

SEP 13 2018

Attorneys for Petitioner

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1 A I can say that there would be no modifications.

2 Q And what's that based upon, sir?

3 A The way that they go about these contracts, then,
4 they would -- based on this central contract, they would
5 then enter the delivery orders, which would come out as
6 a separate change to the contract. So, you would have a
7 delivery order specific to -- to Beaufort, for instance.
8 I think we looked at one earlier.

9 Q All right, sir. I don't have Mr. Knowles for this
10 up on the screen, so you're just going to have to bear
11 with me with the little print. Look up here in Box 17.
12 Okay?

13 A Okay.

14 Q And it looks like there's a box checked that says,
15 *Contractor's Negotiated Agreement*. Do you see that?
16 Are those the words that follow the box that's checked
17 with an X?

18 A Not really.

19 Q Can you not see it, or you don't think that's what
20 it say?

21 A No, I can't see it.

22 Q And Mr. Knowles put this thing up on the screen for
23 the Court and witness's benefit.

24 A Okay. I got it. Okay.

25 Q Okay.

1 A Small print.

2 Q Hold on. It's going to be put on the big screen.
3 I need to wheel this thing up here real close to you. I
4 want this Box 17. All right. Can you see? Can you see
5 that far?

6 A Yes.

7 Q Okay.

8 Contractor is required to sign this
9 document and return one copy to an issuing
10 office.

11 That's what it says, correct?

12 A Agree.

13 Q Okay. And this is a negotiated agreement, meaning
14 it was negotiated at arm's length between the federal
15 government for the Navy Medical Logistics Command and
16 your company, correct?

17 A Yes.

18 Q And by the plain text of the document stating that
19 it's a negotiated agreement, it requires that there
20 would be a signature from your company, correct?

21 A Correct.

22 Q And the document we have in front of us is
23 Defendant's 4, which has been marked for identification
24 purposes only, does not bear such a signature, correct?

25 A Correct.

1 Q In contrast, -- Mr. Knowles, can you highlight Box
2 18 for us, or show us Box 18?

3 Box 18 could have been checked, calling this an
4 award contract, in which case, the information on the
5 plain text of the document tells us, *contractor is not*
6 *required to sign this document.* You see that?

7 A Yes.

8 Q And Box 18, is it checked or not checked?

9 A Not checked.

10 MR. HOYLE: Your Honor, that's all I have at this
11 time for this witness on this issue. Thank you.

12 THE COURT: All right. Any re-direct on that
13 issue?

14 MR. MACKELCAN: Yes.

15 THE COURT: All right.

16 MICHAEL MCCABE, PROFFER

17 RE-DIRECT EXAMINATION, BY MR. MACKELCAN:

18 Q Mr. McCabe, looking at 18, where we were just
19 looking at, is that number the same number that is
20 listed as a contract number in Number 2?

21 A Yes.

22 Q Okay. And 18 states:

23 Your offer on Solicitation Number
24 N62645-06-R-1010-0005, including the
25 additions or changes made by you, which

1 *additions or changes are set forth in full*
2 *above, is hereby accepted.*

3 Then, it's signed underneath that by the
4 government. Is that correct?

5 A Correct.

6 Q Okay. Would have CasePro have sent the original
7 signature back to the government? What's the timing of
8 that?

9 A Yes. We would turn around and sign it. In this
10 case, in that time frame, it would have been Shirley
11 Hill would have signed it. And then, we would have sent
12 it back to the government.

13 Q With the government's signature on it, already?

14 A Yes.

15 Q Sitting here today, you just don't know if CasePro
16 kept a copy signed by both parties.

17 A I'm -- I'm one hundred percent sure that CasePro
18 kept a copy. I would assume that they couldn't find it
19 at the time of -- when all this started.

20 Q Mr. Hoyle asked you about the central contract, and
21 you said you were sure that it was not modified. Is
22 that because the bid includes the contract that's
23 prepared by the government?

24 A The contract includes the bid, yes.

25 Q Okay. So, the central contract does not change.

1 You either accept it, its terms, or you don't accept its
2 terms, in terms of CasePro.

3 A Yes. And then, the modifications later are -- any
4 modifications later are added by change orders.

5 Q Are those separate documents?

6 A Separate documents, signed separately. So, there
7 would be no other original document signatures. There
8 would only be change orders, which would be like a
9 delivery order.

10 MR. MACKELCAN: Nothing further, your Honor.

11 THE COURT: Yeah. Re-cross?

12 MICHAEL MCCABE, PROFFER

13 RE-CROSS-EXAMINATION, BY MR. HOYLE:

14 Q Mr. Mackelcan asked you if you would have sent a
15 signed copy back to the federal government. Did I hear
16 that?

17 A Yes.

18 Q How is it, then, that you have this copy that only
19 has one signature on it? Do you know, or are you
20 speculating?

21 A Well, they -- no, they -- they would have sent us
22 this one. And then, we would have looked to make sure
23 it was the same. And then, when we would send it back.

24 Q But if you signed it and sent it back to the Navy,
25 you wouldn't still have it, would you?

1 A We should still have it.

2 Q How can you still have it, if you signed it?

3 A Well, you would -- you would obviously make a copy,
4 for your records.

5 Q Okay. Which seems like a reasonable thing to do.
6 Where is the copy from your company's records of a
7 fully-executed contract, with signatures from both
8 parties to the contract?

9 MR. MACKELCAN: Objection, your Honor. It's
10 argumentative. It's been asked and answered.

11 BY MR. HOYLE:

12 Q Do you know?

13 THE COURT: No, he doesn't.

14 MR. HOYLE: Thank you.

15 ARGUMENT:

16 THE COURT: Okay. Let me ask this question. Is
17 this a general contract, or is this just the one from
18 Beaufort? This is the general one, right?

19 MR. MACKELCAN: It includes other sites, yes.

20 THE COURT: Yeah, yeah, yeah, yeah, yeah.

21 MR. HOYLE: Yeah. Yes, it does. And I'll also
22 add, for argument purposes, not for cross-examination
23 purpose of the witness that Mr. McCabe's deposition, but
24 we went through this; he didn't remember some of the
25 states that were listed on this contract as being states

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Diane Schafer Goodstein, Circuit Court Judge

Case No. 2012-CP-07-03782

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

Appellant,

v.

CasePro, Inc.,

Respondent.

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SC Court of Appeals

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1 that were involved in the contract, so. It is not
2 specific. I mean, it is not just Beaufort.

3 Mr. Mackelcan referenced some bids. I don't see
4 any bids attached to this. I think we all learned in
5 first year of contracts, anyway, that there's got to be
6 a meeting of the minds in order for there to actually be
7 a contract. I don't know that bids really have much of
8 anything to do with whether or not this is the best
9 evidence of what the contract is.

10 THE COURT: Right. Okay.

11 MR. HOYLE: And my last argument on that, Judge, on
12 that point would be, if this were a breach of contract
13 action, I don't know that this could even be received in
14 evidence at that action, because there's no evidence
15 that there is a contract. There's no evidence that
16 there is a meeting of the minds, the most basic
17 foundational piece of information that you need, in
18 order to determine a contract is legal.

19 THE COURT: Well, you would have an offer and you
20 would have an oral acceptance. And then, the question
21 is where you go from there.

22 MR. MACKELCAN: And this isn't a breach of contract
23 action.

24 THE COURT: I know.

25 MR. MACKELCAN: This document is presented for the

1 purposes of --

2 THE COURT: I know, I know, I know, I know. Well,
3 here's the lovely part. The lovely part is that we are
4 at the weekend, and wouldn't it be just nice if, I don't
5 know, if somebody could, like, look in the -- I mean, he
6 says he hasn't even looked for it, other than maybe at
7 the beginning of the case three years ago.

8 So, here's where we are. Of course, and you know,
9 there's going to be suspicion if it happens to pop up
10 here Monday morning, too. So, that's going to be a
11 whole other sticky wick, so to speak. So, here's what I
12 think. I think that it's a matter for cross-
13 examination. And I think -- but I'm going to reserve
14 that for Monday morning. And the reason for that is, is
15 that, obviously, there are little issues like the
16 statute of frauds, for example. Secondly, I'm a little
17 bit concerned that it is a document that is not executed
18 pursuant to its own terms, or hadn't been. The document
19 itself dictates how the document itself is going to be
20 entered into. I'm a little bit concerned about that.

21 I'm a little bit concerned about the fact that it
22 appears to be a negotiated contract on the basis of what
23 is checked; yet, it also has some indicia that this was
24 a bid, because the box isn't checked. It obviously is a
25 contract; it has a bid number on it. That causes me

1 some concern. Obviously, I'm concerned, because this
2 witness can't testify that this document came from
3 within his documents.

4 I'm not really sure why he says it's a document.
5 It just says it's the contract. And he doesn't even say
6 why he says it's the contract, and that's a little
7 disconcerting. So, if it didn't come out of his
8 records, why does he think -- you know, that's all
9 disconcerting. So, I'm going to think about it.

10 It's going to be one of two things. I mean, I'm
11 not going to admit it, or I'm going to admit it, and it
12 will be subject to cross-examination, even with regards
13 to the issue of authenticity, which is interesting.

14 Okay. And that's enough for today. I'm going to
15 research it, and I encourage you guys to do the same. I
16 mean, I know it's basic contract terms, but what? You
17 need to say, well, that's an offer, and we got accepted.
18 How about the statute of frauds? And this isn't a
19 contract case. So, is this just an issue that goes to
20 truth and veracity, that goes to the -- not the
21 admissibility, but the weight of it? But I don't know
22 what's in it, and I don't know how relevant that's going
23 to be.

24 MR. MACKELCAN: Should we look for the document? I
25 mean, should we -- in Texas? Or are you saying that,

1 that --

2 THE COURT: What would I do if I was standing in
3 your shoes? I'd tell you what I would do if I was
4 standing in your shoes. I can't tell you what the
5 outcome would be.

6 MR. MACKELCAN: Okay. I couldn't tell --

7 THE COURT: You know.

8 MR. MACKELCAN: I couldn't tell, from what you were
9 saying, whether that was not --

10 THE COURT: Yeah, I would probably invite Gene
11 Autry to come up here. You know what I mean? And
12 testify, I just found it right there.

13 MR. LOVELL: One question.

14 THE COURT: Yeah.

15 MR. LOVELL: Since he's on the stand, obviously,
16 we're not going to talk to him about the case or his
17 testimony, but if we need to get information about who
18 to call to track down the original contract, he may be
19 the only person we've got here today we can ask that
20 question. I don't mind asking it in open court here,
21 and getting that info.

22 THE COURT: I hate to put him in that position.

23 MR. LOVELL: I know. But I just don't want to be
24 accused of doing something I'm not supposed to.

25 THE COURT: I know, exactly. And I think for your

1 protection, there's no question about it. Oh, I just --
2 this is gruesome. Do you know who he should call to
3 find out?

4 MR. MACKELCAN: I do, I just don't know if I can
5 reach him right now.

6 THE COURT: Because you don't know where he is.

7 MR. MACKELCAN: Well, I mean, I know, generally,
8 who to call. I just know that I have the number to get
9 him, if he's not at the office. And so, then, I don't
10 get him.

11 THE COURT: Yeah, like, a cell phone.

12 MR. LOVELL: We may not have his cell phone number.

13 MR. MACKELCAN: We may not have his cell phone
14 number.

15 MR. LOVELL: That's kind of a problem. The cell
16 phone number may be sitting up on the witness stand.

17 THE COURT: Okay. Cell phone number.

18 MR. MACKELCAN: Right.

19 THE COURT: Do you have the cell phone number?

20 MICHAEL MCCABE: It's in my phone, which they
21 wouldn't let me bring in. I have it.

22 THE COURT: Well, that's just a little bit of a
23 snarl, isn't it? Well, you can have his cell phone.
24 You know. I'm going to give you permission to have
25 possession.

1 MR. MACKELCAN: So everyone knows, it's John Hill
2 who we're talking about, when I make the call.

3 THE COURT: I'm not going to make you do that, but
4 I'm going to give you the phone.

5 MR. MACKELCAN: Okay.

6 THE COURT: He's going to get his phone. I'm going
7 to give you permission to look in his phone.

8 MR. LOVELL: I can ask him to turn it on, and show
9 us how to work it.

10 THE COURT: Oh, you know -- well, you don't know.

11 MR. LOVELL: I don't know, either.

12 THE COURT: But Mr. Mackelcan can work it better
13 than Mr. McCabe can. How about that? Because of his
14 age. I mean, you know, because he's, you know, he's a
15 lawyer, but he's also a wonk because of his age. You
16 are, too.

17 MR. MACKELCAN: I don't know. I'm sort of in
18 between.

19 MR. HOYLE: I don't know. I'm the one with the
20 messy desk over here, Judge. I don't know if I'm a wonk
21 or not.

22 THE COURT: Yeah, you're a wonk. Yeah. Okay?
23 Cool? Yes? You all, you certainly can have possession
24 of the cell phone.

25 MR. LOVELL: Judge, can I ask one sort of

1 logistical question?

2 THE COURT: Oh, of course.

3 MR. LOVELL: We passed back and forth some Dr.
4 Hendelman redactions last night. They had a couple of
5 questions about them. Are you going to want to rule on
6 -- I assume that's where we're going Monday, after we
7 finish with him? Oh, it's not? I don't know?

8 THE COURT: Oh, there's that poker face.

9 MR. LOVELL: Never mind, then. I'll get out of
10 here.

11 OFF-THE-RECORD DISCUSSION.

12 BACK ON THE RECORD.

13 THE COURT: All right. Mr. McCabe has just asked
14 me a very good question, and I appreciate him asking,
15 and not putting you all in the position of that, because
16 you all might not know the answer. And the question is,
17 is there anything wrong with me, myself, if I want to,
18 if I need to look at something, or if I want to look at
19 something, or I want to think about this case, I want to
20 go access whatever I want to access, on my own, to do
21 whatever I want to do on my own. And the answer to that
22 is absolutely not. Now, you all can ask him about it,
23 but there's no problem with him doing that. He's not
24 going to talk about his testimony with anyone. In other
25 words, you know, if, like, you know, on that cell phone,

1 Alan Dershowitz's number, no, you can't call another
2 lawyer. You can't talk to him. But if you think -- I'm
3 going to go -- there's something bothering me and I'm
4 going to go back and look at my deposition, or I'm going
5 to go back and look at somebody else's deposition, or
6 I'm going to do whatever, absolutely not a problem with
7 that at all. Feel free to do that. Okay? You're
8 welcome. Great. You just can't talk to anybody about
9 your testimony. Okay?

10 MR. HOYLE: And witnesses are still sequestered

11 THE COURT: Witnesses are -- oh, yeah, and
12 witnesses are still sequestered. So, here's what gets
13 me so uncomfortable is that, you know, if somebody you
14 see happens to say something, and this is what I want
15 you to be like, I've got to testify and so on. You've
16 just got to say, there's just a really hateful judge,
17 and she's told me not to talk about it. And so, I'll
18 tell you later. I'll tell you some other time, but I
19 can't talk to you right now. Okay? Got it. All right?
20 Good. All right.

21 MR. LOVELL: Thank you, your Honor.

22 THE COURT: Any objection to my instruction?

23 MR. HOYLE: None for the plaintiff, your Honor.

24 THE COURT: From the Defense?

25 MR. MACKELCAN: No, your Honor.

1 THE COURT: Come on down. Very well.

2 MR. HOYLE: You just have to come back. You just
3 have to come back.

4 THE COURT: Oh, yeah. All right. Let's see, that
5 would be like, I told them Monday at 10:00, so everybody
6 can come Monday and Tuesday.

7 MR. HOYLE: So, what time do we need to be here,
8 your Honor, on Monday?

9 THE COURT: 10:00.

10 MR. HOYLE: Okay.

11 THE COURT: 10:00 o'clock.

12 END DAY FOUR, FRIDAY,

13 OCTOBER 9, 2015, 5:16 P.M.

14 BEGIN DAY FIVE, MONDAY,

15 OCTOBER 12, 2015, 10:30 A.M.

16 BY THE COURT:

17 THE COURT: Thank you so much, and please be
18 seated, and good morning. And I hope your weekend was
19 good. All right. Is everybody ready to go? Yes? Yes?

20 MR. HOYLE: Yes, Judge. Perhaps, before we bring
21 the jury in, we should talk about the contract, because
22 I believe there were some documents that were circulated
23 this weekend by email.

24 THE COURT: Okay.

1 MR. MACKELCAN: And I sent those documents, just so
2 that everyone wouldn't be researching unnecessarily, if
3 that was the case.

4 THE COURT: Sure.

5 MR. MACKELCAN: But I obviously have hard copies,
6 as well. My thought was to mark a new -- this version,
7 which is actually the same as the other version, but it
8 just has the signature page of CasePro on the top of it.
9 Mark that for identification, and go from there. But
10 your Honor, however you want me to handle it.

11 THE COURT: Just mark it for identification, and go
12 from there.

13 MR. MACKELCAN: Okay.

14 THE COURT: You can cross-examine him. You can ask
15 him everything you can ask him.

16 MR. MACKELCAN: All right.

17 MR. HOYLE: And are --

18 THE COURT: Didn't you tell me this on Saturday;
19 didn't you tell me this in depo; and gee whiz, you found
20 it today; how about that? Okay?

21 MR. HOYLE: And while we made an objection on
22 Friday on authenticity grounds, I think we're now going
23 to have to have an objection on relevance grounds to the
24 contract, as well. So, I can make that at the
25 appropriate time, or we can discuss it now, before we

1 bring the jury out.

2 THE COURT: You need to go ahead and make it,
3 starting here, you know. Whatever, whatever. Okay.
4 Got it.

5 MR. HOYLE: Yes, ma'am.

6 THE COURT: Yes?

7 MR. HOYLE: Yes, your Honor.

8 THE COURT: All right. Jury, please.

9 BAILIFF: Your Honor, can I approach?

10 THE COURT: Yeah..

11 DISCUSSION, THE COURT AND BAILIFF.

12 THE COURT: All right. Juror Number 14 has a
13 stomach virus. He's gotten here today, but he doesn't
14 know if he can make it. He is Juror Number 14. He
15 is --

16 BAILIFF: Juror Number 141.

17 THE COURT: Juror Number what?

18 BAILIFF: 141.

19 THE COURT: 141. And he is an alternate. Any
20 objection to him being excused from Plaintiff?

21 MR. HOYLE: Just so I make sure I heard correctly,
22 Juror 141 is an alternate?

23 THE COURT: Juror 141 is an alternate. He is
24 Alternate Number 2. 141. He has the stomach flu. I
25 don't think we want a stomach flu going through our

1 jury.

2 MR. HOYLE: We absolutely do not, your Honor, and
3 we have no objection to him being excused, with thanks
4 for coming in today.

5 THE COURT: Very well.

6 MR. LOVELL: No objection.

7 THE COURT: Okay.

8 BAILIFF: Thank you.

9 THE COURT: Thank you. Tell him -- he probably,
10 rather than coming out and being thanked, would rather
11 visit the facilities and go home.

12 BAILIFF: Great.

13 THE COURT: Yes.

14 BAILIFF: Thank you.

15 THE COURT: With his book.

16 BAILIFF: You ready, your Honor?

17 THE COURT: Yes, we're so ready.

18 BAILIFF: Jury's entering the courtroom, your
19 Honor.

20 JURORS ENTER COURTROOM 10:36 A.M.

21 THE COURT: Good morning, ladies and gentlemen, and
22 I so hope you had a wonderful, wonderful weekend, and
23 welcome back. And at this time, we will continue with
24 the plaintiff's case. Yes, sir? Yes, sir, that's
25 right. Cross-examination. Thank you.

1 MICHAEL MCCABE, CONTINUE

2 CROSS-EXAMINATION, BY MR. MACKELCAN:

3 Q Good morning, Mr. McCabe.

4 A Good morning. .

5 Q When we stopped on Friday, we were talking about
6 the process of obtaining a contract with the Navy.

7 A Correct.

8 Q Okay. Once the Navy accepts the bid from CasePro,
9 is the next step for CasePro to find people to fill the
10 positions?

11 A Correct. The first step, well, there's some
12 preliminary work about, you know, finding out what some
13 of the details of the award are, et cetera. So, under
14 this contract, they would say, here's your contract.
15 And then, they give you specifics about what positions
16 or particular things that you were supposed to perform
17 on.

18 So, then, once you confirm that, then, you're
19 responsible for recruiting the individuals. The primary
20 place that you would recruit from would be, and the
21 obvious place would be, the incumbents. From recruiting
22 to credentialing, the time might two to six months. So,
23 we would get awarded about maybe 30 days to 45 days
24 prior to the contract starting. So, the only way that
25 you would have continuity on the contract is to hire the

1 people that are in place.

2 Q Does the Navy have any input as to who CasePro
3 fills the positions with?

4 A Yes. Typically, the incumbents, we would get a
5 list. There would be two main ways you would get the
6 information on the incumbents. One, they might just
7 provide you a list. And if my memory is correct, that's
8 what they did here. They said --

9 Q Mr. McCabe, when you say, they, who is they,
10 providing you the list?

11 A The government, and specifically, the COR, which is
12 the contractors' officers' representative, would provide
13 us a list of providers, of incumbent providers.

14 Q On that list, do they designate one way or the
15 other if they want you to hire somebody, or if they
16 don't want to hire somebody?

17 A Yes. At that time, they would tell you if they did
18 not want to hire anybody. They would more than tell you
19 who they did want to hire. They would give you a list
20 and tell you don't hire these people, and they would
21 name them by name.

22 Q Okay. So, you've got a hire list from the Navy.
23 You've got a don't-hire list from the Navy.

24 A Correct.

25 Q Were Dr. Jansen, Joe McDonald, and Janice McDonald

1 on the hire list from the Navy?

2 A They were on the hire list.

3 Q Okay. And that's why you've been calling them
4 incumbents, right?

5 A Correct.

6 Q Okay. This may sound like a stupid question. Did
7 you hire anybody that was on the Navy's list of don't
8 hires?

9 A No.

10 Q Once CasePro has someone to fulfill all of the
11 positions under the contract, what happens next?

12 A So, once we have a list of who we would fill, we
13 would then go and the next step would be to make job
14 offers to the people that we're going to hire. The
15 other thing we would do is, we would initiate
16 recruiting, in case -- in case there were gaps, meaning,
17 there weren't enough incumbents to continue the
18 operations. We would then initiate recruiting for the
19 longer term, to get -- to get prepared, in case there's
20 a problem. At this point, we don't know whether there's
21 a gap or not, but we would just initiate that.

22 Q So, you're saying you would just have some extra
23 people available?

24 A Well, we would -- we would start the process of
25 recruiting, because it takes so long to recruit. So, it

1 might take -- between recruiting, it might take six
2 months.

3 Q Do you have to send -- does CasePro have to send
4 anything in to the Navy about the particular people that
5 you intend to place at the Naval Hospital?

6 A Yes. So, so, once the candidate's identified,
7 then, we're doing a credentialing process. And so, what
8 that is, is, per the contract, we gather certain
9 documents that are listed there. So, it would be things
10 like their licensing. It would be things like their --
11 any certifications. We would also perform the
12 background checks, and get past performance reviews from
13 their previous employers. So, we would gather all those
14 documents for the Navy.

15 Q And those are specified in the contract.

16 A Specified in the contract.

17 Q Okay. So, you gather up all the information. You
18 submit it to the government. What happens after that?

19 A So, then, we submit it to the government's
20 credentialing. We've prepare the documents. We do it
21 to there, and then, we just wait. We're just on hold,
22 basically, until they get the approval.

23 Q Mr. McCabe, I'm going to put a page from
24 Plaintiff's Exhibit 14, which has already been admitted
25 into evidence, up on the screen here. I believe we've

1 already looked at this exact page during your exam, but
2 do you recognize that page?

3 A Yes.

4 MR. MACKELCAN: Your Honor, I have a blowup of that
5 page. May I publish that to the jury?

6 THE COURT: All right. Will there be any
7 objection?

8 MR. HOYLE: No objection, your Honor.

9 THE COURT: Very well.

10 BY MR. MACKELCAN:

11 Q So, we're looking at the same thing, just so that
12 the jury doesn't have to crane their neck. But this is
13 a letter from Joe McDonald's employment file from
14 CasePro. Is that correct?

15 A That's correct.

16 Q All right. I want to draw your attention to this
17 first paragraph, where it says:

18 *This offer is contingent upon approval*
19 *by the U.S. Navy, to continue performing*
20 *healthcare services as an incumbent provider*
21 *under the new contract.*

22 Did I read that correctly?

23 A Correct.

24 Q Are all of the offers CasePro makes at this time,
25 when you're entering into a contract, contingent on

1 approval from the Navy?

2 A All job offers are contingent upon their approval.

3 Q There's nothing unusual about Joe McDonald's offer
4 here?

5 A Every offer would have that statement.

6 Q Does the Navy issue the actual hospital privileges
7 for the providers?

8 A That's correct, they -- the Navy issues the
9 privileging.

10 Q Does CasePro ever hire a worker that's not approved
11 by the Navy?

12 A No.

13 Q Mr. McCabe, I think on Friday, you used the term
14 *personal service contract*. Is there such a thing as a
15 non-personal services contract in your business?

16 A Yes. There -- there would be a non-personal
17 services contract.

18 Q Okay. What is the difference between a personal
19 service contract, like the one that CasePro had with the
20 Navy that placed workers at the Naval Hospital,
21 Beaufort, and a non-personal services contract?

22 A In a non-personal services contract, the contractor
23 would not only provide services, but they would provide
24 the management and supervision, as well. So, under a
25 non-personal services contract, you would be required to

1 have supervision, control of a facility. You would be
2 responsible, really, for all aspects of the operation.

3 In a personal services contract, it's created
4 because the -- in this case, the Navy maintains control
5 of their facilities and their operations. So, the
6 contractor just provides people to them that are
7 qualified, according to their scope of work, but CasePro
8 doesn't provide any supervision or guidance. No
9 policies and procedures to the facility. That all comes
10 from the government side, and CasePro doesn't do that.
11 In a non-personal services, we would provide policies,
12 procedures, et cetera.

13 Q To be clear, this was a personal services contract.

14 A This was a personal services contract.

15 Q Where CasePro provided people, to use your words.

16 A People, yes.

17 MR. MACKELCAN: Your Honor, may I approach the
18 witness?

19 THE COURT: You may.

20 BY MR. MACKELCAN:

21 Q Mr. McCabe, I'm handing you what's been marked for
22 identification Defendant's Exhibit 3.

23 A Okay.

24 Q Do you recognize that document?

25 A Yes.

1 Q And what is it?

2 A It is our contract with the Navy for -- that
3 covered the Beaufort hospital.

4 MR. MACKELCAN: Your Honor, at this time, I would
5 move to admit Defendant's Exhibit 3 into evidence.

6 MR. HOYLE: We object on the basis of relevance,
7 your Honor.

8 THE COURT: Okay. Okay. Overruled. You may
9 proceed.

10 ITEM IDENTIFIED AS ORIGINAL SIGNED
11 CONTRACT BETWEEN UNITED STATES NAVAL
12 MEDICAL LOGISTICS COMMAND AND CASEPRO
13 MARKED DEFENDANT'S EXHIBIT NUMBER 3
14 ADMITTED AS EVIDENCE.

15 BY MR. MACKELCAN:

16 Q Mr. McCabe, if you'd turn -- you can either turn to
17 21, or just look up at the screen. Okay. Are you
18 familiar with that Paragraph 2.3 that I have
19 highlighted?

20 A Yes.

21 Q Okay. And it says HCW. Does HCW stand for
22 healthcare workers?

23 A Healthcare workers.

24 Q All right. So, the healthcare workers in this
25 particular case are Dr. Jansen, Joe McDonald, and Janice

1 McDonald?

2 A Correct.

3 Q All right.

4 *HCWs providing services under this*
5 *contract shall be rendering personal*
6 *services to the government, and shall be*
7 *subject to day-to-day supervision and*
8 *control by government personnel.*
9 *Supervision and control is the process*
10 *by which the individual HCW receives*
11 *technical guidance, direction, and approval*
12 *with regard to a task within the*
13 *requirements of this contract.*

14 Did I read that correctly?

15 A Correct.

16 Q When we were talking before about a personal
17 services contract, is this the paragraph that you were
18 referring to that describes that personal services
19 contract?

20 A That's correct.

21 Q And does this actually -- accurately describe the
22 situation when the workers are at the -- were at the
23 Naval Hospital back in 2012?

24 A Yes, it does.

25 Q Does CasePro direct or supervise the way Dr.

1 Jansen, Joe McDonald, Janice McDonald practice medicine
2 at the Naval Hospital?

3 A No.

4 Q Does anyone from CasePro review their performance
5 from a medical standpoint?

6 A No.

7 Q Why not?

8 A Basically, it's an administrative and staffing
9 contract. And so, we don't have the resources to
10 evaluate them. We -- further, we don't have access to
11 the facilities, so we can't place personnel or
12 supervision there, so we don't.

13 Q And when you say *have access to the facilities*, are
14 you talking about access to medical records and files
15 and that sort of thing?

16 A Everything. Physical access or records. There's
17 no access at all granted to us.

18 Q So, who evaluates the performance of these workers
19 while they're at the Beaufort Naval Hospital?

20 A The government.

21 Q Does someone from the government or the Navy
22 contact CasePro if there's a concern about the
23 performance of one of these healthcare workers' medical
24 performance?

25 A They don't -- we don't give advice on them. If

1 they reach the point where they're, you know, alerting
2 us that there's a problem, they might alert us, but we
3 don't consult with them.

4 Q Did anyone from the Navy ever contact or alert
5 CasePro that there was a problem with the treatment of
6 Kalvin Hunt on February 24, 2012?

7 A No.

8 Q Let's take a look a couple pages from the task
9 order that was entered as Plaintiff's Exhibit 21. Mr.
10 McCabe, are you familiar with this part of the task
11 order?

12 A Yes.

13 Q All right. Here on the task order, it says:

14 *Site of Service: The contractor*
15 *shall provide personnel for service in the*
16 *emergency room at the Naval Hospital, Beaufort,*
17 *S.C. The Emergency Room Division operates*
18 *under the hospital's primary care department.*

19 Does CasePro have any involvement in the management
20 of the emergency room division?

21 A No.

22 Q Did CasePro have any involvement in the management
23 of the primary care department?

24 A No.

25 Q Further down on that page, it talks about staffing

1 and scheduling.

2 Contractor shall supplement active
3 duty Navy staff assigned to the emergency
4 room. The E.R. manager will provide
5 administrative supervision of all activities
6 within the division.

7 We've heard testimony about a Lieutenant Brannon
8 being the E.R. department head. Do you recall that?

9 A Yes.

10 Q Okay. Lieutenant Brannon wasn't a CasePro
11 employee, was she?

12 A No.

13 Q Reading on:

14 The emergency room will operate
15 under the clinical oversight of the E.R.
16 medical director, who does not provide
17 regular staff position service in the
18 emergency room.

19 Again, does CasePro employ the E.R. medical
20 director?

21 A No.

22 Q So, the clinical oversight of the healthcare
23 workers comes from the E.R. medical director, a non-
24 CasePro employee, correct?

