

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HAMPTON COUNTY
Court of Common Pleas

Perry M. Buckner III, Circuit Court Judge
Brooks P. Goldsmith, Circuit Court Judge

RECEIVED

JAN 27 2016

SC Court of Appeals

Case No. 2011-CP-25-343
Appellate Case No. 2014-001196

Lydia Cook, ... Respondent,

v.

Regions Bank and Robyn Clevinger, ... Appellants.

RECORD ON APPEAL – VOLUME I

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**RECORD ON APPEAL
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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2011CP2500343

Lydia Cook

2013 NOV 20 AM 9:58

Regions Bank

Robyn Clevinger

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: CLERK OF COURT

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT FILED 11-20-2013
SIGNED BY JUDGE BUCKNER

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

John E. Parker PO Box 457 Hampton, SC 29924-0457

ATTORNEY(S) FOR THE PLAINTIFF(S)

John H. Tiller 134 Meeting St., 3Rd Floor Charleston, SC 29401

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Mylanda Nettles - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

Lydia Cook,

Plaintiff

v.

Regions Bank and Robyn Clevinger,

Defendants.

IN THE COURT OF COMMON PLEAS

2013 NOV 20 AM 9:18 Civil Action No. 2011-CP-25-343

FILED
CLERK OF COURT
HAMPTON COUNTY, S.C.

**ORDER DENYING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

This matter came before the Court upon Defendants' Motion for Summary Judgment. A hearing on this motion was held on November 14, 2013 in the Court's chambers in Colleton County. Present at that hearing was John Tiller on behalf of the Defendants and, by telephone, Johnny Parker on behalf of the Plaintiff. After considering the arguments of counsel, the applicable law, and legal memoranda submitted by the parties, the Court hereby DENIES Defendants' Motion for Summary Judgment.

FACTUAL FINDINGS

#1
Pmb
This action arises out of statements Defendant Robyn Clevinger allegedly made concerning Plaintiff Lydia Cook. On May 10, 2011, both Cook and Clevinger were employees of the Regions Bank branch in Hampton County, South Carolina. In Cook's Amended Complaint, several allegations are made against Clevinger. First, it is alleged that on May 10, 2011, Clevinger falsely accused Cook of physically assaulting her. Amd. Compl. ¶ 5. Second, it is alleged that Clevinger published this false accusation to a number of co-workers. Amd. Compl. ¶ 5. Third, it is alleged that Clevinger made these false accusations in a retaliatory fashion against Cook. Amd. Compl. ¶ 5.

LEGAL STANDARD

Summary judgment is only appropriate where there is no genuine issue of material fact and it is clear that the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC. In

determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party.

Koester v. Carolina Rental Ctr., 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994).

DISCUSSION

Defendants have based this motion on two grounds: first, Defendants argue that Plaintiff has set forth no evidence proving that Clevinger published a defamatory statement about Cook. Second, defendants contend that even if the Court determines that a mere scintilla of evidence exists to find that a publication was made for purposes of Plaintiff's defamation claim, any statements published by Clevinger were done so pursuant to Regions' policy of reporting workplace violence and are therefore privileged communications.

#2
PMB
In South Carolina, in order to establish an actionable defamation claim, a plaintiff must show that, "(1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the published was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of a special harm caused by the publication. Erickson v. Jones St. Publishers, L.L.C., 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006).

To support their contention that no publication was made by Clevinger, Defendants argue that Plaintiff has produced no evidence that there was any publication to a third party regarding Plaintiff, other than Regions employees. However, Plaintiff has produced excerpts from depositions taken of Barbaba Simpkins, Robyn Clevinger, and Andree Lloyd. Notably, in her deposition, Clevinger admits that she told her husband about the alleged physical assault that occurred between Cook and Clevinger. Taking the evidence presented in these depositions in the light most favorable to the non-moving party, Plaintiff has produced a mere scintilla of evidence that Defendants made publications of the allegedly defamatory statements to third parties. As a result, the question of whether defamatory statements were published to a third party is ordinarily one for the jury. Abofreka v. Alston Tobacco, Co. 288 S.C. 122, 127 341 S.E.2d 622, 625 (1986).

When confronted with a defamation action, the defendant may assert the affirmative defense of conditional or qualified immunity. Swinton Creek Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 514 S.E.2d 126, 134 (1999). Under this defense, one who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged and (2) the privilege is not abused. Id. "[T]he question whether an occasion gives rise to a qualified or conditional privilege is one of law for the court." Id. However, the question whether the privilege has been abused is one for the jury. Id. Factual inquiries, such as whether the defendants acted in good faith in making the statement, whether the scope of the statement was properly limited in its scope, and whether the statement was sent only to the proper parties, are generally left in the hands of the jury to determine whether the privilege was abused." Id.

#3
PAB
In the matter currently before the Court, Plaintiff has submitted a mere scintilla of evidence that shows that a conditional privilege was abused as a result of the privilege holder acting in bad faith. During the deposition of Andree Lloyd, when asked whether she believed that Cook had grabbed Clevinger so hard that Cook had bruised Clevinger's arms, Lloyd replied "No." Lloyd Dep. 39:10-15. When asked whether she thought Clevinger was "mentally unbalanced," Lloyd replied "Yes," and added "And a liar." Lloyd Dep. 40:6-9.

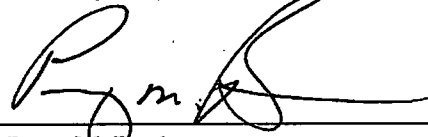
The question as to whether words spoken, if actionable in themselves, were spoken maliciously and defamatorily is always a question for the jury. Bell v. Bank of Abbeville, 208 S.C. 490, 496, 38 S.E.2d 641, 644 (quoting Smith v. Youmans, 3 Hill 85, 21 S.C.L. 43). The Court finds that Plaintiff has presented a mere scintilla of evidence to show that the words published by Clevinger were spoken maliciously and defamatorily. As a result, the Court finds that this question is one for the jury.

CONCLUSION

In the instant action, based upon the evidence before the Court, whether a publication was made is a question for the jury to decide. Likewise, whether any qualified privilege was abused by Clevinger is also a question for the jury to decide.

IT IS THEREFORE ORDERED that Defendants' Motion for Summary Judgment is hereby DENIED.

AND IT IS SO ORDERED.

A handwritten signature in dark ink, appearing to read 'Perry M. Buckner', is written over a horizontal line.

Perry M. Buckner

Presiding Judge, Fourteenth Judicial Circuit

Walterboro, South Carolina

November 15, 2013

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

LYDIA COOK,

Plaintiff,

v.

REGIONS BANK AND ROBYN
CLEVINGER,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2011-CP-25-343

**ORDER DENYING DEFENDANT'S
MOTION FOR JUDGMENT
NOTWITHSTANDING THE VERDICT**

This matter came before the Court on March 20, 2014, for hearing on Regions Bank and Robyn Clevinger's (collectively "Defendants") post-trial motion pursuant to Rule 50, SCRPC, for a judgment notwithstanding the verdict. Present before the Court were John E. Parker and William F. Barnes, III on behalf of the Plaintiff, Lydia Cook; John H. Tiller and Amy F. Bower on behalf of Regions Bank; and E. Mitchell Griffith on behalf of Robyn Clevinger. After reviewing the parties' submissions and hearing argument from counsel, the Court denies Defendants' post-trial motion pursuant to Rule 50, SCRPC for the reasons stated below.

STANDARD OF REVIEW

In considering a motion for a judgment notwithstanding the verdict ("JNOV"), the trial court must view all the evidence and its inferences in a light most favorable to the non-moving party. Horry County v. Laychur, 315 S.C. 364, 367, 434 S.E.2d 250, 261 (1993). If the evidence as a whole is susceptible to more than one inference, a jury issue is created and the motions for directed verdict and JNOV are properly denied. Hainer v. Am. Med. Intern., Inc., 320 S.C. 316, 320, 465 S.E.2d 112, 115 (Ct. App. 1995). When deciding a motion for a JNOV, the "trial judge is concerned with the existence, not its weight." Burns v. Universal Health Servs., Inc., 361 S.C. 221, 232, 603 S.E.2d 605, 611 (2004).

ANALYSIS

The Defendants move on several grounds for a JNOV. First, the Defendants contend that the Plaintiff failed to prove that a publication was made to a third-party. Based on the evidence presented at

trial, the Court finds that there was evidence that the defamatory statements were published to a third-party. The defamatory statement was published to third-parties including: Suzanne Freeman, Andree Lloyd, Holly Johnson, Patty Austin, Barbara Simpkins, and Robyn Clevinger's husband. Next, the Defendants contend that even if a publication was made, the only reasonable inference from the evidence is that the statement was privileged and not abused. (Memo. in Supp. p. 5). Based on the evidence presented in this case, I find that the evidence gave rise to a qualified privilege because the defamatory statements were published to other employees of Regions Bank. Under South Carolina law it is well established that "[f]actual inquiries, such as whether the defendants acted in good faith in making the statement, whether the scope of the statement was properly limited in its scope, and whether the statement was sent only to the proper parties, are generally left in the hands of the jury to determine whether the privilege was abused." Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469, 485, 514 S.E.2d 126, 134 (1999). The testimony of Andree Lloyd, among other evidence, supports an inference that

management at Regions Bank knew Clevinger's defamatory statements were fabricated and not true. As a result, a factual issue was presented that warranted submission to the jury of whether the privilege was made in good faith or abused. By the jury awarding actual damages and, more specifically, punitive damages to the Plaintiff, the jury found under the Court's instructions that any qualified privilege was not made in good faith and the scope of the privilege was exceeded.

Finally, the Defendants contend that the Plaintiff presented no evidence that the Defendants' conduct was intentional or reckless, and as a result, punitive damages are not warranted. Andree Lloyd's testimony, among other evidence, supports an inference that management at Regions Bank knew Clevinger's defamatory statements were fabricated and not true. The evidence is also susceptible of an inference that Clevinger was using these statements to retaliate against Cook for the complaint Cook made about Clevinger on April 6, 2011. When a statement is subject to a qualified privilege, it is for the

plaintiff to show "malice in fact – that is, that the defendant was actuated by ill will in what he did and said, with the design to causelessly and wantonly injure the plaintiff." Bell v. Bank of Abbeville, 208 S.C. 490, 494-95, 38 S.E.2d 641 643 (1946). Actual malice is knowledge that the statement was false or made with reckless disregard of whether it was true or false. Swinton Creek Nursery, 334 S.C. at 485, 514 S.E.2d at 134. There was substantial evidence presented during the trial which warranted submission to the jury on whether the qualified privilege was abused or exceeded. This evidence also supports an inference that the defamatory statements were made with actual malice – that is intentionally or with reckless disregard.

CONCLUSION

Considering the evidence and testimony admitted during the trial, as a whole, in a light most favorable to the Plaintiff, as the Court is required to do, the Court denies Defendants' post-trial motion pursuant to Rule 50, SCRPC.


Brooks P. Goldsmith

Edisto Island, South Carolina
April 30, 2014

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-25-343

LYDIA COOK
PLAINTIFF(S)

REGIONS BANK AND ROBYN CLEVINGER
DEFENDANT(S)

Submitted by: William F. Barnes, III

Attorney for: ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☒ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: JUDGMENT AGAINST REGIONS BANK AND ROBYN CLEVINGER IN FAVOR OF LYDIA COOK IN THE AMOUNT OF \$375,000.00 ACTUAL DAMAGES AND \$125,000.00 PUNITIVE DAMAGES. PURSUANT TO S.C. CODE ANN. § 15-37-30, INTEREST AT THE LEGAL RATE FROM JANUARY 16, 2014, THE TIME OF THE VERDICT, UNTIL THIS JUDGMENT IS ENTERED SHALL BE COMPUTED BY THE CLERK AND ADDED TO THE COSTS THAT THE PLAINTIFF IS ENTITLED TO.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Lydia Cook	Regions Bank and Robyn Clevinger	\$500,000.00

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

2139
Judge Code

APR 30 2014
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 2014 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

William F. Barnes, III
Post Office Box 457, Hampton, SC 29924

(803) 943-2111

ATTORNEY(S) FOR THE PLAINTIFF(S)

John H. Tiller E. Mitchell Griffith
Post Office Box 340, P.O. Drawer 570
Charleston, SC 29402-0340 Beaufort, SC 29901
843.722.3366 843-521-4242

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)

COUNTY OF HAMPTON)

LYDIA COOK,)

Plaintiff,)

v.)

REGIONS BANK AND ROBYN)
CLEVINGER,)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2011-CP-25-

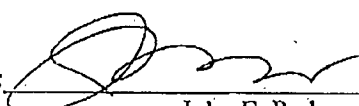
SUMMONS

(Jury Trial Requested)

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at P.O. Box 457, Hampton, SC 29924, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

BY: 

John E. Parker
P.O. Box 457
Hampton, SC 29924
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

August 25, 2011
Hampton, South Carolina

2011 AUG 25 PM 4:44
MYLINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

FILED

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

LYDIA COOK,

Plaintiff,

v.

REGIONS BANK AND ROBYN
CLEVINGER,

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2011-CP-25-

COMPLAINT
(Jury Trial Requested)

BY
MYLINDA D. HETTLER
CLERK OF COURT
HAMPTON COUNTY, S.C.

2011 AUG 25 PM 4:45

FILED

The Plaintiff alleges:

1. Venue of this action is proper in Hampton County because the most substantial part of the below alleged act or omission occurred in Hampton County.

2. The defendant, Regions Bank, is a corporation organized and existing under the laws of a state other than the State of South Carolina.

3. The defendant, Robyn Clevinger, is a resident of South Carolina, and at the times mentioned herein was an agent and/or employee of Regions Banks acting within the scope of her employment and/or agency.

4. The plaintiff on May 31, 2011, was an employee of Regions Bank at the Hampton, South Carolina branch.

5. On May 31, 2011, the defendant, Robyn Clevinger, falsely accused the plaintiff of physically assaulting her. Ms. Clevinger published this false accusation to a number of co-employees and others who had no supervisory role concerning the plaintiff. The defendant, Clevinger, falsely accused

plaintiff of physically harming and assaulting her in retaliation for the plaintiff rightful reporting Ms. Clevinger for misconduct.

6. The defendant, Clevinger's false statement about the plaintiff, accused plaintiff of a crime, and if true would establish that plaintiff was unfit in her trade, business, and profession.

7. The defendant, Clevinger, published the false statement about the plaintiff after fabricating the statement without any basis in fact.

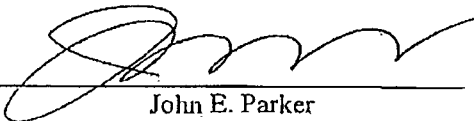
8. The defendant, Regions Bank, adopted the false statement and terminated plaintiff from her job without any reasonable basis.

9. The false and defamatory statement published about the plaintiff damaged her personal and professional reputation because the statement falsely accused plaintiff of a crime and impugned her reputation in her trade, business, and profession.

2 10. The conduct of the defendants was malicious and with a conscious disregard of plaintiff's rights and plaintiff is entitled to punitive damages.

WHEREFORE, plaintiff prays for judgment against the defendants for actual and punitive damages and, for the costs of this action.

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

BY: 

John E. Parker
P.O. Box 457
Hampton, SC 29924
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

August 25, 2011
Hampton, SC

SCCA 401 (5/02)

STATE OF SOUTH CAROLINA)

COUNTY OF HAMPTON)

LYDIA COOK,)

Plaintiff,)

vs.)

REGIONS BANK AND ROBYN
CLEVINGER,)

Defendants.)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION 11-CP-25-343

DEFENDANTS' ANSWER

FILED
2011 NOV -9 PM 1:41
CLERK OF COURT
HAMPTON COUNTY, S.C.

The Defendants, above named, answering the Complaint of the Plaintiff, above named, allege and say:

1. Paragraph 1 contains conclusions of law which they are required neither admit nor deny, and therefore, they deny the same.
2. They admit the allegations of paragraph 2, 3 and 4.
3. They deny the allegations of paragraphs 5, 6, 7, and 8 and demand strict proof thereof.
4. In answering the allegations of paragraph 9, they deny that any false and defamatory statement was made and lack sufficient information to either admit or deny the allegations concerning the Plaintiff's alleged injuries and damages, and therefore, denies the same.
5. They deny the allegations of paragraph 10, being the remaining allegation of the Plaintiff's Complaint.
6. They deny each and every allegation of the Plaintiff's Complaint which is not hereinabove specifically admitted.

**FURTHER ANSWERING AND AS AN ADDITIONAL
DEFENSE, THE DEFENDANTS ALLEGE AND SAY:**

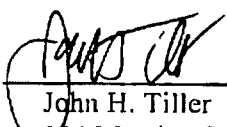
7. Any statement attributed to the Defendant Clevinger was true so as to bar any recovery in this matter.

**FURTHER ANSWERING AND AS AN ADDITIONAL
DEFENSE, THE DEFENDANTS ALLEGE AND SAY:**

8. Any statement made by the Defendant Clevinger enjoyed a qualified or conditional privilege so as to bar any recovery in this matter.

WHEREFORE, having fully answered the Plaintiff's Complaint, the Defendants pray the same be dismissed.

HAYNSWORTH SINKLER BOYD, P.A.

By: 

John H. Tiller
134 Meeting Street, Third Floor
Post Office Box 340
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(843) 722-3366 (Telephone)
(843) 722-2266 (Facsimile)
Counsel for Defendants

November 4, 2011
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HAMPTON	)	CIVIL ACTION NO.: 2011-CP-25-343
	)	
LYDIA COOK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	AMENDED COMPLAINT
	)	<i>(Jury Trial Requested)</i>
	)	
REGIONS BANK AND ROBYN	)	
CLEVINGER,	)	
	)	

The Plaintiff alleges:

1. Venue of this action is proper in Hampton County because the most substantial part of the below alleged act or omission occurred in Hampton County.

2. The defendant, Regions Bank, is a corporation organized and existing under the laws of a state other than the State of South Carolina.

3. The defendant, Robyn Clevinger, is a resident of South Carolina, and at the times mentioned herein was an agent and/or employee of Regions Banks acting within the scope of her employment and/or agency.

4. The plaintiff on May 9, 2011, was an employee of Regions Bank at the Hampton, South Carolina branch.

5. On May 10, 2011, the defendant, Robyn Clevinger, falsely accused the plaintiff of physically assaulting her. Ms. Clevinger published this false accusation to a number of co-employees and others who had no supervisory role concerning the plaintiff. The defendant, Clevinger, falsely accused

plaintiff of physically harming and assaulting her in retaliation for the plaintiff rightful reporting Ms. Clevinger for misconduct.

6. The defendant, Clevinger's false statement about the plaintiff, accused plaintiff of a crime, and if true would establish that plaintiff was unfit in her trade, business, and profession.

7. The defendant, Clevinger, published the false statement about the plaintiff after fabricating the statement without any basis in fact.

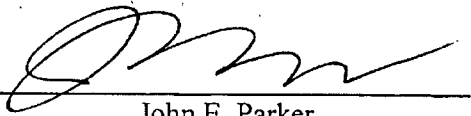
8. The defendant, Regions Bank, adopted the false statement and terminated plaintiff from her job without any reasonable basis.

2
9. The false and defamatory statement published about the plaintiff damaged her personal and professional reputation because the statement falsely accused plaintiff of a crime and impugned her reputation in her trade, business, and profession.

10. The conduct of the defendants was malicious and with a conscious disregard of plaintiff's rights and plaintiff is entitled to punitive damages.

WHEREFORE, plaintiff prays for judgment against the defendants for actual and punitive damages and, for the costs of this action.

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

BY: 

John E. Parker
P.O. Box 457
Hampton, SC 29924
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

November 9, 2012
Hampton, SC

SCCA 401 (5/02)

)

)

)

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)

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1

1

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1. Paragraph 1 contains conclusions of law which they are required neither admit nor deny, and therefore, they deny the same.
2. They admit the allegations of paragraph 2, 3 and 4.
3. They deny the allegations of paragraphs 5, 6, 7, and 8 and demand strict proof thereof.
4. In answering the allegations of paragraph 9, they deny that any false and defamatory statement was made and lack sufficient information to either admit or deny the allegations concerning the Plaintiff's alleged injuries and damages, and therefore, denies the same.
5. They deny the allegations of paragraph 10, being the remaining allegation of the Plaintiff's Amended Complaint.
6. They deny each and every allegation of the Plaintiff's Amended Complaint which is not hereinabove specifically admitted.

**FURTHER ANSWERING AND AS AN ADDITIONAL
DEFENSE, THE DEFENDANTS ALLEGE AND SAY:**

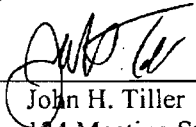
7. Any statement attributed to the Defendant Clevinger was true so as to bar any recovery in this matter.

**FURTHER ANSWERING AND AS AN ADDITIONAL
DEFENSE, THE DEFENDANTS ALLEGE AND SAY:**

8. Any statement made by the Defendant Clevinger enjoyed a qualified or conditional privilege so as to bar any recovery in this matter.

WHEREFORE, having fully answered the Plaintiff's Amended Complaint, the Defendants pray the same be dismissed.

HAYNSWORTH SINKLER BOYD, P.A.

By: 

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Counsel for Defendants

December 10, 2012
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF HAMPTON	)	Case No(s):2011CP2500343
	)	
Lydia Cook,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	(Volume 1 of 4)
Regions Bank and Robyn	)	
Clevinger,	)	
	)	
Defendant.	)	
	)	

January 13-16, 2014
Hampton, South Carolina

B E F O R E:

HONORABLE BROOKS GOLDSMITH, Judge.

A P P E A R A N C E S:

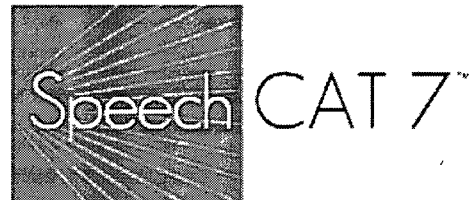
JOHN PARKER, Esquire
WILLIAM BARNES, Esquire
Attorneys for Plaintiff

JOHN TILLER, Esquire
AMY BOWER, Esquire
Attorneys for Defendant Regions Bank

MITCHELL GRIFFITH, Esquire
Attorney for Defendant Clevinger

Teresa B. Johnson
Certified Verbatim Reporter
P.O. Box 2812
Greenville, S.C. 29602

Records are
taken and
produced via



1 **THE COURT:** All right. Help me
2 understand more specifically, Mr. Parker. You
3 have the two depositions that you want to use?

4 **MR. PARKER:** Yes, two depositions and one
5 live witness.

6 **THE COURT:** And help me have a better
7 understanding of the live witness versus the
8 two depositions. The two depositions are
9 former husbands?

10 **MR. PARKER:** That's correct. Mr.
11 Clevinger. And Mr. Clevinger testified -- the
12 reason we call him is because she said in a
13 deposition that he had held a gun to her head.
14 We wanted to find out if, in fact, she was
15 testifying untruthfully.

16 We then went to Charlotte. I talked with
17 him and he said absolutely she totally made
18 that up. We took his testimony. That is what
19 he said. He said none of that ever occurred.
20 We also have as further proof of that the
21 divorce records of her answer and counterclaim
22 which was no claim of any kind of action like
23 that and the order indicates where they got
24 divorced on the grounds of separation of more
25 than one year. So that testimony goes to

1 clearly impeaching her testimony in this case.
2 It is a specific incident of misconduct that
3 goes to her credibility under Rule 405.

4 **THE COURT:** I've got Mr. Clevinger then.

5 **MR. PARKER:** Mr. Blackwell, we went out
6 to Texas and took. She claimed -- and this is
7 where the pictures came in -- that he
8 physically assaulted her. There are pictures
9 on the police file showing bruising very
10 similar to that which is claimed in this case.
11 Mr. Blackwell, under oath, has testified that
12 that, in fact, never happened. That she made
13 that up. That testimony is a specific incident
14 of untruthfulness that would be a specific
15 incident admissible under 405. It also goes to
16 under 404, other similar incident that is
17 admissible to show common scheme or plan or
18 absence of mistake or intent. Clearly, it
19 would be admissible under that because it is
20 relevant in this case because it shows that she
21 has done the same thing in the past, accused
22 somebody falsely of the same kind of thing that
23 is similar and she claimed in that report that
24 Mr. Blackwell squeezed her arm and put bruises
25 on both arms. That is the -- precisely the

1 claim in this case.

2 **THE COURT:** And the third?

3 **MR. PARKER:** The third case is Mr. Howard
4 Bayne. He states that she falsely claimed he
5 assaulted her also.

6 **THE COURT:** That she falsely claimed --

7 **MR. PARKER:** Claimed that he had
8 physically assaulted her.

9 **THE COURT:** They were in some sort of
10 relationship?

11 **MR. PARKER:** They were. Girlfriend,
12 boyfriend, whatever, for a number of years.

13 **THE COURT:** Okay. Anything in response
14 to that?

15 **MR. TILLER:** Very briefly, Your Honor, I
16 apologize. It just seems like we go down this
17 path and the train goes off the track. Mr.
18 Parker says all of this stuff is evidence to
19 show that she has a propensity to make things
20 up.

21 As I told the court when we started today,
22 both Ms. Cook and Ms. Clevinger and Ms. Freeman
23 all concur that a hug or a shake took place.
24 There is nothing that was made up. If it was
25 only Ms. Cook and only Ms. Clevinger and Ms.

1 Cook was claiming that nothing happened, we
2 would be in a little bit different area but we
3 have got an independent corroborating witness
4 who says I viewed it, I thought it was
5 aggressive or hostile. And not only that, in
6 the days thereafter, I observed Ms. Clevinger's
7 personal injuries. All of the stuff, we think,
8 it was made up, that's just asking the jury to
9 decide something that is not true.

10 **THE COURT:** Okay. All right. Any other
11 motions from anybody?

12 **MR. PARKER:** None from the plaintiff,
13 Your Honor.

14 **MR. TILLER:** Nothing further, Judge.
15 Thank you very much.

16 **MR. GRIFFITH:** Nothing further, Your
17 Honor. Thank you.

18 **THE COURT:** All right. We will recess
19 for 30 minutes and come back out and address
20 these -- finally address these issues. Let me
21 ask a couple of other things that you can be
22 thinking about. Would anybody be interested in
23 not having an alternate juror but would be
24 willing to abide by 10 if we had 10 left
25 standing at the end of the trial as long as it

1 earlier volunteered to hear it nonjury. That
2 is why I asked the question.

3 **MR. GRIFFITH:** Judge, I have no objection
4 to starting with an alternate and dropping to
5 10 if that is what the court prefers. I have
6 no problem with that.

7 **THE COURT:** Say that again.

8 **MR. GRIFFITH:** I thought you said that
9 you would draw an alternate and drop down to
10 10.

11 **THE COURT:** What I was suggesting is not
12 having an alternate.

13 **MR. GRIFFITH:** That is fine, Judge, and
14 then we will go down to 10. I am fine with
15 that.

16 **THE COURT:** Unless you want to do a six-
17 person jury.

18 **MR. GRIFFITH:** I think we will go with
19 12.

20 **THE COURT:** All right. All right. As to
21 Defendant Regions Banks motion Number 1,
22 relating to the termination of Ms. Freeman, I
23 am going to grant that motion. It would be too
24 prejudicial. As to the termination of Ms.
25 Clevinger, Number 2, I'm going to deny that

1 motion. I am finding that it is relevant and
2 not too prejudicial. As to Number 3, I am
3 going to deny that motion. As to Number 4, I
4 am granting that motion. I am finding that it
5 would be too prejudicial. As to Number 5,
6 as to the motion of Defendant Clevinger, the
7 court will grant those motions to suppress,
8 with the exception of the police report and
9 photographs relating to it and the deposition
10 of Blackwell, as I understand it, relates to
11 the police report. Those would be admissible.
12 The other depositions and testimony from Number
13 5 of Regions Bank in Clevinger's motion in
14 limine will be granted. Any clarification
15 needed about any of the rules?

16 **MR. PARKER:** Yes, Your Honor, as I
17 understand about Clevinger, Ms. Clevinger's
18 deposition insofar as admissibility, I assume
19 that motions in limine are -- I understand the
20 court's ruling. But if her testimony comes up
21 and she says that she has had a gun to her head
22 by Mr. Clevinger and he says that is not true.

23 **THE COURT:** If she volunteers that
24 testimony --

25 **MR. PARKER:** In other words, we would not

1 be able to cross-examine her as to whether or
2 not she is claiming that her husband held a gun
3 to her head?

4 **THE COURT:** No, the court accepts the
5 defense argument that that would be collateral
6 impeachment. The way it would come about is
7 the plaintiff reasonably ask the defendant if
8 that occurred for the sole purpose of
9 impeachment. But if, otherwise, the door is
10 opened on any of these things by the defendant
11 herself, that changes the ruling. It would
12 potentially give the plaintiff the right to do
13 that. Any other request for clarification?
14 All right.

15 **MR. GRIFFITH:** Your Honor, I think I
16 understand your ruling. As a result of your
17 ruling then, in regards to Mr. Blackwell --
18 actually, my client, the excerpts they want to
19 put in for my client -- I think they had given
20 us some excerpts they want to play to the jury
21 which I think some of them will go to some of
22 these issues, Your Honor. I want to make sure
23 we have got some time to take a look at what
24 they presented to us in light of your ruling.

25 **THE COURT:** Of Mr. Clevinger?

1 **MR. GRIFFITH:** They videoed my client.
2 Obviously, under the Rules of Civil procedure,
3 they could use my client's deposition and
4 publish it to the jury.

5 **THE COURT:** Right.

6 **MR. GRIFFITH:** Part of their publication
7 that they submitted to me over the weekend by
8 way of page, line and saying this is what we
9 intend to publish to the jury including some of
10 the issues that I think the court has ruled
11 upon. I simply before -- if they want to do
12 that first thing this afternoon, I want a
13 chance to at least look at what they have given
14 us so we can make sure it does not violate the
15 court's ruling.

16 **MR. PARKER:** We will offer what we have
17 been presented.

18 **MR. GRIFFITH:** Okay. That is fine.

19 **THE COURT:** Anything else we need to do
20 before 2 o'clock? (No response.)

21 Court is in recess until 2 o'clock.

22 **MR. PARKER:** I'm sorry. One of the basis
23 for this case is a memorandum and a letter that
24 was sent as an exhibit of Ms. Cook's complaint
25 in which she talks about the interaction Ms.

1 discuss the facts in the case.

2 Once again, the law does not permit me to
3 have an opinion about the facts of the case, or
4 at least not express it in your presence. What
5 I think about the facts in the case have
6 nothing to do with anything because you decide
7 what the facts are based on the evidence that
8 is presented to you in the courtroom. Now,
9 having said all of that, Ladies and Gentlemen,
10 we will now have opening arguments and began
11 with the plaintiff.

12 **MR. PARKER:** Judge, I am going to slide
13 this podium around if that is all right.

14 **THE COURT:** Certainly.

15 **MR. PARKER:** Thank you, Your Honor.

16 Ladies and Gentlemen, I am John Parker, a
17 lawyer here in town. I have been practicing
18 law a little while here. I have got the
19 privilege of representing Lydia Cook in the
20 case.

21 I know that you all are a little anxious
22 about being here. I know it is a little
23 unusual to sit on a jury. You have watched
24 enough TV. We don't do it quite like they do
25 it on TV, but it is not a whole lot different.

1 This is a case about defamation, about
2 slander. Even though I know you have heard of
3 that, when you say someone slandered you, they
4 talk bad about you. But under the law, it is a
5 cause of action or a case about defamation.

6 Defamation consists of libel and slander.
7 Libel is publication of defamatory material by
8 written or printed word. Slander is
9 publication of defamatory material by spoken
10 word. Defamatory material mean somebody said
11 something that could hurt your reputation.
12 It's negative to your reputation.

13 Under the law, defamation is a statement
14 that has a defamatory meaning. It means to
15 talk ill of someone, saying something bad about
16 someone that hurts their reputation. We have
17 to prove it was published with actual or
18 implied malice, meaning, the person who said it
19 said it with that feeling. They had some
20 purpose other than a good purpose of why they
21 did that. The statement was false. It was
22 published by the defendant. It concerned the
23 plaintiff, which in this case is Ms. Lydia, as
24 the result of a legal or presumed damaged or
25 special damages. That is what we have to prove

1 in this case to be successful.

2 The defense to a slanderous action or a
3 defamation action is the truth. They have
4 claimed that what was stated it was, in fact,
5 true. That would be the defense that is being
6 presented in this case.

7 There is another type of slander and it is
8 called slander per se.

9 Put the next slide up.

10 Slander per se is where the statement made
11 about the plaintiff accuses the plaintiff of
12 certain types of action. During the commission
13 of a crime, a moral turpitude, the one that
14 would apply here is also unfitness in one's
15 business or profession. We will talk about the
16 statement that was made in a moment. I want to
17 get out of the way.

18 That is really what this case is about.
19 The plaintiffs in this case -- and the people
20 involved were the plaintiff -- Lydia Cook is
21 bringing the case in that is here. She has got
22 her twin sister with her. That is her husband
23 Mike. She is bringing a case for defamation
24 against the Regions Bank and Robyn Clevinger.

25 Ms. Clevinger is seated over there. She

1 was the manager of Regions Bank across the
2 street over here. Most of what happened in
3 this case happened over on the next block just
4 across the street. It is all close to the
5 courthouse where this happened.

6 Ms. Clevinger was promoted to the branch
7 manager of Regions Bank across the street. She
8 came in there to replace Phyllis Harvey who had
9 been there for years. At that time, Lydia Cook
10 was working. She had been working there from
11 2007 and had been working in various positions,
12 tellers and others. Everything was going fine
13 until Ms. Clevinger got there.

14 Ms. Clevinger, when she got there
15 immediately started having some problems with
16 not only the employees but the customers of the
17 bank. For whatever reason, you will hear
18 testimony about it, she wasn't well received
19 because of some of her conduct. It came to the
20 attention of the management of the bank, the
21 upper management of, the regional managers of
22 Regions. She came to work in August 2010.

23 This memo that we're looking at here is a
24 memo dated 11/23 of '10 in which -- you will
25 hear testimony from to her boss -- Patty, in

1 the last two weeks, I have received three
2 complaints from Hampton customers about Robyn's
3 demeanor. The words are disrespectful,
4 uncaring, insulting to the tellers, Ms. Phyllis
5 got fired. She was nice if you want to have a
6 criminal here. I could go back and charge more
7 fees. Don't you know how to spell. Write it
8 yourself. I have asked Robyn to meet with me
9 in the morning so we can talk to her. I will
10 come to Charleston after we meet. Just wanted
11 to keep you in the loop. Thanks.

12 The evidence will be that Ms. Cook applied
13 also for the manager's position. She did not
14 get it. But Ms. Clevinger was promoted from a
15 branch in Beaufort. Ms. Cook applied for the
16 job, but welcomed her and obviously hoped that
17 they could get along and have a good working
18 relationship. She has been there since 2007.
19 Even though there were problems at the bank,
20 they got along fairly well for the first
21 several months. Everything at the bank were
22 good as far as Ms. Cook and Ms. Clevinger were
23 manageable.

24 Let's go to the next exhibit. On March
25 30th of 2011, Ms. Clevinger had an evaluation

1 of Ms. Cook's performance at the bank. This is
2 what she said. She said Lydia is a very
3 dedicated and loyal employee. I have seen
4 Lydia grow into a good team player. Lydia
5 could greatly benefit from developing planning
6 and organizational skills although it has been
7 difficult to work on these and she has been
8 filling in for staff shortages. I would like
9 to see Lydia utilize the resources provided to
10 increase her knowledge on our products and
11 operations to improve her time management and
12 follow through as well as improve her written
13 and verbal communication skills. Lydia has
14 several growth opportunities that will enable
15 her to progress as a rising star associate. I
16 would like to see Lydia becoming licensed FSS.
17 Lydia has demonstrated a strength as her desire
18 to be with Regions throughout her career. I
19 know Lydia can continue to grow into a great
20 asset at the bank with the right coaching.

21 At that point in time, Ms. Clevinger was
22 not necessarily negative with Lydia even though
23 they had some disagreements. But everything
24 was fairly all right. What next happened,
25 let's go to the exhibit --

1 **MR. TILLER:** Your Honor, can we approach
2 briefly?

3 **(WHEREUPON,** a bench conference is held off the
4 record.)

5 **MR. PARKER:** Can you blow it up any
6 bigger? This -- what this is is a memorandum
7 to Holly Johnson who was the Human Resource
8 officer with Regions Bank and Shannon Turner.
9 It is entitled Lydia Cook complaint. What this
10 is is on April 6, Lydia Cook called Human
11 Resources to make a complaint about Ms.
12 Clevinger about the way she was operating the
13 bank. She called them and she told them at
14 that time, it says Lydia contacted me on 4/6/11
15 stating she had concerns about her manager.
16 She was upset about several things, first being
17 something about she was going to have to share
18 her bonus. Another one comments about a
19 minority male that Ms. Clevinger had made. The
20 third thing was about customer interaction,
21 about how Ms. Clevinger was treating the
22 customers at the bank.

23 She also had an issue about the fact that
24 she had planned a vacation at the last minute,
25 after she had planned a vacation with her son,

1 from Colorado or out of the state, that Ms.
2 Clevinger then said even though she had given
3 the vacation, she wouldn't have it. The next
4 occurrence occurred the next day at work, April
5 7.

6 If you would, pull up Exhibit 14.

7 The next day at work, Ms. Clevinger
8 confronted Ms. Cook and said who have you been
9 talking to, words to that effect. This memo
10 here from Holly Johnson to Patty Austin said
11 I'm concerned that Robyn has some inappropriate
12 conversation with Lydia today. While not
13 directly confronting her, there was enough
14 negative treatment that her interaction with
15 Lydia was not business as usual. So, what we
16 have here is the next day, Ms. Clevinger had a
17 negative reaction with Ms. Cook because of what
18 she had reported to management, in particular,
19 the personnel department, the Human Resources
20 Department at Regions.

21 May 10th, obviously, that day, things were
22 not good between Ms. Cook and Ms. Clevinger.
23 This is the essence of the case. On the 10th,
24 May 10th, there was an outage at the bank. Ms.
25 Clevinger assisted Ms. Cook in finding the

1 outage. It was Ms. Cook's responsibility. She
2 assisted her in finding the outage. After they
3 found the outage, late in the day, about 4:45,
4 Ms. Cook hugged Ms. Clevinger and said thank
5 you, thank you, thank you.

6 Well, by the next morning, that hug and
7 things had turned into a violent vicious
8 aggression that caused Ms. Clevinger serious or
9 harmful personal injuries to the extent that,
10 she claimed in other statements that, in fact,
11 Ms. Cook squeezed her arm so badly that it
12 bruised. She claims to have taken some
13 photographs of it, at some point in time at
14 some later date of which now the photographs
15 are not available, the originals. All we have
16 are copies of it. We really can't determine
17 when that occurred.

18 Let's go to Exhibit 11.

19 The substance of this false accusation is
20 in Exhibit 11 that you will have. This is a
21 record of the Regions Bank in which it says on
22 5/10/2011, Robyn called around 4:45 to say
23 yesterday Lydia was out of balance \$1000. She
24 said Lydia reached out that she was going to
25 thank her but instead she shook her from side

1 to side, a vicious aggression. Robyn said that
2 she went home and was hurting so bad that night
3 that she took 12 Motrin that night. I advised
4 Robyn to contact Holly ASAP to discuss. She
5 had recently been at the branch to interview
6 all employees and made no issues with Lydia
7 that I was aware of.

8 Then Ms. Johnson made notes about that, Ms.
9 Simpkin's conversation. She said had you been
10 to the doctor, do you think you need to go. It
11 seems like she said no, never mentioned
12 bruises. Almost felt Lydia was trying to pay
13 her back for something. Felt it may have been
14 a little hostile after she thought about it.

15 These are the records that were made on
16 5/19 to Holly Johnson from Barbara Simpkins to
17 this report was made. This supposedly --
18 whatever this is -- this statement, this false
19 statement because this never occurred, this
20 false statement simmered for a while. It
21 wasn't much said about it, much done about it
22 until 5/26/11.

23 Put up Exhibit 50. If you would, blow that
24 up.

25 On 5/26 of '11, a bank employer, a

1 management and employer of regional management
2 Andree Lloyd testified said that Ms. Clevinger
3 came to a meeting in Charleston and could not
4 move her neck. She claimed she was severely
5 injured in a lot of ways and states I noticed
6 that Robyn appeared to have a stiff neck.
7 During a break, I asked her if she was okay.
8 She teared up and said that she was going to
9 talk to me about it tomorrow when I was -- I
10 was visiting her in the branch. I asked her to
11 come into an office with me to discuss. She
12 did.

13 She said that Lydia Cook injured her,
14 shaking her on 5/9. Lydia had an outage on
15 teller -- something. Robyn was at her station
16 looking for it. She found it. Lydia put her
17 left arm around her, Clevinger's back -- I'm
18 not sure. I can't read that. Her right hand
19 on her left arm. Her left hand on her left arm
20 from behind and said thank you and started to
21 give her a hug. The hug turned into a shaking
22 in a fit of rage.

23 Suzanne walked in while that was happening.
24 What she said is that, in fact, Ms. Cook
25 reached around her and took her and shook her

1 so hard it bruised her arms and injured her.
2 You will have to ask yourself whether or not
3 that is reasonable or not reasonable. I will
4 talk about that in a minute. We're going to
5 call a witness who is sitting out there, who is
6 Lydia's physician, to testify about his opinion
7 about whether or not that could have, in fact,
8 possibly occurred because of the strength of
9 Ms. Cook's hands.

10 Next, look at Exhibit 10. On 5/31, Regions
11 Bank met with Lydia and told them that she was
12 terminated because of work --

13 You will have to blow that up more.

14 -- terminated because of workplace
15 violence. Of course, Lydia knew none of this
16 was going on. She said workplace violence?
17 She was shocked. This is in their documents.
18 She said that she had given a hug and it was
19 done in front of Suzanne Freeman and that
20 Lydia, at that time, said Clevinger had
21 retaliated against her because she had gone to
22 human relations.

23 She recognized what was going on. Because
24 she had reported her ill conduct and things
25 that she thought was bad for the bank, Ms.

1 Clevinger was retaliating by falsely accusing
2 her of what is assault and battery. If you
3 touch somebody and cause them injury, that is
4 an assault and battery. That is a criminal
5 offense. That is a crime. She was accusing
6 her of a crime of assault and battery.

7 We contend also that she was accusing her
8 of being unfit in her profession. Had that been
9 true, had she deliberately injured Ms.
10 Clevinger in the way she said then obviously
11 that is a crime, it would be a terrible thing
12 if, in fact, she did it.

13 After she was terminated, Ms. Cook was
14 upset. She was extremely emotional, distraught
15 to be falsely accused. She went to her doctor,
16 Dr. Welcker. Who is seated out there. She
17 went to him about this and told him what
18 happened.

19 As a result of that, on June 15th of 2011,
20 he wrote a letter to the bank. Let's put that
21 up. It is Exhibit 7.

22 **MR. TILLER:** Your Honor, we have the same
23 objection here.

24 **THE COURT:** Let's have a quick sidebar on
25 this.

1 **(WHEREUPON,** a bench conference is held off the
2 record.)

3 **MR. PARKER:** In any event, Ms. Cook went
4 to her doctor because she was suffering from
5 anxiety and obviously very distraught over what
6 was happening at the bank. She went to see Dr.
7 Glenn Welcker. Dr. Welcker, in addition to
8 treating Lydia, Lydia told her -- him about
9 what the accusation was as to what she was
10 being accused of and that she had been accused
11 of workplace violence and grabbing Ms.
12 Clevinger by the arm from the back and
13 squeezing her so hard that she bruised both
14 arms.

15 Dr. Welcker wrote a letter to the bank, to
16 Regions Bank. He told them that, in fact, in
17 his opinion, it would've been physically
18 impossible for what Ms. Clevinger to have said
19 would have been true. Ms. Cook suffered from
20 certain rheumatoid conditions and arthritis of
21 the hands. She would not even have the
22 strength to possibly do what she was accused
23 of.

24 The bank received that, the evidence will
25 be, on 6/15 of 2011. Lydia was on paid leave

1 of absence during that time when she wrote,
2 when he wrote this letter and was very upset
3 about this, obviously emotionally distraught
4 because she had been in banking for most of her
5 adult life working for banks. She was
6 obviously hoping the truth of this would come
7 out.

8 As a result, Dr. Welcker wrote this letter.
9 This is on June 15th. So at least by June
10 15th, the bank had serious doubts about whether
11 or not this was true or not. The testimony
12 from Andree Lloyd who is the manager who took
13 Ms. Clevinger statement on 5/26 will come into
14 court. She is going to testify that, at the
15 time the statement was made, she did not
16 believe it. She thought it was untrue. She
17 thought Ms. Clevinger was making it up and that
18 it was, in fact, false.

19 But regardless of that, they went ahead
20 with it. They ended up terminating Lydia even
21 though the regional manager believed it to be
22 false and her testimony was she told her
23 manager that it was, in fact, false. I believe
24 she talked to Ms. Holly Johnson, the HR person
25 about it also.

1 We have to go back on 5/31, excuse me, on
2 6/1. Some actions happened at the time that
3 they put Lydia on leave on 5/31. They put Ms.
4 Clevinger, they were going to transfer her to
5 another branch. They were going to transfer
6 her out of there and told her to do certain
7 things as a result of certain actions she took
8 in leaving them, the bank terminated her on
9 6/29/11.

10 If you would, put up exhibit number 28.
11 Exhibit 28 is another bank document that they
12 keep in their records. They terminated her
13 because of some action she took on 6/1. This
14 document states your actions on 6/1 clearly
15 elevate our concerns over your something level
16 of judgment and our ability to trust you. You
17 were not cooperative, deceptive in behavior,
18 untruthful and unauthorized removal of
19 confidential information in a matter that was
20 unsafe. Unfortunately, we have lost confidence
21 in your veracity and judgment. You may no
22 longer work at the bank. Your employment is
23 being terminated effectively retroactive to
24 6/16/11.

25 So what we have, the amazing thing to me as

1 they concluded on 6/29 that Ms. Clevinger was
2 all of these things. She was untruthful. She
3 engaged in deceptive behavior. They had a
4 doctor opinion letter that said it was
5 impossible -- in his opinion, not possible for
6 Ms. Lydia Cook to have injured her in that way.
7 Yet, they decided on 6/30 and they terminated
8 Ms. Cook. They did this because of whatever
9 reason. We hopefully will find out in this
10 case and have Ms. Johnson come in and tell why
11 they would rely on the word of the deceptive
12 and untruthful person to do an act that they
13 have been told was virtually physically
14 impossible and to act on that and fire Ms.
15 Cook. We believe that their actions of doing
16 this --

17 **MR. TILLER:** Your Honor, I'm going to
18 object. This has gone into argument as opposed
19 to opening now.

20 **THE COURT:** I will sustain that
21 objection.

22 **MR. PARKER:** The evidence in this case
23 will show that their actions in this case were
24 not -- they deliberately, with all of the
25 evidence before them, terminated Ms. Cook and

1 lost her position at the bank, lost her
2 position in banking which she had engaged in
3 for a long, long time. That had been her
4 career, her life. She lost her job there.

5 She had extreme difficulty finding work.
6 She had to go out and hit the trail and apply
7 for unemployment to try to get unemployment
8 benefits. Some of y'all know somebody who had
9 to do that and get your paper signed up saying
10 you had gone by there and sign up for so many
11 places. She did all of that. As a result --

12 Let's put up Exhibit 45.

13 As a result of her losing her job, she got
14 temporary employment at Ellis agency. She
15 worked temporarily while they had somebody out.
16 It was 2012 before she was able to get a job
17 and she potentially found employment at the
18 Allendale Correctional Institute. She works up
19 there.

20 As a result of these actions by these
21 officers, by Ms. Clevinger and the actions by
22 Regions Bank, she is actually lost 100 and --
23 which you please blow it up, 123,000,
24 \$123,002.57 in lost income as a result of what
25 has happened. Now that is just a small portion

1 of what happens when you have been falsely
2 accused.

3 She had to be treated by Dr. Welcker for
4 anxiety. He treated her for that anxiety and
5 tried to improve that. She was depressed.
6 Obviously, the worst thing in the world for you
7 when you have worked on your life is not have a
8 job. You feel like you don't have a purpose.
9 She went through a long time of dealing with
10 this.

11 Her reputation has been that -- as you all
12 know, when someone says something bad about you
13 it travels a lot faster than anything good. I
14 don't know. It is something about us as humans
15 we like to hear the nitty-gritty. And that
16 something about us that is not bad, it's just
17 the way we are. Otherwise, soap operas would
18 not be on TV and hold these things on TV, shows
19 like this. What it does is it damages your
20 reputation. This false statement by Ms.
21 Clevinger was published by a number of people
22 within the bank. She also told her husband
23 about it. How many people learned about
24 outside of that, who knows? But Lydia will
25 testify when she approached people, it seemed

1 like they knew something about it. She felt
2 like they did. That, in itself, caused her
3 damages.

4 The defense to this as I told you is, they
5 say it is true. I think the overwhelming
6 evidence in this case is going to prove that is
7 not true. They also asserted a defense of what
8 is called qualified privilege. That is if you
9 tell somebody, your management something that
10 is true and they need to know that and it is in
11 both of your interest, that statement can be
12 the basis of a lawsuit. In this case, there is
13 no privilege because in order to be a
14 privilege, the statement has to be honestly
15 made. Here, it was not honestly made.

16 The best thing -- when you're telling
17 something that is not true, the best for you to
18 tell it to get people to believe it is to have
19 a kernel of truth to it. The statement had a
20 kernel of truth to it. Lydia hugged her. She
21 did not hug her -- she did not violently
22 assault her.

23 Ms. Clevinger knew that Regions had an
24 absolute zero tolerance from workplace
25 violence. That is why she made her decision,

1 it is in the record, to go ahead and she would
2 no longer work with Lydia and made a decision
3 to get her fired for workplace violence.

4 That is a preview of the evidence you will
5 hear. We look forward to being with you the
6 next few days. Thank you.

7 **THE COURT:** Thank you, Mr. Parker.

8 **MR. TILLER:** May it please the court,
9 Your Honor.

10 Ladies and Gentlemen of the jury, we met
11 earlier. My name is John Tiller. Along with
12 Amy Bower, we represent Regions Bank in this
13 case. Mr. Griffith will address you in a
14 minute. This case is about events that
15 occurred on May 9th, 2011 and thereafter in
16 terms of employment. It is not about when Ms.
17 Clevinger came to be the manager in Hampton.
18 It's not about what happened after. It is not
19 about who complained about who, whether it be
20 Clevinger and Cook or Cook and Clevinger or
21 some other employee. What Ms. Cook claims is
22 there was a statement made by Ms. Clevinger
23 that injured her reputation, that was damaging,
24 that was slanderous. You will hear from
25 witnesses who will verify that, in fact, there

1 was an incident that occurred.

2 In a nutshell, this is all about how people
3 viewed this event on May 9th or how they
4 perceived it if you want to use that bigger
5 word. You are going to hear from three people
6 who were at the bank that afternoon when this
7 happened. Those three people, two of them are
8 in the courtroom, Ms. Lydia Cook, Ms. Robyn
9 Clevinger. They both agree that there was one
10 other person in the room. You're going to hear
11 from her as well.

12 They all agreed that on that day, Ms. Cook
13 and the evidence will show that Ms. Cook did
14 lose some money. There was an outage, to use
15 Mr. Parker's term. Ms. Clevinger who was the
16 manager says let me help you. She helped her.
17 The evidence will show that after that money
18 was found, there was physical touching between
19 Ms. Cook and Ms. Clevinger in the form of a
20 hug, if you listen to this side. If you listen
21 to Ms. Clevinger, it was a little bit more than
22 that. It was a little bit more aggressive and
23 little more hostile. It was described by
24 several as a shaken. As a result of that, she
25 did sustain some personal injury.

1 You will hear from another lady, Suzanne
2 Freeman, who was there who says they basically
3 -- the exact same thing, they would tell you
4 basically the exact same thing that Ms.
5 Clevinger has told everyone. Interestingly
6 enough, Ms. Cook has told us, you will hear
7 from her that, in fact, there were statements
8 made by Ms. Freeman saying to the effect of
9 Lydia, what are you doing. Ms. Cook
10 acknowledges that that question was asked. Ms.
11 Freeman acknowledges that she asked that
12 question and Ms. Clevinger recalls that
13 question being asked. What you are going to
14 have to hear is why would there be a statement
15 to the effect of what are you doing if this was
16 simply a friendly hug.

17 What happened after that day? On May 10th
18 -- actually the day that Mr. Parker referred to
19 May 10th as the date of the incident, it was
20 really May 9th. On May 10th, the evidence will
21 show that Ms. Clevinger made a telephone call
22 to the Regions Bank Human Resources Department.
23 Okay?

24 The other evidence you will hear in terms
25 of that discussion about the incident with

1 Regions Bank doesn't occur until later in the
2 month, I believe it is May the 26th, where Ms.
3 Lloyd, as Mr. Parker said you will hear from,
4 saw Ms. Clevinger at a bank manager meeting and
5 asked her what's wrong with you, you look like
6 something is amiss. At that point, Ms.
7 Clevinger recounts the same thing to this
8 lawyer that she told the Human Resources
9 Department some 16 days earlier.

10 That is the only people that Ms. Clevinger
11 ever told anything about this incident as it
12 relates to this case. Ms. Parker said she told
13 her husband. We can talk about that and see
14 what the evidence shows on that.

15 The important thing is she told Human
16 Resources and she told her boss, the lady who
17 was in charge. When that happened, you will
18 learn and hear from Ms. Johnson who is seated
19 with me and represents the bank here as the
20 bank's representative, when she found about it,
21 she started an investigation.

22 As part of the investigation, Ms. Cook told
23 her that what happened, she thought it was a
24 hug. Ms. Freeman told her it was a little bit
25 more than that. You will hear from that, you

1 will see the notes. She said it was aggressive
2 and hostile. You will see what Ms. Clevinger
3 has to say about that. She thought it was very
4 aggressive, hostile. There is in this
5 discussion Mr. Parker will have you believe
6 that nobody was injured. Ms. Clevinger will
7 testify that she was injured. Ms. Freeman will
8 tell you she observed certain personal injuries
9 to Ms. Clevinger. What I am trying to tell you
10 is what you will hear is from three people,
11 including Ms. Cook, who all agreed that
12 something happened on that particular day. The
13 real question to be answered is is it just
14 different viewpoints as to what happened.

15 The truth is this is a slander case. You
16 will hear from the judge in this case, he told
17 you you are the finders of the fact, he is the
18 provider of the law. You apply those facts as
19 you find them to his law. He is going to tell
20 you a little bit about publication and what
21 that means is if there is a statement made to
22 someone that should not have been made. If Ms.
23 Clevinger can't report to her personnel
24 department or she can't report to her
25 supervisor, who can she report to. We question

1 whether there is a publication even if it were
2 not true. Ms. Freeman is going to be here
3 corroborating that it was true along with the
4 photographing evidence Ms. Clevinger provided
5 to Ms. Johnson to show here is what I was
6 talking about, here is what happened.

7 Lastly, as Mr. Parker alluded to this, the
8 issue of privilege that is is it appropriate
9 under the circumstance. I think you will find
10 that the two people who reported to would be
11 the proper channels. You will hear that there
12 were people around town from the bank that were
13 going to tell them bad things about Lydia. You
14 will hear anything other than what you heard
15 from Mr. Parker and me about what was allegedly
16 said and not said. It all deals with if it was
17 just a friendly hug that required somebody to
18 say what are you doing.

19 We're going to present the evidence as fast
20 as we can too. Mr. Parker is going to call
21 some of my witnesses. More than likely, we are
22 going to put up our defense. Hopefully, we
23 won't keep you here longer than we need to be.
24 We appreciate your patience. We know it has
25 been a long afternoon already. But on behalf

1 of the bank, we thank you for your jury
2 service.

3 **THE COURT:** Thank you, Mr. Tiller.
4 Mr. Griffith?

5 **MR. GRIFFITH:** May it please the court,
6 Mr. Parker, Mr. Tiller.

7 Ladies and Gentlemen, I want to take a
8 second to introduce myself again. I am Mitch
9 Griffith. I represent Robyn Clevinger who has
10 been sitting beside me all day. Robyn is here
11 today because she has been named as a defendant
12 in a lawsuit by Lydia Cook, her former employee
13 of Regions Bank.

14 Ladies and Gentlemen, we appreciate your
15 time that you give today. We appreciate it
16 because it is a way to settle disputes. It is
17 a way to settle disputes as opposed to what
18 people say and how things come up about a
19 lawsuit. In any event, this all arises out of
20 what the plaintiff says is a slanderous event.
21 A slanderous event.

22 Slander has several elements. Mr. Parker
23 went through them up here. Slander is
24 basically a false and defamatory statement made
25 by the defendant to the plaintiff. It is an

1 underprivileged publication. In other words,
2 you don't have the right to say what they said.

3 Several things in there. It is a false
4 statement. First of all, we're going to have
5 evidence about the falsity of the statement.
6 Mr. Teller has talked to you about it. I'm
7 going to spend a few minutes on that.

