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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas, Twelfth Judicial Circuit

The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2022-000303
Civil Action No. 2017-CP-21-01375

April Jones, ...Respondent,

v.

Tim Ringer, individually and as employee/agent of Wal-Mart Stores Inc. d/b/a Wal-Mart Store #630, Wal-Mart Stores, Inc, and Wal-Mart Stores East, L.P., ...Defendants,

of which

Walmart Stores, Inc. and Wal-Mart Stores East, L.P. are the.....Appellants.

RECORD ON APPEAL
VOLUME II

Nashiba Boyd, SC Bar No. 78376
Robert C. Blain, SC Bar No. 100024
Gaffney Lewis, LLC
3700 Forest Drive, Suite 400
Columbia, South Carolina 29204
(803) 790-8838 (telephone)
nboyd@gaффneylewis.com
rblain@gaффneylewis.com

Miles E. Coleman, S.C. Bar No. 78264
Abigail L. Wood, S.C. Bar No. 105426
NELSON MULLINS RILEY &
SCARBOROUGH LLP
2 W. Washington St. / Fourth Floor
Post Office Box 10084 (29603-0084)
Greenville, SC 29601
(864) 250-2300 (telephone)
miles.coleman@nelsonmullins.com
abigail.wood@nelsonmullins.com

Attorneys for Appellants Wal-Mart Stores, Inc. and Wal-Mart Stores East, L.P.

George M. Hearn, SC Bar No. 02889
Hearn & Hearn, P.A.
1411 First Avenue
Conway, SC 25926
(843) 248-3172
ghearn@sccoast.net

Lane Douglas Jefferies, SC Bar No.101764
Roy T. Willey, IV, SC Bar No. 101010
Eric Mare Poulin, SC Bar No. 100209
Poulin, Willey, Anastopoulo, LLC
32 Ann Street
Charleston, SC 29403
(843) 614-8888
lane@akimlawfirm.com
roy@akimlawfirm.com
eric@akimlawfirm.com

Attorneys for Respondent April Jones

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In The Matter Of:

Jones v.

Ringer, et al.

Tim Ringer
April 5, 2019



Janice D. Hayward, RMR
Independent Court Reporter
843.478.6756
JanHayward1@gmail.com

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF FLORENCE) CASE NO. 2017-CP-21-1375
3
4

5 APRIL JONES,)

6 Plaintiff,)

7 -versus-)

8 TIM RINGER, INDIVIDUALLY AND AS)
9 EMPLOYEE/AGENT OF WAL-MART)
10 STORES, INC. D/B/A WAL-MART)
11 STORE #630; WAL-MART STORES,)
12 INC.; AND WAL-MART STORES EAST,)
13 L.P.,)

14 Defendants.)
15 -----
16

17 WITNESS: TIMOTHY B. RINGER

18 DATE: Friday, April 5, 2019

19 TIME: 10:20 a.m.

20 LOCATION: Anastopoulo Law Firm
21 150 West Evans Street
22 Florence, South Carolina 29501

23 REPORTED BY: Janice D. Hayward, RMR
24 NCRA Registered Merit Reporter
25 240 Oak View Way
Summerville, South Carolina 29483
843.478.6756
JanHayward1@Gmail.com

Janice D. Hayward, RMR
843.478.6756

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5
6 APPEARANCES

7 For Plaintiff Lane D. Jefferies
Anastopoulo Law Firm
8 32 Ann Street
Charleston, South Carolina 29403

9 For Defendants Nashiba Boyd
10 Gaffney Lewis
3700 Forest Drive, Suite 400
11 Columbia, South Carolina 29204
12
13
14
15
16
17
18
19
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1 (Timothy B. Ringer, after being sworn, testified
2 as follows:)

3 EXAMINATION

4 BY MR. JEFFERIES:

5 Q Good morning, Mr. Ringer. We met off the
6 record but just for the record my name is
7 Lane Jefferies. I represent the plaintiff in this
8 matter in which you've been named as a defendant due
9 to your relationship with Walmart.

10 So if you can put your full name
11 on the record for me.

12 A It's Timothy Blake Ringer.

13 Q Mr. Ringer, do you currently work at
14 Walmart?

15 A Yes.

16 Q And what is your position there now?

17 A I'm store manager.

18 Q All right. How long have you been store
19 manager?

20 A At that location?

21 Q Yes, at that location.

22 A Approximately five years.

23 Q So that would go back to twenty -- let's
24 see, it's 2019, so 2014?

25 A Um-hum.

1 Q Were you a store manager at another
2 location -- well, let me back up and ask that a
3 different way. When you say at that location, which
4 location do you mean?

5 A At the one we're discussing today.

6 Q Which is the --

7 A 230 North Beltline Drive.

8 Q 230 North Beltline.

9 All right. And is there an
10 internal term that you all use for that store? Does
11 it have a store number?

12 A Store 630.

13 Q 630.

14 And people typically call it
15 what, like the Florence store, or do you just refer
16 to it by number?

17 A It's usually West Florence.

18 Q West Florence.

19 Throughout the rest of the
20 deposition we're going to talk primarily about this
21 particular store, Number 630, 231 North Beltline,
22 West Florence store, so if I say the store, that's
23 what I'm going to mean.

24 A Yes. Certainly.

25 Q Prior to being the store manager of the

1 West Florence store were you store manager somewhere
2 else?

3 A Yes.

4 Q Where was that?

5 A Hartsville, South Carolina.

6 Q And for about how long were you store
7 manager at Hartsville?

8 A Fourteen, 15 years.

9 Q What caused you to decide to move from
10 Hartsville to the Florence, West Florence store?

11 A Just job opportunity.

12 Q Very nice.

13 Prior to your 14 or 15 years as
14 store manager of the Hartsville store what were you
15 doing?

16 A I was still employed with Walmart in
17 different roles.

18 Q Okay. Department manager, that sort of
19 thing?

20 A I was actually hired in as a customer
21 service manager, became a support manager,
22 assistant manager.

23 Q So kind of worked your -- are you a
24 lifelong Walmart employee?

25 A 25 years.

1 Q Congratulations. Very nice.

2 Worked your way up?

3 A (No audible response.)

4 Q Is there a step beyond store manager? Do
5 you have aspirations to go to corporate or is store
6 manager like kind of where you want to be?

7 A I'm comfortable.

8 Q That's good. We find in a lot of
9 corporate settings that people move up one step
10 beyond where they're happy.

11 A Yeah.

12 Q And then they realize that there's no
13 going back. So you're a wise man. Stop where
14 you're happy.

15 As you'll remember, the lawsuit
16 here -- I think you'll remember, lawsuit here came
17 out of an incident that occurred on June 26th of
18 2015 in which Miss April Jones was shopping in the
19 Walmart store at West Florence.

20 A Yes.

21 Q All right. And you were store manager on
22 the date of that incident, June 26, 2015?

23 A Yes.

24 Q All right. Do you know about the incident
25 which Miss Jones stepped on the nail and had an

1 injury to her foot?

2 A I read the incident reports. I had
3 conversations with people who took the reports.

4 Q Who were the people who took those
5 reports?

6 A Kevin Lane was a co-manager who was --
7 as I recall, I don't believe I was even in the
8 building. Kevin would be like my direct report --
9 he reports directly to me. So he was in the
10 building that day. He was involved with it.

11 Ayesha Cook was an assistant
12 manager who actually input the information into our
13 computer system that we log in incidents or
14 accidents into.

15 Beyond that at this point in
16 time I couldn't tell you who was directly involved
17 with it.

18 Q Okay. So you remember speaking to
19 Kevin Lane and Ayesha Cook and may have spoken to
20 others, but --

21 A Yeah, been a while.

22 Q Been a while.

23 Do you have any personal
24 knowledge of the incident itself? And what I mean
25 is knowledge that you gathered directly with your

1 own senses, like you saw it, smelled it, touched it,
2 tasted it, heard it?

3 A No.

4 Q None of that. Okay.

5 And you weren't there that day?

6 A No.

7 Q All right. So what you know about the
8 incident you know from Kevin Lane, Ayesha Cook and
9 maybe some others?

10 A Um-hum.

11 Q Okay. Tell me what you have learned from
12 Kevin Lane, Ayesha Cook and others involving the
13 incident with April Jones on June 26, 2015.

14 A That customer came into the store,
15 allegedly stepped on what she said was a nail, and
16 she, on the day that it happened, she stepped on
17 the nail, she continued to shop. She went up to
18 our service desk to report what she said happened.

19 And Kevin took the information
20 that day, he took the information from her. He, you
21 know, offered her assistance if she needed any
22 assistance. There was no request for an ambulance
23 or anything along those lines.

24 Q What did Ayesha Cook do?

25 A As far as I know all she did was

1 literally enter the information into the computer
2 system.

3 Q Okay. You don't know if she actually
4 spoke with Miss Jones?

5 A No, I couldn't speak to that, no.

6 Q All right. Is there anything else that
7 you can think of that you learned about the incident
8 from Kevin Lane, Ayesha Cook or anyone else?

9 A Other than -- no, not really.

10 Q Do you recall the area of the store in
11 which this took place? And I'm thinking really two
12 things. I should clarify.

13 There's some video, we'll look
14 at that later, that shows Miss Jones with a bloody
15 sock and pulling a nail out of her foot. Apparently
16 that -- you don't actually see her step on the nail
17 in that video. So there's another area in the store
18 where she apparently stepped on the nail.

19 Do you have any idea where those
20 areas are right now? And we'll look at the video.

21 A To my understanding it took place in
22 what we refer to as an action alley, a grocery
23 action alley which is a main aisle where we put
24 displays in the stores.

25 Q Let me ask you about terminology within

1

1 the stores just so I'm understanding. When I go
2 into a Walmart, or really any store like that of
3 that type, see a bunch of shelves that look to me to
4 be essentially permanent. You know, they're always
5 there, they're always in the same place.

6 A Side counters.

7 Q Tell me what you call those.

8 A Side counters.

9 Q Side counters. Okay.

10 And those are permanent
11 essentially?

12 A Yes, they're nonmoving.

13 Q All right. And then there are other
14 things, sometimes I'll see a display in an area one
15 week, I'll go back the next week, there's nothing
16 there, just floor space. What do you call those
17 kinds of displays that are not permanent?

18 A I mean, we just refer to them as
19 displays. We refer to them as stack bases which
20 are like a plastic, a hard plastic mold that you
21 would stack merchandise on top of --

22 Q Okay.

23 A -- that is mobile.

24 You can also have other types of
25 fixturing that you can build displays on as well.

1 Q And what sort of things would you choose
2 to put on the stack bases or other kind of movable,
3 nonpermanent displays?

4 A High volume merchandise. It could be
5 new items, seasonally relevant items.

6 Q Do you all have -- I know in the
7 restaurant business we have terms, front of the
8 house, back of the house, that sort of thing, to
9 distinguish the area where the customers are from
10 the kitchen and other employee-only areas.

11 Do you all have that same kind
12 of terminology in a Walmart or how do you talk about
13 the area where the customer is? What do you call
14 that?

15 A Sales floor.

16 Q Just the sales floor? All right.

17 And then everything else in the
18 store is --

19 A Actually you have the sales floor and
20 you have a back room.

21 Q Okay. Is there much in the back room?
22 I've never been off the sales floor of a Walmart.

23 A There's quite a bit.

24 Q Is there? Okay.

25 And that's all inventory waiting

1 to come out?

2 A Yes.

3 Q All right. So walk me through this
4 process. Inventory shows up at a Walmart presumably
5 in a truck. How does it then -- what's that process
6 from it being on the truck to it being out where I
7 as a customer can pick it up and buy it?

8 A Depends on the source that it comes
9 from. The majority of our merchandise comes from
10 our Walmart Distribution Centers. And they come
11 in on trucks that we unload by hand. We pick up
12 each individual box, put it on a system of rollers
13 that's a belt, that you send it down a line, it's
14 sorted, it's put onto carts or pallets.

15 And then at the designated time
16 which generally is overnight, starting about
17 10 o'clock at night that merchandise will be taken
18 to the floor when you have a lower traffic count in
19 a building and the merchandise is then placed on the
20 shelves.

21 Q And that's the majority of merchandise.
22 Is there stuff that comes in, the minority that
23 comes in from elsewhere other than your distribution
24 center?

25 A Direct store deliveries, whether that

1 be, an example would be a vendor, would be a
2 Pepsi-Cola vendor or a Frito-Lay vendor or
3 something like that, they bring their merchandise
4 in, we check it in, and they actually stock the
5 merchandise to the shelves themselves.

6 Q Okay.

7 A And then there's other merchandise that
8 comes in through common carriers that would be
9 unloaded and again we would go through the process
10 of checking it in, and then based on what it is,
11 you know, size and everything, on how we transport
12 it to the floor.

13 Q Is there a reason that certain things
14 would come in by common carrier?

15 A Certain stuff comes directly from a
16 vendor or manufacturer that doesn't go through our
17 warehouse.

18 Q Who makes that decision about whether
19 stuff goes through a warehouse or comes directly --

20 A Way above me.

21 Q Okay. You don't know who that is but
22 somebody in corporate?

23 A (No audible response.)

24 Q All right. What about all the food items,
25 do those -- let me back up. Not all the food items.

1 Obviously you just talked about Pepsi and Frito-Lay
2 and other things that come directly to the store.

3 A Now, our grocery trucks, they'll come
4 in, that stuff is palletized, it's already
5 palletized.

6 Q Is that common carrier?

7 A No, that comes in through Walmart trucks
8 as well. That comes in as palletized. We pull it
9 off the truck, we unstack it from the pallets, we
10 sort it, we put it onto carts, and then that is
11 rolled out to the floor and then stocked on the
12 shelves. And that can be dry grocery, frozen,
13 dairy, or any of our, what we consider fresh
14 product.

15 Q And that grocery is also from a Walmart --

16 A -- Distribution Center, yes.

17 Q Walmart Distribution Center. All right.

18 So aside from those four, I'll
19 call it four ways, the majority of stuff coming from
20 a Walmart Distribution Center, some stuff coming
21 directly to the store from a vendor such as, for
22 example, Pepsi, other things coming by a common
23 carrier, a truck line, and then finally grocery
24 items coming from the Walmart Distribution Center,
25 is there any other way that inventory gets onto the

1 sales floor besides those four sources?

2 A No. So that would encompass 99 percent.

3 Q All right. And you can't think of
4 anything else, that other tenth of a percent or
5 whatever, you can't think of any other way it would
6 get there?

7 A Not off the top of my head, no, sir.

8 Q All right. If I'm understanding you
9 correctly, of the four ways we talked about, three
10 of them involved Walmart people actually getting the
11 material off of a truck and putting it on the sales
12 floor.

13 The fourth would be vendors like
14 Pepsi who actually bring the items into the sales
15 floor themselves and put it on the floor?

16 A Yes.

17 Q Okay. And I'm guessing that it's a
18 relatively modest number of big sort of vendors who
19 actually deliver items to the sales floor. Like a
20 small vendor wouldn't do that, or would they?

21 A It varies. I mean, we have quite a few
22 vendor partners that handle their own merchandise
23 inside.

24 Q Do you have any idea, and I know you might
25 not know the exact number, but roughly just give me

1

1 an idea of scale. Is that half a dozen? A dozen?
2 A hundred? And I'm thinking just of your store,
3 outside vendors that actually set their own people
4 onto your sales floor to stock merchandise.

5 A I'd say at least a dozen.

6 Q Okay. Can you think of any of those dozen
7 or so -- I know it might be more, might be less --
8 any of those dozen or so vendors that deliver
9 inventory directly to your sales floor that would
10 use a wooden pallet either to bring that inventory
11 actually onto the sales floor, bring the pallet onto
12 the floor, or would have the inventory stacked on a
13 pallet maybe when it arrives in a truck?

14 A Most vendors don't use pallets, most of
15 them use hard plastic mold pallets.

16 Q Okay. Are you aware of any outside
17 vendors that do use a wooden pallet in your store,
18 and specifically would have used it back around the
19 time of April Jones' injury?

20 A I can't think of anyone that would
21 because, again, most of the vendors that deliver
22 palletized freight where they bring their own
23 18-wheelers, they use and have used the plastic
24 mold pallets for a long time.

25 Many of the other vendors that

1 come in, they literally deliver on hand trucks
2 through our back door.

3 Q Okay. And I think I've seen that like
4 with a Pepsi delivery that's coming in and hand
5 trucks getting wheeled out there and stacked up.

6 A Okay.

7 Q Who would know in your store who all the
8 vendors were back in June of 2015 and in the few
9 months prior who were actually delivering
10 merchandise into the sales floor themselves?

11 A I mean, we still have some I'm sure that
12 I know that were delivering then and deliver now.
13 As far as a full vendor listing, I'd have to do
14 some research on that. I don't know a full list
15 to be able to tell you.

16 Q Okay. And that would be -- is there
17 somebody in your store who coordinates that or is
18 that coordinated --

19 A That would be more, we would have a
20 listing of people that can come in, but somebody
21 come in every day, somebody come in once a month,
22 somebody coming in every -- you know what I'm
23 saying, there's a big variance in there.

24 Q Do they have to like check in or
25 something?

1 A Yes.

2 Q Okay. Who would they check in with?

3 A They check in with, back at our
4 direct/DSD area, our people checking it in.

5 Q Tell me what that term means.

6 A Direct store shipments.

7 Q Direct store shipment. Okay.

8 A Yeah.

9 Q Direct store shipment.

10 Who is in charge of that direct
11 store shipment department now in your store?

12 A Hourly associates that operate right
13 there.

14 Q Would you have records of who was working
15 in the direct store shipment department back in
16 April, May, June of 2015?

17 A I'm sure we could go back and look at
18 it.

19 Q Okay. And do you know, and I know you
20 might not know this 'cause I know you sit at the top
21 of this organization so you probably don't see every
22 single form that somebody laid down for you to sign,
23 but do you have any idea the kinds of records they
24 keep, say Pepsi shows up, I'm the Pepsi guy here to
25 deliver Pepsi, is there like a form or something --

1 A It's changed. It's updated over the
2 last few years.

3 Q Okay.

4 A Whereas everything at some point even
5 through 2015 would have been checked in
6 electronically using handheld terminals.

7 Q Okay.

8 A Back then -- and again, I can't remember
9 the progression of the changes we've made, but
10 there was a day and time there were paper
11 invoices, which now you don't generally see a
12 whole lot of paper invoices. Most everything's
13 done electronically.

14 Q So somewhere, whether it's paper or
15 electronic, there would be a record of what --

16 A There would be a record of --

17 Q -- outside vendors brought stuff in in
18 April, May, June of 2015?

19 A Yes.

20 Q And we could get that by talking to
21 Walmart's attorney, Miss Boyd, she could find that
22 for us somehow?

23 A Yes.

24 Q Okay. The inventory that arrives on
25 wooden pallets, are you aware of whether it's an

1 outside vendor or whether it's stuff coming from
2 your distribution center? It arrives on wooden
3 pallets. Are there instances where it gets
4 delivered to the sales floor actually on that wooden
5 pallet?

6 A What do you mean, delivered?

7 Q So what I mean is is there an instance
8 where the wooden pallet actually, instead of being
9 unloaded, the wooden pallet along with the inventory
10 gets out onto the sales floor?

11 A Yes.

12 Q Okay. And is there any generalization
13 about what types of items would go out to the sales
14 floor on a wooden pallet or is it kind of all over
15 the map?

16 A All over the map.

17 Q All right. Could be food, could be stereo
18 equipment, just could be whatever came on a wooden
19 pallet?

20 A Yeah.

21 Q Okay. What sort of truck arrives that's
22 got a wooden pallet with some kind of inventory on
23 it and it's one of those instances where the wooden
24 pallet is actually going to go out onto the sales
25 floor, is there any sort of safety check that's

1 performed on that pallet, not just for nails but for
2 anything, like whether it's stable enough to be out
3 there, it's not going to collapse and topple over
4 onto people or rough edges that somebody could get
5 hurt on or nails or whatever, is there any kind of
6 safety check that Walmart does before that pallet
7 gets out onto the floor?

8 A If you have to stack a pallet, we call
9 it a bump test where you want to make sure that
10 the merchandise is stacked stable.

11 Q Tell me about a bump test.

12 A You just give it a little push to make
13 sure that it was stable and it wasn't going to
14 just topple over easily.

15 Q Okay.

16 A If something is questionable, they need
17 to use shrink-wrap to wrap the merchandise to the
18 pallet.

19 Q Okay. Anything else you do, before that
20 pallet with its merchandise gets out on the floor,
21 any other safety inspections that are done? And it
22 doesn't have to be highly technical. I'm just
23 thinking anything you do to inspect to make sure
24 that it's safe for people to be around it before it
25 goes out on the floor.

1 A No.

2 Q We talked earlier about permanent displays
3 which I think you described as side counters, side
4 counters?

5 A Side counters that never move.

6 Q That never move.

7 A Right.

8 Q So that's one thing. Pallets and
9 merchandise wouldn't have anything to do with that
10 'cause that merchandise actually goes onto those
11 shelves, right?

12 A Right.

13 Q Okay. So if there were merchandise on a
14 pallet, it would be out there on one of the movable
15 displays?

16 A On a stack base.

17 Q On a stack base. Okay.

18 And so tell me about how that
19 would work. Is that just -- let's think of
20 something for an example. I don't know what might
21 come on a pallet, but something that's on a pallet,
22 some grocery item that comes in on a pallet.

23 Pallet and the items get brought
24 into the store and they're set down. Does anything
25 happen after that or is that just the display just

1 the way it is?

2 A I'm not sure I understand what you're
3 saying. But as far as anything that's displayed
4 on a stack base, it's hand stacked onto it.

5 Q Okay.

6 A We literally would take it off of a cart
7 or a pallet and you would stack it onto that --

8 Q Onto that base?

9 A -- that stack base.

10 Q What is that stack base? Describe that to
11 me.

12 A 4x4 black plastic, hard plastic mold.

13 Q How high is it?

14 A About six inches off the ground.

15 Q Okay. And that just, instead of stacking
16 the merchandise directly on the floor, that just
17 provides something for it to sit on?

18 A Yeah.

19 Q Okay. So if merchandise came in on a
20 pallet, it gets stacked from the pallet onto the
21 stack base, the pallet then gets picked up and
22 leaves the sales area?

23 A (No audible response.)

24 Q Is there ever a time where that pallet and
25 its merchandise would stay in the sales area and it

1 become the display?

2 A That's not a general practice. Not
3 going to say it never ever can happen but it's not
4 a general practice.

5 Q Because typically a display would be the
6 stack base?

7 A Yes.

8 Q Is there a policy or anything about that?
9 Like how do you know to do that? Why would somebody
10 not just bring in a pallet and put it there?

11 A Because they're ugly.

12 Q Because they're ugly. Fair enough.

13 You said as a general practice
14 you would remove items from the pallet, put them on
15 to the stack base, but that you couldn't be certain
16 that a pallet was never just set in there as a
17 display.

18 Is that -- who would be in
19 charge of that? Like who would walk around the
20 store and say, hey, guys, I see we got in all these
21 Keurig machines and you put them out on display on a
22 pallet. That's ugly. Get rid of that. Let's put
23 them on a stack base. Who is that? Like a
24 department manager that does that?

25 A Department manager could do it, an

1 assistant manager could do it, a co-manager could
2 do it. I could do it. I mean, anyone who
3 understands the basic expectations of merchandise
4 display would be able to speak to that.

5 Q All right. Whose responsibility is it to,
6 if let's say it's in the grocery section, I'm just
7 saying like reporting lines. If you walked through
8 the grocery section as the general manager and saw
9 something like that and said, man, I don't like this
10 at all in my store, who would you be going to to
11 say, hey, why did you not fix this? Whose, like,
12 responsibility is it to look after that?

13 A Again, it could be a department manager,
14 an assistant manager, it could be an hourly
15 associate that works in the area that I saw them
16 with hands on it. Why did you do this?

17 Q And so you have department managers that
18 handle certain areas of the store?

19 A Yes.

20 Q How many of those do you have in round
21 numbers?

22 A Somewhere between 25 and 30.

23 Q Okay. And I'm guessing if you have
24 between 25 and 30 department managers you do not off
25 the top of your head remember who all of them were

1 back in April, May and June of 2015?

2 A No, sir.

3 Q How could we find out who they were back
4 in April, May and June of 2015?

5 A You'd have to go back through the
6 personnel records.

7 Q Is that something that Miss Boyd could get
8 for us from Walmart?

9 A Yes, that would be something she would
10 have to follow up on.

11 Q So if I understand you correctly, with
12 respect to wooden pallets, what you've said is you
13 can't guarantee that they've never ended up staying
14 on the sales floor, but that's not what Walmart
15 wants to happen, that's not what you want to happen.

16 If that happens and you spot it
17 or somebody else spots it you say, fix it, get those
18 off of the sales floor?

19 A Yes.

20 Q Would there be any record made necessarily
21 of that happening or is that just something that,
22 you know, you see it, you say to the guy, hey, get
23 this thing out of here, and it leaves?

24 A There's no written record, no.

25 Q There wouldn't be any written record.

1 Okay.

2 Would there be any video record
3 of that sort of thing? The reason I ask that is
4 this. This incident took place over three years
5 ago. I don't know how long Walmart keeps video.
6 You take a lot of video. Would you still have video
7 records dating back that far?

8 A Unless it was burned onto a DVD, it
9 wouldn't be. Our data bank would not hold
10 information for that time period.

11 Q Do you know how long it does hold it for?

12 A 60 days.

13 Q 60 days. Okay.

14 So if an incident, something is
15 reported to you all within 60 days you can capture
16 the video, outside of that, you might have it but
17 you might not?

18 A It also depends on where it took place,
19 if there were cameras in that area.

20 Q Are there areas of a Walmart that aren't
21 covered by camera?

22 A Yes.

23 Q Wow.

24 MS. BOYD: And I tell you guys that
25 all the time.

1 BY MR. JEFFERIES:

2 Q I'm shocked, yeah, I'm amazed.

3 Do you have any idea why there
4 would be uncovered areas?

5 A The actual square footage. You wouldn't
6 want a camera near a fitting room or a dressing
7 room, would you?

8 Q Fair. Right.

9 A Yeah, that's just -- my particular store
10 is over 200,000 square feet.

11 Q Wow. And you might not know the answer to
12 this question, but of that, do you have any idea
13 what the square footage that isn't observed by
14 cameras might be?

15 A I have no idea.

16 Q Is it half, or?

17 A I have no idea.

18 Q Do you have anything to do with the camera
19 placement coverage and all that or is that
20 corporate?

21 A I do not have any direct say on that. I
22 can request a camera to be moved or for a
23 placement, but there is a whole division of our
24 company that handles all that, asset protection
25 handles all that.

1 Q Asset protection. Okay.

2 Do you know the name of a
3 particular contact there, or?

4 A That would probably be something
5 Miss Boyd can get for you.

6 Q Miss Boyd can get that. Okay.

7 I know you mentioned that you
8 don't like having wooden pallets on the floor 'cause
9 they're ugly, that you use them sometimes to
10 transport inventory out to the floor, unload it,
11 take the pallet away.

12 Is there any sort of written
13 policy that says that's how you do it? Like how
14 would somebody know that?

15 A I'm not aware of a written policy that
16 says that you use pallets to transport
17 merchandise. But it is a common practice to be
18 able to move merchandise based off the size and
19 the quantity.

20 Q And I'm thinking more of not a policy that
21 says use the pallet to move it, but a policy that
22 says if you use the pallet to move it, don't leave
23 that pallet out there, take the pallet away.

24 Is there something that if I
25 were a new Walmart employee, how would I know that

1 I'm supposed to unload that wooden pallet and not
2 leave it out on the floor?

3 A Oh, we train all of our associates that
4 you do not leave an empty pallet. If for some
5 reason something has to sit on the floor for a
6 short period of time until you can transport
7 something from one place to the other or replace
8 something on it, they're all trained to put some
9 type of an object on the corners so it doesn't
10 become a trip hazard.

11 Q Like around the four corners of the thing?

12 A Yes.

13 Q And so that would be, in terms of that,
14 what they call a policy or training item, that would
15 be in some sort of training manual?

16 A Yes.

17 Q Okay. And with the training manuals, is
18 that something that's kept there in the store or is
19 that off --

20 A All the training is all online.

21 Q That's all online. I got you.

22 So if we wanted to see what the
23 training manual has to say about unloading pallets
24 or if you have to leave pallets, et cetera, there
25 wouldn't be a sheet of paper, it would be something

1 electronic that Miss Boyd could get for us?

2 A All our training is done online.

3 MS. BOYD: And I'm just going to
4 purport to you that Walmart will give it
5 to you in paper form, a printout of the
6 electronic version. So, yeah, we can give
7 it to you electronic versus the
8 proprietary video.

9 It's just like the transcript
10 and photos of what they see. They're
11 called computer-based learning or CBLs is
12 how they --

13 MR. JEFFERIES: And so what the
14 employee sees is a video and audio but
15 what you'll produce to us are still video
16 shots and a transcript of the audio?

17 MS. BOYD: Yes.

18 MR. JEFFERIES: Which is much better
19 for my purposes than the actual video in
20 any cases. Maybe not as good for Jan
21 because I'd have to hire her to transcribe
22 it, so.

23 MS. BOYD: Yes.

24 BY MR. JEFFERIES:

25 Q All right. So to the extent there's a

1 policy about what to do with pallets when they come
2 out on the sales floor, really, it's in that
3 training?

4 A Yes.

5 Q Okay. And that would include any safety
6 precautions or anything like that?

7 A Yes.

8 Q Let's look at a slightly bigger picture.
9 What's Walmart's vision as a company?

10 A To provide lost-cost merchandise,
11 pleasant shopping experience to our customers.

12 Q And is that mission communicated down
13 through the chain of command down to the
14 lowest-level employees in the store?

15 A Sure.

16 Q And how do you do that? Is it company
17 meetings or is it posters or how do you communicate
18 that mission?

19 A All of the above.

20 Q Anything else besides, I guess
21 computer-based learning as well, is that -- would
22 that be right?

23 A From the day that they're orientated,
24 first day of orientation we talk about the focus
25 is customer service, taking care of our customers,

1 providing them the best price. Save money, live
2 better. I'm sure you've probably heard Walmart's
3 message out there before.

4 Q I have. You all have a pervasive
5 advertising program.

6 A Yeah.

7 Q That works.

8 What about safety, does Walmart
9 have a particular mission with respect to customer
10 safety in the stores or a particular, you know, kind
11 of guiding principle with regard to safety in the
12 stores?

13 A Sure.

14 Q What would that be?

15 A It begins with the training of the
16 associates. Everyone has to go through basic,
17 what I call basic training. And then it can be --
18 become more specialized based on the area that you
19 are working in.

20 But everyone goes through a very
21 in-depth training process through their CBLs as she
22 spoke to earlier. We have safety teams within our
23 building. Our safety teams meet on a weekly basis.

24 I myself sit in on the safety
25 meetings weekly along with other salaried members of

1 management and hourly associates. Safety is talked
2 about on a regular basis within the meetings that we
3 have.

4 We personally, we will have
5 multiple meetings per day with each shift. I'm not
6 about to sit here and tell you that every single
7 meeting that was ever held, that, you know, a safety
8 topic is covered, but safety is discussed in these
9 meetings.

10 Q And what sort of topics with respect to
11 safety would you discuss? Say, you know, I know you
12 might not talk about it every single day, but over
13 the course of a month what kind of safety topics
14 would you emphasize?

15 A For us one of the biggest opportunities
16 we have from an associate standpoint would be
17 proper lifting procedures. We call it staying in
18 the green zone.

19 From a customer standpoint, just
20 like today, I'm sure my team had their meeting this
21 morning while I was en route here talking about make
22 sure that we have the wet floor cone signs out, the
23 dry mops at the front door, the rugs down at the
24 front door, everybody's got a towel in their pocket.

25 We actually refer to it as a TIP

1 program, T-I-P, towel in pocket. So as you walk
2 through the store, you see water that has come in
3 off of someone's umbrella, a shopping cart or
4 whatever, you stop and wipe it up. We talk about
5 that. I mean, those are just general things that we
6 would discuss.

7 Q And I know the wet floor thing is huge.
8 Anything else that comes up with respect to
9 customers' safety, anything else that comes up
10 frequently?

11 A We'll discuss the fact that make sure
12 that we -- you know, if you see it, pick it up.

13 Q And that would apply to really I guess
14 anything that's on the floor?

15 A I would -- I wouldn't want to share with
16 you all the things I picked up off the floor.

17 Q I can imagine.
18 Is your store -- back at the
19 time, back in April, May, June of 2015, was your
20 store 24 hours a day?

21 A Yes.

22 Q Are they all that way now?

23 A No.

24 Q Do you have any idea how Walmart decides
25 which ones are 24 hours, which ones aren't?

1 A Not my pay scale.

2 Q Understood.

3 Now, you talked about a safety
4 team. Tell me about the personnel with that. Is
5 there like a director of safety or some title like
6 that?

7 A It's an hourly associate that has shown
8 the ability to want to step up and take on extra
9 roles within the store. They have a salaried
10 manager sponsor that helps them. They conduct the
11 actual meetings themselves and the sponsor will be
12 at the meetings.

13 Topics are put out monthly by
14 the home office, specific topics that need to be
15 covered in those meetings. Different talking
16 points, things of that nature come down for them to
17 be covered when they have those meetings. We have
18 safety meetings and we have compliance meetings.

19 Q What's the difference between the safety
20 meetings and the compliance meetings?

21 A Lot of it's bleed-over, quite honestly.

22 Q And compliance would be like compliance
23 with Walmart's policies?

24 A (No audible response.) Which ties
25 directly into a lot of the safety issues.

1 Q Lot of safety issues.

2 Those monthly directives that
3 come out about topics to be addressed, is that
4 electronic?

5 A Yes.

6 THE WITNESS: I'm sorry.

7 MS. BOYD: She's recording you so if
8 you'll just try to say --

9 THE WITNESS: Yeah.

10 BY MR. JEFFERIES:

11 Q Could we get from Miss Boyd those monthly,
12 what do you call them, bulletins?

13 A Yeah, I mean, they're safety topics.

14 Q Safety topics. Is that something we could
15 get from Miss Boyd for the, you know, 12 months,
16 let's say, prior to June of 2015?

17 A I feel like that would be something she
18 could provide.

19 Q Excellent.

20 MS. BOYD: I'm getting a lot of
21 homework here.

22 BY MS. BOYD:

23 Q What about security in the -- in your
24 store. Is there a -- how is that handled? Is there
25 a separate like security department that handles

1 that?

2 A Are you talking about security from a
3 loss prevention standpoint? Security -- I'm not
4 sure.

5 Q Yeah, I think that would be a big part of
6 it. Are there other aspects of security that you
7 think about besides loss prevention?

8 A We have in-house loss prevention that
9 monitors the store for theft.

10 Q Okay.

11 A They also, you know, of course, are
12 involved with looking at anything that may seem
13 suspicious within the facility.

14 Q Right. Okay.

15 A But that's our in-house, yes, we do
16 that.

17 Q And is that run by a special -- is that
18 like its own department with a department head, or
19 how is that?

20 A There's an assistant manager that's over
21 that at this time. In 2015, I'm trying to think
22 back, they were also a salaried member of
23 management at that time as well, yes.

24 Q And that's something I know you don't know
25 all that off the top of your head. That's

1 something, again, that in terms of an organizational
2 chart for your store, that's something we could get
3 from Miss Boyd that shows --

4 A Yes.

5 Q -- who the people were and who reported to
6 whom.

7 A Yes.

8 MS. BOYD: And I believe, I'm just
9 going to clarify for the record, you
10 earlier talked about asset protection.
11 That's loss prevention. When you said
12 interchangeably, so it's one department.

13 MR. JEFFERIES: Asset prevention/loss
14 protection.

15 THE WITNESS: Asset protection is
16 what it's referred to currently; was loss
17 prevention.

18 MR. JEFFERIES: Loss prevention. Got
19 you.

20 BY MR. JEFFERIES:

21 Q So that is the department, it has a
22 salaried manager, et cetera. Safety is not a
23 department of its own. It is like a program that is
24 run by an hourly person with a particular manager
25 that kind of sponsors?

1 A And the salaried manager from asset
2 protection is what we refer to the sponsor.

3 Q Okay. So that person is the sponsor,
4 'cause they kind of go hand in hand?

5 A Yes.

6 Q Is there a separate budget for the safety
7 component versus the asset protection component?

8 A As far as what type of budgetary --

9 Q Well, I'm guessing, and I don't know but
10 I'm guessing in your store there's a certain amount
11 of your store budget that's dedicated to that -- to
12 the asset protection department. They've got to
13 hire people, certain numbers of people, they got to
14 spend money on things, I don't know what all those
15 things might be, but that they have a particular
16 budget that they have to work in? Or maybe that's
17 not the way it is. I don't know how your store is
18 set up.

19 A They don't have -- my budget is for my
20 store, and all actions within that store with the
21 exception of a pharmacy is -- comes out of one
22 bucket, so to speak. Does that make sense?

23 Q Right. Yeah. And then everything else
24 comes out of another bucket, essentially, the entire
25 rest of the store. There's -- the pharmacy is its

1 own thing?

2 A Pharmacy has its own P and L. They have
3 their own budget, their own P and L that they
4 answer to. And the rest of the store falls under
5 the total store, even though the pharmacy does
6 roll up into my profitability.

7 Q So it's not the case -- I was thinking
8 about this, maybe I'm wrong, but if I were the
9 manager of the electronics department, I don't have
10 my own electronics department budget for which I'm
11 responsible?

12 A No.

13 Q Okay. I'm just responsible for managing
14 those people and getting stuff out on the shelves,
15 right, and all that?

16 A Yes.

17 Q All right. Do you know or could you find
18 out what the store budgeted towards security, that
19 asset protection department, back in 2015?

20 A I don't know that you would find a line
21 item on the budget for something that vague as far
22 as security. Because there are different things
23 that would fall in that, whether it be supplies,
24 whether it be wages, whether it be different
25 things.

1 Q Is that not something that Walmart tracks,
2 like what it spends on its asset protection?

3 A It does, but there again, it would --
4 each of those different things has a different
5 line item within a P and L within a budgetary
6 situation. I mean, it's nothing that I would see
7 that would say we spent -- you have a \$15,000
8 budget for asset protection for the month of June.
9 It's not broken down that way.

10 Q Okay. I was thinking in terms of like
11 Walmart analyzing it. If you had no asset
12 protection program, certain stuff would get stolen
13 out of your store; we just know that would happen.
14 Probably certain stuff gets stolen anyway.

15 And if you're spending, I don't
16 know, let's say half a million dollars a year to
17 reduce theft by only a hundred thousand, well, would
18 be cheaper just to let them steal it. So I'm
19 wondering if Walmart analyzes that, looks at --

20 A I'm sure at some level they do.

21 Q But not your store?

22 A Not a store level.

23 Q Do you analyze in any way the expenses
24 associated with safety? Like you mentioned the
25 towel-in-pocket program. You mentioned dealing with

1 rain is a big issue, I'm sure.

2 Do you have any idea how much
3 money you spend to do that, to make sure that those
4 umbrella bags are out there and that everybody has a
5 towel that you obviously had to buy somewhere?

6 A I'd have to go back, it would be
7 something we would have to go back and look at.
8 Those actually fall under supplies and not safety.

9 Q All right. So it's not something that,
10 safety is not something that's broken out separately
11 in the budget?

12 A No.

13 Q And if I wanted to know more about your
14 store budget, are you the best person to talk to
15 about that or do you have like a financial person
16 that --

17 A I would recommend that that would go
18 through corporate finance.

19 Q Corporate finance?

20 A (No audible response.)

21 Q Any particular person there?

22 A I have no idea. That's a whole nother
23 world.

24 Q Okay. Why don't we do this. Why don't we
25 take a brief break, I'm going to pull up some video.

1 We have hours of video, we are not watching hours of
2 video.

3 A Okay.

4 Q All I want to do with the video is have
5 you tell me what part of the store I'm looking at.
6 I think it should be self-evident from the labels,
7 but I just want to make sure I understand what I'm
8 looking at in the store.

9 So let's take a brief break
10 while I get that up and we'll come back together and
11 get that done.

12 MS. BOYD: Sure. Okay.

13 MR. JEFFERIES: We can go off the
14 record.

15 (Recess.)

16 MR. JEFFERIES: Let's go back on the
17 record and we'll just look at these videos
18 real quick.

19 BY MR. JEFFERIES:

20 Q All right. So we are now about to look at
21 what was labeled clip number two. And these are
22 all, Mr. Ringer, these are all videos that were
23 provided by Miss Boyd to us. You can see the date
24 on this video is June 26th, 2015.

25 Do you recognize the area of the

1 store depicted in that video?

2 A Yes, sir.

3 Q All right. What area is that?

4 A We refer to that as grocery action
5 alley.

6 Q Okay. And does it look like -- what's off
7 to the left of it? Is that like a McDonald's
8 symbol? Is there a McDonald's?

9 A There's a McDonald's at the front of the
10 store.

11 Q At the front of the store. Okay.

12 And grocery action alley is this
13 main kind of -- main sort of hallway through the
14 store that leads out to the doors we see in the
15 video?

16 A Yes.

17 Q And in the center of that are various
18 displays.

19 A Yes.

20 Q And are those permanent displays or
21 movable displays or something --

22 A They're movable.

23 Q They're movable. Okay.

24 What would be off to the right
25 on this?

1 A Those would be the grocery side
2 counters.

3 Q Okay. So in this grocery action alley,
4 this is the sort of area where if someone brought
5 merchandise in on a pallet, and contrary to
6 Walmart's policy, didn't immediately unstack it and
7 remove the pallet, that's the kind of area where
8 that pallet would end up, is that right, versus over
9 here to the right inside the side counter aisles?

10 A Pallets can be pulled anywhere in the
11 store.

12 Q Okay.

13 A I mean, they're not restricted to only
14 that area.

15 Q Okay. So a wooden pallet could be
16 virtually anywhere within the store, not
17 necessarily --

18 A Yeah, I mean, you can pull it down those
19 aisles.

20 Q Okay. So if a nail were to fall off of a
21 pallet, there's nowhere in particular in the store
22 you would expect that to happen? That could happen
23 anywhere in the store?

24 MS. BOYD: Objection to form of the
25 question.

1 You can answer.

2 BY MR. JEFFERIES:

3 Q You can go ahead and answer.

4 A I'm sure anything could fall off of
5 anything anywhere in that store. I mean, it could
6 be anywhere.

7 Q Okay. Is there any particular policy,
8 protocol, anything like that to essentially sweep
9 visually or physically the store for items that do
10 end up on the floor, not just big things but small
11 things like a pallet nail, that sort of thing?

12 A As I told you earlier, we train all of
13 our associates to visually see anything on the
14 floor, to pick it up. We do safety sweeps every
15 hour and a half to two hours where a member of our
16 maintenance team or another associate, because a
17 lot of times things need attention before
18 maintenance can get there, and they will get a
19 broom, what we call a dustmop, which is
20 approximately, what, three feet, and they'll go
21 through an area and sweep the floor to make sure
22 that trash and debris or whatever the case may be
23 on the floor is swept up.

24 Q And that safety sweep occurs every, what
25 did you say, hour, hour and a half?

1 A About hour and a half, two hours.

2 Q Are there any kind of records of that or
3 is that just something that happens?

4 A That's just something that happens.
5 There's no written documentation.

6 Q Is there a way to -- how do you know that
7 it actually gets done?

8 A If you saw a bunch of dirt on the floor
9 you'd know it hadn't been done. Physically see
10 the people on the sales floor with broom in hand
11 going up and down the aisles.

12 Q Okay. So there's no -- I'm thinking about
13 like I go in the bathroom at a gas station and on
14 the back of that door there's that checklist that
15 says this bathroom was checked at 11 o'clock by Bob.
16 And presumably that's how the manager knows that
17 somebody actually checked the bathroom.

18 Is there anything like that so
19 we would know, for instance, nail falls off of
20 pallet on this particular area?

21 A No.

22 Q No way to know whether anyone went down
23 that area, is there?

24 A There is no way -- there is no chart
25 that we check off that says this was completed at

1 this time, no.

2 Q So if you had on any given day some of
3 your less-motivated employees, that might not get
4 done every hour, hour and a half?

5 A Or I can have extra-motivated employees
6 that get it done every 30 minutes.

7 Q And there's no way to really know.

8 A Not for sure, no.

9 Q And even with regularly motivated
10 employees, something could be on the floor for an
11 hour, hour and a half before that sweep actually
12 happens?

13 A There's always a possibility. You know,
14 we can't control everything that takes place in
15 the building with the amount of customers that we
16 have coming in and out of the building on a daily
17 basis.

18 We do our very best to maintain
19 a clean environment, but we can't guarantee that a
20 customer is not going to bring something in
21 themselves and drop it on the floor.

22 Q Customer ever bring a wooden pallet in the
23 store?

24 A Can't say that I've ever seen a wooden
25 pallet brought in the store, but I see plenty of

1 times customers come in the store and spill their
2 drink on the floor and walk right away from it.

3 Q I've seen that too.

4 As to the outside vendors -- let
5 me go back to an earlier question. As to the
6 outside vendors that do bring merchandise into the
7 store, that dozen or whatever it is, are you aware
8 of any of them that would bring in merchandise on --
9 using wooden pallets back in April, May, June of
10 2015?

11 A I'm not aware that I could specifically
12 say this vendor uses wooden pallets to bring
13 merchandise into the facility. To the best of my
14 knowledge even five years ago the majority of the
15 vendors were using the plastic mold pallets.

16 Q So if merchandise was transported into the
17 store to be unloaded using a wooden pallet, that
18 would have been a Walmart employee that used that
19 wooden pallet, unloaded the merchandise and then
20 took the wooden pallet back out?

21 A Say that one more time.

22 Q So if the vendors didn't use wooden
23 pallets to bring stuff into the store, if a wooden
24 pallet came into the store with the merchandise on
25 it to be unloaded on the shelves --

1 A There are vendors that will use -- they
2 will bring the stuff in on hand trucks themselves
3 into the store. And they sometimes will use a
4 wooden pallet to then transfer their merchandise
5 to transport it.

6 Q Okay. So some combination, if the wooden
7 pallets back in April, May, June of 2015 were in
8 your store, that could have been Walmart employees
9 bringing them or it could have been outside vendors
10 bringing them in?

11 A Yes, they could have come to the floor
12 with pallets, yes.

13 Q And you just don't remember any particular
14 vendors who would have done that with wooden
15 pallets?

16 A No.

17 Q Any sort of safety instruction or anything
18 you'd give to those outside vendors, say, hey, you
19 need to watch out for this, especially if you're
20 bringing wood pallets into our store, you need to do
21 X, Y and Z to make sure you leave the place as safe
22 as you found it?

23 A For me, all vendors know that there's to
24 be no pallets on the floor.

25 Q Left on the floor?

1 A On the floor.

2 Q Oh, okay.

3 A After 8 o'clock in the morning. They
4 have until 8 o'clock in the morning. If they need
5 to use a pallet to take merchandise to the sales
6 floor, whether it's a wooden pallet or a plastic
7 pallet, doesn't matter, they need to be off the
8 floor by 8 o'clock.

9 Q By 8 o'clock.

10 Is that a written policy or
11 something you just tell them?

12 A That's something I share with them.

13 Q Okay. And is that -- what motivates your
14 desire to have all those gone by 8 o'clock?

15 A For the convenience of the customers not
16 to have -- we have enough stuff on the floor
17 between displays and people and everything else,
18 we don't need to add to the disruption of the
19 traffic flow by having additional things on the
20 floor.

21 Q What about Walmart employees, do you have
22 the same instruction for them, if you bring
23 something in on a pallet, you got to have it gone by
24 8:00, or can they do that kind of throughout the
25 day?

1 A We try to keep that to a very bare
2 minimum especially with pallets. That's the
3 reason we try to use carts to move merchandise
4 around the store.

5 Not saying that we don't ever
6 roll a pallet to a floor, but generally if something
7 is -- needs to go onto a pallet to go to the sales
8 floor, it's something that someone will stay with
9 and quickly stock the merchandise off the pallet.

10 Usually, you know, it shouldn't
11 take more than ten or 15 minutes to remove the stuff
12 from the pallet to its final destination, I guess
13 would be the best way to put it.

14 Q Right.

15 A And then it's taken off the floor
16 immediately.

17 Q Okay. And if a Walmart employee did that
18 and took the pallet off the floor and on the way out
19 a nail from the pallet comes out 'cause it's just
20 loose, it could be spotted immediately but it might
21 be hour, an hour and a half before the regular
22 safety sweep goes by?

23 MS. BOYD: Object to form.

24 BY MR. JEFFERIES:

25 Q Is that right?

1 A I mean, I guess anything would be
2 possible. I mean, we generally ask people
3 especially with a pallet, that if they bring a
4 pallet out to the floor, to inspect the area and
5 clean it up.

6 Q Is that some sort of written policy or is
7 that just something you tell people when you see
8 them?

9 A That's just, you know, something we
10 share with them.

11 Q When you say share, you mean share like
12 orally, just tell them?

13 A Yes.

14 Q Okay. Anything else about this video clip
15 number two that you think is important to tell me?

16 A No. I mean, that's what we refer to it
17 as is grocery action alley.

18 Q All right. This is video number three,
19 video clip number three. Again, same date. Do you
20 recognize that area of the store?

21 A That is the grocery side self checkout.

22 Q And where would that be in relation to the
23 grocery action alley that we just looked at?

24 A It's about ten feet before you go into
25 it, slightly to the right.

1 Q Oh, okay. So as you enter the store you
2 pass by this area before you kind of got into the
3 action alley?

4 A Yes.

5 Q Anything else about this clip number three
6 that you think is important with respect to what
7 we're talking about being here, the injury to
8 Miss Jones?

9 A No, sir.

10 Q Clip number four. Again, same date,
11 June 26, 2015. What is that we're looking at?

12 A Produce department.

13 Q Where is that in relation to the grocery
14 action alley in clip number two?

15 A That would be immediately prior to going
16 in the grocery action alley on the left-hand side
17 as you would enter the building.

18 Q And as we look at this beginning frame,
19 we're not going to watch the video unless you want
20 to, but as we look at this beginning frame we see
21 like a long shelf full of appears to be fruits and
22 vegetables kind of in the center.

23 Off to the left there appear to
24 be like lower displays, do you see where I'm
25 pointing to, lower displays of some kind of fruit or

1 vegetables, maybe watermelons or something? What
2 would those be? Are those permanent displays?

3 A Those are tables.

4 Q Those are tables? Okay.

5 And so they have like some kind
6 of skirting around them or something?

7 A Those are sides hanging. Those are leg
8 tables.

9 Q Okay. Same thing like here, this?

10 A That is a refrigerated case. That's a
11 metal open refrigerated case.

12 Q And that's things like --

13 A That's like strawberries or something
14 like that that would be in it.

15 Q Strawberries, those are fresh things that
16 need to stay cold?

17 A Yes.

18 Q And that's right there underneath that
19 sign that says produce? That's where we see --

20 A Yes.

21 Q Further up here, I know this is hard to
22 see, I don't know what that is toward the top
23 center. Can you tell what kind of display that
24 would be?

25 A Those are probably watermelon bins.

1 Q And would they be on tables, refrigerated
2 cases? How would they be?

3 A Those are heavy cardboard bins that are
4 on pallets that have melons on them.

5 Q And we can't see well enough to tell
6 anything I don't think about the pallets in here,
7 but would those be plastic pallets, wooden pallets
8 or any way to know?