25 A That's correct.

1 Q We heard a little bit about the commanding officer
2 and his involvement, or her involvement. On this same
3 page:

4 *Commanding officer will not privilege*
5 *more than ten physicians to cover the*
6 *required schedule.*

7 Was Dr. Jansen, on February 24, 2012, one of the
8 ten physicians that the commanding officer privileged to
9 perform healthcare services at the Beaufort Naval
10 Hospital?

11 A Yes, he was.

12 MR. MACKELCAN: I don't have any further questions.

13 THE COURT: All right. Re-direct.

14 MR. HOYLE: Yes, your Honor.

15 MICHAEL MCCABE

16 RE-DIRECT EXAMINATION, BY MR. HOYLE:

17 Q Good morning, Mr. McCabe.

18 A Good morning.

19 Q I hope you had a nice weekend here in Beaufort.
20 Prior counsel was showing you 131-page document that
21 they marked as Defendant's 3. Do you still have that
22 with you, sir?

23 A Yes.

24 Q Let me ask you a question. Does this big contract,
25 is this a contract that CasePro, Incorporated, sent to

1 Dr. Jansen, such that he would have had it prior to
2 February 24, 2012?

3 A Would we have sent the contract to Dr. Jansen? No.

4 Q What about Nurse Janice McDonald? Would she have
5 had this contract back on February 24, 2012?

6 A No.

7 Q Same question with respect to her husband, Nurse
8 Joe McDonald. Would he have had this contract on
9 February 24, 2012?

10 A No.

11 Q And in looking at the plain text of this contract,
12 I asked you some questions on my direct examination on
13 Friday about whether or not you saw Ms. Rebecca
14 Delaney's name anywhere on the contract. Now that
15 you've got a copy of this contract into evidence, do you
16 see Ms. Delaney's name anywhere on this contract?

17 A No.

18 Q And same question with respect to Justin Miller.

19 A No.

20 Q Fair to say this is solely a contract between your
21 company and the United States Naval Medical Logistics
22 Command, correct?

23 A Correct.

24 Q Okay. Let's go back in time to 2011. That's a
25 year before the incident involving Calvin Hunt, correct?

1 A Correct.

2 Q We looked at an email that was in Dr. Jansen's
3 personnel file on Friday. Do you recall that email?

4 A Is it the one written by Craig Martin?

5 Q Yes, sir.

6 A Yes.

7 Q Okay. And that's an email from Craig Martin. And
8 Craig Martin worked for you back in that time frame,
9 correct?

10 A Correct.

11 Q He worked out there in the corporate office of
12 CasePro, Incorporated, in San Antonio, Texas, correct?

13 A Correct.

14 Q And Mr. Martin, while fully within the scope of his
15 business as one of your subordinate CasePro employees,
16 typed up an email that got sent off to someone else,
17 correct?

18 A Correct.

19 Q And that email was specifically about the actions
20 and inactions of Dr. Christian Jansen, correct?

21 A Correct.

22 Q And we learned in that email that there was, (1) a
23 concern about Dr. Jansen, correct?

24 A Correct.

25 Q And that the concern, as expressed by the persons

1 here in Beaufort, South Carolina, was about the way Dr.
2 Jansen had done his work, correct?

3 A I don't think we had enough information to draw
4 that conclusion. Can I expand on that?

5 Q You can say whatever you want, sir.

6 A The -- what that email actually was, was, we had a
7 -- a verbal discussion between Craig Martin and the COR
8 that referenced the commanding officer, the C.O. So, he
9 then, -- Craig then, trying to find out what was going
10 on, and it referenced an event about six months prior or
11 so. The event that they were talking about occurred in
12 November. CasePro didn't have any knowledge of what
13 happened until then.

14 So, then, Dr. Moore has conversation, and he
15 understands a little bit more about what happened.
16 Then, the purpose of the email actually was to bring the
17 contracting officer, who has jurisdiction over our
18 contract, into the discussion. So, we're -- we're
19 summarizing, because we're concerned about what's
20 happened, to the contracting officer.

21 And then, the critical piece of it is, we asked for
22 documentation, and they won't give us any documentation.
23 So, at this point, we have some verbal conversations.
24 The government at Beaufort won't give us their
25 documentation. They hold it as privileged, I suppose.

1 I don't know what their term would be, but they won't
2 provide us documents, so we're summarizing it to the
3 contracting officer, so that the contracting officer can
4 take action. And they would make a determination,
5 because they would have access to the documents that we
6 don't.

7 And then, the contracting officer would come back
8 and say, please remove this person or not. They would
9 make that determination, because we don't have any
10 information. That's a overview of what was happening.

11 Q And I appreciate that long information, but let's
12 go back.

13 MR. HOYLE: And can we pull that email up, Mr.
14 Knowles? There we go. All right. Madam Clerk, can you
15 switch it, so we can have this on all three screens,
16 please, ma'am.

17 BY MR. HOYLE:

18 Q All right. Did I just hear you say that you didn't
19 have enough information at this time? Is that what you
20 told us, correct?

21 A I was referencing the statement in there where the
22 government wouldn't provide us with the information
23 about the incident.

24 Q Okay. Well, let's go over the information you did
25 have at that point in time. Okay? Will you agree with

1 me that, as of April of 2000 and -- April the 28th,
2 2010, that CasePro, Incorporated, had knowledge that
3 there was, (1) a dead United States Marine at the Naval
4 Hospital, and (2) that there were concerns about whether
5 or not Dr. Jansen had met the standard of care. Can we
6 agree on that?

7 A Correct.

8 Q Okay. So, you knew those two things, correct?

9 A Correct.

10 Q And we know that, by the plain text of this email,
11 that --

12 MR. HOYLE: go to Paragraph 5, Mr. Knowles.

13 BY MR. HOYLE:

14 Q You were defining some terms earlier with prior
15 counsel. COR, that's commanding officers'
16 representative.

17 A Correct. Contracting officers representative.

18 Q Contracting officers representative. That would
19 have something to do with this big 132-page document
20 that you all never sent to Dr. Jansen, Nurse McDonald,
21 and Nurse McDonald, correct?

22 A That would be the designated person from the
23 contracting office.

24 Q And that person, the contracting officers
25 representative, that was a lady by the name of Deb Mayo,

1 correct?

2 A I believe so, at that time.

3 Q And Ms. Mayo actually lives here in Beaufort
4 County, and works at the Naval Hospital, correct?

5 A Correct.

6 Q All right. We'll hear from Ms. Mayo later in this
7 trial. But Paragraph 5 tells us that the COR, the
8 contracting officers representative, asked CasePro
9 yesterday to terminate Dr. Jansen immediately, by
10 direction of the C.O. That's the commanding officer,
11 correct?

12 A Correct.

13 Q Short of President Obama or a member of the Joint
14 Chiefs of Staff, the commanding officer is going to be
15 the senior-most military official over there at the
16 Naval Hospital, correct?

17 A As far as I know.

18 Q Based on your understanding, since you never
19 served, that would be a fair summary, correct?

20 A I don't under -- he's in charge, I believe. I
21 don't know their structure.

22 Q Okay. He sounds pretty high up the food chain.
23 You'd agree with that.

24 A Sure.

25 Q Okay. So, the commanding officer told you he

1 wanted Dr. Jansen fired, correct?

2 A That's what the COR said.

3 Q And do you think the COR made that up?

4 A No.

5 Q Okay. No reason to doubt the veracity of the
6 information that you had back in April of 2010, that the
7 commanding officer of the Naval Hospital said get Dr.
8 Jansen gone. Do you agree with that?

9 A I don't agree that, that's what he said. I wasn't
10 privy to their conversation.

11 Q Do you pick up the telephone yourself and call the
12 commanding officer here in Beaufort?

13 A No.

14 Q Did you pick up the telephone and call anybody here
15 in South Carolina when you had this information, back in
16 2000 --

17 MR. HOYLE: gosh, what's the date again, Mr.
18 Knowles? Can we see the date?

19 BY MR. HOYLE:

20 Q Back in 2010, almost two years before Calvin Hunt
21 showed up at the Naval Hospital, did you pick up the
22 telephone and call anybody here in South Carolina about
23 this dead United States Marine?

24 A Me personally?

25 Q Yes, sir.

1 A No.

2 Q But you'll agree with me here today, the commanding
3 officer, at least by this email, wanted Dr. Jansen gone,
4 correct?

5 A I would assume that, that's accurate.

6 Q And when the commanding officer wanted this doctor
7 gone, he didn't go talk to the doctor himself and get
8 gone. He called you, out there in Texas, correct?

9 MR. MACKELCAN: Objection. Misstatement of the
10 facts.

11 BY MR. HOYLE:

12 A No, he did not call me.

13 Q He called one of your subordinates, correct?

14 A The commanding officer did -- never spoke to
15 CasePro.

16 Q The commanding officer had one of his civilian
17 employees, a C.O.R., call one of your subordinates,
18 correct?

19 A That's who spoke to our person, yes.

20 Q No dispute from you about that, correct?

21 A I don't dispute that, no.

22 Q And you weren't kept in the dark about this,
23 correct?

24 A That's correct.

25 Q People actually came into your office, in the

1 corporate headquarters, to talk to you about the
2 situation, correct?

3 A That's correct.

4 Q And you recall having those conversations, correct?

5 A Yes.

6 Q And you knew that there was a concern about a
7 specific doctor by the name of Chris Jansen right here
8 in Beaufort, South Carolina, correct?

9 A Correct.

10 Q And you knew, even if you knew nothing else, you
11 knew there was a dead United States Marine.

12 MR. MACKELCAN: Objection, your Honor. This is
13 argumentative.

14 THE COURT: Overruled. Cross-examination.

15 BY MR. HOYLE:

16 Q Do you remember my question, sir?

17 A No. Go ahead.

18 Q What we've been talking about, what you knew and
19 what you didn't know. But you at least knew that this
20 concern was about a dead United States Marine, correct?

21 A That's correct.

22 Q Did you ever make any inquiry as to how this United
23 States Marine came to pass away?

24 A What we did was, we -- because the -- we did make
25 an inquiry, and they would not give us the information.

1 So, we then took it to the contracting officer, who had
2 authority in this case.

3 Q All right. But going back to this concept of
4 authority, you think the commanding officer at the Naval
5 Hospital knows how to get rid of somebody?

6 A The -- the --

7 MR. MACKELCAN: Objection. Calls for speculation.

8 THE COURT: Sustained.

9 BY MR. HOYLE:

10 Q Mr. McCabe, let me ask you a question. The primary
11 point and purpose of your company's business in 2010 and
12 2011 and 2012 was making money off government contracts,
13 correct?

14 A We earned income off of them, yes.

15 Q Made more money doing that than you did other
16 things your business was doing, correct?

17 A That's correct.

18 Q Okay. So, you would have had to have interacted as
19 part of those sources of income with people in the
20 military, correct

21 A Me personally, or CasePro, the company?

22 Q CasePro, the company, sir.

23 A Representatives of CasePro would have interacted.

24 Q Okay. But did you personally have anything to do
25 with that?

1 A I personally didn't intervene down or -- I say
2 intervene. I didn't manage those contracts directly.

3 Q Do you think Craig Martin would be a better person
4 to talk to about some of these things than you?

5 A Not about the bigger contract issues, no.

6 Q But again, going back to April of 2010, you say
7 that your company made an inquiry. Was that an inquiry
8 for information, or merely an inquiry for documents?

9 A What we wanted to know, when we make the inquiry
10 is, we get a verbal, and something's happened, we try to
11 talk to, you know, the local people and say, okay, well,
12 tell us what happened. And then, we ask them for any
13 documents that are related to the -- the situation, so
14 that we can look at the documents and understand really
15 what's happened. We didn't receive any documents from
16 them.

17 Q Now, there's been some testimony about a fellow by
18 the name of Scott Moore. Do you recall that?

19 A Yes.

20 Q Scott Moore, did he get his paycheck from the
21 federal government, or did he get his check from
22 CasePro?

23 A CasePro.

24 Q He was a CasePro employee, correct?

25 A That's correct.

1 Q And if we were to go through his personnel file,
2 we'd see some of the same documents that we've seen with
3 respect to Nurse Joe and Nurse Janice and Dr. Jansen,
4 correct?

5 A That's correct.

6 Q Things like adherence to your company's policies,
7 correct?

8 A Correct.

9 Q Things like W-4s so that your company could
10 withhold income taxes, and then, remit them to
11 Washington, correct?

12 A Correct.

13 Q An acknowledgment of the receipt of the employee
14 handbook of your company, correct?

15 A Correct.

16 Q Okay. But Dr. Moore, your employee, completed, it
17 says here, a peer review in the January/February time
18 frame. His finding was that standard of care was not
19 met, correct?

20 A That's correct.

21 Q Did you yourself ever actually pick up the
22 telephone and call Dr. Scott Moore?

23 A No.

24 Q Do you know if any of your employees working for
25 you directly in the corporate office out in Texas, if

1 any of them actually talked to Dr. Moore?

2 A I believe that, that indicated that Craig Martin
3 spoke to Dr. Moore. That's where we received the
4 information from.

5 Q But with respect to this death, even though Dr.
6 Moore had apparently completed a peer review and found
7 that the standard of care was not met, you never formed
8 an understanding at that time as to how it is this
9 unfortunate death occurred. Is that fair?

10 A I did not know how that had occurred. Just that an
11 incident had occurred. But I didn't know the medical
12 details, if you will, of what happened.

13 Q Did you know this young man's age?

14 A No.

15 Q Do you know if he left behind a wife and children?

16 A No.

17 Q Didn't know anything, did you?

18 A No.

19 Q Other than there was a dead United States Marine,
20 and the finding of standard of care was not met, and the
21 commanding officer at the Naval Hospital here in
22 Beaufort wanted you to fire Dr. Jansen, correct?

23 A The problem with that statement is, is this
24 information is coming off a peer review that CasePro
25 doesn't have access to. So, CasePro shouldn't get a

1 peer review, and doesn't get peer reviews. So, what I
2 knew was very limited. And so, what we did was try to
3 enlist someone from the contracting office who had
4 authority over those contracts to look at those
5 documents and render an opinion on what we should do.

6 Q But going back to this, sir, you knew there was a
7 dead Marine that Dr. Jansen had either treated or not
8 treated --

9 MR. MACKELCAN: Objection. Asked and answered.

10 THE COURT: I need to hear it first. Okay.

11 BY MR. HOYLE:

12 Q Mr. McCabe, I'm just going to ask the question.
13 You didn't fire Dr. Jansen. Do you agree with me on
14 that?

15 A No.

16 Q Didn't fire him in 2010, and that you had the
17 information from Dr. Jansen's personnel file at the
18 fateful time frame, correct?

19 A Correct.

20 Q Had information that the commanding officer wanted
21 you to fire him, correct?

22 A My main answer to that is, the commanding officer
23 could have gone through the privileging board, removed
24 his privileges, and removed him from the hospital. The
25 avenue of going through the contractor, his avenue was

1 to go through the contracting officer, and have the
2 contracting officer tell us to remove the person. So,
3 he had avenues, if he wanted him removed, but CasePro
4 didn't have any information to do anything. And so, the
5 commander could have removed him, yes, I agree with
6 that, but not through the mechanism of the COR at the
7 site.

8 Q You didn't fire Dr. Jansen.

9 A No.

10 Q Why?

11 A Because we didn't have sufficient information or,
12 in the end, expertise to tell about a medical incident
13 that occurred in the E.R. room. If they would have
14 provided us those documents, we still would have gone to
15 the COR, or the K.O., the contracting officer, and said,
16 let's get together; we have a problem; and you know,
17 what do you want us to do; but they didn't give us the
18 information. But we don't have the expertise, anyway.

19 Q Well, let's talk about who might have that
20 expertise. Dr. Scott Moore worked for you, correct?

21 A Dr. Scott Moore was hired by us to do the peer
22 reviews. The peer reviews were privileged information
23 of the hospital, so he reported that information
24 directly to the hospital, not to CasePro.

25 Q But CasePro had knowledge of the conclusion of Dr.

1 Moore's work, correct?

2 A He probably shouldn't have given us that.

3 Q Taking that aside, that speculation that you just
4 offered us, do you agree with me unequivocally that, at
5 least by April of 2010, CasePro, Incorporated, and the
6 officers, directors, and employees, including yourself,
7 down here at the corporate headquarters, had information
8 that Dr. Moore completed this peer review in the
9 January/February time frame, and that his finding was
10 the standard of care not met, correct?

11 A That's correct.

12 Q And certainly, since you all were giving Dr. Moore
13 a paycheck to do those peer reviews, you had, on some
14 level, some level, had to believe that Dr. Moore had the
15 expertise to do those reviews. You'd agree with that,
16 correct?

17 A Dr. Moore was qualified to do those reviews.

18 Q And Dr. Moore looked at all that Dr. Jansen had
19 done, with respect to this United States Marine,
20 correct?

21 MR. MACKELCAN: Objection. Calls for speculation.
22 He doesn't know what Scott Moore looks at in a peer
23 review.

24 THE COURT: Sustained.

25 BY MR. HOYLE:

1 Q And when Dr. Moore completed his review, it was his
2 conclusion that Dr. Jansen fell below the appropriate
3 standard of care, correct?

4 A That was a verbal indication, so we don't have the
5 peer review to understand all the circumstances around
6 what occurred.

7 Q You just had the conclusion, correct?

8 A I don't even know if that's a conclusion on the
9 peer review or that's a line item on peer review.

10 Q Well, let's use a different word. Will you agree
11 with me that, by the plain text of this email, that the
12 finding of Dr. Moore's peer review was that the standard
13 of care was not met?

14 A Yes.

15 Q No dispute on that.

16 A No.

17 Q We looked on Friday, before you had the time to
18 gather your thoughts over the weekend, at the employee
19 handbook for your company. Do you recall that?

20 A Yes.

21 Q Sir, I'm going to --

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

23 THE COURT: Yes.

24 BY MR. HOYLE:

25 Q Sir, I'm approaching you with the employee handbook

1 that was moved into evidence on Friday. It's
2 Plaintiff's Exhibit Number 15, and there's a section in
3 this handbook called *Discipline*, and I'm going to direct
4 your attention to the second paragraph of that. Okay?

5 A Okay.

6 Q Can you read for the Court and jury, that second
7 paragraph that I just directed your attention to?

8 A *Employment compensation with CasePro is*
9 *at will, in that an employee can be*
10 *terminated with or without cause and*
11 *without notice at any time, at the option*
12 *of either CasePro or the employee, except*
13 *as otherwise provided by law.*

14 Q Thank you, sir. Is a dead United States Marine who
15 dies as a result of treatment that falls below the
16 standard of care, cause, in your mind, to fire an
17 employee? Yes or no.

18 A I'm not qualified to evaluate the E.R. physicians'
19 activities at the E.R. That's what the peer review is
20 for. That's what the credentialing -- or the -- the --
21 the -- what is it called -- the privileging committee at
22 the hospital. That's why they did an investigation.
23 They didn't provide us with the information.

24 So, my answer is, is I don't have sufficient
25 information to know what occurred, and we're relying on

1 the hospital to do it. They're in -- they're managing
2 the department. They would have the information. They
3 would have all of the information. CasePro has limited
4 information.

5 Q And as a result, Dr. Jansen was at the emergency
6 room on that fateful Friday, February 24, 2012, correct?

7 A Correct.

8 MR. HOYLE: I have no further questions at this
9 time.

10 THE COURT: All right. Re-cross.

11 MICHAEL MCCABE

12 RE-CROSS EXAMINATION, BY MR. MACKELCAN:

13 Q Mr. McCabe, to your knowledge, did the Navy remove
14 Dr. Jansen's privileges to provide services at the
15 hospital between the time of this Craig Martin email
16 that we've looked at and the incident involving in
17 Calvin Hunt?

18 A No.

19 Q Okay. Did CasePro ever receive any instruction
20 from the K.O., I think you referred to it as the proper
21 channels, to remove Dr. Jansen after the Craig Martin
22 email?

23 A No.

24 MR. MACKELCAN: Nothing further. Thank you.

25 THE COURT: All right. You may come back down.

1 All right. Call your next witness, please.

2 MR. HOYLE: Your Honor, at this time, the
3 Plaintiff's going to call the videotaped deposition of
4 Craig Martin.

5 THE COURT: All right.

6 MR. HOYLE: I believe we have three issues we need
7 to address with your Honor about that transcript.

8 THE COURT: Okay. All right. Let me have you all
9 approach.

10 OBJECTIONS TO CRAIG MARTIN VIDEOTAPED
11 DEPOSITION:

12 LOVELL, MR. MACKELCAN, AND MS. LEMIYU:

13 THE COURT: Okay. All right. This one, it was
14 impossible for me to deal with what looks like about one
15 -- looks like about 20 pages of deposition, and then,
16 one big, lumpy --

17 MR. MACKELCAN: We've broken it down further for
18 you.

19 THE COURT: All right. Great.

20 MR. MACKELCAN: And I think reached some agreement.

21 THE COURT: Okay. Good.

22 MR. MACKELCAN: So, we're moving in the right
23 direction.

24 THE COURT: I don't care about the agreement. Tell
25 me about where there's not an agreement. Okay.

1 MR. MACKELCAN: Okay. Our understanding is that,
2 the first part of it, so starting where it says, *Craig*
3 *Martin*, through the objection on this next -- well,
4 yeah. That full page, and then, the next page, you've
5 already ruled that in.

6 THE COURT: Okay. Yes.

7 MR. MACKELCAN: Because that's in, so that's in.

8 THE COURT: Yes. Yes.

9 MR. MACKELCAN: Okay.

10 MR. HOYLE: So, we're on what page?

11 MR. MACKELCAN: We're on the bottom of 12.

12 THE COURT: Okay. How long is this deposition
13 going to be?

14 MR. HOYLE: It's about an hour.

15 THE COURT: About an hour.

16 MR. HOYLE: Maybe a little less, depending upon
17 your rulings, maybe.

18 END BENCH CONFERENCE.

19 THE COURT: This next deposition is going to be
20 about an hour. It's not going to take me but about two
21 or three more minutes to rule on what I'm doing now.
22 Does anybody need to take a comfort break or going to
23 need one in an hour? Wonderful.

24 Ladies and gentlemen, step to your jury room. Do
25 not discuss this matter or allow anyone to discuss it

1 with you. Leave your notebooks in your seat, and when
2 you guys are ready to proceed, let me know. Just knock
3 on the door. Thank you.

4 JURORS LEAVE COURTROOM 10:25 A.M.

5 CONTINUE BENCH CONFERENCE REGARDING

6 OBJECTIONS:

7 THE COURT: Okay. Keep going.

8 MR. MACKELCAN: So, it actually -- that --

9 THE COURT: I see the next one goes -- then, it
10 just keeps going, like, forever. And then, that's when
11 we get the bulk. Tell me what the next objection is.

12 MR. MACKELCAN: Okay. First thing is, though,
13 could we have the same limited instruction that we've
14 had related to this email?

15 THE COURT: Yeah. Absolutely.

16 MR. MACKELCAN: Okay. Starting with where it says
17 Page 18, we've got additional objections, both -- I know
18 you've dealt with the peer review aspect of it, but both
19 on relevancy and the fact that this is an ordinary
20 negligence case, and talking about conversations with
21 Scott Moore about the standard of care.

22 THE COURT: Yeah.

23 MR. MACKELCAN: Hearsay as to -- and again, I've
24 broken it down further, but hearsay as to Craig Martin's
25 communications with Scott Moore. Scott Moore is a

1 Beaufort County resident within subpoena. We both have
2 him under subpoena, or had him, last week. So, you know

3 MR. HOYLE: In response to the hearsay, your Honor,
4 I would say that, that merely goes to notice. It's not
5 necessarily going to the truth of the matter asserted.
6 It's going to the notice that the company had about
7 their doctor.

8 THE COURT: Okay. All right.

9 MR. MACKELCAN: There's quite a bit of evidence of
10 notice, without getting into his conversations with
11 Scott Moore that's hearsay. I mean.

12 THE COURT: Notice of -- tell me, notice of what?

13 MR. HOYLE: Notice --

14 THE COURT: Notice.

15 MR. HOYLE: Notice of concerns about Dr. Jansen and
16 specific control of Dr. Jansen as to whether or not he
17 should be --

18 THE COURT: Well, now, control is different than
19 notice.

20 MR. HOYLE: I agree.

21 THE COURT: Okay.

22 MR. HOYLE: But I think these are interrelated,
23 your Honor.

24 THE COURT: Well, let me tell you what my concern
25 is about the notice. If it's going to be propensity

1 evidence, then, I don't think it's -- it would be -- it
2 would be excluded. However, I do think -- I do think
3 that it is admissible to show control, not even
4 necessarily for the truth of the matter asserted, but it
5 does and is relevant with regards to the issue of
6 control.

7 MR. HOYLE: Because there are a number of concerns
8 that Dr. Moore communicates to Craig Martin not just
9 this incident that involved the dead Marine, but
10 concerns about Dr. Jansen sleeping on the job; Dr.
11 Jansen not getting patients clear enough and all -- and
12 again, if Dr. Moore thinks that he should be talking to
13 somebody at the Navy, he could do that.

14 THE COURT: That's control.

15 MR. HOYLE: Exactly, your Honor.

16 THE COURT: That's the issue of control. That's
17 not the issue -- that's not propensity. That's the
18 issue of control.

19 MR. HOYLE: I agree with your Honor completely.

20 THE COURT: Okay.

21 MR. HOYLE: I think I may be just be
22 inarticulating, inarticulate this morning.

23 THE COURT: You're not inarticulate at all. I
24 think that you're a smart trial lawyer, and you're going
25 to put as much out there as you need to, so. But I do

1 think it's relevant on the issue of control. Talk to me
2 about control, because, remember, as I understand it,
3 there is a continuing position of the defendant that
4 these individuals do not work for CasePro. And so, --

5 MR. MACKELCAN: That's not exactly the position.

6 THE COURT: Okay. So, that's what I understood
7 last week that was the position, so what?

8 MR. MACKELCAN: The position is that they don't
9 have the authority to control the way that they practice
10 medicine at the Naval Hospital, and to the extent that
11 there were acts or omissions --

12 THE COURT: That's not what I was told last week.
13 Do I need to go get a transcript? Because I am quite
14 confident that it was the position last week of CasePro
15 that these individuals did not work for CasePro.

16 MR. MACKELCAN: That has never been our position.
17 I admitted in open court that they are employees. We've
18 been referring to them as employees. Our respondeat
19 superior argument is entirely based on the supervision
20 and control at the Naval Hospital.

21 THE COURT: Gotcha. Thank you. Thank you for
22 that, Mr. Mackelcan. Exactly.

23 MR. MACKELCAN: There's no debate that they're
24 employees.

25 THE COURT: Gotcha. Okay. In other words, it is

1 the position of CasePro that these individuals can be
2 employees of CasePro, just that respondent superior
3 doesn't apply. That theory doesn't apply.

4 MR. MACKELCAN: For their minimal performance.

5 THE COURT: Gotcha. Gotcha. Gotcha. Okay. Whew.
6 Thank you for clearing that up. Thank you for clearing
7 that up. Okay. You're exactly -- and I agree with you
8 completely. I was a little too simplistic on that
9 issue. I think you're exactly correct. And let this --
10 I want everyone to be clear that I think that is
11 absolutely correct; that the issue really is focused on
12 respondent superior and control with regards to
13 respondeat superior.

14 MR. MACKELCAN: Correct.

15 THE COURT: Okay. Very well. So, now. So, then,
16 the issue of control, talk to me about the issue of
17 control, respond superior, talk to me about that. Why
18 isn't this evidence on the issue of control vis a vis
19 medical performance and CasePro and respondeat superior,
20 why isn't this testimony very much on point?

21 MR. MACKELCAN: If it's for the same limiting
22 instruction, --

23 THE COURT: Yeah, of course.

24 MR. MACKELCAN: -- it's only for the purpose of
25 control, I think we run into, you know, an issue where

1 it's, I mean, Mr. Hoyle mentioned it, that he's now
2 talking about notice, and obviously, we're talking about
3 standard of care. And you know, again, a standard-of-
4 care finding in an ordinary negligence case, you know, I
5 think, again, we're now back into that issue where we
6 have a risk of confusing the jury about standard of
7 care, when that's not really what we're talking about in
8 this case.

9 THE COURT: You're absolutely entitled to a
10 limiting instruction. Again, and I'm happy to give it.
11 If you want to spice it up a little bit, let me know.
12 Or otherwise, I'll use the one that I had last week, the
13 same one. But if you want -- I'll hand it back to you.

14 MR. MACKELCAN: Yeah.

15 THE COURT: If you want to spice it up a little
16 bit.

17 MR. MACKELCAN: Probably my brain is working a
18 little better today than it was at the end of last week.

19 THE COURT: Your brain was magnificent last week,
20 as it is today, sir.

21 MR. MACKELCAN: All right. As we're moving down,
22 there are some opinion questions --

23 THE COURT: Okay.

24 MR. MACKELCAN: -- about whether or not Mr. Martin
25 would have terminated, and what he would have done with

1 Dr. Jansen, and whether he would have had health, you
2 know, provide services. But prior to that, he had told
3 -- testified that he had no authority to terminate
4 anybody. So, I think the combination there, you're
5 asking somebody who's already said that he can't
6 terminate them, you're asking him what he would have
7 done.

8 THE COURT: Again, it goes to control, because that
9 really -- that really -- it hones in on that subject,
10 because, if he says, at one point, you know, I have --
11 we have major problems with this individual; so I'm
12 trying to express to CasePro that we have major problems
13 with this individual; what would you have done; oh, I'd
14 have fired him on the spot, but I couldn't. I think
15 that very much -- that very much puts the spotlight on
16 the issue of control as it relates to respondent
17 superior.

18 One of the concerns that I have is the duration of,
19 you know, of this deposition. And you need to just
20 decide when you want to stop and stand, and have the
21 limited instruction. I'm much more than willing to do
22 it two or three times. You with me?

23 MR. MACKELCAN: Okay. I am.

24 THE COURT: And it's a good time to stop and stand,
25 over an hour deposition. You all let me know.

1 MR. HOYLE: And Judge, again, just for purposes of
2 the record, I'll talk slow. This includes both the
3 Defendant's and Plaintiff's page and line designations.

4 THE COURT: Yeah. You had some objection as to the
5 form of the question. Do you want to deal -- have you
6 looked back at those, because it looks like they were
7 corrected.

8 MR. MACKELCAN: That was what my preference was,
9 and I just re-asked the question after he objected to
10 the form. So, that was why I --

11 MR. HOYLE: I think he fixed it.

12 THE COURT: I think so, too. Have you all taken
13 out the --

14 MR. HOYLE: Mr. Knowles, have we taken out the
15 objecting improperly? Yes, we have. Mr. Knowles
16 indicates we have. He makes me look very good, Judge.

17 THE COURT: He's very proud of that.

18 MR. HOYLE: It's a full-time job.

19 THE COURT: He will be putting in for a raise as
20 soon as you all get back to Charleston.

21 MR. HOYLE: I can't control him.

22 THE COURT: He specifically isn't listening to
23 that. I don't blame him. Don't. Okay. What else we
24 got?

25 MR. HOYLE: Yeah. We withdrew --

1 THE COURT: I don't care.

2 MR. MACKELCAN: There's some testimony 8(a) stuff.
3 We're not letting -- we'll come back to and play that
4 later if we get a verdict.

