ASK MS. GOODWIN TO WALK UP AND
14 SHOW YOU DEFENDANTS' APA NUMBER 330.

15 A. OKAY.

16 Q. THREE HUNDRED THIRTY. AND WHEN WE WERE -- JUST
17 BEFORE WE TOOK A RECESS WE WERE TALKING -- I THINK
18 YOU WERE TESTIFYING ABOUT HOW YOU DIDN'T HAVE ANY
19 MONEY AND YOU WANTED TO HAVE SOME INCOME COMING IN.
20 IS THAT CORRECT?

21 A. CORRECT.

22 Q. MA'AM?

23 A. CORRECT.

24 Q. ALL RIGHT. NOW, THIS APPEARS TO BE A LETTER DATED
25 SEPTEMBER 24, 2015, CORRECT?

1 A. CORRECT.

2 Q. THAT'S ABOUT TWO WEEKS AFTER THIS INCIDENT, CORRECT?

3 A. YES.

4 Q. YES. SEPTEMBER 24, 2015, WAS JUST ABOUT TWO MONTHS

5 AFTER THE INCIDENT?

6 A. CORRECT.

7 Q. EXCUSE ME; TWO WEEKS AFTER THE INCIDENT.

8 A. SOMEWHERE AROUND THERE, YES.

9 Q. OKAY. AND MEDUSTRIAL CAME TO YOUR HOUSE AND GAVE

10 YOU THIS LETTER, CORRECT?

11 A. YES, THEY DID.

12 Q. AND IN THE LETTER -- I WON'T READ IT ALL -- BUT THEY

13 SAID THEY COULD PLACE YOU IN A LOW-KEY NURSING HOME

14 OR IN A SPECIAL NEEDS FACILITY? UNDER THE FIRST

15 BULLET POINT OR NEXT TO THE FIRST BULLET POINT?

16 A. ARE YOU ASKING ME A QUESTION?

17 Q. YES. THAT'S WHAT THAT SAYS, CORRECT?

18 A. THAT'S WHAT IT SAY, YES.

19 Q. OKAY. WELL, FIRST THEY EXPRESSED THEIR SYMPATHIES

20 FOR WHAT HAD OCCURRED?

21 A. OKAY.

22 Q. DID THEY, IN THAT FIRST PARAGRAPH?

23 A. THAT'S WHAT IT SAYS.

24 Q. OKAY. AND THEN THEY OFFERED YOU A POSITION TO COME

25 WORK IN THE -- QUOTE, "COME WORK IN THE OFFICE AND

1 ASSIST WITH MINOR FILING AND PAPERWORK NEEDS,"
2 CORRECT?
3 A. CORRECT. THAT'S WHAT IT SAYS.
4 Q. IT SAYS, "YOU ARE WELCOME TO SET YOUR OWN SCHEDULE
5 IN ORDER THAT YOU MAY COME AND GO AS YOU PLEASE,"
6 CORRECT?
7 A. THAT'S WHAT IT SAYS.
8 Q. NOW, THEY ALSO COMMUNICATED THIS OFFER TO YOU --
9 MEDUSTRIAL ALSO COMMUNICATED THIS OFFER TO YOU
10 VERBALLY THROUGH LISSETTE; IS THAT CORRECT?
11 A. CORRECT.
12 Q. AND LISSETTE IS WITH MEDUSTRIAL, WORKS IN THE OFFICE
13 THERE?
14 A. YES.
15 Q. ALL RIGHT. AND YOU DECLINED MEDUSTRIAL'S OFFER,
16 CORRECT?
17 A. DID I DECLINE THIS OFFER?
18 Q. YES, MA'AM.
19 A. I WASN'T EVEN LEAVING. I WASN'T GOING ANYWHERE.
20 Q. OKAY. SO YOU DECLINED IT?
21 A. CORRECT.
22 Q. ALL RIGHT. NOW, THE -- IT SOUNDS LIKE YOU DO WANT
23 TO RETURN TO WORK; IS THAT CORRECT?
24 A. YES.
25 Q. YOU'VE GOT SOME VERY IMPRESSIVE CREDENTIALS, BUT YOU

1 HAVEN'T RETURNED TO -- YOU HAVEN'T TRIED TO GO BACK
2 TO WORK YET, HAVE YOU?

3 A. HAVE I TRIED TO GO BACK TO WORK THROUGH MEDUSTRIAL?

4 Q. NO, THROUGH ANYWHERE.

5 A. AS I TOLD YOU BEFORE IN MY TESTIMONY, THAT I WENT TO
6 VOCATIONAL REHAB, AND THEY TOLD ME THAT I WAS NOT
7 READY.

8 Q. DON'T TELL ME WHAT VOCATIONAL REHAB -- I'M NOT
9 ALLOWED TO ASK YOU WHAT THEY TOLD YOU.

10 A. WELL, I'M TELLING YOU. YOU DIDN'T ASK ME. I'M
11 TELLING YOU THEY TOLD ME THAT I HAD ---

12 **BY MR. HARBISON:**

13 I'VE GOT TO OBJECT TO HEARSAY.

14 **BY MR. SAMUELS:**

15 I OBJECT TO INTERRUPTING THE WITNESS WHEN SHE'S
16 TRYING TO ANSWER A QUESTION HE ELICITED.

17 **BY MR. HARBISON:**

18 I DID NOT ELICIT ---

19 **BY THE COMMISSIONER:**

20 WELL, THE QUESTION IS TO WHETHER HE ELICITED
21 HEARSAY OR NOT. IT IS HEARSAY, SO THE QUESTION
22 WOULD BE HOW DID HE ELICIT IT. I'M NOT ---

23 **BY MR. HARBISON:**

24 I SAID SHE HASN'T GONE BACK TO WORK YET, AND
25 THEN SHE SAID SHE WENT TO VOCATIONAL REHAB AND THEY

1 TOLD HER ---

2 **BY THE WITNESS:**

3 NO. YOU ASKED ME IF I WAS ATTEMPTING TO GO
4 BACK -- HAVE I ATTEMPTED TO GO BACK TO WORK YET, AND
5 I TOLD YOU ABOUT VOCATIONAL REHAB.

6 **BY THE COMMISSIONER:**

7 I'M GOING TO SUSTAIN THE OBJECTION. I DON'T
8 THINK THE HEARSAY ITSELF WAS ELICITED. I'M GOING TO
9 SUSTAIN THE OBJECTION.

10 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

11 Q. YOU HAVEN'T RETURNED TO WORK ANYPLACE, CORRECT?

12 A. NO.

13 Q. AND IN ADDITION TO YOUR EDUCATION AND EVERYTHING
14 WE'VE ALREADY DISCUSSED, YOU'VE PREVIOUSLY BEEN A
15 SUPERVISOR AT SEVERAL PLACES?

16 A. I'VE WORKED ---

17 Q. IS THAT CORRECT?

18 A. --- AS A CHARGE NURSE, YEAH.

19 Q. AND LPNs CAN SUPERVISE CNAs?

20 A. CORRECT.

21 Q. AND CNAs ARE CERTIFIED NURSING ASSISTANTS?

22 A. CORRECT.

23 Q. AND YOU'VE PREVIOUSLY SUPERVISED AS MANY AS SIX
24 DIFFERENT PEOPLE AT A TIME?

25 A. CORRECT.

1 Q. YOU'VE PERFORMED ORIENTATION OF STAFF MEMBERS IN THE
2 PAST?

3 A. YES.

4 Q. YOU'VE PREVIOUSLY HAD THE AUTHORITY TO ORDER
5 SUPPLIES?

6 A. CORRECT.

7 Q. YOU HAVE AN EMAIL ACCOUNT?

8 A. YES.

9 Q. YOU KNOW HOW TO USE A LAPTOP?

10 A. YES.

11 Q. YOU KNOW HOW TO USE A LAPTOP?

12 A. YES.

13 Q. EXCUSE ME?

14 A. YES.

15 Q. YOU KNOW HOW TO SEND AN EMAIL?

16 A. YES.

17 Q. YOU'VE WORKED WITH COMPUTERS BEFORE AS FAR AS YOUR
18 NURSING DUTIES?

19 A. CORRECT.

20 Q. AND YOUR LPN LICENSE IS STILL CURRENT?

21 A. CORRECT.

22 Q. THE MONEY -- I JUST WANT TO MAKE SURE I UNDERSTAND.
23 YOU SAID YOU HAVE NO MONEY. I THINK YOU SAID YOU
24 RECEIVED 7,000 FROM THE VICTIM'S ASSISTANCE PROGRAM?

25 A. CORRECT.

1 Q. YOU'RE RECEIVING FOOD STAMPS?

2 A. YES.

3 Q. YOU'VE APPLIED FOR SOCIAL SECURITY DISABILITY?

4 A. HAVE I -- YES, I HAVE.

5 Q. OKAY. WHAT IS THE RESULT OF THAT?

6 A. I'M STILL WAITING FOR IT TO GO THROUGH. I'M ON THE
7 APPEAL LEVEL.

8 Q. OKAY. AND JUST SO I'M CLEAR, YOU'VE FILED A COUPLE
9 -- YOU'VE FILED A LAWSUIT OR -- AGAINST MEDUSTRIAL,
10 FAIR LABOR EMPLOYMENT CLAIMS ACT?

11 A. WHAT DO YOU MEAN?

12 Q. OKAY. WELL, THIS LADY HERE ---

13 A. I'VE FILED ANOTHER LAWSUIT? IS THERE ANOTHER
14 LAWSUIT? I MEAN, YOU'RE NOT ASKING ME QUESTIONS;
15 YOU'RE LIKE TELLING ME STUFF. YOU'RE STATING THIS
16 AND THEN SAYING CORRECT, STATING THIS AND THEN
17 SAYING CORRECT. YOU'RE NOT ASKING ME A QUESTION.
18 SO IF YOU'D ASK ME A QUESTION, I CAN ANSWER BETTER.

19 Q. HAVE YOU RECEIVED ANY OTHER DONATIONS THAT WE'VE
20 ALREADY ---

21 A. I'VE RECEIVED DONATIONS FROM ALL KINDS OF ENTITIES.

22 Q. YOU HAVE?

23 A. YES.

24 Q. OKAY. APPROXIMATELY HOW MUCH?

25 A. AND IT LASTED ME EIGHT MONTHS IN MY HOUSE WITHOUT

1 WORKING, AND THEN ONCE EIGHT MONTHS CAME UP, I WAS
2 ACTUALLY EVICTED AFTER EIGHT MONTHS. SO, YEAH,
3 DIFFERENT ENTITIES LIKE LICS, DIFFERENT ENTITIES
4 HAVE OFFERED ME DONATIONS TO KEEP ME IN MY HOUSE,
5 YES.

6 Q. YOUR LIVING EXPENSES WERE HOW MUCH PER MONTH?

7 A. ROUGHLY AROUND 2,500. I WOULD SAY THAT'S A ROUGH
8 ESTIMATE, BUT AROUND THERE, SOMEWHERE AROUND THERE.

9 Q. SO THEY'VE -- YOU'VE RECEIVED ABOUT \$24,000 IN
10 DONATIONS?

11 A. HAVE I RECEIVED \$24,000 IN DONATIONS?

12 Q. WELL, I THINK YOU SAID \$2,500 A MONTH, AND MY MATH
13 IS NOT VERY GOOD, BUT \$2,500 A MONTH TIMES EIGHT
14 MONTHS ---

15 A. IF THAT'S THE MATH YOU'RE LOOKING AT, I DON'T KNOW
16 HOW YOU FIGURE THAT. BUT THEY DIDN'T PAY ALL MY
17 BILLS, IF THAT'S WHAT YOU'RE ASKING. THEY DIDN'T
18 PAY EVERYTHING THAT I WAS SUPPOSED TO PAY.

19 Q. YOU RECEIVED ENOUGH TO LAST FOR EIGHT MONTHS?

20 A. IT PAID MY RENT. I WAS WITHOUT ELECTRICITY FROM
21 TIME TO TIME, WATER FROM TIME TO TIME. I WAS
22 WITHOUT FOOD FROM TIME TO TIME. SO, NO, IT WASN'T
23 PAYING MY FULL MONTHLY DEBTS EVERY MONTH. THEY DID
24 NOT DO THAT. SO THAT'S NOT A CORRECT ESTIMATE.
25 IT'S AS THEY SAW FIT. ONE COMPANY WOULD PAY PART OF

1 MY RENT. ANOTHER COMPANY WOULD PAY THE OTHER PART
2 OF MY RENT. ONE COMPANY WOULD PAY A BILL FOR ME, AN
3 ELECTRIC BILL. ONE COMPANY WOULD PAY WATER BILL FOR
4 ME. THE ONLY ACTUAL LUMP SUM OF MONEY THAT I
5 RECEIVED IS THROUGH SOVA SINCE THIS HAPPENED. OTHER
6 THAN THAT, IT'S PAY THIS BILL. THEY NEVER SENT ME
7 THE MONEY OR GAVE ME THE MONEY; THEY PAID THE BILL
8 FOR ME.

9 Q. THEY PAID THE BILL FOR YOU?

10 A. CORRECT.

11 Q. OKAY. SO YOU DON'T CONSIDER THAT GETTING THE MONEY?

12 A. I DIDN'T RECEIVE ANY FUNDS TO MY HOUSE.

13 Q. BUT YOU RECEIVED ---

14 A. SOVA SENT THE FUNDS TO MY HOUSE FOR ME TO DETERMINE
15 WHAT I PAID. THEY PAID UTILITIES.

16 Q. BUT OTHER ORGANIZATIONS PAID OFF SOME OF YOUR BILLS
17 FOR YOU?

18 A. THEY PAID UTILITIES FROM TIME TO TIME. THEY PAID
19 ---

20 Q. AND YOU WERE MAD AT THEM FOR NOT GIVING YOU THE
21 MONEY DIRECTLY?

22 A. DID I SAY I WAS MAD? ARE YOU ASSUMING I'M MAD?
23 OKAY.

24 Q. WERE YOU UPSET WITH THEM FOR NOT GIVING YOU THE
25 MONEY DIRECTLY?

1 A. NO. BUT YOU WERE ACTING LIKE THEY PAID ME, AND THEY
2 DIDN'T.

3 Q. BUT YOU WOULD HAVE PREFERRED TO HAVE IT YOURSELF,
4 THE MONEY?

5 A. DID I SAY THAT? I DON'T RECALL SAYING THAT. I
6 APPRECIATED EVERY BIT OF HELP THAT THEY -- ANYBODY
7 GAVE ME WHEN MY EMPLOYER ABANDONED ME.

8 Q. THE ---

9 A. WHEN I ASKED FOR HELP FROM PLACES THAT I FELT LIKE
10 WERE SUPPOSED TO BE HELPING ME AND THEY TURNED ME
11 DOWN, I HAD TO SEEK HELP FROM SOMEWHERE ELSE SO I
12 COULD KEEP A ROOF OVER MY HEAD, SO I DIDN'T END UP
13 HOMELESS. WOULDN'T YOU? WOULDN'T YOU ASK OTHER
14 ORGANIZATIONS TO HELP YOU IF YOU NEEDED THE HELP?
15 THAT'S WHAT THEY'RE THERE FOR. SO I APPRECIATE
16 EVERY BIT OF HELP, EVEN IF IT WAS \$20 TO FEED MY
17 FAMILY. SO, NO, I WAS NOT ANGRY THAT THEY DIDN'T
18 PAY ME DIRECTLY. THAT I APPRECIATED. BEING
19 ABANDONED I DID NOT.

20 Q. EXCUSE ME?

21 A. BEING ABANDONED BY MY EMPLOYER, I DID NOT
22 APPRECIATE. BEING ABANDONED AFTER I'D BEEN BEATEN
23 AND ABUSED IN A PRISON FACILITY WORKING FOR THEM,
24 BEING TOLD I WAS ONE OF THEIR BEST EMPLOYEES AND
25 THEN TURN AROUND AND SAY I'M NOT YOUR EMPLOYEE AFTER

1 I GET HIT, AFTER I GET BEAT DOWN, AFTER I GET HELD
2 HOSTAGE AND THREATENED MY LIFE, THAT'S WHEN I FOUND
3 OUT THEY CLAIMED THAT I WAS NOT THEIR EMPLOYEE.
4 THEY NEVER SAID THAT BEFORE. UP UNTIL THEN I WAS
5 THEIR BEST EMPLOYEE OR ONE OF THEIR BEST EMPLOYEES.
6 THEY, IN FACT, USED TO BUY ME LUNCHES AND TREAT ME
7 -- OH, OKAY, WE'LL WE'RE GONNA GET YOU A LUNCH TODAY
8 BECAUSE YOU'RE ONE OF OUR BEST AND MOST COMPLIANT
9 EMPLOYEES. YOU COMPLY WITH ALL OF OUR POLICIES.
10 SO, YES, CONTRACTOR AND ALL THIS OTHER STUFF DIDN'T
11 COME UP UNTIL AFTER ---

12 Q. YOU'RE MAD AT ---

13 A. --- SEPTEMBER 5TH IN 2015.

14 Q. YOU'RE MAD THAT THEY -- YOU CLAIM THAT THEY ---

15 A. DON'T ASSUME I'M MAD AT ANYTHING.

16 Q. OKAY. WELL, ARE YOU UPSET THAT -- OR YOU BELIEVE
17 THAT THEY ABANDONED YOU, MEDUSTRIAL?

18 A. I BELIEVE SO. THEY ABANDONED ME WHEN THEY ---

19 Q. BUT THEY OFFERED YOU ANOTHER POSITION WITHIN TWO
20 WEEKS, CORRECT?

21 A. WITHIN TWO WEEKS. AND I ALSO TOLD HER THAT I WAS
22 NOT AT THE TIME WHERE I'M EVEN FEELING COMFORTABLE
23 LEAVING MY HOUSE ---

24 Q. AND THEY OFFERED ---

25 A. --- AT THAT TIME, IS WHAT I TOLD HER ---

1 Q. EXCUSE ME. I DIDN'T MEAN TO INTERRUPT YOU.

2 A. --- WHEN SHE BROUGHT THAT PAPER TO MY HOUSE.

3 Q. THEY OFFERED TO NEGOTIATE SOME MEDICAL BILLS ON YOUR
4 BEHALF?

5 A. HAVE THEY PAID ANY OF MY MEDICAL BILLS ON MY BEHALF?
6 THEY'VE GOT THEM. THEY'VE GOT COPIES OF THEM. HAVE
7 THEY PAID ANY OF THE MEDICAL BILLS THAT THEY OFFERED
8 TO PAY? HAVE THEY PAID ANY OF MY MEDICAL BILLS?

9 Q. LET ME ASK YOU ---

10 A. SINCE THEY OFFERED TO PAY THEM -- YOU SAID THAT THEY
11 OFFERED AND THIS WAS AN HONEST OFFER, THIS IS AN
12 HONEST OFFER. WHEN THEY RECEIVED MY MEDICAL BILLS,
13 DID THEY -- DID THEY CALL THEM AND CONTACT THEM TO
14 PAY ANY OF THEM?

15 **BY MR. GOODWYN:**

16 YOUR HONOR, I'M GOING TO OBJECT. THIS IS ---

17 **BY THE WITNESS:**

18 THIS IS WHAT THEY SAID.

19 **BY MR. GOODWYN:**

20 THESE QUESTIONS ARE NOT RESPONSIVE. SHE'S UP
21 THERE ASKING QUESTIONS.

22 **BY THE WITNESS:**

23 I MEAN, IT SAYS WE WILL PAY YOUR MEDICAL BILLS.

24 **BY MR. GOODWYN:**

25 SHE CAN'T ---

1 **BY THE WITNESS:**

2 BUT, YET, NONE OF MY MEDICAL BILLS HAVE BEEN
3 PAID.

4 **BY THE COMMISSIONER:**

5 WAIT. LET'S NOT TALK OVER EACH OTHER. ALL
6 RIGHT. YOUR OBJECTION, MR. GOODWYN?

7 **BY MR. GOODWYN:**

8 IT'S NON-RESPONSIVE. SHE'S ASKING QUESTIONS.
9 THAT'S NOT RESPONSIVE OF HIS QUESTION.

10 **BY THE COMMISSIONER:**

11 MR. SAMUELS?

12 **BY MR. SAMUELS:**

13 YOUR HONOR, THIS HAS BEEN A LONG, GRUELING,
14 TEDIOUS CROSS EXAMINATION, AND REPETITIVE. SHE
15 ANSWERED HIS QUESTION. IT WAS RESPONSIVE TO HIS
16 QUESTION. SHE'S ENTITLED TO ANSWER HIS QUESTION AS
17 SHE SEES FIT AS LONG AS IT'S RESPONSIVE, AND IT WAS.

18 **BY THE COMMISSIONER:**

19 OKAY. I AM GOING TO ASK A COUPLE OF THINGS.
20 ONE, THERE HAS BEEN SOME TALKING -- AND AN EXAMPLE
21 IS JUST THEN. THERE'S BEEN SOME TALKING OVER.
22 MA'AM, I'M GOING TO ASK FOR YOU TO WAIT UNTIL HE
23 FINISHES HIS QUESTION BEFORE YOU ANSWER.

24 **BY THE WITNESS:**

25 WELL, HE NEEDS TO ---

1 BY THE COMMISSIONER:

2 I'LL ASK ---

3 BY THE WITNESS:

4 --- ASK ME A QUESTION.

5 BY THE COMMISSIONER:

6 MA'AM, LET ME FINISH.

7 BY THE WITNESS:

8 OKAY.

9 BY THE COMMISSIONER:

10 THEN I'M GOING TO ASK HIM TO WAIT UNTIL YOU'RE
11 FINISHED. BUT IF THERE'S A QUESTION ANSWERED -- I
12 MEAN, IF HE ASKS YOU A QUESTION, EVEN IF IT'S IN THE
13 FORM OF A STATEMENT AND THEN HAS A QUESTION ON THE
14 END, THEN YOU NEED TO ANSWER IT. I ALSO WANT TO LET
15 YOU KNOW IF SOMEBODY -- THERE'S BEEN A COUPLE OF
16 TIMES WHERE PEOPLE HAVE ASKED YOU TO SAY YES OR NO.
17 THEY'RE NOT PICKING ON YOU. THIS LADY RIGHT HERE
18 HAS TO PICK UP EVERYTHING. SO IT'S VERY DIFFICULT
19 -- I'M SPEAKING OF THE COURT REPORTER. IT'S VERY
20 DIFFICULT WHEN PEOPLE ARE SPEAKING ON TOP OF EACH
21 OTHER AND ALSO IF THERE'S NOT A YES OR NO ON THE
22 ANSWER. AND, AGAIN, NOBODY IS PICKING AT YOU. I
23 JUST WANTED TO -- I THINK THIS WOULD BE AN
24 APPROPRIATE OPPORTUNITY TO MAKE THAT CLEAR. ALL
25 RIGHT. SO, MR. HARBISON, IF YOU WILL WAIT UNTIL THE

1 END OF THE ANSWER BEFORE YOU START YOUR NEXT
2 QUESTION. ALL RIGHT. THANK YOU ALL.

3 CROSS EXAMINATION RESUMED BY MR. HARBISON:

4 Q. ALL RIGHT. LET ME ASK YOU A LITTLE BIT ABOUT YOUR
5 MEDICAL TREATMENT, MS. TURNER, IF I MAY. IT LOOKS
6 LIKE YOU WERE ADMITTED TO THE PALMETTO HEALTH
7 BAPTIST BEHAVIORAL DAY TREATMENT IN OCTOBER OF 2015,
8 CORRECT?

9 A. CORRECT.

10 Q. AND WERE YOU ALWAYS TRUTHFUL TO YOUR MEDICAL
11 CAREGIVERS THERE?

12 A. NO.

13 Q. YOU WERE NOT?

14 A. NO.

15 Q. OKAY. THE -- IT'S MY UNDERSTANDING THAT ON -- I'M
16 REFERRING TO PAGE 30 OF YOUR ATTORNEY'S APA
17 SUBMISSIONS. YOU ADVISED THEM THAT -- YOUR
18 CAREGIVERS THAT YOU DRANK 12 BEERS A DAY. WERE YOU
19 TRUTHFUL OR NOT TRUTHFUL THERE?

20 A. WHAT HAPPENED?

21 Q. YOU TOLD THEM THAT YOU DRANK 12 BEERS PER DAY. DO
22 YOU REMEMBER TELLING THEM THAT IN OCTOBER OF 2015?

23 A. IF THAT'S WHAT'S ON THERE.

24 Q. WAS THAT -- YOU SAID YOU WERE AT TIMES NOT TRUTHFUL
25 TO YOUR CAREGIVERS; ISN'T THAT CORRECT?

1 A. THERE WAS ONLY ONE TIME I WASN'T TRUTHFUL.

2 Q. AND IT LOOKS LIKE YOU HAD SOME PROBLEMS WITH
3 ATTENDANCE, CORRECT?

4 A. I HAD PROBLEMS WITH ATTENDANCE?

5 Q. YES, MA'AM.

6 A. NOT BY MY CHOICE, NO.

7 Q. OKAY. WELL, THEY BASICALLY DISCHARGED YOU ON
8 NOVEMBER 6 ---

9 A. THEY DISCHARGED ME OR TRANSFERRED ME?

10 Q. WELL, NO, DISCHARGED YOU ON NOVEMBER 6TH DUE TO
11 ATTENDANCE PROBLEMS. ISN'T THAT CORRECT?

12 A. NO. THAT'S NOT WHAT THEY TOLD ME ANYWAY.

13 Q. ALL RIGHT. WELL ---

14 A. THEY WERE TRANSFERRING ME TO LEXINGTON COUNTY MENTAL
15 HEALTH TO CONTINUE MY THERAPY. THAT'S WHAT I WAS
16 TOLD. AND THE REASON THAT THEY WERE TRANSFERRING ME
17 TO LEXINGTON COUNTY MENTAL HEALTH IS BECAUSE I WAS
18 HAVING DIFFICULTY GETTING TO THEIR FACILITY THREE TO
19 FIVE DAYS A WEEK.

20 Q. ALL RIGHT. LET ME BACK UP. FIRST OF ALL, ACCORDING
21 TO PAGE 78 OF RECORDS THAT YOUR ATTORNEY HAS
22 SUBMITTED INTO EVIDENCE, RECORDS DATED NOVEMBER 25,
23 QUOTE, "PATIENT DISCHARGED ON 11/6 DUE TO LACK OF
24 ATTENDANCE AND WAS READMITTED 11/10 PER CONCERNING
25 OVER PATIENT'S MOOD AND FUNCTIONAL ABILITY," CLOSE

1 QUOTE. SO AT ONE POINT YOU WERE DISMISSED, CORRECT?

2 A. NO. NOT THAT I WAS AWARE OF, NO.

3 Q. OKAY. YOUR TESTIMONY IS YOU WERE NEVER DISCHARGED?

4 A. NOT THAT I WAS AWARE OF.

5 Q. OKAY. AND THEN -- BUT ULTIMATELY THE RECORDS SAY
6 YOU WERE READMITTED. DO YOU REMEMBER THAT?

7 A. NOT THAT I WAS AWARE OF.

8 Q. ON OCTOBER 21ST, WE JUST MENTIONED, YOU TOLD THEM
9 YOU DRANK 12 BEERS A DAY? I'M SORRY IF IT'S
10 REPETITIVE. BUT THAT IS CORRECT? YOU WERE BEING
11 TRUTHFUL?

12 A. AT THE TIME?

13 Q. YES.

14 A. I WAS DRINKING, YES.

15 Q. ALL RIGHT. I'M GOING TO REFER YOU TO PAGE 20 OF
16 YOUR ---

17 A. PRIOR TO MY -- PRIOR TO ME STARTING TREATMENT, I WAS
18 DRINKING HEAVILY.

19 Q. JUST THE DAY BEFORE YOU TOLD THEM YOU WERE DRINKING
20 12 BEERS A DAY, YOU TOLD THEM -- WHEN THEY ASKED DO
21 YOU DRINK ALCOHOL, YOU ANSWERED OCCASIONALLY?

22 A. WHAT HAPPENED?

23 Q. DIDN'T YOU ANSWER OCCASIONALLY? DO YOU REMEMBER
24 THAT?

25 A. I'M NOT SURE WHERE YOU'RE TALKING ABOUT NOW.

1 Q. YOU DON'T ---

2 A. CAN I SEE THE DOCUMENTS THAT YOU'RE TALKING ABOUT?

3 Q. SURE.

4 A. SO I'LL KNOW WHAT YOU'RE TALKING ABOUT.

5 Q. YEAH.

6 A. CAN SHE BRING THEM TO ME, PLEASE?

7 **BY THE COMMISSIONER:**

8 WHAT PAGE NUMBER ARE YOU REFERRING TO?

9 **BY MS. GOODWIN:**

10 TWENTY-TWO AND ---

11 **BY MR. HARBISON:**

12 --- PAGE 30.

13 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

14 Q. SO, PAGE 22 YOU HAVE IN FRONT OF YOU, AND YOU SEE
15 WHERE IT SAYS -- EXCUSE ME; PAGE 21.

16 A. THIS IS 22 I HAVE IN FRONT OF ME.

17 **BY MS. GOODWIN:**

18 HERE'S 21.

19 **BY MR. HARBISON:**

20 I'M SORRY; IF I COULD SEE WHAT WE'RE LOOKING AT
21 NOW.

22 **BY MS. GOODWIN:**

23 HERE.

24 **BY THE WITNESS:**

25 CAN YOU MAKE HIM MOVE FROM BLOCKING MY WAY?

1 **BY MR. HARBISON:**

2 OKAY. DO YOU MIND IF SHE APPROACHES THE
3 WITNESS? STARTING WITH PAGE 20.

4 **BY THE WITNESS:**

5 DON'T BLOCK MY WAY. YOU CAN STAND RIGHT THERE
6 AND PASS IT TO ME. DON'T BLOCK MY WAY, PLEASE.

7 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

8 Q. I'M GOING TO -- ON THE BOTTOM MIDDLE OF PAGE 20, YOU
9 SEE THAT, MS. TURNER? DO YOU SEE THAT?

10 A. OKAY.

11 Q. OKAY. IN THE TOP RIGHT-HAND CORNER IT SAYS OCTOBER
12 20, 2015?

13 A. OKAY.

14 Q. AND IF YOU'LL SHIFT OVER TWO PAGES TO 22.

15 A. I CAN'T SHIFT OVER TWO PAGES. I'VE GOT ONE PAGE IN
16 MY HAND, OKAY?

17 Q. AND MIDWAY THERE IT SAYS, "DO YOU DRINK ALCOHOL?"
18 AND YOU ANSWERED, QUOTE, "OCCASIONALLY."

19 A. OKAY.

20 Q. WAS THAT BEING TRUTHFUL?

21 A. WAS THIS BEING TRUTHFUL?

22 Q. YES, MA'AM.

23 A. AT THIS TIME I WAS DRINKING HEAVILY.

24 Q. SO YOU WEREN'T BEING TRUTHFUL THERE?

25 A. AT THE TIME, I WAS EMBARRASSED BY WHAT I WAS GOING

1 THROUGH AT THE TIME.

2 Q. OKAY. SO YOU ADMIT YOU WEREN'T BEING HONEST WITH
3 THE DOCTORS THERE?

4 A. NOT AT THAT TIME, NO.

5 Q. OKAY. AND AT ONE POINT IN YOUR STAY YOU TESTED
6 POSITIVE FOR MARIJUANA; IS THAT CORRECT?

7 A. CORRECT.

8 Q. AND THAT WAS, I BELIEVE, IN OCTOBER. DOES THAT
9 SOUND ABOUT RIGHT?

10 A. CORRECT.

11 Q. AND ACCORDING TO PAGE 81 ---

12 A. I DON'T HAVE A PAGE 81.

13 Q. --- OF YOUR ATTORNEY'S APA SUBMISSIONS, "MET WITH
14 PATIENT TO DISCUSS POSITIVE U.D.S. RESULTS, PROGRAM
15 POLICY, AND PROGRESS IN PROGRAM. WHEN PATIENT WAS
16 INFORMED OF POSITIVE TEST RESULTS, SHE BECAME
17 DEFENSIVE AND ARGUMENTATIVE," CLOSE QUOTE. DO YOU
18 REMEMBER THAT HAPPENING?

19 A. I REMEMBER THEM COMING TO ME AND ASKING ME ABOUT IT.

20 Q. YOU DON'T ---

21 A. I DON'T SEE HOW THEY SAID I WAS ARGUMENTATIVE. I
22 DIDN'T ARGUE WITH THEM ABOUT IT.

23 Q. WELL, YOU RECALL BECOMING ARGUMENTATIVE ABOUT IT,
24 DON'T YOU?

25 A. NO.

1 Q. DO YOU REMEMBER THE CONVERSATION WITH THE NURSE?

2 A. I REMEMBER HAVING A CONVERSATION WITH THEM ABOUT IT,
3 YES.

4 **BY MR. HARBISON:**

5 EXCUSE ME ONE SECOND, COMMISSIONER.

6 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

7 Q. I'M GOING TO ASK MS. GOODWIN TO SHOW YOU SOMETHING
8 FROM YOUR DEPOSITION. THIS IS THE DEPOSITION YOU
9 GAVE JUST A WEEK OR TWO AGO.

10 A. OKAY.

11 Q. DO YOU REMEMBER THAT?

12 A. I REMEMBER TAKING A DEPOSITION. I DON'T REMEMBER
13 EVERYTHING I SAID.

14 Q. OKAY. I'M GOING TO REFER YOU TO PAGE ---

15 A. OR EVERYTHING THAT WAS ASKED.

16 Q. --- 25 OF YOUR DEPOSITION. MR. GOODWIN ASKED YOU,
17 ON LINE, THREE, "OKAY. THE NOTE INDICATES THAT YOU
18 BECOME DEFENSIVE AND ARGUMENTATIVE WHEN CONFRONTED
19 WITH THE POSITIVE TEST RESULTS. IS THAT ACCURATE?"
20 ANSWER, QUOTE: "YES, BECAUSE THEY DIDN'T TELL ME IT
21 WAS GOING TO BE A DRUG SCREEN."

22 A. OKAY.

23 Q. "THEY TOLD ME IT WAS GOING TO BE A URINALYSIS,"
24 CLOSE QUOTE.

25 A. OKAY.

1 Q. SO YOU DID BECOME DEFENSIVE AND ARGUMENTATIVE?

2 A. I BECAME DEFENSIVE. I WOULDN'T SAY ARGUMENTATIVE.
3 I DIDN'T ARGUE WITH THEM ABOUT IT.

4 Q. WELL, YOU WERE MAD BECAUSE YOU DIDN'T KNOW IT WAS
5 GOING TO BE A DRUG SCREEN?

6 A. I BECAME DEFENSIVE. I DIDN'T SAY I WAS MAD OR
7 ARGUMENTATIVE.

8 Q. OKAY. YOU WERE UPSET? YOU DIDN'T HAVE ADVANCE
9 NOTICE OF THE DRUG TEST, DID YOU?

10 A. NO, THEY DIDN'T TELL ME IT WAS GOING TO BE A DRUG
11 TEST.

12 Q. AND AT THAT TIME YOU WERE SMOKING MARIJUANA, I
13 GUESS, ABOUT ONE TIME A WEEK?

14 A. SOMEWHERE AROUND THERE. I DIDN'T TIME STAMP IT WHEN
15 I SMOKED; SO... THIS WAS WHEN YOU GUYS HAD
16 ADVANTAGE OVER ME. I WASN'T GETTING ANY HELP. I
17 WAS LOOKING FOR HELP FROM EVERY PLACE I COULD FIND
18 IT, AND NOBODY WAS HELPING ME STOP THE NIGHTMARES,
19 STOP THE PARANOIA, STOP THE PANIC ATTACKS, NOTHING,
20 NO MEDICATION FROM NOWHERE. NOBODY WAS HELPING ME.

21 Q. AND WHEN THEY -- THE DOCTORS ASKED YOU HOW THEY
22 COULD HELP YOU, YOU TOLD THEM YOU DIDN'T THINK YOU
23 COULD BE HELPED BEYOND GETTING FINANCIAL RESOURCES;
24 ISN'T THAT CORRECT?

25 A. WHAT HAPPENED, NOW? WHAT DID THEY SAY?

- 1 Q. DIDN'T YOU TELL THE DOCTORS ON NOVEMBER 17 YOU
2 COULDN'T THINK OF HOW THEY COULD HELP YOU OTHER THAN
3 GIVING YOU FINANCIAL RESOURCES?
- 4 A. NEVER HAVE TOLD ANYBODY THAT.
- 5 Q. HELPING YOU FIND FINANCIAL RESOURCES?
- 6 A. I'VE NEVER TOLD ANYBODY THAT. I DIDN'T GO TO
7 THERAPY TO GET FINANCIAL HELP, IF THAT'S WHAT YOU
8 MEAN. I WENT TO THERAPY TO STOP THE PANIC ATTACKS,
9 STOP THE NIGHTMARES.
- 10 Q. WELL ---
- 11 A. STOP ME EVERY TIME I HEAR A DOOR CLOSE I FREAK OUT.
- 12 Q. WELL, YOU WENT TO -- YOU WERE ---
- 13 A. I'M STILL BEING TREATED AT LEXINGTON COUNTY MENTAL
14 HEALTH. THEY AREN'T PROVIDING ME ANY FINANCIAL
15 ASSISTANCE.
- 16 Q. BUT YOU RECEIVED THERAPY AT THE -- AT THE PALMETTO
17 BAPTIST BEHAVIORAL HEALTH, CORRECT?
- 18 A. SORRY?
- 19 Q. YOU RECEIVED THERAPY AT PALMETTO ---
- 20 A. I RECEIVED THERAPY THERE, AND THEN THEY RECOMMENDED
21 THAT I GO TO LEXINGTON COUNTY MENTAL HEALTH TO
22 CONTINUE MY THERAPY, WHICH I AM PRESENTLY BEING
23 TREATED AT TODAY.
- 24 Q. OKAY. AND YOU'RE CLAIMING THAT YOU DIDN'T EVER
25 REQUEST ASSISTANCE WITH FINANCES AT PALMETTO ---

1 A. I REQUESTED ASSISTANCE FOR FINANCES EVERYWHERE I'VE
2 BEEN.

3 Q. YOU DID?

4 A. I WOULD ALSO REQUEST IT. I DIDN'T SAY THAT'S THE
5 ONLY THING THEY COULD HELP ME WITH. THAT'S WHAT YOU
6 ASKED ME BEFORE. YOU ASKED ME IF THAT'S THE ONLY
7 THING THAT THEY COULD HELP ME -- WHAT CAN THEY HELP
8 -- POSSIBLY HELP ME WITH. YOU TOLD ME THE ONLY
9 THING I COULD HELP THEM WITH IS FINANCIAL
10 ASSISTANCE. THAT IS NOT WHY I WENT TO THERAPY.
11 THAT WAS ALSO SOME -- SOME THINGS THAT WERE
12 COMBATING MY THERAPY AND COMBATING MY PROGRESS IN
13 THERAPY, IS THE FACT THAT I DIDN'T KNOW WHERE I WAS
14 GONNA LIVE EVERY DAY. I HAD TO CONCENTRATE NOT ONLY
15 ON THERAPY, BUT WHETHER OR NOT I WAS GONNA HAVE A
16 ROOF OVER MY HEAD, WHETHER I WAS GONNA BE ABLE TO
17 FEED MY CHILDREN, WHETHER I WAS GOING TO BE ABLE TO
18 DO ANYTHING, WHETHER I WAS EVER GONNA GET BACK TO
19 WORK, WHETHER THESE CRAZY THOUGHTS IN MY HEAD WERE
20 EVER GONNA GO AWAY.

21 Q. ON NOVEMBER 19TH YOU REQUESTED A DOCTOR, ACCORDING
22 TO PAGE 83, TO SIGN A DMV FORM STATING THAT YOU HAD
23 BEEN UNABLE TO DRIVE WHILE IN THE PROGRAM. YOU TOLD
24 THEM THAT THE FORM WILL REDUCE THE PENALTIES TOWARD
25 HER FOR NOT HAVING PAID HER CAR INSURANCE AND HAVING

- 1 A SUSPENDED LICENSE. DO YOU REMEMBER THAT?
- 2 A. WHAT IS THAT, NOW?
- 3 Q. DO YOU REMEMBER ASKING THE DOCTOR TO SIGN A DMV FORM
- 4 FOR YOU?
- 5 A. I DON'T EVEN -- WHAT DMV FORM ARE YOU TALKING ABOUT?
- 6 Q. YOU DON'T REMEMBER HAVING A SUSPENDED LICENSE BACK
- 7 IN NOVEMBER OF ---
- 8 A. MY LICENSE WAS SUSPENDED BECAUSE I COULDN'T PAY MY
- 9 INSURANCE.
- 10 Q. WELL, IT WAS SUSPENDED FOR ANOTHER REASON, TOO?
- 11 A. OKAY.
- 12 Q. WASN'T IT ---
- 13 A. NOT IN OCTOBER WHEN I WAS GOING TO THEM.
- 14 Q. YOU GOT A DUI?
- 15 A. I GOT A DUI IN DECEMBER, NOT IN OCTOBER.
- 16 Q. OF 2015?
- 17 A. YES.
- 18 Q. AND RESISTING ARREST?
- 19 A. I GOT A DUI IN 2015 BECAUSE I WAS SUFFERING FROM A
- 20 SIDE EFFECT OF THE MEDICATION THAT THEY PUT ME ON.
- 21 Q. OKAY. SO THESE RECORDS ARE INCORRECT, TOO?
- 22 A. WHAT'S THAT? WHAT RECORDS?
- 23 Q. WELL, IF THE RECORDS -- IF YOU WERE TO ASSUME THE
- 24 RECORDS SAY THAT YOU WERE ASKING FOR A DOCTOR TO
- 25 SIGN A DMV FORM AND WHEN HE REFUSED YOU BECAME

1 IRRITATED ---

2 A. I DON'T KNOW WHAT DMV FORM THEY WOULD BE TALKING
3 ABOUT.

4 Q. OKAY.

5 A. I KNOW NOBODY CAN TELL ME I -- THEY WEREN'T WRITING
6 NO PAPERWORK TO SAY -- TELL ME I WAS NOT ABLE TO
7 DRIVE.

8 Q. DO YOU REMEMBER BECOMING IRRITATED ON THE SAME DAY
9 WHEN YOU ASKED THE THERAPIST TO MAKE NUMEROUS FORMS
10 AND FAX DOCUMENTATION FOR YOU THAT WERE NOT RELATED
11 TO YOUR TREATMENT?

12 A. I'M SORRY?

13 Q. DO YOU REMEMBER BECOMING IRRITATED WITH THE
14 THERAPIST ON THAT DAY WHEN YOU ASKED HER TO MAKE
15 NUMEROUS COPIES OF FAXES AND OTHER DOCUMENTS FOR YOU
16 THAT WERE NOT EVEN RELATED TO YOUR THERAPY?

17 A. I DON'T KNOW WHAT YOU'RE TALKING ABOUT.

18 Q. YOU DON'T REMEMBER THAT?

19 A. I DON'T KNOW WHAT YOU'RE TALKING ABOUT.

20 Q. ALL RIGHT. LET ME ASK YOU ABOUT ANOTHER TIME, ON
21 NOVEMBER 13, WHICH IS PAGE 79 OF YOUR ATTORNEY'S
22 SUBMISSIONS.

23 A. I DON'T KNOW WHAT YOU WANT ME TO ANSWER. I DON'T
24 SEE THE PAPER IN FRONT OF ME.

25 Q. I'M GOING TO SHOW YOU WHAT'S BEEN NUMBERED PAGE 79

1 OF MR. SAMUELS' APA SUBMISSIONS.

2 A. OKAY.

3 Q. AND IF YOU'LL TAKE A LOOK ABOUT HALFWAY DOWN THAT
4 FIRST PARAGRAPH.

5 A. OKAY. WHAT DO YOU WANT ME TO ANSWER ABOUT THIS?

6 Q. DO YOU REMEMBER THE THERAPIST SUGGESTING -- YOU
7 DECLINING ASSISTANCE FROM YOUR EX-PARTNER'S FAMILY
8 AND YOUR CHILDREN'S HELP BECAUSE YOU DIDN'T WANT TO
9 BE A BURDEN TO THEM?

10 A. WHAT ARE YOU TALKING ABOUT?

11 Q. WELL, LOOK AT THE LAST THREE SENTENCES. "PATIENT
12 DECLINES ASSISTANCE FROM EX-PARTNER'S FAMILY AND HER
13 CHILDREN'S HELP BECAUSE SHE DOESN'T WANT TO BURDEN
14 OTHERS. PATIENT WAS ENCOURAGED TO RECONSIDER HER
15 OPTIONS. PATIENT BECAME UPSET AND REPORTED NOT
16 FEELING HEARD. PATIENT STATED SHE DIDN'T WANT TO
17 TALK ANYMORE AND LEFT. PATIENT LATER RETURNED AND
18 REQUESTED FINANCIAL ASSISTANCE TO GET HOME BECAUSE
19 SHE IS ALMOST OUT OF GAS. PATIENT WAS OFFERED A
20 RIDE HOME PER FACILITY RESOURCES BUT DENIED
21 FINANCIAL ASSISTANCE BY STAFF. PATIENT REFUSED THE
22 RIDE AND DECIDED TO LEAVE THE BUILDING."

23 A. OKAY.

24 Q. DO YOU REMEMBER THAT OCCURRING?

25 A. I REMEMBER ASKING THEM FOR A RIDE. I ASKED THEM

1 INITIALLY FOR A GAS CARD BECAUSE THEY HAD GIVEN ME A
2 GAS CARD BEFORE TO GET HOME, AND I ASKED THEM IF
3 THEY HAD ANOTHER GAS CARD, AND THEY -- IF THAT'S THE
4 FINANCIAL ASSISTANCE YOU'RE TALKING ABOUT, I ASKED
5 THEM FOR ANOTHER GAS CARD SINCE THEY HAD GIVEN ME
6 ONE PREVIOUSLY. IT'S NOT THE FIRST TIME I'VE NEEDED
7 ASSISTANCE GETTING BACK AND FORTH TO THE FACILITY.
8 THAT'S THE REASON I -- THEY CLAIM THAT I WAS
9 NONCOMPLIANT WITH THEM, BECAUSE I COULDN'T GET
10 THERE, NOT BECAUSE I DIDN'T WANT TO. I HAD NO GAS
11 TO GET BACK AND FORTH. THAT WAS A MAJOR PROBLEM
12 WITH ME GETTING TO THERAPY. I WAS SUPPOSED TO START
13 A FIVE-DAY PROGRAM, BUT THEN THEY DROPPED ME DOWN TO
14 A THREE-DAY PROGRAM BECAUSE OF MY TRANSPORTATION
15 ISSUES IN THE INITIAL BEGINNING OF GOING TO THIS
16 FACILITY. IT'S ALWAYS BEEN A PROBLEM WITH ME
17 GETTING UP THERE FOR FIVE TO THREE -- THREE TO FIVE
18 DAYS A WEEK. NOW, WHAT IS YOUR QUESTION ABOUT THIS
19 PAPER?

20 Q. THE ---

21 A. THE RIDE HOME THAT THEY OFFERED ME WAS IN A VAN WITH
22 A WHITE MALE DRIVER, AND I TOLD THEM I WAS NOT
23 GETTING IN THAT VAN WITH HIM.

24 Q. WELL ---

25 A. SO I WOULD RISK GETTING HOME IN MY CAR ON MY OWN.

- 1 Q. WELL, ACTUALLY, YOU DIDN'T CONFIRM THAT IT WAS A
2 WHITE MALE IN THE VAN, DID YOU?
- 3 A. HOW DID I NOT CONFIRM IT? I'VE SEEN HIM. HE'S THE
4 ONE THAT DRIVES OTHER PATIENTS HOME.
- 5 Q. BUT THAT WAS ON ---
- 6 A. HOW DID I NOT CONFIRM IT?
- 7 Q. THAT WAS ON PRIOR OCCASIONS?
- 8 A. HE'S THE DRIVER OF THE VAN.
- 9 Q. BUT THAT PARTICULAR DAY YOU DIDN'T CONFIRM WHICH ONE
10 YOU WERE GOING TO HAVE?
- 11 A. NO, I DIDN'T, 'CAUSE I ALREADY ASSUMED THAT HE WOULD
12 BE THE ONE DRIVING ME HOME. SO, NO, I DIDN'T ASK.
- 13 Q. AND YOU DIDN'T ASK SOMEONE IF SOMEONE ELSE OTHER
14 THAN THE WHITE MALE COULD DRIVE YOU?
- 15 A. I DIDN'T ASK HER THAT, NO.
- 16 Q. AND YOU WERE DEALING WITH A THERAPIST WHO WAS WELL
17 AWARE OF WHAT WAS GOING ON WITH YOUR PROBLEMS?
- 18 A. YES, AND SHE ALSO WAS VERY WELL AWARE OF ALL MY
19 PROBLEMS. I'M VERY TRIGGERED ON THIS DAY, AS YOU
20 CAN SEE.
- 21 Q. EXCUSE ME?
- 22 A. THE DOCUMENTATION UP HERE, MET WITH PATIENT WHEN SHE
23 WAS FOUND OUTSIDE THE PATIENT'S ROOM IN ANOTHER
24 PATIENT'S -- AND BEING TRIGGERED. THIS WAS A VERY
25 HIGH VOLATILE MOMENT FOR ME, ONE OF THE MOST

1 VOLATILE MOMENTS AT THIS THERAPY CENTER.

2 Q. WELL, YOU HAD SOME ABSENCES, YOU SAID, BECAUSE OF
3 GAS?

4 A. BECAUSE OF TRANSPORTATION AND...

5 Q. I THINK YOU WERE -- HAD A FLAT TIRE AT ONE TIME?

6 A. CORRECT.

7 Q. YOU WENT OUT OF TOWN ONE TIME?

8 A. WHAT DO YOU MEAN, I WENT OUT OF TOWN ONE TIME?

9 Q. WELL, DIDN'T YOU LEAVE TOWN AND MISS A ---

10 A. NO, I NEVER LEFT TOWN TO GO ANYWHERE.

11 Q. DIDN'T YOU GO DOWN TO CHARLESTON?

12 A. NO.

13 Q. TO DO SOMETHING WITH YOUR GREEN CARD?

14 A. NO. I ACTUALLY JUST RECENTLY GOT MY GREEN CARD. DO
15 YOU NEED TO SEE IT, WHEN IT WAS ISSUED?

16 **BY MR. HARBISON:**

17 EXCUSE ME, COMMISSIONER.

18 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

19 Q. DO YOU REMEMBER IN SEPTEMBER OF 2016 CANCELLING AN
20 APPOINTMENT BECAUSE YOU WERE IN CHARLESTON GETTING
21 YOUR GREEN CARD? THIS IS ON PAGE 162 OF YOUR
22 ATTORNEY'S APA SUBMISSIONS.

23 A. I DON'T HAVE THAT PAPER, SO I CAN'T TELL YOU WHAT
24 YOU'RE TALKING ABOUT. YOU'RE ASKING ME QUESTIONS
25 ABOUT SOMETHING ON SOME APA I DON'T HAVE.

- 1 Q. I'M GOING TO SHOW YOU A MEDICAL RECORD FROM THE
2 LEXINGTON COUNTY COMMUNITY MEDICAL CENTER.
- 3 A. GO AHEAD.
- 4 Q. AND UNDER THE NOTES SECTION -- YOU'RE FAMILIAR WITH
5 MEDICAL RECORDS, RIGHT?
- 6 A. YES, I'M FAMILIAR WITH MEDICAL RECORDS.
- 7 Q. "RACHEL CALLED TO CANCEL APPOINTMENT HALF AN HOUR
8 BEFORE SESSION BECAUSE SHE WAS IN CHARLESTON GETTING
9 HER GREEN CARD."
- 10 A. OKAY.
- 11 Q. SO YOU DID GO TO CHARLESTON?
- 12 A. EVENTUALLY, YES.
- 13 Q. WELL, I THINK YOU JUST TESTIFIED YOU HAD NOT GONE
14 OUT OF TOWN?
- 15 A. NOT WHEN I WAS GOING TO PALMETTO BEHAVIOR HEALTH.
- 16 Q. OKAY. SO YOU HAD BEEN OUT OF TOWN?
- 17 A. WHEN I STARTED GOING TO LEXINGTON COUNTY MENTAL
18 HEALTH I HAD TO GET MY GREEN CARD.
- 19 Q. OKAY. I THOUGHT YOU SAID YOU JUST RECENTLY GOT IT?
- 20 A. I JUST RECENTLY RECEIVED IT, YEAH. I WENT DOWN
21 THERE TO APPLY FOR IT, AND THEY TOLD ME I HAD TO GO
22 THROUGH A WHOLE DIFFERENT PROCESS OF APPLICATION.
23 THE LAST TIME I HAD TO APPLY FOR IT WAS -- I THINK
24 THE LAST FIVE -- FIVE YEARS, TEN YEARS, SOMEWHERE
25 AROUND THERE. WHEN I WENT TO CHARLESTON THAT TIME,

1 ABOUT TEN YEARS AGO, WE JUST WENT IN, WAITED IN
2 LINE, AND DID THAT PROCESS. THIS TIME I WENT DOWN
3 THERE AND THEY TOLD ME THAT I HAD TO GO THROUGH AN
4 APPLICATION PROCESS. WE HAD TO DO IT ONLINE AND
5 THEN MAKE AN APPOINTMENT, THEN COME BACK DOWN TO
6 CHARLESTON AND DO IT. SO THIS WAS THE TIME THAT I
7 WENT DOWN THERE TO DO A WALK-IN AND FOUND OUT WHEN I
8 GOT DOWN THERE I COULDN'T DO A WALK-IN. BUT I JUST
9 RECENTLY GOT IT NOT TOO LONG AGO.

10 Q. BUT YOU DID WALK IN?

11 A. TO THE FACILITY DOWN IN CHARLESTON?

12 Q. YES.

13 A. YES.

14 Q. OKAY. AND YOU DID THAT -- THAT WAS A PUBLIC PLACE?

15 A. IT IS A PUBLIC PLACE.

16 Q. AND YOU WERE ABLE TO DO THAT SUCCESSFULLY?

17 A. NO, OBVIOUSLY NOT. I JUST TOLD YOU IT WASN'T
18 SUCCESSFUL.

19 Q. WELL, YOU GOT YOUR GREEN CARD, CORRECT?

20 A. EVENTUALLY, YES. THAT'S A DIFFERENT PROCESS NOW.
21 THERE'S NOT THAT MANY PEOPLE THERE. THE FACILITY
22 THAT I WENT TO WASN'T IN A CLOSED BUILDING. IT HAD
23 PLENTY OF WINDOWS, VERY OPEN TO THE PUBLIC.

24 Q. OKAY.

25 A. AND I ALSO WENT WITH COMPANY.

- 1 Q. WHO DID YOU GO WITH?
- 2 A. MY FRIEND.
- 3 Q. WHO'S YOUR FRIEND?
- 4 A. SAME FRIEND THAT WAS THERE AT THE DEPOSITION.
- 5 Q. ALL RIGHT. AND DID YOU DRIVE?
- 6 A. NO. SHE DROVE, 'CAUSE MY LICENSE WAS SUSPENDED.
- 7 Q. I THINK YOU TESTIFIED EARLIER THAT YOU DIDN'T GO
- 8 BACK TO THE ORTHOPEDIC SURGEON BECAUSE YOU COULDN'T
- 9 AFFORD MEDICAL TREATMENT, CORRECT?
- 10 A. CORRECT.
- 11 Q. ALL RIGHT. I'M GOING TO -- HAVEN'T DOCTORS --
- 12 HASN'T IT BEEN SUGGESTED TO YOU THAT YOU SEEK
- 13 TREATMENT FROM THE FREE MEDICAL CLINIC AND YOU
- 14 DECLINED?
- 15 A. NO.
- 16 Q. I'M GOING TO SHOW YOU PAGE 111 OF THE APA
- 17 SUBMISSIONS FROM YOUR ATTORNEY, MEDICAL RECORDS.
- 18 A. OKAY.
- 19 Q. ABOUT HALFWAY DOWN. "CLIENT REPORTED SHE KNOWS THAT
- 20 THEY CAN'T CONTINUE TO HELP HER, REQUESTED" --
- 21 QUOTE, "SUGGESTED THAT THE CLIENT TRY THE FREE
- 22 MEDICAL CLINIC. CLIENT WAS UPSET AND DIDN'T SEEM
- 23 OPEN TO GOING TO THE FREE MEDICAL CLINIC TO SEE IF
- 24 THEY COULD HELP HER."
- 25 A. 'CAUSE THEY WAS CROWDED. THEY ARE WAY TOO CROWDED.

1 Q. YOU DIDN'T -- YOU HAD OFFERS TO GO TO THE FREE
2 MEDICAL CLINIC?

3 A. HAD OFFERS TO GO?

4 Q. WELL, THEY SUGGESTED ---

5 A. THEY TOLD ME THAT I COULD GO TO A FREE CLINIC. THEY
6 DIDN'T OFFER ME ANYTHING.

7 Q. AND YOU DIDN'T TRY?

8 A. THEY TOLD ME I COULD.

9 Q. DID YOU TRY?

10 A. HAVE I TRIED TO GO TO FREE CLINICS? YES.

11 Q. THIS FREE MEDICAL CLINIC HERE?

12 A. I'VE TRIED TO GO TO FREE CLINICS.

13 Q. WHERE ARE THOSE RECORDS?

14 A. I DON'T HAVE ANY RECORDS BECAUSE I COULDN'T STAY
15 THERE. I COULDN'T STAY AND WAIT FOR THE
16 APPOINTMENT.

17 Q. WHERE? WHERE WERE THESE?

18 A. THERE'S ONE IN LEXINGTON AND THERE'S ONE DOWN IN
19 COLUMBIA.

20 Q. BUT YOU WERE ABLE ---

21 A. STREET ADDRESS, I'M NOT SURE OF THE STREET ADDRESS.

22 **BY MR. HARBISON:**

23 EXCUSE ME ONE SECOND, COMMISSIONER.

24 **CROSS EXAMINATION RESUMED BY MR. HARBISON:**

25 Q. OKAY. I'M SORRY; YOU WERE ARRESTED FOR DUI IN

1 DECEMBER OF 2015?

2 A. YES.

3 Q. AND ALSO FOR RESISTING ARREST?

4 A. I DON'T KNOW. ALL I KNOW IS THEY SAID IT WAS A DUI.

5 Q. YOU DON'T REMEMBER THE RESISTING ARREST PART?

6 A. I DON'T THINK I WAS CHARGED FOR RESISTING ARREST.

7 Q. DO YOU REMEMBER GETTING -- TELLING DOCTORS YOU WERE?

8 A. WHAT'S THAT?

9 Q. DO YOU REMEMBER TELLING DOCTORS YOU WERE CHARGED FOR

10 THAT ALSO?

11 A. CHARGED FOR A DUI? CORRECT.

12 Q. OKAY. WHAT ABOUT RESISTING ARREST?

13 A. I WASN'T CHARGED FOR RESISTING ARREST. THEY DROPPED

14 THOSE CHARGES, AND I PLED NO CONTEST TO THE DUI. I

15 WASN'T CHARGED FOR...

16 Q. WERE YOU AWARE THAT ON APRIL 26, 2016, MEDICAL

17 RECORDS STATE, "SHE EXPRESSED MULTIPLE FRUSTRATIONS

18 AROUND MEETING WITH HER LAWYER YESTERDAY OVER HER

19 CRIMINAL CHARGES FROM DECEMBER FOR DUI AND RESISTING

20 ARREST"?

21 A. OKAY.

22 Q. SO YOU ---

23 A. BUT I WASN'T CHARGED WITH RESISTING ARREST. YOU

24 ASKED ME WHAT I WAS CHARGED WITH. I'M ANSWERING

25 YOUR QUESTIONS SPECIFICALLY TO WHAT YOU'RE ASKING

1 ME. YOU ASKED ME IF I WAS CHARGED WITH DUI AND
2 RESISTING ARREST. I WAS CHARGED WITH DUI, BECAUSE I
3 PLED NO CONTEST TO THE DUI. THE RESISTING ARREST
4 CHARGES WERE DROPPED WHEN I PLED NO CONTEST TO THE
5 DUI. THAT SHOULD BE THERE SOMEWHERE, TOO, CORRECT?

6 Q. I'M SORRY; YOU SAID YOU DROPPED THE ---

7 A. I DIDN'T DROP ANYTHING.

8 Q. THEY DROPPED THE ---

9 A. CORRECT.

10 Q. OKAY. SO YOU WERE AT LEAST CHARGED WITH THAT? IN
11 ORDER FOR THEM TO DROP SOMETHING, YOU HAVE TO AT
12 LEAST BE CHARGED WITH IT?

13 A. I DON'T KNOW. WHEN YOU SAY DROPPED THE CHARGES,
14 YOU'RE DROPPED. THEY'RE DROPPED. THEY'RE NOT ON
15 YOUR RECORD. IT'S NOT ON MY RECORD AS A CHARGE.
16 IT'S DROPPED. SO I DON'T KNOW WHAT YOU'RE TRYING TO
17 ASK ME. WHAT ARE YOU ASKING ME EXACTLY? WHAT ARE
18 YOU ASKING ME?

19 Q. I NOTICE YOU'RE NOT SHAKING YOUR HAND ANYMORE. YOUR
20 HAND'S NOT SHAKING.

21 A. REALLY? OKAY. I'M DOING MY COPING TECHNIQUES.

22 **BY MR. HARBISON:**

23 THAT'S ALL I HAVE. LET ME -- JUST ONE SECOND,
24 COMMISSIONER.

25 **BY THE WITNESS:**

1 IF THEY'RE GONNA CHANGE, CAN I TAKE A BREAK?
2 CAN I TAKE A LITTLE BIT OF A ---

3 **BY THE COMMISSIONER:**

4 JUST A MINUTE.

5 **BY THE WITNESS:**

6 OKAY.

7 **BY MR. HARBISON:**

8 THAT'S ALL I HAVE RIGHT NOW, COMMISSIONER.

9 THANK YOU, MS. TURNER.

10 **BY THE COMMISSIONER:**

11 MR. GOODWYN, DO YOU HAVE ANY QUESTIONS OF THIS
12 WITNESS?

13 **BY MR. GOODWYN:**

14 I DO.

15 **BY THE WITNESS:**

16 CAN I TAKE A BREAK BETWEEN THE QUESTIONS?

17 **BY THE COMMISSIONER:**

18 WE'LL JUST TAKE A SHORT BREAK, BECAUSE IT'S
19 6:15 NOW. SO, IF YOU WANT TO STEP OUTSIDE FOR JUST
20 A LITTLE WHILE, THAT'LL BE FINE.

