

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
3 SOUTHERN DIVISION

4

5 THOMAS AND PAMELA MCINTOSH)
6 plaintiffs)
7 -vs-) CIVIL ACTION NO. :
8 STATE FARM FIRE & CASUALTY COMPANY,) 1:06-CV-1080-LTS-RHW
9 FORENSIC ANALYSIS & ENGINEERING)
CORPORATION, AND E.A. RENFROE &)
10 COMPANY, INC., AND DOES 1 THROUGH)
11 10,)
 Defendants.)

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 DEPOSITION OF
 A. BRIAN FORD
 ATHENS, GEORGIA
 WEDNESDAY, OCTOBER 10, 2007

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5 THOMAS AND PAMELA MCINTOSH)

6	Plaintiffs	Ex F)
7	-vs-)
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9	FORENSIC ANALYSIS & ENGINEERING) 1:06-CV-1080-LTS-RHW
10	CORPORATION, AND E.A. RENFROE &)
11	COMPANY, INC., AND DOES 1 THROUGH)
12	10,)
13	Defendants.)

15 Deposition of A. Brian Ford, taken on behalf of the
16 Plaintiff, pursuant to the stipulations agreed to herein, before
17 Linda K. Jackson, Certified Court Reporter, at the Hilton Garden
18 Inn, Athens, Georgia, on the 10th day of October, 2007, commencing
19 at the hour of 9:52 a.m.

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13 Videographer: Mike Brown
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I N D E X

WITNESS: A. BRIAN FORD

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dated 10-12-07

3 Exhibit 7 E-mail to William C. Forbes from J. Kelly 91
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1 THE VIDEOGRAPHER: Here begins videotape

2 number one in the deposition of Brian Ford in the

3 matter of Thomas and Pamela McIntosh versus State

4 Farm, et al. Today's date is October the 10th,

5 2007. The time on the video monitor is 9:52 a.m.

6 The video operator today is Mike Brown contracted
7 by Merrill Legal Solutions Atlanta.

8 Would the court reporter -- would counsel
9 please state your name for the record and whom
10 you represent.

11 MR. WYATT: I'm Derek Wyatt. I represent
12 Thomas and Pamela McIntosh.

13 MS. MCALISTER: Meg McAlister for the
14 Plaintiffs.

15 MR. SCRUGGS: And Richard Scruggs for the
16 McIntosh family.

17 MR. WEBB: Dan Webb. I represent State Farm.

18 MR. NORRIS: David Norris. I represent E.A.
19 Renfroe & Company. And my client, Jana Renfroe,
20 is on the telephone.

21 MS. BREARD: Kathryn Platt, representing
22 Forensic Analysis & Engineering Corporation.

23 MR. NORRIS: Jana, could you identify
24 yourself?

25 MS. RENFROE: Yes, I am, David.

□

1 BY MR. NORRIS: would you identify yourself for the
2 videographer?

3 Q I'm sorry. Jana Renfroe of E.A. Renfroe &
4 Company.

5 THE VIDEOGRAPHER: The court reporter today
6 is Linda Jackson with Merrill. And would the
7 court please swear in the witness.

8 A. BRIAN FORD
9 after having been first duly sworn was examined and testified as
follows:

10 Examination

11 BY MR. WYATT:

12 Q Good morning, Mr. Ford.

13 A Good morning.

14 Q I am Derick Wyatt. We have met previously,
15 have we not?

16 A Yes, we have.

17 Q We will be taking your deposition today for the
18 Plaintiffs, Thomas and Pamela McIntosh, in this case.
19 And, of course, you know that there are counsel here for
20 State Farm and for the company called Renfroe as well.

21 You are aware of that, aren't you,
22 sir?

23 A Yes.

24 Q Mr. Ford, have you ever given a deposition
25 before?

9

1 A Yes, I have.

2 Q How long ago was that?

3 A August of this year.

4 Q And what were the circumstances of that
5 deposition?

6 A It is a grand jury.

7 Q A Federal Grand Jury?

8 A Yes.

9 Q And where did that take place?

10 A In Jackson, Mississippi.

11 Q Jackson, Mississippi? And was that concerning
12 the subject matter in this case?

13 MR. WEBB: Object to form.

14 A It was a -- the general topic of Katrina,
15 yes.

16 BY MR. WYATT:

17 Q Okay. I don't want to ask you about your
18 testimony before a Federal Grand Jury. That's what you
19 are telling us, right?

20 A Correct.

21 Q And I take it that you were subpoenaed to that
22 grand jury proceeding?

23 A Yes.

24 Q And were you represented by counsel?

25 A No.

10

1 Q Other than that -- that testimony, have you
2 given any other sworn statements or depositions?

3 A Well, I have had conversations with folks,
4 but I haven't had any sworn depositions.

5 Q Okay. When you say conversations, do you mean
6 informal things?

7 A Yes.

8 Q As far as you know, has anyone advised you they
9 were taking a recorded statement from you?

10 A Yes.

11 Q And when did that happen and what were the
12 circumstances?

13 A I have had a couple of -- and I don't
14 recall the dates. But a couple of weeks ago I
15 gave a -- I had a conversation with someone, a
16 discussion. We concluded it by a tape recording of
17 what we discussed and what we did not discuss.

18 Q And where did that take place?

19 A At my home.

20 Q And who -- is this involved with the Federal
21 Grand Jury investigation?

22 A No. No.

23 Q Is it involved with a State Grand Jury
24 investigation?

25 A No.

1 Q Was it, to your knowledge, involved with any
2 criminal allegations against any of the Defendants in
3 this case?

4 A No.

5 Q Was it between you and an attorney or another
6 person who was acting as an attorney?

7 A It was with an attorney, yes.

8 Q And who was that person?

9 A John Scialdone of Balch & Bingham law
10 firm.

11 Q The Balch & Bingham law firm?

12 A Of Gulfport.

13 Q Of Gulfport? And who did Mr. Scialdone tell
14 you he was representing?

15 A The Luffys.

16 Q L-U-F-F-E-Y?

17 A L-U-F-F-Y.

18 Q Who are the Luffys?

19 A The Luffys have a -- had a home in Pass
20 Christian on Spence Drive. And they are --
21 Mr. Scialdone is representing them in a legal matter
22 regarding Katrina.

23 Q Okay. Have you been called upon to give a
24 deposition in the Luffy case, if there is a filed case?

25 A No.

1 Q Other than that -- that matter, Mr. Ford, any
2 other instances where anyone has taken a recorded
3 statement from you?

4 A Yes.

5 Q And when would that be and what were the
6 circumstances?

7 A In -- I want to say May of '06, I gave a
8 taped summary of activities -- of my activities in
9 Katrina to -- I can't think of his last name. I
10 have gone blank.

11 Q Okay.

12 A Hold on, let me look it up. I have got
13 it. Darren Versiga.

14 Q Darren Versiga? Okay.

15 A Right.

16 Q And who is Darren Versiga if you know who he
17 is?

18 A Darren had contacted me in regard to my
19 experience with Katrina while I was on the Gulf
20 Coast.

21 Q I understand. All right. Have we covered
22 pretty much all of those conversations and taped
23 statements or have we left anything out?

24 A Yes. I have had conversations with others
25 but no depositions.

1 Q I understand. Now, for this deposition today,
2 how did this deposition get arranged? How were you
3 contacted?

4 A Kathryn contacted me.

5 Q Kathryn Platt?

6 A Correct.

7 Q The lady representing Forensic Engineering?

8 A Right.

9 Q And when did that happen that Ms. Platt
10 contacted you?

11 A A few weeks ago. I don't know that I have

12 the date. It was last month sometime.

13 Q Okay. Were you -- was that by telephone or in
14 person?

15 A By telephone.

16 Q And did you speak with Mrs. Platt -- had you
17 ever spoken with her before that time?

18 A No.

19 Q And what was the conversation that you had with
20 her on that occasion?

21 A Basically said that she was representing
22 Forensic and that -- wanted to talk to me about that
23 and we had a conversation. We set up a
24 teleconference that I had last -- I guess it was
25 last Friday with Larry Canada of her office.

14

1 Q Okay. Let me see if I have got the chronology
2 here. Ms. Platt called you first about two weeks -- or
3 last month I think you said, right?

4 A Right.

5 Q On some date. And then how long did that
6 conversation last between you and Ms. Platt?

7 A 10 or 15 minutes.

8 Q Okay. And the subject of that conversation was
9 this deposition?

10 A This case and this deposition, yes.

11 Q Okay.

12 A A discussion about that and my
13 participation in it and just the logistics of
14 setting up a teleconference and this deposition.

15 Q Okay. And what did she tell you the purpose of
16 the teleconference was?

17 A I don't remember a specific -- we didn't
18 have a specific agenda. Just wanted to discuss the

19 deposition and then we had the teleconference, and
20 just basically to discuss what to expect as far as
21 who would be there and where and no specific --
22 specifics beyond that.

23 Q When did you have the teleconference?

24 A Last Friday.

25 Q And where were you when the teleconference took

15

1 place?

2 A At my office in Norcross, Georgia.

3 Q Okay. And who was on the telephone during that
4 telephone conference?

5 A Larry Canada and myself.

6 Q Okay. Only you two?

7 A To my knowledge, yes.

8 Q Had Mr. Canada sent you any e-mails or
9 documents or electronic information of any sort prior to
10 the time that you had this teleconference?

11 A No, Larry had not. Kathryn and I -- I
12 guess exchanged one e-mail basically just trying to
13 set up a time and phone number, pass code, that type
14 thing for the teleconference.

15 Q Is that what you are looking at today?

16 A I have a copy of my e-mail, yes.

17 Q Okay. Is that from her to you or the other
18 way?

19 A Both.

20 Q Back and forth?

21 A Yes.

22 Q What's the date on that?

23 A From her to me is September 17th. Just
24 setting up -- asking basically is 2:00 p.m. on
25 October the 5th okay? And I responded saying, yes,

1 that's fine. And then she responded with a phone
2 number and passcode. That's it.

3 Q Okay. How long was the teleconference between
4 you and Mr. Canada?

5 A Probably 25 or 30 minutes. We basically
6 went through what to expect out of the process. And
7 then we just had some general discussion beyond
8 that.

9 Q Okay. When you say 'what to expect out of the
10 process', tell us what you mean by that.

11 A Once again it was who would be here? And
12 what parties would be here? And the nature of --
13 you know, the timeframe probably to be discussed.
14 The mid-September, mid-October timeframe of '05.

15 Q Your involvement with --

16 A My employment with Forensic, correct.

17 Q Did Mr. Canada know you had given testimony
18 before a Federal Grand Jury?

19 MR. NORRIS: Object to form.

20 THE WITNESS: I don't know the answer to
21 that. We didn't discuss that to my knowledge,
22 that I remember. And to my knowledge I don't know
23 if he knows that or not.

24 BY MR. WYATT:

25 Q Does ms. Platt know that?

1 MR. NORRIS: Object to form. I'm just
2 registering my objections for the record.

3 THE WITNESS: I couldn't hear what you said.

4 MR. NORRIS: I said, object to the form.

5 BY MR. WYATT:

6 Q Did Ms. Platt know that?

7 MR. NORRIS: Objection.

8 MS. PLATT: Objection. What do you mean by
9 'that'?

10 BY MR. WYATT:

11 Q Same question. The fact that you testified
12 before the grand jury?

13 A I don't believe she and I discussed that
14 at all. I can't speak to her knowledge of that.

15 Q As far as your conversations with them, you
16 never learned throughout those conversations whether
17 either of them knew that you testified before the Federal
18 Grand Jury?

19 A No.

20 Q Okay. Let's see. Now, besides that we have
21 covered all of the statements that you talked about, any
22 statements you gave, depositions you gave, conversations
23 you have had.

24 Is there anything we have left out of
25 that, Mr. Ford?

18

1 MR. WEBB: Object to form.

2 MR. NORRIS: Same objection.

3 MS. PLATT: Join.

4 BY MR. WYATT:

5 Q As far as depositions are concerned.
6 Depositions, statements, or conversations. Did anything
7 else come to mind?

8 A I have had many conversations with many
9 people. Do you want me to discuss all of those?

10 Q In a summary form and I will just ask you some
11 questions that maybe will help you along. Have you ever

12 been contacted by the Federal Bureau of Investigation?

13 A Yes.

14 Q And was that regarding in any way or part, the
15 McIntosh case?

16 MR. WEBB: Objection to form.

17 THE WITNESS: It was regarding my activities
18 in Katrina. There were no specific cases or
19 inspections or any reference made to specifics.

20 BY MR. WYATT:

21 Q Okay. Any other person in an investigative
22 capacity, official investigative capacity, who has
23 contacted you besides the FBI?

24 A The Attorney General's office of
25 Mississippi has contacted me, yes. And I have had

19

1 conversations with him.

2 Q Okay. Anybody else you can think of?

3 A The FBI being part of the Department of
4 Homeland Security, the same there. I think that's
5 all that I can recall.

6 Q Okay, that's it? Mr. Ford, I notice you are
7 going through some notes -- are those notes that you are
8 looking at?

9 A They are my notes, yes.

10 Q Are those notes that you made contemporaneous
11 with these events we have been talking about?

12 A Explain what you mean.

13 Q At the time or shortly after, for example, you
14 had a conversation with Ms. Platt. Are there notes in
15 there about that?

16 A I think I did it through the e-mail. I
17 don't think I made any hand notes on that particular
18 conversation.

19 Q What about the conversation with Mr. Canada,
20 the teleconference?

21 A Yes.

22 Q So you do have notes in your book here? What
23 is that a spiral notebook? You have notes in there that
24 are more or less contemporaneous with these
25 conversations. Is that correct?

20

1 A Yes. I have made some notes with some of
2 the conversations. It is kind of a journal of my
3 discussions with people.

4 Q I understand. All right. Now, let me go back
5 to just some generalities here so we can understand and
6 everyone can understand what your role is here today.

7 First of all, just a couple of tips
8 about giving this deposition. If you don't
9 understand a question I ask you, then just please
10 ask me to repeat the question and I will do that
11 until I have said it in such a way that you can
12 understand it.

13 If you will please try to answer yes
14 and no, and you are doing very well of, course, but
15 answer yes and no, it helps the court reporter
16 because the transcript doesn't come out quite right
17 when it says uh-huh and huh-uh.

18 If at any time during the deposition,
19 you want to take a break for any reason just let me
20 know. Just raise your hand and say, I need a break,
21 and that's what we will do.

22 Depositions are -- the witness has
23 the right to read the deposition and sign off on it,
24 if you wish to do so. Do you have an option -- an
25 election there you would choose or you can waive

1 that if you don't want to do it?

2 A Yes, I would want to review what was
3 recorded to see if it was what I said.

4 Q Okay. So in other words, the record will show
5 that you are reserving the right to read and sign.

6 A Correct.

7 Q That's what we will do.

8 A Correct.

9 MR. WEBB: While we are at this point, I
10 assume we will have the same stipulations under
11 the Federal Rules pursuant to Notice, et cetera?

12 MR. WYATT: That's correct. And the rules
13 supply the stipulations, but I will be happy to
14 state it in the record if you wish.

15 MR. WEBB: No, that's fine.

16 MR. WYATT: That's generally that all
17 objections are reserved until such time as the
18 deposition is sought to be introduced, except as
19 to the form of the question. And those objections
20 are made during the deposition and hopefully it
21 can be cured. And also, of course, Rule 30
22 provides restrictions on speaking objections and
23 instructions to the witness under certain
24 circumstances.

25

1 BY MR. WYATT:

2 Q Mr. Ford, in summary form, tell us just a
3 little bit about your background. You are a professional

4 engineer. We know that, right?

5 A Correct.

6 Q Where did you go to school and so forth?

7 A I have a degree in civil engineering from
8 Auburn University. That's instructional. I was a
9 co-op student. I started instructional engineering
10 in 1966, detailing and designing structural steel
11 for steel mills.

12 And when I graduated I went to work
13 for The Southern Company. At that time it was
14 Southern Company Services, which is the engineering
15 arm of The Southern Company, designing nuclear,
16 fossil, and hydropower plants. I designed
17 structures for, I think, about 17 years before I was
18 named manager of that organization. I was the chief
19 structural engineer for The Southern Company.

20 I managed major projects for The
21 Southern Company for a number of years. Managed
22 various departments within that organization. I
23 transferred to Mississippi Power Company after 23
24 years with Southern Company Services. I transferred
25 to The Mississippi Power Company where I worked for

1 another 12 years.

2 While at Mississippi Power Company, I
3 was district manager of a three-county district.
4 That's Jackson, George, and Green counties for six
5 years. I managed the engineering, accounting
6 marketing, and line construction and so forth for
7 the power company.

8 Then I transferred to Gulfport where
9 I was a manager of disaster preparations.
10 Responsible for preparing the company for all types

11 of disasters, hurricane being the most obvious. But
12 it included anything from ice storms in our northern
13 regions, to power plant accidents, to vehicle
14 accidents, railroad. And later on terrorism -- acts
15 of terrorism. Whatever event might threaten the
16 power company's resources and facilities. I was
17 responsible for preparing the company for that. And
18 then help leading the restoration after an event.

19 We coordinated our efforts throughout
20 The Southern Company. We coordinated our efforts
21 throughout the Eastern Sea Coast and the Gulf Coast
22 through an organization called The Southeastern
23 Electric Exchange. I was a member of that disaster
24 preparations group for the Southeastern Electric
25 Exchange. I spoke to that group on several

24

1 occasions regarding preparations and restoration
2 activities from hurricanes.

3 I also was a member of the Electric
4 Utility Committee for the National Hurricane
5 Conference for which I spoke to that on several
6 occasions. I was a member of that committee.

7 I retired prior to Katrina, thank
8 God. And we evacuated -- our family evacuated --

9 Q Okay. Can I stop you just a second?

10 A Yes.

11 Q Let me just back up for a minute to ask just a
12 couple of quick questions about this: How many years
13 total do you have as an engineer, professionally?

14 MR. WEBB: Objection to form.

15 BY MR. WYATT:

16 Q As a professional engineer, I should say, how
17 many years total?

18 A As a professional engineer?
19 Q Right.
20 A Once I was registered, I was registered in
21 about '75; 30.
22 Q Thirty-two years?
23 A Thirty-two years at this point.
24 Registered in Mississippi and in Alabama.
25 Q Okay. And many of those years, or a portion of

25

1 them, shall way say, you were in this role for disaster
2 preparation over the Mississippi Power Plant facilities,
3 correct?

4 A Not plants. It was the whole company
5 activity. Power plants; transmission lines;
6 substations; distribution facilities; office
7 facilities; everything.

8 Q Every facet. And that led you into these roles
9 with these national organizations that you mentioned?

10 A Correct.

11 Q And you, in fact, were a speaker, a keynote
12 speaker, on some occasions?

13 A A speaker in committee functions for the
14 groups that had like-interests.

15 Q Okay. Now, how many years were you involved in
16 that disaster preparation role as a professional
17 engineer?

18 A Six years.

19 Q How many hurricanes did you experience during
20 the time that you were in that role?

21 MR. WEBB: Objection to form.

22 Go ahead.

23 THE WITNESS: The way we operated, any threat
24 that was credible we would activate our storm

25 center. If one entered the Gulf, we opened our

26

1 storm center and we were active and we were
2 involved in preparations. I can't tell you how
3 many entered the Gulf during my six years. Alicia
4 hit Gulfport as a tropical storm and put eight
5 inches of rain in one hour in Downtown Gulfport
6 and flooded a lot of Gulfport.

7 Hurricane -- what was the one in '95? The
8 one that sat on Mobile, deposited 40 inches of
9 rain in Mobile in '95? Was it Danny? Anyway
10 that one. And then, of course, George in '98,
11 which was probably the biggest that hit
12 Mississippi during my tour of duty there.

13 BY MR. WYATT:

14 Q Uh-huh. In addition to actual hurricanes what
15 you are saying, I take it, is that you would often have
16 to invoke hurricane preparedness and a hurricane never
17 came about, but you still had to go through the motions,
18 right?

19 A Certainly. Not just hurricanes.

20 Q Any catastrophe?

21 A Ice storms, whatever.

22 Q All right. So during that time period -- now
23 this is all pre-Katrina we are discussing right now,
24 right?

25 A Correct.

27

1 Q You were a Mississippi licensed engineer, a
2 professional engineer, correct?

3 A Correct.

4 Q And did you have a seal, an engineering seal?

5 A Yes.

6 Q What is a seal, exactly?

7 A It is a stamp or an embossing device that
8 you seal documents with and -- just to indicate that
9 you have reviewed and concur with the contents of
10 that document.

11 Q And what's the significance of that to an
12 engineer to emboss your seal on a report or a piece of
13 paper?

14 MR. WEBB: Object to the form.

15 THE WITNESS: To indicate that you concur
16 with the contents of that document.

17 BY MR. WYATT:

18 Q And is there any officialty attached to the
19 fact that you've put your seal on the document?

20 MR. NORRIS: Object to form.

21 THE WITNESS: Yes.

22 BY MR. WYATT:

23 Q How does that work? Is it something you are
24 authorized to do pursuant to your licensure?

25 A Correct.

28

1 Q Is that right?

2 A Correct.

3 Q All right. Now, after you retired from the
4 power company, did you ever have an occasion to speak to
5 a man named Robert Kochan?

6 A Yes.

7 Q When was the first time that you met Robert
8 Kochan?

9 A Met him in person?

10 Q Well, when was the first time that you talked

11 to him, that you recall?

12 A Late September of '05.

13 Q And who is Mr. Kochan?

14 A He is the president of Forensic Analysis &
15 Engineering Corporation.

16 Q All right. And how did that come about, the
17 first time that you talked to Mr. Kochan?

18 A After the storm and after we had -- after
19 the storm -- we all evacuated, as I said earlier, we
20 evacuated the Coast. While we were gone, we all
21 made the decision -- we, meaning my wife and I, our
22 daughter and her family, our son and his wife, we
23 made the decision that we were not going to continue
24 to live on the Mississippi Gulf Coast. That was
25 about the sixth evacuation in 12 months. And so we

1 made the decision we would relocate.

2 When we got back, we found that our
3 home was essentially untouched, the structure
4 itself. A lot of yard damage, peripheral damage.
5 Our daughter's home in Pascagoula had about three of
6 feet water in it. And so for the next several weeks
7 we sat about to gut and restore that home.

8 After that I thought that -- I would
9 see what I could do to help try to restore
10 activities back to normal on the Coast. So what do
11 I have to contribute? I put my resume out and I had
12 recruiting firms calling. And one put me in touch
13 with Forensic Engineering.

14 Q All right. And Mr. Kochan, did he call you or
15 did you call him?

16 A He called me.

17 Q All right. And what was the content of that

18 first conversation that you had with Mr. Kochan?

19 A He told me that he was looking for someone
20 to work in his Mississippi office. He was setting
21 up a Tri-State office there. That he had worked
22 there and needed someone to head the office up. He
23 needed an engineer in charge and was looking for
24 people.

25 He -- we talked in general. I was

30

1 out of town at the time. He said he would put
2 together an offer and send it to me. He did. We
3 had further conversations. He made me an offer that
4 I accepted.

5 The recruiting group that called me
6 were talking in terms of a number 40% higher than
7 what Forensic Engineering offered me. Plus more
8 hours which would mean overtime. Forensic's offer
9 was salary, six days a week, 12, 15 hours a day,
10 whatever it took to get the target reports done. I
11 accepted the position with Forensic because I
12 thought I could help that office and that
13 organization.

14 Q May I stop you for a moment? Why did
15 Mr. Kochan say he heeded someone to head the office up?

16 MR. WEBB: Object to form.

17 BY MR. WYATT:

18 Q If you know.

19 A I think Mississippi requires an engineer
20 in charge, registered with the state and needs to be
21 a professional engineer. And after we had the
22 discussion, he and I believed that my qualifications
23 met the needs of that office.

24 Q Okay. Did Mr. -- was Mr. Kochan a registered

25 engineer?

31

1 A I cannot answer that.

2 Q Did he ever --

3 A Not to my knowledge.

4 Q Not to your knowledge? Did he ever indicate to
5 you during the conversations that he was a registered
6 engineer?

7 A No.

8 Q Did he tell you who he had been hired by when
9 he was talking with you about you heading up this office?

10 A Yes.

11 Q And who did he say he had been hired by?

12 A He had been hired by State Farm to perform
13 structural damage assessments on the Mississippi
14 Gulf Coast.

15 (WHEREUPON, Exhibit Numbers 1
16 and 2 were marked for
identification.)

17 BY MR. WYATT:

18 Q Okay. Let me hand you a -- two documents which
19 have been marked as Exhibits 1 and 2, Mr. Ford and --

20 MR. WEBB: Could we see those, please?

21 MR. WYATT: These are copies. Yeah. May I
22 just proffer first and then I will pass them out?
23 Just so you will know, these are public records
24 from the Mississippi Board of Licensure for
25 Professional Engineers and Surveyors. Okay. Just

32

1 a copy.

2 BY MR. WYATT:

3 Q Mr. Ford, counsel at the other end of the table
4 is looking at those copies. And so while it is being
5 passed around, I will just ask you some preliminary
6 questions about that. And feel free to refer to these
7 documents as I ask I these questions.

8 A I have never seen these before.

9 Q Okay. You will see that -- you know, there are
10 two exhibits there that are marked 1 and 2, correct?

11 A Correct.

12 Q And do you see the second one?

13 A Okay.

14 Q And each has a cover letter bearing a
15 September 2007 date?

16 A Correct.

17 Q Okay. If you will take the one that is marked
18 Exhibit 2, it is the earlier of the two dates, right?

19 A Yes.

20 Q Flip the first page and flip over there.

21 A (Witness complies.)

22 Q That's right. Okay. What is that document
23 that you are looking at?

24 A It is a Certificate of Authorization
25 application form. It is one that I completed when I

1 first became employed with Forensic.

2 Q Okay. Now, what -- is that commonly called a
3 COA? Have you ever heard that terminology?

4 A I have heard it, but I can't -- I don't
5 know if it is common or not.

6 MR. WEBB: Excuse me. Excuse me -- excuse
7 me, Mr. Ford. Have y'all produced these before
8 today?

9 MR. WYATT: Those are public records and I

10 don't believe they have been produced.

11 MR. WEBB: Otherwise identified?

12 MR. WYATT: Yes. And, of course, they are
13 Forensic's -- they are Forensic's own documents.

14 MR. WEBB: Those are letters --

15 MR. WYATT: Dan, those cover letters are
16 letters to us from the engineering board. The
17 records attached to the two exhibits are the
18 original records that were filed with the
19 Mississippi Engineering Board.

20 MR. WEBB: Well, that's fine, but if you are
21 going to question the witness about records, I
22 think we would have been entitled to have you
23 produce them before we get here today. I'm going
24 to object to the questioning on that basis.

25 MR. NORRIS: Join in the objection.

34

1 MR. WYATT: That's fine.

2 BY MR. WYATT:

3 Q Those are Forensic's own records as far as you
4 know, is that right, Mr. Ford?

5 MR. WEBB: Objection to form.

6 MR. NORRIS: Same objection.

7 MS. PLATT: Join.

8 THE WITNESS: These two pages.

9 BY MR. WYATT:

10 Q Okay, let's identify for the record what two
11 pages you are talking about. First of all, let me ask
12 you this question: You just identified something called
13 a Certificate of Authority, is that right?

14 A No. Certificate of Authorization.

15 Q Excuse me, Certificate of Authorization, excuse
16 me --

17 A Right.

18 Q I misspoke. And that document was prepared by
19 Forensic for your signature to be filed with the
20 Mississippi Engineering Board?

21 MR. NORRIS: Object to form.

22 MR. WYATT: If you know.

23 MR. WEBB: Join.

24 THE WITNESS: I don't know who typed it. I
25 would -- in looking back, yes, I would suspect

35

1 that the home office prepared it, yes. I reviewed
2 it. I signed it. Then Bob Kochan signed it and
3 it was submitted.

4 BY MR. WYATT:

5 Q Okay. And just a moment ago you told us that
6 Mr. Kochan mentioned in his initial conversations with
7 you he needed someone to head up the Forensic office on
8 the Coast, right?

9 A Right.

10 MR. NORRIS: Object to form.

11 BY MR. WYATT:

12 Q And you didn't prepare this Certificate of
13 Authorization, did you?

14 A I didn't -- I didn't fill in these blanks,
15 no.

16 Q Okay.

17 A I did review this and sign it.

18 Q Okay. And when you signed it -- and if you are
19 looking at the Certificate of Authorization form itself,
20 it is dated 10-3-2005. Do you see that?

21 A My signature is dated 10-3. Receipt date
22 is 10-5.

23 Q Okay.

24 A You are referring to my signature date?

25 Q Okay. I'm referring to your signature. Is

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1 that, in fact, your signature on that document?

2 A Yes.

3 Q Is that your PE license number?

4 A Yes.

5 Q And is that your writing that dates it
6 10-3-2005?

7 A Yes.

8 Q Okay. And what does this document mean when it
9 says that a person is being designated as the principal
10 engineer and the engineer in charge. And do you see that
11 just up above your signature line by Number 3 there?