9 A They could be either actually.

10 Q If a pallet were to remain in the store, I
11 know you say you don't generally like that, but if
12 it were to remain in the store, is that why, like if
13 you'd get a ton of watermelons in on a pallet, is
14 that probably the --

15 A I mean, if a watermelon bin comes in and
16 it's on a pallet, yes, it's going to stay on the
17 pallet.

18 Q Because it weighs a flipping ton.

19 A Yes. It's made to ship that way.

20 Q All right. I think that's
21 self-explanatory, video clip number five looks like
22 the parking lot.

23 A Yes.

24 Q Anything special about this parking lot I
25 should know?

1 A No.

2 Q Okay. Clip number six, again, June 26,
3 2015, the label says deli. Is that -- tell me where
4 that is in relation to --

5 A That's the grocery entrance, the self
6 checkout we identified earlier, that's part of it
7 on the left-hand side. The produce department is
8 there to the right-hand side. You can actually
9 see some tables there with what appears to be
10 watermelons.

11 Q How can we tell, just for my education,
12 how can we tell that these are tables versus those
13 heavy cardboard boxes?

14 A I just recognize that's a table. That's
15 a faux wood panel --

16 Q Okay.

17 A -- on that. And you can actually see at
18 the bottom, the darkness is a gap, those are on
19 legs.

20 Q Those are on legs. Okay. So these are in
21 video clip number six. Those are tables with
22 watermelons.

23 And video number four?

24 A As far as that one was in the back -- it
25 possibly could be those tables too, I can't tell.

1 The front one appears to be a table. The one with
2 that sign, with that red sign, right there where
3 your cursor is, that would appear to be a table.

4 Q And the others could be tables or they
5 could be those heavy cardboard boxes?

6 A Yes.

7 Q And it wouldn't surprise you if they were
8 those heavy cardboard boxes?

9 A No.

10 Q And there's no way to tell, I think you
11 said and I agree that there's no way to tell if
12 those are heavy cardboard boxes, whether they're
13 sitting on plastic pallets, sitting on wooden
14 pallets?

15 A My eyes aren't that good.

16 MR. JEFFERIES: I don't have a video
17 clip number seven.

18 MS. BOYD: Or one.

19 MR. JEFFERIES: Is that the smoking
20 gun? Is that the one you don't want me to
21 see?

22 MS. BOYD: No. I don't have a one or
23 a seven either.

24 MR. JEFFERIES: Jan, please put in
25 the record that I'm smiling when I say

1 that, not implying that Miss Boyd is
2 hiding anything from us.

3 BY MR. JEFFERIES:

4 Q Customer entrance overhead, June 26, 2015,
5 is there anything special about that video?

6 A No, sir.

7 Q Okay. Clip number nine, action alley
8 register overview, it says June 26, 2015. Where
9 does this fall in relation to the earlier clips we
10 were looking at?

11 A This is the same self checkout. You can
12 tell by the --

13 Q Just from a different angle?

14 A Yes, different angle, just encompasses
15 more of that front main aisle that runs across the
16 front part of the store.

17 Q And where in relation to this frame of
18 clip number nine, where would the grocery action
19 alley be?

20 A It's going to be back off to the left.

21 Q Off to the left? Out of view?

22 A Out of view, yes.

23 Q Okay.

24 A So this is that same view from the
25 opposite end.

1 Q Okay. Clip number ten is the same view
2 looking kind of down the other way?

3 A This is from the GM side. Where
4 everything we looked at previously has been on the
5 grocery side, this is on the GM side.

6 Q When you say GM you mean general
7 merchandise?

8 A The general merchandise side which some
9 people call it the pharmacy entrance and things
10 like that because the pharmacy is right there.
11 But this just looks again across the front of the
12 store.

13 Q All right. Is clip number 11 different
14 from ten at all or is that the same view?

15 A That's actually the same view.

16 Q Same angle looking from that general
17 merchandise side?

18 A Yes.

19 Q Clip number 12, what are we looking at
20 there in clip number 12?

21 A That is the back side of the grocery
22 action alley with the -- and the reason I can
23 identify it is 'cause that's the infant department
24 on the left-hand side.

25 Q On the left, okay.

1 A I recognize the sign for the counters
2 that were over there.

3 Q So we're at the back of the store now
4 looking out toward the front?

5 A Yes.

6 Q And in the top right corner, it's a very
7 light area, would that be like the doors going
8 outside?

9 A Yes. Yes.

10 Q Through the middle of this pathway that
11 leads up to those doors, looks like there's a number
12 of displays. The first one has something stacked
13 up, 5.98.

14 A Chips. Is that Frito-Lay?

15 Q Chips. Excellent. Glad I didn't see
16 that. One something something. These displays, are
17 they, can you tell, are they on tables? Are they on
18 pallets? What are they?

19 A I can tell you the one that's in that
20 white box-looking thing, the dollar whatever, that
21 one with your cursor?

22 Q Right.

23 A That actually is what we refer to as a
24 half PDQ. It's a two-by-four, but you can
25 actually see the wooden pallet is up on top of a

1 plastic stack base.

2 Q So this one, it's kind of in the middle of
3 the frame towards the top, white, it's really the
4 second display up from the bottom, right?

5 A Yes.

6 Q Okay. And what you're saying there is
7 that's --

8 A You can see that wood. Move your cursor
9 up.

10 Q Down here at the bottom?

11 A See that light color right there where
12 your cursor is?

13 Q Yes.

14 A That's wood. That's a pallet. But then
15 you see there's a gap between that and the floor.

16 Q Right.

17 A And that is sitting on a plastic stack
18 base.

19 Q Okay. So stack base goes on the floor,
20 then that wooden pallet with the merchandise goes on
21 top of that?

22 A (No audible response.)

23 Q And can you tell, is that bottled water,
24 is that what that is?

25 A I have no clue.

1 Q I got you. It is what it is.

2 A Chips I can recognize. Much beyond
3 that, I can tell that that's probably gallon water
4 on the left-hand side on the other end cap but
5 that's --

6 Q Got you. And this is video clip
7 number 12, June 26th, 2015, 11:31. So as you said,
8 that's wooden pallets sitting on the plastic stack
9 base. Do you have any way of knowing whether the
10 nail in Miss Jones' foot did or did not come out of
11 that wooden pallet in the store?

12 A I have no way of knowing anything like
13 that. But I can tell you in order for us to put
14 that pallet on that stack base, it had to be done
15 in the back room.

16 Q It would be -- tell me what you mean by
17 that. It was like put onto the stack base in the
18 back room?

19 A (No audible response.)

20 Q Okay.

21 A Because for us, you're not going to
22 manually lift one of those things.

23 Q A pallet full of water that weighs a ton?

24 A Right. So we have a piece of equipment
25 in the back that would be able -- it's like a

1 forklift.

2 Q Right.

3 A But you can lift it up, and then you can
4 set it on top of that stack base.

5 Q Okay.

6 A But you can't bring it out -- you don't
7 bring it out to the floor to do it, you do it all
8 in the back room.

9 Q How did it get out to the floor then?

10 A Then you put a pallet jack underneath
11 the plastic stack base --

12 Q -- jack it up --

13 A -- and roll it out.

14 Q That way you get the whole thing out?

15 A (No audible response.)

16 Q Is there a reason you would do that versus
17 just putting that pallet full of, let's say it's
18 water, pallet full of water straight on the floor?

19 A Again, they're ugly and they cause trash
20 and other things.

21 Q Okay. So you put it on that stack base
22 and then you take it out there?

23 A And it's just easier for us to move, to
24 be quite honest with you.

25 Q Yeah.

1 A I can move it around a whole lot easier.

2 Q When you say it causes trash and other
3 things, what do you mean by that?

4 A Wood is going to splinter.

5 Q Okay. 'Cause it's wood.

6 A It's going to splinter.

7 Q All right. So that's video clip
8 number 12.

9 Now we're going to 13. Same
10 date. That's just the entrance?

11 A We refer to it as a vestibule. That's
12 the grocery side vestibule.

13 Q So if somebody passed through this grocery
14 side vestibule, come in from the outside from the
15 right, they cross over, they exit through those
16 doors on the left?

17 A The right side is coming in from the
18 parking lot.

19 Q Okay.

20 A The left side is going into the store.

21 Q Going into the store.

22 That would put them headed
23 toward that action alley?

24 A Right.

25 Q Okay. And just to make sure I'm matching

1 this up with number 12 right, on 13, they come in
2 from the parking lot on the right, they pass
3 through, they go through the doors on the left.
4 Would that put them entering this video clip number
5 12 up here kind of toward the top?

6 A All the way at the top.

7 Q All the way at the top. All right. So
8 they come through those doors at 13 and now they're
9 headed down here from the top right of 12 toward
10 kind of the center of the screen, past what we
11 talked about, that pallet of water or whatever it
12 is, wood pallet on the stack base?

13 MS. BOYD: Object to form.

14 A That's right at frozen food.

15 BY MR. JEFFERIES:

16 Q So you would have to get all the way to
17 the back of the store by the time you got there?

18 A Yes.

19 Q Can you tell if any of these others in
20 video clip number 12 are the same way or can you
21 tell at all?

22 A They all from what I can see, that black
23 footprint are all black stack bases.

24 Q Okay. Can you tell what's on top of the
25 stack bases heading back up here, whether it's

1 wooden pallets, plastic pallets or what?

2 A I can't from that.

3 Q Could be either potentially?

4 A (No audible response.)

5 Q Okay. All right. We're almost through
6 with these videos. This is number 14. I'm not
7 going to show you number 14. It's a top down view
8 of a register. I can't imagine that it is going to
9 be interesting to us.

10 16 is a view of the parking lot
11 once again.

12 17. 17, again June 26, 2015.
13 What are we looking at there?

14 A Again, that's the grocery action alley
15 that we have been looking at. It's just a
16 different view from near the beginning of it
17 toward the back.

18 Q Okay. So when we were looking at -- this
19 one is number 17. We're looking from toward the
20 front of the store toward the back of the store?

21 A Yes. The doors, the black square at the
22 very back there, that is the doors that goes back
23 into our back room, so that's looking toward the
24 back of the store.

25 Q Are there other doors like that into the

1 back room?

2 A Yes.

3 Q So depending on where you're going in the
4 store you might come out of one set of doors or
5 another from that back room?

6 A Yes.

7 Q Okay.

8 A There's two sets of doors that are that
9 size.

10 Q Got you. And so this merchandise that's
11 all through the center of this action alley that
12 we're looking at, I know you probably can't say for
13 certain which set of doors it came out, but odds are
14 it would have come out of this set of doors here at
15 the frame versus the other set that's way down in
16 the store somewhere?

17 A I'd say that's probably a high
18 probability of that, yes.

19 Q All right. And to tie this one back into
20 video clip number 12, 12 would have been shot
21 looking -- shot from the top of this scene looking
22 back towards this camera in 17?

23 A Correct.

24 Q Can you tell in any of this merchandise
25 here that's in the center of the action alley in

1 video clip number 17, I think you said it looks like
2 it's all sitting on stack bases, can you tell if
3 there are any pallets on top of those stack bases?

4 A Doesn't appear to be.

5 Q Doesn't appear to be. Okay.

6 Is there any way to know that
7 back on June 26, 2015 or in the weeks, couple months
8 leading up to that, how many other displays there
9 would be where there were wooden pallets sitting on
10 stack bases?

11 A There's no way.

12 Q No way to know.

13 So there's at least one 'cause
14 we saw it but there could be others, or maybe not
15 others?

16 A True.

17 Q Okay. But at least that one?

18 A True.

19 Q I'm going to ask you some other questions
20 you may or may not know the answer to. If you don't
21 know, it's fine to say you don't know, but if you do
22 know, just tell me what the answer is.

23 Who is the best person to talk
24 to about Walmart's policies and procedures that
25 relate to employees' responsibilities for the

1 store's grounds, the actual sales floor?

2 A I don't know. That would be corporate.

3 Q Who would be the best person to talk to
4 about Walmart's policies and procedures for
5 employees handling products, equipment, hardware,
6 pallet jacks, anything like that?

7 A All of that would be in the training,
8 the CBLs.

9 Q Do you know anything about that yourself?

10 A Sure.

11 Q Tell me, kind of give me an overview of
12 what you know.

13 A As far as what specifically?

14 Q I'm thinking as it would relate to safety,
15 and specifically customer safety, not so much
16 employee safety, since customer safety is the issue
17 here.

18 A Again, could you be a little more
19 specific? You've mentioned multiple things.

20 Q Yeah. So we'll kind of break it apart.
21 Walmart has policies and
22 procedures that relate to employees using pieces of
23 equipment, is that right?

24 A Yes, 'cause you have electric equipment
25 and you have manual equipment. The manual pallet

1 jacks I guess is what you're referring to?

2 Q Any kind of pallet jack.

3 A The manual pallet jacks, the ones that
4 we manually have to pump up and use our own arms
5 and legs to pull?

6 Q Right.

7 A Okay, the use of these is that you have
8 to move at a pace that you can stop quickly.
9 You're supposed to keep your hand on the, it's
10 like a handle that, if I pulled it, it would
11 trigger to drop immediately to keep you from
12 running over someone, something or anything else.

13 Q Right.

14 A Electric pallet jacks generally are not
15 taken to the sales floor. If they are, they have
16 to have someone operating it in a yellow vest and
17 a spotter in a yellow vest. And they're equipped
18 with horns and everything else.

19 Q Right. And the concern there is you don't
20 want to run over somebody or into somebody?

21 A Yes.

22 Q And other policies and procedures that
23 relate to that would be something we could get from
24 somebody at corporate?

25 A Yes.

1 Q Okay. Are you personally aware of
2 Walmart's policies and procedures for determining
3 which of your employees are best suited to make sure
4 that the store is safe?

5 MS. BOYD: Object to the form.

6 BY MR. JEFFERIES:

7 Q So what I mean is you mentioned that there
8 were certain hourly employees that would be on that
9 safety team with a salaried manager managing them.
10 How does Walmart determine that? What are the
11 policies and procedures for determining who's best
12 to be on the safety team?

13 A The safety team is actually volunteer
14 for people who show an interest. And then they
15 come to us, they say, I'm interested in being on
16 the safety team. And then we decide whether or
17 not we feel like that that would be a good match
18 based off of work history, performance. And then
19 we make a decision whether or not to -- you know,
20 they would take part in the safety team.

21 Q What about other -- are there any other
22 factors you all consider in determining whether
23 that's the best person for the safety team?

24 A Well, everyone goes through the same
25 training. So the training is, you know, pretty

1 much the same for every associate that's in the
2 building 'cause everyone goes through the same
3 basic understanding of safety training.

4 Mostly what we look for, we look
5 for people that are motivated, that are willing to
6 step up and address situations, that have a demeanor
7 to step in when needed. Wouldn't want someone who
8 would rather put their head in the sand than address
9 the situation.

10 Q So it's primarily about motivation. You
11 get to take volunteers.

12 A Right.

13 Q Any particular -- I know you said
14 everybody goes through the same kind of safety
15 training. After these volunteers volunteer and you
16 say, okay, yeah, we'll put you on the safety team,
17 is there any additional training that those safety
18 team members go through?

19 A Yeah, we will give people different
20 responsibilities. So I'll give you an example of
21 one associate. She had received special training
22 on maintaining our spill stations. We have a
23 large amount of spill stations. I don't want to
24 throw a number out there. We have a large amount
25 of spill stations throughout our store that

1 require certain elements to be present at those.

2 Q Right.

3 A And she went through special training
4 and she -- that is her responsibility to go
5 through once a week to review the supply needs and
6 things of that nature of what needs to be ordered
7 through supplies to maintain those.

8 The people that are on the
9 safety team actually do -- we do sales floor tours
10 with them with a sponsor and other member of
11 management. As we walk the sales floor we focus on
12 potential safety opportunities, whether it be spill
13 station needs to be addressed, whether it be -- you
14 know, whatever may be out there that we teach them
15 to recognize opportunities.

16 Q And do you have a sort of a list of the
17 three, five, ten or whatever most common things that
18 you make sure you always address or do you really
19 just, it depends on what's out there?

20 A It's very much a focus as to what's out
21 there. We don't set up any hidden scenario-type
22 situations or anything like that. It's dealing
23 realtime 'cause that's what we deal with every
24 day.

25 Q So an unusual problem -- rain is something

1 that probably everybody gets trained on 'cause it
2 rains all the time.

3 A Sure.

4 Q Snow, probably not so much.

5 A Right.

6 Q Okay.

7 A But we also try to teach them to
8 recognize that if there's a piece of equipment
9 that is on the floor that could pose an issue to
10 an associate or customer, to recognize it and to
11 deal with that, you know, the importance of making
12 sure that any trash or debris on the floor is
13 dealt with. Yeah. Just along those lines.

14 Q And is there any -- that training, is that
15 formalized anywhere in writing, like this is what
16 you do and --

17 A It's referred to as store tours, safety
18 tours.

19 Q Okay. Do you participate in those
20 yourself?

21 A Yes, I do from time to time.

22 Q What about the store manager before you,
23 do you know anything about that person?

24 A I know who it was. I have no idea
25 whether they participated in them or not.

1 Q So you can vouch for the quality of
2 training that you did from the time you arrived but
3 you can't really say what happened before you got
4 there?

5 A I would be able to say that the --
6 everyone still was required to go through all the
7 same basic training. As far as how that
8 particular store manager presented or
9 participated, I can't speak to.

10 Q Okay. We were talking, Miss Boyd and I,
11 just when we were off the record, about a schematic
12 that shows the coverage areas of the cameras. I'm
13 going to ask her to get me one. Something she'd get
14 from corporate?

15 A Sure.

16 Q No objection --

17 A No.

18 Q -- to her doing that. Okay.

19 To your knowledge have you had
20 any, at this store, any other incidents, whether you
21 call them accidents, injuries, problems, whatever
22 issues, reports of issues that have taken place at
23 the store where your customers have not slipped on a
24 liquid but have injured themselves in some other way
25 with an object, whether it's stepping on a nail or

1 catching a toe on a corner of a display or whatever
2 that involves some kind of object?

3 A I'm trying to think because it all
4 becomes somewhat of a blur, to be quite honest
5 with you, especially over that time period, and
6 I'm thinking about two different stores.

7 I know there has been situations
8 to where someone has bumped up against a table and,
9 you know, scratched their leg. I know there's been
10 situations where someone's caught their foot.
11 Especially living in the south with flip-flops and
12 sandals, we have a lot of people who will bump their
13 foot up against something.

14 As far as stepping on top of
15 something, that doesn't ring a bell, no, sir.

16 Q Do you know who would be the best person
17 to ask about that who might know more?

18 A There would be a log of any incidents or
19 accidents that we enter into our computer system.

20 Q Okay.

21 A That would be able to give you any of
22 that type of information.

23 Q Do you know who keeps that log?

24 A That's all digital.

25 Q Okay.

1 A That's all digitally kept.

2 Q So that's something, again, we could get
3 from Miss Boyd from corporate?

4 A Yes.

5 Q Knowing that we are in the south and, as
6 you pointed out, people do often wear flip-flops and
7 other relatively minuscule items of footwear, are
8 there any special precautions that you all take that
9 you wouldn't take, say, in Maine where people are
10 wearing heavy boots?

11 A No, sir. That's, you know, that's
12 customer choice what they wear. As much as I'd
13 like to say don't wear flip-flops on a rainy day
14 when you come inside the store, I can't say that.

15 Q And there's nothing special you do to
16 prepare the store for the fact that we have more
17 folks coming in in flip-flops than they would in
18 Alberta, Canada?

19 A No, sir.

20 MR. JEFFERIES: Off the record.

21 (The deposition went off the record.)

22 MR. JEFFERIES: Let's go back on the
23 record and wrap up.

24 BY MR. JEFFERIES:

25 Q In your view, what is the obligation of

1 Walmart employees with respect to assisting injured
2 customers who get injured on the premises?

3 A We want to offer them assistance within
4 our means. We offer to -- well, we pose a
5 question to them if they're able to respond, do
6 you need medical attention? Do we need to call an
7 ambulance? Many times we'll say, do we need to
8 call a family member?

9 You know, we do everything in
10 our power to provide them comfort, and if minor
11 first aid is something that will help with the
12 situation, we'll do that.

13 I've done everything from
14 bandage something for a customer to offer them a
15 bottle of water to getting candy off the shelf to
16 give it to someone who's having a diabetic episode.
17 I mean, we try to take care of any minor type of
18 assistance we can provide them.

19 Q Do your employees at the store share that
20 same view that you just described?

21 A Yes.

22 Q How do you know that?

23 A Well, whenever we have an incident or an
24 accident we have what is referred to as a Code
25 White which notifies all of management that will

1 come across a radio and identify we have a Code
2 White at X location.

3 And management is required to go
4 to that location to see the circumstances. And when
5 we go to that location, while someone, I'm not going
6 to say the first person on site because I may be two
7 aisles over from it and go over, but someone else
8 will respond with paperwork, and within that, the
9 paperwork actually calls out each of those different
10 steps.

11 Q Was there a Code White with respect to
12 Miss Jones on June 26th of 2015?

13 A Again, I was not in the store to hear it
14 called. I know that I have seen the accident
15 forms from that day that were filled out that
16 would accompany that.

17 Q And is there anyone besides Kevin Lane and
18 Ayesha Cook who would know more about that?

19 A Again, without knowing who was scheduled
20 in the store that day, I wouldn't be able -- those
21 are the only two that I have documentation on.

22 Q And we could get other personnel records
23 from Miss Boyd from the corporate somehow?

24 A Yes.

25 Q Any of what you just described about minor

1 first aid, you know, getting a piece of candy for a
2 diabetic, et cetera, is any of that embodied in
3 written policies and procedures or is it kind of an
4 oral tradition as you talking to your staff about
5 it?

6 A There's actual training because we have
7 first aid kits throughout the store. People go
8 through training, you know, I mean, basic training
9 of a Band-Aid and antibiotic ointment. It's not
10 real in-depth. But we do even go into bloodborne
11 pathogen training and things like that with our
12 associates.

13 Q And that would be contained in manuals or
14 something that we can get?

15 A Again, it's all digital in that CBL.

16 Q Any particular training with respect to --
17 I know you mentioned like wooden pallets and wood
18 coming off and that sort of thing. Any particular
19 safety training with respect to handling of wooden
20 pallets that come into the store?

21 A Nothing specifically, no.

22 Q They're handled the same way you handle a
23 plastic pallet?

24 A Pretty much, yeah.

25 Q Any differences you can think of?

1 A Nothing I can think of, no.

2 Q Is there anything, is there somebody else
3 who might know more about that, might know more
4 about a policy that says handle wood pallets this
5 way, handle plastic pallets that way?

6 A Not that I'm aware of.

7 Q And you haven't seen any kind of written
8 policy?

9 A No, sir. The only thing that you'll see
10 around pallets is if you -- when you stack
11 pallets, when you literally have to lift them by
12 hand and stack them on top of each other, and the
13 fact that they're supposed to use a team lift, you
14 know what I'm saying, doesn't have anything to do
15 with anything on the sales floor really.

16 Q Okay. And that's really related mostly to
17 the safety of the employees who are lifting the
18 things?

19 A Yes.

20 Q Okay. Nothing in particular as to safety
21 of customers and employees in terms of looking for
22 pieces of wood falling off, nails falling off, that
23 sort of thing?

24 A Nothing specific to that, no.

25 Q Are people allowed to come in your store

1 barefoot?

2 A They are not supposed to. If we see
3 them come in we will ask them to please go out and
4 put on shoes.

5 If we come across them in the
6 store, we will ask them to do that as well. But
7 there again, you don't get to see every person that
8 walks in the front door when they first come into
9 the store.

10 Q Right. Have you ever managed a store
11 outside of South Carolina?

12 A No, sir.

13 Q Okay. I'm just wondering if you see a
14 higher number of people in bare feet, flip-flops,
15 that sort of thing, than other stores in Michigan or
16 somewhere else where it's colder?

17 A Well, I think that the probability of
18 people wearing flip-flops is much higher in South
19 Carolina than in Michigan.

20 Q I tend to agree.

21 MR. JEFFERIES: Let's go off the
22 record for a moment, Jan, I just want to
23 look at my notes real quick, and I think
24 we're done.

25 (The deposition went off the record.)

1 MR. JEFFERIES: Jan, let's go back on
2 the record real quick and look at 15.

3 BY MR. JEFFERIES:

4 Q Mr. Ringer, we're looking at video clip
5 number 15. Can you tell us where in the store that
6 is?

7 A Yeah, that is the aisle with side
8 counters with the, looks like laundry detergent
9 and household cleaners.

10 Q And where is that in relation to the
11 grocery action alley that we were looking at
12 earlier?

13 A That would be directly connected to the
14 grocery action alley.

15 Q Okay.

16 A Probably somewhere between halfway down
17 to three-quarters down that aisle.

18 Q So in terms of feet roughly, if I were in
19 the grocery action alley nearest here and then
20 wanted to walk into this video, how many feet away
21 would that be?

22 A They're connected.

23 Q Pardon me?

24 A They literally touch each other.

25 Q So just a step or two?

1 A Literally turn left, yeah.

2 Q Oh, okay. So there would be nothing
3 unusual -- you weren't there that day, so I
4 understand. There would be nothing unusual if a
5 customer such as Miss Jones did step on something in
6 the action alley, ending up in this video clip
7 number 15, looking at their foot, it's only feet
8 away potentially, it's not like she'd have to walk
9 half a mile to get there?

10 A No. It's literally connected.

11 Q Literally connected, so right there.

12 So absent a video camera
13 pointing right at the spot in the action alley, the
14 next best video camera would be one of these that
15 are right nearby, like number 15?

16 A Yeah, I mean, they give an overview of
17 the area.

18 Q Okay. Did you see any pallets or stack
19 bases in that video 15 or is it off that fixed
20 shelving?

21 A Should be off the fixed shelving.

22 Q Okay. I believe you're correct.

23 MS. BOYD: Did you show video three?

24 MR. JEFFERIES: Let's take a look.

25 Oh, yeah, video three is the --

1 MS. BOYD: Yeah, your video three and
2 my video three are different.

3 MR. JEFFERIES: Oh, okay.

4 MS. BOYD: This is the one I knew we
5 were missing.

6 MR. JEFFERIES: That's interesting.

7 MS. BOYD: Yes.

8 BY MR. JEFFERIES:

9 Q Well, let's look at what Miss Boyd has
10 provided that says video three, and mine and hers
11 are apparently different. Hers says customer
12 service overview, June 26th, 2015.

13 Can you tell us what part of the
14 store we're looking at there?

15 A That's the service desk.

16 Q And where would that be in relation to the
17 grocery action alley?

18 A That is actually on the GM side, right
19 as you would come in the GM entrance.

20 Q Okay.

21 A It's immediately right there,
22 immediately to your left as you would walk in the
23 door.

24 Q Okay. To recap, in the videos that we
25 looked at, you identified at least one wooden pallet

1 in the store on the date of June 26, 2015, is that
2 correct?

3 A One pallet that was on top of a stack
4 base, yes.

5 Q Right. Can't say whether there were any
6 others 'cause you can't see in the video?

7 A I didn't -- I couldn't say 100 percent
8 no but it appeared most of it was stack bases.

9 Q Stack bases. Okay.

10 Mr. Ringer, I think that's it
11 for me now. Miss Boyd might have some questions for
12 you. If she does, there's a chance I'll have a few
13 follow-up questions. But otherwise, that's it for
14 me.

15 A Okay.

16 EXAMINATION

17 BY MS. BOYD:

18 Q I just have one and it's about that video
19 that I showed -- well, I have identified as video
20 three that Mr. Lane did not have -- I mean, not
21 Mr. Lane, that Lane did not have.

22 MS. BOYD: Sorry.

23 MR. JEFFERIES: That's all right.

24 BY MS. BOYD:

25 Q I'm going to show a little snippet of that

1 video.

2 MR. JEFFERIES: Yeah. Please.

3 BY MS. BOYD:

4 Q Can you see that? I know mine is much
5 smaller than what was previously provided. I
6 apologize for that. Can you see that okay?

7 A Sure. Yes, ma'am.

8 Q Can you identify the person at the top of
9 the screen with the blue shirt and black pants on?

10 A That looks like my co-manager,
11 Kevin Lane.

12 Q Now, what does it appear that he's doing
13 in the video?

14 A He's bent over in front of somebody
15 sitting in a chair. It looks like he's got
16 something in his hand, whether it's -- looks like
17 he's wiping something. Looks like he has, you
18 know, something in his hand, looks like he's
19 wiping something.

20 Q Okay. Is this person sitting on the bench
21 an employee of Walmart?

22 A I would say not because they don't have
23 any -- they don't have like a vest or -- you know
24 what I'm saying?

25 Q Okay.

1 A And not to mention that they would be
2 way out of dress code.

3 Q In your opinion, does it look like he is
4 giving her some kind of first aid?

5 A Yeah, it looks like he's doing, he's
6 giving her a lot of attention. Looks like he's
7 giving her some -- yeah. I can't imagine any
8 other reason he'd be bent down in front of
9 somebody basically eye level with her knees.

10 Q Okay. And Mr. Ringer, are you familiar
11 with the type of pallet that Walmart sends to the
12 store from its distribution center?

13 A The majority of them are, we refer to
14 them as CHEP pallets. They're blue pallets.

15 Q Okay. And are those different from just a
16 normal pallet?

17 A They're much heavier.

18 Q Okay.

19 A They're built to sustain -- I assume
20 they are built to sustain much heavier weight
21 'cause they're much heavier when you pick them up.

22 Q Okay. And do you have any knowledge about
23 what they're constructed with?

24 A Wood and nails.

25 Q Okay. Wood and nails?

1 A Yes.

2 Q Do you know what size the nails are?

3 A I can tell you from my own personal
4 experience, because my son and I actually do
5 woodwork and we actually use pallets to build
6 things out of, most of those nails, because we
7 pull those pallets apart, most of those nails will
8 be at least two and a half to three inches long
9 that hold those pallets together.

10 Q Okay. And I'm going to show you a
11 photograph.

12 MS. BOYD: I'd like to mark that
13 Defendant's [Exhibit 1](#).

14 (Marked for identification was Defendant's
15 [Exhibit 1](#).)

16 BY MS. BOYD:

17 Q And I represent to you that this is the
18 nail that we measured and photographed at
19 plaintiff's counsel's office as the nail in question
20 for this incident. What size does that nail appear
21 to be from the photo?

22 A Barely an inch long.

23 Q Are these the type of nails that you're
24 used to seeing in the pallets?

25 A No, ma'am.

1 Q Have you ever seen these types of nails in
2 the pallets delivered to Walmart?

3 A No, ma'am.

4 Q All right.

5 MS. BOYD: I have no other questions.

6 EXAMINATION

7 BY MR. JEFFERIES:

8 Q I just have a quick follow-up. You
9 mentioned that the blue pallets are much heavier
10 pallets and those would come from the Walmart
11 Distribution Center?

12 A Yes.

13 Q Okay. Why do you call them blue pallets?

14 A 'Cause they're literally painted with
15 blue paint to identify them so that we can make
16 sure we send those back to the distribution center
17 for reuse.

18 Q Who do they belong to?

19 A That I don't know.

20 Q But you send -- you receive them, you
21 receive the blue pallets from the Walmart
22 Distribution Center and you send the blue pallets
23 back to the Walmart Distribution Center?

24 A Yes.

25 Q And they're built of wood and nails and

1 they're painted blue?

2 A They're not fully blue but, like, the
3 big wooden blocks are generally painted blue.

4 Q Okay. In the corners of these pallets
5 where the nails are driven in, when you see one of
6 these that's brand-new just the way it's built, how
7 many nails would you see in there typically?

8 A You can see anywhere from four to six
9 nails easily.

10 Q Okay. And these nails, when you've taken
11 certain pallets apart, you've observed two- to
12 three-inch long nails?

13 A Yeah.

14 Q How many pallets do you think you've taken
15 apart?

16 A Hundreds.

17 Q Back at the Walmart Distribution Center,
18 do you have any knowledge of what goes on there?

19 A No, sir.

20 Q When you get these blue pallets in, are
21 they all brand-new or do they use them over and
22 over?

23 A Pallets are reused.

24 Q They're reused.

25 They ever feel, for lack of a

1 better term, loose like they're getting -- they're
2 aging, wood chipping off?

3 A Sure.

4 Q Do you know what happens with those
5 pallets?

6 A We ship them back.

7 Q You ship them back?

8 A (No audible response.)

9 Q Do you know what the distribution center
10 does with them?

11 A No, sir.

12 Q Do you know what a pallet costs to buy
13 new?

14 A No, sir.

15 Q Walmart ever tell you that they just, if
16 they get loose, they just throw them away?

17 A No, sir.

18 Q Tell me about the pallets you've gotten
19 personally, how do you get those?

20 A I buy them.

21 Q You buy them?

22 A (No audible response.)

23 Q And they're, what, used, former -- are
24 they blue pallets are or are they just pallets?

25 A They're just pallets.

1 Q Okay. So the pallets that you're talking
2 about having pulled nails out of are not the blue
3 pallets that Walmart uses?

4 A No, but -- no, they're not the blue
5 pallets that Walmart uses.

6 Q Okay. Have you ever taken apart one of
7 the blue pallets that Walmart uses?

8 A I've seen them taken apart, yeah.

9 Q Where did you see that?

10 A I've seen them where the wood will split
11 on them and they will come apart and I've seen the
12 nails that are in them.

13 Q Did you measure those nails?

14 A Not with a ruler, but I can tell you it
15 was much longer than an inch.

16 Q The nails you saw?

17 A Yes.

18 Q Okay. Any way to say how long the other
19 nails were in there? Any way to know there wasn't a
20 one-inch-long nail in the pallet?

21 A There's no way to say beyond a shadow of
22 a doubt there would never be a one-inch nail in
23 there, no, but if you look at the width of a
24 pallet board which is going to be probably
25 minimally a half-inch to three-quarters inch

1 thick, right, in order to hold that on there, you
2 would want something more than an inch going down
3 to secure those boards.

4 Q When you initially construct that thing,
5 yeah.

6 A (No audible response.)

7 Q What about repairs, any idea of how the
8 repairs happen at the Walmart Distribution Center?

9 A No, sir, I have no knowledge of that.

10 Q So you could have a blue pallet that
11 starts off life great, starts getting a little
12 loosey-goosey, distribution center knocks a few more
13 nails into it to hold it together, back into service
14 it goes?

15 A I have no knowledge.

16 Q You wouldn't know either way?

17 A No, sir.

18 Q I'll show you a picture.

19 MS. BOYD: I have that printed if you
20 want it.

21 MR. JEFFERIES: Yeah, let's put it in
22 as an exhibit.

23 BY MR. JEFFERIES:

24 Q We're looking at this on the screen. Is
25 this the sort of blue paint that you're talking

1 about?

2 A Yes.

3 Q Okay. Does this look like a blue pallet
4 to you?

5 A Yes, sir.

6 Q Is that the -- the brown floor here, is
7 that the same color floor as in the Walmart there?

8 A Yes.

9 Q Okay. Does this look like a brand-new
10 blue pallet to you?

11 A No.

12 Q And why do you say that?

13 A Obviously has some wear and tear on it.

14 Q Pieces of wood chipped off, that sort of
15 thing?

16 A (No audible response.)

17 Q You see some nails in this blue pallet,
18 maybe one, two, three, four, five, maybe six, there
19 might be more, I can't really tell. Do they look
20 like they're in any sort of geometrical pattern?

21 A No. They look kind of random.

22 Q They look kind of random.

23 Is that how one of these blue
24 pallets looks when it's brand-new and you see it,
25 the nails are just kind of nailed in randomly on the

1 end, or are they more craftsmanlike put in?

2 A No, I don't think there's anything
3 craftsmanlike about a pallet.

4 Q So as you look at this blue pallet sitting
5 here on that Walmart brown floor, can you tell how
6 long any of those nails are?

7 A From that view, no. They're long enough
8 that they would have gone through that board on
9 top.

10 Q That little, that one that's, what,
11 three-eighths, half an inch maybe?

12 A Half-inch board.

13 Q Half-inch board.

14 Can you tell whether those are
15 all the original nails put in when the pallet was
16 built?

17 A No.

18 Q Some of them could have been added later?

19 A Could have been.

20 Q With respect to the one pallet that we saw
21 in the video earlier on June 26, 2015, do you have
22 any idea how long the nails were that were in that
23 blue pallet?

24 A Those I would say again were probably,
25 again, I don't -- I didn't take that pallet

1 apart --

2 Q So you don't know?

3 A -- but I deal with those type -- those
4 type of pallets are what I deal with and those are
5 generally two- to three-inch nails.

6 Q The ones you've seen?

7 A (No audible response.)

8 Q What about the other blue pallets that
9 could have been in the store that day, measure any
10 of those nails?

11 A No. I've said I've never taken any of
12 those apart purposefully.

13 Q What we've been talking about here is this
14 photograph that we're going to label Exhibit Number,
15 what are we up to? 3?

16 A I think 2.

17 MS. BOYD: I think that's yours. Oh,
18 mine is [Exhibit 1](#). I guess since you're
19 plaintiff --

20 MR. JEFFERIES: Yeah, call it
21 [Plaintiff's 1](#). I think that's all we're
22 going to have. [Plaintiff's 1](#), picture of
23 the nails in the blue pallet.
24 (Marked for identification was Plaintiff's
25 [Exhibit 1](#).)

1 BY MR. JEFFERIES:

2 Q Mr. Ringer, do you have any idea who I
3 should speak to to learn what sort of
4 rehabilitation, if any, happens to these blue
5 pallets when they go back to the distribution
6 center?

7 A I have no idea.

8 Q Walmart corporate could tell us that?

9 A Walmart corporate would be the one to
10 contact, yes.

11 Q All right. In looking at this nail in
12 Defendant's [Exhibit Number 1](#), is there any way that
13 you can say that that nail didn't come out of a blue
14 pallet in your store?

15 A I can't say that it did or it didn't.

16 Q You just don't know?

17 A No idea.

18 MR. JEFFERIES: That's it for you?

19 MS. BOYD: I'm good.

20 MR. JEFFERIES: I'm good too. We're
21 done.

22 (Signature waived, and the deposition was
23 concluded at 12:16 p.m.)

24 ---oOo---

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

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

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

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

18 IN WITNESS WHEREOF I have hereunto set
19 my hand and seal this the 10th day of April 2019.

20
21
22
23 Janice D. Hayward, RMR
24 Notary Public, South Carolina
25 My Comm. Expires 10-10-22

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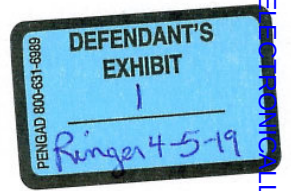
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IN THE STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE 12TH JUDICIAL CIRCUIT
CASE NO: 2017-CP-21-1375

APRIL JONES,

Plaintiff(s),

v.

**AFFIDAVIT OF Bryan R. Durig, Ph.D.,
P.E.**

TIM RINGER, Individually and as
employee/agent of WAL-MART STORES,
INC. d/b/a WAL-MART STORE # 630;
WAL-MART STORES, INC.; and WAL-
MART STORES EAST, L.P.,

Defendant(s).

I, Bryan R. Durig, Ph.D., P.E., am over 21 years of age, of sound mind, and in all respects qualified to make this Affidavit based upon personal knowledge, upon information and belief as to matters I believe to be true, and upon my knowledge, skill, experience, training, and/or education as set forth in Exhibit A attached hereto and incorporated by reference, being duly sworn depose and state as follows:

1. I have conducted an engineering investigation of an incident in which April Jones reportedly stepped on a loose nail near display pallets at a Wal-Mart store in Florence County, South Carolina. The photograph of the subject nail shows it is dark and approximately 7/8 inch in length. The flat head suggests it is a typical roofing nail. Roofing nails are used to attach wooden roof decking material to wooden roof rafters. Wooden roof decking typically ranges from 0.40 to 0.55 inches thick. The 7/8 inch long nail is long enough to penetrate the roof decking into the wooden rafters to hold the wood decking in place.
2. Wooden pallets are constructed in a similar fashion as roof decking. A solid piece of wood plywood or individual boards are attached to vertically oriented 2x4's of 4x4's depending on required loading capabilities. Many different fastener manufacturers sell pallet nails that start around 1-1/4 inch long and go up to 3 inches long. The longer the

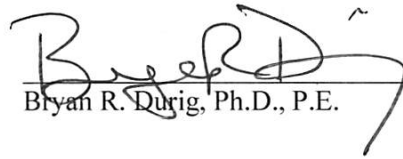
nail, the stronger the connection (pullout strength) for the pallet top and bottom. Some Chinese companies market their fasteners as “15 degree Pallet Roofing Coil Nails” and “Best Price Common Coil Nails Pallet Nail Roofing Coil Nail” with lengths starting at $\frac{3}{4}$ inch to 2 inches long and including $\frac{7}{8}$ inch-long nails. These nails are advertised with both Pallet and Roofing in their name, similar design and numerous lengths.

3. Although the recommended length for a pallet nail is typically longer than $\frac{7}{8}$ inches in length, there is nothing that would prevent someone from using a $\frac{7}{8}$ inch long nail (similar to the one shown in the photograph that injured Ms. Jones) in making a repair to an existing pallet. The $\frac{7}{8}$ inch length would be long enough to penetrate through the pallet decking boards and into the base wood timbers to hold the deck boards in place – especially when product is placed on top of the wood deck boards.
4. I have reviewed numerous photographs taken at the same Wal-Mart store where Ms. Jones was injured, and there are a variety of wooden pallets in use at that Wal-Mart store. Some pallets appear newer, and others look old with several repairs. One pallet shows the nails are missing at the end where the wood base has been damaged and actually broken away. In another photograph, the longer pallet nail is barely being retained in the pallet deck board as the base wood has broken away and exposed the majority of the nail shank. Other pallets are observed with split deck boards. These photographs show that not all pallets at the Wal-Mart store are maintained in perfect or even acceptable condition, and not all pallets at the Wal-Mart store would meet all industry standards for wooden pallets.
5. The most probable source for a loose nail sitting on the floor of a Wal-Mart store adjacent to a main display aisle that displays merchandise on wooden pallets, is the wooden pallets. Wood decking on wooden pallets gets broken and damaged frequently during shipping, moving and handling. If a shorter than typical length nail was used to make repairs to a wooden pallet, it is more likely it would fall out of the wooden base timbers when the decking gets damaged/split compared to a 2 inch or 3 inch long pallet nail.
6. The opinions and conclusions stated herein are stated to a reasonable degree of engineering certainty and are based on information available as of this writing. It is

conceivable that additional information may be forthcoming which bears on these conclusions and opinions. The right is reserved, therefore, to review all conclusions and opinions at any future point in time should, in fact, additional information become available.

I reserve the right to alter, amend, modify, change, and/or add information contained within this

Affidavit.


Bryan R. Durig, Ph.D., P.E.

State of SC County of Richland

The foregoing instrument was acknowledged before me

this 22 day of May 20 19

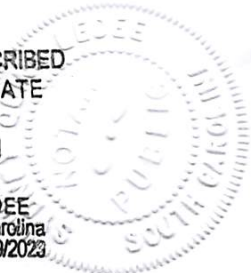
 (L.S.)
Notary Public Signature

My Commission Expires 7/9/2023

SWORN TO AND SUBSCRIBED
BEFORE ME THIS DATE

MAY 22 2019

SYDNEY QUINN LEDEE
Notary Public of South Carolina
My Commission Expires 7/9/2023



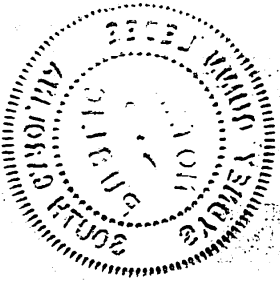
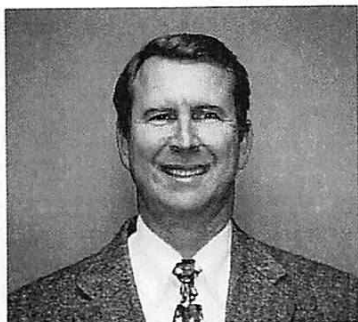




Exhibit A
SUMMIT
P.O. BOX 211426
COLUMBIA, SC 29221-6426
TEL (803) 731-1200
FAX (803) 731-1202



BRYAN R. DURIG, Ph.D., P.E.

Engineer: Mechanical, Metallurgical

Technical Investigations
Failure Analysis
Fire Investigations
Property Loss Claims Consultation
Machinery & Equipment Accidents
Products Liability
Premises Liability

Education

1993 **Master of Business Administration**
University of South Carolina
1988 **Doctor of Philosophy in Mechanical Engineering**
University of South Carolina
1985 **Master of Science in Mechanical Engineering**
University of South Carolina
1984 **Bachelor of Science in Mechanical Engineering**
University of South Carolina

Experience

January 1994 to Present

Summit Engineering, L.L.P., Columbia, South Carolina. Consulting Engineer performing specialized consulting in the areas of: **Accident Evaluation, Failure Analysis and Products Liability:** (machinery, equipment and consumer products) analysis and evaluation of designs, component testing, controls, guards and warnings, standards and code compliance, and maintenance; **Property Loss Claims Consultation:** cause of the loss, repair or replacement analysis, scope of damage, estimate of repair, actual cash value, salvage value, and time to repair; **Fire Investigations:** industrial, commercial and residential.

SPECIALISTS IN ENGINEERING ANALYSIS OF ACCIDENTS

April 1993 to December 1993

Laboratory Manager, Engineering Design & Testing Corp., Columbia, South Carolina. Responsible for management of the metallurgical laboratory including budgeting, personnel and reporting of results.

June 1991 to December 1993

Consulting Engineer, Engineering Design & Testing Corp., Columbia, South Carolina. Responsibilities included performing specialized consulting in the areas of design, engineering analysis, failure analysis and accident reconstruction. Clients included industrial manufacturing facilities, attorneys, insurance companies and adjusters.

June 1988 to May 1991

Research Engineer, Westinghouse Savannah River Company, Savannah River Laboratory, Aiken, South Carolina. Responsibilities included conducting thermal hydraulic research on SRS reactor assemblies and systems and analytical analyses of reactor hardware to support reactor operations.

January 1986 to May 1988

Research Assistant, College of Engineering, Columbia, South Carolina. Senior research assistant in a research group consisting of several graduate and undergraduate students working in the areas of biomechanics and fracture mechanics. Research consisted of Digital Image Processing and Computer Data Acquisition of fracture specimens and biological tissues.

June 1986 to July 1986

Scientist II, U.S. Naval Research Laboratory. Duties included setting up a digital image processing system (hardware/software) and finite element analysis.

January 1985 to December 1988

Administrative Assistant, College of Science and Mathematics, University of South Carolina. Primary responsibilities included general accounting of the College budget and transferring of the College budget to a Rainbow Personal Computer.

January 1984 to December 1984

Teaching Assistant, Engineering Department, University of South Carolina. Lab instructor for Microprocessor Lab. Duties included explaining and building of a circuit board using a Motorola 6801 chip for experiments such as controlling the speed of a motor and collecting data from a strain gage.

**June 1980 to September 1983
(Summers)**

Research Assistant, Chemistry Department, University of South Carolina. This research included the purification of chemical samples using a low pressure fractionation column, and performing chemical analysis on a Nicolet.

Courses and Seminars Presented

September 30, 1994

Seminar to University of South Carolina Senior Machine Design class on Products Liability and Design Safety.

December 6, 1994

Three-hour, State of North Carolina Approved Continuing Education Course entitled "Identification of a Products Liability Claim", Charlotte, North Carolina.

July 9, 1997

Three-hour, State of North Carolina Approved Continuing Education Course entitled "Identification of a Products Liability Claim", Charlotte, North Carolina.

May 3, 2003

The Absolute Litigators Conference VIII Course entitled "Fire Investigations", Las Vegas, Nevada.

October 12, 2009

Kitchen Fires and Subrogation, Columbia, South Carolina

Professional Organizations and Honorary Societies

American Society of Mechanical Engineers (Local Chapter Chairman 1992 - 1995)

ASM International

International Associations of Arson Investigators

National Association of Fire Investigators

National Fire Protection Association

National Safety Council

Publications

"Flow in a Rectangular Closed-Loop with Vertical Heat Transfer Passages," Proceedings from A.S.M.E. Winter Meeting, Paper No. 86-WA/HT-78, 1986 (co-authored with M.A. Shadday).

"Conformational Studies Utilizing Asymmetric Torsional Frequencies," J. Mol. Struct., 126, 83 (1985), (co-authored with J.R. Durig, D.T. Durig and J.F. Sullivan).

"Determination of Mixed Mode Stress Intensity Factors Using Digital Image Correlation," Proceedings for Society of Experimental Mechanics, Spring 1988 Meeting (co-authored with W.H. Peters III, M.A. Sutton, S.R. McNeill and Y.J. Choa).

"Mechanical Testing of Soft Tissue," Proceedings for Society of Experimental Mechanics, Spring 1988 Meeting (co-authored with W.H. Peters III, L. Terracio and T.K. Borg).

"Digital Image Correlation Measurements of Strain in Bovine Retina," Optical Testing and Metrology, Proceedings of the International Symposium on Optical Engineering and Industrial Sensing (SPIE), Vol. 954, pp. 438-443, 1988 (co-authored with W.H. Peters III and M.E. Hammer).

"Experimental Mechanics in Biomechanics," Proceedings for Society of Experimental Mechanics Spring 1989 Meeting (co-authored with W.H. Peters III, M.A. Sutton, J.L. Turner, T. Borg, L. Terracio and E. Berg).

"A Study of Mixed Mode Fracture in Photoelasticity and Digital Image Analysis," Optics and Lasers in Engineering, Vol. 14, pp. 203-215, 1991 (co-authored with W.H. Peters III, F. Zhang, S.R. McNeill and Y.J. Choa).

"Mechanical Stress Relaxation of the Retina," submitted to Journal of Investigative Ophthalmology, April 1989, (co-authored with W.H. Peters III and M.E. Hammer).

"Fracture of Wire Rope Drum Shaft Due to Fretting Fatigue," Proceedings from A.S.M.E. Winter Meeting, Paper No. 93-WA/DE-9, 1993 (co-authored with T.A. Jur).

Materials for Department of Insurance, State of North Carolina, Approved Continuing Education Course entitled "Identification of a Products Liability Claim", Course Number 03489, Provider Number 0445, Date Approved: September 29, 1994.

