

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

The Honorable Carmen T. Mullen, Circuit Court Judge

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Case No. 2011-CP-07-00013

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Maureen T. Coffey, ..... Respondent,

v.

Community Services Associates, Inc. and  
George F. Breed, Jr. .... Appellants.

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**RECORD ON APPEAL  
VOLUME II**

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1 from a number of people, known as the Ocean Gate.

2 A The Ocean Gate, correct. Yes, sir.

3 Q Do you know how far it is from the Ocean Gate all the

4 way down Sea Pines Drive to South Beach?

5 A That's a distance, but I could not -- it's -- it's a

6 good distance.

7 Q It's a number of miles. Is that right?

8 A Yes, sir.

9 Q And do you know where -- did you know where Mr.

10 Coffey's mother lived on the 19th of May, when you went

11 to work?

12 A Yes, sir.

13 Q And that's close to the very, very south. Is that

14 not right?

15 A Correct. Almost at South Beach Marina. Yes, sir.

16 Q And the address is actually 4 Gadwall, correct?

17 A Correct.

18 Q When you were patrolling, if I understand correctly,

19 it was just you and Corporal Fryman. Is that right?

20 A That was on the road that night, correct. Yes, sir.

21 Q And were you both working the area from the gate, all

22 the way down to South Beach?

23 A Yes, sir. If I'm not mistaken, I think, Fryman was

24 actually in the club course area.

25 Q But he was really over closer to the Greenwood Gate.



1 Is that right?

2 A Yes, he was a distance away from me, yes, sir.

3 Q Did you, from time to time, while you were

4 patrolling, actually get out of your patrol car?

5 A Absolutely.

6 Q Do you know whether that was a protocol that was

7 required by Mr. Breed or by the administration at Sea

8 Pines Security?

9 A One of the things that was taught to me early when I

10 was training to be a patrol officer, the other officers

11 would always tell me you're not going to catch anybody in

12 a vehicle. So I -- I did a lot of patrolling on foot in

13 Sea Pines.

14 Q At the time that this event occurred, Mr. Jolin, did

15 you like your job?

16 A I loved my job there, yes, sir.

17 Q Did you believe that you were proficient in your job?

18 A I do believe so, yes, sir.

19 Q Did you have a good relationship with Mr. Breed?

20 A Yes, sir.

21 Q Tell me, if he did, what he had expressed to you

22 about your capabilities as an officer.

23 A Are we pertaining to this --

24 Q Before the event of May 20th.

25 A Okay. I've -- Mr. Breed has always told me that --

1       that -- that I was doing a -- a very good job for him,  
2       and pretty much the -- the -- the community. I mean, I  
3       -- I never had any complaints. Never -- never been  
4       written up. Never been suspended. So, I mean, that's --  
5       that there, it means a lot.

6       Q    During the period that you testified in the Spring of  
7       2008, you said, I believe, that there were, you know, an  
8       increased number of burglaries and house-breaking and  
9       peeping Toms. Was that unusual or usual?

10      A    No. Usually, every -- every -- every summer at  
11      about, you know, we're in a tourist area, that's when the  
12      crime usually starts occurring more -- more breaking and  
13      enterings and things along that nature, yes, sir.

14      Q    So as the tourists come back, the crime statistics go  
15      up. Is that right?

16      A    In my experience, sir, yes.

17      Q    So it wasn't unusual from your standpoint to see more  
18      of the --

19           MR. HALIO: Your Honor, I'm going to Object to the  
20      leading questions. That's been going on for a little  
21      while.

22           THE COURT: Okay. Let's not lead, Mr. Mathison.

23      BY MR. MATHISON:

24      Q    Did you have any reason to believe, Mr. Jolin, that  
25      the person who was actually doing these breaking and

1 enterings in the Spring of 2008 was Otis Coffey?

2 A I -- we -- could you re-ask the question?

3 Q Did you have any reason to believe, in the Spring of  
4 2008, before the events that took place in the early  
5 morning of May 20th, that the person that was causing the  
6 problems with the incidents in Sea Pines with Otis  
7 Coffey?

8 A Me personally, no. I -- I didn't have anything that  
9 led me to believe Otis Coffey. But once again, some of  
10 the other officers, certain incidents like things -- when  
11 jewelry did become missing or cash, they would always  
12 say, well, that's Otis Coffey. But whenever it became  
13 things like the electronics, the TV, the bigger items, of  
14 course, that -- that was somebody else. But for me, no,  
15 I -- I couldn't say that it was Otis Coffey. No, sir.

16 Q Did you ever see Otis Coffey or meet him before the  
17 night in question?

18 A I wouldn't really say meet, but working up at the  
19 security gate, I have -- you know, especially night  
20 shift; I think it was 11:00 to 5:00, 11:00 p.m. to 5:00  
21 a.m. in the morning, we had to login all the guest passes  
22 and things that entered the community, and I've logged in  
23 his pass a few times.

24 Q So you encountered him when he comes in to get a pass  
25 or goes through the gate?

1 A Or that goes through the gate at night time. If you  
2 have a guest pass, we -- we had to log those in.

3 Q On May 20th, did you, at one point shortly after  
4 midnight, exit your patrol car?

5 A Absolutely. Yes, sir.

6 Q Where were you when you did that?

7 A I was parked on South Beach Lane, at Sprout Pine.

8 Q Do you know approximately how far that is from Ann  
9 Coffey's house?

10 A A half mile.

11 Q Approximately?

12 A Approximately, maybe.

13 Q So you were pretty close to the bottom of that spine  
14 that runs down the eastern side of Sea Pines. Isn't that  
15 right?

16 A About, yeah.

17 Q From north to south.

18 A I think that more maybe kind of like up the middle or  
19 Sprout Pine -- where Sprout Pine comes -- comes into  
20 play, but I'm not really sure.

21 Q Okay. Tell the Court what you saw when you were on  
22 foot, outside your vehicle, on the early morning of May  
23 20th.

24 A I -- when I stepped out of the vehicle, I was not out  
25 there very long. I actually had my glasses off in -- in

1 my hand, rubbing my eyes, when I heard what appeared to  
2 be a bicycle approaching. It would have been coming from  
3 the south to the north. And I put my -- my glasses back  
4 on. And when I looked up, I did see a -- there's --  
5 there's one house, and it had a little dim light on a  
6 post marking their driveway. And I did see a black male  
7 on a bicycle approaching me. And at that point, I -- I  
8 tried to make contact with that -- that -- I said, I'm  
9 *Sergeant Jolin with Sea Pines Security.*

10 At that time, he made a -- made a quick right-hand  
11 turn down the beach access that was right there. I  
12 immediately started chase after the -- the individual.  
13 At the same time, we had microphone on our radios, and I  
14 called into dispatch saying that I was 1080 on foot,  
15 which is a -- you're chasing somebody on foot. And --

16 Q Stop right there. If I understand correctly, you  
17 encountered him while you were walking to the north.

18 A I was -- no, I was actually -- my car was more north  
19 than I was. I was behind -- towards behind my vehicle,  
20 actually walking towards the south.

21 Q Okay. And he came up going north?

22 A He came up coming from the south to the north.  
23 That's correct.

24 Q And when he encountered you, did he turn inland or  
25 did he turn toward the beach?

1 A He turned right towards the beach.

2 Q And did he go down the beach access?

3 A He did, yes, sir.

4 Q And did you give chase?

5 A I did. I almost had him. I went out to jump to grab

6 a hold of whoever it was, but then they made a quick left

7 behind a residence. And that's where -- where I lost

8 them.

9 Q And generally, when you lost him, the quick left put

10 him going north again.

11 A Back north.

12 MR. HALIO: Your Honor, could we get -- stop the

13 leading questions here?

14 THE COURT: Okay.

15 MR. HALIO: Object.

16 BY MR. MATHISON:

17 Q Did, generally, his turning left amount to going

18 north?

19 A Yes.

20 Q When you were on the dispatch, who was listening to

21 it?

22 A It was Corporal Steve New -- Newell.

23 Q He was the dispatcher?

24 A He was the dispatcher that day, yes.

25 Q Do you know whether the dispatched calls, meaning

1       your call and his, are automatically recorded?

2       A    All calls are recorded.  All radio traffic is -- is  
3       recorded.

4       Q    Did you, upon encountering this black male on a  
5       bicycle, see his face?

6       A    No, sir.

7       Q    How did you determine he was black, as opposed to  
8       something else?

9       A    I -- I -- I could tell from -- from the light.  I  
10      knew that it was a black -- black male.

11      Q    But you couldn't see the facial features?

12      A    I could not see the facial features, no, sir.

13      Q    Tell me what happened after the suspect went north  
14      and eluded your grasp.

15      A    When I lost the -- the suspect, I immediately called  
16      dispatch to have them notify the Beaufort County  
17      Sheriff's Office.  And I immediately had Corporal Fryman  
18      at the time, he's a sergeant now, head down to the  
19      Gadwall area to -- to set up a perimeter, in which --

20      Q    Why did you have Corporal Fryman go to Gadwall?

21      A    It was just kind of a -- a hunch.  I would say, I  
22      just, you know, maybe from hearing Otis Coffey all the  
23      time.  I saw the black male.  That's -- that's where --  
24      where I sent Otis, Otis Coffey.  I mean, that's where I  
25      sent Corporal Fryman.

1 Q Okay. Did you do that before or after you talked to  
2 George Breed?

3 A That would have been before I talked to Mr. Breed.

4 Q How did you come to talk to George Breed on the early  
5 morning of 2000 -- May 20, 2008?

6 A Corporal Newell notified me that -- he came over the  
7 radio and said that -- that 6 was notified. And 6 is Mr.  
8 Breed's call number, and that's when I knew that Newell  
9 contacted Mr. Breed and I knew that Mr. Breed would want  
10 to hear from me. So I then called him at that time.

11 Q What did you and Mr. Breed discuss?

12 A When Mr. Breed answered the phone, I told him -- I  
13 said, I'm not -- I told him I'm not a hundred percent,  
14 but I was -- I was about 80 percent that -- that -- that  
15 it was possibly Otis Coffey that I saw that night.

16 Q You told him that you were possibly 80 percent what?

17 A Positive that it would have been Otis Coffey.

18 Q Okay. What made you think that it was Otis Coffey if  
19 you couldn't see his face?

20 A It's kind of -- his build. On top of that, it was  
21 Corporal Fryman, who I sent down to that area. He said  
22 that he seen a male subject coming on foot, down -- it  
23 would have been South Sea Pines Drive, made a left on --  
24 onto Gadwall, and right up the steps to Number 4.

25 Q And so, the person that you were chasing would have



1 had to have stopped going north.

2 MR. HALIO: Objection to leading.

3 Q Would the person you were chasing have had to stop  
4 going north, and turn around to get to Gadwall?

5 A Yes, sir.

6 Q Would he have had to get off the bicycle?

7 A Yes, sir.

8 Q What did Mr. Breed indicate you should do?

9 A When I was on the phone with Mr. Breed, he -- he  
10 stated -- I do believe he also said that, well, make sure  
11 you send somebody to the Gad -- Gadwall area. And I  
12 stated that I already did; Corporal Fryman was there.  
13 And he stated that -- I think I told him that Beaufort  
14 County, because Beaufort County, the sheriff's office,  
15 was arriving at approximately that time that I was on the  
16 phone with Mr. Breed. And he stated that he wanted us to  
17 make contact with Otis, to have him meet him the next day  
18 in his office. I think it was at noon.

19 Q Mr. Breed told you to have someone make contact with  
20 Otis and tell him to come?

21 A Well, we was already going to go down, me and the  
22 sheriff's department, I was already going to go down to  
23 the Otis -- or to the Coffey residence to see if Otis  
24 would -- would talk to us in reference to the incident  
25 that -- that had taken place. But Mr. Breed had asked

1 that we speak with Otis to have him meet with him the  
2 next day around noon time.

3 I notified the Beaufort County deputy, I think his  
4 name was Murphy, of the same. And he just kind of  
5 laughed and said that he would do it.

6 Q Okay. Did you, in fact, go to Gadwall yourself?

7 A I was there, yes, sir.

8 Q And what did you witness once you got to Gadwall?

9 A When I got to -- to Gadwall, of course, we met up  
10 with Fryman at one point as -- as well. I can't really  
11 remember. And Fryman stated that he couldn't -- he'd  
12 know -- he knew that it was a male subject, but couldn't  
13 tell whether he was white, orange, black, or gray. I  
14 forget what other terms that he used, but. And then we  
15 made contact at the -- at the -- with Ms. Coffey, at the  
16 residence.

17 Q Did you have that conversation with Mr. Fryman on a  
18 radio, or did you have it in person?

19 A I do believe that it was both; that it was on the  
20 radio, and that it was in person, as well. And then once  
21 again up at the security office.

22 Q So that, theoretically, would have been recorded, as  
23 well. Is that right?

24 A Up at the security office, yes, sir.

25 Q When you got to Gadwall, after having talked to

1 Corporal Fryman, what did you see?

2 A I'm sorry. Say that question again.

3 Q When you got to Gadwall, after having talked to  
4 Corporal Fryman, what did you see?

5 A That is when we made contact with -- with Ms. Coffey,  
6 and then --

7 Q Who was there, other than you and Corporal Fryman?

8 A It was Deputy Murphy with the Beaufort County  
9 Sheriff's office, and I think two -- two other deputies,  
10 as well.

11 Q What ensued? What did Murphy say, and what did Ms.  
12 Coffey say?

13 A When we was at the door, I do believe it was Murphy  
14 who explained the situation with Ms. Coffey. Ms. Coffey  
15 stated that Otis was not there. And I don't remember a  
16 lot of the conversation. It's been -- but then, that's  
17 when Murphy also asked -- or told Ms. Coffey that Mr.  
18 Breed would like to see Otis Coffey the next morning at,  
19 I think, it was noon, to have a meeting with him.

20 Q Did Ann Coffey slam the door on the officers?

21 A Not that I knew. The only thing was said that she --  
22 once the deputy started saying -- telling about the  
23 incident that took place that night, she did say that Sea  
24 Pines Security was always trying to -- to get Otis  
25 Coffey.

1 Q Did you discuss with the officers what you thought  
2 you should do?

3 A I discussed after we'd left the residence, that we  
4 was back at our cars, I did talk with Detective Murphy.  
5 And -- and he stated that --

6 MR. HALIO: Objection to what Detective Murphy might  
7 have said. It's hearsay.

8 MR. MATHISON: He's under subpoena, your Honor.  
9 He's right out there in the hallway.

10 THE COURT: Okay. Again, it's still hearsay. You  
11 can't testify to it.

12 BY MR. MATHISON:

13 Q What did you do after talking to Detective Murphy?

14 A I completed an incident report for suspicious  
15 activities.

16 Q Okay. I'm going to hand you this document and ask  
17 you if you can identify it for me, please.

18 A Yes, sir. This is the incident report that was  
19 completed that night.

20 Q And in the top left corner, what did you indicate the  
21 incident was about?

22 A Suspicious activity.

23 Q Is that a crime?

24 A No, sir.

25 Q And on the front page, who did you indicate was the

1 person you suspected of the suspicious activity?

2 A Otis Coffey.

3 Q You put his name on the front page. Is that right?

4 A Yes, sir.

5 Q And then you wrote a narrative on the second page,

6 which is called the supplemental, or second page of the

7 report. Is that correct?

8 A Yes, sir.

9 Q Did you include a positive identification of Otis

10 Coffey in that narrative?

11 A No, sir.

12 Q Why not?

13 A I didn't have any positive identification that it was

14 Otis Coffey. The purpose of doing the case number report

15 for suspicious activity was to try to get the detective

16 involved in enough information to possibly speak to Otis

17 Coffey.

18 Q When you say, *get the detective involved in enough*

19 *information to speak to Otis Coffey*, what do you mean?

20 A Just -- we've had reports in the South Beach Lane

21 area, multiple reports, of a black male subject. Raised

22 suspicion to me of what I saw that night. And the time

23 frame that -- that, you know, Fryman saw the individual,

24 I thought the -- that this may give the detective enough

25 information to either say, you know, to speak with him to

1 find out whether he was involved, or rule him out, or --  
2 Q Gave somebody an excuse to go talk to him, right?  
3 A Yes, sir.  
4 Q What time was it when you filled out that report?  
5 A Probably -- the end time. Maybe around 2:00. 2:00  
6 a.m. that morning.  
7 Q Did you ask Corporal Fryman to also file a report?  
8 A I asked Corporal Fryman to do a supplemental report,  
9 a statement of what he observed on Gadwall.  
10 Q Well, was he eager to do so?  
11 A No, sir. Not at first, no, sir.  
12 Q Did you and he do your reports together?  
13 A No, sir.  
14 Q Do you know why Corporal Fryman was not eager to do a  
15 report?  
16 A No, sir.  
17 Q Did he ultimately do one, which he gave you the next  
18 morning?  
19 A Yes. It wasn't the next morning. He -- he left the  
20 security office and returned with a -- with a statement,  
21 and handed it to me that -- that night, that went in that  
22 night with this case number report.  
23 Q And was his report attached to yours as the third  
24 page of it?  
25 A Absolutely.

1 Q Did Corporal Fryman state what he said to you, that  
2 he could not tell whether the person entering the house  
3 was black, white, orange, or whatnot?

4 A No, sir.

5 Q What did he say?

6 A On -- on his statement he says that he saw a black  
7 male on -- on Gadwall, going up to -- to Number 4.

8 Q Do you know what caused him to change his view of  
9 what he'd seen?

10 A No, sir.

11 Q Did you?

12 A No, sir.

13 Q What did you do with the incident report after you  
14 completed it?

15 A After I completed it, like I said earlier, we have a  
16 -- a box that we place our patrol logs and any incident  
17 reports. But before I turned it in, we make three  
18 copies. Maybe -- I made four copies, because one -- one  
19 copy would go to the sheriff's department; one copy would  
20 go to Mr. Breed; and then another copy would go on the  
21 incident log sheet type thing that we had in the  
22 operations room; and I always kept a copy of the incident  
23 reports.

24 Q And in point of fact, the copy that I've handed you  
25 is one of the copies that you kept. Isn't that right?

1 A Yes, sir.

2 Q The black sticky spot is where there was something on  
3 it --

4 MR. HALIO: Objection, your Honor. Can we get a  
5 question instead of a statement?

6 Q Was the black sticky spot where there was a sticky  
7 placed on there saying which was the first report and --

8 A Correct. It had -- yes, sir.

9 Q Is there anything under this black spot?

10 A No, sir.

11 Q Can you identify that as the report that you kept of  
12 the incident that took place on the early morning of May  
13 20th?

14 A Yes. I have a copy of this report.

15 Q And did you, in fact, at some point after that date,  
16 furnish this report to Ms. Coffey's lawyer, Mr. Holloway?

17 A That's the reason why these sticky notes are on  
18 there, yes, sir.

19 Q And did it go by fax, which is why there's a fax  
20 stripe at the top?

21 A Yes. It was sent to him by fax.

22 MR. MATHISON: Move the introduction to the incident  
23 report.

24 MR. HALIO: No objection.

25 THE COURT: Without objection.



1 COPY OF DOCUMENT REFERRED TO AS  
2 FIRST INCIDENT REPORT MARKED  
3 PLAINTIFF'S EXHIBIT NUMBER 10,  
4 ADMITTED AS EVIDENCE.

5 BY MR. MATHISON:

6 Q Did you do anything with this report that was out of  
7 the ordinary?

8 A No, sir.

9 Q So you filled it out; you put it in the box it was  
10 supposed to go; and you kept a copy. Is that right?

11 A Correct. Yes, sir.

12 Q That evening, did you and Mr. Breed either during the  
13 conversation you testified to or during another telephone  
14 conversation, discuss whether this report should have  
15 been written up as an in-house report or an incident  
16 report?

17 A Later on that morning, would have been the same day,  
18 I received a phone call from Mr. Breed again. This time  
19 it was on the -- the security phones. And I told him  
20 that I completed the incident report. And he did get  
21 irate with me about getting an incident report. And his  
22 comment to me was -- his comment to me was, *Well, why did*  
23 *you do that? Do you know what you just did? Now we have*  
24 *a crime. Now we have a crime.*

25 After speaking with the -- the deputies that arrived

1 there, then I was following what they --

2 MR. HALIO: Objection to what the deputies might  
3 have said as being hearsay.

4 THE COURT: Sustained.

5 BY MR. MATHISON:

6 Q But your report didn't say there was a crime. It  
7 just said suspicious activity.

8 A Suspicious activities, yes, sir.

9 Q Okay. Did you understand why he was upset?

10 A Yes, sir. There was -- I don't really understand  
11 everything, no, sir, as far as that goes. But there was  
12 a lot of confusion at that time whether to do an in-house  
13 report or an incident report. It was -- all the officers  
14 was actually a little bit confused on -- on the matter.

15 Q Would it be correct to say that the confusion  
16 resulted from the fact that --

17 MR. HALIO: I'm going to object to the leading  
18 question.

19 THE COURT: Okay.

20 MR. HALIO: He's clearly leading with the record.

21 THE COURT: Don't lead, Mr. Mathison.

22 BY MR. MATHISON:

23 Q When you went to the site of an incident and  
24 determined that a crime had been committed, which type of  
25 incident report should you have filed?

1 A If a crime was committed, it should have been AN  
2 incident report with a -- with a case number.

3 Q And if you went to a site and found something less  
4 than a crime, an argument between neighbors, for example,  
5 or a barking dog, what would happen then?

6 A An incident -- or an in-house report would be  
7 completed.

8 Q So it would be the difference between a crime  
9 committed and something less than a crime?

10 A For an example, we used to do a lot of in-house  
11 reports on -- on missing or stolen bicycles, because  
12 sometimes we'd get a case number for it being criminal.  
13 And then, the bicycle, we'd find out later, was picked up  
14 by one of the rental companies. Thing -- things like  
15 that.

16 Q And after you turned in your report, did you and an  
17 officer on the day shift go back into the neighborhood  
18 for any reason?

19 A Yes. I stayed after, the morning of the 20th, myself  
20 and lieutenant Campbell backtracked where the incident  
21 took place, and we was also trying to locate the bicycle.

22 Q Did you, in fact, find the bicycle?

23 A No, sir.

24 Q During that period, did you learn anything about the  
25 Coffey family that you thought was important?

1 A That's when I learned that --

2 MR. HALIO: Your Honor, I'm going to object. I

3 don't know what he learned and who he's learning it from.

4 Could we have some kind of foundation before he just --

5 Q Who was the officer that accompanied you on the

6 morning of May 20th to look for the bicycle?

7 A That would be Lieutenant Campbell with Sea Pines

8 Security.

9 Q Did Mr. Campbell indicate that Otis Coffey was the

10 only black person in Judge Coffey's family?

11 A No. That's when I learned that -- that that there

12 was two brothers that were adopted.

13 Q Did that have any impact or bearing on what it is

14 that you did either before or after?

15 A No, sir.

16 Q When you went to work that evening at 9:00, at, you

17 know, 10:30 or 9:30, whenever you got to work, was there

18 any change or any difference in the way you went through

19 your work night?

20 A Not that night, no, sir.

21 Q When you went home to following day, the morning of

22 the 21st, what did you do once you got home?

23 A When I got home, I woke my children up and was

24 getting them ready for -- for school.

25 Q Were you awake or asleep when you received a

1 telephone call from Mr. Breed on the 21st?

2 A I -- I -- I was asleep when Mr. Breed called me.

3 Yes, sir.

4 Q Do you know whether Mr. Breed was calling you on a

5 Sea Pines Security phone or on his own phone?

6 A I do believe that it was a Sea Pines phone.

7 Q So, according to your understanding, should there be

8 a recording of that phone call?

9 A Yes, sir.

10 Q What did Mr. Breed say to you when he called you and

11 awakened you?

12 A Mr. Breed called me, and he told me, he said, *I want*

13 *you to understand something. He said, You're not 80*

14 *percent, you're not 90 percent, you're a hundred percent*

15 *that it's Otis Coffey. Do you understand? And I said,*

16 *Yes, sir.*

17 Q Did you understand? What was he saying to you?

18 A He was --

19 MR. HALIO: Objection. We've heard his statement.

20 THE COURT: Okay.

21 MR. HALIO: He'S asking for interpretation.

22 THE COURT: Yes. You can't speculate.

23 BY MR. MATHISON:

24 Q Did he say 80 percent or 80 percent sure? Which was

25 it?

1 A He wanted me to be a hundred percent sure that who I  
2 saw was Otis Coffey.

3 Q Was that the truth?

4 A No, sir.

5 Q After Mr. Breed got on the phone and told you that  
6 you -- told you the statement that you testified about,  
7 did you receive another telephone call?

8 A Yes, sir. From Detective Florencio, from the  
9 Beaufort County Sheriff's Office.

10 Q How long after Mr. Breed's call did Detective  
11 Florencio call?

12 A Not long. Maybe about five minutes.

13 Q Did she tell you where she was calling from?

14 A She was calling me from what I believed -- what I do  
15 believe she told me from the operations room.

16 MR. HALIO: Objection to what he believes. If he  
17 knows, he knows. If he doesn't know, he doesn't know.

18 A No. It's -- it was from the -- the operations room  
19 in Sea Pines, where our computers are set up in the back.

20 COURT REPORTER: Set up in the what?

21 A In the back. In the back of the building.

22 Q What did Detective Florencio tell you she wanted?

23 A She wanted to ask me questions about the night --  
24 about the incident on -- on the 20th.

25 Q Specifically, your encounter with the black male. Is

1       that right?

2       A    Yes, sir.  Yes, sir.

3       Q    Did she ask you -- well, tell me what she asked you.

4       A    She asked me if I could positively identify the

5       subject that I saw as Otis Coffey.  I told her yes.  She

6       then proceeded to ask me how I knew Otis Coffey and that

7       -- and I stated that -- that I met him -- or seen him at

8       the gates coming in and out; I used to log him in, you

9       know, his pass, working the night shift.

10       And then she continued to -- to say that what was

11       going to happen was, I was going to have to get a warrant

12       for the arrest of Otis Coffey.

13       Q    Did Detective Florencio tell you that she was talking

14       to you on the speaker phone?

15       A    Yes, sir.

16       Q    Did Detective Florencio say to you while she was

17       talking to you that she was, essentially, revising or

18       changing your incident report?

19       A    I do not recall that, no, sir.

20       Q    When you told her that you could positively identify

21       Otis Coffey, was that the truth?

22       A    No, sir.

23       Q    Why did you tell her a lie?

24       A    Mr. Breed told me to.

25       Q    When you went in to work the evening of the 21st, did

1     you find another incident report that had been prepared  
2     in your name?

3     A    Yes.  There was another incident report that was  
4     placed in my box, the revised version of this report.

5     Q    I'm handing you this document, which by all  
6     appearances is very similar to the one you prepared, and  
7     ask if you can identify it as the report that you found  
8     after your conversations with Mr. Breed, and then with  
9     Detective Florencio?

10    A    Yes, sir.

11    Q    On the first page, in the upper left-hand corner,  
12    what, if anything, had been changed?

13    A    They have *suspicious activity and fleeing to evade*  
14    *arrest or detection.*

15    Q    The suspect was still Otis Coffey.  Is that right?  
16    On the front page.

17    A    Yes, sir.

18    Q    Except, now, instead of just being suspected of  
19    suspicious activity, was he suspected of a crime?

20    A    Yes, sir.

21    Q    Is fleeing to avoid detection a crime?

22    A    Yes, sir.

23    Q    Did you realize that she also changed the time with  
24    respect to your report?  At the top of the page on the  
25    left.



1 A Yes, sir, it is -- it is changed.

2 Q During your conversation with Detective Florencio,  
3 did she tell you that she was going to make grammatical  
4 changes in your report?

5 A I -- I don't -- don't recall.

6 Q On the second page of the narrative of the event,  
7 what is different that's material?

8 A Well, the first thing that stands out with me is, I'm  
9 not the best speller, and everything is spelled  
10 correctly. And the second thing that I see it has I  
11 identified the black male subject as Otis Coffey.

12 Q Was that true?

13 A No, sir.

14 Q Would you read the paragraph in which that appears?

15 A The -- the whole paragraph?

16 Q Yes. Starting with on dates and times.

17 A Okay. On 5/20, 2008, at 0011 hours -- that would be  
18 12:11 -- I was conducting an extra patrol at the South  
19 Beach Lane area, due to recent peeping Toms, prowlers,  
20 and burglaries. While walking on South Beach Lane in the  
21 area of Seaside Sparrow, I noted a black male on a  
22 bicycle coming towards me -- coming towards me on South  
23 Beach Lane.

24 As I approached the subject and told him to stop and  
25 speak with me, he quickly made a right turn onto the

1 beach access. I pursued the subject on foot and  
2 continued to call out to him, telling him to stop, which  
3 he did not.

4 Towards the end of South Beach -- towards the end of  
5 the beach access, he made left turn into 14 Seaside  
6 Sparrow's back yard, where I lost sight of him.

7 I identified the black male subject as Otis Coffey,  
8 due to having much contact with him while I was working  
9 the front gate of Sea Pines for two years.

10 I had Corporal Fryman, also Sea Pines Security  
11 officer, set up a perimeter in the area of Gadwall, where  
12 Otis Coffey resides. Corporal Fryman stated that, within  
13 about 15 minutes of my foot chase, he observed a male  
14 subject in dark-colored clothing speed-walking towards  
15 number 4 Gadwall Road, which he then entered.

16 Q Did you write that or did someone else?

17 A Somebody else wrote this, sir.

18 Q Upon finding this new incident report, the revised  
19 incident report, what, if anything, did you do?

20 A I immediately -- I was scared. I did talk to some of  
21 the other officers about it, especially my lieutenant.

22 Q Who was that?

23 A That would be Lieutenant Haynes.

24 Q He's the night shift --

25 A He is my -- yes. He was -- was my immediate

1 supervisor, yes, sir. And I was angry. I also spoke  
2 with, I think, Corporal Martin worked that night.

3 Q That's Bobbie Martin?

4 A I do believe that was the night that -- that -- that  
5 she was working, yes, sir, that we discussed this, as  
6 well.

7 Q Can you identify what has been handed to you as the  
8 revised report?

9 A Yes, sir.

10 Q But not prepared by you. Is that correct?

11 A No, sir.

12 MR. MATHISON: Move the introduction as Plaintiff's  
13 Exhibit 11.

14 MR. HALIO: No objection.

15 THE COURT: Without objection.

16 COPY OF DOCUMENT REFERRED TO AS  
17 REVISED INCIDENT REPORT, MARKED  
18 PLAINTIFF'S EXHIBIT NUMBER 11,  
19 ADMITTED AS EVIDENCE.

20 BY MR. MATHISON:

21 Q Did you actually receive another call on the morning  
22 that you got a call first from Mr. Breed, and then from  
23 Ms. Florencio?

24 A That morning -- we're talking about the morning of  
25 the 21st?

1 Q Yes.

2 A Yes. Mr. Breed called me first. And then Detective  
3 Florencio. And then I received a second phone call. I  
4 don't believe it was by Mr. Breed. I think it was  
5 Lieutenant Campbell, who said that the following day that  
6 I would need to stay after, because we were going to go  
7 get a warrant for Otis Coffey's arrest.

8 Q And do I understand, the following day would not be  
9 the 21st, but the 22nd?

10 A I do believe so, yes, sir.

11 Q Do you know what day of the week that was?

12 A No, sir.

13 Q I'm handing you what's been marked as Plaintiff's  
14 Exhibit 5, which I represent to you is a calendar of May  
15 2008. Ask you what day May 22nd was of the week.

16 A On Thursday..

17 Q What happened on that day at the end of your shift?

18 A I stayed after and -- I stayed after. And when  
19 Campbell showed up, when, apparently, they -- when the  
20 courthouse is -- had opened, Bill Campbell said, *Well,*  
21 *let's go.* And I told him -- we went -- we went outside  
22 in the back. We were actually having a cigarette. And  
23 I told him, I said -- I said, *You know, I -- I said,*  
24 *Campbell, I said, I can't do this. I can't positively*  
25 *identify this guy as Otis Coffey.*

1           And they had previously actually handed me a picture  
2 of Otis Coffey in -- in color. And McNeill, Sergeant  
3 McNeill of Sea Pines Security, says, Well, you have his  
4 picture right there. You can study it on the way to the  
5 courthouse. And I told Lieutenant Campbell that -- that  
6 I could not -- I could not do that.

7           Lieutenant Campbell, in return -- I guess I can't  
8 even say what he said, so. He told me it took a big --  
9 big man to -- to stand up and do the right thing. And he  
10 left and went in to -- to Mr. Breed's office, and came  
11 back and just told me to leave.

12 Q   He went to see Mr. Breed?

13 A   Bill Campbell did. Lieutenant Campbell did.

14 Q   Did you talk to Mr. Breed that morning?

15 A   No, sir.

16 Q   Did you go home?

17 A   I did go home, yes, sir.

18 Q   Didn't you tell me earlier that they had a photograph  
19 of Otis Coffey in the box for everybody?

20 A   They put pictures of Otis Coffey in every patrol  
21 officer's box. They also had one hanging up in the  
22 operations room.

23 Q   What was different about the one that they gave you  
24 before they wanted you to go get the warrant?

25 A   They -- the -- the first pictures were in black and

1 white. Then, that the second picture that they gave me  
2 the morning that we was going to get the warrant was a  
3 color picture.

4 Q Did you subsequently have a conversation with George  
5 Breed about this incident?

6 A Mr. Breed and I eventually did have a conversation  
7 with this after I turned in my -- my two-weeks' notice.

8 Q Stop right there. What happened or occurred to get  
9 you to turn in your two-weeks' notice?

10 A After -- after this, I went from a very good officer  
11 to -- to a very poor officer. I -- I couldn't do  
12 anything right anymore. Everything I did was under  
13 scrutiny. And that's when I decided -- decided with --  
14 along with Corporal Martin, that we typed up my two-  
15 weeks' notice and slid it under Mr. Breed's door.

16 Q Was there a specific incident that caused this to  
17 occur?

18 A There was an incident that happened, malicious injury  
19 to -- to property, I do believe, with the -- with some  
20 damage being done to -- to the lights along the bike path  
21 that was on Lighthouse Road.

22 Q Are you talking about a case involving Jeffrey Hall  
23 II?

24 MR. HALIO: Your Honor, I'm going to object to this  
25 being completely irrelevant to this case.

1 THE COURT: Okay. I'm not exactly sure where you're  
2 going, but I'm assuming you're going to connect it up.

3 MR. MATHISON: This is one of the investigations --

4 MR. HALIO: Your Honor --

5 THE COURT: Mr. Mathison, let's not testify. It's  
6 actually getting late. Should we go ahead and break for  
7 lunch, possibly?

8 MR. MATHISON: Certainly.

9 THE COURT: Okay. Ladies and gentlemen of the jury,  
10 it is about 1:25 back there, and I think it's now is a  
11 very good time for lunch. You are free to go about your  
12 business. I am respectfully asking you all be back in  
13 the jury room at 2:30, where we're going to go ahead and  
14 continue the trial of this case.

15 Additionally, ladies and gentlemen, I understand  
16 that we do have a juror that needs to leave at 5:30  
17 today, and I can tell you that's probably a very good  
18 idea. You all have been here and diligent today. And I  
19 certainly don't want to tire anyone out.

20 Again, ladies and gentlemen, you are not to discuss  
21 this case. It wouldn't be appropriate to do so. You're  
22 not to do any of your own independent research.

23 Again, go get a bite to eat; come on back; and  
24 report to the jury room at 2:30. Thank you.

25 JURORS LEAVE COURTROOM 1:26 P.M.

1 BAILIFF: Jury's clear. Door's closed, your Honor.

2 ON-THE-RECORD BENCH CONFERENCE,

3 OUT OF PRESENCE OF JURORS. PRESENT:

4 MR. MATHISON, MR. MICHAEL MATHISON,

5 MR. HALIO, MS. JONES, MS. JOLLEY:

6 THE COURT: Thank you. All right. We're going to  
7 go ahead and take a lunch break. Mr. Jolin, I need to  
8 instruct you. You are not to discuss your testimony with  
9 anyone involved in this case. Do you understand?

10 A Yes, ma'am.

11 THE COURT: All right, sir. Anything further until  
12 we come back from lunch, you all?

13 MR. HALIO: We need to discuss that last question  
14 now, or when we get back? Because I'm going to object to  
15 it again.

16 THE COURT: Okay. The last question, what are you  
17 talking about?

18 MR. MATHISON: We're talking about one of the  
19 investigations we talked earlier about off the record.  
20 Officer Jolin is the one that ticketed the grandson of  
21 Linda Fugate for damaging 15 lights.

22 THE COURT: Um-hmm.

23 MR. MATHISON: And he is the person who -- he was,  
24 apparently, given a good deal of grief over having done  
25 so by Mr. Breed. That was one of the precipitating



1 causes for his resignation. Mr. Jolin does not know  
2 anything more than he wrote the ticket. He does not know  
3 what happened later, which was that an agreement was  
4 reached where Mr. Hall and his grandmother agreed to pay  
5 \$3,250.00 to CSA.

6 THE COURT: To replace the lights.

7 MR. MATHISON: Yes. And he does not know -- he  
8 didn't until I told him -- that someone had gone to court  
9 and claimed to have been there at the time he wrote the  
10 ticket, and testified about the fact that he witnessed  
11 the event; and by that means, he managed to obtain a  
12 conviction against Mr. Hall. That was subsequently  
13 unraveled once the people at town hall became aware of  
14 what had happened.

15 THE COURT: Okay. So what you're trying to elicit  
16 from him is strictly what he knows of his own knowledge,  
17 which is testimony that he turned in his resignation as a  
18 result of his having written tickets to Mr. Hall, Jr.

19 MR. MATHISON: There were two incidents. One  
20 incident had to do with him recovering a dog, or actually  
21 calling the name on the dog's collar. And the other was  
22 the arrest of Mr. Hall for which he was criticized.  
23 Those are the two incidents that I believe he will  
24 testify to.

25 THE COURT: Okay. Okay. I think he can testify as

1 to why he resigned. I just don't think he can testify to  
2 any of the other information, because he doesn't have any  
3 knowledge of it.

4 MR. MATHISON: And I'm not going to ask him to do  
5 that.

6 THE COURT: Okay. I think It's fair game of why did  
7 you resign. Okay.

8 MR. HALIO: Well, I just didn't want to get into  
9 trying this other ticket.

10 THE COURT: Okay. All right.

11 MR. HALIO: We've got enough to try.

12 THE COURT: Okay. All right, you all. Go have a  
13 nice lunch. Again, Mr. Jolin, you are not to discuss  
14 your testimony with anyone. Okay?

15 A Yes, ma'am.

16 THE COURT: Thank you.

17 OFF THE RECORD 1:30 P.M.

18 BACK ON THE RECORD 2:40 P.M.

19 BY THE COURT:

20 THE COURT: Everyone appears to be ready to go. Mr.  
21 Mathison, are you ready?

22 MR. MATHISON: Yes, ma'am.

23 THE COURT: Is the defense ready?

24 MR. HALIO: Yes, ma'am.

25 THE COURT: Let's bring the jury in.

1 BAILIFF: Yes, ma'am.

2 THE COURT: Thank you. Is this your list, Wanda, or  
3 is this -- this looks like your list, so you know what's  
4 in and out.

5 COURT REPORTER: Yes.

6 THE COURT: Okay. You can have it back, then.

7 COURT REPORTER: No, that's not mine. I just made a  
8 copy for you.

9 THE COURT: Oh, that's mine?

10 COURT REPORTER: Um-hmm.

11 THE COURT: Oh, thank you.

12 COURT REPORTER: Okay.

13 THE COURT: I appreciate it.

14 BAILIFF: Jurors are entering, your Honor.

15 JURORS ENTER COURTROOM 2:42 P.M.

16 THE COURT: Thank you. Welcome back, ladies and  
17 gentlemen. I trust you all had a nice lunch. At this  
18 time, we're going to ahead and continue direct  
19 examination of Mr. Jolin. Mr. Mathison.

20 MR. MATHISON: Thank you, your Honor.

21 CONTINUE JOHN ALBERT JOLIN, JR.

22 DIRECT EXAMINATION, MR. MATHISON:

23 Q John, when we broke for lunch, I was asking you about  
24 a ticket that you wrote to a man by the name of Jeffrey  
25 S. Hall II. Do you have any recollection of that ticket?

1 A Yes, sir.

2 Q I'm handing you this document, and ask you if you can  
3 identify it for me, please.

4 A Yes, sir. This is the summons that I issued.

5 Q What was the date on which you issued the summons?

6 A June 4, 2008..

7 MR. MATHISON: Move the introduction of the summons  
8 for Mr. Hall as Plaintiff's Exhibit 13.

9 THE COURT: Any objection?

10 MR. HALIO: Yes. I --

11 COURT REPORTER: I'm sorry -- go ahead.

12 THE COURT: I'm sorry, Wanda.

13 COURT REPORTER: I believe that's 12.

14 MR. MATHISON: 12. I'm sorry. Do you want to look  
15 at it, Andy?

16 MR. HALIO: She's not ready.

17 That's nothing to do with that. The basis of the  
18 objection is it has nothing -- it's irrelevant. It has  
19 nothing to do with this case. And I would ask the Court,  
20 if the Court is considering letting it in, just to wait  
21 until it becomes relevant. Because right now, it's got  
22 no relevance.

23 THE COURT: I can tell you, I think he's already  
24 testified as to what he did, when he wrote the ticket. I  
25 don't think it needs to come into evidence, so we're not

1 going to let it come in at this time.

2 MR. HALIO: Thank you, your Honor.

3 THE COURT: Unless there's something specific about  
4 it.

5 MR. MATHISON: What I wanted to get in was the date,  
6 your Honor. It's perfectly all right if you just mark it  
7 for identification.

8 THE COURT: He didn't testify to it.

9 COPY OF DOCUMENT REFERRED TO AS UNIFORM  
10 TRAFFIC TICKET MARKED PLAINTIFF'S  
11 EXHIBIT NUMBER 12, FOR IDENTIFICATION.

12 BY MR. MATHISON:

13 Q Mr. Jolin, as a result of having -- tell me what the  
14 ticket was for that -- what had Mr. Hall done that had  
15 caused you to write him a ticket?

16 A Malicious injury to property. He was -- him and one  
17 other gentleman, like were kicking the lights along the  
18 bike path from Lighthouse Road headed up to Harbour Town.

19 Q Did you apprehend them in the act?

20 A Not in the act, but after questioning them, they --  
21 they then state that -- that they were the ones kicking  
22 -- kicking the lights.

23 Q Was anybody else with you at the time that you did  
24 the arrest?

25 A Sergeant Dunn with Sea Pines Security was also there.

1 Q Oren Dunn? Is that who?

2 A Oren Dunn. Yes, sir.

3 Q Did you have a problem as a result of having written

4 this ticket?

5 A Mr. Breed wanted me to -- or wanted to have that

6 individual locked up for the damages that they had

7 caused.

8 Q How do you know he wanted them locked up?

9 A He did state that to me, and also, that he was trying

10 to Google his name or something like -- couldn't get any

11 information on him. He stated that now we had the damage

12 to -- to the lights, and possibly no -- no subject. But

13 all his information, his ID information, is on the

14 summons.

15 Q Did another Sea Pines security guard write a ticket

16 to Mr. Hall at the same time? Or do you know?

17 A I don't know.

18 Q Have you ever seen this summons before?

19 A No, sir.

20 Q Did this event occur before or after what, for want

21 of a better term, we'll call it the dog incident?

22 A That was before the dog incident.

23 Q What happened during the dog incident?

24 A I cannot recall the date that it took place on, but I

25 went to work, usually, at the same time, between 9:00 and

1 9:30. As I was going out the -- the back of our security  
2 building to load the patrol car, I noticed Sergeant  
3 McNeill, and he was training Officer Waxel, Bill Waxel,  
4 as a patrol officer. I saw them pulling up, and I  
5 noticed that they had a dog. And I asked them, I said,  
6 *Oh, you found a dog.* And Bill, Bill Waxel, he said that,  
7 yeah, that they found the dog down at South Beach Marina;  
8 they had a complaint; they went and picked it up.

9 At that time Todd McNeill was going up the back  
10 steps to get -- we have a one of those machines where, if  
11 you have a chip in the dog, it gives us all the  
12 information, so he was going to get that and the camera  
13 to take a picture of -- of the dog.

14 And I asked Bill, I said, *He has a collar.* I said,  
15 *Does -- did you guys try to call the number?* He said  
16 that, yes, they'd tried to call the number, but all they  
17 got was static. And at that time, I left and continued  
18 my routine patrol.

19 I arrived --

20 Q Stop right there. At this point in your career with  
21 Sea Pines, had you ever submitted your resignation?

22 A Yes. Yes, sir.

23 Q Tell me what happened that caused you to submit your  
24 resignation.

25 A After -- after I told Mr. Breed that I couldn't

1 positively identify Otis Coffey, things seemed to have  
2 started to go downhill. Anything that I did, it was all  
3 scrutinized. And then myself and Bobbie Martin, Corporal  
4 Martin, now she's a Lieutenant with Sea Pines, we were  
5 talking about it. And I came down to the conclusion to  
6 -- to go ahead and turn -- to put my two-week notice in.  
7 And she and I typed up the two-weeks' notice and slid it  
8 under Mr. Breed's door.

9 Q What, if anything, came of your having given your  
10 notice that you were resigning?

11 A Mr. Breed then called me to his office, and he was  
12 asking me why I was quitting. And it was me not wanting  
13 -- it had to do with the -- my report and the revised  
14 report, and that I couldn't positively identify Otis  
15 Coffey. He said -- stated that -- that -- that it was  
16 taken care of; I couldn't identify him, 100 percent  
17 identify Otis Coffey; and that it would all be taken care  
18 of.

19 Q Did he indicate that your report, meaning the one you  
20 prepared initially, would or would not be used as the  
21 official report?

22 A I was under the conclusion that the --

23 MR. HALIO: Objection, your Honor. He's already  
24 said what Mr. Breed told him. I don't think he's  
25 entitled to make any conclusions on the basis of that.



1 THE COURT: Okay. All you can say is what you know.

2 BY MR. MATHISON:

3 Q Did Mr. Breed say anything else, besides the fact  
4 that it would be taken care of?

5 A He also stated that if -- that if I ever -- after us  
6 talking, we came to an agreement, and I decided to stay.  
7 And he further stated that, if I ever turned in my two-  
8 weeks' notice again, that -- that I was done.

9 Q Okay. Did you ever submit your report, the one you  
10 prepared, to go to the Beaufort County Sheriff's Office?

11 A No, sir. The only thing -- we have that box in the  
12 back, and it gets put in there. Dispatch, at the end of  
13 the night, will collect it, and it goes into -- to these  
14 files or reports for Mr. Breed that get slid underneath  
15 his door, or it gets -- he has a -- a little thing on his  
16 door that you -- that you set all of that information in.  
17 It gets submitted by another officer, as far as our  
18 tickets and our reports, that goes up to the Sheriff's  
19 Office or up to the courthouse.

20 Q It's hand-carried. Is that right?

21 A Yes, sir.

22 Q Do you know whether, after you prepared your initial  
23 report, which is Plaintiff's Exhibit 10, it was hand-  
24 carried to the Sheriff's Office or not?

25 A I don't know.

1 Q Did you ever submit Plaintiff's Exhibit 11, which is  
2 the revised report?

3 A No, sir.

4 Q Did you want that to go to the Sheriff's Office?

5 A No, sir.

6 Q Did Mr. Breed, did you tell him that you didn't want  
7 it to go?

8 A Yes, sir.

9 Q Did you tell him that you had not told the truth in  
10 that report?

11 A Yes, sir. He knew that.

12 Q Do you know whether Plaintiff's Exhibit 11 is, in  
13 fact, the one that got submitted to the Beaufort County  
14 Sheriff's Office?

15 A I didn't know it at the time, but I do now.

16 Q After you and Mr. Breed had this conversation in his  
17 office, did things change for you in terms of your  
18 scrutiny?

19 A It -- it did. It -- it quieted down between the  
20 other officers, and everything seemed to be okay.

21 Q And then the dog incident came along?

22 A Yes, sir, then the dog incident came along.

23 Q And finish what you were telling me about the dog  
24 incident, if you would.

25 A After I left from the back office, when Corporal

1 Waxel and Todd McNeill was dealing with the dog, when I  
2 returned back up at the office to do my daily paperwork,  
3 which is around 5:00 a.m., maybe a little bit later, I  
4 went in through the -- the back door to the operations  
5 room. As I was going in, Lieutenant Martin, with Sea  
6 Pines Security, was walking down the hallway. And there  
7 were several officers in the operations room. This is  
8 about shift change. One was Sergeant Hamminus, and  
9 Lieutenant Campbell was -- was also there. And as soon  
10 as, kind of, Bobbie Martin and I met in the door, I think  
11 it was Sergeant Hamminus who said, *Whose dog's out there*  
12 *running around?*

13 So Bobbie Martin and I, we kind of -- we looked at  
14 each other. And the dog was in our possession, so we  
15 went outside, re-captured the dog. And Bobbie asked  
16 then, did anybody call the number on the collar? And I  
17 said, *Well, Waxel said that -- that they called it, but*  
18 *it was disconnected.*

19 So Bobbie said, *Well, why don't you go ahead and*  
20 *call it -- call it.* So I pulled out my cell phone; I  
21 called it; and I got an answer; and started asking, you  
22 know, is this your -- are you missing a dog?

23 And she said, -- it was a little bit confusion there  
24 -- there at first. She was, *What kind of dog was it?*

25 And I then explained what kind of dog that it was.

1 And -- and she said, *Well, yeah, that's -- that's my*  
2 *son's dog, not - it's my son's dog, but my mother is*  
3 *taking care of the dog.*

4 And I think that's when Judge Coffey identified  
5 herself as being Judge Coffey. At the beginning, I  
6 didn't know that it was Judge Coffey who answered the  
7 phone.

8 Q You called the name on a dog collar.

9 A I called the phone number on -- on the dog collar.

10 Q Okay. And it turned out to be Judge Coffey's number.  
11 Is that correct?

12 A Yes, sir.

13 Q Do you know whether it was a mobile number or whether  
14 it was a land line?

15 A I don't know.

16 Q Were there repercussions as a result of that  
17 telephone call?

18 A As soon as she said it -- it was Judge Coffey, I knew  
19 that there was going to be problems. Just -- so Bobbie  
20 Martin, after -- well, at first, I explained everything.  
21 Hey, what you're going to have to do is -- to do is come  
22 by the office; there's some paperwork and things like  
23 that to fill out for -- for the dog.

24 And then she said, *Yes, I understand, signatures and*  
25 *blah, blah, blah.* I said, *Okay.*

1           And then she said that she was kind of concerned  
2           about her mother, I guess, Ms. Coffey, because she always  
3           knew where the dog was. And I asked Judge Coffey if she  
4           wanted -- if she wanted us to -- to do a health and  
5           welfare check on her mother.

6           And she said, *No, no, no. That's okay.*

7           So, when we went into the security office, Bobbie  
8           Martin stopped me, and she said, *Well, you better write a*  
9           *report about this or put it in -- in your -- in your*  
10          *daily patrol log, because you know Mr. Breed's going to*  
11          *want to know about it.*

12          So I did type -- did write the incident that took  
13          place about, you know, us calling Judge Coffey and the  
14          dog. And then I called Lieutenant Campbell, and let  
15          Lieutenant Campbell know what had happened.

16          Q   And after that, were there repercussions?

17          A   I went home, and shortly after I arrived home, Bobbie  
18          Martin called me. She was very upset. And she said that  
19          -- that, *This is bull crap. This is bull.*

20          MR. HALIO:  Objection to what somebody else said as  
21          being hearsay.

22          THE COURT:  Okay.

23          MR. MATHISON:  She's a called witness and will  
24          testify.

25          THE COURT:  And again, you can't testify as to what

1 she said. You need to put that witness up.

2 BY MR. MATHISON:

3 Q As a result of what -- was she Corporal Martin at  
4 the time?

5 A Yes.

6 Q As a result of what Corporal Martin said, what did  
7 you do?

8 A I told her that it was okay, not to worry about it.  
9 And I said, *I'll be down there in a little bit.*

10 I gathered up all my -- my Sea Pines uniforms, and I  
11 actually stopped at another employment where I knew I had  
12 a job. I wanted to make sure that it was secure. And I  
13 turned all my uniforms and quit right there.

14 Q Subsequent to your leaving the employ of Sea Pines  
15 Security, did you learn of statements that were  
16 circulating about you having a sexual relationship, or  
17 other relationship, with Judge Coffey?

18 MR. HALIO: Objection. Hearsay.

19 MR. MATHISON: We're going to have to discuss this.  
20 This is defamatory hearsay, and it is admissible as an  
21 act or an event.

22 THE COURT: Doesn't go to the truth of the matter  
23 asserted. It goes to whether or not he had heard any  
24 statements.

25 BY MR. MATHISON:

1 Q Did you, from any source, learn of statements that  
2 were being made?

3 A In the beginning, it was personal relationship.

4 Q And who told you that?

5 A That came from -- from Bobbie Martin.

6 Q And who did she attribute that to? Who said that  
7 about you?

8 MR. HALIO: Objection. That's hearsay. Hearsay on  
9 hearsay.

10 THE COURT: That is. That is hearsay.

11 MR. HALIO: Double.

12 MR. MATHISON: Sorry, your Honor. I think we need  
13 to be heard on this. The *Goodwin* case indicates this is  
14 the sort of evidence that you can place in the record to  
15 show that the comments are out there and made. Ms.  
16 Martin is called for the express purpose of --

17 THE COURT: And she's coming, correct?

18 MR. MATHISON: -- and tracing it back to the next  
19 step.

20 THE COURT: And again, but she has to be called.  
21 And then, at that point, if there's anything to impeach  
22 her on, then she can.

23 MR. MATHISON: It's not a question of impeaching  
24 her. She's called to testify as to what it is that she  
25 knows, and the same rule would apply as to the statement

1       made to her by the speaker.

2               THE COURT: I'm going to allow you to testify -- or  
3       let him testify as to where he heard it from, or where  
4       Bobbie Martin heard it from. You know something. I  
5       won't do that. There's no way to do that.

6               MR. MATHISON: He's just testifying about the event.  
7       Every time a defamation --

8               THE COURT: Okay. You need to come talk to me for a  
9       minute.

10              OFF-THE-RECORD DISCUSSION, OUT

11              OF HEARING OF JURORS. PRESENT:

12              THE COURT, MR. MATHISON, MR. HALIO,

13              MS. JOLLEY.

14       BY MR. MATHISON:

15       Q   Mr. Jolin, don't tell me who told Bobbie Martin what  
16       she told you. All right? Did you hear the rumor from  
17       another source at Sea Pines Security, besides Bobbie  
18       Martin?

19       A   Yes.

20       Q   And who was that?

21       A   Randy Woods.

22       Q   And what, exactly, did Mr. Woods tell you?

23       A   This was after, I guess, when Judge Coffey had Tom  
24       Holloway. I don't know if it got dropped or what had  
25       happened. But Randy Woods called me, and he said, *I just*



1     *want you to know that -- that you -- you -- you're a good*  
2     *guy; you're a good friend; and I hope you understand that*  
3     *I couldn't talk to you because of the lawsuit; but now*  
4     *it's done and over with.*

5             And I was -- I didn't know that it was done and over  
6     with. And he said, *I just want you to know that I didn't*  
7     *believe any of that -- that -- bull crap and that, you*  
8     *know, what Sea Pines was saying about you and -- and the*  
9     sexual relationship with Judge Coffey.

10    Q    In addition to hearing it direct -- and what is Mr.  
11    Woods at Sea Pines Security?

12    A    He's a lieutenant.

13    Q    Was he on your shift?

14    A    No. He was second shift.

15    Q    Did you hear the same rumor from someone else?

16    A    Mike Ryan.

17    Q    At the time that you heard it from Mr. Ryan, was he  
18    working for Sea Pines Security?

19    A    Not at the time. He was trying to -- to go back to  
20    work for Sea Pines.

21    Q    And don't tell me where he heard it.

22    A    Um-hmm.

23    Q    Did Mr. Ryan tell it to anyone?

24    A    To my wife.

25    Q    And what was the result?

1 A At the beginning, it -- it wasn't -- wasn't good, But  
2 then she -- she knows Sea Pines and that it was -- was  
3 not -- not true.

4 Q When you spoke to Mr. Breed on the telephone, on the  
5 morning when he called and told you that you were  
6 supposed to be not 80 percent certain or 90 percent  
7 certain, but a hundred percent certain, was that call  
8 made, to the best of your knowledge, on a Sea Pines  
9 Security telephone?

10 A To my knowledge, yes.

11 Q Should there be a recording of that call somewhere?

12 A All telephones in the security building, and they  
13 have audio in the operations room, are recorded.

14 Q When Detective Florencio made her call to you, do you  
15 know where she was? Did she tell you?

16 MR. HALIO: Your Honor, this has all been asked and  
17 answered previously. We went through this once. And I  
18 don't know why we have to go through it twice.

19 THE COURT: Okay. I'm going to give you a little  
20 bit of room, but you need to wrap it up.

21 BY MR. MATHISON:

22 Q Where was she calling from?

23 A The operations room.

24 Q So that call should have been recorded, too. Is that  
25 right?

1 A Yes, sir.

2 Q The incident report that you initially prepared,  
3 Plaintiff's Exhibit 10, was the information in there with  
4 respect to an identification of Otis Coffey true or not?

5 A About me being 100 percent positive?

6 Q No. The one that you prepared that omitted the  
7 positive identification on the second page.

8 A Yes, I could not.

9 Q Could not what?

10 A I -- I could not identify Otis Coffey, no, sir.

11 Q Was the incident report that was prepared over your  
12 name, Plaintiff's Exhibit 11, true or false evidence?

13 A The revised version?

14 Q Yes, sir.

15 A That -- that was false.

16 Q One moment, please. I'm going to hand you a  
17 document, which purports, on its face, to be an  
18 affidavit. And I'm going to represent to you this was  
19 produced to me from Sea Pines Security, specifically,  
20 Community Services Associates. Did you prepare that  
21 document?

22 A No, sir. Never seen it before.

23 Q Never seen the document before?

24 A No, sir.

25 MR. MATHISON: Let's ask that that be marked as

1 Plaintiff's Exhibit 14?

2 COURT REPORTER: 13.

3 MR. MATHISON: 13. It's an undated affidavit. I  
4 think you know which one I'm talking about. Just for  
5 identification.

6 Thank you, Mr. Jolin.

7 COPY OF DOCUMENT REFERRED TO AS  
8 UNDATED AFFIDAVIT, MARKED PLAINTIFF'S  
9 EXHIBIT NUMBER 13, FOR IDENTIFICATION.

10 MR. HALIO: May it please the Court.

11 THE COURT: Yes, sir, Mr. Halio.

12 JOHN ALBERT JOLIN, JR.

13 CROSS-EXAMINATION, MR. HALIO:

14 Q Good afternoon, Mr. Jolin.

15 A Good afternoon.

16 Q Tell the jury how many times you've spoken with  
17 plaintiff's attorneys about this case.

18 A I talked to Mr. Holloway. And I think I've had two,  
19 maybe three, now, that -- that I've met with Mr.

20 Mathison. May -- maybe four, with the deposition.

21 Q Okay. And you got to Mr. Holloway through Ms.  
22 Hamilton, right? Sherry Hamilton?

23 A Is that Sher -- yes, sir.

24 Q Sherry Hamilton is her name, right? The Judge's  
25 secretary.

1 A Okay.

2 Q I was just asking you how you knew who Otis Coffey

3 was, and that was during your time at the gate, right?

4 A I -- yes. I logged in the -- the pass.

5 Q So you would login passes for Otis Coffey?

6 A Yes, sir.

7 Q And he would have to come through the gate and, would

8 you hand him the pass?

9 A When they pull up, we ask, if it's after hours, I

10 need to see your pass. They'd hand it to us. We'd have

11 a log. It had the time that they came in, the name on

12 the pass, destination, vehicle make, model, year.

13 Q So, when Otis Coffey was coming through with a guest

14 pass, he'd have to be about as close to you as I am?

15 A Maybe a little bit further, with the curb.

16 Q Close enough that he had to hand you the pass, right?

17 A Yes, sir.

18 Q And that was more than one occasion, correct?

19 A I think I've seen him maybe two times. Logged him in

20 two times. He would -- I had the login sheets.

21 Q Then, at some point, you became a third-shift patrol

22 officer. Is that correct?

23 A That is correct.

24 Q And that's where you were -- that's what you were

25 doing in May 2008, correct?

1 Q Okay. Now, first thing you came across was clearly  
2 an African-American individual. Is that correct?  
3 A Yes, sir.  
4 Q And you said you identified yourself as Sergeant  
5 Jolin, Sea Pines Security, and the guy took off. Is that  
6 right?  
7 A Yes, sir.  
8 Q And you thought it was Otis Coffey; didn't you?  
9 A Yes, sir.  
10 Q Okay. And you called dispatch.  
11 A Yes, sir.  
12 Q And told dispatch I'm chasing Otis Coffey; didn't  
13 you?  
14 A No, sir.  
15 Q All right. How close did you get to this person that  
16 you were thinking was Otis Coffey when you were chasing  
17 him?  
18 A If he wouldn't have made that left turn, I -- around  
19 that house, I probably would have had him, whoever it  
20 was. I was --  
21 Q You were within a couple of feet of him?  
22 A I actually jumped to grab the back of his shirt when  
23 he made the left.  
24 Q Okay. And you told us earlier that he made a left,  
25 into the back yard of a residence. Is that right?

1 A I do believe it was the 14 Seaside Sparrow. Yes,  
2 sir.  
3 Q And that's where you lost him, is right after he made  
4 that left.  
5 A Yes, sir.  
6 Q You never saw him again.  
7 A No, sir. There was a bunch of brush, actually,  
8 there. I guess the residents or whatever, they had these  
9 big vines, and it looked like, actually, a little trail  
10 that led out to the beach, and I lost him -- lost him  
11 there.  
12 Q And you don't have any idea what happened to that  
13 person --  
14 A None.  
15 Q -- after you lost them in the brush.  
16 A None. That was it.  
17 Q But you did call Corporal Fryman.  
18 A Yes, sir.  
19 Q Didn't you?  
20 A Yes, sir.  
21 Q And what did you tell Corporal Fryman?  
22 A I had Corporal Fryman go to the Gadwall area. I had  
23 him -- I told him, I said, *Park your car out-of-sight and*  
24 *just observe the area.*  
25 Q You sent him to 4 Gadwall; didn't you?

1 A I sent him to the Gadwall area, yes, sir.

2 Q And why did you send him there?

3 A Because I thought that it possibly could have been

4 Otis.

5 Q You thought it was Otis. You didn't think it was

6 possible. You thought it was Otis; didn't you?

7 A Thinking and proving something is two different

8 things, so.

9 Q Okay. And in between that, in between your reaching

10 out and being close enough to almost touching him, and

11 actually losing him, and calling Corporal Fryman, you

12 called the Sheriff's Office, as well; didn't you?

13 A I had -- yes, the sheriff's office was called.

14 Q And you told them that you were chasing somebody,

15 right?

16 A I did.

17 Q And you asked for assistance, right?

18 A Yes, sir. We were told whenever we had issues in

19 there, that the sheriff's department needed to be

20 notified.