12 MR. WEBB: Object to form.

13 MS. PLATT: Object to form.

14 MR. NORRIS: Same objection.

15 THE WITNESS: It is my understanding that the
16 state requires a registered engineer to be
17 employed and be on staff at the office -- at an
18 office of an engineering company in Mississippi.

19 BY MR. WYATT:

20 Q But Forensic was not an engineering company in
21 Mississippi, right?

22 A Did not have a physical presence in
23 Mississippi prior to this, no.

24 Q And so in other words, what did Mr. Kochan tell
25 you about why he needed you to sign this Certificate of

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1 Authorization?

2 A To operate in the state and to comply with

3 the requirements of the state. That they needed a
4 professional engineer to, you know, be on staff.

5 Q Okay.

6 A And that was the reason they needed a
7 professional engineer, someone with experience to do
8 that and that's why I was hired.

9 Q Okay. Now, at this time -- and I'm using this
10 date of October 3, 2005, was anyone else in Forensic's
11 employment qualified or otherwise designated as a
12 principal engineer other than yourself?

13 MR. NORRIS: Object to form.

14 MS. PLATT: Object to form.

15 MR. WEBB: Same objection.

16 THE WITNESS: I don't know if anyone in the
17 home office or any Forensic Engineering office
18 that wasn't employed that was registered in the
19 state of Mississippi.

20 BY MR. WYATT:

21 Q So as far as you knew you were the only one?

22 A As far as I know I was the only one, yes.

23 And the engineer -- there was an engineer on the
24 site when I arrived was not employed. He was a
25 contractor engineer.

□

1 Q And who was that?

2 A Mannie Mannon. Emanuel Mannon.

3 Q All right. What was your actual date of
4 employment?

5 A Oh, goodness. I have a letter of
6 September 21st, which was the offer letter. And it
7 says report the next Monday. So whatever the Monday
8 after September 21st of 2005 was.

9 Q Okay. Do you have that letter -- still have

10 that?

11 A The offer letter?

12 Q Yes, sir.

13 A Yes.

14 Q Is that one of those documents that you have in
15 your binder there?

16 A Yes.

17 Q Okay. I may want to talk to you later,
18 Mr. Ford, about obtaining that document if you are able
19 to produce it to us. Now, looking at this exhibit again,
20 the one you were just looking at there, you have in front
21 of you the Certificate of Authority -- authorization,
22 excuse me.

23 A Yes.

24 Q If you flip over to -- you see there is a
25 document saying 'this is to certify that'? It is about

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1 three pages over. Keep going, I think. Do you see that?

2 A Yes, I do.

3 Q Okay. As far as you know, is that the
4 certification that was issued to Forensic Analysis &
5 Engineering Corp to operate legally in the state of
6 Mississippi as of October 14, 2005?

7 MR. WEBB: Object to form.

8 MS. PLATT: Join.

9 THE WITNESS: That would be my understanding
10 as to the intent of this document, yes.

11 BY MR. WYATT:

12 Q Okay. What was your last date of employment
13 with Forensic Engineering?

14 A Approximately, October 21st.

15 Q October 21st, 2005?

16 A Correct. That's an approximate date. I

17 don't have an exact date.

18 Q Okay. Between the dates of October 17th, 2005
19 and October 21st, 2005 and we will talk about that more
20 later, were you doing -- preparing any engineering
21 inspection reports for Forensic?

22 A Would you repeat the dates, please?

23 Q Sure. Between the dates of October 17, 2005 --
24 actually, let me rephrase this question: Between the
25 dates of October 18th, 2005 and October 21st, that

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1 three-day period, were you preparing any inspection
2 reports for Forensic Engineering?

3 A Yes.

4 Q And were those reports State Farm insured
5 properties?

6 A Yes.

7 Q Okay. And those reports I take it were all
8 subsequent to the McIntosh report that you had prepared?

9 A Yes.

10 MR. WEBB: Object to form.

11 MR. NORRIS: Object.

12 MS. PLATT: Join.

13 BY MR. WYATT:

14 Q Okay. How many inspections were there in that
15 time period, October 18th to October 21st, 2005?

16 A I have no idea.

17 Q You don't, okay. So after you became employed
18 with Forensic Engineering, where were you posted?
19 Physically, where were you working out of?

20 A Forensic set up a field office in Biloxi
21 at an RV park, a campground. They provided an
22 office facility there that was an RV, staffed it
23 with a field office coordinator administrator,

24 project coordinator. I don't know what his title
25 was. Had an engineer there. I think a couple of

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1 engineers from the home office had been down there
2 prior to my arrival, had been there to help set up,
3 conduct some inspections. And when I arrived, it
4 was two people and myself.

5 Q And who were those two?

6 A Adam Sammis was the field office
7 coordinator, project coordinator. Now, it is my
8 understanding Adam's background was in marketing for
9 the company. He was sent to help coordinate the
10 field office, the logistics, the set-up. Coordinate
11 the requests for inspections with State Farm. He
12 did the -- basically set up all of the electronics,
13 coordinated expenses, coordinated the paper flow.

14 And Mannie Mannon was a contract
15 engineer that had been there doing inspections and
16 writing reports.

17 Q So it was you and Mr. Mannon as engineers and
18 then Mr. Sammis?

19 A Correct.

20 Q And Mr. Sammis was not an engineer?

21 A No.

22 Q So you were the Mississippi licensed engineer?

23 A Correct.

24 Q And who assigned the inspections to you?

25 A To me personally or to the company?

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1 Q To you.

2 A To me? They came in to Adam, Adam logged
3 them in. And he would try to route them so that you
4 could logistically group them into a common area.
5 And so Adam primarily did it, yes.

6 Q Okay. And tell me what would happen after you
7 received an assignment to inspect a property?

8 MR. WEBB: Object to form.

9 MS. PLATT: Object to form.

10 BY MR. WYATT:

11 Q What would you do next, if anything?

12 A I would -- Adam would try to contact the
13 homeowner to make an appointment. I would take and
14 review that request, go to the site and perform the
15 inspection.

16 Q Okay. And was the homeowner present?

17 A If available. If able to make contact
18 with them and if they could be there, yes.

19 Q Okay. And then what would you do next after
20 you had performed the inspection, what would your next
21 act be?

22 A The routine was you would get two or three
23 or four, however many were in the area, and you
24 would go and perform those inspections. Gather your
25 data, take your notes and photographs. Come back to

1 the office and begin preparing those reports.

2 Q And how would you do that?

3 A The company provided a laptop and we would
4 prepare the reports on laptops.

5 Q Did you have your own?

6 A No.

7 Q Did Mr. Mannon have one?

8 MR. NORRIS: Object to form.

9 THE WITNESS: He had a company-provided
10 laptop to the best of my recollection.

11 BY MR. WYATT:

12 Q So he had a company-provided laptop, but you
13 did not have a company-provided laptop?

14 A I did have a company-provided -- I thought
15 you said did I have my own. I did not have my own
16 personal computer. I had a company-provided laptop.

17 Q Both you and Mr. Mannon?

18 A Correct.

19 Q And what other computers were used?

20 A There was one in the home office there --
21 the field office that Adam used.

22 Q Okay. Was your laptop Internet accessible?

23 A No.

24 Q Was Mr. Mannon's?

25 A No.

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1 Q Was Mr. Sammis'?

2 A Yes.

3 Q would you take the laptop in the field with
4 you?

5 A I kept it with me, yes.

6 Q And so you had a camera and a laptop, is that
7 right?

8 A Correct.

9 Q And then your assignments for the day, correct?

10 A Correct.

11 Q And then you would pick that up in the morning,
12 is that right?

13 A No, not necessarily. I picked them up
14 whenever I came back into the office and would go
15 back out. And if that took me until late in the

16 afternoon, I would go straight home, work at home.
17 And then head out the next morning. If I had work
18 in hand, I would go straight to a site. So there
19 was not an exact routine with that.

20 Q Do you know Mark Wilcox?

21 A I have met a Mark Wilcox with State Farm.

22 Q When was the first time that you met Mark
23 Wilcox?

24 MR. WEBB: Objection to form.

25 THE WITNESS: It was sometime after

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1 October 17th and prior to my departure. He and I
2 met at a homeowner site at his request.

3 BY MR. WYATT:

4 Q Which homeowner site was that?

5 A I do not know the answer to that.

6 Q Do you remember where it was --

7 A It was in Long Beach, I believe.

8 Q And do you remember any of the details about
9 that particular site?

10 A I do not remember a street name. I do not
11 remember a homeowner's name. I was requested to
12 meet Mark there. And I could not get in. The
13 military police would not let me through. I called
14 Mark, he came out of the confined area. Came out,
15 picked me up, and we drove in.

16 And we drove into the street. The
17 street was near the beach front in Long Beach, but
18 it was three-quarters of a block up a hill to this
19 particular house and was wide-spread devastation all
20 along the beach front in the homes up the hill.

21 Q okay. And this all took place after
22 October 17th, 2005, is that correct?

23 A That's my recollection it took place after
24 October 17th.

25 Q And did you initiate the contact with

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1 Mr. Wilcox or did he initiate it with you?

2 A He did.

3 Q And is that the first time you had ever met

4 Mr. Wilcox?

5 A Yes.

6 Q Had you talked to Mr. Wilcox on the telephone
7 any time prior to that?

8 A No.

9 Q Okay. Now, after you would take your
10 assignments and go for these inspections, how would you
11 keep -- or what records would you keep of what you had
12 done while you were inspecting the properties?

13 MR. NORRIS: Object to form.

14 MR. WEBB: Object to form.

15 MS. PLATT: Object to form.

16 BY MR. WYATT:

17 Q If anything?

18 A What records did I take?

19 Q Yes.

20 A I had a paper tablet, took notes, took
21 photographs, logged my photographs. Took those
22 records, would go back and transcribe those into my
23 report format.

24 I kept my notes until the report came
25 back from being reviewed and returned to me for

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1 signature. Compared that draft to my notes and then

2 I would dispose of my notes.

3 Q When you say dispose of them, you would delete
4 them off your computer?

5 A No. These were handwritten notes. The
6 draft I prepared on their computer, I cannot speak
7 to what happened to that electronic draft.

8 Q All right. So you had handwritten notes?

9 A That I took, yes.

10 Q And then you would take those notes and
11 transfer them to typed-in information on your computer,
12 right?

13 A Right.

14 Q And you would form the report from that?

15 A Correct.

16 Q Did you have a format for the report on your
17 computer?

18 A I think I made a template which was simply
19 the headings, the general boilerplate intro,
20 closing. But the contents were custom for each
21 report.

22 Q And then --

23 THE VIDEOGRAPHER: Could you straighten your
24 microphone up. You are kind of rubbing it and
25 rubbing it on your shirt?

1 THE WITNESS: It is falling off.

2 THE VIDEOGRAPHER: Thank you.

3 MR. WYATT: Thank you.

4 THE WITNESS: Is that better?

5 THE VIDEOGRAPHER: Yes.

6 BY MR. WYATT:

7 Q After you typed the report on your computer,
8 what would happen next?

9 A I would transfer it by memory stick from
10 the laptop to Adam. Adam would take that,
11 electronically upload it to the home office for
12 review.

13 Q All right. Via the Internet, I take it, is
14 that correct?

15 A Yes.

16 Q And when you say 'for review', who was
17 reviewing it?

18 A Bob Kochan, Randy Down, and an engineer's
19 name who escapes me at the moment. Last name is
20 Fields?

21 Q Mr. Forbes?

22 A Forbes, I'm sorry. Mr. Forbes.

23 Q Right. And what would happen next after the
24 review had occurred, what would happen as far as your
25 role was concerned?

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1 MR. WEBB: Object to form.

2 THE WITNESS: A variety of things could
3 happen. It could come back with some editorial
4 comments, grammatical, spelling, whatever. There
5 could be a phone call, discussion about the
6 findings, the conclusion. Just an engineering
7 discussion about what was observed. You know, A
8 discussion about did you see this or that? Or
9 just an engineering discussion, mostly.

10 BY MR. WYATT:

11 Q And then what?

12 A Out of that discussion might come a word
13 enhancement clarification. And then both parties,
14 the preparer and the reviewer, would sign off on
15 that document.

16 Q When you got it back from the reviewer, did it
17 have their signature already?

18 A On occasion it did, yes.

19 Q And is that the so-called peer review
20 signature?

21 A Correct.

22 Q Now, that's before you have even signed it,
23 right?

24 A Yes.

25 Q And you haven't affixed a seal to it yet?

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1 A No.

2 Q And so then along the way, just carry us
3 through the life of this report. What happens next after
4 you have been through the review process and you have
5 gotten it back?

6 A I take it and compare it to what I drafted
7 to see if my findings, conclusions are still
8 captured there, still as I had intended.

9 Q All right. All right. Now, when you compare
10 it to what you drafted, you have what you drafted on your
11 laptop, right?

12 A Correct.

13 Q And that's saved to your laptop, is that
14 correct?

15 A Yes.

16 Q And then when you get the other copy to
17 compare, where are you getting it from?

18 A From Adam.

19 Q From Mr. Sammis' computer?

20 A Correct.

21 Q In the RV?

22 A Correct.

23 Q So would he print this in hard copy and give it
24 to you?

25 A In the final report format. Final report,

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1 less photographs. I would view the photographs
2 because they were so expensive or cumbersome, time
3 consuming to print. I would review those and
4 primarily editing the captions to be sure that I
5 agreed with the caption that was on the photograph
6 prior to printing the final copy.

7 I would review the hard copy draft or
8 report that came back from review. I would look at
9 the photographs on the computer, edit the captions.
10 And he would print those, put the final report
11 together, and then I would sign and stamp the final
12 report.

13 Q Were you e-mailing during this process?

14 MS. PLATT: Object to form.

15 THE WITNESS: I did not have a company e-mail
16 address.

17 BY MR. WYATT:

18 Q Were you using --

19 A I had a personal e-mail that I had
20 communicated with Bob and Randy about my offer and
21 about a few issues, but not frequently.

22 Q What was your personal e-mail address that you
23 were using?

24 A Jbrianford@yahoo.com.

25 Q And did that ever change throughout the time

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1 you were working with Forensic?

2 A No.

3 Q And you never had a Forensic e-mail address
4 assigned to you?

5 A No.

6 Q Were any lawyers copied on any of the e-mails
7 that you transmitted under your Yahoo address?

8 A Not that I know of.

9 Q Okay. Now, after the report was finalized,
10 that was on Mr. Sammis' laptop, is that correct?

11 A Yes.

12 Q At that point is that when you signed and
13 affixed your seal to the report?

14 A Correct.

15 Q Was the report bound? Was it in a binder?

16 A Not when I saw it last, no.

17 Q And what would happen after you signed it and
18 sealed -- put your seal on it?

19 A Adam delivered them to State Farm nearby
20 in Biloxi. I do not know whether they were bound,
21 what format they were presented in. I know they
22 were packaged and sealed and delivered.

23 Q And when you say sealed, what do you mean by
24 that?

25 A A sealed envelope. A sealed package.

1 Q And were you ever authorized to take those over
2 to State Farm?

3 A No. No, I never went there.

4 Q Was Mr. Mannon ever authorized to take them
5 over there to your knowledge?

6 A Not to my knowledge.

7 Q So Mr. Sammis was the only person who delivered

8 the reports over to State Farm?

9 THE VIDEOGRAPHER: Excuse me.

10 MR. WEBB: Object to form.

11 MR. SCRUGGS: Do you want to change tapes?

12 THE VIDEOGRAPHER: Yes. I just lost power
13 somehow.

14 MR. WYATT: Break time.

15 (Break taken.)

16 THE VIDEOGRAPHER: Back on the record. The
17 time is 11:03.

18 BY MR. WYATT:

19 Q Mr. Ford, when we were speaking earlier about
20 the preparation of your reports and so forth, we talked
21 about a laptop computer that you used. Do you recall
22 that?

23 A Yes.

24 Q Okay. Where is that laptop today?

25 A When I was terminated from Forensic, I

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1 turned it in to the field office.

2 Q And that would be on or about October 21st,
3 2005?

4 A Correct.

5 Q And not October 17th, 2005?

6 A Correct.

7 Q Okay. And when you say 'turned it into the
8 field office', do you mean at the RV?

9 A Correct.

10 Q Who did you give it to?

11 A Adam Sammis.

12 Q And did you give Mr. Sammis any other devices,
13 memory devices, or other external storage devices?

14 A There was a memory stick associated with

15 it. And all of the in-progress reports that I was
16 preparing or reviewing.

17 Q A hard copy of those reports?

18 A Correct.

19 Q All right. So you gave him a memory stick, and
20 you gave him the laptop, and you gave him the hard
21 copies?

22 A Correct.

23 Q Do you know how many reports there were, hard
24 copy, that you gave him?

25 MR. NORRIS: Object to the form.

55

1 THE WITNESS: Not exactly but there were 10
2 to 12 reports under development in preparation of
3 various stages.

4 BY MR. WYATT:

5 Q Was any of the information on your laptop
6 computer, ever transferred to another computer site while
7 the laptop was in your possession?

8 A Only through the memory stick.

9 Q Okay. Which you had in your possession?

10 A Correct.

11 Q And what did Mr. Sammis do with the laptop and
12 the memory stick when you turned it over to him?

13 A I have no idea.

14 Q And was that the only computer that you
15 utilized during the time that you were working for
16 Forensic?

17 A Except my personal computer for e-mail.

18 Q And that would be your home desktop computer?

19 A Correct.

20 Q Did that e-mail -- you used that for e-mail
21 primarily, right?

22 A Right.
23 Q The Yahoo address?
24 A Correct.
25 Q And did you e-mail attached documents to and

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1 fro from that computer, that home computer?

2 A Throughout the course of my employment
3 with Forensic. And I think on one occasion after
4 that when they sent me something there were
5 attachments with that. There was an attachment with
6 that, yes.

7 Q So would it be a fair statement that Forensic
8 documents were at one point in time on the hard drive of
9 your home desktop computer?

10 MR. WEBB: Object to form.

11 MS. PLATT: Object to form.

12 THE WITNESS: I know of one Forensic document
13 that was, yes. There may have been more, but I
14 know of one.

15 BY MR. WYATT:

16 Q What's the one that you are thinking of?

17 A I believe it was a Simpson report.

18 Q Sandra Simpson?

19 A Yes. That was sent to me months after my
20 termination by an office employee that asked me -- a
21 question had come up from State Farm regarding that
22 and asked me a question. And that -- I said I do
23 not have that document. I believe it was sent to me
24 at that time and I asked the question, please review
25 this with Randy or Bob to be sure they want me to

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1 work on this?

2 Q And what happened?

3 A The answer was no.

4 Q No, they did not want you to work on it?

5 A Correct.

6 Q I noticed, Mr. Ford, from this morning you have
7 been referring to your notebook there. You have a
8 three-ring binder and also a spiral notebook that you
9 brought with you?

10 A Yes.

11 Q Are there other documents that you brought
12 besides that, the three-ring binder and then the spiral
13 notebook?

14 A Simply the notes regarding this -- the
15 Notice for this meeting and the e-mail between
16 Kathryn and myself. And then some other documents
17 that are reference material for me. Copies of
18 e-mails.

19 Q Okay. And those are things you have been using
20 to refresh your recollection this morning through this
21 testimony?

22 A That's correct.

23 Q We would like to obtain a copy of those
24 documents. So -- before we go any further in this
25 deposition. Maybe it would be a good time to break and

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1 see if we can get sufficient copies of those made.

2 A Some of it is with another engineering
3 company that I have an agreement with that I will
4 not share those with anyone else. And so I will not
5 give you copies of those.

6 Q Certainly, sir. Is there anything in there,
7 those materials that you just identified on the record,

8 that is not Forensic related --

9 A There is non Forensic information here,
10 yes.

11 Q Okay. And specifically it has to do with your
12 other engineering contract job?

13 A Correct.

14 Q If you will just take those out. We have no
15 interest in those whatsoever.

16 A So any documents that have to do with
17 Forensic?

18 Q Well, all documents -- another way of saying it
19 is: All documents except for the ones you have
20 identified that are clearly not related, that relate to
21 your other employment relationship.

22 MR. NORRIS: We would like to get a copy of
23 those, too.

24 MR. WYATT: Certainly.

25 MR. WEBB: Same here.

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1 MS. PLATT: Same.

2 THE WITNESS: I don't know if I'm interested
3 in giving you my personal notes.

4 BY MR. WYATT:

5 Q I understand. Under the Rules of Procedure
6 that govern this deposition and Federal Court
7 Proceedings, we would be entitled to these documents
8 unless there is some kind of attorney-client privilege or
9 other privilege recognized under law that would protect
10 them.

11 So that's my reason for asking. It
12 is not merely to probe into anything personal. It
13 is just simply -- it is standard procedure under
14 Witness Examination Rules under the Federal Rules of

15 Civil Procedure.

16 A I'm not sure I understood what you said.

17 Q All right.

18 A I'm not sure I agree with what you said.

19 MR. WYATT: Why don't we take a moment,
20 Mr. Ford, off the record and perhaps, you know,
21 you can explain more to us what it is that you are
22 concerned about. We clearly do not want anything
23 from you that is protected by privilege, of
24 course, we all recognize that.

25 But if you are using notes and so forth to

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1 assist you in your testimony, it is standard
2 protocol that that information is discoverable
3 and should be provided to those who are
4 conducting the examination and the other
5 counsel here, too, as well.

6 So unless somebody has anything else to
7 add, at this point we will just go off the
8 record for a moment.

9 THE VIDEOGRAPHER: This marks the end of
10 videotape number one in the deposition of Brian
11 Ford going off the record. The time is 11:12.

12 (Video off.)

13 (Off-the-record discussion.)

14 (On the written record.)

15 BY MR. WEBB:

16 Q Mr. Ford, just made a statement off the record
17 and Mr. Scruggs had asked that you repeat that statement
18 about Forensic documents. Can you do that at this point?

19 THE WITNESS: I will try to restate it.
20 Linda can probably do a better job than I can at
21 it, but my statement was that I have Forensic

22 documents here that are simply e-mails for which I
23 would think Forensic's representation already has.
24 I have no problem with you making copies of my
25 copy of Forensic documents.

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1 BY MR. WYATT:

2 Q Okay. Why don't we then -- let's convene for a
3 moment and get the documents and get them reproduced so
4 we can compare the documents and see if that's -- you
5 know, what we, in fact, do have.

6 And then anything else, Mr. Ford,
7 that you have that you are using to assist yourself
8 in testifying here today besides those documents.
9 Is there anything else?

10 A Anything besides Forensic documents?

11 Q Right.

12 A I have some documents from -- I haven't
13 referred to them. I have them with me, of work I
14 did with another engineering company.

15 Q Okay. Not related to Katrina?

16 A They are related to Katrina.

17 Q I see. But not related to employment with
18 Forensic?

19 A Correct.

20 MR. WYATT: We are on the record, are we not?

21 THE COURT REPORTER: Yes.

22 BY MR. WYATT:

23 Q Go ahead and if you would tell me about that.
24 Did you work for another engineering company after you
25 were terminated from Forensic?

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1 A Yes. I was contacted by an employment
2 recruitment service looking for someone to work for
3 a company to do structural assessments of properties
4 related to Katrina.

5 Q And what company was that?

6 A MACTEC. Capital MACTEC. All caps.

7 Q Okay. Were you doing the same thing for them
8 that you had done for Forensic?

9 A Yes.

10 Q All right.

11 MR. NORRIS: Is the video running on this?

12 THE VIDEOGRAPHER: No.

13 MR. WYATT: We need that.

14 MR. NORRIS: We probably need to go ahead and
15 go back on now.

16 THE VIDEOGRAPHER: Just a second, please.

17 MR. WYATT: I'm sorry, I didn't realize that.
18 I thought we were on full --

19 (Video on.)

20 THE VIDEOGRAPHER: This marks the beginning
21 of videotape number two in the deposition of Brian
22 Ford. Back on the record. The time is 11:16.

23 BY MR. WYATT:

24 Q Mr. Ford, I have got to ask you some questions
25 again, I apologize. But we -- it turned out we were not

1 on the video just a moment ago.

2 You advised me a moment ago that you
3 worked for another engineering company after your
4 termination from Forensic, is that correct?

5 A Correct.

6 Q Doing Katrina inspections?

7 A Correct.

8 Q And the name of the company you said was

9 MACTEC?

10 A MACTEC.

11 Q M-A-C-T-E-C?

12 A Correct.

13 Q Okay. What insurance company had hired MACTEC?

14 A Allstate.

15 Q How many inspections, hurricane inspections,
16 did you do for MACTEC?

17 A It was over 40.

18 Q And was this immediately following the
19 termination date of your employment with Forensic?

20 A No. It was December, January, February,
21 of '05 and '06.

22 Q And how did you get employed by MACTEC?

23 A I was contacted by an employment
24 recruiting service that recruited me and asked me to
25 talk to them about employment on a contract basis.

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1 Q I see. And who was the person that you
2 reported to when you were working with MACTEC?

3 A George Luckenbaugh.

4 Q L-U-C-K?

5 A E-N-B-A-U-G-H.

6 Q And where he was located?

7 A In Raleigh, I believe.

8 Q Raleigh, Mississippi?

9 A No. North Carolina.

10 Q The same city Mr. Kochan was located in?

11 A I would have to look that up. That may
12 not be correct. They have multiple offices.
13 Charlotte. I'm sorry, Charlotte.

14 Q Charlotte, North Carolina?

15 A Charlotte.

16 Q When -- and did you talk to Mr. Luckenbaugh
17 when you were hired or someone else?

18 A Yes.

19 Q Did Mr. Luckenbaugh ask you what you had been
20 doing previous to this discussion about becoming
21 employed?

22 A Yes.

23 Q And what did you tell him about that?

24 A I told him that I had -- what my
25 experience was as we've discussed here, engineering

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1 career and so forth. And did some work on
2 inspections on the Coast.

3 Q Did you tell hem about your work with Forensic?

4 A Yes. I think I told him that I had worked
5 with them, yes.

6 Q And what did you tell him about the reason you
7 were not working for Forensic any longer?

8 A I don't think we discussed that.

9 Q Was there any discussion about the person named
10 Lekie King who works for State Farm?

11 A With whom?

12 Q With Mr. Luckenbaugh.

13 A No.

14 Q Did Mr. Luckenbaugh ask you for references?

15 A No.

16 Q What did you tell Mr. Luckenbaugh about the
17 reason you were not -- to longer working for Forensic?

18 A We didn't discuss it.

19 Q That was not brought up in the conversation?

20 A No.

21 Q Okay. And you worked for this MACTEC company
22 through January of '06?

23 A No. Through -- probably through into
24 April of '06. And then occasionally they would
25 contact me for follow-up activity.

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1 Q Okay. During the time that you were employed
2 by MACTEC, do you recall any occasion where one of your
3 reports was altered or changed?

4 MR. WEBB: Objection to form.

5 MR. NORRIS: Same objection.

6 MS. PLATT: Join.

7 THE WITNESS: No. I think the same sequence
8 of events would occur where you prepare it; submit
9 it; have phone conversations; discuss it; clarify;
10 finalize it. But, no, there was -- nothing
11 changed without my knowledge or input in any of
12 the MACTEC reports, no.

13 BY MR. WYATT:

14 Q Did that ever happen while you were employed
15 with Forensic?

16 MR. NORRIS: Object to form.

17 MR. WEBB: Same objection.

18 MS. PLATT: Same objection.

19 THE WITNESS: Not to my knowledge. Not while
20 I was employed there. No.

21 BY MR. WYATT:

22 Q So is it your testimony that you never learned
23 during or after your employment with Forensic, that any
24 of the reports you had generated with Forensic had been
25 altered or changed without your knowledge?

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1 MS. PLATT: Object to the form.

2 MR. WEBB: Object to the form.

3 MR. NORRIS: Join.

4 THE WITNESS: You have asked several things.

5 I think you need to break it down into one or two
6 items. While I was there, none of my reports
7 changed without my knowledge or consent. Since I
8 left there, I have been shown copies of reports
9 that I drafted, and reports on the same property
10 by other people.

11 BY MR. WYATT:

12 Q And what did those reports -- when you were
13 shown them, what did you ascertain from that?

14 MR. WEBB: Objection to form.

15 BY MR. WYATT:

16 Q If anything?

17 A As I mentioned earlier, I had many reports
18 in progress when I was terminated. I submitted
19 those reports, some that were in draft form. Some
20 that were signed and ready to be approved, signed
21 off by the peer review. Some that I had reviewed of
22 other engineers, primarily Mannon in that case. And
23 I turned all of those in. I do not know what
24 happened to those reports.

25 Q Let me show you an e-mail, Mr. Ford. And,

□

1 counsel, this is Exhibit 32 to the Shows' Complaint
2 although it is not -- we are not interested in conducting
3 any Shows' discovery, but it is a document that relates
4 to the general adjustment practices of Forensic and State
5 Farm.