8 It also deals with publication. That is
9 what Mr. Teller was telling you about a few
10 minutes ago, who was it told to. A publication
11 means you tell it to somebody else but it is
12 not a privilege person. In other words, in
13 this case, you're going to hear that it was
14 told to Human Resources, two people. Ladies
15 and Gentlemen, this case is about the truth and
16 the publication of an incident that took place
17 on May 9th of 2011.

18 Now, the plaintiff also comes in here. He
19 must prove his case by preponderance of the
20 evidence. He must prove his case. That means
21 he has a burden to come and with evidence. A
22 defendant does not have to prove anything in
23 this case.

24 The facts are simple in this case. Robyn
25 Clevinger became the manager of Regions Bank

1 right across the street over here. Working at
2 Regions Bank at that time was Lydia Cook. Ms.
3 Cook, I believe Mr. Parker indicated that she
4 had applied for the job that Ms. Clevinger
5 ended up getting. But in any event, they
6 worked together for a period of time.

7 On May 9th, 2011, an event took place. Ms.
8 Cook was working at a teller station. At the
9 teller station, you got a balance. That means
10 you've got to show that the money you gave out
11 and the money you took back in, the money you
12 took to the vault and the money you bought back
13 from the vault all balances out. If it doesn't
14 balance, you have got a problem. And there is
15 an error. You have got to try to find it.
16 That is accountability.

17 In this case, Ms. Cook had an outage. She
18 was out of balance. Mr. Parker would have you
19 believe there was motive for Ms. Clevinger to
20 come in and maybe come up and try to get her
21 fired. The way to get her fired is not to find
22 that outage. Ms. Clevinger, as the manager,
23 came in, came over to where Ms. Cook was to her
24 teller station and found the outage. Found it
25 for her.

1 Now, at that time when she found the
2 outage, there is no doubt that at that point in
3 time and everybody will admit that Ms. Cook
4 somehow grabbed, touched or shook Ms. Clevinger
5 who was standing at these teller station. She
6 was standing behind her. She came up -- Ms.
7 Cook will tell you I gave her a hug and a kiss.
8 Ms. Clevinger will say she put her arms around
9 me and she started shaking me and it felt
10 aggressive. You have got two different version
11 of stories that the incident took place. That
12 is true.

13 There is also one other thing that goes on
14 there. Suzanne Freeman was sitting at the
15 teller station sitting next to her. Suzanne
16 Freeman turned around and saw what was going on
17 and said, Lydia, what are you doing.

18 Now, I looked at a lot of the documents Mr.
19 Parker put up there. What he did not put up
20 here -- and I don't have the PowerPoint yet.
21 This is the statement that you are going to
22 see, the statement from Suzanne Freeman. She
23 gave a written statement on June 1, 2011 about
24 this incident. She testified to the statement.
25 She will come and testify in front of you what

1 she saw. A third independent party who has no
2 bones, no stake in this, no real price or
3 prejudice.

4 She came in and she wrote a statement and
5 said Lydia was out of balance. Everybody
6 agrees to that. Robyn came over to help count
7 her drawer and found the money. Lydia grabbed
8 Robyn from the side and wrapped her arms around
9 her and began shaking her. Not Ms. Clevinger's
10 words, Ms. Freeman's words. When she was
11 shaking her, she, Lydia, was saying thank you,
12 thank you, thank you.

13 When I looked over and saw her shaking
14 Robyn, Robyn's head was going in the opposite
15 direction of her body. I said Lydia, what are
16 you doing. She just laughed and didn't say
17 anything. Robyn never said anything to Lydia.
18 She stood there for a moment and walked away.
19 When she shook, it did not seem like a friendly
20 shake or a normal pat on the back that you
21 would give one -- someone. It seemed
22 aggressive. The next day, I noticed that Robyn
23 came in it was not turning her head and she
24 seemed stiff.

25 Two people. When you have got a story about

1 an incident, look to the third person, the
2 person that does not have a dog in the fight.
3 Suzanne Freeman does not have a dog in this
4 fight. Suzanne Freeman is the one who says it
5 looked aggressive to me, it did not look like a
6 pat on the back.

7 Ladies and Gentlemen, the plaintiff would
8 have you believe that Ms. Clevinger came up
9 with this elaborate scheme. A scheme that she
10 catches Lydia Cook out of balance. She would
11 go in there and help her and Lydia will grab
12 her, hugged her, kiss her. And then all of a
13 sudden, she will make an incident that took
14 place because she wanted to get rid of her.
15 There must be a reason that she came up with
16 this story, as the plaintiff's complaint says,
17 fabricated story.

18 The easier way to do it, the motive would
19 have been if you wanted to get rid of her,
20 don't find the outage. Let somebody else take
21 care of your problems. There is no reason that
22 Lydia -- Robyn Clevinger would've made up the
23 story. Again, while making up the story, I've
24 got to get me an eyewitness. I've got to bank
25 on about 20 days later confirming it in

1 writing.

2 Ladies and Gentlemen, as a result, the
3 judge told you that you are the judges of the
4 facts. He is the judge of the law. He has
5 already taken up issues about what we will or
6 may not be talking about in court. You are the
7 judge of the facts. You judge the evidence
8 that will come in. You judge the credibility,
9 believability of the witnesses.

10 Whether you believe Robyn, whether you
11 believe Lydia, Ms. Clevinger or Ms. Cook, you
12 have got to judge the credibility and
13 believability of Suzanne Freeman. How do you
14 judge that? Do they have a bias, and interest,
15 a prejudice? Do they have something to gain by
16 their testimony?

17 Ladies and Gentlemen, maybe Ms. Cook has
18 something to gain. Maybe Ms. Clevinger has
19 something. When you judge the testimony of
20 Suzanne Freeman, she has no bias, she has no
21 interest, she has no prejudice and she has
22 nothing to gain. She is basically independent
23 to this. Her statement was it sure seemed
24 aggressive.

25 Use your good common sense when you become

1 the judges of the facts. Ladies and Gentlemen,
2 when you do that, you will see that this was
3 not a slanderous event. It was not a false
4 event. It was not a published event because it
5 was told to nobody besides Human Resources.
6 Two elements that the plaintiff must prove in
7 their case that they fail on.

8 There is going to be a lot of talk about
9 people did not like Robyn and I don't like
10 Robyn. Ladies and Gentlemen, you've got to
11 listen to the evidence in this case. There is
12 no falsity about this. There is no
13 publication. When you listen to all the
14 evidence and the judge is done charging you,
15 you'll find a verdict for the defense. Thank
16 you.

17 **THE COURT:** Thank you, Mr. Griffith.

18 **MR. PARKER:** Your Honor, I have one short
19 witness, at least I hope it will be short.

20 **THE COURT:** All right. We will be at
21 ease just a moment, Ladies and Gentlemen.

22 **MR. GRIFFITH:** Judge, while he confers
23 with that witness, can we take up something
24 with the court?

25 **MR. PARKER:** What time are you going to

1 start back? 9:30? (Pause.)

2 All right. He said he will come back. He
3 will be our first witness at 9:30.

4 **THE COURT:** Mr. Griffith, we will talk
5 about that in just a minute.

6 **MR. GRIFFITH:** Yes, sir. Thank you.

7 **THE COURT:** We are going to wrap it up
8 for the day, Ladies and Gentlemen. I'm getting
9 ready to ask you something that's going to be
10 real hard for you to do. When you leave here
11 and you see family and friends or somebody,
12 they are going to ask you about your case.
13 They're going to figure out you are on the jury
14 and they're going to want to know about it.
15 I'm going to ask you not to talk to them about
16 it. Particularly, don't let them talk to you
17 about it.

18 You can't let them tell you what they heard
19 about this case from somebody who is not here
20 and not going to be here. If somebody knew
21 anything about this case, they would be here.
22 You would have heard their name listed as a
23 witness. But for you to listen and have
24 somebody tell you secondhand hearsay, they have
25 got it from somebody, may have got it or heard

1 it from somebody who got it backwards.

2 Don't do any research on the Internet or
3 all of those things. Make a decision on what
4 you hear and see in this courtroom and not what
5 somebody tells you on the street and not what
6 somebody on the Internet says about this case.
7 I don't have any idea if there's anything on
8 the Internet about it or not, but don't look.

9 The attorneys have selected the 12 of you
10 to be fair and impartial jurors. At the end of
11 the day, the odds are one side of this room or
12 the other is going to be unhappy with what
13 y'all do. They can't resolve it. That is why
14 they are asking you to resolve it for them. If
15 they were to later find out that you let a
16 friend or loved one tell you what they heard or
17 believed, they are going to think that
18 conversation affected your decision in the case
19 and then they will think they got a raw deal
20 because of that. Just tell your family and
21 friends and loved ones you will tell him about
22 it when it is all over. Anybody got a problem
23 being here at 9:30 in the morning?

24 (No response.)

25 Ladies and Gentlemen, you are excused until

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF HAMPTON	)	Case No(s) : 2011CP2500343
	)	
Lydia Cook,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	(Volume 2 of 4)
Regions Bank and Robyn	)	
Clevinger,	)	
	)	
Defendant.	)	

January 13-16, 2014
Hampton, South Carolina

B E F O R E:

HONORABLE BROOKS GOLDSMITH, Judge.

A P P E A R A N C E S:

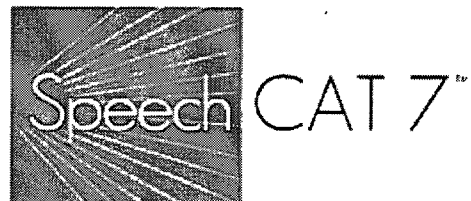
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Records are
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produced via



1 **THE COURT:** Welcome back, Ladies and
2 Gentlemen. I need to apologize to you. I know
3 I asked you to be here at 9:30. I think you
4 were. I believe I told you we would be ready to
5 go at 9:30. Obviously, we were not. But, we
6 were in here working. I think we are now ready
7 to proceed. You see there is a witness on the
8 witness stand. Please be sworn.

9 **GLENN WELCKER**

10 having first been duly sworn, testifies as follows:

11 **DIRECT EXAMINATION**

12 **BY MR. PARKER:**

13 **Q** Please state your full name.

14 **A** My full name is Glen Wesley Welcker, M.D.

15 **Q** And you are a doctor here, practicing here
16 in Hampton?

17 **A** I am.

18 **Q** And you have been for how long?.

19 **A** Almost 20 years.

20 **Q** And your practice is two blocks from the
21 courthouse?

22 **A** That's correct.

23 **Q** On Elm Street, 278?

24 **A** That's it.

25 **Q** If you would, tell us something about your

1 educational background.

2 **A** I graduated from the University of South
3 Carolina with a BS in Biology. I attended the
4 University of South Carolina School of Medicine where
5 I received my doctorate from '91 to '93. A resident
6 at Richland Memorial Hospital at the University
7 residency program and was chief resident from '93 to
8 '94. I have been in private practice from '94 until
9 2011.

10 **Q** That entire time, have you been here in
11 Hampton?

12 **A** That is correct.

13 **Q** You no longer have your family practice?

14 **A** That's correct.

15 **Q** When did you change that?

16 **A** November 2011.

17 **Q** And you are now doing what?

18 **A** I am a hospitalist and also an emergency
19 room physician.

20 **Q** That is at Hampton Regional Hospital?

21 **A** That is correct.

22 **Q** In your practice and your training and
23 studies, did you study injuries?

24 **A** I did.

25 **Q** Did you study bruising?

1 **A** I did.

2 **Q** Did you -- if you would, describe how you
3 bruise someone.

4 **A** Bruising, any type of pressure-ordered
5 trauma to the tissue or the body's resulting in
6 destruction of capillaries, which are very tiny blood
7 vessels, from that, the blood will leak out from the
8 capillaries into the tissue causing discoloration.

9 **Q** Does the bruising change over time?

10 **A** It does.

11 **Q** Are there stages to bruising?

12 **A** There are.

13 **Q** What are those stages?

14 **A** Initially, you will see a redness. If
15 anyone has been injured before, they will know what
16 I'm talking about. It goes from redness to a
17 purplish blue and then fades out to a greenish tan
18 and it resolves eventually.

19 **Q** That is actually blood under the skin is
20 what a bruise is?

21 **A** That's correct.

22 **Q** Has Lydia Cook been a patient of yours for
23 a number of years?

24 **A** She has.

25 **Q** When did you first see Ms. Cook?

1 **A** I believe it was February 1st, 2008.

2 **Q** Did you treat her from February 1st, 2008
3 until when you quit with your practice?

4 **A** That's correct.

5 **Q** If you would, describe her physical
6 condition and the physical ailments you treated her
7 for that relate to her muscles and skeleton.

8 **A** Ms. Cook has several issues as far as
9 orthopedic. She has diffused osteoarthritis in her
10 extremities. She has had fibromyalgia, which the lay
11 term is chronic pain and inflammation of the muscles.
12 She has had specific joint issues. She has had a
13 torn meniscus in the knee. She has had degenerative
14 disc disease in her back with associated pinched
15 nerves. She has had notable arthritis in her hands
16 for some time.

17 **Q** Did you have MRIs done of Ms. Cook's knees
18 in 2008?

19 **A** I did, yes.

20 **Q** What was the result of that?

21 **A** We did both of her knees, the right and
22 left knee. She continued to show arthritis in both
23 of her knees. Her right knee had a probable tear of
24 the media meniscus, which is the layer between the
25 bones in the knee itself.

1 Q Did you in 2010, October 12th, 2010 refer
2 her to a rheumatologist?

3 A I did. That was October 13th, actually,
4 yes.

5 Q Why did you refer her to a rheumatologist?

6 A Specifically, at that time, for her
7 diffused joint pain and she also had nodules on her
8 fingers.

9 Q What are nodules or nodes on her fingers?

10 A With Ms. Cook, they look like what we call
11 Heverdens nodes, which are small little hard
12 comparable knots on the distal joint and fingers.
13 They usually signify advanced arthritis or the
14 presence of arthritis.

15 Q Did Dr. Edwards, in fact, do certain x-rays
16 of Ms. Cook's hands?

17 A I think Dr. Edwards did.

18 Q What was the result of those x-rays?

19 A He did x-rays on both hands that both
20 showed mild distal degenerative changes. He noted
21 that there was moderate, degenerative changes of
22 bilateral first metacarpal phalangeal joint, which is
23 the base of the thumbs.

24 Q What is the result of having degenerative
25 changes in the bilateral thumb joints as I call them?

1 **A** Specifically, the thumbs are for opposition
2 and grasp. For her, it is a pain issue and also
3 decrease usage or decreased ability to grasp.

4 **Q** Does it affect her ability to grip?

5 **A** It does.

6 **Q** Prior to May 2011, were you, had you tested
7 Ms. Cook for her ability to grip?

8 **A** I had. This was a progressive issue for
9 her. Specifically, with her, as a bank teller, she
10 was having issues with counting money, grasping
11 money. Her tenderness and decreased range of motion
12 was consistent with the x-rays.

13 **Q** I would ask Ms. Cook to come around and ask
14 her to let you examine her hand so you can show the
15 jury what you are talking about with the nodes on her
16 fingers. Why don't you step down, if you would.

17 **A** (Demonstrating.) These are the nodes right
18 here. That finger and this finger. You have a
19 disruption of the joint space. You have some
20 architectural changes there as well. Specifically
21 with her, there was some tenderness along the base of
22 the thumb, the base of the thumb here. You wouldn't
23 be able to bring the two fingers together without
24 pain.

25 **Q** Is that on both hands?

1 **A** It is.

2 **Q** Were you treating her for these conditions?

3 **A** I was.

4 **Q** Did she come in to see you on June 2nd of
5 2011?

6 **A** She did.

7 **Q** At that point in time, did she tell you
8 about something that happened at work?

9 **A** She did.

10 **Q** What did she tell you about the accusations
11 that were made against her?

12 **A** On my note of that day, I stated that
13 during our visit, the patient became very tearful
14 about a situation at work, specifically the
15 accusations that she may have injured a coworker by
16 hugging too hard. Lydia has always been a very
17 affectionate and compassionate person and often
18 offers hugs to those around her, including myself and
19 staff. She had been placed on administrative leave.

20 **Q** When she told you about the allegation that
21 she had hugged someone and injured them, what did you
22 do?

23 **A** I actually laughed. I thought it was
24 absurd.

25 **Q** Why did you think it was absurd?

1 **A** Based on my history, my experience with
2 Lydia, here is a person who doesn't get around very
3 well, has to use a walker at times, have a decreased
4 grasp strength with notable fibromyalgia and not able
5 to do daily activities of daily living, for her to
6 physically harm someone would be very difficult to
7 believe.

8 **Q** In the manner described. Had you talked
9 with her about any specific thing at work or any
10 handicap she had at work because of her hands? Did
11 you discuss that with her?

12 **A** Prior to this, Lydia and I had conversation
13 about her -- she was very apprehensive about her job
14 performance. She wasn't able to count, she was still
15 doing it but she was concerned about being limited
16 somewhat because of the arthritis in her hands. I
17 think actually, on the same note, she was having
18 difficulty doing a lot of activities, especially
19 bending down and stooping. She stated she was
20 recently asked to do a job where she would be bent
21 down or sitting on a little stool for sometimes as a
22 vault teller -- I'm not sure exactly what that is --
23 in a bank where she works. She was incapable of
24 this. She was told she did not have any options.

25 **Q** How did -- did you treat her for the

1 effects of these allegations made against her?

2 **A** Unfortunately, Ms. Cook has an underlying
3 anxiety diagnoses that we had been treating for some
4 time. We were continuing her long-term anti-
5 depressant, anti-anxiety medicine, specifically,
6 Cymbalta. At that point, I thought she needed a
7 short-term anxiolytic because she was distressed
8 about the situation.

9 **Q** Was she depressed?

10 **A** She was more anxious at that point then
11 depressed, I think.

12 **Q** Did you continue to treat her with, several
13 times while you were still practicing, the things
14 related to this accusation at work?

15 **A** I did, in fact.

16 **Q** Did you continue to treat her for the
17 anxiety related to this until you terminated your
18 practice?

19 **A** I did, in fact.

20 **Q** Did you write a letter on, Exhibit 7? You
21 have a copy of it? Did you write a letter -- I think
22 His Honor has it. I will hand you another copy.

23 **A** I did write a letter.

24 **Q** It has some yellow things on there. Do not
25 read that portion please. If you would, describe

1 what Exhibit 7 is.

2 **A** This is a letter I wrote for Ms. Cook on
3 June 9th, 2011. The letter states that -- the letter
4 was written in regards to a discussion I recently had
5 with Ms. Cook during the office visit. I've been Ms.
6 Cook's primary care physician for several years.
7 During this time I've had the opportunity and
8 privilege to treat her. During this time, I have
9 become quite familiar with Ms. Cook's diagnoses and
10 associated disabilities and limitations. Recently
11 while in my office on June 2, 2011, Ms. Cook informed
12 me that there was an allegation of assault whereby
13 she supposedly injured the branch manager while
14 hugging her.

15 Based on my familiarity with her current
16 diagnoses, chronic progressive joint pain, arthritis
17 and fibromyalgia and their associated limitations, I
18 find it is virtually impossible for Ms. Cook to
19 injure anyone in this manner. Pain aside, she also
20 lacks physical strength to harm anyone. Ms. Cook has
21 always been a very compassionate and affectionate
22 person often offering hugs to myself and staff
23 members. I've been treating Ms. Cook for anxiety
24 associated with this matter.

25 **Q** Now, I want to now play for you -- and

1 let's look at -- this is Ms. Clevinger -- did Ms.
2 Cook tell you that she normally hugged everyone?

3 **A** Yes.

4 **Q** We're going to play for you Ms. Clevinger's
5 demonstration of what she says happened.

6 If you will, play that from her deposition.

7 **(WHEREUPON, a portion of Ms. Clevinger's**
8 **deposition is played for the jury.)**

9 **BY MR. PARKER:**

10 **Q** All right. Dr. Welcker, after reviewing
11 the description Ms. Clevinger gave about Ms. Cook's
12 supposedly hugged her, do you have an opinion as to
13 whether or not doing that, having her in that
14 position and doing whatever that she could have in
15 any way inflicted bruises upon the arms of Ms.
16 Clevinger?

17 **MR. TILLER:** Your Honor, same objection.

18 **MR. GRIFFITH:** Your Honor, objection.

19 **THE COURT:** I understand. Go ahead.

20 **THE WITNESS:** I find it difficult to
21 believe she could do that.

22 **BY MR. PARKER:**

23 **Q** Why is that?

24 **A** Several factors. Decreased strength in her
25 hands. Lydia has physical weakness based upon our

1 orthopedic issues. She has chronic back pain. She
2 has got the knee issue. She is got to be able
3 stabilize that knee to exert that force.

4 **Q** Was that your intention in writing the
5 letter that she delivered to Regions Bank to express
6 your opinions about why you do not believe this event
7 could have occurred as described?

8 **A** That is correct.

9 **MR. PARKER:** Your Honor, we would move to
10 put into evidence Exhibit 7 subject to the
11 court's ruling. That is the doctor's report.

12 **MR. TILLER:** Same objection but note your
13 ruling.

14 **(WHEREUPON, Plaintiff's Exhibit 7 is admitted**
15 **into the record.)**

16 **MR. PARKER:** Answer any questions the
17 gentleman may have for you.

18 **THE COURT:** Cross-examination, Mr.
19 Tiller.

20 **MR. TILLER:** Very briefly, Your Honor.

21 **THE COURT:** Certainly.

22 **CROSS-EXAMINATION**

23 **BY MR. TILLER:**

24 **Q** Good morning, Dr. Welcker.

25 **A** Good morning.

1 **A** I am not.

2 **Q** I have no further questions. Thank you.

3 **MR. PARKER:** No further questions.

4 **MR. TILLER:** None, Your Honor. Thank
5 you.

6 **THE COURT:** Thank you, Doctor. You may
7 step down.

8 **THE WITNESS:** Thank you.

9 **THE COURT:** May the doctor be excused
10 from his subpoena?

11 **MR. PARKER:** Yes, sir.

12 **MR. TILLER:** No objection.

13 **THE COURT:** Without objection.

14 **MR. GRIFFITH:** No objection.

15 **THE COURT:** Thank you.

16 **THE WITNESS:** Thank you.

17 **THE COURT:** Call your next witness.

18 **MR. PARKER:** We call Ms. Lydia Cook.

19 **LYDIA COOK**

20 having first been duly sworn, testifies as follows:

21 **DIRECT EXAMINATION**

22 **BY MR. PARKER:**

23 **Q** Your name is Lydia Cook?

24 **A** Yes, sir.

25 **Q** Hate to have to have your medical history

1 put in front of everybody. But did Dr. Welcker
2 accurately state what your conditions are?

3 A Yes, sir. He did. .

4 Q Tell us something about yourself. Where
5 did you grow up?

6 A I grew up at a school called John De La
7 Howe.

8 Q Get back from the mic a little.

9 A Is that better?

10 Q That is better.

11 A Okay. I grew up in a school called John De
12 La Howe.

13 Q Let me ask you a few questions before that.
14 Were you born in the Hampton area?

15 A Yes, sir.

16 Q Who are some of your relatives in Hampton?

17 A Libby Priester, John Priester, John
18 Stanley, James Stanley, Donna Beech. I have a lot of
19 family here.

20 Q Marcel Woods?

21 A Marcel Woods. Yes, sir.

22 Q At an early age or has some age, you went
23 to school called John De La Howe?

24 A Yes, sir.

25 Q I think your sister -- this is your twin

1 sister?

2 **A** Yes, sir.

3 **Q** This is your husband, right?

4 **A** Yes, sir.

5 **Q** How long have you been married?

6 **A** 40 years.

7 **Q** You got married at a young age?

8 **A** 40 years, I think. 39 or 40. 40.

9 **Q** The same length and time that I have been
10 practicing law. I can remember that better than how
11 long I was married.

12 **A** Okay.

13 **Q** You left here at an early age? After you
14 and Mike have married, you left?

15 **A** Yes, sir. I did.

16 **Q** You went to school and John De La Howe.
17 You and Libby both?

18 **A** Yes, sir.

19 **Q** You went to school for a long period of
20 time?

21 **A** We did.

22 **Q** From what grades?

23 **A** From the second grade. I think I was
24 seven. I stayed for a few weeks into the 10th grade.

25 **Q** And you came back to Hampton in the 10th

1 grade?

2 **A** Yes, I did.

3 **Q** Who did you live with when you came back to
4 Hampton?

5 **A** Uh, Inez and Jerry Gill, my aunt and uncle.

6 **Q** And Jerry Gill ran the Phillips station up
7 at west end?

8 **A** Yes, sir. That is correct..

9 **Q** And he is no longer there?

10 **A** That is correct.

11 **Q** Some people on the jury may be old enough
12 to remember that. Your uncle Jerry actually had
13 custody of you and Libby at that time?

14 **A** Yes, sir.

15 **Q** And you and Libby are identical twins?

16 **A** We are.

17 **Q** And very close?

18 **A** Yes, sir, we are.

19 **Q** Now, once you got out of high school, you
20 got married not long thereafter?

21 **A** Actually, I got married during high school
22 in March. I graduated in May.

23 **Q** When you and Mike were married, where did
24 you live?

25 **A** We first moved -- we lived in Fort Pierce,

1 Florida for a short period of time. Then we went to
2 West Palm Beach in Fort Lauderdale. From Florida, we
3 went to Colorado. From Colorado to New Mexico and
4 back here.

5 Q During that time, what did Mike do?

6 A He was a railroad conductor. Started off
7 as a switch conductor, an engineer. Went to Colorado
8 and was an engineer there. From there, he went to
9 GMAC as a financial representative. He stayed there
10 for almost 25 years.

11 Q And y'all live -- before you moved back to
12 Hampton, y'all lived in New Mexico?

13 A Yes, sir.

14 Q And what did you do during your career?

15 A My entire career, I spent in banking.

16 Q Did you work for a bank out in New Mexico?

17 A I did. At a credit union.

18 Q What were the names of those?

19 A I worked for Suntrust Bank and I worked for
20 Animus Credit Union.

21 Q And why did y'all move back to Hampton?

22 A My mother-in-law was diagnosed with
23 pancreatic cancer. She had two handicap sons that
24 were in their late 50s and didn't have anybody else
25 to take care of them because they lived in the house

1 with her. We felt like we needed to come and help.
2 Since Mike's job had been abolished, we felt like we
3 needed to come help our family. That is what we did.

4 Q Chris and Larry, until your mother-in-law
5 died, they lived with her?

6 A That is correct. They lived their entire
7 life with her.

8 Q Your mother-in-law was Ruby Cook?

9 A Yes, sir.

10 Q And they lived in Varnville?

11 A Yes, sir.

12 Q Larry, the gentleman that started counting
13 the cars on trains and looking at trains coming
14 through for a number of years here in Hampton?

15 A Yes, sir.

16 Q Was he fascinated by the railroad?

17 A He was.

18 Q After you came back, did you seek to get
19 employment?

20 A I did.

21 Q Where did you go? And tell me about who you
22 were hired by.

23 A I went to a lot of places. I went to
24 Palmetto Bank. That was after my mother-in-law
25 passed away. I went to every bank in the county.

1 Elliott Sawmilling Companies. I drop my resume off
2 at, I think, your law firm. I finally got a call
3 from a gentleman that owns Ellis Insurance Company or
4 Realty. He asked me if I would come in and visit
5 with him about working for him on a temporary basis,
6 so I did for a short time.

7 Q Were you hired by Regions Bank?

8 A I was hired by Regions Bank. I'm sorry. I
9 did go to work with Regions Bank when I first came
10 here. I think it was in December. Then after I left
11 Regions Bank, all the other things transpired.

12 Q Okay. I want to talk to you about your
13 history there at Regions Bank.

14 A Okay.

15 Q Regions Bank, I think everybody knows, is
16 right across the street?

17 A Yes, sir.

18 Q You went up to work there, who was your
19 boss?

20 A Phyllis Harvey.

21 Q Did you work there -- when did you go to
22 work there?

23 A I think December 2007, shortly -- it was
24 after my mother-in-law passed away.

25 Q You worked there from 2007 until when?

1 **A** Until May, I think, of 2011.

2 **Q** And what was your position there?

3 **A** When they hired me, they actually hired me
4 as a teller for a short period of time. Then they
5 were having a lot of changes with Regions. One of
6 the girls, that was the FSR customer service
7 represent wanted to go back on the teller line. So
8 since I had all of the experience in FSRs, new
9 accounts, IRAs, CDs, uh, they put me in that
10 position. That was my primary job.

11 However, we were short staffed a lot. They
12 would always put me on the teller line when they
13 needed me at the latter part, I was actually taken
14 out of my office and put on the teller line to do
15 teller work which I really wasn't able to do. But
16 they were aware of that, my manager was.

17 **Q** And when you worked there at the bank at
18 first, who was your supervisor?

19 **A** Phyllis Harvey.

20 **Q** That was for the first several years?

21 **A** That is correct.

22 **Q** At some point in time, Phyllis no longer
23 worked there, retired and you had a new manager?

24 **A** Yes, sir.

25 **Q** That was Ms. Clevinger?

1 **A** Yes, sir.

2 **Q** Had you applied for that job?

3 **A** I did.

4 **Q** Did you get the job?

5 **A** I did not.

6 **Q** After you didn't get the job and Ms.
7 Clevinger came there to work, did she know you had
8 applied for the job?

9 **A** Yes, sir.

10 **Q** And did you have a discussion with her
11 about it and try to welcome her to the branch?

12 **A** I did. Actually, she received the job and
13 she was working in the Beaufort offices. I tried to
14 call her to congratulate her. She was out of the
15 office. So I called another manager and told her I
16 thought that she had made the best decision and I
17 will do whatever I needed to do to help her as much
18 as I could.

19 **Q** After Ms. Clevinger came to Hampton, if you
20 would, describe what happened as far as the customers
21 there at the bank.

22 **A** Her customer service skills, I felt weren't
23 very good. She was very rude to the customers. She
24 would make them upset. They would be closing their
25 accounts. I can remember at one point a customer

1 came in and wanted to close her account --

2 **MR. TILLER:** Your Honor, this is the
3 subject of our prior motion. You have heard and
4 ruled upon. We would object to this testimony.
5 It's Number 4 in our motion in limine that we
6 took up yesterday morning.

7 **MR. PARKER:** Your Honor, since that time,
8 you had changed your ruling.

9 **THE COURT:** Ladies and Gentlemen, I'm
10 going to have to ask you to step out of the
11 courtroom for a few minutes while I discuss with
12 the lawyers a few matters of law.

13 **(WHEREUPON, the jury exits at approximately**
14 10:46 a.m.)

15 **THE COURT:** Refresh my memory, Mr.
16 Tiller.

17 **MR. TILLER:** Yes, sir, Your Honor. Our
18 Number 4 motion in limine was to exclude
19 evidence and testimony pertaining to Ms.
20 Clevinger's interaction or demeanor with
21 customers of Regions Bank. That motion was
22 granted. Ms. Cook is now attempting to testify
23 about certain things that Ms. Clevinger did with
24 certain customers and the way she treated them.
25 I can't cross-examine those customers. Those

1 customers aren't going to be witnesses in the
2 case. This goes directly to your prior ruling
3 on that particular part of our motion.

4 **THE COURT:** All right. Mr. Parker, you
5 are --

6 **MR. PARKER:** Your Honor, you changed your
7 ruling. We discussed Exhibit 32 which is a memo
8 from Ms. Lloyd to Patty Austin where she
9 describes the interaction of Ms. Clevinger with
10 the customers in the bank. You ruled that that
11 was, in fact, admissible and changed your ruling
12 in that regard. This testimony is in line with
13 Exhibit 32.

14 **MR. TILLER:** 32 has nothing to do with
15 Ms. Clevinger, Your Honor. That is an email
16 from Ms. Lloyd --

17 **MR. PARKER:** It has to do with Ms.
18 Clevinger in her interaction with customers.

19 **MR. TILLER:** Right, which was the exact
20 subject of my motion.

21 **THE COURT:** I am trying to find it. I
22 can't put my finger on it.

23 **MR. PARKER:** We can put it up, Your
24 Honor. Exhibit 32.

25 **THE COURT:** 32. (Pause.)

1 I am sorry, Mr. Parker. You are saying
2 that because that is admissible that changes a
3 prior ruling?

4 **MR. PARKER:** Your Honor, the actual
5 motion was about having customers testify. We
6 will revisit that because we think in light of
7 the argument of you changing your ruling on
8 Exhibit 32 and ruling it was admissible, this
9 testimony is along the same lines as we
10 discussed and argued yesterday, the relevancy of
11 this testimony is, if you recall, on April 6,
12 Ms. Cook made a complaint to her superiors about
13 these very things that are in Exhibit 32 and
14 about which she is basically testifying in this
15 complaint against Ms. Clevinger on 46 is what we
16 contend led to the false allegations against Ms.
17 Cook insofar as Ms. Clevinger. So this
18 testimony is relevant to the complaint that Ms.
19 Cook made against Ms. Clevinger. That is why
20 you said Exhibit 32 is, in fact, admissible. We
21 have got a memo. The complaint that was made
22 would be an exhibit.

23 **THE COURT:** Mr. Tiller?

24 **MR. TILLER:** We're back to where I
25 started, Your Honor. We are trying a defamation

1 case about an event that took place on May 9th
2 and the reporting of it thereafter. We're not
3 here to try an issue of whether Ms. Clevinger
4 was pleasant to the customers or rude to the
5 customers. We don't believe it has any
6 relevance whatsoever. It is highly prejudicial
7 to painting both the bank and Ms. Clevinger in a
8 bad light.

9 On top of that, what I said earlier is if
10 she is allowed to testify about this is what Ms.
11 Clevinger did with this customer or customer,
12 using a generic customer gives me no ability
13 whatsoever to refute that testimony or cross-
14 examine this generic customer and it's a little
15 bit --

16 **THE COURT:** Mr. Parker, isn't it true
17 though that whether or not the complaint of your
18 client to Regions about the defendant's
19 relationship with customers, whether the facts
20 are true or not, is not relevant.

21 **MR. PARKER:** It is certainly relevant.

22 **THE COURT:** Is it only relevant that she
23 did file a complaint?

24 **MR. PARKER:** I think not. That is asking
25 people to decide things on a vacuum. The facts

1 are that, in fact, Ms. Cook perceived that Ms.
2 Clevinger -- which Ms. Clevinger denies being
3 rude to the customers. It also goes to her
4 truthfulness which we are going to obviously put
5 in evidence when we cross-examine her. The fact
6 is that she was rude to the customers goes to
7 the truth of Ms. Cook's statement. Her
8 character is at issue as is Ms. Clevinger.

9 This is evidence that the complaint she
10 made was, in fact, valid as is Exhibit 32 and
11 other evidence that we will present, Your Honor.
12 The fact is this goes to the truthfulness of Ms.
13 Cook's complaint and it goes to her character of
14 the truthfulness.

15 **MR. TILLER:** As I said earlier, how can I
16 cross-examine Ms. Cook on that issue if we are
17 using the generic word customers. In other
18 words, if she is allowed to testify on all of
19 this that I don't know about or can't deal with,
20 we're getting into totally different issues as
21 to what the case is all about. The fact that
22 she subsequently makes a complaint to Human
23 Resources on her own and that was the basis of
24 what she did, that is a different issue
25 altogether. But to have her testify about we

1 began having customer problems, there is no way
2 I can address that.

3 **THE COURT:** All right. Thank you.

4 Mr. Griffith?

5 **MR. GRIFFITH:** Your Honor, I would join
6 in arguments made by Mr. Tiller that obviously I
7 believe this is the classic definition of
8 hearsay. Ms. Cook is getting ready to make an
9 out-of-court statement by someone who is not
10 present and subject to cross-examination. As a
11 result, that is a hearsay statement. I cannot
12 find an 803 exception to the hearsay.

13 My understanding -- if you change your
14 ruling yesterday, Judge, I did not hear it. My
15 understanding is these came in as business
16 records. We may have another objection when it
17 come and if there's hearsay upon hearsay under
18 805. At this time, I believe this testimony by
19 Ms. Cook is classic hearsay and as a result
20 should not be admitted in this form. In
21 addition to the fact you have previously ruled
22 that we weren't going to try whether she was
23 nice or not to yesterday's motion in limine.

24 **THE COURT:** All right, Mr. Parker. My
25 ruling on this exhibit is not the reversal on

1 the demeanor and interaction ruling. That's
2 number 4 of Regions. I sustain the objection as
3 to this line of testimony from the plaintiff.
4 Anything else in that regard? (No response.)

5 Okay. Let's bring the jury back in.

6 (WHEREUPON, the jury enters at approximately
7 10:56 a.m.)

8 THE COURT: Welcome back, Ladies and
9 Gentlemen. I believe we are ready to resume
10 with the examination of the witnesses. Mr.
11 Parker.

12 MR. PARKER: Thank you.

13 BY MR. PARKER:

14 Q When we left off, we were talking about Ms.
15 Robyn Clevinger receiving the manager's job across
16 the street here in Hampton at the Regions branch
17 here, is that correct?

18 A Yes, sir. That is correct.

19 Q When would that have been approximately, if
20 you recall?

21 A When she came to work at Regions in
22 Hampton?

23 Q Yes.

24 A I believe it was in the early part of
25 August, somewhere in August.

1 Q Of 2010?

2 A Uh, yes, sir.

3 Q There were a number of people that work
4 there at the branch at that time?

5 A That's correct.

6 Q Who all work there?

7 A Stacy Drawdy. We were having a big turn
8 over. Lance Duncan, Sherry Patterson, Suzanne
9 Freeman, myself, Ms. Clevinger. We had a lot of
10 people coming from other branches to fill in.

11 Q Who was Andree Lloyd?

12 A She was actually Ms. Clevinger's manager.
13 She was over our branch. Robyn was a branch manager,
14 but she was actually over her.

15 Q And Ms. Lloyd had a number of other
16 branches she was over in addition to the Hampton
17 branch?

18 A Yes, sir, quite a few.

19 Q After Ms. Clevinger came to the branch,
20 tell me about your interaction with her and so forth.

21 A Actually, when she first came, we got along
22 pretty good. I was supportive. I helped her with an
23 outing one evening. I tried to do everything I could
24 to help with her. Uh, things started changing.
25 Employees, customers, we lost a lot of staff that had

1 issues with Ms. Clevinger that Regions was aware of.
2 We have one particular, uh, -- Robyn was really bad
3 about telling somebody if you want a vacation, you
4 can have it, and then say no you cannot have it. She
5 changed her mind.

6 We actually had a teller around December
7 the had made arrangements for vacation to go to a
8 wedding. The day before, she was told she could not
9 go and she already made arrangements, car rentals and
10 that type of stuff. She actually quit because the
11 vacation was so important to her with a family member
12 getting married.

13 I asked for some time off and was approved
14 for my time off and my husband, my son and family and
15 a friend from Texas I had not seen in five years, we
16 all made sure we could get the time off so we could
17 all be together. Then after I was granted time off, I
18 was told I could not have it off.

19 Q Let's go back before that happened in March
20 2011, March 30, 2011. Let's look at Exhibit 23. I'm
21 going to hand you Exhibit 23.

22 A I'm sorry. You're going to hand it to me?

23 Q Yeah. I'm going to hand it to you.

24 A I need my glasses.

25 MR. TILLER: Your Honor, can we take a

1 look at it before it goes up in front of the
2 jury?

3 **THE COURT:** Sure.

4 **MR. PARKER:** It is Regions 107.

5 **MR. TILLER:** Just didn't want to publish
6 to the jury before.

7 **THE COURT:** Are you familiar with what he
8 is talking about?

9 **MR. TILLER:** I think so, Your Honor.

10 **THE COURT:** How many pages you got, Mr.
11 Parker?

12 **MR. PARKER:** It goes through Regions 112.

13 **MR. GRIFFITH:** Is he going to admit it?

14 **MR. PARKER:** I'm sorry?

15 **MR. GRIFFITH:** Is he going to admit it?

16 **MR. PARKER:** Yes.

17 **THE COURT:** Any objections?

18 **MR. PARKER:** This was an evaluation that
19 was made of Ms. Cook on March 30, '11 by Ms.
20 Clevinger.

21 **THE COURT:** Any objection?

22 **MR. GRIFFITH:** Not if he is moving to
23 admit it. That was my question.

24 **THE COURT:** I think he just said he was
25 moving to admitted.

1 **MR. PARKER:** I did.

2 **MR. GRIFFITH:** No objection.

3 **MR. TILLER:** Without objection.

4 **THE COURT:** It will be admitted.

5 **(WHEREUPON, Plaintiff Exhibit Number 23 is**
6 **admitted into the record.)**

7 **BY MR. PARKER:**

8 **Q** On this exhibit, I want you to go to the
9 back page of it and look at the comments concerning
10 you.

11 **A** (Reviewing.)

12 **Q** If you would, would you read there what Ms.
13 Clevinger said about you.

14 **A** Yes, sir. Lydia is a very dedicated and
15 loyal employee. I have seen Lydia grow into a good
16 team player. Lydia could greatly benefit from
17 developing planning and organizational skills
18 although it has been difficult to work on these and
19 she has been filling in for staff shortages.

20 I would like to see Lydia utilize the
21 resources provided to increase her knowledge on our
22 products and operations to improve her time
23 management and follow through as well as improve her
24 written and verbal communication skills. Lydia has
25 several growth opportunities that will enable her to

1 progress as a rising star associate.

2 I would like to see Lydia becoming licensed
3 FSS. Lydia has demonstrated a strength as her desire
4 to be with Regions throughout her career. I know
5 Lydia can continue to grow into a great asset at the
6 bank with the right coaching.

7 Q So at least at that point, even though you
8 testified that things were contentious as far as you
9 and Ms. Clevinger, y'all were getting along?

10 A Yes, sir.

11 Q You started testifying about your request
12 for vacation?

13 A Yes, sir.

14 Q Was it approved by Ms. Clevinger?

15 A It was.

16 Q Then after that, it was disapproved?

17 A Yes, sir, it was.

18 Q That caused you to write a letter or email
19 to Human Resources?

20 A Correct.

21 Q I'm going to hand you Exhibit 13. I'm going
22 to hand you Exhibit 13. Is this a record of the
23 email or is the email that you sent to Human
24 Resources?

25 A Yes, sir. This is.

1 **Q** Is this the first time that you made a
2 complaint about Ms. Clevinger?

3 **A** Yes, sir.

4 **Q** This is an email, Exhibit 13 is an email to
5 Shannon Turner?

6 **A** That is correct.

7 **Q** Who is she?

8 **A** I think she works in the Atlanta office. I
9 don't know if she is HR, assistant to HR. Maybe she
10 worked in the Aiken office. I just can't remember.

11 **Q** She was the appropriate person for you to
12 communicate with about that?

13 **A** Yes, sir, as far as I was concerned.

14 **MR. PARKER:** We would offer Exhibit 13
15 into evidence.

16 **MR. TILLER:** No objection other than what
17 we discussed yesterday, Your Honor.

18 **THE COURT:** All right.

19 **(WHEREUPON, Plaintiff Exhibit Number 13 is**
20 **admitted into the record.)**

21 **BY MR. PARKER:**

22 **Q** After this, I'm going to next into Exhibit
23 15. This is a memorandum, for the record, from the
24 records of Regions to Holly Johnson.. Do you know Ms.
25 Johnson?

1 **A** Yes, sir, I do.

2 **Q** She is seated over at counsel table?

3 **A** Yes, sir.

4 **Q** What was her position?

5 **A** She is actually over HR in Aiken and over
6 our area.

7 **Q** And this memo was dated April 7, 2011. If
8 you would, just read what this says. Start at the
9 top.

10 **A** Lydia Cook con -- Lydia Cook contacted me
11 on 4/6/11 and stated she had concerns about her
12 manager. Lydia said, became very upset the day
13 before when she met with Robyn Clevinger to discuss
14 her first-quarter incentive payout. Robyn told her
15 that she only received the payouts because of
16 referrals from the tellers and if it weren't for
17 them, she would not be getting any bonus. Robyn
18 instructed Lydia to, an incentive to give the tellers
19 for receiving these over and above what they would
20 receive in Teamworks. If she would not do so, Robyn
21 would have the leads funneled to her rather than to
22 Lydia.

23 Lydia said to me that she is taxed on her
24 bonus and could not afford to give money to the
25 tellers. She asked Robyn about giving the tellers

1 gift certificates for manicures. Per Lydia, Robyn
2 stated that she needed to come up with something and
3 present it to her. I asked Lydia if Robyn
4 specifically addressed whether or not Lydia was
5 generating enough of her own leads. Lydia said no,
6 she feels like she generates a lot herself.

7 Additionally, Lydia said that a minority
8 male had interviewed with Robyn for the teller
9 position. Robyn confided in Lydia that she did not
10 know if she could hire him or not because he had too
11 much sugar in his pants. Robyn then asked Lydia if
12 she knew what that meant and went on to explain that
13 she may he was gay.

14 **MR. GRIFFITH:** Your Honor, at this time
15 that we approach for one second?

16 **(WHEREUPON,** a bench conference is held off the
17 record.)

18 **BY MR. PARKER:**

19 **Q** Let's go down if we would, Ms. Cook, to
20 where you read a portion of it -- of that. Did you
21 finish reading -- I think where we left off, you had
22 read the portion about sugar in the pants?

23 **A** Yes, sir. Let's see. Robyn complained to
24 Lydia that she didn't know if she could hire him or
25 not because he had too much sugar in his pants.

1 Robyn then asked Lydia if she knew what that meant
2 and went on to explain that it meant he was gay.
3 Lydia also addressed Robyn's customer interactions
4 that she witnessed and feels that they are
5 inappropriate.

6 One customer had tried to contact Robyn but
7 she had not returned his call. He came into the
8 branch one day and commented to a teller that Robyn
9 must not like him. The teller related the comment to
10 Robyn and reminded her to contact the customer.

11 Robyn did call the customer and apologized
12 for not doing so earlier. She stated he had been
13 because she was busy, not because I don't like you.
14 The customer became upset that the comment was shared
15 with Robyn and -- actually it was not a gentleman, it
16 was a lady that did that.

17 Another customer came into the branch and
18 was upset about a fee that had been charged. He
19 threatened to close his account. Lydia was waiting
20 on the customer and explained where he was charged
21 when Robyn walked up said to Lydia in front of the
22 customary he just wanted to close his account. No
23 need to explain all of that to him.

24 A third customer became irate when they
25 previously met with Robyn and provided information to

1 open an account. Robyn told the customer she would
2 provide the information to Lydia to open the account.
3 When the customer came into met with Lydia, she had
4 not received the information from Robyn. The
5 customer was upset that they had to repeat
6 everything. Lydia wrapped up the conversation stated
7 that she had held a lot of that in including the
8 vacation issues that I forward to you. But after the
9 incentive conversation for the previous day, she felt
10 threatened.

11 Q The next day after you talked with Ms.
12 Turner, did Ms. Clevinger confront you about some
13 things?

14 A Yes, sir. She wanted to know who I had
15 been talking to.

16 Q Now, let's put up exhibit --

17 MR. PARKER: We would offer Exhibit 15
18 into evidence at this time, Your Honor.

19 THE COURT: Subject to your objection?

20 MR. TILLER: That is correct, Judge.

21 Thank you.

22 (WHEREUPON, Plaintiff Exhibit Number 15 is
23 admitted into the record.)

24 BY MR. PARKER:

25 Q Exhibit 14, if you would, the following

1 day, did Ms. Clevinger have a conversation with you?
2 Is this Exhibit 14 which is part of Regions' records
3 that confirm that conversation?

4 **A** I really can't read it from here. I'm
5 sorry.

6 **Q** That's perfectly all right.

7 **MR. TILLER:** I'm sorry. What number is
8 that?

9 **MR. PARKER:** Exhibit 14.

10 **MR. TILLER:** Okay.

11 **THE WITNESS:** Thank you.

12 **BY MR. PARKER:**

13 **Q** Exhibit 14 is a Regions Bank record that
14 confirms you called someone about Robyn confronting
15 you the following day of your complaint?

16 **A** Yes, sir. Actually, I contacted Patty
17 Austin.

18 **Q** Who is Patty Austin?

19 **A** I want to say that she is the -- she is
20 over all the branches. She is like a regional
21 manager would be her title.

22 **Q** She was one of the big bosses?

23 **A** She is an executive, yes, sir.

24 **Q** If you would, read this memo.

25 **A** Patty Austin's memo to Holly Johnson, which

1 is in HR --

2 Q I believe this is Holly Johnson to Patty
3 Austin.

4 A Right. I'm sorry. It says I am concerned
5 that Robyn has had some inappropriate conversations
6 with Lydia today. While not directly confronting her,
7 there was enough negative treatment that her
8 interaction with Lydia was not business as usual.
9 Lydia phoned extremely upset asking whether her
10 conversation had been shared with Robyn as she could
11 do nothing right today.

12 Robyn Clevinger questioned Lydia as to whom
13 she had been talking to. She said you think you are
14 the boss here, you walk around like a one-man show.
15 Insinuating customers complaints per Lydia, Robyn
16 told her today that nobody here likes you and you do
17 things wrong all the time. Need to temper that some.
18 Lydia was in tears and rambling some. Was hard to
19 understand if all of that conversation was from
20 today. She does tend to be emotional and defensive.

21 Lydia claimed that Robyn has previously
22 stated wouldn't get branch managers job since she was
23 part of the loss by the branch for which Darlene was
24 terminated and that is why staff, Lydia, in
25 parentheses, at Hampton would not get ahead because

1 there are already losses. I am attaching Shannon's
2 detailed memo. Will send to Barbara as soon as I
3 receive it.

4 Q Did, in fact, those events that were
5 described in Exhibit 14 occur?

6 A Yes, sir.

7 Q Did, in fact, Ms. Clevinger confront you
8 the day after you made your complaint?

9 A Yes, sir.

10 Q You felt like she knew about your complaint
11 and she was acting towards you in what kind of
12 manner?

13 MR. GRIFFITH: Your Honor, I'm going to
14 object to leading.

15 THE COURT: I sustain that.

16 BY MR. PARKER:

17 Q Did you have a conversation with Ms.
18 Clevinger following day, how did you perceive her
19 confrontation?

20 A I felt like that she was mad at me. She
21 knew what was, her conversation was the day before
22 that I had with some of the managers at Regions and,
23 uh, threatening.

24 Q From that day forward on 4/7 forward, while
25 you were employed with Regions, did anything change

1 about that?

2 **A** Yes, sir. I felt like we had a pretty good
3 relationship. But after I did that, it just seemed
4 like everything started going downhill. Nothing that
5 I could do was right. Nothing that I said was right.
6 One of my job responsibilities was going out to the
7 community trying to get accounts and bring them back
8 into the bank. It will be my week about going out
9 and she never found the time to let me go out.

10 Since she was my manager, she would not let
11 me stay in my office. My job was not a teller. It
12 was customer service. She kept me on the teller
13 line. She made me start going to lunch at 10 o'clock
14 in the morning. She threatened to take chairs away.
15 Just everything.

16 She would not let me do my -- she felt like
17 -- she would not let me in my office. Since I
18 couldn't get in my office, I wasn't able to do my
19 work as a customer service rep. When I was on the
20 teller line, and if there wasn't a customer in front
21 of me, and I would go and to try to do some of my
22 work, she would come up behind me and asked me what I
23 was doing. I would say I'm trying to get some of my
24 work done. Well, just don't bother about that, you
25 need to work as a teller today. That is just how it

1 was until the day I left the bank.

2 Q During that period of time, before you
3 left, May 9th, was there an occasion where you had an
4 outage or your books would not balance?

5 A That is correct.

6 Q Tell us about that.

7 A As a teller, at the end of the day, just
8 like a cashier at a convenience store, you have to
9 balance out your cash drawer. I was out of balance.
10 I was counting my money. I couldn't find it. Robyn
11 came over and started going through my tickets.
12 Usually, you put the ticket in wrong way in the
13 machine.

14 Q Go back a little bit. You are too close.

15 A Okay. She found my outage. If she had not
16 found it, I would have been going through my tickets
17 and I would have found it. She found my outage.

18 Q What are you talking about, tickets? What
19 are you talking about?

20 A When a customer comes in the bank and makes
21 a deposit, if you have a check for \$200 and you want
22 cash back for \$100, we would validate your deposit,
23 your receipt with a \$100. And we would make a ticket
24 that said cash out into our machine. That would show
25 that we gave you back \$100 so the transaction would

1 balance. It is real easy, when the lines are long,
2 we all guilty of making errors. I did make an error.
3 I made my ticket incorrectly.

4 She started going through my tickets. She
5 found it. We reversed it. When she found it, she
6 said here is your outage. It is in the tickets. I
7 said, oh, I hugged her. Suzanne Freeman said what
8 are you guys doing. Robyn said she is happy because
9 I found her outage. I said yes, we can all go home
10 now. I hugged her and said thank you, thank you,
11 thank you and gave her a couple of kisses on her
12 cheeks. That was the end of it. I never heard
13 anything about anything. I did not feel that
14 anything I did was incorrect.

15 Q Come down, if you would. Show me as best
16 you can recall how this occurred.

17 A She turned around and showed me the ticket.
18 I said thank you, thank you, thank you. That's it.
19 (Demonstrating.)

20 Q Is that it exactly as best you can recall?

21 A That is as best I can recall.

22 Q Did anything more serious than that happen?

23 A No, nothing.

24 Q After that day, did you hear anything about
25 this from anyone for a period of time?

1 **A** No, I -- everything was fine. I thanked
2 her for my outage and said we can all go home. That
3 was it. I didn't hear anything.

4 **Q** Did she continue the same treatment you had
5 been getting?

6 **A** She continued the same treatment.
7 Actually, Suzanne Freeman, our vault teller was going
8 on vacation. They decided -- I wasn't aware of what
9 was going on. Suzanne called me in the vault and
10 said that I was going to have to be the vault teller
11 when she was not there. I said I don't really think
12 that is fair because I have not had any training in
13 the vault. I said I really don't have a choice
14 because Robyn will be here. That's when she said I
15 thought Robyn would have told you she wasn't going to
16 be here. I said, you know, I can't get down on my
17 knees, the vault is too low. I have already talked
18 about all of that.

19 In fact, the vault -- in fact, all the time
20 I was being a teller, a lot of the tellers were real
21 nice to me because they knew I could not -- I wasn't
22 able to handle the coins all the time and they would
23 pick it up for me and help me. And so that night,
24 when we went to balance, the vault was out of
25 balance. I could not find, I think it was short like

1 \$2000. The day that Ms. Freeman went on vacation,
2 she handled all the tickets to the vault. There was
3 going to be a cash shipment that was going to be
4 coming in and a shipment going out. She said don't
5 worry, you don't have to worry about the tickets or
6 anything. I have already made them. You just have
7 to run them in the machine. I said okay.

8 That night, when we went to balance, I
9 could not get into the vault. I guess it is like
10 everything else. You have to have the authorization
11 to be able to do that. I guess I did not get the
12 authorization because I could not get onto the
13 terminal.

14 Ms. Clevinger actually was in a meeting, I
15 think, in Charleston. I actually called her to tell
16 her that it wasn't balancing. She kept calling -- it
17 was after 5 o'clock. You need to hurry up and get
18 out of there. We were doing everything we could. I
19 actually called Robin Hubbard which was our
20 compliance lady that worked in this area for Regions
21 and told her that I could not get onto the vault side
22 to balance it. She said that she will -- for me to
23 make a call, I think it is Lifeline. I'm not sure of
24 the name but it is something to do with cards. It is
25 software, I guess, that they could get into and give

1 me the authorization after I was never able to get
2 onto it.

3 So at that point, since the vault was
4 short, I was left with a brand-new teller and a lady
5 that came from another branch. I was doing customer
6 service, vault teller, teller, drive up, front, I was
7 doing everything that I could. Robyn kept calling
8 saying hurry up and get out of there. Hurry up. You
9 know it is after 5 o'clock. We were doing the best
10 that we can.

11 At that point, I thought, well, if the
12 tellers balance, may be one of the tellers will be
13 over and that will take care of the difference. The
14 tellers balanced. So what we did was I had to
15 handwrite the tickets because the vault is also a
16 teller just like a teller window. Anything that goes
17 out, say like if I was teller number 17, the vault
18 might be 21, the vault teller. The vault teller --
19 any time the tellers would buy money or sell it to
20 the vault, they would make a ticket if they sold, an
21 out ticket in their drawer, and the vault teller
22 would make an end ticket showing that it went into
23 the vault. Hopefully, at the end of the day when
24 everybody balances, it all balances because
25 everything had been done right.

1 I could not get onto the system. The only
2 thing I knew to do at that point, I talked to Robyn
3 Hubbard about it which was Compliance, she asked me
4 did you have any training at all, even one day as a
5 vault teller at Regions. I said no, I have not. We
6 decided the best thing to do was to handwrite all the
7 tickets. When all the tellers balance, including my
8 teller cash drawer balanced, I told the tellers we
9 all balanced. The only thing I can know to do is go
10 ahead and run all of our work and then the batch
11 tickets for the vault. We will do separate. That way
12 when we went to research it, it would be easier for
13 us to do.