5 THE COURT: You're like me, just the bottom line.
6 Give me some B.L. Great

7 All right. Now, remember, if you want to jazz that
8 one up, do it. You all just look at it, and -- and when
9 you are feeling a stop-and-stand and limiting
10 instruction, I want you to feel very free to stand up
11 and let me know.

12 MR. MACKELCAN: Okay.

13 THE COURT: That's not a problem, because it's
14 important that -- I think the testimony is important on
15 the issue of control. However, I'm very sensitive, and
16 I don't want the jury going into anything other than
17 control. Only the issue of control. Okay?

18 MR. MACKELCAN: Okay.

19 THE COURT: All right.

20 MR. HOYLE: Thank you, your Honor.

21 MR. MACKELCAN: Thank you.

22 THE COURT: Thank you all.

23 MR. HOYLE: And then, I anticipate, for planning
24 purposes, we'll have a live witness this afternoon.

25 END BENCH CONFERENCE.

1 OFF THE RECORD 11:28 A.M.

2 BACK ON THE RECORD 11:41 A.M.

3 BY THE COURT:

4 THE COURT: All right. Let's have the jury.

5 BAILIFF: Are you ready, your Honor?

6 THE COURT: We're ready.

7 BAILIFF: Jury is entering the courtroom, your
8 Honor.

9 JURORS ENTER COURTROOM 11:43 A.M.

10 THE COURT: Hello, hello. All right. Thank you so
11 much. Ladies and gentlemen, at this time, we will
12 continue with the Plaintiff's case. It is my
13 understanding that our next witness is being called by
14 deposition, as I mentioned beforehand. All right.

15 MR. HOYLE: Your Honor, at this time, we call, by
16 video deposition, Mr. Craig Martin.

17 THE COURT: Very well.

18 DVD OF VIDEOTAPED DEPOSITION OF

19 CRAIG MARTIN PLAYING.

20 END PLAYING DVD OF VIDEOTAPED

21 DEPOSITION OF CRAIG MARTIN.

22 MR. MACKELCAN: Your Honor, I think this would be a
23 good time to break.

24 THE COURT: Okay.

25 MR. MACKELCAN: May I approach?

1 THE COURT: Sure.

2 ON-THE-RECORD BENCH CONFERENCE, OUT
3 OF HEARING OF JURORS. PRESENT: THE
4 COURT, MR. HOYLE, AND MR. MACKELCAN:

5 THE COURT: This testimony is offered only on the
6 issue of control, on the issue of control over
7 employees, and not as evidence of Dr. Jansen's medical
8 performance, and certainly not for issue of any conduct
9 on a particular occasion being indicative of conduct on
10 any other occasion.

11 This testimony is offered only on the sole issue of
12 control over employees, and should be considered for
13 that purpose only, control over employees, and not as
14 evidence of Dr. Jansen's medical performance,
15 particularly as it might relate to any particular point
16 in time.

17 THE COURT: Okay. Got it. Very well.

18 END BENCH CONFERENCE.

19 THE COURT: Ladies and gentlemen, if you will
20 recall last week I gave you a limiting instruction, and
21 I'm going to give you, at this point, a limiting
22 instruction, and I'm going to give it to you a couple of
23 times, perhaps, during the course of this deposition.

24 Ladies and gentlemen, portions of Craig Martin's
25 testimony is offered only, only, on the issue of

1 control, over the issue of control over employees, and
2 not as evidence of Dr. Jansen's medical performance, and
3 certainly not for any issue of conduct on a particular
4 occasion being indicative of conduct on any other
5 occasion.

6 This testimony is offered on the sole issue of
7 control over employees, and should be considered for
8 that purpose only, control over employees, and not as
9 evidence of Dr. Jansen's medical performance,
10 particularly, as it might relate to any other particular
11 point in time.

12 Very well. Thank you, ladies and gentlemen.

13 You may continue, and I may come back and do it
14 again.

15 CONTINUE PLAYING CRAIG MARTIN

16 VIDEO DEPOSITION.

17 END PLAYING CRAIG MARTIN VIDEO

18 DEPOSITION.

19 THE COURT: That concludes the deposition?

20 MR. HOYLE: That concludes the deposition of Craig
21 Martin, your Honor.

22 THE COURT: Very well. Ladies and gentlemen,
23 because the next witness is anticipated to be a little
24 lengthier, we are going to take our lunch break. Ladies
25 and gentlemen, I'm going to ask you to please be back in

1 your jury room, ready to continue this matter at 2:00
2 o'clock. At 2:00 o'clock.

3 Please be mindful over the lunch break, do not
4 discuss this matter or allow anyone to discuss it with
5 you. Please do not read anything or listen to anything
6 about this matter. That is, the radio, the television,
7 the newspaper, or the Internet.

8 Please do not bring back with you any cell phone or
9 any other communication device. If you do, please let
10 our bailiffs know. We will keep care of it, until our
11 afternoon break or overnight break for the evening.

12 Please enjoy your break. Please leave your
13 notebooks in your seat, and we will secure them for you.

14 JURORS LEAVE COURTROOM 12:44 P.M.

15 BAILIFF: The jury is clear, your Honor.

16 THE COURT: Thank you so much. All right. Anything
17 before we take a break?

18 MR. HOYLE: Nothing from the plaintiff, your Honor.

19 MR. LOVELL: Nothing from the defendant, your
20 Honor.

21 THE COURT: Thank you, all. Have a good lunch.

22 MR. HOYLE: Thank you, your Honor.

23 OFF THE RECORD 12:44 P.M.

24 BACK ON THE RECORD 2:04 P.M.

25 THE COURT: We have a juror that needs some -- had

1 moved her medical appointment last week, and she moved
2 it to Thursday morning at 8:00 o'clock. And my only
3 comment was that we would accommodate at some point. If
4 you don't move it at this point, we will accommodate.
5 Okay? Cool. We're ready. We're so excited. We're
6 ready.

7 BAILIFF: Your Honor?

8 THE COURT: Yeah.

9 BAILIFF: Jury is entering the courtroom, your
10 Honor.

11 THE COURT: Great.

12 JURORS ENTER COURTROOM 2:04 P.M.

13 THE COURT: All right, ladies and gentlemen, at
14 this time, we will continue with the Plaintiff's case.
15 Call your next witness, please.

16 MR. HOYLE: Thank you, your Honor. At this time,
17 Plaintiff calls Dr. Christian Jansen to the stand.

18 THE COURT: All right. Sir, if you'd come along,
19 and be sworn.

20 DR. CHRISTIAN JANSEN: Oh, okay.

21 MADAM CLERK: Please place -- there you go. And
22 raise your right hand.

23 DR. CHRISTIAN JANSEN: Oh. Okay.

24 MADAM CLERK: Do you solemnly swear or affirm that
25 the testimony you give to the Court in this trial shall

1 be the truth, so help you God?

2 DR. CHRISTIAN JANSEN: I do.

3 MADAM CLERK: And please state and spell your last
4 name.

5 DOCTOR CHRISTIAN JANSEN: Jansen, J/a/n/s/e/n.

6 THE COURT: Your witness.

7 MR. HOYLE: Thank you, your Honor.

8 DR. CHRISTIAN JANSEN

9 DIRECT EXAMINATION, BY MR. HOYLE:

10 Q Good afternoon, Doctor.

11 A Good afternoon.

12 Q You are Dr. Christian Jansen, correct?

13 A Yes.

14 Q You were born May the 10th, 1955, in Warsaw,
15 Poland, correct?

16 A Yes.

17 Q And your birth name was not Christian Jansen,
18 correct?

19 A No.

20 Q What was your birth name, sir?

21 A I'll say it, if you can pronounce it. It was
22 Sheminiski. Can you pronounce it?

23 Q I cannot.

24 A That's why I changed it.

25 Q And you legally changed your name, I believe, back

1 in 1982, to your current name, correct?

2 A Yes.

3 Q Okay. Now, after you were born in Poland, I
4 understand that your family, understandably so, wanted
5 to escape communism, and that your family immigrated to
6 America from Canada, correct?

7 A Yes.

8 Q And all your schooling was either in Montreal or in
9 Ottawa, correct?

10 A Correct.

11 Q Are you a French speaker, sir?

12 A Partly.

13 Q Now, after two years of college, you were fast-
14 tracked into medical school, correct?

15 A That is correct.

16 Q And you never were awarded a bachelor's degree,
17 correct?

18 A No.

19 Q And you graduated from medical school at the
20 University of Ottawa in Canada on May 24, 1979.

21 A Yes.

22 Q You did an internship here from June of '79, until
23 June of 1980, correct?

24 A That sounds correct, yes.

25 Q And thereafter, you did a residency, correct?

1 A Yes.

2 Q Was that a four-year residency, Doctor?

3 A It was a two-year residency.

4 Q Do you consider the two years you spent in
5 residency to be a full residency or a partial residency?

6 A Partial.

7 Q And this partial residency, it was in general
8 surgery, not in emergency medicine, correct?

9 A Yes, that's correct.

10 Q And for purposes of a time line, that partial
11 residency in general surgery was from July of 1980 until
12 June of 1982, correct?

13 A Yes.

14 Q And that was also up in Canada, correct?

15 A Yes.

16 Q Thereafter, in 1982, you started working at
17 Queenway Carleton Hospital in Ottawa, also in Canada,
18 correct?

19 A Yes.

20 Q But just so we're all clear, that work that you
21 were doing on at Queensway Hospital, that wasn't in the
22 emergency room, was it?

23 A No, it was not.

24 Q And that internship year you did before your
25 partial residency, you did not focus or specialize on

1 any one branch of medicine, correct?

2 A Yes.

3 Q And that partial residency was in general surgery.

4 A Yes.

5 Q It looks like, from reviewing and from having
6 talked to you previously, that you worked up there in
7 Canada at the Queenway Carleton Hospital until
8 September of 1985, correct?

9 A Something like that, yes.

10 Q And in that year, 1985, you decided to move to
11 South Carolina and start working in emergency rooms,
12 correct?

13 A Yes.

14 Q Now, prior to 1985, when you made the decision to
15 move to the Palmetto State, had you ever worked in an
16 emergency room before?

17 A No.

18 Q And in 1985, you became licensed to practice
19 medicine --

20 A I'm sorry. If I may correct you.

21 Q Sure.

22 A During my intern rotations, I did probably a few
23 months in an emergency room as a rotation. So, I did.

24 Q And by a few months, are we talking one month, two
25 months, three months?

1 A Probably one or two months.

2 Q One or two months in emergency rooms. When you
3 made the decision to move to South Carolina, what
4 motivated you to start wanting to work in emergency
5 rooms?

6 A I -- well, it -- it -- it's kind of hard to say. I
7 mean, that was kind of the natural progression. I was
8 interested in the whole patient, not specific, you know,
9 surgery or internal medicine or anything like that. And
10 that would expose me to a lot of pathology and a lot of
11 interesting cases, and that seemed like what I would fit
12 into the best.

13 Q Even though your residency, which you didn't
14 finish, was in surgery, correct?

15 A That's correct.

16 Q What was the first emergency room that you went to
17 work at here in South Carolina?

18 A Well, that -- the first practice that I did was at
19 the Florence General Hospital in Florence, South
20 Carolina.

21 Q And how long were you in the pride of the P.D. in
22 the city of Florence, working in an emergency room up
23 there?

24 A Approximately two years.

25 Q And at some point in time, did you make the

1 decision to leave Florence?

2 A Yes.

3 Q Where did you go thereafter?

4 A In Hilton Head.

5 Q And where were you working in Hilton Head?

6 A At Hilton Head Hospital.

7 Q And that work in the Hilton Head Hospital, was that
8 in the emergency room, or was it in some other part of
9 the Hilton Head Hospital?

10 A It was in the emergency room as an emergency
11 physician.

12 Q And that's what you had been doing up in Florence.

13 A Correct.

14 Q How long were you in the E.R. at Hilton Head?

15 A Two years.

16 Q Where did you decide to go after the two years at
17 Hilton Head Hospital?

18 A I was offered a position at the Naval Hospital in
19 Beaufort.

20 Q So, you start working at the Naval Hospital about
21 what year, Doctor?

22 A 1989.

23 Q 1989.

24 A I'm -- I'm sorry. 1987.

25 Q 1987.

1 A It was a long, long time ago.

2 Q A long, long time ago. When you started in 1987,
3 did you actually directly getting your paycheck from the
4 federal government, or were you working through a
5 contractor?

6 A I was -- I was an independent contractor, which
7 means that I'm introduced to the particular hospital by
8 a middleman, which is the -- whatever the company at
9 that time was. And I was working for the hospital, but
10 my paycheck was routed through the middleman and to me.

11 Q That's your understanding of how things worked back
12 in 1987?

13 A That's how things did work in 1987.

14 Q Okay. And at some point in time, you had to leave
15 the Naval Hospital because there were some concerns
16 about your citizenship, correct?

17 A Yes.

18 Q At some point in time, the various rules and
19 regulations and procedures and things changed, and
20 because you were not a U.S. citizen, you had to leave
21 the Naval Hospital, correct?

22 A Yes.

23 Q Okay. About what time did those concerns develop?

24 A You probably have that in your papers. I don't
25 remember exactly.

1 Q Was it prior to October the 1st, 2007?

2 A You know, I don't remember the exact date.

3 Q Okay. Doctor, let me ask you a different question.
4 When did you become a citizen of the United States of
5 America?

6 A It was towards the second half of two thousand --
7 the -- 2008, 2009, somewhere in that period. I don't --
8 I didn't put that to my memory, unfortunately.

9 Q Sir, we're putting up on the screen a document of
10 your personnel file that's already in evidence.

11 A Oh, my goodness.

12 Q And it looks like you became a citizen of this
13 country on May the 8th, 2008. Does that sound about
14 right?

15 A Well, it's there, so it must be right.

16 Q Not going to dispute that. Is that fair?

17 A I assume, unless you doctored the document, I
18 assume that's the right one.

19 Q Do you have any concerns that I doctored this
20 document?

21 A I wouldn't be surprised.

22 Q Oh, okay. Okay, Doctor. Well, then, we'll do it
23 this way.

24 A It's payback time.

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

1 THE COURT: Yes.

2 BY MR. HOYLE:

3 Q Sir, I'm handing you your personnel file.

4 A Um-hmm.

5 Q Which came from the corporate headquarters of
6 CasePro, Incorporated, out in San Antonio, Texas. Have
7 you ever been to San Antonio, Texas, sir?

8 A Never.

9 Q Never visited the corporate headquarters of
10 CasePro, Incorporated, then?

11 A Never.

12 Q All right. Turning to your personnel file. The
13 pages are Bates stamped in the lower, right-hand corner.
14 You have the hardcopy right in front of you.

15 A Um-hmm.

16 Q It has been marked as Exhibit Number 22 to this
17 trial. If you could turn, in the exhibit, to page --
18 it's Bate stamped 443 --

19 MR. LOVELL: Your Honor, we object to this. This
20 document's not in evidence yet, according to my
21 recollection of what's in and what's not.

22 MR. HOYLE: His personnel file was moved into
23 evidence on Friday with Mr. McCabe. We actually had a
24 series of objections about it, and we had to have a
25 conference at the Judge's bench about it.

1 THE COURT: Okay.

2 MR. HOYLE: It is in evidence, your Honor.

3 THE COURT: It is in. We will ask our court
4 reporter, just for confirmation.

5 COURT REPORTER: What number is it?

6 MR. HOYLE: 22.

7 COURT REPORTER: I have that it's in.

8 MR. LOVELL: My error.

9 THE COURT: That's okay.

10 MR. LOVELL: I'm just writing down the -- I'm
11 sorry.

12 THE COURT: Vigilance is good, even if it's
13 occasionally in error. It's not a problem at all.
14 Thank you for it. You may continue.

15 MR. HOYLE: Thank you.

16 BY MR. HOYLE:

17 Q Dr. Jansen, have you found that page and Exhibit
18 Number 22?

19 A Give me the page again, please.

20 A It's Bates stamped in the lower, right-hand corner,
21 433 -- 443. I apologize. That's two fours and a three.

22 A There we are.

23 Q All right, sir. First off, have you ever seen a
24 document substantially similar to the document found in
25 your personnel file from CasePro that is Bates stamped

1 in sequence ending 443? Have you ever seen something
2 that looks like that page?

3 A Well, but that certainly looks like my certificate
4 of naturalization.

5 Q Do you recall actually receiving a certificate of
6 naturalization from the government of the United States
7 of America?

8 A I do recall.

9 Q Do you recall having to go through a process in
10 which the Secretary of Homeland Security prescribed
11 certain things that you had to do in order to become a
12 citizen of this country?

13 A Most likely. That is the usual case. Yes,
14 probably. I don't recall specifics, though.

15 Q Well, how did you come to get a certificate of
16 naturalization, Doctor?

17 A I applied for it.

18 Q Okay. And what did you do after you made such an
19 application? Did you ever take a test? Did you have to
20 go somewhere? Did they just send you?

21 A You know, I don't recall exactly. I went through
22 the usual process that somebody applying for citizenship
23 would go through, but I cannot tell you the details.
24 That's minutia at this point, and I don't really put
25 that to my memory.

1 Q Well, previous to some point in time, it looks
2 like, to me, in 2008, you were not a citizen of this
3 country, correct?

4 A Correct.

5 Q Do you recall having to swear an oath of allegiance
6 to the *Constitution of the United States of America* at
7 any point in time?

8 A I don't believe so.

9 Q You don't believe you had to --

10 COURT REPORTER: I'm so sorry. I'm so sorry. I
11 don't believe so?

12 A I do not believe I had to swear allegiance to any
13 country at that time. It wasn't required, and I don't
14 think anybody asked me.

15 Q So, it's your testimony, as you sit here today,
16 sir, that, when you obtained the certificate of
17 naturalization, no judge or other officer of the United
18 States of America made you raise your right hand and
19 swear an oath of allegiance to this country?

20 A Now, I think I misunderstood you. You had asked me
21 the same question before I received the certificate.
22 After -- when I received the certificate, I did swear
23 allegiance.

24 Q To this country?

25 A Yes.

1 Q You actually remember that?

2 A Well, when I received the certificate, of course.
3 Not before, though.

4 Q But that's all minutia to you. Is that what you're
5 telling us?

6 A Well, I think the -- when you were -- when I said
7 minutia, I don't mean to be disrespectful. But the
8 exact -- knowing the exact dates when this happened, or
9 exactly what I -- what process I had to go through, what
10 documents I had to file, I don't remember that.

11 Q Do you remember having to take some sort of
12 examination, or test, as to your knowledge of certain
13 fundamentals of this country?

14 A Oh, yes, absolutely.

15 Q Okay. You remember that test. What were some of
16 the things covered on that test, Doctor?

17 A I don't recall. It would be usual things that they
18 feel most American citizens should know. When the
19 independence was declared, how much -- what congress
20 does, what the senate does, how long the president stays
21 in office, things that every American should know.

22 Q Is that minutia, too, Doctor?

23 A Oh, I never said that.

24 Q Okay.

25 A And I think implying that is very unfair.

1 Q You think I'm being unfair to you, Doctor?

2 A Well, with that question, I think you are. You're
3 trying to imply that I don't care about being an
4 American citizen and I think that's -- that it's
5 minutia, and that's absolutely not true.

6 Q Do you want to be here today, Doctor?

7 A Absolutely.

8 Q Good. Now, going back to the certificate of
9 naturalization, you suggested earlier that I doctored it
10 in some fashion, or wouldn't be surprised that I
11 doctored it in some fashion. Do you believe what we're
12 looking at in the courtroom on the screen is a fair and
13 accurate representation of your certificate of
14 naturalization?

15 A Yes, I -- I believe I do.

16 Q Okay. Don't have any concerns about me doctoring
17 it up, changing your date of birth, or how tall you are,
18 or whether you're married, or your country and former
19 nationality?

20 A Well, sir, it's just that, with my prior experience
21 with you, I did not have a pleasant experience, and I
22 was just communicating that.

23 Q You're referring to your deposition in this case.

24 A Of course. The nine-hour, prolonged interrogation
25 about a year ago, yes.

1 Q Okay. And Doctor, with respect to that what you've
2 described as a prolonged interrogation more than a year
3 ago, have you had the opportunity to see your answers
4 that you gave under oath, subject to the pains and
5 penalties of perjury, at that deposition, typed up into
6 a transcript.

7 A No, I did not.

8 Q You never read it?

9 A No.

10 Q Do you recall telling me at your deposition that
11 you believed it was a prudent -- would be a prudent
12 thing for you to do to contact the South Carolina State
13 Medical Board concerning some inaccuracies in your prior
14 statements made to that board?

15 A Yes.

16 MR. LOVELL: I object to the extent -- to the
17 extent he is trying to impeach the witness. This is the
18 improper method of doing so.

19 THE COURT: Let me see you all.

20 ON-THE-RECORD BENCH CONFERENCE, OUT
21 OF HEARING OF JURORS. PRESENT: THE
22 COURT, MR. HOYLE, MS. CASTLEBERRY,
23 MR. LOVELL, MR. MACKELCAN:

24 MR. LOVELL: He's doing with this witness what he's
25 done with the others. He's asking them questions about

1 what they said in their depositions, without showing
2 them the deposition. The proper manner is to ask the
3 question. If you get an answer that deviates from the
4 deposition, then, the proper method is to show the
5 witness the deposition, and walk through it in that
6 manner.

7 MR. HOYLE: I believe the witness opened the door
8 when he referred to it as a nine-hour grilling, and said
9 that --

10 THE COURT: No, he called it an interrogation.

11 MR. HOYLE: Oh, I apologize. I apologize.
12 Interrogation, not grilling. But I believe the witness
13 opened the door when he said that, based on his
14 experience with me, he had certain concerns. I'm not
15 trying to impeach with specific testimony at this point.

16 MR. LOVELL: That's exactly what the question
17 sought to do.

18 THE COURT: Well, two things. Two things. First
19 of all, if you're going to impeach him on his
20 deposition, did you say X, blah, blah, blah. And, and
21 interestingly enough, if you want him to be shown --
22 this was one of those little rules. It's not my
23 favorite. If you want him to be shown the document, you
24 actually have to ask. That's not one of my favorites.
25 Let me just put that out. Used to be -- it used to be

1 you had to do that. Not under the rules, unless they've
2 been amended, and I'll take a look. But if you're
3 asking that folks be shown the document, --

4 MR. LOVELL: I'll be glad to ask that question.

5 THE COURT: You don't have to do that. It's been
6 asked.

7 MR. LOVELL: Okay. Sorry.

8 THE COURT: So, we'll do that going forward.

9 MR. LOVELL: Okay. Sorry.

10 THE COURT: But, but, yeah, exactly. Now, I wasn't
11 as concerned with the, obviously, the prior witness,
12 because he, obviously, is a managing agent of the
13 company, so.

14 MR. HOYLE: Um-hmm. Okay.

15 THE COURT: And so, his rules are different. But
16 now, we're with a true witness, so, you ask him did he,
17 you know. Back to basics. Okay?

18 MR. HOYLE: We'll get back to basics, Judge.

19 THE COURT: So, sustained.

20 MR. LOVELL: Thank you, your Honor.

21 MR. HOYLE: Thank you, Judge.

22 THE COURT: Yes. Thank you.

23 END BENCH CONFERENCE.

24 ITEM IDENTIFIED AS DOCUMENTS FROM

25 THE SOUTH CAROLINA DEPARTMENT OF

1 LABOR, LICENSING AND REGULATION

2 REGARDING DR. CHRISTIAN JANSEN

3 MARKED PLAINTIFF'S EXHIBIT NUMBER 17

4 ADMITTED AS EVIDENCE.

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

6 THE COURT: Yes, please.

7 BY MR. HOYLE:

8 Q Sir, I'm handing you what's previously been moved
9 into evidence as Plaintiff's Number 17. It is a sealed
10 envelope from the South Carolina Department of Labor,
11 Licensing and Regulation. I'm going to hand that to
12 you, sir.

13 A Thank you.

14 Q If you'll please open what's previously been marked
15 and introduced into evidence as Exhibit Number 17 to
16 this trial. Little me know what you find when you pull
17 that stack of papers out of that envelope, sir.

18 A Well, I find a stack of papers.

19 Q All right. Let's look at the first page together,
20 sir, Doctor.

21 A All right.

22 Q We have a letter on the very first page dated
23 September the 30th, 2015, correct?

24 A Yes.

25 Q It is a letter addressed to myself and my colleague

1 at my office in Mount Pleasant, South Carolina, correct?

2 A Yes.

3 Q It is enclosing documents responsive to a subpoena

4 dated September the 22nd, 2015, correct?

5 A Yes.

6 Q And this appears to be on the letterhead of South

7 Carolina Department of Labor, Licensing, and Regulation,

8 correct?

9 A Yes.

10 Q All right. Let's turn the page.

11 A Um-hmm.

12 Q The second page of the document that's been moved

13 into evidence at the trial of this action is Exhibit

14 Number 17. We have something at the top of the page.

15 Says *South Carolina Board of Medical Examiners*. Do you

16 see that?

17 A Yes, sir.

18 Q And do you see anybody, any natural person's name,

19 contained within the second page of this document?

20 A Of course, it's my name.

21 Q Okay. So, this appears to be something from the

22 State Medical Board having to do with you, correct?

23 A Presumably..

24 Q All right. Let's turn the page, sir. And we have

25 here a page that says *License History*. Do you see that?

1 A Yes.

2 Q And it says a temporary license was issued to you
3 on or about August the 8th, 1985, correct?

4 A Yes.

5 Q Let's turn the page, sir. All right. Past that
6 blue sheet of paper, we've got an original application
7 for a license to practice medicine or osteopathic
8 through endorsement. Is that correct?

9 A Yes.

10 Q This is on the letterhead of the State Board of
11 Medical Examiners of South Carolina, with a street
12 address of 1350 Blanding Street, in capitol city of
13 South Carolina, correct?

14 A No argument there.

15 Q All right. And there's some handwriting on this
16 page, including a date of June 26, 1985. Do you
17 recognize the handwriting?

18 A It most likely is mine.

19 Q All right.

20 MR. HOYLE: Let's do map, Mr. Knowles, to that
21 whole page.

22 BY MR. HOYLE:

23 Q And you're looking at the original document that my
24 office was provided by the State Labor, Licensing and
25 Regulation Board. Sir, does this appear to be the

1 original application that you filled out back in 1985 in
2 order to obtain a license to practice medicine in this
3 state?

4 A It most likely is, yes.

5 Q All right. And in fact, if you turn to the next
6 page of this document. We've got a listing of
7 preliminary and pre-medical education, correct?

8 A Yes.

9 Q Does that appear to be your preliminary and pre-
10 medical education at Saint Monica's in Montreal; Lisgar
11 Collegiate in Ottawa?

12 A Yes.

13 Q And the University of Ottawa, where you did not
14 receive a bachelor's degree, correct?

15 A I don't dispute that.

16 Q All right. And you've got some information in
17 Section 3 of this document dealing with medical school
18 education that you received at the University of Ottawa,
19 correct?

20 A Yes.

21 Q And in the next section, we've got some information
22 about your credentials with respect to partial residency
23 you completed in surgery from 1980 to 1982, correct?

24 A Where is that? Yes.

25 Q Okay. And down at the bottom of the page, we have

1 an applicant's oath that the folks in Columbia were nice
2 enough to redact a signature on here. But I'll ask you
3 as a question, sir, do you have any reason to believe
4 that you would not have completed your original
5 application for a license to practice medicine in this
6 state back in 1985, in any fashion, other than in which
7 you would have signed it under oath, subject to the
8 pains and penalties of perjury?

9 A I have no reason to suspect I did not sign it.

10 Q Okay. Let's go forward a few pages. My
11 understanding, I believe you've told me this previously,
12 is that, in our state, medical licenses renew every two
13 years, correct?

14 A Yes.

15 Q And that's your understanding, as well, correct?

16 A Yes.

17 Q Okay. So, turn with me about mid-way through this
18 stack of documents, to a renewal application dated June
19 the 1st, 2011. Let me know when you find that document
20 and you and I are on the same page, sir.

21 A I would appreciate if you'd come up here and show
22 me where I'm supposed to be.

23 Q Certainly, sir.

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

25 THE COURT: Yeah.

1 BY MR. HOYLE:

2 Q All right, Doctor. I've approached the witness,
3 and made sure that we're all on the same page. Are we
4 not, sir?

5 A Yes.

6 Q All right. So, this is a document that, again,
7 bears the letterhead of South Carolina Department of
8 Labor, Licensing, and Regulation, correct?

9 A Yes.

10 Q LLR, correct?

11 A Yes.

12 Q And it has your full legal name at the top of the
13 document, correct?

14 A Yes, it does.

15 Q All right. And this says, *Final Review, June the*
16 *1st, 2011*, correct?

17 A Yes.

18 Q And if medical licenses renew in this state every
19 two years, the preceding 24 months, from June the 1st,
20 2011, would take us to roughly June the 1st of 2009,
21 correct?

22 A Yes.

23 Q Okay. So, there's going to be certain questions
24 asked on this that may relate to the prior two years.
25 Is that fair?

1 A Sure.

2 Q Okay. So, we've got a license number on here of
3 MMD12569. Is that your license to practice medicine?

4 A Yes, it is.

5 Q We've got a licensee name. And is that your full
6 legal name as it exists today?

7 A Yes, it is.

8 Q We've got a re-licensure fee of a stated dollar
9 amount, correct?

10 A Yes.

11 Q And did you actually pay the State Medical Board
12 \$160.00 --

13 A Yes.

14 Q -- when you renewed your license back in 2011.

15 A Yes, I did.

16 Q Okay. And there's some information as far as an
17 address, and a home address, and a mailing address. Do
18 you see all that?

19 A Yes.

20 Q Is that information correct? Or was it correct at
21 the time?

22 A Yes, it was.

23 Q All right. Turn with me to the next page.

24 A Yes.

25 Q Renewal app, Question 1.

1 A Yes.

2 Q Since your last renewal, has any order or
3 other disciplinary action been rendered
4 against you by any medical board, or have
5 you been denied licensure by any other
6 medical board?

7 And what was your answer?

8 A No.

9 Q Was that a truthful answer on this application?

10 A Yes, it was.

11 Q Okay. There's Renewal Application Number 2. Do
12 you see that, sir?

13 A Yes.

14 Q And it says, since your last renewal,
15 -- that, again, would be going back 24 months to,
16 oh, some time in 2009. You with me so far?

17 A Yes.

18 Q Since 2009, have any hospital privileges or
19 other privileges of any kind been revoked,
20 suspended, restricted, denied, voluntarily
21 surrendered, or relinquished? Include the
22 relinquishment of privileges while under
23 investigation or pending action for any
24 reason. Do not include the relinquishment
25 of privileges as a result of a personal

1 decision.