6 MR. WEBB: May I?

7 MR. WYATT: Sure.

8 MS. PLATT: Derrick, is that an e-mail that
9 was gotten off of the disks or from...

10 MR. WYATT: Yes. It is from the Shows
11 Complaint.

12 MR. NORRIS: Are you asking about the
13 ultimate source of it?

14 MS. PLATT: Yeah. I want to know if it came
15 off the discs that y'all attained at Nellie's
16 deposition in Reno or if it came from the hard
17 drive.

18 MR. WYATT: I think once you have seen it you
19 can identify that it is part of the disk that
20 Forensic has had, Larry has had.

21 MS. PLATT: Okay. I just wanted to clarify
22 which source it came from.

23 MR. WYATT: Yes. Probably Spring of 2006 as
24 best I understand it.

25 MR. NORRIS: I wasn't there.

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1 MR. WEBB: I do think that -- wasn't there a
2 ruling as I recall it about not going into the
3 Shows issues?

4 MR. WYATT: As I understand it, Judge
5 Walker's ruling during the Kelly deposition was
6 stick to discovery in McIntosh and the general
7 practices -- adjustment practices. And I may be
8 stating this not exactly as he said it. But this
9 is my understanding of the general adjusting
10 practices of State Farm and Forensic.

11 So to the extent that a document relates
12 to the general adjustment practices of Forensic
13 and State Farm, that's the basis for which we

14 are using the documents.

15 MR. WEBB: Okay. A problem I have with this,
16 I assume that this document is like the other two
17 documents that we talked about earlier in the
18 morning, too, have not been produced in the
19 context of this case.

20 And I don't know that -- once again I will
21 just lodge an objection at this point in the
22 story and let you and ask the questions. But I
23 don't think it is proper for you to pull
24 exhibits in from anywhere and ask this witness
25 questions about them. But I will lodge that

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1 objection.

2 MR. WYATT: It is noted.

3 MS. PLATT: I would also like to enter an
4 objection as to what else may have been in context
5 with this e-mail. I see at the top it says Page 1
6 of 2 --

7 MR. NORRIS: Join.

8 MS. PLATT: -- and given that as an exhibit
9 in this deposition, it could be taken out of some
10 sort of context.

11 MR. WYATT: Okay. Just hand it to me.

12 BY MR. WYATT:

13 Q Mr. Ford, now that has made the rounds, if you
14 will take a look at it there?

15 MR. NORRIS: Are you going to mark it for
16 this or are you just going to use the exhibit
17 sticker on it?

18 MR. WYATT: No. I'm going to mark it, yes.

19 BY MR. WYATT:

20 Q Take a moment, if you would, and just read that

21 and tell me when you are ready.

22 A (Witness examines document).

23 MR. WEBB: Before he answers another question
24 about this, are we going to go ahead now and get
25 this situation cleared up about his records?

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1 MR. WYATT: Yes. I'm going to get to that as
2 soon as we get through with this.

3 BY MR. WYATT:

4 Q Mr. Ford, just a moment ago you related to me
5 that you had been shown documents. In other words,
6 copies of a report that you prepared, correct?

7 A Correct.

8 Q And then another report, is that right?

9 A That's correct.

10 Q And the two were inconsistent?

11 MR. WEBB: Objection to form.

12 MS. PLATT: Object to the form.

13 MR. NORRIS: Same.

14 THE WITNESS: What do you mean by
15 inconsistent?

16 BY MR. WYATT:

17 Q What was your understanding of the comparison
18 between the two reports?

19 MR. WEBB: Objection. are we talking about
20 McIntosh?

21 THE WITNESS: Of McIntosh?

22 BY MR. WYATT:

23 Q Yes.

24 A I was shown the McIntosh report that I
25 prepared. I was shown the McIntosh report prepared

1 by someone else. Different preparer and reviewer.

2 Q And you gave us that testimony after I asked
3 you whether you were aware, during or after your
4 employment with Forensic, that any of the reports you had
5 prepared had been changed or altered. Do you recall
6 that?

7 MR. WEBB: Objection to form.

8 MS. PLATT: Same objection.

9 THE WITNESS: Yes, I recall that.

10 BY MR. WYATT:

11 Q Okay. Have you ever told anyone whether you
12 were aware during or after your employment with Forensic
13 that your reports were changed or altered?

14 A I have been told that. I have not seen
15 others. I know that I had a lot of reports in
16 progress as I had mentioned and they were turned in.
17 It is apparent from this that those were
18 re-inspected. That the reports I turned in were not
19 used, apparently. And were re-inspected and
20 reissued.

21 Some of those -- I don't know if some
22 I had already written or reviewed had been given to
23 State Farm. I don't know if those have been changed
24 or not other than McIntosh. I don't know the answer
25 to that.

1 MR. WEBB: Could you read back the first line
2 of that answer?

3 THE WITNESS: I can't read it back. I'm
4 talking to the court reporter. Sorry.

5 (The referred-to answer was read
back by the court reporter.)

6 BY MR. WYATT:

7 Q Let me show you at this point, Mr. Ford, I will
8 mark a copy of the McIntosh report. That's what you were
9 referring to just now, were you not?

10 A Yes.

11 (WHEREUPON, Exhibit Number 3 was
12 marked for identification.)

12 BY MR. WYATT:

13 Q Okay. Before we go any further, this is
14 Exhibit 3, the e-mail there that you just read.
15 Mr. Ford, while we are waiting for these documents to be
16 passed around, have you ever seen that e-mail before?

17 A No.

18 Q Did anyone ever inform you of the same things
19 that are in that e-mail? Have you ever been informed of
20 that?

21 A No.

22 Q And for the record, you are not copied on this
23 e-mail, right?

24 A No. I --

25 Q Excuse me?

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1 A That's November?

2 Q This is November 10, 2005.

3 A Yes. After I was terminated, I had no
4 conversation with Forensic.

5 Q I see. This is from Nellie Williams to Mark
6 Wilcox. Is that the man that worked for State Farm?

7 A I can't answer that. I met a Mark Wilcox
8 with State Farm, yes. I don't know if that's the
9 same person or not.

10 Q He has a State Farm e-mail address. So would
11 that be the same person you --

12 MR. WEBB: Object to the form.

13 MR. WYATT: -- as far as you know?
14 MR. WEBB: Asked and answered.
15 MR. NORRIS: Join.
16 THE WITNESS: You are asking me to -- I can't
17 answer that question. I have no idea what his
18 e-mail address is.
19 BY MR. WYATT:
20 Q Did you ever meet two people that worked for
21 State Farm named Mark Wilcox?
22 A I met one.
23 MR. WEBB: Object to the form.
24 THE WITNESS: A tall, big man.
25

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1 BY MR. WYATT:
2 Q Who is Nellie Williams?
3 A Nellie is the operations manager I believe
4 her title was.
5 Q Director of operations?
6 A Director of operations for Forensic. She
7 was in Reno, Nevada.
8 Q And the other people listed on here is
9 Mr. Kochan. That's the owner of Forensic, right?
10 A Correct.
11 Q Mr. Sammis is the non-engineer who worked in
12 the RV field. And then Randy Down who is --
13 A Vice president of engineering.
14 Q Up in Raleigh?
15 A Yes.
16 Q Okay. And, Mr. Ford, you saw that this e-mail
17 states that -- and I quote, this is Ms. Williams talking
18 to Mr. Wilcox.
19 A Right.

20 Q We had completed most of these reports. But
21 due to the decision to terminate Brian Ford's services,
22 those reports written by Brian were not turned in and are
23 being re-inspected. Right?

24 MR. WEBB: Objection to the form.

25 MR. NORRIS: Object to form.

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1 MS. PLATT: Object to the form.

2 THE WITNESS: That's what it says.

3 BY MR. WEBB:

4 Q That's what it says. And this is the first
5 time you have ever known that, is that correct?

6 A It is the first time I have ever read
7 that.

8 MR. WEBB: Object to the form.

9 THE WITNESS: I certainly suspected it.

10 BY MR. WYATT:

11 Q First time you have ever read it in writing?

12 A Correct.

13 Q Regarding your termination as stated in here,
14 what did Mr. Kochan tell you about the circumstances of
15 why you were being terminated?

16 A I was working on my laptop at home
17 finalizing reports and revising a report that Mark
18 Wilcox and I went to the site about. Mark met me at
19 a site, the one I mentioned earlier. We talked
20 about the report. We talked about the damage. We
21 talked about various things.

22 I described why I came to my
23 conclusions, how I came to my conclusions, with his
24 probing questions. He asked me if I would revise my
25 report and put those details in it, which supported

1 my conclusion. And I said, yes, I would.

2 Q Okay. That's slightly a little different, but
3 I want to ask you about that: Mr. Wilcox was directing
4 you as to content to put in your report?

5 MR. WEBB: Object to form.

6 MS. PLATT: Objection to form.

7 MR. NORRIS: Objection.

8 THE WITNESS: I object.

9 MR. WEBB: I sustain.

10 BY MR. WYATT:

11 Q Okay. Then explain to me, you had written the
12 report, correct? You were the author of the report, is
13 that right?

14 A Correct.

15 Q Was Mr. Wilcox an engineer?

16 A I can't answer that.

17 Q Well, did you know whether he was? Did he ever
18 tell you he was?

19 A No.

20 Q Okay. Did he ever affix a seal to an
21 inspection report? Did you ever see him do that?

22 A Not -- no, I have never seen him do that.

23 Q Okay. Did he ever tell you while you all were
24 inspecting something together, I am an engineer and,
25 Brian, I can talk with you on the same basis as you can,

1 right?

2 A No. And this is my impression of
3 Mr. Wilcox. And my impression of him is he is a
4 seasoned storm warrior. He has probably been
5 employed many years. He probably has seen a lot of

6 disasters. I think he is trained to know what to
7 look for. Whether he is an engineer or not, I have
8 no idea. We discussed the damage, the cause of the
9 damage. We discussed -- he had read my report and
10 the only -- we stood back at a distance and he said,
11 look at that damage. Do you see that waterline? A
12 pile of rubble on the side of a hill and you could
13 see through the rubble and see the sheetrock and you
14 could see the waterline. I said, yes, I see the
15 waterline. And he just paused for a long time.

16 Q So what he was pointing out to you was water
17 damage, is that right?

18 MR. WEBB: Object to form.

19 MR. NORRIS: Object to form.

20 MS. PLATT: Object to form.

21 THE WITNESS: He pointed out the waterline to
22 see if I saw that watermark in that house.

23 MR. WEBB: Excuse me. Let him finish his
24 answer.

25 BY MR. WYATT:

1 Q Excuse me. I didn't mean to cut you off.
2 Sorry. But he was pointing out water damage evidence, is
3 that right?

4 MR. NORRIS: Object to the form.

5 MS. PLATT: Object to the form.

6 MR. WEBB: Same objection.

7 THE WITNESS: If you are asking me what I
8 think he was doing? Is that what you are asking
9 me?

10 BY MR. WYATT:

11 Q Based on your skills as an engineer, what was
12 he pointing out to you? Was he pointing out to you water

13 damage or wind damage?

14 MR. NORRIS: Object to form. Asked and
15 answered.

16 MS. PLATT: Object to the form.

17 BY MR. WYATT:

18 Q What was he pointing out, if you know?

19 A Yes, he was confirming that I saw the
20 waterline and would associate that with whatever
21 damage occurred from water.

22 I went over the property with him.
23 We walked all around it and through it. I pointed
24 out to him the foundation, the anchorage, the damage
25 to the trees in the area. The damage to the

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1 properties in the area. Which direction the
2 properties were falling. Which way they looked like
3 the damage occurred from, whether it was from wind
4 force or water movement. And we talked about those
5 things.

6 Then he pointed out the watermark to
7 me. I tried to give him all of those details. And
8 after the long pregnant pause, he said, would you be
9 willing to revise your report to add those details
10 in your report?

11 Q He had your report in his hand with you on the
12 property, is that right?

13 THE WITNESS: I can't say that.

14 MR. WEBB: Object to the form.

15 BY MR. WYATT:

16 Q What were y'all referring to if not the report?
17 I understood you to say you were talking about your
18 report, is that right?

19 MR. NORRIS: Object to the form.

20 THE WITNESS: The contents of the report,
21 yes.

22 BY MR. WYATT:

23 Q Well, had the report already been given to him?

24 A The report had been issued from Forensic.

25 I can't answer whether he had it or not.

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1 BY MR. WYATT:

2 Q How did he know what the report said? If you
3 know.

4 MR. NORRIS: Object to the form.

5 MR. WEBB: Same objection.

6 MS. PLATT: Join.

7 THE WITNESS: I think the reason -- well,
8 first of all, why would he meet me at the site?
9 why did he call and ask to meet me there? I think
10 he read the report. I would conclude that.

11 We met there. He asked me on the way
12 there, the long ride from the military police
13 location to the property site, he was probing
14 my background. You know, what is your
15 experience? And so forth. We got to the site
16 and I described what happened there. And how
17 we concluded that site visit with, will you
18 revise the report to add those details?

19 MR. WYATT: Right.

20 THE WITNESS: That support my conclusion?
21 And I said, yes.

22 BY MR. WYATT:

23 Q And, Mr. Ford, was it your understanding he
24 already had your report before that time?

25 MR. WEBB: Objection. Asked and answered.

1 MS. PLATT: Join.

2 THE WITNESS: It would be my understanding he
3 would have read the report, yes.

4 BY MR. WYATT:

5 Q Not read it, sir. Not to be --

6 A I do not know if he had a copy on his
7 person.

8 Q No. But you have already said he met you at
9 the site, right?

10 A Right.

11 Q How did he even call you about going to the
12 site? Tell us the details of did he have your report or
13 not?

14 MR. NORRIS: Object to form.

15 MR. WEBB: And asked and answered.

16 MS. PLATT: Join on both.

17 THE WITNESS: I did not see a copy of the
18 report in his possession when I met him at the
19 site.

20 BY MR. WYATT:

21 Q But based upon your knowledge and your
22 conversations with Mr. Wilcox of that day, had he
23 received your report prior to that time?

24 MR. WEBB: Objection asked and answered.

25 MR. NORRIS: Calls for speculation.

1 MS. PLATT: Same objection.

2 THE WITNESS: I think I have already answered
3 this once and I think the answer is: I think he
4 called to meet with me at the site because he had

5 read the report. He called to meet me at the site
6 to discuss it. We discussed it and the conclusion
7 from that discussion was that I would revise the
8 report to add additional detail based upon what I
9 had described to him at the site as my findings to
10 provide more detail about the conclusion.

11 BY MR. WYATT:

12 Q Right. And the more details was support -- was
13 to support a finding of water damage?

14 A No.

15 MS. PLATT: Object to the form.

16 BY MR. WYATT:

17 Q He pointed out to you a waterline, I thought
18 you said earlier, is that correct?

19 A That's correct.

20 Q And I believe you said that relates to water
21 damage, is that correct?

22 A That's correct.

23 Q And so what was it that he was asking you to
24 revise? Was it related to the water damage or some other
25 aspect?

1 A Not the water damage.

2 Q What was the other aspect?

3 A More detail about what the -- to support
4 the fact that the report said the primary cause was
5 wind, which was details about the foundation, the
6 anchorage.

7 Q Okay. So now I understand better. You went
8 with Mr. Wilcox to this site. Mr. Wilcox pointed out to
9 you the waterline and you acknowledged that, what he
10 said, right?

11 A Yes.

12 Q And then what he wanted you to do was revise
13 your report after he had pointed out the waterline, he
14 wanted you to revise your report to add more supporting
15 details concerning the conclusion about wind damage?

16 MR. NORRIS: Object to the form.

17 MR. WEBB: Objection to form.

18 BY MR. WYATT:

19 Q Is that the correct sequence?

20 MR. WEBB: Same objection.

21 MS. PLATT: Join.

22 THE WITNESS: What I agreed to do was to
23 revise the report to add more details to support
24 my conclusion.

25 BY MR. WYATT:

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1 Q The conclusion being the wind damage, right?

2 A Yes.

3 Q Okay. Did he point out anything to you that he
4 suggested was evidence of wind damage?

5 MR. NORRIS: Object to form.

6 MR. WEBB: Objection to form.

7 THE WITNESS: Not that I recall. He didn't
8 talk allot. He asked questions. And I did most
9 of the talking.

10 BY MR. WYATT:

11 Q I understand.

12 A He might have been a lawyer.

13 Q I'm sorry?

14 A Nothing.

15 MR. WEBB: Did you -- did he say he might
16 have been a lawyer? Okay.

17 MR. WYATT: What was your last statement?

18 THE WITNESS: Strike that, I'm just kidding.

19 MS. McALLISTER: He said he might have been a
20 lawyer.

21 (WHEREUPON, Exhibit Numbers 4 &
22 5 & 6 were marked for
identification.)

23 MR. NORRIS: Derek, I noticed that you
24 moved -- what I assume you pose to use as Exhibits
25 4 and 5. Which I understand to be -- 4 to be a

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1 page of the October 12 report with a copy of some
2 sticky note on it. And Exhibit 5 being a copy of
3 the October 12 report.

4 We would object to the use of that based
5 on the rules in the Alabama litigation. I
6 don't think it is necessary, but I will go
7 ahead and lodge that objection.

8 MR. WYATT: My understanding, David, although
9 I probably was not hands-on in that discussion was
10 that the document in question was produced in
11 McIntosh and filed by public record prior to the
12 time that the matters came up in the other case.
13 But I leave it to the Court to decide that issue,
14 you know. I wasn't in the middle of it at the
15 time but that's what I understand.

16 MR. NORRIS: I understand your position.

17 MR. WEBB: I would join in that objection.
18 And I believe that the matter as to whether this
19 could properly be used at all in this case is
20 subject of a pending motion before the Court which
21 has to be ruled on at least my last looking at the
22 e-mail. But are those 4, 5, and 6?

23 MR. NORRIS: Six, I think is the 10-20.

24 MR. WEBB: Right. Exhibit that 7 I'm looking
25 at here is another exhibit from the Shows

1 Complaint?

2 MR. WYATT: That's right. That's right.

3 MR. WEBB: How many more -- if you mind, can
4 you tell me how many Shows Complaint exhibits you
5 have?

6 MR. WYATT: I don't know, Dan. I don't know.

7 MR. WEBB: Several? If you do I really think
8 that we probably ought to just get an idea about
9 what they are so that we can talk to Judge Walker
10 to see if this what we are doing here related to
11 this stuff is within the parameters of his Order.
12 Because a lot of what we are talking about now
13 really doesn't have anything to do directly to the
14 McIntosh claim that I see.

15 MR. WYATT: Well, we went through that issue
16 in the Kelly deposition. And my understanding of
17 the arguments, pro and con, were we called to the
18 Court's attention the McIntosh case is a pattern
19 and practice fraud claim with many averments in
20 the Complaint, specifically using those words and
21 so forth.

22 The fact that there are documents that by
23 coincidence are attached to Shows, but are also
24 related to the pattern and practice fraud
25 averments that are contained in the McIntosh

1 case, that's the basis for our referring to the
2 documents.

3 And I understand that Judge Walker's
4 ruling was consistent with that. He ruled,

5 don't conduct Shows discovery, which we are not
6 doing. But he ruled it is fair game to conduct
7 discovery concerning the general claims
8 practices of Forensic and State Farm.

9 MR. WEBB: Right. Can you tell me -- or do
10 you already have them premarked, what exhibits
11 that you have?

12 MR. WYATT: I don't have them premarked, I do
13 not at this moment. But --

14 MR. WEBB: Well, honestly, I think what we
15 need to do at this point is to take a break and
16 call the judge. Because I believe that we need to
17 get some clarification on the extent that it is
18 going to affect would we do here.

19 This witness obviously testified he had
20 never seen an e-mail that you showed him
21 before. And just to put things in this record
22 that haven't been produced in this case -- to
23 us in this case, I think is once again
24 inappropriate. And particularly if you are
25 getting over into talking about the aspects of

□

1 these e-mails that are coming directly out of
2 the Shows Complaint.

3 MR. WYATT: I will be happy to do this if it
4 is expedient. I don't want to hold Mr. Ford here
5 while the attorneys, you know, go through more of
6 these machinations that attorneys are so
7 predisposed to do.

8 And I would like to go ahead and expedite
9 as much of what I can. And I will be happy to
10 push those issues to the end, even though I
11 really don't want to. I think it is destroying

12 the rhythm and sequence of my deposition.

13 But I do understand your objections and
14 you have a right to object to that. And I will
15 be happy to push those things to the end of the
16 deposition. There is even a chance we could
17 resolve it informally, but if not that's fine.
18 We can resort to a conference with the Court if
19 you would like to do that.

20 MR. WEBB: Okay. And perhaps when we take a
21 break we can call Julie and see when the Court
22 might be available and act accordingly.

23 MR. WYATT: That would be fine.
24 Particularly, what is that you that you are
25 objecting to right now? I want the record to

1 reflect exactly what it is you are objecting to.

2 MR. WEBB: Precisely, I'm objecting on the
3 grounds that I -- that this deals with some case
4 other than McIntosh. I don't think that it deals
5 directly with McIntosh and is sufficient to allow
6 you to go into it even in the pattern of practice
7 context.

8 Furthermore, the objection is that this
9 document -- nor have I to my knowledge any
10 other documents yet to be seen that have been
11 attached to Shows Complaints and been produced
12 in response to our discovery or in disclosures
13 in this case, so that we can anticipate that
14 this witness could be questioned about them.

15 And thirdly, quite frankly, I don't think
16 the witness, consistent with his prior
17 testimony, has any knowledge of those things.
18 And I think it is inappropriate just to sit

19 here and read things to him to him to
20 editorialize. Those are the three basic
21 points.

22 MR. WYATT: Okay. And I take it one
23 objection will speak for all if y'all would like
24 to?

25 MS. PLATT: Yes. And I was just going to

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1 answer and I didn't want to disturb the flow. And
2 I was going to join in both Mr. Norris' and Mr.
3 Webb's objections made in the last five minutes,
4 starting with the exhibits marked as 4, 5, and 6
5 and thereafter.

6 (WHEREUPON, Exhibit Number 7 was
7 marked for identification.)

8 MR. WYATT: Okay. And for the record, I'm
9 going to proffer and as I said consistent with
10 what I offered to do, Dan, I'm going to proffer
11 Exhibit 7 -- marked as Exhibit 7 forward, which is
12 an e-mail dated January 10, 2006. And the subject
13 of the e-mail is 'Hurricane Katrina modeling
14 information'. And it written by Mr. Kelly, copied
15 to Forbes, Kochan, Down, and Williams. And it
16 discusses the fact that Mr. Kelly has confirmed
17 that the wind came before the water.

18 BY MR. WYATT:

19 Q Okay, Mr. Ford, if you would take a look at
20 these three exhibits that are marked as 4, 5, and 6 with
21 me. And what you may do for expediency sake is why don't
22 we start with Exhibit 5. Just put the rest aside if you
23 like for a moment. And it is easier to deal with one
24 thing than three.

25 First of all, look at this report and

1 turn over to the signature page, if you will,
2 please.

3 A (Witness complies.)

4 Q Are we there?

5 A Yes.

6 Q Can you identify the signature written above
7 your name, Brian Ford, PE?

8 A That's my signature, yes.

9 Q Okay. And is that your official professional
10 engineering license number there?

11 A Yes.

12 Q Do you recall signing this report?

13 A Yes.

14 Q What report is this? What property owner?

15 A McIntosh.

16 Q And that is looking at the first page, Thomas
17 and Pamela McIntosh, the Plaintiffs in this case?

18 A Correct.

19 Q Yes, sir. And then looking at the first page,
20 what is the date of your report?

21 A October the 12th, 2005.

22 Q And what is the date that you got the
23 assignment to inspect the McIntosh's property?

24 A I can't answer what date I received that.
25 Forensic received it on October the 4th.

1 Q What date did you inspect the subject property?

2 A October 7th.

3 Q 2005?

4 A Correct.

5 Q And what does this report tell us about whether
6 or not the insureds, as they are referred to, the
7 homeowners, were present when you inspected the property?

8 A I'm sorry, would you repeat that part
9 again for me, please.

10 Q What did the report tell us about whether or
11 not the homeowners were present when you inspected the
12 property?

13 MR. NORRIS: Object to the form.

14 MR. WEBB: Join.

15 BY MR. WYATT:

16 Q If I can help you for a moment just to
17 expedite. If you look under the section called
18 'background' on the first page.

19 A Yes, I see it now.

20 Q Okay. Would you mind reading to us the
21 pertinent statement there that would be responsive to my
22 last question?

23 A Mr. McIntosh was present during FAEC's
24 inspection.

25 Q Okay. And FAEC is you, is that right?

□

1 A Correct.

2 Q And Mr. McIntosh was, in fact, present, wasn't
3 he?

4 A Yes.

5 Q Was that your custom to inspect when the
6 homeowner was present with you at the property?

7 MR. NORRIS: Object to the form.

8 MR. WEBB: Same objection.

9 MS. PLATT: Join.

10 THE WITNESS: It is preferable for the

11 homeowner to be there to provide access; to
12 provide information; to provide photographs prior
13 to so you can have a better understanding of what
14 the property looked like, what the structure was
15 constructed of. How big it was, one story, two
16 stories, whatever.

17 Properties that are no longer there, it is
18 very difficult to know what was there unless
19 you have some pre-information. I even had
20 people present construction drawings of
21 properties so you can actually see how it was
22 built, what the materials were. So that's very
23 helpful if you have that, yes.

24 BY MR. WYATT:

25 Q I see.

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1 A So it is preferable to have the homeowner
2 there, yes.

3 Q And as a matter of preference, would you like
4 to have the homeowner's permission or not before you go
5 to inspect the property?

6 A Certainly.

7 MS. PLATT: Object to the form.

8 MR. WEBB: Object to the form.

9 BY MR. WYATT:

10 Q Excuse me, I didn't hear your answer because of
11 the objections. Could you please answer that again?

12 A I would prefer to have the homeowner's
13 permission, yes. The homeowner is aware that we are
14 there so that they don't think you are a looter or
15 something. Right.

16 Q All right. Or also so that you are not
17 inspecting their property without their permission?

18 MR. NORRIS: Object to the form.
19 MR. WEBB: Object to form.
20 MS. PLATT: Same objection.
21 THE WITNESS: I would not think that -- I
22 would think that permission has been granted
23 through this process, personally. I would prefer
24 the homeowner be there also to verify that's the
25 property in question. When there is such damage

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1 and there are no street signs, street numbers
2 available, you need to verify you have the right
3 property.

4 BY MR. WYATT:

5 Q So there are many reasons for --

6 A Many reasons.

7 Q Okay. Now let's turn to the section that is
8 headed with the word 'conclusions'.

9 A Uh-huh.

10 Q The first paragraph says based on the point of
11 information that has been presented to FAEC, that means
12 you, doesn't it, really?

13 A Correct.

14 Q And evidence gleaned during our inspections,
15 that's you isn't it? Our?

16 MS. PLATT: Object to the form.

17 THE WITNESS: In this case, that's correct.

18 BY MR. WYATT:

19 Q And then --

20 A Sometimes there is more than one person
21 there.

22 Q But as far as the McIntosh, it is you?

23 A Right.

24 Q Uh-huh. And then it goes on to say that

25 Forensic has made the following conclusion.

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1 A Correct.

2 Q You, I take it, were acting as the designated
3 principal engineer for Forensic. Is that correct?

4 MR. WEBB: Objection to form. Leading.

5 MS. PLATT: Object to the form.

6 THE WITNESS: And the engineer inspecting
7 this property.

8 BY MR. WYATT:

9 Q Well -- but just confining your answer to my
10 question. I understand you were. You were inspecting
11 and you were there in both capacities, am I right about
12 that? That you were the designated principal engineer
13 for Forensic and you were also inspecting, is that right?

14 A That's correct.

15 MR. WEBB: Object to form.

16 BY MR. WYATT:

17 Q And I believe you testified earlier that you
18 were the only designated principal engineer for Forensic
19 in their office at that time. Is that right?

20 A At that time, that's correct.

21 MR. NORRIS: Object to the form.

22 MS. PLATT: Same objection.

23 BY MR. WYATT:

24 Q Now, looking at the bullet points I will call
25 them there. The first conclusion relates to tree

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1 failures. Do you see that?

2 A Yes.

3 Q And what was your conclusion there?

4 A Trees in the area that had fallen, had
5 primarily fallen in the northwesterly direction,
6 which was my conclusion based on winds out of the
7 Southeast, which is typically where they come from
8 as the storm approaches.

9 Q So is it correct to say wind was your
10 conclusion there?

11 A Yes.

12 MR. NORRIS: Object to form.

13 BY MR. WYATT:

14 Q And then what is the next conclusion, the next
15 bullet point?

16 A Roof damage; door damage; carport; wind
17 damage -- and window damage, excuse me, was caused
18 by wind and wind-driven debris. That wind-driven
19 debris from the area is what contributed to -- wind
20 and wind-driven debris, wind caused roof damage;
21 door damage; wind-driven debris caused damage to
22 parts of the structure, also.

