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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Diane Schafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2018-UP-221 (S.C. Ct. App. filed May 30, 2018)
Appellate Case No. 2015-002466
Case No. 2012-CP-07-03782

Rebecca Delaney, as Personal
Representative of the Estate of
Justin Nicholas Miller,

Petitioner,

v.

CasePro, Inc.,

Respondent.

Appendix: Volume 4

T. David Hoyle
South Carolina Bar # 74055
W. Christopher Swett
South Carolina Bar # 748251
Temitope O. Leyimu
South Carolina Bar # 101288
Motley Rice LLC
28 Bridgeside Blvd.
Mount Pleasant, SC 29464
(843) 216-9000
(843) 216-9440 (Facsimile)

Crystal Lynn Castleberry
South Carolina Bar # 78661
Castleberry Law Offices
3712 Swallowtail Dr.
Morgantown, WV 26508
(304) 594-2828
(304) 594-2899 (Facsimile)

Attorneys for Petitioner

D. Gary Lovell, Jr.
South Carolina Bar # 69296
Douglas W. Mackelcan
South Carolina Bar # 76332
Carlock, Copeland & Stair, LLP
40 Calhoun Street, Suite 400
Charleston, South Carolina 29401
(843) 727-0307

Attorneys for Respondent

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1 closed. You all like that one?

2 MR. HOYLE: I thought that was wonderful judicial
3 parlance, your Honor. And I think every judge in the
4 state should be required by the order of the Chief
5 Justice to use those same words.

6 THE COURT: To use those exact same words. Well,
7 you know, when she starts -- when she joins the business
8 for it and gets to try cases, you never know what might
9 happen. She may get Chief Justice Pleicones to do that
10 for her. Okay. Now. Yes.

11 That matter that I was discussing with you all this
12 morning has been moved.

13 Okay, next. Our next deposition or next -- help
14 me, you guys. What's next?

15 MR. HOYLE: Probably --

16 THE COURT: Who's going to be our next person after
17 --

18 MR. HOYLE: Logically, it would probably be the
19 next clip that we play.

20 MR. MACKELCAN: I didn't see anything.

21 MR. HOYLE: I think Martin's easier. Let's do
22 Martin.

23 THE COURT: I think Martin had no --

24 MR. HOYLE: I know. That's why I said let's --

25 THE COURT: Yeah, with Martin, you didn't have any

1 concerns?

2 MR. MACKELCAN: We have some objections to Martin.

3 THE COURT: Manning is the one you didn't have any
4 concerns. Oh, Chris Craig Martin. Oh. Okay. Yeah. I
5 was going to say. Okay. All right. Let me take --
6 okay. I get the objection, but here's the problem.
7 There is, as I understand it, it is contested whether or
8 not these individuals worked for the Defendant, or they
9 worked for the U.S. Navy, right?

10 MR. MACKELCAN: I think the contention is that
11 they, CasePro, should not -- if respondeat superior
12 should apply to CasePro, it should apply to the Navy.

13 THE COURT: Okay.

14 MR. MACKELCAN: Based on the contract. But I don't
15 know that we acknowledge that they are employees and
16 that they're getting paid.

17 THE COURT: Well, if it --

18 MR. MACKELCAN: It's not a factual issue. It's
19 more a legal issue.

20 THE COURT: Well, let me -- can I ask you this
21 question? If that's true, if that's true, then, isn't
22 that an instance of this has got to be handled between
23 the U.S. Navy and the Defendant? Why do they care about
24 that? The law is the law of respondeat superior, and
25 you have a contractual relationship with the U.S. Navy

1 that turns that world upside down, isn't that an issue
2 between the Defendant and the U.S. Navy? Why is it
3 their problem, if the law gives the respondeat superior?
4 See what I'm saying?

5 MR. MACKELCAN: I do. I think our position is that
6 CasePro is not, while the --

7 THE COURT: You're bound by the contract, too.

8 MR. MACKELCAN: No, while the, you know, while
9 those CasePro workers are working at the hospital, the
10 Navy is the entity responsible for their actions.

11 THE COURT: Okay.

12 MR. MACKELCAN: And so, CasePro can't be
13 responsible to the extent that there was any negligence
14 by Joe McDonald, Janice McDonald, Dr. Jansen.

15 THE COURT: Because they were not working for
16 CasePro.

17 MR. MACKELCAN: Not at that time.

18 THE COURT: Gotcha. So, some of the time, they
19 work for CasePro; and then, some of the time, they don't
20 work for CasePro?

21 MR. MACKELCAN: For the purposes of controlling
22 their actions.

23 THE COURT: Yeah.

24 MR. MACKELCAN: Supervision and control, and the
25 language that's used in the contract. It's a unique

1 situation.

2 THE COURT: Gotcha. Gotcha. Okay. Then, I think
3 it comes in, because if you're asking this jury that
4 they have to make a determination who these folks work
5 for, I think they have to know the degree of control. I
6 don't know how you work, like, somebody -- if I'm like,
7 paying you --

8 MR. MACKELCAN: It's not the -- it's not the fact
9 that they're getting paid; it's the amount. There were
10 questions about the gap, how much CasePro is making
11 between what Dr. Jansen gets paid by CasePro and what
12 the government pays CasePro. And our position is that
13 would go more towards punitive damages, if it got to
14 that point, because the jury is going to be able to say,
15 oh, CasePro's making this amount of money for every hour
16 Dr. Jansen works. The actual fact that CasePro is
17 paying Dr. Jansen is not the objection. It's the
18 ability for the jury to calculate profits, essentially,
19 from CasePro.

20 THE COURT: I understand your concern, but that's
21 -- if it was -- let me say this. And this is because I
22 don't want to be arm twisting, but here's my issue with
23 it. I would agree with you completely that there wasn't
24 an issue who all these people are and who these people
25 work for. I think that, because the issue is alive, who

1 do these people work for, the fact that they negotiated
2 this doctor's vacation; that they negotiated his
3 vacation time; that, that actually made more money from
4 the U.S. Navy than this guy got paid, is about as clear
5 evidence as there is of who's working for whom.

6 In other words, it shows trickle-down economics.
7 That CasePro is getting paid X, and not X; that Case,
8 the Defendant, was paying the doctors. They were paying
9 them Y. So, here's my profit; here's what I'm paying my
10 doctor; here's what I'm paying my nurse.

11 And, and then, there's the other testimony in here,
12 like, for Dr. Moore, that he keeps -- and this is my
13 characterization; I just happened to look at these
14 excerpts -- that Dr. Moore is going back to CasePro and
15 saying, you've got to do something about this guy; you
16 have got to do something about this guy. Well, that's
17 clearly evidence in who's controlling these employees
18 and who they work for. So, I mean, because I don't know
19 what's strong indicia of employment, other than who's
20 negotiating the salary, who's paying you, and who people
21 think they've got to go to, to get rid of you. I think
22 that's pretty strong evidence that -- at least it's
23 evidence that this person -- for example, certainly Dr.
24 Moore thought Dr. Jansen worked for CasePro, clearly,
25 because he kept trying to go to Dr. Jansen and say,

1 Houston, we have a problem. I say he kept going; he
2 talks about it a couple times. I think that, that's
3 clear evidence of employment, if that's an issue in this
4 case, I think it's a problem.

5 MR. MACKELCAN: Okay. And I will probably raise
6 the objection again, when we start talking about what
7 the government pays CasePro

8 THE COURT: Yeah, yeah, yeah. Sure.

9 MR. MACKELCAN: Because, as I said, my concern
10 really is about the profits. It's not so much
11 specifically what Dr. Jansen's getting paid, because I
12 think that came in earlier in terms of what Janice
13 McDonald was getting paid. The concern is that the jury
14 can determine CasePro's wealth and profit.

15 THE COURT: I know. I know. I get it. But again,
16 it's relevant, because it establishes that the real
17 relationship here is between the Navy and CasePro. Not
18 the Navy and, for example, Dr. Jansen. I mean, that is
19 evidence, and I'm not going to say it's conclusive
20 evidence, but it is evidence that shows that, that
21 relationship really is between the U.S. Navy and
22 CasePro.

23 MR. MACKELCAN: Well, and we don't -- the contract
24 isn't in evidence yet, and I assume it won't be in
25 evidence until we put up our case. But it's --

1 THE COURT: But why would the Plaintiff be bound by
2 your contract?

3 MR. MACKELCAN: Well, the contract identifies
4 numerous responsibilities that Dr. Jansen, Joe McDonald,
5 and Janice McDonald have to the Navy, and
6 responsibilities that the Navy have to Joe McDonald,
7 Janice McDonald, and Dr. Jansen. It just goes directly
8 to what you're saying. It identifies who's responsible
9 for what; what they have to report to; who's buying
10 medical malpractice insurance. You know, all these
11 things are identified in the contract in terms of
12 responsibility of each party.

13 THE COURT: Who is the contract between?

14 MR. MACKELCAN: Naval Medical Logistics Command and
15 CasePro.

16 THE COURT: Okay.

17 MR. HOYLE: Judge, I think I just heard the word
18 *medical malpractice insurance*. We had a discussion in
19 one of these depositions. It wasn't one we did on a
20 Saturday. I think we did it on a Thursday. To the
21 extent that Mr. Mackelcan and Mr. Lovell are going to
22 elicit testimony from any witness about whether or not
23 this contract that they have with the government says
24 they don't have to have insurance, I want a ruling now,
25 or least some thoughts now, as to whether or not that

1 opens the door to the fact that they do have insurance,
2 and how much insurance they might have. Because I don't
3 think they get to hide behind --

4 THE COURT: Who's the they?

5 MR. HOYLE: CasePro, Incorporated.

6 THE COURT: Oh. Okay.

7 MR. LOVELL: We won't be asking those questions.

8 MR. HOYLE: I felt certain that was going to be the
9 answer, but I wanted it said in open court.

10 THE COURT: I'm with you. I'm with you. Now, if
11 -- let me just say that, if the position of the
12 Defendant should change, and that, on this issue of
13 employment and respondeat superior, or -- on the issue
14 of superior, please let me know, because that makes a
15 difference. Come here and let me ask you a question.

16 MR. HOYLE: Are we going off the record?

17 THE COURT: No, you don't have to do that, but --

18 COURT REPORTER: Want me to go off? Go off?

19 THE COURT: Yeah, just for a second. If anybody
20 wants me to put this on the record, I will, by the way.

21 **END DAY THREE, THURSDAY,**

22 **OCTOBER 8, 2015, 5:40 P.M.**

23 **BEGIN DAY FOUR, FRIDAY,**

24 **OCTOBER 9, 2015, 9:30 A.M.**

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS
CASE NUMBER 2012-CP-07-03782

REBECCA DELANEY, AS PERSONAL
REPRESENTATIVE OF THE ESTATE
OF JUSTIN NICHOLAS MILLER

PLAINTIFF

VOLUME TWO

ORIGINAL

VERSUS

CASEPRO, INCORPORATED

DEFENDANT

OCTOBER 7 THROUGH 16, 2015
PRETRIAL MOTIONS AND TRANSCRIPT OF TRIAL
BEAUFORT, SOUTH CAROLINA

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Wanda H. Rowe, CVR-M
Official Court Reporter

1 BY THE COURT:

2 BAILIFF: All rise. Court is now in session. The
3 Honorable Diane Goodstein presiding.

4 THE COURT: Still? Good morning, everyone. All
5 right. Now, Plaintiff, anything before the jury comes
6 out?

7 MR. HOYLE: Nothing from the Plaintiff, your Honor.

8 MR. LOVELL: Your Honor, the only thing I would
9 state is, we worked on the designations on the first
10 video.

11 THE COURT: Wonderful.

12 MR. LOVELL: And there are a couple of little
13 issues that we didn't resolve.

14 THE COURT: Oh, wonderful.

15 MR. LOVELL: But now, we're ready to go, and I
16 think the witness is out in the hallway.

17 MR. HOYLE: And for purposes of clarification, the
18 two issues that aren't solved, one of which is a
19 foundational issue, we'll see if we can get something
20 into evidence with this witness. If we can't, I'll
21 concede that, that needs to be cut, and Mr. Knowles can
22 make that. And the other one is something that we can
23 briefly talk to you about it in 30 seconds.

24 THE COURT: Good. Sounds perfect. Wonderful, you
25 all. Thank you so much.

1 MR. HOYLE: Thank you, Judge.

2 THE COURT: Let's have the jury.

3 They're having a comfort break, so I think you all
4 can chill.

5 MR. HOYLE: And I take it that Counsel can have a
6 comfort break, as well?

7 THE COURT: Indeed. Absolutely.

8 OFF THE RECORD 9:31 A.M.

9 BACK ON THE RECORD 9:35 A.M.

10 BY THE COURT:

11 JURORS ENTER COURTROOM 9:35 A.M.

12 BY THE COURT:

13 THE COURT: Good morning, ladies and gentlemen.

14 RESPONSES FROM JURORS.

15 THE COURT: I hope you had a pleasant evening. At
16 this time, we will continue with the Plaintiff's case.
17 Call your next witness, please.

18 MR. HOYLE: Plaintiff calls Joe McDonald to the
19 stand.

20 THE COURT: Counsel, I notice that there are three
21 photographs on your squeegee board. You just need to
22 mark those for identification purposes. There's been no
23 objection from Counsel. So, I presume there's no
24 objection, because they've obviously been published
25 continuously to the jury, but they haven't been marked.

1 MR. LOVELL: That's fine, your Honor.

2 THE COURT: All right. Very well. Yes.

3 ITEM IDENTIFIED AS PHOTOGRAPH OF
4 JANICE MCDONALD WITH SEQUENCE BOARD
5 MARKED COURT'S EXHIBIT NUMBER 4
6 RECEIVED BY THE COURT.

7 ITEM IDENTIFIED AS PHOTOGRAPH OF
8 JOE MCDONALD WITH SEQUENCE BOARD
9 MARKED COURT'S EXHIBIT NUMBER 5
10 RECEIVED BY THE COURT.

11 ITEM IDENTIFIED AS PHOTOGRAPH OF
12 DR. CHRISTIAN JANSEN WITH SEQUENCE BOARD
13 MARKED COURT'S EXHIBIT NUMBER 6
14 RECEIVED BY THE COURT.

15 MADAM CLERK: Please raise your right hand. Place
16 your left hand on the Bible. Thank you. Do you
17 solemnly swear or affirm that the testimony you're about
18 to give today in this matter is the truth, the whole
19 truth, and nothing but the truth, so help you God?

20 JOSEPH J. MCDONALD, JR.: I do.

21 MADAM CLERK: Okay. Please take your seat here,
22 state and say your name for us. Spell your name.
23 Sorry.

24 JOSEPH R. MCDONALD, JR.: All right. Joseph J.
25 McDonald, Jr. Joseph, J/o/s/e/p/h, J., M/c/D/o/n/a/l/d.

1 THE COURT: You've got to mess with that
2 microphone. Would you just state your -- this is a
3 sound check now.

4 JOSEPH J. MCDONALD, JR.: All right. Joseph J.
5 McDonald, Jr.

6 THE COURT: That's perfect. Your witness.

7 JOSEPH J. MCDONALD, JR.

8 DIRECT EXAMINATION, BY MR. HOYLE:

9 Q Mr. McDonald, good morning.

10 A Hi.

11 Q You've already stated your name for the record.
12 Tell us where you live.

13 A Lady's Island, Beaufort County.

14 Q And how long have you lived here in Beaufort
15 County?

16 A This is my eleventh year.

17 Q Where did you move from when you moved here to
18 Beaufort County eleven years ago?

19 A It was be -- would have been New Jersey, Burlington
20 Township, New Jersey.

21 Q And what is your occupation, sir?

22 A Registered nurse.

23 Q How long have you been a registered nurse?

24 A This is my 23rd year.

25 Q And can you give the Court and jury the benefit of

1 your education.

2 A Bachelor's degree in nursing, Thomas Jefferson
3 University Hospital in Philadelphia.

4 Q And what year did you obtain your bachelor's degree
5 in nursing?

6 A 1992.

7 Q Where do you currently work?

8 A Beaufort Memorial Hospital.

9 Q And what do you do at the Beaufort Memorial
10 Hospital?

11 A I'm in the cardiac catheterization at the
12 Interventional Radiology Department.

13 COURT REPORTER: I'm sorry, at the, what, radiology
14 department?

15 A Interventional.

16 COURT REPORTER: Interventional.

17 A Um-hmm.

18 Q And how long have you been working there at
19 Beaufort Memorial?

20 A A year and a half.

21 Q Where did you work prior to going to Beaufort
22 Memorial a year and a half ago?

23 A Navy Hospital Beaufort.

24 Q Were you working at the Navy Hospital here in
25 Beaufort County in February of 2012?

1 A I was.

2 Q And at that time, you were doing your work for a
3 company called CasePro, correct?

4 A Yes.

5 Q How was it that you came to be employed at CasePro,
6 Incorporated?

7 A My wife had went to work at Navy Hospital first.
8 They solicited me twice to come and work for them. At
9 that time, it was a different contractor. So, they
10 asked me twice. I figured they weren't going to ask me
11 the third time. The benefit was is that we'd both be on
12 the same shift, which was always an issue for us.

13 Q And you referenced a different contractor. We're
14 talking about some entity other than CasePro. Is that
15 fair?

16 A When I first went, yes, it was a different
17 contractor.

18 Q It was Fly America, correct?

19 A Correct?

20 Q Okay. And then, at some point in time, you became
21 an employee of CasePro, Incorporated, correct?

22 A Yes.

23 MR. HOYLE: Permission to approach, your Honor?

24 THE COURT: Yes.

25 BY MR. HOYLE:

1 Q Mr. McDonald, I'm handing you a document that has
2 been marked as Plaintiff's 14. And it's already been
3 previously moved into evidence by agreement, sir. I'm
4 going to represent to you that this is your personnel
5 file from CasePro, Incorporated. Have you seen that
6 document before?

7 A Yes, I did.

8 Q Okay. And it looks like, from the very first page
9 of this document, that you went to work for CasePro,
10 Incorporated, on September the 30th, 2007, correct?

11 A That sounds correct, yes.

12 Q Okay. Turn with me a few pages forward to a page
13 that has Bates labels in the lower, right-hand corner of
14 834. Do you see those little numbers in the lower,
15 right-hand corner of the page?

16 A I do.

17 Q All right. And this appears to be what's known as
18 a W-4, correct?

19 A It is.

20 Q And does that have your signature on it?

21 A It does.

22 MR. HOYLE: Your Honor, may we publish these as we
23 go along?

24 THE COURT: They're in evidence without objection,
25 this exhibit is, yes?

1 MR. MACKELCAN: Yes. Yes, your Honor.

2 THE COURT: You may.

3 BY MR. HOYLE:

4 Q And this reflects that you gave some information to
5 CasePro, on September the 6th, 2007, correct?

6 A Yes.

7 Q And that was ultimately so you could get a
8 paycheck, correct?

9 A I'm sorry?

10 Q And that's so you could ultimately get a paycheck
11 from CasePro, correct?

12 A Yes.

13 Q In that paycheck, certain deductions were made for
14 things like FICA, Social Security, and other types of
15 withholdings, correct?

16 A Yes.

17 Q We'll just keep going forward to the page labeled
18 846. Are we on the same page, sir?

19 A We are now.

20 Q You actually got your paycheck direct deposited,
21 correct?

22 A Yes.

23 Q You filled out paperwork so that a company out in
24 Texas could wire money electronically to your bank
25 account here in Beaufort County, correct?

1 A That's correct.

2 Q All right. Let's keep going forward in this packet
3 of documents. Let's go the page that is Bates stamped
4 in the lower, right-hand corner 858. Are we on the same
5 page, sir?

6 A Getting there.

7 Q Okay. Take your time.

8 A 858 it is.

9 Q All right. And up at the top of the page, it just
10 looks like some sort of enrollment application with Blue
11 Cross Blue Shield health insurance, correct?

12 A Yes.

13 Q You were actually getting health insurance as a
14 result of getting work every day from CasePro,
15 Incorporated, correct?

16 A I was paid for it, but yes.

17 Q Okay. There was some cost sharing there. Is that
18 fair?

19 A To a degree.

20 Q Okay. I apologize for having to do all of this,
21 sir. Let's keep going in the packet. Let's keep going
22 to Page 876 in this packet. We'll skip a few pages.

23 A 876 it is.

24 Q All right. And that looks like one of the
25 benefits, in addition to health insurance, you were

1 getting from your employer, that being CasePro, was some
2 long-term disability insurance, correct?

3 A Yes.

4 Q And you filled out paperwork so you could get that
5 benefit, correct?

6 A Yes. Correct.

7 Q Okay. Let's keep going forward. Let's go to the
8 page that says 879.

9 A Got it.

10 Q And it looks like --

11 MR. HOYLE: It just went off. Madam Clerk?

12 A Did I hit the button by mistake? Keep my hand off
13 the button.

14 Q Oh, you're fine, Mr. McDonald. There we are.
15 These high-tech courtroom sometimes get a little
16 confusing.

17 A I'm sorry. I thought I hit the push button while I
18 was flipping pages. That's all.

19 Q That's why they don't have a microphone over here.
20 They probably keep hitting the button for that, as well.

21 Q Let's look at 879.

22 A Okay.

23 Q We got the letterhead of CasePro, Incorporated,
24 correct?

25 A Yes, we do.

1 Q Shows an address out in San Antonio, Texas. And
2 this says: *Employee Acknowledgment of Alcohol and*
3 *Controlled Substances Policy*, correct?

4 A Yes.

5 Q That's what the document says, and it has a
6 signature on it. Is that your signature?

7 A It is.

8 Q And it's dated October the 2nd, 2007, correct?

9 A Yes.

10 Q And you acknowledge, by that document, you've
11 received a copy of CasePro, Incorporated's *Alcohol and*
12 *Controlled Substances Policy*, correct?

13 A Yes.

14 Q All right. We'll turn the page, so the next one,
15 that being the page Bates stamped in the lower, right-
16 hand corner 880.

17 A I have it.

18 Q And this is a receipt and acknowledgment of CasePro
19 HIPAA privacy documents, correct?

20 A Yes.

21 Q Okay. And it has a signature on it, correct?

22 A It does.

23 Q Is that your signature?

24 A It is.

25 Q This is dated October the 2nd, 2007, correct?

1 A Correct. Yes.

2 Q Okay. Let's turn the page, to Page 881.

3 A Got it.

4 Q And we've got an acknowledging receipt and
5 understanding of the sexual abuse policy for CasePro,
6 Incorporated, correct?

7 A Yes.

8 Q And this says:

9 *I acknowledge that I have received*
10 *and read the sexual abuse policy, and/or*
11 *had it explained to me. I understand*
12 *that CasePro will not tolerate any*
13 *employee or third part who commits sexual*
14 *abuse.*

15 Did I read that correctly?

16 A You did.

17 Q And this document bears your signature, correct?

18 A It does.

19 Q And the date of October 2, 2007.

20 A Correct.

21 Q Okay. Let's go a few pages forward to Page 884.

22 A I'm there.

23 Q All right. There we are. And this appears to be
24 an application for employment, correct?

25 A Yes.

1 Q And there's some information filled out on here in
2 handwriting. Do you know whose handwriting that is?

3 A That's mine.

4 Q Okay. So, you filled out some information here,
5 because you wanted to go to work for CasePro, correct?

6 A Yes.

7 Q All right. And we've got your name and address,
8 position applied for, and some dates that you're
9 available to start work, correct?

10 A Yes.

11 Q All right. And we turn the page, we've got some
12 past employment history, correct?

13 A Yes.

14 Q And we go to the page that comes after that. We
15 even have a listing of some of your skills and
16 qualifications and educational history, correct?

17 A Correct.

18 Q And if we turn to the page after that, the page
19 that's Bates stamped 887, down at the bottom we've got a
20 signature, correct?

21 A Yes.

22 Q Whose signature is that?

23 A Mine.

24 Q Okay. And you signed this in September the 6th,
25 2007.

1 A Yes.

2 Q Because you wanted a job getting a paycheck from
3 CasePro, Incorporated, correct?

4 A Yes.

5 Q Okay. We'll go back to a series of documents. I
6 missed something earlier. I apologize. I was trying to
7 be expeditious. Well, let's go to Page 855. It's about
8 smack-dab in the middle of this big stack of papers.

9 A 855 it is.

10 Q Okay. Let's go up to the top of the page. This is
11 letterhead of CasePro, Incorporated?

12 A It is.

13 Q It bears an address out in Texas, and a phone
14 number?

15 A Yes.

16 Q All right. And it has your name on it, correct?

17 A Yes.

18 Q And an offer date of August 29, 2007, correct?

19 A Yes.

20 Q And it actually reflects some information on there,
21 reflecting some compensation that CasePro is offering to
22 pay you, correct?

23 A Correct.

24 Q All right. Let's go down to about the mid-point of
25 the page. There's a paragraph that begins, by accepting

1 employment.

2 A I see it.

3 Q All right.

4 By accepting employment with CasePro,
5 Incorporated, you will be subject to the
6 company's policies as set out in its
7 employee manual, and the requirements
8 for such conduct.

9 Did I read that correctly?

10 A You do. I do. We do.

11 Q Do you recall ever receiving an employee manual
12 from CasePro, Incorporated?

13 A Do not recall.

14 Q Could have, could not have. Just don't remember.

15 A Don't recall.

16 Q Okay. Let's go down to the next paragraph.

17 A Okay.

18 Q Your employment with CasePro is at will, meaning it
19 may be terminated by you or CasePro with our without
20 cause at any time. Did I read that correctly?

21 A You did.

22 Q Okay. And you understood that, when you received
23 this document, that CasePro could terminate your
24 employment at any time with or without cause, correct?

25 A Yes.

1 Q And similarly, you could terminate your employment,
2 or quit and leave at any time, as well, correct?

3 A With proper notice.

4 Q Okay. And then, down at the bottom of the page,
5 we've got a signature, correct?

6 A We do.

7 Q Whose signature is that?

8 A Mine.

9 Q Okay. And we've got a date of 10/16/09, correct?

10 A '07.

11 Q '07. I apologize. What was your E.R. experience,
12 prior to February 24, 2012?

13 A I started off in the emergency room at Burlington
14 County Memorial Hospital. I guess it was a year a half
15 or so. It was a community hospital about the size of
16 Beaufort Memorial Hospital here. Same community, same
17 resources. Decided to move down to South Carolina, and
18 got employed with Beaufort Memorial E.R. So, the total
19 there, at that time, was three years.

20 Q Now, when you were actually working at the Naval
21 Hospital in the emergency room, how many nurses and
22 doctor or doctors, would be available on each shift?

23 A Initially, two R.N.s, one LPN, one doctor, and one
24 clerk.

25 Q And later on, I take it, those numbers, did they

1 change?

2 A They did.

3 Q Okay. How did they change, sir?

4 A At one point in time, they eliminated the LPN, but
5 that was after this episode.

6 Q Okay. How long were the shifts when you were doing
7 your work in the emergency room at the Naval Hospital?

8 A They were 12 hours.

9 Q And did you always work with your wife?

10 A Yes..

11 Q If she was there, you were there?

12 A Yes.

13 Q And since you're both registered --

14 A Well, unless we swapped a shift with somebody at
15 their request.

16 Q Generally speaking, more likely than not, if she
17 was there, you were there.

18 A Yes.

19 Q Okay. So, if there's two registered nurses per
20 shift, and you're there, and she's there, would you all
21 just talk amongst yourself, and figure out who was going
22 to do triage and who was going to do treatment?

23 A Yes.

24 Q Okay. Now, I know that these were 12-hour shifts,
25 but did the emergency room at the Naval Hospital ever

1 close?

2 A No.

3 Q It was open 24/7/52?

4 A Correct.

5 Q Okay. Is it fair to say that, when you were
6 working in the emergency room at the Naval Hospital in
7 2012 as a registered nurse, you would be taking
8 direction from the E.R. physician?

9 A Yes.

10 Q And at that point in time, in 2012, that would have
11 also been a CasePro employee, correct?

12 A I believe so.

13 Q On February 24, 2012, who was the emergency room
14 physician working there that day?

15 A It would have been Dr. Jansen.

16 Q How long have you known Dr. Jansen?

17 A Since working at Navy E.R. I -- I -- I assume or
18 presume he was there around the same time I was, but I
19 have not known him prior to that. Whether he started
20 before or after, I'm not sure.

21 Q Okay. The only context with which you knew him was
22 through the doctor/nurse relationship that you all had
23 there in the emergency room. Is that fair?

24 A Correct.

25 Q Okay. On February 24, 2012, the date that brings

1 us all to this courtroom, what time did you arrive to
2 work?

3 A Quarter 'til 7:00 or so.

4 Q 7:00 in the morning?

5 A Yes.

6 Q And you were going to work a 7:00 a.m. to 7:00 p.m.
7 shift, correct?

8 A Yes.

9 Q Who is treated in the emergency room back in 2012?
10 I know things might be different now, but in 2012, who
11 was getting treated at the emergency room at the Naval
12 Hospital, Beaufort? What was the population that was
13 being served?

14 A Primarily recruits, active duty, retirees,
15 dependents, and anybody else who presented to the
16 window. Did not necessarily need to be military-
17 related.

18 Q Do you recognize the name Calvin Hunt?

19 A I do.

20 Q How do you recognize the name Calvin Hunt?

21 A He's why we're here today.

22 Q Had you ever met Calvin Hunt prior to February 24,
23 2012?

24 A No. Not that I recall.

25 Q Do you recall that date, February 24, 2012?

1 A I do.

2 Q Were you busy that day in the emergency room?

3 A We were busy earlier in the day. It had honed down
4 to nothing, 'til Mr. Hunt came in. When he was -- when
5 he was there, he was the only patient.

6 Q I had the pleasure of asking your wife some
7 questions yesterday. But how did you learn that Calvin
8 Hunt was there in the emergency room?

9 A I heard that there was a patient up in triage.
10 After she had done the triage, she brought the patient
11 back to treatment area.

12 Q And then, we had some testimony yesterday
13 describing the E.R. I'll ask you, is this a big E.R., a
14 small E.R., an itty-bitty E.R.? How would you describe
15 it?

16 A I'd say it's small.

17 Q The kind of thing that, if somebody in one part of
18 the E.R. is doing something, somebody else in a
19 different part of the E.R. is going to be able to hear
20 part of it?

21 A Pretty much.

22 Q Not too much privacy in there, is there?

23 A No.

24 Q When did you first see Calvin Hunt that day?

25 A When triage nurse brought him back to Bay 4.

1 Q And where were you located when that happened?

2 A The nurses' station.

3 Q What did you observe when your wife, the triage
4 nurse, brought Mr. Hunt back to Bay Number 4?

5 A I observed my wife. I observed the patient. He
6 was tall, thin, very clean, pressed shirt, bluish-black
7 jeans pressed. Well presented.

8 Q Now, you yourself didn't do any sort of triage or
9 assessment with Mr. Hunt, correct?

10 A Correct.

11 Q It's fair to say the triage nurse is -- strike
12 that. Fair to say that you were the treatment nurse,
13 not the triage nurse, correct?

14 A Yes, correct.

15 Q And we got some testimony from your wife yesterday
16 about what a triage nurse does. Tell the Court and jury
17 what a treatment nurse does.

18 A It would be the interventions as prescribed by
19 physician or protocol. Assess the patient, monitor the
20 patient, discharge the patient, send for X rays, draw
21 blood. Nursing things.

22 Q You told us some good information there. I'm going
23 to ask you about two of them. What's the purpose of
24 monitoring a patient?

25 A To keep them safe; keep them stable.

1 Q And what's the purpose of doing a nursing
2 assessment on a patient?

3 A To evaluate their status.

4 Q Based on your years that you've been working as a
5 registered nurse in emergency rooms, have you observed
6 the status of an E.R. patient change from the time they
7 show up, between the time they -- and the time they
8 leave?