2 Did I read that correctly, sir?

3 A Yes.

4 Q And what was your answer with respect to Renewal
5 Application 2?

6 A No.

7 Q And was that a truthful answer?

8 A Absolutely.

9 Q It's your testimony, as you sit here today, that,
10 that was a truthful answer.

11 A Yes.

12 Q Okay. We'll come back to that later, sir. Direct
13 your attention to February of 2012. So, this would be
14 after this most recent renewal with the State Medical
15 Board. Okay.

16 A All right.

17 Q Let's focus solely --

18 MR. HOYLE: Take that down, Mr. Knowles.

19 BY MR. HOYLE:

20 Q Let's focus solely on what was going on in your
21 life in that time frame in 2012. Okay? February of
22 2012. When you were working at the Naval Hospital in
23 the emergency room in February of 2012, you would be the
24 only doctor present during a shift, correct?

25 A Yes.

1 Q This is what you have told me is a single-physician
2 coverage emergency, correct?

3 A Yes.

4 Q Is it fair to say that no one was physically
5 present in the emergency room who was employed by the
6 military or as a civilian DOD employee who was directing
7 your day-to-day medical services, which you provided in
8 the emergency room?

9 A There was nobody directing day-to-day services that
10 I provided or telling me what to do.

11 Q For example, no one told you what tests to run on
12 patients, correct?

13 A No.

14 Q For example, no one told you what differential
15 diagnosis to make with respect to patients, correct?

16 A No.

17 Q For example, no one told you what diagnosis to make
18 with respect to patients, correct?

19 A No. It's the physician's responsibility to make
20 those decisions, and that's why we're there.

21 Q For example, no one told you what treatment to
22 render to patients, correct?

23 A Correct.

24 Q For example, no one told you what medications to
25 prescribe to patients, correct?

1 A Correct.

2 Q Just so we're all clear, no one stood over you in
3 the emergency room at the Naval Hospital, Beaufort, in
4 February of 2012, and told you what to do with the
5 patient or what not to do with a particular patient,
6 correct?

7 A Generally, that's correct, yes.

8 Q In other words, despite the fact that you were
9 working at the Naval Hospital, you could independently
10 diagnose and treat, or alter treatment of patients that
11 came in that you were seeing, within the scope of your
12 being a licensed medical doctor, correct?

13 A And that's exactly what an emergency physician does
14 in every hospital in the country.

15 Q Including at the Naval Hospital in Beaufort,
16 correct?

17 A Yes.

18 Q Now, in February of 2012, when a shift would start,
19 is it fair to say that nobody came in from the
20 government, whether they wore a military uniform or
21 whether they were a DOD employee, to see to it that you
22 had clocked in?

23 A We did not clock in, at that time. At some point
24 during our work at the Naval Hospital, we did clock in,
25 but not in February of 2012.

1 Q So, in February of 2012, when you would come in to
2 start your shift, would you just come into the emergency
3 room and talk to the physician who had been on the prior
4 shift?

5 A Yes.

6 Q And you and the other physician, as professionals,
7 as licensed medical doctors, would make whatever handoff
8 was necessary, so that you were fully apprised as to the
9 patients who were then present in the emergency room.

10 A Yes.

11 Q And similarly, when it was time for you to go home,
12 the other physician who is coming in to work the next
13 shift, would the two of you confer as professionals and
14 discuss the patients that you had been treating in the
15 emergency room, and you'd make the appropriate handoff
16 to him or her at that time?

17 A Well, not exactly. We would not necessarily
18 discuss all the patients that I had seen during my
19 shift. But any patients that were still in the
20 emergency department or that may be thought to be coming
21 back, we would discuss those particular ones, but not
22 every patient that I had seen.

23 Q So, fair to say, this is a four-bed E.R. at
24 Beaufort Naval Hospital in February of 2012, correct?

25 A No.

1 Q How many beds were there in February 2012?

2 A One, two, three, four, five.

3 Q Okay. Five beds. So, regardless of how many beds
4 are in this emergency room, if you had one patient in
5 there or two patients in there, when your shift was
6 over, you would talk to the next physician coming on
7 shift about those one or two patients, correct?

8 A Yes.

9 Q Wouldn't necessarily talk to him or her about what
10 you had been doing the previous twelve hours, but you'd
11 at least make sure that those patients who were in there
12 got the appropriate transition as far as information for
13 the next physician?

14 A Yes.

15 Q Okay.

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

17 THE COURT: Yes.

18 BY MR. HOYLE:

19 Q Doctor, I'm showing you what has been marked as
20 Defendant's 3, and moved into evidence in the trial of
21 this action. Have you ever seen that document before?

22 A I don't believe so.

23 Q And for the record, you're looking at a contract
24 between the Navy Medical Logistics Command and CasePro,
25 Incorporated, correct?

1 A I assume so. I don't know. I've never seen this
2 document before.

3 Q That's not something that you were sent back when
4 you were doing work in the emergency room back in 2012?
5 Is that correct?

6 A I don't recall. I'm sorry. I just don't recall.

7 Q But back in February of 2012, would you agree with
8 me that you received your paycheck from CasePro,
9 Incorporated?

10 A Yes.

11 Q Will you agree with me that, back in February of
12 2012, you received your benefits, such as health
13 insurance, vacation, 401(k) with match, and continuing
14 medical education allowance from CasePro, Incorporated?

15 A No.

16 Q You disagree with that statement?

17 A I didn't have any vacation.

18 Q Okay. Well, we'll strike that one out. What about
19 health insurance? Did you get that from CasePro?

20 A I don't remember whether, at that point, whether I
21 was a independent contractor or an employee. I just
22 don't recall. And it depends on that, really.

23 Q Okay. What about the 401(k) with match. Do you
24 recall getting that?

25 A Well, again, I -- I don't remember whether I was an

1 employee or not at that point. You may have that in
2 your records. I just don't remember. Those are all IRS
3 issues, and I just don't remember.

4 Q Okay. Don't know one way or the other, without
5 looking at some documents?

6 A No.

7 Q Is that fair?

8 A That's very fair.

9 Q Would you defer to your personnel file that CasePro
10 maintained in the ordinary course of its business for
11 information about those kind of things?

12 A Of course.

13 Q Okay. What was the typical shift for an emergency
14 room physician working at the Naval Hospital in
15 Beaufort, South Carolina in February of 2012? How many
16 hours was the shift, Doctor?

17 A Twelve hours.

18 Q Okay. At what time would a shift start, and what
19 time would a shift end?

20 A The shifts ran at twelve hours, from 7:00 to 7:00.

21 Q So, 7:00 in the morning to 7:00 at night.

22 A Correct.

23 Q Then, 7:00 at night 'til 7:00 in the morning.

24 A Yes.

25 Q Okay. And again, during the shifts, I think we've

1 established, there'd just be one medical doctor present,
2 correct?

3 A Yes.

4 Q How many nurses would be present during those
5 twelve-hour shifts?

6 A Again, this varied sometimes. But usually, it
7 would be one or two R.N.'s in the day shift, and
8 probably one R.N. and a nursing assistant or corpsman,
9 or something like that, in the evenings.

10 Q Will you agree with me that, as the only licensed
11 medical doctor in the emergency department, that you
12 would have been in charge during that shift of what the
13 nurses did or did not do?

14 A Could you please repeat the question.

15 Q Sure. I'll ask this question a little bit slower.
16 Will you agree with me that, as the only licensed
17 medical doctor in the E.R. department, that you would
18 have been in charge during that shift of what the nurses
19 did or did not do?

20 A Now, I did not direct the nurses as to their
21 duties. They had their own duties, and they were
22 licensed nurses. So, they did things, what was
23 appropriate and was demanded of their occupation.

24 Now, I was not in charge of the nurses directly.
25 The nursing supervisor would be. I was, in no way,

1 firing or hiring, or actually even documenting their
2 care, or reviewing their care in any way, so. So, I
3 really did not direct what they're supposed to do. I
4 never told them, do this, do this, unless there was
5 something specific I wanted. So, it -- it's a question
6 that I can't answer directly yes or no.

7 Q All right. I'll ask a second question, Doctor..
8 Will you agree with me that, as the only licensed
9 medical doctor in the emergency department, that you
10 were the person in charge of the E.R. and responsible
11 for everything in the E.R.?

12 A Yes, that is true.

13 Q But just so we're all clear, during a shift, during
14 a twelve-hour shift, from 7:00 a.m. to 7:00 p.m., as the
15 only licensed medical doctor in the emergency
16 department, were you or were you not in charge during
17 that shift of what the nurses did or did not do?

18 A Again, the question is very difficult to answer. I
19 am responsible for the care of the patients, absolutely,
20 but I don't direct everything that the nurses do.

21 Q All right, sir. Do you recall giving a deposition
22 in this case?

23 A I did not -- I don't -- yes, of course. The -- the
24 -- the one we mentioned before, the interrogation, yes.

25 Q Yeah, you referred to it as an interrogation.

1 A Yes.

2 Q And do you have any reason to dispute that
3 deposition took place on August the 18th, 2014, here in
4 Beaufort, South Carolina?

5 A I believe that was the right time, yes.

6 Q And do you recall whether or not you were
7 administered an oath, an oath to tell the truth, the
8 whole truth, and nothing but the truth, prior to that
9 deposition commencing?

10 A Yes, I was.

11 Q Okay. And that's similar to the oath you took here
12 today in this very courthouse, correct?

13 A Yes.

14 Q And do you recall that there was a court reporter
15 who was typing up everything that was said, and she put
16 it into a booklet?

17 A And there was a video machine, too, yes.

18 Q Okay. Well, let's see if we can find the
19 stenographic record.

20 MR. HOYLE: May I have Dr. Jansen's sealed,
21 original deposition, please.

22 THE COURT: Please feel free to unseal it.

23 MR. HOYLE: Your Honor, I would ask that you unseal
24 this transcript.

25 THE COURT: No, sir.

1 MR. HOYLE: All right.

2 THE COURT: Because you know what? It is sealed.
3 I would, therefore, verify it. And counsel has always
4 been so kind, and they've been willing to take one for
5 me and get a paper cut.

6 MR. HOYLE: I will gladly take a paper cut for
7 your Honor.

8 THE COURT: Thank you so much, Mr. Hoyle.

9 MR. HOYLE: Although, I will ask that your Honor
10 verify.

11 THE COURT: I already have. I saw it when he
12 picked it up.

13 MR. HOYLE: That it was sealed.

14 THE COURT: Yes, sir, I can, and that is correct.

15 MR. HOYLE: So, I'm standing in the presence of
16 Defendant's counsel, and breaking the seal of this
17 transcript. And actually, Madam Clerk, I believe these
18 are the exhibits, so we get to do it a second time.

19 THE COURT: Yes. Thanks. And it is also sealed.
20 Let the record reflect I see it; that is a seal.

21 Thank you so much, Mr. Hoyle.

22 MR. HOYLE: Thank you, your Honor.

23 BY MR. HOYLE:

24 Q Dr. Jansen, you have seen me, in the presence of
25 these jurors and this judge, unseal the original

1 transcript taken of your deposition on August the 18th,
2 2014, correct?

3 A Yes. In this particular case, I will trust that,
4 that is correct from you.

5 Q All right, sir. If you will turn to the 94th page
6 of that transcript.

7 A Yes, I'm here.

8 Q All right. On Line 1 of Page 94, it has that day,
9 question mark. I just want to make sure we're on the
10 same page.

11 A Same page, yes.

12 Q All right. I'm going to direct your attention to
13 Page 94, Line 24 of your transcript. My question was as
14 follows:

15 *And would you agree with me that, as*
16 *the only licensed medical doctor in the*
17 *emergency department, that you would have*
18 *been in charge during that shift of what the*
19 *nurses did or did not do?*

20 And on Line 3 of Page 95, tell the jury what your
21 answer was.

22 A At that time, the answer was yes. And if I may
23 qualify. What you're trying to get at is, I listened to
24 the question a little more carefully this time, and I
25 had to disagree to some degree with that, so.

1 Q You disagree with your prior testimony?

2 A No, I disagree with your questioning now, and I'm
3 -- I'm -- I'm listening a little bit more into your
4 questioning. And I told you, it's not a very easy
5 answer, and I didn't say yes or no, but I said that I'm
6 not in charge of exactly what the nurses do, but I'm in
7 charge of the emergency room, so. It's -- at this
8 point, in answering the question, I wanted to answer it
9 more completely and more correctly.

10 Q And when you got to the emergency room that fateful
11 Friday, the Friday that brings us here, February 24,
12 2012, did you have to check in with anyone else within
13 the four walls of the hospital?

14 A Not directly, no.

15 Q And before a patient came in, and you needed to
16 treat that patient; did you have to obtain any type of
17 authorization form from a U.S. governmental employee
18 before you could first determine whether or not you
19 could perform a certain type of medical treatment on him
20 or her?

21 A No.

22 Q Doctor, if you were the only licensed medical
23 doctor present in this emergency room on any given day,
24 and you have two registered nurses present, will you
25 agree with me that the only person that the registered

1 nurses could be taking an order from, with respect to a
2 given patient, would be you as the medical doctor?

3 A Generally, yes. Although, they can sometimes in
4 hospitals take order -- verbal orders from other
5 physicians, if there's patients that are coming in that
6 are specific doctors.

7 Q But you've told us here today that you were the
8 person in charge of the E.R. and responsible for
9 everything in the E.R. during a given shift, correct?

10 A That is correct.

11 Q No dispute from you about that.

12 A No.

13 Q Let's talk about your general practices in the
14 emergency room, including, but not limited to, the
15 emergency room at the Naval Hospital, Beaufort. Do you
16 have a belief, as a physician who primarily does his or
17 her work in an emergency room setting, as to whether or
18 not, generally speaking, a patient in the emergency room
19 should be allowed to leave before he or she is either,
20 (1) admitted, or, (2) discharged? Do you have an
21 opinion on that, or no opinion at all?

22 A I can give you my opinion. It depends on the
23 circumstances, the patient, and what the -- what the
24 occasion is then. It varies.

25 Q It depends on the circumstances. Did I hear that?

1 A Yes.

2 Q Will you agree with me that your general rule is
3 that, until a person with psychiatric problems is fully
4 evaluated as to flight risk, and you know how seriously
5 ill they are, that they do not leave the department for
6 a smoke or anything, really? Will you agree with me
7 that, that's your general rule?

8 A That is my personal rule, and really, that's also
9 dependent on -- I don't like disruption of continuity
10 and care of a patient. I don't like people leaving, and
11 me -- and if I need to order some tests, I don't want to
12 go looking for them. So, as a general, it makes sense
13 to keep all patients in the E.R. until their care is
14 completed. This is a general statement. It just makes
15 things flow more easily, doesn't keep other people
16 waiting, and things like that.

17 Q In other words, a patient doesn't leave, period.

18 A No, that's not true. And I think you will find, in
19 a lot of E.R.'s, that patients sometimes, again,
20 depending on the circumstances, depending on the E.R.
21 physician, depending on their preferences, I've known
22 that people will leave for a smoke. Usually, they don't
23 go by themselves. They go with an escort. But that's
24 not unheard of. Again, that not my personal preference,
25 but it's not unheard of to do that.

1 Q But with respect to a psychiatric patient, your
2 general rule is that, that person doesn't leave,
3 correct?

4 A Again, it depends on the situation. I mean, there
5 are psychiatric patients, and there are psychiatric
6 patients. So, it's -- it just really depends on the
7 situation. And that's what doctors do; they make a
8 medical decision based on the circumstances, and they
9 act on that. And it's the doctor's decision whether
10 they can be allowed to leave with an escort or not.

11 Q Was it your expectation on February 24, 2012, that
12 Calvin Hunt, while he was in the emergency room in which
13 you were the only licensed physician, that Calvin Hunt
14 would be supervised and watched?

15 A I did not give that order.

16 Q All right. Sir, I'm going to direct you to Page
17 149 of your transcript, the original of which is in
18 front of you, the seal which has been broken here in
19 open court, before this Court and this jury. Please
20 turn your attention to Page 149. Specifically, we're at
21 Page 149, Line 3, of your deposition transcript, sir.

22 A Yes.

23 Q Can I dispense with formalities? You remember the
24 deposition? Is that fair?

25 A Well, I don't remember the entire deposition. I

1 mean, if you point to specific areas, I'll comment on
2 them, of course.

3 Q All right. Well, let me make sure we're all on the
4 same page, sir. Do you recall giving a deposition in
5 this case back in August of 2014?

6 A Yes.

7 Q Do you recall being administered an oath by the
8 court reporter, an oath to tell the truth, the whole
9 truth, and nothing but the truth, so help you God?

10 A Just like here, yes.

11 Q Okay. And you recall there was somebody typing up
12 everything that was said at that deposition into a
13 booklet, correct?

14 A Just like you said before.

15 Q Okay. On Page 149 of your deposition transcript,
16 we're going to begin at Line Number 3. My question to
17 you was:

18 *It was your expectation, on February*
19 *24, 2012, that Mr. Hunt, while he was in the*
20 *emergency room that you were supervising,*
21 *was being supervised and watched, correct?*

22 A Yes.

23 Q And that was your answer.

24 A Yes. And I have no dispute with that.

25 Q What would you have said, on February 24, 2012, if

1 you had been asked whether or not Mr. Hunt could go out
2 for a breath of fresh air?

3 A Again, this -- this never happened, so I can only
4 theorize in a theoretical situation. If they had asked
5 me, can he go for a smoke, I probably would have said I
6 prefer him not to, but that would be, again, my personal
7 preference.

8 Q Would that be a personal preference or a general
9 rule, Doctor?

10 A Personal preference.

11 Q Is there a distinction, in your mind, between a
12 personal preference and a general rule?

13 A You can, perhaps, explain to me what you mean.

14 Q If you'll look up a little further on the page in
15 your deposition, Page 148.

16 A Yes. I'm there.

17 Q Page 148, Line Number 8, sir.

18 A All right.

19 Q I asked you the question,

20 *What would you have said on that*
21 *day, on February 24, 2012, if you had been*
22 *asked whether or not Mr. Hunt could go get*
23 *a breath of fresh air?*

24 Do you see that question?

25 A Yes.

1 Q And do you see your response, beginning at Line
2 Number 12?

3 A Yes.

4 Q Can you read what your response was?

5 A *Knowing what I know now, and as my general*
6 *rule is that, until a person with psychiatric*
7 *problems is fully evaluated as a flight risk,*
8 *and you know how seriously ill they are, they*
9 *do not leave the department for a smoke or*
10 *anything, really.*

11 Q The question that followed was:

12 *They don't leave, period?*

13 And your answer was?

14 A Correct.

15 Q And you still agree with that testimony today?

16 A Yes. I mean, knowing what I know now, yes. And
17 that's what's we're talking about.

18 Q The population that you treated at the Beaufort
19 Naval Hospital, did it include active duty military
20 personnel?

21 A Yes.

22 Q Did it include active duty military personnel's
23 dependents?

24 A Yes.

25 Q Did it include any type of retirees or veterans?

1 A Yes.

2 Q Fair to say that you were serving a military
3 community while you were practicing medicine within the
4 emergency room at the Naval Hospital?

5 A Yes, and including Marine recruits.

6 Q Do you agree with me that Marines want to be tough?

7 A I believe they do want to be tough.

8 Q And what are Marines trained to do?

9 A Well, they're trained to serve their country.

10 Q You have previously described Marines as killing
11 machines, correct?

12 A I don't recall.

13 Q You don't recall saying that, or don't recall
14 making that generalization?

15 A Neither.

16 Q Sir, I'm going to direct your attention to Page 122
17 of your deposition transcript, the original of which the
18 seal has been broken in this courtroom, in the presence
19 of this Court and this jury.

20 A Yes.

21 Q Are we on the same page, sir, 122?

22 A Yes.

23 Q I'm going to direct your attention to a question
24 that begins on Line 25 of 122.

25 A Um-hmm. Yes.

1 Q My question to you was:

2 What about for an enlisted man in the
3 United States Marine Corp? Is that a good
4 thing?

5 Beginning on Line 2, at 123, what was your answer?

6 A Again, I think Marines want to be tough,
7 impulsive, and they're killing machines.
8 They're out to kill, so they have to be
9 impulsive. You can't be passive as a
10 Marine. Some people think it's a good thing.

11 And if I may add, the proof is there, I did state
12 that, but I didn't remember.

13 Q Is that your view of our men and women who served
14 in the Marine Corp?

15 A Not -- not really. I mean, I think, at this point,
16 I was probably trying to make a point. I don't recall
17 exactly the circumstances, but I think the military are
18 a wonderful asset, and I think they're very hard-working
19 people that are frequently, you know, not appreciated by
20 people, and I think they do a wonderful job, and it's a
21 very hard job.

22 A Judge, may I have a refill, please?

23 THE COURT: Absolutely.

24 A Thank you.

25 THE COURT: Absolutely. Will you get that, sir.

1 A Thanks... Thank you.

2 THE COURT: Thank you so much. Thank you for
3 bringing that to our attention.

4 A Oh, that's right. Sorry to bother you.

5 THE COURT: Not at all.

6 BY MR. HOYLE:

7 Q Are you ready to continue, Doctor?

8 A Absolutely.

9 Q Do you agree with me that, when someone presents to
10 a medical doctor, and the medical doctor feels the need
11 to record on some sort of medical record that the person
12 is exhibiting thoughts of hurting others, that those
13 thoughts are self-explanatory?

14 A No.

15 Q Do you agree with the statement that, when a
16 medical doctor records in the medical records that a
17 person is exhibiting thoughts of hurting others, you
18 don't need to go to medical school to understand what it
19 means that someone has thoughts of hurting others. Do
20 you agree with that statement?

21 A I disagree.

22 Q Do you agree with me that it's common sense what it
23 means when somebody expresses thoughts of hurting others
24 to a medical provider?

25 A No, it's not common sense.

1 Q All right, sir. Let's go to page 109 of your
2 original deposition, the seal of which has been broken
3 in this courtroom, in the presence of this Court and
4 this jury. I'm going to direct your attention to Line
5 25, at Page 109.

6 A All right.

7 Q Are we on the same page, sir?

8 A Yes, we are, sir.

9 Q My question to you, beginning at Line 25, Page 109,
10 was as follows:

11 *When someone presents to you as a*
12 *medical doctor, and you feel the need to*
13 *record on some type of record that the*
14 *person is exhibiting thoughts of hurting*
15 *others, what can that mean?*

16 Your answer in the next two lines, 4 and 5, was as
17 follows:

18 *Well, exactly what it says: thoughts*
19 *of hurting others. I think that's self-*
20 *explanatory.*

21 Was that your testimony, sir?

22 A That's what I said at that time, yes.

23 Q But you've changed your mind.

24 A Not really, no.

25 Q That deposition continued with this question:

1 You think that's self-explanatory; don't
2 need to go to medical school to understand what
3 it means that someone has thoughts of hurting
4 others.

5 And what was your answer?

6 A No. Really, no.

7 Q Question: That's common sense.

8 And your answer?

9 A I -- I answered, at that point, of course.

10 Q That was your prior testimony, but that's not your
11 testimony today.

12 A Well, again, if I may answer why I'm answering the
13 way I'm today is that, I think the -- the terms you're
14 using are legal terms, and you're trying to make a
15 certain point with that, that any person off the street,
16 any child, could obviously tell that a particular
17 patient is suicidal or is going to kill themselves, and
18 my answer is no. And if that's what you're trying to
19 get me to say, I mean, I can't say that.

20 You have to have some medical training to be able
21 to distinguish between serious suicidal ideations and
22 not serious ones. And a regular person, no matter how
23 intelligent they are, may not have the training to do
24 that. So, that's what I'm trying to explain.

25 You're trying to catch me on little phrases and

1 words I said, but I'm trying to explain the reason I'm
2 answering it the way I am right now.

3 Q Doctor, you think you got to go to law school to
4 know what common sense is?

5 A I don't know.

6 Q You don't know. But you told me I was trying to
7 use legal terms. You think common sense is a legal
8 term, Doctor?

9 A I don't know.

10 Q Is it a medical term? Only something that medical
11 doctors and doctors of dental science, and only health
12 professionals can use?

13 A Sir, I'm afraid I don't know what you're trying to
14 get at.

15 Q When you told us, or told me in a room full of
16 lawyers, that something was self-explanatory, what did
17 you mean by those two words, *self-explanatory*? What
18 does that mean to you, sir?

19 A Well, it can mean it's -- it's -- it can be
20 something self-explanatory to me as a medical physician.
21 I mean, perhaps that's what I meant.

22 Q You think that's why I followed up with the
23 question:

24 *Don't need to go to medical school to*
25 *understand what it means when someone has*

1 *thoughts of hurting others.*

2 And you answered:

3 Not really, no.

4 A Well, what it means -- if you ask people, what does
5 it mean if someone has thoughts of hurting others, they
6 may give you answers, but they won't tell you is it a
7 serious threat or not a serious threat. So, in that
8 sense, you do need to have medical training.

9 Q So, your testimony in front of this Court and this
10 jury is, that's not common sense anymore, correct?

11 A Well, it depends what you're trying to answer.

12 Q Doctor, will you agree with me that, if something
13 is obvious, that, that means, by definition, that thing
14 which is obvious is not hidden?

15 A If you're talking generalities. Again, it depends
16 on the person that's making the statement, making the
17 assumption. Again, you're going to generalities, and I
18 really don't know what you're trying to get me to say.

19 Q I'm not trying to get you to say anything, Doctor.
20 I'm just trying to get you to answer my questions. Will
21 you agree with me that the word *opposite* [sic], by
22 definition, means that something is not hidden?

23 A No, I don't think that *opposite* means that
24 something is not hidden.

25 Q I apologize, Doctor. I got myself confused there.

1 That happens. Will you agree with me that obvious
2 means, by definition, something is not hidden?

3 A I would defer that to a dictionary. But what
4 you're saying seems to make sense, but if you're trying
5 to get me to give you a definition, I'm -- I'm not an
6 English major. I never studied that, so I can't exactly
7 say what it is. You can't hold me at it.

8 Q Are you telling this Court and this jury you'd have
9 to look the word *obvious* up in a dictionary?

10 A Well, I think, in this situation, in a court of
11 law, when you're asking me a specific question, you're
12 trying to trip me up, I think it would be fair to look
13 up what the definition is, in such a serious case as
14 we're dealing with right now.

15 Q Have you ever used the word *obvious* or *obviously*,
16 in connection with Calvin Dante Hunt?

17 A I think it is in my notes, and you probably are
18 getting at that, that I did use that word, but it was
19 not my word. I was paraphrasing somebody else.

20 Q When you paraphrase somebody else with the word
21 *obvious* or *obviously*, do you go pick up a dictionary
22 before you put that in the medical records, Doctor?

23 A No.

24 Q So, when you put that in the medical records, you
25 didn't know what the word *obvious* or *obviously* meant.

1 Is that what you're telling this Court and jury?

2 A I generally knew what it meant, but I couldn't
3 probably sit down and give you a definition that's a
4 proper definition.

5 Q Were you just guessing?

6 A No.

7 Q You had some precision when you used that word in
8 the medical records. Is that fair?

9 A Well, I had precision in terms of repeating what
10 somebody else said, and I assume it meant what that
11 person was trying to convey.

12 Q When that person tried to convey something about
13 Calvin Dante Hunt that was obvious, did you ask him or
14 her for any type of clarification? saying, what do you
15 mean when you say this is obvious. Did you do that?

16 A I don't recall.

17 Q You don't recall doing it, or you just don't know
18 one way or the other?

19 A I don't recall doing it.

20 Q Which means you didn't do it.

21 A No, it's not -- it's not in my notes, and I don't
22 recall, because it was over three years ago.

23 Q Doctor, had you ever met Calvin Hunt prior to
24 February 24, 2012?

25 A I don't believe so.

1 Q Do you actually remember anything about February
2 24, 2012, as you sit here today?

3 A I -- recollections have come back when I -- when I
4 reviewed my medical record that I -- that I used or
5 wrote at that time.

6 Q Doctor, I am holding what's previously been moved
7 into evidence as Plaintiff's 20.

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

9 THE COURT: Yes.

10 BY MR. HOYLE:

11 A I think you're drowning me in paper, but I think
12 I'll try to survive.

13 Q Well, if you need to take a break, Doctor, you just
14 let us know.

15 A Oh, no.

16 Q Nobody wants you to drown here, considering that
17 there's no water. Are you okay to continue, sir?

18 A I'm fine. There is a little water here, but thank
19 you.

20 Q If we need to call a lifeguard, you just let me
21 know.

22 A I can swim.

23 Q All right. With respect to the medical records you
24 have in front of you, --

25 A Yes.

1 Q -- do those appear to be medical records with
2 respect to Calvin Hunt from February 24, 2012?

3 A They appear to be, yes.

4 Q You think I've doctored them in any way?

5 A I don't believe so.

6 Q Did you actually review a set of those medical
7 records that you're currently holding in your hand prior
8 to coming here today?

9 A Not today, but probably yesterday.

10 Q Okay. So, you've seen them in some proximity to
11 today's testimony.

12 A Yes. Yes, of course.

13 Q Okay. Let's start with the emergency physician
14 record towards the back of the document. Are we on the
15 same page?

16 A Let's see here. I'll get to it. There we are.
17 Yes.

18 Q And in case anybody wasn't paying attention, you
19 were the emergency physician in the Naval Hospital E.R.,
20 Beaufort, on February 24, 2012, correct?

21 A Pardon me. Yes, I was.

22 Q You and you alone were the emergency physician
23 attending to Calvin Hunt, correct?

24 A Yes. Correct.

25 Q All right. And is this emergency physician record

1 something that you, as the emergency physician, would
2 have completed and filled out?

3 A Yes. This is called a T-sheet, and that was the
4 standard they were using at that time at the Naval
5 Hospital.

6 Q Okay. So, we've got a lot of information on this
7 document that's handwritten. Will you agree with that?

8 A Yes.

9 Q And whose handwriting is it on this emergency
10 physician record?

11 A I recognize it as my handwriting.

12 Q Okay. All right, Doctor. We've got a date on
13 here. What's the date, sir?

14 A It's February 24, 2012.

15 Q All right. And what time is it that you began
16 charting the emergency physician record on February 24,
17 2012?

18 A It's 1450, military time, or 2:50 p.m.

19 Q Any reason, as you sit here today, to think that's
20 an inaccurate time, or a time that needs some sort of
21 explanation?

22 A There's no reason for me to think that.

23 Q And there's some handwriting up here that's kind of
24 hard to see. What's that handwriting up at the top of
25 the page say?

1 A Oh, it says: *brought by the aid worker from DSS.*
2 Q Okay. And that's your handwriting, sir?
3 A Yes.
4 Q Underneath the date and time, we've got something
5 that says *historian*. Do you see that?
6 A Yes.
7 Q And what information did you mark for the historian
8 from which this medical record came?
9 A Well, the historian was the patient and Mr. Ray.
10 Q Prior to February 24, 2012, had you ever met Mr.
11 Ray?
12 A I don't believe so, no.
13 Q Didn't know him one way or the other.
14 A I don't believe I met him.
15 Q And we've got something up here that says *HPI*. Do
16 you see that?
17 A Yes.
18 Q What is *HPI*?
19 A History of Present Illness.
20 Q And do we need to get the dictionary about that, or
21 can you tell us what the word *present* means?
22 A Now, you really don't have to act like that with
23 me, sir.
24 Q All right. Can you tell us, as you sit here today,
25 what the word *present* means?