23 Q Has that conclusion changed? Have you changed
24 it?

25 A Have I changed it?

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1 MR. WEBB: Object to form.

2 MS. PLATT: Same objection.

3 BY MR. WYATT:

4 Q I'm sorry, what was your answer?

5 A No. I'm sorry, no.

6 Q Has either one of them changed? The first one
7 or the second bullet point, the ones we just went over?

8 A No.

9 MR. NORRIS: Same objection.

10 BY MR. WYATT:

11 Q Okay. The third bullet point there, what is
12 your conclusion there?

13 A It is my conclusion that the envelope of
14 the structure was ruptured by wind and wind-driven
15 debris that allowed the winds and debris to enter
16 the home and cause interior damage.

17 Q And has that conclusion changed?

18 MR. WEBB: Objection to form.

19 MS. PLATT: Same.

20 THE WITNESS: My conclusion hasn't.

21 BY MR. WYATT:

22 Q I understand. This is your conclusion, right?

23 A Right.

24 Q But you were acting as Forensic's designated
25 principal engineer?

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1 A Right.

2 MR. NORRIS: Object to form.

3 BY MR. WYATT:

4 Q Have you changed that conclusion?

5 MR. WEBB: Object to the form.

6 THE WITNESS: No.

7 ////

8 BY MR. WYATT:

9 Q And this report -- Mr. Ford, this is the report
10 that was prepared and taken to State Farm, is that
11 correct?

12 MR. NORRIS: Object to form.

13 MR. WEBB: Objection to form.

14 MS. PLATT: Same.

15 THE WITNESS: It was prepared, reviewed by
16 Bob Kochan and then submitted to State Farm, would
17 have been the process, yes. When that was

18 submitted, I have no idea.

19 BY MR. WYATT:

20 Q I'm sorry, I apologize for inattentiveness.

21 May I ask Ms. Court Reporter to please read that answer
22 back.

23 (The referred-to answer was read
24 back by the court reporter.)

25

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1 BY MR. WYATT:

2 Q Was Mr. Kochan's signature affixed to Exhibit 5
3 before you signed Exhibit 5?

4 A I do not know the answer to that. I
5 would -- I don't know the answer to that.

6 Q Earlier today I understood you to say that --

7 A It had happened on occasion, yes.

8 Q Okay. You just don't know on this occasion
9 whether that's what happened or not?

10 A That's true.

11 Q Okay. Now, did you ever have occasion to talk
12 on the telephone with a person named Lekie King
13 concerning this report, the McIntosh report?

14 A Yes.

15 Q And what date did you talk with Lekie King on
16 the telephone concerning the McIntosh report?

17 A October 17, 2005.

18 Q What is your recollection of that conversation?
19 And, Mr. Ford, while we are at it again, this is not to
20 probe whatsoever. But just to follow proper procedure in
21 examining the witness. Are you referring to notes or
22 something in your notebook there while we are asking
23 questions about this subject matter?

24 A Yes, I am. And I don't want to leave

25 anything out so I can refer to it. Obviously, you

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1 guys all have a copy of it. Do we even need to go
2 through it? But if we do, we can.

3 Q Let's start this way: How about identifying
4 what it is for the record that you are referring to
5 first.

6 A Bob Kochan asked me to put in writing my
7 conversation with Lekie King.

8 Q Are you looking --

9 A And I have a copy of the e-mail that I
10 sent to Bob Kochan on October 17th documenting my
11 conversation with Lekie King. It is complete and
12 accurate with one omission. And I will add that at
13 the appropriate time.

14 (WHEREUPON, Exhibit Number 8 was
15 marked for identification.)

15 BY MR. WYATT:

16 Q Okay. Can we hold that thought for just a
17 second. We are getting ahead of ourselves just a little
18 bit. Let me hand you an October 17, 2005 e-mail from
19 Mr. Kochan to you. This is marked as Exhibit 8?

20 MS. MCALLISTER: Counsel obviously is
21 reviewing that.

22 MR. WEBB: It is Exhibit 8.

23 BY MR. WYATT:

24 Q If you will compare that. Mr. Ford, just
25 compare it to what you have in your notebook and see if

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1 it matches. And just tell us first, does it match?

2 MR. WEBB: Although I know there are --

3 THE COURT REPORTER: I'm sorry, I can't hear
4 you.

5 MR. WEBB: Although I know there are copies
6 of this in different places, what's the source of
7 this?

8 MR. SCRUGGS: You don't have to tell him.

9 MR. WYATT: A forensic document is the source
10 of it. If it wasn't disclosed in this case, I
11 think you need to be looking towards the other
12 side of the table.

13 MS. PLATT: It was in the five disks that
14 counsel -- Plaintiff's counsel obtained.

15 MR. WEBB: The reason I asked, I didn't see a
16 Bates number on any of it.

17 MS. PLATT: That's why.

18 MR. WYATT: Is that -- does that match with
19 what you have?

20 THE WITNESS: Yes, it does. And I will just
21 work from this so that there won't be any
22 confusion.

23 MR. WYATT: And I need a copy. That's my
24 copy. You hold it if you wish.

25 MS. McALLISTER: That's yours.

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1 MR. NORRIS: If I could just have a moment.

2 MR. WYATT: Sure.

3 BY MR. WYATT:

4 Q Would you like to use this one, Mr. Ford?
5 Here. Let me hand that to you. I am marking this as
6 Exhibit 8 and if you will please look at the e-mail,
7 October 17, 8:51, p.m. Do you see that from Bob Kochan
8 to you?

9 A Yes, I do.

10 Q Okay. Now that's the same thing you have in
11 your three-ring binder there, right?

12 A Correct.

13 Q Okay. Did you receive that e-mail from
14 Mr. Kochan?

15 A Yes, I did.

16 Q Is that your e-mail address, at Yahoo.com?

17 A Yes, it is.

18 Q Okay. Now, Mr. Ford, what was the occasion
19 that Mr. Kochan was writing you about here? Explain why
20 he was writing you.

21 MR. WEBB: Object to form.

22 MS. PLATT: Object to the form.

23 THE WITNESS: I was in the field office
24 preparing a report when the phone rang and Adam
25 answered the phone and was carrying on a

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1 conversation. And I heard him say that the
2 engineer who wrote that is here. Would you like
3 to speak to him? And so he handed me the phone.

4 BY MR. WYATT:

5 Q Okay. May I stop you for just a moment?

6 A Uh-huh.

7 Q And I will do this periodically just so we can
8 make the record clear. You said, he said, the engineer
9 who wrote that is here and he handed you the phone? Is
10 that right?

11 A Right.

12 Q And what was 'that' that he was referring to?
13 Wrote what?

14 MR. NORRIS: Object to the form.

15 THE WITNESS: To the McIntosh report.

16 BY MR. WYATT:

17 Q Your McIntosh report?
18 A That's correct.
19 Q The document we've marked as Exhibit...
20 A Five.
21 Q Five. Just a moment ago?
22 A That's correct.
23 Q Sorry, go ahead please, sir.
24 A I took the phone and I said, this is Brian
25 Ford, how are you? Lekie King said not very good at

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1 the moment. Look at report Number 88. I said, yes,
2 I have it up on the computer now. Adam had pulled
3 it up during the conversation with Lekie King, he
4 pulled that report up on the screen.

5 Q So at this point Mr. King is looking at your
6 report and you are looking at your report on the screen
7 in the RV, is that right at the -- at Adam's computer?

8 A We are looking at it on Adam's computer.
9 I do not know what Lekie was looking at.

10 Q I understood you to say just a moment ago that
11 Mr. Sammis said, the engineer who wrote that is here?

12 A Who wrote that report, right.

13 Q And that was your McIntosh report?

14 A That's correct.

15 Q Okay. Okay. So the phone is handed to you and
16 then what?

17 A And I said, yes, I have it up on the
18 computer now. And Lekie said, this just can't be
19 wind. Look at Photograph 3. Look at the shingle
20 damage, it is not just wind. This is a cabana
21 house. I said, the report says wind and wind
22 debris. The front of the house was damaged by
23 wind-driven debris.

24 And Lekie said look at the photograph
25 and tell me what kind of damage that looks like? I

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1 said, yes, it looks like flood water. Eyewitness
2 reported that the house next to the insured, said
3 that the house came apart from wind and that the
4 debris blew into the insured's house, taking out the
5 windows and doors. And at this point I did not
6 write her comment in. But her comment was, hell,
7 these people are desperate. They will say anything.

8 BY MR. WYATT:

9 Q Okay. Let me make sure I understand this if I
10 can. You are reading from a different e-mail, which is
11 October 17, 8:52 p.m., right?

12 A Correct.

13 Q And that's the e-mail that you wrote to
14 Mr. Kochan where you were trying to recap the
15 conversation with Ms. King?

16 A That is correct.

17 Q And --

18 A Yes, I think there is a discrepancy in
19 Exhibit 8. I think the time zones and the computers
20 outsmarted themselves. I think the time -- the time
21 stamp on Exhibit 8 is wrong.

22 Q Yes, sir, I understand that Eastern time
23 computers may give us a false reading when we -- the
24 computer is from Eastern to Central and so forth.

25 A Because this answered one minute before I

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1 wrote it.

2 Q Certainly. I certainly understand that. But

3 the point of what you are saying right now, disregarding
4 the time problem for a moment, is that you would like to
5 add that there is something that is not in this e-mail --

6 A Correct.

7 Q -- about this recapitulating conversation,
8 correct?

9 A Correct.

10 Q And the statement that you are putting in
11 verbally, where does that come in in the sequence of your
12 e-mail?

13 A As I just stated --

14 Q Yes.

15 A -- after my statement regarding the
16 insured's house -- the debris blew into the
17 insured's house taking out the windows and doors.
18 To which she replied, hell, these people are
19 desperate. They will say anything.

20 Q Okay, I understand you, sir. And then you went
21 on to recount the rest of the conversation, correct?

22 A Right.

23 Q Okay. And what was the last thing that you
24 said that Lekie King said to you in this conversation as
25 shown on Exhibit 8?

1 A She concluded the conversation by saying,
2 thank you for the reports you have done, but you
3 will not be getting any more from State Farm.

4 Q So in other words, what did you take that to
5 mean?

6 MR. WEBB: Objection to form.

7 THE WITNESS: That I would not be writing any
8 more reports for State Farm.

9 BY MR. WYATT:

10 Q Yet after this date, I believe you told me
11 earlier, if I'm correct, you did write reports for State
12 Farm?

13 A Yes.

14 Q And what brought about the change that you were
15 allowed to write reports for State Farm again, if you
16 know?

17 MR. NORRIS: Object to form.

18 MS. PLATT: Object to form.

19 MR. WEBB: Same.

20 THE WITNESS: I do know. This conversation
21 between Bob Kochan and Lekie King.

22 BY MR. WYATT:

23 Q And tell me about that conversation to the
24 extent you are aware of it.

25 A Two parts. First, is the e-mail that is

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1 part of Exhibit 8 from Bob to myself. Basically
2 saying he had talked with Lekie King and had
3 obtained permission for us to continue writing
4 reports. So through some discussion, they arrived
5 at an agreement to continue. I was not a party to
6 that conversation.

7 Q Did you ever talk directly with Lekie King
8 again?

9 A No.

10 Q Who gave you your assignments that you took
11 after Lekie King told you, you will not be getting any
12 more assignments?

13 A The same procedure.

14 Q And who was that?

15 A Through Adam Sammis coordinating the
16 office.

17 Q From -- did you have any understanding or did
18 anyone ever discuss with you at that time whether or not
19 Lekie King had terminated or not Forensic's services in
20 general? We know that you have told us here she forbid
21 you from writing further reports.

22 MR. WEBB: Objection to the form.

23 MS. PLATT: Same objection.

24 THE WITNESS: It was my impression that
25 Forensic was about to be terminated. But this

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1 conversation restored the working relationship.

2 MR. WYATT: And how did you get that
3 impression? From what source did you get this
4 knowledge?

5 MR. WEBB: Objection to form.

6 MS. PLATT: Same.

7 THE WITNESS: Through this e-mail, plus a
8 follow-up conference call the next morning.

9 BY MR. WYATT:

10 Q And do you have a copy of that follow up e-mail
11 that you are referring to?

12 A Yes. It is part of Exhibit A.

13 Q Did you participate in the telephone conference
14 following the Lekie King telephone call that came about?

15 A Yes.

16 Q And this e-mail by Mr. Kochan that is -- shows
17 as sent October 17, 8:51 p.m. in Exhibit A. Is that the
18 e-mail that embodies this telephone conference you all
19 had?

20 MS. PLATT: Object to the form.

21 THE WITNESS: That's right.

22 BY MR. WYATT:

23 Q Okay. And what was discussed in that telephone

24 conference about restoring State Farm's contract with
25 Forensic, if anything?

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1 MR. WEBB: Object to the form.

2 MS. PLATT: Same objection.

3 THE WITNESS: On the basis that he said he
4 had spoken with Lekie and convinced her to give us
5 another opportunity. It said we have the
6 opportunity to earn your respect back by reworking
7 the two contested reports. And that we would talk
8 about it more the next morning, which we did.

9 BY MR. WYATT:

10 Q You are not copied on that e-mail, are you?

11 A Part of Exhibit 8?

12 Q I'm sorry, excuse me. You are referring to the
13 October 17, 8:51 p.m. e-mail, correct?

14 A 9:51, correct.

15 Q Okay. My copy shows 8:51, but I understand.
16 Okay. And the two reports that Lekie King was upset
17 about, were what reports?

18 MR. WEBB: Objection to form.

19 MS. PLATT: Same objection.

20 THE WITNESS: Without reviewing and reading
21 this letter again, but I don't believe it is -- I
22 would have to read this to say what the second
23 report is. One is the McIntosh report. I do not
24 know at this moment what the second report is.

25

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1 BY MR. WYATT:

2 Q Okay. And as you said earlier, Mr. Kochan had
3 talked with Lekie King and you all were going to earn
4 State Farm's respect back by reworking the two reports?

5 MS. PLATT: Object to the form.

6 MR. WEBB: Object.

7 ////

8 BY MR. WYATT:

9 Q Is that your understanding?

10 A That's Bob's -- what he said in the
11 e-mail, yes.

12 Q And was the McIntosh report reworked in order
13 to earn State Farm's respect back?

14 MS. PLATT: Object to the form.

15 MR. NORRIS: Object to the form.

16 MR. WEBB: Same objection.

17 THE WITNESS: Not by me.

18 BY MR. WYATT:

19 Q To your knowledge, was it reworked?

20 MS. PLATT: Objection.

21 MR. WEBB: Join.

22 THE WITNESS: Not during my employment.

23 BY MR. WYATT:

24 Q Do you know whether or not it was?

25 A I have been shown a copy of a subsequent

1 report, yes.

2 Q And what report is that?

3 A It was a second McIntosh report. Is it an
4 Exhibit?

5 Q Yes, sir. Could you refer to it? It is there
6 in front of you.

7 MR. WEBB: What's that exhibit number?

8 BY MR. WYATT:

9 Q Mr. Ford, could you read that Exhibit 6, is
10 that right?

11 A Exhibit 6.

12 MR. WEBB: Thank you, sir.

13 THE WITNESS: It is the McIntosh case.

14 BY MR. WYATT:

15 Q And is that the report that you are referring
16 to you have been shown?

17 MR. WEBB: Just for the record, Derek, I
18 don't want to interrupt you, but just continue the
19 objection that we voiced initially regarding 4, 5,
20 and 6. We just have a continuing objection on
21 that so we don't break up your rhythm anymore.

22 MR. WYATT: Sure.

23 THE WITNESS: I'm sorry, what was the
24 question?

25 MR. WYATT: I almost forgot myself. Is that

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1 the report that you referred to as having been
2 shown?

3 THE WITNESS: Yes.

4 BY MR. WYATT:

5 Q And who is the person that signed this report?

6 MR. WEBB: Object to form.

7 THE WITNESS: John B. Kelly and Robert
8 Kochan.

9 BY MR. WYATT:

10 Q All right. And if you will turn back to the
11 first page, would you please read the date on the report.

12 A The report is dated October 20th.

13 Q 2005?

14 A Correct, 2005.

15 Q Uh-huh. And will you read for us, Mr. Ford,

16 please, the date the assignment was given as indicated in
17 this report, Exhibit 6?

18 A Assignment was received on October 4,
19 2005.

20 Q To your knowledge, were two people assigned on
21 October 4, 2005 to inspect the McIntosh property?

22 MS. PLATT: Object to the form.

23 MR. WEBB: Same objection.

24 THE WITNESS: No, there were not.

25 BY MR. WYATT:

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1 Q And it would not be true, would it, that
2 Mr. Kelly accompanied you on October 4th -- I mean, that
3 Mr. Kelly, excuse me, was co-assigned with you on
4 October 4, 2005?

5 A No, he was not.

6 Q And what is the date that the investigation it
7 says -- this report says that the investigation was
8 conducted?

9 A On October 18th, 2005.

10 Q So that would be 11 days after you had
11 conducted the inspection of the McIntosh's property?

12 A I forget what my date was.

13 Q October 7th.

14 A Yes, that's correct.

15 Q If you could put those two reports side-by-side
16 for just a moment, I want to save you --

17 A I don't know that I still have those, the
18 originals. What exhibit is it?

19 Q It is Exhibit 5 and Exhibit 6.

20 A I do not have 5.

21 Q Let's see. I'm the guilty party. All right,
22 now, Mr. Ford, what I would like for you to do is to --

23 first of all, let me ask this question: Who is it that
24 showed you this Exhibit 6, the report that Mr. Kelly
25 signed?

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1 A I believe it was Dicky Scruggs.

2 THE COURT REPORTER: Dickie who?

3 THE WITNESS: Scruggs.

4 BY MR. WYATT:

5 Q Mr. Scruggs. The attorney affiliated --
6 representing the McIntoshes.

7 A Yes.

8 Q And is that the first time you had ever seen
9 that?

10 A Yes.

11 Q You were employed for another 10 days after
12 your inspection of the McIntosh's property?

13 A Right.

14 Q And it was 10 days before you received the
15 Lekie King telephone call, is that right?

16 A Correct.

17 Q During that time were you informed of
18 Mr. Kelly's inspection or preparation of a different
19 report for the McIntosh property?

20 A No.

21 Q All right. Now, if you will turn over to the
22 conclusion section. Let's turn to your conclusion
23 section, that's Exhibit 5 and then Exhibit 6, if you will
24 please flip over to the same conclusion section.

25 And what I'm going to ask you to do,

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1 Mr. Ford, is simply do a comparison for us for the

2 bullet points, if I can use that terminology. And
3 do you recall that earlier you have told us what the
4 three bullet points in your report, Exhibit 5, say,
5 right?

6 A Right.

7 Q Now, if you will look at Exhibit 6, let's take
8 them one-by-one.

9 MR. NORRIS: I would like to lodge an
10 objection to this line of questioning.

11 MR. WEBB: Join.

12 MS. PLATT: Join.

13 BY MR. WYATT:

14 Q What does the first bullet point in the Exhibit
15 6, the Kelly report, say and how does it compare to what
16 your report says?

17 A They are identical.

18 Q What about the second bullet point?

19 A It is a different description of wind
20 damage. Two different descriptions contributable to
21 wind.

(Mr. Scruggs leaves deposition
proceedings at 12:23 p.m.)

22 BY MR. WYATT:

23 Q So the second bullet point has been changed
24 from your initial report?
25

1 A Yes.

2 Q Would you please do the same for the third
3 bullet point.

4 A They are different.

5 Q And how are they different?

6 A The original report basically talks about
7 interior damage to the structure being the primary
8 result of the failure of the windows, walls, and

9 water due to wind.

10 Q I'm sorry, sir, could I get -- I misheard you,
11 I think. Would you please state that again. Your third
12 bullet point basically says what?

13 A That the interior damage of the structure
14 is primarily the result of the failure of the
15 windows, walls, and doors due to wind.

16 Q Okay, thank you. And then Mr. Kelly's report?

17 A It says the damage to the first floor
18 walls and floors appears to be predominately caused
19 by rising water from the storm surge and waves.

20 Q Mr. Ford, can you tell us date-wise when it was
21 that you first saw this Exhibit 6 report prepared by
22 Mr. Kelly?

23 A I believe that was May of 2006.

24 Q And at that time you had been terminated from
25 Forensic as far back as October 21st of 2005?

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1 A Correct.

2 Q Prior to your date of termination,
3 October 21st, 2005, had Mr. Kochan ever rejected any
4 inspection report that you had written?

5 A No.

6 MS. PLATT: Object to the form.

7 MR. WEBB: I object to the form, too.

8 BY MR. WYATT:

9 Q Do you recall earlier today we looked at some
10 documents, official documents, from the Mississippi
11 Engineering Board. Do you remember that?

12 MR. WEBB: Objection to form.

13 MS. PLATT: Object to form.

14 THE WITNESS: Yes.

15 BY MR. WYATT:

16 Q And do you remember the line of questions
17 concerning your role as the designated principal engineer
18 for Forensic?

19 A Yes.

20 Q After your termination from Forensic on
21 October 21st, 2005 --

22 A Oh...

23 Q Yes, sir.

24 A I'm not exactly sure of that date of
25 termination. Do you have a record showing the date

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1 of termination?

2 Q Actually, sir, I was basing that on your own
3 testimony earlier today. But it would be a good time to
4 clarify that if the record --

5 A I don't know the exact date. It was the
6 morning after I met Mark Wilcox at that site, which
7 was a few days after October 17. I don't recall the
8 exact date.

9 Q There could be some imprecision in saying the
10 21st is what you are saying, correct?

11 A It is very close. It may have been the
12 22nd. I don't know.

13 Q Okay. After the date that you were no longer
14 employed by Forensic, did you have any discussions with
15 Mr. Kochan or anyone else about how Forensic would deal
16 with the fact that the designated principal engineer was
17 no longer in the employment of Forensic?

18 MS. PLATT: Object to the form.

19 THE WITNESS: No. I did not have any
20 conversations with anyone after that point.

21 BY MR. WYATT:

22 Q After the -- did you say that morning?

23 A After I was terminated by Bob by
24 telephone, yes. I did not have any further
25 conversations with anyone about the Certificate of

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1 Authority, principal engineer in charge, with
2 Forensic, no.

3 Q Did you have any conversations with anyone
4 else?

5 A When I was interviewed by the attorney
6 general's office, I brought that point up. And I
7 asked for that to be looked into to see if my name
8 was still on that certificate.

9 Q The Certificate of Authorization that you said
10 earlier?

11 A Correct.

12 Q And what did you learn about that?

13 A I learned that John B. Kelly was the
14 engineer of record at that time.

15 Q And what time is that we are talking about?
16 May I help you? Would you like to refer to Exhibit 1 for
17 a moment?

18 A That wouldn't help answer the question.
19 That's when Jack became the engineer of record. My
20 question at the point in time was sometime in '06, I
21 asked the attorney general's office to verify I was
22 no longer the engineer of record. They verified I
23 was no longer the engineer of record. I did not
24 know at what time he was appointed that.

25 Q I see. Still if you don't mind, would you look

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1 at Exhibit 1 with me for a moment. And would you tell us
2 based upon that official record, the Mississippi
3 Engineering Board, what it shows about, if anything, what
4 it shows about the date Mr. Kelly did replace you as the
5 designated principal engineer?

6 MR. WEBB: Excuse me. Object to form and
7 renew the objection be made initially this
8 morning.

9 MS. PLATT: Join.

10 MR. NORRIS: Join.

11 BY MR. WYATT:

12 Q Can you tell from that document, Mr. Ford.

13 A Oh, boy. Jack -- John B. Kelly signed
14 this document December 10, 2005. And Robert Kochan
15 signed it December the 8th, 2005.

16 Q Did either of those people communicate with
17 you --

18 A No.

19 Q I haven't finished.

20 A They didn't communicate with me.

21 Q Well, I haven't finished my question. Did they
22 communicate with you on or before the dates that you just
23 read into the record there about your status as the
24 designated principal engineer for Forensic?

25 MR. NORRIS: Object to form.

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1 THE WITNESS: No.

2 BY MR. WYATT:

3 Q Go ahead, sir.

4 A I was the engineer of record until this
5 was received by the Mississippi Board of Licensure
6 on record.

7 Q Well, Mr. Ford, I think maybe what you are

8 saying -- let me make sure I'm clear: You weren't even
9 working for Forensic Engineering after 10-20 --

10 A I was terminated, correct.

11 MR. NORRIS: Object to form.

12 BY MR. WYATT:

13 Q Okay. So do you have some knowledge that
14 somehow you could act as their designated principal
15 engineer but not be in their employment, if you know?

16 MS. PLATT: Object to form.

17 MR. WEBB: Object to form.

18 MR. NORRIS: Object to the form.

19 THE WITNESS: I object to the form, too. I
20 know I couldn't be. I couldn't be the engineer of
21 record. I wasn't employed. I wasn't there. I
22 wasn't reviewing. And so it was inappropriate.

23 BY MR. WYATT:

24 Q So after the time that -- of your termination
25 date, be it October 21, 2005 or the 22nd, whatever that

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1 date precisely is, after that time and before the dates
2 you just read into the record here, December 8th and
3 December 10th, 2005, you had no affiliation with Forensic
4 Engineering as designated principal engineer or
5 otherwise?

6 A Correct.

7 Q Okay. Earlier today we covered some issues
8 about your meeting with Mr. Wilcox at a property in Long
9 Beach. Do you remember that?

10 A Yes.

11 Q And he asked you to revise your report.

12 A Yes.

13 Q Did you ever revise the report?

14 MR. WEBB: Object to the form.

15 MS. PLATT: Object to the form.

16 BY MR. WYATT:

17 Q Did you ever revise the report?

18 A The following morning after our meeting, I
19 was in the process of revising that report when Bob
20 Kochan called and terminated me.

21 Q And what did Mr. Kochan tell you the reason for
22 the termination was?

23 MR. WEBB: Objection. Asked and answered.

24 THE WITNESS: Mr. Kochan said that State Farm
25 did not want me to prepare or review any more

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1 reports. That they thought I was too
2 conservative. And he said I know this is a
3 kick-in-the-stomach, but you won't be working for
4 Forensic anymore.

5 At which time I said, Bob, I have many
6 reports in progress. I am reviewing reports.
7 I recommend I finish these drafts and turn them
8 into the office. He said, no, stop what you
9 are doing. Take all of the information that
10 you have, turn it into the office. Turn in
11 your laptop. That's it.

12 BY MR. WYATT:

13 Q Mr. Ford, who did he say at State Farm said
14 that?

15 MR. WEBB: Object to the form.

16 MS. PLATT: Object to the form.

17 THE WITNESS: He did not say.

18 BY MR. WYATT:

19 Q He never gave you a name in that conversation?

20 A No.

21 Q Did you have reason to believe or think who at

22 State Farm had said that?

23 MR. NORRIS: Object to the form.

24 MS. PLATT: Object to the form.

25 MR. WEBB: Same objection.

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1 THE WITNESS: Well, I think my visit with
2 Mark Wilcox that prior afternoon was the basis of
3 that, yes. We had two site visits that afternoon.
4 We discussed one.

5 BY MR. WYATT:

6 Q You went with Mr. Wilcox again after the -- in
7 Long Beach?

8 A Yes.

9 Q Where did you go then?

10 A We went to Waveland to look at another
11 property that a report had been prepared by
12 Forensic.

13 Q By Forensic, you mean --

14 A Not me.

15 Q Another engineer?

16 A Yes. Prepared and reviewed by others
17 within Forensic.

18 Q And Mr. Wilcox already had that report, too?

19 A Yes.

20 MR. WEBB: Object to form.

21 BY MR. WYATT:

22 Q And what property was that?

23 A I do not know the name. I do not know the
24 address. It was in Waveland. The house was still
25 standing. There was a tree on the rear of the

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1 structure.

2 Q Go ahead, sir.

3 A There was a detached garage barn, some
4 type of structure that obviously had moved away from
5 the house. The power line attaching the two, was
6 the only thing holding the building up. It was
7 taught. And we spent over an hour looking at the
8 damage outside and inside.

9 MR. WYATT: Okay, I have to change the tape.

10 One second.

11 THE VIDEOGRAPHER: This marks the end of
12 videotape number two in the deposition of Brian
13 Ford. Going off the record. The time is 12:37.

14 (Video off.)

15 (Tape change.)

16 (Video on.)

17 THE VIDEOGRAPHER: This marks the beginning
18 of videotape number three in the deposition of
19 Brian Ford. We are back on the record. The time
20 is 12:38.

21 MR. WYATT: would you mind reading his last
22 answer, please.

23 (The referred-to answer was read
24 back by the court reporter.)

25 THE WITNESS: I think that was 'garage' did

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1 you say?

2 THE COURT REPORTER: Garage?

3 THE WITNESS: Not mirage but garage with a G.

4 BY MR. WYATT:

5 Q Mr. Ford, would you continue, please.

6 A We spent quite a bit of time looking at
7 the damage inside and out and comparing the report.

8 we had copies of the report in hand.