Registration

Registered Professional Engineer in South Carolina (#14877)
Registered Professional Engineer in North Carolina (#022737)
Registered Professional Engineer in Georgia (#PE030339)
Registered Professional Engineer in Tennessee (#110004)
Registered Professional Engineer in Alabama (#28023-E)
Registered Professional Engineer in Florida (#75756)
Registered Professional Engineer in Mississippi (#21174)

Continuing Education

December 1991	ASM International Seminar on "Principals of Failure Analysis"
May 1993	Algor Finite Element Training
October 1993	Richardson Engineering Services "General Construction and Process Plant Estimating"
December 1993	Mitchell International's Seminar on Ford Diagnostics
January 1996	Electrical Fire Investigations, International Association of Arson Investigators, Inc.
July 1996	Sprinkler System Design Compliance, Society of Fire Protection Engineers

May 1997	HVAC Plant Improvement, Boiler Efficiency Institute
May 1998	Vehicle Fires, S.C. Chapter IAAI
August 1998	Sponsored and attended "Fire Dynamics-Small Group Seminar", Lilly & Associates
October 1998	Investigation of Electrical Appliance Related Fires, IAAI/Association of Home Appliance Manufacturers
July 1999	Sponsored and attended "Appliance Fires -Small Group Seminar", Jack Sanderson
September 1999	IAAI Annual Seminar; Beckley, West Virginia
September 2000	Sponsored and attended "Electrical Fires - Small Group Seminar", Jim Finneran
November 2000	Investigation of Vehicle Fires, Lee S. Cole & Associates, Inc.
April 2001	Basic Industrial Electricity, Lewellyn Technology, Inc.
September 2001	Electrical Fire Investigation, Tom R. Bradshaw, CFI and Jim Elkins, CFI
October 2001	Sponsored and attended "Electrical Fire Causes - Small Group Seminar", Chris W. Korinek, P.E.
September 2002	DRI Fire and Casualty Seminar, New Orleans, Louisiana
June 2003	Sponsored and attended "Fire Explosion - Small Group Seminar", John DeHaan, Ph.D.
October 2003	7 th Annual Fire Investigative Approaches; "Practical Aspects of Fuel Gas Explosions", Dave Lilley.
October 2003	7 th Annual Fire Investigative Approaches; "Gas Appliance Failure – Product Liability", Jack Sanderson.
April 2004	Sponsored and attended "The Physics of Electrical Fires", Vytenis Babrauskas, Ph.D.
November 2004	NFPA Certified Fire Protection Specialist; Certification Number: 2100

September 2005	Inspection, Testing and Maintenance of Fire Alarm Systems Seminar, NFPA, Charlotte, North Carolina
November 2005	DRI Fire and Casualty Seminar, Chicago, Illinois
June 2006	Sponsored and attended "Flammable Gas Explosions", John L. Schumacher, MChE, PE, CFI
June 2006	International Symposium on Fire Investigation Science and Technology, Cincinnati, Ohio
June 2007	Sponsored and attended "The Ignition of Gases, Liquids and Solids by Hot Bodies", Vytenis Babrauskas, Ph.D.
March 2008	South Carolina Association of Arson Investigators & South Carolina Insurance Fraud Investigators 1 st Quarter Training, Monks Corner, South Carolina
September 2008	Sponsored and attended "Understanding Post-Flashover Fires" - Small Group Seminar", Carman & Associates
November 2008	DRI Fire and Casualty Seminar, Chicago, Illinois
June 2009	Sponsored and attended "Residential Electrical Fire Safety - Small Group Seminar", Charleston, South Carolina
June 2010	Postflashover Fires, CFITrainer
June 2010	Arc Mapping Basics, CFITrainer
September 2010	International Symposium on Fire Investigation Science and Technology, University of Maryland
December 2010	A Ventilation-Focused Approach to the Impact of Building Structures and Systems on Fire, CFITrainer.net
December 2011	Understanding Fire Through the Candle Experiments, CFITrainer.net Explosion Dynamics, CFITrainer.net Digital Photography and the Fire Investigator, CFITrainer.net Documenting the Event, CFITrainer.net

September 2012	International Symposium on Fire Investigation Science and Technology, University of Maryland
December 2013	Critical Thinking Solves Cases, CFITrainer.net Electrical Safety, CFITrainer.net Evidence Examination: What Happens at the Lab, CFITrainer.net Physical Evidence at the Fire Scene, CFITrainer.net
December 2104	Florida Engineers Laws & Rules Engineering Ethics Energy Performance of LEED for New Construction Buildings 2010 ADA Standards for Accessible Design Part 1
January 2015	2010 ADA Standards for Accessible Design Part 2
December 2015	Safeguarding Equipment: Protecting Workers from Amputations OSHA – Stairway and Ladders Materials Handling and Storage Fire Protection and Prevention During Construction Fall Protection in Construction Engineering Ethics for the North Carolina Controlling Electrical Hazards
December 2016	Introduction to Piping Engineering Florida Engineer Laws & Rules Ethics for U.S. Engineers What Every Engineer Should Know About Fire Protection Electrical Engineering Fundamentals for Non-Electrical Engineers Asbestos Fundamentals
January 2017	Solar Power Part 1 HVAC Design – Fundamentals HVAC Design – Industrial Ventilation Intellectual Property and Patents for the Professional Engineer Forensic Analysis Involving Fugitive Natural Gas and Propane

Rev. 1/16/17

EXHIBIT H

Enclosed in the hard copy mailed to the Florence County Clerk of Court, 180 N Irby St., #MSC-E, Florence, SC 29501 on August 11, 2020 and emailed to all counsel of record on August 10, 2020.

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

April Jones,

Plaintiff,

vs.

Tim Ringer, Individually and as employee/
agent of Wal-Mart Stores, Inc. d/b/a Wal-Mart
Store #630, and Wal-Mart Stores, Inc., and
Wal-Mart Stores East, L.P.,

Defendants.

COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Civil Action No. 2017-CP-21-1375

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

COME NOW Defendants Tim Ringer, Individually and as employee/agent of Wal-Mart Stores, Inc. d/b/a Wal-Mart Store # 630, Wal-Mart Stores, Inc., and Wal-Mart Stores East, L.P. (hereinafter "Defendants"), by and through their undersigned counsel, and hereby move this Honorable Court, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, for an Order granting summary judgment as to Plaintiff's sole cause of action for negligence. As there is no genuine issue of material fact as to any element of Plaintiff's cause of action, this Honorable Court should grant summary judgment in Defendants' favor. Alternatively, to the extent the Court finds that a genuine issue of material fact exists with regard to Plaintiff's negligence claim, the Court should nevertheless grant summary judgment to Defendants as to Plaintiff's claim for punitive damages.

STATEMENT OF FACTS

On June 26, 2015, Plaintiff visited Walmart Store #630 in Florence, South Carolina. She alleges that while walking through an area of the store that contained several pallets, she stepped on a rusty nail. *See* Ex. A, Pl.'s Compl., ¶ 1. According to Plaintiff, as she walked down the main center aisle, she heard a "metal noise on the bottom of [her] shoe." *See* Ex. B, Pl's Dep., pp. 20:

23 – 21: 11. As a result of the incident, Plaintiff alleges that she sustained severe and permanent personal injury, ultimately requiring the amputation of her right leg above the knee. *See* Ex. A, Pl's Amd. Compl., ¶ 1. She contends that the nail upon which she stepped came from a wooden pallet in the store. *Id.* at ¶¶ 1, 11; Ex. B, Pl's Dep., p. 31: 8-13.

STANDARD OF REVIEW

Summary judgment should be granted if the movant shows that “there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Rule 56(c), SCRCP. In determining whether any triable issues of fact exist, the evidence and all the inferences that can be drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Redwend Ltd. P'ship v. Edwards*, 354 S.C. 459, 468, 581 S.E.2d 496, 501 (Ct.App.2003). However, a non-moving party may not rely on speculation to defeat a motion for summary judgment. *See McKnight v. S.C. Dep't of Corr.*, 385 S.C. 380, 389–390, 684 S.E.2d 566, 570–71 (Ct.App.2009).

ARGUMENT

Plaintiff must prove the following elements to establish a cause of action for negligence: (1) a duty of care owed to the plaintiff by the defendant; (2) a breach of that duty by some act or omission; and (3) that the plaintiff suffered damages as a proximate result of the breach. *Staples v. Duell*, 329 S.C. 503, 506, 494 S.E.2d 639, 641 (S.C. Ct. App. 1997). It is well-established in South Carolina that a merchant is not an insurer of the safety of its customers, but owes only the duty of exercising ordinary care to keep the premises in reasonably safe condition. Further, “merchants are not required to continuously inspect their floors for foreign substances.” *Legette v. Piggly Wiggly, Inc.*, 368 S.C. 576, 579, 629 S.E.2d 375, 377 (Ct. App. 2006). To recover damages for injuries caused by a dangerous or defective condition on a storekeeper's premises, the plaintiff

must show either (1) that the injury was caused by a specific act of the storekeeper, which created the dangerous condition; or (2) that the storekeeper had actual or constructive knowledge of the dangerous condition and failed to remedy it. *Garvin v. Bi-Lo, Inc.*, 343 S.C. 625, 628, 541 S.E.2d 831, 832–33 (2001) (internal citations omitted); *see also Pennington v. Zayre Corp.*, 252 S.C. 176, 178, 165 S.E.2d 695, 696 (S.C. 1969); *Denton v. Winn Dixie Greenville, Inc.*, 312 S.C. 119, 120, 439 S.E.2d 292, 293 (S.C. Ct. App. 1993); *Cook v. Food Lion, Inc.*, 328 S.C. 324, 327, 491 S.E.2d 690, 691 (S.C. Ct. App. 1997).

Absent actual notice, a store owner’s constructive knowledge of the foreign object may be established by showing that it was “on the floor for a sufficient time and that the storekeeper would have discovered and removed it had the storekeeper used ordinary care”; however, “[t]he mere fact the substance was on the floor is insufficient standing alone to charge the storekeeper with negligence.” *Wintersteen v. Food Lion, Inc.*, 336 S.C. 132, 136, 518 S.E.2d 828, 830 (Ct. App. 1999) (internal citations omitted), *aff’d*, 344 S.C. 32, 542 S.E.2d 728 (2001) (reversing jury verdict/denial of directed verdict against store owner where plaintiff failed to present any evidence that store owner’s employees knew of the water on the floor or any evidence as to the actual length of time the substance has been on the floor).

It is also well-established that “[n]ot every accident that occurs gives rise to a cause of action upon which the party injured may recover damages... Thousands of accidents occur every day for which no one is liable in damages, and often no one is to blame, not even the ones who are injured.” *Young v. Meeting Street Piggly Wiggly*, 288 S.C. 508, 511, 343 S.E.2d 636, 638 (S.C. Ct. App. 1986) (internal citation omitted).

I. No genuine issue of material fact exists as to whether Defendants created the hazard, or had actual or constructive notice of the same.

Plaintiff’s claim of negligence fails as a matter of law because she cannot establish that the

foreign object, the nail, was placed on the floor by Defendants or their agents, or that Defendants otherwise created the hazard.

Assuming for argument purposes only that Plaintiff stepped on the nail in Walmart, which Defendants deny, there is no question that Defendants did not cause the nail to be present on the store premises. While Plaintiff alleges that she “assumes” it came from a pallet in the store, she admittedly has no evidence whatsoever to support that allegation. *See* Ex. B, Pl.’s Dep. Tr. 31:8-13. In fact, Defendants’ expert Marshall White, Ph.D., definitively opines that the nail in question is a roofing nail that would not be used in the assembly, repair, or maintenance of a pallet. *See* Ex. C, Report of White and Ex. D, Photos of Nail. Additionally, Plaintiff’s proffered expert, Bryan Durig, failed to offer any opinions establishing that Walmart caused the nail to be on the floor or knew of the nail on the floor prior to Plaintiff’s accident. Rather, Durig’s opinions only establish that it was possible that someone could have used this type of nail to repair a pallet and that it is probable that the nail came from a pallet in the subject store. *See* Ex. E, Bryan Durig Aff. ¶¶ 3 and 5. These opinions are entirely speculative and not based upon evidence in the record of this case. *See* Ex. F, Durig’s Dep., p. 51:11-23 (Durig stating that he has no information that 7/8-inch nails were used in pallets in Walmart; p. 53:1-10 (Durig stating that (1) he has no authority to cite regarding anyone using 7/8-inch nails to repair pallets; (2) he did not deconstruct a pallet to find 7/8-inch nails; and (3) he has not seen any research where anyone has deconstructed a pallet and found 7/8-inch nails.). Durig also specifically testified that that the subject nail was not designed to be used in pallets.¹ *See* Ex. F, Durig’s Dep., p. 49:10-22. Further, it is undisputed that Plaintiff

¹ Dr. Durig also opined that “[s]ome Chinese companies market their fasteners as ‘15-degree Pallet Roofing Coil Nails’ and ‘Best Price Common Coil Nails Pallet Nail Roofing Coil Nail’ with lengths starting at ¾ inch to 2 inches long and including 7/8-inch-long nails. These nails are advertised with both Pallet and Roofing in their name, similar design and numerous lengths”. During his deposition, Durig testified that the subject nail was not designed to be used in pallets

has no knowledge of how the nail came to be on the floor, nor how long the nail was on the floor prior to her stepping on it. *See* Ex. B, Pl.'s Dep., p. 31:8-16. Further, Plaintiff has no information showing that Defendants knew the nail was on the floor. *Id.* at 31:4-7.

Because Plaintiff fails to produce any evidence demonstrating that Defendants created or had actual or constructive notice of the alleged hazard, any determination of such by a jury would be pure speculation.² Such speculation is insufficient to establish notice. *See Wintersteen*, at 136 (“while the liquid could have been on the floor for an extended period of time, it is just as possible that it had been on the floor for only moments before [plaintiff] fell.”); *see also Anderson v. Winn-Dixie Greenville, Inc.*, 257 S.C. 75, 77, 184 S.E.2d 77, 77 (1971) (“Proof that a dangerous condition of the floor existed because of the presence of some foreign matter thereon is insufficient, standing alone, to support a finding of negligence.”).

Based on the foregoing, Plaintiff has not and cannot offer any evidence to show that Defendants either created a dangerous condition by causing the nail to be on the store floor or that

and that it was not his contention that based on this advertising that these nails are being sold for use in roofing and pallet construction. *See* Ex. F, Durig's Dep., p. 49:10-22. In fact, Durig specifically stated that his opinion “just says these nails are advertised with both pallet and roofing in their name. And that's all that I've drawn from it.” Durig further stated that the word pallet in the name could be indicating the amount or unit of measure that those nails are being sold by. *Id.* at 50:2-11.

² Plaintiff also asserts that Defendant Walmart has continuously misrepresented the use of pallets in the subject store. However, Defendants maintain their assertion that “no unmaintained wooden pallets with loose, rusty nails were present in the ***subject areas of the store at the time of the alleged incident***” as asserted in their discovery responses. *See* Ex. G, Defs' Responses to Plaintiff's First Requests to Admit. Defendants further respond that all photos presented by Plaintiff to the contrary were taken years after the alleged incident and in areas of the store not subject to this underlying action, as Plaintiff never walked in the garden center or in the general merchandise sections of the store.

they had actual or constructive notice of the nail. Accordingly, Defendants are entitled to judgment as a matter of law.

II. No genuine issue of material fact exists as to Defendant Tim Ringer.

In the event that this Honorable Court finds that a genuine issue of material fact exists with regard to Walmart, it should nevertheless find that no such issue exists as to Defendant Tim Ringer, the Store Manager at the time of the alleged incident. For the same reasons set forth above, Plaintiff cannot show that Defendant Ringer personally caused the nail to be on the floor or that he had personal knowledge or should have had personal knowledge that it was present on the floor. Mr. Ringer was not present at the store the day of the incident. *See* Ex. H, Ringer Dep., p. 10: 4-6. Therefore, he is entitled to summary judgment.

III. Alternatively, Defendants are entitled to summary judgment on the issue of punitive damages because Plaintiff fails to establish by clear and convincing evidence that their conduct was willful, wanton, reckless, or malicious.

Alternatively, the Court should grant partial summary judgment in favor of Defendants on the question of punitive damages because Plaintiff fails to put forth clear and convincing evidence of willful, wanton, reckless, or malicious conduct on the part of Walmart or any of its employees, including Defendant Tim Ringer. “In South Carolina, ‘punitive damages are allowed in the interest of society in the nature of punishment and as a warning and example to deter the wrongdoer and others from committing like offenses in the future.’” *Gamble v. Stevenson*, 305 S.C. 104, 110, 406 S.E.2d 350, 354 (1991) (quoting *Laird v. Nationwide Ins. Co.*, 243 S.C. 388, 396, 134 S.E.2d 206, 210 (1964)). Punitive damages, which may only be awarded upon a finding of actual damages, are designed to vindicate a plaintiff who proves his private rights “have been wantonly, willfully[,] or maliciously violated.” *Id.* (quoting *Harris v. Burnside*, 261 S.C. 190, 196, 199 S.E.2d 65, 68 (1973)). “The purposes of punitive damages are to punish the wrongdoer and deter the wrongdoer

and others from engaging in similar reckless, willful, wanton, or malicious conduct in the future.”
Clark v. Cantrell, 339 S.C. 369, 378, 529 S.E.2d 528, 533 (2000).

Courts “have long been required, as a threshold matter, to assess the culpability of a defendant’s conduct to determine whether punitive damages are available in a given case (i.e. whether the issue should be submitted to the jury).” *S.C. Farm Bureau Mut. Ins. Co. v. Love Chevrolet. Inc.*, 324 S.C. 149,152,478 S.E.2d 57, 58 (1996). The court should submit punitive damages to the jury when the plaintiff produces evidence that the defendant’s conduct was willful, wanton, or in reckless disregard of another's rights. *Cartee v. Leslev*, 290 S.C. 333, 337, 350 S.E.2d 388, 390 (1986). “Ordinarily, the test is whether the tort has been committed in such a manner or under circumstances that a person of ordinary reason or prudence would have been conscious of it as an invasion of the plaintiff’s rights.” *Id.* “On the issue of punitive damages, the highest burden of proof known to the civil law is applicable.” *Mellen v. Lane*, 377 S.C. 261,290, 659 S.E.2d 236, 251 (Ct. App. 2008). The South Carolina General Assembly has mandated that “[i]n any civil action where punitive damages are claimed, the plaintiff has the burden of proving such damages by clear and convincing evidence.” S.C. Code Ann. § 15-33-135 (2005).

It is unquestionable that no conduct of Walmart or Ringer was willful, wanton, reckless, or malicious because there is no evidence in the record to demonstrate that Walmart, Ringer, or any store employee had actual or constructive notice of the nail, much less that they chose to do nothing about it such that their actions constituted an intentional or conscious disregard for the rights of others.

Plaintiff fails to put forth any evidence of willful, wanton, reckless, or malicious conduct on the part of Walmart or its employees, to create a genuine issue of material fact, and will be unable to prove this by clear and convincing evidence. Therefore, the Court should grant summary

judgment in favor of Defendants on the question of punitive damages. See *Cartee*, 290 S.C. at 337, 350 S.E.2d at 390. As noted above, the Plaintiff fails to even create a genuine issue of material fact on the question of liability and, thus, is not entitled to any award of damages. See *Gamble*, 305 S.C. at 110, 406 S.E.2d at 354 (asserting that punitive damages, which may only be awarded upon a finding of actual damages, are designed to vindicate a plaintiff who proves his private rights “have been wantonly, willfully[,], or maliciously violated” (quoting *Harris*, 261 S.C. at 196, 199 S.E.2d at 68)).

CONCLUSION

For the foregoing reasons, Defendants are entitled to judgment as a matter of law on Plaintiff’s sole cause of action for negligence. Additionally, to the extent that the Court finds that a genuine issue of material fact exists as to Defendant Walmart, the Court should nevertheless grant summary judgment to Defendant Tim Ringer. Finally, in the alternative, the Court should grant summary judgment to Defendants on Plaintiff’s claim for punitive damages.

This Motion is supported by the applicable law, any further memorandum or exhibits that Defendants may submit in support of this Motion, and counsel’s arguments at any hearing set on said Motion.

The undersigned counsel certifies that, given the nature of this Motion, consultation with Plaintiff’s counsel was not required prior to its filing, pursuant to the South Carolina Rules of Civil Procedure.

WHEREFORE, Defendants hereby request that the Court grant them the following relief:

- 1) Enter an Order granting summary judgment in favor of Defendants and dismissing the action with prejudice; or
- 2) Enter an Order granting summary judgment in favor of Defendant Tim Ringer; or

- 3) Enter an Order granting summary judgment in favor of Defendants as to Plaintiff's claim for punitive damages; and/or
- 4) Set a hearing on Defendants' Motion so that Defendants may set forth more fully their arguments for the Court; and/or
- 5) Such other and further relief as the Court may deem appropriate.

RESPECTFULLY SUBMITTED,

s/ Nashiba Boyd

Nashiba Boyd, SC Bar No. 78376
Regina Hollins Lewis, SC Bar No. 68539
GAFFNEYLEWIS LLC
3700 Forest Drive, Suite 400
Columbia, South Carolina 29204
803.790.8838 (telephone)
803.790.8841 (facsimile)

*Attorneys for Defendants Tim Ringer, Individually
and as employee/ agent of Wal-Mart Stores, Inc.
d/b/a Wal-Mart Store #630, and Wal-Mart Stores,
Inc., and Wal-Mart Stores East, L.P.*

October 26, 2021

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE 12TH JUDICIAL CIRCUIT
CASE NO: 2017-CP-21- 1375

APRIL JONES,

Plaintiff,

v.

TIM RINGER, Individually and as
employee/agent of WAL-MART STORES,
INC. d/b/a WAL-MART STORE # 630,
and WAL-MART STORES, INC., and
WAL-MART STORES EAST, L.P.,

Defendants.

SUMMONS
(Jury Trial Demanded)

2018 JAN 16 PM 2:16
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

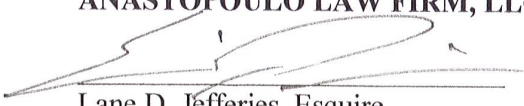
FILED

TO: THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the Plaintiff or her attorneys, Lane D. Jefferies, Eric M. Poulin, and Roy T. Willey, IV, at their office, 32 Ann Street, Charleston, South Carolina, 29403, within (30) days after the service hereof, exclusive of the day of such service and if you fail to Answer the Complaint within the time aforesaid, Plaintiff will apply to the court for the relief demanded in the Complaint.

Dated at Charleston, South Carolina on the 10th day of January, 2018.

ANASTOPOULO LAW FIRM, LLC


Lane D. Jefferies, Esquire
S.C. Bar No.: 101764
Eric M. Poulin, Esquire
S.C. Bar No.: 100209
Roy T. Willey, Esquire
S.C. Bar No.: 101010
32 Ann Street
Charleston, SC 29403
(843) 614-8888

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

APRIL JONES,

Plaintiff,

v.

TIM RINGER, Individually and as
employee/agent of WAL-MART STORES,
INC. d/b/a WAL-MART STORE # 630,
and WAL-MART STORES, INC., and
WAL-MART STORES EAST, L.P.,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE 12TH JUDICIAL CIRCUIT
CASE NO: 2017-CP-21- 1375

**AMENDED COMPLAINT
(Jury Trial Demanded)**

DORIS FOULOS O'HARA
COCOP & GS
FLORENCE COUNTY, SC

2019 JAN 16 PM 2:16

FILED

CERTIFIED: A TRUE COPY
CLERK OF COURT
FLORENCE COUNTY, SC
2019 JAN 16 PM 2:16

The Plaintiff, complaining of the Defendants, alleges and says as follows:

CASE SYNOPSIS

1. On June 26, 2015, April Jones was a patron of Wal-Mart Store #630 in Florence, South Carolina. Ms. Jones passed through an area where there were several pallets nearby when she suddenly felt a sharp pain in her foot. Ms. Jones inspected her foot and observed that a rusty nail had pierced through her shoe and was lodged into her foot. Ms. Jones visited the hospital and subsequently had to have a hole cut in her foot to treat the wound, which led to multiple surgical amputations, eventually resulting in her losing her right leg up to just above her knee.

SPECIFIC AVERMENTS

2. That the Plaintiff, April Jones, (herein referred to as "Plaintiff") is a citizen and resident of Florence County, State of South Carolina.
3. That the Defendant, Tim Ringer (herein referred to as "Defendant Ringer"), upon information and belief, is a citizen and resident of Darlington County, State of South

- Carolina.
4. That the Defendant, Wal-Mart Stores, Inc. (herein referred to as “Defendant Wal-Mart”), is a business incorporated under the laws of Delaware while doing business in and/or owning property in Florence County, State of South Carolina, and its agent to accept service is C T Corporation System which is located at 2 Office Park Court, Suite 103, Columbia, SC 29223.
 5. That the Defendant, Wal-Mart Stores East, L.P., (herein referred to as “Defendant Wal-Mart Stores East”), is a Delaware limited partnership that does business and/or owns property in Florence County, State of South Carolina, and its agent to accept service is C T Corporation System which is located at 2 Office Park Court, Suite 103, Columbia, SC 29223.
 6. That the injury which is the subject of this action occurred at Wal-Mart Store #630, located in Florence County, State of South Carolina.
 7. That this Court has jurisdiction over the parties and the subject matter of this action.
 8. That on or about June 26, 2015, the Plaintiff was a customer and patron, as an invitee and for the benefit of the Defendants, at Defendant Wal-Mart’s and Defendant Wal-Mart Stores East’s place of business (Wal-Mart Store #630) located at 230 North Beltline Drive, Florence, South Carolina, 29501.
 9. That on or about June 26, 2015, Defendant Ringer was an employee/agent of Defendant Wal-Mart and Defendant Wal-Mart Stores East, acting as a manager of Wal-Mart Store #630.
 10. As manager, Defendant Ringer’s responsibilities and duties include, but are not limited to, cleaning, monitoring, and maintaining the premises of Wal-Mart Store #630 to ensure

- that it is safe, clean, and not dangerous for customers, patrons, and invitees.
11. Upon information and belief, on or about June 26, 2015, Plaintiff noticed a number of pallets on the floor while grocery shopping within Defendants' place of business.
 12. Upon information and belief, on or about June 26, 2015, Plaintiff passed through the general area where the pallets were located and began to feel pain in her right foot while hearing a scraping sound under her shoe.
 13. Upon information and belief, on or about June 26, 2015, upon feeling the pain and hearing the scraping sound, Plaintiff looked under her right shoe and observed that a rusty nail had pierced through not only her shoe but also her foot, creating a wound.
 14. Upon information and belief, on or about June 26, 2015, after noticing the nail, Plaintiff reported this incident to Defendants.
 15. Upon information and belief, on or about June 26, 2015, due to the negligence of Defendants, Plaintiff suffered severe injuries after visiting Defendants' place of business.
 16. That Defendants either knew or should have known that the floor area where Plaintiff's injuries were initiated presented a danger to patrons of Defendant's store, or that Defendant created the dangerous condition.
 17. Upon information and belief, after the aforementioned incident, Plaintiff visited the hospital and subsequently had to have a hole cut in her foot to treat the wound, which led to multiple surgical amputations, eventually resulting in Plaintiff losing her right leg up to just above her knee.
 18. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness, wantonness, and acts and/or omissions of the Defendants, as is set forth more fully above, Plaintiff was injured, has endured pain and suffering, has

suffered mentally and emotionally, and has incurred, and will incur various medical expenses, and has otherwise been damaged and injured.

19. The fall and resulting injuries and damages to Plaintiff were caused directly and proximately by one or more of the following negligent, negligent *per se*, grossly negligent, careless, reckless, willful, wanton and unlawful acts, and/or omissions of the Defendants in any one or more of the following ways:

- a. In failing to observe the dangerous condition of the floor;
- b. In failing to properly keep the floor clear of harmful objects and apparatuses, including but not limited to nails;
- c. In failing to appreciate the gravity of the dangers associated with having harmful objects and apparatuses, including but not limited to nails on the floor;
- d. Failing to supervise in the correct cleaning and maintenance of the floor;
- e. In failing to enact policies that would ensure the safety of customers, patrons, an/or invitees on the premises;
- f. In failing and omitting to take any precaution whatsoever of a reasonable nature to protect this Plaintiff from the dangers of the floor on the occasion that the Plaintiff was using the same;
- g. In failing to adequately warn the Plaintiff as to any dangers that may be present on the premises;
- h. In failing to clean, monitor, and maintain the premises to ensure that it is safe, clean, and not dangerous for customers, patrons, and invitees; and
- i. In any such manner the Plaintiff may discover through the discovery process or trial.

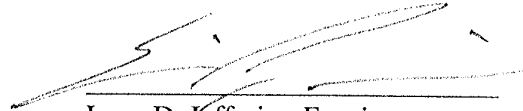
20. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, as is set forth more fully above, Plaintiff has been damaged and injured in the following respects:
 - a. Plaintiff has been required to expend a significant amount of money for her medical care, treatment and attendant services;
 - b. Upon information and belief, the nature of the Plaintiff's injuries will require her to expend a significant amount of money for her medical care, treatment and attendant services in the future;
 - c. Upon information and belief, the nature of Plaintiff's injuries will deprive her of employment opportunities and income in the future; and
 - d. The pain of her injuries has resulted in her loss of enjoyment of life and change in her personality, all to the permanent detriment of her health and physical well-being.
21. That Defendants' acts and omissions, as are set forth more fully above, show willful misconduct, malice, wantonness and an entire want of care, raising a presumption of the Defendants' conscious indifference to the consequences of such acts and omissions.
22. That because of the Defendants' acts and omission and the proximate harm resulting to Plaintiff, Plaintiff should be awarded punitive damages in an amount to be determined by the trier of fact, in order to punish and penalize the Defendants and to deter the Defendants and others from similar behavior.
23. That upon information and belief, Plaintiff is entitled to judgment against the Defendant for actual, compensatory, and exemplary or punitive damages for her personal injuries set forth here in an amount that is fair, just and reasonable under the circumstances, plus

whatever costs, interest and attorney fees to which she may be entitled to be determined by a jury.

WHEREFORE, the Plaintiff prays for judgment against the Defendant for an amount to be ascertained by the jury at the trial of this action for all damages, punitive and actual, for the cost and disbursements of this action, and both prejudgment and post judgment interest, and for such other and further relief, in law or in equity, as this court may deem just and proper.

Respectfully submitted,

ANASTOPOULO LAW FIRM, LLC



Lane D. Jefferies, Esquire
S.C. Bar No.: 101764
Eric M. Poulin, Esquire
S.C. Bar No.: 100209
Roy T. Willey, Esquire
S.C. Bar No.: 101010
Anastopoulos Law Firm, LLC
32 Ann Street
Charleston, SC 29403
(843) 614-8888

Dated at Charleston, SC

This 10th day of January, 2018.

State of South Carolina
County of Florence

In Common Pleas Court
Twelfth Judicial Circuit

April Jones,

plaintiff,

V.

2017-CP-21-1375

Tim Ringer, individually and
as employee/agent of
Wal-Mart Stores, Inc. d/b/a
Wal-Mart Store #630,
and Wal-Mart Stores, Inc.,
and Wal-Mart Stores East, L.P.,

defendants.

Deposition of: April Jones

Location: 150 West Evans Street
Florence, South Carolina

Date: Friday, September 28, 2018

Time: 11:03 a.m. - 1:18 p.m.

Court Reporter: Erica Creel

The deposition is taken pursuant to notice and/or
agreement, in the above-entitled cause pending in
the above-named court and pursuant to the South
Carolina Rules of Civil Procedure.

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1 S T I P U L A T I O N S

2 It is stipulated between Counsel that this
3 deposition is being taken pursuant to the South
4 Carolina Rules of Civil Procedure; and that all
5 objections, except as to the form of the question,
6 are reserved until the time of trial.

7 It is also stipulated between Counsel for
8 the respective parties and the deponent that the
9 deponent will waive the right to read and sign
10 this transcript.

11 THEREUPON,

12 April Jones,
13 being first duly sworn by the court reporter, as
14 hereinafter certified, testified as follows:

15 E X A M I N A T I O N

16 By Ms. Boyd:

17 Q Good morning, Ms. Jones.

18 A Good morning.

19 Q And we just met a moment ago off record.

20 My name is Nas--- Nashiba Boyd. I'm the attorney
21 for Walmart. And here today about a case that
22 you've brought against the Florence Walmart.

23 Correct?

24 A Yes.

25 Q Okay. Have you ever given a deposition

1 before?

2 A No.

3 Q Okay. So I'm going to go over a couple
4 of ground rules with you. As you know, you were
5 just placed under oath by the court reporter.

6 A Yes.

7 Q And while we're not in a courtroom, you
8 have pledged to tell the truth just as if you were
9 in a court of law. Do you understand that?

10 A Yes. I do.

11 Q All right. I'm going to ask you a
12 series of questions. That's what a deposition is,
13 an opportunity for me to ask you questions about
14 what happened. So I'm going to ask you quite a bit
15 of questions. I may ask you a question and you
16 anticipate what I'm going to say. Just let me
17 finish my question so that the record reflects what
18 I'm asking you. Okay?

19 A Yes.

20 Q And the other thing is, it may get easy
21 for you to just say uh-huh or huh-uh just because
22 we're in a -- we're going in a role. If you'll give
23 verbal answers such as yes or no for the court
24 reporter because she is taking down everything we're
25 saying here today. Okay?

1 A Yes.

2 Q And if you forget, I may prompt you by
3 saying something like, did you mean yes or did you
4 mean no? And that's not me being mean to you.
5 That's just me clarifying for the court reporter.
6 Okay?

7 A Yes.

8 Q All right. If you have any questions
9 about the question that I'm asking you, you direct
10 those questions to me and not your attorney. Okay?

11 A Yes.

12 Q All right. And if you answer the
13 question that I've asked you, I'm going to assume
14 that you understood what I was asking you. Is that
15 fair?

16 A Yes.

17 Q Okay. If you need to take a break at
18 any break just let me know. Just say, Ms. Boyd, I
19 need a break and that's fine. You can have as many
20 as you want for as long as you want. Okay?

21 A Yes.

22 Q During the break, I ask that you not
23 talk about your testimony with your attorney.
24 Because while normally I can't ask you about what
25 you talked about with your attorney. Since you've

1 been sworn under oath today already, I can ask you
2 about those conversations when we are -- come back
3 together. So just avoid talking to him if possible.
4 Okay?

5 A Yes.

6 Q All right. Do you have any questions
7 before we begin?

8 A No, I don't.

9 Q Okay. Great. And first, let me say Ms.
10 Jones, I understand the grave nature of your
11 injuries that you've alleged here today. And I'm
12 going to ask you a lot of questions about your
13 treatment, your subsequent treatment. And when I
14 ask you questions, possibly, like, and so did it
15 heal or was it okay, I'm not trying to be funny or
16 facetious or mean to you. I'm just trying to get a
17 complete understanding of each treatment you
18 received as we go. Okay? But I do understand the
19 ultimate surgery that you had here. Okay?

20 A Yes.

21 Q So I just don't want to appear mean or
22 unsympathetic. I do understand. It's just I'm
23 trying to get a complete record. Okay?

24 A Yes.

25 Q All right. I just want to make sure I

1 tell you that. All right. Ms. Jones, can you state
2 your name and address for the record, please?

3 A April Jones, 1410 Trinity Court,
4 Florence, South Carolina 29506.

5 Q And how long have you lived at that
6 Trinity address?

7 A Ten years.

8 Q Who lives there with you at that
9 address?

10 A My daughter, Brooke Jones. My son,
11 Jason Jones and my daughter's children. Do you
12 need those names too?

13 Q No. Are they under 18?

14 A Yes.

15 Q Okay. No. That's it, your daughter and
16 son, Jason and Brooke?

17 A Yes.

18 Q Any other adults?

19 A No.

20 Q Okay. And prior to that address, where
21 did you live? Do you remember? Was it in Florence?

22 A It was in Florence.

23 Q Okay. So you've lived in Florence
24 county for longer than ten years?

25 A Yes.

1 Q Okay. And what's your date of birth?

2 A [REDACTED].

3 Q And where were you born, Ms. Jones?

4 A Bridgeton, New Jersey.

5 Q How did you end up in Florence?

6 A My sister was here before she passed
7 away.

8 Q Oh, okay. What year did you come down
9 here?

10 A 1996.

11 Q Okay. That's a big difference, huh?

12 A Yes.

13 Q Are you married?

14 A No.

15 Q Have you ever been married?

16 A No.

17 Q Okay. And I know you told me about your
18 daughter, Brooke and your son, Jason. Do you have
19 any other adult children?

20 A Yes, I do.

21 Q And what are their -- their names?

22 A Isaac Jones. Chelsea Riley. And
23 Christian Jones.

24 Q Are any of your children married?

25 A Yes.

1 Q Just Chelsea?
2 A Isaac.
3 Q Isaac's married.
4 A Uh-huh.
5 Q And what's his wife's name?
6 A Shameka Jones.
7 Q And do you remember what Shameka's
8 maiden name was?
9 A Williams.
10 Q Anybody else married?
11 A No.
12 Q Do any of your children live in Florence
13 county other than Brooke and Jason?
14 A Yes.
15 Q Which ones?
16 A Isaac Jones.
17 Q Okay. And so -- and his wife Shameka?
18 A Yes.
19 Q Okay. Where do Chelsea and Christian
20 live?
21 A Chelsea lives in Columbia, South
22 Carolina.
23 Q Okay.
24 A And Christian lives in Savannah,
25 Georgia.

1 Q Okay. Do you have any other family
2 members in Florence county with a last name other
3 than Jones?

4 A No. Yes, I do. I'm sorry.

5 Q All right. It's okay.

6 A My nephew.

7 Q Okay. What's your nephew's name?

8 A Michael Jones.

9 Q But he is a Jones?

10 A Yes, he is.

11 Q Okay. And Chelsea's a Riley. Is that,
12 like, her father's last name?

13 A Yes.

14 Q Okay. Is her father in -- in Florence
15 county?

16 A No.

17 Q Okay. Do any of your family members
18 work for Walmart?

19 A No.

20 Q Okay. Have any of your family members
21 previously filed a claim against Walmart or sued
22 Walmart?

23 A No.

24 Q Do you know anyone, whether family or
25 not, who has sued or filed a claim against Walmart?

- 1 A No, I don't.
- 2 Q Okay. Now, Ms. Jones, are you currently
- 3 employed?
- 4 A No.
- 5 Q Where were you last employed?
- 6 A Assurant Group in Florence.
- 7 Q And what did you do at Assurant Group?
- 8 A Insurance claims.
- 9 Q And when was that?
- 10 A October 2013.
- 11 Q Okay. And why did you stop working
- 12 there?
- 13 A Because I had disability.
- 14 Q Okay. And you were a claims adjustor?
- 15 A Well, I wasn't a claims adjustor. I
- 16 more so did -- wrote the claims up and turned them
- 17 in.
- 18 Q So just a claims agent?
- 19 A Yes.
- 20 Q And what was your salary there? Do you
- 21 remember?
- 22 A I think, 11 dollars an hour.
- 23 Q It was a while ago. I understand.
- 24 A Yes.
- 25 Q And did you graduate high school?

1 A No.

2 Q Did you get a G.E.D. or any type of
3 formalized education?

4 A No, I didn't.

5 Q Okay. And so prior to working for
6 Assurant Group, what did you do before then?

7 A I worked at Sykes.

8 Q Okay. And what did you do there?

9 A I did work for Bank of America.

10 Q What did you do for Bank of America?

11 A We approved loans. We adjusted
12 payments. We took information, you know, to
13 forward it to -- they had, you know, asked for the
14 loans. Just different things.

15 Q So, maybe like a customer service role?

16 A Customer service.

17 Q Okay. And you mentioned that you
18 stopped working because of disabilities. So have
19 you ever applied for disability benefits through
20 like the social security administration?

21 A Yes.

22 Q When was that?

23 A I believe it was in December of 2013.

24 Q And what was your disability?

25 A I had a -- my -- a right nephrectomy.

1 Q And that's a kidney removal?

2 A Yes.

3 Q Did you get a transplant as well or just

4 a --

5 A No, I didn't.

6 Q -- removal? And were you approved after
7 that initial application?

8 A Yes, I was.

9 Q Do you remember about when you were
10 approved?

11 A January of 2014.

12 Q Okay. And so is your -- you receive
13 disability benefits? Correct?

14 A Yes.

15 Q Is that your sole source of income at
16 this time?

17 A Yes.

18 Q Other than speak with your lawyer,
19 because I don't want you to tell me about anything
20 like that. Did you do anything to prepare for your
21 deposition today?

22 A No.

23 Q Okay. Did you look at any documents in
24 preparation for your deposition today?

25 A No, I didn't.

1 Q Did you discuss your testimony with
2 anyone other than your lawyer, such as a family
3 member or friend?

4 A No.

5 Q Ms. Jones, are you currently on any
6 medications?

7 A Yes.

8 Q Okay. Which ones?

9 A I'm on -- I'm on two blood pressure
10 medicines.

11 Q Okay.

12 A Nifedipine and Losartan.

13 Q Just those two blood pressure meds?

14 A No. I'm on a cholesterol medicine. I
15 can't remember the name right off.

16 Q Okay.

17 A And I take pain medication.

18 Q What type of pain medication do you
19 take?

20 A I take Oxycodone and I take -- oh,
21 god, I take a nerve medication.

22 Q Okay.

23 A I can't remember the name right now.

24 Q Okay. So we talked about two blood
25 pressure meds, a cholesterol med and two pain meds.

1 Do you have any other medication that you take?

2 A No, ma'am.

3 Q Okay. How often are you taking the pain
4 medication?

5 A Well, I actually take it when needed.

6 Q Okay. And so how often do you normally
7 take it?

8 A Sometimes four times a day.

9 Q And this -- is this for pain related to
10 your leg or any other type of pain you have in your
11 body?

12 A Well, the pain medication they
13 prescribe me for my leg was actually the nerve
14 medication.

15 Q Uh-huh.

16 A But that actually don't work without
17 the Oxycodone.

18 Q Oh, okay.

19 A It doesn't work.

20 Q And so, did they prescribe the Oxycodone
21 for your leg or did you already have a prescription
22 or --

23 A I had the prescription, but they said
24 I can also use it for my leg.

25 Q Okay. And what did you have the

1 prescription for originally?

2 A Kidney removal and dialysis.

3 Q Okay. So for pain related to your --

4 A Yes.

5 Q -- kidneys? And Ms. Jones, have you
6 ever been arrested?

7 A Years ago.

8 Q Okay. Do you remember about when it
9 was?

10 A No. It's been over 20 years ago.

11 Q It was over 20 years ago?

12 A Yes.

13 Q Do you remember what it was for?

14 A Fighting.

15 Q Oh, no, Ms. Jones. Okay. Did that
16 result in a conviction or a plea or it was tossed
17 out?

18 A No. It was just a misdemeanor.

19 Q Okay. And have you ever been convicted
20 of anything other than a minor traffic violation?

21 A No, ma'am.

22 Q Okay. All right. So we're here to talk
23 about an incident that happened on June 26th, 2016.

24 Correct? Do you remember the date?

25 A 2015.

1 Q Oh, I'm sorry. That's a typo on my
2 behalf. I apologize. I'm sure I have it right
3 somewhere in here. So, 2015. June 26th is the
4 right date though, right?

5 A Yes, ma'am.

6 Q Okay. And for purposes going forward,
7 when I refer to accident or incident, I'm talking
8 about this day and your time in Walmart. Okay?

9 A Yes, ma'am.

10 Q Okay. Which Walmart did you go into
11 that day?

12 A The Walmart on Beltline.

13 Q And had you ever shopped at that Walmart
14 before?

15 A Yes.

16 Q About how often?

17 A Well, I'd say at that particular one,
18 maybe once a month.

19 Q Okay. Did you frequent another one?

20 A Yes.

21 Q Okay. Which one was that?

22 A Walmart on Irby.

23 Q Okay. Is that one closer to you, the
24 one on --

25 A Yes.

1 Q -- Irby Street? So why did you go to
2 the Beltline Walmart on -- on June 26th, 2015? Do
3 you remember?

4 A No, I don't.

5 Q Okay. Had you ever had any complaints
6 about that store prior to this incident?

7 A No.

8 Q Do you remember why you went in there?
9 What you were going to purchase?

10 A Yes, I do.

11 Q Okay. And what -- what were you going
12 for?

13 A To purchase some Clorox.

14 Q Okay. And did you drive there that day?

15 A Yes, I did.

16 Q Was anyone with you?

17 A No, ma'am.

18 Q Do you remember about what time you
19 arrived at the store?

20 A No, I don't.

21 Q How was the weather that day?

22 A It was pretty hot.

23 Q Did the store appear to be busy when you
24 arrived on that day?

25 A Yes.

1 Q And what did you do when you first got
2 to the store?

3 A I walked in.

4 Q Okay. Did you get a cart?

5 A Yes.

6 Q Okay. So you -- you got a cart. And
7 you had your purse?

8 A Yes, ma'am.

9 Q Okay. And you placed it in the cart?

10 A Yes.

11 Q And then you walked into the store?
12 Correct?

13 A Yes.

14 Q What section did you go to?

15 A I walked in on the food section.

16 Q Okay. And what type of shoes were you
17 wearing that day?

18 A Flip flops.

19 Q And do you remember what kind of flip
20 flops they were?

21 A They were brown flip flops.

22 Q Were they rubber? Were they leather?

23 A They were rubber.

24 Q Okay. Do you remember if you had them
25 for a long time or if they were new?

1 A No. I actually bought them that
2 month.

3 Q Do you remember where you bought them?

4 A Walmart.

5 Q So you bought them sometime in June 2015
6 at Walmart?

7 A Yes, ma'am.

8 Q What size shoe do you wear?

9 A Eleven.

10 Q And do you remember if those flip flops
11 were sized or if they were just like general, like
12 large, medium, extra large?

13 A I don't remember.

14 Q Okay. Do you remember how much you paid
15 for them?

16 A No, ma'am.

17 Q And we -- we asked you to bring the
18 shoes, but your attorney explained to me that you
19 could not locate the shoe. Is that correct?

20 A Yes, ma'am. That's correct.

21 Q Okay. Please tell me what happened that
22 day.

23 A I walked in Walmart and I walked down
24 the center aisle, the aisle that separates the
25 clothing from the food. And as I was walking, I

1 heard a metal noise on the bottom of my shoe. So
2 I lift my foot up, I look back and I seen a nail
3 in my shoe. And I went to pull it out my shoe. I
4 pulled it out and I actually walked up some and I
5 threw the nail on the shelf. And so I looked down
6 and blood was in the shoe. And I turned around.
7 I said, oh, god. I turned around and got the nail
8 off the shelf. Grabbed the bleach and I walked
9 back. I went through the self checkout, paid for
10 the bleach. And then I walked over to customer
11 service and asked to speak with a manager.

12 Q Okay. Can you describe to me what the
13 nail looked like?

14 A It was rusty.

15 Q Okay. Was it like a long nail or short
16 nail?

17 A It wasn't real long.

18 Q Are you certain it was a nail and not a
19 screw?

20 A I'm certain it was a nail.

21 Q Was it -- I know you said it was -- was
22 the entire nail rusty or just parts?

23 A The entire nail.

24 Q And your attorney also told me that --
25 that they have the nail?

1 A Yes.

2 Q Okay. So you no longer have that in
3 your possession?

4 A Correct.

5 Q Okay. Do you have any photos of the
6 nail?

7 A I did, but they erased out my phone.

8 Q Okay. So you no longer have it. Okay.
9 About how long were you at that store before you
10 noticed the nail in your shoe?

11 A Not even three minutes. Not even
12 three minutes.

13 Q Okay. And did you feel pain? You
14 indicated you heard a sound, but did you feel the
15 pain when you stepped on it?

16 A No. I didn't at the time.

17 Q At what point did you feel pain?

18 A Once I took the nail out.

19 Q And can you describe the pain that you
20 felt?

21 A It was a throbbing pain.

22 Q Did you speak with anybody at the store
23 that day?

24 A Yes, I did.

25 Q Who did you speak with?

1 A I spoke to the manager.

2 Q Okay. And that was after you discovered
3 the nail. Did you talk to anybody before you
4 discovered the nail in your shoe?

5 A No, ma'am.

6 Q And you said that you had noticed the
7 blood in your shoe. Did you see any visible injury
8 to your foot?

9 A Well, once I went to the front and I
10 sat down, yes.

11 Q And can you describe the wound to your
12 foot?

13 A It was just basically a little hole.
14 It -- it was like the nail, excuse me, the nail
15 kind of made a little -- it was like a hole, but
16 then the nail kind of -- I can't explain it.

17 Q So was it, like, a puncture? So, like,
18 a small -- like something had punctured you?

19 A No.

20 Q No. It wasn't a puncture wound? Was it
21 --

22 A No.

23 Q -- a hole?

24 A Yes.

25 Q Can you give me an example of something

1 that was the size of the hole? Like a quarter?

2 A No. It was smaller than that.

3 Q A dime?

4 A It was a little smaller than a dime.

5 Q Okay. And the nail you stepped on was
6 like a standard size nail or was it -- or was it fat
7 or was it just a normal skinny little nail?

8 A It was a little thicker than a normal
9 nail.

10 Q But the hole in your foot was not the
11 same size as the nail?

12 A No.

13 Q Okay. Was it larger or smaller?

14 A It was a little larger.

15 Q Okay. And you told me that you noticed
16 the nail and then you continue on and -- and
17 purch--- and selected your item. So you continue
18 shopping after you noticed your foot bleeding?

19 Mr. Jefferies: Object to the form of
20 the question.

21 Ms. Boyd: Okay. You still have to
22 answer. I'm sorry.

23 Mr. Jefferies: Yeah. You can go ahead
24 and answer.

25 Ms. Boyd: So I will rephrase.

1 The Deponent: Can --

2 Ms. Boyd: I will restate it.

3 The Deponent: Okay.

4 By Ms. Boyd:

5 Q After you notice your foot was bleeding,
6 you continue to shop?

7 Mr. Jefferies: Object to the form of
8 the question.

9 By Ms. Boyd:

10 Q Did you continue to shop after you
11 noticed the nail?

12 Mr. Jefferies: Object to the form of
13 the question.

14 The Deponent: Yes.

15 By Ms. Boyd:

16 Q Okay. And you told me -- at some point
17 you told me, you had placed the nail on the shelf?

18 A Yes.

19 Q But you retrieved it off the shelf?

20 A Yes.

21 Q Did you notice anything on the -- on the
22 store's floor as you were walking in?

23 A No.

24 Q Did you see any Walmart associates
25 working in the area you were in?

1 A Yes.

2 Q Did you stop them to tell them about the

3 nail?

4 A No.

5 Q Why not?

6 A It just never occurred to me to tell

7 them.

8 Q Okay. And so you mentioned to me you

9 talked to a manager. Do you remember his name?

10 A I don't.

11 Q Can you describe him for me?

12 A I want to say he was a little -- about

13 my height.

14 Q How tall are you?

15 A I'm 5'5".

16 Q Okay.

17 A He might have been, maybe an inch

18 taller.

19 Q Okay.

20 A He was a white male. He had short

21 hair.

22 Q Do you remember the color of his hair?

23 A No, I don't.

24 Q Okay. What did you tell the manager?

25 A I told him that I stepped on a nail in

1 his store.

2 Q Okay. And what did he say?

3 A At first, he didn't say anything.

4 Q Okay.

5 A He just stood there and looked at me.

6 Q Okay.

7 A And I asked him was he going to offer
8 me some peroxide or something --

9 Q Okay.

10 A -- a paper towel to put -- you know,
11 to dap my feet with.

12 Q Okay. So you asked for, like, a first
13 aid --

14 A Yes.

15 Q -- kit? Okay. Did he give you some
16 first aid, a first aid kit or something?

17 A He actually said he didn't have a
18 first aid kit. He went and got some peroxide and
19 a roll of paper towels.

20 Q Okay. And then what happened after he
21 -- and so he went and got those and gave those items
22 to you?

23 A Yes.

24 Q All right. And you told me you sat down
25 at some point?

1 A Yes.

2 Q Is that in the customer service area?

3 A Yes, ma'am.

4 Q Okay. And did you apply the peroxide
5 and use the paper towels on your foot?

6 A Yes.

7 Q Okay. Did -- did the manager offer you
8 any assistance with that?

9 A As far as what?

10 Q Like, I don't know, helping you clean
11 off your foot or offering you any aid?

12 A No.

13 Q Did he just walk away?

14 A No. He actually stood there. And
15 then when I was cleaning the wound out and patting
16 it, he kind of stooped down, I guess to act like
17 he was helping me.

18 Q Okay. And do you know about how long
19 that interaction with the manager lasted?

20 A Not long.

21 Q Did you talk to anyone else?

22 A Yes.

23 Q Okay.

24 A He actually told one of his assistants
25 to write me out an accident report.

1 Q Okay. Did you get to see the accident
2 report?

3 A Yes.

4 Q Did the report look accurate?

5 A No.

6 Q Okay. Do you remember what it said?

7 A I can remember it had about six or
8 eight words on it.

9 Q Okay. Did you want it to say more?

10 A Yes.

11 Q Did you ask to write it yourself?

12 A No, I didn't.

13 Q Okay. Okay. What did you think it
14 should say?

15 A I thought it should have been a little
16 more detailed.

17 Q Okay. How so?

18 A As in my name and I stepped on a nail
19 in his store.

20 Q Okay. So did it have your name on the
21 report?

22 A Not that I can remember.

23 Q Okay. And you said it had a few words
24 on it. Do you recall what those words were?

25 A I know it stated such as I stepped on

1 a nail in the store. It might have had my name on
2 it. I'm just not sure --

3 Q Okay.

4 A -- in remembering. And it just had I
5 stepped on a nail in their store.

6 Q Okay. And what additional details would
7 you have added if you could have written it
8 yourself?

9 A I would have added my name and
10 customer stated that she stepped on a nail in our
11 store and I assisted her, you know, something like
12 that. Or I offered her -- I offered to call her
13 an ambulance or something like that.