21 (OFF THE RECORD)

22 **BY THE COMMISSIONER:**

23 WE'RE BACK ON RECORD. WE'VE HAD A BRIEF RECESS
24 AND DISCUSSED WHETHER WE WILL CONTINUE THIS EVENING
25 OR NOT, AND I BELIEVE ALL PARTIES WISH TO CONTINUE

1 WITH THE TESTIMONY AT THIS POINT. ALL RIGHT. MR.
2 GOODWYN, I BELIEVE IT IS YOUR TURN, SIR.

3 **BY MR. GOODWYN:**

4 THANK YOU, YOUR HONOR.

5 **CROSS EXAMINATION BY MR. GOODWYN:**

6 Q. MS. TURNER, I'VE GOT A FEW QUESTIONS FOR YOU.

7 FIRST, FROM YOUR EXPERIENCE, ARE MEDUSTRIAL AND
8 CONDUSTRIAL THE SAME COMPANY?

9 A. ARE MEDUSTRIAL AND CONDUSTRIAL THE SAME COMPANY? I
10 GET PAID FROM -- MY PAYCHECK SAYS CONDUSTRIAL, SO
11 I'M ASSUMING SO.

12 Q. YOUR 1099 WAS FROM CONDUSTRIAL ALSO?

13 A. I BELIEVE SO.

14 Q. OKAY. SO WHEN WE REFER TO MEDUSTRIAL OR
15 CONDUSTRIAL, TO YOU THAT MEANS THE SAME COMPANY?

16 A. AS FAR AS I KNOW OF.

17 Q. OKAY. ALL RIGHT. LET ME ASK YOU SOME QUESTIONS
18 KIND OF FOLLOWING UP ON SOME OF THE TESTIMONY FROM
19 EARLIER, BECAUSE I WANT TO KIND OF PARSE OUT BETTER
20 ABOUT WHAT YOU HAVE CLAIMED YOUR SUPERVISION WAS. I
21 UNDERSTAND, YOU KNOW, YOU DIDN'T REALLY GO INTO THE
22 CONDUSTRIAL/MEDUSTRIAL OFFICE BUT MAYBE ONCE A YEAR
23 TO FILL OUT SOME ANNUAL PAPERWORK?

24 A. NO, THAT'S NOT CORRECT.

25 Q. HOW OFTEN DID YOU GO INTO THE OFFICE?

- 1 A. IT WAS MANDATED ONCE A YEAR, BUT I WOULD GO IN THERE
2 IF THEY HAD ANY KIND OF ISSUES WITH MY PAYROLL OR
3 ANYTHING LIKE THAT, I WOULD GO IN THERE.
- 4 Q. OKAY. JUST TO TALK TO PEOPLE ABOUT SOME ISSUES THAT
5 YOU HAD WITH YOUR PAYROLL?
- 6 A. CORRECT.
- 7 Q. DOES THAT INCLUDE OVERTIME ISSUES?
- 8 A. CORRECT.
- 9 Q. HOW MANY TIMES IN THE YEAR PRIOR TO THE INCIDENT IN
10 THIS CASE DID YOU GO INTO THE MEDUSTRIAL OFFICE TO
11 TALK ABOUT ---
- 12 A. I DIDN'T COUNT THEM.
- 13 Q. --- OVERTIME ISSUES? PARDON?
- 14 A. I DIDN'T COUNT THEM.
- 15 Q. JUST A BALLPARK. ARE WE TALKING ONE OR TWO TIMES OR
16 TEN OR TWENTY TIMES?
- 17 A. I'M NOT SURE EXACTLY HOW MANY TIMES.
- 18 Q. WHAT WOULD YOU ESTIMATE?
- 19 A. I DON'T HAVE AN ESTIMATION FOR YOU. I'M NOT QUITE
20 SURE. ARE YOU ASKING HOW MANY TIMES I WALKED INTO
21 MEDUSTRIAL'S OFFICE?
- 22 Q. YEAH. YOU DON'T HAVE TO ---
- 23 A. I DON'T HAVE ANY IDEA AS TO EXACTLY HOW MANY I
24 WALKED IN THERE PER YEAR. I DON'T HAVE THAT.
- 25 Q. IS IT OUT OF YOUR WAY?

- 1 A. IS IT OUT OF MY WAY? NO.
- 2 Q. , IS IT ---
- 3 A. IT'S ACTUALLY NOT TOO FAR FROM WHERE I -- WHERE THE
- 4 PRISON IS AT.
- 5 Q. SO YOU DON'T HAVE ANY IDEA HOW MANY TIMES YOU
- 6 STEPPED FOOT IN THE OFFICE OVER THE COURSE OF THE
- 7 PAST YEAR OR THE YEAR BEFORE ---
- 8 A. NO. I WOULDN'T BE ABLE TO EVEN PUT A NUMBER TO THAT
- 9 AND BE ACCURATE.
- 10 Q. ALL RIGHT. AND EVERY TIME YOU WENT IN, YOU WERE
- 11 MAKING SOME SORT OF COMPLAINT ABOUT YOUR WAGES; IS
- 12 THAT WHAT ---
- 13 A. NO. SOMETIMES IT WAS TO GET SHIFTS OR CONFIRM
- 14 SHIFTS.
- 15 Q. YOU COULDN'T DO THAT OVER THE PHONE?
- 16 A. I COULD DO IT OVER THE PHONE, BUT IF I WAS IN THE
- 17 AREA I WOULD STOP IN THERE AND GO AHEAD AND DO IT
- 18 WHILE I WAS THERE.
- 19 Q. OKAY. NOW, ON THOSE TRIPS TO THE CONDUSTRIAL
- 20 OFFICE, IS THAT PART OF THE MILEAGE THAT YOU WROTE
- 21 OFF ON YOUR TAXES?
- 22 A. NO.
- 23 Q. THE MILEAGE YOU WROTE OFF ON YOUR TAXES, IS THAT
- 24 JUST THE MILEAGE FROM YOUR HOUSE TO SCDC ---
- 25 A. CORRECT.

1 Q. --- AND BACK?

2 A. YES.

3 Q. OKAY.

4 A. UNLESS IT WAS A MANDATORY THING THAT I HAD TO DO AT

5 THE OFFICE. THEN, YEAH, I WOULD INCLUDE THAT.

6 Q. OKAY. AND YOU SAID YOU HAVE IN THE PAST WORKED FOR

7 COMPANIES WHERE TAXES WERE TAKEN OUT AND YOU

8 RECEIVED A W-2, CORRECT?

9 A. CORRECT.

10 Q. WERE YOU ABLE TO DEDUCT YOUR MILEAGE TO AND FROM

11 WORK?

12 A. YES.

13 Q. YOU DID?

14 A. YES. EVERY AGENCY I'VE EVER WORKED FOR I'VE

15 DEDUCTED MILEAGE, UNIFORMS, AND ALL EXTRA THINGS.

16 Q. DID YOU CLAIM YOURSELF TO BE A NURSE CONTRACTOR?

17 A. I'VE NEVER CLAIMED MYSELF TO BE A NURSE CONTRACTOR.

18 Q. EXCEPT ON YOUR TAXES?

19 A. WHAT DO YOU MEAN?

20 Q. CAN I BRING YOU YOUR TAXES, OR DO YOU WANT SOMEBODY

21 ELSE TO BRING THEM UP?

22 A. I'D APPRECIATE IT IF A FEMALE BROUGHT THEM UP HERE.

23 Q. I'M GOING TO SHOW YOU -- PASS UP THE FIRST -- NO,

24 NO; I'M SORRY -- THE FIRST THREE PAGES OF YOUR 2013

25 TAXES.

1 A. OKAY.

2 Q. CAN YOU LOOK ON THE THIRD PAGE?

3 A. OKAY.

4 Q. YOU SEE AT THE TOP?

5 BY THE COMMISSIONER:

6 WHERE ARE YOU REFERRING IN THE RECORD?

7 BY MR. GOODWYN:

8 IT'S THE THIRD PAGE OF THE 2013 TAXES, WHICH IS
9 THREE ---

10 BY THE WITNESS:

11 --- THIRTY-THREE.

12 BY MR. GOODWYN:

13 WAS IT 331, 332, AND 333?

14 BY THE WITNESS:

15 THE THIRD PAGE THAT YOU HANDED ME WAS 333.

16 BY MR. GOODWYN:

17 YES. SO, I'M ASKING HER TO LOOK AT PAGE 333.

18 BY THE WITNESS:

19 I'M LOOKING AT IT.

20 BY MR. GOODWYN:

21 I'M JUST WAITING FOR THE COMMISSIONER TO GET
22 THERE.

23 BY THE COMMISSIONER:

24 I'M THERE.

25 CROSS EXAMINATION RESUMED BY MR. GOODWYN:

1 Q. YEAH. LOOK AT -- I DON'T HAVE IT RIGHT IN FRONT OF
2 ME NOW. LOOK RIGHT THERE WHERE IT SAYS PRINCIPAL
3 BUSINESS OR PROFESSION.

4 A. UH-HUH.

5 Q. IT'S UNDER YOUR NAME WHERE IT SAYS SECTION "A."

6 A. UH-HUH.

7 Q. WHAT'S WRITTEN THERE?

8 A. LPN NURSING CONTRACTOR.

9 Q. OKAY. THAT'S WHAT I'M TALKING ABOUT. YOU CAN PASS
10 THOSE BACK.

11 A. OKAY.

12 Q. THAT'S WHAT I'M TALKING ABOUT. OTHER THAN ON YOUR
13 TAXES, YOU'RE SAYING YOU HAVEN'T REFERRED TO
14 YOURSELF AS A NURSING CONTRACTOR?

15 A. I DON'T FILL OUT MY TAX PAPERS.

16 Q. YOU SIGN IT UNDER PENALTY OF PERJURY, DON'T YOU?

17 A. HUH?

18 Q. YOU DON'T THINK THAT COUNTS FOR YOU?

19 A. WHAT DO YOU MEAN?

20 Q. YOU CAN APPARENTLY SIGN ANYTHING AND AS LONG AS YOU
21 DON'T READ IT, IT DOESN'T COUNT FOR YOU?

22 **BY MR. SAMUELS:**

23 OBJECT, YOUR HONOR; ARGUMENTATIVE.

24 **BY THE COMMISSIONER:**

25 SUSTAINED.

1 BY MR. GOODWYN:

2 THAT'S WHAT SHE'S BEEN SAYING THE WHOLE TIME.

3 CROSS EXAMINATION RESUMED BY MR. GOODWYN:

4 Q. SO YOU'RE SAYING YOU DIDN'T READ THIS?

5 A. WHAT ARE YOU TALKING ABOUT? DID I READ IT?

6 Q. RIGHT, BEFORE YOU SIGNED IT.

7 A. I JUST SIGNED IT.

8 Q. PARDON?

9 A. I SIGNED IT.

10 Q. DID YOU READ IT BEFORE YOU SIGNED IT?

11 A. NO.

12 Q. ALL RIGHT. ARE YOU SUGGESTING THAT DOCUMENTS YOU
13 DON'T READ ARE NOT APPLICABLE TO YOU? ARE YOU NOT
14 BOUND BY THEM?

15 BY MR. SAMUELS:

16 OBJECTION, YOUR HONOR. SAME OBJECTION. SAME
17 QUESTION. STILL ARGUMENTATIVE.

18 BY MR. GOODWYN:

19 THAT'S NOT -- THAT'S NOT ARGUMENTATIVE.

20 BY THE COMMISSIONER:

21 I'M GOING TO ALLOW THE QUESTION. IF YOU'LL
22 ANSWER IT, MA'AM.

23 BY THE WITNESS:

24 WHAT QUESTION DO I ANSWER?

25 CROSS EXAMINATION RESUMED BY MR. GOODWYN:

1 Q. ARE YOU SUGGESTING THAT SIMPLY BECAUSE YOU DON'T ---

2 A. I NEVER SUGGESTED ANYTHING.

3 Q. COULD I FINISH MY QUESTION, PLEASE? ARE YOU
4 SUGGESTING THAT BECAUSE YOU DON'T READ THE DOCUMENTS
5 THAT YOU SIGN THAT YOU'RE NOT BOUND BY THEM?

6 A. I DIDN'T SUGGEST THAT AT ALL. I NEVER SUGGESTED
7 ANYTHING.

8 Q. OKAY. YOU'VE TESTIFIED THAT YOU DIDN'T READ ANY OF
9 THE INDEPENDENT CONTRACTOR AGREEMENTS THAT YOU
10 SIGNED, CORRECT?

11 A. OKAY.

12 Q. ALL RIGHT. AND YOU TESTIFIED YOU DIDN'T -- YOU
13 HAVEN'T READ YOUR TAX RETURNS, CORRECT?

14 A. OKAY.

15 Q. ALL RIGHT. SO, ARE YOU SAYING YOU'RE NOT BOUND BY
16 THESE DOCUMENTS?

17 A. I'M NOT A LAWYER AND I'M NOT A JUDGE. I DON'T KNOW
18 WHAT YOU'RE TALKING ABOUT.

19 Q. I THINK MR. HARBISON ---

20 A. WHAT DO YOU WANT ME TO SAY?

21 Q. MR. HARBISON TRIED TO GET TO THIS POINT EARLIER, I
22 THINK, IS WHEN YOU SIGN YOUR NAME TO SOMETHING
23 YOU'RE SIGNING A LEGAL DOCUMENT. DO YOU UNDERSTAND
24 THAT?

25 A. I UNDERSTAND THAT.

1 Q. AND THAT YOU MAY BE BOUND BY THE TERMS OF THAT
2 DOCUMENT?

3 A. I UNDERSTAND THAT.

4 Q. BUT YOU DON'T WANT TO BE BOUND BY CERTAIN DOCUMENTS
5 IN THIS CASE, CORRECT?

6 A. WHAT'S THAT, NOW?

7 Q. ARE YOU SAYING THAT EVEN THOUGH YOU SIGN CERTAIN
8 DOCUMENTS SAYING THAT YOU'RE AN INDEPENDENT
9 CONTRACTOR, SAYING THAT YOU -- REPRESENTING TO THE
10 GOVERNMENT ---

11 A. I ALSO SIGNED DOCUMENTS THAT SAID I WAS AN EMPLOYEE,
12 AND IN THE SAME DOCUMENTATION, WITHIN THE CONTRACT
13 IS DOCUMENTATION THAT YOU CLAIM THAT YOU GUYS HAVE
14 ALREADY SHOWED ME UP HERE. IN JUST ONE
15 DOCUMENTATION IT SAID I WAS AN EMPLOYEE, ALSO SAID I
16 WAS A CONTRACTOR. SO THE DOCUMENTATION IS VERY
17 CONFUSING TO DETERMINE THAT I'M A CONTRACTOR,
18 ESPECIALLY WHEN THEY CALL IT AN EMPLOYEE
19 APPLICATION. I WAS AN EMPLOYEE OF MEDUSTRIAL.

20 Q. THAT'S NOT WHAT YOU TOLD THE IRS. WOULD YOU AGREE
21 WITH THAT?

22 A. I DIDN'T TELL THEM ANYTHING. I GAVE THEM MY W-2
23 FORM AND THEY ASKED ME QUESTIONS AND I ANSWERED
24 THEM. I DIDN'T TELL THEM ANYTHING AS FAR AS THAT.

25 Q. OKAY. YOU'RE TALKING ABOUT YOUR 1099, NOT YOUR W-2?

- 1 A. YES, 1099, W-2, WHATEVER THE PAPER THAT I GET AT THE
2 END OF THE YEAR, I TAKE IT TO MY TAX MAN WITH MY LOG
3 BOOK AND HE FILES MY TAXES. HE ASKS ME QUESTIONS
4 AND I ANSWER THEM. I DON'T KNOW TAX LAW.
- 5 Q. WOULD YOU AGREE THAT YOU ENJOYED THE TAX BENEFITS OF
6 BEING AN INDEPENDENT CONTRACTOR?
- 7 A. DID I ENJOY MY REFUNDS? IS THAT WHAT YOU MEAN?
- 8 Q. WELL, LET ME ASK YOU THIS.
- 9 A. 'CAUSE THE ONLY PART I ENJOYED IS MY REFUND.
- 10 Q. OKAY. WELL, YOU ALSO ENJOYED THE FACT THAT YOU
11 DIDN'T HAVE ANY TAXES TAKEN OUT, TOO, CORRECT?
- 12 A. DID I ENJOY THE FACT THAT I DIDN'T HAVE MY TAXES
13 TAKEN OUT?
- 14 Q. YOU GOT MORE MONEY, CORRECT?
- 15 A. I GOT PAID.
- 16 Q. YOU GOT MORE MONEY THAN YOU WOULD HAVE HAD TAXES
17 BEEN TAKEN OUT?
- 18 A. CORRECT. I DID.
- 19 Q. OKAY. SO YOU ENJOYED THAT EXTRA MONEY?
- 20 A. I ENJOYED EVERY MONEY I'VE EVER EARNED. I EARNED
21 IT.
- 22 Q. THAT'S RIGHT. AND YOU ENJOYED THE EARNED INCOME TAX
23 CREDIT YOU GOT?
- 24 A. I ENJOY IT. I GOT EARNED INCOME TAX CREDIT ALL MY
25 LIFE EVER SINCE I'VE HAD KIDS, ---

1 Q. THAT'S BECAUSE ---

2 A. --- AT EVERY JOB.

3 Q. THAT'S BECAUSE YOU CALLED YOURSELF AN INDEPENDENT
4 CONTRACTOR, CORRECT?

5 A. NO. DO YOU HAVE MY OTHER TAXES FROM WHEN I WORKED A
6 FULL-TIME JOB? I GOT EARNED INCOME CREDIT THEN,
7 TOO.

8 Q. WELL, YOU DIDN'T GIVE US THOSE. WE'VE ASKED.

9 A. OH, YOU DID ASK FOR THEM, AND I GAVE YOU THE RIGHT
10 TO SUBPOENA THEM ---

11 Q. AND WE DID.

12 A. --- IN MY DEPOSITION.

13 Q. AND THEY DIDN'T RESPOND.

14 A. AND THAT'S MY FAULT.

15 Q. ALL RIGHT.

16 A. YOU HAD THE RIGHT TO GET THEM. YOU HAD THE RIGHT TO
17 ALL THOSE RECORDS.

18 Q. ALL RIGHT. WE'RE ON THESE TAX RECORDS. I'M GOING
19 TO ASK YOU A FEW QUESTIONS ABOUT THESE.

20 **BY MR. GOODWYN:**

21 DOES SOMEBODY HAVE AN EXTRA COPY?

22 **BY MR. HARBISON:**

23 YEAH. WHAT PAGE?

24 **BY MR. GOODWYN:**

25 THREE SIXTY-SIX.

1 BY MR. HARBISON:

2 THOSE ARE MINE?

3 BY MR. GOODWYN:

4 STARTS AT 366.

5 BY MR. HARBISON:

6 2015?

7 BY MR. GOODWYN:

8 YEAH, 366 THROUGH 369.

9 CROSS EXAMINATION RESUMED BY MR. GOODWYN:

10 Q. ALL RIGHT. YOU HAVE YOUR 2015 TAX RETURN IN FRONT
11 OF YOU?

12 A. YES.

13 Q. ALL RIGHT. IF YOU'LL TURN TO -- GO TO PAGE -- OR
14 THE THIRD PAGE, PROFIT OR LOSS FROM BUSINESS. DO
15 YOU SEE -- DO YOU HAVE THAT?

16 A. WHAT NUMBER WOULD THAT BE?

17 Q. IT'S 368. I THINK IT'S 368.

18 A. OKAY.

19 Q. ALL RIGHT. THIS IS INFORMATION ABOUT YOUR BUSINESS
20 THAT YOU REPORTED TO THE GOVERNMENT. I'M ASSUMING
21 YOU SAT DOWN WITH YOUR TAX PREPARER AND ANSWERED
22 QUESTIONS ---

23 A. CORRECT.

24 Q. --- FROM YOUR TAX PREPARER? IS THAT CORRECT?

25 A. YES. HE ASKED ME QUESTIONS AND I ANSWERED THEM.

- 1 Q. OKAY. AND THE INFORMATION CONTAINED IN THE TAX
2 DOCUMENT REGARDING YOUR EXPENSES, THAT WOULD HAVE
3 BEEN RECEIVED IN RESPONSE -- YOUR RESPONSES TO YOUR
4 TAX PREPARER'S QUESTIONS?
- 5 A. YES.
- 6 Q. ALL RIGHT. AND YOUR CAR AND TRUCK EXPENSES LISTED
7 IN LINE NINE THERE, IT SAYS PART THREE, LINE NINE.
8 DO YOU SEE THAT, THAT \$5,175?
- 9 A. OKAY.
- 10 Q. IS THAT ALL OF YOUR MILEAGE EXPENSES DRIVING TO AND
11 FROM WORK?
- 12 A. I'M ASSUMING SO.
- 13 Q. ALL RIGHT. AND DO YOU KNOW WHAT LINE 12 IS, THIS
14 DEPLETION?
- 15 A. I GUESS A DEPLETION OF SOME KIND.
- 16 Q. OKAY. YOU DON'T KNOW ANYTHING MORE THAN THAT,
17 THOUGH?
- 18 A. NO.
- 19 Q. IT SAYS, LINE 15, INSURANCE OTHER THAN HEALTH. WHAT
20 INSURANCE OTHER THAN HEALTH DID YOU HAVE IN 2015?
- 21 A. I DON'T KNOW.
- 22 Q. PARDON?
- 23 A. I HAVE NO IDEA.
- 24 Q. OKAY. WHERE DO YOU THINK YOUR TAX PREPARER GOT THAT
25 INFORMATION?

1 A. I HAVE NO IDEA.

2 Q. ALL RIGHT. LEGAL AND PROFESSIONAL SERVICES, DID YOU
3 INCUR ANY LEGAL AND PROFESSIONAL SERVICES IN 2015?

4 A. NOT THAT I'M AWARE OF.

5 Q. ALL RIGHT.

6 A. AT THE END OF 2015 I DID.

7 Q. FOR WHAT?

8 A. FOR THIS.

9 Q. WERE THEY -- WAS IT BUSINESS RELATED?

10 A. WHAT ARE YOU TALKING ABOUT? YES, 2015, AFTER I GOT
11 HELD HOSTAGE I DID SEEK LEGAL SERVICES AFTER MY
12 EMPLOYER DECIDED TO TELL ME THAT I WAS NEVER
13 EMPLOYED BUY THEM.

14 Q. DID YOU PAY ANY MONEY FOR THOSE LEGAL SERVICES?

15 A. NO.

16 Q. OKAY. ALL RIGHT. OFFICE EXPENSES, DID YOU MAINTAIN
17 A HOME OFFICE?

18 A. I HAD A COMPUTER AT MY HOUSE.

19 Q. DID YOU MAINTAIN AN OFFICE AT YOUR HOUSE?

20 A. I HAVE A COMPUTER AT MY HOUSE. I DON'T HAVE AN
21 OFFICE.

22 Q. I'M NOT ASKING YOU ABOUT YOUR COMPUTER.

23 A. SPECIFIC OFFICE.

24 Q. WHAT'S THAT?

25 A. I DON'T HAVE A SPECIFIC OFFICE, BUT I DO HAVE A

1 COMPUTER AT MY HOUSE.

2 Q. OKAY.

3 A. OR I DID AT THE TIME ANYWAY. I DON'T HAVE IT NOW.

4 Q. ALL RIGHT. LINE 20 "B," OTHER BUSINESS PROPERTY,

5 YOU'VE GOT \$2,070. IS THAT THE COMPUTER?

6 A. I DON'T KNOW. I DON'T KNOW.

7 Q. ALL RIGHT. WHAT ---

8 A. IT DOESN'T SAY COMPUTER HERE, SO I WOULDN'T BE ABLE

9 TO TELL YOU.

10 Q. WHAT DID YOU USE THE COMPUTER FOR RELATED TO YOUR

11 BUSINESS?

12 A. WHAT DID I USE THE COMPUTER FOR RELATED TO MY

13 BUSINESS? NO IDEA.

14 Q. YOU DID NOT USE IT FOR YOUR BUSINESS?

15 A. I USED IT TO PRINT MY ASSIGNMENTS.

16 Q. OKAY. DID YOU HAVE A PRINTER AS WELL?

17 A. YES.

18 Q. OKAY. REPAIRS OR MAINTENANCE, \$1,421, ANY IDEA WHAT

19 THAT WAS?

20 A. I HAVE NO IDEA. YOU CAN ASK ME ANY QUESTION ABOUT

21 EVERY PIECE OF THIS DOCUMENT. I WILL NOT KNOW THE

22 ANSWER.

23 Q. OKAY.

24 A. 'CAUSE I DON'T -- I ANSWER QUESTIONS THAT THEY ASK

25 ME, AND THEY FILL OUT THE PAPERWORK. I DON'T FILL

- 1 THIS OUT.
- 2 Q. DO YOU KNOW WHAT QUESTIONS THEY ASKED YOU TO GET
- 3 THIS INFORMATION?
- 4 A. I DON'T KNOW SPECIFICALLY ALL THE QUESTIONS THAT HE
- 5 ASKED ME. I DON'T REMEMBER ALL OF THE QUESTIONS
- 6 THAT HE ASKED ME. HE ASKED ME A BUNCH OF QUESTIONS,
- 7 LIKE YOU ARE. I DON'T REMEMBER ALL THE QUESTIONS
- 8 THEY'VE ASKED ME TODAY.
- 9 Q. ALL RIGHT. SO YOU DON'T KNOW -- THIS DEDUCTIBLE
- 10 MEALS AND ENTERTAINMENT, WOULD THAT BE YOUR LUNCHES
- 11 AT WORK?
- 12 A. I'M ASSUMING SO.
- 13 Q. AND UTILITIES, WAS THAT UTILITIES FOR YOUR HOME?
- 14 A. I DON'T KNOW.
- 15 Q. OTHER EXPENSES, THAT'S THE NEXT PAGE HERE. IF YOU
- 16 TURN IT OVER TO THE NEXT PAGE, 369, PART FIVE AT THE
- 17 BOTTOM, OTHER EXPENSES, INTERNET AND CABLE SERVICES,
- 18 \$1,059. DID YOU HAVE INTERNET ---
- 19 A. I DID.
- 20 Q. --- AND CABLE AT YOUR HOUSE?
- 21 A. I USED TO HAVE INTERNET AND CABLE, YEAH.
- 22 Q. OKAY. LEADING UP TO THE TIME OF THIS INCIDENT?
- 23 A. YEAH.
- 24 Q. OKAY. DID YOU USE THAT FOR YOUR WORK?
- 25 A. DID I USE IT FOR WORK? AT TIMES, YES.

1 Q. WHAT DID YOU USE CABLE FOR?

2 A. I DIDN'T USE CABLE FOR WORK, BUT CABLE CAME WITH THE
3 INTERNET. IT CAME WITH BUNDLE PACKAGE.

4 Q. ALL RIGHT. UNIFORMS AND SHOES, HOW MUCH ARE -- HOW
5 MUCH ARE UNIFORMS?

6 A. THEY DIFFER FROM SHOP TO SHOP THE LAST TIME I
7 CHECKED. I DON'T KNOW HOW MUCH THEY ARE NOW. I
8 DON'T BY THEM ANYMORE.

9 Q. WHAT'S THE MOST YOU'VE EVER PAID FOR A UNIFORM?

10 A. I'D SAY SHOES ALONE COULD BE ANYWHERE FROM \$150 TO
11 \$40.

12 Q. NOT INCLUDING SHOES, JUST THE SCRUBS.

13 A. BUT THAT'S PART OF MY UNIFORM.

14 Q. I KNOW, BUT I'M NOT ASKING ABOUT THAT RIGHT NOW.

15 A. OKAY.

16 Q. JUST THE SCRUBS.

17 A. UNIFORMS? I DON'T KNOW. DEPENDS. SOME SHIRTS ARE
18 JUST \$50, \$60. DEPENDS ON THE NAME BRAND OF THE
19 UNIFORM, I GUESS.

20 Q. AND HOW LONG DO THEY LAST?

21 A. DEPENDS ON ---

22 Q. JUST ON AVERAGE.

23 A. DEPENDS ON THE WEAR AND TEAR. I DON'T KNOW. IF I
24 GOT IT FROM WALMART, THEN IT WOULD NOT LAST AS MUCH
25 AS THE UNIFORM SHOP WITH SOME NAME BRAND UNIFORMS.

1 Q. DO YOU THINK YOU SPEND ---
2 A. SOMETIMES IT WOULD; SOMETIMES IT WOULDN'T.
3 Q. DO YOU THINK YOU SPENT \$1,565 ---
4 A. I DON'T KNOW.
5 Q. --- IN 2015?
6 A. HE ASKED ME THE QUESTIONS; I ANSWERED THEM; HE PUT
7 IT IN THE PAPERWORK.
8 Q. ALL RIGHT.
9 A. I DON'T HAVE MY LOG BOOKS ANYMORE SINCE I WAS
10 EVICTED FROM MY HOUSE. I'VE LOST EVERYTHING.
11 Q. OKAY. SO YOU SAID YOU DID KEEP LOGS?
12 A. YES, I DID.
13 Q. OF ALL YOUR WORK EXPENSES?
14 A. I KEPT LOGS OF WORK, MY UNIFORMS. I KEPT LOGS OF MY
15 MILEAGE. I KEPT LOGS OF ANY KIND OF SHOES AND SOCKS
16 AND STUFF LIKE THAT THAT I WORE TO WORK, YES.
17 Q. ALL RIGHT. DID YOU TAKE THAT LOG BOOK TO YOUR TAX
18 PREPARER?
19 A. CORRECT.
20 Q. I'M SORRY?
21 A. YES.
22 Q. OKAY. DID YOUR TAX PREPARER USE THAT LOG BOOK TO
23 PREPARE THESE TAX ---
24 A. HE USED THAT LOG BOOK AND ANSWERED -- ASKED ME
25 QUESTIONS.

- 1 Q. OKAY. ALL RIGHT. AND, AGAIN, YOU -- I THINK YOU
2 TESTIFIED YOU MISPLACED OR LOST THE LOG BOOKS WHEN
3 YOU MOVED?
- 4 A. A LOT OF MY STUFF -- MOST OF MY STUFF GOT LOST. I
5 LOST PICTURES OF MY CHILDREN WHEN THEY WERE BABIES,
6 TOO.
- 7 Q. OKAY.
- 8 A. YEAH.
- 9 Q. SORRY TO HEAR THAT.
- 10 A. ME, TOO. PRETTY MUCH LEFT WITH THE CLOTHES ON MY
11 BACK AND A FEW BOXES.
- 12 Q. OKAY. NOW ---
- 13 A. YEAH. FURNITURE LOST, CAR LOST, EVERYTHING LOST.
- 14 Q. NOW, EARLIER YOU TESTIFIED YOU COULDN'T AFFORD EVEN
15 AN \$8 BOTTLE OF MEDICINE THAT YOU HAD BEEN
16 PRESCRIBED?
- 17 A. COULD NOT, NO.
- 18 Q. WHAT'S THAT, NOW?
- 19 A. NO.
- 20 Q. NO WHAT?
- 21 A. I COULD NOT AFFORD IT. YOU ASKED ME A QUESTION. I
22 SAID, NO, I COULD NOT.
- 23 Q. RIGHT. AND THEN I THINK THE QUESTION EARLIER THAT
24 YOU COULD AFFORD CIGARETTES AND BEER, BUT YOUR
25 DAUGHTER BOUGHT IT FOR YOU, CORRECT?

1 A. MY DAUGHTER WOULD BUY ME CIGARETTES FROM TIME TO
2 TIME. MY DAUGHTER DIDN'T BUY BEER. IT WOULD BE
3 WHATEVER A FRIEND BOUGHT THAT I WAS DRINKING.

4 Q. OKAY. SO YOUR FRIENDS AND FAMILY WERE BUYING YOU
5 CIGARETTES AND BEER AND MARIJUANA, BUT NOT YOUR
6 MEDICINE?

7 A. APPARENTLY SO.

8 Q. DID YOU ASK THEM TO BUY YOUR MEDICINE?

9 A. DID I ASK THEM TO BUY MY MEDICATION? NO. DID I ASK
10 THEM TO BUY ME MARIJUANA? NO.

11 Q. THEY JUST DID IT OUT OF -- JUST BECAUSE THEY THOUGHT
12 YOU MIGHT WANT IT?

13 A. 'CAUSE THEY SAW ME HAVING A PANIC ATTACK AND LOSING
14 MY MIND.

15 Q. OKAY.

16 A. SO THEY WERE TRYING TO HELP ME.

17 Q. ALL RIGHT. DID YOU EVER TELL THEM THAT, HEY, MAYBE
18 THIS MEDICINE WILL WORK BETTER THAN MARIJUANA AND
19 BEER?

20 A. MAYBE IF THEY GAVE ME MEDICINE, I COULD HAVE SAID
21 THAT. MAYBE IF THEY TREATED ME, I COULD HAVE SAID
22 THAT. MAYBE IF THEY STARTED TREATING ME WHEN I
23 ASKED THEM FOR TREATMENT, MAYBE WHEN I ASKED THEM
24 FOR HELP AND THEY SAID THAT THEY WOULD PROVIDE ME
25 HELP, THEN I WOULD HAVE ALREADY BEEN ON MEDICATION.

1 BUT INSTEAD THEY TOLD ME, NO, THEY WOULD NOT HELP
2 ME. TOLD ME I WAS NEVER EMPLOYED BY THEM. SO,
3 THEREFORE, I COULDN'T GO GET HELP.

4 Q. OKAY.

5 A. THEY DIDN'T RECOMMEND ME TO A THERAPIST. THEY
6 DIDN'T RECOMMEND ME TO ANY KIND OF FACILITY THAT
7 COULD PROVIDE THERAPY FOR ME OR ANY KIND OF PHYSICAL
8 HELP FOR ANY OF MY PHYSICAL INJURIES. THEY DIDN'T
9 OFFER ME ANY OF THAT.

10 Q. ALL RIGHT.

11 A. I HAD TO CALL 211 INFORMATION IN ORDER TO FIND MY
12 FIRST COUNSELOR.

13 Q. ALL RIGHT. WHEN YOU WORKED -- WHEN YOU WERE AT
14 SCDC, I THINK YOU WORKED THREE DIFFERENT SITES KIND
15 OF ALL IN THAT SAME COMPOUND?

16 A. YES.

17 Q. ALL RIGHT. WAS ANYBODY WITH CONDUSTRAL OR
18 MEDUSTRIAL THERE TO PROVIDE ANY SUPERVISION FOR YOU?

19 A. WHILE I WAS AT PRISON?

20 Q. RIGHT.

21 A. WHILE I WAS INSIDE THE PRISON FACILITY?

22 Q. RIGHT.

23 A. NO.

24 Q. OKAY. DID ANYBODY ---

25 A. THEY WOULD COME DO MANDATORY MEETINGS THERE AND

1 CATER THE MEETINGS.

2 Q. I'M SORRY; WHAT'S THAT?

3 A. THEY WOULD HAVE CATERED MANDATORY MEETINGS.

4 Q. WHO WOULD?

5 A. SCDC WOULD HAVE THE MANDATORY MEETING, AND
6 MEDUSTRIAL WOULD CATER IT.

7 Q. OH, THEY WOULD PROVIDE THE FOOD?

8 A. CORRECT.

9 Q. OKAY.

10 A. THAT'S USUALLY WHEN I WOULD SEE THEM IN THE --
11 ACTUALLY INSIDE THE BUILDING, WHEN THEY WOULD COME
12 IN ---

13 **BY MR. HARBISON:**

14 JUST A CLARIFICATION OF "THEY"?

15 **BY THE WITNESS:**

16 MEDUSTRIAL. LISSETTE AND HOLLY WOULD COME, IF
17 YOU NEED SPECIFIC OF WHO.

18 **CROSS EXAMINATION RESUMED BY MR. GOODWYN:**

19 Q. THEY WOULD BRING SOME FOOD?

20 A. THEY WOULD BRING FOOD TO THE FACILITY FOR THE
21 MANDATORY MEETINGS.

22 Q. DID YOU FEEL LIKE THEY WERE PROVIDING YOU
23 SUPERVISION AT THAT POINT OR JUST BRINGING ---

24 A. NO.

25 Q. THEY WERE JUST BRINGING THE FOOD?

1 A. THEY WEREN'T PROVIDING ME SUPERVISION AT THAT POINT,
2 NO.

3 Q. OKAY. WHEN YOU'RE DOING THE LPN WORK, DOES ANYBODY
4 WITH MEDUSTRIAL OR CONDUSTRIAL PROVIDE YOU ANY
5 SUPERVISION?

6 A. WHEN I'M DOING THE LPN WORK?

7 Q. RIGHT.

8 A. NO.

9 Q. OKAY. I UNDERSTAND THAT CONDUSTRIAL/MEDUSTRIAL
10 REQUIRES YOU TO BE PROPERLY LICENSED AS AN LPN,
11 CORRECT?

12 A. DO THEY REQUIRE ME TO BE PROPERLY LICENSED? I
13 GUESS, IF THAT'S WHAT THEY'RE REQUIRING.

14 Q. OKAY. BUT THAT -- I UNDERSTAND ---

15 A. YOU SAID REQUIRE, RIGHT?

16 Q. YEAH. YOU COULDN'T EVEN BEGIN TAKING SHIFTS UNLESS
17 YOU HAD THE ---

18 A. I COULDN'T WORK ANYWHERE ---

19 Q. UNLESS YOU WERE CERTIFIED?

20 A. --- WITHOUT THOSE LICENSES.

21 Q. RIGHT.

22 A. I COULDN'T WORK AT A HOSPITAL, A NURSING HOME, OR
23 ANY OF THE OTHER AGENCIES THAT TOOK OUT TAXES FOR
24 ME. I COULDN'T WORK THERE EITHER WITHOUT THOSE
25 CREDENTIALS.

- 1 Q. RIGHT, RIGHT. EXACTLY. ALL RIGHT.
- 2 A. THEY ALL MANDATED IT. EVEN IN THE MEDICAL HOSPITAL
- 3 MANDATED IT.
- 4 Q. ALL RIGHT. AND CONDUSTRIAL AND MEDUSTRIAL DIDN'T
- 5 CONTROL HOW YOU DID YOUR WORK WHEN YOU WERE -- WHEN
- 6 YOU WERE DOING YOUR JOB, CORRECT?
- 7 A. THEY DIDN'T CONTROL HOW I DID MY WORK. THEY
- 8 CONTROLLED WHEN I COULD GO TO WORK. BUT HOW I DID
- 9 IT, NO.
- 10 Q. ALL RIGHT. AND THEN I UNDERSTAND THAT THE WAY THE
- 11 PROCESS WORKED WAS SCDC WOULD LET
- 12 CONDUSTRIAL/MEDUSTRIAL KNOW WHEN THEY HAD SHIFTS
- 13 AVAILABLE, AND THEN MEDUSTRIAL/CONDUSTRIAL WOULD
- 14 MAKE THOSE SHIFTS AVAILABLE TO THE INDEPENDENT
- 15 CONTRACTORS OR THE NURSING STAFF, HOWEVER YOU WANT
- 16 TO CALL IT. IS THAT A FAIR STATEMENT AS TO HOW ---
- 17 A. SOMETIMES THAT'S HOW IT WOULD WORK, OR EITHER THEY
- 18 WOULD ASK US OURSELVES IF WE WANTED TO WORK THOSE
- 19 SHIFTS. THEY WOULD TELL US THAT THEY'RE AVAILABLE
- 20 IF THEY LIKED THE NURSE THAT WAS WORKING THERE
- 21 THROUGH THE AGENCY.
- 22 Q. OKAY. AND THEN YOU WOULD ---
- 23 A. I WOULD SAY, YES, I'D LIKE TO WORK THOSE SHIFTS.
- 24 I'D SURE LOVE TO TAKE THOSE SHIFTS, AND THEY WOULD
- 25 HAVE TO GET IT CONFIRMED BY MEDUSTRIAL IN ORDER FOR

1 ME TO WORK IT.

2 Q. AND YOU ENJOYED THAT FLEXIBILITY, DIDN'T YOU?

3 A. I ENJOYED THAT FLEXIBILITY WITH ALL THE AGENCIES

4 THAT I WORKED FOR.

5 Q. RIGHT. BECAUSE YOU DIDN'T -- TELL ME THIS. WITH

6 THE AGENCIES THAT YOU WERE A W-2 STAFF MEMBER WHERE

7 TAXES WERE TAKEN OUT, WERE YOU STILL FREE TO PICK

8 AND CHOOSE YOUR SHIFTS?

9 A. CORRECT.

10 Q. WERE YOU ABLE TO TURN DOWN SHIFTS?

11 A. CORRECT.

12 Q. DID CONDUSTRIAL CONTROL ANYTHING ELSE OTHER THAN

13 BEING ABLE TO APPROVE THE SHIFTS THAT YOU ---

14 A. THEY HELD MY PAYCHECK BECAUSE I DIDN'T GIVE THEM A

15 CPR CARD, IF THAT'S WHAT YOU'RE ASKING ME. THEY

16 HELD MY MONEY.

17 Q. DID YOU ---

18 A. THEY CONTROLLED MY PAY.

19 Q. DID YOU EVER GET IT?

20 A. DID I GET IT? ONCE THEY GOT MY CPR CARD, I DID.

21 Q. OKAY. AND YOU UNDER -- DO YOU UNDERSTAND HOW THE

22 PAY WORKED AS FAR AS WHERE CONDUSTRIAL GOT THE MONEY

23 TO PAY YOU?

24 A. I DON'T KNOW HOW THAT WORKED. SCDC -- I'M ASSUMING

25 SCDC PAID THEM AND THEY PAID ME.

- 1 Q. RIGHT. LET'S TALK A MINUTE ABOUT THE OVERTIME. DID
2 YOU HAVE TO GET OVERTIME SHIFTS APPROVED BEFORE
3 BEING PAID THE OVERTIME RATE?
- 4 A. YES.
- 5 Q. ALL RIGHT. AND WERE YOU SUPPOSED TO GET THOSE
6 SHIFTS PRE-APPROVED?
- 7 A. ALL SHIFTS WERE PRE-APPROVED, SO I REALLY DIDN'T
8 KNOW WHY THEY SENT THAT EXTRA PIECE OF PAPER SAYING
9 THEY HAD TO BE PRE-APPROVED WHEN ALL SHIFTS HAD TO
10 BE PRE-APPROVED.
- 11 Q. ALL RIGHT. DID YOU EVER HAVE A SITUATION WHERE YOU
12 DID NOT GET A SHIFT THAT PUT YOU INTO A PLACE WHERE
13 YOU WERE OVER 40 HOURS WASN'T PRE-APPROVED?
- 14 A. NO.
- 15 Q. EVERY TIME IT WAS PRE-APPROVED?
- 16 A. EVERY SHIFT I'VE EVER WORKED HAS BEEN PRE-APPROVED.
- 17 Q. OKAY. HAVE YOU EVER HAD A CONVERSATION WITH
18 LISSETTE OR HOLLY OR TOM SEARS ABOUT YOU NOT GETTING
19 A SHIFT PRE-APPROVED THAT PUT YOU IN ---
- 20 A. NO.
- 21 Q. --- A SITUATION WHERE YOU WERE OVER 40 HOURS?
- 22 A. NO.
- 23 Q. NEVER?
- 24 A. NO.
- 25 Q. ARE YOU -- HAVE YOU BEEN IN WHAT YOU WOULD CONSIDER

1 A DESPERATE FINANCIAL SITUATION OVER THE PAST YEAR,
2 YEAR AND A HALF?

3 A. YES.

4 Q. WHAT ABOUT NOW? HAVE THINGS STABILIZED?

5 A. HAS THINGS STABILIZED?

6 Q. RIGHT.

7 A. NO.

8 Q. DO YOU HAVE ANY INCOME?

9 A. NO.

10 Q. WHO DO YOU LIVE WITH?

11 A. WITH MY CHILDREN.

12 Q. DO THEY SUPPORT YOU?

13 A. THEY PAY THE MAJORITY OF THE RENT. HOUSING PAYS
14 PART OF IT.

15 Q. OKAY.

16 A. AND I GET FOOD STAMPS.

17 Q. OKAY. ALL RIGHT. HAVE YOU EVER HAD A STROKE?

18 A. NO. NOT THAT I WAS TOLD BY A DOCTOR ANYWAY.

19 Q. ALL RIGHT. YOU PROVIDED A WRITTEN STATEMENT ---

20 A. TO SCDC?

21 Q. YEAH, I GUESS IT WAS TO SCDC.

22 A. ACTUALLY, THAT ONE WENT TO SLED.

23 Q. SLED, YES.

24 A. CORRECT.

25 Q. SO THE POLICE INVESTIGATED THIS AND YOU WROTE A

1 STATEMENT?

2 A. YES.

3 Q. OKAY. AND I NOTICE IN THE STATEMENT THAT AT SOME
4 POINT ---

5 A. WILL YOU SHOW ME WHAT YOU'RE TALKING ABOUT?

6 Q. YEAH. I'M GOING TO -- I'LL JUST -- I'LL READ IT,
7 AND I'LL GIVE IT TO YOU. BUT I'M LOOKING AT PAGE --
8 LOOKS LIKE 67 OF MY APAs. THIS IS PAGE FIVE OF THE
9 WRITTEN STATEMENT, AT THE TOP.

10 A. IF YOU SAY SO.

11 Q. PARDON?

12 A. I SAID IF YOU SAY SO.

13 Q. I'M JUST LETTING EVERYBODY ELSE KNOW. ALL RIGHT.
14 STARTING AT THE THIRD LINE HERE IT SAYS, "AT FIRST
15 THEY WERE GOING TO SEND NURSE HILDEBRAND..." -- I'M
16 SORRY. MAYBE YOU CAN READ IT. I CAN'T READ THE
17 HANDWRITING THAT WELL. CAN YOU READ -- JUST START
18 AT THE VERY TOP FOR US. IF YOU NEED TO GO BACK TO
19 THE BOTTOM -- NO, I THINK THAT'S THE START OF A NEW
20 SENTENCE AT THE TOP OF THAT PAGE. CAN YOU READ THAT
21 OUT LOUD FOR US, THE FIRST TWO LINES?

22 A. "NEGOTIATORS TOLD THE INMATES THAT THEY WOULD HAVE
23 TO GIVE ONE HOSTAGE IN ORDER TO GET THEIR DEMANDS.
24 AT FIRST THEY WERE GOING TO SEND NURSE HILDEBRAND.
25 THE NEGOTIATORS ASKED IF I WAS OKAY. I TOLD THEM I

1 RECENTLY HAD A STROKE, AND WITH THE HEAD TRAUMA I
2 WASN'T SURE. THEY ASKED THE INMATE IF I COULD STAND
3 AND STRETCH." WANT ME TO KEEP READING?

4 Q. THAT'S FINE. ALL RIGHT. SO, WHEN IT LOOKED LIKE
5 THEY WERE GOING TO TAKE NURSE HILDEBRAND, YOU
6 CONJURE UP THIS STORY ABOUT YOU HAVING A STROKE TO
7 TRY TO GET YOURSELF OUT, CORRECT?

8 A. I CONJURED?

9 Q. YOU HAD NEVER HAD A STROKE, RIGHT?

10 A. I NEVER HAD A STROKE, NO.

11 Q. BUT YOU MADE UP THE STORY ABOUT THE STROKE IN ORDER
12 TO GET SYMPATHY FROM THE NEGOTIATORS TO TRY TO GET
13 YOURSELF OUT, CORRECT?

14 A. I WAS TRYING TO GET BOTH OF US OUT.

15 Q. OKAY. ALL RIGHT.

16 A. THIS IS -- THIS IS LIKE SIX AND A HALF HOURS IN
17 THERE, AND THEY WERE STILL NEGOTIATING, STILL NOT
18 MOVING NEITHER ONE OF US, STILL BREAKING INTO THE
19 WALL BEHIND ME, STILL DOING WHATEVER THEY WANTED.
20 SO, I FELT IF THEY FELT LIKE I WAS SICK AND RECENTLY
21 HAD A SERIOUS INJURY, THEY WOULD GET ME OUT OF
22 THERE.

23 Q. ALL RIGHT. SO THAT WAS A PRETTY DESPERATE
24 SITUATION?

25 A. VERY DESPERATE.

- 1 Q. ALL RIGHT. SO, JUST LIKE YOU'RE IN A DESPERATE
2 FINANCIAL SITUATION NOW, CORRECT?
- 3 A. DIFFERENT TYPE OF DESPERATION, I BELIEVE. THAT'S
4 LIFE DESPERATION AND THIS IS -- NOT WORKING IS NOT
5 IN MY CONTROL. MY DOCTOR IS NOT LETTING ME BACK TO
6 WORK BECAUSE I HAVE PTSD. IT'S NOT LIKE I CHOOSE
7 NOT TO WORK, LIKE YOU'RE INSINUATING.
- 8 Q. I'M NOT INSINUATING ANYTHING.
- 9 A. SEEMS TO ME LIKE YOU ARE.
- 10 Q. ALL RIGHT. IF THE WORKERS' COMPENSATION COMMISSION
11 FINDS YOU TO BE AN EMPLOYEE AS OPPOSED TO AN
12 INDEPENDENT CONTRACTOR, DO YOU INTEND TO GO BACK AND
13 AMEND YOUR TAX RETURNS TO REFLECT THAT?
- 14 A. I COULD ASK YOU THE SAME.
- 15 Q. WHAT'S THAT?
- 16 A. I CAN ASK YOU THE SAME.
- 17 Q. YOU COULD, BUT IT'S MY TURN TO ASK THE QUESTIONS.
- 18 A. OKAY. DO I PLAN ON AMENDING IT? IF IT'S REQUIRED
19 BY FEDERAL LAW THAT I AMEND IT, THEN I GUESS I'LL
20 AMEND IT IF THAT'S WHAT THE FEDERAL GOVERNMENT WANTS
21 ME TO DO. I'D HAVE TO GET MY TAX GUY TO DO THAT,
22 THOUGH, 'CAUSE I DON'T EVEN KNOW HOW TO BEGIN.
- 23 Q. DID YOU HAVE A CONVERSATION WITH TOM SEARS WITHIN
24 THE DAYS OR WEEKS IMMEDIATELY FOLLOWING THE
25 ACCIDENT? WELL, NOT ACCIDENT; INCIDENT.

1 A. I DON'T REMEMBER IF I SPOKE TO HIM OR NOT. I DO
2 REMEMBER TALKING TO HIM AND ASKING HIM FOR
3 ASSISTANCE AND ASKING HIM FOR WORKMAN'S COMPENSATION
4 AFTER I SPOKE WITH LISSETTE, AND THAT'S WHEN HE TOLD
5 ME -- THAT'S THE FIRST TIME I'VE HEARD THAT I WAS
6 NOT EMPLOYED BY THEM.

7 Q. ALL RIGHT. DESPITE THE INDEPENDENT CONTRACTOR
8 AGREEMENT, DESPITE TELLING THE FEDERAL GOVERNMENT
9 YOU'RE A NURSE CONTRACTOR, THAT'S THE FIRST TIME YOU
10 EVER HAD A CLUE THAT YOU WERE CONSIDERED TO BE AN
11 INDEPENDENT CONTRACTOR?

12 A. CORRECT.

13 Q. OKAY. IF YOU ---

14 A. OR BEING TOLD THAT I WAS, YES.

15 Q. OKAY. DO YOU THINK HAD YOU ACTUALLY READ ANY OF THE
16 DOCUMENTS THAT YOU HAD BEEN SIGNING THAT YOU MAY
17 HAVE ---

18 A. I WOULD HAVE TO ASK -- I WOULD HAVE HAD TO ASK
19 QUESTIONS AS TO WHY THEY WERE MAKING ME SIGN A
20 CONTRACT WHEN THEY'RE EMPLOYING ME.

21 Q. ALL RIGHT. AND IF YOU HAD READ THE INDEPENDENT
22 CONTRACTOR AGREEMENT AND YOUR TAX RETURNS, WOULD YOU
23 HAVE MAYBE GONE OUT AND GOTTEN YOUR OWN OCCUPATIONAL
24 ACCIDENT POLICY?

25 A. I DON'T KNOW.

1 Q. OH, I WAS ASKING YOU ABOUT YOUR CONVERSATION WITH
2 TOM SEARS, AND YOU HAD A CONVERSATION WITH HIM WHERE
3 YOU WERE ASKING FOR WORKERS' COMPENSATION BENEFITS,
4 CORRECT?

5 A. I WAS ASKING HIM FOR HELP GETTING THERAPY, GETTING
6 MYSELF -- EVERYTHING. I WAS ASKING FOR EVERYTHING,
7 HELP AND HELP TO STAY IN MY HOUSE UNTIL I'M READY TO
8 GO BACK TO WORK.

9 Q. AND ---

10 A. YES.

11 Q. WERE YOU EXTENDED ANY OFFERS FOR HELP AT ALL, ANY
12 OFFERS FOR ASSISTANCE AT ALL?

13 A. FOR -- FOR WORKMAN'S COMPENSATION?

14 Q. DID ANYBODY AT CONDUSTRIAL OR MEDUSTRIAL OFFER TO
15 PAY ANY MEDICAL BILLS OR ANY OTHER FINANCIAL ---

16 A. WELL, THEY SENT ME A PIECE OF PAPER SAYING THEY WERE
17 OFFERING MEDICAL -- TO PAY MY MEDICAL BILLS, BUT
18 HAVEN'T PAID THEM YET.

19 Q. OKAY. AND YOU WERE OFFERED LIGHT-DUTY EMPLOYMENT,
20 CORRECT?

21 A. I WAS OFFERED LIGHT-DUTY EMPLOYMENT, BUT MY DOCTOR
22 WAS NOT WRITING ME BACK TO WORK AT THAT TIME.

23 Q. OKAY. DO YOU HAVE AN OUT-OF-WORK NOTE FROM THAT
24 DOCTOR?

25 A. I HAVE OUT-OF-WORK NOTES ALL THROUGHOUT MY RECORDS.

1 THEY WERE ALSO SENT FOR SOVA IN ORDER FOR ME TO
2 RECEIVE THOSE FUNDS THAT YOU MENTIONED BEFORE. I
3 WAS NOT ABLE TO RECEIVE THOSE FUNDS UNLESS I HAD A
4 DOCTOR'S NOTE STATING THAT I COULD NOT WORK.

5 Q. ALL RIGHT. DO YOU KNOW IF THEY'RE IN YOUR APAs
6 TODAY?

7 A. THEY'RE IN MY -- WHEREVER YOU HAVE MY SOVA
8 APPLICATIONS, THEY SHOULD BE WITH THAT, BECAUSE THE
9 DOCTOR HAD TO FILL OUT A PORTION OF THAT SOVA
10 APPLICATION IN ORDER FOR ME TO RECEIVE THE FUNDS
11 FROM SOVA SAYING I WAS UNABLE TO WORK. YOU DON'T
12 GET FUNDS FROM SOUTH CAROLINA VICTIM ASSOCIATION
13 WITHOUT PROOF THAT YOU CANNOT WORK.

14 Q. WERE YOU ANGRY AT TOM SEARS WHEN HE TOLD YOU THAT
15 YOU WERE CONSIDERED TO BE AN INDEPENDENT CONTRACTOR
16 ---

17 A. I WAS VERY UPSET.

18 Q. --- AND NOT ELIGIBLE FOR WORKERS' COMPENSATION?

19 A. I WAS UPSET, YES.

20 Q. DID YOU CUSS AT HIM?

21 A. I DON'T RECALL.

22 Q. WOULD YOU DISPUTE THE FACT OR THE TESTIMONY FROM MR.
23 SEARS IF HE TESTIFIES TO SUCH?

24 A. EXCUSE ME?

25 Q. WOULD YOU DISPUTE IT IF HE SAYS THAT YOU ---

1 BY MR. SAMUELS:

2 OBJECTION, YOUR HONOR; ASSUMING FACTS NOT IN
3 EVIDENCE.

4 BY MR. GOODWYN:

5 WE'VE GOT TO TAKE THE WITNESSES IN SOME ORDER,
6 YOUR HONOR. I CAN CALL -- I CAN RECALL HER IN MY
7 CASE IF HE WANTS.

8 BY THE WITNESS:

9 IF HE SAYS ---

10 BY MR. GOODWYN:

11 I'M JUST REPRESENTING WHAT I BELIEVE THE
12 WITNESS IS GOING TO TESTIFY TO.

13 BY MR. SAMUELS:

14 HOLD ON, RACHEL.

15 BY THE COMMISSIONER:

16 LET'S NOT PIT THE WITNESSES AGAINST EACH OTHER.
17 IF YOU WANT TO ASK HER WHAT SHE DID OR DIDN'T DO,
18 THAT'S FINE.

19 BY MR. GOODWYN:

20 I CAN JUST -- I'LL JUST RECALL HER THEN.
21 THAT'S FINE.

22 CROSS EXAMINATION RESUMED BY MR. GOODWYN:

23 Q. DID YOU EVER DO ANY LPN WORK FOR ANYBODY ELSE,
24 THROUGH ANY OTHER AGENCY OR THROUGH ANYBODY
25 PERSONALLY OR ANY HOSPITAL, WHILE YOU WERE WORKING

1 AT MEDUSTRIAL/CONDUSTRIAL?

2 A. DID I DO ---

3 Q. PARDON?

4 A. WHAT ARE YOU SAYING?

5 Q. DID YOU EVER WORK FOR ANYONE ELSE? DID YOU EVER

6 EARN ANY MONEY OTHER THAN THE MONEY YOU EARNED

7 THROUGH CONDUSTRIAL/MEDUSTRIAL ---

8 A. NO.

9 Q. --- WHILE YOU WERE WORKING THERE?

10 A. NO.

11 Q. DID OTHER NURSES THAT YOU KNEW OF WORK -- TAKE OTHER

12 JOBS ON THE SIDE?

13 A. YES.

14 Q. OKAY. AND I THINK YOU TESTIFIED THAT YOU ALSO DID

15 SOME WORK ON THE SIDE IN THE PAST?

16 A. YES.

17 Q. IS THAT TRUE?

18 A. WITH EVERY AGENCY AND EVERY EMPLOYER, I'VE HAD MORE

19 THAN ONE JOB AT TIMES.

20 Q. OKAY. WELL, YOU JUST SAID YOU DIDN'T HAVE MORE THAN

21 ONE JOB WITH CONDUSTRIAL?

22 A. NOT AT THE TIME THAT I WAS WITH MEDUSTRIAL. I WAS

23 ONLY WORKING FOR MEDUSTRIAL AT THAT TIME. BUT IN MY

24 HISTORY OF NURSING, I'VE WORKED MORE THAN ONE JOB

25 AND MORE THAN ONE AGENCY AND MORE THAN ONE EMPLOYER.

1 Q. ALL RIGHT. IT'S NICE TO HAVE THAT FREEDOM, ISN'T
2 IT?

3 A. I'M FREE TO DO THAT ANYWHERE I GO. I WORKED TWO
4 JOBS WHEN I WORKED AT INTERMEDICAL. I WORKED AN
5 AGENCY AND I WORKED AT INTERMEDICAL. YOU SHOULD
6 HAVE THAT PART OF MY TAXES, WHEN I FIRST STARTED
7 WITH INTERMEDICAL. IT SHOULD BE INTERMEDICAL AS
8 PART OF IT. I'VE WORKED AGENCY AND WORKED FULL-TIME
9 JOBS. I'VE WORKED AGENCY AND WORKED -- I'VE WORKED
10 AGENCY 20 YEARS OF MY LIFE, AND I'VE WORKED MORE
11 THAN ONE AGENCY AT TIMES.

12 (OFF THE RECORD)

13 CROSS EXAMINATION RESUMED BY MR. GOODWYN:

14 Q. JUST A FEW MORE QUESTIONS. HAVE YOU BEEN DOING ANY
15 NURSING WORK AT ALL SINCE THE INCIDENT IN THIS CASE?

16 A. NO.

17 Q. DO YOU -- DO YOU WEAR YOUR SCRUBS SOMETIMES THESE
18 DAYS?

19 A. DO I WEAR MY SCRUBS SOMETIMES? I DON'T KNOW.
20 SOMETIMES, I GUESS.

21 Q. ALL RIGHT. WHY DO YOU WEAR SCRUBS IF YOU'RE NOT
22 GOING TO WORK?

23 A. I DON'T KNOW. COMFORTABLE. WHAT ARE YOU ASKING ME?
24 I DON'T KNOW WHAT YOU'RE ASKING ME.

25 BY MR. GOODWYN:

1 ALL RIGHT. I THINK THAT'S ALL I HAVE, YOUR
2 HONOR.

3 **BY THE COMMISSIONER:**

4 ON BEHALF OF THE DEPARTMENT OF CORRECTIONS

5 **BY MS. FARTHING:**

6 YES, COMMISSIONER, A FEW QUESTIONS.

7 **CROSS EXAMINATION BY MS. FARTHING:**

8 Q. MS. TURNER, I KNOW WE'VE MET ON A COUPLE DIFFERENT
9 OCCASIONS. AGAIN, MY NAME IS ERIN FARTHING, AND I'M
10 AN ATTORNEY OVER AT THE SOUTH CAROLINA STATE
11 ACCIDENT FUND. I'M HERE ON BEHALF OF BOTH THE STATE
12 ACCIDENT FUND AND THE DEPARTMENT OF CORRECTIONS. A
13 COUPLE OF QUESTIONS THAT I'M ASKING. I'M HOPING I'M
14 NOT REPEATING WHAT YOU TESTIFIED TO EARLIER, BUT
15 IT'S BEEN A WHILE SINCE SOME OF THESE ISSUES WERE
16 BROUGHT UP, SO I JUST WANT TO VERIFY TO MAKE SURE.
17 DID YOU EVER APPLY FOR ANY JOB DIRECTLY WITH THE
18 DEPARTMENT OF CORRECTIONS?

19 A. NO.

20 Q. OKAY. DID YOU EVER DO ANY KIND OF JOB INTERVIEW
21 WITH THE DEPARTMENT OF CORRECTIONS?

22 A. NO.

23 Q. AND I BELIEVE YOU INDICATED EARLIER THAT YOU WEREN'T
24 SURE OF EXACTLY THE SHIFTS THAT THE DEPARTMENT OF
25 CORRECTIONS NURSES WORK BECAUSE YOU DIDN'T WORK FOR

1 THE DEPARTMENT OF CORRECTIONS, IS THAT RIGHT?

2 A. YES.

3 Q. AND I KNOW THAT YOU INDICATED EARLIER THAT YOU
4 WORKED AT A COUPLE OF DIFFERENT INSTITUTIONS WITHIN
5 THE DEPARTMENT OF CORRECTIONS?