21 Q And you sent them to 4 Gadwall; didn't you?

22 A No. They came to my location first.

23 Q Okay. And then you took them to 4 Gadwall?

24 A Then we went to 4 Gadwall.

25 Q All right. And who lives at 4 Gadwall?



1 And I was on the phone with Mr. Breed when the Beaufort  
2 County Sheriff's Office -- well, officers, arrived.

3 Q And you told Mr. Breed you were chasing Otis Coffey.

4 A I told Mr. Breed that I was 80 percent sure that --  
5 that it was Otis Coffey.

6 Q All right. Now, let me kind of run through this with  
7 you. You're out here patrolling an area that's got a  
8 bunch of crime going on in it.

9 A Yes, sir.

10 Q You get out of your car. You run into somebody on a  
11 bicycle. You asked that person to stop, and to identify  
12 yourself. The person doesn't stop. You run after them.

13 A Yes, sir.

14 Q Leap at them and fall into the bushes.

15 A Yes, sir.

16 Q Get up. Call Fryman. Tell Fryman to go to 4  
17 Gadwall. Call the dispatch. Call the sheriff's office.  
18 And you talked to Chief Breed and said, *Oh, Chief Breed,*  
19 *I've been chasing a guy I think it's 80 percent -- I'm 80*  
20 *percent sure it was Otis Coffey?*

21 A I called Mr. Breed, because, yes, sir, I didn't have  
22 -- I knew Mr. Breed was wanting -- or wanted the  
23 information. And actually, I thought that Steve Newell  
24 jumped the gun. I -- I -- you know. That's the reason  
25 why I called Mr. Breed. He should have waited for us to

1 Q You were a sergeant.

2 A Yes, sir.

3 Q He was a corporal.

4 A Yes, sir.

5 Q Would you read what Corporal Fryman wrote? Do you

6 have that?

7 A It's very sketchy and hard to --

8 Q Well, here. Use this one. What did he write as his

9 supplementary report?

10 A It says, *I, Corporal Fryman, assisted Sergeant Jolin*

11 *in attempting to stop a --* and I can't read what --

12 MR. MATHISON: Here's a good one, Andy. It's got to

13 be clearer.

14 MR. HALIO: Okay. Let me give him --

15 Q Is this one any better? Is that one better?

16 A It says, *I, Corporal Fryman, assisted Sergeant Jolin*

17 *in attempting to stop a --* and I can't read those two --

18 two words. *On a --*

19 Q Does it say *subject fleeing*?

20 A -- *a subject fleeing on -- on foot.*

21 Q It doesn't say on foot; does it? It says on a

22 bicycle.

23 A On a bicycle. That's what it said. *Sergeant*

24 *Jolin --*

25 Q Instructed.

1       A    -- instructed me to go to 4 Gadwall Road, and to  
2       watch for a black male subject entering that address. At  
3       approximately 0020 hours, I observed a black male walking  
4       down --  
5       Q    The road.  
6       A    -- the road and entering the residence at 4 Gadwall.  
7       I notified Sergeant Jolin.  
8       Q    And that's where you went. You went to 4 Gadwall,  
9       right?  
10      A    With the sheriff's department, yes, sir.  
11      Q    Okay. Now, did you tell Todd McNeill that you'd been  
12      chasing Otis Coffey?  
13      A    No, sir.  
14      Q    Did you tell Randy Woods that you'd been chasing Otis  
15      Coffey?  
16      A    No, sir.  
17      Q    The sheriff's office comes.  
18      A    Yes, sir.  
19      Q    They knocked on the door.  
20      A    Yes, sir.  
21      Q    And had a word or two with Ms. Coffey.  
22      A    Yes, sir.  
23      Q    And they can't do anything, right?  
24      A    Correct.  
25      Q    So you got nothing. For all your efforts, you got

1 nothing, right?

2 A Got nothing. Yes, sir.

3 Q But you needed to go back, and you needed to write up

4 an incident report, right?

5 A Yes, sir.

6 Q And you did go back and write up an incident report.

7 And I believe that is Exhibit Number 10. Is that

8 correct? Do you have Exhibit Number 10?

9 A I have --

10 Q You got 10?

11 A 10. Okay. Looking at the incident report now, if

12 you'll follow along with me. The incident type you've

13 got is suspicious activity, correct?

14 A Yes, sir.

15 Q You got suspect listed on there?

16 A Yes, sir.

17 Q Who was the suspect you've got listed on there?

18 A Otis Coffey.

19 Q It doesn't say 80 percent Otis. It says Otis Coffey;

20 doesn't it?

21 A Correct.

22 Q Is that his address there, 4 Gadwall Road? Right?

23 A Yes, sir.

24 Q Is that his description?

25 A Yes, sir.

1 Q All right. Got the time, date, all that stuff on it,  
2 right?  
3 A Yes, sir.  
4 Q And it's got Otis Coffey listed as the suspect,  
5 correct?  
6 A Yes, sir.  
7 Q And down in the bottom, left-hand corner, it says,  
8 *Subject identified.* Yes. That would be Otis Coffey?  
9 A Yes, sir.  
10 Q Said subject located, yes.  
11 A Yes, sir.  
12 Q That's Otis Coffey?  
13 A Yes, sir.  
14 Q What you've told us is that this is the report that  
15 you wrote without any help or without any corrections,  
16 right?  
17 A Correct, sir.  
18 Q And that is a -- I think we've established that that  
19 report identifies the suspect as Otis Coffey, right?  
20 A No, sir.  
21 Q That's what it says. It says, *Suspect, Otis Coffey,*  
22 right?  
23 A It has him as the suspect, but I don't know how to  
24 answer the question without bringing in -- after  
25 discussing what the sheriff's department --

1 Q I don't want to hear discussion.  
2 A Exactly.  
3 Q Just talking about the report.  
4 A I mean, I don't know.  
5 Q The report says, *Suspect, Otis Coffey*, right?  
6 A Right.  
7 Q Okay. I'm sorry. Doesn't this report have a case  
8 number?  
9 A Yes, sir, it does.  
10 Q And the case number was obtained from the Beaufort  
11 County Sheriff's Office?  
12 A Yes, sir.  
13 Q All right. And so, this wasn't an in-house report.  
14 A This one was not an in-house report, no, sir.  
15 Q Exhibit Number 3, in your deposition, second page of  
16 the incident report. Want to turn to that?  
17 A Yes, sir.  
18 Q We talked about it a little bit. We talked about  
19 what was going on at Sea Pines with the crimes and that  
20 sort of stuff. I'd like to ask you a few more questions  
21 about the supplemental incident report. Okay?  
22 A Yes, sir.  
23 Q On Page 2.  
24 A Yes, sir.  
25 Q And in the first paragraph you said, *I saw a black*

1 A At the gate, yes.

2 Q -- from the gate.

3 A Yes, sir.

4 Q Which was true, right?

5 A Yes, sir. And I remember the part of her saying that

6 we were going to have to -- that I was going to have to

7 get a warrant for his arrest.

8 Q You don't remember Detective Florencio -- well, do

9 you remember how long you were on the call with her?

10 A No, sir. It would be --

11 Q Do you remember whether or not she was at the type

12 writer, re-typing the report?

13 A I -- I don't remember that. I don't recall. I -- I

14 remember her asking me -- me questions how I -- how I met

15 him, and about the --

16 Q Yeah, we've already talked about this.

17 A Yes.

18 Q The two things, the two or three things you do

19 remember.

20 A Yes. I don't recall anything other than that.

21 Q But you don't remember anything else from the

22 conversation with Detective Florencio, including how long

23 that conversation was; do you?

24 A No, sir. If we had the tapes, that would clear this

25 up.

1 Q Okay. Let me ask you about that.

2 A Okay.

3 Q How long can you keep a tape, without it being taped

4 over? Do you know?

5 A Depends on -- on the subject matter that's on them.

6 Q Did you all have -- when you left Sea Pines and

7 immediately went and took your next job at LongCo, --

8 A Um-hmm.

9 Q -- did you all have the ability to tape record

10 telephone conversations?

11 A At my job? My -- the new place?

12 Q Yeah.

13 A No, sir. They didn't do that there.

14 Q Even though they were a security operation, with -- I

15 assume they had some law enforcement authority, they

16 didn't tape telephone calls?

17 A They took telephone calls, yes, sir, but nothing was

18 called --

19 Q Did they tape them?

20 A No, sir.

21 Q And then, of course, you never worked for a police

22 department. You don't know what they routinely --

23 A No, sir. No, sir.

24 Q And you're not an I.T. guy; are you?

25 A No, sir.



1 Q Okay. So you don't know whether or not -- you do  
2 know that telephone calls to dispatch at CSA, Sea Pines,  
3 were routinely recorded, right?

4 A Yes, sir.

5 Q And that's it. You really don't know about any of  
6 the other calls; do you?

7 A I know that all the phones are -- are suppo -- and  
8 they had audio in -- in the rooms at Sea Pines.

9 Q You don't know that; do you?

10 A I know that it's in -- in the operations room.  
11 That's where we keep prisoners. And before they changed  
12 the system, I worked dispatch several times, and we used  
13 to exchange the -- change the tapes out before that the  
14 new system that they -- they had -- or they have now,  
15 presently.

16 MR. HALIO: Excuse me one second, your Honor.

17 BY MR. HALIO:

18 Q Mr. Jolin, would you mind turning to -- returning to  
19 your deposition?

20 A Yes, sir.

21 Q Look at Page 101.

22 A Yes, sir.

23 Q Looking at Line 7, the question was, *Do you know of*  
24 *your own personal knowledge if any phone calls at CSA*  
25 *Security were recorded, other than some phone calls to*

1       *dispatch?*

2       A     Um-hmm.

3       Q     Would you read your answer.

4       A     I said, *I can't say for certain. I know that -- that*

5       *they're recorded. I know that everything is recorded.*

6       *All telephones.*

7       Q     And hang on. Hang on.

8       A     Oh, sorry.

9       Q     That's the answer there.

10      A     Okay.

11      Q     Let me ask you about that. The first sentence there

12      says, *I can't say for certain.* The second sentence says,

13      *I know that they are recorded.*

14      A     Um-hmm.

15      Q     Can you explain whether you can't say for certain or

16      whether you know it?

17      A     I know that the phone calls are -- are recorded.

18      Q     Well, how come you said --

19      A     And they used -- I remember an incident that they

20      played during the Christmas party with -- with a phone

21      conversation that took place between James Plant and --

22      and -- and somebody calling and complaining about

23      something. But I remember them playing it at the

24      Christmas party.

25      Q     How come you said, *I can't say for certain?*

1 A I'm not sure.

2 Q You're not sure.

3 A Especially when I -- we know for a fact that they --

4 Q Let's turn to Page 102, at Line 7. Do you have any

5 personal knowledge of any of the other phones, other than

6 what somebody may have told you, that any of the other

7 phones in the CSA security office recorded every phone

8 call that came in or out?

9 And what was your answer?

10 A 102?

11 Q Yeah. At Line 12. What was your answer?

12 A No. But there's --

13 Q No, no. Wait a minute. Finish the answer before you

14 try to explain.

15 A It says, No, I don't know for --

16 Q For a fact?

17 A -- for fact.

18 Q Keep going. Finish it off.

19 A -- for fact that all -- that all of them are. I

20 don't know that. But Detective Florencio was in the

21 operations room, where there is cameras and audio.

22 Q But you weren't there; were you?

23 A No, sir.

24 Q Okay. And the next one says -- the next question at

25 Line 16, You just know that dispatch did.

1 A Yes, sir.

2 Q Is that your answer?

3 A Yes, sir. And, yes, sir.

4 Q You want to read that first sentence.

5 A I don't know which phones. ; I know that they record

6 conversations. That's -- that's what I know. I don't --

7 I don't know which phones. I know for a fact dispatch

8 is, because I have heard audio on that. But as far as

9 any of the other phones, I can't say yes or no.

10 Q So that's the bottom line. As far as recording

11 telephone calls from any phone other than dispatch, you

12 can't say yes or no; can you?

13 A No, sir.

14 Q According to your sworn testimony given in October.

15 And then you lied to Detective Florencio, right?

16 A I did.

17 Q You acknowledged that you lied to her; didn't you?

18 A For Mr. Breed. Yes, sir.

19 Q No.

20 A Oh, yes.

21 Q You're blaming Mr. Breed for lying? You know the

22 difference between --

23 A I did what he told me to do.

24 Q You lied to Detective Florencio, right?

25 A That's what he told me to do. Yes, sir.

1        hunting. That offer fell on my lap. I didn't just go  
2        look for --

3        Q    Offer fell in your lap.

4        A    Yes, sir.

5        Q    I see. Just happened to fall into your lap, so that  
6        the same day you resigned at Sea Pines, you went over to  
7        LongCo --

8        A    Yes, sir.

9        Q    -- and started working immediately. And before you  
10       left Sea Pines, what did you do with your video tapes?

11       A    When I turned all my gear in, I had Sergeant Coleman  
12       with me. We went into the locker, which, in the  
13       restrooms there. He took everything -- took everything  
14       out that belonged to CSA. I told him nothing else was  
15       left on those tapes.

16       Q    Can you tell us what you did with the video tapes?

17       A    Yes. I -- I -- I did what I was told to do with  
18       them. When you don't have court cases, you cut them, you  
19       rip them out, and you put them in the trash. So that's  
20       what I did.

21       Q    So you destroyed your video tapes.

22       A    Yes, sir.

23       Q    And you walked out with the incident reports.

24       A    Yes, sir.

25       Q    And now you're at the Circle K.

1 A Improper parking.

2 Q Why did you issue a ticket for improper parking?

3 A Because the vehicle was parked in the roadway.

4 Q It's blocking the road; isn't it?

5 A I -- I'm trying to remember this. I'm not too sure

6 if that was -- I remember issuing a -- a warning ticket,

7 but it was parked more in a cul-de-sac. I don't --

8 Q This is the car, right? I mean, you can match up the

9 license plate with the license plate --

10 A Right.

11 Q -- on the ticket, right?

12 A The license plate matches, but I don't recall --

13 Q The car matches?

14 A The car matches, yes, sir.

15 Q And you issued a ticket for improper parking.

16 A Yes, sir.

17 Q And I think what you're trying to tell us is you're

18 not sure --

19 A No.

20 Q -- this is exactly how the car was parked.

21 A I believe that the warning ticket -- exactly. The

22 warning ticket was issued -- if this -- if this over here

23 is the Coffey home, and to the right side of that is this

24 car, I think this vehicle possibly was parked over here,

25 which is a cul-de-sac. Okay. There's no inlet, and

1       that's -- I don't believe that the car was parked there,  
2       no, sir.

3       Q     Okay. So this car --

4       A     I remember issuing --

5       Q     -- this car here, in this picture of the Coffey car,  
6       it's still not parked properly; is it?

7       A     No, sir.

8       Q     It's blocking the road.

9       A     Yes, sir.

10      Q     So you issued a ticket on the 21st for improperly  
11     parking in the cul-de-sac.

12      A     Yes, sir.

13      Q     And then somebody else took a picture of it when it  
14     was blocking the road. Apparently. Right?

15      A     I am certain -- yes. I am certain that this -- this  
16     was parked over here in the cul-de-sac area when I drove  
17     by there.

18      Q     And it's, you know, I guess it's kind of elementary,  
19     but is it fair to say that you issued a warning ticket  
20     for parking improperly because the car was parked  
21     improperly?

22      A     No, sir. Well, the -- the warning ticket?

23      Q     Yes.

24      A     Yes, yes. I issued that because it was parked --  
25     improperly parked.

1 Q Okay. All right. And this wasn't any sort of  
2 campaign of harassment against the Coffey family; was it?

3 A No, sir. The car was -- was improperly parked, and  
4 I'm sure that there was probably a couple of others  
5 written that day, as well.

6 Q And this car hadn't been improperly parked there for  
7 eight years; to the best of your knowledge; had it?

8 A To my knowledge, I -- yeah, I couldn't say.

9 Q You would have seen it improperly parked before that,  
10 and you would have given it an improper parking ticket  
11 before that.

12 A I've written several improperly parked warning  
13 tickets. Yes, sir.

14 Q If you wouldn't mind, you can take your seat again.  
15 I'd like to go ahead and get this marked as an exhibit  
16 for identification. Let me see the ticket, please.

17 MR. MATHISON: Is this the May 21st violation? The  
18 warning.

19 MR. HALIO: I just want to I.D. it.

20 MR. MATHISON: That's all right. But that photo  
21 does not go with that ticket.

22 MR. HALIO: Thank you for your testimony.

23 MR. MATHISON: You already said that. MR.

24 HALIO: All right. For identification, please.

25 COURT REPORTER: This will be Number 9, Defendants'



1 9.

2 COPY OF DOCUMENT REFERRED TO AS  
3 WARNING TICKET MARKED DEFENDANTS'  
4 EXHIBIT NUMBER 9, FOR IDENTIFICATION.

5 THE COURT: You all doing okay? Anyone need a break?  
6 You okay?

7 BY MR. HALIO

8 Q All right. Prior to this -- I think you said the  
9 night of the incident, you were out on routine patrol in  
10 the areas that had been the subject of property crimes,  
11 right?

12 A Right. Correct.

13 Q You weren't targeting anybody in particular that  
14 night; were you?

15 A No, sir.

16 Q You weren't targeting Otis Coffey?

17 A No, sir.

18 Q And after this occurred, you weren't targeting Otis  
19 Coffey's family; were you?

20 A No, sir.

21 Q Okay. And the incident of May 20th was not  
22 videotaped, because you were outside of your patrol car,  
23 right?

24 A I was outside of my patrol vehicle, yes, sir.

25 Q And one last thing I want to ask you. In your direct

1 minutes. Again, Mr. Jolin, do not discuss your  
2 testimony. You are free to step down, sir. Okay?  
3 A Yes, ma'am. Thank you.  
4 THE COURT: Thank you.  
5 OFF THE RECORD 4:28 P.M.  
6 BACK ON THE RECORD 4:35 P.M..  
7 BY THE COURT:  
8 THE COURT: Ready to go, you all? MR.  
9 HALIO: Yes.  
10 THE COURT: Let's bring the jury in. Let's bring  
11 the jury in, you all.  
12 BAILIFF: Jurors entering, your Honor.  
13 THE COURT: Thank you.  
14 JURORS ENTER COURTROOM 4:37 P.M.  
15 THE COURT: Thank you. Welcome back, ladies and  
16 gentlemen. Mr. Mathison, please continue.  
17 CONTINUE JOHN ALBERT JOLIN, JR.  
18 RE-DIRECT EXAMINATION, MR. MATHISON:  
19 Q John, in response to a couple of questions that were  
20 asked by Mr. Halio, you weren't dismissed from the Marine  
21 Corps; were you?  
22 A No. I was -- they actually retired me due to the  
23 injury.  
24 Q That's how severe it was.  
25 A Yes, sir.

1 Q So you weren't dismissed from the Corps?  
2 A No, sir.  
3 Q That usage was not correct. Is that right?  
4 A That's correct.  
5 Q Did I ask you when I interviewed you to say anything  
6 that's not true, John?  
7 A No, sir.  
8 Q To the best of your knowledge, did you say anything  
9 that was not true when you did your deposition?  
10 A There was a question that was asked about were we --  
11 I can't remember how it was even asked. Were we ever  
12 asked to follow Otis Coffey. I do remember a  
13 conversation of that arising, but I can't say who, but I  
14 remember an incident --  
15 MR. HALIO: I object as being hearsay. He can't  
16 even identify who, and it's got nothing to do with the  
17 underlying dispute here directly.  
18 THE COURT: Okay.  
19 BY MR. MATHISON:  
20 A I can't identify of an incident.  
21 THE COURT: Okay.  
22 Q You never followed him. Is that right?  
23 A No, sir.  
24 Q John, is a suspicious activity a crime?  
25 A No, sir.

1 Q What does it mean to be a suspect, with respect to  
2 suspicious activity?

3 A He's not -- for me, personally, it's -- it was just  
4 somebody who I thought that maybe that I saw, and I put  
5 him as a suspect, thinking that it may give the detective  
6 enough information to at least question Otis Coffey, to  
7 rule him in or out as being what I saw.

8 Q Do you have Plaintiff's 10 up there? The original  
9 one? Reading along with me, you're looking at the report  
10 you prepared. The activity you identified is suspicious  
11 activity. Is that right?

12 A That is correct.

13 Q If you would, look at the report that was prepared as  
14 a consequence of your conversation with Detective  
15 Florencio. What else has been added to that report?

16 A *Fleeing to evade arrest or detention.*

17 Q And that went right on this line, right under  
18 suspicious activity; didn't it?

19 A Correct.

20 Q Is that a crime?

21 A Yes, sir.

22 Q Is that the crime for which you were asked to go get  
23 the warrant?

24 A To be completely honest, nobody had even mentioned --

25 Q What they wanted you to get a warrant for?

1 A -- what the warrant was -- was -- was for. Maybe --  
2 I -- I can't recall. No, I don't --  
3 Q In order to get the warrant, did they need a positive  
4 identification?  
5 A Yes, sir.  
6 Q Does that occur on the first page or the second page?  
7 A Of?  
8 Q The incident report that you filled out.  
9 A Positive identification?  
10 Q Yes.  
11 A There is none.  
12 Q But on the one that's revised on the second page,  
13 there is a positive identification in the narrative;  
14 isn't there?  
15 A Yes, sir.  
16 Q Would you take my highlighter and highlight where  
17 that appears? So that this poster board that we've got,  
18 this little one on the second page, which is what you  
19 wrote, doesn't have a positive identification in the  
20 narrative; does it?  
21 A No, sir.  
22 Q The one that was, in fact, revised and substituted  
23 does. Isn't that right?  
24 A Yes, sir.  
25 MR. MATHISON: Request permission to publish the

1 incident report, Plaintiff's Exhibit 11, to the jury.

2 MR. HALIO: Seems like it's already been read a  
3 couple of times.

4 THE COURT: You can ask him questions on it, just --

5 MR. HALIO: If he wants to give it to them, that's  
6 fine. I'm sorry. I thought he was going to read it.

7 MR. MATHISON: No, I just want to hand it to them and  
8 let them look at it.

9 THE COURT: Well, if you want him to do that while  
10 you're still questioning him, that's fine.

11 MR. MATHISON: May it please the Court. I'm done  
12 with this line of questioning.

13 THE COURT: Okay.

14 BY MR. MATHISON:

15 Q John, was there, in fact, any crime committed on May  
16 20th or May 21st that would, in Sea Pines, that would  
17 have permitted anyone to arrest Otis Coffey?

18 A Not to my knowledge, no, sir.

19 Q So that, in the absence of the positive  
20 identification, and the addition of the charge of fleeing  
21 to avoid detention, there was no basis for arresting him  
22 at all.

23 A No, sir.

24 Q Did you think that he was committing a crime when you  
25 saw a man on a bicycle?

1 A No, sir.

2 Q Did anyone ever accuse the person on the bicycle of  
3 stealing the bicycle?

4 A No, sir.

5 Q One other thing. When you were asked to identify the  
6 street on which you encountered Mr. Coffey, you had a  
7 little difficulty figuring out where it was. Was that  
8 because the map was basically upside down initially? Was  
9 this the way it was shown to you?

10 A Yes, sir.

11 Q And it should be, as it ended up being, in this form.  
12 Isn't that right?

13 A Yes, sir.

14 Q And when you testified that Mr. Coffey had gone left  
15 as he was heading to the beach access, --

16 A It would have actually been at right as he was coming  
17 up. He was headed north. I was headed south. He would  
18 have made a right onto the beach access.

19 Q So he went right on the beach access, toward the  
20 beach. Is that right?

21 A Towards the beach. That's correct.

22 Q And then, when he got away from you, when you reached  
23 out to get him, which direction did he go?

24 A He went left.

25 Q So he went to the north?

1 A Yes, sir.

2 Q And away from Gadwall.

3 A Yes, sir.

4 Q And he was still on his bicycle.

5 A The last time I saw, yes, sir.

6 Q After you became aware that you had misgivings about

7 participating in what was said to Detective Florencio,

8 what did you do about it?

9 A Could you re-ask the --

10 Q What did you do when you realized that you were upset

11 about having lied to Florencio?

12 A I was mostly upset with myself. But I did talk to --

13 to some of the other officers about it. Lieutenant

14 Haynes being one.

15 Q And as a result of that conversation, if not

16 otherwise, did you also talk to George Breed?

17 A In reference to the report?

18 Q Yes, sir.

19 A Yes, sir.

20 Q Did he know there were two?

21 A Yes. He knew that there were two reports.

22 Q Did he know you were concerned about participating in

23 the second one, the revised one?

24 A Yes, he knew.

25 Q And knowing those concerns, what did he tell you?



1 A He told me that everything was going to be okay; that  
2 I was -- that -- that the original report, the report I  
3 did, was the one that we were going to stick with.  
4 Q And did that satisfy you in terms of soothing your  
5 concern?  
6 A Yes, sir.  
7 Q Do you know whether he actually kept his word or not?  
8 A I didn't learn till -- till later that he didn't.  
9 MR. HALIO: Objection, your Honor. I don't know how  
10 he got his information, but, no foundation.  
11 MR. MATHISON: Thank you, Mr. Jolin.  
12 MR. HALIO: Just real quick, Judge.  
13 THE COURT: Yes.  
14 JOHN ALBERT JOLIN, JR.  
15 RE-CROSS-EXAMINATION, MR. HALIO:  
16 Q You were asked in your direct testimony about what  
17 you spoke with Mr. Breed about after you found out about  
18 the second incident report, and you didn't mention  
19 anything about -- what was the answer that you just gave?  
20 A That Mr. Breed and I did discuss -- Mr. Breed knew  
21 that there was reports, the two reports.  
22 Q What were the exact words you said he said?  
23 A That Mr. Breed said?  
24 Q Yeah.  
25 A He said that -- that if I couldn't -- he actually

1 from either side?

2 MR. HALIO: No, your Honor.

3 MR. MATHISON: No, your Honor.

4 THE COURT: All right. You are excused, sir. Thank  
5 you. Mr. Mathison, call your next witness.

6 MR. MATHISON: I would call Detective Florencio to  
7 the stand, please.

8 THE COURT: Detective, come on forward and be sworn.

9 WITNESS SWORN.

10 MEREDITH FLORENCIO

11 DIRECT EXAMINATION, MR. MATHISON:

12 Q Detective, your name is Meredith Florencio. Is that  
13 correct?

14 A Yes, sir.

15 Q And at the time of the events that we've been  
16 discussing, you were not married. Is that right? Your  
17 name was Hatch.

18 A Correct.

19 Q So that, the names that would appear at the time on  
20 the documents that were addressed to you would be to  
21 Meredith Hatch. Is that right?

22 A Yes, sir.

23 Q You and I met for the first time, didn't we,  
24 Detective, when you responded to a subpoena to testify at  
25 the request of the defendants. Isn't that right?

1 A Yes, sir.

2 Q Have I ever interviewed you or debriefed you, except  
3 in the presence of the defense lawyers?

4 A No.

5 Q You and I, other than talking on the phone to arrange  
6 the subpoenas, have never talked at all. Is that  
7 correct?

8 A No, sir.

9 Q In 2008, you've heard, I believe, testimony that  
10 there were burglaries, peeping Toms, and breaking and  
11 entering events going on in Sea Pines Plantation. Is  
12 that right?

13 A Yes, sir.

14 Q Were you the person with the Beaufort County  
15 Sheriff's Office that was investigating most, if not all,  
16 of these events?

17 A Yes, sir.

18 Q And who was your supervisor or superior? Who were  
19 you reporting to directly?

20 A Angela Vennes.

21 Q Were there other people working with you and under  
22 you in these investigations?

23 A Dwuan Holmes.

24 Q And were you the person responsible for coordinating,  
25 kind of knitting, them all together?

1 A Yes, sir.

2 Q Was that the case for the entire duration of the 2008

3 investigations?

4 A I believe so, yes, sir.

5 Q Do you know anything that Judge Coffey did to

6 interfere with the investigation of the Beaufort County

7 Sheriff's Office of the events in Sea Pines in 2008?

8 A No, sir.

9 Q Are you certain that she didn't do anything to impair

10 or impede the investigation in any way?

11 A Yes.

12 Q Do you know whether Otis Coffey was ever charged with

13 any crime as a result of events in 2008?

14 A No, sir.

15 Q Do you know whether you, at the Beaufort County

16 Sheriff's Office, in charge of the investigation, ever

17 consider Otis Coffey to be the quote, *primary suspect* in

18 the investigation?

19 A No, sir..

20 Q You did not? You did not or you --

21 A No, sir, he was not considered a prime suspect.

22 Q Was there ever a prime suspect identified?

23 A No, sir. No one was ever identified.

24 Q Did you at one juncture request that Chief Breed

25 provide you with a list of suspects that he thought were

1     capable of committing this crime, who, in fact, resided  
2     in Sea Pines Plantation?

3     A    Yes, sir.

4     Q    And I'm handing you this document, and I'm asking you  
5     if you can identify it as being a list that Mr. Breed  
6     gave you.

7     A    Yes.

8     Q    Upon that list, are there seven names?

9     A    Yes.

10    Q    And among those seven names, how many people are  
11    black and how many people are white?

12    A    One person is black and the rest are white.

13    Q    And of the seven, which one is the black one?

14    A    Otis Coffey.

15    Q    At the time that this list was submitted, which I  
16    believe is early May, did you have reports from incidents  
17    indicating that more than one of these instances had been  
18    perpetrated, if at all, by a white person?

19    A    A lot were unknown. I believe some white was -- some  
20    -- some were possibly black.

21    Q    Okay. Did you have any reason to believe, based on  
22    the submission of those seven names -- and I'm not going  
23    to put them in the record -- that Otis Coffey was  
24    considered by Mr. Breed to be the prime suspect?

25    A    No, sir.

1 Q You can identify this as the list that he submitted?  
2 A Yes, it is. I'm sorry. I must not have understood  
3 your question.  
4 COURT REPORTER: I'm sorry. I didn't hear you.  
5 Yes, it is, and what?  
6 A I -- I must not have understood the question.  
7 Q You can identify it, is what I said.  
8 A Yes.  
9 Q Okay.  
10 MR. MATHISON: Your Honor, I'd like to mark this for  
11 identification, but I don't want to put it in the record,  
12 because it has the names of individuals that didn't do  
13 anything wrong. All right. This is a list of suspects.  
14 COURT REPORTER: This would be Plaintiff's 14.  
15 COPY OF DOCUMENT REFERRED TO AS  
16 LIST OF SUSPECTS MARKED PLAINTIFF'S  
17 EXHIBIT NUMBER 14, FOR IDENTIFICATION.  
18 BY MR. MATHISON:  
19 Q Did you do an investigation of one or more of the  
20 individuals on the list submitted by Chief Breed?  
21 A Yes.  
22 Q Did you, among other things, run a sexual offender  
23 check through whatever vehicle you use to check to see if  
24 -- did --  
25 A Yes, sir, I did. I did a search of sex offenders

1       that might reside in Sea Pines, yes.

2       Q    Did you get any positive response as a sex offender  
3       for Otis Coffey?

4       A    No, sir.

5       Q    Does he have anything in his history that would lead  
6       you to believe that he's a sex offender or a sexual  
7       predator or a peeping Tom or anything else like that?

8       A    No, sir.

9       Q    On or about May 20, 2008, did you receive an email  
10      from Mr. Breed at Sea Pines Security, that was addressed  
11      both to you and to Captain Toby McSwain?

12      A    Yes, sir, I did.

13      Q    I'm handing you this document, and ask if you can  
14      identify it for me, please.

15      A    Yes. This is an email I received.

16      Q    And what is the address from which that was sent?

17      A    Securegate@aol.com.

18      Q    Can you identify that as the being the address used  
19      by Mr. Breed on his email?

20      A    Yes, sir.

21           MR. MATHISON: Move the introduction of this document  
22      Plaintiffs Exhibit 15.

23                   COPY OF DOCUMENT REFERRED TO AS

24                   EMAIL FROM GEORGE BREED TO MEREDITH

25                   FLORENZIO MARKED PLAINTIFF'S EXHIBIT

1                   NUMBER 15, ADMITTED AS EVIDENCE.

2           BY MR. MATHISON:

3           Q   Looking at that document, Detective, does it make  
4           reference to the events that about which there has been a  
5           good bit of testimony that took place around midnight on  
6           May 20th?

7           A   Yes, sir, it does.

8           Q   Would you publish to the jury, would you read the  
9           first paragraph that Mr. Breed wrote?

10          A   *Last night at midnight, one of my officers was on*  
11          *foot near South Beach Lane. He saw a black male on a*  
12          *bike (midnight) -- in parentheses -- and identified him*  
13          *as Otis Coffey, and called out to him. He took off. He*  
14          *radioed another officer who set up out-of-sight at*  
15          *Gadwall -- in parentheses -- (Coffey's house). And a few*  
16          *minutes later, observed him run into the house and then*  
17          *shut off all the interior lights.*

18          Q   All right. Do you understand that the person to whom  
19          Mr. Breed was referring in that first paragraph, was, in  
20          fact, John Jolin, who had quote, *identified Otis Coffey*?

21          A   Yes. Now I know. Yes.

22          Q   Would you read to me what Mr. Breed said about Mr.  
23          Coffey in the third paragraph, please.

24          A   *We almost got his little butt. I want his little*  
25          *butt, and I don't want it to get back to you-know-who.*



1 Q Do you know who Mr. Breed was referring to by you-  
2 know-who?

3 A Yes.

4 Q Who?

5 A Maureen Coffey.

6 Q Would you read the next sentence, please.

7 A *He thinks he can get away with this crap because he*  
8 *has cover.*

9 Q Do you know who he was referring to when he said that  
10 he has cover?

11 A Maureen Coffey.

12 Q Do you think -- would you read the next sentence,  
13 please.

14 A *Do you think that we have enough to secure a search*  
15 *warrant?*

16 Q Okay. And just go ahead and finish off the rest of  
17 this memo.

18 A *His house is smack in the center of the B and E's; he*  
19 *matches the description of our B and E suspect, and the*  
20 *peeper, and he is on a bike at midnight right in the*  
21 *middle of our stakeout; takes off; runs into a house;*  
22 *cuts off the lights; and then his mommy - has his mommy*  
23 *lie for him. And for Heaven's sake, you know not where*  
24 *to go to get the search warrant.*

25 *I think, over the past several months, his looking*

1       into windows for targets may have been mistaken for a  
2       peeper. May be able to get -- may be able to close both  
3       groups.

4           COURT REPORTER: Close both what?

5       A    Close both groups.

6       Q    Do you know what Mr. Breed referred to when he said  
7       that he matches the description of both the B and E?  
8       That's breaking and entering; isn't it?

9       A    Yes, sir.

10      Q    Suspect and the peeper?

11      A    Yes.

12      Q    Was there a uniform description of the B and E  
13      suspect and the peeper?

14      A    There was multiple incidents occurring.

15      Q    And some were white and some were black. Isn't that  
16      right?

17      A    Yes, sir.

18      Q    How can anybody who was a black person match them  
19      all?

20      A    Exact. Yes, sir.

21      Q    Did Mr. Breed make reference to the fact that he had  
22      a stakeout into which this person, namely, the person he  
23      thought was Otis Coffey, came?

24      A    Yes. He does refer to that.

25      Q    Is it your understanding the only organization in

1 Beaufort County that's lawfully capable of --

2 MR. HALIO: Objection.

3 MR. MATHISON: -- investigating crime is the  
4 Beaufort --

5 MR. HALIO: Objection. This is totally irrelevant.

6 THE COURT: It's not for her to say.

7 BY MR. MATHISON:

8 Q Who was in charge of investigating crime in Beaufort  
9 County?

10 A The Beaufort County Sheriff's Office.

11 Q Including crimes inside private property like Sea  
12 Pines. Is that right?

13 A Yes, sir.

14 Q Did you authorize anybody to conduct a stakeout in  
15 Sea Pines in an effort to catch the breaking and entering  
16 or peeper in South Beach Lane area of Sea Pines?

17 A No, sir.

18 Q Did anybody else that you're aware of at the Beaufort  
19 County Sheriff's Office authorize a stakeout to go on?

20 A No, sir.

21 Q Did you authorize the Sea Pines Security to conduct  
22 any other form of investigation with respect to Otis  
23 Coffey or any of the other six subjects who were  
24 identified as living in Sea Pines Plantation in Mr.  
25 Breed's transmittal to you, which is Plaintiffs Exhibit

1 14?

2 A No, sir.

3 Q Had you decided that you wanted to obtain a warrant,  
4 either to search or for an arrest, would you have gone to  
5 Maureen Coffey to get a warrant to arrest her -- or  
6 search her brother?

7 A No, sir.

8 Q Did you need to be reminded that that would be not  
9 appropriate?

10 A No, sir, I did not.

11 Q Did this letter presuppose a pretty high level of  
12 familiarity between its writer and the recipients with  
13 the subject matter in question?

14 MR. HALIO: Objection. Speculation.

15 THE COURT: She can't answer that question.

16 BY MR. MATHISON:

17 Q Did you ever have a conversation, verbally or in  
18 writing, with Mr. Breed before, where he referred to  
19 getting any suspect's little butt?

20 A No, sir.

21 Q Since then, have you had a conversation with him  
22 about it?

23 A No, sir.

24 Q During this period, and specifically at any point on  
25 or before June 6, 2008, did Mr. Breed ever contact you to

1 find out whether Otis Coffey was the primary suspect  
2 under investigation by the Beaufort County Sheriff's  
3 Office on or about the first week of June 2008?

4 A I don't -- I don't remember.

5 Q Did you ever tell him that?

6 A No, sir.

7 Q If he had contacted you, would you have told him  
8 that?

9 A I -- again, I don't remember if he contacted me, so I  
10 can't answer that.

11 Q Ms. Florencio, as a result of getting this email,  
12 what, if anything, did you do afterwards, in terms of  
13 following through with the incident?

14 A I got this, actually, in the morning when I got to  
15 work. So I actually went down to Sea Pines to go look  
16 for the report and to collect the security blotters.

17 Q Do you customarily go to Sea Pines to -- or during  
18 this period, did you customarily go down there to check  
19 the blotters?

20 A Yes, sir.

21 Q What, exactly, does that mean?

22 A Those are just in-house reports when officers might  
23 call on the dispatch radio that they might have seen  
24 something suspicious. They don't necessarily make  
25 reports on those. It just is in -- information for me,

1 and I was collecting any information I could get at the  
2 time.

3 Q But if you do go, you can see all of the things that  
4 were reported, not just the things that got case numbers.

5 A Correct.

6 Q So that's a way of auditing what it is that's not  
7 being reported, and making sure that you're not missing  
8 something or something's fallen through the cracks,  
9 right?

10 A Yes, sir.

11 Q And were there, during this period of time, in-house  
12 reports that weren't being routinely turned in that you  
13 would see on the blotters?

14 A I -- I did actually have one incident where there was  
15 an incident that occurred that wasn't reported by the  
16 officer.

17 Q During this period?

18 A Yes, sir.

19 Q Was it material to your investigation of who might  
20 have been committing these crimes?

21 A No, sir.

22 Q When did you first see Mr. Jolin's incident report?  
23 And by that, I mean, that which has been identified as  
24 Plaintiffs Exhibit 10?

25 A It would have been the morning that I got this email.

1 Q I'm handing you Plaintiffs Exhibit 10. Did you see  
2 it because it came to the Beaufort County Sheriff's  
3 Office, or did you see it because it was on hand at Sea  
4 Pines Security when you went down there to look at the  
5 blotters?

6 A On hand at Sea Pines Security.

7 Q Tell me what happened after you got to Sea Pines  
8 Security, on the day you saw the original Jolin incident  
9 report, which is Plaintiffs Exhibit 10.

10 A I looked at the report, and the report wasn't  
11 consistent with this email. So I asked the supervisors  
12 that were there if I could call Jolin, because he was  
13 already off duty, to find out what's going on -- why --  
14 why are these two things different, and find out from him  
15 what was going on.

16 Q Specifically, was your concern that in his email from  
17 May 20th, George Breed, in the first paragraph, that said  
18 his officer has identified Otis Coffey; and in the  
19 narrative to his incident report, there wasn't any  
20 identification.

21 A Correct.

22 Q When you called John Jolin, where were you situated  
23 inside Sea Pines Security?

24 A I was in the computer room. I guess that's the --  
25 one of the main offices in the building.

1 Q Do you know whether that's what John called the  
2 operations room?

3 MR. HALIO: Objection. She's asking him what --

4 MR. HALIO: -- what somebody thought about some room  
5 somebody else thought about was the room was called.

6 THE COURT: Okay.

7 MR. MATHISON: He referred to the room as the  
8 operations room, and I'm asking whether she's describing  
9 the same room.

10 BY MR. MATHISON:

11 A I believe it is the same room.

12 THE COURT: Okay.

13 Q And when you made the telephone call, did you put him  
14 on speaker phone?

15 A Yes, sir, I did.

16 Q And were there other people in the room?

17 A Yes, sir.

18 Q And why was that? Do you know?

19 A They appeared that they were doing other reports. I  
20 guess that's the operation room, I guess that they could  
21 be doing a number of paperwork. I -- I don't really  
22 know.

23 Q But why did you put him on speaker phone?

24 A Because I was accessing a computer to type, so I  
25 could have my hands free.



1 Q Okay. So, if I understand correctly, you were going  
2 to type something on Sea Pines Security computers. Is  
3 that right?

4 A Yes, sir.

5 Q Did that require that you get some kind of pass code  
6 in order to get entry?

7 A I don't remember.

8 Q Did anybody there have the ability to put you in Mr.  
9 Jolin's computer?

10 A I don't believe it was Mr. Jolin's computer. I think  
11 it was just a general computer, and they might have just  
12 opened up a regular omni form. I don't believe it was  
13 Mr. Jolin's account.

14 Q And the omni form was a fill-in-the-blank incident  
15 report like the one I got in my hand, right?

16 A Yes, sir.

17 Q So you couldn't just take his report and revise it;  
18 you had to type it all over.

19 A Correct.

20 Q When you called Officer Jolin, Sergeant Jolin, did  
21 you tell him that you were in the process of revising his  
22 report?

23 A No, sir. I actually asked him about the differences  
24 in the email, and wanting to know about the report. At  
25 that point, he advised me that he did actually identify

1 Otis Coffey.

2 Q Okay. What, exactly, did he tell you about  
3 identifying Otis Coffey?

4 A He basically told me that he know was -- he  
5 recognized Otis Coffey because he had worked the gate for  
6 a couple years, and that he knows Otis Coffey, and that  
7 was Otis Coffey on the -- on the roadway.

8 Q Okay. So he seemed to fulfill the identification  
9 that Mr. Breed had told you about in that May 20th email?

10 A Correct.

11 Q And what, if anything, did you do at that juncture  
12 because he told you that there had been a positive  
13 identification?

14 A Well, seeing as that was the first actual  
15 identification of anybody at -- at midnight in the area  
16 of where we were having a lot of issues, in order to help  
17 him out, because he had his zip drive home, I made  
18 several corrections, just grammatical, because we have a  
19 certain way that we write reports. And if this was going  
20 to be a big case, linking somebody, I wanted to make sure  
21 it sounded a little -- like flowed a little bit better.

22 And also, I put in the information that he supplied  
23 to me about the identification.

24 Q And the information that he supplied about the  
25 identification is what I have had Mr. Jolin highlight in

1 yellow, on the second page. Is that correct?

2 A Yes, sir.

3 Q And would you read what the highlighted information  
4 says?

5 A Yes, sir.

6 Q I -- I identified a black male subject as Otis  
7 Coffey, due to having much contact with him while I was  
8 working the front gate of Sea Pines for two years.

9 Q Okay. And you added that based on the conversation  
10 you had with Mr. Jolin.

11 A Yes, sir.

12 Q Which you had on speaker phone at the operations room  
13 at Sea Pines Security.

14 A Yes, sir.

15 Q Did you tell Mr. Jolin that you were revising his  
16 report?

17 A I -- yes, I believe -- I don't remember back that  
18 far, but that was the point of talking with him. And he  
19 had the zip drive, so I would have to do it on a  
20 computer, so I believe we did have that conversation.

21 Q He had a zip drive, which meant that he had the  
22 ability to do it on any computer he could stick in.

23 A Correct.

24 Q Okay. But it wasn't in his computer. Is that what  
25 you're saying?

1 A Correct.

2 Q Okay. Is the document that I handed you,  
3 Plaintiffs's Exhibit 11, in fact, a copy of the document  
4 that you prepared?

5 A Yes, sir.

6 Q Did you take that document with you when you left to  
7 go to the Beaufort County Sheriff's Office?

8 A No, sir.

9 Q In point of fact, when your deposition was taken,  
10 wasn't it your impression that John Jolin --

11 MR. HALIO: I'm going to object to the leading.

12 THE COURT: Okay. Let's not lead her. Let's just  
13 get this going.

14 BY MR. MATHISON:

15 Q When your deposition was taken, weren't you under the  
16 impression that Mr. Jolin himself had submitted your  
17 report under his name?

18 A Yes, sir.

19 Q Do you now know that that's not correct?

20 A From what I've heard, I don't know that. I don't  
21 know who submitted it.

22 Q Let me ask you this. Does the Beaufort County  
23 Sheriff's Office have one or two reports?

24 A One report, sir.

25 Q Is the report that the Beaufort County Sheriff's

1 Office has the one that you prepared or the one that John  
2 Jolin prepared?

3 A The one that I prepared.

4 Q Do you know who sent or submitted the report to the  
5 Beaufort County Sheriff's Office that you prepared?

6 A No, sir.

7 Q Did you have a telephone conversation with Mr. Breed  
8 on the morning that you went to Sea Pines Security to  
9 talk to Mr. Jolin?

10 A No, sir.

11 Q Did you have an in-person conversation with him?

12 A No, sir. He wasn't there when I got there.

13 Q Did you have a conversation with any of the three  
14 gentlemen who were in the operations room at the time you  
15 put Mr. Jolin on speaker phone?

16 A I -- only to ask them to give me Jolin's number and,  
17 I guess, access the computer. I don't remember having  
18 any other conversations.

19 Q Did Mr. Jolin tell you that he had received a  
20 telephone call from Mr. Breed fewer than ten minutes  
21 before talking to you on the telephone?

22 A No, sir.

23 Q Did he tell you that Mr. Breed had advised him that  
24 he needed to be not 80 percent sure, not 90 percent sure,  
25 but a hundred percent sure that it was Otis Coffey?

1 A No, sir.

2 Q Did anyone else, Mr. Breed or any of the officers at  
3 Sea Pines Security, tell you that?

4 A No, sir.

5 Q If you had known about the conversation between Breed  
6 and Jolin, assuming for the moment that it took place,  
7 would you have revised the report and treated it as good  
8 evidence at the Beaufort County Sheriff's Office?

9 A No, I would not.

10 Q And if what I just said is correct, that the  
11 conversation did take place, isn't it possible that you  
12 were an unwitting tool in basically getting a false  
13 police report on record at the Beaufort County Sheriff's  
14 Office?

15 A Yes.

16 Q In Plaintiff's Exhibit 13, which is Mr. Breed's email  
17 of May 20th, he makes reference to obtaining a search  
18 warrant. Do you know whether anybody had probable cause  
19 to get a search warrant, under the circumstances  
20 described, where you had basically an encounter with a  
21 man on a bicycle?

22 A No.

23 Q I mean, unless he'd stolen the bicycle, there's no  
24 probable cause for a crime; is there?

25 A Again, I wasn't out there. I don't know.

1 Q Well, when you -- he asked you to get a search  
2 warrant. Did you ever respond and tell him we can't get  
3 one?

4 A I don't remember. I'm sure I must have told him  
5 something.

6 Q Was it your understanding that, based on the report  
7 as you had revised it, that an arrest would take place?

8 A No, sir.

9 Q Well, in addition to revising the second page of the  
10 incident report, didn't you also revise a couple of key  
11 aspects on the front page?

12 A I'm trying to still remember. I don't remember if I  
13 did a first page for him or just did a second page, and  
14 had them attach the first page. I -- I don't know. It  
15 appears that way. I just don't know.

16 Q I can understand how you might feel, because I  
17 bleary-eyed. I've read 600 pages of these things in the  
18 last week. I'm going to give you both of them.

19 A Yes, sir.

20 Q And the first one, 10 on your left, is Mr. Jolin's.  
21 And the second one, 11 on the right, is yours. And I'm  
22 calling your attention to, first, the time box. And I  
23 think that you may have corrected an error there, in the  
24 incident times.

25 A On the incident times. If I did, I don't remember if

1 I did anything with this first page.

2 Q Okay. Well, I'm looking at the top of the first page  
3 of Mr. Jolin's report, and it says suspicious activity.

4 A Yes, sir.

5 Q What does it say at the top on the of the first page  
6 of your report?

7 A *Suspicious activity and fleeing to evade arrest or*  
8 *detention.*

9 Q And suspicious activity is not a crime; is it?

10 A No, sir.

11 Q But fleeing to evade arrest or detention is; isn't  
12 it?

13 A Yes, sir.

14 Q Would you put a yellow stripe on the additional  
15 charges you added at the top of the warrant -- excuse me  
16 -- at the top of the incident report?

17 A Again, I don't know if I added that, so I don't know  
18 if I even touched this. Again, I could have -- I could  
19 have easily just done the second page, and they could  
20 have just attached whatever Jolin's first page was, but  
21 because during the deposition, there were things on this  
22 first page that I wouldn't have done. Different ways  
23 that things are written.

24 Q Well, there are differences between the two pages;  
25 aren't there?



1 A No, everything's correct. The only thing that's  
2 different is some differences in time. And the fleeing  
3 to evade is the same -- or is added in one. Other than  
4 that, I wouldn't put any of the information the way he  
5 did it.

6 Q You're saying that, at the bottom of the page where  
7 it says, in Jolin's report, suspect Otis Coffey, who is  
8 suspected of being someone engaged in suspicious  
9 activity, that's not being a suspect in a crime.

10 A No, sir. You would put that maybe as a person of  
11 interest.

12 Q And maybe provide the basis for going and actually  
13 interviewing that person. Is that correct?

14 A Correct.

15 Q But once you get stepped up a notch to fleeing to  
16 avoid, then you do have a crime.

17 A Yes, sir.

18 Q For which an arrest warrant could be issued.

19 A Then it would further the investigation. There was  
20 nobody, from what Officer Jolin's saying, he didn't  
21 actually catch somebody, and he did not -- he told me he  
22 didn't identify him, so, either, enough to be able to  
23 secure any kind of warrant.

24 Q So the result was there was no warrant. Is that  
25 right?

1 A Correct.

2 Q Arrest or otherwise.

3 A Yes, sir.

4 Q But isn't it a fact that, right now, in the Beaufort

5 County Sheriff's Office, there is an incident report that

6 identifies Otis Coffey as a potential suspect in the

7 crime of fleeing to avoid detention, arrest and

8 detention?

9 A Yes, sir.

10 Q And that's Plaintiffs Exhibit 11. Is that right?

11 A Yes, sir.

12 Q And isn't it a fact that the Beaufort County

13 Sheriff's Office --

14 MR. HALIO: I'm going to object to the leading.

15 It's just --

16 THE COURT: Okay. Again, let's just --

17 MR. MATHISON: I thought we were trying to expedite.

18 I'm just asking her what's in her deposition, your Honor.

19 THE COURT: Just ask her.

20 BY MR. MATHISON:

21 Q And is it true that the Beaufort County Sheriff's

22 Office does not have the original incident report

23 prepared by Officer Jolin?

24 A Correct.

25 Q So the only one that's there is, apparently, false,

1 if, in fact, there was no positive identification.  
2 A Yes, sir.  
3 Q One second. The other person to whom Mr. Breed's  
4 email of May 20th was sent is identified by his email  
5 address, and what's that?  
6 A Polygraph99@hotmail.com.  
7 Q And do you know who polygraph99 is?  
8 A Captain McSwain.  
9 Q Did you typically get email directly either from  
10 Captain McSwain or from Mr. Breed?  
11 A Yes. Mr. Breed.  
12 Q But not Captain McSwain?  
13 A Not generally, no.  
14 Q And the reason you got email from Mr. Breed is that  
15 you were in charge of these investigations going on, on  
16 his plantation. Is that right?  
17 A Yes, sir. He was assisting me, yes.  
18 Q And I believe you already testified that you didn't  
19 authorize any stakeout to go on in any neighborhood of  
20 Sea Pines --  
21 MR. HALIO: Objection. Asked and answered.  
22 THE COURT: Okay.  
23 BY MR. MATHISON:  
24 Q Did you authorize saturation patrols?  
25 A I did not authorize them to do anything.

1 Q Do you know, Detective, whether a number of Sea Pines  
2 peeper and breaking-and-entering cases in 2004 were  
3 resolved by the arrest and conviction of John Thomas  
4 Levy?

5 A Yes, they were.

6 Q Do you know whether he was arrested at or about the  
7 end of the fall of 2004?

8 A I don't have the information in front of me to -- I'd  
9 have to see where the report is.

10 Q Did you understand, when you undertook the 2008  
11 investigations, that Mr. Levy's profile was no longer  
12 there because he was in prison?

13 A Correct.

14 Q He had been convicted.

15 A Yes.

16 Q Do you know how many cases, approximately, in Hilton  
17 Head Plantation and Sea Pines Plantation the Beaufort  
18 County Sheriff's Office closed as a result of convicting  
19 him of, I think, nine different cases in both?

20 A No, sir, not off the top of my head.

21 Q Do you know whether Mr. Breed, and specifically one  
22 of his officers, were integrally involved in the arrest  
23 of John Thomas Levy.

24 A I don't know.

25 Q Do you know whether Mr. McNeill received an -- or one

1 of the Sea Pines Security officers -- received an award  
2 for finding a tape that had been turned in that was  
3 ultimately traced to Mr. Levy?  
4 A I don't know.  
5 Q But you do know that he was arrested and a number of  
6 these cases quit. Is that right?  
7 A Yes, sir.  
8 Q Are you quite -- you never saw the letter that Mr.  
9 Breed wrote about Judge Coffey; did you?  
10 A No, sir.  
11 Q Did Mr. Breed consult with you before writing the  
12 letter, to find out whether Mr. Coffey was a primary  
13 suspect in 2004?  
14 A No, sir.  
15 Q Did he consult with you about 2008?  
16 A No, sir.  
17 Q Was he, in your view, a primary suspect in either  
18 2004 or 2008?  
19 A I can only say that, in 2008, he was not.  
20 Q Do you have any knowledge of anything that Otis  
21 Coffey has done inside Sea Pines Plantation, with the  
22 exception of being arrested for trespassing on December  
23 10, 2004?  
24 A No, sir.  
25 MR. MATHISON: I don't have any questions. Please

1 today. Very attentive. I want you to go home, get a  
2 good night's dinner, a good night's sleep, and I look  
3 forward to seeing you all back at 10:00 a.m. tomorrow  
4 morning, because I know I had you waiting down there for  
5 a half hour this morning. And inevitably, that will  
6 happen again. So I'll have you all back in your jury  
7 room at 10:00 a.m., where we are going to, again,  
8 continue the trial of this case. Thank you. Good night.

9 JURORS LEAVE COURTROOM 5:15 P.M.

10 BAILIFF: Jury's clear. The door is closed, your  
11 Honor.

12 BY THE COURT:

13 THE COURT: All right. Before I say goodnight, I  
14 look forward to seeing everyone about 9:15 tomorrow  
15 morning, where we'll take up any extraneous matters we  
16 have.

17 Additionally, I'm reminding everyone that you are to  
18 get to -- or you probably already -- already should have  
19 or already have that we requested charge to the law  
20 clerk. I thought we were going to get those by 5:00  
21 today, apparently. So, if you haven't done it, you need  
22 to do it. And anything else need to go on the record  
23 right now?

24 MR. HALIO: I've just got a quick question, Judge.

25 THE COURT: Sure.

1 MR. HALIO: And that is, I don't want to invade Mr.  
2 Mathison's strategy, but there's a lot of people have  
3 been sitting out here for a long time doing nothing. And  
4 I was just wondering if we could get some sort of idea as  
5 to who's coming next, so we don't have a bunch of people  
6 sitting out there wasting time.

7 MR. MATHISON: My order of witnesses is roughly  
8 going to follow the sequence that I put in my witness  
9 list, your Honor. And a number of people that are here,  
10 are here because I feel that I would encounter hearsay  
11 objections if they weren't here. Some of them will  
12 testify with respect to the defamation.

13 THE COURT: Um-hmm.

14 MR. MATHISON: Other than that, they're here because  
15 I don't know whether they have achieved the level of  
16 agency for the defendant, for example, to actually use  
17 their out-of-court statements if I had them in  
18 depositions. So I've got to have them against the  
19 possibility that someone would say that's -- as they  
20 have, many times today.

21 MR. HALIO: Well, with that in mind, and in light of  
22 the Court's rulings on that issue every time it comes up,  
23 is there anybody that could possibly be released from a  
24 subpoena? I mean, you've already ruled that having them  
25 in the courtroom doesn't make any difference.

1 MR. MATHISON: I think that I have to have them, if  
2 I'm right. And I don't know that I can release them  
3 without conceding that I'm not.

4 MR. HALIO: I'd be happy to stipulate that they've  
5 been subpoenaed here, and the only reason he would have  
6 released them is because -- I mean, I'd be happy to  
7 stipulate that they're here. But is there any way that  
8 he can release them?

9 THE COURT: Well, I don't know who he's going to  
10 call and who he's not going to call. Is that --

11 MR. MATHISON: I can't tell until we get there. All  
12 right. I have a good idea, based on what Mr. Jolin said  
13 and based on your ruling. I think it's all but certain  
14 that I'll call Ms. Martin, Bobbie Martin, and that I'll  
15 call Randy Woods.

16 MR. HALIO: Okay. Thank you, your Honor. I just --

17 THE COURT: Hold on just a second. There was one  
18 other one. What about Mike Ryan?

19 MR. MATHISON: Pardon me?

20 THE COURT: What about Mike Ryan?

21 MR. MATHISON: I don't have him under subpoena --

22 THE COURT: Okay.

23 MR. MATHISON: -- because I can't get him.

24 THE COURT: Okay. Okay.

25 MR. HALIO: Thank you.



1 THE COURT: All right. See you all at 9:15 tomorrow  
2 morning. I'll admonish you, Detective, you aren't to  
3 discuss your testimony, because you're still on the stand  
4 overnight with anyone involved in this case. All right.

5 A Yes. Yes, ma'am.

6 THE COURT: I'll look forward to seeing you. Don't  
7 you worry about being here until 10:00 tomorrow morning.

8 A I'm sorry. I'm on vacation, anyway.

9 END DAY TWO, WEDNESDAY,

10 MAY 30, 2012, 5:20 P.M.

11 BEGIN DAY THREE, THURSDAY,

12 MAY 31, 2012, 9:30 A.M.

13 BY THE COURT:

14 THE COURT: Good morning, again, you all. Is there  
15 anything we need to put on the record before we start  
16 this morning?

17 MR. MATHISON: First of all, let me apologize for  
18 being late. We forgot our jury charges and had turn  
19 around and go back and get them.

20 THE COURT: Okay.

21 MR. MATHISON: I thought it might be advisable to  
22 have them so we would know what we were doing.

23 THE COURT: Okay. That sounds good. I will tell  
24 you all that what I have read so far was the -- I've been  
25 reading who's depositions today? Is that Birdwell?

1 Steve Birdwell. Birdwell. I have gone through and  
2 looked at the designations and the objections on  
3 Birdwell. Do you anticipate that we're going to get to  
4 that today?

5 MR. MATHISON: Probably, yes.

6 THE COURT: Okay. And right now, I'm going through  
7 Cary Kelley. And then, I'm assuming I need to go through  
8 Mr. Breed's. Is that correct?

9 MR. MATHISON: Definitely, your Honor. Yes.

10 THE COURT: Okay. I figured as much. Who else do I  
11 need to look at or review evidence? Just those --

12 MR. MATHISON: That's those three.

13 THE COURT: Okay. And how far are you hoping to get  
14 today, as far as your case? And I guess my question is,  
15 is, is how much filler are you going to have the next  
16 day, tomorrow?

17 MR. MATHISON: I think I may have all but one or two  
18 witnesses today.

19 THE COURT: Okay.

20 MR. MATHISON: I'm going to try and fill up  
21 everybody's plate. Maybe four, five, six, depending upon  
22 how fast it goes.

23 THE COURT: Okay. I know that reading a deposition  
24 is going take some amount of time. Have you gone ahead  
25 and figured out how you're going to read? If you read,

1 are you going to have your son read? Or how are you  
2 going to do that?

3 MR. MATHISON: I think that I would have my son  
4 read, or actually, I prefer to have somebody else, but  
5 that would be fine. The reason is, the timbre of our  
6 voices is almost identical.

7 THE COURT: Okay.

8 MR. MATHISON: And consequently, he sounds like me;  
9 I sound like him. Exactly which one is which is  
10 difficult, so.

11 THE COURT: Okay. Okay. Well then, you might want  
12 to -- they're all writing.

13 MR. MATHISON: Nobody looks eager. Let's put it  
14 that way.

15 THE COURT: Okay.

16 MR. HALIO: May it please the Court.

17 THE COURT: Yes, sir.

18 MR. HALIO: I'm kind of hazy on where we stood on a  
19 couple of the items in the motion in limine.

20 THE COURT: Um-hmm.

21 MR. HALIO: Having to deal with other so-called bad  
22 acts, for lack of a better description.

23 THE COURT: Okay.

24 MR. HALIO: I thought they were generally ruled out,  
25 but some qualification that maybe the Court wanted to

1 hear the testimony?

2 THE COURT: Okay. For what, specifically?

3 MR. HALIO: That is Section B, Numbers 7.

4 THE COURT: Um-hmm.

5 MR. HALIO: 8, 9, and 10 is kind of a catchall.

6 THE COURT: Okay.

7 MR. HALIO: And I think that's probably going to

8 come up if and when Hulbert is called, because the ticket

9 to -- given -- it was entered through Mr. Jolin, --

10 THE COURT: Right.

11 MR. HALIO: -- which was, purportedly, why he quit

12 was entered into evidence, and that's all that was talked

13 about.

14 THE COURT: Okay.

15 MR. HALIO: But I think that and the other cases

16 that we've received the ticket on will probably come up

17 in Mr. Hulbert. I didn't know if you wanted to deal with

18 that now or when it came up.

19 THE COURT: Was it the ticket that didn't come in?

20 That one, that you're talking about?

21 MR. HALIO: It would be both of them.

22 THE COURT: Okay.

23 MR. HALIO: If you hold on one second, Judge, I will

24 get it.

25 THE COURT: Okay.

1 MR. HALIO: It is -- yesterday, the one that came in  
2 had to do with a Jeffrey Hall. Hall, right.

3 THE COURT: Right. It was the lights, the boy that  
4 had kicked the lights, apparently. The one that we  
5 didn't bring in because it was already testified to was  
6 the --

7 MR. HALIO: Peck.

8 THE COURT: Pardon?

9 MR. HALIO: There's another one in by the name of  
10 John Peck.

11 THE COURT: Okay. Okay. And what is that ticket  
12 for?

13 MR. HALIO: Disorderly conduct, maybe.

14 MR. MATHISON: Hall was malicious injury to  
15 property, and you know, what he's talking about --

16 THE COURT: No, we've already had done that. We  
17 already -- that already went in yesterday, correct?

18 MR. HALIO: Just the ticket. No comment on it.  
19 Just the ticket. And it wasn't -- it didn't come in. It  
20 came in for I.D. only.