14 Q Okay. Did you ask for an ambulance?

15 A I didn't.

16 Q Okay. Did you want them to call you an
17 ambulance?

18 A It would have been nice.

19 Q Okay. Well, why didn't you ask for one?

20 A I mean, at that time, I was frustrated
21 because I waited about 30 minutes to get eight
22 words on a -- on a --

23 Q Okay.

24 A -- piece of paper.

25 Q And during that 30 minute wait, were you

1 cleaning your wound or were you just sitting there
2 waiting?

3 A I was waiting for the report.

4 Q Do you know whether any Walmart
5 employees knew the nail was on the floor prior to
6 you stepping on it?

7 A I have no idea.

8 Q Do you know where the nail came from?

9 A I assume it came from one of the
10 pallets.

11 Q But do you have any knowledge that it
12 came from a pallet?

13 A I don't.

14 Q Do you know how long the nail had been
15 on the floor before you stepped on it?

16 A I don't.

17 Q Other than the statement that the
18 assistant manager completed on your behalf, do you
19 know if any other documents were written up that
20 day?

21 A I don't.

22 Q Okay. Did you take any photos of the
23 area where you think you stepped on the nail?

24 A I didn't.

25 Q Did you take any video of the area where

1 you think you stepped on the nail?

2 A No, I didn't.

3 Q Did anyone take any photos of that area
4 on your behalf?

5 A No.

6 Q Did anyone make any videos of that area
7 on your behalf?

8 A Not to my knowledge.

9 Q Did the store employees look at the
10 nail?

11 A Yes.

12 Q And they asked you to -- to hold the
13 nail?

14 A Yes.

15 Q And you declined?

16 A Yes.

17 Q Why?

18 A I mean, what's the difference in me
19 holding it and letting them see it then letting
20 them holding it? I didn't understand what would
21 make a difference.

22 Q Okay. So they were all--- allowed to
23 inspect the nail?

24 A Yes, they were.

25 Q Okay. And you told me that the

1 paramedics were not called?

2 A No.

3 Q Do you know about how long you were in
4 the store that day?

5 A Altogether?

6 Q Uh-huh. Yes, ma'am.

7 A About 40 minutes.

8 Q And it's your testimony that 30 of those
9 minutes were you waiting for assistance?

10 A Yes.

11 Q Is there anything else that you and that
12 manager or the assistant manager talked about that
13 we haven't talked about today?

14 A No.

15 Q Do you remember what that assistant -- I
16 know you said she. Was it a female assistant that
17 came and assisted with the report?

18 A Yes.

19 Q Do you remember what she looked like?

20 A She was a black lady. Medium build.
21 That's all I can basically remember.

22 Q And she just did the report. Did you
23 talk to her other than completing the report?

24 A No. He actually told her what to
25 write down.

1 Q Did you speak to any other Walmart
2 employees that day in the store?

3 A No.

4 Q Did you speak with any Walmart employees
5 of that store at any later date about this incident?

6 A No.

7 Q Did you speak with anyone else at the
8 store that day regardless of whether they were a
9 Walmart employee?

10 A No.

11 Q Did anyone witness you stepping on the
12 nail that day at Walmart?

13 A No.

14 Q And what injuries are you claiming as a
15 result of that incident that day in Walmart?

16 A What injuries?

17 Q Yes, ma'am.

18 A In all or --

19 Q Yes. You can give me everything.

20 A Well, I basically had -- that day I
21 went to the hospital. They treated me. They cut
22 a hole in my foot about the size of a 50 cent
23 piece. And it was very deep. Then that was on a
24 Friday. I remember that day. Monday, I went to
25 the foot -- I went to a doctor across the street

1 from McLeod that looked at my foot and said that
2 it was -- he said that it was, excuse me, he said
3 that I needed to have my big toe cut off.

4 Q And that was three days later?

5 A Yes. That was on that Monday. I
6 can't recall if I went into the hospital that day
7 or the next day.

8 Q We're going to go over your treatment in
9 sequence. I'm just asking you about your general
10 damages, like what all -- what are all the injuries
11 you suffered to date related to your leg, your foot,
12 any other injuries you're claiming. We're going to
13 start broad and then we're going to narrow it down.
14 Okay?

15 A I don't quite understand what you're
16 saying.

17 Q So are you claiming that -- I know
18 you're claiming you -- you injured your foot which
19 resulted in an injury to your leg?

20 A Okay.

21 Q Are you claiming any other injuries to
22 any other parts of your body as a result of this
23 incident?

24 A No.

25 Q Okay. Are you claiming any mental

1 health injuries, stress, pain and suffering?

2 A Yes.

3 Q Okay. So you're -- both -- to both of
4 those?

5 A Yes, ma'am.

6 Q Okay. Anything else?

7 A No.

8 Q Okay. And I'll ask you again in case
9 something pops up after we're talking.

10 A Okay.

11 Q Okay. All right. While you were in the
12 store with customer service, did you call anybody?

13 A Yes.

14 Q Who did you call?

15 A My daughter.

16 Q Was that Brooke?

17 A Yes.

18 Q What did you tell Brooke?

19 A I told her to come take me to the
20 hospital.

21 Q And did she come pick you up?

22 A Yes.

23 Q Did she come into the store?

24 A I believe so.

25 Q And she took you directly to the

1 hospital after the incident?

2 A Yes.

3 Q Did you talk to anybody else?

4 A Yes.

5 Q Who did you talk to?

6 A I called my pastor.

7 Q And what's your pastor's name?

8 A Joan Deese.

9 Q I'm sorry. Could you repeat that?

10 A Joan Deese.

11 Q Joan Deese?

12 A Uh-huh.

13 Q And is that a woman?

14 A Yes.

15 Q Okay. And did Ms. Deese also come to

16 give you assistance?

17 A No.

18 Q Okay. Do you remember what you told Ms.

19 Deese?

20 A I can't remember. I know I told her

21 that I stepped on a nail in Walmart.

22 Q And did she come to the hospital? Did

23 she meet you there?

24 A No. She didn't meet me there.

25 Q Okay. You just called her for support?

1 A Yes.

2 Q Anybody else?

3 A No.

4 Q All right. And what -- what's the name
5 of your church, Ms. Jones?

6 A Angels All Around Ministry.

7 Q And what's your denomination?

8 A None.

9 Q And other than Angels All Around
10 Ministries, do you have any affiliation with any
11 other type of church?

12 A No.

13 Q Any other type of civic group?

14 A No.

15 Q Okay. Did you speak with a Walmart
16 claims agent about your incident at Walmart that
17 day?

18 A Not that day.

19 Q Okay. Do you remember when you spoke
20 with them?

21 A Monday -- that Monday.

22 Q Okay. So the Monday afterwards. And
23 what did y'all talk about?

24 A Not much. I basically told them that
25 I was on medication and I wasn't able to really

1 talk to them. They can call me back.

2 Q Did you ever talk to them again?

3 A I did.

4 Q Do you remember when that was?

5 A Basically, a little later on that same
6 day.

7 Q What did you talk to them about that --
8 that time?

9 A Well, they actually called to see if I
10 can tell them what happened. I told them what
11 happened at the store. And that was about it.

12 Q So you gave a statement to the claims
13 representative?

14 A I did.

15 Q Did you give your permission for it to
16 be recorded? Do you recall?

17 A I did.

18 Q Did you give a truthful statement to the
19 claims agent that day?

20 A Yes, I did.

21 Q Did anyone else speak to that Walmart
22 claims agent on your behalf?

23 A That day?

24 Q Yes, ma'am.

25 A No.

1 Q Since that day, did anybody talk to the
2 claims agent on your behalf?

3 A No.

4 Q Okay. And I have a snippet of that.
5 I'm just going to verify that this is in fact your
6 recorded interview.

7 Mr. Jefferies: And is that the
8 recording you produced to us already?

9 Ms. Boyd: It is.

10 Mr. Jefferies: All right.

11 Ms. Boyd: Okay. Here it is. And I
12 apologize. This is a new laptop so I'm still
13 working my way through it. Okay.

14 (playback of recorded audio)

15 By Ms. Boyd:

16 Q And Ms. Jones, was that your voice?

17 A Yes, it is.

18 Q Is that the conversation you had
19 recorded with a claims agent?

20 A Yes, it is.

21 Q Okay. Did you have any other
22 conversations with that claim adjuster after that
23 day?

24 A I want to say I did, but I can't
25 remember if I just talked to them or -- well, I

1 knew one of my doctors talked to them.

2 Q Okay. So one of your doctors did talk
3 to them?

4 A Yes.

5 Q Do you remember which one?

6 A Dr. Govindappa.

7 Q Can you -- do -- do you know name -- the
8 spelling of that?

9 A G-O-V-I-D-A-P-P-E-R, I believe.

10 Q Okay. And what type of doctor is Dr.
11 Govindappa?

12 A He's a kidney doctor.

13 Q Okay. And do you remember what he
14 talked to them about?

15 A Yes.

16 Q What did he talk to them about?

17 A He told them don't call back.

18 Q Okay.

19 A That they'll hear from my lawyer.

20 Q And was this one day you were talking to
21 them while in his office?

22 A No. I was actually in the hospital
23 and they kept calling.

24 Q Did they know you were hospitalized?

25 A Yes.

1 Q And did they call you after that day
2 that he asked them not to call you?

3 A No, ma'am.

4 Q Okay. And did you speak to any other
5 Walmart employee or representative that we've not
6 talked about today?

7 A No, ma'am.

8 Q Okay. So prior to the incident at
9 Walmart, were you on any medication?

10 A No, ma'am.

11 Q So you didn't take any medication for
12 your -- your kidneys at that time?

13 A No. I don't drive when I'm on the
14 medication.

15 Q Okay. Did you have any medical
16 conditions at the time of this incident? Like, had
17 you been diagnosed with anything? I know you had --
18 had your kidney removed. Were you having -- were
19 you seeking active dialysis treatment at that time?

20 A Yes, I was.

21 Q Had you had any other type of medical
22 diagnoses at that time?

23 A No, ma'am.

24 Q Have you ever been diagnosed with
25 diabetes?

1 A Yes.

2 Q Do you know when you were diagnosed with
3 diabetes?

4 A Yes. I want to say, probably in 2010.

5 Q So at the time of this incident, did you
6 have an active diagnosis for diabetes?

7 A What do you mean by active?

8 Q Was it cured at that point?

9 A I won't say that it was cured, but at
10 that time, I was no longer taking medicine for
11 diabetes.

12 Q Okay. So your diabe--- diabetes was
13 controlled at that point?

14 A Yes, ma'am.

15 Q How were you controlling it?

16 A Basically, it was controlled after
17 they removed my kidney.

18 Q Were you diagnosed with congestive heart
19 failure at some point?

20 A In 2013.

21 Q Were you being treated for that?

22 A No.

23 Q Were you diagnosed with renal disease?

24 A Yes.

25 Q Were you being treated for that?

1 A Yes.

2 Q And that's the dialysis? Correct?

3 A Yes.

4 Q I'm going to go back to the day of the
5 incident. You -- you told me that you went to the
6 emergency room after you left Walmart that day?

7 A Yes.

8 Q And that you immediately went there?

9 A Yes.

10 Q What did you tell the hospital when you
11 got there?

12 A I basically told them I stepped on a
13 nail.

14 Q And you -- you told me that you had pain
15 in your foot. Correct?

16 A Yes.

17 Q Did your right foot bleed while you were
18 in Walmart?

19 A Yes.

20 Q Did it bleed profusely?

21 A Yes.

22 Q Was that bleeding controlled by the time
23 you got to the emergency room?

24 A Not really.

25 Q So it was still bleeding when you got

1 there?

2 A Yes.

3 Q And what did the E.R. do for your foot?

4 A They basically soaked it. Cleaned it
5 out. The soaked it in some I want to say,
6 Mercurochrome. I'm not sure. And they gave me
7 some antibiotic -- a prescription for antibiotic.
8 And they sent me home.

9 Q Did they do an x-ray?

10 A I can't remember.

11 Q Did they give you a tetanus shot?

12 A Yes. Yes, they did.

13 Q Did they -- did you have the nail on you
14 when you went to the emergency room?

15 A Yes, I did.

16 Q Did you show the nail to the doctor?

17 A Yes, I did.

18 Q Do you know if they took pictures of
19 your foot?

20 A They did.

21 Q Do you remember the name of the doctor
22 that saw you in the E.R. that day?

23 A I don't.

24 Q And what was your ultimate diagnosis
25 when you left the E.R.?

1 A They never really gave me a diagnosis.
2 Q Did they tell you to return for
3 treatment or seek alternate treatment somewhere?
4 A Yes.
5 Q What did they tell you to do?
6 A They told me to, you know, on Monday
7 come to go to a doctor -- find a doctor.
8 Q Did you have a primary doctor at that
9 time?
10 A No, I didn't.
11 Q Were you insured at that time?
12 A Yes.
13 Q Did you have medicare or --
14 A Yes.
15 Q -- medicaid? Was it medicare or
16 medicaid?
17 A Both.
18 Q Both. And they gave you a prescription
19 for an antibiotic you said?
20 A Yes.
21 Q Did you take it?
22 A Yes.
23 Q Do you remember what it was?
24 A I don't.
25 Q Do you remember how long you took it?

1 A No. Because after I went to the
2 doctors on that Monday, they told me to
3 discontinue it.

4 Q Okay. So you just took it over the
5 weekend?

6 A Yes.

7 Q And you went to the doctor on Monday.
8 Where do you -- do you remember the name of the
9 doctor you went to on Monday?

10 A I can't really -- I can't remember
11 right off.

12 Q Okay. And that was the doctor that told
13 you to stop taking the antibiotic?

14 A Yes.

15 Q Okay. And what else did he tell you?

16 A He told me that he needed to cut my
17 right toe off.

18 Q Your large toe?

19 A Yes.

20 Q Did he say why?

21 A He said it was infected.

22 Q And when you stepped on the nail in
23 Walmart, what -- what part of your foot was
24 punctured?

25 A It was towards the -- it was like in

1 the middle, but kind of towards the back. It was
2 like in the middle of the foot.

3 Q Okay.

4 A Uh-huh.

5 Q So, in the middle of the foot? So is
6 that kind of where your arch is, in that area?

7 A A little bit further back.

8 Q Further back towards your heel? I'm
9 going to pull my foot out because I'm a visual
10 person. I'm sorry. Sorry. And then -- this is my
11 feet according -- sorry. So this is my foot. So
12 are you saying it was here?

13 A Maybe a little bit up.

14 Q Here?

15 A Right there.

16 Q So right here. It kind of -- right
17 below the arch? Right below the arch? Yes?

18 A I guess so. I don't have a arch,
19 though.

20 Q Oh, okay. You've got a flat foot?

21 A Right.

22 Q So like, right below --

23 A Yeah.

24 Q -- slightly below the center --

25 A Yes.

1 Q -- of your foot?

2 A Yes.

3 Q Yes? And three days later, your large
4 toe was infected?

5 A Yes.

6 Q Was the area in between the -- the wound
7 and your toe also infected?

8 A No.

9 Q So it was just the toe?

10 A Yes.

11 Q Had the toe been punctured by the nail?

12 A No.

13 Q Did he indicate to you why the toe was
14 infected?

15 A Well, he said being so I had diabetes
16 and that kind of lead in on to that.

17 Q Oh, for the toe to be infected?

18 A Yes.

19 Q So was the infected toe related to the
20 wound?

21 A Yes.

22 Q Okay. And what kind of treatment did
23 you receive that day? Do you remember?

24 A I actually didn't receive any
25 treatment. He was -- I was -- I was -- believe

1 that day I was taken over to the hospital.

2 Q Okay.

3 A Yeah. That day right after I left his
4 office.

5 Q And then what -- what -- did you get any
6 treatment at the hospital?

7 A I can't remember.

8 Q Okay. Do you recall them doing a -- a
9 debridement of the wound or cleaning it out?

10 A Yes. They did that.

11 Q Okay. Was that at the hospital or in
12 the doctor's office?

13 A At the hospital.

14 Q Okay. Did they do anything to your toe?

15 A No.

16 Q Okay. Did they give you any antibiotics
17 for the infection in your toe?

18 A I believe so through a I.V.

19 Q Okay. So, I.V.?

20 A Uh-huh.

21 Q And while you're at the hospital, I -- I
22 looked at your medical records in this. It
23 indicated that a doctor suggested you have a
24 vascular study. Do you know if you had that done?

25 A Uh-huh.

1 Q And do you remember what they found?

2 A I don't.

3 Q Okay. And do you ever recall being told
4 that you had poor flow to your extremities?

5 A No.

6 Q Okay. Prior to the incident at Walmart,
7 had you ever had any blood flow issues?

8 A No.

9 Q After the de--- debridement or
10 debridement of your wound, did you heal at that
11 point?

12 A No.

13 Q Okay. Did you have any other treatment
14 done to that wound?

15 A Yes. Within a few days, he came back
16 and told me he needed to cut one, maybe two more
17 toes off.

18 Q Okay. And you said more. So on that
19 Monday, which was -- would have been the 29th of
20 June -- so that's three days later. Did they cut
21 off that toe that he wanted to cut off? Do you
22 remember?

23 A I'm having a loss.

24 Q It's okay. It's okay. I don't have any
25 record if they cut the toe that day. Do you believe

1 that they cut a toe that day?

2 A I can't remember.

3 Q Okay. So you came back later and they
4 told you they wanted to cut other toes. And that's
5 what you mean by more?

6 A Yes.

7 Q Okay. Was that in addition to or they
8 no longer wanted to cut the big toe? Or they wanted
9 to cut all of them? Do you recall if they wanted to
10 cut your big toe and these additional toes?

11 A No. The big toe was already off.

12 Q Okay. Do you remember when your big toe
13 was amputated?

14 A I want to say, but not certain that
15 when he put me in the hospital that time --

16 Q Okay.

17 A -- the big toe was amputated.

18 Q So on the 29th?

19 A I'm not sure what day.

20 Q Okay. And then later, you had
21 additional toes amputated?

22 A A few -- a few more days later. He
23 came back and told me he wanted to cut one, maybe
24 two more toes. And I refused.

25 Q Okay.

1 A So I kind of left there. I left
2 McLeod Hospital. And I got out of there. And I
3 went to Carolinas Hospital in another day or so.

4 Q Okay. But you had the initial toe
5 amputation done at McLeod?

6 A Yes.

7 Q Okay. And so the records that I have,
8 and again, I'm just going by the records and the
9 dates may not be right --

10 A Okay.

11 Q -- so I'm just going by what I have. I
12 have that your -- you had your toe amputated on or
13 about 07/14/15. About two weeks after the incident
14 at Walmart.

15 A Maybe that's so. I'm not sure.

16 Q Okay. Do you recall being told that
17 your -- your toe was mummified?

18 A What is mummified?

19 Q Like, it had completely shriveled down,
20 there was no tissue, it was just skin and bone?

21 A No. They didn't tell me that. I
22 can't recall.

23 Q Okay. Had you ever had blisters on your
24 foot before the incident at Walmart?

25 A No.

1 Q Do you recall being told that you had a
2 vascular disease in your extremities, in your arms
3 and legs?

4 A No.

5 Q Okay. In a few days after the 07/14
6 amputation, do you recall having a surgery to repair
7 the flow of your blood in your legs?

8 A I don't.

9 Q Okay. It was called a femoral
10 endarterectomy, where they fixed your arteries to
11 make your blood flow, to get a clot -- blood clots
12 out. Does that sound familiar?

13 A So they said I had blood clots?

14 Q Uh-huh. You had clots in your femoral
15 arteries.

16 A No. They never told me that.

17 Q Okay. Do you remember them telling you
18 they needed to restore blood flow to your foot?

19 A No, I don't.

20 Q Okay.

21 A That was McLeod?

22 Q Yes, ma'am.

23 A Oh, no. I didn't.

24 Q Okay. Do you recall whether the heel
25 where your toes were amputated, do you -- do you

1 recall if that wound healed? Like, once they were
2 amputated, did the wound ever heal?

3 A To my toe?

4 Q Uh-huh. When they amputated your toe?

5 A I can't recall.

6 Q Okay. And so then, you told me that you
7 remember like declining some treatment at McLeod and
8 went to Carolinas Hospital. Yes?

9 A Yes.

10 Q Okay. And what kind of treatment did
11 you get at Carolinas Hospital? Do you remember?

12 A Carolinas, basically just kept my foot
13 clean and -- they basically just kept it clean.

14 Q Okay. Do you remember them ever making
15 a recommendation that you have am--- your -- half of
16 your foot amputated?

17 A Yes. I do remember that.

18 Q Okay. And you declined that. Correct?

19 A Yes, I did.

20 Q All right. And did you leave after you
21 -- you declined that surgery?

22 A I did. Yes, I did.

23 Q Okay. And where did you go? Did you
24 get some alternate treatment after you left
25 Carolinas?

1 A I actually went home.
2 Q Okay.
3 A And at the time, I had a nurse that
4 would come in every day --
5 Q Okay.
6 A -- and clean my foot.
7 Q So a home health nurse?
8 A Yes, ma'am.
9 Q Do you know the name of the company?
10 A I don't, but her name was Ms. Mary. I
11 can't recall the company's name.
12 Q Okay. And she came in and -- and kept
13 your foot clean?
14 A Yes.
15 Q Okay. And do you remember how long you
16 saw Ms. Mary?
17 A I saw Ms. Mary up until after they cut
18 my leg off.
19 Q Okay. So you -- you saw her for quite
20 some time?
21 A Yes.
22 Q She continued to be your home health --
23 did you ever go back to Carolinas Hospital?
24 A No.
25 Q So you never sought any additional

1 treatment there?

2 A No. I actually was seeing a doctor
3 that was affiliated with Carolinas. I can't
4 remember his name right off. My memory is not
5 good for remembering what went on too much. But I
6 saw him for a while.

7 Q Okay.

8 A And once I -- excuse me. Once I left
9 Carolinas Hospital, I no longer saw him.

10 Q Do you remember what kind of doctor he
11 was?

12 A He was a foot doctor.

13 Q So a podiatrist?

14 A Yes.

15 Q Okay. And at some point, did you have
16 your forefoot, the -- the -- the front part of your
17 foot amputated?

18 A No.

19 Q You didn't? Okay. Did you have any
20 other amputations between the toes and your above
21 the knee amputation?

22 A No, ma'am.

23 Q Okay.

24 A Not that I can remember, no.

25 Q Okay. Do you remember being treated at

1 the wound care center?

2 A Yes. That's where the doctor was at.

3 Q Oh, okay.

4 A The wound care center.

5 Q Okay. So you saw --

6 A At Carolinas.

7 Q Do you remember how long you had -- you
8 were treated at the wound care center?

9 A I think for a few months.

10 Q Okay. Do you recall whether your wound
11 ever healed while you were being treated there?

12 A It was healing good for a while.

13 Q Then what happened?

14 A Then one day, I woke up and my foot
15 was black.

16 Q Your entire foot?

17 A Yes.

18 Q Do you remember about when that was?

19 A I don't.

20 Q Okay. And then, does February 2016
21 sound about right? Some time in that time is when
22 you began to have problems again?

23 A Yes.

24 Q Okay. Did you return to the hospital
25 when --

1 A McLeod.

2 Q You went to McLeod? Do you remember
3 what they told you about your -- about your foot?

4 A Yeah. They said it had turned into
5 gangrene.

6 Q And prior to your wound turning to
7 gangrene, were you still being treated at the wound
8 center?

9 A Once I left Carolinas, I no longer got
10 treated at the wound center.

11 Q Okay. Do you remember when your
12 treatment at the wound center ended?

13 A When I left Carolinas.

14 Q And you don't know about when that was?

15 A No.

16 Q Okay. So there was a time between you
17 getting the wound -- the treatment at the wound
18 center and when you woke up and your foot was black?
19 There was some time between that period?

20 A Not much time. Not much, but during
21 that I still had my nurse and she was still
22 getting orders from wound care.

23 Q Okay. So your home healthcare nurse --

24 A Yes.

25 Q -- was still coming? And she hadn't

1 noticed the onset of the gangrene before it turned
2 completely black?

3 A It -- one day it was brown, the next
4 day it was black when I woke up. So when I called
5 her and she came, she agreed that I needed to go
6 to the emergency room as soon as possible.

7 Q Okay. Was Ms. Mary coming to see you
8 every day?

9 A Every day.

10 Q And when you went to the hospital, do
11 you remember what they told you about the gangrene
12 and what was going to have to happen to your leg?

13 A They said that they was going to have
14 to amputate my leg.

15 Q Okay. Do you remember them telling you,
16 you had an artery disease in your legs?

17 A No.

18 Q Something called P.A.D.? Okay. So
19 they -- they told you, you were going to have the
20 above the knee amputation?

21 A Yes.

22 Q And did you go ahead and have it at that
23 time?

24 A Yes.

25 Q Okay. After the above the knee

1 amputation, did you continue to have wounds on your
2 leg, on your -- the remaining portion of your leg?
3 Did you have wounds there?

4 A Where they cut it at, yes.

5 Q Uh-huh. Did it heal at any point?

6 A Yes.

7 Q Okay. Do you remember about how long it
8 took to heal after the amputation?

9 A I don't remember.

10 Q How long were you hospitalized after the
11 amputation?

12 A Well, I stayed in the hospital a week
13 and then I went to rehab.

14 Q It was an inpatient rehab?

15 A Yes.

16 Q Where was that?

17 A HealthSouth.

18 Q And how long did you stay at
19 HealthSouth?

20 A About three weeks to a month.

21 Q And did you have any kind of physical
22 therapy while you were at HealthSouth?

23 A Yes.

24 Q What about occupational therapy?

25 A Yes.

1 Q Did you continue to experience pain in
2 that leg?

3 A Yes.

4 Q What kind of pain did you -- did you
5 have after the amputation?

6 A I had different kinds of pains. I had
7 phantom pains. I had throbbing pains.

8 Q Do you still have those pains?

9 A Yes, I do.

10 Q And the leg that was the amputated was
11 your right leg. Correct?

12 A Yes.

13 Q Have you ever had blisters or ulcers on
14 your left foot?

15 A No.

16 Q Did you have any surgeries that were
17 recommended since your amputation that you have not
18 had? Have they said you needed additional surgery
19 on your leg?

20 A No.

21 Q Okay. Between the time where you were
22 injured at Walmart and your leg being amputated, did
23 you ever visit any urgent care facilities, like a
24 doctor's care or --

25 A No.

1 Q Prior to the incident at Walmart, did
2 you go to any urgent care facilities?

3 A What, before?

4 Q Uh-huh. Before the incident?

5 A Yes.

6 Q Do you remember which ones you attended?

7 A I don't.

8 Q Okay. Do you remember who your primary
9 doctors were before the incident at Walmart?

10 A I didn't have a primary doctor.

11 Q Other than the wound care doctor, have
12 you ever seen any other podiatrist?

13 A No.

14 Q Have you ever seen an infectious disease
15 doctor?

16 A No.

17 Q Have you ever seen a cardiologist?

18 A A cardiologist. I seen one at McLeod.

19 Q While you were hospitalized?

20 A Yeah. He came up there.

21 Q So had you ever seen him in his office
22 for any outpatient, non inpatient?

23 A Yeah. I went to his office.

24 Q Oh, okay. Do you remember his name?

25 A Oh, God. I can't remember, but he

1 done moved from McLeod.

2 Q Do you know where he is now?

3 A I think he's in Marion.

4 Q Who's Dr. Locklear?

5 A I don't know.

6 Q He was referenced in your records. You
7 don't know who a Dr. Locklear is?

8 A No, I don't.

9 Q Have you ever been a patient of Hope
10 Health Clinic?

11 A Yes.

12 Q Okay. When did you go to the Hope
13 Health Clinic?

14 A The last time I've been to Hope Health
15 was in 2013.

16 Q Do you know who you saw over there?

17 A I saw a lady doctor. I'm not sure of
18 her name.

19 Q What kind of medical services do they
20 provide over at Hope Health Clinic?

21 A They're just regular physicians as far
22 as I know.

23 Q So like, primary health doctors?

24 A Yes.

25 Q Is that where you were seeking your

1 primary health at that time?

2 A Yes.

3 Q And we talked ext--- extensively about
4 the fact that you had a kidney doctor.

5 A Yes.

6 Q And -- and you also sought treatment at
7 Carolinas Hospital and McLeod Hospital?

8 A Yes.

9 Q We mentioned the -- the doctor with the
10 very weird name.

11 A Dr. Govindappa.

12 Q Yes. Are there any other doctors that
13 you saw for your treatment that we've not talked
14 about that you recall?

15 A Not that I recall.

16 Q Okay.

17 A Now, at my kidney doctor, it's quite a
18 few in there.

19 Q Okay. You have several different
20 doctors in there?

21 A It's different ones. And they let you
22 see different ones at times.

23 Q What's the name of the practice?

24 A It's called Pee Dee Nephrology.

25 Q How often do you go to the nephrologist?

1 A Well, now I don't go because they send
2 them over to dialysis.

3 Q Okay. Send them to the dialysis?

4 A And not unless I desperately need to
5 go in the office.

6 Q Okay. Prior to the incident at Walmart,
7 how often were you going to the nephrologist? Do
8 you remember?

9 A Probably sometimes once or twice a
10 month.

11 Q Are there any other providers or places
12 that you sought for your incident at Walmart that
13 we've not discussed today?

14 A Well, I went to -- I went to the limb
15 doctor. I can't remember the name of his office.

16 Q The limb doctor?

17 A Yeah. That do the prosthesis.

18 Q Oh, okay. And when -- do you have a
19 prosthesis?

20 A I don't.

21 Q Did you go for a consult?

22 A I did.

23 Q Do you remember when that was?

24 A That was in 2016. I was felt in, I
25 believe May of 2016.

1 Q Okay. And you decided not to go with
2 the pros---

3 A No. What it is, is basically I'm
4 having a hard time getting my leg to shrink. They
5 want it to shrink a certain size. With me gaining
6 weight and not being able to walk, it's kind of
7 hard.

8 Q Oh, okay. And so for the last ten year
9 period, you saw your nephrologist. You went to
10 dialysis. You went to several emergency rooms and
11 you saw a prosthetic doctor. Anybody else you've
12 seen for any type of medical treatment that we've
13 not talked about in the last ten years?

14 A Not that I can remember.

15 Q Okay. And so at the onset I asked you
16 about your injuries and damages as a result. And
17 we've talked pretty extensively about your leg. You
18 mentioned that you had some other mental issues and
19 stress. Have you gone to see anybody about that?

20 A No.

21 Q Okay. Have you talked any kind of
22 counselor, not a doctor, just like a private
23 counselor about it?

24 A No.

25 Q Your pastor?

1 A Yes.

2 Q Okay. Anybody else?

3 A No.

4 Q Are you under the care of a pain center?

5 A Yes.

6 Q What's the name of the pain center you

7 go to?

8 A It's called First Choice Pain Center.

9 Q How long have you been going to the pain

10 center?

11 A I think since November.

12 Q Of 2017?

13 A No, 2018.

14 Q Twenty-eight--- oh, it's -- it's not --

15 A No --

16 Q -- '18.

17 A -- well 2017. I'm sorry.

18 Q It's okay. It's okay. And what are you

19 being treated for at the pain center?

20 A Well, basically for my leg and stuff

21 you know.

22 Q They regulate your Oxycodone and the

23 nerve pain?

24 A Yes.

25 Q The -- the pain medicine? Other than

1 the oral medication, do you get any other type of
2 pain medicine there?

3 A No.

4 Q How often do you see the pain doctor?

5 A Once a month.

6 Q Are you still seeing any doctors other
7 than the pain doctor related to your leg?

8 A No.

9 Q Related to any other injuries you had
10 since the incident at Walmart?

11 A No, ma'am.

12 Q Do you remember the last time you
13 received treatment because of the incident at
14 Walmart?

15 A I don't recall.

16 Q Okay. That's fair. Prior to the
17 incident at Walmart, did you take -- did you have a
18 prescription or take pain medicine?

19 A Yes.

20 Q Okay. What pain medicine were you on
21 before?

22 A Oxycodone.

23 Q And why were you on Oxycodone?

24 A For my kidney.

25 Q And I'm sorry, I think you told me that.

1 A That's okay.

2 Q I'm just following some questions. I --
3 I do now recall that. I apologize. And you told me
4 you didn't take the pain medicine and drive. So you
5 hadn't taken any on that day?

6 A No, ma'am.

7 Q Have your -- has your pain medicine been
8 increased since the incident at Walmart?

9 A No.

10 Q Where do you get your prescriptions
11 filled?

12 A I get it mainly filled now at
13 Walgreen's.

14 Q Have you been getting it filled there
15 for the last five years?

16 A No.

17 Q Where did you get it filled?

18 A I was getting it filled at Rite Aid,
19 sometimes at C.V.S.

20 Q Rite Aid, C.V.S., Walgreen's, that's
21 about it?

22 A Uh-huh. And I think a couple of times
23 at Walmart.

24 Q Okay. And I apologize in advance for
25 this insensitive question, but I really do need the

1 answer. What are your limitations as a result of
2 this incident at Walmart?

3 A What do you mean? Things I can't do?

4 Q Yes, ma'am. I'm sorry. Do you need a
5 Kleenex, Ms. Jones?

6 A Uh-huh.

7 Q Okay.

8 (off the record.)

9 By Ms. Boyd:

10 Q All right. So Ms. Jones, I had asked
11 you what -- just to briefly describe some of the
12 things you can't do anymore.

13 A Well, I can't get into any of my
14 bedrooms at home. I can't play with my
15 grandchildren. There's a lot of places that I
16 used to go that I really can't go to now and enjoy
17 it. So there's no need in going. A lot of church
18 activities I can't go to that I used to go to.

19 Q Is it because of your -- your -- it's
20 restricted because of your wheelchair or just
21 because you don't have a desire because --

22 A Because of my --

23 Q -- you're sad?

24 A -- wheelchair. I can't clean my house
25 the way I want to, the way it needs to be cleaned.

1 Q Anything else you want to tell me about?

2 A Well, basically a lot of things that I
3 did, I can't do. And it's like my life now
4 depends on people and they don't have the
5 patience. I was supposed to actually go to Disney
6 World with my grandson with Make-a-Wish on October
7 the 6th, but I won't be going.

8 Q Why not?

9 A Well, basically that requires a lot of
10 people pushing me and I need an electric
11 wheelchair and I don't have one. It's kind of
12 hard getting one.

13 Q Because of costs or a lot of hoops to
14 jump through?

15 A Basically, if I feel it would more,
16 like, lessen the fun for everybody else and I
17 don't want that.

18 Q Anything else you want to tell me about?

19 A No, that's it.

20 Q Okay. Prior to June 26th, the incident
21 at Walmart, do you remember the last time you had
22 gone to the doctor?

23 A Probably beginning of that month. I'm
24 not sure.

25 Q And would that have been dialysis or

1 with your --

2 A It would have been to the regular
3 doctors too -- nephrologist.

4 Q You said neurologist or nephrologist?

5 A Nephrologist.

6 Q Prior to the incident at Walmart, did
7 you routinely check your glucose level?

8 A No. They checked it at dialysis.

9 Q Did you have a glucometer?

10 A No, I don't.

11 Q And I think you told me that prior to
12 the incident at Walmart, your diabetes was
13 controlled. Correct?

14 A Correct.

15 Q Prior to the incident at Walmart, had
16 you ever been diagnosed with diabetic neuropathy?

17 A No.

18 Q Prior to the incident at Walmart, had
19 your nephrologist or the doctors at dialysis ever
20 discussed proper foot care with you?

21 A Yes.

22 Q Do you remember what they told you?

23 A Well, basically to keep your foot
24 clean. Don't put lotion between your toes. Keep
25 a clean floor. Make sure you don't step on

1 anything that you shouldn't step on. And do a lot
2 of walking.

3 Q Did they also tell you to check your
4 feet for blisters and ulcers?

5 A Yes.

6 Q Did you?

7 A Yes.

8 Q How often did you check your feet?

9 A I check my feet every time I take a
10 bath.

11 Q And what was your normal every day,
12 like, skin routine for your feet? Do you remember?

13 A My skin?

14 Q Yes. How would you check your feet?
15 What was the process you -- you said when you took a
16 bath. Was --

17 A Yes.

18 Q -- it in the shower?

19 A Well, when I got out, I'm going to
20 automatically lotion and stuff. So I check and I
21 watch everything.

22 Q Had your doctor or -- or his staff ever
23 told you to wear diabetic shoes?

24 A No.

25 Q Did they ever tell you the importance of

1 wearing socks and shoes?

2 A Yes.

3 Q What did they tell you?

4 A Well, they told me to wear loose
5 fitting socks. And that I could basically buy the
6 diabetic, you know, socks for the diabetic people.
7 No tight shoes.

8 Q Did they tell you not to wear sandals
9 and flip flops?

10 A No.

11 Q Had you ever had a diabetic ulcer on
12 either of your feet prior to the incident at
13 Walmart?

14 A No.

15 Q And where did you get your dialysis
16 treatment?

17 A Church Street dialysis.

18 Q Is -- do you still go there?

19 A Yes.

20 Q How often did you go to dialysis?

21 A Three times a week.

22 Q Before the incident at Walmart, you were
23 going three times per week?

24 A Yes.

25 Q Did you go every time?

1 A As much as possible.

2 Q What would have kept you from going?

3 A Being sick.

4 Q Do you remember going the week of your

5 incident at Walmart?

6 A I can't recall.

7 Q Prior to the incident at Walmart, had

8 you experienced any leg weakness or pain?

9 A No.

10 Q Prior to the incident at Walmart, had

11 you experienced any recent infections?

12 A No.

13 Q Have you ever been treated for any

14 mental health condition, such as depression?

15 A No.

16 Q Anxiety?

17 A No.

18 Q Bipolar --

19 A No.

20 Q -- disorder? Did you experience any

21 accidents within the five years prior to your

22 incident at Walmart? So, like --

23 A No.

24 Q -- car accident, any falls?

25 A No.

1 Q Since the incident at Walmart, have you
2 been in any type of accident, like a car accident or
3 --

4 A No.

5 Q Have you experienced any other type of
6 accident since your incident at Walmart?

7 A Other than falls, no.

8 Q Have you suffered a lot of falls?

9 A Yes.

10 Q Is that because of your amputated --

11 A Yes.

12 Q -- leg? Are you making any type of
13 claim for lost wages?

14 A No.

15 Q Do you have any other prior claims or
16 litigation because of personal injury claims or --

17 A No.

18 Q -- accidents? Have you ever submitted a
19 claim for worker's comp or any other type of work
20 related accident?

21 A No.

22 Q Have you ever been diagnosed with
23 alcoholism?

24 A No.

25 Q Treated for alcohol abuse?

1 A No.

2 Q Ever been diagnosed with any type of
3 substance abuse problem?

4 A No.

5 Q Has a medical provider ever refused to
6 give you pain medicine?

7 A Yes.

8 Q Why?

9 A I don't know.

10 Mr. Jefferies: Object to the form of
11 the question. But you can answer.

12 The Deponent: I don't know.

13 By Ms. Boyd:

14 Q Okay. Do you know what provider it was?

15 A Yes.

16 Q Who was it?

17 A My nephrologist.

18 Q When did -- did that happen?

19 A When he referred me to the pain
20 center.

21 Q So prior to that time before your
22 referral to the pain center, he was giving you pain
23 medication?

24 A Yes.

25 Q Have you ever been dismissed from a

1 medical practice or had a doctor refuse to see you
2 for any reason?

3 A No.

4 Q Have you ever been employed by Walmart?

5 A No.

6 Q We submitted a list of questions to your
7 attorney about your incident, about your damages and
8 who you've seen. They're called interrogatories and
9 requests for productions. And your attorney gave us
10 some responses. Let me show them to you. There are
11 the ones they sent us. Let me just straighten --
12 have you ever seen these, Ms. Jones?

13 A No, I never seen this.

14 Q Okay. Are these people, family members
15 who have information about your injuries related to
16 your incident at Walmart?

17 A Yes.

18 Q So this information you would have
19 provided to your attorney?

20 A Yes.

21 Q Okay. Other than these people listed on
22 these two pages, do you know any other individuals
23 who may have information about your injuries at
24 Walmart that day?

25 A No.

1 Q Okay. Any of your doctors, your
2 physicians? Do you recall telling your attorney you
3 were in a car accident in 2000 -- the year 2000?

4 A Yes.

5 Q Okay. All right. So we're going to go
6 through this. Doctors, these are the doctors at
7 Carolinas Hospital System that you saw. And I'm not
8 saying that this is based in your medical records.
9 Kenneth Burns. Oh, God. Pitiranggon --

10 A Uh-huh.

11 Q -- Stonecreek -- crock.

12 A I don't know him.

13 Q But if they're in your medical records
14 they more than likely treated you for something?

15 A Right.

16 Q Is anybody, in addition to this list,
17 that you saw at Carolinas Hospital System --

18 A No.

19 Q -- that you're aware of? What about at
20 McLeod Medical -- Regional Medical Center, anybody
21 in addition to these providers that you remember
22 seeing that aren't listed?

23 A No.

24 Q Okay. Anybody in addition at Pee Dee
25 Surgical Group?

1 A No.

2 Q And is the home health company --

3 visiting nurse services that's --

4 A Yes.

5 Q And that's Ms. Mary?

6 A Yes.

7 Q And also, did you see Jonathan Jackson

8 Meekins?

9 A I don't remember Jonathan Jackson.

10 Q Just Ms. Mary?

11 A Uh-huh.

12 Q Was there any other medical providers

13 that we -- we didn't go over here that you recall

14 offhand, being treated by?

15 A No.

16 Q Okay. And Dr. Wetner is pain -- the

17 pain doctor?

18 A Yes.

19 Q And Doctor -- how do you say his name?

20 A Magsood.

21 Q Magsood, that's your nephrologist --

22 A Yes.

23 Q -- or the main one?

24 A Yes.

25 Q But you also see other doctors in Pee

1 Dee Nephrology you told me today?

2 A Yes.

3 Q Okay. Anybody else that we have not
4 talked about that --

5 A No.

6 Q -- you recall being treated by?

7 A No.

8 Q Okay. And prior to your incident at
9 Walmart, you were diagnosed with hypertension?

10 A Yes.

11 Q Type-two diabetes? End stage renal
12 disease?

13 A Yes.

14 Q All of these things are true and
15 accurate? I'm sorry, I -- I don't read them all.
16 Anything not true?

17 A Well, I see some new ones on there
18 that I wasn't aware of, but if they say so.

19 Q So which ones do you don't recall being
20 --

21 A The ventricular.

22 Q Oh. Okay.

23 A And --

24 Q Anything else?

25 A And that's about it.

1 Q Okay. But everything else, you -- you
2 know -- you're aware that you were diagnosed with?

3 A Yes.

4 Q Okay. And I know we've been here for a
5 while so I'm going to try to wrap it up. I just
6 want just to make sure I go over everything with
7 you.

8 A Okay.

9 Q Okay. I have videos of you walking
10 through the store that day. I just want you to
11 identify yourself.

12 A Okay.

13 Q Make sure that who I think it is, is --

14 A Uh-huh.

15 Q -- also in fact who it is. And these
16 were the videos that we already provided to you.
17 And I'll pull it up on the computer so you can see.
18 And is that you, Ms. Jones?

19 A Yes, it is.

20 Q Are you wearing a white tank top?

21 A Yes.

22 Q And some -- I can't tell what color,
23 they're culotte pants.

24 A Green.

25 Q Green culotte pants?

1 A Yes.

2 Q All right. That's you entering the
3 store that day. Correct?

4 A Yes.

5 Q Okay. And that's you walking on in?

6 A Right.

7 Q All right. I promise you're coming.
8 And is that you walking with a cart in the top of
9 the screen?

10 A Yes.

11 Q Yes. And did you go in the produce
12 section?

13 A No.

14 Q Let me jump all the way down here to 13.
15 You're going to be over here. And is that you right
16 there in the produce section?

17 A Yeah, that's me.

18 Q Okay.

19 A I can't even remember walking --

20 Q It's okay. I'm kind of tracking you in
21 time sequence. That's why I'm jumping around. Do
22 you see --

23 A Okay.

24 Q -- yourself right here?

25 A Yes.

1 Q And you exited produce and you're
2 walking down the action alley?

3 A Yes.

4 Q Okay. Do you see yourself stopping?

5 A Uh-huh.

6 Q Is this when you first heard the metal,
7 you say?

8 A I believe so.

9 Q Okay. And I'm going to give you another
10 view of that. It's around 11:32:39. And this time
11 it's a different angle from further to back of the
12 store so you're all the way at the top here. I know
13 it's kind of hard to see you. But you're a little
14 speck. You're going to come forward. You're right
15 there. It's kind of like you're bending to the
16 side. This isn't a really good view. And maybe
17 when you come on a little further you can see. Do
18 you know who those people are?

19 A Huh-uh.

20 Q Do you remember talking to two people in
21 the store?

22 A I don't.

23 Q Do you recall seeing this associate walk
24 past you?

25 A I don't.

1 Q Do you have any reason to believe that
2 that's not you?

3 A No.

4 Q Okay. I'm going to show you a different
5 angle. Is that you right there?

6 A Yes.

7 Q Did you pull the nail out at this point
8 after you already turned the aisle?

9 A On that aisle, I pulled it out.

10 Q Oh, okay. Can you see that you're
11 standing there talking to those two people?

12 A I see me standing there, but I don't
13 remember talking to them.

14 Q Okay. Let me show you another angle.
15 And this one is an hour early. So I'm going to jump
16 ahead a little bit. Okay. Because this was a whole
17 hour for some reason that, you know, saved earlier.
18 So I'm going to jump to the -- closer to the time.
19 Do you see that's your hair right there? Did you
20 see -- did you see yourself?

21 A Uh-huh. I do.

22 Q Can you see you're standing there
23 talking to somebody? The two people that were
24 standing on the aisle with you, you don't recall who
25 those people were? So you have no memory of

1 standing there having a conversation --

2 A I don't.

3 Q -- with people for about a minute?

4 A No. I see me talking, but I -- I
5 don't even remember that.

6 Q Okay. Is this when you pulled the nail,
7 actually pulled it out?

8 A No. I pulled the nail out on the
9 regular aisle.

10 Q Okay.

11 A That's me throwing the nail up there.

12 Q Okay. And you said you saw that your
13 foot was bleeding at this point?

14 A Uh-huh.

15 Q Okay. And that appears to be you
16 selecting bleach. Correct?

17 A Correct.

18 Q And at this point, you had already
19 pulled the nail out of your foot?

20 A Yes.

21 Q And that was you retrieving it?

22 A Getting the nail back.

23 Q Okay. Why did you throw it away
24 initially?

25 A Because I didn't know it was in my

1 foot and I was just, like, oh, well.

2 Q Okay. And at this point in time, your
3 foot was bleeding profusely?

4 A Uh-huh.

5 Court Reporter: Is that a yes?

6 The Deponent: Yes.

7 By Ms. Boyd:

8 Q I'm going to show you video 13. But you
9 told me you went to the self checkout?

10 A Yes.

11 Q That's not the right one. Sorry. There
12 must be a 14. Me and my typos today. And that's
13 you at the self checkout. Correct?

14 A Yes.

15 Q Had you put anything on your foot like a
16 bandage or a paper towel?

17 A No. Not at that point.

18 Q Do you see any blood on the floor near
19 where you're standing?

20 A No. It wasn't on the floor.

21 Q And you told me the hole was the size of
22 a -- of a small -- little smaller than a dime?

23 A Yes.

24 Q And it was bleeding profusely at this
25 point in time?

1 A Uh-huh.

2 Q Okay.

3 Court Reporter: Is that a yes?

4 The Deponent: Yes. I'm sorry.

5 Court Reporter: That's okay.

6 By Ms. Boyd:

7 Q And then you went up to the customer

8 service desk?

9 A Yes.

10 Q Did you leave a trail of blood anywhere?

11 A No. The blood was inside the flip

12 flop.

13 Q Okay. Do you recall talking to that

14 male associate right there --

15 A Yes.

16 Q -- that African American male? Is that

17 the manager that you were talking --

18 A No.

19 Q -- about?

20 A He's not the manager.

21 Q Did you tell him that you had stepped on

22 --

23 A That I -- yeah.

24 Q -- the nail?

25 A And I needed to see the manager.

1 Q Okay. And this man right here, that --
2 that white male --

3 A Yes.

4 Q -- in the blue shirt, is the one you're
5 talking --

6 A That's the manager.

7 Q -- about?

8 A Yes. Sorry.

9 Q It's okay. Prior to talking to you I,
10 know you told he had you waiting. Did you see that
11 he was helping another customer before walking over
12 to you?

13 A No. I didn't see that.

14 Q Okay. I'm going to just run this back a
15 little bit. Do you see him over here talking to
16 this other customer?

17 A I see him now.

18 Q Okay.

19 A But I had no idea he was the manager.

20 Q Oh, okay. I'm going to fast forward us
21 back to him talking to you. Are you're showing him
22 your injury to your foot at that time?

23 A Yes.

24 Q Did she bring over the first aid kit?

25 A No, that's not a first aid kit.

1 Q What is it?

2 A That's not a first aid kit.

3 Q It's some kind of white box.

4 A They never brought --

5 Mr. Jefferies: Object to the form of
6 the question.

7 By Ms. Boyd:

8 Q Okay. Do you know what that was?

9 A No, I don't.

10 Q Okay. Do you know what he was doing?
11 Do you remember what he was looking for?

12 A No, I don't.

13 Q Okay. It looks like it was somebody's
14 last day of work or something. Is that the
15 assistant manager that brought the form, that
16 African American lady that just walked to the back?
17 Do you recall?

18 A I'm not sure. I didn't really see
19 her.

20 Q Oh. I'm sorry, I'm just trying to
21 identify people. And you told me it took quite some
22 time so I'm going to make us --

23 A Uh-huh.

24 Q -- go faster so that way -- and is this
25 the point he gives you the peroxide and the --

1 A No. That's the point, when I told him
2 he can give me --

3 Q Okay.

4 A -- something for my foot.

5 Q Okay. Is this when he's giving it to
6 you at this point?

7 A Uh-huh. That looks like it.

8 Q Okay. Now, had she filled out the form
9 at this point or no?

10 A No.

11 Q Okay. Does she ever come to talk to
12 you?

13 A Yeah. She came and asked me for the
14 nail. He's wiping up the blood.

15 Q And you're cleaning the wound on your
16 foot?

17 A Yes.

18 Q Did you ever wrap your foot up or any
19 way to keep it from bleeding or did it just stop?

20 A I'm not sure. I believe I put some
21 paper towels on the bottom of it.

22 Q And do you remember if your daughter
23 came in and met you in the customer service area or
24 outside?

25 A I'm not sure.

1 Q Okay.

2 A I can't remember.

3 Q Okay. I just wanted to identify the --
4 the manager. All right. And this is you exiting
5 the store?

6 A Uh-huh.

7 Q Do you -- do you think your foot is
8 wrapped up at this point? Can you tell?

9 A I believe I've got a paper towel --

10 Q Just inside --

11 A -- between the foot and the flip flop.

12 Q Okay. And -- and your daughter wasn't
13 with you in that video?

14 A No.

15 Q Okay. And that's you walking out to the
16 parking lot. Correct?

17 A Uh-huh. Yes.

18 Q So your -- your daughter didn't meet you
19 in the store?

20 A She -- evidently she didn't.

21 Q Okay. And that's just you leaving the
22 store that day?

23 A Yes. But she's out there.

24 Q Oh, okay. And so y'all -- did she drive
25 you or did y'all just both go there? Do you recall

1 if you drove? If you left to take your car with
2 you?

