

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

W. Jeffrey Young, Circuit Court Judge

Case No. 2011-CP-40-4068
Appellate Case No. 2013-002157
Opinion No. 5326 (Ct. App. filed July 15, 2015)

RECEIVED

SEP 15 2015

S.C. Supreme Court

Denise Wright Petitioner

v.

PRG Real Estate Management,
Inc.; Franklin Pineridge
Associates; Karen Campbell
Individually, and in her
Representative Capacity as an
Agent of PRG Real Estate
Management

..... Respondents.

APPENDIX (VOLUME 3)

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State of South Carolina

2

County of Richland

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Denise Wright,

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Plaintiff,

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vs.

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PRG Real Estate Management,

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Inc., Franklin Pineridge

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Associates, Karen Campbell

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Individually and in her

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Representative Capacity as

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an Agent of PRG Real Estate

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Management,

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Defendants.

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Video deposition of Karen Campbell, taken before

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Sandra J. Ayers, a notary public in and for the State of

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South Carolina, commencing at the hour of 10:10 a.m.,

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Monday, August 20, 2012, at the office of Collins &

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Lacy, PC, 1330 Lady Street, Sixth Floor, Columbia, South

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Carolina.

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Reported by

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Sandra J. Ayers

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1

Plaintiff's Exhibit No. 7, "Employee Handbook."

2

Plaintiff's Exhibit No. 8, "Affidavit of

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Timir Patel."

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Plaintiff's Exhibit No. 9, Color photographs of outside

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walkway and parking areas.

6

Plaintiff's Exhibit No. 10, Work orders, dated 01/09/07

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through 03/19/07.

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Plaintiff's Exhibit No. 11, Work orders, dated 02/25/08,

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03/27/07, 08/01/06 and 11/08/05.

10

Plaintiff's Exhibit No. 12, "Payroll Data Sheet",

11

"Application for Employment."

12

Plaintiff's Exhibit No. 13, "Report of Unusual

13

Occurrences", Fax coversheet, "Richland County Sheriff's

14

Department Incident Report (I)."

15

Plaintiff's Exhibit No. 14, E-mail correspondence in

16

reference to "Apt 401" from Tracy Cinicola.

17

Plaintiff's Exhibit No. 15, "Resident Ledger", "Courtesy

18

Officer Independent Contractor Agreement", "Employee

19

Lease Addendum", Letter in reference to Courtesy Officer

20

from Alicia Remy.

21

Plaintiff's Exhibit No. 16, "Vendor Ledger."

22

Plaintiff's Exhibit No. 17, Letter to H&B Landscaping

23

from Karen Campbell, "Maintenance Contract PRG Real

24

Estate dba Wellspring."

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Plaintiff's Exhibit No. 18, "General Ledger

(Accrual)."

Plaintiff's Exhibit No. 19, "Annual Performance

Appraisal."

Plaintiff's Exhibit No. 20, Copies of driver's

license and social security card.

Plaintiff's Exhibit No. 21, Application for apartment

paperwork.

Plaintiff's Exhibit No. 22, "Resident Administration

Customer Service" manual.

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Also Present:

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Brooks Oswald, Videographer

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Plaintiff's Exhibit No. 23, "Defendants' Answers to

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Plaintiff's Interrogatories."

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STIPULATIONS

It is stipulated by and between counsel for the respective parties that all objections are reserved until the time of trial, except as to the form of the questions.

This deposition is being taken pursuant to the South Carolina Rules of Civil Procedure.

- - - -

The reading and signing of this deposition is waived by the deponent and counsel for the respective parties.

Whereupon,

Karen Campbell, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. HOOD:

Q Ms. Campbell, my name is Randy Hood. Before we begin this deposition, I want to, kind of, go over a couple of things, and -- and just a couple of ground rules. One of the first things is: If you can give me a verbal response. I know you've had your deposition taken at least one time, but it's real hard sometimes not to just shake your head and assume that -- that we understood. But in order

Page 6

for Sandra to be able to -- to get a accurate depiction of what you're testifying about, you have to give us a verbal response, okay?

A Okay.

Q And if you don't understand something, please let me know. I want you to tell me, "Randy, I don't understand your question."

A Okay.

Q Because I want you to understand it in order to be able to answer it, okay?

A Sure.

Q And if you need to -- between me and Brian, we've cut down a forest of trees for all the paper that we've got.

A Okay.

Q So if there's a document you need to look at or you feel that you need to look at to refresh your recollection about something, let us know because I -- this is not some kind of a -- a test or some memory test. I want you to have what you need to give me an accurate response, okay?

A Okay.

Q Now, if you do give me a response, knowing those things, is it fair for me to assume that when you do that it's -- it's accurate to the best of your

Page 7

knowledge?

A Yes.

Q Okay. This is not a marathon, and so if you need to take a break for some reason, all you got to do is just let me know, and we'll take a break.

A Okay.

Q Okay?

A Yes.

Q Now, your name is Karen Campbell?

A Yes.

Q And where do you live at, Ms. Campbell?

A Paces Brook Apartments.

Q Okay. And in 2004 to 2008, you were an employee of PRG Wellspring --

A Yes.

Q -- Apartments, right?

A Correct.

Q And when I use the term "PRG Wellspring," I'm talking about the -- the -- the people that own the complex. Did they own the complex, or were they managing the complex?

A They had managed.

Q Okay. And so you were a -- you were a employee of the person that managed the apartment complex?

A Correct.

Page 8

Q And that's called "PRG," right?

A Correct. Yes.

Q Okay. And when I use the term either "PRG" or "Wellspring," for the purposes of this deposition, can we assume that I'm meaning the same person?

A Yes.

Q Okay. So when you were employed at PRG between 2004 and 2008, there was a resident there by the name of Denise Toni Wright, correct?

A Yes.

Q And during your tenure as apartment manager in 2008, she was abducted at gunpoint, correct?

A Yes.

Q And that's not supposed to happen, is it?

MR. CONER: Objection.

A That can happen anywhere.

Q That can happen anywhere, right?

A Yes.

Q Because when you allow people in from anywhere, anything can happen, right?

A Yes.

Q And -- and in this particular apartment complex, y'all had something called the "Harbison Walking Trail," right?

A Yes.

Page 9

1 Q And when you have the Harbison Walking Trail, it --
 2 it had a -- an opening at the fence, right? I
 3 mean, where it came into the property, and then you
 4 could -- you could continue on that trail down the
 5 backside of your property?
 6 A Yes. We were a part of Harbison Community.
 7 Q Right.
 8 A Yes.
 9 Q And -- and -- and they could even -- there's a pond
 10 back there, right?
 11 A Yes.
 12 Q And -- and so anybody could come into -- to this
 13 apartment complex, right?
 14 A Correct.
 15 Q Okay. And so, you know, there're some where you
 16 have apartment complexes and they're completely
 17 fenced, and -- and they have gates and all that
 18 kind of stuff. And in that situation you can have
 19 a little more expectation of privacy than one where
 20 anybody can come in, right?
 21 MR. CONER: Objection: form.
 22 A I don't agree with that.
 23 Q You don't agree with that?
 24 A No, I don't.
 25 Q So it's -- it's your opinion as an apartment

Page 10

1 manager and as having received a license that
 2 anybody can come in to any apartment complex at any
 3 time?
 4 A Yes.
 5 Q Okay. So, now, in 2008 you resigned from PRG,
 6 didn't you?
 7 A Yes, I did.
 8 Q Okay.
 9 MR. HOOD: Let's have this marked as Exhibit
 10 1.
 11 Plaintiff's Exhibit No. 1, E-mail
 12 correspondence in reference to "Letter of
 13 Resignation" from Karen Campbell.
 14 Q And there're going to be documents that we're going
 15 to, just for the record, and -- and -- I'm going to
 16 put it on the record. There're going to be
 17 documents that are going to be marked as
 18 confidential in this.
 19 A Okay.
 20 Q And -- and I will attest to you that the documents
 21 that are marked as "confidential" in this are
 22 confidential between Brian and I, and we're going
 23 to have a judge make sure that he -- he does a -- I
 24 mean an order for that, and they will not be
 25 provided to anybody other than the people that

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1 we've agreed they can be provided to.
 2 A Okay.
 3 Q Okay?
 4 A Sure.
 5 Q Here's a copy of this, and this is marked as
 6 Plaintiff's Exhibit No. 1. And Plaintiff's Exhibit
 7 No. 1 looks like an e-mail to Pamela Penny, Pamela
 8 Williams, Bob Dornay, Steven Berger, and subject,
 9 Letter of Resignation, sent Wednesday, 11/19/2008
 10 at 10:33 p.m. Do you see that?
 11 A Yes, I do.
 12 Q Okay. And it says, "To Whom it May Concern, Please
 13 except this letter of resignation effective
 14 immediately." Do you see that?
 15 A I do.
 16 Q Okay. And then it goes on to say why you were
 17 resigning, right?
 18 A Yes.
 19 Q I'm looking at the -- the last two paragraphs where
 20 it starts with "With the past budgets. . . ."
 21 A Okay.
 22 Q Do you see that?
 23 A I do.
 24 Q Okay. This was your e-mail that you sent, wasn't
 25 it?

Page 12

1 A Yes.
 2 Q Okay. And could you read me the one -- the -- the
 3 paragraph that -- you can read it out loud -- that
 4 starts with "With the past budgets. . . ."?
 5 A "With the past budgets I have proposed to have our
 6 air ducts cleaned to address complaints of mold
 7 issues given by residents. This proposal was cut
 8 due to cost. There have been other concerns I have
 9 proposed, but have been denied due to budget
 10 constraints. I take resident concerns very
 11 personal and to heart. I have looked into cost
 12 effective ways to address resident concerns, but
 13 are unable to do so with such an aggressive
 14 budget."
 15 Q If you could now read me the second -- the one
 16 under -- the sentence underneath that.
 17 A Okay. "It's a shame that it takes a mass letter to
 18 our residents to have their concerns addressed by
 19 upper management when I have been bringing these
 20 concerns to their attention for years."
 21 Q Okay. Now, you had your deposition taken in a case
 22 before this, didn't you?
 23 A I did.
 24 Q And in that one you said you didn't know about this
 25 -- this mass letter that was sent out before your

Page 13

1 resignation, didn't you?
 2 A I believe I did.
 3 Q So you didn't tell the truth in that deposition,
 4 did you?
 5 A Sir, it had been four years.
 6 Q Okay. Well, you knew you wrote this, didn't you?
 7 A I did -- on November 19th --
 8 Q Well --
 9 A -- 2008, and I don't -- didn't have a copy.
 10 Q And -- and I can show you your deposition, but in
 11 your --
 12 A No, that's fine.
 13 Q -- deposition you testified that you would've
 14 remembered if that had occurred. So I guess that
 15 just slipped your mind?
 16 A Yes, sir.
 17 Q Okay. We've got any document you need to look at
 18 --
 19 A That's -- okay.
 20 Q -- in this case, okay?
 21 A Okay.
 22 Q Now, when it says, "I take resident concerns very
 23 personal and to heart."
 24 A Uh-huh.
 25 Q "I have looked into cost effective ways to address

Page 14

1 resident concerns, but are unable to do so with
 2 such an aggressive budget." Do you see that
 3 sentence?
 4 A I do.
 5 Q There was an aggressive budget at Wellspring,
 6 wasn't there?
 7 A Very. Yes.
 8 Q There was a very aggressive budget?
 9 A Yes.
 10 Q And that very aggressive budget was during the time
 11 that you were the apartment manager from 2006 till
 12 you resigned in November 2008, right?
 13 A Yes.
 14 Q And in that -- in that budget constraints, it
 15 concerned things like the mold issue, right?
 16 A I don't believe the air ducts were in the budget --
 17 proposed in the budget.
 18 Q Okay. And so the air ducts were not in the --
 19 A Correct.
 20 Q -- proposed budget?
 21 A Correct.
 22 Q There was also landscaping and maintenance issues
 23 that you were not able to address as a result of
 24 these budget constraints, right?
 25 A I do not remember landscape issues.

Page 15

1 Q Okay. Do you know if Shane Howland was told he was
 2 not able to cut back shrubbery and address
 3 shrubbery concerns because of budget constraints?
 4 A No. We had a contract with him. That was in our
 5 contract.
 6 Q Okay. And so do you know why shrubs were not cut
 7 back the way they were supposed to be cut back?
 8 A Shrubs were cut.
 9 Q Okay. Well, have you seen where this incident
 10 occurred with this particular lady?
 11 A I know the building, yes.
 12 Q Why were they cut, like, two or three days after
 13 she was abducted?
 14 A It would have been just our normal maintenance
 15 weekly schedule.
 16 Q Okay. I'm going to show you --okay, let me see --
 17 see if I can find this now.
 18 MR. HOOD: I'm going to have this marked as
 19 Exhibit 2 -- (To Mr. Comer) Oh, I forgot to
 20 give you your stack.
 21 MR. COMER: Oh, that's okay.
 22 MR. HOOD: Good Lord. I'm sorry.
 23 MR. COMER: That's all right.
 24 MR. HOOD: This is the thing that was -- that
 25 -- that Ms. Wright drew up in her deposition.

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1 MR. COMER: Okay.
 2 MR. HOOD: Let's mark this as 2. Okay.
 3 Excuse me. I'm sorry. Mark that as 2.
 4 Plaintiff's Exhibit No. 2, Sketch.
 5 Q Okay. I'm going to hand you something else.
 6 A Sure.
 7 Q But this is just --
 8 A Okay.
 9 Q -- a diagram that she wrote up.
 10 MR. HOOD: (To Ms. Casey) I'm looking for an
 11 affidavit of Nellisa Davis. (To the court
 12 reporter) Okay. I want you to -- let's mark
 13 that as Exhibit 3.
 14 Plaintiff's Exhibit No. 3, "Affidavit of
 15 Nellisa Davis."
 16 Q So you have a -- you can read this.
 17 MR. HOOD: This is the Nellisa Davis -- would
 18 be Exhibit 3, Brian.
 19 MR. COMER: Okay. Thank you.
 20 Q If you could read Exhibit 3 for me, Ms. Campbell?
 21 A In the entirety?
 22 Q Please.
 23 A Okay.
 24 Q No, no. Not -- not out loud. Just to yourself.
 25 A Oh, just read --

Page 17	Page 19
1 Q Just to yourself. Just to yourself. 2 A Okay. (Complies.) 3 MR. COMER: (To Mr. Hood) Did you mark this 4 as Exhibit -- 5 MR. HOOD: That was Exhibit 3. 6 MR. COMER: Okay. Thanks. 7 MR. HOOD: The -- the diagram was Exhibit 2, 8 and that's Exhibit 3. 9 MR. COMER: I see. 10 Q Have you had an opportunity to read Exhibit 3? 11 A Yes, sir. 12 Q Now, in that affidavit it appears that Ms. Davis is 13 saying that she had complained about the shrubs 14 being too high and overgrown for a long period of 15 time, and she even had to have her father come out 16 and -- and -- and address the shrub issues because 17 it wasn't addressed by Wellspring. You saw that in 18 her affidavit? 19 A I read that, yes. 20 Q Okay. Now, is that true? 21 A She did not come in the office and speak to me 22 regarding lighting and shrubbery. 23 Q Okay. And if she had spoken to you, what would 24 have occurred? 25 A As far as light, we provided light. There was	1 A It would depend on what they did on the property. 2 If -- 3 Q Right. And if the budget -- it was not in the 4 budget to do that extra, then they were told not to 5 do it, weren't they? 6 MR. COMER: Objection. 7 A No. 8 Q Okay. So these budget issues that you're talking 9 about -- 10 A Uh-huh. 11 Q What are you talking about that have been going on 12 for years? 13 A As far as the budget, that was other things on the 14 property: new appliances, carpet, updating of 15 interior units. 16 Q Okay. Okay. So it had nothing to do with 17 lighting, shrubbery, security, or anything else? 18 A No. 19 Q Well, you also had -- you also had courtesy 20 officers there, right -- while you were there? 21 A From time to time, we did. 22 Q And when you had courtesy officers there, they were 23 supposed to walk the property two hours a day, and 24 they were supposed to fill out a daily report and 25 hand it in to you, weren't they?
Page 18	Page 20
1 breezeway light; there were SCE& -- SCE&G light 2 poles. As far as shrubs, you know, we would have 3 addressed it with the landscapers. 4 Q Okay. 5 A Whether it was myself in the office or any employee 6 in the office, it would have been addressed. 7 Q Okay. If the -- I want you to assume something for 8 me. I want you to assume that the landscaper -- 9 I'm not saying this is what he will testify or 10 won't. I want you to assume that it's possible he 11 may testify to this: that this landscaper was 12 given a budget or was given X amount of dollars to 13 do his work and was told not to cut shrubs because 14 it was not in the budget. What would you say to 15 that? 16 MR. COMER: Objection. 17 A I don't know what he would say. 18 Q If he did say that. I want you to assume that is 19 what he would say. 20 A That would be incorrect. 21 Q Okay. Why? 22 A Because it was in our contract. 23 Q Well, you paid them differing amounts in your 24 contract. Sometimes you paid them \$1300; 25 sometimes, 2,000, right?	1 A It is stated in their form, yes. 2 Q But that didn't happen, did it? 3 A No, it didn't. 4 Q And as the manager you're the person that's 5 supposed to make sure it's supposed to happen, 6 right? 7 A Yes. 8 Q But you didn't do that, did you? 9 A No. 10 Q Okay. And there were people that made reports, and 11 you didn't always take care of those, did you? 12 A I don't -- 13 MR. COMER: Objection: form. 14 A I'm not sure what you're referring to. 15 Q I'm talking about -- we have nine different 16 affidavits from nine different residents that said 17 they had major concerns about lighting or shrubbery 18 and made reports over and over, and it was not 19 addressed by Wellspring while you were there. 20 A If reports were made, we would've addressed it. 21 Q Okay. When you say "we," who do you mean? 22 A The office -- myself or the office. 23 Q Okay. Okay. So is it your testimony under oath 24 that it would have been addressed if it was 25 reported to the office?

Page 21	Page 23
1 A Absolutely. Yes. 2 Q Okay. Now, is this one of those things where 3 you're going to have a -- a sudden recollection 4 because it's been now six years since this -- or 5 four years since this occurred? 6 MR. COMER: Objection. 7 A If I see something and it jogs my memory, then, 8 yes, I would remember. 9 Q Okay. So -- 10 A I mean, it has been quite a few years. 11 Q So it's been quite a few years -- 12 A Yes -- 13 Q -- right? 14 A -- sir. Yes. 15 Q And -- and you admitted, "Yeah. It's been four 16 years, and I didn't remember that when I gave that 17 sworn testimony under oath in that first case." 18 You remembered that, right? 19 A Yes. 20 Q And so you can't remember everything that was done 21 during that time, can you? 22 A No, I can't. 23 Q And there are things you may not recall that could 24 have occurred, right? 25 A Right.	1 Q Because -- it's like you said before, "An apartment 2 complex -- as a licensed apartment manager and in 3 your education and experience, anybody comes on an 4 apartment complex." 5 MR. COMER: Objection. 6 Q Any member of the public, right? 7 A They do. 8 Q Okay. And as such, you would agree that an 9 apartment complex needs to be able to address the 10 potential criminal element that may be coming on to 11 the property, right? 12 MR. COMER: Objection. 13 A Yes. 14 Q Because y'all have a -- a -- a policy and procedure 15 about -- about completing something called an 16 "unusual occurrence report"? 17 A Yes. 18 Q So y'all've contemplated that criminal activity can 19 -- can occur on the property, right? 20 A Well, that can happen anywhere. 21 Q It can happen anywhere -- 22 A Sure. 23 Q -- including at Wellspring? 24 A Sure. 25 Q Okay. And -- and if it can happen anywhere,
Page 22	Page 24
1 Q And that could include someone making a report, and 2 it may not have been addressed within a day or two. 3 It may have two or three days? 4 A That would be fair. 5 Q Okay. 6 A I don't -- 7 Q And so if -- you've testified that you know that 8 there are people that come on this property -- on 9 this Harbison Walking Trail, right? 10 A Yes. It's a community. 11 Q It's a community? 12 A Right. Yes. 13 Q You still have a fence around your property, 14 though, right? 15 A No. There was no fence. 16 Q Okay. There are some complexes that do have -- 17 that are around there that are part of the Harbison 18 Community Association that does have a fence around 19 their complex, though, right? 20 A Yes. 21 Q And those would keep out people that are on that 22 Harbison Trail, right? 23 A No. 24 Q Why not? Fences -- people can jump fences. I mean 25 . . .	1 whether it's at an apartment community or whether 2 it's at a grocery store or whether it's at someone 3 home -- 4 A Uh-huh. 5 Q -- it -- a -- a crime could happen? 6 A Absolutely. 7 Q And because a crime could happen because they could 8 -- I mean, your residents could be exposed to 9 anyone, then you would agree that security is a 10 priority for Wellspring? 11 A Security is priority anywhere, but you cannot 12 guarantee anyone's safety -- 13 Q I understand you can't -- 14 A -- so. 15 Q -- guarantee someone's safety. I -- I 16 A Sure. 17 Q -- agree. You cannot guarantee -- you can't 18 guarantee someone's safety, but you can try to 19 reduce the risk of someone getting harmed, right? 20 A I can't guarantee that. 21 Q I didn't -- 22 A I mean, I -- 23 Q -- ask about guarantees. I'm talking about if you 24 yourself were to drive into a grocery store tonight 25 --

Page 25	Page 27
1 A Uh-huh. 2 Q -- and it was closed up and dark, and you saw some 3 unsavory elements walking around the front door, 4 are you going to get out of your car and go up and 5 say, "When's this store going to open up?" 6 A No. No, I wouldn't do that. 7 Q Because you're reducing the risk of -- of harm, 8 right? 9 A Okay. 10 Q You understand what I'm saying? 11 A I see what you're saying. 12 Q Okay. And so you would agree that when you have 13 good lighting, it helps reduce the risk from 14 certain criminal elements? 15 A I don't agree with that. 16 Q Okay. Let's -- let's look -- 17 A I -- 18 Q -- at one of your -- 19 A -- don't think so. 20 Q -- policies and procedures. 21 A Okay. 22 Q Okay. 23 MR. HOOD: Let's have this marked as -- 24 THE COURT REPORTER: -- 4. 25 MR. HOOD: -- 4.	1 Q And one of those reasons for safety is because if 2 you have a well-lit area, there's probably not as 3 many people going to be congregating that don't 4 belong there, right? 5 A Sure. 6 Q Okay. And to "Replace bulbs promptly and use 7 adequate wattage," that's also making sure that 8 it's well-lit, right? 9 A Right. 10 Q Because you have breezeway lights. 11 A Right. 12 Q And you have, like, I guess, hallway between -- do 13 you consider the place between apartments a 14 "breezeway" as well? 15 A A breezeway. Yes. 16 Q Okay. And then there are places where you have 17 walking ramps, and you have lamps -- or lights out 18 there, too, right? 19 A Yes. 20 Q That may not -- do you call that a "breezeway," 21 too, or what do you -- how do you refer to that? 22 A On the outside of the building? 23 Q Yes. 24 A You mean just like floodlights? Maybe I'm not 25 understanding what you're telling me.
Page 26	Page 28
1 Plaintiff's Exhibit No. 4, Maintenance 2 manual. 3 (Sotto voce discussion between Ms. 4 Casey and Mr. Hood.) 5 MR. CONER: (To Mr. Hood) Which one is this? 6 MR. HOOD: This is the "Maintenance" -- 7 MR. CONER: Okay. 8 MR. HOOD: -- "No. 9." And I think this is 9 the one. Let me . . . 10 Q I'm looking at page 7. I'm looking at the big, 11 bolded underlined thing that says, "Security." 12 A Okay. 13 Q You see that? 14 A I do. 15 Q Okay. Underneath that, it says -- could you read 16 that for me? 17 A "Nevertheless, it is our duty to help our residents 18 to enjoy a safe and pleasant stay. Always maintain 19 the following conditions: The property should be 20 well lit. Replace bulbs promptly and use adequate 21 wattage. Solicitation should be prohibited." 22 Q Okay. Now, why should the property be well-lit? 23 A Well, I believe for many reasons. 24 Q Is one of those reasons for safety? 25 A Well, sure.	1 Q Right. You know that in this case where she was 2 abducted, there was a -- there were, like, three 3 steps and then there was a ramp that went up? 4 A Right. 5 Q And on that ramp area, is there a light that, kind 6 of, shines down on that ramp area? 7 A It's been four years. I don't remember that light. 8 Q Okay. 9 A I know that there was a pole light -- 10 Q Okay. 11 A -- right there. 12 Q And the pole light -- was that a pole light, like, 13 a -- a telephone pole light, or . . . 14 A It was an SCR&G pole. 15 Q Okay. Okay. That's -- that's what I was looking 16 for. 17 A Okay. 18 Q Okay. And so -- but -- "Solicitations should be 19 prohibited." That's where people go knocking on 20 residents' doors? 21 A Right. 22 Q Probably doesn't make them too happy. 23 A Right. Absolutely. 24 Q And so those are people that -- that -- would you 25 consider, if you've warned somebody not to be on

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1 the property, they're trespassers?
 2 A Yes.
 3 Q Okay. What do you consider people that just come
 4 onto the property that haven't been warned to be on
 5 the property?
 6 A They would still be trespassing if they don't have
 7 a reason to be there.
 8 Q Okay. And so you would agree that the apartment
 9 complex should -- there are -- there are areas that
 10 are like the pond in the Barbison Community where
 11 the walking trail is. I mean, that's one part of
 12 the apartment complex, but then you have the actual
 13 units themselves --
 14 A Yes.
 15 Q -- right?
 16 A Right.
 17 Q And now, I think you had 23 units?
 18 A Twenty-three buildings?
 19 Q Twenty-three buildings.
 20 A Yes.
 21 Q And about 230-plus --
 22 A -- 2 units.
 23 Q -- units?
 24 A Yes.
 25 Q And so -- and I think it was built in 1984, right?

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1 A Correct.
 2 Q So you have these 23 apartment buildings, and they
 3 have little common areas with these apartment
 4 buildings, right?
 5 A What do you mean "common areas"?
 6 Q What do you -- how do you define "common areas"?
 7 A Between the buildings or the grass in front or in -
 8 - behind the buildings.
 9 Q Okay. So between the buildings or the grass in
 10 front or behind the buildings --
 11 A Right.
 12 Q -- is the common area?
 13 A Yes.
 14 Q Okay. So if I use the term "common area," we can
 15 agree that's what I'm talking about?
 16 A Yes.
 17 Q Okay. Now, you would agree that if you have
 18 trespassers in that common area that they're --
 19 that would be somebody that's not supposed to be
 20 there?
 21 A Yes.
 22 Q Okay. And you would agree that when you have these
 23 trespassers that some may be that criminal element
 24 we've talked about?
 25 A I can't agree with that. I wouldn't know that.

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1 Q Okay. Let's look at some of the --
 2 A Okay.
 3 Q -- stuff that's happened over there.
 4 MR. HOOD: (To Ms. Casey) It's this one, PRG
 5 0834. (To the court reporter) Let's have
 6 this marked as 8.
 7 Plaintiff's Exhibit No. 5, "Resident
 8 Status Report"; "Report of Unusual
 9 Occurrence" reports; "Crime Victim's
 10 Rights"; "Trespass Notice and
 11 Authorization"; "Richland County
 12 Sheriff's Department Incident Report";
 13 Letter to PRG Real Estate Management in
 14 reference to "Legal Action Taken Resident
 15 of Apt 1701."
 16 Q There you go.
 17 A Okay.
 18 Q Feel free just to thumb through it all you want to.
 19 MR. COMER: (To Mr. Hood) While she's doing
 20 that, can we go off the record one minute?
 21 MR. HOOD: Sure.
 22 (Off the record from 10:37 a.m.
 23 until 10:44 a.m.)
 24 THE EXAMINATION BY MR. HOOD CONTINUES.
 25 Plaintiff's Exhibit No. 6, Incident

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1 reports.
 2 Q I'm looking at Exhibit 5. And on Exhibit 5, the
 3 first page, it has, "PRG 00834." You see that,
 4 right?
 5 A I do.
 6 Q Okay. And I just want to -- just so I understand
 7 what that document is and what each thing means, it
 8 says, "Units." And that has "2101" and then it has
 9 a tenant. I'm assuming that the unit -- that's
 10 just the number. That's the apartment number?
 11 A Correct.
 12 Q And then it has, "Tenant" and there's a numbered
 13 designation for the tenant?
 14 A Yes.
 15 Q And then the tenant's name, right?
 16 A Yes.
 17 Q Okay. And it has, "Address." And it -- it --
 18 sometimes it'll have, like, 18 -- the second one
 19 says, "18039 [sic] Jefferson Park Drive" and then
 20 addressed to Apartment 10103. Do you see that?
 21 A I do.
 22 Q And then it has, "City: Herndon, Virginia. Office
 23 phone/mobile phone." Do you see that?
 24 A I do.
 25 Q Now, if they're a resident of -- of Wellspring, why

Page 33	Page 35
1 do they have an address in Herndon, Virginia? 2 A That address is -- was normally generated -- once 3 they moved out, we would have a forwarding address 4 for them. So we would put that into the system. 5 Q Okay. So why would you do a status report or why 6 would y'all do a Report of Unusual Occurrence after 7 someone moved out? 8 A I've never seen this form before. 9 Q So you don't know what this form is to? 10 A I've never generated one of these, no. 11 Q Okay. Okay. Let's look at page 2. Page 2 at the 12 top says, "PRG Defendant 00835." Do you see that? 13 A I do. 14 Q It says, "Report of Unusual Occurrence." 15 A Yes. 16 Q This is the form that you filled out from the time 17 in 2004 to 2008 if you filled one out, right? 18 A Yes. 19 Q Was property manager, "Pamela Penny." Is it Pamela 20 Penny or Pamela Perry? 21 A It's Penny. 22 Q Penny? 23 A Penny. 24 Q Okay. And this was your supervisor when you 25 resigned as apartment manager, right?	1 theft/unauthorized entry." Do you see that? 2 A I do. 3 Q It says, "A storage room from across our 24-hour 4 fitness center was entered." A crime, right? 5 A Yes. 6 Q Go to the next one, please. It says, "Property 7 Manager, Pamela Penny. Incident date, 8/5/2004. 8 Time reported to police and insurer. And nature of 9 incident, vandalism." Do you see that? 10 A I do. 11 Q And once again, that's a crime, right? 12 A Yes. 13 Q You can skip the next one, because that's just 14 something from Crimes Victims' Rights from the 15 police department. Then we go to "00839, Report of 16 Unusual Occurrence at Wellspring. Property 17 Manager, Pamela Penny. Incident date, 11/3/2004. 18 Time reported to police. Nature of incident, 19 theft." Do you see that? 20 A I do. 21 Q And, once again, it looks like there's a crime, 22 right? 23 A Yes. 24 Q And then you have the next thing: "00840, Trespass 25 Notice and Authorization." And it has property
Page 34	Page 36
1 A No. 2 Q Okay. Who was she? 3 A Pamela Penny or my supervisor? Pamela Williams was 4 my supervisor. 5 Q Okay. I'm sorry. I apologize. Pamela Penny was 6 the apartment manager when you first began working 7 there, right? 8 A Correct. 9 Q This says, "Incident date, 2/25/2004," right? 10 A Yes. 11 Q It says, "Time reported to police." You see that, 12 right? 13 A Yes. 14 Q And it has, "Nature of incident: Theft." 15 A Yes. 16 Q And it looks like something was -- was broken into 17 at Wellspring, right? 18 A Yes. 19 Q And y'all filed a police report? 20 A Yes. 21 Q Okay. That's a crime, right? 22 A Yes. 23 Q Okay. If you go to the next, that says, "Report of 24 Unusual Occurrence, Wellspring, 4/24/2004. Time 25 reported to police. Nature of incident,	1 location, 500 on Harrison Boulevard, Wellspring 2 Apartments, right? 3 A Yes. 4 Q And then the property manager, Brian Deweese. You 5 see that, right? 6 A I do. 7 Q And Brian, he's the maintenance supervisor -- 8 A Correct. 9 Q -- right? 10 A Yes. 11 Q And then there's the name of a warned party, Erica 12 Cole? 13 A Yes. 14 Q And, basically, this is saying to her that she's 15 not supposed to be entering or remaining on the 16 premises? 17 A Correct. 18 Q And if she does so, that's a crime -- 19 A Yes. 20 Q -- right? 21 The next is a "Report of Unusual Occurrence, 22 12/9/2004." This was a grease fire, right? 23 A Yes. 24 Q And so not only were crimes unusual occurrences, 25 also a fire could be an unusual occurrence?

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1 A Yes.

2 Q Okay. Go to the next. This says, "Wellspring Apartments, Pamela Penny-Turnbo. Incident date, 12/25/04. Time reported to police. Nature of incident, vandalism. Legal action taken, police were called and reported." Another crime, right?

3 A Yes.

4 Q If you go to the next and it's -- looks like it's 4/25/2006 and this is a police report. "Resisting arrest, 500 Harbison Boulevard, Apartment 809." Do you see that?

5 A I do.

6 Q Looks like there was a police report -- an incident report filled out on that, right?

7 A Right.

8 Q Then you go to the next -- never mind. Go to the one after that. I apologize.

9 This is 12/28/06. And it looks like that there was something -- some vandalism to some Coke machines on the property --

10 A Right.

11 Q -- right? It's a crime, right?

12 A Sure.

13 Q "5/28/2008. Contacted by the office manager and Columbia Fire Department about a dumpster being on

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1 fire." You see that?

2 A I do.

3 Q Y'all considered that to be a crime, right?

4 A A crime?

5 Q Vandalism. Setting the dumpster on fire.

6 A Right.

7 Q That'd be a crime, right?

8 A Yes.

9 Q Okay. Then you go to the next one which is 9/18/08. And this is the Toni Wright --

10 A Yes.

11 Q -- incident. And you filled out a Report of Unusual Occurrence for this, right?

12 A I did.

13 Q And that's 0848. That's 9/18/08. And then it has the -- the incident report after that. Now, that would've been considered a crime --

14 A Yes.

15 Q -- right? Okay.

16 Now, I want to go to -- now, all of these that I've gone over, other than Toni Wright, it looks like it was somebody from the apartment complex. I mean, like a manager or something that happened to the apartment complex or somebody that worked for the apartment complex, that there were reports of

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1 unusual occurrences that were filled out?

2 A Yes.

3 Q Now, when did you fill out Reports of Unusual Occurrences for people like Toni Wright that had a crime that occurred to them on the premises?

4 A When did I write it?

5 Q Yes.

6 A When it was brought to my attention.

7 Q If it was not brought to your attention, then there was no Report of Unusual Occurrence, was there?

8 A Correct. Because I wouldn't have been made aware.

9 Q Okay. And if people said they did bring it to your attention and there wasn't a Report of Unusual Occurrence, why might that occur?

10 A I don't have an answer.

11 Q Okay. Let's look at the next thing I gave you which is --

12 A Okay.

13 Q -- Exhibit 6.

14 A Okay.

15 Q This is 9/18/2008. This is the Toni Wright incident. Okay?

16 A Okay.

17 Q There was a police report done for that, right?

18 A Yes.

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1 Q Because when you did an unusual occurrence, you had a policy and procedure that detailed what you're supposed to do, right?

2 A Yes.

3 Q You're supposed to fill out the report of unusual occurrence and then if you have the police report, you attach that to it?

4 A Correct.

5 Q And then you would get it to the home office?

6 A Yes.

7 Q Okay. Now, if you go to the one after Toni Wright --

8 A Okay.

9 Q -- it looks like 8/26/2008, 001, and this was five -- 500 Harbison Boulevard, 2209, which would've been Building 22, right?

10 A Yes.

11 Q The one beside Toni Wright?

12 A Right.

13 Q And says, "Stated that an unknown subject used an unknown item to gain entry into his mailbox. Stated this is not the first time it's occurred. Stated no mail was taken. This is for documenting purposes only." Do you see that?

14 A I do.

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1 Q Is it your testimony under oath that -- was this
2 you that made this report or somebody from
3 Wellspring, or was this the person in Apartment
4 2209?
5 A Looks like it would've been the resident.
6 Q Okay. And do you know why there was no Report of
7 Unusual Occurrence for this one?
8 A No, I do not.
9 Q Okay. Let's look at the next one. The one before
10 that. "7/13/2008. Deputy responded to the I/L
11 reference an attempted home invasion. Victim
12 stated two black males knocked on his door asking
13 for a cigarette. After they left the I/L, they
14 returned, trying to push the door open. One of the
15 black males stuck a black in color gun into the
16 residence. The victim slammed the door onto his
17 hand and the subjects ran away from the location.
18 K-9 arrived at the I/L and attempted to track but
19 was unable to. Deputy issued the victim a case
20 number and a CVR. 500 Harbison Boulevard." That
21 would've been Wellspring, right?
22 A Yes.
23 Q Okay. Do you know why there was not a Report of
24 Unusual Occurrence for this one?
25 A No, I don't.

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1 Q Okay. I will aver to you that we have a number of
2 incident reports from the police that occurred on
3 Wellspring property between 2004 and 2008, and
4 there are no reports of unusual occurrence. Why
5 does that occur?
6 A They may not -- (coughs) -- excuse me. They may
7 not've brought these into the office. If -- they
8 may not've brought reports to us.
9 Q Okay. So you had interaction with the sheriff's
10 department, though, didn't you?
11 A Sure.
12 Q Sheriff department will let you know when they were
13 out there, didn't they?
14 A Not always.
15 Q Sometimes they did, though --
16 A Sometimes.
17 Q -- didn't they?
18 A Not all.
19 Q And when they did -- if the resident didn't bring
20 it to you, you still didn't do a Report of Unusual
21 Occurrence, did you?
22 A Repeat that --
23 Q Sure.
24 A -- please.
25 Q If the sheriff's department told you that they had

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1 come onto the complex because there was a crime,
2 but the resident did not bring it in to you, you
3 didn't do a Report of Unusual Occurrence, did you?
4 A That's not always true. And if the police were to
5 come out to do a report after hours, they didn't
6 come back the next day to let us know a report was
7 done.
8 Q What about during hours?
9 A During hours, then we would be aware of that.
10 Q Okay. So did Tomi Wright bring it to your
11 attention?
12 A The day after.
13 Q Okay.
14 A Yes.
15 Q Now, I want to go back about 15 minutes to when I
16 asked you the -- the question that I asked you.
17 A Okay.
18 Q So you would agree with me that there were crimes
19 that were happening on the Wellspring property?
20 A Yes.
21 Q And you would agree with me, that when you have
22 crimes occurring on a property where the general
23 public is allowed, that Wellspring should do
24 whatever is necessary to help provide security to
25 its residents?

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1 MR. COMER: Objection.
2 A No.
3 Q Okay. So they should not help provide security for
4 their residents?
5 A We were not required to provide security.
6 Q Okay. Gotcha. Love it. Gotcha. But when you
7 were not required and then you took the extra step
8 -- let's -- let us say you -- you took a
9 responsibility to do it, even though not required,
10 you had to do it right, correct?
11 A Yes.
12 Q Okay. And -- for instance, if you had courtesy
13 officers that -- you had no obligation to provide
14 them, did you?
15 A No.
16 Q But if you then said, "Okay. We're going to
17 provide them," you should do that in a reasonable
18 manner, correct?
19 A Yes.
20 MR. COMER: Objection.
21 Q Okay. And if you -- you didn't have an obligation
22 to cut back shrubbery. You could let it grow as
23 much as you wanted to, right?
24 A Yes.
25 Q But if you took the obligation and duty of doing

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1 that, then you had to do it within a reasonable 2 manner, right? 3 A Yes. 4 Q And though you did not have an obligation or duty 5 to maintain breezeway lights, if you took it upon 6 yourself to repair those, it had to be done in a 7 reasonable manner, right? 8 A Yes. 9 Q Okay. And you would agree that when there is a 10 risk of safety or life involved, corporation who 11 own apartment complexes should follow the rule, 12 "It's better to be safe than sorry." 13 MR. COMER: Objection. 14 A Yes. 15 Q And corporations should not let their budget 16 constraints get in the way of residents' safety? 17 A I don't agree with that. 18 Q Okay. You don't agree with that? I just want to 19 make sure I -- I heard you right. 20 A Read it again, please, sir. 21 Q Sure. No. I -- I like your answer. 22 A I bet you do. 23 Q Corporations should never let their budget 24 constraints get in the way of residents' safety? 25 MR. COMER: Objection.	1 Plaintiff's Exhibit No. 7, "Employee 2 Handbook." 3 Q Here you go. 4 A Okay. 5 Q I'm just looking down at the "PRG Mission 6 Statement" and the "PRG Philosophy." 7 A Okay. 8 Q Okay? You've seen this employee -- 9 A Sure. 10 Q -- handbook. You were given this employee -- 11 A I -- 12 Q -- handbook. 13 A -- was. 14 Q And you've lived by this PRG Mission Statement, 15 didn't you -- 16 A Sure. 17 MR. COMER: Objection. 18 Q And you lived by this PRG Philosophy, didn't you? 19 A Yes. 20 Q And that was during the time you were a -- an 21 employee from 2004 to 2008? 22 A Yes. 23 Q Okay. Let's read the PRG Mission Statement. You 24 can read that one out loud for us. 25 A "At PRG, we are dedicated to providing the highest
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1 A I don't know how to answer that. I mean, that -- 2 Q Give me your best -- 3 A I'm a -- 4 Q -- shot. 5 A -- property manager. I don't make the, you know, 6 policy and procedures of the company. I do a 7 budget. 8 Q But you can tell me whether -- 9 A But -- 10 Q -- you agree with it or not. 11 A I don't know if I do or not. 12 Q Okay. Well, tell me -- 13 A I don't -- 14 Q -- what you -- 15 A -- know -- 16 Q -- do. 17 A -- if I do or not. 18 Q How do you feel about it? 19 A I think we do the best that we can do. 20 Q Okay. 21 A I think that's with anything -- with the 22 constraints and the budget and things that are 23 proposed. You do what you can do. 24 MR. HOOD: Let's have this marked as -- 25 Employee Handbook as No. 7.	1 sustainable return through the superior 2 acquisition, thoughtful renovation, and aggressive 3 operation of a residential apartment communities 4 throughout the East Coast. We intend to maximize 5 investor value by providing our employees with an 6 unparalleled corporate relationship and our 7 residents with an extraordinary living experience. 8 We strive daily not" -- (coughs) -- excuse me -- 9 "not to be the biggest but rather to be the finest 10 in all we do." 11 Q Tell us about that philosophy. 12 A You want me to read it? 13 Q Please. 14 A Okay. "PRG is dedicated to providing housing that 15 offers a superior value for our residents while 16 providing a superior return to our investors. Our 17 success depends upon the quality of our service to 18 our residents, attention to detail and costs, and 19 to the dedication and enthusiasm of our personnel. 20 Our philosophy in dealing with residents: Without 21 our residents, we have no purpose and we use the 22 following guidelines when working with them: 23 Ethical Standards: We are founded on the 24 principles of honesty, professionalism, and high 25 ethical standards in dealing with our residents.

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1 Level of Service: We will give our residents the
 2 highest quality of service and we will take a
 3 personal interest in initiative in helping to solve
 4 our residents' problems within the area of our
 5 professional expertise."
 6 Q Okay. Now, in the -- the beginning of the PRG
 7 Mission Statement and PRG Philosophy, it talks
 8 about having the "highest sustainable return and
 9 providing a superior return to our investors." You
 10 see that, right?
 11 A I do, yes.
 12 Q Now, you agree that that should not come in the way
 13 of safety, should it?
 14 A No.
 15 Q And so a corporation should never let profits come
 16 before its people --
 17 A Correct.
 18 Q -- should it?
 19 A Right.
 20 Q And -- and if it did so, that would be wrong,
 21 wouldn't it?
 22 A I would feel that was wrong.
 23 Q And as an apartment manager at Wallspring, you
 24 would feel it would be wrong if PRS allowed its
 25 profits to come before its residents?

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1 A Yes.
 2 Q Okay. And if -- if -- if -- if policies were
 3 violated because of budget constraints, that would
 4 be wrong, wouldn't it?
 5 A Tell me again.
 6 Q If policies were violated --
 7 A Uh-huh.
 8 Q -- because of budget constraints, that would be
 9 wrong?
 10 A I would think it was wrong.
 11 Q And as the manager from 2004 to 2008, you think
 12 that would be wrong?
 13 A I do.
 14 Q Okay. You think it would be wrong to violate
 15 policies, whether it was budget constraints or
 16 anything --
 17 A I --
 18 Q -- right?
 19 A -- do.
 20 Q Okay. I'm going to hand you --
 21 MR. HOOD: Let's mark this as --
 22 THE COURT REPORTER: -- 8.
 23 MR. HOOD: -- 8. This is Timir Patel. (To
 24 Mr. Comer) This is the Timir Patel affidavit.
 25 Plaintiff's Exhibit No. 8, "Affidavit of

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1 Timir Patel."
 2 Q Okay. This says, on October 18th, his apartment
 3 was burglarized. Do you see this?
 4 A Yes.
 5 Q And it says, "The door and entrance area to my
 6 apartment were hidden from passers-by with foliage
 7 that was overgrown during the time that I resided
 8 in this apartment." Do you see that?
 9 A I see it.
 10 Q Now, how does foliage get overgrown if you're doing
 11 what you're supposed to do?
 12 A I don't know, but I remember this case.
 13 Q You do?
 14 A And the foliage was not overgrown. He was in a
 15 basement unit, so his apartment was situated
 16 different than other apartments on the community.
 17 Q Okay.
 18 A He had more of a private entrance.
 19 Q Okay. And so it's your opinion that the foliage at
 20 his apartment was not overgrown?
 21 A No. It was not.
 22 Q Okay. Do you agree with me that there were times
 23 that foliage at other places were overgrown?
 24 A I would not say "overgrown." Shooters on bushes
 25 but not overgrown, no.

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1 Q Well, shooters --
 2 A To me, that's two different things.
 3 Q Okay. Well, I've got a house and I've --
 4 A Okay.
 5 Q -- got a -- I've got a -- I've got bushes.
 6 A Uh-huh.
 7 Q Do you know what kind of bushes were outside Toni
 8 Wright's apartment?
 9 A I don't know the name of them.
 10 Q Okay.
 11 A No.
 12 Q Are you aware that she said -- have you read her
 13 deposition?
 14 A No.
 15 Q Okay. I will -- I will characterize --
 16 MR. HOOD: (To Mr. Comer) And, please,
 17 correct me if I'm wrong.
 18 Q I will avert to you that in her deposition she
 19 stated that two young black men jumped out from
 20 behind a bush and accosted her.
 21 A Okay.
 22 Q In her deposition, that's what she testified.
 23 A Okay.
 24 Q Okay? Now, would you agree that if foliage is
 25 overgrown, it can conceal people?

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1 A If it is overgrown, it could.
 2 Q Okay. And you don't have pictures of this foliage
 3 before she was abducted, do you?
 4 A No.
 5 Q You have -- you have pictures after it had been out
 6 and after she had been abducted, right?
 7 A I don't know who took the pictures, so --
 8 Q Okay. Well, that wasn't my question. My question
 9 is --
 10 A Okay.
 11 Q But there are --
 12 A If you --
 13 Q -- pictures --
 14 A -- have them --
 15 Q -- after that --
 16 A -- then, yes.
 17 Q -- where it's been out, though, right?
 18 A Okay.
 19 Q Okay. I'm going to show you something --
 20 MR. HOOD: Ah, God, I don't have the color
 21 pictures. (To Mr. Comer) Do you have those
 22 color pictures from her -- from Toni Wright's
 23 deposition?
 24 MR. COMER: The ones that were produced by
 25 plaintiff?

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1 MR. HOOD: Yeah.
 2 MR. COMER: Yeah. I think we do.
 3 MR. HOOD: Okay.
 4 MR. COMER: You need some color copies --
 5 MR. HOOD: Yeah.
 6 MR. COMER: -- of them --
 7 MR. HOOD: I've got -- yeah.
 8 MR. COMER: -- or --
 9 MR. HOOD: I've just got the black. Let me
 10 show you what I've got. Can we go off for a
 11 second?
 12 MR. COMER: Yeah, let's go off the record a
 13 minute.
 14 (Off the record from 11:08 a.m.
 15 until 11:13 a.m.)
 16 THE EXAMINATION BY MR. HOOD CONTINUES.
 17 Q Ms. Campbell, I'm sorry. Let -- let me go back to
 18 -- I think it's Exhibit 5, which is -- that was
 19 those -- that stack of report of unusual
 20 occurrences. It -- the front page is 0834 -- that
 21 -- that form you had never seen. If you go to 0842
 22 --
 23 MR. HOOD: (To Ms. Casey) Thank you.
 24 A Yes.
 25 Q -- the date of that is 12/25/04, which is Christmas

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1 Day, 2004, right?
 2 A Yes.
 3 Q And reported to the police, right?
 4 A Yes.
 5 Q Here's what I was going to ask you: It says,
 6 "Names and full addresses of parties involved." Do
 7 you see that?
 8 A Yes, I do.
 9 Q This was filled out by Pamela Penny-Turnbo, right?
 10 A Yes.
 11 Q Okay. It says, "I evicted one resident this month.
 12 He left his apartment very clean. In light of
 13 that, I do not think he would do this, but I could
 14 be wrong. I believe -- that it may be kids coming
 15 down the trails from a troubled property nearby:
 16 The Woods at Harbison."
 17 A I see that.
 18 Q Okay. What -- what are -- in the -- do you know
 19 what the term "lexicon" means?
 20 A No.
 21 Q It means the terminology that -- that someone may
 22 use.
 23 A Okay.
 24 Q Like, if football players say, "I -- I pancaked
 25 him" --

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1 A Right.
 2 Q -- it means that somebody put him on his tail.
 3 A Right.
 4 Q Right. Just the kind of terminology they may use
 5 in a specific field.
 6 A Okay.
 7 Q In the -- the lexicon of -- of apartment managers,
 8 does "troubled property" have special significance
 9 or meaning?
 10 A Yes.
 11 Q Okay. And -- and when it says "troubled" -- "I
 12 believe it may be coming down the trail from a
 13 troubled property nearby," what does that mean?
 14 A Within the Harbison Community --
 15 Q Yes.
 16 A -- we all had Harbison trails connecting each
 17 other.
 18 Q Right.
 19 A So The Woods at Harbison was further down the
 20 trails --
 21 Q Right.
 22 A -- but we were all connected on the Harbison trails
 23 --
 24 Q Right.
 25 A -- so.

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1 Q Okay. And when it says, though, "It was a troubled
2 property," does that mean they had some problems
3 over there?
4 A Yes. I mean, just -- they were -- they weren't as
5 new as we were. Rents were different. Just a
6 different class of people.
7 Q A different class of people. And when you have a
8 different class of people, it's just like if you
9 have Section 8 housing versus regular housing --
10 A Right.
11 Q -- right?
12 A Right.
13 Q Tha -- the crime always seems to be heavier in
14 Section 8 housing than in regular housing?
15 A Unfortunately.
16 Q Unfortunately?
17 A Yeah.
18 Q And a lot of it has to do with economic prosperity.
19 If people are doing well financially, they're not
20 usually committing crimes, whereas people that are
21 unemployed or otherwise --
22 A Right.
23 Q -- may be doing bad things, right?
24 A Right.
25 Q And so sometimes the criminal element can be worse

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1 at one place than it can at another?
2 A Sure.
3 Q And when you talk about "troubled property" nearby,
4 because it's a different class of people, they
5 probably have a little more criminal element in
6 that property than --
7 A That would be fair.
8 Q -- yours, right?
9 A Yes.
10 Q And -- but because they're all on this Harrison
11 Trail, you can have the criminal element coming
12 from one troubled property over to your property?
13 A Sure.
14 Q Because, as you said before, anybody can come in?
15 A Right.
16 Q Okay.
17 MR. HOOD: Brian, do you have those pictures?
18 MR. COMER: I do.
19 MR. HOOD: Thank you so much.
20 Q Okay. I'm going to hand you this set of pictures,
21 and I'm going to aver to you that these were taken
22 a couple days after -- two or three days after Toni
23 Wright was abducted.
24 A Okay.
25 Q Okay?

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1 A Sure.
2 Q Right outside her apartment complex. And you're
3 aware there was a little three steps up and then a
4 ramp --
5 A Right.
6 Q -- and then it went to her door --
7 A Yes.
8 Q -- right? Okay.
9 A Sure.
10 Q There you go.
11 A Okay.
12 MR. COMER: Is that No. 9 or 10?
13 MR. HOOD: Yeah. Let's have that marked. I'm
14 sorry.
15 MS. CASEY: Number 9.
16 MR. HOOD: Number 9.
17 Plaintiff's Exhibit No. 9, Color
18 photographs of outside walkway and
19 parking areas.
20 Q And you may be looking at it in conjunction -- you
21 remember that diagram I gave you earlier?
22 A Yes, I do.
23 Q It may be in conjunction with that diagram.
24 A Okay.
25 (Sotto voce discussion between Ms.

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1 Casey and Mr. Hood.)
2 MR. HOOD: Yeah.
3 MR. COMER: (To the deponent) There's the
4 diagram.
5 THE DEPONENT: Okay.
6 MR. COMER: Are you done with this for now,
7 Randy?
8 MR. HOOD: Yes. Yes. Yes.
9 MR. COMER: Okay.
10 MR. HOOD: Yeah. Let's keep it all, after
11 what happened --
12 MR. COMER: Yeah.
13 MR. HOOD: -- last week.
14 THE DEPONENT: That's mine.
15 MR. COMER: That's all right. This is good.
16 A Okay.
17 Q Okay. Have you had an opportunity to look at
18 Exhibit 9?
19 A Yes.
20 Q Okay. And if you will also look at Exhibit 3,
21 which is a -- I will aver to you that this is -- or
22 I will represent to you that this is a diagram done
23 by Ms. Wright of where she parked in conjunction to
24 the night that this abduction occurred, okay?
25 A Okay.

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1 Q Now, you've seen the pictures --
 2 A Yes.
 3 Q -- Exhibit 9, and you've seen the height of those
 4 shrubs?
 5 A Yes.
 6 Q Okay. And are you aware that they were cut shortly
 7 after this was -- this occurred?
 8 A I don't remember. If they were, it would've been
 9 just for our landscape routine maintenance --
 10 Q Okay.
 11 A -- weekly.
 12 Q So -- so it's your testimony under oath that these
 13 bushes were cut solely because it was regular
 14 maintenance by the landscaper?
 15 A If it was our scheduled time to have them cut, yes.
 16 Q Okay. What if it wasn't your scheduled time to
 17 have them cut?
 18 A I don't remember.
 19 Q Okay. And that's fair.
 20 A I don't.
 21 Q And let me --
 22 A I don't.
 23 Q Let me give you one other thing, and I apologise.
 24 If you don't remember something, you don't recall
 25 something, or you don't know, those are perfectly

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1 fine --
 2 A Okay.
 3 Q -- answers. And -- and I don't want you to
 4 speculate.
 5 A Okay.
 6 Q I just want your -- your honest answer, and if
 7 that's your answer --
 8 A Yeah.
 9 Q -- I accept that.
 10 A I don't know.
 11 Q Okay. And -- and so let me ask it again to make
 12 sure.
 13 A Okay.
 14 Q So if the shrubs were cut soon after and it was not
 15 regularly scheduled maintenance, you don't know why
 16 they would've been cut?
 17 A No, I don't.
 18 Q Okay. Now, if they were cut, it would've been done
 19 by -- if it was shrubs that were cut, that would've
 20 been something done by the landscaper and not
 21 somebody on your maintenance crew --
 22 A Correct.
 23 Q -- right?
 24 A Correct.
 25 Q Because y'all contracted with a maintenance company

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1 to perform this shrubbery work, right?
 2 A Yes.
 3 Q Okay. Now, you've seen those particular bushes,
 4 and you've seen the height of those bushes?
 5 A Yes.
 6 Q Now, do you have an opinion about whether those
 7 bushes are higher than you normally would've seen
 8 them outside of her apartment?
 9 A No.
 10 Q Okay. So it's your testimony under oath that that
 11 is the normal height and that is the way that you
 12 maintain these bushes?
 13 A Yes.
 14 Q Okay. But if they had been maintained before, and
 15 they were much smaller and -- and you could see
 16 through to see somebody behind them, and it was not
 17 done after that, then that would've been wrong?
 18 MR. COMER: Objection.
 19 A I'm not following --
 20 Q Sure.
 21 A -- your question.
 22 Q Sure. If these shrubs had been cut back much more
 23 before --
 24 A Uh-huh.
 25 Q -- and then they were not cut for some period of

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1 time and they grew up --
 2 A Okay.
 3 Q Right? But they had been cut before, and if they
 4 had not been cut, that would be wrong?
 5 A Maybe I'm just not --
 6 Q Sure.
 7 A -- following your question.
 8 Q Sure. It -- it's -- it's not you. It's because of
 9 me. I'm -- I'm thick, and I -- I ask terrible
 10 questions sometimes. And it's my fault -- solely
 11 my fault.
 12 Okay. I believe you've said that the
 13 landscape people -- they -- they -- they had a
 14 contract with y'all?
 15 A Yes.
 16 Q Right? And that in the contract with y'all that
 17 they were supposed to cut the shrubs?
 18 A Yes.
 19 Q Right? Now, you also had maintenance people on
 20 staff, right?
 21 A We did.
 22 Q And part of the policies and procedures of
 23 maintenance people is they're supposed to walk
 24 around the complex in their daily -- when they're
 25 walking from apartment complex to apartment

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1 complex, and they're supposed to notice if there's
2 something that they consider to be unsafe or that
3 could be harmful to a resident, right?
4 A Sure.
5 Q And, if they do, then they're supposed to report
6 it?
7 A Right.
8 Q Okay. And so you would agree that if there was an
9 unsafe condition of shrubberies that the apartment
10 complex knew about that had been out before but had
11 then reached an unsafe height because it had not
12 been maintained, that would be wrong?
13 A It's not clicking with me.
14 Q Sure.
15 A I am sorry.
16 Q Sure. If -- if -- if shrubs were 3 feet --
17 A Okay.
18 Q -- and they had been maintained at 3 feet for a
19 period of time --
20 A Okay.
21 Q -- and then, for whatever reason, they went to 8
22 feet --
23 A Right.
24 Q -- and people hid behind them because they're now 8
25 feet --

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1 A Uh-huh.
2 Q -- not maintaining them at the 3 feet, after having
3 done so before --
4 A Right.
5 Q -- that would be wrong?
6 A I can't say that it would be wrong.
7 Q Can you say it would be right?
8 A I can't say either way.
9 Q Okay.
10 A Shrubs did not rob Ms. Wright. So, I mean, it's
11 not the -- the height of the shrubs. I can't say
12 if that's right or wrong.
13 Q Sure. Okay. But -- but I -- okay. I get what
14 you're saying. The height -- the -- the shrubs
15 didn't -- didn't rob Ms. Wright.
16 A Right.
17 Q Correct?
18 A Correct.
19 Q Okay. Ms. Wright -- you -- let's look at the
20 diagram.
21 A Okay.
22 Q Okay? You see the diagram?
23 A I see.
24 Q And in the diagram, it looks like she was parked
25 three spots over?

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1 A Yes.
2 Q Okay?
3 A Okay.
4 Q And her testimony under oath were that -- that some
5 men jumped out behind the bushes --
6 A Okay.
7 Q -- from behind the bushes, okay?
8 A Okay.
9 Q Now, if she pulled up in this car and the shrubs
10 were much lower that people couldn't be hiding
11 behind the bushes and she could see -- or if she
12 could see somebody behind the bushes, it would be
13 her choice as to whether to get out or not,
14 wouldn't it?
15 A It would be her choice either way --
16 Q Right. Right. Whether she's --
17 A -- if they were tall or not.
18 Q It -- but -- but -- but if she saw them -- do you
19 remember how, earlier, I asked you --
20 A Right.
21 Q -- if you would've gone to an apartment --
22 A In a parking --
23 Q -- complex, and you said, "No. I wouldn't have
24 gone under those circumstances"?
25 A Sure. Yeah.

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1 Q You would agree that there are certain
2 circumstances somebody may get out of their car
3 versus other circumstances they would not?
4 A Sure.
5 Q Including yourself, right?
6 A Anybody.
7 Q Anybody?
8 MR. CONER: Randy, before another question
9 goes in, you had asked me to correct you
10 earlier.
11 MR. HOOD: Sure.
12 MR. CONER: I think we're saying the same
13 thing. But just so the record's clear, I
14 think my recollection of her testimony was she
15 got out of her car, came around the bushes,
16 and they were there. I don't know if she said
17 "jumped out" at her or not.
18 MR. HOOD: Oh, okay.
19 MR. CONER: But I don't think we disagree her
20 testimony was that she didn't see them prior
21 to getting there.
22 MR. HOOD: Sure.
23 MR. CONER: Okay.
24 MR. HOOD: Okay.
25 MR. CONER: That's -- I'm sorry. I don't mean

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1 to interfere --
 2 MR. HOOD: Okay.
 3 Q If -- if -- whether -- whether she --
 4 MR. COMER: -- with your deposition.
 5 Q Whether they jumped out from the bushes because she
 6 couldn't see them --
 7 A Right. Uh-huh.
 8 Q -- or they were there and she couldn't see them
 9 from where she was at --
 10 A Right.
 11 Q -- if someone's -- I want you to assume that
 12 someone would testify they got out of their car,
 13 and if they had seen two young, black males who
 14 were dirty, and they would've got back in their car
 15 and they would not have gone up there, then
 16 she'd've never been robbed in the first place,
 17 right?
 18 A I can't guarantee that. I --
 19 Q Well --
 20 A I don't know.
 21 Q But -- but you would --
 22 A I mean --
 23 Q -- you would agree, well, if she never got out of
 24 the car, she wouldn't have been abducted?
 25 A That would make sense.

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1 Q Okay. And you said yourself that there are
 2 situations that you would not get out of your car,
 3 right?
 4 A Sure. Anybody. Yeah.
 5 Q And, I mean, if you drove up and you were to see
 6 two young, black males that were dirty sitting
 7 there, do you think you would get out if it was
 8 10:30 at night?
 9 A No.
 10 Q No. And you're how old?
 11 A Thirty-five.
 12 Q Okay. And she was 60 years old, right? A 60-year-
 13 old white lady?
 14 A I have no idea how old she was.
 15 Q Okay.
 16 A Okay.
 17 Q Okay.
 18 MR. HOOD: What was the Nellisa Davis
 19 affidavit?
 20 MR. COMER: Has that one been marked already?
 21 MR. HOOD: Yes.
 22 MR. COMER: Okay. I'll find it.
 23 MS. CASEY: Number 3.
 24 MR. HOOD: Number -- Number 3?
 25 Q Okay. I want to, kind of, go over this affidavit.

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1 A Okay.
 2 Q Okay? Because I just want to see what -- what your
 3 recollection is versus this.
 4 A Sure.
 5 Q She lived at 1405, which would've been -- I guess
 6 that's -- I assume that would be Building No. 14?
 7 A Correct.
 8 Q Right?
 9 A Right.
 10 Q It said, "The area between my building and the
 11 building next door was very dark at night." The --
 12 the apartment complex was configured in a certain
 13 way. Did y'all have these SC&G lights between
 14 every apartment building?
 15 A I don't remember if it was every building.
 16 Q Okay. Were there some areas between the buildings
 17 that were darker than others?
 18 A I don't remember that.
 19 Q Okay. And when you say you don't remember that,
 20 you just don't recall one way or the other?
 21 A I just -- I don't.
 22 Q Okay. And -- and that would include whether it was
 23 -- it was dark on the ramp-way of Toni Wright's
 24 complex?
 25 A I remember a pole light being there next to her

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1 ramp.
 2 Q Okay. Do you recall if, at that time, it was
 3 actually working or not?
 4 A I don't recall.
 5 Q Okay. And -- and that was the pole light that was
 6 maintained by SC&G?
 7 A Correct.
 8 Q Okay. Now, when you -- if you could explain
 9 briefly to me, because I've never really
 10 understood, how does that work?
 11 A What's that?
 12 Q The -- if a light goes out on one of those poles.
 13 A Then you would call SC&G, give them the pole
 14 number, and they would send their maintenance crew
 15 out.
 16 Q Okay. Was it always immediate, or was it sometimes
 17 a week or two?
 18 A It was pretty immediate, that I recall. Within a --
 19 -- a few days --
 20 Q Okay.
 21 A -- if not the next day.
 22 Q Within a few days?
 23 A Sure.
 24 Q Okay. A lot can happen in a few days, can't it?
 25 A Absolutely.

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1 Q So what did y'all do for the security of your
 2 residents while this light was out during those few
 3 days?
 4 A There wasn't anything we could do. Make sure
 5 breezeway lights worked --
 6 Q Okay.
 7 A -- you know, weren't burnt out.
 8 Q But other than the breezeway lights -- that they
 9 weren't burnt out, you didn't put any extra light
 10 over there and, I mean -- like, you know you can
 11 buy those things from Home Depot -- the little pole
 12 lights, and --
 13 A Yeah.
 14 Q -- they'll shine --
 15 A We didn't have things like that.
 16 Q Wasn't in the budget, was it?
 17 A That was not even brought up.
 18 Q Well, it wasn't brought up, but it wasn't in the
 19 budget, was it?
 20 A No.
 21 Q Okay. And now, she says, in about the -- the third
 22 sentence, "I complained at the lack of lighting
 23 between these buildings an average of three times
 24 per month for most of my stay." Do you see that?
 25 A I do.

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1 Q Now, do you remember Nellisa Davis?
 2 A Oh, I remember her.
 3 Q You say, "Oh, I remember her"?
 4 A I remember her.
 5 Q What do you remember about her?
 6 A She was always late on the rent. It was every
 7 month. Just a lot of drama --
 8 Q Okay.
 9 A -- with her.
 10 Q When you say "a lot of drama," is -- there were
 11 lots of complaints, weren't there?
 12 A As far as from other residents --
 13 Q No, no.
 14 A -- or what do you -- what do you --
 15 Q From her. She was always complaining about
 16 something?
 17 A No. That's not what I was referring to as drama.
 18 Q Oh, okay.
 19 A She had personal drama that she would come in the
 20 office about.
 21 Q Okay. When you say "personal" --
 22 A Yeah.
 23 Q -- what would she come into the office about with
 24 --
 25 A Just her personal life. Just telling everybody

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1 about her personal life.
 2 Q Okay.
 3 A That kind of drama.
 4 Q Okay. She -- she -- but she was late on her rent,
 5 but still complained a lot, didn't she?
 6 A I don't recall her complaining a lot. I mean, work
 7 orders -- just normal work orders.
 8 Q Okay. Do you remember her complaining about lack
 9 of lighting?
 10 A No, I don't.
 11 Q Okay. Were you always in the office, or was there
 12 sometime other people were in the office?
 13 A If I was out on the property, an assistant manager
 14 or a leasing person would be in the office.
 15 Q Okay. And -- and that person, if she was
 16 complaining, should've taken in the complaint?
 17 A Correct.
 18 Q Okay. And is it your -- do you know if every
 19 complaint of all residents was logged in?
 20 A We had a resident conversation log in the file.
 21 Q Okay. And when you had a resident conversation
 22 log, do you know every time somebody came in and
 23 made a complaint that there was an entry made into
 24 the log?
 25 A I can't guarantee that.

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1 Q It was supposed to be done?
 2 A Correct.
 3 Q But -- but -- but if you weren't there, you can't
 4 attest to --
 5 A I can't say.
 6 Q -- what was done and what wasn't done?
 7 A Right.
 8 Q You can only testify about what was done when you
 9 were there, right?
 10 A Correct.
 11 Q And -- and when you were -- when you were there --
 12 A Uh-huh.
 13 Q -- it was your standard operating procedure to --
 14 to note it in their file, right?
 15 A That, or do a work order.
 16 Q Or do a work order. But you have no personal
 17 recollection as to whether it was actually done or
 18 not?
 19 A Correct.
 20 Q Okay. It says, "Toward the end of my stay at
 21 Wellespring I stopped complaining because my
 22 complaints were never addressed. At the time that
 23 I moved out of this apartment, exterior lighting
 24 had still not been installed. This lack of
 25 lighting caused me to be fearful for my safety, and

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

W. Jeffrey Young, Circuit Court Judge

Case No. 2011-CP-40-4068

Denise Wright Appellant

v.

PRG Real Estate Management,
Inc.; Franklin Pineridge
Associates; Karen Campbell
Individually, and in her
Representative Capacity as an
Agent of PRG Real Estate
Management

..... Respondents.

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1 I shared this concern often with the Wellspring
2 apartment employees."
3 A Okay.
4 Q Did that happen?
5 A I don't recall her speaking of lights.
6 Q Okay. And when you say you don't recall, does that
7 mean you can't remember one way or the other?
8 A No, I don't. I --
9 Q Okay.
10 A I can't --
11 Q Okay.
12 A -- say.
13 Q Okay. It says, "In addition to the lighting, I
14 also complained about the height and size of the
15 shrubbery leading up to and around my door area."
16 Do you see that?
17 A I do.
18 Q "Over the course of my stay at Wellspring
19 Apartments, I complained about the height and size
20 of the shrubbery at least 25 times. In response to
21 my complaints, the shrubbery was not trimmed. With
22 regards to the shrubbery, I was also told by the
23 Wellspring staff that this was an item that was not
24 in the budget and that they would get to it when
25 they could." Do you see that?

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1 A I do.
2 Q Did you -- and I know you can only testify about
3 you because --
4 A Sure.
5 Q -- you can't testify about anybody else. Did you
6 ever tell someone that shrubbery or landscaping
7 that was associated with the shrubbery could not be
8 done because of any kind of a budget issue?
9 A No.
10 Q Okay. Do you know who she was talking about when
11 she said this?
12 A It had to have been -- I -- I don't know who she
13 spoke to. I mean, she could've even told the
14 maintenance. I don't know who she spoke to.
15 Q Okay. It says, "After complaining over the course
16 of my first year, my father actually brought a pair
17 of clippers to my unit and trimmed the shrubbery
18 for me." Now many times did you have the residents
19 take things into their own hands because y'all
20 didn't do it?
21 A I have never had that.
22 Q Okay.
23 A No.
24 Q So if he comes into court and testifies and she
25 comes into court and testifies, are you calling him

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1 a liar?
2 MR. COMER: Objection.
3 A I'm not calling him anything. I've never had
4 somebody have to take anything, and if they did
5 this, it was not of -- I've had no knowledge of it.
6 Q Okay. "There appeared to be extended periods of
7 time during my stay where there was no lawn or
8 landscaping maintenance being performed on the
9 property. The shrubbery leading up to and around
10 my door area reached approximately 10 feet in
11 height before it was finally trimmed after the
12 kidnapping." Do you see that?
13 A I see that.
14 Q Now, do you know if her shrubbery, in addition to
15 Toni Wright's shrubbery, was trimmed after this
16 kidnapping?
17 A I do not know.
18 Q Okay. Well, if it was trimmed after -- right after
19 -- two or three days after the kidnapping, and she
20 had been complaining about it, Toni Wright had been
21 complaining about it, other residents had been
22 complaining about it, and then, all of a sudden, it
23 was trimmed two to three days after the kidnapping,
24 that'd be awful coincidental, wouldn't it?
25 A It would be.

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1 Q Okay. Okay. It says, Number 5, "The shrubbery in
2 front of Ms. Wright's building was very high.
3 Immediately after the kidnapping of Ms. Wright, the
4 shrubbery was trimmed significantly. After the
5 kidnapping of Ms. Wright, I spoke with the property
6 manager at Wellspring and was told that she would
7 not be discussing the event involving Ms. Wright
8 and that I should not be discussing this event with
9 anyone either." Did she ever approach you about --
10 and I'm just talking about -- just about the Toni
11 Wright incident, period.
12 A Lisa Davis? Yes.
13 Q Okay.
14 A Yes.
15 Q And -- and what do you recall about that?
16 A She was -- she was just nosy, in general.
17 Q Okay.
18 A So that was not her business, you know? I mean,
19 that was --
20 Q Okay. Did you tell her that she shouldn't be
21 discussing it with anyone either?
22 A I don't remember that.
23 Q Okay. And that means that you just don't recall
24 one way or the other?
25 A No. Not with that last statement. No.

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1 Q Okay. 2 A I don't. 3 MR. HOOD: Okay. Let's -- this is 0475. I 4 think it's -- four, five, six, and then we 5 have these. It doesn't have a Bates on it. 6 MR. COMER: Okay. 7 MR. HOOD: It's just the stuff from Toni 8 Wright. It was the stuff that was done for 9 her unit. I think it's one, two, three, four 10 pages. 11 MR. COMER: Okay. Let me take a quick look at 12 it after tomorrow. 13 MR. HOOD: Okay. 14 MS. CASEY: That? 15 MR. HOOD: That, and then this one. 16 MS. CASEY: I'm sorry. 17 MR. HOOD: Oh, that's okay. 18 (Sotto voce discussion between Ms. 19 Casey and Mr. Hood.) 20 MR. HOOD: It doesn't have a Bates stamp on 21 it. It may be on the back of something else, 22 too. Let me just give you -- let's have this 23 marked real quick. 24 (Sotto voce discussion between Ms. 25 Casey and Mr. Hood.)	1 Q At the top, it says, "Wellspring Apartments, 500 2 Harbison Boulevard. Then it has Work Order No. 3 11746"? 4 A Yes. 5 Q "Date of call: 1/9/2007. Date scheduled: 6 1/9/2007." 7 A Okay. 8 Q Do you see that? 9 A I do. 10 Q And then, below that, it has, "To: PRG Real 11 Estate, Philadelphia, PA. Caller: Dianne Owen. 12 OK to enter? Yes. Problem description: Breezeway 13 light out." Do you see that? 14 A I do. 15 Q Okay. And this is just simply a work order, isn't 16 it? 17 A Yes. 18 Q And this is just where a resident calls and advises 19 that something is out, and then y'all are going to 20 take care of it? 21 A Right. 22 Q Okay. Now, on this, it appears that the problem 23 description is "Breezeway light out." Do you see 24 that? 25 A I do.
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1 MR. HOOD: Okay. We'll get both of them. 2 Plaintiff's Exhibit No. 10, Work orders, 3 dated 01/09/07 through 03/19/07. 4 Plaintiff's Exhibit No. 11, Work orders, 5 dated 02/25/08, 03/27/07, 08/01/06 and 6 11/08/05. 7 MR. HOOD: Thanks. Okay. 8 MR. COMER: This one has a stamp. Okay. 9 Yeah. This came from Toni Wright's 10 deposition. Yeah. I remember I had marked 11 un-Bates-stamped versions there, so that's 12 fine. 13 A Okay. 14 Q I'm looking first at -- what -- what was the first 15 one? Not the -- the one that's marked. 16 A This one? 17 Q Is that No. 11 or -- 18 A Ten. 19 Q Ten? Okay. And then the other one is Exhibit 11, 20 right? 21 A Right. 22 Q Okay. I'm looking at Exhibit 10. 23 A Okay. 24 Q It starts with "PET 00475"? 25 A Yes.	1 Q And it says, "Dates -- date called: 1/9/2000." 2 A Uh-huh. 3 Q It says, "Date scheduled: 1/9/2007." 4 A Right. 5 Q And then it has, "Date completed: 1/10/2007, 9:35 6 a.m." Do you see that? 7 A I do. 8 Q And it says, "Job site: 270/1804." What does "job 9 site" mean? 10 A 270 was our property number. 11 Q Okay. 12 A 1804 was the apartment number. 13 Q Okay. And when it says "Date scheduled," "Date 14 call" is the time she called. They would've then 15 scheduled it for someone to fix it, and then it 16 would've been completed at the time that's 17 referenced on the work order? 18 A Yes. 19 Q Okay. Now, this was a breezeway light. It was 20 called in about noon on 1/9, and it was repaired 21 the next morning, right? 22 A That's when it says it was repaired. Lights were 23 always done that day. The work order may not have 24 been closed out until the next morning. 25 Q Okay. Okay. How do we know it was done that day

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1 as opposed to not until the next day? 2 A Per our policy. 3 Q Right. 4 A Lights had to be replaced that day. 5 Q Sure. Sure. They had to because that's an -- 6 A That's a security -- 7 Q -- that could be an emergency, right? 8 A Right. 9 Q And so breezeway lights -- anything that provided 10 lights that -- I'm not talking about SCE&G. 11 A Right. 12 Q I'm talking about any common area or outside lights 13 that helped provide lighting for security purposes 14 were to be replaced immediately? 15 A Right. That day. Yes. 16 Q That day? 17 A Yes. 18 Q Okay. But this, because we have nothing else to 19 show -- it just says, "Date completed: 1/10/2007," 20 right? 21 A Right. 22 Q And if they had followed policy -- I'm not saying 23 that it wasn't done, but if -- if policy was 24 followed, it would've been, "Date completed: 25 1/9/2007" with some time, right?	1 Q Okay. Let's look at the next one. 2 A Okay. 3 Q "Date scheduled: 2/21/2007. Date completed: 4 2/22/2007. Breezeway light out." You see that, 5 right? 6 A I do. 7 Q Now, it would've been policy to do it that day, but 8 there is no piece of paper saying that, and so, per 9 policy, it should've been done on 2/21/2007, right? 10 A Yes. 11 Q And -- but the only documentation we have is it was 12 done the next day, right? 13 A That it was closed out, yes. 14 Q Now, if it was not done until the next day -- and 15 I'm not talking about policy. 16 A Sure. 17 Q I'm just saying if it -- it wasn't done until the 18 next day, on 2/22/2007, that would be a violation 19 of policy? 20 A Correct. 21 Q Okay. And that would be wrong? 22 A Yes. 23 Q Okay. The next thing we have -- "Date scheduled: 24 3/1/2007. Date completed: 3/5/2007." Now that 25 has, "One door; tub spout is leaking; breezeway
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1 MR. COMER: Objection. 2 A No. They had to replace the light that day. 3 Q Okay. 4 A But they did not always turn in the work orders -- 5 the completed work orders -- 6 Q Right. 7 A -- that same day. 8 Q So -- 9 A So this just meant that it was closed out the next 10 day. 11 Q Right. Where's the -- what piece of paper would we 12 look at that would show that it was actually done 13 that day? 14 A There isn't. It's just a policy that it had to be 15 done. 16 Q Okay. And you have acknowledged that there may 17 have been policies that were violated at times -- 18 MR. COMER: Objection. 19 Q -- correct? 20 A I don't remember stating that -- that were 21 violated. 22 Q You don't know of any policies that were violated 23 while you were the manager or the marketing person 24 or the assistant manager at Wellspring? 25 A Not that comes to mind.	1 light out." Do you see that? 2 A I do. 3 Q That was a double -- there was -- 4 A -- work order. 5 Q -- more than one complaint, right? 6 A Right. 7 Q And one -- they could've finished one and then had 8 to wait before they finished another one, right? 9 A They could have. It's not -- 10 Q Or they could've just done them both at the same 11 time? 12 A Right. Right. 13 Q Okay. But -- but we don't have any paper that 14 would tell us how that was done? 15 A Correct. 16 Q And all we've got is the documentation of the time 17 it was scheduled and the time it was completed, 18 right? 19 A Right. 20 Q And, according to that, that would've been a 21 violation of policy? 22 A Yes. 23 Q The next is "3/2 -- Date scheduled: 3/2/2007. 24 Date scheduled -- date completed: 3/2/2007, 5:14 25 p.m. Light out 609 and 208 and 901." Do you see

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1 that? 2 A I do. 3 Q That is the way it's supposed to be done, isn't it? 4 MR. CONER: Objection. 5 A There was no policy stating you had to turn the 6 work order in that day. 7 Q Right. But -- but the documentation shows that it 8 was completed -- 9 A Well, it shows that. Yes. 10 Q -- on that day? And so we know that was not a 11 violation of policy, right? 12 A Correct. 13 Q The next, it says, "Hallway light is out. Date 14 scheduled: 3/16/2007. Date completed: 15 3/20/2007." Do you see that? 16 A I do. 17 Q And that would be -- if it happened as the document 18 says, that would be a violation of policy? 19 A This is hallway, not breezeway. 20 Q Okay. 21 A There were hallways inside the units -- 22 Q Okay. So this would've been -- 23 A -- so. 24 Q -- something inside a unit? 25 A Correct.	1 Q Right. 2 A Yes. 3 Q And -- and -- and PRG would have those documents, 4 right? 5 A Yes. 6 Q Okay. And so they would be able to supply those 7 documents as to whether it'd actually been 8 completed on that day or not, right? 9 A Yes. 10 Q Okay. And if it was not on that particular 11 document and the only document we have is the work 12 order, and there's more than one day between them 13 or there's a day, 1/9 to 1/10, and that's all we 14 have, that would be a violation -- 15 A Yes. 16 Q -- of policy? 17 A Yes. 18 Q Okay. Now I'm going to go to Exhibit 11. Exhibit 19 11 were some documents we were provided, and I 20 think these were four work orders from Toni Wright, 21 okay? 22 A Okay. 23 Q Okay. I'm looking at the first one. It has, 24 "Replace dishwasher; breezeway light out." 25 A Okay.
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1 Q Okay. Okay. The next -- "3/19/2007. Date 2 completed: 3/21/2007." Do you see that? 3 A I do. 4 Q And it says, "1st bedroom blind broke in half; 5 breezeway light out." 6 A Yes. 7 Q Right? Now, if it happened as the document says -- 8 A Uh-huh. 9 Q -- that would be a violation of policy, right? 10 A Yes. 11 Q So if there are no other documents and the only 12 documents we have about when something was 13 scheduled and the date it was completed and that's 14 all we've got to go on and -- and if we were to 15 assume that that was correct, any time that a light 16 is out -- a breezeway light is out and there's a 17 day between the date it was scheduled and 18 completed, that would be a violation of policy, 19 correct? 20 MR. CONER: Objection. 21 A Unless you looked on the original work order -- and 22 a lot of times the techs would write the date in as 23 well. 24 Q Okay. 25 A This was just typed into the computer.	1 Q Okay? If the breezeway light was not fixed before 2 2/26/2008, that would've been a violation of 3 policy, right? 4 A Yes. 5 Q Now, if you go to the next one, this says, "Entry 6 light is out." That would be the light right 7 outside their door, right? 8 A No. That's a foyer light. 9 Q Inside their place? 10 A Right. 11 Q Okay. But in this foyer light, it was still done 12 on the same day, right? 13 A Right. 14 Q That would've been real quick? 15 A Yes. 16 Q Then we have the next, which is, "Entry light out." 17 And the entry light, as you said, is the foyer 18 light, right? 19 A That's normally how we refer to it. They could've 20 -- now that I see this with two units, it could've 21 been breezeway. Our terminology was always 22 "breezeway light" -- 23 Q Okay. 24 A -- so. 25 Q And so it's possible the entry light was --

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1 A -- breezeway.
 2 Q -- breezeway light?
 3 A Yes.
 4 Q And if it is as -- if it was 8/1/2006 reported,
 5 8/2/2006 completed, that would've been a violation
 6 of policy?
 7 A Right.
 8 Q And then it has, "Breezeway light." The next one
 9 is 11/8/2005, date scheduled. Date completed:
 10 11/11/2005. Breezeway light out." If it is as the
 11 work order says, that would be a violation of
 12 policy?
 13 A Yes.
 14 Q Okay. Okay. Do you know what kind of lights were
 15 used?
 16 A In the breezeways?
 17 Q Yes.
 18 A They were cells.
 19 Q Cell lights?
 20 A Cell lights. So I don't know exactly how they
 21 worked. They were light bulbs, but what controlled
 22 them were cells -- almost like fuses.
 23 Q Uh-huh. Okay. And -- and -- and how often did
 24 they go out, in your time there -- or your
 25 experience there?