9 A Yes.

10 Q That's something you've seen.

11 A Oh, yes.

12 Q Is that a common thing?

13 A It happens. I'm not sure -- I'm not sure of the
14 definition of common, but it's happened.

15 Q Some you've seen.

16 A Correct.

17 Q Okay. Is that one of the reasons that, as the
18 treatment nurse, you're going to be continually
19 assessing a patient while he or she is there in the
20 emergency room?

21 A At least have eyes on the patient, yes, depending
22 on what the situation is.

23 Q And those eyes on the patient also help you monitor
24 the patient, correct?

25 A Correct.

1 Q Okay. What was Mr. Hunt's demeanor like when you
2 first saw him?

3 A He was very -- very calm, quiet-spoken.

4 Q Now, Stretcher Bay Number 4, this is the closest
5 stretcher bay to the doctor's office, correct?

6 A Correct.

7 Q And I honestly don't know if I asked you or not.
8 Who was the doctor working that day?

9 A Dr. Jansen.

10 Q Okay. After you saw your wife, Nurse Janice
11 McDonald, place Mr. Hunt in Bay Number 4, what did she
12 do?

13 A I'm sorry?

14 Q After you saw your wife place Mr. Hunt in Stretcher
15 Bay Number 4, what did she do next?

16 A Well, she spoke to Dr. Jansen and she spoke to me.
17 Then, she went back down to the triage area.

18 Q Now, when she went and spoke to Dr. Jansen, where
19 was -- where did the conversation take place?

20 A In his office.

21 Q And when she went in there to speak with Dr. Jansen
22 in his office, was the door to that office open or
23 closed?

24 A I don't know. I -- I can't see the door from where
25 I was sitting.

1 Q Were you able to overhear part of their
2 conversation?

3 A I did not.

4 COURT REPORTER: I'm sorry. I did not, or I could
5 not?

6 A I did not hear.

7 Q And then, when your wife came and spoke with you,
8 where did that conversation take place?

9 A It was -- she was on the other side of the nurses'
10 station, walking past me.

11 Q Did she actually stop and have a conversation with
12 you, or was this a walk-and-talk kind of thing?

13 A No, she stopped right here and spoke to me.

14 Q What did she tell you about Calvin Hunt? This is
15 right after she's placed him in Stretcher Bay Number 4,
16 and before she goes back up front to triage. What did
17 she tell you?

18 A She told me that he's here for his prescription
19 refills; that he had been upstairs; they sent him down
20 here; that he is not suicidal; he's just more angry.

21 Q Did she tell you that he had been out his
22 medications for some period of time?

23 A Yes.

24 Q Did your wife tell you that Calvin Hunt's
25 grandmother wanted him seen by the medical provider,

1 because she was afraid he would take his own life?

2 A Did not.

3 Q Did you know that day that Calvin Hunt was having
4 suicidal thoughts when he entered the emergency room?

5 A Did not.

6 MR. HOYLE: Permission to approach, your Honor?

7 THE COURT: Yes.

8 BY MR. HOYLE:

9 Q Mr. McDonald, I'm showing you what's been
10 previously moved into evidence as Plaintiff's Exhibit
11 Number 20. Have you seen these documents before?

12 A I have.

13 Q Okay. And what are these documents of?

14 A I'm sorry?

15 Q And what are these documents of? What do these
16 papers show us?

17 A These are the emergency room documents that we use
18 for each and every patient.

19 Q Okay. And if you'll turn to the second page of
20 that exhibit. It looks like we've got a triage record,
21 correct?

22 A Yes.

23 Q And do you recognize the handwriting on that triage
24 record?

25 A I do.

1 Q Whose handwriting is it?

2 A It looks like Nurse Janice.

3 Q It looks like your wife's writing.

4 A Correct.

5 Q Okay. Are these papers that you would have had
6 with you, once your wife brought Mr. Hunt back to
7 Stretcher Bay Number 4? The triage records?

8 A Yes.

9 Q Okay.

10 A Well, they would have been with me or Dr. Jansen.

11 Q These are documents that your wife, after she
12 filled them out up in the front of the emergency room,
13 would have brought to the back, correct?

14 A Correct.

15 Q Okay. And just to ask a foundational question, did
16 you read the triage record?

17 A Yes.

18 Q Okay. And you read it that day?

19 A Yes.

20 Q While Calvin Hunt was still in the emergency room?

21 A Yes.

22 Q Okay. And you told us earlier what an assessment
23 was.

24 A Um-hmm.

25 Q What nursing assessment had your wife made?

1 A It says there is suicidal ideation.

2 Q On that particular day, on that fateful Friday,
3 February 24, 2012, did you have an understanding as to
4 whether or not those suicidal ideations were then
5 occurring, or whether or not they occurred in the past,
6 or what was your understanding, if any?

7 A They had occurred in the past.

8 Q Did you ask your wife to seek any clarification as
9 to whether or not those ideations were there that day,
10 or some time in the past, or were you making an
11 assumption?

12 A No. I'm going by what she had said, was that he's
13 not suicidal; that he's more angry.

14 Q So, you took that to mean that the ideations were
15 not then present, correct?

16 A Correct.

17 Q So, when Calvin Hunt gets there to the emergency
18 room, Stretcher Bay Number 4, directly across from your
19 view of the nurses' station, what you know about Calvin
20 Hunt is that he's angry, correct?

21 A To a degree, yes.

22 Q On the triage record, which you told us your wife
23 filled out and you read, we've got a history of alcohol
24 and drug dependence.

25 A Um-hmm.

1 Q Do you see that?

2 A I do.

3 Q Did you read that information contemporaneously on
4 February 24, 2012?

5 A I did.

6 Q Okay. And did you know that he had a history of
7 alcohol and drug dependence on that day?

8 A Yes.

9 Q And what follows is he also has a history of
10 depression.

11 A Yes.

12 Q And PTSD.

13 A Yes.

14 Q Did you know on February 24, 2012, while Calvin
15 Hunt is still there in Stretcher Bay Number 4 of the
16 emergency room, that he had a history of alcohol and
17 drug dependence, depression, and PTSD?

18 A That he had a history of those symptoms? Yes.

19 Q You knew all that. Okay. And you knew that Mr.
20 Hunt was needing some pills, correct?

21 A He had come in for refills of his prescriptions,
22 yes.

23 Q And did you specifically know what pills it was
24 that he was seeking?

25 A Not specifically, no.

1 Q There is a list of some medications on that nursing
2 assessment that your wife filled out. Do you see that
3 over here?

4 A I do.

5 Q In the medications section?

6 A Yes.

7 Q When you had this document in front of you on
8 February the 24th, 2012, while Calvin Hunt was still in
9 Stretcher Bay Number 4, did you read that list of
10 medications?

11 A I did.

12 Q Okay. Are there any medications on that list that
13 have anything to do whatsoever with either depression or
14 some sort of mental health issue?

15 A There are.

16 Q Which ones are they?

17 A That would be the first one and the fourth one.

18 Q And what's the first one for, sir?

19 A Depression.

20 Q All right. And what's the fourth one?

21 A It could be used for depression, bipolar, possibly
22 schizophrenia, but mental health drugs.

23 Q And the trade name of the fourth drug, what is
24 that?

25 A Seroquil.

1 Q Okay. But on February 24, 2012, when you had those
2 triage records in front of you that your wife had filled
3 out, did you ask your wife specifically which
4 medications it was Mr. Hunt was needing refilled?

5 A I did not.

6 Q Under *Past Medical History*, we have a word here.
7 Can you tell us what that word is.

8 A That's depression.

9 Q Let's turn to the next page of this triage record.

10 A I have it.

11 Q Is this a document that you would have looked at on
12 February 24, 2012, while Calvin Hunt was still across
13 from you in Stretcher Bay Number 4?

14 A It is. Um-hmm.

15 Q That's a yes?

16 A That's a yes.

17 Q Okay. And there is a section down here called
18 *Psychosocial*. Do you see that?

19 A I do.

20 Q Okay. And were there times when you and your wife
21 were working together at the emergency room that you'd
22 be the triage nurse and she would be the treatment
23 nurse?

24 A Oh, yes.

25 Q Okay. So, you've filled forms out like this

1 yourself in the past. Is that fair?

2 A Correct.

3 Q Okay. When somebody's going through and checking
4 boxes on this, are these about conditions that are then-
5 existing or conditions in the past?

6 A Conditions as they exist when the patient is in
7 front of you.

8 Q So, this would be current information, correct?

9 A Yes.

10 Q Okay. Compared to things like here that say *Past*
11 *Medical History*.

12 A Correct.

13 Q Okay. So, on the psychosocial, these would be
14 current psychosocial assessments of Mr. Hunt, correct?

15 A That's correct.

16 Q Done at about, oh, a little bit after 2:00 in the
17 afternoon, on Friday, February 24, 2012, correct?

18 A Yes.

19 Q All right. So, at that time, there is a section
20 here called affect, correct? Or affect. Do you see
21 that?

22 A Yes.

23 Q And which box of the three is checked?

24 A Flat.

25 COURT REPORTER: I'm sorry?

1 A Flat.

2 COURT REPORTER: Flat.

3 Q And what does that mean when a patient at a
4 specific, current, then-occurring point in time has a
5 flat affect?

6 A Just no exuberance, no depression. Just flat.
7 That's flat.

8 Q And then, underneath that, we have something that
9 says mood. You see that?

10 A Yes.

11 Q What box of the one, two, three moods are checked?

12 A Excuse me. Depressed.

13 Q Okay. And let's see here. Under behavior, we've
14 got one, two, three, four, five possibilities, correct?

15 A We do.

16 Q And which of those five boxes is checked?

17 A Withdrawn.

18 Q What does it mean on this nursing assessment when
19 the box withdrawn is checked?

20 A A little difficult getting questions answered. Not
21 forthwith. Some people are very talkative. Withdrawn
22 would be the opposite of that.

23 Q So, currently, at that point in time, when your
24 wife filled this out, before she brought Mr. Hunt back,
25 he had a flat affect; he was depressed; and he was

1 withdrawn, correct?

2 A Correct.

3 Q And those were observations about Calvin Hunt at
4 that point in time, correct?

5 A Yes.

6 Q Okay. And now, we've got this section down here
7 that says ideations. You see that?

8 A Yes.

9 Q Can you tell the Court and jury what an ideation
10 is.

11 A Thoughts of --

12 Q Something.

13 A Yes.

14 Q Okay.

15 Q So, for the ideations, we've got one, two, three,
16 four, options, with boxes. Do you see that?

17 A I do.

18 Q And which box is checked?

19 A Just suicidal.

20 Q And based on your testimony, that would have been
21 an assessment that, on that day, that February 24, 2012,
22 Calvin Hunt then had existing suicidal ideations,
23 correct?

24 A To some degree, yes.

25 Q That's what the record that your wife filled out

1 shows.

2 A Yes.

3 Q And you read this record, correct?

4 A I did.

5 Q But going back to an earlier question, you told us
6 that you didn't know, on February 24, 2012 that Calvin
7 Hunt was having thoughts that day of self-harm, correct?

8 A When he was there, I was told that he had -- he was
9 more angry; no thoughts of suicide; no plan.

10 Q Did your wife ever tell you that she was afraid of
11 Calvin Hunt when he was in the triage room?

12 A She had mentioned that.

13 Q On that day?

14 A Yes.

15 Q Okay.

16 A Was it on that day? I'm not sure. I know it came
17 up. It might have been on her -- talking later. I -- I
18 -- sitting here, I can't recall exactly when she had
19 told that.

20 Q Okay. Did your wife ever tell you that Calvin Hunt
21 had some mannerisms about him that made her feel
22 uncomfortable?

23 A No. I know after the fact that he had put his
24 hands up to his ears, but this is the second or third
25 person that's been asking him the same question over and

1 over.

2 Q So, let me make sure I understand this. On
3 February 24, 2012, while Calvin Hunt is still there in
4 Stretcher Bay Number 4, you didn't have any knowledge
5 from your wife about him doing anything with his
6 mannerisms that made her uncomfortable? Is that
7 correct?

8 A I don't recall that, that came up at that time.

9 Q Okay. Did she tell you anything while he's still
10 there? While Calvin Hunt's still there within the four
11 walls of the emergency room at the Naval Hospital, did
12 she tell you anything about Calvin Hunt putting his
13 hands over his ears?

14 A I don't recall that it came up at that time.

15 Q That's something you heard subsequent.

16 A I heard -- I can't tell you right now when I heard
17 that.

18 Q All right. Now, you've been talking a little bit
19 about what you knew and what you didn't know. When
20 Calvin Hunt was placed in Stretcher Bay Number 4, and
21 your wife heads back up to the front, do you become the
22 nurse responsible for Calvin Hunt?

23 A Yes.

24 Q Okay. And you told us earlier some things that you
25 had to do with it. You had to be responsible for

1 interventions and assessments and monitoring, correct?

2 A Yes.

3 Q Okay. So, that was going to be your responsibility
4 for Calvin Hunt sitting there in Stretcher Number 4?

5 A That's correct.

6 Q And I've heard a lot of testimony about this
7 Stretcher Bay Number 4. But sometimes, a picture --
8 sometimes, a picture is worth a thousand words. Sir, --

9 MR. HOYLE: Permission to approach, Judge?

10 THE COURT: Yes. Is this picture in evidence?

11 MR. HOYLE: It is in evidence.

12 THE COURT: And what is the number?

13 MR. HOYLE: It is 16-A through J.

14 MR. LOVELL: No objection, your Honor.

15 THE COURT: Very well.

16 MR. HOYLE: All right.

17 ITEMS IDENTIFIED AS PHOTOGRAPHS

18 MARKED PLAINTIFF'S EXHIBIT NUMBERS 16,

19 A THROUGH J, ADMITTED AS EVIDENCE.

20 BY MR. HOYLE:

21 Q Sir, I'm approaching you with an exhibit that has
22 been moved into evidence by consent. It's labeled
23 Plaintiff's 16, and it goes A through I [sic]. I want
24 to specifically direct your attention to E and F. Okay?

25 A Let me re-orient myself here, cause it's been

1 awhile.

2 Q Okay. Yes, sir. Take as much time as you need.

3 A Okay. because

4 Q We'll get the right one up on the screen. Let's
5 stop right there.

6 And you have that exhibit in front of you, correct?

7 A I do now.

8 Q Okay. We're looking at some sort of hallway here,
9 correct?

10 A Yes.

11 Q Okay. And on the right side of the photograph,
12 we've got a wall and a door in the foreground. Do you
13 see that?

14 A Yes.

15 Q Okay. And what's that a door to?

16 A That looks like it's probably the door to the
17 bathroom.

18 Q Okay. And directly in front of that, as you're
19 standing there in the hallway, looking at this
20 photograph, there's a door down at the end of this
21 hallway. Do you see that?

22 A There is. I do.

23 Q And what does that door go to?

24 A That goes into the CAT scan room.

25 Q Okay. And to the left of that door, there appears

1 to be the area with a curtain and a sink that's visible
2 in this photograph, correct?

3 A Correct.

4 Q What is that area that we're looking at there, to
5 the left of the door that goes to the C.T. machine?

6 A That's Bay Number 4.

7 Q Bay 4. All right. Let's look at the next
8 photograph. All right. We've got a different view of
9 Bay Number 4. Are you with me so far?

10 A I am.

11 Q And you've got that photograph up there with you on
12 the witness stand, correct?

13 A I do.

14 Q Okay. And about how big is Bay Number 4?

15 A I guess it's maybe six, seven foot wide, and
16 stretcher deep. So, it'd be maybe eight foot.

17 Q So, about eight by six or eight by seven?

18 A Yes.

19 Q And how far away from this stretcher or bay are you
20 when you're physically sitting at the nurses' station?

21 A Maybe from here, to the gentleman here on the left.
22 Probably no further. A little bit shorter, perhaps.
23 So, it's maybe what, twelve foot?

24 Q And --

25 A Excuse me. But this picture's a little different.

1 That doesn't have a regular stretcher on there. But it
2 still looks like Bay 4.

3 Q Okay. On February 24, 2012, there would have been
4 one of those stretchers or beds that has wheels on it,
5 that you could roll in and out of the bay?

6 A Correct.

7 Q Okay. All right. We'll take the photographs down,
8 sir.

9 We've got Calvin Hunt in Stretcher Bay Number 4.
10 You're about twelve feet away, at the nurses' station,
11 correct?

12 A Yes.

13 Q You're now the nurse responsible for Calvin Hunt's
14 interventions, assessments, and monitoring, correct?

15 A Correct.

16 Q What do you do once your wife goes back up to the
17 front?

18 A I stay at the nurses' station, cause I knew that
19 Dr. Jansen was going to go in and do his evaluation.

20 Q And an evaluation's different than an assessment,
21 correct?

22 A Evaluations, assessment, be the same.

23 Q Okay. And are you doing any type -- filling out
24 any type of paperwork once all this begins and you're
25 now responsible for Mr. Hunt?

1 A No, not really. I mean, I'm making notes on there,
2 just so that it looks like I'm doing something other
3 than nothing. I mean, you chart by exception. So, if
4 there's nothing exceptional to write, it kind of looks
5 like you're not doing anything.

6 Q Let's go back to Exhibit Number 20, the E.R. record
7 from that day.

8 A Done with these?

9 Q We're done with these. In fact, you can hand them
10 to me, so we can hand them back to the court reporter,
11 so they don't walk out of the courtroom and go to
12 Tahiti.

13 What are we looking at on this piece of paper of
14 the E.R. records from that day?

15 A This would be my portion of the documentation.

16 Q All right. We've got up at the top some language
17 that says nursing notes.

18 A Correct.

19 Q Do you see that?

20 A I do.

21 Q And some handwriting follows underneath nursing
22 notes, all the way down to a box that says name and
23 signature.

24 A Yes.

25 Q Okay. Whose handwriting is contained within that

1 area?

2 A That's mine.

3 Q And there's a signature down there that says name
4 and signature. You see that?

5 A I do.

6 Q And there's a signature right there.

7 A That's mine.

8 Q That's your signature. Okay. So, you're the right
9 man to talk to about with respect to a time line, going
10 from 14 -- what does that look like to you?

11 A 1430.

12 Q 1430. So, 2:30 in the afternoon to, looks like,
13 about 1635?

14 A Correct.

15 Q Okay. So, we've got some notes here that
16 correspond with a time to the left. Do you see that?

17 A I do.

18 Q Were you writing these in real time, or were you
19 going back through after the fact and estimating or
20 guesstimating what time certain things happened?

21 A The one, two, three, four were pretty much real
22 time, give or take a couple. Beyond that, it was a post
23 note.

24 Q All right. So, where do our contemporaneous
25 entries end? It's one, two, three -- it's after the

1 fourth one, you said?

2 A Yes.

3 Q Okay. So, we'll just draw a line on this copy,
4 this board that I've got up here to my left. Let's
5 start at 2:30. What do your notes reflect happened at
6 2:30 in the afternoon?

7 A Received report from triage and the eval pending.

8 Q Okay. You've told us a little bit about receiving
9 the report from your wife, correct?

10 A Correct.

11 Q Can you tell us everything that you can recall, as
12 you sit here today, she told you during that initial
13 report.

14 A As I recall, yes.

15 Q Nothing else you want to add to that at this time?

16 A At this time.

17 Q Okay. And you have had some records, and I think
18 we went over those records fairly sufficiently. Is that
19 fair?

20 A Yeah.

21 Q Okay. An M.D. eval pending. What does that mean?

22 A That the physician was going to do his evaluation;
23 it has not happened at that moment.

24 Q Now, 1430, what's our next entry?

25 A 1500.

1 Q And what happens at 1500, according to your notes?

2 A It's just a note of an observation I made, that the
3 representative from Veterans Affairs with patient, and
4 he's in -- and he is cooperative. E.R. M.D. eval in
5 progress.

6 Q So, by 3:00 o'clock, there was a doctor in there,
7 evaluating Mr. Hunt.

8 A Correct.

9 Q And that was Dr. Jansen, correct?

10 A Correct.

11 Q There's a person we've not really talked about thus
12 far. You and I haven't, at least, today. There's a rep
13 from the Veterans Affairs. Who is that?

14 A Mr. Ray.

15 Q Okay. And tell -- strike that. Have you ever met
16 Mr. Ray before, prior to this day?

17 A I don't know. I mean, he may have been a patient,
18 but wouldn't have recognized him as such, until after
19 this event. He had been in after this event. Of
20 course, we recognized each other. But if we had met
21 prior, it was just another patient.

22 Q And Mr. Ray, was he an older gentleman?

23 A Yes.

24 Q Okay.

25 A Well, wait a minute. What do you mean older? I

1 mean older? I'd say retirement age.

2 Q He was retirement age.

3 A Yes.

4 Q Okay. All right. So, we're now up to 3:00 o'clock
5 in our time line. Now, we've got a time line here that
6 says 1530. That'd be 3:30 in the civilian world,
7 correct?

8 A Yes.

9 Q Okay. What do your notes reflect happened at 3:30?

10 A Dr. Jansen wanted to speak to mental health
11 department over at Beaufort Memorial. I am noting that,
12 that -- well, that telephone call was made.

13 Q Okay. And telephone call to BMH 2-E. What is 2-E?

14 A 2-E is the mental health ward at Beaufort Memorial.

15 Q And it says here, to inquire bed availability. Did
16 I read that correctly?

17 A Correct. And spoke with Marilyn.

18 Q All right. And who, specifically, spoke with
19 Marilyn?

20 A Dr. Jansen.

21 Q Okay. And that's 3:30, correct?

22 A Yes.

23 Q All right. What's the next time entry that we
24 have?

25 A Excuse me. That's not 3:30. That's before 1525.

1 Q So, is that 1520?

2 A That looks like a 1510 or a 1520.

3 Q Okay. What time do you think that was, that
4 telephone call? 1510 or 1515?

5 A Either one. It was in that neighborhood. Yeah, I
6 wasn't in on the conversation. I know it was made.

7 COURT REPORTER: I'm so sorry. Let's get you in
8 here. I don't think that they're hearing you.

9 A Is that better?

10 COURT REPORTER: Yes.

11 Q So, either at ten minutes after the hour of 3:00,
12 or 20 minutes after the hour of 3:00, or somewhere in
13 that neighborhood, a telephone call gets made by Dr.
14 Jansen over to the mental health ward, the psyche ward,
15 of the Beaufort Memorial Hospital?

16 A Correct.

17 Q Okay. Whether it was 1510 or 1520, we know it's
18 before this next entry that we're about to talk about,
19 correct?

20 A Yes.

21 Q Okay. Because at least the first one, two, three,
22 four entries in our time line on the nursing notes were
23 in sequential order, correct?

24 A Yes.

25 Q Okay. 1525. Did I read those numbers correctly?

1 A You did.

2 Q Okay. What happens at 1525?

3 A The psyche tech by the name of Manning was in doing
4 his evaluation with Mr. Hunt.

5 Q Okay. So, it's not a trick question, okay? I know
6 people think that, that's going to happen, but. Before
7 whoever this fellow is, Psyche Tech Manning, is doing an
8 evaluation, before that even happens, Dr. Jansen makes a
9 telephone call to the psyche ward of the Beaufort
10 Memorial Hospital to see if they have an available bed,
11 correct?

12 A Apparently.

13 Q That's what your notes reflect.

14 A Um-hmm.

15 Q Is that a yes?

16 A It is.

17 Q And as you sit here today, here in this courtroom
18 today, in front of this Court and this judge, you have
19 no reason to believe that these entries are anything
20 other than correct. Is that fair?

21 A That's fair.

22 Q Okay. So, let's talk a little bit about a psyche
23 tech. You currently work in Beaufort -- at Beaufort
24 Memorial. You've worked previously at some civilian
25 hospitals. Does either Beaufort Memorial or any other

1 civilian hospital that you've ever worked at have
2 something known at a psyche tech?

3 A Not that I'm aware of.

4 Q The only place you've ever seen a psyche tech is
5 where?

6 A Navy E.R.

7 Q Okay. You've got something on here, it says Psyche
8 Tech Manning.

9 A Yes.

10 Q Psyche Tech Manning, did he wear a uniform
11 indicating that he was in the service, or was he a
12 civilian, or do you know?

13 A Oh, he had a Navy uniform on. Blue cammies.

14 Q That indicate to you that he was active duty?

15 A Yes.

16 Q Tell us what a psyche tech is. What does a psyche
17 tech do?

18 A Can't really tell you. They come down, they do
19 their evaluation. They'll go upstairs and talk to, I
20 guess, it's the psychiatrist or a psychologist. What
21 happens between them, I've never been involved with.

22 Q That's not something that impacts what you do with
23 respect to your intervention assessment or monitoring of
24 a patient in the E.R., correct?

25 A Correct.

1 Q Do you know who, if anyone, asked Psyche Tech
2 Manning to come down to the emergency room?

3 A Yes. It would have been Dr. -- I believe Dr.
4 Jansen asked for a psyche tech, but I don't know for
5 sure how that happened.

6 Q Probably Dr. Jansen's a better person to talk to
7 about that?

8 A I believe so.

9 Q Okay. How long was psyche tech --

10 A It wasn't -- it wasn't me; it was the triage nurse.
11 So, there aren't too many other players in the field.

12 Q Okay. I heard some talk earlier about how, at
13 various times, there was an LPN there, and other times,
14 there wasn't an LPN there. On this particular Friday
15 afternoon, February 24, 2012, was there an LPN present
16 within the four walls of the emergency room?

17 A There was.

18 Q For the entire time Calvin Hunt was there?

19 A No.

20 Q What about for any of the time that Calvin Hunt was
21 there?

22 A That person was there initially.

23 Q And I take it he or she left?

24 A No. She also worked up on the fifth floor. There
25 was nothing going on with -- currently. I think she had

1 some training or a schedule issue up on the fifth floor.
2 She was -- she went up there to take care of whatever.

3 Q Let's go back to the interaction that Mr. Manning
4 had in the emergency room. Did you actually see Mr.
5 Manning go into Stretcher Bay Number 4 where Calvin Hunt
6 was?

7 A I did.

8 Q Did you go in with him?

9 A Did not.

10 Q Were you able to hear what was transpiring in
11 between Mr. Manning and Calvin Hunt while you were
12 sitting, I believe you told us, some twelve feet away?

13 A I was not able.

14 Q And some point in time, I take it, Mr. Manning went
15 into Stretcher Bay Number 4, correct?

16 A Yes.

17 Q Did you speak with Mr. Manning, either before he
18 went in there, or after he came out?

19 A On his way out, he said, we're going to go upstairs
20 and do our thing.

21 Q And you didn't really know what all that involved.
22 Is that fair?

23 A Correct.

24 Q All right. Let's go back to our time line. What
25 happens next, sir?

1 A Well, somewhere around 4:00 o'clock, Mr. Hunt comes
2 over to me and says, can I make a head call. I said,
3 absolutely. I said, and it's right there to the left.
4 So, I see him walk past. He goes in the bathroom, and I
5 can hear everything that goes on in the bathroom.

6 Q Okay.

7 A I'm -- I'm -- I'm listen -- I always listen to make
8 sure that people stay -- they stay safe, don't fall
9 down, hit their head, whatever.

10 Q So, somewhere around 4:00 o'clock, Mr. Hunt goes to
11 the bathroom.

12 A Correct.

13 Q Okay. Now, at that point in time, is Mr. Hunt
14 wearing the street clothes he came in with, or is he
15 wearing a hospital gown, or what's he wearing?

16 A The street clothes that he wore -- came in with.

17 Q You, as his nurse, hadn't asked him to change into
18 a gown or anything like that?

19 A No need to.

20 Q Okay. Now, when he goes to the bathroom, did you
21 actually accompany him in there?

22 A I did not.

23 Q Let's talk a little bit about the bathroom that
24 Calvin Hunt was using. He went in there with the
25 clothes he came in off the street with, correct?

1 A Correct.

2 Q Could he have used the clothes he came in with to
3 harm himself while he was in there in the bathroom?

4 A Perhaps.

5 Q Do you know one way or the other as to whether or
6 not he had a belt on that day?

7 A I believe he did.

8 Q And again, at least by the records that day, there
9 was an indication by your wife that Calvin Hunt, on that
10 day, that particular day, was having suicidal ideations.

11 A He had suicide ideations. Maybe not particularly
12 at that moment, but he had suicide ideations.

13 Q Did Mr. Hunt speak to you after he exited the
14 restroom?

15 A I asked him if he wanted something to drink. We
16 have Gatorade and ginger ale. He just said, you know,
17 matter of factly, no, pleasantly.

18 Q Did Dr. Jansen ever tell you -- before the time
19 that Calvin Hunt makes the head call, so, with our time
20 line we would be up to here, the bathroom. Prior to Mr.
21 Hunt going to use the bathroom, did you have any
22 information from Dr. Jansen as to whether or not Calvin
23 Hunt was going to be admitted?

24 A No. The only thing that was said is that he may be
25 going over to Beaufort Memorial Emergency Room.

1 Q But you knew from your own time line that you'd
2 been making here that the phone call had been to 2-E,
3 correct?

4 A To see if there was bed availability, yes.

5 Q In the psyche ward at the Beaufort Memorial
6 Hospital.

7 A Yes.

8 Q Okay. Whether or not he was actually going to be
9 put in the bed over there, you didn't know.

10 A Or even go there.

11 Q Okay. Dr. Jansen didn't tell him.

12 A Correct.

13 Q And did Dr. Jansen tell you anything that he had
14 learned from his interactions with Mr. Hunt when he was
15 in there doing his evaluation?

16 A He did not.

17 Q Didn't say one word to you, did he?

18 A Hmm-um. No.

19 Q There are some records in from that day that Dr.
20 Jansen filled out. Did you have the opportunity, while
21 Calvin Hunt was still within the four walls of the
22 emergency room -- so, somewhere in this time frame
23 before 4:00 o'clock, did you have the opportunity to
24 actually see with your own eyes any medical records that
25 Dr. Jansen had filled out in his own writing?

- 1 A No. They would have been with him in his office.
- 2 Q He was holding onto them.
- 3 A Yes.
- 4 Q After Mr. Hunt returned from the bathroom, and you
- 5 asked him whether or not he wanted something to drink,
- 6 and he politely declined that offer, what happened next?
- 7 A Oh, two or three minutes after that, Mr. Ray come
- 8 over and asked if they could step out for a breath of
- 9 fresh air.
- 10 Q We'll talk about this very slowly. Okay. Did I
- 11 hear you say two minutes later?
- 12 A A few minutes.
- 13 Q A few minutes later. Mr. Ray leaves the bathroom,
- 14 and where does he go back to after he leaves the
- 15 bathroom?
- 16 A Bay 4.
- 17 Q He's about twelve feet away from you.
- 18 A About.
- 19 Q He's within your line of sight.
- 20 A Yes.
- 21 Q With the exception of him making the head call, had
- 22 he been within your line of sight ever since 1430, when
- 23 he became your patient?
- 24 A Except when the curtain was closed when Dr. Jansen
- 25 and Psyche Tech Manning spoke to him.

1 Q So, with the exception of the bathroom visit or
2 head call.

3 A Yes.

4 Q Beginning at 1430, or 2:30 in the afternoon, Calvin
5 Hunt had either been within your sight, or been within
6 arm's length of some medical personnel. Is that fair?

7 A Yes.

8 Q Okay. A few minutes after the head call, Mr. Ray,
9 the older gentleman, retirement-age gentleman, comes and
10 asks you a question.