14 The next morning, when I came in, Robyn --
15 I asked her if we could verify the vault before any
16 money went in or out of it because I might've counted
17 something wrong or something could've happened. She
18 never got around to helping me. She kept her door to
19 her office closed almost all day.

20 Then -- finally, she wanted me to go to the
21 computer. She came out of her office. She asked me
22 to go to the computer and sign on as the vault teller
23 because she did not believe I could not sign on to
24 it. At that point, I showed her I could not get onto
25 the vault side. So she ran the tickets. She said by

1 my calculations, you are short \$2000. The evening
2 came. Everybody else was gone. The two of us were
3 in there. She was upset. She says she reckon she
4 was going to have to go ahead and call Robin to let
5 her know that I had a large out, the compliance
6 person.

7 When I was in her office -- I never seen
8 her let her guard down before. But when I was in
9 there, she started crying. She said I'm going to
10 lose my job over this because my name is all over
11 everything. I said how can you lose your job. You
12 put me in the responsibility as the vault teller and
13 it is short. That evening, we went home.

14 Anything that happened in the branch at
15 that time was my fault. If there were keys missing,
16 it was my fault. If I had a customer at -- one time
17 they came up to my window and there was a customer
18 waiting for me and I told her I would be in my office
19 waiting on a customer when I was the customer service
20 rep, when I could get in, I was waiting on a customer
21 there.

22 I was waiting on a customer and took the
23 transaction to the teller and there was a customer
24 waiting in the lobby, I said I will be with you
25 shortly. Give me a few more minutes. At that point,

1 Robyn walked behind the teller line and she told me,
2 she said, when you get finished here, you going to go
3 to lunch. These customers are going to realize that
4 you are not the only person that can help customers
5 in this bank. I said the customer has been waiting a
6 long time.

7 I didn't know what to say to the customer.
8 I just turned around and I said, I was embarrassed.
9 I said I'm so sorry that I forgot I had an
10 appointment to go to. It was embarrassing to me.

11 Q Let's go back to the outage, the \$2000. Was
12 that outage eventually found on Suzanne Freeman's?

13 A I never told -- wasn't told that. I was
14 put on administrative leave. There was Memorial
15 weekend. That morning, some of the executives came
16 in. They told me I was going to be put on
17 administrative leave. I asked them was it because of
18 the outage and they said no, it was worse than that.
19 I was like what could be worse. They said, well, you
20 have been accused of workplace violence by Robyn. I
21 was in total shock. I started crying. I just said I
22 can't believe this is happening to me.

23 Q Did you know what when they were saying
24 workplace violence that they were talking about?

25 A I didn't until they told me.

1 **Q** Is there any way you could have possibly
2 injured Ms. Clevinger the way they described or she
3 described?

4 **A** No, sir.

5 **Q** Did it ever happen -- you saw the testimony
6 of Ms. Clevinger and what she said you did. Did that
7 ever happen?

8 **A** No, sir. I just gave her a friendly hug
9 because when you have a balance for \$2000 and
10 somebody find it, we were all like that in the
11 office, appreciative of other people helping you.

12 **Q** That was a separate event than the one that
13 happened later?

14 **A** Yes, sir.

15 **Q** When they put you on administrative leave.

16 **A** When they put me on, when I was up in the
17 conference room and they put me on administrative
18 leave, at that point, they told me that I was going
19 to be on administrative leave without pay. Then, I
20 said because she accused me of workplace violence and
21 said I hurt her. I said, well, how about the office
22 equipment that she has been shoving around here and
23 taking a little refrigerator out of her truck and
24 bringing it into the office. They were like stop,
25 stop, do you remember the days when this was. I said

1 I really can't. I really can't remember the dates.
2 They said I would hear from them when the
3 investigation was finished. Also, because I was
4 under investigation for the money but basically they
5 told me the workplace violence also --

6 Q Let me stop you. You said the documents,
7 Regions documents that show that the outage was found
8 in Suzanne Freeman's station and it was cleared up?

9 A It was. Actually, she went on vacation.
10 She must have been out of balance when she went.
11 That is why the vault must have been short. When she
12 came back, she was over in her cash drawer. I never
13 was told that. I just was told that they found the
14 money.

15 But when they told me they were going to
16 put me on administrative leave and I shared to them
17 about her moving all of the office equipment, Ms.
18 Johnson from HR call me later on in the evening and
19 said they would be paying me on administrative leave.
20 I asked her why. She had contacted the legal
21 department. The legal department felt like she
22 should.

23 Q Were you paid?

24 A I was paid while I was on leave.

25 Q During that period of time when you were on

1 administrative leave, did you go and see Dr. Welcker?

2 **A** I did.

3 **Q** Why did you go see Dr. Welcker?

4 **A** I was just so upset and depressed. I was
5 just really upset that somebody could do this to me.
6 I felt maybe he could help me. When I went, he
7 actually did give me some medication, which was
8 Xanax, to take to try to calm me down. I could not
9 go out of the house. Every time I would go
10 somewhere, I would have customers stopping me. I'm
11 sorry you are not at the bank and what has happened.
12 Some of them already knew. I had customers call me
13 at my house. It was a gentleman who took my position
14 -- when I left from the branch, actually I had one
15 customer call me and tell me that there was a
16 gentleman --

17 **MR. TILLER:** Your Honor, object to what
18 the customer said.

19 **THE COURT:** I sustain the objection.

20 **THE WITNESS:** Okay.

21 **BY MR. PARKER:**

22 **Q** You went to Dr. Welcker?

23 **A** I did.

24 **Q** Did he write a letter on your behalf?

25 **A** He did write a letter on my behalf. I can

1 tell you when I first went in and was upset, he
2 wanted to -- he said I would just write you a letter
3 to give to Regions. I said it will be fine. After
4 everything happened, he indeed did write the letter
5 for Regions' benefit, for my benefit to give to
6 Regions.

7 Q Did he give it to you or did he give it to
8 Regions?

9 A He gave it to me.

10 Q You delivered it to who?

11 A I can remember. It may have been Vince
12 Coleman because he was head of security. I was under
13 investigation. I think I may have given it to him
14 during that time.

15 Q Mr. Coleman is security officer with
16 Regions?

17 A Yes, sir.

18 Q Did he come down and question you?

19 A Yes, sir. Him and another lady came down
20 and questioned me about the outage. I was --

21 Q Back up a little bit.

22 A Okay. He came up later and talked to me
23 about that. I was investigated. I had to write a
24 statement. I talked to him numerous times. Finally,
25 I did get a call that I needed to meet. I didn't

1 know -- I did call Ms. Holly Johnson at one time. I
2 was asking about my retirement. She told me I did
3 not have any which I wasn't aware. I asked her when
4 all of this was going to be settled. She told me she
5 did not know, just as soon as Mr. Coleman could
6 complete the investigation.

7 They ended up calling me. That was Patty
8 Austin and Holly. When I went in, they told me that
9 they were going to have to terminate me and it was
10 for workplace violence. At first, I said was it
11 about the money. They said it was never about the
12 money. I just looked at them. I was more upset
13 about the money than I was about her accusing me of
14 workplace violence. I knew they wouldn't believe
15 that. I would not do that.

16 Anyway, I said they were both very nice to
17 me. They always been very nice to me when I was at
18 Regions. I told him how much I appreciated that. I
19 did tell them that I just wanted to let them know as
20 long as they kept Robyn there, they were going to
21 lose a lot more employees and a lot more customers.
22 Because employees were quitting, customers were
23 closing their accounts. I said I don't know about
24 this woman. They said to me -- I think it was Patty
25 was on the edge of her chair. She said we don't know

1 about this woman either.

2 Q Did they tell you they had terminated her
3 the day before?

4 A No.

5 Q And so far as your conversation with Ms.
6 Johnson, did when you talk to her prior to your
7 termination, did you tell her that Robyn concocted
8 the story on you?

9 A The day that I was -- that they told me I
10 was going to be on administrative leave, I said I
11 assume that she is making all of this up. The day
12 that they let me go, I just knew they did not believe
13 this.

14 Q Did you also have conversation with Ms.
15 Johnson about the fact that you felt like you were
16 being retaliated against for filing the complaint?

17 A I did. And in fact, the first time they
18 came up and talked to me and put me on administrative
19 leave, it was Ms. Johnson and Ms. Andree Lloyd that
20 were over the branches. The whole time I was up
21 there, I was client. Ms. Lloyd went and got me some
22 tissues. She walked me downstairs. When we got to
23 the bottom of the stairs, she looked at me and said
24 Lydia pull yourself together. She said this is what
25 Robyn wants to see. She wants to see you like this

1 is what she told me. I went into my office and
2 cleaned it out.

3 Q And that was June 30th, your last day at
4 work?

5 A I think so.

6 Q After you were terminated, did you attempt
7 to get a job?

8 A Everywhere. I went to banks. That was my
9 love, that was all that I did and I felt like I did a
10 really good job. I was knowledgeable with it. I
11 could not get a job. I would hear there was a job
12 opening but somebody else would get it. I had to
13 file for unemployment.

14 Q Let me ask you this. I know you don't ask
15 a lady her age. But since I'm a good bit older than
16 you, I can ask you what age are you?

17 A I am 58 right now. I will be 59 in March.

18 Q So you were 56 or 57 when all of this
19 occurred?

20 A That's correct. Yes, sir.

21 Q You went to numerous places to try to get
22 employment?

23 A I did.

24 Q If you would, tell us some of the places
25 that you went to.

1 **A** I went to Allendale Savannah River Plant
2 Credit Union. I went to Allendale County Bank. I
3 went to Palmetto Bank. I went to Ellis agency. I
4 tried to get a job there. I went to the attorney's
5 office and put my application in. I went to the town
6 of Varnville. I went everywhere but could not find a
7 job.

8 **Q** You had a very difficult time getting
9 employment?

10 **A** Yes, sir.

11 **Q** You eventually got employment?

12 **A** I did. I just got this call one day at my
13 house and it happened to be Lee Ellis. He had
14 somebody that was going to be out for a short time
15 and ask me if I would be interested.

16 **Q** You took that job?

17 **A** I did. I was glad to get it.

18 **Q** How long did that last?

19 **A** I think I went to work in November. I may
20 have left in January or February. I am not sure what
21 day it was. The young lady I was filling in for,
22 they weren't sure if she was going to come back or
23 not. If she wasn't, Mr. Ellis was probably going to
24 keep me in the position. Her husband had surgery but
25 she decided to come back. She was going to work

1 another year before she retired.

2 Q Did eventually you lose that job?

3 A I did.

4 Q Why was that?

5 A Because she was coming back to work.

6 Q Did you again have to draw unemployment?

7 A I had to start all over again on my
8 unemployment.

9 Q When you on unemployment again, did you go
10 and seek other work?

11 A I just had to go everywhere again. When I
12 first applied for unemployment, I was denied.
13 Regions denied me the unemployment. I had to have a
14 conference call with myself and Ms. Johnson and I
15 want to say a gentleman in Columbia who worked at the
16 unemployment office. He did ask Ms. Johnson at that
17 time because he could see I was dismissed for
18 workplace violence, if they had any proof that this
19 had happened. She said no. I was granted my
20 unemployment.

21 Q Did you get a written opinion about that
22 that show that you, in fact, were granted
23 unemployment?

24 A I did.

25 Q And that you were fired without cause?

1 **A** Pardon me?

2 **Q** And you were fired without cause?

3 **A** Yes. They felt like --

4 **MR. TILLER:** I object to her testimony
5 about what they felt like.

6 **THE COURT:** Okay. I sustain that
7 objection.

8 **BY MR. PARKER:**

9 **Q** You received documents. I'm going to hand
10 you now Plaintiff's Exhibit Number 8. Is Exhibit
11 Number 8 the decision you received on your
12 unemployment?

13 **A** Yes, sir.

14 **MR. TILLER:** Your Honor, my objection to
15 this document. We have already went over it but
16 I would just make my objection to the document.
17 It is the same continuing objection on Exhibit 8
18 that we talked about yesterday.

19 **THE COURT:** Right. The court knows those
20 objections.

21 **BY MR. PARKER:**

22 **Q** Exhibit 8, that is the document you
23 received from the Department of Employment and
24 Workforce?

25 **A** Yes, sir.

1 Q The decision was -- if you could just read
2 that.

3 A The issue in the case and --

4 Q Let's go back to the decision on the second
5 page of the sheet.

6 A Okay. The decision, the tribunal hereby
7 holds the claimant eligible to receive and is
8 effective July 3, 2011 upon finding the claimant was
9 discharged without cause. This decision affirms
10 termination made July 29, 2011.

11 Q Now, during this time, after you left your
12 job, there was evidence that you starting you
13 received unemployment benefits again?

14 A Yes, sir.

15 Q You continued to seek employment?

16 A I did.

17 Q Did you eventually find employment?

18 A I did.

19 Q Where?

20 A I am now working with SCDC, the
21 correctional institution in Allendale in the business
22 office.

23 Q What is your job there?

24 A My job is I am over the budget for the
25 office. I do payroll, phone, staff requests from

1 inmates. If there's any problems with the computers,
2 I have to call Columbia which is the network
3 department. I just do a little bit of everything.

4 Q You like your job?

5 A I like it. However, it is prison. It is
6 not what I'm used to doing.

7 Q Did you like the job at Regions Bank?

8 A I loved it. It was what I liked to do.

9 Q Your career in banking, did you make more
10 money at Regions then you do?

11 A I sure do.

12 Q Were you happy with your job at Regions?

13 A Yes, sir. I liked my job at Regions a lot.

14 Q Insofar as the impact that Ms. Clevinger's
15 statement had on you, what kind of harm, emotional
16 harm did it cause?

17 MR. GRIFFITH: Your Honor, I'm going to
18 object to that. Mr. Parker, he is leading and he
19 is making commentary when he talks about the
20 statements my client had. Just ask about the
21 impact that this incident has had.

22 THE COURT: I'm going to overrule the
23 objection. Go ahead.

24 THE WITNESS: There has been a lot. I'm
25 very depressed. Uh, my family life is different.

1 I'm thankful for my job, but it is not like --
2 it is not what I like doing. However, I do have
3 a job. My income, I lost a lot of income. With
4 that income being lost, my bills, there is a lot
5 of different things that went on with that.

6 **BY MR. PARKER:**

7 **Q** Has it cost you a lot of emotional
8 distress?

9 **A** A lot of emotional distress.

10 **Q** I'm going to hand you what we've marked as
11 Plaintiff's Exhibit 42 and 45. I'm going to ask you
12 first about Exhibit 42. Is Exhibit 42 your W-2 forms
13 for several years?

14 **A** Yes, sir.

15 **Q** On that, does it have your income that you
16 received from Regions from the part of the year 2011
17 that you worked until May -- June 30? Is that your
18 W-2?

19 **A** Yes, sir. I see it at the bottom right-
20 hand corner.

21 **Q** Here also as a W-2 of what you received
22 from unemployment that year?

23 **A** Yes, sir.

24 **Q** Also attached to that would be your pay
25 records from the prison?

1 **A** Yes, sir.

2 **MR. PARKER:** We would offer Exhibit 42
3 into evidence, Your Honor.

4 **MR. TILLER:** No objection, Your Honor.

5 **MR. GRIFFITH:** No objection.

6 **THE COURT:** It will be admitted without
7 objection.

8 **(WHEREUPON, Plaintiff Exhibit Number 42 is**
9 admitted into the record.)

10 **BY MR. PARKER:**

11 **Q** And Exhibit 45, did you calculate in using
12 the W-2 forms, figured out what your loss of income
13 has been as a result of being terminated with
14 Regions?

15 **A** In 2011, uh, I lost \$9679.38. In 2012,
16 \$18,883.52. And in 2013, \$10,000 -- \$10,591.96.

17 **Q** Did you figure what you would lose up until
18 you are 66 and a half?

19 **A** \$123,002.57.

20 **Q** Let me ask you, do you plan to work until
21 you're 66 and a half?

22 **A** That is correct.

23 **Q** Why is that?

24 **A** I have to work to make sure I can get my --
25 I need insurance for one reason. The other reason

1 too is I need to be able to get my full benefits with
2 my Social Security for working all of those years.

3 Q You will be eligible for full Social
4 Security at 66 and a half?

5 A Actually, I think 67 and a half. 66 and a
6 half.

7 Q At 66 and a half, you can withdraw a
8 reduced amount?

9 A Yes.

10 Q There was testimony of Dr. Welcker about
11 him telling you that he thought maybe you should go
12 on disability.

13 A Yes, sir.

14 Q Why did you do that?

15 A I actually called Social Security and I
16 just decided --

17 MR. TILLER: Your Honor, I thought she
18 was going to say something she didn't say. I
19 apologize. No objection yet.

20 THE COURT: All right.

21 THE WITNESS: I was not ready to give up
22 my life. I was told by my rheumatologist --

23 MR. TILLER: Your Honor --

24 THE COURT: You can't say what he told
25 you. As a result of what the rheumatologist

1 told you, you decided not to?

2 **THE WITNESS:** I decided not to. I

3 wanted to work for as long as I could.

4 **BY MR. PARKER:**

5 **Q** Have you worked all of your adult life?

6 **A** Yes, sir. Up until all of this happened.

7 **Q** What is your date of birth? I know we
8 talked about your age.

9 **A** 3/25/55.

10 **MR. PARKER:** Your Honor, we would offer
11 into evidence Exhibit 14, 45 and 8.

12 **MR. TILLER:** We have the same objection
13 on 8 as we discussed before, Your Honor. On 14,
14 there is no objection. And 45, we would object
15 to 45, Your Honor.

16 **THE COURT:** I'm sorry. What is 45?

17 **MR. PARKER:** Exhibit 45 is the loss
18 income statement.

19 **MR. TILLER:** It is not reduced to present
20 value. It is basically a straight line
21 calculation. Under the law, I don't think that
22 is appropriate.

23 **MR. PARKER:** Your Honor, for future
24 damages, of course, the court will charge the
25 jury that they should reduce it to present

1 value. There is no requirement to put this in
2 evidence that it be reduced to present value.

3 **MR. TILLER:** I think that is accurate for
4 intangibles and not tangibles. Economic loss.
5 It has to be reduced to present value.

6 **THE COURT:** Mr. Griffith?

7 **MR. GRIFFITH:** I believe that is correct
8 Your Honor, since it is an economic loss. That
9 was my note.

10 **THE COURT:** I overrule the objection.

11 **(WHEREUPON, Plaintiff Exhibit Numbers 8, 14 and**
12 **45 are admitted into the record.)**

13 **MR. PARKER:** You may cross-examine her.

14 **THE COURT:** Mr. Tiller.

15 **MR. TILLER:** Thank you, Your Honor.

16 **CROSS-EXAMINATION**

17 **BY MR. TILLER:**

18 **Q** Good morning, Ms. Cook.

19 **A** Good morning, sir.

20 **Q** Mr. Parker had asked you some questions
21 about the series of events that occurred around May
22 6th or May 7th. That's when you made your complaint
23 to the HR department.

24 **MR. PARKER:** April 6th.

25 **MR. TILLER:** Did I say April?

1 **MR. PARKER:** No, you didn't.

2 **BY MR. TILLER:**

3 **Q** I'm sorry. April 6th and April 7th.

4 **A** Yes, sir..

5 **Q** After that exchange of your discussion with
6 Ms. Clevinger on the 7th, shortly thereafter, she
7 continued to help you with your job, did she not?

8 **A** She did. It was her job as manager.

9 **Q** It sounds like to me from what you told the
10 jury, a lot of the employees at that branch were
11 helping your job, were they not?

12 **A** We all helped each other.

13 **Q** On May 9th, the day that started this whole
14 lawsuit, Ms. Clevinger was helping you find an
15 outage, was she not?

16 **A** Correct.

17 **Q** Did we agree that on that afternoon on May
18 the ninth, you had not been able to locate the reason
19 you were out of balance, correct?

20 **A** Correct. I counted my drawer. I had not
21 looked at my tickets yet.

22 **Q** You agree that you asked Ms. Clevinger to
23 assist you?

24 **A** Yes, I did.

25 **Q** You further agree that that afternoon when

1 this occurred, there were only three people in the
2 bank, you, Ms. Clevinger and Ms. Freeman, is that
3 right?

4 **A** That's correct.

5 **Q** And you further agree that Ms. Clevinger
6 found your error, did she not?

7 **A** That's correct.

8 **Q** And you gave, according to your testimony,
9 Ms. Clevinger a hug as a result of that?

10 **A** I did.

11 **Q** You also recall Ms. Freeman making a
12 statement to the effect of Lydia, what are you doing,
13 do you not?

14 **A** That is not exactly what she said.

15 **Q** Well, what did she say?

16 **A** She said what are you guys doing. Robyn
17 said at that point we found her outages. I said now
18 we can all go -- I kissed Robyn on the cheek. I said
19 now we can all go home. That's what was stated.

20 **Q** Why do you believe Ms. Freeman would make
21 that inquiry if it was just a friendly hug?

22 **A** Well, Susan had jumped on Robyn's
23 bandwagon, is what I would call it. Robyn had a
24 tendency of, in the office, if she got mad at one
25 employee, she would pick up with another employee.

1 Suzanne was going in her office. She was training
2 her my job. She came out of Robyn's office one day
3 and said that now she knew how to go in and put a
4 loan in which she had nothing to do with that.

5 We had lines running out in the lobby
6 everywhere. Suzanne was behind the doors with Robyn.
7 I would call and say we need help. She started
8 calling Suzanne. Suzanne would actually know every
9 morning when we came in if there was something that
10 happened, uh, the night before that Robyn had called
11 her. She used to call me on my telephone at night.
12 The husband got tired of it and said turn your cell
13 phone off. So she started calling Suzanne.

14 Q Do you recall my question?

15 A Yes, I do.

16 Q That is the reason why Suzanne would have
17 made that comment?

18 A I feel like they were in cahoots together.

19 Q In fact, Ms. Cook, you told me in your
20 deposition that Ms. Freeman had made complaints about
21 Ms. Clevinger, had she not?

22 A I think everybody had. She said things to
23 me about Robyn before.

24 Q Ms. Freeman had complained about Ms.
25 Clevinger?

1 **A** And Robyn had complained about Ms. Freeman
2 to.

3 **Q** You complained about Ms. Clevinger. Ms.
4 Clevinger complained about you?

5 **A** Correct.

6 **Q** Was in a great work environment, was it?

7 **A** No, it wasn't.

8 **Q** Can you pull up Defendant's Exhibit 4.

9 **MR. TILLER:** May I approach the
10 witness, Your Honor, ---

11 **THE COURT:** Certainly.

12 **MR. TILLER:** --- so she can see a
13 little easier?

14 **BY MR. TILLER:**

15 **Q** Ms. Cook, we marked this as Exhibit 4 from
16 the defense. Do you recognize that form?

17 **A** I do.

18 **Q** That form was generated at a meeting you
19 had with Ms. Andree Lloyd, is that right?

20 **A** The day that I was put on administrative
21 leave, yes, sir.

22 **Q** Now, you had discussed in response to some
23 questions from Mr. Parker this event where there was
24 an outage in the vault on or about May 27th of 2011,
25 is that right?

1 **A** Yes, sir.

2 **Q** If you look at Exhibit 4, the incidents
3 whereby you are being disciplined for are May 2nd,
4 May 17th, May 25th, correct?

5 **A** Correct.

6 **Q** The May 25th, if you will look on the
7 document, has nothing to do with the vault outage
8 because that's going to be a couple of days later,
9 right?

10 **A** Correct.

11 **Q** Andree Lloyd and Regions Bank are not taken
12 exception with anything to do with the vault outage
13 when you had this meeting, correct?

14 **A** Correct.

15 **Q** At that meeting, Ms. Lloyd, let me ask you
16 this, that is your signature on the bottom of the
17 document?

18 **A** It is.

19 **Q** Ms. Lloyd signs it as well?

20 **A** She did.

21 **Q** Both May 31, 2011?

22 **A** Yes, sir.

23 **Q** You are told you are being put on
24 administrative leave for three different events,
25 correct?

1 **A** I didn't understand. This was a written
2 warning. This is not what I was put on
3 administrative leave for.

4 **Q** I asked a question. It refers to, as I
5 said earlier, a written warning for May 2, May 17 and
6 May 25, correct?

7 **A** Yes, sir.

8 **Q** It was at this meeting after the document
9 was signed that was after they discussed this issue
10 with you. Ms. Lloyd and Ms. Johnson said it is
11 another more serious matter we need to discuss?

12 **A** We talked about the vault outage. Then
13 they said they were more serious. They showed me and
14 said, they signed it. Then they said there is a more
15 serious accusation. I said what would that be
16 besides money because to me, that was the most
17 important thing at the bank.

18 **Q** On page 2 of Exhibit 4, you actually signed
19 off your comments where you agreed with the reasons
20 for the one for May 2nd and May 17th, correct?

21 **A** I did. I did not lie about leaving my keys
22 in the teller drawer. I walked away to get a copy
23 for one of the customers. Every teller in that bank
24 have left their keys, including Robyn, and we handed
25 them back to each other. Also, I had a customer in

1 the vault. We just had procedures change that if a
2 customer was in the vault and you needed to make
3 copies, you had to stay in there. They had just been
4 there. There was a box in there. I said I'm going
5 to get in trouble for the box. Suzanne said don't
6 worry about that box because this is just a training
7 session. Then, I went to work the same day the
8 compliance officer was there.

9 When I came back, she said you left the
10 vault with confidential information in there. I
11 remember telling Suzanne, see, I'm in trouble for
12 that she did not pull it out. I did take a copy for
13 one of the customers. It is something we just
14 changed and that we were used to doing. For \$1000 or
15 more, actually I was given that responsibility but I
16 wasn't shown how to do it for a long time. Robyn
17 Hubbard came and show that to me.

18 Q That's the third --

19 A That is the third one.

20 Q That is the May 25th?

21 A And this was given to me the day -- this
22 was all written down in May and documented. It was
23 given to me the day I was put on administrative
24 leave. I was not aware that I was going to get
25 written up for anything.

1 **Q** Just so we're clear on the sequence of
2 events and the jury understand, in this particular
3 meeting, the first thing discussed are the three
4 items reflected in Exhibit 4 whereby you are provided
5 with written warning, correct?

6 **A** You know, it may have been the first thing.
7 I don't know. I was so upset that day that I can't
8 remember if it was the first thing or not. But it
9 was in that meeting.

10 **Q** Also in that meeting, there was a
11 discussion of the current vault outage?

12 **A** Yes, sir. That is correct.

13 **Q** The last part of the discussion was when
14 you were told there is a more serious matter we need
15 to discuss?

16 **A** Correct.

17 **Q** In that meeting, you were told, were you
18 not, that Ms. Freeman had advised the bank that she
19 had witnessed this?

20 **A** They said they had a witness. I don't know
21 if they said Ms. Freeman or not, but it had to be
22 her. She was the only person at the bank at that
23 time.

24 **Q** So whether they said Ms. Freeman or not,
25 you knew what they were talking about?

1 **A** Yeah.

2 **Q** And then, after being placed on
3 administrative leave, you attended a meeting in late
4 June with Ms. Johnson and Ms. Austin at which time
5 you were advised that you were going to be
6 terminated?

7 **A** Correct.

8 **Q** In that meeting, you complemented Ms.
9 Johnson and Ms. Austin for how they handled
10 everything, is that right?

11 **A** Well, not really how they handled things
12 but they had always been nice to me the entire time.
13 In fact, every time Patty and Holly came into the
14 bank, they hugged me. They were huggers also. They
15 were always very nice to me throughout the whole
16 thing. They did what they had to do as executives.
17 I don't know what transpired between them to do this
18 but they were very polite to me when I was there.
19 They hugged me and said good luck to you. I said
20 thank you and I left.

21 **Q** So the answer to my question is yes, you
22 did complement them?

23 **A** I did.

24 **Q** You, in fact, told them they were
25 extraordinary women?

1 **A** Yes, they are.

2 **Q** You told them to tell Ms. Lloyd you felt
3 the same way about her?

4 **A** I did.

5 **Q** In your lawsuit, you contend that Ms.
6 Clevinger has made a false statement about you, is
7 that right?

8 **A** Yes, sir.

9 **Q** You also contend that Ms. Freeman is making
10 false statement about you?

11 **A** Yes, sir. I do.

12 **Q** But you don't deny that there was physical
13 contact and hugging between you and Ms. Clevinger?

14 **A** I do not deny that I hugged her at all. I
15 told them up front exactly what I said to her.

16 **Q** Now, you had been advised of the Regions
17 employment policies when you went to work there, is
18 that right?

19 **A** Well, they give you a book. It is probably
20 200 pages or so. I never looked at the entire book.
21 They give you classes to take online with the
22 computers. But you don't have time to do it because
23 you always rushed during the day because it's always
24 something else you have to do so you breeze through
25 it. But I was given literature. Yes, sir.

1 **Q** As I understand what you told me
2 previously, you just never read the portion about
3 workplace violence, is that right?

4 **A** No, sir. But, you know, that most places,
5 there are rules and regulations like that.

6 **Q** And they are there for a reason?

7 **A** Yes, sir. They are.

8 **Q** Now, we spent a lot of time talking about
9 May 9th, May 31st and June 29th and 30th. I want to
10 back up a little bit to when you first came to
11 Regions. You and Ms. Harvey didn't get along very
12 well, did you?

13 **MR. PARKER:** Your Honor, I object. It is
14 irrelevant.

15 **THE COURT:** What's the relevance?

16 **MR. TILLER:** We're talking about whether
17 Ms. Clevinger was able to get along well with
18 people. There is an issue in the case as to
19 whether Ms. Cook was able to get along with her
20 employees as well. We're going to hear from a
21 number of witnesses on both of these
22 individuals. I certainly think it is relevant.

23 **MR. PARKER:** Your Honor, I object. It
24 has no relevance to any issue in this case
25 whether or not Ms. Cook got along with Ms.

1 Harvey that I can possibly understand. Mr.
2 Tiller has not enunciated anything to those
3 other than he is trying to create some side
4 issue, Your Honor.

5 **THE COURT:** I have to ask you if you have
6 a position on this.

7 **MR. GRIFFITH:** Yes, sir. I believe it
8 would be relevant. They started talking about
9 how she got along with everybody else.
10 Certainly, I think it is right to go into
11 whether she got along with the prior manager
12 too.

13 **THE COURT:** All right. I sustained --
14 I'll overrule that objection. I'm sorry. I'll
15 overrule the objection.

16 **BY MR. TILLER:**

17 **Q** Did you and Ms. Harvey get along?

18 **A** She wasn't my favorite person.

19 **Q** Fair enough, I will move on.

20 **A** Pardon me?

21 **Q** Fair enough. I will move on. I won't ask
22 you any other questions about that.

23 **A** Okay.

24 **Q** Now, you applied for the manager's position
25 here in Hampton when it came open, is that right?

1 **A** Yes.

2 **Q** Were you found to be qualified for the
3 position?

4 **A** Well, you're talking about the managers
5 position?

6 **Q** Yes, ma'am.

7 **A** I felt like I was well-qualified but there
8 is a test that Regions gives you that you take it on
9 the computer and it depends on what you score is if
10 you're qualified for it or not. I did not qualify
11 for what they expected and Ms. Clevinger got the
12 position.

13 **Q** You had to make a certain score to qualify
14 or pass the test?

15 **A** You know, I don't know how they do it, if
16 it is a score, how they do it. They just said I
17 didn't qualify.

18 **Q** When Ms. Clevinger came to the bank, you
19 had been there for a couple of years?

20 **A** Yes, sir.

21 **Q** She made some pretty significant changes,
22 did she not?

23 **A** She did.

24 **Q** They were mainly in the area of compliance?

25 **A** Yes, sir.

1 Q Enforcing the rules?

2 A Yes, sir.

3 Q Is that necessary in your view?

4 A It didn't matter to me. If she was told us
5 we had to change things to be in compliance, we
6 change them. That was a job. It was her branch. I
7 did what she told me to do.

8 Q After Ms. Clevinger was awarded this
9 position, you told Andree Lloyd that they picked the
10 best person for the job?

11 A I did. I tried to be as graceful as I
12 could be.

13 Q As it turns out, you and Ms. Clevinger did
14 not have a very good working relationship, is that
15 right?

16 A Correct.

17 Q Mr. Parker had asked you about Plaintiff's
18 Exhibit 23. You have got 23?

19 A Yes, sir.

20 Q Now, Exhibit 23 that Mr. Parker was asking
21 you about is your performance evaluation after the
22 first quarter, at the end of the first quarter in
23 2011, is that correct?

24 A Yes, sir. That is correct.

25 Q And at the bottom of the page, it has a

1 description for the scores of unsatisfactory, growth
2 opportunity, proficient and then on the following
3 page, strength, is that right?

4 **A** Which page is that?

5 **Q** The bottom of page 1.

6 **A** Page 23, yes, sir.

7 **Q** Unsatisfactory says basically performance
8 is below expectations at an undeveloped level and
9 ineffective. Growth opportunity, it says
10 performances develop and even though the current
11 skill level may be somewhat low and inconsistent.
12 The next category says performance is consistent and
13 effective, the nature of the deficiencies and the
14 last says performance consistently demonstrates
15 mastery in this area, to deliver positive results.
16 Did I read that correctly?

17 **A** Correct.

18 **Q** Then, if you will look at page 2 of that
19 exhibit. I won't go through every page for the
20 jury's benefit but in each category there is a spot
21 where both you, as the associate, and Ms. Clevinger,
22 as the manager, would score?

23 **A** Correct.

24 **Q** I'm going to ask you to take a minute, Ms.
25 Cook, and flip through the documents and see if you

1 agree with me that there appears to be, according to
2 the manager, Ms. Clevinger, seven different areas of
3 growth opportunity for you, is that right?

4 **A** (Reviewing.)

5 Yes, sir.

6 **Q** When you look at Ms. Clevinger's, your
7 story as compared to Ms. Clevinger, you had -- strike
8 that. I'm going to move on. Ms. Clevinger gives you
9 -- and you read the summary to the jury when we
10 looked at the last page of this exhibit, a favorable
11 review. Do you agree with that?

12 **A** Yes, sir.

13 **Q** This is despite the fact that just a month
14 earlier, you had a pretty significant outage in your
15 drawer, is that right?

16 **A** I guess so. I'm trying to think.

17 **Q** Let me help you. Do you recall the issue
18 with the new account and the counterfeit check?

19 **A** Yes, I do.

20 **Q** That was just a month before this?

21 **A** I don't know if it was a month before this
22 or not, but I do recall that we were short-staffed.
23 Again, I was working customer service at the teller
24 line. I could've lost my job for that. Holly
25 Johnson came up and they decided for me not to lose

1 my job because they knew I had been put under a lot
2 of stress because I was trying to do everything I
3 could in the branch to help.

4 Q Right.

5 A So they elected not to.

6 Q So Ms. Clevinger and Ms. Johnson elected to
7 have you continue in your position?

8 A Ms. Johnson did.

9 Q Ms. Clevinger gave you a favorable review
10 shortly thereafter?

11 A She did. I can tell you one thing on this
12 that I would like to talk about.

13 MR. TILLER: Your Honor, I never asked a
14 question.

15 THE WITNESS: Okay.

16 THE COURT: He has to ask you a question.

17 THE WITNESS: Sorry.

18 BY MR. TILLER:

19 Q Now, Ms. Cook, it is true is it not that no
20 customer ever told you that they heard you had been
21 accused of workplace violence?

22 A Not while I was working there. I would go
23 into places -- okay.

24 MR. TILLER: Your Honor, I would ask you
25 to instruct the witness to answer the question.

1 **THE WITNESS:** No.

2 **THE COURT:** Repeat the question.

3 **BY MR. TILLER:**

4 **Q** It is a very direct question. I asked her
5 if any customers have ever told her that they heard
6 she had been accused of workplace violence.

7 **A** No, sir.

8 **Q** Okay. You are aware through this lawsuit
9 as well as what occurred in your meeting on May 31
10 that Ms. Clevinger had reported the incident of May
11 9th to Human Resources and specifically to Barbara
12 Simpkins, is that right?

13 **A** I knew about it the day they let me go on
14 administrative leave.

15 **Q** Okay. You later learned as well that Ms.
16 Clevinger had a conversation with Ms. Lloyd about the
17 incident while at a managers' meeting in Charleston?

18 **A** I heard about that through this.

19 **Q** But you learned that?

20 **A** Yes.

21 **Q** And you know as you sit here today in front
22 of this jury that no one else that Ms. Clevinger
23 told, that told anything about that incident other
24 than Human Resources and Ms. Lloyd, is that right?

25 **A** I don't know who she told.

1 **Q** That is all that I am asking.

2 **MR. TILLER:** Your Honor, I beg the
3 court's indulgence. I may be through.

4 **THE COURT:** All right, sir.

5 (WHEREUPON, there is a pause.)

6 **MR. TILLER:** No further questions, Your
7 Honor.

8 Thank you, ma'am.

9 **THE COURT:** Mr. Griffith?

10 **CROSS EXAMINATION**

11 **BY MR. GRIFFITH:**

12 **Q** I will try not to repeat too many questions
13 but I've got just a few for you. I want to make sure
14 I've got this timeline set up now. Originally, you
15 moved back to Hampton after being out west for a
16 period of time, is that correct?

17 **A** Correct.

18 **Q** In 2007, you were hired by Regions Bank, is
19 that correct?

20 **A** Correct.

21 **Q** You were hired as a teller, correct?

22 **A** For a short period of time, yes, sir.

23 **Q** Then you became a FSR, and all of these
24 acronyms always throw me off that I understand that
25 to mean a Financial Service Representative. Correct?

1 **A** I think so.

2 **Q** They throw you off too, right?

3 **A** Yes, they do.

4 **Q** That was in 2008, is that correct?

5 **A** I think so, yes.

6 **Q** Sometime in 2010, there became an opening
7 in the bank for a branch manager, correct?

8 **A** Correct.

9 **Q** And you actually applied for that job as I
10 understand it?

11 **A** I did.

12 **Q** As you said earlier, the prior manager
13 wasn't real crazy about you anyway, were they?

14 **A** Right.

15 **Q** I understand you previously worked at a
16 large credit union?

17 **A** Correct.

18 **Q** And when you came to Regions Bank, you were
19 supposed to get some type of training as a teller, is
20 that correct?

21 **A** Correct.

22 **Q** You did not give that training, is that
23 correct?

24 **A** Correct.

25 **Q** That was under the old manager though, is

1 that, correct?

2 **A** Correct.

3 **Q** You actually had some issue with the old
4 manager, is that correct?

5 **A** Well, they put me in a position that I did
6 not get to train and did not get to go like everyone
7 else did to train.

8 **Q** But that was not Ms. Clevinger, correct?

9 **A** That was not Ms. Clevinger, correct.

10 **Q** In fact, I believe on, well, okay you
11 actually reported the prior manager to Human
12 Resources, is that correct?

13 **A** I did.

14 **Q** So you knew that would be the appropriate
15 chain of authority if you had a personnel issue,
16 correct?

17 **A** Correct.

18 **Q** And this time, I believe, jumping forward
19 to the 2010, Ms. Andree Lloyd would have been the
20 head of the managers, correct?

21 **A** Correct.

22 **Q** And as I understand, that would have been
23 who would've been up the chain of command from the
24 branch employees to the manager to Ms. Lloyd, is that
25 correct?

1 **A** I guess so.

2 **Q** Well, when you -- when the opening came
3 from the branch manager and you applied for it,
4 correct?

5 **A** Uh-huh.

6 **Q** You would've actually had, your immediate
7 contact than would've been Ms. Lloyd because there
8 was no branch manager, correct?

9 **A** I guess so. Yes, sir.

10 **Q** You actually said you sort of took over and
11 took charge of the branch?

12 **A** Well, they gave me the responsibility.

13 **Q** So you actually you were the most qualified
14 person for the deposition, is that correct?

15 **A** I felt I would do a good job.

16 **Q** Did you feel you were the most qualified
17 person for it?

18 **A** I felt I would do a good job.

19 **Q** Were you qualified?

20 **A** I felt I qualified for the position.

21 **Q** Actually, you told Ms. Lloyd you were
22 applying for the position, is that correct?

23 **A** I did.

24 **Q** Did she encourage you to do that?

25 **A** She did.

1 **Q** What you do is you apply online and take a
2 test, is that correct?

3 **A** Correct.

4 **Q** All right. And when you applied online
5 after you took the test, did Ms. Lloyd tell you you
6 did not pass the test?

7 **A** No, she didn't. I'm trying to think.
8 Maybe it was Barbara Simpson. When I took my test, I
9 was trying to take it at work and had all of these
10 interruptions. I finally just finished it. She was
11 the one that contacted me and said I did not pass it.

12 **Q** When you didn't get the job, you were
13 shocked and upset, is that correct?

14 **A** Well, uh, I was surprised that I didn't get
15 it. But, I mean, they have guidelines. You take a
16 test. You don't get it. I did not get it.

17 **Q** Did you ever use the words when you did not
18 get the job that you were shocked and upset?

19 **A** I'm sure I did.

20 **Q** Okay. At the time when the job was
21 actually filled, you didn't even know that you had
22 not passed the test, is that correct?

23 **A** I had heard that Robyn had applied for it.

24 **Q** But if you were shocked and upset that you
25 did not get the position, when your announcement came

1 out, you apparently had not been told that you had
2 not qualified, correct?

3 **A** I'm trying to think. Barbara told me I did
4 not pass the test. I cannot remember what transpired
5 during that time.

6 **Q** Well, clearly Ms. Lloyd did not tell you
7 you did not qualify for the position, is that
8 correct?

9 **A** She told me I did not get the position
10 because I did have an interview with her.

11 **Q** Did you have an interview with anybody else
12 over the position?

13 **A** No.

14 **Q** Is true that if you don't pass the test,
15 you don't even get an interview?

16 **A** Even though I didn't get it, Ms. Lloyd
17 asked me to come down and visit with her and I did to
18 her Beaufort office.

19 **Q** Now, when Robyn actually got the position,
20 we are talking about Ms. Clevinger over here,
21 correct?

22 **A** Yes, sir.

23 **Q** You got the announcement by email that she
24 had gotten the position, correct?

25 **A** I just really can't remember how we got the

1 announcement. I know they emailed us at the office
2 that there was a manager selected.

3 Q When Robyn came in, she actually got the
4 position that you had wanted and apply for, correct?

5 A Correct.

6 Q When she came in, I believe she actually
7 made some changes, correct?

8 A Correct.

9 Q Every manager has their own style, is that
10 right?

11 A That is correct.

12 Q She was actually going through changes that
13 even you believe were correct, true?

14 A Yes, sir.

15 Q Those would be Regions policies and
16 procedures that she was putting into place, is that
17 correct?

18 A Correct.

19 Q Some of that may be where it dealt with
20 issues that we need to make sure are being done
21 according to what Regions said we do.

22 A Correct.

23 Q Right. Every time there is some change, at
24 least, when I go to change, I have a little bit of
25 discomfort with it. Was there some discomfort in the

1 office with the change?

2 **A** In the home office, there was.

3 **Q** Mr. Tiller asked you earlier -- and I want
4 to -- I am going through a timeline. February 7,
5 2011, that is actually where I have the insufficient
6 funds issue going on, does that sound right?

7 **A** What insufficient funds?

8 **Q** You were actually running the teller
9 line ---

10 **A** Uh-huh.

11 **Q** --- and you were supposed to put a hold on
12 some funds because somebody bought a check in, is
13 that correct?

14 **A** Correct. But I don't know what date it
15 was.

16 **Q** We're going through the documents, it looks
17 like it was some time, there was some issues about it
18 in February. That is a little bit out before you get
19 to your review that we looked at just a second ago,
20 correct?

21 **A** Right.

22 **Q** In any event, you said at that point in
23 time, you thought you were going to lose your job?

24 **A** I did. It was a rule that that was
25 automatic termination and HR would have to decide

1 whether they were going to keep us on not. I really
2 thought I was going to lose my job over that.

3 Q Okay. You had been in banking all that
4 time, you knew that was a big deal, right?

5 A With Regions, it was. They have their
6 rules and regulations.

7 Q Holly came down. She talked with you about
8 it, correct?

9 A First of all, she came in my office and I
10 said are you here to fire me. She was wanting to go
11 and talk to Robyn. Then they called me in there.
12 She says I'm not going to let you go. I know you
13 have been under a lot of stress working in a lot of
14 different areas here.

15 Q So again, that sequence was she walked into
16 your office. You talked about the incident and she
17 said you're going to fire me. She said let me go and
18 talk to Robyn. After her conversation with Robyn,
19 they brought you in to say we're going to give you a
20 second chance?

21 A I'm sure that she probably told Robyn what
22 they had decided. Her, being the branch manager, she
23 had to know what was going on before I did.

24 Q In spite of this issue, Robyn gives you a
25 good review about two months later, correct?

1 **A** Correct. But we are also issued those
2 reviews to us earlier to go through them. We have
3 them for a while before she gets them.

4 **Q** In other words, in spite of this --
5 insufficient funds is a terminable issue. In spite of
6 the issue where they can let you go, two months later
7 she gives you a good review?

8 **A** Correct.

9 **Q** You talked about, as I understand, staffing
10 issues. Always was understaffed over there?

11 **A** We were.

12 **Q** People had to be called on to do things
13 they really didn't want to do, correct?

14 **A** Correct.

15 **Q** You were FSR but they need you to be a
16 teller line so they put you on the teller line, is
17 that correct?

18 **A** Correct.

19 **Q** In a banking situation, you want to make
20 sure that you have got enough employees there when
21 the bank opens to handle it, don't you?

22 **A** That is the manager's responsibility, yes,
23 sir.

24 **Q** And as I understand, I looked at Mr. Parker
25 pulled up something about an issue or letter that was

1 written on April 7th. That was a letter that you
2 wrote to Shannon somebody, is that right?

3 **A** Shannon Turner.

4 **Q** Shannon Turner. And you wrote that letter,
5 correct?

6 **A** Right.

7 **Q** You wrote that letter actually the day
8 after you have been told that you could not go on
9 this vacation you previously applied for, right?

10 **A** That sounds right.

11 **Q** You were mad about not being able to go on
12 vacation, right?

13 **A** I was upset about that but that was the
14 last straw because of all of the things that were
15 going on.

16 **Q** But you never put forth in any of those
17 others where these issues that come from or what the
18 timetable was, is that correct?

19 **A** Well, it was ongoing since December.

20 **Q** If it were ongoing since December when the
21 review came up, when Ms. Johnson was down, why did
22 you not have that conversation with her in February,
23 there are some issues going on here?

24 **A** That wasn't why she came down.

25 **Q** That's right because you are trying to hold

1 onto your job that day, is that right?

2 **A** Everybody was.

3 **Q** Now, the timing of your complaint about
4 these three issues is the day after you were told you
5 cannot have your vacation as planned, correct?

6 **A** I don't think there were the day after.

7 **Q** Wasn't it April 6 that you were told about
8 your vacation?

9 **A** I think so.

10 **Q** April 7 was the day you wrote the letter,
11 right?

12 **A** Yes, sir.

13 **MR. PARKER:** I object. That is a
14 misstatement. It was April 6 for the email.

15 **BY MR. GRIFFITH:**

16 **Q** Was it the same day then? I thought it
17 was --

18 **A** I do not remember.

19 **Q** Okay.

20 **A** There was so much that was transpiring at
21 that time.

22 **Q** All right. At that time when you then made
23 the complaint about Ms. Clevinger, Ms. Johnson came
24 down to the office, is that correct?

25 **A** That is correct.

1 **Q** Ms. Johnson is with the Human Resources, is
2 that correct?

3 **A** Correct.

4 **Q** You told the jury that things felt
5 different after this, is that right?

6 **A** Yes, sir.

7 **Q** Actually, Ms. Clevinger never complained to
8 you about the issue though, did she?

9 **A** What issue is that?

10 **Q** About the complaint that you made to Human
11 Resources about her.

12 **A** The next day, she acted differently.

13 **Q** People act differently for different
14 reasons, is that right?

15 **A** Yes, sir.

16 **Q** You could read her mind?

17 **A** Pretty well much good.

18 **Q** What am I thinking then?

19 **A** Come on. Give me an answer.

20 **Q** My question is you are not clairvoyant.
21 People have different moods as a result, correct?

22 **A** That's correct. But with her, you could
23 usually tell what kind of mood she was in.

24 **Q** In any event, she in no way confront you
25 about this issue you took up with Human Resources, is

1 that correct?

2 **A** No, she just acted different, wanted to
3 know who I was talking to.

4 **Q** I understand you had voiced your opinion
5 several times about your dissatisfaction of Ms.
6 Clevinger to other employees, correct?

7 **A** Correct.

8 **Q** You had done it at least to Suzanne
9 Freeman, is that correct?

10 **A** And she also voiced her opinion about Robyn
11 Clevinger.

12 **Q** My question is you have voiced your
13 displeasure about Ms. Clevinger to Suzanne Freeman,
14 is that correct?

15 **A** Correct.

16 **Q** Stacy Drawdy, you had complained about Ms.
17 Clevinger to Stacy Drawdy, correct?

18 **A** And Stacy also complained about her.

19 **Q** You complained to Ms. Drawdy about Stacy --
20 about Ms. Clevinger, is that correct?

21 **A** Correct.

22 **Q** You complained to Lance about Ms.
23 Clevinger?

24 **A** Correct. He complained -- everybody was
25 coming to me with everything.

1 **Q** You voiced your dissatisfaction is my
2 question and you also voiced it to Sherry, is that
3 correct?

4 **A** Sherry Patterson, correct.

5 **Q** Now, when we come through here, as I
6 understand, February, we've got an issue with the
7 insufficient funds. April, we have got the good
8 review. Then we have got the complaint about you to
9 Human Resources... Then we get to May 9th. There is
10 an outage, is that right?

11 **A** Yes, sir.

12 **Q** All right.

13 **A** I think it is May 9th.

14 **Q** I want to make sure because Mr. Parker in
15 his opening said it was May 10th. Was it May 9th or
16 May 10th?

17 **MR. PARKER:** I was in error. I will
18 admit to a memory lapse, Mr. Griffith.

19 **BY MR. GRIFFITH:**

20 **Q** My memory lapse about April 6th or 7th. I
21 apologize. I want to make sure we understand what an
22 outage is. That means when you have got money coming
23 in ---

24 **A** Correct.

25 **Q** --- you have got to account for it, is that

1 correct?

2 **A** Yes, sir.

3 **Q** And every time you do that, at least when I
4 go to the bank, they are sitting there writing some
5 kind of note for a little receipt, I guess, and they
6 give that back to me. That is what the teller does,
7 is that right?

8 **A** Actually, the ticket is going in the
9 machine and validate.

10 **Q** Okay. When that is done, at the end of the
11 day, you have got a balance?

12 **A** Correct.

13 **Q** So the amount you gave back in the amount
14 that you took in comes up to what the computer is
15 showing, correct?

16 **A** Correct.

17 **Q** And you have got to count the cash and the
18 tickets to make sure all of this comes to a dead end,
19 right?

20 **A** Actually, I don't count the tickets. We
21 just pulled the totals and verify if the cash is
22 right.

23 **Q** Okay. And on that day, you were out of
24 balance?

25 **A** Correct.

1 **Q** And what time was this, I am sorry.

2 **A** It was closing time, I guess.

3 **Q** Do you generally try to balance around 3
4 o'clock?

5 **A** We stagger balance, that is what we would
6 do.

7 **Q** Okay.

8 **A** We take turns because of the cut over.

9 **Q** That's what I understand. When I go to the
10 bank sometimes, I see the sign up there that says all
11 transactions after 2 o'clock will show up tomorrow,
12 is that the way it worked at Regions?

13 **A** I don't know if we had a -- I guess we had
14 a sign up. We have different tellers balance in a
15 different times.

16 **Q** When you started balancing, was the bank
17 still open?

18 **A** You know, I don't know if it was or not.

19 **Q** Was Lance still there?

20 **A** No. Nobody was there by myself. So the
21 bank was closed. It was -- I might have been
22 balancing. I don't know. I might have been looking
23 for it. I cannot remember.

24 **Q** Does the bank have time limits that you are
25 supposed to be able to balance within? Was it within

1 10 or 15 minutes?

2 **A** They usually think that you can count your
3 money and get out pretty fast. It is not that easy
4 when you are balancing checks. If you have an
5 outage, it takes time to look for it.

6 **Q** How long were you out that day? When I say
7 out, I don't mean out of the bank, I mean out of
8 balance.

9 **A** I don't have a clue. I can't remember.

10 **Q** In any event, you looked and you couldn't
11 find it and you asked Ms. Clevinger to come help you,
12 correct?

13 **A** Correct.

14 **Q** She is the manager, right?

15 **A** Correct.

16 **Q** You said that she, her attitude had totally
17 changed in April after you made a complaint to Human
18 Resources, is that correct?

19 **A** Correct.

20 **Q** It is your job as the teller to balance, is
21 that correct?

22 **A** Correct.

23 **Q** She didn't have to come help you balance,
24 did she?

25 **A** As the branch manager, she is responsible

1 for making sure that everybody balances at the end of
2 the day.

3 Q If she can't find it, it goes on who?

4 A On me. But if she had not found it, I
5 would have looked through my tickets and I would have
6 found it. Another teller would have found it.

7 Q You had been spending time there for 30 or
8 40 minutes and had not found it yet, how can you say
9 you would have found it?

10 A It was obvious in the tickets.

11 Q Now, when you say that she came in and she
12 found -- at the bank there is a teller line that
13 looks out -- or stations, is that about right?

14 A Correct.

15 Q That looks out to the front door, is that
16 correct?

17 A Correct.

18 Q You have to come in through that little
19 swinging door over to your left?

20 A Correct.

21 Q Then the person would have walked up, if
22 they were going to be at your teller station, Ms.
23 Clevinger would have come up from behind you and she
24 would have gone to her teller station and she would
25 have been looking through to make sure --

1 **A** She was to the side of my teller station.

2 **Q** Okay. In any event, what I heard you say
3 is that she found it and she turned around and you
4 hugged her, is that correct?

5 **A** She turned around and said I found your
6 outage. Here it is in the ticket. I hugged her.

7 **Q** You admit there was some incident there
8 that there was some touching, is that correct?

9 **A** Correct.

10 **Q** You admit that you say that you kissed her,
11 is that correct?

12 **A** I did.

13 **Q** You admit that Suzanne Freeman was at the
14 teller station just to your right, is that correct?

15 **A** Correct.

16 **Q** Suzanne made the comment, Lydia, what are
17 you doing?

18 **A** That is not what she said. She said what
19 are you guys doing. Robyn said I found her outage.
20 She balanced. I said yes, thank you, thank you,
21 thank you, we can all go home.

22 **Q** As I understand, you see Ms. Freeman's
23 statement, is that right?

24 **A** I did that day. I have seen it. Correct.

25 **Q** Her statement says that you were shaking

1 her, is that correct?

2 A I was not shaking her.

3 Q Her statement says you were.

4 A Her statement says that but it is not true.

5 Q Her statement says that Robyn's head was
6 going in a different direction from her body, is that
7 correct?

8 A That is what the statement said.

9 Q And you deny that, correct?

10 A I absolutely deny it.

11 Q You actually claim that you were face to
12 face?

13 A Yes, we were.

14 Q And you agree that Suzanne was at the next
15 teller station?

16 A Yes, she was.

17 Q I understand nobody else was there, is that
18 right?

19 A That is correct.

20 Q Then you said the next thing that happened
21 in the sequence of events was May the 31st, 2011, is
22 that correct?

23 A I think that was the day they came and
24 discharged me.

25 Q Mr. Tiller showed, I believe, a

1 disciplinary form that was written up they had three
2 events on it.

3 **A** Yes, sir.

4 **Q** And those three events, you actually -- I'm
5 sorry. Those three events, one of them was you left
6 her keys in the drawer, is that correct?

7 **A** That is correct.

8 **Q** You made a comment and wrote up something
9 on the next page, is that right?

10 **A** Yes, sir.

11 **Q** So you wanted to give an explanation for
12 that, correct?

13 **A** Uh-huh.

14 **Q** And your explanation was I do agree with
15 the keys?

16 **A** And I did, I did leave them in my drawer.

17 **Q** The next issue was you walked out of the
18 vault while a customer was in the vault, is that
19 correct?

20 **A** And everybody's vault was locked. They
21 didn't have access to anybody's vault but their own.
22 That's how it always was done and so they just
23 changed the policy, I think a week before. It was by
24 mistake.

25 **Q** That is -- that was written up as failure

1 to maintain confidential customer information by
2 walking out of the vault, correct?

3 **A** Would you repeat that please?

4 **Q** I was just reading. 5/17. That was
5 written up as failure to maintain confidential
6 customer information by walking out of the vault to
7 make a copy. Correct?

8 **A** That is correct because Suzanne had left a
9 box in there that was pushed way back that nobody
10 could see. When I said now I'm going to get in
11 trouble for it, she said no we won't because we are
12 all in training.

13 **Q** Did you write up an explanation for that?

14 **A** Let me look. (Reviewing.)