1 A History of Present Illness. History of the current
2 illness.

3 Q So, in other words, what was going on at 1450, on
4 2/24/12.

5 A Well, or before that, or what led up to the patient
6 coming.

7 Q And what's the chief complaint that you thought was
8 then occurring, or having just occurred some small
9 period of time immediately before you laid eyes on this
10 man?

11 A Well, there were -- there were three complaints.
12 One was written by myself as a medication refill. Two
13 was depression, and three was suicidal thoughts.

14 Q And you actually circled suicidal thoughts and
15 depression.

16 A Yes.

17 Q And you believed that those were present illnesses
18 or reasons for Calvin Hunt to be in your emergency room,
19 correct?

20 A Well, that was what was stated as the problem, the
21 presenting problem.

22 Q And who stated that existing problem?

23 A That would have been -- how do I arrive at that
24 history of present illness? That would have been
25 probably a combination of nurses' notes, perhaps what

1 the patient said, perhaps what Mr. Ray said.

2 Q But that was your understanding when you first
3 started laying eyes on Calvin Hunt, that, that's why he
4 was there.

5 A Correct.

6 Q We've got suicidal thoughts, depression, and
7 medication refill, correct?

8 A Correct.

9 Q Are you able to tell this jury what specific
10 medications Calvin Hunt needed to have refilled?

11 A I would have probably looked at the nurse's note,
12 where they would have written what medications he is on.
13 And I would have then probably asked the patient which
14 pain medications he would like to have refilled, if that
15 was the sole purpose of his visit.

16 Q Was that the sole purpose of his visit, or do you
17 not recall?

18 A Well, I don't recall exactly, but from the nurse's
19 note and from the other information I have, it appears
20 that medication refill was one of the things that he
21 wanted. However, there was some suspicion that there
22 was suicidal thoughts and depression. And the first
23 duty of a physician is to insure safety of a patient.
24 So, I wasn't just going to write a prescription for him
25 and say, here's your medication; have a good day, sir.

1 I wanted to look into the other complaints that were
2 present.

3 Q You just weren't going to give him some pills and
4 send him home.

5 A No, no.

6 Q Is that what you're telling me?

7 A That would be very bad.

8 Q That would be very bad. Okay. And underneath
9 chief complaint, we have a time line. It says:
10 *started, backslash.* Do you see that?

11 A Yes.

12 Q And for the chief complaint of suicidal thoughts,
13 depression, and medication refill, when did those
14 complaints start or begin?

15 A Well, I wrote *several weeks ago*. Not more specific
16 than that, but *several weeks ago*.

17 Q As you understood it, when you filled out this
18 record on February the 24th, 2012, these suicidal
19 thoughts, the depression, and the need for medications
20 to be refilled had been going on for several weeks. Is
21 that what your record reflects?

22 A Yes. That's what I probably would have assumed,
23 reading this record.

24 Q And these concerns hadn't magically stopped when
25 Calvin Hunt came into the E.R., because you also put

1 that these complaints continued in the E.R., correct?

2 A Yes, yes.

3 Q You circled that.

4 A Yes, I did.

5 Q So, those complaints of Calvin Hunt, they've been
6 going on for several weeks, and they were going on while
7 Calvin Hunt was directly in front of you in the
8 emergency room at Naval Hospital, Beaufort, correct?

9 A That was from the history, and I was going to delve
10 more into that and to determine exactly what was going
11 on.

12 Q And there's a section of this record that says
13 severity. Do you see that? Immediately underneath.

14 A Yes. Yes, yes, yes, of course.

15 Q And we have three levels of severity. Kind of like
16 Sears Roebuck had the good, better, best. We've got a
17 severity of mild, moderate, and severe. Do you see
18 that?

19 A Yes, I do.

20 Q And of the mild, moderate, or severe, can you rank
21 in order those three levels of severity for us, as you
22 sit here today?

23 A Well, I circled severe, if that's what you're
24 trying to get me to say. And that's obvious.

25 Q Well, explain to us the difference between

1 something that's mild, something that's moderate, and
2 something that's severe.

3 A Well, mild is mild, and moderate is more than mild,
4 and severe is very much more than mild.

5 Q With respect to those three levels of severity that
6 you've explained to us today, would one of those three
7 concern you more than the other two?

8 A Well, severe is obviously more, how should I say,
9 would get your attention more than something that's
10 mild. But again, this was my writing, and I felt that
11 anybody that presents with any suicidal thoughts or
12 depression, it's probably severe. And in terms of that,
13 they need to be seen promptly, and treated promptly, and
14 in a safe manner.

15 Q There's a context that your medical record provides
16 under severity. Do you see that?

17 A Yes.

18 Q And what word or words did you circle, sir?

19 A Situational problems.

20 Q And what does that mean, situational problems?

21 A Well, situational problems can mean if there's
22 anything else that you want to add to what's leading up
23 to this particular complaint.

24 Q It's some context or background information --

25 A Yes.

1 Q -- to help you understand, perhaps, just how severe
2 these problems might be. Is that fair?

3 A Yes, that's fair.

4 Q All right. And what information did you feel the
5 need on February 24, 2012 to write down?

6 A Well, I wrote here, and it's -- the jury, perhaps
7 you can show it to the jury -- is:

8 *The patient dishonorably discharged*
9 *from USMC and is appealing the decision.*
10 *He is visiting with grandmother in Beaufort,*
11 *and she called Mr. Ray, concerned about his*
12 *depression.*

13 Q So, at this point in the medical records, you know
14 that there is a severe concern about suicidal thoughts,
15 depression, and the need for medication refill, and that
16 Mr. Hunt's own grandmother called someone, because she
17 was concerned about her grandson's depression.

18 A Yes.

19 Q And at that point in time, when you started filling
20 this record out, we have current associated complaints.
21 Do you see that?

22 A Yes, I do.

23 Q And there are one, two, three, four, five, six
24 options that you could have circled under current
25 associated complaints, correct?

1 A Yes.

2 Q And you circled two of them, correct?

3 A Correct.

4 Q Which two did you circle?

5 A Depressed and angry.

6 Q Now, Doctor, what does the word angry mean?

7 A Angry probably means expressing some degree of
8 hostility.

9 Q Is angry -- strike that. Does angry mean the same
10 thing as calm, or are those opposites?

11 A Those would be opposites, I would think.

12 Q Kind of like cats and dogs, apples and oranges?

13 A You can use that analogy, yes.

14 Q Thank you, Doctor. Now, on this medical record, we
15 have something circled. What two words did you circle?

16 A Circled is suicidal thoughts.

17 Q And then, there are some words in your handwriting
18 that follow underneath the circling of the words
19 *suicidal thoughts*, correct?

20 A Yes.

21 Q Read for the Court and this jury the words that
22 follow suicidal thoughts.

23 A *Suicidal thoughts and thoughts of*
24 *hurting others, but no specific plan.*

25 Q Let me stop you right there. We had some

1 discussion a few minutes ago about what thoughts of
2 hurting others means. Do you recall that?

3 A Yes.

4 Q And we had to look at your deposition in this case
5 to try to get an understanding of what that means. But
6 let me just ask you. Thoughts of hurting others. Do
7 you have to go to medical school to know what that
8 means? Yes or no.

9 A Well, if -- if -- if you did not go to medical
10 school, and you read thoughts of hurting others, I think
11 that would -- you could probably figure out what that
12 means.

13 Q And what does that mean, Doctor, when someone has
14 thoughts of hurting others? What do they have thoughts
15 of doing?

16 A Well, they have thoughts of hurting others, I think
17 that's what the words mean.

18 Q Do you think that's self-explanatory?

19 A Again, it's degrees. There can be serious thoughts
20 of hurting each [sic] other, which have -- carry no
21 consequences whatsoever. And as an example, I can give
22 you where it's probably not serious is, if you're
23 driving a car somewhere in town and somebody cuts you
24 off, you may say, goodness, gracious, I'd like to kill
25 that person for doing that. That's a thought of hurting

1 others, but probably after a day or so, you kind of calm
2 down, and you say, oh, my goodness; that's ridiculous;
3 that's like road rage; I better not think of that. So,
4 that's a non-serious thought of hurting others.

5 As an example of something serious being a thought
6 -- serious thought of hurting others would be somebody
7 that's, let's say, a postal worker, and hate -- I hope
8 nobody here works for the Post Office -- but is getting
9 fired at work; and goes out and threatens the supervisor
10 and says I'm going to kill you; and he goes out to
11 WalMart and purchases a weapon; gets some ammunition.
12 And in that case, I think that's a very serious
13 homicidal ideation.

14 So, there are degrees, and I think only a medical
15 professional can decide that. So, it's not obvious to a
16 layperson.

17 Q Um-hmm. There's a section on this medical record
18 that you filled out on February 24, 2012 that says other
19 problems. Do you see that?

20 A Yes, I do.

21 Q And by my count, there are one, two, three other
22 problems that you felt the need to record for
23 posterity's sake on this record. Is that correct?

24 A Well, for -- for information, yes.

25 Q All right. What's the first one, Doctor?

1 A Alcohol/drug abuse.

2 Q And the next one?

3 A Depression.

4 Q And the last one?

5 A Prior suicide gesture.

6 Q Now, Doctor, you told me earlier that you had
7 reviewed the nursing note prepared there in the
8 emergency room. Do you recall telling me that?

9 A I don't recall telling you that, but if I did say
10 that, then, probably, at that time, I had looked at the
11 records, and that probably did make sense, and that was
12 probably the correct answer.

13 Q If you'll look at the next page of your physician
14 record, there's some information on here that says
15 *Nursing Assessment Review*. Do you see that?

16 A Let me see here. Yes, yes.

17 Q All right. And there's a box that's next to those
18 words. You see that?

19 A Yes.

20 Q And is that box checked or not checked?

21 A Checked.

22 Q Okay. You think it's more likely than not that you
23 actually reviewed the nursing notes?

24 A Looking at the record right now, if I checked the
25 box, then, I did do it. Again, I have the benefit of

1 looking at the records and reminding myself.

2 Q Okay.

3 A That's why we have records.

4 Q That is why we have records. Thank you, Doctor.
5 All right. With respect to the nursing notes, can you
6 find those in that packet of materials?

7 A Well, let me look for them. All right. Yes. I
8 think it's Page 2, and it says, well: *Triage Record*.
9 *Emergency Department Triage Record*, on left, upper
10 corner.

11 Q All right. Who performed this assessment? Which
12 registered nurse?

13 A It looks -- it's signed by Janice McDonald.

14 Q All right. And to your recollection, was Janice
15 McDonald working on February 24, 2012?

16 A Again, I believe she was.

17 Q Okay. So, you would have actually reviewed this
18 information that Nurse Janice filled out that day,
19 correct?

20 A Yes.

21 Q All right. There's a list of medications that
22 Nurse Janice McDonald placed on the triage record. Do
23 you see that?

24 A Yes, I do.

25 Q Would you have reviewed that list of medications on

1 February the 24th, 2012?

2 A I would have looked at it and noted it, yes.

3 Q Okay. And what stands out to you with respect to
4 those four medications that are listed on Nurse Janice
5 McDonald's triage record?

6 A Well, I see two medications that are used for --
7 for psychiatric conditions. I use -- see one that's
8 used for urogenital conditions, and one for addiction.

9 Q All right. Well, let's focus our attention to the
10 two medications that are related to psychiatric
11 conditions, Doctor.

12 A Yes, of course.

13 Q Which of those two of those four listed,
14 medication-wise, have to do with psychiatric conditions?

15 A The first and the last one.

16 Q All right. And what is the first medication,
17 Doctor, that you would have reviewed on Nurse Janice
18 McDonald's list?

19 A Well, I would have seen Citalopram. That's the
20 first medication.

21 Q Tell the jury -- tell the jury what that's a
22 medication for.

23 A Well, it's a medicine that's most commonly used for
24 depression.

25 Q And the last medication that's on there, what's

1 that medication called?

2 A Well, it's called Quetiapine, or better known as
3 Seroquil.

4 Q All right. And tell the jury what Seroquil is
5 for.

6 A Well, Seroquil belongs to a class of anti-psychotic
7 medications. However, it's got a multi-factorial use.
8 One, it can be used for schizophrenics. Two, it can be
9 used as a mood stabilizer for manic depressive patient.
10 And three, and most commonly, it's used as adjunct for
11 depression. And when the medications for depression
12 don't work, often, Seroquil will be added to help the
13 depressed patient.

14 Q Now, let me stop you right there. When you saw
15 that Seroquil was one of the medicines that Calvin Hunt
16 was in need of, did you know for what reason he had been
17 prescribed that medication? Yes or no.

18 A No, I didn't.

19 Q What steps did you take, as the only physician in
20 the emergency room at the Naval Hospital, Beaufort, on
21 February 24, 2012, to determine why it was that Calvin
22 Hunt had been prescribed Seroquil?

23 A Well, I talked to the patient.

24 Q Okay. And was Mr. Hunt able to tell you why it was
25 he had been taking Seroquil? Yes or no.

1 A No.

2 Q All right. Did Mr. Ray know why it was that Calvin
3 Hunt had been taking Seroquil?

4 A I don't recall asking Mr. Hunt, although I may
5 have.

6 Q You mean, Mr. Ray?

7 A Mr. Ray. I'm sorry. Mr. Ray. But I may have. I
8 don't recall.

9 Q But you knew that one of the possibilities was it
10 could be used as an adjunct for treating depression,
11 correct?

12 A Yes.

13 Q That it could also be used to treat schizophrenia?

14 A Yes.

15 Q And you also knew it could also be used to treat
16 something -- I believe you called it manic disorder?

17 A Bipolar or manic depressive. We use bipolar now.

18 Q That's the better term.

19 A Well, it's the term commonly used right now.

20 Q Okay. But you didn't have a specific understanding
21 whether or not Calvin Hunt was bipolar, schizophrenic,
22 or just depressed.

23 A No.

24 Q We go back to your records from that day, to the
25 second page of your physician record.

1 A All right.

2 Q There's some handwriting in parentheses up at the
3 top of the page. Do you see that?

4 A Yes.

5 Q Whose handwriting is that?

6 A That's probably my handwriting.

7 Q Well, I don't want you --

8 A It's bad -- it'd bad enough to be mine.

9 Q Okay. You're going to take credit for it.

10 A I will.

11 Q Okay. What words did you write at the top of the
12 second page of your medical record?

13 A It says, in brackets: *see prior medical notes from*
14 *Mr. Ray.*

15 Q All right. So, that's something you wrote,
16 correct?

17 A Yes.

18 Q Did you actually look at any hard-copy medical
19 records that Calvin Hunt and/or Edward Ray brought into
20 the emergency room, or do you not recall?

21 A Now, to be honest, I don't recall. But I'm almost
22 quite certain that there were no medical records that
23 were available from Mr. Hunt or Mr. Ray.

24 Q Well, this note up here, this writing up here, --

25 A Um-hmm.

1 Q -- it says *see prior* -- what's that word?

2 A *Medical notes.*

3 Q *Medical notes. What's a medical note, Doctor?*

4 A *What it says, a medical note. That does not*
5 *necessarily mean a record.*

6 Q *In your years at the Naval Hospital here in*
7 *Beaufort, South Carolina, did you ever see active-duty*
8 *personnel come into the emergency room with their hard*
9 *copy medical records?*

10 A *Yes.*

11 Q *Particularly if those persons were coming here to*
12 *Beaufort or Parris Island from another duty station, is*
13 *that something you commonly saw?*

14 A *Not commonly, but occasionally, I did.*

15 Q *It wasn't the first time -- strike that. But you*
16 *distin -- you distinguish, as you sit here today, in*
17 *this courthouse, under oath, the difference between a*
18 *medical note and a medical record, correct?*

19 A *Well, again, I don't recall exactly what it was.*
20 *It certainly wasn't this thick, which I would expect for*
21 *a patient that has had a lot of problems to be. And*
22 *it's -- it could have been notes from Mr. Ray from his*
23 *visit and in his personal notes. It could have been*
24 *some sort of letter of introduction or eligibility kind*
25 *of for Mr. Hunt. I don't recall exactly. It was*

1 something pertaining to -- to Mr. Hunt probably, but I
2 -- I don't know whether they were actual medical records
3 that could be useful in any way for me to determine any
4 further treatment of the patient.

5 Q You don't know, and can't tell us what it is,
6 exactly, you looked at. Is that fair?

7 A Well, at the moment, I can't, no.

8 Q Okay. Just know that there were prior medical
9 notes that you felt the need to record on your medical
10 record about this visit on this day, correct?

11 A Yes.

12 Q Can't tell us whether or not you looked at them,
13 didn't look at them, or what might be in them, correct?

14 A I don't recall. It would sort of make sense that I
15 glanced at it, but unfortunately, I did not document
16 anything. It probably was not helpful to the case, if I
17 did not document it. But I -- I can't comment more on
18 that.

19 Q All right. We'll come back to that, Doctor. Going
20 back to the nursing note from Ms. Janice McDonald.

21 A Going back. Okay. Give me one minute, please, to
22 go back.

23 Q Yes, sir.

24 A You're jumping a little bit here. Go ahead.

25 Q All right. On her assessment, she writes, among

1 other things, *suicidal ideation and PTSD*. Is that
2 correct?

3 A Yes. Yes.

4 Q That's something that you would have reviewed in
5 the emergency room, on February 24, 2012, correct?

6 A I would have noted it, probably, in the nurses'
7 note, yes.

8 Q Okay. Now, I didn't see on your record that you
9 filled out any reference to PTSD.

10 A No, I did not.

11 Q You don't see that, either.

12 A I don't see that, no.

13 Q On February 24, 2012, did you decide that Ms.
14 Janice McDonald was incorrect in her assessment about
15 Calvin Hunt having PTSD, or did that just not enter into
16 your equation?

17 A Well, I probably did not -- for some reason, either
18 I forgot to put it in, or I was concerned about other
19 things and doing the rest of the physical. You know, I
20 also didn't put that he had a cyst removed. I didn't
21 put that in either. So, I'm not going to copy
22 everything from the nurse's note, necessarily.

23 Q Which would have more to do with a patient whose
24 chief complaint was suicidal ideation, having a cyst
25 removed or having PTSD?

1 A Well, PTSD probably would be more appropriate in
2 that situation.

3 Q Particularly somebody who was an enlisted man in
4 the United States Marine Corp. Is that fair?

5 A That's fair. And again, the reason I said that
6 was, I don't always transfer all the notes from the
7 nurse to my notes.

8 Q What was the source of Calvin Hunt's PTSD? Was it
9 combat related, or do you not know?

10 A I don't remember at the moment. I don't recall.

11 Q What steps, if any, did you take on February the
12 24th, 2012, to see why it was Calvin Hunt had PTSD,
13 according to Nurse Janice McDonald's nursing notes?

14 A Most likely, I did attempt to talk to the patient.

15 Q Did you do anything else, Doctor?

16 A Yes, I -- I referred him to a psychiatrist, because
17 I was really not getting anywhere with him to really
18 arrive at a good decision as to what's going on with
19 him. And I was hoping the specialist would be able to
20 delve more into it, perhaps research his medical
21 records, and really arrive at a better understanding of
22 what he's there for.

23 Q Did I hear correctly that you didn't think you were
24 getting good information out of Mr. Hunt? Is that what
25 you just told us?

1 A That's correct, yes.

2 Q He wasn't very forthcoming.

3 A Yes.

4 Q Was he withdrawn?

5 A I don't recall. If -- if I wrote it there, then,
6 it was. But I have to refer to the records, I'm afraid.

7 Q Certainly. Certainly. Well, let's look -- we'll
8 just go right back to Nurse Janice's record, which you
9 said you reviewed. And this is her nursing assessment,
10 which she performed the same day Calvin Hunt was in the
11 emergency room, correct?

12 A Right. Um-hmm. Yes.

13 Q That's a yes?

14 A Yes, yes. Of course.

15 Q And in *psycho social* in her nursing assessment,
16 what box did she check for the behavior which best
17 described Calvin Hunt?

18 A She checked off flat, depressed, withdrawn, and
19 suicidal.

20 Q And you believe that accurately described Calvin
21 Hunt that day, correct?

22 A That's -- that's what the nurse wrote, and you
23 probably have to question her about that. That's her
24 writing.

25 Q But on February 24th, when you reviewed this

1 record, --

2 A Um-hmm.

3 Q -- did you feel the need, in any of the records
4 that you, as his doctor, were filling out, taking issue
5 or disagreeing with any of those psycho social
6 assessments?

7 A I did not. I -- since I did not write anything or
8 disagree with the notes, I -- I would assume that I
9 agreed with the nursing assessment.

10 Q You didn't write on your record in big letters at
11 the top, I, Dr. Jansen, disagree with Nurse Janice, or
12 anything to that effect. Is that fair?

13 A No. No, I did not.

14 Q Okay. And when you said you reviewed the nursing
15 assessment on the second page of your record, you didn't
16 put out to the side, and I disagree with everything she
17 wrote, did you?

18 A No, I didn't.

19 Q Okay. In fact, we'll skip -- we'll come back to
20 this. Don't think we're going to skip anything.

21 Under, orientation, you have the opportunity to
22 circle some information yourself, didn't you?

23 A Let me see. We're on a different page now. Let's
24 see here. Orientation. Can you show me where we're at?

25 Q Certainly.

1 A There. Okay. Got it. Orientation. Yes.

2 Q You had the opportunity to circle a word, and tell
3 me what word you circled.

4 A Circled disoriented.

5 Q All right. Did this patient know or not know his
6 Social Security Number?

7 A From my notes, it says he doesn't recall his Social
8 Security Number.

9 Q Now, I've heard, from my own experience growing up
10 on a military bases and watching enough movies, that
11 line name, rank, and serial number. You've heard that?

12 A Yes, but serial number is not your Social Security
13 Number.

14 Q That's entirely fair, Doctor. How frequently, if
15 ever, have you ever had a patient in the Naval Hospital,
16 Beaufort Emergency Room, who did not know his or her
17 Social Security Number, if he or she had been an
18 enlisted man in the Service, or an enlisted woman in the
19 Service, or a commissioned officer?

20 A Well, again, most people would know it, and that's
21 why I noted it, that he didn't know it, because that
22 jumped out at you a little bit.

23 Q That's something that's surprising when you're
24 talking about somebody who enlisted in the Service. Is
25 that fair?

1 A And exactly. That's why I documented that.

2 Q Suggests that perhaps this man doesn't have all his
3 wits about him. Would you agree with that?

4 A Not necessarily. I think you can make a case for
5 somebody that's depressed or upset or angry, and he just
6 -- he has other thoughts going through his mind, and he
7 just either doesn't want to answer, or is being evasive,
8 or you know, things like that. So, I mean, there --
9 there's a lot of reasons why people would refuse to
10 answer questions or give information, so. He doesn't
11 necessarily have to be out of his wits.

12 Q Did you write that Calvin Hunt refused to give you
13 his Social Security Number or that he didn't recall his
14 Social Security Number? Which of those two did you
15 write, Doctor?

16 A Well, I wrote he doesn't recall Social Security
17 Number.

18 Q Would you agree with me that not remembering
19 something is completely different than a volunteering
20 and where you refuse to provide certain information?
21 Those are different concepts, aren't they, Doctor?

22 A Generally speaking, yes. I agree with that, and I
23 don't know if that particularly pertains to this case,
24 though.

25 Q But you, when you're filling this out, was your

1 goal to fill these records out accurately or
2 inaccurately?

3 A As accurately as possible.

4 Q So, you had a blank line there, correct?

5 A Yes.

6 Q You could have written whatever words you wanted to
7 with respect to Calvin Hunt's orientation, correct?

8 A Yes.

9 Q But you felt the need to write *doesn't recall SSN*,
10 correct?

11 A Yes.

12 Q Instead of refused to tell me SSN, or something
13 along those lines, correct?

14 A That's what I wrote, yes.

15 Q I just want to make sure. Your testimony here
16 today is that Calvin Hunt didn't remember what his
17 Social Security Number was.

18 A And that's what's written in the records.

19 Q All right. Let's go up here, back to the top. I
20 said we weren't going to skip this.

21 A I believe you.

22 Q I want to follow through that. Calvin Hunt's
23 general appearance. What word or words did you circle?

24 A I circled anxious. And above that, moderate.

25 Q Does the mild/moderate/severe distress, is that its

1 own line, or -- or --

2 A That's its own line.

3 Q Okay. So, those are two separate things we're
4 talking about here, correct?

5 A Yes.

6 Q All right. So, as far as Calvin Hunt's general
7 appearance, you could have said he had mild distress or
8 severe distress, but you picked moderate distress,
9 correct?

10 A Yes.

11 Q That's smack dab in the middle of those three
12 choices, correct?

13 A Yes.

14 Q All right. Help the Court and jury understand what
15 you meant by moderate distress, when you have the option
16 of mild, moderate, and severe.

17 A Well, I -- I -- I would suspect that, if he was
18 angry or depressed, his demeanor would show that, and I
19 certainly wouldn't say mild. And he wasn't flailing
20 about in the E.R. and running around and threatening
21 people, so it wasn't severe. So, I think, since we only
22 have three choices, that's the closest one that fits the
23 situation.

24 Q But it definitely wasn't mild, correct?

25 A I circled moderate. I felt it was moderate.

1 Q So, it wasn't mild, correct?

2 A Yes. By exclusion.

3 Q And going back to anxious.

4 A Yes.

5 Q What does it mean when somebody is anxious?

6 A It means that they're not calm.

7 Q Not calm. Okay. So, you've told us he's angry,
8 and you've told us he's not calm, correct?

9 A That he's anxious.

10 If I may, if it might please the Court, I did not
11 say that he was not calm. I said he was anxious. And
12 you're asking me, what does -- what does anxious mean.
13 I think anxious is the best definition of that, and I
14 don't know if --

15 Q Now, anxious. So, you just told us -- I want to
16 make sure my ears are hearing correctly --

17 A Yes.

18 Q -- that, if somebody is anxious, that means they're
19 not calm, correct?

20 A That's a -- that's a -- you can say that's a
21 descriptive, another word for anxious, but it may not
22 apply exactly to a patient, that he may be more anxious
23 than not calm. And I think, since my records say he was
24 anxious, I think we should leave it at that and not put
25 in not calm.

1 Q All right. Well, we'll just strike through the not
2 calm. But you agree with angry and anxious, correct?

3 A Yes, that's in the records.

4 Q That's in the record. Not going to quarrel with
5 the record. And while we're going through this, you
6 would agree with me that Calvin Hunt was disoriented and
7 didn't know his Social Security Number, correct?

8 A He was disoriented to his Social Security Number.
9 Only to that.

10 THE COURT: Oh, you've paused. Excellent time to
11 take a comfort break.

12 MR. HOYLE: I agree, your Honor.

13 THE COURT: Ladies and gentlemen, we're going to
14 take our afternoon break. Step to your jury room. Do
15 not discuss this case or allow anyone to discuss it with
16 you. Leave your notebooks in your seats, and we'll take
17 about 15 minutes. Thank you. Thank you.

18 JURORS LEAVE COURTROOM 3:43 P.M.

19 BAILIFF: Jury is clear, your Honor.

20 THE COURT: All right. Thank you. Dr. Jansen, you
21 also take a break, please.

22 A Okay.

23 THE COURT: Be mindful not to discuss your
24 testimony with anyone, and we'll get you fresh water
25 during the break.

1 A Even with the lawyers?

2 THE COURT: Even with the lawyers. Well, you can
3 talk to them about anything but your testimony.

4 A All right.

5 THE COURT: Now, you can talk about -- well, it's
6 too late to talk to them about the Yankees.

7 A Yes. Yes. All right. I understand.

8 THE COURT: Talk to them about Toronto, if you want
9 to.

10 A I understand. Thank you.

11 OFF THE RECORD 3:44 P.M.

12 BACK ON THE RECORD 4:03 P.M.

13 BY THE COURT:

14 BAILIFF: All rise. This court is now in session.

15 THE COURT: Everybody ready?

16 MR. HOYLE: Yes, your Honor. Plaintiff is ready.

17 THE COURT: Yes, sir, Doctor, come on back around.

18 Let's have the jury.

19 BAILIFF: Ready, your Honor?

20 THE COURT: Yes.

21 BAILIFF: Jury is entering the courtroom, your
22 Honor.

23 JURORS ENTER COURTROOM 4:04 P.M.

24 THE COURT: All right. You may continue.

25 MR. HOYLE: Thank you, your Honor.

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 THREE

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 THE COURT: Yes, sir.

2 DR. CHRISTIAN JANSEN, CONTINUE

3 DIRECT EXAMINATION, BY MR. HOYLE:

4 Q Dr. Jansen, I want to go back to the records that
5 you were filling out yourself on February 24, 2012 at
6 the Naval Hospital, Beaufort Emergency Room.

7 A Fine. Fine.

8 Q And we looked pretty healthily before we took a
9 break at the left-hand side of the first page of your
10 record. Let's look over here at the right-hand side.
11 We were talking earlier about medications, and you
12 actually circled *see nurse's note*, correct?

13 A Let's see here. Yes.

14 Q And I believe, as part of my examination, we
15 actually established that you did, in fact, look at
16 Nurse Janice McDonald's record and view the medications
17 of which Calvin Hunt was seeking a refill, correct?

18 A Presumed medications, I believe. I wasn't able to
19 get information from him. So, we can assume that's what
20 it was, but we can't be a hundred percent certain.

21 Q Okay. And we'll talk more about your dialogue with
22 Mr. Hunt in a moment. But at least according to the
23 record that you filled out, there are some words that
24 you wrote underneath the box with the word *medications*.
25 Do you see those words?

1 A Yes.

2 Q And what words are written?

3 A It says ran out of meds, or medications.

4 Q All right. And we had already established there
5 were some medications that were on the nurse's note,
6 including one for depression, another called Seroquil,
7 correct?

8 A Yes.

9 Q Did you know how long, in February 24, 2012, Calvin
10 Hunt had been out of his anti-psychotic medication?

11 A No. I never got a chance to go that far.

12 Q Okay. And you started interacting with Mr. Hunt at
13 1450. And for those of us who primarily live our lives
14 in the civilian world, what time is that?

15 A 2:50 p.m.

16 Q And on February the 24th, 2012, during the time
17 frame that Calvin Hunt was in your emergency room at the
18 Naval Hospital in Beaufort, was he the only patient
19 there?

20 A I'm not sure, but that probably is the case, from
21 what I've heard from the records or from the lawyers.

22 Q You don't dispute that Calvin Hunt was the only
23 patient in the emergency room during this 2:00 o'clock
24 to 4:00 o'clock time frame on February 24, 2012?

25 A I wouldn't particularly dispute that one way or the

1 other.

2 Q Okay. All right. All right. Let's go back to the
3 second page or your notes. And it looks like you're
4 completing a physical exam on Mr. Hunt. Is that
5 correct?

6 A Yes.

7 Q You're actually laying hands on him as a doctor and
8 a patient, correct?

9 A Yes.

10 Q Okay. Did you listen to his heart with a
11 stethoscope?

12 A Let's see here. From the records here, I don't
13 know whether I did that. But for a general patient that
14 comes in, I wouldn't usually listen to the heart and
15 lungs. I don't have anything recorded here that I did
16 that. I probably did, but I can't tell for certain.