3 A I believe I drove.

4 Q Okay.

5 A And she followed me.

6 Q Okay. But you don't recall leaving your
7 car at Walmart and having to go back and get it --

8 A No.

9 Q -- or anything like that? Okay. I
10 mean, I can fast forward and see -- I don't know if
11 they showed you backing out or anything. I believe
12 it just shows you --

13 A But I know she would --

14 Q -- driving off.

15 A -- be coming from this way.

16 Q Yeah. That's you in your car.

17 A That's me. And she will be coming
18 from the other end.

19 Q Oh, okay. You did a complete U, huh?
20 All right. And that's you exiting --

21 A Yeah.

22 Q -- the parking lot that day? Did you
23 take -- you -- I think you told me you didn't take
24 any photos that day?

25 A I took photos inside of the store.

1 Q You did take photos inside of the store?

2 A I did.

3 Q When did you take photos inside the
4 store?

5 A Right over -- right over there at --
6 where I was sitting at, I took pictures of my
7 foot, the blood and all of that.

8 Q Oh, you took pictures of your foot? Did
9 you --

10 A Uh-huh.

11 Q -- take pictures of the store itself?

12 A No, I didn't.

13 Q Oh, okay. And you said that you no
14 longer have those photos?

15 A No. I don't have them.

16 Q Okay. Did you turn them over to your
17 attorney before you got rid of them?

18 A I gave him copies of it in here. I
19 let him -- I transferred it to his phone.

20 Q Okay. So your attorney would have
21 copies of your --

22 A He should have them.

23 Q Okay. But did you take any photos
24 inside of the store of the -- of anything in the
25 store?

1 A No.

2 Q Okay. Have --

3 A Here's the sign Walmart, up under the
4 customer service.

5 Q Oh, okay. Have you ever seen this photo
6 before? This is a photo I got from your attorney.

7 A No. I didn't see that.

8 Q And that's where I got it, from y'all.

9 Court Reporter: Do you want to mark it?

10 Ms. Boyd: Uh-huh. Mark hers.

11 (Defendant's exhibits numbers 1 and 2

12 marked for identification.)

13 By Ms. Boyd:

14 Q So you didn't take this picture?

15 A Not that I recall.

16 Q Do you have any idea what this is a
17 picture of?

18 A It's looks like a picture of -- of the
19 what you call them, the -- what do you call it?

20 Q A pallet?

21 A Yeah. A picture of a pallet.

22 Q Did you -- you didn't take this picture
23 on the day of your incident did you?

24 A I can't remember. If I did, I don't
25 remember.

1 Q You don't remember. Do you remember
2 where this pallet -- where it may have been in the
3 store?

4 A The only thing I could think of is the
5 middle aisle that I walked down.

6 Q Okay. But this specific pallet, do you
7 have a recall -- a recollection of it being in that
8 aisle that day?

9 A I don't remember.

10 Q Okay. What about this picture? Did you
11 take this picture?

12 A Not that I remember.

13 Q Okay. And do you have a recollection of
14 this blue pallet being in that aisle that day?

15 A I can't remember.

16 Q Okay. In the video that we saw today,
17 do you recall seeing this blue pallet in that video?

18 A I can't remember.

19 Q Okay. Ms. Jones, is there any medical
20 treatment or any providers we have not talked about
21 today?

22 A Not that I remember.

23 Q Anybody else that may have information
24 about your incident at Walmart that we've not
25 discussed?

1 A No.

2 Q Okay. Other than the injuries to your
3 leg and the injuries related to stress and pain and
4 suffering, are you alleging any other injuries
5 related to the incident at Walmart?

6 A No.

7 Ms. Boyd: That's all I have.

8 E X A M I N A T I O N

9 By Mr. Jefferies:

10 Q Ms. Jones, if you would bear with me, I
11 might have a few more questions --

12 A Okay.

13 Q -- for you myself and Ms. Boyd might
14 have some follow-ups to that.

15 Mr. Jefferies: Ms. Boyd, can you pull
16 up that laundry detergent video?

17 Ms. Boyd: I think it was 14. Oh, no.
18 Sorry, wrong one. Let me go to my guide. This one.

19 Mr. Jefferies: This one. Okay.

20 Yeah.

21 Ms. Boyd: Okay. Do you want me to fast
22 forward to the time of --

23 Mr. Jefferies: Yeah, about 11:33 or 34,
24 thereabouts. Right in there is fine.

25 Ms. Boyd: Okay.

1 Mr. Jefferies: That looks like it.

2 Let's try to send this.

3 By Mr. Jefferies:

4 Q Ms. Jones, you remember watching this
5 video that says laundry detergent at the bottom?

6 A Yes.

7 Q All right. And it says -- now the time
8 looks like 11:32 a.m. In a little bit, you'll
9 appear in this picture. Let's wait until you do.
10 All right. And then about -- You appear in the
11 bottom of the picture. Right?

12 A Yes.

13 Q All right. Do you remember that when we
14 were watching this the first time, Ms. Boyd was
15 asking you questions about whether you remembered
16 speaking to people that were in the video?

17 A Yes.

18 Q All right. And right now do you see any
19 people aside from yourself in that video?

20 A No.

21 Q All right. Let me ask you one other
22 question. I'm holding a copy of our Plaintiff's
23 Answers to Defendant's Interrogatories. Does
24 everyone agree with me that this is a regular sheet
25 of paper, eight-and-a-half by eleven?

1 A Yes.

2 Q All right. I'm putting that in front of
3 the screen of this computer. Do you agree with me
4 that when I put it in front of the screen of this
5 computer it completely covers up the video except
6 for, maybe about half an inch on one side?

7 A Yes.

8 Q Okay. And what kind of machine are we
9 watching this video on? Is it a H.P. laptop?

10 A Yes.

11 Mr. Jefferies: Okay. That's all I
12 have. We can go off the record unless you have
13 more.

14 Ms. Boyd: Yeah, I'm done.

15 (Deponent excused.)

16 (Whereupon, at 1:18 p.m.,
17 the taking of the foregoing
18 deposition was concluded.)

19

20

21

22

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1 CERTIFICATE OF REPORTER

2 State of South Carolina

3 County of Florence

4

5 I, Erica Creel, Court Reporter and Notary
6 Public for the State of South Carolina, do hereby
7 certify that the deponent in the foregoing
8 deposition was, by me, first duly sworn to testify
9 to the truth, the whole truth and nothing but the
10 truth; that said deposition transcript contains a
11 true record of the deposition of said deponent.

12 I further certify that I am neither attorney
13 nor Counsel for, nor related to or employed by any
14 of the parties connected to the action, nor am I
15 financially interested in the action.

16 Witness my hand at Florence, South Carolina,
17 this the 16th day of October, 2018.

18

19

20

21

Erica Creel

22

MY COMMISSION EXPIRES:
March 2, 2022

23

24

25

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May 17, 2019

Nashiba Boyd
GaffneyLewis LLC
3700 Forest Drive, Suite400
Columbia, SC 29204

RE: April Jones V Wal-Mart Stores Inc. and Wal-Mart Stores East L.P.

Dear Ms. Boyd

I have examined the materials provided, including the seven (7) photographic images you forwarded. These show different views of a nail, adjacent to a ruler, indicating size. Pallet nails are described in ANSI/MH1, 2005, Pallets, Slipsheets, and Other Bases for Unit Loads, Part 4, "Wood Pallets". Pallet nails are also described in ASTM F1667-18a, Standard Specification for Driven Fasteners: Nails, Spikes, and Staples, Table 23. The photographic images show a Type 1, Style 18, roofing nail, designation (f1667 nl rf) in Tables 26 and 27 of ASTM F 1667-18a. It is my opinion, to a reasonable degree of professional certainty, that such nails are not used for the assembly or repair and maintenance of wood pallets.

The use of wood pallets as product display bases is a common and safe practice in retail stores. Stretch wrap or shrink film are not attached to wood pallets using nails.

The opinions contained here, are subject to change, pending the development of additional information regarding this matter.



Marshall S. White PhD
Professor Emeritus
Department of Sustainable Biomaterials
Virginia Tech
Blacksburg, VA 24060
Office phone: 540-231-7134
Mobile phone: 540-449-2100
Email: mwhite@vt.edu

Marshall S. White, Ph.D.
 Professor Emeritus
 Department of Sustainable Biomaterials
 Virginia Tech
 Blacksburg, Virginia 24060
 Ph: 540-231-7134
 Fax: 540-231-8868
 Wireless: 540-449-2100
 Email: mswhite@vt.edu

Academic Education Background

Degree	Institution	Date	Major Field
B.S.	Colorado State University	1969	Wood Utilization
M.S.	Virginia Polytechnic Institute And State University	1973	Forest Products
Ph.D.	Virginia Polytechnic Institute And State University	1975	Forest Products

Employment History

Assistant Professor- Department of Wood Science and Forest Products, Virginia Tech 1975 to 1981

Associate Professor- Department of Wood Science and Forest Products, Virginia Tech 1981 to 1988,
 Director of the W.H. Sardo Jr Pallet and Container Research Laboratory 1980 to 2007

Professor- Department of Wood Science and Forest Products, Virginia Tech 1988 to 2007, Director of the
 Center for Unit Load Design 1996 to 2007.

Professor Emeritus- Virginia Tech- Present

President – White and Company LLC- 2007 to 2017

Instructional Responsibilities Undergraduate Packaging Science Option

SBIO 4224. Pallet, Container, and Unit Load Design
 SBIO 3224 Packaging and Materials Handling

Continuing Education Short Courses

Introductory Pallet Design Short Course
 Advanced Pallet Design Short Course
 Corrugated Packaging and Unit Load Design Short Course
 Unit Load Design Short Course

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White, M.S., R. L. Rupert, and P.C. Hamner. 2002. Comparative strength, stiffness and functionality of new and remanufactured 37x32 plywood deck Anheuser Busch block style pallet. Center for Unit Load Design report submitted to Smith Company of Pelhem, Alabama. 14 pp

White, M.S., R. L. Rupert, and P.C. Hamner. 2002. Performance evaluation of the Envirokare glass-filled polypropylene prototype plastic pallet. Center for Unit Load Design report submitted to Envirokare, Las Vegas, Nevada. 11 pp.

White, M.S., R. L. Rupert, and P.C. Hamner. 2002. Performance evaluation of the PECO 48x40, stringer prototype hardwood pallet design without butted top deck endboards. Center for Unit Load Design report submitted to PECO, St Louis, Missouri. 18 pp.

White, M.S., R. L. Rupert, and P.C. Hamner. 2002. Material properties of pallet parts manufactured from plantation grown eucalyptus grandis in Uruguay, South America. Center for Unit Load Design report submitted to Asun, Portland, Oregon. 24 pp.

White, Marshall S., R. L. Rupert, and P.C. Hamner. 2002. Comparative performance evaluation of two 37 x 32 prototype plastic pallets for use by Anheuser Busch. Center for Unit Load Design report submitted to Anheuser Busch, St Louis, Missouri. 15 pp

White, M.S., R. L. Rupert, and P.C. Hamner. 2002. Preliminary performance evaluation of 48x40, non-reversible, partial 4-way, three stringer green hardwood pallets assembled using miller wood dowel fasteners. Center for Unit Load Design report submitted to Miller Dowel, Chicago, Illinois. 14 pp.

White, M.S., R. L. Rupert, and P.C. Hamner. 2002. Preliminary performance evaluation of pallets made of green finger jointed hardwood components. Center for Unit Load Design report submitted to Auburn Machinery, Auburn, Maine. 21 pp.

Clarke, J.W., **M.S. White,** and P.A. Araman. 2001. The effect of stringer repair methods and repair frequency on the performance of GMA-style 48x40-inch wood pallets. Pallet & Container Research Bulletin No. 25. Center for Unit Load Design, Department of Wood Science & Forest Products, Virginia Tech. Blacksburg, Virginia.

Presentations

White, M.S. 2006. Pallet Performance Testing and Evaluation. China International Pallet Conference. Beijing, China November 28-29.

White, M.S. 2006. The Case for Developing Systems-Based Design for Unit Loads, Materials Handling industry of America, NA06 Conference and Expo, March 28, Cleveland, Ohio.

White, M.S. 2005. The Effect of Mechanical Interactions Between Pallets and Packaging on Packaging Costs. International Safe transit Association, Dimensions 05, March 8 to 11 Orlando, Florida.

White, M.S. 2005. Unit Load Design as a Profitable Sales Strategy for the Pallet Manufacturer. Presented at the Western Pallet Association Meeting, Rancho Mirage, CA, January 14-18, 2005.

White, M.S. 2004. International Phytosanitation Regulation of Raw Wood Packaging and Its Impact on Lumber, Pallet, and Container Manufacturers: The Latest Developments. Led seminar in conjunction with Expo Richmond 2004, June 3, 2004.

White, M.S. 2004. Molds on Wood Pallets and Containers: Control and Prevention. Presented at the Wooden Pallet Seminar. Houston, TX. August 26, 2004.

White, M.S. 2004. U.S. Wood Pallet Industry: A Brief Overview. Presented to Appalachian Lumberman Club, Greensboro, NC. January 13, 2004.

Maccubbin, Bonnie J., R. L. Rupert, P.C. Hamner, **M.S. White**. 2004. Expo Richmond 2004. Exhibited in tradeshow, June 4 - 5, 2004.

White, M.S. 2004. Overview of the US Pallet Industry. ISO TC51 Special Seminar, presented in Seoul, Korea, November 1, 2004

White, M.S. 2004. Wood Packaging Regulations for Export & Import. A seminar addressing ISPM #15 Guidelines for Regulation of Wood Packaging Material in International Trade (A Virginia Economic Development Partnership), Abingdon, Virginia, December 7, 2004

White, M.S. 2003. ISO TC51 Working Group Meeting. Milan, Italy; November 25-28, 2003, and Seoul, Korea November 2-4, 2004. Marshall White represents the USA on this working group and is the working group convener.

White, M.S. 2003. Implications of Product Standards on Markets for Wood Containers. ProMat2003: 3rd Annual Wood Container Technology Coalition, Chicago, IL, February 13-15, 2003.

White, M.S. 2003. Economics of Reusable Pallets. Annual Meeting of the Re-useable Pallet and Container Coalition, Dallas, TX, January 14-15, 2003.

White, M.S. 2003. Business Opportunities Associated with New International Phytosanitation Regulations of Raw Wood Packaging. Presentation to the Montgomery County Resource Conservation and Development (RC&D) group, Blacksburg, VA, May 15, 2003.

Maccubbin, Bonnie, Ralph Rupert, **Marshall White**. 2003. Exhibitor at ProMat2003. Center for Unit Load Design participated as an exhibitor (booth #C3560) at the ProMat2003 tradeshow sponsored by the Material Handling Industry of America, February 10-13, 2003, Chicago, IL.

White, M.S. 2003. NM-II: PDS New Release Overview and Challenging Your Business Future. NWPCA Annual Leadership Conference, Marco Island, FL, February 22-25; also served as Panel Member to discuss future industry standards; served on Research and Standards Committees .

White, M.S. 2003. First International Symposium of Pallet Testing. Fraunhofer Institut Materialfluss und Logistik, Dortmund, Germany, June 24-25, 2003. The Sardo Pallet Lab served as manager of the project (Dr. White is convener of the ISO TC51 "Pallets for Unit-Load Methods of Materials Handling," working group 2). White was conference moderator and presented the paper Determining Pallet Maximum Working Loads from Nominal Load Measurements (White, M.S., W. Dibling, R. Rupert, and J. McLeod, 2003).

White, M.S. 2003. Technical Developments in the Pallet Industry. 57th European Federation of Wooden Pallets and Packaging Manufacturers Congress, September 10-12, 2003, Edinburgh, Scotland

White, M.S. 2003. Wood containers of the Future. Meeting of the Container coalition. Atlanta, GA. September 18-19, 2003.

White, M.S. 2002. Spoke on the latest version of PDS, which features a model for predicting the performance of remanufactured pallets and combo pallets, The National Wooden Pallet and Container Association Recycling and Repair Conference. Charlotte, North Carolina.

White, M.S. 2002. Harmonization of International Standards for Packaging, Pallets and Unit Load Shipping Systems. World Pallet Council Meeting. Washington, DC. May 16, 2002.

White, M.S. 2001. Using the Pallet Design System (PDS). National Wooden Pallet & Container Association Annual Leadership Conference. Lake Buena Vista, Florida. February 24-27, 2001.

White, M.S. 2001. Pallets as Global Distribution Platforms. Interpal 2001. Bordeaux, France. May 16-18, 2001.

White, M.S. 2000. Performance of Pallets of Different Materials. 54th Congress of the European Federation of Pallet Manufacturers. May 13, 2000. Stockholm, Sweden.

White, M.S. 2000. Test Methods for Pallets and Comparative Performance of Timber, Plywood, and Plastic Pallets. PalMarknaden. November 21, 2000. Stockholm, Sweden

Patents

Killing Insect Pests Inside Wood By Vacuum Dehydration

Patent No: 7,739,829

Issue date: June 22,2010

Inventors: Zhangjing Chen, Marshall S. White, William H. Robinson

Recent Research Projects

Development of a Reliability Based Model for Predicting the Durability of Wood Pallets

Sponsor: National Wooden Pallet & Container Association

Amount: \$140,000

1998-2000

Effect of Load Bridging on the Distribution of Stresses Across Pallet Decks During Warehouse Racking

Sponsor: National Wooden Pallet & Container Association

Amount: \$109,000

2000-2002

The Effectiveness of Splicing Un-notched Hardwood Pallet Stringer Segments with Metal Connector Plates

Sponsor: Wood Education Resource Center and USDA Forest Service

Amount: \$60,025

2000-2001

The Effect of Curve Sawing Small Diameter Hardwood Sawlogs on Pallet Part Yields.

Sponsor: Wood Education Resource Center

Amount: \$44,879

2000-2001

Topographical Mapping of the Mechanical Stresses on Wood Pallets During Use

Sponsor: The Pallet Foundation

Amount: \$6,600

2002

Compatibility of Corrugated and Returnable Plastic Common Footprint Compliant Containers During Produce Storage and Distribution

Sponsor: Corrugated Packaging Alliance and the Renewable Pallet & Container Coalition

Amount: \$22,800

2003

Application of Vacuum to Control Insects in New Wood Packaging Materials

Sponsor: Limestone Bluffs RC&D Inc.

Amount: \$43,719

2003

Commercial Feasibility of Vacuum to Control Insects in Raw Wood

Sponsor: Limestone Bluffs RC & D Inc.

Amount: \$59,999

2004

Technical and Economic Feasibility of Manufacturing and using Pallet parts from Green Finger Jointed Hardwood Pallet Cants

Sponsor: The Pallet Foundation and USDA Forest Service

Amount: \$13,000

2004

Predicting Mechanical Properties of Dry Hardwood Pallet Parts

Sponsor: National Wooden Pallet & Container Association

Amount: \$60,200

2004

Developing the Semi-Empirical Model for Predicting the Fastener Shank Withdrawal Resistance of Annularly Threaded Nails in Wood Pallets

Sponsor: National Wooden Pallet & Container Association

Amount: \$6,000

2005

Feasibility of Manufacturing Pallet Parts From Short Hardwood Segments Using Splicing techniques

Sponsor: USDA Forest Service

Amount: \$102,984

2005

Development of a Finite Element Model of Pallet Deformation and Compressive Stresses on Packaging Within Unit Loads

Sponsor: The Pallet Foundation

Amount: \$15,000

2005

Investigation on the Efficacy of the Vacuum Control of emerald Ash Borer and Pinewood Nematode under Field Conditions

Sponsor: USDA Forest Service

Amount: \$65,353

2006

Preventing and eliminating Mold growth on Hardwood Lumber and Pallets

Sponsor: USDA Forest Service

Amount: \$100,353

2006

High Vacuum as a Treatment for Wood Packing Materials by the Asian Long Horned Beetle

Sponsor: USDA Animal Plant Health and Inspection Service

Amount \$16,474

2006

Non-Wood Pallets for use within the DoD/ DoN Logistics System

Sponsor: Department of Defense, Naval Inventory Control Point

Amount: \$25,000

2006

Furniture Packaging Efficiency Evaluation

Sponsor: American Woodmark

Amount: \$56,000

2007

Development of a High Efficiency Steam/Vacuum Phytosanitation Treatment of Solid Wood Packaging Material

Sponsor: USDA Forest Service

Amount: \$106,938

2010

Investigation of vacuum and steam treatment to eliminate the pests in ash logs and ash firewood

Sponsor: USDA Forest Service.

Amount: \$50,993

2011

Using steam and vacuum to heat treat hardwood veneer logs for export.

Sponsor: USDA APHIS

Amount: \$55,601

2011

Effect of steam and vacuum treatment schedules on the yield and quality of veneer

Sponsor: USDA APHIS

Amount: \$114,349

2012

Educational workshops and field demonstrations of new non-chemical phytosanitary treatment of infected logs and timber to stimulate forest fuel utilization and extraction.

Sponsor: USDA Forest Service WERC

Amount: \$74,800

2018-2019

Detailed thermal mapping of the interior of black walnut logs, during steam and vacuum treatment

Sponsor: USDA APHIS

Amount: \$60,000

2018 – 2019

Evaluation of vacuum and steam as a methyl bromide alternative for phytosanitary treatment of hardwood and softwood logs

Sponsor: USDA NIFA MBT program

Amount: \$393,000

2017-2019

Memberships and Offices in Professional Organizations

Member of American Society of Testing Materials (ASTM) D-10 Committee on Packaging and Subcommittee D10-22 on Handling and Transportation Test Methods

Membership in the Society of Wood Science and Technology, Forest Products Society, Institute of Packaging Professionals

Member of the ANSI MH 10 Committee, Unit loads and Transport-Packages.

ISO TC 51 Liaison to JTC 104/122 on RFID Applications to Transport Packaging.

Chairman of the American Society of Testing and Materials ASTM D10.21 Task Group concerning pallet testing

Head of the US Delegation to the International Standard Organization ISO TC-51 Technical Committee "Pallets for Unit-load Methods of Materials Handling."

Chairman of the Materials Handling Industry of America and American National Standards Institute, MH1 Committee "Pallets, Slipsheets, and Other Bases for Unit-loads."

Recognition and Honors

Named the Manager of the International Pallet Testing Project of the International Organization of Standardization. Geneva, Switzerland

Named one of the top ten professionals in the discipline of materials handling. Modern Materials Handling Magazine, December 1999.

Named Convener of the International Organization of Standardization (Geneva, Switzerland) TC51 - Pallets for Unit-Load Methods of Materials Handling, Working Group 2

2018 winner of the David LeButt Award for Teaching Excellence in the Packaging Discipline. The International Safe Transit Association. TransPack 2018. San Diego, California

PATENTS:

Z. Chen, M.S. White, W.H. Robinson. 2008. "Killing Insects inside wood by Vacuum dehydration" US Patent 0127548.

Recent Consulting Clients

Dupont Surfaces

Dupont TiO₂

Mapei

COORS Brewing Company

GE Plastics

Home Depot

WalMart

Philip Morris

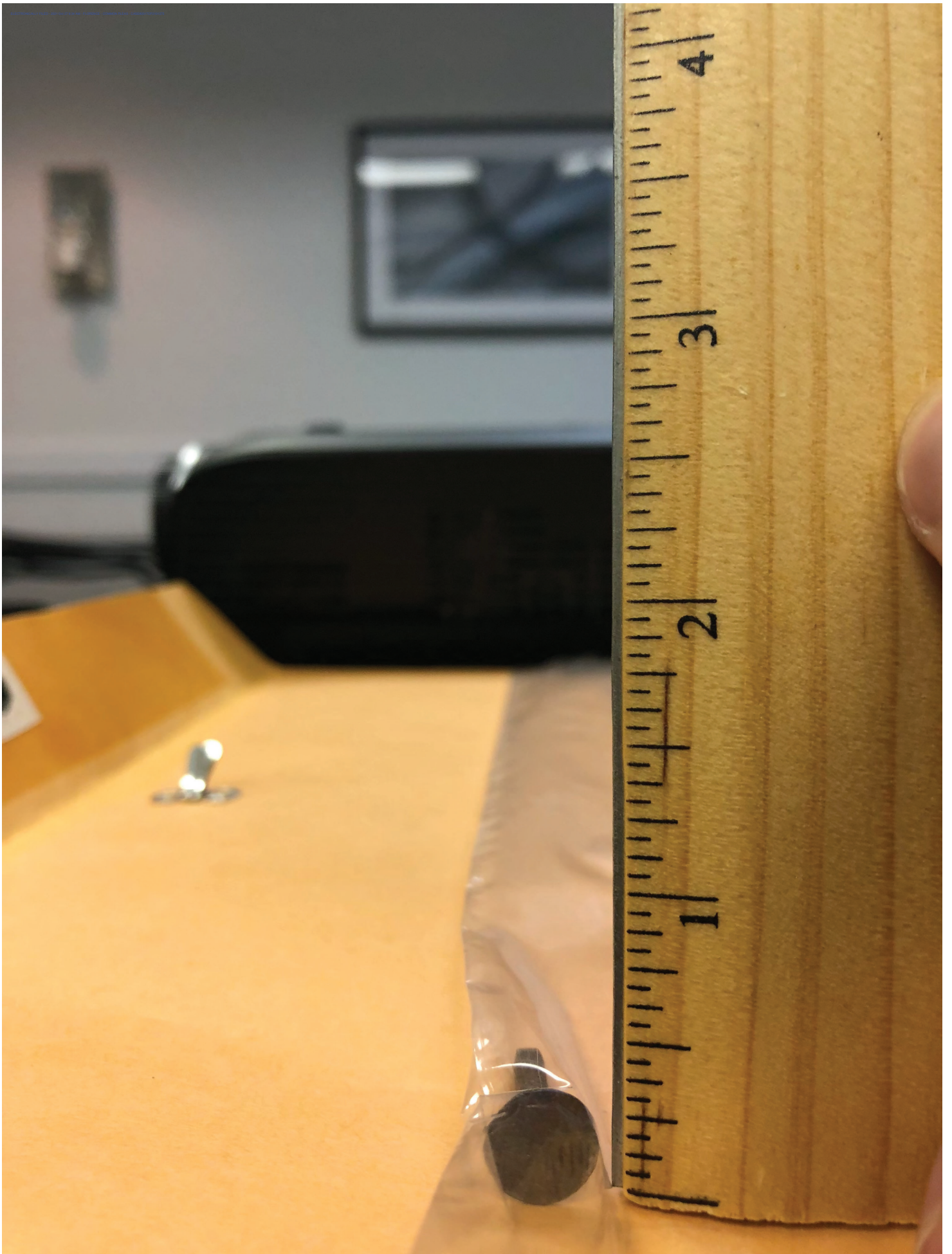
Department of the Navy

Georgia Pacific Corp

Coca Cola

Owens Corning















IN THE STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
FOR THE 12TH JUDICIAL CIRCUIT
CASE NO: 2017-CP-21-1375

APRIL JONES,

Plaintiff(s),

v.

**AFFIDAVIT OF Bryan R. Durig, Ph.D.,
P.E.**

TIM RINGER, Individually and as
employee/agent of WAL-MART STORES,
INC. d/b/a WAL-MART STORE # 630;
WAL-MART STORES, INC.; and WAL-
MART STORES EAST, L.P.,

Defendant(s).

I, Bryan R. Durig, Ph.D., P.E., am over 21 years of age, of sound mind, and in all respects qualified to make this Affidavit based upon personal knowledge, upon information and belief as to matters I believe to be true, and upon my knowledge, skill, experience, training, and/or education as set forth in Exhibit A attached hereto and incorporated by reference, being duly sworn depose and state as follows:

1. I have conducted an engineering investigation of an incident in which April Jones reportedly stepped on a loose nail near display pallets at a Wal-Mart store in Florence County, South Carolina. The photograph of the subject nail shows it is dark and approximately 7/8 inch in length. The flat head suggests it is a typical roofing nail. Roofing nails are used to attach wooden roof decking material to wooden roof rafters. Wooden roof decking typically ranges from 0.40 to 0.55 inches thick. The 7/8 inch long nail is long enough to penetrate the roof decking into the wooden rafters to hold the wood decking in place.
2. Wooden pallets are constructed in a similar fashion as roof decking. A solid piece of wood plywood or individual boards are attached to vertically oriented 2x4's of 4x4's depending on required loading capabilities. Many different fastener manufacturers sell pallet nails that start around 1-1/4 inch long and go up to 3 inches long. The longer the

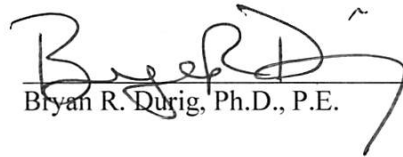
nail, the stronger the connection (pullout strength) for the pallet top and bottom. Some Chinese companies market their fasteners as “15 degree Pallet Roofing Coil Nails” and “Best Price Common Coil Nails Pallet Nail Roofing Coil Nail” with lengths starting at $\frac{3}{4}$ inch to 2 inches long and including $\frac{7}{8}$ inch-long nails. These nails are advertised with both Pallet and Roofing in their name, similar design and numerous lengths.

3. Although the recommended length for a pallet nail is typically longer than $\frac{7}{8}$ inches in length, there is nothing that would prevent someone from using a $\frac{7}{8}$ inch long nail (similar to the one shown in the photograph that injured Ms. Jones) in making a repair to an existing pallet. The $\frac{7}{8}$ inch length would be long enough to penetrate through the pallet decking boards and into the base wood timbers to hold the deck boards in place – especially when product is placed on top of the wood deck boards.
4. I have reviewed numerous photographs taken at the same Wal-Mart store where Ms. Jones was injured, and there are a variety of wooden pallets in use at that Wal-Mart store. Some pallets appear newer, and others look old with several repairs. One pallet shows the nails are missing at the end where the wood base has been damaged and actually broken away. In another photograph, the longer pallet nail is barely being retained in the pallet deck board as the base wood has broken away and exposed the majority of the nail shank. Other pallets are observed with split deck boards. These photographs show that not all pallets at the Wal-Mart store are maintained in perfect or even acceptable condition, and not all pallets at the Wal-Mart store would meet all industry standards for wooden pallets.
5. The most probable source for a loose nail sitting on the floor of a Wal-Mart store adjacent to a main display aisle that displays merchandise on wooden pallets, is the wooden pallets. Wood decking on wooden pallets gets broken and damaged frequently during shipping, moving and handling. If a shorter than typical length nail was used to make repairs to a wooden pallet, it is more likely it would fall out of the wooden base timbers when the decking gets damaged/split compared to a 2 inch or 3 inch long pallet nail.
6. The opinions and conclusions stated herein are stated to a reasonable degree of engineering certainty and are based on information available as of this writing. It is

conceivable that additional information may be forthcoming which bears on these conclusions and opinions. The right is reserved, therefore, to review all conclusions and opinions at any future point in time should, in fact, additional information become available.

I reserve the right to alter, amend, modify, change, and/or add information contained within this

Affidavit.


Bryan R. Durig, Ph.D., P.E.

State of SC County of Richland

The foregoing instrument was acknowledged before me

this 22 day of May 20 19

 (L.S.)
Notary Public Signature

My Commission Expires 7/9/2023

SWORN TO AND SUBSCRIBED
BEFORE ME THIS DATE

MAY 22 2019

SYDNEY QUINN LEDEE
Notary Public of South Carolina
My Commission Expires 7/9/2023



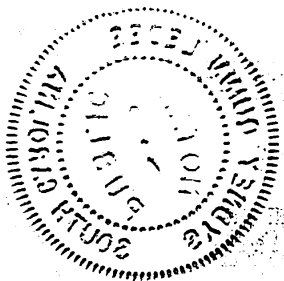
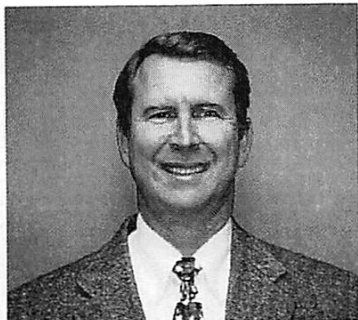




Exhibit A
SUMMIT
P.O. BOX 211426
COLUMBIA, SC 29221-6426
TEL (803) 731-1200
FAX (803) 731-1202



BRYAN R. DURIG, Ph.D., P.E.

Engineer: Mechanical, Metallurgical

Technical Investigations
Failure Analysis
Fire Investigations
Property Loss Claims Consultation
Machinery & Equipment Accidents
Products Liability
Premises Liability

Education

1993	Master of Business Administration University of South Carolina
1988	Doctor of Philosophy in Mechanical Engineering University of South Carolina
1985	Master of Science in Mechanical Engineering University of South Carolina
1984	Bachelor of Science in Mechanical Engineering University of South Carolina

Experience

January 1994 to Present

Summit Engineering, L.L.P., Columbia, South Carolina. Consulting Engineer performing specialized consulting in the areas of: **Accident Evaluation, Failure Analysis and Products Liability:** (machinery, equipment and consumer products) analysis and evaluation of designs, component testing, controls, guards and warnings, standards and code compliance, and maintenance; **Property Loss Claims Consultation:** cause of the loss, repair or replacement analysis, scope of damage, estimate of repair, actual cash value, salvage value, and time to repair; **Fire Investigations:** industrial, commercial and residential.

SPECIALISTS IN ENGINEERING ANALYSIS OF ACCIDENTS

April 1993 to December 1993

Laboratory Manager, Engineering Design & Testing Corp., Columbia, South Carolina. Responsible for management of the metallurgical laboratory including budgeting, personnel and reporting of results.

June 1991 to December 1993

Consulting Engineer, Engineering Design & Testing Corp., Columbia, South Carolina. Responsibilities included performing specialized consulting in the areas of design, engineering analysis, failure analysis and accident reconstruction. Clients included industrial manufacturing facilities, attorneys, insurance companies and adjusters.

June 1988 to May 1991

Research Engineer, Westinghouse Savannah River Company, Savannah River Laboratory, Aiken, South Carolina. Responsibilities included conducting thermal hydraulic research on SRS reactor assemblies and systems and analytical analyses of reactor hardware to support reactor operations.

January 1986 to May 1988

Research Assistant, College of Engineering, Columbia, South Carolina. Senior research assistant in a research group consisting of several graduate and undergraduate students working in the areas of biomechanics and fracture mechanics. Research consisted of Digital Image Processing and Computer Data Acquisition of fracture specimens and biological tissues.

June 1986 to July 1986

Scientist II, U.S. Naval Research Laboratory. Duties included setting up a digital image processing system (hardware/software) and finite element analysis.

January 1985 to December 1988

Administrative Assistant, College of Science and Mathematics, University of South Carolina. Primary responsibilities included general accounting of the College budget and transferring of the College budget to a Rainbow Personal Computer.

January 1984 to December 1984

Teaching Assistant, Engineering Department, University of South Carolina. Lab instructor for Microprocessor Lab. Duties included explaining and building of a circuit board using a Motorola 6801 chip for experiments such as controlling the speed of a motor and collecting data from a strain gage.

**June 1980 to September 1983
(Summers)**

Research Assistant, Chemistry Department, University of South Carolina. This research included the purification of chemical samples using a low pressure fractionation column, and performing chemical analysis on a Nicolet.

Courses and Seminars Presented

September 30, 1994

Seminar to University of South Carolina Senior Machine Design class on Products Liability and Design Safety.

December 6, 1994

Three-hour, State of North Carolina Approved Continuing Education Course entitled "Identification of a Products Liability Claim", Charlotte, North Carolina.

July 9, 1997

Three-hour, State of North Carolina Approved Continuing Education Course entitled "Identification of a Products Liability Claim", Charlotte, North Carolina.

May 3, 2003

The Absolute Litigators Conference VIII Course entitled "Fire Investigations", Las Vegas, Nevada.

October 12, 2009

Kitchen Fires and Subrogation, Columbia, South Carolina

Professional Organizations and Honorary Societies

American Society of Mechanical Engineers (Local Chapter Chairman 1992 - 1995)

ASM International

International Associations of Arson Investigators

National Association of Fire Investigators

National Fire Protection Association

National Safety Council

Publications

"Flow in a Rectangular Closed-Loop with Vertical Heat Transfer Passages," Proceedings from A.S.M.E. Winter Meeting, Paper No. 86-WA/HT-78, 1986 (co-authored with M.A. Shadday).

"Conformational Studies Utilizing Asymmetric Torsional Frequencies," J. Mol. Struct., 126, 83 (1985), (co-authored with J.R. Durig, D.T. Durig and J.F. Sullivan).

"Determination of Mixed Mode Stress Intensity Factors Using Digital Image Correlation," Proceedings for Society of Experimental Mechanics, Spring 1988 Meeting (co-authored with W.H. Peters III, M.A. Sutton, S.R. McNeill and Y.J. Choa).

"Mechanical Testing of Soft Tissue," Proceedings for Society of Experimental Mechanics, Spring 1988 Meeting (co-authored with W.H. Peters III, L. Terracio and T.K. Borg).

"Digital Image Correlation Measurements of Strain in Bovine Retina," Optical Testing and Metrology, Proceedings of the International Symposium on Optical Engineering and Industrial Sensing (SPIE), Vol. 954, pp. 438-443, 1988 (co-authored with W.H. Peters III and M.E. Hammer).

"Experimental Mechanics in Biomechanics," Proceedings for Society of Experimental Mechanics Spring 1989 Meeting (co-authored with W.H. Peters III, M.A. Sutton, J.L. Turner, T. Borg, L. Terracio and E. Berg).

"A Study of Mixed Mode Fracture in Photoelasticity and Digital Image Analysis," Optics and Lasers in Engineering, Vol. 14, pp. 203-215, 1991 (co-authored with W.H. Peters III, F. Zhang, S.R. McNeill and Y.J. Choa).

"Mechanical Stress Relaxation of the Retina," submitted to Journal of Investigative Ophthalmology, April 1989, (co-authored with W.H. Peters III and M.E. Hammer).

"Fracture of Wire Rope Drum Shaft Due to Fretting Fatigue," Proceedings from A.S.M.E. Winter Meeting, Paper No. 93-WA/DE-9, 1993 (co-authored with T.A. Jur).

Materials for Department of Insurance, State of North Carolina, Approved Continuing Education Course entitled "Identification of a Products Liability Claim", Course Number 03489, Provider Number 0445, Date Approved: September 29, 1994.

Registration

Registered Professional Engineer in South Carolina (#14877)
Registered Professional Engineer in North Carolina (#022737)
Registered Professional Engineer in Georgia (#PE030339)
Registered Professional Engineer in Tennessee (#110004)
Registered Professional Engineer in Alabama (#28023-E)
Registered Professional Engineer in Florida (#75756)
Registered Professional Engineer in Mississippi (#21174)

Continuing Education

December 1991	ASM International Seminar on "Principals of Failure Analysis"
May 1993	Algor Finite Element Training
October 1993	Richardson Engineering Services "General Construction and Process Plant Estimating"
December 1993	Mitchell International's Seminar on Ford Diagnostics
January 1996	Electrical Fire Investigations, International Association of Arson Investigators, Inc.
July 1996	Sprinkler System Design Compliance, Society of Fire Protection Engineers



May 1997	HVAC Plant Improvement, Boiler Efficiency Institute
May 1998	Vehicle Fires, S.C. Chapter IAAI
August 1998	Sponsored and attended "Fire Dynamics-Small Group Seminar", Lilly & Associates
October 1998	Investigation of Electrical Appliance Related Fires, IAAI/Association of Home Appliance Manufacturers
July 1999	Sponsored and attended "Appliance Fires -Small Group Seminar", Jack Sanderson
September 1999	IAAI Annual Seminar; Beckley, West Virginia
September 2000	Sponsored and attended "Electrical Fires - Small Group Seminar", Jim Finneran
November 2000	Investigation of Vehicle Fires, Lee S. Cole & Associates, Inc.
April 2001	Basic Industrial Electricity, Lewellyn Technology, Inc.
September 2001	Electrical Fire Investigation, Tom R. Bradshaw, CFI and Jim Elkins, CFI
October 2001	Sponsored and attended "Electrical Fire Causes - Small Group Seminar", Chris W. Korinek, P.E.
September 2002	DRI Fire and Casualty Seminar, New Orleans, Louisiana
June 2003	Sponsored and attended "Fire Explosion - Small Group Seminar", John DeHaan, Ph.D.
October 2003	7 th Annual Fire Investigative Approaches; "Practical Aspects of Fuel Gas Explosions", Dave Lilley.
October 2003	7 th Annual Fire Investigative Approaches; "Gas Appliance Failure – Product Liability", Jack Sanderson.
April 2004	Sponsored and attended "The Physics of Electrical Fires", Vytenis Babrauskas, Ph.D.
November 2004	NFPA Certified Fire Protection Specialist; Certification Number: 2100



September 2005	Inspection, Testing and Maintenance of Fire Alarm Systems Seminar, NFPA, Charlotte, North Carolina
November 2005	DRI Fire and Casualty Seminar, Chicago, Illinois
June 2006	Sponsored and attended "Flammable Gas Explosions", John L. Schumacher, MChE, PE, CFI
June 2006	International Symposium on Fire Investigation Science and Technology, Cincinnati, Ohio
June 2007	Sponsored and attended "The Ignition of Gases, Liquids and Solids by Hot Bodies", Vytenis Babrauskas, Ph.D.
March 2008	South Carolina Association of Arson Investigators & South Carolina Insurance Fraud Investigators 1 st Quarter Training, Monks Corner, South Carolina
September 2008	Sponsored and attended "Understanding Post-Flashover Fires" - Small Group Seminar", Carman & Associates
November 2008	DRI Fire and Casualty Seminar, Chicago, Illinois
June 2009	Sponsored and attended "Residential Electrical Fire Safety - Small Group Seminar", Charleston, South Carolina
June 2010	Postflashover Fires, CFITrainer
June 2010	Arc Mapping Basics, CFITrainer
September 2010	International Symposium on Fire Investigation Science and Technology, University of Maryland
December 2010	A Ventilation-Focused Approach to the Impact of Building Structures and Systems on Fire, CFITrainer.net
December 2011	Understanding Fire Through the Candle Experiments, CFITrainer.net Explosion Dynamics, CFITrainer.net Digital Photography and the Fire Investigator, CFITrainer.net Documenting the Event, CFITrainer.net



September 2012	International Symposium on Fire Investigation Science and Technology, University of Maryland
December 2013	Critical Thinking Solves Cases, CFITrainer.net Electrical Safety, CFITrainer.net Evidence Examination: What Happens at the Lab, CFITrainer.net Physical Evidence at the Fire Scene, CFITrainer.net
December 2104	Florida Engineers Laws & Rules Engineering Ethics Energy Performance of LEED for New Construction Buildings 2010 ADA Standards for Accessible Design Part 1
January 2015	2010 ADA Standards for Accessible Design Part 2
December 2015	Safeguarding Equipment: Protecting Workers from Amputations OSHA – Stairway and Ladders Materials Handling and Storage Fire Protection and Prevention During Construction Fall Protection in Construction Engineering Ethics for the North Carolina Controlling Electrical Hazards
December 2016	Introduction to Piping Engineering Florida Engineer Laws & Rules Ethics for U.S. Engineers What Every Engineer Should Know About Fire Protection Electrical Engineering Fundamentals for Non-Electrical Engineers Asbestos Fundamentals
January 2017	Solar Power Part 1 HVAC Design – Fundamentals HVAC Design – Industrial Ventilation Intellectual Property and Patents for the Professional Engineer Forensic Analysis Involving Fugitive Natural Gas and Propane

Rev. 1/16/17

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF FLORENCE) C/A NO. 2017-CP-21-01375
 April Jones,)
)
 Plaintiff,)
)
 vs.)
)
 Tim Ringer, Individually and)
 as employee/agent of Wal-Mart)
 Stores, Inc. d/b/a Wal-Mart)
 Store #630, and Wal-Mart)
 Stores East, L.P.,)
)
 Defendants.)
 _____)

DEPOSITION OF

BRYAN DURIG, P.E., Ph.D.

(TAKEN REMOTELY BY ZOOM)

Wednesday, October 14, 2020

10:02 a.m.- 11:27 a.m.

The remote deposition via Zoom of Bryan Durig, P.E., Ph.D., taken on behalf of the Defendants on the 14th day of October, 2020 before Lyn Allen Hudson, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.

HUDSON COURT REPORTING & VIDEO

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APPEARANCES:

Representing the Plaintiff:

Lane Douglas Jefferies, Esquire
Anastopoulo Law Firm, LLC
32 Ann Street
Charleston, South Carolina 29403
(843) 614-8888
teamjefferies@googlegroups.com

Representing the Defendants:

Nashiba Boyd, Esquire
Gaffney Lewis LLC
3700 Forest Drive, Suite 400
Columbia, South Carolina 29204
(803) 790-8838
nboyd@gaffneylewis.com

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S T I P U L A T I O N

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys of record, that this deposition is taken via Zoom Video Conferencing;

That it is taken in accordance with the South Carolina Rules of Civil Procedure;

That the formality of READING AND SIGNING is specifically WAIVED;

That all objections, except as to the form of the questions and the responsiveness of the answers, are reserved until such time as this deposition, or any part thereof, may be used or is sought to be used in evidence.

- - -

1 BRYAN DURIG, P.E., Ph.D., being duly sworn, deposes and
2 testifies as follows:

3 DR. DURIG - EXAMINATION BY MS. BOYD:

4 Q. Good morning, Dr. Durig. My name is Nashiba Boyd. I
5 am the attorney for Wal-Mart and Tim Ringer, the
6 defendants in this case April Jones V Wal-Mart, et al.
7 How are you today?

8 A. I'm fine.

9 Q. Good. Good. And I know you've given depositions
10 before. I think I've actually deposed you before. So
11 I won't go over all of the normal instructions that we
12 normally do. I just want to make sure you, with us
13 being on Zoom, that if you have any questions about
14 what I'm asking you, if you could ask me to rephrase it
15 before we move on because if you start answering I'm
16 going to assume that you understood it. And I know
17 there's a little lag or delay or could be. And I just
18 want to make sure that we're clear on the Zoom.

19 A. Yes, ma'am.

20 Q. Okay. And I'm going to assume that when you do answer
21 and you give an opinion that it is to a reasonable
22 degree of engineering certainty; is that fair?

23 A. Yes, ma'am.

24 Q. Okay. Dr. Durig, can you give your full name and
25 office address for the record, please?

1 A. Bryan Robert Durig, D-U-R-I-G. Address is Summit
2 Engineering L.L.P., 146 Leisure Lane, Suite C,
3 Columbia, 29210.

4 Q. Okay. And Dr. Durig, are you married?

5 A. Yes, ma'am.

6 Q. What's your wife's name?

7 A. Marla.

8 Q. What's her maiden name?

9 A. Brock.

10 Q. Do you have any adult children?

11 A. Some of them think they are. Yes. I have three that
12 are over the age of 18. None of them live in Florence
13 County.

14 Q. Okay. Great. Do you have any other relatives that
15 live in Florence County?

16 A. My wife is from Florence County so there would be some.
17 Yes.

18 Q. And would they be Brocks or some derivative of Brock?

19 A. Brock or Stone is her mother's maiden name. But I know
20 she has some uncles and cousins and aunts and second
21 cousins and everything else. So there would
22 potentially be some in that area, yes.

23 Q. Okay. And of those relatives are they aware of who you
24 are and your relationship to your wife and maybe their
25 familial relationship?

1 A. If they're close enough relatives, they would be. Yes.

2 Q. Okay. So anyone that would know or have a close
3 connection would be able to self-identify during a jury
4 voir dire?

5 A. I would hope so. Yes.

6 Q. Okay. Great. And Dr. Durig, I sent you a notice of
7 deposition and a subpoena. Are you in receipt of those
8 items?

9 A. I remember one coming through. I thought it was just a
10 notice of the deposition. I didn't open it and read
11 all of it. No, ma'am. But yes, I did get one.

12 Q. I am going to, I want to mark that as Exhibit 1. I'm
13 going to share my screen just to confirm that what I'm
14 marking is what I sent to you.

15 A. Okay. Lane, are you on your cell phone as well because
16 it keeps popping up a cell phone which is --

17 MR. JEFFERIES: Yeah. Yeah. That's me as well.
18 For whatever reason the audio on the iPad cuts in and
19 out when I'm in the car. But the cell phone which
20 comes, the cellular seems to work fine.

21 A. Yeah. But every time there's a noise I get that green
22 phone in my face. Is there any way you can put it --

23 MR. JEFFERIES: How about if I -- yeah. Let me
24 mute it unless I have to object to something. How
25 about that?

1 A. Okay. That would be great because I keep seeing that
2 green thing flash in my face and I think she's trying
3 to do something to me.

4 BY MS. BOYD:

5 Q. I just wanted to share, can you see the screen that I'm
6 sharing? I don't always --

7 A. Yes.

8 Q. Okay. And this is the notice of deposition to use?
9 This is what you received to your knowledge?

10 A. Yes, ma'am.

11 Q. Okay. And that's just the certificate of service?

12 A. Yes.

13 Q. I'm also going to show you the subpoena that we sent.
14 Did you look, take a look at the subpoena that we sent?

15 A. I'm not sure I got that.

16 Q. Okay.

17 A. If I did it just said the date and the time. So that's
18 all I looked, October 14th ten a.m.

19 Q. Do you have a copy of your complete file for this case?

20 A. I do electronically. Yes. I don't have it printed
21 out. No, ma'am.

22 Q. Okay. Can you provide that to us?

23 A. I can.

24 MS. BOYD: And Lane, I had asked for that to be
25 produced by Friday so that I could review it for today.

1 And it appears that Dr. Durig didn't see that request
2 in the subpoena.

3 A. I think that would have been Monday. I was out Monday
4 and Tuesday. So --

5 MS. BOYD: Do you hear me, Lane?

6 MR. JEFFERIES: Yeah. I can hear you.

7 Understood.

8 MS. BOYD: Oh, okay. So if there is, once that's
9 produced if there are any questions or anything related
10 to what's in the file I would just like to reserve the
11 right to ask questions about that since I've not been
12 provided before the deposition.

13 MR. JEFFERIES: Yeah. And I don't object to that.
14 That's fine.

15 MS. BOYD: Okay. All right. Thank you.

16 BY MS. BOYD:

17 Q. Dr. Durig, did you bring any notes with you today to
18 review?

19 A. Yeah. I have my file that's printed out certain pages.
20 I didn't print everything out like deposition
21 transcripts. And I didn't print all the photos. I
22 printed probably five or six, seven of them.

23 Q. Okay. All right. And I was provided a copy of your CV
24 by Plaintiff's counsel. I'm just going to pull that up
25 and make sure that that's in fact your most recent one;

1 okay?

2 A. Yeah. I updated, I call it my Covid updated in May.

3 So if you look at the bottom, the last page on the

4 bottom left-hand side, it will say January 2017 or May

5 2020. So I'm not sure which one you have.

6 Q. Okay. I'm going to show you which one I have. This is

7 the one I have. And I think it was provided in --

8 A. That's an old one because I know that shirt, that

9 picture is an old shirt. I actually updated my picture

10 from 20 years ago.

11 Q. Okay. Great. And so we're going to get an updated CV

12 for you too in your file; correct?

13 A. Correct. And really the only thing is continuing

14 education classes so, would be the only thing that's

15 really different on it.