15 I didn't know -- I wasn't aware of the box
16 was in there actually until they told me that that
17 the box was in there and there was confidential
18 information. Actually, it was Robyn Hubbard, at that
19 time, that was our compliance officer. That's when I
20 told Suzanne, this is great. I'm going to get
21 written up for that. At that point, that's when she
22 said no, you're not. We're just in training on this.

23 **Q** Was that the day the auditors were in?

24 **A** I can't remember.

25 **Q** And then the third issue was failure to

1 complete assigned duties. That was the task of
2 reviewing the thousand dollars or greater review
3 report assigned to Lydia, is that correct?

4 **A** That's correct. We were so busy in the
5 branch, I was working the teller and doing everything
6 else. I didn't have a chance to do it. Robyn
7 Hubbard, I had told her that. She said you need to
8 hurry and get that done. It was late when I did do
9 it.

10 **Q** That was May 25, 2011, is that correct?

11 **A** You asked me the date, I do not know. I'm
12 sorry.

13 **Q** I am looking at the report right there that
14 I thought you had it right in front of you.

15 **A** Well, I do have it in front of me. They
16 wrote this up. I didn't.

17 **Q** You signed it though, right?

18 **A** I did.

19 **Q** On 5/31, correct?

20 **A** Right.

21 **Q** You acknowledged that those events
22 happened, is that correct?

23 **A** I did.

24 **Q** You did not make any change on the
25 5/25/2011 event, is that correct?

1 **A** I didn't.

2 **Q** You made two comments about the first two
3 but not about the third, correct?

4 **A** I think the reason that I didn't, I was so
5 upset when they come in and I was going to be
6 discharged from my job and they gave me this and this
7 is what else we have. It was like she had just
8 conjured up a whole bunch of things on me to try to
9 get rid of me.

10 **Q** She conjured up these three instances that
11 you agreed with?

12 **A** They're on paper and I did agree to it.
13 But it was like she was looking for things.

14 **Q** I noticed that you did an exhibit that
15 showed what your weight loss was.

16 **A** Correct.

17 **Q** You heard about present value. Why did you
18 not bring it back to present value?

19 **A** Can you explain that to me please?

20 **Q** Why did you not bring your --

21 **MR. PARKER:** Your Honor, I'm going to
22 object to that.

23 **THE WITNESS:** I don't even understand
24 what you are talking about.

25 **MR. GRIFFITH:** No further questions.

1 **THE COURT:** Any redirect before lunch?

2 **REDIRECT EXAMINATION**

3 **BY MR. PARKER:**

4 **Q** Did you ever hurt Ms. Clevinger in any way?

5 **A** No. I was always as kind to her as I could
6 be.

7 **Q** Have you ever hurt any person physically
8 that you are aware of?

9 **A** No, sir.

10 **Q** Ever in your life that you can remember?

11 **A** No, sir.

12 **MR. PARKER:** I don't have anything else.

13 **THE COURT:** Thank you, ma'am. You may
14 step down.

15 **THE WITNESS:** Thank you.

16 **THE COURT:** What about a lunch break? It
17 will be good?. Do y'all object? All right,
18 Ladies and Gentlemen, 10 minutes til 2:00.
19 Using that clock, that will give you more than
20 an hour. I will remind you during your lunch
21 break, don't let anybody talk to you about the
22 case and you don't talk about the case.

23 When you come back and gather in the jury
24 room, see if you can do something, that is,
25 select a foreperson to represent the jury. I

1 don't want y'all to fuss or fight over it. If
2 you can't do it, I can. See if you can't select
3 someone to represent the jury and serve as
4 foreperson. You can talk about it when you get
5 back. See you after lunch, Ladies and
6 Gentlemen.

7 **(WHEREUPON, the jury exits at approximately**
8 12:42 p.m.)

9 **THE COURT:** What does the after --
10 afternoon look like, Mr. Parker?

11 **MR. PARKER:** Your Honor, we have one,
12 two, three, four live witnesses and some
13 depositions.

14 **THE COURT:** We have some more depositions
15 that we're going to --

16 **MR. PARKER:** Yeah, we have some
17 depositions. Our testimony will go into
18 tomorrow.

19 **THE COURT:** Okay.

20 **MR. TILLER:** Do you have one minute that
21 you can speak to us at the sidebar?

22 **THE COURT:** Sure.

23 **(WHEREUPON, a lunch recess is taken.)**

24 **MR. PARKER:** Your Honor, I wanted to call
25 something to the court's attention. The court

1 asked a question about representation. Mr.
2 Randy is representing Ms. Gill's husband in a
3 workers compensation case. That is as much as I
4 know about it.

5 **THE COURT:** Ms. Gill is one of the
6 jurors?

7 **MR. PARKER:** Yes.

8 **MR. TILLER:** I don't think we need to do
9 anything right now. If Mr. Griffith and I can
10 confer at the next break and perhaps talk to our
11 clients.

12 **THE COURT:** Okay. Apparently, we're
13 ready for the jury.

14 **MR. GRIFFITH:** Judge, the next line of
15 witnesses they are going to get into relate to
16 the customers. They are here live to testify.
17 Giving your limited ruling I wasn't sure how
18 Your Honor wanted to handle that before we bring
19 the jury back in.

20 **THE COURT:** Let me make sure I
21 understand. You are going to put the witnesses
22 up to testify about?

23 **MR. GRIFFITH:** What their experience was
24 with Regions while Ms. Clevinger was the manager
25 there.

1 **THE COURT:** The motion in limine objected
2 to that and I granted that, right? I granted
3 the motion to limit their testimony.

4 **MR. PARKER:** Yes, Your Honor. We believe
5 this testimony is admissible to prove the truth
6 that Ms. Cook reported and is in the record that
7 she reported that customer interaction has been
8 unsatisfactory. Their objection to this
9 testimony which you admitted some and excluded
10 others about this customer interaction. They
11 said we can't cross-examine these witnesses and
12 therefore it should be inadmissible because we
13 can't cross-examine them. We now have the
14 witnesses who can testify to the interaction
15 that their objection was. We can't cross-
16 examine the witnesses. We believe it is
17 relevant to prove the truthfulness of Ms. Cook's
18 complaint about Ms. Clevinger for which she was
19 retaliating against.

20 **THE COURT:** Haven't we already argued
21 that?

22 **MR. GRIFFITH:** Yes, sir. We argued it
23 yesterday. We argued it this morning. None of
24 these witnesses, when I deposed them, knew
25 anything about the defamation case. We have got

1 all of their transcripts right here. It is
2 totally irrelevant to the case we're trying.

3 **THE COURT:** I once again sustain the
4 objection to that line of testimony by those
5 witnesses.

6 **MR. PARKER:** Your Honor, to protect the
7 record, we would like to profit her testimony.

8 **THE COURT:** Can you tell us what it is
9 going to be instead of putting everyone up here?

10 **MR. PARKER:** If they will agree that the
11 witnesses will testify consistent with their
12 depositions, we can use the depositions and use
13 those instead. For us to preserve the record,
14 we have to do more than offer.

15 **MR. GRIFFITH:** I will be fine with
16 putting the transcript in the record, Your
17 Honor. They will speak for themselves as they
18 said. I asked each one of them if anybody knew
19 anything about the reasons for termination and
20 if anyone from Regions Bank spoke to anyone
21 about it. The only information they ever did
22 get was from Ms. Cook herself.

23 **MR. TILLER:** Judge, I will stipulate that
24 Mr. Parker suggested that they will testify
25 consistent with their deposition. No need to

1 make a live proffer. We can use the depositions
2 to proffer.

3 **THE COURT:** Does that satisfy you, Mr.
4 Parker?

5 **MR. PARKER:** I wouldn't say it satisfies
6 me but it is acceptable. Your Honor, I will say
7 for the record that they are introducing this
8 evidence to prove Ms. Clevinger's character. It
9 goes to her character evidence in specific
10 incidents of character. Under Rule 405, it's
11 admissible for the purpose of showing character
12 actions and performance.

13 We believe it is admissible. We believe it
14 goes to our case. We believe it is relevant
15 evidence and it should be admitted by the court.
16 But I understand the court's ruling.

17 **THE COURT:** I understand your argument
18 but I am ruling against it regardless. Having
19 said all of that, we do have the witnesses to
20 testify.

21 **MR. PARKER:** We have three witnesses to
22 testify about that but we are ready to go with
23 other evidence.

24 **THE COURT:** Let's bring the jury in.

25 **MR. GRIFFITH:** Just for the record, which

1 three?

2 **MR. PARKER:** Were talking about James
3 Gill, Ernie Glenn and Ernest Moore.

4 **MR. GRIFFITH:** Thank you.

5 **MR. PARKER:** Thank you for coming.

6 Could we file those original depositions?
7 Your Honor, could we make these court's
8 exhibits?

9 **THE COURT:** Sure.

10 **MR. PARKER:** It will be Court's Exhibits
11 1, 2 and 3.

12 **(WHEREUPON, Court Exhibit Numbers 1, 2 and 3 are**
13 **marked for identification.)**

14 **(WHEREUPON, the jury enters at approximately**
15 **2:02 p.m.)**

16 **THE COURT:** Welcome back, Ladies and
17 Gentlemen. It is my understanding the jury was
18 able to select a foreperson.

19 Would that be you?

20 **THE JUROR:** Yes, sir.

21 **THE COURT:** That's fine. I'm sorry.

22 Your name is?

23 **THE JUROR:** Christian Oliver.

24 **THE COURT:** Could not have done a better
25 job.

1 the jury room.

2 (WHEREUPON, the jury exits at approximately
3 2:22 p.m.)

4 (WHEREUPON, a short recess is taken.)

5 MR. GRIFFITH: Thank you, Your Honor.

6 MR. PARKER: The next thing that, second
7 that we have to play -- it goes into -- I don't
8 see how we can take it out. Ms. Clevinger has
9 testified under oath that she has never reported
10 any type of physical attack by anyone. We have
11 evidence in this case that she has reported
12 numerous people of physical attacks. The public
13 records of the Port Royal police and Beaufort
14 confirm this. She has testified under oath and
15 we say has committed perjury. This certainly
16 goes to her credibility. We certainly ought to
17 be able -- she says I did -- she talks about her
18 husband and what she did with the abusive
19 marriage but then she goes on and says and I
20 specifically asked her did you make any
21 complaint about anybody having -- I want to get
22 it exactly right.

23 Have you ever filed any type of lawsuit or
24 anything like that? No, sir. Have you ever had
25 any disputes with anyone that caused law

1 **(WHEREUPON, there is a pause.)**

2 **THE COURT:** All right. Here is the
3 ruling on the issue, the final ruling. As to
4 the issue of whether or not Ms. Clevinger made,
5 filed accusations against others alleging
6 assault against her, the plaintiff can prove
7 that she -- that she, Ms. Clevinger, was asked
8 if she made such accusations. The plaintiff may
9 ask it -- I guess you can show the deposition.
10 I'm not sure how it is set up. Her response was
11 no, she had not. The plaintiff may then ask her
12 about the specific allegations that the
13 plaintiff has been referring to. If she denies
14 those specific events, the plaintiff may prove
15 those specific events or offer evidence to prove
16 specific events. If she acknowledges, then the
17 plaintiff may not offer evidence to prove the
18 events. Everybody may not like this but my
19 question is does everybody understand what I am
20 saying? Let me start with you, Mr. Parker. I
21 know you don't agree with me.

22 **MR. PARKER:** I understand, Your Honor.
23 Of course, I have to inquire of the court if she
24 acknowledges that these events that occur --

25 **THE COURT:** No, if she admits that she

1 made the allegations.

2 **MR. PARKER:** Right, if she admits the
3 allegations and yet she testified in her
4 deposition none of this ever happen, clearly she
5 is admitted to a burglary because she could not
6 have forgotten these reports to the police.

7 **THE COURT:** I guess, I don't know. But I
8 guess that is a second matter.

9 **MR. TILLER:** I understand your ruling,
10 Your Honor.

11 **MR. PARKER:** Insofar as the deposition, I
12 don't want to go astray. I asked the question
13 have you ever filed any kind of complaint
14 against anyone other than your husband and that
15 again is a false statement. She filed for a
16 complaint against Mr. Blackwell claiming that he
17 physically abused her or physically attacked
18 her. So that is a false statement.

19 **THE COURT:** Okay.

20 **MR. PARKER:** I want to put that in for
21 that purpose. It goes on and says if you ever
22 had any dispute with anyone to cause law
23 enforcement to get involved other than the one
24 domestic? Other than my ex-husband, no. I need
25 to insert Clevinger. You ruled that out. We

1 can get the testimony to conform to what that
2 really is. When this testimony was taking
3 place, we did not know that Ms. Clevinger was
4 being untruthful under oath. She goes on to
5 testify that she called the police.

6 **THE COURT:** Do we think we're all on the
7 same page?

8 **MR. PARKER:** Is that -- I want to make
9 sure I'm not planning anything that the court
10 has ruled out. I wrote it down. I understood
11 your ruling.

12 **THE COURT:** All right. Let's put it this
13 way, if the plaintiff wishes to do that through
14 the deposition of Ms. Clevinger, the plaintiff
15 can do that by a showing that Ms. Clevinger was
16 asked in her deposition about whether or not she
17 filed accusations against her husband alleging
18 physical contact. I know it took more than just
19 those words to accomplish this. I guess you can
20 publish that's what is going to come to with the
21 deposition. And you published that. Her
22 response was whatever, I guess no. And then I
23 presume when she testifies -- I don't know. One
24 way or the other she may testify whether the
25 plaintiff calls her or if she testifies on her

1 **MR. PARKER:** We're ready.

2 (WHEREUPON, there is a pause.)

3 **THE COURT:** Are you ready?

4 **MR. PARKER:** We can start, Your Honor.
5 We may have to take a break. It comes
6 unexpected.

7 **THE COURT:** All right. Mr. Griffith,
8 you're ready?

9 **MR. GRIFFITH:** Yes.

10 **THE COURT:** Let's bring the jury back.
11 (WHEREUPON, the jury enters at approximately
12 2:50 p.m.)

13 **THE COURT:** We are ready to resume with
14 presentation of evidence in the case by the
15 plaintiff.

16 **MR. PARKER:** Your Honor, I would like to
17 call Ms. Clevinger.

18 **ROBYN CLEVINGER**

19 having first been duly sworn, testifies as follows:

20 **DIRECT EXAMINATION**

21 **BY MR. PARKER:**

22 **Q** Please state your full name.

23 **A** Robyn Clevinger.

24 **Q** You live in Beaufort?

25 **A** Yes, sir.

1 Q At one time, you were employed by Regions
2 Bank?

3 A Yes, sir.

4 Q Is that correct?

5 A Yes, sir.

6 Q I took your deposition in this case. Do you
7 recall that?

8 A I'm sorry?

9 Q I took your testimony in this case on
10 February 29th, correct?

11 A Yes, sir.

12 Q Do you understand the meaning of perjury?

13 A Yes, sir.

14 Q And that is telling an untruth under oath?

15 A Yes, sir.

16 Q And you did it at the deposition, didn't
17 you?

18 A Not to my knowledge, sir, no, sir.

19 Q Didn't you tell me in your deposition you
20 had never called the police about having any physical
21 altercation with anyone?

22 A No, sir. I don't recall that.

23 Q You don't recall that testimony? Well,
24 let's look at the testimony.

25 A I'm sorry. Can you repeat the question

1 again.

2 Q I asked you in your deposition whether or
3 not you had ever had any physical altercation with
4 anyone. Your answer was not that you could recall
5 other than a schoolyard fight.

6 A I'm sorry. Was that the question you asked
7 before? I thought you asked me about calling the
8 police.

9 Q No, I didn't.

10 A I can't hear you very well.

11 Q Let me come a little close. Let me talk a
12 little loud. Can you hear me better now?

13 A Yes, sir. That is better.

14 Q I asked you while you were under oath if
15 you had ever had a physical altercation with anyone
16 other than your allegations against Ms. Cook. Do you
17 recall that?

18 A Yes, sir. I recall that.

19 Q And you said you had not.

20 A I said not at work.

21 Q No, you did not say at work.

22 A Yes, sir. My next statement, I believe,
23 was not at work.

24 Q I asked you a number of different ways. We
25 will go over your testimony about that.

1 **A** Yes, sir.

2 **Q** I asked you on page 62, line 9, has anyone
3 ever -- else ever physically attacked you. Your
4 answer was not as an adult that I can recall.
5 Correct? And then you said I have never had anything
6 like this at work.

7 **A** Yes, sir.

8 **MR. GRIFFITH:** Your Honor --

9 **MR. PARKER:** Correct?

10 **MR. GRIFFITH:** --- may she have the
11 original deposition that she can refer to?

12 **THE COURT:** You have the original
13 deposition with you?

14 **MR. GRIFFITH:** Sure.

15 **BY MR. PARKER:**

16 **Q** And you recall your answer, correct?

17 **A** You said page 62, sir?

18 **Q** 62, line 9.

19 **A** Yes, sir. I said not as an adult. I can't
20 recall. I never had anything like this happen at
21 work. I was under the impression you were talking
22 about work.

23 **Q** And we cleared that up. I said the
24 question I'm asking you, has anyone else ever
25 physically attacked you.

1 **A** Yes, sir. You asked me that question.

2 **Q** And you said I had a schoolyard fight
3 before if that is the way you want to count it.

4 **A** Yes, sir, I did.

5 **Q** Were you at work when you had the
6 schoolyard fight?

7 **A** No, sir.

8 **Q** So you understood the question?

9 **A** Yes, sir, at that point, yes.

10 **Q** You understood that it meant -- the
11 question was if you ever accused anybody of
12 physically attacking you, is that correct?

13 **A** Yes, sir.

14 **Q** And you said no?

15 **A** Yes, sir. I did.

16 **Q** And that was not true?

17 **A** No, sir. I never accused anyone of
18 physically attacking me. That was true in my
19 deposition then and that is true today.

20 **Q** You never called the police on Mr. Bayne?

21 **A** I did call for help, sir.

22 **Q** You called and reported that he had
23 physically attacked you?

24 **A** Sir, I called for help several times. I
25 called when Mr. Bayne was in my apartment and I asked

1 them to help, yes.

2 Q And you called and said that he had
3 physically attacked you?

4 A Sir, I told them what he had done at that
5 time. I told them he had entered my apartment he
6 wasn't supposed to be there. He wouldn't get out.
7 We had gotten into a fight.

8 Q You understood that you had accused Mr.
9 Blackwell also of physically attacking you?

10 A No, sir. I did not.

11 Q You never accused him of that?

12 A I called the police to ask -- he had come
13 into my home. I asked for help. He slap me in my
14 home. That is what I told the officer. The officer
15 came in and he observed marks on me. That's what
16 happened. I told the officer -- it is in the police
17 report. Did I accuse him of attacking me? No, sir I
18 did not.

19 Q You did not accuse Mr. Blackwell of
20 physically abusing you and causing marks on your
21 body?

22 A Sir, I just told him exactly what happened
23 in my home.

24 Q Have you seen the police reports?

25 A Yes, sir.

1 Q And you have read them, haven't you?

2 A Sir, I haven't read all of them but I have
3 called for help.

4 Q You also called the police and told them
5 your mother had slapped you, correct?

6 A Sir, I don't know if I called the police or
7 my mother called the police.

8 Q Someone called the police?

9 A Yes, someone called the police.

10 Q You told them that your mother had slapped
11 you?

12 A I don't know if she told them or if I told
13 them.

14 Q It was told?

15 A Yes, it was told.

16 Q And she said she admitted she had because
17 you had taken some money from her?

18 A No, sir. We had a joint account. The
19 money was mine. I sold her my home.

20 Q But she did not feel that way?

21 A Sir, we had an argument about many things.

22 Q Did she, in fact, slap you?

23 A Yes, she did.

24 Q And did you tell me about that when I asked
25 you the question?

1 **A** No, because I didn't think of a slap as an
2 attack.

3 **Q** Oh, a slap is not an attack, but Ms. Cook
4 putting her arms around you and hugging you is
5 workplace violence, is that correct?

6 **A** Sir, that was not my discretion to state.
7 I only called and told them what happened.

8 **Q** You said it was violent aggression against
9 you?

10 **A** I told them that is what it felt like, a
11 violent aggression.

12 **Q** Was your mother, when she slapped you,
13 violent?

14 **A** I have been slapped by my mother several
15 times in my life.

16 **Q** Did you call the police on her the other
17 times?

18 **A** No, sir. Not that I can recall.

19 **Q** You only called your mother one time.

20 **A** I don't know if I called that time.

21 **Q** They arrived at your house?

22 **A** We were living at the same residence.

23 **Q** And you think your mother called the police
24 to say she slapped you?

25 **A** Yes, sir. I don't know if she did or if I

1 called. I really don't know. We were living in a
2 house that I owned and I sold it to her.

3 Q You don't really think that your mother
4 called the police and said, I slapped my daughter.
5 Please come to the place where we are living. Do you?

6 MR. GRIFFITH: Your Honor, I object. I
7 think this is, if you look at your ruling, I
8 think that we're going a little bit far of that.

9 THE COURT: Overruled.

10 BY MR. PARKER:

11 Q You believe your mother called the police
12 to say she slapped you?

13 A She may have, sir. We had a disagreement
14 that day.

15 Q The question is do you believe that?

16 A Sir, I don't recall if I called or she
17 called. I don't know. I don't recall. She may have
18 called.

19 Q And you believe that she called?

20 A No. Sir, I don't know if I called or she
21 called. My answer is the same.

22 Q Wouldn't it make sense to you that you
23 called the police?

24 A No, sir. She was pretty ticked off at me.
25 She may have called. I don't know if she called or I

1 called.

2 Q Have you inflicted violence on anybody
3 else?

4 A I beg your pardon.

5 Q Have you ever done anything to harm or
6 struck anybody else's property?

7 A Not that I can recall.

8 Q Do you recall throwing brake fluid on Mr.
9 Bayne's car?

10 A No, sir. That is a lie.

11 Q You did not do that?

12 A No, sir. I never did that.

13 Q And there is a police report. You read
14 that report?

15 A Yes, sir. He did accuse me. But he sent
16 the police to my house one night when I was in bed
17 and accused me.

18 Q And they found brake fluid in your car?

19 A Yes, sir. He was with me two weeks before
20 when we purchased -- I purchased the brake fluid.
21 The officers found the bag, the brake fluid and the
22 receipt. Everything was unopened and the receipt
23 accounted for everything in my car.

24 Q I guess you thought that the fact that on
25 this occasion that Mr. Bayne would pour brake fluid

1 on his own car?

2 **A** No, sir. I don't know that there was any
3 brake fluid involved. I don't know. I can tell you
4 that that accusation that he made when he told them,
5 he knew that I had that. I don't know what was -- I
6 don't even know if something was on his vehicle. I
7 know I was in bed. I know that he accused me and
8 when the police came to check it out, I was in my
9 pajamas. I gave them the key to my vehicle. I told
10 them what was there. They told me something about
11 some kind of fluid, car fluid or something. They
12 asked me if I had anything like that. Mr. Bayne knew
13 that I had it because he was with me a few weeks
14 before when we were in the store and I purchased it.
15 So he knew I had purchased it.

16 **Q** So you are saying Mr. Bayne made false
17 accusations against you?

18 **A** Sir, I know that the police came to my door
19 and questioned me about it. And then, they saw that
20 what I had purchased was on the receipt and it was
21 unopened and it was in the bag and it was all there.

22 **Q** Did you state to the police that it didn't
23 look good for you?

24 **A** It wouldn't look good for anyone.

25 **Q** Did you state that you thought the liquid

1 in your car was oil? And that you didn't think you
2 had any brake fluid?

3 **A** I don't know. I don't recall, sir. I know
4 that I gave the officer the key and showed him what I
5 had in my vehicle.

6 **Q** He asked you -- actually, what they did is
7 they had seen it in your car, did they not?

8 **A** I told them it was there and I gave him the
9 key. When he looked in, he looked inside my vehicle
10 and he saw it there.

11 **Q** And they found it before you ever told them
12 about it?

13 **A** No, sir.

14 **Q** You ever seen the police report?

15 **A** Sir, I told them it was there.

16 **Q** It stays in the report that we attempted to
17 make contact with Clevinger. While awaiting contact,
18 we shined our flashlight in Clevinger's parked black
19 Pontiac in front of the residence. I observed a
20 bottle of brake fluid on the rear driver side
21 passenger seat. The bottle was laying against the
22 door, partially covered. It says that you stated
23 that you thought it was oil, not brake fluid.

24 **A** Actually, I'm not sure what I stated to
25 them. I can tell you that when they asked me if I

1 had anything like that, I told them yes. If they had
2 already looked at my vehicle and saw it, then I told
3 them exactly what they saw. They found a receipt. Is
4 that in the police report? That they found that it
5 was there exactly like I told them or that I told
6 them it was in there?

7 Q Are you contending that Mr. Bayne reported
8 brake fluid on his own car?

9 A Sir, I am not saying that at all. Please
10 don't add words to my mouth.

11 Q According to you, that is in the police
12 report about what they said.

13 A But I didn't say Mr. Bayne did or didn't do
14 anything as far as --

15 Q Who put the --

16 MR. GRIFFITH: Your Honor, I'm going to
17 object to this. He is asking her about her
18 knowledge of the events. She has testified to
19 it. Now he is asking her -- he is trying to go
20 and try some type of case.

21 BY MR. PARKER:

22 Q Ms. Clevinger, did you accuse your husband
23 -- Mr. Blackwell of attacking you?

24 A Sir, I called the police for help with Mr.
25 Blackwell's involvement.

1 Q Now, when Mr. Blackwell, you did not
2 mention him in your deposition, did you?

3 A Sir, I mentioned -- I didn't mention his
4 name but I mentioned exes.

5 Q You're talking about Mr. Clevinger?

6 A A specific event with Mr. Clevinger, yes.

7 Q You didn't say word about Mr. Blackwell
8 attacking you in any way?

9 A No, sir, I did not.

10 Q And to answer honestly the questions put to
11 you, you would have had to tell me that?

12 A Sir, I didn't tell you that Mr. Clevinger
13 -- I didn't tell you that anyone attacked me. I
14 never considered some things attack. I apologize but
15 to be perfectly honest, if you lived in an abusive
16 relationship, you don't say a lot of things and say
17 you were attacked.

18 Q You didn't have a problem calling the
19 police, did you?

20 A Sir, I call the police for help when it
21 gets so bad that you need somebody to help you out.

22 Q Did you claim that Mr. Blackwell grabbed
23 you by the arms and he had squeezed you?

24 A I told the officer when he came in and
25 asked what happened, I told him that I asked -- I

1 told Mr. Blackwell to get out of my house. Mr.
2 Blackwell, the details that I told him was that he
3 grabbed me by the arms from the front and when I
4 pulled away, he slapped me in the face. When the
5 officer -- I only told that once the officer asked me
6 about the mark on my face and on my arms. I didn't
7 even realize that there were visible marks. I asked
8 the officer -- when I called for help, Mr. Blackwell
9 was in my house. I even left my house and locked
10 myself in the garage when I made that phone call.

11 Q Certainly, that is a memorable occasion,
12 isn't it?

13 A Like I said, I thought you were here to
14 question me about workplace issues. You don't put
15 your abusive relationships out there on the line all
16 the time.

17 Q You deliberately decide when to tell the
18 truth or not?

19 A No, sir. I didn't tell you a lot. I
20 didn't realize either that when you call the police
21 that you are filing any kind of complaint.

22 Q You are a fairly sophisticated lady, Ms.
23 Clevinger. You ought to know that when you call the
24 police --

25 A No, sir.

1 Q -- that that is a complaint.

2 A No, sir. I was calling for help. I
3 maintain that to this day. I called for help.

4 Q Are you able to take things that you want
5 them to be and then put words the way you want them
6 to mean rather than what they mean?

7 A No, sir.

8 Q Are you able to not tell the truth and
9 believe that you have told the truth?

10 A No, sir.

11 Q There is no way that you could have
12 forgotten all of this stuff about the police
13 department and making complaints, is there?

14 A Sir, you asked me about being attacked.
15 That is what I was commenting on.

16 Q Well, I asked you another question about
17 making complaints. Do you recall that?

18 A Yes, sir, but I didn't associate calling
19 for help as a complaint.

20 Q What is a complaint? You tell me what a
21 complaint is, what your definition of a complaint is.

22 A Sir, I think that is subjective actually.
23 If you complain -- I complained that my son would not
24 clean up his room when he was growing up.

25 Q You complain about your phone when it is

1 out, right?

2 A Yes, sir.

3 Q That is a complaint.

4 A Yes, but it usually is not call, can you
5 help me.

6 Q It is not a complaint when somebody you
7 claim is physically attacking you?

8 A Sir, I associated it as a call for help.

9 Q And that is what I mean about you being
10 able to take words and give them a meaning something
11 other than what they mean. You have that ability to
12 do that?

13 A No, sir.

14 Q You understand what a physical attack is?

15 A Yes, sir.

16 Q You understand what a physical altercation
17 is?

18 A Yes, sir.

19 Q You understand whether or not you had any?

20 A Sir, honestly, I associated -- you see
21 things on the news all the time. You have reports
22 about people usually -- I don't know. In my mind, I
23 was thinking random acts of violence. Why do you
24 think I pulled out something that happen in the
25 schoolyard? My train of thought was not something

1 that you lived day in and day out. And to be
2 perfectly honest, those are hard issues to deal with
3 in the public to tell people, just to talk about.

4 Q You didn't have any problem accusing Ms.
5 Cook, did you?

6 A Sir, I didn't accuse Ms. Cook. I reported
7 something that happened at work and that's it. I
8 didn't accuse Ms. Cook of anything.

9 Q You did. You wanted to get her fired,
10 didn't you?

11 A No, sir.

12 Q Did you tell anybody that you could no
13 longer work with Ms. Cook?

14 A No, sir.

15 Q You did not make that statement?

16 A Sir, I don't recall making that statement.
17 I recall making a statement similar to the fact that
18 I was concerned about working with her. After that
19 happened, I was very concerned about how she would,
20 what she would do. You weren't there. You didn't
21 feel it.

22 Q Let me ask you this. Have you ever had --
23 I asked you if you ever had any disputes with anyone
24 that caused law enforcement to get involved with it.
25 You answered something about your ex-husband,

1 correct?

2 **MR. GRIFFITH:** Your Honor, if he can
3 identify the page for us.

4 **BY MR. PARKER:**

5 **Q** It is page 74, line 10. Excuse me.

6 **A** Yes, sir.

7 **Q** And you said that you had not had any
8 dispute with anyone to cause law enforcement to get
9 involved other than a situation with Mr. Clevinger,
10 is that correct?

11 **A** Sir, you're on page 74, line 10, is that
12 correct?

13 **Q** I'm on 74, line 10 down through 13.

14 **A** Sir, your question was have you ever had
15 any dispute with anyone that caused law enforcement
16 to get involved with it other than one domestic. I
17 started to answer you and you cut me off. I never
18 said no. I said other than beginning to speak and
19 you cut me off before I got to the end of the
20 sentence.

21 **Q** I asked you --

22 **A** And you said that's right.

23 **Q** I said that is it.

24 **A** No, sir. You said that is it and I said
25 no, sir, I call police on disgruntled customers in

1 Hampton. You cut me off before I could list any
2 instances where I had to call law enforcement or that
3 anyone involved. You cut me off.

4 Q I followed up. I said that is it.

5 A Yes, sir. I stated that.

6 Q You didn't tell us about all those other
7 things, did you?

8 A Yes, I did. I told you ex-husband, ex-
9 boyfriend and you cut me off and said that's it. I
10 moved on and you started talking about work.

11 Q When did you tell me about ex-boyfriend?

12 A It's right there, sir. Other than my ex-
13 husband? No. Other than my ex-boyfriend. It's cut
14 off of the page.

15 Q So you were going to tell us about Mr.
16 Bayne. When I said that is it, you didn't?

17 A Yes. I stopped. You said that is it. You
18 stopped me from talking.

19 Q Is there a question mark after that's it?

20 A And I did say -- yeah, I already mentioned
21 ex-husband and ex-boyfriend.

22 Q Where did you mention boyfriend?

23 A It is cut off right there.

24 Q So you did not mention it? That is what I
25 was saying, sir. You stopped me.

1 Q Before, on line 7, I said have you found any
2 type of lawsuit, anything like that. What was your --

3 A What page are you on? I'm sorry.

4 Q Page 74.

5 A Line 7?

6 Q 7.

7 A Yes, that is correct. You asked me have I
8 ever filed any lawsuit or anything like that. My
9 answer was no, sir.

10 Q That wasn't correct either, was it?

11 A That was correct.

12 Q You filed a divorce complaint against Mr.
13 Blackwell, didn't you?

14 A I didn't think of a divorce -- you were
15 talking about other things. I didn't think about a
16 divorce as a lawsuit. I'm sorry. We did not go
17 through a lawsuit.

18 Q You did go through a lawsuit, didn't you?

19 A I apologize. I am not educated in the law
20 or anything. I guess a divorce is a lawsuit.

21 Q You were educated enough to report Ms. Cook
22 of workplace violence when you knew it would get her
23 fired, weren't you?

24 A Sir, there was a policy that I had to read
25 and sign off on. There was computer training as to

1 say what you have to report and what you don't and
2 what you do and what you don't and I try very hard to
3 do what I was supposed to do. That was part of that
4 policy was to report that.

5 Q You accused Mr. Blackwell in your divorce
6 complaint of physically attacking you, is that
7 correct?

8 A No, sir.

9 Q You didn't? What did you accuse him of?

10 A Sir, I don't remember everything that
11 happened. The divorce actually started at a request
12 to annul a marriage that was fraudulent. I know that
13 we talked about things that he had done,
14 inappropriate things that he had done. We may have
15 talked about this incident. We may have mentioned
16 other things. I don't recall, sir.

17 Q Do you recall taking out a warrant for Mr.
18 Blackwell?

19 A I did not take a warrant out for Mr.
20 Blackwell, sir.

21 Q Was there a warrant taken out for his
22 arrest?

23 A It was, but I didn't do it.

24 Q It says the most recent occurrence was on
25 April 24th of 2010. This was in your complaint. The

1 complainant, that means you, has informed the police
2 that there is a warrant out for the defendant's
3 arrest relating to the incident of abuse.

4 **A** I said -- yes, I did. And if you read that
5 again, I said I believe there was a warrant out for
6 his arrest for domestic abuse.

7 **Q** And you called the police and complained
8 about Mr. Blackwell?

9 **A** I called and asked for help because he was
10 in my home. He did not live there. I had asked him
11 to get out. He slapped me and I called the police.
12 He wouldn't leave.

13 **Q** You understand he says that is untrue, that
14 none of that ever happened?

15 **A** He made -- he may say that but it is the
16 truth.

17 **Q** Who else said that you accused them falsely
18 of attacking you? Some other people that said that
19 too, right?

20 **A** Sir, I don't know.

21 **Q** You've heard Mr. Bayne say that.

22 **A** Mr. Bayne was found guilty in a court of
23 law.

24 **Q** And he said that's what you accuse them of,
25 physically attacking you is a lie, correct?

1 **A** Sir, I called for help. That was a really
2 bad night. The police took the deposition --
3 whatever, when you talked to the police, they make a
4 report. They followed through with it. I did not
5 bring charges or anything against him. I was scared.
6 I didn't file those charges.

7 **Q** You had nothing to do with the police
8 coming to arrest Mr. Blackwell?

9 **A** I called them for help.

10 **Q** You called them to arrest Mr. Bayne?

11 **A** I called for help.

12 **Q** And you called them when there was a slap
13 that your mother slapped you?

14 **A** I don't know that I called or she called.

15 **Q** Yet, when I asked you the question about
16 this, you didn't say anything about any of those,
17 correct?

18 **A** Again, sir, when you are living in a life
19 like that that is just not something that you think
20 of first and foremost.

21 **Q** In other words, you can answer questions
22 that you think were advantageous to your own position
23 regardless of the truthfulness?

24 **A** No, sir. I answered you as truthfully as I
25 possibly could.

1 **Q** You said that you and Mr. Valentine who you
2 presently living with got married when?

3 **A** Sir, I believe I told you February 14th,
4 2011.

5 **Q** That was --

6 **MR. GRIFFITH:** Your Honor, I'm going to
7 object to this. This is pretty much what we
8 went through and I thought you had ruled upon.
9 At least I will object to it on background.
10 This also would be impeachment.

11 **MR. PARKER:** This goes to her credibility
12 and effect that she said she was married to Mr.
13 Blackwell at a time when she was still -- I mean
14 married Mr. Valentine any time when she was
15 still married to Mr. Blackwell.

16 **THE COURT:** I sustain the objection.

17 **BY MR. PARKER:**

18 **Q** When did you get divorced from Mr.
19 Blackwell?

20 **A** Sir, I honestly don't recall the exact
21 date.

22 **MR. GRIFFITH:** Again this is collateral.

23 **THE COURT:** Sustained.

24 **MR. GRIFFITH:** Thank you.

25 **MR. PARKER:** Your Honor, I understand I

1 could not ask her when she got divorced from Mr.
2 Blackwell?

3 **THE COURT:** Right. I sustain the
4 objection to that question.

5 **BY MR. PARKER:**

6 **Q** I want to put up the pictures of Exhibit
7 38. Ms. Clevinger, do you recognize this set of
8 pictures that we marked as Plaintiff Exhibit 38?

9 **A** Yes, sir.

10 **Q** And those are pictures of you?

11 **A** Yes, sir.

12 **Q** The bruise that you see in the first
13 photograph there is one that you said that Mr.
14 Blackwell put on your arm by squeezing your arm?

15 **A** No, sir. I never said he put a bruise on
16 me.

17 **Q** You didn't tell the police that?

18 **A** No, sir.

19 **Q** You did not tell that he grabbed or
20 squeezed her arm?

21 **A** I did say that he grabbed me by the arm.

22 **Q** And they took a picture of that for some
23 purpose?

24 **A** Yes. The officer noticed it. He asked if
25 he could take pictures of me.

1 Q And he took a picture of your arm?

2 A Yes, sir.

3 Q And was that a bruise?

4 A Sir, there were marks on my arms.

5 Q What are those?

6 A They were marks. It was starting to bruise
7 but there were marks. There were marks on my arms.

8 Q You told the officer that where he squeezed
9 you those marks came from?

10 A Sir, I told him that he grabbed me by the
11 arm and the officer looked at my arms and saw them.
12 I did not even realize they were there at the time.

13 Q How did you bruise your arms?

14 A He grabbed me on my arms. I did not even
15 realize there were marks on my arms at the time. The
16 officer noticed it. He pointed it out to me.

17 Q And you didn't know that you were claiming
18 that Mr. Blackwell has squeezed her arms and bruise
19 you?

20 A Yes, sir. I did tell you. I told the
21 officer he grabbed me by the arms. You are saying
22 that I did not know I said that but I did say it. I
23 never denied saying it.

24 Q When Ms. Lydia Cook claimed that she had
25 physically assaulted you by squeezing your arms to

1 the point it bruised you, you took some pictures and
2 some time, correct?

3 **A** Yes, sir. There were pictures taken. I
4 never used the word assault.

5 **Q** What do you call it?

6 **A** I said she grabbed me by the arms.

7 **Q** In a vicious, aggressive manner?

8 **A** No. I said she shook me in a vicious and
9 aggressive, vicious manner.

10 **Q** And you have testified that you took
11 pictures of those marks?

12 **A** I did not take pictures. I testified that
13 someone else did.

14 **Q** With your camera?

15 **A** Yes, sir.

16 **Q** In your deposition, you equivocated
17 somewhat about when they were taken. You first said
18 they were taken in the evening. You recall that?

19 **A** Yes, sir. I think that was the case.

20 **Q** Then you changed it to maybe a little
21 later?

22 **A** Well, sir, I did say that. I said I think
23 it was in the early morning hours, if I recall.

24 **Q** You changed -- you testified three
25 different ways if you recall that. I am sure you

1 read your deposition.

2 **A** Yeah, there were two. I think I told you
3 there were two sets of pictures taken. I think
4 that's correct. I'm not positive. I can look back
5 at it.

6 **Q** You testified -- at first, you testified it
7 was taken in the evening, is that correct?

8 **A** Yes. Lots of time, people reference
9 evening. It is a span of time from almost all night.
10 Then I clarified to you another set was taken in the
11 early morning hours.

12 **Q** You don't know what the evening means?

13 **A** Yes, sir. I do. In general conversation,
14 sometimes people will say evening. Afternoon
15 typically is just after 12-ish. People say afternoon
16 is sometime dinnertime. I made the statement I
17 wasn't trying to be deceitful -- be deceitful or
18 deceptive, I'm sorry, whatever the word is.

19 **Q** You were told by Regions that you were
20 deceptive, weren't you?

21 **A** Sir, I was told that I had done something
22 on my last day at Regions that they felt was
23 deceptive.

24 **Q** And untruthful?

25 **A** He said deceptive.

1 Q And they also said untruthful. We have the
2 documents, you want to look at them?

3 A Sir, it may still say that but I recall
4 deceptive, yes.

5 Q What you then said in your deposition about
6 those marks, you said you took them -- first, you
7 said the evening. Then you said it may have been
8 closer to midnight or somewhere in there right?

9 A I can look at it. If you show me what you
10 are talking about.

11 Q I will show it to you. We will go back.
12 Then, you later said it may have been -- I think, let
13 me stand corrected. I think you said it was in the
14 wee hours of the morning to be exact.

15 A Yes, sir.

16 Q Do you recall that?

17 A There were a set taken early in the
18 morning. The others -- I think also told you I don't
19 know what time it was. I didn't look at a clock or
20 anything.

21 Q Then you said maybe they were taken when I
22 was getting ready to go to work.

23 A There was a set taken before I went to
24 work, sir, in the early morning hours. I had to get
25 up very early in order to get ready to be in Hampton

1 from Beaufort. So it was very early.

2 Q You were dressed when the pictures were
3 taken, is that correct?

4 A I think I had a bottom on and a camisole.

5 Q You forgot the pictures?

6 A Sir, I think I had a camisole --

7 Q Have you seen the pictures?

8 A I think they're right here. Yes, I had a
9 camisole cover and bottoms on.

10 Q All right. Let's look at the pictures.
11 Let's put those up. Blow that up. That is exhibit
12 -- what is the number on that exhibit?

13 COURT REPORTER: 46.

14 BY MR. PARKER:

15 Q Exhibit 46. This is a photograph you
16 produced in this case, correct?

17 A Yes, sir. I believe it is.

18 Q You emailed it to the bank on May 31st?

19 A I don't recall what day but I believe that
20 is right. No, I don't know what day, sir.

21 Q And you had -- what was -- on your home
22 computer, what was your name on the home computer?

23 A Sir, I don't recall if it was sent from a
24 home computer.

25 Q C Raven, or Raven C?

1 **A** That is my, one of my addresses I have?

2 **Q** Raven C?

3 **A** Yeah.

4 **Q** At where?

5 **A** Yahoo.

6 **Q** And you emailed these photographs two of
7 them to your email address at work, correct?

8 **A** Sir, I think that there was -- I don't know
9 exactly how I sent them in. I don't know how I sent
10 them in but I did take the pictures and I sent them
11 into HR.

12 **Q** Exhibit 46, how are you standing?

13 **A** I think that that hand is on my hip.

14 **Q** And that is your left hand?

15 **A** I am not positive the way it is taken. I
16 don't know.

17 **Q** If it is on the hip and your body is to the
18 right, it has to be your left, correct?

19 **A** It may be. I don't know. I have seen
20 pictures that are inverted so that they look
21 backwards. I don't know. The way that is, I'm not
22 sure. That is my left hand on my left hip. I think
23 that is my right hand. I don't know. I'm not sure.

24 **Q** In the background of that photograph, is
25 that account in that photograph?

1 **A** I don't think that is a couch.

2 **Q** And you have a blouse on?

3 **A** Yes.

4 **Q** A black blouse?

5 **A** Yes.

6 **Q** You obviously ready to go to work are
7 either just got off?

8 **A** No. I don't know if that is the evening
9 picture or the morning picture. I don't know.

10 **Q** You wouldn't keep your blouse on all night,
11 would you?

12 **A** Sir, I often sleep in a camisole.

13 **Q** You lost me there. You have to tell me
14 what one of those is. I thought that was a blouse
15 you have on.

16 **A** Sometimes a camisole can come up just to
17 cover the shoulder. Sometimes it is just a spaghetti
18 strap top. But it is an undergarment to keep your
19 clothes from being see-through if I'm explaining that
20 correctly.

21 **Q** You are claiming that is some type of
22 undergarment?

23 **A** I think that that is a camisole top. I am
24 not positive.

25 **Q** Okay.

1 **A** It is a top.

2 **Q** Okay. This is Exhibit 47. What does this

3 show?

4 **A** It shows the back of my arm.

5 **Q** Which arm?

6 **A** Sir, I think that is the right arm.

7 **Q** Why do you think that?

8 **A** Because of the way it is bent.

9 **Q** If you will, make your arm into the way

10 that is made.

11 **A** I don't know. I'm not sure. I think that

12 the pictures were taken like that, from the back.

13 **Q** You think the pictures taken from the back?

14 **A** Yes, sir.

15 **Q** You think your arms are behind your back?

16 **A** I think it is on my hip.

17 **Q** Huh?

18 **A** I think it was on my hip.

19 **Q** Well, the -- what is the space between --

20 **A** I think that -- honestly, now that I look

21 at it, I think that is my arm up like this. I think

22 one was here and one was like this. That is what I

23 think.

24 **Q** You think that is your arm like you are --

25 **A** Yes.

1 Q -- extending it up toward your head?

2 A I think so. I don't recall before. I know
3 there was some pictures with some like this and some
4 with my arms up to see the back of my arm.

5 Q Your testimony was that there was a number
6 of pictures taken, correct?

7 A To my knowledge, there were two sets.

8 Q Two sets of pictures?

9 A Yes, because some of them were a little
10 blurry. You cannot really tell.

11 Q We requested those original pictures so we
12 can tell when those pictures were taken, correct?

13 A Yes, sir. You did request those.

14 Q You had destroyed them?

15 A Sir, the only thing I submitted to HR I no
16 longer have anything after that. I told that.

17 Q He told us you no longer have the camera
18 that the pictures were taken with?

19 A The camera was damaged. This is what I
20 told.

21 Q You realize we could tell the date those
22 pictures were taken by obtaining your camera,
23 correct?

24 A No, sir. I didn't know that.

25 Q You don't know that you can tell the date

1 the pictures taken on a digital camera?

2 **A** No, sir. I know that you can sometimes put
3 a date on there but I did not know that.

4 **Q** We also asked about your computer that you
5 downloaded to transfer to your account at Regions.
6 You --

7 **A** They weren't downloaded from a computer.
8 They were on the camera. They were never downloaded
9 from a computer. You plugged in the camera, you
10 didn't download it.

11 **Q** How did you transfer down to the computer?

12 **A** They were never transferred to a computer,
13 sir, to my knowledge. I think it was sent from the
14 camera through the computer. You can take a cord and
15 hook it up.

16 **Q** How do you get it on the computer if you
17 don't download to the computer? It has to be
18 downloaded on the computer, correct?

19 **A** Not to my knowledge. I didn't know that
20 you have to have it on there. I know I had a camera
21 that you can hook up with a little cord to a computer
22 and you could retrieve documentation from the camera
23 and you could utilize it. I did not know that he had
24 to be downloaded.

25 **Q** It had to get the digital form --

1 **A** It takes it from the camera, sir.

2 **Q** So your testimony is you believe that after
3 you transfer this or use your computer to transfer
4 photographs that those photographs would not have
5 been on your computer?

6 **A** Yes, sir. I believe that.

7 **Q** We asked you about the computer where we
8 could determine that and you claimed you no longer
9 had the computer, correct?

10 **A** That is correct. It was a laptop. It was
11 a very old laptop and it broke in half. My son got
12 me a replacement.

13 **Q** You also testified in your deposition that
14 you made notes about some of these events on your
15 calendar, correct?

16 **A** Yes, sir.

17 **Q** And you testified in your deposition that
18 you would have to consult your notes about certain
19 things, is that correct?

20 **A** I think I corrected too and said a lot of
21 the stuff was taken. It was collected.

22 **Q** And we asked you for your calendars that
23 you said you were going to refer to and we filed a
24 request for those and you said you didn't have them?

25 **A** I didn't have the calendars of that date.

1 You can look at another calendar sometimes and see
2 dates and try to put timelines together just by
3 looking at another calendar but I did tell you that I
4 no longer have the information because it was taken
5 from me my last day at Hampton.

6 Q When did you tell us that?

7 A I may not have told you but I know that
8 when it was asked of me to turn that over, I know I
9 had it.

10 Q You realize if the bank had those notes,
11 they would've kept them?

12 A Sir, they took everything I had that day
13 with the exception of a few miscellaneous personal
14 toiletries. They didn't let me leave the branch with
15 anything. Later, I had to retrieve the rest of my
16 toiletries.

17 Q Have you told people that you were in tears
18 when this happened?

19 A I don't recall that. There is a
20 possibility that I welled up when I went into my
21 office.

22 Q Now, you claimed later that you had some
23 injuries to your neck, correct?

24 A Yes, sir. It hurt my neck.

25 Q And you claim your arms were bruised?

1 **A** I stated my arms were bruised.

2 **Q** I asked you at your deposition about
3 treatment that you had by the chiropractor, correct?

4 **A** Yes, sir. I recall.

5 **Q** You were sort of didn't answer very
6 straightforwardly but did say I may have been treated
7 for something with my neck by a chiropractor.

8 **A** I don't recall it happening that way. You
9 asked me if I saw -- if I recall, you said something
10 about me seeing a doctor when it happened. I said I
11 didn't go right then. I didn't because I thought
12 that I would have to go see a doctor that Regions
13 would assign or something.

14 **Q** I asked you if you --

15 **A** I'm sorry. Go ahead.

16 **Q** You go ahead. I don't want to have the
17 same problem we had when I said is that it. Is that
18 it?

19 **A** Yes, sir.

20 **Q** In fact, you have been treated extensively
21 by a chiropractor in Beaufort, going back to August
22 of '09, is that correct?

23 **A** I think I told you that in my deposition.

24 **Q** You said I may have gotten the treatment
25 for my neck from the chiropractor. I asked you who.

1 You could not remember. Then you later said I think
2 it was --

3 A I cannot recall her name. Yes, I could not
4 recall her name.

5 Q In fact, you had been treated by the
6 chiropractor for the same neck complaints that you
7 had.

8 A Yes, sir.

9 Q You told the chiropractor that the pain
10 your neck was a 10 out of 10, correct?

11 A Yes.

12 Q You told them that you also had headaches?

13 A Yes, sir.

14 Q You also had upper back pain?

15 A Yes, sir.

16 Q You had mid back pain?

17 A Yes, sir.

18 Q Low back pain?

19 A Are you speaking of this incident or --

20 Q No, your treatment by the chiropractor.

21 A My question is, are you speaking of this
22 particular incident or over the course of time?

23 Q Over a course of time.

24 A Yes, sir. All of that is true.

25 Q On each time you went there, you said that

1 you had headaches, neck aches, upper back pain, mid
2 back pain, low back pain, arm and shoulder pain, leg
3 feet and hip pain.

4 **A** Yes, sir.

5 **Q** In other words, prior to this, you were
6 hurting all over?

7 **A** I had -- yes.

8 **Q** You were having aches, soreness, pain in
9 these places?

10 **A** Yes.

11 **Q** The only reason you quit going to the
12 chiropractor was because you got transferred to
13 Hampton and got the promotion, correct?

14 **A** I don't know that that's the reason that I
15 quit. But yes, I had limited opportunity to go to
16 the doctor.

17 **Q** And the records we have show that you were
18 getting treated up until April 2010 by the
19 chiropractor, is that correct?

20 **A** That could be correct, sir.

21 **Q** You still had all of those same problems
22 that you complained of about pain in your neck?

23 **A** I'm sorry.

24 **Q** In April, you were still suffering from all
25 of those same symptoms of having pain everywhere?

1 **A** Probably, sir. I didn't say this was a new
2 pain. I have seen the chiropractor for some time.

3 **Q** You claimed that your neck problem came
4 from Ms. Cook hugging you, didn't it?

5 **A** I said I had a stiff neck from it, yes,
6 sir.

7 **Q** But you had a stiff neck for a long time,
8 hadn't you?

9 **A** Not to that degree, sir.

10 **Q** Your stiff neck goes back years, doesn't
11 it?

12 **A** Yes. I do have a degree of stiff neck that
13 goes back years.

14 **Q** And you've had complaints of knots on your
15 neck, didn't you?

16 **A** If my neck is out of line, it causes knots.

17 **Q** And you had had that for years?

18 **A** Yes, sir. I have.

19 **Q** And the stiff neck that you had when you
20 talk with Ms. Lloyd, what did you tell her about it?

21 **A** I told her that I had knots because of --
22 stiff neck because of the shaking.

23 **Q** All right. Did you tell Ms. Lloyd that Ms.
24 Cook said thank you, it started like a hug and the
25 hug turned into shaking?

1 **A** I believe I said something to that effect.

2 **Q** You are claiming that Ms. Cook was in a fit
3 of rage?

4 **A** Sir, when I was touched by Ms. Cook
5 initially, it was an awkward touching. But when she
6 began to shake me, it got worse on each shake. It
7 felt like there was rage. It felt violent and it
8 felt aggressive to me. You could feel like anger in
9 it.

10 **Q** Come down here and shake me like that.

11 **A** Sir, I don't know that I could shake you
12 like that.

13 **Q** You describe it. I want you to shake me
14 like that.

15 **MR. GRIFFITH:** Your Honor, I'm going to
16 object. My client, she is certainly subject to
17 cross-examination but she can show, but I don't
18 think to require this of the witness is proper.

19 **MR. PARKER:** Your Honor, we do. We think
20 it is proper. She testified she can determine
21 what shaking in a fit of rage is. I want her to
22 shake me in a fit of rage.

23 **THE WITNESS:** Sir, I testified to what it
24 felt like to me. I didn't testify to what it
25 would feel like to anyone else. I don't feel

1 like I can shake a large a person that me and
2 have them feel the same thing. Nor do I feel I
3 can convey what it felt like to you -- what it
4 felt to mean to you. I don't know. There are
5 different circumstances involved. Certainly I
6 don't know that I can do that and you feel the
7 same thing.

8 **BY MR. PARKER:**

9 **Q** I'll let you shake me as hard as you want
10 to. As big a rage as you can get into.

11 **A** So I am not in a rage. It will be very
12 difficult.

13 **Q** In other words, you are saying you cannot
14 do that, you cannot --

15 **A** No, I can demonstrate how it happened, sir.
16 But you are asking me to shake you like a fit of
17 rage. I don't know that I can. When you get angry,
18 you can do things that come off differently. I don't
19 know how to explain that. Do you?

20 **Q** I would know how to explain that somebody
21 shake me --

22 **A** I can show you how she touched me.

23 **Q** No, I want you to shake me just like you
24 said she did you.

25 **A** So, I don't know that I can. One, you are

1 bigger than I am. I don't know that I can make you
2 feel what I felt that day.

3 **MR. GRIFFITH:** Your Honor, I object. She
4 has answered the question. He was trying to make
5 her do something that she is not comfortable
6 doing.

7 **THE COURT:** I will sustain the objection.

8 **BY MR. PARKER:**

9 **Q** You no longer have your job that you left
10 and went to a credit union, is that correct?

11 **A** No, sir. I do not have that job.

12 **Q** You were terminated from that job?

13 **A** No, sir. I was not.

14 **Q** Did you voluntarily quit?

15 **A** Yes, sir. I resigned. My brother had
16 cancer and I went to help take care of my brother.

17 **Q** I hope he is all right.

18 **A** He's got a good diagnosis right now. He is
19 doing better. Thank you for asking or commenting.

20 **Q** You believe that you should be a moral
21 person, don't you?

22 **A** Yes, sir. I do.

23 **Q** Well, all people don't lie, do they?

24 **A** Sir, I try not to lie. I tried to be
25 moral. I expect anyone to try to be moral and try to

1 do the same thing.

2 Q And moral people tell the truth about
3 people?

4 A My pastor says that people do tell white
5 lies sometimes.

6 Q You believe you can tell white lies?

7 A No, sir. I didn't say that. You are
8 telling me everyone. You keep using the same thing
9 for everyone.

10 Q You agree with the principle that you
11 should tell the truth?

12 A Yes, sir. I do.

13 Q Particularly, if you are under oath,
14 correct?

15 A Yes, sir.

16 Q Because it is perjury if you lie under
17 oath?

18 A Yes, sir.

19 Q And you, and not talking about Mr.
20 Blackwell, not talking about Mr. Bayne, not talking
21 about your mother, not talking about the other times
22 you call the police, I didn't ask you about all of
23 them. I can go through a few more of them but you
24 made a determination not to tell the truth that day?

25 A No, sir.

1 Q You called the police on your son Cody?

2 A Sir, I don't recall how that transpired. I
3 really don't.

4 Q You remember the police because you called
5 about Cody, don't you?

6 A I may have called. I know I talked to an
7 officer about helping me with my teenage son when I
8 was having some issues. They told me to call the
9 police. They said we can also talk to him.

10 Q In fact, you called him twice about Cody,
11 didn't you?

12 A I know they came twice.

13 Q And they came because you called them.

14 A Sir, I don't know if I called -- actually I
15 think he called once and hung up. I think. I think
16 that brought them to the home.