21 THE COURT: Okay.

22 MR. MATHISON: There's more after the fact, and what  
23 that --

24 THE COURT: My understanding is, again, what I heard  
25 was that the 3,450 was for restitution for the lights.

1 Or are you claiming something else?

2 MR. MATHISON: He didn't testify at all about the  
3 30. He didn't have any knowledge of --

4 THE COURT: I understand. But I guess my question  
5 is, is are you arguing that that is a donation versus  
6 restitution? I have no idea how much those lights cost.

7 MR. MATHISON: It was not a donation.

8 THE COURT: It was not a donation.

9 MR. MATHISON: No.

10 THE COURT: It was restitution.

11 MR. MATHISON: There was an agreement reached he was  
12 not to be prosecuted. He made the payments; they  
13 prosecuted him anyway. Mr. Hulbert has knowledge of  
14 that.

15 THE COURT: Okay.

16 MR. MATHISON: And the other one that he has  
17 knowledge of is the donation --

18 THE COURT: Well, okay. Just give one moment and  
19 we'll just do one at a time. I don't see that having any  
20 relevance, other than you're trying to show as a prior  
21 bad act of if they -- if the agreement was that he pay  
22 the restitution, and they weren't supposed to prosecute  
23 him, and they prosecuted him anyway?

24 MR. MATHISON: That's correct.

25 THE COURT: Okay. I'm just, Mr. Mathison, I'm just

1       having a hard time finding that relevant. If you can tie  
2       it up for me. Again, I mean, two things could have  
3       happened, obviously. They could have intentionally  
4       prosecuted him anyway, despite the agreement. Or  
5       secondly, they could have erroneously prosecuted him.  
6       Although, I'm not quite sure how they'd do that, because  
7       they're the ones that actually bring the cases. So I  
8       think it's like a bad check and I'm sorry we took care of  
9       and sent in. And more of a bad check to actively go down  
10      and prosecute it, so.

11           MR. MATHISON: They did both, basically. And what  
12      I'm trying for, obviously, is the state of the  
13      defendant's mind is important to prove constitutional  
14      actual malice. And the *Metts* case says it's the totality  
15      of the circumstances on the whole record.

16           THE COURT: Doesn't it have to be relevant, though?  
17      I still think it has to be relevant. And that's why I  
18      let in, you know, the things like harassing Mr. Coffey  
19      for trespass, and the towing of the mother's car, and I  
20      think all of that goes to Maureen Coffey. And certainly,  
21      was raised in her letter to the Commission. So I think  
22      that's all fair game.

23           I'm thinking in the *Metts* case, the actual malice  
24      portion that you're allowed to prove has got to be  
25      something at least relevant.

1 MR. HALIO: Your Honor, if you want to take that  
2 out, I mean, you know, any bad act at any time? I mean,  
3 why should it be limited to a month or two before it  
4 happened?

5 THE COURT: I'm guessing he's limiting to just Mr.  
6 Breed's duties as to the security. I don't mean to put  
7 words in your mouth, but I'm guessing that's what you're  
8 doing.

9 MR. MATHISON: That's correct. And I'm limiting in  
10 terms of the time that he was so disposed to write this  
11 letter, which is on or about June 6th.

12 THE COURT: Um-hmm.

13 MR. MATHISON: That arrest to which Mr. Jolin made  
14 reference took place two days before, on June 4th.

15 MR. HALIO: Well then, why limit it to two weeks?  
16 Why not 20 years? I mean, why didn't every bad act  
17 somebody's ever committed bear on state of mind under  
18 that logic? It just doesn't have anything to do with it.  
19 I think you're thinking is right, though.

20 THE COURT: And that's where my -- I just love it  
21 when attorneys finally say one thing is right. I don't  
22 see it relevant, but I will say this. If, for some  
23 reason, something comes out in the testimony, it's so  
24 hard for me to literally foreshadow what's going to  
25 happen and what's going to be said, where I may let it



1 in. I can just tell you that, as of right now, I just  
2 don't see the relevance of it to this case.

3 If it was a similar act, like what they had done  
4 with, I guess, -- if it were a similar act in some way  
5 maybe that how they prosecuted Otis Coffey or, you know,  
6 there's got to be a little more connection. There's just  
7 got to be something there for me. So, as of right now, I  
8 don't think we need to get into it, unless --

9 Again, and I will say this. And I'm not sure,  
10 again, what your position is on calling Mr. Breed, but if  
11 he puts his character an issue in this case, you can have  
12 at it. And I have told you that all along. I think if  
13 he opens that door, I think you can lay out every bad act  
14 they've ever had from the time he was, you know.

15 MR. MATHISON: I already have in the deposition.

16 THE COURT: Okay.

17 MR. MATHISON: And I don't think he's going to  
18 testify.

19 THE COURT: Okay.

20 MR. MATHISON: And frankly, with respect to a number  
21 of his bad acts, he doesn't recall his thought process.  
22 That's something that's repeated in his deposition 35, 40  
23 times, maybe.

24 THE COURT: Okay. All right. Well, I haven't read  
25 his deposition yet, so. Again, I am going to assume, in

1       that deposition, you have some questions, and he in some  
2       way states that he does a good job; he runs a tight ship;  
3       that type of thing? Does he, Mr. Mathison?

4             MR. MATHISON: Yes.

5             THE COURT: I haven't read it, again, so I'm  
6       assuming he does. And I think, if that's the case, then,  
7       I do think it makes it fair game. I just need it to be  
8       close enough. But if you're telling me he does that,  
9       again, a little difficult that it's coming in through a  
10      deposition, but.

11            MR. MATHISON: The reason it's coming in is they  
12      won't assure me they're going to call him. All right.

13            THE COURT: Well, you can just call him.

14            MR. MATHISON: I know, but I don't want to.

15            THE COURT: You don't think you can do it anyway?

16            MR. MATHISON: Well, let me see if I can put it this  
17      way. He was difficult in his deposition, and I couldn't  
18      get him to say much of anything the first day. I had to  
19      come get a deposition he'd already given in the Klippel  
20      case --

21            THE COURT: Um-hmm.

22            MR. MATHISON: -- to find out what I needed to know.  
23      And only with that cattle prod could I force him down the  
24      road to actually admitting some things.

25            THE COURT: Okay.

1 MR. MATHISON: So the answer is, I think that --

2 THE COURT: Your deposition is better than what you  
3 think you can get out of him on the stand?

4 MR. MATHISON: It certainly took a long time, and it  
5 took two, basically, two trips to the plate to do it.

6 THE COURT: Yes?

7 MR. HALIO: The only other issue, your Honor, is  
8 again, this issue of the late added witness, Mr. Sonberg.  
9 We would, again, renew our motion to exclude him on the  
10 ground that he has never been mentioned in answers to  
11 interrogatories, and never covered by any sort of a broad  
12 designation, like some of these other people, like all  
13 the people from the Town of Hilton Head or all the people  
14 from Sea Pines.

15 THE COURT: I actually read Maureen Coffey's  
16 deposition testimony yesterday, and it wasn't just a  
17 slight mentioning of a -- I think it he was called  
18 someone else, but then it was Dick Sonberg. It was two  
19 pages about Dick Sonberg. So, while I agree that they  
20 may not have designated him as a witness, they certainly  
21 talked about him. And it was certainly something -- I  
22 think there was even a mention of, well, you need to go  
23 talk to him. And it may have been Ms. Coffey suggested  
24 that, if you want to know, you maybe better to talk to  
25 him. So whoever was taking her deposition, I can't

1       remember.

2               So, I mean, it wasn't just a name thrown out there;  
3       it was -- there was a lengthy discussion about him.  
4       Again, you're right. It appears that they didn't  
5       designate him, but I think it is what it is. And quite  
6       frankly, this whole case, despite having gone on for four  
7       years, it appears that there's a lot of stuff that hasn't  
8       been done. And so, I think for completeness, I'm going  
9       to let it in.

10              And again, I will tell you Mr. Halio, if Mr. Breed's  
11       deposition reads like I'm assuming it does, -- and maybe  
12       I should be grab it back right now. If he puts his  
13       character at issue, and that he does a good job, I am  
14       going to let them go into things like prosecuting and  
15       you're not supposed to be. But again, I haven't seen the  
16       deposition. I haven't read it. So typically, I wouldn't  
17       have to deal with that unless he got on the stand and  
18       said anything yet, so.

19              MS. JONES: Well, to that end, for the record, we  
20       also have the issue of the position. And what we have in  
21       that regard, actually, when you go back and you look at  
22       the pleadings, is the interrogatories that we propounded,  
23       and then we have these answers. There was a motion to  
24       compel filed by CSA on April the 27th. And then you  
25       entered an order on June the 23rd, granting the motion to

1       compel. And despite that, we have not only no listing of  
2       Mr. Sonberg on any catchall; but we have, in response to  
3       our question concerning expert witnesses, a response that  
4       says:

5             *The plaintiff hadn't retained any expert, reserves*  
6             *the right to employ an expert and would supplement if*  
7             *necessary.*

8             And then says: *That one or more -- the physicians*  
9             *and other medical providers may well be called. At this*  
10            *point, however, the plaintiff does not know the subject*  
11            *matter about which any witness may be requested to*  
12            *testify as an expert.*

13            So, to the extent that that has never been  
14            supplemented, and now they want to call --

15            THE COURT: Did you file a subsequent motion to  
16            compel the actual -- I mean, he responded, but didn't  
17            respond in full as he should have. So my question is,  
18            did you file another motion to compel?

19            MS. JONES: No. No. This response from -- this  
20            response from Mathison was April the 25th, 2011.

21            THE COURT: Oh.

22            MS. JONES: Your order granting the motion to compel  
23            was June the 20 -- June the 23rd, 2011.

24            THE COURT: 2011? Okay.

25            MS. JONES: So it was April, May, two months

1 afterwards.

2 MR. MATHISON: May it please the Court. They didn't  
3 move to compel me to give them any of that information.  
4 There's 34 pages to my answers to interrogatories,  
5 including what they asked for, which was every physician  
6 she had seen for the previous five years.

7 THE COURT: And do they have --

8 MR. MATHISON: We gave them all.

9 THE COURT: And do they have the records for --

10 MR. MATHISON: They did.

11 THE COURT: It sounds like the one you're upset  
12 about or complaining about, is Dorsner, correct?

13 MS. JONES: Well, we only have -- the record that we  
14 have for Dorsner, --

15 THE COURT: Um-hmm.

16 MS. JONES: -- for Mr. Dorsner, the only record we  
17 have from him, we have two visits prior to the June, 2008  
18 letter, where she sought some treatment. And then one  
19 time in 2008, for a cold. June of 2010 for allergies.  
20 September of 2010 for sinus and allergies and a cough.  
21 And then March the 23rd, 2011, the allegation that she's  
22 made here for weight gain.

23 THE COURT: Okay.

24 MS. JONES: And there was a --

25 THE COURT: But you have those records.

1 MS. JONES: Those are the only records that ever  
2 got.

3 THE COURT: Okay.

4 MS. JONES: And the only information contained in  
5 that record about the weight gain is a referral to  
6 another physician. So based on that, and the fact that,  
7 in the answer, the plaintiff committed to supplement the  
8 answer with what the opinion would be of the expert, it's  
9 never been supplemented. There --

10 THE COURT: If I understand you, too, she gave you  
11 the damages, and I think the damages for Dorsner.  
12 Dorsner's 146, is what I remember the number being, which  
13 is -- couldn't be more than one or two visits, I can't  
14 imagine, I can't imagine, for a doctor. But okay.

15 MS. JONES: Well, we don't really -- we didn't have  
16 a breakdown of her medical costs, her treatment, from Dr.  
17 Dorsner. The only thing that we, on our own subpoena got  
18 from Dr. Dorsner, were these couple of office visits over  
19 the course of the years. We've never been given any  
20 information from the plaintiff about what they propose to  
21 ask him, what he proposes to say about it, or what the  
22 basis is for him saying about it, giving the opinion.

23 THE COURT: I think Mr. Mathison admitted, I believe  
24 it was Tuesday, that he didn't know he was going to say  
25 either.

1 MR. MATHISON: I don't. All I know is that he's  
2 going to say that Maureen's symptoms are stress-related.  
3 And frankly, I didn't figure we'd be arguing about things  
4 of this detail of this magnitude, but we are.  
5 Consequently, the way I would put it is this. We made a  
6 production that was over a hundred pages of medical,  
7 which is what we had. The production consisted of  
8 documents that we can't use in front of the jury, because  
9 they are explanation of benefits, materials that came  
10 from Ms. Coffey's insurance.

11 THE COURT: Um-hmm.

12 MR. MATHISON: Andy then sent me a letter saying  
13 that he was going to serve every doctor with a subpoena  
14 and subpoena duces tecum for every record they had of  
15 financial.

16 THE COURT: Which is what you do in every case.

17 MR. MATHISON: And what they did is -- that's the  
18 record they subpoenaed.

19 THE COURT: Okay.

20 MR. MATHISON: Because we were sent copies of it.  
21 All right.

22 THE COURT: When did you send that subpoena, Mr.  
23 Halio? And where did you get the records from Dr.  
24 Dorsner?

25 MR. HALIO: I don't know what the date was.



1 THE COURT: I mean, are we talking about a year ago?  
2 Are we talking about three years ago?

3 MR. HALIO: It would have had to have been --

4 MS. JONES: Yeah, in 2011.

5 THE COURT: It was in 2011?

6 MS. JONES: Right. And there's nothing in the  
7 records that would indicate what, purportedly, I guess  
8 he's going to get on the witness stand and indicate now.  
9 There's nothing in the --

10 THE COURT: I guess my question to you is, is that  
11 there's nothing that would have prevented you that, had  
12 someone gone through and read his records, and obviously,  
13 not until he got to what -- arguably, if he even has  
14 records, where he says that there is some kind of stress.  
15 If someone had gone through and looked at it, then you,  
16 obviously, could have deposed him.

17 MS. JONES: Right. If we had known he was going to  
18 be asked as an expert what his opinion is.

19 THE COURT: And you want me to --

20 MS. JONES: But he would never --

21 THE COURT: And you only subpoenaed his records  
22 because Mr. Halio subpoenaed every doctor she listed that  
23 she had ever seen in the last five years.

24 MS. JONES: That's right.

25 THE COURT: Okay.

1 MR. MATHISON: And we --

2 MS. JONES: That's correct.

3 MR. MATHISON: There's ten pages of medical  
4 information.

5 THE COURT: I thought you listed --

6 MR. MATHISON: We also sent --

7 THE COURT: Correct me if I'm wrong. I thought you  
8 listed in your interrogatories you may call any and all  
9 treating physicians of Maureen Coffey. Did you not do a  
10 catchall? And quite frankly --

11 MR. MATHISON: Yes, there is. But it's at the  
12 bottom of our witness list, and not off the bottom of our  
13 expert witness list. It says that all of the physicians  
14 listed --

15 MS. JONES: Fact witnesses.

16 MR. MATHISON: -- in the subsequent paragraph may be  
17 called as witnesses.

18 THE COURT: Okay.

19 MS. JONES: Not as experts. Here's the answer to  
20 the expert witness question. There's nothing in there,  
21 other than saying they've not identified any expert, and  
22 they will supplement it if they do.

23 THE COURT: All right. Let's do this. Do you plan  
24 on bringing Dorsner today?

25 MR. MATHISON: I do. He would be --

1 THE COURT: What time is he going to be here?

2 MR. MATHISON: He's going to be here at 10:00 or  
3 10:30.

4 THE COURT: Is that going to be your next witness  
5 or?

6 MR. MATHISON: It would be if he gets here on time,  
7 yes.

8 THE COURT: Okay. What I'm going to do is this.  
9 And again, before you put him up on the stand -- you  
10 don't even know what he's able to say.

11 MR. MATHISON: I did speak to him yesterday, and  
12 this is what he's going to say. He's going to say that  
13 he treated Maureen on four or five occasions; that she  
14 complained of stress; that stress has certain  
15 manifestations; that the ones that she suffers from are  
16 stress-related. That's what he's going to say.

17 THE COURT: And is he going to say that this  
18 publication is, within a reasonable degree of medical  
19 certainty, this publication is one of the things that  
20 causes her stress?

21 MR. MATHISON: She did not disclose the publication  
22 to him. She just said she had stress.

23 THE COURT: Well then, when he gets here, we'll just  
24 go ahead and do a proffer, because I don't know how  
25 you're going to put that testimony in. I don't see how

1 it's relevant in any way unless he can say that this is  
2 one of the causes of her stress.

3 He says he'll state to a reasonable degree of  
4 medical certainty. I don't think he has to say most  
5 probably this is it. I don't think he has to reach that  
6 standard. But I think he has to be able to say, within a  
7 reasonable degree of medical certainty, this publication,  
8 this what's been going on, is a cause of her stress. And  
9 if he can't say that, I'm not sure how in the world  
10 you're going to claim damages, because you can't show  
11 causation.

12 MR. MATHISON: Well, I can ask him, your Honor.

13 THE COURT: Well, what we're going to do is this.  
14 When he comes, we'll take a break. And I'm going to let  
15 you all go talk to him and see what he says.

16 MR. MATHISON: Okay.

17 THE COURT: I think it might be a good time to just  
18 let you all go back and sit in the room. And we can  
19 certainly do it out here, but why not you all go back  
20 there and see exactly what it is. Figure out what he's  
21 going to say. We'll come up here and we'll do a proffer.  
22 And then, at that point, I'll decide whether or not he  
23 can testify. Okay?

24 Do you have any other medical experts coming?

25 MR. MATHISON: I could subpoena one.

1 THE COURT: I'm asking are you? Just not if you  
2 can, but are you.

3 MR. MATHISON: No, I do not.

4 THE COURT: Okay. So Mr. Mathison, am I correct  
5 that the counselor that saw Ms. Coffey did know about it?

6 MR. MATHISON: She did. She's got a policy, which  
7 they know about, where she doesn't come to court.

8 THE COURT: Okay.

9 MR. MATHISON: She makes her patients sign it.  
10 Consequently, if you serve a subpoena on her and drag her  
11 to court, there's no telling what she would say. But if  
12 we continue going down this road, we're going to call her  
13 and see if we can get her to come anyway.

14 THE COURT: I guess what I was just trying to figure  
15 out is --

16 MR. MATHISON: She does know what the stress is  
17 related to, your Honor.

18 THE COURT: Okay.

19 MR. MATHISON: I mean, she could testify to that.

20 THE COURT: Okay. Is the jury all here? No? Will  
21 you check for me?

22 You all, one thing I need on -- and if we could do  
23 it on the record or not on the record. I need someone to  
24 clarify, again, exactly what Mr. Kelley's role is for  
25 which organization and both. I understand that he is the

1       -- what I see to be the CEO Of CSA. But I need to know  
2       as far as the other property owners association. I  
3       understand Mr. Breed reports to him, but it's not really  
4       clear as to the other association that you're alleging,  
5       Mr. Mathison, that he wears the dual hats. It's not  
6       clear in his deposition. I'll put it that way.

7       MR. MATHISON: He's the --

8       THE COURT: So, can you maybe help me with that.

9       MR. MATHISON: He's the only administrator of the  
10      Association of Sea Pines Plantation Property Owners.  
11      They have one other employee, and that person is involved  
12      in covenant enforcement.

13      THE COURT: Okay.

14      MR. MATHISON: All right? There are only two people  
15      that are employed by the Association. The rest are all  
16      volunteers.

17      THE COURT: Okay. And that is the association that  
18      you are not required to be a part of.

19      MR. MATHISON: That's correct.

20      THE COURT: You're not required. You can join it if  
21      you want to.

22      MR. MATHISON: It's voluntary.

23      THE COURT: Okay. And how many people that -- never  
24      mind. Do they have their own board?

25      MR. MATHISON: They do.

1 THE COURT: They have their own board.

2 MR. MATHISON: They do. And --

3 THE COURT: And do any of their board members  
4 overlap between that and the CSA board?

5 MR. MATHISON: They do.

6 THE COURT: And who is on those boards?

7 MR. MATHISON: I'm not exactly certain as to the  
8 ASPPPPO members.

9 THE COURT: Okay. And also, too, my question is, is  
10 Mr. Kelley a voting member of CSA, or just an  
11 administrator?

12 MR. MATHISON: He's not. He's an administrator. He  
13 does not vote on the board.

14 THE COURT: Is he a voting member of the Association  
15 of Sea Pines Plantation Property Owners?

16 MR. MATHISON: To the best of my knowledge, I don't  
17 believe so, but I can confirm that, because I've got  
18 minutes of their meetings.

19 THE COURT: And quite frankly, I'm just still  
20 thinking for the civil conspiracy portion of it, in light  
21 of what I've read so far in Mr. Kelley's deposition.  
22 Okay. All right.

23 Is there going to be anything -- who do you  
24 anticipate putting up next, Mr. Mathison? I know you  
25 said Dr. Dorsner if he's here. But of course, I need to

1 give you all an opportunity to speak with him.

2 MR. MATHISON: Mr. Hulbert after Dr. Dorsner.

3 THE COURT: Mr. Hulbert. Okay. And is he here?

4 MR. HALIO: Your Honor, you remember we're in the

5 middle of a witness.

6 THE COURT: I know we are. I know it's after we

7 finish up with Florencio. Is she here? There she is.

8 Oh, the jury's all here. All right. Let's go. Perfect.

9 All right, Mr. Mathison, if you all are ready, the

10 defendants are ready, let's get going this morning.

11 BAILIFF: May I appreciate.

12 THE COURT: Yes, sir.

13 OFF-THE-RECORD DISCUSSION, OUT

14 OF HEARING OF JURY, BETWEEN THE

15 COURT AND BAILIFF.

16 MR. HALIO: Your Honor?

17 THE COURT: Yes, sir?

18 MR. HALIO: I May have jumped the gun a little bit.

19 I don't see the witness.

20 THE COURT: They told me she was here. MR.

21 HALIO: She is?

22 THE COURT: I thought they told me Florencio was

23 here. I discussed that.

24 MR. MATHISON: Trust me, I haven't spoken to her, so

25 I don't know.



1 THE COURT: Is she here to take the stand?

2 BAILIFF: No, your Honor.

3 THE COURT: Well, hold the jury back, then, a  
4 minute. She's not here. She's on the stand. I thought  
5 I just asked is Florencio here. I thought you all told  
6 me that she was. Hold on.

7 Good morning, Detective. Come on up.

8 MS. FLORENCIO: Do I need -- do I need to be sworn  
9 or anything?

10 THE COURT: What I'm going to do, Detective  
11 Florencio, is I'm just going to remind you in front of  
12 the jury that you're under oath. I'm not going to re-  
13 swear you.

14 MS. FLORENCIO: Okay.

15 THE COURT: I think we're fine. Okay?

16 MS. FLORENCIO: Okay. Thanks.

17 THE COURT: Just to let you know. Okay? I need you  
18 to just acknowledge, okay?

19 MS. FLORENCIO: Yes, ma'am.

20 THE COURT: Okay. Just go ahead and bring them now.

21 BAILIFF: The jurors are entering, your Honor.

22 JURORS ENTER COURTROOM 10:02 A.M.

23 BAILIFF: The jury is seated, your Honor.

24 THE COURT: Thank you. Good morning ladies and  
25 gentlemen. It's good to see you all. At this time we

1 Q Do you agree that Otis Coffey was a person worth  
2 looking at in the investigation?

3 A Yes, sir.

4 Q Let me hand you what has been marked as Defendants'  
5 Exhibit Number 4. Do you know what that is?

6 A It is a criminal history.

7 Q Is that something that you obtained as a result of  
8 your being in charge of this investigation?

9 A Yes, sir.

10 Q And who is that a criminal history of?

11 A This is the criminal history for Mr. Coffey.

12 Q Otis Coffey?

13 A Yes, sir.

14 Q All right. And would you tell the jury what you  
15 found when you pulled Otis Coffey's rap sheet?

16 A That he had been charged quite a bit of time ago with  
17 property crimes, but there was no convictions.

18 Q What property crimes are you talking about?

19 A He had been charged with burglaries, grand larcenies.  
20 I have to look back at the record. And also, substance  
21 abuse charges.

22 Q Okay. And when are the -- when are the dates of the  
23 charges? What's the stamp at the top of the charges in  
24 the document you're looking at?

25 A I believe that, through the deposition, we determined

1 A Yes, sir. It appears so.

2 Q The property crimes and the drug charges, correct?

3 A Yes, sir.

4 Q Okay. And you pulled this as part of your  
5 investigation, right?

6 A Yes, sir, I did.

7 MR. HALIO: Your Honor, this was previously been  
8 marked as Defendants' Exhibit Number 4 for  
9 identification. We would now move to admit it into  
10 evidence.

11 MR. MATHISON: I don't object.

12 MR. HALIO: No objection.

13 MR. MATHISON: No.

14 MR. HALIO: Without objection.

15 THE COURT: Without objection.

16 COPY OF DOCUMENT REFERRED TO AS  
17 CRIMINAL RECORD OF OTIS COFFEY  
18 MARKED DEFENDANTS' EXHIBIT  
19 NUMBER 4, ADMITTED AS EVIDENCE.

20 BY MR. HALIO:

21 Q As a result of that, you felt like he was a person  
22 worth looking at, correct?

23 A Yes. A person of interest, yes.

24 Q All right. Now, with regard to the chase between Mr.  
25 Jolin and the person on the bicycle on May 20, 2008,

1 A Well, we still, to this day, have similar cases.  
2 Q But this particular pattern, this particular cluster  
3 of activity, stopped.  
4 A I closed out all my case files.  
5 Q You closed out your case file.  
6 A Yes, sir.  
7 MR. HALIO: Thank you, ma'am.  
8 MEREDITH FLORENZIO  
9 RE-DIRECT EXAMINATION, MR. MATHISON:  
10 Q Just a few quick questions on redirect, Ms.  
11 Florencio. You went through Mr. Coffey's record. And is  
12 there any indication of a property crime, like breaking  
13 and entering or burglary, since 1992?  
14 A No, sir.  
15 Q So roughly 20 years ago?  
16 A Yes, sir.  
17 Q And the 1992 charges that were brought against him,  
18 were they dismissed?  
19 A Yes, sir.  
20 Q So effectively, we're looking for someone who engages  
21 in burglary, if at all, in 1992, and evidently  
22 successfully enough that it was dismissed in 1992, and  
23 nothing in the interim. Is that right?  
24 A Yes, sir.  
25 Q Is there anything in Mr. Coffey's criminal record

1     that even suggests that he was a peeper, or that there  
2     was some sexual proclivity for the crimes that he was  
3     committing?

4     A    No, sir.

5     Q    At all?

6     A    No.

7     Q    Is that correct?

8     A    No, sir.

9     Q    Why would he be a suspect in peeper cases?

10    A    Because the peeper cases, there was also burglaries  
11    and property crimes. So we just actually pulled everyone  
12    that we had that had any type of history on, because we  
13    had no suspects at that time. So he was just a person of  
14    interest like everyone else.

15    Q    Okay. In response to Mr. Halio's question, did you  
16    mean to limit yourself in terms of what you were in  
17    charge of in this investigation? It wasn't just property  
18    crimes; was it?

19    A    Correct.

20    Q    It also was the peeper cases.

21    A    Yes, sir.

22    Q    Do you know whether Mr. Breed had a theory that the  
23    peeper cases were related, because the peeper was just a  
24    burglar looking for places to break in the next time?

25    A    I believe in one of the emails that is mentioned.

1 Q Is that your experience, that peeping Toms and  
2 burglars are one in the same?

3 A I can't answer that.. I mean --

4 Q Well, have you ever arrested somebody who was both a  
5 burglar and a peeping Tom?

6 A No, sir.

7 Q I believe you said that you thought that Mr. Coffey  
8 was the person that should have been investigated. Were  
9 the other six people on the list that Mr. Breed submitted  
10 to you people that you thought should be investigated,  
11 too?

12 A Yes.. I did the same thing for everybody.

13 Q So everybody was basically fed from the same spoon.

14 A Yes, sir. I -- I looked at everybody just to see if,  
15 in our internal system, if we've had contact with him.  
16 And I did the same thing for everybody.

17 Q Did Mr. Breed submit a list with names and addresses  
18 of every single property owner in Sea Pines Plantation to  
19 you?

20 A I did have a disk, yes.

21 Q Was that for purposes of investigating these crimes?

22 A Actually, a lot of times, when we had burglaries, we  
23 can never get a hold of the homeowners. So it was very  
24 helpful if we could not get in touch with them to be able  
25 to have that information.

1 Q Did you ever investigate any of the 6,000 homeowners  
2 that he gave you their --  
3 A No, sir.  
4 Q -- addresses and phone number to?  
5 A No, sir.  
6 Q What was the point of giving you the C.D. full of all  
7 these names and addresses?  
8 A So if we had burglaries and we couldn't reach  
9 somebody, if there was unsecure premise, we could  
10 actually know the names of the owners of the residence,  
11 maybe get in contact with them.  
12 Q When I asked you during the deposition about this,  
13 didn't you indicate that that was so that you could  
14 investigate them, if and to the extent they were  
15 suspects?  
16 A I -- I don't know, sir. I'd have to look back at the  
17 deposition.  
18 Q Didn't you also tell me that, when the case was  
19 closed, the C.D. should have been destroyed to remove any  
20 evidence that the owners in Sea Pines, 6,000 strong, were  
21 somehow under investigation?  
22 A I would have to look at the deposition again.  
23 Q Have you, in fact, destroyed the C.D.?  
24 A The C.D. stayed with the case file, which was secured  
25 in my office.

1 Q So it's still there?

2 A Yes, sir.

3 Q I'm handing you what has been identified as

4 Plaintiff's Exhibit 11, which I believe is the copy of

5 the report that you prepared, the revised report.

6 A Yes, sir.

7 Q And I'm asking you to put it side by side with the

8 copy that Mr. Jolin prepared. I believe you said that

9 you made a number of changes in the second page. Is that

10 correct?

11 A Not a number. Just a couple changes.

12 Q What was the most important change you made on the

13 second page?

14 A How his identification of Otis Coffey.

15 Q And is it the portion of that page that's

16 highlighted?

17 A Yes, sir.

18 Q Would you read that?

19 A *I identified the black male subject as Otis Coffey,*

20 *due to having much contact with him while I was working*

21 *the front gate at Sea Pines for two years.*

22 Q And that doesn't appear in the other report; does it?

23 A No, sir.

24 Q And your report, on the first page, also differs;

25 does it not? I'd ask you to come down, if you would, so



1       that you can look at this and show it the jury. We're  
2       probably going to need a copy of the report.

3               *Suspicious activity* appears on the top of Mr.  
4       Jolin's report where it says *crime*. That's not a crime,  
5       right?

6       A    No, sir.

7       Q    So, if you're a suspect for suspicious activity,  
8       you're suspected of being suspicious.

9       A    Yes, sir.

10      Q    Okay. What appears on the top of your report?

11      A    The suspicious activity and fleeing to evade arrest  
12      or detention.

13      Q    That appears right there; isn't that right?

14      A    Yes, sir.

15      Q    On your report. And is fleeing to evade arrest or  
16      detection a crime?

17      A    Yes, sir.

18      Q    So whoever changed the front page, turned this from  
19      incident into a crime; didn't they?

20      A    Correct.

21      Q    And to be suspected of a crime is different than  
22      being suspected of suspicious activity. Isn't that  
23      right?

24      A    Correct.

25      Q    Did you, in fact, change the first page of that

1 report?

2 A I'm -- I'm confused, because of the depositions that  
3 we did that you guys said that Jolin put the information  
4 here. So I don't really --

5 Q You don't know whether you changed it?

6 A I don't remember putting that in.

7 Q What about the times that are on the two of them?

8 A Again, I don't -- I don't remember if I did that --  
9 anything to the first page.

10 Q On Mr. Jolin's, what's the time indicated as the  
11 inception of the report?

12 A 0011 hours.

13 Q That would be eleven minutes after midnight?

14 A Yes, sir.

15 Q And what time did he close it out?

16 A 1:11 p.m.

17 Q All right. And what is the inception on the second  
18 one?

19 A It just has a beginning time of eleven minutes after  
20 twelve.

21 Q And no ending.

22 A Yes, sir.

23 Q So, do you know whether this report with both of the  
24 two suspicious activity and fleeing to avoid arrest or  
25 detention is, in fact, the report that the Beaufort

1 County Sheriff's Office has?

2 A This is the report, yes, that we have.

3 Q And this is the one that, but for the fact that you

4 can't remember writing the crime at the top of it, --

5 A Correct.

6 Q -- is the one that you prepared. Is that right?

7 A That I left in his office, yes.

8 Q And that somebody from Sea Pines Security sent over

9 to Beaufort County Sheriff Office.

10 A Yes, sir.

11 MR. MATHISON: Thank you.

12 THE COURT: Mr. Halio.

13 MR. MATHISON: Thank you, Ms. Florenzio.

14 MEREDITH FLORENZIO

15 RE-CROSS-EXAMINATION, MR. HALIO:

16 Q Real quick. Mr. Mathison asked you a question about

17 a C.D. of property owners' names that were sent over to

18 you, and suggested that Chief Breed wanted you to

19 investigate 6,000 property owners? That wasn't why it

20 was sent over; was it?

21 A Not -- not that I believe, sir.

22 Q That would be ridiculous; wouldn't it?

23 A Yes, sir.

24 Q It was sent over to help you in case there was a

25 problem in one of the properties, right?

1 A From what I remember, yes.

2 MR. HALIO: Thank you, ma'am.

3 THE COURT: Anything further, Mr. Mathison?

4 MR. MATHISON: No, your Honor.

5 THE COURT: Any objection to Detective Florencio

6 being excused, so she can go back to her vacation?

7 MR. HALIO: None from the defense.

8 THE COURT: From the plaintiffs? All right. You

9 are excused.

10 MS. FLORENZIO: Thank you, ma'am.

11 BY THE COURT:

12 THE COURT: Ladies and gentlemen of the jury, we are

13 going to take a brief recess at this time. Again, do not

14 discuss this case. It wouldn't be appropriate to do so

15 at this time. I will get back with you. You are welcome

16 when you come back to bring water or coffee, whatever you

17 need, into the courtroom.

18 Again, go ahead and please excuse yourself and we'll

19 be with you shortly. Thank you.

20 JURORS LEAVE COURTROOM 10:37 A.M.

21 BAILIFF: The jury is clear. The door is closed,

22 your Honor.

23 THE COURT: We're going to at ease for about ten

24 minutes, so.

25 OFF THE RECORD 10:40 A.M.

1 BACK ON THE RECORD 10:54 A.M.

2 BY THE COURT:

3 MR. MATHISON: We know what he's going to say, and  
4 we're prepared to make a proffer if you want to listen,  
5 your Honor.

6 THE COURT: Okay. Mr. Halio, come on forward. Do I  
7 need to wait for Ms. Jolley, you think, or are we okay?

8 MS. JONES: We're fine.

9 THE COURT: Okay. Ms. Jones, you're handling it?

10 MS. JONES: Yes.

11 THE COURT: All right. Just going to make a  
12 proffer? Okay. Dr. Dorsner, come on up. We're going to  
13 swear you in.

14 WITNESS SWORN.

15 THE COURT: This is Dr. David Dorsner, for the  
16 record. And this is a proffer.

17 MR. MATHISON: May it please the Court. For  
18 purposes of this proffer, he's a qualified medical  
19 doctor. He's a physician licensed to practice in South  
20 Carolina.

21 THE COURT: Dr. Dorsner, are you a general  
22 practitioner or are you a -- what are you, again?

23 DR. DORSNER: I'm -- I do urgent care. I've done  
24 20-some years. Board-eligible in emergency medicine.

25 THE COURT: Emergency medicine. Thank you. That's

1       what I want.

2           DR. DORSNER:   Yes.

3           THE COURT:   Okay.   Sorry.   Go on.

4           DAVID DORSNER, M.D., PROFFER

5           DIRECT EXAMINATION, MR. MATHISON:

6       Q    Doctor, where do you practice?

7       A    I practice at Cross Island Medical Center, which is  
8       157 William Hilton Parkway, Hilton Head, South Carolina.

9       Q    Have you seen my client, Maureen Coffey?

10      A    Yes, I have.

11      Q    Did you commence treating her at least as far back as  
12      2008?

13      A    Yes, I have.

14      Q    Has Ms. Coffey come to you complaining of stress?

15      A    Yes, sir.

16      Q    Do you know what her symptoms of stress are?

17      A    Yes, I do.

18      Q    Can you tell the Court what stress has been  
19      manifested in Ms. Coffey?

20      A    Basically, three items:  headaches, weight gain, and  
21      neuropathy.

22      Q    Neuropathy, for those of us like me who don't  
23      understand these things, is facial numbness.  Would that  
24      be what that is?

25      A    Facial numbness.  Matter of fact, they extend it to

1 I wouldn't be sleeping at night. Headaches, yes, of  
2 course. You know, it's a personal attack on your  
3 character that you would experience as judge.

4 THE COURT: Right.

5 DR. DORSNER: Knowing it not to be true, knowing  
6 that that's your job.

7 THE COURT: What my question becomes -- and this  
8 makes it a little more difficult. How would anyone in  
9 any case prove that stress is related -- or the stress  
10 that they're suffering from is caused by a specific  
11 incident? Because the simple fact is, you would always  
12 state that there are other causes or pre-existing causes,  
13 because everyone -- everyone undergoes stress, because no  
14 one lives in a bubble. They have families; they have  
15 marriages; they have jobs.

16 I guess my question is, is what is required, and has  
17 anyone done the research, what is required? I think it  
18 would be one thing when we're talking about causation of  
19 you were in an automobile accident; you are, you know,  
20 pushed back, forward, and you go to the emergency room  
21 complaining of soft tissue injury. That, I think, is  
22 easier for you to say, well, if you were in an auto  
23 accident this time, and two hours later you were  
24 suffering from this problem, and you didn't have it  
25 before, I think you can pretty easily say that, yes, the

1 result of that trauma is what's causing the pain.

2 I'm not so sure, though, in a case such as stress,  
3 if any doctor could ever say, could ever say that. But  
4 of course, we allow the complaint and the damages of  
5 stress in cases. So I'm trying to figure out has anyone  
6 done any research?

7 MR. HALIO: Your Honor, I think what you've hit on  
8 is that we've got the wrong field here. You need to have  
9 a psychologist, is what you need. I think that's how you  
10 would prove it.

11 THE COURT: It really -- all he's doing is verifying  
12 that she complained of stress. And quite frankly, I  
13 don't think -- I don't think that the bill, of course,  
14 would be appropriate in this case as a piece of damage  
15 for \$146.00 for her visit to him, because he can't say  
16 that this incident did it. So I don't think that would  
17 be appropriate.

18 The question becomes is, then, can he testify that  
19 she complained about the stress and -- I don't know that  
20 it -- I tend to agree with Mr. Halio. I think what we  
21 need is Dr. Geiger. I'm just not so sure that -- I'm not  
22 so sure that we want to ride this on this.

23 MR. MATHISON: Well then, I'll serve a subpoena on  
24 Dr. Geiger, and we'll see what we get.

25 THE COURT: Do whatever you do.



1 MR. MATHISON: All right.

2 THE COURT: Okay. All right. Well, we've made the  
3 proffer. At this point, I just, Dr. Dorsner,  
4 respectfully, -- obviously, I know you and I know you are  
5 a respected and good doctor. Literally, the standard, as  
6 you understand, is I have to have you to be able to say  
7 within a reasonable degree of medical certainty that your  
8 treatment was caused as a result of the publication of  
9 this letter, and that's where I'm having the hard part.

10 DR. DORSNER: I didn't even know it existed, so.

11 THE COURT: And that's kind of where we are.

12 DR. DORSNER: Um-hmm.

13 THE COURT: Which makes it a bit difficult for me.

14 DR. DORSNER: I understand.

15 THE COURT: And I just think it's a bit of a  
16 stretch, particularly when she didn't tell you that. I  
17 think it would be one thing, and I think you could  
18 surmise if she had related to you, but she did not.

19 DR. DORSNER: Yeah.

20 THE COURT: So, at this point, I'm not going to  
21 allow him to testify. Okay. So I'm going to go ahead  
22 and excuse Dr. Dorsner, and release him from the  
23 subpoena. I appreciate you being here, sir.

24 DR. DORSNER: Thank you.

25 THE COURT: Thank you.

1 MR. MATHISON: Thank you, Doctor.  
2 THE COURT: Subject to your objection, Mr. Mathison.  
3 MR. MATHISON: I understand.  
4 THE COURT: Okay.  
5 MS. JONES: I'm just going to get the medical  
6 records back.  
7 THE COURT: Sure. Mr. Mathison, you can also tell  
8 Dr. Geiger that if she really does have a problem with  
9 this, I understand what her policy is, from what you've  
10 just told me; you might want to explain to her that as  
11 far as the subpoena, she is required to come and the  
12 judge will have to set it up if you need to go get her or  
13 him or whatever if she doesn't come. I'd maybe suggest  
14 your client call her, as well.  
15 MS. COFFEY: I already did.  
16 THE COURT: Okay.  
17 MR. MATHISON: She's been called on multiple  
18 occasions.  
19 THE COURT: Okay. All right. Where are you going  
20 next?  
21 MR. MATHISON: I was going to Mr. Hulbert, but I  
22 need just a moment if you wouldn't mind.  
23 THE COURT: Sure. We'll take five minutes and then  
24 we'll go. Okay?  
25 OFF THE RECORD 11:19 A.M.

1 BACK ON THE RECORD 11:35 A.M.

2 BY THE COURT:

3 THE COURT: I will tell you Mr. Mathison, my law  
4 clerk is continuing to do some research on our issue with  
5 Dr. Dorsner.

6 MR. MATHISON: May it please the Court.

7 THE COURT: So, if anything comes differently and I  
8 change my mind, we'll let you know.

9 MR. MATHISON: Not to beat a dead horse, but when I  
10 talked to Dr. Dorsner initially, he said that as a result  
11 of the business reversal, he knew that he could say to a  
12 substantial medical certainty that this sort of  
13 embarrassing occurrence -- I don't want to say what the  
14 occurrence is --

15 THE COURT: I know what it is, but I have a hard  
16 time believing Dr. Dorsner has to get up here and talk  
17 about that in front of a jury and somehow relate his  
18 experience to Judge Coffey's experience.

19 MR. MATHISON: I understand.

20 THE COURT: Okay.

21 MR. MATHISON: Your Honor, before we bring the jury  
22 back, Mr. Halio addressed one of the matters, which is  
23 the Hall case, with respect to whether I could go into  
24 that. And there's another case that I believe that I am  
25 going to go into, and I want to make sure that this does

1 not violate your order.

2 In the deposition testimony of Mr. Breed and Mr.  
3 Kelley that I'm going to read into the record, I asked  
4 them specifically whether there was a program ongoing  
5 where they had their security company writing tickets,  
6 and effectively not crossing those tickets in return for  
7 contributions to the Sea Pines Museum and Forest Preserve  
8 Foundation.

9 The witness I'm putting up did, in fact, become  
10 aware that there was an ongoing situation where tickets  
11 were being not crossed and contributions were being made.  
12 And as a consequence, he went to see Mr. Kelley and told  
13 him that it had to stop. And in depositions, Mr. Kelley  
14 denied that he had the meeting. He denied that he knew  
15 anything about it. Mr. Breed denied there was a meeting,  
16 or that he knew anything about it.

17 One of the documents that I --

18 THE COURT: So you asked both of them about it in  
19 their depositions?

20 MR. MATHISON: That's correct. And I'm going to ask  
21 the jury to listen to it. And this witness has the  
22 evidence that would contradict what they said in their  
23 depositions, because he has a copy of a letter written by  
24 Mr. Kelley, where the money is sent back to the person  
25 who made the contribution in lieu of paying the ticket.

1 THE COURT: I'd love to see the letter. The only  
2 problem I have with that -- I think it's fair game. My  
3 question just becomes you tend to be putting the cart  
4 before the horse in all of this. I understand you intend  
5 on reading their deposition, but typically, you would be  
6 able to use that as rebuttal testimony, and then there  
7 would be no issue about whether or not he has listed them  
8 as a witness.

9 MR. MATHISON: There's no issue about listing  
10 witnesses.

11 THE COURT: You listed this person as a witness?

12 MR. MATHISON: Yes, ma'am.

13 THE COURT: Okay.

14 MR. MATHISON: Disclosed in the 34 pages of answers  
15 to interrogatories.

16 THE COURT: What is the first -- what is the first  
17 piece of paper? I can't quite tell what it is. I see  
18 the letter from the attorney, but.

19 MR. MATHISON: There's also a letter from Mr. Kelley  
20 in response.

21 THE COURT: I'm sorry. That's what I needed to see  
22 I just -- I didn't know what the first one was. Hang on  
23 a second. Well, here's a letter from the Forest Preserve  
24 to Mr. Kelley sending it back saying we're not accepting  
25 it; it's not appropriate.

1 MR. MATHISON: That's after the conversation with  
2 Mr. Hulbert.

3 THE COURT: Okay. What conversation, again, with  
4 Mr. Hulbert?

5 MR. MATHISON: Mr. Hulbert became aware that this  
6 was a problem. He was instructed by the Town to go down  
7 and talk to Mr. Kelley. Mr. Kelley said that he would  
8 investigate; and that as a product of the investigation,  
9 if there was a problem, they would, effectively, restore  
10 the money and not for the tickets. And I believe they  
11 did that. Those are Mr. Hulbert's notes.

12 But in the deposition, they denied any knowledge of  
13 the incidents; said it didn't happen.

14 MR. HALIO: Well, actually, he specifically said I  
15 don't recall this.

16 MR. MATHISON: Which one?

17 MR. HALIO: Mr. Kelley.

18 THE COURT: Do you have any testimony from any  
19 deputies, Mr. Mathison, that this has occurred more than  
20 this one single time?

21 MR. MATHISON: From the deputies?

22 THE COURT: I'm sorry. Not deputies. I apologize.  
23 Security guards.

24 MR. MATHISON: No, but I didn't plan on asking the  
25 security guards that did that, since they say it's an

1 isolated instance. The exact deposition testimony,  
2 reading from Mr. Kelley's deposition is the following:

3 THE COURT: I say that he -- I hear he denies it; I  
4 hear Mr. Breed denies it; and in the letter from Brian  
5 Hulbert to Greg DeLoach and Tom Fultz, he says that  
6 management at CSA wasn't aware of it. So my question is,  
7 how are you going to prove that they were aware or knew  
8 of it when they --

9 MR. MATHISON: That's because management said they  
10 weren't aware of it.

11 THE COURT: Okay. Management what?

12 MR. MATHISON: Management said they weren't aware of  
13 it when they responded to Mr. --

14 THE COURT: That's what I'm saying. So how are you  
15 going to prove it, is my point, again.

16 MR. MATHISON: They denied that the conversation  
17 took place with Mr. Hulbert.

18 THE COURT: Oh, in his deposition, he totally denies  
19 that ever occurred; that this ever happened.

20 MR. MATHISON: Yes.

21 THE COURT: Is that what you're saying?

22 MR. MATHISON: Yes. During 2008 --

23 THE COURT: Who is that? Mr. Kelley and Mr. Breed?

24 MR. MATHISON: One says he didn't recall. The other  
25 says that it didn't happen.

1 Mr. Kelley's deposition, Page 129:  
2 During 2008 and 2008 --  
3 THE COURT: Okay.  
4 MR. MATHISON: Was Sea Pines Security not prossing  
5 tickets written in Sea Pines in return for a  
6 contribution to the person who otherwise would  
7 have received the tickets to the Forest  
8 Preserve or Museum Foundation?  
9 Answer: Not to my knowledge, no.  
10 Do you recall having a meeting with a gentleman  
11 by the name of Brian Hulbert at your office at  
12 CSA?  
13 No, I do not.  
14 THE COURT: Can I just ask you a quick question.  
15 MR. MATHISON: Sure.  
16 THE COURT: Just so I know. I haven't read Breed's  
17 deposition yet. Is he denying any wrongdoing in any way?  
18 Does he completely support what was done? Because it  
19 appears that Mr. Kelley does in his deposition, and I've  
20 read enough to know that.  
21 MR. MATHISON: Mr. Breed acknowledges no wrongdoing.  
22 THE COURT: Okay. Okay. I'm going to give this  
23 back to you and let you go into it.  
24 MR. MATHISON: Thank you.  
25 THE COURT: Anything else?



1 MR. MATHISON: No. But I felt that we needed to  
2 discuss that.

3 THE COURT: And I appreciate that, because I am  
4 confident they would have objected to it, so. And I am  
5 going to, subject to your objection, I am overruling it.  
6 I will allow that to go in.

7 MR. HALIO: And just for the record, your Honor, as  
8 I understand it, Mr. Mathison is offering that just for a  
9 sort of a general bad faith, in generality, just --

10 THE COURT: He's using it for impeachment purposes.

11 MR. HALIO: For impeachment?

12 THE COURT: Correct?

13 MR. MATHISON: Yes.

14 THE COURT: For impeachment purposes. MR.

15 HALIO: Well, it's our position that the letter is not  
16 relevant to any issue in this case, and that, you know,  
17 allowing it for impeachment purposes, would be far too  
18 prejudicial. The prejudice would way outweigh the  
19 probative value.

20 THE COURT: Okay. Well, respectfully, I disagree.  
21 Under Rule 403, I think the probative value outweighs any  
22 prejudice. If he flat out denied it ever occurred, I  
23 think it can be used for impeachment purposes. So, he'll  
24 be allowed to use it.

25 Anything else? Are we ready to go?

1 MR. MATHISON: I'm ready.

2 THE COURT: Okay. Well, let's call your next

3 witness. Well, let's bring the jury in first.

4 BAILIFF: Jurors entering, your Honor.

5 JURORS ENTER COURTROOM 11:45 A.M.

6 THE COURT: Welcome back, ladies and gentlemen. Mr.

7 Mathison, will you call your next witness, please.

8 MR. MATHISON: I would call Tom Fultz to the stand,

9 please. Excuse me. I would call Brian Hulbert to the

10 stand.

11 THE COURT: All right. Mr. Hulbert, come on forward

12 and be sworn, sir.

13 WITNESS SWORN.

14 BRIAN HULBERT: Good morning, your Honor.

15 THE COURT: Good morning, sir.

16 BRIAN HULBERT

17 DIRECT EXAMINATION, MR. MATHISON

18 Q State your name for the record, please.

19 A Yes, sir. My name is Brian Hulbert.

20 Q And how old are you, Mr. Hulbert?

21 A I'm 53 years old.

22 Q And where do you reside?

23 A I reside here in Beaufort on Lady's Island.

24 Q What is your occupation?

25 A I'm an attorney, and I'm currently employed with the

1 Town of Hilton Head Island as the staff attorney and town  
2 prosecutor.

3 Q And just so the jury gets some idea, what do you do  
4 in your capacity as town prosecutor?

5 A As the town prosecutor, which is about anywhere from  
6 10 to 15 or 20 percent of my job, I'm charged with  
7 prosecuting the jury trials for simple possession of  
8 marijuana, for criminal domestic violence, and for DUI  
9 cases. I also assist deputies in other cases when they  
10 ask for my assistance.

11 Often, if there's an attorney they're going up  
12 against, or if they're a new deputy and they've not  
13 prosecuted a case or a jury trial, they ask for my  
14 assistance, and I'll assist them and teach them how to  
15 prosecute a case.

16 Q For those on the jury who don't go to court, it is  
17 true that, in most misdemeanor cases, officers, including  
18 security officers, make their own case and prosecute it  
19 themselves. Is that right?

20 A In better than 95 to 97 percent of the cases that's  
21 true.

22 Q But people that need help, you're available to help  
23 if they require.

24 A Either to advise them or to assist them in trial.

25 Q And with respect to the other duties that you have,

1       what do you do as the counsel for the Town of Hilton  
2       Head?

3       A    As the staff attorney for the Town of Hilton Head, I  
4       provide legal advice to the town manager, the assistant  
5       town manager, the department heads, and the staff for the  
6       town on various topics.  It's very broad-ranged.  It  
7       could be on land management.  It could be on  
8       environmental law.  It could be on contracts.  I review  
9       contracts on a regular basis.  It just -- it covers  
10      ethics.  It covers the whole gamut.

11           Additionally, the code enforcement officers work for  
12      me, under my supervision, and they're responsible for  
13      enforcing our municipal code and our land management  
14      ordinance within the town.

15      Q    Do you recall events that occurred to Maureen Coffey  
16      on our about June 24th through 26th of 2008, as a  
17      consequence of having received a letter from the  
18      grievance committee?

19      A    Do I recall the consequences or the incident, you are  
20      asking?

21      Q    Yes.  Do you recall what happened after she received  
22      the letter?

23      A    I recall some of it.  Some of it of what I'm aware  
24      of.

25      Q    Well, do you recall talking to Maureen Coffey shortly

1 after she received the letter?

2 A Yes.

3 Q And do you know whether that was in late June of  
4 2008?

5 A I believe it was.

6 Q Would you tell the Court what Ms. Coffey said and  
7 what you said in response to the initial contact by her  
8 about this letter?

9 A Yes. I was at home. I believe it was in the  
10 evening, if I recall correctly. And I got a call from  
11 Ms. Connie Pratt, who is a code enforcement officer that  
12 works for me. And she said that she needed my phone  
13 number to give to Maureen Coffey, our judge, because she  
14 had to call me, and that she had an ethics complaint. I  
15 told -- I gave Connie the number that she called me at,  
16 but I told her that I couldn't help her; that I'd been  
17 informed that I could not assist her because it was  
18 something that had been determined that was in her  
19 personal capacity as an individual and not as a town  
20 employee; so as a town employee, we weren't providing  
21 assistance to assist her.

22 Q Okay. So would it be safe to say that, when she  
23 called you to ask for your assistance, you already knew  
24 that there was an ethical complaint pending against her?

25 A Well, I knew that one may be submitted and coming

1 down the pike. I didn't know for sure.

2 Q Okay. And how long before Ms. Coffey called you and  
3 asked for your help did you know that an ethical  
4 complaint was coming down the pike?

5 A I don't recall specifically if it was a couple of  
6 days or a week or a week and a half. It was a very short  
7 period of time.

8 Q When you learned that this ethical complaint was  
9 coming, from whom did you learn it?

10 A From my direct supervisor, the assistant town  
11 manager.

12 Q And the assistant town manager in this instance that  
13 we're referring to is Greg DeLoach. Is that correct?

14 A Yes, sir. That's correct.

15 Q And how did this conversation come up where Mr.  
16 DeLoach told you that he knew that a grievance was coming  
17 against Judge Coffey?

18 A It -- just one of the matters where we have frequent  
19 discussions, given my job and his job, and he just  
20 mentioned that something may be coming down the pike. I  
21 don't recall if he said it was an ethics complaint or  
22 not. I believe he did, but I don't recall specifically.  
23 But that he didn't believe that it was in her employment  
24 capacity, and so, we weren't making me available to  
25 assist her as the staff attorney for the town to defend

1 the action.

2 Q Did you get the impression, since he had made an  
3 evaluation of the claim and decided that it was personal  
4 and not professional, that he'd actually read the  
5 complaint?

6 A Well, I presumed as much. I don't know that he told  
7 me whether or not he had read it or not, but I presumed  
8 that, if he had made the determination, uh, --

9 Q Be a little difficult to make that determination  
10 without reading it.

11 MR. HALIO: Objection to speculation.

12 THE COURT: Okay. Ask the question.

13 BY MR. MATHISON:

14 Q Did Mr. DeLoach show you the complaint?

15 A No, he did not. I've never seen the complaint; I've  
16 never read the complaint; and never had the complaint  
17 read to me.

18 Q What was Maureen Coffey's demeanor when she was  
19 talking to you on the telephone the first time?

20 A Well, she was very upset, emotionally unstable, I  
21 guess, is how I would characterize it. She was  
22 trembling. I could tell that she was probably crying.  
23 She was upset, as I presume any attorney would be that  
24 gets a complaint such as that.

25 Q Did Ms. Coffey continue to ask for your help or not?

1 A Well, she did ask if I could assist her. I explained  
2 that I couldn't. And then, she did persist on the phone.  
3 And then, I believe the next day and probably over the  
4 course of the next couple of weeks, numerous occasions  
5 asking me if she could read it to me, or attempting to  
6 get me to read the complaint, so that she could show that  
7 it was work-related, and that the Town should assist her  
8 in defending the action. On each occasion I refused to  
9 listen or to read it, or to take the complaint and assess  
10 it.

11 Q So from a practical standpoint, you didn't know that  
12 the complaint was -- did you know it was from the  
13 Commission on Judicial Conduct, as opposed to from the  
14 grievance committee for attorneys?

15 A I did not.

16 Q Did you know that George Breed was the signer of the  
17 complaint?

18 A I don't know if I did or not.

19 Q Did Mr. DeLoach tell you anything about the  
20 complaint, other than the fact that it was *coming down*  
21 *the pike*, and you weren't allowed to help Maureen?

22 A He did not.

23 Q Had you known it was from the Commission on Judicial  
24 Conduct, and that she was being, essentially, attacked in  
25 her capacity as a judge, would it have been difficult to



1 reconcile that with the fact that someone thought it was  
2 personal as opposed to professional?

3 A Well, it may be, but again, my supervisor is my boss.  
4 He assigns my duties, and he can have me work on what he  
5 wants to. And he's an attorney. And as a supervising  
6 attorney, I trust his judgment to assess something of  
7 that nature. And if that's the determination, then the  
8 Town's not going to provide that sort of defense. It's  
9 not for me to question that.

10 Q Do you know whether other people at the Town were  
11 shown the letter that you didn't see, specifically, the  
12 other town managers, namely, Curtis Coltrane and Steve  
13 Riley?

14 A I've been told that by Judge Coffey. MR.  
15 HALIO: Objection. Objection. Hearsay.

16 THE COURT: Okay. If you know it of your own  
17 independent knowledge, you can testify to it. If you  
18 don't, then you can't answer.

19 MR. MATHISON: May it please the Court. I think  
20 this is -- I'm not exactly certain what he's going to  
21 say, but I think this is something that I either have a  
22 witness that I can bring in. If it's defamation, I  
23 believe that dealing with it as an act --

24 THE COURT: With the publication?

25 MR. MATHISON: Yes.

1 THE COURT: Do you have that person coming that's  
2 going to testify?

3 MR. MATHISON: I don't know what he's going to say.  
4 I mean, I honestly don't know the answer to that  
5 question.

6 THE COURT: And you heard this from someone else?

7 A Yes, your Honor.

8 THE COURT: So did you hear it from the person who  
9 actually saw it, or was it someone who said they saw it?

10 A I never had a conversation with that person.

11 THE COURT: With that person. Okay.

12 A On that topic.

13 THE COURT: On that topic. Okay. I'm not going to  
14 allow it.

15 BY MR. MATHISON:

16 Q Mr. Hulbert, during your succeeding encounters with  
17 Ms. Coffey, how did she react to the pendency of this  
18 complaint against her?

19 MR. HALIO: Your Honor, I think I need to object to  
20 that. Didn't we establish earlier that this is a  
21 privileged matter, and that how she reacted to that is  
22 irrelevant?

23 THE COURT: Overruled. You can go ahead.

24 BY MR. MATHISON:

25 A On every occasion where she specifically attempted

1 to, I guess I would say, redeem her character based on  
2 the allegation against her, to me, to get me to read that  
3 complaint, she was clearly very emotional about it, very  
4 upset. I would say that she was a -- a broken woman, I  
5 guess is how I'd describe it. And she was walking on egg  
6 shells. She'd lost her confidence. It was not the same  
7 Judge Coffey that I had known for the couple of years  
8 before that.

9 Q Did you think that she was under stress?

10 A Oh, there's not doubt about it, and she took it out  
11 on me on a regular basis in court.

12 Q So you had ample opportunity to observe her in the  
13 weeks and months that ensued after June of 2008?

14 A Yes, sir.

15 Q And her demeanor was as you've described?

16 A Yes, sir.

17 Q Mr. Hulbert, did anybody ever tell you that the Breed  
18 letter, the complaint that was engendered in the Breed  
19 letter, was dismissed by the Commission on Judicial  
20 Conduct?

21 A Yes. I believe Judge Coffey informed me of that  
22 after it occurred.

23 Q Did her outlook improve once it was dismissed?

24 A Well, she was relieved to a degree; there's no doubt  
25 about that. She's still not the same person that I knew

1     when I first started with the Town, but clearly, a great  
2     relief. And she didn't have the emotional breakdowns as  
3     regularly as what she did while that was going on.

4     Q   When you say she's not the same person, what is it  
5     that's different now, that you can recall from the days  
6     before Mr. Breed unleashed this document?           MR.

7     HALIO: I just need to make another objection for the  
8     record on the grounds that we're dealing with a  
9     privileged matter, and it's irrelevant.

10        THE COURT: Overruled.

11        BY MR. MATHISON:

12     A   She doesn't have the same confidence or the same  
13     demeanor. I guess to put it in a country boy's terms,  
14     she'd been taken down a couple of notches in stature.

15     Q   Have you ever been approached -- strike that. Do you  
16     consider yourself a friend of Ms. Coffey?

17     A   I'd say a colleague and a co-worker. I don't know  
18     that I'd classify her as a friend. We've never gone out  
19     to dinner; she's never been to my house for dinner; I've  
20     never been to her house for dinner. We don't socialize  
21     outside of work. We have professional conversations, so  
22     what I would consider a friend, no. I'd say we're  
23     friendly, and certainly, cordial and professional towards  
24     each other, and we work together on a regular basis.

25     Q   So that you're colleagues, essentially, rather than

1 friends. Is that right?

2 A Yes, sir.

3 Q Did you at one point during the period that you were  
4 working for the Town and she was also serving as the town  
5 judge, represent her in a domestic matter?

6 A Yes. To say that I represented her may not be  
7 completely accurate. I assisted her and her husband to  
8 reach an agreement. They were having marital discord at  
9 the time. They conveyed to me they couldn't afford an  
10 attorney, and they wanted some assistance. She wanted to  
11 keep it private to where her reputation wasn't smeared  
12 throughout the town. So I agreed to meet with them at  
13 their house; tell them the issues that they needed to  
14 work out as far as if they were going to reach an  
15 agreement to separate and how it happened; and go through  
16 that aspect. And then I did appear at court with both of  
17 them to put that agreement on the record.

18 Q So essentially, you were serving as an arbiter  
19 between the two of them?

20 A I was more of a --

21 MR. HALIO: Objection, your Honor, to the  
22 conclusion. He described what he'd done.

23 THE COURT: You can ask the question.

24 BY MR. MATHISON:

25 Q Fine. Did you charge either Judge Coffey or her

1 husband for this service?

2 A No. I would never charge a town employee for  
3 something like that.

4 Q And your participation was advising them so they  
5 understood what the law was?

6 A Advice, and let them know, based on my previous  
7 experience, what I thought were issues that had to be  
8 dealt with, and what would be reasonable. I stressed to  
9 them that they were trying to reach an agreement, not an  
10 argument; and that both parties would have to agree; and  
11 it would be something that they could live with, or they  
12 would be fighting in court forever. So there were issues  
13 that had to be resolved, and they needed to just work  
14 through it; and it was in the best interest of the kids  
15 to have a fair agreement for both parties to where they  
16 could get along and raise their children.

17 Q Did you perceive that having assisted Ms. Coffey and  
18 her husband to reach that agreement put you in a conflict  
19 situation with you appearing in the judge's court and  
20 representing officers or other people that had cases to  
21 prosecute?