16 Q. Okay. I'm just noting that. And based on your CV, you

17 are a mechanical and metallurgical engineer?

18 A. Yes, ma'am.

19 Q. Okay. And can you tell me briefly what a mechanical

20 engineer does?

21 A. It's the best job in the world. It's one of the four

22 original primary engineering fields: electrical,

23 mechanical, chemical and civil. And it basically

24 looks, there's two fields in mechanical. The mechanics

25 side which looks at metal structure, strength, design.

1 And then you've got thermo fluid side which deals with
2 HVAC, water flow, fluid flow. Undergraduate study
3 both. My masters was in the thermo science side. And
4 my Ph.D. was in the mechanics side dealing with failure
5 analysis and design of some machinery and equipment
6 image processing. So mechanical does a little bit of
7 both of design, safety, failure analysis. And I would
8 classify this as more of a materials question and a
9 little bit of a design strength question.

10 Q. What about a metallurgical engineer? What's that?

11 A. That's a sub-part of mechanical in most universities.
12 Some of the northern and midwest universities have a
13 separate mechanical discipline which is just looking at
14 materials, metals, primarily looking at heat treating
15 strength, how you change, how strong it is by adding
16 different amounts of carbon or different chromium and
17 vanadium to get high strength steels, get stainless
18 steels, just changes, small little changes in material
19 that's put into the steel, the iron ore that will
20 change the properties of the metal. So it's more
21 specific into heat treating and how it's made as much
22 as how it's used and how strong it is.

23 Q. And in all of the degrees you have, and you have quite
24 a few -- very impressive.

25 A. Thank you.

1 Q. Can you list any courses that specifically dealt with
2 materials, the science of materials?

3 A. I think engineering 305, mechanics 305 which is a basic
4 materials failure analysis. Continuing mechanics. I
5 mean, lots and lots of, deal with design, strength of
6 metals, strength of materials, failure analysis, to
7 know design on fatigue and overloads and yield
8 strength, ultimate strength. I mean, all those go
9 into, you know, basically looking, to try to get it
10 back to this to, you know, look at a nail. Is it too
11 strong? Is it corroded? Being along the coast we do a
12 number of cases dealing with deck collapses after the
13 nails or the screws, depending on what was used, has
14 corroded out to the point where they're no longer able
15 to provide the cross section and the strength that they
16 need. They will fail and cause things to fall down.
17 So we look at a number of those types of cases every
18 year.

19 Q. And have you been an expert in any of those deck
20 failure type of cases before?

21 A. Yes, ma'am.

22 Q. Do you recall the name of any of those cases?

23 A. I would have to go back and look. I know we had one go
24 to trial in Atlanta where we had a, it's probably about
25 a 15 by 20 foot deck fell off of a second story part of

1 a house where it was, the screws were few and far
2 between. And the ones they had were severely corroded.
3 I think one recent one I had was out of Fripp Island
4 where the stairs collapsed off the deck because of four
5 screws or nails that were used to attach the stairs to
6 the band board around the deck had corroded to the
7 point where they had just basically failed, pulled out.
8 I've got multiple cases right now that I don't know if
9 I've been named an expert but we have a couple of deck
10 collapses, a number in Atlanta and some in South
11 Carolina.

12 Q. And in those cases are you serving as expert primarily
13 for the plaintiff or the defense?

14 A. Primarily the plaintiffs in those cases dealing with
15 the failure of the mechanical attachment, the screws or
16 nails or whatever was used.

17 Q. And have you personally done any research or published
18 any papers on material science or metal failure?

19 A. I think one of them on there was failure of a wire rope
20 drum, one of my articles published in the early
21 nineties. I have not in the last twenty years, no.
22 But that was dealing with a case at an industrial
23 warehouse where they were using mechanical means to
24 place pallets of material up on vertical rack shelving.
25 And they would have a, basically a robot go out and

1 pick up the pallet, raise it up, stick it on the
2 warehouse and then come back down. And basically the
3 wire rope drum that was lifting up the pallets, they
4 were having failures of those across the world at
5 different facilities. And it came into a mechanical
6 clearance issue where they are getting what's called
7 fretting, F-R-E-T-T-I-N-G fatigue. Parts were moving
8 with respect to each other and it was causing fatigue.
9 And then these would fail. We published that in I
10 think ASME. But it's on there. Some of the other
11 stuff dealt with more dealing with research I did as
12 part of my Ph.D. dealing with fracture mechanics and
13 image processing back when you couldn't go do it. You
14 had to write your own source code for it. Nowadays you
15 can get it on your phone. They do more than we could
16 30 years ago.

17 Q. And the name of your business is Summit Engineering;
18 correct?

19 A. Summit Engineering, L.L.P. There is another company
20 that started after us. It's Summit Engineering Group
21 now I think is what they go by. But I get their phone
22 calls every week. But no, we're Summit Engineering
23 L.L.P.

24 Q. Okay. And describe for me generally what Summit
25 Engineering L.L.P. does?

1 A. We're basically a forensic engineering company. We
2 look at accidents, look at things that don't work
3 right, looks at things that didn't do what they should
4 do. And basically work for insurance companies,
5 attorneys. I have one manufacturer calls me directly
6 as opposed to going through outside counsel. Their
7 in-house counsel gets me involved in cases, which I
8 thought I was going to be in New Orleans this morning.
9 But luckily I didn't have to go. But I would have been
10 sitting in a car doing this depo. So my office is a
11 much better place for it. But, you know, we look at
12 basically things that don't work right.

13 Q. Okay. And so out of all those things that you do, what
14 percentage of your income is derived from providing
15 forensic and expert services for litigation,
16 specifically for litigation?

17 A. I would say at least 99 percent. I always keep one
18 percent out for that one manufacturer that I
19 occasionally will do some testing for him on different
20 products, namely coefficient of friction tests. If
21 they're going to change vendors for some of their
22 material they will have me test different potential
23 suppliers and then let them make a decision if they
24 want to go that route or not. But I haven't done that
25 in a couple of years. It's probably been three years

1 since I've done that. But basically 99 percent or
2 more.

3 Q. Okay. And what percentage of your expert work deals
4 with materials science or failure, the failure of
5 materials?

6 A. That's a hard question. 25 to 50 percent depending on
7 how you want to look at it. I mean, in reality if you
8 look at a fire due to a high resistance connection,
9 that has to do with a mechanical connection that wasn't
10 done properly between the screw and a wire. So, I
11 mean, those would be counted as far as material
12 problems, mechanical-related. More fires are due to
13 mechanical-related other than electrical problems such
14 as over current. That's why you have breakers. So
15 those kind would be included. But I would say 25 to 50
16 percent, probably in that range.

17 Q. What about specifically failure of fasteners like nails
18 or screws?

19 A. Probably ten percent maybe. You know, in that range.
20 I don't try to keep track of them that way. But, you
21 know, we get bolts. We just settled a case that I
22 understand last Thursday that had a bolt failure in a
23 surgical piece of cleaning equipment in Memphis. You
24 know, it had failed and they fixed it and it failed
25 again five weeks later, the exact same screw in this

1 huge plant, or huge piece of equipment. And, you know,
2 we did the metallurgy analysis of it and showed that it
3 was probably related to water hammers which are valves
4 opening and closing too quick and increases the stress.
5 And, you know, those happen. I've got multiple other
6 cases dealing with failure analysis that I'm always the
7 last to know when they settle.

8 Q. Do you have any experience or prior experience other
9 than this case dealing with the construction of
10 pallets?

11 A. We had a recent pallet case that dealt more with the
12 loading of it by work lift and the fact that the load
13 was not secured to it. And the pallet load fell on an
14 individual injuring them. Probably been a while since
15 I've done just a straight pallet failure case where we
16 lifted up something. Normally it's a product falling
17 off of it and how the material is secured to the
18 pallet. I know I have been called in the last six
19 months on similar cases where material has fallen off a
20 pallet and struck somebody. I had a case where a
21 gentleman was shot in the head with a nail gun at a
22 pallet manufacturing place where they were actually
23 manufacturing pallets. But most of the pallet ones
24 normally is load, load issues. And load, I mean load
25 stability where the material falls off the pallets.

1 Q. So in your current recollection have you had any cases
2 that deals specifically with fastener failure of a
3 pallet?

4 A. Not that I recollect off the top of my head. No,
5 ma'am.

6 Q. Okay. About how many cases do you think you've been
7 retained by the Anastopoulo Firm as an expert witness?

8 A. I mean, I get called on probably more than, that I
9 probably actually truly get retained on, they may call
10 me and say we've got a case like this, we may give you
11 a call. And I would say over the -- I've been doing
12 this 29 years. I don't know. Fifty maybe.

13 Q. Okay. Do you have any other cases that are currently
14 pending where you're serving as an expert for this
15 firm?

16 A. Yes, ma'am, I do.

17 Q. How many?

18 A. Probably between five and ten.

19 Q. Are you involved in any litigation where you've been
20 retained to be an expert adverse to the Anastopoulo
21 Firm?

22 A. I'm not sure how I should answer it. I think that
23 discovery is due tomorrow. But I may be.

24 Q. Okay.

25 MR. JEFFERIES: They disclosed you yesterday.

1 A. Oh, okay. So yes.

2 BY MS. BOYD:

3 Q. Okay.

4 MR. JEFFERIES: And that's one, Nashiba, that's
5 one that's pending now. Others in the past I don't
6 know that I would necessarily know about. But Derrick
7 would.

8 BY MS. BOYD:

9 Q. Okay. So Dr. Durig, in your estimation about how many
10 cases can you recollect -- I know it's kind of hard,
11 you do a lot of work -- where you've been adverse to
12 the Anastopoulos Firm?

13 A. I would probably say maybe five just off the top of my
14 head. Like I say, I know the one that, I know
15 deadlines were this Friday. So, or actually tomorrow.
16 So I guess they disclosed me yesterday. So one active
17 one that I'm aware of.

18 Q. Okay. Have you ever rendered an opinion in any other
19 case involving a fastener with a similar opinion like a
20 failure of a fastener the way you've rendered in this
21 case?

22 A. I mean, this isn't so much the failure of a fastener,
23 this is just basically a fastener itself. And I've had
24 other cases where we've had nails or screws fail and
25 cause injuries, puncture people or other products that

1 have resulted in substantial property losses or there
2 have been other types of injuries. I would have to go
3 back and look at them. But, you know, is it something
4 I do every day? No. It's, you know, you don't get
5 these type cases every day. Do I get people tripping
6 over bolts which is a fastener that's stuck in the
7 ground that's not supposed to be there and should have
8 been removed? Yes. We get numerous of those cases
9 where we have basically a trip and fall where a piece
10 of equipment was bolted down, it's removed and then
11 they leave the bolts there. And they're sticking up an
12 inch or two. Typically I get probably one of those a
13 year at least. Other fastener cases I'm trying to
14 think if we had any other nails. Punctures, I know
15 I've done some with some punctures. I'd have to go
16 back and look at them where we've had people, you know,
17 stuck with a nail. A lot of them deal with nails
18 penetrating plumbing fixtures or plumbing lines where
19 somebody will, constructing a house put a nail in and,
20 you know, six months later you've got a water leak or
21 you've got a gas leak and blows up a house because
22 someone put a screw in the wall and punctured a gas
23 line or a water line.

24 Q. Do you maintain a list of all of the cases that you
25 serve as an expert witness?

1 A. No. I mean, I've got a Rule 26 list. I'll include
2 that in my file material that's pretty up to date.
3 I'll be, it was last updated in June of this year, I
4 believe. So it's about time to do that again at the
5 next holiday season.

6 Q. And does that list outline the cases where you actually
7 testified in trial --

8 A. Depo and trial cases. Yes, ma'am.

9 Q. Okay.

10 A. Which there aren't any trials unless, what, six months
11 which I guess is about to change.

12 Q. About how many times have you been qualified as an
13 expert witness in a South Carolina court?

14 A. I've probably, overall probably done 170 plus trials
15 across the country. The majority of those are in South
16 Carolina. I would say probably over a hundred trials
17 in South Carolina over the last 29 years.

18 Q. And primarily you've been designated or qualified as an
19 expert by the court in what areas?

20 A. Always mechanical engineering. And then there may be
21 safety, metallurgy, fire investigation, accident
22 reconstruction. I think one of them we had quality
23 assurance in one elevator case when they were,
24 improperly installed compensating chain. No, that
25 wasn't that one. That was a chair. That was a chair

1 we got into the quality that the products were not
2 being inspected after manufacturing. And it was a
3 clear visible defect in manufacturing that was not
4 caught. But always mechanical engineering safety. And
5 it depends on whether it's a fire-related or a
6 supremacist case whether or not --

7 Q. Have you ever been qualified as an expert in a case
8 involving the construction or repair of a pallet?

9 A. No. It wouldn't be specifically related to that. It
10 would be more mechanical engineering and safety or
11 failure analysis if we had some issue. I don't
12 remember any actually going to trial dealing with a
13 pallet in the last 29 years.

14 Q. Okay. Have you ever had a court not qualify you as an
15 expert?

16 A. I've never been disqualified. No, ma'am. Have I been
17 limited? Yes.

18 Q. Limited in what kind of ways?

19 A. We had one where a plaintiff changed his story about
20 the accident after I was discussed in detail and he
21 showed me what happened. I was deposed, gave my
22 opinions about what happened. And then he was deposed
23 afterwards and he changed his story about how the
24 accident occurred. And then I was not allowed to
25 testify since he changed his story. We had one where I

1 had an opinion about what happened in a case and why
2 this window fell out of a second-story house. During
3 my testing of that phenomenon that allowed this to
4 occur, I observed a second phenomenon that could also
5 cause this window to fall out. Although it's my
6 opinion that's not what caused this one. And because
7 the individual that fell out had some brain damage, he
8 couldn't remember exactly what he did and the judge
9 ruled that nobody could testify about what happened
10 since he couldn't remember what happened. So he would
11 not allow anybody to testify on the plaintiff's side.
12 And then one recent one, Judge Childs said since I
13 didn't measure a depression in a sidewalk I couldn't
14 rely on photographs that showed that it was not a level
15 walking surface. And she didn't let me testify that it
16 was not level even though the photographs clearly
17 showed it was not level.

18 Q. Any other limitation?

19 A. No. And I've always been qualified. Even she said I
20 was qualified to talk about it. But since I wasn't
21 hired until two years later and they repaired it three
22 weeks later without documenting it that I couldn't talk
23 about it.

24 Q. Okay. And what's your fee for service in this matter?

25 A. \$235 and hour and then deposition and trial time are

1 \$335 and hour.

2 Q. And do you know what you've billed on this case to
3 date?

4 A. No, ma'am. I don't. Probably initial work I did last
5 year probably four to six hours maybe. And then I have
6 since been provided additional documentation to review
7 depositions and stuff. And I've reviewed those. So I
8 don't know how many hours.

9 Q. Do you not keep track in some way of how many hours
10 you've spent?

11 A. Yeah. I do keep track. I have not billed this case
12 that I know of.

13 Q. Okay.

14 A. And I haven't put any time that I've done in the last
15 two or three weeks down.

16 Q. So including the time you did last year and what you've
17 done in the last two weeks, about how much time have
18 you spent on this case?

19 A. Ten to twelve hours, maybe. Something in that
20 neighborhood.

21 Q. When did you first become involved in this case?

22 A. I will have to go back and look. It was May of 2019.
23 I don't know which day as I sit here. But sometime in
24 May 2019.

25 Q. Okay. And did someone from Ms. Jones' attorney's

1 office reach out to you about your services?

2 A. Yes. And asked me if I could look at some photographs
3 of some pallets and a particular nail and evaluate if
4 that nail could be used in a pallet.

5 Q. Okay. And are all of your communications with Ms.
6 Jones or her attorneys in your file?

7 A. I'll make sure it's in there. Yeah. Right now it's
8 not. But I'll save it over to it so you will have a
9 copy of those e-mails.

10 Q. Okay. And I think when we first started you told me
11 that you have reviewed some stuff in order to get
12 prepared for today's deposition?

13 A. Yes, ma'am.

14 Q. Specifically what did you review?

15 A. I reviewed my letter and affidavit which are the same,
16 one was in letter format, one was in affidavit format.

17 Q. Okay.

18 A. Photographs, research that I had done. Then I also
19 reviewed the depositions of Dr. Marshall White,
20 deposition of Ms. Jones and a deposition of the store
21 manager, Mr. Ringer.

22 Q. Okay.

23 A. And some of the other discovery material that's been
24 provided to me including I think some of Mr. Marshall's
25 file and other, and photographs.

1 Q. And all of those materials will be included in your
2 file when you send it over to me?

3 A. Yes, ma'am.

4 Q. Okay. Great. Is there anything in particular of all
5 those documents that you listed that stood out to you
6 or were more important than others?

7 A. The photographs are the primary thing to look at and
8 the condition of the pallets and understanding how
9 pallets are, you know, lifted and the, you know,
10 typical way nails are used. And, you know, most of the
11 stuff that Dr. White testified to I don't necessarily
12 disagree with although I do disagree with a little bit
13 of his statements that this nail couldn't be used for a
14 repair in a pallet. And his statement that trees
15 aren't cut up to use to make pallets, that they're
16 basically using waste material. But that's not so in
17 South Carolina. I know that because the one nail case
18 I had where the gentleman was shot in the head, they
19 cut up trees, they go out and purchase trees, cut them
20 up and manufacture pallets as well as a couple other
21 plants do that. I've had fires at pallet manufacturing
22 plants. And so I know they do buy trees specifically
23 for making pallets. It's not just using waste wood
24 from furniture manufacturers or lumberyards to make
25 pallets. So I disagree with them on that. But in

1 general I mean I think we agree on, you know, what
2 pallets are and what they're supposed to be. And
3 whether or not they're always done that way is
4 obviously based on the photographs we have is no,
5 they're not always maintained in perfect ANSI compliant
6 condition.

7 Q. And do you know the source of the photographs that you
8 reviewed?

9 A. They were provided to me by Mr. Jefferies or someone in
10 his office. I don't know who actually physically took
11 them. They were provided to me and I've reviewed
12 those. I would have to go back and see if there's a
13 date code on them on the metadata to tell you exactly
14 what day they were taken. But it's my understanding
15 that they were taken at a Wal-Mart store, the subject
16 Wal-Mart store in, is it West Florence.

17 Q. And you said you don't know when they were taken down?

18 A. No. I don't. I'd have to go back and see if the file
19 I have has the actual original date on it. Typically
20 it does. I would have to look and see unless it's been
21 resaved in a different format.

22 Q. Okay. So let's talk about your investigation into this
23 incident, this matter. What specifically did you do,
24 if you will just start from the beginning all the way
25 to issuing your opinions that were in your affidavit?

1 A. Okay. Primarily at that time would have been to review
2 the photographs of a number of photographs from
3 Wal-Mart. I'll say Wal-Mart in general. I will have
4 to find the source of who took them but it's my
5 understanding they came from the subject Wal-Mart. I
6 know some of the photographs have a red sign in there
7 that Wal-Mart uses for roll back pricing. So I'm
8 pretty comfortable that's probably from a Wal-Mart.
9 Basically reviewed the photographs, looked at, I had
10 one, the one that's got the subject nail in it which
11 shows the nail as well as a wooden ruler. And then did
12 some research on roofing nails that looks similar to
13 what a roofing nail would be. And some of the research
14 you see is nails being sold primarily from China listed
15 as roofing nail and is also listed as a pallet nail.
16 And basically you can buy them in coils so that they
17 can be used in nail guns where you just automatically
18 pop pop pop, or they can be used the old fashioned way
19 with a hammer. And then looked at the different
20 photographs in seeing, you know, we've got comparable
21 size nail heads in some of these photographs,
22 particularly the one where we have the roll back
23 pricing sign in the back of it. See if I can point it
24 out. Down here in the very bottom we can see a lone
25 nail that's not into any stringer across the top or

1 deck board across the top. It's just basically sitting
2 there by itself. And it looks very similar in color
3 and size as the nail that we have in our photograph.

4 Q. You can see the size of the nail in that photo?

5 A. The head. The size of the nail head. Yes. And you
6 can see that it extends down into the wood.

7 Q. So would a longer nail not have a similar nail head?

8 A. No. It can. Yeah. No. I agree. I can't tell you
9 the length of it but the head of it's basically the,
10 roughly the same size of what we have and the
11 coloration of it's the same in the photograph.

12 Q. Okay. Anything else?

13 A. And you know, we look at the construction of these
14 boards. And typically the decking board on top is
15 about a half inch, maybe five-eighths depending on
16 who's making it and what's there. Our nail is roughly
17 seven-eighths inch deep. So we've got a nail that is
18 long enough to penetrate the deck board into the base
19 wood. It's three-eighths, probably in the neighborhood
20 of three-eighths of an inch which gets into the strength
21 of the nail. The pull out strength is based on the
22 insertion. The depth of the insert is per inch. And
23 it has to do with the diameter of the nail to know how
24 strong that connection is. But when you look at a
25 pallet like these are constructed, I think this is, I

1 can show you a little bit so you can see. This one is
2 one that's from a Wal-Mart. And when the forks go in
3 and pick this up from underneath, you're really not
4 putting any stress on those top deck boards because the
5 weight's sitting on it and you're picking up the base.
6 So you're not trying to pull that board out. It's
7 basically gravity holding it together. So it's really
8 not loaded up much. So even though it's only
9 three-eighths of an inch penetration, you're not trying
10 to pull that board out or pull that nail out because
11 the weight's sitting on top of it. And you're picking
12 it up from underneath. So it's just basically
13 compressing it. So there's really not a lot of load on
14 it. So it doesn't have to have a huge amount of
15 penetration to hold it in place. And is a
16 seven-eighths inch long nail long enough to penetrate a
17 deck board into the based of the pallet? Yes, it is.
18 And so it can be used to make repairs. Is it what you
19 would use ideally? No. Is it what people can do if
20 they're trying to make a quick repair to one and
21 they've got a board that's cracked and they can grab a
22 couple of nails and stick them in there? Sure.

23 Q. And I'm going into more details about your opinions. I
24 just kind of wanted a review of your investigation.

25 MS. BOYD: Lane, I want to note for the record

1 that the photographs that he referenced repeatedly we
2 are still going to file our motion in limine. So I'm
3 not allowing him to talk about it. I'm not accepting
4 that these photos are admissible. I just want to note
5 that on the record.

6 MR. JEFFERIES: Of course. Yeah. We disagree.
7 We think they are admissible. But yeah. Understood.

8 BY MS. BOYD:

9 Q. Dr. Durig, did you visit the subject store or any
10 Wal-Mart store?

11 A. No. I had been to that store for other purposes, not
12 for this case, no. My in-laws live pretty, or they did
13 back then. They don't now. They've moved since then.
14 But no, we've visited that store and purchased stuff
15 for my in-laws last year or maybe even earlier. It had
16 to be pre-Covid because we haven't been able to go, we
17 weren't able to go in to see them at a nursing home.
18 But prior to that yeah, I've been to that store a
19 number of times.

20 Q. But have you ever been there to inspect pallets or,
21 related to this case?

22 A. Not inspect pallets. I think flooring issues. We had
23 a case there, a slip and fall. I looked at it one time
24 there. I can't remember when it was. But it was
25 within probably the last five years.

1 Q. Have you ever visited a Wal-Mart distribution center?

2 A. Yes. I was at one about a month ago, the one up in
3 Laurens looking at a piece of equipment. A Wal-Mart
4 employee was, or a contractor, I'm not sure which one
5 he was, was injured on. But we did not go throughout
6 the facility looking at pallets, no. But we were up
7 there looking at a lift that was used, I think it was
8 actually used to lift pallets and move them around the
9 facility. But we were looking at the piece of
10 equipment, not pallets.

11 Q. Okay. And when was that again? I'm sorry.

12 A. I think in August or early September, fairly recently.

13 Q. And the name of the case that it's related to?

14 A. Ma'am?

15 Q. The name of the case that it's related to?

16 A. I don't think it was a case yet. They were looking at
17 the piece of equipment to decide if it was a
18 third-party case. It was basically a workers' comp
19 claim that they were looking to see if there was
20 something wrong with the piece of equipment. And I
21 think it was more the people using the equipment may
22 not have been trained on the piece of equipment.

23 Q. Do you know which company manufactures pallets for
24 Wal-Mart?

25 A. No. I have not gone into any of those issues. I mean,

1 I've read Mr. White's depo when he talks about the
2 different companies and how they lease all their
3 pallets. And then the gentleman Mr. Ringer says they
4 buy products, they get shipped directly to them. Some
5 of those come in on pallets. So I wouldn't know who
6 manufactures all the different pallets that are in a
7 Wal-Mart store. No, ma'am.

8 Q. So you have no knowledge of whether the pallets are
9 manufactured in South Carolina or outside of the state?

10 A. Correct.

11 Q. Have you ever visited a site that made repairs to
12 pallets that are used in Wal-Marts?

13 A. I mean, I've been to places that have made repairs to
14 pallets and have recycled pallets. Some of them they
15 chop up and grind and other ones they make repairs to.
16 That was in Charlotte. But it wasn't related to this.
17 It had to do with, I think it had to do with a fire.
18 They were grinding up nails. I think their magnet that
19 was supposed to be pulling the nails out and the
20 employees that were supposed to be pulling the nails
21 out weren't doing a good job and they were chopping
22 them up, having safety issues that way. But no, I've
23 not gone into one looking at this to see what type of
24 nails they use. I mean, again, we don't know where all
25 these different pallets came from. And Mr. Ringer

1 indicated they get supplies, or they get deliveries
2 from direct source from their vendors that bring them
3 in on pallets. So all those would not necessarily go
4 to a Wal-Mart distribution center from the way I read
5 his testimony.

6 Q. Okay. Can you give me a citation for that part of his
7 deposition? Can you --

8 A. No.

9 Q. Okay.

10 A. I can go, at a break if you want me to I'll go read it
11 and find it again.

12 Q. Okay. And did Mr. Ringer say that those pallets are
13 placed on the sales floor?

14 A. He just said they're brought into the facility.
15 Whether or not they're all placed on the floor, I don't
16 know if he knew exactly which ones were placed on the
17 floor.

18 Q. So it's possible that they're brought into the back of
19 the facility and not on the sales floor; correct?

20 A. Correct.

21 Q. What do you know about the construction of pallets that
22 are used by Wal-Mart?

23 A. Basically looking at the photographs that we see
24 pallets that have had repairs to them. We see pallets
25 that are, you know, put out on the floor with, and this

1 one you can see the chipped wood where, you know, a
2 shopping cart is run up to it and probably damaged the
3 wood. We have nails sticking out in some of them. I
4 think there's one that I printed off, let's see, I
5 think this one. It shows where there's about eight or
6 ten nails have been nailed into the end of this and
7 we've got a new board in between an old board. And two
8 old boards and a new board. So obviously it's come
9 apart and they've renailed in the top deck boards. So
10 I mean they're not all brand new. They've had repairs
11 done to them.

12 Q. Okay. But do you have any information that they were
13 repaired with materials other than the materials
14 originally used to construct the pallet?

15 A. No. I don't think I have any of that history. I just
16 found Mr. Ringer's, I think I did print off pages 13
17 through 16. He talks about some of the pallets coming
18 in. So that may be where my memory is that he said I
19 get some that are coming directly from a common
20 carrier. Yeah. On page 15.

21 Q. Okay. And so you were telling me that the pictures
22 show that the pallets had been repaired. You also
23 mentioned a picture that showed some damage where you
24 said that possibly a cart had hit it, hit the pallet.
25 Do you have any knowledge that a cart hit that pallet?

1 A. No. I don't. I mean, you're going to have something,
2 I mean, a person's foot hitting that is not going to
3 break the wood off unless it's already predamaged when
4 it's put out on the floor. It could be the pallet jack
5 that's used to move these around which is basically a
6 hand jack. You lift it up, take it up and move it
7 around and place it where you want it. He could have,
8 whoever it was, he, she, could have hit the pallet with
9 that pallet jack when they pulled it out to take it
10 back to the back and damaged it and knocked the wood on
11 the floor. But it also could be somebody with a
12 shopping cart coming around that corner because it
13 sticks out beyond the ends of the end caps and you
14 could strike it with a shopping cart and damage that.

15 Q. Is it also possible that that kind of damage could have
16 been done with a hammer?

17 MR. JEFFERIES: Object to the form of the
18 question.

19 A. You know, if the wood wasn't still present inside the
20 store, you could do that somewhere else. But the fact
21 that the wood chips are in the picture on the display
22 floor, I wouldn't think that would be a hammer unless
23 they got people coming around beating their pallets
24 because there's, got nails sticking out or something.
25 It's possible.

1 BY MS. BOYD:

2 Q. Or what about just someone with a hammer in the store
3 manipulating the --

4 A. I've never seen someone walking around with a hammer
5 beating on pallets in a Wal-Mart store.

6 Q. Okay.

7 A. But I guess it's possible. I have not seen that
8 though. But that's possible.

9 Q. Okay.

10 A. It would make a loud noise. So hopefully any Wal-Mart
11 employee in the area would come over and find out
12 what's going on.

13 Q. Yeah. Do you have any personal information about how
14 much this pallet weighs or the size of the pallet?

15 A. No. They are variable pallets. I mean, they're not
16 ideally uniform. Has to do with how many deck boards
17 are on top, has to do with how many extra pieces are
18 on, how many nails are used. And, you know, normally
19 you've got merchandise on a pallet until it's empty. I
20 mean, the actual pallet itself, no. I mean, we weighed
21 some in this other case because we had two different
22 design pallets that we were looking at that tipped
23 over. I would have to go back and look at what those
24 were. But they're, I mean, I have pallets in my
25 warehouse. I mean, they're not that heavy. I can pick

1 them up and move them around by myself. So 30, 40
2 pounds maybe at max. Some were less than that.

3 Q. Have you spoken with Ms. Jones at all about her case?

4 A. No, ma'am.

5 Q. Have you spoken to Ms. Jones' attorneys about their
6 theories of the case?

7 A. I mean, my, I was asked to look at this photograph with
8 a nail and determine whether or not it could be used in
9 repair of a pallet. And my answer is yes, it can. And
10 it would be long enough to hold the top deck board to
11 the base of the pallet. It's long enough to do that.
12 It's in compression. You're not pulling out on it when
13 you lift up on it. So as far as what medical
14 conditions she has, that's not my area of expertise. I
15 know her deposition was walking and the next thing you
16 know she heard a tick tick noise. I don't know if
17 you've ever had that. As I said I do a lot of fire
18 cases. That just happened to me walking around a fire
19 scene and the next thing I know I hear the tick tick
20 noise and I've got a roofing nail in my shoe, or in my
21 boot. Luckily I have thick enough soles that it didn't
22 penetrate my foot. But it happens. I mean, you step
23 on a nail, it can go through a boot. My understanding
24 is she was wearing flip-flops and that it could easily
25 go through a flip-flop. And they're thinner soles than

1 a standard work boot. But other than just
2 understanding that she stepped on a nail in a store,
3 that's all I know.

4 Q. Okay. Did you do any type of testing in this case?

5 A. No, ma'am.

6 Q. Do you have any plans to do any type of testing in this
7 case?

8 A. I haven't been asked to at this point. I mean, you
9 can, you know, I'm not sure what testing you can do on
10 a nail other than maybe do some EDS to try to determine
11 what metal is used or what components are in the nail
12 to see, you know, if it's some strange metal or
13 something. But there's really not a whole lot to do
14 with that. I mean, it's a nail.

15 Q. Do you have any handwritten notes that you took while
16 you were reading through the material provided to you
17 in this case?

18 A. No, ma'am.

19 Q. At this point is there any additional information that
20 you've requested that you've not received?

21 A. No, ma'am.

22 Q. Okay. Is there any other work that you are planning to
23 do in this case that you have not done that may change
24 any of your opinions in this case?

25 A. No, ma'am. Not aware of any and haven't been asked to

1 do any.

2 Q. Okay. And, now, I was provided with the affidavit. I
3 think you referenced your affidavit you said it's been
4 a letter and they converted it into an affidavit. I'm
5 going to share that with you.

6 A. I think I converted it. But I did it originally as a
7 letter that I think they asked me to make it an
8 affidavit.

9 Q. Okay.

10 A. So I converted it into an affidavit.

11 Q. All right. So this is the affidavit that I received.
12 And it was dated on May 22nd 2019. Does that sound
13 correct?

14 A. Correct. That's my signature on it.

15 Q. Okay. All right.

16 A. I have the original here. This has the embossing.

17 Q. Okay. I'm going to enter this affidavit as Exhibit 2
18 in the record. So Dr. Durig, you said that you looked
19 at this before your deposition today --

20 A. Yes, ma'am.

21 Q. -- to refresh your memory of your opinions?

22 A. Right.

23 Q. Have your opinions changed in any way since you wrote
24 this affidavit?

25 A. No, ma'am.

1 Q. Okay. Well, let's go through it a little and go
2 through your opinions. Have you, first let me ask,
3 have you developed any new opinions that since you
4 wrote this affidavit that you would like to include
5 about this matter?

6 A. No. I don't think so.

7 Q. Okay. In reaching the opinions that you developed, did
8 you rely on any assumptions? I mean, did you assume
9 anything?

10 A. I mean, I assume the information I was given was
11 correct like photographs came from Wal-Mart, the nail
12 was the subject nail. But, you know, I didn't assume,
13 you know, like assume that's a nail. I mean, I'm
14 basing that on the photograph that that is a nail and
15 familiar with what nails look like. So as far as that,
16 no.

17 Q. Okay. So let's go through and let's look at your first
18 opinion. So the first opinion basically says that you
19 reviewed a photo of the nail and it was a seven-eighth
20 inch nail?

21 A. Yes.

22 Q. Okay. And you told me that you did not look at the
23 actual nail?

24 A. Right. I have not physically seen the nail in person.
25 Correct.

1 Q. Why not?

2 A. Ma'am.

3 Q. Why not?

4 A. Because I haven't, they haven't shipped it to me.

5 Q. Oh.

6 A. I think they have it in their, probably in their
7 evidence locker so that it doesn't get lost.

8 Q. Okay. But based on the photo you're pretty sure that
9 it's a seven-eighth inch roofing nail?

10 A. It looks to be seven-eighths inch long, typical of a
11 roofing nail. Yes. It could have been sold as a
12 pallet nail. As I said, there's a number of companies
13 in China that sell these as either roofing nail or
14 pallet nail seven-eighths inch long.

15 Q. Okay. We're going to get to that when we get to that
16 opinion and talk about that a little further. And in
17 your second opinion, you note that wooden pallets are
18 constructed in a similar fashion as roof decking.
19 What's the basis for your opinion on that?

20 A. Just understanding construction where you nail a deck
21 board onto a roofing rafter. And you take one board
22 and nail it to another one that's perpendicular to it.
23 Just like you do on a pallet where we have a top deck
24 that's nailed to the base and it's used to attach the
25 two boards together.

1 Q. Do you have some type of authority for that or some
2 citation?

3 A. I don't know what you mean by that. I mean, it's just
4 understanding construction. I've built things before.
5 And I look at a lot of burned up houses where we're
6 taking things apart and taking roof decks off roofing
7 decks, off of the attics. So that's more just a simple
8 mechanical question of how do you attach two boards
9 together. And you bolt them or screw them or nail
10 them. And in this case it's nailed.

11 Q. Okay. Your second opinion is that many different
12 manufacturers sell pallet nails that start around one
13 and one-fourth inch long and go up to three inches
14 long. You would agree that the subject nail is not
15 within the nails that you mentioned as being pallet
16 nail; correct?

17 A. Correct.

18 Q. All right. And then you say the longer the nail, the
19 stronger the connection for the pallet top and bottom.
20 And that's based upon what?

21 A. Based on the pull-out strength. And the pull-out
22 strength is based on the depth of penetration.

23 Q. Okay.

24 A. By definition, the longer the nail shank that's into
25 the wood the stronger that it is.

1 Q. Okay. And I think we're getting to the opinion about
2 the Chinese companies that market their fasteners.
3 Let's talk about that. You said that some Chinese
4 manufacturers market their fasteners as 15 degree
5 pallet roofing coil nail?

6 A. Yeah.

7 Q. And that's common coils. Okay. Can you tell me the
8 name of that manufacturer? I can't see that, I'm
9 sorry.

10 A. I'll spell it because I sure can't pronounce it.

11 Q. Sure.

12 A. D-E-Z-H-O-U-H-U-A-L-U-D-E Hardware Products Company
13 Limited. And it's in Shandong, China.
14 S-H-A-N-D-O-N-G. And their title is 15 degree pallet
15 roofing coil nails. And you buy it by the ton.

16 Q. Okay. And other than you doing that research did you
17 just like Google it or did you contact the company?

18 A. No. I Googled different pallet nails and roofing
19 nails. And this is just one of the ones that comes up.
20 And they sell them in three-quarters, seven-eighths,
21 one inch, one and a quarter, one and a half, one and
22 three-quarters and two inch long.

23 Q. And is there anywhere does it indicate that it's for
24 use on pallets other than the title?

25 MR. JEFFERIES: That's not enough?

1 MS. BOYD: No.

2 A. I mean, it's marketed as pallet nail.

3 BY MS. BOYD:

4 Q. Okay. So I'm going to show you because I too Googled
5 the name that you specifically gave me. I am not sure
6 that it's the exact same company because I was not
7 provided with your file. But I did use the exact title
8 that you provided to me --

9 A. Okay.

10 Q. -- as far as what it's called. And so I'm going to
11 share that screen with you so that you will see what I
12 was able to find. Can you see the screen that I pulled
13 up? It's from MZ Hardware which is clearly not the one
14 that you pulled up. But it's also named 15 degree
15 collated coil pallet roofing nail?

16 A. Yes.

17 Q. Okay. Is this the type of nail that you are
18 referencing in your report?

19 A. Yes.

20 Q. Okay. And I just want to represent that I Googled that
21 this morning, I'm going to show you it's the 10/14 at
22 the top. So I just pulled this up. So this is an
23 accurate reflection of what this company is currently
24 selling. And based on this title, is that what you are
25 basing that it could be used for pallets?

1 A. Sure.

2 Q. Is it anywhere in the product description where it says
3 type or anything that says for pallet uses?

4 A. No.

5 MR. JEFFERIES: Object to the form of the
6 question. This is not the advertisement that he said
7 he reviewed. You're asking him to speculate about
8 something you provided to him 30 seconds ago.

9 MS. BOYD: Well, he can read and he did not
10 provide his file so I can't ask him on what he actually
11 looked at, Lane, because I can't see what he's holding
12 up to the camera. So I am asking him is this the type
13 of nail. He said yes, this is the type of product.

14 MR. JEFFERIES: Well --

15 MS. BOYD: So I'm asking him about --

16 MR. JEFFERIES: -- let me --

17 MS. BOYD: -- solicitation.

18 MR. JEFFERIES: Let me --

19 MS. BOYD: Your objection is noted. We're going
20 to keep going. Thank you.

21 BY MS. BOYD:

22 Q. So here --

23 MR. JEFFERIES: I'm going to object. I'm going to
24 object, Nashiba, and ask that we have a reasonable time
25 to confer about this document which you did not provide

1 to us more than 48 hours prior to the deposition. So
2 Mr. Durig, do you want to go ahead and put your thing
3 on video, mute and sound mute and then we can chat a
4 little bit.

5 MS. BOYD: Sure.

6 A. So what am I supposed to do?

7 MR. JEFFERIES: Well, what you and I are going to
8 do is confer privately off of the record about this
9 surprise document that she's shown to us.

10 MS. BOYD: Well, how about this, Lane. How about
11 he can scan a copy and provide it so I can ask him
12 questions to see if there's a difference between what I
13 have provided and what he is providing because he's not
14 provided in advance. If you have a way for me to see
15 what he has provided, I'm willing to use that document.
16 I have no objection to that. But I want to ask the
17 question because this is pivotal to his opinion.

18 A. No. It's not pivotal.

19 MR. JEFFERIES: Understood. Understood.

20 MS. BOYD: This is --

21 MR. JEFFERIES: Ms. Boyd? Ms. Boyd? Ms. Boyd, if
22 I may reply. You indicated earlier that you wanted to
23 reserve the right to question Dr. Durig about items in
24 his file at a later date. I agreed to that. This is
25 one of those items. There's no problem with you

1 inquiring about it on a later date if he can't provide
2 it to you today. What I will not agree to do is to
3 have you ambush him with a document that we've seen all
4 of 30 seconds ago and then start asking him questions
5 about your document.

6 MS. BOYD: I will withdraw, I will just simply ask
7 my questions about the Chinese manufactured nails and
8 then I'll reserve the right to specifically ask him
9 about the one that he received from, that he Googled
10 that's different from mine.

11 MR. JEFFERIES: Yeah. That's fine. No objection
12 when he produces that file to you asking him about
13 whatever's in it.

14 MS. BOYD: Sure. Okay. Great.

15 BY MS. BOYD:

16 Q. Dr. Durig, is a pallet used as a unit of measure for
17 construction materials?

18 A. Is a pallet used as a unit of --

19 Q. Can you buy things by the pallet?

20 A. Can I buy things by the pallet? Yes.

21 Q. Yes. So presumably it could be used to describe the
22 unit of measure of the items being sold; correct?

23 A. Sure.

24 Q. Okay.

25 A. And if you look at my opinion that I wrote as item two,

1 it just says these nails are advertised with both
2 pallet and roofing in their name. And that's all I've
3 drawn from that.

4 Q. Okay.

5 A. If I Google that and I see that and it says pallet in
6 the roofing, that's all that comment says.

7 Q. So are you indicating that someone would use these
8 types of nails in a pallet?

9 A. I'm saying they can be used in a pallet. They're long
10 enough to be used in a pallet. Yes. Are they designed
11 to be used in a pallet? No. I'm not saying that. I'm
12 just saying you pull this up, an advertisement, and
13 pull up pallet nails, this is the one of the ones you
14 get, just similar to what you found. And it has the
15 word pallet and it has the word roofing in the name.
16 That's all that says.

17 Q. Okay. So it's not your contention that based on this
18 advertising that these nails are being sold for the use
19 of roofing and/or pallet construction?

20 A. No.

21 Q. That's not what you're indicating?

22 A. No. I just said they're advertised with both the word
23 pallet and roofing in it.

24 Q. Okay. So based on your advertisement that I have not
25 seen, is it your opinion that these nails are produced

1 for use in pallet construction or repair?

2 A. No. I'm just saying those are the words that are used.
3 Mine is essentially the same as yours at least on that
4 header that says pallet roofing nails. And so, it just
5 says that what you, if you Google pallet nails this is
6 one of the ones that you get. And it says pallet and
7 roofing.

8 Q. But by Googling it, could it be indicating the amount
9 or the unit of measure that those nails are being sold
10 by?

11 A. It's possible. Yeah.

12 Q. Okay.

13 A. But, you know, I'm not saying that these are designed
14 to be used to manufacture a pallet. That's not what
15 I'm saying. And I'm not even saying the nail, the
16 subject nail was designed to be used for pallet
17 manufacturing. The question is can it be used and is
18 it long enough to be used. And the answer to both of
19 those is yes it can be used and it's long enough to
20 attach the top deck board of the pallet to the base of
21 the pallet.

22 Q. Okay. But in industry use, are seven-eighths inch
23 nails used in the industry to secure pallet boards to
24 your knowledge?

25 A. Well, that's, I mean, what industry? The ones that are

1 my --

2 Q. Construction.

3 A. Let me finish. The industry of the manufacturers that
4 are designing and building theirs to comply with the
5 ANSI standard? No. Is Joe Blow going down the street
6 and I've got to make a repair to a pallet because I've
7 got to put six things on pallets to ship out tomorrow?
8 Yeah. They can be used for that length. Is it
9 designed for it? No. But can it be used for it? Yes.
10 It's long enough to be used for it.

11 Q. Okay. Do you have any information, any personal
12 knowledge that any seven-eighths inch nails were in
13 fact used in a pallet in a Wal-Mart store?

14 A. I don't have one because we haven't gone through and
15 looked at all the different pallets in this store back
16 in 2015. I don't think they've been preserved. When
17 you look at the photographs, as I said you've got
18 similar appearing nails. No, you can't tell the total
19 depth of it because it goes into the board at the base
20 of the board. But they're similar in color and similar
21 in diameter of the head. But because those pallets
22 aren't kept and we can deconstruct them all to verify
23 the length of each nail, I can't tell you I know this
24 nail came out of that pallet. Can it be used? Yes.
25 Is there pallets in there that are damaged and nails

1 are sticking out? Yes. That are non-compliant with
2 ANSI standard in a Wal-Mart store? Yes. They are.

3 Q. Okay. Can you give me the citation to the ANSI
4 standard that you keep referencing?

5 A. I'd have to, it's in what's his name's file. I'd have
6 to pull it out. I'll have it in the folder. But it's
7 the typical one and a half to two inch or one and a
8 quarter to two inch long, three inch long nails that I
9 reference in the first part of number two.

10 Q. All right. So let's go on to the rest of your opinion.
11 You said although the recommended length for a pallet
12 nail was typically longer than seven-eighths inches,
13 nothing would prevent someone from using a seven-eighths
14 inch nail in making a repair to an existing pallet?

15 A. Correct.

16 Q. Do you have any evidence that that in fact occurred?

17 A. I mean, we've got a nail that was found, reportedly
18 found in a store that is discolored and would be
19 consistent with someone making a repair to a pallet. I
20 don't carry around rusted roofing nails in my pocket
21 that I would drop on the floor because I felt like
22 dropping one on the floor. But I mean the comment is
23 they are long enough to be used to make a repair. And
24 that's what I can tell you about a seven-eighths inch
25 long nail.

1 Q. Okay. Do you have any type of authority to cite that
2 anyone uses seven-eighth inch nails to repair pallets?

3 A. No. I don't think there's a citation out there that
4 says you can do it. It's physically --

5 Q. Have you pulled apart a pallet and you saw seven-eighth
6 inch nails?

7 A. Have I pulled one apart? No. I have not.

8 Q. Have you had any research where someone has pulled
9 apart pallets and found seven-eighths inch nails?

10 A. No. I have not.

11 Q. So other than Mrs. Jones' assertion that this nail was
12 in the floor in Wal-Mart, do you have any other
13 evidence to support that seven-eighths inch nails are
14 used or could be used to repair pallets?

15 A. I don't know how those two are related but, I mean,
16 it's her testimony that she stepped on that nail while
17 walking through a center aisle of a Wal-Mart store.
18 And then becomes a question if that is the facts and
19 that's what she's testified to, then where could the
20 nail come from? I mean, it's typical shelving or
21 metal. They're not, they don't have roofing nails or
22 seven-eighths inch long nails used to secure shelving.
23 The type of roof on a Wal-Mart does not use typical
24 roofing nails. If they have Styrofoam up there for
25 insulation, they're longer, they're not seven-eighths

1 inch which would be used on say shingles. They don't
2 have shingles on a Wal-Mart retail store. So where,
3 you know, what is the source of the nails? Someone
4 either carrying it in their pocket and drops it when
5 they pulled out their cell phone or did it come from a
6 pallet, the wooden pallets throughout the store. And
7 we have photographs of wooden pallets that use a
8 similar looking nail as far as a head diameter and a
9 color, and damage to different wooden pallets that
10 wouldn't necessitate making repairs to it. And so it
11 becomes what's more probable. It's more probable it
12 came out of a wooden pallet than out of somebody's
13 pocket as they were walking down an aisle in Wal-Mart.

14 Q. Okay. So, but you have no personal knowledge that
15 seven-eighths inch nails were used to construct or
16 repair pallets used in Wal-Mart?

17 A. Correct. I don't. Because I don't know who made the
18 repairs to all the pallet that were in this Wal-Mart in
19 June 2015.

20 Q. Okay. And on your fourth opinion you cite that you
21 referred to numerous photos. I think we've discussed
22 those photos. Are those the same photos that you
23 reviewed in preparing for your deposition today?

24 A. Yes, ma'am. We've got different ones. The one we
25 talked about with the wood damage. We've got the one

1 that's got multiple nails in the end of it. Looks like
2 at least eight different nails, maybe nine. And then
3 we've got some where we've got nails sticking out.
4 We've got the one where we've got a nail that's in the
5 first one I showed you with the roll back where we've
6 got a nail with a similar-sized head that's not either
7 penetrating any wood because the wood's broken away.
8 So we've got a nail sitting there that's not really
9 doing anything other than sitting up. So yes, I've got
10 photographs where repairs have been made to a number of
11 pallets that are at or inside a Wal-Mart store.

12 Q. And you told me you don't know when these photos were
13 taken?

14 A. Correct.

15 Q. And you don't know who took them?

16 A. Correct. I don't know who took them.

17 Q. Do you know whether these pallets were in this same
18 area where Ms. Jones traversed on the day of the
19 incident?

20 A. Well, some of them looked like they were probably more
21 outside. This one is kind of a center aisle. She, the
22 one with the Clorox in it. I guess, yeah, Clorox Pool
23 and Spa. Those are pallets that are up on additional
24 pallet material. The one that's the wooden pallet on
25 the concrete, I don't know what section of the store

1 that is versus where she was -- that's one that had the
2 damaged wood to it. I don't know where that is in
3 relationship to where she was walking.

4 Q. Okay. And I think you indicated that the nail heads in
5 the photos look similar to the same as the nail that
6 Ms. Jones allegedly stepped on; correct?

7 A. Yes.

8 Q. But you have no way of knowing the length of those
9 nails; correct?

10 A. Correct. Longer than a half inch because they're long
11 enough to penetrate into the base of the pallet which a
12 seven-eighths inch long nail is long enough to do that
13 as well.

14 Q. Okay. And you indicated, at one point you showed me a
15 photo where a board was placed between the base of the
16 pallet and the decking as you called it on top. I
17 think you showed me a photo like that; correct?

18 A. Yes, I did. It's this one. We've got blue painted up
19 here and then we've got basically a new board here.
20 Then we've got blue paint on the board underneath. So
21 that center board there is new.

22 Q. Do you have any evidence that that center board is
23 connected to the base in any way other than the nails
24 on top?

25 A. I can't see it in this one. There may be additional

1 nails securing that to it. I would think there would
2 be. But depends on who made the repairs and what they
3 were trying to do.

4 Q. Okay. And if there are no nails on the new board to
5 the base, then the nails that are on the top through
6 the decking board would have to be long enough to go
7 through both the new board and the base; correct?

8 A. Correct.

9 Q. Would a seven-eighths inch nail be long enough?

10 A. I would doubt it. I doubt an inch and a quarter would
11 be, an inch and a quarter would probably be very close.
12 You might get an eighth of an inch penetration. So
13 you're going to need something in the two-inch range to
14 extend down in the lower one.

15 Q. Okay. And in your fourth opinion I think you indicated
16 that not all pallets are maintained in perfect or even
17 acceptable condition. What's an acceptable condition
18 for a pallet?

19 A. One that doesn't have nails sticking out the side of
20 it. One that is hopefully strong enough to handle the
21 design load, whether or not it's designed for whatever
22 loading conditions, five hundred pounds, a thousand
23 pounds. One that we don't have the deck split to the
24 point where wood's falling off or about to fall off.
25 Just basically in good condition as opposed to damaged.

1 Q. So undamaged would be acceptable?

2 A. Yes.

3 Q. So any damage would be unacceptable?

4 A. No. Not any damage. If I've got boards breaking off
5 and I've got wood falling off of it and I've got nails
6 extending out the side of it like one of the
7 photographs, that would not be acceptable.

8 Q. Okay. But do you have any evidence to indicate that
9 those pallets weren't acceptable to hold the load or
10 couldn't hold the weight?

11 A. No. No. Like I say that's a different one. Because
12 now we're, a lot of that stuff is under compression.
13 And so those nails even though hypothetically if
14 somebody used a seven-eighths inch nail to hold a top
15 deck to the base, it's really not being pulled apart.
16 It's compressed so it's not going to be under loading
17 condition. So it's just almost like a positioning nail
18 where you're keeping the top deck boards in the right
19 orientation and won't let them move around.