17 Q And you called the police about someone
18 that you accused of stealing a kitty, right?

19 A They did steal a cat. They stole it from
20 the people across the street. I believe the police
21 report stated that they retrieved it. He came back
22 and told me he found the cat.

23 Q There were two children that picked up the
24 cat that was stray and the police got the cat back.

25 A That is not with the officer told me, sir.

1 Q You called the police a number of times to
2 report stalkers and things like that, correct?

3 A Yes, sir. I have call for help.

4 Q But you don't consider that a report or a
5 complaint?

6 A I didn't consider it a complaint, no. I
7 think you are referring to somebody trying to get
8 into my home. I called them and they came and
9 investigated. I called for help.

10 Q You called the police and, in fact, you had
11 someone unfortunately to break into your home one
12 time, correct?

13 A Yes, sir. There was someone -- I'm not
14 sure which incident where talking about but I do
15 recall someone broke into my house and I called the
16 police.

17 Q You came home and found out they had broken
18 in, right?

19 A They were in the home at the time. The
20 police told me they had exited the front door when I
21 was at the back is what the police told me. It was
22 before things given. I remember it very well.

23 Q Did you see them?

24 A I'm sorry.

25 Q Did you see the people?

1 **A** I did not. I saw someone later leave the
2 property. There was a vehicle parked in the
3 driveway.

4 **Q** The, uh, -- now, did you make a complaint
5 against Mr. Blackwell before you were married to him?

6 **A** Sir, I don't recall.

7 **Q** Did you call the police to tell them that
8 Mr. Blackwell was guilty of the offense of assault
9 and intimidation on April 28, '08?

10 **A** Sir, I don't recall. I hadn't had the best
11 of relationships. That one was difficult..

12 **Q** If you called the police about Mr.
13 Blackwell harassing you and assaulting you in some
14 way on April 28 of '08, why did you marry him?

15 **MR. GRIFFITH:** Your Honor, I object --

16 **THE COURT:** I sustain the objection.

17 **BY MR. PARKER:**

18 **Q** How many times did you accuse Mr. Bayne of
19 physically assaulting you?

20 **A** Sir, I don't know how many times that I had
21 a situation with Mr. Bayne. I don't know how many
22 times. Like I said, I didn't have the best of
23 personal relationships.

24 **Q** Just a couple more questions. The only
25 pictures that you know of are the two that we put on

1 the screen?

2 **A** I beg your pardon?

3 **Q** The only two pictures that you know of in
4 existence of what you are saying are the two pictures
5 that we put on the screen?

6 **A** With Ms. Cook?

7 **Q** Yes.

8 **A** Sir, I recall there were two sets. I don't
9 know what is out there anymore. I have seen these
10 two photographs that have been brought up to me
11 recently in this case. I don't know if there
12 anymore.

13 **Q** What did you do with the rest of the
14 photographs?

15 **A** Sir, I sent what was a legible copy.
16 That's all I have. The other photographs, any kind
17 of photograph that was involved with that camera, I
18 don't have anymore. I don't even know what they are.
19 I don't know.

20 **Q** But you knew it was important to keep them,
21 didn't you?

22 **A** Sir, I sent them what they could see
23 something in. There were two sets. There wasn't --
24 I think I said it was like out of focus or something.
25 I don't recall that they weren't legible.

1 Q So you made a determination to take
2 evidence that would be relevant to this case and do
3 away with it?

4 A Sir, I didn't know that any of this ever
5 was going to happen.

6 Q You knew when you got served with the
7 complaint which was just a short time after this,
8 didn't you?

9 A I don't recall when I was served.

10 Q You know it was in like August, close in
11 time that it occurred, right?

12 A Sir, the camera was used for underwater
13 diving. It was damaged. It was damaged.

14 Q Did you print off any of the photographs?

15 A I never printed any photographs from that
16 camera. I did not print anything.

17 Q Did you send these pictures to anybody at
18 Regions?

19 A I sent them to Regions, yes.

20 Q Two of them?

21 A Two pictures, to my knowledge.

22 Q Now, you had a number of issues with
23 customers in Hampton, correct?

24 MR. GRIFFITH: Your Honor, I object to
25 this. I think this is what we been through in

1 the motion in limine.

2 THE COURT: Restate the question.

3 MR. PARKER: I asked her did she have a
4 number of issues with customers in Hampton.

5 THE COURT: Okay. I sustain the
6 objection.

7 BY MR. PARKER:

8 Q You read -- the complaint that was made by
9 Ms. Cook was discussed with you, correct?

10 A I beg your pardon.

11 Q The complaint Ms. Cook made about you was
12 discussed with you?

13 A The fact that a complaint was made was
14 mentioned but it was not -- anything in that was not
15 discussed with me. I was told they were going to be
16 investigated and discussed with me at a later date.

17 Q You knew what she said about you?

18 A No, sir. I didn't, no. I just told you
19 that it was not discussed, the details were not
20 discussed with me.

21 Q You did not know what she had said?

22 A No, sir.

23 Q But you did confront her the next day --

24 A No, sir.

25 Q You did not confront her and ask her who

1 she had been talking to?

2 **A** I asked her who she had been talking to
3 when she came back from lunch and reported she was at
4 Goodies. I asked her who she was talking to.

5 **Q** At Goodies?

6 **A** Yes. She explained her two-hour lunch.
7 She did not tell me she was -- was at lunch in that
8 period of time. We had been looking for her. I
9 asked her that question pertaining to -- she told me
10 she was collecting accounts for Regions.

11 **Q** Why would you be wanting to know who she
12 was talking to at Goodies?

13 **A** Because she said she got an account.

14 **Q** That is why you wanted to know. You didn't
15 make a statement to her to indicate to her that you
16 knew she made a complaint?

17 **A** No, sir.

18 **Q** That was not your intention?

19 **A** No, sir. I was not to speak anything about
20 it.

21 **Q** Do you now understand that one of the
22 things she complained about you was you were not --
23 you had been rude to customers?

24 **MR. GRIFFITH:** Your Honor, again, I think
25 that is the exact question that you had ruled

1 inadmissible several times.

2 **MR. PARKER:** Is it --

3 **THE COURT:** I think so.

4 **MR. PARKER:** Well, it is a little bit
5 different. I asked about her interaction with
6 customers. Now I'm asking about the
7 truthfulness of the complaint with Ms. Cook
8 about her.

9 **THE COURT:** Restate it please.

10 **MR. PARKER:** The question was did she
11 learn about what the complaint was about her
12 that Ms. Cook made.

13 **THE COURT:** Overruled.

14 **MR. GRIFFITH:** That wasn't --

15 **THE COURT:** Go ahead.

16 **THE WITNESS:** I'm sorry. Now I am
17 confused.

18 **BY MR. PARKER:**

19 **Q** Did you later learn that Ms. Cook made a
20 complaint about you about your interaction with
21 customers?

22 **A** Yes, I later learned that.

23 **Q** That complaint that she made about you was,
24 in fact, true, wasn't it?

25 **A** No, sir. It is not true.

1 Q In other words, you had a good
2 relationship?

3 A Many of them, yes.

4 Q And a lot of them, you didn't?

5 A Some of them, I did not have a good
6 relationship with.

7 Q A number of them reported you to
8 management, correct?

9 A To my knowledge, there were a few.

10 Q Nothing else.

11 MR. TILLER: Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 **BY MR. TILLER:**

14 Q Good afternoon, Ms. Clevinger.

15 A Good afternoon.

16 Q I will try to be brief. I know you have
17 been up there in a while. I'm going to talk to you a
18 little bit about Ms. Cook. Do you need some water?

19 A Yes. May I have a cup please?

20 Q Yes, we'll get your lawyer to help you out
21 here.

22 A Thank you.

23 Q Ready?

24 A Yes, sir.

25 Q Mr. Parker asked you some questions about

1 the afternoon or evening of May 9th, correct?

2 **A** Yes, sir.

3 **Q** At the time of the incident, just you,
4 Suzanne and Ms. Cook were the only people in the
5 bank, right?

6 **A** No, sir.

7 **Q** Who else were there?

8 **A** Lance -- I'm sorry. I just lost his last
9 name.

10 **Q** Specifically I'm talking about the time of
11 the outage.

12 **A** Yes.

13 **Q** Who was there?

14 **A** Lance. Well, at that time, Lance had a
15 customer and Joan had customers and Suzanne was doing
16 some transactions. They were all they are at the
17 time I was looking for the outage.

18 **Q** And at the time it was found, were the only
19 people left for you, Suzanne and Ms. Cook?

20 **A** To my recall -- recollection.

21 **Q** And you described for the jury how it felt
22 to you.

23 **A** Yes.

24 **Q** And the following morning, you reported it
25 to HR?

1 **A** Yes.

2 **Q** Did you, in the days thereafter, hear
3 anything from HR?

4 **A** No. I didn't immediately hear back.

5 **Q** In fact, you went to a managers' meeting in
6 Charleston on May 26th, did you not?

7 **A** Yes, sir.

8 **Q** At that point, did you have a conversation
9 with Ms. Andree Lloyd?

10 **A** Yes, sir.

11 **Q** Without going into the specifics and all
12 the details, what was that conversation about?

13 **A** She was noticing that I was having
14 difficulty turning my head. She asked me what
15 happened. I asked her if we could speak in private.

16 **Q** Did, in fact, you speak with her in private
17 and tell her about the events of May 9th?

18 **A** Yes, sir.

19 **Q** Other than the telephone call that you made
20 on May 10th -- was that with Ms. Simpkins?

21 **A** Yes.

22 **Q** She is in the HR department?

23 **A** Yes, sir.

24 **Q** Other than that telephone call in the
25 private meeting you had with Ms. Lloyd, did you ever

1 tell anyone at Regions Bank what had happened?

2 **A** No, sir.

3 **Q** Did you ever tell anyone else outside of
4 Regions Bank about this incident?

5 **A** No.

6 **Q** If my dates are correct, that meeting in
7 Charleston was May 26th?

8 **A** Yes, sir. I believe it was.

9 **Q** The telephone call with you, Ms. Johnson
10 and Ms. Lloyd was on the 27th?

11 **A** Yes, sir.

12 **Q** That would have been Friday before Memorial
13 Day?

14 **A** Yes, sir.

15 **Q** Then there was actually a meeting, face-to-
16 face meeting with you, Ms. Lloyd and Ms. Johnson on
17 Tuesday, the 31st which would be the first business
18 day thereafter, correct?

19 **A** Yes, sir.

20 **Q** Now, you were present during the testimony
21 of Ms. Cook, were you not?

22 **A** Yes, sir.

23 **Q** Today?

24 **A** Yes, sir.

25 **Q** You overheard the discussion about the

1 February incident where there was some money that, a
2 hold should have been placed on some money on a new
3 account, do you recall that?

4 **A** Yes, sir.

5 **Q** Do you recall that even as you sit here
6 today?

7 **A** Yes.

8 **Q** And you heard Ms. Cook describe it as a
9 matter that could potentially have been subject to
10 immediate termination, is that right?

11 **A** Yes, sir.

12 **Q** Were you involved in the decision not to
13 terminate her for that?

14 **A** It wasn't my final decision but I put my
15 input in.

16 **Q** You asked the bank to keep Ms. Cook?

17 **A** Yes, sir. I did.

18 **Q** You also were present during Ms. Cook when
19 I asked her about the performance review.

20 **MR. TILLER:** This is been marked as
21 Defendant's Exhibit 4, Your Honor. I didn't
22 move it in Ms. Cook's testimony. I probably
23 should have at the time as Defendant's Exhibit
24 4.

25 **MR. PARKER:** No objection.

1 **MR. GRIFFITH:** No objection.

2 **THE COURT:** Admitted without objection.

3 **(WHEREUPON, Defense Exhibit Number 4 is admitted**
4 **into the record.)**

5 **BY MR. TILLER:**

6 **Q** Have you reviewed that before the trial?

7 **A** Not before the trial. I think at the time
8 of it.

9 **MR. TILLER:** May I approach the witness,
10 Your Honor?

11 **THE COURT:** Yes, sir.

12 **BY MR. TILLER:**

13 **Q** Ms. Clevinger, you heard me ask Ms. Cook
14 some questions about that form. Basically, an
15 employee or associate, rates them self and you, as
16 the manager, also provide your rating?

17 **A** Yes, sir.

18 **Q** Okay. I ask you to flip to the ratings for
19 the various -- I think there is about 12 categories
20 on there. Without our wasting the jury's time by
21 going through each category, flip through those
22 ratings real quick for us.

23 **A** (Reviewing.)

24 **Q** Have you looked at it now?

25 **A** Yes, sir.

1 Q On page 7, excuse me, page 6 which Mr.
2 Parker had, you gave Ms. Cook a fairly nice write up
3 in terms of manager comments, did you not?

4 A Yes, sir.

5 Q In fact, in the category that you rated her
6 and she rated herself, you disagreed on a number of
7 those ratings, did you not?

8 A Yes, sir.

9 Q And you found that she needed -- I have to
10 look at the proper terminology here. You found there
11 were growth opportunities, to use the bank's terms,
12 in several different categories, is that right?

13 A Yes, sir.

14 Q This document was generated and signed on
15 May 30, 2011?

16 A Yes, sir.

17 Q Ms. Cook wasn't really happy with that
18 evaluation, was she?

19 A No, sir.

20 Q In fact, April 6th is when she reported
21 these complaints about you, is that right?

22 A Yes, sir.

23 Q From that point forward, you continue to
24 work with Ms. Cook to help her with those growth
25 opportunities, did you not?

1 **A** Yes, sir.

2 **Q** Even up to the time of May 9th when there
3 was an outage?

4 **A** Yes, sir.

5 **Q** Now, Mr. Parker asked you some questions as
6 well about your injuries and your treatment?

7 **A** Yes, sir.

8 **Q** I tried to follow this but let me make sure
9 I am right. You came to Hampton in August 2010
10 timeframe?

11 **A** Yes, sir.

12 **Q** The last time you saw the chiropractor
13 before that was in the April 2010 timeframe?

14 **A** I believe so.

15 **Q** Okay. So up until the time you went to the
16 chiropractor after this event, you had been treated
17 for over a year?

18 **A** For some time.

19 **Q** Ms. Clevinger, I think that's all the
20 questions I have for you. Thank you.

21 **THE COURT:** Mr. Griffith?

22 **CROSS EXAMINATION**

23 **BY MR. GRIFFITH:**

24 **Q** Ms. Clevinger, if we can go back a little
25 bit, you live in Beaufort, is that correct?

1 **A** Yes, sir.

2 **Q** How long had you been in Beaufort?

3 **A** Since '91.

4 **Q** During that time, I heard about two
5 marriages. You married to Mr. Clevinger?

6 **A** Yes, sir.

7 **Q** That ended in divorce?

8 **A** Yes, sir.

9 **Q** Then you were also married to John
10 Blackwell?

11 **A** Yes, sir.

12 **Q** With Mr. Blackwell, how was that
13 relationship?

14 **A** Very difficult.

15 **Q** Now, when did you go to work for Regions
16 Bank?

17 **A** March 1, 2008.

18 **Q** And you had prior banking experience?

19 **A** Yes, sir.

20 **Q** Where did you work before that?

21 **A** I worked for First National Bank, South
22 Carolina Bank and Trust.

23 **Q** Is that a local bank down there ---

24 **A** It --

25 **Q** --- at the time?

1 **A** At the time, yes, sir.

2 **Q** You said you went to work at Regions in
3 2008, is that correct?

4 **A** Yes, sir.

5 **Q** What position were you hired as?

6 **A** Assistant Branch Manager.

7 **Q** Who would have been your supervisor,
8 immediate supervisor at that time?

9 **A** Originally, Terry DeLoach.

10 **Q** How long was Mr. Loach your supervisor?

11 **A** A short time. She transferred to another
12 branch. Someone else came in.

13 **Q** All right. Was that Ms. Sweat?

14 **A** Yes, sir.

15 **Q** All right. Ms. Sweat, while she was your
16 manager, where were you located?

17 **A** In Beaufort.

18 **Q** In August of, I believe August 2010, was
19 there an opening in the Hampton branch?

20 **A** Yes, sir.

21 **Q** Was that for manager?

22 **A** Yes, sir.

23 **Q** Did you apply for that position?

24 **A** Yes. The position was open some time
25 before that. I was already filling in some there.

1 Q In applying for that position, did you have
2 to take a test?

3 A Yes, sir. I did. I had -- I'm sorry.

4 Q Was that an online test?

5 A It was. You had to passed the test before
6 you could get an interview to my understanding.

7 Q Did you get an interview? Were you granted
8 an interview?

9 A Yes, sir.

10 Q After the interview process, were you
11 offered the position?

12 A Yes, sir.

13 Q You mentioned a minute ago, before you got
14 the position, had you already been coming up here
15 filling in some?

16 A Yes, sir.

17 Q When did you actually start in Hampton?

18 A I believe it was August 2010.

19 Q When you came in, was part of your job --
20 are you cold?

21 A Yes, I am freezing.

22 Q You want me to get your jacket? I can see
23 your lip shaking.

24 A Please.

25 Q If you are cold here, you couldn't make it

1 in the Beaufort courthouse.

2 **A** I don't have a lot of insulation.

3 **Q** Part of your job, is that to sort of
4 implement and enforce the Regions' policies and
5 procedures as the branch manager?

6 **A** Yes, sir.

7 **Q** And I understand you were replacing Ms.
8 Harley, is that correct?

9 **A** Yes, sir.

10 **Q** She had been the prior manager before you
11 came?

12 **A** Yes, sir.

13 **Q** When you came here and implemented certain
14 procedures, was there change?

15 **A** Yes, sir.

16 **Q** As a result of change, do some people not
17 like the change that was going on?

18 **A** Absolutely.

19 **Q** Some people appreciated the change?

20 **A** Yes, sir.

21 **Q** What type of change were you trying to
22 enact that were in accordance with the Regions'
23 procedures and policies?

24 **A** There were individuals withdrawing funds
25 from accounts they weren't on without permission.

1 Q All right. Were you also handling issues
2 with deposits?

3 A Yes. There were deposits that -- we had a
4 policy where you could not leave a commercial deposit
5 without being there, any deposit really. You had to
6 either bring it into the branch and be there when
7 that person counted it out. They were just reaching
8 over-the-counter and walking out.

9 Q Was that for the protection of the
10 customer?

11 A Yes, sir.

12 Q Was it also the protection of the teller so
13 that there would be some, I believe the term is dual
14 control?

15 A Yes, sir. If it was in the night drop,
16 then it was verified with two people, at least two
17 people to make sure that all the money was accounted
18 for.

19 Q And tallied up?

20 A Yes, sir.

21 Q For the right number?

22 A Yes, sir. If anything was missing, and
23 there was only one person, it could be a dispute
24 between the customer and the bank as to if the money
25 was actually there or not.

1 Q In addition to that, did you also have,
2 charge fees on accounts?

3 A Yes, sir.

4 Q Was that also questions about transferring
5 funds by family members to accounts?

6 A Yes, sir. We had a lot of people that
7 would come in and move money on accounts that they
8 weren't on. We couldn't do that.

9 Q Was this a Regions' procedure?

10 A It was a Regions' procedure.

11 Q These procedures that you were trying to
12 enforce?

13 A Yes, sir.

14 Q When you got started in Hampton at the bank
15 right across the street over there, was Ms. Cook
16 present that day?

17 A No, sir.

18 Q Do you know where she was when you started?

19 A She was on vacation that first week.

20 Q How long were you there before she came
21 back to work?

22 A I think I was there for a week or close to
23 it.

24 Q And when she came back, was there any
25 interaction between you and her on that first day?

1 **A** Yes, sir.

2 **Q** And what did you do?

3 **A** I told her good morning and she told me she
4 had something she needed to say to me.

5 **Q** Did she give you a cold shoulder?

6 **A** Yes.

7 **Q** Did you go in your office and talk to her
8 privately?

9 **A** Yes.

10 **Q** What did she say to you?

11 **A** I asked her to come on in my office. She
12 told me that she deserved that job and not me.

13 **Q** How did you respond?

14 **A** I was taken aback. At first, I didn't say
15 anything. She began to explain how she deserved the
16 job and she filled in when Phyllis wasn't there and
17 she has so much experience and they should have
18 picked her and not me. I explained to her that she
19 should talk with Andree and Holly. If that's the way
20 she felt, she really should talk to them about it.

21 **Q** Okay. Now I want to jump forward to not a
22 full year later but at least May 9th, 2011. Do you
23 remember May 9th, 2011?

24 **A** Yes, sir.

25 **Q** All right. What happened on that day?

1 **A** On that day, Lydia had an outage.

2 **Q** About what time of day was this outage?

3 **A** We turn the branch in the afternoon to the
4 next day's business. So, she was out at least before
5 3:00, I believe, because we had to turn.

6 **Q** Okay. Did you see her at the teller line?
7 She was working at the teller line?

8 **A** Yes, she was working at the teller line.
9 She had been working there some time trying to
10 balance.

11 **Q** Did she ask you to give her a hand?

12 **A** Yes.

13 **Q** What did you do?

14 **A** I came out. The first thing you typically
15 do is look at the balance sheets and try to count the
16 money because sometimes you miscount.

17 **Q** Now, I asked Ms. Cook about balancing. Is
18 that something that is very important for tellers --
19 I guess all bankers?

20 **A** Yes, sir. It is very important because the
21 money has to be accounted for. Every cent.

22 **Q** Is that what you are doing basically,
23 accounting for the transactions?

24 **A** Yes, sir. I had gone through a list. I
25 asked what did you check? Did you do this, this and

1 this. When you go through those things, the next
2 thing you start doing is breaking the system down and
3 count all the cash to make sure it was input
4 correctly. Then you verify what the computer says
5 and what the drawer says. If it is not in that
6 money, it will tell you what is supposed to be in the
7 drawer on the tickets.

8 Q Okay. On May 9th -- I want to jump back.
9 You had been there since August 2010, is that right?

10 A Yes, sir.

11 Q This is less than a year you had been
12 there, correct?

13 A Yes, sir.

14 Q Now, in February, an event took place,
15 believe Mr. Teller asked you about a bad check or red
16 flags or something like that, is that correct?

17 A Yes, sir.

18 Q Tell the jury about that event or that
19 incident.

20 A Lydia was working as a customer service
21 representative. She had opened a new account. And
22 she brought a check to me and asked about it because
23 there was something not right.

24 Q All right. Did she ultimately open the
25 account?

1 **A** Yes. She opened the account with the check
2 and didn't request the proper hold.

3 **Q** And proper hold means you see if the check
4 clears?

5 **A** Yes, sir.

6 **Q** Ultimately, did the customer come back in
7 and ask for her money back?

8 **A** The proper hold was not actually put on.
9 She didn't put the proper hold on it.

10 **Q** Okay.

11 **A** She put -- there are different kinds of
12 holds. A new account hold would have been longer to
13 make sure that the check was not going to return as a
14 bad check.

15 **Q** As a result of that event, is that an event
16 that you could lose your job over?

17 **A** Absolutely.

18 **Q** Did Ms. Johnson come down?

19 **A** Yes, she did.

20 **Q** Ms. Johnson is the -- I see a young lady
21 sitting over there with glasses on, is that correct?

22 **A** Yes, sir.

23 **Q** Is she the Director of Human Resources?

24 **A** Yes, sir.

25 **Q** She is out of Aiken?

1 **A** Yes, sir.

2 **Q** Did Ms. Johnson come down as a result of
3 that incident with the check?

4 **A** Yes, sir.

5 **Q** I heard Ms. Cook testified earlier that she
6 thought she was going to lose her job over that.

7 **A** Yes, Lydia and I were both very concerned.

8 **Q** Then Ms. Johnson, I believe, met with Ms.
9 Cook? Did she meet with Ms. Cook?

10 **A** She did.

11 **Q** Then did she come talk to you?

12 **A** Yes. I think we spoke twice.

13 **Q** As a result of that, did you put in a
14 request that Ms. Cook be able to keep her job?

15 **A** Yes, sir. I did, twice.

16 **Q** And Ms. Cook also talked about some
17 staffing issues. Was there a shortage over there?

18 **A** Yes, sir.

19 **Q** In any event, did you feel Ms. Cook could
20 be an asset to you as she was a member of the
21 community?

22 **A** I did from day one.

23 **Q** And then after February -- Mr. Tiller went
24 through the review that you did. Do you feel like
25 you gave a pretty good review?

1 **A** Yes, sir. I do.

2 **Q** All right. Where there are some things
3 that she could improve upon?

4 **A** Yes, sir.

5 **Q** Talking about the staffing events, that was
6 in April that took place. Then there was an event
7 that took place in April about some leave. I heard
8 Ms. Cook talk about.

9 **A** Yes.

10 **Q** Tell us about what happened there.

11 **A** There were -- because we were short
12 staffed, we would have to pull staff from other
13 branches if possible. Lydia had asked for some time
14 off. She and I came into my office and we called
15 around on conference call and talked to other
16 branches to see. I had to also clear it with my
17 other manager to make sure it was okay. She knew we
18 had a very difficult time. A lot of the leave was not
19 approved because there was no one to fill in. If my
20 supervisor said we cannot grant the leave, I could
21 not grant the leave.

22 **Q** As a result, you could not find cover that
23 day?

24 **A** Yes.

25 **Q** And you have to have at least a certain

1 number of people in the bank?

2 **A** Yes, sir. To operate.

3 **Q** Did you have to tell her that you could not
4 grant the leave?

5 **A** Sometimes.

6 **Q** I'm talking about --

7 **A** Yes.

8 **Q** As a result of that, was Ms. Cook upset
9 about that?

10 **A** Yes.

11 **Q** Did she make it known to you?

12 **A** Yes. She complained. She was there when
13 we made the phone calls. She heard what was said to
14 me. She complained that it wasn't fair that we were
15 understaffed and they knew it. She felt like they
16 were giving us enough help. She got mad and felt
17 like I did not fight enough for her.

18 **Q** All right. That was in April. Then about
19 a month later, this incident comes up that we are
20 here about today, is that right?

21 **A** Yes, sir.

22 **Q** She told us that she was out of balance.
23 You described the balancing. Once you went out to
24 the teller line to assist Ms. Cook, did you find the
25 shortage for the outage?

1 **A** Yes, sir. It took a while. She was short,
2 which was worse. If you are over, it is bad but not
3 as bad. That means you are not missing money. There
4 were several issues in balancing. First, the cash
5 was not counted right and was not entered. We
6 resolved that. It was still an outage. It was over
7 \$1000 to begin with. She started looking for the
8 errors. They started changing, the denominations
9 started changing.

10 **Q** I have a little bit of accounting
11 knowledge. Debit is on the left; credit is on the
12 right. If you take a debit and make it a credit,
13 would that double the problem?

14 **A** Sometimes it does. You can't always
15 reverse a transaction and fix it. Sometimes you can
16 do it.

17 **Q** When you found the shortage, tell the jury
18 what happened.

19 **A** When I found the shortage or the outage --

20 **Q** Outage. I'm sorry.

21 **A** Yes. I was standing in the teller line. I
22 was in her window because I was resolving it. She
23 was off to my left. There was a ledger here. She
24 grabbed me. She began saying thank you. She put her
25 hand, one hand on this arm and the other was around

1 my back to the other arm.

2 Q I'm going to ask you to show me how -- I
3 don't want you to shake me but show me what the
4 fashion was. Were you standing at the teller line
5 looking at the till, I guess, or the cash drawer?

6 A Yes, I was on that side of her.

7 Q All right. Come over here and show me
8 then.

9 A The ledge is here. The station is real
10 tight.

11 Q All right. What happened?

12 A I was working here. I found it and told
13 her I found it.

14 Q Was she to this side?

15 A She was on the side and behind me because
16 there is another ledge in the station.

17 Q All right.

18 A She grabbed me this way.

19 Q All right. She was to that side. Go
20 ahead. You can go and sit back down. Did she kiss
21 you?

22 A No, sir.

23 Q Did she say anything?

24 A She said thank you, thank you, thank you.

25 Q All right. You talked about the teller

1 station or the teller line. There are four teller
2 stations, is that correct?

3 **A** I believe so.

4 **Q** You come out of your office and you come
5 into the teller line. The first teller station, was
6 that empty or did that have someone there?

7 **A** It was empty.

8 **Q** All right. Was Ms. Cook at the next teller
9 station?

10 **A** Yes, sir.

11 **Q** Then there were two more over to the right?

12 **A** Yes, sir. It was kind of like a space.
13 Like that right there.

14 **Q** All right. Who was to the right of that
15 teller station?

16 **A** Suzanne.

17 **Q** Who was Suzanne? What is Suzanne's name?

18 **A** Suzanne Freeman.

19 **Q** She was a teller at the bank?

20 **A** Yes, sir.

21 **Q** When Ms. Cook touched you or hugged you
22 from the side as you described, what did Ms. Cook
23 then do?

24 **A** She started shaking me.

25 **Q** All right. Did Suzanne say anything?

1 **A** Yes.

2 **Q** What did she say?

3 **A** I recall her saying stop. She said Lydia,
4 what are you doing.

5 **Q** Did you hear Ms. Cook say anything?

6 **A** She was just saying thank you.

7 **Q** Did you say anything?

8 **A** I didn't say anything. Suzanne made the
9 comment.

10 **Q** Then, what did you do? Did you stop
11 shaking?

12 **A** Yes.

13 **Q** What did you do?

14 **A** I stepped away from her.

15 **Q** Did you go back in the office?

16 **A** Yes, sir.

17 **Q** Did you say anything else?

18 **A** No, sir.

19 **Q** The day after this incident would've been
20 May 10th, 2011, is that correct?

21 **A** Yes, sir.

22 **Q** Did you call anybody at Regions Bank that
23 day?

24 **A** Yes, sir.

25 **Q** Who did you call?

1 **A** Barbara Simpkins.

2 **Q** Who was Ms. Barbara Simpkins?

3 **A** She was my contact at HR. She is my chain
4 of command at HR.

5 **Q** If you have a personnel issue, is she the
6 person that you are supposed to talk to?

7 **A** Yes, sir.

8 **Q** What did she tell -- what did you tell her?

9 **A** I discussed some issues that we were
10 addressing with the other problems with the branch.
11 I told her that I had a situation I needed to talk to
12 her about that was unusual. I told her what happened
13 with Lydia's outage and that she grabbed me by the
14 arm and she shook me.

15 **Q** Now, I think I may have asked this. But
16 when you have a personnel issue, is this the
17 department that you are supposed to call?

18 **A** Yes. I am supposed to call Barbara first.

19 **Q** All right. And you did call Ms. Simpkins,
20 is that correct?

21 **A** Yes, Ms. Barbara Simpkins.

22 **Q** Did you also call Ms. Lloyd?

23 **A** I called Andree on the way home.

24 **Q** Ms. Lloyd is Andree?

25 **A** Andree Lloyd, I'm sorry.

1 Q She would have been your immediate
2 supervisor?

3 A Correct.

4 Q Did you leave a voicemail for her?

5 A Yes, she was out of town on business. I
6 left a voicemail.

7 Q Did you describe the incident?

8 A No, I did not.

9 Q After you called Ms. Simpkins on May 10th,
10 did Ms. Simpkins refer you to anyone?

11 A Yes. She said I needed to speak with Holly
12 Johnson. She did tell me that Holly made it
13 difficult to get a hold of her because she was
14 traveling on business and that she too would try to
15 return.

16 Q Did you attempt to call Ms. Johnson?

17 A She asked me to let her call her first.

18 Q All right. Did you do that?

19 A Yes, I did.

20 Q Did you ultimately then place a call to Ms.
21 Johnson?

22 A Yes, I did.

23 Q Did you end up speaking to Ms. Johnson?

24 A I did not speak to Ms. Johnson before the
25 branch managers' meeting. I believe around the 19th

1 or some time thereabouts, I sent her a message asking
2 if she was going to be back in the office, that I had
3 something to discuss with her.

4 Q All right. You're talking about the branch
5 managers' meeting. That was in Charleston, is that
6 correct?

7 A Yes, sir. They are set up -- they are
8 always the same time every month. I don't know. The
9 calendar is like a year in advance. But they seem
10 all to be the same time the same day of every single
11 month.

12 Q When you were at the branch managers'
13 meeting, did you see Ms. Lloyd?

14 A Yes, I did.

15 Q Tell the jury about the conversation. Tell
16 the jury about the conversation you had with Lloyd.

17 A My neck was real stiff. I had to turn my
18 whole body to look. She asked me what happened to my
19 neck. It was in the room with all the other managers.
20 I asked if we could speak in private.

21 Q Did y'all go in private?

22 A Yes, sir. We stepped away from that area
23 into a private area.

24 Q Did you tell her what happened?

25 A Yes, sir, I did.

1 Q After that, what was the next contact you
2 had with anybody from Regions Bank?

3 A She said we had to speak with Patty Austin
4 who had an office in Charleston. We stepped into
5 Patty's office and I told Patty what happened.

6 Q And, I guess I need to ask you who Ms.
7 Austin is. I'm not going to get all of these names
8 right. Make sure I'm not confused, much less the
9 jury.

10 A Ms. Austin is Andree Lloyd's boss. She is
11 what I call the boss' boss. I had a boss and she was
12 the boss boss.

13 Q It goes from branch manager to Ms. Lloyd to
14 Ms. Austin?

15 A Yes.

16 Q Then you have got Human Resources.

17 A Yes.

18 Q Which is a different branch or department?

19 A Yes.

20 Q That would be -- Ms. Simpkins is your
21 immediate contact and Ms. Johnson is your ultimate
22 contact?

23 A Yes.

24 Q Did you tell anybody else about this
25 incident?

1 **A** No, sir.

2 **Q** Did you call Ms. Cook's name to anybody
3 other than some people within the bank?

4 **A** No, not within the bank.

5 **Q** All right. Anybody outside of the bank?

6 **A** I told my husband I had an incident with an
7 employee at work.

8 **Q** Did you call the name?

9 **A** Not initially.

10 **Q** Since you have been sued, have you had
11 conversations with him?

12 **A** Yes, sir.

13 **Q** I want to jump back down. When you met
14 with Ms. Austin, I guess that would have been about
15 May 19th, what did you tell Ms. Austin?

16 **A** I beg your pardon?

17 **Q** What did you tell Ms. Austin when you met
18 with her in the branch managers' meeting?

19 **A** I told her that Lydia had an outage and I
20 helped her find it. She had been looking for it for
21 a while. After I found the outage, Lydia wrapped her
22 right arm around me and took her left arm and got my
23 left arm and took her right hand and got my right
24 arm. And as she said thank you, she began to shake
25 me. It felt very aggressive. I was scared of Lydia

1 at that point.

2 Q At any time when you talk with this people,
3 did you call this an assault?

4 A No, sir.

5 Q Did you tell them just the facts of what
6 happened?

7 A Yes, sir.

8 Q Did you tell them it was aggressive?

9 A Yes, I did.

10 Q Did you feel intimidated by it?

11 A Yes, I did. Lydia is a lot bigger than me.

12 Q Then did you ultimately have contact with
13 Ms. Johnson?

14 A Yes, I did.

15 Q And when was that?

16 A I believe that was on the 27th, if I
17 recall.

18 Q Did Ms. Johnson come to the Hampton branch?

19 A I believe we spoke originally on the phone
20 and she went to the branch the following week.

21 Q Would that have been the 31st, May 31,
22 2011?

23 A I believe that was a holiday. No, I'm
24 sorry, the 30th was a holiday. The 31st was a
25 Tuesday, I think.

1 Q Who was with Ms. Johnson when she came down
2 that day?

3 A Andree Lloyd.

4 Q That would have been your immediate
5 supervisor?

6 A Yes.

7 Q Did they ask you again about the incident?
8 Did they conduct an investigation?

9 A I was going to say. I think they spoke
10 with other people before they spoke to me.

11 Q All right. Do you recall who they spoke to
12 first?

13 A I think they spoke to Suzanne first. I'm
14 not sure. I'm not positive. I think they spoke with
15 Suzanne about the incident.

16 Q Did they ultimately come and talk to you?

17 A Yes, sir. They did.

18 Q Did you relay the same information?

19 A Yes, sir. I did.

20 Q We also saw some incidents with Ms. Cook.
21 Was there another time when she was out of balance?

22 A Yes, sir.

23 Q This was between May 9th and May 31st?

24 A Yes, sir.

25 Q The 27th, I guess. Excuse me, May 25th,

1 2011, there was a disciplinary form which is
2 defendant's exhibit number -- Regions exhibit number
3 4. Failure to complete assigned duties. Tasked with
4 reviewing \$1000 or greater review report.

5 A There were several outages. As I recall,
6 there was an outage around the 26th or 27th.

7 Q Did you assist in locating that outage?

8 A Yes, I did.

9 Q Was that an outage that would have been
10 attributable to Ms. Cook?

11 A Yes, sir. It would.

12 Q Now, I want to jump back will briefly to
13 May 9th. When a teller is out of balance, if it is
14 large enough, is that something that they can be
15 terminated for?

16 A Yes, sir.

17 Q Is there a time when if you are out enough
18 times or accumulate enough money, it could be one
19 incident if it is large enough?

20 A It can be one incident or it can be a
21 cumulative.

22 Q Was Ms. Cook out of balance on May the 9th?

23 A Yes, sir.

24 Q You assisted her in locating her mistake?

25 A Yes, sir.

1 Q Had Ms. Cook not been found, do you know if
2 she could've been terminated at that time?

3 A Yes, sir. She could have.

4 Q All right. Do you remember the amount of
5 the error that day?

6 A I believe that day it was \$1000 originally.
7 It was more. Again, some of it was inputting cash
8 incorrectly. Then there was tickets.

9 Q Did you want Ms. Cook terminated?

10 A No, sir.

11 Q If you want to Ms. Cook terminated, would
12 you have found the money?

13 A No.

14 Q Ms. Clevinger, as Mr. Parker intimated on
15 cross-examination, if you wanted to get her fired,
16 why didn't you just stay out of trying to find the
17 balance?

18 A Sir, I never wanted Ms. Cook to get fired.

19 Q Did you make this story up?

20 A No, sir, I did not.

21 Q How did you get Ms. Freeman to go along
22 with your story if it was a made up story?

23 A I didn't. She only saw what she -- she
24 reported what she saw.

25 Q You were asked about your medical visits

1 after this incident. Did you go to the chiropractor?

2 **A** Yes, I did.

3 **Q** Had you gone to the chiropractor for a
4 period of time?

5 **A** Not for some time.

6 **Q** Prior to that, you had been before?

7 **A** Yes, I have been before.

8 **Q** When you went to the chiropractor, did he
9 ask you how your injuries or complaints came up?

10 **A** He didn't really ask me. You have a form
11 you fill out when you go to the doctor, with that
12 particular doctor. You can tell the cause of your
13 injury. There are boxes you check, what is hurting
14 and you put from 1 to 10 as far as pain and things
15 like that. I have filled that out before and then he
16 reviewed it.

17 **Q** Did you write down on the form that a
18 coworker shook me hard and my neck was hurt?

19 **A** Yes, I did.

20 **MR. GRIFFITH:** I think that is all the
21 questions I have. Thank you very much, Ms.
22 Clevinger.

23 **THE COURT:** Thank you, Mr. Griffith.

24 **MR. PARKER:** Yes, Your Honor. I have a
25 few on redirect.

REDIRECT EXAMINATION

BY MR. PARKER:

Q Ms. Clevinger, I want to understand this. Did you actually testify that you would not have found that outage if you wanted to get Ms. Cook fired?

A I believe --

Q Would you have done that?

A I'm sorry.

Q Would you have done that?

A Would I just let her be fired?

Q Yes.

A No, sir.

Q Well, you said yes to Mr. Griffith's question about you would've gotten her fired that day.

A He said if I wanted her fired, could I have just not found her outage.

Q And you testified that you resigned from the federal credit union because your brother has cancer, correct?

A Yes.

Q That is not the reason you gave them, is it?

A I gave them that I was going to pursue

1 other interests, something along the lines of what --
2 I don't remember how I termed it. I told them
3 verbally that my brother was diagnosed with cancer
4 and had to have some surgeries. I was able to take
5 the time and I was going to find another job after I
6 took care of that. That is what I put on the form.
7 It wasn't necessary to fill -- HR told me to not fill
8 out that information because you had certain
9 information to go by. They gave you radials to click
10 and the radial had matched. When the radial didn't
11 match the answer, I had to change it.

12 Q The reason for your separation, according
13 to your form is I have decided to pursue another
14 opportunity that's more closely in line with my
15 career.

16 A That is correct. HR said that my response
17 had to match the radials.

18 Q This instance that you talked to on the
19 10th, Exhibit 11 -- have you seen Exhibit 11?

20 A I don't know what Exhibit 11 is.

21 Q Let me hand you Exhibit 11. Is this their
22 documentation, Regions documentation of your call on
23 the 10th? Have you read that?

24 A (Reviewing.)

25 Q Have you read this now?

1 **A** Yes, sir.

2 **Q** It is accurate?

3 **A** With the exception that she told me she
4 would also try to reach Holly. She said we need to
5 try to find Holly as soon as possible.

6 **Q** In Exhibit 11, it says that you initially
7 talked to her about -- up at the top.

8 **A** Yes, I told you I called about some issues.

9 **Q** And it says the tail end of the
10 conversation, Robyn said there is now something that
11 happened that is serious. Is that what it says?

12 **A** I think is unusual.

13 **Q** Unusual..

14 **A** That is what I think I said earlier.

15 **Q** You told her you said earlier that Lydia
16 was out of balance. You found it. She reached out
17 to thank you and shook you and it seemed like vicious
18 aggression.

19 **A** Yes.

20 **Q** Then she asked you if you ever been to a
21 doctor or do you think you need to go. She said --
22 you said no. Is that correct?

23 **A** I said no, I had not been to the doctor.

24 **Q** She asked you do you think you need to go.
25 You said well, no.

1 **A** No. I always maintained I needed to go to
2 the doctor.

3 **Q** Does it say --

4 **A** Yes. Have you been to the doctor, do you
5 think you need to go. I said I have not been to a
6 doctor. I told her I had not been to the doctor. I
7 did not go until I was told by Ms. Johnson that I
8 could go ahead and go to my doctor.

9 **Q** She said you never mentioned those bruises
10 you took pictures of, correct?

11 **A** I did not. She told me I needed to speak
12 to Holly about it. I didn't discuss it with her
13 further.

14 **Q** You told her you felt that it was more than
15 a hug?

16 **A** Yes.

17 **Q** You said almost felt like Lydia was trying
18 to pay her back for something, felt like maybe a
19 little hostile, correct?

20 **A** I remember telling her that I felt like
21 Lydia was being really hostile, aggressive. I think
22 I even told her that it felt like rage. It is not on
23 here but I did believe that -- I think I told her
24 that.

25 **Q** You told her this occurred to you after you

1 thought about it.

2 **A** I -- I'm sorry.

3 **Q** You told her that this occurred to you that
4 it was a little hostile after you thought about it.

5 **A** No, sir. I didn't say that. It doesn't
6 say that on the form. It also doesn't have all the
7 comments we talked about with regard to the incident.
8 It just has highlights.

9 **Q** If you would, just read the paragraph
10 starting with almost felt like.

11 **A** Almost felt Lydia was trying to -- these
12 were her comments. These were not what I said to
13 her. These are her comments. Almost felt like Lydia
14 was trying to pay her back for something. There is a
15 blank. Felt like maybe -- it says a little hostile
16 after she thought about it.

17 **Q** And that's my question. You did not think
18 it was a little hostile until after you thought about
19 it.

20 **A** That is not true.

21 **Q** This is what she recorded as your
22 conversation, correct?

23 **A** She asked me do you think this was a
24 retaliation. Barbara asked me that. I said I felt
25 like that.

1 Q It was a little hostile after you thought
2 about it?

3 A Yeah, on the conversation. I said after I
4 think about it, yeah, it is hostile. She asked me
5 that.

6 Q It wasn't hostile until you thought about
7 it?

8 A Sir, I never classified it as hostile. I
9 never called it an assault. I always maintained that
10 it was aggressive. It was a violent shaking. It
11 hurt like the Dickens..

12 Q It hurt so bad that you didn't tell anybody
13 about it until from the 9th, the 10th with Ms..
14 Simpkins until you saw Mr. Lloyd on the 26th?

15 A I was not supposed to talk about it.

16 Q Your husband, you did tell him about it,
17 correct?

18 A I told him that there was an incident with
19 a coworker, yes.

20 Q You -- obviously, he was up all night with
21 you, right?

22 A No, sir. He wasn't. I was up and down.

23 Q You said you took pictures and your
24 testimony at least in the wee hours of the morning or
25 early in the morning.

1 **A** He gets up very early, sir. His occupation
2 sometimes require him to leave very early in the
3 morning.

4 **Q** He got up with you and helped you take the
5 pictures?

6 **A** Yes, sir. He did.

7 **Q** And you didn't tell him what happened at
8 work?

9 **A** I told him yes, that I had had an incident
10 with a coworker.

11 **Q** Yeah, but you don't talk to your husband
12 like that. I'm not going to tell you what happened,
13 I had an incident with a coworker.

14 **A** Sir, you --

15 **Q** That's how you would talk to him?

16 **A** (No response.)

17 **Q** Is that a yes?

18 **A** Sir, you are trying to tell me how I do and
19 don't talk to my husband. I'm just telling you that
20 originally I discussed the incident with him.

21 **Q** He was up in the night --

22 **A** The early morning, he asked me what is
23 going on. He asked me about the bruises. When I
24 told him, he said what is going on over there. I
25 told him that I was shaken at work.

1 **MR. PARKER:** Nothing further, Your Honor.

2 **THE WITNESS:** He asked me did I report it
3 and I said yes.

4 **MR. TILLER:** No questions, Your Honor. But
5 I did misspeak earlier. The documents that I
6 introduced of Ms. Clevinger is actually
7 Defendant's number 8 and not number 4.

8 **THE COURT:** Okay. You mismarked them?

9 **MR. TILLER:** No, sir. I just misspoke.

10 **THE COURT:** Anything more from the
11 witness?

12 **RECROSS EXAMINATION**

13 **BY MR. GRIFFITH:**

14 **Q** Your husband works with oysters? He goes
15 to pick oysters?

16 **A** Yes, sir.

17 **Q** That gets him up pretty early in the
18 morning?

19 **A** Yes, sir.

20 **MR. GRIFFITH:** That's all the questions I
21 have. Thank you.

22 **THE COURT:** Thank you. You may step down.

23 **MR. PARKER:** Thank you. We call Ms.
24 Andree Lloyd.

25 Ms. Lloyd.

1 **THE COURT:** Everybody okay over there?

2 **THE CLERK:** Come on up, Ms. Lloyd.

3 **ANDREE LLOYD**

4 having first been duly sworn, testifies as follows:

5 **MR. TILLER:** Judge, we did have one matter
6 we need to take up about this witness before we
7 start.

8 **THE COURT:** All right. I assume you don't
9 know what this is about?

10 **MR. TILLER:** I don't think they do.

11 **MR. PARKER:** I really don't.

12 **THE COURT:** Y'all want to stand up, Ladies
13 and Gentlemen, or y'all want to take a break?

14 **MR. TILLER:** We might need to take a
15 break, Judge.

16 **THE COURT:** Ladies and Gentlemen, we will
17 take a five-minute recess. I need you to step
18 into the jury room.

19 (WHEREUPON, the jury exits at approximately
20 4:47 p.m.)

21 (WHEREUPON, a short recess taken.)

22 **THE COURT:** All right, Mr. Tiller.

23 **MR. TILLER:** Thank you, Judge. We have
24 an additional motion in limine, Judge. It is
25 along the lines of what we argued yesterday.

1 But this time, obviously, would pertain to Ms.
2 Lloyd. Regions Bank is moving to exclude any
3 testimony about Ms. Lloyd's termination from
4 Regions Bank. I know ordinarily Mr. Parker
5 might anticipate that we would want to cross-
6 examine her on some bias or prejudice should she
7 provide testimony adverse to our position. I
8 will tell you that, first of all, anything
9 related to her termination is completely
10 irrelevant to this. Again, we would get in to
11 trying other issues that are not part of this
12 narrow issue that is framed in Mr. Parker's 8th
13 paragraph of the complaint. Again, I don't know
14 that he would want to do that but I want to
15 object before it gets out in front of a jury.

16 **THE COURT:** Well, let me find out what
17 Mr. Parker plans on doing here.

18 **MR. TILLER:** Obviously, if Mr. Tiller
19 doesn't want me to, I won't do it. I don't
20 intend to go into that, Judge.

21 **THE COURT:** Very good. Does that satisfy
22 you?

23 **MR. TILLER:** Yes, sir.

24 **THE COURT:** All right. Let's bring the
25 jury back.

1 **(WHEREUPON,** the jury enters at approximately
2 4:58 p.m.)

3 **THE COURT:** Welcome back, Ladies and
4 Gentlemen. Have we sworn the witness?

5 **MR. PARKER:** Yeah.

6 **THE COURT:** All right.

7 **MR. PARKER:** Have you already been sworn?
8 I don't know whether you did or not.

9 **THE CLERK:** Yes, sir. Yes, sir.

10 **DIRECT EXAMINATION**

11 **BY MR. PARKER:**

12 **Q** Thank you. Please state your full name.

13 **A** Andree Rochelle Lloyd.

14 **Q** Ms. Lloyd, where do you live?

15 **A** I live in Beaufort, South Carolina.

16 **Q** And are you married?

17 **A** I am.

18 **Q** And did you work for Regions at one time?

19 **A** Yes.

20 **Q** For how many years?

21 **A** Seven.

22 **Q** If you would, go to what you were hired to
23 do and what you have done since.

24 **A** I was hired in 2004 to be over the branches
25 in Beaufort and Hilton head. We were opening some

1 locations in Savannah, Georgia. I was hired to kind
2 of run that territory with the branches. It wasn't
3 really a position that was enforced at Regions Bank
4 at the time but eventually about a year or so later
5 they reorganized the bank and they had area sales
6 manager positions or consumer banker manager
7 positions. Therefore, that is what I did while I was
8 there for Regions Bank. I managed to bank branches
9 for Hilton Head, Beaufort, Savannah and Charleston,
10 Hampton and Richland.

11 Q You did that for a number of years?

12 A I did.

13 Q The Hampton branch was, as you said, one of
14 your branches?

15 A It was.

16 Q Were you involved in the hiring of Mrs.
17 Clevinger as branch manager?

18 A Yes.

19 Q She was hired, I believe the testimony has
20 been, August 10?

21 A Yes.

22 Q After she was hired, if you would describe
23 her performance at Hampton.

24 A Robyn had a very difficult transition from
25 being an assistant branch manager to being a

1 permanent manager in Hampton. There were many
2 complaints about Robyn both from employees, from peer
3 employees on the operations side and from customers
4 as well.

5 Q I'm going to hand you up Exhibit 32 that I
6 believe is a document that you wrote.

7 MR. TILLER: Your Honor, we have the same
8 objection to this document that we had before.

9 THE COURT: What is it?

10 MR. TILLER: It is the December 2010 memo
11 that Ms. Lloyd had written. It pertains to, I
12 think it was Ms. Johnson.

13 MR. PARKER: It has already been admitted
14 into evidence, Your Honor.

15 MR. TILLER: Right. I want to make sure
16 our objection is continuing.

17 THE COURT: Oh, okay. Continuing
18 objection is noted.

19 BY MR. PARKER:

20 Q This is a memo from you to Patty Austin
21 dated 11/23/10. Do you recall this?

22 A I do.

23 Q What occasion is this memo?

24 A Well, as it says in the memo that in the
25 last two weeks, I have received three complaints from

1 Hampton customers about Robyn's demeanor and the
2 words that were in the complaints were disrespectful,
3 uncaring, insulting to the tellers. The previous
4 manager had gotten fired and she was nice if you
5 wanted a criminal around. She could go back and
6 charge more fees. She told a customer that she did
7 not know how to spell, write it herself. I wanted to
8 make sure that my manager, Patty Austin knew that I
9 was going to meet with her and discuss these
10 complaints.

11 Q And did you, in fact, do that?

12 A I did.

13 Q After you did that, did the complaints
14 stop?

15 A No.

16 Q And afterwards, was it the same kind of
17 complaints?

18 A Same kind of complaints from the customers
19 and continuing complaints from the employees.

20 Q Did she have a good report with the
21 employees at the Hampton branch?

22 A From the majority of the employees, no.

23 Q Did she have some favorites?

24 A She did.

25 Q We're here, of course, about what happened

1 on May 9th that Ms. Clevinger alleged happened. Did
2 she come into you on the 26th of May and make a
3 statement to you about what happened? And I'm going
4 to hand you up a document which is your notes of that
5 visit with her on this day, 5/26.

6 **A** Robyn did not approach me to make a
7 complaint about what happened. I was holding a
8 branch managers' meeting in Charleston that day. I
9 believe she was sitting next to me at the table in
10 the conference room table. I noticed that she kept
11 moving her chair in this manner, side to side without
12 moving her head at all. I just happened to ask her
13 what was wrong with her neck or if something was
14 wrong. I don't remember the exact words that I used.
15 After that, she said she wanted to speak with me in
16 private.

17 **Q** Did y'all go somewhere and she speak to
18 you?

19 **A** We did. We went into an adjoining office
20 after we took a break and she told me that Lydia had
21 shaken her and hurt her and went on to describe that
22 Lydia had been off balance and that she had come up
23 and helped her to find the outage and that she had,
24 Lydia had come next to her and shaken her and that
25 her head was like a bobble head and that she has

1 pictures of the bruises on her arms that her husband
2 had taken the night before and she showed me the
3 pictures on her phone of her bruises on her arm. I
4 naturally was alarmed about the story. I'm not sure
5 that I believe that it happened.

6 Q And did you discuss with upper management
7 at Regions your disbelief about what she said?

8 A I did.

9 Q Why did you disbelieve her?

10 A Since the beginning of Robyn being hired, I
11 have had trust issues. I just felt like she was not
12 a person who told the truth. Right after we hired
13 her, she apparently had a stalker and the stalker was
14 calling her all the time at work. She was on the
15 phone with this person all the time at work, but he
16 was her stalker. I felt at that point we might have
17 made a mistake. But we were able to resolve the issue
18 somewhat satisfactorily so that it would go away. I
19 was not aware that she had married her stalker.

20 Q And did you have other issues of trust with
21 her in other instances in which she was untruthful?

22 A She said that she was going to sell her
23 house and moved to Hampton if she got the job as
24 branch manager which is nothing that I ever, being
25 that she lives in close proximity to me in Beaufort,

1 I never noticed that her house ever went on sale. I
2 don't that she was ever intending to do that. I
3 think she just wanted the opportunity to be the
4 manager at Hampton.

5 Q After Ms. Clevinger told you that, did you
6 talk with Patty Austin about her allegations that Ms.
7 Clevinger has made against Ms. Cook?

8 A I did. I spoke with Patty and we bought
9 Robyn in and Robyn told her story to Patty. And
10 Patty and I were very careful not to really make any
11 comments because while we thought that Robyn was
12 mentally unstable, we're not doctors so it was just
13 our own opinion. We want everything to be on the up
14 and up and for all of it to seem like it was, that
15 there was no judgment of the situation, just that we
16 handled it appropriately as leadership for Regions
17 Bank.

18 Q And Ms. Austin was over how many banks?

19 A She was over the state of South Carolina.

20 Q Ms. Johnson was over how many banks? On
21 personnel matters, Human Resources.

22 A I don't know the number of people but I
23 think she was over South Carolina and Georgia.

24 Q When you told them that you did not believe
25 Ms. Clevinger about her allegations against Lydia,

1 what was the discussion?

2 **A** I told Patty Austin in confidence in her
3 office that I didn't believe Robyn Clevinger. We
4 both believed to just go through the process, the due
5 process. And so therefore the interviews ensued when
6 Holly and I went to the bank and met with the people
7 in the branch about whether they had seen or knew
8 what had happened.

9 **Q** Did anything you saw at the branch change
10 your view of Ms. Clevinger was not telling the truth?

11 **A** It ended up basically being Robyn
12 Clevinger's word against Lydia Cook's.

13 **Q** Did you believe Ms. Clevinger?

14 **A** No.

15 **Q** Why was Ms. Cook then terminated for work
16 place violence?

17 **A** Regions Bank has a zero tolerance policy
18 for no violence in the workplace. There was no
19 overwhelming evidence on either side. We had had
20 many issues at the Hampton branch since Robyn was put
21 in place that didn't have to do with this
22 fabrication. I think Robyn was a desperate woman
23 trying to save herself and all the problems that she
24 had caused that Hampton.

25 **Q** And why was Lydia terminated? There was a

1 warning notice given to her about several complaints
2 that Robyn had made about her on the 31st, is that
3 correct? A written warning about certain things?

4 **A** I don't recall it specifically, but yes.

5 **Q** I think it was -- was that Exhibit 4 on the
6 defense?

7 **MR. TILLER:** Yes, sir, Your Honor. I
8 mean yes.

9 **BY MR. PARKER:**

10 **Q** I'm going to hand you Defense Exhibit 4 and
11 let you review that.

12 **A** Yes, I recall this document.