11 A Yes.

12 Q When that question is asked, do you have your eyes
13 on Calvin Hunt?

14 A He's sitting right over there, yes.

15 Q Not too far away.

16 A Correct.

17 Q I want to make sure we're all clear. Can you tell
18 the Court and jury the exact words Edward Ray said.

19 A Can we step out for -- could we step out for some
20 fresh air.

21 Q That was a question.

22 A Yes.

23 Q Directed to you.

24 A Yes.

25 Q And what was your answer?

1 A Yes.

2 Q That's all you said.

3 A Um-hmm.

4 Q That's a yes?

5 A Yes.

6 Q At this point in time, did you talk to Calvin Hunt
7 at all?

8 A Not since I offered him the refreshments.

9 Q Did you tell Mr. Hunt that he should not leave the
10 premises of the Naval Hospital?

11 A I did not.

12 Q Did you tell him or warn him that he shouldn't do
13 that, because he might be a danger to himself?

14 A I did not.

15 Q Where was Dr. Jansen when that question and answer
16 were exchanged?

17 A He was in his office.

18 Q And the office sits right next door to the nurses'
19 station?

20 A Yes.

21 Q Do you know one way or the other as to whether the
22 door to Dr. Jansen's office was open or closed when that
23 exchange took place?

24 A I don't know one way or another.

25 Q If the door was open in that itty-bitty E.R., would

1 he have been able to hear the exchange of that question
2 and that answer?

3 A Yes.

4 Q Dr. Jansen typically leaves that door open, doesn't
5 he?

6 A Typically, yes.

7 Q And at that time, when that exchange took place,
8 the question and the answer, there was no other patient
9 in the emergency room, correct?

10 A That's correct.

11 Q There was nobody in Dr. Jansen's office, other than
12 Dr. Jansen?

13 A Correct.

14 Q I believe you've told me before that, based on all
15 that information, you believe the door was probably
16 open.

17 A Probably open.

18 Q That's a yes?

19 A I've -- I've only known it to be closed when he's
20 on the telephone with another physician or with whoever.

21 Q And in that itty-bitty E.R., would you be able to
22 maybe not hear word for word, but know if he's talking
23 on the telephone?

24 A Typically.

25 Q Let's talk about other things that might make noise

1 in the emergency room. Did you have something known as
2 a scanner there at the nursing station?

3 A CAT scanner?

4 Q Not the CAT scanner, but a radio scanner.

5 A Oh, yes. That was right behind my -- right here.
6 The two-way radio to the medics' EMS services.

7 Q Was that radio scanner tuned to a frequency that
8 was specific for the Naval Hospital, or specific for the
9 wider Beaufort County community?

10 A It was general dispatch for the whole county.

11 Q Now, my understanding is that, in some communities,
12 like the one I live in, and I think some places maybe
13 down here that, sometimes, if somebody has a call for
14 help, and they need an EMT, that, instead of an
15 ambulance showing up, a fire truck might show up. Do
16 you have that understanding?

17 A I have that understanding. I don't know what the
18 practice is in Beaufort. My impression is, it's always
19 an ambulance.

20 Q Was the scanner on that day?

21 A Oh, yes.

22 Q Was the scanner on in our time frame, before the
23 head call?

24 A It was on -- it was on throughout the day.

25 Q Now, you said it was right behind you. How far

1 away would that scanner have been to Stretcher Bay
2 Number 4?

3 A The same distance. I mean, I'm up against the
4 wall. The scanner is placed on the wall, so it's right
5 behind my head.

6 Q Was it turned down real low, or real loud, or just
7 a normal volume?

8 A No, it's -- it's loud enough so that the physician
9 can hear it. So that, if I was not sitting there, and
10 the emergent call came through, the physician would know
11 that something is in the mix.

12 Q We've talked about a question and an answer. After
13 you give the answer of yes, what happens next?

14 A Mr. Hunt and Mr. Ray walk past the nurses' station,
15 and they go out the doorway, heading to the hallway. As
16 opposed to the double door that goes out to the
17 ambulance bay.

18 Q Do you actually watch them walk down the long
19 hallway towards the door?

20 A Yes.

21 Q Is that the last time you saw Calvin Hunt?

22 A Yes.

23 Q At some point in time, does Edward Ray come back
24 into the emergency room?

25 A He does.

1 Q At the time Mr. Ray comes back into the E.R., have
2 you heard anything on the scanner sitting behind your
3 head?

4 A Oh, yes.

5 Q About some wrecks on Ribaut Road?

6 A Oh, yes. It was busy and chaotic. I was trying to
7 decide what was going on. I knew there was at least one
8 wreck. I thought, perhaps two. But what I -- what I
9 hear is general dispatch going out to the fleet. I
10 don't hear the corresponding information, unless they
11 specifically call Navy E.R. So, I essentially get a
12 one-way conversation.

13 Q Of Dispatch talking --

14 A Correct.

15 Q -- to emergency personnel out in the field.

16 A Yes.

17 Q When you start hearing those dispatch calls on the
18 scanner sitting right behind you, how long had Calvin
19 Hunt been gone?

20 A I think they started before Calvin Hunt had gone.
21 I believe they -- I think the accidents out there
22 started before this -- before he had went out for some
23 fresh air. I knew there was activity out there on
24 Ribaut. Didn't know to what degree.

25 Q Okay. When Mr. Ray comes back in, how much time

1 has elapsed between the question-and-answer exchange
2 we've talked about and his return?

3 A I'm going to guess 20, 25 minutes.

4 Q And you say a guess. What makes you use that word?

5 A My time line there is not accurate. I think they
6 really went for the head call five of 4:00 or so.
7 Because, if I believe Mr. Manning came back looking for
8 him maybe five after 4:00. So, that's perhaps five, ten
9 minutes' lapse, and that's when we discovered that
10 perhaps he was missing. It was ten, fifteen minutes
11 after that, that Mr. Ray had come in and told me that
12 he'd gotten away from him.

13 Q So, everything after the fourth entry on your time
14 line you've got some doubts about the accuracy of the
15 time.

16 A Correct.

17 Q Do you have any doubt about the accuracy of the
18 information contained within the note?

19 A No.

20 Q So, Mr. Ray returned to the E.R. That's what your
21 note reflects.

22 A Yes.

23 Q And the note reflects he took off through the gate.

24 A Correct.

25 Q And he's referring to Calvin Hunt.

1 A Oh, yes.

2 Q You've got a later entry down here at 1635. Again,
3 not so sure that, that's the right time. Is that fair?

4 A I'd say that is within a couple of minutes.

5 Q And that would be 4:35?

6 A Pretty much.

7 Q And what do you write happened at that time?

8 A Just noting that the officer of the day, PMO, which
9 is the military police, the E.R. physician, the E.R.
10 nurse manager, were all notified of the event. So.

11 Q And it actually says --

12 A That says AMA. That's not correct. It's not
13 against medical advice. It was actually elopement.

14 COURT REPORTER: It was actually?

15 A An elopement.

16 Q What does the word elopement mean?

17 A Left. Left the premises.

18 Q And what, in contrast, does AMA mean?

19 A Left without -- left against medical advice.

20 Q But you already told us that you didn't tell Calvin
21 Hunt not to leave the premises of the hospital, correct?

22 A Correct.

23 Q So, you could not have given him any advice or
24 warnings not to leave, correct?

25 A Correct.

1 Q So, just so we're all clear, despite what that
2 record says, Calvin Hunt was not acting against medical
3 advice, was he?

4 A No.

5 Q And I believe you said this, but I just want to
6 make crystal clear. The word AMA here and here on this
7 record is incorrect.

8 A Correct.

9 Q You believe the proper word would be elope.

10 A Correct.

11 Q An elopement means left without instruction.

12 A Yes.

13 Q Or advice.

14 A Or just left.

15 Q If Dr. Jansen, the only doctor who was there that
16 day, had told you not to let Calvin Hunt leave the
17 emergency room, would your answer to the question we
18 talked about earlier about a breath of fresh air have
19 been different or the same?

20 A If he had told me not to let him leave, it would
21 have been different.

22 Q What word would you have said instead of yes?

23 A I would've said let's check with Dr. Jansen and see
24 what progress we're making. He wants to leave. What
25 arrangements can we make? I mean, here's a guy who's

1 been there two hours. Had already been upstairs, asked
2 questions. He had been down here, asked questions, to
3 Janice, psyche tech, Dr. Jansen. He's been sitting
4 there pleasantly, cooperative, minding his own business.
5 Just wants his prescriptions. Now, he just wants to get
6 out and -- and shake the dust off. If he wanted to go,
7 and Dr. Jansen said no, then, we have to make
8 arrangements for someone to go with him, psyche tech,
9 me, whatever would be necessary.

10 Q You weren't going to just let him go out by
11 himself, correct?

12 A If it was deemed that it would be inappropriate,
13 yes.

14 Q If Dr. Jansen had told you that you needed to warn
15 Kalvin Hunt not to leave the Naval Hospital, would you
16 have followed that instruction?

17 A Absolutely.

18 Q Have you had the occasion since that fateful Friday
19 to look at Dr. Jansen's note for the day?

20 A I did.

21 Q If Dr. Jansen had asked you to obtain some
22 information about Kalvin Hunt, some additional
23 information, would you have done that?

24 A Yes.

25 Q If he'd said, I can't get a sufficient history for

1 this patient; can you find out some information about
2 him; would you have gone and looked somewhere?

3 A Sure.

4 Q Could you have gotten -- strike that. Where would
5 you have looked?

6 A The only place I would have the ability to look
7 would be in an AHTLA note.

8 Q And you know how to do that?

9 A Yes. To a degree.

10 Q And AHTLA notes contain past medical records,
11 correct?

12 A They do. I'm not sure if they're all inclusive. I
13 mean, we only use it in the emergency room in between
14 the E.R., the branch medical at the air station, and
15 also, Parris Island. I'm not so sure that it also
16 includes visits from, you know, the whole United States.
17 I don't -- I don't know what's all inclusive.

18 Q Don't know one way or the other.

19 A No. We don't -- we don't use it to document. It's
20 just there as a resource.

21 Q As a resource to consult, in the event you need it.

22 A Yes.

23 Q All right.

24 MR. HOYLE: Permission to approach, your Honor.

25 THE COURT: Yes.

1 BY MR. HOYLE:

2 Q Mr. McDonald, I'm showing you what was marked here
3 yesterday and moved into evidence by consent as
4 Plaintiff's Exhibit Number 19. I'm going to ask Mr.
5 Knowles to publish it on the screen.

6 We're looking at a record from February 24, 2012,
7 for a Calvin Dante Hunt, correct?

8 A Yes.

9 Q It looks like somebody by the name of Saundra L.
10 Smith generated this record about 1430 that day.

11 A Um-hmm.

12 Q Correct?

13 A Yes.

14 Q That's 2:30 in the afternoon.

15 A It is.

16 Q That's before you answered the question yes,
17 correct?

18 A Yes to which question?

19 Q Yes to the question can we go out and get some
20 fresh air.

21 A Yes.

22 Q By a good 90 minutes, correct?

23 A Yes.

24 Q When you've got a medical record, and you're
25 looking at it, and you see the word *problems* on it, what

1 are those things? What are those problems?

2 A Problems are a stated problem of what the patient
3 comes in to see the physician for.

4 Q Let's just look at some of these problems on here.
5 We'll go down to something that says adjustment disorder
6 with disturbance of emotions and conduct. Do you see
7 that?

8 A Still looking. Halfway down? Where are we at?

9 Q We're one, two, three, four, five, six, seven,
10 eight, nine bullets down.

11 A I see it. Yes, I see it.

12 Q And is that something that -- a problem in a
13 medical record, are those things that are current,
14 ongoing, things in the past?

15 A No idea, based on this.

16 Q Let's scroll down the document, if we can, Mr.
17 Knowles. There we go. And underneath that adjustment
18 disorder entry, we've got an entry for what?

19 A Anxiety.

20 Q And if we were to go one, two, three, four, five,
21 six, seven, eight, nine bullets down, we've got
22 something that says what, sir?

23 A It looks like anxiety disorder NOS, non-specific.

24 Q And so, you told us about anxiety disorder NOS.

25 A Yes.

1 Q And above that, one, two, three, four bullets
2 above, we have something that says adjustment disorder
3 with anxious mood, correct?

4 A Yes.

5 Q And then, further down, we've got something that
6 says delusional disorder, and another bullet that says
7 personality disorder.

8 A We do.

9 Q But on February 24, 2012, you didn't go look at any
10 of Calvin Hunt's medical records from the past, correct?

11 A Correct.

12 Q The only thing you consulted that day were the two-
13 page triage record that your wife filled out, that we
14 talked about here today, correct?

15 A That's correct.

16 Q And even though that triage record, under the
17 psychosocial box, was to suicidal ideations, you didn't
18 have an understanding that day as to whether or not
19 those ideations were then occurring, or in the past. Is
20 that your testimony?

21 A Was -- had no knowledge that it was occurring.

22 Q If someone has suicidal thoughts or ideations, is
23 it a concern that they could harm themselves?

24 A Not always. I mean, there is -- there's -- people
25 get depressed, can have thoughts, never have an action

1 on it. If they have actions on it, that's a different
2 issue. I mean, we all get depressed. I'm not so sure
3 we all have ideation, but again, may have a thought
4 about it. Not a plan in doing it, but a thought about
5 it.

6 Q If you knew, when the question can we get a breath
7 of fresh air was asked, that Calvin Hunt had expressed
8 to others that he had thoughts of hurting other people
9 when you were his triage nurse, would that have changed
10 your answer from a yes to a no?

11 A You mean when -- you mean when I was his treatment
12 nurse.

13 Q When you were his treatment nurse. I apologize.

14 A Perhaps.

15 Q But again, your testimony here today is that, even
16 though you were the treatment nurse tasked with
17 monitoring this patient, that the emergency physician
18 records that Dr. Jansen was charged with filling out
19 stayed in his possession and you didn't have access to
20 them.

21 A I had access to them. I believe they were in his
22 office with him.

23 Q He never showed them to you before Calvin Hunt
24 left.

25 A Correct.

1 Q And I take it you didn't go ask for them, either.

2 A Correct.

3 Q Do you believe that Dr. Jansen gave you all the
4 information that you needed in order to do your job and
5 monitor this patient?

6 A Up until the end of the -- the visit, yes. With
7 what he would -- what the patient was presenting
8 correlated with the actions that we were doing.

9 Q Should Calvin Hunt have been allowed to leave the
10 premises at the Naval Hospital?

11 A At that time, yes.

12 MR. HOYLE: Those are all the questions I have for
13 this witness at this time.

14 THE COURT: All right. Cross-examination.

15 MR. LOVELL: Thank you, your Honor.

16 Could I see the easel, please.

17 JOSEPH J. MCDONALD, JR.

18 CROSS-EXAMINATION, BY MR. LOVELL:

19 Q Good morning, Mr. McDonald.

20 A How are you doing?

21 Q Get myself situated here.

22 A Excuse me.

23 MR. LOVELL: Will you turn off the overhead,
24 please?

25 BY MR. LOVELL:

1 Q Ready to go?

2 A Oh, yeah.

3 Q You were asked a lot of questions about yourself at
4 the very beginning. It's been awhile, but I wanted to
5 walk through a couple of points about your E.R.
6 experience itself. Now, you told us that you were in an
7 E.R. up north for about a year and a half as a
8 registered nurse up there.

9 A Correct.

10 Q Was that your first experience in nursing
11 whatsoever, though?

12 A Oh, no.

13 Q Tell us what you had done, prior to that.

14 A When I first got out of school, I started at Keenes
15 King Hospital Intensive Care Unit, and I was there for
16 about a year and half. Janice actually worked in the
17 hospital across the driveway at the cancer center.
18 Along the way, we moved over to New Jersey. And between
19 the travel and the schedule, it got -- it got crazy.
20 So, I decided to get into home care, to help smooth out
21 the schedule. Home care was Monday to Friday, sometimes
22 a weekend, home at nights. So, at least we were home
23 together. It was more of a schedule accommodation.

24 I'd been in home care for probably ten, twelve
25 years. Start off as, you know, home care staff nurse.

1 Got involved with management. I was a team manager for
2 a New Jersey Morristown Visiting Nurse. Wanted to get
3 into Philadelphia. So, I opened up an office in
4 Philadelphia. I was primarily the branch manager.

5 Left there, went over to Hahnemann Hindman
6 Hospital, which is a tenant group. Headed the Hahnemann
7 Hindman Group, which was the biggest area that they --
8 that they had. Unfortunately, tenant decided to uproot
9 their home care; so, I went back to Morristown Visiting
10 Nurse as a team manager.

11 Had my fill of home care management, so I decided I
12 wanted to get back into doing nursing care, as opposed
13 to administrative. That's how an opportunity came up
14 with Burlington County E.R. So, that's how I got back
15 into the hospital system.

16 Q So, prior to your E.R. experience, had you had
17 experience in seeing patients who came in with mental
18 health challenges?

19 A Mental health challenges, no.

20 Q In the E.R. world, when you started there, did you
21 have experience with patients in the mental health
22 challenges in the year and a half you were up north
23 before you moved south?

24 A Yes.

25 Q And were you trained as a nurse on how to deal with

1 patients with mental health challenges?

2 A No. The exposure I had to mental health was
3 Philadelphia Psychiatric Institute in the main line. It
4 was probably eight to ten weeks as a student nurse.

5 Q When you came down here, you worked three years,
6 you told us, at the E.R. over at Beaufort Memorial. Did
7 I get that right?

8 A It's probably about a year and a half there at
9 Beaufort Memorial.

10 Q Did you have experience there in interaction with
11 the patients with mental health challenges?

12 A Oh, yes.

13 Q And then, at the Naval Hospital, prior to February
14 24, 2012, you were at the Naval Hospital E.R. for what,
15 roughly five years?

16 A Up to this point, yes.

17 Q Okay. So, you would have had five, three units.
18 So, roughly ten years of E.R. experience, plus or minus,
19 when you saw this patient?

20 COURT REPORTER: I'm sorry, *plus or minus*, when
21 you?

22 Q Saw this patient.

23 COURT REPORTER: And your answer was?

24 A Yes.

25 Q We can't talk at the same time, otherwise, she

1 can't get it all down. That's my bad.

2 A Sorry.

3 Q So, in that patient population at any of those
4 E.R.s, up north, down here, Beaufort Memorial, in this
5 area, was it common to see military folks come in who
6 have mental health challenges?

7 A Oh, yes. All the time.

8 Q And at the Naval Hospital, in particular, was that
9 something you regularly saw?

10 A In the Navy E.R.?

11 Q Yes.

12 A Oh, yes.

13 Q I have to ask you a few questions about the
14 employment situation. You were asked a question earlier
15 about coming to work at the Naval Hospital, and you said
16 they asked you to come repeated times, and you finally
17 conceded and started working there. Who was the they
18 that you were talking about?

19 A That was Nicole. She did the schedule for CasePro.
20 They had --

21 Q How about when you were at Fly America? Who was it
22 asked you to come then?

23 A It was -- I think it was Nicole.

24 Q Okay. So, Nicole was Fly America and CasePro?

25 A Correct.

1 Q And she was a part of the Navy, as well? The Naval
2 --

3 A Same group that we were, yes.

4 Q When you were with Fly America, what was your
5 understanding of what role they played in making it
6 where you could go work at the Navy Hospital as a nurse?

7 A Fly America was just a paycheck. Paycheck and
8 benefits.

9 Q Did they recruit you to go in and do this military
10 work?

11 A No. I was asked twice by Nicole that there's an
12 opening. The benefits were that it solves our schedule
13 problem.

14 Q Sure.

15 A Then I got paperwork that got sent to me one way or
16 another from Fly America, which got me onto the payroll.

17 Q And when you started getting a paycheck from
18 CasePro, was it any different than when you had gotten
19 it previously?

20 A No difference. Just different name on the check.

21 Q And you were asked questions about your arrangement
22 with CasePro, and I think Fly America about the rules
23 and regulations you had to agree with them. But were
24 there rules and regulations that the Naval -- the
25 Department of the Navy imposed upon you when you're

1 working in the E.R.?

2 A Yes.

3 Q Give us an example of those.

4 A All the examples that we had here, the HIPAA,
5 sexual assault, thorough annual documents that we have
6 to sign annually.

7 Q Okay. And when you were working in the E.R. on a
8 day-to-day basis, if an issue arose about what you were
9 to do as a nurse, did the Navy -- had the Department of
10 the Navy put policies and procedures in place that you
11 had to follow?

12 A Yes.

13 Q And were those some things that the Navy trained
14 you on what to do, under their policies and procedures?

15 A Yes.

16 Q And when you were working on a day-to-day basis in
17 the E.R., if a medical issue came up or a problem came
18 up with what you were doing in the E.R., who did you
19 report to, to raise a question or raise a concern or
20 anything of that, as far as your day-to-day activities?

21 A Chain of command would have been the E.R. director.
22 At that time, it was Lieutenant Brannon. If she
23 couldn't solve the problem or was not available, it
24 would be the officer of the day, whoever it was that
25 day. And if I had to go up higher than that, it would

1 be the medical director, which, I believe, was Commander
2 Thayer.

3 Q Are all those Department of Navy employees?

4 A They are all active military.

5 Q Did you ever call CasePro with day-to-day questions
6 about what you were doing in the E.R. with work?

7 A Only related to paycheck and benefits.

8 Q Could the Navy have terminated you if they wanted
9 to?

10 A Absolutely.

11 Q And when I say Navy, I mean Department of the Navy.

12 A Yes, sir.

13 Q Were there any CasePro administrators or
14 supervisors that were resident at the facility?

15 A No.

16 Q When this event occurred, did you ever notify
17 people up that chain of military command about what had
18 occurred and all of those things?

19 A For the military?

20 Q Sure.

21 A Yes. They were all aware.

22 Q And you were asked a question about one of these
23 documents. I'm going to grab it. If you would flip to
24 your note, Mr. McDonald, which I think it Plaintiff's
25 20. I'm not a hundred percent sure which of their pages

1 it is, but -- you got it?

2 A Which one are we looking at?

3 Q Your note that looks like --

4 A Yes. I have it here.

5 Q At the very bottom, you were asked questions about
6 this 1635 entry.

7 A Yes.

8 Q A bunch of letters of who you all called. You
9 mentioned that you called, I think, the officer of the
10 day. But you also called a -- the nurse director and
11 told her of those events.

12 A That's right.

13 Q Who was that?

14 A Lieutenant Brannon.

15 Q Is there a note that you called anybody at CasePro
16 about it on that day?

17 A There's no note, because they were not contacted.

18 Q All right. Let's move on. I'm going to ask you
19 this question, based on your knowing everything you
20 knew. I want you to move yourself back to February 24,
21 2012. At that time, in your mind, did you have the
22 training and experience necessary to serve in the role
23 as the treatment nurse involved in patients coming in,
24 presenting like this man did, with medication to refill
25 and all the things you saw on the triage sheet that was

1 prepared by Ms. McDonald, were you comfortable assessing
2 him, watching him, doing the things you did that day?

3 A Comfortable for a patient with his presentation,
4 which is benign. Good presentation. Spoke well.
5 Clean-shaven. No issues.

6 Q Had you been involved with other patients who came
7 in with mental health challenges who were not those
8 conditions?

9 A Yes.

10 Q And had you been able to respond to them in
11 whatever roles you were serving, triage or treatment
12 nurse, with those folks?

13 A Yes.

14 Q In that military hospital, when a patient under
15 these protocols that were in existence back then that
16 the Navy told you, when a patient came in, and during
17 the course of being assessed by either triage nurse,
18 treatment nurse, E.R. doctor, if they said I have
19 thoughts of hurting myself, suicidal ideations, was
20 there a protocol about bringing the psychiatric people
21 into the process of evaluating them?

22 A There's no protocol that I'm aware of.

23 Q Okay. But in this case, we do know that the
24 psychiatric people were brought in, correct?

25 A Yes.

1 Q That was Mr. Manning, initially. And then, a call
2 to Dr. Hendelman from Dr. Jansen. Is that right?

3 A I guess.

4 Q And you obviously weren't part and parcel to that.

5 A Correct.

6 Q Let's back up, then. I'm just asking this question
7 from you as a nurse. When a patient comes in front of
8 you in the same scenario like this gentleman did, with
9 the information you had, do you have an opinion whether
10 a person who has no nursing training, no medical
11 training at all, just an average person on the street,
12 ordinary person, would be able to assess and determine
13 how to supervise or observe or be involved in their
14 care?

15 MR. HOYLE: Objection, your Honor.

16 THE COURT: Sustained.

17 A Does that mean I ignore that one?

18 THE COURT: That means hold up.

19 A Okay.

20 BY MR. LOVELL:

21 Q I'm going to ask you some questions about our
22 diagram. It won't take but one second. We were here.
23 You were not in the courtroom yesterday when your wife
24 Janice drew us a diagram of the E.R. And we've seen
25 some pictures, and I'd like to get a little orientation

1 on that. She drew what I'll represent to you is the way
2 the layout of the inside of the actual E.R. room is.

3 Does that look relatively accurate, if you assume that
4 one, two, three, and four are the various rooms?

5 A She done good.

6 Q Okay.

7 COURT REPORTER: I'm sorry. I didn't hear you.

8 A She did good.

9 Q Now, she told us that Number 1 was the room where
10 obstetric and pediatric patients were seen, where they
11 had some privacy. Is that right?

12 A That would be a regular room with a closing door,
13 yes.

14 Q And Number 2, 3, and 4 were these bays that we saw
15 the picture that are just separated by the curtain?

16 A That's right.

17 Q She had nurse station where, presumably, you would
18 have been --

19 A Um-hmm.

20 Q -- positioned here, across from 4?

21 A Yeah. It goes longways, separation in the middle
22 for, you know, two people. But right there.

23 Q Okay. And then, the doctor's office right here
24 with what we drew as a line as a door?

25 A Yes. That's correct.

1 Q And then, this bathroom that we saw in the picture,
2 is that what we're looking at here?

3 A That's right.

4 Q All right. Now, the triage area where the patient
5 comes in and looks through some little hole or they talk
6 through a hole, is that what is over here? That's how
7 she drew it.

8 A Pretty much.

9 Q All right. And then, we've got ambulance bay and a
10 hallway.

11 A That's right.

12 Q The hallway that you saw Mr. Ray and Mr. Hunt exit
13 to do whatever they were going to go do, was that this
14 one?

15 A That would be main hallway, yes.

16 Q And is this hallway, does it run all the way up and
17 down from ambulance bay, down to whatever exit door?

18 A It does. Direct line.

19 Q And how do you get from this area to the triage
20 area? Are they separated by the hallway?

21 A There's no separation. It's -- it's -- it's fluid.
22 It's doesn't show real clear, but it's fluid back and
23 forth.

24 Q Okay. So, as far as the date of this, all this
25 going down, this is sort of what we look like, plus the

1 pictures we saw.

2 A Yeah. It's pretty close.

3 Q Perfect. When you're doing your triage -- or when
4 you did your triage -- I'm sorry. When you did your
5 treatment assessment -- strike all of that. Let me
6 start over. I'm sorry. My words are confusing.

7 In your role as a treatment nurse, are you just
8 sitting there doing nothing as it relates to the
9 patient?

10 A No. I'm treating their -- paying attention to
11 what's going on.

12 Q Are you trained to observe with your eyes and your
13 ears and whatever other senses you have, what's going on
14 with a patient like Mr. Hunt that's sitting in front of
15 you?

16 A No, not really, because it wasn't anything going
17 on, not that I could see. But I've had no formal
18 training in mental health, if that's what the question
19 is.

20 Q Really, my question is, what are you doing when
21 you're observing him? What are you looking for to
22 suggest that something else might be needed to be done?

23 A Oh. His presentation, his demeanor, his actions,
24 his subtle motion. Is he tapping his feet, is he
25 mumbling, is he pacing back and forth.

1 Q And why are you looking for those things?

2 A Because they would be telltale signs that there's
3 an issue to be dealt with.

4 Q When Mr. Hunt came into your presence, either
5 through your eyes or what you could hear with your ears,
6 any of those things going with him?

7 A No. He was a ideal patient.

8 Q At any point in time, from when you first started
9 your involvement in his care at around 2:30, to the time
10 that he and Mr. Ray departed the facility, any of those
11 things that you've told us that you're looking and
12 listening for, did they ever occur with this patient?

13 A You could invite this kid home to dinner on Sunday
14 afternoon. He was that nice and pleasant.

15 Q Did his demeanor ever change while he was there?

16 A No.

17 Q And did his conversation with you, and by that, I
18 mean, when you spoke with him or overheard him speaking
19 with other people, did the tone of his voice ever
20 change?

21 A No. Nice, calm, quiet.

22 Q Volume of his voice ever go up or down?

23 A No.

24 Q Did he make any noises or any other non-words that
25 caused you to think something had changed with Mr. Hunt?

1 A Sat there patiently with Mr. Ray.

2 Q Was Mr. Ray in the room with him from the time at
3 the beginning of your observation around 2:30-ish, up
4 until the time they walked out, with the exception of
5 when the gentleman went to the restroom?

6 A He was. When Mr. Manning and Dr. Jansen spoke with
7 the patient, Mr. Ray was on the opposite side of the --
8 the curtain. Now, he was next to me talking to the LPN
9 for a brief period of time. They were chitchatting
10 about whatever.

11 Q But the majority of the time, when the curtain was
12 open, was Mr. Ray sitting there with Mr. Hunt?

13 A Oh, yes. Right there on the other side of the
14 curtain, on the Stretcher Bay 3.

15 Q When you're in there at the nurses' station, and
16 you're observing everything, even when the curtain is
17 closed, can you kind of hear what's going on?

18 A I can kind of hear the mannerisms going on. I
19 can't particularly hear the conversation, but I can hear
20 the tone.

21 Q Did you hear anything in any of those times of the
22 tone or mannerisms or whatever you want to describe it,
23 that suggested that, when this patient was interacting
24 with Mr. Ray while they were there for that period of
25 time, Dr. Jansen, while he was with him, or Mr. Manning

1 while he was with him, that anything had changed with
2 him?

3 A Not at all.

4 Q I'm going to ask you some questions about these
5 medical records. If I heard you correctly, you said
6 that you all only use the AHTLA, the electronic medical
7 records, to look at records that are input from the E.R.
8 at the Naval Hospital, Branch Medical, or Parris Island?
9 Did I hear that correctly?

10 A That's correct.

11 Q All right. And when you say *Branch Medical*, what
12 do you mean by that?

13 A Well, it's the Tri Command. You've got the Navy
14 E.R., you have the air station -- excuse me -- and the
15 Parris Island. Those two facilities also have their own
16 medical. So often, particularly with the follow-up
17 visits that come to the emergency room, we want to
18 access what was done the day before, so we're not
19 repeating it, you know. If their labs were done, throat
20 swabs, whatever. Did they get --

21 A lot of the recruits will come in, particularly on
22 weekends, where they'll have heat stroke symptoms, high
23 temperatures. Check their lab values; see if they did
24 or did not get I.V. fluids; and why are they here for
25 repeat visit. And a lot of times, they just forget or

1 don't know.

2 Q We heard, I think yesterday or earlier this week
3 from Nurse Saundra Smith, who authored that note that
4 you were shown, that she's not sure what of the note
5 that she started at 1430, but ended at 1556, would have
6 been available to be viewed, if it had been pulled up.
7 In your experience with the AHTLA system, is the record
8 only viewable once the person doing the entry has gotten
9 out of it?

10 A I believe you have to hit the enter key for it to
11 be inputted into the system, and then, it can be viewed
12 elsewhere after that point.

13 Q Thank you.

14 A But you have -- you have to go looking for it.

15 Q Plaintiff implied that you didn't really do any
16 kind of an assessment on the patient. Is this visual
17 observing and the listening part of him sort of an
18 assessment of how the patient is doing by you as a
19 treatment nurse?