20 Q. Okay. And I think we've briefly talked about the ANSI
21 standard and you indicated you would find that citation
22 for me?

23 A. Yes, ma'am.

24 Q. Are you aware of any industry standards or practices
25 other than the ANSI standards?

1 A. No. There's one on wood pallets and then there's one
2 on nails and it gets into the different design of the
3 nails. And I don't think that ANSI standard had the
4 pull-out strength in them. I'd have to look and see if
5 it had the strength. It has to do more with the size
6 and the diameter and the length and probably a little
7 bit to do with the, I don't know if they even have
8 material specs in that one or minimum strengths for
9 nails. And that gets into again into the metallurgy of
10 the nail and whether or not they're made to the right
11 metallurgical specification.

12 Q. Okay. So if the industry standard deals with strength
13 and the metal of the nail, how, what's the basis of
14 your opinion that the pallets, not all the pallets at
15 the Wal-Mart store would meet all of the industry
16 standards for wooden pallets?

17 A. Because we've got nails sticking out of them. We've
18 got ones that we've got crushed, the wood is crushed
19 and falling and separated from it. I don't know if I
20 printed out the one where we have a nail sticking out
21 the side of it.

22 Q. Okay. And in your fifth opinion you said the most
23 probable source for loose nails sitting on the floor of
24 a Wal-Mart store adjacent to a main display aisle that
25 displays merchandise on the, on wooden pallets is the

1 wooden pallet?

2 A. Yes.

3 Q. What evidence did you review that established that a
4 loose nail was sitting on the floor of Wal-Mart?

5 A. The description that she stepped on a nail as she was
6 walking through a main aisle. Ms. Jones.

7 Q. Okay. But Ms. Jones testified that she never saw
8 anything on the floor; correct?

9 A. Correct.

10 Q. So there is no evidence that it was just sitting loose
11 on the floor; correct?

12 MR. JEFFERIES: Object to the form of the
13 question. But you can go ahead and answer.

14 A. I'm not sure physically what other condition it could
15 be to penetrate the bottom of the flip-flops as she's
16 walking because the description she gave as she's
17 walking and all of a sudden she hears the tick, tick,
18 tick sound and looks and sees a nail in her shoe or in
19 her flip-flop. Had she entered the store with that you
20 would hear that tick tick when you're walking on
21 asphalt or concrete or you first entered the store.
22 When you're walking on the concrete floor of a store
23 you would hear the tick tick. So my interpretation of
24 that is that she didn't hear that until she was on the
25 main aisle which would suggest that's where she picked

1 up the nail in her flip-flop. I don't, didn't see
2 anything in her deposition where she described climbing
3 up onto a pallet to grab anything or up on the shelf.
4 So the only logical conclusion is on the floor. And I
5 don't think they would have nails like that sticking
6 vertically up for any intention or purpose other than,
7 on the floor.

8 BY MS. BOYD:

9 Q. So you just testified that she would have heard the
10 click click click outside on the asphalt? Is that --

11 A. Or the concrete as you enter the store where you may
12 have concrete at the front. And then once you go into
13 the entry of the store, these photographs show a
14 concrete floor. And yes, you would hear that tick,
15 tick, tick as you walked across that.

16 Q. And that's your opinion to a reasonable degree of
17 mechanical engineering certainty --

18 A. Yeah.

19 Q. -- and having worked outside?

20 A. Correct. And based on experience of having nails in my
21 boots at seams where I'm walking around and I hear the
22 tick, tick, tick when you walk across a driveway or you
23 walk across some other concrete surface.

24 Q. Okay. So let's assume that there was no nail on, loose
25 on the floor. Would that change your opinion?

1 A. Well, yeah. I mean then she obviously wouldn't have
2 stepped on it and she wouldn't hear tick, tick, tick as
3 she's walking across the aisle, the main aisle.

4 Q. And so your opinion based on, is solely based on
5 Mrs. Jones' version of what happened?

6 A. Correct. That's the only eyewitness that I'm aware of.

7 Q. Okay.

8 A. If there's another eyewitness I have not seen any
9 information from that eyewitness.

10 Q. Have you seen the video of Ms. Jones walking through
11 the store?

12 A. I think they sent me a copy of it but I did not review
13 it. No, ma'am.

14 Q. And the other part of your opinion says that she was
15 walking adjacent to a main display aisle that displays
16 merchandise on wooden pallets. What evidence did you
17 review that there were wooden pallets in the area where
18 Ms. Jones walked?

19 A. I mean, we've got photographs that show some wooden
20 pallets on a main aisle, the one with the Clorox on it.
21 And then experience of when you walk down aisles,
22 that's where you have larger bulk items that are
23 displayed on pallets in other Wal-Mart stores.

24 Q. But you don't have any evidence that there were wooden
25 pallets in the area where Ms. Jones actually walked?

1 A. Yeah. I have not reviewed the videos to say this is
2 where she stepped on the nail. No, ma'am.

3 Q. Okay. So if none of the pallets in the area where she
4 walked were wooden, would that change your opinion?

5 A. I mean, I would say that there wasn't one in the area
6 where she was walking at the time. Correct. But that
7 doesn't mean there's not one that's ten feet away
8 around the corner that a nail fell out of when they
9 were bringing that pallet in or got hit by another
10 shopping cart and got moved around.

11 Q. Okay. Next you say if a shorter than typical length
12 nail was used to make repairs to a wooden pallet it is
13 more likely it would fall out of the wooden based
14 timbers when the decking gets damaged, split, compared
15 to a two-inch or a three-inch long pallet nail?

16 A. Correct.

17 Q. Do you have any knowledge that a shorter than typical
18 length nail was used in any of the pallets in Wal-Mart?

19 A. If the seven-eighths inch nail that we have came out of
20 a pallet, then that would be evidence of that. And as
21 I indicated the strength of that connection is based on
22 the insertion depth. And so by simple math a
23 seven-eighths inch nail would not extend as far into
24 the base wood as a two inch nail. So therefore it
25 would be a much stronger connection. So if I've only

1 got three-eighths of an inch inserted like we see in
2 the one photograph where the nail is not being held by
3 an upper deck board, it's just sticking in the base and
4 sticking up basically a half inch, it wouldn't take
5 much to knock that out, to have it fall out. That's
6 all I'm saying there. Is that, you know, if it was a
7 two-inch long nail it would stay in there. It would be
8 much harder for it to fall out than it would be if it
9 was a seven-eighths inch nail.

10 Q. Okay. In your opinion is it possible that the nail
11 could have come from any other source other than a
12 pallet in the subject store?

13 A. I'm not aware of where else they have, you know, single
14 nails such as this being used. Like I say, I know I've
15 looked at some of their shelving in different cases and
16 they're metal and they're attached with locking tabs on
17 them. They're not nailed together. I'm not aware of
18 anywhere else where a nail like this would be used in a
19 Wal-Mart store other than pallets.

20 Q. Is it your expert opinion Ms. Jones couldn't have
21 picked up this nail outside of the Wal-Mart?

22 A. I mean, she could have. But that's not my
23 understanding of her testimony. She didn't hear the
24 click, click noise until she was in by the main aisle.
25 Which I think if you've ever stepped on a nail, you

1 will hear it and you would feel it as you were walking
2 that you've got something wrong with your shoe. And
3 that's what alerted her of the fact that there was
4 something going on and she heard the noise.

5 Q. Okay. Dr. Durig, have we discussed all of your
6 opinions that you are offering in this case?

7 A. Yes, ma'am.

8 Q. Have we discussed all of the bases for your opinions in
9 this case?

10 A. Yes, ma'am.

11 Q. Are there any other bases that we have not discussed?

12 A. I don't believe so.

13 Q. And your opinions in this case are limited to the
14 source of the nail that Ms. Jones allegedly stepped on
15 on the day of this incident; correct?

16 A. I'm not sure what you mean by that. I mean, is that in
17 the photographs that I've looked at, yes.

18 Q. Okay.

19 A. I'm not getting into any medical or any, you know,
20 injury issues, no, ma'am.

21 Q. Okay. Presently do you have any reason to believe that
22 your opinions will change in any respect?

23 A. Not at this time. No, ma'am.

24 Q. I don't have any other questions for you.

25 EXAMINATION BY MR. JEFFERIES:

1 Q. Dr. Durig, just very quickly to make sure I'm clear.
2 If I understand you correctly it's your opinion to a
3 reasonable degree of professional certainty that the
4 nail that Ms. Jones stepped on more probably than not
5 came out of a pallet in the Wal-Mart as opposed to
6 another source; is that correct?

7 A. Yes. If it's an interior situation where the nail is
8 picked up I'm not sure what else would use a roofing
9 nail other than repair to a wooden pallet.

10 Q. Understood. Thank you.

11 Further deponent sayeth not.

12 (There being no further questions, the deposition adjourned
13 at 11:12 a.m.)

14 (Defendant's Exhibit Numbers 1 and 2 were marked for
15 identification purposes.)
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1 CERTIFICATE OF REPORTER

2 I, Lyn Allen Hudson, Court Reporter and Notary Public
3 in and for the State of South Carolina, do hereby certify
4 that I reported the deposition of Bryan Durig on the 14th
5 day of October, 2020, that the witness was first duly sworn
6 by me, and that the foregoing 66 pages constitute a true and
7 correct transcription of the said deposition.

8 I FURTHER CERTIFY that I am neither attorney nor
9 counsel for, nor related to or employed by, any of the
10 parties connected with this action, nor am I financially
11 interested in said cause.

12 I FURTHER CERTIFY that the original for said
13 transcript shall be hereafter sealed and delivered to
14 GaffneyLewis, LLC, 3700 Forest Drive, Suite 400, Columbia,
15 South Carolina. This sealed original transcript shall be
16 retained by the above party, who shall be responsible for
17 filing same with Court prior to trial or any hearing which
18 might result in a final order on any issue.

19 _____
20 Lyn Allen Hudson, Court Reporter
21 Notary Public for South Carolina
22

23 My commission expires: December 17, 2025
24
25

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STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

April Jones,

Plaintiff,

vs.

Tim Ringer, Individually and as
employee/agent of Wal-Mart Stores, Inc. d/b/a
Wal- Mart Store #630, and Wal-Mart Stores,
Inc.,

Defendants.

COURT OF COMMON PLEAS
JUDICIAL CIRCUIT

Civil Action No. 2017-CP-21-1375

**DEFENDANT WAL-MART STORES,
INC.'S RESPONSES
TO PLAINTIFF'S FIRST
REQUESTS TO ADMIT**

TO: PLAINTIFF AND HER COUNSEL, ROY T. WILLEY, IV, ERIC POULIN, AND
SEAN TROPEA:

Defendant Wal-Mart Stores, Inc.¹ (hereinafter "Defendant" or "Walmart"), by and
through undersigned counsel, hereby responds to Plaintiff's First Set of Requests for Admission,
pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, as follows:

PRELIMINARY RESPONSE

Defendant has not fully completed its investigation of the facts relating to this case, has
not completed discovery, and has not completed its preparation for trial. All of the responses
contained herein are based only upon such information and documents as are presently available
to and specifically known to Defendant.

It is anticipated that further discovery, independent investigation, legal research, and
analyses will supply additional facts and add new meaning to known facts, as well as establish
new factual conclusions and legal contentions, all of which may lead to additions to, changes in
and variations from the responses herein set forth.

¹ Wal-Mart Stores, Inc. is not a proper party to this action; Wal-Mart Stores East, L.P. is the sole proper corporate
defendant.

The following responses are given without prejudice to Defendant's right to produce evidence and subsequently discovered documents. Defendant accordingly reserves the right to revise any and all responses herein as additional facts are ascertained and other factual and legal analyses are completed. The responses contained herein are made in a good faith effort to supply as much information and as much specification as is presently known, but should in no way be to the prejudice of Defendant in relation to further discovery research or analyses.

In the interest of cooperation in the discovery process, Defendant will voluntarily provide information as reasonably appropriate and will specifically or by reference to responses given by Defendant object where appropriate to discovery requests that are outside the scope of reasonable and permissible discovery under the applicable rules.

REQUEST TO ADMIT

1. Admit that by delivery of a copy of the Summons and Complaint to you or your agent, you have been properly served in this action.

RESPONSE: Defendant Walmart admits that it was properly served in this action.

2. Admit that you have no basis to assert lack of personal jurisdiction as a defense or affirmative defense to the subject of the action.

RESPONSE: Admitted upon information and belief. Defendant further responds that it does not assert lack of personal jurisdiction as a defense to this action at this time.

3. Admit that you have no evidence to support a defense or affirmative defense that Plaintiff's Complaint fails to state a claim upon which relief can be granted.

RESPONSE: Denied.

4. Admit that the incident which is the subject of this lawsuit occurred on June 26, 2015 at Wal-Mart Store #630, located at 230 North Beltline Drive, Florence, South Carolina 29501.

RESPONSE: Admitted; however, by way of such admission, Defendants do not admit that the subject incident occurred in the specific manner alleged by Plaintiff or admit any other allegations of Plaintiff.

5. Admit that Defendant is responsible for managing, maintaining, controlling, safeguarding, caring for, and inspecting Wal-Mart Store #630.

RESPONSE: Denied as stated. Defendant further responds that Wal-Mart Stores East, L.P., the sole proper corporate defendant, was responsible for operating and maintaining Wal-Mart Store #630 at the time of the alleged incident.

6. Admit that those responsible for maintenance and/or premise care have a duty to maintain a safe environment for invitees.

RESPONSE: Denied as stated. Defendant further responds that Walmart owed its customers the duty to exercise ordinary care to keep the premises in a reasonably safe condition.

7. Admit that Defendant knew or should have known that unmaintained wooden pallets with loose, rusty nails were being placed in areas where invitees passing through was or should have been foreseeable.

RESPONSE: Denied.

8. Admit that the placement of unmaintained wooden pallets with loose, rusty nails in areas where invitees passing through is or should be foreseeable presented a dangerous condition for those shopping on the premises.

RESPONSE: Denied as stated as, upon information and belief, no unmaintained wooden pallets with loose, rusty nails were present in the subject areas of the store at the time of the alleged incident.

9. Admit that on June 26, 2015, Defendant knew or should have known that unmaintained wooden pallets with loose, rusty nails were being placed in areas where invitees passing through was or should have been foreseeable of Wal-Mart #630.

RESPONSE: Denied.

10. Admit that Defendant had a duty to make regular inspections of the Wal-Mart #630 premises.

RESPONSE: Denied as stated. Defendant Walmart admits that it owes its customers the duty to exercise ordinary care to keep the premises in a reasonably safe condition.

11. Admit that Defendant failed to make regular inspections of the Wal-Mart #630 premises around the time and location of the incident which is the subject of this lawsuit.

RESPONSE: Denied.

12. Admit that Defendant knew or should have known that unmaintained property can present dangerous conditions and/or hazards to invitees.

RESPONSE: Denied as stated as, upon information and belief, no unmaintained property was involved in the subject incident.

13. Admit that on June 16, 2015, Defendant failed to warn Plaintiff of the dangerous condition of the unmaintained wooden pallets and rusty nails.

RESPONSE: Denied. Defendant further specifically denies that any unmaintained wooden pallets with rusty nails were present in the subject area(s) of the store at the time of the alleged incident.

14. Admit that on June 26, 2015 Defendant did not follow internal safety policies and procedures that pertain to the incident which is the subject of this lawsuit.

RESPONSE: Denied.



Lee Ellen Bagley, SC Bar No. 77672

Nashiba Boyd, SC Bar No. 78376

GAFFNEY LEWIS & EDWARDS, LLC

3700 Forest Drive, Suite 400

Columbia, South Carolina 29204

803.790.8838 (office)

803.790.8841 (fax)

Attorneys for Defendants

December 6, 2017

In The Matter Of:

*Jones v.
Ringer, et al.*

Tim Ringer
April 5, 2019



*Janice D. Hayward, RMR
Independent Court Reporter
843.478.6756
JanHayward1@gmail.com*

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF FLORENCE) CASE NO. 2017-CP-21-1375
3
4

5 APRIL JONES,)

6 Plaintiff,)

7 -versus-)

8 TIM RINGER, INDIVIDUALLY AND AS)
9 EMPLOYEE/AGENT OF WAL-MART)
10 STORES, INC. D/B/A WAL-MART)
11 STORE #630; WAL-MART STORES,)
12 INC.; AND WAL-MART STORES EAST,)
13 L.P.,)

14 Defendants.)
15 -----
16

17 WITNESS: TIMOTHY B. RINGER

18 DATE: Friday, April 5, 2019

19 TIME: 10:20 a.m.

20 LOCATION: Anastopoulo Law Firm
21 150 West Evans Street
22 Florence, South Carolina 29501

23 REPORTED BY: Janice D. Hayward, RMR
24 NCRA Registered Merit Reporter
25 240 Oak View Way
Summerville, South Carolina 29483
843.478.6756
JanHayward1@Gmail.com

Janice D. Hayward, RMR
843.478.6756

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5
6 APPEARANCES

7 For Plaintiff Lane D. Jefferies
Anastopoulo Law Firm
8 32 Ann Street
Charleston, South Carolina 29403

9 For Defendants Nashiba Boyd
10 Gaffney Lewis
3700 Forest Drive, Suite 400
11 Columbia, South Carolina 29204
12
13
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15
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1 (Timothy B. Ringer, after being sworn, testified
2 as follows:)

3 EXAMINATION

4 BY MR. JEFFERIES:

5 Q Good morning, Mr. Ringer. We met off the
6 record but just for the record my name is
7 Lane Jefferies. I represent the plaintiff in this
8 matter in which you've been named as a defendant due
9 to your relationship with Walmart.

10 So if you can put your full name
11 on the record for me.

12 A It's Timothy Blake Ringer.

13 Q Mr. Ringer, do you currently work at
14 Walmart?

15 A Yes.

16 Q And what is your position there now?

17 A I'm store manager.

18 Q All right. How long have you been store
19 manager?

20 A At that location?

21 Q Yes, at that location.

22 A Approximately five years.

23 Q So that would go back to twenty -- let's
24 see, it's 2019, so 2014?

25 A Um-hum.

1 Q Were you a store manager at another
2 location -- well, let me back up and ask that a
3 different way. When you say at that location, which
4 location do you mean?

5 A At the one we're discussing today.

6 Q Which is the --

7 A 230 North Beltline Drive.

8 Q 230 North Beltline.

9 All right. And is there an
10 internal term that you all use for that store? Does
11 it have a store number?

12 A Store 630.

13 Q 630.

14 And people typically call it
15 what, like the Florence store, or do you just refer
16 to it by number?

17 A It's usually West Florence.

18 Q West Florence.

19 Throughout the rest of the
20 deposition we're going to talk primarily about this
21 particular store, Number 630, 231 North Beltline,
22 West Florence store, so if I say the store, that's
23 what I'm going to mean.

24 A Yes. Certainly.

25 Q Prior to being the store manager of the

1 West Florence store were you store manager somewhere
2 else?

3 A Yes.

4 Q Where was that?

5 A Hartsville, South Carolina.

6 Q And for about how long were you store
7 manager at Hartsville?

8 A Fourteen, 15 years.

9 Q What caused you to decide to move from
10 Hartsville to the Florence, West Florence store?

11 A Just job opportunity.

12 Q Very nice.

13 Prior to your 14 or 15 years as
14 store manager of the Hartsville store what were you
15 doing?

16 A I was still employed with Walmart in
17 different roles.

18 Q Okay. Department manager, that sort of
19 thing?

20 A I was actually hired in as a customer
21 service manager, became a support manager,
22 assistant manager.

23 Q So kind of worked your -- are you a
24 lifelong Walmart employee?

25 A 25 years.

1 Q Congratulations. Very nice.

2 Worked your way up?

3 A (No audible response.)

4 Q Is there a step beyond store manager? Do
5 you have aspirations to go to corporate or is store
6 manager like kind of where you want to be?

7 A I'm comfortable.

8 Q That's good. We find in a lot of
9 corporate settings that people move up one step
10 beyond where they're happy.

11 A Yeah.

12 Q And then they realize that there's no
13 going back. So you're a wise man. Stop where
14 you're happy.

15 As you'll remember, the lawsuit
16 here -- I think you'll remember, lawsuit here came
17 out of an incident that occurred on June 26th of
18 2015 in which Miss April Jones was shopping in the
19 Walmart store at West Florence.

20 A Yes.

21 Q All right. And you were store manager on
22 the date of that incident, June 26, 2015?

23 A Yes.

24 Q All right. Do you know about the incident
25 which Miss Jones stepped on the nail and had an

1 injury to her foot?

2 A I read the incident reports. I had
3 conversations with people who took the reports.

4 Q Who were the people who took those
5 reports?

6 A Kevin Lane was a co-manager who was --
7 as I recall, I don't believe I was even in the
8 building. Kevin would be like my direct report --
9 he reports directly to me. So he was in the
10 building that day. He was involved with it.

11 Ayesha Cook was an assistant
12 manager who actually input the information into our
13 computer system that we log in incidents or
14 accidents into.

15 Beyond that at this point in
16 time I couldn't tell you who was directly involved
17 with it.

18 Q Okay. So you remember speaking to
19 Kevin Lane and Ayesha Cook and may have spoken to
20 others, but --

21 A Yeah, been a while.

22 Q Been a while.

23 Do you have any personal
24 knowledge of the incident itself? And what I mean
25 is knowledge that you gathered directly with your

1 own senses, like you saw it, smelled it, touched it,
2 tasted it, heard it?

3 A No.

4 Q None of that. Okay.

5 And you weren't there that day?

6 A No.

7 Q All right. So what you know about the
8 incident you know from Kevin Lane, Ayesha Cook and
9 maybe some others?

10 A Um-hum.

11 Q Okay. Tell me what you have learned from
12 Kevin Lane, Ayesha Cook and others involving the
13 incident with April Jones on June 26, 2015.

14 A That customer came into the store,
15 allegedly stepped on what she said was a nail, and
16 she, on the day that it happened, she stepped on
17 the nail, she continued to shop. She went up to
18 our service desk to report what she said happened.

19 And Kevin took the information
20 that day, he took the information from her. He, you
21 know, offered her assistance if she needed any
22 assistance. There was no request for an ambulance
23 or anything along those lines.

24 Q What did Ayesha Cook do?

25 A As far as I know all she did was

1 literally enter the information into the computer
2 system.

3 Q Okay. You don't know if she actually
4 spoke with Miss Jones?

5 A No, I couldn't speak to that, no.

6 Q All right. Is there anything else that
7 you can think of that you learned about the incident
8 from Kevin Lane, Ayesha Cook or anyone else?

9 A Other than -- no, not really.

10 Q Do you recall the area of the store in
11 which this took place? And I'm thinking really two
12 things. I should clarify.

13 There's some video, we'll look
14 at that later, that shows Miss Jones with a bloody
15 sock and pulling a nail out of her foot. Apparently
16 that -- you don't actually see her step on the nail
17 in that video. So there's another area in the store
18 where she apparently stepped on the nail.

19 Do you have any idea where those
20 areas are right now? And we'll look at the video.

21 A To my understanding it took place in
22 what we refer to as an action alley, a grocery
23 action alley which is a main aisle where we put
24 displays in the stores.

25 Q Let me ask you about terminology within

1 the stores just so I'm understanding. When I go
2 into a Walmart, or really any store like that of
3 that type, see a bunch of shelves that look to me to
4 be essentially permanent. You know, they're always
5 there, they're always in the same place.

6 A Side counters.

7 Q Tell me what you call those.

8 A Side counters.

9 Q Side counters. Okay.

10 And those are permanent
11 essentially?

12 A Yes, they're nonmoving.

13 Q All right. And then there are other
14 things, sometimes I'll see a display in an area one
15 week, I'll go back the next week, there's nothing
16 there, just floor space. What do you call those
17 kinds of displays that are not permanent?

18 A I mean, we just refer to them as
19 displays. We refer to them as stack bases which
20 are like a plastic, a hard plastic mold that you
21 would stack merchandise on top of --

22 Q Okay.

23 A -- that is mobile.

24 You can also have other types of
25 fixturing that you can build displays on as well.

1 Q And what sort of things would you choose
2 to put on the stack bases or other kind of movable,
3 nonpermanent displays?

4 A High volume merchandise. It could be
5 new items, seasonally relevant items.

6 Q Do you all have -- I know in the
7 restaurant business we have terms, front of the
8 house, back of the house, that sort of thing, to
9 distinguish the area where the customers are from
10 the kitchen and other employee-only areas.

11 Do you all have that same kind
12 of terminology in a Walmart or how do you talk about
13 the area where the customer is? What do you call
14 that?

15 A Sales floor.

16 Q Just the sales floor? All right.

17 And then everything else in the
18 store is --

19 A Actually you have the sales floor and
20 you have a back room.

21 Q Okay. Is there much in the back room?
22 I've never been off the sales floor of a Walmart.

23 A There's quite a bit.

24 Q Is there? Okay.

25 And that's all inventory waiting

1 to come out?

2 A Yes.

3 Q All right. So walk me through this
4 process. Inventory shows up at a Walmart presumably
5 in a truck. How does it then -- what's that process
6 from it being on the truck to it being out where I
7 as a customer can pick it up and buy it?

8 A Depends on the source that it comes
9 from. The majority of our merchandise comes from
10 our Walmart Distribution Centers. And they come
11 in on trucks that we unload by hand. We pick up
12 each individual box, put it on a system of rollers
13 that's a belt, that you send it down a line, it's
14 sorted, it's put onto carts or pallets.

15 And then at the designated time
16 which generally is overnight, starting about
17 10 o'clock at night that merchandise will be taken
18 to the floor when you have a lower traffic count in
19 a building and the merchandise is then placed on the
20 shelves.

21 Q And that's the majority of merchandise.
22 Is there stuff that comes in, the minority that
23 comes in from elsewhere other than your distribution
24 center?

25 A Direct store deliveries, whether that

1 be, an example would be a vendor, would be a
2 Pepsi-Cola vendor or a Frito-Lay vendor or
3 something like that, they bring their merchandise
4 in, we check it in, and they actually stock the
5 merchandise to the shelves themselves.

6 Q Okay.

7 A And then there's other merchandise that
8 comes in through common carriers that would be
9 unloaded and again we would go through the process
10 of checking it in, and then based on what it is,
11 you know, size and everything, on how we transport
12 it to the floor.

13 Q Is there a reason that certain things
14 would come in by common carrier?

15 A Certain stuff comes directly from a
16 vendor or manufacturer that doesn't go through our
17 warehouse.

18 Q Who makes that decision about whether
19 stuff goes through a warehouse or comes directly --

20 A Way above me.

21 Q Okay. You don't know who that is but
22 somebody in corporate?

23 A (No audible response.)

24 Q All right. What about all the food items,
25 do those -- let me back up. Not all the food items.

1 Obviously you just talked about Pepsi and Frito-Lay
2 and other things that come directly to the store.

3 A Now, our grocery trucks, they'll come
4 in, that stuff is palletized, it's already
5 palletized.

6 Q Is that common carrier?

7 A No, that comes in through Walmart trucks
8 as well. That comes in as palletized. We pull it
9 off the truck, we unstack it from the pallets, we
10 sort it, we put it onto carts, and then that is
11 rolled out to the floor and then stocked on the
12 shelves. And that can be dry grocery, frozen,
13 dairy, or any of our, what we consider fresh
14 product.

15 Q And that grocery is also from a Walmart --

16 A -- Distribution Center, yes.

17 Q Walmart Distribution Center. All right.

18 So aside from those four, I'll
19 call it four ways, the majority of stuff coming from
20 a Walmart Distribution Center, some stuff coming
21 directly to the store from a vendor such as, for
22 example, Pepsi, other things coming by a common
23 carrier, a truck line, and then finally grocery
24 items coming from the Walmart Distribution Center,
25 is there any other way that inventory gets onto the

1 sales floor besides those four sources?

2 A No. So that would encompass 99 percent.

3 Q All right. And you can't think of
4 anything else, that other tenth of a percent or
5 whatever, you can't think of any other way it would
6 get there?

7 A Not off the top of my head, no, sir.

8 Q All right. If I'm understanding you
9 correctly, of the four ways we talked about, three
10 of them involved Walmart people actually getting the
11 material off of a truck and putting it on the sales
12 floor.

13 The fourth would be vendors like
14 Pepsi who actually bring the items into the sales
15 floor themselves and put it on the floor?

16 A Yes.

17 Q Okay. And I'm guessing that it's a
18 relatively modest number of big sort of vendors who
19 actually deliver items to the sales floor. Like a
20 small vendor wouldn't do that, or would they?

21 A It varies. I mean, we have quite a few
22 vendor partners that handle their own merchandise
23 inside.

24 Q Do you have any idea, and I know you might
25 not know the exact number, but roughly just give me

1 an idea of scale. Is that half a dozen? A dozen?
2 A hundred? And I'm thinking just of your store,
3 outside vendors that actually set their own people
4 onto your sales floor to stock merchandise.

5 A I'd say at least a dozen.

6 Q Okay. Can you think of any of those dozen
7 or so -- I know it might be more, might be less --
8 any of those dozen or so vendors that deliver
9 inventory directly to your sales floor that would
10 use a wooden pallet either to bring that inventory
11 actually onto the sales floor, bring the pallet onto
12 the floor, or would have the inventory stacked on a
13 pallet maybe when it arrives in a truck?

14 A Most vendors don't use pallets, most of
15 them use hard plastic mold pallets.

16 Q Okay. Are you aware of any outside
17 vendors that do use a wooden pallet in your store,
18 and specifically would have used it back around the
19 time of April Jones' injury?

20 A I can't think of anyone that would
21 because, again, most of the vendors that deliver
22 palletized freight where they bring their own
23 18-wheelers, they use and have used the plastic
24 mold pallets for a long time.

25 Many of the other vendors that

1 come in, they literally deliver on hand trucks
2 through our back door.

3 Q Okay. And I think I've seen that like
4 with a Pepsi delivery that's coming in and hand
5 trucks getting wheeled out there and stacked up.

6 A Okay.

7 Q Who would know in your store who all the
8 vendors were back in June of 2015 and in the few
9 months prior who were actually delivering
10 merchandise into the sales floor themselves?

11 A I mean, we still have some I'm sure that
12 I know that were delivering then and deliver now.
13 As far as a full vendor listing, I'd have to do
14 some research on that. I don't know a full list
15 to be able to tell you.

16 Q Okay. And that would be -- is there
17 somebody in your store who coordinates that or is
18 that coordinated --

19 A That would be more, we would have a
20 listing of people that can come in, but somebody
21 come in every day, somebody come in once a month,
22 somebody coming in every -- you know what I'm
23 saying, there's a big variance in there.

24 Q Do they have to like check in or
25 something?

1 A Yes.

2 Q Okay. Who would they check in with?

3 A They check in with, back at our
4 direct/DSD area, our people checking it in.

5 Q Tell me what that term means.

6 A Direct store shipments.

7 Q Direct store shipment. Okay.

8 A Yeah.

9 Q Direct store shipment.

10 Who is in charge of that direct
11 store shipment department now in your store?

12 A Hourly associates that operate right
13 there.

14 Q Would you have records of who was working
15 in the direct store shipment department back in
16 April, May, June of 2015?

17 A I'm sure we could go back and look at
18 it.

19 Q Okay. And do you know, and I know you
20 might not know this 'cause I know you sit at the top
21 of this organization so you probably don't see every
22 single form that somebody laid down for you to sign,
23 but do you have any idea the kinds of records they
24 keep, say Pepsi shows up, I'm the Pepsi guy here to
25 deliver Pepsi, is there like a form or something --

1 A It's changed. It's updated over the
2 last few years.

3 Q Okay.

4 A Whereas everything at some point even
5 through 2015 would have been checked in
6 electronically using handheld terminals.

7 Q Okay.

8 A Back then -- and again, I can't remember
9 the progression of the changes we've made, but
10 there was a day and time there were paper
11 invoices, which now you don't generally see a
12 whole lot of paper invoices. Most everything's
13 done electronically.

14 Q So somewhere, whether it's paper or
15 electronic, there would be a record of what --

16 A There would be a record of --

17 Q -- outside vendors brought stuff in in
18 April, May, June of 2015?

19 A Yes.

20 Q And we could get that by talking to
21 Walmart's attorney, Miss Boyd, she could find that
22 for us somehow?

23 A Yes.

24 Q Okay. The inventory that arrives on
25 wooden pallets, are you aware of whether it's an

1 outside vendor or whether it's stuff coming from
2 your distribution center? It arrives on wooden
3 pallets. Are there instances where it gets
4 delivered to the sales floor actually on that wooden
5 pallet?

6 A What do you mean, delivered?

7 Q So what I mean is is there an instance
8 where the wooden pallet actually, instead of being
9 unloaded, the wooden pallet along with the inventory
10 gets out onto the sales floor?

11 A Yes.

12 Q Okay. And is there any generalization
13 about what types of items would go out to the sales
14 floor on a wooden pallet or is it kind of all over
15 the map?

16 A All over the map.

17 Q All right. Could be food, could be stereo
18 equipment, just could be whatever came on a wooden
19 pallet?

20 A Yeah.

21 Q Okay. What sort of truck arrives that's
22 got a wooden pallet with some kind of inventory on
23 it and it's one of those instances where the wooden
24 pallet is actually going to go out onto the sales
25 floor, is there any sort of safety check that's

1 performed on that pallet, not just for nails but for
2 anything, like whether it's stable enough to be out
3 there, it's not going to collapse and topple over
4 onto people or rough edges that somebody could get
5 hurt on or nails or whatever, is there any kind of
6 safety check that Walmart does before that pallet
7 gets out onto the floor?

8 A If you have to stack a pallet, we call
9 it a bump test where you want to make sure that
10 the merchandise is stacked stable.

11 Q Tell me about a bump test.

12 A You just give it a little push to make
13 sure that it was stable and it wasn't going to
14 just topple over easily.

15 Q Okay.

16 A If something is questionable, they need
17 to use shrink-wrap to wrap the merchandise to the
18 pallet.

19 Q Okay. Anything else you do, before that
20 pallet with its merchandise gets out on the floor,
21 any other safety inspections that are done? And it
22 doesn't have to be highly technical. I'm just
23 thinking anything you do to inspect to make sure
24 that it's safe for people to be around it before it
25 goes out on the floor.

1 A No.

2 Q We talked earlier about permanent displays
3 which I think you described as side counters, side
4 counters?

5 A Side counters that never move.

6 Q That never move.

7 A Right.

8 Q So that's one thing. Pallets and
9 merchandise wouldn't have anything to do with that
10 'cause that merchandise actually goes onto those
11 shelves, right?

12 A Right.

13 Q Okay. So if there were merchandise on a
14 pallet, it would be out there on one of the movable
15 displays?

16 A On a stack base.

17 Q On a stack base. Okay.

18 And so tell me about how that
19 would work. Is that just -- let's think of
20 something for an example. I don't know what might
21 come on a pallet, but something that's on a pallet,
22 some grocery item that comes in on a pallet.

23 Pallet and the items get brought
24 into the store and they're set down. Does anything
25 happen after that or is that just the display just

1 the way it is?

2 A I'm not sure I understand what you're
3 saying. But as far as anything that's displayed
4 on a stack base, it's hand stacked onto it.

5 Q Okay.

6 A We literally would take it off of a cart
7 or a pallet and you would stack it onto that --

8 Q Onto that base?

9 A -- that stack base.

10 Q What is that stack base? Describe that to
11 me.

12 A 4x4 black plastic, hard plastic mold.

13 Q How high is it?

14 A About six inches off the ground.

15 Q Okay. And that just, instead of stacking
16 the merchandise directly on the floor, that just
17 provides something for it to sit on?

18 A Yeah.

19 Q Okay. So if merchandise came in on a
20 pallet, it gets stacked from the pallet onto the
21 stack base, the pallet then gets picked up and
22 leaves the sales area?

23 A (No audible response.)

24 Q Is there ever a time where that pallet and
25 its merchandise would stay in the sales area and it

1 become the display?

2 A That's not a general practice. Not
3 going to say it never ever can happen but it's not
4 a general practice.

5 Q Because typically a display would be the
6 stack base?

7 A Yes.

8 Q Is there a policy or anything about that?
9 Like how do you know to do that? Why would somebody
10 not just bring in a pallet and put it there?

11 A Because they're ugly.

12 Q Because they're ugly. Fair enough.

13 You said as a general practice
14 you would remove items from the pallet, put them on
15 to the stack base, but that you couldn't be certain
16 that a pallet was never just set in there as a
17 display.

18 Is that -- who would be in
19 charge of that? Like who would walk around the
20 store and say, hey, guys, I see we got in all these
21 Keurig machines and you put them out on display on a
22 pallet. That's ugly. Get rid of that. Let's put
23 them on a stack base. Who is that? Like a
24 department manager that does that?

25 A Department manager could do it, an

1 assistant manager could do it, a co-manager could
2 do it. I could do it. I mean, anyone who
3 understands the basic expectations of merchandise
4 display would be able to speak to that.

5 Q All right. Whose responsibility is it to,
6 if let's say it's in the grocery section, I'm just
7 saying like reporting lines. If you walked through
8 the grocery section as the general manager and saw
9 something like that and said, man, I don't like this
10 at all in my store, who would you be going to to
11 say, hey, why did you not fix this? Whose, like,
12 responsibility is it to look after that?

13 A Again, it could be a department manager,
14 an assistant manager, it could be an hourly
15 associate that works in the area that I saw them
16 with hands on it. Why did you do this?

17 Q And so you have department managers that
18 handle certain areas of the store?

19 A Yes.

20 Q How many of those do you have in round
21 numbers?

22 A Somewhere between 25 and 30.

23 Q Okay. And I'm guessing if you have
24 between 25 and 30 department managers you do not off
25 the top of your head remember who all of them were

1 back in April, May and June of 2015?

2 A No, sir.

3 Q How could we find out who they were back
4 in April, May and June of 2015?

5 A You'd have to go back through the
6 personnel records.

7 Q Is that something that Miss Boyd could get
8 for us from Walmart?

9 A Yes, that would be something she would
10 have to follow up on.

11 Q So if I understand you correctly, with
12 respect to wooden pallets, what you've said is you
13 can't guarantee that they've never ended up staying
14 on the sales floor, but that's not what Walmart
15 wants to happen, that's not what you want to happen.

16 If that happens and you spot it
17 or somebody else spots it you say, fix it, get those
18 off of the sales floor?

19 A Yes.

20 Q Would there be any record made necessarily
21 of that happening or is that just something that,
22 you know, you see it, you say to the guy, hey, get
23 this thing out of here, and it leaves?

24 A There's no written record, no.

25 Q There wouldn't be any written record.

1 Okay.

2 Would there be any video record
3 of that sort of thing? The reason I ask that is
4 this. This incident took place over three years
5 ago. I don't know how long Walmart keeps video.
6 You take a lot of video. Would you still have video
7 records dating back that far?

8 A Unless it was burned onto a DVD, it
9 wouldn't be. Our data bank would not hold
10 information for that time period.

11 Q Do you know how long it does hold it for?

12 A 60 days.

13 Q 60 days. Okay.

14 So if an incident, something is
15 reported to you all within 60 days you can capture
16 the video, outside of that, you might have it but
17 you might not?

18 A It also depends on where it took place,
19 if there were cameras in that area.

20 Q Are there areas of a Walmart that aren't
21 covered by camera?

22 A Yes.

23 Q Wow.

24 MS. BOYD: And I tell you guys that
25 all the time.

1 BY MR. JEFFERIES:

2 Q I'm shocked, yeah, I'm amazed.

3 Do you have any idea why there
4 would be uncovered areas?

5 A The actual square footage. You wouldn't
6 want a camera near a fitting room or a dressing
7 room, would you?

8 Q Fair. Right.

9 A Yeah, that's just -- my particular store
10 is over 200,000 square feet.

11 Q Wow. And you might not know the answer to
12 this question, but of that, do you have any idea
13 what the square footage that isn't observed by
14 cameras might be?

15 A I have no idea.

16 Q Is it half, or?

17 A I have no idea.

18 Q Do you have anything to do with the camera
19 placement coverage and all that or is that
20 corporate?

21 A I do not have any direct say on that. I
22 can request a camera to be moved or for a
23 placement, but there is a whole division of our
24 company that handles all that, asset protection
25 handles all that.

1 Q Asset protection. Okay.

2 Do you know the name of a
3 particular contact there, or?

4 A That would probably be something
5 Miss Boyd can get for you.

6 Q Miss Boyd can get that. Okay.

7 I know you mentioned that you
8 don't like having wooden pallets on the floor 'cause
9 they're ugly, that you use them sometimes to
10 transport inventory out to the floor, unload it,
11 take the pallet away.

12 Is there any sort of written
13 policy that says that's how you do it? Like how
14 would somebody know that?

15 A I'm not aware of a written policy that
16 says that you use pallets to transport
17 merchandise. But it is a common practice to be
18 able to move merchandise based off the size and
19 the quantity.

20 Q And I'm thinking more of not a policy that
21 says use the pallet to move it, but a policy that
22 says if you use the pallet to move it, don't leave
23 that pallet out there, take the pallet away.

24 Is there something that if I
25 were a new Walmart employee, how would I know that

1 I'm supposed to unload that wooden pallet and not
2 leave it out on the floor?

3 A Oh, we train all of our associates that
4 you do not leave an empty pallet. If for some
5 reason something has to sit on the floor for a
6 short period of time until you can transport
7 something from one place to the other or replace
8 something on it, they're all trained to put some
9 type of an object on the corners so it doesn't
10 become a trip hazard.

11 Q Like around the four corners of the thing?

12 A Yes.

13 Q And so that would be, in terms of that,
14 what they call a policy or training item, that would
15 be in some sort of training manual?

16 A Yes.

17 Q Okay. And with the training manuals, is
18 that something that's kept there in the store or is
19 that off --

20 A All the training is all online.

21 Q That's all online. I got you.

22 So if we wanted to see what the
23 training manual has to say about unloading pallets
24 or if you have to leave pallets, et cetera, there
25 wouldn't be a sheet of paper, it would be something

1 electronic that Miss Boyd could get for us?

2 A All our training is done online.

3 MS. BOYD: And I'm just going to
4 purport to you that Walmart will give it
5 to you in paper form, a printout of the
6 electronic version. So, yeah, we can give
7 it to you electronic versus the
8 proprietary video.

9 It's just like the transcript
10 and photos of what they see. They're
11 called computer-based learning or CBLs is
12 how they --

13 MR. JEFFERIES: And so what the
14 employee sees is a video and audio but
15 what you'll produce to us are still video
16 shots and a transcript of the audio?

17 MS. BOYD: Yes.

18 MR. JEFFERIES: Which is much better
19 for my purposes than the actual video in
20 any cases. Maybe not as good for Jan
21 because I'd have to hire her to transcribe
22 it, so.

23 MS. BOYD: Yes.

24 BY MR. JEFFERIES:

25 Q All right. So to the extent there's a

1 policy about what to do with pallets when they come
2 out on the sales floor, really, it's in that
3 training?

4 A Yes.

5 Q Okay. And that would include any safety
6 precautions or anything like that?

7 A Yes.

8 Q Let's look at a slightly bigger picture.
9 What's Walmart's vision as a company?

10 A To provide lost-cost merchandise,
11 pleasant shopping experience to our customers.

12 Q And is that mission communicated down
13 through the chain of command down to the
14 lowest-level employees in the store?

15 A Sure.

16 Q And how do you do that? Is it company
17 meetings or is it posters or how do you communicate
18 that mission?

19 A All of the above.

20 Q Anything else besides, I guess
21 computer-based learning as well, is that -- would
22 that be right?

23 A From the day that they're orientated,
24 first day of orientation we talk about the focus
25 is customer service, taking care of our customers,

1 providing them the best price. Save money, live
2 better. I'm sure you've probably heard Walmart's
3 message out there before.

4 Q I have. You all have a pervasive
5 advertising program.

6 A Yeah.

7 Q That works.

8 What about safety, does Walmart
9 have a particular mission with respect to customer
10 safety in the stores or a particular, you know, kind
11 of guiding principle with regard to safety in the
12 stores?

13 A Sure.

14 Q What would that be?

15 A It begins with the training of the
16 associates. Everyone has to go through basic,
17 what I call basic training. And then it can be --
18 become more specialized based on the area that you
19 are working in.

20 But everyone goes through a very
21 in-depth training process through their CBLs as she
22 spoke to earlier. We have safety teams within our
23 building. Our safety teams meet on a weekly basis.

24 I myself sit in on the safety
25 meetings weekly along with other salaried members of

1 management and hourly associates. Safety is talked
2 about on a regular basis within the meetings that we
3 have.

4 We personally, we will have
5 multiple meetings per day with each shift. I'm not
6 about to sit here and tell you that every single
7 meeting that was ever held, that, you know, a safety
8 topic is covered, but safety is discussed in these
9 meetings.

10 Q And what sort of topics with respect to
11 safety would you discuss? Say, you know, I know you
12 might not talk about it every single day, but over
13 the course of a month what kind of safety topics
14 would you emphasize?

15 A For us one of the biggest opportunities
16 we have from an associate standpoint would be
17 proper lifting procedures. We call it staying in
18 the green zone.

19 From a customer standpoint, just
20 like today, I'm sure my team had their meeting this
21 morning while I was en route here talking about make
22 sure that we have the wet floor cone signs out, the
23 dry mops at the front door, the rugs down at the
24 front door, everybody's got a towel in their pocket.

25 We actually refer to it as a TIP

1 program, T-I-P, towel in pocket. So as you walk
2 through the store, you see water that has come in
3 off of someone's umbrella, a shopping cart or
4 whatever, you stop and wipe it up. We talk about
5 that. I mean, those are just general things that we
6 would discuss.

7 Q And I know the wet floor thing is huge.
8 Anything else that comes up with respect to
9 customers' safety, anything else that comes up
10 frequently?

11 A We'll discuss the fact that make sure
12 that we -- you know, if you see it, pick it up.

13 Q And that would apply to really I guess
14 anything that's on the floor?

15 A I would -- I wouldn't want to share with
16 you all the things I picked up off the floor.

17 Q I can imagine.
18 Is your store -- back at the
19 time, back in April, May, June of 2015, was your
20 store 24 hours a day?

21 A Yes.

22 Q Are they all that way now?

23 A No.

24 Q Do you have any idea how Walmart decides
25 which ones are 24 hours, which ones aren't?

1 A Not my pay scale.

2 Q Understood.

3 Now, you talked about a safety
4 team. Tell me about the personnel with that. Is
5 there like a director of safety or some title like
6 that?

7 A It's an hourly associate that has shown
8 the ability to want to step up and take on extra
9 roles within the store. They have a salaried
10 manager sponsor that helps them. They conduct the
11 actual meetings themselves and the sponsor will be
12 at the meetings.

13 Topics are put out monthly by
14 the home office, specific topics that need to be
15 covered in those meetings. Different talking
16 points, things of that nature come down for them to
17 be covered when they have those meetings. We have
18 safety meetings and we have compliance meetings.

19 Q What's the difference between the safety
20 meetings and the compliance meetings?

21 A Lot of it's bleed-over, quite honestly.

22 Q And compliance would be like compliance
23 with Walmart's policies?

24 A (No audible response.) Which ties
25 directly into a lot of the safety issues.

1 Q Lot of safety issues.

2 Those monthly directives that
3 come out about topics to be addressed, is that
4 electronic?

5 A Yes.

6 THE WITNESS: I'm sorry.

7 MS. BOYD: She's recording you so if
8 you'll just try to say --

9 THE WITNESS: Yeah.

10 BY MR. JEFFERIES:

11 Q Could we get from Miss Boyd those monthly,
12 what do you call them, bulletins?

13 A Yeah, I mean, they're safety topics.

14 Q Safety topics. Is that something we could
15 get from Miss Boyd for the, you know, 12 months,
16 let's say, prior to June of 2015?

17 A I feel like that would be something she
18 could provide.

19 Q Excellent.

20 MS. BOYD: I'm getting a lot of
21 homework here.

22 BY MS. BOYD:

23 Q What about security in the -- in your
24 store. Is there a -- how is that handled? Is there
25 a separate like security department that handles

1 that?

2 A Are you talking about security from a
3 loss prevention standpoint? Security -- I'm not
4 sure.

5 Q Yeah, I think that would be a big part of
6 it. Are there other aspects of security that you
7 think about besides loss prevention?

8 A We have in-house loss prevention that
9 monitors the store for theft.

10 Q Okay.

11 A They also, you know, of course, are
12 involved with looking at anything that may seem
13 suspicious within the facility.

14 Q Right. Okay.

15 A But that's our in-house, yes, we do
16 that.

17 Q And is that run by a special -- is that
18 like its own department with a department head, or
19 how is that?

20 A There's an assistant manager that's over
21 that at this time. In 2015, I'm trying to think
22 back, they were also a salaried member of
23 management at that time as well, yes.

24 Q And that's something I know you don't know
25 all that off the top of your head. That's

1 something, again, that in terms of an organizational
2 chart for your store, that's something we could get
3 from Miss Boyd that shows --

4 A Yes.

5 Q -- who the people were and who reported to
6 whom.

7 A Yes.

8 MS. BOYD: And I believe, I'm just
9 going to clarify for the record, you
10 earlier talked about asset protection.
11 That's loss prevention. When you said
12 interchangeably, so it's one department.

13 MR. JEFFERIES: Asset prevention/loss
14 protection.

15 THE WITNESS: Asset protection is
16 what it's referred to currently; was loss
17 prevention.

18 MR. JEFFERIES: Loss prevention. Got
19 you.

20 BY MR. JEFFERIES:

21 Q So that is the department, it has a
22 salaried manager, et cetera. Safety is not a
23 department of its own. It is like a program that is
24 run by an hourly person with a particular manager
25 that kind of sponsors?

1 A And the salaried manager from asset
2 protection is what we refer to the sponsor.

3 Q Okay. So that person is the sponsor,
4 'cause they kind of go hand in hand?

5 A Yes.

6 Q Is there a separate budget for the safety
7 component versus the asset protection component?

8 A As far as what type of budgetary --

9 Q Well, I'm guessing, and I don't know but
10 I'm guessing in your store there's a certain amount
11 of your store budget that's dedicated to that -- to
12 the asset protection department. They've got to
13 hire people, certain numbers of people, they got to
14 spend money on things, I don't know what all those
15 things might be, but that they have a particular
16 budget that they have to work in? Or maybe that's
17 not the way it is. I don't know how your store is
18 set up.

19 A They don't have -- my budget is for my
20 store, and all actions within that store with the
21 exception of a pharmacy is -- comes out of one
22 bucket, so to speak. Does that make sense?

23 Q Right. Yeah. And then everything else
24 comes out of another bucket, essentially, the entire
25 rest of the store. There's -- the pharmacy is its

1 own thing?

2 A Pharmacy has its own P and L. They have
3 their own budget, their own P and L that they
4 answer to. And the rest of the store falls under
5 the total store, even though the pharmacy does
6 roll up into my profitability.

7 Q So it's not the case -- I was thinking
8 about this, maybe I'm wrong, but if I were the
9 manager of the electronics department, I don't have
10 my own electronics department budget for which I'm
11 responsible?

12 A No.

13 Q Okay. I'm just responsible for managing
14 those people and getting stuff out on the shelves,
15 right, and all that?

16 A Yes.

17 Q All right. Do you know or could you find
18 out what the store budgeted towards security, that
19 asset protection department, back in 2015?

20 A I don't know that you would find a line
21 item on the budget for something that vague as far
22 as security. Because there are different things
23 that would fall in that, whether it be supplies,
24 whether it be wages, whether it be different
25 things.