13 **Q** In that, there were certain events that
14 happened the 1st of May on through May in which Ms.
15 Cook was given a written warning, is that correct?

16 **A** Yes.

17 **Q** And actually, you signed this?

18 **A** I did.

19 **Q** Who did the information come from on that
20 that allowed you to do this?

21 **A** I believe this information came from the
22 corporate audit that Hampton failed which was a very
23 big black mark on our region and the bank to have
24 corporate auditing come down and have the branch in
25 our region fail a corporate audit.

1 Q Who particularly made complaints about Ms.
2 Cook on there, do you know?

3 A I believe it was Robyn Clevinger and Robin
4 Hubbard.

5 Q Is it unusual to wait almost a month to
6 write up a warning on someone?

7 A Certainly.

8 Q The normal practice would be to write it up
9 close in time?

10 A Yes.

11 Q Is there a policy about that? Regions seem
12 to have one on everything.

13 A I don't think they do.

14 Q After she was given this warning, Ms. Cook,
15 she was then put on leave, first without paying and
16 then with pay?

17 A Yes.

18 Q Then she was eventually terminated?

19 A Yes.

20 Q She was terminated for workplace violence?

21 A Yes.

22 Q I'm going to hand you Exhibit 22. Is
23 Exhibit 22 the termination notice?

24 A It is.

25 Q The comments there, the termination notice

1 which is a record of Regions, is it not?

2 **A** Yes.

3 **Q** States that she was terminated for
4 harassment and violence in the workplace?

5 **A** Yes.

6 **Q** Now, do you regret what was done with
7 Lydia?

8 **A** I regret that she was terminated for
9 harassment and violence in the workplace, yes, I do.

10 **Q** Because you believe those charges are
11 false?

12 **A** I do believe the charges are false.

13 **Q** And you have expressed that to Ms. Austin?

14 **A** I have.

15 **Q** She knew your sentiments that you believe
16 those charges were, in fact, false?

17 **A** I believe she knew. I am not sure.

18 **MR. TILLER:** Your Honor, I'm going to
19 object to the leading now. Plus with regards to
20 this, I don't know how she could know what Ms..
21 Austin may know. That would certainly not be in
22 her personal knowledge.

23 **MR. PARKER:** Did you discuss --

24 **THE COURT:** As to leading, sustained.

25 **MR. TILLER:** Thank you.

1 **BY MR. PARKER:**

2 **Q** Did you discuss with Ms. Austin your
3 belief?

4 **A** I did. Ms. Austin and I had numerous
5 conversations where we both talked about how we felt
6 Robyn Clevinger was unstable.

7 **Q** Were you involved in Ms. Clevinger's
8 termination?

9 **A** I was not there.

10 **Q** Did you know about it?

11 **A** I was in Duluth.

12 **Q** Did you know that she was terminated for
13 deceptive and untruthful behavior?

14 **A** I did. I was there the day when she stole
15 bank documents by the box and put them in her car.

16 **Q** What other things did she do that day?

17 **A** She also left the Hampton branch and went
18 to the Burton location without us being aware that
19 she was headed to that branch. Of course, they were
20 not aware that she was coming and immediately went to
21 a computer and changed her password information after
22 we had collected all of her passwords telling her
23 that she was to go on her vacation and to come back,
24 essentially demoted to another branch location as an
25 assistant manager.

1 **Q** Were you involved in her termination, Ms.
2 Clevinger's termination?

3 **A** I was not there.

4 **Q** Did you have some health issues that you
5 were out some during that time?

6 **A** I was. I was diagnosed with breast cancer
7 in May of -- March 2009 and went through extensive
8 chemo and nine surgeries in 18 months during that
9 time. I was out of the bank a good deal.

10 **Q** Answer any questions they may have. Wait,
11 hold on just a moment. (Pause.)

12 No further questions.

13 **THE COURT:** Cross-examination.

14 **MR. TILLER:** Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 **BY MR. TILLER:**

17 **Q** Good afternoon.

18 **A** Good afternoon.

19 **Q** Did you ever think that Suzanne Freeman was
20 unstable?

21 **A** Are you asking me to compare her?

22 **Q** I did not ask you that.

23 **A** I don't recall. I don't think that I did.

24 **Q** Was there any discussion about this
25 incident at the bank on May the 9th that you know

1 about other than Ms. Clevinger, Ms. Johnson and Ms.
2 Austin ---

3 **A** Yes.

4 **Q** --- that you were a party to?

5 **A** Yes.

6 **Q** Other than the bank employees, you
7 interviewed Ms. Freeman?

8 **A** Yes.

9 **Q** Anyone else?

10 **A** I don't remember.

11 **Q** You and Ms. Johnson did the interviews on
12 May 31?

13 **A** We did.

14 **Q** Now, Mr. Parker handed you a document. I'm
15 going to ask is this number 50, Mr. Parker?

16 **MR. PARKER:** Yes, it is.

17 **BY MR. TILLER:**

18 **Q** You've got that document in front of you,
19 Exhibit 50?

20 **A** I do.

21 **Q** And that is a series of documents. I'm not
22 going to ask you to read through the whole thing.
23 Tell me if you will, these notes are dated 5/26/2011,
24 is that right?

25 **A** Yes.

1 **Q** Would you have made these at the time you
2 were talking to Ms. Clevinger?

3 **A** No. I made these at the end of the day.

4 **Q** Okay. So this is after you had the
5 discussion with Ms. Clevinger and you also had her
6 meet with Ms. Austin after you met with Ms. Austin?

7 **A** Yes.

8 **Q** Can you show me where in this document
9 where you said you do not believe what Ms. Clevinger
10 said?

11 **A** I did not write it down in this document.

12 **Q** You didn't believe her but you didn't write
13 it down?

14 **A** Correct. That was my own opinion. It
15 doesn't fall into the facts of what was discussed.

16 **Q** Explain that. Does not fall into the facts
17 of what was discussed.

18 **A** These are my notes as to what I discussed
19 and what occurred that day when Robyn Clevinger and I
20 spoke in the notes that I have with other people in
21 the bank regarding the situation. My opinion didn't
22 really count on these notes. I was just recording
23 the facts of the day.

24 **Q** And what Ms. Clevinger recounted to you is
25 exactly what she recounted to Ms. Simmons, is that

1 right?

2 **A** I don't know.

3 **Q** Have you read Ms. Simmons deposition?

4 **A** No. I have not.

5 **Q** You heard Ms. Clevinger testify here today?

6 **A** Part of her testimony.

7 **Q** She testified quite similar to what she
8 told you that day, is that correct?

9 **A** Yes.

10 **Q** She also told you during that May 26, 2011
11 meeting about certain comments that were made about
12 Ms. Freeman, is that right?

13 **A** She did.

14 **Q** In your interview with Ms. Freeman, did she
15 tell you that she made the same comments?

16 **A** She did.

17 **Q** You said on examination for Mr. Parker, I
18 have to see where my note is, there is a zero-
19 tolerance policy that relates to violence in the
20 workplace at Regions, is that right?

21 **A** Yes.

22 **Q** And you said that there was no overwhelming
23 evidence on either side as it relates to this case,
24 is that right?

25 **A** Yes.

1 **Q** You didn't have an independent
2 corroborating witness in the form of Robyn Freeman?
3 I mean, Suzanne Freeman.

4 **A** No.

5 **Q** And why is that?

6 **A** Because she was the -- ask me the question
7 again please.

8 **Q** You did not have an independent
9 corroborating witness in the form of Suzanne Freeman?

10 **A** Uh, I guess we did.

11 **Q** You also had photographs that Ms. Clevinger
12 had provided you and Regions Bank, did you not?

13 **A** I saw photographs on her cell phone.

14 **Q** Okay. And in fact, she mentioned those
15 photographs to you when you first brought her
16 physical condition up to you on May the 26th and she
17 showed them to you that day?

18 **A** She did.

19 **Q** Now, you touched on this with Mr. Parker, I
20 believe but you had been in your position as the
21 supervisor of these branches you described for a
22 period of time?

23 **A** I have.

24 **Q** Is that correct?

25 **A** Yes.

1 Q You knew Ms. Cook?

2 A I did.

3 Q And she indicated to you that she had a
4 strong interest in becoming the manager at Hampton,
5 is that right?

6 A She had.

7 Q But in applying for that job, she failed
8 the test, is that right?

9 A Correct.

10 Q And in fact, you told us in your deposition
11 that Ms. Cook was a below average employee, did you
12 not?

13 A I felt so, yes.

14 Q But as it relates to Ms. Clevinger, you
15 asked Ms. Johnson to come interview her after you had
16 interviewed her for the job, is that right?

17 A I did.

18 Q All right. And was that interview a normal
19 procedure for you in hiring your managers?

20 A It certainly was.

21 Q Now, you were also asked about Exhibit 22.
22 You have that in front of you?

23 A Yes. Yes.

24 Q That has your electronic signature on it,
25 does it not?

1 **A** Yes.

2 **Q** What's the title of that document?

3 **A** Termination, retirement.

4 **Q** And it's dated June the 30th of 2011,
5 correct?

6 **A** Yes.

7 **Q** Okay. And these are your comments?

8 **A** Yes.

9 **Q** Okay.

10 **A** Those are my comments with collaboration
11 with Holly Johnson.

12 **Q** And you say as a comment, harassment and
13 violence in the workplace is met with zero tolerance.
14 Cook was seen shaking her manager with intent to
15 harm.

16 **A** Yes.

17 **Q** Correct?

18 **A** Uh-huh.

19 **Q** Those are your words?

20 **A** Uh, I typed those words in, yes.

21 **Q** And today, you regret putting those words
22 in that form?

23 **A** I do regret it.

24 **Q** And did you anywhere document your belief
25 that Ms. Clevinger was being less than truthful?

1 **A** I did not document it.

2 **Q** And Defendant's Exhibit 50 that we were
3 talking about before, it's six pages?

4 **A** Yes, six pages of my notes.

5 **Q** And that goes beyond just the May 26th
6 date, correct?

7 **A** Oh, yes. Correct.

8 **Q** And it even includes when you came to the
9 branch and interviewed the employees along with Ms.
10 Johnson on the 31st, correct?

11 **A** Correct.

12 **Q** And at that point, Suzanne told you that in
13 terms of her observation of the incident that Ms.
14 Clevinger looked like a rag doll and her head was
15 going to come off. You put that in quotations, did
16 you not?

17 **A** I did.

18 **Q** Okay. Now, I'll ask you -- I asked you
19 before but if you want to flip through there, I think
20 I pretty well covered it. There's nothing in those
21 six pages where you say you don't believe Ms.
22 Clevinger, is there?

23 **A** There is nothing.

24 **Q** And then that same day, and I forget -- I
25 believe this is Exhibit 4. You have that in front of

1 you?

2 **A** Yes.

3 **Q** That same day, May 31st, you signed off on
4 a document that is a progressive discipline form, is
5 that correct?

6 **A** Correct.

7 **Q** And Ms. Cook is being disciplined for three
8 separate events on May 2nd, 17th and 25th, is that
9 right?

10 **A** Yes.

11 **Q** And I don't think you were here for her
12 testimony earlier. But according to Ms. Cook, after
13 these were talked through, for lack of a better term,
14 and she made her comments on the next page, you
15 and/or Ms. Johnson said we've got another more
16 serious matter to discuss. You recall that general
17 conversation in that meeting?

18 **A** Yes.

19 **Q** And the more serious matter was this
20 workplace violence issue, is that correct?

21 **A** Yes.

22 **Q** And in that meeting, did you tell Ms. Cook
23 that you didn't believe it?

24 **A** No, as a manager and a leader, I left my
25 opinion out of it.

1 **Q** Okay.

2 **A** I'm just trying to collect the facts.

3 **Q** So you started collecting the facts on
4 Thursday, May the 26th. That's the first time you
5 knew about it?

6 **A** Yes.

7 **Q** There's a telephone call and a meeting on
8 the 27th, correct?

9 **A** Correct.

10 **Q** There's a meeting with you and Ms. Johnson
11 and the bank employees on the 31st, which would be
12 the next work day, it would be the Tuesday after
13 Memorial Day?

14 **A** Yes.

15 **Q** At that point, you decide along with Ms.
16 Johnson that Ms. Cook is to be placed on
17 administrative leave?

18 **A** Yes.

19 **Q** Even though -- even though it was your
20 personal belief that Ms. Clevinger was being less
21 than truthful?

22 **A** Yes.

23 **Q** Did you ask Ms. Freeman to write up her
24 written statement?

25 **A** I'm not sure if I did, but I assume

1 somebody did and then she wrote it.

2 Q And did you review that prior to giving
3 your testimony here today?

4 A No.

5 Q Thank you, ma'am.

6 THE COURT: Mr. Griffith.

7 CROSS EXAMINATION

8 BY MR. GRIFFITH:

9 Q Ms. Lloyd, I understand you came to work at
10 Regions Bank in about 2004, is that correct?

11 A Yes.

12 Q Hired by Jimmy Tiller?

13 A Yes.

14 Q And at some point in time, you were
15 promoted to a customer sales manager, correct?

16 A Yes.

17 Q And in that job you would encourage, coach
18 and lead branch managers, correct?

19 A Correct.

20 Q So you were over the branch managers?

21 A Yes.

22 Q And in 2011, managers reported directly to
23 you?

24 A Yes.

25 Q That would include the Hampton branch right

1 across the street here, correct?

2 **A** Yes.

3 **Q** Now, in the position -- you were in that
4 position when Ms. Clevinger was promoted to the
5 branch manager of Hampton, is that correct?

6 **A** I was.

7 **Q** All right. And I also understand just a
8 minute ago you said Ms. Cook applied for that
9 position, correct?

10 **A** She did.

11 **Q** Ms. Cook discussed that position with you,
12 correct?

13 **A** She did.

14 **Q** She discussed her desire for it, correct?

15 **A** She did.

16 **Q** Did you encourage her to take the -- to
17 apply for that position?

18 **A** I neither encouraged her or discouraged
19 her.

20 **Q** When she applied; did she have to take a
21 test?

22 **A** She did.

23 **Q** Did she pass the test?

24 **A** She did not.

25 **MR. PARKER:** Your Honor, we would object

1 to this. We've already been into that three
2 times. The grounds is cumulative.

3 **MR. GRIFFITH:** I don't know that it's
4 cumulative, Judge. Ms. Cook testified to it.
5 There's some inconsistencies to what Ms. Cook
6 said and what she said. I just want to get to
7 those.

8 **BY MR. GRIFFITH:**

9 **Q** All right. And if you pass the test, you
10 get an interview, you qualify for an interview,
11 correct?

12 **A** You have to pass the test in order to
13 qualify for an interview.

14 **Q** Okay. And as I understand it, Ms. Cook did
15 not pass the test?

16 **A** It is my understanding as well that she did
17 not pass the test.

18 **Q** And she did not then get an interview, is
19 that correct?

20 **A** That is correct.

21 **Q** Did you call her after application and tell
22 her you didn't -- you didn't pass the test so we
23 can't interview you?

24 **A** I don't remember if I did or if Barbara
25 Simpkins did. Somebody notified her. I'm not sure if

1 it was me. I do want to notate that I was in and out
2 of the bank a lot during that time.

3 Q I understand. Would that have been standard
4 that someone should have called her and said you took
5 the test, you didn't qualify for an interview?

6 A Yes. And my recollection says that that
7 would have been a Human Resources function.

8 Q Now, I understand that you were involved
9 with the investigation of the May 9th, 2011 incident,
10 is that correct?

11 A I was.

12 Q And as a matter of fact, I understand based
13 on your testimony here today, you did not believe Ms.
14 Clevinger, is that correct?

15 A I did not.

16 Q In your investigation though, you told us
17 it was your job to collect the facts, is that
18 correct?

19 A It was my job to collect the information,
20 facts, yes.

21 Q All right. Well, you said I didn't put
22 anything in writing about my opinion because I was on
23 a fact-finding mission, is that correct?

24 A Correct.

25 Q All right. And in your fact-finding

1 mission, Exhibit number 50, you made notes of your
2 fact-finding exhibit, is that correct?

3 **A** I made notes of what was discussed and what
4 people told me.

5 **Q** And in that fact-finding, on page 3, if we
6 look right up there, is that part of your notes from
7 your fact-finding mission?

8 **A** It is.

9 **Q** And it says in there, Lydia, stop, is that
10 correct?

11 **A** Yes.

12 **Q** And then Suzanne came from behind her and
13 said what are you doing, stop, correct?

14 **A** Correct. That's what Robyn Clevinger told
15 me.

16 **Q** All right. The next word though is coming
17 from Suzanne. Who is Suzanne?

18 **A** Uh, Suzanne --

19 **Q** Freeman?

20 **A** Yes.

21 **Q** She is the person that you interviewed, is
22 that correct?

23 **A** Yes.

24 **Q** In your fact-finding mission?

25 **A** Yes.

1 Q And in your fact-finding mission, you made
2 a note that a comment from Suzanne was looked like a
3 rag doll -- what's that next word?

4 A Like her head was going to come off.

5 Q Okay. Now, that was from Suzanne, is that
6 correct?

7 A Yes.

8 Q And Suzanne -- did you make a notation in
9 your fact-finding that you did not believe Suzanne
10 with regard to this comment from her?

11 A No, I did not make a notation on my
12 documents.

13 Q Did you not believe Suzanne?

14 A I believed Suzanne in what she was saying,
15 but I think that Robyn was overreacting.

16 Q Right. But on the next page, if we go to
17 the next page, you've got another note down there
18 where Suzanne commented on the bruises.

19 A Yes.

20 Q All right. And Suzanne commented on the
21 bruises -- she commented on the bruises of who?

22 A Of Robyn Clevinger.

23 Q And Suzanne's comment was oh, my gosh, are
24 those from yesterday.

25 A Yes. I guess Robyn Clevinger came in and

1 showed her bruises to Suzanne and I thought that
2 Robyn or her husband put those bruises on herself.

3 Q But you had nothing to indicate that in
4 your fact-finding mission, is that correct?

5 A Correct, but I worked with a lot of people
6 for over 20 years.

7 Q Why didn't you put that in your notes for
8 your fact-finding mission?

9 A Because I was trying to document all that
10 was discussed along with that her husband, I don't
11 know if he is her husband, I missed that part of the
12 testimony.

13 Q And again, a lot of comment there, why
14 didn't you put that in your notes?

15 A Because my opinion was not important in my
16 writing other people's comments.

17 Q And in doing that, while you say that
18 wasn't important, in your fact-finding mission, you
19 didn't get a written statement from Suzanne on that
20 day, is that correct?

21 A I don't recall if we did or not.

22 Q On May 31st, 2011, did you go with Holly
23 Johnson on this, what you term your fact-finding
24 mission?

25 A One of many fact-finding missions in my

1 career, yes.

2 Q I'm talking about May 11th, May 31st, 2011
3 to investigate the May 9th, 2011 incident, was Holly
4 Johnson with you?

5 A Yes.

6 Q All right. And in that investigation, did
7 you get a statement from Suzanne Freeman?

8 A I don't remember.

9 Q Did you tell Holly Johnson the next day
10 that we need to get a written statement from Ms.
11 Freeman?

12 A I don't remember.

13 Q Do you remember getting this statement from
14 Ms. Freeman dated June 1, 2011 as part of your
15 investigation?

16 A Uh, I don't remember reading this
17 statement.

18 Q Did you go back the next day and ask them,
19 ask Ms. Freeman to make a statement, to give a
20 written statement so you can document it in the
21 business records of Regions Bank?

22 A I don't recall if I did.

23 Q Well, let me ask you then, did Ms. Freeman
24 tell you in your fact-finding investigation that, uh,
25 Lydia grabbed Robyn from the side and wrapped her

1 arms around her and began shaking her?

2 A Yes.

3 Q Did she tell you when she was shaking her
4 that she, Lydia, was saying thank you, thank you,
5 thank you? Do you remember that?

6 A I do.

7 Q And did Ms. Freeman also tell you when I
8 looked over and saw her shaking Robyn, Robyn's head
9 was going in the opposite direction of her body?

10 A I do remember that.

11 Q Consistent with what you had in your notes?

12 A Yes.

13 Q Did she also say to Lydia what are you
14 doing?

15 A Yes. She did say that.

16 Q Did she say didn't say anything and Robyn
17 just walked away?

18 A I don't recall that part of it.

19 Q Did she tell you that it looked aggressive?

20 A No.

21 Q Did she tell you it didn't look like a
22 friendly shake?

23 A No.

24 Q Did she tell you it didn't look like a
25 normal pat on the back that you would give someone?

1 **A** What she told me is that Robyn looked like
2 a rag doll which is what I have written in my notes.

3 **Q** And then on the termination notice of Ms.
4 Cook, you were the employee that signed off on that,
5 is that correct?

6 **A** I am.

7 **Q** Thank you. No where on that did you notate
8 I disagree with this?

9 **A** No, I didn't.

10 **Q** And you didn't notate that to any of your
11 supervisors?

12 **A** I did with Patty Austin.

13 **Q** Did you --

14 **A** No, I did not tell her that I disagreed
15 with it.

16 **Q** No further questions.

17 **THE COURT:** Redirect.

18 **REDIRECT EXAMINATION**

19 **BY MR. PARKER:**

20 **Q** The pictures that Ms. Clevinger showed you
21 on her phone, how many of them were there if you
22 remember?

23 **A** One.

24 **Q** And, uh, she had -- did she have others and
25 just show you one or do you know?

1 **A** I don't know.

2 **Q** And you have given your view and opinion
3 that Ms. Clevinger and her husband had staged these
4 pictures?

5 **A** Yes.

6 **Q** And did you discuss that also with Ms.
7 Austin?

8 **A** I believe I did.

9 **Q** And in Hampton, at the branch, were a
10 number of people let go over at the branch in Hampton
11 in and about the time that Ms. Clevinger and Ms. Cook
12 lost their jobs?

13 **A** Yes. Like I said before, Hampton -- Hampton
14 was a very disfunctional branch. I did not feel, like
15 I said before, that Robyn -- maybe I didn't say it --
16 that Robyn was not a good choice for that location.
17 She did not have the ability to blend in with the
18 community and to be an effective manager there. We
19 didn't have much to choose from and that was a
20 problem. And my not being at work a lot, that was a
21 problem too. It makes me feel bad for what happened
22 out there.

23 Robyn would have two faces with me. She
24 would be like she was on the stand today. She would
25 be very meek and have a very mild demeanor. Yes, sir.

1 Yes, ma'am. Yes. Whatever I said to her, she would
2 just say, yes, I'll do it. Then there would be this
3 other person that would cuss out customers and be --
4 uh, you know, make comments that were completely
5 inappropriate. Talk about prayer at work. Try to get
6 everybody to pray. Just behavior that was outrageous
7 behavior that she wouldn't show me when she was with
8 me.

9 Q And was Ms. Cook let go, the real reason
10 because y'all were making changes in Hampton and not
11 because of this workplace violence?

12 A I said that earlier that Lydia Cook was a
13 below average employee. To her defense, it was a very
14 hard time at Hampton when Ms. Harvey was let go. She
15 was working long hours and do lots of things that she
16 didn't sign up for, that she was not accustomed to.
17 We hired her to be on the platform to work in an
18 office. We had her on the teller line because we had
19 a manager in there who was completely ineffective,
20 which was Robyn Clevinger. And it did make it a very
21 difficult time.

22 Lydia was unhappy, but we asked too much of
23 people working in that branch. It's out here by
24 itself. It didn't have appropriate leadership. I was
25 not here for most of the time. And leadership didn't

1 pay enough attention to this branch. Therefore, the
2 Hampton branch failed the corporate audit. After that
3 happened, yes, changes were being made.
4 Unfortunately, it was -- this incident was sort of
5 like an icing on the cake. It almost didn't even
6 matter whether or not Lydia did it. It was just let's
7 let her go after all the problems we had at Hampton.

8 Then what further ensued is that we
9 discovered all of what Robyn Clevinger had done which
10 was completely not have documentation. We found in
11 her drawers and in her boxes, Robyn Clevinger, when
12 we put her on leave, was IDs, account numbers, tax
13 returns, Social Security cards. She had taken
14 everything from people who came in to apply for
15 things and kept them.

16 **MR. GRIFFITH:** Your Honor, I'm going to
17 object. She testified earlier she wasn't even
18 there.

19 **MR. PARKER:** She was there. She testified
20 she was there.

21 **THE WITNESS:** I was there the day that
22 Robyn was asked ---

23 **THE COURT:** I overrule the objection.

24 **THE WITNESS:** --- to be demoted.

25 **BY MR. PARKER:**

1 Q Was Ms. Cook a casualty of all of this?

2 A I believe she was and I regret that.

3 Q Was it fair to her?

4 A I don't believe it was fair.

5 MR. PARKER: Your Honor, at this time, we
6 would introduce Exhibit 32 and 50 and 22.

7 MR. TILLER: 32 and what, Your Honor?

8 MR. PARKER: 50 and 22.

9 MR. TILLER: 32 was the one that you
10 already admitted, Your Honor, over our
11 objection.

12 MR. PARKER: Y'all told me it wasn't
13 admitted.

14 MR. TILLER: Yeah. 50, no objection. And
15 what was the last one?

16 MR. PARKER: 50 is her notes.

17 MR. TILLER: Were there three exhibits?
18 32, 50 and --

19 MR. PARKER: 22, excuse me. 22.

20 MR. TILLER: No objection to that.

21 MR. GRIFFITH: No objection.

22 THE COURT: Any objections to any of that?

23 MR. GRIFFITH: No, sir.

24 MR. TILLER: Not already noted.

25 THE COURT: Sir?

1 **MR. TILLER:** None that are not already
2 noted, yes, sir.

3 **THE COURT:** All right.

4 **(WHEREUPON, Plaintiff's Exhibits 22, 32 and 50**
5 are admitted into the record.)

6 **MR. TILLER:** Just a few questions.

7 **RECROSS EXAMINATION**

8 **BY MR. TILLER:**

9 **Q** Ms. Lloyd, you just mentioned that, uh, Ms.
10 Cook was unhappy, is that right?

11 **A** She was.

12 **Q** She was very unhappy, was she not?

13 **A** Yes.

14 **Q** Were you aware of her physical limitations?

15 **A** I was.

16 **Q** Were you aware that she was having trouble
17 accomplishing her job duties?

18 **A** I was..

19 **Q** Thank you very much.

20 **RECROSS EXAMINATION**

21 **BY MR. GRIFFITH:**

22 **Q** And Ms. Lloyd, right before you gave that
23 lengthy answer, Mr. Parker asked you was it Regions
24 Bank intent to get rid of employees no matter what
25 the reason?

1 **A** No.

2 **THE COURT:** Thank you, ma'am. You may step
3 down. I think we ought to call it a day. 9:30 in
4 the morning. Ladies and Gentlemen, don't let
5 anybody talk to you about the case. You don't
6 talk about the case. See you in the morning at
7 9:30.

8 **(WHEREUPON, the jury exits at approximately**
9 5:45 p.m.)

10 **THE COURT:** Tomorrow looks like what, Mr.
11 Parker?

12 **MR. PARKER:** Uh, we will have probably,
13 uh, --

14 **THE COURT:** The jury is gone. We are fine.

15 **MR. PARKER:** We've got about -- we will
16 call four witnesses depending on -- we've got
17 one matter to take up, Your Honor. Ms. Clevinger
18 said that Ms. Cook's complaints to management
19 about her interaction with customers was untrue.
20 That opens the door for us to bring in the
21 testimony of these customers. She's testified
22 that the complaint made by Ms. Cook against her
23 by the customers was not, in fact, true.
24 Therefore, we should be able to call these
25 witnesses to prove that it was, in fact, true.

1 **MR. TILLER:** I don't think that's entirely
2 accurate. In addition to that, she was asked
3 questions that yeah, some complained and some
4 were very happy. Again, Mr. Parker wants to get
5 into this side issue that has nothing to do with
6 the defamation claim. I just don't think we got
7 that.

8 **MR. GRIFFITH:** Judge, I don't recall any
9 questions or answers that would have opened the
10 door other than what Mr. Tiller said. People
11 were happy and people weren't. People don't like
12 change, I think, is the line of questioning. And
13 she was change. So I think that would certainly
14 not be any door opening.

15 **MR. PARKER:** That does not accurately
16 reflect the testimony. I asked her specifically
17 about Ms. Cook's complaints about what customers
18 said and were they true. She said no, those
19 complaints about Ms. Cook were not true.

20 **MR. TILLER:** In my questioning?

21 **MR. PARKER:** No, she said it in my
22 questioning.

23 **MR. TILLER:** Oh.

24 **THE COURT:** I think what I was talking
25 about in opening the door is if defense counsel

1 asked a question or similar questions that
2 opened the door. I don't think the plaintiff can
3 open the door. I would sustain the continuing
4 objection to those additional witnesses.

5 **MR. TILLER:** Thank you, Your Honor.

6 **MR. PARKER:** Your Honor, the fact is the
7 question didn't open the door. It was Ms.
8 Clevinger's answer that these complaints were
9 untrue. It had nothing to do with the question.
10 It had to do with the answer.

11 **THE COURT:** You wouldn't have the answer
12 but for the question.

13 **MR. PARKER:** Well, no. If, in fact, it's
14 documented that these things happened and then
15 Ms. Clevinger says these things are untrue, we
16 get to rebut that, I hope. It doesn't matter who
17 asked her the question.

18 **THE COURT:** Let me make sure I've got this
19 straight, the scenario straight. Mr. Parker
20 asked Ms. Clevinger if those statements,
21 complaints, complaints were truthful.

22 **MR. PARKER:** The ones that Ms. Cook made
23 in her complaint to HR about customer
24 complaints. I asked were those, in fact, true.
25 She said no.

1 **THE COURT:** The reason you would want to
2 offer -- tell me what it is you're planning on
3 doing.

4 **MR. PARKER:** We're going to ask these
5 customers if, in fact, they had interactions
6 with her that -- whereby they had adverse
7 comments made by Ms. Clevinger and
8 unprofessional remarks and things made to her
9 that were a basis for these complaints, the
10 complaint that's dated April 6th from Ms. Cook
11 to --

12 **THE COURT:** Help me out on this. Did --
13 the complaint that we are talking about and the
14 testimony that we are talking about wasn't about
15 specific customers, was it?

16 **MR. PARKER:** It was -- no, it was about
17 specific customers. Yes.

18 **THE COURT:** The complaint was?

19 **MR. PARKER:** The complaint talked about
20 different occasions. I think candidly with the
21 court, the witnesses we have may not be those
22 exact same complainants.

23 **THE COURT:** Oh, well, that's what I
24 thought. Okay. Based on that then, I'm not going
25 to allow the testimony. I thought for a moment

1 we had some specifics. All right. What else?

2 (No response.)

3 9:30 in the morning.

4 **MR. PARKER:** Your Honor, one other -- we
5 do have one other issue that I want to put on
6 the record we advised Mr. Tiller and Mr.
7 Griffith that there is a juror, Mr. Gill, that
8 is being currently represented by Mr. Murdock.
9 Right after lunch, I advised them that he is
10 handling a workers compensation case for her
11 husband.

12 **MR. TILLER:** Your Honor, I said earlier
13 that would confer with my client and Mr.
14 Griffith. I have not done that to be honest
15 with you. We will do that right now and tell
16 you if there is anything that we would ask the
17 court to do. She is going to be coming back
18 either way because we have not dealt with it.

19 **THE COURT:** All right. Just don't forget.

20 (WHEREUPON, the Court adjourns for the day at
21 approximately 5:55 p.m.)

CERTIFICATE

465

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Hampton, South Carolina, on this 26th day of January, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF HAMPTON	)	Case No(s):2011CP2500343
	)	
Lydia Cook,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	(Volume 3 of 4)
Regions Bank and Robyn	)	
Clevinger,	)	
	)	
Defendant.	)	

January 13-16, 2014
Hampton, South Carolina

B E F O R E:

HONORABLE BROOKS GOLDSMITH, Judge.

A P P E A R A N C E S:

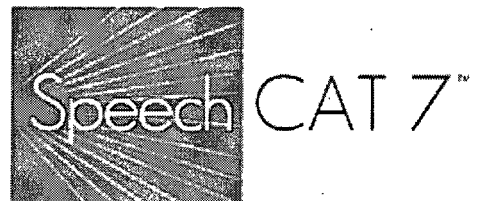
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Records are
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1 Griffith, and Mr. Tiller one if he would like.

2 **MR. GRIFFITH:** Uh, the only thing I think
3 that I should do, since it's on a short notice
4 and everything is going on here, I should
5 receive a copy contemporaneous with Mr. Parker.

6 **MR. PARKER:** We are perfectly agreeable
7 with that, Your Honor. We'll just forward it to
8 you. When they forward it to us, we'll forward
9 it.

10 **MR. GRIFFITH:** That will be fine with us.

11 **THE COURT:** We're short a juror. The
12 sheriff has gone to pick her up.

13 **THE CLERK:** Should be about 15 or 20
14 minutes. Y'all be at ease unless somebody has
15 something that we need to talk about.

16 **MR. PARKER:** We're going to play, first
17 thing, Mr. Blackwell's deposition. We received
18 no objections to anything that we've
19 designated. We are glad to play it as
20 designated.

21 **MR. TILLER:** Judge, that is the witness
22 that we made the motion about in limine and I
23 believe you ruled that he was not to be
24 testifying about the issues other than, if I
25 understood right, the issue regarding the

1 incident where the photographs were taken.

2 **THE COURT:** That is my recollection, Mr.
3 Parker.

4 **MR. PARKER:** My recollection was you
5 agreed we could play it and you overruled their
6 motion in limine, denied that that would be
7 proper procedure. Of course, they have to file
8 objections with designations, which they have
9 not done. And you did not have, of course, the
10 deposition before you.

11 **THE COURT:** Let me look at that motion.
12 The motion in limine states in part that they
13 are moving to prohibit the introduction of the
14 deposition of Kevin Clevinger and John
15 Blackwell.

16 **MR. PARKER:** That's correct, Your Honor.
17 You overruled that motion and ruled that you
18 were going to allow it.

19 **MR. TILLER:** That is not my understanding
20 of your ruling, Judge, on Monday or at the
21 bench yesterday.

22 **THE COURT:** Well, let me go back and look
23 at my notes from Monday. My notes indicate to
24 me that I did grant the motion as relates to
25 Mr. Clevinger's deposition. I agreed the

1 plaintiff could introduce the police report and
2 the photographs and the deposition of Mr.
3 Blackwell. I can't tell whether I limited the
4 deposition. My notes indicate --

5 **MR. PARKER:** Your Honor, the only issue
6 they raised about that is they have to object
7 to our designations which they have not done
8 and that is as of the case of State Farm versus
9 Barrett, which is dead on point, which says if
10 they don't follow the rules and object to the
11 designations as they come in. We have taken out
12 one part of it that Mr. Griffith was concerned
13 about. We have taken that out because he told
14 me he had objections to it. I took that out.
15 That may be what he is objecting about. I
16 don't know what his objection is because he has
17 not filed any. He objected to the whole
18 deposition.

19 **MR. GRIFFITH:** Is that not an objection
20 to the testimony, Judge? I objected to
21 anything coming in. He put in what he wanted
22 to. I've filed a written objection in limine
23 to exclude the whole deposition. You ruled
24 that there were certain issues that couldn't
25 come in. I guess now we can take up what parts

1 of that may come in.

2 **MR. PARKER:** I don't know what your
3 objection is to other than what you stated and
4 that was the picture and the police report.

5 (WHEREUPON, there is a pause.)

6 **THE COURT:** In my notes is a number of
7 depositions. I am trying to see if I have one.

8 **MR. PARKER:** I can pass up to the court
9 what we intend to play.

10 **THE COURT:** Have you had a chance to look
11 at it yet, Mr. Griffith?

12 **MR. GRIFFITH:** I'm going to ask do we
13 have a new designation? I know we had several.

14 **MR. PARKER:** Well, it is within the
15 designations that we made. Based on your
16 objections, we took that point out that you
17 told me about. Your Honor, this is what we
18 intend to play.

19 **MR. GRIFFITH:** May I ask a question?

20 **MR. PARKER:** The highlighted part.

21 **MR. GRIFFITH:** Highlighted. Okay.

22 **MR. PARKER:** Does that have a yellow
23 highlighter on it?

24 **THE COURT:** It does.

25 **MR. PARKER:** Okay.

1 **(WHEREUPON, there is a pause.)**

2 **THE COURT:** Have you had a chance to look
3 at it?

4 **MR. GRIFFITH:** Yes, sir, Judge. In
5 looking at it and now that you got a chance to
6 look at it, Judge, I think that based on what I
7 am seeing here other than basically name,
8 address, background information and where they
9 were married, this goes directly in
10 contradiction to your ruling yesterday with
11 regards to that you wrote out and read to the
12 courts.

13 My note says assaults against her,
14 plaintiff can prove she was asked if she made
15 such accusations. Plaintiff may then ask about
16 specific allegations. If denies event, may
17 prove event. If acknowledges the event, cannot
18 proffer other testimony. That is exactly what
19 they are doing here. They are trying to offer
20 other testimony about an event that happened in
21 Port Royal that she yesterday on the stand
22 acknowledged that she called the police.

23 I really think that this is basically now
24 -- your ruling, I understood it that you could
25 go into the photographs of the Port Royal. The

1 photographs are now in evidence or at least
2 have been shown to the jury. And now after
3 argument yesterday and the ruling you made, I
4 think you said you wrote it out so that
5 everybody would be clear on it, this is in
6 direct contradiction of the ruling you made
7 yesterday. She admitted the event. She
8 admitted something happened in Port Royal. She
9 called the police. Mr. Blackwell, her now ex-
10 husband, was involved in that event.

11 **MR. PARKER:** Your Honor, the problem is
12 she didn't admit it was false. If she will
13 admit that it was false, we can probably
14 dispense with this testimony. Do you want to
15 admit to that, Mr. Griffith?

16 **(WHEREUPON, there is a pause.)**

17 **THE COURT:** I think he was making a
18 suggestion to you.

19 **MR. GRIFFITH:** I guess, Judge, I am not
20 going to comment on that because I believe your
21 ruling already covers what he is trying to put
22 in. Why would I want to waive what you already
23 ruled on?

24 **THE COURT:** Okay. Help me understand the
25 deposition and the allegations.

1 **MR. PARKER:** Your Honor, the obligation
2 was by Ms. Clevinger that Mr. Blackwell was her
3 husband physically assaulted her. She called
4 the police and had pictures taken with marks
5 similar to the allegations here. Mr. Blackwell
6 has testified that that was all fabricated by
7 Ms. Clevinger.

8 **THE COURT:** And now, what I can't recall
9 is what did she say about that yesterday.

10 **MR. PARKER:** She said it was not false,
11 that he did it.

12 **THE COURT:** My recollection is the reason
13 we started down this slippery slope had to do
14 with the photographs allegedly being similar in
15 nature and the result of a report and an
16 allegation that they were caused by someone who
17 was not -- I think that is the reason initially
18 that I agreed that that would come into
19 evidence. It is my understanding -- I just
20 briefly skimmed over this deposition. That is
21 pretty much what the deposition talks about as
22 opposed to what I was worried about a minute
23 ago that it was talking about the history of
24 their marriage and every disagreement they got
25 into -- I understand that this is somewhat

1 different from yesterday's ruling but
2 nevertheless, I previously ruled that we were
3 going to admit the photographs, the police
4 report, and his deposition dealing with that
5 incident, the deposition of Mr. Blackwell
6 dealing with that incident. That is still the
7 ruling of the court. To that extent, I'll
8 overrule the motion. Anything else we can take
9 up before the jury, while we're waiting on the
10 jury?

11 **MR. PARKER:** Nothing from the plaintiff,
12 Your Honor.

13 **MR. TILLER:** No, sir.

14 **THE COURT:** All right. We will be at
15 ease.

16 (WHEREUPON, a recess is taken.)

17 (WHEREUPON, the jury enters at approximately
18 10:04 a.m.)

19 **THE COURT:** Good morning. Welcome,
20 Ladies and Gentlemen. I believe we are ready
21 to begin receiving additional evidence in the
22 case from the plaintiff.

23 **MR. BARNES:** Your Honor, at this time,
24 the plaintiff would present video testimony of
25 Mr. John Blackwell. Mr. Blackwell is a witness

1 **THE COURT:** Certainly.

2 **MR. PARKER:** Thank you. We will call
3 Holly Johnson.

4 **HOLLY JOHNSON**

5 having first been duly sworn, testifies as follows:

6 **DIRECT EXAMINATION**

7 **BY MR. PARKER:**

8 **Q** Good morning.

9 **A** Good morning.

10 **Q** Please state your full name.

11 **A** I am Holly Johnson.

12 **Q** You live in Aiken, South Carolina?

13 **A** That is correct.

14 **Q** You are employed by Regions Bank?

15 **MR. TILLER:** Judge, can we wait for this
16 to either move up or down so I can hear what is
17 going on?

18 **THE COURT:** Let's do that.

19 **MR. PARKER:** We will start over.

20 **MR. TILLER:** I knew it wasn't really
21 important but I didn't want anything to come out
22 while I couldn't hear. Thank you.

23 **BY MR. PARKER:**

24 **Q** Please state your full name.

25 **A** I am Holly Johnson.

1 Q You live in Aiken, South Carolina?

2 A Yes.

3 Q I believe you are married to a lawyer in
4 Aiken?

5 A I am.

6 Q And you work for Regions Bank?

7 A I do.

8 Q And have been for a number of years?

9 A Almost 28 years now.

10 Q And you are the Human Resources Vice
11 President of what? What is your position?

12 A Officially, I am the Executive Vice
13 President. I am the Human Resources Director, Human
14 Resources Manager. With all the different mergers,
15 I'm sure the executive vice president title isn't
16 what it used to be.

17 Q You haven't gotten a raise?

18 A Not just because I got a title.

19 Q You just got another title but not much
20 money?

21 A I work hard.

22 Q You were involved in this incident we are
23 here about?

24 A I investigated this incident. Yes, I did.

25 Q You, in fact, fired Ms. Clevinger when all

1 of this was going on and before Ms. Cook was
2 terminated, you fired her because you lost confidence
3 in her veracity and judgment, is that correct?

4 **A** Actually, that is not correct.

5 **Q** Let's put up Exhibit 17. (Pause.)

6 I am going to hand you, Ms. Johnson what is
7 marked as Exhibit 17. When we get the projector
8 going, I will ask the question. Is this your
9 handwriting?

10 **A** Yes, it is.

11 **Q** This is your notes of the conversation you
12 had with Robyn Clevinger?

13 **A** These are some of my initial notes in
14 talking to an attorney before I actually scripted my
15 conversation with Robyn. These were the very initial
16 notes as I was on the phone with our attorneys.

17 **Q** And you state in here lied about what?

18 **A** Contents.

19 **Q** Non-cooperative with management and
20 deceptive, correct?

21 **A** Yes. I stated that.

22 **Q** Acts clearly any manner that was not safe
23 and was not authorized.

24 **A** This was referencing boxes that were being
25 removed after she was demoted from her position on

1 5/31. And in transferring boxes of material, she
2 loaded some bank documents in those boxes. That is
3 what I am referring to here. She was not authorized
4 to remove those materials.

5 Q You said lost confidence in her veracity
6 and judgment, is that correct?

7 A Yes. Kind of my shorthand. That is what I
8 am saying.

9 Q Veracity is truthfulness, correct?

10 A Yes, sir.

11 Q You lost confidence in her truthfulness and
12 her judgment?

13 A Her veracity and judgment and the intention
14 was to let her know that she could no longer work at
15 the bank.

16 Q That was all accurate in your thoughts at
17 that time, correct?

18 A This was related to the events on 6/1. It
19 was not related to the event with Lydia Cook or with
20 the 5/31 demotion. This was a separate incident that
21 occurred on 6/1 as she was preparing to transfer.
22 This is a separate --

23 Q After 6/1, you knew, in fact, that Robyn
24 Clevinger was untruthful?

25 A The only time she was untruthful was in

1 this situation on 6/1 to my knowledge in removing the
2 bank materials. We had an operations manager there
3 working with her in her transfer. She was loading
4 documents, bank documents to transfer to her new job.

5 Q If she was just untruthful on one occasion,
6 you would not have said we lost confidence in your
7 veracity and judgment, would you?

8 A Yes, I did. This was related to the 6/1
9 event. This was not related to prior events.

10 Q In other words, you think liars only lie on
11 one occasion?

12 A I did not have the experience of her lying
13 to me at any time until the events on 6/1. On 6/1,
14 she removed boxes that she was not authorized to
15 remove.

16 Q Excuse me. The question was do you think
17 people lie on only one occasion? Do liars not lie
18 frequently? A lie is moral character, correct?

19 A If people don't have a good moral
20 character, they can lie. I am not in a position to
21 say someone is going to lie one time or lot more than
22 once.

23 Q You have to make those judgments in your
24 business, don't you?

25 A I do have to make those judgments. I felt

1 like I did make that judgment properly.

2 **Q** You knew that Ms. Clevinger seem to be
3 retaliating against Ms. Cook because she made a
4 complaint.

5 **A** No. I think when you and I talked in the
6 deposition, I saw a retaliatory behavior that I was
7 concerned about was putting her to have a 10 o'clock
8 lunch time every day.

9 **Q** But you knew she was retaliating against
10 her?

11 **A** No, I did not.

12 **Q** It is all over your notes, isn't it?

13 **A** No, it is not to my notes. I think I made
14 one mention of possible retaliation.

15 **Q** Let's put up Exhibit 14. (Pause.)

16 I'm going to hand you Exhibit 14 which is
17 already in evidence. Exhibit 14 states that I am
18 concerned that Robyn had some inappropriate
19 conversation with Lydia today. While not directly
20 confronting her there was enough negative treatment
21 that her interaction with Lydia was not business as
22 usual, is that correct?

23 **A** There was enough negative treatment or
24 dialogue that it was not business as usual. The
25 business as usual terminology came from Patty Austin.

1 Patty had met with her during her performance review
2 and related some concerns. She asked her to go back
3 and make sure she was operating business as usual.
4 That is what I was relating back to Patty that I felt
5 it wasn't business as usual conversation.

6 Q She was having negative dialogue because
7 she reported a previous statement, correct?

8 A They were having some dialogue within the
9 branch that Lydia perceived to be negative based on
10 what she felt may have been relayed to Robyn. And us
11 relaying her performance review and Patty Austin
12 conducting a performance review, she was coaching
13 Robyn as to some concerns within the branch.

14 Q There were a lot of concerns about Robyn,
15 weren't there?

16 A Robyn didn't have the management
17 experience. She was promoted out of a assistant
18 branch manager job. She went into the branch manager
19 position 8/1 of 2010 with really no support from
20 Andree Lloyd who was her manager at that time. At
21 that time, Andree was out due to her own illness.
22 Sometimes it was Andree just simply not responding to
23 Robyn.

24 Q You are the one that hired Robyn, correct?

25 A No.

1 **Q** You weren't instrumental in her hiring?

2 **A** Her initial hire, I would not have been
3 involved in. I can't tell you the date of her hire.
4 I did interview her when it came to the branch
5 manager position. I did give my opinion. Robyn had
6 been through a branch academy, Branch Leadership
7 Academy Training. There was no basis to not select
8 her for the position if she could pass the test. She
9 had been a successful completer in this extensive
10 training program that we have trying to prepare
11 people who were in a branch leadership position so
12 that we have an opportunity to promote people from
13 within to branch manager.

14 **Q** I'm going to ask you about Plaintiff's
15 Exhibit 11. Plaintiff's Exhibit 11 --

16 **MR. PARKER:** Excuse me. Your Honor, we
17 would introduce plaintiff's Exhibit 11.

18 **MR. TILLER:** No objection, Your Honor.

19 **THE COURT:** Admit it without objection.

20 **(WHEREUPON, Plaintiff's Exhibit 11 is admitted**
21 **into the record.)**

22 **BY MR. PARKER:**

23 **Q** Plaintiff's Exhibit 11 has your notes on
24 it, correct?

25 **A** My notes are handwritten on here. This was

1 somebody else's information.

2 Q Those are Barbara Simpkins typed remarks?

3 A Correct.

4 Q You made certain notes on there were you
5 asked Robyn, it says initially Robyn's conversation
6 about --

7 MR. TILLER: Your Honor, I'm going to
8 object. I don't think it is established that
9 she was asking Robyn anything.

10 MR. PARKER: I don't think I have to
11 establish anything. I think the document does.

12 BY MR. PARKER:

13 Q That is who you were talking with, correct?

14 A I was not talking to Robyn. I was talking
15 to Barbara Simpkins when I began my investigation.

16 Q And so this is what Ms. Simpkins told you?
17 She said she initially talked with Robyn, is that
18 correct?

19 A That is what she told me.

20 Q Then she said at the tail end of the
21 conversation, Robyn added there was one more thing
22 that happened that --

23 A That's unusual.

24 Q She described that Robyn said that at about
25 4:45 P.M. yesterday that Lydia was out of balance

1 \$1000 but Robyn found it. She said Lydia reached out
2 on her left side like she was going to thank her.
3 Instead, she shook her from side to side. It seemed
4 like vicious aggression. Suzanne noticed it and
5 screamed Lydia what are you doing. Robyn said it was
6 hurting so bad that she took 12 Motrin that night.

7 I advised Robyn to contact Holly as soon as
8 possible to discuss it since she had recently been at
9 the branch and interviewed all of the employees and
10 made no issues with Lydia that I am aware of. Then
11 you said to Ms. Simpkins -- Ms. Simpkins said have
12 you been to the doctor and do you think you need to
13 go. She said no. Is that correct?

14 A Ms. Simpkins asked her have you been to the
15 doctor and do you think you need to go. Robyn's
16 response was well, no.

17 Q You asked Ms. Simpkins, I presume, that you
18 mentioned bruises. She said you never mentioned
19 bruises, correct?

20 A I think she was volunteering these items.
21 She simply wanted to say she never mentioned bruises,
22 Robyn said it felt like more than a hug and then went
23 on to make these other comments.

24 Q The other comments almost felt like Lydia
25 was trying to pay her back for something, is that

1 correct?

2 **A** Yes. Barbara was relaying that to me.

3 **Q** Then Barbara relayed to you that Robyn said
4 it felt like it might be a little hostile after she
5 thought about it.

6 **A** So it may be a little hostile after she
7 thought about it.

8 **Q** Ms. Simpkins says Ms. Clevinger never
9 mentioned about filing a charge, is that correct?

10 **A** Correct.

11 **MR. PARKER:** Next, we will put up Exhibit
12 2. We will offer Exhibit 2, Your Honor.

13 **MR. TILLER:** Without objection.

14 **(WHEREUPON, Plaintiff's Exhibit 2 is admitted**
15 **into the record.)**

16 **BY MR. PARKER:**

17 **Q** Exhibit 2 is notes, your notes of the
18 conversation you had with Ms. Cook.

19 **A** Yes, sir. These are my notes that I
20 prepared in consult with our legal counsel.

21 **Q** Exhibit 2, if we go down to the fifth
22 paragraph starts with unfortunately. Do you see
23 that?

24 **A** Yes, sir.

25 **Q** It states unfortunately, we do have a zero

1 tolerance. There is enough evidence to suggest this
2 contact may have occurred, is that what you said?

3 **A** Yes, I did.

4 **Q** You fire people because something might
5 have occurred, is that correct?

6 **A** I did a very extensive investigation that
7 began on 5/27, 5/26. I immediately began making
8 phone calls. I did a very intensive investigation.
9 I involved my manager. I involved our internal legal
10 counsel. We came to the conclusion through all of
11 the information that we had available that I had not
12 only the fact that Robyn Clevinger felt that that was
13 intimidating, somewhat hostile, it was her perception
14 that she felt from that shaken that she was fearful.
15 It was intimidating. It was hostile.

16 I had a third party that was corroborating
17 that -- and that was Suzanne Freeman who turned
18 around and she viewed it and felt that it was
19 intimidating. She felt like it was hurting Robyn,
20 told her to stop. Yes, I felt with that and
21 photographic evidence that, yes, there was enough
22 evidence that it had occurred. I did not have enough
23 evidence to support the fact that it may not have
24 occurred. So with all of those facts, with all of
25 that consultation and the amount of time that I put

1 into that investigation, yes, it led to a termination
2 decision.

3 **Q** Ms. Johnson, it never occurred to you that
4 what she was saying was ridiculous, that what Ms.
5 Clevinger was saying was ridiculous?

6 **A** I questioned from the very beginning
7 everybody's veracity. I questioned whether Lydia was
8 telling me the truth. I questioned whether I was
9 getting the truth from Suzanne. I questioned whether
10 I was getting the truth from Robyn. That is my job
11 to question.

12 While it may have seemed ridiculous, in 28
13 years, almost 28 years, 30 years of being in Human
14 Resources, there is quite a number of ridiculous
15 things I have seen that have resulted in other
16 issues. I have to take any threat of workplace
17 violence so seriously. Any one of us know in the
18 community what is going on out there. If I don't
19 take the proper action and be sensitive in the
20 seriousness of what can happen when somebody feels
21 fearful or intimidated, then I have not done my job
22 properly.

23 **Q** Any other people you fired because they
24 were hugging somebody?

25 **A** I fired probably eight people within my

1 area since the last 2008 as threatening conduct or
2 behavior. Some involved touching. Some just
3 involved hearing voices. Some involved making
4 threatening remarks.

5 Q I appreciate all of that. The question was
6 how many people have you fired for hugging somebody?

7 A We don't have a policy against hugging.
8 When it goes to shaking and someone feeling fearful
9 or intimidated by the contact, then we take that
10 very, very seriously.

11 Q Ms. Cook has hugged you before, correct?

12 A Oh, absolutely.

13 Q You didn't fire her, did you?

14 A She didn't hurt me.

15 Q She didn't hurt Ms. Clevinger either.

16 A That is not for you or me to say. My
17 former associate, Robyn Clevinger, felt that it was
18 hostile contact. She was hurt by it. She was
19 intimidated by it and fearful. I had a corroborating
20 witness independent who turned around, who saw the
21 activity and said stop, Lydia, stop whatever you are
22 doing. I confirmed that. I have that verbal
23 statement from her in person. She testified to it.
24 It is --

25 Q So you believe it?

1 **A** I do believe it.

2 **Q** Even though it was ridiculous, you believed
3 it.

4 **A** I don't know whether it was intentional or
5 unintentional. I believe that contact occurred.
6 Lydia herself stated that she had hugged her. All
7 three parties agree on the contact.

8 **Q** And you went to, you attended by phone the
9 hearing for the employment, unemployment benefits, is
10 that correct?

11 **A** It was appealed for unemployment benefits,
12 yes, sir.

13 **Q** Did you attend it by phone?

14 **A** I was on the phone.

15 **Q** The officer that heard that, in fact,
16 against your position, correct?

17 **MR. TILLER:** Your Honor, before she
18 answers, I want to make sure my objection is
19 preserved for the record.

20 **THE COURT:** Noted.

21 **BY MR. PARKER:**

22 **Q** Is that correct?

23 **A** They found her eligible for benefits,
24 correct. During that call, she herself even
25 questioned about why she couldn't have been on

1 probation for a year as opposed to termination.

2 Didn't, in fact, the hearing officer find that Ms.
3 Cook was discharged without cause?

4 **A** That is their terminology.

5 **Q** And even though you were trying to get them
6 to do otherwise, correct?

7 **A** It is not my choice to whether benefits are
8 awarded or not. It is my responsibility to respond
9 we have an unemployment claim filed and to present
10 the facts.

11 **Q** Let's go to Exhibit 10. (Pause.)

12 Exhibit 10 is also your notes, correct?

13 **A** Correct.

14 **Q** When you informed Ms. Cook of these
15 allegations against her, she was shocked, correct?

16 **A** Yes. She reacted as though she didn't
17 believe it.

18 **Q** And she told you that she hugged her,
19 correct?

20 **A** She admitted to hugging her. She said yes,
21 the contact do occur.

22 **Q** Ms. Cook told you that Ms. Clevinger had
23 retaliated against her because she had gone to HR,
24 correct? Down at the bottom of the page.

25 **A** Cook's statement was she believed that Ms.

1 Clevinger retaliated against her because she had gone
2 to HR. That is Ms. Cook's statement to the hearing
3 officer.

4 Q Your note is dated 5/31 on the side. Is
5 that not the correct date?

6 A That is not the date of this hearing. The
7 5/31 references an out-of-balance situation.

8 Q The hearing was some time in July, correct?

9 A Whatever questions were coming up at the
10 time and when she was stating, something came up
11 about 5/31.

12 Q You believe these notes you made at the
13 hearing?

14 A This was on the phone call.

15 Q Up at the top, you have 7/29. This was the
16 date of the hearing up top? Excuse me. It says
17 discharge then it says 7/29. I assume the date of
18 the hearing was 7/29.

19 A I don't think the date of the hearing is
20 showing on here. I have got 7/29. That may be where
21 he first determined her eligible to receive benefits
22 may be. We were appealing that statement.

23 Q I will next ask you about Exhibit 12.

24 A This document also shows where I stated
25 about she inquired about probation for a year, why

1 she could not have gotten probation for a year.