20 A Based on what the patient came in for, yes.

21 Q And are you continuing to listen and look to see if
22 your assessment changes because his demeanor or
23 appearance or noises he's making changes?

24 A Yes.

25 Q In terms of the suicidal ideation question that you

1 were asked, is there a difference between an ideation by
2 someone and a plan of suicide or for suicide?

3 A Oh, yes.

4 Q And tell us what that difference is.

5 A Well, an ideation is somebody who has thought about
6 suicide. You know. Nothing more than that. Suicidal
7 ideation with a plan. It says, yeah, I'm asked; I was
8 thinking about, you know, taking a gun or taking pills,
9 or stepping in front of a train; have actually thought
10 about the process, with a plan to take actions upon
11 themselves.

12 Q And when Nurse Janice, your wife, told you that
13 this patient, she did not think was suicidal, did that
14 mean no plan?

15 A Absolutely.

16 Q Had he had a plan, would you have treated Mr. Hunt
17 a little differently in your assessment and visual and
18 audibles, watching him?

19 A Yes. Yes.

20 Q You were asked a lot of questions about what was on
21 the triage note, and I'd ask you to flip to that. So,
22 I'm going to try to put it to where maybe you can see
23 it, and all of us can look at it together.

24 A Give me a moment. I've got it right here. Got it.

25 Q So, if I understood what you said correctly, Mr.

1 McDonald, when the note is given to you by Nurse Janice,
2 you glance at it, look at it, see what all's on there.
3 Is that right?

4 A Yes.

5 Q Is it important, also, to see the things that
6 aren't checked as being positives, or things that are
7 found?

8 A Oh, well, yes.

9 Q All right. So, when you looked and you saw that
10 the nursing assessment said suicidal ideation, history
11 of alcohol and drug dependence, depression, and PTSD,
12 did that give you an idea of what you've got sitting in
13 front of you?

14 A It could. You know, there again, the history of
15 could have been three days ago, three years ago.

16 Q All right. And from your perspective as a
17 treatment nurse, what's important is that you look at
18 the totality of both pages of the documents, seeing
19 what's going on now, and maybe what's not going on now.
20 Is that fair?

21 A And does it match what I'm seeing.

22 Q All right. You were asked a bunch of questions,
23 but did you know when you saw this gentleman that he
24 also was an active smoker?

25 A Yes.

1 Q All right. A pack a day, for seven years or so.

2 A Yes.

3 Q Is that somebody who smokes, but maybe not the
4 heaviest smokers?

5 A It's usually more than what they say, but.

6 Q So, when the conversation was had that these
7 gentlemen wanted to go outside, they had been there for,
8 as you said, some period of time, is it unusual to get
9 that kind of request from somebody who is accompanying a
10 smoker at this level?

11 A Yeah, there's no smoking signs at the front gate,
12 but that doesn't seem to turn off the stimuli. It's an
13 issue.

14 Q As you look at the front page of this document
15 where it was completed, where the patient is alert,
16 oriented to person, place, and time, as a treatment
17 nurse who's got Mr. Hunt sitting in front of you, what
18 does that do for your thought process about him?

19 A He knows where he is and everything about him. So,
20 I have -- he's not having any memory lapses.

21 Q Would you please flip to the second page of that.

22 A I have it.

23 Q Got it?

24 A I do.

25 Q Now, we've got the time in room at the top. It's

1 1430. It's Number 4. Does that mean in the E.R., Bay
2 Number 4?

3 A Correct.

4 Q And then, the 1450, bedside, Jansen. Was that when
5 Dr. Jansen went in to see the patient?

6 A Correct.

7 Q All right. Now, when you look at what was checked
8 here by Nurse Janice, alert to person, place, time;
9 speech clear; when you read those, what does that tell
10 you about the person sitting in front of you and as the
11 treatment nurse?

12 A He's answering the questions as best that he can.
13 He's not slurring his speeches -- his speech. He's
14 audible.

15 Q Would you also have made note that not checked are
16 agitated, combative, stuporous, unconscious,
17 uncooperative or ETOH or alcohol odor, would that be
18 something you would have been looking at, also?

19 A Yes.

20 Q All right. Any time you observed this gentleman,
21 did he exhibit to you any agitation, combativeness,
22 stuporousness, unconsciousness, uncooperative behavior,
23 or ETOH odor?

24 A No. Quite the opposite.

25 Q Jumping on over, we'll just go straight over to

1 some of the other things. When looking at the skin
2 observations that Nurse Janice made that it was normal
3 for his race, when you see that, what is it telling you,
4 as you're looking at him, eyeballing him yourself?

5 A I'm sorry. The question again?

6 Q When you looked at the patient, was his appearance
7 consistent with what Nurse Janice wrote on this note?

8 A Yes.

9 Q Normal color, all of the other things she describes
10 about how he's presenting.

11 A Oh, yeah.

12 Q Did he ever look sweaty to you?

13 A No.

14 Q Did he ever look like he was flushed because he was
15 upset or agitated?

16 A I -- I was impressed with his pressed shirt off
17 shirt and jeans and combed hair. But there was no skin
18 problems.

19 Q Why were you impressed about those things?

20 A You don't -- you don't see it all that often,
21 particularly, if you have like, mental health -- mental
22 health people. May be generalization, but disheveled.
23 You know, he -- he -- he presented with what he said he
24 came in for; I want some -- my medication refilled.
25 Simple as that.

1 Q When you saw that, that's what he presented for on
2 that day, did that suggest to you that this patient is
3 there trying to help himself?

4 A Oh, absolutely.

5 Q And did he come in voluntarily, to your knowledge?

6 A Yes.

7 Q Did anybody have to coerce or drag him into the
8 E.R.?

9 A Not that I'm aware of.

10 Q When we look at the pages on this deal about how
11 people come to the E.R., -- I think it's on the first
12 page, or maybe the second page, I might be missing it --
13 when he says that he's ambulatory, he's not brought in
14 by ambulance or some other way, does that reinforce he
15 wants to be there on his own?

16 A Yes.

17 Q And at any point in your interactions with Mr.
18 Hunt, or even Mr. Ray's comments to you about Mr. Hunt,
19 was it ever suggested to you that this gentleman wasn't
20 there on his own free will and volition?

21 A No, not at all.

22 Q And when a patient comes in, even with mental
23 health challenges, on their own free will and their own
24 volition, do they have certain rights that you, as a
25 treatment nurse, have to respect and abide by?

1 A They do.

2 Q All right. And what would those be?

3 A I can't restrain anybody. Unless told or indicate
4 otherwise, I can't prevent them from leaving. They have
5 -- they have the rights to choose purely on their own
6 behalf, unless deemed not able to by psychiatric,
7 involuntary commitment.

8 Q So, when a patient comes in, like Mr. Hunt, and
9 gets up and says, I need to take a head call, or
10 whatever word you use, is there any way you can say, no,
11 I don't think you can do that, as he presented at that
12 time?

13 A In this instance, no. I'd -- I'd be wrong in
14 saying no.

15 Q And when they present later on and inquire about
16 going out and getting air, when Mr. Hunt does that --
17 and first, let me ask, did you talk to Mr. -- I said it
18 backwards. Strike that.

19 A Um-hmm.

20 Q Did you talk to Mr. Hunt about going out to get
21 air?

22 A Did not.

23 Q Did that conver -- those words come out of Mr.
24 Ray's mouth?

25 A That was Mr. Ray.

1 Q Okay. But was Mr. Hunt, after the conversation you
2 had with Mr. Ray about going out and getting air, did
3 Mr. Hunt get up and walk out with Mr. Ray to go out and
4 do whatever?

5 A They went out together, yes.

6 Q Did you observe his walking?

7 A Yes.

8 Q Was he running? Was he dragging along? How did he
9 look when he walked out with Mr. Ray to go get air?

10 A He just walked out nonchalantly, the -- the same
11 way that he walked in.

12 Q Okay. I'm going to bump back over to this, and
13 then, I'm going to be done with it. Under the
14 psychosocial, you were asked quite a few questions about
15 a couple of the deals. But when you looked at this form
16 back on the 12th of February, as you're beginning your
17 involvement with the patient, did you look at the areas
18 where his mood is not described as being hyper or
19 labile? Would that have been something important that
20 you would have noted?

21 A It would have been something that I would have
22 observed and noted.

23 Q Did he ever look those ways?

24 A Not at all.

25 Q Under the behavior, whether he was cooperative or

1 uncooperative or agitated, restless, or withdrawn, did
2 you look at those to see how he really was appearing,
3 versus what's written there?

4 A I took the withdrawn only in the mannerism that he
5 spoke, which was quiet.

6 Q Okay. And under the last part, where it has the
7 ideations, where it says, *suicidal, homicidal, previous*
8 *attempt, and has plan*, was that information you would
9 have reviewed? Those boxes?

10 A Yes.

11 Q All right. When you see that it's not checked that
12 he has a plan, and at this point, not checked homicidal,
13 is that information you would have compared to what
14 you're looking at with the gentleman?

15 A Yes. Absolutely.

16 Q Anything you saw about him suggested that these are
17 wrong?

18 A Indicative of somebody coming in for a prescription
19 refill.

20 Q I'm going to ask you one more question before I
21 forget to do it.

22 A Yes.

23 Q Let me do it the right way.

24 MR. LOVELL: Your Honor, may I approach the
25 witness?

1 THE COURT: Yes.

2 BY MR. LOVELL:

3 Q I show you what has been marked as Defendant's
4 Exhibit 2. And just ask you first to look at that, and
5 do you recognize what's depicted in that?

6 A I do.

7 Q What does that look like?

8 A That's the Navy E.R. Beaufort.

9 Q Is that accurate as to how it looked back in
10 February 2012, as far as the layout of the building and
11 the roads, et cetera?

12 A Yes.

13 MR. LOVELL: Your Honor, we'd move to introduce
14 Exhibit 2.

15 MR. HOYLE: Without objection, your Honor.

16 THE COURT: Very well.

17 ITEM IDENTIFIED AS PHOTOGRAPH
18 OF LAYOUT OF NAVY E.R. BEAUFORT,
19 MARKED DEFENDANT'S EXHIBIT NUMBER 2,
20 ADMITTED AS EVIDENCE.

21 BY MR. LOVELL:

22 Q So, let me put up my little picture of Exhibit 2,
23 and maybe you could have a look on.

24 MR. LOVELL: Could I ask that he walk down. It
25 might be a little --

1 THE COURT: You may. You have to keep your voice
2 up. And I'm going to roll out the laser pointers,
3 because they'll work on this. The reason I do that is
4 because, there, it is impossible for him to point, and
5 not block.

6 MR. LOVELL: Sure. I may have one I can use, your
7 Honor.

8 THE COURT: All right. Well, I've got two, if you
9 need them. Let me know. Just be mindful you don't have
10 benefit of the microphone. And that the jury is able to
11 hear you, our court reporter cannot. So, you've got to
12 have a lot of volume.

13 A All right.

14 THE COURT: All right.

15 A Does he want me down there or here?

16 BY MR. LOVELL:

17 Q Yeah, come on down. It'll just take a second.
18 What I'm going to do is switch places with you, because
19 your voice is a little softer than mine. Why don't you
20 stand over there, and that way, you're facing the court
21 reporter.

22 All I want you to do, using this thing, you just
23 push that little button and it makes a little, red dot.
24 Can you stand back just a smidgen? I'm going to turn
25 this sideways, so we can all see.

1 A I've got my back to you. Is that all right?

2 Q What's important is that you and they see it, not
3 what we see. Show me the area where the E.R. is located
4 on this diagram. Stand wherever you want, and I'm going
5 to get out of the way.

6 A Let me orient myself here.

7 Q We've marked the roads, just to kind of let you
8 know. Here's Ribaut.

9 A All right. This would be the parking lot. It
10 would be --

11 Q Stand over here. Right there. That's perfect.

12 A It's right here at the crosswalk.

13 Q Okay. So, sort of in the middle of what we're
14 looking at, the building. Is that the entrance to the
15 emergency department?

16 A Well, there's an entrance here.

17 Q Okay.

18 A There's an entrance here at the front.

19 Q Okay.

20 A Entrance at the far end, and there's one back here,
21 which is more to the cafeteria. But typically,
22 everybody uses the parking lot that comes through this
23 doorway here.

24 Q Now, when you asked, or were asked if they could go
25 out, and you saw them exit the door that we showed over

1 there, where was that doorway coming out on this
2 picture?

3 A The doorway out the hallway would be right here,
4 which is a crosswalk.

5 Q Okay.

6 A So, it would be north. It's north, east, south,
7 and west is how the hospital is oriented. Yeah, there's
8 --

9 Q Just say north --

10 A There's a -- right outside the doorway is the
11 crosswalk. So, the hospital's oriented north, south,
12 east, and west. So, we would be on the east corner, I
13 believe?

14 Q So, if I'm looking at my little roads here, would
15 they have gone out in the direction of Pinckney
16 Boulevard?

17 A Well, I'm assuming that right here is a little
18 courtyard. There used to be a smoker's hut. There is
19 still a hut there, but it's --

20 Q That's all we've got to do on this thing. Thank
21 you, sir. You ready?

22 A I am.

23 Q The records that you kept, and we've been through
24 them voluminously, I'd like to go through them again.
25 Just flip over to those, if you don't mind. And your

1 first record at roughly 1430, that's the first entry you
2 made in this chart about this patient. Am I right?

3 A Correct.

4 Q And then, the last note you made was at about 1635,
5 or 4:35 in the afternoon. Is that right?

6 A It is.

7 Q And that time may be off a little bit, because
8 you're not staring at your watch, right?

9 A Correct. Um-hmm.

10 Q As far as the entries that you're making, would you
11 look at the 1500 one? I'm going to ask you to read for
12 me or help me interpret. You said it says report from
13 Veterans Affairs.

14 A That was representative from Veterans Affairs with
15 patient; cooperative; E.R. M.D. eval in process.

16 Q Who was cooperative? Who are you referencing
17 there?

18 A The patient.

19 Q Not Mr. Ray.

20 A No. No. He was, but --

21 Q And at the next one down, where it's talking about
22 a telephone call to the Beaufort Memorial Hospital 3-E
23 to inquire about the availability; M.D. or doctor spoke
24 with Marilyn. Is that you doing it, or somebody else
25 doing it?

1 A No. Dr. Jansen had come out and said I'd like to
2 talk to Two East. I let the clerk know, which I
3 believe, at that time, was Dreama, cause she's got all
4 the phone numbers. She would have made the phone call
5 to Two East, and transferred it back to Dr. Jansen.

6 Q Okay. So, the communication between Two East and
7 Dr. Jansen would have occurred over in his little
8 office?

9 A Correct.

10 Q Over here. And he normally -- does he normally
11 close his door when he's talking to other medical people
12 or hospitals or things like that?

13 A Correct.

14 Q As far as the next entry down, where you talk about
15 the Psyche Tech Manning evaluation in progress, and it's
16 timed at 1525, that's when you observed Mr. Manning in
17 there, going in and doing stuff with the patient, right?

18 A Yes. I'm not noting when it started and when it
19 ended. I'm noting that it took place.

20 Q Okay. And that's sort of your job, is to observe
21 what's going on, and make records of important things
22 that are happening as far as patient being seen by other
23 folks.

24 A Yes.

25 Q But also, are you still looking at him and watching

1 him and listening to see is anything changing?

2 A He's right -- he's right there in my eyesight.

3 Yes, sir.

4 Q Well, when the window's closed, when he's in there
5 with Mr. Manning or Dr. Jansen, are you still listening?

6 A Yeah, I can see their feet. I can see where they
7 are.

8 Q On this particular day, were you distracted by
9 having to take care of other patients?

10 A There were no other patients.

11 Q So, as you're listening to what's going on, when
12 the window or the curtain is closed, why are you doing
13 that? Why are you listening to hear whatever you can
14 hear and looking to see what little bit you can see?

15 A Part of my ongoing evaluation, assessment.

16 Q Important to you?

17 A If there's a change, then, get Dr. Jansen; we have
18 a change; what are you going to do.

19 Q When the Veterans Affairs -- strike all that. When
20 Mr. Manning completed his evaluation, did he come out,
21 and I think you told us he said I'm going upstairs to do
22 whatever it is they do, right?

23 A Correct.

24 Q Did he say anything to you to the effect that, hey,
25 why is this guy being observed by Mr. Ray, sitting in

1 this 4-E bed over here?

2 A He didn't raise the question at all. Not to me.

3 Q Did he say anything about why is this guy sitting
4 in his street clothes?

5 A Did not.

6 Q Do you all normally put these people at this point
7 of an evaluation in some sort of hospital gown?

8 A No, we don't.

9 Q Patient privacy, patient rights?

10 A Yes.

11 Q Did Mr. Manning, when he came out of his
12 evaluation, say anything like, you better watch him; you
13 better not let him out; you better keep a close eye on
14 him? Did he say anything to that effect?

15 A He did not.

16 Q Did his mannerisms, that being Mr. Manning, suggest
17 that he was, you know, ready to get out of there and
18 run, run, run, and go get some something because
19 something concerning was going on?

20 A No.

21 Q Did Mr. Manning, to your knowledge, walk in and
22 talk to Dr. Jansen before he went upstairs to go see Dr.
23 Hendelman, the psychiatrist?

24 A I don't know if he went from Mr. Hunt back to Dr.
25 Jansen. I didn't note that he did or didn't. He may

1 have. I'm not sure.

2 Q Okay. As I remember your testimony, the next thing
3 you knew was, Mr. Hunt comes over to you and says can I
4 go to the bathroom.

5 A Um-hmm.

6 Q You say sure. He goes in Number 4. You mentioned
7 that you can hear what's going on in Room Number 4.

8 A Oh, yeah.

9 Q Why are you listening?

10 A You mean in -- you mean in -- you mean in the
11 bathroom?

12 Q I mean, why are you -- yeah. I'm sorry.

13 A That's all right.

14 Q You got me mixed up. I got myself mixed up. When
15 he's in the bathroom, are you listening?

16 A Yes. To everybody who goes in there.

17 Q But why? Why do you listen?

18 A To make sure they're safe, make sure nothing
19 happens, make sure they don't fall down and hurt
20 themselves, have an issue.

21 Q When a patient presents as this gentleman did, as
22 you knew him, and wants to go to the bathroom, do you
23 ever go in there with them?

24 A I've never accompanied somebody to the bathroom.

25 Q When you're concerned about the safety that they

1 might hurt themselves, why wouldn't you go in there with
2 them?

3 A If there was concern that they might help
4 themselves -- hurt themselves, I'd use an alternative
5 method, which would be a urinal bottle.

6 Q And a patient who presents with mental health
7 challenges with suicidal ideations, is it the plan that
8 makes you think I need to do alternative methods, if
9 they have a plan of hurting themselves?

10 A Yes.

11 Q Did he have a plan?

12 A Did not.

13 Q You were asked a question about couldn't he hang
14 himself with his belt or his underwear or whatever.
15 You're sitting there in the nurses' station; the
16 bathroom's over there; you've told us the walls must be
17 thin; you can hear things. Would you have heard any of
18 that kind of stuff, had it been going on?

19 A Oh, yeah. I hear the seat going up, doing
20 business, the seat going down. The water on, the water
21 off. The paper towel. If there was an issue going on,
22 I would have heard something.

23 Q If the patient had been in there huffing or puffing
24 or breathing heavy or anything abnormal, would you have
25 heard that, as well?

1 A Yes.

2 Q And would you have done something, if you had heard
3 it?

4 A Yes.

5 Q All right. Look at that note that you have entered
6 at, I believe, 1612. And I want to get you to read this
7 as you wrote it on the day of February the 24th.

8 THE COURT: And we're going to have you do that in
9 just a moment.

10 MR. LOVELL: Sure. Thank you.

11 THE COURT: Put your finger there.

12 A I got it.

13 THE COURT: And we're going to take our morning,
14 break, ladies and gentlemen. Please step to your jury
15 room. Do not discuss this matter or allow anyone to
16 discuss it with you. We'll take about 15 minutes. Keep
17 your notepads, please, in your seat.

18 A Am I supposed to stand? I don't know what
19 protocols are.

20 JURY LEAVES COURTROOM 11:50 A.M.

21 THE COURT: Don't discuss your testimony with
22 anyone during the break, but enjoy your break, too.

23 A Thank you.

24 BAILIFF: Jury's clear, your Honor.

25 THE COURT: All right. Sorry to do that to you,

1 Mr. Lovell; but I kept looking at our breaking spot.

2 MR. LOVELL: Oh, no, no.

3 THE COURT: And there wasn't a more natural way.

4 So, I figured you could -- going back to a note would be
5 a good place to know where to get back to.

6 MR. LOVELL: Absolutely, Judge. Thank you, Judge.

7 THE COURT: Take 15.

8 MR. HOYLE: Thank you, Judge.

9 A Good timing, Judge, good time.

10 THE COURT: Thank you, sir.

11 OFF THE RECORD 11:51 A.M.

12 BACK ON THE RECORD 12:20 P.M.

13 BAILIFF: Are you ready, your Honor?

14 THE COURT: Ready, ready.

15 BAILIFF: Jury's entering the courtroom, your
16 Honor.

17 JURORS ENTER COURTROOM 12:20 P.M.

18 THE COURT: All right, Mr. Lovell.

19 MR. LOVELL: Thank you, your Honor.

20 THE COURT: Yes, sir.

21 JOSEPH J. MCDONALD, JR., CONTINUE

22 CROSS-EXAMINATION, BY MR. LOVELL:

23 Q Mr. McDonald, on the break, I made a little cheat
24 sheet of some time lines I'm going to run through to
25 make sure I've got it right. Can you see that, where

1 you all -- let me angle it just a little bit better.

2 A Good.

3 Q At 2:30, or 1430, you're receiving from triage; the
4 doctor's assessment was pending, correct?

5 A Yes.

6 Q 1500, 3:00 o'clock, you observed Mr. Hunt was with
7 Mr. Ray, and that Mr. Hunt was cooperative, right?

8 A Yes.

9 Q At 1510, you told us about the call that was being
10 made to the Beaufort Memorial Hospital, correct?

11 A Yes.

12 Q In the military situation, if a patient comes in,
13 military active duty guy like Mr. Hunt, and he has
14 mental health challenges, and there's any thought that
15 he is going to be anything other than continuing to be
16 voluntary and cooperative in his care, especially if he
17 needs to be transferred, is there going to be a thought
18 we're going to transfer him to a civilian place, if he's
19 going to be uncooperative or involuntary?

20 A Yes.

21 Q Where would he go? Military hospital or civilian
22 hospital?

23 A Well, if he was a threat?

24 Q Violent, uncooperative, not going to continue to
25 cooperate.

1 A But mental health?

2 Q I'm sorry.

3 A Could be Fort Stewart.

4 Q Our court reporter's going to fuss, cause you
5 talked when I was talking. What was your answer to the
6 question?

7 A Military could go to, also, to Fort Stewart.

8 Q All right. Back to our time line. At 3:25, 1525,
9 you had noted Psychiatric Tech Manning was evaluating
10 Mr. Hunt, right?

11 A Yes.

12 Q All right. I want to point you to a document
13 you've got in front of you, on one little time line that
14 we haven't talked about yet. Look at the record from
15 Dr. Jansen, in the E.R., in that Plaintiff's Exhibit
16 Number 20. Do you see it? And it's the one where he's
17 got a bunch of times and things on it. I apologize. I
18 don't know what page it is of that particular document.
19 Looks like --

20 A I've got it.

21 Q Look down on the bottom-right, where it talks about
22 his little progress notes where he has his times. And
23 we're going to hear from him later. But I want you to
24 look at the one that says, *discussed with Dr. Hendelman*.
25 You see that? Time 1605?

1 A Is it the second entry?

2 Q No. It's actually below the handwritten stuff,
3 right next to the typed-up thing. It says, typed up:
4 *discussed with doctor*. And then, you see, Hendelman,
5 handwritten, 1605.

6 A I don't see where you're --

7 Q Right. That part of the document.

8 A Oh. Okay.

9 Q See it?

10 A Yes.

11 Q Would that have been a phone call that occurred
12 after Psyche Tech Manning had completed his evaluation
13 of Mr. Hunt?

14 A I could assume so, but I can't be for sure.

15 Q All right. 1605. Would have been after for sure.

16 A Usually.

17 Q All right. And then, according to your time line
18 where you said the time lines get a little bit
19 approximate, cause you're not sure, we have the bathroom
20 trip or visit by Mr. Hunt, correct?

21 A Um-hmm.

22 Q And then, the next thing -- and we're going to come
23 back to this. Well, let's come to it right now. This
24 is kind of where we left off. Look at your entry. Now,
25 I'm back to your stuff. And I'd like to get you to go

1 to the entry that you wrote on the 24th of February,
2 2012, at 1612. We talked about the part where you said,
3 *patient ambulate*. Ambulate means what? Walk?

4 A Walk.

5 Q To bathroom.

6 A Correct.

7 Q And he returned, correct?

8 A Um-hmm.

9 COURT REPORTER: That's a yes?

10 WITNESS MCDONALD NODDED HEAD.

11 Q And now, read for me the next lines, the next two
12 lines, where you start talking about him being with the
13 Veterans Affairs rep.

14 A *Mr. Ray returned to E.R., stating that he --*

15 Q No. Go back up. You're two lines too far down.
16 I'm still on the 1612 entry. Right below *patient*
17 *ambulated to bathroom; returned*.

18 A *Patient ambulate to bathroom; returned.*

19 *Patient with Veterans Affairs Representative,*
20 *Edward Ray; states we need some -- some air.*

21 Q Is it *we need*, or is it *we're getting some air*?

22 A *Asked if they could go out for a breath of fresh*
23 *air.*

24 Q My question is, what are the words you've written
25 on this document on that day?

1 A What I wrote there is we're getting some air.

2 Q Okay. Now, to me, and you help me if I'm wrong,
3 that's a statement, not a question.

4 A Yes.

5 Q Okay. And you wrote this back within hours of all
6 this going on?

7 A Yes.

8 Q Within minutes, actually, probably, at that
9 particular entry, right?

10 A Minutes, more than hours.

11 Q Just so we can complete my time line over here, at
12 some point after that communication with Mr. Ray where
13 they go out, does Mr. Manning, the psyche tech, return
14 to the E.R.?

15 A Yes.

16 Q All right. When he comes back in, tell us what he
17 said to you, you said to him, about what was going on
18 and what he's doing back there.

19 A Well, those two events were within five or so
20 minutes apart. And I said to Mr. Manning, I said, you
21 should have just passed them in the hallway.

22 Q Did Mr. Manning make any comments to you when he
23 came back into the emergency department about why he was
24 there or where -- or Mr. Hunt?

25 A He said he -- he indicated he was not out in the

1 hallway.

2 Q Okay. Did he come in asking you or telling you why
3 he was coming back?

4 A No.

5 Q Mr. Manning walked in, and when you told him you
6 should have passed him in the hallway, what were you
7 trying to explain to him?

8 A That I thought that he was either right there in
9 the hallway or in that little courtyard that they had.

10 Q And what did Mr. Manning do after you told him
11 that?

12 A Came back in, and he said he's not there.

13 Q How long a period of time from when you first see
14 Mr. Manning come back in the E.R., and you tell him you
15 should have just passed them in the hallway, or
16 whatever, him leaving, and then, him coming back in and
17 saying, well, he's not out there?

18 A Couple minutes, maybe.

19 Q At any point, does Mr. Manning say, well, why did
20 you let him leave, or I can't believe you let him go out
21 the door?

22 A That was the only conversation I had with Mr.
23 Manning.

24 Q And then, to complete our time line, according to
25 your note, and we know the times are not, perhaps,

1 accurate in terms of exact time, 1625, 4:25, is when Mr.
2 Ray came back and informed you that he, meaning Mr.
3 Hunt, took off through the gate, right?

4 A That's correct.

5 Q And then, the next thing, you called the, as you
6 told us, the Q -- quarterdeck and the security people.

7 A That's right.

8 Q Thank you, sir. Almost done. When this gentleman
9 went to the restroom, could he have taken off at that
10 point, if he wanted to elope?

11 A Oh, by either of two -- the two doors.

12 Q At any point in time, and I'll break it down into
13 this, when Dr. Jansen first went in to see Mr. Hunt and
14 then, walked out, at any point in time, did you get the
15 impression from your observations of Mr. Hunt that,
16 after Dr. Jansen had initially seen him, that he didn't
17 want to be there anymore and he wanted to leave?

18 A No.

19 Q Did you get any impression from your observations
20 of him at that time, after Dr. Jansen had seen him, that
21 this patient didn't want to continue to cooperate with
22 getting evaluated and getting the healthcare that he
23 came there for?

24 A No.

25 Q At the point in time when Psychiatric Tech Manning

1 came and saw the patient, and spent however long he was
2 in there with him, and then, walked out, did you get any
3 impression from your observations or interactions with
4 Mr. Hunt that he didn't want to stay in the E.R. and
5 continue to cooperate with his evaluation and getting
6 treatment that he came there for?

7 A There was no indication verbally or non-verbally at
8 all.

9 Q Did he look frustrated or irritated about what was
10 going on, anything that made you think this guy doesn't
11 want to be here?

12 A There was no indication at all.

13 Q And when the gentleman went to the bathroom and you
14 talked to him, or when he and Mr. Ray came up and you
15 had the discussions with them, at any point at that
16 point, did you get a feeling that Mr. Hunt was not going
17 to continue to be cooperative, participate in the
18 evaluation process, and do whatever the doctors
19 suggested to him?

20 A No. If he wanted to leave at that time, he -- all
21 he had to do was push a button. The door would have
22 opened. He could have went out to the parking lot and
23 be gone, or went out the other door to the cross walk --
24 crosswalk, north, east, south, or west.

25 Q Anything about his presentation or the way he

1 looked, acted, whatever, the way he walked, however you
2 want to put it, that suggested that he didn't want to
3 get the help he came there for?

4 A He -- he left with the same presentation that he
5 came in with. There was no change at all.

6 Q You were asked some questions about the patient
7 perhaps overhearing conversations in the E.R., either
8 when Dr. Jansen came out and said whatever he said about
9 calling Beaufort Medical 3, or when Mr. Manning finished
10 his evaluation, or even phone calls that might have been
11 made in Dr. Jansen's office. At any point in time, did
12 you get the impression that this patient overheard any
13 of those conversations, and changed what he was -- had
14 been doing? I mean, staying there, being cooperative.
15 Did anything make you think that his mental condition
16 had changed at all?

17 A Not at all.

18 Q So, Mr. Ray was with him, in his presence, in that
19 same room the whole time?

20 A Yes, he was.

21 Q Did Mr. Ray, at any point, make any comments to you
22 that led you to the conclusion that he was concerned
23 that this guy was not going to continue to cooperate,
24 not be in the condition that you saw him in?

25 A No, he didn't make any -- any mention or any

1 gestures at all. He primarily was just staying over
2 there, keeping Mr. Hunt company.

3 Q After Mr. Manning came back, and you were asked
4 questions about the radio chatter and all, did it cross
5 your mind that Mr. -- and this is before Mr. Ray came in
6 and says they guy's taken off -- did it cross your mind
7 that it was Mr. Hunt that was doing all of that stuff?

8 A You know, it crossed my mind, by I figured -- it
9 crossed my mind.

10 Q Why?

11 A You just get into that -- that E.R. mind set that,
12 you know, that could it happen. How could somebody
13 steal a fire truck. That one kid that kind of came out
14 -- came in and said that somebody stole a fire truck. I
15 can't imagine how somebody stole a fire truck, but it
16 just crosses your mind.

17 Q Well, when you were sitting there with Mr. Hunt, in
18 any of that time, did you ever have the thought cross
19 your mind that this is a guy that doesn't want to stay
20 here; that's going to leave under any circumstance and
21 go do something to hurt anybody or do anything?