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1 A They went out often. I mean, I wouldn't say any
 2 more than any other normal breezeway light -- an
 3 exterior light.
 4 Q Right.
 5 A But, I mean, they would --
 6 Q Did they have a -- because they were on all the
 7 time, right?
 8 A No.
 9 Q I mean -- but -- but did they have -- turn on and
 10 off?
 11 A It was a timed --
 12 Q Timed?
 13 A Right.
 14 Q So when it got dusk, it turned on?
 15 A Right.
 16 Q And when it got dawn, it usually turned off?
 17 A Right. Uh-huh.
 18 Q So it was basically on all night?
 19 A Well, yeah. Yes.
 20 Q Okay. And so -- but -- but being on that much,
 21 they -- would they usually have about a 30-day life
 22 expectancy -- 60-day life expectancy?
 23 A I don't know that.
 24 Q Okay.
 25 A I don't know.

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1 Q Now, did y'all have them on-site, or did y'all have
 2 to do a maintenance purchase?
 3 A Did we keep the cells and light bulbs on-site?
 4 Q Yes.
 5 A Yes.
 6 Q Okay.
 7 A We did.
 8 Q Okay. And how -- how did you track when they were
 9 used or how they were used?
 10 A By the work orders. They were only used for
 11 breezeways.
 12 Q Okay.
 13 A And that was --
 14 Q But would you have, like -- okay. The serial
 15 number on the box is the serial number, and it went
 16 into this particular breezeway?
 17 A No. No.
 18 Q Okay.
 19 A They were just light bulbs in a box.
 20 Q Okay. And then you would just take them and you
 21 would just replace the --
 22 A (Coughs.)
 23 Q -- breezeway light?
 24 A Excuse me. Yes.
 25 Q And then did y'all have to then do, like, a -- a

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1 monthly report to corporate about how many light
 2 bulbs you were using?
 3 A No.
 4 Q How would they know how many light bulbs y'all were
 5 using?
 6 A They didn't. There wasn't a report. I mean, they
 7 could look by our ordering --
 8 Q Okay.
 9 A -- to see quantities, I guess, of what we ordered.
 10 Q Were you given a budget for the apartment complex,
 11 and then you were able to order whatever you saw
 12 fit within the budget?
 13 A As long as it was in the budget.
 14 Q Okay.
 15 A Yes.
 16 Q Okay. Well, you -- you said in that letter that
 17 you wrote that there were times that you felt
 18 really constrained because of --
 19 A Sure.
 20 Q -- the budget. So what happened when you couldn't
 21 order things because it wasn't in the budget?
 22 A If it was everyday necessities, we still ordered
 23 it.
 24 Q Okay.
 25 A Anything that wasn't in the budget, we'd -- I would

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1 have to get approval.
 2 Q Okay. And there were times that you did not get
 3 approval?
 4 A Depending on what it was.
 5 Q Okay.
 6 A Yes.
 7 Q And -- and -- and when you didn't get approval of
 8 these things, how did you write for this approval?
 9 A I would go to my regional, Pamela Williams --
 10 Q Okay.
 11 A -- and discuss it with her.
 12 Q Okay. And did you send e-mails back and forth in
 13 regard to this?
 14 A I'm sure there was.
 15 Q Okay. And did you maintain your e-mails in a
 16 particular folder at Wellspring?
 17 A I think -- believe towards the end I did. I made
 18 folders on my computer.
 19 Q Okay. And do you know what happened to those
 20 folder after you left?
 21 A I do not.
 22 Q Okay. Do you know if Pamela Williams is still with
 23 PRG?
 24 A No, she is not.
 25 Q Okay. And do you know where she is now?

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1 A I have no idea.
 2 Q Okay. Was she in Philadelphia, or was she here?
 3 A She was North Carolina.
 4 Q Okay. And so after your resignation, you didn't
 5 have any contact with her any longer?
 6 A No, I did not.
 7 Q Okay. Now, when you resigned, did you go to
 8 Mobile, Alabama?
 9 A A while after.
 10 Q Okay. Now, do you remember in your previous
 11 deposition where you said that you had resigned
 12 this position to go to Mobile, Alabama?
 13 A That is not accurate.
 14 Q Okay.
 15 A I didn't go to Mobile until April '09.
 16 Q I'm going to aver to you -- and this is -- I'll
 17 give you this --
 18 A Okay.
 19 Q It says, "What was the circumstances surrounding
 20 your leaving?"
 21 And your answer was, "I was leaving to work
 22 for another company at that time." And your answer
 23 --
 24 And he said, "And that was locally?"
 25 And you said, "No. In Mobile."

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1 "Question: In Mobile? Okay. So you left
 2 for, presumably, better employment?
 3 "Yes." Is that a lie?
 4 A That is.
 5 Q Okay.
 6 A I had no knowledge of Mobile when I left PRG.
 7 Q So why did you testify that way?
 8 A I don't remember testifying to that. I don't know
 9 if I didn't understand the question or -- I didn't
 10 leave at that time.
 11 Q Here, I'll let you read it --
 12 A Well, I just read it --
 13 Q -- and you tell me what you don't understand.
 14 A -- with you.
 15 Q Tell me what's not --
 16 A But at that time --
 17 Q -- understandable.
 18 MR. COMER: (To Mr. Hood) Hold on. Let her
 19 finish her answer.
 20 A At the time I did not leave PRG to go to Mobile.
 21 Q Tell me, when you gave that testimony under oath,
 22 what you did not understand. Read it.
 23 A I just read it with you.
 24 Q Okay. Well, then, tell -- tell the jury because
 25 they're going to be able to see this. Tell them

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1 what you didn't understand about that.
 2 A I don't know. If I lied, I didn't mean to. I'd
 3 left in November with PRG. I went to Mobile in
 4 April '09.
 5 Q So you testified --
 6 A I had no plans when I left of going anywhere. I
 7 was burnt out when I left PRG. I didn't want to do
 8 anything. That's why I left.
 9 Q Why didn't you tell him that here?
 10 A I don't know. I don't recall this part. If I --
 11 if I said it, apparently, I said it. But that is
 12 not why I left PRG.
 13 Q Did you have an opportunity to read your
 14 deposition?
 15 A I'm sure. Yes.
 16 Q Well, why didn't you correct it?
 17 A I don't know.
 18 Q So, basically, you have a history of testifying and
 19 sometimes it isn't the truth, right?
 20 MR. COMER: Objection.
 21 A No.
 22 Q Well, then, what do you call that?
 23 A I don't have an answer.
 24 Q You don't have an answer because there isn't one,
 25 right?

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1 A Okay. 2 Q You would agree that any risk of serious injury or death is unacceptable if reasonable means could be used to minimize or eliminate the risk, right? 3 A Yes. 4 Q You agree the first priority of an apartment complex should be the safety of the residents, right? 5 A Yes. 6 Q You agree the plaintiff had a right to expect to be safe at Wellspring, right? 7 A Yes. 8 MR. COMER: Objection. 9 Q You would agree that corporations and shareholders should never put profits before safety, right? 10 A Correct. 11 Q An apartment complex should try to maintain a safe environment for its residents? 12 A Yes. 13 MR. COMER: Objection. 14 Q And that's a rule, isn't it? 15 MR. COMER: Objection. 16 Q You can answer. 17 A Yes. 18 Q It's been a rule for a long time, hasn't it?	1 A Yes. 2 Q Been a rule for a long time, right? 3 MR. COMER: Same objection. 4 A Yes. 5 Q And it should not maintain its complex in a way that invites a criminal to harm its residents, right? 6 A Yes. 7 Q And that's -- that's a rule as well -- 8 MR. COMER: Objection. 9 -- right? 10 A Yes. 11 Q Been a rule for a long time, right? 12 A Yes. 13 MR. COMER: Objection. 14 Q PRG should maintain safe lighting in parking lots and outside the doors of residents, right? 15 A Yes. 16 Q If lights are out at night, that's not good, is it? 17 A No. 18 Q In fact, y'all had a policy that you're supposed to do it that day, right? 19 A Yes. 20 Q And that's a rule, right? 21 A Yes.
Page 102	Page 104
1 A Sure. 2 MR. COMER: Objection. 3 Q An apartment complex should never needlessly endanger a resident, right? 4 A Right. 5 Q And that's been a rule as well, right? 6 A Yes. 7 Q And that's been a rule for a long time -- 8 MR. COMER: Objection. 9 -- right? 10 A Yes. 11 Q And PR -- PRG should not have a contract with a subcontractor to trim hedges and then not allow them to do it because of money, right? 12 A Yes. 13 Q And because high hedges can obscure sight lines, right? 14 A Yes. 15 Q And if you can't see properly, you may not be able to see people who are hiding in bushes or laying in wait, right? 16 A Yes. 17 Q And that's been a rule that they shouldn't allow that to happen, right? 18 MR. COMER: Objection.	1 Q It's been a rule for a long time? 2 A Yes. 3 MR. COMER: Objection. 4 Q Been the rule the whole time you were there, from 2004 to 2008? 5 A Yes. 6 Q PRG should follow policy and procedure in regard to its courtesy officers, right? 7 A Yes. 8 Q And that's a rule as well, right? 9 MR. COMER: Objection. 10 A Yes. 11 Q And that's a rule that's been in effect for a long time, right? 12 MR. COMER: Same objection. 13 A Yes. 14 Q From 2004 to 2008 -- 15 A Yes. 16 Q -- at least, you know? And you would agree that the Wellspring manager should follow policies and procedures, right? 17 A Yes. 18 Q Wellspring manager should notify upper management of problems or safety concerns, right? 19 A Yes.

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1 Q Wellspring manager should use the chain of command, if necessary, meaning if her immediate supervisor doesn't respond to her concerns, she needs to go over their heads, right? You had a chain of command? 2 A I did. 3 Q And if Pamela Williams -- 4 A If it was not an appropriate amount of time, then, yes, I would. 5 Q Okay. You would go over her head if necessary? 6 A Yes, I would. 7 Q And -- and the Wellspring manager and the staff, they were the eyes and ears of the corporation who owns the complex? 8 A At Wellspring, yes. 9 Q And you had to use your independent skill and judgment if you thought that there was an unsafe condition at the apartment complex, correct? 10 A Yes. 11 Q And so did all of your maintenance people and anybody that was employed at Wellspring? 12 A Yes. 13 Q And you would agree that the corporation that owns Wellspring should have policies and procedures which promote safety, right? 14 A Yes.	1 Q -- but when -- right before we left, you had said one thing and I did want to go over that. You said that you had left because you were burned out. 2 A Yes. 3 Q When -- when you say you were "burned out," what do you mean by that? 4 A It's a tough job. 5 Q Sure. 6 A And I was tired. 7 Q Sure. 8 A I just needed a break. And, you -- 9 Q Sure. 10 A -- know, it's -- it's a pretty stressful environment. The company is a pretty intense, aggressive company and I just needed a break. 11 Q Okay. One of the other things -- right before -- let me just ask you this: What is your full name? 12 A Full name? 13 Q Yes. 14 A Karen Nicole Campbell. 15 Q Okay. And your current address once again? 16 A It's 110 Paces Brook Avenue. 17 Q And is that an apartment complex? 18 A It is. 19 Q Are --
Page 106	Page 108
1 A Yes. 2 Q Money should never compromise safety of residents, correct? 3 A Correct. 4 Q Residents are allowed on the premises -- excuse me. 5 MR. HOOD: Oh, let's see. Oh. (To Mr. Comer) What time do you have? 6 MR. COMER: I don't have my BlackBerry on me, actually. 7 MR. HOOD: (To the court reporter) Do you -- 8 THE COURT REPORTER: 12:01. 9 (Sotto voce discussion between Mr. Hood and Ms. Casey.) 10 MR. HOOD: It's been two hours. Y'all want to take about -- 11 MR. COMER: Sure. 12 MR. HOOD: -- five or ten minutes? About -- 13 you tell me. 14 (Off the record from 12:03 p.m. until 12:22 p.m.) 15 THE EXAMINATION BY MR. HOOD CONTINUES. 16 Q Ms. Campbell, I'm probably going to hit a stretch of some pretty boring stuff. Just general background stuff. But -- 17 A Okay.	1 A Yes. 2 Q -- you managing that apartment -- 3 A No. 4 Q -- complex? 5 A No. 6 Q You just live there? 7 A I do. 8 Q Are you working anywhere right now? 9 A I am. 10 Q Where are you working at? 11 A The Haven at Windsor Lake. 12 Q Okay. And that's an apartment complex? 13 A Yes. 14 Q And -- and are you managing there? 15 A Yes. 16 Q Okay. And -- now, the place that you're at now, how long have you been there? 17 A April this year. 18 Q Okay. Does your husband work there? 19 A No. He works at Paces Brook. 20 Q Right. But that's what I meant, Paces -- 21 A Oh. 22 Q -- Brook. 23 A Yes. 24 Q He -- he works at Paces Brook --

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1 A Yes. 2 Q -- because -- 3 A He does. 4 Q -- he's a maintenance guy, right? 5 A He's a supervisor. 6 Q Supervisor? 7 A Yes. 8 Q And -- and -- and whether you're the manager or a 9 maintenance supervisor, you can get a price break 10 on your rent, usually -- 11 A Depending -- 12 Q -- right? 13 A -- on the company. 14 Q Depending upon the company. 15 A Yes. 16 Q And then -- so you're living at the complex your 17 husband works at? 18 A Correct. 19 Q Okay. Now, prior to there, where did you live at? 20 A To Faces Brook? 21 Q Yes. 22 A We were in Mobile. 23 Q Okay. And what was -- were you a -- an employee or 24 did you begin working for an apartment complex 25 there?	1 A Yes. 2 Q Okay. Now, before Inverness Lakes, I think you 3 said you took off from November until April -- 4 A Right. 5 Q -- right? 6 A Right. 7 Q And -- now, why did y'all go to Mobile? 8 A I had an opportunity. There was no work here in 9 Columbia. 10 Q Right. 11 A So there was an opportunity to go to Mobile. 12 Q Inverness Lakes? 13 A Inverness Lakes. 14 Q Sure. 15 A And it was an opportunity. 16 Q Sure. 17 A And so that's why we went. 18 Q Sure. Absolutely. And then prior to Inverness 19 Lakes, you had taken the few months off and then -- 20 A Right. 21 Q -- you had worked from -- was it 2004 to 2008 -- 22 A Right. 23 Q -- at PRG? 24 A Yes. 25 Q And then before PRG, where did you work at?
Page 110	Page 112
1 A In mobile? 2 Q Yes. 3 A Yes. 4 Q And what was the name of that complex? 5 A Inverness Lakes. 6 Q Inverness Lakes? 7 A Yes. 8 Q And why did you leave Inverness Lakes? 9 A To come back home. 10 Q Is this where most of your family -- 11 A Yes. 12 Q -- is? Okay. 13 A Yes. 14 Q Do you know if there was -- did you resign or were 15 you terminated or . . . 16 A From Inverness? 17 Q Yes. 18 A No, I resigned -- 19 Q Okay. 20 A -- to come home. 21 Q Okay. You know how sometimes when you do an exit 22 interview, you say yes, they're eligible for rehire 23 or not? 24 A Yes. 25 Q Are you eligible for rehire at Inverness Lakes?	1 A I worked at The Woods at Harbison. 2 Q Okay. 3 A And I was only there a few months. Not long. 4 Q Now, is that -- The Woods at Harbison -- that's the 5 one that the lady had talked about that was the 6 troubled property? 7 A Yes. Yes. 8 Q Okay. 9 A It is. 10 Q Okay. And -- and so you were aware of some of the 11 stuff that was going on at The Woods at Harbison? 12 A Not at the current time when I worked at 13 Wellspring. I knew the type of property The Woods 14 -- 15 Q Sure. 16 A -- was. 17 Q Sure. But -- 18 A Sure. 19 Q -- you knew -- while you were working at The Woods, 20 you were aware of the class of people that you were 21 dealing with? 22 A Oh, yes. 23 Q And you were aware of some of the criminal element 24 that was present there? 25 A And around there.

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1 Q In --
 2 A Yes.
 3 Q -- and around The Woods at Harbison?
 4 A Correct.
 5 Q And -- and those were the same people that had
 6 access to Wellspring?
 7 A Through the trails. Yes.
 8 Q Through the trails. And -- and -- and so you --
 9 you -- you and the employees of Wellspring were
 10 aware of the element that was -- that had access to
 11 -- to Wellspring, right?
 12 A Yes.
 13 Q And -- and so, it was -- it was certainly, then,
 14 foreseeable that there would be criminals coming
 15 onto the property who may have committed crime?
 16 MR. COMER: Objection.
 17 A I wouldn't say it's foreseeable. Anybody can come
 18 on any property off --
 19 Q Right.
 20 A -- of those trails --
 21 Q Sure.
 22 A -- so.
 23 Q Okay. But -- but -- but, I mean, when anybody can
 24 go anywhere, it's predictable that there's going to
 25 be a certain amount of crime?

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1 A I guess that would be fair to say.
 2 Q Okay. And so it's predictable that -- that there's
 3 going to be a certain of crime at Wellspring, just
 4 because anybody's able to come there, right?
 5 A Sure.
 6 Q Okay. Now, your age, you said 35?
 7 A Thirty-five.
 8 Q And what's your birth date?
 9 A 12/15/76.
 10 Q And your place of birth?
 11 A Akron, Ohio.
 12 Q Okay. Yeah. Because you worked at the
 13 ophthalmology surgical --
 14 A Yes.
 15 Q -- thing. So before The Woods at Harbison --
 16 A Uh-huh.
 17 Q -- you came from Ohio, right?
 18 A Correct.
 19 Q And -- and where did you work at in Ohio?
 20 A Northeast Ohio Eye Surgeons.
 21 Q Okay.
 22 A I worked for a Dr. Repko. I don't remember --
 23 Q Sure. Sure.
 24 A -- the name of his practice. I worked --
 25 Q Okay.

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1 A -- same position --
 2 Q Okay.
 3 A -- just different place.
 4 Q Were you like a surg tech or something?
 5 A Yes.
 6 Q And -- and prior to that, you worked at another
 7 ophthalmology place, right?
 8 A Bye surgeons. North --
 9 Q Okay.
 10 A Uh-huh.
 11 Q Now, did you have to get a degree to become a surg
 12 tech?
 13 A You had to be certified.
 14 Q Okay. To become certified, what did that require?
 15 A Classes that was specifically for ophthalmology.
 16 Q Okay.
 17 A And then you would get a certificate.
 18 Q Did you ever get an associate's degree?
 19 A No.
 20 Q In anything?
 21 A No.
 22 Q Do you have an associate's degree in anything?
 23 A No.
 24 Q Okay. But you took your special classes to be a
 25 surg tech and you got your certificate to be a surg

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1 tech, right?
 2 A Right. And it was initially a COA. It was a
 3 ophthalmic assistant.
 4 Q Right.
 5 A And then it was almost like an on-the-job --
 6 Q -- training-type thing?
 7 A -- training kind of thing.
 8 Q Sure.
 9 A And that's how . . .
 10 Q Okay.
 11 MR. HOOD: Let me do this.
 12 (Sotto voce discussion between Mr.
 13 Hood and Ms. Casey.)
 14 MR. HOOD: Yeah. May be in something else.
 15 (Sotto voce discussion between Ms.
 16 Casey and Mr. Hood.)
 17 MR. HOOD: Okay. Let's have this marked.
 18 Brian, it's going to be 0865 --
 19 MR. COMER: Okay.
 20 MR. HOOD: -- through 0869.
 21 MR. HOOD: (To the court reporter) Here,
 22 let's give it to Brian.
 23 MR. COMER: Okay, thanks. Thank you.
 24 Plaintiff's Exhibit No. 12, "Payroll Data
 25 Sheet", "Application for Employment."

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1 Q Ms. Campbell, I think this is just basically your
2 application --
3 A Okay.
4 Q -- to -- to Wellspring. And it looks like the
5 payroll data sheet -- I guess that was the day you
6 got hired or the effective date and then -- then it
7 has -- or at least it's dated 7/20/04. So it looks
8 like you were hired on the day that you applied, or
9 close to it, on 7/20/04.
10 A Okay.
11 Q And -- and if you go to the second page, it says,
12 "Application for Employment."
13 A Uh-huh.
14 Q "Position applied for: marketing director"; do you
15 see that?
16 A I do.
17 Q Okay. Now -- now, why did you apply for a
18 marketing director?
19 A That was the position that was open.
20 Q How did you know that that was a position that was
21 open?
22 A Brian Devesse was a supervise -- maintenance
23 supervisor --
24 Q Right.
25 A -- at Wellspring. He used to work at The Woods.

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1 Q Uh-huh.
2 A And he was over at The Woods. I don't remember
3 why. He just stated that there was an opening over
4 at Wellspring.
5 Q Okay.
6 A And I knew that Wellspring was a better property
7 than where I was out, so --
8 Q Okay. Now, did Brian Devesse leave his employment
9 at about the same time you left your employment?
10 A No.
11 Q Okay. Now, if you go to the second page, it has
12 educational data.
13 A Uh-huh.
14 Q And it has high school, college, trade, business,
15 night, or correspondence.
16 A Uh-huh.
17 Q And it has you had your four years completed.
18 Major course of study, college prep. You got your
19 high school degree, right?
20 A Right.
21 Q College, it says, "Stark-Kent University."
22 A Uh-huh.
23 Q Number of years completed, two. Ophthalmology
24 surgical tech. And then you have trade, business,
25 night, or correspondence, JCAHPO, two years

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1 completed, ophthalmology tech.
2 A Yes.
3 Q So did you take four years of -- you completed four
4 years to get your ophthalmology degree?
5 A No. JCAHPO is how you get your assistant's --
6 ophthalmology assistant certificate.
7 Q Right.
8 A And then I went to Stark-Kent to further my
9 education there. It wasn't only for ophthalmology.
10 It was just more of a business --
11 Q Sure.
12 A -- something at that point, too --
13 Q So --
14 A -- so.
15 Q -- I forgot how you call it. "JACK-po" or --
16 A "Jih-CAH-po."
17 Q "Jih-CAH-po"?
18 A Uh-huh.
19 Q Now, under JCAHPO --
20 A Uh-huh.
21 Q -- so it -- you -- you took you two years to
22 complete the course for -- to get your certificate?
23 A Right. Because you work while you do it.
24 Q Okay.
25 A So it's more of like, you know, an on-the-job

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1 training; you have to be there for so long before
2 you're allowed to take the classes.
3 Q Okay. And at Stark-Kent University, you completed
4 two full years there, right?
5 A Almost. That was something I paid for out of my
6 pocket. So --
7 Q Sure.
8 A -- it was like evening classes --
9 Q Sure.
10 A -- so.
11 Q When you say you "almost" completed --
12 A Yeah.
13 Q -- two years --
14 A It was a little over a year and a half --
15 Q Okay.
16 A -- so.
17 Q Okay. And then it has, "Employment Experience
18 Qualifications. Employer, The Woods at Harbison,
19 from 3/4 to 7/4." And because you applied in
20 7/20/04, you would have still been working at The
21 Woods at Harbison --
22 A Right.
23 Q -- when you applied for this?
24 A Uh-huh.
25 Q Okay. Now, there, it says you were -- you were

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1 doing rent, something, leasing, marketing,
 2 budgeting. What was your actual designation or
 3 title there?
 4 A It was such a small property. Assistant manager,
 5 leasing rep. Whatever I had to do.
 6 Q Okay. Just -- just whatever needed to be --
 7 A What --
 8 Q -- done?
 9 A Yes. Yeah.
 10 Q Okay. And then I noticed that you took a -- you
 11 took a substantial salary jump once you left there.
 12 And -- and then you started -- you went to eight to
 13 13.28.
 14 A Better property.
 15 Q And -- and eventually got to \$21.
 16 A Uh-huh.
 17 Q You were making good money when you left
 18 Wellspring, right?
 19 A Yeah. Sure did.
 20 Q When you went to Inverness, did it have the same
 21 type of salary structure or --
 22 A Yes.
 23 Q Okay.
 24 A Uh-huh.
 25 Q Making about the same amount of money or --

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1 A A little bit more.
 2 Q Little bit more? Now, it says from 3/2 to 1/4, you
 3 worked at HODS.
 4 A That was National Direct Diabetic Supply.
 5 Q Okay. Just like an office job-type thing?
 6 A It was. Uh-huh.
 7 Q Okay. Okay. And then on the next page, you said
 8 you had references, Jennifer Winter and Penny
 9 Pierson?
 10 A Uh-huh.
 11 Q Just people that you knew or had worked with?
 12 A Right. Jennifer Winter was the property manager at
 13 The Woods at Harbison.
 14 Q Okay.
 15 A And Penny Pierson was my boss at National Direct.
 16 Q Okay. And -- and then you signed the back of this,
 17 signature of applicant and the date, right?
 18 A Right.
 19 Q And before you signed it, you read that box that
 20 you signed, right?
 21 A Yes.
 22 Q Okay.
 23 MR. HOOD: Let's see something real quick.
 24 Have we marked the employee -- yes, we did. I
 25 can't remember what it was. It was -- I think

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1 we've marked it.
 2 MR. COMER: What's the front page?
 3 MR. HOOD: It says, "Employee Handbook."
 4 MR. COMER: Okay.
 5 MR. HOOD: It's Section 1. If you'd tell me
 6 what exhibit that is, too, that . . .
 7 MR. COMER: Bear with me. I'm just getting
 8 these back in order. Employee handbook?
 9 MR. HOOD: Yes.
 10 MR. COMER: Number 7.
 11 MR. HOOD: Okay. Great. Thank you.
 12 Q I'm going to have you -- it's -- it's got numbers
 13 at the top, Ms. Campbell.
 14 A Okay.
 15 Q And if you'll just go to No. 28.
 16 A Okay.
 17 Q And this has a job description. It has job
 18 description of the property manager. And then that
 19 would have been you from 2006 to 2008, right?
 20 A Yes.
 21 Q And the primary function -- it just says you are
 22 totally accountable for all community operations,
 23 right?
 24 A Yes.
 25 Q So basically, the buck stops with you?

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1 A Yes.
 2 Q Right. Now, under -- and -- and I'm going to go
 3 back over this more. But I just want to just ask
 4 this one quick question. Under "Qualification,
 5 Skills, and Experience," it says, "Education and
 6 experience requirements include four-year BS/BA
 7 degree, comma, two-year associates degree combined
 8 with a minimum of two years direct property
 9 management experience, or a two-year associates
 10 degree with at least three years of related
 11 business management experience"; do you see that?
 12 A I do.
 13 Q Okay. Now, you didn't have a four-year degree,
 14 right?
 15 A No.
 16 Q And you didn't have a two-year associate's with
 17 three years of business management experience,
 18 right?
 19 A Correct. Correct.
 20 Q And so you would have been under the two-year
 21 associate's degree combined with a minimum of two
 22 years direct property management experience, right?
 23 A Yes.
 24 Q But you didn't have a two-year associate's degree,
 25 did you?

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1 A No.

2 Q Okay. I'm going to ask you a couple of questions.

3 And these are -- I'm really not trying to get in

4 your business, but these are like jury questions

5 where we may have jurors that may know you or know

6 people you know and that kind of stuff.

7 A Okay.

8 Q And so we ask these of everybody. Okay?

9 A Okay.

10 Q What is your husband's full name?

11 A Michael Ray Campbell.

12 Q Okay. And he works over at Faces?

13 A Faces Brook. Yes.

14 Q And, then, do y'all have any children?

15 A We do.

16 Q And what is your child's name?

17 A Gavin Campbell and Krista Campbell.

18 Q Okay. And are they of school age?

19 A Yes.

20 Q Where do they go to school at?

21 A Gavin will go to Irmo Middle School. And Krista

22 goes to Harbison West.

23 Q Okay. I know it's like -- that's right on the

24 line. Is that Lexington County or Richland County?

25 A Richland.

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1 Q Okay. And do y'all go to church anywhere?

2 A No.

3 Q Do y'all belong to any community organizations like

4 go to Little League baseball or anything like that?

5 A Yes. My daughter is in gymnastics.

6 Q Okay.

7 A And my son plays soccer.

8 Q Okay. Where does he play soccer at?

9 A The rec center. Irmo Chapin Rec Center.

10 Q Okay. And where does your daughter --

11 A All-Star Gymnastics.

12 Q Okay. Now, do y'all have any -- any relatives with

13 the last names, other than Campbell, that live in

14 Richland County?

15 A No.

16 Q Okay. Okay. When you had said -- when I had said

17 earlier this where family is, you came back here,

18 is -- is family in this area or --

19 A They're not in Richland. They're in Lexington --

20 Q Okay. Okay.

21 A -- County.

22 Q Okay. Okay. Just because it's so close, what are

23 their last names?

24 A Jenkins and Stillson.

25 Q S-t-i-l-l-s-o-n?

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1 A S-t-i-l-l-s-o-n.

2 Q Okay.

3 A Yes.

4 Q Okay. You've never served in the military?

5 A No.

6 Q Have you ever filed for bankruptcy?

7 A Yes.

8 Q When did you file for bankruptcy?

9 A I believe it was 2005.

10 Q Okay. Do you know the name of the attorney who

11 handled that?

12 A Ray Lord.

13 Q Was that in Columbia?

14 A Yes.

15 (Sotto voce discussion between Mr.

16 Hood and Ms. Casey.)

17 Q Okay. And did y'all do a Chapter 7 or a Chapter

18 11?

19 A I believe it was 11.

20 Q Okay. So you paid your debts and you just worked

21 out a schedule?

22 A No. Then, it would have been a 7.

23 Q It would have been a 7? They discharged the debts?

24 A Correct.

25 Q Have you -- have you declared bankruptcy since that

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1 time in 2005?

2 A No.

3 Q Okay. Have you ever been -- and I apologize for a

4 couple of these questions -- have you ever been

5 convicted of a crime other than a traffic ticket?

6 A No.

7 Q Okay. Been in any type of alcohol or drug rehab?

8 A No.

9 Q Are you under any active psychiatric or

10 psychological care?

11 A No.

12 Q Now, I believe you said that you're familiar with

13 building -- her building was 22 --

14 A I --

15 Q 2208 --

16 A -- don't --

17 Q -- or --

18 A -- remember what --

19 Q -- 2210?

20 A -- she was.

21 Q I think it was 22 --

22 A I think -08, I believe --

23 Q -- -08.

24 A -- maybe.

25 Q Yeah. It was 2208 or 2 -- 2210.

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1 MR. COMER: I'm being silent because I can't 2 remember. 3 MR. HOOD: I know. It's terrible. I mean, 4 it's like I've got all these numbers flying 5 around in my head. 6 MR. COMER: 2210 is what Exhibit -- 7 MR. HOOD: Okay. 8 MR. COMER: -- 11 -- 9 MR. HOOD: Okay. 10 THE DEPONENT: Oh. 11 MR. COMER: -- indicates. 12 MR. HOOD: 2210, I'm sorry. 13 Q And so -- so you knew Building 22 and -- Unit 2210, 14 right? 15 A Yes. 16 Q Now, Ms. Wright, in particular -- I know, before, 17 you -- you said you remember Lisa Davis. And -- 18 and I know I've read your deposition and you 19 remembered Leasa Watson. 20 A Yes. 21 Q Two memorable residents. Now, was Toni Wright one 22 of those people that you remember -- 23 A Toni -- 24 Q -- really well? 25 A -- Wright was just a very sweet lady.	1 Q -- on your own personal experience? 2 A I've seen it. Yes. 3 Q Okay. Now, how often did you walk the community 4 when you were there between 2004 and 2008? 5 A I was out on that property almost every single day 6 -- 7 Q Okay. 8 A -- myself. 9 Q I know I've seen some larger properties where they 10 have little golf carts and people ride around -- 11 A Uh-huh. 12 Q -- on the golf carts. Did y'all have that or did 13 you walk? 14 A We did both. 15 Q Okay. So you -- you could ride -- y'all had a golf 16 cart to ride around on, but you also walked it as 17 well? 18 A Correct. 19 Q Okay. Now, as far as the -- the vicinity of this 20 particular incident, is it one of the outlying 21 buildings, like on the edge? 22 A The edge of the property? 23 Q Yeah. 24 A No. 25 Q Is it towards the center or just . . .
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1 Q Okay. And -- and would -- I mean, I know you have 2 residents -- you have a scale. Some of them are 3 good residents; some of them are not so good 4 residents. Was she one that you considered to be a 5 really good resident? 6 A Oh, sure. 7 Q Okay. Did you ever have problems out of Ms. 8 Wright? 9 A No. 10 Q Okay. 11 A No. 12 Q So she was basically the model resident? 13 A She's a very nice resident. 14 Q Okay. Now, are you familiar with where this 15 incident occurred? I showed you the -- the diagram 16 and the pictures and stuff, right? 17 A Right. 18 Q And I know you actually went out there and looked 19 yourself, close after the time -- 20 A At the time. Right. 21 Q -- because you did a -- a -- a unusual occurrence 22 report, right? 23 A Right. 24 Q Okay. So you were familiar with that area -- 25 A Yes.	1 A I -- if I remember correctly, it's one building 2 down from the edge. 3 Q Okay. 4 A From the entrance. 5 Q Okay. Okay. Because 23 would be the end and then 6 -- 7 A At the end. 8 Q -- 22 would be beside it? 9 A Correct. 10 Q Okay. Was there anything in particular about 11 Building 21, 22, or 23, or that area that -- that 12 you remember specifically today? 13 A As far as? 14 Q I mean, is there anything that just sticks out 15 about that -- that area? 16 A No. 17 Q Okay. 18 A No. 19 Q In regard to that immediate area of incident and I 20 -- and -- and please correct me if I'm wrong and 21 I'm not trying to say it -- but I believe you said 22 you could not recall what the lighting was like in 23 that specific area other than the fact that there 24 was an SC&P -- SC&S pole close to there. 25 A Right.

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1 Q And you've seen the picture of the shrubbery and --
 2 A Yes.
 3 Q Okay. And -- but you don't have personal
 4 recollection of, Oh, it was 6 --
 5 A No.
 6 Q -- feet on the --
 7 A No.
 8 Q Would you defer to the pictures -- whether they're
 9 your pictures or somebody else's pictures, if
 10 somebody attests that was what they were like on
 11 the day of, would you defer to that?
 12 A They were mature trees.
 13 Q Okay.
 14 A I mean --
 15 Q Well, you have mature trees and then you have
 16 mature shrubbery.
 17 A Or mature shrubbery. It was an older property.
 18 Q Okay.
 19 A Everything on it was matured.
 20 Q Right. And when you have mature trees or mature
 21 shrubs, you can always trim them back or cut them,
 22 right?
 23 A Sure.
 24 Q Okay. And in regard to that specific area of
 25 incident, how close was that to the pond or the --

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1 A How close was the building to the pond?
 2 Q Yes.
 3 A Just down the trail a little bit.
 4 Q Okay. I mean, like 500 feet or --
 5 A Oh --
 6 Q Wasn't very far?
 7 A No.
 8 Q Okay.
 9 A No.
 10 Q And so it -- it would have been real easy for
 11 somebody that was around the pond to walk up to any
 12 of those buildings?
 13 A Sure.
 14 MR. COMER: Objection.
 15 Q Okay. Now, in regard to the courtesy officers,
 16 y'all --
 17 MR. HOOD: I'll go over that later. I'll go
 18 over this with her.
 19 Q Now, did you do an actual -- your own personal
 20 investigation of this?
 21 A No.
 22 Q Okay. And why not?
 23 A Because I'm not Richland County. I would take the
 24 incident report from the resident, but the
 25 investigation aspect of it, that --

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1 Q Okay.
 2 A -- that wasn't my job.
 3 Q Okay. Hold on a second.
 4 MR. COMER: (To the deponent) Can you hand me
 5 that? (To Mr. Hood) Are you done with this,
 6 Randy?
 7 MR. HOOD: Yes. I --
 8 MR. COMER: Okay.
 9 MR. HOOD: -- think so, right now. Yeah. I
 10 may have -- it may be that one that I've got a
 11 question about, but I'm not sure.
 12 MR. COMER: Okay.
 13 MR. HOOD: I'm trying to find. I knew I saw
 14 something in here.
 15 Q Okay. It would be "Maintenance, Section 9," which
 16 is Exhibit 4.
 17 MR. HOOD: Four?
 18 MR. COMER: Uh-huh.
 19 Q If you go to 00144.
 20 A Okay.
 21 Q Excuse me, I'm sorry. 00145. I apologize. Do you
 22 see where it says "Accident Reporting"?
 23 A I do.
 24 Q It says, "If the community should have a potential
 25 property insurance claim during or after normal

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1 working hours, notify the maintenance supervisor
 2 and property manager immediately. Never discuss
 3 the issue of insurance claims with residents or
 4 anyone who considers themselves an 'injured
 5 party.' And then after that, it says, "There are
 6 a few items that must be done when an incident
 7 occurred." An incident; do you see that?
 8 A I do.
 9 Q It says, "Complete a detailed investigation."
 10 A Okay.
 11 Q Do you see that?
 12 A I do.
 13 Q It says, "Submit PRG Unusual Occurrence Report, PRG
 14 Form MNT-18," right?
 15 A I do.
 16 Q And then it says, "Take photographs"; you see that?
 17 A I do.
 18 Q Okay. It says, "The purpose of the investigation
 19 is to document the facts and photographs of the
 20 incident immediately. If a few days pass, the
 21 documentation may not be able to detect the facts
 22 of the incident appropriately." Do you see that?
 23 A I do.
 24 Q Okay. Now, you said your job was not to do an
 25 investigation. Now, under here, are you supposed

Page 137	Page 139
1 to do an investigation, per policy? 2 A Yes. This small? Yes. 3 Q Okay. 4 A Yes. 5 Q Okay. So why didn't you do an investigation on this particular situation? 6 A I was referring to a different kind of investigation. I filled out an unusual occurrence report. 7 Q Okay. 8 A The detailed investigation -- that would have been the information that I received from Ms. Wright to put into my unusual occurrence report. 9 Q Okay. 10 A So I guess that would be the extent -- 11 Q The -- the -- 12 A -- of -- 13 Q -- extent -- 14 A -- my investigation. 15 Q So the extent of your detailed invitation was a conversation with Ms. Wright? 16 A Right. 17 Q Okay. 18 A Right. 19 Q And then the photographs, what photographs did you	1 Q -- and we've asked for it -- 2 A Uh-huh. 3 Q -- and we don't get anything back, do you have an explanation, if that should occur, why it didn't get done? 4 A I don't have an answer to that. 5 Q Okay. You would agree that, per policy, it was supposed to be done? 6 A Sure. 7 Q Okay. And that, per policy, photographs were supposed to be taken? 8 A That's what it states. 9 Q Okay. And you don't disagree with that, right? 10 A No. 11 Q Okay. Okay. If you go to 131, this says, "The Preventative Maintenance Program," right? 12 A Yes. 13 Q And it says, "Responsibility: A successful preventative maintenance program calls for scheduled inspection and repairs of the communities, equipment, and buildings. To work successfully, the program requires careful and detailed planning and implementation. The property management [sic] and the maintenance supervisor are responsible for making sure that an effective
Page 138	Page 140
1 take? 2 A I don't believe I took photographs. 3 Q Okay. Now, if you go to the page before that. 4 A Uh-huh. 5 Q It's PRG Defendant 00144, under "Self-Inspection", you see that? 6 A I do. 7 Q It says, "Due to the nature of the operation, most potential hazards must be reviewed regularly such as safety equipment, property perils, housekeeping, and vehicles. PRG has adopted a short quarterly inspection to be performed by each property manager and maintenance supervisor. A safety inspection report, PRG form MNT-17, has been developed for your convenience." You see that? 8 A I do. 9 Q Did you complete an MNT-17 each quarter in 2006, 2007, and 2008? 10 A I don't recall. 11 Q Okay. If it is not produced and it's said that they weren't available or they don't have it -- and I'm not saying that's the case, I'm just saying -- 12 A Sure. 13 Q -- if it's told to us -- 14 A Uh-huh.	1 preventive maintenance program is carried out." 2 You -- 3 A Yes. 4 Q -- see that, right? 5 A I do. 6 Q And -- and from 2006 to 2008, you would have been the property manager, who was the maintenance supervisor during that time? 7 A We had a few. 8 Q Okay. Was Franklin Pack ever -- 9 A That was after me. 10 Q Okay. What about while you were there? Was Brian Dawese ever -- 11 A He was. 12 Q Okay. Other than Brian Dawese, who would have been people that you can -- just people you recall? 13 A Michael Campbell. 14 Q Okay. Your -- your husband? 15 A My husband. David Randolph, I believe, was his last name. 16 Q Yes. 17 A Okay. That's all that I remember. I believe that was it. 18 Q Okay. 19 A As far as supervisors.

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1 Q Okay. Now, under "Hallway," the next page is 151.
 2 It says, "Hallways, Breezeways, Stairways. One of
 3 the many responsibilities we have to our residents
 4 is safe and clean common areas." Do you see that?
 5 A I do.
 6 Q Now, the area that -- that you've seen that she
 7 indicates that she was abducted at gunpoint, that
 8 was a common area --
 9 A Correct.
 10 Q -- right? It says some of the areas -- "most
 11 heavily used common areas are our hallways,
 12 breezeways, and stairways," right?
 13 A Yes.
 14 Q And because I -- it looks like it was on that ramp
 15 where this thing occurred, was that considered a
 16 breezeway?
 17 A We just referred to it as the building ramp --
 18 Q Okay.
 19 A -- so.
 20 Q Okay. If you go to the next page, 152, it says,
 21 "In order to protect buildings, residents, and
 22 parked autos from possible damage or injury, trees
 23 should be inspected and trimmed of dead wood, etc.,
 24 at least once a year." Do you see that?
 25 A I do.

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1 Q But -- but y'all actually went over and above that
 2 and you actually had shrubs that were trimmed as
 3 well, right?
 4 A Correct.
 5 Q And -- and that was something that y'all did that
 6 y'all weren't obligated to do, right?
 7 A Absolutely.
 8 Q And so in order -- if you're going to assume to do
 9 -- if you assume to do it, it needs to be done in a
 10 reasonable manner, right?
 11 A Yes.
 12 Q Okay. Now, this -- this occurred, at least
 13 according to her, at night, right?
 14 A Yes.
 15 Q Do you -- do you have personal recollection of what
 16 that night was like?
 17 A No.
 18 Q Okay. I didn't think so.
 19 Were there trespassing signs or anything
 20 warning nonresidents not to come on the property?
 21 A I don't remember if there was or not.
 22 Q Okay.
 23 (Softly voice discussion between Mr.
 24 Hood and Ms. Casey.)
 25 Q You had this -- this trail -- the -- the Harbison

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1 Community Trail, right?
 2 A Right.
 3 Q And the Harbison Community Trail could be used by
 4 anyone, right?
 5 A Yes.
 6 Q And sometimes, it may have been some of that worse
 7 element. Sometimes there were just people just
 8 walking --
 9 A Right.
 10 Q -- for exercise.
 11 A Right.
 12 Q Sometimes people -- they can use that trail to go
 13 from apartment to apartment to apartment complex,
 14 just to see what kind of apartments they may have
 15 in that area, right?
 16 A Yes.
 17 Q Sure. And so his -- during your tenure there, did
 18 you have anyone that -- that was just walking the
 19 trail that, kind of, came up and said, "Hey, we may
 20 be interested in renting an apartment" and -- and
 21 wanted to --
 22 A Not that I recall.
 23 Q Okay.
 24 A No.
 25 Q But you don't know whether there was or there

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1 wasn't?
 2 A Yeah. I don't know that.
 3 Q Okay. And so if they did, though, that would be an
 4 economic benefit to --
 5 A Sure.
 6 Q -- Wellspring?
 7 A Absolutely.
 8 Q And so this -- this trail inviting -- I mean,
 9 letting everyone walk through the complex provides
 10 an economic benefit to --
 11 MR. COWEN: Objection.
 12 Q -- Wellspring, right? You can answer.
 13 A I would think.
 14 Q Okay. When you -- I know you said you spoke to Ms.
 15 Wright, I think it was the day after this occurred.
 16 A Right.
 17 Q Let me -- let me just look at that unusual
 18 occurrence report just so we've got that.
 19 MR. HOOD: It's this Report of Unusual
 20 Occurrence. It's 00155.
 21 MS. CASEY: Has that one been run?
 22 MR. HOOD: Huh?
 23 MS. CASEY: That one hasn't been run?
 24 MR. HOOD: Unh-unh.
 25 Plaintiff's Exhibit No. 13, "Report of

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1 Unusual Occurrence"; Fax coversheet;
 2 "Richland County Sheriff's Department
 3 Incident Report (L)."
 4 MR. HOOD: Thank you.
 5 Q There you go.
 6 A Okay.
 7 Q I think this was just the unusual occurrence report
 8 that you would have done with -- with Ms. Wright.
 9 A Okay.
 10 Q Now, at the top, it says, "Karen Campbell; Incident
 11 date: 9/19/08; Police" -- that means the police
 12 were called, right?
 13 A Yes.
 14 Q And it has incident time, 10:30 p.m., right?
 15 A Okay.
 16 Q No. But, I mean, that's what it says?
 17 A I see. Yes.
 18 Q Okay. It says, "Name and full address", this is
 19 going down further. A full address of parties
 20 involved, Ms. Toni Wright, and it lists her
 21 address, right?
 22 A Yes.
 23 Q It says, "Legal action taken: Reported incident to
 24 Richland County Sheriff's Department," right?
 25 A Yes.

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1 Q And completed by Karen Campbell, 9/19/08.
 2 A Yes.
 3 Q Do you see that?
 4 A I do.
 5 Q And then there seems to be a narrative in the
 6 middle; do --
 7 A Yes.
 8 Q -- you see that?
 9 A I do.
 10 Q And below -- above that, it says, "Other:
 11 Kidnapping and robbery at gunpoint."
 12 A Yes.
 13 Q Now, when you do this report of unusual occurrence,
 14 do you do that in your office?
 15 A Yes.
 16 Q Okay. Now, when you do that, do you go out and
 17 speak to Ms. Wright and then come back and type it
 18 up? Does she come in? How did this occur?
 19 A If I remember correctly, Ms. Wright and her mother
 20 came in that next day.
 21 Q Okay. And her mother or her daughter?
 22 A Or I'm sorry, her daughter.
 23 Q Okay.
 24 A Her --
 25 Q Natasha Curtis?

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1 A I don't remember her name.
 2 Q Okay. And so when -- when she says -- when this is
 3 -- this detailed description of event, do y'all
 4 have different windows that pop up in this report
 5 and then you just type it as it --
 6 A No. It's just this form.
 7 Q Yes.
 8 A And then we just fill in the blanks.
 9 Q Okay. But you can type into it, though --
 10 A Yes. Uh-huh.
 11 Q Okay. Now, when you're talking to her, do you know
 12 what time she would have actually come in?
 13 A The next morning?
 14 Q Yes.
 15 A No, I don't.
 16 Q Okay. Okay. And so you just think it was sometime
 17 in the morning, but it could have been any time in
 18 the morning?
 19 A Yeah. I don't have a time --
 20 Q Okay.
 21 A -- that she came in.
 22 Q Okay. Now, when they -- when they -- when they
 23 come in -- and this is going to sound so crazy but,
 24 I mean, were there two chairs in front of your desk
 25 or how was it configured when . . .

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1 A In my office, it would have been two chairs and my
 2 desk. I do not -- I don't recall where I spoke to
 3 them at. If it was -- if we were the only ones in
 4 the clubhouse area and we spoke in the clubhouse
 5 area. I don't remember if this -- where my
 6 conversation took place.
 7 Q Is -- is it possible you spoke about it at the
 8 clubhouse area and then once they told you about
 9 it, then they left and then you went back to your
 10 office and you typed it?
 11 A Yes.
 12 Q Okay. And so you don't actually recall them being
 13 in front of you and telling you as you were typing?
 14 A No.
 15 Q And so your typewritten report was simply your
 16 recollection of the discussion that y'all had had?
 17 A Yes.
 18 Q And obviously -- I mean, this -- this typewritten
 19 is probably 30 seconds of conversation; y'all
 20 didn't just talk for 30 seconds or so, did you?
 21 A Oh, no.
 22 Q It was a long conversation, wasn't it?
 23 A I don't remember it being a long conversation. Ms.
 24 Wright was there for a little bit, just because she
 25 was upset.

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1 Q Sure. 2 A So we didn't talk the entire time she was there. 3 Q Sure. This isn't a verbatim -- 4 A No. 5 Q This is just like a summary? 6 A Right. 7 Q Okay. So the specifics of what actually occurred, 8 is that in here, or is that something you would not 9 have necessarily -- you were just typing up a 10 summary to give it to the people up in 11 Pennsylvania? 12 A I took what Ms. -- Ms. Wright told me -- 13 Q Okay. 14 A -- and put it into my report and then sent it up. 15 Q Okay. But if she told you more than this, how 16 would you -- I mean, where would that be at? Did 17 you take notes or anything? 18 A No. I mean, if she told me more than that, I would 19 have put it on here. 20 Q Did you just -- do you -- I mean, I -- I promise 21 you I'm not trying to be smart or anything but, I 22 mean, do you have like a photographic memory of 23 everything she told you? 24 A No. 25 Q Well, then, how --	1 may have been in regard to any lights that were on 2 at that time or not on at that time, right? 3 A I wouldn't -- it was at night. I wasn't on the 4 property when this took place. 5 Q Right. But this wasn't -- this -- this Report of 6 Unusual Occurrence wasn't -- it was the next day, 7 right? 8 A Right. Daylight. 9 Q Sure. You could have went and -- 10 A Okay. 11 Q -- checked, right? 12 A The pole lights and things wouldn't be on during 13 the day. 14 Q Right. This was 9/18, so it would have probably 15 been about 8:30 that night, right? 16 A Okay. 17 Q So why didn't you go back at 8:30 and check? 18 A I don't know if I didn't. I don't know. It's not 19 documented. 20 Q Okay. If you don't -- if it ain't documented, it 21 don't exist, right? 22 MR. COMER: Objection. 23 A I don't know if I did or not. 24 Q It's not documented, is it? 25 A No, it's -- not.
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1 A No. 2 Q -- do you know that you put everything? 3 A Anything that was of importance of what happened so 4 I could put it in writing, as far as the events, 5 that's what I did. 6 Q Gotcha. Okay. Gotcha. And the detailed 7 description of event, it says, "Ms. Toni Wright in 8 Unit 2210 was walking up the breezeway ramp to 9 enter her apartment home when she was stopped by 10 two black males who put a gun in her back and told 11 her to give them her money." Right? 12 A That's what I wrote. Yes. 13 Q Okay. And as far as Wellspring -- or anything to 14 do with Wellspring -- that's the only sentence that 15 -- that you really have about Wellspring, right? 16 A I have at Wellspring, when they brought her back 17 home. 18 Q Okay. Okay. Other than that coming back home -- 19 that first sentence is all you have about 20 Wellspring, right? 21 A Yes. 22 Q And you didn't go and you didn't take photographs 23 of the bushes? 24 A No. 25 Q You didn't -- you didn't put any kind of stuff that	1 Q And you're supposed to document anything important, 2 right? 3 A And I did. Yes. 4 Q Okay. And then you -- it looks like on the next 5 page, it has -- this looks like a fax coversheet. 6 A Yes. 7 Q And it has your e-mail. Did y'all have the ability 8 to scan and e-mail at that time? 9 A No, we didn't. 10 Q Okay. And so you would have faxed? 11 A I would've. Yes. 12 Q Okay. And then you would've faxed it to Linda 13 Hart? 14 A Yes. 15 Q And she was with PRG up in Philadelphia? 16 A Yes. 17 Q And it just says, "Here's the police report that 18 goes along with the unusual occurrence report I e- 19 mailed you." Do you see that? 20 A Yes. 21 Q Well, it says that you e-mailed her the occurrence 22 report, right? 23 A Right. 24 Q Okay. So there would be an e-mail of this 25 occurrence report, right?

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1 A Yes. 2 Q Okay. 3 A I would have -- yes. 4 Q So -- 5 A It came off of my computer. I would have attached 6 it and sent it to her. 7 Q Right. 8 A Right. 9 Q And so there would have been an e-mail about that, 10 right? 11 A Yes. 12 Q Okay. Now, on the back, is just the report -- 13 A Yes. 14 Q -- right? And that's what would have been faxed up 15 to -- 16 A -- to Linda. 17 Q Sure. 18 A Yes. 19 MR. HOOD: Now, what exhibit was that? 20 THE COURT REPORTER: Thirteen. 21 MR. HOOD: Thirteen. 22 Q Now, when you spoke to her, how long do you think 23 the whole conversation lasted? Like when she came 24 in there. 25 A I don't know.	1 Q And you knew this was an allegation of a serious 2 crime, right? 3 A Sure. 4 Q This has nothing to do with you. 5 A Okay. 6 Q This is something that happened after you. I'm 7 just trying to find out about e-mail stuff. 8 A Okay. 9 Q Okay? 10 MR. HOOD: Let's mark this as -- this is that 11 e-mail. 12 (Sotto voce discussion between Ms. 13 Casey and Mr. Hood.) 14 MR. HOOD: Okay. 15 Plaintiff's Exhibit No. 14, E-mail 16 correspondence in reference to "Apt 401" 17 from Tracy Cinicola. 18 MR. HOOD: This is that Cinicola e-mail. 19 MR. COMER: Uh-huh. 20 MR. HOOD: I'm not going to ask her about 21 Cinicola. 22 MR. COMER: Yeah. That's fine. 23 MR. HOOD: I'm just going to ask her about the 24 e-mail -- 25 MR. COMER: Yeah.
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1 Q Okay. 2 A I don't know. 3 Q But you think she was with her daughter? 4 A Yes. 5 Q And did her daughter say anything? 6 A I don't recall. 7 Q Okay. And that means you don't know whether she 8 did or she didn't? 9 A I don't remember. 10 Q Okay. And how would you describe her demeanor? 11 Ms. -- Ms. Wright. 12 A She was shaken. 13 Q She had been kidnapped and abducted at gunpoint? 14 A Yeah. She had an awful experience. 15 Q Awful for anybody? 16 A Absolutely. 17 Q Were you aware that she also reported to the 18 investigator for Richland County Sheriff's 19 Department that the person in the front seat put 20 his hands down her pants -- 21 A I -- 22 Q -- and groped her? 23 A I didn't know anything about that. 24 Q Okay. 25 A No.	1 MR. HOOD: -- system. 2 MR. COMER: Yeah. 3 Q This is not you. This -- 4 A Okay. 5 Q -- has nothing to do with you. 6 A Okay. 7 Q I'm just going to ask you about the -- 8 MR. COMER: Hold on one sec before you start 9 your questions. 10 MR. HOOD: I'm sorry. I apologize. 11 MR. COMER: That's all right. 12 MR. HOOD: You can even -- if you want to -- 13 you don't -- 14 MR. COMER: I was going to say -- 15 MR. HOOD: Just -- just -- just -- just do 16 this -- just so we can see Tracy Cinicola, but 17 if you want to -- I don't even care if that 18 part exists or not. 19 MR. COMER: Uh-huh. 20 MR. HOOD: That's what I'm going to ask about, 21 is this right here. 22 MR. COMER: Right. Since this has been 23 produced in Cinicola but not in this case, I 24 have not shown her this document in 25 preparation.

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1 MR. HOOD: Okay.

2 MR. CONER: I'd like to use a couple of

3 minutes just to chat with her briefly --

4 MR. HOOD: Sure.

5 MR. CONER: -- under the rules..

6 MR. HOOD: Sure.

7 MR. CONER: Come on. We can talk about this

8 and this only.

9 (Off the record from 1:16 p.m. until

10 1:19 p.m.)

11 THE EXAMINATION BY MR. HOOD CONTINUES.

12 Q This one is exhibit 147

13 A Yes.

14 Q All I want to know is -- this is one where there

15 was an incident and there was an e-mail exchanged

16 back and forth between a marketing director and the

17 resident.

18 A Okay.

19 Q And it was by e-mail. When you were there from

20 2004 to 2008, did y'all have e-mail service?

21 A Yes.

22 Q Were there times that residents would let you know

23 of things by e-mail?

24 A I don't recall that. It was very rare to speak to

25 a resident by e-mail communication. They called or

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1 came in or -- we didn't have much communication by

2 e-mail.

3 Q Okay.

4 A That was more home office -- interoffice --

5 Q Okay. But there --

6 A -- communication.

7 Q -- was home office e-mail back and forth?

8 A Between myself and home office --

9 Q Yes.

10 A -- or in the -- yes. Sure.

11 Q And some of these would have involved this -- these

12 budgetary issues you talked about earlier. Because

13 you said you --

14 A I'm sure there are some.

15 Q Okay. Okay. And do you know the computer system

16 that -- the answer to some of this probably going

17 to be no, but do you know the type of computer

18 system that they used?

19 A As far as -- what do you mean? As far --

20 Q As far as --

21 A -- as e-mails?

22 Q -- the repository or the storage of the e-mails.

23 A Oh, no. I don't know that.

24 Q When -- when -- when you sent an e-mail, though,

25 you could drop and drag it and put it into a folder

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1 if you wanted to?

2 A Sure.

3 Q Do you know what happened to your computer after

4 you left?

5 A No, I don't.

6 Q Okay. Do you know if -- if any of your e-mails

7 were purged or not?

8 A I have no idea.

9 Q Okay.

10 A I don't know that.

11 Q That's all I have.

12 A Okay.

13 Q Now, we had talked earlier about this Harbison

14 Trail. And the Harbison Trail, which goes in and

15 out of different apartment complexes, including

16 Wellspring, the -- the public is invited to use

17 those trails, right?

18 A Sure.

19 Q And by virtue of you being part of that, you -- you

20 participate in this invitation; you know, pretty

21 much anybody can come on the property unless

22 they're told not to --

23 MR. CONER: Objection.

24 Q -- correct?

25 A We were on the trail.

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1 Q So anybody's invited unless they were told not to?

2 MR. CONER: Objection.

3 A Yes.

4 Q Okay. I'm going to just start handing you

5 documents so we can just start going through this

6 stuff. This resident ledger . . .

7 MS. CASEY: What's the number on that? Is it

8 742?

9 MR. HOOD: Yeah. It's actually going to be

10 742, 737, 729, 746. (To Mr. Coner) I'm going

11 to put it all in one.

12 MS. CASEY: Okay. What about 750 --

13 MR. HOOD: It's going to be these five, but

14 I'm just going to put it in one document

15 because it's all courtesy officers.

16 MR. CONER: Okay.

17 MR. HOOD: It's -- it's --

18 MR. CONER: That's fine. Let me take a quick

19 look just so I'll know what I'm --

20 MR. HOOD: Here, let me just let you look at

21 it.

22 MR. CONER: -- what I need to pull from my

23 stack.

24 MR. HOOD: Okay.

25 MR. CONER: Okay.

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1 MR. HOOD: Okay. (To Ms. Casey) This is 742
 2 through -45?
 3 MS. CASEY: Uh-huh.
 4 MR. HOOD: 737 --
 5 MS. CASEY: Uh-huh.
 6 MR. HOOD: -- 729, and -30, -31, and 746.
 7 MS. CASEY: Okay.
 8 MR. HOOD: And then 832 --
 9 MS. CASEY: All right.
 10 MR. HOOD: -- 828, 768.
 11 MS. CASEY: How about 823?
 12 MR. HOOD: 823? I think I just . . .
 13 (Sotto voce discussion between Ms.
 14 Casey and Mr. Hood.)
 15 MR. HOOD: We're just going to put all of it
 16 together.
 17 MS. CASEY: Okay.
 18 MR. HOOD: We're just going to make it one
 19 document because it's all about the courtesy
 20 officers.
 21 (Sotto voce discussion between Ms.
 22 Casey and Mr. Hood.)
 23 MR. HOOD: Okay. Let me see what you've got
 24 it in. Okay. Which one? What's the --
 25 what's the order you have it in?

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1 MS. CASEY: I've just been putting them in the
 2 numerical order.
 3 MR. HOOD: From -- okay. 742, -43, 737, 729.
 4 Hold on.
 5 MS. CASEY: So it starts with 729.
 6 MR. HOOD: Okay. Okay. I've got it as --
 7 MS. CASEY: Okay. It starts with --
 8 MR. HOOD: -- 7 -- 729 --
 9 MS. CASEY: And then --
 10 MR. HOOD: -- -30, -31, -37, -42, -43, -44,
 11 -45, -46, 767, -68, and then 823, 824, 828 to
 12 832 to 833.
 13 MS. CASEY: Okay. Ending with 828; is that --
 14 MR. HOOD: 833.
 15 MS. CASEY: Yes. Okay.
 16 MR. HOOD: Okay. Good deal. Which exhibit is
 17 this?
 18 MS. CASEY: Fifteen.
 19 MR. HOOD: Okay. Brian, I'm going to give it
 20 to you just so you can, kind of -- let me --
 21 MR. COMER: Yeah. I just want to just --
 22 MR. HOOD: -- get her to mark it and --
 23 MR. COMER: You don't want to --
 24 MR. HOOD: -- then you can put in the order
 25 that -- I just did it in numerical order, but

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1 they're scattered around --
 2 MR. COMER: Okay.
 3 MR. HOOD: -- so.
 4 MR. COMER: Okay. There you go.
 5 The DEPCOMENT: Okay.
 6 Plaintiff's Exhibit No. 15, "Resident
 7 Ledger"; "Courtesy Officer Independent
 8 Contractor Agreement"; "Employee Lease
 9 Addendum"; Letter in reference to
 10 Courtesy Officer from Alicia Remy.
 11 Q Hey, I -- I was just going to ask you about some
 12 of these courtesy-officer things on Exhibit 15.
 13 A Okay.
 14 Q The first is Frank Panarello. This -- this
 15 resident ledger -- I just want to just go over a
 16 couple of these codes so I understand it. It says,
 17 at first, "Code t001S190"; what does that mean?
 18 A Our software was Yardi. Our -- and whenever you
 19 would move a resident in, that would just become
 20 their unique resident code.
 21 Q Okay. And then it has name, address, and city.
 22 And that would be his name and where he lived prior
 23 to coming to the property, right?
 24 A Either prior or once he moved out, that would have
 25 been his forwarding address.

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1 Q Okay. Property 270. And that's just the
 2 Wellspring property, right?
 3 A Right. Right.
 4 Q And then Unit 2103; that means he would have been
 5 living in 2103, right?
 6 A Right.
 7 Q And that would have been the unit beside Unit 22,
 8 right?
 9 A The building?
 10 Q Yes.
 11 A Yes.
 12 Q And it looks like -- lease for 2/1/2006 to
 13 1/31/2009. Move in 1/31/2007; move out 11/30/2008;
 14 do you see that?
 15 A I do.
 16 Q Now, it looks like -- I looked at this -- if you
 17 look down the dates where it goes to 2/2/2007, it
 18 says, "Waived for courtesy officer"; is that the
 19 application fee?
 20 A The redecoration fee. That's what held the unit
 21 for you.
 22 Q Okay. And then 2/2/2007, "Discount was not applied
 23 for courtesy officer."
 24 A Uh-huh.
 25 Q What does that mean?

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1 A He would have received a monthly concession.
 2 Q Uh-huh.
 3 A So that must have been his concession for February.
 4 Q Okay. And then it says courtesy officer through
 5 the last one I saw was 1/1/2008.
 6 A Okay.
 7 Q Is that the last one that you see on there?
 8 A For courtesy officer?
 9 Q Yes.
 10 A Yes.
 11 Q Okay. Now, when someone was a courtesy officer,
 12 they could get a price break for -- for living on-
 13 site, right?
 14 A They would get a discount. Yes.
 15 Q Now, what are the circumstances of someone being a
 16 courtesy officer and not being -- then not being a
 17 courtesy officer? Or receiving a discount and then
 18 not getting the discount?
 19 A As far as Frank, here?
 20 Q Yes.
 21 A I don't remember why he didn't want to be courtesy
 22 officer any longer. I believe he was getting
 23 married.
 24 Q Right.
 25 A And so he lived there -- he stopped being courtesy

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1 officer in January.
 2 Q Okay. If you go down further, it says, "Short-
 3 term/month to month."
 4 A Uh-huh.
 5 Q Does that just mean that -- okay, that's past his
 6 lease term and he's just going on month-to-month
 7 rental or --
 8 A Right. Yes.
 9 Q Okay. Okay. If you go to the next person, it's --
 10 A (Clears throat.)
 11 Q I'm sorry. Did you say something?
 12 A No.
 13 Q Oh, okay. The next is 737, which is James
 14 Forgione.
 15 A Yes.
 16 Q And it looks like his date goes from move in
 17 3/14/2008, move out 7/31/2008.
 18 A Yes.
 19 Q Do you see that?
 20 A I do.
 21 Q And it looks like he was courtesy officer. And
 22 5/8/2008, it says, "Courtesy officer receives 50
 23 percent off rent. Resident referral 1506." And
 24 then starting in June and July, it has his rent,
 25 but then it looks like he's got an employee price

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1 break, where it says "employee"; do you see that?
 2 A I do see that.
 3 Q Well, what is that?
 4 A That was coded wrong. That would be employee of
 5 PRG. That would have been the code that we would
 6 have used --
 7 Q Right.
 8 A -- as an employee. They would have just had -- I
 9 don't remember what their code is.
 10 Q So --
 11 A There --
 12 Q -- it should --
 13 A -- would be a different one.
 14 Q -- it should have just been "courtesy officer," but
 15 they put "employee"?
 16 A Correct.
 17 Q Okay. Kevin Hughes is the next one.
 18 A Uh-huh.
 19 Q Resident ledger. And then sometime in 2006, it
 20 looks like he begins to receive his courtesy
 21 officer. And the last one I see for him is
 22 1/1/2007. Do you recall Mr. Hughes?
 23 A I do.
 24 Q What do you recall about Mr. Hughes?
 25 A He was a police officer for Richland County.

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1 Q Right.
 2 A He is also one that committed suicide, and that's
 3 in our incident report.
 4 Q Oh, God. I'm so --
 5 A Yeah.
 6 Q -- sorry to hear that. Oh. Okay.
 7 So when they say -- at the end of this, when
 8 it says, "Termination fee, amount equal to two
 9 months' rent," that's because he was no longer
 10 alive?
 11 A I wasn't there for that. I don't --
 12 Q That's right. That was after you.
 13 A Right.
 14 Q Okay. Okay. Then after that is 00746.
 15 A Uh-huh.
 16 Q This looks like -- just -- this was provided to us,
 17 but I think this is just like a -- a PRG form, EMP-
 18 34, which is the courtesy officer independent
 19 contractor agreement?
 20 A Right.
 21 Q And it just says, "Blank, the independent
 22 contractor, and blank apartments. In consideration
 23 of the agent permitting the independent contractor
 24 use of an apartment designated, or to be
 25 designated, by agent, contractor agrees to perform

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1 the following contractual services: Spend a
 2 minimum of two hours each day off duty time walking
 3 the property." And then No. 6, below that, "Submit
 4 a daily report to the resident manager -- manager on
 5 the attached form." But I believe you said earlier
 6 that -- that they weren't required to spend two
 7 hours of each day, off duty, walking the property,
 8 right?
 9 A Right.
 10 Q And that they didn't usually submit a daily report
 11 on the attached form --
 12 A Correct.
 13 Q -- right? At -- at the bottom of this, it says,
 14 "Either party has the right to cancel this
 15 agreement upon written notice to the other, in
 16 which event the contractual relationship shall
 17 cease and terminate immediately and the independent
 18 contractor shall vacate the designated apartment
 19 within seven days thereafter." In looking at these
 20 -- Mr. Forgione and the one -- Frank Panarello --
 21 it looks like they were courtesy officers and then
 22 it stopped.
 23 A Uh-huh.
 24 Q Did you see that?
 25 A As far as the charges?

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1 Q Yes.
 2 A Yes.
 3 Q And -- but I haven't seen anything about a written
 4 notice that they were canceling their courtesy-
 5 officer agreement. Do you know if they were
 6 required to do that in writing?
 7 A They should have done that in writing.
 8 Q Okay.
 9 A Yes.
 10 Q And if it wasn't, then it wasn't done according to
 11 the policy?
 12 A Correct.
 13 Q And that would be a violation of policy?
 14 A Yes.
 15 Q The next is an independent -- courtesy officer
 16 independent contractor agreement. This is July
 17 2011; you weren't there then, right?
 18 A Right.
 19 Q The next is Frank Panarello. And that's just --
 20 that's the same as the one that we went over with
 21 that was blank --
 22 A Right.
 23 Q -- but that's just Mr. Panarello, right?
 24 A Right.
 25 Q And you were the person who actually signed that

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1 particular agreement, right?
 2 A Yes.
 3 Q The next is Adam Anderson. Once again, you were
 4 not the -- you were not there then, right?
 5 A Correct.
 6 Q Now, he did have something -- and I wanted to ask
 7 you about this because I didn't it on any of the
 8 others. Mr. Anderson, there was something that was
 9 -- it was 00824.
 10 A Uh-huh.
 11 Q It said, "Employee Lease Addendum."
 12 A Yes.
 13 Q It says, "As an added benefit of employment with
 14 PRG Real Estate Management, the employee may choose
 15 to reside on the premises of a company apartment
 16 community." Did y'all ever do this with any
 17 courtesy officers, that you're aware of?
 18 A I don't recall doing that lease.
 19 Q Okay.
 20 A But yeah.
 21 Q Have you ever seen anything like that?
 22 A The -- the lease addendum?
 23 Q Yes.
 24 A Yes.
 25 Q And that's something you would use for people who

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1 were actual employees of PRG?
 2 A Correct.
 3 Q But you had never seen it used with --
 4 A -- a courtesy --
 5 Q -- the courtesy officer?
 6 A Correct.
 7 Q The next one is Eric Abney, which was after you
 8 left, right?
 9 A (No response.)
 10 Q And then the next one is James Forgione. And you
 11 would have been the one that signed this one,
 12 right?
 13 A Right.
 14 Q And that would have been the 14th of March --
 15 A -- March.
 16 Q -- 2008?
 17 A Right.
 18 Q And then the next is Wellspring Apartments; "To
 19 whom it may concern: Deputy James Forgione started
 20 as Wellspring Apartments as our courtesy officer on
 21 March 14, 2008." Signed his lease. Lease is for
 22 one year, ending on February 28th, 2009." That's
 23 signed by Alicia Remy; do you see that?
 24 A I do.
 25 Q And she was the marketing director at that time?

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1 A Yes. 2 Q When you were the marketing director, did you -- 3 who would you -- when this says, "To whom it may 4 concern," who would that be sent to? 5 A Whoever was requesting it. I don't know what the 6 purpose of this letter was or -- 7 Q Okay. Okay. 8 MR. HOOD: (To Ms. Casey) This is the next 9 one. 723 -- 720, 723, 721. 10 MS. CASEY: Okay. 11 MR. HOOD: It's three pages. This is -- the 12 next one's Exhibit 167 13 THE COURT REPORTER: Yes, sir. 14 MR. HOOD: 720, -21, and -23. 15 Plaintiff's Exhibit No. 16, "Vendor 16 Ledger." 17 MR. HOOD: Thank you. 18 Q This says -- this is just his vendor letter; do you 19 see that? 20 A Yes. 21 Q "Code: ttb." What is "ttb"? 22 A That would be "The Tree Barber." 23 Q Okay. I mean, and that would be their address, 24 right? 25 A Yes.	1 Q Okay. Okay. Now, I'm looking at the next page, 2 which is the vendor ledger and is for HAS 3 Maintenance, Incorporated; do you see that? 4 A I do. 5 Q And it looks like this is -- they have different 6 properties, but the properties -- it looks like 7 360, 210, 200, and 270 are the properties that I 8 see. Which -- he just worked for PRG at different 9 properties there, right? 10 A Correct. 11 Q But y'all's would be 270? 12 A Yes. 13 Q Okay. I'm looking on the last page. It looks like 14 the last page, on 9/4/2008, if you look over, you 15 got \$1500; do you see that? 16 A I do. 17 Q And then if you go above that to 8/4/2008, for 270, 18 he got 1825. 19 A Uh-huh. 20 Q And then if you go above that, 7/3/2008, he got 21 2,000. 22 A Okay. 23 Q Now, why would he paid one time 1350, one time 24 1850, one time 2,000? 25 A Pine straw, which would have been in the budget.
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1 Q And then it says, "Transaction number: 138069" and 2 "138073"; do you see that? 3 A I do. 4 Q What is the transaction number? What's that 5 significance? 6 A That would have just been generated in Yardi. 7 Q Okay. And then it has "Account 8050-000." 8 A Yes. 9 Q And then "Invoice No. 1002" and then "1001." 10 A Yes. 11 Q Do you see that? 12 A I do. 13 Q And it has amount and it has, you know, two 14 different amounts that add up to 3,639.50; you see 15 that? 16 A I do. 17 Q And then Check No. 13242 for both? And the check 18 date is 11/12/2008; you see that? 19 A I do. 20 Q Do you know when they would have actually done the 21 work that they had been paid for, for this? 22 A Well, the invoice date was the 8th and the 5th of 23 September. 24 Q Right. 25 A So either August or September.	1 Q Okay. 2 A If he fixed any type of irrigation on the property. 3 Pine straw would be the main -- 4 Q Okay. 5 A -- thing. 6 Q Would there -- if they had to do any over and above 7 -- just the normal shrubbery maintenance, do they 8 get paid extra for that? 9 A If it's not in our maintenance contract, then there 10 would have been a separate bid. 11 Q Okay. 12 A And that would have to be approved. 13 Q Okay. And who would approve that? 14 A Pamela Williams or Pamela Penny. 15 Q Okay. And would they be -- would this be something 16 that would be done by e-mail? 17 A A form was normally filled out. 18 Q Okay. 19 A If it was in my computer, then I would just attach 20 the e-mail. 21 Q Okay. 22 A Or it could have been faxed. Both of them traveled 23 a lot. 24 Q Right. 25 A So there were many times we would fax things to the

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1 properties they were at --
 2 Q Okay.
 3 A -- just so they could receive it faster --
 4 Q Sure. Sure.
 5 A -- and get it back to us faster.
 6 Q And -- and these -- when you did a fax, though,
 7 there was still -- did y'all then scan it and --
 8 and save it, or how did you --
 9 A No. We would just put it in the vendor folder --
 10 Q Okay.
 11 A -- at the property -- at the site.
 12 Q Okay. So if there was a vendor folder for H&S, it
 13 would be --
 14 A -- in there. Yes.
 15 Q Okay.
 16 MR. HOOD: Okay. Let's have this marked.
 17 MS. CASEY: Number 17?
 18 MR. HOOD: Number 17.
 19 THE COURT REPORTER: Yes.
 20 MR. HOOD: Okay. There you go.
 21 MR. COMER: Thank you.
 22 Plaintiff's Exhibit No. 17, Letter to H&S
 23 Landscaping from Karen Campbell;
 24 "Maintenance Contract PRG Real Estate dba
 25 Wellspring."