17 Q Okay. Don't know one way or the other.

18 A No.

19 Q Okay. But regardless, you go through various
20 categories of things, with respect to his EMTIs, those
21 kind of things, correct?

22 A Yes.

23 Q All right. On here, with respect to neuro-
24 psychological, and you've got some words that reflect
25 this person's mental state, correct?

1 A Yes.

2 Q And what word or words did you yourself circle on
3 this record?

4 A Depressed affect.

5 Q Okay. What is a depressed affect? Or since I'm
6 from South Carolina, I'll call it an affect.

7 A I'd say a sad appearance. Affect is really what
8 the patient projects physically.

9 Q So, a sad appearance.

10 A Sad affect.

11 Q All right. We've got some words over here that you
12 wrote in your own handwriting. And what are those
13 words?

14 A It says *doesn't state*.

15 Q And what does that mean, *doesn't state*? Why are
16 those words written in your handwriting on this medical
17 record on February 24, 2012?

18 A Well, it's next to the box that's actually
19 specifically asking about suicidal ideation, and it says
20 he doesn't state.

21 Q Is that your recollection?

22 A Well, I would say that, most likely, when I asked
23 him do you have any thoughts of hurting yourself or
24 others, he didn't answer.

25 Q Well, earlier, in the record that we looked at, the

1 page before, you circled suicidal thoughts, correct?

2 A Yes.

3 Q And wrote *and thoughts of hurting others*, correct?

4 A Yes.

5 Q And *but no specific plan*, correct?

6 A Correct.

7 Q Did you obtain the information that you just told
8 us in the medical records from Calvin Hunt? Yes or no.

9 A I don't recall exactly who I got it from. But
10 again, the record is a continuing discussion with the
11 patient. And I believe he -- that's one of the reasons
12 I got the referral for psychiatry, because I really
13 couldn't get a good idea of his thought processes. One
14 time, looks like the nurses, he had stated the clerk,
15 she wrote that there was suicidal ideations. The nurse
16 wrote there was suicidal ideations. But to me, he -- he
17 didn't want to answer. So, it was kind of an
18 ambivalence, or he didn't want to tell me, or he refused
19 to communicate. So, this is what I wrote when I asked
20 him.

21 Q Okay. So, these words on the first page of your
22 record, did they just magically appear, Doctor?

23 A No, they -- they -- they were a compilation of the
24 nurse's notes, and perhaps what Mr. Hunt had said, or
25 even perhaps what Mr. -- I'm sorry -- what Mr. Ray had

1 said, or -- that's from the history, so I kind of may
2 have looked at that nurse's note and added that.

3 Q And *history of present* --

4 A Um-hmm.

5 Q -- meaning then occurring?

6 A Yes.

7 Q And what does the *I* stand for?

8 A Illness.

9 Q Okay. So, the history of present illness, you
10 have, and *thoughts of hurting others*, correct?

11 A Right, right.

12 Q What do we have in this box with the hash mark
13 surrounding it on four sides?

14 A Let me get over here. Well, I cross -- this hash
15 box, again, we have very little space on these T-sheets
16 to write things, so we do the best we can with the
17 information we have. I crossed out *for suicide*
18 *attempts*, because there was no suicide attempt in this
19 case. But I used that little box, really, it seems, I
20 was probably relating it to suicidal ideations. And it
21 says, *patient doesn't deny nor confirm ideations*. So,
22 to me, he didn't confirm or deny it when I asked him
23 specifically in my physically exam part.

24 Q In your physical exam part, you asked him a
25 question, and he just sat there and didn't answer you?

1 Is that what you're telling us?

2 A I don't recall exactly the situation, but what I
3 wrote, it probably means what -- what happened.

4 Q Clinical impression over here. You have a box that
5 is circled.

6 A Yes.

7 Q You also have a word that is circled. What word
8 did you circle, sir?

9 A I circled depression.

10 Q We'll get into what you did that day in a minute,
11 but while we're just going through the records, it looks
12 like, from the records, you typed up an addendum to your
13 chart, correct?

14 A Yes.

15 Q And you wrote this note at 1640 in the afternoon,
16 correct?

17 A It appears to be that, yes.

18 Q At 1640, for those of us that spend the majority of
19 our time in the civilian world, is what time, sir?

20 A 4:40 p.m.

21 Q On February 24, 2012?

22 A 2012, yes.

23 Q And you wrote this that day at that time?

24 A Yes.

25 Q Typed it up yourself, correct?

1 A Yes.

2 Q And had it printed out and placed in Calvin Hunt's
3 permanent medical records, correct?

4 A Well, in the emergency department records.

5 Q And these are your words, not you typing up the
6 dictation of somebody else, correct?

7 A Yes.

8 Q Patient was brought to the BNHTER about
9 1500 by V.A. worker Edward Ray, who wanted
10 patient assessed after seeing him in his
11 office today at DSS.

12 Did I read that correctly?

13 A Yes.

14 Q Patient was well-dressed and cooperative,
15 but poorly communicated.

16 Did I read that correctly?

17 A Yes.

18 Q Do you agree with that statement that Calvin Hunt
19 was poorly communicated?

20 A If I wrote it, then, I probably felt it. That's
21 all I can really say. I don't recall.

22 Q What does it mean when somebody is poorly
23 communicative?

24 A Does not verbalize adequately.

25 Q Doesn't verbalize adequately. Not able to answer

1 your questions?

2 A That could be part of it, yes.

3 Q Not able to tell you his Social Security Number?

4 A Yes.

5 Q Not able to tell you how long it was he'd been here
6 in Beaufort, South Carolina?

7 A That could be part of it, yes.

8 Q Might not know who the president is or what the day
9 of the week it is.

10 A That could be examples of that, yes.

11 Q Okay. Poorly communicative. You write:

12 *He did not appear agitated or psychotic.*

13 I read that correctly.

14 A Yes.

15 Q Okay. And you wrote this after Calvin had already
16 left, correct?

17 A Correct.

18 Q Okay.

19 I, --

20 meaning you, Dr. Jansen, --

21 -- was unable to get sufficient history
22 from him, except that he wanted to get his
23 medications refilled.

24 Did I read that correctly?

25 A Correct.

1 Q So, you'll agree with me that, on that day, you
2 were unable to get sufficient history from the patient,
3 correct?

4 A Correct.

5 Q And what does that mean to you as a doctor when you
6 can't get sufficient history from a patient?

7 A It's very self-explanatory. I mean, you're not
8 getting a complete story.

9 Q That's obvious, not able to get a complete story
10 from the patient?

11 A Well, to the -- to the medical provider, it's
12 obvious.

13 Q Self-explanatory, that's what you told me?

14 A To a doctor, yes.

15 Q But not able to get sufficient history. And I
16 believe you've already told us that, even though there's
17 this reference to some medical notes that, apparently,
18 though, were available in the emergency room, you didn't
19 go look at them, correct?

20 A Well, I told you earlier that I don't recall.

21 Q Okay.

22 A I may have looked at them, I may have not. If it
23 was something -- I would assume, from my normal ways of
24 dealing with this, if it were something that were
25 important that would be helpful, I probably would have

1 added it in my notes.

2 Q That's an assumption, though. That's not a
3 recollection.

4 A Of course, of course. That's what I normally do.

5 Q You're not able to tell us you actually looked at
6 this man's medical records and, for example, found out
7 why it was he had been prescribed Seroquil?

8 A No, I did not look at that, no.

9 Q Will you agree with me that, if you can't get a
10 sufficient history about a patient that the logical
11 place to look would be in that person's medical records?

12 A If they're available to you easily, yes. And
13 medical records were not easily available to E.R., and
14 they were not routinely ordered or looked at.

15 Q Now, you would agree with me that, if somebody
16 comes in with their medical records, that they're
17 available, correct?

18 A If they have the complete medical records, yes.

19 Q Well, even if they're the partial medical records,
20 Doctor, you would agree with me that there are
21 information contained therein that may or may not be
22 helpful.

23 A It may or may not be helpful. But you must
24 understand that psychiatric medical records usually
25 aren't in these. They're usually classified and

1 confidential, and they're usually not available in the
2 general medical records. So, you can't always get all
3 the information you want from, as you say, medical
4 records.

5 Q Sir, I am going to show you what has been marked
6 and moved into evidence previously as Plaintiff's
7 Exhibit Number 19.

8 A Very well.

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

10 THE COURT: Yes.

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

12 THE COURT: Yes.

13 BY MR. HOYLE:

14 Q And have you had an opportunity to review the
15 document I've already handed you, sir?

16 A Yes. I'm looking at the document.

17 Q Okay. And this is something that a lady by the
18 name of Saundra L. Smith completed, looks like to me, on
19 February 24, 2012. You know Ms. Smith?

20 A Yes.

21 Q She's a nurse who works upstairs in the Medical
22 Homeport Team at the Naval Hospital, correct?

23 A I assume so, yes.

24 Q Okay. But there's some information contained
25 herein, and since this is a medical record from that

1 very day, with a list of problems for Calvin Hunt, let's
2 just see what you knew or didn't know.

3 Did you know, on February 24, 2012, that one of
4 Calvin Hunt's problems in his then-existing medical
5 records was adjustment disorder, with disturbance of
6 emotions and conduct?

7 A No. I never -- I did not have a chance to see
8 these records.

9 Q All right. I think we've already figured this one
10 out. Do you know one way or the other as to whether or
11 not one of Mr. Hunt's problems was anxiety? You knew
12 that.

13 A Well, he was -- appeared anxious at the moment, but
14 whether that was a chronic condition, I don't know.

15 Q You don't know whether it was something that had
16 just started up that morning during breakfast, or
17 whether or not he suffered it for some period of time,
18 you didn't know, correct?

19 A Or whether he had too much coffee, or whether he
20 was needing a cigarette to smoke, or whether he was just
21 upset for waiting too long. I mean, it could be a
22 number of reasons.

23 Q What about a diagnosis of adjustment insomnia. Did
24 you know on February 24, 2012 as to whether or not Mr.
25 Hunt suffered from that ailment and condition?

1 A Well, again, I did not see this particular paper,
2 so, I would not have known that.

3 Q Same question, with respect to adjustment disorder
4 with anxious mood. Did you know about that?

5 A No.

6 Q What about anxiety disorder not otherwise
7 specified. Did you know about that?

8 A No.

9 Q What about delusional disorder, Doctor? Did you
10 know that, that was an active problem in Calvin Hunt's
11 medical records on February 24, 2012?

12 A No, I did not.

13 Q What is delusional disorder, Doctor?

14 A Well, it's -- it's delusions or untrue thoughts
15 that are really not happening.

16 Q Would an example of that be somebody who sees a
17 werewolf or a black cat that disappears all of the
18 sudden?

19 A Or what you can call delus -- delusions of
20 grandeur. You think you're somebody who you're not.

21 Q All right. Personality disorder. Did you know
22 that, that was one of Mr. Hunt's active medical problems
23 as reflected in his records on February 24, 2012?

24 A No. I did not look at the records. No.

25 Q Personality disorder. What is personality

1 disorder, Doctor?

2 A Oh, it's a -- it's a -- it's a vast condition that
3 includes schizo-affective disorders; includes
4 personality disorders, sociopath behavior. Again, I'm
5 not a psychiatrist, so I can't give you the whole
6 differential. But that's the gist of the answer.

7 Q Is that a diagnosis that concerns you as a board-
8 certified, emergency room physician?

9 A Again, depends on the situation.

10 Q Well, let's say you've got a situation involving
11 someone who suffers from PTSD, and who is prescribed
12 Seroquil for some reason that you don't know, but he's
13 not been taking that Seroquil for some period of time.
14 Would the fact that he's got delusional disorder and
15 personality disorder and adjustment disorder with
16 anxious mood, would those diagnoses give you more or
17 less of a concern than if you didn't have that
18 information?

19 A Well, in this hypothetical case that you're giving
20 me, but not in this particular case. Any of that
21 information would probably make me more concerned, and
22 that's the answer.

23 Q More concerned. Okay. But you didn't go look at
24 any of Calvin Hunt's medical records that day, either in
25 hard copy form or on the computer, or in any shape,

1 form, or fashion, correct?

2 A No. No, I did not. I was concerned about him at
3 the moment, exactly what was going on with him at the
4 moment.

5 Q But at the moment, you knew you were unable to get
6 a sufficient history from him, correct?

7 A Correct.

8 Q Except that he wanted to get his medications
9 refilled, correct?

10 A Correct.

11 Q And the only information you had about those
12 medications was what Nurse Janice had written in her
13 nursing assessment, correct?

14 A Correct.

15 Q With your own two eyes, you didn't go through
16 Calvin Hunt's past medical records and verify that, that
17 was all the medications that he was needing refilled,
18 correct?

19 A I did not have access to his past medical records,
20 and I did not ask for them.

21 Q But regardless of what records Mr. Hunt may have
22 brought with him, which you refer to in your own
23 records, you didn't go look at those, either, correct?

24 A Well, like I stated before, I don't recall whether
25 I looked at them. And again, if there was something

1 important, I usually would have written something about
2 it.

3 Q But you have no recollection of reading them one
4 way or the other, correct?

5 A I do not recall, no.

6 Q Okay. So, he wanted to get some medications
7 refilled. And you also wrote, after the fact that
8 Calvin Hunt's gone, that:

9 *His train of thought was delayed.*

10 And then, we've got an *and*, circle the *and*.

11 *And he was confused about his Social*
12 *Security Number.*

13 Did I read that correctly?

14 A Yes. We've gone into that already. Yes.

15 Q And I think *and* is important there, because we've
16 talked a little bit about how he didn't know his Social
17 Security Number, correct?

18 A Yes.

19 Q But his train of thought, that seems like a
20 separate clause in this sentence, Doctor. So, was his
21 train of thought delayed with respect to things other
22 than the Social Security Number?

23 A Well, his train of thought was delayed in the sense
24 that he was not communicative with me.

25 Q And when you've got someone seeking the refill of

1 anti-psychotic medications like Seroquil, and they'd
2 expressed to persons in the emergency room that they not
3 only have suicidal thoughts, but that they have thoughts
4 of hurting others, is that something that concerns you
5 as a doctor?

6 A Of course.

7 Q Of course. How much time did you yourself actually
8 spend with Calvin Hunt on February 24, 2012?

9 A Well, I'd have to really look at the medical
10 records and see from the time that I started the chart
11 probably to some time before he eloped.

12 Q Well, I don't disagree with that statement, but can
13 you be any more precise for me?

14 A I did not document exactly how much time I spent
15 with him.

16 Q Were you with Calvin Hunt the entire time,
17 beginning at 2:50 p.m., on February the 24th, 2012,
18 until he left?

19 A I was not physically with him all the time.

20 Q That's a no?

21 A That's a no.

22 Q Okay. But are you able, with any greater
23 specificity, to tell this Court and this jury how many
24 minutes you actually spent with Calvin Hunt that day?

25 A I can say with certainty, no.

1 Q After you completed your physical exam involving
2 Calvin Hunt, did you have any concerns about this young
3 United States Marine who was there in your emergency
4 room?

5 A Yes, I did have concerns.

6 Q Okay. And were those concerns based upon the
7 information that you had at that time?

8 A Yes, they were.

9 Q Can you tell this Court and this jury what your
10 concerns were?

11 A Well, my concerns were that I was not able to get a
12 good history from him, and to ascertain whether his
13 suicidal/homicidal thoughts were severe or not severe,
14 and really couldn't get a more of a history as to what
15 was going on with him and in his mind.

16 Q But earlier, on your own record, with respect to
17 the word *severity*, you have the choice of mild,
18 moderate, and severe, correct?

19 A Yes.

20 Q And you checked and circled severe.

21 A That was the closest to my feelings about the
22 matter.

23 Q So, this wasn't something to be taken lightly,
24 correct?

25 A No.

1 Q And you didn't take it lightly.

2 A No.

3 Q So, during the time frame that you spend with Mr.
4 Ray -- with Mr. Hunt, rather, you're not able to tell us
5 how long that lasts, correct?

6 A No.

7 Q Are you actually alone with Calvin Hunt at any
8 period of time in the emergency room?

9 A No.

10 Q Somebody else was always present?

11 A Mr. Ray was always present with him.

12 Q And with respect to Mr. Ray, I know you've never
13 seen him before, but how would you describe him in terms
14 of age and build and general appearance, if you recall
15 at all?

16 A I don't recall.

17 Q Did you have any expectation on February 24, 2012,
18 that Mr. Ray was supposed to somehow detain the patient,
19 meaning Calvin Hunt?

20 A I have no expectations.

21 Q Doctor, I'm going to ask you that question again.
22 Did you have any expectation on the day of treatment,
23 that being February 24, 2012, that Mr. Ray was supposed
24 to somehow detain the patient? Yes or no.

25 A No.

1 Q Similarly, you weren't expecting Mr. Ray to
2 restrain him or put him in restraints, or hold him down
3 or anything at all like that, correct?

4 A Yeah, there was no -- no thinking along those
5 lines, because Mr. Hunt was behaving without any outward
6 signs that he would do anything as outrageous as what he
7 did.

8 COURT REPORTER: I'm sorry. *Outward signs that he*
9 *would do anything as?*

10 A As outrageous as what he did.

11 Q And certainly, Doctor, if two people come into the
12 emergency room, if one person brings another person into
13 the emergency room, do you have any expectation that,
14 that person, the person accompanying the person seeking
15 treatment, is going to help you restrain or otherwise
16 detain the patient?

17 A Well, unless it's a police officer, then, I would
18 expect them to help out, but otherwise, no.

19 Q And Edward Ray wasn't a police officer, correct?

20 A No.

21 Q Okay. Do you believe that you had less than full
22 information about Mr. Hunt on February the 24th, 2012,
23 with which to make a medical diagnosis to a reasonable
24 degree of medical certainty?

25 A Yes, I do. That's why I got the consult to

1 psychiatry.

2 Q And when you refer to these consults, you're
3 specifically referring to folks we've not talked about
4 yet, that being Beverly Hendelman and an Arthur Manning,
5 correct?

6 A Yes.

7 Q You were relying on those two persons to be
8 consultants, correct?

9 A Well, really, the psychiatrist was the consultant,
10 and the other gentleman was, as they used to call them,
11 mental health, I guess, corpsman.

12 Q So, you were relying on Dr. Hendelman as a
13 consultant, correct?

14 A Yes.

15 Q But you were still relying on your best judgment,
16 since you were the physician, the only physician, there
17 in the emergency room, correct?

18 A Yes.

19 Q I just want to make sure, before we get into this
20 time frame -- time line a little bit, this record's
21 clear, and that this Court and this jury understands
22 your testimony. You never affirmatively took any
23 actions to discharge Calvin Hunt from the emergency room
24 on February 24, 2012, correct?

25 A Let's see if I can answer that correctly. While he

1 was there in the emergency department, I did not take
2 any actions to admit him.

3 Q My question was a little bit different, Doctor. I
4 want you to listen to it. You never affirmatively took
5 any acts to discharge Calvin Hunt, correct?

6 A Correct.

7 Q Referring to your consultant, that was Dr. Beverly
8 Hendelman, correct?

9 A Yes.

10 Q And you actually talked with Beverly Hendelman on
11 the telephone that afternoon, Friday, February 24, 2012,
12 correct?

13 A Correct.

14 Q And in the note you typed up after Calvin Hunt had
15 left, you typed up that Dr. Hendelman told you that the
16 patient obviously needed to be admitted, correct?

17 A That's what my note states.

18 Q Obviously needed to be admitted, correct?

19 A Correct. That were her words.

20 Q That's a quote.

21 A Well, yes.

22 Q You told me earlier, Doctor, that, if something is
23 obvious, it's obvious. It means it's not hidden,
24 correct?

25 A To a medical professional, yes.

1 Q And did you agree on that day with Dr. Hendelman
2 that it was obvious that Mr. Hunt needed to be admitted?

3 A I agreed with Dr. Hendelman that he needed to be
4 admitted, based on her consultation. I -- I believe
5 that she tried to get some information whatever way she
6 could, and arrived at a particular decision, and I
7 respected that decision.

8 Q But Dr. Hendelman never actually came down and
9 talked with Calvin Hunt, correct?

10 A Correct.

11 Q But yet, she still believed it was obvious that
12 Calvin Hunt needed to be admitted, correct?

13 A Correct.

14 Q In fact, you type in your notes, I, meaning Dr.
15 Jansen, asked her, meaning Dr. Hendelman, to see
16 patient, but was told that it would not change her
17 opinion. Those are words you wrote, correct?

18 A Correct.

19 Q And that was because it was obvious, right, Doctor?

20 A Well, no. The reason I asked her to see the
21 patient was because that's the way it normally works.
22 Unfortunately, at naval hospitals, it didn't always work
23 that way. If you consult a specialist, you normally
24 would expect the specialist to see the patient. I mean,
25 I think that's just obvious to everybody that's what

1 should be done. And I always prefer my consultant to at
2 least look at the patient, say hello, and have a
3 discussion with the patient.

4 In this case, Dr. Hendelman was relying on the
5 corpsman to provide all the information to her, a
6 corpsman who has four months of training in psychiatry,
7 which, you know, that's not the ideal situation, but
8 that's the way the Navy worked, so. That's fine. I
9 mean, it's always safer to admit a patient, if you're
10 not sure what's going on, rather than send him home on
11 medication or something like that. So, that's my
12 explanation.

13 Q And certainly, you would believe and expect that
14 you, as a board-certified, emergency room doctor, had
15 more education, training, and experience than an
16 enlisted man in the Service, who was a corpsman, like
17 Arthur Manning, correct?

18 A Yes.

19 Q Do you yourself as a board-certified, emergency
20 room physician, have training with respect to diagnosing
21 emergent mental health conditions?

22 A Yes.

23 Q That's something in your wheelhouse Doctor,
24 correct?

25 A Yes.

1 Q And have you actually signed papers right here in
2 Beaufort County through the Probate Court to commit
3 persons to a mental health institution against their
4 will?

5 A Yes.

6 Q Did you have to call somebody on the telephone and
7 ask them whether it was obvious or not before you did
8 that?

9 A I don't recall, but it certainly is helpful at
10 times, when you're not sure, to get a consultation from
11 a psychiatrist. And occasionally, they're sent home.
12 Occasionally, they're admitted. If it's very obvious to
13 a provider that there's no doubt about it that the
14 patient needs to be admitted, then, we do that. But
15 it's not always obvious. That's why we have
16 consultants.

17 Q But again, you were relying on Dr. Hendelman as a
18 consultant, not necessarily as the person who was going
19 to make the decision, correct?

20 A Correct.

21 Q You told us earlier that you were the person who
22 was in charge of the emergency room and everything
23 within the emergency room, correct?

24 A Correct.

25 Q You were the captain of this ship, the quarterback

1 of the team, correct?

2 MR. MACKELCAN: Objection, your Honor. That's not
3 the standard.

4 THE COURT: Can you rephrase that question, please.

5 MR. HOYLE: Certainly. Certainly, Judge.

6 BY MR. HOYLE:

7 Q As the person who was responsible for the emergency
8 room at the Naval Hospital, Beaufort, February 24, 2012,
9 you were responsible for everyone within the four walls
10 of that emergency room, including the nurses and the
11 patients, correct?

12 A Correct.

13 Q That would be analogous to being the captain of a
14 ship, correct?

15 A I've never been a captain of a ship, but I assume
16 that is a correct statement.

17 Q That's analogous to being the quarterback on a
18 football team, correct?

19 A I'll stick with to captain of the ship.

20 Q Now, on February the 24th, 2012, you didn't somehow
21 feel that you were unprepared to deal with someone
22 presenting to your emergency room with suicidal
23 ideations or thoughts of hurting others, correct?

24 A Correct.

25 Q When you filled out your medical records, the

1 emergency room physician records, on February 24, 2012,
2 and completed the information therein, did you makes
3 sure that the treatment nurse, Joe McDonald, had access
4 to these pages of records that you'd filled out?

5 A Well, she [sic] would always have access to the
6 records.

7 Q And how is that, Doctor?

8 A Because the records are usually left on the desk.
9 The nurse usually collects it when the patient -- if a
10 patient is discharged, of course. I'm talking about the
11 general course of events. The nurse would probably take
12 it to the front desk, and put it in a slot, and it would
13 eventually make its way to the medical records. And so,
14 the nurse would have access to the records. Of course.

15 Q I must have asked an inartful question, Doctor,
16 because I didn't hear the answer to the question I was
17 looking for. With respect to that day, February 24,
18 2012, while Calvin Hunt was still there, while he was
19 still in the emergency room that you, by your own
20 testimony, were in charge of, did the treatment nurse
21 have access while Calvin Hunt was still there, to the
22 two pages of emergency physician records that you had
23 filled out? Yes or no, Doctor.

24 A Normally, yes. I don't know, in that particular
25 time, whether I had the record with me, and thus, the

1 nurse would not have access to it; or whether it was
2 lying on the nurse's desk. I don't recall exactly, so
3 my answer is, I don't know.

4 Q Now, with respect to the information that you wrote
5 down on this medical record, specifically the fact that
6 Calvin Hunt had thoughts of hurting others, is that
7 information that you yourself as the person in charge of
8 the emergency room and all the people and patients
9 therein, told the treatment nurse, on February 24, 2012?
10 Yes or no, Doctor.

11 A I don't recall. I don't recall specifically
12 telling the nurse.

13 Q That this man, a United States Marine, had thoughts
14 of hurting others.

15 A I may have, or I may not have. I don't recall.

16 Q As you sit here today in this courthouse under
17 oath, you do not have a specific recollection of telling
18 Nurse Joe McDonald that Calvin Hunt expressed to you
19 that he had thoughts of hurting others. Is that fair?

20 A Now, the nurse's note says he had suicidal
21 ideations. So, that's a moot point, really.

22 Q Doctor, will you agree with me that there is a
23 difference between thoughts of hurting yourself and
24 thoughts of hurting others?

25 A Yes.

1 Q What is that difference, Doctor?

2 A Well, it's obvious in the words. If you have
3 thoughts of hurting yourself or thoughts of hurting
4 others. I mean, that's self-explanatory, I think, isn't
5 it? I don't know what -- what you're trying to get at.
6 If you can -- a better definition or -- I just don't
7 understand what the question is.

8 Q Did you tell -- strike that. As you sit here
9 today, under oath, in front of this judge and this jury,
10 do you have a specific recollection of informing either
11 of the registered nurses then, there, present in the
12 emergency room, on February 24, 2012, that Calvin Hunt
13 had expressed thoughts of hurting others? Yes, no, or I
14 don't remember.

15 A I don't have a specific recollection.

16 Q Did you give any orders on February 24, 2012 to
17 either of the registered nurses that were there in your
18 emergency room to not let Calvin Hunt leave the
19 facility? Yes or no, Doctor.

20 A The correct answer is I don't remember, but the way
21 -- knowing the nurses, who are very professional, is a
22 very professional person and experienced nurse, if I had
23 told her [sic] to not let the patient leave, she would
24 have followed my orders. So, I don't have a specific
25 recollection, but knowing the nurse, if I told her [sic]

1 that, she [sic] would have not let the patient leave.

2 Q And I hear a -- strike that. Doctor, who are the
3 nurses, the registered nurses, working in the E.R. on
4 February 24, 2012, the day that brings us here to this
5 trial in this courthouse?

6 A Well, I know for sure that Nurse McDonald was
7 there, because we have her notes. And I don't recall
8 who else was there.

9 Q When you referenced giving an instruction or an
10 order to a registered nurse, and you expected that order
11 would have been followed, are you trying to tell us you
12 remember giving an instruction to Nurse Janice McDonald?

13 A No.

14 Q Do you specifically recall giving such an
15 instruction to anybody else there that day, perhaps
16 another registered nurse?

17 A I don't recall.

18 Q I'll be specific, Doctor. Did you tell Nurse Joe
19 McDonald -- you know who Nurse Joe McDonald is.

20 A Yes.

21 Q You've worked with him before, correct?

22 A Yes.

23 Q He's married to Nurse Janice, correct?

24 A Correct.

25 Q Did you tell Nurse Joe McDonald that Calvin Hunt

1 needed to stay within the emergency room and not be
2 allowed to leave? Yes or no.

3 A Again, the answer would be, no, and I will qualify
4 that answer. Again, if, knowing Joe McDonald, who is a
5 very professional person and a well-trained nurse and an
6 excellent nurse, if I had given that instruction, he
7 would have followed it. So, I am assuming that I did
8 not. However, I do not specifically recall giving that
9 order.

10 Q But it sounds like you're doing some deductive
11 reasoning and assuming that, because Nurse Joe McDonald
12 said yes when there was a request for Calvin Hunt to
13 leave, that you must not have given such an order. Is
14 that what you're telling this Court and jury?

15 A I don't know.

16 Q Don't know one way or the other?

17 A Well, I don't know one way or the other.

18 Q You mentioned a corpsman by the name of Arthur
19 Manning. Do you recall telling us that?

20 A Yes.

21 Q Were you physically present in the emergency room
22 when Arthur Manning came to see Calvin Hunt?

23 A Yes.

24 Q And Arthur Manning, I believe you told us he's a
25 corpsman, an enlisted man in the Service, that has a

1 couple of months of training in psychiatric issues.

2 A Well, that's the general definition of a
3 psychiatric corpsman. Whether he had more training or
4 not, I don't know exactly.

5 Q But you've already told us that you had more
6 education and training than that man, correct?

7 A I sure hope so.

8 Q Did you need doc -- strike that. Did you, as a
9 medical doctor in charge of this emergency room, need
10 Arthur Manning to tell you anything about this patient?

11 A Well, he was going to gather information for the
12 psychiatrist, so I was really waiting for the
13 psychiatrist to evaluate the patient.

14 Q So, in other words, I think I heard this correctly,
15 but I want to make sure. You yourself weren't going to
16 be dependent directly on any information from Mr.
17 Manning, correct?

18 A Well, if there was important information that he
19 got from the patient that I hadn't gotten, I would take
20 that into account, of course. If, somehow, he had
21 gotten some very important information from a patient
22 that he wanted to do something dangerous, I would
23 certainly take that into account, whether he was another
24 physician, or whether he was a corpsman.

25 Q Now, when Arthur Manning came down to the emergency

1 room and met with Calvin Hunt, were you aware that he
2 was there?

3 A Yes.

4 Q And where were you during that time frame?

5 A I don't recall exactly where I was. Usually, the
6 usual case of the matter is, when another provider --
7 I'm going to call the corpsman a provider -- comes to
8 evaluate a patient, I usually leave them -- leave the
9 area, and let him do his thing and not get -- not
10 hover over him and make him nervous or anything like
11 that. So, he would do his duties, gather the
12 information that he needed, and report back to the
13 psychiatrist.

14 Q I have heard some descriptions of this emergency
15 room there at the Naval Hospital. Is it a big emergency
16 room or a small emergency room? How would you describe
17 it?