22 A No. He -- he came in looking for his refills. He
23 knew there was a process. Up until that point, he was
24 willing and able to go through the duration.

25 Q When Mr. Ray walked in and said he took off on you,

1 did you do what was, at that point, required to be done
2 to locate the patient?

3 A Yes.

4 Q When Mr. Ray came back, did he look winded or tired
5 or anything of that sort?

6 A Not particularly.

7 Q Did Mr. Ray tell you anything about the
8 circumstances of how the gentleman took off or any of
9 that.

10 COURT REPORTER: The answer, please?

11 A No, he didn't. And I know that Mr. Ray was not in
12 the kind of shape to be chasing after a 20-some-year-old
13 person.

14 Q Now, as a trained, registered nurse, with all of
15 the experience you've told us about, on February the
16 24th, from the knowledge that you had, both from your
17 review of the triage sheets and your interaction with
18 everybody that was in the E.R. that day, did you think
19 it was necessary to do anything other than what you did
20 that day, as it relates to Mr. Hunt and your observation
21 and supervision of him?

22 A No. There was no indication to do anything other
23 than -- than what was done.

24 Q If you had been told that he had indicated to Dr.
25 Jansen that he had thoughts of hurting himself, and also

1 had thoughts of, perhaps, hurting others, but no plan to
2 do either, would you have changed anything in the way
3 you observed this man or reacted to him?

4 A Ask me the question again.

5 Q Sure. If you had been told that this patient had
6 told Dr. Jansen he had suicidal ideations, but he also
7 had some thoughts of hurting others, according to the
8 record of the reasons that things had occurred, but he
9 had no plan to do either, hurt himself or hurt anybody
10 else, would you have changed anything in the way you
11 dealt with him?

12 A If he had acted on going thoughts, yes.

13 Q If he had no plan.

14 A No plan? No plan is no plan.

15 Q Right. So, if he has no plan, are you going to
16 change anything in the way you deal with him?

17 A No.

18 MR. LOVELL: I think that's it. Thank you.

19 THE COURT: All right. Re-direct.

20 MR. HOYLE: Thank you, your Honor.

21 JOSEPH J. MCDONALD

22 RE-DIRECT EXAMINATION, BY MR. HOYLE:

23 Q Let's start at the beginning of your examination by
24 prior counsel -- or let's start at the ending of your
25 examination by prior counsel.

1 If a patient is not being forthcoming, and he's
2 suicidal or homicidal, he might not tell you if he has a
3 plan, correct?

4 A Perhaps.

5 Q Perhaps. When you found out that your wife was
6 afraid on that fateful Friday of being alone in a room
7 with Calvin Hunt, how did you react?

8 A I didn't react, because the E.R. environment is not
9 conducive -- you're sitting backed up in a corner.
10 People come in the E.R. all the time. I say all the
11 time -- frequently unhappy. They've waited too long,
12 they went through doctors, they can't get an
13 appointment. That's the first place they're going to
14 vent.

15 And where you are sitting, with your back to the
16 wall, with the patient between you and the outlet, so,
17 the feeling of uncomfortableness or afraid, whatever
18 term you want to use, it's -- it's -- the environment is
19 not conducive to safety for the nurse. You have no way
20 out if something happens. To go in from the triage area
21 to the -- to the bay in the back is not uncommon.

22 Q Yet, the thought crossed your mind when you heard
23 the radio chatter about mayhem out on Ribaut Road, that,
24 perhaps, just maybe that mayhem was being caused by none
25 other than Calvin Hunt, correct?

1 A It was a thought that it was a possibility. No
2 rationale for the thought.

3 Q Just an instinct?

4 A Just a thought.

5 Q If your wife had been afraid of Mr. Hunt in the
6 triage room, was that information you would have liked
7 to have known before you began your responsibilities as
8 the treatment nurse, which, in part, included monitoring
9 Mr. Hunt?

10 A If I had known it or not known it, I still would
11 have monitored the situation the same as I did.

12 Q Wouldn't have changed anything.

13 A Correct.

14 Q There were some questions a moment ago about when
15 Mr. Ray returned. Do you recall that?

16 A Yes.

17 Q Prior counsel asked you about Mr. Ray coming back
18 in the room, and I heard some testimony about Mr. Ray's
19 appearance. Let me ask you this. Will you agree with
20 me that you've previously told Mr. Ray was breathing a
21 little heavy when he returned?

22 A Yeah.

23 Q You told me that?

24 A Not huffing and puffing, but breathing a little
25 heavy. Not diaphoretic.

1 Q And while we're on the subject of Mr. Ray, you've
2 been on the witness stand the better part of the day
3 thus far, here in this courthouse, and you previously
4 gave a deposition in this case, correct?

5 A Oh, yeah.

6 Q Okay. I just want to make sure we're clear on
7 something. The quote, *can we step out for a breath of*
8 *fresh air*, is that a specific recollection you have of
9 words coming out of Edward Ray's mouth?

10 A Yes. Yes.

11 Q That's a quote, correct?

12 A Correct.

13 Q And your response to him that you've told us here
14 today of yes, that, too, is a specific recollection.

15 A Yes.

16 Q And we talked earlier, and prior counsel asked you
17 questions about patients' rights. Do you recall some of
18 that line of questioning?

19 A Yes.

20 Q Do you agree with the statement that a patient has
21 the right to be warned of risk of harm if their behavior
22 could lead to that harm?

23 A I don't think we discussed that.

24 Q We were talking about patient rights. Do you
25 recall that?

1 A I remember talking about patient rights.

2 Q Do you think the patient has a right to be warned
3 of harm that can fall to him or others if certain
4 actions aren't taken?

5 A Yes.

6 Q For instance, thinking of someone like Calvin Hunt,
7 do you believe he has the right to know if a medical
8 believer [sic] believes that he should be refrain from
9 certain conduct in order to protect himself?

10 A I believe he has the right that, if he believes
11 he's not going to get what he came for, was his
12 prescription refills.

13 Q But my question is a little bit different. Do you
14 believe a patient has the right to have a medical doctor
15 who's evaluated him to give him the information that he
16 should refrain from certain conduct, in order to protect
17 himself or herself? Yes or no.

18 A Yes or no. I'd have to say yes.

19 Q We've gone through, both in my prior examination
20 and my cross-examination, what you knew that day and
21 what you didn't know about this man, about Calvin Hunt.
22 Will you admit on this witness stand here today that you
23 didn't have all of the available information about this
24 patient, about Calvin Hunt, prior to granting him
25 permission to leave the emergency room?

1 A Correct. I didn't have all of the information at
2 deposition time.

3 Q On that day, you didn't know that Dr. Jansen had
4 written in the medical records that Calvin Hunt had
5 thoughts of harming others, correct?

6 A I'm sorry?

7 Q You didn't know on that day that Dr. Jansen had
8 written in the medical records that the patient had
9 thoughts of harming others, correct?

10 A That's correct.

11 Q You didn't know information that had been provided
12 to others, including your own wife, that Calvin Hunt's
13 grandmother was worried that he was going to or might
14 take his own life.

15 A Hadn't heard that until today.

16 Q And with respect to the note that Saundra Smith was
17 busy typing away on up there around 2:30 in the
18 afternoon, including moaning and groaning and things
19 like that, you didn't read that note that day, did you?

20 A Correct.

21 Q But even without that information, just knowing
22 what you did know, when you hear on the scanner these
23 calamities taking place out on Ribaut Road, the thought
24 crosses your mind, well, this could be Calvin Hunt,
25 correct?

1 A The thought crossed my mind.

2 Q It wasn't beyond the realm of possibility.

3 A Could have been anybody. Could have been
4 everybody. It could have been him. I did not have a
5 rational thought as to why it was him. It crossed my
6 mind.

7 Q Now, let's turn back a little bit to who it is you
8 were working for that day. Will you admit on this
9 witness stand that you were working for CasePro that
10 day?

11 A I was working for the Department of the Navy.

12 Q Department of the Navy didn't issue you a paycheck,
13 correct?

14 A CasePro would. CasePro gives me the paycheck.

15 Q You didn't get a W-2 each January from the
16 Department of the Navy, did you?

17 A I get a W-2 from CasePro.

18 Q Okay. And with respect to -- we looked earlier at
19 a sheet of paper telling you how much you're going to
20 get paid per hour. Do you remember that piece of paper?

21 A Um-hmm.

22 COURT REPORTER: Is that yes?

23 Q That's yes?

24 A That's a yes.

25 Q That piece of paper, did it come on letterhead

1 bearing indicia that it came from the Department of the
2 Navy or from CasePro?

3 A Came from CasePro.

4 Q Okay. And we're talking about things like health
5 insurance that came from who? The Department of the
6 Navy or CasePro?

7 A From CasePro.

8 Q Things like your supplemental disability insurance,
9 who'd that come from? Navy or CasePro?

10 A CasePro.

11 Q Okay. And you used a term, or I think I heard it,
12 called *chain of command*. Did I hear you say that in
13 response to a prior question?

14 A You did.

15 Q Okay. Did you ever serve in the military, sir?

16 A Did not.

17 Q All right. What's your understanding of what that
18 term means, chain of command?

19 A Who you go to and what pecking order for what
20 situation you need to have resolved.

21 Q You'll agree with me that, as far as the military
22 is concerned, there may be a chain of command that
23 starts all the way at the top with the president as the
24 civilian command authority, and goes all the way down to
25 the bottom to someone who might have the rank of

1 private. Is that fair?

2 A Yes.

3 Q And depending on where people fall in that pecking
4 order, they may either have to salute someone else or
5 return a salute, correct?

6 A Yes.

7 Q You've seen that, because you've actually set foot
8 on the Naval Hospital grounds as part of your going to
9 work every day, correct?

10 A Yes.

11 Q Did you ever salute anybody while you were at the
12 Naval Hospital?

13 A No.

14 Q Did you ever return a salute from any person in
15 uniform at the Naval Hospital here in Beaufort?

16 A No.

17 Q Let's talk about who was there that day. You, your
18 wife, Dr. Jansen, correct?

19 A Clerk, LPN.

20 Q The persons who interacted with Calvin Hunt that
21 day, who were they, there in the E.R.? You, your wife,
22 Dr. Jansen, correct?

23 A Yes.

24 Q All of you all were getting paychecks from CasePro,
25 having deductions made and monies being remitted to the

1 federal government, correct?

2 A Correct.

3 Q You weren't a federal employee, were you, sir?

4 A No.

5 Q You didn't have federal benefits.

6 A No.

7 Q And there's been some suggestions or discussions
8 about supervision. Let me make sure I get these
9 questions precise.

10 When you showed up to work every day at the Naval
11 Hospital, for example, on February 24, 2012, at 0700,
12 did you have to go report to someone who was a direct
13 employee of the United States government?

14 A No.

15 Q I heard a name earlier of a lady by the name of
16 Angelina Brannon. Did you mention her name earlier?

17 A I did.

18 Q And at that point in time, back in 2012, my
19 understanding is she was a lieutenant. I mean, she wore
20 a uniform and served this country in the military, in
21 the United States Navy, correct?

22 A Yes.

23 Q I believe she's on the verge of getting another
24 promotion as we speak. But back in 2012, did you have
25 to go consult Lieutenant Brannon about how to care for a

1 particular patient?

2 A A particular patient? No.

3 Q Did Lieutenant Brannon stand there over you when
4 you were the treatment nurse, telling you, okay, go take
5 this vital sign; go administer this fluid; go do this
6 with respect to this specific patient? Yes or no.

7 A No.

8 Q She never did that, did she?

9 A Did she ever on this patient? Not on this patient.

10 Q And with respect to the four walls of the emergency
11 room on February 24, 2012, you were taking orders and
12 instruction from one person, and that's Dr. Christian
13 Jansen, correct?

14 A Yes.

15 Q He was the only licensed medical doctor there that
16 day, correct?

17 A In the E.R., yes.

18 Q On February 24, 2012, if you needed some direction
19 about what to do with a patient, you were going to ask
20 Dr. Jansen, correct?

21 A That would be my first.

22 Q There have been some discussions about the kind of
23 clothes that Calvin Hunt was wearing. Did you ever
24 search his pockets or search the possessions he brought
25 with him that day?

1 A Did not.

2 Q Don't know what he had in his pockets or what
3 possessions he had, do you?

4 A Did not.

5 Q Just know his clothes were neat and pressed.

6 A Yes.

7 Q Like a good military man's clothes should be,
8 correct?

9 A I thought he was ex-military, but that's tomato or
10 tomato.

11 Q While we're on the subject of tomato/tomato, and
12 perhaps cats and dogs, Army and Navy, will you agree
13 with me that there's a fundamental difference between
14 someone being angry and someone being calm?

15 A Yes.

16 Q Those are different concepts, aren't they?

17 A I believe so.

18 Q As different as Carolina and Clemson.

19 A I guess. I'm not holding that up there.

20 Q We'll do something easy, then. As different as the
21 Navy and the Air Force. How about that?

22 A That sounds good.

23 Q All right. Good to me, too.

24 MR. HOYLE: I think we're at a good time to stop.

25 Thank you very much for your time. I have no further

1 questions.

2 THE COURT: All right. Re-cross.

3 MR. LOVELL: Very briefly, your Honor.

4 JOSEPH J. MCDONALD, JR.

5 RE-CROSS-EXAMINATION, BY MR. LOVELL:

6 Q Nurse McDonald, you were asked questions about
7 whether a patient can be not forthcoming in describing
8 history, but let me ask you this. When this patient was
9 interviewed by Nurse Pope, or Medical Technician Pope
10 upstairs, to your knowledge, did he tell her that he had
11 a plan to hurt himself or hurt others?

12 A At that time?

13 Q Correct.

14 A No.

15 Q When he was interviewed by Nurse Smith, who brought
16 him downstairs, do you have any information that he told
17 her he had a plan to hurt himself at that point or
18 others?

19 A Did not. Was not aware.

20 Q He was interviewed by your wife, who's a registered
21 nurse, and I assume you know her qualifications.

22 A Um-hmm.

23 Q Did he tell her he had a plan to hurt himself?

24 A There was no plan.

25 Q Okay. When he was assessed by Dr. Jansen, a board-

1 certified E.R. doctor, did he tell that physician, in
2 all the time that was spent there, that he had a plan to
3 hurt himself or to hurt others?

4 A Not that I'm aware of.

5 Q When he was assessed by Psychiatric Technician
6 Manning, employed by our federal government, did he tell
7 him he had a plan to hurt himself or others, to your
8 knowledge?

9 A Not that I'm aware of.

10 Q And in your presence, another R.N. trained and all
11 the schooling that you had, did he tell you he had a
12 plan to hurt himself or others?

13 A He did not.

14 Q You were asked questions about patients' rights and
15 to know what's going on. With regard to mental health
16 patients with suicidal, or even homicidal ideations,
17 does the right to know what's going on change when they
18 express a plan, as opposed to when they have said I
19 don't have a plan to do something to hurt myself or hurt
20 others?

21 A As far as the rights to know?

22 Q Or to do things that you could do to them.

23 A No.

24 Q A plan change things as far as what you all do?

25 A Yes.

1 Q On February 24, when you saw this gentleman, and
2 you said okay to going out and having -- get a breath of
3 fresh air, was it foreseeable to you that this man, who
4 had been at the hospital, on the grounds since about
5 2:30; had voluntarily gone downstairs with Nurse Smith
6 to the E.R. when she asked him to do so; and gone
7 through the triage process with your wife and the
8 questions that she asked; had gone through into the E.R.
9 Bay Number 4; voluntarily walked over; interacted with
10 you for the period of time he interacted with you; who
11 had participated in an evaluation that Dr. Jansen did
12 with him, as you observed; participated in the
13 evaluation with Mr. Manning that you observed; gone to
14 the restroom; asked permission to go to the restroom;
15 and then, came back and talked with you about getting
16 something to drink; went back to Bay 4; sat with Mr.
17 Ray; and then, got up; and the two of them come over;
18 had the conversation with you; was it in any way in your
19 mind foreseeable that, when he walked out of the door of
20 the E.R. to go outside and smoke or whatever it was,
21 that he wasn't going to come back and continue to
22 getting care?

23 A I thought he was going out for a cigarette and come
24 on back in and get his medications.

25 MR. LOVELL: Thank you. That's all, your Honor.

1 THE COURT: Okay. Very well. Is this witness
2 released?

3 MR. HOYLE: This witness is released from his
4 subpoena, your Honor.

5 THE COURT: Very well. Any objection?

6 MR. LOVELL: No, your Honor.

7 THE COURT: Very well. You are free to go, sir.

8 BY THE COURT:

9 THE COURT: All right, ladies and gentlemen, it is
10 now five minutes until 1:00. We are now going to take
11 our lunch break. During the lunch break, please do not
12 discuss this matter or allow anyone to discuss it with
13 you. Don't read anything. Don't listen to anything
14 about this matter. That, of course, means the radio,
15 the television, the Internet, newspapers. You must
16 receive all the information from which you will make up
17 your mind while court is in session.

18 Do not bring a cell phone or other communication
19 device with you when you return to the courthouse after
20 your lunch break. Of course, if you forget and do, just
21 give it to our bailiffs, who will take good care of it
22 until our afternoon break or at the conclusion of the
23 day. And leave your notebooks, please, in your seats.
24 We will safeguard them over the lunch break.

25 Ladies and gentlemen, do you think you can get your

1 lunch and get back by 2:00 o'clock? Be a good hour,
2 about an hour and five minutes? Okay. Very well. 2:00
3 o'clock. Thank you, ma'am.

4 JURORS LEAVE COURTROOM 12:57 P.M.

5 BAILIFF: Jury is clear, your Honor.

6 THE COURT: All right. Great. Tell me what plans
7 for this afternoon in terms of depositions, what I need
8 to look at as far as depositions?

9 MR. HOYLE: I think we've already got Craig Martin
10 resolved for this afternoon.

11 THE COURT: All right.

12 MR. MACKELCAN: I don't think we have Craig Martin
13 resolved.

14 THE COURT: You don't.

15 MR. MACKELCAN: I don't think so.

16 THE COURT: He doesn't think you have Craig Martin
17 resolved.

18 MR. HOYLE: Okay.

19 MR. MACKELCAN: We touched on the first objection,
20 but we didn't hit on anything beyond that.

21 THE COURT: Beyond that.

22 MR. MACKELCAN: We had some other designations we
23 objected to.

24 THE COURT: Okay. You just didn't get a chance to
25 see. All right. Will you all do that over the lunch

1 break. And so, Craig Martin is next?

2 MR. HOYLE: I don't know that he's next, your
3 Honor.

4 THE COURT: Got you. So, given the order of
5 battle, if you will, for this afternoon, tell me, are
6 they live witnesses or depositions?

7 MR. HOYLE: We will have live witness, and then,
8 later in the day, as time permits, depositions.

9 THE COURT: Got it. Okay. Great. And so, you all
10 are meeting about Craig Martin over the lunch break, and
11 then, --

12 MR. HOYLE: And that should give us, I think, three
13 depositions ready to go in the event that we need them.

14 THE COURT: Very well. Thank you all so very much.
15 Have a good lunch.

16 MR. HOYLE: We'll need them at some point.

17 THE COURT: Yeah.

18 OFF THE RECORD 1:00 P.M.

19 BACK ON THE RECORD 2:03 P.M.

20 BY THE COURT:

21 BAILIFF: All rise. Court is back in session.

22 THE COURT: All right. Everybody ready?

23 MR. HOYLE: Just a moment. It's like organized
24 chaos here, Judge. John Knowles gets the gold star.

25 THE COURT: The next witness is nearby, yes?

1 MR. HOYLE: Yes, he is.

2 THE COURT: Okay. Ready? Ready? Ready, ready,
3 ready?

4 MR. HOYLE: We might need Mr. Lovell.

5 THE COURT: Might what?

6 MR. HOYLE: We should wait on Mr. Lovell.

7 THE COURT: You're going to go get him?

8 MR. MACKELCAN: I'm going to go get him.

9 THE COURT: All right.

10 MR. LOVELL: Sorry, your Honor.

11 THE COURT: That's not a problem at all. And we're
12 ready for them.

13 BAILIFF: Are you ready, your Honor?

14 THE COURT: Ready.

15 BAILIFF: Jury is entering the courtroom.

16 THE COURT: Wonderful.

17 JURY ENTERS COURTROOM 2:07 P.M.

18 THE COURT: All right. Ladies and gentlemen, I
19 hope you had a very pleasant lunch. At this time, we
20 will continue the Plaintiff's case.

21 MR. HOYLE: Your Honor, at this time, Plaintiff
22 calls Michael Allen McCabe to the stand.

23 THE COURT: Very well. Yes, sir. Come along,
24 please, and be sworn.

25 MADAM CLERK: Place your left hand on the Bible,

1 and raise your right. Do you solemnly swear or affirm
2 the testimony you're about to give in this matter is the
3 truth, the whole truth, and nothing but the truth, so
4 help you God?

5 MICHAEL MCCABE: Yes, I do.

6 MADAM CLERK: Please be seated here, sir. Please
7 say and spell your name for us.

8 MICHAEL MCCABE: Michael McCabe. Last name,
9 M/c/C/a/b/e.

10 THE COURT: Your witness.

11 MR. HOYLE: Thank you, your Honor.

12 THE COURT: Yes.

13 MICHAEL MCCABE

14 DIRECT EXAMINATION, BY MR. HOYLE:

15 Q Good afternoon, sir.

16 A Good afternoon.

17 Q You've introduced yourself to the jury. Can you
18 tell us, the Court and jury, where you currently live.

19 A Current address is San Antonio, Texas.

20 Q And I understand that you are the president of
21 CasePro, Incorporated, correct?

22 A Correct.

23 Q You're also a shareholder of that company, correct?

24 A Correct.

25 Q In fact, you own the majority interest of the

1 shares in that company, correct?

2 A That's not technically correct, no.

3 Q Is there any other natural person that owns more
4 shares of the company than you?

5 A No other natural person.

6 Q Is there a trust that you control that owns shares
7 of stock in CasePro, Incorporated?

8 A Yes.

9 Q So, between the trust that you control and you
10 personally, what percentage of the shares of stock of
11 CasePro, Incorporated, do you believe you might have
12 some say in with respect to voting on things?

13 A Approximately 74.

14 Q Percent?

15 A Percent.

16 Q Okay. Other than the trust and you yourself, how
17 many other persons or entities own shares in the
18 company?

19 A One other person.

20 Q And that's your late mother's former husband,
21 correct?

22 A Correct. My stepfather.

23 Q And he owns, I take it, about 26 percent?

24 A Roughly.

25 Q Roughly. Now, the corporate headquarters of

1 CasePro, Incorporated, you told us is out in San
2 Antonio. I believe the street address was 21738 Hardy
3 Oak Boulevard, San Antonio, Texas, 21738, correct?

4 A The area code didn't sound right. 78258.

5 Q I apologize. I think zip codes that start with a 2
6 are down here. I'm just not used to Texas. Say that
7 zip code one more time for me.

8 A 78258.

9 Q All right. Now, my understanding, and you can
10 correct me if I'm wrong, is that your late mother
11 founded CasePro back in 1996, and incorporated it under
12 the laws of the State of Texas, correct?

13 A Correct.

14 Q And your mother was Shirley Hill, correct?

15 A Correct.

16 Q And at that time, back in 1996, almost 20 years
17 ago, the focus of the company, CasePro, Incorporated,
18 was medical and disability case management, correct?

19 A Correct.

20 Q In other words, helping insurance companies, self-
21 insured employers, third-party administrators keep costs
22 down after someone had some sort of injury, correct?

23 A Correct.

24 Q But in 2001, the company began to diversify,
25 correct?

1 A Correct.

2 Q And in that year, the company began providing
3 medical personnel to work in federal government
4 facilities, correct?

5 A The initial contract was medical transcription, and
6 it was a little bit different than medical personnel.

7 Q When did the company start hiring doctors and
8 nurses?

9 A Probably in 2003 or '04.

10 Q And I understand, when I took your deposition, that
11 you actually joined the company that your mom had
12 founded in 2002, correct?

13 A Correct.

14 Q And I understand your mother, her education led to
15 her being licensed as a registered nurse, correct?

16 A Correct.

17 Q You have a little bit different background. Is
18 that fair?

19 A That's fair.

20 Q Okay. You don't have a medical doctor degree,
21 correct?

22 A Correct.

23 Q Don't have a registered nursing license, correct?

24 A Correct.

25 Q In fact, don't have any training, experience, or

1 licensure in any of the health science professions,
2 correct?

3 A Correct.

4 Q You're a businessman, correct?

5 A It's a little different than that. I'm a -- by
6 training, I'm originally an engineer, and then, I
7 expanded into business, so.

8 Q Okay. But you hold a master's of business
9 administration degree, correct?

10 A Correct.

11 Q That's the highest level of your education,
12 correct?

13 A Correct.

14 Q And with your background, prior to joining the
15 company in 2002, was that you worked as a plant manager
16 for Unilever, a large consumer products company,
17 correct?

18 A Before -- pardon? Can you re-state that?

19 Q Sure. Before you came to work at CasePro,
20 Incorporated, in 2002, you worked as a plant manager for
21 Unilever, a large consumer products company, correct?

22 A Correct.

23 Q Specifically, you were involved in managing the
24 production of products such as I Can't Believe It's Not
25 Butter, Country Crock, Ragu Pasta Sauce, correct?

1 A Correct.

2 Q And you left that line of work and went to work for
3 the company your mother formed. And then, I believe you
4 became a shareholder two years later in 2004. Did I
5 hear that? Is that my understanding?

6 A That sounds correct.

7 Q And that's an accurate understanding, correct?

8 A Correct.

9 Q Okay. So, it sounds like, about the time you
10 became a shareholder in the company is about the time
11 that CasePro, Incorporated, started hiring doctors and
12 nurses to go do things like provide healthcare to our
13 men and women in uniform. Is that fair?

14 A Our initial contracts were strictly registered
15 nurses.

16 Q When did you all start hiring doctors?

17 A 2006, I would think. Maybe 2005.

18 Q And just as you get to know -- just so the members
19 of the jury get to know you, did you ever serve in any
20 branch of the armed services?

21 A No.

22 Q At any time, has any shareholder of CasePro,
23 Incorporated, since its inception 19 years ago, ever
24 been either an active-duty military person or a veteran
25 of the Armed Forces?

1 A Any of the owners?

2 Q Yes, sir.

3 A No.

4 Q And that's a good point. We'll just use common
5 terms. Okay? Sometimes, lawyers get too technical.
6 You're one of the owners of CasePro. Is that fair?

7 A Correct.

8 Q Okay. You actually hold yourself out as one of the
9 owners of CasePro.

10 A Correct.

11 Q Okay. So, the company began diversifying away from
12 case management work, and specifically started getting
13 into employing persons with the health science
14 background to go do contracting work. Is that fair?

15 A Correct.

16 Q And why did the company decide to do that?

17 A Basically, the laws were changing. This is -- goes
18 back to the original case management company. The laws
19 were changing pretty radically at that point in time,
20 meaning, the way that third-party providers and
21 insurance companies approached their case management was
22 changing. We had a business in Colorado, Texas, some of
23 the southwest, and they were changing the laws pretty
24 radically. So, Ms. Hill, my mother, she was
25 anticipating that the business would struggle going

1 forward. So, through, you know, contacts that she had
2 through business, the idea of going into federal
3 contracting came up. So, they decided, they, being Ms.
4 Hill and my stepfather, Mr. Hill, they decided to try to
5 approach government contracting as a way to diversify
6 off of the case management.

7 Q Thought it would be a good way to make some money.
8 Is that fair?

9 A I don't know that they're driven that way. But
10 certainly, we keep the business going forward.

11 Q And has the business kept going forward since that
12 decision was made in the early 2000s?

13 A That -- that's debatable. The -- it's had its ups
14 and downs, and some good and bad. And so, it's been --
15 moved forward at times; it's moved backwards at times.
16 So, like a lot of small businesses, it's a struggle.

17 Q All right. And I understand that, after a couple
18 of years of doing some government contracting work, the
19 company decided to diversify even further. Is that
20 fair?

21 A I'm not sure what you're referring to.

22 Q Sure. Back in 2012, when the incident that we're
23 all here in this courthouse to talk about took place, in
24 addition to the case management work and the federal
25 contracting work, your company also had a significant

1 business activity involved in some ice cream franchise.

2 Is that correct?

3 A That's correct. We own two Baskin-Robbins stores.

4 Q But that's not true today, correct?

5 A The Baskin-Robbins Stores? Yes, that's correct.

6 Q In fact, I believe, two days after I took your
7 deposition as the corporate designee in the company,
8 back in August of 2014, title to those two franchises
9 got transferred to a brand new entity, correct?

10 A That's correct. The -- basically, it was required
11 by Baskin-Robbins to have a -- have it in a different
12 entity, so that -- it's part of their franchise
13 agreement. So, that was -- that had been in the works
14 for literally years. They had -- we would prefer,
15 because of the simplicity of things, to not have it
16 together. They required, in their franchise, for it to
17 be separated, so it occurred somewhere in that time
18 frame. I don't remember what exact day.

19 Q But certainly, if there were records in this,
20 records available to me from the Texas Secretary of
21 State, saying that an entity named BRCPI, LLC., was
22 formed under the laws of the State of Texas on August
23 the 7th, 2014, you wouldn't dispute that.

24 A That -- that -- that name was ultimately rejected,
25 so that -- that entity doesn't exist. It's slightly

1 different than that.

2 Q What was the name changed to, sir?

3 A I don't have it in front of me, but it -- it's
4 something along the lines of CPI Cold Ventures.

5 Q But all that took place after I came out there to
6 San Antonio and took your deposition, correct?

7 A That had been in the works for months and months,
8 so I don't recall the dates. It was a independent thing
9 going on.

10 Q Okay. But regardless, back in 2012, CasePro,
11 Incorporated, had employees that were doing a couple of
12 different things. One was the original purpose of the
13 company, doing case management work, correct?

14 A Correct.

15 Q Two was the Baskin-Robbins work, which we've
16 briefly talked about, correct?

17 A Correct.

18 Q And then, the third thing was having people,
19 doctors and nurses and things like that, go do work in
20 government health care facilities, correct?

21 A Correct.

22 Q Okay. For all of your employees, regardless of
23 which of those three things they were doing, the company
24 had an employee handbook back in 2012 that was
25 applicable, correct?

1 A Correct.

2 Q All right. Let's see here.

3 MR. HOYLE: Madam Court Reporter, Exhibit 15.

4 Permission to approach, your Honor?

5 THE COURT: Yes.

6 BY MR. HOYLE:

7 Q Mr. McCabe, I'm showing you a document that's
8 previously been moved into evidence by agreement, and it
9 is Exhibit -- Plaintiff's Exhibit Number 15. Do you
10 have that document in front of you, sir?

11 A Yes.

12 Q Okay. And we'll publish it, so we can read along.
13 By its plain text, this is the CasePro, Incorporated,
14 Employee Manual, correct?

15 A Correct.

16 Q Okay. And let's flip to a couple of pages. And
17 we've got the first page that says, Welcome to CasePro.

18 A Okay.

19 Q All right. And there are several paragraphs of
20 text here, but this appears to be some type of letter
21 addressed to an employee, correct?

22 A This is the third page.

23 Q The third page.

24 A Correct.

25 Q It says, at the top, Welcome to CasePro. And then,

1 it says, Dear Employee. Is that what it says?