9 And the report basically said that
10 the house was damaged due to the tree falling on the
11 rear corner of the house. I don't remember the
12 direction, but there was a rear corner of the house
13 a tree had fallen on it and did quite bit of damage
14 to the roof structure.

15 And then we went it in and examined
16 the interior and the exterior of that corner and
17 concluded that, yes, it was damaged by that. He was
18 perplexed by the fact that the report didn't address
19 the rest of the damage or the fact that there had
20 been rising water there.

21 So he was quite upset with the
22 report. So we talked about it at length, went back
23 to the street and getting ready to leave and I asked
24 him to look at a copy of the report. I had never
25 seen the report before so I asked him to see it. He

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1 showed it to me and I said, well, let me look at the
2 assignment sheet.

3 And I looked at the assignment sheet,
4 which is the direction State Farm provides to
5 Forensic. It said determine damage caused by tree
6 falling on the rear corner of the house. And that's
7 what our report did.

8 So he threw up his hands in
9 frustration and said, you know, we have got to go
10 back and ask you to do a full investigation. So we
11 left. We parted. With the understanding that we
12 were going to resubmit a request to redo that report
13 because I failed to scope the job properly to start
14 with.

15 MR. WEBB: Are you finished? Object. Move
16 to strike. Non-responsive.

17 MR. WYATT: That's just a lawyer thing. No
18 offense to Dan.

19 MR. WEBB: None taken.

20 BY MR. WYATT:

21 Q Mr. Ford, let me follow up with this and we can
22 go ahead and take a break for lunch if anyone wants to.

23 On this occasion -- this is the
24 second occasion you are with Mr. Wilcox?

25 A Right. Back-to-back. Same afternoon.

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1 Q Uh-huh. And Mr. Wilcox was pointing out to you
2 things related to water damage, is that correct?

3 A That's correct.

4 Q And you took it upon yourself to ask
5 Mr. Wilcox, may I see the assignment sheet, is that
6 right?

7 A The assignment sheet was on top of the
8 report. I said, may I see that to see what the
9 assignment was? Because the way the report was
10 written it seemed rather narrow in focus. And it
11 didn't seem consistent with the other things we were
12 doing. And when I had asked him to see it and
13 looked at the coversheet, it was obvious. We
14 responded to what they had asked for.

15 Q And his complaint to you -- as communicated to
16 you, was that the report did not address water damage?

17 MR. WEBB: Objection to form.

18 THE WITNESS: It didn't complete -- it wasn't
19 a complete site investigation from which they
20 could determine the cause and settle the claim.

21 BY MR. WYATT:

22 Q Uh-huh. Did he point out to you any instances
23 where he thought you had missed or Forensic had missed
24 wind damage?

25 MR. WEBB: Objection to form.

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1 MS. PLATT: Same objection.

2 THE WITNESS: No.

3 BY MR. WYATT:

4 Q Okay. Was the report that you saw a signed
5 report?

6 A Yes.

7 Q And peer reviewed?

8 A Yes.

9 THE COURT REPORTER: I'm sorry?

10 MR. WYATT: And peer reviewed.

11 BY MR. WYATT:

12 Q Your answer was?

13 A Yes.

14 Q Yes. Okay.

15 MR. WYATT: Okay, let's go off the record.

16 THE VIDEOGRAPHER: Going off the record. The
17 time is 12:43.

18 (Video off.)

19 (Lunch break taken.)

20 (Video on.)

21 (WHEREUPON, Exhibit Number 9 was
22 marked for identification.)

23 THE VIDEOGRAPHER: Back on the record. The
24 time is 2:16.

25 MR. WYATT: This is a housekeeping matter.

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1 I'm offering Exhibit 9 which is Brian Ford's recap
2 of the conversation, the e-mail that re-caps the
3 conversation between Lekie King and Brian. I'm
4 just offering this as a separate piece of paper.
5 You are welcome to pass it around and look at it
6 if you want to or I will just slip it in.

7 MR. WEBB: Whatever you want to do.

8 BY MR. WYATT:

9 Q Mr. Ford, I'm handing you what's been marked as
10 Exhibit 4. And take just a second and look at that
11 single page there. And first of all, tell me if you
12 recognize anything on that page marked Exhibit 4.

13 MR. WEBB: Object to the form.

14 MS. PLATT: Same objection.

15 THE WITNESS: It is the same day, title, case
16 number as the McIntosh report that I prepared.

17 BY MR. WYATT:

18 Q Okay. And you will see that there is a -- some
19 writing superimposed in the middle of the page. Do you
20 see that?

21 A Yes.

22 Q Is that your writing?

23 A No.

24 Q would you read that, please.

25 A It says, put in wind file. Do not pay

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1 bill. Do not discuss.

2 Q Have you ever seen that document before today?

3 A I have never seen this writing on the face
4 of this document, no.

5 Q Okay. Thank you, sir.

6 I want to go back to something we

7 covered earlier this morning and that was the
8 incident with the Lekie King telephone conversation
9 and so forth and the period following that telephone
10 conversation. You related to us that you spoke with
11 Mr. Kochan at some time after that.

12 A Right.

13 Q And Mr. Kochan terminated your services with
14 Forensic?

15 A Days after the --

16 Q Yes.

17 A Yes.

18 Q Yes, uh-huh. In between the Lekie King
19 telephone call incident and Mr. Kochan's call to you
20 terminating your services, did you have occasion to talk
21 to Randy Downs about any of the matters that had occurred
22 in that time period?

23 A I do not recall talking to Randy during
24 that time period, no.

25 Q Did you ever learn whether or not Mr. Down

1 expressed any opinion about what had happened as a result
2 of the Lekie King telephone call and your termination?

3 MS. PLATT: Object to the form.

4 MR. WEBB: Same objection.

5 THE WITNESS: I have heard that he expressed
6 concern about -- about that, yes.

7 BY MR. WYATT:

8 Q And what have you -- did understand --

9 A He did not express that to me.

10 Q Okay. What is your understanding of that?

11 MR. WEBB: Objection to form.

12 MS. PLATT: Same objection.

13 THE WITNESS: He was -- in my words, he was

14 concerned that they may be compromising their
15 engineering position.

16 BY MR. WYATT:

17 Q Now, who is 'they'?

18 A Forensic.

19 Q Okay. And what is their engineering, quote,
20 position?

21 A Well, it is their reports, their position,
22 their recommendations.

23 Q And how would they be compromising their
24 positions?

25 MS. PLATT: Object to the form.

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1 MR. WEBB: Same objection.

2 THE WITNESS: Changing conclusions.

3 BY MR. WYATT:

4 Q Okay. In your prior professional life, have
5 you ever had anyone direct you to write a particular
6 opinion in an engineering report that you had prepared?

7 MR. WEBB: Object.

8 MR. NORRIS: Object to form.

9 MS. PLATT: Same.

10 THE WITNESS: Not direct. What I would write
11 in many projects, you know, research
12 investigations, people would express what they
13 hoped would be the conclusion. But not direct
14 what the outcome would be, no.

15 BY MR. WYATT:

16 Q I see. Do you recall whether or not during the
17 time you were employed by Forensic, State Farm ever
18 directed that you use a certain word in a report or not?

19 MS. PLATT: Object to the form.

20 MR. WEBB: Same objection.

21 THE WITNESS: I was given instructions to
22 change the wording or the manner in which we
23 reported conclusions.

24 MR. WYATT: And how so?

25 THE WITNESS: The original assignment said to

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1 determine the cause of damage. That's the way the
2 reports would be written, damages caused by wind.
3 Damages caused by water.

4 After a short period of time, we were
5 instructed -- I was instructed from Forensic
6 that we were to provide percentages, what
7 percent was done by wind -- damaged by wind.
8 What percent was damaged by water.

9 That lasted a short period of time. Then
10 we were instructed to report what was the
11 predominate cause of damage.

12 BY MR. WYATT:

13 Q And where did that instruction come from?

14 A It came to me from Bob Kochan.

15 Q And where did Mr. Kochan get it?

16 A That came from State Farm.

17 Q And was the word 'predominant' -- are you using
18 that word that you mean you were told to use that
19 particular term 'predominant' the word itself?

20 A Yes.

21 Q Do you recall whether you were ever told to
22 disregard eyewitness accounts --

23 A Yes.

24 Q -- from people who -- okay. Tell me how did
25 you get that instruction and where did it come from?

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1 A After the Lekie King discussion, the
2 teleconference the following morning, Bob Kochan
3 instructed us to not use eyewitness's reports.

4 Q And where did Mr. Kochan get that instruction?

5 MR. NORRIS: Object to form.

6 MR. WEBB: Same objection.

7 MS. PLATT: Objection.

8 THE WITNESS: I do not know the answer to
9 that.

10 BY MR. WYATT:

11 Q When you met with Mark Wilcox at Long Beach in
12 the same day at Waveland, what was your understanding
13 about what the consequence of a conclusion that said,
14 water caused all this damage versus the consequence of a
15 conclusion that said wind caused the damage?

16 MR. WEBB: I want to object to this question
17 -- line of questions because unless -- because of
18 the location of those residences, it doesn't have
19 anything to do with McIntosh. And there is an
20 understanding as it is relating to those meetings
21 would be, I think, outside of the judge's order.
22 But with that objection he can answer if he can.

23 MR. NORRIS: Join.

24 MS. PLATT: Join.

25

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1 BY MR. WYATT:

2 Q Do you want me to repeat it?

3 A I want you to repeat it and then I want
4 them to tell me where we go from here. I don't
5 understand what -- where we are?

6 BY MR. WYATT:

7 Q They are not instructing you not to answer.
8 They are only making a record objection to be preserved
9 on the record. So you are free to answer and the Court
10 will decide the propriety or not of the objections.

11 THE WITNESS: Linda, would you read that
12 again, please?

13 (The referred-to question was
14 read back by the court
reporter.)

15 MR. WEBB: Note the objection. Answer if you
16 can.

17 MR. NORRIS: Join.

18 MS. PLATT: Join.

19 THE WITNESS: It sounds like two or three
20 things involved in one here.

21 MR. WYATT: Let me restate it if it is
22 easier.

23 THE WITNESS: Please.

24 BY MR. WYATT:

25 Q From your dealings with Mr. Wilcox, did you

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1 ever come to understand what it meant to the homeowner
2 who was seeking to have a claim paid, what it meant if a
3 report concluded wind cause of damage versus one that
4 concluded water caused the damage?

5 MR. WEBB: Object to the form.

6 MS. PLATT: Same.

7 THE WITNESS: You know, I did not know what
8 the policies were and what coverage the people
9 had. Didn't want to know.

10 ////

11 BY MR. WYATT:

12 Q Did Mr. Wilcox -- my question, though, is did
13 Mr. Wilcox based upon his discussions with you, did you

14 ever ascertain whether he knew what the consequence was?

15 A No.

16 Q Okay. Do you know today what the consequence
17 is?

18 A No.

19 Q Do you know whether you were inspecting
20 properties pursuant to homeowners coverage or not?

21 A Again I did not know what type of a policy
22 they had. You know, I would assume they are
23 homeowners, what else is there?

24 Q That's my question.

25 A I don't know beyond homeowners and flood

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1 insurance. I don't know what else exists. And, you
2 know, I would have assumed we are talking about
3 homeowners. But they may have also had flood
4 insurance. I did not know.

5 Q Were you ever aware that you were sent on an
6 inspection where the coverage at issue was a flood
7 policy?

8 A No.

9 Q No one ever informed you of that, did they?

10 A No.

11 Q Did you ever see an e-mail that Mr. Down wrote
12 after the Lekie King telephone call of October 17, 2005,
13 wherein he discussed his opinions about that?

14 MS. PLATT: Object to the form.

15 MR. WEBB: Same objection.

16 THE WITNESS: I can't recall seeing it. I
17 may have, but I can't recall it.

18 MR. WYATT: This has been produced. This is
19 the Randy Down e-mail. And in the interest of
20 time --

21 MR. NORRIS: Are you sure it has been
22 produced?

23 MR. WYATT: I think it has been everywhere
24 really. I'm pretty sure it has been featured in
25 news articles in public domain by now but.

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1 MR. WEBB: Has it been produced in this case?

2 MR. NORRIS: That was my question.

3 MR. WYATT: I think it has, but I'm -- you
4 know.

5 MR. NORRIS: It has an exhibit sticker. Is
6 it an exhibit to the Shows?

7 MR. WYATT: It is the same document. Anyway,
8 the Court can rule on it if you guys want to
9 object.

10 MR. WEBB: On the grounds previously stated,
11 we object to using exhibits from another
12 transcript.

13 MR. NORRIS: Can we just have a continuing
14 objection to that effect?

15 MR. WYATT: Sure.

16 BY MR. WYATT:

17 Q Mr. Ford, I will let you read that for just a
18 moment and then I have a question or two and we will move
19 on to something else.

20 A I have heard portions of that, but I
21 haven't read it.

22 Q Okay, you were still employed with Forensic on
23 this day, weren't you, October 18th, 2005?

24 A Yes.

25 Q But you were not copied with this e-mail, is

1 that correct?

2 A No.

3 Q You have had an opportunity to read this. Is
4 there anything in here that you saw that you think is in
5 error?

6 MR. WEBB: Objection to form.

7 MR. NORRIS: Same.

8 MS. PLATT: Same objection.

9 THE WITNESS: There is some information in
10 there I haven't heard before. I can't say that it
11 is error.

12 BY MR. WYATT:

13 Q Okay. What information is it that you hadn't
14 heard before?

15 A The statement regarding, had already
16 contradicted himself regarding the reports when Mark
17 -- question mark, wanting percentages stated in his
18 counterpart calling a few days later and telling us
19 to resubmit two reports that had shown percentages
20 saying, You know, they didn't want percentages.
21 That's the first time I have seen or heard where
22 that came from. That's new information to me, where
23 it came from.

24 Q And where did it come from, what you are
25 reading there? What is it you are saying that your

1 learned where it came from?

2 MR. WEBB: Objection. Improper.

3 MR. NORRIS: Same objection.

4 MS. PLATT: Same objection.

5 THE WITNESS: Mark and his counterpart

6 calling and giving different instructions.

7 BY MR. WYATT:

8 Q I see. Other than that is there anything else?

9 A I see why other firms are bowing out.

10 That's news to me.

11 Q Engineering firms?

12 MR. WEBB: Objection to form.

13 THE WITNESS: It doesn't say.

14 MS. PLATT: Same objection.

15 THE WITNESS: That's what you would think.

16 The comments about ignoring eyewitnesses. This

17 implies that it came from State Farm. The

18 discussion about emotional element is the first

19 time I have heard that point.

20 MR. WEBB: Objection. Move to strike.

21 Non-responsive.

22 BY MR. WYATT:

23 Q And what was Mr. Downs' comment about that
24 particular thing?

25 A He said, you know, emotional element of

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1 engineer's decision may have some validity.

2 Parentheses, although I doubt it in Brian's case.

3 Parentheses closed.

4 Q Do you know why you were not copied with this
5 e-mail, Mr. Ford?

6 A No. Apparently there was quite a bit of
7 discussion and e-mailing that I was not aware of.

8 Q Other than the things you have pointed out, is
9 there anything you see that you would say is error in
10 this e-mail?

11 MR. WEBB: Object to form.

12 MR. NORRIS: Object to the form.

13 MS. PLATT: Object to form.

14 THE WITNESS: I cannot say that there are
15 errors in there, no.

16 BY MR. WYATT:

17 Q Okay. Now, you have been kind enough to copy
18 the information you brought here to the deposition with
19 you. And I have some questions.

20 (WHEREUPON, Exhibit Number 10
21 was marked for identification.)

22 MR. WYATT: Is this whole thing Exhibit 10?

23 MS. McALLISTER: Uh-huh.

24 MR. WYATT: Okay. Where is Mr. Ford's copy
25 of this document? I'm sorry, here we go. That's

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1 been marked as Exhibit 10.

2 THE WITNESS: Uh-huh.

3 BY MR. WYATT:

4 Q I'm going to start back at the last page.
5 Particularly the e-mail between Ms. Breard, who is here
6 today, and yourself on September 17th. Do you see that?

7 A Yes.

8 Q And the one below that is you e-mailing to
9 Ms. Breard, right?

10 A Correct.

11 Q These notes, 'need for legal representation
12 reimbursement'. Did Ms. Breard talk to you about any
13 payment for appearing for this deposition?

14 A Ms. Breard did not.

15 Q How did that subject come up?

16 A I brought it up.

17 Q Okay. And what was her response to the
18 question about reimbursement?

19 A You can see in the note at the bottom she

20 said I will inquire about it.

21 Q So did she tell you no?

22 A No, she did not. She did not respond to
23 that.

24 Q I see. And who brought up the question of
25 legal representation?

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1 A I can't remember if Kathryn did,
2 originally, but Larry did in the conference call
3 that we had.

4 Q And that was not at your behest? Mr. Canada
5 brought that up?

6 MR. WEBB: Object to form.

7 THE WITNESS: He brought it up to say -- he
8 asked me if I had legal representation. I said
9 no. He said, well, if you desire, having been
10 employed, that they could represent me.

11 BY MR. WYATT:

12 Q They being who?

13 A Larry's firm, whatever the name of his
14 firm is and Kathryn. Galloway, Johnson, Tompkins,
15 Burr & Smith.

16 Q So he made an offer to enter into -- to
17 represent you as counsel in this deposition. But you
18 would not have to pay anything for that representation?

19 MR. WEBB: Object to form.

20 MR. NORRIS: Object to form.

21 MS. PLATT: Object to form.

22 THE WITNESS: That was not discussed.

23 BY MR. WYATT:

24 Q Okay. When he discussed with you the fact that
25 since you were a former employee that he was offering

1 that they would act as your attorney, what was the
2 discussion as far as the payment for the services?

3 MR. WEBB: Objection to form.

4 MS. PLATT: Object to form.

5 THE WITNESS: That it would be provided by
6 Forensic's insurance.

7 BY MR. WYATT:

8 Q At no cost to you?

9 A That was -- I assumed that. That was not
10 stated. That's what my understanding would have
11 been.

12 Q All of that was brought up by Mr. Canada and
13 Ms. Platt but not by you, right?

14 MR. WEBB: Object to the form.

15 THE WITNESS: For legal representation,
16 that's correct.

17 BY MR. WYATT:

18 Q And what did you advise them about that?

19 A I said I didn't see a need for it at this
20 time.

21 Q Okay. Flip over to these spiral bound notes
22 and I will start with the first page 11-7-06 is the date
23 there. And there is a name there, Russ Geboy?

24 A Geboy.

25 MR. WYATT: Geboy.

1 MR. WEBB: What page, what date?

2 THE WITNESS: The date is 11-7-06. The first
3 handwritten.

4 MR. NORRIS: G-E-B-O-Y?

5 THE WITNESS: Yes.

6 BY MR. WYATT:

7 Q And Mr. Geboy is a special agent for the
8 Homeland Security Department, right?

9 A Right.

10 Q Who is Jerry Coleman with -- is that Atlanta
11 underneath there?

12 A Correct. Russ was from Jackson. Jerry is
13 from Atlanta. They showed up unannounced, Subpoena
14 in hand.

15 Q For the -- on the date of 11-7-06?

16 A Right.

17 Q Okay. While we are on that subject, when did
18 you travel to Jackson for the grand jury testimony that
19 you talked about earlier?

20 A August the 1st, '06.

21 Q When was the last time --

22 A I mean '07, excuse me.

23 Q Excuse me. Sorry. When was last time you saw
24 Mr. Kelly, Jack Kelly?

25 A That day, August the 1st.

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1 Q August the 1st. And under what circumstances,
2 did you run into Mr. Kelly?

3 A We were -- we, meaning Jack Kelly, Bob
4 Kochan, and myself were in the same holding room.

5 Q On August 1st, 2007?

6 A Right.

7 Q At the U.S. Courthouse in Jackson?

8 A Right.

9 Q Before you went in front of the grand jury, did
10 you have any conversations with Mr. Kelly or Mr. Kochan
11 about Forensic and the activities involved?

12 A No.

13 Q And I take it that before that time you had not
14 seen those two individuals since back at the time that
15 you were actively working on the Coast?

16 A That was my first time to meet Bob Kochan.

17 Q So the answer would be yes, right?

18 A And I have not seen Jack Kelly since I
19 moved in February of '06 from the Coast.

20 Q I see.

21 A Jack was my next door neighbor.

22 Q I see. I believe you testified earlier, but I
23 want to make sure the record is clear on this. To your
24 knowledge, have you ever been accused of any wrongdoing
25 in connection with your activities with Forensic?

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1 A No.

2 MR. WEBB: Object to the form.

3 MR. NORRIS: Object to the form.

4 MS. PLATT: Same objection.

5 BY MR. WYATT:

6 Q And to your knowledge who are the target
7 figures of the investigation?

8 MR. WEBB: Objection to form.

9 MR. NORRIS: Object to form.

10 MS. PLATT: Object to the form.

11 MR. WEBB: Lack of predicate.

12 THE WITNESS: For which investigation?

13 BY MR. WYATT:

14 Q The grand jury investigation for which you were
15 summoned to testify on August 1, 2007.

16 MR. WEBB: The same objections.

17 MR. NORRIS: Ditto.

18 MS. PLATT: Same.

19 THE WITNESS: You guys help me out here. I

20 have been instructed and you had started this
21 meeting with the instruction of not discussing a
22 criminal case and now we are discussing it.

23 BY MR. WYATT:

24 Q You cannot talk about your grand jury
25 testimony, okay. And I am not going to ask you about it.

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1 And if you start to tell about it, I will stop you.

2 A I thought you just did ask me about it.

3 Q No. I'm not asking about your grand jury
4 testimony. I'm not --

5 MR. WEBB: If I may, I don't presume to give
6 you any advice on it, Mr. Ford, I can't. I have a
7 different client. Obviously as do -- I think
8 these other lawyers down here. If you have a
9 concern, a question about that, the only thing I
10 can tell you in the interest of protecting your
11 own rights is you may, if you choose to do so,
12 consult your own attorney. That's all I can tell
13 you.

14 MR. WYATT: Yeah. Mr. Ford --

15 THE WITNESS: Isn't it a matter of public
16 record what the grand jury investigation is about?

17 MR. NORRIS: As Dan explained, we are not in
18 a position --

19 THE WITNESS: You know public record. You
20 know what's public. You live in Jackson, don't
21 you?

22 MR. NORRIS: We are not in a position to
23 provide you with legal advice.

24 THE WITNESS: I didn't ask you for your
25 advice. I asked you a question.

1 MR. WEBB: I can't answer whether it is a
2 matter of public record or not.

3 MS. PLATT: I simply don't know.

4 MR. WEBB: I don't know if it is a matter of
5 public record, what's in the newspapers, what's on
6 the radio, what's on TV. I don't know.

7 MR. WYATT: We will let it go, okay. I
8 think -- we don't need to cover that.

9 BY MR. WYATT:

10 Q Okay. On this date your notes indicate and I
11 have -- that this individual, was with the insurance
12 fraud task force, right? That's your writing there,
13 right?

14 A Right.

15 Q And DHS and FBI, right?

16 A Right.

17 Q And the Department of -- DHS, Department of
18 Homeland Security?

19 A Correct.

20 Q Okay. And all that writing on here, Mr. Ford,
21 is your writing, right, except for the card?

22 A Correct.

23 Q All right. That's all I need to cover on that.

24 The next page you have already told
25 us that you met with Mr. Scialdone, is that how you

1 pronounce it?

2 A Scialdone.

3 Q Scialdone, sorry. On the Luffy case. And that
4 says what -- I witnessed Mark Ashley, next door neighbor,

5 states and observed, wind blowing houses and debris into
6 Luffy house. Did I read that right?

7 A Correct.

8 Q What is the -- so Mr. Canada, the next entry
9 here is about Mr. Canada. And did he ever inform you
10 whether or not he was recording the teleconference call
11 that he made to you and gave you this conference call
12 number and this passcode?

13 A I don't believe he did.

14 Q Where were you physically present when that
15 call was the made?

16 A In my office conference room.

17 Q And what city and state?

18 A Norcross, Georgia.

19 Q Where was he physically present as far as you
20 know when he made that call to you?

21 A I believe he was in his office in New
22 Orleans.

23 Q Did he ever identify to you that there were
24 other people present within earshot of this telephone
25 conference call other than himself and you?

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1 MS. PLATT: And I want an objection. It
2 sounds to me as though you are assuming that it
3 was recorded or that there were other people
4 there.

5 But you can answer.

6 MR. WYATT: And I object to your speaking
7 objection. And, Counsel, I ask you to comply with
8 Rule 30.

9 You can answer, Mr. Ford.

10 THE WITNESS: No, I do not believe -- he did
11 not say he was recording. I have no reason to

12 believe that he was. I heard no one else in the
13 room.

14 BY MR. WYATT:

15 Q Okay. My question just to be clear on the
16 record because we have to read these things back in
17 court. Did he ever identify to you during the
18 conversation whether there was any other person within
19 earshot of the telephone conference call that you were
20 participating in?

21 A No.

22 Q Okay. And then Mr. Canada, I take it when you
23 say the deposition will cover cases that statement by
24 State Farm, FAEC, Renfroe or Scruggs Group, is that
25 something that Mr. Canada tell you?

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1 A I asked him what it would cover. It was
2 obvious the McIntosh case was specific. But he
3 said, you know, it could cover information in cases
4 presented by State Farm -- excuse me, cases -- what
5 did I say 'desired'?

6 Q It says cases -- I can't determine that.

7 A Okay. The deposition will cover any cases
8 desired by State Farm, Forensic, Renfroe, or Scruggs
9 Group.

10 Q Okay.

11 A I guess he meant whatever cases you wanted
12 to bring up.

13 Q I understand. Let me ask you this question:
14 At what point during your conference call or your call
15 with Ms. Platt, how early did anyone tell you that you
16 were offered an attorney by Forensic if you wanted one?

17 MR. WEBB: Object to form.

18 BY MR. WYATT:

19 Q Was that at the beginning of your telephone
20 conference calls with them or was it toward the end?

21 MR. WEBB: Same objection.

22 MS. PLATT: Same.

23 THE WITNESS: I believe Kathryn referred to
24 that in our first conference call -- in our first
25 phone call.

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1 BY MR. WYATT:

2 Q Okay. So that would precede these notes we are
3 reading here?

4 A Yes.

5 Q Okay. And then the part about questions will
6 focus on late September '05 to mid October '05. Do you
7 see those notes at the bottom there?

8 A Right.

9 Q Who told you all of these things that the
10 questions would focus on the Mullins case and told you
11 that had been settled?

12 MR. WEBB: Objection to form.

13 MS. PLATT: Same.

14 THE WITNESS: The questions will focus on the
15 late '05 to mid October '05. Larry said that. He
16 made some reference to my participation in the
17 Mullins case. And I said, no, that's not correct.
18 And he said, oh, yes, you are right, that was
19 so-and-so and so-and-so. And he said that that
20 case had been settled. And I said, oh, really?
21 When? And he said February of '07. And I said,
22 well, I didn't realize that.

23 BY MR. WYATT:

24 Q And what prompted Mr. Canada to start talking
25 to you about the Mullins case?

1 MR. WEBB: Object to form.

2 THE WITNESS: I have no idea.

3 MS. PLATT: Same.

4 BY MR. WYATT:

5 Q He brought that up without your urging, right?
6 He launched into that on his own?

7 MR. NORRIS: Object to form.

8 THE WITNESS: He thought I was involved in
9 that case. He thought erroneously that I was
10 involved in that case. So that's why he brought
11 it up.

12 BY MR. WYATT:

13 Q I see. Before he told you it had settled --

14 A I asked him when it settled. When he said
15 you were involved I said, no, I was not involved in
16 it.

17 Q I see. And then these other subjects here.
18 The Lekie King call. My reports. Said Lekie King will
19 e-mail my McIntosh report to me.

20 A Yes. And Kathryn did that.

21 Q They offered that on their own. You didn't ask
22 for that, did you?

23 MR. NORRIS: Object to the form.

24 THE WITNESS: I didn't have a copy of that
25 and they said they would send me one and they did.

1 BY MR. WYATT:

2 Q But was it brought up initially, the McIntosh
3 report itself?

4 A I told them I didn't have any -- I didn't

5 have a copy of those reports. And so they said they
6 would send me a copy of my report.

7 Q Okay. I take it that you are making a list of
8 the subject matter they are identifying to you that they
9 think are going to be in this deposition, right?

10 MR. WEBB: Objection to form.

11 THE WITNESS: In response to my question. I
12 asked him, you know, what is going to be
13 discussed?

14 BY MR. WYATT:

15 Q Right. And then what else did they send you
16 besides your reports?

17 MR. NORRIS: Object to the form.

18 THE WITNESS: The Notice to appear here.

19 BY MR. WYATT:

20 Q I'm sorry?

21 A The Notice to appear here.

22 Q It says reports, plural. What else did you get
23 from Ms. Platt and Mr. Canada during this telephone
24 conversation and thereafter? Did they send you other
25 things besides the McIntosh report?