6 A. CORRECT.

7 Q. WHICH INSTITUTIONS WERE THOSE?

8 A. CAMILLE GRAHAM, BROAD RIVER, AND KIRKLAND
9 CORRECTIONAL INSTITUTION.

10 **BY THE COMMISSIONER:**

11 WHAT WAS THE FIRST ONE, MA'AM?

12 **BY THE WITNESS:**

13 CAMILLE GRAHAM.

14 **CROSS EXAMINATION RESUMED BY MS. FARTHING:**

15 Q. WERE YOU EVER APPROACHED ABOUT WORKING AT ANY OTHER
16 OF THE INSTITUTIONS OF THE DEPARTMENT OF
17 CORRECTIONS?

18 A. WHAT DO YOU MEAN, OTHER INSTITUTIONS?

19 Q. THOSE ARE NOT THE ONLY THREE INSTITUTIONS AT THE
20 DEPARTMENT OF CORRECTIONS, CORRECT?

21 A. THEY ARE NOT, NO.

22 Q. DID YOU EVER GET ASKED IF YOU WANTED TO WORK AT ANY
23 OF THE OTHER INSTITUTIONS?

24 A. NO. I MENTIONED I WANTED TO STAY LOCAL. SOME OF
25 THE OTHER INSTITUTIONS ARE FURTHER AWAY.

- 1 Q. SO IF THEY HAD APPROACHED YOU ABOUT WORKING, SAY, AT
2 LEE CORRECTIONAL, YOU COULD HAVE REJECTED THAT
3 SHIFT?
- 4 A. YES.
- 5 Q. AND THE INSTITUTION THAT YOU WORKED ON, WAS THAT
6 DEPENDENT ON WHAT SHIFTS WERE AVAILABLE AT THAT
7 INSTITUTION OR AT WHICH INSTITUTION?
- 8 A. ALL MY SHIFTS WERE DEPENDENT ON AVAILABILITY.
- 9 Q. DID YOU EVER RECEIVE A PAYCHECK FROM THE DEPARTMENT
10 OF CORRECTIONS?
- 11 A. NO.
- 12 Q. WERE THEY ABLE TO GIVE YOU ANY KIND OF RAISE OR
13 BONUS ---
- 14 A. NO.
- 15 Q. --- DIRECTLY? DID YOU EVER RECEIVE A W-2 OR 1099 OR
16 ANY OTHER TAX DOCUMENTS FROM THE DEPARTMENT OF
17 CORRECTIONS?
- 18 A. NO.
- 19 Q. DID YOU RECEIVE ANY KIND OF BENEFIT FROM THE
20 DEPARTMENT OF CORRECTIONS, EITHER RETIREMENT, LEAVE?
- 21 A. NO.
- 22 Q. IS THAT A NO?
- 23 A. NO.
- 24 Q. IF YOU DECIDED THAT YOU NO LONGER WANTED TO WORK AT
25 THE DEPARTMENT OF CORRECTIONS ANY LONGER, HOW WOULD

- 1 YOU GO ABOUT DOING THAT?
- 2 A. IF I DECIDED NOT TO WORK AT ---
- 3 Q. YES, MA'AM. YOU'D JUST NOT ACCEPT ANY MORE SHIFTS?
- 4 A. I WOULD HAVE TO INFORM THEM THAT I'M NOT GONNA BE
- 5 WORKING THERE ANYMORE. I WOULD HAVE TO INFORM MY
- 6 AGENCY THAT I DON'T WANT TO WORK CORRECTIONS
- 7 ANYMORE.
- 8 Q. OKAY. SO YOU WOULD JUST REJECT ANY SHIFTS THAT CAME
- 9 ALONG FROM THE DEPARTMENT OF CORRECTIONS?
- 10 A. CORRECT.
- 11 Q. WOULD YOU HAVE NEEDED TO RESIGN WITH THE DEPARTMENT
- 12 OF CORRECTIONS?
- 13 A. NO.
- 14 Q. HAVE YOU EVER RESIGNED FROM THE DEPARTMENT OF
- 15 CORRECTIONS?
- 16 A. NO.
- 17 Q. IS YOUR LPN LICENSE STILL CURRENT?
- 18 A. AS FAR AS I KNOW, YES.
- 19 Q. OKAY. I KNOW THAT YOU INDICATED IN YOUR DEPOSITION
- 20 THAT YOU THOUGHT IT WAS GOOD THROUGH, I THINK, 2017
- 21 OR 2018. DO YOU KNOW ---
- 22 A. I BELIEVE SO.
- 23 Q. DO YOU REMEMBER ---
- 24 A. I DON'T REMEMBER EXACTLY WHAT THE DATE IT EXPIRES.
- 25 I KNOW IT'S A TWO-YEAR LICENSE, AND I THINK I GOT IT

- 1 LIKE THE OCTOBER SHORTLY AFTER THIS HAPPENED.
- 2 Q. OKAY. SO ABOUT MONTH AFTER THE INCIDENT AT ---
- 3 A. I BELIEVE SO. I'M NOT SURE EXACTLY ON THAT. I'M
- 4 NOT QUITE SURE ON THE DATES.
- 5 Q. OKAY. NOW, YOU INDICATED EARLIER THAT YOU SELF-
- 6 MEDICATED WITH MARIJUANA FOR PANIC ATTACKS?
- 7 A. I DID.
- 8 Q. WHO RECOMMENDED THAT?
- 9 A. ONE OF MY FRIENDS.
- 10 Q. IS YOUR FRIEND A MEDICAL PROFESSIONAL?
- 11 A. NO. JUST TELL ME IT WOULD HELP ME CALM DOWN WHEN I
- 12 WAS REALLY AGITATED.
- 13 Q. AND YOU INDICATED THAT YOU HAD A WORK EXCUSE FROM --
- 14 YOU HAD TO PROVIDE THAT TO SOVA?
- 15 A. YES. IN ORDER TO RECEIVE ANY FUNDS FROM SOVA, YOU
- 16 HAVE TO HAVE PROOF FROM A PHYSICIAN THAT YOU'RE NOT
- 17 ABLE TO WORK, AND THAT CAME -- THAT WAS WITHIN THE
- 18 DOCUMENTATION ON THE SOVA APPLICATION.
- 19 Q. I'M GOING TO APPROACH IF YOU DON'T MIND.
- 20 A. OKAY.
- 21 Q. I'M LOOKING AT PAGE 291 OF THE APAS THAT WERE
- 22 PROVIDED BY YOUR ATTORNEY.
- 23 A. OKAY.
- 24 Q. AND I WON'T BLOCK YOU.
- 25 A. OKAY. THANK YOU.

- 1 Q. IT INDICATES RIGHT HERE, "PATIENT WILL BE TOTALLY
2 UNABLE TO WORK FROM..." -- AND IT SAYS 9/16/2015
3 THROUGH 9/30/2015.
- 4 A. YES, AND THAT'S WHEN THEY GAVE ME MY FOLLOW-UP
5 APPOINTMENT TO COME BACK. AND THEN THEY WOULD --
6 THEY ISSUED ANOTHER ONE AFTER THAT.
- 7 Q. OKAY.
- 8 A. THEY GAVE ME 'TIL MY FOLLOW-UP APPOINTMENT. THEN
9 THEY WOULD SAY, OKAY, SHE'S STILL NOT READY TO GO
10 BACK TO WORK, AND THEY WOULD ISSUE ANOTHER ONE.
- 11 Q. DID YOU EVER RECEIVE ANOTHER OUT-OF-WORK EXCUSE?
- 12 A. I RECEIVED MANY OF THESE. I RECEIVED ALL THE WAY
13 UNTIL \$7,000 WORTH OF THESE. DO YOU SEE WHAT I'M
14 SAYING? THEY MAXIMIZED ME OUT AT ---
- 15 Q. AT \$7,000?
- 16 A. YES. SOUTH CAROLINA ASSOCIATION FOR VICTIM'S
17 ASSISTANCE HAS A MAX OUT OF \$7,000. BUT UP UNTIL
18 THEN I HAD TO PROVIDE THOSE PROVING THAT I WAS
19 UNABLE TO WORK IN ORDER TO CONTINUE FUNDS FROM THEM.
- 20 Q. BUT ONCE YOU REACHED THAT \$7,000 LIMIT, DID YOU
21 CONTINUE TO GET OUT-OF-WORK EXCUSES?
- 22 A. I GOT -- I GOT INFORMED THAT I WAS NOT ABLE TO WORK
23 THROUGH MY PHYSICIAN, BUT I DIDN'T HAVE NOBODY TO
24 GIVE AN OUT-OF-WORK EXCUSE TO. NOBODY ASKED ME FOR
25 ONE, SHOULD I SAY. THEY ASKED ME FOR IT; THAT'S WHY

1 I ASKED FOR IT.

2 BY MS. FARTHING:

3 I DON'T THINK I HAVE ANYTHING FURTHER. THANK
4 YOU.

5 BY THE WITNESS:

6 THANK YOU.

7 BY THE COMMISSIONER:

8 JUST BRIEFLY, MR. SAMUELS, WE TALKED ABOUT --
9 DO YOU ALL STILL WANT TO CONTINUE?

10 BY MR. SAMUELS:

11 WE'D LIKE TO CONTINUE IF WE CAN. I KNOW WE
12 HAVE THE ISSUE THAT THE LIGHTS MAY GO OFF.

13 BY THE COMMISSIONER:

14 WELL, THEY WILL. I'LL JUST WARN EVERYBODY THE
15 LIGHTS WILL GO OFF PROBABLY IN ABOUT ANOTHER FIVE TO
16 TEN MINUTES, AND I WILL GET UP AND GO TURN -- BUT
17 IT'S JUST GOING TO HAPPEN. OKAY.

18 BY MR. SAMUELS:

19 ARE YOU READY FOR ME TO START?

20 BY THE COMMISSIONER:

21 YES.

22 REDIRECT EXAMINATION BY MR. SAMUELS:

23 Q. RACHEL, WE'RE HERE NOW 12 MINUTES PAST 7:00. AT
24 7:00 THE LIGHTS IN THIS COURTROOM AUTOMATICALLY
25 TURNED OFF. WHAT HAPPENED TO YOU WHEN THE LIGHTS

1 WENT OUT?

2 A. I FELT LIKE EVERYTHING'S CLOSING IN ON ME,
3 EVERYTHING'S SHUTTING DOWN.

4 Q. WERE YOU ABLE TO STAY SEATED IN THE WITNESS STAND
5 WHERE YOU ARE NOW?

6 A. NO. THEY GAVE ME A PRN FOR COURT TODAY, SO I'M A
7 LITTLE BIT MORE CALM THAN USUAL.

8 Q. THEY GAVE YOU WHAT TODAY?

9 A. A PRN MEDICATION FOR ME TO COME TO COURT TODAY.

10 Q. WHAT'S THAT MEDICATION?

11 A. KLONOPIN.

12 Q. HOW MANY DID THEY GIVE YOU?

13 A. THEY GAVE ME A TOTAL OF TEN.

14 Q. WHAT DOCTOR GAVE THAT TO YOU?

15 A. DR. CHERRY.

16 Q. IS HE A PSYCHIATRIST?

17 A. YES.

18 Q. AND THAT'S WHO'S TREATING YOU?

19 A. YES.

20 Q. OKAY. AND DID YOU TAKE THE KLONOPIN BEFORE THE
21 HEARING?

22 A. YES.

23 Q. HOW HAS THAT HELPED YOU TODAY AS HOW YOU WOULD HAVE
24 BEEN OTHERWISE?

25 A. HELPED ME A LOT. IT'S HELPING ME STAY A LITTLE BIT

1 MORE FOCUSED AND A LITTLE BIT MORE CALM. IT STILL
2 GETS HEIGHTENED WHEN PEOPLE GET REAL CLOSE OR IF
3 THEY BLOCK THE DOORWAY. IT STILL GETS -- IT FEELS
4 LIKE IT'S CLOSING IN ON ME ANYWAY, BUT IT'S HELPING
5 ME FOCUS A LITTLE BIT. IT'S HELPING ME REALIZE THAT
6 THE DOOR IS RIGHT THERE AND I STILL CAN GET OUT.

7 Q. I WANTED TO ASK YOU ALSO, YOU'RE SNAPPING A RUBBER
8 BAND ON YOUR HAND?

9 A. IT HELPS ME STAY FOCUSED. IT HELPS ME BRING MY MIND
10 BACK TO REALITY.

11 Q. OKAY. HOW OFTEN DO YOU HAVE TO SNAP THE RUBBER
12 BAND?

13 A. IT DEPENDS ON THE ANXIETY. IT DEPENDS ON WHERE I
14 FEEL LIKE MY MIND IS GOING. SOMETIMES I FEEL LIKE
15 IT'S GOING SOMEWHERE ELSE.

16 Q. YOUR DEPOSITION WAS TAKEN TWICE. DID YOU HAVE THE
17 RUBBER BAND WITH YOU DURING THE DEPOSITION?

18 A. RIGHT.

19 Q. SO, IF YOU'RE AT HOME DO YOU NEED THE RUBBER BAND?

20 A. NOT WHEN I'M NOT IN A HIGH ANXIETY, HIGH TRIGGERED
21 AREA, I DON'T HAVE TO HAVE IT. AND AT HOME I FEEL
22 SAFE. THAT'S THE ONLY PLACE I FEEL SAFE, REALLY
23 SAFE, IS AT HOME.

24 Q. WHEN YOU'RE OUT, EVEN IN A -- DO YOU EVER GO
25 SHOPPING OR ANYTHING LIKE THAT?

1 A. I'M STARTING TO DO SOME NOW 'CAUSE MY COUNSELOR
2 WANTS ME TO WORK ON IT. SINCE WE'VE BEEN DOING SOME
3 EXPOSURE THERAPY, SHE WANTS ME TO GO AND START DOING
4 SOME OF THE WORK ON MY OWN WITHOUT HER. SO I'M
5 TRYING. SUCCESSFUL AT TIMES; NOT SUCCESSFUL AT
6 OTHER TIMES. I TRY TO GO DURING TIMES WHERE IT'S
7 NOT CROWDED.

8 Q. RACHEL, I'M GOING TO SHOW YOU A DOCUMENT THAT MR.
9 HARBISON SHOWED YOU. IT WAS PAGE 322 OF THE APA
10 SUBMISSIONS, ENTITLED SUBSTANCE ABUSE POLICY. IT'S
11 DATED OCTOBER 9TH, 2014. SEE IF YOU HAVE THAT.

12 A. NO. THEY TOOK IT BACK WITH THE OTHER PAPERWORK.

13 Q. OKAY. I'M GOING TO SHOW IT TO YOU AGAIN.

14 A. OKAY. OKAY.

15 Q. ALL RIGHT. WOULD YOU AGREE THAT IN THE FIRST
16 PARAGRAPH ---

17 **BY MR. HARBISON:**

18 OBJECTION, COMMISSIONER. I THINK HE'S LEADING
19 THE WITNESS.

20 **BY THE WITNESS:**

21 WANT ME TO READ THE FIRST PARAGRAPH?

22 **BY MR. HARBISON:**

23 WOULD YOU AGREE ---

24 **REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

25 Q. WOULDN'T YOU AGREE ---

1 BY THE COMMISSIONER:

2 ALL RIGHT.

3 BY MR. SAMUELS:

4 I'LL REPHRASE, YOUR HONOR.

5 REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:

6 Q. I'M GOING TO ASK YOU TO READ THE LAST SENTENCE IN
7 THE FIRST PARAGRAPH.

8 A. "THIS MAY INCLUDE TERMINATION EVEN FOR THE FIRST
9 OFFENSE."

10 Q. THANK YOU. READING THAT RACHEL, WHAT WOULD YOUR
11 UNDERSTANDING BE AFTER READING THAT AS TO WHETHER
12 YOU COULD BE TERMINATED BY MEDUSTRIAL?

13 BY MR. GOODWYN:

14 I'M GOING TO OBJECT, YOUR HONOR, TO RELEVANCY.

15 WITNESS ANSWERS:

16 A. I COULD BE TERMINATED BY MEDUSTRIAL.

17 BY MR. GOODWYN:

18 SHE'S ALREADY TESTIFIED THAT SHE DIDN'T READ
19 ANY OF THIS. HOW CAN WHAT SHE THINKS NOW OF IT BE
20 RELEVANT TO ANY OF THESE ISSUES?

21 BY THE WITNESS:

22 I JUST READ IT, THOUGH.

23 BY MR. GOODWYN:

24 WELL, THIS IS AFTER THE FACT.

25 BY THE COMMISSIONER:

1 I'M GOING TO LET HER ANSWER THE QUESTION. IF
2 YOU'LL GO AHEAD, MA'AM.

3 **WITNESS ANSWERS:**

4 A. I COULD BE TERMINATED FROM THEM.

5 **REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

6 Q. YOU MENTIONED SOMETHING ABOUT MANDATORY MEETINGS AT
7 SCDC?

8 A. YES.

9 Q. OKAY. WHAT WERE THESE MEETINGS ABOUT?

10 A. JUST CHANGES OVER THE FLOOR. IF THEY WERE GONNA BE
11 CHANGING ANY POLICIES OR CHANGING ANYTHING THAT --
12 THE WAY THEY DO THINGS, THEY WOULD HAVE THESE
13 MANDATORY MEETINGS, AND OFTENTIMES THEY WOULD
14 ANNOUNCE LIKE EMPLOYEE OF THE MONTH OR, YOU KNOW,
15 THEY WEREN'T -- THEY WERE -- ALL THE NEGATIVES AND
16 ALL THE POSITIVES OF THINGS THAT GO ON ON THE FLOOR
17 THAT NEEDED TO BE DISCUSSED WITH STAFF.

18 Q. WERE THOSE CONDUCTED BY THE DEPARTMENT OF
19 CORRECTIONS OR BY MEDUSTRIAL?

20 A. THE MANDATORY MEETINGS WERE DONE BY DEPARTMENT OF
21 CORRECTIONS.

22 Q. AND DID THEY TAKE PLACE AT THE ---

23 A. YES, THEY TOOK PLACE AT THE DEPARTMENT OF
24 CORRECTIONS.

25 Q. WHAT ROLE DID MEDUSTRIAL HAVE IN COMING TO THOSE

- 1 MEETINGS?
- 2 A. THEY PROVIDED LIKE MEALS AND STUFF LIKE THAT.
- 3 Q. FOR THIS ---
- 4 A. CATERED IT, SHOULD I SAY. AND THEN THEY WOULD
- 5 DISCUSS CONTRACTS, I GUESS, WITH THE AGENCY TO
- 6 CONTINUE THE CONTRACTS WITH SCDC.
- 7 Q. AND AT THESE MEETINGS THEY WERE DISCUSSING ISSUES
- 8 WITH EMPLOYEES, DID THAT INCLUDE MEDUSTRIAL AND
- 9 MEDFIRST NURSES?
- 10 A. CORRECT.
- 11 Q. EMPLOYEE OF THE MONTH, WAS THAT EVER A MEDUSTRIAL OR
- 12 MEDFIRST NURSE?
- 13 A. YES, BOTH.
- 14 Q. BOTH?
- 15 A. YES.
- 16 Q. WERE YOU EVER EMPLOYEE OF THE MONTH AT ---
- 17 A. CORRECT.
- 18 Q. YOU WERE?
- 19 A. YES.
- 20 Q. WHAT MONTH?
- 21 A. I DON'T REMEMBER THE EXACT MONTH, BUT I THINK IT WAS
- 22 A SUMMER MONTH. IT WAS WARM OUTSIDE. BUT I DON'T
- 23 KNOW ABOUT THE EXACT MONTH.
- 24 Q. HOW MANY TIMES ---
- 25 A. THEY WOULD PUT IT ON THE WALL AND PUT YOUR NAME AND

1 STUFF AND SAY WHAT EMPLOYEES OF THE MONTH WERE,
2 STUFF LIKE THAT.

3 Q. HOW MANY TIMES WERE YOU THE EMPLOYEE OF THE MONTH?

4 A. MULTIPLE TIMES. I DON'T REMEMBER EXACTLY, BUT I
5 HAVE BEEN MULTIPLE TIMES.

6 Q. WERE YOU PAID TO ATTEND THOSE MANDATORY MEETINGS?

7 A. CORRECT. YES.

8 Q. WHO PAID YOU?

9 A. MEDUSTRIAL.

10 Q. I WANT TO ASK YOU SOME QUESTIONS -- YOU WERE
11 PREVIOUSLY SHOWN A COPY OF YOUR DEPOSITION, AND I
12 WANT TO FOLLOW UP ON THAT. SO I AM GOING TO HAND
13 YOUR DEPOSITION TO YOU. THIS IS YOUR SUPPLEMENTAL,
14 THE SECOND DEPOSITION YOU HAD TAKEN. RACHEL, I'M
15 GOING TO SHOW YOU YOUR DEPOSITION, AND THIS IS PAGE
16 14.

17 A. OKAY.

18 Q. RACHEL, I'M GOING TO READ THE QUESTION AND I'M GOING
19 TO ASK YOU TO READ YOUR ANSWER. SO IF YOU LOOK AT
20 PAGE 14, LINE THREE, YOU WERE ASKED, "DO YOU RECALL
21 WHAT YOU TOLD THEM AS TO YOUR ALCOHOL ABUSE?" WHAT
22 WAS YOUR ANSWER?

23 A. "THEY ASKED ME ABOUT EVERYTHING. I DON'T REMEMBER."

24 Q. HOW MUCH ALCOHOL WERE YOU USING AT THAT TIME? HOW
25 MANY DRINKS PER DAY OR WEEK?

1 A. I DON'T KNOW. I DON'T KNOW. I STARTED DRINKING
2 SOME, AND THE ONLY WAY I COULD SLEEP.

3 Q. HOW MUCH WERE YOU DRINKING?

4 A. I DON'T KNOW. I DIDN'T COUNT HOW MUCH I DRANK. ARE
5 YOU ASKING ME TO READ THIS? HOW MUCH WAS I
6 DRINKING? I DON'T KNOW. I DON'T REMEMBER. I DON'T
7 KNOW.

8 **BY MR. HARBISON:**

9 OBJECTION, COMMISSIONER. I THINK IT'S IMPROPER
10 USE OF THE DEPOSITION. I MEAN, IF HE WANTS TO ASK
11 HER WHAT HER DRINKING HABITS WERE AT THE TIME. BUT
12 I THINK YOU WOULD USE A DEPOSITION TRANSCRIPT FOR
13 IMPEACHMENT PURPOSES OR SOMETHING ALONG THOSE LINES.
14 I DON'T KNOW HOW HE'D BE ENTITLED TO JUST START
15 GOING THROUGH HER DEPOSITION AGAIN.

16 **BY MR. SAMUELS:**

17 IF I MAY, YOUR HONOR, FIRST OFF, MR. HARBISON
18 CERTAINLY OPENED THE DOOR TO USE OF THE DEPOSITION,
19 AND SO I AM REHABILITATING THE WITNESS THAT HE WOULD
20 CONTEND HE IMPEACHED. AND, SECONDLY, I'D POINT OUT
21 THAT USE OF DEPOSITIONS IN WORKERS' COMPENSATION
22 CASES IS GOVERNED BY THE RULES OF CIVIL PROCEDURE.
23 SOUTH CAROLINA RULES OF CIVIL PROCEDURE PROVIDE THAT
24 A DEPOSITION MAY BE USED FOR ANY PURPOSE. SO THIS
25 IS A PROPER PURPOSE UNDER THE RULES OF CIVIL

1 PROCEDURE.

2 BY MR. HARBISON:

3 DON'T YOU THINK IT'S LEADING THE WITNESS WHEN
4 HE ASKS THE QUESTION AND SAYS READ THE ANSWER THAT'S
5 WRITTEN DOWN?

6 BY THE COMMISSIONER:

7 WELL ---

8 BY MR. HARBISON:

9 IF ANYTHING IS LEADING THE WITNESS.

10 BY THE COMMISSIONER:

11 ALL RIGHT. OF COURSE, IF THERE HAVE BEEN
12 CERTAIN PORTIONS OF HER DEPOSITIONS THAT HAVE BEEN
13 POINTED TO AND THERE IS ANOTHER RELEVANT PORTION,
14 THE OTHER SIDE -- AFTER IT'S BEEN USED FOR
15 IMPEACHMENT, THE OTHER SIDE MAY USE THAT. AND SO
16 THERE WAS -- THERE WAS SOME DISCUSSION EARLIER WITH
17 THE DEPOSITION -- I CAN'T REMEMBER THE EXACT PAGES
18 -- AS TO ALCOHOL, IF I'M NOT MISTAKEN.

19 BY MR. HARBISON:

20 I DIDN'T USE THE DEPOSITION, I DON'T BELIEVE.

21 I USED MEDICAL RECORDS, I BELIEVE.

22 BY THE COMMISSIONER:

23 ALL RIGHT. THEN ---

24 BY MR. HARBISON:

25 IS THAT CORRECT? I DO NOT RECALL USING THE

1 DEPOSITION FOR THAT, COMMISSIONER. I USED MEDICAL
2 RECORDS THAT WERE SUBMITTED THROUGH THE APA.

3 **BY THE COMMISSIONER:**

4 MR. SAMUELS, I AM LOOKING BACK THROUGH MY
5 NOTES. I SEE WHERE THE DEPOSITION WAS USED WITH
6 REGARDS TO -- THE CLOSEST ISSUE THAT I SEE IS THE
7 ISSUE OF THE DRUG TESTING, AND THE QUESTIONS WITH
8 REGARDS TO THE ALCOHOL WERE FROM THE APA
9 SUBMISSIONS.

10 **BY MR. SAMUELS:**

11 I'M NOT SURE WHAT SECTION REGARDING THE
12 DEPOSITION, BUT THAT WOULD BE RULE THREE, YOUR
13 HONOR.

14 **BY THE COMMISSIONER:**

15 AND YOU ARE CORRECT; WE ARE SUBJECT TO THAT.
16 BUT I -- THAT -- THE UNLIMITED USE SPECIFICALLY HAS
17 TO DO WITH 30(b)(6) WITNESSES, I KNOW. BUT AS FAR
18 AS -- AS FAR AS IN THIS SITUATION, I DON'T KNOW OF
19 IT BEING UNLIMITED USE.

20 **BY MR. SAMUELS:**

21 THE LANGUAGE IS A DEPOSITION MAY BE USED FOR
22 ANY PURPOSE. BUT I, FRANKLY, DON'T HAVE A RULE BOOK
23 IN FRONT OF ME.

24 **BY MR. GOODWYN:**

25 IT'S ANY PURPOSES ALLOWED UNDER THE ACT. YOU

1 CAN'T JUST USE IT FOR ANYTHING. I MEAN, I THINK
2 YOU'RE ALLOWED TO -- IF IT'S RELEVANT YOU CAN READ
3 THE ANSWER TO THE QUESTION IF YOU'RE TRYING TO
4 IMPEACH THE WITNESS.

5 **BY THE COMMISSIONER:**

6 IT SAYS AT THE TRIAL OR UPON THE HEARING --
7 THIS IS "A" -- OF A MOTION OR INTERLOCUTORY
8 PROCEEDING, ANY PART OR ALL OF A DEPOSITION, SO FAR
9 AS ADMISSIBLE UNDER THE RULES OF EVIDENCE APPLIED AS
10 THOUGH THE WITNESS WERE THEN PRESENT AND TESTIFYING,
11 MAY BE USED AGAINST ANY PARTY WHO WAS PRESENT OR
12 REPRESENTED AT THE TAKING OF THE DEPOSITION OR WHO
13 HAD REASONABLE -- CERTAINLY, I'LL -- AND THEN IT
14 GOES ON TO, IN SECTION ONE, TALK ABOUT IMPEACHMENT.
15 I CERTAINLY WILL SHARE THIS WITH ALL OF YOU SO THAT
16 YOU CAN TAKE YOUR OWN POSITIONS. THEN TWO GOES TO,
17 AS I HAD INDICATED EARLIER, THE 30(b)(6). AND THEN
18 THERE'S SOME OTHER SPECIAL CIRCUMSTANCES.

19 MR. SAMUELS, I DO NOT READ IT AS YOU READ IT,
20 SIR. AND I CERTAINLY -- SINCE YOU ALL DON'T HAVE
21 COPIES, YOU'RE CERTAINLY WELCOME TO LOOK AT THIS.

22 **BY MR. SAMUELS:**

23 I'LL TAKE YOUR RULING, WHATEVER IT IS, YOUR
24 HONOR.

25 **BY THE COMMISSIONER:**

1 OKAY.

2 **BY MR. SAMUELS:**

3 I WILL NOTE FOR THE RECORD, SHOULD THIS CASE
4 END UP IN THE SUPREME COURT, THAT I ONCE OBJECTED TO
5 USE OF A DEPOSITION AT TRIAL AND JUDGE BUCK JAMES,
6 NOW JUSTICE JAMES, INFORMED ME THAT THE RULES OF
7 CIVIL PROCEDURE ALLOW THE USE OF DEPOSITIONS FOR ANY
8 PURPOSE AND OVERRULED MY OBJECTION AT THAT TIME.
9 THAT'S JUST A LIGHT NOTE. I CAN MOVE ON, YOUR
10 HONOR.

11 **BY THE COMMISSIONER:**

12 THANK YOU, SIR.

13 **REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

14 Q. RACHEL, AROUND THE TIME OF SEPTEMBER 2015 AND
15 OCTOBER 2015, HOW LONG HAD YOU GONE ANY ONE TIME
16 WITHOUT SLEEPING?

17 A. BE DAYS SOMETIMES.

18 Q. HOW MANY DAYS?

19 A. THREE OR FOUR DAYS. SOMETIMES I WOULD SLEEP AN HOUR
20 A DAY, SOMETIMES LESS THAN THAT. SOMETIMES I'D
21 SLEEP FOUR HOURS, SOMETIMES LESS THAN THAT.

22 **BY MR. GOODWYN:**

23 YOUR HONOR, I'M GOING TO OBJECT. THIS IS NOT
24 REDIRECT; THIS IS NEW DIRECT. NOBODY TALKED ABOUT
25 HOW LONG SHE SLEPT ON CROSS.

1 BY MR. SAMUELS:

2 IT WILL BE RELEVANT WITH THE VERY NEXT
3 QUESTION, YOUR HONOR.

4 BY THE COMMISSIONER:

5 ALL RIGHT. YOU CAN PROCEED TO THE NEXT
6 QUESTION, THEN.

7 REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:

8 Q. WHAT DID YOU DO TO BE ABLE TO SLEEP DURING THAT
9 TIME?

10 A. DRANK AND SMOKED.

11 Q. DRINKING ALCOHOL AND SMOKING MARIJUANA?

12 A. YES. YES.

13 Q. I'M GOING TO ASK YOU ABOUT A NOTE THAT'S AT PAGE 32
14 OF CONDUSTRIAL'S APA SUBMISSIONS. IT'S A RECORD
15 MADE BY SOMEBODY AT CONDUSTRIAL REGARDING YOUR
16 CONDITION ON SEPTEMBER 23RD, 2015. HAD A NURSE ---

17 A. I'M SORRY? I DIDN'T HEAR WHAT YOU SAID.

18 Q. HAD A NURSE SUPERVISOR NAMED MS. SMITH COME BY TO
19 SEE YOU?

20 A. MS. SMITH?

21 Q. YES.

22 A. THERE'S A LOT OF PEOPLE THAT CAME BY, BUT I BELIEVE
23 SHE WAS ONE OF THEM.

24 Q. A NURSE SUPERVISOR AT SCDC?

25 A. I BELIEVE ONE NURSE SUPERVISOR CAME BY TO SEE ME. A

1 LOT OF PEOPLE CAME TO THE HOUSE TO CHECK ON ME.

2 BUT, YEAH, I THINK SHE WAS ONE OF THEM.

3 Q. ACCORDING TO THIS RECORD ON SEPTEMBER 25TH IT SAYS,
4 QUOTE, "SHE SAID RACHEL IS NOT BATHING, EATING, OR
5 SIMPLY TAKING CARE OF HERSELF..." ---

6 **BY MR. HARBISON:**

7 OBJECTION, COMMISSIONER. AGAIN, I THINK THIS
8 IS LEADING. THIS IS OUTSIDE THE SCOPE OF CROSS
9 EXAMINATION IN TERMS OF REDIRECT. IT IS HEARSAY.

10 **BY THE COMMISSIONER:**

11 WELL, AS FAR AS HEARSAY, IT'S ALREADY IN THE
12 RECORD. AS FAR AS THE LEADING, MR. SAMUELS ---

13 **BY MR. SAMUELS:**

14 I CAN REPHRASE, YOUR HONOR.

15 **BY MR. HARBISON:**

16 HE'S ALREADY -- THIS IS HOW HE'S BEEN DOING IT
17 EVERY TIME, YOU KNOW. HE GETS AN OBJECTION. YOU
18 SAY REPHRASE, AND THEN HE SUGGESTS THE ANSWER, AND
19 THEN HE ASKS HER A DIFFERENT QUESTION. SO, HE'S
20 ASKED HER IF SHE'S HAD TROUBLE SLEEPING. SHE'S
21 ANSWERED. BUT THIS IS THE TENTH TIME HE'S DONE
22 THIS.

23 **BY THE COMMISSIONER:**

24 IS THIS WITHIN THE SCOPE OF THE CROSS, MR.
25 SAMUELS?

1 **BY MR. SAMUELS:**

2 IT IS, YOUR HONOR, BECAUSE SHE WAS CROSS
3 EXAMINED ON WHETHER OR NOT SHE WAS OFFERED
4 EMPLOYMENT BY CONDUSTRIAL ON SEPTEMBER 24TH, 2015.
5 THIS IS AS TO HER CONDITION DURING THAT TIME PERIOD.

6 **BY THE COMMISSIONER:**

7 ALL RIGHT. YOU CAN PROCEED, SIR.

8 **BY MR. SAMUELS:**

9 THANK YOU, YOUR HONOR.

10 **REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

11 Q. RACHEL, HOW WERE YOU DOING AT THAT TIME IN TERMS OF
12 TAKING CARE OF YOURSELF?

13 A. I WASN'T DOING VERY WELL. I WASN'T TAKING CARE OF
14 MYSELF AT ALL. I WAS NOT FOCUSING AT ALL. I WASN'T
15 ABLE TO FOCUS ON ANYTHING. I WASN'T SLEEPING. I
16 WASN'T EATING. I WASN'T TAKING CARE OF MYSELF.
17 JUST HAVING PANIC ATTACKS, ANXIETY ATTACKS,
18 DEPRESSION, ABANDONMENT ISSUES, JUST ALL KINDS OF
19 THINGS WERE GOING ON. I FELT LIKE HOPELESS.

20 Q. COULD YOU AT THAT TIME HAVE GONE TO WORK EVEN IN A
21 LIGHT-DUTY POSITION?

22 A. NO.

23 Q. ARE YOU YET TO A POINT WHERE YOU COULD GO BACK TO
24 WORK IN A LIGHT-DUTY POSITION?

25 A. NOT ACCORDING TO MY DOCTOR, NO.

1 Q. HAS CONDUSTRIAL EVER CONTACTED YOU SINCE THEN AND
2 MADE A SIMILAR OFFER OF EMPLOYMENT?

3 A. THEY HAVEN'T CONTACTED ME SINCE THEY TOLD ME I WAS
4 NOT THEIR EMPLOYEE. I'VE TRIED CONTACTING THEM, AND
5 THEY REFUSE TO TALK TO ME. WHEN I APPLIED FOR FOOD
6 STAMPS, THEY REFUSED TO SAY I WAS EVER EMPLOYED WITH
7 THEM. WHEN I APPLIED FOR DIFFERENT ASSISTANCE THAT
8 REQUIRED EMPLOYMENT CONFIRMATION, THEY REFUSED TO
9 GIVE IT.

10 **BY MR. SAMUELS:**

11 THANK YOU. I HAVE NO MORE QUESTIONS. THE
12 OTHER ATTORNEYS DO HAVE THE RIGHT TO ASK YOU MORE
13 QUESTIONS CONCERNING WHAT I JUST ASKED YOU ABOUT.
14 SO, PLEASE TRY TO ANSWER THEIR QUESTIONS.

15 **BY THE WITNESS:**

16 OKAY. THANK YOU.

17 **BY THE COMMISSIONER:**

18 MR. HARBISON?

19 **BY MR. HARBISON:**

20 YES.

21 **RECROSS EXAMINATION BY MR. HARBISON:**

22 Q. JUST A FEW MORE SECONDS, MS. TURNER, AND WE'LL BE
23 FINISHED. DID YOU EVER APPLY TO WORK FOR
24 COUNTRYWIDE STAFFING SOLUTIONS GROUP?

25 A. COUNTRYWIDE STAFFING? I DON'T KNOW WHAT THAT IS.

1 **BY MR. SAMUELS:**

2 YOUR HONOR, I OBJECT. THAT IS A NEW ISSUE.

3 **BY THE COMMISSIONER:**

4 THAT'S NOT WITHIN THE SCOPE OF THE REDIRECT.

5 **BY MR. HARBISON:**

6 OKAY. WELL, I THINK I RESERVED THE RIGHT TO
7 COME BACK AND ASK MORE QUESTIONS JUST TO SPEED
8 THINGS ALONG, IF I REMEMBER CORRECTLY, BUT THAT'S
9 OKAY.

10 **RE CROSS EXAMINATION RESUMED BY MR. HARBISON:**

11 Q. MR. GOODWYN ASKED YOU TO -- ASKED YOU ABOUT SOME OF
12 YOUR INCOME TAX RETURNS. IS THAT RIGHT?

13 **BY MR. SAMUELS:**

14 THERE WERE NO QUESTIONS ON REDIRECT, YOUR
15 HONOR, ABOUT INCOME TAX RETURNS.

16 **BY MR. HARBISON:**

17 I'M NOT REDIRECTING HERE. I'M RECROSSING, AND
18 I THINK I CAN ASK QUESTIONS OF WHAT I JUST ASKED MY
19 FIRST QUESTION ON RECROSS.

20 **BY THE COMMISSIONER:**

21 WELL, AND THERE'S ALSO -- WE ALSO HAVE THE
22 ISSUE OF THE OTHER PARTIES. IT'S NOT JUST TWO
23 PARTIES. WE HAVE THE ISSUE OF THE OTHER PARTIES
24 SUBSEQUENT TO MR. HARBISON ASKING QUESTIONS AND
25 THEIR CROSS. SO, I'M GOING TO ALLOW IT TO SOME

1 DEGREE. I JUST DON'T -- I DON'T WANT TO GET TOO FAR
2 AFIELD FROM THE SCOPE. I UNDERSTAND THAT YOU ---

3 BY MR. HARBISON:

4 IT'S JUST GOING TO BE THREE QUESTIONS.

5 BY THE COMMISSIONER:

6 OKAY.

7 BY MR. HARBISON:

8 CAN I GO ASK MY QUESTION NOW?

9 BY THE COMMISSIONER:

10 CERTAINLY.

11 RE CROSS EXAMINATION RESUMED BY MR. HARBISON:

12 Q. DID YOU EVER APPLY TO WORK FOR THE COUNTRYWIDE
13 STAFFING SOLUTIONS GROUP?

14 A. I DON'T KNOW WHAT THAT IS.

15 Q. YOU DON'T KNOW WHO THEY ARE, DO YOU?

16 A. NO.

17 Q. OKAY. AND WHEN YOU APPLIED -- OR FILED INCOME TAX
18 RETURNS, YOU HAD -- YOU WERE IN FRONT OF A
19 PROFESSIONAL TAX PREPARER, CORRECT?

20 A. RIGHT.

21 Q. AND YOU GAVE THEM INFORMATION?

22 A. YES.

23 Q. AND YOU WERE TRUTHFUL IN THE INFORMATION YOU GAVE
24 THEM?

25 A. I ANSWERED EVERY QUESTION THEY ASKED ME.

1 Q. IS THAT CORRECT?

2 A. YES.

3 Q. ALL RIGHT.

4 **BY MR. HARBISON:**

5 THAT'S ALL I HAVE, COMMISSIONER.

6 **BY THE COMMISSIONER:**

7 MR. GOODWYN?

8 **RE CROSS EXAMINATION BY MR. GOODWYN:**

9 Q. YOU TESTIFIED, MS. TURNER, IN YOUR REDIRECT THAT MS.
10 SMITH, A NURSE SMITH, CAME OUT TO SEE YOU?

11 A. YES.

12 Q. AND I UNDERSTAND A POLICE OFFICER CAME OUT LATER
13 THAT DAY?

14 A. A POLICE OFFICER CAME OUT LATER THAT SAME DAY? I'M
15 NOT SURE.

16 Q. DID A POLICE OFFICER COME OUT AND GIVE YOU A
17 WELLNESS CHECK?

18 A. I DON'T KNOW IF IT WAS THAT SAME DAY OR NOT, BUT A
19 POLICE OFFICER HAS SHOWED UP AT MY HOUSE.

20 Q. OKAY. WELL, MY NOTES INDICATE IT WAS THE SAME DAY.

21 A. I'M NOT SURE WHAT DAY IT WAS.

22 Q. TO DO A WELLNESS CHECK?

23 A. YES.

24 Q. AND WERE YOU FOUND TO BE WELL?

25 A. WAS I FOUND TO BE WELL?

1 Q. IS THAT CORRECT?

2 A. YES.

3 Q. ALL RIGHT.

4 **BY MR. HARBISON:**

5 THAT'S ALL I HAVE, COMMISSIONER.

6 **BY THE COMMISSIONER:**

7 MR. GOODWYN?

8 **RE CROSS EXAMINATION BY MR. GOODWYN:**

9 Q. YOU TESTIFIED, MS. TURNER, IN YOUR REDIRECT THAT MS.
10 SMITH, A NURSE SMITH, CAME OUT TO SEE YOU?

11 A. YES.

12 Q. AND I UNDERSTAND A POLICE OFFICER CAME OUT LATER
13 THAT DAY?

14 A. A POLICE OFFICER CAME OUT LATER THAT SAME DAY? I'M
15 NOT SURE.

16 Q. DID A POLICE OFFICER COME OUT AND GIVE YOU A
17 WELLNESS CHECK?

18 A. I DON'T KNOW IF IT WAS THAT SAME DAY OR NOT, BUT A
19 POLICE OFFICER HAS SHOWED UP AT MY HOUSE.

20 Q. OKAY. WELL, MY NOTES INDICATE IT WAS THE SAME DAY.

21 A. I'M NOT SURE WHAT DAY IT WAS.

22 Q. TO DO A WELLNESS CHECK?

23 A. YES.

24 Q. AND WERE YOU FOUND TO BE WELL?

25 A. WAS I FOUND TO BE WELL?

1 Q. I MEAN, DID THEY TAKE YOU INTO CUSTODY BECAUSE YOU
2 WERE NOT DOING ---

3 A. NO, THEY DIDN'T TAKE ME INTO CUSTODY. NO.

4 Q. OKAY.

5 A. I THINK THEIR HEALTHCARE PROFESSIONALS CAN DETERMINE
6 THAT. BUT OKAY.

7 BY MR. GOODWYN:

8 THAT'S ALL I HAVE.

9 BY THE COMMISSIONER:

10 ANYTHING FURTHER FROM THE DEPARTMENT OF
11 CORRECTIONS?

12 BY MS. FARTHING:

13 NOTHING FURTHER, COMMISSIONER.

14 BY THE COMMISSIONER:

15 MS. GLOVER, ANYTHING FURTHER?

16 BY MS. GLOVER:

17 NOTHING FROM THE FUND.

18 BY MR. GOODWYN:

19 BEFORE WE GO OFF THE RECORD, I DID WANT TO MAKE
20 ONE POINT ABOUT OUR POSITION.

21 BY THE COMMISSIONER:

22 WAIT. I'M NOT SURE MR. SAMUELS ---

23 BY MR. GOODWYN:

24 OH, I'M SORRY. I THOUGHT WE HAD MADE OUR
25 ROUNDS.

1 BY MR. SAMUELS:

2 IF I JUST MIGHT BE ALLOWED TWO QUESTIONS IN
3 RESPONSE TO THE NEW MATERIAL IN THE QUESTIONING.

4 BY THE COMMISSIONER:

5 YES.

6 REDIRECT EXAMINATION BY MR. SAMUELS:

7 Q. RACHEL, WHEN THE POLICE DID THE WELLNESS CHECK, DID
8 YOU THREATEN TO TAKE YOUR OWN LIFE?

9 BY MR. HARBISON:

10 OBJECTION. LEADING THE WITNESS, COMMISSIONER.

11 AND I HATE TO KEEP OBJECTING, BUT THAT IS...

12 BY THE COMMISSIONER:

13 THAT IS LEADING.

14 BY THE WITNESS:

15 CAN I EXPLAIN WHY THEY CAME TO MY HOUSE?

16 BY THE COMMISSIONER:

17 SUSTAINED.

18 REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:

19 Q. RACHEL, WHEN THEY CAME TO DO THE WELLNESS CHECK, DID
20 THE POLICE ASK ANY QUESTIONS?

21 BY MR. HARBISON:

22 OBJECTION; HEARSAY.

23 BY THE COMMISSIONER:

24 HE ASKED WHETHER THEY ASKED QUESTIONS. THE
25 ANSWERS WOULD BE HEARSAY.

1 BY MR. HARBISON:

2 OH, I'M SORRY. YOU'RE RIGHT. YOU'RE RIGHT.
3 I'M SORRY. WHETHER THEY ASKED -- EXCUSE ME. I'M
4 SORRY.

5 BY MR. SAMUELS:

6 THE QUESTION IS NOT AN ASSERTION, SO IT'S NOT
7 HEARSAY BECAUSE IT WOULD NOT BE OFFERED FOR THE
8 TRUTH OF THE MATTER THEREIN. IT WOULD BE A
9 FOUNDATION FOR HER RESPONSE.

10 BY THE COMMISSIONER:

11 I WILL ALLOW HER TO GIVE HER RESPONSE TO THE
12 QUESTION, AND IF SHE -- OF COURSE, SHE HASN'T
13 RESPONDED THAT SHE WAS QUESTIONED YET. BUT AS FAR
14 AS THE ACTUAL QUESTIONS AND THE STATEMENTS BY THE
15 POLICE OFFICERS, I WANT TO BE VERY CAREFUL THAT WE
16 DO NOT HAVE ANY TYPE OF HEARSAY OTHER THAN WHAT YOU
17 ALL HAVE ALREADY ADMITTED.

18 BY MR. HARBISON:

19 AND I'M SORRY FOR JUMPING THE GUN. THAT'S WHAT
20 I THOUGHT WAS COMING OUT.

21 BY MR. SAMUELS:

22 YOUR HONOR, FOR REFERENCE, THE REASON I ASKED
23 THE ORIGINAL QUESTION FOR THE OBJECTION WAS BECAUSE
24 OF WHAT IS ACTUALLY IN THE RECORD AT PAGE 32.

25 BY THE COMMISSIONER:

1 YOUR RECORD? YOUR APA?

2 **BY MR. SAMUELS:**

3 IT'S MR. GOODWYN'S APAs.

4 **BY THE COMMISSIONER:**

5 OKAY.

6 **BY MR. SAMUELS:**

7 WITH THAT ALREADY BEING IN THE RECORD, I ASKED
8 THE QUESTION THAT YOUR HONOR FOUND WAS LEADING, BUT
9 THE PURPOSE WAS TO GET TO THE END OF THE TESTIMONY.

10 **BY THE COMMISSIONER:**

11 AND YOUR QUESTION? SHE HASN'T ANSWERED THE
12 FIRST QUESTION YET.

13 **BY MR. SAMUELS:**

14 SHE HASN'T.

15 **BY THE COMMISSIONER:**

16 OKAY. I MEAN, BUT THE FIRST QUESTION IS NOT
17 HEARSAY. SO, I MEAN, YOU CAN PROCEED WITH THAT
18 QUESTION.

19 **REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

20 Q. WHEN THE POLICE CAME AND DID THE WELLNESS CHECK, DID
21 THEY ASK YOU ANY QUESTIONS?

22 A. I'M ASSUMING, YES. I'M NOT SURE EXACTLY WHAT THEY
23 ASKED ME, BUT, YEAH, THEY ASKED QUESTIONS.

24 Q. DO YOU REMEMBER WHAT YOUR RESPONSES WERE TO THEIR
25 QUESTIONS?

1 A. NOT ALL OF THEM, NO.

2 Q. DO YOU KNOW WHAT A WELLNESS CHECK IS ABOUT? DO YOU

3 KNOW WHAT THAT ---

4 A. I KNOW WHY THEY CAME TO MY HOUSE, 'CAUSE I CALLED.

5 WHEN I WAS HAVING DIFFICULTY GETTING THERAPY THROUGH

6 THE DOCTOR'S OFFICE THAT I HAD WENT TO, SPRINGDALE

7 FAMILY PRACTICE, I HAD -- THEY WERE WANTING ME TO GO

8 THROUGH MY INSURANCE COMPANY AND CONTACT MY

9 INSURANCE COMPANY TO FIND OUT PEOPLE THAT WERE

10 COVERED. THEN I CONTACTED THEM WITH THOSE PEOPLE

11 THAT WERE COVERED UNDER MY INSURANCE COMPANY, AND

12 THEY -- THEY SAID THAT THEY HAD CONTACTED THEM FOR

13 ASSISTANCE, BUT THEY WOULDN'T TAKE MY CASE OR

14 WOULDN'T SEE ME FOR THE THERAPY PART OF THIS, NOT

15 THE PHYSICAL PART BUT THE THERAPY PART OF IT.

16 THAT'S HOW COME I ENDED UP GOING TO 211 INFORMATION

17 TO GET MY FIRST COUNSELING, BECAUSE I COULDN'T EVEN

18 GET COUNSELING OR THERAPY THROUGH THE FAMILY

19 PRACTICE. AND I CALLED THEM AND ASKED THEM WAS THEY

20 WAITING FOR ME TO HURT MYSELF OR HURT SOMEBODY ELSE,

21 ARE THEY WAITING FOR THAT, AND THAT'S WHEN THE

22 POLICE SHOWED UP AT MY HOUSE. I ASKED THEM WHY ARE

23 THEY NOT SENDING ME TO SOMEBODY FOR TREATMENT, WHY

24 ARE THEY NOT SENDING ME TO SOMEBODY FOR COUNSELING

25 AND THERAPY AND WERE THEY WAITING FOR SOMETHING TO

1 HAPPEN TO ME. YOU KNOW WHAT I'M SAYING? AND THAT'S
2 WHEN THEY SENT SOMEBODY TO MY HOUSE.

3 Q. AND YOU JUST SAID SOMETHING ABOUT HURTING YOURSELF
4 ---

5 A. CORRECT.

6 Q. --- OR HURTING SOMEONE ELSE?

7 A. CORRECT. I ASKED THEM WHAT ARE THEY WAITING FOR,
8 FOR ME TO WANT TO GET TO THAT POINT, AND THAT'S WHEN
9 THEY SENT SOMEBODY TO MY HOUSE. I WASN'T WANTING TO
10 HURT MYSELF OR OTHERS, BUT I WAS ASKING THEM ARE
11 THEY WAITING FOR ME TO GET TO THAT POINT, AND THAT'S
12 WHEN THE POLICE CAME TO MY HOUSE.

13 BY MR. SAMUELS:

14 I THINK THAT ANSWERED THE QUESTION. I HAVE
15 NOTHING FURTHER, YOUR HONOR.

16 BY THE COMMISSIONER:

17 ALL RIGHT. I BELIEVE WE STAND ADJOURNED FOR
18 THE EVENING.

19 BY MR. GOODWYN:

20 AGAIN, I WANTED TO MAKE THAT ONE POINT.

21 BY THE COMMISSIONER:

22 OH, I'M SORRY. YOU DID SAY THAT, MR. GOODWYN,
23 YES.

24 BY MR. GOODWYN:

25 AS FAR AS OUR POSITION GOES, THERE WAS -- THE

1 U.E.F. WAS ASSERTING ITS POSITION THAT SHOULD MS.
2 TURNER BE FOUND TO BE AN INDEPENDENT -- OR, EXCUSE
3 ME, A STATUTORY -- OR SCDC BE FOUND TO BE A
4 STATUTORY EMPLOYER, THAT ANY -- THE CLAIM SHOULD GO
5 UPSTREAM, WAS THE TERM USED. OUR POSITION IN THE
6 CASE IS THAT CONDUSTRIAL/MEDUSTRIAL IS NOT AN
7 UPSTREAM CONTRACTOR OF SCDC. WE DON'T -- WE'RE NOT
8 A CONTRACTOR AT ALL. WE SIMPLY ARE AN AGENCY THAT
9 CAN PROVIDE SUBCONTRACTORS OF OURS TO THEM, BUT
10 WE'RE NOT A -- WE'RE NOT THE GENERAL CONTRACTOR ON
11 THE NURSING JOB. SO WE'RE NOT AN UPSTREAM
12 CONTRACTOR IN THE SENSE OF THE ACT.

13 **BY MR. SAMUELS:**

14 I THINK OUR POSITION HAS ACTUALLY BEEN THE
15 OPPOSITE, THAT CONDUSTRIAL IS THE DIRECT EMPLOYER
16 AND, ALTERNATIVELY, SCDC IS THE STATUTORY EMPLOYER
17 OR, UNDER THE SHATTO CASE, WOULD ALSO BE THE DIRECT
18 EMPLOYER. WE'RE NOT CONTENDING THAT CONDUSTRIAL IS
19 AN UPSTREAM EMPLOYER OR A STATUTORY EMPLOYER.

20 **BY THE COMMISSIONER:**

21 OKAY. DOES ANYBODY ELSE WANT TO COMMENT ON
22 THAT ISSUE? OF COURSE, WE ARE RECONVENING ON THE
23 31ST; SO...

24 **(THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS**
25 **CONCLUDED AT THE HOUR OF 7:43 P.M.)**

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1514359

EMPLOYEE/CLAIMANT: RACHEL J. TURNER

**EMPLOYER: SC DEPARTMENT OF CORRECTIONS - KIRKLAND
MEDUSTRIAL HEALTHCARE STAFFING SERVICE
CONDUSTRIAL, INC.
COUNTRYWIDE STAFFING SOLUTIONS GROUP, INC.**

**CARRIER: STATE ACCIDENT FUND
GUARANTEE INSURANCE COMPANY
SOUTH CAROLINA UNINSURED EMPLOYERS' FUND**

I, TIMMI A. PARRISH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 350 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF **RACHEL J. TURNER**, TAKEN ON THE 24TH DAY OF JULY, 2017.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THIS 6TH DAY OF AUGUST, 2017.

TIMMI A. PARRISH
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 11-20-2018

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1514359

EMPLOYEE/CLAIMANT: RACHEL J. TURNER

EMPLOYER: SC DEPARTMENT OF CORRECTIONS - KIRKLAND
MEDUSTRIAL HEALTHCARE STAFFING SERVICE
CONDUSTRAL, INC.
COUNTRYWIDE STAFFING SOLUTIONS GROUP, INC.

CARRIER: STATE ACCIDENT FUND
GUARANTEE INSURANCE COMPANY
SOUTH CAROLINA UNINSURED EMPLOYERS' FUND

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 12TH DAY OF
OCTOBER, 2017, COMMENCING AT THE HOUR OF 11:31 A.M., IN
COLUMBIA, SOUTH CAROLINA, BEFORE THE HONORABLE MELODY JAMES,
ATTENDED BY COUNSEL AS FOLLOWS:

JAN L. WHITWORTH
VERBATIM REPORTER

 COPY

JAN L. WHITWORTH
WHITWORTH COURT REPORTING
POST OFFICE BOX 551
ROEBUCK, S.C. 29376
(864) 494-2705

APPEARANCES

STEPHEN B. SAMUELS, ESQUIRE, OF THE FIRM
SAMUELS LAW FIRM, LLC
1320 RICHLAND STREET
COLUMBIA, SOUTH CAROLINA 29201
ATTORNEY FOR THE EMPLOYEE/CLAIMANT,

ERIN F. FARTHING, ESQUIRE, OF THE FIRM
STATE ACCIDENT FUND
POST OFFICE BOX 102100
COLUMBIA, SOUTH CAROLINA 29221
ATTORNEY FOR THE SC DEPARTMENT OF CORRECTIONS
AND STATE ACCIDENT FUND,

GREGORY M. ALFORD, ESQUIRE, OF THE FIRM
ALFORD LAW FIRM, LLC
POST OFFICE BOX 8008
HILTON HEAD, SOUTH CAROLINA 29938
ATTORNEY FOR COUNTRYWIDE STAFFING SOLUTIONS
GROUP, INC.,

JAMES PAUL NEWMAN, JR., ESQUIRE, OF THE FIRM
HOWSER NEWMAN & BESLEY, LLC
POST OFFICE BOX 12009
COLUMBIA, SOUTH CAROLINA 29211
ATTORNEY FOR COUNTRYWIDE STAFFING SOLUTIONS
GROUP, INC.

T. JEFF GOODWYN, JR., ESQUIRE, OF THE FIRM
GOODWYN LAW FIRM, LLC
2519 DEVINE STREET, SUITE A
COLUMBIA, SOUTH CAROLINA 29205
ATTORNEY FOR MEDUSTRIAL HEALTHCARE STAFFING
SERVICE AND CONDUSTRIAL, INC.,

LISA C. GLOVER, ESQUIRE, OF THE FIRM
SOUTH CAROLINA UNINSURED EMPLOYERS' FUND
POST OFFICE BOX 210039
COLUMBIA, SOUTH CAROLINA 29211
ATTORNEY FOR THE S.C. UNINSURED EMPLOYERS' FUND,

GRADY L. BEARD, ESQUIRE, OF THE FIRM
BETH RICHARDSON, OF THE FIRM
SOWELL, GRAY, ROBINSON, STEPP & LAFFITTE, LLC
POST OFFICE BOX 11449
COLUMBIA, SOUTH CAROLINA 29211
ATTORNEYS FOR THE GUARANTEE INSURANCE COMPANY.

ALSO ATTENDING: ERIC DAWSON, BECKY BARNETTE,
STEPHEN LUNSFORD, TOM SEARS

I N D E X

PAGE

TOMMY BURGESS:

DIRECT EXAMINATION BY MR. SAMUELS.....	52
CROSS EXAMINATION BY MR. GOODWYN.....	70
CROSS EXAMINATION BY MR. NEWMAN.....	75
CROSS EXAMINATION BY MR. BEARD.....	82
CROSS EXAMINATION BY MS. FARTHING.....	93
CROSS EXAMINATION BY MS. GLOVER.....	108
REDIRECT EXAMINATION BY MR. SAMUELS.....	109
RECROSS EXAMINATION BY MR. GOODWYN.....	118
RECROSS EXAMINATION BY MR. ALFORD.....	126
RECROSS EXAMINATION BY MS. RICHARDSON.....	146
RECROSS EXAMINATION BY MS. FARTHING.....	153
REDIRECT EXAMINATION BY MR. SAMUELS.....	159

TOM SEARS:

DIRECT EXAMINATION BY MR. GOODWYN.....	163
CERTIFICATE OF NOTARY PUBLIC.....	234

1 PURSUANT TO NOTICE OF HEARING, THE WITHIN HEARING
2 WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY
3 PUBLIC FOR THE STATE OF SOUTH CAROLINA, IN COLUMBIA,
4 SOUTH CAROLINA.

5 * * * * * * * * * * * * * * * *

6 BY COMMISSIONER JAMES:

7 TODAY IS OCTOBER THE 12TH, 2017. WE ARE HERE
8 ON W.C.C. FILE NUMBER 1514359. THIS IS THE MATTER
9 OF RACHEL TURNER VERSUS THE -- ACTUALLY A NUMBER OF
10 PARTIES. LET ME NAME THOSE IN LINE. THIS IS RACHEL
11 TURNER VERSUS CONDUSTRIAL AND MEDUSTRIAL HEALTH
12 STAFFING SERVICE. IT IS MY UNDERSTANDING THROUGH
13 SOME CONVERSATION, AND WE MAY HAVE ALREADY DISCUSSED
14 THIS AT THE FIRST HEARING, BUT IS MEDUSTRIAL A TRADE
15 NAME; IS THAT THE POSITION OF CONDUSTRIAL?

16 BY MR. GOODWYN:

17 YES, YOUR HONOR.

18 BY COMMISSIONER JAMES:

19 ALL RIGHT. SO, ON BEHALF OF THE CLAIMANT, HERE
20 TODAY IS MR. STEPHEN SAMUELS. ON BEHALF OF
21 CONDUSTRIAL/MEDUSTRIAL IS MR. JEFF GOODWYN. ALSO
22 ONE OF THE DEFENDANTS IS COUNTRYWIDE STAFFING
23 SOLUTIONS, WHICH IS REPRESENTED BY TWO COUNSEL
24 PRESENT TODAY, MR. JAMES NEWMAN AND MR. GREGG
25 ALFORD. FURTHER WE HAVE THE GUARANTEE INSURANCE

1 COMPANY THAT IS REPRESENTED BY GRADY BEARD AND BETH
2 RICHARDSON. ALSO, THE SOUTH CAROLINA WORKERS'
3 COMPENSATION UNINSURED FUND BY MS. LISA GLOVER AND
4 THE SOUTH CAROLINA WORKERS' COMPENSATION STATE
5 ACCIDENT FUND WITH ERIN FARTHING. THE PARTIES HAVE
6 TAKEN VARIOUS ISSUES AT THE INITIAL HEARING THAT WE
7 HAD. WE HAD A DAY'S WORTH OF TESTIMONY.
8 SUBSEQUENTLY, WE HAD ANOTHER DATE SET FOR A HEARING
9 IN WHICH ONE OF THE ATTORNEYS FOR COUNTRYWIDE
10 STAFFING OR THE ATTORNEY FOR COUNTRYWIDE STAFFING AT
11 THE TIME DISCOVERED THAT HE HAD A CONFLICT. THAT
12 PARTICULAR HEARING AFTER DISCUSSIONS IN PRETRIAL WAS
13 PUT ON RECORD, AND THE ATTORNEY MR. WILL HARBISON
14 WAS RELIEVED AT THAT TIME. THERE MAY BE -- BECAUSE
15 OF THAT RELEASE, THERE APPEARS TO BE IN MID TRIAL
16 ADDITIONAL ISSUES THAT HAVE NOW BEEN RAISED BETWEEN
17 COUNTRYWIDE AND GUARANTEE, AND THERE MAY BE SOME
18 OTHER ISSUES I WILL LET Y'ALL SPEAK TO WHEN IT IS
19 YOUR APPROPRIATE TURN. I WILL STATE DURING THE
20 PRETRIAL, THAT THERE IS A PENDING MOTION TO COMPEL,
21 WHICH MAY HAVE TO DO WITH THE COVERAGE ISSUE. THERE
22 HAVE BEEN ADDITIONAL SUBMISSIONS THAT HAVE BEEN
23 BROUGHT FORWARD TO THE COMMISSIONER; HOWEVER, NONE
24 OF THESE ARE BEING RULED ON AT THIS TIME. AS WE HAD
25 A MOTION TO BIFURCATE, AND WE HAD A VERY VERY

1 LENGTHY DISCUSSION WITH THAT MOTION, AND THE
2 POSSIBILITIES OF HOW IT CAN BE DONE SUCCESSFULLY,
3 NOT UNSUCCESSFULLY, OR WHETHER THE CASE LAW OF
4 LABOUSEUR MEANS THAT WE JUST GO FORWARD WITH THE
5 ISSUES, AND OF COURSE, I'M SURE THE PARTIES ARE
6 GOING TO WANT TO ADDRESS THAT. I WILL SAY THAT SOME
7 OF THE PARTIES HAVE EXPRESSED CONCERN THAT EVEN IF
8 IT WAS BIFURCATED, THAT IT WOULD BE VERY HARD TO
9 PRESENT THE TESTIMONY WITHOUT THE ISSUES
10 OVERLAPPING, AND THEREFORE AT THIS TIME, I AM NOT
11 OFFICIALLY BIFURCATING THE ISSUES; HOWEVER, WE ARE
12 GOING TO GO FORWARD WITH THE TRIAL TESTIMONY AND
13 TRIAL PRESENTATION AS TO THE COMPENSABILITY ISSUES
14 AS OPPOSED TO THE COVERAGE ISSUES. IF YOU HAVE ANY
15 QUESTIONS ABOUT EXACTLY WHAT WE ARE TRYING, I WILL
16 ASK THE ATTORNEYS TO EXPRESS ANY OF THEIR CONCERNS
17 AT THAT TIME, BUT AGAIN, IT IS NOT OFFICIALLY
18 BIFURCATED, BUT WE ARE GOING TO LAYER THE TESTIMONY
19 IF IT CAN BE SUCCESSFULLY DONE. I WILL GO AHEAD AND
20 ASK THE PARTIES FOR THEIR PROSPECTIVE POSITIONS. I
21 WILL START WITH MS. TURNER WHO I KNOW HAS ALREADY
22 HAD AN OPPORTUNITY TO EXPRESS HER OVERALL POSITION
23 AT THE FIRST HEARING. IS THERE ANYTHING THAT MS.
24 TURNER WOULD EXPRESS NOW WITH REGARDS TO ANY OF THE
25 ADDITIONAL ISSUES THAT HAVE BEEN RAISED?