2 A Yes.

3 Q And then, in the third paragraph of this letter, it
4 says:

5 *You are responsible for reading and*
6 *understanding the employee manual, and your*
7 *employee evaluations will reflect your*
8 *adherence to CasePro policies.*

9 Did I read that correctly?

10 A Correct.

11 Q Now, you've been sitting here in the courtroom.
12 You've seen prior examinations of Janice McDonald and
13 Joe McDonald, correct?

14 A Correct.

15 Q And you'll recall that we actually went over their
16 very personnel files from the company you own, correct?

17 A Correct.

18 Q And as part of their personnel files, we saw some
19 paperwork that they had signed, including
20 acknowledgments that they had gotten an employee
21 handbook. Do you recall that?

22 A Yes.

23 Q Okay. Any reason, as you sit here today, as owner
24 of the company, to think that Joe McDonald and Janice
25 McDonald didn't get what we're looking at here as

1 Exhibit Number 15?

2 A I have no reason to believe they did not receive
3 it.

4 Q In fact, fair to say that your expectation as owner
5 of the company is that, all your employees, whether
6 they're working at the Baskin-Robbins, working in
7 Beaufort at the Naval Hospital, working out in Colorado
8 at maybe an Air Force base, working in California at
9 perhaps an Army installation, or working right there at
10 San Antonio at a Baskin-Robbins, they're going to have
11 this employee handbook, correct?

12 A Correct.

13 Q All right. Let's keep reading. Let's see what
14 else we can learn from this document. This paragraph --
15 this paragraph, after it tells a new employee that he or
16 she is responsible for reading and understanding this
17 employee manual, it says:

18 *In addition to clarifying*
19 *responsibilities, we hope this employee*
20 *manual also gives you an indication of*
21 *CasePro's interest in the welfare of all*
22 *who work here.*

23 Did I read that correctly?

24 A Yes.

25 Q And that's CasePro's intent, is it not, that they

1 want to have an interest in the welfare of all of their
2 employees, correct?

3 A Correct.

4 Q And that would include Janice McDonald and Joe
5 McDonald, correct?

6 A Correct.

7 Q And I believe you -- we heard some testimony
8 yesterday that, I believe you met those two folks just
9 this very week, correct?

10 A This is the first time I had met them.

11 Q But it's not the first time you've been to
12 Beaufort, right?

13 A I have been here once or twice. Maybe twice.

14 Q Okay. And we'll talk more about that in a little
15 bit. And if we just finish up this introductory page,
16 we've got a sentence, the next five sentences:

17 *CasePro is committed to doing its part*
18 *to assure you of a satisfying work experience.*

19 Did I read that correctly?

20 A Correct.

21 Q And that, again, would be true of CasePro's
22 expectations and commitments to person like Janice
23 McDonald, Joe McDonald, and Chris Jansen, correct?

24 A Correct.

25 Q Okay. All right. I'm going to go two pages

1 forward, and there's something called a *Table of*
2 *Contents*. And it looks like, according to the *Table of*
3 *Contents*, this is a 22-page set of policies and
4 procedures. Is that fair?

5 A There -- there's items listed as 22, yes.

6 Q Okay. All right. Well, I think we've just got to
7 start at the beginning. Let's go to the mission
8 statement found on the page numbered at the bottom as 1.
9 Okay. We can go up there to the mission statement, and
10 blow that text out. There we go. And it says:

11 *CasePro's mission is twofold. CasePro*
12 *will assist ill/injured individuals to*
13 *return to their pre-illness/injury lifestyle*
14 *and/or income level, while reducing the cost*
15 *via proper medical vocational management.*

16 Did I read that correctly?

17 A Correct.

18 Q That sentence seems to me like it would apply to
19 the employees who were doing kind of the case
20 management-type part of the business. Is that fair?

21 A Yes.

22 Q All right. And then, there's a second part of the
23 mission as stated. It says:

24 *Secondly, CasePro will provide*
25 *exceptional entrepreneurial management*

1 *and administrative services exceeding*
2 *customer expectations.*

3 Did I read that correctly?

4 A Yes, that's correct.

5 Q Okay. It just seems, by reading that sentence, the
6 second part of the mission would more go to the folks
7 like Janice, Joe, and Dr. Jansen, who are doing work in
8 government facilities. Is that fair?

9 A The reason that's not really fair is that this pre-
10 dated any of that business. So, this was referring also
11 to the case management.

12 Q Has there been an employee manual updated since you
13 all started doing contracts with the government?

14 A Generally, what we did was, for anything that was
15 an exception to this, we would send an additional letter
16 explaining that, here's our employee manual; here's some
17 differences because your actions are governed by a
18 federal contract, and there would be some differences.
19 And we would say what those differences were.

20 Q Let's turn -- if you'll turn to about two-thirds of
21 the way back, sir. I see such a document I think you
22 might be talking about. It says, *Addendum to Employment*
23 *Manual, U.S. Navy Contracts*. Let me know when you find
24 that, sir.

25 A I got it.

1 Q Okay. And this is an addendum to the employee
2 manual, meaning that it literally, just like it is here,
3 in this book, that's Exhibit 15, is appended to the
4 back, correct?

5 A Correct.

6 Q Okay. And while we're on the subject of contracts,
7 let me ask this question. The contracts that CasePro
8 enters into, in order to have some of its employees go
9 to work at various government facilities, those are
10 contracts that are solely between some branch of the
11 federal government and CasePro, Incorporated, correct?

12 A The -- the -- the contracts can be multiple awards.
13 I don't -- do you want the explanation of that?

14 Q No, no. Let me ask it a different way. There's no
15 contract out there between the U.S. Navy and Janice
16 McDonald, correct?

17 A Not directly, no. That I know of. That I'm aware
18 of.

19 Q Similarly, there's no contract between the U.S.
20 Navy and Joe McDonald, correct?

21 A Not that I'm aware of.

22 Q And the same is true, with respect to Dr. Chris
23 Jansen and the U.S. Navy, correct?

24 A Correct.

25 Q And that was certainly true back in 2012, when

- 1 those three persons were doing work on a fateful Friday,
2 in February of 2012, correct?
- 3 A As far as I know, we were their employer, but
4 often, doctors and nurses can work for other people.
5 And that occurred. We have a staff that work for us and
6 work for someone else.
- 7 Q All right. We'll come back to this addendum,
8 because, again, an addendum is just something that gets
9 put in the back of something, right?
- 10 A Correct.
- 11 Q All right. Let's go back to the very first page of
12 the manual. There's a heading that says, *What CasePro*
13 *Expects from You*.
- 14 A Okay.
- 15 Q *Your first responsibility is to know your*
16 *own duties and how to do them properly,*
17 *correctly, and pleasantly.*
18 That's what the document says, correct?
- 19 A Correct.
- 20 Q *Secondly, you are expected to cooperate*
21 *with management and your fellow employees,*
22 *and maintain a good team attitude.*
23 Did I read that correctly?
- 24 A Correct.
- 25 Q And it goes on with some other kind of

1 expectations. These were expectations that CasePro,
2 through this document, communicated to Nurse Janice,
3 Nurse Joe, and Dr. Jansen, correct?

4 A Correct.

5 Q And we've got, underneath that, on the first page,
6 some employment classifications. Do you see that?

7 A Yes.

8 Q Okay. And we've got some discussion in here, full-
9 time employees, part-time employees, temporary
10 employees. To your understanding, in February of 2012,
11 were these three persons, Nurse Janice, Nurse Joe, and
12 Dr. Jansen, were they full-time employees of the company
13 you own, or part-time employees of the company you own,
14 or how were they so classified?

15 A I'm -- I'm sure that Janice McDonald was full-time.
16 Joe McDonald, I believe, was PRN, or part-time, or as
17 needed. And Dr. Jansen, I'm not sure. The -- the
18 schedule that the E.R. for the physicians was erratic, I
19 guess, if you will. So, those classifications were more
20 driven by a 30-hour standard, whether they worked 30
21 hours, above or not. I would guess -- I hate to guess,
22 but I would guess that Dr. Jansen worked more than that,
23 because that would be three shifts. He most likely was
24 considered full-time.

25 Q As you sit here today, as owner of the company, you

1 believe that Nurse Janice was your company's full-time
2 company employee; Nurse Joe was your company's part-time
3 employee; and Dr. Jansen was your full-time employee.

4 Did I hear that correctly?

5 A You're talking about on October 1st.

6 Q Oh, I apologize. I apologize. Let's go back. On
7 February 24, 2012.

8 A They were all full time. I'm sorry. Originally,
9 they weren't all -- on February 24, they were -- they
10 were all full-time.

11 Q Of your company, correct?

12 A At the Navy Hospital, yes.

13 Q Okay. Let's keep going through this document here.
14 Let's go to the third page. We get to skip a page.
15 Let's go to the third page of the employment policies of
16 your company. And again, these employment policies,
17 they'd be applicable to your employees, correct?

18 A Correct.

19 Q All right. And I don't really care about
20 anniversary date or business hours, but let's talk about
21 at-will employment.

22 Will you highlight that text, Mr. Knowles. Thank
23 you, sir.

24 This employee policy of your company, it states:

25 All employment and compensation with

1 *CasePro is at will, which means that your*
2 *employment can be terminated with or*
3 *without cause, and with or without notice,*
4 *at any time, at the option of either CasePro*
5 *or yourself, except as otherwise provided*
6 *by law.*

7 Did I read that correctly?

8 A Correct.

9 Q I don't want to put this jury to sleep after lunch.
10 So, is it fair to say that, in the next couple of pages,
11 we've got some policies about sexual harassment,
12 violence in the workplace, drug abuse policy, use of
13 computers, conflict of interest. Is that fair?

14 A Correct.

15 Q Those were in your company's book, correct?

16 A Yes.

17 Q They were applicable to the three employees,
18 Janice, Joe, and Dr. Jansen, correct?

19 A Yes.

20 Q Okay. Turn to Page 9 of this document. Let's go
21 to the bottom of the page. Always important to know how
22 you can get paid when you're working for somebody else.
23 Do you agree with that statement?

24 A Yes.

25 Q When you were working for Unilever, you wanted to

1 know when you were going to get a paycheck, didn't you?

2 A Sure.

3 Q Okay. So, looks like, by this document, that
4 CasePro, Incorporated, paid every two weeks. Is that
5 correct?

6 A That -- that's correct. But the actual pay was
7 generally determined by the contract cycle. So, this is
8 really more talking about the corporate employees, if
9 you will. The people out on the contract were more
10 governed by the government's cycle. So, generally, it
11 was two weeks, but it could be twice a month.

12 Q Could have been the 1st and the 15th? Is that what
13 you're telling me?

14 A It could be the 1st and the 15th.

15 Q And as you sit here today, do you know whether or
16 not Nurse Joe, Nurse Janice, and Dr. Jansen got their
17 paycheck every two weeks, or on the 1st or the 15th, or
18 don't know?

19 A Theirs was two weeks, but we were running several
20 cycles of two weeks.. But generally, two weeks, yes.

21 Q Okay. So, they were getting their paychecks every
22 two weeks, just like it says here in the book, correct?

23 A Correct.

24 Q Let's go to lucky number 13.

25 A Can I correct that a little bit?

1 Q Sure. Yes, sir.

2 A This is, again, talking about the corporate
3 employee, so it has a Monday-through-Sunday cycle;
4 whereas, the government generally ran a Sunday-through-
5 Saturday cycle. So, it was a different cycle, specified
6 by the contract.

7 Q Let's go the Page 13, lucky 13. Sorry. And I
8 really just want to highlight one heading, the benefits
9 package. Fair to say that CasePro, Incorporated, in
10 2012, provided its employees benefits?

11 A Yes.

12 Q Things like health insurance?

13 A Correct.

14 Q Dental insurance?

15 A Yes.

16 Q Long-term disability?

17 A Yes.

18 Q Short-term disability?

19 A Yes.

20 Q And I should have asked this. These paychecks that
21 these folks were getting every two weeks, were
22 deductions taken out of those paychecks?

23 A Yes.

24 Q For things like FICA and Social Security?

25 A Yes.

1 Q Things like remittance of estimated income tax to
2 the Internal Revenue Service?

3 A Yes.

4 Q To things like remittance of estimated state income
5 tax to the South Carolina Department of Revenue?

6 A Yes.

7 Q By CasePro was going to comply with the laws of
8 employers, correct?

9 A Yes.

10 Q Every deduction that the law requires to be taken
11 out of those paychecks, you all did, didn't you?

12 A Yes.

13 Q Okay. Workers' Compensation. Did CasePro provide
14 Workers' Compensation coverage for Nurse Janice, Nurse
15 Joe, and Dr. Jansen?

16 A Is this in here, or is this another --

17 Q We'll go to Page 20. I'm sorry, sir.

18 As you sit here today, do you know one way or the
19 other as to whether or not CasePro provided Workers'
20 Compensation insurance for Nurse Janice?

21 A Yes.

22 Q Okay. And that's a, yes, we did provide or
23 employees Workers' Comp coverage?

24 A Yes.

25 Q Even though they're doing that work here in South

1 Carolina at the Naval Hospital?

2 A Correct.

3 Q Okay. And hopefully, to many people's relief,
4 we're all the way up to Page 23 now. And the heading on
5 the page before is something that says *Dress Code*, but
6 we're just going to skip to Page 23 for the meat of that
7 substance, substantive policies contained. Okay. Are
8 you on the same page with me?

9 A Page 23?

10 Q Yes, sir.

11 A Okay.

12 Q It looks like the policy of CasePro is that a well-
13 groomed look is essential. Is that correct?

14 A Correct.

15 Q Things like neat hair, correct?

16 A Correct.

17 Q Clean skin, clean nails, correct?

18 A The -- the actual dress code and requirements were
19 actually included in the contract. So, this is
20 CasePro's general policy, yes. There would be a
21 contract clause that would talk to the requirements of
22 the providers.

23 Q And those contracts, again, that's between your
24 company that you own and the federal government,
25 correct?

1 A Correct.

2 Q Not between Nurse Janice, Nurse Joe, and Dr.
3 Jansen, correct?

4 A Correct.

5 Q Now, did, as part of -- you all send them this book
6 when they start getting their paycheck, correct? You
7 told us that.

8 A Correct.

9 Q Did you all send them the contract between your
10 company and the federal government to provide persons to
11 do work at the Naval Hospital?

12 A We sent them the scope of work that was related to
13 their position.

14 Q And is that something that would have come out of
15 the task order?

16 A It -- well, they're -- it could come out of either
17 the main contract or the task order. The main contract
18 governed the scope of work that the employees were
19 required to do. And then, a particular task order was
20 releasing us to actually do that work, and it could
21 contain additional requirements.

22 Q And again, just so this record's clear, this
23 contract that you've talked about that would have been
24 applicable back in 2012 at Naval Hospital, my client,
25 Ms. Delaney, her name wasn't anywhere on that contract,

1 correct?

2 A Correct.

3 Q Similarly, her late son, Justin Miller, his name
4 wasn't on this contract, was it?

5 A Correct.

6 Q This was solely a way for your company to do a
7 service for the government in exchange for compensation,
8 correct?

9 A Correct.

10 Q Okay. And I take it that -- when did CasePro,
11 Incorporated, first obtain a contract to provide persons
12 to do work here in Beaufort, South Carolina?

13 A I believe our contract started October 1, 2007.

14 Q And it was around that time, I understand, that you
15 actually got on an airplane and came here to South
16 Carolina, correct?

17 A There was a -- I'm trying to search for the name of
18 it -- a post-award meeting. So, after they award the
19 contract, then, they invite, as I was alluding to
20 earlier, it's a multiple-award contract, so there's more
21 than one contractor in this -- on this contract. So, we
22 would -- they would invite the group here, and then,
23 they would give us presentations and a tour of the
24 facility, just meet the contracting officer, things like
25 that.

1 Q And did you actually come and do that?

2 A I came to Beaufort, yes.

3 Q Did you meet with any of the folks that were your
4 employees?

5 A No.

6 Q This was prior to the start of our contract.

7 Q After your contract started, and people doing work
8 at the Naval Hospital, and you were getting a paycheck
9 every two weeks from your company, did you ever come
10 here to Beaufort County and meet with them at that point
11 in time?

12 A I did not.

13 Q Now, I've actually been to your corporate
14 headquarters, correct?

15 A Correct.

16 Q Okay. And we've taken a few other depositions out
17 there in Texas, correct?

18 A Correct.

19 Q And I understand that your company employs persons
20 whose job title is that of program manager. Is that
21 correct?

22 A Correct.

23 Q Okay. It took me a minute there with that word.
24 What is a program manager at CasePro? If you were at a
25 cocktail party, and someone asked you what does a

1 program manager in your company do, what would you tell
2 them?

3 A Like in the case of the Beaufort contract, the
4 program manager would be the person, and we would
5 actually -- it's a formal title. We would actually
6 transmit that person's name to the contracting officer,
7 and who's located in Maryland. And then, they would
8 appoint what's called a contractor's officers'
9 representative, which would be your local contract
10 administrator. And then, they would -- the program
11 manager would be the primary person talking to the COR,
12 called contracting officers representative, and those
13 two would be the main contacts for the contract, and he
14 would also be the main contact to the contracting
15 officer in Maryland, Fort Detrick.

16 Q You told us a lot of information there.

17 A Okay.

18 Q Let's make sure the folks understand this. You
19 actually have persons sitting out there at the corporate
20 headquarters in San Antonio who kind of serve as a
21 liaison between Fort Detrick, Maryland, which is Naval
22 Medical Logistics Command, correct?

23 A Correct.

24 Q And your office, correct?

25 A Correct.

1 Q And that same person will also be a liaison to some
2 civilian G.S. employee who has the job title contracting
3 officers representative, at various sites throughout the
4 country, correct?

5 A It could be civilian or military. It could be.

6 Q And with respect to here in Beaufort at the Naval
7 Hospital, do you know who, in 2012, was the COR?

8 A I believe it was Deb Mayo.

9 Q And we'll hear from her later in this trial, sir.
10 But with respect to programmers, back in February of
11 2012, who's sitting out there in the corporate office
12 down the hall from your office in San Antonio, Texas,
13 was the program manager dealing with the contract having
14 to do with Janice, Joe, and Dr. Jansen?

15 A Who was the programmer? It was Trasie Braswell.

16 Q And before Ms. Braswell transitioned into that
17 role, what was the gentleman's name who had done that
18 job before?

19 A Craig Martin.

20 Q Okay. And we'll hear from Mr. Martin later on in
21 this trial, as well. We were talking a little bit about
22 the contract and task orders. Do you recall that?

23 A Earlier.

24 Q Earlier.

25 A Yes.

1 Q And we discussed that the only parties to the
2 contract at issue had nothing to do with my client or
3 her family, correct?

4 A Correct.

5 Q Would the same also be true of the task order?

6 A Let -- let me clarify the --

7 Q Sure.

8 A The -- the reason that they came into contact with
9 each other was because of the contract. So, the
10 contract itself had nothing to do with them -- I'm not
11 sure what you're asking, I guess.

12 Q Okay. All right.

13 MR. HOYLE: Your Honor, we have a question of law.

14 THE COURT: Okay.

15 ON-THE-RECORD BENCH CONFERENCE, OUT
16 OF HEARING OF JURORS. PRESENT: THE
17 COURT, MR. HOYLE, MS. CASTLEBERRY,
18 MR. MACKELCAN, MR. LOVELL.

19 THE COURT: Okay.

20 MR. MACKELCAN: So, your Honor, I object to the
21 numbers that are on this document. We talked earlier
22 about compensation paid to the employees. I understood
23 your ruling to be limited to that, but this is
24 different. This is compensation paid by the government
25 to CasePro, which is not required to determine any sort

1 of employee/employer issue, and this should be, this
2 information, should be redacted, and only relevant if
3 punitive damages become an issue. I have a redacted
4 copy available.

5 THE COURT: Are you going to put in -- what, if any
6 other, contracting documents do you intend to offer?

7 MR. HOYLE: I don't know at this time. My argument
8 as to Mr. Mackelcan's statement would be the testimony
9 that has been elicited by counsel for the Defendant with
10 these witnesses is, oh, I just got my paycheck from
11 CasePro; the suggestion being that there was just a
12 conduit of paperwork between the federal government,
13 CasePro, and the employees.

14 They are the ones who refuse to admit that they
15 were their employees, and that they are responsible
16 under master/servant principles, respondeat superior.
17 I'm not going to, you know, make a big theatrical
18 production out of it, but I think it's relevant to see
19 how much they are getting paid by the government to have
20 a physician, and then, look in the personnel file and
21 see how much they're paying Dr. Jansen for purposes of
22 whether or not what these persons were doing on February
23 24, 2012 is in furtherance of the master's business.

24 THE COURT: I understand. I don't want him
25 speculating, and I think they just -- that is an issue

1 in this case. It all needs to be out there. They need
2 to understand that this is the relationship, because
3 what's -- I don't want them speculating on whether it's
4 zero, something; what is it; what is the deal. This is
5 the deal. This is the contract. I think it's an
6 integral part of the contract.

7 There is a contest that these people worked for the
8 defendant, and I think that, because the position of the
9 Defendant is that these people worked for the Navy, the
10 entire relationship ought to come in, and that includes
11 the amount of money and how this money is paid to --
12 this is the amount of money that gets paid to this
13 contractor to provide these people, rather than him
14 looking like, I agree, rather than it looking like -- I
15 agree, rather than it looking like -- and maybe it will
16 look like a conduit to them, but whatever it is, it is.
17 But I think they're entitled to have all of that
18 information. I think it's relevant, and I think it's a
19 part of what this jury is going to have to make a
20 decision. I note your exception for the record.
21 Overruled.

22 MR. HOYLE: Thank you, your Honor.

23 THE COURT: Yeah.

24 END BENCH CONFERENCE.

25 MR. HOYLE: Permission to approach, Judge?

1 THE COURT: Indeed.

2 END BENCH CONFERENCE.

3 BY MR. HOYLE:

4 ITEM IDENTIFIED AS TASK ORDER FOR
5 CONTRACT

6 MARKED PLAINTIFF'S EXHIBIT NUMBER 21,
7 FOR IDENTIFICATION.

8 Q Mr. McCabe, I have been -- approaching you and
9 handing you what has been marked for identification
10 purposes only at this time as Plaintiff's Exhibit Number
11 21. Have you seen that document prior to today?

12 A It's part of the contract, it looks like.

13 Q We were talking earlier about something known as
14 the task order, correct?

15 A Correct.

16 Q Is this the task order for the contract that your
17 company was engaged in at the Naval Hospital, Beaufort,
18 on February 24, 2012?

19 A I would say yes.

20 Q Okay.

21 MR. HOYLE: Your Honor, at this time, we would ask
22 that Exhibit -- Plaintiff's Exhibit Number 21 be moved
23 into evidence and published to the jury.

24 MR. MACKELCAN: Objection, your Honor.

25 THE COURT: Indeed. Very well. The objection is

1 overruled, and the document is admitted as Plaintiff's
2 Exhibit Number?

3 MR. HOYLE: Blackjack. 21.

4 THE COURT: 21.

5 MR. HOYLE: All right.

6 ITEM IDENTIFIED AS TASK ORDER FOR

7 CONTRACT

8 MARKED PLAINTIFF'S EXHIBIT NUMBER 21,

9 ADMITTED AS EVIDENCE.

10 BY MR. HOYLE:

11 Q There we go. All right, sir, we've got language up
12 at the top of the page that says order for supplies or
13 services. You see that?

14 A Yes.

15 Q Okay. And you've got a date in Box Number 3 of
16 October 1, 2011, correct?

17 A Correct.

18 Q And that, for anybody who's ever had any dealings
19 with the federal government, October the 1st is the
20 beginning of the federal government's fiscal year,
21 correct?

22 A Correct.

23 Q Okay. So, on February 24, 2012, that would fall
24 within the federal government's fiscal year that
25 commenced on October 1, 2011, correct?

1 A Correct.

2 Q Okay. And I asked that question earlier about who
3 this contract was between. So, let's look at Box Number
4 6 and Box Number 9. Who is this task order for supplies
5 or services that's been marked and moved into evidence
6 as Plaintiff's 21 between?

7 A Is that a question? The Naval Medical Logistics
8 Command and CasePro.

9 Q Inc.?

10 A Inc.

11 Q Okay. And Justin Miller's name's not on here,
12 correct?

13 A Correct.

14 Q Nor is Rebecca Delaney's name on here, correct?

15 A Correct.

16 Q This is a task -- nor is Nurse Janice, Nurse Joe,
17 or Dr. Jansen's name on here, correct?

18 A Correct.

19 Q This is solely a contract between the company that
20 you own and the Naval Logistics Command with the federal
21 government, correct?

22 A Correct.

23 Q Okay. So, let's see what you all agreed. Turn to
24 the third page of this document, the document I've
25 marked as Exhibit Number 21. It is Bates labeled in the

1 lower, right-hand corner with a 2.0 on it, with 2.0.

2 And it looks like we've got some supplies/services that
3 are being discussed, correct?

4 A Correct.

5 Q And we've got on here a service of a physician.
6 Did I see that, down here in Item Number 1.A.A.?

7 A Yes.

8 Q Okay. That's something the federal government and
9 the company that you own agreed to do, correct?

10 A Correct.

11 Q All right. And specifically, this has said that
12 there will be a position at the Naval Hospital, Beaufort
13 for a specified number of hours, and the government's
14 going to pay you all \$165.29 per hour, correct?

15 A Correct.

16 Q That's money that's going to go into CasePro's bank
17 account, correct?

18 A Correct.

19 Q Okay. Let's turn to the next page, the page that
20 has got a Bates stamp, lower, right-hand corner, ending
21 in a 2.1?. It looks like we've got a registered nurse
22 on here. Do you see that? In Item Number 4.A.A.?

23 A Oh. Okay.

24 Q And it looks like the company you own and the
25 federal government are contracting that you all are

1 going to provide a registered nurse at the Naval
2 Hospital, Beaufort, for a specified number of hours, at
3 the hourly rate of \$52.51 an hour, correct?

4 A Correct.

5 Q Okay. And again, that \$52.51 per hour is money
6 that the federal government's going to pay directly to
7 CasePro, correct?

8 A Correct.

9 Q All right. With respect to the compensation set
10 forth for the physician, on the previous page that we
11 looked at, that being \$165.29 per hour, that's not money
12 that is directly going to be paid by the government to
13 Dr. Jansen, correct?

14 A Correct.

15 Q And similarly, with the \$52.51 per hour that the
16 federal government's agreeing to pay for a registered
17 nurse per hour, that's not money that's directly going
18 to be paid to Nurse Janice or Nurse Joe, correct?

19 A Correct.

20 Q That's money that's going to your company, correct?

21 A Correct.

22 Q Okay. All right. Let's go to a few pages forward,
23 to Section C. All right. This says, *Emergency Room*
24 *Services*, looks like, *Naval Hospital, Beaufort, South*
25 *Carolina*. It says that up at the top?

1 A Yes.

2 Q And in fact, the contractor, that means you, your
3 company, shall provide personnel for service in the
4 emergency room at Naval Hospital, Beaufort, South
5 Carolina, correct?

6 A Correct.

7 Q And specifically, we're talking about doctors and
8 nurses being provided there in Section 2, correct?

9 A Yes.

10 Q All right. And we go down to Paragraph 4 of these
11 descriptions and specifications, we learn that your
12 company is going to provide emergency room services with
13 that doctor and the two nurses, 24 hours a day, correct?

14 A Correct.

15 Q And we go to the next page. We've actually got a
16 box showing the schedule of one physician, two
17 registered nurses, one LPN or a licensed practical
18 nurse. looks to me, 24/7/52, correct?

19 A Correct.

20 Q Monday through Sunday, correct?

21 A Sunday through Saturday.

22 Q Sunday through Saturday. Sounds good to me. But
23 regardless of whether or not somebody goes in there at
24 2:00 in the morning or 2:00 in the afternoon, whether
25 they go in on a Tuesday or a Thursday, there's going to

1 be one medical doctor and at least two registered nurses
2 there from your company, correct?

3 A Correct.

4 Q Just like there was on February 24, 2012, correct?

5 A Correct.

6 Q Okay. Exhibit 8.

7 Sir, we'll start with Nurse Janice. I'm handing
8 you Plaintiff's Exhibit Number 13.

9 MR. HOYLE: Permission to approach, your Honor?

10 THE COURT: Yes.

11 BY MR. HOYLE:

12 Q I'm going to direct you to the page that we looked
13 at with Ms. McDonald earlier, pages Bates stamped 685.
14 You see that?

15 A Yes.

16 Q All right. And this is from early on in Ms.
17 McDonald's employment with your company, correct?

18 A Correct.

19 Q That was back in 2007, correct?

20 A Just before she started, yes.

21 Q Okay. And back in 2007, how much per hour was your
22 company agreeing to pay Ms. Nurse Janice McDonald?

23 A The base wage was \$31.00 an hour. And then,
24 there's a health and welfare allowance of \$2.57 per
25 hour. And then, additional to that, there's weekend and

1 holiday shift differential.

2 Q What does her base compensation add up to per hour?

3 A \$33.57.

4 Q Is that about \$19.00 less per hour than the federal
5 government is paying CasePro, Incorporated, to have a
6 nurse at the Naval Hospital every hour of the day?

7 A The -- the actual compensation is a blended rate of
8 their -- their overtime, their base wage, and whatever
9 shift differentials and weekends they work. So, the
10 differential would be between -- and that would vary by
11 the pay period, depending on what they actually worked.

12 Q What would that differential be? What would the
13 range be?

14 A If they worked, like, for instance, if they worked
15 on a holiday, we would pay them the holiday, and we
16 would automatically pay them overtime for any holiday
17 they worked. So, that would be time and a half. So,
18 you had pretty radical differences in the per-hour
19 compensation, depending on what week it was, so. They,
20 you know, if I'm looking at this, you know, you're at
21 36 or '7 dollars an hour for a overnight shift.
22 Weekend, you might be at \$38.00. It just varied.

23 Q What about a Friday between the hours, I don't
24 know, 7:00 in the morning and 7:00 at night?

25 A Yeah, that -- that would be, then, broken down.

1 Maybe you'd get the day shift base pay, the health and
2 welfare allowance; and then, they would get a partial of
3 the -- the night shift differential. And on a Friday,
4 -- well, if they were off by 7:00, they wouldn't get the
5 weekend differential. So, \$35.00 an hour.

6 Q Okay.

7 A I'm loosely guessing at \$35.00 an hour.

8 Q So, that \$17.00 difference between what the federal
9 government sends to your company and what you're putting
10 in Janice McDonald's pocket, do you all send that back
11 to Washington?

12 A Well, then, beyond this -- beyond this, we would
13 pay for, you know, taxes. There would be employment
14 taxes, the Workers' Comp insurance, et cetera. So,
15 there would be quite a bit, maybe a burden as high as
16 20, 25 percent for benefits, if you will. But benefits
17 broadly defined as the taxes and any insurances, that
18 kind of thing.

19 Q Sir, we've looked at the personnel file of Janice
20 McDonald. Do you have any reason to believe that her
21 husband's compensation would have been any different
22 than what she was making?

23 A No. It would be -- I believe they were all
24 consistent. All the nurses were the same. The
25 differentials came from when they worked and their

1 schedules.

2 Q One person's personnel file that we've not looked
3 at is that of Dr. Jansen's.

4 MR. HOYLE: Your Honor, I believe we're going to
5 have some questions of law.

6 THE COURT: Okay.

7 ON-THE-RECORD BENCH CONFERENCE,

8 OUT OF HEARING OF JURORS. PRESENT:

9 THE COURT, MR. HOYLE, MS. CASTLEBERRY,

10 MR. MACKELCAN, MR. LOVELL.

11 MR. HOYLE: Your Honor, this is Dr. Jansen's
12 personnel file.

13 THE COURT: It's been marked as?

14 MR. HOYLE: I will pre-mark it as 22, for
15 identification purposes at this time.

16 ITEM IDENTIFIED AS PERSONNEL

17 FILE OF DR. CHRISTIAN JANSEN

18 FROM CASEPRO, INCORPORATED

19 MARKED PLAINTIFF'S EXHIBIT NUMBER 22,

20 FOR IDENTIFICATION.

21 END BENCH CONFERENCE.

22 THE COURT: Ladies and gentlemen, let's take our
23 afternoon break, and that way, you can -- this is not
24 going to take me long, but it's going to take me a few
25 minutes.