2 Q Exhibit 12 is a memo to you?

3 A Yes, it is.

4 Q Mr. Coleman works for Regions?

5 A He was formally with Regions. He is no
6 longer employed with Regions.

7 Q He was a security officer?

8 A He was.

9 Q You had him go back and look at the
10 videotape of the bank for that day and time, correct?

11 A I started off myself looking at the tapes
12 immediately on 5/27 as soon as I could get to the
13 bank. I had him look behind me.

14 Q There was no evidence to support Ms.
15 Clevinger claim?

16 A The videotapes are pointed out toward the
17 customers as opposed to toward the tellers. We were
18 trying to capture whether there was any fraudulent
19 activity or any problems with the customers
20 transactions. We cannot see the actual hug behind
21 the teller line on the video cameras but I can see in
22 one instance Suzanne Freeman turning around and it
23 appeared to be when she was -- consistent with what
24 she said that she turned around and saw what was
25 occurring and made a comment. Those cameras also

1 rotate every X number of seconds. You have no way of
2 knowing when they might be point aware.

3 **MR. PARKER:** We would offer Exhibit 12,
4 Your Honor.

5 **MR. TILLER:** No objection, Your Honor.

6 **MR. GRIFFITH:** No objection.

7 (WHEREUPON, Plaintiff's Exhibit 12 is admitted
8 into the record.)

9 **BY MR. PARKER:**

10 **Q** Exhibit 16. Do you recognize the
11 handwriting on Exhibit 16?

12 **A** Yes, this would be my handwriting. It is
13 very small.

14 **Q** On Exhibit 16, you state Clevinger lost
15 confidence over possible retaliatory behavior with
16 the associates, correct?

17 **A** Tell me where you are seeing that.

18 **Q** I am down to the next to the last
19 paragraph.

20 **A** I was trying to put a summary together of
21 dates and time lines. I do have at the bottom there
22 removed from manager which she was removed from
23 branch manager on 5/31, the same day that Lydia was
24 placed -- for us to investigate this matter further.

25 **Q** You say that you are terminating her for

1 lost of confidence concerning possible retaliatory
2 behavior with the associates, correct?

3 **A** That was related to removing her from
4 branch manager as you and I discussed before, the
5 retaliatory behavior and having her take lunches at
6 10 o'clock in the morning.

7 **Q** You thought the retaliatory behavior was
8 only for lunch?

9 **A** That was the main item.

10 **Q** You thought the lunch item was bigger than
11 trying to get her fired?

12 **A** I never felt she was trying to get her
13 fired, sir. That is not correct. Lydia made a point
14 in my conversations with her about feeling very bad
15 about having her go to lunch at 10 o'clock in the
16 morning that she asked not to have that lunchtime and
17 she was assigned that lunchtime anyway.

18 **Q** You thought it was pretty bad to make
19 somebody go to lunch at 10:00, correct?

20 **A** I would not like to go to lunch at 10
21 o'clock in the morning.

22 **Q** You wouldn't like to be falsely accused
23 either, would you?

24 **A** I would not purposely falsify or accuse
25 anybody of anything and I would not want to be

1 accused of something.

2 **Q** It would be terrible for somebody to do
3 that to you.

4 **A** I would not like it, no, sir. In this
5 case, I don't believe that there was a false
6 accusation.

7 **Q** If somebody accused you of a crime, it
8 would do you serious harm.

9 **A** It would. That is why when people make
10 allegations, we are passionately involved in doing a
11 full investigation and make sure we understand as
12 much of the circumstances as we can.

13 **Q** Let's go to Page 2 of Exhibit 16.

14 **MR. TILLER:** Your Honor, I don't know if
15 he is moving 16 into evidence. I am not
16 objecting to it in toto. There is a part that
17 needs to be redacted. We can take that out
18 later. I want to make sure there is no waiver.

19 **THE COURT:** All right. We will take it
20 up later.

21 **BY MR. PARKER:**

22 **Q** The second page of Exhibit 16 is your
23 conversation with Lydia?

24 **A** No, these are my notes in speaking with our
25 internal legal counsel as we were talking through

1 actions, decision-making and how to resolve this.

2 Q And you state zero-tolerance?

3 A Yes. The zero-tolerance policy.

4 Q Can't afford to keep you.

5 A That was my conversation with our internal
6 legal department.

7 Q What is C?

8 A It says can't find anything to corroborate.
9 Have to err on the side of caution with the rest of
10 that word. There was enough reason to believe that it
11 might have happened.

12 Q All right. And you fire people because
13 something might have happened?

14 A In this situation under our workplace
15 violence policy, we have a zero tolerance. We have
16 to protect our employees. We are very highly
17 regulated. I had already had seven, not seven at
18 that time, but a number of events. We had two
19 employees in McComb, Alabama who were shot on our
20 facility. So yes.

21 Q What does this have to do with people
22 getting shot?

23 A Because we are highly sensitized to
24 workplace violence. You look all over the community
25 and you see whether it is schools, whether it is

1 Virginia Tech, every one of us know the violence out
2 of there in the community. We are highly sensitized
3 to it and we are -- we have to take every single
4 allegation, any complaint, any reference, our
5 associates has an obligation to report to us if there
6 is any fearful or intimidating behavior. I have no
7 choice but to take that seriously. I am not a
8 psychologist, I am not a medical doctor. I am not
9 the police but I am HR and I have to take it
10 seriously. That's what I did in this matter. I had
11 a corroborating witness who gave her statement to me
12 and to Andree Lloyd. There was no question at that
13 time that Suzanne was telling the truth.

14 Q Excuse me.

15 A That is what I was dealing with.

16 Q Why did you ask Ms. Freeman to change the
17 statement she made?

18 A I didn't ask her to change anything in her
19 statement.

20 Q You never asked her to change her words?

21 A I was not present when she wrote her
22 statement. She made her statement to me on 5/31 in
23 person with Andree Lloyd present with me. At no time
24 was there any question about Susan Freeman's honesty
25 in given that statement. I never asked her to alter

1 anything. She gave it to me verbally. I should have
2 on that date said would you go ahead and take time to
3 put this in writing. We had to several back-to-back
4 meetings that day. I failed to do that. The next
5 day, Andree Lloyd actually asked her to put that in
6 writing at my direction. I never asked her to change
7 anything.

8 Q Your testimony here today is you never
9 asked her to change anything?

10 A I don't believe I had any conversation with
11 her about changing something. If she was not
12 specific and Andree asked for her to be more
13 specific, then Andree was the one standing with her
14 that day.

15 Q Let's go to Exhibit 19. (Pause.)

16 MR. PARKER: Your Honor, we would offer
17 Exhibit 16 into evidence with Mr. Tiller's --

18 MR. TILLER: Thank you.

19 THE COURT: All right. Under those
20 conditions.

21 (WHEREUPON, Plaintiff Exhibit Number 16 is
22 admitted into the record.)

23 BY MR. PARKER:

24 Q Exhibit 19 is your handwriting?

25 A Yes, sir.

1 **Q** This is -- Exhibit 19 is a record of
2 conversation that Ms. Clevinger had with you?

3 **A** This was -- it looks like something was
4 extracted from several pages where I believe that I
5 was taking notes. Uh, I believe this was from when I
6 first learned of the situation and my first
7 conversation with her on 5/27. Andree Lloyd was on a
8 conference call in another location. I was in Aiken.

9 **Q** And Ms. Clevinger told you she considered
10 filing a charge against Lydia?

11 **A** Here she told Barbara. She did not tell me
12 that but she told Barbara that she considered filing
13 a charge.

14 **Q** She had hoped that she told you that she
15 hoped that Lydia, hoped with Lydia we could have
16 worked through these issues?

17 **A** Hoped with Lydia we could work through the
18 issues, things like that we had moved past that.

19 **Q** Can't continue to work with her at this
20 point?

21 **A** At this pace. Can't continue to work with
22 her at this point at this pace. Then she goes on to
23 say Lydia never takes responsibility for anything
24 that she does.

25 **Q** She was at that time advocating for Lydia's

1 termination, is that correct?

2 **A** She never once brought up about Lydia being
3 terminated. All she was doing is investigation as to
4 what occurred in that incident where she received a
5 shake, she was intimidated and that it had been
6 witnessed and corroborated by Suzanne Freeman. This
7 was my initial documentation in my phone call with
8 her. She never once said to me throughout the
9 process about Lydia being terminated.

10 **MR. PARKER:** We would offer that into
11 evidence, Your Honor. Exhibit 19.

12 Any objection?

13 **MR. TILLER:** No, sir, Your Honor.

14 **THE COURT:** Without objection, it is
15 admitted.

16 **(WHEREUPON, Plaintiff Exhibit Number 19 is**
17 **admitted into the record.)**

18 **BY MR. PARKER:**

19 **Q** Next, I will ask you about 25, Exhibit 25.
20 (Pause.)

21 Is Exhibit 25 a memo that you received from
22 Dennis Coleman or email?

23 **A** This is a communication from Dennis to me.

24 **MR. TILLER:** Your Honor, I want to make
25 sure the objection and motion in limine is

1 reserved as to this topic.

2 **BY MR. PARKER:**

3 **Q** Exhibit 25 says, Holly, up at the top, we
4 will leave early in the morning for Beaufort. I will
5 get a letter from Lydia's doctor to you first chance
6 I get as we discussed last night. After sleeping on
7 it, I have some initial thoughts about Lydia. Is
8 that correct?

9 **A** Yes, that is what that says.

10 **Q** It says or goes on to say Suzanne also, but
11 don't know that it matters, said she is out based on
12 NCL policy and no exception, what is that?

13 **MR. TILLER:** Your Honor, I would object
14 to that as part of our motion. That was part of
15 our motion in limine as well that was granted.

16 **THE COURT:** I guess we need a sidebar.

17 **MR. PARKER:** How about I just go on and
18 won't ask her that?

19 **MR. TILLER:** Thank you.

20 **BY MR. PARKER:**

21 **Q** Mr. Coleman said I don't think there is any
22 question about continued employment. She has lied on
23 three occasions about the contents. I briefly listed
24 them to you yesterday with customer confidential
25 information. Some were original documents from

1 customers when she left Hampton and went straight to
2 work and attempted to have her password changed so
3 that she can have access. Lastly, she did not have
4 authorization to take confidential information from
5 Hampton regarding Lydia's statement, is that correct?

6 **A** That is exactly what is stated.

7 **Q** You had Exhibit 7, did you not, which is
8 Dr. Welcker's letter that he wrote to Regions?

9 **A** At that time, he had not sent it to me. I
10 think that is saying that he would be sending that to
11 me. It came directly to him from Lydia.

12 **Q** I understand. But you had this before
13 Lydia was terminated, this letter?

14 **A** Yes, sir. So did our internal legal
15 counsel.

16 **Q** Did you look at Lydia's hands? You did
17 this internal investigation. Did you look at her
18 hands?

19 **A** I am not a medical doctor. I did not look
20 at her hands. She did not ask me to look at her
21 hands nor did I look at her hands.

22 **Q** You can see arthritis in the hands, can't
23 you? Knots on the hands?

24 **A** If there are knots, I'm sure that I can
25 observe knots. But I am not medically inclined. I

1 have no medical training whatsoever.

2 Q Well, the doctor here was saying she did
3 not have the strength to do what she was accused of.
4 You testified to what a thorough investigation you
5 did. It would seem like to me the first thing you
6 would do is go look at her hands. You didn't do
7 that, did you?

8 A No, I did not look at her hands. I did not
9 examine her hands.

10 Q You did not even look at them?

11 A No, I didn't look at our hands. I did make
12 sure that my internal legal counsel have this
13 document and reviewed it.

14 Q Who is that, the internal legal counsel?

15 A Our internal legal counsel, Lucinda Cook
16 and other people --

17 Q Is that the lady that is out here?

18 A Lucinda is out here.

19 Q This is her seated out there on the --

20 A She is.

21 **SPEAKER:** That is me.

22 **MR. TILLER:** I believe her last name is
23 York, not Cook.

24 **THE WITNESS:** York. I'm so sorry. I
25 made her a part of your family.

1 **BY MR. PARKER:**

2 **Q** I'm going to ask you about Exhibit 26.

3 (Pause.)

4 **MR. TILLER:** Did you move 25 in Mr.
5 Parker?

6 **MR. PARKER:** Yes, we would move 25 in.

7 **MR. TILLER:** Subject to our objection and
8 the small redaction.

9 **THE COURT:** All right.

10 **(WHEREUPON, Plaintiff Exhibit Number 25 is**
11 **admitted into the record.)**

12 **BY MR. PARKER:**

13 **Q** Exhibit 26 is a memo again from Mr.
14 Coleman, correct?

15 **A** Yes. This is from Mr. Coleman to me.

16 **Q** It says updates. The question is do we
17 want to file a police report since she official -- I
18 assume that should be officially -- reported
19 workplace violence. Leaning toward this since this
20 is what someone normally does with workplace
21 violence. However, this is internal workplace
22 violence. Decision being made on Monday morning.
23 Leaning more and more that we will be involved
24 completely with workplace violence especially if the
25 decision is made to require Robyn to provide a police

1 report, correct?

2 **A** That is a correct statement as to what he
3 says.

4 **Q** And you knew or Regions knew that Ms.
5 Clevinger was accusing Ms. Cook of a crime?

6 **A** I never considered it a crime. We
7 considered it something under our workplace violence
8 policy that there was an appropriate contact.

9 **Q** Do you know what assault and battery is?

10 **A** There was never one time that she used the
11 terminology of assault and battery. You were the
12 first one to use that with me saying it was assault.

13 **Q** If it wasn't a crime, why would you report
14 it to the police?

15 **A** I, at no time, was involved in discussing
16 police report. That was Dennis Coleman and corporate
17 security. I don't believe they ever gave her the
18 direction that she had to or should file a police
19 report. My responsibility was filing a workers comp
20 report of injury. That is what I did.

21 **Q** You realize that if a crime occurred, you
22 should report it, correct?

23 **A** She never once alluded to a crime. We were
24 dealing with this as a violation of our internal
25 policy and that was our workplace violence policy.

1 It talks in terms of the person's perception of
2 intimidating or harmful behavior. She never once
3 alluded to a crime. Never once in my mind alluded to
4 assault and battery. She did not bring that up to
5 me.

6 Q What is assault and battery?

7 A I have never been subject to it. I think
8 in terms of somebody getting into physical combat, a
9 physical punching fight.

10 Q You don't know what assault and battery is?

11 A I've never dealt with it.

12 MR. PARKER: I would offer Exhibit 26,
13 Your Honor.

14 MR. TILLER: No objection.

15 THE COURT: It's admitted without
16 objection.

17 (WHEREUPON, Plaintiff Exhibit Number 26 is
18 admitted into the record.)

19 BY MR. PARKER:

20 Q Next, I want to ask you about Exhibit 27.

21 (Pause.)

22 MR. TILLER: Your Honor, before we put
23 that up, we need that document to be redacted
24 before it is presented to the jury.

25 THE COURT: You seen it?

1 **MR. TILLER:** Yes, sir.

2 **THE COURT:** You say it has been redacted?

3 **MR. TILLER:** No, it needs to be.

4 **THE COURT:** Mr. Parker, do you agree?

5 **MR. PARKER:** We will agree to that, Your

6 Honor. I will only put up the first paragraph.

7 **THE COURT:** That's without objection?

8 **MR. TILLER:** He is taking it out.

9 **BY MR. PARKER:**

10 **Q** Exhibit 27, the securities involved in

11 recording Exhibit 27 was turned back to you, is that

12 correct?

13 **A** Security, corporate security decided they

14 did not want to be involved any further with the

15 workplace violence issue and they were leaving that

16 in the purview of HR, Human Resources and our legal

17 department.

18 **Q** And you are HR?

19 **A** I am Human Resources.

20 **MR. PARKER:** We would offer Exhibit 27 in

21 the redacted form.

22 **MR. TILLER:** That is fine once we take

23 that out.

24 **THE COURT:** No objection with the

25 redaction.

1 **(WHEREUPON,** Plaintiff Exhibit Number 27 is
2 admitted into the record.)

3 **BY MR. PARKER:**

4 **Q** Next, I will ask you about Exhibit 28.
5 (Pause.)

6 Exhibit 28 is your notes of your
7 termination of Ms. Clevinger?

8 **A** This is the script that I put together in
9 combination with our legal advice. This is my script
10 to sit down and Patty Austin and I to meet with Robyn
11 Clevinger.

12 **Q** And in this, and I'm going to highlight,
13 your script says Ms. Clevinger was non-cooperative,
14 engaged in deceptive behavior, was untruthful and had
15 without authority removed confidential information in
16 a manner that was unsafe, is that correct?

17 **A** This is related to what occurred on 6/1,
18 not what occurred prior to 6/1. This is related to
19 6/1 events that resulted in Robyn Clevinger's
20 termination.

21 **Q** You state, unfortunately, we have lost
22 confidence in your veracity and your judgment, is
23 that correct?

24 **A** That is correct based on her 6/1 actions.

25 **MR. PARKER:** We would offer Exhibit 28.

1 **MR. TILLER:** No objection.

2 **(WHEREUPON, Plaintiff Exhibit Number 28 is**
3 admitted into the record.)

4 **BY MR. PARKER:**

5 **Q** Next, I will ask you about Exhibit 29.

6 (Pause.)

7 Whose handwriting is on Exhibit 29?

8 **A** This is mine.

9 **Q** You say Robyn provide specific feedback
10 regarding Vicki Sweat and previously Andree Lloyd, is
11 that correct?

12 **A** That actually says and primarily Andree
13 Lloyd.

14 **Q** Excuse me. Primarily. In other words, she
15 was getting at them?

16 **A** No, sir. She was giving us feedback after
17 the termination meeting. She shared her concerns.
18 She shared very specific information that led me into
19 an investigation. Also were very serious issues
20 regarding Lloyd's leadership and ability in her
21 judgment and her own veracity.

22 **Q** You took Robyn Clevinger's veracity over
23 Andree Lloyd, correct?

24 **A** As I stated earlier, when someone brings
25 information, I don't make a determination that it is

1 the truth or it is not the truth. I set out to do an
2 investigation. I did not take her statements to be
3 gospel. I took her statements to say I now need to
4 go into another investigation. That is what I did.
5 I began an investigation and met with many other
6 people to determine what was the final outcome.

7 **MR. PARKER:** We'll offer Exhibit 29.

8 **MR. TILLER:** No objection.

9 **THE COURT:** Without objection.

10 (WHEREUPON, Plaintiff Exhibit Number 29 is
11 admitted into the record.)

12 **BY MR. PARKER:**

13 **Q** Next, I will ask you about Exhibit 30.

14 (Pause.)

15 Whose handwriting is on Exhibit 30?

16 **A** This is my handwriting.

17 **Q** Go down to the middle of the page. You
18 have a note for style of leadership, communication,
19 concern also possible retaliating -- retaliatory
20 behavior with associates, correct?

21 **A** I am not where you are. Sorry.

22 **Q** It would be one, two, three, four, five,
23 six, seven, eight --

24 **A** I'm there. Style of leadership.

25 **Q** You got it?

1 **A** Give me a moment to think of the context in
2 which I read this please. (Reviewing.)

3 This would have been from our 5/31 meeting.
4 We relayed to her that day -- Andree would have been
5 with me on 5/31. And we relayed to her at the time
6 that we were removing her from the branch manager
7 position to the Bluffton BTL. People would better
8 know that as assistant branch manager. We removed
9 her based on loss of confidence.

10 She asked that we give her a little bit
11 more time. She felt that she had been making
12 progress. She just felt she had not had the support
13 she needed. That was referring to the lack of
14 support from Andree Lloyd. We told her based on her
15 style of leadership and communication and possible
16 retaliatorial behavior with associates which I
17 explained -- or associate which I explained again was
18 primarily going back to the 10 o'clock lunch.

19 **Q** Next, I'm going to hand you Exhibit 29 --
20 49. Excuse me. Misstatement. Exhibit 49 is an email
21 from Ms. Clevinger to you?

22 **A** Yes, sir. This is something that she
23 forwarded to me from, it looks like a personal email
24 to her work email and then was forwarded to me on
25 6/1.

1 **Q** And these are two photographs that Ms.
2 Clevinger contends will show bruises on her arms?

3 **A** Right. She said I didn't know if you would
4 be interested in these photos of the bruises that
5 Lydia left on my arms. This was another piece of
6 evidence I had when I looked at the photos in
7 addition to Suzanne's statement.

8 **Q** Within days, you had the legal department
9 involved in this matter, right?

10 **A** I had the legal department involved. I
11 believe I tried to contact them when I got into my
12 investigation on 5/27.

13 **Q** And you knew the importance of keeping
14 evidence, correct?

15 **A** I printed the photos out. Regions Bank
16 system has a record retention. Systemwide, IT
17 removes emails after 90 days and remove all
18 attachments after 30. That was automatically deleted
19 just through the systemwide cleanup. It would have
20 fallen off prior to us being aware of any kind of
21 suit. I did not fail to retain something. The
22 system wiped it out.

23 **Q** You did not retain it. You did not put a
24 hold on those photographs, did you?

25 **A** How was I going to hold the photographs? I

1 printed those photographs.

2 **Q** You could have transferred it to anybody's
3 emailed, couldn't you?

4 **A** No, our email, the email was cleaned up
5 through everything. I have to keep it internal.
6 Those emails automatically are deleted through the
7 systemwide cleanup that occurs even if I move it to a
8 folder, the system cleans that out. I can't retain
9 it.

10 **Q** Are you saying there is no way you could of
11 kept the transmission of these photographs of Ms.
12 Clevinger to you into the bank?

13 **A** I have no authority over the IT department.
14 At the time that I printed these out, I had no idea
15 that there would be a suit. I printed these out in
16 accordance with what I thought was appropriate. I
17 maintained those copies. I maintained a copy of the
18 emails. Any attachments are automatically deleted.
19 I have no way to do anything to stop that. If there
20 is a litigation hold, I am advised not to delete
21 something. But until I get a litigation hold, I have
22 no control over what IT removes from my files.

23 **Q** Exhibit 49 has got a big block up here that
24 says privileged. Did you send these to the legal
25 department?

1 **A** I'm sorry?

2 **Q** Did you submit the photographs to the legal
3 department?

4 **MR. TILLER:** Your Honor, may we approach?

5 **THE COURT:** Would you like to stand up a
6 second? I will be right with you.

7 **(WHEREUPON,** a bench conference is held off the
8 record.)

9 **THE COURT:** Okay. I understand, Ladies
10 and Gentlemen. Let's take a short recess. I'm
11 going to ask you to step in the jury room.

12 **(WHEREUPON,** the jury exits at approximately
13 11:18 a.m.)

14 **MR. TILLER:** Judge, are we in recess now?

15 **THE COURT:** We are in recess for 10
16 minutes.

17 **(WHEREUPON,** a recess is taken.)

18 **THE COURT:** I think we are ready for the
19 jury.

20 **(WHEREUPON,** the jury enters at approximately
21 11:29 a.m.)

22 **THE COURT:** Welcome back, Ladies and
23 Gentlemen. I believe we are ready to resume the
24 examination of the witness.

25 Mr. Parker?

1 BY MR. PARKER:

2 Q Ms. Johnson, I'm going to hand you Exhibit
3 18. Is again Exhibit 18 your notes?

4 A Yes, sir. This is my handwriting on 5/27.

5 Q This is when you first found out about
6 this, is that correct?

7 A Well, I first found out from a phone call
8 on 5/26 when I was coming back from Albany, Georgia.
9 I received a phone call from Patty Austin. This is
10 the first day that I was back in the office.

11 Q Your first note says that you were talking
12 with Ms. Clevinger?

13 A Yes, this would have been in my discussion
14 with Clevinger on a conference call with Clevinger in
15 a third location.

16 Q And she said that Ms. Cook was standing on
17 her right, correct?

18 A She may have been referring that she was
19 standing on her right. She was standing on Cook's
20 right.

21 Q She was standing on Cook's right?

22 A This, you know -- I am not sure to be
23 honest with you whether she was saying that she was
24 standing on her right, meaning that Clevinger was
25 standing on Cook's right or whether Cook was standing

1 on Clevinger's right. I did not put the initials
2 next to that. Will clarify who was standing on who's
3 right.

4 Q And she told you that she could feel
5 (Inaudible.)

6 A Yes. That is what she relayed to us on the
7 phone call that it happened just a few seconds.

8 Q She said she told Lydia you shook me too
9 hard, correct? Down at the bottom of the page.

10 A She relayed to me that she said Lydia, you
11 shook me too hard.

12 Q And you heard her testimony yesterday. She
13 said she did not say anything, do you recall that?

14 A I do. I do but these are my notes when she
15 first reported to me. If I recorded this properly,
16 it said you shook me too hard.

17 Q Next thing, I was just -- and you left it
18 at that?

19 A I was writing so fast I didn't get to
20 finish that sentence. Just left that it is the next
21 thing.

22 Q So that means Ms. Clevinger laughed at it?

23 A No, that Cook laughed at it.

24 Q She said she was in tears?

25 A Clevinger was in tears.

1 **Q** You heard her testimony yesterday that she
2 was not in tears?

3 **A** I don't remember that specifically. I am
4 sorry.

5 **Q** You don't recall that testimony?

6 **A** I remember her specifically saying she was
7 not in tears.

8 **Q** Let's go to the next page of Exhibit 18.
9 (Pause.)

10 Then on the next page she said she had no
11 discussion with Lydia? Four lines down.

12 **A** No discussing with Lydia.

13 **Q** Skip one. Then it says Lydia did not
14 acknowledge.

15 **A** It said Lydia didn't acknowledged that she
16 hurt her.

17 **Q** Didn't acknowledge anything unusual going
18 on, correct?

19 **A** Correct.

20 **Q** And then there is a note you have of the
21 conversation that says complaints were against me
22 before. What does that mean?

23 **A** Associates -- there were several associates
24 who complained in particular about vacation, not
25 getting vacation time. Lydia was unhappy about

1 having to be on the teller line. She was very
2 unhappy about the lunch time. Those were things that
3 have been stated before.

4 Q And she told you it wasn't that urgent,
5 wasn't even calling it a injury, correct?

6 A We were discussing why she had not gotten
7 in touch with me earlier. Of course, I wasn't
8 available.

9 Q She was, in fact, telling you that she
10 wasn't injured.

11 A She said she wasn't even calling it an
12 injury.

13 Q Well, if she was injured, she is calling it
14 an injury, correct?

15 A Everybody has different terminology. She
16 stated it hurt her.

17 Q Hurt is an injury?

18 A Not necessarily.

19 Q Hurt is not an injury in your vocabulary?

20 A I hurt myself all the time. I don't call
21 it an injury. I say I hurt myself. I don't say I
22 injured myself. It is a matter of semantics.

23 Q Those are synonymous, hurt and injury?

24 A I mean, that is what you are saying. I
25 don't say I am injured when I hurt myself.

1 **MR. PARKER:** We would offer Exhibit 18.

2 **MR. TILLER:** No objection, Your Honor.

3 **THE COURT:** Without objection.

4 **(WHEREUPON, Plaintiff Exhibit Number 18 is**
5 **admitted into the record.)**

6 **BY MR. PARKER:**

7 **Q** Next, I will hand you Exhibit 1. Exhibit
8 1, if you would, go to the second page which is Page
9 3 of your documents.

10 **MR. TILLER:** I would like to renew my
11 objection to this. We would also need to redact
12 it.

13 **MR. PARKER:** We are going to call her
14 attention to certain things but we are going to
15 redact this document.

16 **MR. TILLER:** All right. Very good.

17 **THE COURT:** Okay.

18 **MR. PARKER:** If you would, blowup
19 paragraph 15.

20 **BY MR. PARKER:**

21 **Q** In paragraph 15, you recognize this
22 document as one of Regions documents, isn't it? You
23 have reviewed it before?

24 **A** Yes, sir.

25 **Q** In paragraph 15, it says during Cook's

1 interview, she gave Coleman a letter from the doctor
2 relating to a complaint that was made against Cook by
3 Clevinger concerning improper touching, workplace
4 violence and asked that Coleman give it to HR.
5 Coleman faxed a copy of the letter to Holly Johnson,
6 the HR representative on 6/15/2011 since HR is
7 handling this issue, correct?

8 **A** Yes, sir.

9 **Q** Cook requested that she would welcome a
10 polygraph test, is that correct?

11 **A** I wasn't privy to that. That was a
12 discussion between her and Mr. Coleman.. That is
13 notated here in his report.

14 **Q** You knew she had offered to take a
15 polygraph test to prove the truthfulness of what she
16 was saying?

17 **A** I don't get involved in requesting
18 polygraph test at all. I have no authority over
19 polygraph being admitted.

20 **Q** Let's next go to the last page of Exhibit
21 1. If you would, go to the part of it that starts
22 with Cook's interview.

23 **A** You said the last page? Okay. I am where
24 you are.

25 **Q** Let's go down to Cook's interview.

1 Indicating no signs of deception, correct?

2 **A** According to Coleman, Cook's interview
3 indicated no visual signs of deception.

4 **Q** She was forthright in her responses to
5 request that she be given a polygraph test?

6 **A** That's what he said.

7 **Q** Freeman's interview was inconclusive. She
8 pretty much described herself as --

9 **MR. TILLER:** Your Honor, this is what we
10 were objecting to before.

11 **BY MR. PARKER:**

12 **Q** Let's get that. We will skip that and go
13 to Clevinger's interview. Clevinger's interview was
14 also inconclusive although there were at times that
15 she projected signs of deception, is that correct?

16 **A** That's from his statement and it is
17 correct.

18 **MR. PARKER:** We would offer Plaintiff's
19 Exhibit 1 as redacted, Your Honor.

20 **THE COURT:** Does that mean redacted
21 accept -- everything except --

22 **MR. PARKER:** What she just testified to.

23 **THE COURT:** You are just putting in what
24 you asked her about?

25 **MR. PARKER:** Correct.

1 **THE COURT:** Okay. It is admitted under
2 those terms and conditions.

3 **(WHEREUPON, Plaintiff Exhibit Number 1 is**
4 admitted into the record.)

5 **THE WITNESS:** I was clearly not part of
6 the interview. I just want to make sure you
7 know that.

8 **BY MR. PARKER:**

9 **Q** That was someone else concluding that Ms.
10 Clevinger was deceptive, correct?

11 **A** This was Mr. Coleman meeting with these
12 people. That was his summary.

13 **Q** So we have several people at Regions that
14 concluded that Ms. Clevinger was deceptive and
15 untruthful?

16 **A** I don't know that there was several. I
17 know that there was Mr. Coleman.

18 **Q** You concluded that?

19 **A** After the events on 6/1 should when she
20 removed the boxes, not in relation to the shaking
21 incident. Everything I have stated to you and in all
22 my notes, the deceptive behavior for Robyn Clevinger
23 all began on 6/1. It was unrelated to this.

24 **Q** You concluded she was deceptive, correct?

25 **A** Based on her actions on 6/1.

1 **Q** Ms. Lloyd concluded that she was deceptive,
2 correct?

3 **A** Ms. Lloyd is very bitter against the bank.
4 She has every reason to turn those faxed to her own
5 agenda.

6 **Q** That wasn't the question, was it? The
7 question was did Ms. Lloyd conclude that Ms.
8 Clevinger was deceptive?

9 **A** Based on 6/1, based on the events of 6/1.

10 **Q** You don't know what she concluded. The
11 question was did she conclude that.

12 **A** She concluded it based on what occurred on
13 6/1. That is the only time deception ever came up
14 was based on 6/1, what occurred on 6/1.

15 **Q** That is not what Ms. Lloyd testified to.

16 **A** I can understand that. She is very bitter
17 against the bank. She has her own personal agenda.

18 **Q** I wasn't going to ask you about it. Your
19 counsel moved to have us not ask you. But you fired
20 her because she had breast cancer, didn't you?

21 **A** That is absolutely incredibly false. She
22 was not fire because --

23 **Q** Did the bank offer her a settlement for
24 those claims?

25 **MR. TILLER:** Your Honor, --

1 **THE COURT:** I'll sustain the objection.

2 **BY MR. PARKER:**

3 **Q** I will next hand you Exhibit 52. Exhibit
4 52 is again your handwriting?

5 **A** Yes, it is.

6 **Q** In this, you state Suzanne may have said
7 something and laughed? You are talking with Lydia?

8 **A** This is Lydia's conversation with me on 531
9 when I asked her about the incident.

10 **Q** And asked her to show me, she hugged me
11 front to front and kissed my face, correct?

12 **A** Yes, she kissed me on my cheek.

13 **Q** She said I am a hugger, wouldn't hurt
14 anyone?

15 **A** She did say that.

16 **Q** Feel like they teamed up on me. Can't
17 believe they made this up, is that correct?

18 **A** That is again what she said to me.

19 **MR. PARKER:** We would offer Exhibit 52,
20 Your Honor.

21 **MR. TILLER:** Is that two pages or one
22 page?

23 **MR. PARKER:** It is only one page.

24 **MR. TILLER:** No objection, Your Honor.

25 **THE COURT:** It will be admitted without

1 objection.

2 (WHEREUPON, Plaintiff's Exhibit 52 is admitted
3 into the record.)

4 BY MR. PARKER:

5 Q Next, I will hand you Exhibit 53. (Pause.)

6 This again is the conversation with Ms.
7 Cook about this problem that we have been talking
8 about here for the couple of days?

9 A This is Lydia relaying to me that she
10 didn't believe Robyn had shown any signs of problems.
11 That she had been rearranging all month. My
12 investigation, I learned that these actually occurred
13 in April, the moving of the file cabinets,
14 refrigerator, copier, that all proceeded that
15 timeframe. According to Lydia, it was in May.

16 Q She told you she hasn't acted like anything
17 was wrong with her neck, has moved everything around?

18 A And as I stated, in my investigation, I
19 learned that was the preceding month.

20 Q You learned that for Ms. Clevinger?

21 A Yes, I did.

22 Q And you believed her?

23 A Yes, I did.

24 MR. PARKER: We would offer Exhibit 53.

25 MR. TILLER: No objection.

1 **THE COURT:** It is admitted without
2 objection.

3 **(WHEREUPON, Plaintiff Exhibit Number 53 is**
4 admitted into the record.)

5 **BY MR. PARKER:**

6 **Q** Next, I hand you Exhibit 54. (Pause.)
7 Exhibit 54 is again, your notes and your
8 conversation with Ms. Cook?

9 **A** Ms. Cook, Lydia Cook phoned me at my office
10 to ask additional questions.

11 **Q** You put down in your notes Robyn and
12 workplace violence issue, right?

13 **A** I'm trying to get there as quickly as you
14 are. Where are you?

15 **Q** Down at the middle of the page.

16 **A** Yes, I am trying to read. I have got Lydia
17 Cook's initials, what two issues and admin leave.
18 The two issues that she was on admin leave for. She
19 was asking me about the issues that she was on the
20 admin leave to clarify. One was the vault. I
21 explained the outage in the vault. The second was in
22 relation to the workplace violence issue with Robyn.
23 Those were the two things that would be
24 investigated. That is why she was on administrative
25 leave.

1 **Q** It said Robyn, workplace violence issue.
2 God is my witness, I am a hugger. I can't believe
3 they concocted, never knew the strengths she would go
4 through to get, to save her job. I am just in shock
5 and just a basket case right now. Is that what you
6 wrote? That is what she was relayed to me in that
7 conversation.

8 **MR. PARKER:** We would offer Exhibit 54,
9 Your Honor.

10 **MR. TILLER:** No objection, Your Honor.

11 **THE COURT:** Without objection.

12 **(WHEREUPON, Plaintiff Exhibit Number 54 is**
13 admitted into the record.)

14 **BY MR. PARKER:**

15 **Q** Ms. Johnson, if what Ms. Clevinger says is
16 untrue, a terrible injustice has been done to Ms.
17 Cook, hasn't there?

18 **A** I don't believe it was untrue.

19 **Q** I said if it is untrue.

20 **A** Again, I don't believe it is untrue. I had
21 a corroborating witness and photographic evidence.
22 Had it been completely false, I would not want
23 somebody to lose their job based on something that
24 was set falsely.

25 **Q** A person who loses their job on a

1 falsehood, it is a terrible thing?

2 **A** Yes, it would be a very terrible thing.

3 **Q** And it would cause tremendous damage to a
4 person to lose their job -- I'm not going to ask your
5 age. But at your age, it would be terrible for you to
6 lose your job, wouldn't it?

7 **A** I am almost 58 years old and it would be
8 terrible to lose my job. That is why I took time to
9 go through a very intense investigation and look at
10 all the evidence that was before me to work with my
11 manager and to work with our internal legal counsel
12 to make sure we came to the right conclusion. There
13 was enough evidence to support the fact that it did
14 occur and not enough evidence to support the fact
15 that it didn't occur.

16 **Q** And you are going to stick with that
17 conclusion today? After you heard this testimony?

18 **A** I went through intensive investigation. I
19 care about our employees. It never pleases me to
20 lose anyone, especially to have to be a
21 determination. I care about our people. I have got
22 a 28-year career invested here.

23 **Q** How many people have you terminated?

24 **A** In my entire time of working here?

25 **Q** With Regions.

1 **A** Too many. I couldn't even count for you.

2 **Q** In the thousands, wouldn't it?

3 **A** I would suggest it would be on the
4 thousands. I would say an almost 28 years, a
5 considerable number.

6 **Q** Excuse me. I didn't hear that.

7 **A** I said over nearly 28 years, it would be a
8 considerable number. I can't say it is 1000.

9 **MR. PARKER:** Your Honor, we would offer
10 Exhibit 17, 10, 49 and 30 into evidence.

11 **MR. TILLER:** 17, no objection, Judge.

12 **MR. PARKER:** 17, 10, 49 --

13 **MR. TILLER:** No objection to 10. No
14 objection to 49. The last one, Mr. Parker?

15 **MR. PARKER:** 30.

16 **MR. TILLER:** No objection to 30.

17 **THE COURT:** Let me make sure I
18 understood. There is no objection to anything?

19 **MR. TILLER:** That is correct. I just had
20 to compare notes.

21 **THE COURT:** Without objection.

22 **(WHEREUPON, Plaintiff Exhibit Numbers 10, 17, 30**
23 **and 49 are admitted into the record.)**

24 **MR. PARKER:** Thank you, Your Honor. The
25 defendant will call at this time -- excuse me.

1 They might want to ask some questions.

2 **THE COURT:** There might be a question or
3 two.

4 **MR. PARKER:** I didn't think they would
5 have any.

6 **MR. TILLER:** Your Honor, Regions Bank
7 does not have any questions of Ms. Johnson at
8 this time. We will call her in the defense
9 case.

10 **THE COURT:** And Mr. Griffith?

11 **MR. GRIFFITH:** Yes, sir.

12 **CROSS EXAMINATION**

13 **BY MR. GRIFFITH:**

14 **Q** Ms. Johnson, I want to go back to Exhibit
15 1. You were asked about it. Do you have that in
16 front of you?

17 **A** Yes, I do.

18 **MR. GRIFFITH:** Since Belinda is sick, I
19 don't know who to ask to turn up the lights a
20 little bit.

21 **THE COURT:** Not me.

22 **BY MR. GRIFFITH:**

23 **Q** You are on Exhibit 1, is that correct?

24 **A** Yes, sir.

25 **Q** Yes ma'am. Mr. Parker read from you some

1 conclusions about Cook's interview and indicated on
2 the last page, which is page seven and a bunch of
3 zeros, Cook's interview indicated no individual signs
4 of deception. She was forthright in her responses
5 and requested that she be given a polygraph test, is
6 that correct?

7 **A** Yes, sir. It states that.

8 **Q** Have you had a chance to review this entire
9 document?

10 **A** Yes, sir.

11 **Q** It doesn't deal with the incident on May
12 10th -- May 9th, 2011, does it?

13 **A** No. Corporate security decided not to be
14 involved in that investigation.

15 **Q** This deals with a shortage, is that
16 correct?

17 **A** Exactly. There was a vault outage. That
18 is what he was investigating as to whether those
19 funds could have been taken by the associate or why
20 that outage occurred.

21 **Q** Was it your understanding when you were
22 asked these questions that it was about the May 9th
23 incident?

24 **A** I didn't clarify with him. It was in
25 relation to just simply the vault outage. I should

1 have had him clarify that.

2 Q This is actually the vault outage that we
3 saw on May 25th and 26th that Ms. Cook was written up
4 about, wasn't it?

5 A , That's right.

6 Q Because the vault was under her control,
7 correct?

8 A That is correct.

9 Q She was asking to take a polygraph test
10 about money being missing.

11 A That is exactly right.

12 Q Not about the incident of May 9th?

13 A That is exactly right. This is about the
14 vault outage.

15 Q You also asked about some cameras, is that
16 correct?

17 A Yes, sir.

18 Q I believe you indicated there were some
19 security cameras in the bank.

20 A There are security cameras in the bank.

21 Q Are the security cameras focused on the
22 tellers?

23 A No. The security camera is focused
24 elsewhere the customers that the transaction can be
25 captured properly. They rotate.

1 **Q** Can you predict when it is going to be on
2 you?

3 **A** I don't know how they would possibly
4 predict. They do rotate every X number of seconds.
5 I don't think you can time yourself to know when they
6 would be rotating or even when it starts. You can
7 see where the camera is looking.

8 **Q** Did you check the cameras?

9 **A** I checked the tapes working with corporate
10 security.

11 **Q** The story that Ms. Clevinger fabricated,
12 she would have had to be able to predict when the
13 camera is not going to be on her?

14 **A** Exactly.

15 **Q** Did you check the cameras?

16 **A** I didn't physically check the cameras
17 themselves. I checked the videotapes. I looked at
18 the videotapes myself. I had two other security
19 officers look at the videotapes too.

20 **Q** All right. As I understood, you indicated
21 that when the camera, the video that you reviewed, it
22 did show Suzanne turning in the direction that she
23 described?

24 **A** I was able at first to -- yes. I can see
25 Suzanne Freeman turn around to what appeared to be

1 toward someone else and they were off the camera. I
2 previously seen Clevinger in that window and Cook in
3 the window. The next clip, I saw Suzanne Freeman
4 turn around as though she was addressing them.

5 Q Did that corroborate what Suzanne had told
6 you?

7 A Yes, it did.

8 Q In your investigation?

9 A Yes, it did. As I investigated, I felt
10 like that was completely corroborating that.

11 Q And looking through the documents, I didn't
12 pull it real quick, Lydia didn't like being on the --
13 did Lydia like being on the teller line?

14 A No. Lydia told me she made it well-known
15 that she did not like being on the teller line.

16 Q Did she give any reason she didn't like
17 being on the teller line?

18 A She -- I'm trying to remember a specific
19 reason in my investigation why she didn't like to be
20 on the teller line. But I don't believe she liked
21 waiting on customers. She wanted to do customer
22 service selling of the accounts as opposed to the
23 daily transactions of customers.

24 Q Now, speaking specifically to the incident
25 we are here about, you are involved with Human

1 Resources as I understand it, is that correct?

2 **A** I am.

3 **Q** If an employee, any employee feels
4 concerned about an incident, are they obligated to
5 report the incident?

6 **A** They are obligated, they are required to
7 report any incident that causes them concern. We
8 have multiple ways for them to report that.

9 **Q** Did Robyn indicate to you that she
10 perceived this incident as being hostile?

11 **A** She did.

12 **Q** Did Suzanne indicate to you that she
13 perceived the incident to be hostile?

14 **A** Yes, she did. Both associates perceived it
15 to be intimidating and hostile.

16 **Q** And it is your job to investigate, is that
17 correct?

18 **A** Yes. It is.

19 **Q** In your investigation, I understand you
20 talked to the three individuals that were there that
21 day, correct?

22 **A** The three who were involved, I did. In
23 person.

24 **Q** Ms. Cook ever indicated to you that she was
25 upset about not getting the job that Robyn had?

1 **A** She actually indicated that directly to
2 Lloyd. Through my investigation, that is what I
3 learned. She did not talk to me directly about that.

4 **Q** Speaking of Miss Lloyd, did Ms. Lloyd
5 conduct or assist in conducting the investigation on
6 May 31, 2011?

7 **A** Yes, Lloyd was present with me when we had
8 these one-on-one interviews with the Associates and
9 was part of that investigation with each associate.

10 **Q** You were asked about that a minute ago. I
11 want to -- did she participate in the exit interview
12 with Robyn Clevinger?

13 **A** No. Lloyd was not present at Clevinger's
14 release.

15 **Q** Were you present during Ms. Clevinger's
16 exit interview?

17 **A** Yes, I was.

18 **Q** During that interview, did Ms. Clevinger
19 indicate to you some concerns that she had about Ms.
20 Lloyd?

21 **A** Yes, she did. Her concerns on things that
22 related to her --

23 **MR. PARKER:** I'm going to object.

24 **THE COURT:** We need a sidebar?

25 **MR. PARKER:** We can.

1 **(WHEREUPON,** a bench conference is held off the
2 record.)

3 **THE COURT:** Let me tell the witness
4 something before you ask any questions.

5 We have had a sidebar. The court has ruled
6 on some evidentiary issues. The court is
7 permitting a line of questioning here but wants
8 you to think about the question that is asked
9 and answered the question that is asked only as
10 opposed to volunteering other statements ---

11 **THE WITNESS:** Okay.

12 **THE COURT:** --- not responsive to the
13 question.

14 **THE WITNESS:** Okay. Thank you.

15 **BY MR. GRIFFITH:**

16 **Q** At Ms. Clevinger's exit interview, did she
17 make statements about Ms. Lloyd?

18 **A** Yes.

19 **Q** Prior to your investigation, prior to the
20 investigation, speaking of the investigation of May
21 9, was Ms. Lloyd with you and did she participate in
22 that investigation with you?

23 **A** Yes, she did.

24 **Q** At any time prior to Ms. Clevinger being
25 dismissed, did she indicate any disbelief and

1 statements of Suzanne Freeman?

2 **A** No.

3 **Q** Did she indicate any disbelief in a
4 statement of Robyn Clevinger?

5 **A** No.

6 **Q** A minute ago they were going through some
7 of your notes. Those were your notes, I believe,
8 Suzanne, in her statement, indicated Robyn said
9 nothing, is that correct?

10 **A** I believe that is correct.

11 **Q** And they were asking about whether she
12 cried, I believe, yesterday. Robyn indicated she
13 went back to her office and she might have welled up
14 but she did not cry?

15 **A** I don't remember that specifically. I'm
16 sorry.

17 **Q** As I understand, Robyn becomes the manager
18 in the Hampton branch in about August 2010, is that
19 correct?

20 **A** Yes.

21 **Q** I understand you were requested to
22 investigate that, correct?

23 **A** In her becoming a manager?

24 **Q** No, I'm sorry. I jumped ahead of my notes.
25 While she was the manager, you were requested to

1 investigate the May 9th, 2011 incident, is that
2 correct?

3 **A** Yes.

4 **Q** It is the bank's policy that you report
5 that incident if you are in that chain of command?

6 **A** Yes, I am.

7 **Q** Ms. Lloyd is also in the chain of command
8 for Robyn Clevinger at that time, is that correct?

9 **A** Yes.

10 **Q** Would that be bank policy that she would
11 report it to her immediate supervisor?

12 **A** Yes.

13 **Q** If she could not reported to her, would she
14 talked to Ms. Lloyd immediate supervisor?

15 **A** Yes.

16 **Q** Who was that?

17 **A** That was Patty Austin.

18 **Q** In your investigation, do you know of
19 anyone else that she discussed this incident with?

20 **A** Other than Barbara Simpkins who reports to
21 me in HR, no.

22 **Q** All right. In the investigation, did Robyn
23 mention to you bruising?

24 **A** Yes.

25 **Q** And when you talk to -- I believe you

1 talked to Ms. Clevinger, correct?

2 **A** Yes.

3 **Q** Ms. Cook?

4 **A** Yes.

5 **Q** Did Ms. Cook deny that there was any
6 touching of Ms. Clevinger?

7 **A** No, not at any time.

8 **Q** The complaint indicates that Robyn
9 Clevinger accused the plaintiff of physically
10 assaulted her. Has Robyn ever use the word assault?

11 **A** I don't recall her ever using the word
12 assault.

13 **Q** You obtained a statement from Suzanne
14 Freeman, is that correct?

15 **A** Yes, I did.

16 **Q** You interviewed her on May 31st, 2011, is
17 that correct?

18 **A** Yes.

19 **Q** That was in the presence of Andree -- Ms.
20 Lloyd?

21 **A** Yes.

22 **Q** You said a lot of things were going on that
23 day.. Did you get a written statement from her that
24 day?

25 **A** No, I did not.

1 **Q** Did you get a written statement from her
2 the next day?

3 **A** I was not present the next day.

4 **Q** Did you request one be obtained?

5 **A** I did request one to be obtained.

6 **Q** Did you request that for Ms. Lloyd?

7 **A** Yes, I did.

8 **Q** She had to be here anyway?

9 **A** Yes.

10 **MR. GRIFFITH:** Has that statement already
11 been pre-marked? Defendant's 2?

12 **BY MR. GRIFFITH:**

13 **Q** You referred a couple of times -- it's
14 right back up here if you like a copy of the here.
15 Do you have a copy of it?

16 **A** I'm not sure. I have got a couple of
17 pages. I don't recall that one.

18 **Q** I have another copy so you can refer to it.
19 You referred a couple of times to a corroborating
20 witness, who would that corroborating witness be?

21 **A** Suzanne Freeman.

22 **Q** And in that statement you obtained from Ms.
23 Freeman and the one you had with her on May 31, 2011,
24 did she indicate to you that there was a balancing
25 issue?

1 **A** There were a number of things that we
2 talked about. We did talk about a balancing issue.

3 **Q** All right. And what led up to this
4 incident was Ms. Cook out of balance?

5 **A** Yes.

6 **Q** And did Ms. Clevinger assist her in finding
7 that error?

8 **A** Yes.

9 **Q** What she found that error, what did Ms.
10 Freeman indicate to you happened?

11 **A** That when she turned around, Lydia was
12 shaking Robyn, her head was not shaking back and
13 forth in unison with her body and that she said
14 Lydia, stop, what you are doing. It look hurtful,
15 harmful. She related that --

16 **MR. PARKER:** I object to that. That is
17 not what the statement says and I object to it.
18 Did she tell you or did you look --

19 **MR. GRIFFITH:** Hold on. Hold on. It's
20 my turn.

21 **MR. PARKER:** Excuse me.

22 **THE COURT:** You've got an objection?

23 **MR. PARKER:** I object. She is going on
24 the basis of the statement. And what she's
25 testified to is not in the statement.

1 **BY MR. GRIFFITH:**

2 **Q** Did you have a conversation with her the
3 day before?

4 **A** On 5/31, I met with Suzanne Freeman face to
5 face along with Andree Lloyd.

6 **Q** And she gave the statement that we are
7 referring to on 6/1/2011?

8 **A** On 6/1, she put it in writing.

9 **Q** At that time, she indicated to you in your
10 conversation, Ms. Freeman asked Lydia what are you
11 doing, is that correct?

12 **A** Yes.

13 **Q** What did she say Ms. Freeman -- what did
14 Ms. Freeman write down?

15 **A** What she has got written here in her own
16 statement is Robyn came over to count her drawer and
17 found the money. Lydia grabbed Robyn from the side
18 and wrapped her arms around her and began shaking
19 her. When she was shaking her, she, Lydia was saying
20 thank you, thank you, thank you, thank you.

21 When I looked over and saw her shaking
22 Robyn, Robyn's head was going in the opposite
23 direction as her body. I said to Lydia what are you
24 doing. She just laughed and didn't say anything.
25 Robyn never said anything to Lydia. She just stood

1 there for a moment and then walked away. When she
2 shook her, it did not seem like a friendly shake or a
3 normal pat on the back that you would give someone.
4 It seemed very aggressive.

5 The next day I noticed that Robyn was not
6 turning her head. She seemed very stiff. I asked
7 her what she did. She asked me in her office. She
8 told me Lydia had hurt her the day before. She said
9 she had two knots, one on each side of her neck. Two
10 days later, she had a bruise in the back of each on
11 that look like a thumb print. That was Suzanne's
12 statement in writing.

13 **Q** All right. In your investigation, did Ms.
14 Lloyd ever tell you on May 30th or 31st when you
15 conducted the investigation that she did not believe
16 Ms. Clevinger?

17 **A** No, she did not.

18 **Q** Did Ms. Lloyd ever tell you that she did
19 not believe Ms. Freeman?

20 **A** No, not at all.

21 **Q** Did Ms. Cook admit that she touched Ms.
22 Clevinger?

23 **A** Yes, she did.

24 **Q** Did Ms. Freeman indicate that it was a hug
25 and a kiss?

1 **A** She indicated that it was a hurtful event,
2 that it was not just a hug and kiss. It was not
3 normal. Her perception was that it was intimidating
4 and that it was hurtful.

5 **Q** In your investigation, did you have to make
6 some observations and conclusions, is that correct?

7 **A** Yes, sir.

8 **Q** Was Ms. Cook's statement corroborated by
9 Ms. Freeman in any fashion?

10 **A** No.

11 **Q** Was it, in fact, inconsistent with Ms.
12 Freeman's statement?

13 **A** Yes, it was.

14 **Q** Did Ms. Cook indicate that it was a front
15 hug?

16 **A** Ms. Cook said it was front to front.

17 **Q** And a kiss?

18 **A** And a kiss on the cheek.

19 **Q** Did Ms. Freeman ever indicate that?

20 **A** No.

21 **Q** Did Ms. Clevinger, I think, reported that
22 it was side-by-side as if somebody was standing
23 behind you at the teller?

24 **A** She indicated it was side to side.

25 **Q** Did Ms. Freeman also indicate that it was

1 side to side?

2 **A** Yes.

3 **Q** Did you find anything consistent with Ms.
4 Cook's statement that did not occur in the manner
5 described by the witness, Ms. Freeman?

6 **A** Could you say that again?

7 **Q** Did you find anything consistent with Ms.
8 Cook's statement that was in the statement of Ms.
9 Freeman?

10 **A** No.

11 **Q** Does Regions Bank have any internal
12 workplace violence policy?

13 **A** Yes, we do.

14 **Q** Are you familiar with that policy?

15 **A** Yes, sir.

16 **Q** Are all employees supposed to be familiar
17 with it?

18 **A** Yes.

19 **Q** The investigation that we heard about in
20 Exhibit 1 about deceitful and she was forthright and
21 wanted a polygraph test, is that what Ms. Cook was
22 written up about on the 31st and that she signed off
23 on? Did you see that?

24 **A** The warning on the 31st?

25 **Q** Dealt with three incidents?

1 **A** It dealt with three incidents. It was
2 prepared by Andree Lloyd.

3 **Q** Was that one of the incidents that would be
4 investigated in Exhibit 1?

5 **A** I would have to see that. I know there was
6 some.

7 **Q** You have got Exhibit 1 there, correct? I
8 don't know that you have it up there. But for which
9 is already in evidence, is that the investigation
10 that led to Point 3 on the disciplinary form?

11 **A** The point was failure to complete assigned
12 duties and tasks in reviewing the 1000 or greater
13 report that was a separate responsibility of Lydia's
14 that she was not completing as assigned. She was
15 trained to do that. That was unrelated to the
16 outage.

17 **Q** Was that what this investigation was about,
18 Exhibit 1 that Mr. Parker asked you about?

19 **A** This investigation was about the vault
20 outage.

21 **Q** Exhibit 1 was about -- Exhibit 4 was about
22 the vault outage? I'm sorry. I want to make sure I
23 have got the record clear. You are looking at
24 Exhibit 4.

25 **A** Exhibit 4?

1 **Q** That's 4. I'm sorry.

2 **A** In Exhibit 4, she was being written up for
3 failure to secure bank funds, leaving her keys in her
4 drawer which is, you know, very important, failure to
5 maintain confidential customer information was the
6 second item. The third was failing to complete
7 assigned duties. That was the task of reviewing the
8 1000 or greater view report that was assigned to her
9 that she had been trained and she was not completing
10 it. That is not dealing with the outage.

11 **Q** Okay. Exhibit 1 that Mr. Parker referenced
12 about Cook's interview indicated no visual signs of
13 deception and she was forthright in her responses and
14 requested that she be given a polygraph test.

15 **A** That was in relation to the vault outage.

16 **Q** Okay. That was not in relation to the May
17 9, 2011 incident, was it?

18 **A** Correct.

19 **Q** Thank you.

20 **THE COURT:** Redirect?

21 **MR. PARKER:** Yes, sir. Just a few
22 questions.

23 **REDIRECT EXAMINATION**

24 **BY MR. PARKER:**

25 **Q** What exhibit was Ms. Freeman's statement?

1 You have got it up there.

2 **MR. GRIFFITH:** Three.

3 **BY MR. PARKER:**

4 **Q** Three? Defendant's Exhibit 3.

5 **A** Suzanne Freeman's statement?

6 **Q** Yes. You said there was nothing consistent
7 with Ms. Cook's statement. That is not correct, is
8 it?

9 **A** Cook said that it was frontal. Suzanne
10 said it was side to side.

11 **Q** Correct. But she also said, Ms. Cook said
12 thank you, thank you, thank you. Correct?

13 **A** Cook told me that she said thank you, thank
14 you, thank you.