18 A It's a small emergency room.

19 Q Is it itty-bitty?

20 A No.

21 Q About 800 square feet?

22 A You know, I can't -- I -- I don't know. I mean,
23 you may have the -- the floor plans. I don't know.

24 Q Okay.

25 A But there were, you know, one -- I think I

1 mentioned already, there were five or six beds, so.
2 That's generally speaking. That's usually a fairly
3 small E.R. Whereas, a lot of the larger E.R.s have 20,
4 30, 40 beds sometimes.

5 Q This wasn't like some cavernous facility you find
6 at the Medical University in Charleston or the big
7 hospital in Savannah. Is that fair?

8 A Yes. Yes.

9 Q Okay. So, in this E.R., is it an open-type place?
10 Or are there wooden walls and wooden doors between all
11 of the exam rooms?

12 A There are -- there are -- there's an open bay with
13 three cots, and there are two enclosed areas for more
14 privacy when it's required.

15 Q But again, based on all the information you know
16 and your recollection, Calvin Hunt was the only patient
17 there that day, correct?

18 A Correct.

19 Q So, no reason to expect that -- no reason to
20 believe you would have been in any of those exam rooms
21 that have a wooden wall and a wooden door, correct?

22 A Correct.

23 Q You would have either been at the open area, or
24 perhaps, at the nursing station, or perhaps in your
25 office, correct?

1 A Correct.

2 Q Any other place you think you might have been
3 during the time frame that Calvin Hunt was there in the
4 emergency room?

5 A Again, I don't recall, but probably not.

6 Q You didn't decide to just take off, and go get
7 coffee at Starbuck's. Is that fair?

8 A We didn't have Starbuck's then.

9 Q Okay. Didn't decide to go to Hardee's and get a
10 biscuit and a cup of coffee. Is that fair?

11 A Well, I wasn't really allowed off the base, so that
12 wouldn't have been a possibility. Although, the food
13 would have probably would be a little bit better.

14 Q Okay. But at least with respect to your
15 recollection, you have no reason to believe that you had
16 wandered off or that you were anywhere other than in
17 that, I think you called it a small emergency room,
18 while Calvin Hunt was there?

19 A Correct.

20 Q And when Mr. Manning is in there talking to Calvin
21 Hunt, are you able to tell that, that's what's going on?

22 A Well, again, like I said, I usually would leave the
23 person alone. So, I probably walked away and did some
24 other duties, catching up on charts or things like that.
25 So, he was -- I believe he was talking with him, but I

1 wasn't actually hovering over them.

2 Q You knew that there was a conversation going on,
3 but you might not know what those words that were being
4 said. Is that fair?

5 A Correct. Correct.

6 Q Okay. And were you aware, with any of your five
7 senses, at any point during that process, that Mr.
8 Manning left?

9 A I know he did leave, but I can't recall
10 specifically when or how or where he went.

11 Q Okay. Did you seek out Mr. Manning in any shape,
12 form, or fashion before he left to find out what it is
13 he had learned from visiting with Mr. Hunt?

14 A I don't have any specific recollection. Although,
15 I'm quite sure he didn't tell me to be very concerned
16 about the patient or to call security or to -- anything
17 to that effect.

18 Q Would you have needed somebody who was an enlisted
19 man in the Service and had a couple of months of
20 training as a corpsman, in order to recognize a
21 situation with a patient where you needed to call
22 security?

23 A Well, it's possible. I mean, even though a
24 corpsman doesn't have as much, perhaps, training or
25 education as a physician would, they are -- they are the

1 environment of mental health, and I think they're fairly
2 competent to identify very serious situations and not
3 serious situations.

4 Q Looking back on the second page of your note, we've
5 got a little bit of a time line. Is this a time line
6 that you yourself made?

7 A Yes.

8 Q And how did you go about figuring out -- well, let
9 me ask a foundational question, Doctor. Did you make
10 these progress notes in real time, or did you go back
11 after the fact and doctor this up?

12 A Well, I mean, that's not very fair, and I think
13 you're assuming that I'm doctoring it up. So, first of
14 all, I don't doctor any documents.

15 Q Okay.

16 A If you can make that clear to you.

17 Q So, this is a real-time product?

18 A This is probably as real-time as possible.

19 Q So, what's our first-time entry that you yourself
20 made?

21 A Looks like 1510.

22 Q All right. And what do you know happened at ten
23 minutes after the hour of 3:00?

24 A My notes say, *called mental health; asked for*
25 *psyche tech.*

1 Q Okay. And that would be the aforementioned Mr.
2 Manning, correct?

3 A Correct.

4 Q All right. And then, what happens next, according
5 to your progress report?

6 A It's noted as 1520, which is ten minutes later. I
7 called mental health again, and I was told that the tech
8 is coming.

9 Q All right. Do you have a recollection of there
10 being some delay in somebody from mental getting down to
11 the emergency room, or are we just relying on what it
12 says here in the record?

13 A I think we have to rely on what's written.

14 Q You have no independent recollection of either of
15 those phone calls. Is that a fair assumption?

16 A Yes.

17 Q All right. What happens next, according to this
18 progress sheet?

19 A Well, it says, 1540, *Mr. Manning present; evaluates*
20 *patient.*

21 Q All right. And then, what happens next, according
22 to your progress report?

23 A Well, we're jumping to 1610, and it says:

24 *Called Beaufort Memorial Hospital Psyche*
25 *Ward; talked with Marilyn.*

1 That would be Nurse Marilyn, an R.N. And that's --
2 that's -- that's it.

3 Q Okay. And Marilyn, she works over at the Beaufort
4 Memorial Hospital?

5 A Yes.

6 Q That's a separate facility than the Naval Hospital,
7 correct?

8 A Correct. Correct.

9 Q Okay. And did you yourself make that telephone
10 call to Nurse Marilyn, or did you direct one of your
11 nurses to do that?

12 A Well, I usually -- either the clerk or the nurse
13 would actually contact Beaufort Memorial Hospital, get
14 the nurse on the line, and then, get me to talk to her.

15 Q So, you didn't dial the digits yourself. You have
16 people do that.

17 A No, I didn't know -- I didn't know the digits.

18 Q Okay. I want to direct your attention in the
19 packet to the nursing notes that were filled out by the
20 treatment nurse that day.

21 A Um-hmm. Yes.

22 Q And there's a time line that the treatment nurse
23 made.

24 A Yes.

25 MR. HOYLE: Can we lay these side-by-side, this,

1 and the one we got from the doctor, Mr. Knowles? Can we
2 do that?

3 BY MR. HOYLE:

4 Q All right, sir. I'm going to direct your attention
5 to the first four entries from the nursing notes
6 prepared by -- do you recognize the signature at the
7 bottom of the page?

8 A I don't recognize it, but I assume it's Janice
9 McDonald, I assume. Am I correct?

10 Q Doctor, you're the one who was there. With respect
11 to the signature of the treatment nurse, it reflects
12 that he or she prepared the nursing notes above. Is
13 that fair?

14 A That would be a fair assumption, yes.

15 Q All right. So, starting at the beginning, we've
16 got a report from triage at 1430, correct?

17 A Yes.

18 Q Got a note at 1500 about the E.R. eval.

19 E.R. empty. Eval in progress.

20 Correct?

21 A Correct.

22 Q And then, at 1530, we've got a telephone call to --
23 is that BMH?

24 MR. MACKELCAN: Objection, your Honor. I think
25 he's mis-stating the testimony. 1510 is what Mr.

1 McDonald said that number is.

2 MR. HOYLE: I apologize, your Honor.

3 THE COURT: Okay.

4 MR. LOVELL: 1510.

5 BY MR. HOYLE:

6 Q With respect to 1510, what do we have happening at
7 1510, according to the nurse's notes?

8 A T.C. to BMH. I don't know what the -- the -- the
9 next word is. *To inquire bed availability; M.D. spoke*
10 *with Marilyn.*

11 Q All right. And so, Mr. Lovell was kind enough to
12 stand up and tell us that, that was, in this
13 handwriting, 1510. That's 1510 in the afternoon,
14 correct?

15 A Yes.

16 Q But your record has that call taking place when?

17 A Let's see. Let's see here. 1610.

18 Q Now, Doctor, even in military time, you'd have to
19 agree with me, that's a good 60 minutes apart, correct?

20 A Yes, of course, yes.

21 Q So, do you believe there was one call or two calls
22 to BMH, or do you think there's some discrepancy in
23 these time lines?

24 A There's some discrepancy, but I really cannot
25 explain it, exactly. I know I spoke to Nurse Marilyn,

1 and to the best of my knowledge, it's from the times
2 that I wrote. And again, I don't have a good
3 explanation for the -- for the other entry.

4 Q And the next entry, going back to the nurse's note,
5 the nurse's time line, is that at 1520? I believe
6 that'd be 3:25 in the afternoon in civilian world.
7 That's your understanding, Doctor?

8 A Yes.

9 Q *Psyche Tech Manning eval in progress.* Do you see
10 that on the nurse's notes?

11 A Yes.

12 Q And does that time match up or not match up with
13 the time that you put in your record?

14 A Let's see here. Well, it probably matches up. I
15 mean. It probably matches up. I mean, we're nitpicking
16 on times exactly when the patient arrived and when the
17 -- when I noticed Mr. Manning was present. It -- it,
18 more or less, lines up and makes sense.

19 Q Close enough, sir.

20 A Yes.

21 Q Okay. But with respect to the hour difference
22 between the phone call to Beaufort Memorial, don't have
23 an explanation for that one way or another. Is that
24 your testimony?

25 A Well, let me see here. I don't see a note, the

1 nurse's note saying -- above my other call, which would
2 certainly have been after I spoke with the psychiatrist,
3 which would make sense.

4 Q Well, that's --

5 A Because the decision was then made to admit the
6 patient, so.

7 Q Well, Doctor, that's what I want to make sure of.
8 If we are to believe the nursing note, you would have
9 made a telephone call to Beaufort Memorial and the
10 psyche ward at 3:10 in the afternoon to inquire about
11 bed availability, correct?

12 A According to the nurse's note, yes.

13 Q If we were to believe this document, that's what
14 time that call got made, correct?

15 A Well, that -- that's what it's -- what's written,
16 and that's all I can say. That's what's written.

17 Q And that's a full hour earlier than what you have
18 on the record that you maintain that fateful Friday,
19 correct?

20 A Correct.

21 Q A record that, by your testimony here today, you
22 don't know one way or the other whether or not you gave
23 access to the nurse to before Calvin Hunt left, correct?

24 A Could you repeat the questions?

25 Q Sure. You've already told us that you don't know

1 one way or the other whether or not the treatment nurse
2 had actually had access to the medical record you were
3 filling out before Calvin Hunt left, correct?

4 A Correct.

5 Q Okay. So, going back to the nursing note, if the
6 telephone call to Beaufort Memorial took place at 3:10
7 in the afternoon, as the treatment nurse's note
8 reflects, would that be before or after the evaluation
9 by Psyche Tech Manning?

10 A Well, I mean, since the times are off, I don't know
11 what's going on.

12 Q You don't have an explanation for us.

13 A No, no. And unfortunately, in a lot of medical
14 records, the times doctors and nurses times, don't,
15 sometimes, unfortunately don't agree, because sometimes,
16 the notes are written a little later, and the times will
17 be off a little bit, so it happens.

18 Q It happens.

19 A Yes.

20 Q Sixty minutes' discrepancy in medical records, is
21 that a little bit, a lot?

22 A That -- that's a --

23 Q Or minutia?

24 A That's a -- that's a fair amount.

25 Q Fair amount. Okay. Are you able to tell this

1 Court and this jury whether or not you, in your own
2 mind, had made the decision to admit Calvin Hunt to the
3 psyche ward at Beaufort Memorial before or after you
4 talked with Dr. Hendelman; or do you just not know?

5 A I'm fairly certain -- again, nothing's a hundred
6 percent, but I'm fairly certain that I would have waited
7 for the consultant, the psychiatrist, to render her
8 decision. Why would I consult her otherwise? I mean,
9 it was -- I needed help in deciding what to do with this
10 patient, because he wasn't very forthcoming. So, it
11 wouldn't make sense to make a decision to admit the
12 patient, and then, call for a consultation, because Dr.
13 Hendelman, I don't believe she practiced at Beaufort
14 Memorial, so it wouldn't make any sense.

15 Q And you raised a good point, Doctor. You didn't
16 practice at Beaufort Memorial, either, correct?

17 A No.

18 Q Neither you nor Dr. Hendelman had the ability to
19 directly admit a patient to Beaufort Memorial, correct?

20 A Correct.

21 Q The only thing you all could control with respect
22 to Calvin Hunt and Beaufort Memorial is whether or not
23 Calvin Hunt was safely going to get from the E.R. at the
24 Naval Hospital, over the Beaufort Memorial, so he could
25 be put in the psyche ward, correct?

1 A Correct.

2 Q There was no paperwork for you to fill out,
3 correct?

4 A Well, there would be paperwork to fill out, because
5 normally, you would have to -- and you know this, of
6 course. You would have to do a, probably, a voluntary
7 commitment; and that the patient would probably go
8 through the E.R. at Beaufort Memorial Hospital; and
9 then, from there, make his way to the floor.

10 Q Did you start filling out any of those commitment
11 papers for Calvin Hunt on February 24, 2012?

12 A No, he had eloped before I could do that.

13 Q Was it clear in your mind, on February 24, 2012,
14 that Calvin Hunt needed to be admitted, inpatient, to a
15 psyche ward?

16 A Yes.

17 Q That was something that was obvious, correct?

18 A Well, after consult -- consulting with the
19 specialist, that was the decision that was made.

20 Q And what information, specifically, did Dr.
21 Hendelman provide you, other than telling you it was
22 obvious?

23 A Well, that's the unfortunate thing, that she really
24 didn't provide any information, other than the fact that
25 she felt that he needed to be admitted. That was

1 another reason I wanted her to come down and see the
2 patient, because, you know, I'm in the situation of
3 having to talk with the other psychiatrist. And it's
4 very helpful to know what's going on. And sometimes, we
5 even get the psychiatrist in the Naval Hospital to speak
6 to the psychiatrist at the Beaufort Hospital to kind of
7 communicate a little better as to what's going on. I
8 didn't have all of the information, so it would have
9 been very, very helpful to have the psychiatrist talk to
10 the other psychiatrist. But unfortunately, that doesn't
11 always happen, so you have to do the best you can.

12 Q You think you were doing the best that you could on
13 that fateful Friday?

14 A I did the best I could.

15 Q What steps, if any, did you take to insure that
16 Kalvin Hunt would remain in the emergency room until
17 such time as he could be admitted?

18 A Well, the only steps were that he was in the
19 emergency room, together with Mr. Ray, and he wasn't
20 demonstrating any indication that he was going to be
21 violent or running away or anything like that. So,
22 really, nothing else was done to prevent him or to
23 insure that he doesn't run off.

24 Q And with respect to what you just told us, did you
25 ever take it upon yourself to go tell Mr. Hunt, to warn

1 him, that he shouldn't just take off and leave, because
2 he had expressed these thoughts of suicidal thoughts and
3 thoughts of hurting others?

4 A Well, again, I wasn't expecting him to walk off.

5 Q Doctor, I think I'm entitled to answer to my
6 question. Did you warn Calvin Hunt, at any point in
7 time on February 24, 2012, while he was in your
8 emergency room, that he should not leave because he was
9 then experiencing suicidal thoughts and thoughts of
10 hurting others? Yes or no.

11 A No.

12 Q Did you ever inform Calvin Hunt or instruct Calvin
13 Hunt that he shouldn't leave the military medical
14 facility on that day, because he was out of his anti-
15 psychotic medication; he was angry, anxious, and
16 disoriented, and had a sad affect; and that the thoughts
17 of hurting others and the thoughts of hurting himself
18 made him a danger; and that he needed to stay in a
19 hospital environment. Did you tell him?

20 A I did not feel that was the case, so I did not tell
21 him.

22 Q That's a no, Doctor?

23 A That's a no.

24 Q We were talking earlier about all the things you
25 didn't know about this man on that fateful Friday, and

1 we were discussing a little bit about the medical
2 records. Is it your understanding that the E.R. nurses
3 had access to everything in something known as AHTLA?
4 Yes or no.

5 A My understanding was that they had access to AHTLA,
6 and they could use it at their discretion, or if asked
7 to -- to -- to access that.

8 Q And on that fateful Friday, you, when you were
9 getting the poor responses from Mr. Hunt, by your own
10 statement, felt like you couldn't get a complete history
11 on this man, did you direct any of the nurses in the
12 E.R. that you were responsible for to go search any type
13 of computer database, any hard copy file, to go get this
14 man's past medical record, so that you could learn more
15 about his history? Yes or no, Doctor?

16 A No.

17 Q Doctor, when we began this examination a few hours
18 ago, there was some testimony about who it is you worked
19 for and who it is -- well, just who it is you worked for
20 that fateful Friday. You have your employment file
21 handy up there in that stack of documents, Doctor?

22 A I have no idea.

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

25 THE COURT: Yes.

1 BY MR. HOYLE:

2 Q Sir, I'm handing you what has been previously
3 marked and moved into evidence as Plaintiff's 22.

4 A Yes.

5 Q Doctor, I'm going to direct your attention to the
6 page in your personnel file that's been Bates stamped
7 263.

8 A Very well.

9 Q Are we on the same page, Doctor?

10 A Yes.

11 Q This is an acceptance of a job offer reflecting
12 your signature on August the 10th, 2009, correct?

13 A Correct.

14 Q It's accepting an offer of full-time employment,
15 correct?

16 A Correct.

17 Q And you specifically add in benefits to include a
18 CMA expense reimbursement to \$2,000.00 per year, as
19 discussed, correct?

20 A Yes.

21 Q That's your handwriting, correct?

22 A Yes, it is. Yes, it is.

23 Q And that you believe that's a benefit with CasePro,
24 Incorporated, that you actually negotiated, correct?

25 A I believe so, yes.

1 Q Similarly, we've got this IRA matching contribution
2 after one year, correct?

3 A Yes.

4 Q That's something that you yourself negotiated,
5 correct?

6 A I believe so, yes.

7 Q All right. Let's go forward in time from August of
8 2010 to April of 2010. I direct your attention to Page
9 267 in your personnel file.

10 A All right.

11 Q Your previous offer of acceptance got faxed back to
12 someone by the name of Lin Keen, correct?

13 A Yes.

14 Q And now, we have a letter from Lin Keen out of
15 CasePro's corporate office in Texas, addressed to you,
16 right here in Beaufort County, correct?

17 A Yes.

18 Q This is a letter dated April the 12th, 2010,
19 correct?

20 A Yes.

21 Q And it says,

22 *Per your discussion with Mr. Martin --*

23 *That's referring to Craig Martin?*

24 A I believe so, yes.

25 Q You actually met Mr. Martin before, didn't you?

1 A Possibly, but I don't recall, specifically.

2 Q But regardless, you know Mr. Martin worked out in
3 Texas, at the corporate headquarters at CasePro?

4 A I believe so, yes.

5 Q Per your discussions with Mr. Martin,
6 CasePro is pleased to offer you additional
7 full-time employment benefits for working
8 as an E.R. physician, at N.H. Beaufort, S.C.,
9 effective with the pay period beginning
10 3/28/10.

11 Did I read that correctly?

12 A Yes.

13 Q And I believe you told the Court and this jury
14 earlier that you didn't have vacation. Do you recall
15 that?

16 A Yes.

17 Q What new benefit was conferred upon you as of
18 3/28/2010 by CasePro, Incorporated?

19 A Well, I was wrong, and I didn't remember. Looks
20 like I did have vacation leave.

21 Q And how many weeks of vacation did the nice folks
22 out in Texas at CasePro determine you could have?

23 A It looks like it says two weeks per year, accrued
24 based on hours worked.

25 Q That's 80 hours you got paid, even though you

1 weren't working, correct?

2 A Yes, I believe that's -- that's probably true.

3 Q That's what vacation is, correct?

4 A Correct.

5 Q And that got determined by somebody by the name of
6 Lin Keen out at CasePro, Incorporated, with the job
7 title of director of contract administration, correct?

8 A Most likely, yes.

9 Q And that was based on an arm's-length negotiation
10 or discussion that you yourself had, it appears, with
11 Craig Martin, correct?

12 A Yes.

13 Q And we've previously seen that you had this
14 benefit; that they confirm again that you got that
15 \$2,000.00 per year of continuing education, correct?

16 A Correct.

17 Q CasePro, Incorporated, wanted to make sure that you
18 kept your skills fresh and up to par, correct?

19 A Well, I wanted to keep my skills up and fresh.
20 Again, I have to negotiate this. So, what their motives
21 are, I don't know, but I certainly keep up with the date
22 on my CMEs.

23 Q But that's something that you wanted CasePro to pay
24 for, correct?

25 A That was part of the negotiations, yes.

1 Q And there's something on here called a 401(k) plan.
2 Do you see that?

3 A Yes.

4 Q Okay. And it looks like to me it says:

5 *The CasePro 401(k) plan matches one*
6 *hundred percent of the first three percent*
7 *of income, with eligibility after one year*
8 *of service and 1,000 hours of service.*

9 Did I read that correct?

10 A Yes, yes.

11 Q Do you actually have a recollection, as you sit
12 here today, of getting that match from CasePro,
13 Incorporated?

14 A I probably did, but I don't have an independent
15 recollection.

16 Q Certainly, if you got a match from CasePro, you
17 didn't send that money back, did you?

18 A No.

19 Q All right. While we're talking about money, let's
20 go to Page 341 in your personnel file. Doctor, it looks
21 like to me we're looking at some sort of pay stub from
22 February of 2011, correct?

23 A Yes.

24 Q And it's got your name on it, correct?

25 A Yes.

1 Q Your address here in Beaufort County, correct?

2 A Yes.

3 Q And it's showing that some funds got wired from
4 CasePro, Incorporated, into, presumably, your bank
5 account, correct?

6 A That appears to be the case, yes.

7 Q All right. We've got some things on here, like a
8 Social Security Number, an employee I.D., and some tax
9 information. Is that fair?

10 A Yes.

11 Q Okay. And will you agree with me that your
12 paycheck was coming from CasePro?

13 A Yes.

14 Q Will you agree with me that CasePro took money out
15 of your paycheck in order to pay something known as
16 federal withholding tax?

17 A That appears to be the case, yes.

18 Q They were actually taking money out of your check
19 and remitting it to Washington, correct?

20 A That's what's done, yes.

21 Q That's typical of any type of employee/employer
22 relationship when you're getting paid by one party or
23 entity to do work for, correct?

24 A Correct.

25 Q Probably your entire adult life here in South

1 Carolina, every time you've gotten a paycheck from your
2 employer, it looks substantially similar to the page
3 we're looking at here, Bates Page 341, correct?

4 A Probably very similar.

5 Q Not some foreign concept, getting a paycheck from
6 somebody, correct?

7 A No.

8 Q And it shows that you're getting paid an hourly
9 rate. This is in February of 2011, of \$118.35 an hour,
10 correct?

11 A Correct.

12 Q And then, the multiplication is done, based upon
13 the hours worked, which gets us to a total gross
14 compensation, correct?

15 A Correct.

16 Q And then, various deductions are done, and there's
17 a net deposit directly made into your checking account,
18 correct?

19 A Correct.

20 Q And we've even got on here that 401(k) showing that
21 there appears to be a match in this particular pay
22 period, correct?

23 A I have no reason to dispute that.

24 Q Certainly, if you got a match from CasePro,
25 Incorporated, you didn't send that money back, you've

1 already told us, correct?

2 A Correct.

3 Q And those things that we've been talking about, the
4 hourly rate and the benefits, those were all things that
5 got determined, as a result of negotiations between you
6 and people out in Texas, correct?

7 A Correct.

8 Q And in fact, we'll look at one more document. This
9 is Bates Page 253 in your personnel file, and this is
10 dated April the 27th, two thousand --

11 A What page is that again, please?

12 Q I apologize. 253.

13 A 267.

14 Q You've got to go backwards. I apologize.

15 A Okay. Hold on. All right. All right. I'm on
16 Page 253.

17 Q Are we on the same page, Doctor?

18 A Yes.

19 Q So, this is, oh, goodness, the year before Calvin
20 Hunt came into the emergency room at Beaufort. And it
21 looks like you sent an email to somebody by the name of
22 Craig Martin. Is that correct?

23 A Yes.

24 Q And it looks like you've got a concern, because you
25 don't know where your three percent matching

1 contribution is.

2 A Correct.

3 Q You wanted to make sure you got that match,
4 correct?

5 A Yes. That was agreed to, yes. Fair is fair.

6 Q Fair is fair, Doctor. You agree to go to work for
7 somebody, and they agree to offer you certain benefits,
8 you want to make sure you get those benefits, correct?

9 A Of course.

10 Q Whether that's two weeks of vacation or a match
11 your 401(k), or health insurance, or supplemental
12 disability.

13 A Yes.

14 Q And you weren't going to let these folks from Texas
15 pull a fast one on you. Is that fair?

16 A Well, you know, that's part of contract
17 negotiations, which you're probably familiar with. You
18 want to -- to have both parties honor the contract.

19 Q And in exchange for that contract of getting paid
20 money via a paycheck and getting those benefits, what is
21 it that you agreed to do in return?

22 A Well, I agreed to work for the Naval Hospital.

23 Q Providing single-coverage, emergency room physician
24 services during a twelve-hour shift, correct?

25 A Correct.

1 Q And during that time, you had the ability to
2 independently diagnose, treat, and medicate your
3 patients, correct?

4 A Yes, that's correct.

5 Q Didn't have somebody standing over your shoulder or
6 holding your hand, telling you how to do it, did you?

7 A No.

8 Q You were in charge of that E.R., and could do with
9 those patients what needed to be done. Is that fair?

10 A Correct. Correct.

11 Q On February 24, 2012, you'll agree with me that you
12 were not getting good answers from Calvin Hunt.

13 A Correct.

14 Q You thought that he might be in danger on that day,
15 correct?

16 A Well, I didn't know, but I mean, the patient's care
17 and protection is my primary role.

18 Q And when a patient comes in, and by their own
19 statements, by their own admissions, have expressed to
20 you that they have thoughts of hurting themselves or
21 hurting others, that should be a concern for a doctor
22 who has a concern for patient care, correct?

23 A Of course. But in this a situation, there was a
24 wavering. He -- he had thoughts, then, he didn't have
25 thoughts. And I mentioned that in my notes. So, it

1 wasn't clear-cut. And again, that's the reason for the
2 referral to the psychiatrist.

3 Q Doctor, let's go back to where we began, with the
4 records from the South Carolina State Medical.

5 MR. HOYLE: May I approach, your Honor?

6 THE COURT: You may.

7 BY MR. HOYLE:

8 Q Let's go back to your 2011 renewal application,
9 Doctor. Do you have that in front of you?

10 A Most likely. Go ahead.

11 Q There was a question that we read earlier in the
12 presence of this Court and this jury about whether or
13 not, in the preceding 24 months, any hospital privileges
14 of yours had been -- there was a long list of words, but
15 essentially, suspended. Do you recall that question?

16 A Yes.

17 Q And remind us how it is you answered that question
18 --

19 A No.

20 Q -- here today in open court.

21 A No.

22 Q And you told this Court and this jury that was a
23 truthful answer, correct?

24 A Correct.

25 Q In fact, though, Doctor, your privileges in the

1 preceding 24 months had been suspended, correct?

2 A Incorrect.

3 Q In the preceding 24 months -- we'll use a different
4 word -- your privileges had, in fact, been placed in
5 abeyance, correct?

6 A Yes.

7 Q And we were looking at a dictionary earlier, or, at
8 least, I was holding a dictionary. Will you agree with
9 me that an abeyance is a temporary suspension as of an
10 activity or ruling?

11 A All right.

12 Q You'll agree with that definition?

13 A Yes. I would prefer the definition that the Navy
14 puts out, because that's what we're talking about.

15 Q But going back to this question that you answered
16 to the South Carolina State Medical Board in the
17 negative:

18 *Since your last renewal, have any*
19 *hospital privileges or other privileges*
20 *of any kind been revoked, suspended, restricted,*
21 *denied, voluntarily surrendered, or relinquished?*
22 *Include the relinquishment of privileges while*
23 *under investigation or pending action for any*
24 *reason. Do not include the relinquishment of*
25 *privileges as a result of personal decisions.*

1 Did I read that correctly?

2 A Correct.

3 Q You will agree with me, sir, that, in the 24 months
4 preceding your answer to this question to the South
5 Carolina State Medical Board, you had, in fact, been
6 under investigation at the Naval Hospital, correct?

7 A Correct.

8 Q Specifically, you were under investigation about a
9 dead United States Marine who died of sepsis, correct?

10 A Correct.

11 Q There were concerns about that dead United States
12 Marine dying of sepsis because you hadn't diagnosed that
13 man with sepsis, correct?

14 A Those were the concerns, yes.

15 Q And those concerns included the fact that this
16 young man came into the Naval Hospital, and you actually
17 laid hands on him, correct?

18 A Correct.

19 Q And that you had neither diagnosed him with sepsis,
20 correct?

21 A Correct.

22 Q Nor prescribed him any antibiotics, correct?

23 A Correct.

24 Q And you told me, in your -- strike that. You would
25 agree with me, you would agree with me, Doctor, that the

1 standard course of treatment for someone with sepsis,
2 particularly bacterial sepsis, which can kill somebody,
3 is antibiotics, correct?

4 A That is correct. And once you make the diagnosis
5 of sepsis, that is the correct treatment.

6 Q But unfortunately, for this young man, for this
7 United States Marine, you didn't make that diagnosis,
8 correct?

9 A That diagnosis was in the process of being made,
10 and that is correct. This was not a typical sepsis
11 case. It was a very unusual case, and that's where the
12 delay in antibiotic treatment came up.

13 Q How soon after this young man had been in your
14 emergency room was it that he was dead?

15 A I don't recall exactly. It's a very unfortunate
16 event.

17 Q I think we can all agree on that, Doctor. But as a
18 result of that young man's death, you were under
19 investigation, correct?

20 A Correct. That is the usual course of events when
21 something like that happens. That's normal.

22 Q And did you actually have conversations, you
23 yourself, have conversations with Scott -- with -- with
24 -- strike that. Did you yourself actually have
25 conversations with Craig Martin out at the corporate

1 office of CasePro, Incorporated, concerning this young
2 United States Marine's tragic death?

3 A I don't believe I did.

4 Q Your answer is no, you didn't?

5 A To the best of my recollection, I don't recall
6 speaking wiht Craig Martin. There would be no
7 particular reason to speak with him. He's -- wasn't
8 involved in the credentialing process or having me work
9 in the hospital, or firing me, or anything like that.
10 He had nothing to do with that.

11 Q You are coming into this courthouse today saying
12 there's no reason for Craig Martin to know anything
13 about this or to talk to you? Is that your testimony?

14 A Well, I mean, he -- he can talk to me about it. I
15 just don't recall speaking to him about it.

16 Q Now, at that point in time that you were under
17 investigation over this dead United States Marine, Craig
18 Martin was the person at the corporate headquarters out
19 there in Texas who was actually making the schedule to
20 determine whether or not you, as a physician, came to
21 work on a Monday or a Thursday, correct?

22 A Probably to some degree, yes. But it was a
23 combination of the doctors making the schedule, and
24 sending it to headquarters for approval, and giving it
25 to the Navy. So, I don't know if he always -- he made

1 the schedules. I'm not particularly certain about that.