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1 Q This is just a -- looks like a -- a letter from
 2 Wellspring -- Wellspring Apartments and it's to --
 3 it's to H&S Landscaping and it's from you.
 4 A Yes.
 5 Q And it just says, "Thirty-day notice to terminate
 6 service. . . . And "Our last month of service will
 7 be October." Do you see it?
 8 A I do.
 9 Q Why did y'all terminate service with H&S?
 10 A I don't recall --
 11 Q Okay.
 12 A -- why that was.
 13 Q If you go to the second page. It says,
 14 "Maintenance Contract, PRG Real Estate dba
 15 Wellspring. Weekly service includes" -- and part
 16 of it -- there's other stuff, but it's "Fallen and
 17 low hanging limbs will be removed of and disposed
 18 of," right?
 19 A Right.
 20 Q "Fallen limbs due to bad weather will be removed as
 21 soon as possible."
 22 A Yes.
 23 Q "Shrubs will be trimmed and shaped as needed."
 24 A Yes.
 25 Q "Other services not included in this contract would

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1 be removing plants, shrubs, small -- small trees,"
 2 right?
 3 A Yes.
 4 Q And that's something that you talked about. That
 5 would be a bid-type situation?
 6 A Right.
 7 Q Okay. And then this was signed between you and
 8 Shane Howland on 5/2/2007.
 9 A Yes.
 10 Q And it would have run through the time that Toni
 11 Wright was abducted, right?
 12 A Yes.
 13 Q Okay. Now, how would you characterize the
 14 relationship between the Wellspring complex and Mr.
 15 Howland?
 16 A He was just a landscaper.
 17 Q Well, do you --
 18 A I mean --
 19 Q -- do you recall anything where -- where something
 20 wasn't done and there was like some kind of vitriol
 21 or some kind of problems between y'all?
 22 A Not that I recall. Problems, no.
 23 Q Okay. Do you recall having conversations about you
 24 wished he did other stuff differently or had done
 25 it better?

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1 A I'm sure I did, but that's with every landscaper.
 2 Q Okay.
 3 A So that would not be out of the norm.
 4 Q Nothing that sticks out in your --
 5 A No.
 6 Q -- mind? Okay.
 7 A No.
 8 Q And do you recall having any conversations with him
 9 or -- or are you aware of anyone with Wellspring
 10 having conversations with him about the trimming of
 11 the shrubbery or budget constraints not allowing
 12 them to do what needed to be done?
 13 A No.
 14 Q Now, is it because you -- you can't remember if
 15 that conversation was had or not, or you remember
 16 and specifically know that conversation did not
 17 happen?
 18 A No, I don't recall.
 19 Q Okay. Did -- did you make the decision to hire or
 20 terminate landscaping contractors?
 21 A I didn't have the -- make that decision. It was
 22 more based on numbers. How much you could get for
 23 the amount they would charge you monthly.
 24 Q Did -- did you make those decisions in combination
 25 or in conjunction with -- with your supervisor?

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1 A Sure.
 2 Q Okay.
 3 A If -- even if there was someone that I feel would
 4 do a better job --
 5 Q Right.
 6 A -- they may be a little bit more -- I would have
 7 those discussions.
 8 Q Okay.
 9 A Sure.
 10 Q And would you consider it like a joint decision
 11 between you and Pamela?
 12 A Well, I never really had the decision.
 13 Q Okay. But she made the decision based on -- and
 14 partially based on your input?
 15 A And the needs of the property.
 16 Q And the needs of the property?
 17 A Sure.
 18 Q Okay. So the hiring and firing or termination of
 19 subcontractors would be done by Pamela but with
 20 your input and the needs of the property taken into
 21 consideration?
 22 A Yes.
 23 Q Okay.
 24 MR. HOOD: Yep. This'd be what, 187
 25 THE COURT REPORTER: Yes, sir.

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1 MR. HOOD: Huh?
 2 THE COURT REPORTER: Yeah.
 3 Plaintiff's Exhibit No. 18, "General
 4 Ledger (Accrual)."
 5 Q This is -- this looks like it's just a vendor
 6 ledger, to me, of -- of landscaping folks.
 7 A Okay.
 8 Q To the best of your knowledge, is this the -- the --
 9 - the ledger for that? The general ledger for. . .
 10 A Right. Under the contract grounds' GL code?
 11 Q Right.
 12 A Yes.
 13 Q Okay. When you say "the contract grounds' GL
 14 code," what do you mean by that?
 15 A That's our landscapers -- what we coded it under,
 16 is "contract grounds." That's how it was set up in
 17 our budget.
 18 Q Gotcha. Okay. And I'm looking specifically --
 19 when you go on the second page and it has 6/3/2008,
 20 E&S Maintenance, it has June grounds maintenance.
 21 And then there's a separate charge for -- 1,025 for
 22 fill dirt, tree, flowers, bench.
 23 A Uh-huh.
 24 Q Is that the kind of thing you're talking about when
 25 there's something extra?

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1 A Yes.
 2 Q That's how it would be done? They would then say
 3 how much and then you'd send it off and then they
 4 would approve it?
 5 A Right.
 6 Q Okay. And the dirt -- fill dirt, trees, flowers,
 7 bench, that was to make the property more pretty?
 8 A We had an old dumpster area --
 9 Q Right.
 10 A -- where a dumpster was removed and we -- we had
 11 the dumpster pad left --
 12 Q Right.
 13 A -- and so it was just unsightly, so we had to come
 14 up with, How do we use this area?
 15 Q Okay. Gotcha. Okay.
 16 MR. HOOD: This is PRG 929 through 946. And
 17 then I'm going to put that one on the back of
 18 it, too.
 19 MS. CASEY: Number 1?
 20 MR. HOOD: No, no. Number -- the one after
 21 that. The one after that that was -- I'm
 22 sorry. No. I'm sorry. There was this right
 23 here that we took off.
 24 MS. CASEY: Oh. This?
 25 MR. HOOD: Yes. I must've put in on the back

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1 of this one.
 2 MS. CASEY: 948?
 3 MR. HOOD: Yes. It'd be 929 through 948.
 4 Plaintiff's Exhibit No. 19, "Annual
 5 Performance Appraisal."
 6 MR. COMER: What exhibit is this? I'm sorry.
 7 Nineteen?
 8 THE DEPOWENT: Nineteen.
 9 MR. HOOD: Okay. This is Exhibit 19.
 10 Q Is this just -- this is just your performance,
 11 right?
 12 A Yes.
 13 Q And so this would just simply be the records that
 14 would be maintained in regard to how you were doing
 15 as an employee --
 16 A Right. Yearly we would have one --
 17 Q -- for PRG?
 18 A Right.
 19 Q Okay. And the second to the last page would be
 20 payroll termination sheet. It says, "Rate of pay,
 21 20.28, 11/20/2008"; do you see that? It's the next
 22 to the last page.
 23 A I do.
 24 Q Okay. And that's just something that's just filled
 25 out in the normal course, right?

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1 A Right. 2 Q And then the last page is an e-mail sent to you -- 3 I guess it's an e-mail -- I don't know if this is 4 an e-mail or a letter. Either e-mail or letter -- 5 probably letter because it does seem to have 6 letterhead. And this just confirms your 7 resignation and then COBRA benefits. 8 A Right. 9 Q Just the regular stuff. 10 A Right. 11 Q This is a -- this is just a standard letter sent to 12 anybody who no longer worked for PRG, right? 13 A -- is with them. Correct. 14 Q Okay. Now, you had had a really good relationship 15 with Pamela before you resigned, didn't you? 16 A Which Pamela? 17 Q Pamela Williams. 18 A I wouldn't say that. I mean, she was a coworker. 19 Q Okay. 20 A And then she became my boss. 21 Q Okay. So she was -- when you began working, you 22 were the marketing director and she was the -- 23 A She was in North Carolina. 24 Q Right. 25 A She -- she was a property manager at another	1 Q Okay. Did you have a good relationship with her? 2 A I did. 3 Q After you resigned, have you had any communication 4 with either of them? 5 A With Pamela Penny. Yes. 6 Q Okay. Just as a friendly -- 7 A No. I worked for Pamela Penny after PRG. 8 Q Oh, really? 9 A Uh-huh. 10 Q Where -- where did you work for her? 11 A When I went to Mobile. 12 Q Oh, okay. 13 A Yeah. She was with another company and . . . 14 Q Okay. And did -- when you came back, did you stop 15 working for the company that she worked for or did 16 she come back, work for another company, but then 17 you worked for the company that she worked for 18 again? Let me say it differently. You -- you work 19 for who, now? 20 A I worked -- when I -- when I was in Mobile -- 21 Q Correct. 22 A -- I worked with Pamela Penny, who was at another 23 company. 24 Q Right. And then when you moved back to Columbia -- 25 A Right.
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1 property in North Carolina when -- 2 Q So -- 3 A -- I started. 4 Q Okay. And then, as you ascended to property 5 manager, she ascended to district manager-type 6 thing? 7 A To regional. 8 Q Regional manager? 9 A Right. 10 Q Okay. Who was your immediate supervisor? 11 A Pamela -- 12 Q Okay. 13 A -- Williams. 14 Q Okay. 15 A She was my regional. 16 Q And is she the person that helped -- because you -- 17 you can't -- who's Pamela Penny-Trumbo? 18 A Turnbo? 19 Q Or Turnbo. 20 A Pamela Penny was the property manager at Wellspring 21 when I first started at Wellspring. 22 Q Right. 23 A And then she became regional and just worked her 24 way up the company. So she was, when she left, the 25 Southern region VP, I believe it was.	1 Q -- you -- 2 A I had to leave that company in order to come home. 3 Q Did -- did Pamela Penny still work for that 4 company? 5 A She's still there. 6 Q Okay. 7 A Yes. 8 Q Okay. 9 MR. HOOD: (To Ms. Casey) What's that? 0942. 10 Q Look at 0942, please. 11 A Okay. 12 Q Okay. This is Pamela Penny that would have done 13 this, right? 14 A Right. 15 Q And this was while you were apartment manager -- 16 property manager, right? 17 A Yes. 18 Q At the bottom, it says, "Comments." It says -- the 19 very last sentence, the very last full sentence 20 says, "I would like to encourage Karen to implement 21 and proactively manage marketing campaigns that 22 will keep Wellspring reporting favorable numbers." 23 A Okay. 24 Q And then it has, "I feel that this year" -- and I 25 don't know where that ran off to. When she said

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1 that, do you recall what she was talking about?
 2 A This sentence?
 3 Q No, no. Just --
 4 A What do you mean?
 5 Q -- when she says that she wants you to be more
 6 proactive to report more favorable numbers.
 7 A No. It's just they're a very aggressive company.
 8 Q Right.
 9 A So your occupancy numbers always had to be high.
 10 You always had to go -- it was never enough.
 11 Q Okay.
 12 A If you were 97 percent, you should be 99 percent.
 13 It's -- that's --
 14 Q Gotoha. Okay. What -- what is -- what were the
 15 occupancy numbers that -- that you think are
 16 reasonable in Columbia -- for an apart -- a like
 17 apartment complex?
 18 A Now --
 19 Q Yes.
 20 A -- or then?
 21 Q Then.
 22 A Then? This was right at the time we started going
 23 in the -- to the --
 24 Q -- housing crunch?
 25 A Yes.

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1 Q Housing bubble burst.
 2 A So our numbers -- everyone's numbers in our areas
 3 dipped significantly. Qualifying became harder at
 4 this time. So we average probably low to low 90s --
 5 -- maybe 93 --
 6 Q Okay.
 7 A -- at that time.
 8 Q Now, as the marketing director and up through your
 9 tenure as apartment manager, you were over the
 10 marketing campaigns, right?
 11 A I contributed. I was not over them.
 12 Q Okay.
 13 A That was the marketing director's job.
 14 Q Okay. So -- what -- how -- where -- where did
 15 y'all place ads or where did y'all run ads?
 16 A We did the newspaper, "Apartment Finder,"
 17 "Apartment Guide."
 18 Q Sure.
 19 A I believe they had onlineapartmentfinder.com then.
 20 I don't believe we had Craigslist, if I remember
 21 correctly. We may have. That's what I recall.
 22 Q Okay. I've seen a picture of one that has a -- it
 23 looks like a fountain coming out of a lake or
 24 something.
 25 A We used to have a fountain in the lake --

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1 Q Did you?
 2 A -- at Wellspring. Yes.
 3 Q Is that the pond that everybody talks about or --
 4 A Yes.
 5 Q Okay.
 6 A Yeah.
 7 Q So that pond, even though on the trail, is
 8 maintained and controlled by Wellspring?
 9 A Yes.
 10 Q Okay. And who has to cut the grass for the part of
 11 the trail that runs through your property?
 12 A Harbison maintains some grass. I -- I don't recall
 13 where we stopped and where they started, but
 14 Harbison had their own landscaping crew --
 15 Q Okay.
 16 A -- that would take care of grass and trails and --
 17 Q And -- and then y'all had to take care of --
 18 A -- where our property line, I guess --
 19 Q -- your property line --
 20 A -- would start.
 21 Q Sure. Sure.
 22 A Yes.
 23 Q Okay. Had anyone ever said, "Boy, why don't we put
 24 a fence separating us from the trail?"
 25 A No.

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1 Q Okay. Now, when you put these ads in -- either in
 2 "Apartment Finder" or in the newspaper or
 3 somewhere, did y'all maintain a copy of what y'all
 4 submitted to these people?
 5 A Yes. We had a marketing binder.
 6 Q Okay.
 7 A And so any proof of an ad would go in that binder.
 8 Q Okay. Did it also have -- not just a photograph,
 9 but it would also have written words and stuff?
 10 A Yes.
 11 Q Okay.
 12 A Uh-huh.
 13 Q And -- and when you wrote that, you -- you believed
 14 the representations you were making to the public?
 15 A Well, sure.
 16 Q Okay. I mean, it wouldn't be fair to sit there and
 17 say certain things and then not be true, would it?
 18 A No. You also have fair-housing laws.
 19 Q Right. Which --
 20 A Yes.
 21 Q -- you got - you got -- you can't rent to somebody
 22 on the basis of color, creed, religion, or gender,
 23 right?
 24 A Yes.
 25 Q And were you aware that at the time that Toni

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1 Wright came into this apartment complex, she has
 2 testified under oath that she was told that there
 3 were security officers on the grounds?
 4 A I wasn't there when she moved in.
 5 Q Okay. If -- I know you weren't there, but you
 6 would agree that it would not be fair to tell
 7 someone that wasn't true, to induce them to live
 8 somewhere, would it?
 9 A Correct.
 10 Q Now, did you have a bonus structure at -- you did
 11 have a bonus structure.
 12 A We did.
 13 Q And you had one from the time you began in 2004
 14 until 2008, right?
 15 A Yes.
 16 Q And your bonus structure, was it predicated on
 17 having numbers --
 18 A Yes.
 19 Q -- occupancy numbers?
 20 A No. Not occupancy, delinquency.
 21 Q What is delinquency?
 22 A The -- to make sure everyone paid their rent. If --
 23 - I don't remember the exact structure now. If you
 24 hit a certain number per door, you would get a
 25 bonus for it.

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1 Q When you say "hit a certain number per door" --
 2 A Yeah. You would take the total amount of rent that
 3 would be due on the property, divided by the units,
 4 that would give you a per-door number.
 5 Q Right.
 6 A So you had to be below a certain number in order to
 7 get a bonus -- a delinquency bonus. But it's
 8 basically like a motivator, to make sure all rent
 9 was brought in.
 10 Q Sure.
 11 A And then as -- you always got commissions for
 12 leases.
 13 Q Did you get overrides once you became the property
 14 manager?
 15 A What do you mean "overrides"?
 16 Q Did you get bonuses based on other people leasing?
 17 Like if they leased it and got a \$50 bonus, you
 18 would get \$10 of that bonus?
 19 A Oh, no. No. They didn't do that.
 20 Q How did you get a bonus off of the lease?
 21 A I would have to have leased an apartment.
 22 Q Okay. So you had to do it --
 23 A So it was a --
 24 Q -- yourself?
 25 A -- commission. Yes. Yes.

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1 Q So you were out there leasing just like --
 2 A I --
 3 Q -- everybody --
 4 A Yes.
 5 Q -- else? Okay.
 6 A Financially, if you had a positive variance --
 7 Q A variance?
 8 A -- on your financial reports, then --
 9 Q When you say "variance," what do you mean?
 10 A From what was actual versus what was budgeted. If
 11 you were positive --
 12 Q Right.
 13 A -- then you would get an NOI bonus.
 14 Q What's an NOI?
 15 A Net operating income bonus.
 16 Q Gotcha. Was it only you as the apartment manager
 17 that got that or anybody got that?
 18 A I believe it was the manager that got that.
 19 Q Okay.
 20 A I believe it was the manager and the maintenance
 21 supervisor.
 22 Q Right.
 23 A They would get that.
 24 Q Looking at Exhibit 19 again, I just want to just
 25 make real sure I understand. If I look at Exhibit

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1 19 again and I'm just looking, just picking one
 2 out; 0941.
 3 A Okay.
 4 Q This is what you're talking about with that bonus
 5 structure, right?
 6 A No. It wouldn't be a yearly. Oh, right here?
 7 Yes.
 8 Q Yeah. It says, "Other" --
 9 A Yes, you're right.
 10 Q -- "compensation, 1,000 quarterly, 300, slash, 500
 11 delinquency, 300" --
 12 A -- quality.
 13 Q -- "quality."
 14 A Uh-huh.
 15 Q Fifty a -- what is that commissions?
 16 A That's \$50 for a six-month to a twelve-month lease.
 17 Q Gotcha. And you got a free apartment?
 18 A I did.
 19 Q Okay. And this thousand-dollar quarterly bonus,
 20 that would -- that was just paid regardless, right?
 21 A No. That would be the NOI bonus. The net
 22 operating income. If you had a positive variance.
 23 Q Okay. And then the 300 to 500 delinquency of 300,
 24 that means you get a \$300 bonus if --
 25 A That would depend on that per-door number.

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1 Q Okay. Okay. And so you were financially motivated
2 to reduce delinquencies and rent apartments?
3 A Absolutely.
4 Q And one of the ways you did that was -- was keeping
5 it pretty -- keeping it nice looking?
6 A Right.
7 MR. HOOD: (To Ms. Casey) Number 3.
8 (Sotto voce discussion between Mr.
9 Hood and Ms. Casey.)
10 MR. HOOD: Oh, why don't we do that. Let's --
11 let's just do this real quick for about two
12 seconds. What number is that?
13 MS. CASEY: Twenty.
14 MR. HOOD: Okay.
15 Plaintiff's Exhibit No. 20, Copies of
16 driver's license and social security
17 card.
18 MR. HOOD: (To Mr. Comer) Here you go.
19 Q This is just your driver's license. Is it still
20 the same driver's license number today?
21 A Driver's -- no. I've gotten a new license since
22 then.
23 Q Do you remember it off the top of your head?
24 A No, I have no idea.
25 Q Okay.

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1 MR. HOOD: Let's go -- let's go off record for
2 just one second.
3 (Off the record briefly at 2:08
4 p.m.)
5 THE EXAMINATION BY MR. HOOD CONTINUES.
6 MR. HOOD: Let's go ahead and mark this, then.
7 Let's go on and do this. This is her lease,
8 Brian.
9 MR. COMER: Okay.
10 THE DEPONENT: Thank you.
11 MS. CASEY: Twenty-one.
12 MR. HOOD: (To the deponent) Okay. I just
13 handed you -- what is that number, 22?
14 MR. COMER: Twenty-one, I believe.
15 THE DEPONENT: Twenty-one.
16 MR. HOOD: Twenty-one?
17 MS. CASEY: Twenty-one.
18 THE COURT REPORTER: Twenty. Twenty.
19 MR. HOOD: You got "20"?
20 THE COURT REPORTER: Uh-huh.
21 MR. HOOD: I thought the last one was 20, or
22 was it 19? No, the last one was 20.
23 THE COURT REPORTER: Oh, I'm sorry. Okay.
24 MR. HOOD: That one was 20. Okay.
25 THE COURT REPORTER: Okay, thank you.

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1 MR. HOOD: So this one would be 21. Okay.
2 Plaintiff's Exhibit No. 21, Application
3 for apartment paperwork.
4 Q This is just -- I will -- I will ever to you that
5 this was just lease -- this was the lease documents
6 that we were presented with, Toni Wright.
7 A Okay.
8 Q Now, the front of this, PRG 00158, this is simply
9 the -- the application somebody would fill out to
10 get a lease there, right?
11 A No, this looks like the lease.
12 Q Okay. Okay. Now -- so this would be something
13 they would fill out after they had been approved
14 for a lease?
15 A Hold on just a minute. This may be a reservation
16 form. Hold on.
17 Q And this is before you were there, so --
18 A Yeah. I'm not real familiar with this. That looks
19 like a reservation agreement --
20 Q Okay. What --
21 A -- to me.
22 Q -- is a reservation?
23 A That's where we would hold the unit for you and at
24 that time we would give you a prorated, show that
25 you had paid an application fee or . . .

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1 Q Okay. And then if you go to the third page, which
2 is 00160, it has, "Here points for income. I faxed
3 check stub before. I'm faxing now, so is she." Do
4 you know what any of that means?
5 A I do not.
6 Q Okay. If you go to the next page. That's okay.
7 The next is that -- this is the application for the
8 residency, right?
9 A Yes.
10 Q And at the top it has, "Date: 4/19/03", you see
11 that, right?
12 A I do.
13 Q Now, the -- the second page of that, is the same --
14 same type of residency contract you would have,
15 even when you began working there?
16 A I don't remember if that was the same one -- no.
17 It says, "AIMCO."
18 Q Okay. Did -- I was just wondering because on the
19 back, it -- it says, "Have you or a member of your
20 household been convicted or pled guilty or no
21 contest to any felony and then no contest to any
22 sexual offense?" And that she checked "no" to
23 both, right?
24 A She did.
25 Q There are times since you've been there, where

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1 somebody -- either they or their spouse or son or
 2 daughter had been convicted of a felony, right?
 3 A I would imagine so.
 4 Q Okay. If you go to 00168, and this is -- this is
 5 the second page of a lease from the first day of
 6 June 2007 between PRG and Toni Wright. And you
 7 would have been the manager at that one, right?
 8 A I would've.
 9 Q And I'm just looking at page 2, where it says
 10 "Condition of Premises," and it says, "The tenant
 11 accepts the premises and appliances therein in
 12 their present condition and agree to keep the
 13 premises and appliances in good clean condition, to
 14 make no alterations, or addition to the same,"
 15 right?
 16 A Yes.
 17 Q Okay. And so there was -- occupants were not
 18 allowed to -- to make their own repairs or to the
 19 common area or to their house, without express
 20 permission, right?
 21 A Correct.
 22 Q If you go to -- that's the -- it's toward the end,
 23 but it's 00192. And this is -- this is, once
 24 again, one of those work orders, right?
 25 A Yes.

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1 Q And it says, "Date called, date scheduled." If it
 2 doesn't have a completed date, what does that mean?
 3 A I've never seen one without a completed date.
 4 Q Okay.
 5 A So this could -- here could have been the one that
 6 -- well, obviously, James -- this was not one that
 7 entered in -- into the system; this was James's
 8 original one he handed in where we would make it
 9 ready in the system.
 10 Q Okay.
 11 A That's where you would see a completed date.
 12 Q Gotcha. So he would do one and it would be
 13 computerized, but he would give you this and then
 14 you would enter into the system the completed date?
 15 A Yes. They received two, a copy of the original
 16 work order, one to leave with the resident and one
 17 to bring back to the office. And that's how we
 18 would complete them in the system.
 19 Q So you would have a work order -- you would have a
 20 work order that would be filled out by the
 21 maintenance person -- for every one that says
 22 "completed," there would be one like this that has
 23 this stuff on it?
 24 A And then this would be filed.
 25 Q Okay. Okay.

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1 A Yes.
 2 Q Okay. Now, this says, "Replace dishwasher" and has
 3 "Mike." And so this would have been the same thing
 4 where there's a completed one, but that's the one
 5 that would've been entered by the staff --
 6 A Right. And that's --
 7 Q -- after being given this?
 8 A Yes. That's why there's a checkmark on it.
 9 Because we entered that.
 10 Q Okay. And then this one's a little different. But
 11 it says -- at the very last page, it says,
 12 "1/7/2008," and it has, "Dishwasher need replace"
 13 and then it has, "ordered."
 14 A Uh-huh.
 15 Q So that's one where you'd actually have to order
 16 the part or the dishwasher to be able to make the --
 17 the dishwasher repair?
 18 A Correct.
 19 Q Okay. Okay. Good. Thank you.
 20 MR. HOOD: (To Ms. Casey) Let's do resident
 21 administration.
 22 MS. CASEY: Twenty-two.
 23 MR. HOOD: Twenty-two.
 24 Plaintiff's Exhibit No. 22, "Resident
 25 Administration Customer Service" manual.

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1 MR. COMER: What time is it?
 2 THE DEPOWENT: Two-fifteen.
 3 MR. COMER: Okay.
 4 A Thanks.
 5 Q Is this the resident administration policies and
 6 procedures?
 7 A Yes.
 8 Q Okay. And you're expected to follow these policies
 9 and procedures, right?
 10 A Yes.
 11 Q And these are the policies and procedures that were
 12 present when you were there as the -- the manager,
 13 right?
 14 A Yes.
 15 Q And if they were not followed, that would be a
 16 violation of the policy, right?
 17 A Yes.
 18 Q Okay.
 19 MR. COMER: Randy, I don't mean to interrupt
 20 your line of questioning, but --
 21 MR. HOOD: -- it's 2:15.
 22 MR. COMER: -- it's 2:15.
 23 MR. HOOD: That's why -- that's why I just
 24 went through --
 25 MR. COMER: I was going to say, do you --

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1 MR. HOOD: -- that quickly.
 2 MR. COMER: -- do you have any idea how much
 3 more you have?
 4 MR. HOOD: No, no. I'm going -- I'm fixing to
 5 motor through.
 6 MR. COMER: Okay. I'm going to -- I'm going
 7 to have some redirect, but I don't think it's
 8 going to be a ton, but I am going to need some
 9 time.
 10 MR. HOOD: If -- if we were gone for about an
 11 -- I mean, do you have like 30 minutes or an
 12 hour after -- like from 3:30 to 4:30?
 13 THE DEPOSENT: I mean, I guess if I need to.
 14 I need to get to work.
 15 MR. HOOD: Okay. I -- I don't think mine's
 16 going to take that long, but I know that your
 17 redirect -- did you want to try to do redirect
 18 now and then we do it, or you want me to
 19 finish and then you do your redirect or -- I
 20 don't -- I'm not trying to screw things up. I
 21 --
 22 MR. COMER: Yeah. Well, I know you're not.
 23 It's just the nature of our calendar today.
 24 Well, we can do one of a couple of things. We
 25 can just keep on plowing through and see where

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1 we are, or we can call the judge and say,
 2 "Hey, we're in the middle of a deposition for
 3 this case; could we come at four? It's
 4 running a little long." Or --
 5 MR. HOOD: Why don't we see if your paralegal
 6 could do that.
 7 MR. COMER: Yeah. If she can call, that's why
 8 I raised it. Let's take a very quick break.
 9 (Off the record from 2:19 p.m. until
 10 2:23 p.m.)
 11 THE EXAMINATION BY MR. HOOD CONTINUES.
 12 Q Okay. Just as I -- Exhibit 4 -- Exhibit 4 --
 13 A Okay.
 14 Q -- which is -- is the maintenance report --
 15 A Okay.
 16 Q -- or the maintenance. This is -- these are
 17 policies and procedures from PRG Wellspring, right?
 18 A Yes.
 19 Q And these are the -- the same policies and
 20 procedures that were in effect during your tenure
 21 as manager between 2006-2008, right?
 22 A Yes.
 23 Q And these are expected to be followed?
 24 A Yes.
 25 Q And if you don't follow them, then that would be a

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1 violation of the policy, right?
 2 A Yes.
 3 Q And that would be wrong, correct?
 4 A Yes.
 5 Q Okay. Number 1, which is Exhibit No. 7. Exhibit
 6 No. 7.
 7 MR. HOOD: Brian.
 8 (An assistant enters the deposition
 9 at 2:23 p.m.)
 10 THE ASSISTANT: (To Mr. Comer) She said four
 11 o'clock. She did not see a problem with y'all
 12 coming in at four.
 13 (The assistant exits the deposition
 14 at 2:23 p.m.)
 15 MR. HOOD: Okay.
 16 MR. COMER: Okay.
 17 MR. HOOD: Okay. And then we'll be through at
 18 five. And then we'll be through with them at
 19 five, right? We'll have to sit there for an
 20 hour.
 21 MR. COMER: Okay. Well, that bides us a
 22 little time then.
 23 MR. HOOD: Okay.
 24 Q The employee handbook -- this is Section 1, Exhibit
 25 7.

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1 A Yes.
 2 Q This is the employee handbook --
 3 A Yes.
 4 Q -- that was -- that was there when you were the
 5 manager 2006-2008, right?
 6 A Yes.
 7 Q And this has policies in it as well, right?
 8 A Yes.
 9 Q And it also has description of job duties for
 10 different categories of people, right?
 11 A Yes.
 12 Q Okay. And the policies that are in here, they are
 13 expected to be followed, right?
 14 A Yes.
 15 Q And if you don't follow them and you violate the
 16 policy, that's wrong, correct?
 17 A Correct.
 18 Q And you also have job duties and responsibilities
 19 of different job descriptions, right?
 20 A Yes.
 21 Q And you're expected to follow those job
 22 descriptions, right?
 23 A Yes.
 24 Q And if you don't follow those job descriptions,
 25 that would be a violation, right?

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1 A Yes. 2 Q And that would be wrong? 3 A Yes. 4 Q Okay. 5 MR. HOOD: Let's mark -- let me see. These 6 are the Defendants' Interrogatories to 7 Plaintiff's -- Defendants' Answers to 8 Plaintiff's -- let's mark these. 9 Plaintiff's Exhibit No. 23, "Defendants' 10 Answers to Plaintiff's Interrogatories." 11 MR. HOOD: Okay. Okay. This is 23. Brian, 12 these are just the interrogatories I have. 13 That would be Exhibit 23. Okay. 14 Q If you go to page 8. The question was, "Please 15 identify any employees, agents, or other people who 16 were involved in maintenance during the time period 17 of 2005 to present." And they answered, and they 18 have -- I'm going down to Katherine Pollard -- 19 A Okay. 20 Q -- and it says, "Manager from 7/21/2008 to 21 8/4/2010." Do you see that? 22 A I do see that. 23 Q And that's Apartment 2103 -- I mean her last known 24 address, Apartment 2103, Columbia. Did you work 25 with Katherine for a short period of time?	1 MR. COMER: Okay. I -- I'm pretty sure I 2 remember now one of the things that Wayne had 3 indicated he wanted to do was depose Katie 4 Pollard. We've got a full date of when she 5 was employed by PRG, but, at least with Katie, 6 I recall, we figured out that part of that 7 time was in North Carolina. It was not at 8 Wellepring, per se. 9 MR. HOOD: Okay. Okay. 10 MR. COMER: So she was with PRG. I think she 11 came to Wellepring after this incident and 12 after Karen had left. 13 MR. HOOD: Okay. 14 Q Now, also, down on "Maintenance," there's a guy by 15 the name of Franklin Paek, from 6/27/2008 to 16 4/4/2001. Did you work with Mr. Paek? 17 A No, I didn't. 18 Q Okay. Okay. Then, on the next page, it's "Matthew 19 Campbell." That's obviously your husband, right? 20 A No. 21 Q Is it not? 22 A That actually wasn't. No. 23 Q Oh, okay. No, your husband's Mike? 24 A Michael. 25 Q Yeah. So -- okay. Now, of these people that are
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1 A No, I didn't. 2 Q So -- 3 A No, I didn't. 4 Q -- if you were there until -- 5 A -- November. 6 Q -- November, how did you not work with her? 7 A She was not there. 8 Q Okay. Just probably a scrivener's error or 9 something? 10 A It could -- yes. 11 Q Okay. 12 MR. HOOD: Brian, if you'll just let me know 13 about that one. 14 MR. COMER: Yeah, I will. 15 Q And then "Kara Lotion, manager" -- that -- she -- 16 did you -- did she ever work as marketing director 17 or anything while you were there? 18 A No. 19 Q Okay. And then "Karen Campbell, manager, 20 07/20/2004 to 11/20/2008." That's you, of course? 21 A Yes. 22 Q I bet Katherine Pollard's probably 11/21/2008. 23 MR. COMER: (To Mr. Hood) Do you want me to 24 explain it? 25 MR. HOOD: Sure.	1 on the maintenance -- but it says, "Michael 2 Campbell, 5/20/2005 to 3/19/2008," was he the 3 maintenance supervisor? 4 A Not that entire time. 5 Q Towards the end of that time, was he? 6 A Yes. 7 Q Who became the maintenance supervisor after 8 Michael? 9 A That was David Randolph. 10 Q Okay. Huh. 11 MR. HOOD: (To Ms. Casey) Do you see him on 12 here, or am I missing him? 13 MS. CASEY: I don't see him. 14 MR. COMER: Is this the first set of answers? 15 because I think we supplemented with some 16 additional people. 17 MR. HOOD: Okay. 18 MR. COMER: And I want to say that Mr. 19 Randolph may have been on the supplement. 20 MR. HOOD: Okay. Yeah, I don't have the first 21 -- the -- I've got the second supplemental. 22 Okay. That's fine. That's fine. 23 Q Okay. I'm going to page 10. It says, "Light" -- 24 and I -- excuse me, I'd said: Please identify each 25 and every complaint made by anyone regarding

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1 landscape, lighting, security, et cetera. 2 And he had said -- or the -- the defendants 3 answered, "Issues relating to exterior lighting on 4 light poles are telephoned directly to SCE&G for 5 service as they are discovered or brought to the 6 attention of Defendants by tenants, and SCE&G -- 7 SCE&G would be in possession of any documents 8 relating to these issues. Any subtraction, 9 addition, or other alteration to pole lighting is 10 at the discretion of SCE&G." 11 Now, from the time you were there from 2004 to 12 2008, how would you describe -- I mean, if you -- 13 if somebody came in or made aware to you, "Okay, 14 the light's out on this pole," how -- what would be 15 the entire process from Point A to Point B? 16 A We would get the pole number. 17 Q Okay. 18 A Is that what you're referring to -- 19 Q Yeah. 20 A -- on a pole? 21 Q Yeah. Would it -- 22 A Okay. 23 Q Would it just have a number, like -- 24 A It would. Uh-huh. It would be a number on the 25 pole --	1 Okay. Now, it says on here, "Any subtraction, 2 addition, or other alteration to pole lighting is 3 at the discretion of SCE&G." And that means you 4 can't mess with their telephone poles, right? 5 A Right. 6 Q Or the lighting attached to their telephone poles? 7 A Right. 8 Q But if you wanted to add extra lights, your own 9 outside lights or your own breezeway lights or your 10 own common-area lights, then you are certainly free 11 to do that, right? 12 A I'm not familiar with this. 13 Q Okay. 14 A I don't know. 15 Q Well, if -- if someone deemed that it was necessary 16 to do so, you could do it, right? 17 A I would imagine so. 18 Q Okay. And yet, you had -- I think you've -- you've 19 told me this already -- y'all had taken it upon 20 yourself to provide breezeway lights and stuff, and 21 so once you did those, you had to do it in a 22 reasonable manner, right? 23 A Right. 24 Q And -- and when you -- when you provide this -- 25 this lighting, you've got to make sure not only
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1 Q Okay. 2 A -- and we would get that number, or the resident 3 would have that number and would tell us -- 4 Q Okay. 5 A -- and then we would call the electric company, 6 SCE&G, and let them know that that pole number is 7 out. And then they would put a work order in on 8 their end. 9 Q Right. 10 A And then their maintenance would come out to fix 11 that. 12 Q Okay. And were there ever times -- were you aware 13 of any time from 2004 to 2008 where it did not get 14 done in a timely manner? 15 A Not that I recall. 16 Q Okay. And when you say you don't -- you can't 17 recall, is that because you just don't know one way 18 or the other? 19 A Right. 20 Q Okay. 21 A It's been four years. 22 Q Okay. Okay. I -- I know. It's -- 23 A Yeah. 24 Q I -- I -- it's hard for me to remember yesterday 25 sometimes.	1 that the lights work properly, right? 2 A Right. 3 Q But you got to make sure that it's designed 4 properly to provide the lighting necessary for 5 someone, right? 6 A The engineers or architects or -- we wouldn't. 7 We're just there to make sure the light bulb works 8 -- 9 Q Right. But -- 10 A -- so. 11 Q -- but if you're walking on something and you 12 notice that it doesn't provide lighting to a 13 specific area -- 14 A Okay. 15 Q -- certainly, that's something that you can note, 16 right? 17 A Sure. Of course. 18 Q And it doesn't take an engineer or an architect to 19 determine, "Hey, it's dark over here and there 20 should be a light here." 21 A Sure. 22 Q Okay. And so when y'all bought this complex and -- 23 and started walking it every day, you were under an 24 obligation to note that there were areas that 25 needed to be changed or made more efficient or made

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1 more safe, right?

2 MR. COMER: Objection.

3 A Sure.

4 Q Okay. And that would've been done for something

5 that was already present, right?

6 MR. COMER: Objection.

7 A Correct.

8 Q Okay.

9 A I wasn't there for that, so yes.

10 Q This says, "Shrubbery." It says, "Issues relating

11 to landscape, maintenance are addressed directly

12 with the landscaper as they are raised by tenants,

13 and the landscaper at the applicable time would be

14 in possession of any documents relating to these

15 issues. For the landscaper providing maintenance

16 at the time Plaintiff's incident, see answer" --

17 I'm not worried about that, but -- so the tenants

18 wouldn't actually go directly to the landscaper.

19 They would go to y'all and then y'all would deal

20 with landscaper --

21 A Correct.

22 Q -- right?

23 A Right.

24 Q So if -- if a tenant came to you, you would agree

25 that then y'all would have an obligation and duty

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1 to go to the landscaper?

2 A Yes.

3 Q And if you didn't do that, that would be wrong?

4 MR. COMER: Objection.

5 A Correct.

6 Q Okay.

7 MR. HOOD: Did you get that, Sandra?

8 THE COURT REPORTER: Yes, thank you.

9 Q Under "Safety," it says, "Regard to safety and/or

10 criminal activity and/or issues, if reported by a

11 tenant, Defendants' practice is to generate a

12 'Report of Unusual Occurrence' in accordance with

13 its Policies and Procedures. Defendants have

14 conducted a search of any Reports of Unusual

15 Occurrence that are in their possession or related

16 to suspected criminal activity, and redacted

17 versions of reports that have been located are

18 being produced herewith." It says, "For any

19 reports of criminal activity or safety issues that

20 are reported directly to the Richland County

21 Sheriff's Department, the Richland County

22 Sheriff's Department would be in possession of any

23 documents responsive to this Interrogatory." You

24 see that, right?

25 A I do.

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1 Q And so there are times that there may be a crime on

2 the premises, but there may not be a Report of

3 Unusual Occurrence because they don't bring it to

4 you?

5 A Correct.

6 Q Okay. And it's only if someone comes to you and

7 say, "Hey, somebody vandalized my car." They don't

8 even have to bring a report, they just tell you,

9 "Somebody vandalized my car." And then you create

10 a Report of Unusual Occurrence?

11 A Yes.

12 Q And then if there is a -- a corresponding sheriff's

13 report --

14 A Uh-huh.

15 Q -- or whoever would do a report, then you would

16 attach it to the Report of Unusual Occurrence?

17 A Yes.

18 Q Okay. So there may be many times that there are

19 crimes out there that there are not reports of

20 unusual occurrence?

21 A Yes.

22 Q Okay. And we've even gone through some of them

23 today?

24 A Right.

25 Q Have you ever heard of a safety audit or a safety

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1 survey with the sheriff's office?

2 A With the sheriff's office?

3 Q Yes.

4 A No.

5 Q Where the -- the Community Action Team would come

6 out and -- and look at your apartment complex and

7 may make suggestions, "Well, you might need this

8 here, or" --

9 A Right.

10 Q -- "something" --

11 A No, I -- I didn't know they did that.

12 Q Okay. If you look at page 15, I asked, "Please

13 state each and every incident in which Defendant

14 undertook any type of audit or review of its

15 security procedures for any residential properties

16 it managed."

17 And it -- the objection on this said,

18 "Notwithstanding this objection, the Defendants did

19 not conduct an 'audit or review' of its security

20 procedures for Wellspring Apartments, Defendants

21 conduct a review of the property in the ordinary

22 course of business to determine any issues with

23 lighting, shrubbery, or any issues raised in

24 Plaintiff's Interrogatories." Do you see that?

25 A I do.

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1 Q When do you conduct a review of the property to
 2 determine issues with lighting, shrubbery, or other
 3 issues?
 4 A Well, I was out on the property daily, so if I saw
 5 something, I would notate it then.
 6 Q Okay.
 7 A We would also have just quarterly walks of the
 8 property --
 9 Q Uh-huh.
 10 A -- and we would notate it again then --
 11 Q Okay --
 12 A -- so . . .
 13 Q -- and -- and when you did these -- these walks, or
 14 you did these notations, where would they be kept?
 15 Or -- or how would you maintain them? Your -- your
 16 -- your thoughts or your --
 17 A Right.
 18 Q -- that you -- you had saw a problem or you saw
 19 something that needed to be addressed?
 20 A The quarterly ones would be sent to my regional --
 21 Q Okay.
 22 A -- but if it was something where I was out on the
 23 property and I just noticed it --
 24 Q Right.
 25 A -- I would do a work order for it.

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1 Q Okay.
 2 A Just to have it addressed.
 3 Q But those quarterlies --
 4 A Uh-huh.
 5 Q -- that would've been something between 2006 and
 6 2008 that would've been sent quarterly to Pamela
 7 Williams?
 8 A Yes.
 9 Q Okay. Do you know the name of that particular
 10 report?
 11 A I do not.
 12 Q Okay. And when you have courtesy officers, were
 13 there times that there were periods of time where
 14 there were no courtesy officers?
 15 A Yes.
 16 Q And is that because they weren't a resident any
 17 longer, or -- or . . .
 18 A That, and most courtesy officers wanted free rent,
 19 and we didn't offer that. So we would lose
 20 courtesy officers for that.
 21 Q If you didn't lose courtesy officers --
 22 A Uh-huh.
 23 Q -- and they stayed, why were they no longer
 24 courtesy officers? Like -- for instance, like, you
 25 know, you saw Mr. Hughes had that thing that was

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1 real long --
 2 A Uh-huh.
 3 Q -- and he was there for a long time --
 4 A Right.
 5 Q -- and -- but he stopped being a courtesy officer
 6 like after 2007?
 7 A Well, he wasn't always with Richland County --
 8 Q Okay.
 9 A -- so he was not able --
 10 Q Okay.
 11 A -- to be a courtesy officer.
 12 Q Gotoha. Okay. Frank Panarello -- Frank Panarello
 13 -- let me -- let me -- it says -- No. 30 -- No. 17.
 14 And this just says, "List the courtesy officers."
 15 And Frank Panarello is not in there, but I -- there
 16 may have been a supplement to that, I'm not sure
 17 of, but we know Frank Panarello was there sometime
 18 in 2007/2008.
 19 A Right.
 20 Q And do you know why he quit being a --
 21 A I don't. I remember he was a state trooper, and
 22 then I knew he was getting married, so I don't know
 23 if there was just a conflict or --
 24 Q It wasn't --
 25 A -- I don't know.

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1 Q -- just Richland County Sheriff's Department. It
 2 could be a state trooper or Richland County
 3 Sheriff's Department, right?
 4 A Right. Right.
 5 Q I mean, it's anybody that in law enforcement that
 6 could park --
 7 A That had jurisdiction.
 8 Q -- an official vehicle. That had jurisdiction?
 9 A Right.
 10 Q Okay. Now, did y'all have any security cameras out
 11 there?
 12 A No.
 13 Q You're over at Paces Brook now?
 14 A Yes.
 15 Q Do y'all have security cameras?
 16 A We do now. They were just installed.
 17 Q Okay. Do you know why they didn't have security
 18 cameras out there then?
 19 A It just wasn't -- the company just didn't do it.
 20 Q Okay. It just wasn't in the budget?
 21 A I have no idea about their budget.
 22 Q Okay.
 23 MR. HOOD: I'm not going to do that. Not
 24 doing that.
 25 Q Sometime in December 2007, you bought a house and

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1 moved off property, right?

2 A Yes.

3 Q And as a result, they increased your salary by \$2

4 an hour?

5 A If --

6 Q They increased your salary?

7 A Okay. Great.

8 Q Okay. Right?

9 A Sure. Yes.

10 Q Do you have any estimate of the number of people

11 that used the -- the -- those publically accessible

12 recreation -- I mean the Harbison Trail on a

13 monthly or annual basis?

14 A Do I know the number of people that did?

15 Q Yeah.

16 A No, I don't know the number.

17 Q Lots of people?

18 A Sure. Yes.

19 Q Did that publically accessible location or the fact

20 that y'all basically invited the public to be there

21 because you didn't have any -- or separation with

22 any of the properties, did that affect any of your

23 security concerns?

24 MR. COMER: Objection.

25 A It was a public trail.

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1 Q Okay. So it didn't affect your security concerns?

2 MR. COMER: Objection.

3 A I mean, again, it -- it's a public area --

4 Q Right. Right.

5 A -- so whether it did or it didn't -- I mean, that's

6 -- we were open --

7 Q Right.

8 A -- we weren't gated.

9 Q Right. But you were open, but -- I mean, you

10 didn't -- I mean, you -- you had landscapers

11 working on landscaping, you had maintenance people

12 working on lighting issues, you had courtesy

13 officers off and on at times, right?

14 A Right.

15 Q But you didn't increase or decrease any of those as

16 a result of the publically accessible --

17 A No.

18 Q Right. Now, the -- the people that were in your

19 apartment complex, they paid a certain fee for

20 their -- for each particular apartment, right?

21 A Right.

22 Q And they didn't say -- you didn't bill them, "Okay.

23 You get to pay us -- each person in here \$10 a

24 month for your -- the -- the landscaping portion

25 that we have to pay the landscaper." Y'all didn't

Page 227

1 do that, did you?

2 A No.

3 Q And y'all didn't go to them and say, "Okay. For

4 all of the light bulbs and stuff, we're going to

5 charge you 5 or 10 dollars a month for the light

6 bulbs."

7 A No.

8 Q And you would agree with me that the -- there were

9 -- there were different reasons for having the

10 SCF&G lights and the breezeway lights and the

11 entryway lights and -- but one of those is so that

12 people could see better?

13 A Sure.

14 Q Right?

15 A Yes.

16 Q And if you could see better, that's -- that -- you

17 could see better and illumination, one of those

18 things would be protection. You wouldn't trip over

19 stuff if you saw it?

20 A Right. It would be to light the area.

21 Q It would be to light the area.

22 A Right.

23 Q And part of that would be for the protection of

24 someone's person?

25 A Well, you can't guarantee safety. The light would

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1 be so you could see --

2 Q Sure.

3 A -- so.

4 Q You -- you can't guarantee it --

5 A Correct.

6 Q -- but it would be -- that would be one of the

7 reasons that it's being used, right?

8 A So it would be well-lit, yes.

9 Q It would be well-lit, is because of protection?

10 One of the reasons?

11 A I guess. Sure.

12 Q Okay. And the same for courtesy officers and the

13 maintaining of the shrubs at the appropriate

14 height. The -- part of that is for protection?

15 MR. COMER: Objection.

16 Q Right?

17 A Again, that goes to guaranteeing security --

18 Q But -- and --

19 A -- or safety --

20 Q -- I'm not -- and I'm not guaranteeing --

21 A -- which is --

22 Q -- I'm saying --

23 A -- nothing to do with that.

24 Q Right. All I'm saying is the courtesy officers --

25 you had no obligation to provide those security

Page 229	Page 231
1 officers? 2 A No. It was just so if -- if somebody needed 3 somebody -- 4 Q Right. 5 A -- or needed assistance for anything, a courtesy 6 officer would be there -- 7 Q And y'all also had -- 8 A -- so. 9 Q -- the policy that they're to walk two hours a day, 10 right? 11 A Yes. 12 Q And that they're supposed to do a report to y'all 13 -- 14 A Yes. 15 Q -- right? 16 A Uh-huh. 17 Q And it's having that presence that in the community 18 that helps deter criminal activity, doesn't it? 19 A Sure. Yes. 20 Q And -- and -- and if you have -- like, if you 21 maintain your shrubbery in the -- in the right way, 22 people can't hide behind it and stuff, and you have 23 better sight lines, right? 24 A We did maintain. It's a mature shrub. 25 Q Sure. I understand that.	1 A Yes. Yes, they did. 2 Q Okay. Have you ever -- I know that you've -- 3 you've given your deposition before -- 4 A Right. 5 Q -- for this one. Have you ever given a deposition 6 other than that one? 7 A No. 8 Q Okay. I don't want to know any conversations that 9 you've had with Mr. Comer. None. 10 A Okay. 11 Q How much time did you spend reviewing documents or 12 depositions or interrogatories for this case? 13 A For this? 14 Q Yes. 15 A How much time? 16 Q Yes. 17 A An hour. 18 Q Okay. What materials have you reviewed in 19 preparation for this case? 20 A My resignation letter -- 21 Q Okay. 22 A -- our policy book -- policy and procedures book -- 23 Q Okay. Part of those we've gone over today. 24 A Right. My cancellation letter for the landscaper 25 --
Page 230	Page 232
1 A So, I mean, all of our landscaping was mature. We 2 were twenty-plus years old -- 3 Q Sure. 4 A -- so. 5 Q But -- but, I mean, if you allowed it to just -- 6 just grow unabated, it could be dangerous, couldn't 7 it? 8 MR. COMER: Objection. 9 A If it was let go, yes. 10 Q Right. And so by maintaining the shrubbery and 11 having these courtesy officers, though under no 12 obligation, one of the reasons for that is for 13 protection? 14 A Yes. 15 MR. COMER: Objection. 16 Q Okay. 17 THE COURT REPORTER: (To the deponent) I 18 didn't hear your response. 19 THE DEPONENT: "Yes." 20 THE COURT REPORTER: Okay. Thank you. 21 Q Who called the courtesy officer was -- if there was 22 an issue? Was it a resident or an employee of 23 Wellspring? 24 A A resident. 25 Q The -- so they -- they had their number?	1 Q Okay. 2 A -- for H&S. 3 Q Okay. Do you have any opinions about this case, or 4 do you have any testimony you want to add or 5 subtract or amend or delete at this time? 6 A No. 7 Q Do you have any opinions you haven't told us about? 8 A No. 9 Q Other than Mr. Comer -- don't want to know what you 10 talked about with him -- have you talked about this 11 case with anyone else, like your husband or someone 12 else? 13 A No, not -- no. 14 Q Okay. Now, I know that you went to -- gosh, I 15 can't remember the guy's name. Where did you take 16 you course to become a licensed property manager? 17 A Was that Chip Brown -- 18 Q Chip Brown. Chip Brown. 19 A -- I think. Yes. 20 Q Is it a -- was it -- is there a name of that school 21 or something, or -- 22 A I think that was it. 23 Q Chip Brown? 24 A I believe. 25 Q In Charlotte, it's Mingle Real Estate. But is it -

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1 - is it just like a -- you would go and it was like 2 a -- a class you took, and then you had to take a 3 test to become certified? 4 A Yeah. It was the -- an eight-hour -- I think it 5 was eight hours. 6 Q Okay. 7 A Could've been more than that. And then, yes, we 8 took a test. 9 Q And -- and was any of that eight hours on safety or 10 security? 11 A I don't recall. 12 Q Okay. You would defer to the stuff that y'all went 13 over? So whoever has the materials that y'all 14 would've went over, right? 15 A Right. 16 Q Okay. What type of training were you required to 17 undergo after you were employed? 18 A Type of training? We would read the policy and 19 procedures manual. We would have continuing 20 education classes. 21 Q How would you -- what kind of continuing education 22 classes would you -- 23 A Well -- 24 Q -- have? 25 A -- it was more marketing.	1 A Right. 2 Q Okay. And then when you became the assistant 3 manager -- 4 A Uh-huh. 5 Q -- how did you get training for that? 6 A It would've been the same way. 7 Q On-the-job training? 8 A Right. 9 Q And then the -- the apartment manager? 10 A Well, if -- by the time you made it to assistant 11 manager, you already knew your job duties; you were 12 already doing that, so. 13 Q Okay. And so then after you became assistant 14 manager, you were, kind of, like an apartment 15 manager in waiting? 16 A Yes. 17 Q Okay. And then once the position opened up, then 18 you would, basically, ascend to apartment manager? 19 A Right. Yes. 20 Q Okay. And when you did this continuing education 21 that you're talking about, did you actually take 22 courses between 2004 and 2008? 23 A No. It was classes within PRG that they would have 24 -- you know, a marketing class or a leasing class 25 or --
Page 234	Page 236
1 Q Right. 2 A And we would have marketing classes. We would have 3 budget conferences where we would go and work on 4 our budget. We would -- really, it would just be, 5 you know, you would ask a fellow property manager 6 or your regional if you came across anything that 7 was unusual that wasn't day to day. 8 Q Okay. 9 A Yeah. 10 Q When you went there and you became the marketing 11 director, is it fair to say -- or excuse me. Who 12 would have trained you for that position? 13 A For the marketing director? 14 Q Yes. 15 A Pamela Penny, the property manager. 16 Q Okay. And -- and for the marketing director, what 17 kind of training did you receive specifically for 18 that? 19 A It wasn't training, per se. It was, "This is what 20 we need to do; this is how you would do that" -- 21 Q Was it maybe -- 22 A -- so. 23 Q -- maybe a day spent on training or -- 24 A Or it would've just been throughout my time there. 25 Q Kind of on-the-job training?	1 Q Did -- 2 A That would be our education. 3 Q Did you have to go to Philadelphia? 4 A I have, for budget. 5 Q Okay. 6 A We did. 7 Q And so did they ever have any classes on safety and 8 security at PRG? 9 A Not that I attended. 10 Q Okay. Do you know if they ever had videos or DVDs 11 or CDs that they sent to y'all to review for 12 training purposes? 13 A No. Not for office. Maintenance, yes. 14 Q So maintenance -- 15 A Maintenance had those, not office. 16 Q Okay. So there were times that maintenance had 17 some training that did not apply to the office? 18 A Correct. Yes. 19 Q And did some of the maintenance training involve 20 safety or security? 21 A I don't know the name of what they took -- 22 Q Okay. 23 A -- so. 24 Q Okay. Okay. How do you -- we've talked a little 25 bit about the budget. What is the amount of -- did

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1 y'all have, like, "Okay. We've got \$30,000 a month
 2 for this month to run this apartment complex in
 3 between salaries and everything else"? I mean, how
 4 did you get your budget, and how did you spend it?
 5 A Everything was broken down by categories. So we
 6 would have, you know, carpet and vinyls.
 7 Everything would go off of actuals from the
 8 previous year.
 9 Q Okay.
 10 A So that's how we would come up with our numbers or
 11 need of -- for necessity --
 12 Q Okay.
 13 A -- of how much we would need in each category --
 14 Q Okay.
 15 A -- so.
 16 Q Okay. And did you have any input into the budget?
 17 A Yes.
 18 Q Okay. How did you have input into the budget?
 19 A Well, I created the budget, and then I would submit
 20 the budget.
 21 Q Okay.
 22 A And then they would have final reviews, and they
 23 would take out or add to the budget --
 24 Q Right.
 25 A -- before they would send it back. And that would

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1 be my final budget.
 2 Q According to your resignation letter, it seemed
 3 like you were a little -- I mean, there -- there
 4 was some disagreement about some budget things.
 5 A Uh-huh.
 6 Q Were you sending in budgets and they were cutting
 7 the budget?
 8 A Yes.
 9 Q Okay. Do you know why?
 10 A Money.
 11 Q But, I mean, it's because that investor return they
 12 talked about?
 13 A I don't know what their reasons were. That was
 14 never a conversation that I had --
 15 Q Okay.
 16 A -- with upper management.
 17 Q Okay. Have you ever been sued before?
 18 A No.
 19 MR. HOOD: (To Ms. Casey) Let me see these
 20 two cases.
 21 Q Under the -- the South Carolina -- you're aware of
 22 the South Carolina Residential Landlord Tenant Act,
 23 right?
 24 A Yes.
 25 Q And there's a requirement in there that states that

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1 a landlord has to keep a property in a fit and
 2 habitable condition, right?
 3 A Yes.
 4 Q "Fit and habitable" covers a lot of territory,
 5 doesn't it?
 6 A Yes, it does.
 7 Q I mean, it could include they don't have water
 8 leaking in the roof, right?
 9 A Correct.
 10 Q Could include the toilet working?
 11 A Yes.
 12 Q It could -- could include the lighting working in
 13 the breezeway?
 14 A Yes.
 15 Q Okay. You remember those things that we talked
 16 about that you don't have an obligation to do, but
 17 if you do them, you've got to do them in a
 18 reasonable manner?
 19 A Yes.
 20 Q Keeping it fit would also be those things, right?
 21 MR. COMER: Objection.
 22 Q You can answer.
 23 A It could be, yes.
 24 Q Okay.
 25 MR. HOOD: (To Mr. Comer) Go ahead, and I'll

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1 -- I think I'm done.
 2 Q Very quickly. The last question I ask everybody:
 3 Have you -- we've been here for a long time. Have
 4 you -- have you told me the things that you're
 5 aware of about this case?
 6 A Yes.
 7 Q And do you anticipate changing or supplementing or
 8 amending your testimony?
 9 A No.
 10 Q If you do, will you let Mr. Comer know so that he
 11 can let me know?
 12 A Yes.
 13 Q Okay. And do you anticipate that the testimony at
 14 trial will be similar to the testimony you gave
 15 today?
 16 A Yes.
 17 Q Okay.
 18 MR. COMER: Off the record one minute.
 19 (Off the record from 3:02 p.m. until
 20 3:09 p.m.)
 21 EXAMINATION
 22 BY MR. COMER:
 23 Q Good afternoon, Ms. Campbell. You and I have met
 24 before. My name is Brian Comer, and I wanted to
 25 ask you a few questions in follow-up to some of the

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1 things that Mr. Hood asked you, okay? 2 A Okay. 3 Q And just for the record, I'm your attorney, and I 4 -- 5 A Uh-huh. 6 Q -- also represent the other defendants in this 7 matter. You're aware of that, correct? 8 A Yes. 9 Q Okay. Mr. Hood asked you some questions about 10 whether Wellspring is a public or a private 11 property. Do you remember those? 12 A Yes. 13 Q Okay. Now, do you know anything about how the law 14 may or may not treat apartment complexes with 15 regard to that distinction? 16 A No, I don't. 17 Q Okay. Do you know any of the factors that go into 18 whether something is private or public property? 19 A No. 20 Q Okay. Let me ask you a couple of things that you 21 may know something about. First of all, you would 22 agree with me that people can come to Wellspring 23 for various different purposes, correct? 24 A Yes. 25 Q For example, they may live there, correct?	1 Q Okay. What -- what house did you own? What was 2 your address? 3 A 125 Forest Fern Road. 4 Q Okay. Was that on a -- in a community street? 5 A Yes. 6 Q Houses -- 7 A And -- 8 Q -- to -- 9 A -- Herbison. 10 Q -- the left end -- and right of you? 11 A Yes. 12 Q Okay. Was there a sidewalk out in front of it? 13 A No. 14 Q Okay. Could people drive up to your house -- to 15 your driveway? 16 A Sure. 17 Q So it was publicly accessible; is that right? 18 A Yes. 19 Q Did you consider it to be public property? 20 A No. 21 Q So just because someone was able to come to your 22 front door or drive up to your driveway, you didn't 23 consider it to be public property; is that right? 24 A Correct. 25 Q Okay. Did you have a fence around it?
Page 242	Page 244
1 A Correct. 2 Q They may also be visiting or be a guest of a 3 residence -- of -- of a resident who does live 4 there, correct? 5 A Yes. 6 Q That would be another reason to come there? 7 A Yes. 8 Q They may work there? Someone -- for example, if 9 you lived offsite but you were the property 10 manager, you may visit it for that reason, correct? 11 A Yes. Yes. 12 Q They may also be a vendor who has to do some work 13 there like H&B Maintenance; would that be correct? 14 A Yes. 15 Q So, generally, would you agree with me that people 16 need a reason to come to Wellspring? 17 A Yes. 18 Q Okay. And, in other words, is there ever a time 19 where it's suitable for someone to just be 20 loitering there for no reason, not visiting anyone, 21 and not having any real purpose to be there? 22 A No. 23 Q Now, do you think that -- well, first of all, let 24 me ask you this: Have you ever owned a house? 25 A Yes.	1 A No. 2 Q Okay. And even though you didn't have a fence 3 around it, you didn't consider it to be public 4 property; is that correct? 5 A Correct. 6 Q Okay. And is that because you lived there? 7 A Yes. 8 Q It wouldn't be suitable for them to come and just 9 hang out on your front porch, would it? 10 A Correct. 11 Q Okay. Now, by the same token, there are some 12 walking trails that Mr. Hood asked you about that 13 came up to Wellspring, right? 14 A Yes. 15 Q Okay. You're familiar with houses that have a 16 sidewalk out in front, correct? 17 A Yes. 18 Q Just because Wellspring was on a walking trail, 19 does that necessarily mean that people are just 20 free to come up there and do anything? 21 A No. 22 Q Okay. And, just for the record and to be clear, 23 Wellspring does not have a fence around it in its 24 entirety, does it? 25 A No, it doesn't.

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1 Q Is there anywhere that it has a fence around it? 2 A At Wellspring? 3 Q Yes. 4 A No. 5 Q Okay. Is it a gated community? In -- in this 6 instance what I mean is a gate to the entrance to 7 the property from Harbison? 8 A No. 9 Q Could you put a gate there? 10 A No. 11 Q Why could you not put a gate there? 12 A The traffic. 13 Q Okay. 14 A It's a busy road. 15 Q Could you -- could you elaborate on that? Is 16 Harbison considered -- 17 A It's extremely congested and busy -- 18 Q Okay. 19 A -- so it would back traffic up. 20 Q Okay. Is that near the interstate? 21 A Not far, yes. 22 Q Okay. I'm going to ask you a series of questions. 23 And we've -- we've had a lot of testimony today 24 about what I'll consider to be two aspects of this 25 case. So before I ask these questions, I want to	1 Q Okay. I'm also going to use a term called 2 "security." For purposes of my questions -- my 3 questions only -- when I say "security," I am 4 talking about intentional actions of another 5 person, such as a third-party criminal, directed to 6 someone to harm their personal well-being. Do you 7 understand that? 8 A Yes. 9 Q Okay. Do you understand the distinction I've made 10 between safety and security? 11 A Yes. 12 Q Okay. Now, did Wellspring provide lighting so that 13 people could get to apartments? 14 A Yes. 15 Q Okay. And that was so they could see to get to 16 their apartment at night, is that right? 17 A Yes. 18 Q And it's also so that it would be well-lit enough 19 that they didn't trip over something that, maybe, 20 another resident had left in the walkway, is that 21 right? 22 A Correct. 23 Q And the way I have defined it, that's a safety 24 issue, isn't it? 25 A Yes.
Page 246	Page 248
1 tell you some definitions I'm going to use. Is 2 that okay? 3 A Okay. 4 Q Okay. When I say "safety," I am talking about -- 5 and, again, this is for purposes of my question. I 6 understand Mr. Hood may think of it differently, 7 but for purposes of my questions, I'm talking about 8 someone's safety, for example, as they come to and 9 from their apartment, whether there's any risk of 10 them tripping and falling, whether there may too -- 11 be too much chlorine in the pool that could hurt 12 their eyes -- 13 A Okay. 14 Q -- whether or not there's a -- a drip in the toilet 15 that can mess up their property. Do you understand 16 that? 17 A I do. 18 Q So when I'm talking about safety, for purposes of 19 my questions, I'm really talking about, kind of, 20 the physical structure and whether or not that 21 impacts someone personal safety. Do you understand 22 that? 23 A I do. 24 Q Anything unclear about that? 25 A No.	1 Q But the benefit of that is that it may also allow 2 you to see other people who may pose some sort 3 threat to someone's security, would you agree? 4 A Yes. 5 Q Okay. But the primary reason -- would you agree 6 with me that the primary reason that the lighting 7 is provided is not for security, but for that 8 safety that I have described? 9 A Yes. 10 Q Okay. Now, let me ask you the same questions about 11 the bushes. You would agree with me that one of 12 the reasons you trim bushes is to make sure that 13 they don't impede somebody's path to their 14 apartment, would you agree? 15 A Yes. 16 Q That's a safety issue, because if a branch came 17 over and impeded their way of walking, they could 18 trip over it and hurt themselves, correct? 19 A Right. 20 Q So for that reason you trim the bushes to make sure 21 that they don't impede any walkways or anything 22 like, is that correct? 23 A Yes. 24 Q Now, a benefit of that may be that there's a less 25 likelihood that someone may hide or be concealed by

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1 those bushes that could harm someone's personal
2 security?
3 A Correct.
4 Q And you understand I've made the distinction there,
5 with "security"?
6 A Yes.
7 Q Okay. But the -- my understanding is that the
8 primary reason that the bushes are trimmed is so
9 that someone is safe in getting to and from their
10 apartment in -- in terms of any personal injury.
11 A Yes.
12 Q Would that be a fair characterization?
13 A Correct.
14 Q And would you agree with me that trimming the
15 bushes is something you can control; is that right?
16 A Yes.
17 Q Okay. But you can't control whether someone makes
18 a decision whether or not to hide in those bushes
19 to hurt someone's security?
20 A Correct.
21 Q Okay. That's not something within your control?
22 A No, it's not.
23 Q Now, Mr. Hood, early in your deposition -- and --
24 and I'm paraphrasing here; the transcript will
25 speak for itself. But he said something about,

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1 "Would you agree that corporations should never let
2 budget constraints hinder safety?" Do you remember
3 that?
4 A I do.
5 Q And I think you answered you agreed with that
6 statement.
7 A Yes.
8 Q Okay. Let me ask it a little bit -- in a different
9 way.
10 A Okay.
11 Q Understanding the distinction between safety and
12 security that I told you I was using for purposes
13 of my questions, you would agree with me that an
14 apartment complex could erect a fence with barbed
15 wire all the way around it, couldn't it?
16 A Yes.
17 Q And it could put a gate at the entrance to the
18 parking lot so that the only way that someone could
19 get through there would be to have some kind of
20 pass code, correct?
21 A Yes.
22 Q And a -- and a corporation also could put a guard
23 at every single apartment building, couldn't they?
24 A Yes.
25 Q Okay. That's something they could do --

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1 A They --
2 Q -- right?
3 A -- could, yes.
4 Q Now, is that something that is feasible?
5 A No.
6 Q Why not?
7 A Budget reasons. And you cannot guarantee safety,
8 so.
9 Q Do you have any idea whether that would impact a
10 resident's rent per month?
11 A Oh, absolutely.
12 Q Okay. So going back to the question that Mr. Hood
13 asked you, would you agree with me that if we are
14 talking about this question in terms of both safety
15 and security, that there are times where it may not
16 be feasible to do everything that is possible to
17 prevent some sort of issue with regards to a
18 person's security?
19 A Yes.
20 Q Okay. Now, he asked you some questions about
21 courtesy officers, and I think you said that they
22 did not fill out this form that they may have been
23 required to fill out under the policies. Do you
24 remember that?
25 A Correct.

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1 Q Do you know that they didn't walk the grounds at
2 all, as you sit here today?
3 A No.
4 Q Okay. So even though the -- the form wasn't filled
5 out, do you have knowledge of them actually
6 conducting those walks around the property?
7 A Yes.
8 Q How do you know that?
9 A I've seen them walk.
10 Q Okay. And you witnessed that personally?
11 A Yes.
12 Q Okay. So even though the form wasn't being filled
13 out, you had knowledge of them walking around the
14 property as requested?
15 A Yes.
16 Q And I think this -- this was clear on the record,
17 but an added benefit of having a courtesy officer
18 is the presence of a vehicle in the parking lot,
19 correct?
20 A Correct.
21 Q And one thing I was unclear on is it appeared from
22 some of the questions Mr. Hood asked you that there
23 were times when -- for example, I think Mr.
24 Paranello (as spoken) may have no longer been
25 designated as -- as the courtesy officer --

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1 A Uh-huh.
 2 Q -- but was still living there; is that right?
 3 A Correct.
 4 Q If he was still working with some police force that
 5 had jurisdiction, would his -- would his vehicle
 6 still have been in the parking lot?
 7 A Yes.
 8 Q Okay. So you still would've received that benefit,
 9 even though he wasn't necessarily designated as a
 10 courtesy officer?
 11 A Yes.
 12 Q Let me show you what was marked as Exhibit No. 9.
 13 These are the pictures that plaintiff's counsel
 14 represents were taken a couple of days after the
 15 incident at issue. And I want to flip to what I
 16 believe is the fifth page.
 17 A Okay.
 18 Q Do you see that picture of the walkway?
 19 A I do.
 20 Q Does it appear that any of the bushes are in any
 21 way impeding the residents' ability to walk to
 22 their front door of their apartment?
 23 A No.
 24 Q Okay. And just for fairness, flip through all of
 25 these pictures -- there may be a better one here on

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1 the third page -- and tell me if there's anywhere
 2 where you see branches coming over that can impede
 3 the residents' ability to walk to their residence.
 4 A No.
 5 Q Okay. So by your answer, my understanding is that
 6 it appears that any pruning that may have done with
 7 -- been done with regard to this shrubbery was at
 8 least enough to keep it out of the walkway so
 9 someone could get to their building?
 10 A Correct.
 11 Q Okay. Let me show you what was marked as Exhibits
 12 3 and 8. And this, for the record -- Exhibit 3 is
 13 the Melissa Davis affidavit, and Exhibit 8 is the
 14 Timir Patel affidavit.
 15 First of all, Exhibit 3, what unit was Ms.
 16 Davis in?
 17 A 1405.
 18 Q Okay. And if you look at Exhibit 8, what unit was
 19 Mr. Patel in?
 20 A 1101.
 21 Q Did either one of them live in the building where
 22 the plaintiff in this case, Ms. Wright, lived?
 23 A No.
 24 Q And is that because -- I think the -- the building
 25 was Building 22; is that correct?

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1 A Correct.
 2 Q Do you have any knowledge of them witnessing the
 3 abduction at issue in this case?
 4 A No.
 5 Q Okay. Do you have any knowledge of them being
 6 aware of anything relating to Ms. Wright's case in
 7 terms of that night or the -- the facts of the
 8 abduction itself?
 9 A No.
 10 Q Okay. My understanding is -- and I just want to
 11 make sure this is clear for the record -- that the
 12 Wellspring Apartments has no control over SCE&G
 13 power poles; is that right?
 14 A Correct.
 15 Q All you can do, if it's reported, is call it in to
 16 SCE&G, and then it's their issue; is that right?
 17 A Correct.
 18 Q Okay. Now, Mr. Hood asked you some questions about
 19 when people come in, and I think he used the word
 20 "to complain." Do you remember those questions?
 21 A Yes.
 22 Q Okay. And I think you talked about there being a
 23 resident conversation log. You remember that?
 24 A Yes.
 25 Q When someone came in -- and I'm going to use a

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1 different word -- "to raise an issue" --
 2 A Okay.
 3 Q -- and by that description, what I mean is: Let's
 4 say that their complaint was that a light's out or
 5 that their toilet's running or something like that.
 6 A Okay.
 7 Q Would you always generate something in the resident
 8 conversation log?
 9 A No.
 10 Q Okay. Would that be more characteristic of a work
 11 order?
 12 A Yes.
 13 Q Okay. So my understanding, then, is that -- well,
 14 strikes that.
 15 Is it fair to say that the -- the way that you
 16 primarily responded to any issues raised by
 17 customers, be it in the form of a repair to the
 18 property or complaining about their rent -- if it's
 19 something relating to the -- the -- the repair of
 20 their property, that would be characterized by a
 21 work order; is that right?
 22 A Correct.
 23 Q As you sit here today, do you know how someone may
 24 have distinguished whether they entered something
 25 on the resident conversation log?

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1 A It would -- I guess the resident conversation log
2 would be more, maybe, of a rent -- a renewal,
3 maybe, conversation.
4 Q Okay. You lived at Wellspring.
5 A I did.
6 Q Okay. Did you ever have any problems when you
7 lived at Wellspring?
8 A No.
9 Q Okay. And -- and by "problems," I mean any
10 criminal incidents, anything like that?
11 A No.
12 Q Okay. Directed toward you?
13 A No.
14 Q Okay. When this incident occurred and you were the
15 property manager, did you cooperate with the
16 Richland County Sheriff's Department?
17 A Yes.
18 Q Okay. In other words, if they would've asked you
19 to do anything or to provide any information,
20 that's something you would've done?
21 A Absolutely.
22 Q Okay. Now, there were some questions asked about
23 the term "investigation." Do you remember that?
24 A Yes.
25 Q And I think Mr. Hood showed you something in one of

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1 the documents about how you're required to do an
2 investigation.
3 A Yes.
4 Q And I think you made a clarification on the record
5 that when he asked that question, you were thinking
6 of something different. Do you remember that?
7 A Right.
8 Q Can you clarify that for me?
9 A "Investigation," I took that as a Richland County
10 investigator's investigation, not as me just
11 completing an incident report and getting it to my
12 superior.
13 Q Okay. I -- I want you to correct me if I'm wrong,
14 but is it safe to say that most of the time when
15 incidents were brought to your attention, it
16 related to -- for example, let's say maybe someone
17 had a really nice rug and their toilet leaked and
18 it damaged their rug, something like that. Or
19 maybe somebody slipped and fell on a branch that
20 was on their walkway. Is it safe to say that most
21 of the time when you had to investigate something,
22 that it was more of a safety issue, as I have
23 defined it, relating to the physical structure of
24 the property?
25 A Yes.

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1 Q Okay. And using that definition, is that why you
2 would take pictures? For example, to take a
3 picture of whether a -- a railing was loose, you
4 would take a picture of the railing. You --
5 A Correct.
6 Q -- understand that?
7 A Yes.
8 Q Okay. Would that be a time you'd take pictures?
9 A Yes.
10 Q Or if, say, someone's toilet leaked all over their
11 favorite -- their favorite rug, would you go take a
12 picture of the rug?
13 A Yes.
14 Q Okay. As you sit here today, do you recall, in the
15 Report of Unusual Occurrence, whether Ms. Wright
16 raised anything about the bushes or the lights?
17 A No.
18 Q No, you don't recall --
19 A I do --
20 Q -- or --
21 A -- not --
22 Q -- no --
23 A -- recall.
24 Q -- she did not? Okay. Well, let me hand it --
25 A I --

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1 Q -- to --
2 A -- don't --
3 Q -- you.
4 A Let me see. Okay.
5 Q Take a look and -- and tell me if there's anything
6 in there that indicates her bringing to your
7 attention something with regard to the bushes or
8 the lights.
9 A She never mentioned bushes or lights.
10 Q Okay. Then, in that case would there be any reason
11 to go take any pictures?
12 A No.
13 Q Okay. From having read through the incident report
14 and the report of unusual occurrence, do you have
15 an understanding as you sit here today of what
16 happened to Ms. Wright?
17 A From what I've gathered, yes.
18 Q Okay. And -- and what is your understanding, as
19 you sit here today, of what happened to her?
20 A She -- two males approached her and robbed her at
21 Wellspring Apartments.
22 Q Okay. Do you know if they were armed?
23 A Yes. They were armed.
24 Q Okay. Do you know what they did after they
25 approached her and -- did -- did they take her

Page 261

1 anywhere? Did they keep her there, or what?

2 A From what that states, they drove around town

3 withdrawing money from an ATM.

4 Q Okay. People live in apartments at Wellspring

5 Apartments, correct?

6 A Yes.

7 Q I'm not trying to be cute, but in other words,

8 people live there; that's their primary residence,

9 right?

10 A Yes.

11 Q Is that something you would consider to be public

12 property: their primary residence?

13 A No.

14 Q Okay. And even though somebody has the ability to

15 drive up to their apartment or maybe even come

16 through the apartment by accessing walking trails,

17 would you agree with me that still doesn't make it

18 public property?

19 A Correct.

20 Q Were there ever instances when you were there, just

21 based on your recollection, where either you or

22 someone you worked with instructed people not to

23 come on the property anymore or that they were

24 loitering, they had no business being there?

25 A Yes.

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1 Q Okay. You remember that as you sit here today?

2 A I do.

3 Q And do you remember if that was very frequent or

4 not?

5 A It was not frequent.

6 Q Okay. I want -- you're familiar with Building 22,

7 correct?

8 A Yes.

9 Q Okay. And just for purposes of the record, you're

10 familiar with that set of steps in one of the

11 pictures in Exhibit No. 9, correct?