1 BY MR. SAMUELS:

2 YOUR HONOR, I THINK SINCE I'M OPPOSING THE
3 MOTION TO BIFURCATE, IT WOULD BE APPROPRIATE FOR ME
4 TO ACTUALLY SPEAK FOLLOWING THE PARTIES WHO ARE
5 MAKING A MOTION TO BIFURCATE.

6 BY COMMISSIONER JAMES:

7 OKAY. ALL RIGHT. THEN, LET ME START THEN OUT
8 OF ORDER. SO, I WILL START WITH GUARANTEE THEN AS
9 FAR AS GUARANTEE'S NEW ISSUES.

10 BY MS. RICHARDSON:

11 YES, YOUR HONOR, AND THIS IS ISSUES AS TO THE
12 MOTION FOR BIFURCATION OR ANY ISSUES?

13 BY COMMISSIONER JAMES:

14 OR ANY ISSUES THAT HAVE ARISEN ---

15 BY MS. RICHARDSON:

16 OKAY.

17 BY COMMISSIONER JAMES:

18 --- SINCE THE LAST TRIAL.

19 BY MS. RICHARDSON:

20 OKAY. WELL, SINCE WE JUST ADDRESSED THE
21 BIFURCATION, MAYBE I CAN TAKE THAT FIRST.

22 BY COMMISSIONER JAMES:

23 OKAY.

24 BY MS. RICHARDSON:

25 AND, OF COURSE, YOUR HONOR, I BELIEVE THAT THE

1 COMMISSION HAS RECEIVED OUR MOTION FOR BIFURCATION
2 AS WELL AS THE MEMORANDUM OF LAW AND SUPPORT
3 THEREOF, AND THEN WE ALSO FILED A SUPPLEMENTAL
4 MEMORANDUM OF LAW IN SUPPORT THEREOF, AND JUST WANT
5 TO CONFIRM AS FAR AS WE KNOW, IT IS A PART OF THE
6 OFFICIAL RECORD OF THE COMMISSION AT THIS TIME?

7 BY COMMISSIONER JAMES:

8 YES, MA'AM.

9 BY MS. RICHARDSON:

10 OKAY. AND I AM NOT GOING TO JUST REGURGITATE
11 THE -- YOU KNOW, WHAT WE PUT IN THE MEMORANDUM OF
12 LAW. WE THINK, YOU KNOW, WE'VE CLEARLY EXPLAINED
13 OUR POSITION, BUT I WOULD LIKE FOR THE RECORD JUST
14 TO HIGHLIGHT AND MAYBE EXPOUND ON SOME OF THE ISSUES
15 THAT ARE RAISED IN THAT MOTION. YOUR HONOR, IT'S MY
16 POSITION -- IT'S GUARANTEE'S POSITION ON THIS MOTION
17 FOR A BIFURCATION, WE'VE ASKED THE COMMISSION TO
18 HEAR AND DETERMINE THE COMPENSABILITY ISSUE FIRST,
19 AND THEN LEAVE THE COVERAGE QUESTION FOR LATER, AND
20 WE BELIEVE WE'VE PRESENTED THE COMMISSION WITH THE
21 -- WITH A CASE THAT COULD NOT BE A BETTER CASE FOR
22 BIFURCATION. IF WE CAN'T BIFURCATE IN THIS CASE,
23 IT'S OUR POSITION THAT THERE IS NO CASE THAT COULD
24 BE BETTER FOR BIFURCATION, AND IT'S OUR POSITION
25 THAT IT IS IMPORTANT FOR THE COMMISSION TO REALLY

1 CAREFULLY HEAR AND DETERMINE THIS QUESTION RAISED IN
2 GUARANTEE'S MOTION BEFORE PROCEEDING. A SUM OF THE
3 ISSUES THAT WE RAISED INVOLVE INHERENT RISKS TO THE
4 INTEGRITY TO THE JUDICIAL PROCEEDINGS. WE BELIEVE
5 THAT IF THE CASE IS NOT BIFURCATED, THEN GUARANTEE
6 COULD BE MANIFESTLY PREJUDICED BY THE MIXTURE OF
7 EVIDENCE PRESENTED BEFORE THE COURT. IN ADDITION,
8 WE HAVE RAISED ISSUES OF SUBJECT MATTER JURISDICTION
9 TO YOUR HONOR AS WELL AS THE LACK OF PRIVITY OF
10 PARTIES AND HOW THE COURT WOULD MANAGE INSULATING
11 THOSE WHO LACK PRIVITY FROM INJECTING THEIR OPINION
12 OR POSITIONS IN A PREJUDICIAL WAY AGAINST THOSE WHO
13 THEY HAVE NO PRIVITY WITH. I THINK WE'VE ALSO
14 OUTLINED FOR THE COMMISSIONER THAT THERE REALLY IS
15 NO PREJUDICE TO CLAIMANT. THEY ARE GOING TO HAVE
16 THEIR DAY IN COURT TODAY. THEY WILL BE ABLE -- THE
17 COMMISSIONER CAN GO AHEAD AND DETERMINE WHETHER THE
18 CLAIMANT IS ENTITLED TO A RECEIPT OF BENEFITS, AS
19 WELL AS WHO THE EMPLOYER IS WHO WOULD BE RESPONSIBLE
20 FOR PAYING FOR THEM AT THIS TIME WITHOUT DECIDING
21 THE COVERAGE QUESTION. IN THIS WAY, THE COMMISSION
22 BY BIFURCATING, HEARING THE COMPENSABILITY ISSUES
23 FIRST, THEY CAN COMPORT WITH THE CONCERN IN ALVAREZ
24 THAT THE COMMISSION PROPERLY DETERMINE THEIR
25 ENTITLEMENT TO BENEFITS. WE HAVE OUTLINED THAT THE

1 COMPENSATION AND COVERAGE ISSUES ARE DISTINCT, AND
2 GIVEN THEIR RELATIVE COMPLEXITY TO ONE ANOTHER, IT
3 WOULD BEHOOVE THE COURT TO LISTEN TO THE TWO ISSUES
4 SEPARATELY SO THAT THEY CAN GIVE EACH ISSUE ITS DUE.
5 WE'VE ALSO RAISED TO THE COURT, AND IT'S NOT -- THIS
6 IS NOT LAID OUT PERHAPS IN THE FACTS, BUT NOT AS
7 WELL DETAILED IN OUR MEMORANDUM THAT REALLY THE
8 PARTIES HAVE NOT HAD A SIGNIFICANT OR ENOUGH TIME TO
9 DISCOVER FACTS RELEVANT TO THE COVERAGE DISPUTE.
10 NOBODY EVEN HAS REQUESTED DOCUMENTS UNTIL GUARANTEE
11 GOT IN THIS CASE TWO MONTHS AGO FROM THE ACTUAL
12 AGENT WHO BROKERED THE SITUATION BETWEEN CONDUSTRIAL
13 AND C.S.S.G. IF YOU LOOK AT THE PREHEARING BRIEFS
14 THAT WERE FILED UNTIL GUARANTEE -- UNTIL GUARANTEE
15 GOT ITS OWN COUNSEL AND GOT INTO THIS CASE, NEITHER
16 CONDUSTRIAL NOR ANY OTHER PARTY REALLY ACTUALLY
17 DISCUSSED THE COMPLEXITY OF THE COVERAGE ISSUE UNTIL
18 NOW, AND WE SUBMIT THAT THERE ARE DUE PROCESS
19 CONCERNS WITH MOVING FORWARD WITHOUT ALLOWING THE
20 PARTIES MORE TIME TO DISCOVERY AND UNDERSTAND WHAT
21 THE RELATIVE COVERAGE POSITIONS ARE OF THE TWO
22 PARTIES. OBVIOUSLY, YOUR HONOR, WE'VE MENTIONED
23 THAT UNDER LABOUSEUR WE THINK THESE COVERAGE
24 QUESTIONS OR THE D.J. ACTION IS INTERTWINED WITH
25 ISSUES -- YOU CANNOT DECIDE THE D.J. ACTION WITHOUT

1 DECIDING ISSUES OF BAD FAITH AND FRAUD, AND THAT IF
2 THE COMMISSION WERE TO GO FORWARD WITH THAT
3 DECISION, THEY WOULD BE DENYING PARTIES THEIR
4 CONSTITUTIONAL RIGHT TO A JURY TRIAL, AND I THINK
5 THAT THE PARTIES' CONSTITUTIONAL RIGHTS ALWAYS TRUMP
6 ANY STATUTORY RIGHT OF A TRIBUNAL TO DECIDE AN
7 ISSUE. I'VE ALWAYS RAISED THAT UNTIL THE -- UNTIL
8 THE COMMISSION DECIDES THE ISSUE OF COMPENSABILITY
9 ITSELF, REALISTICALLY THE COVERAGE QUESTION REALLY
10 ISN'T EVEN RIPE FOR RESOLUTION, AND WE RAISE THAT
11 ISSUE FOR THE COURT AS WELL. I THINK I'VE, YOU
12 KNOW, CLEARLY POINTED OUT THAT ALVAREZ DOESN'T
13 PREVENT THE COMMISSION FROM BIFURCATING THIS MATTER,
14 SO LONG AS IT HEARS THE COMPENSABILITY ISSUES FIRST.
15 IN FACT, ON THAT VERY SAME DAY THAT ALVAREZ WAS
16 DECIDED BY THEN CHIEF JUDGE FEW, NOW JUSTICE FEW.
17 JUSTICE FEW ALSO DECIDED ANOTHER WORKERS'
18 COMPENSATION CASE, IN WHICH THE COURT -- THE
19 COMMISSION HAD DECIDED THE COMPENSABILITY
20 DETERMINATION AND FOUND THE EMPLOYER LIABLE. THE
21 EMPLOYER THEN SAID "WELL, NO, MY LIABILITY SHOULD BE
22 TRANSFERRED TO SOMEBODY ELSE WHO REALLY HAS -- BEARS
23 THE BURDEN." AND THE COURT REFUSED TO HEAR THAT --
24 TO HEAR THAT QUESTION ON THAT DAY. THEN THE
25 EMPLOYER APPEALS THAT DECISION IN ROSE -- THAT'S IN

1 ROSE, AND THE COURT OF APPEALS, JUSTICE -- NOW
2 JUSTICE FEW SAID "NO PROBLEM." FIRST OF ALL, YOU
3 CAN'T APPEAL THIS ISSUE. YOU NEED TO FINISH WORKING
4 OUT THE -- WORK OUT UNTIL THE WHOLE ENTIRE
5 COMPENSATION -- UNTIL THE COMMISSION IS DONE. THAT
6 IS NOT A FINAL APPEALABLE ORDER, AND THERE IS NO
7 PROBLEM WITH THE WAY THAT THE COMMISSION PROCEEDED
8 IN THAT INSTANCE. SO, YOU KNOW, IT'S GUARANTEE'S
9 POSITION THAT WE HAVE LAID OUT SUBSTANTIAL AND
10 SIGNIFICANT REASONS FOR THIS COMMISSION, FOR THE
11 COMMISSIONER, TO GRANT OUR MOTION FOR BIFURCATION AT
12 THIS TIME AND RAISED SIGNIFICANT RISKS IN PROCEEDING
13 WITHOUT SOME METHOD OF BIFURCATION.

14 BY COMMISSIONER JAMES:

15 THANK YOU, MA'AM.

16 BY MS. RICHARDSON:

17 THANK YOU.

18 BY MR. BEARD:

19 CAN I ADD A COUPLE OF POINTS THAT I'M INVOLVED
20 IN AS WELL?

21 BY COMMISSIONER JAMES:

22 FROM THE COMPENSABILITY ISSUE?

23 BY MR. BEARD:

24 WELL, FROM THE COMPENSABILITY ISSUE AS WELL AS
25 THE LEGAL ISSUE THAT I BROUGHT UP EARLIER. IN

1 ADDITION TO WHAT BETH JUST SAID, THE OTHER THINGS
2 THAT I WANT TO MAKE SURE ON THE RECORD ARE CORRECT.
3 I THINK YOU SAID BEFORE WE WENT ON THE RECORD THAT
4 YOU HAVE ALREADY DECIDED THAT THE B.E.W. CASE IS NOT
5 BINDING ON YOU, CORRECT?

6 BY COMMISSIONER JAMES:

7 ACCORDING TO SOME PREVIOUS -- AND I CANNOT
8 QUOTE THE CASE TO YOU, MR. BEARD, RIGHT NOW, ---

9 BY MR. BEARD:

10 RIGHT.

11 BY COMMISSIONER JAMES:

12 --- BUT IT'S MY UNDERSTANDING THAT THERE'S A
13 CASE OUT THERE THAT IT IS CLEARLY INDICATED THAT THE
14 COMMENSURATE FINDINGS FROM WHAT AT THE TIME WAS THE
15 EMPLOYMENT SECURITY COMMISSION ARE NOT BINDING IN A
16 WORKERS' COMP SETTING.

17 BY MR. BEARD:

18 OKAY.

19 BY COMMISSIONER JAMES:

20 AND, OF COURSE, I WILL REVIEW THAT AGAIN, BUT
21 THAT IS MY UNDERSTANDING, AND I CANNOT QUOTE THE
22 CASE OFF THE TOP OF MY HEAD.

23 BY MR. BEARD:

24 OKAY, WELL, MY APOLOGIES. I THOUGHT YOU SAID
25 THAT WAS ALREADY THE ONE RULING YOU KNEW YOU COULD

1 MAKE.

2 BY COMMISSIONER JAMES:

3 THAT'S MY UNDERSTANDING, BUT I DON'T HAVE THE
4 CASE IN FRONT OF ME ---

5 BY MR. BEARD:

6 OKAY.

7 BY COMMISSIONER JAMES:

8 --- IN ORDER TO PRESENT THE ACTUAL -- THE
9 ACTUAL RULING TO YOU, BUT THERE IS A CASE OUT THERE,
10 AND I THINK THE COMP LAWYERS IN HERE ARE FAMILIAR
11 WITH IT.

12 BY MR. BEARD:

13 AND FOR THE RECORD, I THINK YOU'VE ALREADY
14 RULED BY VIRTUE OF THE FACT THAT WE ARE PROCEEDED AS
15 WE ARE, BUT IT IS OUR POSITION THAT ANYTHING THAT
16 HAS HAPPENED BEFORE WITH WILL HARBISON INVOLVED IS
17 NOT PROPER FOR THIS CASE, AND THAT WE SHOULD START
18 ANEW. I KNOW WHAT YOUR RULING ON THAT IS, BUT I
19 WANT TO MAKE SURE I STATE THAT FOR THE RECORD. I
20 DON'T THINK WE CAN GO FORWARD WITH WHAT WILL
21 HARBISON DID BEING THAT WILL HARBISON IS NOT
22 INVOLVED IN THE CASE ANY LONGER, AND FOR THE REASONS
23 THAT I UNDERSTAND THAT HE IS OUT OF THE CASE, THE
24 LAST POINT THAT I HAD MADE EARLIER IS THAT WE WOULD
25 ASK THAT THE COMMISSION UNDER SECTION 42-9-440 HAVE

1 THE -- REPORT THIS CASE TO THE ATTORNEY GENERAL'S
2 OFFICE IN THE INSURANCE FRAUD DIVISION TO DEAL WITH
3 SOME OF THE ISSUES THAT WE ARE GOING TO BE TALKING
4 ABOUT MOST LIKELY TODAY. THANK YOU.

5 BY COMMISSIONER JAMES:

6 AND LET ME GO AHEAD AND ADDRESS THE ISSUE OF
7 THE ACTUAL RETRIAL OF EVERYTHING THAT'S TAKEN PLACE
8 THE DAY BEFORE. I THINK THAT EVERYBODY IN HERE WILL
9 AGREE THAT THE ISSUES THAT WERE PRESENTED, THEY WERE
10 VERY -- I DON'T WANT TO SAY VERY LIMITED, BUT THEY
11 HAD TO DO WITH THE COMPENSABILITY ASPECT. MY
12 UNDERSTANDING THAT THE CONFLICT THAT'S AROSE WITH
13 THE ATTORNEY WOULD NOT AFFECT THE ABILITY FOR HIM TO
14 HAVE COME IN AND TO HAVE REPRESENTED BOTH
15 COUNTRYWIDE AND GUARANTEE ON THAT ISSUE. IN FACT,
16 DURING THAT DISCUSSION, THERE WAS SOME REQUEST, AND
17 IT WAS ULTIMATELY DETERMINED I THINK THAT MR.
18 HARBISON DID NOT HAVE THE ABILITY TO DO THAT WITH
19 PERMISSION FROM BOTH CLIENTS AS TO ACTUALLY COME IN
20 AND TRY THE COMPENSABILITY ISSUE ITSELF. SO, SINCE
21 IT WAS WITH THE COMPENSABILITY ISSUE, MR. HARBISON
22 WAS HERE ON THAT, AND ALSO AT THAT TIME, BOTH
23 PARTIES WERE INDICATING THAT THEY WOULD BE FINE WITH
24 HIM TRYING THE COMPENSABILITY ISSUE. I DO NOT SEE
25 HOW THAT TESTIMONY WOULD BE IN ANY WAY TAINTED.

1 BY MR. BEARD:

2 WHAT I THOUGHT I HEARD MR. SAMUELS SAY WAS THAT
3 HIS CLIENT HAS ALREADY BEEN QUESTIONED ON THE
4 COVERAGE ISSUE, AND SHE CANNOT BE BROUGHT TO THE
5 STAND AGAIN. THAT MAKES NO SENSE TO ME IF WE'VE HAD
6 NOT HAD ANYTHING ON THE COVERAGE ISSUE BEFORE NOW.

7 BY MS. RICHARDSON:

8 AND I WOULD JUST ---

9 BY COMMISSIONER JAMES:

10 AND THEY BLEED OVER. THE ISSUE ALSO COULD BE
11 OF WHETHER COUNTRYWIDE STAFFING IS ALSO AN EMPLOYER
12 OR NOT. OF COURSE, THE QUESTION WOULD BE ASKED AT
13 THAT POINT IN TIME, "DO YOU EVEN KNOW WHO
14 COUNTRYWIDE IS?" AND I THINK THAT WAS THE EXTENT OF
15 HER TESTIMONY. OF COURSE, SINCE WE HAVE NOT --
16 REALLY HAVE NOT GOTTEN INTO ANY OF THE TRIAL, OF ANY
17 OF THE COVERAGE ISSUES, BECAUSE WE HAVE BEEN ON THE
18 CLAIMANT'S CASE IN CHIEF NOW. WE REALLY HAVE NOT
19 COVERED ANYTHING TO MY KNOWLEDGE THAT WOULD NOT
20 APPLY TO BOTH ISSUES. NOW, AS I INDICATED, I AM
21 GOING TO ATTEMPT TODAY COMPENSABILITY ISSUE AT A
22 TIME BEFORE THE OTHER, BUT THE FIRST PART OF THE
23 TRIAL, AND I'M CERTAINLY WELCOME TO HEAR ANYBODY
24 ELSE'S POSITION ON THAT. I DO NOT SEE HOW THAT IS
25 TAINTED, AND IF THERE'S AN ISSUE WHERE A WITNESS

1 NEEDS TO BE RECALLED FOR A COVERAGE ISSUE, THEN WE
2 WILL TALK ABOUT THAT, IF WE GET TO THE COVERAGE
3 ISSUE.

4 BY MS. RICHARDSON:

5 AND DEPENDING -- I UNDERSTAND THAT YOU HAVEN'T
6 PUT YOUR ORDER ON THE RECORD, BUT DEPENDING ON HOW
7 THAT GOES, IN THE PROCEDURE, I WILL NOTE THAT, YOU
8 KNOW, IF THE ISSUES ARE BIFURCATED, I WOULD SUGGEST
9 THAT THE PARTIES BE ALLOWED OPPORTUNITIES TO HAVE
10 OPENING ARGUMENTS. IT'S MY POSITION THAT GUARANTEE
11 HAS NOT OPENED ON THE ISSUE OF COVERAGE SINCE THE
12 CONFLICT HAS ARISEN, AND THAT WOULD BE IMPORTANT FOR
13 GUARANTEE TO AT LEAST BE ABLE TO HAVE THE TIME TO
14 OPEN WITH RESPECT TO ANY ISSUES THAT WERE NOT
15 REFLECTED BY THE CONFLICT.

16 BY MR. GOODWYN:

17 I WOULDN'T HAVE ANY OBJECTION TO HER OPENING OR
18 HER MAKING A STATEMENT, BUT I WOULD OBJECT TO HER
19 CHANGING A POSITION THAT'S ALREADY BEEN TAKEN AT THE
20 FIRST HEARING.

21 BY MS. RICHARDSON:

22 I DON'T MEAN TO DO THAT.

23 BY COMMISSIONER JAMES:

24 I THINK ACTUALLY TO ALLOW THAT AT THIS POINT SO
25 THAT THERE IS A BETTER UNDERSTANDING FROM THE

1 COMMISSION'S ASPECT OF WHAT IS GOING TO BE TRIED,
2 AND PART OF THIS IS I TOLD Y'ALL WHEN WE WERE
3 DISCUSSING THE BIFURCATION, IS THAT EVERYBODY HAS
4 INDICATED THAT THE ISSUES WITH THE TESTIMONY ARE SO
5 LINKED TO EACH OTHER THAT THEY ARE HARD TO PULL
6 APART, AND OF COURSE, Y'ALL HAVE ME AT A
7 DISADVANTAGE FROM LIVING THIS FILE. SO, I AM GOING
8 TO ATTEMPT TO TAKE IT IN LAYERS AND MAY ULTIMATELY
9 BIFURCATE IT. SO, I DON'T THINK IT WOULD HURT AT
10 ALL FOR ME TO GO AHEAD AND HEAR THE POSITIONS WITH
11 REGARDS TO THE COVERAGE ISSUE IF YOU WANT TO DO THAT
12 NOW, OR IF Y'ALL WANT ME TO COVER EVERYBODY ELSE'S
13 POSITION WITH REGARDS TO BIFURCATION OR ANY
14 ADDITIONAL ISSUES.

15 BY MS. RICHARDSON:

16 I THINK IT WOULD BE BETTER TO RESOLVE THE
17 BIFURCATION AND THEN MOVE ON.

18 BY COMMISSIONER JAMES:

19 OKAY. MR. ALFORD.

20 BY MR. ALFORD:

21 YES, MA'AM, MAY IT PLEASE THE COURT, YOUR
22 HONOR. GREGG ALFORD. I WOULD JOIN IN THE COMMENTS
23 AND I WOULD JOIN IN THE MOTION AND IN THE STATEMENTS
24 MADE BY MS. RICHARDSON. I ALSO WOULD LIKE TO PUT ON
25 THE RECORD AND MOVE THAT I DO FEEL LIKE THERE ARE

1 DUE PROCESS ISSUES AND CONTRACT CLAIMS AND THINGS OF
2 THAT NATURE THAT EXIST BETWEEN CONDUSTRIAL AND
3 COUNTRYWIDE C.S.S.G., AND I KNOW IN OUR INFORMAL
4 DISCUSSIONS, THE COURT REFERENCED THAT YOU ARE
5 UNABLE TO AWARD DAMAGES OR THOSE TYPE OF THINGS IN
6 THOSE TYPE OF CLAIMS. SO, I JUST WANT TO MAKE SURE
7 THAT TO THE EXTENT WE CAN, AND MAYBE ANOTHER COURT
8 SOMEWHERE ELSE HAS TO FINALLY DECIDE IT FOR US THAT
9 WE ARE PROTECTED AND NOT AFFECTED IN SOME RES
10 JUDICATA OR COLLATERAL ESTOPPEL ISSUE IN OUR FUTURE
11 CIRCUIT COURT DEALINGS, AND I ---

12 BY COMMISSIONER JAMES:

13 AND, MR. ALFORD, I WILL NOT ATTEMPT TO TRY ANY
14 TYPE OF BAD FAITH, ---

15 BY MR. ALFORD:

16 YES, MA'AM.

17 BY COMMISSIONER JAMES:

18 --- BREACH OF CONTRACT BETWEEN THE PARTIES IN
19 WHICH THERE IS A DAMAGE COMPONENT BETWEEN THE TWO
20 PARTIES. ANYTHING OF THAT NATURE, WHICH REALLY
21 WOULD BELONG IN A CIVIL FORM, ---

22 BY MR. ALFORD:

23 YES, MA'AM.

24 BY COMMISSIONER JAMES:

25 --- I DON'T HAVE THE ABILITY TO AWARD THOSE

1 DAMAGES.

2 BY MR. ALFORD:

3 YES, MA'AM.

4 BY COMMISSIONER JAMES:

5 SO, I WILL NOT ---

6 BY MR. ALFORD:

7 I GUESS I JUST WANTED TO ---

8 BY COMMISSIONER JAMES:

9 I WILL NOT ATTEMPT TO MAKE -- TO TRY THAT OR
10 MAKE ANY RULING. OF COURSE, AGAIN, I THINK THERE'S
11 A LOT OF BLEED OVER WITH REGARDS TO THE TESTIMONY.

12 BY MR. ALFORD:

13 THERE WILL BE, AND, YOU KNOW, IT'S A DIFFERENT
14 MATTER IF SOMEONE TESTIFIES UNDER OATH A CERTAIN
15 WAY, AND YOU'RE STUCK WITH IT, AND I UNDERSTAND THAT
16 THAT CAN BE USED LATER, BUT I JUST WANTED TO PUT
17 THAT OUT THERE. I ALSO WANT TO SAY THANKS. YOU'VE
18 BEEN TRYING REALLY HARD TO SORT OUT A VERY DIFFICULT
19 PROBLEM. IT'S NOT EASY, AND I DO APPRECIATE YOUR
20 EFFORTS.

21 BY COMMISSIONER JAMES:

22 ALL RIGHT. MR. GOODWYN.

23 BY MR. GOODWYN:

24 CAN I ASK THEM TO CLARIFY WHAT THEIR 42-9-440
25 MOTION IS BASED ON SO I CAN RESPOND TO IT? THEY ARE

1 ASKING YOU TO REFER THE CASE TO THE A.G. FOR
2 SOMETHING, BUT THEY DIDN'T SPECIFY WHAT THAT WAS.

3 BY MR. BEARD:

4 CASES OF SUSPECTED FALSE STATEMENTS OR
5 MISREPRESENTATIONS IN THIS CASE.

6 BY MR. GOODWYN:

7 WHICH FALSE STATEMENTS AND MISREPRESENTATIONS
8 ARE YOU REFERRING TO?

9 BY MR. BEARD:

10 WELL, WE HAVEN'T FINISHED THE CASE. I'M ASKING
11 HER TO DO THAT WHEN SHE HEARS THE REMAINDER OF THE
12 CASE AND WHAT SHE WILL BE READING WHEN SHE READS THE
13 DOCUMENTS THAT SHE HASN'T READ YET.

14 BY MR. GOODWYN:

15 OKAY, ALL RIGHT.

16 BY COMMISSIONER JAMES:

17 MR. GOODWYN, DO YOU HAVE A POSITION WITH
18 REGARDS TO THE BIFURCATION?

19 BY MR. GOODWYN:

20 YES. FIRST, THE ISSUE OF BIFURCATION HAS BEEN
21 RAISED AND RULED ON. WE DON'T THINK THEY CAN BRING
22 A RENEWED MOTION AFTER IT'S ALREADY BEEN RULED ON.
23 IT'S UNTIMELY. THE HEARING HAS STARTED. THE
24 PARTIES BEGAN THIS HEARING WITH THE UNDERSTANDING
25 THAT ALL ISSUES WOULD BE TRIED. THE HEARING -- THE

1 PARTIES PREPARED FOR THAT. THE FIRST TWO WITNESSES
2 WERE QUESTIONED WITH THAT UNDERSTANDING. NOW, WE
3 ARE HERE TODAY ASKED TO FIND A WAY TO CALL OUR
4 WITNESSES AND ASK THEM QUESTIONS IN A WAY THAT WE
5 DID NOT PLAN TO DO. WE WOULD HAVE TO PRESENT OUR
6 CASE A DIFFERENT WAY BECAUSE OF THIS. WE THINK THE
7 MOTION SHOULD BE DENIED, AND THE PARTIES SHOULD BE -
8 - THE CASE SHOULD BE TRIED AS IT WAS SET TO BE TRIED
9 ON THE FIRST DAY OF THE TRIAL. WE ALSO HAVE A 42-9-
10 440 MOTION. WE WOULD ASK THAT THE CASE BE REFERRED
11 TO THE A.G.'S OFFICE FOR MISCONDUCT BY COUNTRYWIDE
12 IN THE CASE. WE BELIEVE AND EXPECT THERE WILL BE
13 TESTIMONY THAT THERE WAS A PERIOD WHERE COUNTRYWIDE
14 ACCEPTED PREMIUMS FROM CONDUSTRIAL AND DID NOT
15 PROVIDE COVERAGE, ABOUT SIX WEEKS THERE, WHERE THERE
16 WAS NO COVERAGE, BUT THEY DIDN'T REFUND THE
17 PREMIUMS. WE THINK THAT IS REFERABLE TO THE A.G.'S
18 OFFICE, AND WE WOULD ASK THE COMMISSION TO DO THAT,
19 AND I RESERVE THE RIGHT TO FURTHER RESPOND TO ANY
20 OTHER POSITIONS THAT GUARANTEE MAY PUT ON THE
21 RECORD.

22 BY COMMISSIONER JAMES:

23 MS. FARTHING, DID YOU ---

24 BY MS. FARTHING:

25 I DIDN'T KNOW IF HE HAD TO RESPOND.

1 BY COMMISSIONER JAMES:

2 WELL, THE BIFURCATION, DO YOU HAVE -- DOES THE
3 ACCIDENT FUND TAKE ANY POSITION ON THE BIFURCATION?

4 BY MS. FARTHING:

5 I MEAN, I CERTAINLY ECHO SOME OF THE CONCERNS
6 THAT YOU HAD THAT WE KIND OF EXPRESSED IN THE
7 BEGINNING OF THE PRETRIAL AS THE IDEA OF THE TWO
8 ORDERS, AND SOME OF THE CONCERNS THAT THAT MIGHT BE
9 RAISING AS FAR AS THE PROGRESSION OF DIFFERENT
10 MATTERS THAT MAY NEED TO OCCUR AFTER THIS AS FAR AS
11 ANY KIND OF APPELLATE PROCEDURE THAT NEEDS TO GO ON
12 AND ANY KIND OF CIVIL ACTION. I'M GOING TO KIND OF
13 ECHO WHAT MR. ALFORD SAID, TOO, BECAUSE WE ALSO HAVE
14 A CONTRACT THAT'S IN QUESTION HERE AS WELL THAT MAY
15 LEAD TO OTHER CIVIL LITIGATION. SO, WE WANT TO
16 ENSURE AS WELL THAT THERE'S NOTHING THAT -- THERE'S
17 NO KIND OF DETERMINATION ON THE TERMS OF THOSE
18 CONTRACTS WITHIN THIS THAT'S ANY KIND OF RES
19 JUDICATA OR COLLATERAL ESTOPPEL FOR ANY KIND OF
20 ACTION THAT WE MAY BRING OUTSIDE OF THAT. SO, I
21 THINK MY ONLY CONCERN WOULD BE KIND OF PROCEDURAL
22 ISSUES THAT MIGHT ARISE KIND OF TIME LINE DEADLINE
23 OR STATUTE OF LIMITATIONS ISSUES THAT MAY ARISE IF
24 IT'S NOT ORDERED TOGETHER AND ALLOWED TO APPEAL
25 TOGETHER AND THAT SORT OF THING. I DON'T KNOW IF

1 THAT MAKES ANY SENSE.

2 BY COMMISSIONER JAMES:

3 IT DOES, AND IF THERE ARE OTHER CIVIL ACTIONS
4 OUT THERE, THERE ARE ACTIONS AND THEN THEY ARE
5 PENDING. YOU KNOW, I DON'T KNOW.

6 BY MS. FARTHING:

7 YES, MA'AM.

8 BY COMMISSIONER JAMES:

9 THAT'S OUTSIDE OF THE REALM OF THE DISCUSSION
10 HERE. MS. GLOVER, I CAN'T EVEN SEE YOU BACK THERE.
11 DID YOU HAVE A POSITION ON THE BIFURCATION?

12 BY MS. GLOVER:

13 I THINK WE WOULD BE OPPOSED TO IT,
14 COMMISSIONER. I THINK WE SHOULD DO EVERYTHING
15 TOGETHER AND GET THIS DONE.

16 BY MR. GOODWYN:

17 I FORGOT TO MENTION, I AM RELYING ON THE BRIEF
18 THAT WE SUBMITTED TO THE COMMISSION ON THAT ISSUE AS
19 WELL.

20 BY COMMISSIONER JAMES:

21 MR. SAMUELS.

22 BY MR. SAMUELS:

23 THANK YOU, YOUR HONOR. MAY IT PLEASE THE
24 COMMISSION. I THINK MS. GLOVER HAS MADE THE BEST
25 ARGUMENT AGAINST BIFURCATION ANY OF US HAS HEARD.

1 IT'S SUCCINCT. IT WAS ACCURATE. IT WAS COMPLETE,
2 ABOUT PERFECT. NOT HAVING THE GIFT OF BREVITY
3 MYSELF, I WILL ALSO AGREE WITH WHAT MR. GOODWYN HAS
4 TO SAY ABOUT BIFURCATION. THIS IS A SUCCESSIVE
5 MOTION. WE ARE IN THE MIDDLE OF TRIAL. I FRANKLY
6 BELIEF THAT BIFURCATING A CASE IN THE MIDDLE OF
7 TRIAL WOULD BE CONSIDERED AN ABUSIVE DISCRETION,
8 RESPECTIVELY. IT NEEDS TO GO FORWARD AS WE HAVE
9 ALREADY STARTED IT. BIFURCATION WOULD BE
10 PREJUDICIAL TO MS. TURNER BECAUSE SHE CANNOT RECEIVE
11 BENEFITS UNTIL ALL OF THESE ISSUES HAVE BEEN
12 DECIDED, NOT JUST THE ISSUES OF EMPLOYMENT,
13 COMPENSATION RATE, EXTENT OF HER INJURIES, BUT THE
14 ISSUE OF WHO PAYS, AND THAT NECESSARILY IMPLICATES
15 THE COVERAGE ISSUES. I THINK THE REMEDY FOR
16 GUARANTEE, COUNTRYWIDE, AND CONDUSTRAL AND FOR THAT
17 MATTER S.C.D.C., IF THEY INCUR DAMAGES BECAUSE OF A
18 RULING OR BECAUSE OF SOME LEVEL OF FRAUD AS HAS BEEN
19 ALLEGED, THEN THEY CAN SEEK FURTHER REMEDY IN
20 CIRCUIT COURT, BUT THE CASES ARE VERY CLEAR THAT
21 EVERYTHING THAT HAS TO BE TRIED HERE NEEDS TO BE
22 TRIED IN ONE ORDER, BECAUSE IT'S APPEALABLE, AND
23 THAT WAS THE PROBLEM IN THE ALVAREZ CASE IS THE
24 COMMISSION DID BIFURCATE AND TRIED THE COVERAGE
25 ISSUES FIRST. THE COURT VACATED THAT ORDER OR AT

1 LEAST VACATED THE CIRCUIT ORDER AND SENT IT BACK
2 DOWN WITH SOME PRETTY STRONG LANGUAGE ABOUT THE
3 IMPORTANCE OF SURE SWIFT RECOVERY FOR WORK PLACE
4 INJURIES REGARDLESS OF FAULT, AND THAT HAS
5 ULTIMATELY GOT TO BE THE GUIDING PRINCIPLE HERE THAT
6 WE TRY ALL OF THIS, WE GET TO A FINAL DECISION. IF
7 IT'S PIECEMEAL'ED, IF THERE ARE TWO ORDERS, NEITHER
8 OF THOSE ORDERS ARE GOING TO BE APPEALABLE. IT'S
9 ALL GOING TO COME BACK HERE, AND UNDER ALVAREZ, THEY
10 ARE GOING TO SAY IT HAS TO BE CONSOLIDATED. UNDER
11 LABOUSEUR, ALL OF THESE ISSUES ARE NECESSARILY
12 INTERTWINED AND WITHIN THE COMMISSION'S SUBJECT
13 MATTER JURISDICTION. AS LONG AS THERE IS A PENDING
14 CLAIM FOR BENEFITS, THE COMMISSION HAS AUTHORITY AND
15 JURISDICTION TO DECIDE ISSUES OF CANCELLATION, OF
16 CONTRACT, AND OF COVERAGE. YOUR HONOR CAN'T DECIDE
17 IF THERE ARE MONETARY DAMAGES DUE TO ANY OF THESE
18 ENTITIES, BUT HAS TO DECIDE ALL OF THOSE COVERAGE
19 ISSUES. AND AS TO INTERPRETING CONTRACTS, THERE ARE
20 A NUMBER OF CONTRACTS IN THIS CASE. THERE'S A
21 CONTRACT BETWEEN COUNTRYWIDE AND CONDUSTRIAL.
22 THERE'S A CONTRACT BETWEEN S.C. & G. -- EXCUSE ME,
23 THE DEPARTMENT OF CORRECTIONS, AND COUNTRYWIDE, AND
24 THERE IS A CONTRACT BETWEEN CONDUSTRIAL AND MS.
25 TURNER, AND ALL OF THOSE CONTRACTS SPECIFICALLY DEAL

1 WITH WORKERS' COMPENSATION INSURANCE. IT IS AN
2 ESSENTIAL TERM, ESSENTIAL TOPIC IN EVERY ONE OF
3 THOSE POLICIES OR THOSE CONTRACTS, AND IT'S
4 SOMETHING YOUR HONOR SIMPLY HAS TO DEAL WITH. YOU
5 KNOW, WE WERE SET -- WE TRIED THE CASE ON JULY 24TH.
6 EVERYBODY OPENED IN FULL. WE WERE HERE UNTIL ABOUT
7 8:00 AT NIGHT. WE WERE HERE FOR 11 HOURS, AND THEN
8 WE WERE SCHEDULED TO COME BACK IN ON JULY 31ST. MR.
9 HARBISON MOVED TO BE RELIEVED BECAUSE OF A CONFLICT.
10 WE DON'T KNOW THE NATURE OF THE CONFLICT. THAT'S
11 NEVER BEEN REVEALED. I'M NOT SAYING IT HAS TO BE,
12 BUT THE FACT THAT IT HASN'T BEEN REVEALED MEANS THAT
13 THE TRIAL CONTINUES. IT IS SIMPLY A SUBSTITUTION OF
14 COUNSEL MID-TRIAL, AND GUARANTEE AND COUNTRYWIDE
15 ESSENTIALLY STEPPED INTO MR. HARBISON'S SHOES.
16 THEY'RE RIGHT THERE. THEY DON'T GET TO MAKE NEW
17 POSITIONS. THEY DON'T GET TO CHANGE THEIR POSITION.
18 THEY'RE BOUND BY WHAT THEIR ATTORNEY SAYS IN TRIAL
19 AND BY THE POSITIONS THEIR ATTORNEY TOOK IN TRIAL.
20 THEY DON'T GET TO CHANGE IT MID-TRIAL. THE ATTORNEY
21 FOR GUARANTEE SAID THAT THIS IS THE BEST CASE TO
22 BIFURCATE AND IF THIS CASE CANNOT BE BIFURCATED,
23 THEN NO CASE CAN BE BIFURCATED. WELL, ACTUALLY,
24 THAT'S PRETTY MUCH WHAT ALVAREZ SAYS, THERE'S GOT TO
25 BE AN ORDER, A FINAL ORDER, THAT IS APPEALABLE.

1 THAT'S WHAT YOUR HONOR IS BOUND AND REQUIRED TO DO.
2 IN TERMS OF NOT ENOUGH TIME FOR DISCOVERY, THE FORM
3 50 IN THIS CASE WAS FILED IN MAY 2016. WE ARE A
4 YEAR-AND-A-HALF DOWN THE ROAD. WE HAVE HAD
5 SCHEDULING ORDERS AND DEADLINES THAT WERE PUSHED
6 BACK AND PUSHED BACK. WE'VE HAD MANY MANY DELAYS.
7 WE'VE CONTINUED DEPOSITIONS. WE POSTPONED TO
8 MEDIATION. ALL OF THOSE WERE DONE, AND THE PARTIES
9 WORKED HARD TO GET THIS CASE READY TO TRY ON JULY
10 24TH AND JULY 31ST. JULY 31ST, THE COVERAGE ISSUE
11 CAME UP, AND ONE OF THE ATTORNEYS SAID "WE'RE GOING
12 TO HAVE TO TAKE FOUR MORE DEPOSITIONS." YOUR HONOR
13 GRANTED THEM 60 DAYS, ALL OF AUGUST, ALL OF
14 SEPTEMBER, AND NOW WE ARE ALMOST MIDWAY THROUGH
15 OCTOBER TO TAKE THOSE FOUR DEPOSITIONS. THEY DIDN'T
16 TAKE ANY DEPOSITIONS. NOBODY MADE AN EFFORT TO TAKE
17 ANY DEPOSITIONS. THERE HAS NOT BEEN DUE DILIGENCE
18 ON THE PART OF GUARANTEE. THEY SHOULD NOT BE
19 ENTITLED TO ANY FURTHER DELAYS. WE WOULD ASK THAT
20 THIS CASE PROCEED FORWARD ON ALL ISSUES. I WILL
21 ALSO RESPOND TO SOME OF THE THINGS THAT MR. BEARD
22 STATED ON BEHALF OF COUNTRYWIDE, WE HAVE ALREADY
23 ARGUED ABOUT COLLATERAL ESTOPPEL IN THE SHELTON
24 CASE. THE SHELTON CASE IS THE CASE THAT SAYS A
25 DECISION OF THE DEPARTMENT OF EMPLOYMENT AND

1 WORKFORCE IS NOT BINDING, IN FACT DOES NOT HAVE ANY
2 AUTHORITY INCLUDING PERSUASIVE AUTHORITY BECAUSE OF
3 THE LIMITED ISSUES AND THE INFORMALITY OF HEARINGS
4 AT THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, AND
5 IT'S DIFFERENT THAN HEARINGS BEFORE THE COMMISSION
6 WHERE WE HAVE ATTORNEYS. WE DON'T HAVE THE CIVIL
7 PROCEDURE TYPE RULES OF EVIDENCE, BUT WE HAVE RULES
8 OF EVIDENCE THAT APPLY IN A WORKERS' COMPENSATION
9 CASE. THIS IS ESSENTIALLY A COURT OF RECORD. WE
10 HAVE A COURT REPORTER. EVERYTHING IS TRANSCRIBED.
11 THE PARTIES ARE UNDER OATH. THERE IS THE CROSBY
12 VERSUS PRYSMIAN CASE, WHICH DOES HOLD THAT HEARINGS
13 BEFORE THE COMMISSION ARE SUFFICIENTLY FORMAL, THAT
14 THERE IS PRECLUSIVE EFFECT. HEARINGS BEFORE THE
15 DEPARTMENT OF EMPLOYMENT AND WORKFORCE ARE NOT.
16 ADDITIONALLY, COLLATERAL ESTOPPEL REQUIRES IDENTITY
17 OF A PARTY, THE PARTY SEEKING TO BE ESTOPPED. SO,
18 HERE BECAUSE ONE POTENTIAL EMPLOYEE OF CONDUSTRIAL
19 LOST HER CASE AND WAS DEEMED AN INDUSTRIAL
20 CONTRACTOR BY THE DEPARTMENT OF EMPLOYMENT AND
21 WORKFORCE CANNOT BE BINDING ON MS. TURNER, BECAUSE
22 SHE HAS NOT HAD A FULL AND FAIR OPPORTUNITY TO
23 LITIGATE THAT. SHE IS NOW HERE WITH HER FULL AND
24 FAIR OPPORTUNITY TO LITIGATE THAT. I BELIEVE THAT
25 THAT WOULD BE OUR POSITION THAT WE WOULD OBJECT TO

1 ANY BIFURCATION OR ANY LAYERING OF TESTIMONY, BUT
2 AGAIN, MS. GLOVER'S RECOMMENDATION OF LET'S JUST DO
3 IT.

4 BY COMMISSIONER JAMES:

5 OKAY. ANYTHING ELSE?

6 BY MS. RICHARDSON:

7 YOUR HONOR, I WOULD LIKE TO RESPOND TO A FEW
8 POINTS RAISED.

9 BY COMMISSIONER JAMES:

10 OKAY.

11 BY MS. RICHARDSON:

12 BOTH MR. GOODWYN AND MR. SAMUELS SUGGESTED THAT
13 -- SUGGESTED THAT THIS WAS A SUCCESSIVE MOTION THAT
14 HAD BEEN RAISED AND RULED UPON, AND I WOULD JUST
15 LIKE TO NOTE FOR THE RECORD THAT THE COURT, THAT
16 INDEED I DO BELIEVE THAT AND PERHAPS IT WAS IN
17 DECEMBER, WILL HARBISON MOVED FOR THE COMMISSION TO
18 BIFURCATE THE TWO ISSUES, AND THE COMMISSION HAS
19 ISSUED TWO SCHEDULING ORDERS IN THIS MATTER, AND IN
20 THE SCHEDULING ORDER THAT ADDRESSED THAT MOTION, THE
21 COMMISSIONER SPECIFICALLY SAID THAT SHE WAS GOING TO
22 DENY THE MOTION TO BIFURCATE AT THIS TIME WITHOUT
23 PREJUDICE AND WITH THE RIGHT OF ANY PARTY TO RENEW
24 AT ANY TIME. AS SOON AS GUARANTEE RETAINED THE
25 PRESENT COUNSEL, WE FILED A MOTION FOR BIFURCATION,

1 WHICH WAS NEVER RULED UPON YET BY THE COMMISSIONER,
2 AND WE'VE RENEWED IT NOW BEFORE THIS HEARING, AND
3 NOW THE COMMISSIONER IS HEARING AND DECIDING IT.
4 SO, I DO NOT THINK THAT IT'S A SUCCESSIVE MOTION
5 THAT HAS BEEN RAISED AND RULED UPON IN A WAY THAT
6 WAS IMPROPER FOR GUARANTEE TO BRING UP AGAIN. IN
7 ADDITION, IT'S NEVER UNTIMELY FOR ANY PARTY TO RAISE
8 A QUESTION ABOUT A COURT'S SUBJECT MATTER OF
9 JURISDICTION OR THE DENIAL OF ANY PARTY'S DUE
10 PROCESS RIGHTS OR CONSTITUTIONAL RIGHTS TO A JURY
11 TRIAL. THESE ARE SIGNIFICANT ISSUES THAT IT'S FAIR
12 FOR ANY PARTY TO RAISE AND IMPORTANT FOR THE COURT
13 TO WEIGH AND CONSIDER. IT'S OUR POSITION THAT WE
14 FIND THAT ALVAREZ SUPPORTS THE COURT'S DECISION TO
15 BIFURCATE HERE AND DECIDE COMPENSABILITY FIRST.
16 THAT HAPPENS ALL THE TIME IN THE WORKERS' COMP --
17 THERE'S MANY MANY CASES WHERE COVERAGE ISSUES GET
18 DETERMINED IN CIRCUIT COURT SEPARATE AND APART FROM
19 THE WORKERS' COMPENSATION CLAIMS. AS FAR AS THE
20 DISCOVERY GOES THAT THE PARTIES HAVE HAD AMPLE TIME
21 FOR AN OPPORTUNITY TO DISCOVER -- TO DISCOVER AND
22 THAT SOMEHOW GUARANTEE WAS DILATORY IN ITS OBJECTIVE
23 IN THAT REGARD, I DEFINITELY TAKE ISSUE WITH THAT
24 CONTENTION. SINCE GUARANTEE HAS RETAINED NEW
25 COUNSEL, NO PARTY -- CONDUCT ONLY ADDED COVERAGE

1 QUESTIONS TO ITS PREHEARING BRIEF FOR THIS
2 PARTICULAR HEARING. AT THE LAST HEARING IN JULY
3 BEFORE GUARANTEE RETAINED ITS NEW COUNSEL, NOBODY
4 HAD ANY COVERAGE QUESTIONS EXPLAINED OR LAID OUT IN
5 THEIR PREHEARING BRIEF BEFORE THIS TIME. AS I SAID,
6 WE'VE DILIGENTLY SUBPOENAED DOCUMENTS FROM KEENAN
7 SUGGS, WHICH WAS JUST PRODUCED TO US THIS WEEK.
8 I'VE IDENTIFIED FOR YOUR HONOR THAT THESE DOCUMENTS
9 RAISE SIGNIFICANT ISSUES FOR CONDUCT. IF I HAD
10 MORE TIME, I WOULD MOST CERTAINLY SCHEDULE THE
11 DEPOSITION OF ONE IF NOT TWO KEENAN SUGGS AGENTS SO
12 THAT I COULD EXPLORE WHAT THE MEANING WAS IN THOSE
13 EMAILS, THOSE EMAIL STRINGS IN AND OF THEMSELVES.
14 IF I HAD MORE TIME, THEY ARE INCOMPLETE. THEY ARE
15 MISSING, YOU KNOW, DIFFERENT PEOPLES COMMUNICATIONS
16 THAT WOULD BE TAGGED EITHER AT THE END OR THE
17 BEGINNING OF THESE EMAILS. AND SO, I DO THINK THAT
18 IT IS -- THAT THERE ARE DUE PROCESS CONCERNS WITH
19 RESPECT TO THE TIME OF DISCOVERY. MAYBE DISCOVERY
20 WAS CERTAINLY ADEQUATE FOR THE COMPENSATION ISSUES,
21 BUT THIS IS A -- AS WE SAID, A COMPLEX NUANCE
22 COVERAGE CASE, WHICH INVOLVES ISSUES OF BAD FAITH
23 AND SHOULD BE CAREFULLY LITIGATED. SO, THAT WOULD
24 BE GUARANTEE'S POSITION.

25 BY COMMISSIONER JAMES:

1 I WILL STATE AGAIN THAT THESE MATTERS ARE SO
2 INTERTWINED, I AM NOT ATTEMPTING TO TRY A BREACH OF
3 CONTRACT OR FRAUDULENT BREACH OR ANY OTHER ISSUE
4 THAT MAY GO ON IN CIVIL COURT. I AM GOING TO GO
5 FORWARD WITH THE TESTIMONY, AND WE WILL ATTEMPT TO -
6 - SO, THAT I GET A BETTER UNDERSTANDING, I'M GOING
7 TO ALLOW THE STATEMENTS WITH REGARDS TO THE COVERAGE
8 ISSUE BE MADE SO THAT I HAVE A BETTER UNDERSTANDING.
9 AGAIN, Y'ALL HAVE LIVED IT. I HAVEN'T LIVED IT.
10 BUT I AM NOT GOING TO BIFURCATE THE TRIAL AT THIS
11 POINT AS FAR AS DOING TWO SEPARATE ORDERS. WE ARE
12 GOING TO TRY TO TAKE ALL OF THE COMPENSABILITY
13 WITNESSES FIRST. THERE -- I UNDERSTAND THERE WILL
14 BE SOME BLEEDING OVER. IT JUST SEEMS TO BE AFTER
15 THE DISCUSSION AND LENGTHY DISCUSSIONS THAT WE'VE
16 HAD TO BE THE BEST METHOD OF GOING ABOUT THIS, BUT I
17 DO WANT TO GO AHEAD AND HEAR THE POSITIONS ON THE
18 COVERAGE ISSUE SO THAT WHILE WE ARE TAKING OTHER
19 TESTIMONY THAT I AM AWARE OF WHERE YOU THINK THE
20 CROSSOVER OCCURS AND WHERE IT DIVERGES. SO, I WILL
21 ASK -- WELL, ANY OF THE THREE COUNTRYWIDE OR
22 GUARANTEE OR CONDUSTRIAL. SO, MR. ALFORD, ON BEHALF
23 OF COUNTRYWIDE.

24 BY MR. ALFORD:

25 YES, MA'AM. THANK YOU ON BEHALF OF

1 COUNTRYWIDE. YOUR HONOR, WE WILL GET INTO THE
2 AGREEMENT BETWEEN COUNTRYWIDE AND CONDUSTRIAL, AND
3 WE WILL ALSO THEN BY THROUGH THAT PROCESS PROBABLY
4 THEN HAVE TO TALK ABOUT OUR RELATIONSHIP --
5 COUNTRYWIDE'S RELATIONSHIP WITH G.I.C. THERE WERE A
6 SERIES OF EMAILS THAT I JUST RECEIVED, AND I THINK
7 THIS POINTS OUT OUR POSITION. THIS IS AN EMAIL FROM
8 TONY DURHAM, WHO IS THE PRESIDENT OF I BELIEVE
9 CONDUSTRIAL.

10 **BY MR. GOODWYN:**

11 WHAT IS THE DATE OF THAT EMAIL?

12 **BY MR. ALFORD:**

13 THE DATE OF THE EMAIL IS 19 OCTOBER, AND THERE
14 IS A STRING OF EMAILS, SEVERAL OF WHICH ARE MISSING.
15 THIS IS A POSITION IN AN EMAIL TO MY CLIENT THAT THE
16 PRESIDENT OF THEIR COMPANY TOOK. I'M GOING TO READ
17 JUST ONE PORTION OF IT UNDERSTANDING THE WHOLE THING
18 WILL LIKELY COME IN. THIS IS CONDUSTRIAL SPEAKING
19 "MY PROBLEM THOUGH ISN'T THAT SHE HAS NO COVERAGE
20 THROUGH YOU GUYS, AS WE AGREE SHE DOESN'T." AND NOW
21 THE HEARING IN THIS -- BECAUSE WHAT OUR AGREEMENT
22 SAYS IS IF YOU TELL US WHO THESE EMPLOYER -- WHO
23 THESE PEOPLE ARE, THESE EMPLOYEES, WE WILL THEN PUT
24 THEM IN OUR PAYROLL SYSTEM. WE WILL DO OUR -- WE
25 WILL DO THE WITHHOLDING. WE'LL ISSUE THE PAYMENTS,

1 AND WE WILL MAKE SURE THAT THEY HAVE WORKERS'
2 COMPENSATION COVERAGE. THEY NEVER TOLD US ABOUT MS.
3 TURNER. MS. TURNER'S TESTIMONY IS SHE NEVER HEARD
4 OF OUR CLIENT, NEVER FILLED OUT A PIECE OF PAPER
5 WITH OUR NAME ON IT, NOTHING, AND SO, I THINK IT'S
6 REMARKABLY DISINGENUOUS THAT CONDUSTRIAL NOW TAKES
7 THE POSITION OH, WELL, YEAH, WE DIDN'T TELL YOU WHO
8 SHE WAS, AND NOW THAT WE HAVE A PROBLEM, EVEN THOUGH
9 WE ARE TAKING THE POSITION SHE IS AN INDEPENDENT
10 CONTRACTOR, INDEPENDENT CONTRACTOR, INDEPENDENT
11 CONTRACTOR, WHICH I DON'T FEEL I STRONGLY HAVE A DOG
12 IN THAT FIGHT, IF YOU WILL, BECAUSE I DIDN'T HAVE
13 ANYTHING TO DO WITH IT. COUNTRYWIDE HAD NOTHING TO
14 DO WITH HER, BECAUSE SHE'S NOT PART OF OUR
15 AGREEMENT, AND IF SHE IS NOT PART OF OUR AGREEMENT,
16 BY DEFINITION SHE CAN'T BE PART OF THEIR POLICY,
17 PERIOD. AND THERE ARE AMPLE STATEMENTS IN THESE
18 EMAILS. IN AN EMAIL MR. SEARS WROTE TO TED HANSON,
19 THE THEN GENERAL COUNSEL - I'M SORRY, IN AN EMAIL
20 DATED OCTOBER 16TH, WHICH MR. SEARS WROTE TO THE
21 GENERAL COUNSEL TED BRYANT -- THEODORE BRYANT. IN
22 THE THIRD PARAGRAPH OF MR. SEARS OCTOBER 16 EMAIL,
23 "THIS CLAIM INVOLVES AN INDEPENDENT CONTRACTOR THAT
24 IS NOT," ALL CAPS, "AN EMPLOYEE." WHAT'S GOING TO
25 HAPPEN IN THIS EVIDENTIARY PROCESS, I BELIEVE, IS

1 THAT YOU'RE GOING TO FIND OUT THAT CONDUSTRIAL HAD
2 APPROXIMATELY 130 NURSES THAT THEY RAN THROUGH THIS
3 MEDUSTRIAL SHADOW COMPANY OR MONIKER, I THINK THEY
4 CALL IT, AND THEY WERE ALL INDEPENDENT CONTRACTORS.
5 THEY HAD ABOUT SIX OR EIGHT NURSES IN THE UPSTATE
6 THAT ARE PART OF OUR AGREEMENT, BECAUSE THEY RAN
7 THEM AS W-2 EMPLOYEES, AND WE DID WITHHOLDINGS, AND
8 WE DID WHAT WE WERE SUPPOSED TO DO, AND WE GOT
9 COVERAGE FOR THEM. WE NEVER AGREED TO COVER A
10 COMPANY CALLED MEDUSTRIAL, BECAUSE IT DOESN'T EXIST,
11 AND YET THAT'S WHO ENTERED INTO AN AGREEMENT WITH
12 THE DEPARTMENT OF CORRECTIONS, AND CONDUSTRIAL
13 REPRESENTED TO THESE FOLKS, THAT THEY ARE SENDING
14 THEM INDEPENDENT CONTRACTORS BUT THAT THEY HAD
15 WORKERS' COMPENSATION INSURANCE. THAT'S TROUBLING
16 TO ME BECAUSE THEY DIDN'T. CLEARLY THEY DIDN'T OR
17 MR. SAMUELS WOULDN'T BE HAVING TO WORK SO HARD. AND
18 SO I THINK YOU ARE GOING TO FIND THAT THAT'S THE
19 PROBLEM THAT I'M HAVING WITH MY CONTRACT CLAIM AND
20 THE BLEED OVER HERE AS WHO IS IN THE CONTRACT AND
21 WHO IS NOT, AND THEN I THINK THAT THEN RELATES TO
22 THEIR -- G.I.C.'S PROBLEM, BECAUSE THERE'S NO WAY,
23 RESPECTFULLY, I DON'T THINK, THAT YOU CAN FIND THAT
24 CONDUSTRIAL -- WELL, THAT COUNTRYWIDE WAS A CO-
25 EMPLOYER OF THIS PERSON, BECAUSE CONDUSTRIAL NEVER

1 EVER DID ANYTHING TO ADVISE US OF HER EXISTENCE
2 UNTIL AFTER -- UNTIL AFTER SHE WAS INJURED, AND THEN
3 IT WAS "HEY, CAN YOU GET US A CERTIFICATE?" IN THE
4 KEENAN AND SUGGS DOCUMENTS, ALTHOUGH INCOMPLETE, I
5 JUST GOT THEM YESTERDAY AS WELL, ARE VERY REVEALING
6 ABOUT THE POSITIONS THAT CONDUSTRIAL FOUND
7 THEMSELVES IN, AND IN FACT, WHEN WE GO -- MR. SEARS
8 ENGAGES IN DIALOGUE WITH ONE OF THE BROKERS, AND
9 HE'S SAYING "CAN YOU HELP ME FIGURE THIS OUT,
10 BECAUSE IT'S A TRAIN WRECK?" AND HER ANSWER IS AFTER
11 LOTS OF BACK AND FORTH IS BASICALLY "NO, YOU NEED TO
12 -- YOU CAN'T BROKER 1099s IN THIS MANNER AND GET
13 INSURANCE FOR IT," AND WE'RE GOING TO PUT THAT STUFF
14 IN. I'M JUST IN MY OPENING STATEMENT, I'M TELLING
15 YOU AFTER THE FACT, AFTER THEY HAVE A PROBLEM, THEY
16 GO BACK AND TRY TO FIGURE OUT IF IT'S FIXABLE, AND
17 THE ANSWER FROM THEIR BROKER WAS "NO, IT'S NOT."
18 AND SHE GAVE HIM FIVE OPTIONS, AND I'M TRYING TO
19 LOCATE THAT EMAIL. SHE GAVE HIM FIVE OPTIONS, AND
20 ONE OF THEM WAS "WALK AWAY." LET ME FIND THAT IF
21 YOU WILL BEAR WITH ME. AND THIS IS MR. SEARS NOW
22 TALKING WITH -- YOU KNOW, TRYING TO GET A WAY TO
23 FIGURE OUT TO GIVE COVERAGE, AND SHE WRITES BACK TO
24 MR. SEARS "I'M NOT AWARE OF ANY INSURANCE PRODUCT
25 THAT COULD PROTECT YOU AS BROKERING 1099'ERS TO THE

1 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS." THAT IS
2 TRUE, AND COUNTRYWIDE NOR G.I.C. EVER SIGNED UP TO
3 INSURE OR EMPLOY INDEPENDENT CONTRACTORS, AND I KNOW
4 WE ARE GOING TO HAVE SOME BLEED OVER. I TRULY
5 APPRECIATE YOUR EFFORTS TO CONTAIN THE BEASTS, AND
6 WE WILL DO OUR BEST TO HELP YOU DO SO. THANK YOU.