2 Q Are you certain one way or the other of whether or
3 not you ever met Craig Martin?

4 A I probably did meet him, but I don't recall the
5 exact time or day or when or when.

6 Q Do you know if you met him on more than one
7 occasion, or, I don't know, five or six occasions?

8 A Again, I do not have an exact recollection. I
9 can't truthfully say yes or no.

10 Q Okay. And I appreciate that answer, sir. But at
11 this period of time, there's a death of a United States
12 Marine, and you are under investigation, correct?

13 A Correct.

14 Q And at that period of time, is your employment
15 terminated or not terminated?

16 A No.

17 Q You're not fired?

18 A No.

19 Q Did you ever receive any information that the
20 commanding officer of the Naval Hospital here in
21 Beaufort wanted you fired?

22 A No.

23 Q That wasn't conveyed to you?

24 A No. Never.

25 Q Did you ever have an understanding as to whether or

1 not any type of review was done by one of your
2 colleagues by the name of Scott Moore?

3 A I believe there was a review done, but I don't
4 remember the specifics of it.

5 Q Do you remember the finding that Dr. Moore made or
6 did not make about you and your care of this United
7 States Marine who died from sepsis?

8 A You probably would have to refresh my memory. I
9 don't -- I don't recall.

10 Q You want me to refresh your memory, Doctor?

11 A If that's the way we're going, I guess that's the
12 want we got to do.

13 THE COURT: And this is a wonderful place to stop.

14 MR. HOYLE: I agree, your Honor.

15 THE COURT: And we will take up here in the
16 morning.

17 Ladies and gentlemen, that will conclude the work
18 that we will do this evening. It is my hope to begin in
19 the morning at 9:00 o'clock. Would that be a problem
20 for anyone? Can you all make it here by 9:00? If not,
21 raise your hands. All right. Wonderful. We will begin
22 in the morning at 9:00 o'clock.

23 Same admonition as last week. Do not discuss this
24 matter. Do not allow anyone to discuss it with you.
25 Please leave your notepads in your seat. We will

1 protect them and collect them over the evening.

2 Remember, don't read anything. Don't listen to
3 anything. You must receive all of the information from
4 which you will make up your mind here in court, while
5 court is in session. No going to the Internet, no
6 Columbo, no research. Don't read anything, radio,
7 television, Internet.

8 And I so look forward to seeing you in the morning
9 at 9:00 o'clock. Have a grand evening.

10 JURORS LEAVE COURTROOM 5:28 P.M.

11 BAILIFF: Jury is clear, your Honor.

12 THE COURT: Thank you so much. Dr. Jansen?

13 A Yes, ma'am?

14 THE COURT: Please be mindful, you cannot discuss
15 your testimony with anyone.

16 A Even in my sleep?

17 THE COURT: Even in your sleep.

18 A Oh, my goodness. That'll be hard.

19 THE COURT: Because you are still on the stand.
20 Doesn't mean you can't talk to people about any other
21 subject.

22 A I understand. I understand. I understand.

23 THE COURT: And if you have a copy of your own
24 deposition, you can certainly look at it, --

25 A Yeah.

1 THE COURT: -- if you already have it. But talk,
2 because you couldn't talk to your lawyers about your
3 testimony, again. So. But at any rate, we look forward
4 to seeing you in the morning, at 9:00 o'clock.

5 A Thank you.

6 THE COURT: Wonderful.

7 A I'll be here.

8 THE COURT: Maybe tomorrow morning, instead of a
9 little water, you might want a cup of coffee or
10 something, but we'll figure that out in the morning.
11 Have a good evening. Thank you, sir.

12 All right, Counsel, anything else before we take
13 our leisure?

14 MR. HOYLE: Nothing from the Plaintiff.

15 THE COURT: And I'm eyeballing my lawyers.
16 Defense?

17 MR. LOVELL: Nothing from the Defense.

18 THE COURT: Wonderful. You all have a grand
19 evening. I'll see you in the morning at 9:00.

20 MR. HOYLE: Thank you, Judge.

21 THE COURT: Thank you.

22 END DAY FIVE, MONDAY,

23 OCTOBER 12, 2015, 5:28 P.M.

24 BEGIN DAY SIX, TUESDAY,

25 OCTOBER 13, 2015, 9:26 A.M.

1 ON THE RECORD 9:24 A.M.

2 BY THE COURT:

3 BAILIFF: All rise. Court is now in session, Judge
4 Diane Goodstein presiding.

5 THE COURT: Still. Still. Good morning. How is
6 everyone doing? Uh-oh.

7 MR. MACKELCAN: Mr. Lovell just stepped out.

8 THE COURT: Oh, I thought Mr. Lovell left us.
9 That's just terrific. All right. All right.
10 Wonderful. Yay. Two thumbs up. Good morning, good
11 morning. Okay. Ready? Ready, ready? Need a witness.

12 MR. HOYLE: Your Honor, before we bring the jury
13 in, just a little bit of housekeeping. We have marked
14 as Court's Exhibit Number 7 the original DVD of the
15 testimony played in court yesterday of Craig Martin.

16 THE COURT: Okay.

17 ITEM IDENTIFIED AS DVD OF VIDEOTAPED
18 DEPOSITION OF CRAIG MARTIN
19 MARKED COURT'S EXHIBIT NUMBER 7
20 RECEIVED BY THE COURT.

21 MR. HOYLE: And we have marked as Court's Exhibit
22 Number 8 the original deposition transcript of Dr.
23 Christian Jansen, which the seal of which was broken
24 here in open court yesterday, that the witness has been
25 referring to.

1 THE COURT: Great.

2 MR. HOYLE: For portions of his examination.

3 ITEM IDENTIFIED AS ORIGINAL

4 HARDCOPY DEPOSITION OF DR.

5 CHRISTIAN JANSEN

6 MARKED COURT'S EXHIBIT NUMBER 8

7 RECEIVED BY THE COURT.

8 THE COURT: Okay. And do you want to tell me what
9 the numbers are, just so the record will reflect.

10 MR. HOYLE: Yes, Judge. 7 is the DVD of Craig
11 Martin.

12 THE COURT: Yes.

13 MR. HOYLE: 8 is the deposition transcript.

14 THE COURT: Perfect. Thank you, David, very much.
15 And good morning.

16 DR. CHRISTIAN JANSEN: Good morning, judge.

17 THE COURT: Do you have water this morning?

18 DR. CHRISTIAN JANSEN: Yes, I do.

19 THE COURT: Do you want coffee?

20 DR. CHRISTIAN JANSEN: No, I'm fine.

21 THE COURT: You okay?

22 DR. CHRISTIAN JANSEN: Unless it's Starbuck's.

23 THE COURT: Mmm. Yeah. Um-hmm. Oh, don't even go
24 -- love Starbuck's. Love it.

25 Okay. Let's have the jury. Thanks, thanks.

1 BAILIFF: The jury is entering the courtroom, your
2 Honor.

3 THE COURT: Yes. Thank you. Thank you so much.

4 JURORS ENTER COURTROOM 9:26 A.M.

5 THE COURT: Good morning.

6 RESPONSES FROM JURORS.

7 THE COURT: Ladies and gentlemen, at this time, we
8 will continue with the Plaintiff's case, and the direct
9 examination of Dr. Jansen. Mr. Hoyle.

10 MR. HOYLE: Thank you, your Honor.

11 THE COURT: Yes.

12 DR. CHRISTIAN JANSEN

13 CONTINUE DIRECT EXAMINATION, BY MR. HOYLE:

14 Q Dr. Jansen, I believe I'm going to have the
15 pleasure of saying good morning to you.

16 A Good morning, Mr. Hoyle.

17 Q Nice to see you again. Thank you for coming back.

18 Yesterday, when we left, we were talking about
19 answers you provided to the South Carolina State Medical
20 Board back in June of 2011. Do you recall that?

21 A Yes.

22 Q Would you like to get that exhibit in front of you
23 for assistance, sir?

24 A Well, and if you can help me. Oh, here it is.

25 Q Okay.

1 A Right.

2 Q And you'll agree with me that, by the plain text of
3 the document, the South Carolina State Medical Board was
4 inquiring about the relinquish of privileges while under
5 investigation or pending action for any reason, correct?
6 That's what the document says.

7 A Yes.

8 Q And I believe that we've heard testimony in this
9 trial about a dead United States Marine who died from
10 sepsis, and learned that there was both an
11 investigation, correct?

12 A Yes.

13 Q And that your privileges at the Naval Hospital,
14 Beaufort were placed in abeyance, correct?

15 A Correct.

16 Q And we were having some discussion yesterday about
17 what an abeyance is. Do you recall that?

18 A Yes.

19 Q And I don't know if you saw on the news last night
20 about Will Grier, the quarterback at Florida, being
21 suspended for a year. Did you see that last night?

22 A No, I did not, no.

23 Q Do you recall a few weeks ago there was a young
24 man, a high school student in Texas, who got suspended
25 from school because he brought a clock to school that

1 some people thought looked like a bomb. Do you recall
2 that?

3 A I've heard of that, yes.

4 Q Okay. When that young man out there in Texas got
5 suspended from school, was he able to go to school for
6 some period of time, or was he prohibited from going to
7 school for some period of time?

8 A Mr. Hoyle, I really don't know.

9 Q Okay. Well, let me ask it this way, sir. When
10 your privileges at the Naval Hospital were in abeyance
11 for 28 days, involving the death of this United States
12 Marine for sepsis, were you able to go to the hospital,
13 or not able to go to the hospital for those 28 days?

14 A Probably not able to go.

15 Q Okay. But it's your testimony now, here, today, in
16 this courthouse, that, that abeyance for 28 days from
17 which you were prohibited from going to the Naval
18 Hospital was not, in your mind, tantamount to a
19 suspension? Did I hear that correctly?

20 A That is correct, Mr. Hoyle. And if I may clarify
21 this, I don't think you did your homework very well.
22 The Navy in BUMED did put out a definition of what an
23 abeyance is and what an adverse privileging action is,
24 and those are two separate items. Perhaps you have it
25 in your documents, the definition, BUMED's definition of

1 what an abeyance is. Do you have that? Perhaps I could
2 read it, so I don't make any mistakes when I regurgitate
3 this definition. Would you have that somewhere, sir?
4 This will clarify everything.

5 THE COURT: You just answer the question, sir, the
6 best you can.

7 A All right. Well, an abeyance is a temporary taking
8 off of the schedule for work, and it is absolutely not a
9 suspension or revocation of the clinical privileges.
10 Now, the next step up from an abeyance is an adverse
11 privileging action, which I never went through and I
12 never had. And that is the either temporary or
13 permanent suspension or holding of privileges.

14 And I think, Mr. Hoyle, that is the correct
15 definition. And by that definition, I was very
16 truthful, and the answer is, no.

17 Q Sir, did you seek any guidance from any person
18 affiliated with the South Carolina State Medical Board
19 or the South Carolina Department of Labor, Licensing,
20 and Regulation when you filled out this renewal
21 application for June the 1st, 2011, as to whether or not
22 the abeyance and investigation connected with the dead
23 United States Marine would trigger an appropriate yes or
24 no answer to Renewal Application Question Number 1?

25 A No, I did not, because, by the definition, it was

1 straightforward that there was -- the answer would be
2 no.

3 Q Sir, did you ask anybody whatsoever how you should
4 answer Renewal Application Number 2 back in June of
5 2011?

6 A No.

7 Q Did you tell me at your deposition on August 18,
8 2014, that you intended to notify the South Carolina
9 State Medical Board that there was an inaccurate
10 statement contained in your 2011 renewal application?

11 A That was my answer at that time. However, I went
12 home and checked the definition, and found out that,
13 actually, I was correct and you were wrong.

14 Q So, you sit here today, you've not called up
15 anybody in Columbia, or written a letter, or sent an
16 email, or told anybody at the South Carolina State
17 Medical Board that there was inaccurate information
18 contained in your 2011 renewal application?

19 A I think any communication like that is private and
20 confidential between myself and DHEC, the Department of
21 Health and Environmental Control, in South Carolina,
22 sir.

23 Q Well, sir, looking at that packet,

24 A Um-hmm.

25 Q -- does it have the DHEC logo on it, or does it

1 have the LLR logo on it?

2 A I don't know. Where is it? LLR.

3 Q But Doctor, going back to the question.

4 A Yes.

5 Q Since you and I last spoke in August of last year,
6 have you contacted the South Carolina State Medical
7 Board, or anybody affiliated with the South Carolina
8 Department of Labor, Licensing, or Regulation,
9 concerning your 2011 renewal application? Yes, no, or
10 you're refusing to answer?

11 A I'm not going to answer.

12 MR. HOYLE: Your Honor, I do not believe there is
13 any privilege between this doctor and the State Medical
14 Board concerning whether or not his answer on a renewal
15 application was truthful or not truthful.

16 THE COURT: All right. Ladies and gentlemen, I'm
17 going to ask you to step to your jury room. There is a
18 matter of law that I must consider. Do not discuss this
19 matter, and do not allow anyone, please, to discuss it
20 with you.

21 JURORS LEAVE COURTROOM 9:33 A.M.

22 BAILIFF: Jury is clear, your Honor.

23 THE COURT: Thank you so much.

24 ON-THE-RECORD BENCH CONFERENCE, OUT

25 OF THE PRESENCE OF JURORS. PRESENT:

1 THE COURT, MR. HOYLE, MS. CASTLEBERRY,
2 MR. MACKELCAN, MR. LOVELL:

3 THE COURT: All right. I just wanted to give us an
4 option to discuss for a moment. Yes.

5 MR. LOVELL: Your Honor, I think that the doctor
6 has testified that, after he was asked the questions and
7 made a comment that he would contact the whatever
8 authorities, he went back and looked up the definition
9 of abeyance and realized that the definition that
10 Plaintiff's counsel was using in the deposition was
11 inaccurate and wrong. And thus, he did not have a duty
12 to report anything to anybody.

13 So, I think this line of questioning is not only
14 irrelevant to the issues of the case, but probably
15 erroneous in terms of the duties the doctor owed. So,
16 whether he contacted anybody or not, it doesn't matter.

17 THE COURT: Well, that would have been fine, if
18 there had been an objection about three minutes ago, Mr.
19 Lovell. That is exactly what we would do. Asked and
20 answered would have been a place we could have been,
21 too, but that's not where we are now. Now, fast forward
22 with me.

23 MR. LOVELL: Any privileges a doctor may have as it
24 relates to communications with the licensing agencies
25 is, I think, one that's between him and them, not

1 necessarily CasePro, but I would argue that -- get my
2 thoughts in order.

3 THE COURT: I know. I know. It's -- it's jj

4 MR. LOVELL: I don't know the answer to the
5 question, so I'm trying to think of the --

6 THE COURT: We're in a sticky wicket only because
7 of where we are, not because of what it is,
8 unfortunately, at this moment. I think that, given
9 because where we are where we are, and now, we're
10 dealing with issues of credibility, I think I have to
11 allow it in your follow-up. Although, I think, you
12 know, --

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

14 THE COURT: -- there's an Equus. It is flawed.
15 This particular Equus.

16 MR. HOYLE: I hear you, Judge.

17 MR. LOVELL: I can certainly clean it up on cross-
18 exam.

19 THE COURT: Do you see the Equus?

20 MR. LOVELL: Oh, yeah.

21 THE COURT: Do you see it on the floor, flawed.
22 Okay.

23 Let me have the jury back.

24 Yeah, we're ready.

25 BAILIFF: Yes, ma'am. Jury's entering the

1 courtroom.

2 THE COURT: Ladies and gentlemen, thank you so
3 much. You may continue, Mr. Hoyle.

4 MR. HOYLE: Thank you, your Honor.

5 BY MR. HOYLE:

6 Q Doctor, before the jury left the room, there was a
7 question pending. Do you recall that question, or do I
8 need to re-ask it?

9 A Yes, I -- yes, I do. Yes, I do.

10 Q And what is your answer to the question as to
11 whether or not you contacted the State Medical Board?

12 A Well, I'll be glad to answer that, since the Court
13 requested me to do that. And I did not contact the
14 State Medical Board. And my reasoning is, the Navy, at
15 no time in my work had the Navy suspended or reduced or
16 in any way changed my privileges. So, once I confirmed
17 that by looking up the definition, there was really no
18 reason to contact the State Board. There was just no
19 reason why. The answer was obvious.

20 Q And you can recognize things that are obvious,
21 correct, Doctor?

22 A Because I'm a trained professional, yes.

23 Q Okay. Sir, we were looking yesterday at portions
24 of your personnel file, and we did not look directly at
25 your application that you filled out with CasePro, but

1 you had previously told CasePro on an application that
2 you had been doing some work at the hospital over in
3 Varnville, South Carolina, over in Hampton County, in
4 between the time period you were getting your
5 citizenship. Is that correct?

6 A Yes, that's correct.

7 Q And you actually did work over there at Varnville
8 over there at the hospital in Hampton, correct?

9 A Yes.

10 Q At any point in time, did anyone from CasePro,
11 Incorporated, ever ask you about a lawsuit filed in
12 Hampton County, about a gentleman by the name of Will
13 Solomon?

14 A I don't believe they did.

15 Q Nobody from CasePro ever inquired about that?

16 A I don't recall.

17 Q Did they ask you any questions about what happened
18 to Mr. Solomon?

19 A I don't believe they did.

20 Q Did they ask you any questions about your need to
21 take time off work to go give a deposition and testify
22 at trial?

23 A No.

24 Q Did they ask you any questions about a verdict that
25 a jury rendered in that case?

1 A No.

2 Q We were looking yesterday at some documents from
3 the medical records to try and figure out a time line
4 here. Do you recall that?

5 A Yes.

6 Q And there's an additional page of physician records
7 that you yourself filled out. Something called a
8 Physician Order Sheet. Do you recall that?

9 A Yes.

10 Q All right. You've got the marked exhibit right
11 here.

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

13 THE COURT: Yes.

14 BY MR. HOYLE:

15 A Thank you.

16 Q And tell the Court and jury what an order sheet is
17 that a physician fills out.

18 A Let's see where this is. Well, that's a page where
19 you would label any tests that you want to have
20 performed or any actions done.

21 Q All right. This physician order sheet, does it
22 have your handwriting on the page?

23 A Yes, it does.

24 Q And we've got some orders. I only really see one.
25 What order do you have down here on the page?

1 A It's not my handwriting, so that is not my
2 handwriting. It says, 1450: *psyche tech*.
3 Q And do you know whose handwriting that is, sir?
4 A I do not.
5 Q Okay. And 1450, does that match up with any of the
6 other records that we've looked at as to when the *psyche*
7 *tech* would have come to the emergency room?
8 MR. LOVELL: Objection, your Honor. I'm not sure
9 that indicates when the *psyche tech* came. It just says,
10 1450: *psyche tech*. That's a misstatement of the
11 testimony.
12 THE COURT: Maybe just rephrase your question.
13 MR. HOYLE: I'll rephrase the question.
14 THE COURT: For foundational purposes.
15 BY MR. HOYLE:
16 Q Doctor, --
17 A Yes.
18 Q -- we've looked at several other pages of Mr.
19 Hunt's medical records from that fateful Friday,
20 February 24, 2012, correct?
21 A Yes.
22 Q In any of those other pages of medical records, is
23 there a reference to anything having to do with the
24 *psyche tech* at 1450? Yes or no.
25 A There is no reference. And if I may answer that

1 question a little better, if you look at the original
2 emergency medical record that I wrote, it says the time
3 that I first met Mr. Hunt was 1450. So, I don't know
4 why somebody wrote 1450: psyche tech. It doesn't make
5 sense. I just -- that was the first time I met Mr.
6 Hunt, so why would the psyche tech be involved at that
7 point? It's -- it's probably some time frame error by
8 whoever wrote that.

9 Q And do you recognize the handwriting that says,
10 1450: psyche tech? Yes or no?

11 A No.

12 Q Okay. Underneath, down here, we've got some
13 discharge instructions. And I believe I heard
14 yesterday in your testimony that Calvin Hunt was never
15 actually discharged. Is that correct?

16 A That's correct.

17 Q All right. The handwriting underneath the words
18 *discharge instructions*, whose handwriting is that?

19 A That's my handwriting.

20 Q All right. And let's walk through what that says,
21 Doctor.

22 A Um-hmm. Correct.

23 Q What does this say right here on the first line?

24 A It says:

25 Patient left without completing care

1 with the V.A. worker, then, escaped before
2 was brought back to the E.R.

3 Q Doctor, where, within the four walls of the
4 emergency room, were you when Calvin Hunt walked out of
5 the door of the emergency room?

6 A Most likely I was in my office behind closed doors
7 conversing with the psychiatrist.

8 Q All right. And let's go back to that time line.
9 You believe that's most likely. Did I hear that
10 correctly?

11 A Yes.

12 Q All right. And according to your notes, what time
13 do you believe you were conversing with the
14 psychiatrist? Is that reflected on here?

15 A Well, it says, *discuss with Dr. Hendelman, time*
16 1605. So, that would be the approximate time.

17 Q And going back to what we talked about yesterday, I
18 just want to make sure we're clear on this. You have in
19 your record, and given the treatment nurse's record, did
20 you call Beaufort Memorial Hospital and the psyche ward
21 to inquire about bed availability while Calvin Hunt was
22 still there or after he was gone? Or do you not know?

23 A When? What time frame? I'm not sure. I just
24 don't know what -- you mean after I spoke with Dr.
25 Hendelman? We did contact the Beaufort Memorial

1 Hospital psyche ward. Any other time, I don't recall
2 contacting Beaufort Memorial Hospital. I don't recall.

3 Q You don't recall. Could the treatment nurse's note
4 be correct that a call was made to Beaufort Memorial
5 Hospital to inquire about bed availability on the psyche
6 ward at 1510, or 3:10 in the afternoon?

7 A I mean, -- I mean, it's possible. Nurses will
8 sometimes check on bed availability. They think
9 something will be required. I mean, that's -- that's
10 done normally in E.R. So, it's possible somebody did.
11 I have no quarrel with that. That's nothing wrong.

12 Q And if the treatment nurse's note says, *M.D. spoke*
13 *with Marilyn*, the only medical doctor in the emergency
14 room that day would have been you, correct?

15 A Yes.

16 Q So, if you called Marilyn at Beaufort Memorial
17 Hospital to inquire about bed availability in the psyche
18 ward at 3:10 in the afternoon, that would have been (1)
19 while Calvin Hunt was still there, correct?

20 A Yes.

21 Q And before you talked to Dr. Hendelman, correct?

22 A Yes.

23 MR. HOYLE: Those are all the questions I have at
24 this time. Thank you, your Honor.

25 THE COURT: All right. Cross-examination.

1 DR. CHRISTIAN JANSEN

2 CROSS-EXAMINATION, BY MR. LOVELL:

3 Q Doctor, I'm going to take things down a little bit,
4 and I'm going to ask you some questions that don't just
5 require a yes or no from the lawyer. So, please feel
6 free to explain any question I ask you.

7 A I'll do my best.

8 Q How long have you been a resident in Beaufort
9 County?

10 A Let me think. Probably close to 25, 26, 27 years.

11 Q You married? Got kids?

12 A Yes.

13 Q How many kids you got?

14 A Three.

15 Q They all grow up in this area?

16 A Yes, they have, yes.

17 Q I'm interested in the story of how you and your
18 family came to be here in the U.S. You mentioned
19 something earlier that you were born in Poland, but why
20 is it you all immigrated to Canada, and then, into the
21 U.S.

22 A Well, my parents immigrated to Canada in 1960,
23 approximately, and I did all my training in Canada. And
24 when I finished my -- my education, I wanted to just
25 explore America and come to the U.S. to see what the

1 medical field is like down here. The main reason is
2 really to escape the harsh winters in Canada. That was
3 my main reason. I enjoy outdoor living, and I enjoy the
4 South Carolina climate. So, those are the two reasons I
5 came down at first.

6 Initially, I wasn't planning on staying
7 permanently. I was just going to come for a couple of
8 years; see what it's like; get some experience; and
9 then, you know, I love the area, and decided to stay.

10 Q Let me ask you some questions on your education.
11 You mentioned that you started in college, but then, you
12 got -- and the term I thought I heard was fast-tracked
13 into medical school.

14 A Yes.

15 Q What did you mean by that? Does everybody get
16 fast-tracked to medical school?

17 A Well, usually you have -- like in the States,
18 usually you have to have four years of basic training
19 and a degree, or even a master's degree. But for --
20 there was a possibility to do it a little faster. If
21 you had the grades and you had the -- the abilities,
22 select people were allowed to enter medical school after
23 two years.

24 Q And were you one of those select people?

25 A Yes. Yes.

1 THE COURT: Let me stop you just a second.

2 MR. LOVELL: I'm sorry.

3 THE COURT: And I apologize, Mr. Lovell. Dr.

4 Jansen, I'm going to ask you to do something for me, and
5 let me explain to you why.

6 A Yes, ma'am.

7 THE COURT: When you get asked a question, towards
8 the end of that question, oftentimes you know what the
9 answer is, and so, you will respond. And you respond at
10 the end of the question that's being asked. In normal
11 conversation, that's the way people talk. But in Court,
12 because Ms. Rowe has to take down what Mr. Lovell is
13 saying and what you are saying, when people talk at the
14 same time, while that's normal, conversation happens, it
15 makes it very difficult for her.

16 She is extraordinarily talented, and she has not
17 even looked at me like what are you doing, the first
18 time, but I know it's coming. If you could do this for
19 me, just understand that is a normal conversation
20 pattern. Everybody does that, but in court, to
21 accommodate, really, Ms. Rowe, could you wait for Mr. --
22 you don't even realize. See, you don't even -- it's so
23 normal, you don't even realize that, that's happening.
24 But at the tail end of the answer, then, -- I mean, of
25 the question you're answering, it happened also with Mr.

1 Hoyle, but you all sort of get into a pattern where she
2 was able to keep up. Could you do that for me?

3 A Absolutely. Sure. I will try.

4 THE COURT: Wonderful. And I apologize to you, --

5 A Oh, no.

6 THE COURT: -- because it's not normal
7 conversation, but it would help us a whole lot.

8 A I will do the best I can.

9 THE COURT: And do you mind, if you forget, if we
10 remind you? We're right here with you.

11 A Hit me up with the gavel.

12 THE COURT: Never. Ever. I don't even know where
13 it is. Do we have one? I don't even think we have one.

14 BY MR. LOVELL:

15 Q And Doctor, I apologize. I talk slow, so, it's
16 easy to jump on what I say.

17 Now, let's walk forward. You are one of the select
18 few that gets into medical school on the fast track.
19 When you completed that, you were asked questions about
20 doing a surgical residency, which was -- it was called a
21 partial residency. Was that something that, because you
22 only did a partial one, you were unqualified to practice
23 surgery?

24 A Yes, that's correct.

25 Q Did you practice surgery after doing the two years

1 of residency?

2 A No, I did not.

3 Q When you came to the States, did you act as a
4 surgeon at any point?

5 A No, I did not.

6 Q All right. Why did you only do a partial residency
7 in surgery?

8 A Well, I -- I -- I found that surgery wasn't my --
9 my thing, and I just wanted to pursue a different
10 specialty.

11 Q When you were training in medical school, while you
12 did your surgical residency, and then, when you began
13 practicing after that, were you interacting with doctors
14 in the emergency department?

15 A Of course.

16 Q And nurses and other staff of emergency
17 departments?

18 A Yes.

19 Q When you were working at the Queensway Hospital up
20 in Canada for the years that you were up there, did you
21 interact with emergency room staff, doctors, nurses,
22 whoever else might be in that facility?

23 A Yes.

24 Q Did you become familiar with how things worked in
25 the E.R. while you were working up at Queensway?

1 A Yes.

2 Q Is that where your interest in emergency medicine
3 sort of got sparked?

4 A Yes.

5 Q All right. Let's fast forward to South Carolina.
6 You're now leaving here. You told us that you went to
7 work in the Florence Hospital up in Florence. I think
8 it was Florence General Hospital. Did I -- I'm not
9 getting it wrong.

10 A Yes.

11 Q What position were you invited to take when you
12 were brought into that facility?

13 A Medical director.

14 Q Of what department?

15 A The emergency department.

16 Q And how many physicians did you -- well, first,
17 I'll ask did you supervise physicians as the medical
18 director of the emergency department?

19 A Yes.

20 Q Let me finish, and then, you talk. We'll get it
21 right. And how many doctors did you supervise as the
22 E.R. director in Florence?

23 A There were probably four to five.

24 Q And in that period of time you were supervising the
25 four to five, did you also interact with and supervise

1 the nurses in the E.R.?

2 A Yes.

3 Q Would that be triage and treatment nurses?

4 A Yes.

5 Q Thank you. And how many years did you do that?

6 A I worked at the Florence General Hospital for about
7 two years.

8 Q All right. At some point in this time frame, did
9 you become a specialist in emergency medicine where
10 that's all you were doing?

11 A That was exclusively my work.

12 Q And we're talking in the 1980s here, correct?

13 A Yes.

14 Q Back in the eighties, I know things are different
15 now, but back in the eighties, did they have programs in
16 medical school where you could go in just to specialize
17 in emergency medicine?

18 A Yes, they did.

19 Q Okay. Did they have board certification for people
20 who were just specialized in emergency medicine way back
21 in the 1980s when you were first doing that practice?

22 A I think that was the very beginnings of the
23 specialty.

24 Q Did you, at some point, become board certified in
25 emergency medicine?

1 A Yes.

2 Q When was that?

3 A I believe that was in 1996.

4 Q All right. And to do that, what did you have to
5 do? Did you have to take tests and be tested on your
6 knowledge of emergency medicine?

7 A Well, you have to prove that you've seen a certain
8 amount of patients in the emergency department, number
9 1. And then, there was a written test. And once you
10 pass the written test, there was an oral examination.

11 Q So, the written test, I assume, is kind of like the
12 bar exam; you have a bunch of questions; you have to
13 pick which ones you think are right; and they grade it.

14 A Correct.

15 Q Did you pass that on your first go round?

16 A Yes.

17 Q This oral test, who's that in front of?

18 A Well, it's in front of a committee of probably
19 three physicians that question you on sample cases, and
20 how would you act, what would you do in certain
21 situations.

22 Q When you say cases, you mean patient sample
23 scenarios?

24 A Yes.

25 Q And are those doctors questioning you also

1 specialists in emergency medicine?

2 A Yes.

3 Q All right. Did you pass the oral exam?

4 A Yes.

5 Q All right. In board certification, do you have to
6 sit for re-certification periodically?

7 A Yes, every eight to ten years.

8 Q And when did you get -- first, did you get re-
9 certified?

10 A Yes.

11 Q When?

12 A First time in 2006. And since then, last year,
13 December 2014.

14 Q All right. Now, after you left the Florence
15 position as the director of that E.D., that's when you
16 came here to the Beaufort area?

17 A Correct.

18 Q And you were granted privileges at the Beaufort
19 Naval Hospital, right?

20 A Well, the first -- my first stop was the Hilton
21 Head Hospital.

22 Q I'm sorry. And you were granted privileges there.

23 A Yes.

24 Q To work in that emergency department, right?

25 A Yes.