1 Please step to your jury room. Do not discuss this
2 matter or allow anyone to discuss it with you. And
3 leave your notebooks in your seat. And we'll take a
4 break, a short break. Step to your jury room, please.

5 JURORS LEAVE COURTROOM 3:09 P.M.

6 CONTINUE ON-THE-RECORD BENCH CONFERENCE,

7 OUT OF PRESENCE OF JURORS. PRESENT:

8 THE COURT, MR. HOYLE, MS. CASTLEBERRY,

9 MR. MACKELCAN, MR. LOVELL:

10 MR. HOYLE: So, your Honor, this, what has been
11 marked for identification only as Exhibit 22, is Dr.
12 Christian Jansen's personnel file. It was produced in
13 the course of discovery. I took it in my suitcase out
14 to San Antonio. I showed it to Mr. McCabe while we were
15 out there. I have every expectation he's going to tell
16 us here today that this, in its entirety, is a true and
17 accurate copy of Dr. Jansen's personnel file.

18 Dr. Jansen ceased his employment with the company
19 in 2012, shortly after this incident involving Mr. Hunt,
20 and -- well, I think -- I think I've addressed the
21 authenticity issue, and I'm happy to hear the objection.

22 MR. MACKELCAN: There are documents --

23 THE COURT: I feel like we all should have
24 calisthenics, just like, you know.

25 MR. HOYLE: The stamina of this trial is --

1 THE COURT: Is something else, yes.

2 MR. MACKELCAN: I appreciate the laughter before my
3 objection and not after.

4 THE COURT: You have to have a honey cough drop.
5 You just do. That's just the way it is. That was a
6 present. All right. Go ahead.

7 MR. MACKELCAN: The objection relates to a handful
8 of documents in the personnel file that involve a very
9 limited number of peer-review-type documents that are
10 not actual peer review documents. They come in two --

11 THE COURT: Love it.

12 MR. MACKELCAN: Okay. They come in -- there's one
13 that is before this incident, and it's an email where a
14 peer review finding was referenced in it. So, that is
15 an objection. It's not complete information. It's
16 hearsay, at this point, and CasePro doesn't do the peer
17 review. So, part of the issue here with the peer review
18 is, none of us have any peer review information. The
19 government has refused to give it to us, so what is in
20 the file is incomplete, and -- but it is a reference to
21 peer review.

22 And then, the second part of it is documentation
23 that has nothing -- neither have anything to do with the
24 treatment in this case. The documents after this
25 incident deal with another peer review months after this

1 --

2 THE COURT: You're talking about Moore's emails,
3 right?

4 MR. MACKELCAN: Moore's email is before.

5 THE COURT: Um-hmm.

6 MR. MACKELCAN: After it are some other, some other
7 information, again, unrelated to this incident.
8 Different patients, different circumstances.

9 THE COURT: Let me say this. It's admissible.
10 However, if you want a limiting instruction, I'm happy
11 to give one, if you help me craft one.

12 MR. MACKELCAN: Okay.

13 THE COURT: Because it is -- it's admissible on the
14 issue of control, and for no other issue. Certainly is
15 no indication -- at this juncture, it could ultimately
16 become maybe an issue of notice, but not at this point.
17 It is only on the issue of control at this point. Okay?

18 MR. MACKELCAN: Okay.

19 THE COURT: And so, if you'll craft for me a
20 limiting instruction, you all work on that. I'm happy
21 to give them that.

22 MR. MACKELCAN: Okay.

23 THE COURT: And I think that's appropriate, but
24 it's admissible on that issue. And the reason is, is, I
25 saw one with Moore, and what they're -- the people that

1 the complaint's about, this particular -- the
2 performance of this particular individual, the fact that
3 the complaints are going in his personnel file, which
4 finds itself as the personnel file of the Defendant, is
5 issue of control. And obviously, the issue of control
6 goes to the heart of the issue about who does this
7 gentleman work for.

8 MR. MACKELCAN: Okay.

9 THE COURT: But I have absolutely no problem with a
10 limiting instruction at all.

11 MR. MACKELCAN: All right.

12 THE COURT: If you'll help me with one, and you all
13 work on it together.

14 MR. HOYLE: We will gladly work on that. Thank
15 you, your Honor.

16 END BENCH CONFERENCE.

17 OFF THE RECORD 3:14 P.M.

18 BACK ON THE RECORD 3:28 P.M.

19 BY THE COURT:

20 BAILIFF: Are you ready, your Honor.

21 THE COURT: Yeah.

22 BAILIFF: Jury is entering the courtroom, your
23 Honor.

24 JURY ENTERS COURTROOM 3:28 P.M.

25 THE COURT: All right. So, you're going to offer

1 it now?

2 MR. HOYLE: Yes, your Honor. At this time,
3 Plaintiff offers Plaintiff's Exhibit 22.

4 MR. MACKELCAN: Objection.

5 THE COURT: All right. Very well. Overruled, with
6 a limiting instruction.

7 MR. MACKELCAN: Thank you, your Honor.

8 THE COURT: Ladies and gentlemen, Plaintiff's
9 Exhibit Number 22, at this time, is being offered solely
10 for your determination of the issue of control, of
11 control, and you should not consider it for any other
12 purpose, unless and until I instruct you otherwise.

13 Now, what just happened? It's just been some
14 evidence which has been admitted into evidence, but at
15 this time, it is limited, and your consideration of it
16 is limited. When I give you the concluding instruction,
17 I'm going to give you some instruction about the issue
18 of employment, who does somebody work for, for example,
19 is an issue in this case. One of the issues that you
20 may choose to consider as you consider whether or not
21 someone works for someone else is the issue of control.
22 The issue of control. So, at this time, Plaintiff's
23 Exhibit 22 is being offered solely for your
24 determination of the issue of control, and you would not
25 consider it for any other purpose, unless and until I

1 instruct you otherwise.

2 Everybody got that? Wonderful. Thank you.

3 You may continue.

4 ITEM IDENTIFIED AS PERSONNEL FILE
5 OF DR. CHRISTIAN JANSEN FROM
6 CASEPRO, INCORPORATED,
7 MARKED PLAINTIFF'S EXHIBIT NUMBER 22,
8 ADMITTED AS EVIDENCE.

9 MR. HOYLE: Permission to approach, your Honor?

10 THE COURT: Yes.

11 BY MR. HOYLE:

12 Q Mr. McCabe, I'm handing you what has been moved
13 into evidence as Plaintiff's 22. And grab it with both
14 hands. It's heavy.

15 And sir, you and I looked at this exact same stack
16 of papers in San Antonio, correct?

17 A As far as I know.

18 Q Okay. And this document, which has been moved into
19 evidence, is Dr. Jansen's personnel file from CasePro,
20 Incorporated, correct?

21 A Correct.

22 Q Okay. And on the very first page -- do we have
23 this ready, Mr. Knowles? Up at the top of the page, it
24 says, CasePro, Incorporated. And we've got a date of
25 termination down here. What's that date of termination,

1 sir?

2 A September 5, 2012.

3 Q And the comment that follows?

4 A He resigned.

5 Q Okay. And I think we'll get to speak to Dr. Jansen
6 maybe on Monday. Let's see here. We looked at similar
7 type documents with other employees, but since this is
8 an issue, we'll just go through some of these in Dr.
9 Jansen's file. Let's go to the next page, Mr. Knowles.
10 Looks like we've got a request for verification of
11 employment from Fannie Mae. Do you see that?

12 A Yes.

13 Q Looks like Dr. Jansen wanted to get a mortgage to
14 buy or build a house, and needed to verify who it was he
15 worked for. And who verified that employment, which
16 company?

17 A CasePro.

18 Q Okay. And the next page of the fax cover sheet,
19 were turned in some paperwork for that process, correct?

20 A Correct.

21 Q All right. Let's go to the page Bates stamped 253,
22 in the lower, right-hand corner.

23 A Okay.

24 Q And again, this document came out of Dr. Jansen's
25 personnel file. Looks like we've got some emails, and

1 you know, when email gets printed out of the computer,
2 onto a piece of paper, you actually read from the bottom
3 to the top. Are you familiar with that concept?

4 A Yes.

5 Q All right. So, let's read the bottom email first.
6 It looks like we've got us an email, looks like, April
7 27, 2011. Is that when it appears this email was sent,
8 the bottom one?

9 A April 27th.

10 Q Did I say the wrong date? I'm sorry, April 27,
11 2011.

12 A Yes.

13 Q Okay. That was before we were dealing with --
14 strike that. That's before Calvin Hunt went to the
15 Naval Hospital, correct?

16 A Correct.

17 Q Okay. And we've got an email, looks like it's sent
18 from Chris Jansen, M.D., to Craig Martin. Do you see
19 that?

20 A Yes.

21 Q Okay. And who is Craig Martin? Remind the Court
22 and jury who Craig Martin was, and what he was doing for
23 your company in April of 2011.

24 A He would have been the program manager.

25 Q Okay. And we've got us an email to Craig from Dr.

1 Jansen, that says:

2 Please check for me if I have
3 received the three percent matching
4 contribution in my 401(k).

5 Did I read that correctly?

6 A Correct.

7 Q And it goes on to say:

8 I --

9 meaning Dr. Jansen,

10 -- have been contributing three
11 percent of my pay, but my account doesn't
12 show the matching contributions.

13 Is that what that says?

14 A Yes.

15 Q And Dr. Jansen was concerned about where his
16 employer match was, wasn't he?

17 A Correct.

18 Q That employer match, who was going to provide that
19 match up to the three percent? Was that going to be
20 CasePro, or some entity or person?

21 A CasePro.

22 Q Okay. Sounds like a pretty good 401(k) you all
23 got. All right. Let's keep going. Let's go to page,
24 oh, how about page Bates stamped 257.

25 Will you get to that page, Mr. Knowles?

1 A Okay.

2 Q All right, sir. We've got something up at the top
3 of the page, if we can blow that out, please, that says,
4 CasePro, Inc., New Hire Form.

5 Is this some new form you all use out there at
6 CasePro in the corporate office?

7 A Yes.

8 Q And would one of your employees working there in
9 the corporate office down the hall from your office be
10 the person filling this out?

11 A Yes.

12 Q Okay. And there's a whole bunch of signatures on
13 it down here at the bottom. Let me plug that box up.
14 Looks like we've got a place for Craig to sign. Would
15 that be Mr. Martin who we talked about?

16 A Yes.

17 Q And we've got a place for a Mike M. to sign on it.
18 Do you see that?

19 A Yes.

20 Q Whose signature or initials are next to the words
21 Mike M., on page 257 of the exhibit that we're looking
22 at.

23 A Those are my initials.

24 Q And you actually signed this?

25 A Yes.

1 Q All right. So, up at the top, it looks like we've
2 got us a new employee who started July the 21st, 2008.

3 A Correct.

4 Q Okay. And for those of us who weren't paying
5 attention earlier, July the 21st is not the start of the
6 fiscal year, correct?

7 A Correct.

8 Q So, if CasePro, Incorporated, had taken over a
9 contract at Naval Hospital, Beaufort on October 1, 2007,
10 July the 21st would be some ten months later?

11 A Yes.

12 Q Okay. So, Dr. Jansen didn't get hired when you all
13 took over the contract there at the Naval Hospital to
14 provide a doctor and some nurses in the emergency room,
15 correct?

16 A There -- there was a special circumstance around
17 Dr. Jansen. He -- when -- in the old contracts, Dr.
18 Jansen was not an American citizen. He was from Canada,
19 a Canadian citizen. And so, our contract didn't allow
20 us to hire him directly, until he became a citizen. So,
21 he had worked at the Naval Hospital for 15 or so years.
22 They didn't allow us to hire him. And then, he got his
23 -- his citizenship. And then, we immediately hired him
24 after that.

25 Q Okay. In July of 2008?

1 A Correct.

2 Q All right. And look underneath that date of hire.
3 There's a pay rate reflected. You see that?

4 A Yes.

5 Q And tell us what that current pay rate was, back in
6 July of 2008.

7 A \$104.50.

8 Q And when we were looking earlier at the task order,
9 we were looking at Item 1.A.A., on the page that's Bates
10 stamped 20, and I believe that the amount of money the
11 federal government paid your company to have a doctor in
12 the emergency room in 2012 was \$165.29. Does that sound
13 about right?

14 A That sounds about right.

15 Q Okay. That's a good bit more money than \$104.50 an
16 hour, isn't it?

17 A That's a -- that's a -- a little bit of a mismatch.
18 You're talking about 2008 versus 2012. His compensation
19 would have been significantly different in 2012.

20 Q Well, we'll come to that document, and figure out
21 exactly how much it was in 2012. But regardless, back
22 in 2008, you personally signed off on this new-hire
23 form, that, among other things, set forth Dr. Jansen's
24 current pay rate, correct?

25 A As of that date, yes.

1 Q Okay. Did you personally sign off on all of the
2 pay rates for all of the physicians doing work for
3 CasePro?

4 A Yes.

5 Q What about the nurses? Did you personally sign off
6 on that, too?

7 A Yes.

8 Q What about every single employee who works for
9 CasePro? Did you sign off on how much they were going
10 to get paid per hour?

11 A Not -- not necessarily. Under the government
12 contracts, I would have signed everything.

13 Q But maybe not for the folks at Baskin-Robbins?

14 A Or the case management.

15 Q Okay. All right. On this next page, we've got
16 some sort of computer printout, looks like from some
17 sort of database. Is this the database you all maintain
18 out there at corporate headquarters in Texas?

19 A It looks familiar, yes.

20 Q Okay. And do you know what this is on this page
21 we're looking at? It looks like some licenses and
22 certifications. Do you know what this is?

23 A Yes. It's a -- it's a list of his credentials that
24 we track for the government.

25 Q So, you want to make sure you're giving a paycheck

1 every two weeks to somebody who's got a license in good
2 standing with the appropriate authorities, correct?

3 A Correct.

4 Q Okay. Let's go two pages forward to the Bates
5 stamp in the right-hand corner 260. We've got something
6 known as an Employee Data Sheet. Yeah, we'll go to
7 that. Is this a piece of paper that you ask all your
8 employees to fill out?

9 A Yes.

10 Q And Dr. Jansen filled this out?

11 A Yes.

12 Q Okay. And submitted it to you all for the
13 personnel file?

14 A Yes.

15 Q All right. Turn to the next page, sir, and we've
16 got a Form W-4. What's your understanding of what a
17 Form W-4 is?

18 A It's the withholding for the federal taxes.
19 Sometimes -- in some cases, there might also be a state
20 withholding certificate. Sometimes the state uses the
21 W-4.

22 Q This is so you all would know how much money to
23 take out of Dr. Jansen's paycheck, and either send to
24 Washington or send to Columbia, correct?

25 A Correct.

1 Q Okay. All right. Turn to Page 263. It was a
2 document out of Dr. Jansen's personnel file, and it
3 says, *Acceptance of Job Offer*. You see that up there at
4 the top?

5 A Yes.

6 Q Okay. And there's a signature on here. You have
7 any reason to dispute that, that would not be Dr.
8 Jansen's signature?

9 A No.

10 Q It's dated August, looks like the 10th, 2009,
11 correct?

12 A Correct.

13 Q And there's some additions on there, such as the
14 IRA matching contribution after one year, which we
15 talked about, correct?

16 A Correct.

17 Q And a CME expense reimbursement of \$2,000.00.
18 What's that, sir?

19 A Continuing medical education. So, we might pay for
20 things like his license, updates, things like that.

21 Q Okay. And if we go two pages forward, to 266 --
22 all right -- we've got some typewritten information up
23 at the top of the page, says, *Dr. Jansen*, correct?

24 A Correct.

25 Q And it says, *okay for \$2,000.00 CME annually*,

1 correct?

2 A Correct.

3 Q That has something to do with what we saw a few
4 pages earlier, that this is something that CasePro was
5 going to provide to Dr. Jansen as an employee benefit,
6 correct?

7 A Yes.

8 Q And then, we've got something says, *okay for*
9 *401(k)*. You see that?

10 A Yes.

11 Q And then, underneath it:

12 *Okay for two weeks of leave, put*
13 *under vacation leave in system, hours*
14 *earned as work.*

15 What was that about?

16 A Because they don't work a regular schedule, you
17 wouldn't give them two weeks of vacation. You would
18 give them -- if they only worked a thousand hours, you
19 would give them -- they would earn it at a two-week
20 rate, but they would only earn part of it, if they don't
21 actually work the hours.

22 Q But they're still getting paid for not being there.

23 A Yes.

24 Q Up to two weeks.

25 A Yes.

1 Q Okay. Kind of like vacation, but not exactly. Is
2 that what I'm hearing?

3 A It's -- it's not vacation for people that work
4 those sporadic vacations, because they have a lot of
5 time off, so.

6 Q A lot of time between those 12-hour shifts. Is
7 that fair?

8 A Yes.

9 Q Okay. Mr. Knowles, we can go down that document.
10 There's something that's circled in red over here. And
11 there's something that says, *Dr. Jansen compensation*
12 *change*, and it's got a date of 3/31/10. And it's
13 circled, and it's got some squiggles around that. What
14 are those squiggles?

15 A That's my initials.

16 Q So, you personally approved Dr. Jansen getting pay
17 raise in 2010?

18 A Correct.

19 Q Okay.

20 A Well, I don't think this addresses a pay raise. It
21 adds --

22 Q These benefits.

23 A These benefits.

24 Q Because you would agree with me that part of being
25 an employee isn't necessarily just getting a paycheck;

1 it's also getting benefits like health insurance and
2 disability insurance and a 401(k), and a matching
3 401(k), and things that may look or sound like vacation,
4 correct?

5 A Correct.

6 Q And you all did that for Dr. Jansen, correct?

7 A Yes.

8 Q Okay. And turning to the next page. We got us
9 here a letter to Dr. Jansen, dated April the 12th of
10 2010, and it's addressed to a Christian Jansen, who
11 lives here in Beaufort County, correct?

12 A Correct.

13 Q And it has little subject line that says additional
14 full-time benefits, correct?

15 A Correct.

16 Q That seems to suggest to me that Dr. Jansen was a
17 full-time employee of your company, correct?

18 A Correct.

19 Q Okay. And this letter says that:

20 Per your discussions with Ms. Martin,
21 CasePro is pleased to offer you addition [sic]
22 full-time employment benefits for working as
23 an E.R. physician at N.H., Beaufort, S.C.,
24 effective with the pay period beginning 3/28/10.
25 Correct?

1 A Correct.

2 Q And those additional benefits were the vacation,
3 the CME allowance, the 401(k) that we just talked about,
4 correct?

5 A Correct.

6 Q And presumably, Ms. Lin Keen would have signed her
7 name, printed this on the letterhead, and put it in the
8 United States mail, correct?

9 A That, I'm not a hundred percent sure of, but.

10 Q But this is in his personnel file, correct?

11 A Yes.

12 Q Okay. And who's Lin Keen? Tell the Court and jury
13 who Lin Keen is.

14 A She's the director of contract administration.

15 Q Okay. Actually, we can go to the next page. Ms.
16 Keen is very good at keeping records. It looks like
17 this is a Federal Express receipt showing Dr. Jansen got
18 sent a FedEx from Lin Keen out there in San Antonio,
19 Texas, from your company on April the 14th, 2010. Is
20 that what that shows?

21 A Yes.

22 Q Okay. All right. We'll skip some pages. All
23 right. Let's go to Page 282, Bates stamped in the
24 lower, right-hand corner. Let me know when you get
25 there, sir.

1 A Okay.

2 Q All right. It's a big, big document, I know. And
3 we've got some words at the top. Is that your company's
4 letterhead?

5 A Yes.

6 Q Okay. And it looks like we've got some benefit
7 options involving some health insurance, correct?

8 A Correct.

9 Q And down at the bottom of the page, we've got some
10 signatures and things. And do you think those would
11 belong to Dr. Jansen?

12 A That's -- I think they do, yes.

13 Q Okay. Let's go to -- we'll just go up to 300.
14 That skips a few pages, to make this less painful. You
15 on the same page with me, sir?

16 A Okay.

17 Q We've got a receipt and acknowledgment of CasePro
18 HIPAA privacy documents, correct?

19 A Correct.

20 Q And then, down here at the bottom, who signed that?

21 A Chris Jansen.

22 Q Your employee, correct?

23 A Correct.

24 Q Okay. We go to the next page, being Page 301.

25 Looks like we've got an acknowledging receipt and

1 understanding of the sexual abuse policy for CasePro,
2 Incorporated. Is that true?

3 A True.

4 Q And we've got a signature on there that purports to
5 be that of Dr. Jansen, correct?

6 A Correct.

7 Q And we'll go a little forward to the next page.
8 There we go. It says, an *Application for Employment for*
9 *CasePro*, out there on Hardy Oak Boulevard out there in
10 San Antonio, Texas, correct?

11 A Correct.

12 Q And Dr. Jansen's applying for a job to be an E.R.
13 physician with your company, correct?

14 A Correct.

15 Q Okay. Well, sir, I'm trying to find something to
16 help expedite things, but we'll just keep moving
17 forward, I guess.

18 Let's get back to Dr. Jansen's application,
19 actually. Let's do that. All right, sir. And we'll
20 just go through the application. We've got the first
21 page of the application and certain things, information,
22 is filled out, correct?

23 A Correct.

24 Q All right. Let's go to the next page, the second
25 page. We've got some employment history. Is this

1 information that Dr. Jansen provided to CasePro,
2 Incorporated, before he became an employee of the
3 company?

4 A Yes. It looks like.

5 Q Okay. Where saying he's previously been at the
6 Naval Hospital; and that there had been a break of
7 employment, and he went to the hospital in Hampton,
8 correct?

9 A Correct.

10 Q Hampton Regional Medical Center in Varnville, South
11 Carolina, correct?

12 A Correct.

13 Q And then, for some reason, he left there; he went
14 to a hospital in Sylvania, Georgia, correct?

15 A Correct.

16 Q And when you all hired him, he was actually working
17 at the hospital in Sylvania, not the Naval Hospital,
18 correct?

19 A I -- I think he might have been working at both of
20 those facilities, but he wasn't working at the hospital,
21 at the Naval Hospital.

22 Q And then, go to the next page, Mr. Knowles. We've
23 got the educational information, showing that Dr. Jansen
24 had gone to medical school up in Ottawa, in Canada,
25 correct?

- 1 A Correct.
- 2 Q And that's also where he attended a college program
3 in high school, correct?
- 4 A I'm not sure about the high school, where that is,
5 but.
- 6 Q It's unclear from the plain text of the document
7 where Lisgar Collegiate High School is. Is that fair?
- 8 A Well, at the bottom, he says all above was -- okay.
9 That later note clarifies it.
- 10 Q Okay. That it was in Ottawa?
- 11 A Yes.
- 12 Q So, without going through this whole big stack of
13 documents page by page, after this application got made,
14 will you agree with me that CasePro, Incorporated,
15 attempted to verify some of the employment information
16 contained on that information by writing to some of the
17 hospitals listed, correct?
- 18 A That's correct.
- 19 Q And similarly, CasePro, Incorporated, attempted to
20 verify some of the educational information contained on
21 this application, that being the college medical school
22 and high school, correct?
- 23 A I don't believe we were required to go to the high
24 school. So, it would be --
- 25 Q College and medical school?

1 A Probably just medical school, but I'm not an expert
2 at that.

3 Q But you actually have people working out there at
4 corporate headquarters in Texas that do that, correct?

5 A Yeah, the credentialing is defined by the contract,
6 and it tells us what degrees and what things that --
7 licenses, et cetera, that we need to verify.

8 Q All right, sir. Let's go to Page 333 of Dr.
9 Jansen's personnel file.

10 A Okay.

11 Q You found it in that big stack of documents?

12 A Yes.

13 Q Mr. Knowles, are we on that page?

14 MR. KNOWLES: I'm sorry, what?

15 Q 333. And let's start at the top, please. All
16 right.

17 Q All right. We've got an email that got printed out
18 by somebody by the name of Craig Martin, correct?

19 A Correct.

20 Q Craig Martin used to work for your company as a
21 program manager, correct?

22 A Correct.

23 Q We'll hear from Mr. Martin later in this trial.
24 But looks like Mr. Martin printed out an email between
25 himself and some other people, correct?

- 1 A Correct.
- 2 Q Back in the April of 2010 time frame, correct?
- 3 A Correct.
- 4 Q And April 2010, well, my goodness, that's almost
5 two years prior to the events involving Calvin Hunt,
6 here in Beaufort County, correct?
- 7 A Correct.
- 8 Q All right. Let's see what information we can learn
9 from this email. Let's go down to this. Okay. This
10 appears to be an email from Craig Martin to an Amanda
11 Rutten, correct?
- 12 A Correct.
- 13 Q On a Wednesday, April 28, 2010, at 9:37 p.m.,
14 correct?
- 15 A Correct.
- 16 Q And Amanda Rutten is who? Tell the Court and jury
17 who she is.
- 18 A She was the contracting officer that was managing
19 that contract that we had at Beaufort.
- 20 A And did Ms. Rutten work here in Beaufort County, or
21 did she work up in Maryland?
- 22 A Maryland.
- 23 Q Okay. So, she would have had a counterpart here on
24 the ground at the Naval Hospital in Beaufort, correct?
- 25 A It's not a counterpart. She would -- they would

1 designate a contractors officers rep, but they're not
2 equal. The contracting officer's responsible, legally,
3 for the contract.

4 Q Okay. All right, sir. And the subject of this
5 email is Dr. Chris Jansen, correct?

6 A Correct.

7 Q And there's a CC on here. CC means carbon copy,
8 and CC'd to something called CasePro. Where would that
9 email be going that's carbon copied to something known
10 at CasePro?

11 A That would go to Lin Keen.

12 Q So, that she could print it out and put in this
13 file?

14 A Correct.

15 Q All right. Let's see what we can learn from this
16 email. The email begins, *Good evening, Amanda*, correct?

17 A Correct.

18 Q *Thank you for letting CasePro provide you*
19 *with information regarding the unfortunate*
20 *death of a Marine in November of 2009.*

21 Did I read that correctly?

22 A Correct.

23 Q *I offer the following information for NMLC's*
24 *consideration.*

25 Did I read that correctly?

1 A Correct.

2 Q And NMLC is the Navy Medical Logistics Command,
3 correct?

4 A Correct.

5 Q Okay. And CasePro is providing the Naval Medical
6 Logistics Command some information for the Navy to
7 consider, correct?

8 A Correct.

9 Q And Dr. -- excuse me -- Mr. Martin actually numbers
10 his paragraphs in his email, correct?

11 A Correct.

12 Q All right. We'll just start at the beginning and
13 work our way down. Number 1:

14 *Dr. Scott Moore, one of our E.R.*
15 *physicians for D.O. Number 0103 was asked*
16 *by the Navy to conduct a peer review of a*
17 *case in which Dr. Jansen was the attending*
18 *physician, and the patient died.*

19 Did I read that correctly?

20 A Yes.

21 Q *Dr. Scott Moore, one of our E.R. physicians.*

22 Who employed Dr. Scott Moore in April of 2010? Was
23 that CasePro?

24 A Yes.

25 Q And D.O. Number 0103, would that be the Naval

1 Hospital here in Beaufort?

2 A That's the delivery order number.

3 Q A delivery order. Okay. But Dr. Moore, does he
4 live here in the Beaufort area?

5 A I'm not sure where he came -- regionally, yes, but
6 I don't know, specifically.

7 Q He might live on the other side of the river and be
8 in Georgia. Is that fair?

9 A He could even -- he was -- he was rarely here. He
10 primarily did the peer reviews for the Navy, so he
11 couldn't travel. I'm not sure.

12 Q Okay. But that's, so far, what we know, by this
13 first paragraph, is that there was a patient death in
14 which Dr. Jansen was the attending physician, correct?

15 A Correct.

16 Q All right. Let's read Paragraph Number 2:

17 *This peer review is not unusual, as*
18 *Dr. Moore is our physician tasked with*
19 *conducting the reviews required of CasePro,*
20 *under the task order.*

21 Did I read that correctly?

22 A Yes.

23 Q And the task order was previously an exhibit that
24 we looked at here today, correct?

25 A Correct.

1 Q All right.

2 However, --

3 Paragraph 2 goes on to read:

4 However, when Dr. Moore was asked
5 to conduct the review, he communicated
6 to me that he felt uncomfortable in this
7 particular case. Because of the resultant
8 death, and given that both he and Dr.
9 Jansen work for CasePro, this could be a
10 conflict of interest.

11 Did I read that correctly?

12 A Yes.

13 Q The COR at the time said it is CasePro's
14 responsibility to do all peer reviews.
15 So, Dr. Moore conducted the review.

16 Did I read that correctly?

17 A Yes.

18 Q Paragraph 3:

19 Dr. Moore completed his peer review
20 in the January/February time frame. His
21 finding was the standard of care was not
22 met.

23 Did I read that correctly?

24 A Yes.

25 Q So, at this point, three paragraphs into this

1 email, we knew that there was an unfortunate death of a
2 Marine, correct?

3 A Correct.

4 Q That Dr. Jansen was the attending physician at the
5 time of the patient's death, correct?

6 A Correct.

7 Q That Dr. Scott Moore, a CasePro employee, and Dr.
8 Jansen were both employees of CasePro, correct?

9 A Correct.

10 Q And that a peer review had been completed, and the
11 finding was the standard of care was not met, correct?

12 A Correct. According to this email, you know?

13 Q Okay.

14 A According to this email.

15 Q Okay.

16 A That's what the email says.

17 Q According to this email that got printed out and
18 stuck in Dr. Jansen's personnel file out in Texas,
19 correct?

20 A Correct.

21 Q That's a yes?

22 A Correct. Yes.

23 Q Okay. Paragraph 4:

24 *Excluding a short break in service, Dr.*
25 *Jansen has worked at N.H. Beaufort for nearly*

1 20 years. At no time was CasePro informed of
2 or provided any documentation that there had
3 ever been any standard of care concerns with
4 Dr. Jansen. I have not yet spoken to Dr.
5 Jansen about the C.O.'s decision.

6 Did I read that correctly?

7 A Correct.

8 Q In Paragraph Number 4, there's a reference to a
9 C.O.'s decision. Do you have an understanding of what a
10 C.O. is, sir?

11 A Commanding officer.

12 Q That's a military term?

13 A Military term.

14 Q Paragraph Number 5:

15 The COR asked CasePro yesterday to
16 terminate Dr. Jansen immediately, by direction
17 of the C.O.

18 Did I read that correctly?

19 A Yes.

20 Q And the COR would be the contracting officers
21 representative, correct?

22 A Correct.

23 Q And the C.O. would be the commanding officer of the
24 Naval Hospital, correct?

25 A Correct.

1 Q The commanding officer of the Naval Hospital wanted
2 Dr. Jansen terminated, and the COR had to ask CasePro,
3 correct?

4 A Correct.

5 Q Let's skip down to Paragraph Number 6:

6 *I, Mr. Martin, requested documentation*
7 *in writing as to the C.O.'s direction and*
8 *reasons for termination. Have not received*
9 *documentation to date.*

10 Did I read that correctly?

11 A Correct.

12 Q The email continues on to the next page. Paragraph
13 Number 7, which is Page 334, in the lower, right-hand
14 corner. Paragraph 7 says:

15 *The American Academy of Emergency*
16 *Physicians considers due process one of the*
17 *crucial issues facing emergency physicians*
18 *today.*

19 Did I read that correctly?

20 A Yes.

21 Q And Mr. Martin goes on to provide his cell phone
22 number, so that Ms. Rutten can contact him, if she so
23 desires, correct?