7 BY COMMISSIONER JAMES:

8 DOES GUARANTEE WISH TO SPEAK ON THE COVERAGE
9 ISSUE?

10 BY MS. RICHARDSON:

11 YES, IF WE ARE GOING TO DO THE ---

12 BY COMMISSIONER JAMES:

13 AS FAR AS THE OPENING, YES, MA'AM.

14 BY MS. RICHARDSON:

15 --- OPENING FOR COVERAGE?

16 BY COMMISSIONER JAMES:

17 YES.

18 BY MS. RICHARDSON:

19 OKAY. MAY IT PLEASE THE COURT, YOUR HONOR.
20 THANK YOU FOR HAVING US HERE TODAY. I REPRESENT
21 GUARANTEE INSURANCE COMPANY WHO IS SOMEWHAT
22 PERPLEXED AS HOW THEY ARE IN THIS WORKERS'
23 COMPENSATION FORUM, BECAUSE WE ONLY EMPLOY -- WE
24 HAVE ONLY INSURED THE EMPLOYEES OF C.S.S.G. WE DO
25 HAVE AN INSURANCE POLICY WITH C.S.S.G. THAT INSURED

1 C.S.S.G.'S LEGAL EMPLOYEES WHO HAVE BEEN PROPERLY
2 REPORTED TO US UNDER APPROVED CLASS CODES AND AT
3 APPROVED LOCATIONS, AND THERE IS, I THINK, NO
4 DISPUTE THAT CLAIMANT HAS NEVER BEEN A PROPERLY
5 REPORTED EMPLOYEE OF C.S.S.G. TO G.I.C. AT ANY
6 APPROVED CLASS CODE AT ANY APPROVED LOCATION. IT'S
7 OUR UNDERSTANDING THAT WHEN THIS WORKERS'
8 COMPENSATION POLICY WAS PUT IN PLACE THAT G.I.C.
9 WOULD BE PROVIDING WORKERS' COMPENSATION FOR
10 C.S.S.G.'S EMPLOYEES WHO WOULD THEN BE PLACED AT
11 C.S.S.G.'S CLIENTS' CLIENTS' LOCATIONS. SO,
12 C.S.S.G.'S EMPLOYEES ARE THE ONES WHO GO OUT AND
13 WORK AT VARIOUS LOCATIONS. WE APPROVE THOSE
14 EMPLOYEES CLASS CODES AND LOCATIONS, AND WE HAVE THE
15 RIGHT TO DENY ANY APPLICATION FOR A WORKER UNDER A
16 PARTICULAR CLASS CODE AND LOCATION. THERE IS NO --
17 EVERYBODY AGREES RACHEL TURNER WAS CONSIDERED --
18 CONDUCTED THE BUSINESS DECISION TO
19 CHARACTERIZE RIGHTLY OR WRONGLY, YOU'LL DECIDE,
20 RACHEL AS A 1099. THEY MADE THE BUSINESS DECISION
21 TO TREAT HER AS A 1099, AND THEREFORE, THERE'S NO
22 DISPUTE THAT SHE WAS NEVER A PROPERLY REPORTED
23 EMPLOYEE TO C.S.S.G., AND THEREFORE, C.S.S.G. NEVER
24 EVEN TOLD US ABOUT ANY EMPLOYEE TO COVER UNDER
25 GUARANTEE'S INSURANCE POLICY. IN ADDITION, IF YOU

1 EVEN NEED TO DIG ANY FURTHER, THE TYPE OF WORKER
2 THAT RACHEL TURNER WAS IS NOT AN EVEN CONTEMPLATED
3 CATEGORY OF RISK UNDER G.I.C.'S C.S.S.G.'S POLICY.
4 RACHEL TURNER WAS AN EMPLOYEE OR A WORKER SENT TO A
5 PRISON FACILITY. WORKERS SENT TO PRISON FACILITIES
6 ARE CODED AS 77-20s UNDER THE N.C.C.I. SCOPES
7 MANUAL. GUARANTEE INSURANCE COMPANY BY POLICY DOES
8 NOT ALLOW -- DOES NOT PROVIDE INSURANCE FOR THESE
9 CATEGORY OF WORKERS. THEY ARE BASICALLY AN
10 UNINSURABLE RISK, WHICH IS PROBABLY WHY CONDUSTRIAL
11 CHARACTERIZES THEM AS 1099s, BECAUSE THEY CAN'T GET
12 VOLUNTARY INSURANCE FOR THEM ON THE VOLUNTARY
13 MARKET. GUARANTEE WOULD NEVER AND HAS NEVER INSURED
14 ANY WORKER UNDER A 77-20 CODE. IN ADDITION, YOUR
15 HONOR, YOU KNOW, JUST BECAUSE YOUR HONOR MAY
16 DETERMINE HOWEVER, YOU KNOW, FAR FETCHED THE
17 ARGUMENT MAY BE, THAT CLAIMANT COULD BE AN EMPLOYEE
18 OF CONDUSTRIAL AND THEREFORE UNDER CONDUSTRIAL'S
19 AGREEMENT WITH C.S.S.G., AN EMPLOYEE OF C.S.S.G.,
20 THAT DOES NOT MAKE CLAIMANT AN EMPLOYEE FOR PURPOSES
21 OF GUARANTEE'S INSURANCE POLICY WITH C.S.S.G.
22 CONDUSTRIAL, AND C.S.S.G. CANNOT FOIST THEIR PRIVATE
23 PARTY CONTRACT AND THEIR INTERPRETATION OF WHAT AN
24 EMPLOYEE IS UPON OUR DEFINITION OF EMPLOYEE IN AN
25 INSURANCE POLICY. OKAY. WE DON'T KNOW WHAT THEIR

1 AGREEMENT IS. WE DON'T HAVE AN OBLIGATION AS TO
2 KNOW WHAT THEIR AGREEMENT IS. UNDER INSURANCE LAW,
3 THAT'S THERE SITUATION THAT THEY HAVE TO DEAL WITH.
4 WE HAVE AN INSURANCE POLICY WITH C.S.S.G. THAT
5 DEFINES WHO IS INSURED UNDER THAT POLICY, AND WE ARE
6 ONLY OBLIGATED TO INSURE THE PROPERLY REPORTED
7 EMPLOYEES AT CLASS CODES AND LOCATIONS -- APPROVED
8 CLASS CODES AND LOCATIONS UNDER THAT INSURANCE
9 POLICY. IT DOESN'T MATTER WHAT HAPPENS UNDERNEATH
10 SOME OTHER PRIVATE PARTY'S INSURANCE CONTRACTS.
11 TAGGING ALONG WITH THAT, CONDUSTRIAL HAS NO PRIVITY
12 OF CONTRACT WITH US, AND THEREFORE CAN'T TAKE A
13 POSITION AS TO WHAT OUR INSURANCE POLICY MAY OR MAY
14 NOT SAY IN THIS ACTION. AS FAR AS I KNOW, THERE --
15 I THINK CONDUSTRIAL -- I WOULD AGREE THAT THEY HAVE
16 NEVER HAD -- AS TO THE INSURANCE POLICY AT ISSUE IN
17 THIS MATTER, THEY HAVE NEVER HAD A SINGLE
18 COMMUNICATION WITH GUARANTEE INSURANCE COMPANY.
19 THERE HAS BEEN NO G.I.C. -- G.I.C. DOES NOT KNOW OF
20 ANYONE -- HAS NEVER SPOKEN WITH ANYONE AT
21 CONDUSTRIAL ABOUT OUR INSURANCE POLICY WITH
22 C.S.S.G.; THEREFORE, YOUR HONOR, WE JUST
23 RESPECTFULLY SUBMIT THAT G.I.C. HAS NOTHING TO DO
24 WITH THE INSURANCE COVERAGE FOR THIS CASE. WE'VE
25 ONLY INSURED C.S.S.G.'S EMPLOYEES. THERE'S BEEN NO

1 DISPUTE THAT RACHEL TURNER WAS NEVER AN EMPLOYEE OF
2 C.S.S.G. PROPERLY REPORTED TO GUARANTEE UNDER AN
3 APPROVED CLASS CODE OR AT AN APPROVED LOCATION, AND
4 TO THE EXTENT THAT ANYONE EVER KNEW ABOUT HER,
5 GUARANTEE COULD NEVER INSURE THAT RISK. IT'S
6 AGAINST OUR POLICY, AND WE HAVE NEVER INSURED A
7 NURSE DELIVERED OR ANY WORKER, NURSE OR OTHERWISE,
8 CLERICAL, OTHERWISE, AT ANY PRISON LOCATION DURING
9 MY -- DURING GUARANTEE -- THE REPRESENTATIVE THAT WE
10 HAVE HERE TODAY, SHE WILL TESTIFY DURING HER TENURE
11 AS UNDERWRITER. THANK YOU, YOUR HONOR.

12 BY COMMISSIONER JAMES:

13 MR. GOODWYN.

14 BY MR. GOODWYN:

15 AS FAR AS TO THE EXTENT THAT COUNTRYWIDE OR
16 GUARANTEE HAS CHANGED ITS POSITION FROM DAY ONE OF
17 THIS HEARING, WE OBJECT AND SUBMIT THAT COUNTRYWIDE
18 AND GUARANTEE ARE BOTH BOUND TO WHAT THEIR ATTORNEY,
19 THE POSITIONS THEIR ATTORNEY TOOK AT THE BEGINNING
20 OF THIS HEARING. WITH RESPECT TO THE COVERAGE ISSUE
21 AND THE RELATIONSHIP BETWEEN COUNTRYWIDE AND
22 GUARANTEE, WE WOULD SUBMIT THAT THERE WILL BE
23 CREDIBLE TESTIMONY FROM A DISINTERESTED WITNESS,
24 SOMEBODY WITH THE BROKERAGE COMPANY THAT MADE US --
25 WAS SPECIFICALLY MENTIONED TO COUNTRYWIDE DURING THE

1 NEGOTIATIONS THE FACT THAT THEY WERE INDEPENDENT
2 CONTRACTOR NURSES WAS SPECIFICALLY MENTIONED TO
3 COUNTRYWIDE DURING THOSE NEGOTIATIONS. THEY KNEW
4 ABOUT THE INDEPENDENT CONTRACTOR NURSES. THEY KNEW
5 ABOUT THE EMPLOYEE NURSES. THEY KNEW THE
6 INDEPENDENT CONTRACTOR NURSES WERE NOT GOING TO BE
7 REPORTED IN THE PAYROLL, BECAUSE THEY WERE GOING TO
8 BE CONSIDERED INDEPENDENT CONTRACTORS. THAT WAS ALL
9 UNDERSTOOD BEFORE THE CONTRACT WAS EVER SIGNED
10 BETWEEN CONDUSTRIAL AND ---

11 BY MS. RICHARDSON:

12 COMMISSIONER, I JUST NEED TO RAISE AN OBJECTION
13 THAT CONDUSTRIAL REALLY HAS NO AUTHORITY TO TAKE ANY
14 TESTIMONY OR OPINE ABOUT WHAT OUR INSURANCE POLICY
15 WITH C.S.S.G. MEANS. THEY'VE NEVER COMMUNICATED
16 WITH GUARANTEE ON ANY ISSUE RELATED TO C.S.S.G.'S
17 POLICY WITH US.

18 BY MR. GOODWYN:

19 THAT'S NOT TRUE EITHER.

20 BY MS. RICHARDSON:

21 THEY -- THEY -- WHEN ---

22 BY MR. GOODWYN:

23 THIS IS MY POSITION STATEMENT.

24 BY MS. RICHARDSON:

25 --- THEY --

1 BY MR. GOODWYN:

2 CAN I GET MY POSITION ON THE RECORD?

3 BY COMMISSIONER JAMES:

4 MR. GOODWYN. MR. GOODWYN, LET HER FINISH.

5 BY MR. GOODWYN:

6 THIS IS MY TIME. SHE HAS HAD HER TURN.

7 BY COMMISSIONER JAMES:

8 OKAY. WELL, SHE ---

9 BY MR. BEARD:

10 YOU INTERRUPTED HER.

11 BY COMMISSIONER JAMES:

12 HOLD ON.

13 BY MR. GOODWYN:

14 SHE JUST INTERRUPTED ME, GRADY. YOU DON'T LIKE
15 TO BE INTERRUPTED.

16 BY COMMISSIONER JAMES:

17 HOLD ON.

18 BY MS. RICHARDSON:

19 I'LL LET YOU FINISH, BUT I JUST NEED TO MAKE A
20 RECORD THAT CONDUSTRIAL LACKS PRIVITY WITH
21 GUARANTEE.

22 BY MR. GOODWYN:

23 SHE SHOULD HAVE SAID THAT ON HER TURN.

24 BY MS. RICHARDSON:

25 AT THE TIME -- AT THE TIME THAT THEY CONTRACTED

1 WITH C.S.S.G., THAT WAS NOT EVEN THE ORIGINAL
2 ALLEGED CARRIER THAT WAS INVOLVED IN THIS CASE.
3 CONDUSTRIAL -- CONDUSTRIAL ORIGINALLY BELIEVED THAT
4 THEIR CONTRACT, THAT THEY WERE THROUGH THEIR
5 CONTRACT, THEY WERE INSURED BY SOME OTHER CARRIER
6 NAMED BERKLEY, AND GUARANTEE ONLY -- GUARANTEE'S
7 POLICY IS ONLY EFFECTIVE JUNE 30TH OF 2015.
8 6/30/2015, GUARANTEE INSURED C.S.S.G. FOR C.S.S.G.'S
9 EMPLOYEES. THEIR CONTRACT IS EFFECTIVE MARCH 28TH
10 OF 2015. THERE'S A WHOLE DIFFERENT, I DON'T KNOW
11 WHAT, GOING ON, BUT HE CAN'T ATTEST TO WHATEVER THEY
12 AGREED UNDER THEIR CONTRACT THREE MONTHS BEFORE WE
13 INSURED C.S.S.G. HE SHOULDN'T BE ABLE TO OPINE WHAT
14 OUR INSURANCE POLICY ---

15 BY MR. GOODWYN:

16 I'M NOT ATTESTING TO ANYTHING.

17 BY MS. RICHARDSON:

18 OKAY.

19 BY MR. GOODWYN:

20 I MEAN, I'M NOT A WITNESS. I CAN'T ATTEST TO
21 ANYTHING. I'M JUST LETTING HER KNOW WHAT OUR
22 POSITION IS AND WHAT I EXPECT THE EVIDENCE TO BE.

23 BY MS. RICHARDSON:

24 ALL RIGHT.

25 BY COMMISSIONER JAMES:

1 ALL RIGHT. MR. GOODWYN, IF YOU WANT TO TELL ME
2 THE REST OF YOUR POSITION, SIR.

3 BY MR. GOODWYN:

4 THANK YOU. THE POINT I WAS TRYING TO MAKE WAS
5 AT THE BEGINNING OF CONDUSTRIAL'S RELATIONSHIP WITH
6 COUNTRYWIDE, THE ISSUE OF MEDUSTRIAL AND THE
7 INDEPENDENT CONTRACTOR NURSES WAS RIGHT OUT IN
8 FRONT. THEY KNEW THAT FROM THE VERY BEGINNING. I
9 UNDERSTAND GUARANTEE WAS NOT THE FIRST -- WAS NOT
10 THE FIRST INSURANCE CARRIER. THERE WAS AN INSURANCE
11 CARRIER, AND I DON'T KNOW WHY, BUT COUNTRYWIDE
12 STOPPED GETTING COVERAGE THROUGH THIS -- THROUGH
13 THIS FIRST CARRIER, AND THERE WAS A PERIOD OF ABOUT
14 SIX WEEKS WHERE THERE WAS NO COVERAGE AT ALL. THEY
15 KEPT TAKING THE PREMIUMS, NEVER REFUNDED THEM, AND
16 THAT'S THE BASIS OF OUR 42-9-440 MOTION, BUT THEN
17 GUARANTEE GOT ON THE CASE OR BECAME THE CARRIER AT
18 THAT POINT ON JUNE 30TH, BUT THE POINT IS THAT
19 COUNTRYWIDE KNEW ABOUT THE INDEPENDENT CONTRACTOR
20 NURSES AT THE TIME THEY WERE NEGOTIATING THEIR
21 CONTRACT WITH GUARANTEE. WHETHER THEY TOLD THEM
22 ABOUT THEM OR NOT, I DON'T KNOW. OUR POSITION AGAIN
23 AS WE STATED AT THE BEGINNING OF THIS TRIAL WAS SHE
24 IS AN INDEPENDENT CONTRACTOR NURSE. THAT'S HOW WE
25 CHARACTERIZED HER, AND THAT'S WHAT WE FIRMLY BELIEVE

1 THAT SHE IS; HOWEVER, IF THE COMMISSIONER DETERMINES
2 THAT SHE IS AN EMPLOYEE, THEN THE CARRIER FOR THE
3 REST OF OUR EMPLOYEES IS ON THE HOOK FOR THAT. IT'S
4 -- THE SYSTEM WAS NEVER CONTEMPLATED FOR INSURANCE
5 CARRIERS TO JUST SELECT CERTAIN EMPLOYEES WITHIN A
6 -- WITH AN EMPLOYER'S EMPLOYEE BASE TO COVER. IF
7 THE -- AND YOU WILL SEE THE AUDIT IN THIS CASE.
8 GUARANTEE DID AN AUDIT IN THIS CASE AND FOUND A
9 NUMBER OF EMPLOYEES THAT HAD NOT BEEN REPORTED.
10 THEY WENT BACK AND CHARGED AN AUDIT PREMIUM. SURE,
11 YOU CHARGE A HIGHER PREMIUM. THAT IS HOW THIS ISSUE
12 IS RESOLVED. OF COURSE, SHE WASN'T REPORTED TO
13 COUNTRYWIDE, AND COUNTRYWIDE DIDN'T REPORT HER TO
14 GUARANTEE BECAUSE SHE WAS LABELED AN INDEPENDENT
15 CONTRACTOR. IF THAT TURNS OUT BY A COURT TO BE
16 INCORRECT, OKAY, THAT DOESN'T RELIEVE GUARANTEE OF
17 THE RESPONSIBILITY. THEIR REMEDY IS TO NOT DENY
18 COVERAGE, BUT TO JUST CHARGE AN AUDIT PREMIUM. JUST
19 THEY CHARGE A BACK PREMIUM. THAT'S HOW IT'S BEEN
20 DONE, AND TO DO OTHERWISE, YOU KNOW, WOULD ENCOURAGE
21 EMPLOYERS TO INTENTIONALLY MISCLASSIFY EMPLOYEES TO
22 REDUCE THEIR WORKERS' COMPENSATION PREMIUMS, AND
23 THEN JUST STICK EVERYTHING ON THE U.E.F. WHEN IT
24 GOES BAD. YOU WILL CLEARLY SEE THAT THE AGREEMENT
25 BETWEEN COUNTRYWIDE AND CONDUSTRIAL IS A CO-EMPLOYER

1 RELATIONSHIP, LIKE A P.E.O. TYPE RELATIONSHIP. IT
2 STATES IN PARAGRAPH THREE OF THEIR AGREEMENT, IT
3 CLEARLY STATES THEY ARE CO-EMPLOYEES. THE PAYCHECKS
4 COME OUT OF A CONDUSTRIAL BANK ACCOUNT WITH
5 CONDUSTRIAL LETTERHEAD CHECKS. THEY ARE W-2'ED
6 UNDER CONDUSTRIAL'S NAME. TO SAY THAT GUARANTEE
7 DOESN'T COVER CONDUSTRIAL EMPLOYEES IS -- THAT'S A
8 TOUGH ARGUMENT. THEY'VE -- I THINK THAT THEY ADMIT
9 THAT THEY COVER ALL OF THE EMPLOYEES THAT WERE
10 REPORTED TO THEM, BUT THEY ARE CONDUSTRIAL'S
11 EMPLOYEES, AND BY VIRTUE OF THE AGREEMENT BETWEEN
12 THE TWO PARTIES, THEY ARE CO-EMPLOYEES. AND SO, IF
13 THEY PROVIDE COVERAGE FOR ANY CONDUSTRIAL EMPLOYEES,
14 AND THE COMMISSION FINDS THAT SHE IS AN EMPLOYEE OF
15 CONDUSTRIAL, THEN THAT IMPLICATES THEIR COVERAGE,
16 AND AGAIN THE REMEDY IS TO JUST CHARGE AN AUDIT
17 PREMIUM. IT'S BEEN SUGGESTED THAT THERE'S BEEN NO
18 DISCUSSIONS BETWEEN GUARANTEE AND -- EXCUSE ME,
19 YEAH, GUARANTEE AND CONDUSTRIAL. AFTER THIS CLAIM,
20 THERE WERE SOME CONVERSATIONS BETWEEN TOM SEARS AND
21 THE GUARANTEE ADJUSTER ON THE CLAIM. HE CLEARLY --
22 THERE'S EMAILS TO BACK THIS UP, THAT HE CONTACTED
23 THE ADJUSTER, ASKED THE ADJUSTER WHO HIS ATTORNEY ON
24 THIS CASE WOULD BE. HE SAID "WILL HARBISON." I
25 THINK THAT -- I THINK WE ALREADY WENT THROUGH THIS

1 ISSUE WITH THE MOTION TO RECUSE WILL HARBISON. THAT
2 WAS PART OF THE -- PART OF THAT ISSUE, WHICH YOU MAY
3 BE FAMILIAR WITH, EARLIER IN THE CASE, BUT CLEARLY
4 GUARANTEE WAS TALKING WITH CONDUSTRIAL, SAYING "WE
5 REPRESENT YOU, YES. WILL HARBISON IS YOUR
6 ATTORNEY." DID NOT NEVER ONCE SAY "WAIT A MINUTE.
7 WHO ARE YOU, CONDUSTRIAL? WE DON'T KNOW ANYTHING
8 ABOUT YOU." THAT WAS NOT THE CONVERSATION. IT WAS,
9 "OH, OF COURSE, WE COVER CONDUSTRIAL. YES, THERE
10 MAY BE AN ISSUE. OF COURSE, THERE'S GOING TO BE AN
11 INDEPENDENT CONTRACTOR/EMPLOYER ISSUE THERE, BUT WE
12 - WE COVER YOU. WILL HARBISON IS ON THE CASE," AND
13 THEN WE HAD THAT STATUS CONFERENCE WHERE THERE WAS
14 NO SEPARATE ATTORNEY FOR CONDUSTRIAL, AND WILL
15 SPRUNG IT ON HIM THAT DAY "I DON'T REPRESENT YOU
16 GUYS," AND HE HAD TO GO GET STEPHEN STUBLEY THAT
17 SAME DAY. SO, TO SUGGEST GUARANTEE HAS ALWAYS
18 MAINTAINED THIS POSITION THAT WE DON'T KNOW WHO
19 CONDUSTRIAL IS IS DISINGENUOUS. I THINK THAT'S ALL
20 THE ISSUES ON THE COVERAGE ISSUE, AND I WOULD RELY
21 ON MY PREHEARING BRIEF FOR ANY OTHER ISSUES THAT WE
22 HAVEN'T ALREADY RAISED.

23 BY COMMISSIONER JAMES:

24 DOES ANYONE ELSE WANT TO OR NEED TO SPEAK ON
25 THE ISSUE OF COVERAGE?

1 BY MR. ALFORD:

2 I DO. ESSENTIALLY IF WE ARE GOING TO GET INTO
3 THAT, HE IS ASKING THAT YOU REFORM OUR CONTRACT,
4 BECAUSE WHAT OUR CONTRACT TALKS ABOUT, AND WE ARE
5 GOING TO GET INTO IT WITH MR. SEARS, I'M SURE, IS --
6 AND IT'S A DEFINED TERM IN THE CONTRACT, "PROVIDE
7 SELECTIVE STAFFING/EMPLOYEES," NOT EVERYBODY, AND
8 IT'S INCUMBENT ON THEM TO TELL US WHO THEY ARE, AND
9 I THINK WHAT YOU'RE GOING TO FIND IS THEY HAD 130
10 NURSES OUT THERE ON THIS 1099 PROGRAM WHO THEY KNEW
11 WEREN'T COVERED, AND THAT THEY ARE NOW TRYING TO
12 FOIST THAT WHOLE OBLIGATION THAT WE NEVER AGREED TO
13 UNDERTAKE ON US, AND THEREBY FORCING IT ON
14 GUARANTEE, AND THAT'S CRAZY, AND THAT'S UNLAWFUL,
15 AND WE WILL BE IN CIRCUIT COURT OVER THAT SHORTLY.

16 BY MR. GOODWYN:

17 JUST TO CLARIFY, WE'RE NOT TRYING TO FOIST
18 ANYTHING. WE ARE JUST SAYING IF THE COMMISSION
19 FINDS THAT SHE IS AN EMPLOYEE, THEN GUARANTEE'S
20 COVERAGE IS IMPLICATED. THAT'S IT.

21 BY MR. ALFORD:

22 YOU WOULD HAVE TO FIND THAT SHE WAS A SELECTIVE
23 EMPLOYEE UNDER OUR AGREEMENT. OTHERWISE, IT'S ON
24 CONDUSTRIAL.

25 BY MS. RICHARDSON:

1 AND GUARANTEE WOULD ARGUE THAT YOU WOULD HAVE
2 TO FIND THAT SHE IS ACTUALLY A C.S.S.G. EMPLOYEE
3 UNDER GUARANTEE'S ---

4 BY MR. ALFORD:

5 CORRECT.

6 BY MS. RICHARDSON:

7 --- INSURANCE POLICY WITH C.S.S.G., AND WE JUST
8 ALSO WOULD LIKE TO NOTE THAT, YOU KNOW, THEIR
9 INSURANCE -- THE INSURANCE AGENT OR BROKER THAT
10 BROKERED THIS DEAL IS NOT A DISINTERESTED PARTY, AND
11 WE WILL OF COURSE BRING THAT UP LATER, BUT SHE IS
12 NOT A DISINTERESTED PARTY TO THIS ACTION.

13 BY MR. GOODWYN:

14 SHE HAS NO DOG IN THE FIGHT. SHE HAS NO MONEY
15 AT STAKE.

16 BY MS. RICHARDSON:

17 WELL, HER E&O CARRIER PROBABLY IS ON NOTICE OF
18 THIS CASE AS WELL.

19 BY COMMISSIONER JAMES:

20 ALL RIGHT. AND I BELIEVE WE ARE READY FOR
21 TESTIMONY. MR. SAMUELS.

22 BY MR. SAMUELS:

23 DO YOU MIND IF WE TAKE A VERY QUICK BREAK?

24 BY COMMISSIONER JAMES:

25 THAT WILL BE PERFECTLY FINE.

1 (OFF THE RECORD AT 12:35 P.M., BACK ON AT 1:40 P.M.)

2 BY COMMISSIONER JAMES:

3 YOUR NEXT WITNESS.

4 BY MR. SAMUELS:

5 YOUR HONOR, THE CLAIMANT CALLS TOMMY BURGESS.

6 BY COMMISSIONER JAMES:

7 MR. BURGESS, CAN YOU RAISE YOUR RIGHT HAND FOR
8 ME, PLEASE, SIR?

9 * * * * *

10 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
11 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
12 MATTER HEREIN:

13 TOMMY BURGESS

14 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

15 BY COMMISSIONER JAMES:

16 YOUR WITNESS.

17 BY MR. SAMUELS:

18 THANK YOU, YOUR HONOR.

19 DIRECT EXAMINATION BY MR. SAMUELS:

20 Q. MR. BURGESS, I'M STEPHEN SAMUELS. WE'VE MET BEFORE.

21 A. RIGHT.

22 Q. I REPRESENT RACHEL TURNER. I APOLOGIZE FOR THE
23 TIMES AND HOURS YOU'VE HAD TO WAIT. I JUST HOPE
24 YOU'LL BEAR WITH US. WE'VE GOT A LOT OF LEGAL STUFF
25 TO WORK THROUGH.

- 1 A. OKAY.
- 2 Q. I APPRECIATE YOUR PATIENCE.
- 3 A. THANK YOU.
- 4 Q. AND, MR. BURGESS, WHERE ARE YOU EMPLOYED?
- 5 A. THE DEPARTMENT OF CORRECTIONS. I WORK IN ADMIN
- 6 SUPPORT SERVICES FOR HEALTH SERVICES.
- 7 Q. HOW LONG HAVE YOU BEEN WITH THE DEPARTMENT OF
- 8 CORRECTIONS?
- 9 A. A LITTLE OVER SEVEN YEARS. I WENT THERE IN MARCH OF
- 10 2010.
- 11 Q. I SEE YOU HAVE A BACHELOR'S DEGREE IN BUSINESS?
- 12 A. IN BUSINESS, YES, SIR.
- 13 Q. DO YOU RECALL THAT YOU WERE DESIGNATED BY THE
- 14 DEPARTMENT OF CORRECTIONS AS A WITNESS WHO COULD
- 15 SPEAK ON BEHALF OF S.C.D.C. AND BIND THEM?
- 16 A. YES.
- 17 Q. AND YOU GAVE A DEPOSITION IN THIS CASE JUNE 12TH,
- 18 2017?
- 19 A. I GAVE A DEPOSITION. THE DATE, I DON'T REMEMBER,
- 20 BUT, YES.
- 21 Q. WHAT ARE YOUR JOB RESPONSIBILITIES AS A DIRECTOR OF
- 22 SUPPORT SERVICES FOR MEDICAL?
- 23 A. WELL, I HAVE PEOPLE WHO ARE WORKING UNDER ME WHO
- 24 GATHER SUPPLIES FOR MEDICAL SERVICES. WE DO -- I DO
- 25 CONTRACTS. WE DO -- IN MY AREA, WE HANDLE H.R.

1 STUFF IN THE C.O.A. BUILDING I'M IN, CALLED CENTRAL
2 OFFICE ANNEX, AND THEN WE DO -- WE WORK WITH
3 MEDICAID GETTING OUR INMATES QUALIFIED FOR MEDICAID,
4 AND IT DOESN'T SOUND LIKE MUCH, BUT I KNOW THERE'S
5 MORE, BUT THAT'S ALL I CAN THINK OF RIGHT NOW.

6 Q. ABOUT HOW MANY INMATES ARE THERE IN THE DEPARTMENT
7 OF CORRECTIONS SYSTEM?

8 A. SAY THAT AGAIN?

9 Q. DO YOU KNOW APPROXIMATELY HOW MANY INMATES THERE ARE
10 IN THE DEPARTMENT OF CORRECTIONS SYSTEM?

11 A. INMATES, PROBABLY 20,000, MAYBE MORE.

12 Q. DOES THE DEPARTMENT OF CORRECTIONS PROVIDE MEDICAL
13 TREATMENT TO THOSE INMATES?

14 A. YES.

15 Q. IS THAT SOMETHING THAT IS WITHIN YOUR AREA?

16 A. IN TERMS OF I SEE ANY CONTRACTS THAT WE DO WITH
17 ANYBODY THAT WOULD DO MEDICAL SERVICES FOR US.
18 HOSPITALS AND STUFF OPERATE UNDER A THING THAT WAS
19 DONE BY THE GOVERNOR SAYING THEY WOULD TREAT ALL
20 INMATES, AND WE WOULD PAY THEM ON THE SAME RATE AS
21 THE STATE HEALTH SERVICE PLAN, YES, BUT I DON'T
22 DIRECTLY -- YOU KNOW, WE HAVE DOCTORS AND NURSES AND
23 SUCH THAT TELL THEM WHAT THEY'RE GOING TO DO. WE
24 JUST PAY THE BILLS AND STUFF.

25 Q. DO YOU DEAL WITH THE CONTRACTS TO PROVIDE NURSING

1 SERVICES FROM OUTSIDE AGENCIES?

2 A. YES, I DO.

3 Q. AND DOES THE SOUTH CAROLINA DEPARTMENT OF
4 CORRECTIONS USE NURSES IN ITS DELIVERY OF HEALTH
5 SERVICES?

6 A. YES.

7 Q. DO YOU KNOW ABOUT HOW MANY NURSES THERE ARE IN THE
8 SYSTEM?

9 A. ARE YOU TALKING ABOUT CONTRACT NURSES, OR ARE YOU
10 TALKING ABOUT OUR NURSES?

11 Q. WELL, THAT'S A FAIR QUESTION. LET ME ASK YOU TO
12 EXPLAIN THE DIFFERENCE BETWEEN THE TWO.

13 A. WELL, WE HAVE F.T.E. NURSES, WHICH ARE PEOPLE THAT
14 ARE HIRED BY THE DEPARTMENT OF CORRECTIONS. THEY
15 ARE EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS.
16 THEY GET A PAYCHECK, W-2s, EVERYTHING THEY'VE GOT
17 GOES THROUGH THERE. THEN I HAVE CONTRACT NURSES,
18 WHICH ARE NURSES WE CONTRACT WITH OUTSIDE COMPANIES,
19 AND THEY COME IN AND WORK. WE GET BILLED FOR THEIR
20 SERVICES, AND WE PAY THE COMPANY THAT PROVIDES THOSE
21 PEOPLE TO US.

22 Q. AND SPECIFICALLY SPEAKING ABOUT DECEMBER 5TH, 2015,
23 BECAUSE THAT'S THE DATE OF WHICH THIS INCIDENT
24 AROSE, WHAT AGENCIES DID THE DEPARTMENT OF
25 CORRECTIONS HAVE ACTIVE CONTRACTS WITH ON THAT DATE?

1 A. WELL, I'M JUST GOING TO BE -- I DON'T KNOW IF I'LL
2 GET THEM ALL. I THINK WE HAD ONE WITH ALLIED,
3 MEDUSTRIAL, MEDFIRST, M.S.N. I KNOW THERE'S ANOTHER
4 ONE, BUT I CAN'T THINK OF IT RIGHT NOW.

5 Q. I UNDERSTAND THAT THERE'S A SEARCH FOR THE CONTRACT
6 WITH MEDFIRST. HAVE YOU BEEN ABLE TO LOCATE THAT
7 CONTRACT YET?

8 A. FOR WHICH ONE?

9 Q. MEDFIRST.

10 A. I WASN'T LOOKING FOR ONE. I DIDN'T KNOW I WAS
11 SUPPOSED TO BE, BUT...

12 Q. OKAY.

13 A. MY APOLOGY.

14 Q. FAIR ENOUGH. IF SUCH A CONTRACT WERE LOCATED, WOULD
15 YOU BE ABLE TO AUTHENTICATE IT?

16 A. YES.

17 Q. IS THERE A CONTRACT WITH EACH OF THESE AGENCIES
18 YOU'VE LISTED, A WRITTEN CONTRACT?

19 A. YES. NOW, SOME OF THEM MAY HAVE EXPIRED AT A TIME,
20 BUT WE OPERATE UNDER THE SAME THING UNTIL WE GET
21 THEM -- UNTIL WE CAN GET THEM REDONE.

22 Q. WHO DRAFTS THOSE CONTRACTS?

23 A. WE HAVE A FORM THAT'S ALREADY THERE, BUT IT GOES
24 THROUGH OUR ATTORNEYS. OUR ATTORNEYS GO THROUGH AND
25 MAKE SURE THAT EVERYTHING IS LIKE IT'S SUPPOSED TO

1 BE. WE PUT IT IN, AND THEN IT GOES THROUGH A
2 CONTRACT SYSTEM AS A LEVEL OF EIGHT OR TEN APPROVALS
3 THAT IT HAS TO GO THROUGH.

4 Q. NOW, WITH YOUR FAMILIARITY WITH THOSE CONTRACTS, DO
5 THE CONTRACTS ESSENTIALLY HAVE THE SAME TERMS AND
6 DEFINITIONS?

7 A. YES, MOST ALL OF THEM HAVE THE SAME, I THINK.

8 Q. OKAY. I'M GOING TO SHOW YOU AN EXHIBIT. THIS IS AT
9 CLAIMANT'S APA SUBMISSIONS TAB "G," PAGES 253 TO
10 260, AND THEN I'M ALSO GOING TO ATTACH PAGE 275.
11 I'M JUST GOING TO HAND YOU A COPY OF IT WHILE WE ALL
12 LOOK OVER OUR OTHER COPIES.

13 A. OKAY.

14 **BY MS. FARTHING:**

15 I'M SORRY, WHAT PAGE ARE WE LOOKING AT?

16 **BY MR. SAMUELS:**

17 STARTING AT PAGE 253.

18 **BY MS. FARTHING:**

19 THANK YOU.

20 **BY MR. SAMUELS:**

21 TAB "G," AND THEN THERE'S ALSO PAGE 275, WHICH
22 IS THE LAST PAGE OF THE ATTACHMENT.

23 **DIRECT EXAMINATION RESUMED BY MR. SAMUELS:**

24 Q. MR. BURGESS, HAVE YOU SEEN THIS DOCUMENT BEFORE?

25 A. YES.

1 Q. CAN YOU IDENTIFY THE DOCUMENT FOR US, PLEASE?

2 A. WELL, THIS IS A LETTER THAT WAS SENT BY THE PERSON
3 THAT WAS HANDLING CONTRACTS AT THAT TIME, RUSSELL
4 CAMPBELL, TO MEDUSTRIAL HEALTHCARE TELLING THEM THAT
5 HERE WAS A CONTRACT TO BE SIGNED. "PLEASE SIGN THE
6 ORIGINAL AND RETURN IT BACK TO US, AND PUT COPIES OF
7 CERTIFICATES OF INSURANCE AND LICENSE."

8 Q. ALL RIGHT. AND THAT'S THE LETTER, AND WHAT IS THE
9 REST OF THE EXHIBIT STARTING ON THE NEXT PAGE?

10 A. THE REST OF IT IS THE CONTRACT WITH MEDUSTRIAL FOR
11 THAT PERIOD OF TIME; IT WAS IN 2008.

12 Q. AND HAS THIS DOCUMENT BEEN SIGNED AND ---

13 A. YES.

14 Q. --- MADE EFFECTIVE?

15 A. YES.

16 Q. AND WHO ARE THE PEOPLE THAT SIGNED THE CONTRACT?

17 A. THE ONLY PERSON THAT SIGNED THE CONTRACT FOR THE
18 DEPARTMENT OF CORRECTIONS IS THE DIRECTOR OF THE
19 AGENCY UNLESS HE DESIGNATES SOMEONE ELSE, WHICH...

20 Q. SO, WE ARE LOOKING AT PAGE 259. IT'S THE NEXT TO
21 THE LAST PAGE.

22 A. RIGHT.

23 Q. WHERE WE HAVE THE SIGNATURE FROM ---

24 A. JON OZMINT.

25 Q. --- OZMINT. HE'S THE DIRECTOR?

1 A. AT THAT TIME, HE WAS THE DIRECTOR OF THE SOUTH
2 CAROLINA DEPARTMENT OF CORRECTIONS.

3 Q. AND A PERSON NAMED NATASHA RATHBURN SIGNED AS A
4 DIRECTOR FOR MEDUSTRIAL HEALTHCARE?

5 A. YEAH. I MEAN, I DIDN'T KNOW HER, BUT I'M ASSUMING
6 THAT'S WHO IT IS, BECAUSE...

7 Q. ALL RIGHT, SIR. NOW, WHEN YOU SEND OUT -- WHEN
8 S.C.D.C. SENDS OUT THIS LETTER WITH A CONTRACT AND
9 GETS BACK THE EXECUTED CONTRACT, YOU'RE ALSO
10 REQUESTING CERTIFICATES OF INSURANCE?

11 A. CORRECT.

12 Q. DID MEDUSTRIAL PROVIDE THE DEPARTMENT OF CORRECTIONS
13 WITH CERTIFICATES OF INSURANCE?

14 A. I WOULD HAVE TO GO BACK, AND I DON'T HAVE MY FILE
15 WITH ME, SO I WOULD ASSUME AT THAT TIME BECAUSE THAT
16 WAS HANDLED BY SOMEBODY ELSE THAT THEY GOT A COPY OF
17 THE CERTIFICATE OF INSURANCE AND THE LICENSE.

18 Q. WERE YOU AWARE OR ARE YOU AWARE NOW THAT MEDUSTRIAL
19 IS A DIVISION OF A COMPANY CALLED CONDUSTRIAL?

20 A. YES, I AM NOW.

21 Q. WHEN DID YOU BECOME AWARE OF THAT FACT?

22 A. ACTUALLY WHEN WE WERE DOING THE -- WHATEVER IT WAS
23 WE DID ON JUNE 12TH.

24 Q. THE DEPOSITION?

25 A. THE DEPOSITION, YEAH. THAT'S WHEN I LEARNED ABOUT

1 IT.

2 Q. I'M GOING TO SHOW YOU A DOCUMENT THAT IS PAGE 168 OF
3 CONDUSTRIAL'S APA SUBMISSIONS. I'M GOING TO SHOW
4 YOU PAGE 167 AND 168, AND I'M GOING TO SHOW YOU 169
5 AS WELL.

6 BY MR. SAMUELS:

7 YOUR HONOR, MAY I APPROACH?

8 BY COMMISSIONER JAMES:

9 CERTAINLY.

10 BY MR. BEARD:

11 STEPHEN, WHAT PAGE AGAIN? I'M SORRY.

12 BY MR. SAMUELS:

13 167 OF CONDUSTRIAL'S SUBMISSIONS.

14 BY MR. BEARD:

15 OKAY.

16 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

17 Q. SIR, WE'RE LOOKING AT PAGE 167. CAN YOU TELL US
18 WHAT THIS DOCUMENT IS?

19 A. WELL, THIS IS A CERTIFICATE OF LIABILITY INSURANCE,
20 IT SAYS, FROM "TRIGEN INSURANCE SOLUTIONS,
21 INSURED COUNTRYWIDE STAFFING SOLUTIONS GROUP;
22 COUNTRYWIDE PRO, INCORPORATED; CONDUSTRIAL,
23 INCORPORATED"; AND IT SAYS "707 MENDHAM BOULEVARD,
24 ORLANDO, FLORIDA."

25 Q. DOES THIS POLICY INCLUDE THE SOUTH CAROLINA

1 DEPARTMENT OF CORRECTIONS?

2 A. IT'S NOT -- NO, IT'S NOT STATED ON THERE.

3 Q. OKAY. I'M GOING TO MOVE YOU NOW TO PAGE 168. CAN
4 YOU IDENTIFY THIS DOCUMENT?

5 A. THIS IS FROM "SUNZ INSURANCE SOLUTIONS, INSURED
6 CENTRAL H.R., INCORPORATED D/B/A FIRST STAR H.R.,
7 DALLAS, TEXAS." THEY ARE LISTED AS A CERTIFICATE
8 HOLDER, AND IT IS A "COVERAGE PROVIDED FOR ALL
9 LEASED EMPLOYEES BUT NOT SUBCONTRACTORS OF
10 CONDUSTRIAL, INCORPORATED, 514 EAST NORTH STREET,
11 EFFECTIVE 12/14/2015."

12 Q. ALL RIGHT. KNOWING THAT, YOU KNOW, MEDUSTRIAL IS A
13 DIVISION OF CONDUSTRIAL, WOULD -- AND YOU WOULD
14 AGREE, THIS CERTIFICATE WAS PROVIDED BY YOU?

15 A. YEAH, I'M SURE I PULLED IT OUT OF MY FILE.

16 Q. OKAY. IF THIS WERE IN YOUR FILE, WOULD THAT BE
17 PURSUANT TO THE CONTRACT WE ALREADY LOOKED AT THAT
18 WAS SIGNED IN 2008?

19 A. YEAH, IT WOULD COME IN -- AND, AGAIN, WE DID -- OUR
20 CONTRACT HAD LAPSED, BUT WE WERE STILL OPERATING
21 UNDER THE TERMS, AND YES, IT WOULD -- I WOULD SAY IT
22 WOULD BE FOR THAT CONTRACT.

23 Q. OKAY. AND DID CONDUSTRIAL HAVE ANY PERSONNEL
24 WORKING INSIDE S.C.D.C. WHO WERE NOT NURSES?

25 A. NO.

1 Q. DID YOU DEAL WITH ANY PERSONNEL FROM CONDUSTRIAL WHO
2 WERE NOT NURSES?

3 A. NO.

4 Q. SO, ---

5 A. IF YOU'RE TALKING ABOUT -- TALKING ABOUT TALKING TO
6 THEM IN THEIR OFFICE, YES, ABOUT BILLS AND STUFF,
7 BUT, NO, NOT IN TERMS OF US HIRING ANYBODY, WE DID
8 NOT.

9 Q. IN TERMS OF HAVING PEOPLE WORKING INSIDE ---

10 A. RIGHT.

11 Q. --- PROVIDING MEDICAL SERVICES?

12 A. IN HIRING MEDICAL SERVICES, RIGHT.

13 Q. SO, WOULD YOU EXPECT THIS CERTIFICATE OF INSURANCE
14 TO PROVIDE WORKERS' COMP INSURANCE COVERAGE FOR THE
15 CONDUSTRIAL NURSES WORKING WITH INSIDE THE
16 DEPARTMENT OF CORRECTIONS?

17 A. WELL, I MEAN, IT DOES NOT SAY "CONDUSTRIAL" ON HERE,
18 SO, BUT CENTRAL D/B/A FIRST STAR, H.R. MAYBE I
19 MISSED IT, BUT IT LISTS US AS THE CERTIFICATE
20 HOLDER.

21 Q. WHAT ABOUT WHERE IT SAYS "DESCRIPTION OF
22 OPERATIONS," DOESN'T IT SAY "CONDUSTRIAL"?

23 A. YES, IT DID. I'M SORRY. YES, I DIDN'T LOOK.

24 Q. SO, ---

25 A. YES, I WOULD HAVE THOUGHT THIS WOULD HAVE COVERED

1 THE PEOPLE THAT THEY WERE SUPPLYING TO THE
2 DEPARTMENT OF CORRECTIONS.

3 Q. AND YOU EXPECTED -- WELL, WHAT SORT OF INSURANCE DID
4 THE DEPARTMENT OF CORRECTIONS EXPECT CONDUCTORIAL TO
5 PROVIDE FOR THESE NURSES?

6 A. WELL, IT WOULD HAVE BEEN STATED IN THE CONTRACT, I
7 BELIEVE. LET ME SEE IF I CAN FIND IT. THIS SAYS
8 INSURANCE -- "CONTRACTOR TO PROVIDE WORKERS'
9 COMPENSATION INSURANCE COVERAGE FOR CONTRACTOR'S
10 EMPLOYEES WHO ARE ASSIGNED TO S.C.D.C. CONTRACTOR
11 SHALL PROVIDE GENERAL LIABILITY INSURANCE FOR
12 NEGLIGENT ACTS BY CONTRACTOR OR ITS AGENTS INCLUDING
13 CONTRACTOR'S EMPLOYEES WHO ARE ASSIGNED TO S.C.D.C.
14 WITH A LIMIT OF NOT LESS THAN ONE MILLION PER
15 OCCURRENCE. CONTRACTOR AGREES TO INSURE THAT ALL
16 CONTRACTOR'S NURSING EMPLOYEES SHALL MAINTAIN
17 PROFESSIONAL LIABILITY INSURANCE WITH A LIMIT OF NOT
18 LESS THAN ONE MILLION PER OCCURRENCE. WITHOUT
19 LIMITING THE OBLIGATIONS OF CONTRACTOR UNDER THIS
20 SECTION, THE INSURANCE MAINTAINED OR CALLS TO BE
21 MAINTAINED PURSUANT TO THIS SECTION WILL INCLUDE
22 COVERAGE AGAINST CIVIL ACTIONS FOR DEPRIVATION OF
23 RIGHTS BROUGHT UNDER 42-USC-1983, AND AS THAT
24 STATUTE MAY BE AMENDED, MODIFIED, RECODIFIED OR
25 SUCCEEDED IN THE FUTURE."

1 Q. DOES CONDUSTRIAL HAVE A CURRENT CERTIFICATE OF
2 INSURANCE ON FILE WITH THE DEPARTMENT OF
3 CORRECTIONS?

4 A. YES.

5 Q. AND WHAT IS YOUR UNDERSTANDING OF WHAT THAT
6 PARTICULAR CERTIFICATE OF INSURANCE COVERS?

7 A. WELL, I HAVEN'T LOOKED AT IN A WHILE, BUT IT SHOULD
8 COVER THE PEOPLE THAT ARE COMING TO THE DEPARTMENT
9 OF CORRECTIONS FOR WORK.

10 Q. MEANING THE NURSES?

11 A. THE NURSES.

12 Q. AND IT WOULD COVER THEM FOR WORKERS' COMP,
13 PROFESSIONAL LIABILITY, ---

14 A. RIGHT.

15 Q. --- GENERAL LIABILITY AND SECTION 1983?

16 A. RIGHT.

17 Q. I WANT YOU TO TAKE A LOOK AT AGAIN STARTING AT PAGE
18 254.

19 BY MR. BEARD:

20 WHOSE APAs?

21 BY MR. GOODWYN:

22 YOUR APAs?

23 BY MR. SAMUELS:

24 MY APAs, PAGE 254.

25 BY THE WITNESS:

1 I DON'T HAVE THAT.

2 BY MR. SAMUELS:

3 THAT SHOULD BE ---

4 BY THE WITNESS:

5 OKAY, WAIT A MINUTE. THE NUMBERS ARE MARKED
6 OFF DOWN HERE AT THE BOTTOM.

7 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

8 Q. THIS ONE IS PAGE ONE, I GUESS, OF THE CONTRACT.

9 A. IS THAT WHERE YOU WANT ME TO GO?

10 Q. YES. SO, I'M GOING TO ASK YOU TO LOOK AT PARAGRAPH
11 ONE UNDER "CONTRACTOR'S RIGHTS AND OBLIGATION" WHERE
12 IT SAYS "GENERAL ENGAGEMENT." WHAT DOES THAT
13 STATEMENT SAY?

14 A. DO WHAT NOW? I'M SORRY.

15 Q. WHAT DOES IT SAY AFTER "GENERAL ENGAGEMENT"?

16 A. ALL RIGHT. IT SAYS "S.C.D.C. HEREBY ENGAGES
17 CONTRACTOR TO PROVIDE QUALIFIED NURSING
18 PROFESSIONALS TO PROVIDE SERVICES TO PATIENTS WHO
19 ARE UNDER THE CUSTODY AND CONTROL OF THE S.C.D.C.,
20 AND THE CONTRACTOR HEREBY SETS SUCH AN ENGAGEMENT
21 ACCORDING TO THE TERMS AND CONDITIONS OF THIS
22 AGREEMENT SUBJECT TO THE AVAILABILITY OF QUALIFIED
23 NURSING PROFESSIONALS."

24 Q. AND TO BE CLEAR, WHEN THE CONTRACT SAYS "CONTRACTOR"
25 AS A PART OF THE CONTRACT, WHO DOES IT REFER TO?

1 A. THE CONTRACTOR?

2 Q. YEAH, WHO IS THE CONTRACTOR?

3 A. IN THIS CASE, THIS CONTRACTOR IS MEDUSTRIAL.

4 Q. YOUR AGREED SERVICES, WHAT IS -- WHAT ARE THE FIRST
5 TWO SENTENCES IN PARAGRAPH "A" MEAN?

6 A. "R.N.s, L.P.N.s ASSIGNED TO THE SOUTH CAROLINA
7 DEPARTMENT OF CORRECTIONS BY CONTRACTOR ARE
8 EMPLOYEES OF THE CONTRACTOR AND NOT S.C.D.C. THESE
9 EMPLOYEES SHALL BE PAID FOR THEIR SERVICES ONLY BY
10 CONTRACTOR. ALL MATTERS CONCERNING WAGES, EXPENSES,
11 HOURS WORKED AND PAID WORK -- HOURS WORKED AND PAID,
12 WORKING CONDITIONS AND OTHER SIMILAR ADMINISTRATIVE
13 MATTERS SHALL BE RESOLVED BETWEEN CONTRACTOR AND ITS
14 EMPLOYEES AND NOT BETWEEN CONTRACTOR'S EMPLOYEES AND
15 S.C.D.C. CONTRACTOR SHALL BE RESPONSIBLE FOR
16 WITHHOLDING FEDERAL AND STATE INCOME TAXES, PAYING
17 FEDERAL SOCIAL SECURITY TAXES, UNEMPLOYMENT
18 INSURANCE AND MAINTAINING WORKERS' COMPENSATION
19 INSURANCE IN THE AMOUNT AND UNDER SUCH TERMS AS
20 REQUIRED BY THE STATE OF SOUTH CAROLINA."

21 Q. IF INSURANCE WERE NOT PROVIDED AND SPECIFICALLY
22 WORKERS' COMPENSATION INSURANCE WERE NOT PROCURED
23 AND PROVIDED BY CONDUSTRIAL FOR THOSE NURSES, WOULD
24 THEY BE IN BREACH OF THIS CONTRACT?

25 BY MR. BEARD:

1 COMMISSIONER, I WOULD OBJECT TO THE QUESTION,
2 AS THE CONTRACT IS NOT MADE WITH CONDUSTRIAL, AND I
3 BELIEVE HE STARTED OFF BY STATING HE NOW KNOWS.
4 WE'RE TALKING ABOUT THE TIME OF THIS CONTRACT.

5 BY COMMISSIONER JAMES:

6 WITH MEDUSTRIAL?

7 BY MR. BEARD:

8 YES, MA'AM.

9 BY COMMISSIONER JAMES:

10 MR. SAMUELS, IF YOU CAN REPHRASE THE QUESTION,
11 PLEASE, SIR?

12 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

13 Q. LOOKING AT THOSE TERMS OF THE CONTRACT, IF
14 MEDUSTRIAL OR ANY OTHER AGENCY WOULD CONTRACT USING
15 THIS LANGUAGE DID NOT PROCURE AND PROVIDE WORKERS'
16 COMPENSATION INSURANCE TO THE NURSES WHO WERE PLACED
17 AT S.C.D.C., WOULD THAT COMPANY BE IN BREACH WITH
18 THE CONTRACT WITH S.C.D.C.?

19 A. WELL, I'M NOT A LAWYER, AND I WOULD CHECK WITH OUR
20 LAWYERS, BUT I WOULD SAY YES.

21 Q. YES, THEY WOULD BE IN BREACH?

22 A. BREACH.

23 Q. IS HAVING THE NURSES COVERED BY WORKERS'
24 COMPENSATION INSURANCE AN IMPORTANT PART OF THE
25 CONTRACT FOR S.C.D.C.?

1 A. YES.

2 Q. HOW SO?

3 A. BECAUSE THEY'RE NOT COVERED BY US. THEY'RE NOT OUR
4 EMPLOYEES.

5 Q. WHY IS IT IMPORTANT FOR S.C.D.C. TO ENSURE THE
6 NURSES SUPPLIED BY THE AGENCIES ARE COVERED BY
7 WORKERS' COMP INSURANCE?

8 A. BECAUSE IF THEY SHOULD GET INJURED AND ALL, THEY
9 WOULD NEED A PLACE TO GO TO TO FILE THEIR CLAIMS.

10 Q. DID YOU KNOW THAT -- OR DID YOU KNOW WHETHER OR NOT
11 MEDUSTRIAL WAS PAYING PAYROLL TAXES?

12 A. NO, I DID NOT KNOW.

13 Q. I'M GOING TO ASK YOU TO SKIP AHEAD TO PAGE 5, WHICH
14 IS APA PAGE 258.

15 A. OKAY.

16 Q. AND THERE'S A PROVISION ABOUT INSURANCE. DOES THAT
17 PROVISION REQUIRE THE CONTRACTOR UNDER THIS CONTRACT
18 TO PROVIDE WORKERS' COMPENSATION INSURANCE?

19 A. YES, IT SAYS "CONTRACTOR WILL PROVIDE WORKERS'
20 COMPENSATION INSURANCE COVERAGE FOR CONTRACTOR'S
21 EMPLOYEES WHO ARE ASSIGNED TO S.C.D.C.," AND DO YOU
22 WANT ME TO GO ON?

23 Q. NO, ACTUALLY THAT COVERS IT. COULD THIS CONTRACT BE
24 MODIFIED JUST BY WORDS OR THE ACTS OF THE PARTIES?

25 A. NO. ALL -- ANY MODIFICATIONS HAVE TO GO THROUGH THE

1 CONTRACT SYSTEM, AND IT WOULD HAVE TO BE APPROVED
2 AND SIGNED FOR BY THE DIRECTOR OF S.C.D.C.

3 Q. LET ME TAKE YOU TO PAGE SIX OR ACTUALLY -- YEAH,
4 PAGE FIVE, THE ONE YOU'RE ALREADY ON TOWARDS THE
5 BOTTOM WHERE IT SAYS "CONSTRUCTION AND AGREEMENT AND
6 AMENDMENTS."

7 A. OKAY.

8 Q. WHAT DOES IT SAY, AMENDMENTS?

9 A. IT SAYS "AMENDMENTS. THIS AMENDMENT -- THIS
10 AGREEMENT MAY BE AMENDED ONLY BY WRITTEN AGREEMENT
11 BETWEEN THE PARTIES. THE PARTIES ACKNOWLEDGE THAT
12 AMENDMENTS TO THIS AGREEMENT MAY BE REQUIRED FROM
13 TIME TO TIME TO COMPLY WITH STATE, FEDERAL OR LOCAL
14 LAW."

15 Q. IS THAT WHAT YOU WERE REFERRING TO A MOMENT AGO WHEN
16 YOU SAID ---

17 A. YES.

18 Q. --- IT HAS TO BE IN WRITING WITH THE SIGNATURE OF
19 THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS?

20 A. YES.

21 Q. I WILL ASK YOU LASTLY TO TURN TO PAGE SIX, AND
22 THERE'S A PROVISION IN THERE ABOUT THE ENTIRE
23 AGREEMENT. WHAT DOES THAT SAY?

24 A. "ENTIRE AGREEMENT. THIS AGREEMENT CONSTITUTES THE
25 ENTIRE CONTRACT BETWEEN THE PARTIES. NO OTHER PRIOR

1 OR CONTEMPORANEOUS PROMISES, OBLIGATION, STATEMENT
2 OR UNDERSTANDING BETWEEN THE PARTIES WHETHER WRITTEN
3 OR ORAL SHALL BE VALID OR BINDING."

4 Q. SO, DOES THE EXHIBIT YOU'RE HOLDING IN YOUR HAND
5 CONSTITUTE THE ENTIRE CONTRACT AND AGREEMENT TO
6 PROVIDE NURSES BETWEEN MEDUSTRIAL OR ANY OTHER NAME
7 IT GOES BY AND THE DEPARTMENT OF CORRECTIONS?

8 A. YES.

9 BY MR. SAMUELS:

10 THANK YOU. I HAVE NO FURTHER QUESTIONS.

11 PLEASE ANSWER ANY QUESTIONS THE OTHER ATTORNEYS MAY
12 HAVE FOR YOU.

13 BY COMMISSIONER JAMES:

14 ALL RIGHT. MR. GOODWYN.

15 BY MR. GOODWYN:

16 YES, YOUR HONOR.

17 CROSS EXAMINATION BY MR. GOODWYN:

18 Q. MR. BURGESS, I HAVE A FEW QUESTIONS FOR YOU.

19 A. OKAY.

20 Q. FIRST, THE AGREEMENT BETWEEN MEDUSTRIAL AND THE
21 DEPARTMENT OF CORRECTIONS, DID THE -- WOULD THE
22 NURSES THAT MEDUSTRIAL PROVIDED, WOULD THEY KNOW THE
23 CONTENTS OF THAT CONTRACT?

24 A. NO.

25 Q. OKAY. THAT WAS JUST BETWEEN Y'ALL TWO?

1 A. IT WAS BETWEEN US AND MEDUSTRIAL.

2 Q. ALL RIGHT. SO, IF IT SAYS THAT THE NURSES ARE
3 EMPLOYEES, THAT DOESN'T -- THAT DOESN'T PRECLUDE
4 MEDUSTRIAL FROM HAVING AN INDEPENDENT CONTRACTOR
5 NURSE TO PROVIDE; IS THAT FAIR?

6 A. WELL, I MEAN, IT SAYS HERE THEY WILL BE PROVIDING --
7 I THOUGHT IT SAYS "EMPLOYEES." I WILL HAVE TO GO
8 BACK AND FIND THAT PART AGAIN.

9 Q. WERE YOU AWARE ---

10 A. BUT, BUT -- GO AHEAD.

11 Q. WERE YOU AWARE THAT THE NURSES THAT MEDUSTRIAL WAS
12 PROVIDING WERE CLASSIFIED AS INDEPENDENT
13 CONTRACTORS?

14 A. NO.

15 Q. WHEN DID YOU FIRST LEARN THAT?

16 A. AT THE DEPOSITION.

17 Q. OKAY. WERE YOU AWARE THAT THE INDEPENDENT
18 CONTRACTOR AGREEMENT BETWEEN MEDUSTRIAL AND THE
19 NURSES IT WAS PROVIDING S.C.D.C. INCLUDED A
20 PROVISION WHERE THOSE NURSES WERE REQUIRED TO
21 PROVIDE THEIR OWN WORKERS' COMPENSATION COVERAGE?

22 A. NO, WE DIDN'T SEE THOSE AGREEMENTS.

23 Q. OKAY. IF THESE NURSES THAT MEDUSTRIAL PROVIDED DID
24 PROVIDE THEIR OWN WORKERS' COMPENSATION COVERAGE,
25 WOULD THAT SATISFY THE PROVISIONS IN YOUR CONTRACT

1 WITH MEDUSTRIAL THAT WORKERS' COMPENSATION COVERAGE
2 HAD TO BE PROVIDED?

3 BY MS. FARTHING:

4 OBJECTION TO THE QUESTION. HE'S ASKING HIM TO
5 MAKE A LEGAL DETERMINATION BASED ON WHETHER CERTAIN
6 ASPECTS MIGHT HAVE ADHERED TO THE TERMS OF THE
7 CONTRACT. THAT WOULD BE A BETTER QUESTION FOR AN
8 ATTORNEY TO DECIDE OR RATHER FOR THE COURT TO
9 DECIDE.

10 BY MR. GOODWYN:

11 ALL RIGHT. YOUR HONOR, HE WAS ASKED WHETHER
12 THE CONTRACT WAS COMPLIED WITH OR IN BREACH EARLIER.
13 I THINK I CAN ASK HIS OPINION AS TO WHETHER OR NOT
14 IT WOULD HAVE BEEN COMPLIED WITH, WOULD HE HAVE
15 CONSIDERED THE CONTRACT TO BE COMPLIED WITH, IF THAT
16 CONDITION WAS MET.

17 BY COMMISSIONER JAMES:

18 UNDERSTANDING THAT HE IS NOT AN ATTORNEY, I
19 WILL LET HIM ANSWER THE QUESTION.

20 THE WITNESS ANSWER:

21 A. NOW, THE AGREEMENT SAYS THAT THEY WERE TO COVER
22 THEM, COVER THEIR PEOPLE -- PEOPLE THAT THEY WERE
23 SUPPLYING -- THE NURSES THEY WERE SUPPLYING TO THE
24 DEPARTMENT OF CORRECTIONS. SO, NO, TO ME, BASED ON
25 WHAT I'M READING HERE THAT IT SAYS THAT MEDUSTRIAL

1 WAS SUPPOSED TO COVER THEM, THEN I WOULD SAY NO,
2 THEY WOULD -- THAT WOULD NOT SUIT OUR NEEDS, BUT
3 AGAIN, IT WOULD BE UP TO OUR ATTORNEYS IF THAT WERE
4 PRESENTED.