12 MR. HOOD: (To Mr. Comer) Could --

13 A Yes.

14 MR. HOOD: Could we do this, because it may

15 make it easier? Let's do 9A, B, C, D --

16 MR. COMER: Yeah.

17 MR. HOOD: -- E. And that way, it'll -- it'll

18 actually say specifically which one it is.

19 MR. COMER: You read my mind, because I was

20 thinking we probably need to number it. A, B,

21 C, D, E, F, G. Okay. Back on the record.

22 Q I have numbered Exhibit No. 9, you'll see in the

23 bottom-lower-left corner, "A" through "E" just for

24 purposes --

25 A Okay.

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1 Q -- of going through this. So if I look at what I

2 have marked as Exhibit 9K, you're familiar with

3 those steps; is that right?

4 A Yes.

5 Q Now, if I turn around -- this picture is facing

6 toward the apartment. If I turn around and look in

7 the opposite direction --

8 A Yes.

9 Q -- what am I going to see?

10 A To the left would be a dumpster with a light pole.

11 Q Okay.

12 A Across the parking lot would be another building.

13 And then to the right would also be another

14 building.

15 Q Okay. So if someone is sitting on these steps, my

16 understanding, from your testimony, then, is that

17 they're facing the rest of the parking lot and

18 other buildings, where if someone is looking in

19 that direction, they will see them; is that right?

20 A Correct.

21 Q Okay. And Mr. Hood asked you some questions about

22 whether or not someone may or may not be prone to

23 be hanging out in an area like what's depicted on

24 9K if those bushes were a little bit smaller. You

25 remember those questions?

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1 A I do.

2 Q Do you have any opinions on whether or not if they

3 also know they can be seen by other residents in

4 the parking lot, if that --

5 A Right.

6 Q -- may impact their behavior?

7 A I do not.

8 Q Okay. In other words, if they're willing to sit

9 there in the view of other people within the

10 parking lot, whether the bushes may or may not have

11 been cut down would be of no consequence?

12 A Correct.

13 Q Okay.

14 MR. COMER: Okay. I don't think I have any

15 other questions right now.

16 MR. HOOD: Let --

17 MR. COMER: Thank --

18 MR. HOOD: -- me --

19 MR. COMER: -- you.

20 MR. HOOD: -- see if I can wrap up real quick.

21 REEXAMINATION

22 BY MR. HOOD:

23 Q Did Wellspring provide phones or pagers to courtesy

24 officers?

25 A Phones. Cell phones.

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1 Q Okay. And then they could use those phones to call
2 whoever they needed if they saw something, right?
3 A They could use that or their personal phones.
4 Q Okay.
5 A Yes.
6 Q Did -- did -- was -- were they able to make
7 personal phone calls with these cell phones?
8 A I -- I'm not -- I don't recall if they could or
9 not, if it was only an incoming --
10 Q Okay.
11 A I don't remember.
12 Q Now, was there any part of this particular
13 apartment complex that had Section 8 housing?
14 A No.
15 Q Okay. Now, I know that there were courtesy
16 officers at times, and I believe you said the
17 residents could contact them if they had an issue.
18 How would they know that?
19 A They are told that when they move in. It's in our
20 newsletters -- monthly newsletters, just a reminder
21 of their phone number.
22 Q Okay. So you have monthly newsletters that go out
23 each month to the residents?
24 A Yes.
25 Q Okay. And did these monthly newsletters -- they

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1 would have the courtesy officer's phone number on
2 that?
3 A Yes.
4 Q Okay. And did y'all keep copies of those
5 newsletters?
6 A Yes. In the marketing binder.
7 Q Okay. Great. I believe Mr. Comer was asking you
8 some questions, and he goes, "If it was your house,
9 you'd consider it personal property" -- I mean
10 "private property" --
11 A Uh-huh.
12 Q -- "right?" And then he said the apartment
13 complex, they would -- they would expect that to be
14 private property. Do you remember him --
15 A Right.
16 Q -- asking those questions?
17 A Right.
18 Q It's just -- it's no different than if you go to
19 Food Lion. If they don't want you on their
20 property, they can make you come up -- get off
21 their property, right?
22 A Right.
23 Q That's private property.
24 A Right.
25 Q No different than a hotel asking you to get off

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1 their property --
2 A Uh-huh.
3 Q -- get off their property, right?
4 A Right.
5 Q Private property, right?
6 MR. COMER: Objection.
7 Q Correct?
8 A Yes.
9 Q And so it's a matter of, you know, whether each of
10 those -- whether hotel, your home, a shopping
11 center, or a apartment complex -- is private
12 property. Wellspring and hotels and grocery
13 stores, the public has access to all of those
14 places?
15 A They do.
16 Q And it's the same for all of them: The public has
17 access, right?
18 MR. COMER: Objection.
19 A Right.
20 Q Now, I believe he asked you about the -- the
21 courtesy officers. And the ones that I -- the
22 closest ones that I could tell were Forgiione and
23 Panarello --
24 A Okay.
25 Q -- were the ones that were there -- the closest I

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1 could see. Now, do you recall seeing them walking
2 the property?
3 A Yes.
4 Q Okay. Now, I know he asked you about Lisa Davis
5 and Timir Patel and whether they had seen this or
6 whether you had been notified they had -- knew
7 anything about this. And your answer was "no."
8 A Correct.
9 Q Were you aware that Leesa Watson supposedly saw
10 this?
11 A Yes.
12 Q And that she had actually identified somebody in a
13 mug shot?
14 A No. I didn't know that.
15 Q Okay. And had given a statement to the police
16 describing the people?
17 A I don't recall that.
18 Q Okay. And Leesa Watson also happens to be the
19 person that -- was she the one that sued PRG and --
20 A Yes.
21 Q Okay.
22 A Uh-huh.
23 Q I believe when he asked you about the -- the
24 narrative that she gave you --
25 A Yes.

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1 Q -- I know that earlier I talked to you about it
 2 some, and then he talked to you about it some --
 3 Mr. Comer did. And I believe that -- that you said
 4 you talked to her, and then you would've gone back
 5 and you would've created this narrative, right?
 6 A Right.
 7 Q This would not have contained everything she told
 8 you, right?
 9 A Right. Not word for word.
 10 Q Not word for word.
 11 A Correct.
 12 Q And you would agree that there were parts -- I
 13 mean, I believe he asked you a question, and you
 14 said -- I heard you say, "I don't recall." And
 15 then he asked you another question about the bushes
 16 and the lights, and you said you -- you -- you
 17 don't -- she didn't tell you that. Do you recall
 18 that?
 19 A Yes. As far as it being in here?
 20 Q Right.
 21 A Correct.
 22 Q But that's your narrative, right?
 23 A Yes, it is.
 24 Q And you don't know exactly -- you can't recall
 25 today specifically what she told you, you can only

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1 go by your narrative?
 2 A Correct.
 3 Q And so you don't recall whether she mentioned
 4 anything about the bushes or the lighting, do you?
 5 A Not from my incident report, no.
 6 Q Okay. And -- and that is just your summary, and
 7 that isn't everything she told you, right?
 8 A I don't know if that is everything she told me or
 9 not.
 10 Q Okay. And so you don't know if she told you about
 11 bushes or lights because you don't recall?
 12 A Well, it's not in here, correct.
 13 Q Right. Okay.
 14 MR. HOOD: Okay. That's all I have.
 15 MR. COMER: I need to ask one question I
 16 failed to.
 17 REEXAMINATION
 18 BY MR. COMER:
 19 Q Earlier in the deposition Mr. Hood asked you if
 20 this was the only time you have ever been sued. Do
 21 you remember that?
 22 A Yes.
 23 Q Okay. Now, you did give a deposition in a case
 24 brought by Ms. Watson, is that right?
 25 A Yes. I've definitely --

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1 Q Do you know -- as you sit here today, can you
 2 recall if you were actually named as a party in
 3 that?
 4 A Yes, I was.
 5 Q Okay. So having said that --
 6 A Uh-huh.
 7 Q -- can -- can you -- do -- do you need to --
 8 A This --
 9 Q -- revise --
 10 A -- is not --
 11 Q -- your --
 12 A -- my --
 13 Q -- answer?
 14 A -- first time being --
 15 Q Okay.
 16 A -- sued. Yes.
 17 Q You have been named twice?
 18 A Yes.
 19 Q Okay. And one of them was by Leesa Watson?
 20 A Correct.
 21 Q Okay. One second. I think that's all I've got.
 22 MR. HOOD: (To Mr. Comer) I don't have
 23 anything if you don't have anything. She's --
 24 she's like, "Please."
 25 MR. COMER: Uh-huh.

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1 Q And -- and just one other follow-up. He asked you
 2 some questions about what was memorialized in
 3 Exhibit 13 and the fact that there's nothing
 4 written there about bushes and lighting. Ms.
 5 Wright had raised bush -- had -- had raised at
 6 least breezeway lighting in prior work orders,
 7 correct?
 8 A Correct. Yes.
 9 Q And that is something that was memorialized when
 10 she raised it, right?
 11 A Yes.
 12 MR. COMER: That's all I've got.
 13 MR. HOOD: And that -- that opens up 20 more
 14 minutes of questioning. I'm just kidding you.
 15 MR. COMER: Yeah.
 16 FURTHER DEPOSITION SAITH NOT.
 17 Signing waived.
 18 (Whereupon, there being no further
 19 questions, the deposition was
 20 concluded at 3:40 p.m.)
 21 (*This transcript may contain quoted material.
 22 Such material is reproduced as read or quoted
 23 by the speaker.)
 24 (**Certificate accompanies sealed original
 25 only.)

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) CASE NO.: 2011-CP-40-4068

DENISE WRIGHT ,)
Plaintiff,) DEPOSITION OF
vs.) KEVIN ISENHOWARD
PRG REAL ESTATE MANAGEMENT,) AUGUST 14, 2012
INC., FRANKLIN PINERIDGE)
ASSOCIATES, KAREN CAMPBELL,)
INDIVIDUALLY AND IN HER)
REPRESENTATIVE CAPACITY AS AN)
AGENT OF PRG REAL ESTATE)
MANAGEMENT,)
Defendants.)

Deposition on oral examination of Kevin Isenhoward, reported by Frances C. Moyd, Court Reporter and Notary Public in and for the State of South Carolina; pursuant to Rule 30 of the South Carolina Rules of Civil Procedure; said deposition was taken at the Law Offices of Collins & Lacy, P.A., 1330 Lady Street, Columbia, South Carolina, on Tuesday, the 14th day of August, 2012, scheduled for 11:00 o'clock a.m. and commencing at the hour of 11:39 o'clock a.m.

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EXHIBIT INDEX	
EXHIBITS:	IDENTIFIED AT PAGE:
Exhibit 1 - XEROXED COPIES OF NOTICE	6
OF DEPOSITION AND VARIOUS RELATED DOCUMENTS.	
Exhibit 2 - XEROXED COPY OF RICHLAND COUNTY	8, 29
SHERIFF'S DEPARTMENT INVESTIGATIVE FILE.	

Court Reporter's note:	
-- indicates interruption; incomplete phrases; unfinished sentences	

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This deposition is taken in accordance with the South Carolina Rules of Civil Procedure.

WHEREUPON:

Kevin Isenhoward, being duly sworn and cautioned to speak the truth, the whole truth and nothing but the truth, testifies as follows:

DIRECT EXAMINATION

BY MR. COMER:

Q. Good morning, Mr. Isenhoward. We met before we went on the record. My name is Brian Comer, and I represent PRG Real Estate Management, Franklin Pineridge Associates, and Karen Campbell in a lawsuit that has been brought by Denise Wright, who is represented by Randy Hood, to my left. I'm here to take your deposition today. My understand is that you've never given a deposition before; is that right?

A. No.

Q. Let me just tell you a little bit about what's gonna happen. I'm gonna be asking you a lot of questions today about your background and about this incident that you've investigated. All of this is being taken down by a court reporter to my right. This will become very conversational, but it's important that you allow me to get my questions out so that she can get a clear record, and by the same

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1 token, I'll try not to interrupt you as you're
 2 answering. If you ever don't understand a question
 3 that I'm posing to you, please ask me to clarify.
 4 I'll be happy to rephrase it, but if you don't ask me
 5 to rephrase it or clarify it, I'm going to assume you
 6 understood it; is that okay?

7 A. Yes, it is.

8 Q. I hopefully will get you out of here fairly
 9 quickly, but this is not an endurance contest. If you
 10 need a break at any time, just let me know and we can
 11 take a break to take care of anything. You have any
 12 questions for me before we get going?

13 A. No.

14 Q. Did you do anything to prepare for your
 15 deposition today?

16 A. I looked at the file, to be honest with you,
 17 glanced over it, tried to recall as much as I could,
 18 it's been some time since this happened, but I think a
 19 lot of the main points I can recall. I spent some
 20 time working on it -- considerable time, but other
 21 than that, about 30 minutes of review before this.

22 Q. Did you ever meet with Mr. Hood and talk
 23 about the case?

24 A. No.

25 Q. Did you ever meet with a gentleman by the

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1 DIRECT EXAMINATION RESUMING
 2 BY MR. COMER:

3 Q. I'm gonna hand you what's been marked
 4 Deposition Exhibit No. 1, which is a letter from my
 5 office to you attaching a Subpoena and a Notice of
 6 Deposition, have you seen these documents before?

7 A. I have.

8 Q. And did you review them?

9 A. I did.

10 Q. And my understanding is that you have
 11 brought some documents here today, is that right?

12 A. That is correct.

13 Q. And that's in response to the Subpoena
 14 asking for the full and investigative file relating to
 15 case number 0809186819, is that correct?

16 A. That is correct.

17 Q. And is that the file that is sitting in
 18 front of you?

19 A. That is.

20 Q. And we talked a little bit off the record
 21 about whether that file has been requested before, do
 22 you remember that?

23 A. Yes.

24 Q. My understanding is that it has been
 25 requested?

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1 name of Wayne Ridgeway and talk about the case?

2 A. No, I don't believe so. I believe -- I'm
 3 sorry, I believe he came to the sheriff's office and
 4 met with our attorney asking for a copy of the file,
 5 if I recall correctly.

6 Q. Okay. Now, --

7 A. No -- no -- personal interaction, really, at
 8 all.

9 Q. And to your recollection, would that have
 10 been Mr. Ridgeway?

11 A. I believe so -- I believe so -- I mean, I
 12 meet with a lot of attorneys, but --

13 Q. Sure.

14 A. I believe so.

15 Q. Do you know when that was?

16 A. I would say three or four months ago, maybe.
 17 (Knock at the door.)

18 MR. COMER: Come in. Let's go off the
 19 record one minute.

20 (Resuming.)

21 MR. COMER: Let's mark this as Deposition
 22 exhibit number one.

23 (MARKED FOR IDENTIFICATION AS DEPOSITION
 24 EXHIBIT NO. 1 - XEROXED COPIES OF NOTICE OF
 25 DEPOSITION AND VARIOUS RELATED DOCUMENTS.)

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1 A. Yes.

2 Q. And that what was provided in response to
 3 that request was this copy that I'm showing you at
 4 this time?

5 A. That is correct.

6 MR. COMER: Let's mark this.
 7 (MARKED FOR IDENTIFICATION AS DEPOSITION
 8 EXHIBIT NO. 2 - XEROXED COPY OF RICHLAND
 9 COUNTY SHERIFF'S DEPARTMENT INVESTIGATIVE
 10 FILE.)

11 DIRECT EXAMINATION RESUMING
 12 BY MR. COMER:

13 Q. And I'm handing you what's been marked as
 14 Deposition Exhibit No. 2, do you see that?

15 A. I do.

16 Q. And does that appear to be a true and
 17 accurate copy of the investigative file that you
 18 brought with you here today?

19 A. It is.

20 Q. Is this the full investigative file? Would
 21 there be anything else related to this investigation
 22 that's not included?

23 A. There could be or there will be some
 24 laboratory reports from different -- I know we ran a
 25 considerable amount of DNA, finger prints, that sort

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1 of thing. I don't have that in my file 'cause I don't
2 personally do that. I just get reports back and it's
3 generally on my computer, but those can be produced as
4 well.

5 Q. And would that be on your computer back at
6 your office?

7 A. It would be. Basically, our -- we sub
8 divide our investigative unit. We have CSI and then
9 invest. detectives. They have a separate file that
10 they work that's their case, basically. It's the
11 forensic part -- portion. I have access to it. I
12 wouldn't say that I have the whole file 'cause they
13 have bench notes that they use and I don't know their
14 procedures about releasing that stuff, but it could be
15 requested.

16 Q. Let me just get a little bit of background
17 information on you before we get into it. Can you
18 give me your full name and current address.

19 A. My name is Kevin Scott Isenhoward, spelled I-
20 s-e-n-h-o-w-a-r-d. I live at 1291 Surrey, S-u-r-r-e-y
21 Lane in Elgin, South Carolina.

22 Q. How long have you lived at that address?

23 A. Ten years.

24 Q. Tell me a little bit about your educational
25 background, Mr. Isenhoward.

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1 A. I was born and raised in Richland County --
2 Northeast Richland County. I went to Spring Valley
3 High School. I graduated from Spring Valley High
4 School in 1993. I went to several colleges,
5 Spartanburg Methodist College, University of South
6 Carolina, and I have a degree in Criminal Justice -- a
7 bachelor's degree. I went to work at the sheriff's
8 department.

9 Q. What year did you get your bachelor's degree
10 -- I'm sorry.

11 A. 2000 -- and I finished in 2011.

12 Q. And did you complete your higher education
13 kind of in phases?

14 A. Yeah.

15 Q. It sounded like you did a little bit at
16 Spartanburg Methodist, --

17 A. When I came to work at the sheriff's
18 department, I had a associate's degree and then I
19 continued education as I worked.

20 Q. And was your associate's degree from
21 Spartanburg Methodist?

22 A. It was started at Spartanburg Methodist, but
23 no, it's from Midlands Tech., here.

24 Q. And what year did you get your associate's
25 degree?

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1 A. I believe that would have been in 2000.

2 Q. Was that in criminal justice?

3 A. Yes.

4 Q. If you graduated from high school in 1993,
5 tell me a little bit about your work history because
6 it sounded like you were working some --

7 A. Yeah.

8 Q. -- throughout this whole time.

9 A. I -- well, after high school, I went to
10 college, and I left the University of South Carolina.
11 My father was paying for my school and was injured and
12 couldn't pay for it so I went to work to support
13 myself and I applied for a job at the sheriff's
14 department. I actually applied for a dispatcher job
15 'cause I wasn't real sure about being a police officer
16 or anything and --

17 Q. What year was that?

18 A. That was in 1998. I applied for a
19 dispatcher job, went through a board interview and
20 they actually interviewed me for a deputy position,
21 and I didn't think that I would be good for it, but
22 they did so they -- it paid more so I went and became
23 a deputy. I worked as a patrolman for two years and I
24 was recruited to be a detective. I've been in
25 investigations ever since. I've worked as a burglary

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1 investigator, narcotics investigator, a majority of my
2 time has been as a major crimes investigator,
3 specifically armed robbery, homicide, and death
4 investigations. Been doing that for about 9 years
5 now.

6 Q. So my understand is that from approximately
7 '98 to 2000, give or take, you did kind of the patrol
8 aspect --

9 A. Yes.

10 Q. -- of working for MCSO and from
11 approximately 2000 to 2001, you would have moved into
12 the detective and investigation side, is that a fair
13 characterization?

14 A. That's correct.

15 Q. And what was your title in approximately
16 September of 2008, was it detective?

17 A. Sergeant -- we classify our -- all agencies
18 are different. We call our detectives investigators,
19 that's their official title. So I'm sergeant
20 investigator, that would be my title.

21 Q. And in terms of your job duties at that
22 time, what generally did you do?

23 A. My job was to supervise a group of
24 detectives that worked in major crimes and because of
25 the number of cases, I also carry a caseload and I

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1 also work cases. Frequently, I would take a --
 2 possibly take over a case for an investigator if I
 3 didn't feel like it was progressing like I thought it
 4 should, or they were sick, or on vacation, or
 5 something like that.
 6 Q. Let me ask you just a few names. I
 7 understand you investigated Denise Toni Wright's
 8 incident, is that right?
 9 A. That's correct.
 10 Q. And so you know her name from your
 11 investigation of the incident, is that a fair
 12 characterization?
 13 A. Yes.
 14 Q. Outside of your investigation, have you ever
 15 known her or have any kind of personal connection to
 16 her?
 17 A. I -- I do not know her personally. I know
 18 that her -- I believe it's her son in law, is an
 19 employee at the sheriff's department, I know him. He
 20 works in our -- gosh, I don't know what you'd call his
 21 unit, but he basically installs radios and blue lights
 22 and that stuff, but he's a sworn police officer.
 23 Q. Do you know his name?
 24 A. Don Curtis, I believe.
 25 Q. How long have you known him?

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1 A. Just -- I think he probably has been at the
 2 sheriff's department six or seven years, maybe a
 3 little longer. I've known him since that time.
 4 Q. Do you know, I guess it would be his wife,
 5 Tasha Curtis, who, I believe, is Ms. Wright's
 6 daughter. Do you know her personally?
 7 A. I don't know her. I met her once, I
 8 believe, when she brought the children in for DNA and
 9 fingerprinting.
 10 Q. But no kind of personal relationship or
 11 anything like that?
 12 A. No.
 13 Q. How about someone named Amber Stockton, do
 14 you know that name?
 15 A. I'm not familiar with that name.
 16 Q. And I'm just gonna ask you a few others that
 17 have been identified as knowing something about this
 18 case; bear with me. How about someone named Freddy
 19 Wain, W-a-i-n?
 20 A. No.
 21 Q. How about a Susan Boyd?
 22 A. No.
 23 Q. How about a Debbie Adams?
 24 A. No.
 25 Q. How about a counselor named, I think it's

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1 Linda Saepfel, E-a-e-p-f-e-l?
 2 A. No.
 3 Q. Naliess Davis?
 4 A. No.
 5 Q. And how about Tamir Patel?
 6 A. No.
 7 Q. I'm gonna ask you a few questions now. I'm
 8 not trying to get into your business, but if we have
 9 to select a jury in this case, I do just want to get a
 10 better idea of who you may know in Richland County.
 11 Do you have family that live in Richland County?
 12 A. I do, I have a mother.
 13 Q. What's her name?
 14 A. Barbara Isenhoward.
 15 Q. How about any brothers, sisters, that kind
 16 of thing?
 17 A. I have a brother, he lives in Virginia. His
 18 name is Joseph Danny Isenhoward, Jr.
 19 Q. And he doesn't live in Richland County?
 20 A. No.
 21 Q. You don't live in Richland County, do you?
 22 A. No. I live in Kershaw.
 23 Q. Any other family in Richland County?
 24 A. I have an aunt and an uncle, last name
 25 Altman, A-l-t-m-a-n, Nancy and William, and cousins

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1 and I wouldn't begin to tell you how many, but.
 2 Q. Sure, let's see if we can kind of short
 3 circuit that. In terms of any last names that may be
 4 related to you, have you already stated those or are
 5 there any other last names that may be related to you?
 6 A. It would be Chavis, on my father's side,
 7 Hagens, my mother's side, and the Altman, those are
 8 relatives.
 9 Q. Do you go to church in Richland County?
 10 A. No.
 11 Q. Any part of any civic organizations or clubs
 12 that meet in Richland County?
 13 A. Yeah, I'm a Mason at Pontiac lodge, that's
 14 in Richland County.
 15 Q. Let me ask you, moving now into, you know,
 16 what we're here to talk about today. My understanding
 17 is that you investigated Ms. Wright's incident, is
 18 that right?
 19 A. That's correct.
 20 Q. Were you, what I would call, and this is
 21 layman's terms, but would you be considered the lead
 22 investigator on that file?
 23 A. Yes, I believe -- and I was just reviewing
 24 it, and I noticed I actually initially assigned it to
 25 an investigator, last name McRay, and I'm not sure of

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1 the reasons why, but I did take it over and I did the
2 entire investigation.

3 Q. Is there anybody that would know more about
4 the investigation about this incident than you would?

5 A. No.

6 Q. Tell me a little bit about what you do, and
7 if this is a bad question just tell me, it's broad
8 because I don't do your job, but what do you do to
9 investigate an incident? Do you have any particular
10 methodology or anything?

11 A. It depends on what type of crime it is,
12 obviously. The majority of my time is spend
13 investigating robberies, and there are all kind of
14 different robberies. They're robberies that are drug
15 related, and that's a large portion of the robberies
16 to be honest with you that we get reported. There are
17 purse snatchings or muggings, some people would call
18 that. Armed robberies that are typically -- just to
19 describe it, a guy walks into a convenience store with
20 a gun and demands the money out of the register.
21 There's also, from time to time, kidnaping type
22 robberies like this where someone is taken from a
23 place and moved for various reasons. Sometimes it can
24 be if the victim's raped, other times it can be to --
25 which we see in this case and we see lots, is taking

Page 19

1 So my understand then, is it sounds like part of your
2 investigation would involve interviewing the victim
3 and maybe any witnesses, is that a fair
4 characterization?

5 A. It is.

6 Q. And then would you have ever visited the
7 site where it happened?

8 A. Yes.

9 Q. And is that something that you did in this
10 case?

11 A. I did.

12 Q. And it sounds like we -- you know, we talked
13 earlier about how there may be some DNA testing, that
14 kind of thing. Is that part of the investigation?

15 A. Yes.

16 Q. And it sounds like there's also some
17 comparison that goes on between this incident and
18 maybe other incident reports in the area, is that
19 right?

20 A. That's correct.

21 Q. Anything in terms of big buckets that I'm
22 leaving out of you know, portions of your
23 investigation?

24 A. No. I don't believe so.

25 Q. And we're gonna get into the specifics here.

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1 'em to an ATM to get money. So to answer your
2 question, I start with the victim -- I talk with the
3 victim, I would then canvass the area for any kind of
4 leads, if there were witnesses, video cameras. The
5 most important thing for us is to get an idea what the
6 suspect looks like and -- and his behavior during the
7 robbery. So if we can get video footage from
8 something or a vehicle, that's a good start,
9 witnesses, a description. In more in depth cases,
10 like this one, we've done forensic sketches. Try and
11 get a basic picture of the suspect himself. And we
12 also look at other crimes in the area, if there are
13 similar offenses that may have a lead or as one case
14 may not, another case may have a lead, and by
15 examining the behavior of the suspect, things that he
16 does during the crime, we may pair those cases up and
17 say these are likely committed by the same suspect so
18 this case has leads, we're gonna work this case. So
19 the other case, in and of itself, may look like it
20 doesn't have much going on with it, we're focusing on
21 the other -- other case that's linked to it to try to
22 solve them both, basically. That answer your
23 question, I don't know if you --

24 Q. It does, I'm sorry. I didn't want to
25 interrupt in case you were collecting your thoughts.

Page 20

1 Let me ask you in this case, you spoke with Ms.
2 Wright; is that correct?

3 A. I did, several times.

4 Q. And I was gonna just ask how many times you
5 spoke with her and the setting, that kind of thing.

6 A. I know that, obviously, the initial contact
7 was made. I think I visited her and I couldn't tell
8 you the number of times, it was more than a typical
9 case. I met with her personally, partially because
10 she was very upset about it and I did the best I could
11 to try and help her through and provide her with
12 resources that we have available at the sheriff's
13 department. She was having a particularly difficult
14 time with it so I did the best I could. And I'd meet
15 with her and talk with her and like I said, I was in
16 the area a lot so I'd stop in --

17 Q. Okay.

18 A. It was more than most cases, but not
19 terribly unusual that way.

20 Q. When you say she was having a difficult
21 time, can you put a finer point on that, I mean, did
22 she just seem anxious or overly upset, or?

23 A. People are different, obviously. Some
24 victims of crimes seem to shrug it off and not have a
25 problem, others have a lot of problems. I recall, and

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1 this has been some time, but I recall her telling me
2 that she was having some difficulty sleeping and I
3 believe some nightmares and some, I guess, anxious
4 moments when she was out and about in public and she
5 was seeing people that she thought might have done it
6 or she was suspicious. I believe I recall her telling
7 me all those kind of things.

8 Q. Other than Ms. Wright as you sit here today,
9 can you recall anybody else you spoke with about this
10 case in terms of witnesses or anything like that?

11 A. There were several. Obviously I spoke with
12 other detectives, and I spoke with some suspects along
13 the way. I remember one, in particular, person was
14 Miss Leesa Watson, I believe she actually saw the
15 robbery taking place. She didn't know it at the time.
16 And --

17 Q. And just for the record, you're shuffling
18 through your -- your file now, will it be easier to
19 just to kind of go through that in terms of putting
20 names on some of the people you've spoken with?

21 A. That's correct. Anybody that I've had any,
22 kind of, in dept conversation directly about the case,
23 I probably would have taken a written statement from
24 them and --

25 Q. Okay.

Page 23

1 look for discarded items. Like, lots of times, if a
2 credit card or pocket book was stolen from someone,
3 they'll discard it nearby and that would have
4 potential forensic aspects for the case. So I did all
5 of that, I walked all of that.

6 Q. You mentioned the tunnel, and just for
7 purposes of the record, is that on Wellspring's
8 property or is that part of the trail?

9 A. No. That's part of the trail.

10 Q. Did you go out there in the day time or at
11 night?

12 A. I went out there and walked the property in
13 the day time, and every -- periodically, we work night
14 shifts as detectives and I would go out to see if
15 there was any activity, I think I did that once or
16 twice while I was working nights to see if any
17 suspicious characters were hanging around.

18 Q. And you mentioned the tunnel that's not on
19 Wellspring's property. From your site visits, did you
20 ever notice anything overly unusual or that sticks out
21 in your mind?

22 A. At the apartment complex?

23 Q. Yes, sir.

24 A. I recall I wasn't terribly happy with the
25 design of the apartment complex. I believe I

Page 22

1 A. -- if -- if the information was pertinent to
2 the case.

3 Q. And we'll go through your file in a minute.
4 Right now, I'm just trying to get a general idea.
5 Tell me about any site visits. What would you do when
6 you go to -- in this case, did you go to Wellspring's,
7 to the site of the incident?

8 A. I did. One of the things we do is we try
9 and get an idea of what the place looks like, how
10 it's set up, and to be honest with you, are there
11 suspects in the immediate area that were lurking.
12 They may have an apartment in the area when we're
13 dealing with an apartment complexes. So I go out and
14 I walk the complex and try and speak with management,
15 other neighbors -- sometimes they can steer you to an
16 apartment that -- look, these people are up to no good
17 in apartment 202 or whatever. So I did that, and I
18 actually walked the perimeter of the property. There
19 is, sort of, an unusual place for Columbia nearby.
20 It's a walkway, I believe it leads to Harbison Trail,
21 and around a pond. We'd had some other incidents in
22 that area around the pond, I recall, and there's a
23 particularly creepy kind of tunnel that goes under the
24 road there where some vagrants hang out. So I walked
25 that to see if there was anything there, and also I

Page 24

1 discussed that with the -- Ms. Wright at one point in
2 time. There were some overgrown hedges. We encourage
3 homeowners and property managers to, sort of, trim
4 back hedges, keep them from covering doorways and
5 windows and walkways. And I recall that her
6 apartment, to access it, there was some, sort of, long
7 walkway that kind of -- it was just dark -- it was too
8 dark for my comfort, but --

9 Q. Uh-huh.

10 A. -- other than that, it was a typical
11 apartment complex.

12 Q. How about the lighting in the parking lot
13 itself, did you form any impressions about that?

14 A. I don't recall specifically. I can say that
15 I know she had made some complaints to me when I spoke
16 with Ms. Wright.

17 Q. Okay.

18 A. She -- you know, she said it's always dark
19 out there.

20 Q. And that was after the incident, is that
21 right?

22 A. Yes. Yes.

23 Q. You mentioned speaking with management, do
24 you recall who you spoke with at Wellspring's?

25 A. I was looking at my notes and I have a card

Page 25

1 for a property manager, Karen Campbell.
 2 Q. Uh-huh.
 3 A. I believe I spoke with her, and I believe
 4 there were some other women in the office and I -- I
 5 can't tell you their names at this point, but we did
 6 speak with them and they were aware of what was going
 7 on and they were cooperating with us, trying to help
 8 us out.
 9 Q. So they were cooperative in your
 10 investigation?
 11 A. In my opinion, yes.
 12 Q. Did you ever task Wellepring, in other
 13 words, my understanding is that this property comes
 14 within the jurisdiction of the Richland County
 15 Sheriff's Department, is that right?
 16 A. That's correct.
 17 Q. So you would be responsible for any
 18 investigation of any incident that happens on that
 19 property, is that right?
 20 A. Not necessarily.
 21 Q. Okay.
 22 A. Just to kind of give you an idea, we divide
 23 up our crimes. When I -- like I told you before, I
 24 work in the major crimes unit. So if there was a
 25 house burglary, I would not be assigned that case.

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1 Car theft, all those sorts of things go to different
 2 units within the sheriff's department, and even within
 3 my robbery unit, there are three detectives that work
 4 with me so there's four of us. So anyone of the four
 5 of us could get a case in that apartment complex.
 6 Q. And I asked a bad question, I apologize.
 7 When I said you, I meant Richland County Sheriff's
 8 Department.
 9 A. Oh, I'm sorry -- yes -- yes.
 10 Q. So they would be responsible for any
 11 investigation of any incident on the property, is that
 12 right?
 13 A. Typically, there are certain wild cards that
 14 may fall in there, but for the most part, yes.
 15 Q. Terrorist activity or something like that,
 16 okay. And I guess what I'm getting at is, is there
 17 anything you ever expect of the apartment complex in
 18 terms of doing any investigation or anything you
 19 expect them to take on or is that your responsibility?
 20 A. No. It's my responsibility to handle the
 21 investigation. If I find something in the apartment
 22 complex that I think is -- needs to be addressed by
 23 property management, I'll mention it to 'em. Of
 24 course, I don't have any control over what they do --
 25 do or don't do. We do offer at the sheriff's

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1 department a number of services to include an
 2 assessment of the property and advice to our community
 3 action team. So I would tell them about that option
 4 if there was a problem.
 5 Q. And just so I can be sure we're clear, I
 6 mean, if you came to a site before anybody else at
 7 RCSD had a chance to get to the site, and somebody
 8 from the apartment complex said we're already
 9 processing the scene, is that the type of thing they
 10 could get in trouble for or is that appropriate?
 11 A. That -- no. That's interfering with law
 12 enforcement and is a criminal act.
 13 Q. And so you don't expect them to take on that
 14 aspect of an investigation?
 15 A. Absolutely not. There are certain
 16 properties that may have private security, that's a
 17 whole different aspect.
 18 Q. We're gonna get into your file in a minute,
 19 but just to get kind of the 20,000 level full view,
 20 from your investigation, did you form any opinions
 21 about any suspects or come to a conclusion about what
 22 happened to Ms. Wright and who did it?
 23 A. There were lots of opinions formed. I
 24 looked at a number of people, some harder than others,
 25 but ultimately, nothing rose to the point where

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1 probable cause was established and a arrest was made?
 2 Q. And so -- yeah, no arrests were ever made,
 3 I'm sorry. Okay. Let's go through your file. Take a
 4 look at what was marked as Exhibit 2. And I think we
 5 established, but for the record, is this a true and
 6 accurate copy of the file that you brought with you
 7 today?
 8 A. Yes.
 9 Q. Is this the type of thing that you keep in
 10 the normal course of business, in other words, as you
 11 investigate a matter, you keep an investigation file,
 12 is that right?
 13 A. That's correct.
 14 Q. Do you do that for every case that you're
 15 on?
 16 A. Yes.
 17 Q. And this is the file for this case?
 18 A. Yes.
 19 MR. HOOD: Do you want to mark his as the
 20 original No. 2?
 21 MR. CORNER: We can do that, yeah. And this
 22 is what we talked about before we went on the record,
 23 but the original No. 2 is -- and Randy, chime in if
 24 I'm not doing this correctly, --
 25 MR. HOOD: Sure.

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1 MR. COMER: But do you want to put an actual
2 label on his physical copy that he takes with him?
3 MR. HOOD: Do you mind if we just put just
4 about a -- it's this big, just to put a two, that says
5 Plaintiff's Exhibit No. 2?
6 THE WITNESS: I don't -- no. That's fine
7 with me.
8 MR. COMER: We'll put it --
9 MR. HOOD: Just on the front.
10 THE WITNESS: You just wanna put it on the
11 folder or you wanna put it in here?
12 MR. HOOD: Just on the folder. Just on the
13 folder. Don't want to disrupt anything. We
14 appreciate you doing that.
15 (PREVIOUSLY MARKED FOR IDENTIFICATION AS
16 DEPOSITION EXHIBIT NO. 2 - ORIGINAL
17 RICHLAND COUNTY SHERIFF'S DEPARTMENT
18 INVESTIGATIVE FILE.)
19 MR. HOOD: Thank you.
20 DIRECT EXAMINATION RESUMING
21 BY MR. COMER:
22 Q. And actually, the one I want to go through
23 'cause it may be easier since this has some page
24 numbers at the top, is the copy of what's been marked
25 as Exhibit No. 2, is that alright?

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1 Q. Do you know which suspect that would have
2 been?
3 A. I believe it was Gene Smith, if that's
4 correct.
5 Q. Next page, are those your hand written
6 notes?
7 A. Yes.
8 Q. And what's -- it says B-A-B, Babin?
9 A. Babin, that's a detective at the time with
10 the Columbia Police Department.
11 Q. And it indicates, is that a description of
12 the individuals?
13 A. It's a -- most likely a -- an incident
14 investigated by the Columbia Police Department that I
15 thought could possibly be related and that's -- looks
16 like a description of suspects and a --
17 Q. I got you. And there further down, it says
18 104 Kinder Road, Brawick Gene Smith's house. Does
19 that ring a bell as to where one of the suspects may
20 have lived?
21 A. Yes.
22 Q. Next page, and at this point I'm gonna be
23 referring to some page numbers up here. It'll say
24 Plaintiff's Supplement number 1, that's a Bate's
25 number and I'll just say, you know, page 1 or page 2.

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1 A. That's fine.
2 Q. I'm gonna apologize in advance if this is a
3 little bit tedious. I'm gonna be asking you maybe to
4 decipher some hand written notes and that kind of
5 thing. I'm gonna try and go as fast as I can, okay?
6 A. Sure.
7 Q. First page of what you're looking at there
8 --
9 A. Uh-huh.
10 Q. -- are some notes, are those your notes?
11 A. They are.
12 Q. Do you recall, it says 104 Kinder from my
13 review of the file, is that right?
14 A. That's correct.
15 Q. What significance is that?
16 A. I -- I can tell you I know that it's a
17 description of a property and it's typical that if I'm
18 -- have a suspect living somewhere, I'll write down a
19 description of the property and that looks like
20 vehicle tag numbers that may have been parked there in
21 hopes that at some point, possibly a search warrant.
22 Q. Next page, are those your notes as well,
23 Irmo Urgent Care?
24 A. Yes, I believe one of the suspects mothers
25 worked there.

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1 A. Okay.
2 Q. Who is William Slicer? This is an email to
3 you from a William Slicer.
4 A. That is a uniformed supervisor at the time
5 who was responsible for that particular area of the
6 county that the apartment Wellsprings is located.
7 Q. And he indicates that a suspect that looks
8 like a composite sketch is named Jeffery Curry-
9 Prescott, Jr. Do you recall investigating Mr. Curry-
10 Prescott?
11 A. I recall the name, I couldn't tell you
12 exactly how much I focused on him, at this point in
13 time, but I do recall the name.
14 Q. The next page, which I believe now we're on
15 2, that's just copies a couple of business cards,
16 Karen Campbell and Toni Wright. Are those people you
17 would have spoken with, -- is that why you
18 A. Yes.
19 Q. Is that why you had their cards in your
20 file?
21 A. Yes.
22 Q. Let's flip to the next page, I'm gonna
23 unclip mine and make it a little bit easier. But
24 Plaintiff's Supplement 3, there's a name at the top
25 with a fax number, Diane Blower, do you know who that

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1 is?

2 A. One moment please. With my additional

3 notes, I believe that was Ms. Wright requested a copy

4 of the report sent to her employer, and I don't recall

5 the exact reason why. I believe that was somebody

6 within BBSF for -- I can't remember the reasons, maybe

7 counseling or some time off, I can't remember.

8 Q. Next, page 4, are these your hand written

9 notes?

10 A. That is not my hand writing.

11 Q. Any idea who's that is?

12 A. I don't know -- I can't tell you.

13 Q. Flip a couple pages to page 6, and does this

14 appear to be a copy of an incident report from Ms.

15 Wright's incident?

16 A. It does.

17 Q. And we talked to Mr. Gabr about this

18 document a few minutes ago. Now, if at all, do you

19 rely on this document as part of your investigation?

20 A. The initial incident report for us as

21 detectives, basically, establishes the incident

22 location, time, and provides us with contact numbers.

23 The information in the narrative portion sometimes is

24 helpful, sometimes is kind of vague so we go out and

25 do a majority of it our self to be honest with you.

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1 Q. I wanted to ask you down in the narrative,

2 and I assume you've reviewed this before, is that

3 right?

4 A. Yes.

5 Q. It says the complainant/victim -- and I'm

6 about three lines into the narrative, saw two black

7 males sitting on the walking ramp in front of the 2200

8 building. Did you ever talk with Ms. Wright about,

9 you know, kind of the progression of how this incident

10 happened?

11 A. I did.

12 Q. And did she ever indicate that these

13 individuals were concealed or that she saw them or

14 anything like that?

15 A. I believe that the ramp that led to her

16 apartment, she indicated that they were camped out on

17 the ramp, sort of concealed. I don't recall, at the

18 time -- or at this time, whether or not they were

19 behind some bushes. I know that I took note of some

20 bushes there for some reason, but they were on the --

21 the ramp.

22 Q. When you say that you took note of some

23 bushes, were the bushes obstructing her walkway or

24 anything like that?

25 A. They weren't obstructing it as far as foot

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1 travel, but they did obstruct some view.

2 Q. But in terms of accessing the apartment,

3 nothing that would cause any, sort of -- when I say

4 physical injury, I mean tripping over a branch or

5 anything like that?

6 A. No. I wouldn't say that.

7 Q. Flip a couple pages to Plaintiff's

8 Supplemental eight, this is a robbery questionnaire.

9 Is this your handwriting?

10 A. That is not, that is most likely either the

11 reporting officer who responded or an assisting

12 officer. Those are typically filled out when the

13 officers respond.

14 Q. And we --

15 A. It says, M. Gabr.

16 Q. And we talked to Mr. Gabr before your

17 deposition about -- he mentioned that he would have

18 filled out a robbery questionnaire. Is this more than

19 likely what he was talking about?

20 A. This is.

21 Q. Next page, Plaintiff's 9, is that your

22 handwriting?

23 A. Yes.

24 Q. Who are those names? Are those people you

25 would have spoken with or potential suspects?

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1 A. Those are those people were arrested for

2 some robberies in the area.

3 Q. Okay.

4 A. They -- I believe this was a late addition

5 to the file. Basically, they were names of people

6 that could have been involved. They were extremely

7 active in that particular area doing robberies and

8 shootings, and ultimately, I believe a murder, but --

9 Q. Okay.

10 A. So we did interview one name in particular I

11 -- we interviewed her about a lot of things, Angela

12 Thomas, and I believe this case as well.

13 Q. There are some scratched out notes at the

14 bottom, parking lot -- Lexington day, have you any

15 idea what that is, it's been marked out?

16 A. It is my handwriting, but I don't -- I

17 couldn't tell you what that is.

18 Q. The next document, Plaintiff's Supplemental

19 10, that's a incident report for 711 Skyland Drive,

20 was this just one of the reports that you pulled in

21 the area?

22 A. Yes, and one of the things we look at --

23 victim, basic description is similar, and it was in a

24 similar area.

25 Q. I want to ask you now, the statement on

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1 Plaintiff's Supplemental 13, is this the statement of
2 Lessa Watson that I think we talked about earlier?

3 A. Yes.

4 Q. And did you personally interview her or was
5 it over the telephone or what?

6 A. No. I interviewed her in person.

7 Q. And does this document memorialize what she
8 told you about what she witnessed?

9 A. Yes.

10 Q. And is that your signature down at the
11 bottom left?

12 A. It is.

13 Q. I'm not gonna read the entire thing into the
14 record, but I did want to ask you a couple of
15 questions. She says, I walked over to the trash can
16 and I saw two black males and a white female standing
17 near the trash can. (As read.) When you went out to
18 the site, did you see the trash can she's talking
19 about?

20 A. Yes, I believe so.

21 Q. Is there a big dumpster that's, kind of, out
22 in front of that building?

23 A. Yes.

24 Q. Is that away from the ramp that goes up to
25 her door?

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1 A. As I recall, yes.

2 Q. So at least your understanding from talking
3 with Ms. Watson was that when she saw them, they were
4 standing near that trash can, is that right?

5 A. That is correct.

6 Q. Next page, Plaintiff's Supplemental 14, is
7 this a document you would have generated, or?

8 A. Yes.

9 Q. And how do you generate this?

10 A. This was images from an ATM security camera
11 were her card was used during the robbery. They are
12 -- in most situations -- I don't recall specifically
13 this one, but their video, trying to locate the frame
14 with the best view, clip images, and do a number of
15 things -- maybe release it to news media or initially,
16 as in this case, provide it to patrol officers that
17 are gonna be in the area for the majority of their
18 shifts to look for anything like this. Specifically,
19 I believe that suspect vehicle that was following her.

20 Q. And I don't know that we've put it in the
21 record, because I didn't go into as great a detail
22 with you about the incident report, but basically, at
23 the bottom, it indicates that there are two subjects
24 you're on the look out for, one of whom is a black
25 male, 5 feet, 8 inches, 165 to 170 pounds, in late

Page 39

1 teens or early twenties, is that right?

2 A. That's correct.

3 Q. And then the second one is another black
4 male, 5'9 to 5'10, 170 to 175 pounds, about 25; is
5 that right?

6 A. Yes.

7 Q. Plaintiff's Supplemental page 15, is that
8 your handwriting?

9 A. It is.

10 Q. And up at the top, that would be the case
11 number; is that right?

12 A. That is.

13 Q. In the margins down the left, can you just
14 tell me what that says -- left side here?

15 (Indicating.)

16 A. Yeah, it's a copy. Let me -- some of it's
17 cut off by the copy, let me look. I believe it's some
18 comment made, dump her in the river --

19 Q. Okay.

20 A. Maybe a conversation on a cell phone the guy
21 was having or something.

22 Q. And I see that, and that's the note to the
23 right of that.

24 A. Uh-huh.

25 Q. And then, would this have notes you were

Page 40

1 taking while talking with her or would this have been
2 from the incident report or what is it?

3 A. That would have been notes from a
4 conversation with the victim.

5 Q. And you wouldn't recall the date that this
6 conversation was, would you?

7 A. I don't recall specifically. It would have
8 been -- let's see, probably on the 20th, if that was a
9 weekday. It probably would have been that next day
10 after the report was made.

11 Q. Okay.

12 A. But it was within a day or so of that.

13 Q. I think I can read what's at the top beside
14 the circled one and two. Can you just read into the
15 record what's at the bottom so I can make sure I can
16 get through your handwriting?

17 A. Sure.

18 Q. I know I might take some chicken-scratch
19 sometimes, too, so I just wanted to get it in the
20 record.

21 A. Below the one and two, descriptions of the
22 suspects, it was -- it says, on the cell phone in the
23 parking lot. Right Harrison across the interstate
24 BB&T Harrison, back down Harrison to Broad River,
25 turned right, turned first right, turned around, Broad

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1 to Erbison, pulled into Lowe's, came back out, took a
2 right back to interstate, west to Saturn Boulevard,
3 left, went to Piney Grove, left, to Broad River Road,
4 right, to Bonnie Forest, went to Broad River, right
5 Bush River, left into BB&T, left Bush River across I-
6 26, turned around in a gas station, back to Broad
7 River, into Hardees parking lot to Bush River, took
8 right to Burning Tree Road frontage road turn right
9 into Crossroads. (As read.)

10 Q. And if you wouldn't mind, just that last
11 bullet there, as well -- threatened to rape, is that
12 right?

13 A. Yes, threatened to rape, put his hands on
14 her butt, stuck her hands -- stuck his hands down her
15 pants, suspect in the front seat.

16 Q. Turn to Plaintiff's 17, it looks like this
17 is some additional notes. It appears this would have
18 been a note from September 19, 2008 around 3:55, does
19 this appear to be notes from your conversation with
20 Ms. Watson?

21 A. It is.

22 Q. And -- and that would have been memorialized
23 in the statement that she provided, is that right?

24 A. That is correct, and this is a list of
25 apartments I went to in canvassing the neighborhood or

Page 43

1 A. The State Law Enforcement Division employees
2 their forensic sketch artist. Typically, what we do
3 is make contact with them, and arrange a meeting with
4 the witness or victim, they would typically meet with
5 them at the sheriff's office and build a sketch based
6 on the witness or the victim's accounts. Basically,
7 they meet with one of two forensic sketch artist
8 there.

9 Q. And this, I think, is signed Mike Lynch,
10 2008. Do you know him?

11 A. Yeah, I met him, yes.

12 Q. Is he still with NCSD?

13 A. He's a SLED agent, but I don't think he's
14 there anymore.

15 Q. SLED agent, okay. Off the record.

16 (Assuming.)

17 RESUMING DIRECT EXAMINATION

18 BY MR. CONER:

19 Q. Plaintiff's Supplement 25, this is a picture
20 of a Michael Boyd, was he ever a suspect that you can
21 recall?

22 A. I don't recall, specifically, his --

23 Q. I'm gonna skip forward a little bit. I
24 wanted to ask you about Plaintiff's Supplemental 38.
25 This is a Consent to Search for a Gene Smith and was

Page 42

1 the apartment complex, people I may have spoken with
2 --

3 Q. And that was gonna be my next question. It
4 looked kind of like a list of people you may have
5 talked to.

6 A. Yeah.

7 Q. If you would have had a conversation with
8 them, is that something you would have written notes
9 about or would it have really just depended on if they
10 had anything to add?

11 A. If they had something I thought was helpful
12 to the case, I may take a statement from them, but I
13 just -- nevertheless, I would document anybody I came
14 into contact with in notes just -- just in case
15 something came up.

16 Q. Skip to Plaintiff's 19, this is a picture of
17 a gentleman named Quamel Joseph Jenkins. Was he ever
18 a suspect in this case?

19 A. I remember his name coming up, and I believe
20 we looked at him.

21 Q. Skip forward to Plaintiff's Supplemental 23
22 and 24. Okay. Are these the composite sketches of
23 the suspects?

24 A. They are.

25 Q. How are these done?

Page 44

1 Mr. Smith ever a suspect in the case?

2 A. Yes.

3 Q. Did you, in fact, do a search of his
4 property?

5 A. That was a cell phone. Yes, we attempted a
6 forensic download of his cell phone. It would be text
7 messaging, completed and received phone calls.

8 Q. Flip to Plaintiff's Supplemental 40, this
9 appears to be another statement by Ms. Watson. Is
10 that your signature down at the bottom left?

11 A. It is, it's the same -- it's just misfiled.
12 It's the second page of the original statement.

13 Q. Oh, okay. So this would go with the one
14 that we looked at earlier, which I believe was
15 Plaintiff Supplemental 13?

16 A. Correct.

17 Q. I see, so that would be page two, so that
18 clears that up. And this is her description of what
19 she saw.

20 A. Correct.

21 Q. Would she have provided any of this
22 information to the sketch artist?

23 A. No.

24 Q. That comes straight from the complainant or
25 victim?

Page 45

1 A. Yes.

2 Q. Skip forward -- Plaintiff's Supplemental 44,
3 this appears to be a photo line up of some potential
4 suspects; is that right?

5 A. Yes.

6 Q. And is that your handwriting down at the
7 bottom or is that Ms. Watson's?

8 A. That's Ms. Watson's.

9 Q. And then did you sign it as the notary?

10 A. Yes.

11 Q. And then is photo number two who she
12 identified as someone she saw?

13 A. Yes, I believe so.

14 Q. Do you have a recollection of that
15 individual's name from your investigation, is that
16 Gene Smith?

17 A. Yes.

18 Q. And if we look at Plaintiff's Supplemental
19 48, that appears to be some kind of data entry
20 concerning Mr. Smith, is that right?

21 A. I believe it's school information -- contact
22 information.

23 Q. From your investigation, did he have any
24 sort of prior record or other involvement in other
25 crimes?

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1 basically.

2 Q. Did she think that it may have been somebody
3 from the other case that she had witnessed or
4 something to that effect in the narrative?

5 A. Yes.

6 Q. Let me take a look at Plaintiff's
7 Supplemental 67. This is a Crime Stopper's report.
8 Did you have any involvement in this document?

9 A. Can you clarify, did I have any --

10 Q. Yeah, and I'm sorry, that was a bad
11 question. I'm just trying to determine -- this
12 indicates two suspects with names --

13 A. Yeah.

14 Q. And so I'm just trying to kind of determine
15 how this document is arrived at, if it's, you know,
16 kind of the end result of the investigation, that kind
17 of thing.

18 A. The document is generated by a group called
19 Crime Stoppers. Basically, it was operated
20 differently at this point in time, it was administered
21 by the Richland County Sheriff's Department, however,
22 all of the tips, we'll call 'em, are anonymous,
23 there's no possibility for me going with any follow up
24 questions to anyone, and it is what it is. It's now
25 handled, I believe, statewide by the South Carolina

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1 A. Yes.

2 Q. What kinds of crimes was he involved with?

3 A. I believe burglary and robbery -- majority,
4 if I recall correctly, were in Lexington County.

5 Q. Ever find that he was using a hand gun
6 during those incidents?

7 A. I believe so.

8 Q. At the bottom of Plaintiff's 48, are those
9 your notes?

10 A. Yes.

11 Q. And does that say Brawick -- I think that's
12 where he was to supposed to possibly live; is that
13 right?

14 A. Correct.

15 Q. Bear with me, I'm trying to just short
16 circuit this a little bit. I'm looking at Plaintiff's
17 Supplemental 61, this is an incident report from 500
18 Barbison, Apartment 1313, involving Leesa Watson. Do
19 you have a recollection of this report or did you talk
20 to Ms. Watson about this?

21 A. I did.

22 Q. And what was the nature of this incident?

23 A. I believe she reported that someone was
24 banging on her door sometime after the initial robbery
25 there. And she felt like it was threatening to her,

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1 Law Enforcement Division.

2 Q. I guess my question is were these the two
3 primary suspects, Gene Smith and Quamel Jenkins, is
4 this case?

5 A. I would say yes.

6 Q. And just for clarification, Mr. Smith is the
7 gentleman who is on Plaintiff's 48, that we already
8 looked at, which is this page -- (indicating) that's
9 Mr. Smith?

10 A. Correct.

11 Q. And then also for clarification, I think Mr.
12 Jenkins is Plaintiff's 19, which I believe is
13 (indicating) this gentleman?

14 A. Correct.

15 Q. Is that right, okay. So those are pictures
16 of the two primary suspects in this case?

17 A. Yes.

18 Q. Let me ask you on Plaintiff's 73, this is a
19 Kinalcrest Drive incident. Does this have relevance
20 to Ms. Wright's incident other than being in the area
21 and possibly involving the same suspects or anything
22 like that?

23 A. It was in the apartment complex she
24 ultimately dropped them off in, I believe.

25 Q. Oh, I understand. Okay. Skip forward,

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1 starting at Plaintiff's 102, and going, really to, I
 2 believe, 120. These are some 300 Harbison incident
 3 reports that are a part of the file. Were these just
 4 pulled because they were kind of within the same time
 5 period and at the same place as Ms. Wright's incident?
 6 A. That -- that's correct.
 7 Q. Ever find there to be any sort of relation
 8 between any of these incidents and Ms. Wright's
 9 incident?
 10 A. Not to my knowledge.
 11 Q. And same thing, Plaintiff's 121, that's Two
 12 Notch Road, but I guess what I'm trying to get at is
 13 these incident reports that are a part of your file
 14 are just things you pulled to see any patterns or
 15 something like that, is that right?
 16 A. That's correct.
 17 Q. Starting on Plaintiff's 127, it appears that
 18 there is some consent to search for DNA evidence for
 19 both Donald Curtis and Hayden Curtis. Why would you
 20 get a consent to search for DNA evidence from them?
 21 A. I believe that we obtained a DNA profile of
 22 a male suspect out of her -- I can't recall right now
 23 specifically where the profile was taken from, but
 24 something in related -- in relationship to processing
 25 her vehicle --

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1 where, you know, he demanded money and someone was
 2 punched in the face; is that right?
 3 A. Yes.
 4 Q. Is this still an active file, in other
 5 words, is there still any investigation being done on
 6 it?
 7 A. Any -- any case that's unsolved, any major
 8 offense remains active on the books, let's say --
 9 Q. Sure.
 10 A. And I hold it, especially ones that I took
 11 some considerable time with. I'll keep them because
 12 in today's world, tomorrow I may get a match on DNA so
 13 I would have to explore it, but on a day to day basis,
 14 nothing's being done on the case.
 15 Q. We talked to Mr. Gahr earlier about -- it
 16 sounded like something called a safety audit of
 17 apartment complexes, that kind of thing, are you
 18 familiar with that?
 19 A. I'm familiar that we offer it, I don't
 20 handle that myself.
 21 Q. So you don't have any personal knowledge of
 22 whether that's ever been done with Wellspring?
 23 A. No.
 24 Q. Are you familiar with that area of town
 25 where Wellspring is?

Page 50

1 Q. Okay.
 2 A. -- and therefore, a DNA profile doesn't have
 3 a name on it, these are people who had access to her
 4 car.
 5 Q. Right. So in other words, you want to know
 6 that if you take a sample you're not just picking up a
 7 sample of, you know, her son in law?
 8 A. Her grandson.
 9 Q. So that's why you would get theirs --
 10 A. Right.
 11 Q. -- so you can eliminate them, okay. Looking
 12 at Plaintiff's Supplement 153, it appears that this is
 13 an arrest warrant for Mr. Smith; is that right?
 14 A. Hang on a second, 153?
 15 Q. Yes, I'm sorry, I'm skipping around. I'm
 16 trying to kind of move through this as quickly as I
 17 can.
 18 A. It is.
 19 Q. And it appears he was arrested prior to this
 20 incident on April 28, 2008; is that right?
 21 A. That's correct.
 22 Q. And do you know if he was prosecuted for
 23 this?
 24 A. I'm not aware.
 25 Q. And this was another robbery with a handgun

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1 A. A little bit.
 2 Q. And I was just gonna ask if you have any
 3 frame of reference whether it would be considered an
 4 average crime area, lower crime area, higher crime
 5 area, that kind of thing?
 6 A. I could give you, based upon the crimes that
 7 I see, it's not a particularly dangerous area. We had
 8 some activity in 2008, but since then it's fairly
 9 calm.
 10 Q. From your site visits to Wellspring, I know
 11 you mentioned that there were some bushes that weren't
 12 to your liking, but did you ever form any impressions
 13 about the safety about the complex, generally?
 14 A. It was a -- it was a typical apartment
 15 complex and again, as a -- as a law enforcement
 16 officer, the design -- the layout, I wasn't too
 17 terribly happy with as far as for security reasons,
 18 but it was -- I mean, it was a fairly nice apartment
 19 complex -- I mean, I don't know how to answer it
 20 anymore than that.
 21 Q. Sure, I understand. And you don't have any
 22 experience in your employment or educational
 23 background with property management or the laws that
 24 may govern how property is kept up, that kind of
 25 thing; is that right?

Page 53

1 A. No.

2 Q. And from the standpoint of the Richland

3 County Sheriff's Department, when you visited the

4 site, did you notice any violations of any legal

5 requirements that would have been imposed upon

6 Wellspring Apartments in any form. Did you observe

7 any violations of the law or anything like that?

8 A. No.

9 Q. And how the property was kept up?

10 A. No.

11 Q. Bear with me one moment. And at the end of

12 the day, my understanding is that it sounds like you

13 have an idea of two gentlemen that may have done this,

14 but no arrests were ever made because based on the

15 investigation, there was a question as to whether

16 there would be enough to prosecute, is that a fair

17 characterization?

18 A. Yes.

19 MR. COMER: I don't think I have anymore at

20 this time. I appreciate it.

21 MR. HOOD: Mine's not gonna be real long,

22 just because I can't read as well, I can't read my own

23 writing half the time.

24 CROSS-EXAMINATION

25 BY MR. HOOD:

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1 Q. If you would look at Plaintiff's Supp. 17,

2 I'm just gonna get you to read that because I, for the

3 life of me, can't. It says 9-19-00 at 15:55, Lisa

4 Watson, but then from that point on, came from --

5 A. Came from her apartment, walked down with --

6 looks like two -- I don't know.

7 MR. COMER: Taser.

8 A. Yeah -- yeah, that is. Two black male

9 suspects with white female standing next to the bush,

10 one suspect face to face with her, thought it was a

11 domestic, one male was watching, one started walking

12 toward her, saw one who came towards her -- basically,

13 she's saying she saw him mostly. Below that, 703

14 Lindsay Ott Brown, I believe. James Ott, 412

15 Hempstead, looks like a date of birth 11-22-73. And

16 below that, 2208 Carrie Renee Atwood, Christen

17 Swatford. Below that, 701 Bobbie Davis Gray, date of

18 birth 1-5-64, a phone number 404-9000, leaving next

19 week -- I believe that person was moving out of the

20 apartment complex. 702 Carrie Bost, Richard Whittman,

21 and a phone number 381-7707 (as read); those are

22 residents.

23 Q. When you took that, that was 9-19 at about

24 15:55, right?

25 A. Correct.

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1 Q. Now, on Plaintiff's Supplemental 13, she

2 gave -- it's typed up about nine minutes after that,

3 it's typed up and it says, I walked over to the trash

4 can and I looked over and saw two black males and a

5 white female standing near the trash can, but on

6 Supplemental 17, it says standing next to bush. It

7 may not be inconsistent, it may be a bush close to the

8 trash can.

9 A. Yes.

10 Q. I'm just trying to figure out is that what

11 it was, there was a bush --

12 A. It says next to bush. I think that was my

13 initial encounter with her, most likely, let's see.

14 Yeah, -- my initial encounter with her, then, I

15 believe, we went to the apartment (inaudible) the

16 office, and typed up a written statement from her when

17 I learned that she was an eyewitness to the crime.

18 Q. When you first talked to her, she said that

19 it was two black male suspects with a white female

20 standing next to bush, right?

21 A. Yes.

22 Q. Now, you've been with Richland County since

23 1998, right?

24 A. That's correct.

25 Q. A patrolman from '98 to 2000?

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1 A. Yes.

2 Q. Did investigation from 2000 to now, to the

3 present?

4 A. Correct.

5 Q. When you became an investigator, did you

6 automatically get the shield of sergeant?

7 A. No.

8 Q. Excuse me, the designation of sergeant?

9 A. No.

10 Q. How does that progress, if you could explain

11 that?

12 A. Basically, everyone starts as a deputy,

13 deputy sheriff is the basic title, that's generally a

14 patrolman. You work your way up, it's a promotion to

15 investigator. That's the initial position as a

16 detective -- investigator. And you then become a

17 senior investigator and then sergeant, and there are

18 five or six different ranks as sergeant, staff

19 sergeant, sergeant first class, that sort of thing.

20 So no, you go through an application process and an

21 interview.

22 Q. Are there designations according to the

23 color of your shield? I've heard, you know, he gets

24 his gold shield and all that?

25 A. Yeah, deputies have silver badges and

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1 supervisors and detectives have gold badges.

2 Q. And from 2000 to 2007, you investigated

3 different types of crime, but at one point you did

4 robbery/homicide, major crime, and then progressed to

5 a supervisor of those robbery/homicide, right?

6 A. That's correct.

7 Q. And you got a lot of on the job training and

8 education in investigating crimes, didn't you?

9 A. Yes.

10 Q. Did you ever take any classes at the law

11 enforcement academy?

12 A. A few at the academy. Obviously, you know,

13 your initial certification is nine weeks there -- I

14 think it's longer now, than when I went through.

15 There's some at the academy. A majority of my

16 training is done out of state with different agencies.

17 The sheriff's office will send me out to classes that

18 are offered privately that the sheriff's department

19 pays for. The state doesn't have enough money,

20 basically, to -- to do it at the academy, advanced --

21 much advanced training.

22 Q. Have they ever sent you to Quantico or

23 anything, or?

24 A. No.

25 Q. Now, from the time that you began in 1998

Page 59

1 have seen criminals congregate to, isn't it?

2 A. Yes.

3 Q. And would you agree that criminals are less

4 likely to be in areas that are well lit or where

5 people can see real well?

6 A. Yes.

7 Q. This lady was 60 years old, right?

8 A. Correct.

9 Q. And the two gentleman, the way they've been

10 described is they were two young African-Americans

11 between 15 and 25 or between somewhere in the time

12 frame or age range, right?

13 A. Correct.

14 Q. And I believe Leesa Watson said they were

15 dressed and they looked like they were dirty.

16 A. I believe so.

17 Q. Now, in your experience and education as

18 someone that's been doing this for nine years or ten

19 years at that point, what usually happens when a 60

20 year old white woman pulls up to her house if she were

21 to actually see two, young, dirty, black, African-

22 American young males sitting on the stoop of her home?

23 MR. COMER: Objection. Form.

24 A. It's difficult to speak in generalities. I

25 would say a lot of women that were her age, that would

Page 58

1 until 2008, with all of your education and experience,

2 did you have a pretty good feel about the behavior of

3 criminal suspects at that time?

4 A. Fairly good, I would say.

5 Q. And you've said, like, I believe in response

6 to the questions, that you weren't entirely happy with

7 the design of this complex 'cause there was some

8 overgrown shrubbery and where she was at, the lighting

9 was not very good, right?

10 MR. COMER: Objection. Form.

11 A. I -- I -- I don't recall the lighting so

12 much, as it went down, kind of a ramp that was longer

13 than necessary in my opinion, and there was some --

14 some bushes and some shrubbery that were a little too

15 high.

16 Q. This was at night, correct?

17 A. The crime?

18 Q. Yes.

19 A. Yes.

20 Q. And when you have crime at night, and you

21 have shrubbery that is too high or could be considered

22 to be too high, it can conceal people, right?

23 A. That's correct.

24 Q. And when you have that type of an

25 environment, that you and your education experience

Page 60

1 bother them, it would make 'em afraid.

2 Q. Less likely to get out of the car?

3 A. Yes.

4 Q. You said that -- I believe you testified I

5 regard to Mr. Comer that after the incident that Ms.

6 Wright told you that she had concern about lights --

7 after the incident.

8 A. Yes.

9 Q. Now, the problem she was talking about --

10 the lights, even though she told you about it after

11 the incident, she was talking about the lighting

12 before the incident ever occurred, right?

13 A. Yeah, I believe that was the context, that

14 it had bothered her, that it was -- yeah.

15 MR. HOOD: That's all I have.

16 MR. COMER: A couple follow-ups.

17 REDIRECT EXAMINATION

18 BY MR. COMER:

19 Q. Mr. Hood asked you some questions about what

20 was in your hand written notes with what Ms. Watson

21 said about a bush, and then what was in the typed up

22 statement where I think she talked about a trash can,

23 do you remember those questions?

24 A. Yes.

25 Q. Do you know, as you sit here today, whether

Page 61

1 there are some bushes right by that trash can?
 2 A. No. And I can say this -- I recall more as
 3 we talk about it. I believe that the path traveled,
 4 when she described, basically, running into these
 5 suspects --
 6 Q. Uh-huh.
 7 A. I believe she had to go past -- down the
 8 sidewalk there -- past these guys where the bushes
 9 were to get to the trash can. So basically, I think
 10 it's all correct.
 11 Q. And you're talking about Ms. Watson there?
 12 A. Yes.
 13 Q. You're not talking about Ms. Wright's path
 14 to her apartment?
 15 A. No.
 16 Q. Let me take a closer look at that one
 17 minute. Take a look at page 17 real quick which is
 18 the hand written notes, it says a little bit past the
 19 first bullet, two black male suspects with white
 20 female standing next to bush. At least right there,
 21 it seems like you were recording where Ms. Wright was
 22 standing, is that right?
 23 A. I believe so, I believe it's basically, she
 24 encountered them initially at the bush --
 25 Q. Okay.

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1 A. And then the trash can is a little further
 2 back and --
 3 Q. Okay.
 4 A. -- she was walking with her dog, I believe,
 5 and had, kind of, an uncomfortable encounter with
 6 these guys or something.
 7 Q. And all I'm asking is, there's the area
 8 where the ramp goes up --
 9 A. Right.
 10 Q. And then there is a trash can, which is
 11 really directly out front from that, do you remember
 12 the area?
 13 A. I don't recall specifically, but I recall
 14 that there was a trash can nearby, that's all I can
 15 tell you at this point.
 16 Q. And if there are bushes right next to the
 17 trash can, is it possible that those are the bushes
 18 that could be referenced in your notes?
 19 A. It could be.
 20 Q. You can't say, as you sit here today, that
 21 this would not have happened if some bushes had been
 22 trimmed or some lighting had been better?
 23 A. No. I can't say that.
 24 MR. COMER: That's all the questions I've
 25 got.

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1 MR. HOOD: One question.
 2 RE-CROSS-EXAMINATION
 3 BY MR. HOOD:
 4 Q. You can't say it wouldn't have happened if
 5 the bushes had been trimmed and the lighting was
 6 better, can you?
 7 A. That's correct.
 8 MR. COMER: I think we're done.
 9 Further deponent sayeth not.
 10 (There being no further questions, the deposition
 11 concluded at 12:55 p.m.)
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1 CERTIFICATE OF REPORTER
 2 I, FRANCES C. MOYD, COURT REPORTER AND NOTARY PUBLIC
 3 IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY
 4 CERTIFY THAT I REPORTED THE DEPOSITION OF KEVIN ISENHOWARD,
 5 ON TUESDAY, THE 14TH DAY OF AUGUST, 2012, THAT THE WITNESS
 6 WAS FIRST DULY SWORN BY ME AND THAT THE FOREGOING 63 PAGES
 7 CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY STENOGRAPHIC
 8 REPORT OF THE SAID DEPOSITION.
 9 I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
 10 COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE
 11 PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY
 12 INTERESTED IN SAID CAUSE.
 13 I FURTHER CERTIFY THAT THE ORIGINAL OF SAID TRANSCRIPT
 14 WAS THEREAFTER SEALED BY ME AND DELIVERED TO BRIAN A.
 15 COMER, ESQUIRE, COLLINS & LACY, P.A. 1330 LADY STREET,
 16 COLUMBIA, SOUTH CAROLINA, WHO WILL RETAIN THIS SEALED
 17 ORIGINAL TRANSCRIPT AND SHALL BE RESPONSIBLE FOR FILING
 18 SAME WITH THE COURT PRIOR TO TRIAL OR ANY HEARING WHICH
 19 MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE. IN WITNESS
 20 WHEREOF, I HAVE SET MY HAND AND SEAL THIS 26TH DAY OF
 21 AUGUST, 2012.
 22
 23 FRANCES C. MOYD, COURT REPORTER
 24 MY COMMISSION EXPIRES FEBRUARY 9, 2022
 25

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VERIFICATION OF DEPONENT

I, KEVIN ISENHOWER, HAVE READ THE FOREGOING DEPOSITION CONSISTING OF 63 PAGES WHICH WAS REPORTED BY FRANCES C. MOYD, VERBATIM COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, ON TUESDAY, AUGUST 14, 2012.

I FIND THE TRANSCRIPT OF THIS DEPOSITION TO BE A TRUE AND ACCURATE TRANSCRIPT ACCORDING TO MY TESTIMONY ON THAT DATE, WITH THE EXCEPTION OF ____ CHANGE(S) AND/OR CORRECTION(S) LISTED ON THE ATTACHED ERRATA PAGE WHICH WAS COMPLETED BY ME.

KEVIN ISENHOWER

DATE: _____, 20____.

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ERRATA PAGE

PAGE #/LINE # CHANGE AND/OR CORRECTION (AND EXPLANATION)

THE ABOVE CHANGES WERE NOTED BY ME ON THIS ERRATA PAGE BEFORE SIGNING THE ATTACHED VERIFICATION OF DEPONENT. I HAVE RETAINED A COPY OF THIS ERRATA PAGE FOR MY RECORDS, AND THE COURT REPORTER IS TO ATTACH THIS PAGE AND MY VERIFICATION TO THE ORIGINAL TRANSCRIPT.

DATED:

NAME

0001

1	State of South Carolina	)	Court of Common Pleas
		)	
2	County of Richland	)	No.: 2011-CP-40-4068
3			
4	Denise Wright,	)	
		)	
5	Plaintiff,	)	
		)	Deposition of
6	vs.	)	DENISE WRIGHT
		)	
7	PRG Real Estate	)	
	Management, Inc.,	)	
8	Franklin Pineridge	)	
	Associates, Karen	)	
9	Campbell, Individually	)	
	and in her Representative	)	
10	Capacity as an Agent of	)	
	PRG Real Estate	)	
11	Management,	)	
		)	April 16, 2012
12	Defendants.	)	
		)	

13

14 Deposition on oral examination of DENISE
15 WRIGHT, reported by Brad H. Thomas, Certified
16 Realtime Reporter and Notary Public in and for the
17 State of South Carolina; said deposition taken
18 pursuant to agreement and in accordance with the
19 South Carolina Rules of Civil Procedure, at the
20 Offices of Burriss & Ridgeway, 907 Elmwood Avenue,
21 Columbia, South Carolina, on April 16, 2012, at the
22 hour of 10:05 a.m.

23

24 GARBER REPORTING SERVICE, INC.
POST OFFICE BOX 12348
COLUMBIA, SOUTH CAROLINA 29211
25 (803) 256-4500

0002

1

2 Appearances
3 Representing the Plaintiff:
4 E. WAYNE RIDGEWAY, JR., ESQUIRE
Burriss & Ridgeway
5 907 Elmwood Avenue
Columbia, South Carolina 29201

6

7

Representing the Defendants:

8

BRIAN A. COMER, ESQUIRE

9

Collins & Lacy, P.C.

1330 Lady Street, Suite 601

10

Columbia, South Carolina 29211

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0004

1 This deposition is taken in
2 accordance with the South Carolina Rules of Civil
3 Procedure.

4 It is agreed and stipulated by the
5 Deponent and respective counsel that the reading and
6 signing of the deposition by the Deponent is
7 expressly waived.

8 WHEREUPON:

9 DENISE WRIGHT, being duly sworn and
10 cautioned to speak the truth, the whole truth and
11 nothing but the truth, testifies as follows:

12 EXAMINATION

13 BY MR. COMER:

14 Q. Good morning, Ms. Wright. We met before
15 we went on the record. My name is Brian Comer and I
16 represent the defendants in this lawsuit that you
17 have brought. For the record can you put your full
18 name on the record, please?

19 A. Denise Antoninette Wright.

20 Q. Ms. Wright, have you ever given a
21 deposition before?

22 A. No.

23 Q. And Antoninette, is that spelled
24 A-n-t-o-n-e-t-t-e?

25 A. T-o-i-n.

0005

1 Q. Go ahead and spell it for the record for
2 our court reporter.

3 A. A-n-t-o-n-i-n-e-t-t-e (sic).

4 Q. Well, if you've never given a deposition
5 before, let me go ahead and just kind of tell you a
6 couple of things that our rules of civil procedure
7 require.

8 I'm going to be asking you a lot of
9 different questions today. You will find that this
10 will become very conversational. A lot of times you
11 may anticipate the question that I'm about to ask
12 before I get it out of my mouth. I would ask that

13 you not interrupt me, if possible, so that our court
14 reporter, who is sitting to my left, can get a full
15 transcript of all the questions and answers. By the
16 same token, I will try not to interrupt you. If I
17 ever do, please let me know and I'm happy to let you
18 finish your answer. Is that okay?

19 A. That's fine.

20 Q. I'm going to be asking you a lot of
21 questions. If at any time you don't understand one
22 of my questions, please let me know. I'll be happy
23 to rephrase it or to clarify it, but if you don't
24 ask me to do that, I'm going to assume that you
25 understood my question. Is that okay?

0006

1 A. That's fine.

2 Q. I don't anticipate we're going to be here
3 all day, but we may be here a couple of hours. This
4 certainly is not an endurance contest. So if you
5 ever need a break, just let me know. The only thing
6 I would ask is that you answer the question that is
7 on the record at the time. Is that okay?

8 A. Okay.

9 Q. Are you taking any medications this
10 morning?

11 A. Blood pressure.

12 Q. Okay. Does that affect your memory or
13 your ability to answer my questions today at all?

14 A. No, it does not.

15 Q. As I ask this question I don't want to
16 know about your conversations with your counsel,
17 with Mr. Ridgeway, but what, if anything, did you do
18 to prepare for your deposition today?

19 A. Nothing.

20 Q. Okay. Did you meet with Mr. Ridgeway?

21 A. I have met with him, yes.

22 Q. Did you meet with him this morning?

23 A. Yes.

24 Q. Okay. How long did you meet with him?

25 MR. RIDGEWAY: Objection. I don't

0007

1 think she's got to answer any questions about
2 meetings with counsel and times and that sort of
3 thing. So I instruct her not to answer that.