22 A No, sir. I don't represent officers or other people.  
23 I represent the state or the town. And prosecuting  
24 people is what I do. I don't appear on my own behalf; I  
25 represent them. But during that time, I made clear that

1 they understood that I couldn't take any cases before  
2 her, just to be safe. I conferred with counsel that I  
3 trusted their opinions as far as if they thought that  
4 would be a problem. They explained that it wouldn't be.  
5 And so, I didn't see a problem. I don't believe she saw  
6 a problem with it. And again, I didn't appear in her  
7 court at all during that time frame. Again, it was a  
8 very short period, a week or ten days at the most, where  
9 I assisted her and her husband at their residence, and  
10 then going to court. And I didn't prosecute any cases in  
11 her court during that time, or for that month at all.

12 Q Did you become aware at some juncture of a problem  
13 with Sea Pines officers not crossing tickets?

14 MR. HALIO: Objection. Irrelevant.

15 THE COURT: It's overruled on my earlier grounds as  
16 stated. Thank you.

17 BY MR. MATHISON:

18 A Well, officers from Sea Pines, Beaufort County  
19 Sheriff, or other plantations not pros tickets on a  
20 regular basis. It's just a routine matter that occurs in  
21 our court.

22 Q Do you know whether there was a problem with tickets  
23 being not prosed in return for a contribution to the Sea  
24 Pines Museum and Forest Preserve Foundation? MR.

25 HALIO: Objection. Irrelevant.

1 THE COURT: Again, overruled, based on my earlier  
2 reasons.

3 BY MR. MATHISON:

4

5 A I be -- I became aware of an incident, yes, sir.

6 Q And how did you become aware of the incident?

7 A One of our court administrative staff brought to my  
8 attention a letter she had received from an attorney,  
9 wherein they were attempting to make a payment, and to  
10 make sure the court date wasn't going to occur for a  
11 ticket that had been written by a Sea Pines officer. And  
12 the payment wasn't to be made to our court, but it was  
13 being made to a -- an organization within Sea Pines.  
14 They thought that was improper.

15 I took the matter; I looked into it; I informed Mr.  
16 Tom Fultz, who is the department head over the court  
17 administrative staff at that time. He conveyed that up  
18 to our boss, Mr. DeLoach, the assistant manager. And  
19 then, after that, the next day, I went to meet with Mr.  
20 Cary Kelley, who is the manager for CSA at Sea Pines, to  
21 explain the situation that occurred, inquire as to  
22 whether or not he was aware of it, and ensure that they  
23 understood that I believed it to be inappropriate, and  
24 that it was a matter that had to either cease, or that I  
25 would have to report up to the State.



1 Q Are you quite certain that you actually went to see  
2 Mr. Kelley?

3 A Yes, sir.

4 Q Did you take anybody with you when you went?

5 A Well, my code enforcement officer, Connie Pratt,  
6 drove me to his office, because I didn't know where his  
7 office was within Sea Pines.

8 Q Did Mr. Kelley acknowledge that there was a problem?

9 MR. HALIO: Objection. Can I just have a running  
10 objections on this line of questions, your Honor?

11 THE COURT: Absolutely. For this entire line.

12 MR. HALIO: Thank you, your Honor.

13 BY MR. MATHISON:

14 A Mr. Kelley indicated that he was not aware of it, but  
15 that he was going to look into it. He assured me that it  
16 would stop if it was a practice. He assured that they  
17 would return the -- the money to the defendant, and that  
18 the officer would not pros that ticket.

19 I requested that I receive a copy of the returned  
20 check and a copy of the letter to the law firm returning  
21 the check to him. And then, he assured me he had spoken  
22 with Lieutenant Campbell, I believe it was, was the  
23 officer that had written the citation, and that  
24 Lieutenant Campbell had conveyed to him that it was an  
25 isolated incident; and actually, that it was an incident

1 in which, originally, he was wanting to put the defendant  
2 into pretrial intervention. We call that PTI. It was a  
3 minor charge. It was a charge of leaving an animal  
4 within a vehicle, which is against the law within our  
5 state. And the lieutenant had offered to let the  
6 defendant make a donation to this organization, and then  
7 he would nol pros the ticket, and attempt to help the  
8 defendant out, I believe is what it was, to where he  
9 wouldn't have a conviction for the offense, but yet, he  
10 still had some penalty, if you will.

11 Q I'm showing you a uniform traffic ticket, and ask if  
12 you can identify that as the ticket that was, in fact,  
13 nol prossed.

14 A Yes, sir, it is.

15 MR. MATHISON: Move the introduction of the ticket as  
16 Plaintiff's Exhibit --

17 COURT REPORTER: 16

18 MR. MATHISON: -- 16.

19 THE COURT: Subject to prior objection, it's in  
20 evidence.

21 MR. HALIO: Thank you.

22 COPY OF DOCUMENT REFERRED TO AS

23 UNIFORM TRAFFIC CITATION THAT WAS

24 NOL PROSSED MARKED PLAINTIFF'S

25 EXHIBIT NUMBER 16, ADMITTED AS EVIDENCE.

1 Q And I believe you said that Mr. Kelley decided to  
2 return the money, and did, in fact, return it, and you  
3 received a copy of the letter. Is that correct?

4 A I'm not sure if Mr. Kelley decided to return it or it  
5 the Sea Pines Security decided to return it. But Mr.  
6 Kelley is the one that did, in fact, write the letter and  
7 return it. I don't recall who made the decision. I  
8 presume it was him, but I don't know for sure.

9 Q And I'm handing you a letter that's written on Sea  
10 Pines Museum and Forest Preserve Foundation stationery,  
11 and I ask if that's the letter with which the check was  
12 returned?

13 A Yes, sir, it is.

14 Q And is this, in fact, the check?

15 A This is a copy of the check that was returned, yes,  
16 sir.

17 Q And who is that account owned by?

18 A The Sea Pines Museum and Forest -- it says Perserve,  
19 but it's obviously Preserve, from 175 Greenwood Drive,  
20 Hilton Head Island, South Carolina.

21 Q Do you know whether 175 Greenwood Drive is, in fact,  
22 the same address as Sea Pines Security?

23 A No, sir, I don't.

24 Q Do you know whether Community Service Associates in  
25 at 175 Greenwood Drive?

1 A No, sir. No, sir, I don't.

2 Q Do you know where you went when you talked to Mr.  
3 Kelley?

4 A To CSA management offices, to Mr. Kelley's office.

5 Q And is that on Greenwood Drive?

6 A Again, Ms. Pratt drove me there. I couldn't tell you  
7 what the address was.

8 Q Okay. In what capacity did Mr. Kelley sign this  
9 letter to Mr. Andy Wargo?

10 A As the administrator for SPMFPF.

11 Q Is that the Sea Pines Museum and Forest Preserve?

12 A It does appear to be so.

13 Q Thank you.

14 A Yes, sir.

15 MR. MATHISON: Move the introduction of the letter  
16 and the check collectively as Plaintiff's Exhibit 17.

17 THE COURT: Subject to your prior objection.

18 COPY OF DOCUMENT REFERRED TO AS  
19 LETTER ON SEA PINES MUSEUM AND FOREST  
20 PRESERVE STATIONARY, AND CHECK, MARKED  
21 PLAINTIFF'S EXHIBIT NUMBER 17, ADMITTED  
22 AS EVIDENCE.

23 MR. MATHISON: Excuse me just one minute, Mr. --  
24 Thank you very much.

25 MR. HALIO: Please the court.

1 way.

2 MR. MATHISON: I don't think it should come in,  
3 because Mr. Edri is not here to say he thinks it's a good  
4 idea, and he may not think it's a good idea.

5 MR. HALIO: I didn't offer the decree, which is a  
6 public record anyway.

7 THE COURT: I'm not worried about decree. Just give  
8 it to me. All right, you all. Let's just move on. And  
9 we're going to have to take this up afterwards.

10 MR. MATHISON: Just a moment on re-direct.

11 BRIAN HULBERT

12 RE-DIRECT EXAMINATION, MR. MATHISON:

13 Q Mr. Hulbert, did you ever wonder how it was that Mr.  
14 DeLoach knew about the complaint, whether it was to the  
15 lawyer grievance committee or to the judicial grievance  
16 committee? Did you ever wonder how he would know about  
17 it?

18 MR. HALIO: Objection, your Honor. This is not  
19 something that we went into on cross. It's improper  
20 redirect.

21 MR. MATHISON: He asked him about privilege and  
22 matters like that.

23 THE COURT: Okay.

24 MR. MATHISON: I'm simply following up.

25 THE COURT: Go ahead.

1 BY MR. MATHISON:

2 A No, sir. My direction is clear. I wasn't to assist.  
3 I'm a retired Marine. I follow orders.

4 Q I understand, but what I'm getting at is, isn't it  
5 your understanding that these things are supposed to be  
6 confidential?

7 A It is now, yes, sir.

8 Q Well then, how, conceivably, would somebody who was  
9 your employer know about it if he wasn't on the conduct  
10 commission?

11 A I don't know if I have an answer for that.

12 Q It doesn't make sense; does it, unless someone did  
13 not keep the document confidential, right?

14 A I guess. Yes, sir.

15 Q And yet, you knew about its existence, while you  
16 didn't know what was in it. And certainly, the person  
17 who gave you the direction that it was personal and not  
18 professional, knew something more than it just existed.  
19 He knew what was in it, or he couldn't have made that  
20 determination. Isn't that right?

21 A Yes, sir.

22 MR. MATHISON: Thank you. I have no further  
23 questions.

24 THE COURT: Mr. Halio, anything further? MR.

25 HALIO: No, your Honor.

1       until about quarter till 2:00.

2               OFF THE RECORD 12:30 P.M.

3               BACK ON THE RECORD 2:18 P.M.

4               BY THE COURT:

5               MS. JONES: I'll have objections as to foundation,  
6 but I wanted to ask the Court if I could just have a  
7 continuing objection in that regard so I don't have to  
8 keep interrupting.

9               THE COURT: Absolutely. Absolutely. Okay. All  
10 right. Let's go.

11              MR. MATHISON: Mr. Sonberg, please.

12              THE COURT: Actually, we need a jury.

13              THE COURT: Mr. Sonberg, just wait if you don't  
14 mind, sir, until the jury comes back.

15              BAILIFF: Jurors entering, your Honor.

16               JURORS ENTER COURTROOM 2:20 P.M.

17              THE COURT: Thank you. Thank you. Welcome back  
18 ladies and gentlemen. At this time, Mr. Mathison, if you  
19 would call your next witness, please.

20              MR. MATHISON: Mr. Sonberg.

21              THE COURT: Come forward, Mr. Sonberg, to be sworn,  
22 sir.

23               WITNESS SWORN.

24              THE COURT: Thank you.

25               RICHARD THOMPSON SONBERG

1 DIRECT EXAMINATION, MR. MATHISON:

2 Q State your name for the record, please.

3 A Richard Thompson Sonberg.

4 Q Mr. Sonberg, where do you reside?

5 A I live at 17 North Calibogue Cay, in Sea Pines  
6 Plantation, on Hilton Head Island.

7 Q Are you employed at present?

8 A Self-employed. I have several businesses that I own  
9 and operate, but my employment -- I was an attorney, and  
10 I retired.

11 Q Where were you an attorney, Mr. Sonberg?

12 A I -- I graduated from the University of Colorado Law  
13 School in 1962, practiced in Colorado for a couple of  
14 years. I then moved to Connecticut and practiced there.  
15 And in 1964, I moved to Tulsa, Oklahoma, and practiced  
16 from '64 till 1998 in Tulsa, when I retired from the  
17 practice of law.

18 Q When you retired, where did you move?

19 A Oh, I'd been living here since 1980. The same house  
20 on Calibogue Cay.

21 Q So you were actually living in Sea Pines and  
22 practicing law in Oklahoma?

23 A Yes, sir. I commuted almost every week.

24 Q Did you respond to a subpoena that I served on you in  
25 connection with this case?



1 A Yes. I have it in my pocket.

2 Q Did you have occasion in January of 2009 to attend a  
3 meeting of the Calibogue Cay Property Owners Association?

4 A I did.

5 Q First of all, what is the Calibogue Cay Property  
6 Owner's Association?

7 A Well, as I said, I live on Calibogue Cay. That is --  
8 used to be an island right off the inside of Hilton Head  
9 Island on what's called Broad Creek. When Sea Pines was  
10 developed in the '60s, they build a causeway out to it,  
11 so it's no longer a -- an island. It's what we call a  
12 cay. And the residents who live on Calibogue Cay have  
13 their own property owners association, where we kind of  
14 attend to the amenities on the -- on the street, and make  
15 sure other people keep their lawn mowed and things like  
16 that.

17 Q As a long-time resident of Sea Pines Plantation, have  
18 you known the Coffey family for quite a while?

19 A Yes. I -- I met them very shortly after they moved  
20 to the Island. I think it was about 1983. And I -- I  
21 became what I'd call social friends with them. And Dr.  
22 Coffey, who is now deceased, was my wife's OB/GYN --  
23 OB/GYN doctor for a number of years.

24 Q So you know who the Coffey's are, and have for a long  
25 time. Is that right?

1 A That is correct.

2 Q Mr. Sonberg, did Cary Kelley, the executive vice  
3 president of Community Services Associates, attend this  
4 meeting on January 7, 2009?

5 A Yes, he did.

6 Q Do you know whether he discussed the Coffeys, and  
7 specifically, Maureen Coffey and Otis Coffey?

8 A He did.

9 Q Could you tell the jury what it is that he said,  
10 first, with reference to Otis Coffey?

11 A Well, the -- the reason he was at the meeting was, he  
12 was briefing the residents. It's an annual meeting where  
13 most of the residents on Calibogue Cay come, and we elect  
14 new directors for the year, and have a review of the  
15 events that have affected us during the year. And not  
16 every year, but numerous times, Mr. Kelley and other  
17 officers of CSA have come to brief us on what's going on  
18 Sea Pines-wide, through the plantation, since he's the  
19 executive director of CSA.

20 And he was there for the specific purpose of  
21 briefing us on litigation that CSA was involved in at  
22 that time. And one of the matters that he briefed us on  
23 was actually this lawsuit, and a discussion of Otis  
24 Coffey.

25 Q What, specifically, did he say, with respect to Otis

1 Coffey?

2 A After he briefed us on the nature of the lawsuit, he  
3 then said that the arrest of Otis Coffey was imminent.

4 Q Was that, in fact, -- did that, in fact, come true?

5 A I have no idea.

6 Q What did he say with respect to Maureen Coffey, the  
7 plaintiff in this action?

8 A He stated that Judge Maureen Coffey, who is the judge  
9 of the municipal court for Hilton Head Island, had filed  
10 a lawsuit for damages against CSA, for defamation of her  
11 character. And that the lawsuit arose out of a complaint  
12 that CSA had filed for unethical judicial conduct by  
13 Judge Coffey. And this complaint had been filed with the  
14 Commission on Judicial Conduct, which is a state  
15 commission. And that the nature of the complaint was,  
16 that had been filed by CSA with this commission, was that  
17 Judge Coffey had interfered with CSA security officers'  
18 investigation of Otis Coffey's possible involvement in  
19 burglaries on Hilton Head Island earlier in -- back in  
20 2008.

21 Q So, to crystallize, he said that Mr. Coffey, Otis  
22 Coffey's, arrest was imminent?

23 A That was after -- after he'd made the comment about  
24 what the nature of the lawsuit was, he then added *and*  
25 *this suspect is in imminent arrest.*

1 Q So you just voluntarily gave it to him?

2 A Yes, ma'am.

3 Q Oh, okay. And in that regard, this was in February

4 [sic] of 2009. Is that correct?

5 A That's right. On Wednesday, January 7th.

6 Q And had you, prior to having this report on the

7 litigation, which is a routine report that you receive?

8 A I'm not talking about -- what report are you talking

9 about?

10 Q I'm sorry, sir. I thought you testified -- I'm

11 sorry. I thought you had testified that Mr. Kelley and

12 others would, in the normal course of business, come to

13 your meetings and give you reports and updates on pending

14 matters.

15 A Well, okay. Tell me that -- that's the report, yes.

16 He came and gave a report, sure.

17 Q Okay. And that happens in the normal course of these

18 homeowners association meetings. Is that correct?

19 A Not every year, but sometimes he will come and do

20 that.

21 Q And on this occasion, he came and reported to you on

22 the lawsuit that was already pending?

23 A That's correct.

24 Q Okay. And at that point in time, were you already

25 aware that the lawsuit was pending?

1 A I believe I noticed an article in the *Island Packet*  
2 back like in December of 2008, that Judge Coffey had  
3 filed a lawsuit.

4 Q And --

5 A Which kind of perked my interest because of previous  
6 events.

7 Q Yes, sir. And was that article in the *Island Packet*  
8 the first time that you had become aware of the complaint  
9 of the lawsuit?

10 A Of the lawsuit, yes.

11 Q Okay. And was it the first time you had become aware  
12 of the complaint that's discussed in the minutes?

13 A I -- I think that it was mentioned to me by Ann  
14 Coffey during the summer of 2008.

15 Q Okay. And was Ms. Coffey mentioning it to you  
16 previously, was that the only other time you had heard  
17 about it?

18 A I believe so, yeah.

19 Q So, when Ms. Coffey mentioned it to you, Ms. Ann  
20 Coffey, --

21 A Yes. Mrs. Ann Coffey.

22 Q Mrs. Ann Coffey, yes, sir, and then the newspaper  
23 articles, and then this report that Mr. Kelley gave. Is  
24 that correct?

25 A That's basically it, until this event came that Mr.

1 Mathison asked me to come and testify.

2 MS. JONES: Okay. Thank you, sir. That's all the  
3 questions I have. Thank you.

4 THE COURT: Anything further, Mr. Mathison?

5 MR. MATHISON: Just one question.

6 RICHARD THOMPSON SONBERG

7 RE-DIRECT EXAMINATION, MR. MATHISON:

8 Q Did Mr. Kelley indicate that the complaint against  
9 Judge Coffey had been dismissed by the Commission on  
10 Judicial Conduct?

11 A I don't believe so, no.

12 MR. MATHISON: Thank you. No further questions.

13 THE COURT: Anything further?

14 RICHARD THOMPSON SONBERG

15 RE-CROSS-EXAMINATION, MS. JONES:

16 Q just one very briefly. I'm sorry to have to keep  
17 walking back over here. had you already read about the  
18 complaint being dismissed in the article in the *Island*  
19 *Packet*?

20 A No.

21 Q You did not read that part?

22 A No. I had no idea what -- what the nature of the  
23 complaint was. I knew there was a judicial complaint,  
24 but I didn't know what the nature of it was, until Mr.  
25 Cary Kelley gave his report.

1 MS. JONES: Thank you, sir. That's all the  
2 questions I have.

3 MR. MATHISON: Thank you, Mr. Sonberg.

4 THE COURT: Mr. Sonberg, you are excused.

5 A What are we going to do with this? Leave that?

6 THE COURT: Just leave that there. Thank you, sir.

7 Mr. Mathison, will you call your next witness.

8 MR. MATHISON: Did you mean to introduce this?

9 MS. JONES: No. Just marked it for identification.

10 MR. MATHISON: Okay. That's fine. Plaintiff would  
11 call Greg DeLoach.

12 THE COURT: Mr. DeLoach.

13 WITNESS SWORN.

14 GREG DELOACH

15 DIRECT EXAMINATION, MR. MATHISON:

16 Q State your name for the record, please.

17 A Greg DeLoach.

18 Q By who are you employed, Mr. DeLoach?

19 A By the Town of Hilton Head Island.

20 Q And in what capacity are you employed?

21 A I'm the assistant town manager.

22 Q And is there more than one assistant town manager  
23 currently?

24 A No, just myself.

25 Q At the time of this incident in June of 2006, how

1 many managers were there, town managers?

2 A 2006?

3 Q Excuse me. 2008.

4 A There were -- there were two of us.

5 Q You and the other gentleman was Curtis Coltrane. Is

6 that right?

7 A That's -- that's correct.

8 Q Between the two of you, how were the responsibilities

9 divided?

10 A I managed a division in department heads and finance

11 information technology, human resources, legal. Mr.

12 Coltrane managed the community development department,

13 engineering.

14 Q Did both of you report to the town manager?

15 A That's correct.

16 Q And what is that gentleman's name?

17 A Steve Riley.

18 Q And is he still the town manager?

19 A Yes.

20 Q Do you consider George Breed, the director of

21 security at Sea Pines Security, to be a friend of yours?

22 A Yes.

23 Q How long has he been a friend of yours?

24 A I've known him for approximately 15 years.

25 Q Is he also a friend of your father's?



1 A I think so.

2 Q Does your father live in Sea Pines?

3 A Yes, he does.

4 Q Did he, at the time of this event in 2008, serve on

5 the what's called the security committee of the community

6 services board?

7 A I think so.

8 Q And is that the committee that interacts with Mr.

9 Breed and vice versa?

10 A I believe they're an advisory board, yes.

11 Q When did you -- forgive me.

12 COURT REPORTER: Does anyone have Plaintiff's 4?

13 MR. MATHISON: Yes.

14 THE COURT: The letter is 6/6/08.

15 MR. MATHISON: It's not here, your Honor. I think

16 I've got another copy I can use till we find it.

17 THE COURT: Okay.

18 BY MR. MATHISON:

19 Q I'm showing you what will have to serve as

20 Plaintiff's Exhibit 4, for the time being, which is a

21 letter from Mr. Breed addressed to the Judicial Conduct

22 Commission. And I'm going to ask you when you first had

23 knowledge that that letter had been written.

24 A I don't remember when I first had knowledge when this

25 was written.

1 Q Was it before or after June 6th?

2 A I knew that he intended on filing a complaint.

3 Q Did he ever send a, or transmit in any manner, a

4 draft of that document to you for review?

5 A I don't recall any draft for review.

6 Q Did he ever discuss with you the contents of the

7 letter before it was delivered to your office?

8 A He called me to say that he wanted to complain to

9 someone, because he was complaining to me at the time.

10 And at that point, I said that -- that Mrs. Coffey worked

11 for the town council, not for me. And he then asked who

12 else he could complain to. And I indicated to him that

13 he could complain to -- file a complaint with the

14 Commission on Judicial Conduct. That's what he wanted to

15 do.

16 Q Did you tell Maureen Coffey that your friend, Mr.

17 Breed, had contacted you wanting to file some kind of

18 complaint against her?

19 A No.

20 Q One of the areas of your responsibility is the court,

21 the municipal court. Is that correct?

22 A Yes.

23 Q In one form or another, isn't it true that every

24 single person in the municipal court works for you, other

25 than Maureen Coffey?

1 A Indirectly, yes.

2 Q You didn't feel some obligation to go and tell Ms.

3 Coffey that Mr. Breed had effectively come to you in an

4 effort to tell you about something?

5 A In my opinion, this was between Mr. Breed and Maureen

6 Coffey.

7 Q And therefore, was not something that you were going

8 to get involved in?

9 A Well, I wasn't sure he was going to file a complaint.

10 He ultimately did, obviously.

11 Q Do you know whether Mr. Breed said that he never

12 delivered a copy of the letter to you; he just gave you a

13 draft.

14 A I'm sorry.

15 Q Do you know whether Mr. Breed's position was that he

16 had never given you a copy of the letter, full-blown;

17 he'd just given you a draft?

18 A I don't know what his position is or was.

19 Q Have you ever seen a draft of that letter, sir?

20 A I don't recall ever seeing a draft of this letter.

21 Q Do you know how long, if at all, before June 6th, it

22 was that Mr. Breed called you and asked you to file a

23 complaint?

24 A I don't.

25 Q When he called, what did he say he wanted to complain

1 about?

2 A That -- this was a long time ago, but that she was  
3 asserting herself as a municipal judge, or the position  
4 as municipal judge, in an investigation of her brother.

5 Q Whose investigation?

6 A Sea Pines, CSA.

7 Q Do you know whether it's lawful for Sea Pines to  
8 investigate --

9 MR. HALIO: Objection.

10 THE COURT: Okay. Sustained. Sustained. Move on.

11 BY MR. MATHISON:

12 Q Weren't you concerned, if you had a judge who was  
13 riding the range, if you will, inserting herself into  
14 investigations?

15 A At the time he called me, I wasn't sure he was going  
16 to file a complaint.

17 Q But you told him where to file it?

18 A He asked me who else he could complain to, because  
19 she doesn't work for me. And I indicated he could  
20 complain to town council, or he could file a complaint  
21 with the Commission on Judicial Conduct. He then asked  
22 me for contact information, telephone number, I think  
23 address, which I provided to him.

24 Q Did he ask you for the contact information for town  
25 council or not?

1 A He did not.

2 Q How long after that conversation was it that you got  
3 a copy of the letter that I have before you, which is  
4 Plaintiff's Exhibit 4?

5 A I don't know when I received this. I know I  
6 possessed it, but I don't know when I received.

7 Q You know you possessed it, because you delivered what  
8 you say is the original to me, in accordance with my  
9 subpoena for your deposition. Isn't that right?

10 A Yes. You subpoenaed the copy of the letter.

11 Q I believe that you represented to me, sir, that this  
12 is your original copy. Isn't that it? That's what you  
13 received.

14 A I provided you a copy of a folded -- a folded letter,  
15 yes.

16 Q And to the best of your knowledge, is this the  
17 original of the folded letter that you provided to me?

18 A It appears to be. I don't -- if this is -- during  
19 the deposition, you asked for the folded copy, which I  
20 provided you the same afternoon.

21 Q And you don't know when you received this?

22 A I do not.

23 Q Where was this letter when I served the subpoena for  
24 you to produce it?

25 A It was in our municipal court files.

1 Q How many copies of this letter did you make at the  
2 municipal court?

3 A At the municipal court? Sorry.

4 Q Wherever it is that this was kept and/or copied.

5 A There was a copy machine across my office. I made  
6 one or two copies. I provided you with however many  
7 copies we made, I provided those to you.

8 Q In other words, you gave me your only copy. Is that  
9 what you're saying?

10 A I gave you a copy of that folded complaint letter.

11 Q Well, this -- I thought, sir, you told me this was  
12 the original one right out of your file. That this was  
13 it.

14 A During the deposition, you asked me is this the  
15 original, and I said, no, I think the original is in my  
16 office, which I provided to you later that afternoon.

17 Q And I'm asking you, can you identify this as the  
18 original that you provided me later that afternoon?

19 A I don't -- I don't know. It looks like it, yes.

20 Q Okay. So let's have you analyze it. Is that what  
21 you gave me, sir?

22 A It appears to be consistent with the letters I  
23 produced to you prior to the deposition.

24 Q No. This was after the deposition that you gave me  
25 the original, sir.

1 A Right.

2 Q That's what this is.

3 A Right.

4 MR. MATHISON: Move the introduction of the letter as  
5 delivered to and received from Mr. DeLoach as Plaintiff's  
6 Exhibit 17.

7 MR. HALIO: No objection.

8 THE COURT: Without objection.

9 COPY OF DOCUMENT REFERRED TO AS  
10 LETTER DELIVERED BY MR. BREED AND  
11 RECEIVED BY MR. DELOACH MARKED  
12 PLAINTIFF'S EXHIBIT NUMBER 18  
13 ADMITTED AS EVIDENCE.

14 BY MR. MATHISON:

15 Q Why was this letter delivered to you, or do you know?

16 A I don't know.

17 Q Did you read the letter, Mr. DeLoach?

18 A I read the letter. At the time, I know I read the  
19 letter is when you requested it.

20 Q You're telling me you didn't read the letter until  
21 your deposition was taken?

22 A I don't know. I don't know when I first read the  
23 letter.

24 Q The letter has been taken apart and the staple has  
25 been taken out of it, hasn't it, Mr. DeLoach?

1 A I don't know.

2 Q Look at the staple spot and see how many staple holes

3 there are in the area.

4 A There's one or two staple holes there.

5 Q On either side.

6 A Correct.

7 Q Looking like it's been stapled at least twice

8 beforehand.

9 A Correct.

10 Q Is it your experience that, in order to copy a

11 document, you have to take the staple out in order to put

12 it in the copy machine?

13 A Yes.

14 Q How many copies of the document were made and

15 circulated after you got it at the Town of Hilton Head?

16 A I don't know.

17 Q When did you advise Brian Hulbert that this sort of

18 thing was *coming down the pike*?

19 A I don't recall having any discussion with Brian

20 Hulbert about it.

21 Q So you never told him anything about it. Is that

22 what your testimony is?

23 A I don't recall. I don't recall any discussion with

24 him.

25 Q Does that mean that you did, and just can't recall



1 it, or?

2 A I don't know that I did.

3 Q Did you ever give him a copy of the letter?

4 A I don't believe that I ever did.

5 Q Did you ever show it to him?

6 A I don't believe that I ever did.

7 Q Did you read it enough to make a determination as to  
8 whether it involved a personal or a professional matter?

9 A No, I don't think so.

10 Q So you never reached a conclusion as to whether this  
11 was a personal matter or a professional matter?

12 A It was a matter between Mr. Breed and Maureen Coffey.

13 Q Well, I'm sorry, but if that's the case, then why did  
14 you tell him to send it to the Commission on Judicial  
15 Conduct?

16 A He asked who he could complain to, and I indicated  
17 you could complaint to town council or the Commission on  
18 Judicial Conduct.

19 Q Once you received that letter, the one that has been  
20 marked as Plaintiff's Exhibit 18, did you tell Maureen  
21 Coffey that you got it?

22 A I don't recall ever telling Maureen Coffey that I  
23 received a complaint letter.

24 Q Are you a lawyer, Mr. DeLoach?

25 A Yes.

1 Q How long have you been licensed to practice in South  
2 Carolina?  
3 A Twenty-nine years.  
4 Q Do you understand that the proceedings before the  
5 Commission on Judicial Conduct are confidential?  
6 A I've never had any dealings with the Commission on  
7 Judicial Conduct, so I'm not aware of their rules.  
8 Q Are you aware of the rules that apply to the Bar  
9 generally, that is, the disciplinary council?  
10 A Very vaguely.  
11 Q Do you know whether proceedings are, certainly, for  
12 the first 30 days, absolutely confidential?  
13 A Not aware of that, no.  
14 COURT REPORTER: I'm sorry. I'm not aware of?  
15 A I'm not aware of that.  
16 Q So it didn't strike you as odd that you got a  
17 document that, theoretically, went to the Commission on  
18 Judicial Conduct without any explanation for why you had  
19 it?  
20 A I'm sorry. Would you --  
21 Q Did it strike you as odd that you had been given a  
22 document that was addressed to the Commission on Judicial  
23 Conduct?  
24 A I -- it's a document that I never requested that was  
25 in our possession.

1 Q Yes, sir. And are you listed as a copy recipient on  
2 the last page of the document?

3 A No.

4 Q Is anyone else?

5 A No.

6 Q And you're telling me you didn't realize it was  
7 confidential.

8 A No.

9 Q Did you show the document to anyone?

10 A Not that I'm aware of.

11 Q Well, let's be more specific. Did you show the  
12 document to your fellow assistant town manager, Curtis  
13 Coltrane?

14 A No. I discussed the complaint with him as I recall,  
15 but I don't recall providing him a copy of the complaint  
16 letter.

17 Q I didn't ask you whether you provided him a copy. I  
18 asked you did you show him the letter?

19 A I don't have any recollection of showing him the  
20 letter.

21 Q When was it that you went to Mr. Coltrane's office to  
22 do whatever you did with reference to the letter?

23 A To discuss the complaint with him, I -- I don't  
24 recall any specific date.

25 Q Well, was it at or about the time you received it, or

1 not?

2 A I don't know when I received this letter, and it  
3 obviously had to have been after, because something would  
4 have triggered our conversation, I think.

5 Q Did you go specifically to discuss the document with  
6 Mr. Coltrane?

7 A I don't know whether it was just for this reason or  
8 whether we discussed other town matters. I don't recall.

9 Q You do recall, however, in your deposition when you  
10 told me that his office was approximately 75 yards away  
11 from your office. Is that correct?

12 A It's about that. Maybe -- maybe closer.

13 Q Why would somebody walk 75 yards to have a  
14 conversation under the circumstances? Why not get on the  
15 telephone?

16 A Because he worked in the same building, right down  
17 the hall from my office.

18 Q Seventy-five yards down the hall?

19 A I don't think it's that long, but.

20 Q It's your deposition.

21 A Well. I don't think it's that long.

22 Q Do you know whether you talked to him in the month of  
23 June of 2008?

24 A I don't know whether I talked to him in the month of  
25 June.

1 Q Did you allow Mr. Coltrane to read the letter?

2 A I don't recall providing the letter to him.

3 Q What did you tell him about the letter?

4 A I don't recall telling him about talking to him about  
5 the letter. We discussed the matter. It may have been  
6 about it. It was basically a conversation, what do you  
7 think? And this is why I think it is logical that he had  
8 a copy of the letter, and that it was logical that I  
9 would have provided it to him to trigger the  
10 conversation. But I don't physically remember handing  
11 him or sending him a copy of the letter.

12 Q But you remember discussing the contents of the  
13 letter.

14 A That's correct.

15 Q And that presupposes he knew what the contents were.  
16 Is that right?

17 A Yes. It would, logically.

18 Q So what you're telling me is, you don't have a  
19 recollection of actually taking it or sending it to him,  
20 but you have a recollection of discussing the contents  
21 with him.

22 A That's correct.

23 Q Did he seem to know the contents were?

24 A Yes.

25 Q Do you know whether someone other than you provided

1 him with a copy of the letter?

2 A I don't know anybody that would have provided him  
3 with a copy of the letter..

4 Q And you don't know why it was provided to you. Isn't  
5 that right?

6 A That's correct.

7 Q At the time that you received it, do you know whether  
8 the Judicial Conduct Committee had received it or not?

9 A I don't know.

10 Q Well, specifically, did it come in the form that  
11 you've got there without a stamp on it from the Judicial  
12 Conduct Committee?

13 A There's no stamp on the complaint letter that is the  
14 exhibit.

15 Q So it doesn't have the stamp that appears on  
16 Plaintiff's Exhibit 3, in the upper right corner,  
17 indicating receipt by the Commission on June 16th?

18 A Well, there's no stamp from the Commission on  
19 Judicial Conduct on this exhibit.

20 Q Okay. In the last paragraph of the letter, and I'm  
21 quoting, it says:

22 *In summary, as a result of Judge Coffey's actions,*  
23 *she has given the distinct and transparent appearance of*  
24 *bias and partiality.*

25 Didn't that sentence cause you reason for concern,

1 Mr. DeLoach?

2 A It is one person's opinion. And that was then up to  
3 the Commission on Judicial Conduct to make that  
4 determination, not me.

5 Q Going further:

6 *She is not able to be a neutral and detached arbiter*  
7 *of the many cases that have been and will be pending*  
8 *before her.*

9 Didn't that give you some concern?

10 A No, because I had not heard from anyone that she was  
11 anything but a detached arbiter and was neutral and fair.

12 Q After you and Mr. Coltrane, working for the town,  
13 discussed the problems, or lack of problems, inherent in  
14 this letter, why didn't one or the other of you actually  
15 tell Judge Coffey what was going on?

16 A Well, because, as far as I'm concerned -- I can't  
17 speak for Mr. Coltrane -- but this was a complaint filed  
18 by a resident against our judge, and that would be  
19 adjudicated or investigated by another body.

20 Q And you didn't feel you owed your colleague at least  
21 so much as a heads up that it was coming?

22 A No.

23 Q And in your case, it may well have been because  
24 you're the person that told him to send it to Columbia in  
25 the first place. Isn't that right?

1 A No. I never told him to do anything. I provided him  
2 with the information that he asked for.

3 Q What was Maureen Coffey's reaction to the delivery  
4 later in the month, on or about June 26th, of this letter  
5 to her?

6 A What was her reaction to me?

7 Q That you observed. Not what she said to you. What,  
8 if anything, did you observe about her after she received  
9 this letter?

10 A I have not observed anything about her after she  
11 received the letter.

12 Q Mr. DeLoach, did she complain to you beginning in  
13 July of being under a great deal of stress?

14 A I don't know what it was, but she did convey that to  
15 me, yes.

16 Q Did she consider taking time off because of the  
17 stress?

18 A I don't recall whether that was part of the  
19 communication.

20 Q Did you make a recommendation with respect to EAP?

21 A I did.

22 Q And what recommendation did you make?

23 A EAP is, if I may, an employee assistance program, and  
24 there are -- it provides a number of services to town  
25 employees, one of which is counseling for people who are



1 -- any number of needs, stress, for example. And I told  
2 her that -- or communicated. I don't know if we were  
3 talking or emailing. I don't recall. But I told her  
4 that was available to her, and that I would contact human  
5 resources and get her some information. And I think --  
6 pretty sure that they then forwarded that to her,  
7 brochure, contact information.

8 Q So effectively, you believed that she was in need of  
9 psychological or psychiatric counseling. Is that what  
10 you're saying?

11 A She -- as I recall, she said this was very stressful  
12 to her. And I didn't diagnose anything. I just said,  
13 well, here's a service. And I wasn't quite sure whether  
14 she was even familiar with EAP, but I made her familiar  
15 with it, and offered that service to her.

16 Q How many people in your office, Mr. DeLoach, saw that  
17 letter, the one that you got out of your file?

18 A I don't know.

19 Q Who filed the letter?

20 A I have two people that could have filed it.

21 Q Same people now as you had then?

22 A Yes.

23 Q Who made the copies of it, if those staple removal  
24 marks indicate copies were made?

25 A I don't know whether I made copies of it or had

1       someone in my office make copies of it. I don't recall.

2       Q   Did you tell other people at your level of management  
3       about the existence of this complaint?

4       A   I may have spoken to the town manager. I don't  
5       recall whether or not I did. It would be likely that  
6       there would be a heads up that there was a complaint, but  
7       I don't specifically recall any discussion with him, but  
8       it could have happened.

9       Q   That's Steve Riley?

10      A   Yes.

11      Q   And if I understand the way the system works, Mr.  
12      Riley works for the Town, and everybody else that is,  
13      theoretically, in the Town's employ works for Mr. Riley.  
14      Isn't that correct? With two exceptions.

15      A   Mr. Riley works for town council. He has a contract  
16      with town council. And then, all employees work  
17      indirectly and directly for him.

18      Q   And who is one of the employees that does not work  
19      indirectly for him?

20      A   Maureen Coffey has a contract with town council, and  
21      our town attorney has a contract with town council.

22      Q   And with respect to Ms. Coffey's contract, who is it  
23      that makes recommendations to town council as to whether  
24      to renew it or not?

25      A   That is dependent upon whether or not town council

1 asks for a recommendation. So there is no formal process  
2 whereby someone's expected to make a recommendation for a  
3 renewal for her or any other judge we've had.

4 Q Who has made the recommendation in each instance in  
5 the last three times that her contract has been renewed?

6 A I have been asked -- I was asked the last time, which  
7 is a little over a year ago, whether or not I recommended  
8 her renewal. Don't know.

9 Q What about in 2008, Mr. DeLoach? Were you asked  
10 then, or was it someone else?

11 A I don't recall in 2008. Don't know.

12 Q Prior to the delivery of this letter to you, was it  
13 customary for Judge Coffey to meet with town council at  
14 least once a year?

15 A Yes.

16 Q Has she met with town council at all since this  
17 letter was delivered in 2008?

18 A I don't think so.

19 Q Why is it that town council no longer wants to speak  
20 to her about the way she is running the judgeship?

21 A Because she's doing a good job.

22 Q Did she, at one juncture, ask you for permission to  
23 go and talk to town council?

24 A No.

25 Q She has not?

1 A She has not.

2 Q Does she need your permission to go?

3 A No, sir.

4 Q Who negotiates Ms. Coffey's contracts?

5 A We -- I do. Typically, if -- that's the process we

6 -- the last one about a year ago, there was some changes,

7 but Maureen and I met and discussed those.

8 Q And is that why Mr. Breed may believe that you are

9 Ms. Coffey's direct report?

10 MR. HALIO: Objection. Objection over Mr. Coffey

11 may -- Mr. Breed made may believe.

12 THE COURT: It's sustained. He can't answer that.

13 BY MR. MATHISON:

14 Q Did you ever tell Mr. Breed that Ms. Coffey was your

15 direct report?

16 A No.

17 Q How often did you discuss with Mr. Breed, after the

18 delivery of that letter, either your reaction or

19 Maureen's reaction to it?

20 A I don't recall ever discussing that with Mr. Breed.

21 Q You and Mr. Breed dine or have lunch together

22 frequently; don't you?

23 A About four or five times a year, I would say.

24 Q Do you have a close enough relationship that you send

25 each other emails of family vacations and things like

1       that?

2       A    He has --

3       Q    Pictures?

4       A    He has sent me photos, yes.

5       Q    And you're telling me that you continued to see him

6       and never discussed this?

7       A    Yes.

8       Q    You didn't think it was confidential, and yet, you

9       never discussed it. Is that correct?

10      A    I didn't think what was confidential?

11      Q    What's in the letter.

12      A    Um-hmm. We didn't discuss this, no.

13      Q    Did you negotiate Ms. Coffey's current contract,

14      which is Plaintiff's Exhibit 1?

15      A    This is her current contract, and she and I met and

16      discussed the contract, yes.

17      Q    And did she ask for a raise over her previous

18      contract, which was executed in February of 2008?

19      A    She was considering asking council for a raise, yes.

20      Q    And did you discourage her from doing that?

21      A    No, I didn't discourage her from that.

22      Q    Do you know how much she thought she should get?

23      A    She proposed \$90,000.00.

24      Q    And she didn't get that; did she?

25      A    That's correct.

1 Q Was that a function of you negotiating with her, or  
2 was that a function of town council negotiating with her?  
3 A Well, council accepted her agreed-upon amount, which  
4 is, I believe, \$87,000.00 now.  
5 Q But who negotiated that agreed-upon amount?  
6 A Maureen and I met to discuss any changes to her  
7 contract.  
8 Q Mr. DeLoach, there is a major change to that contract  
9 from her previous two contracts; isn't there?  
10 A Major change? No, I don't see any major changes.  
11 Q What is the duration of the current contract?  
12 A It's a two-year contract.  
13 Q At \$87,000.00. Is that correct?  
14 A Correct.  
15 Q And the previous contract is for three years; isn't  
16 it?  
17 A That's correct.  
18 Q And that's three years at \$85,600.00. Isn't that  
19 right?  
20 A That's correct.  
21 Q And doesn't that mean that Ms. Coffey has basically  
22 lost \$82,000.00 in guaranteed income over the third year  
23 that she would have had, had she had the third year of  
24 the contract?  
25 A She can negotiate this at any time. She can

1 negotiate it between contract periods. That's either in  
2 the code or in the the contract, where compensation can  
3 be considered from time to time.

4 Q Mr. DeLoach, did you tell Maureen Coffey that the  
5 duration of the contract was non-negotiable; it would not  
6 be longer than two years?

7 A No.

8 Q Did you negotiate for two years? Is that what you're  
9 telling me?

10 A No.

11 Q Well, then, how did it end up going from three years  
12 to two years?

13 A The draft that we provided to Maureen included two  
14 years, but that was not necessarily proposed. What I  
15 convey to council is that they can renew it for a two- to  
16 four-year period.

17 Q But they can also not renew it. The third year isn't  
18 guaranteed under any set of circumstances.

19 A That's correct. She's had two-year contracts in the  
20 past.

21 Q Not before 19 -- not before 2005; has she?

22 A Yeah, she's had several two-year contracts.

23 Q Yes, sir. But the one in 2005 was a three-year  
24 contract; wasn't it?

25 A I believe so.

1 Q And the one in 2008 was a three-year contract; wasn't  
2 it?

3 A The one in 2005, if I may, I think that was -- that  
4 was a two-year and several-month contract, expanded  
5 through the holidays, as I recall. And so, it says  
6 probably '05 to '08, when, in fact, it was two years and  
7 I think two or three months.

8 Q Is that because her previous contract had  
9 essentially, she'd outlived it and was working beyond the  
10 time?

11 A I believe it expired in October of the previous year,  
12 yeah.

13 Q So that, essentially, she kept working at the  
14 previous contract rate, and then you renewed it instead  
15 of making it three years when it should have renewed, you  
16 made it basically two years and a fraction from the date  
17 on which you did renew it.

18 A I don't understand your question, sir.

19 Q Well, let's assume that the contract expired in  
20 April, all right, and she continued working until --

21 A Um-hmm.

22 Q -- March.

23 A Um-hmm.

24 Q -- the following year. That would make what was  
25 otherwise a three-year contract, that would make it into



1 a contract of 2.1 years; wouldn't it?

2 A It would.

3 Q Is that what you're talking about?

4 A Well, again, I think she had a two-year contract.

5 The -- as I recall, we ran it from October to January.

6 There was an election that year, I believe. And in any  
7 event, was renewed earlier that year.

8 Q Actually, from October 4, 2005, and terminate on  
9 January 25, 2008.

10 A Right.

11 Q Is that correct?

12 A I believe so. Right.

13 Q And isn't that because she had worked -- continued  
14 working under the previous contract for a period of time  
15 without actually having a contract?

16 A It could have been, yeah.

17 Q So it was three years, but not officially, because  
18 she worked without a contract for a while. And the last  
19 one was clearly three years; wasn't it?

20 THE COURT: Is that a yes for the record, Mr.  
21 DeLoach?

22 A I'm looking. The term of contract for this was  
23 October 4, 2005. It terminates January 2008.

24 Q That's --

25 A So that's a two-year and three-month contract.

1 Q Okay. The last one, do you have that one up there?  
2 Excuse me. The next-to-the-last one?  
3 A I have that, and I've got that.  
4 Q Would you read the duration of the contract that  
5 Judge Coffey had when this letter was written?  
6 A *This employment contract shall be effective beginning*  
7 *February 5, 2008, and shall terminate February 5, 2011.*  
8 Q So she had a three-year contract; letter was written  
9 and delivered; now she's got a two-year contract.  
10 A That's her current contract, is two years.  
11 Q And that's the way it was presented to her by you.  
12 A That number was in there, right. And she reviewed  
13 it.  
14 Q Are you aware of any job deficiency in Maureen  
15 Coffey's performance as a judge since the delivery to you  
16 of the letter to the Commission on Judicial Conduct?  
17 A No.  
18 Q Did anyone with the town council seek to discuss Mr.  
19 Breed's complaint with you?  
20 A No.  
21 Q Do you recall testifying at your deposition about a  
22 conversation that you had with a Mr. Williams?  
23 A Yes. Mr. George Williams asked me whether or not --  
24 something to the effect is the Town involved in this.  
25 And I said the Town is not a party to this complaint.

1 And that was our discussion.

2 Q Well, but that's a little ambiguous. The Town was  
3 not a party to the original complaint that was filed in  
4 the Breed letter, the letter of June 6th. Is that right?

5 A His question related to the first lawsuit, as I  
6 recall.

7 Q Did Mr. Breed inform you that his complaint against  
8 Maureen Coffey was dismissed by the Commission on  
9 Judicial Conduct?

10 A I don't recall whether I heard that from him or not.

11 Q Have you ever seen the letter that announces the  
12 dismissal?

13 A I don't believe I've seen that.

14 Q Who, if anyone, told you that it had been dismissed?

15 A I don't recall where I learned that it was dismissed.

16 Q Did Mr. -- excuse me. Did Maureen Coffey herself  
17 tell you it had been dismissed?

18 A I don't know.

19 Q Do you have any idea when it was dismissed?

20 A No.

21 Q Did Maureen Coffey tell you that, in view of the  
22 complaint that was filed against her by Mr. Breed, she  
23 would not be able to continue hearing cases brought by  
24 Sea Pines Plantation Security?

25 A Yes.

1 Q Did she explain why?

2 A On the advice of her counsel, she said.

3 Q Well, did you understand that you must avoid the  
4 appearance of impropriety? Is that correct?

5 A I think that's what her lawyer would have told her,  
6 yeah.

7 Q And did she almost immediately after the service of  
8 the complaint stop hearing Sea Pines cases?

9 A I believe so.

10 Q And what did the Town do in order to obtain  
11 substitute judicial expertise to resolve the Sea Pines  
12 Security cases?

13 A We hired a magistrate or municipal judge. I forget  
14 who the first person was, but we hired someone that could  
15 hear cases.

16 Q Initially, did you hire Ned Tupper, who was  
17 effectively the municipal judge of the City of Beaufort?

18 A That's -- yes, I believe we did.

19 Q Subsequently, did you replace Mr. Tupper with  
20 Fletcher Johnson?

21 A That's correct.

22 Q Was one of the reasons for the transitions from Mr.  
23 Tupper to Mr. Johnson the fact Mr. Johnson would work for  
24 less?

25 A I believe it was.

1 Q How much money annually does it cost annually to have  
2 another judge hear Sea Pines cases?

3 A That was tallied up a couple of weeks ago, and it's  
4 -- the total has been \$5,400.00.

5 Q For the periods that she recused herself?

6 A Yes.

7 Q Is that one of the reasons that she didn't get a  
8 raise beyond \$1,400.00?

9 A No.

10 Q Did Ms. Coffey tell you in October of 2008 that,  
11 notwithstanding the fact that the Commission on Judicial  
12 Conduct had dismissed the complaint against her, she  
13 still couldn't hear Sea Pines cases.

14 A I don't recall a conversation to that effect.

15 Q Did you ask her to start hearing the cases again?

16 A I don't recall whether I asked her or not. I think  
17 we've had a continuous substitute judge or acting judge.  
18 I don't believe that -- don't know for a fact, so I can't  
19 say whether she started hearing cases again, but I don't  
20 think that she did.

21 Q Did Judge Coffey tell you the reason she couldn't was  
22 that she anticipated bringing a lawsuit against Sea  
23 Pines, specifically, for defamation?

24 A I don't recall that, no.

25 Q Did you tell your friend George Breed that Ms. Coffey

1       was going to bring a lawsuit against CSA and Sea Pines  
2       Security?

3       A    No.

4       Q    When you negotiated with Judge Coffey, did you bring  
5       a chart to the negotiations?

6       A    I did, yes.

7       Q    And was this designed to show her what other people  
8       in comparable levels of employment by the Town were  
9       making?

10      A    Correct.

11     Q    And is one consideration the fact that town employees  
12     who aren't under contract are given stepped-up raises  
13     annually, depending upon whether the money is available  
14     and some proficiency, but isn't it basically a loyalty  
15     reward?

16     A    No. We have a merit-based system. We don't have a  
17     cost-of-living, adjustment-based system.

18     Q    But there are annual percentage increases for people  
19     doing their job.

20     A    Money is budgeted and for salary raises. And then,  
21     employees are evaluated. Based on their performance,  
22     they will receive more or less than some amount.

23     Q    So someone who's on a fixed-amount contract, in the  
24     third year of that contract, is probably not doing as  
25     well as if she got stepped-up annually, even if it's only

1 a small amount. Is that correct?

2 A All I can say is that salaries are -- the amount of  
3 salaries between the judge or the contract employee, the  
4 town manager, for example, and the town council.

5 Q Did the amount of money that you increased Judge  
6 Coffey's contract amount to the statutory minimum?

7 A Well, there is no statutory minimum. We -- Maureen  
8 and I had sat down in my office, and we reviewed the last  
9 several years of raises and not raises. Some -- some --  
10 one or two years there was no raise. And arrived at a  
11 number, a salary of 87,000. I also indicated to her that  
12 she could go to council and discuss this with them.

13 Q Did you tell her that she could go to council and  
14 discuss the fact that the duration of the contract had  
15 been cut from three years to two?

16 A She could discuss any term, including the term of the  
17 -- any term, provision in the contract, including her  
18 term.

19 Q Mr. DeLoach, have you heard any sexual innuendos  
20 about Judge Coffey and a law enforcement officer?

21 A I never have, no.

22 Q In your own experience, working for the Town of  
23 Hilton Head Island, has there been a previous judicial  
24 officer terminated, allegedly for having sexual  
25 liaisons --

1 MR. HALIO: Objection, your Honor. I don't see  
2 where this is relevant to anything having to do with this  
3 case.  
4 THE COURT: Okay. I don't know where the relevance  
5 either, Mr. Mathison. Are you going to be able to tie it  
6 up?  
7 MR. MATHISON: I believe I will.  
8 THE COURT: Do you want me to go off the record?  
9 MR. MATHISON: May I approach.  
10 THE COURT: Please.  
11 OFF-THE-RECORD BENCH CONFERENCE,  
12 OUT OF HEARING OF JURORS. PRESENT:  
13 THE COURT, MR. MATHISON, MR. HALIO,  
14 MS. JONES, MS. JOLLEY.  
15 CONTINUE GREG DELOACH  
16 DIRECT EXAMINATION, MR. MATHISON:  
17 Q Excuse me, Mr. DeLoach. Was there once a magisterial  
18 reporter or recorder working for the Town of Hilton Head  
19 Island?  
20 A I believe her title is associate judge, who's a non-  
21 lawyer, but I think the term back then was associate  
22 judge, but yes.  
23 Q And she had worked for a judge, and then got elevated  
24 from the recorder/reporter position to associate judge?  
25 A She was essentially a -- a court administrator in the



1       municipal court, and then was appointed an associate  
2       judge, yes.

3       Q     And was her employment terminated?

4       A     I believe that it was, yes. I don't recall what it  
5       was specifically if it was a resignation, or it could  
6       have been a termination.

7       Q     Were there allegations at the time of the termination  
8       that she was involved in one or more sexual liaisons with  
9       law enforcement officers?

10      A     I recall there was an allegation that -- many  
11      allegations, but one of which was that she was having an  
12      affair with a deputy at the Beaufort County Sheriff's  
13      Office.

14      Q     Were that to prove true with respect to Maureen  
15      Coffey, would we expect her to be terminated, as well?

16           MR. HALIO: Objection. Speculation.

17           THE COURT: I think you can ask a hypothetical  
18      question. I think he needs to word it properly.

19      BY MR. MATHISON:

20      Q     Would that amount to termination for cause as set  
21      forth in her contract?

22      A     I -- I -- I don't know, because that -- that -- in  
23      the case of a existing judge who has a contract with town  
24      council, whether or not it would amount to a violation of  
25      the terms of the contract. Ms. Churray (phonetic spell),

1 I believe, was --

2 Q I never used her name, so.

3 A Sorry.

4 Q You believe was what?

5 A Was terminated for failure to issue bench warrants  
6 and things like that.

7 Q One moment, sir. I think I'm just about finished.  
8 Did you base your decision that what Mr. Breed had said  
9 about Maureen Coffey was more personal than professional  
10 on what Mr. Breed had said to you, or on what was in the  
11 letter?

12 A I'm sorry. Repeat the question, please.

13 Q Did you base your decision that what Mr. Breed had  
14 said about Maureen Coffey, that it was personal and not  
15 professional, did you base that on what Mr. Breed said to  
16 you when he talked to you, or did you say -- base it on  
17 what was in the letter?

18 A I never made a decision to or not to talk to Maureen  
19 about the complaint. I simply concluded that this was a  
20 complaint by a resident against her, and that the  
21 Commission on Judicial Conduct would have to investigate  
22 it.

23 Q So you never made a determination at all whether it  
24 was personal or professional? Is that what you're  
25 saying?

1       A    I made -- made no such determination.

2       Q    Are you, in addition to being friends with Mr. Breed,  
3       also friends with Cary Kelley, the executive vice  
4       president of Community Services Associates?

5       A    Well, CSA does have business with the Town.  I don't  
6       have lunch with Cary.  I don't think we've ever had lunch  
7       before, or dinner.  I see him at functions like golf  
8       tournament functions, that sort of thing.

9       Q    I'm handing you this document, which is an email  
10       addressed to you from Cary Kelley.

11      A    Um-hmm.

12      Q    And ask whether you received that on or about  
13      December 23, 2008.

14      A    Correct.

15      Q    Could you read the email to you on two days before  
16      Christmas?

17      A    *Greg, I thought you might want a copy of our response*  
18      *to the subject suit.  The 'Island Packet' will be running*  
19      *a story on December 26.  I wish you and your family a*  
20      *Merry Christmas and a Happy New Year.  Sincerely, Cary*  
21      *Kelley.*

22      Q    And what was attached to the email that I just handed  
23      you?

24      A    It's -- it's not here, but as I recall it was the --  
25      well, it says in the subject, CSA answer to Coffey suit.

1 Q And I'm handing you what I believe is the attachment,  
2 and asking you to tell me whether that's it.  
3 A Yes.  
4 Q That's a letter from Celeste Jones to the clerk of  
5 court; isn't it?  
6 A Yes.  
7 Q Filing an answer. Is that right?  
8 A Correct.  
9 Q With specific allegations as to what they thought my  
10 client's and her brother's failings were?  
11 A I assume that. I've never read it.  
12 Q So you didn't read that any more than you read the  
13 letter from Mr. Breed?  
14 A I read the email from Mr. Kelley to me, which I just  
15 read. I did not read the complaint, their answers.  
16 Q Do you know whether you ever did or said anything  
17 that made you susceptible to the people at Community  
18 Services administration, thinking that you might somehow  
19 help them, or want to know what they were doing?  
20 A No.  
21 Q Yet, they were furnishing you information, in this  
22 instance, two days before Christmas, gratuitously?  
23 A I don't know why they sent it to me.  
24 Q Do you know whether they had scheduled some kind of  
25 press event, so that they would know three days in

1 advance that there was going to be an article run in the  
2 *Island Packet*?

3 A No.

4 Q Did you read the article?

5 A No.

6 MR. MATHISON: Move the introduction of the letter  
7 without the pleadings, Plaintiff's Exhibit 19.

8 THE COURT: Any objection?

9 MR. HALIO: Just the front page?

10 MR. MATHISON: Yes.

11 MR. HALIO: No objection.

12 THE COURT: Without objection.

13 COPY OF DOCUMENT REFERRED TO AS  
14 LETTER WITHOUT THE PLEADINGS  
15 MARKED PLAINTIFF'S EXHIBIT NUMBER 19,  
16 ADMITTED AS EVIDENCE.

17 BY MR. MATHISON:

18 Q If you told Mr. Breed that you were not Maureen  
19 Coffey's boss, why did he continue to communicate with  
20 you?

21 A Communicate in which way?

22 Q Well, for example, by sending you pleadings in the  
23 assumption that you were interested in the matter.

24 A That was sent by Mr. Kelley, and I can't tell you why  
25 he sent it to me.

1 Q If this document was sufficiently remarkable that you  
2 discussed it with your colleague, Mr. Coltrane, why  
3 didn't you discuss it with Maureen Coffey?  
4 A Which document are you referring to?  
5 Q The letter that Breed sent to you or delivered to you  
6 on or about June 6, 2008.  
7 A The complaint letter?  
8 Q Yes.  
9 A I talked to Curtis about the matter for several  
10 reasons. One, he employed Maureen Coffey in his practice  
11 many years earlier. And two, I seek his advice on a  
12 number of things.  
13 Q Were you asking him -- did you ask him whether or not  
14 the complaint was credible?  
15 A I don't recall specific words. I don't recall that  
16 specific word, no.  
17 Q Did you ask him whether or not, based on his  
18 understanding of Maureen Coffey's past conduct, she was  
19 capable of what Mr. Breed had --  
20 MR. HALIO: Objection to this line of questioning as  
21 being hearsay.  
22 MR. MATHISON: My next witness is Mr. Coltrane.  
23 THE COURT: Well, we'll get to Mr. Coltrane, then.  
24 BY MR. MATHISON:  
25 Q Have you ever discussed Mr. Breed's letter with

1       Maureen Coffey?

2       A    No, I don't believe we have.

3               MR. MATHISON: Please answer any question that  
4       counsel may ask.

5               MR. HALIO: May it please the Court.

6               THE COURT: Yes, sir.

7                       GREG DELOACH

8                       CROSS-EXAMINATION, MR. HALIO:

9       Q    Mr. DeLoach, in your position is assistant town  
10       administrator. Is that correct?

11       A    Assistant town manager.

12       Q    Assistant town manager. You receive complaints about  
13       public -- excuse me -- town employees?

14       A    Yes.

15       Q    And you may not be the designated complainant, but  
16       you get them; don't you?

17       A    Yes.

18       Q    And you have received complaints about town judges  
19       from time to time. Is that correct?

20       A    We will occasionally have a disgruntled employee  
21       who's had a case before a judge and didn't like the  
22       verdict, but --

23       Q    Disgruntled litigant.

24       A    Well, these are town cases. I'm talking about a town  
25       case, town ordinance violation.

1 Q Right. Somebody hadn't had their case come out  
2 right, so they're mad with the judge, right?  
3 A Yes. I've heard from an employee or two.  
4 Q And you're a lawyer, also.  
5 A Um-hmm. Yes.  
6 Q Have you practiced in court?  
7 A Very little.  
8 Q But you know that judges are criticized all the time  
9 for their decisions, right?  
10 A Yes.  
11 Q I mean, that's just the nature of the job when you're  
12 sitting up on the Bench, and you're making decisions  
13 about people's lives and liberty and money and things  
14 like that, you're going to get criticism; aren't you?  
15 A Yes.  
16 Q And you mentioned the appearance of impropriety. A  
17 judge, because of the position that's held by a judge,  
18 the judge is held to a higher standard than anybody else,  
19 right?  
20 A Yes.  
21 Q The judge cannot only not do something improper; the  
22 judge has to avoid anything that appears to be improper.  
23 Isn't that right?  
24 A Correct.  
25 Q And you describe what the letter that you received



1       that's been talked about, that you were asked about by  
2       plaintiff's counsel, as a complaint by a citizen. Is  
3       that right?

4       A     That's what I said.

5       Q     And every citizen has a right to make a complaint  
6       about a public official, right?

7       A     Yes.

8       Q     And as the Town of Hilton Head is constructed, you,  
9       as the -- you are the assistant town manager of the  
10      plaintiff's department, right? The courts department.

11      A     Correct.

12      Q     So her department -- okay. So how many departments  
13      do you have underneath you?

14      A     There's about five.

15      Q     And one of them is the courts.

16      A     Yes.

17      Q     And that's why Mr. Breed came to you in the first  
18      place to find out about filing a complaint is because she  
19      was one of the departments under your jurisdiction. Is  
20      that right?

21      A     Well, he just called me up. I don't know what  
22      motivated.

23      Q     That would be a reasonable assumption; wouldn't it?

24      A     Yes.

25      Q     If you're the manager of the courts?

1 Q The only thing that changes are the length, the  
2 amount of money. Really that's the only that changed;  
3 isn't it?  
4 A For the most part.  
5 Q Okay. And in addition to salary, Judge Coffey also  
6 receives benefits, like other town employees, correct?  
7 A Correct.  
8 Q And would you tell the jury what those benefits are?  
9 A Numerous health benefits, basically, which could  
10 cover any number of services. I believe -- I believe she  
11 gets a 401(k). I'm not positive, but I believe she gets  
12 a 401(k) program.  
13 Q She's gets a salary; she gets health benefits.  
14 A Right.  
15 Q And she gets a 401(k).  
16 A Right. She gets vacation.  
17 Q Vacation. Paid vacation?  
18 A Right.  
19 Q Which are essentially benefits that every town  
20 employee receives. Is that right?  
21 A Yes.  
22 Q The first contract we mentioned was from -- was  
23 executed December 11, 2000. To the best of your  
24 knowledge, the plaintiff, Judge Coffey has been employed  
25 by you continuously since that time. Is that correct?

1 A That's correct.

2 Q And her contracts come up for renewal when they  
3 expire.

4 A Correct.

5 Q The length of the contract. Is that correct?

6 A Yes.

7 Q And she became full time in 2005, correct?

8 A That's correct.

9 Q Since then, since 2005, isn't it true that her  
10 position has never been open to other candidates.

11 A That's correct. She's a full-time judge.

12 Q Her job has not been shopped out among the legal  
13 community, right?

14 A Correct.

15 Q And that would include the most recent contract,  
16 which was signed in 2011.

17 A February, I believe, of 2011.

18 Q All right. In the midst of this lawsuit, after the  
19 complaint was filed, the Town of Hilton Head Island  
20 didn't even ask anybody else, didn't even consider  
21 anybody else, for her job; did they?