5 CROSS EXAMINATION RESUMED BY MR. GOODWYN:

6 Q. DID CONDUSTRIAL OR MEDUSTRIAL PROVIDE ANY CONTROL
7 FOR THE NURSES THAT IT PROVIDED S.C.D.C.?

8 A. WHAT DO YOU MEAN?

9 Q. CONTROL AS TO HOW THEY DID THEIR JOB?

10 A. NO.

11 Q. OKAY. THAT WAS ALL S.C.D.C.?

12 A. YES, AS FAR AS I'M AWARE OF, BECAUSE THEY WOULDN'T
13 HAVE BEEN THERE TO DO ANYTHING. THEY WOULD HAVE
14 REPORTED TO OUR UNIT AND THEN SUPERVISED BY OUR
15 PEOPLE.

16 Q. OKAY. DO YOU HAVE ANY KNOWLEDGE, INFORMATION AS TO
17 HOW THE SHIFTS WERE OFFERED AND ACCEPTED BY THESE
18 MEDUSTRIAL NURSES?

19 A. NO, I DO NOT.

20 BY MR. GOODWYN:

21 WHERE ARE THOSE CERTIFICATES OF INSURANCE?

22 CROSS EXAMINATION RESUMED BY MR. GOODWYN:

23 Q. YOU WERE ASKED TO TESTIFY ABOUT SOME CERTIFICATES OF
24 LIABILITY INSURANCE. I'M LOOKING AT OUR APAs,
25 CONDUSTRIAL'S APAs, 168. I'M NOT SURE WHICH --

1 YEAH, YOU'VE GOT IT RIGHT THERE.

2 A. OKAY.

3 Q. NOW, THIS CERTIFICATE OF INSURANCE, I BELIEVE YOU
4 TESTIFIED YOU BELIEVE IT COVERED THE DEPARTMENT OF
5 CORRECTIONS FOR THE NURSES THAT CONDUSTRIAL OR
6 MEDUSTRIAL PROVIDED?

7 A. YES.

8 Q. OKAY. DID YOU INQUIRE AS TO WHETHER OR NOT THE
9 NURSES WERE CONSIDERED TO BE OR CLASSIFIED TO BE
10 EMPLOYEES OR INDEPENDENT CONTRACTORS BY MEDUSTRIAL?

11 A. NO.

12 Q. DID YOU THINK IT MATTERED AS TO WHETHER OR NOT THEY
13 HAD COVERAGE AS TO HOW THEY WERE CLASSIFIED?

14 A. WELL, IT WAS IMPORTANT THAT THEY HAD COVERAGE AND
15 THAT THEY WERE COVERED AND BY THE TERMS OF OUR
16 CONTRACT.

17 Q. OKAY. YOU RELIED ON ---

18 A. IN OTHER WORDS, YES, I ASSUMED THAT WHAT OUR
19 AGREEMENT WAS IS THAT WE WERE DOING -- WHERE WE
20 ASKED FOR THEM TO BE COVERED, THAT THEY WERE BEING
21 COVERED AND THERE WOULD BE NO REASON FOR ME TO -- TO
22 ASK OR TO SAY "ARE YOU COVERING THEM OR NOT COVERING
23 THEM?"

24 Q. OKAY.

25 BY MR. GOODWYN:

1 I THINK THAT'S ALL I HAVE RIGHT NOW, YOUR
2 HONOR.

3 BY COMMISSIONER JAMES:

4 GUARANTEE -- WELL, ACTUALLY COUNTRYWIDE.

5 CROSS EXAMINATION BY MR. NEWMAN:

6 Q. MR. BURGESS, I'VE NOTICED THAT THROUGHOUT YOUR
7 TESTIMONY YOU WOULD INTERCHANGEABLY USE THE TERMS
8 "EMPLOYEE" OR "PEOPLE" PROVIDED TO THE DEPARTMENT OF
9 CORRECTIONS. THE CONTRACT, HOWEVER, INDICATES
10 "EMPLOYEES," CORRECT?

11 A. RIGHT.

12 Q. IT USES THE TERMS "EMPLOYEES"?

13 A. YES, IT SAID "EMPLOYEES."

14 Q. ALL RIGHT. AND IN YOUR DEPOSITION, YOU TESTIFIED
15 THAT YOU DIDN'T KNOW WHAT THE RELATIONSHIP WAS IN
16 TERMS OF WHETHER OR NOT THESE FOLKS WERE EMPLOYEES
17 OR INDEPENDENT CONTRACTORS?

18 A. YEAH, I WOULDN'T HAVE KNOWN. I ASSUMED BASED ON THE
19 CONTRACT THEY WERE EMPLOYEES.

20 Q. ALL RIGHT. THE CONTRACT REFERS TO EMPLOYEES AND
21 COVERAGE TO BE PROVIDED FOR EMPLOYEES, CORRECT?

22 A. THAT'S WHAT IT SAYS IN THE CONTRACT.

23 Q. ALL RIGHT. AND YOU WOULD CONCEDE THAT THERE'S A
24 DIFFERENCE BETWEEN EMPLOYEES AND INDEPENDENT
25 CONTRACTORS?

1 A. YES.

2 Q. LEGALLY?

3 A. WELL, BASED -- I'M NOT A LEGAL PERSON. SO, IT'S
4 HARD FOR ME ---

5 Q. YEAH, I UNDERSTAND.

6 A. --- TO GIVE YOU A LEGAL OPINION, BUT BASED ON PAST
7 THINGS THAT I'VE DONE WITH INDEPENDENT CONTRACTORS,
8 YES, THEY'RE DIFFERENT.

9 Q. AND AT LEAST ONE OF THE CERTIFICATES OF INSURANCE
10 THAT YOU WERE ASKED ABOUT BY STEPHEN SPECIFICALLY
11 SAID THAT IT DID NOT COVER SUBCONTRACTORS?

12 A. RIGHT.

13 Q. OKAY. YOU DON'T PERSONALLY KNOW ANYTHING ABOUT THE
14 NATURE OF THE WORK BEING DONE BY MS. TURNER IN TERMS
15 OF WHETHER SHE WAS AN INDEPENDENT CONTRACTOR OR AN
16 EMPLOYEE, DO YOU?

17 A. THE ONLY -- I WOULDN'T KNOW ANYTHING ABOUT ANY OF
18 THE EMPLOYEES OTHER THAN WHEN WE ARE BILLED, AND IT
19 COMES TO MY ATTENTION WE ARE RECONCILING BILLS, AND
20 THAT'S ALL THAT WOULD COME TO MY ATTENTION.

21 Q. ALL RIGHT. SO, ---

22 A. I WOULD KNOW NONE OF THE -- NONE OF THE PEOPLE THAT
23 WERE -- THE R.N.s AND L.P.N.s THAT WERE PROVIDED TO
24 US.

25 Q. SO, YOU WOULD NOT HAVE KNOWN ANYTHING ABOUT MS.

- 1 TURNER OR WHO SHE WAS OR ANYTHING ELSE UNTIL THE DAY
2 THIS HAPPENED, I DON'T GUESS, OR MAYBE SOMETIME ---
- 3 A. I MEAN, I STILL DON'T KNOW HER. I MEAN, I ---
- 4 Q. OKAY.
- 5 A. IF SHE WAS IN HERE, I WOULDN'T KNOW HER.
- 6 Q. ALL RIGHT. YOU WERE ALSO ASKED IN THE COURSE OF
7 YOUR DEPOSITION WHETHER OR NOT IT WAS POSSIBLE THAT
8 CONDUSTRIAL OR MEDUSTRIAL COULD HAVE BEEN PROVIDING
9 EITHER EMPLOYEES OR INDEPENDENT CONTRACTORS, AND
10 YOUR ANSWER WAS "IT IS POSSIBLE." DO YOU RECALL
11 THAT?
- 12 A. I DON'T RECALL, BUT, YEAH, IF IT'S IN THERE, YES.
- 13 Q. OKAY. ALL RIGHT. NOW, SIMILARLY I KNOW YOU SAID
14 YOU HAD NEVER HEARD OF MS. TURNER UNTIL THIS
15 ACCIDENT OCCURRED. SIMILARLY HAVE YOU EVER HEARD OF
16 COUNTRYWIDE STAFFING?
- 17 A. I HAVEN'T UNTIL IT WAS ON THE -- ON ONE OF THE -- I
18 THINK ONE OF THE FIRST ONES THAT THEY SHOWED ME, ONE
19 OF THE CERTIFICATES OF INSURANCE. I THINK
20 COUNTRYWIDE STAFFING WAS MENTIONED.
- 21 Q. ALL RIGHT. AND SO, AT THE TIME AT WHICH THIS
22 ACCIDENT OCCURRED, YOU WOULD NOT HAVE HEARD OF
23 COUNTRYWIDE STAFFING, WOULDN'T HAVE KNOWN WHO THEY
24 WERE?
- 25 A. NO.

1 Q. OKAY. WOULDN'T HAVE KNOWN WHERE THEY'RE LOCATED?

2 A. NO.

3 Q. ALL RIGHT. YOU WOULDN'T HAVE EVER DEALT WITH THEM
4 IN ANY CAPACITY AS FAR AS YOU RECALL?

5 A. NO, I WOULDN'T BECAUSE THAT'S NOT PART OF MY JOB.

6 Q. ALL RIGHT. ONE OF THE LAST CERTIFICATES OF
7 LIABILITY INSURANCE YOU WERE ASKED ABOUT, ---

8 BY MR. NEWMAN:

9 IF I COULD APPROACH THE WITNESS, COMMISSIONER?

10 BY COMMISSIONER JAMES:

11 CERTAINLY.

12 CROSS EXAMINATION RESUMED BY MR. NEWMAN:

13 Q. BECAUSE I'M NOT SURE HOW IT WAS REFERRED TO ACTUALLY
14 PREVIOUSLY, BUT LET ME SHOW YOU THIS. THIS IS A
15 CERTIFICATE OF LIABILITY INSURANCE. IT PURPORTS TO
16 PROVIDE WORKERS' COMP COVERAGE FOR SOMEBODY CALLED
17 ESSENTIAL H.R., INCORPORATED. AS FAR AS YOU KNOW,
18 WAS THAT ANYBODY WHO WAS WORKING WHO WAS ASSOCIATED
19 WITH MS. TURNER OR PROVIDED NURSES OR ANYTHING ELSE?

20 A. NO.

21 Q. ALL RIGHT.

22 BY COMMISSIONER JAMES:

23 AND, MR. NEWMAN, YOU MAY HAVE DONE SO, BUT JUST
24 FOR THE BENEFIT OF EVERYONE ELSE, IF YOU COULD
25 IDENTIFY THE PAGE NUMBER FOR THE BENEFIT OF THE

1 RECORD.

2 BY MR. NEWMAN:

3 WELL, ACTUALLY, THIS IS FROM HIS DEPOSITION,
4 THE COPY I'M USING.

5 BY COMMISSIONER JAMES:

6 OKAY.

7 BY MR. NEWMAN:

8 AND IT'S NOT ACTUALLY -- WELL, IT'S PROBABLY
9 UNDER EXHIBIT TWO, WHICH INCLUDED A LOT OF
10 DOCUMENTS, BUT IT'S A CERTIFICATE OF LIABILITY
11 INSURANCE, PRODUCER IS SUNZ INSURANCE SOLUTIONS,
12 INSURED ESSENTIAL H.R. AND CERTIFICATE HOLDER SOUTH
13 CAROLINA DEPARTMENT OF CORRECTIONS.

14 CROSS EXAMINATION RESUMED BY MR. NEWMAN:

15 Q. IS THIS THE ONE YOU WERE REFERRING TO EARLIER THAT
16 YOU WERE ELABORATING ON?

17 A. YEAH, THIS IS -- THIS IS THE SAME ONE THAT I HAD
18 EARLIER.

19 BY MR. NEWMAN:

20 OKAY. YOU'VE GOT IT. IT'S PAGE 168, BUT THANK
21 YOU. HE'S GOT AN ACTUAL NUMBERED COPY.

22 CROSS EXAMINATION RESUMED BY MR. NEWMAN:

23 Q. ALL RIGHT. AND YOU WOULD AGREE THIS CERTIFICATE
24 DOESN'T MAKE ANY REFERENCE TO MEDUSTRIAL OR ---

25 A. ONLY IN THIS STATEMENT DOWN HERE (INDICATES)

1 "COVERAGE PROVIDED FOR ALL LEASED EMPLOYEES BUT NOT
2 SUBCONTRACTORS OF CONDUSTRIAL."

3 Q. OKAY. AND THAT'S THE ONE WE WERE TALKING ABOUT
4 EARLIER ---

5 A. RIGHT.

6 Q. --- THAT SPECIFICALLY REFERENCES THAT IT DOES NOT
7 PROVIDE COVERAGE FOR ---

8 A. YES.

9 Q. --- SUBCONTRACTORS?

10 A. YES.

11 Q. ALL RIGHT. WHAT'S THE DATE ON THAT?

12 A. 9/13/2016.

13 Q. OKAY. SO, THAT WOULD HAVE BEEN AFTER THIS ACCIDENT
14 OCCURRED OR THIS INCIDENT OCCURRED; IS THAT CORRECT?

15 A. I DON'T REMEMBER WHEN THE INCIDENT OCCURRED.

16 Q. WELL, IF THIS ACCIDENT ---

17 A. I DON'T...

18 Q. IF THIS ACCIDENT OCCURRED ON SEPTEMBER 5TH OF 2015,
19 THAT WOULD HAVE BEEN ABOUT A YEAR ---

20 A. THIS SAYS A MONTH, YEAR TO DATE, 9/13/2016.

21 Q. OKAY. SO, WOULD THAT CERTIFICATE HAVE APPLIED TO
22 THIS ACCIDENT IN YOUR VIEW?

23 A. WELL, IT DOESN'T SAY ON HERE WHAT PERIOD OF TIME IT
24 COVERS. IT JUST SAYS 9/13/2016.

25 Q. OKAY. WELL, IF IT'S DATED 9/13/2016, YOU WOULDN'T

1 LIKELY TO HAVE RECEIVED IT PRIOR TO THE OCCURRENCE
2 OF THIS ACCIDENT?

3 A. WELL, IT'S EFFECTIVE DATE OF 12/14/2015, IS WHAT IT
4 SAYS.

5 Q. OKAY. I GUESS MY POINT IS YOU WOULD NOT HAVE RELIED
6 ON IT AT LEAST AS FAR AS THIS ACCIDENT OCCURRED?

7 A. RIGHT.

8 Q. OKAY. YOU INDICATED EARLIER THAT YOU DIDN'T KNOW OR
9 HAD NEVER DEALT WITH COUNTRYWIDE STAFFING?

10 A. NO.

11 Q. DID YOU -- WERE YOU AWARE OF OR HAD YOU EVER HAD
12 COMMUNICATED TO YOU ANYTHING ABOUT ANY RELATIONSHIP
13 OR THE NATURE OF ANY RELATIONSHIP BETWEEN
14 COUNTRYWIDE AND MEDUSTRIAL CONDUSTRIAL?

15 A. NO, NOT TO ME.

16 Q. OKAY. SO, YOU WEREN'T AWARE OF ANY INDICATION THAT
17 WOULD SUGGEST THAT SOMEHOW THEY WERE RECEIVING
18 WORKERS' COMP COVERAGE THROUGH COUNTRYWIDE?

19 A. YOU'RE TALKING ABOUT?

20 Q. MEDUSTRIAL OR CONDUSTRIAL.

21 A. I WOULDN'T KNOW ANYTHING ABOUT WHETHER WE WERE
22 RECEIVING IT FROM 'EM.

23 Q. ALL RIGHT. AND YOU, AGAIN, DON'T KNOW ANYTHING
24 ABOUT THE NATURE OF MS. TURNER'S EMPLOYMENT OR
25 RELATIONSHIP WITH CONDUSTRIAL?

1 A. NO, I DO NOT.

2 BY MR. NEWMAN:

3 ALL RIGHT. THANK YOU.

4 BY COMMISSIONER JAMES:

5 GUARANTEE.

6 CROSS EXAMINATION BY MR. BEARD:

7 Q. MR. BURGESS, MY NAME IS GRADY BEARD. I REPRESENT
8 GUARANTEE INSURANCE COMPANY. I ASSUME PRIOR TO THIS
9 LITIGATION, YOU'VE NEVER HEARD OF GUARANTEE
10 INSURANCE COMPANY?

11 A. NO.

12 Q. AND I THINK I UNDERSTOOD, AND I WANT TO MAKE 100
13 PERCENT CLEAR, YOU NEVER HEARD OF COUNTRYWIDE
14 SERVICES UNTIL THIS LITIGATION, CORRECT?

15 A. CORRECT.

16 Q. ALL RIGHT. SO, IN OTHER WORDS, WHEN MEDUSTRIAL,
17 WHICH IS WHO YOU CONTRACTED WITH TO PROVIDE THESE
18 NURSES INCLUDING MS. TURNER WHO IS THE INDIVIDUAL
19 WHO WAS INJURED IN THIS CASE, WHEN THAT
20 DOCUMENTATION AND THAT CONTRACTUAL RELATIONSHIP WAS
21 ENTERED IN TO, IT WAS -- YOUR KNOWLEDGE WAS ONLY OF
22 MEDUSTRIAL, CORRECT?

23 A. RIGHT.

24 Q. AND YOU WERE RESPONSIBLE FOR THE CONTRACTING OF
25 THESE FOLKS OTHER THAN THE SIGNING OF THE DOCUMENT

1 WAS LEFT TO THE DIRECTOR?

2 A. WE -- ONCE WE TRIED TO PUT A CONTRACT TOGETHER, WE
3 WALKED THROUGH; WE MAKE SURE IT'S WHAT WE WANT, AND
4 WE ALL AGREE ON WHAT WE'RE GOING TO PAY, AND THEN I
5 PUT IT INTO THE SYSTEM, AND IT GOES THROUGH THE
6 SYSTEM.

7 Q. MY POINT IS YOU'RE THE PERSON IN CHARGE OF MAKING
8 THOSE DECISIONS OTHER THAN THE SIGNING OF THE
9 DOCUMENT?

10 A. OF WHICH DECISIONS?

11 Q. THE CONTRACTS THEMSELVES AND WHO TO CONTRACT WITH?

12 A. WITH WHO I CONTRACT WITH?

13 Q. YES, SIR.

14 A. NO. IT'S A QUESTION OF WHEN I DO IT, I CONSULT WITH
15 MY BOSS, AND SAY "HEY, I HAVE AN OFFER HERE." WE'RE
16 TRYING TO DECIDE WHETHER WE HAVE THE MONEY TO PAY
17 THESE PEOPLE, AND THEN IF WE AGREE THIS IS WHAT WE
18 WANT TO DO, WE SUBMIT A CONTRACT TO OUR LEGAL TEAM.
19 THEY LOOK AT IT, AND THEY SAY "YES, THIS IS OKAY TO
20 PUT IN" OR "NO, THESE ARE CHANGES THAT NEED TO BE IN
21 THE CONTRACT."

22 Q. OKAY.

23 A. AND ONCE THAT'S DONE, WE WOULD WALK IT THROUGH THE
24 SYSTEM. ONCE IT'S SIGNED BY US, WE WOULD SEND IT TO
25 WHATEVER AGENCY OR COMPANY WE WOULD CONTRACT.

1 Q. AND MR. SAMUELS HAD YOU GO THROUGH AND READ SOME OF
2 THE CONTRACT ITSELF AND ASKED YOU QUESTIONS RELATIVE
3 TO WHAT YOUR INTENTIONS WERE, WHAT YOUR THOUGHTS
4 WERE AND WHAT THE DOCUMENT SAID RELATIVE TO THE
5 SITUATION WITH CONDUSTRIAL, AND SPECIFICALLY YOU
6 WERE ASKED TO READ, I THINK IT'S PAGE ONE OF YOUR
7 CONTRACT.

8 BY MR. BEARD:

9 COMMISSIONER, THIS LOOKS LIKE PAGE 779 OF OUR
10 APAs OR PAGE 254, I THINK OF STEPHEN'S. ISN'T THAT
11 RIGHT, 254?

12 BY MR. SAMUELS:

13 YES.

14 CROSS EXAMINATION RESUMED BY MR. BEARD:

15 Q. AND UNDER "A," IT SAYS "R.N.s, L.P.N.s, ET CETERA,"
16 YOU READ THAT. IT SAYS "ARE EMPLOYEES OF CONTRACTOR
17 AND NOT S.C.D.C."?

18 A. RIGHT.

19 Q. THE INTENTION OF THAT PARAGRAPH IS SIMPLY SO THAT
20 THE DEPARTMENT OF CORRECTIONS HAS NO LIABILITY FOR
21 PEOPLE WHO ARE NOT YOUR SPECIFIC EMPLOYEES, CORRECT?
22 THAT WAS THE INTENTION OF THAT ENTIRE PARAGRAPH?

23 A. WELL, THESE -- THIS IS DRAWN BY OUR ATTORNEYS. SO,
24 YOU WOULD HAVE TO -- BUT IT SPECIFICALLY STATES THAT
25 THEY ARE NOT OUR EMPLOYEES.

1 Q. CORRECT.

2 A. SO, THAT'S WHAT I WOULD RELY ON.

3 Q. AND THAT WAS THE INTENT BEHIND THESE CONTRACTS TO
4 BEGIN WITH IS THAT THESE CONTRACTORS WHO CAME INTO
5 WORK ON YOUR SITES, YOU WERE TRYING TO MAKE SURE YOU
6 HAD NO LIABILITY FOR THEM IN TERMS OF WORKERS' COMP,
7 CORRECT?

8 A. YEAH, WE WERE CONTRACTING WITH AN AGENCY TO PROVIDE
9 US, AND THAT THEY WERE COVERING THEIR PEOPLE.

10 Q. OKAY. AND YOU REALLY DIDN'T LOOK BEHIND THE SCENES
11 OR REALLY CARE WHETHER OR NOT THOSE PEOPLE WERE
12 EMPLOYEES OR INDEPENDENT CONTRACTORS OF MEDUSTRIAL;
13 YOU JUST CARED THAT THEY WERE NOT EMPLOYEES OF THE
14 DEPARTMENT OF CORRECTIONS, CORRECT?

15 A. NO, I TOOK IT ON FAITH THAT THEY WERE FOLLOWING THE
16 RULES, WHAT WE AGREED TO AND THE SERVICE THAT THEY
17 WERE EMPLOYEES OF THE CONTRACTOR AND NOT S.C.D.C.

18 Q. OKAY. BUT YOU -- AS WE JUST HEARD FROM YOUR
19 DEPOSITION, YOU WERE EITHER UNAWARE OF YOU DID NOT
20 KNOW THAT THERE ---

21 A. RIGHT.

22 Q. --- COULD HAVE BEEN INDEPENDENT CONTRACTORS WHO WERE
23 ACTUALLY WORKING ON YOUR SITE?

24 A. EXACTLY.

25 Q. OKAY. AND IN THIS CASE, YOU WERE ASKED TO LOOK AT

1 SPECIFICALLY, A CERTIFICATE OF LIABILITY INSURANCE
2 AT PAGE 168 OF CONDUSTRIAL'S APAs. I THINK THIS IS
3 THE ONE THAT WE -- IS THAT IT?

4 A. YES, SIR.

5 Q. AND I'M GOING TO JUST SHOW YOU WHAT WE'VE BEEN
6 PROVIDED AS ALL OF THE CERTIFICATES OF INSURANCE
7 THAT WE'VE SEEN AT LEAST TO THIS POINT AND ASK YOU,
8 BEGINNING AT 167 HERE, DEPARTMENT OF CORRECTIONS IS
9 NO WHERE LISTED ON THIS CERTIFICATE OF INSURANCE; IS
10 THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. THE CERTIFICATE OF INSURANCE THAT IT LOOKS LIKE THE
13 DEPARTMENT OF CORRECTIONS IS LISTED ON IS AT PAGE
14 168?

15 A. CORRECT.

16 Q. ALL RIGHT. AND AT PAGE 169, IT LOOKS LIKE THE
17 DEPARTMENT OF CORRECTIONS IS AGAIN LISTED; IS THAT
18 CORRECT?

19 A. YES.

20 Q. ALL RIGHT. NOW, LET'S LOOK AT 168, AND YOU WERE
21 ASKED SOME QUESTIONS ABOUT WHEN DID IT BEGIN. YOU
22 READ 9/13/16, BUT DOES IT NOT READ DOWN HERE THAT
23 ACTUALLY THE EFFECTIVE DATE OF THE POLICY WAS
24 DECEMBER 14TH, 2015?

25 A. YES.

1 Q. WOULD YOU AGREE THAT THAT WOULD BE AFTER THE DATE OF
2 SEPTEMBER 5TH, 2015, THAT WE ARE HERE FOR NOW?

3 A. YES.

4 Q. OKAY. SO, YOU WOULD AGREE THIS CERTIFICATE OF
5 INSURANCE WOULD NOT BE APPLICABLE TO THE DATE OF THE
6 INCIDENT, CORRECT?

7 A. YES.

8 Q. ALL RIGHT. AND IN ADDITION, THE INSURANCE CARRIER
9 IS LISTED AS WHO, BENCHMARK INSURANCE COMPANY?

10 A. YES.

11 Q. OKAY. YOU WOULD AGREE THAT IT DOESN'T SAY
12 "GUARANTEE INSURANCE COMPANY"?

13 A. NO.

14 Q. OKAY. OTHER THAN THIS CERTIFICATE OF INSURANCE,
15 WITH REGARDS TO WORKERS' COMP, WE LOOKED AT PAGE
16 169. I WILL REPRESENT TO YOU THAT'S EVERYTHING
17 EXCEPT FOR WORKERS' COMPENSATION; DO YOU AGREE WITH
18 THAT? WORKERS COMP IS LEFT BLANK HERE?

19 A. LEFT BLANK, YES.

20 Q. AND ALL THE OTHER COVERAGES ARE COVERED THERE?

21 A. YES.

22 Q. OKAY. WITH THE EXCEPTION OF THIS DOCUMENT, DOES THE
23 DEPARTMENT OF CORRECTIONS HAVE ANY OTHER CERTIFICATE
24 OF LIABILITY OR CERTIFICATE OF INSURANCE IN ITS
25 POSSESSION INDICATING AN AGREEMENT OR INDICATING

1 THAT MEDUSTRIAL WAS PROVIDING COVERAGE FOR FOLKS ON
2 YOUR FACILITY WHERE YOU ARE A CERTIFICATE HOLDER,
3 ANYWHERE?

4 A. NOT THAT I WAS ABLE TO FIND.

5 Q. OKAY. IS IT YOUR UNDERSTANDING THAT THE FIRST TIME
6 A CERTIFICATE OF INSURANCE WAS EVER ASKED --
7 ACTUALLY PURSUED BY ANYONE FROM THE DEPARTMENT OF
8 CORRECTIONS WAS AFTER THIS ACCIDENT OCCURRED?

9 A. YES, I CALLED AND ASKED FOR A CERTIFICATE OF
10 INSURANCE FOR THAT PERIOD OF TIME.

11 Q. SO, IT WOULD BE FAIR TO SAY THERE WERE NO
12 CERTIFICATES OF INSURANCE BEFORE THAT PERIOD OF TIME
13 ---

14 A. I'M NOT -- I'M NOT SAYING THAT, BECAUSE IF IT CAME
15 IN AS ESSENTIAL H.R. OR SOMEBODY ELSE, I MIGHT NOT
16 HAVE KNOWN THAT THAT'S WHERE IT WENT IN THE FILE,
17 YOU KNOW, AND IT MAY BE SOMEWHERE ENTIRELY
18 DIFFERENT.

19 Q. IF THOSE DOCUMENTS EXISTED, WOULD THEY HAVE BEEN
20 PROVIDED PURSUANT ---

21 A. YES.

22 Q. --- WITH THESE THAT HAVE BEEN PROVIDED?

23 A. YES.

24 Q. OKAY. AND NO ONE HAS SHOWN YOU TO THIS DATE TO YOUR
25 KNOWLEDGE EITHER IN A DEPOSITION OR EVEN HERE TODAY,

1 NO ONE HAS SHOWN YOU A CERTIFICATE OF INSURANCE
2 COVERING MEDUSTRIAL FOR THE PERIOD OF TIME WHERE YOU
3 WERE A CERTIFICATE HOLDER WHEN THIS INCIDENT
4 OCCURRED, CORRECT?

5 A. WHEN THE INCIDENT OCCURRED, CORRECT.

6 Q. JUST A FEW MORE QUESTIONS. WITH REGARDS TO -- I
7 THINK I HEARD YOU SAY WHEN THESE FOLKS COME TO WORK
8 ON YOUR FACILITY OR AT YOUR FACILITY, NO ONE --
9 MEDUSTRIAL HAS ANY CONTROL OVER WHAT THEY DO AT THE
10 FACILITY; IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. SO, THE FOLKS WHO CONTROL AND SUPERVISE AND DICTATE
13 THE WORK TO THESE FOLKS FROM MEDUSTRIAL AND THESE
14 OTHER AGENCIES THAT ARE CONTRACTORS THAT YOU DEALT
15 WITH ARE ALL CONTROLLED BY THE DEPARTMENT OF
16 CORRECTIONS FOLKS?

17 A. BY THE SUPERVISORS IN THE AREA IN WHICH THEY WORK.

18 Q. AND THOSE WOULD BE DEPARTMENT OF CORRECTIONS
19 EMPLOYEES?

20 A. EMPLOYEES.

21 Q. OKAY. AND RELATIVE TO PAY, IT LOOKS LIKE YOU MADE
22 SURE AT PAGE ONE OF YOUR CONTRACT THAT THE PAY WAS
23 TO BE COVERED BY THE CONTRACTOR, WHO YOU SAID WAS
24 MEDUSTRIAL; CORRECT?

25 A. RIGHT.

1 Q. ALL RIGHT. FURNISHING OF EQUIPMENT THAT ANY OF
2 THESE NURSES WOULD HAVE USED ON THE FACILITIES,
3 WOULD THAT ALSO HAVE BEEN PROVIDED BY THE DEPARTMENT
4 OF CORRECTIONS ONLY?

5 A. I DON'T KNOW WHAT KIND OF EQUIPMENT YOU'RE TALKING
6 ABOUT. IF YOU'RE TALKING ABOUT I.V.s AND STUFF,
7 YEAH, THEY WOULD BE OURS.

8 Q. AND NURSING EQUIPMENT, THEY COULDN'T JUST COME IN
9 WITH THEIR OWN NURSING EQUIPMENT, BECAUSE THEY
10 WOULDN'T HAVE BEEN ABLE TO GET PAST ALL OF THE ---

11 A. YOU HAVE TO GO THROUGH SCANNERS AND EVERYTHING, NOW.
12 WHETHER ONE OF THEIR NURSES BRINGS THEIR OWN
13 STETHOSCOPE OR SOMETHING, I'M NOT SURE OF, BUT I
14 CAN'T REALLY ANSWER THAT QUESTION. I MEAN, THAT
15 COULD HAVE BEEN, BUT NOT -- WE PROVIDE THE EQUIPMENT
16 UNLESS THEY BRING THEIR -- AND, AGAIN, I DON'T KNOW
17 ABOUT A STETHOSCOPE, SO I CAN'T SAY.

18 Q. OKAY. BUT WOULD YOU AGREE THAT TO THE EXTENT YOU
19 KNOW, AND IF YOU DON'T KNOW, THAT'S FINE TO TELL ME
20 THAT.

21 A. OKAY.

22 Q. THAT TO YOUR KNOWLEDGE, MOST OF THE EQUIPMENT, MOST
23 OF THE SUPPLIES, MOST OF THE ITEMS THAT ANY OF THE
24 NURSES USED WHETHER THEY BE DEPARTMENT OF
25 CORRECTIONS' NURSES OR THESE OUTSIDE AGENCY

1 CONTRACTOR NURSES, THE SUPPLIES AND THINGS WERE
2 PROVIDED BY THE DEPARTMENT OF CORRECTIONS?

3 A. THAT'S WHAT I WOULD BELIEVE, YES.

4 Q. OKAY. WERE YOU ABLE TO AT THE DEPARTMENT OF
5 CORRECTIONS TERMINATE THESE FOLKS WHO WERE SENT IN
6 BY MEDUSTRIAL OR MEDFIRST OR ANY OF THESE OTHER
7 COMPANIES YOU IDENTIFIED; DID YOU HAVE THE RIGHT TO
8 TERMINATE THE RELATIONSHIP?

9 A. ME?

10 Q. THE DEPARTMENT OF CORRECTIONS.

11 A. I WOULD THINK IF WE HAD SOMEBODY WHO WASN'T DOING
12 WHAT THEY WERE SUPPOSED TO BE, THAT WE WOULD HAVE
13 NOTIFIED MEDUSTRIAL AND SAID "HEY, THIS PERSON IS
14 NOT SHOWING UP, OR THIS PERSON IS NOT...? IF THEY
15 WEREN'T DOING WHAT THEY WERE REQUIRED TO DO.

16 Q. OKAY. YOU WOULD HAVE TOLD YOUR BUSINESS PARTNER,
17 "DON'T SEND THAT PERSON BACK IN TO OUR COMPANY,"
18 CORRECT?

19 A. I DON'T KNOW WHAT WE WOULD HAVE TOLD THEM, BUT I
20 THINK WE WOULD HAVE TOLD THEM WE HAD A PROBLEM.

21 Q. OKAY. DID YOU EVER OBTAIN ANY LICENSURE FOR
22 MEDUSTRIAL TO CONFIRM THAT THEY HAD THE LICENSES
23 THAT THEY REPRESENTED TO YOU IN THIS CONTRACT. WE
24 READ IN THE CONTRACT, BUT THEY WERE SUPPOSED TO
25 PROVIDE YOU NOT ONLY CERTIFICATES OF INSURANCE BUT

1 ALSO -- I'LL READ YOU THE WORD.

2 A. YEAH, LICENSE.

3 Q. LICENSES, YES, SIR.

4 A. YEAH. WHAT WE DO IS WHEN THEY COME HERE, WE
5 RUN -- WE HAVE A THIRD PARTY SYSTEM, AND THEY GO
6 THROUGH THE SYSTEM, AND I'M NOT SURE IF WE'RE
7 LOOKING AT THEIR LICENSE OR I CAN'T SPEAK TO THAT
8 PART OF OUR SYSTEM, BECAUSE I'M NOT AWARE -- I DON'T
9 KNOW HOW IT WORKS FULLY, BUT I WOULD SAY THAT, YOU
10 KNOW, WE GO THROUGH, AND WE DO A BACKGROUND CHECK
11 AND ALL. IF SOMEBODY SAYS "THIS PERSON IS
12 QUALIFIED," AND THEN WE CAN USE THEM AS A
13 CONTRACTOR.

14 Q. OKAY. AND IS IT YOUR TESTIMONY OR AT LEAST AS I
15 THINK I'VE HEARD YOUR TESTIMONY OR I'VE UNDERSTOOD
16 YOUR TESTIMONY, CORRECT ME IF I'M WRONG, NO ONE FROM
17 MEDUSTRIAL EVER REPRESENTED TO YOU DURING ANY OF
18 THESE NEGOTIATIONS OR CONVERSATIONS THAT THEY WOULD
19 BE PROVIDING YOU WITH NURSES WHO WERE NOT THEIR
20 EMPLOYEES BUT WERE IN FACT, AT LEAST IN THEIR TERMS,
21 AN INDEPENDENT CONTRACTOR?

22 A. WELL, THIS CONTRACT WOULD HAVE BEEN DONE BEFORE I
23 WAS THERE. SO, WHAT WOULD HAVE BEEN DISCUSSED WITH
24 MR. CAMPBELL, I DON'T KNOW, BUT I WOULD ASSUME -- I
25 DON'T WANT TO SAY "I ASSUME," BECAUSE I DON'T KNOW.

1 Q. ALL RIGHT. IS IT YOUR UNDERSTANDING THOUGH THAT
2 THIS IS THE CONTRACT THAT WAS BEING ACTED UPON AT
3 THE TIME OF SEPTEMBER THE 5TH ---

4 A. YES.

5 Q. --- 2015?

6 A. YES.

7 Q. PRIOR TO SEPTEMBER 5TH, 2015, WHILE YOU WERE WORKING
8 AT THE DEPARTMENT OF CORRECTIONS OR BY THE TIME YOU
9 GOT THERE WHEN YOU WERE INVOLVED IN THIS PROCESS,
10 HAD ANYONE AT MEDUSTRIAL EVER CONTACTED YOU OR
11 DISCUSSED WITH YOU WHETHER OR NOT THEY WERE GOING TO
12 BE PROVIDING FOLKS TO WORK ON YOUR FACILITY THAT
13 WERE NOT IN FACT THEIR EMPLOYEES BUT INDEPENDENT
14 CONTRACTORS TO THEM?

15 A. NO, THEY NEVER SAID ANYTHING ABOUT THAT.

16 Q. WOULD THAT HAVE MADE A DIFFERENCE TO YOU?

17 A. IT WOULD HAVE MADE A DIFFERENCE IN TERMS OF I WOULD
18 HAVE HAD TO GO TO OUR LEGAL DEPARTMENT AND ASK FOR A
19 RULING.

20 Q. OKAY.

21 BY MR. BEARD:

22 THANK YOU, SIR.

23 BY COMMISSIONER JAMES:

24 STATE ACCIDENT FUND.

25 CROSS EXAMINATION BY MS. FARTHING:

1 Q. HI, MR. BURGESS.

2 A. HEY.

3 Q. I'M GOING TO TRY AND BE PRETTY QUICK HERE, BUT A
4 COUPLE OF THINGS, AND A COUPLE OF THINGS FIRST
5 BEFORE I KIND OF GET INTO SOME OF MY OTHER QUESTIONS
6 FOR CLARIFICATION PURPOSES. AS FAR AS THE AMOUNT OF
7 CONTROL AND SUPERVISION ON THESE NURSES, DID YOU
8 WORK DIRECTLY WITH THESE NURSES?

9 A. NO.

10 Q. WERE YOU FAMILIAR WITH ANY SORT OF REQUIREMENTS OR
11 INSTRUCTIONS OR DIRECTIVES GIVEN TO THEM BY
12 MEDUSTRIAL AND ANY KIND OF AGREEMENT THEY WOULD HAVE
13 ENTERED INTO WITH MEDUSTRIAL?

14 A. NO.

15 Q. SO, AS FAR AS THE DAY-TO-DAY CONTROL OR WHO WAS
16 CONTROLLING, IS THAT SOMETHING THAT YOU WERE REALLY
17 INVOLVED IN?

18 A. NO.

19 Q. AND AS FAR AS THE EMPLOYEE VERSUS INDEPENDENT
20 CONTRACTOR, I KNOW THAT YOU'VE INDICATED ALREADY
21 THAT NOBODY EVER ADVISED YOU FROM MEDUSTRIAL OR ANY
22 OF THESE NURSES THAT THEY WERE CATEGORIZED BY
23 MEDUSTRIAL AS INDEPENDENT CONTRACTORS; ---

24 A. NO.

25 Q. --- IS THAT RIGHT?

1 A. THAT'S CORRECT.

2 Q. OKAY. AND LOOKING AT PAGE 254, WHICH IS THE FIRST
3 PAGE OF THAT CONTRACT, LOOKING AGAIN, AND I KNOW I'M
4 PROBABLY BEATING A DEAD HORSE AT THIS POINT, BUT
5 UNDER PARAGRAPH "A" OF AGREED SERVICES, IT PROVIDES
6 SPECIFICALLY THAT "R.N.s, L.P.N.s ASSIGNED TO
7 S.C.D.C. BY CONTRACT ARE EMPLOYEES OF CONTRACTOR,
8 NOT S.C.D.C."

9 A. YES.

10 Q. SO, FOR TERMS OF THIS CONTRACT AND THE TERMS OF THIS
11 CONTRACT AND THE PROVISIONS OF THIS CONTRACT, THEY
12 WERE DESIGNATED TO BE EMPLOYEES OF MEDUSTRIAL?

13 A. YES.

14 Q. OKAY. AND I KNOW THAT YOU'VE ALREADY INDICATED AND
15 I THINK IT'S THE PAGE RIGHT BEFORE THAT, THAT PAGE
16 253, WHEN YOU -- WHENEVER A CONTRACT, WHENEVER YOU
17 KIND OF FINALIZE THE TERMS OF THE CONTRACT, SEND IT
18 OUT TO BE SIGNED, Y'ALL SEND A LETTER OUT THAT
19 REQUESTS COPIES OF THE CERTIFICATES OF INSURANCE
20 PROVIDED FOR IN THE CONTRACT?

21 A. YES.

22 Q. AND ONCE YOU RECEIVE THAT CERTIFICATE OF INSURANCE,
23 YOU EXPECT THAT THE COMPANIES THAT YOU'VE CONTRACTED
24 WITH WILL UPDATE THESE CERTIFICATES OF INSURANCE?

25 A. YES, BECAUSE I DON'T KNOW -- I WOULDN'T BE ABLE TO

1 KEEP UP WITH EVERYBODY' CHANGES, CARRIERS OR
2 WHATEVER THEY DO, SO.

3 Q. YOU WOULDN'T KNOW WHICH INSURANCE CARRIERS TO
4 CONTACT FOR THAT?

5 A. CORRECT.

6 Q. AND I KNOW THAT YOU WERE ASKED A MINUTE AGO IF ALL
7 OF THE CERTIFICATES OF INSURANCE IN YOUR FILE AND
8 THAT YOU HAVE BEEN QUESTIONED ABOUT HAVE BEEN
9 ADDRESSED. I AM GOING TO WALK UP WITH YOU, AND I'M
10 NOT SURE IF THIS ONE HAS BEEN TALKED ABOUT YET, BUT
11 THIS IS OUR EXHIBIT "D" TO OUR APAs, AND THIS IS A
12 CERTIFICATE OF LIABILITY INSURANCE, AND I THINK YOU
13 WERE ASKED ABOUT THIS AT YOUR DEPOSITION AS WELL,
14 AND IT INDICATES THAT THE INSURED IS A.M.S. STAFFING
15 LEASING.

16 A. RIGHT.

17 Q. L/C/F CONDUSTRIAL, INC.

18 A. YES.

19 Q. AND IT PROVIDES FOR WORKERS' COMP INSURANCE?

20 A. RIGHT.

21 Q. AND THE DATES OF THAT ARE 4/1/2010 TO 4/1/2011,
22 RIGHT?

23 A. YES.

24 Q. OKAY. AND THE CERTIFICATE HOLDER IN THAT IS?

25 A. IS SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.

1 Q. OKAY. THANK YOU. AT ANY POINT, ---

2 BY MR. GOODWYN:

3 WHAT IS THAT?

4 BY MS. FARTHING:

5 SORRY. I THINK STEPHEN ASKED HIM ABOUT IT IN
6 HIS DEPOSITION.

7 BY MS. RICHARDSON:

8 WHICH ONE IS THIS? WAS THAT INTRODUCED AS AN
9 EXHIBIT?

10 BY MS. FARTHING:

11 IT WAS. IT WAS EXHIBIT TWO.

12 BY MS. RICHARDSON:

13 EXHIBIT TWO?

14 BY MS. FARTHING:

15 CLAIMANT'S EXHIBIT TWO TO HIS DEPOSITION. IT
16 IS ALSO THE FIRST PAGE OF OUR EXHIBIT "D" OF OUR
17 APAs.

18 BY MR. SAMUELS:

19 AND TO CLARIFY, I DO ADMIT TO INTRODUCE THAT
20 ONE TO THE WITNESS.

21 BY MS. FARTHING:

22 THAT'S FINE.

23 BY MR. SAMUELS:

24 SO THIS ISN'T THE FIRST TIME HE'S SEEN IT.

25 BY MS. FARTHING:

1 YEAH. I JUST WANTED TO CLARIFY THAT. I
2 APOLOGIZE.

3 CROSS EXAMINATION RESUMED BY MS. FARTHING:

4 Q. AND I KNOW YOU'VE ALREADY ADDRESSED THE FACT THAT
5 THERE WAS THE CERTIFICATE OF INSURANCE FOR DECEMBER
6 OF 2015, WHICH YOU'VE ALREADY BEEN SHOWN?

7 A. RIGHT.

8 Q. AND I BELIEVE YOU ALSO TESTIFIED THAT YOU'VE
9 REQUESTED AND RECEIVED AN UPDATED CERTIFICATE OF
10 INSURANCE?

11 A. YES, PER OUR NEW AGREEMENT.

12 Q. OKAY. AND YOU'VE ACTUALLY REQUESTED THAT SINCE THIS
13 ACTION BEGAN, CORRECT?

14 A. SINCE THIS ACTION BEGAN, YES.

15 Q. AND I THINK YOU WERE SHOWN A COPY OF THE POLICY THAT
16 WAS SUPPOSEDLY IN PLACE AS OF DECEMBER 2015, BUT THE
17 CERTIFICATE OF INSURANCE -- OR THE CERTIFICATE
18 HOLDER OF THAT ONE, I BELIEVE, WAS CONDUSTRIAL
19 PROFESSIONALS?

20 A. WHICH ONE IS THAT?

21 Q. I'M GOING TO SHOW YOU. I DON'T KNOW -- I'M NOT SURE
22 WHAT NUMBER IT'S NUMBERED IN THIS. SORRY. LET ME
23 LOOK AT WHAT YOU'VE GOT SO I CAN SEE. CAN I SEE
24 YOURS REAL QUICK ---

25 A. YES.

1 Q. --- SO I CAN REFERENCE THE NUMBER?

2 BY MS. FARTHING:

3 SORRY.

4 BY COMMISSIONER JAMES:

5 NO, YOU'RE FINE.

6 CROSS EXAMINATION RESUMED BY MS. FARTHING:

7 Q. I'M GOING TO SHOW YOU -- THIS IS THE ONE THAT IT
8 REFERENCES CONDUSTRIAL PROFESSIONAL, INC. ---

9 A. RIGHT.

10 Q. --- AS THE CERTIFICATE HOLDER, AND THAT'S TRIGEN
11 INSURANCE COMPANY?

12 A. RIGHT.

13 Q. AND THIS IS THE ONE THAT ADDRESSES BETWEEN 6 ---

14 A. 6/30/2015 TO 6/30/2016.

15 Q. OKAY. AND THAT'S THE ONE THAT INSURES -- IT LISTS -
16 --

17 A. GUARANTEE INSURANCE COMPANY.

18 Q. OKAY. HOW DID YOU GET THAT CERTIFICATE OF
19 INSURANCE?

20 A. IT WOULD HAVE HAD TO HAVE BEEN PROVIDED TO ME BY --
21 WELL, YOU KNOW IT'S GOING TO BE HARD FOR ME TO EVEN
22 SAY WHO I GOT IT FROM, BUT I WOULD ASSUME IT CAME
23 FROM CONDUSTRIAL.

24 Q. DID YOU REQUEST IT FROM MR. SEARS?

25 A. I WOULD HAVE REQUESTED FROM -- I PROBABLY GOT IT

1 THROUGH THEIR PERSON HERE, HOLLY SEEBY, AND I
2 PROBABLY DID HAVE TOM ONLINE, I'M NOT POSITIVE. MR.
3 SEARS, I'M SORRY.

4 Q. THAT'S OKAY. I'M GOING TO SHOW YOU ---

5 BY COMMISSIONER JAMES:

6 JUST SO THE RECORD IS CLEAR, ---

7 BY MS. FARTHING:

8 YEAH.

9 BY COMMISSIONER JAMES:

10 --- WE HAVE SO MANY DIFFERENT DOCUMENTS GOING
11 ON. IS -- WOULD THAT HAVE BEEN CONDUCTORIAL'S 167 --

12 -
13 BY MS. FARTHING:

14 IT WAS ONE OF THOSE ---

15 BY COMMISSIONER JAMES:

16 --- THAT YOU ARE REFERRING TO?

17 BY MS. FARTHING:

18 LET ME SEE. I THINK SO.

19 BY COMMISSIONER JAMES:

20 I JUST WANT TO MAKE SURE THE RECORD IS CLEAR.

21 BY MS. FARTHING:

22 SORRY, I WAS NOT ABLE TO FIND IT IN THE
23 PREHEARING BRIEF, BUT I DID FIND IT IN MY EXHIBITS.
24 SO, THAT'S WHAT I WAS -- BUT I BELIEVE IT IS THAT
25 167.

1 BY MR. SAMUELS:

2 CAN YOU GIVE US THE DATE AND MAYBE THAT WILL
3 CLEAR IT UP?

4 BY MS. FARTHING:

5 YEAH, I THINK IT'S -- I THINK IT IS 167 THOUGH.

6 BY MS. RICHARDSON:

7 WHICH ONE ARE YOU TALKING ABOUT NOW, THE
8 CONDUSTRIAL PROFESSIONAL, INC. ONE?

9 BY MS. FARTHING:

10 YES.

11 BY MS. RICHARDSON:

12 IT'S 167.

13 BY MS. FARTHING:

14 OKAY, PERFECT, THANK YOU.

15 CROSS EXAMINATION RESUMED BY MS. FARTHING:

16 Q. WAS THAT SOMETHING THAT WAS SENT TO YOU BY MR. SEARS
17 DURING THIS CLAIM, TO YOUR RECOLLECTION?

18 A. NO, I CAN'T RECOLLECT. I MEAN, IT'S BEEN SO MUCH
19 NOW.

20 Q. THAT'S OKAY.

21 A. I MEAN...

22 Q. AT ANY POINT THAT YOU HAVE REQUESTED A CERTIFICATE
23 OF INSURANCE, IN PARTICULAR A CERTIFICATE OF
24 INSURANCE FOR WORKERS' COMP COVERAGE, DID ANYBODY AT
25 MEDUSTRIAL EVER QUESTION YOU WHY?

1 A. NO, I JUST -- WHEN I REQUESTED IT, I SAID "I NEED A
2 COPY OF THE INSURANCE FOR THIS PERIOD OF TIME."

3 Q. DID ANYBODY FROM MEDUSTRIAL EVER INFORM YOU THAT
4 THEY WEREN'T COVERED BY WORKERS' COMP INSURANCE?

5 A. NO.

6 Q. DID ANYBODY EVER INFORM YOU AT THAT TIME THAT THESE
7 INDIVIDUALS WERE INDEPENDENT CONTRACTORS?

8 A. NO.

9 Q. AND THAT THEY WEREN'T PROVIDED WORKERS' COMP
10 COVERAGE?

11 A. NO.

12 Q. IN ADDITION TO THE EXPECTATION THAT MEDUSTRIAL OR
13 ANY COMPANY THAT YOU ARE CONTRACTING WITH WILL
14 UPDATE THE CERTIFICATE OF INSURANCE, ON PAGE -- LET
15 ME FIND IT; I'M SORRY. HOLD ON ONE SECOND, I'M
16 SORRY. ON PAGE 257, WHICH IS PAGE FOUR OF THE
17 CONTRACT, ---

18 A. OKAY.

19 Q. --- UNDER NUMBER FIVE, WHERE IT INDICATES PERSONNEL
20 FILES, CAN YOU READ LETTER "A."

21 A. "CONTRACTOR SHALL MAINTAIN PERSONNEL FILES THAT
22 WOULD CONTAIN THE FOLLOWING."

23 Q. AND CAN YOU READ THAT LAST BULLET POINT ON THERE?

24 A. "EVIDENCE OF INSURANCE COVERAGE IS REQUIRED IN 6.1
25 BELOW."

1 Q. SO, MEDUSTRIAL WAS ALSO SUPPOSED TO MAINTAIN A
2 PERSONNEL FILE THAT CONTAINED THESE CERTIFICATES OF
3 INSURANCE?

4 A. YES.

5 Q. TURNING A LITTLE BIT TO THE NEGOTIATION PROCESS FOR
6 THIS PROCESS, AND I KNOW YOU TALKED A LITTLE BIT
7 ABOUT THE APPROVAL PROCESS. CAN YOU GO INTO A
8 LITTLE BIT MORE. DO BOTH PARTIES HAVE THE ABILITY
9 TO NEGOTIATE THE TERMS OF THE CONTRACT?

10 A. YES.

11 Q. OKAY. AND THEN ONCE -- I GUESS ARE YOU THE FIRST
12 STAGE IN NEGOTIATING THIS CONTRACT?

13 A. WELL, WHAT I DO IS I WOULD SUBMIT THE CONTRACT TO
14 THEM FOR THEM TO SEE.

15 Q. OKAY.

16 A. AND THEN THEY MAY COME BACK AND SAY "NO, I DON'T
17 LIKE THIS PART OF THE CONTRACT, AND THIS IS WHAT..."
18 AND THEN I WOULD TAKE IT BACK TO OUR ATTORNEYS TO
19 SAY "HERE'S CHANGES THAT THEY WOULD LIKE TO MAKE.
20 IS THAT OKAY OR THAT'S NOT OKAY?"

21 Q. IS THERE A FULL APPROVAL PROCESS FOR THE FINAL
22 CONTRACT THAT HAS -- THE FINAL CONTRACT HAS TO GO
23 THROUGH BEFORE IT CAN BE EXECUTED AND ---

24 A. YEAH. ONCE THE CONTRACT -- ONCE WE'VE GOT IT TO THE
25 POINT THAT MY ATTORNEYS HAVE SAID IT'S OKAY, THEN I

1 START IT INTO OUR SYSTEM.

2 BY MR. GOODWYN:

3 YOUR HONOR, I'M GOING TO OBJECT. IT'S AN
4 IMPROPER FOUNDATION. I THINK THE TESTIMONY WAS THAT
5 HE WAS NOT -- HE WAS NOT A PART OF THIS CONTRACT,
6 THE CONTRACT THAT WE ARE REFERRING TO.

7 BY THE WITNESS:

8 RIGHT.

9 BY MR. GOODWYN:

10 HE CAN -- I DON'T KNOW IF HE CAN TESTIFY AS TO
11 WHAT -- HOW THIS WAS NEGOTIATED IF HE WAS NOT EVEN
12 INVOLVED.

13 BY MS. FARTHING:

14 AND I CAN BE CLEARER AND ASK HIM ONLY TO
15 TESTIFY AS TO THE...

16 CROSS EXAMINATION RESUMED BY MS. FARTHING:

17 Q. IN FACT, I BELIEVE THIS CONTRACT WAS RENEGOTIATED?

18 A. YES.

19 Q. WERE YOU A PARTY TO THE RENEGOTIATION OF ---

20 A. YES.

21 Q. --- THAT CONTRACT?

22 A. YES.

23 Q. WHAT WAS THE APPROVAL PROCESS FOR THAT?

24 A. WELL, ONCE WE PUT IT TOGETHER, MEDUSTRIAL HAD SOME
25 CHANGES THEY WANTED TO MAKE ON IT. I TOOK IT TO OUR

1 ATTORNEYS. WE MADE SOME CHANGES ON THE CURRENT ONE
2 THAT IS THERE. IT WAS APPROVED BY OUR ATTORNEYS.
3 THEN ONCE THEY SAY IT'S OKAY FOR ME START IT IN THE
4 SYSTEM, I PUT IT IN OUR CONTRACT SYSTEM, AND IT GOES
5 TO MY BOSS FOR HIM TO SIGN OFF ON IT. THEN IT GOES
6 TO LEGAL SO LEGAL CAN LOOK AT IT AGAIN TO MAKE SURE
7 THAT NOTHING HAS CHANGED OR NOTHING IS DIFFERENT
8 FROM WHAT WAS SAID, AND THEN IT GOES TO PURCHASE --
9 WELL, IT ACTUALLY GOES TO PURCHASING FIRST, AND THEN
10 TO LEGAL AND THEN TO BUDGET TO SAY OKAY, WE HAVE THE
11 MONEY TO DO THIS, AND THEN IT GOES TO WHAT WE CALL
12 THE DEPUTY DIRECTOR OF ADMINISTRATION WHO HANDLES
13 ALL FUNDS FOR THE SOUTH CAROLINA DEPARTMENT OF
14 CORRECTIONS, AND HE WOULD SIGN OFF OF IT, AND THEN
15 IT WOULD GO TO THE DIRECTOR OF THE DEPARTMENT OF
16 CORRECTIONS FOR HIS REVIEW AND SIGN OFF. SO,
17 ANYBODY ALONG THE WAY CAN STOP IT OR PUT IT ON HOLD
18 OR DO WHATEVER THEY WANT TO DO WITH IT.

19 Q. AND I KNOW YOU WERE ASKED BY MR. SAMUELS EARLIER
20 ABOUT THE PROVISION WITHIN THE CONTRACT THAT SAID
21 THAT ANY AMENDMENT TO THE CONTRACT HAD TO BE IN
22 WRITING AND SIGNED BY THE PARTIES?

23 A. RIGHT.

24 Q. WOULD ANY AMENDMENT TO THE CONTRACT HAVE TO GO
25 THROUGH THAT SAME PROCESS?

1 A. WELL, IT GOES THROUGH THE -- AND I CAN TELL YOU ONE
2 I JUST DID. WHAT WE DID WAS WE PUT -- WE DID AN
3 AMENDMENT, AND WE AGREED TO IT, AND WE COPIED THE
4 CURRENT CONTRACT THAT IT IS IN EFFECT. THE
5 AMENDMENT IS ON TOP. IT GOES THROUGH. IT GOES
6 THROUGH THE SAME APPROVAL PROCESS AND THEN SENT TO
7 BE SIGNED WITH A COPY OF THE OLD CONTRACT WITH IT.
8 SO, THIS IS THE ONE THAT THE AMENDMENT IS REFERRING
9 TO.

10 Q. OKAY. WAS THAT PROCESS IN PLACE PRIOR TO -- I KNOW
11 YOU SAID YOU WEREN'T THERE WHEN THIS FIRST CONTRACT
12 WAS NEGOTIATED, BUT ONCE YOU DID ARRIVE, ANY
13 AMENDMENTS TO THIS CONTRACT FROM THAT POINT FORWARD
14 WOULD HAVE HAD TO HAVE GONE THROUGH THE SAME
15 APPROVAL PROCESS?

16 A. IT HAS TO GO THROUGH THE SAME SYSTEM.

17 Q. IS THERE ANYTHING IN YOUR FILE TO INDICATE THAT
18 THERE HAS EVER BEEN AN AMENDMENT TO THAT CONTRACT
19 STARTING ON PAGE 254?

20 A. NO.

21 Q. AND I BELIEVE MR. SAMUELS ALSO ASKED YOU ABOUT
22 WHETHER THE PROVISION REQUIRING THE WORKERS'
23 COMPENSATION INSURANCE WAS IMPORTANT TO THAT
24 CONTRACT?

25 A. YES.

1 Q. AND I THINK -- I BELIEVE YOU TESTIFIED IT WAS?

2 A. IT WAS. I DON'T THINK WE WOULD HAVE PUT IT IN THERE
3 IF IT WASN'T IMPORTANT, BECAUSE...

4 Q. IF AT ANY POINT YOU HAD BEEN INFORMED THAT THEY DID
5 NOT HAVE WORKERS' COMP INSURANCE ON THESE
6 INDIVIDUALS, WOULD YOU HAVE ENTERED INTO THIS
7 CONTRACT, OR WOULD YOU HAVE CONTINUED WITH THE
8 CONTRACT?

9 A. I WOULD HAVE TURNED IT OVER TO OUR ATTORNEYS TO ASK
10 HOW TO PROCEED WITH THE CONTRACT, BECAUSE IT'S -- AT
11 THAT POINT IN TIME THEY WOULD BE THE ONES INVOLVED.

12 Q. AND THE CONTRACT THAT YOU RENEGOTIATED I THINK A FEW
13 YEARS AFTER THIS INCIDENT, DID IT ALSO HAVE A
14 PROVISION REQUIRING WORKERS' COMPENSATION INSURANCE?

15 A. YES.

16 Q. DOES THE CONTRACT ANYWHERE SPECIFY SPECIFICALLY
17 WHICH NURSES WOULD BE COMING TO THE DEPARTMENT OF
18 CORRECTIONS? DOES IT PROVIDE ANY KIND OF NAMES OF
19 NURSES?

20 A. NO. WE HAD NO KNOWLEDGE OF WHO AGENCIES HAVE AS
21 NURSES.

22 Q. IN FACT, DOES IT PROVIDE THAT MEDUSTRIAL WOULD
23 SELECT AND SEND THE NURSES?

24 A. SAY THAT AGAIN.

25 Q. DOES IT PROVIDE THAT MEDUSTRIAL WOULD SELECT AND

1 SEND THE NURSES?

2 A. WELL, THEY WOULD PROVIDE THE NURSES FOR US, SO -- TO
3 US, AND SO, YES, I WOULD SAY THEY WOULD BE SELECTING
4 THE ONES.

5 Q. GIVE ME ONE SECOND.

6 BY MS. FARTHING:

7 I THINK THAT'S ALL I HAVE. THANK YOU.

8 BY COMMISSIONER JAMES:

9 ON BEHALF OF THE UNINSURED FUND?

10 BY MS. GLOVER:

11 JUST ONE QUESTION, MR. BURGESS.

12 BY THE WITNESS:

13 OKAY.

14 CROSS EXAMINATION BY MS. GLOVER:

15 Q. IN REGARDS TO THIS CLAIM, HAVE YOU EVER RECEIVED A
16 CERTIFICATE OF INSURANCE THAT HAS THE NAME
17 MEDUSTRIAL ON IT?

18 A. MEDUSTRIAL?

19 Q. YES.

20 A. NOT THAT I'M AWARE OF. I WOULD HAVE TO GO BACK AND
21 LOOK AT MY FILES. I DIDN'T LOOK AT MY FILES TO SEE
22 IF I HAD ONE THAT SAID MEDUSTRIAL OR CONDUSTRIAL.

23 Q. OKAY. AND PER THE TERMS OF THE CONTRACT, WERE THE
24 INDIVIDUAL NURSES SUPPOSED TO SUPPLY THEIR OWN
25 WORKERS' COMPENSATION INSURANCE, OR WERE THEY ---

1 A. NO.

2 Q. --- SUPPOSED TO RECEIVE THAT FROM CONDUSTRIAL?

3 A. NO, OUR AGREEMENT WAS NOT WITH THE NURSES THAT CAME
4 TO WORK. OUR AGREEMENT WAS WITH MEDUSTRIAL.

5 Q. OKAY.

6 BY MS. GLOVER:

7 THANK YOU. THAT'S ALL I HAVE.

8 BY COMMISSIONER JAMES:

9 CLAIMANT?

10 BY MR. SAMUELS:

11 YES, YOUR HONOR.

12 BY COMMISSIONER JAMES:

13 ANYTHING FURTHER FROM THE CLAIMANT?

14 RE-DIRECT EXAMINATION BY MR. SAMUELS:

15 Q. MR. BURGESS, SINCE MEDUSTRIAL IS SUPPLYING NURSES,
16 DOES S.C.D.C. HAVE ITS OWN SCREENING PROCESS?

17 A. WHAT I HAVE IS A THIRD-PARTY SYSTEM, AND AGAIN, I
18 CAN'T TELL YOU WHAT ALL THEY DO, BUT WE WOULD GET
19 THEIR NAMES AND THEN IT WOULD GO THROUGH OUR SYSTEM,
20 BECAUSE ONCE THEY'RE -- IF THEY ARE GOING TO COME TO
21 WORK FOR US AND I DON'T HAVE MINE WITH ME, BUT WE
22 HAVE AN I.D. BADGE THAT SAYS THIS PERSON CAN COME
23 INTO THE -- TO THE DEPARTMENT OF CORRECTIONS.