0

1 A (Witness shakes head negatively.)

2 Q You will have to answer verbally.

3 A No, they did not.

4 Q Okay. This wording 'my understanding of the
5 Kochan-King conversations'. Is that a subject matter
6 that they brought up and talked with you about?

7 MS. PLATT: Object to the form.

8 THE WITNESS: We did not discuss it. They
9 just brought it up to say that's a topic that may
10 be discussed.

11 BY MR. WYATT:

12 Q would -- these notes right here, who is talking
13 in -- as far as these notes are concerned? Is this
14 Ms. Platt over here or --

15 A No.

16 Q Who is it? It is you and Mr. Canada?

17 A That's the heading of this so.

18 Q Okay. Let me make sure I understand. The
19 first conversation came from Ms. Platt, right?

20 A Telephone calls.

21 Q Right. And then came this longer conference
22 call with Mr. Canada?

23 MR. NORRIS: Object to the form.

24 THE WITNESS: Right.

25

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1 BY MR. WYATT:

2 Q Okay, your e-mails. What e-mails -- who
3 brought that up? Did they bring it up or did you bring
4 it up?

5 MS. PLATT: Object to the form.

6 THE WITNESS: I think I made that note to
7 myself to -- this is the material I was going to
8 review to prepare for today.

9 BY MR. WYATT:

10 Q Okay. Did Mr. Kochan call you before this
11 deposition, too?

12 A No.

13 Q Did anybody else -- do you know who Nellie
14 Williams is?

15 A Yes.

16 Q Did she call you?

17 A No.

18 Q Did Mr. Forbes call you?

19 A No.
20 Q Did Mr. Sammis call you?
21 A No.
22 Q Did Mr. Down call you?
23 A No.
24 Q And then it goes on in my report high watermark
25 noted, but no water damage stated in conclusions. Now,

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1 you don't have the report that you are talking about
2 right here, right? Is that correct? Because they are
3 going to send it to you.

4 MR. NORRIS: Object to form.

5 THE WITNESS: I think we have already
6 discussed that. That's what's mentioned earlier,
7 they will send me a copy of my report. That's my
8 report we were referring to.

9 BY MR. WYATT:

10 Q So in other words, this statement 'in my report
11 high watermark noted', you didn't have the report in
12 front of you when you wrote this down?

13 THE WITNESS: Correct. Those are Larry's
14 words.

15 BY MR. WYATT:

16 Q I see. He brought that up?

17 A Yes.

18 Q And then over on the next page. Does that have
19 anything to do -- the next page, Mr. Ford, does that have
20 anything to do with this tellectall -- conference call
21 with Mr. Canada?

22 A Which page are you talking about?

23 Q It starts with 8/1/07 US Attorney-Grand
24 Jury-Jackson.

25 A No. That page precedes the one we just

1 discussed.

2 Q Okay.

3 A I need the number in my book, I guess.

4 Q Did Mr. Scialdone tell you whether or not State
5 Farm had paid his clients' claim when he came to talk to
6 you about the Luffy matter?

7 A I do not recall that.

8 Q And the statement at the bottom: Three to four
9 feet of storm surge does not destroy a house. Whose
10 statement is that?

11 (Telephone interruption.)

12 THE WITNESS: That's mine.

13 BY MR. WYATT:

14 Q And then the statement 'in this case the house
15 was most probably destroyed by a combination of storm
16 surge, driven debris, storm surge and wind.

17 Is that your statement?

18 (Telephone interruption.)

19 THE COURT REPORTER: That may be mine. Do
20 you want me to check?

21 MR. WYATT: Yes. Let's go off the record.

22 THE VIDEOGRAPHER: We are off the record.

23 (Video off.)

24 (Pause in proceedings.)

25 (Video on.)

1 THE VIDEOGRAPHER: Back on.

2 BY MR. WYATT:

3 Q Okay. We were looking at the bottom of the

4 page that says 'three to four feet of storm surge does
5 not destroy a house'. The rest of that statement, 'in
6 this case the house was most probably destroyed by a
7 combination of storm surge, driven debris, storm surge
8 and wind'. Is your statement?

9 A Yes.

10 Q Okay. Did Mr. Scialdone provide you with a
11 written inspection report when you were talking with him?

12 A No.

13 Q But he never indicated to you whether or not
14 State Farm had paid his client's claim?

15 A No.

16 Q I'm going to try to go through the rest of
17 these, Mr. Ford. I'm sort of going from back-to-front
18 here. Look at -- if you will flip with me, we are going
19 to find an e-mail that's October 10, 2005, at 8:32 from
20 Mr. Kochan.

21 MR. NORRIS: Is that about half way through?

22 MR. WYATT: I'm going from back-to-front.

23 And so it is about five pages from the back.

24 Yeah. I'm guessing five.

25 THE WITNESS: October 10?

□

1 (Continued from Volume I)

2 BY MR. WYATT:

3 Q October 10, 2005 is the top e-mail.

4 A From Kochan to Randy Down?

5 Q Correct.

6 A Okay, yes.

7 Q And to jbrianford@yahoo.com, right?

8 A Oh, the Atta Boy letter. Okay. Yeah.

9 Q And what is the Atta Boy letter?

10 A Wendy, an administrative assistant in the

11 home office received a call from a State Farm
12 adjustor who had gotten a report. Called and said
13 he wanted to let somebody know how pleased he was
14 with it. He said the presentation was great, the
15 photos, et cetera. He just wanted to let somebody
16 know that its just what he needed and Atta Boy.

17 And so she sent that to Randy Down;
18 Nellie Williams; Adam Sammis; Bob Kochan; and my
19 personal e-mail.

20 Q And what report was that?

21 A I have no idea.

22 Q This is just seven days prior to the Lekie King
23 telephone call, right?

24 A Yes.

25 Q Okay. The next document, thumbing toward the

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1 front again, is a report of a Rhonda Burns. Do you see
2 that?

3 A Yes.

4 Q Okay. Where did you get this particular
5 document?

6 A It is one that was given to me to review
7 written by Mannie Mannon. But I do not have the
8 original -- I mean, the final signed copy.

9 Q And you -- but this would have been something
10 that you reviewed on your laptop as peer reviewer for
11 Mr. Mannon, right?

12 A Yes.

13 Q And then where did this copy of this come from?

14 A It must be the copy that was given to me
15 to review. It is printed and given to me to review.

16 Q And who gave it to you to review?

17 A It would have been from Adams Sammis.

18 Q You mean originally, right?

19 A Correct.

20 Q Well, did it end up -- I understood you turned
21 the laptop back in. So how did you end up with this copy
22 of this report?

23 A I don't know if it was emailed to me on my
24 personal e-mail and then I printed it for review or
25 whether it was given to me by hard copy.

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1 Q Okay. Have you ever seen one of these type of
2 reports with the big word 'draft' written diagonally
3 across the front of the page?

4 MR. WEBB: Object to the form.

5 THE WITNESS: Yes, I have seen that used
6 before.

7 BY MR. WYATT:

8 Q Is that called a watermark?

9 MR. WEBB: Object to the form.

10 MR. NORRIS: Same objection.

11 THE WITNESS: It is not what I call a
12 watermark. A watermark to me is embedded into the
13 paper. That's just a stamp. You could have
14 prestamped or preprinted draft on a paper before
15 you print it. But I have never had that luxury
16 before.

17 BY MR. WYATT:

18 Q Your reports didn't have that big word 'draft'
19 written across it?

20 A No. No.

21 Q The next document is the assignment sheet for
22 Rhonda Burns. I take it that the same is true, you don't
23 really know the origin of how you got this document or
24 tell us if you do.

25 A That's the same one we just discussed.

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1 Q This is the assignment sheet for Rhonda Burns.

2 A That comes with the package, right.

3 Q Okay. Okay. Next document is a J.A. Willis
4 assignment sheet.

5 A Yes.

6 Q Do you have any knowledge about how you ended
7 up with a copy of that assignment sheet?

8 A This is one that Mannie Mannon did the
9 inspection on. Mannie was not comfortable with the
10 entire process and wanted a second opinion. And I
11 was given this -- this was emailed to me at home to
12 go out the next morning because I lived in that
13 direction to go and do the follow-up inspection on
14 that.

15 Q Which is a good question to ask: In addition
16 to your doing inspections as the designated principal
17 engineer of Forensic during your employment, did you have
18 another role with employment? Excuse me, with Forensic
19 besides that?

20 A Prepare reports; review reports; principal
21 in charge. That's it.

22 Q Okay. But the reviewing role you were acting
23 as a peer reviewer, is that correct?

24 A Yes.

25 Q So in addition to doing your own work you were

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1 also peer reviewing the work of other people?

2 A Yeah. Like the report we just discussed.

3 I was the peer reviewer in that report. In this

4 case, though, he was uncomfortable with his findings
5 and wanted a second opinion. That was not a peer
6 review.

7 Q He just wanted another person to take a look?

8 A Right.

9 Q Okay. And then the next document is an Adam
10 Sammis e-mail to you. It says, Pascagoula Inspection,
11 October 4, 2005. Do you see that one? This is
12 Mr. Willis again, right?

13 A This is a cover letter over the one -- the
14 sheet we just looked at. We are looking at this
15 backwards.

16 Q He did ask why a second engineer is being sent
17 out. Do you see the second part of this e-mail.

18 A Mr. Willis asked that, yes.

19 Q Uh-huh. And then Mr. Sammis says he was going
20 to verify -- he was going to explain that you were going
21 to verify Mr. Mannon's results, right?

22 A Right.

23 Q Did you ever try -- seek to inspect a property
24 under circumstances where the owner didn't know you were
25 going to come inspect it?

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1 MR. WEBB: Objection. Asked and answered.

2 MS. PLATT: Join.

3 THE WITNESS: There were homeowners we could
4 not get in touch with. We had assignments to do.
5 If we couldn't get in touch with them, we went to
6 the site and performed the inspection.

7 MR. WYATT: And that's just an instance where
8 there was a lack of communication?

9 THE WITNESS: Yeah. The phone numbers
10 recorded with the insurance carriers were

11 destroyed. Getting in touch with these people was
12 most difficult. That was a total disaster. There
13 was nothing available. There were no streets
14 signs. No road signs. No stop signs. No houses.
15 No phones. Communication was chaos. Getting in
16 touch with each homeowner is very difficult.

17 BY MR. WYATT:

18 Q Okay. What I'm really asking about is: There
19 were no instances you know of where you ever tried to
20 inspect the property without the person's knowledge?

21 MR. NORRIS: Object to the form.

22 BY MR. WYATT:

23 Q Is that correct?

24 MR. WEBB: Same objection. Asked and
25 answered.

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1 MS. PLATT: Join.

2 THE WITNESS: It was our practice to contact
3 the homeowner if at all possible.

4 BY MR. WYATT:

5 Q Good. The next document is -- appears to be a
6 report that has a lot of Xs in it. April 4, 2003. It is
7 a mold inspection. Is that right?

8 A Yeah. This is a sample detail report that
9 Forensic provided as an example of the type of
10 reports they had prepared in the past. I think
11 there are two or three of those in this handout
12 here.

13 Q Who sent this document to you?

14 A Adam.

15 Q And do you show what date you got the document?

16 A Adam sent me the e-mail entitled 'samples'
17 on October the 4th, 2005.

18 Q And where did Adam get it from?

19 MR. WEBB: Object to the form.

20 BY MR. WYATT:

21 Q If you can tell from your file.

22 MR. WEBB: Same objection.

23 THE WITNESS: In part it is obvious from
24 Nellie Williams. The other just has an e-mail
25 address of Forensic. I did not -- I do not know

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1 who that would be.

2 BY MR. WYATT:

3 Q Would this be the first instance of your
4 receiving any kind of report formats to use from
5 Forensic? Or is there something that precedes this in
6 time?

7 MS. PLATT: Object to the form.

8 MR. WEBB: Same objection.

9 THE WITNESS: Other than seeing actual
10 reports in the field office, yes, this would have
11 been the first guidance I would have received on
12 report format. Which is fairly standard for
13 everything I have seen.

14 BY MR. WYATT:

15 Q Okay. But seeing reports in the field -- you
16 are talking about the RV, is that correct?

17 A Field office, yes.

18 Q Okay. Well, the first reports generated there,
19 would those have not been generated by you and
20 Mr. Mannon?

21 A Mr. Mannon was there way before me. Bob
22 Kochan came in there and prepared reports. Randy
23 Down had been there prior to me to the best of my
24 knowledge. There was someone who preceded me there,

25 yes, that did inspections and wrote reports.

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1 Q At least those three people?

2 A I know Bob had been and I thought Randy
3 had been. But I'm not -- I'm not positive.

4 Q But you never met Mr. Kochan --

5 A No.

6 Q At that time?

7 A No.

8 Q Never saw him?

9 A Never met Randy, ever.

10 Q The next thing I see in the file is a
11 Nationwide Insurance report on a swimming pool
12 inspection.

13 A It is another example.

14 Q Okay. That came to you again from Mr. Sammis?

15 A Yes.

16 Q On the same day?

17 A Yes. And to Adam from Nellie Williams.

18 Q Okay. Mr. Ford, during this period of time, in
19 the early period from your inception of employment up
20 until October 17th, 2005, where were you getting the
21 weather information that was being put into Forensic's
22 reports?

23 A Field observation. What you personally
24 had learned from the storm. My -- from my knowledge
25 and study of hurricanes and knowing what categories

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1 bring what. At that point that was all we had. At
2 some point, and I don't remember the date exactly,

3 there was a reference to using information in
4 yesterday's paper or today's newspaper.

5 There was an e-mail from Forensic
6 to -- from Forensic, meaning someone in the home
7 office. And I think -- I want to say it was from
8 Nellie to the engineers with a list of web sites
9 where information could be researched. That's the
10 extent of information we had at that time.

11 Q Did you ever see whether Mr. Sammis put text
12 into engineering reports that were being displayed on his
13 laptop computer in the RV?

14 MR. WEBB: Objection to the form.

15 MS. PLATT: Object to the form.

16 THE WITNESS: You are going to have to be
17 more specific. Every report was displayed on his
18 computer with text prepared by myself or Mannie or
19 anybody. That's not your -- you are going to have
20 to ask your question again.

21 BY MR. WYATT:

22 Q Did you ever see Mr. Sammis put text into those
23 reports that were displayed on his computer that you or
24 Mr. Mannon or someone else had prepared?

25 MS. PLATT: Object to the form.

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1 THE WITNESS: I don't recall ever seeing him
2 do that. If he had put a grammar correction, any
3 boilerplate type information in there, that
4 wouldn't have been a big deal. It is reviewed
5 before it is finalized and signed off.

6 BY MR. WYATT:

7 Q What about weather information?

8 A I don't recall him putting weather
9 information in there.

10 Q Okay. Did you ever at any time learn whether
11 or not State Farm was purchasing select weather
12 information for the inclusion of the engineering report?

13 MR. WEBB: Objection to the form.

14 THE WITNESS: I never saw it. I don't know
15 what their intentions were.

16 BY MR. WYATT:

17 Q Would you look at the e-mail that's October 3rd
18 from Forensic to you, Hi, Brian, my name is Nellie.

19 A Yes.

20 Q At that time I take it that Ms. Williams was
21 sending you this from Reno, Nevada. Is that what your
22 understanding was?

23 A Yes.

24 Q Did you e-mail her back? Was there a reply to
25 this e-mail?

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1 A I'm sure that I replied to her on benefits
2 questions and issues, insurance and so forth. And I
3 probably have those. I haven't viewed that probably
4 since I wrote it.

5 Q You would have communicated with her about your
6 e-mail via the Yahoo address?

7 A Yes.

8 Q Okay. Did Ms. Williams send you other e-mails
9 to your Yahoo address?

10 A Very rarely.

11 Q But you do believe that occurred?

12 A The weather one I mentioned already.

13 Q Uh-huh.

14 A This one. I can't recall another
15 specific.

16 Q Okay. Do you still have that computer, the one

17 that those e-mails came in on?

18 A No.

19 Q You don't?

20 A I did. I have -- not the hard drive. I
21 have my -- not the hard drive. I have my inbox and
22 outbox of those e-mails.

23 Q So you have them saved on some computer today.
24 Is that right?

25 A Well, their e-mails would be in Yahoo's

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1 server.

2 Q Okay, can you access them?

3 A If they weren't deleted, yes. If I didn't
4 delete one.

5 Q To your knowledge, have you deleted any?

6 A No. At the point when I received one, if
7 it was trivial I might have deleted it. But I have
8 not gone back and purged my files, no.

9 Q I see. Do you know whether any of those
10 e-mails have been exported to any other drive device or
11 external memory device or anything for saving purposes?

12 A My e-mails?

13 Q Yes.

14 A No. They have been printed and given
15 to -- the Subpoena from Homeland Security.

16 Q I see. And were those e-mails provided to
17 Ms. Platt or Mr. Canada?

18 A No.

19 Q Did either of them ask you about those e-mails
20 in any of the conversations?

21 A No.

22 Q Do you have any reason to believe that the
23 other participants in those e-mails are unaware of the

24 correspondence y'all had --

25 MS. PLATT: Object to the form.

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1 MR. NORRIS: Object to the form.

2 BY MR. WYATT:

3 Q For example, if Ms. Williams had emailed you,
4 do you have any reason to believe that she is unaware she
5 had e-mailed you at some particular point in time?

6 MS. PLATT: Object to the form.

7 MR. NORRIS: Objection.

8 THE WITNESS: That's a really abstract
9 question. I haven't -- I never had any
10 conversations with her. When I left Forensic, I
11 had zero communications with Forensic with the
12 exception -- time out.

13 THE VIDEOGRAPHER: Excuse me.

14 (Video off)

15 (Still on written record.)

16 THE WITNESS: Let me get some water.

17 MR. WEBB: While we are off the video but
18 still on the record -- with reference to Exhibit
19 10, there are documents in there that included
20 what I would interpret to be under those rules of
21 personal and private information for third
22 parties. Particularly, the people whose identity
23 and known addresses and such are identified. And
24 I would think that that would be subject to the
25 Court's rules on the Protective Order protecting

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1 those. And to the extent it may be necessary,
2 related to those particular documents, I think we

3 need to have those things either under seal by
4 agreement or taken up with the Court until we get
5 them --

6 MR. WYATT: Can you enlighten us on what
7 example that you are referring to so I can have
8 something to kind of...

9 MR. WEBB: Yes. Well, one of them is the
10 September 30th letter. This is a Nationwide
11 claim. It identifies a person. It gives an
12 address. Policies --

13 MR. NORRIS: Policies and claim numbers.

14 MR. WEBB: Policies and claim numbers. There
15 are -- there is another one for Nationwide dated
16 June 30th that gives the same thing. There are
17 two earlier ones that are non McIntosh claims of a
18 job assignment sheet on the -- what was identified
19 as the Willis claim. The job assignment sheet and
20 the -- Mr. Mannon's -- I believe it is
21 Mr. Mannon's report -- maybe I'm wrong about that.
22 But it is a report that's attached to it
23 containing the same kind of information. Those
24 documents.

25 MR. WYATT: Okay. We personally disagree as

□

1 attorneys. Mr. Webb is a very able counsel and he
2 has made an objection and I have a different
3 position. I don't agree, but it can be something
4 taken up with the Court.

5 MR. WEBB: Could we agree that we won't
6 distribute these outside of the context of this
7 deposition until we get this issue solved with the
8 Court? Otherwise, we will have to try to get the
9 judge on the phone today. And there is really no

10 reason for us to have to do that if we could just
11 agree to put them under seal or hold them
12 confidential until that time.

13 MR. WYATT: I will tell you what I will do
14 is -- why don't we do this. I will agree to hold
15 them until you make a motion, okay, formally and
16 state a legal argument supporting your motion
17 which I know you will do.

18 MR. WEBB: Okay.

19 MR. WYATT: And then that way it will
20 trigger, you know, a formality, a mechanism, that
21 will keep us all functioning, you know, in place.

22 MR. WEBB: I understand.

23 (Mr. Norris and Mr. Webb
24 confer.)

25 THE WITNESS: Will y'all summarize and

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1 translate when you get through?

2 MR. WYATT: Sure.

3 THE COURT REPORTER: Are you on the video
4 record?

5 MR. WYATT: Yeah, we need the video.

6 THE VIDEOGRAPHER: Okay.

7 MS. MCALISTER: Let's get this on the record.

8 MR. WYATT: Let's stay with the video all of
9 the time that we can.

10 THE VIDEOGRAPHER: Okay. We are back on the
11 video.

12 (Video on.)

13 MR. WEBB: I believe pursuant to the
14 Protective Order that's already in place in the
15 case, at least as to the State Farm documents that
16 are in here, State Farm's counsel will have a

17 right to designate the portions of the record as
18 well as the documents as confidential.

19 And to the extent that it is necessary
20 that I do so, I'm doing that in the record at
21 this point.

22 MR. WYATT: I understand.

23 MR. WEBB: Okay.

24 MR. WYATT: Okay.

25 MR. WEBB: Nationwide has no lawyer, here I

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1 take it.

2 MS. PLATT: No.

3 MR. WYATT: Not that I know of.

4 Can we go back a little bit to where we
5 were before we started that. So I can kind of
6 figure out -- there was a question on the table
7 but I must have lost the --

8 MR. NORRIS: I think there was an objection.

9 BY MR. WYATT:

10 Q Okay. That's okay. I think I have got it. Do
11 you need a minute to get back to where you were? Okay.
12 Let's pick back up. Your e-mails that we discussed just
13 a minute ago. And I know what it was, I asked you a very
14 abstract question. Let me rephrase that and ask it
15 another way: In your discussions with Ms. Platt and
16 Mr. Canada, did they ask you for copies of or even
17 acknowledge that you had copies of e-mails as you just
18 described a few minutes ago, that were in the -- that
19 were sent in the Yahoo website?

20 MR. WEBB: Objection to form.

21 THE WITNESS: No, they did not.

22 BY MR. WYATT:

23 Q Okay. The next document, Mr. Ford, I see here

24 is this revised offer of employment dated September 21,
25 '07. Is that a document that Forensic has a copy of as

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1 well as you? Do you know?

2 A This is an e-mail from Forensic to me.

3 Q So as far as you know this document was
4 generated originally with Forensic?

5 A Yes. Because of the letterhead. They
6 e-mailed it to me.

7 Q And it was --

8 MR. WEBB: For the record, we are talking
9 about the first three pages of Exhibit 10?

10 MR. WYATT: Correct.

11 MR. WEBB: Good.

12 BY MR. WYATT:

13 Q And this document was prepared by Forensic, is
14 that correct?

15 A Yes.

16 Q And do you see the first paragraph that uses
17 the words 'principal engineer in charge'?

18 A Yes.

19 Q Does that relate back to what we talked about
20 earlier today that you were hired to be the person who
21 would make Forensic's operations legally operational in
22 Mississippi?

23 MS. PLATT: Object to the form.

24 MR. NORRIS: Join.

25 THE WITNESS: It would satisfy the

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1 Certificate of Authority requirements.

2 BY MR. WYATT:

3 Q For the Board of Engineering of the State of
4 Mississippi?

5 A Correct.

6 Q And you would -- this was to be a salaried
7 position?

8 A Correct.

9 Q Was it part of your contract that you were to
10 professionally and accurately determine the specific
11 causation of losses?

12 MS. PLATT: Object to the form.

13 THE WITNESS: Yes.

14 BY MR. WYATT:

15 Q Those words are Mr. Kochan's words?

16 MR. NORRIS: Object to the form.

17 BY MR. WYATT:

18 Q If you know.

19 A I don't know who prepared the letter, but
20 Bob Kochan signed the letter. I think Randy Down
21 probably had a lot to do with the input of this.

22 Q Okay. And the next paragraph again is what we
23 just discussed. That if you accepted that position, you
24 were to be designated as the principal engineer in
25 charge, right?

1 A Right.

2 Q And it provided that you were to report to
3 Randy Down as vice president. Did that happen? Did that
4 actually occur? Did you actually report to Randy Down
5 as --

6 A Yes.

7 Q You did?

8 A Yes.

9 Q How would you report to him, in what way?

10 A Organizationally? Organizational
11 structure-wise, the position reported to Randy.

12 Q I mean, physically what -- did you use Yahoo
13 e-mail to report to Mr. Down?

14 A No.

15 Q How did you physically carry out the act of
16 reporting to Mr. Down?

17 A Conference calls we had. I never had
18 any -- I might have had one or two one-on-one
19 conversations with Randy, but there was no daily
20 report, written report, weekly summary report. Adam
21 did the numbers as far as through-put. I did not do
22 that.

23 Q I see. Did you have anything to do with the
24 preparation of the time and expense sheets?

25 A No. Except my own.

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1 Q What about the invoicing?

2 A No.

3 Q And what about case file expense, that
4 document?

5 A Huh-uh.

6 Q And who did that?

7 A I don't know.

8 Q Did you ever see how those were prepared?

9 A No, I did not.

10 Q Okay. Did Mr. Kochan ever discuss with you any
11 of the financial circumstances involving the recreational
12 vehicle?

13 A No.

14 MS. PLATT: Object to the form.

15 MR. WEBB: Join in that objection.

16 BY MR. WYATT:

17 Q Did they provide you with a company-paid cell
18 phone?

19 A No.

20 Q All right. The salary range -- he offered you
21 a salary of \$400 per day. Is that right?

22 A Yes.

23 Q And is that what it ultimately was or did this
24 change?

25 A No. That's what it ultimately was. Now,

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1 the first offer was significantly less. And at the
2 same time I was being offered a job with Forensic
3 and others for \$70 an hour for 60 hours a week.

4 Q Wait. You said with Forensic and others.

5 A Through a contract. To come on with them
6 as a contractor for higher pay and more hours.

7 Q I see.

8 A So they were offering me considerably less
9 than the 400. And I had a lengthy conversation and
10 I said listen, guys, I said, on one hand I can get
11 this. On the other hand I can get this. And which
12 would you do? And so they finally raised that up to
13 400. And it still was a pretty good discrepancy.

14 Q I see.

15 A But I told them, I understand you have
16 internal issues. And I understand why you are doing
17 what you are doing.

18 Q Did Mr. Koshan tell you on Page 3 that the job
19 might last as long as four to eight months?

20 A Yes. Really didn't -- as you can see four
21 to eight months is a hundred percent spread there.
22 And they didn't really know how long it would last.

23 Depended on the number of cases and they had no
24 control over that.

25 Q Did you ever have any phone calls from

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1 Mr. Kelly wherein he discussed changes that were being
2 made to inspection reports for properties you had
3 originally prepared?

4 A No. You are talking about after I left
5 Forensic, right?

6 Q Yes, sir.

7 A No.

8 Q Okay. Mr. Ford, these documents that you have
9 provided in this Exhibit 10 that are looking at, these
10 are only the documents that you have referred to earlier
11 in your testimony. Is that correct?

12 A That's correct.

13 Q And there are other documents that you brought
14 with you, but they are not included in this Exhibit 10,
15 is that right?

16 A That's correct.

17 Q Okay. I know you will anyway, but may I ask
18 that you please preserve those documents so that in the
19 event there is some need for the Court to review them in
20 camera, or some counsel to see them, or whatever the case
21 may be, that they will be available for that?

22 A I plan to preserve them, yes.

23 Q Thank you, sir.

24 MR. WYATT: Can we go off the record. We are
25 going to change a tape and then I'm probably going

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1 to be about done.

2 THE VIDEOGRAPHER: This marks the end of
3 videotape number three in the deposition of Brian
4 Ford. Going off the record. The time is 3:32.

5 (Off video.)

6 (Break taken.)

7 (On video.)

8 THE VIDEOGRAPHER: This marks the beginning
9 of videotape number four in the deposition of
10 Brian Ford. Back on the record. The time is
11 3:39.

12 BY MR. WYATT:

13 Q Mr. Ford, thank you for your patience. I have
14 just a couple of more questions and then I'm going to
15 tender you and the other attorneys will have an
16 opportunity to ask questions if they so desire.

17 Did you ever have an opportunity to
18 train anyone with Forensic during the time you were
19 employed by them?

20 MR. NORRIS: Object to the form.

21 MS. PLATT: Join in the objection.

22 THE WITNESS: The only person that came after
23 I did was Jack Kelly. And in the review, the
24 process with Jack -- that's about the extent of
25 it.

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1 BY MR. WYATT:

2 Q So Mr. Kelly would be the answer to that
3 question?

4 A Yes.

5 MR. WEBB: Object to the form.

6 BY MR. WYATT:

7 Q And did Mr. Kelly accompany you on any
8 inspections?

9 A I can't recall. There could have been,
10 but I don't recall any.

11 Q Okay. When you say we reviewed the process,
12 you are saying 'we', do you mean yourself?

13 A Yes. Jack and I would review the process.

14 Q Okay.

15 A And with Adam the flow of things.

16 Q Okay. You knew Mr. Kelly because he had lived
17 next door to you, correct?

18 A Correct.

19 Q Based upon your understanding of Mr. Kelly and
20 his credentials, did you ever determine whether or not he
21 had any experience in hurricane forensic investigations?