1 Q Is that not something that Walmart tracks,
2 like what it spends on its asset protection?

3 A It does, but there again, it would --
4 each of those different things has a different
5 line item within a P and L within a budgetary
6 situation. I mean, it's nothing that I would see
7 that would say we spent -- you have a \$15,000
8 budget for asset protection for the month of June.
9 It's not broken down that way.

10 Q Okay. I was thinking in terms of like
11 Walmart analyzing it. If you had no asset
12 protection program, certain stuff would get stolen
13 out of your store; we just know that would happen.
14 Probably certain stuff gets stolen anyway.

15 And if you're spending, I don't
16 know, let's say half a million dollars a year to
17 reduce theft by only a hundred thousand, well, would
18 be cheaper just to let them steal it. So I'm
19 wondering if Walmart analyzes that, looks at --

20 A I'm sure at some level they do.

21 Q But not your store?

22 A Not a store level.

23 Q Do you analyze in any way the expenses
24 associated with safety? Like you mentioned the
25 towel-in-pocket program. You mentioned dealing with

1 rain is a big issue, I'm sure.

2 Do you have any idea how much
3 money you spend to do that, to make sure that those
4 umbrella bags are out there and that everybody has a
5 towel that you obviously had to buy somewhere?

6 A I'd have to go back, it would be
7 something we would have to go back and look at.
8 Those actually fall under supplies and not safety.

9 Q All right. So it's not something that,
10 safety is not something that's broken out separately
11 in the budget?

12 A No.

13 Q And if I wanted to know more about your
14 store budget, are you the best person to talk to
15 about that or do you have like a financial person
16 that --

17 A I would recommend that that would go
18 through corporate finance.

19 Q Corporate finance?

20 A (No audible response.)

21 Q Any particular person there?

22 A I have no idea. That's a whole nother
23 world.

24 Q Okay. Why don't we do this. Why don't we
25 take a brief break, I'm going to pull up some video.

1 We have hours of video, we are not watching hours of
2 video.

3 A Okay.

4 Q All I want to do with the video is have
5 you tell me what part of the store I'm looking at.
6 I think it should be self-evident from the labels,
7 but I just want to make sure I understand what I'm
8 looking at in the store.

9 So let's take a brief break
10 while I get that up and we'll come back together and
11 get that done.

12 MS. BOYD: Sure. Okay.

13 MR. JEFFERIES: We can go off the
14 record.

15 (Recess.)

16 MR. JEFFERIES: Let's go back on the
17 record and we'll just look at these videos
18 real quick.

19 BY MR. JEFFERIES:

20 Q All right. So we are now about to look at
21 what was labeled clip number two. And these are
22 all, Mr. Ringer, these are all videos that were
23 provided by Miss Boyd to us. You can see the date
24 on this video is June 26th, 2015.

25 Do you recognize the area of the

1 store depicted in that video?

2 A Yes, sir.

3 Q All right. What area is that?

4 A We refer to that as grocery action
5 alley.

6 Q Okay. And does it look like -- what's off
7 to the left of it? Is that like a McDonald's
8 symbol? Is there a McDonald's?

9 A There's a McDonald's at the front of the
10 store.

11 Q At the front of the store. Okay.

12 And grocery action alley is this
13 main kind of -- main sort of hallway through the
14 store that leads out to the doors we see in the
15 video?

16 A Yes.

17 Q And in the center of that are various
18 displays.

19 A Yes.

20 Q And are those permanent displays or
21 movable displays or something --

22 A They're movable.

23 Q They're movable. Okay.

24 What would be off to the right
25 on this?

1 A Those would be the grocery side
2 counters.

3 Q Okay. So in this grocery action alley,
4 this is the sort of area where if someone brought
5 merchandise in on a pallet, and contrary to
6 Walmart's policy, didn't immediately unstack it and
7 remove the pallet, that's the kind of area where
8 that pallet would end up, is that right, versus over
9 here to the right inside the side counter aisles?

10 A Pallets can be pulled anywhere in the
11 store.

12 Q Okay.

13 A I mean, they're not restricted to only
14 that area.

15 Q Okay. So a wooden pallet could be
16 virtually anywhere within the store, not
17 necessarily --

18 A Yeah, I mean, you can pull it down those
19 aisles.

20 Q Okay. So if a nail were to fall off of a
21 pallet, there's nowhere in particular in the store
22 you would expect that to happen? That could happen
23 anywhere in the store?

24 MS. BOYD: Objection to form of the
25 question.

1 You can answer.

2 BY MR. JEFFERIES:

3 Q You can go ahead and answer.

4 A I'm sure anything could fall off of
5 anything anywhere in that store. I mean, it could
6 be anywhere.

7 Q Okay. Is there any particular policy,
8 protocol, anything like that to essentially sweep
9 visually or physically the store for items that do
10 end up on the floor, not just big things but small
11 things like a pallet nail, that sort of thing?

12 A As I told you earlier, we train all of
13 our associates to visually see anything on the
14 floor, to pick it up. We do safety sweeps every
15 hour and a half to two hours where a member of our
16 maintenance team or another associate, because a
17 lot of times things need attention before
18 maintenance can get there, and they will get a
19 broom, what we call a dustmop, which is
20 approximately, what, three feet, and they'll go
21 through an area and sweep the floor to make sure
22 that trash and debris or whatever the case may be
23 on the floor is swept up.

24 Q And that safety sweep occurs every, what
25 did you say, hour, hour and a half?

1 A About hour and a half, two hours.

2 Q Are there any kind of records of that or
3 is that just something that happens?

4 A That's just something that happens.
5 There's no written documentation.

6 Q Is there a way to -- how do you know that
7 it actually gets done?

8 A If you saw a bunch of dirt on the floor
9 you'd know it hadn't been done. Physically see
10 the people on the sales floor with broom in hand
11 going up and down the aisles.

12 Q Okay. So there's no -- I'm thinking about
13 like I go in the bathroom at a gas station and on
14 the back of that door there's that checklist that
15 says this bathroom was checked at 11 o'clock by Bob.
16 And presumably that's how the manager knows that
17 somebody actually checked the bathroom.

18 Is there anything like that so
19 we would know, for instance, nail falls off of
20 pallet on this particular area?

21 A No.

22 Q No way to know whether anyone went down
23 that area, is there?

24 A There is no way -- there is no chart
25 that we check off that says this was completed at

1 this time, no.

2 Q So if you had on any given day some of
3 your less-motivated employees, that might not get
4 done every hour, hour and a half?

5 A Or I can have extra-motivated employees
6 that get it done every 30 minutes.

7 Q And there's no way to really know.

8 A Not for sure, no.

9 Q And even with regularly motivated
10 employees, something could be on the floor for an
11 hour, hour and a half before that sweep actually
12 happens?

13 A There's always a possibility. You know,
14 we can't control everything that takes place in
15 the building with the amount of customers that we
16 have coming in and out of the building on a daily
17 basis.

18 We do our very best to maintain
19 a clean environment, but we can't guarantee that a
20 customer is not going to bring something in
21 themselves and drop it on the floor.

22 Q Customer ever bring a wooden pallet in the
23 store?

24 A Can't say that I've ever seen a wooden
25 pallet brought in the store, but I see plenty of

1 times customers come in the store and spill their
2 drink on the floor and walk right away from it.

3 Q I've seen that too.

4 As to the outside vendors -- let
5 me go back to an earlier question. As to the
6 outside vendors that do bring merchandise into the
7 store, that dozen or whatever it is, are you aware
8 of any of them that would bring in merchandise on --
9 using wooden pallets back in April, May, June of
10 2015?

11 A I'm not aware that I could specifically
12 say this vendor uses wooden pallets to bring
13 merchandise into the facility. To the best of my
14 knowledge even five years ago the majority of the
15 vendors were using the plastic mold pallets.

16 Q So if merchandise was transported into the
17 store to be unloaded using a wooden pallet, that
18 would have been a Walmart employee that used that
19 wooden pallet, unloaded the merchandise and then
20 took the wooden pallet back out?

21 A Say that one more time.

22 Q So if the vendors didn't use wooden
23 pallets to bring stuff into the store, if a wooden
24 pallet came into the store with the merchandise on
25 it to be unloaded on the shelves --

1 A There are vendors that will use -- they
2 will bring the stuff in on hand trucks themselves
3 into the store. And they sometimes will use a
4 wooden pallet to then transfer their merchandise
5 to transport it.

6 Q Okay. So some combination, if the wooden
7 pallets back in April, May, June of 2015 were in
8 your store, that could have been Walmart employees
9 bringing them or it could have been outside vendors
10 bringing them in?

11 A Yes, they could have come to the floor
12 with pallets, yes.

13 Q And you just don't remember any particular
14 vendors who would have done that with wooden
15 pallets?

16 A No.

17 Q Any sort of safety instruction or anything
18 you'd give to those outside vendors, say, hey, you
19 need to watch out for this, especially if you're
20 bringing wood pallets into our store, you need to do
21 X, Y and Z to make sure you leave the place as safe
22 as you found it?

23 A For me, all vendors know that there's to
24 be no pallets on the floor.

25 Q Left on the floor?

1 A On the floor.

2 Q Oh, okay.

3 A After 8 o'clock in the morning. They
4 have until 8 o'clock in the morning. If they need
5 to use a pallet to take merchandise to the sales
6 floor, whether it's a wooden pallet or a plastic
7 pallet, doesn't matter, they need to be off the
8 floor by 8 o'clock.

9 Q By 8 o'clock.

10 Is that a written policy or
11 something you just tell them?

12 A That's something I share with them.

13 Q Okay. And is that -- what motivates your
14 desire to have all those gone by 8 o'clock?

15 A For the convenience of the customers not
16 to have -- we have enough stuff on the floor
17 between displays and people and everything else,
18 we don't need to add to the disruption of the
19 traffic flow by having additional things on the
20 floor.

21 Q What about Walmart employees, do you have
22 the same instruction for them, if you bring
23 something in on a pallet, you got to have it gone by
24 8:00, or can they do that kind of throughout the
25 day?

1 A We try to keep that to a very bare
2 minimum especially with pallets. That's the
3 reason we try to use carts to move merchandise
4 around the store.

5 Not saying that we don't ever
6 roll a pallet to a floor, but generally if something
7 is -- needs to go onto a pallet to go to the sales
8 floor, it's something that someone will stay with
9 and quickly stock the merchandise off the pallet.

10 Usually, you know, it shouldn't
11 take more than ten or 15 minutes to remove the stuff
12 from the pallet to its final destination, I guess
13 would be the best way to put it.

14 Q Right.

15 A And then it's taken off the floor
16 immediately.

17 Q Okay. And if a Walmart employee did that
18 and took the pallet off the floor and on the way out
19 a nail from the pallet comes out 'cause it's just
20 loose, it could be spotted immediately but it might
21 be hour, an hour and a half before the regular
22 safety sweep goes by?

23 MS. BOYD: Object to form.

24 BY MR. JEFFERIES:

25 Q Is that right?

1 A I mean, I guess anything would be
2 possible. I mean, we generally ask people
3 especially with a pallet, that if they bring a
4 pallet out to the floor, to inspect the area and
5 clean it up.

6 Q Is that some sort of written policy or is
7 that just something you tell people when you see
8 them?

9 A That's just, you know, something we
10 share with them.

11 Q When you say share, you mean share like
12 orally, just tell them?

13 A Yes.

14 Q Okay. Anything else about this video clip
15 number two that you think is important to tell me?

16 A No. I mean, that's what we refer to it
17 as is grocery action alley.

18 Q All right. This is video number three,
19 video clip number three. Again, same date. Do you
20 recognize that area of the store?

21 A That is the grocery side self checkout.

22 Q And where would that be in relation to the
23 grocery action alley that we just looked at?

24 A It's about ten feet before you go into
25 it, slightly to the right.

1 Q Oh, okay. So as you enter the store you
2 pass by this area before you kind of got into the
3 action alley?

4 A Yes.

5 Q Anything else about this clip number three
6 that you think is important with respect to what
7 we're talking about being here, the injury to
8 Miss Jones?

9 A No, sir.

10 Q Clip number four. Again, same date,
11 June 26, 2015. What is that we're looking at?

12 A Produce department.

13 Q Where is that in relation to the grocery
14 action alley in clip number two?

15 A That would be immediately prior to going
16 in the grocery action alley on the left-hand side
17 as you would enter the building.

18 Q And as we look at this beginning frame,
19 we're not going to watch the video unless you want
20 to, but as we look at this beginning frame we see
21 like a long shelf full of appears to be fruits and
22 vegetables kind of in the center.

23 Off to the left there appear to
24 be like lower displays, do you see where I'm
25 pointing to, lower displays of some kind of fruit or

1 vegetables, maybe watermelons or something? What
2 would those be? Are those permanent displays?

3 A Those are tables.

4 Q Those are tables? Okay.

5 And so they have like some kind
6 of skirting around them or something?

7 A Those are sides hanging. Those are leg
8 tables.

9 Q Okay. Same thing like here, this?

10 A That is a refrigerated case. That's a
11 metal open refrigerated case.

12 Q And that's things like --

13 A That's like strawberries or something
14 like that that would be in it.

15 Q Strawberries, those are fresh things that
16 need to stay cold?

17 A Yes.

18 Q And that's right there underneath that
19 sign that says produce? That's where we see --

20 A Yes.

21 Q Further up here, I know this is hard to
22 see, I don't know what that is toward the top
23 center. Can you tell what kind of display that
24 would be?

25 A Those are probably watermelon bins.

1 Q And would they be on tables, refrigerated
2 cases? How would they be?

3 A Those are heavy cardboard bins that are
4 on pallets that have melons on them.

5 Q And we can't see well enough to tell
6 anything I don't think about the pallets in here,
7 but would those be plastic pallets, wooden pallets
8 or any way to know?

9 A They could be either actually.

10 Q If a pallet were to remain in the store, I
11 know you say you don't generally like that, but if
12 it were to remain in the store, is that why, like if
13 you'd get a ton of watermelons in on a pallet, is
14 that probably the --

15 A I mean, if a watermelon bin comes in and
16 it's on a pallet, yes, it's going to stay on the
17 pallet.

18 Q Because it weighs a flipping ton.

19 A Yes. It's made to ship that way.

20 Q All right. I think that's
21 self-explanatory, video clip number five looks like
22 the parking lot.

23 A Yes.

24 Q Anything special about this parking lot I
25 should know?

1 A No.

2 Q Okay. Clip number six, again, June 26,
3 2015, the label says deli. Is that -- tell me where
4 that is in relation to --

5 A That's the grocery entrance, the self
6 checkout we identified earlier, that's part of it
7 on the left-hand side. The produce department is
8 there to the right-hand side. You can actually
9 see some tables there with what appears to be
10 watermelons.

11 Q How can we tell, just for my education,
12 how can we tell that these are tables versus those
13 heavy cardboard boxes?

14 A I just recognize that's a table. That's
15 a faux wood panel --

16 Q Okay.

17 A -- on that. And you can actually see at
18 the bottom, the darkness is a gap, those are on
19 legs.

20 Q Those are on legs. Okay. So these are in
21 video clip number six. Those are tables with
22 watermelons.

23 And video number four?

24 A As far as that one was in the back -- it
25 possibly could be those tables too, I can't tell.

1 The front one appears to be a table. The one with
2 that sign, with that red sign, right there where
3 your cursor is, that would appear to be a table.

4 Q And the others could be tables or they
5 could be those heavy cardboard boxes?

6 A Yes.

7 Q And it wouldn't surprise you if they were
8 those heavy cardboard boxes?

9 A No.

10 Q And there's no way to tell, I think you
11 said and I agree that there's no way to tell if
12 those are heavy cardboard boxes, whether they're
13 sitting on plastic pallets, sitting on wooden
14 pallets?

15 A My eyes aren't that good.

16 MR. JEFFERIES: I don't have a video
17 clip number seven.

18 MS. BOYD: Or one.

19 MR. JEFFERIES: Is that the smoking
20 gun? Is that the one you don't want me to
21 see?

22 MS. BOYD: No. I don't have a one or
23 a seven either.

24 MR. JEFFERIES: Jan, please put in
25 the record that I'm smiling when I say

1 that, not implying that Miss Boyd is
2 hiding anything from us.

3 BY MR. JEFFERIES:

4 Q Customer entrance overhead, June 26, 2015,
5 is there anything special about that video?

6 A No, sir.

7 Q Okay. Clip number nine, action alley
8 register overview, it says June 26, 2015. Where
9 does this fall in relation to the earlier clips we
10 were looking at?

11 A This is the same self checkout. You can
12 tell by the --

13 Q Just from a different angle?

14 A Yes, different angle, just encompasses
15 more of that front main aisle that runs across the
16 front part of the store.

17 Q And where in relation to this frame of
18 clip number nine, where would the grocery action
19 alley be?

20 A It's going to be back off to the left.

21 Q Off to the left? Out of view?

22 A Out of view, yes.

23 Q Okay.

24 A So this is that same view from the
25 opposite end.

1 Q Okay. Clip number ten is the same view
2 looking kind of down the other way?

3 A This is from the GM side. Where
4 everything we looked at previously has been on the
5 grocery side, this is on the GM side.

6 Q When you say GM you mean general
7 merchandise?

8 A The general merchandise side which some
9 people call it the pharmacy entrance and things
10 like that because the pharmacy is right there.
11 But this just looks again across the front of the
12 store.

13 Q All right. Is clip number 11 different
14 from ten at all or is that the same view?

15 A That's actually the same view.

16 Q Same angle looking from that general
17 merchandise side?

18 A Yes.

19 Q Clip number 12, what are we looking at
20 there in clip number 12?

21 A That is the back side of the grocery
22 action alley with the -- and the reason I can
23 identify it is 'cause that's the infant department
24 on the left-hand side.

25 Q On the left, okay.

1 A I recognize the sign for the counters
2 that were over there.

3 Q So we're at the back of the store now
4 looking out toward the front?

5 A Yes.

6 Q And in the top right corner, it's a very
7 light area, would that be like the doors going
8 outside?

9 A Yes. Yes.

10 Q Through the middle of this pathway that
11 leads up to those doors, looks like there's a number
12 of displays. The first one has something stacked
13 up, 5.98.

14 A Chips. Is that Frito-Lay?

15 Q Chips. Excellent. Glad I didn't see
16 that. One something something. These displays, are
17 they, can you tell, are they on tables? Are they on
18 pallets? What are they?

19 A I can tell you the one that's in that
20 white box-looking thing, the dollar whatever, that
21 one with your cursor?

22 Q Right.

23 A That actually is what we refer to as a
24 half PDQ. It's a two-by-four, but you can
25 actually see the wooden pallet is up on top of a

1 plastic stack base.

2 Q So this one, it's kind of in the middle of
3 the frame towards the top, white, it's really the
4 second display up from the bottom, right?

5 A Yes.

6 Q Okay. And what you're saying there is
7 that's --

8 A You can see that wood. Move your cursor
9 up.

10 Q Down here at the bottom?

11 A See that light color right there where
12 your cursor is?

13 Q Yes.

14 A That's wood. That's a pallet. But then
15 you see there's a gap between that and the floor.

16 Q Right.

17 A And that is sitting on a plastic stack
18 base.

19 Q Okay. So stack base goes on the floor,
20 then that wooden pallet with the merchandise goes on
21 top of that?

22 A (No audible response.)

23 Q And can you tell, is that bottled water,
24 is that what that is?

25 A I have no clue.

1 Q I got you. It is what it is.

2 A Chips I can recognize. Much beyond
3 that, I can tell that that's probably gallon water
4 on the left-hand side on the other end cap but
5 that's --

6 Q Got you. And this is video clip
7 number 12, June 26th, 2015, 11:31. So as you said,
8 that's wooden pallets sitting on the plastic stack
9 base. Do you have any way of knowing whether the
10 nail in Miss Jones' foot did or did not come out of
11 that wooden pallet in the store?

12 A I have no way of knowing anything like
13 that. But I can tell you in order for us to put
14 that pallet on that stack base, it had to be done
15 in the back room.

16 Q It would be -- tell me what you mean by
17 that. It was like put onto the stack base in the
18 back room?

19 A (No audible response.)

20 Q Okay.

21 A Because for us, you're not going to
22 manually lift one of those things.

23 Q A pallet full of water that weighs a ton?

24 A Right. So we have a piece of equipment
25 in the back that would be able -- it's like a

1 forklift.

2 Q Right.

3 A But you can lift it up, and then you can
4 set it on top of that stack base.

5 Q Okay.

6 A But you can't bring it out -- you don't
7 bring it out to the floor to do it, you do it all
8 in the back room.

9 Q How did it get out to the floor then?

10 A Then you put a pallet jack underneath
11 the plastic stack base --

12 Q -- jack it up --

13 A -- and roll it out.

14 Q That way you get the whole thing out?

15 A (No audible response.)

16 Q Is there a reason you would do that versus
17 just putting that pallet full of, let's say it's
18 water, pallet full of water straight on the floor?

19 A Again, they're ugly and they cause trash
20 and other things.

21 Q Okay. So you put it on that stack base
22 and then you take it out there?

23 A And it's just easier for us to move, to
24 be quite honest with you.

25 Q Yeah.

1 A I can move it around a whole lot easier.

2 Q When you say it causes trash and other
3 things, what do you mean by that?

4 A Wood is going to splinter.

5 Q Okay. 'Cause it's wood.

6 A It's going to splinter.

7 Q All right. So that's video clip
8 number 12.

9 Now we're going to 13. Same
10 date. That's just the entrance?

11 A We refer to it as a vestibule. That's
12 the grocery side vestibule.

13 Q So if somebody passed through this grocery
14 side vestibule, come in from the outside from the
15 right, they cross over, they exit through those
16 doors on the left?

17 A The right side is coming in from the
18 parking lot.

19 Q Okay.

20 A The left side is going into the store.

21 Q Going into the store.

22 That would put them headed
23 toward that action alley?

24 A Right.

25 Q Okay. And just to make sure I'm matching

1 this up with number 12 right, on 13, they come in
2 from the parking lot on the right, they pass
3 through, they go through the doors on the left.
4 Would that put them entering this video clip number
5 12 up here kind of toward the top?

6 A All the way at the top.

7 Q All the way at the top. All right. So
8 they come through those doors at 13 and now they're
9 headed down here from the top right of 12 toward
10 kind of the center of the screen, past what we
11 talked about, that pallet of water or whatever it
12 is, wood pallet on the stack base?

13 MS. BOYD: Object to form.

14 A That's right at frozen food.

15 BY MR. JEFFERIES:

16 Q So you would have to get all the way to
17 the back of the store by the time you got there?

18 A Yes.

19 Q Can you tell if any of these others in
20 video clip number 12 are the same way or can you
21 tell at all?

22 A They all from what I can see, that black
23 footprint are all black stack bases.

24 Q Okay. Can you tell what's on top of the
25 stack bases heading back up here, whether it's

1 wooden pallets, plastic pallets or what?

2 A I can't from that.

3 Q Could be either potentially?

4 A (No audible response.)

5 Q Okay. All right. We're almost through
6 with these videos. This is number 14. I'm not
7 going to show you number 14. It's a top down view
8 of a register. I can't imagine that it is going to
9 be interesting to us.

10 16 is a view of the parking lot
11 once again.

12 17. 17, again June 26, 2015.
13 What are we looking at there?

14 A Again, that's the grocery action alley
15 that we have been looking at. It's just a
16 different view from near the beginning of it
17 toward the back.

18 Q Okay. So when we were looking at -- this
19 one is number 17. We're looking from toward the
20 front of the store toward the back of the store?

21 A Yes. The doors, the black square at the
22 very back there, that is the doors that goes back
23 into our back room, so that's looking toward the
24 back of the store.

25 Q Are there other doors like that into the

1 back room?

2 A Yes.

3 Q So depending on where you're going in the
4 store you might come out of one set of doors or
5 another from that back room?

6 A Yes.

7 Q Okay.

8 A There's two sets of doors that are that
9 size.

10 Q Got you. And so this merchandise that's
11 all through the center of this action alley that
12 we're looking at, I know you probably can't say for
13 certain which set of doors it came out, but odds are
14 it would have come out of this set of doors here at
15 the frame versus the other set that's way down in
16 the store somewhere?

17 A I'd say that's probably a high
18 probability of that, yes.

19 Q All right. And to tie this one back into
20 video clip number 12, 12 would have been shot
21 looking -- shot from the top of this scene looking
22 back towards this camera in 17?

23 A Correct.

24 Q Can you tell in any of this merchandise
25 here that's in the center of the action alley in

1 video clip number 17, I think you said it looks like
2 it's all sitting on stack bases, can you tell if
3 there are any pallets on top of those stack bases?

4 A Doesn't appear to be.

5 Q Doesn't appear to be. Okay.

6 Is there any way to know that
7 back on June 26, 2015 or in the weeks, couple months
8 leading up to that, how many other displays there
9 would be where there were wooden pallets sitting on
10 stack bases?

11 A There's no way.

12 Q No way to know.

13 So there's at least one 'cause
14 we saw it but there could be others, or maybe not
15 others?

16 A True.

17 Q Okay. But at least that one?

18 A True.

19 Q I'm going to ask you some other questions
20 you may or may not know the answer to. If you don't
21 know, it's fine to say you don't know, but if you do
22 know, just tell me what the answer is.

23 Who is the best person to talk
24 to about Walmart's policies and procedures that
25 relate to employees' responsibilities for the

1 store's grounds, the actual sales floor?

2 A I don't know. That would be corporate.

3 Q Who would be the best person to talk to
4 about Walmart's policies and procedures for
5 employees handling products, equipment, hardware,
6 pallet jacks, anything like that?

7 A All of that would be in the training,
8 the CBLs.

9 Q Do you know anything about that yourself?

10 A Sure.

11 Q Tell me, kind of give me an overview of
12 what you know.

13 A As far as what specifically?

14 Q I'm thinking as it would relate to safety,
15 and specifically customer safety, not so much
16 employee safety, since customer safety is the issue
17 here.

18 A Again, could you be a little more
19 specific? You've mentioned multiple things.

20 Q Yeah. So we'll kind of break it apart.
21 Walmart has policies and
22 procedures that relate to employees using pieces of
23 equipment, is that right?

24 A Yes, 'cause you have electric equipment
25 and you have manual equipment. The manual pallet

1 jacks I guess is what you're referring to?

2 Q Any kind of pallet jack.

3 A The manual pallet jacks, the ones that
4 we manually have to pump up and use our own arms
5 and legs to pull?

6 Q Right.

7 A Okay, the use of these is that you have
8 to move at a pace that you can stop quickly.
9 You're supposed to keep your hand on the, it's
10 like a handle that, if I pulled it, it would
11 trigger to drop immediately to keep you from
12 running over someone, something or anything else.

13 Q Right.

14 A Electric pallet jacks generally are not
15 taken to the sales floor. If they are, they have
16 to have someone operating it in a yellow vest and
17 a spotter in a yellow vest. And they're equipped
18 with horns and everything else.

19 Q Right. And the concern there is you don't
20 want to run over somebody or into somebody?

21 A Yes.

22 Q And other policies and procedures that
23 relate to that would be something we could get from
24 somebody at corporate?

25 A Yes.

1 Q Okay. Are you personally aware of
2 Walmart's policies and procedures for determining
3 which of your employees are best suited to make sure
4 that the store is safe?

5 MS. BOYD: Object to the form.

6 BY MR. JEFFERIES:

7 Q So what I mean is you mentioned that there
8 were certain hourly employees that would be on that
9 safety team with a salaried manager managing them.
10 How does Walmart determine that? What are the
11 policies and procedures for determining who's best
12 to be on the safety team?

13 A The safety team is actually volunteer
14 for people who show an interest. And then they
15 come to us, they say, I'm interested in being on
16 the safety team. And then we decide whether or
17 not we feel like that that would be a good match
18 based off of work history, performance. And then
19 we make a decision whether or not to -- you know,
20 they would take part in the safety team.

21 Q What about other -- are there any other
22 factors you all consider in determining whether
23 that's the best person for the safety team?

24 A Well, everyone goes through the same
25 training. So the training is, you know, pretty

1 much the same for every associate that's in the
2 building 'cause everyone goes through the same
3 basic understanding of safety training.

4 Mostly what we look for, we look
5 for people that are motivated, that are willing to
6 step up and address situations, that have a demeanor
7 to step in when needed. Wouldn't want someone who
8 would rather put their head in the sand than address
9 the situation.

10 Q So it's primarily about motivation. You
11 get to take volunteers.

12 A Right.

13 Q Any particular -- I know you said
14 everybody goes through the same kind of safety
15 training. After these volunteers volunteer and you
16 say, okay, yeah, we'll put you on the safety team,
17 is there any additional training that those safety
18 team members go through?

19 A Yeah, we will give people different
20 responsibilities. So I'll give you an example of
21 one associate. She had received special training
22 on maintaining our spill stations. We have a
23 large amount of spill stations. I don't want to
24 throw a number out there. We have a large amount
25 of spill stations throughout our store that

1 require certain elements to be present at those.

2 Q Right.

3 A And she went through special training
4 and she -- that is her responsibility to go
5 through once a week to review the supply needs and
6 things of that nature of what needs to be ordered
7 through supplies to maintain those.

8 The people that are on the
9 safety team actually do -- we do sales floor tours
10 with them with a sponsor and other member of
11 management. As we walk the sales floor we focus on
12 potential safety opportunities, whether it be spill
13 station needs to be addressed, whether it be -- you
14 know, whatever may be out there that we teach them
15 to recognize opportunities.

16 Q And do you have a sort of a list of the
17 three, five, ten or whatever most common things that
18 you make sure you always address or do you really
19 just, it depends on what's out there?

20 A It's very much a focus as to what's out
21 there. We don't set up any hidden scenario-type
22 situations or anything like that. It's dealing
23 realtime 'cause that's what we deal with every
24 day.

25 Q So an unusual problem -- rain is something

1 that probably everybody gets trained on 'cause it
2 rains all the time.

3 A Sure.

4 Q Snow, probably not so much.

5 A Right.

6 Q Okay.

7 A But we also try to teach them to
8 recognize that if there's a piece of equipment
9 that is on the floor that could pose an issue to
10 an associate or customer, to recognize it and to
11 deal with that, you know, the importance of making
12 sure that any trash or debris on the floor is
13 dealt with. Yeah. Just along those lines.

14 Q And is there any -- that training, is that
15 formalized anywhere in writing, like this is what
16 you do and --

17 A It's referred to as store tours, safety
18 tours.

19 Q Okay. Do you participate in those
20 yourself?

21 A Yes, I do from time to time.

22 Q What about the store manager before you,
23 do you know anything about that person?

24 A I know who it was. I have no idea
25 whether they participated in them or not.

1 Q So you can vouch for the quality of
2 training that you did from the time you arrived but
3 you can't really say what happened before you got
4 there?

5 A I would be able to say that the --
6 everyone still was required to go through all the
7 same basic training. As far as how that
8 particular store manager presented or
9 participated, I can't speak to.

10 Q Okay. We were talking, Miss Boyd and I,
11 just when we were off the record, about a schematic
12 that shows the coverage areas of the cameras. I'm
13 going to ask her to get me one. Something she'd get
14 from corporate?

15 A Sure.

16 Q No objection --

17 A No.

18 Q -- to her doing that. Okay.

19 To your knowledge have you had
20 any, at this store, any other incidents, whether you
21 call them accidents, injuries, problems, whatever
22 issues, reports of issues that have taken place at
23 the store where your customers have not slipped on a
24 liquid but have injured themselves in some other way
25 with an object, whether it's stepping on a nail or

1 catching a toe on a corner of a display or whatever
2 that involves some kind of object?

3 A I'm trying to think because it all
4 becomes somewhat of a blur, to be quite honest
5 with you, especially over that time period, and
6 I'm thinking about two different stores.

7 I know there has been situations
8 to where someone has bumped up against a table and,
9 you know, scratched their leg. I know there's been
10 situations where someone's caught their foot.
11 Especially living in the south with flip-flops and
12 sandals, we have a lot of people who will bump their
13 foot up against something.

14 As far as stepping on top of
15 something, that doesn't ring a bell, no, sir.

16 Q Do you know who would be the best person
17 to ask about that who might know more?

18 A There would be a log of any incidents or
19 accidents that we enter into our computer system.

20 Q Okay.

21 A That would be able to give you any of
22 that type of information.

23 Q Do you know who keeps that log?

24 A That's all digital.

25 Q Okay.

1 A That's all digitally kept.

2 Q So that's something, again, we could get
3 from Miss Boyd from corporate?

4 A Yes.

5 Q Knowing that we are in the south and, as
6 you pointed out, people do often wear flip-flops and
7 other relatively minuscule items of footwear, are
8 there any special precautions that you all take that
9 you wouldn't take, say, in Maine where people are
10 wearing heavy boots?

11 A No, sir. That's, you know, that's
12 customer choice what they wear. As much as I'd
13 like to say don't wear flip-flops on a rainy day
14 when you come inside the store, I can't say that.

15 Q And there's nothing special you do to
16 prepare the store for the fact that we have more
17 folks coming in in flip-flops than they would in
18 Alberta, Canada?

19 A No, sir.

20 MR. JEFFERIES: Off the record.

21 (The deposition went off the record.)

22 MR. JEFFERIES: Let's go back on the
23 record and wrap up.

24 BY MR. JEFFERIES:

25 Q In your view, what is the obligation of

1 Walmart employees with respect to assisting injured
2 customers who get injured on the premises?

3 A We want to offer them assistance within
4 our means. We offer to -- well, we pose a
5 question to them if they're able to respond, do
6 you need medical attention? Do we need to call an
7 ambulance? Many times we'll say, do we need to
8 call a family member?

9 You know, we do everything in
10 our power to provide them comfort, and if minor
11 first aid is something that will help with the
12 situation, we'll do that.

13 I've done everything from
14 bandage something for a customer to offer them a
15 bottle of water to getting candy off the shelf to
16 give it to someone who's having a diabetic episode.
17 I mean, we try to take care of any minor type of
18 assistance we can provide them.

19 Q Do your employees at the store share that
20 same view that you just described?

21 A Yes.

22 Q How do you know that?

23 A Well, whenever we have an incident or an
24 accident we have what is referred to as a Code
25 White which notifies all of management that will

1 come across a radio and identify we have a Code
2 White at X location.

3 And management is required to go
4 to that location to see the circumstances. And when
5 we go to that location, while someone, I'm not going
6 to say the first person on site because I may be two
7 aisles over from it and go over, but someone else
8 will respond with paperwork, and within that, the
9 paperwork actually calls out each of those different
10 steps.

11 Q Was there a Code White with respect to
12 Miss Jones on June 26th of 2015?

13 A Again, I was not in the store to hear it
14 called. I know that I have seen the accident
15 forms from that day that were filled out that
16 would accompany that.

17 Q And is there anyone besides Kevin Lane and
18 Ayesha Cook who would know more about that?

19 A Again, without knowing who was scheduled
20 in the store that day, I wouldn't be able -- those
21 are the only two that I have documentation on.

22 Q And we could get other personnel records
23 from Miss Boyd from the corporate somehow?

24 A Yes.

25 Q Any of what you just described about minor

1 first aid, you know, getting a piece of candy for a
2 diabetic, et cetera, is any of that embodied in
3 written policies and procedures or is it kind of an
4 oral tradition as you talking to your staff about
5 it?

6 A There's actual training because we have
7 first aid kits throughout the store. People go
8 through training, you know, I mean, basic training
9 of a Band-Aid and antibiotic ointment. It's not
10 real in-depth. But we do even go into bloodborne
11 pathogen training and things like that with our
12 associates.

13 Q And that would be contained in manuals or
14 something that we can get?

15 A Again, it's all digital in that CBL.

16 Q Any particular training with respect to --
17 I know you mentioned like wooden pallets and wood
18 coming off and that sort of thing. Any particular
19 safety training with respect to handling of wooden
20 pallets that come into the store?

21 A Nothing specifically, no.

22 Q They're handled the same way you handle a
23 plastic pallet?

24 A Pretty much, yeah.

25 Q Any differences you can think of?

1 A Nothing I can think of, no.

2 Q Is there anything, is there somebody else
3 who might know more about that, might know more
4 about a policy that says handle wood pallets this
5 way, handle plastic pallets that way?

6 A Not that I'm aware of.

7 Q And you haven't seen any kind of written
8 policy?

9 A No, sir. The only thing that you'll see
10 around pallets is if you -- when you stack
11 pallets, when you literally have to lift them by
12 hand and stack them on top of each other, and the
13 fact that they're supposed to use a team lift, you
14 know what I'm saying, doesn't have anything to do
15 with anything on the sales floor really.

16 Q Okay. And that's really related mostly to
17 the safety of the employees who are lifting the
18 things?

19 A Yes.

20 Q Okay. Nothing in particular as to safety
21 of customers and employees in terms of looking for
22 pieces of wood falling off, nails falling off, that
23 sort of thing?

24 A Nothing specific to that, no.

25 Q Are people allowed to come in your store

1 barefoot?

2 A They are not supposed to. If we see
3 them come in we will ask them to please go out and
4 put on shoes.

5 If we come across them in the
6 store, we will ask them to do that as well. But
7 there again, you don't get to see every person that
8 walks in the front door when they first come into
9 the store.

10 Q Right. Have you ever managed a store
11 outside of South Carolina?

12 A No, sir.

13 Q Okay. I'm just wondering if you see a
14 higher number of people in bare feet, flip-flops,
15 that sort of thing, than other stores in Michigan or
16 somewhere else where it's colder?

17 A Well, I think that the probability of
18 people wearing flip-flops is much higher in South
19 Carolina than in Michigan.

20 Q I tend to agree.

21 MR. JEFFERIES: Let's go off the
22 record for a moment, Jan, I just want to
23 look at my notes real quick, and I think
24 we're done.

25 (The deposition went off the record.)

1 MR. JEFFERIES: Jan, let's go back on
2 the record real quick and look at 15.

3 BY MR. JEFFERIES:

4 Q Mr. Ringer, we're looking at video clip
5 number 15. Can you tell us where in the store that
6 is?

7 A Yeah, that is the aisle with side
8 counters with the, looks like laundry detergent
9 and household cleaners.

10 Q And where is that in relation to the
11 grocery action alley that we were looking at
12 earlier?

13 A That would be directly connected to the
14 grocery action alley.

15 Q Okay.

16 A Probably somewhere between halfway down
17 to three-quarters down that aisle.

18 Q So in terms of feet roughly, if I were in
19 the grocery action alley nearest here and then
20 wanted to walk into this video, how many feet away
21 would that be?

22 A They're connected.

23 Q Pardon me?

24 A They literally touch each other.

25 Q So just a step or two?

1 A Literally turn left, yeah.

2 Q Oh, okay. So there would be nothing
3 unusual -- you weren't there that day, so I
4 understand. There would be nothing unusual if a
5 customer such as Miss Jones did step on something in
6 the action alley, ending up in this video clip
7 number 15, looking at their foot, it's only feet
8 away potentially, it's not like she'd have to walk
9 half a mile to get there?

10 A No. It's literally connected.

11 Q Literally connected, so right there.

12 So absent a video camera
13 pointing right at the spot in the action alley, the
14 next best video camera would be one of these that
15 are right nearby, like number 15?

16 A Yeah, I mean, they give an overview of
17 the area.

18 Q Okay. Did you see any pallets or stack
19 bases in that video 15 or is it off that fixed
20 shelving?

21 A Should be off the fixed shelving.

22 Q Okay. I believe you're correct.

23 MS. BOYD: Did you show video three?

24 MR. JEFFERIES: Let's take a look.

25 Oh, yeah, video three is the --

1 MS. BOYD: Yeah, your video three and
2 my video three are different.

3 MR. JEFFERIES: Oh, okay.

4 MS. BOYD: This is the one I knew we
5 were missing.

6 MR. JEFFERIES: That's interesting.

7 MS. BOYD: Yes.

8 BY MR. JEFFERIES:

9 Q Well, let's look at what Miss Boyd has
10 provided that says video three, and mine and hers
11 are apparently different. Hers says customer
12 service overview, June 26th, 2015.

13 Can you tell us what part of the
14 store we're looking at there?

15 A That's the service desk.

16 Q And where would that be in relation to the
17 grocery action alley?

18 A That is actually on the GM side, right
19 as you would come in the GM entrance.

20 Q Okay.

21 A It's immediately right there,
22 immediately to your left as you would walk in the
23 door.

24 Q Okay. To recap, in the videos that we
25 looked at, you identified at least one wooden pallet

1 in the store on the date of June 26, 2015, is that
2 correct?

3 A One pallet that was on top of a stack
4 base, yes.

5 Q Right. Can't say whether there were any
6 others 'cause you can't see in the video?

7 A I didn't -- I couldn't say 100 percent
8 no but it appeared most of it was stack bases.

9 Q Stack bases. Okay.

10 Mr. Ringer, I think that's it
11 for me now. Miss Boyd might have some questions for
12 you. If she does, there's a chance I'll have a few
13 follow-up questions. But otherwise, that's it for
14 me.

15 A Okay.

16 EXAMINATION

17 BY MS. BOYD:

18 Q I just have one and it's about that video
19 that I showed -- well, I have identified as video
20 three that Mr. Lane did not have -- I mean, not
21 Mr. Lane, that Lane did not have.

22 MS. BOYD: Sorry.

23 MR. JEFFERIES: That's all right.

24 BY MS. BOYD:

25 Q I'm going to show a little snippet of that

1 video.

2 MR. JEFFERIES: Yeah. Please.

3 BY MS. BOYD:

4 Q Can you see that? I know mine is much
5 smaller than what was previously provided. I
6 apologize for that. Can you see that okay?

7 A Sure. Yes, ma'am.

8 Q Can you identify the person at the top of
9 the screen with the blue shirt and black pants on?

10 A That looks like my co-manager,
11 Kevin Lane.

12 Q Now, what does it appear that he's doing
13 in the video?

14 A He's bent over in front of somebody
15 sitting in a chair. It looks like he's got
16 something in his hand, whether it's -- looks like
17 he's wiping something. Looks like he has, you
18 know, something in his hand, looks like he's
19 wiping something.

20 Q Okay. Is this person sitting on the bench
21 an employee of Walmart?

22 A I would say not because they don't have
23 any -- they don't have like a vest or -- you know
24 what I'm saying?

25 Q Okay.

1 A And not to mention that they would be
2 way out of dress code.

3 Q In your opinion, does it look like he is
4 giving her some kind of first aid?

5 A Yeah, it looks like he's doing, he's
6 giving her a lot of attention. Looks like he's
7 giving her some -- yeah. I can't imagine any
8 other reason he'd be bent down in front of
9 somebody basically eye level with her knees.

10 Q Okay. And Mr. Ringer, are you familiar
11 with the type of pallet that Walmart sends to the
12 store from its distribution center?

13 A The majority of them are, we refer to
14 them as CHEP pallets. They're blue pallets.

15 Q Okay. And are those different from just a
16 normal pallet?

17 A They're much heavier.

18 Q Okay.

19 A They're built to sustain -- I assume
20 they are built to sustain much heavier weight
21 'cause they're much heavier when you pick them up.

22 Q Okay. And do you have any knowledge about
23 what they're constructed with?

24 A Wood and nails.

25 Q Okay. Wood and nails?

1 A Yes.

2 Q Do you know what size the nails are?

3 A I can tell you from my own personal
4 experience, because my son and I actually do
5 woodwork and we actually use pallets to build
6 things out of, most of those nails, because we
7 pull those pallets apart, most of those nails will
8 be at least two and a half to three inches long
9 that hold those pallets together.

10 Q Okay. And I'm going to show you a
11 photograph.

12 MS. BOYD: I'd like to mark that
13 Defendant's [Exhibit 1](#).

14 (Marked for identification was Defendant's
15 [Exhibit 1](#).)

16 BY MS. BOYD:

17 Q And I represent to you that this is the
18 nail that we measured and photographed at
19 plaintiff's counsel's office as the nail in question
20 for this incident. What size does that nail appear
21 to be from the photo?

22 A Barely an inch long.

23 Q Are these the type of nails that you're
24 used to seeing in the pallets?

25 A No, ma'am.

1 Q Have you ever seen these types of nails in
2 the pallets delivered to Walmart?

3 A No, ma'am.

4 Q All right.

5 MS. BOYD: I have no other questions.

6 EXAMINATION

7 BY MR. JEFFERIES:

8 Q I just have a quick follow-up. You
9 mentioned that the blue pallets are much heavier
10 pallets and those would come from the Walmart
11 Distribution Center?

12 A Yes.

13 Q Okay. Why do you call them blue pallets?

14 A 'Cause they're literally painted with
15 blue paint to identify them so that we can make
16 sure we send those back to the distribution center
17 for reuse.

18 Q Who do they belong to?

19 A That I don't know.

20 Q But you send -- you receive them, you
21 receive the blue pallets from the Walmart
22 Distribution Center and you send the blue pallets
23 back to the Walmart Distribution Center?

24 A Yes.

25 Q And they're built of wood and nails and

1 they're painted blue?

2 A They're not fully blue but, like, the
3 big wooden blocks are generally painted blue.

4 Q Okay. In the corners of these pallets
5 where the nails are driven in, when you see one of
6 these that's brand-new just the way it's built, how
7 many nails would you see in there typically?

8 A You can see anywhere from four to six
9 nails easily.

10 Q Okay. And these nails, when you've taken
11 certain pallets apart, you've observed two- to
12 three-inch long nails?

13 A Yeah.

14 Q How many pallets do you think you've taken
15 apart?

16 A Hundreds.

17 Q Back at the Walmart Distribution Center,
18 do you have any knowledge of what goes on there?

19 A No, sir.

20 Q When you get these blue pallets in, are
21 they all brand-new or do they use them over and
22 over?

23 A Pallets are reused.

24 Q They're reused.

25 They ever feel, for lack of a

1 better term, loose like they're getting -- they're
2 aging, wood chipping off?

3 A Sure.

4 Q Do you know what happens with those
5 pallets?

6 A We ship them back.

7 Q You ship them back?

8 A (No audible response.)

9 Q Do you know what the distribution center
10 does with them?

11 A No, sir.

12 Q Do you know what a pallet costs to buy
13 new?

14 A No, sir.

15 Q Walmart ever tell you that they just, if
16 they get loose, they just throw them away?

17 A No, sir.

18 Q Tell me about the pallets you've gotten
19 personally, how do you get those?

20 A I buy them.

21 Q You buy them?

22 A (No audible response.)

23 Q And they're, what, used, former -- are
24 they blue pallets are or are they just pallets?

25 A They're just pallets.

1 Q Okay. So the pallets that you're talking
2 about having pulled nails out of are not the blue
3 pallets that Walmart uses?

4 A No, but -- no, they're not the blue
5 pallets that Walmart uses.

6 Q Okay. Have you ever taken apart one of
7 the blue pallets that Walmart uses?

8 A I've seen them taken apart, yeah.

9 Q Where did you see that?

10 A I've seen them where the wood will split
11 on them and they will come apart and I've seen the
12 nails that are in them.

13 Q Did you measure those nails?

14 A Not with a ruler, but I can tell you it
15 was much longer than an inch.

16 Q The nails you saw?

17 A Yes.

18 Q Okay. Any way to say how long the other
19 nails were in there? Any way to know there wasn't a
20 one-inch-long nail in the pallet?

21 A There's no way to say beyond a shadow of
22 a doubt there would never be a one-inch nail in
23 there, no, but if you look at the width of a
24 pallet board which is going to be probably
25 minimally a half-inch to three-quarters inch

1 thick, right, in order to hold that on there, you
2 would want something more than an inch going down
3 to secure those boards.

4 Q When you initially construct that thing,
5 yeah.

6 A (No audible response.)

7 Q What about repairs, any idea of how the
8 repairs happen at the Walmart Distribution Center?

9 A No, sir, I have no knowledge of that.

10 Q So you could have a blue pallet that
11 starts off life great, starts getting a little
12 loosey-goosey, distribution center knocks a few more
13 nails into it to hold it together, back into service
14 it goes?

15 A I have no knowledge.

16 Q You wouldn't know either way?

17 A No, sir.

18 Q I'll show you a picture.

19 MS. BOYD: I have that printed if you
20 want it.

21 MR. JEFFERIES: Yeah, let's put it in
22 as an exhibit.

23 BY MR. JEFFERIES:

24 Q We're looking at this on the screen. Is
25 this the sort of blue paint that you're talking

1 about?

2 A Yes.

3 Q Okay. Does this look like a blue pallet
4 to you?

5 A Yes, sir.

6 Q Is that the -- the brown floor here, is
7 that the same color floor as in the Walmart there?

8 A Yes.

9 Q Okay. Does this look like a brand-new
10 blue pallet to you?

11 A No.

12 Q And why do you say that?

13 A Obviously has some wear and tear on it.

14 Q Pieces of wood chipped off, that sort of
15 thing?

16 A (No audible response.)

17 Q You see some nails in this blue pallet,
18 maybe one, two, three, four, five, maybe six, there
19 might be more, I can't really tell. Do they look
20 like they're in any sort of geometrical pattern?

21 A No. They look kind of random.

22 Q They look kind of random.

23 Is that how one of these blue
24 pallets looks when it's brand-new and you see it,
25 the nails are just kind of nailed in randomly on the

1 end, or are they more craftsmanlike put in?

2 A No, I don't think there's anything
3 craftsmanlike about a pallet.

4 Q So as you look at this blue pallet sitting
5 here on that Walmart brown floor, can you tell how
6 long any of those nails are?

7 A From that view, no. They're long enough
8 that they would have gone through that board on
9 top.

10 Q That little, that one that's, what,
11 three-eighths, half an inch maybe?

12 A Half-inch board.

13 Q Half-inch board.

14 Can you tell whether those are
15 all the original nails put in when the pallet was
16 built?

17 A No.

18 Q Some of them could have been added later?

19 A Could have been.

20 Q With respect to the one pallet that we saw
21 in the video earlier on June 26, 2015, do you have
22 any idea how long the nails were that were in that
23 blue pallet?

24 A Those I would say again were probably,
25 again, I don't -- I didn't take that pallet

1 apart --

2 Q So you don't know?

3 A -- but I deal with those type -- those
4 type of pallets are what I deal with and those are
5 generally two- to three-inch nails.

6 Q The ones you've seen?

7 A (No audible response.)

8 Q What about the other blue pallets that
9 could have been in the store that day, measure any
10 of those nails?

11 A No. I've said I've never taken any of
12 those apart purposefully.

13 Q What we've been talking about here is this
14 photograph that we're going to label Exhibit Number,
15 what are we up to? 3?

16 A I think 2.

17 MS. BOYD: I think that's yours. Oh,
18 mine is [Exhibit 1](#). I guess since you're
19 plaintiff --

20 MR. JEFFERIES: Yeah, call it
21 [Plaintiff's 1](#). I think that's all we're
22 going to have. [Plaintiff's 1](#), picture of
23 the nails in the blue pallet.

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

10

1 BY MR. JEFFERIES:

2 Q Mr. Ringer, do you have any idea who I
3 should speak to to learn what sort of
4 rehabilitation, if any, happens to these blue
5 pallets when they go back to the distribution
6 center?

7 A I have no idea.

8 Q Walmart corporate could tell us that?

9 A Walmart corporate would be the one to
10 contact, yes.

11 Q All right. In looking at this nail in
12 Defendant's [Exhibit Number 1](#), is there any way that
13 you can say that that nail didn't come out of a blue
14 pallet in your store?

15 A I can't say that it did or it didn't.

16 Q You just don't know?

17 A No idea.

18 MR. JEFFERIES: That's it for you?

19 MS. BOYD: I'm good.

20 MR. JEFFERIES: I'm good too. We're
21 done.

22 (Signature waived, and the deposition was
23 concluded at 12:16 p.m.)

24 ---oOo---

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

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

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

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

18 IN WITNESS WHEREOF I have hereunto set
19 my hand and seal this the 10th day of April 2019.

20
21
22
23 Janice D. Hayward, RMR
24 Notary Public, South Carolina
25 My Comm. Expires 10-10-22

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