24 Q. AND THAT'S SORT OF MY POINT.

25 A. YEAH.

1 Q. LETTING SOMEBODY INTO THE DEPARTMENT OF CORRECTIONS
2 TO WORK AS A NURSE IS ULTIMATELY GOING TO BE A
3 DECISION OF THE DEPARTMENT OF CORRECTIONS, NOT
4 MEDUSTRIAL OR CONDUSTRIAL, CORRECT?

5 A. CORRECT. IN OTHER WORDS, IF THEY ARE -- IF THERE IS
6 SOMETHING IN THE BACKGROUND, SOMETHING THAT SHOWS UP
7 THAT SAYS WE CAN'T USE THEM OR WHATEVER, THEN WE
8 COULDN'T LET THAT PERSON IN.

9 Q. AND WHEN THEY DO COME IN, ONCE YOU'VE SCREENED THEM
10 AND APPROVED THEM TO COME IN, THEN THEY HAVE TO PASS
11 THROUGH AN ORIENTATION; IS THAT CORRECT?

12 A. YES.

13 Q. AND IF THEY DON'T SUCCESSFULLY PASS THE ORIENTATION,
14 THEY NEVER GO TO WORK; IS THAT CORRECT?

15 A. AND I'M NOT POSITIVE ABOUT ORIENTATION FOR
16 CONTRACTORS BECAUSE AGAIN, I'M NOT INVOLVED IN THAT
17 PART OF IT. I DON'T KNOW WHAT THEY DO.

18 Q. YOU WOULD AGREE THOUGH THAT THE DEPARTMENT OF
19 CORRECTIONS HAS THE AUTHORITY TO REJECT A PARTICULAR
20 NURSE?

21 A. YES, I WOULD SAY WE HAVE THE RIGHT TO REJECT IF
22 THERE IS SOMETHING IN THEIR BACKGROUND THAT WON'T
23 WORK -- IF THEY HAVE A -- IF THEY HAVE A RELATIVE
24 OUT THERE OR SOMEBODY THAT THEY KNOW THERE, AND THEN
25 WE FIND OUT ABOUT IT, THEY CAN'T WORK THERE. IN

1 OTHER WORDS, IF YOU ARE ON A VISITING LIST TO SEE AN
2 INMATE OUT THERE, YOU'RE NOT ALLOWED TO COME OUT AND
3 WORK, BECAUSE OF THE PROBLEMS OF THE PEOPLE MOVING
4 AROUND AND COULD BE NEAR SOMEBODY THAT IT'S THAT
5 WAY.

6 Q. AND ALONG THAT SAME LINE, IF YOU HAVE A NURSE WHO
7 HAS GONE THROUGH THE SCREENING PROCESS, IS WORKING
8 AT AN INSTITUTION, IF THE NURSE COMMITS SOMETHING
9 SERIOUS, LET'S SAY GIVES DRUGS TO AN INMATE OR HAS A
10 SEXUAL RELATIONSHIP WITH AN INMATE, DOES S.C.D.C.
11 HAVE THE AUTHORITY TO HAVE THAT NURSE REMOVED FROM
12 THE PREMISES?

13 A. YES, I'M SURE WE DO.

14 Q. AND TO ESSENTIALLY FIRE THAT PERSON, THAT PERSON
15 CANNOT COME BACK AT S.C.D.C., CORRECT?

16 A. I'M NOT POSITIVE OF ALL OF IT, BUT I WOULD SAY THAT
17 THEY WOULD NOT ALLOW THEM BACK ON THE PREMISES.

18 Q. AND IN TERMS OF PROVIDING WORKERS' COMP COVERAGE,
19 YOU WERE ASKED ABOUT THE INDIVIDUAL NURSES PROVIDING
20 THEIR OWN WORKERS' COMP COVERAGE. DID ANY -- SO FAR
21 AS YOU KNOW, ANY OF THE NURSES PROVIDE THEIR OWN
22 WORKER'S COMP COVERAGE?

23 A. AGAIN, I WOULDN'T KNOW, BECAUSE OUR NURSES COME
24 THROUGH THE AGENCIES THAT WE CONTRACT WITH, AND SO,
25 WE WOULDN'T BE ASKING THEM FOR THAT.

1 Q. AND COMING THROUGH YOUR AGENCY, YOU ARE RELYING ON
2 THE AGENCY TO PROVIDE THE ---

3 A. I RELY ON THE CONTRACTOR, ---

4 Q. --- WORKERS' COMPENSATION ---

5 A. --- PEOPLE THAT ARE SUPPLYING US THE NURSES, TO
6 ABIDE BY WHAT IS IN THE CONTRACT.

7 Q. AND IN TERMS OF THAT WHEN YOU NEGOTIATE THE RATE OF
8 PAY AND WHAT THE DEPARTMENT PAYS TO THE AGENCY, THAT
9 RATE OF PAY IS BASED ON THE PRESUMPTION THAT THE
10 PERSON THEY SEND IS IN COMPLIANCE WITH THEIR
11 CONTRACT, MEANING AN EMPLOYEE COVERED BY WORKERS'
12 COMP INSURANCE, LIABILITY INSURANCE, SECTION 83 AND
13 PROFESSIONAL LIABILITY, CORRECT?

14 A. THAT MEETS THE TERMS OF OUR CONTRACT.

15 Q. SO, I'M LOOKING AT THE LAST PAGE OF THAT EXHIBIT.
16 IT'S PAGE 260, OUR PAGE 7 ---

17 A. THE RATE OF PAY?

18 Q. THE RATE OF PAY, RIGHT. SO, FOR EXAMPLE, FOR AN
19 L.P.N., DOES THAT MEAN THAT S.C.D.C. AND MEDUSTRIAL
20 HAD AGREED TO A PAY RATE OF \$27.50 AN HOUR ---

21 A. YES.

22 Q. --- PAID TO MEDUSTRIAL.

23 A. PAID TO MEDUSTRIAL.

24 Q. WHAT ABOUT OVERTIME?

25 A. OVERTIME WOULD BE -- IT SAYS OVERTIME WILL PAY ONE-

1 AND-A-HALF TIMES THE REGULAR HOURLY RATE OF PAY,
2 OVER 40 HOURS IN THE WEEK, IF AUTHORIZED BY S.C.D.C.

3 Q. AND SO MY QUESTION, TO ASK YOU THERE ABOUT THE TIME-
4 AND-A-HALF, WHEN IT SAYS "AUTHORIZED BY S.C.D.C.,"
5 IS THAT AUTHORIZING THAT PERSON TO WORK OVER 40
6 HOURS SO THAT THEY WOULD HAVE TO BE PAID TIME-AND-A-
7 HALF, OR IS IT AUTHORIZING THE PERSON TO WORK OVER
8 40 HOURS BUT NOT PAY THEM TIME-AND-A-HALF?

9 A. NO, IT'S JUST -- WHAT IT'S SAYING IS IF THE PERSON
10 WORKS OVER 40 HOURS, THEN WE ARE GOING TO PAY
11 MEDUSTRIAL TIME-AND-A-HALF OF THAT RATE.

12 Q. S.C.D.C. JUST CONTROLS WHETHER OR NOT THEY'RE GOING
13 TO LET SOMEBODY WORK OVER 40 HOURS?

14 A. YES, WE SHOULD BE -- IN OTHER WORDS, WE CAN SAY
15 "HEY, NO, YOU CAN'T WORK OVERTIME, OR YOU MAY --
16 YOU'VE GOT TOO MANY HOURS IN A WEEK" OR WHATEVER WE
17 WOULD USE.

18 Q. YOU WERE SHOWN A CERTIFICATE OF INSURANCE. THE
19 FIRST SET OF CERTIFICATES OF INSURANCE, WHEN YOU
20 WENT AND OBTAINED THOSE, WAS THAT AFTER THIS
21 LITIGATION BEGUN?

22 A. WELL, I WENT THROUGH OUR FILES TO FIND WHAT I HAD
23 AND ALL, SO I REQUESTED THE ONES WHEN I DIDN'T SEE
24 THE ONE IN THERE FOR THE TIME FRAME, SO I REQUESTED.

25 Q. YOU WERE TRYING TO RESPOND TO A SUBPOENA?

1 A. RIGHT.

2 Q. AND YOU CONTACTED, WAS IT MR. SEARS, TO PROVIDE A
3 CERTIFICATE?

4 A. NO, I THINK I ORIGINALLY CONTACTED MS. ---

5 Q. SEEBY?

6 A. YES.

7 Q. NOW, THIS OTHER CERTIFICATE OF INSURANCE, IT WAS
8 EXHIBIT "D" TO S.C.D.C.'S APA SUBMISSIONS, AND I'LL
9 SHOW IT TO YOU. THIS ONE ACTUALLY CAME OUT DURING
10 YOUR DEPOSITION. DO YOU REMEMBER THIS ONE COMING UP
11 IN THE DEPOSITION?

12 A. YES.

13 Q. SO, THAT WAS WHEN YOU FOUND IT IN YOUR FILE, AFTER
14 YOU RESPONDED TO THE SUBPOENA YOU BROUGHT IT TO THE
15 DEPOSITION, IS THAT RIGHT?

16 A. I -- I CAN'T REMEMBER IF THAT'S THE WAY I BROUGHT IT
17 OR NOT, BUT IT'S THE ONE THAT I FOUND IN THE FILE.

18 Q. AND THIS ONE -- THIS ONE COVERS THE PERIOD OF ---

19 A. 4/1/2010 THROUGH 4/1/2011.

20 Q. YEP. AND IT DOES HAVE THE NAME, IT SAYS "A.M.S.
21 STAFF LEASING L/C/F CONDUSTRIAL, INCORPORATED"?

22 A. YES.

23 Q. WHEN THIS WAS PROVIDED AT YOUR DEPOSITION, SOMEBODY
24 HAD WRITTEN THE WORD IN HANDWRITING AT THE TOP OF
25 THE CERTIFICATE. WHAT IS THAT WORD?

1 A. "MEDUSTRIAL."

2 Q. DO YOU KNOW WHO WROTE THAT?

3 A. NOPE. IT DOESN'T LOOK LIKE MY HANDWRITING, BUT IT
4 COULD BE. I DON'T THINK IT'S MINE.

5 Q. OKAY. BUT THAT WORD WAS WRITTEN ON ---

6 A. YES.

7 Q. --- THE CERTIFICATE WHEN YOU FIRST SAW IT?

8 A. YES.

9 Q. AND WHEN YOU SAW IT, WAS IT IN THE FILE FOR
10 MEDUSTRIAL?

11 A. YEAH, I'M ASSUMING THAT'S WHERE I FOUND IT WAS IN
12 THE FILE.

13 Q. AND THE DEPARTMENT OF CORRECTIONS IS ALSO THE
14 CERTIFICATE HOLDER?

15 A. THE DEPARTMENT OF CORRECTIONS.

16 Q. AND THIS CERTIFICATE FOR THAT PERIOD OF TIME AT
17 LEAST PURPORTS TO PROVIDE WORKERS' COMP ---

18 A. YES.

19 Q. --- INSURANCE?

20 A. YES.

21 Q. AND BASED ON THE CONTRACT THAT WE'VE ALREADY GONE
22 OVER THROUGH REQUIRING MEDUSTRIAL TO SUPPLY
23 EMPLOYEES WHO ARE COVERED UNDER WORKERS' COMP
24 INSURANCE, AND THIS CERTIFICATE, WHICH COVERS
25 WORKERS' COMP INSURANCE, DID S.C.D.C. HAVE ANY

1 REASON TO BELIEVE THAT MEDUSTRIAL AND CONDUSTRIAL
2 WAS MIS-CLASSIFYING THEIR WORKERS AS INDEPENDENT
3 CONTRACTORS AND NOT EMPLOYEES WHO WERE COVERED BY
4 WORKERS' COMP INSURANCE?

5 BY MR. BEARD:

6 OBJECT TO THE QUESTION WHERE STEPHEN USED THE
7 WORD "CONDUSTRIAL" AGAIN. THERE'S NO AGREEMENT WITH
8 CONDUSTRIAL, AND HE DID NOT KNOW WHO THEY WERE WHEN
9 THIS ALL TOOK PLACE.

10 BY MR. GOODWYN:

11 AND OBJECT TO THE FORM AS WELL.

12 BY COMMISSIONER JAMES:

13 MR. SAMUELS, DO YOU WANT TO REPHRASE?

14 BY MR. SAMUELS:

15 I DID SAY MEDUSTRIAL OR CONDUSTRIAL, YOUR
16 HONOR. I THINK THE WITNESS CAN PROBABLY EXPLAIN.

17 BY THE WITNESS:

18 WOULD YOU REPEAT THAT QUESTION?

19 DIRECT EXAMINATION RESUMED BY MR. SAMUELS:

20 Q. SURE. SO, LET ME BREAK IT DOWN. SO, THERE IS A
21 CONTRACT BETWEEN MEDUSTRIAL AND THE DEPARTMENT OF
22 CORRECTIONS.

23 A. YES.

24 Q. THAT CONTRACT STATES THAT MEDUSTRIAL WILL PROVIDE
25 NURSES, WHO ARE EMPLOYEES AND ARE COVERED BY

1 WORKERS' COMP INSURANCE AND OTHER INSURANCE.

2 A. YES.

3 Q. AND, NOW, LOOKING AT EXHIBIT "D," THIS IS A
4 CERTIFICATE OF INSURANCE, IS THAT RIGHT?

5 A. YES.

6 Q. IT USES THE NAME "CONDUSTRIAL"?

7 A. YES.

8 Q. IT WAS IN THE FILE FOR MEDUSTRIAL?

9 A. RIGHT.

10 Q. SOMEBODY HAS WRITTEN "MEDUSTRIAL" ON HERE RIGHT AT
11 THE TOP OF IT?

12 A. RIGHT.

13 Q. AND THAT'S HOW IT APPEARS IN YOUR FILE?

14 A. RIGHT.

15 Q. SO, WOULD THE DEPARTMENT OF CORRECTIONS HAVE ANY
16 REASON TO BELIEVE OR SUSPECT THAT MEDUSTRIAL WAS
17 MIS-CLASSIFYING ITS NURSES AS INDEPENDENT
18 CONTRACTORS SO AS NOT TO HAVE TO PROVIDE WORKERS'
19 COMP INSURANCE?

20 BY MR. GOODWYN:

21 OBJECT TO THE FORM, YOUR HONOR. HE'S TRYING TO
22 SAY THAT THE NURSES WERE MIS-CLASSIFIED. I THINK
23 THAT'S ASSUMING THAT THEY WERE BEING MIS-CLASSIFIED.
24 THERE'S BEEN NO EVIDENCE TO CONFIRM THAT THEY WERE
25 MIS-CLASSIFIED.

1 BY COMMISSIONER JAMES:

2 I WILL ALLOW THE QUESTION.

3 THE WITNESS ANSWERS:

4 A. I MEAN, I WOULDN'T -- THERE WOULD BE NO REASON FOR
5 ME, BASED ON OUR AGREEMENT, FOR ME ASK THEM IF THEY
6 WERE INDEPENDENT CONTRACTORS, BECAUSE OUR AGREEMENT
7 SAID THAT THEY WERE GOING TO BE COVERED WITH WORK
8 COMP, AND THEY WERE EMPLOYEES.

9 BY MR. SAMUELS:

10 THANK YOU, MR. BURGESS, I APPRECIATE IT.

11 BY COMMISSIONER JAMES:

12 MR. GOODWYN?

13 BY MR. GOODWYN:

14 JUST A FEW FOLLOW-UPS, THANK YOU.

15 RECROSS EXAMINATION BY MR. GOODWYN:

16 Q. MR. BURGESS, DID YOU EVER, PRIOR TO, MS. TURNER'S
17 INJURY IN SEPTEMBER 2015 ASK TOM SEARS OR ANYONE
18 WITH MEDUSTRIAL OR CONDUSTRIAL FOR A CERTIFICATE OF
19 INSURANCE?

20 A. NO, I DID NOT.

21 Q. OKAY, IF YOU HAD -- WELL TELL ME THIS: IS IT TRUE
22 THAT EVERY TIME YOU'VE ASKED MEDUSTRIAL OR
23 CONDUSTRIAL FOR A CERTIFICATE OF INSURANCE THAT
24 YOU'VE RECEIVED ONE?

25 A. THAT I'VE RECEIVED ONE? I'VE RECEIVED SOME, AND I

1 THINK ONE OF THEM I BROUGHT HAD A DIFFERENT NAME ON
2 IT, BUT YES, I HAD RECEIVED SOMETHING. I CAN'T
3 REMEMBER WHETHER I'VE GOTTEN ONE EVERY TIME I'VE
4 ASKED, BUT I'M NOT GOING TO SAY I HAVEN'T EITHER.

5 Q. I WAS GOING TO SAY, CAN YOU RECALL A TIME WHERE YOU
6 ASKED FOR A CERTIFICATE OF INSURANCE BUT DIDN'T
7 RECEIVE ONE?

8 A. NOT RIGHT OFFHAND I CAN'T, NO. WHEN I ASK, IT MIGHT
9 SAY I'LL HAVE TO LOOK AND SEE, BUT I CAN'T SAY THAT
10 I DIDN'T RECEIVE ONE.

11 Q. HAS MEDUSTRIAL GENERALLY BEEN RESPONSIVE TO YOUR
12 INQUIRIES OVER THE YEARS?

13 A. WELL, I HAVEN'T -- WE REALLY HAVEN'T HAD ANY CONTACT
14 OTHER THAN SINCE THIS STARTED MOSTLY.

15 Q. OKAY.

16 A. BECAUSE THEY WOULD -- OUR PEOPLE WOULD ASK FOR --
17 FOR NURSES TO COME, AND THEY WOULD BE MORE IN TERMS
18 OF WITH -- AND I GUESS WITH WHOEVER THE RECRUITER
19 IS. I DON'T KNOW EXACTLY HOW EACH PLACE WORKS WITH
20 THAT, BUT THEY WOULD COME IN AND SAY "WE NEED NURSES
21 FOR THIS SHIFT HERE, AND CAN YOU SUPPLY A NURSE?"
22 AND THEY WOULD SAY "YES, I CAN SUPPLY THIS PERSON,
23 OR I CAN FILL THIS SHIFT, THIS SHIFT, THIS SHIFT,"
24 AND I DON'T KNOW WHETHER THEY GIVE US THE NAMES OR
25 HOW THEY DO IT. I'M NOT SURE.

1 Q. OKAY, I NOTICED YOU HAD, THERE WAS A CERTIFICATE OF
2 INSURANCE FOR 2010 THAT YOU WERE SHOWN EARLIER THAT
3 CONDUSTRIAL OR MEDUSTRIAL PROVIDED, IS THAT ---

4 A. WELL, IT WAS IN THE FILE, SO.

5 Q. RIGHT.

6 A. YES.

7 Q. RIGHT. AND THE ONLY PLACE YOU WOULD'VE GOTTEN IT
8 WOULD BE FROM CONDUSTRIAL OR MEDUSTRIAL?

9 A. RIGHT.

10 Q. OKAY. DO YOU HAVE ANY REASON TO BELIEVE THAT
11 MEDUSTRIAL OR CONDUSTRIAL WOULD NOT HAVE BEEN ABLE
12 TO PRODUCE A CERTIFICATE OF INSURANCE IN 2015 PRIOR
13 TO MS. TURNER'S INJURY, HAD YOU REQUESTED ONE?

14 A. NO, I WOULD HAVE THOUGHT THEY WOULD'VE HAD ONE.

15 Q. ALL RIGHT. YOU WERE ASKED SOME QUESTIONS ABOUT THE
16 AGREEMENT, THE PERSONNEL SERVICES AGREEMENT BETWEEN
17 THE DEPARTMENT OF CORRECTIONS AND MEDUSTRIAL. YOU
18 HAVE -- YOU WERE ASKED SOME QUESTIONS ABOUT THE
19 RENEWED AGREEMENT AS WELL, AND THERE'S ONE FROM AT
20 LEAST 2008 THAT WAS THE ONE YOU WERE OPERATING UNDER
21 AT THE TIME OF THIS ACCIDENT.

22 A. RIGHT.

23 Q. AND YOU HAVE A NEW AGREEMENT NOW THAT WAS AUGUST
24 2016?

25 A. RIGHT.

1 Q. HAS ANYTHING CHANGED IN THE WAY THAT, THE
2 RELATIONSHIP BETWEEN S.C.D.C. AND CONDUSTRIAL
3 BETWEEN THE TIME 2008 WHEN THE ORIGINAL AGREEMENT
4 WAS SIGNED AND NOW?

5 A. WHEN YOU SAY IN OUR RELATIONSHIP, WHATEVER CHANGES
6 WERE MADE IN THE CONTRACT WOULD BE THE ONLY THING
7 THAT HAS CHANGED. I MEAN, WE STILL CONTRACTED
8 NURSES THROUGH MEDUSTRIAL.

9 Q. OKAY, AND THAT WAS KIND OF WHAT I WAS GETTING AT
10 THERE IS HAS ANYTHING CHANGED IN THE RELATIONSHIP OR
11 THE MANNER IN WHICH MEDUSTRIAL OR CONDUSTRIAL
12 PROVIDES THE NURSES TO S.C.D.C.?

13 A. I MEAN, THEY PROVIDE NURSES, YOU KNOW WHAT I MEAN.
14 IF YOU'RE ASKING ME IF THEY CHANGED IT NOW, NOT A
15 CONTRACTOR OR CONTRACTORS, I COULDN'T TELL YOU,
16 BECAUSE AGAIN, I DON'T KNOW WHAT THEY ARE SUPPLYING.

17 Q. OKAY, AND I'LL SHOW YOU, AND THIS IS THE NEW
18 AGREEMENT SIGNED IN 2016. THIS WOULD BE THE ONE
19 THAT YOU PARTICIPATED IN THE NEGOTIATIONS OF; IS
20 THAT CORRECT?

21 A. EXACTLY.

22 **BY MR. GOODWYN:**

23 ALL RIGHT, YOUR HONOR, I WOULD LIKE TO OFFER
24 THIS AS AN EXHIBIT. IT'S NOT IN MY APAs, BUT, I
25 WOULD LIKE TO OFFER IT AS MY NEXT EXHIBIT, WHICH

1 WOULD BE EXHIBIT 31.

2 BY COMMISSIONER JAMES:

3 ACTUALLY, IF WE NUMBER EXHIBITS DURING THE
4 TRIAL, I'M GOING TO START WITH ONE, IF IT'S
5 ADMITTED. I HAVEN'T HEARD FROM ANY OF THE PARTIES
6 YET.

7 BY MR. SAMUELS:

8 NO OBJECTION FROM THE CLAIMANT.

9 BY MS. RICHARDSON:

10 I DON'T SEE HOW IT'S RELEVANT.

11 BY MR. BEARD:

12 YEAH, IT'S COMPLETELY IRRELEVANT.

13 BY MR. GOODWYN:

14 I THINK IT IS RELEVANT.

15 BY COMMISSIONER JAMES:

16 HOW SO?

17 BY MR. GOODWYN:

18 LOOK AT THE AGREEMENT. IT TALKS -- THE TERMS
19 OF THE AGREEMENT CHANGE FROM CLASSIFYING THEM AS
20 EMPLOYEES. "CONTRACTOR WILL BE PROVIDING EMPLOYEES
21 AND/OR AGENTS OF CONTRACTOR," AND THAT LANGUAGE IS
22 VERY SIGNIFICANT TO THE RELATIONSHIP AND HOW IT WAS
23 BACK THEN. OUR POSITION IS THAT NOTHING HAS CHANGED
24 DURING THIS ENTIRE TIME. THIS IS REALLY THE WAY
25 THEY WERE OPERATING THE ENTIRE TIME.

1 BY COMMISSIONER JAMES:

2 THIS IS SUBSEQUENT, ALMOST A YEAR AFTER THE
3 ACCIDENT?

4 BY MR. GOODWYN:

5 IT'S AFTER, BUT I THINK IT'S REFLECTIVE OF WHAT
6 THE RELATIONSHIP REALLY WAS AT THE TIME OF THE
7 ACCIDENT.

8 BY MS. FARTHING:

9 I WOULD CERTAINLY OBJECT TO THE EXTENT THAT
10 THAT'S THE ARGUMENT BEING MADE HERE. I CERTAINLY
11 DON'T THINK A CONTRACT ENTERED INTO A YEAR AFTER THE
12 FACT IS REFLECTIVE OF THE AGREEMENT AND THE
13 UNDERSTANDING DATING BACK TO, I THINK, 2008 OR
14 WHENEVER THAT CONTRACT WAS INITIALLY ENTERED.

15 BY MR. GOODWYN:

16 THAT'S WHEN ---

17 BY MR. BEARD:

18 IT'S ACTUALLY ALMOST ENVISIONED THAT WHAT THEY
19 WERE DOING BEFORE WAS IMPROPER AND ILLEGAL.

20 BY MR. GOODWYN:

21 WHAT'S THAT?

22 BY COMMISSIONER JAMES:

23 ALL RIGHT.

24 BY MR. BEARD:

25 THAT WHAT THEY'RE DOING IS IMPROPER AND ILLEGAL

1 IS WHAT THEY ARE NOW ADMITTING.

2 BY COMMISSIONER JAMES:

3 ALL RIGHT. LET'S ---

4 BY MR. SEARS:

5 THAT'S ABSOLUTELY NOT WHAT WE'RE SAYING.

6 BY MR. GOODWYN:

7 THAT'S ABSOLUTELY RIDICULOUS.

8 BY COMMISSIONER JAMES:

9 FIRST OF ALL, LET'S NOT ARGUE, ATTORNEYS NOR
10 REPRESENTATIVES OF THE PARTIES. LET'S STAY WITH THE
11 PROCEDURE, AND WHILE WE HAVE THIS MOMENT, I NEED TO
12 STEP OUT FOR JUST A SECOND. SO, LET'S TAKE A SHORT
13 SHORT BREAK.

14 (OFF THE RECORD)

15 (COURT REPORTER MARKS DOCUMENT CONDUSTRIAL EXHIBIT 1,
16 RETAINED IN THE COMMISSION FILE)

17 BY COMMISSIONER JAMES:

18 BACK ON RECORD. MR. GOODWYN, I BELIEVE YOU
19 WERE SEEKING TO INTRODUCE THE DOCUMENT AS
20 CONDUSTRIAL'S EXHIBIT ONE FOR TRIAL. IT'S MY
21 UNDERSTANDING FOR A SHORT BREAK BEFOREHAND THAT
22 THERE ARE NO OBJECTIONS AT THIS TIME TO THIS
23 DOCUMENT? OKAY. HEARING NO OBJECTIONS, IT IS SO
24 ADMITTED.

25 RE-CROSS EXAMINATION RESUMED BY MR. GOODWYN:

1 Q. OKAY, MR. BURGESS, CAN YOU READ JUST THE VERY FIRST
2 SENTENCE OF THE PARAGRAPH "A" FOR US?

3 A. "R.N.s, L.P.N.s ASSIGNED TO S.C.D.C. BY CONTRACTOR
4 ARE EMPLOYEES AND/OR AGENTS OF CONTRACTOR AND NOT
5 S.C.D.C."

6 Q. OKAY. DID YOU -- WERE YOU A PART OF THE PROCESS OF
7 NEGOTIATING THAT LANGUAGE?

8 A. WHEN I SENT THE CONTRACT, TO MAKE SOME -- MR. SEARS
9 HAD SOME CHANGES HE WANTED TO MAKE. HE SENT THEM
10 BACK TO ME, AND I SUBMITTED THEM TO OUR ATTORNEYS
11 FOR THEIR APPROVAL.

12 Q. OKAY, DID YOU HAVE ANY OBJECTIONS WITH THAT NEW
13 LANGUAGE?

14 A. YEAH, I DID, BUT ONLY BECAUSE WE WERE DOING THIS,
15 BUT -- BUT THAT WASN'T MY DECISION. IT -- IT WAS
16 BASED ON OUR ATTORNEYS WHAT THEY SAID WE COULD OR
17 COULD NOT PUT IN.

18 Q. OKAY, ALL RIGHT. OBVIOUSLY, AT THE END OF THE DAY,
19 IT WAS APPROVED AND SIGNED OFF ON THOUGH, CORRECT?

20 A. YES.

21 Q. AND WHO SIGNED ---

22 A. I'M SURE. YES, IT WENT THROUGH THE SYSTEM.
23 EVERYBODY SIGNED IT. THAT'S TOM OSNER'S SIGNATURE;
24 HE'S THE DEPUTY DIRECTOR OF THE ADMINISTRATION.
25 EVIDENTLY, THE DIRECTOR WAS OUT OF TOWN AND

1 AUTHORIZED HIM TO SIGN THE CONTRACT.

2 Q. DO YOU KNOW WHY THE TERM "EMPLOYEES" WAS CHANGED TO
3 "EMPLOYEES AND/OR AGENTS"?

4 A. NO. I MEAN, I CAN -- I CAN MAKE AN ASSUMPTION.

5 Q. YOU AND TOM SEARS DIDN'T HAVE A CONVERSATION ABOUT
6 THAT?

7 A. NO.

8 Q. HE JUST SENT YOU A PROPOSED AGREEMENT, AND YOU JUST
9 ---

10 A. WE HAD -- WE HAD THIS AGREEMENT. HE SENT IT BACK.
11 HE SAID HE WANTED TO MAKE THIS CHANGE HERE. WE DID
12 NOT TALK ABOUT WHETHER THEY WERE INDEPENDENT
13 CONTRACTORS OR ANYTHING. HE SAID HE WANTED TO MAKE
14 THIS CHANGE, AND I SENT IT TO OUR ATTORNEYS SAYING
15 "THESE ARE THE CHANGES THEY WANT TO BE MADE."

16 Q. OKAY.

17 BY MR. GOODWYN:

18 THAT'S ALL I HAVE, YOUR HONOR.

19 BY COMMISSIONER JAMES:

20 COUNTRYWIDE.

21 RE CROSS EXAMINATION BY MR. ALFORD:

22 Q. GOOD AFTERNOON, SIR. MY NAME IS GREGG ALFORD. HOW
23 ARE YOU?

24 A. FINE, HOW ARE YOU?

25 Q. SIR, IF I MAY, I WOULD LIKE TO TALK TO YOU ABOUT

1 THESE CERTIFICATES OF INSURANCE THAT YOU HAVE, AND
2 FOR EVERYBODY ELSE'S REFERENCE IN G.I.C.'S FILING,
3 IT WAS DOCUMENTS 949, 951, 954, 955, AND 953. I
4 JUST NEED TO UNDERSTAND -- SIR, DO YOU HAVE THOSE UP
5 THERE WITH YOU?

6 A. NO, I HAVE ONE.

7 Q. ALL RIGHT.

8 A. I ASSUME THAT THIS IS ONE.

9 BY COMMISSIONER JAMES:

10 OKAY. BEFORE WE USE THOSE NUMBERS, ARE THOSE
11 DOCUMENTS ---

12 BY MR. ALFORD:

13 I KNOW THEY WERE EXHIBITS TO HIS DEPOSITION.

14 BY MR. BEARD:

15 THEY ARE EXHIBITS TO DEPOSITIONS THAT ARE IN.

16 BY MR. ALFORD:

17 THAT ARE IN THE RECORD, YES, MA'AM.

18 BY MR. BEARD:

19 WE BELIEVE.

20 BY COMMISSIONER JAMES:

21 THE DEPOSITIONS THAT ARE IN RECORD JUST SO
22 EVERYBODY IS AWARE ARE GEORGE KASPARS, ZACH COLLIER,
23 TWO. THOSE ARE THE ONLY THREE AT THIS TIME THAT ARE
24 OF RECORD.

25 BY MR. ALFORD:

1 OKAY. IF ONE OF THESE ---

2 BY COMMISSIONER JAMES:

3 SO, IF THAT PARTICULAR NUMBER ---

4 BY MR. ALFORD:

5 THIS IS ACTUALLY OFF OF G.I.C.'S FILING,
6 HEARING BRIEF.

7 BY COMMISSIONER JAMES:

8 AND THOSE HAVE NOT BEEN ENTERED YET.

9 BY MR. ALFORD:

10 OKAY.

11 BY COMMISSIONER JAMES:

12 WE ARE ONLY UP TO -- AND I KNOW THERE'S A
13 CROSSOVER WITH THE NUMBERS, BUT IN GENERAL, WE ARE
14 ONLY UP TO PAGE, WELL IT WAS 737, BUT TWO PAGES OF
15 THAT WERE TAKEN OUT FOR POSSIBLE SUBSEQUENT
16 SUBMISSIONS INTO EVIDENCE, IT'S 735 TO 737. I AM
17 GLAD TO GO OVER THE NUMBERS, OR IF Y'ALL NEED TO PUT
18 SOMETHING ADDITIONAL IN OR MARK THOSE PARTICULAR
19 ONES, WE CAN DO THAT.

20 BY MR. GOODWYN:

21 CAN YOU DO ME A FAVOR? I DON'T KNOW IF I
22 PASSED UP MY APAs AT THE FIRST HEARING.

23 BY MR. ALFORD:

24 YOUR HONOR, THESE WERE EXHIBITS FROM HIS FILE,
25 AND SO I'LL GO THROUGH IT WITH HIM.

1 BY COMMISSIONER JAMES:

2 CERTAINLY YOU CAN. I JUST WANT TO MAKE
3 EVERYBODY AWARE BECAUSE OF THE FACT THAT WE HAVE A
4 NUMBER OF DOCUMENTS, AND THAT NUMBER DID NOT
5 REGISTER WITH ME AS ONE THAT HAS ALREADY BEEN
6 SUBMITTED. SO, I DID NOT WANT Y'ALL TO BE REFERRING
7 TO SOMETHING THAT WAS NOT IN THE RECORD YET.

8 BY MR. ALFORD:

9 JUST A MOMENT. YOUR HONOR, THREE OF THEM ARE
10 IN, AND I'M GOING TO RENUMBER THEM SO THAT THEY
11 MATCH UP WITH WHAT YOU HAVE ON THE OTHER TWO, AND
12 I'LL WORK MY WAY THROUGH.

13 BY COMMISSIONER JAMES:

14 MR. ALFORD, YOU'RE CERTAINLY WELCOME TO HAVE
15 THEM MARKED INDEPENDENTLY ---

16 BY MR. ALFORD:

17 I DON'T WANT TO -

18 BY COMMISSIONER JAMES:

19 --- TO KEEP A CLEAN RECORD.

20 BY MS. RICHARDSON:

21 I THINK IT WOULD KEEP A CLEARER RECORD ---

22 BY MR. ALFORD:

23 I DON'T WANT TO HAVE DUPLICATION.

24 BY MS. RICHARDSON:

25 --- TO USE ONLY ONE SET OF DOCUMENTS.

1 BY COMMISSIONER JAMES:

2 OKAY.

3 BY MR. ALFORD:

4 DO YOU HAVE ANY OBJECTION?

5 BY MR. GOODWYN:

6 I DON'T.

7 BY MR. ALFORD:

8 THOSE ARE ALREADY IN.

9 BY MS. RICHARDSON:

10 AS THE 167 AND 169.

11 CROSS EXAMINATION RESUMED BY MR. ALFORD:

12 Q. OKAY. SO, SORRY FOR THE CONFUSION, SIR. I'M A
13 LITTLE SLOW. THESE DOCUMENTS THAT ARE NOW IN THE
14 RECORD. THIS IS 165. THIS IS 168 -- I'M SORRY,
15 167, 168 AND 169.

16 A. OKAY.

17 Q. WOULD YOU LOOK AT THOSE, SIR, AND I'M GOING TO HAVE
18 TO LOOK WITH YOU AND TELL ME IF YOU RECOGNIZE THEM.

19 A. YES.

20 Q. ALL RIGHT, SIR. COULD WE START WITH THE ONE THAT --
21 I'M SORRY, LET ME TAKE THEM BACK FOR JUST A SECOND.
22 CAN WE START WITH -- LET ME START WITH A MORE
23 GENERAL QUESTION. HOW DID THESE CERTIFICATES
24 GENERALLY COME TO YOU? DID YOU CALL AND ASK FOR
25 THEM OR SOMEONE THAT WORKS WITH YOU CALL AND ASK MR.

1 SEARS OR SOMEONE FROM HIS COMPANY "HEY, I NEED A
2 CERTIFICATE"?

3 A. WELL, WHEN I CAME INTO THIS ONE, I SENT AN EMAIL AND
4 ASKED FOR THE CERTIFICATES.

5 Q. ALL RIGHT, SIR.

6 A. THE CERTIFICATES SHOULD BE SENT TO US AND GO IN THE
7 FILE. SOMETIMES WHEN A CERTIFICATE COMES, IT'S GOT
8 A NAME ON IT THAT DOESN'T TIE BACK TO ONE OF OUR
9 CONTRACTORS, AND THEN IT'S A ---

10 Q. ALL RIGHT, SIR.

11 A. --- MATTER OF WHERE IS IT SUPPOSED TO BE? WHO IS
12 THIS?

13 Q. GOTCHA, OKAY. AND, SO, WHEN YOU SAY "WHEN I CAME
14 INTO THIS," BY "THIS," YOU ARE REFERRING TO THE
15 UNFORTUNATE INCIDENT WITH MS. TURNER?

16 A. YES, WHEN I REQUESTED THE DOCUMENTS, THE
17 INFORMATION.

18 Q. SO, MS. TURNER -- THIS INCIDENT TAKES PLACE. YOU'RE
19 OBVIOUSLY TRYING TO FIGURE OUT WHAT'S GOING ON, AND
20 YOU CONTACT -- HOW DID YOU ---

21 A. NO, NO.

22 Q. TELL ME WHAT HAPPENED.

23 A. THE WAY THIS CAME ABOUT WAS WHEN WE WERE COMING UP
24 WITH THE DEPOSITION, WE WERE ASKED FOR CERTIFICATES
25 OF INSURANCE. I DIDN'T HAVE THEM. I SENT AN EMAIL

1 ASKING HOLLY, I SAID "I DON'T HAVE THE COPIES OF
2 CERTIFICATES OF INSURANCE. COULD YOU PLEASE PROVIDE
3 ME WITH THE COPIES OF THE INSURANCE?"

4 Q. OKAY, ALL RIGHT. AND COULD YOU TELL ME, SIR, WHO IS
5 HOLLY?

6 A. SHE WORKS FOR MEDUSTRIAL.

7 Q. OKAY. SO, YOU ARE NOW GETTING YOUR -- YOU'RE TRYING
8 TO GET READY TO GO DO A DEPOSITION?

9 A. RIGHT.

10 Q. AND YOU WANT TO MAKE SURE YOUR FILE IS IN ORDER, AND
11 YOU ASKED THEM FOR A CERTIFICATE OF INSURANCE?

12 A. RIGHT.

13 Q. OKAY. AND THAT WHAT YOU GOT FROM THEM WAS NUMBER
14 167 WITH THE PEN THERE?

15 A. NOW, I DON'T KNOW WHO NUMBERED THAT.

16 Q. WE DID. WE DID THAT.

17 A. OH, OKAY.

18 Q. BUT IT WAS THIS DOCUMENT?

19 A. WELL, I ---

20 Q. DO YOU WANT TO LOOK AT IT?

21 A. (REVIEWS DOCUMENT) YOU KNOW, TO SAY WHO I GOT --
22 AGAIN, THERE ARE SO MANY DOCUMENTS THAT HAVE COME
23 IN, BUT I WOULD ASSUME THIS WOULD HAVE COME FROM
24 MEDUSTRIAL TO ME.

25 Q. OKAY. AND IN THE BOTTOM LEFT CORNER, IT SAYS

1 "CERTIFICATE HOLDER."

2 A. RIGHT.

3 Q. AND WHO IS THAT?

4 A. "CONDUSTRIAL PROFESSIONALS, INCORPORATED."

5 Q. OKAY. AND IN RETROSPECT, YOU WOULD HAVE PREFERRED
6 THAT IT SAID SOUTH ---

7 A. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.

8 Q. RIGHT. OKAY. AND I GUESS, THE QUESTION I HAVE FOR
9 YOU IS HAS MEDUSTRIAL/CONDUSTRIAL EVER SENT YOU A
10 CERTIFICATE OF INSURANCE PRIOR TO THIS INCIDENT
11 TAKING PLACE WITH MS. TURNER; HAD THEY EVER SENT YOU
12 A CERTIFICATE OF INSURANCE THAT HAS THE SOUTH
13 CAROLINA DEPARTMENT OF CORRECTIONS ON IT? I'M
14 TALKING ABOUT PRIOR. I'M NOT TALKING ABOUT AFTER.
15 I KNOW I'VE GOT ONE IN THERE AFTER.

16 A. RIGHT. AND I WOULD HAVE TO GO BACK IN THE FILES AND
17 LOOK TO SEE IF THERE WAS ANYTHING FROM A PRIOR TIME.

18 Q. BUT ---

19 A. BUT I'M ASSUMING THAT SINCE I DIDN'T PRODUCE IT, IT
20 WASN'T IN THE FILE.

21 Q. OKAY. AND I GUESS THAT'S WHERE I WAS GOING NEXT IS
22 YOUR FILE GOT SUBPOENAED. LIKE EVERYBODY, ---

23 A. RIGHT.

24 Q. --- YOU DID YOUR BEST, TURNED OVER YOUR FILE AND GOT
25 COPIES ---

1 A. EXACTLY.

2 Q. --- AND HERE WE ARE. OKAY. SO, AS FAR AS THE
3 RECORDS OF THE DEPARTMENT OF CORRECTIONS ARE
4 CONCERNED, YOUR VENDOR, CONDUSTRIAL/MEDUSTRIAL NEVER
5 HAS SENT YOU A CERTIFICATE OF INSURANCE FOR THESE
6 NURSES, AND, I MEAN, PRIOR TO THE INCIDENT?

7 A. WELL, I THINK WE HAD ONE, AND IT WAS DATED PRIOR TO
8 THE INCIDENT, AND THAT WOULDN'T HAVE BEEN ONE THAT
9 WAS REQUESTED. IT'S NOT IN ONE OF THESE. IT WAS
10 ONE THAT HE SHOWED ME EARLIER.

11 Q. OKAY.

12 A. LET'S SEE. IT WAS THE ONE WE TALKED ABOUT THAT WAS
13 DATED 4/1.

14 Q. THAT'S 1/4 OF '17.

15 A. NO, NO.

16 Q. OKAY.

17 A. NO, THERE WAS ONE THAT WAS DATED 4/1/2010, I
18 BELIEVE, THROUGH 4/1/2011.

19 BY MS. FARTHING:

20 STEPHEN ALSO REFERENCED IT.

21 BY MR. ALFORD:

22 DO Y'ALL KNOW WHAT NUMBER THIS WAS?

23 BY MS. RICHARDSON:

24 YOU REFERRED TO IT AS -

25 BY MS. FARTHING:

1 YEAH, IT WAS THE FIRST PAGE OF OUR EXHIBIT "D"
2 OF OUR APA SUBMISSIONS.

3 CROSS EXAMINATION RESUMED BY MR. ALFORD:

4 Q. ALL RIGHT, SIR. SO, THEY DID GIVE YOU ONE. THIS IS
5 THE ONE YOU'RE TALKING ABOUT (INDICATES); IS THAT
6 IT?

7 A. YES.

8 Q. ALL RIGHT, SIR. NOW, IF YOU WOULD BE KIND ENOUGH,
9 WOULD YOU READ -- AND IT'S HARD, I NEED BIGGER
10 GLASSES.

11 A. YEAH, I NEED SOME, TOO.

12 Q. YES, SIR. CAN YOU READ THAT?

13 A. "THIS CERTIFICATE REMAINS IN EFFECT PROVIDED THE
14 CLIENT'S ACCOUNT IS IN GOOD STANDING WITH A.M.S.
15 STAFF LEASING. COVERAGE IS NOT PROVIDED FOR ANY
16 EMPLOYEE FOR WHICH THE CLIENT IS NOT REPORTING WAGES
17 TO A.M.S. STAFF LEASING. APPLIES TO 100 PERCENT OF
18 THE EMPLOYEES OF A.M.S. STAFF LEASING LEASED TO
19 CONDUSTRIAL, INCORPORATED, EFFECTIVE 4/1/2010.
20 INSURED IS AFFORDED WORKERS' COMPENSATION" -- MAN --
21 -

22 Q. SORRY.

23 A. "COMPENSATION AND EMPLOYERS LIABILITY AS A CO-
24 EMPLOYER UNDER THE POLICY FOR EMPLOYEES LEASED FROM
25 A.M.S. STAFF LEASING."

1 Q. OKAY. WHAT DOES THAT MEAN TO YOU? IT'S A
2 QUALIFIER, RIGHT?

3 A. WELL, IT'S SAYING THAT THEY ARE PROVIDING -- LET'S
4 SEE. AS LONG AS HE'S IN GOOD STANDING WITH A.M.S.
5 STAFF LEASING.

6 Q. OKAY. DO YOU KNOW WHO A.M.S. STAFF LEASING IS?

7 A. NO.

8 Q. OKAY. DO YOU KNOW IF THEY WERE IN GOOD STANDING?

9 A. NO.

10 Q. DO YOU KNOW WHETHER THE PEOPLE THAT WERE BEING SENT
11 TO WORK IN YOUR FACILITY AS NURSES WERE ON THE
12 PAYROLL OF A.M.S. STAFFING?

13 A. NO.

14 Q. OKAY. SO, WE HAVE THIS CERTIFICATE. IT DOESN'T
15 MENTION G.I.C., COUNTRYWIDE OR ANYBODY LIKE THAT,
16 RIGHT?

17 A. THIS SAYS "COMPANION PROPERTY, A.M.S. STAFF LEASING,
18 CONDUSTRIAL, INCORPORATED." IT'S BY HIGH POINT RISK
19 INSURERS. NO.

20 Q. AND SO, I GUESS, SIR, BACK KIND OF TO MY ORIGINAL --
21 I GUESS WHAT I'M REALLY TRYING TO UNDERSTAND IS HAS
22 CONDUSTRIAL/MEDUSTRIAL EVER SENT YOU A WORKERS'
23 COMPENSATION -- A CERTIFICATE OF INSURANCE PRIOR TO
24 THE INCIDENT WITH MS. TURNER THAT WOULD HAVE COVERED
25 -- HAVE THEY EVER SENT YOU A CERTIFICATE OF

1 INSURANCE THAT IN LOOKING BACK AND HAVING A CHANCE
2 TO STUDY IT A LITTLE MORE, WAS PROVIDING YOU
3 COVERAGE OR YOU FELT LIKE PROVIDED THE COVERAGE TO
4 THE PEOPLE THAT WERE THERE WORKING IN YOUR FACILITY?

5 A. DID THEY SEND ME A DOCUMENT?

6 Q. YES, SIR.

7 A. NO.

8 Q. OKAY.

9 A. BUT IN TERMS OF THE CONTRACT, BASED ON WHAT WE WERE
10 ASKING, I ASSUMED -- I SHOULDN'T DO THAT, BUT I DID,
11 THAT THEY WERE COVERING THEM WITH WHAT WAS IN THE
12 CONTRACT.

13 Q. YOU ASSUMED THEY WERE TELLING YOU THE TRUTH? YOU
14 WOULD ASSUME THEY WOULD HONOR THEIR OBLIGATIONS IN
15 THAT AGREEMENT?

16 A. YEAH, I'M NOT -- I DON'T WANT TO USE THE WORD TRUTH.
17 I ASSUMED THEY WERE HONORING THE CONTRACT.

18 Q. OKAY. AND WHATEVER THEY WERE SENDING YOU, BECAUSE -

19 --

20 A. ARE YOU TALKING ABOUT EMPLOYEES?

21 Q. NO, SIR, I'M TALKING ABOUT THE DOCUMENTS ---

22 A. THE DOCUMENTS, OKAY.

23 Q. --- THEY WERE SENDING YOU. YOU'RE PROBABLY LIKE A
24 LOT OF PEOPLE, "OKAY, I GOT IT. IT'S A CERTIFICATE
25 OF INSURANCE. LET'S PUT IT IN THE FILE," RIGHT?

1 A. RIGHT.

2 Q. OKAY. 'CAUSE YOU BELIEVE THAT THEY WOULD HONOR
3 THEIR OBLIGATIONS TO PROVIDE THAT COVERAGE?

4 A. (NODS HEAD UP AND DOWN)

5 Q. SO, LOOKING THROUGH THESE DOCUMENTS THAT CAME OUT OF
6 YOUR FILE, OTHER THAN THIS A.M.S. STAFFING, WHICH WE
7 ALL AGREE THIS POLICY WOULDN'T BE APPLICABLE TO THE
8 TIME FRAME THAT MS. TURNER WAS INJURED IN; IS THAT
9 RIGHT?

10 A. YOU NEED A BIGGER -- THAT'S 2010 THROUGH 2011.

11 Q. OKAY. SO ---

12 A. THAT'S THIS ONE.

13 Q. THAT'S A LITTLE BIT BETTER, EASIER TO READ, YES,
14 SIR. SO, LOOKING THROUGH THOSE IN THAT STACK THERE,
15 WHICH IS YOUR FILE, ---

16 A. RIGHT.

17 Q. --- THERE IS NOT ONE IN IT -- AND WHEN I SAY THERE'S
18 NOT A CERTIFICATE OF INSURANCE THERE, THAT PROVIDES
19 COVERAGE TO THE EMPLOYEES OF CONDUSTRIAL OR THEIR
20 SUBCONTRACTORS FOR WORK THAT THEY WOULD PERFORM AT
21 OUR FACILITY?

22 A. WELL, I MEAN, THE -- I THOUGHT THERE WAS A THING
23 DOWN HERE, SAID ONE OF THEM SAID CONDUSTRIAL, BUT...

24 Q. AND IT DID. LET'S TALK ABOUT THAT FOR A MINUTE.

25 A. OKAY.

1 Q. 'CAUSE WHEN YOU WERE GETTING READY TO GO TO YOUR
2 DEPOSITION -- SO, LET'S GO THROUGH THE INSURED'S
3 NAMES ON THESE, JUST SO WE CAN KIND OF UNDERSTAND.

4 A. OKAY.

5 Q. WE'VE GOT THIS ONE, SOUTH CAROLINA DEPARTMENT OF
6 CORRECTIONS 9/31/16 ---

7 A. YES, SIR.

8 Q. --- WORKERS' COMP. SO, THAT ONE YOU THINK IS STILL
9 AROUND?

10 A. YES, SIR.

11 Q. ALL RIGHT. AND THEN WE HAVE THIS ONE, SOUTH
12 CAROLINA DEPARTMENT OF CORRECTIONS; THIS IS
13 EVERYTHING BUT WORKERS' COMP; SO THAT IS A NEW
14 POLICY AS WELL, 1/4/17.

15 A. RIGHT.

16 Q. BUT ALL OF THE PAST ONES, WHO IS THE CERTIFICATE
17 HOLDER ON THAT ONE?

18 A. THAT SAYS "CONSOL ENERGY."

19 Q. OKAY. YOU GUYS AREN'T CONSOL ENERGY, ARE YOU?

20 A. NO.

21 Q. I MEAN, THERE'S NO SUBSIDIARY OF THE DEPARTMENT OF
22 CORRECTIONS ---

23 A. NO.

24 Q. --- KNOWN AS CONSOL, OKAY. SO, SOMEBODY SENT YOU
25 THAT?

1 A. YES.

2 Q. YOU DIDN'T JUST -- OKAY. IT WAS IN YOUR FILE ---

3 A. IT WAS IN ---

4 Q. --- RELATED TO CONDUSTRIAL OR MEDUSTRIAL?

5 A. YEAH, AND I DON'T KNOW HOW IT WOULD HAVE GOTTEN IN
6 THE FILE, BUT THAT'S WHAT IT IS.

7 Q. ALL RIGHT, SIR. AND WHAT ABOUT THIS ONE?

8 A. THIS IS ASSOCIATED SCAFFOLDING ---

9 Q. OKAY. Y'ALL ---

10 A. --- IN NORTH CAROLINA, RELIANT INSURANCE COMPANY,
11 COUNTRYWIDE PAYROLL.

12 Q. OKAY. BUT Y'ALL ---

13 A. THAT ISN'T -- AND IT TALKS ABOUT WORKERS' COMP FOR
14 THAT GROUP.

15 Q. OKAY.

16 A. AND THEN COUNTRYWIDE STAFFING.

17 Q. OKAY. WHO IS THE CERTIFICATE HOLDER ON THAT ONE?

18 A. IT SAYS "CONDUSTRIAL PROFESSIONALS, INCORPORATED."

19 Q. OKAY. AND WHAT IS THE QUALIFIER IN THE -- AND I'M
20 LOOKING AT 167.

21 A. "COVERAGE IS PROVIDED FOR LEASED EMPLOYEES BUT NOT
22 SUBCONTRACTORS OR NON-LEASED EMPLOYEES OF
23 CONDUSTRIAL, INCORPORATED. LOCATION COVERAGE
24 EFFECTIVE 6/30/2015."

25 Q. AND I'M PROBABLY BEATING THE HORSE TO HARD, BUT

1 NOWHERE IS COVERAGE FOR THE DEPARTMENT OF
2 CORRECTIONS, IS IT?

3 A. NO, IT DOESN'T SAY THAT.

4 Q. SITTING HERE TODAY, SIR, DO YOU FEEL AT ALL LIKE THE
5 OBLIGATIONS THAT CONDUSTRIAL AND/OR MEDUSTRIAL SLASH
6 CONDUSTRIAL UNDERTOOK IN THAT CONTRACT WITH YOU
7 REGARDING WORKERS' COMPENSATION COVERAGE, DO YOU
8 FEEL LIKE THEY'VE BEEN HONORED?

9 A. NO.

10 Q. SIR, REGARDING THE AMENDMENT TO THE NEW CONTRACT
11 THAT WE JUST RIGAMAROLED ABOUT PUTTING IN, WHO ASKED
12 FOR THE CHANGE "AND AGENTS"?

13 A. MR. SEARS.

14 Q. WAS MR. SEARS THE PERSON THAT YOU PRIMARILY DEALT
15 WITH AT ---

16 A. WELL, I MEAN, THIS IS THE FIRST TIME WE HAD DONE THE
17 CONTRACT -- I HAD DONE THE CONTRACT WITH HIM, SO.

18 Q. OKAY.

19 A. AND SO, WE WENT THROUGH HIS OFFICE. HE SENT IT, I
20 TOOK IT TO OUR ATTORNEYS ---

21 Q. YES, SIR.

22 A. --- FOR THE APPROVAL, AND THEY READ THROUGH,
23 APPROVED IT, AND THEN WE STARTED THE CONTRACT
24 THROUGH THE SYSTEM.

25 Q. AT THAT POINT IN TIME, WERE YOU AWARE OF THIS

1 INDEPENDENT CONTRACTOR VERSUS EMPLOYEE ISSUE WITH
2 RESPECT TO THE NURSES THAT WERE BEING SENT TO YOUR
3 FACILITY?

4 A. NO, I DON'T -- AT THAT TIME, I -- I BECAME AWARE OF
5 IT WHEN WE WENT TO THE DEPOSITION.

6 Q. WHICH WAS AFTER THE CHANGE IN THE CONTRACT?

7 A. NO. WELL, YES, IT WAS AFTER.

8 Q. OKAY.

9 A. YES.

10 Q. SO, THEY ADD -- SO, NUMBER ONE, YOU'VE GOT NO
11 CERTIFICATES OF INSURANCE, AND I'M NOT PICKING ON
12 YOU.

13 A. NO, I UNDERSTAND. RIGHT.

14 Q. YOU'VE GOT NO CERTIFICATES OF INSURANCE THAT
15 ACTUALLY COVER YOU. THERE'S A CHANGE MADE TO THE
16 AGREEMENT AFTER THIS INCIDENT HAS OCCURRED BUT PRIOR
17 TO YOUR DEPOSITION ---

18 A. RIGHT.

19 Q. --- WHERE THE TERMS "SLASH AND AGENTS" IS ADDED,
20 RIGHT?

21 A. RIGHT.

22 Q. IS THAT THE ONLY CHANGE OTHER THAN DATES?

23 A. I WOULD HAVE TO GO THROUGH -- I'D HAVE TO COMPARE IT
24 BACK TO MY OTHER CONTRACT, LINE BY LINE, BUT I DON'T
25 REMEMBER. THAT MAY BE THE ONLY ONE THAT WAS MADE; I

1 DON'T KNOW.

2 Q. OKAY. AT THAT POINT IN TIME, WAS IT DISCLOSED TO
3 YOU BY MEDUSTRIAL/CONDUSTRIAL, "HEY, WE'RE MAKING
4 THIS CHANGE BECAUSE, YOU KNOW, WE'VE BEEN SENDING
5 YOU INDEPENDENT CONTRACTORS AND NOT EMPLOYEES,
6 AND..."

7 A. NO.

8 Q. OKAY. AS YOU SIT HERE TODAY, HOW DO YOU FEEL ABOUT
9 THAT CHANGE AND WHAT ITS INTENTION MIGHT HAVE BEEN?

10 A. IN TERMS OF THE CHANGE ---

11 Q. IN THAT AGREEMENT.

12 A. --- IN THAT AGREEMENT?

13 Q. YES, SIR.

14 A. I TOOK THAT AGREEMENT TO OUR ATTORNEYS, AND THEY
15 REVIEWED IT.

16 Q. OKAY.

17 A. AND IF THEY SAID IT WAS OKAY, THEN IT WAS OKAY.

18 Q. OKAY.

19 A. IF THEY SAID "NO," WE WOULDN'T HAVE MADE THE CHANGE,
20 BECAUSE I DO NOT HAVE THE AUTHORITY TO MAKE THAT
21 CHANGE.

22 BY MR. ALFORD:

23 MADAM COMMISSIONER, FOR THE RECORD, I DON'T
24 KNOW IF ALL OF THESE ARE IN. I DON'T THINK WE'VE
25 GOTTEN TO THEM ALL YET, BUT I WOULD CERTAINLY LIKE

1 TO -- I WANT TO DO IT WITHOUT MESSING UP YOUR
2 RECORD, TO PUT ALL OF THESE IN.

3 BY MS. RICHARDSON:

4 THE THREE THAT ARE MARKED 167 THROUGH 168 ARE
5 IN. THE OTHER TWO ARE NOT IN.

6 BY COMMISSIONER JAMES:

7 EXHIBIT "D" IS IN.

8 BY MS. RICHARDSON:

9 AND EXHIBIT "D."

10 BY MR. ALFORD:

11 OKAY. WELL, SO, WE'RE GETTING THERE THEN.

12 BY COMMISSIONER JAMES:

13 AND JUST FOR THE RECORD, JUST TO KEEP THE
14 RECORD STRAIGHT, TOO, ANYTHING Y'ALL CALL EXHIBITS
15 OUT OF YOUR APAs, BECAUSE I KNOW SOME PEOPLE CALL
16 THEM EXHIBITS, AND I KNOW THAT THE STATE ACCIDENT
17 FUND'S ARE CALLED EXHIBITS, AND WE WILL REFER TO
18 THEM AS EXHIBITS. OTHERWISE, I WILL CALL THEM TRIAL
19 EXHIBITS. SO, THE ONLY THING THAT'S BEEN MARKED AS
20 A TRIAL EXHIBIT SO FAR IS THE TRIAL EXHIBIT OF
21 CONDUSTRIAL NUMBER ONE. OTHERWISE, IT'S WHOEVER IS
22 NUMBERING, WHATEVER TYPE OF SYSTEM THAT THEY USE.

23 BY MS. RICHARDSON:

24 SO, THIS WOULD BE TRIAL EXHIBIT?

25 BY MR. ALFORD:

1 TWO AND THREE.

2 BY MS. RICHARDSON:

3 CORRECT.

4 BY MR. BEARD:

5 NO, PROBABLY ONE AND TWO OF YOURS.

6 BY COMMISSIONER JAMES:

7 ON BEHALF OF COUNTRYWIDE?

8 BY MR. ALFORD:

9 YES, MA'AM. AND I JUST -- DO YOU WANT ME TO
10 MARK THEM? I MEAN...

11 BY COMMISSIONER JAMES:

12 WELL ---

13 BY MS. RICHARDSON:

14 THAT WOULD BE ONE AND TWO OF C.S.S.G., RIGHT?

15 BY COMMISSIONER JAMES:

16 YES.

17 BY MR. ALFORD:

18 YEAH, ONE AND TWO OF C.S.S.G.

19 (COURT REPORTER MARKS DOCUMENTS C.S.S.G. EXHIBIT 1 AND
20 C.S.S.G. EXHIBIT 2, RETAINED IN THE COMMISSION FILE)

21 BY COMMISSIONER JAMES:

22 ALL RIGHT.

23 BY MR. BEARD:

24 GREGG, YOU'VE GOT TO GIVE US BACK OUR "D."
25 THAT'S THE ONLY "D" WE HAVE.

1 BY MR. ALFORD:

2 IT'S GOT BAD PRINT, TOO.

3 BY MR. BEARD:

4 WE KNOW.

5 BY MR. ALFORD:

6 THANK YOU. SIR, THANK YOU.

7 MADAM COMMISSIONER, ONE MOMENT, AND I'LL SEE IF
8 I HAVE ANYTHING ELSE.

9 SIR, THANK YOU VERY MUCH.

10 BY COMMISSIONER JAMES:

11 GUARANTEE?

12 BY MS. RICHARDSON:

13 YES.

14 RECROSS EXAMINATION BY MS. RICHARDSON:

15 Q. HELLO, MR. BURGESS.

16 A. HELLO.

17 Q. I'M BETH RICHARDSON, AND I REPRESENT GUARANTEE ON
18 THE COVERAGE ASPECT OF THIS MATTER.

19 A. OKAY.

20 Q. AND I JUST HAVE A FEW QUESTIONS.

21 BY MR. GOODWYN:

22 YOUR HONOR, I'M GOING TO OBJECT. I THOUGHT WE
23 WEREN'T ASKING COVERAGE QUESTIONS.

24 BY MS. RICHARDSON:

25 IS THIS WHERE -- I THOUGHT WE WERE DRAWING A

1 LINE IN THE SAND, AND SO NOW, WE ARE MOVING INTO
2 COVERAGE. IS THAT NOT RIGHT? OR WE ARE JUST DOING
3 COMPENSATION, AND WE'RE GOING TO RESERVE COVERAGE
4 FOR LATER? BECAUSE I WOULD HAVE TO CALL HIM -- IT'S
5 FINE. I MEAN...