22 MR. NORRIS: Object to the form.

23 MR. WEBB: I object.

24 MS. PLATT: Same.

25 THE WITNESS: No. Not to my knowledge he did

1 not have any.

2 MR. WYATT: He did not have any.

3 I'm going to tender Mr. Ford, but I would
4 ask -- there are a lot of devices here in this
5 room today, which have not been displayed on
6 this video camera. But there are three laptop
7 computers that have been in operation
8 throughout this deposition as well as a
9 telephone with -- I think, Ms. Renfroe, is that
10 right?

11 MR. NORRIS: Uh-huh.

12 MR. WYATT: And if anyone has recorded
13 anything during this deposition, either remotely
14 or through laptop computers or any other device,
15 would they please identify that for the record

16 right now?

17 Okay. No one having spoken, Mr. Ford,
18 thank you so much. I appreciate your patience
19 and one of the other attorneys will now have a
20 chance to ask you some questions.

21 THE WITNESS: Okay.

22 MR. WEBB: Before we do that, just to make it
23 logistically better for me.

24 MR. WYATT: Do you want to move over here?

25 MR. WEBB: It would be a lot easier if we

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1 could just kind of circle around.

2 (Video off.)

3 (Break taken.)

4 (Video on.)

5 THE VIDEOGRAPHER: Back on the record. The
6 time is 3:47.

7 Examination

8 BY MR. WEBB:

9 Q I guess it is unfair because coming from
10 Central Time, I'm still operating an hour ahead. So I
11 know it is a little late in the day. And I hope that
12 this stack doesn't indicate that we are going to be here
13 through the entire thing.

14 As you know from our meeting earlier
15 this morning, my name is Dan Webb. I'm a lawyer
16 from over in Mississippi, up in Tupelo, along with
17 John Banaham and some other folks, we represent
18 State Farm in this case. I think you may -- do you
19 know John?

20 A Very well.

21 Q Okay. I believe you know Mr. Scruggs, too,
22 from past associations, correct?

23 A Not as well. But I know him, know of him.
24 Q Know of him?
25 A I have met him.

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1 Q You met him in the context of this case as I
2 recall from your testimony, but just diving into this one
3 point, at least in May of 2006?

4 A Yes.

5 Q Okay. Had you ever discussed this case prior
6 to May of 2006 with anyone with -- associated with
7 Mr. Scruggs? And when I say this case, I'm talking
8 specifically about McIntosh.

9 A No.

10 Q Okay. Had you been -- had you been contacted
11 in any way by anyone associated with Mr. Scruggs' office
12 prior to your meeting with him?

13 A Prior to the meeting, yes. In setting up
14 the meeting.

15 Q Do you recall who that was?

16 A Darren Versiga.

17 Q Okay. Anyone else? And I'm -- strike that.

18 Have you had any communications other
19 than that communication with the gentleman you just
20 named prior to 2006 in May with the Scruggs Group at
21 all? You will have to answer out loud.

22 A I'm sorry. No. I don't think I have had
23 any conversation with anybody with the Scruggs Group
24 prior to that.

25 Q And you were discussing --

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1 A Let me back up.

2 Q Okay.

3 A I did call their office to provide them
4 with some information.

5 Q Okay.

6 A Back after the storm. I had some
7 information I thought was important regarding the
8 Corp of Engineers. And I called their office to
9 offer that information.

10 Q Do you recall if you made it through to their
11 office?

12 A They took a message and a lady lawyer
13 returned the call.

14 Q Do you remember who?

15 A No. Took the -- asked me -- I told her
16 what I was calling about. We asked a couple of
17 questions. She thanked me and that was the end of
18 it. I never heard back from her.

19 Q What was the genesis of your phone call about
20 the Corp of Engineers? What was the reason that you
21 called?

22 A The Corp of Engineers had information that
23 predicted these areas would flood. The federal and
24 state government did nothing with it. The flood
25 zones do not represent what the Corp of Engineers

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1 has.

2 Q Okay. And what was your thinking in terms of
3 passing that along to Mr. Scruggs' firm?

4 A It was in response to his public plea for
5 information or people interested in Katrina issues.
6 And I thought that was a serious Katrina issue.

7 Q A serious issue in what respect?

8 A Public responsibility for which they
9 still -- many other areas of that I'm sure. In New
10 Orleans would have similar thoughts along those
11 lines.

12 Q And what specifically, if you can recall at
13 this point, was your source of that information that you
14 were passing on?

15 A At the National Hurricane Conference, the
16 Corp of Engineers, presented materials. I
17 personally had maps of the information in the late
18 80s -- I'm sorry in the late 1990s that contained
19 this information.

20 Q And the information again was what that
21 predicted certain areas would flood? Is that the way I
22 understood it?

23 A They do computer models of storms along
24 the Coast hitting at various places through digital
25 mapping, knowing elevations through satellite

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1 intelligence, they can predict the maximum envelope
2 of water as a result of a Category III, or, IV, or V
3 hitting at multiple places along the Coast. Those
4 maps showed the areas that would flood far
5 exceeds --

6 (Interruption from hotel
7 personnel.)

8 THE WITNESS: I'm sorry. Far exceeds flood
9 zone requirements.

10 BY MR. WEBB:

11 Q Okay. When you say those maps -- information
12 on those maps, when you use the phrase 'far exceeds flood
13 zone requirements' what do you mean in layman's term?

14 A Insurance. Flood zone maps for flood

15 insurance. They do not agree with real data that
 16 the Corps has. They are inconsistent and nobody is
 17 accepting responsibility for that.

18 Q Okay. So the information you had, at least as
 19 of the late 90s, was that at least some part of the
 20 federal government had flood information that predicted
 21 greater flooding than was predicted by the flood zone
 22 mapping for flood insurance purposes? Is that a fair
 23 statement?

24 A That's a fair statement.

25 Q And it was your thought that, perhaps, that

1 might be something that Mr. Scruggs and lawyers in his
 2 firm might be able to use to develop a claim on behalf of
 3 people who had lost money, or lost houses, or lives, or
 4 what?

5 A Yes. Yes. Yes.

6 Q To all of those?

7 A To correct the situation.

8 Q To correct the situation. Has anything been
 9 done about it yet that you know of?

10 A Not to my knowledge.

11 Q Okay. Other than that phone call where a lady
 12 lawyer called you back and you passed on that
 13 information, I take it from your earlier testimony you
 14 have had no contact at all with anyone with the Scruggs
 15 Katrina Group between that time and May of 2006, correct?

16 A To the best of my recollection there was
 17 none.

18 Q Okay. With respect to the discussion that you
 19 had earlier today with Mr. Wyatt about conversations that
 20 you had, do you remember a telephone call to you at some
 21 point from Mr. McIntosh?

22 A I remember a phone conversation with him.

23 Q Okay.

24 A But I don't know who called who. I don't
25 recall who called who. What I remember out of the

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1 conversation was his business and he wanted to talk
2 to me about the possibility of marketing his
3 fiberglass business to the power companies.

4 Q Okay.

5 A And I told him I was retired and wasn't
6 too interested in that did and --

7 Q He would have to call somebody else?

8 A Yeah.

9 Q Okay. Was he offering to get -- to hire you to
10 assist him in some marketing effort as a person who had
11 contacts in the industry?

12 A Yes. Yes.

13 Q Okay. Do you recall when that conversation
14 took place? I know you probably can't remember date and
15 hour, but do you remember month and year?

16 A No.

17 Q Was it this year?

18 A No, no. It was -- it was either late '05
19 or early '06.

20 Q Okay. Do you remember him -- strike that.

21 Do you remember having a phone
22 conversation with Mr. McIntosh and you know when I
23 say Mr. McIntosh, I assume you know that that's
24 Chris McIntosh, who is now the Plaintiff in this
25 case suing the Defendants in the case, correct?

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1 A Okay. Correct.

2 Q How did you -- what facts do you know that tell
3 you now that that's the same person? I'm curious as to
4 how you know thinking back about something as early as
5 late 2005 -- of '05 that you know that's the same person?

6 MR. WYATT: Let me object to the form of that
7 question.

8 BY MR. WEBB:

9 Q That's a good objection. If you understand it
10 and you can answer it, please do.

11 A I think I know what you are trying to ask.
12 When I met him at his property, he -- we talked and
13 he knew after our conversation that I had retired
14 from the power company.

15 Q I see.

16 A And then his interest in, you know, hey --
17 and when he found out I was from the Birmingham
18 area, I had worked on engineering projects, he
19 saw -- hey, you might know people that I could do
20 business with down the road.

21 Q Okay.

22 A And the reason is there is a large
23 industry movement right now to put -- you probably
24 heard it on the news yesterday, 4.6 billion dollar
25 settlement. Did you hear that number yesterday?

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1 Electric utilities going to pay -- it is going to
2 cost them 4.6 billion to clean up their system.

3 Q I don't remember a number. That's in Ohio?

4 A Yes. To do that they have to put
5 scrubbers in at their power plants. And those are
6 large fiberglass facilities. And that's the
7 business that Mr. McIntosh was in at that time.

8 Q Okay.

9 A So that's about the extent of it?

10 Q So when he called you, you recalled him from
11 having met him at his property when you were out there --

12 A Yes.

13 Q -- looking at the property back in October of
14 2005?

15 A Right.

16 Q Excuse me. And do you remember anything else
17 that you discussed with him other than his discussion
18 with you about the possibility of you working with him to
19 market?

20 A During the phone call?

21 Q Yes, sir.

22 A No. I don't recall anything else about
23 that. You know, I have had a few people that would
24 call and ask about the status of the report. But I
25 don't remember him asking the status of a report.

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1 Q If Mr. McIntosh says that he called you to ask
2 you about the status of the report, would you dispute
3 that?

4 A I don't recall that.

5 Q You just don't recall it one way or the
6 another?

7 A (Witness shakes head negatively.)

8 Q You are not saying it didn't happen, you are
9 just saying you don't know?

10 MR. WYATT: Object to the form. Asked and
11 answered.

12 THE WITNESS: I don't specifically remember
13 him calling and asking about the status of a
14 report.

15 BY MR. WEBB:

16 Q Well, then I think I know the answer to the
17 next one: You don't recall Mr. McIntosh asking you what
18 you had concluded in any report when he talked to you on
19 the phone?

20 A On the phone? I don't recall that. I
21 have had people ask me at the site that would meet
22 me, you know, what's the answer? What are your
23 conclusions? What are your findings? I do not
24 remember him calling me and asking me that, no.

25 BY MR. WEBB:

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1 Q Okay. Other than that one phone call, I
2 believe you said it could have been late '05 or early
3 '06?

4 A I don't know when it was.

5 Q Okay. Do you know if it was after Christmas of
6 '05 sometime?

7 A No. I don't know.

8 Q Okay. After that have you had any direct
9 personal contact with either Mr. or Ms. McIntosh? Phone?
10 In person or otherwise?

11 A I have never met or spoken with
12 Ms. McIntosh.

13 Q And no further contact with Mr. McIntosh,
14 directly?

15 A No.

16 Q Okay. So if I'm correct about this then you
17 would have met him on October 7th of 2005. And then
18 talked with him on the phone about a possible business
19 deal that he was thinking about. And other than that you
20 haven't had any personal contact with him. Is that
21 right?

22 A To the best of my recollection, that's it.

23 Q Okay. You were asked a question -- if I can
24 find the exhibit here about -- an exhibit -- yeah, it is
25 Exhibit Number 4. And as I understood your answer to

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1 that question, I understood your answer to be that you
2 had never seen that handwriting on that -- on that page
3 before.

4 A The sticky note?

5 Q Yes, sir.

6 A I don't recall ever seeing that.

7 Q Okay. And it was unclear to me whether you
8 were saying that you had never seen that handwriting
9 anywhere before or if you had never seen it like that.

10 A I don't recognize the handwriting either.

11 Q Okay. Have you ever seen a note like that
12 in -- that is not a copy imposed on top of another copy
13 like that exhibit is?

14 A Try that again.

15 Q Okay. This is a sticky note that I have in my
16 hand. My question is: Have you ever seen -- it could be
17 a different color, but have you ever seen a sticky note
18 that is an original sticky note, whether it be yellow,
19 blue, green, or whatever that had that same statement
20 with the markings on it?

21 A No. No. No. I have never seen this
22 statement nor this handwriting before.

23 Q Okay. Before today?

24 A Correct.

25 Q And when you met with Mr. Scruggs in May of

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1 2006, I understood you to testify that he showed you
2 reports, the two reports that you testified earlier
3 about. Is that correct?

4 A The McIntosh report.

5 Q Did he show you the one that has the
6 October 12th date and one that has the October 20th date?
7 Or did he show you both of them?

8 A I know he showed me the second one.

9 Q Which would be the 20th?

10 A Yes. And showed me the signature. I did
11 not study it. I just saw the cover, the signatures
12 and so forth.

13 Q All right. And what conversation did y'all
14 have about those? What was the substance of the
15 conversation that you and Mr. Scruggs had about that?

16 A I think he was wanting to know if I was
17 aware there was a second report.

18 Q And your answer was?

19 A No. I was not.

20 Q So --

21 A When I went to the RV and turned in my
22 laptop and my materials, I have never had -- I never
23 heard from anybody from Forensic. Period.

24 Q Yes, sir.

25 A Except that e-mail I got out of the blue

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1 where some administrative person said, oh, Brian
2 wrote that. Shoot it to him. Sent me an e-mail and
3 I wrote back and I said, hey, ask Randy if he wants
4 me to do this. And the answer came back, nevermind.

5 Q Okay. And that was the -- that's the only
6 contact that you have had from anybody with Forensic?

7 A Until August 1st of this year when I met
8 Bob Kochan in Jackson.

9 Q Okay. And you have never given any recorded
10 statements, other than the one that you gave
11 Mr. Scialdone that you referred to earlier? And the one
12 I believe you also testified you gave one to an
13 investigator with the government, too? Those are the
14 only two?

15 A No.

16 Q What other recorded statements have you given?

17 A The grand jury.

18 Q Well, I'm not talking about your grand jury
19 testimony. A recorded statement -- that's testimony as
20 opposed to a recorded statement. That's not necessarily
21 sworn testimony.

22 A Well, they recorded it but go ahead.

23 Q Other than your grand jury testimony, leave
24 that out of the question, we know you testified before a
25 grand jury. Other than your grand jury testimony, are

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1 the only recorded statements you have given the little
2 short statement that you gave at the end of your
3 interview with Mr. Scialdone about what you had and had
4 not discussed? And the statement that you gave to the --
5 was it the U.S. attorney investigator Homeland Security?

6 A Right.

7 Q Which one?

8 A I'm sorry?

9 Q The Homeland Security investigator?

10 A Russ Geboy?

11 Q Yeah. That's the person you gave the statement
12 to, correct?

13 A Right.

14 Q And you have given no other recorded statements
15 to anyone?

16 A No other recorded statements. I have had
17 non-recorded other interviews, yes.

18 Q Yeah. All right. Do you -- who with the
19 Scruggs Group has interviewed you?

20 A Let me back up. We had one other -- did
21 you say I had said earlier today that Darren Versiga
22 took a short recorded statement? Do you recall
23 that?

24 Q Actually, I didn't recall that. He actually
25 took a short recorded statement?

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1 A Yes.

2 Q When did he do that?

3 A In May of '06 to gather to information to
4 present to Mr. Scruggs to see if there was a reason
5 to meet.

6 Q All right. Did you get a copy of that
7 statement yourself?

8 A No.

9 Q Okay. Did you ever ask for one?

10 A No.

11 Q Okay. Do you have any objection to the other
12 Defendants, specifically my client, seeing what you said
13 in that statement?

14 A No.

15 Q Okay. Other than those three statements then,
16 we have got the Homeland Security interview. We've got
17 the Scialdone statement. We've got the -- pronounce his
18 name again.

19 A Versiga.

20 Q Versiga. I just have trouble with that and I

21 apologize. Other than those three recorded statements,
22 you have not given a recorded statement to anyone? Is
23 that a no?

24 A (Witness nods head negatively.)

25 Q Is that a no?

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1 A Pardon?

2 Q I'm sorry, she needs to get it down as well as
3 it being on video.

4 A No.

5 Q Okay. My next question was: Have you given
6 any interviews to any members of the Scruggs Katrina
7 Group beyond that interview that you had with
8 Mr. Scruggs' associate where he made a recording and the
9 interview that you did with Mr. Scruggs on the 6th of May
10 of '06 -- or May of '06?

11 A I have had conversations with them. I
12 don't think -- I don't think you would call it
13 interviews.

14 Q Okay.

15 A Or depositions by any stretch of the
16 imagination.

17 Q Okay. How many times do you think you have met
18 with some member of the Scruggs Group?

19 A Met with them?

20 Q Met with them in person.

21 A Once.

22 Q Once? And that was the meeting in May of '06,
23 is that correct?

24 A Correct.

25 Q Did you meet with anyone with the Scruggs Group

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1 in preparation for your deposition here today?

2 A No.

3 Q Did you talk with anyone with the Scruggs Group
4 in preparation for your deposition here today on the
5 phone?

6 A No.

7 Q Okay. Did you talk with any lawyers related to
8 your preparation for this deposition today?

9 A Yes.

10 Q Who did you speak with?

11 A Larry Canada and Kathryn.

12 Q Those are the only two?

13 A Yes.

14 Q And as I understood, you told Mr. Wyatt this
15 morning you do not have personal counsel and have not
16 consulted personal counsel?

17 A Correct.

18 Q Related to this case or your testimony, right?

19 A Correct.

20 MR. WEBB: Okay. Take a look at this.
21 These are some blow-ups of his photographs. Here
22 is another one. What is the next exhibit? I had
23 a sticker here somewhere. Did anybody see where
24 it went? I guess it must be under the box. Do
25 you know what the next exhibit is?

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1 MS. PLATT: I think it must be 11 because
2 this was 10.

3 MR. WEBB: No, there was another one marked
4 after that. There was an 11. I have 10.

5 MR. WYATT: What is it you're looking for?

6 MR. WEBB: An exhibit sticker.

7 MS. MCALLISTER: They are buried.

8 MR. WEBB: Let's go off the record just a
9 minute.

10 THE VIDEOGRAPHER: Off the video record. The
11 time is 4:09.

12 (Video off.)

13 (Off-the-record discussion.)

14 (Video on.)

15 (WHEREUPON, Exhibit Number 11
16 was marked for identification.)

17 THE VIDEOGRAPHER: Back on the record.

18 BY MR. WEBB:

19 Q I want to -- first of all, I noticed you didn't
20 bring your notebook back with you, correct?

21 A I have it with me. It is back over there.

22 Q It is back over behind you?

23 A (Witness nods head affirmatively.)

24 Q What -- can you identify with any more
25 specificity than you have already done it, the documents

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1 that you have not produced that are in that material that
2 you brought with you?

3 A Some weather data I obtained in working
4 for a different company.

5 Q Okay.

6 A A sample report from another company. My
7 personal notes throughout this entire process, I
8 guess.

9 Q Okay. How far back would those personal notes
10 go?

11 A Probably starts in May of '06.

12 Q With your meeting -- around the time of your
13 meeting with Mr. Scruggs?

14 A Right.

15 Q Was there any suggestion in that meeting that
16 you make personal notes?

17 A No.

18 Q Okay. You just decided to do that on your own?

19 A (Witness nods head affirmatively.)

20 Q Did you make notes of that meeting?

21 A No.

22 Q Okay. Is there any particular reason you
23 didn't make notes of that meeting, but you made notes of
24 other meetings and conversations, say, with Ms. Platt and
25 Mr. Canada, for example?

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1 A It was probably because I did all of the
2 talking. I mean, it was much like this
3 conversation. They would ask questions and I would
4 answer it.

5 Q Okay. And how long did that meeting in May of
6 '06 -- how long did it last?

7 A Not as long as this.

8 Q Okay. Well, you have been here a little over
9 three hours so was it less than three hours, two hours or
10 less?

11 A Three hours?

12 MR. WYATT: I think it has been longer than
13 three hours.

14 THE WITNESS: Three hours?

15 MR. WEBB: I thought we had four hours left.

16 MR. WYATT: No. I think we are way past
17 that.

18 MR. WEBB: I thought we had four hours left.

19 THE WITNESS: Three or four hours.

20 BY MR. WEBB:

21 Q Okay. And who all was present at that meeting?
22 A Dicky Scruggs, Zack Butterworth.
23 Q Do you know Zack Butterworth was -- or is?
24 A He is a lawyer from the Coast.
25 Q Okay. Who else?

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1 A Derek.
2 Q Okay. Meaning Mr. Wyatt here to my right?
3 A Right. And Darren Versiga and myself.
4 Q But did you bring any documents or photographs
5 or other tangible information to that meeting?
6 A Yes.
7 Q What did you take?
8 A I prepared an agenda for myself to discuss
9 things.
10 Q Okay.
11 A And I prepared exhibits of documents that
12 I had.
13 Q Okay. Is that agenda and are those documents
14 in the material that you have -- that you haven't
15 produced?
16 A Some of it, yes.
17 Q Okay. When you say some of it, how do you
18 distinguish between what has -- what is there --
19 A I don't know if all of the exhibits are
20 still there. I don't know if I have taken any out.
21 Q Okay. And did you provide a copy of that
22 information or those documents and that agenda to the
23 lawyers you were meeting with?
24 A No.
25 Q Okay. You kept that yourself?

1 A Yes.

2 Q Okay. What -- is there any particular reason
3 that you haven't included your agenda and your exhibits
4 to the extent that you have them with the material that
5 you produced voluntarily here today?

6 A Why would I come in and give you
7 everything I have?

8 Q Okay. I mean, is that the only reason? It
9 doesn't contain personal private information of yours,
10 does it?

11 A I wasn't asked to do that. I haven't been
12 asked to do that. I was asked to come here and give
13 a deposition.

14 Q Okay.

15 A There was no discussion of documents. Did
16 ask you for any?

17 Q Not yet.

18 A Okay.

19 Q So is the reason then that you have given some
20 documents and not all documents just your personal
21 decision that there were some you want to keep and some
22 you don't? I mean, it is not a trick question.

23 MS. MCALLISTER: Objection to form.

24 THE WITNESS: Most of what I have, you guys
25 already have.

1 BY MR. WEBB:

2 Q Okay. But you know that we don't have the
3 agenda -- I don't guess anybody here has the agenda. The
4 Scruggs Group or anyone else?

5 A No. It was a -- it was my preparation for

6 meeting with them.

7 Q Okay. Do you recall what was on the agenda?

8 A Yes.

9 Q What -- what can you tell me?

10 A I thought it was important that I discuss
11 my credentials.

12 Q Okay.

13 A I discussed that, my background and so
14 forth like we have done here today.

15 Q Okay.

16 A What my involvement was with the process.
17 Who I worked for. Both companies that I worked for.

18 Q Excuse me just a second. Both companies
19 meaning?

20 A Forensic.

21 Q And?

22 A MACTEC.

23 Q And MACTEC. Both companies you worked for
24 related to Katrina down on the Coast?

25 A Correct.

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1 Q Am I right from looking at the documents that
2 you discussed earlier here today, as I recall
3 Ms. Williams welcome aboard e-mail that's in Exhibit 10
4 that we can get it and look at if we need to, was dated
5 October the 3rd. You may remember that from looking at
6 it just a moment ago.

7 A That's right.

8 Q And then as I understood it, your last day with
9 Forensic was around the 21st of October?

10 A A day or two later, yeah.

11 Q So total time in service with Forensic, you had
12 around 18 days total time?

13 A I don't know what day of the week the 3rd
14 is, but I started on a Monday.

15 Q Okay. The Monday after but closest to the 3rd
16 of October?

17 A I worked almost three weeks.

18 Q Okay. And after that how long did you work
19 with the other company?

20 A From December through -- out into April
21 doing almost full-time work. And then -- well,
22 through the end of March full-time. And then it
23 tapered down as the project was finishing up. And
24 then a couple of spot reviews on out into the end --
25 one as late as sometime this year. There was a real

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1 unique follow-up to something that they asked me to
2 review.

3 Q Without getting into people's personal
4 information, what kind of unique follow-up?

5 A A great story. A very determined
6 homeowner who is a retired NASA scientist built his
7 own home in Pass Christian. Built it very, very
8 well. Built it to stand and it did when everything
9 else around it left.

10 And he was not satisfied with the
11 settlement. So he went out and hired a weather
12 expert and put together a site-specific weather
13 report for him. And they petitioned a review of
14 that along with -- through the engineering company,
15 MACTEC, to review the report in light of that
16 additional information.

17 Q Oh, okay.

18 A And it was very well done and it was very
19 good.

20 Q So were you the person -- the engineer who had
21 signed off on an original report?

22 A Right.

23 Q And do you remember -- once again I'm not
24 asking for the person's review, do you remember what your
25 conclusions were generally on that report?

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1 A Yes.

2 Q What are were they?

3 A A lot of wind damage.

4 Q Yes, sir.

5 A And water damage.

6 Q Okay. So both wind and water damage?

7 A Yes. It was heavy, both.

8 Q Okay. And you got additional information and
9 did a -- perhaps, a supplemental or a second report?

10 A Yeah. We amended the report based on that
11 additional information. It substantiated the
12 findings that we already had.

13 Q Okay.

14 A It was very well done and basically
15 validated tornado activity on that site.

16 Q Okay. So it --

17 A Which --

18 Q Sustained --

19 A Which other homeowners don't have the
20 benefit of.

21 Q Okay. Do you remember who the weather
22 information came from?

23 A I can't recall off the top of my head. I
24 could hazard a guess, but it would just be a guess.

25 Q What would your guess be?

1 A Applied Research. But that may not be
2 right.

3 Q Okay. And ultimately the outcome of that was
4 it confirmed your original opinion of --

5 A A lot of wind, right.

6 Q And a lot of water damage?

7 A Right. Yes.

8 Q Okay. Now, going back other than the -- other
9 than the agenda and the documents that we talked about
10 earlier, were there any other materials that you brought
11 to the meeting with the Scruggs Group?

12 A The e-mails that we've already shared.

13 Q Okay. Yes, sir.

14 A My concerns about the Corp. My concerns
15 about bankers.

16 Q Excuse me. Bankers as?

17 A People telling homeowners they don't need
18 flood insurance.

19 Q Okay. When they go in to sign their HUD loans
20 or get a loan?

21 A Get a loan. I sat in on a closing where
22 the banker said, no, you do not need flood
23 insurance. Less than a month later the house
24 flooded.

25 Q And your concern with that was based on the

1 information that you had from the maps that you talked
2 about earlier?

3 A Right. Because there was a lot of issues
4 out there.

5 Q Do you know if there has been any follow-up on

6 the banker issue?

7 A No, I do not.

8 Q Okay. You have not been involved in it if
9 there has been?

10 A No.

11 Q Did you personally have any problems in your
12 family with either bankers or being in a place where the
13 flood zone was in your judgment incorrectly marked?

14 MS. McALLISTER: Objection as to form.

15 THE WITNESS: Personally, my home?

16 ////

17 BY MR. WEBB:

18 Q Yes, sir.

19 A Did not flood.

20 Q Your home did not flood?

21 A I was basically on an island. Everything
22 around me flooded. But we were up high enough that
23 we did not flood.

24 Q What was your home address at that time, your
25 home address?

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1 A It was 4002 Dunson Avenue, Ocean Springs.

2 Q Okay. And you mentioned that John -- I believe
3 you called him Jack Kelly, is that what he goes by Jack?
4 That he was your neighbor. Did he live on that same
5 street.

6 A Next door, different street -- different
7 street name because it changes subdivisions from one
8 to the other.

9 Q Okay. Okay. And do you know if he had wind
10 damage, or wind and water, or water or what?

11 A No. No flood.

12 Q No flood on his either?

13 A No flood on his either.
14 Q So he was on the hill, too?
15 A Correct.
16 Q You mentioned -- as I understand it now you can
17 correct me if I'm wrong about this. You are married and
18 your wife's name is Carol?
19 A Carolyn.
20 Q What was her maiden name?
21 A Morrison.
22 Q Morrison. And you have two children?
23 A Correct.
24 Q A daughter and a son?
25 A Correct.

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1 Q What are their names?
2 A Kristy is the daughter.
3 Q Kristy with a K or a C?
4 A With a K. K-R-I-S-T-Y. Kevin is our son.
5 Q Okay. Kevin is how old?
6 A 27.
7 Q 27. And you mentioned, as I understood it,
8 that your family had made a decision to move from the
9 Gulf Coast of Mississippi, collectively?
10 A Uh-huh.
11 Q How did that come about and when?
12 A Our daughter's home was in Pascagoula.
13 Q Yes, sir.
14 A That's the home that we sat in on the
15 closing a month prior to the storm where the banker
16 told us it was not in a flood zone.
17 Q What bank was that?
18 A It doesn't matter. And --
19 Q You do remember what bank it was, though?