24 A Correct.

25 Q In April of 2010, the commanding officer wanted Dr.

1 Jansen gone. That's what these documents tell us,
2 correct?

3 A Correct.

4 Q And Dr. Jansen, his continued employment at the --
5 coming to work every day at the Naval Hospital, whether
6 that was going to continue or not continue, somebody at
7 the Naval Hospital here in Beaufort felt like they
8 needed to call out to Texas and talk to your people,
9 correct?

10 A Correct.

11 Q And in that time frame, April of 2010, almost two
12 years before the events that bring us here today with
13 Calvin Hunt, who, out there in Texas, was aware of these
14 concerns expressed by the commanding officer at the
15 Naval Hospital about Dr. Jansen? Was it just Craig
16 Martin?

17 A It was Craig Martin. I'm not sure who else was
18 aware. I was aware. I'm not sure if anyone else was.

19 Q You knew about this. Is that fair?

20 A Yes.

21 Q You knew that there was a dead United States Marine
22 here in Beaufort, South Carolina, and that another one
23 of your employee physicians found out that Dr. Jansen
24 hadn't met the standard of care, correct?

25 A I don't think that's a fair representation of what

1 happened.

2 Q Did you take any action upon receipt of this
3 information in April of 2010, one way or the other, to
4 terminate Dr. Jansen? Yes or no.

5 A I didn't take any action either way.

6 Q Were those the last concerns that you had voiced to
7 you about Dr. Jansen in 2010?

8 A I'm not aware of any others in 2010.

9 Q What about the next year?

10 A I mean, that's five years. I don't know
11 sequentially, I don't know.

12 Q All right. Sequentially. Okay. Other than this
13 dead United States Marine, who died under Dr. Jansen's
14 care, which there's --

15 MR. MACKELCAN: Objection, your Honor. This is
16 getting beyond control.

17 MR. HOYLE: I haven't asked the question yet.

18 THE COURT: Well, hold on. Don't answer until I've
19 heard the whole question..

20 MR. HOYLE: I'll start over, because I've obviously
21 forgotten what the question was, Judge.

22 THE COURT: I know.

23 BY MR. HOYLE:

24 Q Mr. McCabe, did other people at other times come to
25 you with concerns about Dr. Jansen?

1 A I don't recall specifically. They could have.
2 I've heard lots of stories and things that were
3 happening all over the place.

4 Q With a whole bunch of your doctors and nurses?

5 A We had more than doctors and nurses. We had
6 pharmacy techs, lab techs, medical assistants, et
7 cetera.

8 Q I've heard varied numbers, based upon who it is
9 I've been deposing since this case got filed. In the
10 time frame that we're talking about, let's just say,
11 from the time this contract started at the Navy Hospital
12 in 2007 -- was it 2007?

13 A 2007.

14 Q -- 'til today, what's the largest number of
15 employees that CasePro, Incorporated, has had?

16 A Possibly 900. But I don't have an exact count.

17 Q And were all those persons doing work in just Texas
18 and South Carolina, or were they elsewhere?

19 A Obviously, they were in Beaufort, to west coast,
20 east coast. About 18 states, I would say.

21 Q So, as you sit here today, you're not sure whether
22 or not you specifically recall any other concerns being
23 brought to your attention about Dr. Jansen? Is that
24 your testimony?

25 A I just don't recall specifically.

1 Q In 2012, we've already seen a document that
2 indicates that Dr. Jansen resigned. Do you recall
3 seeing that?

4 A Yes.

5 Q And that resignation took place in September of
6 2012, correct?

7 A Correct.

8 Q Did CasePro, Incorporated, ask Dr. Jansen to
9 resign?

10 A We -- we -- the Navy was working with him, and we
11 were involved in it, trying to get information from what
12 the government was -- what their reasoning was, what
13 they had. And ultimately, he, through discussions,
14 resigned. I don't know that you would say we asked him
15 to resign, but he decided, ultimately, to resign.

16 Q Well, I'm asking you, sir, here today, under oath,
17 on this witness stand, in this courthouse, did you, as
18 the owner of the company, in September of 2012, or
19 immediately before then, ask Dr. Jansen to resign?

20 A I -- I'd never spoken to Dr. Jansen.

21 Q When was the first time you met Dr. Jansen?

22 A This week, out in the hall.

23 MR. HOYLE: Judge, now, I think, is a good time for
24 a stop and stand.

25 THE COURT: Okay. Ladies and gentlemen, we're

1 going to take just a break. As we go through --
2 particularly, when we go through documents, they can get
3 to be a little bit, you know, weighty. We're just going
4 to stand up.

5 sNow, anybody need to take a comfort break? No?
6 Yeah. Here's what we're going to do. Everybody's going
7 to step to your jury room with the same admonition, do
8 not discuss this matter. Do not let anyone to discuss
9 it with you. And leave your notebooks in your seats.

10 When you all take your comfort break, when you all
11 are ready to come back, just (knock, knock, knock) on
12 the door, and you'll come on back in. We'll sort of
13 wait for you. It's much better when we're waiting on --
14 we're waiting on the jury, than the jury waiting on us.

15 JURORS LEAVE COURTROOM 4:11 P.M.

16 THE COURT: All right. If you all want to run and
17 take a quick comfort break, I'll go ahead and do the
18 same, because I didn't do that last time. Great. And
19 of course, you can take a break, too, Mr. McCabe. Just
20 be mindful not to discuss your testimony with anybody.

21 OFF THE RECORD 4:11 P.M.

22 BACK ON THE RECORD 4:23 P.M.:

23 BAILIFF: All rise. This court is back in session.

24 THE COURT: Thank you so much, and please be
25 seated. Jury, please.

1 BAILIFF: You ready, your Honor?

2 THE COURT: Ready.

3 BAILIFF: Jury is entering the courtroom, your
4 Honor.

5 THE COURT: Thank you so much.

6 JURY ENTERS COURTROOM 4:24 P.M.

7 THE COURT: All right. You may continue.

8 MICHAEL MCCABE

9 CONTINUE DIRECT EXAMINATION, BY MR. HOYLE:

10 Q Mr. McCabe, good afternoon again.

11 A Good afternoon.

12 Q As you sit here today, you have no knowledge that
13 either Joe McDonald, Janice McDonald, Christian Jansen
14 were working for anybody other than CasePro,
15 Incorporated, on February 24, 2012, correct?

16 A I have no knowledge, yes.

17 Q Back on February the 24th, 2012, how many
18 government contracts did CasePro, Incorporated, have?

19 A I'm going to guess seven master contracts. I'm
20 guessing. I'd have to count.

21 Q I think you already testified to this, but I just
22 want to make sure. Those contracts with the federal
23 government, there were folks that your company was
24 paying, other than these three, correct?

25 A There were other contractors that we -- yes.

1 Q And CasePro, Incorporated, had employees, I think
2 you said, from the west coast to the east coast, across
3 this country, not just here in Beaufort County, correct?

4 A Correct.

5 MR. HOYLE: Those are all the questions I have for
6 you at this time, sir. Thank you.

7 THE COURT: Cross-examination.

8 MICHAEL MCCABE

9 CROSS-EXAMINATION, BY MR. MACKELCAN:

10 Q Mr. McCabe, how did CasePro find out about this
11 incident involving Calvin Hunt?

12 A We were served papers from a registration company,
13 and they call -- we register in a state, and they --
14 they provide an address for you. It's a legal --
15 lawyers company, I guess, if you will, and they were
16 served papers in around August of 2012. And then, they
17 alerted us that there was something filed. And then,
18 they -- they FedEx'd the documents to us.

19 Q You said August. Did you mean November?

20 A I believe we received the first notice was, I
21 believe it was in August or September. That's my
22 recollection.

23 Q Let me ask you this. Was it before or after Dr.
24 Jansen resigned from CasePro?

25 A I -- I don't recall. I would -- I would guess that

1 it was -- we were actually served after that September
2 5th date.

3 Q When Dr. Jansen resigned, did CasePro have any
4 knowledge of the resignation having anything to do with
5 the Calvin Hunt incident?

6 A We had knowledge that it -- I don't know that it
7 did today, that it had anything to do with that case.

8 Q Mr. Hoyle asked you a little bit about how CasePro
9 came to be and how CasePro got into government
10 contracting. At the time CasePro got into government
11 contracting, had some of the officers had government
12 contracting experience?

13 A The -- the -- Mrs. Hill's husband, my stepfather,
14 had worked for a government contractor prior, and it was
15 through those contacts was how they ultimately got it.
16 I, also, had, immediate out-of-school, worked five years
17 for a government contractor. So, before I went to
18 Unilever, I had worked for a Army contract.

19 Q Let's talk about how CasePro gets into a contract
20 with the government. How does that work?

21 A Yeah, the -- when we -- well, the first thing we
22 did was decide what area that we could even compete in.
23 And so, when you look through the government registries,
24 you want things that align with what you do. So, we
25 were a -- we had the medical case management. We had

1 R.N.s doing those jobs. And so, we went to the
2 government, and looked for contracts that would be close
3 to that.

4 So, we were looking in the medical field, and we
5 look on -- for instance, this particular contract,
6 there's two main sources. There's FedBizOpps, which has
7 a lot of contract information. There's Navy-particular
8 websites. So, we search for particular ones that we can
9 qualify for.

10 Q Specifically, this contract with the Navy that
11 we're talking about today placed CasePro workers at the
12 Beaufort Naval Hospital. How does CasePro know that
13 there's a contract out there to even bid on?

14 A Yeah, the two main sources we're looking at there
15 would be this FedBizOpps website, which lists all
16 procurement opportunities. And then, we would look at
17 -- there's some Department of Defense websites. The
18 other thing that we might do is, they would publish
19 invitations to seminars, and you might go to those to
20 find those contracts.

21 So, this specific one, we had -- had called the
22 Navy and talked to them about upcoming procurements.
23 And so, they had put us on a list, and then, they would
24 alert us when a procurement was coming by. So, we would
25 look for the ones. And there's a particular designation

1 called NAICS code, and it -- it's NAICS Code, and it
2 narrows down the list of what you're looking for to a
3 specific area. So, the ones that we look at
4 specifically deal with medical personnel.

5 Q Did I just hear you say that the Navy contacted
6 CasePro to tell you about this contract?

7 A They would have sent us on -- yes.

8 Q Okay.

9 A The short answer is yes.

10 Q So, once CasePro decides that it is going to bid
11 for a contract, what happens next?

12 A So, then, we would -- we would go to the -- they
13 would publish it on their Navy site, and it would have
14 the solicitation itself on it. So, we would go into the
15 solicitation and print it out. And so, that might be --
16 well, he had shown you 130-page document called the
17 contract. The solicitation would be -- include all of
18 that. So, we would look and see if we were qualified to
19 do it. We would look at the line items, et cetera, to
20 see if we had background information that we could
21 provide the Navy to prove that we could do that.

22 So, we would go through a process of breaking down
23 the bid to see if we were qualified to do it, so that we
24 could then solicit a bid. Cause, if you're not
25 qualified, you're wasting everyone's time. A lot of

1 people do that. We only tried to bid on ones that we
2 thought we could win.

3 Q What goes into putting a bid together?

4 A So, then, they -- along with the proposal, there's
5 a long list of items that they want from you, and it
6 includes references for your company. They like --
7 okay, you really have to be a -- have some commercial
8 business before you can get the federal contracts. You
9 can't just show up and say, hey, I want a federal
10 contract. So, you have to have some past performance.
11 And then, hopefully, you have even some other
12 performance with the government itself. So, you -- so
13 they'll have a specific list of what you need to submit
14 that gets to your -- your competence as a company.

15 You would also submit pricing. You would submit,
16 you know, even resumes of people working for your
17 company, so that you could let them know who Shirley
18 Hill is, who Mike McCabe is. So, you would send them a
19 resume of you, so that they would know your business
20 experience and your medical experience.

21 Q And not to change subjects, but you mentioned that.
22 You said *who is Shirley Hill*. Tell us who Shirley Hill
23 was.

24 A Shirley Hill was the founder of CasePro. She was
25 also my mother. She -- she kind of got there through

1 the school of hard knocks. She didn't get her nursing
2 degree 'til she was about 40. Then, she went through
3 and -- and went through all the similar things that I
4 heard Joe and Janice talk about, the E.R. rooms. She
5 had a specialty a little bit in cardiology, a lot of --
6 a lot of hospital and shift work. And after a while,
7 she was -- got -- it was too much for the shift work
8 eventually. So, she got into the case management piece
9 of it.

10 So, she started doing the case management, and she
11 was working for an insurance company, and CasePro came
12 about. She was the manager of their case management
13 division. They decided to end -- they -- they were
14 going to end -- they were going to try to sell the
15 division. They were going to end it. And she went to
16 the management and said, hey, if I can get the workers
17 and the relationship with the customers, do you care.
18 And they -- since they couldn't sell it, they said no.
19 She went out and created CasePro over that, and then,
20 just started operating, basically, immediately.

21 Q And you were asked earlier about the ownership of
22 CasePro and it's being partially owned by a trust. Was
23 that trust created when your mother passed away?

24 A Yes. Shirley originally owned a hundred percent of
25 the company, and her husband, strangely enough, didn't

1 own any of it. And then, when I came, I was working for
2 another company, Unilever out in Atlanta at the time.
3 And when they started the government business, they
4 asked me to come. They were getting a little older, so
5 they said, hey, give it a shot.

6 And that was my -- I had always worked for large
7 corporations, so there's my window to try to be more
8 entrepreneurial. So, I came along in 2002, after they
9 had won their first small contract in 2001. So, I came
10 and worked with them.

11 And Shirley -- so, after a couple of years, we
12 transferred some of the ownership to me. And then, when
13 she passed away in 2011, she wanted to, of course, take
14 care of my stepfather, so we -- we agreed to just work
15 together after that. And so, through the probate
16 process and all that and their will, and we came up with
17 a ownership. They gave me 49 percent of the ownership,
18 gave me a -- a sign-off on a trust, and him a piece of
19 it, 20 -- 25 or 6 percent, whatever it is. So, we broke
20 it down that way, so that he could continue to own part
21 of it. And he, in fact, is -- we've been partners ever
22 since. So, he and I still operate the company.

23 Q Your stepfather, Mr. Hill?

24 A My stepfather and I still operate the company
25 together. He's a CPA and a -- a financial guy. And so,

1 I guess that's -- kind of answers how we got to the
2 ownership.

3 Q Okay. Let's go back to the bid. So, you've
4 decided that you want to put in the bid. You put the
5 bid together. What happens next?

6 A Yeah. So, one of the key things that we're doing
7 when we -- when we're looking for a bid is, and we want
8 to get a personal services contract. And so, in the
9 federal world, a personal services contract is -- is --
10 it's literally a legal definition, and this is -- gets
11 to the heart of some of this. The -- it -- it defines
12 the employer/employee relationship between CasePro and
13 the employees, and between the federal government and
14 the employees.

15 So, with regard to the issues such as basic
16 personnel issues, what time you're going to be at work,
17 what your qualifications are prior to the government
18 accepting it, we get -- we are responsible for that.
19 So, you know, give you an example, if one of our
20 employees was on the -- the reason we do the -- a
21 workplace violence policy, for instance, if a person
22 were to hit his supervisor at work, then, the government
23 would tell us that; we would suspend the person; do the
24 -- do the -- document what happened. And then, we could
25 -- we would terminate the person, based on our policies

1 as a company.

2 The -- the personal services contract establishes
3 an employee/employer relationship between the Navy and
4 the -- and our personnel. It's called employee/employer
5 relationship. They -- they then go to the -- the site,
6 and they're under the control of the federal government
7 employees, so they answer to --

8 MR. HOYLE: Objection, your Honor.

9 THE COURT: Okay.

10 MR. HOYLE: I believe the witness is offering a
11 legal conclusion.

12 MR. MACKELCAN: We're going to enter the contract
13 shortly, and it speaks directly to what the contract
14 states.

15 THE COURT: Well, then, the best evidence rule
16 would be the contract itself, rather than having him
17 potentially --

18 MR. MACKELCAN: He's the president of the company.

19 THE COURT: I'm sorry?

20 MR. MACKELCAN: He's the president of the company.
21 He can talk about his understanding of the difference
22 between the responsibilities of the government and the
23 responsibilities of CasePro under the contract.

24 THE COURT: Okay. Well, if he's talking about --
25 is he talking about the contract? What are we -- I

1 mean.

2 MR. MACKELCAN: He's talking about the relationship
3 between CasePro and the government.

4 THE COURT: Okay. Well. And he's talking about a
5 contract, which would speak for itself. Yes? At this
6 point, I'm going to sustain the objection, because --
7 come here.

8 ON-THE-RECORD BENCH CONFERENCE, OUT OF
9 HEARING OF JURORS. PRESENT: THE COURT,
10 MR. HOYLE, MR. CASTLEBERRY, MR.
11 MACKELCAN, MR. LOVELL, MS. SABER.

12 THE COURT: Okay. I don't have any problem with
13 him talking about his relationship with the government,
14 but it's -- I'm a little uncomfortable with it being --
15 my daddy used the term *bass backwards*, because the
16 contract is not in, and the contract is what dictates
17 the relationship. And so, what I don't want to do is
18 get into a situation where I've got him talking about
19 the relationship is, when there's a document that
20 establishes that relationship, and that doesn't come in.
21 I'm uncomfortable about him just sort of carrying on
22 about what the relationship is, with no foundation in
23 terms of the contract being in evidence, when that is.

24 What he thinks it is, is interesting. What it is,
25 is what the contract says it is. So, what I'm

1 uncomfortable about where we are, so. And the objection
2 is that he's getting into giving his legal opinion. I'm
3 going to sustain it, but really, more so, because I
4 don't -- I don't think this is the appropriate way to go
5 about it. I think you need a foundational document if
6 you're going to talk about the relationship, in that it
7 is a contractual relationship, it needs to be in. And
8 then, if he wants to talk about, well, what did you
9 understand about Paragraph 5 or Paragraph 6, what was
10 dictated then. But I'm uncomfortable with that.

11 MR. MACKELCAN: Okay.

12 MR. HOYLE: And I would also like to note, for
13 purposes of the record, that I believe the Constitution
14 provides that you are the sole judge of the law, not a
15 witness on the witness stand.

16 THE COURT: Really? That's so nice to know from
17 lawyers every once in a while, because it's so often
18 disagreed with.

19 END BENCH CONFERENCE.

20 MR. MACKELCAN: Your Honor, I'd like to mark, for
21 identification.

22 THE COURT: Very well.

23 ITEM IDENTIFIED AS UNSIGNED CONTRACT
24 BETWEEN NAVY MEDICAL LOGISTICS
25 COMMAND AND CASEPRO

1 MARKED DEFENDANT'S EXHIBIT NUMBER 4,
2 FOR IDENTIFICATION.

3 COURT REPORTER: Defendant's Exhibit 4 for I.D.

4 BY MR. MACKELCAN:

5 Q Mr. McCabe, I'm handing you a document that's been
6 marked for identification as Defendant's Exhibit 4. Mr.
7 McCabe, do you recognize this document?

8 A Yes.

9 Q What is it?

10 A It's the contract. It's the contract for the
11 Carolina MATO contract, which governs Beaufort.

12 Q Who are the parties to that contract?

13 A The -- it's between the Naval Logistics Command and
14 CasePro.

15 Q Is there any question in your mind today whether or
16 not that is an accurate copy of the contract in place
17 governing the relationship between the government and
18 CasePro's operations at Naval Hospital, Beaufort?

19 A No. This is the contract.

20 MR. MACKELCAN: Your Honor, at this time, I'd move
21 to admit the contract into evidence.

22 THE COURT: Any objection?

23 MR. HOYLE: May we approach, your Honor?

24 THE COURT: Sure.

25 ON-THE-RECORD BENCH CONFERENCE, OUT OF

1 HEARING OF JURORS. PRESENT: THE COURT,
2 MR. HOYLE, MS. CASTLEBERRY, MR. MACKELCAN,
3 MR. LOVELL, AND MS. SABER.

4 MR. HOYLE: Briefly, your Honor. The document that
5 has been shown to the witness, for starters, has
6 redactions on it. Second, it does not bear a signature
7 of the party listed as contractor. There's a signature
8 for the United States of America, but there's not a
9 signature for the contractor itself. In Mr. McCabe's
10 deposition as a 30(b)(6) witness, I asked him if he'd
11 ever seen such a contract, if he'd ever signed such a
12 contract. He was unable to tell me that information.
13 So, I think, for authenticity reasons, we have concerns
14 about the document that's being attempted to be moved
15 into evidence as to whether or not it is the actual
16 contract between Naval Medical Logistics Command and
17 CasePro, Incorporated.

18 MR. MACKELCAN: First, I think we should say, we've
19 been working on this case for three years, and this is
20 the first time that it's been raised as an issue. We've
21 taken dozens of depositions, hundreds of hours of them,
22 and it's never been raised as an issue. This is what
23 was in the file. I think the witness has testified that
24 he believes it's an accurate representation of the
25 contract.

1 THE COURT: Okay.

2 MR. MACKELCAN: We think he has authenticated it.

3 MR. HOYLE: We had similar issues with Calvin
4 Hunt's medical records yesterday, Judge.

5 THE COURT: Well.

6 MR. HOYLE: And on his deposition, he didn't know.

7 THE COURT: Okay. Here's a good place for us to
8 stop, because I'm going to take that testimony outside
9 the presence of the jury, and let you cross-examine him
10 outside the presence of the jury and clean it up, and
11 see where we are in that issue. Okay? But I'm going
12 ahead and let them leave. All right.

13 END BENCH CONFERENCE.

14 BY THE COURT:

15 THE COURT: All right. Ladies and gentlemen, in a
16 moment, there is a matter that I'm going to take up
17 outside your presence, and guess what? It's a quarter
18 'til 5:00. I'm going to give you some quick
19 instructions so you can beat the traffic. But don't go
20 fast.

21 Now, ladies and gentlemen, you're going to be
22 leaving me now for two days, Saturday and Sunday, and
23 we'll be back together Monday morning. Monday morning.
24 We are going to start a little bit later, 10:00 o'clock,
25 Monday morning, just because it always takes a little

1 bit longer on a Monday, when you've been away for the
2 weekend to get documents back out that have been secured
3 and locked up, and to just -- you might as well be doing
4 your thing, because we probably will be closer to 10:00
5 o'clock being ready to begin than 9:00 o'clock. So, on
6 Monday, we're going to start at 10:00.

7 Please be mindful, over the weekend, you must not
8 discuss this matter or allow anyone to discuss it with
9 you. Leave it, leave it here. Just leave it out of
10 your mind. Just don't think about it. Don't be
11 concerned about. Monday is time enough for you to begin
12 your concentration with regards to these matters.

13 It's going to be very tempting to do some kind of
14 research. That would be inappropriate. Maybe drive to
15 look at whatever locations, that would be completely
16 inappropriate. Now, having said that, if that's the way
17 you got to go home, that's the way you got to go home.
18 And I'm not going to tell you to alter your lifestyle,
19 but don't do any kind of investigation, please, with
20 regards to this matter.

21 Don't read anything. Don't listen to anything
22 about this matter. It's going to be so tempting, but
23 don't. If you do, then, the whole case is going to have
24 to be scrapped. And it will be ascertained at some
25 point, if you do. So, don't do any research. Don't

1 listen to anything about this case. Don't read anything
2 about this case. That would be the television, the
3 radio, the newspaper, and, of course, the Internet. You
4 must receive all of the information from which you will
5 make up your minds here in court while court is in
6 session.

7 Your notebooks, for your informational purposes,
8 are going to be secured over the weekend. They're going
9 to be locked up, and they will be replaced in your seats
10 on Monday morning. If anybody needs additional paper or
11 additional book, if you're getting -- or you're afraid
12 your pencil or pen are needing to be replenished, you
13 need only to let us know, and we'll certainly be so
14 happy to do that. So, as you leave, just let our
15 bailiff know, I need another notebook, please; or I'm
16 going to need some on Monday; or my pen's run out of ink
17 or whatever. We'll be sure and get that for you Monday.

18 Remember, also to leave your cell phone or other
19 communication device away from the courthouse on Monday
20 morning. Of course, if you forget, just simply let us
21 know, and one of our bailiffs will keep control and
22 possession of it until our morning break or afternoon
23 break, at which time, you can take it to your car, or
24 the lunch break, when you can certainly take it
25 somewhere else, if you choose.

1 Have a wonderful weekend, and I look forward to
2 seeing you Monday morning at 10:00 o'clock. Have a
3 lovely weekend.

4 JURORS LEAVE COURTROOM 4:50 P.M.

5 BAILIFF: Jury is clear, your Honor.

6 THE COURT: All right. All right. Now. Go ahead
7 and cross-examine him, just on the issue of
8 authenticity.

9 MR. HOYLE: And for purposes of the record, what
10 exhibit does the witness have in front of him?

11 MR. MACKELCAN: 4.

12 MR. HOYLE: Defendant's 4?

13 MR. MACKELCAN: Your Honor, I have some additional
14 questions, too.

15 THE COURT: Yeah, absolutely. You want to lay some
16 additional foundation?

17 MR. MACKELCAN: I'll lay additional foundation.

18 MR. HOYLE: That's fine.

19 THE COURT: Absolutely. Absolutely.

20 MICHAEL MCCABE, PROFFER

21 DIRECT EXAMINATION, BY MR. MACKELCAN:

22 Q Mr. McCabe, the document you have in front of you,
23 Defendant's Exhibit 4, which you have identified as the
24 contract between Naval Medical Logistics Command and
25 CasePro; did CasePro and Navy Medical Logistics Command

1 operate for years under the terms of the contract, which
2 that is a copy of?

3 A Yes. We operated since the end of September of
4 2007, specifically September 28, 2007.

5 Q To your knowledge, did CasePro comply with the
6 terms of the contract that is in front of you today?

7 A Yes.

8 Q To your knowledge, did the United States
9 government, through the Naval Medical Logistics Command,
10 comply with the terms of the contract that is in front
11 of you today?

12 A Yes.

13 MR. MACKELCAN: Nothing further on that issue, your
14 Honor.

15 THE COURT: Absolutely. Yes, sir.

16 MICHAEL MCCABE, PROFFER

17 CROSS-EXAMINATION, BY MR. HOYLE:

18 Q Good afternoon, Mr. McCabe. How are you?

19 A Good.

20 Q We're looking at a 130-page document that's been
21 marked as Defendant's 4, correct?

22 A Correct.

23 Q The very first page of this document has places at
24 the bottom for name and title of signer in Box 19(a). Do
25 you see that?

1 A Yes.

2 Q And is 19(a) filled in, or is it blank?

3 A It's blank.

4 Q Okay. Over on the other side, we have 20(a), *Name*
5 *and Title of Contracting Officer*. Is that filled in, or
6 is it blank?

7 A It's filled in.

8 Q Okay. And it looks like there's a name on there.
9 Can you tell the judge and the Court who the name and
10 title is in that Box 20(a).

11 A It looks like it's Nancy L. Lavigne/Contracting
12 Officer.

13 Q And there's a telephone number and email address,
14 correct?

15 A Correct.

16 Q And underneath it, at Box 23, there's actually a
17 signature that purports to be Nancy L. Lavigne, correct?

18 A Correct.

19 Q And it bears a date, correct?

20 A Correct.

21 Q And this is on the standard Form 26, as you can
22 see, in the lower, right-hand corner, correct?

23 A Yes.

24 Q But over here, where there's supposed to be a
25 signature by the other party to the contract, is there a

1 signature, or not a signature?

2 A No signature.

3 Q Okay, sir. You recall, I came out to San Antonio
4 on August the 5th, 2014, and took your deposition as the
5 Rule 30(b)(6) corporate witness?

6 A Yes.

7 Q Okay. And I showed you this exact same document at
8 your deposition, on Line -- on Page 50. Do you recall
9 that? I'll give you a copy of your transcript, if you
10 want it.

11 A I mean. Question again, just so I can know what
12 you're saying.

13 Q Sure. Do you recall me showing you this contract
14 out there in San Antonio when we were sitting in your
15 fancy conference room as part of your Rule 30(b)(6)
16 deposition?

17 A I'm not sure about a fancy conference room.
18 However, we were in our conference room, yes.

19 Q Okay. And I asked you, at Line -- at Page 50 of
20 your deposition:

21 *Question: All right. Is there a*
22 *signature on this document on behalf of*
23 *CasePro, Incorporated?*

24 And you answered: No.

25 Does that comport with your memory?

1 A I don't remember that specific question.

2 Q Okay.

3 A I don't have a doubt that I would answer that.

4 Q Okay. Because it doesn't have one, correct?

5 A Correct.

6 Q All right. I went on to ask you:

7 *As you sit here today as the corporate*
8 *designee of the company, are you aware of*
9 *the company maintaining a copy of the contract*
10 *that has been marked as Exhibit Number 2 --*
11 *-- this is Exhibit Number 2 to your deposition --*

12 *in which an authorized representative*
13 *of CasePro, Incorporated, has signed on*
14 *behalf of CasePro, Incorporated?*

15 And you answered, according to the court reporter:

16 *I don't know, to be honest with you.*

17 I continued with the questioning:

18 *You have no knowledge, as you sit here*
19 *today as the corporate designee of the company*
20 *that a signed copy of this contract exists*
21 *within the files of CasePro, Incorporated?*
22 *Is that fair?*

23 And you answered, according to the court reporter:

24 *I would have to look.*

25 My next question was:

1 And as you sit here today in your
2 deposition, you've not undertaken that effort
3 to look. Is that fair?

4 And you answered, according to the court reporter:

5 That's fair.

6 Do you have any reason to dispute that was, in
7 fact, your testimony that you gave under oath on August
8 the 5th, 2014?

9 A No.

10 Q All right. That was over a year ago. Since August
11 5, 2014, have you gone through the files out there at
12 the Hardy Oak Drive offices of CasePro, Incorporated,
13 and looked for a fully-executed copy of the contract
14 between Naval Medical Logistics Command and CasePro,
15 Incorporated, that pertains to the Beaufort Naval
16 Hospital here in Beaufort? Yes or no.

17 A I have not..

18 Q Fair to say, then, to your knowledge, sir, the
19 company is not in possession of any fully-executed
20 contract between itself, as a corporation, and the
21 United States government as it pertains to Naval
22 Hospital, Beaufort?

23 A I don't know the answer to that question. CasePro
24 -- there would be a signed contract somewhere, but I
25 don't know.

1 Q But this ain't it. Is that fair?

2 A It's not signed.

3 Q We're looking at an unsigned contract, correct?

4 A Signed by the government.

5 Q Okay. Okay. You agree with me, a contract is
6 definitely going to have two or more parties, correct?

7 A Correct.

8 Q Okay. Can't contract with yourself. That's
9 probably not a good idea. But at least as far as this
10 contract is between two parties, the Navy and your
11 company, correct?

12 A Correct.

13 Q Okay. And there's no signature on behalf of your
14 company, correct?

15 A Correct.

16 Q And you can't tell me that one exists, correct?

17 A Correct.

18 Q And this is 130-page document. Can you honestly
19 look through all 130 pages and tell me from memory that
20 there were no additional negotiations or modifications
21 or revisions as part of the contract formation process
22 between your company and Naval Medical Logistics Command
23 that could have resulted before there was a fully-
24 executed, signed contract than what we have here today,
25 as marked for identification Defendant's 4? Yes or no.