6 BY COMMISSIONER JAMES:

7 AND I THOUGHT THAT WAS WHAT AT LEAST THREE OF
8 YOU WANTED TO ATTEMPT TO DO.

9 BY MS. RICHARDSON:

10 IS DRAW THE LINE IN THE SAND ON THE QUESTIONING
11 OF THE WITNESSES, RIGHT?

12 BY COMMISSIONER JAMES:

13 YES, AND I UNDERSTAND THAT SOME OF IT IS GOING
14 TO ACTUALLY BLEED OVER. SO, I DON'T KNOW WHAT YOU
15 ARE ABOUT TO ASK IN RECROSS. SO, I LEAVE THAT UP TO
16 YOU AS TO WHETHER YOU'RE GOING TO ASK -- WHETHER
17 YOU'RE GOING TO ASK IT OR NOT, OR IF IT SPECIFICALLY
18 JUST APPLIES TO THE COVERAGE ISSUE.

19 BY MS. RICHARDSON:

20 WELL, IT'S BASICALLY JUST UNDERSTANDING THE
21 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS' VIEW POINT
22 AS TO THESE CERTIFICATES OF INSURANCE.

23 BY COMMISSIONER JAMES:

24 AND THERE IS AN ISSUE WITH REGARDS TO
25 CERTIFICATES OF INSURANCE THAT WOULD APPLY IN THE

1 COVERAGE INSTANCE WITH THE -- SHOULD THERE BE A
2 STATUTORY EMPLOYEE ISSUE, AND SO WITH -- AND SO,
3 AGAIN, IT WOULD APPLY TO THE COMP ARENA AND NOT
4 REALLY A BREACH OF CONTRACT. SO, I'M GOING TO HAVE
5 TO ALLOW IT.

6 BY MR. GOODWYN:

7 I MEAN, ALL RIGHT, AND JUST -- AND I KNOW THIS
8 IS HARD, BECAUSE THEY HAVE -- BOTH HAVE ATTORNEYS,
9 SOME FOR COVERAGE, SOME FOR MERITS, BUT GENERALLY
10 ONE PARTY DOESN'T GET TWO CRACKS AT A WITNESS WITH
11 TWO DIFFERENT ATTORNEYS.

12 BY COMMISSIONER JAMES:

13 NO, AND THAT IS -- I'M NOT GOING TO TELL THE
14 ATTORNEYS HOW THEY NEED TO PROCEED. I MEAN, IF IT'S
15 WITHIN THE SCOPE OF RECROSS, I MEAN, WE'LL DO IT. I
16 UNDERSTAND THAT THIS IS NOW INTO THE SECOND PART OF
17 THIS, SO -- BUT THERE WERE QUITE A FEW THINGS THAT
18 WERE GONE OVER. SO, I'M GOING TO ALLOW IT AS LONG
19 AS IT IS WITHIN -- AGAIN, AS I SAID, I'M NOT GOING
20 TO TRY THE BREACH OF CONTRACT ---

21 BY MS. RICHARDSON:

22 YES.

23 BY COMMISSIONER JAMES:

24 WE WILL GET INTO DELINEATING THAT LATER, BUT
25 THAT IS WITHIN THE SCOPE OF THE ACTUAL COMP CASE.

1 SO, I'M GOING TO ALLOW THE QUESTIONS. IF YOU HAVE
2 AN OBJECTION ABOUT A SPECIFIC QUESTION, WE WILL GO
3 INTO THOSE.

4 BY MR. GOODWYN:

5 OKAY.

6 BY COMMISSIONER JAMES:

7 OKAY.

8 RECROSS EXAMINATION RESUMED BY MS. RICHARDSON:

9 Q. MR. BURGESS, AS TO THESE CERTIFICATES OF LIABILITY
10 INSURANCE, YOU RECEIVED THEM FROM SOME OTHER PARTY;
11 IS THAT CORRECT?

12 A. RIGHT.

13 Q. AND YOU HAD NOTHING TO DO WITH MANUFACTURING THIS
14 DOCUMENT, DID YOU? YOU DON'T KNOW NECESSARILY OTHER
15 THAN MAYBE BY READING COMPREHENSION WHO MIGHT HAVE
16 PRODUCED THIS DOCUMENT, RIGHT?

17 A. RIGHT.

18 Q. I MEAN, IT DOES PROVIDE THAT THERE'S A PRODUCER OF
19 THE DOCUMENT, SO ASSUMINGLY THAT IS THE PERSON
20 THAT'S GENERATED IT, BUT BESIDES THAT, YOU DON'T
21 EVEN KNOW WHO THAT PARTY IS?

22 A. RIGHT.

23 Q. AND YOU DON'T KNOW WHAT INFORMATION THEY LOOKED AT
24 TO GENERATE THE CONTENTS OF THIS DOCUMENT?

25 A. NO.

1 Q. OKAY. AND FOR THE PURPOSE ---

2 A. AND YOU'RE TALKING ABOUT THE CERTIFICATE OF
3 LIABILITY?

4 Q. YES, ANY OF THE CERTIFICATES OF LIABILITY.

5 A. RIGHT.

6 Q. AS TO ALL OF THE CERTIFICATES OF LIABILITY, ---

7 A. RIGHT.

8 Q. --- YOU HAVE NO IDEA WHO THE PARTY WAS WHO GENERATED
9 IT OR ---

10 A. RIGHT.

11 Q. --- WHAT DOCUMENTATION THEY RELIED ON TO TYPE IN THE
12 INFORMATION ON THE CERTIFICATES?

13 A. THAT'S CORRECT.

14 Q. AND SO AS FAR AS THE SOUTH CAROLINA DEPARTMENT OF
15 CORRECTIONS IS CONCERNED, THEY HAVE NO POSITION AS
16 TO WHETHER OR NOT THERE IS ANY TRUTH TO THIS OTHER
17 THAN THE FACT THAT THEY HAD THE RIGHT TO RELY ON
18 THEM FOR PURPOSES OF ITS CONTRACT WITH CONDUSTRIAL?

19 A. CORRECT.

20 Q. YEAH, SO YOU WERE RECEIVING THIS TO CHECK THE BOX
21 SAYING CONDUSTRIAL HAS -- HAS SENT US A CERTIFICATE
22 OF INSURANCE AND REPRESENTED TO THE SOUTH CAROLINA
23 DEPARTMENT OF CORRECTIONS THAT IT HAS COVERAGE FOR
24 ITS EMPLOYEES; THAT'S WHAT CONDUSTRIAL REPRESENTS TO
25 YOU WHEN THEY SEND YOU A CERTIFICATE OF INSURANCE?

1 A. YES, THE CERTIFICATE OF INSURANCE ---

2 Q. THEY ARE DOING IT PURSUANT TO THEIR CONTRACT WITH
3 YOU?

4 A. RIGHT.

5 BY MR. GOODWYN:

6 OBJECT TO THE FORM.

7 BY THE WITNESS:

8 YES.

9 BY MR. GOODWYN:

10 IT CALLS FOR SPECULATION OF WHY THEY ARE
11 SENDING IT. SHE'S TRYING ---

12 BY MS. RICHARDSON:

13 WELL ---

14 BY MR. GOODWYN:

15 SHE'S ASKING HIM TO SPECULATE AS TO WHY THEY
16 ARE ACTUALLY SENDING IT.

17 RECROSS EXAMINATION RESUMED BY MS. RICHARDSON:

18 Q. IS MEDUSTRIAL/CONDUSTRIAL OBLIGATED TO SEND YOU A
19 CERTIFICATE OF INSURANCE UNDERNEATH YOUR POLICY?

20 A. IN OUR CONTRACT, WE ASK FOR THEM TO -- WHEN WE SEND
21 IT OUT ORIGINALLY, WE ASK FOR A COPY OF THE
22 INSURANCE, AND NOT KNOWING WHEN IT WOULD COME UP FOR
23 RENEWAL, NOT KNOWING WHO THEY WOULD CHANGE WITH, WE
24 WOULD HAVE EXPECTED TO RECEIVE A NEW AND UPDATED.

25 Q. AND WHY ARE THEY REQUIRED TO DO THAT UNDER THE

1 CONTRACT WITH YOU?

2 A. BECAUSE IT'S A REQUIREMENT THT THE STATE -- THE
3 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS WANTED.
4 THEY WANTED THE PEOPLE COVERED FOR WORK COMP AND FOR
5 LIABILITY.

6 Q. BUT FOR THE PURPOSES OF THE SOUTH CAROLINA
7 DEPARTMENT OF CORRECTIONS TODAY, THAT'S ALL THEY
8 NEEDED TO KNOW TO KNOW WHETHER OR NOT
9 MEDUSTRIAL/CONDUSTRIAL WAS REPRESENTING TO IT THAT
10 IT WAS COMPLYING WITH THE CONTRACT?

11 A. WELL, BASED ON SIGNING THE CONTRACT AND SENDING
12 PEOPLE TO US, YES.

13 Q. YES.

14 A. THAT THEY WOULD BE COVERED.

15 Q. BUT THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS IS
16 NOT REPRESENTING THAT ANY OF THIS IS ---

17 A. NO.

18 Q. --- ACTUALLY TRUE?

19 A. NO.

20 BY MS. RICHARDSON:

21 OKAY. THAT'S ALL THE QUESTIONS I HAVE FOR YOU.

22 THANK YOU.

23 BY COMMISSIONER JAMES:

24 STATE ACCIDENT FUND?

25 BY MS. FARTHING:

1 I JUST HAVE A COUPLE, YOUR HONOR.

2 RECROSS EXAMINATION BY MS. FARTHING:

3 Q. I PROMISE WE'RE GOING TO HOPEFULLY GET YOU OUT OF
4 HERE SOON. A QUESTION WITH REGARD TO THE CHANGE TO
5 THE CONTRACT IN 2016. I KNOW YOU SAID THAT YOU
6 BROUGHT THE PROPOSED CHANGES TO YOUR ATTORNEYS, ---

7 A. RIGHT.

8 Q. --- AND THEY APPROVED THE LANGUAGE?

9 A. RIGHT.

10 Q. AND I BELIEVE WHEN MR. ALFORD WAS ASKING YOU
11 QUESTIONS, HE ASKED WHETHER YOU HAD BEEN ADVISED OF
12 KIND OF THE DISPUTE GOING ON WITH REGARD TO WHETHER
13 MS. TURNER WAS AN INDEPENDENT CONTRACTOR OR AN
14 EMPLOYEE, AND I BELIEVE YOU TESTIFIED YOU WEREN'T
15 INFORMED OF ANY OF THAT?

16 A. NOT -- NOT FROM MR. SEARS OR ANYTHING, NO.

17 Q. OKAY. AND WERE YOU ADVISED BY HIM OF THIS PENDING -
18 - THIS PENDING CLAIM?

19 A. NO.

20 Q. OKAY. SO, WHEN YOU ASKED YOUR ATTORNEYS ABOUT
21 APPROVAL OF THAT LANGUAGE OR AGREEING TO THAT
22 LANGUAGE, WAS THAT INFORMATION THAT YOU WERE ABLE TO
23 PASS ALONG TO YOUR ATTORNEYS, THIS INDEPENDENT
24 CONTRACTOR EMPLOYER ISSUE ---

25 A. NO.

1 Q. --- OR THIS PENDING LITIGATION?

2 A. NO.

3 Q. OKAY. IN 2015, AND SPECIFICALLY IN SEPTEMBER OF
4 2015 WHEN MS. TURNER WAS INJURED WHILE AT -- I THINK
5 IT WAS KIRKLAND, WAS IT YOUR EXPECTATION THAT THE
6 NURSES PROVIDED BY CONDUSTRIAL OR BY MEDUSTRIAL HAD
7 WORKERS' COMPENSATION INSURANCE THAT WAS PROVIDED BY
8 EITHER MEDUSTRIAL OR CONDUSTRIAL?

9 A. BY -- BASED ON THE CONTRACT, THAT I WOULD HAVE
10 THOUGHT THEY WOULD HAVE HAD IT.

11 Q. AND YOUR CONTRACT -- THE NEGOTIATED CONTRACT, THE
12 ONE THAT WAS BEING ISSUED IN 2016, IT'S STILL IN
13 EFFECT NOW, RIGHT?

14 A. YES.

15 Q. YOU STILL HAVE NURSES WORKING ---

16 A. I HAVE NURSES WORKING.

17 Q. --- AT THE DEPARTMENT OF CORRECTIONS?

18 A. RIGHT.

19 Q. IS IT YOUR EXPECTATION TODAY THAT THOSE NURSES ARE
20 COVERED BY WORKERS' COMPENSATION INSURANCE COVERAGE
21 PROVIDED BY EITHER CONDUSTRIAL OR MEDUSTRIAL?

22 A. RIGHT, AS ASKED FOR IN THE CONTRACT.

23 Q. AND THAT'S YOUR EXPECTATION TODAY?

24 A. EXPECTATION, YES.

25 Q. OKAY. SINCE THE CONTRACT AT ISSUE IN THIS MATTER

1 BETWEEN MEDUSTRIAL OR CONDUSTRIAL AND THE DEPARTMENT
2 OF CORRECTIONS PROVIDES FOR THIS REQUIREMENT FOR
3 WORKERS' COMPENSATION INSURANCE, WOULD YOU EXPECT
4 THAT IF YOU ARE PROVIDED A CERTIFICATE OF INSURANCE
5 BY MEDUSTRIAL OR BY CONDUSTRIAL, THAT THAT WOULD BE
6 THE INSURANCE THAT THIS IS PURPORTING TO PROVIDE?

7 A. YES.

8 Q. THAT THIS IS PROVIDING FOR IT?

9 A. YES.

10 Q. OKAY.

11 BY MS. FARTHING:

12 I THINK I'VE GOT COPIES FOR EVERYBODY. I'VE
13 GOT -- I'M GOING TO GET HIM TO IDENTIFY IT FIRST.

14 RECROSS EXAMINATION RESUMED BY MS. FARTHING:

15 Q. I'M GOING TO BRING YOU UP -- IS THIS AN EMAIL FROM
16 HOLLY SEEBY TO YOU DATED AUGUST 3RD, 2017?

17 A. YES, AUGUST 4TH, 2017.

18 Q. AUGUST 3RD.

19 A. OH, OKAY, YEAH, FROM HER, OKAY.

20 Q. YES, SIR. AND IF YOU LOOK AT THE SECOND PAGE, IS
21 THAT A CERTIFICATE OF INSURANCE THAT THEY PROVIDED
22 TO YOU AT THAT TIME?

23 A. YES.

24 BY MS. FARTHING:

25 COMMISSIONER, THIS ISN'T PART OF OUR APAs, BUT

1 I WOULD LIKE TO MARK IT AS A TRIAL EXHIBIT. I AM
2 HAPPY TO PASS AROUND COPIES. I'VE GOT COPIES FOR
3 EVERYONE.

4 RECROSS EXAMINATION RESUMED BY MS. FARTHING:

5 Q. LOOKING AT THIS EMAIL, IT LOOKS LIKE THE CERTIFICATE
6 OF INSURANCE WAS PROVIDED TO YOU AT YOUR REQUEST BY
7 MS. SEEBY?

8 BY COMMISSIONER JAMES:

9 ARE THERE ANY OBJECTIONS?

10 BY MS. FARTHING:

11 OH, I'M SORRY.

12 BY MR. GOODWYN:

13 NO OBJECTIONS.

14 BY MS. RICHARDSON:

15 NO.

16 BY MR. ALFORD:

17 NONE.

18 BY MR. SAMUELS:

19 NO OBJECTION.

20 BY COMMISSIONER JAMES:

21 ALL RIGHT. SO ADMITTED.

22 BY MS. FARTHING:

23 I CAN HAND YOU A CLEAN COPY IF YOU WANT FOR THE
24 EXHIBIT, BECAUSE I'VE GOT -- APPARENTLY MADE WAY TOO
25 MANY. THANK YOU.

1 (COURT REPORTER MARKS DOCUMENT STATE ACCIDENT FUND
2 EXHIBIT 1, RETAINED IN THE COMMISSION FILE)

3 RECROSS EXAMINATION RESUMED BY MS. FARTHING:

4 Q. SO, THIS WAS A CERTIFICATE OF INSURANCE PROVIDED TO
5 YOU AT YOUR REQUEST BY MS. SEEBY?

6 A. YES.

7 Q. AND ON THAT SECOND PAGE, IT INDICATES THAT IT'S
8 CERTIFICATE OF INSURANCE THAT ACTUALLY COVERS TO
9 THIS DAY, JULY 22ND OF 2017 UNTIL JULY 22ND OF 2018?

10 A. 2018.

11 Q. AND THE CERTIFICATE HOLDER IS THE DEPARTMENT OF
12 CORRECTIONS?

13 A. YES.

14 Q. AND THIS PROVIDES FOR WORKERS' COMPENSATION
15 COVERAGE?

16 A. YES.

17 Q. AGAIN, WHEN YOU ASKED FOR THIS CERTIFICATE OF
18 INSURANCE AND WHEN IT WAS PROVIDED TO YOU, DID THEY
19 INDICATE TO YOU THAT THIS WOULD NOT COVER THE
20 INDIVIDUALS PROVIDED TO THE DEPARTMENT OF
21 CORRECTIONS PURSUANT TO THAT CONTRACT?

22 A. REPEAT THAT AGAIN.

23 Q. THE CONTRACT THAT'S IN PLACE AT THIS MOMENT
24 PROVIDES, I BELIEVE, FOR R.N.s, L.P.N.s TO BE -- OR
25 R.N.s AND L.P.N.s TO BE ASSIGNED TO THE DEPARTMENT

1 OF CORRECTIONS BY MEDUSTRIAL?

2 A. YES, THIS WOULD COVER THEM.

3 Q. WHEN YOU REQUESTED THE CERTIFICATE OF INSURANCE, DID
4 THEY ASK YOU WHY?

5 A. NO.

6 Q. DID THEY INDICATE TO YOU THAT THE CERTIFICATE OF
7 INSURANCE WOULD ACTUALLY NOT COVER THE INDIVIDUALS
8 PROVIDED PURSUANT TO THAT CONTRACT?

9 A. NO.

10 Q. OKAY.

11 BY MS. FARTHING:

12 THAT'S ALL I HAVE. THANK YOU.

13 BY COMMISSIONER JAMES:

14 ON BEHALF OF THE UNINSURED FUND, IS THERE
15 ANYTHING FURTHER FOR THIS WITNESS?

16 BY MS. GLOVER:

17 I DON'T HAVE ANY QUESTIONS, COMMISSIONER.

18 BY MR. SAMUELS:

19 YOUR HONOR, I HAVE A QUESTION ON A NEW ISSUE
20 THAT'S COME UP BECAUSE OF THE ADDITIONAL ---

21 BY COMMISSIONER JAMES:

22 BECAUSE OF THE ADDITIONAL CROSS?

23 BY MR. SAMUELS:

24 THE CONTRACT.

25 BY COMMISSIONER JAMES:

1 OKAY. IF WE CAN JUST STAY WITHIN THE SCOPE,
2 YES, SIR.

3 REDIRECT EXAMINATION BY MR. SAMUELS:

4 Q. MR. BURGESS, REGARDING THIS EMAIL THAT YOU WERE JUST
5 SHOWN, THE EMAIL SAYS "ATTACHED IS THE ADDITIONAL
6 C.O.I. MR. SEARS AND MR. DURHAM SPOKE WITH YOU ABOUT
7 LAST WEEK." CAN YOU JUST ELABORATE ON THAT ENTIRE
8 DISCUSSION, WHO CALLED WHO AND WHAT WAS SAID BY
9 WHOM?

10 A. I -- NO, I CANT TELL YOU WHO CALLED WHO AND WHETHER
11 I TALKED -- WHETHER MR. SEARS CALLED ME OR I CALLED
12 MR. SEARS. THAT I DON'T REMEMBER. I WOULD HAVE TO
13 GO BACK THROUGH MY FILES AND SEE IF I CAN FIND
14 ANYTHING ON IT, BUT I JUST -- NO, I REALLY CAN'T
15 REMEMBER, SO.

16 Q. FAIR ENOUGH. SO, ABOUT THE 2016 CONTRACT THAT WAS
17 RENEGOTIATED, THAT WAS EXHIBIT "D," ---

18 A. RIGHT.

19 Q. --- DID MR. SEARS TELL YOU WHY HE WANTED THE
20 CONTRACT TO BE CHANGED FROM SAYING, QUOTE,
21 "EMPLOYEES" TO QUOTE, "EMPLOYEES AND/OR AGENTS," END
22 QUOTE?

23 A. NO.

24 Q. DID MR. SEARS EVER TELL YOU THAT NONE OF THESE
25 NURSES, THAT CONDUSTRIAL OR MEDUSTRIAL WERE COVERED

1 BY ANY OF THE INSURANCE POLICIES LISTED BY THE
2 CERTIFICATES OF INSURANCE?

3 BY MR. GOODWYN:

4 OBJECT TO THE FORM. IT ASSUMES FACTS NOT IN
5 EVIDENCE. THE QUESTION ASSUMES THAT NONE OF THE
6 NURSES WERE COVERED, BUT THAT FACT HASN'T BEEN
7 ESTABLISHED.

8 BY COMMISSIONER JAMES:

9 DO YOU WANT TO REPHRASE THE QUESTION, MR.
10 SAMUELS?

11 REDIRECT EXAMINATION RESUMED BY MR. SAMUELS:

12 Q. DID MR. SEARS EVER TELL YOU EITHER THAT THE NURSES
13 WERE COVERED BY THE CERTIFICATES OF INSURANCE OR
14 WERE NOT COVERED BY THE CERTIFICATES OF INSURANCE?

15 A. NO.

16 Q. HE NEVER TOLD YOU ONE WAY OR THE OTHER?

17 A. NO. I MEAN, I ASSUMED FOR THIS CERTIFICATE OF
18 INSURANCE THAT THE NURSES WERE COVERED.

19 Q. DID MR. SEARS EVER TELL YOU THAT MEDUSTRIAL DID NOT
20 PROCURE WORKERS' COMP INSURANCE FOR THE NURSES
21 WORKING AT THE SOUTH CAROLINA DEPARTMENT OF
22 CORRECTIONS?

23 A. NO.

24 Q. DID MR. SEARS EVER TELL YOU THAT EVEN TODAY, THE
25 NURSES THAT ARE WORKING THERE EVEN AS WE SPEAK ARE

1 NOT COVERED BY WORKERS' COMPENSATION?

2 A. NO.

3 Q. IF HE HAD TOLD YOU THOSE THINGS, IS THERE ANYTHING
4 THAT YOU OR S.C.D.C. WOULD HAVE DONE DIFFERENTLY?

5 A. THAT WOULD HAVE BEEN TO MY ATTORNEYS.

6 Q. AND YOU WOULD HAVE FOLLOWED THEIR ADVICE?

7 A. YES.

8 Q. AND IF THEIR ADVICE HAD BEEN GET THOSE PEOPLE OUT
9 UNTIL THERE'S COVERAGE, WOULD YOU HAVE MADE SURE
10 THAT HAPPENED?

11 A. YEAH, I WOULD HAVE FOLLOWED WHATEVER THEY SAID,
12 WHATEVER -- THERE WOULD HAVE TO HAVE BEEN A LETTER
13 WRITTEN, I'M SURE, OF WHATEVER, BUT IT WOULD ALL
14 COME FROM THE ATTORNEYS, NOT NECESSARILY FROM ME.

15 BY MR. SAMUELS:

16 THANK YOU, MR. BURGESS, I APPRECIATE YOU
17 ANSWERING MY QUESTIONS.

18 BY COMMISSIONER JAMES:

19 ALL RIGHT, SIR, I BELIEVE YOU CAN STEP DOWN.
20 THANK YOU.

21 BY THE WITNESS:

22 THANK YOU.

23 BY MS. FARTHING:

24 RUN WHILE YOU CAN.

25 BY MR. ALFORD:

1 YEAH, RUN.

2 BY MR. BURGESS:

3 I DON'T THINK THERE'S ANYWHERE TO RUN.

4 BY COMMISSIONER JAMES:

5 DOES THE CLAIMANT HAVE ANY OTHER WITNESSES?

6 BY MR. SAMUELS:

7 YOUR HONOR, I HAVE NO WITNESS. I UNDERSTAND
8 MR. GOODWYN IS GOING TO CALL MR. SEARS IN HIS CASE
9 IN CHIEF, SO AT THIS TIME, I AM NOT CALLING ANY
10 WITNESSES.

11 BY COMMISSIONER JAMES:

12 ALL RIGHT. MR. GOODWYN, ARE YOU READY TO CALL
13 A WITNESS?

14 BY MR. GOODWYN:

15 I CALL TOM SEARS.

16 BY COMMISSIONER JAMES:

17 IF YOU WOULD RAISE YOUR RIGHT HAND, PLEASE,
18 SIR.

19 * * * * *

20 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
21 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
22 MATTER HEREIN:

23 TOM SEARS

24 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS FOLLOWS:

25 BY COMMISSIONER JAMES:

1 YOUR WITNESS.

2 DIRECT EXAMINATION BY MR. GOODWYN:

3 Q. MR. SEARS, CAN YOU TELL ME, WHO DO YOU CURRENTLY
4 WORK FOR?

5 A. I WORK FOR CONDUSTRIAL.

6 Q. AND HOW LONG HAVE YOU BEEN THERE?

7 A. I'VE BEEN THERE EIGHT YEARS AS OF JULY.

8 Q. ALL RIGHT. TELL ME A LITTLE BIT ABOUT YOUR
9 BACKGROUND. HOW FAR DID YOU GO IN SCHOOL?

10 A. I BASICALLY WENT TO FURMAN UNIVERSITY UNDERGRADUATE,
11 GRADUATED IN 1990. I WENT TO U.S.C. SCHOOL OF LAW
12 HERE IN COLUMBIA, GRADUATED 1994. GOT OUT OF THERE,
13 PRACTICED LAW WITH LEATHERWOOD, WALKER, TODD AND
14 MANN FOR SEVERAL YEARS. FROM THERE, WENT TO
15 HAYNSWORTH, MARION, MCKAY AND GEURARD, WHICH BECAME
16 HAYNSWORTH, SINKLER AND BOYD. FROM THERE, I ENDED
17 UP GOING IN-HOUSE. I TRIED -- I DID SOME CONSULTING
18 FOR A YEAR. I TRIED TO KIND OF BUILD AN OUTSIDE
19 GENERAL COUNSEL TYPE CONCEPT, AND A COUPLE OF FOLKS
20 WERE NOT QUITE READY TO COMMIT. SO, I ENDED UP --
21 WENT IN-HOUSE WITH A COMPANY CALLED CAROLINA
22 MEDCARE. WAS THEIR GENERAL COUNSEL AND V.P. OF H.R.
23 FOR FOUR YEARS, AND THEN FOUND OUT THAT THEY WERE
24 NOT -- AT THE TIME I WENT TO WORK WITH THEM, THEY
25 WERE PLANNING ON EXPANDING INTO THE UPSTATE FROM THE

1 REST OF THE STATE, AND THEY DECIDED NOT TO DO THAT.
2 SINCE I WAS FROM GREENVILLE, I WANTED TO FIND A WAY
3 BACK TO GREENVILLE. SO, I INTERVIEWED WITH
4 CONDUSTRIAL IN PROBABLY THE EARLY PART OF 2009 AND
5 JOINED CONDUSTRIAL AS THEIR GENERAL COUNSEL -- THEIR
6 FIRST GENERAL COUNSEL AND V.P. OF ADMINISTRATIVE
7 SERVICES, I WANT TO SAY, LIKE, JULY 6TH OF 2009, AND
8 I'VE BEEN WITH THEM EVER SINCE.

9 Q. OKAY. DID YOU HAVE ANY EXPERIENCE WORKING -- YOU
10 SAID YOU WERE WITH -- YOU WERE WORKING IN AN H.R.
11 DEPARTMENT FOR A WHILE?

12 A. UH-HUH.

13 Q. DID YOU HAVE ANY EXPERIENCE WITH THE EMPLOYEE
14 INDEPENDENT CONTRACTOR RELATIONSHIP DURING THAT
15 TIME?

16 A. ARE YOU TALKING ABOUT WITH CONDUSTRIAL?

17 Q. WELL, I THINK PRIOR TO CONDUSTRIAL?

18 A. YES, AND IT JUST -- LIKE I SAID, IN PRACTICING LAW,
19 MY BACKGROUND IS EMPLOYMENT LAW, SO, I MEAN, I'VE
20 DEALT WITH INDEPENDENT CONTRACTOR EMPLOYMENT ISSUES
21 AND OTHER ISSUES FOR MY ENTIRE CAREER.

22 Q. OKAY. ALL RIGHT. YOUR HISTORY WITH -- WITH
23 CONDUSTRIAL, I THINK YOU SAID YOU STARTED THERE IN
24 ABOUT 2009?

25 A. THAT'S CORRECT.

1 Q. CAN YOU EXPLAIN TO THE COMMISSION WHAT THE
2 RELATIONSHIP BETWEEN CONDUSTRIAL AND MEDUSTRIAL IS?

3 A. RIGHT. AND THERE'S BEEN A LOT OF TESTIMONY ABOUT
4 THIS. I'VE DEALT WITH COVERAGE AND COMPLIANCE WHEN
5 THIS CASE CAME UP. IT'S -- TO ME, IT SEEMS LIKE
6 THERE'S A LOT OF -- MAYBE A LOT OF MISCONSTRUCTION
7 HERE IN THIS CASE. IT'S VERY SIMPLE, AND IT'S --
8 IT'S BEEN LAID OUT THIS WAY FROM THE BEGINNING.
9 MEDUSTRIAL IS A DIVISION OR A SERVICE OF
10 CONDUSTRIAL. IT HAS NO LEGAL SIGNIFICANCE. IT
11 NEVER HAS. IT DOESN'T HAVE ANY EMPLOYEES. IT
12 DOESN'T HAVE A TAX I.D. THERE'S A WEBSITE
13 MEDUSTRIAL.COM. IF YOU TYPE IT IN, YOU GO TO
14 MEDUSTRIAL.COM. I THINK IT SAYS UNDERNEATH "A
15 DIVISION OF CONDUSTRIAL." IT ALWAYS HAS.

16 Q. OKAY.

17 A. AND I LEARNED OF THAT WHEN I CAME TO WORK FOR
18 CONDUSTRIAL.

19 Q. OKAY. AND HAS MEDUSTRIAL EVER FILED ITS OWN TAX
20 RETURNS?

21 A. NO, IT HAS NOT.

22 Q. ALL RIGHT. ARE MEDUSTRIAL'S REVENUE AND EXPENSES
23 REPORTED AS PART OF CONDUSTRIAL'S?

24 A. IT IS. THEY ARE CONDUSTRIAL'S, YES.

25 Q. OKAY. AND THE MEDUSTRIAL STAFFING EMPLOYEES, IS

1 THAT -- IS THAT PAYROLL OR THE W9s OR WHATEVER IT IS
2 OR 1099s, ARE THOSE REPORTED UNDER CONDUSTRIAL?

3 A. WELL, AS WE TALKED ABOUT IN THE DEPOSITION, WE HAVE
4 MAYBE FIVE W-2 EMPLOYEES IN THE UPSTATE BECAUSE THEY
5 ARE EITHER PAYROLL ACCOUNTS OR A NURSING HOME ASKED
6 US TO MAYBE TAKE UP THEIR EMPLOYEES. THOSE ARE
7 CERTAINLY FILED UNDER CONDUSTRIAL'S FEDERAL TAX I.D.
8 YOU KNOW, THE 1099s ARE GIVEN A 1099.

9 Q. RIGHT, RIGHT, RIGHT. BUT IT'S CONDUSTRIAL ISSUING
10 THE 1099s, NOT MEDUSTRIAL?

11 A. RIGHT. YEAH, YES, CONDUSTRIAL IS ISSUING THE 1099s,
12 YES.

13 Q. OKAY. CAN YOU EXPLAIN TO THE COMMISSION, WHAT WAS
14 THE PURPOSE OR RATIONAL BEHIND HAVING A TRADE NAME
15 MEDUSTRIAL AS OPPOSED TO LUMPING ALL THE NURSES
16 UNDER CONDUSTRIAL?

17 A. OKAY, YES, AND I -- YOU KNOW, AT SOME POINT, I GUESS
18 I'LL TELL THE WHOLE STORY, BECAUSE IT'S DIRECTLY
19 RELEVANT TO WHAT'S GOING ON HERE, BUT AT THE TIME, I
20 GUESS THE SHORT ANSWER IS MR. DURHAM, TONY DURHAM
21 WHO OWNS CONDUSTRIAL, BOUGHT THE ASSETS OF A
22 BROKERAGE, HEALTHCARE BROKERAGE SYSTEM, AND HE --
23 OUR PRIMARY BUSINESS IS CONSTRUCTION STAFFING, WHICH
24 WE'VE BEEN DOING SINCE 2002. YOU KNOW, IT INVOLVES
25 HEAVY CONSTRUCTION CODES, WELDERS, ELECTRICIANS,

1 CERTAINLY MUCH MORE RISKY OCCUPATIONS THAN THIS ONE,
2 AND -- BUT WHEN HE HAD THAT BUSINESS, THAT WAS A
3 LITTLE BIT OUT OF CHARACTER TO OUR NORMAL BUSINESS
4 MODEL. SO, HE WANTED TO DISTINGUISH THAT. SO, HE
5 SAID, YOU KNOW -- AND I WASN'T THERE AT THE TIME; I
6 DIDN'T GET TO VOTE ON THE NAME. YOU KNOW, HE SAID
7 "LET'S CALL IT MEDUSTRIAL." IT SOUNDS A LITTLE
8 SCARY, BUT, YOU KNOW, THAT WAS -- THE INTENTION WAS
9 TO OBVIOUSLY HAVE A TRADE NAME THAT SOUNDED
10 DIFFERENT THAN THE CONSTRUCTION STAFFING.

11 Q. OKAY.

12 BY MR. GOODWYN:

13 I APOLOGIZE, YOUR HONOR, AS I'M ASKING MY
14 QUESTIONS, I'VE GOT A LOT OF COVERAGE QUESTIONS I'M
15 TRYING TO SKIP. SO, I MIGHT BE A LITTLE SLOW.

16 DIRECT EXAMINATION RESUMED BY MR. GOODWYN:

17 Q. ALL RIGHT. LET ME ASK YOU SOME QUESTIONS ABOUT THE
18 NURSES THAT CONDUSTRIAL STAFFS. I UNDERSTAND THAT
19 THERE ARE SOME OF THE NURSES CLASSIFIED AS EMPLOYEES
20 AND SOME CLASSIFIED AS INDEPENDENT CONTRACTORS; IS
21 THAT RIGHT?

22 A. RIGHT. LIKE I SAID TO THE EXTENT, YOU KNOW, AND I
23 THINK WHEN THEY ASKED ME ABOUT THIS IN THE
24 DEPOSITION, I THINK IN 2015, THERE MIGHT HAVE BEEN
25 TEN W-2s, AGAIN IN GREENVILLE, AND THEN IN 2016,

1 THERE WERE ONLY FIVE, AND MY UNDERSTANDING FROM, YOU
2 KNOW, TALKING TO THE OPERATIONAL PEOPLE AND THE
3 PAYROLL PEOPLE, I SAID, "WHAT'S THE -- WHAT'S THE
4 DEAL HERE?" AND IT WAS THOSE WERE EITHER PAYROLL
5 ACCOUNTS WHERE SOMEBODY SAID "I JUST WANT YOU TO
6 TAKE OVER MY, YOU KNOW, EMPLOYEES," OR IT WAS LIKE A
7 NURSING HOME THAT SAID "HEY, I'VE GOT THIS EMPLOYEE
8 I WANT TO -- I WANT TO PLACE THEM ON, YOU KNOW, YOUR
9 PAYROLL."

10 Q. OKAY.

11 A. BUT OTHER THAN THAT, THE -- YOU KNOW, THE MODEL --
12 THE MEDUSTRIAL MODEL THAT STARTED WAS A BROKERAGE
13 SYSTEM AND ALWAYS HAS BEEN.

14 Q. ALL RIGHT. SO, THE NURSES THAT ARE CLASSIFIED AS
15 EMPLOYEES, THAT -- THEY NEVER FELL UNDER THE
16 BROKERAGE TYPE MODEL?

17 A. NO.

18 Q. OKAY. ALL RIGHT. WHY DON'T -- WHY DON'T YOU
19 EXPLAIN THIS BROKERAGE TYPE MODEL ---

20 A. OKAY.

21 Q. --- TO THE COMMISSIONER. WHAT -- HOW IT CAME ABOUT,
22 WHAT IS IT, AND HOW DOES IT WORK?

23 A. SURE THING. COMMISSIONER, BASICALLY, WHAT HAPPENED
24 WITH THE -- WITH THE BROKERAGE SYSTEM, MR. DURHAM
25 WAS APPROACHED SEVERAL TIMES, I WANT TO SAY, IN 2006

1 OR 2007, BY A LADY NAMED TAMMY WALKER, AND I THINK -
2 - AND I'VE CALLED HER COMPANY PALMETTO HEALTH, AND I
3 THINK IT MIGHT HAVE BEEN PALMETTO REFERRAL SERVICES.
4 SHE APPROACHED MR. DURHAM SEVERAL TIMES. SHE HAD A
5 NURSE BROKERAGE SYSTEM, WHICH IS THE SAME SYSTEM
6 THAT WE ARE USING TODAY, AND SHE SAID, YOU KNOW,
7 "MR. DURHAM, ARE YOU INTERESTED IN BUYING THE
8 COMPANY, BUYING THE ASSETS?" AND THEY HAD THAT
9 CONVERSATION TWICE, AND FOR WHATEVER REASON HE
10 DIDN'T FEEL GOOD ABOUT IT, YOU KNOW, OR DIDN'T --
11 DIDN'T SEE THE DOCUMENTS HE WANTED TO SEE, BUT
12 WHATEVER THE REASON IS, THEY -- THAT WASN'T
13 SUCCESSFUL. SHE CAME BACK THE THIRD TIME, AND SAID,
14 "YOU KNOW, I WOULD LIKE TO DO THIS. YOU KNOW -- I
15 MEAN, IF YOU DON'T DO IT, I MAY GO TO SOMEBODY ELSE
16 OR CLOSE THE BUSINESS," SOMETHING AND PRODUCED SOME
17 FINANCIAL INFORMATION THAT MADE MORE SENSE THAT THE
18 ACCOUNTANTS CHECKED OUT, AND SO HE SAID "ALL RIGHT.
19 I MIGHT BE INTERESTED TO DO THAT IF YOU'RE GOING TO
20 STAY AND HELP RUN IT." SO, THEY ACTUALLY --
21 ACTUALLY, THEY BOTH RETAINED NELSON MULLINS FOR THE
22 NEGOTIATION AND THE DRAWING UP OF THE AGREEMENT, AND
23 NELSON MULLINS BLESSED THE DEAL AND SAID "THIS IS --
24 EVERYTHING LOOKS PERFECT. THIS IS, YOU KNOW -- THIS
25 IS A DEAL THAT, YOU KNOW, WE'RE GOING TO DRAFT FOR

1 YOU, GET BEHIND AND IT'S OKAY." AND THEY APPARENTLY
2 HAD AN AGREEMENT IN PRINCIPAL, AN ORAL AGREEMENT,
3 AND MS. WALKER SHOWED UP, I GUESS, AT CONDUSTRIAL ON
4 A FRIDAY AND, YOU KNOW, SAID, "MR. DURHAM -- TONY,
5 I'VE GOT A PROBLEM. I CAN'T MAKE PAYROLL, AND I'VE
6 GOT TO PAY THESE NURSES, AND IF I DON'T PAY THEM,
7 YOU KNOW, THEY'RE GOING TO LEAVE, AND THIS WHOLE
8 THING IS DEAD IN THE WATER, AND YOU'VE DONE ALL OF
9 THIS FOR NOTHING," AND SHE BASICALLY SAID "SO, I'VE
10 GOT TO HAVE A CHECK FOR 50 GRAND, OR THIS ISN'T
11 GOING TO WORK." SO, MR. DURHAM CONTACTED OUR
12 ATTORNEYS AT NELSON MULLINS AND SAID "WELL, HERE'S
13 THE DEAL. SHE'S ON THE DOORSTEPS WANTING 50 GRAND."
14 THEY ADVISED HIM, "WELL, YOU'VE GOT AN ORAL
15 AGREEMENT. WE ARE DRAWING IT UP, BUT IT'S COOL.
16 GIVE HER THE CHECK." SHE TOOK THE CHECK AND BAILED,
17 AND WE DIDN'T SEE HER AGAIN FOR TWO YEARS UNTIL SHE
18 CAME BACK AND TRIED TO SUE US FOR STEALING HER
19 BUSINESS.

20 Q. OKAY. ALL RIGHT. SO, HOW DID THAT LEAD TO THIS
21 BROKERAGE MODEL?

22 A. WELL, THAT WAS -- SO, WHEN HE DECIDED TO GET IN AND
23 DO IT, WE WERE GOING THROUGH THE PROCESS, YOU KNOW,
24 HE SAID -- OBVIOUSLY, LOOKED AT HER MODEL, AND
25 PALMETTO REFERRAL SERVICES WAS OPERATING AS THE

1 BROKERAGE THAT WE ARE DISCUSSING NOW. SHE HAD A
2 CONTRACT WITH S.C.D.C. S.C.D.C. WOULD PROVIDE HER,
3 YOU KNOW, "HERE ARE THE SHIFTS WE NEED FILLED." SHE
4 HAD 1099s. HER NURSES WERE 1099s. SHE ASKED THEM,
5 YOU KNOW, "DO YOU WANT THIS SHIFT?" THEY COULD TURN
6 DOWN SHIFTS. THEY COULD TAKE THE SHIFTS. THEY
7 COULD TAKE A MONTH OFF. THEY WERE EXPECTED TO FILL
8 THE SHIFTS, AND IT WAS THAT RELATIONSHIP WITH
9 S.C.D.C. THAT -- I THINK AT THE TIME, IT MIGHT HAVE
10 BEEN ONE OF HER LARGER CLIENTS, AND SHE SAID "THIS
11 IS HOW WE DO IT," AND WE SAID "OKAY, THAT MAKES
12 SENSE," AND IN FACT, AS WE WERE TAKING OVER, AS MR.
13 DURHAM WAS BUYING THE ASSETS OR TAKING IT OVER OR
14 HOWEVER YOU WANT TO CALL IT, BEFORE SHE LEFT, MR.
15 DURHAM MET WITH ANOTHER ATTORNEY AT NELSON MULLINS,
16 BILL FOSTER, WHO IS AN EMPLOYMENT ATTORNEY, AND PUT
17 THE QUESTION TO HIM ABOUT "SHE'S RUNNING 1099s. IS
18 THIS APPROPRIATE? IS THIS LEGITIMATE?" YOU KNOW,
19 WITHOUT GETTING INTO ALL OF THOSE DISCUSSIONS, THE
20 DOCUMENT THAT CAME OUT OF THAT DISCUSSION ---

21 BY MR. SAMUELS:

22 YOUR HONOR, I HAVE TO OBJECT TO HEARSAY.

23 BY MR. GOODWYN:

24 HE WASN'T TESTIFYING AS TO WHAT BILL FOSTER
25 SAID.

1 BY THE WITNESS:

2 RIGHT.

3 BY MR. GOODWYN:

4 HE WAS JUST TESTIFYING ABOUT THE DOCUMENT THAT
5 CAME OUT OF THE DISCUSSIONS WAS "X."

6 BY COMMISSIONER JAMES:

7 ALL RIGHT. YOU CAN PROCEED.

8 DIRECT EXAMINATION RESUMED BY MR. GOODWYN:

9 A. THE DOCUMENT THAT CAME OUT OF THOSE DISCUSSIONS WAS
10 THE INDEPENDENT CONTRACTOR AGREEMENT THAT WE ARE ALL
11 LOOKING AT TODAY.

12 A. OKAY.

13 Q. MR. FOSTER DESIGNED THAT AGREEMENT, BLESSED THE DEAL
14 FOR CONDUSTRIAL TO ACQUIRE PALMETTO REFERRAL
15 SERVICES, WHICH WE NAMED MEDUSTRIAL. OBVIOUSLY,
16 CONSULTED HIM ABOUT, YOU KNOW, "IS THIS APPROPRIATE?
17 IS THIS THE RIGHT WAY TO DO THIS?" SO, MR. DURHAM
18 ALSO CONSULTED OUR INSURANCE AGENTS AT THE TIME,
19 WHICH IT WAS -- IT COULD HAVE BEEN SULLIVAN
20 INSURANCE, AND THEY WERE ACQUIRED BY KEENAN SUGGS.
21 I THINK THEY WERE STILL SULLIVAN BACK THEN. MR.
22 DURHAM INQUIRED INTO WHAT SHE WAS DOING WITH HER
23 INSURANCE. SHE PROVIDED PROFESSIONAL LIABILITY.
24 SHE PROVIDED GENERAL LIABILITY. SHE DID NOT PROVIDE
25 WORKERS' COMPENSATION, OKAY, AND SO -- AND IN

1 LOOKING AT THE RELATIONSHIP THAT SHE HAD WITH
2 S.C.D.C., IT WAS THE SAME RELATIONSHIP THAT WE HAVE
3 NOW, AND IT WAS THE SAME CONTRACT THAT WAS SIGNED IN
4 2008. WHEN -- WHEN MS. WALKER TOOK THE \$50,000
5 CHECK AND LEFT, MR. DURHAM WAS OBVIOUSLY LEFT WITH
6 "WHAT AM I GOING TO DO TO? YOU KNOW, WHAT AM I
7 GOING TO DO TO -- AM I GOING TO, YOU KNOW, OPERATE
8 THIS BUSINESS? AM I GOING TO LOSE THIS BUSINESS?
9 WHAT AM I GOING TO DO," AND NATASHA RATHBURN, WHO
10 SIGNED THE CONTRACT IN 2008, WAS AN EMPLOYEE OF
11 PALMETTO REFERRAL SERVICES. SHE STAYED BEHIND AND
12 SAID "I CAN RUN THIS. I CAN DO THIS. IF YOU WILL
13 LET ME BE YOUR MANAGER, I CAN RUN THE BROKERAGE JUST
14 LIKE PALMETTO REFERRAL SERVICES DID." AND SO,
15 THAT'S WHAT MR. DURHAM DID. HE BROUGHT MS. RATHBURN
16 IN TO BE THE MEDUSTRIAL MANAGER TO RUN THE BROKERAGE
17 JUST LIKE IT WAS RUN BY PALMETTO REFERRAL SERVICES.

18 Q. ALL RIGHT. WHAT OTHER STEPS DID YOU AND/OR
19 CONDUSTRIAL TAKE TO MAKE SURE THAT THE
20 CLASSIFICATION OF THESE NURSES AS INDEPENDENT
21 CONTRACTORS WAS IN FACT ACCURATE AS AN INDEPENDENT
22 CONTRACTOR?

23 A. WELL, LIKE I SAID, ONE OF THE FIRST THINGS THAT MR.
24 DURHAM DID WAS AFTER GETTING THE INDEPENDENT
25 CONTRACTOR AGREEMENT FROM NELSON MULLINS, HE HAD

1 EVERY HEALTHCARE PERSONNEL ON STAFF SIGN THAT
2 INDEPENDENT CONTRACTOR AGREEMENT TO MAKE SURE, AND
3 HE CONSULTED WITH THE ATTORNEYS. HE CONSULTED WITH
4 HIS INSURANCE PERSONNEL, AND HE -- LIKE I SAID, HE
5 HAD THEM SIGN THE INDEPENDENT CONTRACTOR AGREEMENT,
6 AND, YOU KNOW, APPROPRIATE, I GUESS OTHER PERSONNEL
7 DOCUMENTS AS REQUIRED FOR ANY CONTRACT TO PRESERVE
8 THAT STATUS, TO DOCUMENT THAT STATUS.

9 Q. OKAY. ALL RIGHT. THESE -- THE NURSES THAT WERE IN
10 THE CATEGORY THAT MS. TURNER WAS, THESE INDEPENDENT
11 CONTRACTOR NURSES, THEY WERE PAID A CERTAIN RATE,
12 AND I BELIEVE IT'S -- WAS IT \$30 AN HOUR, I BELIEVE?

13 A. THE RATE WAS VARIABLE, AND IF I CAN LOOK ---

14 Q. YEAH, PLEASE REFER TO ANYTHING THAT YOU NEED TO.

15 A. I'M LOOKING AT THE, I GUESS ---

16 Q. IS THAT THE CURRENT ONE OR THE OLD ONE?

17 A. THIS IS THE CURRENT ONE, BUT IT'S -- I'M LOOKING AT
18 THE ATTACHMENT "A" TO THE BACK. I KNOW THE FIGURES
19 CHANGE, BUT THE -- IF YOU WANT TO HAND ME THE OLD
20 ONE.

21 Q. YEAH, HERE IS THE 2008 ONE.

22 A. OKAY. I MEAN, THE ATTACHMENT "A," THE MEDICAL
23 STAFFING RATES, IT LISTS THE R.N. AND THE L.P.N.
24 RATES. THOSE WERE THE MAXIMUM RATES THAT THEY WOULD
25 PAY US.

1 Q. OKAY.

2 A. SO, THAT'S NOT THE SAME RATE THAT THE NURSES WILL
3 GET DAY IN AND DAY OUT OR WEEK IN AND WEEK OUT.

4 Q. SURE. SOMETHING LESS THAN THAT. Y'ALL TOOK A CUT?

5 A. RIGHT, YES.

6 Q. OKAY. AND WHAT I WAS GETTING AT THOUGH IS IF THE
7 NURSES HAD BEEN CLASSIFIED AS EMPLOYEES, WHAT OTHER
8 EXPENSES WOULD CONDUSTRIAL HAVE INCURRED?

9 A. IF THEY HAD BEEN AN EMPLOYEE, JUST LIKE THE
10 CONDUSTRIAL MODEL, WHICH WE AGAIN HAVE BEEN DOING
11 SINCE 2002, AND HAD NO REASON TO -- IN OTHER WORDS,
12 WHEN I HEARD WHAT'S HAPPENED TODAY, IT -- I GUESS IT
13 SOUNDS SOMEWHAT ABSURD TO ME. IF WE WERE GOING TO
14 DO ANY OF THE THINGS THAT HAVE BEEN ALLEGED AGAINST
15 US, WE PROBABLY WOULD HAVE CHOSEN A WELDING CODE AND
16 NOT A NURSE CODE, OKAY? SO, WE ARE WELL VERSED, YOU
17 KNOW, BEEN AROUND FOR 15 -- YOU KNOW, 15 YEARS AS A
18 CONSTRUCTION STAFFING COMPANY. WE HANDLE W-2s. IF
19 THESE HAD BEEN EMPLOYEES, WE WOULD HAVE TAKEN OUT
20 TAXES. YOU KNOW, IN OTHER WORDS, INSURANCE WOULD
21 HAVE BEEN OFFERED. BENEFITS WOULD HAVE BEEN
22 OFFERED. ANY KIND OF -- YOU KNOW, THE STANDARD
23 EMPLOYEE BENEFITS.

24 Q. WHAT PERCENTAGE OF CONDUSTRIAL'S TOTAL STAFF IS --
25 ARE CLASSIFIED AS EMPLOYEES?

1 A. PROBABLY 90 PERCENT.

2 Q. OKAY. AND THIS LITTLE SMALL GROUP OF NURSES IS
3 ABOUT TEN PERCENT OF YOUR ENTIRE ---

4 A. YES.

5 Q. --- STAFF?

6 A. YES.

7 Q. OKAY. SO, IS IT FAIR TO SAY THAT CONDUSTRIAL KNOWS
8 HOW TO HANDLE SOMEBODY THAT'S CLASSIFIED AS AN
9 EMPLOYEE?

10 A. YES, WE DO.

11 Q. OKAY. ALL RIGHT. AND WOULD YOU HAVE BEEN ABLE TO
12 PAY RACHEL TURNER AND THE NURSES IN THAT CLASS OF
13 NURSE THE SAME RATE HAD THEY BEEN CLASSIFIED AS
14 EMPLOYEES?

15 A. HER PAY WOULD HAVE BEEN MUCH LESS OBVIOUSLY FOR THE
16 SUTA, FUTA, FICA AND THE TAXES THAT CAME OUT.

17 Q. OKAY. ALL RIGHT. AND YOU'VE -- I KNOW, YOU WERE
18 HERE ON DAY ONE OF THIS TRIAL WHEN MS. TURNER WAS
19 QUESTIONED, CORRECT?

20 A. YES.

21 Q. AND YOU'VE SEEN HER TAX RETURNS?

22 A. I HAVE.

23 Q. AND WHERE SHE CLAIMS TO HAVE INCURRED MANY EXPENSES
24 IN PERFORMING HER JOB?

25 A. YES.

1 Q. OKAY. ALL RIGHT.

2 A. I THINK THAT WAS -- AND THAT WAS FOR HER --

3 OBVIOUSLY, I THINK THE EVIDENCE SUBMITTED IS THE TAX
4 RETURNS FOR HER ENTIRE TENURE WITH US, I THINK SHE
5 SAID SHE WAS UNABLE TO FIND THE TAX RETURNS BEFORE
6 US FOR SOME REASON, BUT OBVIOUSLY THE THREE YEARS
7 SUBMITTED WHILE SHE WAS WITH US, SHE WENT TO A TAX
8 PREPARER AND ANSWERED HIS QUESTIONS, CLEARLY
9 INDICATED SHE WAS AN INDEPENDENT CONTRACTOR AND TOOK
10 APPROPRIATE DEDUCTIONS THAT YOU WOULD TAKE IF YOU
11 WERE AN INDEPENDENT CONTRACTOR.

12 Q. OKAY. AND IS THAT WHAT YOU EXPECTED THIS CLASS OF
13 NURSING STAFF ---

14 A. YES.

15 Q. --- TO DO?

16 A. YES.

17 Q. OKAY. ALL RIGHT. AND JUST TO MAKE SURE, THAT'S THE
18 MODEL. YOU PAY THEM MORE, BUT THEY GET TO TAKE THE
19 DEDUCTIONS TO BRING THEIR INCOME BACK -- DOWN TO
20 ABOUT WHAT THEY WOULD MAKE IF THEY WERE CLASSIFIED
21 AS EMPLOYEES?

22 A. RIGHT.

23 Q. OKAY. ALL RIGHT. I'M GOING TO ASK YOU SOME
24 QUESTIONS ABOUT -- ABOUT THIS OVERTIME ISSUE. DID
25 YOU HAVE ANY CONVERSATIONS WITH MS. TURNER ABOUT HER

1 CLAIMS FOR NOT GETTING PAID ANY OVERTIME?

2 A. I DID. ACTUALLY, AS I TESTIFIED IN THE DEPOSITION,
3 IT WAS PROBABLY BETWEEN EIGHT AND TWELVE MONTHS
4 BEFORE SEPTEMBER 5, BEFORE THAT INCIDENT, SHE CALLED
5 ME DIRECTLY, AND I'M SURE SHE HAS ONE WHO IS A
6 GENERAL COUNSEL. MS. TURNER CALLED ME TO -- THE
7 REASON I REMEMBER HER IS BECAUSE HER NAME IS SPELLED
8 RACHEL, BUT SHE CORRECTED ME SEVERAL TIMES AND SAID
9 "IT'S ROCHELLE (PHONETIC)." I WAS LIKE, "OH, OKAY,
10 SORRY, RACHEL."

11 Q. OKAY.

12 A. BUT SHE CALLED, AND SHE WAS TRYING TO REPORT -- THE
13 MANAGER AT THE TIME, LISSETTE -- I GUESS HER NAME --
14 MARRIED NAME NOW IS COLLACHI. SHE WAS TRYING TO
15 REPORT HER AND WAS SAYING, "WELL, I'M NOT GETTING MY
16 OVERTIME, YOU KNOW, LISSETTE IS NOT DOING WHAT SHE
17 IS SUPPOSED TO DO." SO, I SAID "WELL, I WILL LOOK
18 INTO THIS AND CALL YOU BACK."

19 Q. ALL RIGHT. SO, YOU INVESTIGATED THAT?

20 A. YES.

21 Q. THOSE QUESTIONS AT THAT TIME, AND WHAT ---

22 A. YES.

23 Q. --- WAS THE RESULT OF YOUR INVESTIGATION?

24 A. THE RESULTS OF THAT WAS THAT MS. TURNER AND WE HAD A
25 FEW OTHER EXAMPLES OF SOME OF THE OTHER 1099s, SHE

1 WAS TAKING UNAUTHORIZED SHIFTS, AND WHAT I MEAN BY
2 THAT IS, IF SHE -- IF S.C.D.C. GAVE US THREE SHIFTS
3 FOR THE BROKERAGE MODEL, YOU KNOW, "HEY, MEDUSTRIAL,
4 WE'VE GOT THREE SHIFTS, WE NEED THEM MONDAY,
5 TUESDAY, WEDNESDAY, WE NEED TO FILL NEXT WEEK," AND
6 WE ASSIGN THOSE SHIFTS OUT TO RACHEL, YOU KNOW, "MS.
7 TURNER, WOULD YOU LIKE -- OR RACHEL, WOULD YOU LIKE
8 TO HAVE THOSE SHIFTS?" "YES, I WILL TAKE THOSE
9 SHIFTS." OKAY, SHE WENT TO WORK THOSE SHIFTS, OKAY?
10 BUT THEN WHAT WAS HAPPENING IS MAYBE SOMEONE
11 WOULDN'T SHOW UP AT THE PRISON OR SOMEBODY DIDN'T
12 COME IN FOR A SHIFT, AND MS. TURNER WAS TALKING TO,
13 I GUESS, THE CHARGE NURSE FOR S.C.D.C., AND WAS
14 SAYING -- WELL, YOU KNOW -- THEY WERE SAYING, "WELL,
15 THAT PERSON DIDN'T COME IN. DO YOU WANT TO FILL THE
16 SHIFT?" "YES, I DO." SHE WAS TAKING THE SHIFT
17 THERE WITHOUT RUNNING IT THROUGH THE BROKERAGE, AND
18 THEN WE WOULD GET, YOU KNOW, A TIME DETAIL THAT
19 SHOWED, YOU KNOW, AN EXTRA SHIFT FOR WHICH WE DIDN'T
20 -- YOU KNOW, WE DIDN'T KNOW WHAT WAS GOING ON.

21 Q. DID YOUR POLICY REQUIRE NURSES LIKE MS. TURNER TO
22 GET PRIOR AUTHORIZATION BEFORE TAKING ---

23 A. RIGHT.

24 Q. --- OTHER SHIFTS THAT WOULD PUT THEM INTO OVERTIME
25 STATUS?

1 A. YES. AND THAT'S WHAT -- OBVIOUSLY, THAT'S WHAT THE
2 ATTACHMENT "A" SAYS. ATTACHMENT "A" SAYS, -- AND
3 THE LAST THING IS "IF AUTHORIZED BY S.C.D.C.," AND
4 THAT'S WHAT WE WERE ALWAYS TOLD, "IF THERE'S GOING
5 TO BE ANY PAY OVER -- TIME-AND-A-HALF OVER 40 HOURS,
6 THAT HAS TO BE AUTHORIZED BY S.C.D.C."

7 Q. OKAY.

8 A. SO -- SO, SHE WAS -- SHE WAS TAKING A SHIFT THAT SHE
9 SAID PUT HER INTO TIME-AND-A-HALF, AND NO ONE FROM
10 S.C.D.C. HAS AUTHORIZED IT.

11 Q. AND SO S.C.D.C. DIDN'T PAY CONDUSTRIAL, AND THEN
12 CONDUSTRIAL DIDN'T PAY MS. TURNER?

13 A. RIGHT.

14 Q. IS THAT HOW IT WORKED?

15 A. IF -- IF -- THE WAY IT ALWAYS WORKED FROM DAY ONE --
16 OR, YOU KNOW, THIS STARTED IN 2008, IS S.C.D.C. HAS
17 TO AUTHORIZE ANY OVERTIME. IF THEY AUTHORIZE IT, WE
18 PAY IT. IF THEY DON'T, WE DON'T PAY IT, AND THAT'S
19 WHAT I WAS EXPLAINING TO MS. TURNER, AT THE TIME,
20 AND OBVIOUSLY, EMPLOYMENT LAW IS MY BACKGROUND.
21 WHEN I CALLED HER BACK, I SAID, "HERE'S WHAT I FOUND
22 OUT," AND I MADE IT VERY CLEAR TO HER, AND THIS
23 WASN'T A BIG DEAL AT THE TIME. THIS WAS A MATTER OF
24 FACT CONVERSATION ABOUT THE WAY IT IS. OBVIOUSLY,
25 WE HAD NO IDEA WE WOULD BE HERE MONTHS AND MONTHS

1 LATER, YOU KNOW, "YOU'RE NOT -- YOU'RE NOT AN
2 EMPLOYEE. YOU'RE NOT ENTITLED TO OVERTIME. THERE
3 IS A CONTRACT THAT SAYS WHEN YOU WORK OVER 40 HOURS,
4 THAT YOU ARE TO BE PAID 1.5 TIMES THOSE HOURS IF
5 AUTHORIZED BY S.C.D.C."

6 Q. DID MS. TURNER EVER STAND UP AND SAY "WHAT DO YOU
7 MEAN I'M NOT AN EMPLOYEE?" OR QUESTION YOUR
8 ASSERTION THAT SHE WASN'T AN EMPLOYEE AT THAT TIME?

9 A. SHE DID NOT DO THAT.

10 Q. DID SHE EVER -- DID SHE EVER QUESTION YOUR ASSERTION
11 THAT SHE WAS NOT AN EMPLOYEE?

12 A. NOT UNTIL THIS LAWSUIT.

13 Q. OKAY. IS IT FAIR TO SAY -- OR LET ME ASK IT THIS
14 WAY: IF S.C.D.C. PAID CONDUSTRIAL OVERTIME, WOULD
15 CONDUSTRIAL ALWAYS PASS THAT ALONG TO ---

16 A. THAT WAS PASSED. THAT WAS PASSED TO HER, YES.

17 Q. OKAY. SO, WAS THERE EVER A TIME WHERE S.C.D.C. PAID
18 CONDUSTRIAL FOR OVERTIME HOURS THAT WAS NOT PASSED
19 THROUGH TO RACHEL TURNER?

20 A. NO, I DON'T -- I DON'T BELIEVE SO. OBVIOUSLY AS A
21 PART OF THIS CASE, I'VE ASKED THAT QUESTION, YOU
22 KNOW, LOOK TO THE ACCOUNTING FOLKS, IF TIME-AND-A-
23 HALF WAS PAID FROM S.C.D.C. TO MEDUSTRIAL, IT WAS
24 PASSED THROUGH.

25 Q. OKAY.