4 BY MR. COMER:

5 Q. Did you review any documents?

6 A. No.

7 Q. Tell me what your current address is.
8 A. 100 Walden Heights Drive, Apartment 712,
9 Irmo, South Carolina.
10 Q. How long have you lived at the Walden
11 address?
12 A. Moved in there in 2009.
13 Q. Have you ever gone by any other names than
14 Denise Antoninette Wright?
15 A. Just Toni.
16 Q. Toni?
17 A. Yeah.
18 Q. But no other aliases?
19 A. No.
20 Q. Haven't changed your name?
21 A. No.
22 Q. Or anything like that?
23 A. No.
24 Q. And is your Social Security number
25 [REDACTED]?
0008
1 A. Right.
2 Q. And I've got your date of birth as [REDACTED]
3 [REDACTED]; is that correct?
4 A. No.
5 Q. I'm sorry. Tell me what your --
6 A. [REDACTED]
7 Q. All right. Do you drive?
8 A. Yes.
9 Q. Do you have any restrictions on your
10 license?
11 A. Contact lens.
12 Q. What blood pressure medication are you
13 taking right now?
14 A. Verapamil.
15 Q. Let me ask you a little bit about your
16 family. Are you married?
17 A. No.
18 Q. Have you ever been married?
19 A. Yes.
20 Q. Who was your ex-husband?
21 A. John Thomas Wright.
22 Q. Does he live in Columbia?
23 A. Yes, he does.
24 Q. Do you know his current address?
25 A. No.
0009

1 Q. How about any children?
2 A. One.
3 Q. And what is her name?
4 A. It's Tasha Nicole Curtis.
5 Q. And where does she live in Columbia?
6 A. Irmo.
7 Q. Any other relatives in Richland County?
8 A. My sister lives in Richland County. I
9 think it's Richland County. West Columbia.
10 Q. And I'm not trying to ask you overly
11 personal questions, but if we have a trial of this
12 case and we have to strike a jury, then I'm going to
13 want to know obviously if anyone you're related to
14 is on that jury.
15 A. I have several nieces and nephews that
16 live here.
17 Q. Okay. Can you tell me who they are?
18 A. Tiffanie Scoggins, Chase Scoggins, Amber
19 Waln, Aubrie Waln, Cole Scoggins. That's all for
20 Columbia.
21 Q. And how do you spell Waln?
22 A. W-a-l-n.
23 Q. Waln. Any other names besides, I guess,
24 Wright, Scoggins, and Waln? We've discussed those.
25 Any other last names?
0010
1 A. Curtis. That would be my daughter and
2 son-in-law and his sister. His sister lives here in
3 Columbia.
4 Q. Okay. Do you -- have you ever been
5 arrested?
6 A. No.
7 Q. So obviously haven't been convicted of a
8 crime?
9 A. No.
10 Q. Prior to your Walden -- is it Walden Road?
11 A. Heights. Walden Heights Drive.
12 Q. Prior to the Walden Heights Drive address
13 is it accurate to state that you lived at Wellspring
14 Apartments; is that right?
15 A. That's correct.
16 Q. Okay. Approximate what dates did you live
17 at Wellspring Apartments?
18 A. From 2003 to 2008.
19 Q. How about prior to Wellspring Apartments
20 do you recall where you lived?

21 A. 137 Wychwood, W-y-c-h-w-o-o-d. That's in
22 Irmo.

23 Q. Is that a house or an apartment complex?

24 A. House. House.

25 Q. And did you own that house?

0011

1 A. I did.

2 Q. And who lived there with you?

3 A. My ex-husband.

4 Q. And I assume your daughter. Would that be
5 right?

6 A. Yes.

7 Q. And that was up until 2003?

8 A. Yes.

9 Q. I assume you and your husband divorced
10 around 2003; is that right?

11 A. No. We divorced in 2007, separated in
12 2002.

13 Q. Okay. How long had you lived at the
14 Wychwood address until you -- until up to the time
15 you moved to Wellspring?

16 A. Oh, Lord, have mercy. I'd say
17 approximately ten years or more.

18 Q. Okay.

19 A. I don't know the exact date we moved in
20 that house.

21 Q. Sure. Have you always lived in South
22 Carolina?

23 A. Yes.

24 Q. Okay. Have you always generally lived in
25 this area, grew up in Richland, that kind of thing?

0012

1 A. Yes.

2 Q. All right. I won't ask you to go back
3 beyond the Wychwood address, but that answers my
4 question.

5 Let me now go through your educational
6 background a little bit. Starting with high school,
7 tell me the high school you attended and the date of
8 graduation, if you graduated.

9 A. Columbia High School, 1966.

10 Q. And did you go to school after graduation
11 from high school?

12 A. University of South Carolina.

13 Q. And what did you study at University of
14 South Carolina?

15 A. Nursing and music.
16 Q. And how long did you attend classes at
17 USC?
18 A. Approximately two years.
19 Q. And did you graduate or take an
20 associate's degree or anything?
21 A. No.
22 Q. Any particular reason?
23 A. Wasn't for me.
24 Q. Any other formal education after taking
25 the classes at USC?
0013
1 A. Through banking. I went to -- graduated
2 from the American Institute of Banking.
3 Q. When did you graduate from the American
4 Institute of Banking?
5 A. It was in the '70s, but I can't remember
6 the year.
7 Q. Tell me a little bit about that. Is it a
8 period of weeks or is it a year?
9 A. It took a year to do. It's online courses
10 and some in-house in the banking.
11 Q. I assume you weren't doing any online
12 courses in the '70s?
13 A. No. I was at home. No, I shouldn't even
14 say that, but correspondence courses.
15 Q. I understand. Kind of the type of thing
16 where you are provided materials?
17 A. Material. You do it, you read it, you
18 fill out the paperwork that you have to do and mail
19 it back in.
20 Q. Okay. Other than the American Institute
21 of Banking, any other continuing education or
22 anything like that?
23 A. No, sir.
24 Q. After you left USC, I assume that would
25 have been around what? 1968, '69?
0014
1 A. Uh-huh.
2 Q. Okay. What did you do next?
3 A. I was in banking.
4 Q. Which bank did you go to work for?
5 A. First Citizens.
6 Q. Was that here in Columbia?
7 A. Columbia at Main Street.
8 Q. What did you do there?

9 A. Teller.
10 Q. How long did you work for First Citizens?
11 A. Approximately six, seven years.
12 Q. Where did you go next?
13 A. Moved to Ridgeland, South Carolina.
14 Worked for a bank there that is no longer in
15 existence. I don't even remember the name of it.
16 Q. Okay.
17 A. I really don't.
18 Q. Any particular reason for the move to
19 Ridgeland?
20 A. Yes. I got married and my husband was
21 transferred there.
22 Q. What did your husband do for a living?
23 A. A highway trooper, South Carolina highway
24 patrol.
25 Q. Is he still with the highway patrol?
0015
1 A. No.
2 Q. When did he retire from the highway
3 patrol?
4 A. I don't know. It was after we divorced.
5 I don't really know.
6 Q. Okay. So it's been sometime in the last
7 four or five years?
8 A. Yes.
9 Q. And did he always work with the highway
10 patrol during your marriage and so forth?
11 A. There was a time he was with the
12 University of South Carolina police too. And that's
13 who he ended up retiring from.
14 Q. Is it accurate to say that he generally
15 worked in some kind of law enforcement type of
16 capacity?
17 A. Yes.
18 Q. Have you ever had any legal training? And
19 by that I mean courses in the law, be it through the
20 banking school or anything like that?
21 A. No.
22 Q. How about any training in security?
23 A. Yes.
24 Q. Okay. Tell me a little bit about that.
25 A. The bank -- just what the bank requires.
0016
1 As bank employees we had quarterly security training
2 in-house.

3 Q. Tell me a little bit about what that would
4 involve. For example, was it trying to detect if
5 someone was suspicious through their actions or
6 what? I don't know. So explain to me what that
7 means.

8 A. We learned how to be suspicious of anyone
9 that walks up to a teller window. We learned how to
10 be secure in coming into the branch in the mornings
11 to protect ourself from early morning robberies and
12 procedures for closing. We learned a little bit
13 about what to do in case of a robbery, how to
14 handle -- how to secure the site and how to handle
15 that kind of thing.

16 Q. Okay.

17 A. And this was done quarterly.

18 Q. Do you remember the first time you ever
19 had to go through that kind of training?

20 A. Oh, Lord, have mercy. No.

21 Q. Would it be safe to say that it was
22 sometime around when you started in the banking
23 industry?

24 A. Yes. Oh, yes.

25 Q. Did you ever have to use that training --
0017

1 well, strike that. Let me ask a different question.
2 Were you ever part of a robbery of a bank? Were you
3 ever there when someone came in and tried to rob a
4 bank?

5 A. No.

6 Q. Any other kind of -- outside of robbery,
7 in connection with your employment were you ever a
8 witness to or part of any other kind of crime
9 involving your place of employment and the banking?

10 A. No.

11 Q. Okay. So you went to Ridgeland and you
12 worked there. What was -- how long did you stay at
13 that bank?

14 A. I think about a year.

15 Q. Okay. What was your -- what bank did you
16 go to next?

17 A. Moved back to Columbia and I started with
18 Lexington State Bank.

19 Q. And in all of these positions were you a
20 teller?

21 A. Teller.

22 Q. And how long were you with Lexington State

23 Bank?

24 A. About four years.

25 Q. Let me see if I can attach a year to this.

0018

1 Would this have been around, I don't know, late

2 '70s, thereabouts?

3 A. Yes, that would be correct.

4 Q. All right. Where did you go next?

5 A. Lexington got bought out by BB&T. So I
6 stayed with BB&T.

7 Q. How long were you with BB&T?

8 A. 20 plus years.

9 Q. And was that your most recent job?

10 A. Yes.

11 Q. And when you quit working which branch
12 were you working out of?

13 A. Harbison.

14 Q. And what did you do at the Harbison
15 branch?

16 A. Teller supervisor.

17 Q. Who was your -- who was your supervisor
18 there?

19 A. At that time Karen Metts.

20 Q. Okay. During the course of any of your
21 prior employment were you ever terminated for cause?

22 A. No.

23 Q. Ever disciplined in any way?

24 A. No.

25 Q. And when did you stop working at BB&T?

0019

1 A. 2009.

2 Q. And why did you stop working?

3 A. After what I went through in September of
4 2008 I just couldn't keep it together. It was very
5 difficult to work there.

6 Q. Okay. What -- can you elaborate on what
7 made it difficult?

8 A. The ATM that the men took me to was right
9 there at my branch. It was hard to work watching
10 that. It was -- I'm very leery of people. It was
11 very hard to wait on my customers. It was hard to
12 keep myself together enough to be a supervisor.

13 Q. Okay.

14 A. So I chose to resign.

15 Q. Were you asked to resign or anything like
16 that?

17 A. No.
 18 Q. Okay. Did you ever -- well, was a
 19 transfer possible to a different branch?
 20 A. We talked about that, yeah.
 21 Q. Who did you speak with about that?
 22 A. Karen Metts is one of them. Diane Brewer,
 23 who was my supervisor above her, really the head
 24 honcho, suggested that to me to see if that would
 25 help, but I'm only comfortable around people that I
 0020 know. For me I was afraid. I was really afraid to
 2 go anywhere else. So I tried -- I toughed it out
 3 for about ten -- I took a leave of absence and then
 4 came back and tried to tough it out, but it didn't
 5 work out.
 6 Q. How long did you take a leave of absence
 7 for?
 8 A. A couple months.
 9 Q. And we're going to get into some of this
 10 later, but did you seek any treatment?
 11 A. Yes. I was under counseling.
 12 Q. Okay. Like I said, we'll get into some of
 13 that a little bit later. I don't want to get ahead
 14 of myself. Were you being treated by any physicians
 15 at the time that you stopped working at BB&T?
 16 A. No.
 17 Q. So no counselors at that time or anything?
 18 A. No.
 19 Q. Were you taking any medications when you
 20 stopped working?
 21 A. No.
 22 Q. Blood pressure?
 23 A. Blood pressure.
 24 Q. Okay. I wanted to make sure I clarified
 25 that. You were taking some blood pressure
 0021 medication?
 2 A. Blood pressure medicine.
 3 Q. How long have you taken blood pressure
 4 medication?
 5 A. Since I was diagnosed for migraines. It's
 6 for migraines. It's not for my blood pressure.
 7 Q. It just so happens it helps that too?
 8 A. Yes. They don't know why, but it works.
 9 Q. Well, good. And do you know approximately
 10 when that would have been?

11 A. Gosh, it's been over ten years I've been
12 on this medication.
13 Q. And it seems to help?
14 A. Oh, yeah.
15 Q. Good. Never been in the military, no
16 military service?
17 A. No.
18 Q. Have you ever been involved in any other
19 lawsuits?
20 A. No.
21 Q. Have you ever -- well, so never brought a
22 lawsuit against anybody else up to this one?
23 A. No.
24 Q. Have you ever filed any sort of Workers'
25 Compensation claim?
0022
1 A. Yes.
2 Q. Okay. Tell me a little bit about that.
3 A. I was working at the BB&T on Lake Murray
4 Boulevard, the one in Irmo. They were remodeling,
5 building a new building while we stayed in the old
6 building. And a gentleman was in the roof kind of
7 like this and dropped his -- whatever these big old
8 tape measure things they wear on their hip fell
9 through the ceiling and hit me in the head. I had
10 stitches and a concussion.
11 Q. When was that?
12 A. I'm awful with dates. It was in the '80s,
13 but I don't -- I don't remember the exact date.
14 Q. Okay. Did you have counsel?
15 A. No.
16 Q. So no legal representation?
17 A. No. No.
18 Q. Did you ever receive any sort of
19 disability rating or anything like that?
20 A. No.
21 Q. Feel like you recovered from that
22 incident?
23 A. Yeah.
24 Q. How about any other disability benefits of
25 any kind?
0023
1 A. No.
2 Q. Are you currently on any sort of Social
3 Security disability?
4 A. Not disability, but Social Security.

5 Q. So you're drawing Social Security now?
6 A. Yeah.
7 Q. And that's for your retirement --
8 A. Right.
9 Q. -- period that you're not working? Who is
10 your present insurance health care carrier?
11 A. Blue Cross/Blue Shield.
12 Q. Have you ever been turned down for any
13 health care coverage?
14 A. No.
15 Q. When did you -- let me shift gears a
16 little bit now, try and help us move through this
17 without me throwing out some left field question to
18 you. So let me ask you a little bit now about this
19 lawsuit. When did you first start thinking about
20 filing a lawsuit in this case?
21 A. I never thought about it.
22 Q. Okay. Other than your counsel, did you
23 talk to anyone about filing a lawsuit?
24 A. No.
25 Q. Again I don't want to know your
0024
1 conversations with Mr. Ridgeway, but how did you
2 come to find your current counsel?
3 A. He found me.
4 Q. Okay.
5 A. Through another case.
6 Q. And do you know what that other case was?
7 A. I know the -- do I know the details about
8 it?
9 Q. Sure.
10 A. Yes.
11 Q. Okay. What was the other case?
12 A. Another woman that was hurt at the
13 Wellspring Apartments.
14 Q. Okay. What was her name?
15 A. I don't know.
16 Q. Not a friend of yours?
17 A. No. I did not know her.
18 Q. Did you ever speak with her?
19 A. No.
20 Q. Have you read your complaint in this
21 matter, your amended complaint?
22 A. No.
23 Q. So I guess it's safe to say you've never
24 been represented by Mr. Ridgeway before; is that

25 right?

0025

1 A. That's correct.

2 Q. Do you keep or maintain any sort of file
3 or anything relating to this matter? For example,
4 we've got our tax file. Any documents at our house
5 that relate to taxes or anything, we drop them in.
6 Do you keep any sort of file relating to this
7 matter?

8 A. No.

9 Q. Have you kept any sort of notes or diary
10 about how it has affected you?

11 A. No.

12 Q. Other than Mr. Ridgeway, have you
13 discussed this matter with anybody?

14 A. My daughter.

15 Q. And that's Ms. -- I apologize.

16 A. Tasha.

17 Q. Tasha?

18 A. Tasha Curtis.

19 Q. It won't be the last time I pause.

20 A. That's okay.

21 Q. Sorry about that. Have you given any
22 interviews about your experience?

23 A. No.

24 Q. You've talked with the police, I take it,
25 right?

0026

1 A. Yes.

2 Q. But outside of talking with the police,
3 have you given any sort of media interviews or
4 anything like that?

5 A. No.

6 MR. COMER: Let me mark this as
7 Exhibit 1.

8 (Exhibit No. 1 was marked for
9 identification.)

10 BY MR. COMER:

11 Q. Ms. Wright, I'm going to hand you what's
12 been marked as Exhibit 1. I just wanted to ask you
13 a few questions about some of the information.
14 These are your responses to interrogatories that
15 were served by me. Take a look at the second page.
16 And it asks for a list of people. Amber Conn
17 Stockton, do you know Ms. Stockton?

18 A. Yes, I do.

19 Q. And she's the person that provided some
20 photographs; is that right?
21 A. That's correct.
22 Q. Did you ask her to take those photographs?
23 A. No.
24 Q. Okay. Do you know how she came to take
25 those photographs?

0027

1 A. We worked together at the bank. And so
2 after she knew what happened to me she just took
3 them.
4 Q. Okay. Is she the person that this other
5 lawsuit, other incident --
6 A. No.
7 Q. Okay. Michelle Pilcher, it says she was a
8 co-worker and is expected to testify regarding how
9 this event affected your life. Is that -- do you
10 just know Ms. Pilcher through your work at the bank?
11 A. She was my branch manager at Harbison.
12 Q. Freddy Waln, who is Freddy Waln?
13 A. That's my sister. Her name is spelled
14 wrong. I don't know if that matters.
15 Q. Okay. And what's the correct spelling
16 again?
17 A. It's F-r-e-d-d-i-e.
18 Q. I gotcha. And Tasha Curtis is your
19 daughter?
20 A. Uh-huh.
21 Q. And just for the record, Ms. Curtis didn't
22 witness any of these events directly, did she?
23 A. No.
24 Q. Cassie Radford, that's who you worked with
25 at the sheriff's department?

0028

1 A. That's correct.
2 Q. When is the last time you spoke to
3 Ms. Radford?
4 A. Oh, gosh. Probably either December of
5 2008 or January of 2009.
6 Q. Okay.
7 A. Somewhere in there.
8 Q. Okay. Flipping the page. Who is Susan
9 Boyd?
10 A. We worked together at the bank and we sing
11 together in a group.
12 Q. What group?

13 A. Heart of Columbia Chorus.
 14 Q. And then Linda Zaepfel, is that who
 15 counseled you after the event?
 16 A. Right.
 17 Q. When is the last time you saw her?
 18 A. It was in 2008, the end of 2008, probably
 19 December was the last time I saw her.
 20 Q. Have you seen any other counselors after
 21 seeing her?
 22 A. No.
 23 Q. Do you feel like you need to see any other
 24 counselors?
 25 A. Sometimes I feel like I do.
 0029
 1 Q. Is there any particular reason you haven't
 2 sought out any others?
 3 A. Can't afford it.
 4 Q. How about Debbie Adams, who is she?
 5 A. She's a friend, goes to my church, and
 6 also sings in the same group as me.
 7 Q. What church do you go to?
 8 A. First Baptist Irmo.
 9 Q. I go to First Baptist downtown. How about
 10 Nellisa Davis, it says she's a former tenant at
 11 Wellspring Apartments, do you know Ms. Davis?
 12 A. No, I do not.
 13 Q. How about Timir Patel, do you know
 14 Mr. Patel?
 15 A. No, I don't.
 16 Q. Are either one of these individuals the
 17 one you were referring to about the other case?
 18 A. No. Not that I know of, no.
 19 Q. You can probably set that to the side for
 20 the time being. We may come back to it. This isn't
 21 a polite question. I apologize in advance.
 22 A. That's okay.
 23 Q. Can you give me your current height and
 24 weight?
 25 A. I'm proud of my weight. 5'5", 179.
 0030
 1 Q. Have you gained or lost any amount of
 2 weight since this incident?
 3 A. Lost.
 4 Q. Was that by choice or --
 5 A. Yeah.
 6 Q. Okay. In other words, have you been

7 dieting?
8 A. Yes.
9 Q. And just for the record, so it's not
10 because of any problems eating or anything related
11 to the incident?
12 A. No.
13 Q. Well, congratulations. If you don't mind
14 me asking, what was your prior weight?
15 A. I started at 235.
16 Q. That's fantastic. Have you ever -- did
17 you have any childhood illnesses or anything of a
18 substantial nature?
19 A. Rheumatic fever as a child. And I was
20 born with a defective kidney that doesn't work. So
21 I only have one kidney. Other than that, that's it.
22 Q. Does that have any current impact on your
23 health that you can tell?
24 A. No.
25 Q. How about any adult illnesses or injuries?
0031
1 A. No. Nothing major.
2 Q. Migraines?
3 A. Migraines.
4 Q. Have you ever been involved in any motor
5 vehicle accidents?
6 A. Yeah. Fender benders.
7 Q. Sure. Anything that affected your
8 personal health?
9 A. No.
10 Q. Who is your current primary care
11 physician?
12 A. Beth Boison, B-o-i-s-o-n.
13 Q. Does she practice here in Richland County?
14 A. Right.
15 Q. Do you know what --
16 A. Lexington Family Practice in Irmo.
17 Q. How about prior to Dr. Boison, do you
18 recall who your primary care physician before her
19 was?
20 A. It was in Ridgeland, South Carolina --
21 Hampton, South Carolina, Count Pulaski.
22 Q. So I think is it safe to say Dr. Boison
23 has been your physician for awhile now?
24 A. A long time.
25 Q. Have you ever been hospitalized for any
0032

1 extended period of time?
 2 A. As a child, yes, but not as an adult, no.
 3 Q. Other than pregnancy, having a child, that
 4 kind of thing?
 5 A. No.
 6 Q. When you were hospitalized as a child
 7 where were you hospitalized?
 8 A. Providence Hospital and Baptist Hospital.
 9 Q. And was that in connection with the
 10 rheumatic fever?
 11 A. Kidney. No. The kidney.
 12 Q. Okay. Any major surgeries?
 13 A. I had an appendix to rupture.
 14 Q. When was that?
 15 A. Oh, Lord, have mercy. Around 1979. I had
 16 a hysterectomy probably '79 or '80. That was in
 17 Savannah, Georgia at the hospital.
 18 Q. Okay.
 19 A. That's it.
 20 Q. Okay. Prior to -- is it Zaepfel? Am I
 21 saying that correctly?
 22 A. Pretty good.
 23 Q. Okay. I'll say Zaepfel. And if I'm
 24 wrong, we'll both be wrong. Prior to Ms. Zaepfel
 25 had you ever received any other mental health
 0033
 1 counseling?
 2 A. I did have another counselor named Wendy,
 3 and I can't remember the last name, but she was with
 4 the Richland County advocate.
 5 Q. And when you say Richland County advocate,
 6 what do you mean?
 7 A. Richland County Sheriff's Department has
 8 an advocate program and they provided counseling for
 9 me with her.
 10 Q. Okay.
 11 A. I don't recall her last name right now. I
 12 know her first name is Wendy.
 13 Q. And was that as part of this incident?
 14 A. Uh-huh.
 15 Q. How about prior to this incident?
 16 A. My divorce after 28 years of marriage.
 17 And I'm not going to be able to tell you that lady's
 18 name either because it didn't last very long.
 19 Q. Okay. Was she here in Richland County?
 20 A. Right here in Richland County, yeah.

21 Q. Do you recall physically where her office
22 was?

23 A. No. It was somewhere right downtown here,
24 but that was so long ago. I went to her right after
25 I separated in 2002.

0034

1 Q. Okay.

2 A. Only went about three visits before I
3 found out something about her that I didn't agree
4 with.

5 Q. Can I ask what you found out?

6 A. She was not a Christian and had never been
7 married. And she was a marriage counselor. Explain
8 that. Something wrong with this picture.

9 Q. So you went a few times and that was it?

10 A. That was it.

11 Q. Any other doctors besides Dr. Boison that
12 you would say you see on a regular basis?

13 A. Eye doctor, Dr. Branch.

14 Q. Okay.

15 A. I saw a heart doctor for awhile,
16 Dr. Avery, who is no longer in the state. I had a
17 heart catheterization done a few -- I forgot. A
18 heart catheterization. That's been since I've been
19 an adult.

20 Q. Okay.

21 A. It was only overnight.

22 Q. Which hospital?

23 A. Providence.

24 Q. Have you ever been diagnosed with
25 depression?

0035

1 A. No.

2 Q. Or any sort of anxiety or post-traumatic
3 stress disorder or anything like that?

4 A. No.

5 Q. Okay. I think I already asked about
6 medications you were taking at the time of this
7 incident. Would you have just been taking your
8 blood pressure medication?

9 A. Blood pressure and something called
10 Elavil.

11 Q. What's Elavil?

12 A. Which I still take that. It's also for
13 migraines.

14 Q. Any non-prescription medication that you

15 take on a regular basis?

16 A. No.

17 Q. Have you ever taken any illegal or illicit
18 drugs?

19 A. No.

20 Q. I'm sorry?

21 A. Can you go back to the drugs?

22 Q. Sure.

23 A. Because I was on a cholesterol medicine,
24 but you're going to ask me what and I don't remember
25 that.

0036

1 Q. That's okay.

2 A. But that's when I was the heaviest and I
3 was taking -- I was taking a stronger dosage of the
4 blood pressure that I'm on now and cholesterol, but
5 I don't -- and I was taking something for arthritis.
6 I don't have any of that anymore.

7 Q. And that would have been around the time
8 of the incident?

9 A. Yeah.

10 Q. Okay. I think that was my original
11 question.

12 A. Yeah.

13 Q. Okay. But the only ones you're taking now
14 are Elavil and the --

15 A. And Verapamil.

16 Q. And no illicit or illegal drug use?

17 A. No.

18 Q. Do you smoke?

19 A. No.

20 Q. How about drink any alcohol?

21 A. No.

22 Q. Do you do any exercise on a regular basis?

23 A. Yes.

24 Q. Tell me a little bit about what you do.

25 A. I walk the treadmill 20 minutes a day and

0037

1 ride a bicycle 20 minutes a day. And I walk the dam
2 three days a week. This is a normal routine.
3 Sometimes it's more, sometimes less.

4 Q. Okay. So treadmill, walk the dam. And
5 what was the other? I'm sorry.

6 A. Ride the bike, stationary bike.

7 Q. And how many days a week generally would
8 you say you do those?

9 A. Six.
10 Q. How long have you been doing that?
11 A. For about a year, year and a half now.
12 Q. Okay. Are you a member of any athletic
13 club or anything?
14 A. No.
15 Q. I've asked you a lot about your medical
16 history. We're going to get to the incident that's
17 the subject of this lawsuit in a minute, but outside
18 of the incident that's the subject of this lawsuit,
19 is there any other sort of traumatic event in your
20 life that -- and when I say that, whatever comes to
21 your mind is what I mean. You know, for me that
22 would be maybe being in a big car wreck or something
23 like that. But is there any other traumatic event
24 that maybe I've left out?
25 A. Nothing, but losing my sister at 49 years
0038
1 old to lung cancer, watching her go through that.
2 That was probably -- rates right up there about the
3 same feelings.
4 Q. Approximately when was that?
5 A. She passed away in 2009.
6 Q. Did you have to seek any counseling for
7 that?
8 A. No.
9 Q. Ever receive any medical treatment of any
10 kind?
11 A. No.
12 Q. Let's shift gears again and start talking
13 a little bit about your move into Wellspring. I
14 think you told me that you lived at -- was it the
15 Wychwood address?
16 A. Wychwood.
17 Q. And did you decide to move to Wellspring
18 as a result of separating and getting your own
19 space?
20 A. Right.
21 Q. Tell me a little bit about why you chose
22 Wellspring.
23 A. Several people from my church had lived
24 there at one time or another and had recommended it.
25 It was right down the street from where I worked.
0039
1 Those were probably the two reasons I went there
2 first.

3 Q. Did you go to any other places before
4 going to Wellspring?
5 A. I went to a couple.
6 Q. What were some of the others?
7 A. Gosh, it's changed names now, but it was
8 Columbiana Place. It was on Columbiana Drive.
9 There's two apartment complexes on that road, but
10 they've both changed names now. So I don't know
11 what they are called. I went there. I looked at a
12 couple patio homes. That was basically about it.
13 Q. Okay. Do you recall the names of the
14 church members who had lived at Wellspring?
15 A. No, I don't. Neither one of them are
16 members there anymore either. So I don't remember
17 the names.
18 Q. And when approximately did you move into
19 Wellspring?
20 A. 2003.
21 Q. Do you remember what part of the year?
22 A. I think it was in May.
23 Q. How much time passed between when -- I
24 guess, when you began the process of looking for a
25 place of your own and actually moving into
0040
1 Wellspring?
2 A. Probably a month. About a month.
3 Q. Okay. So we've talked about proximity and
4 the fact that some of your friends at church had
5 recommended it. Anything else that made you choose
6 it?
7 A. No.
8 Q. Did you go and -- I presume you walked
9 around the grounds and looked at an apartment?
10 A. I did.
11 Q. Okay. And were they to your liking?
12 A. Yes.
13 Q. Did you make your decision based on any of
14 the amenities that were there?
15 A. Yes.
16 Q. What were some of the amenities?
17 A. Had a pool. We were close to the Harbison
18 Recreation Center, which we were allowed to use and
19 I wanted to be able to use that facility. I was
20 told that there were security officers on duty. So
21 I felt like it would be a safe place.
22 Q. Who told you that?

23 A. The manager at that time. I think her
24 name was Kylie. I don't know her last name.
25 Q. Okay. And did she say -- well, what did
0041
1 she say? "We have security officers on duty," or
2 what?
3 A. Yes. I asked. I asked the question were
4 there -- did they have officers there or did they
5 have security and she said, "Yes, we have security
6 officers."
7 Q. Did you ask any other questions, for
8 example, about whether they patrolled or full-time,
9 part-time, anything like that?
10 A. No, I did not.
11 Q. Did you look at an example apartment or
12 did they take you to look at the apartment that you
13 ultimately moved into?
14 A. An example.
15 Q. And anything you liked or disliked about
16 that?
17 A. It was fine.
18 Q. Okay.
19 A. It was fine.
20 Q. How about -- at some point you obviously
21 moved in. Any issues with moving in or anything
22 like that?
23 A. No issues with moving in. I did ask for a
24 chain lock to be put on the door, but they told me
25 they couldn't do that, but my son-in-law put one in
0042
1 for me.
2 Q. Did they say they couldn't do it, but you
3 could or that you weren't permitted to do it?
4 A. They just said they couldn't do that.
5 Q. Okay.
6 A. They didn't tell me yes or no whether I
7 could or couldn't.
8 Q. Okay. Did you ever read -- did you
9 receive any paperwork as --
10 A. Yes.
11 Q. Signed a lease, I assume?
12 A. Yes.
13 Q. What else?
14 A. That's it.
15 Q. Okay. Did you read your lease?
16 A. I did.

17 Q. Give you any sort of welcome pack or
18 anything like that?
19 A. Yeah, there was a welcome pack telling you
20 about schools and --
21 Q. Do you still have any of that material?
22 A. I probably do in a box somewhere.
23 Q. Okay. And your initial lease that you
24 entered into, how long was it for? A year?
25 A. A year.

0043

1 Q. Do you recall what your beginning rent
2 was?
3 A. Oh, my Lord. I really don't remember.
4 Q. And in terms of renewal, because clearly
5 you were there for longer than a year, was it the
6 type of thing where it would roll over and you would
7 maybe sign a new one --
8 A. Right.
9 Q. -- or something like that?
10 A. Yes.
11 Q. Is that generally what you did every --
12 A. Yes.
13 Q. -- year you lived there?
14 A. Yes, I did.
15 Q. And let me get my question out.
16 A. I'm sorry.
17 Q. That's okay. Did you ever have a
18 roommate?
19 A. No.
20 Q. So always lived by your yourself. Did
21 your daughter ever live with you?
22 A. No.
23 Q. As you sit here today you said that you --
24 you testified that you read your lease. Do you
25 recall as you sit here today whether there were any

0044

1 sort of representations in it about security and
2 safety or anything like that?
3 A. I don't recall.
4 Q. Did you always live in the same apartment?
5 A. Yes.
6 Q. So never moved anywhere else?
7 A. No, I didn't move.
8 Q. What building number were you in?
9 A. Oh, gosh.
10 Q. Or if it's easier to remember your

11 apartment number?

12 A. I know my address was 500 Harbison
13 Boulevard. I want to say 11 something, but I'm not
14 sure.

15 Q. Okay. I've got that it was 500 Harbison
16 Boulevard, Apartment No. 2210. Does that ring a
17 bell?

18 A. That's it.

19 Q. Okay.

20 A. I knew it had a one in there somewhere.

21 Q. Do you know how many --

22 A. 2210.

23 Q. I'm sorry. I didn't mean to interrupt
24 you.

25 A. That's fine.

0045

1 Q. Do you know how many apartments are in
2 Building No. 22? Estimate?

3 A. I think it was eight.

4 Q. Okay. Do you know how many buildings are
5 at the entire complex?

6 A. No, I don't.

7 Q. Do you have any idea of the number of
8 units total? Were you ever told or anything?

9 A. No.

10 Q. Do you have any idea as to the number of
11 residents?

12 A. No.

13 Q. How was the apartment in terms of your
14 needs, cleanliness, that kind of thing?

15 A. It was fine.

16 Q. Did you ever have any problems with it?

17 A. Yes.

18 Q. Okay. Tell me a little bit about some of
19 the problems you had.

20 A. The lights. The one in the parking lot
21 coming up to the apartment complex and the one right
22 outside my door were constantly burnt out.

23 Q. Okay. Let's start with the one in the
24 breezeway. I assume that would be right outside
25 your apartment?

0046

1 A. Uh-huh.

2 Q. Okay. When that one would go out would
3 you report it?

4 A. Yes.

5 Q. Okay. And would it be taken care of?
6 A. Eventually.
7 Q. Okay. Was that light -- at the time of
8 your incident that's the subject of your complaint
9 was the light in the breezeway out or was it
10 functioning?
11 A. I don't know because I never got up that
12 far.
13 Q. Okay. How about -- you mentioned another
14 light in the parking lot?
15 A. The security light in the parking lot.
16 Q. Is that one on a pole?
17 A. On a pole, yes.
18 Q. And when that one was out what would you
19 do?
20 A. I would call and report it.
21 Q. And what did they tell you?
22 A. That it wasn't their problem, it was South
23 Carolina Electric & Gas, but they would report it
24 for me.
25 Q. Okay. And did it eventually get addressed
0047
1 or would it stay out or what?
2 A. It stayed out more than it was on.
3 Q. Was the light in the parking lot
4 functioning at the time of your incident?
5 A. No.
6 Q. Did you ever call South Carolina Electric
7 & Gas and talk to them directly?
8 A. No.
9 Q. Okay. So we've talked a little bit about
10 lights. Any other problems with the apartment?
11 A. The bushes and the shrubbery were
12 overgrown terribly.
13 Q. Okay. Did you ever report that?
14 A. Oh, yes.
15 Q. And what were you told?
16 A. That the Harbison Association had a set of
17 rules that they had to go by and they couldn't mess
18 with the trees or the bushes any more than what they
19 were doing.
20 Then I talked to the actual men that were
21 trimming the bushes. Sometimes they would be out
22 there. And I would ask them to, please, could they
23 cut these back and they said they couldn't do that,
24 they had to do what the apartment told them to do.

25 Q. Let me back up a minute. And I apologize.
0048

1 I forgot to ask something, but when you talked to
2 someone at Wellspring about the breezeway light who
3 did you speak with?

4 A. Well, I never really talked to anybody
5 because I worked. So I would have to call the hot
6 line that they gave us and leave a message on it.

7 Q. Okay. So you would leave a message on a
8 machine?

9 A. It was a machine.

10 Q. And how would you find out any -- would
11 they do a follow-up call or anything like that?

12 A. No.

13 Q. Same thing with the light out in the
14 parking lot?

15 A. That's correct.

16 Q. And you would call and leave a message on
17 the hot line?

18 A. Call and leave a message. A couple of
19 times I did walk down there and if, you know,
20 somebody was in the office, then I would talk to
21 them. So in numerous cases I actually talked with
22 somebody in the office.

23 Q. Who did you speak with?

24 A. It would be Kylie. She was always the
25 manager there.

0049

1 Q. And you would have spoken with her about
2 the light in the parking lot?

3 A. Yeah.

4 Q. Okay. You mentioned the light and you
5 mentioned the shrubbery. Any other problems with
6 the apartment itself?

7 A. Not the apartment. I had some issues at
8 the pool that needed to be addressed of people
9 climbing the fences that didn't live there to get in
10 the pool.

11 Q. Okay. How often would you use the pool?

12 A. From May to September pretty much every
13 day.

14 Q. Go in after work?

15 A. After work. And then usually on Saturdays
16 and Sundays I was there all the time.

17 Q. Ever go with anybody?

18 A. My grandchildren and my daughter.

19 Q. Bear with me one minute. Do you need a
20 break or anything? Are you okay?

21 A. I'm fine.

22 Q. If something like the toilet wasn't
23 flushing, something like that, you would call that
24 kind of thing in, I assume?

25 A. Right.

0050

1 Q. Do you recall making a call about the
2 toilet not flushing?

3 A. No. Dishwasher. Dishwasher broke one
4 time. I called about that.

5 Q. Okay. That kind of thing, would they
6 generally, you know, at some point make an
7 appointment?

8 A. Yes.

9 Q. And come in and fix it?

10 A. And fix it.

11 Q. I'm trying to save us some time by not
12 asking you all of these. Bear with me one moment.

13 Do you recall a time that a freezer wasn't working?

14 A. That's correct.

15 Q. Okay. Did they come in and fix that?

16 A. Yes, they did.

17 Q. Do you recall calling in about having a
18 high water bill one month?

19 A. Yes.

20 Q. Did they ever determine what that was?
21 Any leaks or toilet running or something?

22 A. No, they didn't find anything.

23 Q. And the dishwasher wasn't spraying water
24 onto the dishes; is that right?

25 A. Uh-huh.

0051

1 Q. Did they ultimately fix that?

2 A. Fixed that. Yes, they did.

3 MR. COMER: Let me mark these. Let
4 me mark these as Exhibit No. 2.

5 (Exhibit No. 2 was marked for
6 identification.)

7 (Off-the-record discussion.)

8 MR. RIDGEWAY: Let me just chat with
9 her about these real quick.

10 MR. COMER: Sure.

11 (A recess transpired.)

12 BY MR. COMER:

13 Q. Ms. Wright, I'm going to show you what's
14 been marked as Exhibit No. 2. And in the interest
15 of not having to make a separate one I'm going to
16 kind of look with you, if that's okay.

17 Have you ever seen -- prior to talking
18 with your counsel about it had you ever seen any of
19 these documents?

20 A. Yeah. Occasionally sometimes after they
21 fix something they leave it laying on your counter.
22 So I have seen something like that.

23 Q. Okay. Let me just ask you a few
24 questions. The first page of Exhibit No. 2 is a
25 work order that indicates it was called in on

0052

1 November 8, 2005. It says breezeway light out. Do
2 you have an independent recollection as you sit here
3 today of making that call?

4 A. I made so many. I don't really -- I can't
5 remember dates or times.

6 Q. And then it indicates date completed
7 11-11-2005. Is that when you would sometimes
8 receive a copy of a work order to show that it had
9 been completed?

10 A. Sometimes, yes.

11 Q. Okay. And then looking at the next one
12 indicates called in, and I'm looking on Page 2 of
13 Exhibit 2, August 1, 2006, 5:52 p.m. Again entry
14 light is out for 2210 and 2208. Would that be the
15 same light when it talks about the breezeway light
16 or is that a different light?

17 A. No. We each had our own. There's one
18 light over your door.

19 Q. I understand. So this would have been the
20 one over your door?

21 A. Right over my door.

22 Q. The breezeway light, is that a different
23 light then?

24 A. We didn't really have a breezeway. It's
25 just -- I mean, it's covered, but there's lights

0053

1 right over each door.

2 Q. Okay. Do you have a recollection of
3 calling this one in?

4 A. No, I don't.

5 Q. And it indicates date completed August 2,
6 2006. Do you have a recollection of receiving a

7 copy of this work order?
8 A. No, I don't. I don't remember it.
9 Q. And this one is dated 3-27-2007, indicates
10 entry light is out. Would that be the same one?
11 A. Same one.
12 Q. Over your door?
13 A. Right.
14 Q. And then it indicates date completed March
15 27, 2007. So at least according to this it would
16 have been completed the same date?
17 A. Same date.
18 Q. And do you recall --
19 A. Sometimes that happens and sometimes it
20 didn't, but I don't remember that particular date,
21 no.
22 Q. Okay. And then the last one, February 25,
23 2008, and it says replace dishwasher, breezeway
24 light out. Would this have been the dishwasher
25 issue --
0054
1 A. Yes.
2 Q. -- we talked about earlier?
3 A. Right. And they put another one in.
4 Q. Let me try to get my question out. And it
5 indicates breezeway light out. And then this one,
6 date completed March 6, 2008. Do you see that?
7 A. Uh-huh.
8 Q. Now, it appears a period of time had
9 passed between the completion date and the call in
10 date. Would you have called in -- was there ever
11 any particular rule you used, if something wasn't
12 fixed within a couple of days, you would call in
13 again?
14 A. Always called back, yes.
15 Q. All right. Let's set this right under
16 this one, set it aside. Who -- in terms of the
17 staff at Wellspring, who did you deal with the most?
18 I mean, was there somebody that you preferred
19 talking to or found most receptive or just anyone
20 you dealt with the most there?
21 A. A young lady whose first name is Kylie.
22 And then it seems like after her somebody named
23 Karen, but I can't remember her last name.
24 Q. Was it Karen Campbell?
25 A. That sounds right, but I'm not sure, but
0055

1 those were pretty much the only two I ever really
2 talked to.

3 Q. Did you ever have any personal issues with
4 either of those individuals?

5 A. No.

6 Q. Always courteous?

7 A. Right.

8 Q. And receptive?

9 A. Yes.

10 Q. I know you mentioned that when you moved
11 in they said that they had security officers. Were
12 there any other representations made to you about
13 safety and security and that kind of thing?

14 A. Nothing except that if I needed anything
15 after hours, they gave a number that you called.

16 Q. Okay.

17 A. And that was for security issues or if
18 anything happened during the night -- during, you
19 know, when they were closed like for plumbing or air
20 conditioner or whatever.

21 Q. Okay. So it was the after hours number?

22 A. After hours number.

23 Q. In terms of any instructions, did they
24 ever tell you -- for example, let's say there's some
25 sort of incident like the one in your case. Did
0056

1 they ever tell you, you know, first you need to call
2 this number, then you need to call that, like call
3 911 and then call us or what?

4 A. No.

5 Q. Okay. Any other representations about
6 security?

7 A. Nothing except that they did have officers
8 that patrolled regularly.

9 Q. Okay. You mentioned earlier the shrubs
10 around the ramp to your home. Were these shrubs
11 ever so high that you couldn't get to your door?
12 Did they ever impede your ability to get to your
13 door?

14 A. No.

15 Q. Okay. How about the lighting, did any
16 lights being out in the parking lot ever impede your
17 ability to get to your apartment?

18 A. No.

19 Q. Did you ever have any personal injury --
20 and I'm not talking about your incident in the

21 complaint, but did you ever have any personal injury
22 relating to the shrubbery or the lighting, for
23 example, tripping because of the shrubs or anything
24 like that?

25 A. No.

0057

1 Q. Over your time of living there did you
2 ever come to have any sort of understanding about
3 the neighborhood or about the incidents of crime or
4 anything like that?

5 A. No.

6 Q. Okay. In other words, sharing notes with
7 other residents, things like that?

8 A. No.

9 Q. Did you ever have any conversations with
10 other residents where they said that something had
11 happened to them?

12 A. No.

13 Q. Other than this incident, did you ever --
14 leading up to this incident when you were abducted
15 in the parking lot had you ever had any other
16 criminal incidents yourself?

17 A. No.

18 Q. Were you aware of any other criminal
19 incidents in that -- in the complex?

20 A. No.

21 Q. Okay. Let me shift gears again and let's
22 talk a little bit about the day of your incident.
23 What do you remember about that day as you sit here?
24 And what I mean is can you just kind of walk me
25 through how your day went in terms of getting up for

0058

1 work or if you had the day off or anything? Can you
2 just kind of take me through that day?

3 A. Okay. I worked that day. I probably went
4 in around 8:00. I don't remember what time I went
5 into work that day. Got off at probably 5:00. I
6 have a group that I sing with over in Lexington that
7 have practice on Thursday night.

8 Q. And what's that group again?

9 A. Heart of Columbia Chorus.

10 Q. And that was the same one at the time?

11 A. Yeah. Rehearsal starts at 7:00. So I had
12 gone over to Lexington to rehearsal.

13 Q. What time would you have left to get
14 there?

15 A. We leave anywhere between quarter to 10:00
16 and 10:00.

17 Q. No. I'm sorry. I meant to go.

18 A. Oh, to go over there? Probably between
19 6:00 and 6:15.

20 Q. And you had driven yourself?

21 A. Yes.

22 Q. Did you ever pick anybody up or --

23 A. No.

24 Q. All right. So you went and you had choir
25 practice. And how long would that have lasted?

0059

1 A. Probably to right around 10:00.

2 Q. So you're dismissed from choir practice.

3 What do you do next?

4 A. Came home.

5 Q. Make any stops at all or anything?

6 A. Yes, I did. I stopped at the Sonic there
7 on Harbison Boulevard and got something to eat and
8 something to drink and then came straight to the
9 apartment.

10 Q. Do you remember what the weather was that
11 evening?

12 A. It was nice.

13 Q. Do you remember if it was overcast or --

14 A. No. Don't think so.

15 Q. Did you feel okay that day?

16 A. I did.

17 Q. All right. No migraines or anything like
18 that?

19 A. No.

20 Q. Anything that would have impaired your
21 judgment or anything like that going on with you
22 that day?

23 A. No.

24 Q. All right. So would you all -- and I
25 apologize if this is a dumb question. I've been out
0060

1 to Wellspring once and at the time I went there's a
2 first entranceway and then there's a second one
3 further down. Which --

4 A. Second.

5 Q. Do you have to use that if you live in
6 your building or is there a way to come in the
7 building --

8 A. I don't know. I've never been in the

9 other way.

10 Q. That's what I thought. So you came in the
11 second entrance?

12 A. Second entrance.

13 Q. And you pulled up to your complex; is that
14 right?

15 A. Right.

16 Q. In relation to the ramp that goes up to
17 your door, did you ever have any assigned parking or
18 anything?

19 A. No.

20 Q. Was there a place that you would generally
21 park if no one was there first?

22 A. Right.

23 Q. And where was that?

24 A. The first, second, third place right --
25 the closest to the ramp is where I always went.

0061

1 Q. Okay. So if we're looking at the
2 building -- and this may be -- and you can correct
3 my drawing if you want, but if this is the building
4 and then there's a ramp coming down and then I think
5 there's some steps here; is that right?

6 A. Right.

7 Q. And a little railing here. Again I'm bad
8 at drawing. Then there's the parking lot here; is
9 that right?

10 A. Right.

11 Q. So as I understand your testimony, you
12 would have generally tried to park in one of these
13 spaces?

14 A. That's correct.

15 Q. Okay. Do you recall which one you parked
16 in that night?

17 A. It's the -- it was the third one over from
18 the trash can. I go by the trash can. The trash
19 can was right in there.

20 Q. And I've seen the trash can you're talking
21 about. It's kind of out here.

22 A. So it wasn't the first or second. It was
23 the third one.

24 Q. Okay. Can you put your initials in there
25 in the third one.

0062

1 MR. COMER: Let me mark this as
2 Exhibit 3.

3 (Exhibit No. 3 was marked for
4 identification.)
5 BY MR. COMER:
6 Q. I'll just very quickly put a couple labels
7 here. These are the parking spots; is that right?
8 A. Uh-huh.
9 Q. And then this is again a crude drawing,
10 but this is a big trash can, right?
11 A. It is a big trash can.
12 Q. Like a big dumpster?
13 A. It is a dumpster.
14 Q. Okay. And then this is the ramp; is that
15 right?
16 A. Uh-huh.
17 Q. Okay. Anything else I need to add or that
18 I'm leaving out? Where would the light pole have
19 been?
20 A. Somewhere right in there.
21 Q. Okay. I'll just put a little circle.
22 You're pointing to right here near the steps; is
23 that right?
24 A. Uh-huh.
25 Q. So I'll just write light pole here.
0063
1 A. It could have been up here. It's over
2 here.
3 Q. Okay. I'll put another one here.
4 A. It's just one though, but I can't remember
5 if it was in front of the trash can or behind it.
6 Q. Okay. And obviously I think you've
7 produced some photographs and they'll tell the best,
8 but I'm just trying to get a little bit of --
9 A. Okay.
10 Q. -- a diagram here. Okay. So you pull up
11 to this third parking spot. Tell me what happens
12 next.
13 A. I got out of my car, gathered up my things
14 to go inside, and walk -- you have to come down the
15 sidewalk here to get onto the ramp.
16 Q. And did you -- did you see any men sitting
17 there?
18 A. Not until I got around the bush.
19 Q. Okay. And when you got around the bush
20 where were they?
21 A. They were behind the bush. They came out
22 as I got up -- when I got up to them.

23 Q. Okay. Were they on the ramp?
24 A. They were just behind that bush. I don't
25 know whether they were on the ramp or steps or
0064
1 whatever. They just came from behind the bushes.
2 Q. Okay. And when you referenced the bushes
3 here, I assume they would have been kind of up --
4 are they up through --
5 A. This ramp sort of curved like that and
6 they were like -- the tall bushes were right there.
7 Q. Okay. Again I know I've done kind of a
8 cryptic diagram here, but can you show me on the
9 diagram approximately where they would have been?
10 A. Right behind.
11 Q. Okay. So I think you've marked -- I'll
12 put a big X here on the diagram somewhere around
13 there; is that right?
14 A. Uh-huh.
15 Q. And I guess my question --
16 A. It was just a few steps away from where I
17 started up the ramp.
18 Q. Okay. And I guess my question is could
19 you tell if they were off the ramp down in the
20 bushes or if they were on the ramp?
21 A. I couldn't tell, no.
22 Q. Okay. All right. When you finally did
23 come in view of them did they say anything? What
24 happened next?
25 A. I spoke first.
0065
1 Q. What did you say?
2 A. I said, "I need to get through, please."
3 And then I saw the guns and I said, "If those are
4 real, you need to put them away." And that's when
5 they grabbed me.
6 Q. Okay. Where did they grab you?
7 A. One grabbed me around my neck and one
8 around the waist.
9 Q. And did he do -- I'm using my hand like a
10 choking --
11 A. No. With the arm. One put the gun in my
12 back, under my shirt, and the other one put the gun
13 at my head.
14 Q. Okay. Can you describe -- was it two
15 gentlemen?
16 A. Two.

17 Q. Okay. And can you describe them for me?

18 A. Actually I didn't look. My head was down.

19 I was fumbling with my keys to get into my apartment

20 and I saw the guns is the first thing I saw. And

21 then when I looked up to see if it was kids playing

22 with play -- I mean, I realized they were not play

23 guns. They were young, two young boys. They did

24 not have masks on. They didn't have gloves. No way

25 to disguise themselves or the guns at all. It was

0066

1 in plain view. I knew this wasn't good. And he

2 immediately -- the one with the gun to my head said,

3 "Don't look at us."

4 Q. Okay.

5 A. So I never lifted my head back up again.

6 So I couldn't identify them. I just knew they were

7 two young men.

8 Q. Did they have -- what kind of gun did they

9 have? I don't mean like the model, but did they

10 have a pistol or a shotgun or what?

11 A. I knew one of them was a Glock. My father

12 was a police officer. So I kind of knew about guns.

13 One was a Glock. The other was a big black gun, but

14 I don't know -- I didn't see it as much as the one

15 that was at my face.

16 Q. Can you describe their clothing at all?

17 A. No. I knew they had on tennis shoes, but

18 that's because I looked down. It was dark. Their

19 clothes were dark. And I do remember one of them

20 had a handkerchief or something around his neck.

21 Q. From the time -- at some point you came

22 around the bush and you said you saw them. When

23 that occurred how much space separated you and them?

24 A. There wasn't a space. They were right on

25 me.

0067

1 Q. Okay. Was anyone else there? Did anyone

2 else witness this?

3 A. Not at that moment. My mind started

4 racing and I could hear people. I could hear there

5 were people out on their balconies, people in the

6 parking lot, but I couldn't see anybody until we

7 started walking.

8 Q. Right. Did you give any consideration to

9 just screaming out loud?

10 A. Yes, I did. I did.

11 Q. And what made you decide -- did you do
12 that?

13 A. No, I did not.

14 Q. Okay. What made you decide not to?

15 A. I had two guns, one in my back and one in
16 my head. All I was thinking about was surviving the
17 minute.

18 Q. Okay. So -- and I apologize. If you need
19 to take a break at any time, you just let me know.

20 A. I'm fine. I'm fine.

21 Q. So at this point they've got a gun on you
22 and you're looking down. What happened next? Did
23 they walk you back to your car or what?

24 A. No. They just sort of turned -- they got
25 up. They were either crouched or sitting, I'm not
0068

1 sure which, but they were getting me turned around
2 to go back that way and -- I guess that's what they
3 were going to do. I don't really know. And he
4 said, "Lady, this is your unlucky day." And he
5 said, "We need some money and we need a lot and we
6 need it now."

7 And I told them I didn't have any money on
8 me, I didn't have any cash on me at all. And he
9 said, "Well, if you're lying, we're going to kill
10 you. And if you don't have enough, we're going to
11 kill you. So either way you're gone." And he said,
12 "Let me have your wallet."

13 Q. Was this all happening there on the ramp?

14 A. That same spot.

15 Q. Okay.

16 A. I pulled my wallet out. I opened it to
17 where the bills would be and he saw there was not
18 any and he got angry. The one in the back just kept
19 the gun to me. The one dropped it from my head and
20 yanked my wallet away and started throwing things on
21 the ground looking for money. And he said -- told
22 the other one, he said, "She's right. She doesn't
23 have any money. What do we do now?"

24 And he said, "I don't know. We've got to
25 do something. We've got to do something." He saw
0069

1 on the ground my debit card and he said, "Well, if
2 we took you to a bank, can you get us money out?"

3 And I said, "Yes, I can."

4 And he said, "Well, that's where we're

5 going then."
6 And I don't know what made me say what I
7 said next, but I said, "I'm not leaving here until
8 you pick up my grandchildren's pictures. I'm not
9 leaving my babies on the ground here."
10 He picked them up. He kept the gun on me,
11 but he got down and picked up all the pictures for
12 me and threw them in my pocketbook and then that's
13 when we proceeded to move going back to my car.
14 Q. So you were going back down the steps and
15 back towards your car?
16 A. Really it never was on the step. Just the
17 ramp, going back down the ramp.
18 Q. Okay.
19 A. I never made it to the steps to go up the
20 steps. See, there's two ramps. And I'm not sure --
21 Q. Yeah. And I want to -- let's go ahead and
22 let me make sure I can clarify this.
23 MR. COMER: Let's mark this as
24 Exhibit 4.
25 (Exhibit No. 4 was marked for
0070
1 identification.)
2 BY MR. COMER:
3 Q. Let me show you that set of pictures.
4 A. Yes. I see what you're talking about now.
5 I'm thinking -- see, there's a whole bunch of other
6 steps up here beyond this. So, yes, I had gotten up
7 these steps. I'm sorry.
8 Q. Okay. And for the record, you're looking
9 at the second page -- I'm sorry -- the second
10 photograph on Exhibit No. 4; is that right?
11 A. That's correct.
12 Q. Okay. And if I -- correct me if I'm
13 wrong, but what we're looking at in the second
14 photograph is there's some bushes and then there's,
15 I guess, what would be the first parking spot; is
16 that right?
17 A. Right.
18 Q. So you --
19 A. That's correct.
20 Q. You would have been parked further down?
21 A. Further down, yes.
22 Q. So you came walking around through the
23 parking lot. And would you come up through the pine
24 straw here or would you step up on the sidewalk?

25 A. I think I came through the pine straw that
0071

1 night.

2 Q. Okay.

3 A. I'm not sure, but I think I did.

4 Q. Okay. And where -- in looking at the
5 second photograph where -- if you can tell from this
6 photograph, whereabouts would the men have been?

7 A. Right behind these bushes right there in
8 the corner.

9 Q. Okay. And let me ask the question I asked
10 earlier again now that we've got a picture. When
11 you say behind those bushes, would they have been
12 over this railing on the concrete or were they
13 behind the bushes?

14 A. They were behind the bushes.

15 Q. Okay. And whereabouts on the second
16 photograph would they have met you? Was it here in
17 the pine straw?

18 A. No. Right there. When I came up the
19 steps I came up these steps and then there's the
20 ramp that goes up before you go up to the other
21 steps.

22 Q. Okay.

23 A. This is where they got me is right here at
24 the top of this.

25 Q. Okay. Flip to the fourth picture. Can
0072

1 you point --

2 A. Right here. This is where they came from
3 back here and they got me right there.

4 Q. Okay. Can you just kind of mark -- and I
5 don't know how well this will show up, but, if you
6 can, put a big X or a circle or something that would
7 show where the men were. Okay. And you may need to
8 do it a few times.

9 MR. RIDGEWAY: Let me clarify for the
10 record. Now, is the question where the men were at
11 the time of the confrontation? Because certainly
12 she can't testify to where they were as she's coming
13 up.

14 BY MR. COMER:

15 Q. I just want to know where you first saw
16 them.

17 A. Right there.

18 Q. Can you just put a one right here? Okay.

19 So it's approximately there. And as you sit here
20 you don't know -- my understanding of your testimony
21 is you don't know if they were on this side of the
22 rail, which is the left side in the bushes, or the
23 right side of the ramp?

24 A. No, I don't.

25 Q. Okay. All right. Looking at that
0073

1 picture, does this railing here, the black railing
2 on the concrete steps, does it continue up to the
3 ramp? In other words, is this a continuous railing?

4 A. No.

5 Q. Okay. And so I guess what I'm asking is
6 once you step onto this top step of the concrete
7 here, is my understanding correct then that what is
8 immediately to the left of you is bushes without a
9 railing?

10 A. As far as I remember, yes.

11 Q. And the reason I'm asking these questions
12 is I'm trying to figure out do you remember them
13 ever jumping over a railing or having to jump over a
14 railing or anything?

15 A. No.

16 Q. These photographs, do you know when they
17 were taken in relation to your incident? A month
18 after? Two months after?

19 A. No. These are the ones that Amber Conn
20 took?

21 Q. Yes. These are the ones that were
22 produced in discovery to us.

23 A. It was like two or three days after the
24 incident and they had cut the bushes down. And she
25 even brought it to my attention that she had taken
0074

1 pictures of them. So I really don't know.

2 Q. Okay. So at this point they tell you that
3 you're going to -- they want you to go to an ATM?

4 A. Right.

5 Q. And they take you back to your car. At
6 this point did you see anyone?

7 A. Yes.

8 Q. Who did you see?

9 A. I don't know her name. When we came down
10 the steps here and came back toward this, somewhere
11 right in here, between there and the trash can --

12 Q. For the record, you're looking on the

13 second picture in Exhibit No. 4 around the bottom
14 sidewalk; is that right?

15 A. Right.

16 Q. Okay.

17 A. A lady was walking her two dogs. She
18 walked her dogs every night about the same time,
19 somewhere between 10:30 and 11:00. She was coming
20 up and he -- the two guys were right on me. The one
21 that had the gun to the front dropped the gun down
22 and put it in his pants. The other one kept it in
23 my shirt and he said, "You better not say one word.
24 You better not scream. You better not try to run or
25 do anything because we'll kill both of you." And he
0075

1 said, "Don't speak to her."

2 She had already said, "Hi, how are you?"

3 And he spoke. He told her, said, "We're
4 fine."

5 And she said something about the weather.

6 He commented about her dogs. And he told the other
7 guy behind me under his breath, he said, "Go to the
8 car with her."

9 And so he kept the gun in my back and kept
10 close and told me that I better act like we were
11 long lost lovers and stick right with him. And I
12 didn't know whether they were going to shoot that
13 woman there. I didn't know what they were going to
14 do. So I started going with him, the one behind me,
15 to the car.

16 And I heard him ask her what kind of dog
17 she had and she -- he told her he had the same kind.
18 And they chitchatted for a few minutes and he
19 finally said, "Well, I've got to go. Have a good
20 night." And he caught up with us before we got to
21 the car.

22 Q. Okay. And did you ever talk with her
23 afterwards?

24 A. Afterwards. The day after, yeah.

25 Q. Okay. And do you as you sit here today
0076

1 know her name?

2 A. No, I don't.

3 Q. Okay. So you never went in -- you never
4 made it to your apartment; is that right?

5 A. No, I did not.

6 Q. So at this point they get you to the car.

7 And you were driving; is that right?
8 A. I was driving.
9 Q. Where were they sitting in the car?
10 A. One was sitting in the front seat and one
11 was sitting in my grandchild's car seat. He was a
12 little, tiny fellow. He sat in the car seat in the
13 back and kept the gun to the back of my head.
14 Q. And where did you go next?
15 A. I went to BB&T on Harbison.
16 Q. Was that where you worked?
17 A. That's where I worked. Because I had been
18 trained there and I knew how our cameras worked and
19 I knew the film would be available to my daughter no
20 matter what had come of this. I didn't know that
21 about the other banks, how long it took to get film.
22 So I chose to take them to BB&T.
23 Of course, I don't know if you know about
24 Harbison Boulevard, but it's bank row. You pass
25 three or four banks before we got there. He did ask
0077
1 me why did I pass -- at that time it was First
2 Union, I think is what it was then, but he asked me
3 why I passed. And I said, "Well, it's a BB&T card.
4 It will only work in BB&T." He said, "Okay."
5 Q. Right.
6 A. So we went there first. Knew how the
7 camera -- what the pictures look like. So I pulled
8 up a little bit further than most normal people
9 would, hoping they could get a picture of the guy in
10 the back. I don't know if they suspected that I was
11 doing something funny, but they ducked down as soon
12 as I got to the window. So the picture that came
13 out on the news and everything, you couldn't see
14 their faces. You could just see the two guns
15 pointed at me. I took out -- I'm not going to say
16 the amount because I don't know for sure, but I took
17 out what I thought maybe would satisfy them. It
18 didn't.
19 Q. And I don't mean to interrupt you, but let
20 me stop you and ask this. Is there any restriction
21 on the amount you can take out? I know with my own
22 bank there used to be you couldn't get more than 200
23 in a day or something.
24 A. Right.
25 Q. Did you have any restriction on your
0078

1 account?

2 A. Yes.

3 Q. And what was that amount, if you know?

4 A. For an employee I really don't know. It's
5 different for an employee. I have been told since
6 then I could have probably pretty much asked for
7 whatever I wanted and been questioned about it later
8 as an employee.

9 They knew about the amount because the
10 second time I went through and I said, "That's it.
11 That's all I have." And he said, "Oh, you've
12 reached your limit for today?"

13 Q. Right.

14 A. So they knew about that, but I didn't -- I
15 didn't tell them that.

16 Q. So after you made the withdrawal at the
17 BB&T ATM where did you go next?

18 A. He then proceeded to tell me that their
19 drug dealer was following behind us, was in a car
20 behind us, to get the money. And they were all
21 talking on cell phones. I heard the one in the back
22 tell him how much he got from me and he said, "I
23 know that's not enough, but what do you want us to
24 do? That's all she's got." And so I only heard
25 parts of -- half of the conversation.

0079

1 So we pulled back onto Harbison Boulevard,
2 drove back across the interstate. He told me to
3 pull into Lowe's, but as soon as I pulled in to shut
4 my eyes and they would tell me how to turn around,
5 that I needed to turn around and go back to the
6 bank, but they didn't want me to see the drug
7 dealer's car. So I did what he said. I closed my
8 eyes.

9 Q. And were you having to turn your car?

10 A. Yeah. He told me when to turn. He told
11 me when I could open my eyes again and told me to
12 get back on Harbison Boulevard and go back to the
13 bank again.

14 Q. The same bank?

15 A. The same bank.

16 Q. Okay.

17 A. So I did. And I went through the same
18 thing again. I leaned up as far as I could, hoping
19 they could get a good picture, which they were able
20 to identify the guns from the pictures, but I took

21 out some more that I thought would make them happy.
22 And he asked me if that was all I had. Didn't ask
23 to see a receipt or anything that was showing the
24 balance in my account, but we went back on Harbison
25 Boulevard and I was just -- I asked them which way
0080

1 to go. He told me to go back toward Broad River
2 Road and so I did. And for some reason when I got
3 to Wellspring I turned my blinker on to turn back in
4 there. And he said, "What do you think you're
5 doing?"
6 And I said, "I'm going home."
7 And he said, "No, you're not. You will
8 never see home again." And he told me to keep going
9 until I got to Broad River Road. And when I got to
10 Broad River Road they were arguing back and forth
11 with each other. They were arguing with the man on
12 the phone. And he said, "This is just not enough
13 money. This is not cutting it. You've got to do
14 better than this."

15 So they made me make a U-turn in the road
16 and we headed back up to Harbison. And traffic was
17 heavy and they changed their mind at the last minute
18 and said, "No. Go to Piney Grove Road."

19 And I said, "Well, I have to make a
20 decision. Do you want me to go on the interstate or
21 take the frontage road?" And they didn't care how I
22 got there. I don't know what made me choose the
23 frontage road, but I did. I went that way.

24 We rode up and down Piney Grove Road and
25 they didn't give me any instructions except they
0081

1 needed more money and they needed more money and for
2 me to slow down and their dealer couldn't keep up,
3 they were not from this area and they didn't want me
4 to lose him.

5 So they kept insisting that I either give
6 them more money or they were going to kill me then
7 and wanted to know if there was any family member or
8 anybody I could call that would bring money. And I
9 told them no, I didn't have any family and nobody
10 would come.

11 And he asked me where I worked. I didn't
12 want to tell him I worked at the bank. I told them
13 I was retired. And so they said, "Well, Granny,
14 you're going to have to find us some more money."

15 So I chose then to go to the BB&T on Bush
16 River Road. Once again I knew that we could get the
17 tape. Whether I lived or died, they would be able
18 to get a tape. So I went to that one. And their
19 ATM machine has a lot more room and a lot more
20 space. And since they had told me a car was
21 following I wanted to see if I could get that car in
22 the picture too. So I deliberately overshot it when
23 I pulled up. So I had to open my car door to use it
24 so the light came on, hoping that would help too.
25 And it made the man behind me get nervous and he

0082

1 pulled up right beside me. So the car did get in
2 the picture.

3 Q. Did you ever see what color the other car
4 was?

5 A. I didn't look. I never looked that way.
6 I saw it in pictures later on in BB&T film.

7 Q. Do you know the make or model?

8 A. No. No. I wouldn't even -- if I saw it,
9 you know, I don't know the difference between a Ford
10 and a Chevy. So, no, I wouldn't know.

11 Q. You and me both.

12 A. I did get -- at that time I only had 40
13 some dollars left in my checking account. I had
14 other accounts, but they didn't know and I didn't
15 tell them and I took out whatever. I think it left
16 me with like about \$17 and some odd cents. He did
17 ask for the receipt this time. He looked at it and
18 he said, "She's telling the truth. She doesn't have
19 any more money." So all together I think I gave
20 them 740 something dollars.

21 So we started to pull up and he said,
22 "Well, we've got to do something. We've got to get
23 this man off our back. We've got to get him off our
24 back." And they made me go back onto Bush River
25 Road and pull into the Hardee's behind Dutch Square,
0083

1 which was already closed. It was dark. Made me
2 pull into the back. I was scared to death because
3 there was nobody there. It was dark. Made me cut
4 the car off and we sat there and it was -- I
5 gathered from their conversation it was because we
6 had lost the guy again and were waiting on him to
7 find us.

8 Q. And I don't mean to interrupt you, but as

9 you say certain things it creates questions for me.
10 Did you get the impression that they were trying to
11 lose this fellow behind them or they were trying to
12 keep him with them as they were driving?

13 A. Keep him with them. Keep him with them.

14 Q. Okay. And did they -- you said that when
15 you went to the Hardee's you thought you had lost
16 him. Were they making you drive fast or try and
17 lose him or anything?

18 A. No. They made me drive slow so I could
19 keep up with him, but traffic was just so bad and
20 they were not familiar with the area.

21 Q. Okay. So then my understanding is that he
22 had just fallen behind because of lights or whatever
23 else?

24 A. Right. Because he pulled up eventually.
25 They told me not to look in the rearview mirror and
0084

1 I did not.

2 Q. Sure.

3 A. So I don't know if he pulled in behind us
4 or what, but the car was off and the two in my car
5 were arguing, "Well, we've got to do something with
6 her. We've got to kill her. Are we going to kill
7 her here or are we going to take her back to the
8 apartment?"

9 They argued back and forth of what they
10 were going to do and he said, "Well, I think she's
11 lying to us. I think there's more money." And he
12 said, "I'll tell you what, lady. We're going to
13 take you up and down Broad River Road and we're
14 going to stop at every eating place along the way.
15 And if you are able to get food with this debit
16 card, then I know you're lying and we're going to
17 kill you right on the spot."

18 And I panicked then because with an
19 employee's account they would let me overdraw as
20 much as I had to and find me the next day if they
21 had to, but I knew that's the way it would work, but
22 I didn't want them to know that.

23 Q. Sure.

24 A. So I don't know. I just said what came
25 out of my mouth. I just said, "Oh, well, let me
0085

1 tell you how this is going to work. I will take you
2 wherever you want to go to get something to eat and

3 you can have \$17.11 worth, but after that you're
 4 going to have to use the money that you've already
 5 taken from me."
 6 And I guess they wasn't expecting me to
 7 answer them that way because they got quiet, both of
 8 them did, and they said, "Well, we believe you. You
 9 must not have any more money."
 10 And I said, "That's it. I don't have any
 11 more I can give you."
 12 And he said, "Well, you know this is not
 13 looking good for you?"
 14 And I said, "I know."
 15 And he asked me why I wasn't afraid, why I
 16 wasn't crying, why I wasn't hysterical. And I said,
 17 "Is it going to make any difference in the outcome?"
 18 He said, "No."
 19 And I said, "Well, that's your answer. I
 20 don't know why I'm calm."
 21 He said, "Well, you've been singing,
 22 you've been humming."
 23 I said, "I have? I didn't realize I had."
 24 And he said, "And you were singing Amazing
 25 Grace." And he said, "I want to know why."
 0086
 1 And I said, "Well, that was the song
 2 that -- my sister's song that was played at her
 3 funeral. I guess it's just comforting to me."
 4 And he said, "So you believe in God?"
 5 I said, "Yes, I do."
 6 And he said, "Well, what kind of God would
 7 put you in the mess that you're in?"
 8 And I just told him, I said, "My God
 9 didn't put me in this mess. You decided."
 10 He said, "Well, let me tell you why we
 11 decided." So he proceeded to tell me the story of
 12 him being robbed the weekend before in a drug deal
 13 gone bad and had just gotten out of juvie. He had
 14 no family. He had been in juvie since he was 12
 15 years old. He just went on to tell me his story.
 16 He said, "That doesn't make any difference
 17 for you. We've got a problem now. We've got to
 18 kill you." And he said, "And we're going to take
 19 your body and dump it in the river in Beaufort."
 20 And like once again why I said what I said
 21 I don't know, but I said, "Why would you do that to
 22 Beaufort? I don't have enough gas to drive to

23 Beaufort and there's the Broad River right here."
24 And he said, "Well, lady, I'm sorry. I'm
25 just sorry this is your unlucky day, but this is not
0087

1 going to turn out good for you."

2 So that one in the back was talking to, I
3 guess, the dealer on the phone and he said, "He said
4 crank the car. Crank the car. Crank it now. We've
5 got to go. We've got to go."

6 So I cranked it and he said, "Don't you
7 look behind you." And I said, "I'm not. I'm not
8 looking behind me." I said, "But I'm hot. Can I
9 please cut on the air conditioner?"

10 And he said, "It's your F-ing car, lady.
11 You do whatever you want to with it."

12 I said, "Well, you know, you've got the
13 gun. I'm not touching or doing anything unless you
14 tell me what to do."

15 And he said, "You can cut the air on." So
16 I cut the air on. He said, "Just drive. We'll tell
17 you where to go." So we got out of the Hardee's
18 parking lot, turned right. And when we got to the
19 next light he said, "Go the frontage road here."
20 It's a little road that runs between Bush River and
21 St. Andrews Road that runs along the interstate that
22 goes I-26 and then crosses over I-20.

23 We got -- after we went around a curve and
24 over a bridge he said, "Turn right here." I
25 don't -- I know now that's Zimmerman, but I didn't
0088

1 know it then, but he made me turn on that road. And
2 we came to an apartment complex immediately on the
3 right and he said, "You're going to turn in here and
4 you're going to drive no faster than five
5 miles-an-hour. You're going to turn when I say turn
6 and you're going to stop when I say stop. Do you
7 understand?"

8 I said, "Yes."

9 And he said, "And you're not going to ask
10 any questions while we figure out what to do." We
11 drove and we drove and it was this zigzagging and
12 zigzagging every which way, yelling and screaming.
13 They were cussing at each other. They were cussing
14 at the man on the phone.

15 Q. Let me stop you. When you say you were
16 zigzagging, were you going through the apartment

17 complex?
18 A. All through that apartment complex. It's
19 a big complex.
20 Q. Do you know as you sit here now today what
21 the name of that complex is?
22 A. Crossroads.
23 Q. Okay.
24 A. Oh, Lord. That just came. Crossroads.
25 Q. Okay. I'm sorry. I didn't mean to

0089

1 interrupt you.
2 A. I'm sure maybe that's probably still the
3 same name as it was then. I don't know. But I know
4 it was called Crossroads. And we drove -- we kept
5 driving like that for what seemed like hours for me,
6 but, I mean, this whole ordeal was only about an
7 hour and a half. So it really wasn't hours, but --
8 and they were arguing and fussing.
9 And the young kid in the back, the
10 youngest one -- or he appeared to me by his voice to
11 be the youngest. And he was short. I know when he
12 was holding me I was taller than him. The other one
13 was taller. But to make -- he was arguing with
14 somebody on the phone and he was getting -- he said,
15 "Man, you got to kill her. You've got to do it.
16 You might as well do it now. You know we've got to
17 do this. We've got to do it."
18 And he was like, "Leave me alone. Leave
19 me alone. I'm thinking. I'm thinking. I'm trying
20 to decide what to do."

21 Well, the young one in the back seat said,
22 "While you're deciding I'm out of here." And he
23 reached to open the car door to get out. Well, I
24 have childproof locks on my door because I carry my
25 grandchildren around. He couldn't get out. And he

0090

1 started cussing at me then and tapped me on the back
2 of the head with the gun and he said, "You better
3 let me out of this car, if you know what's good
4 for."

5 So I reached over and hit the button. I
6 told him I'm -- I said, "I'm hitting the button to
7 let him out now." He jumped out. I did not look at
8 the rearview mirror, but I could see out of the side
9 view mirror without him noticing. He rolled. We
10 were going less than five miles-an-hour. So I knew

11 we wasn't hurt, but I could see -- I saw someone get
12 out of a car behind us and I saw people running with
13 guns, two or three different people with guns out.

14 My heart was pounding. It was beating. I
15 just said, "Lord, you know, this is it. I don't
16 want to suffer. I don't want my daughter to have to
17 take care of me. So let's get this over with."

18 So the next time we went around the corner
19 I slammed on brakes and I just turned around and
20 looked at him right in the face and I said, "Do
21 whatever you've got to do or get the hell out of my
22 car." And he jumped out.

23 Q. And were you still in the Crossroads
24 Apartment complex at that time?

25 A. I was. And he didn't shut the car door.

0091

1 So I could hear him as he jumped out. He turned
2 around and he said, "This is your lucky day, lady.
3 You need to get the hell out of here."

4 So I drove with the car door open until I
5 got where when I looked in the mirror I didn't see
6 people running with guns and I didn't feel like
7 there was somebody behind me. And I reached over
8 and shut the door and locked it.

9 And then they had thrown my cell phone on
10 the floor because they made fun of it because it was
11 an old one and they didn't want it. So I reached
12 down and picked it up. It had my daughter
13 programmed in there. So I called her and she said
14 she couldn't understand me. Because I hadn't cried
15 or lost it until then. She could understand
16 robbery, guns, and lost. And she said, "Mother, I
17 can't help you if you don't tell me where you are."

18 And I didn't know where I was. I said,
19 "I'm somewhere between Bush River and St. Andrews
20 Road." And she got her husband awake and he made
21 some phone calls to the police so they could try to
22 start finding me.

23 Q. What's her husband's name?

24 A. Don Curtis.

25 Q. Okay.

0092

1 A. And he got help on the way, but again they
2 didn't know where I was. So I kept talking to her.
3 She was just, "Momma, keep driving. Just keep
4 driving." And the next thing I realized I was on

5 Broad River Road. I don't know how I got there.

6 Q. You kind of came out to an area you were
7 familiar with?

8 A. Yes. I don't know. I'm thinking now that
9 I've revisited the area and I've got a little
10 bearing, I must have gotten back on that Zimmerman
11 and I knew it ran into Broad River. Why I went that
12 way instead of getting on the interstate I don't
13 know, I don't have a clue, but I got back on Broad
14 River Road.

15 And I remember my daughter said, "Just
16 tell me anything you pass, Momma, so you can give
17 me" -- well, I passed the Sonic. And when I said
18 Sonic she thought I was on Harbison. So Richland
19 County was headed toward the Sonic on Lake Murray --
20 I mean, on Harbison until I told her, I said, "No,
21 I'm not at that Sonic. I'm now coming up on SLED."

22 And she said, "Oh, you're coming down
23 Broad River."

24 And I said, "Yes. But I need to go to the
25 apartment. I need to go the apartment."

0093

1 She kept telling me not to go there in
2 case they were following me. She said, "Bring them
3 to the house. We've already" -- she lives in New
4 Friarsgate. She said, "Donald has already called
5 Richland County and he's also called Irmo. Irmo is
6 already here. They are waiting here at the house on
7 you, Momma. Bring them here. If they are following
8 you, we'll handle it here."

9 Q. And she lived at New Friarsgate?

10 A. In New Friarsgate.

11 Q. Whereabouts is that and what road is it
12 off of?

13 A. It's off of North Royal Tower.

14 Q. Okay.

15 A. Which is off of Broad River.

16 Q. Let me back up and ask a question. Since
17 it sounds like you kind of went back and retraced
18 some of this after the fact, how far is the
19 Crossroads complex from Wellspring, do you know?

20 A. Well, there's the exit Bush River, then
21 Piney Grove, and then Harbison. So it's three exits
22 down.

23 Q. Okay.

24 A. So, anyway, I got to -- got to her and --

25 I got to her house and there was two Richland County
0094

1 deputies and, I think, two Irmo police deputies and
2 my ex-husband. My daughter had already called him.
3 He was there. I took a deep breath. I did not want
4 my grandchildren to see me in the shape I was in or
5 my daughter. I took a deep breath and got out of
6 the car and then I collapsed in the front yard.

7 My son-in-law gathered me up and got me in
8 the house. And I remember looking up at him and
9 saying, "Donald, how many stoplights is there
10 between Bush River and New Friarsgate?"

11 And he said, "13 or 14."

12 I said, "What are the chances of them all
13 being green?"

14 He said, "None."

15 I said, "Well, I think I just broke the
16 law." That's the first thing I remember is
17 wondering how many stoplights I ran through. I
18 never looked, I guess. I don't know.