22 A Correct.

23 Q Did you know that she was complaining in this case  
24 about the length of her last contract?

25 A The length of which contract?

1 in a year, and sometimes we re-negotiate some of those.

2 Q And generally what happens is, one side says I want

3 A; one side, the other side, says, I'll give you C. Then

4 you settle somewhere in the middle, right?

5 A Sometimes, yes.

6 Q Okay. Why was she given a raise of \$1,400.00 a year?

7 A She asked for a raise, and council and I recommended

8 that she be -- her contract be renewed. And council, as

9 I conveyed to her, was pleased with her performance.

10 Q Wait a minute. She was being -- she was given a

11 raise as -- for doing a good job?

12 A As part of -- as part of the renewal, and as part of

13 the renewal of the terms of the contract. And the terms

14 of the contract include her salary.

15 Q Well, were other town employees being raised during

16 the same period of time also in February 2011?

17 A We received a one percent increase for 2011, as I

18 recall.

19 Q We being?

20 A Town employees.

21 Q Does that include you?

22 A Yes.

23 Q And \$1,400.00 on an 85,6 contract is one point

24 something percent, right?

25 A Yes.

1 Q So she's received the same salary increase in 2011,  
2 that all other town employees received, and if not  
3 slightly more.

4 A For that year, correct.

5 Q And can you tell us why there was a one point --  
6 approximately a 1.5 percent salary increase at that time,  
7 as opposed to say, eight or ten percent?

8 A I believe that was just a number that she and I  
9 arrived at, 87,000.

10 Q Did it have anything to do with town revenues?

11 A No.

12 Q Being down?

13 A If you go back several years, the typical merit  
14 increase would be roughly four-and-a-half percent. Since  
15 the economic downturn, going back three years, we haven't  
16 had a adopted a budget just yet. It'll be adopted in a  
17 -- in a few weeks. Going back to 2009, there was a zero  
18 percent increase. 2010, I recall a one percent increase.  
19 And 2011, a one percent increase.

20 Q Times have been kind of tough; haven't they?

21 A We've received less increases in salaries.

22 Q Did George Breed say or do anything to influence the  
23 length of her salary or the amount of her raise?

24 A No.

25 Q Did your relationship with George Breed do anything

1 to influence the length of her contract or the salary of  
2 her most recent contract?

3 A No.

4 Q That wouldn't be ethical on your part; would it?

5 A I wouldn't allow that to happen.

6 Q Now, what is the normal length of a contract for a  
7 municipal judge?

8 A It can't be less than two, nor more than four years.

9 Q Where is that -- where does that come from?

10 A It's in the -- it's in the state code.

11 Q All right. And looking back over the six contracts  
12 that she's had with the Town, and this would -- they  
13 would go in this order, can you tell us what the length  
14 of the contracts would be.

15 A December 11, 2000 to December 10, 2001.

16 Q So that was a year, plus?

17 A It was a year.

18 Q Okay. So the first contract was one year.

19 A These are not in order.

20 Q I'm sorry.

21 A That's all right. I will read them as you handed  
22 them to me.

23 Q Could you put them in order for us?

24 A Sure.

25 Q I can tell you that the ones with the orange stickers.

1 A Correct.

2 Q And in fact, there was not even any discussions about  
3 not renewing her last contract, correct?

4 A Correct.

5 Q You're the person that makes that recommendation. Or  
6 you were asked to make a recommendation.

7 A If I am asked to make a recommendation, I make a  
8 recommendation, and I recommended that her contract be  
9 renewed.

10 Q And you recommended that she be re-hired the last  
11 time, right?

12 A I don't know if it was the last time. I just -- I  
13 can't tell you the number of times. But when asked, I  
14 will give a recommendation.

15 Q And in the case of the plaintiff, you have been asked  
16 on occasion if she should be re-hired?

17 A Yes, beginning with her original employment.

18 Q And every time you got asked, you've said okay,  
19 correct?

20 A Correct.

21 Q And in fact, there haven't even been any discussions  
22 in the office about finding a new judge; have there?

23 A None.

24 Q Now, you were asked about your relationship with Mr.  
25 Breed. Do you speak with Mr. Breed?

1 A Yes.

2 Q Has Mr. Breed ever expressed any desire to see the  
3 plaintiff lose her job?

4 A No.

5 Q Has he ever said anything derogatory to you about her  
6 personal life?

7 A No.

8 Q Has he ever said anything -- strike that. The  
9 letter, I think you told us that the letter you received,  
10 a copy of which went to the Judicial Commission, you put  
11 it in -- it was put in a file.

12 A Correct.

13 Q And that's where it sat for what, the last four  
14 years, to the best of your knowledge?

15 A Best of my knowledge.

16 Q You don't recall giving a copy to anybody?

17 A I don't.

18 Q The only person you recall discussing it with is  
19 Curtis Coltrane. Is that correct?

20 A That's correct.

21 Q And as I understand it from the testimony you've  
22 given, the letter itself has had no effect on your  
23 relationship with the plaintiff.

24 A None at all.

25 Q But the allegations in the letter, if they were true,



1 would give you some cause for concern; would they not?

2 A If a judge was not fair and impartial and couldn't do  
3 their job, then yes, it would.

4 Q Well, what about the factual allegations regarding  
5 becoming involved in the middle of the investigation of  
6 her brother for a series of crimes in Sea Pines? Is that  
7 something you think a judge should be doing?

8 A A judge should not be doing that.

9 Q And should a -- in your -- and should a judge be  
10 stopping an officer on the road saying I'm the judge;  
11 quit harassing my family?

12 A I don't believe a judge should do that.

13 Q How about using the town prosecutor as a personal  
14 attorney. Do you think that a judge should be doing  
15 that?

16 A No. I don't think it's appropriate for either one of  
17 them to do that.

18 Q Why is that?

19 A Because the prosecutor prosecutes cases in the  
20 judge's court. And if their relationship was soured by  
21 personal representation, then that might -- might result  
22 in negative consequences for the Town.

23 Q Well, what about if the opposite occurred, if, in  
24 fact, the relationship between the plaintiff and her  
25 attorney, the town judge and her attorney, was a good

1 THE COURT: Thank you.

2 MR. HALIO: One second, your Honor.

3 THE COURT: Ladies and gentlemen, strike that last  
4 question.

5 BY MR. HALIO:

6 Q And one last thing on this email that we've talked  
7 about. When you got the email, December 23, 2008, that  
8 was after you read about the lawsuit in the press, right?

9 A It probably would have been. Um-hmm.

10 Q And you, as a lawyer, know that, when you get a  
11 complaint, you're supposed to answer it, right?

12 A Correct.

13 Q And that's what was being transmitted to you, was a  
14 copy of Sea Pines' answer to the lawsuit?

15 A Correct.

16 MR. HALIO: No further questions.

17 THE COURT: Anything further?

18 MR. MATHISON: Just a couple on re-direct, your  
19 Honor.

20 GREG DELOACH

21 RE-DIRECT EXAMINATION, MR. MATHISON:

22 Q There is a minimum contract period of two years,  
23 isn't that correct? For a municipal contract employee.

24 A That's correct.

25 Q And what she has now is a minimum contract here. Is

1       that right?

2       A    That's right.  That's correct.

3       Q    Whereas, what she had before this event was a three-

4       year contract.  Is that right?

5       A    That's correct.

6       Q    And to the best of your knowledge, you're not certain

7       why that happened.  She didn't ask to have her contract

8       reduced; did she?

9       A    She did not.

10      Q    And can you sit here and tell me right now,

11      Mr.DeLoach, that her contract is going to be renewed next

12      February?

13      A    That's up to council.

14      Q    What are you going to recommend, Mr. DeLoach?

15      A    Today, I'd recommend that it be renewed.

16      Q    Mr. DeLoach, why would George Breed be coming to you

17      for advice about how to file a complaint with the

18      Commission on Judicial Conduct?

19      A    He didn't come to me for that.  He came to me to

20      complaint about Maureen.  And I indicated that he could

21      complaint to town council.  And he said, *Who else could I*

22      *complain to?*  And I told him he could complaint to the

23      Commission on Judicial Conduct.

24      Q    And when you say he came to you, that's metaphorical;

25      isn't it?  He actually called you on the phone.

1 MR. MATHISON: The plaintiff would call Bobbie  
2 Martin to the stand.

3 THE COURT: Come on forward to be sworn.

4 WITNESS SWORN.

5 BARBARA ANN MARTIN

6 DIRECT EXAMINATION, MR. MATHISON:

7 Q State your name for the record, please.

8 A Barbara Ann Martin.

9 Q Ms. Martin, how long have you been a security officer  
10 at Sea Pines Security?

11 A Since March of 1988.

12 Q And while you were working there, did you have  
13 occasion to work with Officer -- or Sergeant John Jolin?

14 A Yes, sir.

15 Q During June of 2008, did you assist Mr. Jolin in  
16 preparing a resignation that he submitted to leave his  
17 job at Sea Pines Security?

18 A It's possible. I've assisted a couple of people with  
19 that.

20 Q Do you recall why Mr. Jolin decided to submit his  
21 resignation?

22 A Well, there were several different reasons.

23 Q Well, was one of them the fact that he was concerned  
24 about incident reports that had been either confused or  
25 not correctly treated?

1 A That is possible. I -- I recall only one main thing.  
2 Q Do you recall an event or an incident involving a  
3 dog?  
4 A I do.  
5 Q Can you tell the jury exactly what you and Officer  
6 Jolin did to figure out who the dog belonged to.  
7 A Well, we were out on the back porch, which I --  
8 wasn't even daylight yet. And there was a dog back there  
9 that had a collar on. We wasn't sure if anybody had made  
10 contact -- or I wasn't sure that anybody had called the  
11 number on the collar, and Jolin decided to go ahead and  
12 call the number with -- by -- with his cell phone while  
13 we were out on the back porch.  
14 Q And who was the call eventually made to?  
15 A I can only say that Jolin said it was -- he found out  
16 is was Coffey, Mrs. Coffey.  
17 Q All right. Could you have made the same call.  
18 A I could have.  
19 Q And if you had made it, do you think that you would  
20 still be working at Sea Pines, instead of Mr. Jolin?  
21 A I do not -- well, yeah.  
22 Q Did you participate in Mr. Jolin's second  
23 resignation, or not?  
24 A You know, I don't recall first or second as far as  
25 when any of them happened, or participating in such.

1 Q Officer Martin, did George Breed complain to you  
2 about a personal relationship between Officer Jolin and  
3 Judge Coffey?  
4 A No, sir.  
5 Q Never?  
6 A No, sir.  
7 Q So you never told him that there was a personal  
8 relationship that he was complaining about between Judge  
9 Coffey and himself?  
10 A I never told who, sir?  
11 Q Mr. Jolin.  
12 A No, sir.  
13 Q You never heard it at all, right?  
14 A The only time I heard anything about Jolin and Mrs.  
15 Coffey was from Mr. Jolin.  
16 Q Mr. Jolin said that?  
17 A He -- the only time that I've heard anything about  
18 Jolin and Mrs. Coffey, is Jolin told me that people were  
19 saying him and Mrs. Coffey were having an affair.  
20 Q Okay. But you never said that yourself?  
21 A No, sir.  
22 Q And you never said Mr. Breed said that they were  
23 having an affair. Is that right?  
24 A That's correct.  
25 MR. MATHISON: Please answer any questions that

1 ask a question. I'll just --

2 MR. MATHISON: I'm going to object at this point. I  
3 mean, Officer Jolin's reputation is not on trial here.

4 MS. JONES: I think it's admissible your Honor,  
5 under Rule 608.

6 THE COURT: I think you can ask what his truth and  
7 veracity was in the community. I think she said that she  
8 couldn't say, but.

9 BY MS. JONES:

10 Q Lieutenant Martin, and what is the basis of your  
11 knowledge of Mr. Jolin's reputation for truth and  
12 veracity?

13 A He likes to embellish a lot.

14 MS. JONES: Thank you, lieutenant. That's all the  
15 questions I have.

16 A You're welcome.

17 THE COURT: Mr. Mathison.

18 BARBARA ANN MARTIN

19 RE-DIRECT EXAMINATION, MR. MATHISON:

20 Q Have you discussed your testimony here with anybody  
21 other than me and Ms. Jones just now?

22 A They had -- I guess, a --

23 Q How many people have you discussed your testimony  
24 with?

25 A Just the attorneys.

1 Q Just the attorneys?

2 A Yes.

3 Q And which ones did you discuss it with?

4 A Our Sea Pines attorneys. They asked me questions; I  
5 answered them.

6 Q When was that they asked you the questions and you  
7 answered them?

8 A I really don't have a date, sir.

9 Q Well, when was it that Mr. Jolin supposedly told you  
10 that he was *scared of Otis Coffey*?

11 A When he was still employed with Sea Pines.

12 Q Well, when was that, specifically, ma'am?

13 A I don't remember a date. Let me see here. It was  
14 before he quit. As far as an exact date, I don't have  
15 it.

16 Q Did he say it once or twice? Or was he, you know,  
17 just terrified of Mr. Coffey?

18 A He told me he didn't want to have anything to do with  
19 this case, because he knew Coffey and the people he hung  
20 with, and he was afraid for his family.

21 Q I see. And you told the lawyers for CSA that on what  
22 date?

23 MS. JONES: Objection, your Honor.

24 THE COURT: Basis?

25 MR. HALIO: Attorney/client.



1 MS. JONES: On the conversation she had with  
2 counsel.

3 THE COURT: Okay. We aren't going to talk about the  
4 subject of conversation and what you all discussed.

5 BY MR. MATHISON:

6 Q What date was it you told him?

7 A I have no clue, sir.

8 Q Was it last year, before they answered the  
9 interrogatories to the plaintiff?

10 A I don't have a date, sir.

11 Q How often did you talk to Officer Jolin on the  
12 telephone after he left --

13 A Not that often.

14 Q -- Sea Pines Security?

15 A Not that often.

16 Q When did he leave?

17 A I don't have a date on that, sir. I'm not that good  
18 with dates unless it's, you know, has to do with my  
19 birthday or something.

20 Q And if I understand your testimony correctly, you're  
21 saying that Mr. Jolin told you that he had a personal  
22 affair with Judge Coffey, and not the other way around?

23 A No, that is not what I said.

24 Q Pardon?

25 A That is not what I said.

1 Q Well, what was it that you said?

2 A He said that people were saying that he did have.

3 Q Okay. But you'd not -- you hadn't heard that. Is

4 that right?

5 A That's the first time I heard it was from him.

6 Q Okay. And do you know when he said that?

7 A It was after the incident that had to do with,

8 apparently, the chase.

9 Q Okay. And do you know when that was? Do you know

10 the year, ma'am?

11 A No, I don't know the year. This is what we've been

12 talking about all day.

13 Q Were you and Jolin friends?

14 A We were at one point.

15 Q And why would you be a friend to someone that, in

16 your opinion, had poor truth and veracity?

17 A I enjoyed his company. We played X Box; we played

18 Playstation; we played pool; we hung out.

19 MR. MATHISON: Thank you, Ms.. Martin.

20 A You're welcome.

21 MS. JONES: Nothing further, your Honor.

22 THE COURT: All right.

23 MR. MATHISON: She is released, your Honor.

24 THE COURT: Any objection to Ms. Martin being

25 released? You're released.

1       A    Thank you, ma'am.

2       THE COURT: Defendant will call their next witness.

3       MR. MATHISON: May it please the Court. I'm going to

4       release Brian Baird. He's released from his deposition.

5       I'm going to call Curtis Coltrane.

6       THE COURT: He's released from his subpoena? Is that

7       correct?

8       MR. MATHISON: Subpoena, yes, correct.

9       THE COURT: Okay. All right. Sir, you are released.

10      Thank you. Come on up, Mr. Coltrane.

11      WITNESS SWORN.

12      CURTIS LEE COLTRANE

13      DIRECT EXAMINATION, MR. MATHISON:

14      Q    State your name for the record, please.

15      A    My name is Curtis Lee Coltrane.

16      Q    Mr. Coltrane, where do you reside?

17      A    10 Watersedge Place, Hilton Head Island, South

18      Carolina.

19      Q    And what's your line of work?

20      A    Private practice law.

21      Q    In the course of your private practice, did you once

22      employ my client, Maureen Coffey?

23      A    I did.

24      Q    Did you develop a personal relationship with her as a

25      consequence of working with her for a number of years?

1 A Yes. Judge Coffey and I worked together for a number  
2 of years, and I consider her to be a friend.

3 Q Did you make a recommendation when the vacancy came  
4 open with the municipal court job in 2000?

5 A I did.

6 Q And subsequently, you served some time on the Bench;  
7 did you not?

8 A I did. I was master in equity for Beaufort County  
9 from 2003 to 2007.

10 Q And thereafter, you became a town manager?

11 A I did. Assistant town manager for Community  
12 Development with the Town of Hilton Head Island.

13 Q And during the time of the incident in question, that  
14 is, in May and June of 2008, you were serving in that  
15 capacity. Is that right?

16 A Yes.

17 Q Did you have occasion in June of 2008 to see what's  
18 been marked as Plaintiff's Exhibit 4?

19 A I believe that I did.

20 Q And who brought you Plaintiff's Exhibit 4?

21 A As I previously testified, my recollection's a little  
22 hazy on this, but I believe that, when Mr. DeLoach came  
23 to see me about the complaint that had been filed  
24 respecting Judge Coffey, that he brought this with him.

25 Q Did you read it?

1 A Yes.

2 Q Had he read it?

3 A I believe that he had. I mean, I --

4 Q Did you discuss the contents?

5 A We did.

6 Q Did you state whether or not you felt that what was

7 in the letter was descriptive of the Maureen Coffey you

8 know?

9 MS. JONES: Objection, your Honor. Calls for an

10 opinion and speculation.

11 THE COURT: Overruled. You can answer it.

12 BY MR. MATHISON:

13 A I don't recall the conversation verbatim, but you

14 know, certainly, that was my opinion when I read this.

15 So, probably.

16 Q Do you recall what Mr. DeLoach said about the letter?

17 A The reason for his bringing it to my attention was

18 that he had it; we were both management folks at the

19 Town; Judge Coffey is a management folk at the Town. And

20 this is, you know, a serious matter, and he thought that

21 I should be aware of it. So, I mean, if you're asking me

22 if he expressed an opinion as to whether or not he

23 believed any of this, I don't recall that he did.

24 Q Did you believe it?

25 A No.

1 Q Do you know whether Mr. DeLoach had shared that  
2 letter with others at the Town, specifically, Steve  
3 Riley, the town manager?

4 A I do not know that.

5 Q If it was a serious matter, as you've testified, why  
6 not tell Maureen Coffey about it?

7 A Are you asking me that?

8 Q Yes, sir.

9 A Honestly, I believed she knew. I mean, I -- I know  
10 how the office of disciplinary council and judicial  
11 standards work. And when you get a complaint, they let  
12 you know.

13 Q And the one you saw is the one you're holding in your  
14 hand which has no receipt information on it.

15 A Yes. I mean, Mr. DeLoach brought me the one he had.

16 Q Okay. And to be specific, the one he had has now be  
17 re-numbered as Plaintiff's Exhibit 18. I'm handing you  
18 Plaintiff's Exhibit 18.

19 A I believe that to be the case. I mean, I saw this  
20 letter once three years ago, maybe four.

21 Q But it didn't have the receipt indication on the  
22 corner, indicating it had come from the Commission on  
23 Judicial Conduct; did it?

24 A Well, no. And there certainly would have been no  
25 reason for the Commission on Judicial Conduct to have

1 sent anything to Mr. DeLoach.

2 Q Did Mr. DeLoach ask you to keep confidential what he  
3 handed you, or let you read?

4 A Probably not, but he didn't need to. I mean, he was  
5 making me aware of an issue related to a senior town  
6 person, so that I would know about it, which I think is  
7 typical in organizations like that. It wasn't so that I  
8 could go tell anyone; it was so that I would know.

9 Q Why wouldn't it have been typical to tell the person  
10 about whom it was written?

11 A Well, I can't speak to Mr. DeLoach.

12 Q Well, why didn't you tell that person?

13 A As I -- I would honestly believe she would have  
14 known.

15 Q Did Mr. DeLoach tell you where he got the letter?

16 A From Mr. Breed. I guess the answer was, yes, from  
17 Mr. Breed.

18 Q Did you and Mr. DeLoach discuss whether the letter  
19 ought to be confidential?

20 A I believe that I did mention that to him. Again, I  
21 -- I know what the rules are.

22 COURT REPORTER: I know what the rules are?

23 A The rules are, meaning the rules governing complaints  
24 to judicial conduct or the office of disciplinary  
25 council.

1 Q Do you know how long Mr. DeLoach had had the letter  
2 when he showed it to you?

3 A I do not.

4 Q Do you know how many other people to whom he'd showed  
5 it before he showed it to you?

6 A I have no knowledge of that at all.

7 Q Did you show the letter to anyone else?

8 A No, I did not. He -- he --

9 Q Subsequently, did Maureen Coffey tell you that she  
10 had received a grievance?

11 A She did.

12 Q Did she ask you to help her?

13 A She asked me for some advice on steps to take. She  
14 didn't ask me to help her. I was not in a position where  
15 I could help her.

16 Q Had Mr. DeLoach told you that he considered that  
17 matter to be personal and not professional, that is, the  
18 matter raised by the letter?

19 A I -- those -- I don't recall those words. I think  
20 that the gist of the conversation that I had with him was  
21 that the matter had been filed, and it would have to work  
22 its way through the process at judicial standards.

23 Q Did you tell Ms. Coffey, when she contacted you  
24 asking you for help, that you had already seen the  
25 letter?



1 A I did.

2 Q What was her demeanor at the time that she first  
3 spoke to you about the letter?

4 A Well, she was horrified. I mean, this is a very  
5 upsetting thing to have happen to you.

6 MR. MATHISON: Please answer any questions that  
7 counsel may have.

8 Excuse me, just one second.

9 THE COURT: Anything further, Mr. Mathison? All  
10 right.

11 MR. MATHISON: Excuse me your Honor. I'm sorry. I'm  
12 trying to listen to too many people simultaneously.

13 THE COURT: That's all right. Anything further?

14 MR. MATHISON: One thing.

15 BY MR. MATHISON:

16 Q Is the bar grievance committee a professional  
17 committee?

18 A Yes.

19 Q Is the --

20 MS. JONES: Your Honor, I'm going to object to this  
21 line of questioning, because he's fixing to ask him a  
22 bunch of legal conclusion questions.

23 MR. MATHISON: No, I'm not.

24 MS. JONES: Okay.

25 THE COURT: You can object if he does.

1 Sheriff. I also am in the polygraph section, working on  
2 internal affairs and special investigations for the  
3 Sheriff.

4 Q And what is your rank, sir?

5 A I'm a master sergeant.

6 Q And how long have you worked for the Beaufort County  
7 Sheriff's Office?

8 A Since December of 2001.

9 Q Master Sergeant, could you please tell me if, in  
10 2004, you had an occasion to meet with the plaintiff in  
11 this action, Maureen Coffey?

12 A Yes, ma'am, I did.

13 Q Okay. And could you please tell the jury the  
14 circumstances that gave rise to your meeting with Ms.  
15 Coffey.

16 A Yes, ma'am. I was working in the northern section  
17 here in Beaufort as an investigator. There was a series  
18 of -- of criminal activity in the Hilton Head area. And  
19 at some point -- I believe he might have been a  
20 lieutenant at the time, Lieutenant McSwain, had a  
21 conversation with Judge Coffey. And I'm not sure what  
22 transpired in that conversation. I wasn't privy to it.  
23 But after that, the sheriff contacted me and asked me to  
24 go meet with --

25 MR. MATHISON: Objection.

1 Q Isn't that correct?

2 MR. MATHISON: Excuse me, your Honor.

3 THE COURT: There's nothing hearsay about that, sir.

4 So, again, --

5 MS. JONES: I can ask him directly.

6 THE COURT: Answer the question.

7 BY MS. JONES:

8 A Yes, ma'am, I was.

9 Q Who directed you to go meet with Ms. Coffey, if  
10 anyone?

11 A Sheriff Tanner.

12 Q Okay. And did you do that?

13 A Yes, ma'am, I did.

14 Q And what was the substance of your conversation with  
15 Ms. Coffey when you met with her in 2004?

16 A I met with her subsequent to whatever transpired in  
17 this other meeting with her and Lieutenant McSwain, to  
18 insure that, because of her position as a municipal  
19 judge, make sure that, you know, our relations were still  
20 good, and make sure there was no complaint she wanted to  
21 file against anyone within the sheriff's office.

22 Q And did you have any conversation with the plaintiff  
23 regarding having her brother, Otis Coffey, take a  
24 polygraph examination?

25 A I don't recall the exact basis of that conversation

1 while discussing it earlier with the counselor for the  
2 plaintiff. He mentioned that. I do not recall for  
3 certain. I -- my advice back then would have been if --  
4 if your brother did -- did not do these, then he should  
5 take a polygraph to clear himself. But I -- I don't  
6 recall the depth of conversation on that.

7 Q Did you take to this meeting any case files or maps  
8 concerning the series of burglaries and property crimes  
9 that had taken place in the Sea Pines area?

10 A No, ma'am, I did not. I did not have any of the case  
11 files. I was an investigator in the Hilton Head area,  
12 and I would not have had access to those files and -- and  
13 such.

14 Q And prior to this meeting, would you have reviewed  
15 any of that information?

16 A No. My nature was to make sure that she didn't have  
17 a complaint or an issue with somebody within the  
18 sheriff's office.

19 Q Did you have any discussion with the plaintiff  
20 regarding the fact that Otis was a suspect in those  
21 crimes?

22 A I believe it did come up during the conversation.  
23 And at one point, she mentioned she was in the process of  
24 having him relocate to another area.

25 Q And where did Judge Coffey tell you she was having

1 Otis relocate to?

2 A My recollection was that it was the Columbia, South  
3 Carolina, area, but during an earlier conversation with  
4 her and her counselor, she said she believes she had told  
5 me back then Tybee Island, Georgia, which is possible.

6 Q And did Ms. Coffey, did Judge Coffey, at the point in  
7 time when you met with her, did she voice any objection  
8 or concern over the fact that you had come to meet with  
9 her?

10 A No, ma'am. She -- she was very cooperative.

11 MS. JONES: That's all the questions I have.

12 BRIAN MARK BAIRD

13 CROSS-EXAMINATION, MR. MATHISON:

14 Q Did you get a subpoena from me in this case, Mr.  
15 Baird?

16 A Yes, sir, I did.

17 Q And did it require you to bring your calendars and  
18 other evidence of when this meeting took place?

19 A It did. However, I do not have any such documents in  
20 existence any longer.

21 Q Could you be incorrect about the date? Instead of it  
22 being late 2004, could it be January or February of 2005?

23 A It's entirely possible.

24 Q Specifically, did you make an appointment to go see  
25 Judge Coffey?

1 without describing it?

2 A What -- what I mentioned was the -- the thoughts that  
3 he was involved in a series of burglaries or maybe even  
4 car break-ins, or I think that was the nature of the  
5 ongoing issue she had.

6 Q All right. And did she cooperate with you to the  
7 extent that you were seeking cooperation?

8 A Yes, sir.

9 Q Did she offer, essentially, to go along with the  
10 polygraph if you wanted a polygraph?

11 A That's what she had told me, and -- and I don't  
12 recall if we went into that. I wasn't the actual case  
13 investigator. She -- she would have been referred to a  
14 case investigator to schedule that.

15 Q Did she call back subsequently and tell you, you  
16 specifically, that he had changed his mind and would not  
17 submit to the polygraph?

18 A She mentioned that earlier during our conversation  
19 today. And I don't recall that she actually told me that  
20 or if she would have told somebody else that.

21 Q Well, do you know, or not?

22 A I do not.

23 Q So it's possible she could have called.

24 A It's possible.

25 Q And because it wasn't your responsibility, it

1 we've ever had a conversation.

2 Q But I mean, the Beaufort County Sheriff's Office

3 wasn't having any problem with her; were they?

4 A Not that I was aware of.

5 Q So why did you go down there?

6 A To insure that there wasn't a problem brewing.

7 Q Okay.

8 A And she told me there was none.

9 Q So I guess the point is, what did she do, if

10 anything, to interfere with the Beaufort County Sheriff's

11 Office investigation of her brother?

12 A I have no idea what she may or may not have done,

13 sir.

14 Q But nothing, as far as you know.

15 A Not that I'm aware of, sir.

16 Q Do you think that it would have inhibited your

17 ability to investigate Mr. Coffey, if, instead of being

18 at Hilton Head Island he was in Tybee Island?

19 A I was --

20 Q Ten miles away by boat.

21 A Well, like I said, sir, I didn't do any of the

22 investigation, but yes, if he was that far away, it may

23 have made it more difficult to arrange for possible

24 meetings or interview or such, but nothing that couldn't

25 be dealt with.

1 MS. JONES: Have a good time.

2 THE COURT: Mr. Mathison. Witness.

3 MR. MATHISON: Yes, ma'am. The plaintiff would call

4 William Waxel.

5 THE COURT: Come on forward, Mr. Waxel.

6 WITNESS SWORN.

7 WILLIAM ARNOLD WAXEL

8 DIRECT EXAMINATION, MR. MATHISON:

9 Q State your name for the record, please.

10 A William Arnold Waxel.

11 Q Mr. Waxel, where do you live?

12 A Woodlake Villas, Hilton Head Island.

13 Q And by whom are you employed?

14 A Currently CSA Security.

15 Q And how long have you worked at CSA?

16 A Five years and three months.

17 Q Were you working for CSA when John Jolin was working

18 for CSA?

19 A I was for about a year.

20 Q And have you continued working there since he left?

21 A I have, yes, sir.

22 Q Have you heard anyone at CSA describe a sexual

23 relationship between John Jolin and Maureen Coffey?

24 A Yes, sir.

25 Q And who is that person?



1 A That would be Randy Woods.

2 Q That's Lieutenant Randy Woods?

3 A Yes, sir.

4 Q Did he say it to you directly, or did he say it  
5 through other people?

6 A No. We talked directly.

7 Q And what is it that he said that Sergeant Jolin and  
8 Maureen Coffey had done?

9 A Just having a general affair. He would stay behind  
10 late at court, and he'd be like the last one to leave.  
11 Just general stuff.

12 Q Did you, in fact, tell John Jolin about these  
13 statements?

14 A Not at first I didn't, no.

15 Q How long did you keep from Mr. Jolin the fact that  
16 you had heard these statements being made about him?

17 A After about the third time, I was really getting  
18 upset about it, because I knew it wasn't true, and I told  
19 John.

20 Q Do you know what year this was that you heard those  
21 statements?

22 A Probably two or three years ago.

23 Q When you told him, had he -- did he acknowledge to  
24 you that other people had said the same thing?

25 MR. HALIO: Objection, your Honor.

1 A He said he heard it, yes, sir.

2 MR. HALIO: Hearsay.

3 COURT REPORTER: I'm sorry. I didn't hear your  
4 answer.

5 A He said --

6 THE COURT: Okay. He's already testified. Do you  
7 need to go back and look at his testimony?

8 MR. MATHISON: He actually testified that a number of  
9 people had told him, your Honor.

10 THE COURT: Which is what I recall. Okay. Keep  
11 going.

12 BY MR. MATHISON:

13 Q Did he tell you, when you advised him of this, that  
14 other people had told him that the same statements were  
15 being made, or essentially the same statements, by  
16 personnel at Sea Pines Security?

17 A Yes, sir.

18 Q You, in fact, know Mr. Jolin reasonably well; don't  
19 you?

20 A I've known him since he first moved to Hilton Head.

21 Q You and he are both, I think, from the same state;  
22 aren't you?

23 A Him and my son went to school together.

24 Q I understand. Do you share Bobbie Marin's opinion of  
25 Mr. Jolin's reputation for veracity, or not?

1 A No, I don't.

2 Q Have you ever met a more honest man than John Jolin?

3 A Not to my knowledge, I haven't, no.

4 MR. MATHISON: Neither have I. Thank you.

5 MR. HALIO: Objection. Move that that be stricken.

6 THE COURT: Ladies and gentlemen, that was an

7 inappropriate comment. It's stricken from the record.

8 That are to disregard it.

9 MR. HALIO: May it please the Court.

10 THE COURT: Yes, sir.

11 WILLIAM ARNOLD WAXEL

12 CROSS-EXAMINATION, MR. HALIO:

13 Q Mr. Waxel, in fact, you've been sitting next to Mr.

14 Jolin today, yesterday. You guys really are close;

15 aren't you?

16 A Yes, sir.

17 Q Okay. You're aligned, so to speak. Would you agree?

18 A I did not -- what was the question again?

19 Q You and he are aligned. You all are aligned in

20 thinking.

21 A No, I don't believe so.

22 Q Do you consider yourself a father figure to Mr.

23 Jolin?

24 A Sort of. Yes, sir.

25 Q You don't think he ever -- and you say he's the most

1 Q Sitting out in the audience.

2 A Yes, sir.

3 MR. HALIO: Excuse me one second, your Honor.

4 THE COURT: Okay.

5 BY MR. HALIO:

6 Q All right. You said that you heard the statement

7 from Randy Woods, but you did not hear it from George

8 Breed. Is that correct?

9 A No, sir.

10 Q Or Mr. Kelley?

11 A No, sir.

12 Q And you knew -- strike that. And you don't recall

13 exactly when you heard, right?

14 A It's been off and on for the last three or four

15 years.

16 Q The first time. Do you remember the first time?

17 A Probably about three years ago. No, I don't remember

18 exactly.

19 MR. HALIO: All right. Thank you. No further

20 questions.

21 THE COURT: Anything further, Mr. Mathison?

22 MR. MATHISON: No, your Honor.

23 THE COURT: All right. You may step down, sir. You

24 are excused.

25 MR. MATHISON: The plaintiff would call Randy Woods

1 to the stand, your Honor.

2 THE COURT: Come on forward, sir.

3 MR. MATHISON: May we approach?

4 THE COURT: You may.

5 OFF-THE-RECORD BENCH CONFERENCE,

6 OUT OF HEARING OF JURORS. PRESENT:

7 THE COURT, MR. MATHISON, MR. HALIO.

8 WITNESS SWORN.

9 RANDALL BRUCE WOODS

10 DIRECT EXAMINATION, MR. MATHISON:

11 Q State your name for the record, please.

12 A Randall Bruce Woods.

13 Q Mr. Woods, where do you reside?

14 A Old Carolina, Bluffton, South Carolina.

15 Q What do you do for a living?

16 A I'm a lieutenant for Sea Pines Security.

17 Q How long have you worked for Sea Pines Security?

18 A Twenty-nine -- excuse me -- 29 years.

19 Q So you've been there, actually, longer than Mr.

20 Breed. Isn't that correct?

21 A Yes, sir.

22 Q Kind of go with the facility. Is that right?

23 A I've been through three -- excuse me -- I've been

24 through three different directors.

25 Q Did you have a telephone conversation with John Jolin

1 a little bit more than two years ago, during which you  
2 apologized to him?

3 A Apologize? No, sir.

4 Q Did you have a telephone conversation during which  
5 you told him that you regretted certain things that you  
6 heard said at Sea Pines?

7 A No, sir.

8 Q Have you heard at Sea Pines, from other Sea Pines  
9 officers, the rumor or statement that Mr. Jolin had had a  
10 sexual relationship with Judge Coffey?

11 A No, sir.

12 Q Not at all? Not once?

13 A No, sir.

14 Q Have you ever said it yourself, sir?

15 A I have not, sir.

16 Q Did you hear Mr. Waxel testify that you said it?

17 A I did, sir.

18 Q Did you hear Mr. Jolin testify that you, basically,  
19 called him up and apologized for saying it?

20 A I did, sir.

21 Q And you're saying that's not correct. Is that right?

22 A The statement is not correct, sir.

23 Q Have you ever heard George Breed talk about a  
24 personal relationship between Mr. Jolin and Ms. Coffey?

25 A No, sir.

1 Q Have you been with Sea Pines Security longer than Mr.  
2 Campbell?  
3 A Yes, sir.  
4 Q Have you been there longer than Mr. McNeill?  
5 A Yes, sir.  
6 Q With whom have you discussed your testimony before  
7 you came here, initially, on Tuesday?  
8 A Nobody, sir.  
9 Q So I'm the first person, basically, to ask you any  
10 questions?  
11 A Pretty much so, yes, sir.  
12 Q Did you ever call Mr. Jolin and tell Mr. Jolin that  
13 if he wanted to come back to work, you would take him on  
14 your shift, and take care of him?  
15 A I did, sir.  
16 Q When was that?  
17 A I do not know, sir. It was from a call that Mr.  
18 Waxel come to me and said Mr. Jolin wanted to come back  
19 and work for us.  
20 Q And was it prior to the time that his deposition was  
21 taken in this case?  
22 A Yes, it was. Actually, it was last year, 2011.  
23 Q And do you know whether Bobbie Martin made calls to  
24 Mr. Jolin before his deposition was taken in this case?  
25 A I do not know, sir.

1 Q Why was it necessary for you to protect Mr. Jolin if  
2 you were going to take him back?

3 A Mr. Jolin wanted to come back to work for Sea Pines  
4 Security. He didn't want to go to third shift. I had an  
5 opening on night shift, which is second shift. I told  
6 him to come back and we would work together.

7 Q So, if I understand the testimony, what you're doing  
8 is, you're telling me that you wanted to have Mr. Jolin  
9 back after he, basically, quit because he didn't like the  
10 way you all did business. Is that right?

11 A He called us, sir.

12 Q Right. But you had no -- you wanted him back. It  
13 wasn't a question of having to take him. Is that right?

14 A No, he could have come back on his own, sir.

15 Q And you would have taken him. Is that right?

16 A It was not up to me. It was up to Mr. Breed.

17 Q Well, why were you telling him he could be on your  
18 shift?

19 A He called me, sir.

20 Q Okay. And would you have taken him if he was the  
21 person of low character, as was testified by Bobbie  
22 Martin?

23 A No, sir.

24 Q Do you believe that he is a person of low character?

25 A I don't know him that well, sir, not personally.



1 Q Okay. Have you said anything about a personal  
2 relationship between Judge Coffey and John Jolin to  
3 anybody?  
4 A I have not, sir.  
5 Q Have you heard anybody else, including people not  
6 working for Sea Pines Security?  
7 A I have had people try to ask me questions about it,  
8 and I -- I don't answer their questions, sir.  
9 Q People who have tried to ask you questions about it?  
10 A Yes, sir.  
11 Q And what people are those?  
12 A One of them is Mr. Waxel.  
13 Q Who else?  
14 A Mike Ryan.  
15 Q Who else?  
16 A Robert Hahn.  
17 Q In other words, people that are no longer in the  
18 employ of Sea Pines Security. Is that right?  
19 A Correct, sir.  
20 Q And do you know why people who are in their employ  
21 have one view of this, and people who aren't in the  
22 employ of Sea Pines Security have another?  
23 A I have no idea, sir.  
24 Q Could it be that Mr. Breed has an influence on your  
25 thinking, Mr. Woods?

1 A No, sir, he does not.

2 MR. MATHISON: Thank you. No further questions.

3 RANDALL BRUCE WOODS

4 CROSS-EXAMINATION, MR. HALIO:

5 Q Mr. Woods, you said that you have been working at Sea

6 Pines for how long?

7 A Twenty-nine years, May 28th of '83.

8 Q How many bosses have you had during that period of

9 time?

10 A Three directors.

11 Q And what is the mission of the security department at

12 Sea Pines?

13 A To maintain the safety of the people.

14 Q Did you have a conversation with Mr. Jolin concerning

15 the events of May 20, 2008?

16 A The --

17 Q The chase?

18 A The chase. Yes, sir, I did.

19 Q Tell us about that conversation.

20 A I don't know the exact time. It was after everything

21 was over and done with, 2:00, 3:00, 4:00 o'clock in the

22 morning. John calls me up, and he says, *I got him*. I

23 said, *Who do you have?*. And he says, *I got -- I got Otis*

24 *Coffey*. I said, *You got Otis Coffey*. He goes, *Well, I*

25 *didn't get him*. He said, *I chased him*. I said, *Okay*.

1           He proceeds to tell me the story, same story, that  
2       he chased him; he went down the beach walk; went to south  
3       beach on -- sorry -- he had Sergeant Fryman at the time.  
4       I think he was corporal. Had him go down behind Gadwall.  
5       They and -- Frank, Frank Fryman, observed the same-  
6       clothed individual go up the stairs.

7       Q    So that was three or four hours after it happened.

8       A    Yes, sir.

9       Q    And the next thing you heard -- well, strike that.

10      Did you go to court with Mr. Jolin on occasion?

11      A    Yes, sir.

12      Q    To the municipal court?

13      A    Yes, sir. On Hilton Head. Yes, sir.

14      Q    To Judge Coffey's court?

15      A    Yes, sir.

16      Q    To handle tickets in front of Judge Coffey?

17      A    Correct, sir.

18      Q    Did you go there with Judge -- with Mr. Jolin?

19      A    Yes, sir.

20      Q    Did you ever see Mr. Jolin do anything unusual in  
21      connection with his court cases?

22      A    Unusual? No, sir.

23      Q    Well, did he ever talk to the Judge? Did he ever  
24      hang around the courtroom? Anything like that?

25      A    He -- a couple of times he had stayed after court to

1 talk to the Judge.

2 Q Did you have any conversations with him about that?

3 A Not about that. Just the statements that had -- he  
4 had said about why we were in court.

5 Q Did you have any statements to -- did you make any  
6 statements to him about hanging around court afterwards?

7 A I -- no, sir, I did not.

8 Q Did he make any statements about the plaintiff?

9 A Yes, he did, sir.

10 Q What did he say?

11 A We were in court when the Judge would walk in. He  
12 would lean over to me and tell me how pretty she was. I  
13 had other people, probably 10, 12, maybe 20 other  
14 officers in there, defendants and other. I, basically,  
15 told him he needed to be quiet and not say anything like  
16 that.

17 Q All right. And so you did not tell anybody that Mr.  
18 Jolin was having an affair with the plaintiff; did you?

19 A No, sir, I did not.

20 MR. HALIO: Thank you, Mr. Woods.

21 A Thank you.

22 RANDALL BRUCE WOODS

23 RE-DIRECT EXAMINATION, MR. MATHISON:

24 Q I just want to make sure I got this correct. You  
25 like your job; don't you? I mean, you had it for a long

1 MR. HALIO: May we excuse the client?

2 THE COURT: Absolutely. You are free to go.

3 THE COURT: All right. I think, Ms. Jolley, you're  
4 the one, it looks like, doing the designation, because I  
5 saw your name signed on them. Or is that not correct?

6 MS. JOLLEY: Yes. Yes, your Honor.

7 THE COURT: Okay. All right. Well, let's get  
8 going, then. The first objection I saw that you have is  
9 Mr. Kelley's deposition was on Page 70, Line 10, and  
10 through 71, Lines 5. And I think it talks about  
11 incorrigible children and evicting some people is what I  
12 understand. Any of your citings you think are relevant?

13 MS. JOLLEY: Yes, your Honor.

14 THE COURT: Mr. Mathison.

15 MR. MATHISON: Let me look, your Honor. Hold on one  
16 second, please. What I was trying to do in this instance  
17 is, he had made a statement about his bridge reports.

18 THE COURT: Um-hmm.

19 MR. MATHISON: Specifically, he wasn't certain what  
20 they were. Mr. Breed wasn't certain what they were  
21 either, or who they went to. First, Mr. Breed testified  
22 that he prepared this bridge report, and to one copy of  
23 the bridge report that's dated June 11th, 2008. That  
24 letter is attached.

25 THE COURT: Okay.

1 MR. MATHISON: And he said, *I gave it to Mr. Kelley.*  
2 *I don't know what he did with it.*

3 Then Mr. Kelley proceeded to tell me that he didn't  
4 know what he did with it. He didn't know whether it ever  
5 got published anywhere, and effectively, that first one  
6 that went out was not confidential. It wasn't marked  
7 confidential or anything. From there on in, there was a  
8 succession of bridge reports, and I put a number of them  
9 in and discussed the materials that was in them, trying  
10 to figure out what character of -- what quality these had  
11 that you could figure out the audience that received  
12 them. All right?

13 THE COURT: Um-hmm.

14 MR. MATHISON: They looked like general information.  
15 It doesn't look like something that necessarily would go  
16 just to directors. And to be honest with you, I still  
17 don't know what the distribution list is, because they  
18 don't know what they do with this report that they  
19 generate at least once a month.

20 But at least one time in a bridge report on June  
21 11th, down at the bottom, there's a statement saying  
22 effectively this:

23 George Breed has been hampered in his ability to  
24 prosecute these burglaries by the fact that there's been  
25 interference, and here are the reasons in this letter.

1 That's what it says. I don't think I need the eviction  
2 of tenants to prove that. I don't think the eviction of  
3 tenants necessarily goes to state of mind of George  
4 Breed. So I'm not wedded to that, necessarily.

5 THE COURT: So you're finally taking it out?

6 MR. MATHISON: It doesn't bother me.

7 THE COURT: All right. Let's go ahead and take it  
8 out.

9 MR. MATHISON: But I'm trying to tell you, I want  
10 some of them to stay in, just so that they can see how  
11 often they came out. And if they're not doing anything  
12 with them, they're going to look -- it's an amazing waste  
13 of time and effort to produce a monthly, and then,  
14 basically, just have Kelley and Breed share. I mean,  
15 they could walk down the hall and talk about this stuff.

16 And the only place we've got these two, I might add,  
17 is not from them, but from Steve Birdwell. He produced  
18 them.

19 THE COURT: Okay. All right. Doesn't sound  
20 relevant. Let's go to Page 102. This all has to do with  
21 the identification, and I've ruled so far, and as of  
22 right now, I'm still sticking with it, is that the  
23 indemnification is not coming in by the board.

24 MS. JOLLEY: Okay. Thank you, your Honor.

25 THE COURT: So all of that goes down. Now we're

1 back down to --

2 MR. MATHISON: Your Honor, wait just a minute.

3 THE COURT: Yes, sir.

4 MR. MATHISON: I think Birdwell is going to have to  
5 -- you have to look at this issue through the prism of  
6 Birdwell's testimony.

7 THE COURT: Um-hmm.

8 MR. MATHISON: Birdwell's going to testify that,  
9 at no point did anybody advise him or other members of  
10 the board that the complaint filed by Breed against  
11 Maureen --

12 THE COURT: Had been dismissed. And I think he  
13 absolutely can testify to that.

14 MR. MATHISON: Okay. In addition, he's going to say  
15 -- and this strikes me as incredible, but he's going to  
16 say it nevertheless. He's already said it. That there  
17 was not a single word of discussion at all by any member  
18 of the board from June 24th when they had a meeting at  
19 which the letter of Breed was discussed.

20 THE COURT: Um-hmm.

21 MR. MATHISON: From then until the meeting on  
22 January 8, 2009 when they voted to indemnify Mr. Breed.  
23 I think that that is critical evidence. The fact that it  
24 was never disclosed that the thing had been dismissed;  
25 and there was never any discussion of it; and without any



1 discussion at all, no inquiry being made, the bona fides  
2 never being checked, 17 people voted unanimously,  
3 basically, to pay George Breed's judgment or settlement  
4 costs. I think that that's an incredible statement. And  
5 essentially, it proves that there was a suppression of  
6 this, to the extent that either Mr. Breed and Mr. Kelley  
7 deceived their board, or the board is deceiving this  
8 court. It's impossible to believe that that happened,  
9 but that's what he said happened.

10 MS. JOLLEY: Your Honor, there is no evidence to the  
11 contrary about any of that. And quite frankly, again,  
12 all he's trying to do is say that the indemnification  
13 decision is a ratification by the board of Mr. Breed's  
14 complaint. And that does not come in under the rules.

15 MR. MATHISON: I'm sorry, but it doesn't come in  
16 under what rules?

17 MS. JOLLEY: Doesn't come in under Rule 411.

18 MR. MATHISON: They objected to it on relevancy,  
19 your Honor. They didn't object to it on --

20 MS. JOLLEY: No. Your Honor, we've also objected to  
21 on Rule 411.

22 MR. MATHISON: I've got their motion right here.  
23 It's relevancy.

24 MS. JOLLEY: If you had read under Rule 402 and 403.  
25 We also discussed indemnification at the Bench, and we

1 submitted case law.

2 MR. MATHISON: May it please the Court. I'm looking  
3 at what they say, and it's under Rules 402 and 403, and  
4 it's clearly not irrelevant.

5 MS. JOLLEY: We have also already discussed in the  
6 courtroom the fact that this is indemnification, this is  
7 being presented as indemnification, and that's under the  
8 rules.

9 MR. MATHISON: You handed up a case circuitously  
10 from your iPad to the clerk. CC'ing us with it, knowing  
11 that we're not sitting here with computers. And  
12 basically, I think that that case was then brought out  
13 here by Allison to the Judge. But we haven't debated  
14 your case. And if you look at the case, it doesn't say  
15 what you want it to. There's an headnote that says that,  
16 but the case doesn't say that.

17 THE COURT: I don't know. Let me sleep on it some  
18 more. I guess my concern -- there is the agency issue in  
19 this case, is what my understanding is. You've sued  
20 George Breed, but you also sued CSA. And I guess they're  
21 admitting that he was acting in the course and scope of  
22 his employment.

23 MR. MATHISON: I don't --

24 THE COURT: If that became an issue in any way,  
25 then, I would think, absolutely, the indemnification

1 would come in. I mean. And I think you're entitled to  
2 sue George Breed directly, as well, but I'm not saying  
3 that.

4 MR. MATHISON: Your Honor, may it please the Court.  
5 We think the ratification is an indication that the board  
6 -- not the ratification -- we think the minutes of June  
7 8, 2009 are a strong indication that the board believed  
8 what Mr. Breed said; and that, notwithstanding anything  
9 else to the contrary, the only way to shake that belief  
10 was the lawsuit; that for either reasons of indifference  
11 -- and God knows community association boards are often  
12 indifferent -- or reasons of concealment on the part of  
13 Mr. Breed and Mr. Kelley, they didn't know enough to make  
14 a decision. All right. And consequently, having made  
15 one, it's an endorsement, if not the ratification that I  
16 want it to be. You don't agree to pay somebody's  
17 judgment amount if you think he's made a mistake unless  
18 you have to.

19 THE COURT: Except for when he's made a mistake in  
20 the course and scope of his employment, which that  
21 happens.

22 MR. MATHISON: Well, they've also made another  
23 mistake, and we think we can demonstrate through the  
24 covenants that, at the time they voted to indemnify him,  
25 the covenants only permitted the indemnification of board

1 members.

2 THE COURT: Oh, no. I think there is going to be a  
3 very real breach of fiduciary duty case. If you get a  
4 big verdict against these people, I assure you -- well, I  
5 don't need to assure you of this. I can bet that Mr.  
6 Mathison, as a homeowner, and probably a member, that  
7 you're going to turn around and file that suit yourself.

8 MR. MATHISON: No, I don't think I --

9 THE COURT: So, and he's a lawyer. My point, though  
10 being is, if there is a big verdict against them, there's  
11 no question that there's going to be a breach of  
12 fiduciary duty suit brought.

13 MR. MATHISON: What I'm saying is that --

14 THE COURT: There's too many lawyers in Sea Pines.

15 MR. MATHISON: This passes the test of relevance,  
16 your Honor, and I don't believe there's an insurance  
17 issue raised here. And consequently, this is not  
18 insurance; this is a big company agreeing to pay the  
19 expense of an individual, simple as that. And I don't  
20 think the big company would agree to pay the expense if  
21 they didn't believe the individual had done something  
22 that was at least defensible.

23 THE COURT: Either that, or they didn't do their due  
24 diligence before.

25 MR. MATHISON: Yes. But you know, that's the next

1 case. I don't have that one.

2 THE COURT: I know. Okay. Let's go beyond that. I  
3 will go ahead and sleep on it again and think of it.

4 Okay. I don't know how you're using it is to show that  
5 it was a ratification of his actions. Because, you know,  
6 I think there's a real argument as to whether or not Mr.  
7 Breed telling his employers, the Board, what he has done  
8 or what he has complained, I mean, you know, their guys  
9 are charging qualified privilege, and there certainly can  
10 be a qualified privilege.

11 The problem he has in this case is giving it to  
12 DeLoach. I mean, I think we all clearly know that.  
13 That's where the problem lies.

14 MR. MATHISON: I think that if he needed the  
15 approval of the board before he wrote the letter, that  
16 unquestionably, there would be a privilege. But his  
17 testimony is he didn't need the approval. And Kelley  
18 backed him up and said it was an operational decision, so  
19 that --

20 THE COURT: I know. But he did talk to Kelley about  
21 it. And Kelley had no problem with it, which is why you  
22 have a problem with civil conspiracy. So again, I  
23 actually can tell you, I was surprised by Cary Kelley's  
24 testimony. He knew it was coming down the pike. He  
25 certainly ratified it. He certainly didn't tell him not

1 to.

2 MR. MATHISON: Well, I surmise that some -- one or  
3 more of them might have had misgivings if they'd known it  
4 had been dismissed, and if they'd known, effectively,  
5 what it said is there is no evidence. Not having  
6 reviewed the evidence by the preponderance, it's --

7 THE COURT: Um-hmm.

8 MR. MATHISON: But no evidence. That's what the  
9 letter says. I think that would have given a reasonable  
10 man notice.

11 MS. JOLLEY: Respectfully though, this doesn't have  
12 anything to do with the ratification issue, which is what  
13 we're talking about in this case.

14 THE COURT: Um-hmm.

15 MS. JOLLEY: There is no case law that says an  
16 indemnification decision by a board is ratification of  
17 any act of that employee.

18 THE COURT: Or can be.

19 MS. JOLLEY: Or can be.

20 THE COURT: The question is, can it be evidence.  
21 Okay. Well, if you can find any. Again, I, you know,  
22 obviously, as cases unfold, you learn more and you hear  
23 more testimony, things can change. I still, right now,  
24 am not comfortable with it. So, as of right now, the  
25 indemnification portion is not coming in.

1           Number 142 -- or Page 142, the objection about  
2           testimony about restitution collected. That's already  
3           been testified to, so I don't see any harm. It's already  
4           there.

5           Line 162. There still is the outstanding issue, and  
6           correct me if I'm wrong, Mr. Mathison, that Jolin says  
7           that everything coming out of CSA Security is taped. And  
8           of course, we don't have tape. And I understand you all  
9           have an explanation for it, but of course, the case was  
10          40(j'd). Although I agree, I don't think that -- that  
11          doesn't mean you can get rid of evidence or not have  
12          evidence.

13          But my point is, is that this testimony about taping  
14          a conversation with Judge Herring, I don't think it  
15          matters whether or not it was legal or illegal.  
16          Obviously, you're not supposed to do it. But the point  
17          was, you're trying to show that they tape things  
18          routinely, correct?

19          MR. MATHISON: I am. And I'm trying to show that  
20          they kept them, and Breed -- if you -- by now, you've  
21          read both iterations of the deposition, and you realize  
22          that he denied it right up until the point that the  
23          Klippel deposition was handed to him.

24          THE COURT: Right.

25          MR. MATHISON: And when he was confronted with what

1 he'd said before, he proceeded to admit that deputies  
2 calls for routinely -- or officers calls were routinely  
3 recorded to a database.

4 THE COURT: Um-hmm.

5 MR. MATHISON: All right? But he said his weren't.  
6 And that's why I used Herring's letter.

7 THE COURT: Gotcha.

8 MR. MATHISON: That's one of the reasons.

9 THE COURT: Okay.

10 MR. MATHISON: That's why he used Herring's call.

11 THE COURT: Okay.

12 MR. MATHISON: I think it's a different --

13 THE COURT: Well, I am going to go ahead and allow  
14 that. I think that is an issue in this case, is why we  
15 don't have the recordings of some of these.

16 The next one is the testimony exchanged between  
17 Breed and Birdwell. You're saying it's hearsay. It's  
18 the whole thing about the Calvert disappearance and  
19 peeping Tom incidents. I've a big concern about the  
20 hearsay portion of it, but I think it goes -- I think  
21 what Steve Birdwell was trying to say and do was, listen,  
22 you know, it's obviously not good for business for there  
23 to be break-ins, for there to be the Calverts  
24 disappearing. I don't see any of it so objectionable. I  
25 mean, I'm assuming Mr. Birdwell's going to testify. Is



1       that correct?

2           MR. MATHISON: Yes. He is.

3           MS. JOLLEY: That's our point, your Honor. If Mr.  
4       Birdwell can testify about it, and Breed can testify  
5       about it, there's no need for that to come in, in Mr.  
6       Kelley's deposition.

7           THE COURT: Well, I don't know if Breed is going to  
8       testify to it or not.

9           MS. JOLLEY: Well, I believe that the deposition  
10      designations.

11          MR. MATHISON: May it please the Court.

12          THE COURT: Okay.

13          MR. MATHISON: It's just -- it's kind of like  
14      Colonel Weir. He's their witness, and they're trying to  
15      keep out his document. I don't know at this juncture  
16      whether they will let me put Birdwell's deposition  
17      testimony on, in lieu of putting up a live Birdwell. I  
18      think it's their call. I'll do either one.

19          THE COURT: Um-hmm.

20          MR. MATHISON: But I think that this is relevant for  
21      the following reason, and it goes back to that bridge  
22      report. Mr. Birdwell was upset about the seeming  
23      lawlessness at Sea Pines. And a lot of this was dictated  
24      by the interpretation of the statute sent out by Mr.  
25      Weir. It changed everything on Hilton Head. Everybody

1 started reporting all their cases.

2 THE COURT: Um-hmm.

3 MR. MATHISON: So, all of the sudden, the *Island*  
4 *Packet* started filling up with crimes, or incidents. if  
5 not crimes, that never got reported before.

6 THE COURT: Right.

7 MR. MATHISON: Because they didn't get to BCSO.  
8 That's bad for business. All right. So there's an  
9 interplay inside the plantation do we report or do we not  
10 report. Business interests don't want it reported. The  
11 sheriff's office wants everything reported.

12 I think what Birdwell was saying is let's get busy,  
13 guys; let's solve these things so we can shut down the  
14 bad coverage. All right.

15 Within, literally, two weeks or three weeks, you  
16 have the Coffey incident. The same night you have the  
17 Coffey incident. And then you have Breed writing his  
18 letter on June 6th. And then you have him taking that  
19 letter and attaching to this bridge report that says,  
20 specifically, this is the reason I haven't been able to  
21 catch these guys. It's her fault. All right.

22 THE COURT: Okay.

23 MR. MATHISON: That's what it says. Read my letter.

24 THE COURT: It's his excuse. It's his excuse.

25 MR. MATHISON: Exactly. And I think it's crucial

1 evidence, because it follows logically as a response to  
2 Birdwell's exhorting him to get busy and solve the  
3 crimes. I'm not trying to compare Otis Coffey to the  
4 Calverts, but I --

5 THE COURT: I can tell you that it's pretty  
6 innocuous. It's such a small line that he is talking  
7 about, the peeping Toms, the burglaries, and the  
8 disappearance of the Calverts. I'm going to go ahead.  
9 I'm going to let it in. I'm assuming Steve Birdwell's  
10 going to testify to it, so.

11 MS. JOLLEY: And I'd like to note for the record  
12 that we are going to require Mr. Birdwell to testify  
13 live.

14 MR. MATHISON: That's fine.

15 MS. JOLLEY: We're not putting his deposition in

16 THE COURT: Okay.

17 MR. MATHISON: That's fine. It doesn't bother me at  
18 all.

19 THE COURT: And the last portion, all these board  
20 minutes about talking about what is produced, and whether  
21 or not there's a final copy, and whether or not there's a  
22 posted copy. My question is, are you alleging that they  
23 are changing or doctoring the minutes? Is that what  
24 you're suggesting?

25 MR. MATHISON: No. Your Honor, as of the last

1 effort, Kelley brought us the -- or gave me the official  
2 approved minutes what, day before yesterday?

3 MS. JOLLEY: No, your Honor. I gave Mr. Mathison  
4 the official approved minutes of the summary judgment  
5 hearing on C.D., in response to his request at the  
6 deposition. He then subpoenaed them again this past  
7 week. And we handed those over -- I don't know what  
8 today is.

9 MR. MATHISON: What I've got is a certification that  
10 these are the right ones.

11 THE COURT: Okay.

12 MR. MATHISON: And to be honest, this is the third  
13 different set that I've had, and I don't have the -- I  
14 don't, literally, have the stamina to read through them  
15 all again.

16 THE COURT: Okay. Well then, I'm not going to let  
17 it in, because I don't think this jury has the stamina to  
18 listen to four pages about documents. They're having to  
19 do enough, quite frankly, so.

20 MR. MATHISON: I'm not just complaining about the  
21 minutes, though, I'm afraid. As to the minutes, I think  
22 that we've got the real minutes now. I am --

23 THE COURT: I mean, you go, literally, through four  
24 pages complaining about the minutes. So if that's  
25 resolved. All right. We're moving on, you all. I think

1 it's getting late.

2 Let's go through George Breed. It's actually quite  
3 short, because, apparently, he doesn't say much. So the  
4 objections aren't great. Okay. Let me just make sure  
5 I've got them. All right.

6 Help me understand, Mr. Mathison, your objection on  
7 Page 39, of Volume 1 to George Breed's deposition.  
8 Basically, you're impeaching him from his deposition  
9 testimony in the Klippel case. But I still am not clear,  
10 based on this deposition and based on your questioning,  
11 did he testify at trial in the Klippel case?

12 MR. MATHISON: I honestly --

13 MS. JOLLEY: He did. He did.

14 THE COURT: He did. But you don't know, still.

15 MS. JOLLEY: I don't know.

16 MR. MATHISON: I believe that he didn't, because I  
17 don't see how they could have used his deposition -- if  
18 you remember, I asked him.

19 THE COURT: Yes.

20 MR. MATHISON: And because the deposition was made  
21 part of the record, it had to be for impeachment if he  
22 was live at the trial. So I --

23 THE COURT: Well, you could have read the deposition  
24 in, though. So that's why I'm not sure of the answer.

25 MR. MATHISON: He initially testified that he did

1 not testify at that trial.

2 THE COURT: I can tell you, that really kind of is  
3 much ado about nothing. I understand why you're trying  
4 to use it, but again, it really isn't relevant to this  
5 case. I think you need to get to the meat of this. And  
6 I think you've got so many other instances where he is  
7 not forthcoming, is what I'll -- that's how I'll put it,  
8 not forthcoming, that this is, well, maybe just one more.  
9 It goes on and it's too confusing, I think, for the jury,  
10 and I just don't think they're going to understand it.

11 MS. JOLLEY: Your Honor, the next one's, again,  
12 Judge Herring. And I'd just like to go on the record  
13 that we'd ask the Court to look at 37, about  
14 electronically stored information. I certainly  
15 understand plaintiff's contention that these tapes or  
16 this hard copy recording of the telephone calls and video  
17 somehow went missing, but the testimony is actually  
18 consistent that in both times in 2000 -- before 2008 with  
19 the old system, and after it was replaced, think, around  
20 the beginning of 2010, that it went to a hard drive that  
21 eventually taped over itself.

22 True, no one's quite sure at what point it tapes  
23 over itself or what the volume is, but there's no  
24 question that it taped over itself. So, so far the only  
25 video tapes that have gone missing have been the ones Mr.