15 **Q** That's what everybody does when they are
16 assaulting somebody or engaged in workplace violence,
17 they say thank you, thank you, thank you as they are
18 aggressively and violently assaulting? Is that
19 normal conduct to you?

20 **A** I think you are taking that out of context
21 or twisting that. She explained to me that she was
22 hugging her and saying thank you. And the hug from
23 the perception of Robyn Clevinger and from the
24 witness who saw that was that it was a shaking side
25 to side and even though she was saying thank you and

1 kissing her on the cheek that the actual shaking was
2 more.

3 Q What I am asking you is is that consistent.
4 You said that there was nothing corroborating Lydia's
5 view of this. The fact that she was thanking her
6 does corroborate Lydia's testimony and her statement,
7 isn't that correct?

8 A The two thank you's were shared by both
9 Suzanne and by Lydia. I wasn't trying to not state
10 that correctly. I just wasn't trying to pull --

11 Q There are other things in here that doesn't
12 corroborate Ms. Clevinger.

13 A What specifically?

14 Q The fact that Ms. Clevinger said that the
15 bruises, she took pictures of those bruises that
16 night, isn't that correct? Isn't that what she told
17 you?

18 A I believe the bruises were -- I believe my
19 understanding was the bruises were there initially.
20 Suzanne's statement talks about two days later.

21 Q Actually, she wrote and had put in there
22 two days later, isn't that correct, then she struck
23 it out, correct?

24 A I wasn't there when she prepared this
25 statement.

1 **Q** You did not instruct her to strike through
2 a few days later and put in two days later?

3 **A** I did not talk to Suzanne when she was
4 writing this statement. I gave Andree Lloyd
5 instruction to obtain a written statement and to make
6 sure that she was specific. Andree Lloyd went back
7 to her to have her strikethrough anything. I did not
8 tell Suzanne what to say in her statement. I had
9 nothing to do with her writing the statement other
10 than I directed a written statement was necessary.

11 **Q** Her first statement was these bruises, I
12 saw them a few days later or even two days later is
13 very inconsistent with what Ms. Clevinger said, isn't
14 that correct?

15 **A** I understood the bruises to be there the
16 next day.

17 **Q** And you understood that from Ms. Clevinger?

18 **A** Yes, I did.

19 **Q** Ms. Freeman testified that in this
20 statement adverse to that they weren't there.

21 **A** When she talked to me on 5/31, I believe
22 she referenced those bruises that day. I believe on
23 5/31, she talked to me about the bruises. I don't
24 recall anything she told me in 5/31 about them being
25 a few days later. In her statement, she does have a

1 few days later.

2 Q That is inconsistent with Ms. Clevinger?

3 A Ms. Clevinger indicated that they were
4 there the next day. Suzanne, in talking to me
5 verbally, I believe she indicated to me that they
6 were there the next day. Her statement is
7 inconsistent with the next day. In her statement,
8 she wrote a few days. I am not about to go to
9 somebody to ask them to change a statement.

10 Q You would never do that, correct?

11 A I'm not going to go to someone to say
12 something I want to say. This is their statement.
13 This is their opportunity.

14 Q Let me ask you one other thing. The outage
15 we talked about, just to be clear, the outage we
16 talked about was \$2000 that was short in the vault
17 that caused all of this to come forward, is that
18 correct?

19 A That caused what to come forward?

20 Q The investigation about the outage. There
21 was a \$2000 shortage, correct?

22 A I had an ongoing investigation that was
23 related to the shaking contact. You then had an
24 outage that corporate security got involved in in
25 investigating the outage. There was an investigation

1 also regarding an outage.

2 Q The money was found in Suzanne Freeman's
3 station, is that correct?

4 A Suzanne Freeman's drawer was found to be
5 over -- found to be over by \$1960.

6 MR. PARKER: Nothing further.

7 THE COURT: Anything?

8 MR. GRIFFITH: No, sir, Your Honor, I
9 have nothing further.

10 THE COURT: Thank you, ma'am. You may
11 step down.

12 Is it a good time for lunch?

13 MR. PARKER: It is a good time.

14 THE COURT: All right. Ladies and
15 Gentlemen, let's take lunch until 1:30. I will
16 ask you to be back in your jury room at 1:30.
17 Don't let anybody talk to you about the case.
18 You don't talk about the case. See you at 1:30.

19 (WHEREUPON, the jury exits at approximately
20 12:24 p.m.)

21 THE COURT: We will be in recess until
22 1:30.

23 (WHEREUPON, a lunch recess is taken.)

24 THE COURT: Are you ready?

25 MR. PARKER: We are ready, yes, sir.

1 **THE COURT:** Is the defense ready?

2 **MR. TILLER:** Yes, sir.

3 **(WHEREUPON,** the jury enters at approximately
4 1:36 p.m.)

5 **THE COURT:** Welcome back, Ladies and
6 Gentlemen. I believe we are ready to resume
7 with the presentation of evidence by the
8 plaintiff.

9 Mr. Parker?

10 **MR. PARKER:** The plaintiff will call Mr.
11 Mike Cook.

12 **MICHAEL COOK**

13 having first been duly sworn, testifies as follows:

14 **DIRECT EXAMINATION**

15 **BY MR. PARKER:**

16 **Q** Please state your full name.

17 **A** Michael Andrew Cook.

18 **Q** Mr. Cook, you live in Varnville?

19 **A** Yes, I do.

20 **Q** You grew up in Varnville?

21 **A** Yes, I did.

22 **Q** Tell us something about your family, who
23 your mother and father were, brothers and sisters.

24 **A** My father was Louis Cook. My mom was Ruby
25 Cook. She worked at the hospital in Hampton. I have

1 got a brother, Cookie Cook, Mary C. Cook and a
2 brother named Billy who was a half-brother. Then, of
3 course, Larry Cook. He was a regular guy from
4 Varnville who stood at the railroad track. Then,
5 Chris Cook.

6 Q Your aunts and uncles are in the community?

7 A Yeah. Wilbur Cook, Ellie Cook, Bobby Cope,
8 uh, Dodd Cope, Greg Cook, uh, Greg Cook.

9 Q Your family --

10 A All of my family is from here.

11 Q And you married Lydia when?

12 A March 25, 1973.

13 Q You did good.

14 A Uh-huh.

15 Q And you been married a long time?

16 A 40 years.

17 Q Did y'all have children?

18 A We had one. He is Michael Andrew Cook. He
19 is married and lives in Denver Colorado and has two
20 kids.

21 Q I believe your wife testified that you
22 worked at the railroad for a while?

23 A I worked for the Hampton and Branchville
24 railroad here in Hampton. Then I work for the
25 Florida East Coast Railway in Florida, West Palm

1 Beach and Jacksonville.

2 Q Then you moved to Colorado?

3 A Moved to Colorado. I worked for the test
4 center. It was similar to working for the railroad
5 testing trains and stuff. I was a conductor out
6 there.

7 Q Then you -- when was your son born?

8 A My son was born 9/22/75.

9 Q So he is 30 --

10 A Nine.

11 Q 39?

12 A 38.

13 Q And what does he do?

14 A He works for a finance company, insurance
15 and stuff like that.

16 Q And I believe you told me about the fact
17 that he has come up with some recipe for barbecue?

18 A Yes, he makes his own barbecue sauce. He
19 got it from me, some of it.

20 Q You taught him how?

21 A Yes. You know barbecue started in South
22 Carolina. A lot of people don't know that.

23 Q It might have started in Hampton. You
24 lived in Colorado for a number of years?

25 A Right.

1 Q And what did you do?

2 A I worked for GMAC finance company for 24
3 years.

4 Q While you were doing that, Lydia was doing
5 what?

6 A Working at the bank.

7 Q Did she like her job?

8 A She loved her job.

9 Q And she did that for many years after that?

10 A Oh, yes.

11 Q And then y'all decided to come back to
12 Hampton at some point in time?

13 A Yeah. We both had jobs. She was working
14 for a credit union. I had a job too and decided to
15 come back because my mother was really sick and
16 somebody needed to take care of my mother and my two
17 brothers.

18 Q Your two brothers, where are they now?

19 A Chris is in a nursing home in Richland.
20 Larry is in a home in Varnville.

21 Q You see Larry regularly?

22 A I do. I went to Hardeeville at Coastal
23 Carolina. My brother is having an operation on his
24 stomach, colon.

25 Q And both of your brothers, they have been,

1 needed help at home all of their lives so they pretty
2 much stayed with your mother?

3 **A** Yeah, they are physically and mentally not
4 able to take care of their selves. Larry or Chris
5 never dated anybody or never had a girlfriend or
6 nothing like that. Chris is a lover.

7 **Q** Larry is the train man?

8 **A** . Larry is the railroad man in Varnville.

9 **Q** If you want to know something about a
10 train --

11 **A** Larry can tell you. I work for the
12 railroad.

13 **Q** That might be why he started.

14 **A** Yeah.

15 **Q** Y'all came back here to be with your
16 mother. What, did she have cancer?

17 **A** She had cancer.

18 **Q** Did y'all move in her house with her?

19 **A** Yes, we did. My wife took care of her.

20 **Q** Then Lydia got a job back in banking at
21 Regions here?

22 **A** Yes, that is correct.

23 **Q** After she got that job, everything went
24 well for a while?

25 **A** Yes, it did.

1 **Q** And I think you worked where?

2 **A** I started off in Allendale at the prison,
3 SCDC. I worked in transportation hauling the inmates
4 to court and to the hospitals and stuff like that.
5 That is all that I did, transportation.

6 **Q** After that?

7 **A** I transferred from Allendale to Richland.
8 The reason I did that is because I wanted to be close
9 to Chris. I can see him every day.

10 **Q** At the nursing home?

11 **A** At the nursing home in Richland.

12 **Q** And you are retired?

13 **A** I am retired from both GMAC and SCDC.

14 **Q** And when did you retire?

15 **A** Actually, November.

16 **Q** Lydia, I want to go back to the following
17 spring of 2011, do you recall that there was an
18 incident at work with Lydia?

19 **A** Yes.

20 **Q** And what do you recall about that?

21 **A** She came home one day and said that she was
22 put on leave because of hugging someone. I said
23 hugging somebody? I cannot believe it. I was in
24 shock more than she was. She can't hurt anybody.
25 Hugging somebody is unbelievable.

1 Q She was on leave for a while?

2 A Yes, without pay.

3 Q Then they put her on pay?

4 A Right.

5 Q Then she was terminated?

6 A Terminated.

7 Q What impact did that have on her?

8 A Great deal. Very depressed. Didn't want
9 to go anywhere. Didn't want to talk to anybody.
10 Didn't want to see anybody about anything. Very
11 depressing. She didn't want to go anywhere. Most of
12 the time we would go to Savanna, sometimes Charleston
13 and go out and eat. She did not want to do nothing.
14 She just wanted to stay-at-home and was just really
15 depressed really bad.

16 Q Did she tell you who had made these false
17 accusations against her?

18 A She did.

19 Q Was that Ms. Clevinger?

20 A Yes.

21 Q After these were made, did it cause her to
22 become consumed somewhat with all of this?

23 A It was bad. I have been married to her 40
24 years. I have never seen her like this. We were
25 high school sweethearts to start off with.

1 **Q** You robbed the cradle?

2 **A** Huh?

3 **Q** You robbed the cradle?

4 **A** I did.

5 **Q** I think she said she was in high school
6 when you got married.

7 **A** She was. I had just graduated I was living
8 in Florida. She was a senior. I was gone for about
9 two months.

10 **Q** It worked out pretty good if y'all made it
11 40 years.

12 **A** It did.

13 **Q** She continued like this for a long time, in
14 the state of depression and being concerned about it?

15 **A** Yes, she did.

16 **Q** After she was terminated, did she try to
17 find jobs?

18 **A** She did. She went all over Hampton calling
19 people and going places, Allendale, all through
20 Hampton, Estill, you name it, she went through it.

21 **Q** Were you aware that she was seeing Dr.
22 Welcker because of these issues also?

23 **A** Yes.

24 **Q** You heard the testimony of Dr. Welcker
25 about Lydia's hands?

1 **A** Yes.

2 **Q** How long has she been having problems with
3 her hands?

4 **A** About six years, maybe seven.

5 **Q** When did those knots come up on her hands?

6 **A** I would say about five years ago.

7 **Q** Did you have knowledge of the strength of
8 her hands as well in May of '11?

9 **A** Yes.

10 **Q** Would you describe what kind of strength
11 she had?

12 **A** Like a two-year-old boy touching you or
13 something or a small baby touching you. No strength
14 at all.

15 **Q** Do you have to do anything to help her
16 because of that? Back in '11, did you have to do
17 anything to help her with that?

18 **A** We had plenty of things at the house. She
19 cannot open a jar of ketchup or anything. I had to
20 do everything. She cannot lift anything. Like
21 Clorox, she could not lift the bottle up. At
22 nighttime, we would be going to bed and she would be
23 up cramping up her legs and stuff and just screaming
24 at night.

25 **Q** And the hand part of it, could she squeeze

1 your arm enough to bruise it or anyone's?

2 A No way. No.

3 Q After she tried for a long time to get a
4 job, did she eventually get on?

5 A She did.

6 Q Did that help the situation?

7 A It went a little bit better, yes, but she
8 was still depressed. She had been banking for 30
9 years.

10 Q Then, eventually she got a job at the
11 prison?

12 A Yes.

13 Q Were you working there at that time?

14 A Yes.

15 Q And --

16 A But I wasn't working in Allendale. I was
17 working in Richland.

18 Q So y'all could not ride together?

19 A Right.

20 Q So she did eventually get a job up there.
21 She got the job up there and this depression related
22 to what happened to her at Regions Bank, did it
23 improve?

24 A No, not really. Still been depressed a
25 lot. Still rough. It is a little bit better but not

1 much. She always wanted to work -- like the doctor
2 said earlier, she could have gotten on disability but
3 she wants to work until her time is up, 65, 67. She
4 has always worked all of her life.

5 Q Answer any questions these gentlemen may
6 have for you.

7 MR. TILLER: No questions from Regions
8 Bank, Your Honor.

9 CROSS EXAMINATION

10 BY MR. GRIFFITH:

11 Q Mr. Cook, you mentioned about Dr. Welcker,
12 he discussed early retirement with Ms. Cook. Did you
13 also discuss early retirement with her?

14 A Who? My wife?

15 Q Yes, sir.

16 A No. Huh-uh.

17 Q Did you know she was talking about early
18 retirement with Dr. Welcker?

19 A No.

20 Q That was sort of the first you heard of
21 that yesterday?

22 A Huh?

23 Q The first you heard of that yesterday?

24 A About early retirement?

25 Q Yes, sir.

1 **THE COURT:** Thank you, sir. You may step
2 down.

3 **MR. PARKER:** I would like to call Ms.
4 Libby Priester.

5 **ELIZABETH PRIESTER**
6 having first been duly sworn, testifies as follows:

7 **DIRECT EXAMINATION**

8 **BY MR. PARKER:**

9 **Q** State your full name please.

10 **A** Elizabeth Stanley Priester.

11 **Q** Ms. Priester, Lydia is your twin sister?

12 **A** Yes, sir.

13 **Q** You have been together for a lot of years,
14 I guess?

15 **A** Yes, sir.

16 **Q** I have always heard what it is like to be
17 an identical twin. How about tell us a little bit
18 about that.

19 **A** Identical twins, you love all of your
20 siblings, but it is a difference. It is almost like
21 you feel what she feels. She has a health issue.
22 She had a cornea implant. Later, I had to have it.
23 It's just that I can call her at night and is like I
24 knew something was wrong. I could tell when I talked
25 to her that something was bothering her. I could say

1 Lydia, what is going on, something is wrong. I could
2 feel it.

3 Q You know what the answer is going to be to
4 the question before you hear it?

5 A Yes, sir.

6 Q After Lydia came back here and went to work
7 for Regions, she got the job there?

8 A Yes, sir.

9 Q For a period of time, was she happy on her
10 job there?

11 A She was glad to have the job, yes, sir.

12 Q You recall when this thing happened about
13 Ms. Clevinger accusing her of assaulting her or
14 hurting her in some way?

15 A The first time that I heard about it was
16 the day she was put on administrative leave.

17 Q Had you heard anything about that?

18 A No, sir.

19 Q And you and Lydia discussed essentially
20 everything?

21 A Yeah. We always talked. Just about every
22 night, we check in on each other.

23 Q You had not heard anything about this?

24 A No, sir. Never.

25 Q What was Lydia's response to these

1 accusations that were made?

2 **A** She was in shock. I was to. She was just
3 devastated. She just couldn't believe it. I still
4 can't believe what she is being accused of.

5 **Q** During the period of time, she was on
6 administrative leave for a while and then terminated?

7 **A** Yes.

8 **Q** What effect did the termination have on
9 her?

10 **A** She was very depressed. She was withdrawn.
11 She would cry all the time. She did not want to be
12 around anybody. I will call her at night and Mike
13 would answer the phone and she didn't want to talk.
14 Times that she didn't want to talk, I would see about
15 her. It was like I was feeling a lot of it too. In
16 fact, I had a lot of problems that summer with my
17 stomach. I spent a lot of money with specialists
18 trying to figure out what was wrong with my stomach.
19 It was my nerves.

20 **Q** In so far as Ms. Clevinger's statement as
21 to what she did, like you say, you see her every day,
22 you observe her every day. Could she possibly have
23 done that given the restraint in our hands?

24 **A** No.

25 **MR. GRIFFITH:** Your Honor, I'm going to

1 object to that. I don't believe she has the
2 qualifications to give that testimony. You have
3 heard from Dr. Welcker.

4 **THE WITNESS:** I'm not a doctor but --

5 **THE COURT:** Hold on just one minute.

6 **MR. PARKER:** The judge has got to rule on
7 the objection.

8 **THE WITNESS:** Okay. Yes, sir.

9 **THE COURT:** You want to be heard on it?

10 **MR. PARKER:** No, sir. I will rephrase
11 the question.

12 **THE COURT:** Okay.

13 **BY MR. PARKER:**

14 **Q** Describe the restraints she has in her
15 hands.

16 **A** She just doesn't have a whole lot.

17 **Q** How about your hand? You have any trouble
18 on yours?

19 **A** Well, to tell you the truth, yes, I do.

20 **Q** You have any nodules on yours?

21 **A** Yes, sir. I am having a problem right now.

22 **Q** Same place that she does?

23 **A** Yes, sir. Just like what Dr. Welcker was
24 saying yesterday, I'm sitting there thinking it is
25 coming for me and it is already starting. I can show

1 you one place on my finger right now.

2 Q During that period of time when she was on
3 administrative leave, was she very distraught?

4 A Yes, sir.

5 Q After she was terminated, were you aware of
6 her efforts to find work?

7 A Yes, sir. We talked. I will tell her to
8 go here and to go there. Everywhere she went, no
9 luck.

10 Q You are aware that she went to work for
11 Ellis?

12 A Yes, sir.

13 Q Did she like that job?

14 A She was glad to have the job but her love
15 was banking. That is her career.

16 Q Eventually, the other job was temporary.
17 The temporary job ended. Were you aware of her
18 efforts to find employment again?

19 A Yes, sir.

20 Q Could she find employment?

21 A No, sir. Not for a long time. It was very
22 difficult.

23 Q Did she eventually go to work at the
24 Allendale Corrections?

25 A She went to work for South Carolina

1 Department of Corrections, yes.

2 Q Y'all ride to work together?

3 A Every day.

4 Q How long have you worked there?

5 A Almost 22 years.

6 Q What is your job?

7 A I'm the commissary manager now.

8 Q Commissary, what is commissary?

9 A I actually do all the ordering for the
10 institution as far as janitorial, chemicals,
11 supervise inmates, supervise staff. I am over all
12 the barbershops. I'm just a little well-rounded.

13 Q You are in charge of the supplies and
14 things?

15 A Yes, sir. I order mostly to make sure we
16 have enough to keep the institution going for a month
17 plus other duties.

18 Q Lydia has been on the job how long?

19 A Probably about a year and a half.

20 Q Y'all glad to be able to ride together?

21 A Oh yes, sir. It gives us time to be with
22 one another and talk about things that occurs at
23 work, sometimes think that I can help her with
24 because I am so knowledgeable of her job.

25 Q I think that she testified about you are

1 going to school together at John De La Howe?

2 **A** Yes, sir.

3 **Q** How old were you when you went there?

4 **A** Seven because we started the second grade.

5 **Q** This is a boarding school?

6 **A** It is a home for children. It was not a
7 reformatory school then. It was for children, some
8 of the children did not have anywhere to go. Some of
9 the children were there because their parents were
10 divorced and things just didn't work in the home. My
11 mother and father were separated and I just don't
12 think she could work and take care of us. As a
13 result of that, she had five little children and we
14 were all like little doorsteps. To keep us all
15 together, I think that is why mom placed us at John
16 De La Howe.

17 **Q** And you went all through school to the 10th
18 grade?

19 **A** To the 10th grade, yes, sir.

20 **Q** After this thing happened to Lydia,
21 described for us what emotional problems this is
22 caused her that you are aware of.

23 **A** Well, there again, banking is her love.
24 She still talks about how much she misses working in
25 the bank. She has done very well with her job at the

1 prison. She is used to being around a different
2 clientele than working in the prison. I have to tell
3 you this, I went to work for the prison when I was 32
4 years old. I can kind of say I kind of grew up
5 there. Lydia, her whole life has been banking,
6 working with a different type of people. I know that
7 there is not a time in her job when she has to go out
8 onto the yard that she is scared. That is a bad
9 feeling. If I tell you that with my job that I was
10 scared some time, I would be telling the truth.

11 It is not a good feeling when you walk into
12 that prison. Every morning, I pray. I put my armor
13 on. Lord, let us all go home, get in and get out safe
14 because you never know what is going to happen. For
15 a person like her, that's never worked in that type
16 of environment, can you imagine going to prison at 58
17 years old, being around all of this? It is a big
18 difference.

19 Q I am a little older and I don't want to go
20 to prison either.

21 A Let me tell you, it is like you were locked
22 up eight hours a day and you get to go home at night
23 and come back. That is what it boils down to. You
24 keep your guard up all the time. You have got to
25 think security.

1 **Q** That's a lot better than not having a job
2 though, isn't it?

3 **A** Yes, sir, it is. She is grateful for her
4 job. Very grateful. We talk about that a lot going
5 home in the afternoon.

6 **Q** Is she still grossly upset about the
7 accusations that were made against her?

8 **A** Very much. She just do can't believe it.

9 **MR. PARKER:** Answer any questions that
10 either of these gentlemen may have.

11 **MR. TILLER:** No questions, Your Honor.

12 **MR. GRIFFITH:** No questions, Your Honor.

13 **THE COURT:** Thank you, ma'am. You may
14 step down.

15 **MR. PARKER:** Your Honor, at this time, we
16 would like to offer into evidence exhibits 35,
17 38, 43.2 --

18 **MR. TILLER:** 35 and 38.

19 **MR. PARKER:** 43.2, 43.3, 43.4, 44.1 --
20 excuse me. I'm going to withdraw 44.1.

21 **MR. TILLER:** Not 44.1?

22 **MR. PARKER:** No. 35, 38, 43.2, 43.4,
23 44.2, 44.4 and that's it.

24 **MR. TILLER:** I think there were previous
25 objections to most all of those, Your Honor. I

1 argument of both sides. I continue to find that
2 this is collateral impeachment and is not
3 relevant and will deny the motions to admit
4 those three incident reports into evidence.

5 **MR. PARKER:** Your Honor, we would like to
6 put these as a court exhibit.

7 **(WHEREUPON, Court Exhibit Number 6 is marked for**
8 **identification.)**

9 **THE COURT:** Which leads us where?

10 **MR. PARKER:** Your Honor, I am making sure
11 I have not forgotten anything. I think we're
12 going to rest. The plaintiff rests.

13 **THE COURT:** The plaintiff rests.
14 Anything from the defense?

15 **MR. TILLER:** Yes, sir. Your Honor, at
16 this time, defendant Regions Bank would move for
17 directed verdict in the case. First and
18 foremost, we have pled, as a defense of the
19 case, truth. I think it is very important for
20 the court to understand that the truth defense
21 is relating to not whether, in fact, the
22 statement made by Ms. Clevinger was true or
23 false, it is whether the statement was perceived
24 to be workplace violence. Questions to Ms.
25 Clevinger, the questions to Ms. Johnson all

1 verify. There has not been any testimony in the
2 record at all that would indicate that these two
3 ladies, Ms. Freeman and Ms. Clevinger, did not
4 perceive this event to be aggressive.

5 **THE COURT:** Okay.

6 **MR. TILLER:** There has been no testimony
7 in the record that it didn't occur. The truth
8 of the matter is that the plaintiff has
9 presented no evidence to refute what is required
10 under the law in terms of the truth. Again, it
11 is not whether the statement was made or whether
12 it was true or false, it is what the perception
13 by those who experienced it.

14 If Your Honor believes that is a jury
15 issue, we move further on the basis that the
16 plaintiff has not proved any publication of a
17 defamatory statement. The only evidence in the
18 record is that after this event occurred on May
19 9th, which is agreed upon by all who have
20 testify so far did, in fact, occur, that on May
21 10th, Ms. Clevinger reported that to a lady by
22 the name of Barbara Simpkins. The testimony in
23 the record was that she is an HR official who
24 reports directly to Ms. Johnson.

25 The next comment made by Ms. Clevinger --

1 again, as Your Honor has indicated, you have
2 read the complaint in this case. The allegation
3 is that a statement made by Ms. Clevinger was
4 defamatory on the 9th, May 10th, excuse me. The
5 only other statement made by Ms. Clevinger was
6 the statement that she testified to, that Ms.
7 Lloyd testified to that occurred on May 26th at
8 a meeting in Charleston. That is when her
9 direct supervisor, Ms. Lloyd inquired directly
10 of her as to why are you appearing the way you
11 are, you appear to be stiff or whatever. Ms.
12 Clevinger say can we have a moment in private.

13 They had a private meeting, the two of them
14 where Ms. Clevinger apprised her direct
15 supervisor -- and understand that Ms. Lloyd was
16 over a number of branches which included this
17 Hampton branch. The only testimony in the
18 record that relate to statements made by Ms.
19 Clevinger were the HR department, Ms. Simpkins,
20 and then directly to Andree Lloyd, her
21 supervisor. So HR, proper channel. Operations
22 boss, proper channel. Then the investigation
23 ensues which was handled by Ms. Johnson who
24 necessarily had to interview Ms. Clevinger about
25 it.

1 As such, Your Honor, there is no
2 publication of a defamatory statement to a
3 third-party. The HR department and the
4 operations people are not a third party for
5 purposes of publication of defamation. If that
6 is defamation, Your Honor, no employee at any
7 institution, workplace or what have you could
8 file or make a complaint about another employee
9 without fear of facing the defamation claim.
10 Understanding that is it is false, we're talking
11 about a different thing. If this is defamation,
12 it is new grounds to me.

13 Lastly, Your Honor, if Your Honor were to
14 believe that there was some evidence in the
15 record that there has been a publication, we
16 believe that a privilege would apply to that.
17 You have heard testimony from Ms. Johnson about
18 the Regions Bank policies. If necessary, in the
19 defense case, we would actually put the policy
20 into evidence. I think you have heard plenty
21 about it.

22 It basically says that an employee, such as
23 Ms. Clevinger has a duty to and must report any
24 incident or occurrence that the employee
25 perceives to be threatening. Perceives to be

1 workplace violence type issue. There is a list
2 of things in there.

3 My point is this, Ms. Clevinger has this
4 event. Ms. Freeman witnesses it. She has got a
5 duty to report it. The people she reported it
6 to were only the people in her chain of command
7 such that there is no way that there was an
8 abuse of the privilege. Who else is she going
9 to report it to?

10 We were very careful in examining the
11 witnesses in this case, Judge. There is no
12 testimony in the record here today that any
13 citizen in the Hampton County area or anyone
14 else ever heard about this incident from anyone
15 from Regions Bank. We are back to the
16 publication. The only people that were ever
17 told anything about this case outside of what
18 you heard about is information that Ms. Cook
19 herself would have given to others, including
20 her sister, her husband and perhaps some of
21 these folks in town that may or may not have
22 been customers of Regions.

23 So, uh, with all due respect, Judge, we
24 don't believe this is a defamation case. We
25 heard mainly testimony about a wrongful

1 termination. Once we go back and look at the
2 bare bones of the complaint and it refers to
3 what statements were made by Ms. Clevinger, we
4 have got one cause of action for defamation. We
5 simply don't think the plaintiff has met her
6 burden of proof.

7 Secondly, Your Honor, if you want to hear
8 everything as we go, we would likewise, assuming
9 that Your Honor would not concur with my
10 position, which I would hope that you would, we
11 would also ask that the court grant a directed
12 verdict as to Regions Bank on the issue of
13 punitive damages. There is absolutely no
14 evidence of any reckless, willful or wanton
15 conduct as it relates to the statutory
16 requirement under our code that requires clear
17 and convincing evidence. I just simply don't
18 see how anything that Ms. Clevinger did that
19 would show that there was anything that would
20 rise to the level of being reckless, willful and
21 wanton.

22 **THE COURT:** All right.

23 **MR. TILLER:** Thank you, Your Honor.

24 **THE COURT:** Thank you, Mr. Tiller.

25 **MR. GRIFFITH:** Your Honor, the defendant

1 Robyn Clevinger would also move for directed
2 verdict on the grounds that the evidence taken
3 in the light most favorable to the plaintiff in
4 this matter failed to show that there was any
5 false statement published. There is no -- as
6 Mr. Tiller said, there is no evidence in this
7 record as to what Ms. Clevinger perceived. That
8 is what is necessary in this case as a
9 termination under workplace violence. She
10 perceived this to be aggressive.

11 As such, it is no dispute that there was a
12 touching event. It is not disputed by anyone.
13 Ms. Johnson's testimony was clear that she
14 talked to everyone, everyone admitted to it.
15 Mr. Cook admitted there was some touching.
16 There is a difference of opinion granted as to
17 what type of touching. The event took place and
18 then the question becomes a perception as to
19 whether the defendant, or at least Ms. Clevinger
20 in this case, perceived it to be aggressive or
21 in violation of the policy.

22 Secondly, Your Honor, with regards to
23 publication, everybody testified that they
24 understood the chain of authority. If you had a
25 personnel issue, you had to report it to your

1 supervisor and maybe to HR. In this case, the
2 testimony was that Ms. Clevinger first called
3 Barbara Simpkins the following day. She told
4 her of an incident. Thereafter, she was seen by
5 her manager at a managers' meeting in Charleston
6 where the manager asked why are you stiff. They
7 went into a private area and spoke so that no
8 one, there is no evidence that anyone else had
9 heard that.

10 Finally, Ms. Johnson was informed about it
11 who was the head of Human Resources for Regions
12 Bank. She investigated it. They had gone
13 basically up the chain of command as is
14 required.

15 There was no publication at all to a third
16 party. This is clearly within today's
17 environment, if you perceive something, you have
18 to report it to either your supervisor or to HR,
19 Human Resources or both. That is what was done.

20 Finally, Judge, with regards to
21 publication, obviously, we believe that there
22 was no publication. The publication was
23 qualified in this case. Because that is what
24 you do. You report it to your Human Resources
25 and your supervisor in this case. She did not

1 go talking about it to anybody else in the bank.
2 She did not go outside the chain of command.
3 She did not go to another teller. She went
4 straight up the line where she was supposed to
5 go. As such, that is what she was required to
6 do under the policies. I believe that as such,
7 her privilege would be qualified in that she
8 went to the proper chain of command. There was
9 no publication and the publication, if it was
10 within the bank, it was a qualified privilege.

11 I also at this time would move for a
12 directed verdict on punitive damages as to Ms.
13 Clevinger. Certainly, there has been no
14 evidence of any of the elements under the Gamble
15 factors that relate to Ms. Clevinger obviously
16 with regards to her ability to pay, they have
17 not put up anything there. They have not put up
18 that she had any other workplace violence
19 incidents. I don't believe that they would be
20 entitled to an issue of punitive damages or a
21 clear and convincing standard as to Ms.
22 Clevinger.

23 **THE COURT:** All right. Thank you, Mr.
24 Griffith.

25 **MR. TILLER:** Your Honor, I know I've had

1 my turn. I will be happy to hand up to the
2 court a memorandum of law we submitted to the
3 court on these issues on summary judgment. It
4 outlines the case we talk about, exactly what we
5 talked about on the publication issue and
6 privilege issue.

7 **THE COURT:** I have not seen it. It may
8 be in the court's file. Buried in here
9 somewhere. I will be glad --

10 **MR. TILLER:** I just offer that for
11 information purposes if you would like to see
12 it.

13 **THE COURT:** I will be glad to look at
14 your memo.

15 And Mr. Parker?

16 **MR. PARKER:** Thank you, Your Honor. Both
17 Mr. Tiller and Mr. Griffith on behalf of their
18 clients, I believe, are creating a new
19 requirement under the law. That is that a
20 publication has to take place to some, as they
21 term, a third-party. That is something not the
22 law. The law is you have to have publication.
23 We have proved several publications. We have
24 proved the publication to Andree Lloyd. We have
25 proved the publication to Holly Johnson. We

1 have proved publication, apparently, to Patty
2 Austin. We have proved publication to Ms.
3 Clevinger's husband, Greg Valentine. There is
4 all evidence of those publications in the
5 record. There is no requirement of publication
6 to a third party. It simply has to be a
7 publication. They can then raise the defense of
8 qualified privilege which states when you --
9 qualified privilege arises when one has an
10 interest in the subject matter of communication
11 and the person or persons with whom it is made
12 have a corresponding interest. Every
13 communication honestly made in order to protect
14 such common interest is privileged by reason of
15 the occasion.

16 This is Bell versus Bank of Abbeville. It
17 is very similar to this case in which the
18 publication was through the bank or within it.
19 The court there -- the question was whether or
20 not it was honestly made. If Ms. Clevinger was
21 telling the truth, and it wasn't false that she
22 was honestly doing it and she had not made it
23 up, they have got truth as a defense, then we
24 will lose the case.

25 Clearly, in looking at the evidence in the

1 light most favorable to Ms. Cook, you have to
2 take what she has said about Ms. Cook is, in
3 fact, false and, in fact, because there is
4 evidence of the falsity of her statements and
5 certainly a directed verdict would not be
6 appropriate.

7 I would also at this time, we had
8 stipulated as to the net worth of Regions Bank
9 previously. I want to put it in the record at
10 this point in time.

11 **MR. TILLER:** I thought the plaintiff has
12 already rested.

13 **MR. PARKER:** We have not rested. We said
14 we thought we had.

15 **THE COURT:** Any additional argument on
16 this, on the plaintiff introducing evidence of
17 net worth of Regions Bank?

18 **MR. TILLER:** None other than what I just
19 said, Your Honor.

20 **THE COURT:** Then I'll let the plaintiff
21 reopen for that limited purpose.

22 **MR. PARKER:** Thank you, Your Honor. When
23 the jury gets back, we will read the stipulation
24 to the jury.

25 **(WHEREUPON, there is a pause.)**

1 **THE COURT:** Let me make sure I understand
2 something before I hear the reply argument here.
3 Plaintiff's position is that publication, the
4 issue of publication, I can resolve by looking
5 at the Bank of Abbeville?

6 **MR. PARKER:** Yes, Your Honor. That is
7 approximately the same issue. The publication,
8 they contended that there is no publication.
9 There has to be a third party. I have been
10 extensively involved. I know of no case that
11 says that in South Carolina. If it does, I
12 would like to see it.

13 **THE COURT:** All right. So let's assume
14 you are right. I have not looked at Abbeville.

15 **MR. PARKER:** We think that Bell versus
16 Abbeville controls. You have this in your
17 notebook.

18 **THE COURT:** Okay. If it does, that takes
19 us to the issue of qualified privilege. Did you
20 tell me that the Bank of Abbeville also dealt
21 with qualified privilege?

22 **MR. PARKER:** It deals with a similar
23 situation. There was clearly a publication
24 under the case. It has been in this case. They
25 are trying to impose a new requirement under the

1 law as I know it. I can be corrected on this.
2 It says you can make false statements to public
3 employees and those false statements can't be
4 subject to defamation.

5 **THE COURT:** All right. But help me with
6 the argument that they are making about
7 qualified privilege that they say exist.

8 **MR. PARKER:** The Bell case says you have
9 a qualified privilege to tell people things
10 within a bank. This would be a qualified
11 privilege. Ms. Clevinger did not make this up.
12 In other words, if she said it honestly, then
13 they would have a privilege. It is for the jury
14 to determine as to whether or not she honestly
15 made this statement. And that is what Bell
16 holds.

17 **THE COURT:** Mr. Tiller.

18 **MR. TILLER:** Again, Your Honor, the issue
19 is whether she honestly perceived it to be
20 violent or aggressive, not whether she made the
21 statement. If you read Bank of Abbeville, Your
22 Honor, which is getting ready to have its 70th
23 birthday, it is a pretty old case that lends
24 both publication and privilege together. There
25 is a case out of the Fourth Circuit that says

1 South Carolina belongs to a group of authorities
2 that adhere to the view that communication
3 between employees of a corporation in the course
4 of their employment is not a publication for
5 which the employer is liable. The recent case
6 of McBride, which is McBride versus the School
7 District of Greenville, the court indicated that
8 communications between employees and employees
9 are qualified privilege if made in good faith in
10 the usual course of business. We have that --

11 **THE COURT:** The plaintiff argues it was
12 not made in good faith.

13 **MR. TILLER:** Exactly. But all we've got
14 in the record is from Ms. Cook even that it did
15 occur. The touching incident occurred. The
16 issue is how is it perceived by those who
17 witnessed it. The only other person that has
18 testified about that is Ms. Clevinger. We have
19 got testimony from others that Ms. Freeman
20 perceived it as aggressive as well. Again,
21 we're back to the issue -- not whether a
22 statement was made. Nobody argues with that.
23 It is simply not defamation -- to report this to
24 who she reported it to.

25 **MR. PARKER:** Your Honor, I find that is

1 an interesting argument because you can -- in
2 other words, you can say I perceive something
3 and I would like to know who you can call as a
4 witness to perception. The facts in this case
5 shown that her claim of perception, if that's
6 what she was claiming is, in fact, false.

7 **THE COURT:** For what it is worth, I
8 merely mention this in passing, Judge Buckner in
9 denying your motion for summary judgment also
10 relied in part on Bell versus the Bank of
11 Abbeville. All right.

12 Let me ask you, Mr. Tiller. What about the
13 evidence that the plaintiff has produced
14 indicating that there may have been a motive,
15 may have been a motive for the defendant
16 Clevinger to falsely report. Is there some
17 evidence that there may have been a motive on
18 her part?

19 **MR. TILLER:** I think in fairness to the
20 court, I would say that there is some evidence
21 of that. I don't think that gets us to, over
22 into the defamation category in terms of what
23 these cases say. I guess what I am struggling
24 with, Your Honor, is Bank of Abbeville is a
25 1930-some-odd case long, before we would be in

1 the world we live in today where there are human
2 resources departments, operations departments,
3 what have you. It is frankly a different day.
4 For this lady to do what she did as required by
5 her company's policies and then say we think it
6 is false, we will claim it is false, is in every
7 complaint subject to the possibility of a
8 defamation claim? That is what they are
9 arguing.

10 **MR. PARKER:** Your Honor, that is simply
11 not state in the law. The law clearly is that
12 the case they started, McBride versus School
13 District of Greenville.

14 Has he got that in his notebook?

15 We will pass up a copy to you. It stays
16 the law just as in Bell. This is a 2010 case.
17 It stays the law, the same law that is stated in
18 Bell. It says that if one has an interest in
19 subject matter communication, and a person or
20 persons to whom it is made has a corresponding
21 interest, every communication, honestly made in
22 order to protect such common interest in
23 privilege by reason of occasion, the statement
24 must be such as the occasion warrants and must
25 be made in good faith to protect the interest of

1 the one who makes it and the person whom it
2 shall address. Also, communications between
3 employees of an organization are qualified to
4 privilege only if made in good faith and in the
5 normal usual course of business.

6 Clearly, we have presented evidence in this
7 case that there was a motive, it was
8 retaliatory, it was in bad faith made for the
9 purpose of having Ms. Cook terminated. Clearly,
10 I think not only is there slight evidence, there
11 is compelling evidence of that in this case.

12 **MR. TILLER:** Very briefly, Your Honor.
13 Ms. Johnson testified on behalf of the bank that
14 Robyn Clevinger never wanted Ms. Cook to be
15 fired. There is no evidence that anybody was
16 looking to get her fired. McBride, Your Honor,
17 you need to look at from the standpoint of
18 whether the qualified privilege would apply or
19 not. That was an instance where a teacher went
20 to a principal and said defamatory things about
21 another teacher. There was absolutely no
22 interest that the teacher had to protect or any
23 reason for her to tell the principal what she
24 did. It was just a slanderous statement.

25 In this instance, we've got a person who is

1 reporting to proper channels, chain of command
2 or whatever you want to call it, something that
3 she perceived to be inappropriate. It is
4 totally different. I was just holding to you
5 the quote from McBride that says basically
6 general statements made by employees to
7 employees are not defamatory.

8 **THE COURT:** All right. Mr. Griffith,
9 anything you wish to weigh in on this?

10 **MR. GRIFFITH:** Your Honor, I think it has
11 been said, I certainly think I stated my grounds
12 for the record. Obviously, they are in line
13 with what Mr. Tiller said so I won't repeat.

14 **MR. PARKER:** I would point out one piece
15 of evidence that Mr. Tiller is neglecting to
16 mention. That is the statement about Ms.
17 Clevinger that she could no longer work with Ms.
18 Cook would certainly be evidence that she
19 intended.

20 **THE COURT:** Any other motions?

21 **MR. GRIFFITH:** Judge, I believe that
22 statement was made after the event which would
23 go to her perception of workplace violence.
24 What Mr. Parker is siding, I think that goes to
25 her perception. Her motive would be before, I

1 believe. If that is the piece of evidence that
2 I think he is -- excuse me, Your Honor -- I
3 think he is referring to.

4 **MR. TILLER:** That was part of the
5 investigation process long after the statement
6 has been made.

7 **THE COURT:** Okay. All right. We will
8 take the motions under advisement which means
9 what?

10 **MR. TILLER:** We will plow forward, Your
11 Honor.

12 **THE COURT:** Okay. Let's take a five-
13 minute break.

14 (WHEREUPON, a short recess is taken.)

15 **THE COURT:** You are going to present that
16 evidence and then rest in the presence of the
17 jury?

18 **MR. PARKER:** Right.

19 **THE COURT:** Let's bring the jury in.

20 **MR. TILLER:** Your Honor, did I understand
21 that he is going to put it into evidence?

22 **THE COURT:** Right.

23 **MR. TILLER:** I think you have to rule on
24 the punitive damages motion before the jury can
25 hear that.

1 **THE COURT:** Well, let's think about that.
2 It might be true. I took under advisement the
3 admissibility of that document, that stipulation
4 in the admissibility of the evidence. Will that
5 work?

6 **MR. PARKER:** I am not exactly sure what
7 that means.

8 **THE COURT:** It means the jury gets that.

9 **MR. PARKER:** We probably should at a
10 later time...

11 **(WHEREUPON, the jury enters at approximately**
12 3:00 p.m.)

13 **THE COURT:** Welcome, Ladies and
14 Gentlemen. I forgot where we were when I asked
15 you to step out of the room. I believe we are
16 still in the presentation of the plaintiff's
17 case.

18 **MR. PARKER:** Your Honor, the plaintiff
19 would rest with the exception of the stipulation
20 that we just discussed.

21 **THE COURT:** All right. Ladies and
22 Gentlemen, what that means is, of course, the
23 plaintiff has presented to you all of the
24 plaintiff's evidence. Now the defendants have
25 the right to present evidence should they decide

1 to do so.

2 Mr. Tiller?

3 **MR. TILLER:** Thank you, Judge. At this
4 time, Regions Bank would call Patty Austin to
5 the stand.

6 **PATTY AUSTIN**

7 having first been duly sworn, testifies as follows:

8 **DIRECT EXAMINATION**

9 **BY MR. TILLER:**

10 **Q** Tell the jury your name.

11 **A** My name is Patricia Austin. I go by Patty.
12 It is a nickname.

13 **Q** Okay. Where do you live?

14 **A** I live in Mount Pleasant, South Carolina.

15 **Q** Can you tell the jury who you work for?

16 **A** I work for Regions Bank.

17 **Q** Okay. How long have you been in the
18 banking business?

19 **A** I been in the banking business since 1981
20 or so. I've been with Regions Bank since 1996.

21 **Q** Okay. What is your job there?

22 **A** My title is Consumer Service and Operations
23 Manager.

24 **Q** You might want to tell me and the jury what
25 that means and what you do.

1 **A** Well, basically what it means is that there
2 are 166 branches in two states, in Georgia and South
3 Carolina. Ultimately, I am responsible for
4 operations. I have got a team of managers that go
5 in. They are the ones that do the cash audits and
6 everything, everything that does not have to do with
7 sales, has to do with operations. That rolls
8 underneath me.

9 **Q** Okay. Then do you have folks under you who
10 have groups of branches? Regions, I should say.

11 **A** Not currently. This is my current role
12 that I am describing. I do have -- it is a little
13 different than what you are saying. I have a team of
14 operations managers that do go into branches to do
15 these audits and these type of operational activities
16 that they are looking at, audits and cash accounts
17 and such. They are independent from the branches and
18 that no one in the branches report to them or
19 anything. They just have this territory that they
20 have to cover.

21 **Q** Okay. You are currently over about 166
22 branches?

23 **A** Yes, sir.

24 **Q** That is in South Carolina and Georgia?

25 **A** Two states, yes, sir.

1 **Q** In 2011, what was your job?

2 **A** I was the consumer banking executive for
3 the state of South Carolina.

4 **Q** In that capacity, did you have people who
5 reported to you that were over groups of branches?

6 **A** I did. I did.

7 **Q** The Hampton branch, was that one of your
8 branches?

9 **A** Yes, it was.

10 **Q** Who was the supervisor over the group of
11 branches that would include the Hampton branch across
12 the street?

13 **A** That would have been Andree Lloyd.

14 **Q** Okay. Ms. Lloyd would report to you on a
15 regular basis?

16 **A** Yes, sir.

17 **Q** This jury has been sitting here for a
18 couple of days now. I want to move right into it.
19 Were you involved in the decision to promote Ms.
20 Clevinger to the branch manager position here in
21 Hampton?

22 **A** Yes, sir.

23 **Q** And who else would have been involved in
24 that decision?

25 **A** Andree Lloyd and Holly Johnson.

1 Q And Ms. Johnson is here in the courtroom?

2 A Yes.

3 Q Everybody already knows but what area is
4 she in?

5 A Human Resources.

6 Q Do you occasionally talk about certain
7 issues?

8 A Yes, sir.

9 Q At the time that the issue and ultimate
10 decision was made to promote Ms. Clevinger to the
11 manager's position, did you have any reservations
12 about putting her in that position?

13 A No, sir. I did not.

14 Q Did Andree Lloyd have any reservations that
15 were communicated to you?

16 A No, sir.

17 Q Did Ms. Lloyd express any reservation to
18 others that you know about?

19 A Not that I'm aware of.

20 Q How did you become aware of the incident
21 which brings us here today which occurred on May 9th
22 of 2011?

23 A Andree was having her branch managers'
24 meeting in Charleston on that day. The board room
25 that they use for these meetings is directly across

1 from my office. So at some point toward the end of
2 Andree's meeting, she came and got me and informed me
3 about it.

4 Q What did Ms. Lloyd tell you about what she
5 learned?

6 A Well, she told me that during the course of
7 her branch managers' meeting she had noticed that
8 Robyn when Robyn went to move, she moved her entire
9 upper body instead of being able to turn her head.
10 It was evident that there was some sort of issue with
11 her. So Andree asked her what happened, what is
12 going on. At that point, Robyn asked her to go into
13 an office. They went into an empty office. I saw
14 them go into that office but I didn't go in there. I
15 wasn't part of that conversation.

16 Q Let me ask you this. Did you have an
17 opportunity to observe Ms. Clevinger yourself?

18 A I did see her move into that office with
19 Andree and back out ultimately.

20 Q To your recollection, were her movements
21 normal?

22 A No, sir. She was a little -- you know how
23 it is when you twist your neck and you can't turn
24 your head but rather you move your whole body instead
25 of your head? You can tell she was doing that.

1 **Q** And you personally observed that?

2 **A** Yes, sir.

3 **Q** What did Ms. Lloyd report to you about her
4 discussion with Ms. Clevinger that day in regards to
5 what had happened?

6 **A** Well, she said that there was an out of
7 balance situation and Robyn was helping Lydia try and
8 found that outage. Apparently, she did find the
9 outage. Lydia, at that time, was thanking Robyn for
10 helping find the outage and then she was violently
11 shaken. Robyn had told her through the course of
12 that is how her neck and such was injured.

13 **Q** And did -- let me ask you this, what was
14 your reaction?

15 **A** Well, I was immediately very concerned.
16 That is a very serious allegation.

17 **Q** What did you do upon receiving this
18 information from Ms. Lloyd?

19 **A** Straight to my office and picked up the
20 phone to call Holly Johnson.

21 **Q** Did you reach her that day?

22 **A** I did.

23 **Q** Tell me the gist of that conversation.

24 **A** Well, the gist of the conversation was that
25 I was mortified that this had occurred and I hadn't

1 heard about it yet. Because normally, this sort of
2 communication with something like that happening --

3 **MR. PARKER:** Your Honor, we have an
4 objection to the conversation. Would be hearsay.

5 **MR. TILLER:** I will move on, Your Honor.

6 **BY MR. TILLER:**

7 **Q** Did you instruct Ms. Johnson to get moving
8 on this?

9 **A** Yes, sir.

10 **Q** Moving back to when Ms. Lloyd brought this
11 to your attention on May 26th, did she tell you that
12 she did not believe Ms. Clevinger's story?

13 **A** No, sir. She did not.

14 **Q** Did she ever tell you that she did not
15 believe Ms. Clevinger's story?

16 **A** No, sir. She did not.

17 **Q** Did she ever tell you either before Ms.
18 Clevinger was put in the manager's position or
19 thereafter that she had trust issues with Ms.
20 Clevinger?

21 **A** No, sir. She never said that.

22 **Q** She testified here yesterday that she told
23 you she did not believe Ms. Clevinger story. Is that
24 accurate?

25 **A** No, sir. She never told me that. She

1 never had any conversation like that with me.

2 **Q** Now, as I understand it, Ms. Austin, other
3 than being perhaps updated by Ms. Johnson or
4 otherwise, your next involvement would have been
5 attending a meeting with Ms. Johnson and Ms. Cook?

6 **A** That is correct.

7 **Q** Was that in the late part of June 2011?

8 **A** I would not be able to quote that exact
9 date. But, yes, sir, the timeframe sounds correct.

10 **Q** And do you recall the basis or reason for
11 Ms. Cook's separation?

12 **A** Workplace violence.

13 **Q** Okay. Do you recall what Ms. Cook may have
14 said in that meeting with you and Ms. Johnson?

15 **A** No, sir. Not specifically, I don't. Holly
16 conducted the conversation. It was pretty much
17 directly with regard to what had occurred and not,
18 workplace violence was a serious issue. I don't
19 remember the exact verbiage.

20 **Q** At the conclusion of the meeting, what
21 happened?

22 **A** That, I remember specifically because it
23 was so unusual for me. Ms. Cook, at that time after
24 we had finished, she thanked us. We shook hands.
25 She thanked us for how professionally the

1 conversation have been conducted. It is the first
2 time I have ever been thanked during termination
3 conversation.

4 Q Ms. Austin, did you ever obtain any
5 information that would reflect that Ms. Clevinger was
6 deceitful about this particular incident?

7 A No, sir.

8 Q Do you believe the story as Ms. Clevinger
9 has provided?

10 MR. PARKER: We object, Your Honor.

11 THE COURT: I sustain the objection.

12 BY MR. TILLER:

13 Q Did you ever speak to Ms. Cook again after
14 the separation hearing?

15 A No, sir.

16 Q Thank you, Ms. Austin. Answer any
17 questions plaintiff's attorney may have.

18 CROSS-EXAMINATION

19 BY MR. PARKER:

20 Q Ms. Austin, you are over 165 or 166 banks?

21 A 66 the last time I counted.

22 Q A lot of banks.

23 A Yes, sir.

24 Q A lot of people.

25 A Yes, sir.

1 Q You have had a lot of things happen over
2 your how many years?

3 A Since 1981.

4 Q This is the first time you had any employee
5 accused of workplace violence?

6 A Yes, it is.

7 Q All of these things were extremely unusual,
8 weren't it?

9 A Yes, sir.

10 Q This was weird, wasn't it? Weird
11 accusations.

12 A Well, it was unusual.

13 Q You ever heard in your life of a woman
14 grabbing a woman and squeezing her arm so hard she
15 put bruises on her?

16 A Yes, sir.

17 Q You have heard that?

18 A Sure.

19 Q Where is that? Wrestling?

20 A May be. I mean, I don't think it is out of
21 the realm of possibility.

22 Q It is close to it, isn't it?

23 A No, sir. Not necessarily.

24 Q Tell me one more incidence where you know
25 that happened where you can describe it.

1 **A** I couldn't specifically do that. Some
2 people bruise easily. I myself have been a victim of
3 domestic violence. I do know that those sorts of
4 things are possible to grab someone and to get a
5 bruise.

6 **Q** This isn't domestic violence.

7 **A** No, I understand that.

8 **Q** You think that a lady with arthritis in her
9 hands, with nodules on her fingers, that can't open a
10 jar can grab somebody by the arm and bruise both arms
11 in the manner described by Ms. Clevinger?

12 **A** Mr. Parker, I didn't know all of that about
13 Lydia. I just knew what the allegation was. It was
14 taken very seriously.

15 **Q** If you had known that and somebody thought
16 to look at Ms. Cook's hands, then you may have known
17 to the truth of this, isn't that correct?

18 **A** That is speculation.

19 **Q** It is not speculation that Dr. Welcker
20 wrote you a letter and told you he did not think she
21 was physically possible to do what she's accused of,
22 is that correct?

23 **A** I have never seen such a letter.

24 **Q** It will cause you pause if you had,
25 wouldn't it?

1 **A** That is speculation, sir. I am not sure.
2 I don't know what I would have done had I seen it at
3 that time.

4 **Q** You would have given it a lot of stock,
5 wouldn't you, what the physician said?

6 **A** We took everything into great consideration
7 on this.

8 **Q** But you never saw Dr. Welcker's letter?

9 **A** I did not.

10 **Q** Would you have liked to have seen it?

11 **A** I probably would have liked to have seen
12 everything, yes.

13 **Q** You would have liked to look at Ms. Cook's
14 hands?

15 **A** Sir?

16 **Q** You would have liked to look at her hands
17 and determine what kind of strength she had and
18 whether she had any arthritis in her hands?

19 **A** I wouldn't have been qualified to do that.

20 **Q** You can look at people's hands and tell
21 when their fingers are swollen and they have
22 arthritis, can you?

23 **A** Mr. Parker, I don't know. I can't diagnose
24 arthritis. If I looked at someone's hands and they
25 were swollen, I would be able to know that. Would it

1 be possible for me to get my water? Would it be
2 possible for me to get my water? Thank you. Sorry.

3 Q We will wait for your water.

4 A No, you go ahead.

5 Q Ms. Austin, I believe you testified these
6 are very serious allegations that were made against
7 Ms. Cook, is that correct?

8 A Yes, sir.

9 Q If true, these allegations would be
10 damaging to her reputation, would they not?

11 A Uh, I don't know the answer to that, Mr.
12 Parker.

13 Q You can't answer the question as to whether
14 or not the accused, the fact that it was true that
15 you were guilty of workplace violence that that would
16 not hurt your reputation?

17 A I don't feel qualified to say what it would
18 do for someone or not.

19 Q If they said that about you, it would hurt
20 your reputation.

21 A It would hurt my feelings for sure in a big
22 way. Whether it would hurt my reputation or not, you
23 know, I don't know. I don't know the answer to that.

24 MR. PARKER: I don't have any further
25 questions.

1 **THE COURT:** Questions?

2 **CROSS EXAMINATION**

3 **BY MR. GRIFFITH:**

4 **Q** Ms. Austin, did you ever see the statement
5 that was written by Suzanne Freeman?

6 **A** Yes, sir. I did.

7 **Q** Did that indicate that Robyn's head was
8 going from side to side with her body going in the
9 opposite direction?

10 **A** Yes, sir. It did.

11 **Q** Did that concern you?

12 **A** Yes, sir.

13 **Q** That was not one of the parties to the
14 incident, that was just a third-party, is that
15 correct?

16 **A** It was a witness, yes, sir.

17 **MR. GRIFFITH:** No further questions.

18 **MR. TILLER:** Very briefly.

19 **MR. PARKER:** Excuse me.

20 **MR. TILLER:** Briefly, Judge.

21 **REDIRECT EXAMINATION**

22 **BY MR. TILLER:**

23 **Q** Ms. Austin, Mr. Parker asked you a number
24 of questions about what would go into or was factored
25 into the decision as it relates to Ms. Cook's