19 Q. Do you recall what kind of night -- what
20 time of night it was at this point?

21 A. Oh, yeah. It was 11:00, a little after
22 11:00.

23 Q. A little after 11:00?

24 A. Maybe 11:20, 11:00 something. I know --
25 that's so vivid in my mind because I know my
0095

1 daughter, being married to a police officer, when
2 they go to bed they unplug the phone upstairs. His
3 police phone is on, but personal calls they do not
4 take after 11:00 at night. They've got three small
5 children. And I knew -- when I remember looking at
6 it I said, "It's after 11:00. She's not going to
7 answer. She's not going to answer." She answered
8 on the first call.

9 Q. So Mr. Curtis is also in law enforcement;
10 is that right?

11 A. Yes.

12 Q. So let me back up and just kind of get
13 some sign posts here. Your choir practice would
14 have gone till 10:00 and then you would have gotten
15 home however long it takes you --

16 A. About 10:30.

17 Q. About 10:30. And this incident happened
18 as soon as you got out of your car?

19 A. Uh-huh.
20 Q. And by the time you got to your -- and I'm
21 sorry. Was that a yes?
22 A. Yes. I'm sorry.
23 Q. That's okay. And by the time you got to
24 your daughter's apartment it was around 11:20,
25 thereabouts?

0096

1 A. Somewhere in that vicinity, yes.
2 Q. So my understanding then, and I understand
3 I'm not putting a precise number of minutes on it,
4 but as we sit here and chat about it today, it
5 lasted approximately 45 minutes to maybe 55 minutes?

6 A. Approximately.
7 Q. Maybe 50 minutes, thereabouts?

8 A. Uh-huh.
9 (Off-the-record discussion.)

10 (A recess transpired.)

11 BY MR. COMER:

12 Q. Back on the record. Okay. Ms. Wright,
13 we've been talking a little bit about your incident.
14 And up at this point you were at your daughter's
15 apartment. Did you provide a statement to the
16 police?

17 A. Yes, I did.

18 Q. How long did that take?

19 A. Oh, gosh. 30 minutes or more.

20 Q. And I take it at some point they left the
21 premises and you just remained at your daughter's
22 apartment?

23 A. I stayed there.

24 Q. Did you stay there that night?

25 A. Yes, I did.

0097

1 Q. Did you go back -- between when you got
2 there did you go back and get any personal
3 belongings?

4 A. No.

5 Q. Or did you stay there?

6 A. I stayed there.

7 Q. What did you do -- what did you do the
8 next day?

9 A. We went back over to report it to the
10 apartment complex. I didn't know if they knew about
11 it. I didn't know. But I went to tell them I was
12 leaving.

13 Q. Who did you speak with?
14 A. I don't know. I don't remember. Whoever
15 was at the front desk, but I don't remember.
16 Q. Okay. And you said you told them you were
17 leaving?
18 A. Yes.
19 Q. And why did you make the decision to
20 leave?
21 A. I could never go back in that place again
22 ever.
23 Q. Just because that was the site of --
24 A. Yes.
25 Q. -- where everything started?
0098
1 A. Uh-huh.
2 Q. Up to this point prior to this incident
3 happening had you had any issues with the apartment
4 complex that made you want to leave it or consider
5 leaving or anything like that?
6 A. Only one other incident when we had some
7 teenage boys soliciting magazine sales late at night
8 after 10:00 banging on doors. That had happened
9 several times.
10 Q. Okay.
11 A. That they couldn't seem to control.
12 Q. Okay. And nothing other than that?
13 A. Nothing other than that, no.
14 Q. Okay. And when you spoke with this person
15 at the desk you just reported to them what happened;
16 is that correct?
17 A. Well, I really didn't get a chance to even
18 tell her because as soon as I walked in they said,
19 "Oh, Ms. Wright, we heard what happened to you.
20 We're so sorry."
21 Q. Okay.
22 A. They already knew.
23 Q. Okay.
24 A. But when we pulled up out there there
25 was -- WIS was already there. They had cameras set
0099
1 up in front of my apartment. And she told me
2 that -- whoever the lady in the apartment, I don't
3 know if it was Karen I talked to then or Kylie or
4 which one it was, said that, "You don't want to go
5 down there now."
6 I said, "Oh, no. I don't want to ever go

7 down there."

8 And she said, "But you don't want to go
9 now. The TV is waiting on you to come out."

10 Q. Okay.

11 A. They had found out about. Tried to keep
12 it quiet. Since I was a bank employee they didn't
13 want it to go out, but it had gotten out anyway.
14 So, anyway, she told me not to go down there and I
15 said, "I won't."

16 And she asked me to tell her what
17 happened. And I started telling her and I asked her
18 the lady's name. I said, "If I told you this lady
19 that walks the white dog and the" -- she knew
20 exactly who I was talking about.

21 She said, "Let me go see if she's there."
22 And she left and went to find her. And she wasn't
23 home, but somebody was that knew how to reach her
24 and they -- I don't remember how it worked out, but
25 they got her in touch with the police. So she did
0100

1 an artist sketch of them because she saw them. She
2 said she felt funny about it. She said it just
3 looked funny to see a white middle aged woman with
4 two black teenage boys.

5 Q. I was going to ask did you at some point
6 talk to her either on the phone or personally?

7 A. I did. I think it was the next day I went
8 back in there to -- I had some friends who
9 volunteered to pack things up for me so I wouldn't
10 even have to go in there. And I went back over to
11 ask what I needed to do about getting my deposit
12 back and things like this and she came in.

13 Q. To the office?

14 A. Into the office. Now, for the record,
15 there was a police officer with me. I had a
16 victim's advocate deputy -- resident deputy was with
17 me all the time and she was in there with me. And
18 she said, "Might not be a good idea for you guys to
19 talk about this, but here is" -- she let us hug.

20 And the lady said she was sorry that she
21 didn't do anything. And she said, "My dogs would
22 have attacked if I had told them to, but I" -- she
23 said, "I didn't have that feeling until after I
24 walked away." And she said, "I knew you. I've seen
25 you go in and out." And she said, "It just didn't
0101

1 look like the kind of people you normally hang out.
2 I should have known something was wrong." So that's
3 about basically all we talked about. They really
4 wouldn't let us talk about anything else.

5 Q. Have you talked to her since?

6 A. No, I haven't.

7 Q. Do you have any knowledge -- I think you
8 mentioned -- is this the person that you said had
9 some kind of case as well against Wellspring or do
10 you know?

11 A. No. To my knowledge, no.

12 Q. Okay. Did the employee that you spoke
13 with at Wellspring, did she have you sign any sort
14 of statement or anything?

15 A. Not that I remember, no.

16 Q. Do you recall her taking down any kind of
17 statement?

18 A. She was writing, but I didn't sign
19 anything that I know about or that I remember.

20 Q. Yeah. You testified earlier, and I just
21 want to make sure this is clear, that she said
22 something about, "We tried to keep it quiet because
23 you're a bank employee," and that --

24 A. No. Not her. She didn't say that.

25 Q. Okay.

0102

1 A. My bank kind of wanted to keep it quiet.

2 Q. I understand.

3 A. And so did the police officer that we
4 talked with. He said, "You don't -- until we catch
5 these guys you really don't want them to know that
6 you work for a bank."

7 Q. Right.

8 A. They are the ones that suggested that they
9 remove my nameplate and everything in the office as
10 if I wasn't there any longer. So they did that for
11 the two months I was out on leave.

12 Q. Okay. In terms of your conversations with
13 the Wellspring employee, did you feel like she was
14 receptive and expressed concern about what happened?

15 A. Oh, yeah. Yeah, she did.

16 Q. So no complaints with regard to at least
17 listening to your version of the events and helping
18 you get in your apartment and stuff like that?

19 A. Right.

20 Q. Okay. And you mentioned that you wanted

21 to leave. Did you have any issues getting back your
22 deposit or getting out of your lease?

23 A. I never got my deposit back. I called a
24 couple of times after I left to see, you know, where
25 it was, what was the status of it, and I was just

0103

1 told that that was a corporate decision and they had
2 no control over that and I would hear something from
3 the corporate office, but I never did. And I never
4 followed through more than two or three phone calls,
5 but I never got the deposit back.

6 Q. Was your apartment furnished?

7 A. No.

8 Q. So you had to get your furniture and
9 everything out too?

10 A. Yes.

11 Q. And I think you mentioned that you had
12 some friends help you do it?

13 A. Had some friends to do it. I finally got
14 myself together probably about the fourth or fifth
15 day enough to go over there as long as there were a
16 lot of people with me and pretty much say, "Put this
17 here, put this here, put this there."

18 Q. Okay.

19 A. I was able to go back in then.

20 Q. Do you remember the day of the week that
21 this happened, what -- that night what --

22 A. Thursday.

23 Q. Thursday night. So your next workday
24 would have been Friday?

25 A. Friday.

0104

1 Q. What did you tell work in terms of --

2 A. My daughter called my immediate
3 supervisor, Karen Metts, that night and told her
4 what happened and said, "Mother will not be there
5 tomorrow," and told her about the film. Well, they
6 got the film to the police that night. They were
7 able to get it that quick. So they had -- that's
8 how it got on WIS News immediately.

9 Q. Right.

10 A. And that they had the video from it.

11 Q. Okay. Did they ever catch the guys who
12 did this?

13 A. I don't know. I've never been told that
14 they have or have not.

15 Q. Have you ever followed up just out of
16 curiosity to see the status of any investigation?
17 A. A couple of times when I was close with my
18 victim's advocate when she followed me around for
19 months and months. She would say, "We're close.
20 We're close," or, "We've got good leads," and
21 whatever, but other than that, no.
22 Q. Yeah. Did you ever participate in any
23 kind of lineup or anything to identify anybody?
24 A. No.
25 Q. It may be in your interrogatory responses,
0105
1 but who would you kind of consider your primary
2 contact at the police department about this
3 incident?
4 A. Cassie.
5 Q. Cassie. And you don't have any
6 information as to the status one way or the other?
7 A. No, I don't.
8 (Exhibit No. 5 was marked for
9 identification.)
10 BY MR. COMER:
11 Q. Ms. Wright, I'm showing you what's been
12 marked as Deposition Exhibit No. 5. Do you
13 recognize this document?
14 A. Yes.
15 Q. Okay. And I guess my question is have you
16 seen the incident report from your incident before
17 today?
18 A. Yes.
19 Q. It's something you would have received
20 from the police?
21 A. Yes.
22 MR. RIDGEWAY: Let me just -- before
23 you go any further let me just step out and let you
24 read this and see if you've got any questions about
25 it.
0106
1 MR. COMER: I think this is what you
2 guys gave us, but I cannot be sure. So that's fine.
3 (A recess transpired.)
4 BY MR. COMER:
5 Q. Let's go back on the record. Ms. Wright,
6 I've shown you a copy of what's been marked as
7 Deposition Exhibit No. 5. I think you told me you
8 had seen this document --

9 A. Yes.
10 Q. -- before; is that right?
11 A. Yes.
12 Q. Let me get my question out. Does this
13 appear to be a true and accurate copy of the
14 incident report from the night of your abduction at
15 Wellspring?
16 A. Yes.
17 Q. Okay. And at the top it indicates that
18 incident date September 18, 2008. Is that correct
19 according to your recollection?
20 A. That's correct.
21 Q. Okay. And I was asking you a lot of
22 approximate times earlier. It says 24-hour clock
23 22:30. I guess that would be 10:30 as the time that
24 the incident started. Would that appear to
25 correspond to your recollection?
0107
1 A. That's correct.
2 Q. Okay. And then it indicates 24-hour clock
3 23:05. I guess that would be 11:05 that evening.
4 Would that correspond to your recollection of when
5 approximately it ended?
6 A. That's correct.
7 Q. Okay. And then I believe if you look
8 further over, it indicates a dispatch time of 23:13,
9 so 11:13. That would have been, I guess, about the
10 time you called it in?
11 A. Right.
12 Q. Okay. Let me just ask you a couple of
13 questions. As you look down in the narrative on
14 this document it says, "On the above listed and time
15 the R/O was dispatched to 1143 Chadford Road." Was
16 that your daughter's apartment?
17 A. That's her house.
18 Q. Her house. Okay. So she lives in a house
19 subdivision?
20 A. Right.
21 Q. I apologize. I was under the impression
22 she lived in an apartment complex.
23 A. It's called New Friarsgate.
24 Q. And it says -- a couple lines down it
25 says, "The complainant stated to the R/O" -- I guess
0108
1 that's requesting officer -- "that while she was
2 coming back home she parked her vehicle and walked

3 to her apartment building. The C/V saw two black
4 males sitting on the walking ramp in front of the
5 2200 building." Do you recall telling the officer
6 that you saw them sitting on the ramp?

7 A. No, I don't. I just -- I remember that's
8 where they were was on the ramp area behind the
9 bush.

10 Q. Okay.

11 A. But I don't recall telling them where they
12 were sitting.

13 Q. Okay.

14 A. I don't really know where they were
15 sitting.

16 Q. Okay. And it says further down, "I'll
17 blow your head off if you don't give me your money."
18 Is that what they said to you?

19 A. Yes. Yes.

20 Q. And then further down it says, "While the
21 C/V and the subjects were going to her vehicle they
22 saw a lady walking her dog in the parking lot."
23 That would be the woman you referred to earlier; is
24 that right?

25 A. That is correct.

0109

1 Q. Okay. It says that you were taken to the
2 BB&T Bank on Harbison Boulevard and made two
3 withdrawals of \$500 and \$200. Do you recall that?

4 A. That sounds right, yes.

5 Q. Okay. And what this -- what is not
6 indicated here, my understanding from your testimony
7 was that you actually went through, drove around a
8 bit, and came back?

9 A. And came back. That's correct.

10 Q. So this was not --

11 A. All at one time, no.

12 Q. I understand. And then it says the C/V --
13 I'm looking at the very last sentence in the
14 narrative. "The C/V took the subjects to the BB&T
15 on Dutch Square in which she withdrew \$80 from the
16 ATM machine." Was that the last withdrawal?

17 A. That was the last withdrawal, yes.

18 Q. Let me go to the second page. And it
19 says, "The subjects told the C/V to go to the
20 Hardee's parking lot on Dutch Square Boulevard. And
21 while in the Hardee's parking lot the subjects told
22 her they were going to rape her."

23 Now, one thing that was missing from your
24 testimony earlier was any testimony about a fear of
25 sexual assault. Did they ever make any statements
0110

1 like that?

2 A. Yes, they did.

3 Q. Tell me about that.

4 A. There at Hardee's and at the Dutch Square
5 thing. That's where he put his hands down the back
6 of my pants because I was leaning forward so that
7 they could get the camera on him. And that's when
8 he said -- they called me granny and they called me
9 fatty too. He said, "Granny's got a fatty ass.

10 We're going to need to take her back to the
11 apartment and have some fun before we kill her."
12 And then they said that again at Hardee's too.

13 Q. And other than making the comments and
14 them putting their hands down the back of your
15 pants, did they ever do anything beyond that
16 touching in terms of any additional assault of a
17 sexual nature?

18 A. Just the one in the front -- it was only
19 the one in the front.

20 Q. Okay.

21 A. The one in the back talked about it. The
22 run in the front grabbed my breast while I was
23 driving. He was fondling.

24 Q. Okay. And please don't read into this
25 question. I'm not downplaying the significance of
0111

1 that, but outside of the fondling --

2 A. No.

3 Q. -- any additional assault did not occur?

4 A. No. I think they -- I didn't remember it,
5 but they -- I did later, that they took pictures
6 when they got to my daughter's house of some bruises
7 where they touched me.

8 Q. The police took the pictures?

9 A. Uh-huh.

10 Q. Okay. I think that's all I've got on
11 that. Let me just set it over here with the others.
12 I asked you earlier about whether you ever
13 participated in any sort of criminal lineup. Did
14 you ever do anything else to identify these guys in
15 terms of looking at any pictures?

16 A. Yes, I did look at a photo book while the

17 deputy called me to meet me somewhere and showed me
18 the book. And I told him again I didn't look at
19 them. And he said, "Sometimes you did see them, but
20 you're blocking it out. I'm not asking you to
21 identify anybody. I just want you to look through
22 this book. I can tell from your expressions."

23 Q. Okay.

24 A. Must have been over 300 pages in this
25 book. And when I got through it was the same two
0112

1 that she had drawn, the two men that I touched and I
2 said, "Ooh."

3 Q. So you --

4 A. Same feeling.

5 Q. You were able to pick the gentlemen out?

6 A. He said I was. He said I did. I don't
7 know whether I did or not because I didn't look at
8 the composite drawings that was on the TV either. I
9 chose not to watch that, but that particular officer
10 did tell me that the two that I showed a reaction to
11 matched her description.

12 Q. Can you approximate the number of pictures
13 you looked at?

14 A. Between 200 and 300.

15 Q. Okay. Were there a lot of pictures on one
16 page or one picture per page?

17 A. No. Lots of them.

18 Q. Okay. So 200 or 300 pictures?

19 A. Yes.

20 Q. I think you -- and I'm asking to clarify
21 because I think you said the book was 200 or 300
22 pages.

23 A. Oh, I don't -- probably about that thick.

24 Q. Okay.

25 A. But there was probably -- I would guess

0113

1 that many pictures would be a rough guess.

2 Q. And you said you have never to this day
3 looked at the composite sketch?

4 A. No. No, I haven't.

5 Q. Did you ever provide any interview to, I
6 think you mentioned, WIS or WLTX or anybody?

7 A. No.

8 Q. Are you familiar with anything called a
9 report of unusual occurrence from having lived at
10 Wellspring?

11 A. No.
12 Q. Bear with me. I'm trying to mark out some
13 things to save us a little bit of time. How much
14 time passed from when this incident happened to when
15 you actually moved out of Wellspring? A week, two
16 weeks?
17 A. I never went back from that very night.
18 Q. I know, but I --
19 A. I stayed in with my daughter.
20 Q. I understand. But I mean the time when
21 you actually got your stuff out?
22 A. Four days.
23 Q. Okay. And in the meantime you lived with
24 your daughter?
25 A. I stayed with her for two months.
0114
1 Q. And then at the end of two months did you
2 look for a new place?
3 A. Yes. I moved into Century Heights.
4 Q. Okay. How long was it that you were out
5 of work as a result of this incident?
6 A. A little over two months.
7 Q. And did you at some point go and get the
8 counseling from Ms. Zaepfel, I believe we talked
9 about earlier?
10 A. Yes.
11 Q. Did she ever give you any sort of
12 diagnosis or anything?
13 A. Nothing except that she would be -- when
14 we first started she told me that she would be
15 surprised if I was able to go back to work. And I
16 told her that, you know, I had no choice. I was
17 divorced and on my own. I had to go back to work.
18 She was a counselor that BB&T used for bank
19 robberies. So she helped me. She helped me get
20 through it.
21 Q. How many times did you see her?
22 A. Once a week.
23 Q. How many weeks?
24 A. Gosh, a little over a month.
25 Q. Did she at some point release you to go
0115
1 back to work?
2 A. She didn't release me. I released myself
3 and she said she would agree with it as long as I
4 continued counseling. And I tried it. I tried

5 after I went back to work going to counseling with
6 her, but it's awfully hard to do and work the kind
7 of hours and schedules we did. So I ended up
8 calling her and telling her I was going to try this
9 on my own.

10 Q. And I guess my question is have you ever
11 seen anyone correspondence from her to your employer
12 or anyone else saying, "She can go back to work"?

13 A. No, I never saw anything.

14 Q. Are you aware of whether she ever sent
15 anything like that?

16 A. No, I'm not aware of it.

17 Q. What is it -- you have brought a lawsuit
18 naming PRG and Wellspring and, I believe, Karen
19 Campbell as defendants. What is it that you believe
20 they should have done to prevent this?

21 A. Made me safe and secure.

22 Q. Okay. And --

23 A. Took care of the issues that caused the
24 problems. If it hadn't of been for those bushes, I
25 wouldn't have had to go through this.

0116

1 Q. Okay. So, I guess, do you mean that they
2 should have cut the bushes back more?

3 A. Down.

4 Q. Cut the bushes down?

5 A. Dug them up. Whatever it takes to make
6 you feel safe to be able to walk into your
7 apartment.

8 Q. Had you felt unsafe prior to this
9 incident?

10 A. Yes.

11 Q. Okay. What, if anything, else? I mean,
12 we've talked about the bushes. What else should
13 they have done?

14 A. And the lights, the security lights. And
15 the first thing I questioned her the next day was,
16 "Where are these security officers that are supposed
17 to be walking the beat? I didn't see anybody.
18 There was nobody there when I needed them. I didn't
19 see one. I've never seen one the whole time I've
20 lived there."

21 Q. And what did she say?

22 A. Just shrugged her shoulders, "I'm sorry."

23 Q. And I apologize if I've already asked
24 this, but do you remember who this -- was this Kylie

25 or --

0117

1 A. I don't remember.

2 Q. Okay.

3 A. I really don't know who it was. I was out
4 of it.

5 Q. Okay. So we've talked about the officer,
6 we've talked about the bushes, we've talked about
7 the lighting. Is there anything else you think they
8 should have done to take care of your safety?

9 A. Well, nothing except things that I had
10 brought to their attention before of fencing the
11 property in so that -- because they always would say
12 those kids that were jumping the fence to get in the
13 pool were just riffraff, normal Harbison riffraff
14 that we couldn't control. Well, put some fences up
15 then or do something, but I was always told that
16 wasn't feasible.

17 Q. Well, did you ever consider leaving when
18 they told you that wasn't feasible?

19 A. Yeah. Yeah, I did, but I could afford
20 that place and it was close to work, but, yes, I did
21 consider it.

22 Q. Okay. But you never acted on that?

23 A. No, I did not.

24 Q. Do you think all criminal activity -- I
25 mean, do you think criminal activity can be

0118

1 prevented?

2 A. It can certainly be deterred.

3 Q. Okay.

4 A. I know you can't prevent it all.

5 Q. Do you agree with me that this was
6 criminal activity?

7 A. Oh, yes.

8 Q. And my understanding then is you believe
9 that Wellspring should have done something to
10 prevent the criminal activity?

11 A. Yes, I do.

12 Q. Okay. One of the claims you've brought is
13 under something called the South Carolina Unfair
14 Trade Practices Act. Did you ever feel that someone
15 at Wellspring or at PRG deceived you?

16 A. Yes.

17 Q. Okay. Tell me how they deceived you.

18 A. They told me it was a safe and secure

19 place.

20 Q. Who told you it was a safe and secure
21 place?

22 A. It would be Kylie. She's the one that
23 I -- I think. Don't hold me to that because that's
24 been many years ago as to who was there when I
25 filled out the application.

0119

1 Q. Well, and I understand, but this is my
2 opportunity to ask you questions.

3 A. Yes.

4 Q. So if you're saying that someone deceived
5 you, what I want to know is who and when and how?

6 A. Well, it's probably better to say the
7 manager at that time.

8 Q. Okay. And what did they say?

9 A. That it was a safe and secure place. I
10 told them my situation, that I was a single woman
11 alone and it was important to me that I felt safe
12 and secure.

13 Q. Okay. So this was verbal?

14 A. Verbal.

15 Q. Okay.

16 A. Yes.

17 Q. Any other way that you felt deceived
18 beyond them saying this is a safe and secure place?

19 A. Not until after this was all over and I
20 found out how many other incidents have gone on
21 there and we were never -- I never knew that. I
22 would have made a decision to leave before something
23 happened had I known there were so many other
24 incidents there. .

25 Q. And so you believe they should have been
0120

1 telling you about anything going on on the premises?

2 A. I think we deserved a right to know.

3 Q. Did you ever make that request prior to
4 this incident?

5 A. I didn't know about it until after I left.

6 Q. We've been talking about deception. It's
7 called the South Carolina Unfair Trade Practices
8 Act. Let me ask you about unfairness. Did you ever
9 feel like someone treated you unfairly?

10 A. No.

11 Q. Okay. Other than this verbal
12 representation that you say was made by the

13 manager -- when was that made? Was it when you
14 moved in? Was it later or when?

15 A. When I went to fill out an application.

16 Q. All right. Was it a man or a woman?

17 A. Woman.

18 Q. How old?

19 A. Young.

20 Q. Okay. Young 20's, young 30's?

21 A. Late 20's probably.

22 Q. What color hair did she have?

23 A. It seemed like it was brown.

24 Q. Okay. Long, short hair?

25 A. I really don't remember.

0121

1 Q. Other than the verbal expression, any
2 other way that they -- and we talked about the
3 incident reports. Anything else that made you feel
4 like you were deceived?

5 A. No.

6 Q. Okay. We've been talking about security
7 officer. Did anybody ever use the term courtesy
8 officer with you? Did you ever hear somebody
9 referred to in that manner?

10 A. No.

11 Q. Did you ever speak with a security officer
12 or courtesy officer at the complex?

13 A. No.

14 Q. Prior to this incident did you ever report
15 an incident that would have required you to speak
16 with a courtesy officer or security officer?

17 A. No. I called -- I directly called the
18 sheriff's department when those young men were
19 soliciting.

20 Q. Okay. Why did you call the sheriff's
21 department when the -- are you talking about the
22 magazine subscriptions?

23 A. Right. Yes.

24 Q. Why did you call the sheriff's department?

25 A. Because the number that I would have

0122

1 called at the apartment, all you would get is an
2 answering machine.

3 Q. Okay.

4 A. I wanted something done then. He was
5 banging on doors.

6 Q. I think you mentioned that after this

7 incident you moved to Century Heights; is that
8 right?
9 A. Century Heights.
10 Q. Do you still live there now?
11 A. I do.
12 Q. Tell me a little bit about your new
13 apartment. Is it comparable in terms of price?
14 A. No.
15 Q. Okay.
16 A. It's a lot more expensive, a lot more.
17 Q. Okay. How much more?
18 A. About \$400 more a month than what I was
19 paying at the other place.
20 Q. What were you paying when you left
21 Wellspring?
22 A. See, I don't remember the amount.
23 Q. Okay. Could you approximate? And I'm
24 sure it's in my records somewhere, but could you --
25 A. Yeah, I'm sure it is too. And it may not
0123
1 be -- I'm paying nine something now. It seemed like
2 I was paying five something there.
3 Q. Okay.
4 A. That seems right, but I'm not sure.
5 Q. As you sit here today from having lived in
6 your new place and seeing what it has to offer can
7 you comment on the difference in the price? In
8 other words, are there better amenities or is it a
9 bigger apartment or anything like that?
10 A. It is a bigger apartment.
11 Q. Okay.
12 A. But the No. 1 thing for me was the
13 security. It has -- it's gated. You have to have a
14 code to get in. Does that keep the bad people out?
15 No. You can sneak in behind somebody. But when I
16 did go there I was introduced to their officers
17 face-to-face so that if I ever had to call one, I
18 would know who it was, that it wouldn't be a
19 stranger. I was given the officer's cell phone
20 numbers, private lines, so you wouldn't have to go
21 through the main office and leave a message and wait
22 for somebody to call you back.
23 The lights are unreal. They are so
24 well-lit up in the breezeways and the apartment
25 things and exit light so you can see to get out of
0124

1 the apartment in a hurry. They've got backup lights
2 too in case the power goes out. All these things
3 were important to me when I moved there.
4 Q. Okay.
5 A. So was it worth the extra cost? Yeah.
6 Has it been hard? Yeah. But I feel safe.
7 Q. Okay. Were any representations made to
8 you at your current complex about your safety and
9 your security?
10 A. No.
11 Q. And what I mean by that is did someone
12 say, "Your safety is important," or, "Your security
13 is important," that kind of thing?
14 A. No. They just answered my questions when
15 I first moved in, was there security officers on
16 site, and yes. And that was all. That was it.
17 Q. Do you know if the security officer on
18 site is someone who is retained by the complex or if
19 it's someone affiliated with local law enforcement?
20 A. She told me by complex. They hire them.
21 Q. Do you have a roommate now?
22 A. No, I don't.
23 Q. Let me back up. What were the dimensions
24 of your apartment at Wellspring in terms of number
25 of bedrooms and baths?
0125
1 A. It was a two-bedroom, two-bath.
2 Q. How about your current apartment?
3 A. Two-bedroom, two-bath.
4 Q. Since you live by yourself is the extra
5 bedroom for grandchildren, if somebody visits?
6 A. Grandchildren.
7 Q. That kind of thing?
8 A. Grandchildren.
9 Q. Where is your new apartment in relation to
10 Wellspring in terms of if you had to estimate how
11 many miles away?
12 A. It's just the next exit. So less than a
13 half a mile I'm sure.
14 Q. Further down Harbison?
15 A. No. It's on the next exit, which is Lake
16 Murray Boulevard.
17 Q. I understand. Do you know if your lease
18 at your current apartment made any representations
19 to you about what, if any, responsibility the
20 complex had for your security?

21 A. I don't know if it does.
22 Q. Did you read your current lease?
23 A. Yeah, I did.
24 Q. You mentioned the gate at your current
25 apartment. Is that intended to -- is that intended
0126
1 to make you feel safer or keep out people who don't
2 live there?
3 A. Yeah. You have to have a little card to
4 get in or either go through the office. And they do
5 have a drive-up where you pull up and you can punch
6 in the person's name and it will call you and you
7 can decide whether to let them in or not let them
8 in.
9 Q. Okay. And did somebody tell you that that
10 was why the gate is there?
11 A. Yeah.
12 Q. Who told you that?
13 A. The apartment manager. And I don't know
14 who that was at that time because she's not there
15 anymore either.
16 Q. Did she tell you anything else about
17 safety and security at your current complex?
18 A. Nothing really except that, you know, like
19 I said, they gave us the phone numbers to call.
20 They also gave us the Richland County phone direct
21 line. They gave us Columbia Police, who handles
22 that area. They had a listing of all that, I think
23 it was a little magnet that you put on, and did tell
24 that we would be notified of any incidents, which we
25 are. We've had a couple of things. And they'll
0127
1 either leave a message on your answering machine or
2 stick a note under your door and say today we had
3 this and that or whatever happen. They'll let you
4 know, you know, what -- always let me know. And
5 they've had a few things since I've been there.
6 Q. Okay. Did Wellspring ever do anything
7 like that in terms of be it through a newsletter or
8 voice mail or anything?
9 A. No.
10 Q. Did Wellspring -- do you know, if you
11 know, if Wellspring ever informed other tenants of
12 your incident?
13 A. I don't know that.
14 Q. You don't know?

15 A. I don't know that.
16 Q. Okay. You don't know one way or the
17 other?
18 A. No, I don't.
19 Q. Let me -- have you had any issues at all
20 at your current apartment in terms of be it
21 maintenance or anything?
22 A. Oh, yeah.
23 Q. Okay. Tell me some of your issues.
24 A. Broken dishwasher.
25 Q. Okay.
0128
1 A. Broken refrigerator. And they replaced
2 that. Carpet coming up. They fixed that. Had a
3 water leak in a wall in a bathroom. So they had to
4 totally kind of remodel the whole wall in one of the
5 bathrooms. Had a snake last week on my front porch.
6 They came and got rid of the snake.
7 I did have somebody to bang on the door at
8 2:00 in the morning. Investigated it for me. I
9 ended up calling the resident deputy. He came down
10 and found the person. It was somebody just drunk
11 and got the wrong apartment.
12 Q. Did he live at the complex?
13 A. Yes, he did. Got confused. Got confused
14 which door he was supposed to be in, but other than
15 that, you know, everything I've asked for is --
16 Q. Okay. You said there had been some other
17 incidents. What have been some of the other
18 incidents?
19 A. I was notified that the building that --
20 not the building I'm in, but the one next to it,
21 which we both face the woods, which is not fenced
22 in; some men came through the woods and robbed --
23 broke into an apartment.
24 Q. Okay.
25 A. And I was notified that that had happened
0129
1 and suggestions as to keeping a light on all the
2 time, even in the daytime when you are not there,
3 leave the curtains open so it appears someone is
4 there. They sent a little letter that talked about
5 what to do.
6 Q. Okay.
7 A. Then I got a phone call and said that they
8 -- we have a security code to get into the gym, to

9 the pool, to the laundry room, to the front office
10 if you need to go walk instead of driving up there.
11 We have a code to get in the doors. And they
12 changed the code due to a woman going through a
13 divorce, that her ex had found the code out, and to
14 protect her they were going to change the codes.

15 Q. Okay.

16 A. That's happened a couple times for
17 different divorces or child issues, but, I mean,
18 they always notify us when something happens and
19 they have to change the code.

20 Q. Right. I've been out to Wellspring and
21 when I went out to Wellspring I saw there are a lot
22 of buildings. And I would call it a big complex.

23 A. It's big.

24 Q. When you compare it to your current
25 complex, your current apartment --

0130

1 A. It's not quite as big.

2 Q. Okay.

3 A. It's not quite as big. I may be wrong.
4 It may be because of the way it's built. Wellspring
5 is spread out. Century Heights is taller.

6 Q. I understand.

7 A. So, you know, I don't know the difference.

8 Q. Do you think that Century Heights should
9 gate that area at the woods because of what
10 happened?

11 A. It would be nice.

12 Q. Does it make you have any concern to
13 whether you --

14 A. A little. But I chose not to live on the
15 bottom floor this time. Well, I was on the third
16 floor at the other one, but I chose when I moved
17 here I didn't want to be on the bottom just for that
18 -- I knew that before I went in that that back part
19 was not fenced in. It's very wooded in there and it
20 backs right up to Riverland Hills Baptist Church.
21 So, yeah, that was a concern. So that's I chose not
22 to live on the bottom floor.

23 Q. Did you make a similar decision at
24 Wellspring with regard to living on the third floor?
25 In other words, did you say, "I want a third floor

0131

1 or a non-bottom floor apartment?

2 A. That was part of it. I didn't want the

3 bottom floor there either. I just felt safer up
4 high. And at Wellspring that was the only thing
5 they had available at the time too. So it worked
6 out for me.

7 Q. Okay. Let me change topics again and let
8 me just talk to you about your current condition.
9 Do you have any physical injuries that you are
10 claiming as a result of this incident?

11 A. No, I don't.

12 Q. Okay. Do you have any mental injuries
13 that you are claiming as a result of this incident?

14 A. Yeah. I feel like I do, yes.

15 Q. Tell me a little bit about that.

16 A. Nightmares. I still don't -- I don't
17 drive at night by myself at all. I have a terrible
18 fear of -- if a car has been on my bumper too long,
19 I will go out of the way to go a different way or
20 get somewhere safe. I don't travel. I don't go
21 into places that I don't know people.

22 Q. How do you get to choir practice?

23 A. It's right down -- my church is right down
24 the street from me. There for the first six months
25 or so I didn't go by myself. Someone came and

0132

1 picked me up. The same way -- one of the witnesses
2 that's on that list, Susan Boyd, drove me back and
3 forth to my practice on Thursday nights.

4 That was the hardest thing in the world
5 for me to do was to go back there again and not
6 associate something that I love with something so
7 horrible. So the law -- Cassie drove me for the
8 first month. She drove me back and forth in the
9 police car and sat outside and waited on me. And
10 then the girls in the chorus started taking turns.
11 Now I don't go by myself. I have someone that goes
12 with me every Thursday night.

13 Q. When you drive from your current apartment
14 complex to your practice you have somebody drive
15 with you?

16 A. I ride -- we meet at my church, which is
17 on Lake Murray Boulevard too, and I drive from my
18 church -- I feel comfortable from my church to my
19 house. I feel very comfortable in places that I
20 know. That's one of the reasons after I quit my job
21 I tried to take a temporary -- went with a temporary
22 service. That didn't work out because I don't

23 always know -- if I don't know the area or
24 surroundings, I won't do it.

25 Q. How far is your church from your current
0133

1 apartment?

2 A. Probably a mile.

3 Q. Okay. So you're comfortable driving at
4 night the mile to your current church?

5 A. Yeah.

6 Q. I'm sure you've said it and I apologize
7 for having to ask again. Your choir does not
8 practice at your church?

9 A. No. It's at another church over in
10 Lexington.

11 Q. And so you meet at your church?

12 A. Meet at my church. Leave in her car.

13 Q. Okay. Who do you ride with?

14 A. Debbie Adams. She's on this list too.

15 Q. Okay. And that's every Thursday night?

16 A. Every Thursday night.

17 Q. And when it's over she brings you back to
18 your car at the church?

19 A. Church.

20 Q. And you drive him?

21 A. And I drive home.

22 Q. Any other times that you drive at night?

23 A. Rarely ever. Rarely ever. If we have a
24 performance that I sing at, we always meet together
25 and ride together as a group. So I just -- I don't

0134

1 do it by myself.

2 Q. Okay. And you're not undergoing any
3 treatment right now for any sort of distress --

4 A. No.

5 Q. -- or anxiety; is that right?

6 A. No.

7 Q. And you're not taking any medications
8 right now; is that right?

9 A. For anxiety, no.

10 Q. Did Ms. Zaepfel, I'm sure I'm pronouncing
11 that wrong, did her therapy help you?

12 A. Yes, it did.

13 Q. Is there anything that you can't -- well,
14 we've talked about driving at night and we talked a
15 little bit about, you know, when you do and when you
16 don't. Is there anything else that you either don't

17 or can't do now that you did before your incident?

18 A. I can't work. I gave up a job that I

19 loved. I planned on staying until 65.

20 Q. Okay.

21 A. I can't do that. And I --

22 Q. What kind of problems were you having at

23 work, if any?

24 A. Not trusting anybody. Anybody strange

25 that walked in the front door of the bank would

0135

1 scare me. Leaving, coming and going in the mornings

2 and at night, sometimes it would be dark when it

3 would be time to go and I would have panic attacks.

4 Trying to concentrate on being a supervisor, I just

5 felt like my whole life had been turned upside down.

6 It's really hard to supervise young girls when I

7 couldn't even get myself together.

8 Q. How about your job performance, were you

9 still able to perform? I mean, I know you felt --

10 A. Not very well. I made some careless

11 mistakes and just didn't feel good anymore, didn't

12 enjoy it anymore. All I wanted to do was curl up in

13 a hole.

14 Q. What was your salary at the time that you

15 left?

16 A. Around 30,000 a year. It varied because I

17 traveled a lot with the bank. And when I traveled

18 and went to other states to help out I made a lot

19 more, but, thank God, that didn't come up.

20 Q. Have you looked for any other jobs that

21 might be a change of pace, something you would

22 enjoy, since leaving the bank?

23 A. I tried. I tried. I went to Roper

24 Temporary Service, which is who got me started in

25 banking in the first place. I started off with them

0136

1 with Lexington State Bank as a temporary with them.

2 For four years I worked before. So I went back to

3 them, told them my story, which they had already

4 knew, and I said, "So please put me in places that I

5 feel comfortable, but I need to work. Financially

6 and emotionally I need to work."

7 I tried. I really did. I tried really

8 hard. And the last assignment I had was -- I had

9 been there for three or four weeks and I was

10 sitting -- I was the front desk receptionist. And

11 it was after 5:00 and I was cleaning up my desk to
12 get ready to leave and three men that I didn't know
13 walked in the front door and I screamed and I got
14 hysterical. And they were employees.

15 Q. And where was this again?

16 A. Something Printing. It's a printing
17 company in West Columbia. Wentworth. Wentworth
18 Printing. I was so embarrassed and so humiliated
19 that I screamed at these men and got hysterical and
20 they both worked in the back. And that place was
21 open 24 hours a day, the front office wasn't, but
22 they did work. And by the time they got me calmed
23 down and I got out of there I had to call Roper and
24 say, "I can't do this. This is not -- I'm
25 hyperventilating going to work every morning. I'm
0137

1 doing that coming home because I had to drive so far
2 away." They did try to send me a couple other
3 places and I tried a job assignment in Chapin and I
4 got there and couldn't get out of the car.

5 Q. This was all through this Roper Temp
6 Agency?

7 A. Roper Temporary Service.

8 Q. Temporary Service?

9 A. I just finally had to call them and tell
10 them that I just couldn't do it.

11 Q. Did your bank -- did BB&T when you left
12 have any sort of early retirement system --

13 A. Yes.

14 Q. -- or something?

15 A. That's what they let me do. I wanted to
16 quit. I just wanted to walk away and quit. And
17 they said since I had 20 years in that I could
18 retire with partial benefits and, you know, they
19 would help me do that. So they helped me. I ended
20 up having to stay ten more -- or stay ten months
21 after the incident to get -- you know, make sure
22 everything was okay. And that's what I did instead
23 of quitting.

24 Q. And for someone who, you know, is not at
25 retirement age or anything any time soon, what did
0138

1 it mean for you to get early retirement? Does that
2 mean you can start drawing certain vested benefits
3 or something?

4 A. I do. I do. I didn't get the full amount

5 that I would have gotten if I stayed until I was 65.
6 Q. Did you have plans to retire at 65?
7 A. Yes, I did.
8 Q. So if this incident had not happened, you
9 would have worked till about 65?
10 A. Probably even longer because I loved it.
11 I absolutely loved my job.
12 Q. Are you claiming any medical bills as part
13 of what I call your economic, your actual damages?
14 Are you claiming any medical bills?
15 A. No. The bank took care of all of that for
16 me.
17 Q. And you're claiming you can't work
18 anymore. So I think you've testified that your
19 salary when you left was about \$30,000 a year; is
20 that right?
21 A. Right.
22 Q. Was that salaried or by the hour?
23 A. It was by the hour.
24 Q. Okay. Do you recall what you made by the
25 hour?
0139
1 A. No, I don't.
2 Q. Like I said, math was never my strong
3 suit.
4 A. Me either. I never looked at my pay stub.
5 Whatever they gave me I took. So I don't know.
6 Q. When you went back to work after your
7 incident was your salary the same? Did you take --
8 was your salary the same or did you take any
9 increase or decrease or any impact?
10 A. It was the same.
11 Q. Okay. Did you receive any demotion or
12 anything when you went back?
13 A. No.
14 Q. Were you cited for any problems or
15 anything when you went back?
16 A. A couple of times.
17 Q. What were the problems?
18 A. Cashing a bad check. I think one time I
19 got wrote up for not putting a proper hold on a
20 deposit, things that I should have known better and
21 would have known better.
22 Q. Had those kind of things ever happened
23 before?
24 A. Yeah.

25 Q. Did you ever have any discussions with
0140

1 your supervisor at work about your ability to work,
2 that kind of thing?

3 A. Yes.

4 Q. Who was that?

5 A. Karen Metts was one of them. Diane Brewer
6 was another. Michelle Pilcher, who was my manager
7 at the time, we talked.

8 Q. In terms of your compensation, was any of
9 it ever tied to any bonuses or anything like that,
10 any bonus compensation?

11 A. Yes.

12 Q. How did that work?

13 A. Every time I worked on a merger, which I
14 would go to a bank that we bought in another state,
15 there was a bonus for every time we went.

16 Q. Has there been any kind of merger since
17 your incident?

18 A. No. There was nothing.

19 Q. Did you get the money that you withdrew
20 from the ATM back from your bank?

21 A. Yes, I did.

22 Q. So you're not missing any money as a
23 result of the incident from your personal funds?

24 A. Right.

25 MR. COMER: I'll tell you what.

0141

1 Let's take a five-minute break.

2 (A recess transpired.)

3 BY MR. COMER:

4 Q. Back on the record. But, Ms. Wright, I've
5 asked you a lot of questions about documents and
6 your memory and so forth. Have you -- do you use
7 E-mail?

8 A. Yes, I do.

9 Q. What is your E-mail address?

10 A. TWright1020@aol.com.

11 Q. Have you sent any E-mails about this
12 incident to anybody other than your counsel?

13 A. To Amber to get the pictures, which I
14 found out she had some pictures. I did send her an
15 E-mail and ask her to E-mail them to him for me
16 because I don't know how to do pictures on the
17 computer.

18 Q. Do you still have that E-mail in your sent

19 items?

20 A. You know what? When my son-in-law
21 upgraded my computer for me he said he took
22 everything off of that. I don't know. He would
23 know if it's there. So I really don't know.

24 Q. I'll follow up with your counsel, but
25 would you look for me?

0142

1 A. I will.

2 Q. Just see if you have any E-mails.

3 A. If it's still on file.

4 Q. Sure. And by the same token, if you'll
5 look and just see if there's any other E-mails
6 relating to --

7 A. To this case?

8 Q. -- this incident. Yes, ma'am. Do you
9 keep copies of your tax returns?

10 A. Yes, I do.

11 Q. Do you have copies now?

12 A. There's like three years there that I
13 don't have because nobody told me when you do
14 TurboTax you have to put the thing to save it in a
15 file or some folder somewhere. I didn't do that. I
16 just printed it. So there's like three years in
17 there that I don't have.

18 Q. Okay. And I'll follow up with your
19 counsel about this. I don't -- I think we've asked
20 for that. We haven't received it yet. I'll follow
21 up with your counsel, but if you would provide it to
22 him, I would appreciate that.

23 A. Okay.

24 Q. Going back to when you were riding around
25 in your car. You mentioned they made fun of your

0143

1 cell phone. Were these guys ever using your cell
2 phone to make any of these calls?

3 A. No. No.

4 Q. I think in the interrogatories and also in
5 your testimony you indicated that you were told that
6 SCE&G had responsibility for that lamp out in front?

7 A. The light pole.

8 Q. Do you think that they should have done
9 anything to prevent this incident, SCE&G?

10 A. Not really because it was on Wellspring's
11 property. I didn't really think about that.

12 Q. Okay. How about -- and as I ask these

13 questions I'm asking you to assume that what you
14 were told is true, which is that SCE&G had
15 jurisdiction, for lack of a better word, over the
16 light and that the POA had authority over the
17 bushes. If you assume that is true, do you think
18 that the POA should have done anything to prevent
19 this incident?

20 A. And what does POA mean?

21 Q. I'm sorry. The Harbison Property Owners
22 Association or the Harbison Community.

23 A. No.

24 Q. So you don't think they should have done
25 anything about the bushes?

0144

1 A. No. It was on Wellspring's property.

2 Q. Okay. So even if Wellspring had no
3 control over it, you don't think the Community
4 Association bears any fault?

5 A. It's a big enough complex that they should
6 have been able to say, "Look here, guys. We need to
7 protect our people." No, I never thought about
8 that.

9 Q. I've asked you about E-mails. Have you
10 sent, other than your counsel, any written letters
11 or any written documentation of this incident to
12 anybody?

13 A. Not that I can think of offhand, no.

14 Q. Do you have an understanding as you sit
15 here today -- I know you said the bank took care of
16 your counseling fees. Have you ever seen a
17 statement as to what those fees would be if you had
18 to pay for them?

19 A. No.

20 Q. So you don't know what the amount --

21 A. No, I don't know.

22 Q. Okay.

23 MR. COMER: I think that's all the
24 questions I have. I greatly appreciate your
25 patience.

0145

1 THE WITNESS: Thank you.

2 EXAMINATION

3 BY MR. RIDGEWAY:

4 Q. I've just got two quick questions for you.
5 The bank paid for the counseling, correct?

6 A. Right.

7 Q. Was the counseling necessary because of
8 this event?
9 A. Yeah. It was a requirement of the bank.
10 I couldn't come back to work if --
11 Q. But you don't -- you don't know what the
12 counseling costs?
13 A. No, I don't.
14 Q. Okay. Earlier you said you felt like you
15 had been deceived by the apartment complex. Is that
16 what you said?
17 A. Yes, I did.
18 Q. And then later you said you didn't feel
19 like you had been treated unfairly. Do you remember
20 saying that?
21 A. Yes.
22 Q. Do you think that when somebody deceives
23 you they also treat --
24 A. Unfairly, yes. You're right.
25 Q. Let me finish my question. When they
0146
1 deceive you they are also treating you unfairly? Is
2 that what you believe?
3 A. Yes.
4 MR. RIDGEWAY: That's all I've got.
5 RE-EXAMINATION
6 BY MR. COMER:
7 Q. And one quick follow-up. Other than the
8 counseling, and I think I asked and you answered
9 this, there isn't any other sort of medical
10 treatment relating to this incident?
11 A. No.
12 MR. COMER: Okay. That's it.
13 RE-EXAMINATION
14 BY MR. RIDGEWAY:
15 Q. Ms. Wright, the only question I have, was
16 there any sort of -- I understand this Linda, and I
17 can't pronounce her last name, at Barabas?
18 A. Uh-huh.
19 Q. She was somebody that the bank was
20 associated with?
21 A. Right.
22 Q. All right. Was there any sort of
23 counseling that you went through that Richland
24 County Sheriff's Department Victim's Advocate
25 Program had put you through?
0147

1 A. Yes.

2 Q. And who was that with?

3 A. Wendy. Her name is Wendy and it was with
4 the Lexington County Mental Health.

5 Q. Okay. So the counseling medical expenses,
6 if you will, that we're talking about are the Linda
7 lady at Barabas and then whoever you just said at
8 Lexington County?

9 A. That's correct.

10 MR. RIDGEWAY: That's all I've got.

11 Further Deponent sayeth not.

12 (Whereupon, the taking of the
13 deposition was concluded at 1:02 p.m.)

14

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0148

1 Certificate of Reporter

2

3 I, Brad H. Thomas, Certified Realtime
Reporter and Notary Public in and for the State of
4 South Carolina, do hereby certify that I reported
the deposition of DENISE WRIGHT on the 16th day of
5 April, 2012; that the witness was first duly sworn
by me, and that the foregoing 147 pages constitute a
6 true and correct transcription of the said
deposition.

7

I further certify that I am neither
8 attorney nor counsel for, nor related to or employed
by, any of the parties connected with this action,
9 nor am I financially interested in said cause.

10 I further certify that the original of
said transcript shall be hereafter sealed and
11 delivered to BRIAN A. COMER, ESQUIRE, Collins &
Lacy, P.C., 1330 Lady Street, Suite 601, Columbia,
12 South Carolina 29211. This sealed original

transcript shall be retained by the above party, who
13 shall be responsible for filing same with Court
prior to trial or any hearing which might result in
14 a final order on any issue.

15

16 In witness whereof I set my hand and seal
this 23rd day of April, 2012.

17

18

19

Brad H. Thomas, CRR

20 My Commission and Notary Public for the
expires 12/12/17 State of South Carolina

21

22

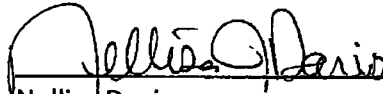
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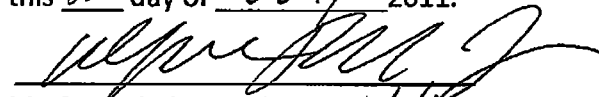
1. I am Nellisa Davis, a resident of Lexington County, South Carolina.
2. From approximately February of 2006 until March of 2011 I resided at Wellspring Apartments, Unit # 1405 located at 500 Harbison Blvd in Columbia, S.C.
3. The area between my building and the building next door was very dark at night. These buildings did not have exterior lighting between them and I requested that lighting be installed. I complained of the lack of lighting between these buildings an average of 3 times per month for most of my stay. I was often told by the Wellspring employees that this lighting was on the "budget list" and would be installed when the money was available. Toward the end of my stay at Wellspring Apartments I stopped complaining about the lighting because my complaints were never addressed. At the time that I moved out of this apartment, exterior lighting had still not been installed. This lack of lighting caused me to be fearful for my safety and I shared this concern often with the Wellspring Apartments employees.
4. In addition to the lighting, I also complained about the height and size of the shrubbery leading up to and around my door area. Over the course of my stay at Wellspring Apartments I complained about the height and size of this shrubbery at least 25 times. In response to my complaints, the shrubbery was not trimmed. With regards to the shrubbery I was also told by the Wellspring staff that this was an item that was not in the budget and that they would get to it when they could. After complaining over the course of my first year at Wellspring, my father actually brought a pair of clippers to my unit and trimmed this shrubbery for me. He only did this on one occasion and this was the only time prior to the kidnapping of another resident in the Fall of 2008 that the shrubbery was trimmed. There appeared to be extended periods of time during my stay when there was no lawn or landscaping maintenance being performed on the property. The shrubbery leading up to and around my door area reached approximately 10 feet in height before it was finally trimmed after the kidnapping.
5. During the Fall of 2008, a lady that lived across the parking lot from me was kidnapped and robbed as she was attempting to enter her unit at night. This lady's name was Toni Wright. The shrubbery in front of Ms. Wright's building was very high. Immediately after the kidnapping of Ms. Wright the shrubbery was trimmed significantly. After the kidnapping of Ms. Wright I spoke with the property manager at Wellspring and was told that she would not be discussing the event involving Ms. Wright and that I should not be discussing this event with anyone either.

6. During early November of 2010 I had a burglary at my apartment. I contacted the Richland County Sheriff's Office and the office staff at Wellspring Apartments and informed of this event. When I spoke with Wellspring Apartments, I requested that the locks to my apartment be changed. I was told that this would be taken care of and a work order would be completed. Before the work order was completed, and approximately one week later, I had a second burglary occur at my unit. When the second burglary occurred, the locks had not been changed as requested after the first burglary.
7. This testimony has been freely given and reflects my recollection of these events of which I have personal knowledge.


Nellisa Davis

Sworn to before me

this 22nd day of July 2011.


My Commission Expires: 6/1/16

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

)

)

)

AFFIDAVIT OF SHAWN HOWLAND

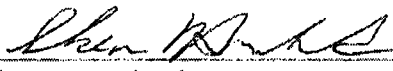
PERSONALLY APPEARED BEFORE ME, the undersigned, who after being duly sworn, hereby deposes and states as follows:

1. My name is Shawn Howland and I am a resident of Spartanburg County, South Carolina.
2. The matters set forth in this affidavit are based upon my personal knowledge.
3. This testimony is being freely given.
4. During 2007 and 2008 I was the owner and operator of H&S Landscaping. My company provided landscaping services for commercial properties, including apartment complexes.
5. In approximately May of 2007, I began to provide landscaping services for Wellspring Apartments located on Harbison Boulevard in Columbia, SC. I maintained this property until approximately October of 2008.
6. During the time that I provided landscaping services for this complex I had numerous conversations with property manager, Karen Campbell regarding overgrown shrubbery on the property, including but not limited to shrubbery located near resident buildings. See attached Exhibit "A", which I understand are the shrubs as they appeared on the morning of September 19, 2008 at Building 2210. It is also my understanding Denise Wright resided in that building.
7. The shrubbery condition shown in Exhibit "A" is representative of the shrubbery throughout the Wellsprings complex.
8. Prior to September 19, 2008, I was approached on numerous occasions by residents of Wellsprings with requests that I prune shrubbery surrounding their building. In response to those requests, I would approach the Wellsprings management, including Karen Campbell, and explain that the condition of the shrubbery posed safety and security hazards for the residents and that the shrubbery was in need of major pruning.
9. Despite my recommendations to improve the safety and security for the residents, Karen Campbell, property manager, informed me that the shrubbery maintenance I proposed was not in the budget for Wellsprings Apartments and I was to only perform the services in my contract, attached as Exhibit "B".

10. The maintenance and trimming of shrubs set forth in my contract with Wellsprings was of a minimal nature and not sufficient to maintain the property in a safe and secure manner with respect to landscaping issues.

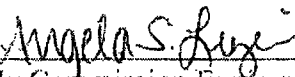
11. This affidavit does in fact reflect my testimony on this matter.

FURTHER, THE AFFIANT SAYETH NAUGHT.


Shawn Howland

Sworn to before me

this Sept. 11 2012.


My Commission Expires: August 23, 2014



A

814

Maintenance Contract

PRG Real Estate dba Wellspring

Weekly services include:

- Cut and maintain grass at the proper height
- Edge all curbs and walkways on as needed basis
- Weed eat around buildings, sidewalks, fences, flower beds and driveways
- Remove and dispose of trash found on property while working
- Fallen and low hanging limbs will be removed and disposed of
- Fallen limbs due to bad weather will be removed as soon as possible
- Shrubs will be trimmed and shaped as needed
- Spraying weeds with Round Up at least every six weeks
- Roadways, sidewalks, entrances, breezeways and parking areas will be blown off to remove debris

Other services included in this contract:

- Pine straw installation in October (at extra cost)
- Fertilize turf in spring
- Seed as needed in spring and fall

Other services not included in this contract:

- Flower installation
- Aeration
- Mulch/ pine needle installation
- Installing plants/ shrubs
- Removing plants/ shrubs/ small trees
- Pressure washing
- Other services not limited to landscaping available upon request

This contract is based on a 7 month period from May 1, 2007 and ending November 30, 2007. This contract may be terminated by written thirty day notice including reason for termination. H&S maintenance will provide PRG Management with proof of insurance. Work lost due to bad weather will be rescheduled to comply with the contract.

Monthly Quote- \$1950

Client Signature

Karen Campbell

Date

5/2/07

H&S Maintenance

Shawn White

Date

5-2-07

1. I am Timir Patel, a resident of Richland County, South Carolina.
2. From approximately 2006 to 2007 I resided in [REDACTED] at Wellspring Apartments, located at [REDACTED]
3. On October 18, 2007 my apartment was burglarized. The door and entrance area to my apartment were hidden from passers-by with foliage that was overgrown during the time that I resided in this apartment. At the time of this burglary the door that was forced open was not easily visible because of this foliage. During the time that I resided in this apartment my wife voiced complaints regarding this overgrown foliage however the foliage was never cut back enough to make us feel secure
4. Also, while we were residents of Wellspring Apartments we had concerns about exterior lighting that was intended to illuminate the area around our building. It was our experience that the exterior lighting which we utilized to come and go from our building was out approximately 60% of the time. We complained at least twice and were told that the problems would be resolved. After these complaints the lighting would work only sporadically and never illuminated the area for any extended periods of time. Eventually, my wife and I moved away from this complex in part due to safety and security concerns that we had regarding the foliage and lighting.
5. Attached to this affidavit as Exhibit A is the incident report from the above referenced burglary. This testimony has been freely given and reflects my recollection of these matters of which I have personal knowledge.



Timir Patel

Sworn to before me

this 19~~th~~ day of April 2011.


My Commission Expires: 6/1/16

RICHLAND COUNTY SHERIFFS
DEPT
SC0400000

INCIDENT REPORT

INFORMATION
ONLY

CASE NUMBER
0710070808

NCIC
INQ. INTD.

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENVOYED	TYPE VICTIM										
1. 220 R-4 BURGLARY/ATTEMPTED				☐ YES ☐ NO	☐ YES ☐ NO	RESIDENCE/HOME		☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relg. Org. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.										
2. 280 280 DESTRUCTIVE/DAMAGE/VANDALISM OF PROPERTY				☐ YES ☐ NO	☐ YES ☐ NO	RESIDENCE/HOME												
3.				☐ YES ☐ NO	☐ YES ☐ NO													
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)						ZIP CODE 29212	WEAPON TYPE											
INCIDENT DATE 10/08/2007	24 HR. CLOCK 11:04	TO DATE 10/08/2007	24 HR. CLOCK 11:10	DEP. DATE 10/08/2007	DEP. TIME 11:15	TIME ARRIVED 11:40	REPORT TIME 12:00	LOCATION NO. 10										
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) PATEL, TIMIR, K			RELATIONSHIP TO SUBJECT #1 RU #2 #3	RESIDENT J	RACE W	SEX M	AGE 28 /	ETH N	DAYTIME PHONE 803-467-1249	EVENING PHONE								
ADDRESS			CITY	STATE	ZIP CODE		LOCATION NO.											
VICTIM'S NAME (LAST, FIRST, MIDDLE) PATEL, TIMIR, K			RELATIONSHIP TO SUBJECT #1 #2 #3	RESIDENT J	RACE W	SEX M	AGE 28 /	ETH N	DAYTIME PHONE 803-467-1249	EVENING PHONE								
HEIGHT 508	WEIGHT 160	HAIR BLK	EYES BRO	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.														
ADDRESS			CITY	STATE	ZIP CODE		LOCATION NO.											
VERBULINARY (MCT) ☐ YES ☐ NO ☐ EXPLAIN				COMPLAINANT/ANYONE VERBULINARY ☐ YES ☐ NO ☐														
VICTIM(S) USING ALCOHOL ☐ YES ☐ NO ☐ UNK ☐ TYPE				DRUGS ☐ YES ☐ NO ☐ UNK ☐ TYPE														
TWO M/VNEN ☐ CHENNYN ☐ DECEMBER ☐ FLAME ☐ OTHER ☐ ALONE ☐ ASSISTED ☐				*J-This Jurisdiction. S-State. O-Out of State. U-Unknown.														
☐ SUSPECT	NAME (LAST, FIRST, MIDDLE) UNKNOWN, BLACK, MALE			RACE B	SEX M	AGE 00 /	ETH N	DATE OF BIRTH	HEIGHT 508	WEIGHT 160	HAIR BLK	EYES BRO						
☐ RUNAWAY	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.																	
☐ WANTED	DAYTIME PHONE									EVENING PHONE								
☐ WARRANT	ADDRESS			CITY	STATE	ZIP CODE		LOCATION NO.										
☐ ARREST	SUBJECT(S) USING ALCOHOL ☐ YES ☐ NO ☐ UNK ☐ TYPE			ARRESTED/NO OFFENSE/SCENE ☐ YES ☐ NO ☐			DATE/TIME OF OFFENSE 10/8/2007 11:04:00 AM			DATE/TIME OF ARREST								
☐ JAIL	DRUGS ☐ YES ☐ NO ☐ UNK ☐ TYPE			TOTAL # ARRESTED														
☐ SUMMONS	DAY OF THE WEEK S M T W T F S UNK			HOW REPORTED			A- OFFICER DISPATCHED ON CALL B- REPORT TAKEN BY PHONE C- COMPLAINANT WALKED IN			D- COMPLAINT WRITTEN IN E- OFFICER INITIATED F- OTHER			DIFF. FACTOR A- RESISTANCE/HOSTILITY B- WEAPONS C- UNFOUNDED CALLS D- MENTAL SUBJECT			E- COMPLAINANT PRE-EXISTENTLY INTOXICATED F- DOMESTIC N- NORMAL		
R-4 BURGLARY/ATTEMPTED 220																		
CONTACT WAS MADE WITH CV AND WITNESS AT 1/L. WITNESS STATED HE OBSERVED TWO B/M SUSPECTS OUTSIDE THE CV RESIDENCE, THE WITNESS THEN HEARD A LOUD NOISE AT WHICH TIME HE YELLED AT THE SUSPECTS AND THEY RAN OFF. THE SUSPECTS HAD FORCED THE FRONT DOOR, BY UNKNOWN MEANS, OPEN BUT FAILED TO MAKE ENTRY DUE TO THE WITNESS. CV STATED NO ITEMS WERE MISSING AND NOTHING SEEMED TO HAVE BEEN DISTURBED. CV WAS ISSUED A CASE NUMBER AND CVR FORM.																		
EST.DAMAGE TO DOOR: \$500.00																		
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY						JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY												
TYPE(GROUP)		28										TOTAL VALUE						
STOLEN		0		0								0						
DAMAGED		0		500								500						
BURNED		0		0								0						
RECOVERED		0		0								0						
SEIZED		0		0								0						
SUBJECT IDENTIFIED ☐ YES ☐ NO ☐		SUBJECT LOCATED ☐ YES ☐ NO ☐		S.F.		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		ARRESTED UNDER 18 ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER								
PERSON/RECEIPTAL/CLEARANCE 1 ☐ OFFENDER/2 ☐ NO PROSECUTION 3 ☐ EXTRAJURISDICTION 4 ☐ MCM/DECLINE COOPERATION 5 ☐ JUVENILE/NO DISC.																		
REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER								
Kirkland, William		10/8/2007		1337		Kirkland, William		10/8/2007		815								
FOLLOWUP INVESTIGATION ☐ YES ☐ NO ☐		OFFICER		UNLDR		10/8/2007 8:00:00 AM												

AGENCY: RICHLAND COUNTY SHERIFFS
ORI #: SC0400000

PLAINTIFF'S
EXHIBIT

A

ORIGINAL

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

W. Jeffrey Young, Circuit Court Judge

Case No. 2011-CP-40-4068

RECEIVED

MAY 15 2014

SC Court of Appeals

Denise Wright Appellant

v.

PRG Real Estate Management,
Inc.; Franklin Pineridge
Associates; Karen Campbell
Individually, and in her
Representative Capacity as an
Agent of PRG Real Estate
Management Respondents.

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STATEMENT OF THE ISSUES ON APPEAL

1. Does a residential landlord with property bisected by walking trails, which are advertised for public recreational use and enjoyment, owe its tenant a duty to reasonably secure the common areas a tenant must pass through to access her residence while the public routinely travels the intersecting trails?
2. Does a residential landlord who provides "courtesy officers," security lighting, and landscaping owe a duty to perform these tasks with reasonable care?
3. Whether Ms. Wright presented the circuit court any evidence that her abduction by lurking gunman leaping from the dark behind overgrown shrubbery in her apartment complex's common area was proximately caused by her landlord's lack of due care in operating a courtesy officer program, maintaining security lighting, and landscaping?
4. Whether Ms. Wright presented the circuit court any evidence to support the required elements of her SCUTPA claim?

STATEMENT OF THE CASE

Denise Wright, a tenant at Wellspring Apartments ("Wellspring"), left choir practice and drove home to her apartment at approximately 10:30 p.m. on September 18, 2008. (R. p. 301 ¶ 5). Wellspring was owned by Franklin Pineridge Associates, operated by PRG Real Estate Management, Inc. ("PRG"), and managed on a day-to-day basis by PRG employee Karen Campbell. (collectively Respondents). Wellspring is part of the Harbison community, a planned use development conceived as a community for residents of any age or socioeconomic status.¹ Several multi-use trails weave through Harbison's neighborhoods. The Harbison Community Association describes "Harbison pathways" as 12 miles of concrete paths flowing through multiple neighborhoods in the Harbison area.²

Wellspring advertises membership to the Harbison Recreation Center and "Walking Trails" as amenities for all Wellspring tenants.³ SCTrails.net, a site maintained by the South Carolina Department of Parks, Recreation and Tourism, provides the public with a map of trails "within the neighborhoods of Harbison" and invites the public to use "neighborhood streets" to traverse the trails as they "pass the backyards of homes."⁴ The map clearly shows several trails in Wellspring's immediate vicinity including one trail that goes directly through Wellspring.⁵

¹ "What is Harbison?, Harbison Community Association", *available at* <http://www.harbisonhoa.com/community/faqs#faq1>.

² *Id.*

³ Amenities, Wellspring Apartments, *available at* <http://www.wellspringapartments-prg.com/amenities.aspx>

⁴ Haribson Neighborhood Trails, South Carolina State Trails Program, *available at* <http://www.sctrails.net/trails/ALLTRAILS/Multi-use/HarbisonNeighborhood.html>

⁵ Map is also available at <http://www.sctrails.net/trails/MAPS/HarbisonNbrhood%20map.html>

When Ms. Wright arrived at Wellspring building 2200 on September 18, 2008, she exited her car and walked toward the ramp leading to her front door. D. Wright Dep. (R. p. 339, lines 13-15). The nearly full parking lot was dimly illuminated by pole lights and small dome lights in the buildings' breezeways. Many parts of the parking lot in front of building 2200 and the ramps leading to the building had little to no light illuminating the area. The pole light nearest Ms. Wright's car was not working. (R. p. 330, lines 3-5). There was no sign of the security officers Wellspring promised Ms. Wright when she moved in. (R. p. 326 at 40, lines 17-21). The shrubs in front of her building were overgrown and capable of concealing unknown persons or potential assailants. (R. p. 390 ¶ 8).

As Ms. Wright neared the ramp and steps leading to her apartment, she was attacked by two African American men. (R. p. 340 at 65, lines 1-5). Ms. Wright could not see the perpetrators as she drove up and parked her car due to dense, overgrown, and much maligned shrubbery near the ramp, as well as the darkness enveloping her apartment building. (R. p. 339 at 63, lines 13-15; R. p. 301 ¶ 9-10). The men accosted Ms. Wright. They shoved gun barrels in her face. The barrels were fixed on her, one to her back and the other to her head. D. Wright Dep. 65:9-13. Too scared to scream, Ms. Wright acceded to her attackers' demands. The perpetrators needed money and intended to pillage Ms. Wright's bank account to get it. No matter how much money the perpetrators could ultimately steal from Ms. Wright, she was assured that she would be killed when it was all over. Ms. Wright was pushed back toward her car and forced by her attackers to drive to various banks and withdraw hundreds of dollars. (R. p. 346-47).

Along the way, the perpetrators repeatedly promised to kill Ms. Wright, telling her at one point, "You will never see home again." (R. p. 349 at 80, lines 7-8).

Unsatisfied with the amount of money in Ms. Wright's account and visibly nervous over some sort of drug debt the perpetrators owed, Ms. Wright was forced to park her car at a closed fast food restaurant behind a darkened shopping center. (R. p. 348 at 78 line 18 - 79 line 8; R. p. 350 at 82 line 21 - 83 line 7. Ms. Wright feared this was the moment she would be killed. One of the attackers said bluntly: "We've got to kill you." (R. p. 352 at 86 lines 17-18). The other attacker put his hand down the back of Ms. Wright's pants, called her "fatty ass," and pondered aloud taking Ms. Wright back to her apartment and "hav[ing] some fun before we kill her." (R. p. 366 at 110:9, 11). After several minutes, the perpetrators demanded Ms. Wright drive to a nearby apartment complex. During the drive, Ms. Wright was forced to listen as the two felons debated how and when they would kill her. One suggested Ms. Wright's dead body should be thrown in a river. (R. p. 352 at 86 lines 16-19). Once at the apartment complex, the perpetrators fled the car. (R. p. 354 at 90, lines 5 - 22).

Ms. Wright drove away and went to her daughter's house. Ms. Wright's son-in-law was a Richland County sheriff's deputy, and could assist her. A police officer was dispatched to Ms. Wright's daughter's house and took her statement. Shortly after the attack, Ms. Wright met with Wellspring personnel. Ms. Wright had a single primary question for Wellspring, "Where [were] these security officers that are supposed to be walking the beat?" (R p. 369 at 116, lines 16-17). The Wellspring representative could only shrug her shoulders and say, "I'm sorry." (R. p. 369 at 116 line 22).

STANDARD OF REVIEW

To grant a motion for summary judgment, the circuit court must find that "there is no genuine issue as to any material fact." Rule 56(c), SCRCP. The judge is not to weigh the evidence but rather to determine if there is a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986). For claims where the preponderance of evidence burden applies, "the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009). In determining whether any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the party opposing summary judgment. Summer v. Carpenter, 328 S.C. 36, 492 S.E.2d 55 (1997); Pye v. Aycock, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Brockbank v. Best Capital Corp., 341 S.C. 372, 534 S.E.2d 688 (2000). An appellate court "applies the same standard used by the [circuit] court" when reviewing a summary judgment order. Epstein v. Coastal Timber Co., 393 S.C. 276, 281, 711 S.E.2d 912, 915 (2011).

ARGUMENT

I. THE CIRCUIT COURT ERRED IN FINDING RESPONDENTS HAD NO DUTY TO REASONABLY SECURE WELLSPRING'S COMMON AREAS.

A. By operating an apartment complex where non-tenant pedestrians were invited to and anticipated to stroll the common areas, Respondents owed a duty to reasonably secure the common areas.

Many landowners face a common law duty to take affirmative precautions to protect others on their property from criminal acts of third parties. This duty has been

imposed by South Carolina courts on storeowners, innkeepers, and other commercial entities. Bass v. Gopal, Inc., 395 S.C. 129, 716 S.E.2d 910 (2011) (motel); see also Restatement (Second) of Torts § 344. South Carolina's federal district court addressed a residential landlord's potential liability to its tenant stemming from injuries suffered by the tenant in a criminal attack by a third party occurring at the landlord's apartment complex. Cooke v. Allstate Mgmt. Corp., 741 F. Supp. 1205 (D.S.C. 1990). In Cooke, a woman was assaulted in her second-floor apartment by an intruder entering a sliding glass door, which he allegedly accessed with a ladder left unattended by the landlord. Id. at 1206.

The tenant argued her landlord was negligent in failing to warn her of previous crimes in the complex, failing to adequately light the exterior of her apartment, failing to employ security guards, and failing to maintain adequate control over the ladder allegedly used to initiate the intrusion. Id. Interpreting and forecasting South Carolina law, the district court first held that the South Carolina Residential Landlord and Tenant Act's ("SCRLTA") "fit and habitable" standard in S.C. Code Ann. § 27-40-440 does not impose on a landlord the duty to provide security services for tenants. Id. at 1208. Turning to common law, the district court held that South Carolina law does not impose on residential landlords a general affirmative duty to maintain the physical condition of leased premises. Id. at 1209 (citing Young v. Morrissey, 285 S.C. 236, 242, 329 S.E.2d 426, 429 (1985)). The district court ultimately concluded that South Carolina law does not recognize the landlord-tenant relationship as a relationship from which an affirmative duty to provide security arises. 741 F. Supp. at 1213-14.

The district court considered the issue again four years later in Cramer v. Balcor Prop. Mgmt., Inc., 312 S.C. 440, 441 S.E.2d 317 (1994) ("Cramer I"). In this instance a woman was murdered in her apartment when an unknown attacker pried open the sliding glass door leading to her apartment. Id. Due to the lack of South Carolina case law discussing this issue, the district court certified questions to the South Carolina Supreme Court regarding a landlord's potential duty to provide security in and around its leased premises. Id. at 441, 441 S.E.2d at 317. The Supreme Court adopted Cooke's conclusion and held that the landlord-tenant relationship is different from those relationships from which a duty to provide security services may arise. Id. at 444, 441 S.E.2d at 319. Back at the district court, the landlord's summary judgment motion was granted with the district court interpreting Cramer I to hold that the landlord "had no special duty to [a tenant] pursuant to the landlord/tenant relationship." Cramer v. Balcor Prop. Mgmt., Inc., 848 F. Supp. 1222, 1224 (D.S.C. 1994) ("Cramer II").

This Court also considered this issue in Goode v. St. Stephens United Methodist Church, 329 S.C. 433, 494 S.E.2d 827 (Ct. App. 1997). This Court read Cooke, Cramer I, and Cramer II to hold that "landlords do not owe a duty to protect tenants from criminal activity merely by reason of the landlord/tenant relationship." Goode, 329 S.C. at 441, 494 S.E.2d at 831. Despite these sweeping holdings, the rule established in Cooke and Cramer is far from a total bar on landlord liability stemming from a third party criminal attack on a tenant. Cooke identified multiple instances where a landlord's actions may impose a duty to reasonably provide or maintain security services for the benefit of its tenants. 741 F. Supp. at 1209. Cooke labeled these exceptions to the general no duty rule as (1) affirmative acts; (2) concealed danger; (3) common area; and (4) undertaking.

741 F. Supp. at 1209. Additionally, without referencing the Cooke exceptions, the Cramer court held that the Cooke/Cramer general rule did not preclude a plaintiff from asserting a "general negligence principle" based on the "particular circumstances" of any case. Cramer I, 312 S.C. at 443, 441 S.E.2d at 319 n. 1. Goode also recognized the potential for landlord liability for security issues based on a voluntary assumed duty as described in Restatement (Second) of Torts § 323. Goode, 329 S.C. at 444, 494 S.E.2d at 833. Finally, as the opinions clearly show, the Cooke/Cramer rule is fundamentally contingent on a specific factual premise. The rule's specific premise also serves as a limitation on the rule's breadth because where the premise is not present, the ultimate "no duty" conclusion cannot stand.

Cooke first restates the common law rule generally rejecting a landlord's duty to maintain the physical condition of leased premises. Cooke, 741 F. Supp. at 1209. The common law was altered by SCRLTA, which imposed a statutory duty on residential landlords to maintain dwelling units and common areas to prevent tenant injuries caused by the physical condition of the premises. Id. at 1208. The common law is also different for certain types of landowners like storeowners or innkeepers who have a duty to provide "reasonable protection" to people on their premises in certain circumstances and may face liability arising from a third party criminal attack on their premises. Id. at 1213. The Cooke court had to determine whether the landlord-tenant relationship was "analogous" to the storeowner-invitee or innkeeper-guest relationship. Id. Cooke concluded the analogy was inapt and refused to impose a security duty on a landlord based on the landlord-tenant relationship. Id.

Cramer I adopted Cooke's reasoning on this point in full. 312 S.C. at 443, 441 S.E.2d at 318. The Cooke court deemed the typical apartment complex "fundamentally different" than a retail store or motel. The court supported its holding by adopting the reasoning of a single 1984 Pennsylvania Supreme Court opinion. Cooke, 741 F. Supp. at 1213 (citing Feld v. Merriam, 485 A.2d 742, 745-46 (Pa. 1984)). No landlord whose premises falls within Feld's description of the typical apartment complex is in a relationship with its tenants that imposes on the landlord a duty to reasonably secure their premises.⁶ Neither Feld nor Cooke, however, held that a duty based on the landlord-tenant relationship cannot exist where the apartment complex does not fall within Feld's description. In such circumstances, the clear implication from these cases is that the atypical apartment complex very well may be analogous to a retail store or motel and its landlord may have an analogous duty to reasonably secure the premises.

Accordingly, understanding Feld's description of a typical apartment complex and the ways in which the typical complex differs from a retail store or motel are crucial in determining whether the Cooke/Cramer rule applies to this case. The typical apartment complex is different than a retail store or motel in that stores and motels are "places to which the general public are invited." Id. at 1213 (quoting Feld, 485 A.2d at 745-46). Those "who invite[] all may reasonably expect that all might not behave, and bear[] responsibility for injury that follows the absence of reasonable precaution" to protect others. Id. These landowners should "anticipate" that their property are "places where

⁶ A landlord in this position may still owe a duty to reasonably secure its premises, but the duty would have to be grounded in something other than the landlord-tenant relationship, e.g. the exceptions identified in Cooke or the "general negligence principle" and "particular circumstances" mentioned in Cramer I. Cooke, 741 F. Supp. at 1209; Cramer I, 312 S.C. at 443, 441 S.E.2d at 319 n. 1.

what men can do, they might.” A landlord at a typical apartment complex does not have the same expectation because “[a]n apartment complex is not a place of public resort.” Additionally, “[t]he common areas of an apartment complex are not open to the public,” and the public is not “expected or invited to gather there for other purposes than to visit tenants.”⁷ Id. In sum, the court distinguished the typical apartment complex from retail stores and motels on two issues: (1) whether the premises invite/permit the public; and (2) whether the property owner expects or anticipates that the public will be permitted on the premises.