1 Jolin admitted he destroyed. There's no question that  
2 anyone intentionally destroyed any emails; no question  
3 anyone intentionally destroyed any phone call  
4 conversations or video recordings.

5 THE COURT: Well, I think, obviously, that goes to  
6 whether or not there's a spoliation charge, but I do  
7 think as far as this point.

8 MS. JOLLEY: I mean, he admitted that he taped Mr.  
9 Herring's call, but and saved it to a disk, but that's  
10 not really an issue in this case.

11 MR. MATHISON: I think it's - I think it is an  
12 issue. You've got an important call, and you know it's  
13 important, and you keep it. That's what he did. I think  
14 the call that was made out of Sea Pines Security offices,  
15 definitely by Ms. Florencio, is a call that should have  
16 been kept. There wouldn't be any argument about what was  
17 said or by whom if that call had still been available.  
18 And there's no reason not to -- I mean, it's the only --  
19 her testimony was that that's the only time she ever did  
20 that.

21 MS. JOLLEY: Her testimony was that it didn't seem  
22 to be out of the ordinary. Jolin seemed scared. He  
23 stated to her what he thought should go into the report,  
24 and she put it in. There was no reason at that time to  
25 save that call.

1 THE COURT: What are we on what page that we're  
2 talking about the recording, because I am now looking at  
3 an objection -- or Page 77. It isn't talking at all  
4 about the recording of it, at least so far that I've  
5 looked at.

6 THE COURT: This is where -- you're trying to allege  
7 that he's asking Judge Herring for some accomodation in  
8 some way.

9 MS. JOLLEY: I may have written -- mis-written my  
10 objection on my copy, your Honor.

11 THE COURT: Well, which page am I -- which page are  
12 you objecting to?

13 MS. JOLLEY: I thought I was objecting to Page 77,  
14 where I had --

15 THE COURT: Yes.

16 MS. JOLLEY: -- down that it was the letter. But if  
17 it was something else, I apologize.

18 THE COURT: Is that the letter? Okay. And so, this  
19 is the letter that basically says thank you for helping  
20 accommodate us?

21 MR. MATHISON: Yes. I'd asked him before whether  
22 he'd ever asked for accommodation. He denied it. And  
23 then, I showed him the letter. Then he didn't admit it,  
24 either. He said that --

25 THE COURT: I just don't think there's any



1 relevance. I mean, Judge Coffey knew. She has private  
2 attorneys walk into her courtroom, and she tries -- she  
3 tries to get rid of them first.

4 MR. MATHISON: Your Honor, it --

5 THE COURT: Out of courtesy, because that's how they  
6 make their money.

7 MR. MATHISON: It goes to show that he had a decent  
8 relationship with the court at some juncture. He  
9 communicated both in writing and verbally with Judge  
10 Herring. He liked Judge Finger so much he used him to  
11 bring his defamation action. And with respect to my  
12 client, Maureen Coffey, instead of saying, hey, look, I  
13 have a problem, because your brother may be involved in  
14 these burglaries, what can we do to make sure everything  
15 doesn't work out; instead, according to the testimony, he  
16 calls his friend at town hall and gets the address for  
17 the Judicial Conduct Commission and reports her.

18 I mean, it goes to the quality of relationship that  
19 he had with other judges, as compared to this one. It  
20 gets to his state of mind, I think, directly. The state  
21 of mind with respect to Jim Herring is I write you a  
22 letter and say thank you, good job. With respect to this  
23 judge, just the opposite. The letter goes to the  
24 Judicial Conduct Commission.

25 THE COURT: Okay. I really don't think it --

1 MR. MATHISON: There's another letter in there  
2 that's a follow-up, which is to town council. We think  
3 they go together.

4 THE COURT: Saying what?

5 MR. MATHISON: It's all right. Your Honor, let me  
6 see how to phrase this. There is an issue here about  
7 exactly what they were doing when they contacted Mr.  
8 DeLoach. My belief is that, at the time the contact was  
9 made, he believed that DeLoach was, in fact, in charge of  
10 the court and could fire Maureen. All right. Although  
11 the evidence hasn't come out that way yet, that's what I  
12 think happened.

13 THE COURT: He contacted DeLoach because he's  
14 friends with him.

15 MR. MATHISON: Well, the truth of the matter is, he  
16 knew who the judge worked for, because the letter he  
17 wrote complimenting Mr. Herring was copied to Mr.  
18 Herring. It was sent to town council. So he knew who  
19 the judge was employed by back then; why not now? I will  
20 say --

21 THE COURT: You're trying to use this to show that  
22 he had good relationships with Herring and Finger.

23 MR. MATHISON: Well, at one point in the deposition  
24 I asked him why he just didn't just call up Judge Coffey  
25 and say, hey, look, I've got a problem. Because that,

1 obviously, is something he'd had done with Mr. Herring.  
2 And obviously, --

3 THE COURT: That's not the -- but again, his filing  
4 a complaint is not the problem with the case; it's the  
5 actual publication to Mr. DeLoach about it. That's what  
6 the problem is. He can complain all day long, any way he  
7 wants, on any specific judge, but the problem is, him  
8 going to DeLoach and doing it the way he did it.

9 MR. MATHISON: Well, --

10 THE COURT: I mean, that, I think, could be an  
11 indication of saying, yeah, he's trying to get her fired.

12 MR. MATHISON: There's no question about it. That's  
13 what I'm -- that's my argument. And I want to show that  
14 there's two ways to approach everything, and one way was  
15 his old way, which was, you know, you go to the judge and  
16 say, hey look, this might be a good idea. And the other  
17 way is you go behind the judge's back, and go to somebody  
18 that you think can twist the knife without you getting  
19 identified as the culprit, and that's what he did.

20 THE COURT: The problem is he's entitled to do that,  
21 though. He's entitled to file the formal complaint. He  
22 just -- he is.

23 MR. MATHISON: I understand.

24 THE COURT: Okay.

25 MR. MATHISON: What I'm saying, go behind his back,

1 I'm talking about going to DeLoach. That's what I think  
2 is furtive. It's not the confidential stuff.

3 THE COURT: Well, if what he was saying was not  
4 defamation, if what he was just saying was I think she's  
5 unfair and biased and wasn't getting certain things, I  
6 still think he could do that.

7 MS. JOLLEY: That's a comment, quite frankly.

8 THE COURT: I just -- I think -- and Mr. Mathison,  
9 of course, you know, I'm sure you're going to do a lot in  
10 your closing argument with you are going to ram that one  
11 out, too. I can't imagine your closing argument's going  
12 to be any less than ten hours. That is one of your last  
13 things that you're going to have to link up for a jury.  
14 So I can tell you right now, that ain't going to be  
15 obvious to them.

16 MR. MATHISON: Around what act, your Honor? I'm  
17 sorry. I'm not following.

18 THE COURT: That you're going to say, look how he  
19 treated the other judges. He liked Judge Finger. Blah,  
20 blah, blah. You know, asked him to bring a lawsuit on  
21 his behalf. Judge Herring is writing him letters. It  
22 just -- it's just a little far fetched.

23 MR. MATHISON: Maybe I'm being too defensive here,  
24 but I don't think it's -- I don't think it's foolish for  
25 me to believe that Mr. Breed is not going to take the

1 stand, and I'd like to -- if he did take the stand, I'd  
2 like to have the ability to cross-examine him, depending  
3 upon which way he goes. But I don't think he's going to  
4 take the stand. And consequently, I need to get in  
5 whatever I got.

6 THE COURT: Well, I can tell you, that part is --  
7 it's really irrelevant to that. So I think it's a  
8 stretch.

9 All right. Your next objection was 134, Page 134,  
10 as to investigations.

11 MS. JOLLEY: I'm sorry, your Honor. Have we been  
12 through 85, 90, 92, and 95?

13 THE COURT: I thought it was all the same thing.

14 MS. JOLLEY: Okay.

15 THE COURT: I didn't exactly draw a line, but.

16 MS. JOLLEY: I'm just not sure what the Court's  
17 ruling is on all of that.

18 THE COURT: Well, I'm not sure what you objected to,  
19 reading this.

20 MS. JOLLEY: Okay.

21 THE COURT: So you tell me. I only looked at Lines,  
22 literally, Page 77, Lines 8, through Page 83, Line 22.  
23 And that's coming out. But as far as 85 or 89, is that  
24 all a part of this, too?

25 MS. JOLLEY: The next thing, your Honor, is we've

1 objected to the nol pros, which was 85 to 89.

2 THE COURT: 85 to 89. Okay. Let's look at it.

3 MR. MATHISON: It's already in, your Honor. I mean,  
4 the door's been opened.

5 MS. JOLLEY: He testifies throughout that he has no  
6 idea what he's talking about, and the testimony hasn't  
7 been, so far, linking Breed to this at all. It goes to  
8 Officer Campbell.

9 MR. MATHISON: Your Honor, may it please the Court.  
10 They may put 50 witnesses on the stand that say that  
11 George Breed doesn't know what's going on at Sea Pines  
12 Security, but none of those people are telling the truth  
13 if they say that. I mean, it's obvious that they're all  
14 going to say that, but at some point, the sublime becomes  
15 ridiculous.

16 THE COURT: Do you have a letter from Mr. Breed,  
17 offering to do exactly what was going on in Bluffton?

18 MR. MATHISON: No. But Mr. Herring would testify.  
19 If he'd said something, Mr. Herring was going to testify,  
20 but he just kind of kept bobbing and weaving, and said he  
21 didn't know anything about anything.

22 MS. JOLLEY: Mr. Herring?

23 MR. MATHISON: No, no. Mr. Breed.

24 THE COURT: Okay. I'm just -- I'm having a hard  
25 time. You're talking about the nol pros. 85, 2 through

1 89, 7.

2 MR. MATHISON: May it please the Court, your Honor.  
3 In the last paragraph of the letter that Mr. Breed sent  
4 to Judge Herring, the first paragraph is, *Thank you very*  
5 *much*. The last paragraph says that he would like to see  
6 greater efficiency introduced into the Hilton Head Island  
7 Municipal Court, and that his suggestion is that they  
8 adopt a system that's used throughout the county by  
9 magistrates.

10 And I asked Mr. Herring what he was talking about,  
11 because I had no idea what that was, and he said that  
12 what he was talking about, according to subsequent  
13 telephone calls, was the fact that he wanted to adopt a  
14 course of, basically, taking state citations and trading  
15 them for local citations, with the points being lost for  
16 the driver.

17 THE COURT: And Herring testified to this; that  
18 that's what he was asking for?

19 MS. JOLLEY: No, Herring never testified, I don't  
20 think.

21 MS. JONES: Herring's never testified.

22 MR. MATHISON: He didn't testify at all. That's  
23 what he told me the conversation was about.

24 THE COURT: That's what Herring told you the  
25 conversation was about?

1 MR. MATHISON: And that's why I asked him whether he  
2 knew whether this whether this nol pros situation was  
3 going on, and he denied any knowledge of it. He didn't  
4 know anything about it.

5 MAUREEN COFFEY: And I know that's what they talked  
6 about, too, but. I was there.

7 MS. JONES: Mr. Herring has never been a witness in  
8 the case. He's never been named as a witness in the  
9 case. There's no testimony, affidavits, statements from  
10 Mr. Herring.

11 THE COURT: I just think that's -- that's --

12 MR. MATHISON: There's a letter from Mr. Herring,  
13 and he would be a rebuttal witness if there had been an  
14 answer there, that he'd said, no, I don't --

15 THE COURT: There isn't, so it's not coming in,  
16 unless he comes and testifies and says he was asking, you  
17 know, if this is the way we could do it.

18 MS. JOLLEY: Page 90 through 91, your Honor, is,  
19 again, about the Judge Herring letter; why he sent a copy  
20 of that to town council.

21 THE COURT: Why?

22 MS. JOLLEY: Why Mr. Breed sent a copy of the letter  
23 to Judge Herring, to Town council.

24 THE COURT: Okay. I need to see the letter.

25 MR. MATHISON: Got it?



1 MS. JOLLEY: It's right here, your Honor. I believe  
2 this is it.

3 THE COURT: On 23. I can tell you, I've already  
4 read this portion of it.

5 Okay. From this letter, that is where you are  
6 extrapolating the efficiencies?

7 MR. MATHISON: Well, that's what he said, and  
8 Herring said --

9 THE COURT: That's what Herring says to you  
10 personally, and hasn't testified, and hasn't given an  
11 affidavit, and hasn't done anything along those lines.

12 MR. MATHISON: I asked Herring what he meant by  
13 that, if he knew. And he said he knew as a result of  
14 having a telephone call about it; that is was discussed  
15 at the Town; and the Town decided not to get that  
16 adventurous. And if you recall, the city of Bluffton did  
17 do this.

18 THE COURT: I understand that. So why don't you  
19 bring Herring?

20 MR. MATHISON: Well, I could, but I don't think this  
21 is necessarily part of my case in chief, except to damage  
22 to show that George Breed is not teller of the truth.

23 THE COURT: Is that what you're trying to do the  
24 entire trial? I mean, isn't that your entire claim?

25 MR. MATHISON: Well, it is, but I would say that

1 this is not as directly relevant, certainly, as the  
2 things like the indemnity and stuff like that.

3 THE COURT: He wants to do something unlawful. We  
4 all agree that he can't do that. That's illegal. That's  
5 bad. And I can tell you that, if that were going on and  
6 there were testimony to that, I'd be turning it over to  
7 the solicitor's office. So that's bad. I don't know any  
8 other way to say that.

9 MR. MATHISON: Well, I understand, your Honor.

10 THE COURT: It's unethical, clearly. It's illegal,  
11 too, I'm pretty sure. You can't do that. All right.  
12 Look, you just need to decide whether or not you want to  
13 bring Mr. Herring in or not.

14 MR. MATHISON: I don't think that I want to.

15 THE COURT: Because as it stands right now, I can  
16 tell you, I understand that that's what you know to be  
17 the background. It's hard for someone looking at this.  
18 I'm looking at it as he's thanking them for, you know,  
19 only making the Sea Pines people come and pull their  
20 tickets a day or two a week. And also, I know that they  
21 do this. I know Judge Coffey does this in her courtroom  
22 at the beginning of. If anyone wants to get going;  
23 whoever wants to plead guilty to their charge; come on  
24 up; I'll take your plea; I'll listen to your case. And  
25 it's on an expedited process, and usually, she gives them

1 a point break. But she certainly doesn't allow them to  
2 plea to a different charge, so, or contribution, so.  
3 Anyway. And I just don't know that.

4 And I believe what you're saying, but I just think  
5 it's a stretch, and I think you need -- I think you need  
6 Jim Herring's testimony to be able to get that in.  
7 Again, I guess it's easier for us to understand because  
8 we're lawyers, but I think that's going to be hard for  
9 this jury to be following that. I think you want them to  
10 see the, I guess, the bad stuff, not just the little  
11 allegations of I guess all. But I understand you're  
12 looking for a cumulative effect. I'm sorry. Why don't  
13 you go ahead and give that back to them.

14 MS. JOLLEY: 92 through 96, your Honor, are about  
15 the Weir memo that you've already -- you ruled as part of  
16 our motion in limine was not coming in.

17 MS. JONES: The SLED memo.

18 THE COURT: The SLED memo. Okay.

19 MR. MATHISON: I think --

20 THE COURT: I told you I'm going to charge the law  
21 that was appropriate. I thought it was entertaining. On  
22 the end of that memo, Weir states that, if he finds  
23 anyone violating the law, SLED is going to prosecute  
24 them. I thought that was funny. SLED doesn't prosecute  
25 anybody. But anyway, that tells you his extent of being

1       able to impart any legal opinion.

2               MR. MATHISON:  When Jolin testified yesterday about  
3       confusion among the officers, --

4               THE COURT:  Um-hmm.

5               MR. MATHISON:  -- that's what he was referring to.  
6       If you recall, a memo was sent to all the security  
7       offices on Hilton Head.  And it was sent out because it  
8       was solicited by Sheriff Tanner, because he was tired of  
9       having to send his deputies out to find out what was  
10      really going on.

11              THE COURT:  Right.

12              MR. MATHISON:  And when I got around to taking Mr.  
13      Breed's deposition, if I used the word investigation, he  
14      wouldn't say it, except in connection with the Beaufort  
15      County Sheriff's Office.

16              THE COURT:  Right.

17              MR. MATHISON:  Whereas, he was not nearly as careful  
18      when he wrote the letter.

19              THE COURT:  Okay.

20              MR. MATHISON:  So I think he was confused at the  
21      time about exactly where the cut line was.

22              THE COURT:  Well, we all know what that fight is.  
23      It's the fight of, you know, rent-a-copy versus real cop.  
24      You know, that's been going on forever on the Island, as  
25      you all know.  I mean, you could go on with the debate of

1 if they carry guns, which some people are, of course,  
2 horribly opposed to. And I think that's just an ongoing  
3 battle. Okay. We're not going to go into that.

4 I am going to charge the law on what they are able  
5 to do, and what is their authority under the statute and  
6 the regulation. I think that's absolutely appropriate.  
7 I think the jury needs to know what they're boundaries  
8 are.

9 MR. MATHISON: And that will allow me to argue that  
10 any investigation of these crimes by Sea Pines --

11 THE COURT: Sea Pine authority. You can argue  
12 anything you want. It's argument.

13 MR. MATHISON: Well, I didn't get to open any way I  
14 wanted, so just want to make sure.

15 THE COURT: Okay. What else, Kelly, on the end of  
16 this? What about --

17 MS. JOLLEY: Yeah. We're going to withdraw our  
18 objection on the illness.

19 THE COURT: Okay.

20 MS. JOLLEY: I mean, we've objected to them bringing  
21 an illness up, but we know you are going to let that in.

22 134, 9 through 14, that about investigations, but  
23 it's fine.

24 THE COURT: It's coming in.

25 MS. JOLLEY: It's coming in.

1 THE COURT: Okay.

2 MS. JOLLEY: I believe, then, the next one, the next  
3 objections are in Volume 2.

4 THE COURT: Got it. Page 36? Okay. Let's go on to  
5 the next one.

6 MS. JOLLEY: 36 through 41, your Honor, is Mr.  
7 Breed's defamation case, the one that he brought as a  
8 plaintiff.

9 MR. MATHISON: I think that's key. That shows that  
10 he knows the value of a reputation, and what he did was  
11 willful. I think that that's key. I think that I'm  
12 entitled to get that in. In addition, he didn't remember  
13 that he had been in a defamation case when he testified  
14 the first time. If you'll remember --

15 THE COURT: Is that the one that Terry Finger  
16 represented him on?

17 MR. MATHISON: Yes.

18 MS. JOLLEY: Yes, your Honor.

19 MR. MATHISON: That was the --

20 THE COURT: Who did he say defamed him?

21 MR. MATHISON: Pardon?

22 THE COURT: Who did he say defamed him? I know  
23 nothing about it.

24 MS. JOLLEY: A neighbor who said that he stole a  
25 Menorah.

1 THE COURT: Okay.

2 MS. JOLLEY: Yeah.

3 MR. MATHISON: They had a -- believe it or not, this  
4 is an outdoor Menorah. All right.

5 THE COURT: Right.

6 MR. MATHISON: He had a Menorah in his yard to  
7 celebrate Hanukkah.

8 THE COURT: Right.

9 MR. MATHISON: And this guy accused Mr. Breed of  
10 stealing it. And Mr. Breed testified that he sued him  
11 and got \$20,000.00.

12 THE COURT: Well, that is actually kind of  
13 interesting. Accusing him of being an anti-Semite,  
14 rather than just being offensive and -- I don't know.  
15 You all, I'm going to think about that one. I'm not so  
16 sure.

17 MR. MATHISON: I think it goes to his state of mind,  
18 in that, he would understand that somebody would have an  
19 interest in protecting his reputation, by virtue of  
20 having brought the same kind of litigation. He certainly  
21 can't say, you know, who would care about reputation.

22 THE COURT: Well, I assume he still stands by he  
23 believes everything he wrote in that letter is true,  
24 right? Even though I couldn't quite figure that out from  
25 his deposition, but.

1 MR. MATHISON: I can't tell what he says. I mean,  
2 -- I mean, --

3 THE COURT: Right. But that's their position. I  
4 think the defense position for sure.

5 MS. JOLLEY: Well, that goes both ways. He gave it  
6 to DeLoach. He didn't put it -- do a letter to the  
7 editor.

8 THE COURT: Right.

9 MS. JOLLEY: I mean. Previously the judge -- the  
10 court had ruled the only -- only the fact that he was  
11 sued for slander and received money damages can come in.  
12 Is that ruling being changed?

13 THE COURT: Well, I don't know. I mean, what did it  
14 say? It does go to what he understands is harmful.

15 MR. MATHISON: And it will --

16 THE COURT: It would certainly be relevant if he got  
17 up here and he said, you know, I really didn't know it  
18 was going to hurt anything.

19 MR. MATHISON: It would be relevant for that  
20 purpose, and it might curtail the argument that I think  
21 is going to be made that, you know, damn the torpedoes;  
22 whatever goes; shoot your arrows at public officials; it  
23 matters not.

24 THE COURT: Or kill-them-all-and-let-God-separate-  
25 them theory?



1 MR. MATHISON: Well, yeah. Because, I mean, he's as  
2 close to being a public official as my client is, and he  
3 managed to bring his action and got paid, so.

4 THE COURT: Well, that's a legal opinion, and that's  
5 not necessarily what I share, but. Anyway. Okay.  
6 That's another thing. Let me think about that as far as  
7 it goes to -- the only thing that makes me concerning  
8 what I'm understanding from you, Mr. Mathison, is that it  
9 can go to the actual malice portion of it.

10 MR. MATHISON: And I don't mean to put anything that  
11 suggests that religion or, you know.

12 THE COURT: Right. We can take out the Menorah  
13 issue. We can just say that, in fact, he did bring a  
14 case for defamation himself. He understands, and he  
15 believes that, you know, obviously, it had some value.  
16 He received some money, I mean.

17 MR. MATHISON: Yes. That's exactly what I would use  
18 it for. I don't want to rile up the jury by bringing  
19 religion into this case --

20 THE COURT: Right.

21 MR. MATHISON: -- after having gotten close to  
22 politics.

23 THE COURT: Considering our foreperson is a pastor,  
24 I think we are there. Anyway, I'm sure they're all going  
25 to pray before they render a verdict. So, anyway.

1 MAUREEN COFFEY: Pray it ends.  
2 THE COURT: Okay.  
3 MS. JOLLEY: 46.  
4 THE COURT: Okay. Let me think about it. It will  
5 be, obviously, scrubbed if I do allow it. But it still  
6 concerns me, because, you know, you all have insisted on  
7 the heightened standard of the actual malice, and --  
8 MS. JOLLEY: That's the law.  
9 THE COURT: I know. I know. It's a hard burden for  
10 them to have to prove. And so, I don't want to tie their  
11 hands. Anyway. Okay. Now were back to Page 46.  
12 MS. JOLLEY: This is the Judge Herring telephone  
13 call that I jumped the gun on before, your Honor.  
14 THE COURT: Okay. And that's the one that's been  
15 going into why there is no recording; him saying he  
16 records thing.  
17 MR. MATHISON: Yes.  
18 THE COURT: I just don't understand why he thought  
19 it was important in the deposition, but apparently.  
20 MR. MATHISON: Well, I know a little bit about it.  
21 The reason the Klippel case unfolded the way it did is  
22 that both sides thought they enjoyed the support of Mr.  
23 Breed.  
24 MR. HALIO: Your Honor, I object. Really, do we  
25 have to go into the whole Klippel case. It's 6:00 p.m.

1 THE COURT: I know. It's 6:00. I know.

2 MR. HALIO: And I don't mean to cut Mr. Mathison  
3 off, but we've all got to get home tonight at some point.

4 THE COURT: I know.

5 MR. HALIO: And I don't need to hear about the  
6 Klippel case.

7 THE COURT: Okay. Yeah. That's okay. I can tell  
8 you, we've talked about it. I'm going to allow it for  
9 the point that they did record it; they have the ability  
10 to; he has; and they're not there. You can argue what  
11 you want with it. You can argue that, you know, they  
12 record over each other. I mean, this reminds me of every  
13 video case that there's a slip-and-fall in a grocery  
14 store, inevitably, there is never a video. It's never  
15 there, and it's always because it's gotten re-recorded  
16 over. But of course, the plaintiffs make hay about it.  
17 So, same difference. Okay.

18 MS. JOLLEY: The last thing, your Honor, is the  
19 Fugate issue about where they're claiming that Mrs.  
20 Fugate negotiated for her son to make restitution.

21 THE COURT: I thought they already testified to  
22 that.

23 MR. MATHISON: Part of it. We put the ticket in,  
24 but we haven't gone all the way.

25 MS. JOLLEY: We haven't gone into the whole

1 background of the case. Only the ticket's been put in.  
2 MR. MATHISON: Mr. Jolin --  
3 THE COURT: Is this the same kid that was kicking  
4 the lights?  
5 MS. JOLLEY: This is the light-kicking case.  
6 MR. MATHISON: Yes.  
7 THE COURT: Okay.  
8 MR. MATHISON: It's the same light kicking, the 3002  
9 [sic].  
10 THE COURT: So we've gotten the ticket in. We got  
11 what they did.  
12 MS. JONES: What was --  
13 MR. MATHISON: The \$3,250.00 worth of lights.  
14 THE COURT: Okay.  
15 MR. MATHISON: That's what the --  
16 MS. JONES: That part has been in evidence. It's  
17 just that Mr. Jolin wrote a ticket for a young man, and  
18 charged him with malicious destruction of property.  
19 MR. MATHISON: And my plan is to use that against  
20 Mr. Campbell, who I believe will testify.  
21 THE COURT: That he not proessed it, based on a  
22 payment of?  
23 MS. JONES: No. They prosecuted him.  
24 MR. MATHISON: That they had an agreement not to  
25 prosecute, based on getting the money.

1 THE COURT: Okay.

2 MR. MATHISON: And then, they got the money, or at  
3 least the first two months' payment. And somebody went  
4 in and prosecuted, and got what is a judgment in  
5 absentia, and --

6 MS. JONES: That's the testimony that has never been  
7 testified to yet by anyone.

8 THE COURT: Okay. So my question is, what happened  
9 then? So he got a judgment. Was it a criminal -- it was  
10 a criminal conviction.

11 MS. JONES: Um-hmm.

12 MR. MATHISON: Yes.

13 THE COURT: And was part of that an order to pay the  
14 money, as well, so.

15 MAUREEN COFFEY: No.

16 THE COURT: No.

17 MAUREEN COFFEY: The deal was made --

18 MR. MATHISON: No.

19 THE COURT: Right.

20 MAUREEN COFFEY: -- in his office, prior to the  
21 ticket, but the grandmother said that the second ticket  
22 she didn't even receive, and that's the ticket that  
23 Haynes came in and testified to.

24 THE COURT: There's two tickets.

25 MS. JONES: But that's -- there is what -- what Ms.

1 Coffey just said, there is no witness who has testified  
2 linking those things up like that. All we have is Mr.  
3 Jolin testifying that he wrote the ticket.

4 THE COURT: Well, he wanted to show other than they  
5 reached this deal, and then they went back on it. But of  
6 course, there could be an explanation of, you know,  
7 anything; (a) he didn't pay the restitution, and so they  
8 went forward. And that could that, you know, obviously,  
9 that could be more than a deal. And quite frankly, they  
10 have the right to nol pros if he pays restitution. I  
11 mean, they have that authority.

12 MAUREEN COFFEY: They didn't nol pros it. They  
13 convicted. They tried it.

14 THE COURT: That's what I mean, though. And we  
15 don't know why. We don't know if they went ahead and  
16 went to court because they didn't pay the restitution.

17 MR. MATHISON: Your Honor, if --

18 THE COURT: Do we know?

19 MS. JOLLEY: I don't know.

20 MR. MATHISON: Your Honor, if I don't --

21 THE COURT: You should be able to know, because it's  
22 your people.

23 MS. JOLLEY: Frankly your Honor, it hasn't come up  
24 in the case.

25 THE COURT: Yes.

1 MS. JOLLEY: And from our understanding, there were  
2 two tickets. And one was nol prossed, restitution. And  
3 there was another ticket. He was convicted on that.

4 There's been nothing that's come in showing there's --

5 THE COURT: So what was the second ticket for? If  
6 the first one's for malicious injury to property, what  
7 was the second ticket for?

8 MR. MATHISON: The other ticket, it looks to me to  
9 be unrelated. I didn't put it in, because Jolin didn't  
10 write it. McNeill wrote it. All right. And what they  
11 did is, the initial ticket, I think, went through and  
12 resulted in a conviction. And because Jolin wasn't  
13 there, they had nobody to go to court on the second. In  
14 the interim, this agreement was reached, and the child --

15 THE COURT: Is this the one where you say an officer  
16 came in and lied; that he really didn't witness anything?  
17 Is that the one, or no?

18 MS. JOLLEY: That's the one.

19 MR. MATHISON: Yes, this is the one.

20 THE COURT: This is the one.

21 MR. MATHISON: Yes.

22 THE COURT: So basically, someone said go in.

23 MS. JOLLEY: Um-hmm.

24 THE COURT: This other officer; testify to what you  
25 know; and he, obviously, couldn't and didn't have any

1 independent knowledge.

2 MS. JONES: Actually, what Mr. Jolin testified to in  
3 his direct examination is that the child, the young man,  
4 confessed, and admitted that he had kicked out the lights  
5 and destroyed them, to he, Jolin, and another officer.

6 MR. MATHISON: Oren Dunn.

7 MS. JONES: Yeah. Oren Dunn. He said yeah, he  
8 confessed to me and Oren Dunn that he had, you know,  
9 kicked the lights out and destroyed the path lights.

10 THE COURT: So I'm still -- I'm still --

11 MAUREEN COFFEY: Haynes -- Haynes prosecuted the  
12 case, not Jolin or Oren Dunn.

13 MR. MATHISON: The officer that showed up was  
14 Haynes. And Haynes --

15 THE COURT: To prosecute it.

16 MR. MATHISON: And Haynes said that he was  
17 personally present and --

18 MS. JONES: There is no testimony in that regard.

19 THE COURT: So you're saying that Haynes has lied.  
20 Okay.

21 MS. JONES: Which makes it tenuous and irrelevant.

22 THE COURT: Well, what judge was it in front of?

23 MR. MATHISON: It was in front of Ned Tupper, I  
24 believe.

25 MAUREEN COFFEY: I was recused.



1 THE COURT: Obviously.

2 MR. MATHISON: Fortunately.

3 THE COURT: Okay. I really think we're chasing a  
4 lot of rabbits. I just -- you're going to have a hard  
5 time putting this all together for a jury.

6 Do we have any evidence that Breed in any way  
7 directed them to prosecute and do this? Do you have any  
8 testimony from anyone that says Breed told them to go in  
9 there and do this and act this way?

10 MR. MATHISON: No, and we're not likely to get that,  
11 based on the evidence that came from the stand today.

12 THE COURT: Okay. Okay.

13 MR. MATHISON: So, to be entirely candid with you,  
14 if I had to get Haynes to admit that he was directed by  
15 Breed to do anything, he wouldn't.

16 THE COURT: He ain't going to do it, no.

17 MR. MATHISON: No.

18 THE COURT: All right. It's not coming in. It's  
19 not coming in. That's just too far fetched.

20 COURT REPORTER: I'm sorry. I didn't hear you,  
21 Judge.

22 THE COURT: It's too far-fetched. I'm sorry. Okay.  
23 Anything else? And you're going to bring Birdwell in  
24 tomorrow, correct?

25 MR. MATHISON: Yes.

1 CONFERENCE, OUT OF PRESENCE OF

2 JURORS. PRESENT: THE COURT, MR. MATHISON,

3 MS. JONES, MR. HALIO, MS. JOLLEY:

4 THE COURT: Do we need to wait on anyone else? Are  
5 we okay, then?

6 MR. MATHISON: My client's having car trouble, your  
7 Honor.

8 THE COURT: Okay.

9 MR. MATHISON: She said please go ahead without her.  
10 She's on her way.

11 THE COURT: Okay. I know there were two things I  
12 took under advisement yesterday that I said I'd sleep on.  
13 And the first one was the defamation lawsuit brought by  
14 George Breed with a neighbor. I think it's actually  
15 relevant to the point that -- and I'm not going to --  
16 we're not going into what it was the cause or anything  
17 along those lines. It can be only that he had brought a  
18 defamation suit, and it's to show -- it's relevant to  
19 show that he understands the value of a reputation, a  
20 professional reputation. And I do think it goes toward  
21 showing actual malice. That, knowing all that, he still  
22 allegedly made those statements.

23 So, for what it's worth, again, we're not going to  
24 talk about what the cause of it is. We're not going to  
25 even talk about a settlement or anything along those

1 lines, my assuming is that there isn't any settlement  
2 payment. We're just going to say it's been brought. And  
3 you can say he brought a defamation suit. Okay?

4 And that goes to whatever that portion -- I haven't  
5 looked specifically, again, where that portion was in his  
6 deposition, but whatever it is, that yes, he brought a  
7 defamation suit; that again, we're not going to talk  
8 about what it is or what any money settlement was or  
9 anything like that.

10 Robert Mathison: I will parse the facts in the  
11 resolution.

12 THE COURT: You got it. Okay. What was the second  
13 thing? What was the second one that I had under  
14 advisement? Can anyone?

15 Robert Mathison: I think you're still considering  
16 the indemnity and whether or not --

17 THE COURT: Well, yeah. In addition to that,  
18 though, there was something else. Is there something  
19 major with Mr. Birdwell, that he's here and is going to  
20 testify?

21 MR. MATHISON: He is here.

22 THE COURT: Okay.

23 MR. MATHISON: That is Mr. Birdwell right there.

24 THE COURT: I do see him.

25 MS. JOLLEY: Your Honor, I don't see anything other

1 MS. JONES: If --

2 MR. MATHISON: And Andy --

3 MS. JONES: Oh. Sorry.

4 MR. MATHISON: And Andy checked this morning to make  
5 sure there aren't any new ones.

6 THE COURT: Okay. He double-checked, he looked at  
7 her file this morning?

8 MS. JONES: Yes.

9 THE COURT: Very good. Okay. Very good.

10 MS. JONES: And we just want to renew our objection,  
11 because she was not listed as an expert witness in the  
12 answer to interrogatories. We were given no notice of  
13 it. And we, you know, we do have copies of her notes  
14 from the sessions that she had with the plaintiff, but we  
15 do not have any expert report or notice or information  
16 concerning the scope or basis of any opinion she may be  
17 asked here in the trial.

18 So we renew that objection. And on that basis,  
19 believe that she should not be allowed to testify.

20 THE COURT: Okay. Well, respectfully, we're in  
21 state court. You're not entitled to a report. Okay. It  
22 would be nice to have one, a little notice, and have her  
23 listed as an expert witness.

24 MS. JONES: Right. And I misspoke. We did not get  
25 any answer to the interrogatory even after the order

1 compelling the complete answers --

2 THE COURT: Okay.

3 MS. JONES: -- as to what, you know, she would  
4 testify to and the basis of the opinion.

5 THE COURT: Did you not list her, Mr. Mathison? Was  
6 she not a part of the catchall in your answers to  
7 interrogatories?

8 MR. MATHISON: Your Honor, may I -- I'd like to make  
9 my 32-page answers to interrogatories a court exhibit.

10 THE COURT: I think that's a good idea.

11 MR. MATHISON: And I'm going to put the originals  
12 in, --

13 THE COURT: Okay.

14 MR. MATHISON: -- since they're the ones that are  
15 most handy. And what I did is, as I've said before,  
16 because they asked for it, put every physician and  
17 medical provider that my client had seen for the previous  
18 five years. I also stated in narrative form what they  
19 had treated. In addition, I sent everything I knew about  
20 each one of them. There's over eight pages of medical  
21 experts. And at the bottom of my listing of witnesses --  
22 admittedly, this is the mandatory listing of witnesses,  
23 not expert witnesses -- I said that any one or more of  
24 the people listed in the medical answer to interrogatory  
25 may be called to testify.

1 THE COURT: Okay.

2 MR. MATHISON: And Ms. -- excuse me -- Dr. Geiger is

3 definitely disclosed.

4 THE COURT: What type of doctor is Dr. Geiger?

5 MR. MATHISON: Clinical psychologist.

6 THE COURT: Okay.

7 MR. MATHISON: I'd like to -- they're the originals.

8 THE COURT: Let's go ahead and mark it. That's

9 fine. Go ahead and give it to Wanda and she can mark it

10 as a court's exhibit.

11 MR. MATHISON: Thank you.

12 COPY OF DOCUMENT REFERRED TO AS 32-PAGE

13 ANSWERS TO INTERROGATORIES MARKED

14 COURT'S EXHIBIT NUMBER 2.

15 THE COURT: All right. Are we ready to go this

16 morning? Everyone ready? You all ready? We can go

17 bring them in?

18 MS. JONES: Can I have a continuing objection based

19 on the fact that --

20 THE COURT: To her entire testimony.

21 MS. JONES: Correct, yes.

22 THE COURT: Absolutely. Absolutely.

23 MS. JONES: Thank you.

24 THE COURT: Okay. Let's bring them in.

25 JURORS ENTER COURTROOM 9:15 A.M.

1 BAILIFF: Jurors entering, your Honor.

2 THE COURT: Thank you.

3 BAILIFF: The jury is seated, your Honor.

4 THE COURT: Thank you. Good morning, ladies and  
5 gentlemen of the jury.

6 RESPONSES FROM JURORS.

7 THE COURT: Welcome back. At this time we're going  
8 to go ahead and continue the plaintiff's case. Mr.  
9 Mathison, will you call your first witness for this  
10 morning.

11 MR. MATHISON: Excuse me, your Honor, one second.

12 BAILIFF: May I approach, your Honor?

13 THE COURT: You may.

14 OFF-THE-RECORD DISCUSSION, THE COURT

15 AND BAILIFF:

16 THE COURT: Oh, yes, about the newspaper articles.  
17 Thank you. Sorry. Ladies and gentlemen, before we do  
18 begin this morning, I did forget. There has been an  
19 article in the newspaper. There was one run yesterday in  
20 the *Island Packet*. And I'm not sure about *Beaufort*  
21 *Gazette*, but I'm sure of the *Island Packet* both yesterday  
22 and today.

23 Ladies and gentlemen, under the oath that you took  
24 at the beginning of this case, please raise your right  
25 hand if you did, in fact, read that article.

1           Thank you very much. I note for the record that no  
2 one raised their hands. I appreciate it. Again, ladies  
3 and gentlemen, it wouldn't be factual. You have had all  
4 the evidence in this case. Of course, to make your  
5 decision, you may use only what you have gotten here in  
6 this courtroom during this week and over the next couple  
7 of days. All right? Thank you, ladies and gentlemen. I  
8 appreciate it.

9           All right. Now, Mr. Mathison, you may call your  
10 first witness.

11           MR. MATHISON: Thank you, your Honor. The plaintiff  
12 calls Dr. Lynn Geiger to the stand, please.

13           WITNESS SWORN.

14           DR. LYNN E. GEIGER,

15           DIRECT EXAMINATION, MR. MATHISON:

16           Q State your name for the record, please.

17           A Dr. Lynn E. Geiger.

18           Q Dr. Geiger, where do you live?

19           A I live at One Red Maple Road, Hilton Head.

20           Q And are you married?

21           A Yes.

22           Q And who's your husband?

23           A My husband is Robert Stevens.

24           Q What is your occupation, Dr. Geiger?

25           A I'm a clinical psychologist.



1 Q I have made available to my colleagues a copy of your  
2 curriculum vitae. And I'm going to hand it to you and  
3 ask if you can identify as reflecting your credentials.  
4 A It does. My employment history doesn't have my  
5 current employment address on it, but the rest of it is  
6 accurate.  
7 Q And what is your current employment address?  
8 A 19 Executive Park.  
9 Q Okay. When did you graduate from college?  
10 A 1974.  
11 Q You actually had two undergraduate degrees, didn't  
12 you?  
13 A Yes.  
14 Q Forgive me, but that's not quite right. You had a  
15 master of arts. Is that right?  
16 A That's correct, 1975.  
17 Q And what institution was that?  
18 A Colgate University.  
19 Q And subsequently, did you go to school again to  
20 specialize in a particular scientific field?  
21 A Yes, I did.  
22 Q And what was that?  
23 A Clinical psychology.  
24 Q Where did you go to school to obtain your master's  
25 degree in clinical psychology?

1 A Syracuse University.

2 Q And did you thereafter follow up by obtaining a

3 doctorate from Syracuse University?

4 A Yes, I did.

5 Q What year was that, ma'am?

6 A 1982.

7 Q Since then, have you been continuously involved in

8 one position or another, in practicing clinical

9 psychology?

10 A Yes, I have.

11 Q So my rough calculation is that you're a 30-year

12 veteran, in round numbers. Is that right?

13 A I would agree.

14 MR. MATHISON: Okay. Is that sufficient? Does it

15 qualify her?

16 THE COURT: Do you all want to ask any questions?

17 MS. JONES: No, your Honor.

18 THE COURT: Okay.

19 MS. JONES: I don't think the witness has been

20 offered in any particular area. I was waiting on that.

21 THE COURT: Right.

22 BY MR. MATHISON:

23 Q Are you an expert in clinical psychology?

24 A Generally, across the whole field, yes.

25 Q And do you propose to offer an opinion as to the

1 cause of certain conditions experienced by Maureen Coffey  
2 in 2008 and afterwards?

3 A If I'm asked, yes.

4 Q Dr. Geiger, did Ms. Coffey come to you complaining of  
5 stress?

6 A Yes.

7 Q She had, in fact, been seen by you as a patient prior  
8 to 2008; had she not?

9 A Correct.

10 Q And what was her concern when she first came?

11 A She was concerned about work stress, marital stress,  
12 and co-parenting conflict.

13 Q All right. And initially, did her husband, Mr. Edri,  
14 come with her?

15 A To the second appointment, yes, he did.

16 Q And how did she adjust to your counseling, her with  
17 respect to her initial problems?

18 A Through June of 2008, she was showing marked  
19 improvement and much-improved coping.

20 Q What would you classify Maureen Coffey's parenting  
21 skills as being?

22 A Really good. Very, very good.

23 Q Was her problem that she was harried, basically  
24 having to work on the Bench and take care of three  
25 children?

1 A I think it was much more complicated than that.  
2 There were more complicated family dynamics.

3 Q I understand. But she was coping with that?

4 A She was, I would say, having difficulty when she  
5 initially came to see me. And I think that, with some  
6 parental guidance, that she began to -- she was then  
7 coping thereafter much better with that.

8 Q What happened in June of 2008 that upset the apple  
9 cart, if you will?

10 A I think it was more of what she told me in July of  
11 '08.

12 Q And what did she tell you in July of '08?

13 A She indicated to me that she had received -- I'm not  
14 quite sure the exact -- the correct term, but a -- a  
15 disciplinary action against her, which led to a lot of  
16 stress.

17 MS. JONES: Objection, your Honor. This testimony  
18 related to that matter is immune and privileged.

19 THE COURT: Overruled. Just go.

20 BY MR. MATHISON:

21 Q Did she indicate what had happened to the letter,  
22 other than its being submitted to the Commission of  
23 Judicial Conduct?

24 A I'm not sure what letter you're referring to.

25 Q The complaint, as you refer to it.

1 A Thank you. So, one more time, could you repeat that  
2 question.

3 Q Did she indicate where else the complaint had been  
4 sent or disseminated?

5 A She indicated to me that she had received this  
6 letter, this complaint, pursuant -- obviously, she  
7 indicated that it had gone to the legal parties. Then  
8 she indicated that -- that she believed it had been  
9 shared with other people with whom she worked.

10 Q Specifically, at the Town of Hilton Head Island.

11 A That would be my understanding, yes.

12 Q What condition was she in when you saw her in July?

13 A Extremely anxious. She's a great thinker, so that,  
14 you know, she's, you know, constantly thinking how to  
15 solve the problem, what's going on. So, a lot of  
16 rumination. Increased -- trying to manage the -- all the  
17 different pressures that she had, work, family, this  
18 additional stressor, those things.

19 Q What was the date that you first saw her where she  
20 expressed stress about the complaint or letter that had  
21 been circulated by -- do you know who actually signed it  
22 or, who circulated it?

23 A Not to my recollection, no.

24 Q What was the date that she first expressed her stress  
25 about this fact?

1 A It was the appointment in July. I saw her on a  
2 monthly basis most often. So it was the appointment in  
3 July of 2008. To the best of my recollection, July 7. I  
4 could be off on the day.

5 Q Could it possibly be July 8th? Do you have a  
6 clinical note that you brought with you from July 8th?

7 A Yes.

8 Q Is that the date or do you know?

9 A To the best of my recollection, that's the date.

10 Q Okay. And did she subsequently develop physical  
11 symptoms which ultimately required treatment by someone  
12 else?

13 A Yes, she did.

14 Q Did she have headaches?

15 A She reported headaches.

16 Q Did she have facial numbness or neuropathy?

17 A I don't have a clinical note on that. I have a  
18 recollection that she did.

19 Q Did she begin to experience problems with weight  
20 gain?

21 A Yes.

22 Q Can you say that, most probably, the headaches from  
23 which she was suffering were, in fact, caused by the  
24 stress that she reported to you in July?

25 A Well, we all know that stress is caused by multiple

1 factors, and I think that it would be inappropriate to  
2 say that one can't -- one cannot eliminate all the other  
3 factors. I think that, given the up-and-down nature of  
4 how she was functioning, you know, better or worse over  
5 the course of the next several years, that pattern really  
6 seems to -- to respond more to the stress -- the stress  
7 of this issue, and significantly less so to stress of  
8 home life, relationships with other family members.

9 Q So would it be safe to say that the stress resulting  
10 from the complaint and the related matters transcended  
11 other stresses in her life?

12 A Well said.

13 Q And consequently, was the stress she was suffering  
14 most probably more than likely caused by the stress of  
15 the complaint?

16 A Yes, that would be my opinion.

17 Q What about the weight gain that she had; can that be  
18 caused by increased stress?

19 A Yes. You know, we -- we know that the effect that  
20 stress has on the body is a very complex issue. You  
21 know, I think that we're beginning to get little parts of  
22 it. We all know that -- not we *all*, but we generally  
23 know that stress creates an increased cortisol levels,  
24 and that has a huge effect on deteriorating health of the  
25 body. But we also know that stress interrupts sleep, and

1 so that contributes to many other factors. I think we're  
2 getting a lot of really good studies now that indicate  
3 when you have poor sleep, you're likely to gain weight.  
4 So there's a number of factors in there.

5 You know, later, she became concerned that she had a  
6 thyroid condition. You know, I think many of us would  
7 rather have a clear medical cause of a problem, and not  
8 sort of a psychological cause of a problem. But we also  
9 know that that adrenal --

10 Q Ma'am, please don't address the thyroid. I believe  
11 there's a ruling on that. We can't go into that.

12 A Okay. Sorry.

13 Q Can you say most probably the weight gain was the  
14 result of the stress that she was suffering?

15 A That would be my report, given -- that would be my  
16 opinion, giving her report of the efforts she put into  
17 diet and exercise.

18 Q And I believe you said she also suffered from facial  
19 numbness or neuropathy. Is that correct?

20 A She reported that, yes.

21 Q Would that most probably be the result of stress,  
22 acute stress, induced by the problems she encountered in  
23 June and July of 2008?

24 A I don't believe I have the level of expertise to  
25 answer that question.



1 Q With respect to the facial numbness.

2 A Correct.

3 Q Is that right? Can you say that, most probably, the  
4 stress from the event of having this complaint sent  
5 places that she didn't believe was appropriate caused the  
6 weight gain and the headaches?

7 A If I understand, your question is did the stress  
8 contribute or -- I would agree with that, yes.

9 Q Did you continue to treat Maureen after the summer of  
10 2008?

11 A Yes.

12 Q How did she respond to the therapy that you  
13 presented?

14 A She had a very high level of compli -- she had a high  
15 level of compliance with the treatment plan in terms of  
16 practicing coping strategies, using relaxation skills,  
17 using cognitive behavioral strategies. And I -- I think  
18 she did a -- a -- a good job, given the level of stress  
19 she was attempting to cope with.

20 Q Did she also, while she was following your  
21 prescription for relieving the stress, seek out medical  
22 doctors in order to rule out truly physical, as opposed  
23 to psychological or psychiatric reasons for some of the  
24 symptoms?

25 A That's what she reported to me, yes.

1 Q And did anyone find anything other than stress that  
2 was the cause, with the possible exception of the  
3 thyroid?

4 MS. JONES: Objection. No foundation.

5 MR. MATHISON: I'll withdraw the question.

6 THE COURT: Thank you. Ladies and gentlemen,  
7 disregard the last question.

8 BY MR. MATHISON:

9 Q Over time, did she, that is, Maureen Coffey, have an  
10 alleviation of the headaches that had afflicted her, most  
11 seriously in 2008?

12 A My impression is they -- they continued to appear and  
13 come and go.

14 Q Do you know whether the weight-gain problem had  
15 subsided or not?

16 A At this time, I do not know.

17 Q Did you charge Ms. Coffey for your services?

18 A Yes, I did.

19 Q And were you charging her \$150.00 a month [sic] to  
20 see her?

21 A A session, yes.

22 Q And would it be safe to say that, approximately once  
23 a month, for three years, you saw Maureen Coffey?

24 A Approximately three years, yes, that would be  
25 correct.

1 Q I believe, to be exact, you saw her 36 times, Doctor.  
2 And on one occasion, Ms. Coffey was not heavy-laden with  
3 funds, and you had a free session for her.

4 MS. JONES: Your Honor, I object to the leading  
5 nature of this.

6 THE COURT: Okay.

7 BY MR. MATHISON:

8 Q Did you charge her 35 times and not the 36th time?

9 A I think I saw her a total of 48 times. I think 36  
10 times is after the July 2008 appointment.

11 Q Okay. But you only charged her the 35?

12 A I would believe I charged her for almost all.

13 Q And that would be roughly \$5,250.00. Is that  
14 correct?

15 A I'm bad at math, but that's probably correct.

16 MR. MATHISON: Thank you. Please answer any  
17 questions that counsel may have.

18 A Okay.

19 DR. LYNN E. GEIGER,

20 CROSS-EXAMINATION, MS. JONES:

21 Q As part of your testimony in coming to this case, we  
22 asked you for, and you gave us, copies of your clinical  
23 notes. Is that correct?

24 A Yes, it is.

25 Q And is that the official medical record that you

1 maintain on all your patients?

2 A At that time, yes. I've since switched to an  
3 electronic medical record.

4 Q But for purposes of your testimony here today and the  
5 time period that you were seeing Ms. Coffey, your  
6 clinical notes are the only records that you have  
7 concerning your treatment of her. Is that correct?

8 A Absolutely correct.

9 Q And of course, I think everybody knows this, is that,  
10 when you are preparing your clinical notes, everything  
11 that is significant that transpires during one of your  
12 sessions, you attempt and it is your goal to make a  
13 record of that in your notes. Is that correct?

14 A Given a broad range of significance, yes.

15 Q Okay. And I think that, if you look at your clinical  
16 notes, Ms. Coffey first came to see you November the 7th,  
17 2007. Is that correct?

18 A Yes, it is.

19 Q All right. And what was the -- according to your  
20 notes at that point in time, she came to see you for what  
21 reasons?

22 A Marital stress, work stress, co-parenting conflict.

23 Q And at the point in time, was she separated?

24 A Correct. Yes, I believe so.

25 THE COURT: Ms. Jones, the jurors are having a hard

1 time seeing you're writing on the board.

2 MS. JONES: Oh. I'm sorry.

3 THE COURT: So, if we can angle it a little better.  
4 Thank you. Thank you. There we go. Is that all right,  
5 everyone? Okay.

6 BY MS. JONES:

7 Q November 7, 2007 is when your treatment began.

8 A Correct.

9 Q And your record indicates that Ms. Coffey was  
10 separated at that time, correct?

11 A Yes.

12 Q And that she came in because she had anxiety due to  
13 work stress, marital stress, and co-parenting. What did  
14 she tell you the work stress was?

15 A Heavy work load, long hours, judicial responsibility.

16 Q And how long had she been separated at that point in  
17 time?

18 A I don't know.

19 Q Your record, I believe, indicates that the duration  
20 is four to twelve months on your intake sheet. Is that  
21 correct?

22 A Not the duration of separation. The duration of  
23 those symptoms.

24 Q Okay. The duration of the symptoms.

25 A Correct.

1 Q And the symptoms were anxiety -- tell me what the  
2 symptoms were again.

3 A The symptoms were anxiety.

4 Q Do you have your records with you?

5 A I do.

6 Q Please refer to your records.

7 A Thank you. Mild sleep disturbance, family conflict,  
8 anxious mood.

9 Q Okay. All right. And at that point in time, did you  
10 discuss with her a treatment plan?

11 A Yes.

12 Q Okay. And did your treatment plan, at that point in  
13 time, in November of 2007, include four points?

14 A Correct.

15 Q And the third item in your treatment plan states:  
16 *Decrease over-functioning on behalf of co-parent, and*  
17 *promote his responsible parenting behavior.*

18 A Yes.

19 Q Okay. And then the fourth one says: *Clarify*  
20 *reasonable boundaries and expectations for co-parenting,*  
21 *and decrease mixed signals regarding parenting*  
22 *responsibilities and appropriate co-parenting behavior.*

23 A Yes.

24 Q You saw Ms. Coffey again -- you saw her on November  
25 the 14th, 2007, and the 26th, 2007.

1 MR. MATHISON: 26th of when?  
2 Q November, 2007. Correct?  
3 A Yes.  
4 Q December the 12th, 2007.  
5 A Yes.  
6 Q January the 9th, 2008. Correct?  
7 A Yes.  
8 Q January the 30th, 2008.  
9 A Yes.  
10 Q February the 7th, 2008.  
11 A March 7th.  
12 Q Okay. Okay. I guess -- what is this -- okay. I  
13 guess she canceled the appointment on February the 7th.  
14 A 27th, yes.  
15 Q 27th.  
16 A Yes.  
17 Q 27th.  
18 A Yes.  
19 Q Okay. February 27th. Excuse me. These are  
20 handwritten notes, and you have small handwriting.  
21 A It's very old-fashioned. I'm sorry.  
22 Q So it's the 27th, 2008. And then on March the 7th,  
23 2008.  
24 A Correct.  
25 Q And throughout the course of all these notes and --

1 well, and it goes on, the 20th of -- what month is that?  
2 A March.  
3 Q March the 20th. And then what's the next one that's  
4 the 15th?  
5 A April.  
6 Q April. April the 15th, 2008. Then May the 13th,  
7 2008. And then what's the next one?  
8 A 6-10.  
9 Q June the 10th?  
10 A Yes. 2008.  
11 Q 2008. Okay. And for that -- all of these sessions  
12 that you saw her for, there was a lot of -- the level of  
13 improvement in her work stress, co-parenting, and marital  
14 stress was what?  
15 A Good.  
16 Q Okay. So you said she was having good improvement.  
17 A Yes. I thought -- I thought, okay, we're ending  
18 treatment here. She looks good.  
19 Q Well, let's just go through some of them. Now, in  
20 your session in November of 2007, you record that Ms.  
21 Coffey's, I guess it says her spouse. Were they still  
22 separated at that point in time?  
23 A That's my understanding.  
24 Q Is it your understanding that they'd been separated  
25 since at least November the 7th, 2007?



1 A Correct.

2 Q When she first came to see you?

3 A Correct.

4 Q And there's never been any reconciliation there?

5 A My understanding is that there has never been any  
6 reconciliation, although at times he has been at the  
7 house.

8 Q Okay. And at times, he has returned to living  
9 somewhere on the property where she lives.

10 A That's my understanding.

11 Q Okay. And she -- was it some apartment underneath  
12 the house or somewhere below her house where he was  
13 living for some period of time?

14 A My understanding is it's like an open garage.

15 Q An open garage.

16 A Under the house.

17 Q And he lived there for a period of time.

18 A That's my understanding.

19 Q And that created some stress and issues.

20 A Absolutely.

21 Q Okay. And there was one incident where there was --  
22 there was the law enforcement had to be called.

23 A Yes.

24 Q And what effect did that have on her?

25 A Created a lot of stress.

1 Q And there was also a lot of stress, because she was  
2 going without any child support.

3 A Correct.

4 Q And there was a lot of confusion and arguments over  
5 the children's visitation schedule and holiday schedules.

6 A Correct.

7 Q Now, there was also some allegations that the  
8 husband, from time to time, or her spouse, from time to  
9 time, would make comments to the children that Ms.  
10 Coffey, as a judge, could put him in jail. And I'll  
11 refer you to your June 10th, 2008, note, specifically.  
12 June the 10th, 2008.

13 A Correct.

14 Q But your testimony is, is through all of that, you  
15 think that her stress level was improving.

16 A Yes. I think it's notable on that June the 10th  
17 note. My note is she presents with remarkable coping  
18 throughout this.

19 Q And then you note in July, July the 8th, 2008, there  
20 is the first mention. And in that note -- read that note  
21 to the jury.

22 A Met with Ms. Coffey for one hour this date. She  
23 reports modestly improved relationship with spouse,  
24 reportedly due in part to his increased stability while  
25 living with her brother.

1       *She reveals presentation with a grievance, which*  
2       *creates enormous stressors. Focus on positive coping,*  
3       *increased positive self-maintenance, also, emphasis on*  
4       *positive self-cognitions throughout this ordeal.*

5       Appointment 8-12-08. That means the next  
6       appointment.

7       Q All right. And then she returned on December the --  
8       well, on August the 12th, '08..

9       A Correct.

10      Q And then the next appointment she has with you is  
11      June the 10th, '08?

12      A September the 8th.

13      Q September the 8th? When did -- is this not the next  
14      note?

15      A We already went through -- oh, that's my -- those are  
16      the treatment plans. Treatment plan updates.

17      Q Oh, treatment plan updates. Okay. All right. Okay,  
18      so these are just treatment plan updates. These aren't  
19      notes of visits.

20      A Correct.

21      Q All right. That was the confusion there.

22      A Sorry.

23      Q So the next visit was June the -- I mean, September  
24      the 8th?

25      A Correct.

1 Q I want to make sure I make a note of this. July the  
2 8th, 2008. And that was when she told you about the  
3 filing of the complaint. Okay. Now, then she reports to  
4 you on is it September the 7th, 2008, that the complaint  
5 had been dismissed, which significantly decreased her  
6 stress? You see that?

7 A That's October 7th.

8 Q October. Is it October?

9 A Yes, ma'am.

10 Q Okay. So how many times did you see her between July  
11 the 8th, 2008, and October the 7th, 2008?

12 A Four times, including those beginning and end dates.

13 Q So there were -- including these two, there's a total  
14 of four visits.

15 A Correct.

16 Q Okay. And she reported to you then that she had  
17 significantly decreased stress. Is that correct?

18 A Well, what I -- what I'm saying is, she presented  
19 with significant improved functioning.

20 Q Okay. All right. And then you have two visits with  
21 her on November the 4th and December the 2nd of 2008.  
22 And in those visits, the focus is concerning her family  
23 situations. Is that correct?

24 A Yes, it is.

25 Q And there is no mention of any issues concerning

1 anything to do with any complaint.

2 A That is correct.

3 Q Then, I think your next visit is on January the 7th,  
4 2009.

5 A Yes, ma'am.

6 Q And on that visit, what did Ms. Coffey report to you?

7 A Extremely stressful holiday, family issues, local  
8 publicity about the litigation, and further litigation  
9 against her is highly stressful.

10 Q All right. So your note says -- and if you would  
11 please, just read your note to the jury.

12 A 1-7-09, met with Ms. Coffey for one hour this date.  
13 She reportedly -- she reports extremely stressful  
14 holiday, with children with father for extended time due  
15 to his interpretation of separation agreement, and with  
16 her and children's concerns while in his care.

17 In addition, local publicity regarding litigation  
18 and further litigation against her is highly stressful.

19 Emphasis on promoting improved coping. She is  
20 increasing positive self-maintenance behaviors, including  
21 diet and exercise. And therapist recommends increased  
22 breathing and relaxation strategies.

23 Appointment, 2-4-09.

24 Q So she says there's the local publicity regarding the  
25 litigation. Now, did Ms. Coffey tell you that the local

1 publicity concerning the litigation was a lawsuit that  
2 she actually had filed?  
3 A Yes.  
4 Q Okay. So she told you she had commenced that  
5 litigation.  
6 A Correct.  
7 Q Okay. All right. And then the other issues on that  
8 occasion related to the children and the holidays and the  
9 issues with her -- with her spouse.  
10 A Yes.  
11 Q And then she said there was some other further  
12 litigation against her?  
13 A That's what my notes reflect, correct.  
14 Q Okay. So there was other litigation against her.  
15 And this other litigation against her doesn't have  
16 anything to do with -- that doesn't have anything to do  
17 with this complaint that had been filed and dismissed  
18 already.  
19 A To tell you the truth, I have no -- I have no  
20 recollection what that is -- or was.  
21 Q So you don't know what this other litigation filing  
22 against her is?  
23 A Yes. Three-and-a-half years ago. I -- I don't know  
24 that.  
25 Q Okay. And the reason I'm asking you all these

1 questions is because, you know, the questions that were  
2 put to you by the plaintiff's attorney, you know, asking  
3 you if you can relay, based on a reasonable degree of  
4 medical certainty, which of these stressors was the most  
5 efficient cause of the symptoms that she had. That's  
6 what I want to try to parse out with you.

7 A Absolutely.

8 Q Okay.

9 A I understand.

10 Q So we've got -- we know that there was -- there were  
11 four visits here, in this period of time. And then we've  
12 got local publicity about litigation that she had  
13 brought, correct?

14 A Correct.

15 Q All right. And then other litigation against her.  
16 Okay. All right. And then we go on. And your next note  
17 on March the 24th, 2009, has no mention of anything to do  
18 with any litigation. Is that correct?

19 A Yes, that's correct.

20 Q Okay. And then in the next note, which is -- I think  
21 it's April the 21st, 2009, but my --

22 A It is.

23 Q Okay. All right. In that note, she actually -- the  
24 only litigation she talks about in there is threats of  
25 litigation from her husband. And just read to the jury

1       that one sentence about where she reports the spouse's  
2       frequent threats.

3       A   *She reports spouse's frequent threat to quote,*  
4       *'destroy her,' close quote, in a family court litigation*  
5       *increases her anxiety, especially given concerns with the*  
6       *impact upon her professional reputation.*

7       Q   Okay. And that's the only mention in that note of  
8       any litigation stress --

9       A   Correct.

10      Q   -- or complaint of stress.

11      A   Correct.

12      Q   Okay. All right. And then we go on to the next note  
13      in -- where is it?

14      A   April 19.

15      Q   April the 19th. And she does generally make a  
16      comment on April the 19th of constant stress with work,  
17      litigation, co-parenting conflict, financial issues, and  
18      child management issues, correct?

19      A   That would be my summary of her statements, correct.

20      Q   Okay. And can you tell us, as we sit here today,  
21      what litigation she was referring to on that particular  
22      date and visit?

23      A   No, I cannot.

24      Q   Okay. So you cannot testify that it was related to  
25      this complaint that had been dismissed or any of this



1 other stuff that was mentioned.

2 A That's correct.

3 Q Because she's got all this other stuff going on.

4 A Correct.

5 Q All right. Then, the next time you see her is June  
6 the 16th, 2009.

7 A Yes.

8 Q Is that correct? And that's the occasion when she --  
9 that your note says, *She presents with significant*  
10 *increase in anxiety after a series of conflicting --*

11 A Conflictual.

12 Q -- *conflictual situations with spouse, culminating in*  
13 *his arrest at the family residence.* Correct?

14 A Yes.

15 Q All right. And she had some issues then with her  
16 children, as well, at that point in time. But there's no  
17 mention of any litigation in that visit; is there?

