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## FAX COVER SHEET

To:	Jessica	Date:	November 21, 2016
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RE: Name:	Estate of John Fortney	Appellate Court Case No.:	2016-000521

**Message:** Pursuant to your request, following is an example of the condensed version of the trial transcript referenced in our recent motion.

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1 A. Maybe. They may have been out there in the field  
2 with our people.

3 Q. And your signatures on these documents, as you've  
4 just told us now, either as rated by or reviewed by, your  
5 signature on these documents certifies the performance  
6 ratings on those documents are true and accurate; is that  
7 fair to say?

8 A. I would say that's fair to say.

9 Q. Now, Mr. Strickland, we took a considerable amount  
10 of time to review the regulatory issues and the code of  
11 federal regulations, what the scores actually mean. The  
12 Code of Federal Regulations, was that easy to read?

13 A. I guess it is. I don't recall.

14 Q. And do you think if you had ever called  
15 Mr. Williams and said, You know what, I'm responsible for  
16 making sure all regulatory issues are addressed. Are  
17 there any regulations that apply to us?

18 Did you ever make that call?

19 A. No, sir.

20 Q. And had you made that call, do you think that  
21 Mr. Williams could have explained it to you in these  
22 terms, to say, number one, inspections required, make  
23 records of inspections, determine if it's up to code,  
24 record all deficiencies, keep those records long enough  
25 to identify long-term trends?

1 Q. Do you know what they used to be and what they  
2 ended up to be?

3 A. I wouldn't remember that.

4 Q. Okay. Is it fair to say that had Berkeley  
5 Electric complied with these regulations and done what  
6 they were representing on the RUS forms, back when you  
7 had 29,000 members that it would be a lot easier to do  
8 that as you grew rapidly to 80,000 something members?

9 A. You want to ask that again?

10 Q. Had Berkeley Electric complied with these federal  
11 regulations when you started out 32 years ago with 29,000  
12 members, right, you complied with these, you did what was  
13 reflected on the ratings scores, if you did that back  
14 then, would that have made it easier to keep up with the  
15 rapid growth of 80,000 members?

16 A. I don't know.

17 Q. With the amount of members that you have now, is  
18 it even possible to do the things that you're  
19 representing to the government you're doing on the RUS  
20 forms and the things the federal code of regulations  
21 require? Is it even possible?

22 A. I'm sure it is.

23 MR. SMITH: I don't have any other questions.

24 THE COURT: Recess?

25 MR. JOHNSON: No, sir.

1 Are you confident that Mr. Williams could have  
2 explained that to you had you asked him?

3 A. Sure. I'm confident he could have explained it to  
4 me.

5 Q. And as you reviewed your testimony and what these  
6 things represent, we know this is what the scores of  
7 three represent on these forms. We know this is what the  
8 Code of Federal Regulations requires.

9 Sir, I understand that you didn't know anything  
10 about this, either as it was being done or after the men  
11 had died, but after we've gone through it and we've  
12 listed it out, have you learned anything with regards to  
13 any deficiencies Berkeley Electric has made or anything  
14 like that? Have you learned anything at all?

15 MR. JOHNSON: Object on the grounds of  
16 relevance. Whether he's learned something or not isn't a  
17 part of the claim for negligence.

18 THE COURT: Sustained.

19 BY MR. SMITH:

20 Q. Mr. Strickland, when you started out and you had  
21 29,000 members, was Berkeley Electric -- was there  
22 compliance with the federal regulations with the RUS  
23 rules? Was it the same back then when you started?

24 A. No. There was probably -- for the most part, yes,  
25 but the rules changed over time.

1 THE COURT: All right. You can step down.  
2 Why don't we take a break till 2:00 for lunch.

3 (Recess taken.)

4 AFTERNOON SESSION

5 THE COURT: Are you ready to go? Y'all ready  
6 to go? Call your next witness.

7 MR. SMITH: The plaintiff calls Tim Mobley.

8 TIMOTHY MOBLEY,

9 having been first duly sworn,  
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SMITH:

13 Q. Good afternoon, Mr. Mobley.

14 A. Good afternoon.

15 Q. What is your job title?

16 A. Vice president engineering and operations.

17 Q. You work for Berkeley Electric Cooperative?

18 A. Yes, sir.

19 Q. Are you the second in command?

20 A. You could say that. We have other people on my  
21 level, but yeah.

22 Q. How long have you held that title?

23 A. For close to five years, since 2011, January.

24 Q. What was your job title before vice president?

25 A. Manager of technical services.

1 Q. How long did you hold that position?  
 2 A. I think it was about six years. I can't remember  
 3 for sure.  
 4 Q. How long have you worked for Berkeley Electric  
 5 altogether?  
 6 A. Altogether, 30 years. I started as a student  
 7 engineer.  
 8 Q. Do you hold an electrical engineering degree?  
 9 A. I do.  
 10 Q. I'm going to ask you some sources for some rules  
 11 that apply to work that Berkeley Electric is doing. I'm  
 12 just going to ask you in a general sense some of the  
 13 sources for those rules. I'm not going to get to the  
 14 various just yet, okay?  
 15 Does the National Electric Safety Code have rules  
 16 that apply to work Berkeley Electric is doing?  
 17 A. Yes, sir.  
 18 Q. The RUS, Rural Utility Service, do they have rules  
 19 that apply to the work Berkeley Electric does?  
 20 A. Yes, sir.  
 21 Q. And the federal regulations, the Code of Federal  
 22 Regulations, are the regulations that apply to the work  
 23 that Berkeley Electric does?  
 24 A. Yes, sir.  
 25 Q. And Berkeley Electric's safety manual, does the

1 in your deposition?  
 2 A. I do.  
 3 Q. Is this the chart that sets required heights for  
 4 power lines?  
 5 A. Yes, minimum requirements, yes, sir.  
 6 Q. Do you recall telling us in your deposition that  
 7 you did not know what the height requirement was from the  
 8 National Electric Safety Code regarding the power line  
 9 involved in this case?  
 10 A. I recall discussion about that, yes, sir.  
 11 Q. And you told us that you didn't know the required  
 12 height because you didn't know what the land was being  
 13 used for at the time; is that true?  
 14 A. That's right. I wasn't there at the time it was  
 15 designed.  
 16 Q. And this was 2012, your deposition. Does it sound  
 17 right?  
 18 A. When I did the deposition?  
 19 Q. Yes, sir.  
 20 A. That's right, 2012.  
 21 Q. And this would have been four years after the 2008  
 22 electrocution in this case?  
 23 A. That's correct.  
 24 Q. And up to this point, in 2012 when you testified  
 25 you did not know what the height requirement was for this

1 safety manual contain a set of manual safety rules that  
 2 apply to the work that Berkeley Electric does?  
 3 A. Yes, sir.  
 4 Q. The National Electric Safety Code, is it correct  
 5 to say that would be termed as the bible for the electric  
 6 utility industry?  
 7 A. For safety, yeah.  
 8 Q. Yes, sir. And you have a copy of the National  
 9 Electric Safety Code in your office; is that true?  
 10 A. I do.  
 11 Q. Mr. Mobley, I want to hand you what's been marked  
 12 as Plaintiff's Exhibit No. 7. Is that the national --  
 13 well, is that portions of the National Electric Safety  
 14 Code?  
 15 A. Yes, sir, it is.  
 16 Q. And is that the 1993 version?  
 17 A. Yes, sir.  
 18 Q. The 1993 version, is that what would apply to the  
 19 power line in this case?  
 20 A. Yes, sir.  
 21 Q. I want you to turn to section 232-1.  
 22 A. Okay.  
 23 Q. And this is the chart. Are you on the same page?  
 24 A. Yes, sir.  
 25 Q. All right. Do you remember reviewing this chart

1 line, I want to talk about some of the people that  
 2 Berkeley Electric employed up to that point to work on  
 3 issues regarding this case, okay?  
 4 A. Okay.  
 5 Q. People in management from Berkeley Electric, did  
 6 they go out to the scene at Thornhill Farms?  
 7 A. You mean when the incident occurred?  
 8 Q. Yes, sir.  
 9 A. I'm sure they did, yeah.  
 10 Q. And was John Hall one of those people?  
 11 A. He was at one point.  
 12 Q. And he's a staking engineer; was he not?  
 13 A. At that time he was staking engineer.  
 14 Q. Did Mr. Elrod come out to the scene?  
 15 A. I'm sure he did, yes.  
 16 Q. And Mr. Elrod's title is the director of training  
 17 and loss control; is that true?  
 18 A. I couldn't tell you the exact title, but that's  
 19 right.  
 20 Q. He's been in loss control for Berkeley Electric  
 21 for quite some time; is that true?  
 22 A. That's correct.  
 23 Q. And Berkeley Electric hired an expert in the  
 24 National Electric Safety Code named Eric Jackson. Did  
 25 Eric Jackson visit the scene of Thornhill Farms as well?