The premise stated in Feld and underlying the Cooke/Cramer rule is a far cry from the conditions at Wellspring. None of the operative distinctions between a residential landlord and storeowner/innkeeper hold up when applied to Wellspring. As noted above, Feld (and by reference Cooke/Cramer) categorically concluded “[t]he common areas of an apartment complex are not open to the public.” While this may be true for the typical apartment complex, it is certainly not true at Wellspring. Wellspring is part of the Harbison Community Association, a “1700+ acre community which was developed as a planned unit development . . . that would provide housing types for all incomes, employment acreage, shopping areas, schools, playgrounds, and a community center.”⁸ The Association includes property owners and residents from several complexes and neighborhoods in the vicinity of Harbison Boulevard and Broad River Road in Columbia, South Carolina.

⁷ This statement was omitted from Cramer I’s quotation of Feld, which was included in the circuit court’s order. Order at 5; Cramer I, 312 S.C. at 443, 441 S.E.2d at 318. Cooke included the full Feld quote. Cooke 741 F. Supp. at 1213.

⁸ See *Frequently Asked Questions*, Harbison Community Association, available at <http://www.harbisonhoa.com/community/faqs#faq2> (last visited Sept. 19, 2012).

The Harbison community maintains a series of walking trails that weave through the community. The Harbison trails are places to which the public are invited to enter and expected to remain for extended periods. The South Carolina Department of Parks, Recreation and Tourism maintains a website that provides a description of the trails and directs the public to the trails. This site, SCTrails.net, describes the Harbison trails as "multiuse trails." According to the site, the trails are "within the neighborhoods of Harbison." The site also describes the experience of an average user of the trails: "As you walk these well shaded trails, you will pass the backyards of homes . . ." To facilitate the public's use of the Harbison trails, the site also includes a graphic map of the area with suggested routes for the public to take upon arriving at Harbison. (R. p. 395). One of the trails, identified as the "1.2 mi. loop," routes the public directly through Wellspring. In fact, Wellspring obtains an economic benefit from these trails because it advertises the trails and a lake beside the trails in its advertising literature.

It is clear from SCTrails.net that the public is invited into areas along the trails including the Wellspring common areas. The site encourages the public walking the Harbison trails to "us[e] spurs or connectors **along with neighborhood streets**" to traverse the paths or to eschew the typical path and "create your own." (emphasis added). These statements are further evidence that the Harbison trail bisecting Wellspring is a place where the public is invited in and welcomed to remain.⁹ Mohammed Gabr, a Richland County Deputy Sheriff who investigated Ms. Wright's abduction described the trails as "go[ing] to the back of the apartments." (R. p. 400 at 47, lines 21-22). Deputy

⁹ The Harbison trails public character is also seen in a brochure entitled "Richland County Trails" published by the Richland County Conservation Commission. (R. p. 397-98). The brochure describes Harbison Community to include "paved pathways **weaving through neighborhoods**, natural areas, and around two lakes." (emphasis added)

Gabr describes open access to the trails. In short, “[a]nybody can come and go.” (R. p. 400 at 48, lines 3-6).

The Cooke/Cramer rule is further premised on the property owner’s expectations regarding the property’s openness. Cooke noted that the general public is not “expected” to enter apartment complex common areas for purposes other than visiting tenants. 741 F. Supp. at 1213 (quoting Feld, 485 A.2d at 745-46). Again, this fundamental building block of the general no-duty rule is not borne out in this case. Respondents certainly knew the public was entering Wellspring’s common areas to use the trails and expected this conduct from members of the public. For example, Ms. Campbell, Wellspring’s property manager at the time of Ms. Wright’s abduction, acknowledged that anyone could come into the apartment complex. (R. p. 402 at 9, lines 12-14). Ms. Campbell also acknowledged that anyone could use the Harbison trail that bisect Wellspring. (R. p. 410 at 143, lines 3-5; R. p. 410 at 225, line 25) (“It was a public trail”). Meschelle Roten, a PRG employee speaking as the company’s corporate representative, noted simply, “Anybody can go on those walking trails.” (R. p. 422 at 80, lines 11-15).

Respondents knew members of the public were using Wellspring common areas openly as part of the Harbison trails. They also knew the trails were being used by people with evil intentions. (R. p. 410 at 143, lines 6-9). Additionally, Wellspring documents refer to “The Woods at Harbison,” a neighboring apartment complex, as a “troubled property.” (R. p. 424). Ms. Campbell defined “troubled property” as a place where there had been problems, where “rents were different,” and where there were “a different class of people.” (R. p. 406 at 57, lines 1-15). Criminal elements from the “troubled” Woods at Harbison or any of the Harbison community’s complexes or

neighborhoods could easily spill over to Wellspring via the walking trails. (R. p. 406 at 58, lines 10-13). In fact, a 2004 Report of Unusual Occurrence documents Wellspring's concern that individuals from The Woods were accessing Wellspring via the trails and performing criminal acts.

Feld reached its restrictive conclusion only because the general public is not expected to gather in apartment complex common areas for non-visiting purposes. This statement is false as applied to Wellspring. Wellspring bears no resemblance to the high rise apartment buildings the Feld court considered when discussing the typical apartment complex. There are no trails or public walking paths traversing the corridors of high rise apartment buildings. Those are locations truly limited to tenants and guests on the premises for the limited purpose of visiting tenants.

Cooke and Cramer adopted a general rule related to residential landlords and tenants harmed by criminal actors on the landlord's property founded on general understandings of typical apartment complexes. For all apartment complexes where these foundations exist, the Cooke/Cramer rule is certainly the binding rule of law on duty. However, where neither foundation rings true, the Cooke/Cramer rule cannot be applied. As Plaintiff's apartment security expert Bill Booth stated, Wellspring is a "unique property." (R. p. 427 at 65, lines 12-18); see also (R. p. 437 at 37, line 11 – 40, line 21) (noting "permanent easement for walking trails through Wellspring" indicating public access to Wellspring was what trail "was obviously designed to do"). Officer Kevin Isenhoward had a distinctive recollection of his first impression of Wellspring. He described the area as an "unusual place" with "a particularly creepy kind of tunnel . . . where vagrants hang out." (R. p. 655 at 22, lines 18-24).

At the summary judgment hearing, the circuit court pointed out that any apartment complex is accessible by roads and many rental homes are fronted by public sidewalks. (R. p. 74, lines 2-5). All such properties are publically accessible. The circuit court's order is similarly grounded in the notion that the "manner of access" to Wellspring is no different than the manner of access to the apartment complexes in Cooke or Cramer where the courts found landlords had no duty to reasonably secure common areas. (R. p. 7). It appears the circuit court was concerned about the slippery slope that would develop if a security duty applied to every rental property accessible by public street or sidewalk. Not only would this result swallow the Cooke/Cramer rule, but it would also force landlords to either (1) operate a security program; or (2) eliminate all means by which the public could access the property. See (R. p. 76, lines 4-8) (suggesting Ms. Wright's position would require all landlords to convert their properties to gated communities).

Reducing the Harbison trails' effect on the landlord-tenant relationship to a "manner of access" discussion again ignores the reasons Feld, Cooke, and Cramer distinguished the typical apartment complex from a motel or retail store. The operative differences between these properties are not their manners of access but rather who is invited and what is expected. It is not whether or, if so, how easily the public can access the property but whether the public is invited on to the property and with the expectation that members of the public will enter for non-visiting purposes. Unlike the Harbison trails, streets and sidewalks are not advertised on community and state-sponsored website as recreation destinations for all pedestrians, bicyclists, hikers, and other outdoor enthusiasts. The circuit court's concerns are well-founded and no doubt form part of the

policy underlying the general Cooke/Cramer rule that applies to a typical apartment complex. These concerns simply are not implicated by an atypical apartment complex like Wellspring.

Wellspring is not like the average apartment complex or any apartment complex discussed in earlier case law. (R. p. 541 at 82, line 11 to 83, line 4). The Cooke/Cramer rule does not apply. Thus, this current case presents an issue of first impression for South Carolina courts: whether the landlord-tenant relationship is analogous to the storeowner-invitee and innkeeper-guest relationships when the landlord knows the complex's common areas are open to the public and knows the public accesses the common areas for non-visiting purposes. This question has not been answered by South Carolina courts but the Cooke/Cramer line of cases shows that Wellspring is the rare apartment complex that is analogous to a retail store or motel.¹⁰ On the points considered most important to the courts (i.e. openness to the public and the landowner's expectations), Wellspring is more like a motel or retail store than the prototypical apartment complex.¹¹ Accordingly, Respondents owed Ms. Wright a duty of reasonable care to protect her from foreseeable criminal acts of third parties.

¹⁰ The position Ms. Wright advocates here and argued to the circuit court is simply an application of the principles discussed in Cooke and Cramer and in no way departs from or argues against these precedents. See (R. p. 51, line 21 – 52, line 10) (Ms. Wright's counsel explaining to Judge Young that counsel's argument is "within case precedent" rather than against precedent). Further, since Wellspring is atypical among apartment complexes in its openness and public invitation, reversing the circuit court's decision and finding a duty in this case requires no fundamental reordering of long-standing premises liability principles generally applicable to landlords and tenants.

¹¹ Some courts have explicitly noted this similarity. See e.g. Tedder v. Raskin, 728 S.W.2d 343, 347 (Tenn. App. 1987) (noting "similarity between the special relationships and circumstances of the innkeeper and the modern landlord of a multiple-apartment building").

B. Respondents owed Ms. Wright a duty on a “general negligence principle” based on the “particular circumstances” of this case.

Even for those instances where the Cooke/Cramer no-duty rule applies, the court made clear that this rule does not bar all negligence claims by a tenant against a residential landlord related to a third party criminal attack. At its core, Cramer held only that a duty to protect against third party criminal attacks is not implied by the residential landlord-tenant relationship. According to the court, “The plaintiff is not precluded from asserting a general negligence principle. A duty may arise under the particular circumstances of the individual case based upon a showing of negligence constituting the proximate cause of the loss.” Cramer I, 312 S.C. at 443, 441 S.E.2d at 319 n. 1. This principle has been explicitly recognized after Cramer. See Goode, 329 S.C. at 442, 494 S.E.2d at 832 (citing Cramer I).

The “particular circumstances” of a dispute between residential landlord and tenant that may support a negligence cause of action are not specified in Cramer or its progeny, and Cramer I does not reference the Cooke exceptions in its introduction of “particular circumstances” cases. As such, it is helpful to look to other jurisdictions to observe the circumstances where other courts have found a landlord owes a duty to protect its tenant. One common circumstance courts use to base a landlord’s duty is the landlord’s exclusive control of an apartment complex’s common areas. From a historic prospective, leases used to be primarily concerned with the agricultural use of the premises. Timothy O’Rourke, *Landlords have no Affirmative Duty to Protect Tenants from Criminal Activity*, 46 S.C. L. REV. 184, 185 (1994) (noting Feld “viewed the lease as a traditional conveyance of a property interest”); Tedder, 728 S.W.3d at 346. In that era, a tenant was granted exclusive control over the land for agricultural purposes and gave

little thought to the condition or security of dwellings located on the premises. Id. (citing Irma W. Merrill, *Landlord Liability for Crimes Committed by Third Parties Against Tenants on the Premises*, 38 VAND. L. REV. 431, 433 (1985)).

The modern era of residential leases is not the same. What was once viewed as a property conveyance is now understood as something quite different. As society has become more urban and suburban, "the common law recognized the essential differences between the lease of urban dwelling units and the lease of land for agricultural purposes." Tedder, 728 S.W.3d at 346; see also O'Rourke, 46 S.C. L. REV. at 185 (noting trend to alter common law "as it applies to modern apartment dwellers"). Tenants have changed from expecting full control over the entirety of the landlord's premises to expecting and receiving a dwelling unit surrounded by land owned and controlled by the landlord. To the modern tenant, a lease is not a property conveyance but "a well known package of goods and services." Kline v. 1500 Mass. Ave. Apartment Corp., 439 F.2d 477, 481 (D.C. Cir. 1970).

A major difference between modern residential leases and historic leases is the degree of control a lessor surrenders to its lessee. While historic leases granted total control over entire parcels of land, a modern residential tenant is given nonexclusive control over the dwelling unit¹² and no control over other portions of the property through which the tenant must pass to enter and exit their dwelling. This "circumstance" of modern society has led several courts to conclude that a landlord retaining exclusive control over common areas, and therefore exclusive ability to care for the common areas, must also have a duty to take reasonable actions to keep those areas reasonably secure.

¹² See e.g. S.C. Code Ann. § 27-40-530 (imposing duty on tenant to permit landlord's access to dwelling unit under certain circumstances).

See e.g., Hemmings v. Pelham Wood LLP, 826 A.2d 443, 451-52 (Md. App. 2003); Tedder, 728 S.W.2d at 347 (finding a landlord with exclusive control of common areas “is in a far superior position to take steps necessary to secure the premises for the safety of the tenants”).

This legal principle is so well recognized that it has become a part of Restatement (Second) of Torts § 360:

A possessor of land who leases a part thereof and retains in his own control any other part which the lessee is entitled to use as appurtenant to the part leased to him, is subject to liability to his lessee . . . for physical harm caused by a dangerous condition upon that part of the land retained in the lessor’s control, if the lessor by the exercise of reasonable care could have discovered the condition and the unreasonable risk involved therein and could have made the condition safe.

See also Restatement (Second) of Property, Landlord & Tenant § 17.3 (same). For purposes of Restatement § 360, a “dangerous condition” includes “the unreasonable risk of harm from criminal intrusion.” McPherson v. Dept. of Corr., 152 P.3d 918, 922 (Or. App. 2007) (quoting Restatement (Second) of Torts § 360, cmt. 1). A landlord’s duty to reasonably secure a complex’s common areas “represents a well-settled consensus as reported in various restatements.” McPherson, 152 P.3d at 923. Other courts have deemed a security duty based on a landlord’s exclusive control of common areas a simple matter of practicality. If a landlord does not have a duty to reasonably secure common areas, then “no one does because no one else possesses the ability.” Martinez v. Woodmar II Condominiums, 941 P.2d 218, 221 (Ariz. 1997) (en banc). The Martinez court simply refused to hold that the law “recognizes such a lack of responsibility for safety.” Id.

In this case, Respondents retained exclusive control over the Wellspring common areas for the entire period Ms. Wright rented a unit at the complex. As property manager, Ms. Campbell acknowledged, tenants were not permitted to make their own repairs or provide their own maintenance for Wellspring common areas. (R. p. 632 at 201, lines 17-21). PRG Chief Operating Officer Samuel Foster confirmed Wellspring tenants were helpless to secure the complex's common areas. (R. p. 439 at 46, line 22 – 47, line 14). As discussed above, many courts view this as a circumstances in which a landlord is charged with a duty to make reasonable efforts to reasonably secure the common areas.

A landlord's superior knowledge of the crime risk in the area is another "circumstance" courts have looked to in finding a landlord's duty. As compared to its tenants, a landlord is in a far better position to understand the premises' unique security vulnerabilities based on the landlord's knowledge of the entire complex and other crimes at the complex. Past crimes may put a landlord "on actual or constructive notice that third persons are likely to endanger the safety of tenants" and create a duty of reasonable care to guard against the danger posed by third party criminals. Schelp v. Cohen-Esrey Estate Servs., 889 S.W.2d 848 (Mo. App. 1994). A landlord's knowledge of previous crimes is a circumstance that can create a "duty to provide preventive security measures." Johns v. Housing Auth. for City of Douglas, 678 S.E.2d 571, 573 (Ga. App. 2009); see also Davenport v. D.M. Rental Props., Inc., 718 S.E.2d 188, 189-90 (N.C. App. 2011). In this case, Respondents knew of previous crimes at Wellspring committed by residents of a "troubled property" along the Harbison trails. Respondents knew or should have known about a series of crimes committed in the Wellspring parking lots around the time of Ms. Wright's abduction. Respondents' superior knowledge of Wellspring's crime

history and Wellspring's security vulnerabilities are another circumstance supporting imposition of a duty of reasonable care to reasonably secure the premises.

The circuit court suggested at the hearing on October 1, 2012, that imposing a duty on a property owner to provide reasonable security for the benefit of people on its premises was unreasonable or futile given the ubiquity and variability of criminality. (R. p. 75). The circuit court further suggested protection of a person on the property of another falls on the person alone and not on the landowner or even the police. Yet, despite the inherently pervasive and uncertain crime risk in society, South Carolina law does impose a duty of reasonable care on hotels and storeowners (and owners of similarly situated properties) to protect people on their premises. Thus, South Carolina law does not deem the unpredictability of crime to be the determinative factor for assessing the existence of a duty. Instead, courts focus on the property's character & the property owner's expectations.

Ms. Wright does not disagree with the circuit court's statement that a person on the property of another has a role in providing for her own protection in many circumstances. See (R. p. 75, lines 17-18) ("You have to protect yourself"). Ms. Wright never claimed Respondents must be insurers of security or that they are strictly liable for injuries caused by criminal attacks on their premises. See (R. p. 41-42, ¶¶ 24-26) (alleging negligent and reckless conduct). However, to the extent the circuit court concluded an individual has the sole responsibility for self-protection¹³, the court gave insufficient consideration to Cooke, Cramer I, and other cases where a landowner's duty to reasonably secure its premises has been recognized in various circumstances. From a

¹³ See (R. p. 75, lines 10-15) (discussing importance of self-protection including Judge Young's support for concealed weapons legislation).

public policy perspective¹⁴, assigning all responsibility for security to a tenant ignores the fact that a landlord is better positioned to know when and where crimes are occurring on the property and, in the "particular circumstances" of this case, was the only person in a position to make the premises more secure.

II. EVEN IF RESPONDENTS HAD NO AFFIRMATIVE DUTY TO REASONABLY SECURE WELLSPRING'S COMMON AREAS, RESPONDENTS WERE REQUIRED TO REASONABLY PERFORM THEIR VOLUNTARILY UNDERTAKEN DUTIES TO PROVIDE SECURITY AND MAINTAIN COMMON AREAS IN A REASONABLE MANNER

A person having no affirmative duty to provide services to another may still face liability related to such services if the person voluntarily undertook a responsibility to provide services and performed that responsibility with less than due care. Cooke, 741 F. Supp. at 1209-10 (quoting Crowley v. Spivey, 285 S.C. 397, 406, 329 S.E.2d 774, 780 (Ct. App. 1985)). In other words, "One who assumes to act, even though under no obligation to do so, may become subject to the duty to act with due care." Id. This legal principle is stated in Restatement (Second) of Torts § 323, a section South Carolina courts have repeatedly cited and applied. The section states as follows:

One who undertakes, gratuitously or for consideration, to render services to another which he should recognize as necessary for the protection of the other's person or things, is subject to liability to the other for physical harm resulting from his failure to exercise reasonable care to perform his undertaking, if

- (a) his failure to exercise such care increases the risk of such harm, or
- (b) the harm is suffered because of the other's reliance upon the undertaking.

Restatement § 323's voluntary undertaking rule applies to any type of duty a person chooses to assume. This section has been applied in various jurisdictions to a

¹⁴ Public policy is a proper consideration for determining a legal duty's scope. See e.g., Tobias v. Sports Club, Inc., 332 S.C. 90, 92, 504 S.E.2d 318, 320 (1998) (interpreting tavern owner's duty in dram shop action in light of what "serves public policy").

residential landlord's voluntarily assumed duty to provide security measures for the benefit of its tenants. For example, in Pamer v. Pritchard Brothers, 575 N.E.2d 900 (Ohio Com. Pl. 1990), a woman was physically and sexually assaulted in her apartment by an intruder who climbed through her bedroom window. The plaintiff uncovered evidence showing the landlord voluntarily conducted a security program at the complex including full-time security officers for common areas. Id. at 901. The court also found evidence that the resident relied on the landlord's security program. Specifically, the resident asked her landlord about security after a criminal act occurred on the premises. It was based on the landlord's assurances of full-time security guards that the plaintiff decided to remain at the complex. Id. at 902. Although the landlord had no general duty to protect its tenant from third party criminal acts, it did have a duty to conduct its voluntarily undertaken security program reasonably. Id. Whether the landlord's performance of its voluntarily assumed duty was reasonable presented a jury question that could not be decided on a summary judgment motion. Id.

Similarly, in Reider v. Martin, 519 A.2d 507 (Pa. 1987), the court reversed dismissal of a negligence claim by a college student who was raped, beaten, and robbed in the stairway of the landlord's apartment building. The plaintiff's attacker entered her building through an unsecured front door the landlord promised to keep continually locked. Id. at 508. The court concluded there was evidence the landlord assumed a responsibility to properly secure the building's exterior door and evidence the tenant justifiably relied on the landlord's efforts to secure the door. Id. at 510 (noting tenant "can expect...that the program [of security] will be reasonably pursued and not fail due to its negligent exercise"). The plaintiff's evidence clearly met the undertaking and reliance

elements of Restatement § 323 and, therefore, the plaintiff made the requisite showing on the duty element of her negligence claim. Id. at 511.¹⁵

Restatement § 323 has a rich history in South Carolina jurisprudence. This section “prescribes a duty of care” for purposes of South Carolina common law. Sherer v. James, 290 S.C. 404, 408, 351 S.E.2d 148, 150 (1986). Specifically, § 323 “establishes a duty on one who undertakes to render services for the protection of another.” Id. at 407, 351 S.E.2d at 150. Crowley provides a good example of the factors a court should consider for “undertaking” duties. 285 S.C. at 403-04, 329 S.E.2d at 778.

In Crowley, the father of two murdered children sued the children’s maternal grandparents after the children’s mentally ill mother shot and killed them. Id. The plaintiff, wary of the mother’s general instability and reported gun ownership, initially refused to permit the mother to visit the children. Id. Seeking to maintain a connection between mother and children, the grandparents promised to take full responsibility and supervise all visits. Id. at 404, 329 S.E.2d at 779. The grandparents also reported that they had found no gun in the mother’s possession after repeated searches. Id. The father testified that he finally agreed to visitation in reliance on the grandparents’ promises that there was no gun and all visits would be supervised. Id. The court relying on Restatement § 323 determined that the grandparents owed a duty. The grandparents did not have an affirmative obligation to monitor visits or search for the gun, but “once their

¹⁵ Restatement § 323 has been examined and applied to landlord security programs in many other jurisdictions as well. See e.g., Scott v. Watson, 359 A.2d 548, 555 (Md. App. 1976) (“We think it clear that even if no duty existed to employ the particular level of security measures provided by the defendants, improper performance of such a voluntary act could in proper circumstances constitute a breach of duty”); Walls v. Oxford Mgmt. Co., 633 A.2d 103, 106-07 (N.H. 1993) (“a landlord who undertakes, either gratuitously or by contract, to provide security will thereafter have a duty to act with reasonable care”).

performance began, a common law duty to exercise reasonable care arose.” Id. at 406, 329 S.E.2d at 780.

Restatement § 323 has been applied in other jurisdictions to a residential landlord’s voluntarily assumed duty to provide security. South Carolina recognizes this rule and has applied it in many different circumstances. South Carolina courts have also recognized that a residential landlord can voluntarily assume a security duty for the benefit of its tenants. In Cramer II, the court considered a landlord’s security program that included devices to secure sliding glass doors. If a landlord decides to install such devices and actually “undertook to perform the work,” then a duty would arise to install the device with reasonable care. 848 F. Supp. at 1225. The Cooke court reached the same conclusion in the context of a hypothetical, “if a plaintiff offers evidence that a landlord had been asked to repair a lock on a door, and that the work was performed negligently, a crime committed by a person entering through that door may present an actionable negligence claim against the landlord under South Carolina law.” 741 F. Supp. at 1212.

The circuit court’s order does not address Ms. Wright’s claim that Respondents’ duty to reasonably secure Wellspring’s common areas arose from Respondents’ assumed security tasks as provided in Restatement (Second) of Torts § 323. The circuit court only considered the Cooke exceptions in refusing to find a duty. In Cooke, the “affirmative action” exception states that “one who assumes to act, even though under no obligation to do so, may become subject to duty to act with due care.” Id. (quoting Crowley, 285 S.C. at 406, 329 S.E.2d at 780). The “affirmative act” exception has been defined the same way by the South Carolina Supreme Court in Jackson v. Swordfish Investments, LLC, 365 S.C. 608, 613, 620 S.E.2d 54 (2005).

South Carolina case law is not clear as to how the “affirmative acts” exception differs from the “undertaking” exception. Cooke appears to define the “undertaking” exception as the “rule that a landlord’s repairs must be performed with due care.” 741 F. Supp. at 1212. The Cooke court held this exception did not apply to a landlord’s decision to install a certain variety of sliding glass door in all of the complex’s units or to the landlord’s nonspecific conversation with a tenant regarding security at the complex. Id. In other places, however, Cooke is less clear in its delineation of the “affirmative act” and “undertaking” exceptions. Id. at 1210 (“South Carolina law imposes a duty on a person to use reasonable care when any affirmative act is undertaken . . .”). In Goode, the Court of Appeals used similar language to define an “undertaking” duty. In describing the undertaking exception, this Court determined that “even where there is no duty to act but the defendant voluntarily undertakes the act, the defendant assumes a duty to use due care.” 329 S.C. at 444, 494 S.E.2d at 832 (citing Russell v. City of Columbia, 305 S.C. 86, 406 S.E.2d 338 (1991)).

Goode also identified two distinct sources for the “undertaking” duty. Traditionally, South Carolina common law recognizes a duty of reasonable care when acts are voluntarily undertaken. 329 S.C. at 442, 494 S.E.2d at 832 (citing Russell, 305 S.C. at 89, 406 S.E.2d at 339; Sherer v. James, 290 S.C. at 406, 351 S.E.2d at 150). Additionally, Restatement (Second) of Torts § 323 states the circumstances in which a voluntarily undertaken duty is created and breached. Goode clearly shows that a residential landlord can voluntarily assume a duty to provide security services in the common areas of its apartment complex. For reasons inapplicable to Ms. Wright’s

claim¹⁶, Goode's facts did not meet the requirements of the common law or Restatement-based voluntarily assumed duty rule. 329 S.C. at 445, 494 S.E.2d at 833 ("We find no basis for liability under either the Restatement (Second) of Torts nor the common law rule").

Even so, Goode's use of test demonstrates that the section is a viable duty source in South Carolina law and may be applied to a residential landlord who acts to create and maintain security for common areas of an apartment complex. Goode's § 323 analysis was conducted independently of the long-standing South Carolina common law undertaking duty analysis (e.g. Russell) and independently of the "affirmative acts" analysis discussed in the circuit court's order. See Order at 8-11. Thus, if Ms. Wright made the requisite showing for each of § 323's elements, then the duty component of her negligence claim was adequately demonstrated and summary judgment should have been denied.

There is evidence in this case that Respondents assumed a responsibility to create, maintain, and perform a security program at Wellspring for the benefit of its tenants. Ms. Wright has also presented evidence that she relied on Respondents' security program when choosing to move to Wellspring and to renew her lease year after year. Additionally, Ms. Wright has presented evidence that Respondents' failure to properly perform the security program they promised their tenants and undertook to perform

¹⁶ The Restatement-based duty did not apply in Goode because the plaintiff was a tenant's social guest and any alleged security duty undertaken by the landlord was provided only for the benefit of the complex's tenants. Additionally, the plaintiff provided no evidence that the security duty was performed with less than due care, and the plaintiff could not demonstrate the required element of reliance since he admitted that he knew the landlord did not provide security at the complex. 329 S.C. at 444-45, 494 S.E.2d at 833. As discussed in more detail below, none of these deficiencies apply to Appellant's claim.

increased the risk that Plaintiff would suffer the harm she ultimately experienced. This evidence satisfies Restatement § 323's elements and establishes Respondents' duty to Ms. Wright even if this Court concludes Respondents were not otherwise required to provide security. Accordingly, Respondents' motion for summary judgment on the basis of a perceived lack of duty should have been denied.

Respondents assumed responsibility for a sophisticated security program at Wellspring. Courtesy officers were a large part of the program. See (R. p. 586 at 19, lines 19-21); M. Roten Dep. 22:8-21; 55:18-19 ("The property did contract for security officers"). Courtesy officers were law enforcement personnel who received a reduced rate on rent or other compensation in exchange for providing various security services at Wellspring. (R. p. 623 at 165, lines 11-14). Wellspring conducted an intricate courtesy officer program. Each potential courtesy officer signed a Courtesy Officer Independent Contractor Agreement (R. p. 441-42) that defined the officer's responsibilities at the complex. These responsibilities included (1) patrolling the Wellspring grounds for "a minimum of two hours each day" and (2) answering calls from residents reporting a nuisance, crime in progress, or "[a]ny act that within the professional opinion of the [officer] is contrary to the expected conduct of individuals on the property." A Wellspring courtesy officer's responsibilities were extensive and included anything up to and including "the normal duty as performed by a police officer of the locality where the designated apartment is located."

Restatement § 323's second element is the plaintiff's reliance on the defendant's undertaking. There is no duty if the plaintiff is unaware of the defendant's undertaking until after the plaintiff has suffered harm. See Staples v. Duell, 329 S.C. 503, 494 S.E.2d

639 (Ct. App. 1997) (refusing to find duty where injured motorist was unaware of landowner's tree inspection program until after motorist's auto accident). There is evidence in this case that Ms. Wright was aware of Respondents' security program far before her September 2008 attack and her reliance on that program when deciding to move to and remain at Wellspring. When Ms. Wright was investigating various apartment complexes in the Columbia area in spring 2003, she considered the amenities each location offered. (R. p. 326 at 40, lines 13-15). One of the primary amenities at Wellspring was its security program. Ms. Wright "felt like it would be a safe place" because she "was told that there were security officers on duty." (R. p. 326 at 40, lines 16-21). Security was such an important consideration for Ms. Wright that she asked Wellspring officials about the program. (R. p. 326 at 40, line 25 – 41, line 6). She decided to move to Wellspring only after receiving a satisfactory answer to a direct question about the security program.

Ms. Wright, a sixty year old single woman, was concerned about security, asked about security, and relied on a promised security program (including patrol officers) when she chose to move to Respondents' property. Respondents invited Ms. Wright and all tenants to rely on Wellspring's security program. To facilitate a courtesy officer's responsibility to answer calls, Respondents provided each officer with a cell phone. (R. p. 647 at 264, lines 23-25). The number for a courtesy officer's phone was printed in each month's Wellspring Apartments tenant newsletter. The August 2008 newsletter (R. p. 444-45) printed a phone number, referred to as the "Security Pager" beneath the image of a police officer in full uniform.

Along with the phone number and police officer image, Respondents' newsletter represented to each Wellspring tenant that "Security is also very top priority with us." The "security pager" was presented as one of the means by which Respondents made security their "top priority." The implications from the totality of Respondents' security program are clear: (1) Ms. Wright and other tenants relied on the program when deciding whether to enter or renew their leases at Wellspring; (2) Respondents knew or should have known Ms. Wright and other tenants relied on the program; and (3) Respondents invited Ms. Wright and other tenants to rely on the security program by advertising its courtesy officers and encouraging tenants to call the "security pager."¹⁷

Respondents' voluntary undertaking of a security program and Ms. Wright's reliance on that program is sufficient to establish a duty for Respondents to perform the security program with reasonable care. Restatement § 323 includes a third element that can be used to establish a duty in the event that there is no evidence of reliance. In other words, a duty is established if the defendant voluntarily assumed a responsibility and the failure to exercise reasonable care in performing that responsibility increased the risk of harm to the plaintiff. In this case, Ms. Wright presented evidence demonstrating that the deficiencies in Respondents' security program increased the risk of the harm Ms. Wright suffered. If Respondents' security program was functioning in a reasonable manner, then courtesy officers would have been patrolling Wellspring's common areas for hours each day and responding promptly to calls to the "security pager." The risk of criminal attack

¹⁷ Notably, Defendants continued to advertise the "security pager" number in their tenant newsletters even during periods where Wellspring had no courtesy officers. The fate of tenant calls to the pager during these periods is unclear. PRG corporate representative Meschelle Roten was unsure as to if or how these calls were processed. (R. p. 420 at 51, line 19 – 52, line 12).

was much higher because Respondents' security program was not performed as it should have been. Ms. Wright's expert used his expertise to confirm the common sense notion that criminals are less likely to lurk in places where officers are actively patrolling. (R. p. 427 at 67, lines 17-21).

Respondents conducted at least two other tasks that affected the security of Wellspring's common areas. Respondents provided some of the common area lighting and had the exclusive authority to trim the shrubbery throughout the common areas. Ms. Wright presented evidence that Respondents' failure to exercise reasonable care in each of these undertakings were a proximate cause of her injuries. Wellspring's common areas were illuminated by two sources: (1) pole lights installed by South Carolina Electric & Gas; and (2) breezeway lights maintained by Wellspring. Respondents acknowledge undertaking a duty to illuminate the common areas for a number of "safety" reasons including reducing the risk that tenants or their guests will trip and fall when walking through the complex after dark. Respondents also acknowledge undertaking this duty for "security" purposes. When a breezeway light burned out, Defendants' policy was to replace the light within one day. This was a matter of "security." (R. p. 407 at 84, line 25- 408 at 85, line 8).

Adequate common areas lighting discourages people who didn't belong from congregating at the complex. (R. p. 404 at 27, lines 1-5). In other words, well-lit common areas have a role in the protection of Wellspring tenants. (R. p. 415 at 227, line 8 – 228, line 11); see also (R. p. 436 at 26, lines 18-24) (referring to crime deterrent capacity of adequate lighting as "a common sense position"). Respondents clearly considered their provision of common area lighting a duty of both safety and security. In

the "Maintenance" section of Respondents' policy and procedure manual for Wellspring, the "Security" subsection acknowledges a "duty to help our residents to enjoy a safe and pleasant stay." (R. p. 446). To fulfill their "Security" duty to keep residents "safe," Respondents agreed that "[t]he property should be well lit" and Respondents should "replace bulbs promptly and use adequate wattage." It is clear Respondents viewed their duty to provide light as a matter of safety (e.g. preventing falls) and security (e.g. deterring criminal acts by decreasing shadowy hiding places).

Lights were installed at different locations in Wellspring in 2004 and in subsequent years. In 2003, PRG took over management of the complex and Franklin PineRidge initiated \$1.4 million of improvements to the property. They voluntarily undertook lighting installation and maintenance through contractors and made other modifications to Wellspring after undertaking the duty to own and manage the complex. Officer Kevin Isenhoward testified that, during the police investigation of Ms. Wright's abduction, Wellspring was dark and its lighting was poor. As Officer Isenhoward surveyed the scene and approached Ms. Wright's front door, he noted "it was just dark . . . too dark for my comfort." (R. p. 655 at 24, lines 7-8). Plaintiff's expert Bill Booth testified "the lighting on the property was totally inadequate and was a definite causative factor" in Ms. Wright's abduction. (R. p. 427 at 67, lines 1-7). This testimony was based on a light study and objective lighting standards promulgated by the Illuminating Engineers Society of North America. (R. p. 426 at 29, lines 4-12; 429 at 140, line 19 - 142, line 18) (describing light study methodology).

Respondents also voluntarily undertook a duty to maintain the shrubbery and other landscaping throughout Wellspring's common areas. K. Campbell Dep. 142:1-7.

This responsibility included the shrubs near the ramp to Ms. Wright's unit. See (R. p. 449-54). Ms. Wright's attackers were concealed by these shrubs on the night of her abduction. (R. p. 301 ¶ 8).¹⁸ Respondents chose to maintain Wellspring's shrubbery for multiple reasons. Overgrown shrubbery presents a safety risk in that tenants' movement around the facility could be impeded. Ms. Campbell testified that shrubbery maintenance is also provided for tenants' protection. (R. p. 416 at 230, lines 10-14). The height of shrubs surrounding the approaches to tenants' dwelling units also has an effect on the complex's security.

Respondents hired H&S Landscaping to perform various landscaping tasks. For the shrubs, H&S was hired to "trim[] and shape[] as needed." (R. p. 456). H&S owner Shawn Howland was concerned about overgrown shrubbery around Wellspring and had numerous conversations with Wellspring manager Ms. Campbell about the issue. Ms. Campbell's response was always that additional shrubbery maintenance was simply not in Wellspring's budget. (R. p. 390, ¶ 9). Shortly after Ms. Wright's attack, Respondents relented and authorized a special budget item for shrub maintenance. (R. p. 435 at 22, line 19 – 23, line 5) (additional pruning performed after Ms. Wright's attack was "outside of the budget"). This post-incident trimming was not usual maintenance but "severe trimming." (R. p. 421 at 64, line 17 – 65, line 6). The post-incident "severe trimming" conducted by Respondents made a significant difference in visibility near Ms. Wright's apartment. A quick comparison of the area before and after the "severe trimming"

¹⁸ Respondents take issue with Ms. Wright's claim that her attackers were concealed by the dark or overgrown shrubbery because some details of her attack are not included in the police report. However, in addition to her affidavit, Ms. Wright also testified that the attackers were concealed in her deposition. (R. p. 339 at 63, lines 18-22) (attackers were "behind the bush" and Ms. Wright could not seek them until she passed the bush). At the very least, there is a factual dispute on this issue that a jury must resolve.

clearly shows that proper pruning would significantly decrease the areas where a criminal actor could hide. According to Mr. Booth, the vegetation issue was a causative factor in Plaintiff's injuries. Mr. Booth testified that "if the vegetation had been properly maintained . . . this crime would not have occurred." (R. p. 537 at 66, lines 18-23).

In sum, Respondents voluntarily undertook a security program at Wellspring by employing courtesy officers, providing security lighting, and maintaining common area landscaping for the purpose of securing the premises. Respondents publicized its security program to Ms. Wright when she signed her lease and each month via the tenant newsletter. Ms. Wright testified that she relied on Respondents' security program in choosing Wellspring over other area apartment complexes. Respondents' poorly operated security program significantly increased the risk of third party criminal attacks to its tenants. All elements of Restatement § 323 are met and Respondents owed Ms. Wright a duty of reasonable care in operating its voluntarily assumed security program.

III. MS. WRIGHT PRESENTED THE CIRCUIT COURT EVIDENCE THAT RESPONDENTS NEGLIGENCE WAS A PROXIMATE CAUSE OF THE INJURIES SHE SUFFERED IN A CRIMINAL ATTACK INITIATED IN WELLSPRING'S COMMON AREAS .

Proximate causation is an essential element of any negligence cause of action. Burnett v. Family Kingdom, Inc., 387 S.C. 183, 191, 691 S.E.2d 170, 175 (Ct. App. 2010). This element requires proof of both "causation in fact and legal cause." Small v. Pioneer Mach., Inc., 329 S.C. 448, 463, 494 S.E.2d 835, 842 (Ct. App. 1987) (citing Hurd v. Williamsburg County, 363 S.C. 421, 428, 611 S.E.2d 488, 492 (2005)). Causation in fact is established by proof that the injury "would not have occurred but for the defendant's negligence." Cody P. v. Bank of Am., N.A., 395 S.C. 611, 620, 720 S.E.2d 473, 478 (Ct. App. 2011) (citing Mellen v. Lane, 377 S.C. 267, 278, 659 S.E.2d 236, 245

(Ct. App. 2008)). Legal cause is established by determining foreseeability, a factor which focuses on “whether the injury is the natural and probable consequence of the alleged negligent act.” Id. As the Cooke court noted, “[p]roximate cause is generally a question for the jury.” 741 F. Supp. at 1214; see also Ballou v. Sigma Nu Gen. Fraternity, 291 S.C. 140, 147, 352 S.E.2d 488, 493 (Ct. App. 1986) (“Only in rare or exceptional cases may the question of proximate cause be decided as a matter of law”). The circuit court even noted, summary judgment on proximate cause is appropriate only where there is “absolutely no evidence in the record” indicating that proximate cause exists. Order at 12 (quoting Parks v. Characters Night Club, 345 S.C. 484, 500, 548 S.E.2d 605, 614 (Ct. App. 2001)).

Where a negligence claim alleges an injury directly caused by the intervening act of a third party, a “special case” is presented. Cody P., 395 S.C. at 620, 720 S.E.2d at 478. In special cases, the test becomes whether a third party criminal act was foreseeable to the defendant. The finder of fact must determine whether “the injury at the hand of the intervening party was within the general range of consequences which any reasonable person might foresee as a natural and probable consequence of the negligent act.” Shepard v. S.C. Dep’t of Corr., 299 S.C. 370, 375, 375 S.E.2d 37, 37 (Ct. App. 1989). Plaintiff need not prove the “particular chain of events” was foreseeable but only that the injury the criminal inflicted was “within the general range of consequences which any reasonable person might foresee.” Cody P., 395 S.C. at 621, 720 S.E.2d at 478 (citing Shepard 299 S.C. at 375, 385 S.E.2d at 38). Ms. Wright’s proximate cause showing was not deficient merely because not every crime is preventable or because precisely predicting a criminal’s conduct is an inexact proposition. See (R. p. 14).

Several different types of evidence may be used to demonstrate that a defendant could reasonably foresee injuries ultimately perpetrated by an independent third party. Expert testimony may be used to establish foreseeability. An expert with knowledge of the defendant's business may testify regarding the types of harms the defendant anticipates in its business. See Cody P., 395 S.C. at 621-22, 720 S.E.2d at 478 (considering banking expert's testimony that banks anticipate theft). The defendant's policies and procedures may also demonstrate that it foresees certain types of harms may flow from its negligent conduct. In Cody P., the defendant's policies and procedures established rules to guard against certain harms. Id. at 622, 720 S.E.2d at 478. The policies themselves provided some evidence that the defendant foresaw the types of harms it took the time and effort to guard against. Id.

In Daniel v. Days Inn of America, Inc., 292 S.C. 291, 356 S.E.2d 129 (Ct. App. 1987), the court considered whether a motel could have foreseen a third party criminal attack on its guest. In finding a jury question on this issue, the court considered several pieces of evidence indicating the hotel foresaw potential attacks on its guests. For example, the hotel required an employee to walk the premises once or twice per night. The hotel also requested the local sheriff's department patrol the hotel parking lot. These actions made it "evident that the hotel perceived some threat of physical harm to its guests." Id. at 302, 356 S.E.2d at 135. The court also considered other crimes in the hotel's vicinity including the number of crimes and their circumstances. Id. at 298, 356 S.E.2d at 135.

There are several pieces of evidence demonstrating Respondents foresaw third party criminal attacks at Wellspring. Respondents' policies and procedures recognize

this risk. Respondents' "Courtesy Officer Independent Contractor Agreement" creates a relationship between Respondents and an officer to provide specific services to prevent certain harms. Courtesy officers are to respond to calls regarding "Domestic altercations" and "Criminal acts." (R. p. 441). Similarly to Daniel, it is clear from the Courtesy Officer Independent Contractor Agreement that Respondents perceived some threat of third party criminal acts directed at its tenants. This was a threat Respondents recognized and undertook to guard against. Accordingly, a third party criminal act directed at Wellspring's tenants was not unforeseeable if Respondents negligently perform the duty they had undertaken to guard against such crimes.

Ms. Wright's security expert testified that, in his opinion, Respondents' negligence was a proximate cause of Ms. Wright's injuries. (R. p. 561 at 162, lines 15-18). Mr. Booth has provided uncontroverted testimony that Ms. Wright's abduction was a "foreseeable incident." (R. p. 537 at 66, lines 8-15). Mr. Booth's opinion was based in part on his analysis on various crimes at Wellspring including other crimes in the Wellspring parking lot. See (R. p. 564 at 175, line 12 – 176, line 9) (describing methodology for analysis). For 2007 and the first nine months of 2008, Mr. Booth documented 15 parking lot offenses at Wellspring. Mr. Booth's analysis did not include all criminal incident reports from the Wellspring property. Instead, he pulled all such reports and winnowed them down to those that may have been impacted by lighting, courtesy officer patrolling, or better sight lines. (R. p. 565 at 178, line 21 – 179, line 6).

Mr. Booth's analysis showed that in the very parking lot where Ms. Wright was abducted, there had been an attempted home invasion and an attempted burglary within the previous two years. There had also been a series of vehicle related crimes over that

same period that Mr. Booth referred to as "precursor crimes," i.e. incidents that likely would have included crimes against a person had the car's owner been present. (R. p. 565 at 180, lines 18-23). Defendants' witnesses also acknowledge that crime was foreseeable at Wellspring. Ms. Campbell admitted that it "would be fair to say" that there is going to be a certain amount of crime at Wellspring. (R. p. 610 at 114, line 1).

Respondents disputed Mr. Booth's analysis of previous crimes in Wellspring's common areas. (R. p. 118). Using similar language, the circuit court appeared to dismiss nonviolent crimes in the area as irrelevant to the foreseeability of violent crimes. (R. p. 15). Ms. Wright adamantly disagrees with Respondents' characterization of Wellspring's extensive crime record. More importantly for sake of Respondents' summary judgment motion, only Ms. Wright's position was supported by evidence. Ms. Wright presented Mr. Booth's expert testimony on the effect of "precursor" crimes on the foreseeability of violent crime. Respondents offered no evidence to support their conclusion that precursor crimes are irrelevant. On a summary judgment motion where a movant bears the burden and on the issue of proximate cause where only the exceptional case can be decided without a fact finder, the circuit court's dismissal of Mr. Booth's foreseeability testimony was in error.

In addition to this evidence supporting legal cause, there is also evidence that Respondents' negligence was a cause in fact of Ms. Wright's injuries. The testimonial evidence from several witnesses demonstrates that but for Respondents' unreasonably dim lighting and improperly maintained shrubbery, the attackers would likely have been seen by Ms. Wright as she parked her car. Ms. Wright testified that her attackers "were not visible when I parked and exited my car due to the height and width of the overgrown

shrubbery and the lack of lighting in the area.” (R. p. 301 ¶ 8; 339 at 63, lines 16-18). A representative of the company Respondents hired to trim the shrubbery claimed under oath that, as they stood on the date of Ms. Wright’s abduction, the shrubs “posed safety and security hazards for the residents.” (R. p. 390 ¶ 8). Similarly, following his site visits and using his training, education, and experience in the security industry, Mr. Booth testified that the overgrown shrubbery “provided a hiding place for the individuals who committed this crime.” (R. p. 537 at 66, lines 16-23).

Mr. Booth’s analysis of Wellspring’s common area lighting system revealed that there was too little light “to allow one individual to see another individual to be able to identify them later or identify a photograph or identify a drawing” of the individual at a later date. (R. p. 555 at 140, line 23 – 556 at 142, line 4). The lighting was “totally inadequate” and “this crime would not have occurred” had lighting met the industry standard. (R. p. 537 at 66, line 24 – 67, line 7). If the perpetrators had been visible as she parked her vehicle, Ms. Wright would never have gotten out of her car and she would have never been abducted. (R. p. 301 ¶ 10). In fact, even after getting out of the car, if the lighting and shrubbery maintenance was such that Ms. Wright could have seen the perpetrators as she approached the walkway and ramp, then she could have retreated to her car or sought assistance at a neighbor’s house. (R. p. 301 ¶ 10). The attackers remained concealed and were able to execute a surprise attack only because of the poor lighting and overgrown shrubs.¹⁹

¹⁹ The circuit court’s order dismissed lighting and shrubbery as a proximate cause since one police investigation report did not mention that the attackers were concealed. (R. p. 16). The order did not acknowledge Ms. Wright’s affidavit or deposition where Ms. Wright swore under oath that the attackers were concealed by darkness and overgrown shrubbery. Respondents clearly intend to challenge the veracity of Ms. Wright’s

Additionally, but for Respondents' sloppily executed courtesy officer program, the perpetrators likely would not have been in the area to abduct Ms. Wright. Respondents' courtesy officer program required the officers to patrol Wellspring for at least two hours per day. Their patrols were to be recorded on forms Wellspring provided. Respondents acknowledge the required patrolling was not performed. (R. p. 586 at 19, line 22 – 20, line 3). Mr. Booth estimates that based on Wellspring's size, a courtesy officer could cover the premises five to six times in two hours. (R. p. 560 at 158, lines 23-24). Using that estimate, Respondents' courtesy officer program, if properly performed, would have a courtesy officer in the area of Ms. Wright's abduction every 15 minutes for the period of the courtesy officers' daily patrol. Consistent presence of an officer in Wellspring's common areas would have a significant effect on the average criminal's decision making process and ultimately his conduct. In Mr. Booth's expert opinion,

If we can make [the criminal] believe that his activity is going to be viewed more than likely by someone, and that the chances of him being apprehended in the commission of the act are greater in one place than they are in another, we can move the commission of that—we may not stop that criminal act. We can move the commission of that criminal act to another location.

(R. p. 549 at 113, lines 3-10).

There is evidence Ms. Wright would not have exited her vehicle to encounter her attackers but for the poor lighting and unkempt shrubbery that allowed the attackers to remain concealed. There is also evidence showing that the perpetrators likely would not have been loitering in proximity to Ms. Wright's front door had the courtesy officer

testimony on this point and would be free to do so at trial. However, credibility determinations are inappropriate for summary judgment motions. Hoard v. Roper Hosp., Inc., 387 S.C. 539, 548-49, 634 S.E.2d 1, 6 (2010); Ross v. Paddy, 340 S.C. 428, 434, 532 S.E.2d 612, 615 (Ct. App. 2000) ("where the credibility of the witness has been questioned, the matter is properly left to the jury to decide").

program been conducted as required by Respondents' own policies. Accordingly, there is certainly evidence to show Respondents' negligence was a cause in fact of Ms. Wright's injuries. With at least a scintilla of evidence on legal cause and causation in fact, Respondents' motion for summary judgment on the issue of proximate cause must be denied.

IV. MS. WRIGHT PRESENTED THE CIRCUIT COURT EVIDENCE TO SUPPORT ALL REQUIRED ELEMENTS OF HER SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT ("SCUTPA") CLAIM.

SCUTPA prohibits all "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." S.C. Code Ann. § 39-5-20(a). The terms "trade" and "commerce" include offering for sale or the sale of "any services . . . commodity or thing of value." S.C. Code Ann. § 39-5-10(b). Regardless of the instances where SCUTPA is "predominantly applied," the statute's terms expressly apply to "any" trade or commerce.²⁰ SCUTPA authorizes a cause of action for "[a]ny person who suffers any ascertainable loss...as a result of the use or employment by another person of an unfair or deceptive" trade practice. S.C. Code Ann. § 39-5-140(a). To prevail on a SCUTPA claim, a plaintiff must prove (1) the defendant engaged in an unlawful trade practice; (2) the plaintiff suffered actual, ascertainable damages as a result of the defendant's unlawful trade practice; and (3) the defendant's unlawful trade practice had an adverse impact on the public interest. City of Charleston, S.C. v. Hotels.com, L.P., 520 F. Supp.2d 757, 773 (D.S.C. 2007). A trade practice is "unfair" when it is

²⁰ The circuit court's order began its SCUTPA discussion with skepticism of Ms. Wright's claim because it arises in a different factual context than the typical SCUTPA claim. Order at 17; see also (R. p. 64, line 21) (noting "[c]ar dealers seem to get [SCUTPA claims]").

“offensive to public policy or when it is immoral, unethical, or oppressive.” Bessinger v. Bi-Lo, Inc., 366 S.C. 426, 432, 622 S.E.2d 564, 567 (Ct. App. 2007). An unfair trade practice impacts the public interest “if the acts or practices have the potential for repetition.” York v. Conway Ford, Inc., 325 S.C. 170, 173, 480 S.E.2d 726, 728 (1997).

In 2003, Ms. Wright was in need of a new place to live. She visited several apartment complexes in Columbia and compared the amenities each had to offer. (R. p. 326 at 40, lines 13-15). Ms. Wright wanted a place that offered various recreation options and wanted a place close to work. She also wanted a place that was safe and where the owners worked diligently to secure the premises. During her apartment search, Ms. Wright met with Wellspring’s property manager. (R. p. 326 at 40, lines 22-24). In a clear effort to entice Ms. Wright to choose Wellspring over the many other apartment complexes in the area, the property manager told Ms. Wright that Wellspring had “security officers on duty.” (R. p. 326 at 40, lines 16-21; 648 at 265, lines 19-21 (noting Wellspring residents are told about courtesy officers when they move in and the monthly newsletter provided a “reminder” of the officers’ presence).

Respondents’ statements to Ms. Wright at the initial apartment visit and through her time as a Wellspring tenant by way of monthly security representations made in tenant newsletters were specific and not fleeting promises that the complex was “safe” as was the case in Cooke. See Cooke, 741 F. Supp. at 1215. By promising security guards, Respondents made specific statements as to how Wellspring was made secure. This factual distinction affirmatively distinguishes Cooke. The representations here are not only more concrete than those in Cooke but also arise in the context of a different cause of action. Cooke considered whether the landlord’s statement supported a fraud claim.

Id.; Ardis v. Cox, 314 S.C. 512, 431 S.E.2d 267 (Ct. App. 1993) (listing fraud claim's nine elements). These are distinct claims in which Ms. Wright is not required to show all nine elements of fraud to present a jury question on her SCUTPA claim. See Clarkson v. Orkin Exterminating Co., Inc., 761 F. 2d 189, 191 (4th Cir. 1985) (concluding SCUTPA plaintiff "need not show intentional deception").

Respondents' statements induced Ms. Wright to choose Wellspring. After hearing the property manager's assurances of a manned security program, Ms. Wright "felt like it would be a safe place." (R. p. 326 at 40, line 21).²¹ Ms. Wright's reliance on Respondents' representations of security is precisely the reason Respondents made these representations. A potential tenant's peace of mind regarding security increased the likelihood that the potential tenant would sign a lease at Wellspring. As with all residential landlords, Respondents' economic interests are best served when all Wellspring units are occupied. PRG's focus on high occupancy rates was especially pronounced. Ms. Campbell, who has worked at several different apartment complexes over her career as a property manager, described PRG as "a very aggressive company" where the occupancy numbers were "never enough" to suit management. (R. p. 629 at 189, lines 7-10). The specific security representations Respondents made to Ms. Wright demonstrate the lengths to which PRG was willing to go to increase profitability.

²¹ Respondents argue Ms. Wright admitted that she chose to live at Wellspring only because of church friend recommendations and Wellspring's proximity to her place of employment. (R. p. 126) (citing R. p. 325-26). Ms. Wright specifically said these were the two reasons why she "went there first." (R. p. 325 at 39, lines 1-2). In response to later questions, Ms. Wright testified that she considered Wellspring's "amenities" including Respondents' specific promises that security guards were on duty at Wellspring. (R. p. 326 at 40, lines 13-21).

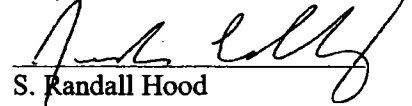
Respondent's representation of security guards at Wellspring was untrue. There were no "security officers" or courtesy officers at Wellspring when Ms. Wright was abducted in September 2008. Respondents' continued representations were, therefore, a misrepresentation and "unfair" as that term is used in SCUTPA. There can be little doubt that making a false representation of security at a person's dwelling to entice potential renters to sign a lease is immoral and unethical. This misrepresentation was not limited to a single conversation between Respondents' property manager and Ms. Wright. In each tenant newsletter, Respondents advertised a "security pager" that tenants could call when in need of security services. The security pager number was always presented in proximity to an image of a police officer in full uniform. In the August 2008 newsletter, the security pager number is publicized again even though Respondents had no courtesy officers at that time. Respondents made this representation knowing it was untrue and knowing that its tenants relied on the representation. Respondents derived economic benefits from the promise of security services. This unfair trade practice had an impact on the public interest because it was capable of repetition and repeated toward all Wellspring tenants. This newsletter was sent to all Wellspring tenants. Thus, the false representation of security services was made to many people, not just Ms. Wright. Ms. Wright has presented evidence on all three SCUTPA elements identified in City of Charleston. Summary judgment on Ms. Wright SCUTPA claim should be denied.

CONCLUSION

Based on the arguments stated above, Ms. Wright respectfully requests this Court reverse the circuit court's order granting Respondents summary judgment. Respondents owed Ms. Wright a duty of reasonable care to reasonably secure Wellspring's common

areas. This common law duty was based on the parties' relationships and Wellspring's unique conditions. Alternatively, Respondents owed Ms. Wright a duty to use due care in its voluntarily assumed security program. Ms. Wright's evidence also creates a genuine issue of material fact on the issue of proximate cause. Finally, Ms. Wright's evidence met the requisite prima facie showing on all elements of a SCUTPA claim.

Respectfully submitted,



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MAY 15 2014

SC Court of Appeals

Rock Hill, South Carolina

May 14, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

W. Jeffrey Young, Circuit Court Judge

Case No. 2011-CP-40-4068

Denise Wright

Appellant

v.

PRG Real Estate Management,
Inc., Franklin Pineridge
Associates, Karen Campbell
Individually and in her
Representative Capacity as an
Agent of PRG Real Estate
Management

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MAY 15 2014

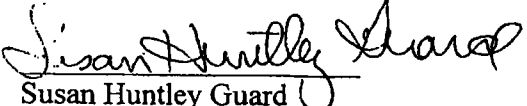
SC Court of Appeals

Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on this 14th day of May, 2014, she served counsel for the Defendants with a copy of the Final Brief of Appellant and Final Reply Brief of Appellant in this matter by mailing a copy of the same by United States Mail with first class postage prepaid to the following addresses:

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

W. Jeffrey Young, Circuit Court Judge

Case No. 2011-CP-40-4068

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MAY 15 2014

SC Court of Appeals

Denise Wright

.....

Appellant

v.

PRG Real Estate Management,
Inc., Franklin Pineridge
Associates, Karen Campbell
Individually and in her
Representative Capacity as an
Agent of PRG Real Estate
Management

.....

Respondents.

CERTIFICATE OF COMPLIANCE

Appellant's counsel hereby certifies that the Final Brief of Appellant and Final Reply
Brief of Appellant comply with Rule 211(b), SCACR.

Respectfully submitted,



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Management..... Respondents.

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SC Court of Appeals

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STATEMENT OF ISSUES ON APPEAL

1. Does a residential landlord owe its tenant a duty to reasonably secure the common areas a tenant must pass through to access her residence?
2. Does a residential landlord who provides "courtesy officers," common area lighting, and landscaping services owe a duty to perform these tasks with reasonable care?
3. Whether Appellant presented the Circuit Court with any evidence that her abduction in her apartment complex's common area was proximately caused by alleged lack of due care by her landlord in operating a courtesy officer program, maintaining common area lighting, and providing landscaping services?
4. Whether Appellant presented the Circuit Court with any evidence to support the required elements of her South Carolina Unfair Trade Practices Act ("SCUTPA") claim?

STATEMENT OF THE FACTS

Respondent Franklin Pineridge Associates ("FPA") is the owner of Wellspring Apartment Complex ("Wellspring") located at 500 Harbison Boulevard in Richland County. (R. pp. 38-39, ¶¶ 2-3). Respondent PRG Real Estate Management, Inc. ("PRG") manages Wellspring. Respondent Karen Campbell ("Campbell") was Wellspring's property manager and an employee of PRG at the time of the events giving rise to the instant case. (R. pp. 38-39 at ¶¶ 2, 4).

Appellant Denise Wright leased an apartment at Wellspring beginning in approximately May of 2003. (R. p. 689 at 39, lines 18-22). On September 18, 2008, Appellant parked her car in Wellspring's parking lot and was walking to her apartment at approximately 10:30 p.m. (R. pp. 164-165 at 1). According to the police report, "[t]he [Complainant/Victim] saw two black males sitting in front of the 2200 building." (R. pp. 164-165). Nothing in the report indicates the perpetrators were concealed by shrubbery or lack of lighting, and Appellant did not indicate they were concealed to the officer who did the report. (R. p. 169, line 25 – R. p. 170, line 7; R. p. 171, lines 7-9). The two men asked for Appellant's money, and when she did not have any, they made her drive them to various automatic teller machines to make withdrawals from her account. (R. pp. 164-165 at 1). After approximately 35 minutes the men released her and she drove to her daughter's house, where police responded. (R. pp. 164-165). The perpetrators have never been caught.

Appellant was not physically injured during her incident. (R. p. 741 at 131, lines 7-11). She admitted in her deposition she was not undergoing treatment for any mental injuries, including mental distress and anxiety. (R. p. 742 at 134, lines 2-6). She was not taking medications for anxiety. (R. p. 742 at 134, lines 7-9). The money she withdrew from her

account was returned to her. (R. p. 746 at 140, lines 19-20). She went back to work for ten months after the incident before retiring. (R. p. 744 at 137, lines 15-23).

STATEMENT OF THE CASE

Appellant filed a Complaint against Respondents on June 24, 2011, in the Richland County Court of Common Pleas. In her Complaint, Appellant asserted a claim for negligence on grounds that Respondents allegedly breached various duties relating to her security from criminal activity. In addition to her negligence claim, Appellant asserted claims for breach of implied warranty of safety, fitness and habitability, as well as violation of SCUTPA by Respondents. In short, she alleged that better maintenance of shrubbery, better lighting, and better security measures would have prevented the crime.

Respondents answered Appellant's Complaint on August 1, 2011. Appellant subsequently amended her Complaint on June 22, 2011 and again on February 8, 2012 (R. p. 38).¹ Respondents filed Answers to these amended pleadings on September 8, 2011, and March 8, 2012, respectively. Respondents moved for summary judgment in this matter on August 2, 2012, and filed a supporting memorandum (R. p. 101) on September 27, 2012.

As grounds for their motion, Respondents argued that South Carolina's courts have affirmed summary judgment in virtually every prior case involving negligent security claims by a tenant against a landlord. (R. p. 101 at 1). Respondents cited to clear, unequivocal law setting forth that an apartment complex has no duty to provide security for its tenants. (R. pp. 105-114). Respondents also argued Appellant could not prove proximate causation because two criminals caused her injury, not Respondents' actions or omissions. (R. pp. 115-118). Respondents argued that South Carolina's courts have rejected Appellant's claim that a landlord warrants the safety, fitness and habitability of an apartment complex from third-party criminal activity. (R. pp. 119-121). Finally, Respondents argued Appellant could not prove the elements of her

¹ For ease of reference, Respondents cite to the Second Amended Complaint in this brief when referencing Appellant's operative pleading.

SCUTPA claim on grounds there was no actionable unfair or deceptive conduct, it did not affect the public interest, and it was not the proximate cause of her injury. (R. pp. 121-126).

The Circuit Court heard oral argument on October 1, 2012. At oral argument, Appellant served her Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment. In the brief, Appellant did not address Respondents' summary judgment motion with regard to the claim for breach of implied warranty of safety, fitness and habitability. Appellant's counsel stipulated Appellant did not oppose Respondent's motion with regard to this claim during oral argument. (R. p. 4, line 14 – R. p. 5, line 2). The Circuit Court heard argument relating to the remaining claims. At the conclusion of the hearing, the Court took the motion under advisement and granted Respondents ten days to review Appellant's opposition memorandum and file a reply brief. (R. p. 94, line 24 – R. p. 95, line 4).

On October 17, 2012, Respondents requested leave and additional time from the Court to file a reply brief so as to address certain evidentiary issues raised by photographs of shrubbery relied on by Appellant. The Court granted Respondents' request on October 19, 2012, and Respondents filed their reply brief the same day. Appellant served a sur-reply brief on or about October 25, 2012.

On September 23, 2013, the Circuit Court issued its Order granting Respondent's Motion for Summary Judgment (R. p. 2). Appellant filed her Notice of Appeal on October 2, 2013, and served her initial brief on November 21, 2013. Respondents requested and received an extension to file their initial brief, which (with extension) became due January 21, 2014. This appeal follows.

STANDARD OF REVIEW

Summary judgment is appropriate where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” S.C. R. Civ. P. 56(c); Padgett v. South Carolina Ins. Reserve Fund, 340 S.C. 250, 252, 531 S.E.2d 305, 306 (Ct. App. 2000). Rule 56(e) of the South Carolina Rules of Civil Procedure sets forth that for purposes of summary judgment, “[s]upporting and opposing affidavits shall be made on personal knowledge, shall set forth such acts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matter stated therein.” South Carolina’s appellate courts have interpreted Rule 56(e) to mean materials used to support or refute a motion for summary judgment must be those which would be admissible in evidence. Hall v. Fedor, 349 S.C. 169, 561 S.E.2d 654 (Ct. App. 2002) (citing Baughman v. American Tel. & Tel. Co., 306 S.C. 101, 410 S.E.2d 537 (1991)).

While the party seeking summary judgment has the burden of proof to show no issue of material fact exists, that party may discharge this responsibility by showing an absence of evidence to support the non-moving party’s case. Etheredge v. Richland School Dist. I, 330 S.C. 447, 452, 499 S.E.2d 238, 241 (Ct. App. 1998), rev’d on other grounds, 341 S.C. 307, 534 S.E.2d 275 (2000).

Once the moving party has met its initial burden, the non-moving party may not rely upon denials or allegations in the pleadings, but must come forward with specific facts showing a genuine issue for trial. Id. at 453, 499 S.E.2d at 241.

Absent any triable issue, summary judgment is proper where plain, palpable, and indisputable facts exist on which reasonable minds cannot differ. Pye v. Aycock, 325 S.C. 426, 431, 480 S.E.2d 455, 457 (Ct. App. 1997).

LAW/ANALYSIS

There are three indisputable facts in this case: (1) Appellant and Respondents had a landlord/tenant relationship; (2) Wellspring is private property where Appellant kept a private residence; and (3) Appellant was the victim of a crime committed by third parties. It is within this factual context that South Carolina's law applies, and it is clear from applicable law that the Circuit Court did not err in granting Respondents' Motion for Summary Judgment. Respondents address each of Appellant's arguments in the order they are raised in her initial brief.

I. The Circuit Court Did Not Err in Finding Respondents Had No Duty to Reasonably Secure Wellspring's Common Areas.

On appeal, Appellant argues Respondents had a duty to her because they "invited" non-tenant pedestrians to the apartment complex and because of the "particular circumstances" of this case. (App. Final Br. at 4-20). The Circuit Court considered these arguments and properly rejected them in granting Respondents' motion.

A. A Landlord Does Not Owe a Duty to a Tenant to Provide Security In and Around a Leased Premises to Protect the Tenant From Third-Party Criminal Activity.

The existence of a duty on the part of the defendant is essential to a negligence claim: "[w]ithout a duty, there is no actionable negligence." Bishop v. South Carolina Dept. of Mental Health, 331 S.C. 79, 86, 502 S.E.2d 78, 81 (1998). The Circuit Court properly recognized that the issue of whether the law recognizes a particular duty is an issue of law to be decided by the Court. (R. p. 5 (citing Ellis by Ellis v. Niles, 324 S.C. 223, 479 S.E.2d 47 (1996))). The crux of Appellant's negligence claim is she believes Respondents should have made her "safe and

secure.” (R. p. 732 at 115, lines 17-21). She believes Respondents should have dug up shrubs and should have done “whatever it takes to make you feel safe to be able to walk into your apartment.” (R. p. 732 at 116, lines 1-7).

South Carolina law has expressly rejected Appellant’s belief in the context of a landlord/tenant relationship. Specifically, our courts have held unequivocally in multiple cases that an apartment complex has no duty to protect tenants from criminal activity.

In Cramer v. Balcor Property Management, Inc., 312 S.C. 440, 441 S.E.2d 317 (1994) (“Cramer I”), which involved the murder of a tenant by an unknown assailant who pried open her patio sliding glass door, the Supreme Court considered the following question certified to the Court by the United States District Court for the District of South Carolina: “Does a landlord owe a duty to a tenant to provide security in and around a leased premises so as to protect the tenant from criminal activity of third parties?” Id. at 441, 441 S.E.2d at 317. The plaintiff in that case – just as Appellant does in this case – urged the Court to adopt the same standard used for innkeepers and guests, which requires them to protect guests or invitees from foreseeable criminal activity of third parties. Id. at 442, 441 S.E.2d at 318. In disposing of the District Court’s question, the Cramer I Court cited to Cooke v. Allstate Management Corp., 741 F. Supp. 1205 (D.S.C. 1990) as directly on point for addressing the certified question. Id. at 442, 441 S.E.2d at 318. Specifically, in relying on Cooke, the Court found a fundamental distinction between the relationships of storeowner/invitee and innkeeper/guest as compared to landlord/tenant. Id. at 443, 441 S.E. 2d at 318-19. As stated by Cramer I:

[P]laces to which the general public are invited might indeed anticipate, either from common experience or known fact, that places of general public resort are also places where what men can do, they might. One who invites all may reasonably expect that all might not behave, and bears responsibility for injury that follows the absence of reasonable precaution against that common expectation. . . .

Tenants in a huge apartment complex, or a tenant on the second floor of a house converted to an apartment, do not live where the world is invited to come. Absent agreement, the landlord cannot be expected to protect them against the wiles of felony any more than the society can always protect them upon the common streets and highways leading to their residence or indeed in their home itself.

An apartment building is not a place of public resort where one who profits from the very public it invites must bear what losses that public may create. It is of its nature private and only for those specifically invited. The criminal can be expected anywhere, any time, and has been a risk of life for a long time.

Id. at 442-43, 441 S.E.2d at 318 (quoting Cooke, 741 F. Supp. at 1213) (emphasis added).

The Court also agreed that nothing in the South Carolina Residential Landlord Tenant Act ("SCRLTA") imposes a duty upon landlords to protect tenants from third-party criminal activity. Id. at 444, 441 S.E.2d at 319. Having reached these conclusions, the Court answered the certified question as follows:

We answer the question as presented to us in the negative. Under South Carolina law a landlord does not owe a duty to a tenant to provide security in and around a leased premises to protect the tenant from criminal activity of third parties. Neither common law nor [SCLRTA], imposes a duty on a landlord to provide protection to tenants against criminal activity of third parties.

Id. at 444, 441 S.E.2d at 319 (emphasis added).

Applying this law, the United States District Court later granted summary judgment in Cramer v. Balcor Property Management, Inc., 848 F. Supp. 1222 (D.S.C. 1994) ("Cramer II"). Relying on Cramer I's clear law, this Court later affirmed summary judgment in Goode v. St. Stephens United Methodist Church, 329 S.C. 433, 494 S.E.2d 827 (Ct. App. 1998) (involving attack on social guest of tenant at apartment complex by third parties), and the Supreme Court again relied on it to affirm summary judgment in Jackson v. Swordfish Investments, L.L.C., 365 S.C. 608, 620 S.E.2d 54 (2005) (involving action against commercial landlord for injuries to nightclub patron when patron was shot multiple times by assailant inside night club).

In the case at bar, the Circuit Court relied on the above-stated law in its Order. (R. pp. 5-7). Appellant also acknowledged this law in her memorandum opposing summary judgment, and she expands upon it in her initial brief in an effort to distinguish her claim. (App. Final Br. at 6-8). Specifically, Appellant argues her claim is distinguishable because Wellspring is part of a planned unit development known as the "Harbison Community Association," and that properties within this community are accessible by a series of public walking trails. (App. Final Br. at 9-10). Appellant believes that because the public uses these walking trails and can access Wellspring, Wellspring either invites members of the public to its complex or expects the public to be on the premises. (Id. at 9-10). Appellant argues Respondents knew members of the public and "criminal elements" from adjacent complexes could easily "spill over to Wellspring via the walking trails." (Id. at 11-12). For these reasons, she believes her claim is analogous to the storeowner-invitee and innkeeper-guest relationships. (Id. at 14).

The Circuit Court considered all of these arguments and properly rejected them based on clear South Carolina law governing landlord-tenant relationships. (R. pp. 7-8). First, the Circuit Court found that "[a]lthough Wellspring may be accessible to the public by walking trails, the court is not persuaded this manner of access is any different from a public sidewalk or street that allows public access to other property." (R. p. 7. See also R. p. 74, lines 2-5 ("But other apartment complexes have roads that are for walking. . . People walk on roads.")). The Court also noted that although Wellspring may be publicly-accessible, Appellant provided no evidence that Wellspring "invited" members of the general public to use the premises, as stated in heading I.A. in Appellant's initial brief. (R. p. 7). Corporate representatives for PRG and FPA confirmed Wellspring is private property. (R. p. 7 (citing R. p. 248, lines 10-12)). Appellant's reference to brochures by the Richland County Conservation Commission or SCTrails.net

advertising the trails does not equate to an “invit[ation]” by Respondents for the public to gather and remain in Wellspring’s common areas. (App. Final Br. at 10). As found by the Circuit Court, Wellspring is reserved for people who are tenants or are specifically invited. (R. p. 8 (citing Goode, 329 S.C. at 441, 494 S.E.2d at 831)).

Appellant attempts to argue Cooke and Cramer I adopted their rule because of reliance on a 1984 Pennsylvania Supreme Court decision, Feld v. Merriam, 485 A.2d 742, 745-46 (Pa. 1984), and that “Wellspring bears no resemblance to the high rise apartment building the Feld Court considered when discussing the typical apartment complex.” (App. Final Br. 8-9, 12). In reality, Feld involved three high rise apartments situated on 150 acres of land. Feld, 485 A.2d at 388. These buildings were also served by adjacent parking garages. Id. at 389. Therefore, the apartment complex in Feld is not unlike the typical “modern” apartment complex or Wellspring, as argued by Appellant.

Furthermore, Cramer I considered the very distinction Appellant tries to argue and rejected it. The Cramer I Court contemplated a landlord/tenant relationship may arise within an apartment complex or within a home. In either circumstance, the Court stated that tenant “in a huge apartment complex, or . . . on the second floor of a house converted to an apartment” do not live in a place where the public is invited to resort. Id. at 442-43, 441 S.E.2d at 318 (quoting Cooke, 741 F. Supp. at 1213 (emphasis added) (see pages 7-8, supra, for entirety of quote)). Cramer I did not distinguish between a house, high-rise apartment, or “apartment complex” in its citation to Feld. The rule is the same for all types of dwellings leased by a landlord to a tenant.

Contrary to Appellant’s representation, this is not an issue of “first impression” for South Carolina courts. (App. Final Br. at 14). It has been considered and rejected, as set forth in Cramer I. The Circuit Court also noted the “slippery slope” advocated by Appellant with regard

to finding a duty for landlords to provide for the security of tenants. The Circuit Court judge recognized that if South Carolina adopted Appellant's argument, the only way a landlord may ever be able to ensure the security of a tenant is by taking drastic economic measures that may be cost-prohibitive to providing a dwelling place for tenants.

The Court: How will an apartment ever not be responsible for a criminal act if you don't [require walls with limited entrance]? If I rule your way and the Supreme Court agrees with me on that, how can any apartment complex ever not be able to exist without building a wall around it with limited access?

Mr. Hood: Well, I think they do limit their access, and that's what they are building. They are building them with fences and they are building them with—

The Court: Is that the standard we have for our state?

Mr. Hood: Well, the standard was enunciated in 1990, 22 years ago, and the standard at that time says what it says, but it also says that where the public is invited like a mall, an innkeeper, or a mall like Wal-Mart—

The Court: This is different from a mall or an innkeeper because they're invited for a short period of time. This is where these people live. So this would also include anyone who rents a house, wouldn't it? I mean, if you rent your house to somebody and it's in a bad neighborhood, wouldn't you have an obligation to protect your tenant?

(R. p. 76, lines 4-24).

The Court in Feld also recognized this dilemma. In its reversal of judgment rendered in favor of the plaintiff, the Feld Court stated that the trial court failed to recognize the distinction between risk of injury from a physical defect in the property and risk of injury from the criminal act of a third person:

In the former situation the landlord has effectively perpetuated the risk of injury by refusing to correct a known and verifiable defect. On the other hand, the risk of injury from the criminal acts of third persons arises not from the conduct of the landlord but from the conduct of an unpredictable independent agent. To impose a general duty in the latter case would effectively require landlords to be insurers of their tenants safety: a burden which could never be completely met given the unfortunate realities of modern society.

485 A.2d at 392 (emphasis added).

The law treats apartment complexes differently than hotels with regard to security. Appellant's expert has even admitted this legal distinction. (R. p. 540 at 79, lines 6-22). He agreed hotels are for shorter term stays, do not generally require a lease, do not perform background or security checks, and are open to the public. (R. p. 540 at 80, lines 5-9; R. p. 21 at 81, line 118 – R. p. 21 at 82, line 3). This is not true of Wellspring. Wellspring is not open to the public, is private property, and is reserved for people who are tenants or are specifically invited. Public roads and nearby trails do not change this indisputable fact. Accordingly, and as stated by the Circuit Court:

For this reason, South Carolina law distinguishes between the duty owed by a landlord to a tenant and the duty owed by an innkeeper to a guest. Cramer I, 312 S.C. at 442-43, 441 S.E.2d at 318. Plaintiff was a tenant pursuant to the terms of her lease. (R. p. 689 at 39, lines 18-22; R. p. 690 at 42, lines 11-12). Therefore, Defendants owed her no duty to provide for her security.

(R. p. 8). The Circuit Court's ruling was correct and should be affirmed by this tribunal.

B. Respondents Did Not Owe Appellant a Duty on a "General Negligence Principle" Based on the "Particular Circumstances of This Case."

Notwithstanding the law concerning lack of a duty by Respondents, South Carolina law recognizes that under particular circumstances an exception may apply so as to give rise to a duty based on a showing of negligence constituting the proximate cause of the loss. Cramer I, 312 S.C. at 443, n.1, 441 S.E.2d at 319, n.1. South Carolina's courts have considered four exceptions that may apply to create a duty to exercise reasonable care to protect tenants against foreseeable risk of harm arising out of the landlord's actions. These exceptions relate to "affirmative acts," "concealed danger," "common areas," and "undertakings." See, e.g., Cooke, 741 F. Supp. at 1209-13; Cramer II, 848 F. Supp. at 1224-25; Goode, 329 S.C. at 445, 494 S.E.2d at 832-33; and Jackson, 365 S.C. at 613-14, 620 S.E.2d at 56-57 (involving commercial landlord).

In her second argument, Appellant argues “the ‘particular circumstances’ that may support a negligence cause of action are not specified in Cramer or its progeny, and Cramer I does not reference the Cooke exceptions in its introduction of ‘particular circumstances’ cases.” (App. Final Br. at 15). Therefore, Appellant asserts this Court should look to other jurisdictions to define these circumstances. (Id.).

However, a close review of Appellant’s argument reveals she is merely arguing the “common areas” and “concealed dangers” exceptions in an attempt to foist a duty upon Respondents. First, Appellant cites to secondary authority and argues a modern landlord has exclusive control over common areas (and therefore exclusive ability to care for them). (App. Final Br. at 16-17). As a result, Appellant argues a landlord has a duty to keep those areas reasonably secure from a “dangerous condition.” (Id. at 17 (citing to Restatement (Second) of Torts § 360)). Then, Appellant equates a “dangerous condition” to the “unreasonable risk of harm from criminal intrusion.” (Id. (citing to McPherson v. Dept. of Corr., 152 P.3d 918, 922 (Or. App. 2007))). Appellant completes this “bootstrap” argument by asserting that because Respondents knew of previous crimes, they had a reasonable duty to secure the premises to safeguard residents. (Id. at 17-19).