18 A No.

19 Q Or any stress related to that.

20 A Correct.

21 Q And then the next one is July the 14th, 2009. And  
22 again, there is no mention of any concerns regarding  
23 litigation.

24 A Correct.

25 Q All right. And then August the 11th, 2009 is the

1 next visit.

2 A That's correct.

3 Q Okay. And there is no mention of any concerns with

4 any litigation in that visit, except for she says that

5 the victims' assistant advocate is promoting some type of

6 mutual counseling between she and the spouse, correct?

7 A Yes, that's correct.

8 Q And of course, that doesn't have anything to do with

9 this professional complaint; does it?

10 A Correct.

11 Q Okay. And there's no mention in that note or that

12 treatment session that has anything to do with the --

13 this complaint, correct?

14 A Yes.

15 A All right. And then the next visit is September the

16 8th, 2009. And again, there is no mention of any issue

17 related to any kind of litigation, and that it's all

18 related to her family, the children, the husband, the

19 house, financial issues and such.

20 A Yes.

21 Q Okay. All right. And then we go to October the 6th,

22 2009. And again, there is no mention of any stress

23 related to any type of litigation or anything in that

24 regards. It's all about the children and the husband and

25 the holidays, and managing all of that.

1 A I think that's not accurate.

2 Q Oh, okay. I'm sorry. If I missed it, please point  
3 it out.

4 A I believe there's a sentence that says stress  
5 regarding litigation remains.

6 Q Okay. All right. Okay. Good. Good. I'm glad you  
7 pointed that out. And which litigation was that?

8 A I can't tell you.

9 Q Okay. You don't know which one it was. You don't  
10 know if it was this -- the action that she brought or the  
11 other litigation against her or this complaint.

12 A Correct.

13 Q Okay.

14 A Well, my impression was that complaint had been  
15 dismissed.

16 Q Right. Right.

17 A Yes.

18 Q So, at this point in time, she had brought a lawsuit  
19 that you know of, and then there's some other litigation  
20 against her that you don't remember the details about.

21 A Correct.

22 Q Okay. And then, of course, there was the litigation  
23 with the spouse, concerning the victim advocate and the  
24 incidences that occurred at her home.

25 A My impression is there was no litigation on that. My

1 impression was that we were back to threats of  
2 litigation.

3 Q Oh, threats of litigation. Okay. And so, okay. So  
4 we got 10-6-09 there's a mention of stress with the  
5 litigation. But as we stand here today, you cannot  
6 state, with a reasonable degree of medical certainty, --  
7 well, not -- you can't say factually what litigation  
8 you're talking about.

9 A Correct.

10 Q All right. And then the next visit has a similar  
11 notation. I think that's November of 2009?

12 A Yes.

13 Q And again, it says, *Focusing on coping with ongoing*  
14 *stress of spouse and litigation.*

15 And again, can you state what litigation she was  
16 talking about?

17 A I would certainly think if it were some other  
18 litigation, I would have a good memory of that. That  
19 would be --

20 Q Well, I mean, you know, go back. What was the other  
21 litigation against her?

22 A Well, I would -- well, that's what I'm saying. I  
23 think that if it were -- if that were the repeated theme,  
24 I would think, after all that time, I would remember  
25 that. So, --

1 Q But can you tell me what it is? Do you remember?  
2 Yes or no?  
3 A No.  
4 Q Okay. All right. And then, in the next visit, which  
5 I believe is the 1st of December?  
6 A Correct.  
7 Q 2009?  
8 A Correct.  
9 Q There is no mention of anything related to any  
10 litigation.  
11 A Correct.  
12 Q Or any complaint against her. And then the next one,  
13 is that January the 5th, 2010?  
14 A Correct.  
15 Q All right. And again, in that note, there is no  
16 mention of any stress related to any -- not only any  
17 litigation, but no complaint about her.  
18 A Correct.  
19 Q And then February of 2010, February the 2nd of 2010,  
20 is that your next visit?  
21 A Yes.  
22 Q Okay. And in that visit, she reported to you that  
23 there had been no progress regarding her court  
24 litigation, and no response from her attorney, despite  
25 repeated efforts to contact him. Is that correct?

1 A That's the note, yes.

2 Q Okay. And so, the stress that she reported to you in

3 February 2010 had to do with no progress. And is that

4 the litigation that she initiated, or do you know?

5 A I'm assuming it's this litigation that -- that you

6 all are in right now.

7 Q Yes, ma'am. And but, I'm asking you if you can tell

8 us what litigation it was.

9 A This litigation.

10 Q You think it was this lawsuit here?

11 A Yes, ma'am.

12 Q Okay. Do you have any knowledge about when this

13 lawsuit was filed or commenced?

14 A No.

15 Q Okay. And she's reported here that her stress is

16 related to no response from her attorney, despite

17 repeated efforts to contact him.

18 A Correct.

19 Q Okay. All right. And then, in March of 2009, is the

20 next visit. And she said --

21 MR. MATHISON: I think you mean 2010.

22 Q I mean 2010. Thank you. March the 9th, 2010. Is

23 that correct?

24 A Yes.

25 Q And in that note, she reports to you not only some

1 issues with her spouse, and in this note it says,  
2 *Continues to be homeless and is now residing under her*  
3 *house in a basement-like area?*

4 A Correct.

5 Q But also it says, *Stress regarding the lawsuit and*  
6 *changing attorneys.*

7 A Correct.

8 Q Okay. All right. And then, in April of 2010, you  
9 have a session with her. And I don't believe that there  
10 is any notation in that session concerning anything  
11 related to any litigation or lawsuit.

12 A Correct.

13 Q Okay. And then, in May of 2010, again there is a  
14 session with you, and there is no mention of any issues  
15 concerning any litigation. That note relates to, again,  
16 issues with the confrontations with her spouse.

17 A Yes.

18 Q And the June 1st, 2010 note, likewise, has no mention  
19 of any litigation or complaint about her, but relates to  
20 issues with her children.

21 A Correct.

22 Q And then July the 6th, 2010, same thing.

23 A Correct.

24 Q No mention of any litigation; just issues with the  
25 spouse and the children.

1 A Correct.

2 Q Okay. And then, in the next one, I cannot read the  
3 date at the bottom.

4 A August 3.

5 Q August the 3rd?

6 A Yes, ma'am.

7 Q Okay. Thank you. And the mention there of the  
8 litigation says that, *also an increase*. Something with  
9 attorney. Do you know what that says?

10 A Assertive behavior.

11 Q *Assertive behavior with attorney to clarify*  
12 *boundaries and time lines regarding -- time lines, issues*  
13 *regarding litigation*. Correct?

14 A Yes.

15 Q All right. And then November, the next one is  
16 November 2010. No mention of the litigation; just issues  
17 concerning her family.

18 A Correct.

19 Q All right. October 2010 there's one notation about a  
20 conversation with her attorney about the lawsuit, but  
21 nothing else.

22 A Correct.

23 Q Okay. November 2010, the only notation is that there  
24 was recent newspaper articles regarding the case and her  
25 stresses increases. Was that with the newspaper



1 articles?

2 A Well, there's also the sentence before that.

3 Q There is a sentence before that, that relates to a  
4 relationship with her attorney, correct?

5 A Correct.

6 Q Okay. All right. And then it talks about recent  
7 newspaper articles.

8 A Yes.

9 Q Okay. And she has increased stress. What she  
10 reported to you there, was the increased stress  
11 concerning the relationship with her attorney and the  
12 newspaper articles?

13 A No, just the newspaper articles.

14 Q Just the newspaper articles.

15 A Correct.

16 Q Okay. So that was just the newspaper articles. All  
17 right. And then February of 2010, there --

18 A No, that's -- that's December.

19 Q Oh, December. I'm sorry. My -- one, my copies  
20 aren't --

21 A Sorry.

22 Q Okay. Sorry. December of 2010, there's a notation  
23 about continuing problems with her spouse and her  
24 children, but nothing about any litigation or problems  
25 with an attorney or newspaper articles.

1 A Correct.

2 Q Then, in 2011, there are -- you saw her in 2011, one,  
3 two, three, four, five, six times.

4 A Yes.

5 Q Correct? Six times.

6 A Yes, ma'am.

7 Q All right. And you have not seen her -- your last  
8 visit with her was June the 7th, 2011.

9 A Yes.

10 Q June the what?

11 A 7th.

12 Q Now. And on the six visits in 2011, she discusses  
13 with you, or at least in five of them, she discusses with  
14 you that she has stress from the husband, the children,  
15 financial issues, litigation issues, and -- and I think  
16 that's all. Is there anything else in there?

17 A Medical issues.

18 Q And medical issues. And she reports to you what  
19 other health care people that she's been to see.

20 A Yes.

21 Q And the other health issues that she discusses with  
22 you is a possible insulin disorder?

23 A Yes.

24 Q And some other medical issues that -- that are, you  
25 know, throughout here. But anyway. Which I won't make

1 public, but.

2 So, after having gone through your notes, we know  
3 that the professional complaint against her, she saw you  
4 from July of 2008, until October of 2008, before this, it  
5 was dismissed, and she reported decreased stress, right?

6 A Could you repeat that question, please.

7 Q Your first note about filing of a complaint related  
8 to her professional status as a judge was July the 8th,  
9 2008. Your note says it was dismissed in October of  
10 2008. She had decreased stress at that point in time.  
11 But during that time period, you saw her on four  
12 occasions.

13 A Yes.

14 Q Right? All right. Then we know that there is a  
15 notation about local publicity about litigations that she  
16 commenced. Correct?

17 A Yes.

18 Q All right. And other litigation against her, but  
19 we're not sure. You don't recall the details of that.

20 A Correct.

21 Q All right. And you last saw her on June the 7th,  
22 2011.

23 A Yes.

24 Q Now, as we stand here, having reviewed your notes in  
25 detail, can you tell the court, based on a reasonable

1 degree of medical certainty, which litigation stress you  
2 believe is the most efficient cause of the problems she  
3 was having?

4 A No.

5 Q Okay. And can you tell the court, after having  
6 reviewed the notes in detail, based on a reasonable  
7 degree of medical certainty, whether or not the  
8 litigation stresses outweighed her family and marital  
9 stresses to cause her symptoms, based on a degree of  
10 reasonable medical certainty?

11 A Well, I think you've done an excellent job of  
12 indicating the content of each of those sessions. And I  
13 think that you've really clearly noted there's many  
14 stressors. You didn't include in that what -- how were  
15 her anxiety symptoms going up and down during those  
16 different times. And I think that that's the piece that  
17 I'm using to come to my conclusion. Because, for the  
18 most part, it's not a perfect match up. But for the most  
19 part, when she's talking about the family issues, her  
20 stress has been noted to be decreased. And then, for the  
21 most part, when she's talking about the litigation,  
22 professional reputation issues, the stress increases. So  
23 I think it's that mix is what I'm using to come to my  
24 conclusion on. So it's not simply what did she talk  
25 about; it's how is she reacting to that.

1           And I want to repeat, it's not a perfect one-to-one  
2 match-up. But it's -- it's -- it's a pretty strong  
3 pattern.

4       Q   Then what you just described, can you show me where  
5 that is reflected in your notes?

6       A   Sure.

7       Q   Okay.

8       A   It's generally the second sentence. If you look at,  
9 like, February of -- of -- 1st of 2011, you know, she  
10 presents with improved coping. Or if you go to, you  
11 know, June --

12      Q   Wait a minute. February the 1st, 2011.

13      A   So I'm tracking -- you know, I talk about how she  
14 coped or her anxiety or a symptom.

15      Q   Okay. In that note, February the 1st, 2011, you say  
16 that she presents with decreased anxiety after phone  
17 contact with husband?

18      A   Well, I'm going to --

19      Q   It says with him. Is that the spouse?

20      A   I'm going to the second sentence there. She --

21      Q   Okay.

22      A   She presents with improved functioning.

23      Q   Okay. Related to her overall situation? Improved  
24 functioning?

25      A   Correct.

1 Q Okay. And that would include -- because there is a  
2 notation on that date about the litigation.

3 A Correct. Did you want me to read that whole note?

4 Q What I'm trying to -- what I'd like for you to point  
5 me to is where your notation where she presents with  
6 improved functioning. It doesn't -- your note doesn't  
7 say what that's related to. It doesn't relate it to one  
8 item or another, the family situation or some other  
9 situation; does it?

10 A I think that it's -- it's generally clustered, if you  
11 look at the whole note. I use this way because it's like  
12 a paragraph. It's -- I have that sentence about a  
13 symptom, and then I have what the content is. And that's  
14 what I'm matching up, the symptom and the content.

15 Q Okay. You're matching up the symptom and the  
16 content. But the content in this note speaks to  
17 everything. It speaks to all the stresses in her life.

18 A Yes.

19 Q Doesn't it?

20 A Yes, it does. But it -- it notes that some of them  
21 are going better than others.

22 Q Okay. So, is your testimony that your notes are not  
23 specific in regard to what you recorded contemporaneous  
24 with the visit as to the improvement?

25 A I'm not sure that's what I'm saying. Could you

1 repeat that.

2 Q Your note says she presents with improved  
3 functioning. Is that word functioning?

4 A Yes, correct.

5 Q Okay. She presents with improved functioning, but  
6 the note recites information concerning the litigation,  
7 information concerning the spouse who is out of the  
8 country, and other things. But your notes -- I guess  
9 your testimony is you don't keep medical records in such  
10 a way that you relate the improved functioning to any  
11 particular item?

12 A Correct. I -- you know, I'm not to create a -- you  
13 know, I'm not trying to create a document to say, okay, I  
14 can prove this or that. That's not what I'm doing at the  
15 time. I'm simply trying to document what I saw and the  
16 content of what was discussed.

17 Q Let me ask you. Let me ask you a couple of specific  
18 questions. Where, in your notes, did -- or when in your  
19 notes did Ms. Coffey first indicate to you that she had  
20 any headaches? What was the date?

21 A I'm looking. The -- March of 2009.

22 Q And that's the first time she noted reporting that  
23 she had any headaches. Or is that the only notation of  
24 headaches? And is that the March?

25 A 24th one.

1 Q March 24. Okay. In the March 24, 2009 note, where  
2 she tells you she's having headaches, there is no report  
3 in that visit concerning any litigation issues; are  
4 there? Is there?

5 A No. I just note marked increased stress.

6 Q But on that visit, when she told you she had  
7 experienced some headaches, there was no indication from  
8 her of issues related to a complaint or litigation.

9 A And while that's accurate, it also indicates how in  
10 the other areas she's doing well.

11 Q Okay. And is there any other occasion where she  
12 reports that she's experiencing headaches?

13 A I don't believe I have that specifically documented  
14 on other dates. We discussed it intermittently, and I  
15 think, again, there might -- but I don't see easily here  
16 that I have it specifically documented.

17 Q And the only other -- the other item that you were  
18 asked about was weight gain. And when did Ms. Coffey  
19 indicate to you she was experiencing any weight gain?

20 A I will need to take a minute here.

21 Q You don't have it in your notes?

22 A I do, but I haven't marked it ahead of time.

23 Q Oh, I'm sorry. I can tell you the one place I found  
24 it.

25 A Great.



1 Q March the 3rd, 2011. I don't want to, you know,  
2 testify for you, but that's where I see it is March the  
3 3rd of 2011.

4 A Great. I --

5 Q May the 3rd. 5-3-11.

6 A Great. I know that we're, you know, we're focusing  
7 on the exercise prior to that, so I don't -- but I didn't  
8 actually indicate the weight gain. I indicated the focus  
9 on exercise.

10 Q But I didn't see it any other time.

11 A I am happy to trust your reading the notes.

12 MS. JONES: Thank you. That's all the questions I  
13 have.

14 DR. LYNN E. GEIGER

15 RE-DIRECT EXAMINATION, MR. MATHISON:

16 Q Dr. Geiger, I just have a couple on re-direct. First  
17 of all, how long is the session that you have with Ms.  
18 Coffey, or any other patient, for that matter?

19 A Generally, the -- after the first session, sessions  
20 are 45 to 60 minutes.

21 Q And do you attempt to write down everything that you  
22 discuss in a 45-to-60-minute period?

23 A No.

24 Q In a clinical note?

25 A No.

1 Q How many words are in your typical clinical note?  
2 Fifty?  
3 A I would say that's correct.  
4 Q So you distill, and must distill, for matters of  
5 efficiency, an hour's worth of conversation into 50  
6 words. Is that right?  
7 A Correct.  
8 Q So is it entirely possible that, in every single  
9 session, there was a discussion of a stressor which you  
10 did not get a name that was either complaint or  
11 litigation?  
12 A Yes, absolutely correct.  
13 Q And what I asked you to do was determine what was the  
14 greatest stressor for Ms. Coffey during this period.  
15 Isn't that correct?  
16 A Yes.  
17 Q And how did you do that?  
18 A I did it two ways. I did it, one, in, you know, just  
19 re-reading all the notes and re-looking at the whole  
20 thing, and coming up with it. And then I also sort of  
21 more scientifically went back and looked at all of the,  
22 you know, 48, or specifically, 36 sessions, and tracked  
23 symptoms related to content.  
24 Q Among the different stressors in Ms. Coffey's life,  
25 do you have an opinion during this period which was the

1 most acute?

2 MS. JONES: Objection, your Honor. Improper  
3 question.

4 THE COURT: Overruled. You can ask.

5 BY MR. MATHISON:

6 A Explain what way you mean acute.

7 Q The worst.

8 A The worst. Concerns about litigation, concerns about  
9 her reputation.

10 Q Can you say that, most probably, that was the worst  
11 concern?

12 A Yes, I would say, most probably, that those were the  
13 worst concerns.

14 MR. MATHISON: Thank you. I don't have any further  
15 questions.

16 MS. JONES: That's all. Thank you, your Honor.

17 THE COURT: All right. Any objection to Dr. Geiger  
18 being excused from anyone? You are excused.

19 A Thank you, your Honor.

20 THE COURT: Ladies and gentlemen of the jury, I  
21 think we're going to take a very short recess. Again, do  
22 not discuss the case. It would be inappropriate to do so  
23 at this time. Go back, have coffee, and we'll be with  
24 you shortly. Thank you.

25 JURORS LEAVE COURTROOM 11:02 A.M.

1 Birdwell.

2 WITNESS SWORN.

3 STEVEN P. BIRDWELL

4 DIRECT EXAMINATION, MR. MATHISON:

5 Q State your name for the record, please.

6 A Steven P. Birdwell.

7 Q Mr. Birdwell, where do you reside?

8 A 12 Governor's Lane, in Hilton Head Island, South

9 Carolina.

10 Q Married, single?

11 A Married.

12 Q How old are you?

13 A Fifty-three.

14 Q Do you hold a position with Sea Pines Resort?

15 A I do.

16 Q What exactly is your position?

17 A President.

18 Q In the course of this litigation, have I previously

19 taken your deposition?

20 A Yes, you have.

21 Q And is that because, at one juncture, Sea Pines was,

22 in fact, a party in this case?

23 A Sea Pines Resort was, yes.

24 Q Do you recall that the deposition was taken on or

25 about April 5th of this year?

1 A I believe it was.

2 Q I'm going to hand you a document, which is meeting  
3 minutes from May 20, 2008 board meeting, and ask if you  
4 can identify those as the minutes of the meeting that you  
5 attended on or about that date.

6 A It appears that they are the -- the approved minutes  
7 from the May 20th, 2008 board meeting.

8 Q When we took your deposition, what I had at the time  
9 was the minutes that you'd supplied that were in draft  
10 form; isn't that correct?

11 A That's correct.

12 Q And isn't it true that you, through Sea Pines Resort,  
13 supplied in excess of a thousand documents in response to  
14 our production request?

15 A Yes, we did.

16 Q Didn't you have the most extensive and elaborate  
17 collection of documents generated during a three-year  
18 period of anybody in the case?

19 A I don't know about that.

20 Q Can you tell me whether those are the final minutes,  
21 as opposed to the draft minutes?

22 A Well, they're signed by the secretary. I assume they  
23 are the final -- a copy of the final minutes.

24 Q Now, as the president of Sea Pines Resort, LLC, are  
25 you entitled to sit on the board of directors of

1 Community Services Associates?

2 A No, not as a -- a condition of my employment with --  
3 with Sea Pines Resort.

4 Q How many directors are there on the board of  
5 Community Service Associates?

6 A I believe there are a total of 17.

7 Q How many of those directors, as a function of the  
8 applicable covenants, must be selected by Sea Pines  
9 Resort, LLC, as the developer?

10 A Four.

11 Q Are you one of those directors?

12 A Yes, I am.

13 Q And do you select the others?

14 A With approval from our ownership.

15 Q Meaning the people that own Sea Pines Resort?

16 A That's correct.

17 Q Which is a subsidiary of another company known as  
18 Riverstone. Is that correct?

19 A The Riverstone Group, yes.

20 Q Are there other commercial directors, that is,  
21 commercial directors selected from among folks who have  
22 interests that are commercial, inside Sea Pines that are  
23 not affiliated with your company?

24 A Yes, there are. There are four other commercial  
25 directors.

1 Q So that accounts for eight. Are there, in addition  
2 to that, directors who come from what's known as the  
3 Association of Sea Pines Plantation Property Owners?

4 A Well, there's nine residential directors that are --  
5 that are nominated by, I believe, a nominating committee  
6 that is a collaboration between CSA and ASPPPO.

7 Q For sake of convenience, we'll call the Association  
8 of Sea Pines Property Owners and the advisory board  
9 ASPPPO. Is that correct?

10 A That's correct.

11 Q Are some of the members of that board members or  
12 directors of ASPPPO, as well?

13 A Yes, they are.

14 Q Is that a matter of covenant? Do they have a high-  
15 right service on the board, or is it just a matter of  
16 actually running for the seats?

17 COURT REPORTER: I'm sorry. What?

18 Q Running for the seats.

19 A I don't believe it's -- it's by right. I think that  
20 the nominating committee many times has nominated people  
21 to serve on both boards. And they've been elected to  
22 both boards.

23 Q And what, exactly, is the function of the ASPPPO  
24 within the hierarchy of the operation at Sea Pines?

25 A Best I understand, ASPPPO is to represent the

1 residential directors.

2 Q Do they engage in covenant enforcement?

3 A Yes, they do.

4 Q Causing the properties inside the plantation to

5 adhere to the codes.

6 A That's correct.

7 Q And is that their primary function?

8 A I believe representing the residential community and

9 -- and covenant enforcement is the primary

10 responsibility.

11 Q And what does Community Services Associates do,

12 besides operating the security company?

13 A Well, they operate not only security, and then

14 provide all the maintenance throughout the plantation.

15 And then other services that -- that owners can -- can

16 utilize.

17 Q So, if I understand correctly, Community Service

18 Associates has a number of functions. They're separate

19 from those that the association Sea Pines Plantation

20 Property owners has. Is that correct?

21 A That's correct. CSA represents all owners within Sea

22 Pines, and provides all the -- all the maintenance,

23 security, and all the other functions available.

24 Q And that means all owners, both residential and

25 commercial.



1 A That's correct.

2 Q And you all are the largest commercial.

3 A I assume we are.

4 Q At least until last right.

5 A I mean, there's some other large commercial

6 operators.

7 Q The minutes that I handed you, do they make reference

8 -- I believe it's on the second page -- to a conversation

9 that you had had with Mr. Breed previously?

10 A Yes, they do.

11 Q Would you read to the jury what the comment is that

12 I'm referring to?

13 A The minutes say, *He had met --*

14 MR. HALIO: Object. I think we need to approach.

15 THE COURT: Okay. Just a moment.

16 OFF-THE-RECORD BENCH CONFERENCE,

17 OUT OF HEARING OF JURORS. PRESENT:

18 THE COURT, MR. MATHISON, MS. JOLLEY,

19 MR. HALIO.

20 END BENCH CONFERENCE.

21 BY MR. MATHISON:

22 Q Mr. Birdwell, please continue. Just read the

23 provision that are in the minutes of the meeting.

24 A Regarding my discussion of meeting with Mr. Breed.

25 Q Yes, sir.

1       A    The minutes read he had met with Mr. Breed, director  
2       of security, to discuss these and other issues.  *The*  
3       *resort is considering an installation of additional*  
4       *security cameras in the golf cart storage areas and other*  
5       *high-traffic areas in Harbor Town. The cameras -- the*  
6       *cameras are portable and can be relocated at any problem*  
7       *-- problem areas as needed. The cameras will be*  
8       *monitored by current security personnel, so no additional*  
9       *staff will be needed.*

10      Q    What I wanted you to do is read the entire first  
11      sentence in, so it was clear what you and Mr. Breed were  
12      discussing.

13      A    *Mr. Birdwell said he was concerned about recent*  
14      *security issues that had arisen, such as the missing*  
15      *couple and peeping Tom.*

16      Q    Did that comment cause any stir or discussion during  
17      the meeting in question, the minutes of which you have in  
18      your hands?

19      A    I don't believe it did.

20      Q    Subsequently, was there an email exchange between you  
21      and Mr. Breed about whether or not your comment had, I  
22      believe the term was, were you actually busting his  
23      chops, meaning Mr. Breed's chops. Do you remember that  
24      email?

25      A    I do remember it.

1 Q And was his concern and yours that maybe Mr. Kelley,  
2 who is the executive vice president of Community Services  
3 Associates, felt that you were *busting the chops of Mr.*  
4 *Breed?*

5 A I don't know. I think Mr. Breed sent that to me  
6 sarcastically.

7 Q What we're talking about is a series of emails, which  
8 are marked in your deposition as Plaintiff's Exhibit 10.  
9 And I'm handing you those documents. Are those the  
10 emails about which we were talking?

11 A Yes, they appear -- they appear so.

12 Q And were you kind enough to produce those documents  
13 as Numbers 1,104 and 1,105?

14 A Yes.

15 Q The conversation you had with Mr. Breed, was that a  
16 source of your concern about what may have been perceived  
17 as a certain lawlessness or reported rash of burglaries  
18 or peeping Toms? Is that what you were discussing?

19 A In the board meeting?

20 Q When you talked to him in the conversation before the  
21 board meeting.

22 A Our discussions were really more about the security  
23 cameras and where they should be located, and -- and the  
24 -- potential cost of the cameras.

25 Q These emails having to do with whether you were

1 busting Mr. Breed's chops, I'd like them marked  
2 collectively as Plaintiff's Exhibit 20.

3 COPIES OF DOCUMENTS REFERRED TO AS  
4 EMAILS MARKED PLAINTIFF'S EXHIBIT  
5 NUMBER 20, ADMITTED INTO EVIDENCE.

6 Q That board meeting took place on May 20th, 2008; did  
7 it not?

8 A Yes, it did.

9 Q When was the meeting between you and Mr. Breed where  
10 you discussed problems with incidents such as breaking  
11 and entering and peeping Tom inside the Plantation?

12 A I don't recall the date. It was some time before May  
13 20th.

14 Q Do you think it was a week before or the day before?

15 A It was some time in the first part of May, probably.

16 I -- I don't -- it was -- it was -- it was some time  
17 recent. Within -- within the last, you know, few weeks  
18 of this -- of this board meeting.

19 Q When the incident took place where there was a black  
20 male contacted on the early morning of May 20th, were you  
21 aware of that?

22 A I was not.

23 Q Was it a coincidence that this black male was  
24 encountered on May 20th --

25 MR. HALIO: Objection. Calls for speculation. He

1 didn't know anything about it.

2 THE COURT: You can ask can you account for, or you  
3 just can rephrase it.

4 BY MR. MATHISON:

5 Q Do you know whether, in fact, the effort to  
6 encounter the black male on May 20th was in response to  
7 your conversation with Mr. Breed about your concern about  
8 the lawlessness of the community?

9 A I don't -- I don't think so, no.

10 Q Mr. Birdwell, did you know anything about what's been  
11 marked as Plaintiff's Exhibit 4 prior to its having been  
12 conceived and mailed?

13 A No, I did not.

14 Q Did anybody on the board of directors of Community  
15 Service Associates, that you're aware of, know that that  
16 letter existed before June 24, 2008?

17 A Not that I'm aware of.

18 Q You certainly didn't know it; did you?

19 A No, I didn't.

20 Q Did anyone come to the board, with or without the  
21 letter, prior to the date of that letter on June 6th, and  
22 ask for the authority or permission to send the letter to  
23 the Conduct -- Judicial Conduct Commission?

24 A No one talked with me about it prior to -- to -- to  
25 mailing it.

1 Q And you were fairly religious in your attendance at  
2 these meetings; were you not?

3 A I certainly try to attend, you know, any time I can.

4 Q In point in fact, I think we established that you  
5 attended every meeting in 2008, with the exception of  
6 that which took place in September; isn't that right?

7 A I believe so.

8 Q And we put a list of those meetings into your  
9 deposition if I recall correctly.

10 A That's correct.

11 Q Do you know whether Mr. Breed was required to get the  
12 authorization of the board before sending that letter to  
13 the Commission on Judicial Conduct?

14 A I do not.

15 Q But he didn't do it, if he was required; is that  
16 right?

17 MR. HALIO: Objection. He's already said he doesn't  
18 know.

19 BY MR. MATHISON:

20 Q He didn't do it.

21 A There wasn't any board approval as far as I know.

22 Q Did the board approve of Mr. Breed, or someone on his  
23 behalf, delivering a copy of the letter to  
24 representatives at the Town of Hilton Head Island?

25 A I wasn't aware of it.

1 Q Was it ever discussed at the meetings that you  
2 attended in May or June?  
3 A I don't believe it was.  
4 Q In point of fact, the letter was, in fact, handed out  
5 to the board on or about June 24th, 2008; isn't that  
6 correct?  
7 A At the June board meeting. Right, that's correct.  
8 Q I'm handing you your deposition, sir. Actually, it's  
9 a copy. And directing your attention to what, in that  
10 deposition, is marked as Plaintiff's Exhibit 3.  
11 A Okay.  
12 Q Is that the meeting in which you found out that this  
13 letter had been sent?  
14 A Yes, I believe it was.  
15 Q And is there a description of what happened when the  
16 letter was presented?  
17 A There are minutes relating to that part of the  
18 meeting.  
19 Q And the minutes that you're looking at specifically  
20 are those that you produced in draft form. Is that  
21 correct?  
22 A That's correct.  
23 Q And if you scroll through those minutes, isn't it  
24 true that there is a copy of the letter attached?  
25 A I don't think that there was a copy attached.

1 Q Excuse me. Let me see what we've got. I'm handing  
2 you this document and asking you whether or not the copy  
3 of Mr. Breed's letter was attached.

4 A Well, this is a copy of the letter. It's -- it's not  
5 the signed copy. And I don't recall when -- when I  
6 received it. But I -- I don't believe that the letter  
7 was distributed until the September 24th -- June 24th  
8 board meeting.

9 Q Okay. Well, but isn't that -- aren't those the  
10 minutes of the June 24th meeting?

11 A I don't know, you know, they're a different exhibit  
12 number. And I don't know when, you know, when this --  
13 this copy of this letter was received. This is the one  
14 that's not on the letterhead, unsigned.

15 Q Okay. Well, look at the minutes of the June 24th  
16 meeting and see what they say about the letter.

17 A Okay.

18 Q Please read to the jury what the minutes of the  
19 meeting say to the --

20 A Minutes read: *Security issues. A copy of the -- a*  
21 *confidential letter from Mr. George Breed was distributed*  
22 *at the meeting. This correspondence is in connection*  
23 *with the recent case in Sea Pines. Discussion was held,*  
24 *and acknowledgment of receipt has been received, but not*  
25 *a formal response.*



1 Q And this is the Breed letter that is Plaintiff's  
2 Exhibit 4. Is that correct? That's what's being  
3 discussed?

4 A That's correct.

5 Q And is it your testimony that a copy of the letter  
6 was, in fact, handed out at that meeting?

7 A Copies were distributed at the meeting, and I believe  
8 they were collected before the meeting was concluded.

9 Q Now, do you recall whether a package of materials was  
10 delivered to you at your office some number of days  
11 before the meeting?

12 A Normally, and I assume that in June of 2008, a  
13 package was delivered to my office prior to the meeting.

14 Q Isn't it true that, as a matter of routine, before  
15 these meetings, officers with Sea Pines Security would  
16 deliver packages to all the board members, either at  
17 their houses or at their places of business, if they were  
18 employed?

19 A That's correct.

20 Q Do you know whether or not the letter was in the  
21 package of materials that was delivered to you before the  
22 board meeting on June 24th?

23 A I don't believe it was.

24 Q Mr. Birdwell, do you know what bridge report is?

25 A It's a -- a report summarizing the security issues

1       that have occurred during a particular period of time.

2       Q    And do you know who prepares the report?

3       A    I believe Sea Pines Security would have to prepare  
4       the report.

5       Q    Do you know to whom it's delivered?

6       A    I believe it's prepared for the -- it was prepared  
7       for the, you know, the board of directors. But I don't  
8       know who else receives it.

9       Q    Is the bridge report something that is customarily  
10       passed out with the materials that are delivered in  
11       advance for board meetings so that you can look and see  
12       the summary of what's occurred in the interim since the  
13       last one?

14       A    It generally has been.

15       Q    I'm handing you this document, which is a bridge  
16       report dated June 11th, 2008. That is to say, six days  
17       after Mr. Breed's letter to the Commission. Asking if  
18       you could identify that for me, please.

19       A    It appears to be a copy of a memorandum from Mr.  
20       Breed to Cary Kelley.

21       Q    And does it, without elaborating, recite a number of  
22       incidents that had taken place inside Sea Pines  
23       Plantation from a security aspect, and how Mr. Breed has  
24       dealt with them?

25       A    Yes, it does.

1 Q And you're saying that goes to all the directors. Is  
2 that right?

3 A I believe that it -- that it is.

4 Q And in addition, it's delivered some time before the  
5 board meeting on a monthly basis. Is that right?

6 A That's correct.

7 Q Several days, as the rule, beforehand.

8 A A few days before the meeting.

9 Q And in that letter, on the second page, at the  
10 bottom, isn't there a description of the letter that Mr.  
11 Breed sent to the Commission on Judicial Conduct?

12 A There is a -- an acknowledgment at the bottom of the  
13 letter.

14 Q And would you read the acknowledgment to the jury.

15 A The whole paragraph?

16 Q Please.

17 Q It reads: *Confidential. This security department*  
18 *has, is, and will always be diligent in its pro-active*  
19 *and reactive services and resources to protect the*  
20 *residents and visitors of this community. Along with*  
21 *these responsibilities comes various constraints that*  
22 *must be adhered to and parameters that must be followed.*  
23 *What one would like to do and what the law allows are at*  
24 *many times in conflict. As well, what one may discuss in*  
25 *a public forum would not be counterproductive and*

1        *imprudent.*

2                *That said, I am attaching a letter that was sent to*  
3        *the South Carolina Judiciary Complaint Commission that*  
4        *may speak to a few of the hurdles that we have faced*  
5        *concerning our recent, but negated, burglaries and*  
6        *peeping Tom reports.*

7        Q    All right. And do you recall whether there was a  
8        copy of Mr. Breed's letter of June 6th, 2008, attached to  
9        that report when you got it?

10       A    I don't believe that it was.

11       Q    Can you identify as the report that you received?

12       A    It appears to be a copy of the -- of the report that  
13       I received.

14       Q    Okay. And can you identify the minutes as being  
15       accurate from the May 20th meeting?

16       A    They -- they appear to be the -- the May 20th.  
17       minutes.

18       Q    And can you identify the minutes from the June 24th  
19       meeting?

20       A    Yeah, I have a -- you know, what you've given me here  
21       is -- is the draft. It's the, you know, the -- wouldn't  
22       have been yet approved by the board. So it's the  
23       unsigned version.

24       Q    I understand, and I anticipated the problem. And  
25       therefore, I am delivering what I think are final

1 minutes.

2 Now, having seen what are the signed minutes, are  
3 those the June 24th meetings?

4 A It appears that they are.

5 Q And they are signed. Is that correct?

6 A They are signed, right.

7 Q And there's no material change among them in terms of  
8 the provisions or passages that we've read.

9 A No.

10 Q Thank you. Move the introduction of the May 20th  
11 minutes as Plaintiff's Exhibit 21. The May 20th --  
12 excuse me -- the June 24th meeting minutes as Plaintiff's  
13 Exhibit 22.

14 THE COURT: Generally, if you object to anything  
15 specifically, you need to let me know.

16 MR. HALIO: I will.

17 COPY OF DOCUMENT REFERRED TO AS MAY 20TH

18 MEETING MINUTES MARKED PLAINTIFF'S

19 EXHIBIT NUMBER 21, ADMITTED AS EVIDENCE.

20 COPY OF DOCUMENT REFERRED TO AS JUNE 24,

21 2008 MEETING MINUTES MARKED PLAINTIFF'S

22 EXHIBIT NUMBER 22, ADMITTED AS EVIDENCE.

23 BY MR. MATHISON:

24 Q And the so-called bridge report dated June 11th,  
25 2008, is Plaintiff's Exhibit 23.

1 MR. HALIO: We have an objection to 23.

2 THE COURT: You all, is this something we can do on  
3 a break?

4 MR. HALIO: I would certainly think so.

5 THE COURT: Thank you.

6 MR. HALIO: As long as it's not published to the  
7 jury, we can take care of it.

8 THE COURT: All right. Let's keep going.

9 MR. MATHISON: I'm going to substitute the second  
10 page of this one with the other one.

11 THE COURT: All right. Let's go, you all.

12 BY MR. MATHISON:

13 Q Mr. Birdwell, what was the purpose of submitting the  
14 letter of June 6th, 2008, to the CSA board on June 24th?

15 A You would have to ask Mr. Kelley or Mr. Breed. I  
16 assume they wanted to inform the board.

17 Q Did you vote at that meeting on anything having to do  
18 with the letter?

19 A We did not.

20 Q Other than discussing the letter, did you discuss the  
21 possibility of retracting it?

22 A We did not.

23 Q Did anyone discuss whether what was in it was true or  
24 plausible?

25 A I don't recall discussion like that.

1 Q But it was discussed, because the June 24th minutes  
2 say it was discussed. Is that right?

3 A Very, very brief discussion. The letter was handed  
4 out, and we -- we informed.

5 Q The letter had already gone wherever it was going by  
6 the time you knew about it; isn't that correct?

7 A I believe it was. Yes, correct.

8 Q You couldn't unfire a gun at that point, could you?

9 A The letter would -- had been -- the letter had been  
10 mailed and filed.

11 Q Did you suggest that it might be a good idea to have  
12 -- strike that. Did you see a lawyer or consult a lawyer  
13 about the letter and its significance when you got it?

14 A I did not.

15 Q Do you think it would have been wise for Community  
16 Service Associates to do so?

17 MR. HALIO: Objection. Speculation. Irrelevant.

18 THE COURT: Come here for a second, you all.

19 OFF-THE-RECORD BENCH CONFERENCE,

20 OUT OF HEARING OF JURORS. PRESENT:

21 THE COURT, MR. MATHISON, MS. JONES,

22 MR. HALIO, MS. JOLLEY.

23 BY MR. MATHISON:

24 Q Mr. Birdwell, do you think it would have been wise  
25 to consult with a lawyer once the letter was shown around

1 at the meeting of the CSA Board?

2 A I didn't give that a thought at the time.

3 Q How about in retrospect?

4 A Certainly, in retrospect --

5 MR. HALIO: I don't see where retrospect has anything  
6 to do with it.

7 THE COURT: It's overruled. He can ask it. Go  
8 ahead.

9 BY MR. MATHISON:

10 A Certainly, in retrospect, it -- it would've been  
11 wise to have -- seek -- seek counsel on -- on -- on the  
12 letter.

13 Q And do you know which publication yet another copy of  
14 the letter appeared? I'm handing you a document which is  
15 Mr. Breed's letter, June 6th, 2008. And it's marked at  
16 the top: *Confidential, Do Not Disseminate*.

17 Was that letter in that version, with the  
18 confidential marked on it, was that what was attached to  
19 Mr. Breed's bridge report, or do you know?

20 A I don't know.

21 Q Was that version of the letter attached to the  
22 minutes of the June 24th meeting, or do you know?

23 A June 24th. I don't -- I don't believe that it was  
24 attached to the minutes.

25 Q Didn't you tell me that the copies of the letter that



1       were handed out at the June 24th meeting were, in fact,  
2       collected or taken up?

3       A    I believe that they were. That's my recollection.

4       Q    Then, how is it that -- that letter has a document  
5       stamp at the bottom right corner indicating that you  
6       produced it from your records; that it didn't come from  
7       CSA.

8       A    Somewhere, I received a copy of it during -- during  
9       that time frame.

10      Q    So, either they didn't collect it at the meeting, or  
11      you received a copy other than at the meeting. Is that  
12      correct?

13      A    I received it somewhere. I would have received it  
14      from CSA in -- in one of their packages.

15      Q    Well, how many other people received it, if you know?

16      A    I don't know.

17      Q    Again, looking at what's been marked as a bridge  
18      report, specifically in the portion that you read, do you  
19      know what hurdles that the writer of that report had to  
20      jump over in order to -- what hurdles are referred to  
21      there?

22      A    I don't know. You'd have to talk to Mr. Breed.

23      Q    Did he prepare it, or did Mr. Kelley prepare it, or  
24      do you know?

25      A    Well, it says it's from Mr. Breed, so I assume that

1 he prepared it.

2 Q Or Mr. Kelley?

3 A Yes.

4 Q Did what he put in the June 6th, 2008 letter amount  
5 to a hurdle or an excuse for not arresting people as you  
6 would have liked?

7 A I don't know what hurdles he was talking about, and I  
8 wasn't aware that we were about to arrest anybody.

9 Q In point of fact, at this stage of the proceedings,  
10 you didn't know who Otis Coffey was; did you?

11 A I did not.

12 Q And no one discussed that at these meetings; did  
13 they?

14 A No, they did not.

15 Q So the only way anyone would know anything about Otis  
16 Coffey is reading that letter of June 6th. Isn't that  
17 correct?

18 A That's correct.

19 Q And isn't a fact that that letter states, in one form  
20 or another, that my client, Maureen Coffey, was somehow  
21 obstructing or interfering with an investigation of Mr.  
22 Coffey?

23 A That's what the letter says.

24 Q Is that the hurdle that you understood Mr. Breed to  
25 be discussing?

1 A I assume that it -- that it is. He speaks to a few  
2 of the hurdles, and then he has a -- a more detailed  
3 letter.

4 Q At any point in May or June, did you know, Mr.  
5 Birdwell, that Mr. Breed had delivered the letter to  
6 someone other than the person to whom it was addressed?

7 A No, I did not.

8 Q Had you known that he had delivered the letter to  
9 someone else, would it have caused you some concern?

10 A You know, it didn't -- I didn't know, so I don't know  
11 what I would've done if -- and whether it would have  
12 caused concern or not.

13 Q Were the contents of the letter such that they caused  
14 you concern?

15 A Well, certainly, I was concerned about the contents  
16 of the letter.

17 Q Did you believe the letter? Mr. Birdwell, did you  
18 believe the content?

19 A I assumed it was accurate.

20 Q Mr. Birdwell, at any point in the next six months,  
21 did Mr. Breed or Mr. Kelley advise you that Mr. Breed's  
22 complaint against Judge Coffey had been dismissed by the  
23 Conduct on -- the Commission on Judicial Conduct?

24 A I don't believe they did. We didn't have any  
25 discussion about the -- the letter or the complaint.

1 Q I mean -- I'm talking about not just in a formal  
2 context at the board meetings. Did anybody informally  
3 advise you that it had been dismissed?  
4 A No, they did not.  
5 Q So would it be safe for me to assume that, as the  
6 clock rolled around to October, November, and December,  
7 you still believed that there was a pending complaint  
8 made by George Breed against Maureen Coffey?  
9 A Yes, we did. We -- we never heard a -- a conclusion  
10 from the -- from the complaint letter.  
11 Q When did you find out that the matter had actually  
12 been dismissed on October 1st?  
13 A I believe when the lawsuit was filed.  
14 Q So, but for the filing of this lawsuit, you would  
15 never have known that that complaint got no traction;  
16 would you?  
17 A I wasn't aware of the -- of the dismissal.  
18 Q Because it wasn't publicized, right?  
19 A I -- I just wasn't informed. I didn't -- I didn't --  
20 I didn't know.  
21 Q Who should've informed you, Mr. Birdwell?  
22 A I, you know, I didn't ask any questions. I mean, we  
23 didn't -- we didn't have any further discussion about it.  
24 Q Is it true that there was no further discussion about  
25 this letter, at least at the board meetings, at all until

1 the new board was installed on or about June -- excuse me  
2 -- January 8th, 2009?

3 A That's correct. I don't -- I don't think there was  
4 any further discussion.

5 MR. MATHISON: May it please the Court. Now we've  
6 reached the matter that I think that we need ruling on.

7 THE COURT: Ladies and gentlemen of the jury, I'm  
8 going to send you back to the jury room just for a few  
9 moments. Again, do not discuss this case. It wouldn't  
10 be appropriate to do so at this time. We'll be right  
11 back with you. Thank you.

12 JURORS LEAVE COURTROOM 12:20 P.M.

13 ON-THE-RECORD BENCH CONFERENCE,

14 OUT OF PRESENCE OF JURORS. PRESENT:

15 THE COURT, MR. MATHISON, MS. JONES,

16 MR. HALIO, MS. JOLLEY:

17 BAILIFF: Jury's clear. Door's closed, your Honor.

18 THE COURT: Okay.

19 MR. MATHISON: May it please the Court.

20 THE COURT: Mr. Mathison, what has changed in the  
21 testimony that would make indemnification the issue -- an  
22 issue?

23 MR. MATHISON: I believe that there are several  
24 aspects to it that -- I don't think it's an issue. I  
25 think it's clearly relevant. And I think it goes to show

1 that, effectively, Mr. Birdwell and his kindred spirits  
2 on the board were kept in the dark; didn't know what they  
3 were doing. Basically made a vote to do something that  
4 was grievously against their best interests without  
5 having full information.

6 And I think that it could be argued that, one, that  
7 it could be an explanation for why they did nothing. Or  
8 it could be, as I've argued in the past, a ratification  
9 of something that they didn't approve to start with.  
10 They weren't given the opportunity in so many words, to  
11 take their agents and servants and reign them in. They  
12 just couldn't do it. I mean, when they found out about  
13 it, the horse was out of the barn. All right. So it may  
14 well be that the proof would lead a reasonable person to  
15 conclude that nobody any higher in the pecking order than  
16 Mr. Kelley knew what was going on.

17 On the other hand, if they did know, if they did  
18 know, a knowing vote in favor of the indemnification that  
19 took place on January 8th, 2009 is a ratification, and we  
20 have some case law that says it is.

21 THE COURT: Well, why don't you give it to me? I've  
22 been asking for it for five days now.

23 MR. MATHISON: I will in just a second. I think he  
24 may have gone to get it. It's 1927 case law, and what it  
25 holds is that a board can become a joint tortfeasor with

1 its agents and servants by virtue of endorsing their  
2 actions after the fact. And we have the case, and I  
3 think it may have been sent up to --

4 THE COURT: Is your son bringing it in, or who's got  
5 it?

6 MR. MATHISON: Yes.

7 THE COURT: It's right there. He's got it.

8 MR. MATHISON: The case on ratification.

9 THE COURT: Approach. Go ahead and let me take a  
10 look at the case. I think what I've tried to say when  
11 you all were up at the Bar here, I think you could  
12 certainly ask Mr. Birdwell that, you're sitting in a  
13 meeting, and you read this letter; and by reading the  
14 letter, anyone with a modicum of life experience would  
15 understand how detrimental it would be to someone's  
16 profession. I mean, all you have to do is put yourself  
17 in the place of who it was written about. And I'm  
18 assuming that -- Mr. Birdwell has testified, I believe,  
19 that he assumed everything was correct in the letter.

20 MR. MATHISON: I believe he has, yes.

21 THE COURT: But he has not testified that anyone  
22 questioned it. Because I haven't heard any testimony  
23 from anyone that even -- there had to have been some kind  
24 of discussion.

25 MR. MATHISON: I believe that that's one inference

1 that you could draw from everything that's been said.  
2 But I think it's not one that you were willing to draw  
3 when I was attempting to argue that as a basis for  
4 holding Mr. Birdwell's company in the case. I think that  
5 some of the testimony regarding the degree of non-inquiry  
6 and non-investigation and --

7 THE COURT: You have to do an overt act to commit  
8 conspiracy, though. That's the problem. You have to do  
9 something in furtherance of it.

10 MR. MATHISON: Actually, --

11 THE COURT: I don't think they did anything in  
12 furtherance of it. We're not going to argue -- we're not  
13 going to re-argue that motion, and that summary judgment  
14 motion at this point. I mean, if anything, it would be  
15 inaction. But the question becomes, again, -- I still  
16 don't know the importance of the indemnification. You  
17 say it's a ratification. One of the questions I asked  
18 you again was, is were there further, were there further  
19 publications? Did the ratification or the  
20 indemnification by the board cause Mr. Breed or Mr.  
21 Kelley or anyone else still in this case to continue to  
22 go out and either slander or libel Judge Coffey.

23 Q And we believe that the evidence we put on yesterday  
24 through Mr. Sonberg indicates that, indeed, on the day  
25 after they ratified, Mr. Sonberg was told that Otis



1 Coffey was about to be arrested, and that Maureen Coffey  
2 had been concealing or covering up his whereabouts.

3 MR. HALIO: No, he didn't say that second part. We  
4 were waiting on it. I was waiting on it, and he never  
5 said it.

6 THE COURT: Okay.

7 MR. HALIO: He said -- the second part he said was  
8 that a complaint had been filed. But that's -- that's  
9 misrepresentation.

10 MR. MATHISON: Well, forgive me, but I certainly  
11 thought he said that.

12 THE COURT: You know, the part of the problem I  
13 have, number one, I think there is a very good argument  
14 that there is qualified privilege in publications.  
15 Again, I'm back to the problem is in publishing it to her  
16 employers. And that is a big problem.

17 But again, the simple fact that this board ratifying  
18 it, I mean, I don't know if it just means they didn't  
19 read it. If they were just going through their meeting  
20 and didn't care.

21 MR. MATHISON: We have additional evidence that will  
22 stand on top of this, but I'd rather not discuss that  
23 until we decide exactly how we're going to rule on this,  
24 because --

25 THE COURT: Mr. Mathison, what --

1 MR. MATHISON: It was initially assailed, if I  
2 understand correctly, my opponent's point of view, on the  
3 basis that it was irrelevant. Then it was assailed on  
4 the basis that it was somehow insurance-related. It's  
5 neither of those. All right. It's relevant to prove  
6 that, if and to the extent there wasn't a privilege, and  
7 I think you can argue and I plan on arguing, that as to  
8 the dissemination to the board, that was not a privilege  
9 to them, because their approval was not necessary.

10 Mr. Birdwell may have believed that it's necessary,  
11 and he may have preferred that he see it in advance, but  
12 the two people who actually participated both testified  
13 that it was operational; they didn't need anybody's  
14 authority to do it. Not only did -- did -- I guess I  
15 should say, Mr. Kelley said that, and he described what I  
16 couldn't understand from Mr. Breed is amounting to the  
17 same thing.

18 So, if that's the case, then giving it to the board,  
19 knowing that 17 people, is the same thing as just handing  
20 it out in Sea Pines, as though you just picked the first  
21 17 people. It went all over the Plantation. Because  
22 it's not a privilege to them, in view of the fact they  
23 didn't have any authority to control it.

24 Last, and I think this is important, this is how I  
25 got here to start with. At some juncture, someone had to

1 have believed what Mr. Breed said. Right? We believe  
2 someone voting to pay his judgment is about as firm a  
3 conviction in the fact that they believed him as you  
4 could ask for. You couldn't ask for a better -- not only  
5 do we believe it, but we'll stand behind him and pay for  
6 it. That's a pretty high level of expectation of  
7 success, which indicates a pretty high level of  
8 confidence that Mr. Breed was right on the money.

9 THE COURT: Where's the case law? Where's the 1927  
10 case?

11 MR. MATHISON: He's gone to get it, your Honor.

12 THE COURT: Okay.

13 MR. MATHISON: Forgive me. It's my fault. I was  
14 supposed to bring it in this morning, because I knew this  
15 was coming up.

16 LAW CLERK: Do you know the case name?

17 MR. MATHISON: I do not, no. I'm doing well to know  
18 it's a 1927 case. But you have to give history its due.  
19 The law of agency was very important in the '20s.

20 THE COURT: All right. Do we need to take a break?  
21 Do I need to wait to see the case law? What are we  
22 doing?

23 MR. MATHISON: I think that we probably do, because,  
24 after I ask him four or five questions about this, I'm  
25 done with him.

1 THE COURT: Okay.

2 MR. MATHISON: And I appreciate your coming, Mr.  
3 Birdwell. I appreciate your putting in the record what  
4 was said. If we take five minutes, --

5 THE COURT: Sure.

6 MR. MATHISON: -- I can get on the phone. I've got  
7 the phone, not Mike, and I can get the office to email it  
8 to you. Be easier.

9 THE COURT: Okay. Thank you. Thank you. If we can  
10 just get a citation, that's all we need.

11 MR. MATHISON: All right.

12 THE COURT: Okay. Thanks. You all, we'll be at  
13 ease. Just go ahead and take a five-minute break. We'll  
14 have five minutes. Okay?

15 Oh, Mr. Birdwell, you are more than welcome to step  
16 down. You just can't discuss your testimony with anyone.

17 A I'll just stand up.

18 THE COURT: Whatever you need to do to refresh  
19 yourself, you're welcome to. Just don't talk about your  
20 testimony with anyone.

21 A Okay.

22 OFF THE RECORD 12:30 P.M.

23 BACK ON THE RECORD 12:42 P.M.

24 CONTINUE ON-THE-RECORD BENCH

25 CONFERENCE:

1 THE COURT: All right. Mr. Mathison, is there  
2 anything else?

3 MR. MATHISON: No. I believe that what we're doing  
4 is trying to send you an email that has the case on it.  
5 The case is called Foxworth. It's a 1926 case, but to be  
6 honest with you, what I'm being quoted now is not the  
7 case that I read last night.

8 In a nutshell, your Honor, I think it's relevant to  
9 prove they believed what Mr. Breed had said. I think  
10 that, if it's not a privileged publication, then pretty  
11 obviously, this is very, very important evidence. I  
12 believe that, arguably, it's not privileged, because the  
13 board, at least according to two witnesses, both of whom  
14 have agent's authority, did not require the approval of  
15 the board. And consequently, showing that the board was  
16 a gratuitous publication, and damning because it was  
17 done, effectively, to spread throughout Sea Pines the  
18 fact that Mr. Breed was making an effort to clean out  
19 this nest of burglars and peeping Toms.

20 Last, I believe that it is a ratification which is  
21 sufficient to hold the board of CSA as an entity in the  
22 case, if, in fact, what happened at the inception was not  
23 authorized. And I don't know whether it was authorized  
24 or not. I've got two people saying that it was, and I've  
25 got one person who says he didn't know anything about it.

1 So the question of authority is one that's left up in the  
2 air. It could be either.

3 THE COURT: And again, I would say I would agree  
4 that the ratification or the indemnification, if it  
5 furthered, if it caused Mr. Breed or Mr. Kelley to go  
6 further and to continue.

7 MR. MATHISON: Well, Mr. Kelley was out there  
8 continuing to tell fibs. He went all over Sea Pines,  
9 basically reciting that Mr. Coffey was going to be  
10 arrested. He wasn't arrested.

11 THE COURT: That his arrest was imminent, I think,  
12 is what --

13 MR. MATHISON: That's right. And he hasn't been  
14 arrested. He was never charged. They have a witness  
15 they're going to put up, Toby McSwain, who's going to say  
16 there was never an active warrant on Otis Coffey written  
17 by the Beaufort County Sheriff's Office. Since 2004.

18 THE COURT: I think you already established that. I  
19 understand.

20 MR. MATHISON: I understand. I'm not offering this  
21 for that purpose. I'm just saying that a lot of the same  
22 lies continued to be told. And specifically, from Mr.  
23 Birdwell's standpoint, he got seven months down the line  
24 from the original publication without ever knowing that  
25 the complaint had been dismissed. He didn't know that,

1       which gave the operational side the latitude within which  
2       to keep doing what they wanted.

3             And I think that, until such time as they made the  
4       decision that, well, not only are we going to go along  
5       with this and acquiesce in it, but we're going to pay for  
6       it.

7             THE COURT: And that somehow is an encouragement.

8             MR. MATHISON: It was not just an encouragement, but  
9       it reached back and said we embrace what he said in the  
10      first place. Which I don't think they'd done before  
11      that. And at least, certainly, Mr. Birdwell hadn't.

12            THE COURT: Well, no. It sounds as if all the  
13      testimony says is, before that, this was just a deal  
14      between Mr. Breed and Mr. Kelley, and that that was what  
15      they were doing.

16            MR. MATHISON: That's correct. But once they gave  
17      it to the board, they put it in the hands of 17 people,  
18      who then put it in the hands of who knows how many  
19      people.

20            THE COURT: The problem is this, that part, you  
21      can't prove. That's harder.

22            MR. MATHISON: But I don't think I have to prove  
23      that. I think, if the 17 distributions were  
24      unprivileged, you could --

25            THE COURT: Yeah, that's the question.

1 MR. MATHISON: -- you could infer that they're going  
2 to give it to other people.

3 THE COURT: Yes, Ms. Jolley.

4 MS. JOLLEY: Your Honor, our position is that  
5 nothing's changed. We don't want to interject argument  
6 about privilege and things of that unless you want to  
7 hear it now.

8 THE COURT: Um-hmm. Right now, I'm just struggling  
9 with Rule 411 and really what that -- I understand your  
10 argument. And I certainly appreciate it. And I see  
11 where you're trying to go with it.

12 I'm trying to figure out how some way it could be  
13 limited, you know, even indemnified. I mean, I think you  
14 could ask Steve Birdwell, why did you vote to indemnify  
15 this person? You know, I think that's fair game. You  
16 know, I think it would be fair game for you to say, why  
17 in the world didn't you read this and say wait a minute,  
18 what is this?

19 I mean, we only have one board member. You could  
20 have subpoenaed them all and said that. I mean,  
21 literally. You know, you look at this.

22 MR. MATHISON: Well, I can ask him did he believe  
23 it; is that why he did it.

24 THE COURT: And I think that's really what the heart  
25 is. I think that's -- and I honestly feel like you can



1 almost get to an indemnification portion by saying the  
2 same thing. He saw this letter; you voted to indemnify  
3 the guy; did you believe it.

4 MR. MATHISON: He already said he believed it, at or  
5 about the time that he read it. He also said that the  
6 contents were concerning. He said that not only in his  
7 deposition, but he said it here. So it's logical to ask  
8 him if --

9 THE COURT: Well, if it was concerning, why did you  
10 indemnify him? I mean, and I guess you'd go to the -- I  
11 guess you could bring that -- make that --

12 MR. MATHISON: I think that Mr. Birdwell was saying  
13 that what was concerning was that Mr. Coffey would have  
14 done this, and my client would have -- I think he was  
15 saying that he believed it. All right.

16 THE COURT: It was concerning that if she had --  
17 well, that's, obviously, him saying that he believed it.

18 MR. MATHISON: Yes.

19 THE COURT: Okay. Well, I can tell you I'm not  
20 worried in the sense of, typically, under Rule 411, we  
21 talked about insurance that, you know, that this is going  
22 to kill the case; that that's going to be an issue in the  
23 case, quite frankly. Of course, they're going to explain  
24 it just as a -- he was our agent, and --

25 MR. MATHISON: And that's their right.

1 THE COURT: It's his duty and he was working within  
2 the course and scope of his employment, and you know. I  
3 mean, I guess I'd also say, well, you know, again, the  
4 fire was already shot; you couldn't put it back in the  
5 gun. So it was done by the time it got to the board.

6 What's the other rule you were relying on, Ms.  
7 Jolley, other than 411? Was it 403?

8 MR. HALIO: 402 and 403.

9 THE COURT: 402 and 403.

10 MS. JOLLEY: 402 and 403. Your Honor, one point. I  
11 realize that there's some discussion about the  
12 publication, the defendants' publication, by Mr. Cary  
13 [sic].

14 THE COURT: Um-hmm.

15 MS. JOLLEY: However, the indemnification wasn't of  
16 Mr. Cary [sic]. It was of Mr. Breed. There's no  
17 allegation that Mr. Breed did anything following  
18 indemnification. If what you're looking for is some sort  
19 of facts that would say the publication went ongoing  
20 following the indemnification decision, --

21 THE COURT: Um-hmm.

22 MS. JOLLEY: -- that's not in evidence, and I don't  
23 believe it would come in evidence. There's been no  
24 question about -- I mean, Mr. Cary's [sic] not even --  
25 Mr. Kelley's not a party in this lawsuit, so I don't see

1 the relevance. This decision happened after the lawsuit  
2 was filed.

3 THE COURT: I think in a typical sense of when you  
4 say something is either relevant or not relevant in a  
5 case, I do think this is relevant. I mean, I can tell  
6 you, on a 403 analysis, I certainly don't think the  
7 prejudice outweighs the probative value. I mean, I,  
8 quite frankly, I couldn't give it you on a 403 analysis.  
9 I just don't see it.

10 As far as relevant in Rule 402, I see that it is  
11 relevant. And I understand the argument and the tie-in.  
12 You know, again, you go back to the question is an  
13 indemnification agreement life insurance, which we all  
14 know we can't use the word insurance.

15 MR. MATHISON: If indemnity is the word that  
16 offends, I don't have any problem by saying, did the  
17 board vote to pay any judgment or settlement that Mr.  
18 Breed might have. That gets the word indemnity out of  
19 it. I mean, indemnity doesn't -- to say that I indemnify  
20 someone doesn't mean to me who, of course --

21 THE COURT: Well, you could even say, does the board  
22 agree to support, or did the board agree to support Mr.  
23 Breed and his actions. I don't think he's willing to say  
24 that. I'd be surprised if he would.

25 MR. MATHISON: No, I would -- that -- putting too

1 much of a burden on me, I'm afraid.

2 THE COURT: Yes. Yes. I think it would be too much  
3 of a burden, quite frankly, on Mr. Birdwell.

4 MS. JONES: I think this is a practical issue. If  
5 you go into this area, which is something that happened,  
6 you know, long after the letter was written, long after  
7 the plaintiff filed the lawsuit, and you ask for the  
8 explanation, the explanation does get to the precise  
9 nature of 411, which is the level of insurance that the  
10 CSA board had in place. And you can't -- I mean, you  
11 know, if you go there, then --

12 THE COURT: Mr. Birdwell was counseling them at the  
13 time about we have a ten-million-dollar policy or, you  
14 know, whatever, I mean, I don't think it gets into that  
15 portion by any stretch.

16 MR. MATHISON: In my opinion, I think the insurance  
17 carrier would have a pretty good defense that they're not  
18 bound by some contract that makes them libel for somebody  
19 else's conduct.

20 MS. JONES: And here we are discussing insurance in  
21 front -- I mean, if that's -- because that's where it  
22 leads.

23 THE COURT: Um-hmm.

24 MS. JONES: That's exactly what the law and the  
25 rules say.

1 THE COURT: It doesn't lead to insurance. It leads  
2 to whether or not the CSA board is going to back Mr.  
3 Breed in this action. But I don't think it gets -- I  
4 don't think it gets to insurance. I really don't.