This argument is nothing more than an attempt to convince the Court there are “particular circumstances” separate and apart from the recognized exceptions. South Carolina has considered these arguments within the “concealed dangers” and “common areas” exceptions and has rejected them in the context of criminal activity. As a threshold matter, the “concealed danger” exception refers to recovery permitted in some jurisdictions “where injury results from a defective condition known to the landlord and concealed by him from the tenant.” Cooke, 741 F. Supp. at 1211 (quoting dictum from Timmons v. Williams Wood Prods. Corp., 164 S.C. 361,

162 S.E. 329 (1932)). However, the Cooke Court refused to apply this exception to impose a duty on landlords to warn about lurking criminals. Id. at 1211. The Court invoked strong language that the plaintiff was attempting to “rip[] the law on concealed dangers from its context (the physical soundness of the premises).” Id. (emphasis added). As stated in Cooke, criminal activity is a completely different type of danger than rotting stairways, and none of the concealed dangers alleged by the plaintiff in Cooke could be said to fall anywhere near the existing parameters of the exception. Id.

Similar to the “concealed danger” exception, the “common areas” exception refers to the duty of a landlord to maintain common areas that remain under the landlord’s control. Cooke, 741 F. Supp. at 1211. However, Cooke also clarified this exception by stating the following:

This rule clearly has never been applied in South Carolina to anything except physical injuries resulting directly from the condition of the premises themselves. For the same reasons discussed in response to the “concealed dangers” argument, this court rejects the application of the “common areas” exception to criminal activity under South Carolina law.

Id. (emphasis added). Cramer I addressed this exception after Cooke by stating that under South Carolina law a landlord does not owe a duty to a tenant to provide security “in and around a leased premises” to protect a tenant from third-party criminal activity. Cramer I, 312 S.C. at 444, 441 S.E.2d at 319 (emphasis added).

In Cramer II, the Court also rejected plaintiff’s claims that lack of security guards, insufficient lighting, and lack of fencing were relevant to the “common areas” exception in the context of third-party criminal activity. Cramer II, 848 F. Supp. 1225. The Court agreed with Cooke that the exception relates to physical injuries resulting directly from the condition of the property. Id. “To attempt to apply the common areas exception to this situation would stretch the exception to the point of swallowing the rule.” Id.

The same is true in this case. Since Cooke, no state appellate court has applied the “concealed dangers” exception to shift responsibility to landlords for protecting tenants from “one of the dangers of modern urban life.” Id. Therefore, this exception does not apply. The same is also true with regard to Appellant’s arguments that equate to the “common areas” exception. Appellant’s attempt to create a separate duty that distinguishes between providing “safe” physical premises (i.e., structurally) and “secure” premises that protect against third-party criminal activity is not accepted under South Carolina law. The Circuit Court relied on this law in its Order to reach the same conclusion. (R. pp. 8-9). The Court also noted Appellant’s attempts to create a duty when a landlord has superior knowledge of the crime risk in the area “is just another way of arguing that a landlord has a duty to protect tenants from the foreseeable risk of criminal activity.” (R. p. 9). The Court pointed out South Carolina’s courts have rejected that landlords have a duty to provide security for tenants based on the same rationale set forth in pages four through seven of its Order. (R. p. 1).

Although Appellant argues public policy favors a duty under “particular circumstances,” (App. Final Br. at 19-20), South Carolina’s courts (and the Circuit Court in the instant case) have considered these public policy arguments and have rejected them. Appellant claims she is not trying to make Respondents “insurers of security” to promote her public policy rationale. (App. Final Br. at 19). However, the fact that she is trying to link shrubbery height and lighting adequacy to the cause of her incident contradicts this claim. The Circuit Court judge recognized this “slippery slope,” and the Feld Court stated it was a burden that “could never be completely met.” (R. p. 76, lines 4-24); 485 A.2d at 392. The “particular circumstances” argued by Appellant do not create a duty in this case, and the Circuit Court’s ruling should be affirmed.

II. Respondents Reasonably Performed Any Duties They Voluntarily Undertook Pursuant to the "Affirmative Acts" and "Undertakings" Exceptions Recognized by South Carolina Law.

Appellant argues if Respondents had no duty to reasonably secure Wellspring's common areas, then Respondents undertook certain duties and failed to act on them with reasonable care. (App. Final Br. at 20). Appellant's argument is in error inasmuch as it has been addressed by South Carolina's courts in the form of the "affirmative acts" and "undertaking" exceptions to the "no duty" rule for landlords.

In Cooke, the United States District Court for the District of South Carolina recognized the "affirmative acts" exception as "one who, assumes to act, even though under no obligation to do so, may become subject to the duty to act with due care." Cooke, 741 F. Supp. at 1209-10. Cooke is the only case that did not grant full summary judgment in the context of an inadequate security claim by a tenant. The Court applied the "affirmative acts" exception to deny full summary judgment because there was a factual question as to whether a ladder that may not have been secured by the complex was used to access the victim's apartment. Id. at 1210.

The "undertaking" exception is similar to the "affirmative acts" exception, but refers to the principle that a landlord's repairs are required to be performed with due care. Cooke, 741 F. Supp. at 1212; Cramer II, 848 F. Supp. at 1224. For example, the Court in Cooke noted that if a tenant asked for repair of a lock and the repair was done negligently, then the tenant may have an actionable negligence claim if a crime is later committed by someone gaining access through the door. Cooke, 741 F. Supp. at 1212. However, the exception does not countenance an argument that a landlord did not use the best locks available or that the locks were somehow inadequate. Id. The undertaking exception also requires that a landlord "undertake" to do something.

Cramer II, 848 F. Supp. at 1225. The mere fact that a tenant requests something (i.e., an additional safety measure) is of no consequence if the landlord does not undertake performance.²

In this legal context, Appellant first argues Respondents affirmatively acted or undertook to assume responsibility for a “sophisticated security program” at Wellspring and that Appellant relied on Respondents’ “security program” when she chose to move to Wellspring. (App. Final Br. at 25-26).

This argument misstates the record. The primary reasons cited by Appellant for her decision to lease an apartment at Wellspring were: (1) that members of her church recommended it; and (2) it was in close proximity to her work. (R. p. 688 at 38, line 21 – R. p. 689 at 39, line 2; R. p. 689 at 40, lines 3-7 (“Q. Okay. So we’ve talked about proximity and the fact that some of your friends at church had recommended it. Anything else? A. No.”) (emphasis added)). After additional prompting about any “amenities,” Appellant testified there was a pool, she could use a nearby recreation center, and she was told “there were security officers on duty. So I felt like it would be a safe place.” (R. p. 689 at 40, lines 16-21).

Appellant’s assertion that she only moved to Wellspring after receiving a satisfactory answer to a direct question about the “security program” is not reflected by her testimony. (App. Final Br. at 27). Instead, the crux of any reliance by Appellant related to “security officers” and her belief that Wellspring would be a “safe” place. Neither Appellant’s belief that Wellspring

² Appellant argues the South Carolina Court of Appeals has adopted Restatement (Second) of Torts § 323 (1965) as a source of the “undertaking” exception. (App. Final Br. at 24-25 (citing Goode v. St. Stephens United Methodist Church, 329 S.C. 433, 442, 494 S.E.2d 827, 832 (Ct. App. 1997)). Appellant is incorrect. The appellant in Goode cited to 323 as a source of the undertaking duty, but there is nothing in Goode’s decision to indicate the Court adopted it as a rule for the undertaking exception in the context of a landlord-tenant security case. Instead, the Court applied the appellant’s own authority to show him how his circumstances still did not warrant the finding of a duty. Nevertheless, Respondents address 323 by providing analysis of what Respondents provided to Appellant and what exactly she relied on, i.e., “security officers.”

was “safe” nor any representation by Respondents to this effect is actionable. Cooke rejected a plaintiff’s argument that the defendant provided negligent advice about an apartment complex when it described the complex as “safe.” “Such a casual and general comment certainly does not fall within the current boundaries of the law on this point.” Cooke, 741 F. Supp. at 1212. Although Appellant cites Wellspring’s newsletters as stating that security is a “top priority,” she provides no evidence that she ever read or relied on these representations. (App. Final Br. at 27-28). The extent of any reliance by Appellant related to an alleged representation concerning “security officers.”

With regard to this alleged representation, Wellspring had a courtesy officer program whereby a resident who was affiliated with law enforcement received a reduced rental rate to serve as an officer for the complex. (R. p. 623 at 165, lines 11-14; R. p. 637 at p. 223, line 20 – R. p. 637 at p. 224, line 9; R. p. 249, lines 15-20). There is nothing in the record to suggest Wellspring ever terminated a courtesy officer, but there were periods of time when Wellspring had no courtesy officer for various different reasons (e.g., a resident no longer wished to serve in this capacity, was no longer affiliated with law enforcement, or other reasons). (R. p. 637 at 222, line 12 – R. p. 637 at 224, line 7). There was no courtesy officer in place at the time of Appellant’s incident. (R. p. 250, lines 3-12). However, in these circumstances, Wellspring would seek to fill the position with a new courtesy officer by advertising the need for the position. (R. p. 251, lines 7-22; R. p. 261).

With this context, Cramer II has expressly rejected Appellant’s argument that Respondents failed to act with due care with regard to having a courtesy officer on duty. Cramer II, 848 F. Supp. at 1224. In Cramer II, the plaintiff argued that by initially hiring a courtesy officer to patrol the grounds and then terminating that officer without replacing him, the

defendants breached their duty. Id. The Court disagreed and found the plaintiff “misapprehend[ed] the scope of the affirmative acts exception.” Id.

The exception envisions a situation where the act of the landlord leads directly to the injury complained of. The cases which fit this exception are those where there is a stronger connection between the act and the injury, such as where a landlord leaves an apartment door unlocked and a third party enters.

Cramer II, 848 F. Supp. at 1224. On this basis, the Court rejected the plaintiff’s argument that having a courtesy officer on duty had a strong connection between the act and the injury. Id.

The same is true in this case. The record reflects Appellant was told there were security officers on duty at the time she signed her lease. This is the extent of any “reliance” on a “security program” provided by Respondents (as represented in Appellant’s initial brief). Wellspring had a courtesy officer program and was seeking to fill the position at the time of Appellant’s abduction by third-party criminals. Recognizing these circumstances, the Circuit Court held as follows:

As found in Cramer II, there is nothing to suggest a failure to use due care where Defendants were without a courtesy officer but sought to fill the position, and there is no evidence to suggest that absence of a courtesy officer led directly to Plaintiff’s incident. Accordingly, the affirmative acts exception does not apply to this aspect of Plaintiff’s liability theory.

(Order at 10). Although the Circuit Court’s Order referenced the “affirmative acts” exception, its analysis also applies to the extent Appellant tries to argue the “undertaking” exception and application of Restatement (Second) of Torts § 323 (1965).

Appellant next argues Respondents undertook various duties relating to shrubbery and lighting at Wellspring and Respondents failed to act with reasonable care for “security” (not “safety”) purposes. (App. Final Br. at 29-32). Appellant also misapprehends the scope of the exceptions with regard to these arguments.

Traditionally, under the law of South Carolina, a landlord owed no duty to maintain leased premises in a safe condition. Robinson v. Code, 384 S.C. 582, 585, 682 S.E.2d 495, 496 (Ct. App. 2009). In 1986, South Carolina abrogated the common law by enacting SCRLTA, which requires landlords to comply with applicable housing codes materially affecting health and safety, and to “make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition.” S.C. Code Ann. § 27-40-440(a)(1) and (2); Robinson, 384 S.C. at 585, 682 S.E.2d at 496. S.C. Code Ann. § 27-40-440(3) also requires a landlord to: “(3) keep all common areas of the premises in a reasonably safe condition, and, for premises containing more than four dwelling units, keep in a reasonably clean condition.”

These provisions have never been interpreted to apply to anything other than the inherent physical state of the premises. In Fair v. U.S., 334 S.C. 321, 513 S.E.2d 616 (1999), the South Carolina Supreme Court analyzed SCRLTA in the context of a dog bite case to determine whether a landlord was liable under SCRLTA’s fitness and habitability provision. The Court reviewed section 27-40-440(a)(2) and determined the “fit and habitable” provision imposes a duty on the landlord relating only to the physical state of the premises. Id. at 323-24, 513 S.E.2d at 617. The Court cited to cases in other jurisdictions that hold an implied warranty that premises are habitable and fit for living includes only structural defects, and not personal injury. Id. at 323, 513 S.E.2d at 617.

Fair did not assess section 27-40-440(a)(3) and its language concerning common areas and safety. However, it reviewed section 27-40-510(2), which imposes upon a tenant a duty to “keep the dwelling unit and that part of the premises that he uses reasonably safe and reasonably clean.” Id. This provision – which places a duty upon the tenant – is virtually identical to the corresponding duty placed on a landlord at section 27-40-440(a)(3). In reviewing both sections,

the Court also held SCLRTA relates only to the inherent physical state of the premises. Id. Therefore, the Court held SCRLTA did not alter the common law rule that a landlord is not liable to a tenant's invitee for injury caused by a tenant's dog. Id. at 323-24, 513 S.E.2d at 617.

Here, Appellant seeks to extend SCLRTA to require reasonable care in property repair and maintenance so as to protect tenants against third-party criminal activity. The South Carolina Supreme Court also rejected this interpretation in Cramer I by stating "[w]hile section 27-40-440 imposes a duty on a landlord to keep the premises in a fit and habitable condition, the statute does not impose a duty on a landlord to provide protection to tenants against criminal activity by third parties." Cramer I, 312 S.C. at 444, 441 S.E.2d at 319 (emphasis added). Appellant's expert agreed there is nothing in the SCLRTA relating to the provision of security. (R. p. 569 at 196, line 19 – R. p. 570 at 197, line 1).

Similar to its review of the "no duty" rule for landlords, the Circuit Court also recognized a "slippery slope" with regard to Appellant's arguments about shrubbery. During oral argument, the judge engaged in the following exchange with Appellant's counsel when counsel presented pictures depicting what he believed to be overgrown shrubbery at the time of Appellant's incident.³

³ It is important to note that Appellant failed to authenticate the pictures utilized at the hearing that allegedly depicted the "overgrown" shrubbery in question. In Respondents' Reply Brief to Appellant's Memorandum of Law opposing the motion for summary judgment (R. p. 457), Respondents presented evidence that called into question the authenticity of the photographs relied on by Appellant. Specifically, the "properties" within the electronic files for the photographs indicated they were taken between 9:18 and 9:19 a.m. on February 24, 2006, more than two-and-a-half years prior to Appellant's September 18, 2008 incident. (R. p. 461). Appellant's counsel had never taken the deposition of Amber Stockton, the alleged photographer of the pictures in question, prior to the motion so as to authenticate the photographs. Appellant attempted to cure this deficiency by submitting an affidavit from Ms. Stockton in Appellant's sur-reply at the close of briefing. It is Respondents' position that failure to authenticate the photographs makes them inadmissible for purposes of this appeal, and that Ms. Stockton's affidavit was untimely. See, e.g., Orsi v. Kirkwood, 999 F.2d 86, 92 (4th Cir. 1993) (holding

Mr. Hood: [Presenting picture] [w]hich shows a big shrub. And if you look at this first picture up on the right, that's where they cut them back. Now, in the first one, interestingly anybody could hide behind there and you'll never seem them. When you look at the second one—

The Court: Somebody could hide behind those trees, too, couldn't they?

Mr. Hood: Yeah.

The Court: You're not proposing they cut all the trees down are you?

Mr. Hood: No, but they've got to limb them up to seven feet.

The Court: Those are pine trees.

Mr. Hood: Those are pine trees, yes, Your Honor.

The Court: Somebody could stand behind one of the pine trees, too.

(R. p. 81, line 17 – R. p. 82, line 7). By this exchange, the judge recognized the slippery slope of trying to infer a duty to safeguard the security of the premises, as opposed to its physical structure.

Ultimately, the Circuit Court relied on Fair and Cramer I to reject Appellant's argument that Respondents' "affirmative acts" gave rise to a duty. (R. pp. 11-12). In reviewing the evidence, the Court noted the shrubs around Appellant's door were never so high or thick that they impeded her ability to get to her apartment, and Appellant's expert admitted that pictures purported to be of the shrubs at the time of the incident do not appear to show any interference with the right of way to Appellant's apartment. (R. p. 12 (citing R. p. 140, lines 10-14; R. p. 184, line 22 – R. p. 185, line 2)). Appellant's expert also reviewed work orders requested by

unsworn, unauthenticated documents submitted in response to motion for summary judgment were properly disregarded: "To be admissible at the summary judgment stage, 'documents must be authenticated by and attached to an affidavit that meets the requirements of Rule 56(e).' 10A Charles A. Wright et al., Federal Practice and Procedure § 2722, at 58-60 (1983 & 1993 Supp.).").

Appellant and admitted she never contacted Respondents about trimming the shrubs. (R. p. 185, lines 13-16)).

Appellant cited to testimony by Campbell that Wellspring's policy was to replace burned out lights within a day for "security" purposes. (App. Final Br. at 29 (citing R. p. 602 at 84, line 25 – R. p. 603 at 85, line 8)). However, Appellant's expert agreed that work orders requested by Appellant concerning breezeway lights appeared to have been completed by Respondents. (R. p. 13 (citing R. p. 558 at 152, lines 11-18)). Appellant also admitted the lighting around her apartment was never so dim that she could not reach her apartment without difficulty. (R. p. 13 (citing R. p. 698 at 56, lines 15-18)). Appellant never had a personal injury relating to the physical state of her apartment and its lighting or shrubbery. She never tripped over any branches from the shrubbery or was injured by losing her way from lack of lighting. (*Id.* (citing R. p. 698 at 56, line 19 – R. p. 699 at 56, line 25)).

There is no evidence to support the "affirmative acts" or "undertaking" exceptions with regard to Respondents' actions relating to courtesy officers, shrubbery, or lighting. Therefore, this Court should affirm the Circuit Court's ruling with regard to this argument.

III. Appellant Cannot Prove Proximate Causation for Her Negligence Claim.

Although the question of proximate cause is usually a question for the jury, when there is "absolutely no evidence in the record" indicating that proximate cause exists, it is appropriate for the court to decide the issue as a matter of law. Parks v. Characters Night Club, 345 S.C. 484, 500, 614, 548 S.E.2d 605, 614 (Ct. App. 2001). If a plaintiff cannot prove proximate cause, then there is no claim for negligence. Goode v. St. Stephens United Methodist Church, 329 S.C. 433, 447, 494 S.E.2d 827,834 (Ct. App. 1998) (granting summary judgment in apartment complex case involving claim of inadequate security).

Negligence may be deemed a proximate cause only when without such negligence the injury would not have occurred or could have been avoided. Id. In order to hold a landlord liable for the breach of any duty, the negligence of the landlord must lead directly to the injury the plaintiff suffers. Cramer II, 848 F.Supp. at 1224. In applying this rule, courts require a strong causal connection between the negligent act and the injury, such as where a landlord leaves an apartment door unlocked and a third party enters. Id. (citing McCappin v. Park Capitol Corp., 126 A.2d 51 (N.J. Super. Ct. 1956)).

Even if Appellant could prove Respondents owed her a duty, the Circuit Court held Appellant's negligence claim failed because she could not prove a breach that proximately caused her injury. (R. pp. 13-17). First, a willful and malicious crime (e.g., an abduction, kidnapping, and robbery) breaks the causal link between any negligence of Respondents and Appellant's alleged injuries. As stated by the South Carolina Court of Appeals:

Generally, if between the time of the original negligent act or omission and the occurrence of the injury, there intervenes a willful, malicious, or criminal act of a third person producing the injury, and the intervening act was not intended by the negligent actor and could not have been foreseen by him as a probable result of his own negligence, the causal link between the original negligence and the injury is broken, and there is no proximate causation.

Sheppard v. South Carolina Dept. of Corrections, 299 S.C. 370, 375, 385 S.E.2d 35, 37 (Ct. App. 1989). The test under Sheppard is whether the author of the primary negligence should have reasonably anticipated the intervening act and resulting injury based on the circumstances. Id. at 375, 385 S.E.2d at 37-38. However, "[o]ne is not charged with foreseeing that which is unpredictable or which could not have been expected to happen." Id. Foreseeability is judged from the perspective of the actor at the time of the negligent act, and not with the benefit of hindsight after an injury. Id., 385 S.E.2d at 38.

Applying the law enunciated within Sheppard, the Circuit Court agreed Appellant could not prove proximate causation in this case. Appellant and her expert admitted this case involves criminal activity. (R. p. 733 at 118, lines 5-7; R. p. 539 at 74, lines 1-12). Appellant also admitted that although crime may be deterred, it cannot all be prevented. (R. p. 733 at 117, line 24 – R. p. 733 at 118, line 4). Appellant's expert admitted there is no "crystal ball" or "magic pill" that allows us to predict what people may do with any certainty. (R. p. 539 at 75, lines 2-5). Appellant's expert also admitted every crime cannot be prevented. (R. p. 539 at 74, line 25-R. p. 539 at 75, line 1). As stated by the expert, security is a "people problem." (R. p. 539 at 73, lines 13-14). Although it may be exacerbated by surroundings in which the security incident occurs, people are the ones who actually intend the harm. (R. p. 539 at 73, lines 15-22). The perpetrators in this case committed their crime in spite of the fact that Wellspring residents were on their balconies and in the parking lot as the incident happened. (R. p. 704 at 67, lines 1-7; R. p. 561 at 164, line 24 – R. p. 562 at 165, line 18). They continued to commit the act in spite of the fact that another resident actually walked up with her dogs as the incident was occurring and engaged the criminals in conversation. (R. p. 708 at 74, line 17 – R. p. 709 at 75, line 6).

In addition, it is also clear Respondents could not foresee Appellant's incident. Appellant argues she "adamantly disagrees with Respondents' characterization of Wellspring's extensive crime record" and "only [her] position was supported by evidence." (App. Final Br. at 36). This assertion again misstates the record. This is apparent from a review of police reports produced by Appellant and testimony about them by Appellant's expert. Appellant's expert admitted security is a response to conditions known at the time. (R. p. 539 at 75, lines 14-25). There were twenty police reports of incidents from 2005 to 2008, which pre-dated Appellant's incident and that Appellant's expert considered relevant to his opinions. (R. p. 566 at 182, line 20 – R. p. 566

at 183, line 1; R. p. 770). Of these twenty reports, the vast majority related to automotive/parts theft or vandalism. (R. p. 564 at 179, lines 7-14; R. p. 770). Only two police reports from the four years preceding Appellant's incident involved violent crimes: an assault and an attempted home invasion. (R. p. 567 at 185, lines 12-20; R. p. 770). There were no other instances of abduction or kidnapping like Appellant's incident. (R. p. 567 at 185, lines 21-22). Appellant's expert also could not recall any police report he reviewed that referenced shrubbery or lighting as a contributing factor to the crime. (R. p. 567 at 186, lines 2-9).

Respondents also supported the lack of foreseeability by citing to testimony of local law enforcement officials. Respondents' counsel deposed the reporting and investigating officers for Appellant's case, Officer Mohammed Gabr and Detective Kevin Isenhoward. Both of these law enforcement officers were familiar with the area in which Wellspring lies and characterized the crime rate as "average." (R. p. 172, lines 10-22; R. p. 662 at 51, line 24 – R. p. 662 at 52, line 9). Detective Isenhoward stated it is not a particularly dangerous area; there were some incidents in 2008, but "since then it's fairly calm." (R. p. 662 at 52, lines 2-9). Notably, even Appellant's expert characterized crime in the area where Wellspring lies as "average." (R. p. 547 at 108, lines 12-17). Appellant's testimony also corroborated this characterization. She was not aware of any other criminal incidents at Wellspring prior to her incident. (R. p. 699 at 57, lines 18-20). She was never the victim of a crime at Wellspring prior to her incident, and she was not aware of crime involving other residents. (R. p. 699 at 57, lines 1-17). Members of her church recommended Wellspring. (R. p. 688 at 38, line 21 – R. p. 689 at 39, line 2).

In addition, there is nothing in the police report to support that shrubbery or a lack of lighting contributed to conceal the perpetrators. Officer Gabr, the author of the police report, testified that recording accurate information in police reports is important because others may

rely on the reports as part of a criminal investigation. (R. p. 173, line 18 – R. p. 174, line 14). As stated in the report: “The Complainant stated to the [Responding Officer] that while she was coming back home she parked her vehicle and walked to her apartment building. The [Complainant/Victim] saw two black males sitting in front of the 2200 building.” (R. p. 163) (emphasis added). Appellant also testified that when she saw the perpetrators, she said “I need to get through, please.” (R. p. 703 at 65, lines 1-5). To the extent Appellant claims shrubbery and inadequate lighting “concealed” the perpetrators, neither her testimony nor the police report taken at the time of the incident support these factors as a proximate cause.

Appellant also cites to testimony by her expert and by a man hired to trim the shrubs to support that “witnesses” have provided evidence she would have seen the criminals but for the dim lighting and shrubbery. (App. Final Br. at 37). As a preliminary matter, neither of these men witnessed the crime so as to know where the criminals were in relation to Appellant. The only witnesses were Appellant, the criminals, and a third-party who was walking her dog and engaged Appellant and the criminals as the crime occurred. Appellant also cites to her affidavit in which she testifies she would not have gotten out of her car if she could have seen the perpetrators, or she would have retreated if she could have seen them as she approached the ramp. (App. Final Br. at 37-38 (citing R. pp. 301-302, ¶ 10)). It is noteworthy that Appellant provided the referenced affidavit five months after her deposition, and after Respondent’s filed their motion for summary judgment, in an attempt to cure her deposition testimony. In her deposition, she testified she eventually saw the perpetrators as she walked to her apartment. Instead of retreating, she said “I need to get through, please.” (R. p. 703 at 64, line 22 – R. p. 703 at 65, line 1). See also Cothran v. Brown, 357 S.C. 210, 218, 592 S.E.2d 629, 633 (2004)

(setting forth six considerations a court may use to determine if a post-deposition affidavit is a “sham affidavit”).

Finally, Appellant cites to the lack of a courtesy officer, and that “but for Respondents’ sloppily executed courtesy officer program, the perpetrators likely would not have been in the area to abduct Ms. Wright.” (App. Final Br. at 38). This argument is pure speculation. First, it assumes the two hours patrolled by a courtesy officer would have been around the time of the incident on any given day. Second, it assumes that the courtesy officer would have been nearby, in what is an expansive property. (R. p. 760). Third, and as explained in greater detail above, Appellant’s expert had no idea as to what motivated the perpetrators in this case. He has never spoken with them. (R. p. 561 at 162, line 23 – R. p. 561 at 163, line 13). Therefore, he has no way of knowing whether they had been watching Appellant’s arrival and departure habits, whether they were aware of the presence or absence of a courtesy officer, or whether they chose their position based on overgrown shrubbery or inadequate lighting. (R. p. 561 at 162, line 23 – R. p. 561 at 163, line 13). He admitted that answers to all of these questions would be relevant to his opinion that Respondents were the proximate cause of Appellant’s injury, and not the criminal perpetrators. (R. p. 561 at 162, line 15 – R. p. 561 at 163, line 13). To survive summary judgment, the evidence presented must amount to more than mere speculation and conjecture. McKnight v. S.C. Dept. of Corrs., 385 S.C. 380, 390, 684 S.E.2d 566, 571 (Ct. App.2009). This is another reason Appellant cannot prove proximate cause for her negligence claim.

As found by the Circuit Court, Respondents did not know two criminals would abduct, kidnap, and rob Appellant. (R. p. 17). Respondents had no reason to foresee that breach of any of the duties Appellant attempts to impose upon them would have the natural and probable

consequence of resulting in an intentional act by third parties against Appellant at the complex. (R. p. 17). Accordingly, Appellant cannot prove proximate causation, and Respondents were not negligent. (R. p. 17) (citing Goode v. St. Stephens United Methodist Church, 329 S.C. 433, 494 S.E.2d 826 (Ct. App. 1988)).

IV. Appellant Failed to State Facts Sufficient to Constitute a Cause of Action for Violation of the South Carolina Unfair Trade Practices Act.

Appellant's final claim was for alleged violation of SCUTPA. (R. p. 43 at ¶¶ 34-43). SCUTPA provides that "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." S.C. Code Ann. § 39-5-20(a). For Appellant to recover under SCUTPA, she must show: (1) Respondents engaged in an unfair or deceptive act in the conduct of trade or commerce; (2) the unfair or deceptive act affected public interest; and (3) Appellant suffered monetary or property loss as a result of the unfair or deceptive act(s). Wright v. Craft, 372 S.C. 1, 640 S.E.2d 486 (Ct. App. 2006).

As a preliminary matter, Appellant is attempting to assert a personal injury claim within a statutory regime devoted to unfair or deceptive conduct in "trade or commerce." S.C. Code Ann. § 39-5-20(a). A review of South Carolina cases applying SCUTPA illustrates the claim is predominantly asserted in non-personal injury matters arising from a transaction (e.g., forcing another competitor out of business, mislabeling a product's package, misrepresenting a machine's operating requirements, misrepresenting a used car's history or condition, and padding repair bills). See generally 28 S.C. Jur. Unfair Trade Practices Act § 3. The Circuit Court judge acknowledged that "Car dealers seem to get those [SCUTPA claims]" during oral argument. (R. p. 64, line 21). Respondents disputed SCUTPA has any application to Appellant's personal injury claim five years removed from the initial signing of her lease. (R. p. 64, line 13 – R. p. 65,

line 6). Nevertheless, Respondents addressed each element of Appellant's SCUTPA claim to show that there is no genuine issue of material fact.

A. There is No Evidence of Any Actionable Unfair or Deceptive Conduct by Respondents.

First, Appellant failed to provide any factual allegations to support her SCUTPA claim in her Complaint. Instead, she vaguely alleged "Defendants engaged in deceptive and unfair trade practices by misrepresenting to Appellant and other members of the general public the fitness, safety, and habitability of the apartments at Wellspring as a safe and hospitable living environment." (R. p. 43 at ¶ 37). During her deposition, Appellant clarified this allegation by citing to only two ways Respondents deceived her: (1) an employee told her Wellspring was a "safe and secure place" when she filled out her application; and (2) she was not aware of the crime in the area until after her incident. (R. p. 733 at 118, line 12 – R. p. 734 at 118, line 25; R. p. 734 at 119, lines 8-12; R. p. 735 at 121, lines 1-5). Appellant testified there was no other allegedly deceptive conduct by Respondents. (R. p. 735 at 121, lines 1-5).

With regard to Appellant's allegation that Respondents represented Wellspring was "safe and secure," this alleged misrepresentation is not actionable because it is a representation of opinion rather than fact. Cooke, 741 F. Supp. at 1216. In Cooke, the plaintiff who was assaulted in her apartment asserted a fraud claim against her landlord based on statements by its agents that the complex was "safe." Id. at 1215. In its review of the fraud claim, the Court reviewed the difference between representations of "fact" versus "opinion." For example, a statement that a person is a "competent mechanic" has been held to be a statement of opinion. Id. (citing Winburn v. Insurance Co. of North America, 287 S.C. 435, 339 S.E.2d 142 (Ct. App. 1985)). Conversely, a statement that a business is "profitable" has been held to be a statement of fact. Id. at 1216 (citing Gilbert v. Mid-South Mach. Co., Inc., 267 S.C. 211, 227 S.E.2d 189 (1976)). As

further guidance, the Court cited to Restatement (Second) of Torts § 538A to explain that “an opinion is a statement ‘expressing (a) the belief of the maker, without certainty, as to the existence of a fact; or (b) his judgment as to quality, value, authenticity, or other matters of judgment.’” *Id.* After reviewing these concepts, the Cooke Court stated as follows with regard to the fraud claim:

There can be no doubt but that the comment that an apartment complex is “safe” is one of opinion rather than fact. It simply reflects the speaker’s judgment about the quality of life at [the] apartments. Safety is a vague term that would not be “susceptible of exact knowledge” in the way that the profitability of a business would be. “Safe,” like “good,” is a word whose meaning, in the language of the Restatement, “depends entirely upon the standard set.” No more specific questions were asked, no more specific statements made. The response, casual and general, was simply the agent’s judgment and opinion about safety on the complex. It is certainly not the kind of statement that South Carolina law would support as fraudulent.

Cooke, 741 F. Supp. at 1216.

Similarly, a representation to Appellant that Wellspring was a “safe and secure place” is not deceptive in this case because it only reflects an individual’s belief – without certainty – as to the existence of a fact. Whether an apartment complex is a “safe and secure place” is a relative matter, depending upon the standard set as to what is a safe and secure apartment complex. It is certainly a matter upon which individual judgments may be expected to differ. *Id.* (citing to the comments to Restatement (Second) of Torts § 538A). For this reason, Respondents’ conduct was not deceptive, and this alleged misrepresentation is not actionable.

Appellant attempts to distinguish Cooke by pointing out representations in tenant newsletters concerning safety. However, there is no evidence Appellant reviewed the newsletters in question, and she did not cite to them as a basis for her claim. Instead, she testified she was told Wellspring was a “safe and secure place” at the time she filled out her application in 2003. (R. p. 733 at 118, line 12 – R. p. 734 at 118, line 25). Second, Appellant

attempts to distance her case from Cooke by arguing the instant dispute involves a different cause of action – SCUTPA – and Appellant is not required to prove fraud. (App. Final Br. at 40-41). This argument is a “red herring.” The analysis in Cooke was based on whether a statement is one of fact or one of opinion. Cooke, 741 F. Supp. 1215-16. The Court ruled a statement that an apartment complex was “safe” was one of opinion. Id. at 1216. Even though Appellant alleges a SCUTPA claim, it defies logic that someone expressing their opinion can be liable for unfair trade practices if their opinion proves to be untrue, or unsupported. The fact that Cooke involved a fraud claim is inconsequential to its holding.

Appellant also asserts Respondents made representations that Wellspring was “safe” in an attempt to induce tenants to sign a lease and increase profitability. (App. Final Br. at 41). “A potential tenant’s peace of mind regarding security increased the likelihood that the potential tenant would sign a lease a Wellspring.” (Id.). Notably, these assertions are devoid of any citation to the record or any evidence whatsoever. No witness for Respondents has ever stated that such representations were made to induce potential tenants, or that they were part of a calculated strategy to deceive customers. See, e.g., Hancock v. Wal-mart Stores, Inc., 355 S.C. 168, 172, 584 S.E.2d 398, 400 (Ct. App. 2003) (affirming summary judgment where there were “no exhibits, testimony, affidavits, or evidence” to support the plaintiff’s contention that an agreement existed with the defendant).

Similarly, Appellant points to the lack of a courtesy officer at the time of Appellant’s incident to support unfair or deceptive conduct by Respondents. Again, this argument misstates the record as to how Appellant claims Respondents deceived her or treated her unfairly. Appellant claims she was deceived when she was told Wellspring was a “safe and secure place” in 2003, at the time she completed her application. (R. p. 733 at 118, line 12 – R. p. 734 at 118,

line 25). Notwithstanding that this representation is not actionable, Appellant said nothing about courtesy officers or any deceptive conduct around the time of her incident five years later.

Appellant's second alleged deceptive conduct relates to her belief that she had a "right to know" about any crime occurring on the premises. (R. p. 734 at 119, line 17 – R. p. 734 at 120, line 2). There is no evidence Respondents misrepresented or concealed information concerning criminal incidents at Wellspring. By Appellant's own admission, this information was not provided to her until after her incident. (R. p. 734 at 119, line 7 – R. p. 734 at 120, line 5). The question is whether alleged failure to affirmatively provide this information during the tenure of her occupancy constitutes deceptive conduct. It does not. There is no case, statutory, or regulatory authority requiring Respondents to have proactively notified or informed Appellant about the incidence of crime at Wellspring. Accordingly, this alleged deceptive conduct is also not actionable.

B. There is No Evidence Any Alleged Conduct Affects the Public Interest.

Appellant's claim also fails because she cannot prove the alleged unfair or deceptive conduct affected the public interest. Appellant must prove this element with specific facts. Jefferies v. Phillips, 316 S.C. 523, 451 S.E.2d 21 (Ct. App. 1994). Without proof of specific facts disclosing that members of the public were adversely affected, Appellant's adverse public impact claim is speculative and insufficient for recovery under SCUTPA. Id. at 527-28, 451 S.E.2d at 23. A SCUTPA claim requires specific proof of similar acts, transactions, or happenings where there is some special relation between them which would tend to prove or disprove some fact in dispute. Burbach v. Investment Mgmt. Corp. Int'l, 326 S.C. 492, 498, 484 S.E.2d 119, 121 (Ct. App. 1997).

Burbach involved a SCUTPA claim by tenants of a home when the management company failed to return their security deposit after the tenants vacated the property. Id. at 494, 484 S.E.2d at 119-20. The management company claimed there was damage to the home during the tenant's occupancy and the security deposit went toward its repair. Id. at 494, 484 S.E.2d at 120. At trial, the plaintiff presented evidence that other tenants also had their security deposits withheld for the same reason. Id. at 494-95, 484 S.E.2d at 120. The Court found the evidence admissible and relevant to the public impact requirement because it showed the conduct was capable of repetition. Id. at 497-98, 484 S.E.2d at 121.

In this case, there is no evidence the unfair and deceptive conduct alleged by Appellant affects the public interest. When asked specifically during her deposition how she was deceived and to provide specific examples, Appellant only cited to two actions/omissions by Respondents: (1) the representation that Wellspring was a "safe and secure place;" and (2) the non-disclosure of other crime in Wellspring until after her incident. (R. p. 733 at 118, line 12 – R. p. 734 at 118, line 19; R. p. 734 at 119, lines 8-12; R. p. 734 at 119, lines 17-24; R. p. 735 at 121, lines 1-5).

As stated during this line of questioning:

Q. Did you ever feel like someone treated you unfairly?

A. No.

Q. We talked about the verbal expression [concerning Wellspring being a 'safe and secure place'], any other way that they – and we talked about the incident reports. Anything else that made you feel like you were deceived?

A. No.

(R. p. 734 at 120, line 8 – R. p. 735 at 121, line 5) (emphasis added).

There is no evidence Respondents engaged in a course of conduct whereby a standard business practice was to represent Wellspring to be a "safe and secure place" to prospective tenants or to conceal from prospective tenants the level of crime at Wellspring to secure tenant leases. Appellant cites to no evidence in the record in this regard. Instead, Appellant cites to the

fact there was no courtesy officer at the time of her incident and a 2008 newsletter continued to provide a security pager number (notwithstanding the fact that there was no courtesy officer at the time). These are not the representations complained of by Appellant, which occurred at the time she was considering her lease. Furthermore, there is no evidence that Appellant even knew about a newsletter at Wellspring, or read any such information relating to a security pager. (R. p. 738 at 127, lines 6-9 (Q. Okay. Did Wellspring ever do anything like that in terms of be it through a newsletter or voice mail or anything? [referencing publication of telephone numbers and other incidents] A. No.”)).

Appellant cannot prove a pattern of conduct concerning any allegedly deceptive conduct, widespread advertising of it, or that others were similarly deceived in an effort to secure or maintain tenant leases. Appellant also fails to prove this element of her claim, and the Circuit Court agreed. (R. pp. 20-21).

C. Appellant Cannot Prove Monetary or Property Loss as a Result of the Allegedly Unfair or Deceptive acts.

Finally, as with her alleged negligence claim, Appellant cannot prove the third element of a SCUTPA claim: that the unfair or deceptive acts caused her monetary or property loss. First, Appellant admitted the alleged deceptive conduct was not the basis for her decision to lease an apartment at Wellspring. She chose Wellspring because several of her friends from church recommended it and because it was in close proximity to her work. (R. p. 688 at 38, line 21 – R. p. 688 at 39, line 2; R. p. 689 at 40, lines 3-7) (“Q. Okay, so we talked about proximity and the fact that some of your friends at church recommended it. Anything else that made you choose it?” A. No.”) (emphasis added). Although she cited to security guards as amenities – along with use of a recreation center and pool – proximity and recommendation by friends were the primary factors. (R. p. 689 at 40, lines 13-21). The deceptive conduct alleged by Appellant

cannot be the proximate cause of her injury if it was not the basis for her decision to lease an apartment at Wellspring.

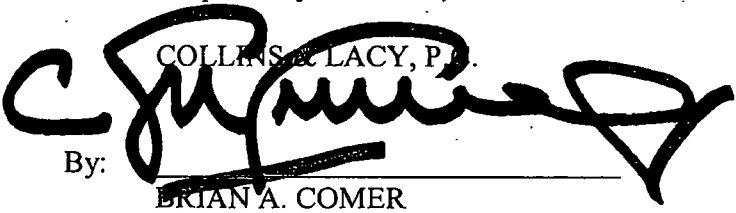
Second, Respondents incorporate by reference the arguments concerning proximate causation in section III., supra, relating to Appellant's negligence claim. Even if Respondents deceived Appellant (which Respondents deny), the alleged deceptive conduct did not cause Appellant's injury. Two criminals who intentionally and deliberately abducted and robbed Appellant caused her injury, and Respondents could not reasonably anticipate this conduct at the time of the incident. For this reason, Appellant also cannot prove proximate causation for her SCUTPA claim. The Circuit Court also agreed with this law and analysis. (R. p. 21-22).

CONCLUSION

Based on the arguments stated above, the Court should affirm the Circuit Court's Order granting summary judgment to favor Respondents. There is no genuine issue of material fact with regard to any of Appellant's claims based on the law that governs the landlord/tenant relationship and interpretation of SCRLTA. It is unfortunate that Appellant was the victim of a crime committed by two unknown perpetrators. However, with regard to suits arising from third-party criminal activity within an apartment complex, South Carolina's courts have been clear: there is no duty to provide security for tenants so as to protect them from crime. Courts have also rejected any notion that maintenance of property encompasses measures to prevent third-party criminal activity. For these reasons and the others set forth in this supporting memorandum, this Court should affirm the grant of summary judgment to Respondents.

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June 2, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

W. Jeffrey Young, Circuit Court Judge

Case No.: 2011-CP-40-4068

Denise Wright Appellant,

v.

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Inc.; Franklin Pineridge
Associates; Karen Campbell
Individually, and-in her
Representative Capacity as an
Agent of PRG Real Estate
Management..... Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that Respondents Trinity Manufacturing, Inc. and Matrix Outsourcing, LLC's Final Brief complies with Rule 211(b), SCACR and the August 13, 2007 Order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Identifiers and Other Sensitive Information in the Appellate Court Filings."

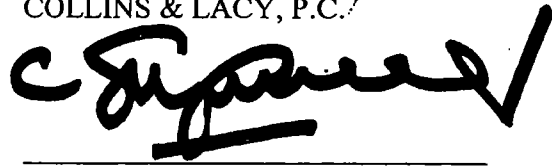
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JUN 02 2014

[SIGNATURE PAGE TO FOLLOW] **SC Court of Appeals**

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PROOF OF SERVICE

I HEREBY CERTIFY THAT I SERVED the Final Brief of Respondents
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BRIEF OF RESPONDENTS**

June 2, 2014
Columbia, South Carolina

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ORIGINAL

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..... Respondents.

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REPLY ARGUMENT

I. MS. WRIGHT'S DUTY CLAIM WAS NOT REJECTED BY CRAMER V. BALCOR PROPERTY MANAGEMENT, INC.

Ms. Wright's duty assertion presents an issue that has not been ruled on by any South Carolina court. Specifically, "whether the landlord-tenant relationship is analogous to the storeowner-invitee and innkeeper-guest relationships when the landlord knows the [apartment] complex's common areas are open to the public and knows the public accesses the common areas for non-visiting purposes." Initial Br. of Appellant at 14. Respondents argue this is not an issue of first impression because Ms. Wright's duty claim was considered and rejected in Cramer v. Balcour Property Management, Inc., 312 S.C. 440, 441 S.E.2d 317 (1994) ("Cramer I"). Initial Br. of Resp'ts at 10.

Cramer I answered a certified question from South Carolina's federal district court and established a general rule stating that a landlord does not owe a duty to provide security to protect tenants from third party criminal attacks. Cramer I, 312 S.C. at 444, 441 S.E.2d at 319. The rubber stamp of Cramer I that Respondents would have the Court apply to Ms. Wright's negligence claim would not be a fair reading of the opinion or the legal principles on which the Supreme Court relied in fashioning its ruling. The Cramer I court distinguished the innkeeper-guest and store owner-invitee relationships from the landlord-tenant relationship by stating the ways in which an innkeeper and store owner's property are different than a residential landlord's property. 312 S.C. at 443, 441 S.E.2d at 318 (citing Cooke v. Allstate Management Corp., 741 F. Supp. 1205 (D.S.C. 1990) (quoting Feld v. Merriam, 485 A.2d 742 (Pa. 1984))).¹ The distinction is based on (1)

¹ It is not clear from their brief but Respondents seem to suggest that the holdings of Cooke and Cramer I were not based on the description of a typical apartment complex in

whether the premises invite/permit the public; and (2) whether the property owner expects or anticipates that the public will be permitted on the premises. The apartment complexes considered in Cooke, Cramer I, and Goode v. St. Stephens United Methodist Church, 329 S.C. 433, 494 S.E.2d 827 (Ct. App. 1997), all fell within the description of an apartment complex and the traditional landlord-tenant relationship that South Carolina courts borrowed from Feld. None of these cases compel a certain result when the apartment complex in question is more like the store or inn described in Feld than the apartment complex to which the Pennsylvania Supreme Court referred.

Thus, while Respondents argue that this case does not present an issue of first impression for South Carolina courts, Respondents cannot point to a case where South Carolina courts have considered a landlord's duty in relation to a property like Wellspring, where the public is invited and expected to gather for non-visiting purposes. Respondents also offer the Court no reason why Cramer I's general rule must apply here in the absence of its fundamental building block, i.e. the description of a typical apartment complex from Cooke via Feld. Cramer I does not compel the result Respondents seek in this case. Instead, the entire course of South Carolina jurisprudence on this subject from Cooke to Cramer supports Ms. Wright's position: Cramer I's rule applies where an apartment complex has the characteristics of an apartment complex and the store owner/innkeeper rule should apply where an apartment complex has the operative characteristics of a store or inn.

Feld. See Initial Br. of Respondents at 10 ("Appellant attempts to argue Cooke and Cramer I adopted their rule because of reliance on ... Feld"). However, both Cooke and Cramer I extensively quote Feld and use Feld's description as the basis for what Cramer I calls a "fundamental distinction" between these relationships. Id. at 443, 441 S.E.2d at 318.

Respondents' Cramer I argument also expresses concern over the effect that finding a duty in this case would have on South Carolina premises liability law. Respondents argue that recognizing a duty here would generally subject residential landlords to exorbitant and infeasible duties to protect tenants. This is the concern underlying the "slippery slope" argument Respondents make twice in their brief. Initial Br. of Resp'ts at 10, 21. Respondents' concerns are unfounded because Respondents misstate conditions at Wellspring and exaggerate the duty Ms. Wright asks the Court to recognize.

Respondents argue Wellspring is like any other apartment complex in that it is "private property" and goes so far as to claim that this is one of three "indisputable facts" in this case. Initial Br. of Resp'ts. at 6. This statement is not an indisputable fact. For example, Ms. Wright's expert Bill Booth testified that based on his experience and multiple sight visits to the complex, he would characterize Wellspring as "public property which is privately owned." (R. p. 537 at 65, lines 19-20). While denying that Wellspring was public property, Wellspring property manager Karen Campbell acknowledged that the Harbison trails bisecting the complex meant that anyone could come on to Wellspring's premises. (R. p. 584 at 9, lines 12-14). She agreed non-Wellspring tenants could enter the premises for non-visiting purposes. (R. p. 617 at 143, lines 3 -16). PRG Chief Operating Officer Samuel Foster testified that entering Wellspring's premises is what the trails were "obviously designed to do." (R. p. 438 at 40, lines 14-21).

Respondents' argument and the circuit court's finding that Wellspring's common areas are "reserved for people who are tenants or are specifically invited" does not hold up when compared to the other evidence in the record. See (R. p. 8); Initial Br. of Resp'ts

at 10. Respondents attempt to minimize the trails' effect by referring to them as "nearby trails" (Initial Br. of Resp'ts at 12) and the circuit court similarly compared the trails to sidewalks. (R. p. 7). If the Harbison trails were the equivalent of a public sidewalk and a security duty was imposed, then Respondents' slippery slope fears would perhaps be valid. However, the trails are not "nearby" Wellspring as maps show that the trails run right through the heart of Wellspring's common areas.

Respondents' argument not only misstates the true character of Wellspring, it also overstates the duty Ms. Wright seeks to apply. Respondents' slippery slope argument goes too far in asserting that landlords will be forced into "drastic economic measures that may be cost-prohibitive." Initial Br. of Resp'ts at 11. First, Respondents offer no testimony or data to support their forecast of potential future economic hardship and a resulting lack of affordable rental units for consumers. Second, this argument is premised on the circuit court's suggestion that Appellant's position would require construction of citadel-esque security perimeters around all residential rental properties. The duty Ms. Wright asserts imposes no such obligation. (R. p. 545 at 97, lines 2-6) (recommending increased signage and vigilance among courtesy officers).

Additionally, the circuit court's hypothetical was overbroad because it failed to acknowledge that the duty Ms. Wright asserts does not apply to all residential landlords but only to landlords whose property invites the public and where the public is expected to gather for purposes other than visiting tenants. (Initial Br. of Resp'ts at 11 (citing R. p. at 76, lines 4-24)). The circuit court's question specifically suggested Ms. Wright's duty assertion would require turning "any apartment complex" into a gated community.

Accordingly, the question overstates both the duty's content and the scope of its application.

Finally, Respondents point to Feld and make the undisputed point that perfect safety is not possible and that zeroing out the risk of third party criminal attacks is not feasible. Initial Br. of Respondents at 11-12 (quoting Feld, 485 A.2d at 392). Again, this statement in no way affects the duty Ms. Wright asserts in this case. Ms. Wright's claims were based on Respondents' failure to make Wellspring reasonably safe. The inherent inability to completely eliminate a risk of injury is no bar to a duty of reasonable care to avoid the risk. For example, in the medical negligence context, a doctor is not an insurer of a successful surgical result and may not be held liable simply because a negative result occurs. See e.g., Fletcher v. Med. Univ. of S.C., 390 S.C. 458, 464, 702 S.E.2d 372, 375 (Ct. App. 2010). The risk of a surgical complication cannot be completely eliminated. However, the same doctor has a duty of reasonable care in performing every surgical procedure, and the failure to exercise such care can result in liability where the failure proximately causes a negative result.

Thus, while it is true that even the most robust security program could not insure against criminal attacks on tenants and that Respondents cannot be liable simply because Ms. Wright was a crime victim, Respondents' duty required them to take reasonable steps, including the steps they promised to take and actually undertook, to protect Ms. Wright against the risk of criminal attack.

II. RESPONDENTS VOLUNTARILY UNDERTOOK A DUTY TO REASONABLY SECURE WELLSPRING'S COMMON AREAS THROUGH SECURITY OFFICERS, SECURITY LIGHTING, AND LANDSCAPING SERVICES.

Respondents undertook a duty to reasonably secure Wellspring's common areas through a security program that included security officers, common area lighting, and landscaping services. Respondents argue the courts have rejected issues with an apartment complex's courtesy officers as a basis for a duty. Initial Br. of Resp'ts at 14 (citing Cramer v. Balcor Prop. Mgmt., Inc., 848 F. Supp. 1222 (D.S.C. 1994) ("Cramer II"). Respondents also argue that landscaping and lighting cannot be a basis for a security duty because the South Carolina Residential Landlord and Tenant Act ("SCRLTA") limits landlord responsibilities for the common areas of an apartment complex. Initial Br. of Resp'ts at 20-21.

Cramer II does not bar a duty based on the failure of Respondents' security program. Cramer II is distinguishable for two reasons. First, the Cramer II court only considered the courtesy officer claim within the context of the "affirmative acts" exception discussed in Cooke. Nothing in Cooke indicates that a claim based on the negligent operation of a courtesy officer program cannot form the basis for a duty if the elements of Restatement § 323, a provision South Carolina courts have repeatedly recognized and applied, are satisfied. Additionally, Cramer II's conclusion was based specifically on the finding that in the facts plaintiff Cramer presented the court, a "stronger connection" between the courtesy officer program failings and the injury suffered would be required to sustain a legal duty. The specifics of Wellspring's courtesy officer program and the ways in which it failed Ms. Wright make a much stronger case than Cramer II.

Ms. Wright presented evidence that Wellspring made a specific representation of security officers to Ms. Wright, advertised the officers' presence by encouraging Wellspring tenants to call a security pager when problems arose, and required its officers to patrol Wellspring's grounds for hours each day. Ms. Wright has also presented apartment security expert Bill Booth who testified to a substantial and direct connection between Respondents' courtesy officer program failings and the attack underlying Ms. Wright's claims. See (R. p. 543 at 92, lines 1-10; 559 at 155, line 19 – 156, line 21). In short, Ms. Wright's claim based on a courtesy officer failing is much stronger than the one considered in Cramer II under either Cooke's "affirmative act" exception or Restatement (Second) of Torts § 323.

Respondents' also err in their assertion that Ms. Wright's claim related to the landscaping and lighting would require an extension of SCRLTA. See Initial Br. of Resp'ts at 21. The duty Ms. Wright asserts does not arise from the SCRLTA or a claimed extension of the SCRLTA, but rather Respondents' voluntary decision to undertake landscaping and lighting obligations for the purposes of securing Wellspring's common areas. Respondents' citation to Cramer I's conclusion that the SCRLTA does not impose on a landlord a security duty does not address the duty Ms. Wright claims here. See Initial Br. of Resp'ts at 21 (citing Cramer I, 312 S.C. at 444, 441 S.E.2d at 319). A voluntarily assumed act can create a legal duty regardless of whether the act is required by statute. Crowley v. Spivey, 285 S.C. 397, 406, 329 S.E.2d 774, 780 (Ct. App. 1985) (finding duty for voluntary act under common law and Restatement § 323 even though defendants "were not obligated to so act" by statute or other law). Even if Respondents are correct in their assertion that SCRLTA duties for landscaping and lighting are limited

to the physical state of a leased premises, this limitation does not apply to a duty created by voluntary undertaking, i.e. a duty arising independently of the SCRLTA and its limitations.

Additionally, it is proper to apply Respondents' lighting/landscaping duties to Ms. Wright's security and not just to Ms. Wright's safety. Respondents argue that any lighting or landscaping duties they owed by law or by voluntary assumption were performed only for "safety" purposes. Respondents specifically contend that they only provided lighting and landscaping to remove slip-and-fall hazards by providing a reasonably bright access path to Ms. Wright's rental unit unobstructed by shrubs or tree roots. Initial Br. of Resp'ts at 23. The circuit court's order rejected Ms. Wright's argument on lighting and landscaping by noting that neither darkness nor overgrown shrubbery² interfered with Ms. Wright's ability to access her front door. (R. p. 12). Respondents' argument and the circuit court's ruling overlook the full reason why Respondents provided common area lighting and landscaping services. According to Respondents' corporate representatives, these services were undertaken both for safety and to make the area secure for tenants.

Wellspring property manager Karen Campbell, Respondents' agent who directly interacted with landscaping contractors, agreed that landscaping maintenance was

² Respondents also point out that Ms. Wright never submitted a work order to Respondents asking for additional shrubbery maintenance. Initial Brief of Resp'ts at 22-23. If Respondents' purpose for this argument was to show that they were unaware of a need for additional shrubbery maintenance, then their argument is directly rebutted by the affidavit of Shawn Howland, owner and operator of Wellspring's landscaping contractor H&S Landscaping. Mr. Howland stated under oath that he spoke with Karen Campbell several times about the shrubbery near Ms. Wright's unit including his professional opinion that the shrubbery "posed safety and security hazards for the residents." (R. p. 390 ¶¶ 6, 8). Each time, he was rebuffed with Ms. Campbell noting that additional shrubbery maintenance was outside of Wellspring's budget. *Id.* at ¶ 9.

performed to keep trees/shrubs from being dangerous and also for the protection of tenants and guests. (R. p. 639 at 230, lines 5-14). Common area lighting was put in place and maintained at a certain level to, among other things, protect Wellspring tenants from potential crime. (R. p. 588 at 27:1-5) (testifying that bright lighting discouraged unwanted visitors); 638 at 228, lines 9-11) (agreeing common areas were to be well-lit for tenant protection purposes). The maintenance section of Respondents' policy and procedure manual clearly demonstrates that Respondents believed their "security" duty to residents included making sure the property was "well lit." (R. p. 447).

Respondents have a SCRLTA duty to "keep all common areas of the premises in a reasonably safe condition" (S.C. Code Ann. § 27-40-440(3)) and this duty relates specifically to the physical state of the premises. In addition to this duty, Respondents undertook lighting and landscaping tasks for the purpose of providing a reasonable amount of security for its tenants. This is the duty on which Ms. Wright relied. Her claim does not seek an unprecedented extension of the SCRLTA because her claim is based on a common law or voluntarily assumed duty rather than a statutorily-imposed duty.

III. THE CIRCUIT COURT MISAPPLIED THE SUMMARY JUDGMENT STANDARD APPLICABLE TO THE PROXIMATE CAUSE ELEMENT OF MS. WRIGHT'S NEGLIGENCE CLAIM.

The parties agree with the circuit court's statement that proximate cause is usually a question for the jury and that summary judgment on this issue may be granted only where there is "absolutely no evidence in the record" indicating the required causal connection. (R. p. 13) (quoting Parks v. Characters Night Club, 345 S.C. 484, 500, 614 S.E.2d 605, 614 (Ct. App. 2001)). However, by overlooking Ms. Wright's proximate cause evidence, the circuit court incorrectly applied the standard to this case.

Respondents' negligence can be a proximate cause of Ms. Wright's injuries even though the negligence was separated from Ms. Wright's injuries by her attackers' criminal acts. Shepard v. S.C. Dep't of Corr., 299 S.C. 370, 375, 385 S.E.2d 37, 38 (Ct. App. 1989). There is no need to show Respondents "contemplated the particular chain of events" leading to the attack. Cody P. v. Bank of Am., N.A., 395 S.C. 611, 621, 720 S.E.2d 473, 478 (Ct. App. 2011). Ms. Wright could prevail at trial by showing the attack was "within the general range of consequences which any reasonable person might foresee" as a result of Respondents' negligent acts. Id. To defeat summary judgment, Ms. Wright was only required to provide any evidence on these points.

The circuit court found "there is no evidence that proximate cause exists to support Plaintiff's negligence claim." (R. p. 14). Respondents now defend the summary judgment order first by arguing that Ms. Wright failed to present any evidence that the injuries were a foreseeable result of Respondents' alleged negligence. Initial Br. of Resp'ts at 25-26. The circuit court supported its conclusion with its own analysis of crime reports for the Wellspring area in the years preceding Ms. Wright's attack. Id. Noting that the majority of such reports involved automobile-related crimes, the court did not consider the reports to be any evidence to support proximate cause. Id. at 14-15. This conclusion necessarily required the court to wholly reject the methodology and conclusions of Ms. Wright's apartment security expert Bill Booth, the only expert to provide testimony in this case.

Mr. Booth thoroughly explained his methodology for determining whether a crime was foreseeable to a landlord based on previous crimes in the area. Mr. Booth focused on past crimes but narrowed his focus to crimes in the specific area in which the

crime at issue occurred. (R. p. 564 at 175, lines 16-17). In fact, while Mr. Booth would typically look at crimes on the apartment complex's grounds and in the immediate vicinity, he limited his analysis to on-premises crimes in this case because "there were a significant number of incidents located in the common area of the apartment complex itself." (R. p. 564 at 175, lines 19-21). Mr. Booth further narrowed the crimes in his analysis by excluding domestic altercations and instead focusing on stranger-on-stranger offenses. (R. p. 564 at 176, lines 20-21). Mr. Booth went one step further by focusing only on crimes in the Wellspring parking lot that would have been impacted by proper lighting, diligent landscaping, and the courtesy officer patrols Respondents promised Ms. Wright. (R. p. 565 at 178, line 24 – 179, line 6). His analysis also considered the specific facts of the crimes including indications that one attack initiated in Wellspring's common areas was particularly brazen. (R. p. 564 at 176, lines 2-9).

The circuit court also relied on a distinction between "violent" and non-violent crime. (R. p. 15). It appears the court deemed any non-violent crime incapable of making a future violent crime foreseeable to Respondents. *Id.* (noting the number of crime reports related to violent and non-violent crimes). No definition of "violent crime" is provided in the Order and it is difficult to ascertain how the circuit court would define the term. It is even more difficult to ascertain the basis for the circuit court's implicit conclusion that non-violent crimes are wholly incapable of supporting foreseeability. This conclusion required the circuit court to disregard Mr. Booth's methodology in full. Based on his expertise in apartment security, Mr. Booth rejected the violent/non-violent dichotomy Respondents' counsel suggested during a deposition and that the circuit court discussed in its order. While many of the pre-attack crimes in Wellspring's common areas were

auto-related, the only thing separating these offenses from “violent” crime status was that no one approached the perpetrator during each crime’s commission. For example, if someone approached the scene while a car was being vandalized, then the offense would have had “a high probability of becoming a violent crime.” (R. p. 565 at 180, lines 18-23). The violent/non-violent crime distinction relied on this happenstance variable and, therefore, Mr. Booth deemed the auto-related offenses relevant to his foreseeability analysis despite their non-violent status.

Relying in part on this methodology, Mr. Booth reached the conclusion that Ms. Wright’s abduction was foreseeable to Respondents and that Respondents’ courtesy officer, lighting, and landscaping failures were a proximate cause of the attack.³ (R. p. 537 at 65, line 20 – 66, line 15; 561 at 162, lines 15-18). Despite this testimony supported by the aforementioned methodology, the circuit court found “no evidence that proximate cause exists.” (R. p. 14). This finding required a complete rejection of Mr. Booth’s expert opinion with no explanation as to why Mr. Booth’s opinion is deficient or how his conclusions fall short of the minimal standard needed to defeat a summary judgment motion. Respondents did not present an expert to state a contrary conclusion or to attack the reliability of Mr. Booth’s methodology. The circuit court’s order does not point to any testimony or literature that even suggests Mr. Booth is unqualified or that his opinions are unreliable. Notably, Respondents offer no such suggestion in their brief.⁴

³ Expert testimony can provide proximate cause evidence. See e.g., Schmidt v. Courtney, 357 S.C. 310, 326-27, 592 S.E.2d 326, 335 (Ct. App. 2003).

⁴ Ms. Wright argued in Appellant’s Brief that only her position on this issue was supported by evidence. Initial Br. of Appellant at 36. Respondents deem this assertion a misstatement of the record. Initial Br. of Respondents at 25. Respondents’ position is incorrect because it misconstrues the extent of Ms. Wright’s argument. Ms. Wright argued only that nonviolent crimes may not be summarily dismissed for purposes of

Mr. Booth's foreseeability analysis is bolstered by other evidence showing that Respondents could have foreseen the harm Ms. Wright suffered. Respondents' conduct shows that crime was foreseeable in Wellspring's common areas. Respondents' anticipation of this problem is evident from their Courtesy Officer Independent Contractor Agreement in which officers were instructed to respond to "Criminal acts" on Wellspring premises. (R. p. 441-42). Wellspring property manager also agreed that there would be a certain amount of crime at Wellspring. (R. p. 610 at 114, line 1).

The remainder of Respondents' proximate cause argument relates to causation in fact, the second component to the proximate cause analysis. Hurd v. Williamsburg County, 363 S.C. 421, 428, 611 S.E.2d 488, 492 (2005). Causation in fact is proven by showing a plaintiff's injury would not have occurred "but for" the defendant's negligent act or omission. Id. (citing Oliver v. S.C. Dep't of Hwys. & Pub. Transp., 309 S.C. 313, 422 S.E.2d 128 (1992)). Respondents argue that even if Wellspring provided security services, common area security lighting, and landscaping services to Ms. Wright's satisfaction, Ms. Wright still would have been attacked. Summary judgment on causation in fact was only proper if Ms. Wright presented no evidence to support the required causal link.

Ms. Wright presented cause in fact evidence in opposition to Respondents' summary judgment motion, and she should have been permitted to present this evidence to a jury. Ms. Wright's testimony, the strongest available evidence of what happened on

determining whether a violent crime was foreseeable. Ms. Wright supported this argument with Mr. Booth's testimony. Respondents' opposing position, i.e. nonviolent crimes have no role in determining foreseeability of violent crime, was not supported at the circuit court level by expert testimony, industry standards, literature, or any other form of evidence. The evidentiary deficiency is apparent in the circuit court's order and is not cured by anything in Respondents' brief.

the night of her attack, shows a causal link between Respondents' negligence and her injuries. Ms. Wright testified that her attackers were concealed "behind the bush" and "came out ... when I got up to them." (R. p. 339 at 63, lines 19-22). The shrubbery was sufficiently unkempt and overgrown to hide the attackers as Ms. Wright testified that the men emerged from behind "tall bushes." (R. p. 340 at 64, line 6). Ms. Wright also swore in her affidavit that her attackers "were not visible" as she parked her car due to "overgrown shrubbery and the lack of lighting in the area." (R. p. 301 ¶ 8). Had her attackers not been concealed by vegetation and shrouded in darkness, Ms. Wright would never have exited her vehicle and the attack would have been averted. (R. p. 301 ¶ 10).

Since summary judgment on the proximate cause issue is only appropriate if there is "absolutely no evidence," Respondents are forced to argue that Ms. Wright's testimony is of no value or should not have been considered by the circuit court. Respondents' argument is premised on the notion that Ms. Wright's sworn testimony is not credible. This argument presents two problems. First, South Carolina law does not permit summary judgment based on an attack of an opposing witness's credibility. See Hoard v. Roper Hosp., Inc., 387 S.C. 539, 548-49, 634 S.E.2d 1, 6 (2010); Ross v. Paddy, 340 S.C. 428, 434, 532 S.E.2d 612, 615 (Ct. App. 2000)). Respondents' cause-in-fact argument amounts to little more than an assertion that Ms. Wright's deposition testimony and affidavit are inaccurate. They can offer the Court no testimony from another witness present at the scene when Ms. Wright was attacked to contradict her claims. Even if Respondents could do so, the best they could offer the circuit court was a factual dispute that juries are in place to resolve.

Second, all of Ms. Wright's causation testimony is consistent with the other evidence she presented to the circuit court. Shrubbery large enough to conceal criminals is consistent with landscaper Shawn Howland's statement that the vegetation near Ms. Wright's unit "posed safety and security hazards for the residents." (R. p. 390 ¶ 8). Ms. Wright's testimony is also consistent with the affidavit of a Wellspring neighbor who observed the overgrown shrubbery. (R. p. 752 ¶ 5) ("The shrubbery in front of Ms. Wright's building was very high").

Ms. Wright also presented to the circuit court photos of the overgrown shrubbery as it appeared at the time of Ms. Wright's attack. (R. p. 449-54). Respondents contend that these photos were not properly authenticated and should not be considered by the Court. Initial Br. of Resp'ts at 21 n. 3. Respondents' argues that the photographer's deposition was never taken to establish the photos' date. Id. Respondents also submitted a brief to the circuit court raising concerns they believe call in to question the photos' authenticity.

Respondents' argument must fail and this Court is permitted to consider the photos. The proponent of a piece of evidence bears the burden of proving its authenticity. This burden is met by showing "evidence sufficient to support a finding that the matter in question is what the proponent claims." Rule 901(a), SCRE. This showing can be made in a variety of ways including through "[t]estimony of [a] witness with knowledge." Rule 901(b)(1), SCRE. Ms. Wright's deposition testimony is sufficient to authenticate the photos.⁵ Ms. Wright used the photos during her deposition to describe the scene where

⁵ As further evidence of the photos' authenticity, the photographer provided an affidavit in which she swore that the photos were taken within 2-3 days after Ms. Wright's abduction. (R. p. 514). While Respondents challenge the timing of Ms. Stockman's

she was abducted and the bushes from which her attackers emerged. (R. p. 341-46). Under Rule 901, her testimony is sufficient to show that the representation of the bushes in the photo is an adequate representation of the shrubbery near her rental unit on the day of her attack. Respondents are wrong in their suggestion that Rule 901's authenticity requirement required the photographer's testimony. See State v. Campbell, 259 S.C. 339, 344, 191 S.E.2d 770, 773 (1972) (rejecting an argument that photographer must be in court and subject to cross-examination if another witness with knowledge is able to identify image); Gilliam v. Foster, 75 F.3d 881, 897 (4th Cir. 1996) (holding under South Carolina law, "[n]ormally it is sufficient to justify admittance of photographs into evidence if a person familiar with the scene can say that the pictures truly represent the scene involved").

Lighting dim enough to mask the attackers is consistent with Mr. Booth's lighting study in which he noted a failure to meet apartment complex industry standards for exterior lighting. B. Booth Dep. 556 at 141, line 17 – 142, line 11 (stating standard as "enough lighting to allow one individual to see another individual with sufficient clarity to be able to identify them later"). Other Wellspring tenants also noted unreasonably dim lighting in common areas. See (R. p. 758 ¶ 4; 752 ¶ 3).

Respondents argue that Detective Isenhoward's testimony supports Respondents' proximate cause position. Initial Br. of Resp'ts at 26. However, Detective Isenhoward's deposition statements are actually consistent with Ms. Wright's causation testimony. Detective Isenhoward testified that Ms. Wright told him during the investigation that her

affidavit, it is important to note that the affidavit was signed within days of when Respondents first challenged the authenticity of photos that Ms. Wright previously authenticated.

attackers had been concealed. (R. p. 658 at 34, lines 12-21). When Respondents' counsel asked the detective if anything stood out to him about Wellspring during the investigation, Detective Isenhoward noted the "overgrown hedges." (R. p. 655 at 23, line 18 – 24, line 2; see also (R. p. 664 at 58, lines 11-15) ("some bushes and some shrubbery that were a little too high"). The bushes "did obstruct some view." (R. p. 658 at 34, line 22 – 35, line 1). Detective Isenhoward also testified on the common area lighting noting it was "too dark for my comfort." (R. p. 655 at 24, lines 7-8).

In sum, Ms. Wright presented the circuit court with evidence to support both the foreseeability and cause-in-fact components of the proximate cause analysis. Respondents' bald assertion that Mr. Booth's analysis is wrong and Respondents' insinuation that Ms. Wright's sworn statements are untruthful cannot remove the proximate cause issue from the jury's province and the circuit court erred in granting summary judgment on this basis.

IV. THE CIRCUIT COURT OVERLOOKED EVIDENCE IN THE RECORD ESTABLISHING ALL REQUIRED ELEMENTS OF A SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT ("SCUTPA") CLAIM.

SCUTPA provides remedies to any person harmed by any "unfair methods of competition" or "unfair or deceptive practices." S.C. Code Ann. § 39-5-20(a). SCUTPA claims are not limited to any subset of business industries; the statute applies to "any trade or commerce." Id. One court has rejected a defendant's attempt to exclude certain industries from SCUTPA's reach. See Liberty Mut. Ins. Co. v. Employee Resource Mgmt., Inc., 176 F. Supp. 2d 510, 515 (D.S.C. 2001) (rejecting party's invitation to limit SCUTPA to the "usual" industries in which such claims arise). A SCUTPA plaintiff must prove (1) the defendant engaged in an unlawful trade practice; (2) the plaintiff suffered

actual, ascertainable damages as a result of the defendant's unlawful trade practice; and (3) the defendant's unlawful trade practice had an adverse impact on the public interest. City of Charleston, S.C. v. Hotels.com, L.P., 520 F. Supp.2d 757, 773 (D.S.C. 2007).

The current dispute centers on a summary judgment order. Summary judgment determines whether there is a "genuine issue as to any material fact." Rule 56(c), SCRCF. Importantly, summary judgment rulings are not based on complaint allegations alone but rather require consideration of all "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits." Id. The circuit court's order overlooked evidence Ms. Wright produced to support the required elements of her SCUTPA claim. The Order, and Respondents' brief asking this Court to affirm the Order, are far too narrowly focused and fail to consider viable evidence of unfair or deceptive conduct that affects the public interest and was a proximate cause of Ms. Wright's damages. For example, in the heading to their SCUTPA argument, Respondents argue that Ms. Wright "failed to state facts sufficient to constitute a cause of action." Initial Br. of Resp'ts at 29. Respondents then refer to the factual allegations in Ms. Wright's amended complaint. Initial Br. of Resp'ts at 30. Respondents cite and apply the standard for a motion to dismiss under Rule 12(b)(6), SCRCF rather than the summary judgment standard.

Despite the broad range of materials to be considered at the summary judgment stage, the circuit court largely confined its analysis to a two-page portion of Ms. Wright's deposition. (R. p. 18). The circuit court found that Ms. Wright's only evidence of unfair or deceptive conduct were her statements that (1) a Wellspring employee told her the complex was safe and secure; and (2) she was not aware of the area's crime rate until after she was attacked. Id. (citing R. p. 370-71). Relevant statements from other portions

of the deposition and other documents before the circuit court were overlooked. Respondents make the same error and even go so far as to charge Ms. Wright with misstating the record when she references other portions of her deposition that elaborate on the statements in the narrowly defined excerpts to which Respondents refer. Initial Br. of Resp'ts at 32.

It is true that Ms. Wright testified that she was deceived by a Wellspring employee who promised the complex was "a safe and secure place." (R. p. 371 at 119, lines 1-9). However, to fully understand Ms. Wright's SCUTPA claim, the circuit court should have considered other portions of Ms. Wright's deposition where she elaborated on the specific promise and the specific ways in which the promise was unfair and deceptive. Respondents did not merely make a nebulous or unspecified promise of safety or security to Ms. Wright. Instead, Ms. Wright was specifically promised that security officers were on duty in Wellspring's common areas. (R. p. 327 at 40, line 25 - 41, line 6).

This separates Ms. Wright's claim from the fraud claim in Cooke where an unspecified promise of safety was deemed insufficient to state a cause of action for fraud. See Initial Br. of Resp'ts at 30-31 (citing Cooke, 741 F. Supp. at 1216). Cooke's promise that an apartment complex was "safe" was an opinion rather than a statement of fact because, as Respondents quote in their brief, "[n]o more specific questions were asked, no more specific statements were made." Initial Br. of Resp'ts at 31 (quoting Cooke, 741 F. Supp. at 1216). Ms. Wright was not just promised safety or security, she was specifically promised security officers. Unlike Cooke, Ms. Wright asked specific questions and Respondents' representative made specific statements in response. Ms.

Wright specifically asked "did they have officers there?" (R. p. 327 at 41, lines 4-5). The Wellspring representative, seeking to induce Ms. Wright to sign a lease and select Wellspring over other apartment complexes in the area, specifically said "Yes, we have security officers." (R. p. 327 at 41, lines 5-6).

Respondents argue their security officer promise cannot form the basis for a SCUTPA claim because Ms. Wright "said nothing about courtesy officers or any deceptive conduct around the time of her incident." Initial Br. of Resp'ts at 32. This argument again overlooks Ms. Wright's deposition testimony. In her first interaction with Respondents within days of her attack, Ms. Wright asked about the security officers she had been promised. Ms. Wright asked the Wellspring property manager, "Where are these security officers that are supposed to be walking the beat?" (R. p. 369 at 116, lines 11-20). Wellspring offered Ms. Wright an apology rather than an answer. (R. p. 369 at 116, lines 21-22). This interaction provides evidence that (1) Respondents made a specific representation of security officers; and (2) Ms. Wright was deceived by this representation since she believed the representation and specifically inquired as to why the promise was not kept.

SCUTPA's "public interest" requirement is satisfied with proof that a defendant's unfair or deceptive trade practice has even the potential for repetition. Wright v. Craft, 372 S.C. 1, 29, 640 S.E.2d 486, 501 (Ct. App. 2006). Nothing beyond the potential for repetition need be plead or proved to meet the public interest element of a SCUTPA claim. Crary v. Djebelli, 329 S.C. 385, 388, 496 S.E.2d 21, 23 (1998). The potential for repetition can be demonstrated by (1) showing the same kinds of actions occurred in the past; or (2) showing the company's procedures create a potential for repetition of the

unfair and deceptive acts. Wright, 372 S.C. at 29, 640 S.E.2d at 501. Potential for repetition may be proven in other ways, as the Wright court made clear that these two examples are not the only ways in which this showing can be made. Id.

Ms. Wright testified that Respondents represented that security officers would be stationed in Wellspring's common areas at the beginning of her tenancy in 2003. (R. p. 327 at 40, line 25 – 41, line 6). Wellspring property manager Karen Campbell testified that this promise was made to all new Wellspring tenants, not just Ms. Wright. Ms. Campbell testified that “when they move in” all residents are told about Wellspring's courtesy officers and that this representation of the courtesy officers' presence was made anew each month in the tenant newsletter. (R. p. 648 at 265, lines 15-21). Clearly, the untrue promise of security officers to Ms. Wright was not an isolated occurrence. The same unfair and deceptive act was repeated for numerous Wellspring tenants during Ms. Campbell's employment with Respondents.

Finally, Respondents argue that Ms. Wright has produced no evidence to support SCUTPA's causation requirement. Since Respondents' argument on this point largely mirrors their causation argument in opposition to Ms. Wright's negligence claim, Ms. Wright incorporates by reference her argument in support of causation for the negligence claim and directs the Court to Section III above. As noted in Section III, Respondents are incorrect in their assertion that their security officer representations did not form the basis for Ms. Wright's decision to enter a rental agreement at Wellspring. Initial Br. of Resp'ts at 35. In fact, Respondents acknowledge that Wellspring's amenities, including the presence of security officers, were part of the reason Ms. Wright chose to lease from Respondents. Initial Br. of Resp'ts at 35.

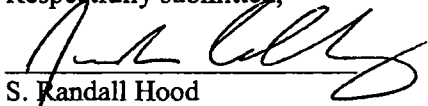
Respondents justify this fact by setting up an unsubstantiated distinction between what they perceive to be the “primary” and non-primary factors underlying Ms. Wright’s decision. Respondents offer no citation to authority showing why this purported distinction should lead to summary judgment on the causation requirement. Respondents’ security officer representations were a reason Ms. Wright signed a lease at Wellspring, and Ms. Wright has presented evidence that the failure of Respondents security program was a proximate cause of her injuries. This principle applies equally to the causation requirement for both the negligence and SCUTPA claims.

Ms. Wright presented evidence to support all three elements of a SCUTPA claim and the circuit court erred in granting Respondents summary judgment on this claim.

CONCLUSION

Based on the arguments stated above and those presented in her earlier brief, Ms. Wright respectfully requests this Court reverse the circuit court’s Order granting Respondents summary judgment.

Respectfully submitted,



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