5 MS. JONES: What you're left with there is the  
6 inability to explain, to offer the full explanation of  
7 the action. It has nothing -- so, I mean, that's where  
8 you are. It goes right back around to it.

9 THE COURT: That's not necessarily -- yes.

10 MS. JONES: But how can you preclude him from  
11 offering the full explanation?

12 THE COURT: Well, I don't know, Mr. Birdwell, why  
13 did you agree; why did you vote along with those people  
14 to indemnify?

15 MR. BIRDWELL: I think -- I think that he was acting  
16 in his capacity as an employee of CSA. And you know, I  
17 believe as recommended by the --

18 THE COURT: Council.

19 MR. BIRDWELL: -- by the -- by the executive  
20 committee.

21 MS. JONES: And that's another thing, though, you  
22 get into, those legal discussions.

23 THE COURT: And that is a concern. Quite frankly,  
24 that is a concern, and it's also a concern for Mr. Minot,  
25 quite frankly, if this all goes bad.

1 MS. JONES: And you get into the legal discussions  
2 and the advice of counsel, another thing that is not  
3 properly before the jury. When the relevance of it is  
4 tangential at best. Because it happened months after the  
5 alleged tort, and months after the lawsuit had been  
6 filed, and it had been in the *Island Packet* and all over  
7 everything.

8 You know, the publication through the *Island Packet*  
9 that the defendant that, you know, isn't related to  
10 anything that defendants did, had happened from November  
11 -- I mean from December the 8th on. There were two or  
12 three articles, maybe more than that. But I know that  
13 there were two or three. We marked them for  
14 identification, but they were not admitted by the court.

15 THE COURT: All right. Mr. Mathison, I am going to  
16 let you state and ask him the question as did the board  
17 vote to indemnify Mr. Breed for any personal judgment  
18 against him in this case.

19 MR. MATHISON: Okay. And I --

20 THE COURT: Okay? So, to that extent. And you can  
21 ask him why the board did that. Well, and he's going to  
22 say I don't know; I don't know why the other board  
23 members did that. And you can specifically ask him, as a  
24 board member, why did you do that. Why did you vote for  
25 it.

1 MR. MATHISON: I wasn't going to make the connection  
2 between the appearance of the gentleman at the McNair  
3 firm, because I could see why they might be sensitive  
4 about that.

5 THE COURT: Well, I understand, as well.

6 MR. MATHISON: Okay. I was not going to comment on  
7 that, but it does appear in the document.

8 THE COURT: It does. I mean, it's -- if the jurors  
9 go back there and read the minutes, it's in there.

10 MR. MATHISON: Okay.

11 THE COURT: It says, on advice of counsel on motion,  
12 you know.

13 MR. MATHISON: I don't want them looking for an  
14 excuse to find somebody other than CSA libel here. All  
15 right.

16 THE COURT: Got to make the choice.

17 MR. MATHISON: Well, I'm just saying that --

18 THE COURT: Now, you're talking yourself out of it,  
19 aren't you?

20 MR. MATHISON: No, I'm not. I'm saying that I want  
21 to put it in.

22 THE COURT: Okay. All right. I will let you, for  
23 limited purpose of related to, you know, indemnify him  
24 for any personal judgment or costs against him for this  
25 matter. And you're going to ask him, you know, why did

1       you vote for it; and he's going to say because I believe  
2       he was acting in his role as head of security.

3               MR. MATHISON: Well, now, in view of what we --

4               THE COURT: I think you can also ask him if he  
5       believed it.

6               MR. MATHISON: That's what I was going to say.

7               THE COURT: I think you can ask him that. I think  
8       -- well, I think it's relevant anyway.

9               MR. HALIO: He's already asked him that.

10              MR. MATHISON: I asked him that.

11              MR. HALIO: He's already asked him that.

12              THE COURT: And I know and I think it's relevant.

13              MR. MATHISON: I'm going to ask him whether he still  
14       believed that what was in Mr. Breed's letter was correct.

15              THE COURT: There. You may get the same thing.

16              MR. HALIO: Can we get just an objection to the  
17       questions, a running objection, of the questions on  
18       indemnity, so we don't have to --

19              THE COURT: Absolutely. Absolutely.

20              MR. HALIO: Which I understand are two or three  
21       questions, and that's it, right?

22              THE COURT: Exactly. We're not going to beat this  
23       one. Okay? Absolutely.

24              MR. MATHISON: Then, I can enter them in.

25              THE COURT: Pardon?



1 MR. MATHISON: I can enter the minutes into the  
2 record.

3 THE COURT: Do you object to the minutes? Is that  
4 what you object to?

5 MR. HALIO: The minutes and the questions.

6 THE COURT: The minutes and the questions, because  
7 they talked about the indemnification. Gotcha. Okay.  
8 I'm going to allow it in. So, subject to your objection,  
9 Mr. Halio, on both the entire topic, his questions, and  
10 entering the minutes. I think it's fair game. And can't  
11 find a rule to keep it out. All right. Let's bring the  
12 jury back in now.

13 We're almost done with Mr. Birdwell, correct? Or  
14 how much do you all have?

15 MR. HALIO: Not that -- I don't think it's going to  
16 be that long.

17 THE COURT: Do you want me to keep going, is my  
18 point, or do you want to break for lunch after he  
19 finishes? Whatever you prefer.

20 MR. HALIO: I'm sure Mr. Birdwell would like to  
21 leave.

22 MR. BIRDWELL: I'd like to finish.

23 MR. HALIO: And if I let him go before lunch, I'm  
24 assuming he may let me play golf down at his plantation.

25 MR. BIRDWELL: We'll all play golf.

1 MR. HALIO: Then let's finish.

2 THE COURT: Okay. Sounds good to me. Let's bring  
3 the jury in.

4 BAILIFF: The jurors are entering, your Honor.

5 THE COURT: Thank you.

6 JURORS ENTER COURTROOM 1:02 P.M.

7 BAILIFF: The jury is seated, your Honor.

8 THE COURT: Thank you. Ladies and gentlemen, we are  
9 going to endeavor to finish Mr. Birdwell's testimony  
10 before we go to lunch. I don't think it's going to be  
11 that much longer. So, if everyone is fine, sit tight.  
12 We'll go ahead and continue. All right, Mr. Mathison.

13 MR. MATHISON: Thank you, your Honor.

14 STEVEN P. BIRDWELL

15 CONTINUE DIRECT EXAMINATION, MR. MATHISON:

16 Q Mr. Birdwell, do I understand that, with the  
17 exception of the meeting in September, you went to every  
18 monthly meeting of Community Service Associates board  
19 right through January of 2009?

20 A I believe I did, yes.

21 Q Is it correct that at no point from and after that  
22 meeting on January 24th was there any discussion about  
23 Mr. Breed's letter of June 6, 2008?

24 A I don't recall any further discussion, no.

25 Q Is it true that nobody, yourself included, made any

1 inquiries into the bonafides of what Mr. Breed had put in  
2 that letter?

3 A I did not, no.

4 Q At the board meeting on January 8th, 2009, did the  
5 board vote unanimously to pay for any judgment or  
6 settlement that Mr. Breed might make in this lawsuit?

7 A Yes, I believe that the board did.

8 Q I'm asking you to turn to Page 2. Is that where it  
9 appears?

10 A Yes, it is. Yes, it does.

11 Q It's a separate section having to do with just that  
12 subject. Is that right?

13 A That's correct.

14 Q Did you vote for that resolution, Mr. Birdwell,  
15 because you still believed what was in the letter of June  
16 6th, 2008, prepared by Mr. Breed?

17 A I voted for the motion because I thought that Mr.  
18 Breed was acting in his capacity as an employee of CSA.

19 Q At the time you voted, did you know that the  
20 complaint embodied in Mr. Breed's letter of June 6th,  
21 2008 had, in fact, been dismissed for lack of evidence on  
22 or about October 1?

23 A I don't believe that I did know that it had been  
24 dismissed.

25 Q Do you know of anybody else on the board knew it had

1       been dismissed?

2       A    I didn't have any conversation with anyone, so I -- I  
3       -- I didn't have any basis to know whether other people  
4       knew -- knew or not.

5       Q    Were you attempting to approve of Mr. Breed's conduct  
6       and what he'd done?

7       A    No, I was not.

8       Q    Can you identify the minutes that I've handed you as  
9       being the minutes of that meeting that we just discussed  
10      on February 8th, 2009?

11      A    January 8th, 2009.

12      Q    Excuse me, January 8th, 2009.

13      A    It appears that it is -- these are the minutes of the  
14      -- of the board meeting.

15      Q    And would you mark on there the section dealing with  
16      this particular vote that was taken.

17               WITNESS COMPLIES..

18      Q    With the exception of this vote, Mr. Birdwell, did  
19      the people on the board vote on anything else having to  
20      do with this letter?

21      A    With this letter?

22      Q    Mr. Breed's letter, yes, sir.

23      A    No. That was the only subject, I think, during that  
24      board meeting.

25      Q    So, -- no, that's not what I meant. With respect to

1 the Breed letter overall, the board never voted to  
2 authorize. Isn't that right?

3 A No, we did not.

4 Q The board never took a vote on anything presented.  
5 Isn't that right?

6 A That's correct.

7 Q There wasn't any board-conducted inquiry or  
8 investigation into the bonafides of it. Is that right?

9 A That's correct.

10 Q And without any discussion or any other -- and this  
11 is your deposition testimony -- any other inquiry, all of  
12 a sudden, out of the blue, on January 8th, 2009, you  
13 voted to pay for his judgment and/or settlement amount in  
14 this lawsuit. Is that right?

15 A I don't recall any -- any discussion.

16 Q And you don't --

17 A There could have been discussion.

18 Q And you don't know whether that doesn't indicate that  
19 you believed that what he said was true.

20 A No. We -- I -- I voted to -- for the motion because  
21 I thought Mr. Breed was acting in his capacity as an  
22 employee of CSA.

23 MR. MATHISON: Move the introduction of the minutes  
24 as Plaintiff's Exhibit 24.

25 THE COURT: They're in evidence, subject to prior

1 objection.

2 COPY OF DOCUMENT REFERRED TO AS JANUARY 8,  
3 2009 BOARD MINUTES MARKED PLAINTIFF'S  
4 EXHIBIT NUMBER 24, AND ADMITTED AS EVIDENCE.

5 BY MR. MATHISON:

6 Q Do you have your deposition in front of you?

7 A I do.

8 Q Mr. Birdwell, on a day in December, 2000 -- on  
9 December 3rd, 2008, did you get an email from Mr. Cary  
10 Kelley about this lawsuit?

11 A Yes, I did, along with the other board members.

12 Q And does that email that you're holding in your hand  
13 indicate that Mr. Kelley somehow knew that a lawsuit was  
14 about to be filed and served on Community Services  
15 Associates?

16 A It appears that there had been discussion in the week  
17 prior. So --

18 Q Mr. Birdwell, how did Mr. Kelley know that a lawsuit  
19 was about to be filed if none had been filed?

20 A I don't know. You'd have to ask Mr. Kelley.

21 Q Is it true that you didn't know anything about the  
22 dismissal of the original complaint by Mr. Breed on this  
23 day?

24 A I don't recall knowing anything about the dismissal.

25 Q Does the email say that the week prior to that date

1     there had been some kind of meeting to conceive a  
2     litigation strategy to thwart or prevent or inhibit  
3     Maureen Coffey from --

4             MR. HALIO:  Objection, your Honor.  He's leading and  
5     he's mischaracterizing.

6             THE COURT:  Why don't you ask what does the email  
7     say.

8     BY MR. MATHISON:

9     Q     Read the email for me.

10    A     The email just says:  *Ladies and gentlemen:*  
11         *Yesterday, CSA was officially served the subject*  
12         *complaint via registered mail.  Our counsel is proceeding*  
13         *with the strategy that the board approved at last week's*  
14         *meeting.*

15    Q     How would you know to conceive a strategy before  
16     getting served, Mr. Birdwell?

17    A     You'd have to ask Mr. Kelley.

18    Q     Did you know?

19    A     I don't recall knowing, no.

20    Q     So this is something that you found out about after  
21     the fact.

22    A     After it was filed.

23    Q     Do you know how Mr. Kelley may have learned this?

24    A     I do not.

25    Q     Move the introduction of the email dated December

1 3rd, 'from Mr. Kelley to a number of people, including Mr.  
2 Birdwell, who is the last addressee. Isn't that correct?

3 A Yeah. That's correct.

4 THE COURT: What's the number?

5 MR. MATHISON: Plaintiff's Exhibit 25.

6 COPY OF DOCUMENT REFERRED TO AS

7 EMAIL DATED DECEMBER 3, 2008 FROM

8 CARY KELLEY MARKED PLAINTIFF'S EXHIBIT

9 NUMBER 25, ADMITTED AS EVIDENCE.

10 BY MR. MATHISON:

11 Q And I believe that, from the appearance of that e --  
12 excuse me. I'm sorry.

13 COURT REPORTER: Do you need it?

14 Q Yes, please, if you would.

15 A Thank you.

16 Q And isn't it true, Mr. Birdwell, that you and your  
17 lawyers produced that document to us?

18 A It appears that we did, yes.

19 Q Did you attend the meeting that he described to  
20 conceive the litigation strategy?

21 A I don't recall the meeting. No, I don't -- I don't  
22 recall that.

23 MR. MATHISON: Thank you. Please answer any  
24 questions that Counsel may ask.

25 STEVEN P. BIRDWELL



1 CROSS-EXAMINATION, MR. HALIO:

2 Q Did you have a meeting when you got sued in this  
3 case?

4 A A meeting?

5 Q Yeah.

6 A I had a conversation with our in-house counsel.

7 Q Okay. That's what people do, right?

8 A That's correct.

9 Q They get sued; they have meetings.

10 A Yeah.

11 Q Now, you asked about how CSA could possibly have  
12 gotten notice of the lawsuit that wasn't served until  
13 December the 8th. Let me hand you the initial complaint  
14 that was filed in this case of Coffey versus Sea Pines  
15 Associates. Would you identify or tell the jury what the  
16 filing date on that is.

17 A Appears to be November 20th, 2008.

18 Q Okay. So the lawsuit was filed on November 20th.  
19 Your email was dated December the 3rd, right?

20 A That's correct.

21 Q And some time in the middle of December 20th and  
22 December 3rd, somebody found out that the lawsuit had  
23 been filed, because it was public record, right?

24 A That must -- must be what happened.

25 Q Nothing unusual about that, right?

1 A No.

2 Q I mean, you can walk into the clerk's office and --

3 or you can go online and find out who's suing who, right?

4 A There can be a delay between the filing and -- and

5 when you're officially served.

6 Q Okay. Now, you serve on the Sea Pines board of

7 directors. Is that correct?

8 A That's correct.

9 Q And Mr. Kelley serves on the board of directors,

10 also. Is that correct?

11 A He is not an official member of the board, I don't

12 believe.

13 Q But he comes to the meetings?

14 A He does attend the meetings.

15 Q And what is his position with CSA?

16 A Executive vice president.

17 Q Okay. Are you interested in the security of Sea

18 Pines Plantation?

19 A Sure.

20 Q Is Mr. Kelley interested in the security in Sea Pines

21 Plantation?

22 A You'd have to ask him, but I'm sure he is.

23 Q Okay. And doesn't, in fact, CSA have a security

24 department to keep Sea Pines safe?

25 A Yes, there is.

1 Q All right. And in your meetings, the board meetings,  
2 security is a regular topic of the conversation in the  
3 meetings.

4 A There is usually a security update, yes.

5 Q All the board meetings have a section on security.

6 A That's correct.

7 Q Okay. Because everybody on the board, every resident  
8 of Sea Pines Plantation, is interested in the security of  
9 the Plantation. Isn't that correct?

10 A Absolutely. And there's a security committee of the  
11 board.

12 Q And the board shares information on security issues,  
13 do they not?

14 A Yes, they do.

15 Q We've seen it in writing, in the minutes.

16 A Yes.

17 Q And we've seen the security bridge reports, right?

18 A That's correct.

19 Q And were you aware of a series of crimes in Sea Pines  
20 in 2008?

21 A I'm assuming you're referring to the peeping Tom  
22 incidents. And the only way I knew about those were,  
23 they had been reported in the local newspaper.

24 Q Breaking and entering?

25 A I think that there was one that -- that actually was

1 a breaking and entering. Primarily, peeping Toms were  
2 reported.

3 Q Were you interested in 2008 in stopping whatever  
4 criminal activity was taking place in Sea Pines?

5 A Of course.

6 Q Was the rest of the board interested in stopping  
7 criminal activity in Sea Pines in 2008?

8 A I'm sure that they were.

9 Q Was Mr. Kelley interested in stopping crime in Sea  
10 Pines Plantation in 2008?

11 A I expect that he was, yes.

12 Q So all of you all had a common interest in security,  
13 right?

14 A That's correct.

15 Q Now, let's talk a little bit about the letter that's  
16 brought us all to court this week. You said that the  
17 letter was passed out in a meeting, and then at the end  
18 of the meeting, was taken back up, right?

19 A That's my recollection.

20 Q And at some point, you got a copy of the letter. And  
21 where did you put it? In a file?

22 A Yes. I routinely maintain a notebook of information.

23 Q And you didn't give it to anybody else; did you?

24 A I did not.

25 Q And you don't know of anybody else in your office who

1 saw that; do you?

2 A Well, there are some other members of the board, CSA  
3 board, that -- in our office. So they would've received  
4 the same package.

5 Q Other than the board members who received the same  
6 package, do you know of any person in your office who saw  
7 that letter?

8 A No, I do not.

9 Q Because you -- okay. You put it in the file, and you  
10 didn't -- and you left it there.

11 A That's correct. I do have an administrative  
12 assistant who helps maintain those files for me.

13 Q But you don't know that she ever saw it, too; do you?

14 A No.

15 MR. HALIO: Excuse me one second, your Honor.

16 THE COURT: Yes, sir.

17 BY MR. HALIO:

18 Q Did you testify earlier that you became aware of the  
19 lawsuit having been filed with the news media or  
20 newspaper?

21 A I don't think I testified to that. We were served,  
22 as well, at Sea Pines Resort.

23 Q Did you become aware of the newspaper articles after  
24 the plaintiff filed her suit?

25 A I did read the article that was in the paper.

1 Q Okay. So you read all about this lawsuit that I  
2 handed out to you earlier. Is that correct?

3 A That's correct.

4 Q And so, you would have read about the dismissal of  
5 the complaint, the judicial complaint, as well?

6 A If that was in the article, yes.

7 MR. HALIO: Nothing further, your Honor.

8 THE COURT: Mr. Matheson, anything further?

9 MR. MATHISON: Couple things, your Honor.

10 STEVEN P. BIRDWELL

11 RE-DIRECT EXAMINATION, MR. MATHISON:

12 Q Your email, Plaintiff's Exhibit 25, makes reference  
13 to the litigation strategy discussed the week before, at  
14 the meeting the week before.

15 A That's correct.

16 Q I'm handing you the minutes of the November 25, 2008,  
17 meeting. I'm asking you whether there's any record of  
18 any discussion about litigation, any litigation, in that  
19 letter. I mean, in the minutes.

20 A I don't think that there is. It would have probably  
21 been discussed -- discussed during the executive session.

22 Q Is there an executive session that takes place during  
23 each meeting, or don't you have to call it to put it on  
24 the minutes?

25 A Not at each meeting.

1 Q If, in fact, there is an executive session, do you  
2 put it in the minutes that you went into executive  
3 session?

4 A Yes.

5 Q I've given you four different sets of minutes. Has  
6 there been an executive session in any of them?

7 A I would have to look back.

8 Q I'm showing you Plaintiff's Exhibit 24. That's the  
9 January 8th meeting.

10 A Yes, there is a executive session.

11 Q Which one?

12 A In the January 8th, 2008.

13 Q Did that take place before or after the vote?

14 A It was after the vote.

15 Q So, does that cause you to continue or persist in  
16 your testimony that there was no discussion with respect  
17 to the decision by the board to pay Mr. Breed's expenses  
18 or judgment or settlement in this case?

19 A I don't recall the discussion.

20 Q Was there an executive session on June 24, 2008?

21 A Yes, there was.

22 Q Did that take place before or after the discussion of  
23 Mr. Breed's letter?

24 A It appears that it was after the discussion  
25 concerning the letter.

1 Q If there was one, why not discuss Mr. Breed's letter  
2 in the executive session?

3 MR. HALIO: Objection. Speculation.

4 THE COURT: If he can answer it.

5 A I don't set the agenda. You'd have to ask the  
6 chairman or -- or Mr. Kelley.

7 Q Was there a separate litigation committee, that is, a  
8 group of folks who served on the board who met --

9 MR. HALIO: Your Honor, I think we're getting kind  
10 of far afield talking about a legal committee. I don't  
11 see where any of this is relevant.

12 THE COURT: Mr. Mathison, are you going to be able  
13 to wrap this up?

14 MR. MATHISON: Two more questions.

15 BY MR. MATHISON:

16 A I'm not aware of a legal committee. I think the  
17 executive committee may discuss some of these issues.

18 Q Executive committee, does that import that everybody  
19 went into executive sessions so that all 17 of you were  
20 sitting there? Or is that a limited number of people who  
21 made decisions for everyone else?

22 A Well, there's a separate executive committee that's  
23 generally made up of the officers of CSA.

24 Q And who were they during 2008?

25 A I believe Pat Jenkins was the president, George



1 Minot, treasurer. Mark King was likely the -- the --  
2 Norm Harberger, who was the secretary. I think, also,  
3 Mark King was a representative on the executive  
4 committee.

5 Q May I see your email. Thank you.

6 Reading Plaintiff's Exhibit 25, am I correctly  
7 quoting when I say, *Yesterday, CSA was officially served*  
8 *the subject complaint via registered mail. Our counsel*  
9 *is proceeding with the strategy that the board approved*  
10 *at last week's meeting.*

11 Is that what it says?

12 A Yes, it does.

13 Q Is there any minute entry of the November 25th  
14 meeting which indicates that there was a strategy  
15 approved?

16 A Well, in this section, the executive session: *The*  
17 *board went into executive session to discuss personnel*  
18 *and legal issues at 5:05 p.m.*

19 Q Was there a lawyer there when that happened?

20 A Yes, sir.

21 Q Do you know?

22 A It appears that there was. Mr. Walter Nester.

23 MR. MATHISON: Move the introduction of the  
24 Community Service Associates minutes for November 25,  
25 2008, as Plaintiff's Exhibit 26.

1 COPY OF DOCUMENT REFERRED TO AS COMMUNITY  
2 SERVICE ASSOCIATES MINUTES FOR  
3 NOVEMBER 25, 2008, MARKED PLAINTIFF'S  
4 EXHIBIT NUMBER 26, ADMITTED AS EVIDENCE.

5 THE COURT: Very well.

6 MR. MATHISON: Thank you very much.

7 THE COURT: Do you all have anything?

8 MR. HALIO: We have a question, your Honor.

9 STEVEN P. BIRDWELL

10 RE-CROSS-EXAMINATION, MR. HALIO:

11 Q Mr. Birdwell, we've talked about a litigation  
12 strategy that was formulated at or about the time the  
13 complaint was filed. And I'm handing you a document  
14 called *Rule 40(j), Consent Dismissal*. What's the date on  
15 that?

16 A January 12, 2010.

17 Q All right. So it appears as a result of the  
18 litigation strategy, or for whatever factor, the case was  
19 dropped, right?

20 A Yes, it was.

21 MR. HALIO: No further questions.

22 THE COURT: Anything further, Mr. Mathison?

23 MR. MATHISON: You're going to give a charge on what  
24 *Rule 40(j)* means. Just charge the rule. Because,  
25 otherwise, I'm not going to --

1 MR. HALIO: Objection, your Honor. You know, we  
2 have a lot of speaking objection.

3 THE COURT: All right. You've got to ask a  
4 question. Okay. Okay. All right. Anything further for  
5 Mr. Birdwell?

6 MR. MATHISON: I don't have any questions. If you  
7 don't want me --

8 THE COURT: Anything further for Mr. Birdwell? He  
9 doesn't know what a 40(j) is. He can't testify.

10 MR. MATHISON: I know, and I'm not going to ask him.

11 THE COURT: Anything else, other than that, for Mr.  
12 Birdwell?

13 MR. MATHISON: I don't.

14 THE COURT: All right.

15 A All right.

16 THE COURT: Mr. Birdwell, you are excused, sir.

17 A Thank you.

18 THE COURT: Leave the exhibits there, if you would,  
19 sir.

20 A Okay.

21 THE COURT: Thank you.

22 A Great.

23 THE COURT: Ladies and gentlemen of the jury, I  
24 think now is a very good time for lunch. You see the  
25 clock back there. It's almost 1:30. Ladies and

1 before we bring the jury out?

2 MR. MATHISON: No, your Honor.

3 THE COURT: Nothing from the Plaintiff? Nothing

4 from the Defense? All right let's bring the jury out.

5 BAILIFF: Jurors are entering, your Honor.

6 JURORS ENTER COURTROOM 2:36 P.M.

7 THE COURT: Thank you. Welcome back, ladies and

8 gentlemen. I hope you had a nice lunch. And I just

9 about escaped the rain, but not quite, I'm sure.

10 I also want to tell you how much I appreciate your

11 all's willingness to arrange you schedules -- or re-

12 arrange your schedules, so that you can stay with me on

13 Monday and Tuesday. I do appreciate it.

14 At this time, Mr. Mathison, if you can go ahead and

15 call your first witness for the afternoon.

16 MR. MATHISON: Thank you. The Plaintiff would call

17 Sherry Hamilton to the stand.

18 THE COURT: I'll swear you in. Not a problem.

19 WITNESS SWORN.

20 THE COURT: Thank you, ma'am. Come on around.

21 SHERRY HAMILTON

22 DIRECT EXAMINATION, MR. MATHISON:

23 Q State your name for the record, please.

24 A My name is Sherry Hamilton.

25 Q Sherry, where do you live?

1 A I live Eleven Club Course Lane, Hilton Head.  
2 Q That's in Sea Pines; isn't it?  
3 A It is in Sea Pines, yes, sir.  
4 Q And are you married?  
5 A Yes, sir, I am married to Richard Hamilton.  
6 Q Do you have any children?  
7 A Yes, sir. I have two daughters.  
8 Q And what do you do for a living?  
9 A I am the municipal court assistant.  
10 Q And in that capacity, do you work in the same office  
11 with Maureen Coffey?  
12 A Yes, sir, I do.  
13 Q Do you work for Maureen Coffey, or do you work for  
14 someone else?  
15 A I work with Maureen Coffey. I work for the Town of  
16 Hilton Head, which my immediate supervisor is Arlyne  
17 Benson, and our department head is Tom Fultz.  
18 Q And do you know who Mr. Fultz works for?  
19 A Yes, sir. He works under Mr. Greg DeLoach.  
20 Q How long have you been in this position that you hold  
21 now?  
22 A I've been in the summary court for 20 years, 20-plus  
23 years. I've been with municipal court for 12 years.  
24 Q And by summary court, before it became municipal  
25 court, it was a magistrate's court, wasn't it?

1 A I was with Chief -- retired Chief Magistrate Simmons,  
2 for nine years. And then I resigned my position with her  
3 and took on a job with the municipal court.

4 Q So you're a longer veteran of the municipal court  
5 than Ms. Coffey; isn't that right?

6 A That is correct, sir.

7 Q During 2004, do you know whether Ms. Coffey was a  
8 part-time or a full-time judge?

9 A She was a part-time associate judge.

10 Q Do you remember who the full-time judge was?

11 A 2004. I want to think it was probably Judge Herring  
12 or Judge Ruffalo. I'm not sure which one, sir. She came  
13 under both of them.

14 Q Were you, in 2004, working in a spot that was in  
15 close proximity to Judge Coffey's office?

16 A Yes, sir. Yes, sir.

17 Q And did that continue right up until today?

18 A Not today, no, sir.

19 Q Not today, you're not.

20 A No, sir.

21 Q How about in 2008?

22 A If -- 2008. I think so, sir. But dates, I don't  
23 remember.

24 Q I understand.

25 A 2008. If Judge Coffey was the judge at that point,

1       then, no, my -- my office was not in proximity to hers.

2       Q     But not close; is that right?

3       A     Yes, not close, no, sir.

4       Q     Okay. Do you recall in 2008 Mr. Jolin coming to your  
5       office?

6       A     I do remember that, sir.

7       Q     Do you know whether, at the time he came to your  
8       office, he was carrying two incident reports, namely,  
9       Plaintiff's Exhibit 10 and 11?

10      A     I know he was carrying one. I -- I can't remember  
11      that he was carrying two, but he was carrying -- he had  
12      it in his hand. I didn't -- I didn't -- well, actually,  
13      I did ask him let me hold it, let me look at it. But I  
14      don't remember all that was in it at the time.

15      Q     What did Mr. Jolin want to do?

16      A     Well, first, he wanted to talk to Judge Coffey. And  
17      being keeper of the gate, everybody's got to come through  
18      me.

19             And I said, *Sorry, she's not here, but, you know,*  
20      *you can talk to me all day long.*

21             And he said, *Well, I've got something I need to show*  
22      *her.*

23             And I said, *Well, show me.*

24             So he did. And he proceeded to tell me what it was.

25      And --

1 Q And after you heard what he had to say about what it  
2 was, what, if anything, did you do?

3 A Well, I -- I -- because of Judge Coffey's directive  
4 prior to this, which was anything coming in per anything  
5 to do with Sea Pines, you know, send it to my attorney;  
6 don't -- do not tell me anything about it, and so I did.

7 I just said, *Here's her attorney's phone number.*  
8 *You need -- if you got something that you think you, you*  
9 *know, you can take to her attorney, have at it.*

10 Q Did you, in fact, talk to Judge Coffey before you  
11 told Mr. Jolin to send the material to Judge Coffey's  
12 lawyer?

13 A Did I talk to Judge Coffey before he said --

14 Q You told him or before?

15 A No, I don't think I did.

16 Q So there was an outstanding, as you said, directive,  
17 that she did not want to have anything to do with Sea  
18 Pines materials; she didn't want to be involved in it; is  
19 that right?

20 A That is correct, sir.

21 Q Do you know whether Mr. Jolin sent those reports to  
22 Mr. Holloway, or not?

23 A No, sir, I don't know that.

24 Q Do you know what the report said, to the extent that  
25 you could identify them if those are the right ones?



1 A I want to think that -- I don't -- and again, I don't  
2 know that I looked at both of them. I know what he said  
3 to me, and -- and, you know, most of the time, I wouldn't  
4 say -- well, I may have said; I just can't remember now.  
5 But I may have said let-me-look-at-it kind of thing.  
6 Because a lot of times I'll -- I can look at incident  
7 reports and say, yeah, you've got probable stuff for a  
8 warrant. So I been at this for 20 years, so yeah, you've  
9 got enough here, you-can-see-the-judge-for-a-warrant kind  
10 of thing.

11 Q Right.

12 A And so, if it were -- if at some point that I knew  
13 and if I'd seen the word Otis Coffey, I would've, you  
14 know, clammed up right there and said, wup, you need to  
15 see her attorney.

16 Q Okay. So is it true that Mr. Jolin left without  
17 seeing Judge Coffey?

18 A Well, that is correct, sir. He did not see her that  
19 day. Nor any other day that I know of.

20 Q Did Officer Jolin come back a second time to your  
21 office?

22 A Yes, sir, he did.

23 Q And when he came back the second time, what did he  
24 want?

25 A He wanted to talk to Judge Coffey. He had something

1 personal to say. And I said, *Sorry, you can't talk to*  
2 *her. You've got an incident, so you can't talk to her.*  
3 And he said, *Well, I need to talk to somebody.*  
4 Again, I said, *Hey, have at it. You can talk to me*  
5 *all day.*  
6 And then he proceeded to tell me what he told me.  
7 MR. HALIO: Objection to what he told her as being  
8 hearsay.  
9 THE COURT: Okay. She hasn't stated it yet; just  
10 that he told her something.  
11 MR. MATHISON: May it please the Court. He's  
12 already testified to what he told her. And I think that  
13 it's nothing but cumulative at this juncture.  
14 MR. HALIO: No, that's not correct.  
15 THE COURT: Do you all need to come talk to me?  
16 MR. MATHISON: Yeah.  
17 OFF-THE-RECORD BENCH CONFERENCE,  
18 OUT OF HEARING OF JURORS. PRESENT:  
19 THE COURT, MR. MATHISON, MR. HALIO,  
20 MS. JOLLEY.  
21 SHERRY HAMILTON  
22 CONTINUE DIRECT EXAMINATION, MR. MATHISON:  
23 Q Ms. Hamilton, when Mr. Jolin got there, what was the  
24 nature of the discussion that you all had?  
25 MR. HALIO: Objection. Same objection.

1 A Which time?

2 Q The second time.

3 A What was the nature?

4 Q Yes.

5 A I can say?

6 THE COURT: Go ahead.

7 A He came in, and he was really upset. And I said,  
8 *What's wrong?* And he proceeded to tell me that -- that  
9 -- that they were saying that he and Judge Coffey had had  
10 an affair. And I laughed. And I said, *You're serious,*  
11 *right?* And he says, *They're saying that. That's the*  
12 *gossip out there is that they're saying that she and I*  
13 *had an affair.*

14 And I said, *Well, you know, who's saying this?* And  
15 he said, *They are, Sea Pines Security. Everybody is*  
16 *saying it.*

17 And I said, *Well, you need to go talk to her*  
18 *attorney again.*

19 And that was pretty much it, is that I had told --  
20 you know, he told me that. He was visibly upset. He was  
21 actually crying some; that he loved his wife and he  
22 didn't want anything like that to get back to his wife,  
23 because he loved her, and he didn't want -- he didn't  
24 want his -- his wife to think that he was cheating on  
25 her. And of course, I'm sitting there thinking there's,

1       you know, no way, but anyway. That was my opinion.

2               And so, that was it. He, you know, he was upset,  
3       and I sent him off again, saying, *You need to go talk to*  
4       *her attorney about this.* You know. *You can't talk to*  
5       *Judge Coffey about this; you got to go talk to her*  
6       *attorney.*

7       Q     Do you know whether he did or not?

8       A     No, sir, I don't know that.

9       Q     Have you ever seen Toby McSwain, when he was a  
10       lieutenant or when he was a captain, come to the  
11       municipal court at the Town of Hilton Head?

12       A     No, sir. I worked in municipal court for 20 years,  
13       and I still can't keep up with private, lieutenant,  
14       captain, general. They all -- I know Toby McSwain, yes  
15       sir. I know him as Captain McSwain now. I did know him.  
16       I knew his face. He was the officer who gave me my first  
17       ticket when I moved to Hilton Head, so I'll never forget  
18       him.

19       Q     Regardless of what rank he was, --

20       A     Yes, sir.

21       Q     -- do you know whether he's been in court at any  
22       point since 2004, that is, the municipal court of the  
23       Town of Hilton Head?

24       A     I can only recollect in the last couple of years.  
25       He's been in court probably four, maybe five times in the

1 last couple of years. A couple times as a witness. I  
2 think a time as a victim. And the last ticket we had  
3 from him, he didn't show up at all.

4 Q He didn't show up at all?

5 A No. His defendant paid, you know, he didn't show to  
6 court.

7 Q To the best of your knowledge, has he ever been to  
8 see Judge Coffey in her office?

9 A The best of my knowledge, no, sir.

10 MR. MATHISON: Thank you. Please answer any  
11 questions that counsel may have.

12 A Sure.

13 MR. HALIO: May it please the court.

14 THE COURT: Yes, sir.

15 SHERRY HAMILTON

16 CROSS-EXAMINATION, MR. HALIO:

17 Q Ms. Hamilton, you've been here throughout the trial;  
18 have you not?

19 A I have, sir.

20 Q Including when Mr. Jolin testified?

21 A Yes, sir.

22 Q Did you hear him say that he had been to your office  
23 and to Judge Coffey's office on one occasion, and not on  
24 two occasions?

25 A I don't remember that, because I knew what the facts

1       were.

2       Q    So you don't remember him saying that on Tuesday? Or

3       Wednesday.

4       A    Again, I knew what happened. He was there twice, and

5       -- and he talked to me twice.

6       Q    Okay. And that would be -- that should have been,

7       from what you've told us, that second visit should have

8       been something that he should have remembered, and right?

9       Sounds like it was sort of a big deal.

10      A    Well, with him being under the gun more so than me,

11      then, I would, you know, nervous. I don't know.

12      Q    And it was certainly something that you remembered,

13      right?

14      A    Definitely something I remembered.

15      Q    And so should be something he remembered too;

16      wouldn't it? Wouldn't you think?

17      A    Again, yeah. He knew he talked to me twice. As you

18      said. He said he talked to me twice.

19      Q    All right. So he came to see Judge Coffey on two

20      occasions. Do you remember the dates of those occasions?

21      A    Oh, no, sir. I don't remember dates. I have a hard

22      time even with my husband's birth date. I remember some

23      things and some years. I do remember that. Specific

24      dates, no, sir, I do not remember specific dates.

25      Q    But you'll remember Mr. Jolin running into your

1 office to see Judge Coffey on two occasions?

2 A Yes, sir. He did come to our office twice.

3 Q The first time, bringing in one of these.

4 A One or both. I don't know. I don't remember that.

5 Q And the second time he came in crying?

6 A No, he wasn't crying to start with. He came in

7 saying he needed to talk; talk to Judge Coffey about

8 something personal. And --

9 Q So on two occasions he came in looking to see Judge

10 Coffey. Is that right?

11 A Correct.

12 Q Now, you eventually -- well, let me ask you this.

13 Have you seen the letter that's been marked as

14 Plaintiff's Exhibit Number 4?

15 A Well, I heard the testimony about this. I can't say

16 that I remember it or that I read it. I can't say that

17 at all.

18 Q Have you ever seen it?

19 A Before today, if I did, I don't remember it.

20 Q Because it's been represented to me by Counsel that

21 you opened up a confidential letter from the Commission.

22 A That is correct, sir.

23 Q And that was in there.

24 A That is correct. I open all mail comes through the

25 court, whether --

1 Q Even if it says confidential?

2 A Even if it says confidential, next of kin, whatever.  
3 I open all mail. There is -- per directive from every  
4 judge we've had so far, except Judge Herring, all mail  
5 that's marked confidential is not confidential in the  
6 court, because there's so many people that try to get to  
7 the judge without the right format, that there is nothing  
8 confidential in the courthouse.

9 When I do open something and I do see that it is  
10 something confidential, immediately, I would fold it back  
11 up, take it right where it needs to be, and that would be  
12 that.

13 Q And that's what you did in this case?

14 A I'm sure that's what I did in this case.

15 Q Because you really don't remember it; do you?

16 A That is correct. If it came to the courthouse marked  
17 confidential, though, I promise you, I opened it.

18 MR. HALIO: No further questions.

19 THE COURT: Anything further?

20 MR. MATHISON: One.

21 SHERRY HAMILTON

22 RE-DIRECT EXAMINATION, MR. MATHISON:

23 Q One of your roles, Ms. Hamilton, is that of the  
24 gatekeeper isn't it?

25 A My official -- me, I put it there, yes, sir.



1 Q And you're there to make sure that nobody has an  
2 inappropriate contact with the judge.

3 A That is correct. I learned that under Judge Simmons.

4 Q And that's why you open confidential mail, to make  
5 sure that someone desiring inappropriate contact is not  
6 putting confidential on it and then trying to argue a  
7 court case.

8 A Correct. The only time confidential would not ever  
9 be opened is that it was an interoffice something from  
10 the Town that would be marked confidential. That would  
11 never, ever, ever be opened. But mail coming through the  
12 U.S. postal system is not confidential in our office.  
13 When we do open it, we, you know, take it where it needs  
14 to be, and that's that.

15 MR. MATHISON: I understand. Thank you very much.

16 A Yes, sir.

17 THE COURT: Anything further?

18 MR. HALIO: No, your Honor.

19 THE COURT: All right. You are excused.

20 A Thank you, ma'am.

21 THE COURT: Call your next witness.

22 MR. MATHISON: Your Honor, the plaintiff would call  
23 Todd McNeill.

24 THE COURT: Come on up, Mr. McNeill.

25 WITNESS SWORN.

1                   TODD MCNEILL

2                   DIRECT EXAMINATION, MR. MATHISON:

3       Q     State your name for the record, please.

4       A     Todd McNeill.

5       Q     Mr. McNeill, how old are you?

6       A     I'm 42.

7       Q     And where do you live?

8       A     Lake Linden in Bluffton.

9       Q     By whom are you employed?

10      A     CSA.

11      Q     Do you work for Sea Pines Security?

12      A     Yes, I do.

13      Q     And how long have you worked there?

14      A     Twenty-one years.

15      Q     Pardon me?

16      A     Twenty-one years.

17      Q     Have you attained some rank while working for Sea

18      Pines Security?

19      A     Yes, I have.

20      Q     And what's that?

21      A     I'm currently a lieutenant.

22      Q     Mr. McNeill, do you know who John Thomas Levy is?

23      A     I know of him. I haven't met him.

24      Q     Were you instrumental in the arrest and conviction of

25      John Thomas Levy?

1 A Yes, sir.

2 Q Isn't it a fact that you were given an award by the  
3 Rotary Club for your participation in the arrest and  
4 conviction of Mr. Levy?

5 A Yes, I was.

6 Q Was Mr. Levy engaged in peeping Tom activities in  
7 2004?

8 A I do believe he was.

9 Q Was he doing his peeping Tom and the breaking and  
10 entering both in Hilton Head Plantation and Sea Pines  
11 Plantations?

12 A From what I understand, yes.

13 Q Did he have a Hilton Head Plantation pass on his car,  
14 which would allow him into Sea Pines?

15 A I found that out later on, yes, sir.

16 Q Do you know how many different residences in Hilton  
17 Head Plantation and Sea Pines Plantation, all told, Mr.  
18 Levy entered unlawfully?

19 A No, I do not.

20 Q But it was a number; wasn't it?

21 A Yes, I assume.

22 Q In point in fact, one of the ways that you all find  
23 out who was doing it, is you went through a camera that  
24 was found in lost and found, and actually looked at the  
25 film that was in the camera, eight-millimeter film.

1       Isn't that right?

2       A     It was a Sony Camcorder. I don't know if it was  
3       eight millimeter or not.

4       Q     Okay. Well, did you look at the film, regardless of  
5       its size?

6       A     Yes, I did.

7       Q     And was there evidence, without saying what is was,  
8       was there evidence of voyeuristic activities in that  
9       film?

10      A     Yes, there was.

11      Q     And was the evidence in that particular film of areas  
12      in Sea Pines that you could identify?

13      A     Not exactly of Sea Pines.

14      Q     Well, did you indicate that the incident originated  
15      at Willow Oak Road in Sea Pines?

16      A     That, I'm not sure of.

17      Q     Where was the camera found?

18      A     That, I'm not sure of. It was in our property  
19      locker.

20      Q     I'm showing you a document that was sent to me, along  
21      with hundreds of pages of incident reports last week.

22           MR. HALIO: Your Honor, I object.

23           THE COURT: Okay. I --

24           MR. HALIO: Is there a question?

25           THE COURT: Okay. Number one, we're going to stop

1 the editorializing. It's the afternoon. It's Friday.

2 Ask the question.

3 BY MR. MATHISON:

4 Q Is this the incident report that effectively started  
5 the investigation of John Thomas Levy.

6 A I've never seen this before.

7 Q So you didn't do it?

8 A No, I did not.

9 Q Do you know who Angela Olds is?

10 A Yes, I do.

11 Q Who does it say is the complainant on that incident  
12 report?

13 A It would be George Breed.

14 Q That is, Mr. Breed over there?

15 A Correct.

16 Q Did Mr. Breed know who John Thomas Levy was?

17 MR. HALIO: Objection to what Mr. Breed knew or  
18 didn't know.

19 A I don't know if he does or not.

20 BY MR. MATHISON:

21 Q Okay. Mr. McNeill, who recommended you to receive  
22 the Rotary Club award that you received in 2005?

23 A I assume the Rotary Club.

24 Q Handing you this document, and ask if it doesn't  
25 indicate that Mr. Breed put you up for your award, just

1 as Sheriff Tanner put Angela Olds, now Angela Vennes, up  
2 for her award.

3 MR. HALIO: Could we have the document identified  
4 and a foundation laid before he's asked a question about  
5 it?

6 BY MR. MATHISON:

7 Q Is that what it says?

8 MR. HALIO: Can we have a found -- I object. Can we  
9 have a foundation laid for a document being shown to a  
10 witness? Thank you.

11 BY MR. MATHISON:

12 Q The newspaper report of your award, sir.

13 A Okay.

14 Q Doesn't it say that George Breed recommended you for  
15 the award?

16 A I just read that.

17 Q Okay. And isn't it a fact that he did?

18 A That's what it says, yes.

19 Q How could that be if Mr. Breed does not know who John  
20 Thomas Levy is?

21 A Then, obviously, he knows.

22 Q He obviously knows. Have you ever had one of your  
23 incident reports changed, Mr. McNeill?

24 A Yes.

25 Q Who changed it?

1 A I would have changed it.

2 Q Pardon?

3 A I would have changed it.

4 Q I'm handing -- excuse me -- I'll hand it to Counsel  
5 first.

6 MR. HALIO: Thank you.

7 BY MR. MATHISON:

8 Q I'm handing you an incident report indicating in the  
9 upper left corner a crime of petty larceny. Is that  
10 correct?

11 A Yes, it is.

12 Q And who was the victim, complaining witness? A Mr.  
13 Dupps?

14 A Yes, it is.

15 Q And who is the suspect? Mr. Klippel?

16 A Correct.

17 Q And his sister. Is that right?

18 A Correct.

19 Q Can you identify that as the report you prepared  
20 originally?

21 A Yes, it is.

22 MR. MATHISON: Move the introduction is Plaintiff's  
23 Exhibit 27.

24 COPY OF DOCUMENT REFERRED TO AS INCIDENT

25 REPORT MARKED PLAINTIFF'S EXHIBIT

1                   NUMBER 27, ADMITTED AS EVIDENCE.

2       Q   That indicates the commission of a crime; does it  
3       not? Petty larceny is a crime.

4       A   Correct.

5       Q   A misdemeanor, but a crime, right?

6       A   Correct.

7       Q   Did the report subsequently get changed?

8       A   It is an in-house report that I made. That's the  
9       complaint was petty larceny.

10      Q   Yes, sir. Did it get changed? The report.

11      A   Changed to what?

12      Q   Did your report get changed?

13      A   I'm not sure what you're trying to ask.

14           MR. HALIO: I object. I fail to see the relevance in  
15       this line of questioning.

16       BY MR. MATHISON:

17      Q   I'm handing you this document which is --

18           THE COURT: All right. Come here for a second.

19                   OFF-THE-RECORD BENCH CONFERENCE,

20                   OUT OF HEARING OF JURORS. PRESENT:

21                   THE COURT, MR. MATHISON, MR. HALIO.

22       BY MR. MATHISON:

23      Q   Is this other report also the same incident?

24           MR. HALIO: Could I have a running objection to this  
25       line of questioning, your Honor?



1 THE COURT: You may.

2 BY MR. MATHISON:

3 A Yes, it's the same report.

4 Q In fact, the verbiage, the report of the complaint  
5 and the narrative, everything is the same; is it not?

6 A Correct.

7 Q The only thing that's been changed is petty larceny  
8 has been taken off as a crime. Isn't that right?

9 A No.

10 Q What else is changed?

11 A The in-house on the top, right corner, is missing,  
12 also.

13 Q Why were those things changed, sir?

14 A I don't know why the in-house is missing, but further  
15 -- at talking with the Klippels, Mr. Dupps realized that  
16 it wasn't a crime that was committed.

17 Q You did, or somebody else did?

18 A I did.

19 Q Did you change the report, or did Mr. Breed change  
20 the report?

21 A I changed the petty larceny at the top. I took it  
22 off.

23 Q Did he change something else?

24 A No, he did not.

25 Q Did he know you changed it?

1 A I'm not aware if he does or not.

2 MR. MATHISON: Move the introduction of the second

3 report as Plaintiff's Exhibit --

4 MR. HALIO: I object, and I would like to have the

5 previous exhibit stricken from the record.

6 THE COURT: You all --

7 MR. HALIO: Because they've got no relevance to this

8 case.

9 THE COURT: Okay. He has testified to it; we're not

10 going to put it in.

11 Q Do you know whether the change of that report was

12 instrumental in leading to litigation that took place

13 after --

14 MR. HALIO: Objection, your Honor. I don't know

15 where we're going with this, but we've gone into the

16 Klippel case now, and we're trying to try the Coffey

17 case. It's really not relevant.

18 THE COURT: Mr. Matheson, we need to move this along.

19 You need to make a connection and get going.

20 BY MR. MATHISON:

21 Q Did this change in the report lead to litigation?

22 A Yes, it did.

23 Q Were you involved in that litigation?

24 A I was a witness in that, yes.

25 Q And was Mr. Breed a witness in that litigation?

1 A I believe he was called, sir.

2 MR. MATHISON: Thank you. Please answer any

3 questions Counsel has.

4 TODD MCNEILL

5 CROSS-EXAMINATION, MR. HALIO:

6 Q Mr. McNeill, who do you live with in Bluffton?

7 A Sir?

8 Q Who lives with you in Bluffton in your house?

9 A My wife.

10 Q Anybody else?

11 A My daughter.

12 Q Okay. Do you have any other kids, or just the one

13 child?

14 A Just the one.

15 Q And where does your wife work?

16 A She also works at CSA.

17 Q And you said you've been there for 21 years, and you

18 retain the rank of lieutenant. Is that correct?

19 A Correct.

20 Q What is your job right now? What is your job

21 description?

22 A I am a wildlife officer.

23 Q And what do you do as a wildlife officer?

24 A I deal with all nuisance animals, domestic, wild.

25 Q Gators?

1 A Alligators, reptiles, everything.  
2 Q Work out in the woods?  
3 A Yes, I do.  
4 Q Have you always done that?  
5 A No, sir.  
6 Q What else have you done at CSA?  
7 A I worked the gates, the beach club when I first  
8 started back in '91. Then I worked the gates for I think  
9 a year and a half. And then I went on to patrol.  
10 Q Well, when did you switch from patrol to wildlife?  
11 A I want to say probably close to nine, ten years ago.  
12 Q Now, as a wildlife officer, do you just deal with  
13 wildlife, or do you sometimes assist other officers with  
14 more routine law enforcement?  
15 A I do everything.  
16 Q You do everything.  
17 A Yes, sir.  
18 Q Were you aware, in 2008, of a series of crimes,  
19 property crimes, that were going on in Sea Pines  
20 Plantation?  
21 A Yes, I was.  
22 Q And prior to or on or about the evening of May 20,  
23 2008, did you have any conversations with Mr. John Jolin,  
24 about where he might go to if he wanted to apprehend  
25 whoever was doing the stuff?

1 A Yes, I did.

2 Q Tell us about that conversation.

3 A I spoke to John and asked him, you know, a lot of  
4 break-ins have been happening at night, you know, why  
5 haven't anybody caught anybody yet. He said his hands  
6 were kind of tied with his supervisor. And John just  
7 didn't want us to really go into it.

8 And I told him that, you know, you're the shift  
9 supervisor on two nights a week that his -- his  
10 lieutenant's off. I said, you know, if you want to catch  
11 this guy doing the break-ins, to hang out between the  
12 foot bridge on south Sea Pines Drive of the South Beach  
13 Lane.

14 Q Would you come on down here for a second? Let me  
15 show you this map. Would you show the jury where you  
16 told Mr. Jolin to go.

17 A It would be in this area right here, where the foot  
18 bridge is. This is South Beach Lane right here.

19 Q And that's the general area?

20 A Yes, sir.

21 Q Okay. Would that include the area where the X that  
22 he marked is?

23 A Yes, sir.

24 Q Turns out you were right; doesn't it?

25 A Yes, sir.

1 Q What happened? What did you find out happened?  
2 A The following day, when I came in at 8:00 in the  
3 morning, John was still working, and he told me that he  
4 had caught Otis Coffey. And when I asked him about it,  
5 he said that he chased him on foot down towards the  
6 beach; that he had Officer Fryman go down to Gadwall and  
7 sit there and wait, where he observed a male run inside  
8 the house. He waited for deputies.  
9 Q Was there any question about whether or not he had  
10 identified Otis Coffey?  
11 A No, there was no question.  
12 Q All right. Did you have any subsequent conversations  
13 with him about the identification?  
14 A About a week or so later, I heard that he wasn't as  
15 quite sure.  
16 Q So he changed his mind.  
17 A Yes, sir.  
18 Q And did you ever furnish Mr. Jolin with a picture of  
19 Otis Coffey for any reason?  
20 A I don't recall, sir, no.  
21 MR. HALIO: No further questions.  
22 A Thank you.  
23 THE COURT: Anything further, Mr. Mathison?  
24 TODD MCNEILL  
25 RE-DIRECT EXAMINATION, MR. MATHISON:

1 Q Have you ever seen a color photograph of Otis Coffey?

2 A I don't believe so, sir, no.

3 Q Was there a black and white photograph of Otis Coffey  
4 hanging or displayed in the operations room all over the  
5 place during this period of time, in May of 2008?

6 A It may have. We periodically have pictures the  
7 sheriff's department fax over us, now they send them  
8 computer, that we put around in our operations room  
9 and/or dispatch.

10 Q Well, why would you have a picture of Otis Coffey,  
11 who hadn't been convicted of anything property-related in  
12 years and years?

13 A It was the element of possibly the same -- the same  
14 crimes that were happening in '04.

15 Q Well, that's interesting, because in '04, didn't the  
16 Sea Pines property crimes terminate just about the time  
17 you got the credit for seeing to the arrest of John  
18 Thomas Levy?

19 A No, sir.

20 Q They didn't terminate?

21 A They terminated shortly after one of our former  
22 officers, Brian Kilby, ensued a foot chase with Otis  
23 Coffey.

24 Q When was that?

25 A That was in '04. I can't remember the exact date.

1 Q When was John Thomas Levy arrested?  
2 A That was in -- later past the fall.  
3 Q Pardon?  
4 A Later in the fall.  
5 Q Later in the fall of 2004.  
6 A Correct.  
7 Q And you're telling me that you can tell the  
8 difference between when Mr. Coffey was arrested for  
9 trespassing and when John Thomas Levy was arrested for  
10 peeping Tom and multiple burglaries?  
11 A At that time, pretty much everything stopped at the  
12 end of that year.  
13 Q Okay. I believe you told me that you took -- you  
14 just testified that you told John Jolin where to go in  
15 order to catch the culprit. Is that right?  
16 A Correct.  
17 Q Was it you that told him, or was it Officer Woods?  
18 A No. I -- I had -- I had told him where to go.  
19 Q Okay. And I think you said that you talked to him at  
20 8:00 the next morning, and he told you that he caught  
21 him. Is that right?  
22 A Correct.  
23 Q You don't believe that he was out looking around for  
24 a bicycle at 8:00 in the morning with your colleague,  
25 Officer Campbell?



1 A Not that I'm aware of, the exact time, no.

2 Q Did you testify in response to Mr. Halio's question

3 that the reason you told him to go to a specific place

4 was because, and I'm quoting, *there were a lot of break-*

5 *ins that night?* Did you say that?

6 A Not that particular night, no.

7 Q In point of fact, there were no break-in that night;

8 was there?

9 A At night. Not *the* night.

10 Q That's correct.

11 A It all happened at night.

12 Q Oh, at night.

13 A At night.

14 Q But on the particular night in question, when you

15 told him to go down there, there wasn't any crime

16 committed in Sea Pines at all; was there?

17 A No, I do not believe so.

18 Q So how could you have arrested somebody who didn't

19 commit a crime?

20 A I didn't arrest anyone, sir.

21 Q Do you agree with your colleague, Officer Woods, that

22 within a day or so after the incident on May 20th,

23 everybody at Sea Pines Security knew that Mr. Jolin had

24 recanted his identification?

25 A Yes, sir.

1 Q Does everyone include Mr. Breed?  
2 A I assume so.  
3 Q Is there any reason he would not know that there was  
4 no positive identification by June 6, 2008?  
5 A I don't understand your question. Who -- who would  
6 not know?  
7 Q Mr. Breed.  
8 A That, I cannot answer for.  
9 Q So you don't know whether he might have been confused  
10 about that.  
11 A I don't know. I can't answer that.  
12 Q Thank you, sir. Excuse me. One more thing. Did you  
13 tell me that Sergeant Kilby was chasing Otis in 2004?  
14 A I do believe so. Yes, sir.  
15 Q Do you know of any incident report involving Otis  
16 Coffey in 2004, other than the trespassing offense that  
17 took place on or about December 10, 2004?  
18 A I believe it was just the trespass incident.  
19 Q Okay. Did anybody chase anybody during that, sir?  
20 A That, I -- I'm not sure on.  
21 Q Okay. And was Mr. Levy arrested before or after  
22 December 10, 2004?  
23 A I do not know.  
24 Q About the same time?  
25 A I don't know.

1 Q The person for whom you got credit for seeing to his  
2 arrest and conviction, you don't know when he was  
3 arrested?

4 A I don't know when exactly Levy was arrested. I know  
5 it was some time in the fall that I discovered the tapes,  
6 the recording device, and turned it over to the sheriff's  
7 department.

8 Q And as a result of your discovery of a tape, they got  
9 a search warrant and went and discovered a whole bunch of  
10 tapes; didn't they?

11 A Apparently so, sir.

12 Q And those tapes showed multiple houses, both at  
13 Hilton Head Plantation and Sea Pines Plantation, where he  
14 had broken in for purposes that neither one of us want to  
15 discuss; isn't that right?

16 A Yes, sir.

17 Q Has anybody ever told you that Otis Coffey is a sex  
18 offender or a voyeur or any of the things that Mr. Levy  
19 was?

20 A No, sir.

21 MR. MATHISON: Thank you.

22 TODD MCNEILL

23 RE-CROSS-EXAMINATION, MR. HALIO:

24 Q Just one follow-up. Did you say there were -- how  
25 many incidents in Sea Pines were you aware of that Mr.

1 Levy was connected to?

2 A I have no idea.

3 Q You have no idea.

4 A No, sir.

5 MR. HALIO: Thank you.

6 MR. MATHISON: Thank you, sir.

7 BY THE COURT:

8 THE COURT: Anything else for this witness, Mr.  
9 Mathison?

10 MR. MATHISON: Your Honor, may it please the Court.  
11 I need to talk to my client one second.

12 Thank you, your Honor. We're going to read at this  
13 juncture.

14 THE COURT: Okay. What are you going to read?  
15 Let's call it. Let's hear it.

16 MR. MATHISON: The first one is going to be -- the  
17 first one will be Mr. Breed.

18 THE COURT: All right. You're going to read his  
19 deposition. Is that correct?

20 MR. MATHISON: Yes, ma'am.

21 THE COURT: Who's going to actually read for us?

22 MR. MATHISON: I'll read the witness part.

23 THE COURT: Okay. Ladies and gentlemen, at this  
24 time, what we're going to do is -- or the plaintiffs want  
25 to do is read portions of a deposition transcript. A

1 THE COURT: Well, I'm going to be back, clearly, in  
2 three minutes. Figure out what you're doing. We'll read  
3 them. If you can't figure it out tonight, they're going  
4 home.

5 OFF THE RECORD 3:30 P.M.

6 BACK ON THE RECORD 3:37 P.M.

7 BY THE COURT:

8 THE COURT: You all ready to go? All right. Thank  
9 you. Let's seat them. Let's bring the jury in.

10 BAILIFF: Yes, ma'am.

11 Jurors are entering, your Honor.

12 JURORS ENTER COURTROOM 3:40 P.M.

13 THE COURT: Welcome back, ladies and gentlemen. All  
14 right. At this time you are going to be read portions of  
15 a deposition of George Breed. Is that correct, sir?

16 MR. MATHISON: That is correct.

17 THE COURT: All right. Go ahead.

18 MR. MATHISON: So that you understand, I'm going to  
19 play my role. I will be the lawyer asking the questions.  
20 And this gentleman, my son, is going to be Mr. Breed.  
21 He's reading the witness's answers. We're going to start  
22 at Page 7, Line 14.

23 READING DEPOSITION OF GEORGE F.

24 BREED, JR. MR. ROBERT V. MATHISON

25 IS READING THE QUESTIONS; MR. MICHAEL

1 MATHISON IS READING THE ANSWERS.

2 Q Would you state your name for the  
3 record.

4 A George F. Breed, Jr.

5 MR. MATHISON: Going to Page 15, Line 13. Excuse  
6 me, that's not correct. Going to Page 10, Line 5.

7 Q Did you go to college after high  
8 school?

9 A Yes. When I enlisted in the Army,  
10 I did attend classes at the University  
11 of Maryland there. And then I left  
12 the military; was a police officer. I  
13 continued with the University of  
14 Maryland.

15 Q Okay.

16 A On a part-time basis.

17 MR. MATHISON: Going to Page 11, at the top of the  
18 page.

19 Q How long were you in the Army?

20 A Two-and-a-half years.

21 Q And would that have started in 1972?

22 A Approximately. Late '71, '72, yeah.

23 Q Okay. Did you have any overseas  
24 duty?

25 A Yes, sir.

1 Q Where?

2 A The Czechoslovakian Border, East  
3 Germany.

4 MR. MATHISON: At the bottom of the page, at Line  
5 22.

6 Q In the military, what was highest  
7 rank that you achieved?

8 A I was a sergeant. I was a tank  
9 commander.

10 Q And when you got back, what was  
11 your first job? What, exactly, did  
12 you do?

13 A As a turbine operator.

14 Q Yes.

15 A It encompassed many, many things.  
16 The controls at a power plant, taking  
17 turbines offline, putting turbines  
18 online.

19 Q How long were you a turbine operator?

20 A I want to say a year.

21 Q Then what?

22 A Went to work in law enforcement.

23 Q How did you make the transition?

24 A Series of examinations, both physical  
25 and written exams at Prince George

1 County.

2 Q This is in Maryland?

3 A Yes, it is.

4 Q Okay. Who did you work for first?

5 A The Prince George's County Sheriff's

6 Department.

7 Q Were you a road deputy? Is that the

8 way they start them?

9 A Yes. I worked in warrants.

10 Q You mean serving warrants or drafting

11 warrants or what?

12 A Fugitive warrants.

13 Q Okay. And how long did you work

14 for them?

15 A I want to say two years.

16 Q So we're up in '76 maybe?

17 A Correct.

18 Q Did you attain any rank when

19 you were working for the Prince

20 George's Sheriff's Department?

21 A I believe it was a DFC.

22 Q That would be a detective first

23 class?

24 A Deputy first class.

25 Q Deputy first class. All right.



1                   Then what?

2                   A    I went to work for the Frederick  
3                   County Sheriff's Department.

4                   Q    Why the change?

5                   A    Prince George, because we just  
6                   had a son that was born. Prince  
7                   George County is a great place  
8                   to get experience. One of the  
9                   best police academies in the country.  
10                  However, with a family that was  
11                  growing, I thought there was more  
12                  opportunity -- opportunity, and  
13                  it was a family-friendlier area in  
14                  Frederick County.

15                  MR. MATHISON: Okay. I'm now at Page 14, Line 9.

16                  Q    What did you do when you switched  
17                  jobs?

18                  A    Began to work for Frederick County  
19                  as a patrol officer.

20                  Q    Again, were you working traffic,  
21                  or were you working investigations?  
22                  What were you doing?

23                  A    During the time I was there,  
24                  everything. Investigations, traffic  
25                  patrol.