20 A Oh, yes.
21 Q Has there been any claim made on that?
22 A No. No.
23 Q Okay.
24 A They worked with us well in the process.
25 It is not -- I'm not after the individual. I'm

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1 after just pointing out that our whole system is
2 screwed up. We have many, many problems that need
3 to be addressed.

4 Q And those are included in that from your
5 perspective? Those things that you have identified are
6 included in those many, many problems that you are
7 talking about?

8 A Yes.

9 Q From your perspective. Okay. Your daughter's
10 name is Kristy. What's her last name?

11 A Torbert.

12 Q T-O-R-B?

13 A E-R-T.

14 Q E-R-T. And her husband's name is what?

15 A Greg.

16 Q And is your son married?

17 A Yes.

18 Q Okay. Do they all live around you someplace
19 here in Georgia?

20 A Son lives in Loganville.

21 Q Been there.

22 A Okay. And our daughter relocated to
23 Birmingham after the storm.

24 Q Okay.

25 A Our son relocated to Lawrenceville,

1 Georgia.

2 Q Been there.

3 A And we came up and visited them -- well,
4 first of all, our daughter's home was flooded,
5 messed up pretty badly. They moved in with us. Our
6 son and his wife were living with us. And so we had
7 everybody there in the house because it was not
8 damaged. And we began the restoration process on
9 their home right after the storm.

10 Q Okay.

11 A And then -- but while we were evacuated,
12 we all made the decision that since we were retired,
13 Carolyn and I had retired. Carolyn retired from the
14 district attorney's office. And we decided to leave
15 the Coast. It was not our hometown. It was
16 devastated. We were not going to be a big part of
17 the restoration. If I had a business or a career
18 that I wanted to devote to that, I would have
19 stayed.

20 Q Okay.

21 A I was not in that position.

22 Q And it wasn't your hometown?

23 A Correct.

24 Q What is your hometown?

25 A It is near Birmingham. Trussville,

1 Alabama.

2 Q Trussville. I can't say I have been there. Is
3 that North, South, East or West of Birmingham?

4 A Northeast. It is on the way to

5 Chattanooga from Birmingham.

6 Q Okay. Up 65 is that --

7 A I-59.

8 Q I-59. Okay. Yeah, 65 goes to Knoxville, or
9 Coleman?

10 A Well, Coleman, Huntsville. Nashville,
11 close to Nashville, yes.

12 Q So you are originally an Alabamian?

13 A Correct.

14 Q You mentioned that you had an engineering
15 license in Alabama?

16 A Correct.

17 Q Do you still have that?

18 A Correct.

19 Q Have you ever had one in Georgia?

20 A Yes.

21 Q When did you have one in Georgia or do you
22 know?

23 A 70s and 80s.

24 Q Okay. Do you still --

25 A And into the early 90s. Because I dropped

1 it when I transferred to the Mississippi Power
2 Company.

3 Q Why would you do that? Or why did you do that?

4 A I dropped Mississippi -- I dropped Florida
5 and Georgia because I had no apparent need for
6 those. I kept Mississippi because that was the
7 state I was residing in. And I kept Alabama because
8 it was my home state thinking we would probably move
9 back there and I would keep it. In retrospect I
10 wish I hadn't dropped the Georgia and the Florida.
11 But I did.

12 Q I understand. Do you still have your
13 Mississippi and Alabama licenses today?

14 A Yes. Yes.

15 Q Are there any other states that you have been
16 licensed in that you no longer have a license in?

17 A No.

18 Q And I take it from your testimony that you were
19 trained by education as a civil engineer?

20 A I have a civil engineering degree, yes.

21 Q Civil engineering degree. And I was a little
22 unclear but -- about it, but what work did you do related
23 to the design of houses and determination of damages to
24 houses in the context of your work with Mississippi Power
25 Company, if any?

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1 A Houses?

2 Q Yes, sir.

3 A Office buildings.

4 Q Okay. Prior to working with Hurricane Katrina
5 and working with Forensic with Hurricane Katrina, had you
6 ever done a forensic investigation of a house to
7 determine cause of a loss?

8 A No. I have studied the effects primarily
9 of tornado and earthquake because they dominate
10 structural design. Hurricanes are less forceful
11 than tornados and earthquakes in the design of power
12 plants. So I had to study the effects of those
13 forces on structures of all types.

14 Q Okay. But any study devoted to the -- to water
15 forces?

16 A No.

17 Q Okay.

18 A Well, that's not a fair statement.

19 Nuclear power plants --
 20 Q You are thinking of something.
 21 A Well, yeah. Nuclear power plants. The
 22 jet impingements. The pipe rupture.
 23 Q Okay.
 24 A Fluid. Filling up in cavities and the
 25 annulus of a nuclear reactor where you design the

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1 structure for those rising waters, yes. So, yes.

2 Q What about study related to the comparison of
 3 the forces of wind versus water?

4 A I don't understand your question.

5 Q Okay. Do you know -- for example, have you
 6 ever made any calculations to -- that would tell you what
 7 X-amount of force would be in a given space on water,
 8 say, coming at 10 miles an hour versus what wind speed it
 9 would take to create that same force?

10 A Have I made those --

11 Q Yes, sir.

12 A Not lately. I made those calculations in
 13 the 70s and 80s.

14 Q I see. Are you a member of any engineering
 15 societies?

16 A I was a long-time member of the American
 17 Society of Civil Engineers. Very active in that at
 18 the national state level. Participated in writing
 19 design code on nuclear power plant structures.

20 Q Okay. How long has it been since you were a
 21 member of ASCE?

22 A It probably would be '92.

23 Q '92? And that would have been sometime around
 24 the time that you moved to Mississippi?

25 A Right.

1 Q And you took the job with Mississippi Power in
2 Mississippi?

3 A Yes.

4 Q Did you say division --

5 A District manage.

6 Q And as a district manager, what did you do
7 there, oversee the entire operation --

8 A Right.

9 Q -- basically?

10 A Right. Managed engineering, customer
11 accounting, marketing, line construction, public
12 relations.

13 Q Do you know Bill Long?

14 A Who?

15 Q Bill Long.

16 A Long?

17 Q Yeah Bill. Tom Bebe Electric. A district
18 manager that I was in school with. I thought maybe y'all
19 might have met each other somewhere around?

20 A No. The independent -- well, the co-ops
21 travel in different circles than do the
22 industrial-owned utilities.

23 Q Okay.

24 A But we do interface but it is usually at
25 the wholesale marketing level. Mississippi Power

1 sells them wholesale power, a different part of our
2 company interfaced with him. I do not know him.

3 Q Okay. So at some point you changed jobs to
4 something other than district manager?

5 A Correct.

6 Q As I recall your testimony. And what was that?

7 A Manager of disaster preparations.

8 Q And as manager of disaster preparations in a
9 power company, what is -- is there a principal focus of
10 that position in terms of what you are looking for? I
11 know you said -- strike that.

12 I know you said that there were all
13 kinds of potential disasters from terror attacks to
14 ice storms depending on where you were. But in
15 terms of operation of the power company system, is
16 there some particular emphasis that you have?

17 A Certainly hurricanes are the primary most
18 one that comes to mind to begin with. But it is not
19 the most frequent. Severe thunder storms, tornados,
20 inline winds, ice storms occur more frequently for
21 us. I guess fortunately than hurricanes striking
22 your surface therefore.

23 Q And when -- I may be wrong about this, but
24 isn't a prime motivation, if for lack of a better word in
25 the question, for a person in that position is to have

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1 things set up so that the process will work so that you
2 can most efficiently get people back on the grid?

3 A That's the second.

4 Q That's the second?

5 A Mitigating damage is your first
6 preference.

7 Q Keeping the grid from going down?

8 A Right. And then repairing it would be
9 second.

10 Q Okay. Okay.

11 A Not just the grid. It is all of your

12 resources, all of your facilities, the power plants.

13 Q All right.

14 A Everything serving that. Your
15 transmission lines, transmission towers,
16 substations.

17 Q Yes, sir.

18 A Distribution lines, poles, your office
19 buildings.

20 Q Okay. While you were working at Mississippi
21 Power, did you ever have an office building that was
22 damaged by storm surge in a hurricane?

23 A No. We had one flood from a tropical
24 storm.

25 Q Okay. Flood from a tropical storm?

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1 A Right.

2 Q Do you remember which one?

3 A Alicia I believe it was.

4 Q Okay. You mentioned that one earlier that one
5 sticks out in your mind apparently.

6 A Yes. It dropped eight inches in an hour
7 in Gulfport. And the drainage would not handle it.

8 Q So that flooded from rain coming down?

9 A Right.

10 Q Okay. Were you involved in an evaluation of a
11 the losses caused by that, rainwater?

12 A Yes.

13 Q To what extent?

14 A Seeing how it happened, where it came
15 from, how we could prevent it from happening again.

16 Q Okay.

17 A The damage assessment. What is it going
18 to take to fix it. What our losses were. We lost

19 our print shop in the basement.

20 Q Okay, because it flooded.

21 A Yes. And the mailroom and it interrupted
22 everything. And so we had to get equipment, get it
23 back up and running.

24 Q Okay. Other than that then is that the only
25 flood damage to any power company office that you had the

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1 entire time you worked for Mississippi Power?

2 A We had substations that had flooded.

3 Q Okay. And when was the most recent one prior
4 to Katrina, if you recall? Substation that flooded.

5 A A substation that flooded? George.

6 Q That would have been in '98?

7 A Correct.

8 Q And what substation was that if you can
9 remember?

10 A It was more than one. The substation that
11 served a Chevron co-generating facility in
12 Pascagoula.

13 Q Okay. And was this while you were district
14 manager or were you already in the --

15 A The disaster job.

16 Q And what did you do in response to that,
17 personally?

18 A Well, I worked with Chevron. Chevron
19 actually raised the dike around their facility.

20 Q To keep the water out?

21 A To keep the water out.

22 Q Okay. Have you -- along those lines and in
23 reporting the concerns that you had about the Corp and
24 the banks, have you made any recommendations to the
25 government, or any lawyers, or anybody else about what

1 should be done related to those problems that you see?

2 A Not in writing.

3 Q Okay. Well, have you made them otherwise?

4 A Well, I have had conversations with them
5 and I presented this information.

6 Q And what recommendations?

7 A I asked them what they do with that
8 information. How does it get back into the system?
9 How do you effect change and who is responsible for
10 it?

11 After the storm, I called the state
12 and I said who is in charge of flood zoning? And
13 they said FEMA. I called FEMA. FEMA says the Corp.
14 I called the Corp. The Corp said, no, said it is
15 the local government. I said do you mean every
16 local government is responsible for setting that?
17 And they said, well, yeah. And I found it to be
18 alarming that nobody seems to take responsibility
19 for that.

20 Q Okay.

21 A So anyway, what else have I done with
22 that? Nothing other than to call Dick Scruggs
23 office and say here is an issue that needs to be
24 dealt with. And I have talked to some public
25 officials about it over time. But have I penned

1 legislation? No, I have not.

2 Q Okay. Are you an active advocate for something
3 being done about that, I guess?

4 A Not at that time.

5 Q Not at this point? Do you have any relatives
6 since you and your children and your wife moved from the
7 Coast, do you have any relatives that live down on the
8 Mississippi Gulf Coast?

9 A No.

10 Q Does your daughter's husband have any relatives
11 that live down there?

12 A No.

13 Q Okay. What about your son's spouse?

14 A No. She is from California.

15 Q Okay. So you have no family ties with anybody
16 in the south -- southern most six counties of
17 Mississippi?

18 A No.

19 Q So to your knowledge as we sit here today if
20 somebody sits on a jury in this case they wouldn't be kin
21 to Mr. Brian Ford, to your knowledge?

22 A To my knowledge, that's right. No, there
23 wouldn't be anybody.

24 (WHEREUPON, Exhibit Number 12
was marked for identification.)

25 BY MR. WEBB:

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1 Q Okay. With respect to the McIntosh case, I
2 have got a photograph here. I have given a copy to
3 counsel. This is an exhibit to another deposition in
4 this case. I have marked it as Exhibit 12. And you can
5 see that it is an aerial and there is -- there is a --
6 that says two. Up at the top it says Exhibit 12.

7 A Yeah, what does it say under here?

8 Q Pardon me?

9 A What does it say under there before this.
10 What the source is, what it is?

11 Q I don't think it says anything under there.
12 McIntosh Aerial. It has got a number, a Bates number --
13 A Okay.
14 Q -- under the exhibit sticker. Do you recognize
15 that area as being the area of McIntosh or can you tell
16 from that photograph?
17 A That's the reason I was asking you where
18 it came from. And when. It is dated? Do you know
19 the date?
20 Q Post August 29, 2007.
21 A Post Katrina.
22 Q Right. And there is a yellow caption that says
23 'McIntosh', if you see that.
24 A I see that.
25 Q If you don't know, fine. If you do know, fine.

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1 But does that appear to be a photograph of that area to
2 you or can you tell?

3 A The roof line and the little carport
4 appears to be that.

5 Q Okay. There is some other roof lines that are
6 on that house -- you do know that the McIntosh house was
7 out on the end of a peninsula with marsh and/or water
8 around it, correct?

9 A Yes.

10 Q And that shows up as the darker part on that
11 picture there in front of you that's Exhibit 12, but
12 there are other roof lines.

13 When you were out there on the 7th,
14 did you go around to any of those places and/or talk
15 to any of those people if there were people out
16 there at the other houses?

17 A There were no other people in this area.

18 Q Okay. While you were there?

19 A While I was there. I did go over and look
20 at this house. I walked over and looked at this
21 property.

22 Q Okay, slow down. Slow down just a second. You
23 said you went over and looked at this house. Does that
24 have a number on it, that house?

25 A Number 5 is the McIntosh property on this

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1 going counterclockwise, Number 4.

2 Q Okay.

3 A Was adjacent property that I did go into
4 the front yard and did look at that area. And then
5 Number 3, I looked at what was left of that
6 property.

7 Q That appears to be a slab. Is that what you
8 saw?

9 A Yes. Yes, I did. And I think it was more
10 than a slab. I think it was a hole in the ground
11 and a slab. If I remember that was more like a
12 basement, wasn't it?

13 Q A whole in the ground and a slab?

14 A No. If I'm remembering that was a
15 low-lying area.

16 Q Uh-huh.

17 A But at any rate. I did speak to one
18 other -- there was one other case in this area that
19 was up this street.

20 Q And that would be South Shore Drive?

21 A South Shore Drive on a cul-de-sac up in
22 this area here. And I did talk to those homeowners.

23 Q Was the house up South Shore Drive, was it on
24 South Shore Drive or was it all the way back to Sunkist?

25 A It was not on Sunkist. It was on a side

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1 street, a cul-de-sac, as best I recall up here.

2 Q Do you remember their names?

3 A No, I do not.

4 Q Okay. Do you remember why you spoke with them?

5 A It was a case that we investigated.

6 Q Okay. It was another house that you looked at?

7 A Yes.

8 Q And you have no recollection of the name?

9 A No.

10 Q Did you do a report in that file as well.

11 A Yes.

12 Q Okay. Have you seen or heard anything about
13 that since then?

14 A No.

15 Q Okay. Do you know of any other engineers who
16 did any work out there for any insurance company or any
17 insured other than yourself in this area?

18 A No. That was my only time on that point
19 and I am not aware of anyone else that did.
20 Obviously, somebody did but I don't know them.

21 Q When you say obviously somebody did, what tells
22 you that?

23 A Well, it was a lot of damage, a lot of
24 houses. I would think that probably some other
25 engineer was out there. But I don't know of any.

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1 Q But you don't know of any? You haven't spoken
2 with any that you know of, personally?

3 A No.

4 (WHEREUPON, Exhibit Number 13
5 was marked for identification.)

6 BY THE WITNESS:

7 Q In the reports that I have here -- I want to
8 put 5 and 6 over there so -- you talked to Mr. Wyatt
9 about these. Let's keep those there with you for a
10 minute. Do you have any of those larger photographs?
11 I'm going to mark this 13 and I'm going to put this on
12 the back of the last one so we will know that it says 13.

13 I have handwritten at the top on
14 Exhibit 13 just numbers 1 through 20. And I want --
15 first of all, I would like for you to look at 20,
16 the very last photograph, and see if you can tell me
17 what that is.

18 A This one?

19 Q Do you know those folks?

20 A I don't recognize anyone.

21 Q Do you know where that photograph was made?

22 A No. Let me take it apart.

23 Q Yeah. Take a look at 1 through 19, if you
24 would, please.

25 A Is that The Beatles? This guy -- I don't

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1 recognize the back of his head. I do not recognize
2 her. At first I thought I knew him, but it is not
3 who I thought it was.

4 Q I'm not saying you should. I just wanted to
5 know if you did. Look at 1 through 19 and tell me if you
6 will agree with me that 1 through 19 are photographs that
7 you made of the McIntosh house. They are larger than the
8 ones on the report in there in color. But of the
9 McIntosh house when you were out there on the 7th.

10 MR. WYATT: Let me have an objection. Are

11 these represented to be his photographs or
12 other --

13 MR. WEBB: These are, as I understand it, his
14 photographs from his report.

15 MR. WYATT: Okay, I'm sorry.

16 THE WITNESS: Are those to be attached to
17 this document?

18 MR. WEBB: I don't know if all of them are
19 attached there or not.

20 MR. WYATT: Well, that was what I was getting
21 at. Are those photographs that the witness has
22 been handed represented to be the photographs that
23 are attached to the McIntosh --

24 MR. WEBB: No. They are photographs, as I
25 understand it, they are photographs he made when

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1 he was there on the 7th of October. Some of which
2 were attached -- some of which are attached to his
3 October 7th report. Some are not.

4 MR. NORRIS: Can we take about a five-minute
5 break, please?

6 MR. WEBB: Yes.

7 THE VIDEOGRAPHER: Go off the video record.
8 The time is 4:47.

9 (Video off.)

10 (Break taken.)

11 (Video on.)

12 THE VIDEOGRAPHER: Back on the record. The
13 time is 4:57.

14 BY MR. WEBB:

15 Q During the break you have had a chance, I
16 think -- I hope, to look through the photographs. Other
17 than 20, which we said you didn't know the people on.

18 What about the photographs that are 1
19 through 19? Do they appear to be photographs that
20 you took at the McIntosh property on October 7th?

21 A I cannot recall taking all of these.

22 Q Okay.

23 A I can see correlations where some are.

24 Q All right.

25 A If this came from the total batch I

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1 submitted then --

2 Q You did submit photographs in a total batch
3 when you submitted them?

4 A Yes.

5 Q And you have submitted -- excuse me, I'm sorry.

6 A We picked select photographs to show
7 damage and -- like the...

8 Q So how many photographs -- how many photographs
9 did you attach?

10 A To this one?

11 Q Yes, sir.

12 A Six.

13 Q Six. I will represent to you that those
14 photographs, those 19, are in the batch. At least the
15 batch that I have seen. And why would you pick six as
16 opposed to not having all of them there to attach to the
17 report?

18 A Size of the report. Difficulty in
19 e-mailing and printing so many.

20 Q Is that just an administrative issue to you or
21 within Forensic?

22 A Yes. You take a lot of them and select
23 representative photographs to use.

24 Q Okay. By October the 12th of 2005, do you have

25 a judgment about how many reports you had either drafted

244

1 or completed?

2 A By the 12th?

3 Q Uh-huh.

4 A I was doing about three a day. So however
5 many days -- working six days a week, did not go
6 into the field on Sunday, I did work at home on
7 Sunday.

8 Q Okay.

9 A Writing and so forth. So however many
10 days from the first day I started until the 12th
11 times three, less Sunday.

12 Q Okay. Did you do all of those reports the same
13 way where you would put just portions of the photographs
14 in there?

15 A Yes, in general.

16 Q Okay.

17 A 20 would be a pretty high number of
18 photographs to take.

19 Q Okay.

20 A And it is more like -- I would say 10 to
21 15 would be more normal.

22 Q For you to take when you were on the site?

23 A Yes.

24 Q But still is six photographs about the normal
25 that you would include?

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1 A About six to eight, somewhere in that
2 range. I think I recall some as low as five on

3 simpler things. But, yes, this is...

4 Q Okay. But going back to the photographs, the 1
5 through 19 in Exhibit 13, you said you can compare and
6 see some comparison between those larger photographs and
7 the ones that are on your report there. Looking at the
8 photographs and -- do those photographs reflect the
9 condition of the property that you recall just from your
10 recollection on October the 7th when you were out there?

11 A I'm looking for the first one. I don't
12 see the first one in here. Maybe I missed it. Do
13 you know if it is in here?

14 Q I do not. Those have been provided to me. I
15 think that's the reason I'm asking you the questions
16 about them.

17 A It looks like the first one is not in
18 here. And the last one that's in here does not
19 belong in here so.

20 Q Okay. Okay. So 1 through 19 would be
21 photographs of the McIntosh property?

22 A I think I see the others in here.

23 Q Okay.

24 A Yes.

25 Q Okay. Does that -- I assume it does generally

1 reflect or accurately reflect the condition of the
2 property as you saw it when you were out there on the
3 7th. At least to the extent of what's depicted in those
4 photographs?

5 A For the ones depicted here, yes.

6 Q Okay. And I noticed this, I believe, in your
7 report or somewhere was -- it looks look all of the
8 debris, if there was any debris, had been removed by
9 then?

10 A Yes. For the most part.

11 Q Okay. Did you see -- have you ever seen any
12 photographs that were closer in time to the actual event
13 that showed the debris at the house?

14 A No.

(WHEREUPON, Exhibit Number t14
was marked for identification.)

16 BY MR. WEBB:

17 Q Okay. I want you to take a look at Exhibit 14.
18 And Exhibit 14 has Bates numbers which are numbers down
19 at the bottom. I guess you may know what that is, it
20 says McIntosh 306. Do you see that?

21 A Bates numbers?

22 Q Yes, sir.

23 A Never heard of it.

24 Q Down at the bottom on the first page?

25 A Right. Right.

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1 Q And it goes McIntosh 306 to McIntosh 413.

2 A Okay.

3 Q I will represent to you that these are
4 photographs that have been provided to us by the
5 Plaintiffs in this litigation. And some of them reflect
6 the condition of the property before the debris was
7 removed.

8 I want you to look, sir, if you
9 would, at Page 308.

10 MR. WYATT: May I have an objection as
11 preserving those photographs based on the
12 authenticity of the photographs and the timing and
13 to forth. Unless counsel is vouching for all of
14 that. I don't know that so anyway excuse me for
15 objecting. Go right ahead.

16 MR. WEBB: I understand.

17 MR. WYATT: Just to preserve the record.

18 BY MR. WEBB:

19 Q Are you on Page 308?

20 A Yes.

21 Q You see photographs have letters on them and
22 all of the pages that have multiple photographs have
23 letters. And in an effort to move as quickly as we can
24 through some of these, did you see any condition out
25 there when you were there such as reflected in B on

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1 Page 308 that shows the material that's still on the
2 shelves up there?

3 A No.

4 Q Okay. Look at the -- look at the Photograph C.
5 As I recall it from looking at your photographs, there
6 was no debris like that still left in the house when you
7 were out there, correct?

8 A It was pretty much broom clean.

9 Q Pretty much broom clean. Were they actually
10 working on the house when you were there or do you
11 remember?

12 A No.

13 Q Okay. You don't remember?

14 A My view of it would be that he was trying
15 to clean it up, stabilize it, do what he could to --
16 you know, just keep it from further damage.

17 Q Okay. Going back to Photograph B, tell me the
18 area on there that -- of the wall that you can see
19 through, do you see where I'm talking about at the
20 bottom?

21 A Uh-huh.

22 Q That's below the area that has the Quaker's
23 Grits up at the top. Can you tell from looking at that

24 photograph or do you have a judgment as to whether that
 25 would be damage you would reasonably expect to be caused

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1 by water or wind?

2 A First of all, I don't know what direction
 3 I'm looking in.

4 Q Okay.

5 A Secondly, I don't know what's been
 6 removed.

7 Q Okay. So you can't tell?

8 A It is certainly possible it could be
 9 either.

10 Q Possible it could be either? Well, what would
 11 be from an engineering standpoint your explanation for
 12 foodstuffs to be left on a shelf like that by wind but
 13 yet the bottom part of that taken out? Do you have an
 14 explanation for that?

15 A If the wind were coming from the backside
 16 of it.

17 Q From the backside of what?

18 A The shelves.

19 Q Okay.

20 A Coming at you through here. If it were
 21 water, I would expect those things to be gone.

22 Q Even if the water didn't get to it?

23 A If the water got up to that level, I would
 24 think those things would float out and be gone.

25 Q But certainly what's shown on that photograph

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1 would be consistent with water being up to the level of
 2 this area where there is nothing and not reaching that

3 high, wouldn't it?

4 MR. WYATT: Object to the form of the
5 question.

6 THE WITNESS: Could be, yes.

7 BY MR. WEBB:

8 Q Okay. Look at -- go to Page 312. Photograph A
9 on Page 312. There is a cabinet there toward the left
10 center of the photographs. Do you see that?

11 A Uh-huh.

12 Q And the photograph is darker over to the left.
13 But it looks like there may be a ladder over there on the
14 other side of the cabinet.

15 A Right.

16 Q And I guess that little light in the middle
17 could perhaps be where somebody is making a flash
18 photography and it shows up as a reflection.

19 I remember that there was some
20 mention in both your notes from talking to
21 Mr. Canada as well as in your report, that there was
22 a waterline visible of about five to five and a half
23 feet in the house. Can you see that? Or where that
24 would be on this photograph? Look at the top of
25 Page 2.

1 A Yes, I see it.

2 Q The waterline mark in the house is
3 approximately five and one half feet above the main floor
4 -- interior floor.

5 A What room are we in B -- A?

6 Q I can't tell you which room that is without
7 going back and looking at Ms. McIntosh's testimony. But
8 my question to you is: Is that waterline apparent in
9 that photograph? That five and a half foot waterline?

10 A Do you have a magnifying glass?

11 Q You can't see it without it? In fact I do if I
12 need to get one. There is one over there in my bag.

13 A I can't see a stain level separating --

14 Q Okay.

15 A -- the waterline from your original wall
16 finish.

17 Q Okay.

18 A Now, the five and a half is up around
19 where the sheetrock is gone.

20 Q Isn't that, in fact, where the sheetrock is
21 gone consistent with damage that would be caused by water
22 being at that level in the house?

23 A Yes. Yes. And I have no doubt there was
24 water in the house at that level.

25 Q Okay. Well, then to make a follow-up to that

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1 point that you have just made, if -- do you have any idea
2 whether there were any waves on top of that water or do
3 you know?

4 A From the data provided by State Farm, by
5 Forensic, there was no guidance whatsoever. From
6 data I have seen from other sources, yes, there is
7 standing water height and there is wave height on
8 top of that.

9 Q Yes, sir.

10 A But that information was not available
11 during this timeframe.

12 Q Okay.

13 A In this case.

14 Q You didn't have that information at the time
15 you did your report, is that right?

16 A That's correct.

17 MR. WEBB: I believe -- I was just told that
18 there were five minutes left on the tape. So
19 let's take another break while we change tapes if
20 that's all right.

21 THE VIDEOGRAPHER: This marks the end of
22 video tape number four in the deposition of Brian
23 Ford. Going off the record. The time is 5:11.

24 (Video off.)

25 (Tape change.)

253

1 (Video on.)

2 THE VIDEOGRAPHER: This marks the beginning
3 of videotape number five in the deposition of
4 Brian Jones. Back on the record. The time is
5 5:12.

6 MR. WEBB: Brian Ford.

7 THE VIDEOGRAPHER: Brian Ford, I'm sorry.

8 MR. WYATT: The Rolling Stones.

9 BY MR. WEBB:

10 Q You mentioned about information from State Farm
11 and from Forensic not providing you with information.
12 Was that specifically in reference to the wave heights
13 being on top of water or was it something else that you
14 were talking about?

15 A The wave height, standing water height,
16 wind speed.

17 Q Okay. Was none of that available in any of
18 those web sites that Forensic sent you or do you recall?

19 A Specific to these areas? No.

20 Q Okay. Have you since read any reports --
21 excuse me, not reports, read any information -- or
22 frankly reports. Are you familiar with the IPET report,
23 for example?

24 A I didn't think it was my job to research
25 in the field with a laptop that's not connected to

254

1 the Internet.

2 Q Oh, okay. Does that mean that you did not do
3 any research prior to doing the reports you did?

4 A Other than what I said about knowing what
5 went on. Knowing what the area was. Knowing what
6 the general reports were about flood levels --

7 Q Yes, sir.

8 A -- in those areas? I did not do research
9 on technical -- what was being done out there in the
10 industry about reporting any of this. No.

11 Q Okay. All right. Look over at Page 371.
12 Let's skip some of these and move on. Do you remember
13 that house?

14 A No.

15 Q Can you tell or do you have a judgment about
16 the house on Photograph A of Page 371 as to whether that
17 looks like a house that's had the bottom of it taken out
18 by wind or water? Do you have a judgment about that
19 looking at that photograph?

20 A If wind and water are the only
21 possibilities.

22 Q Yes, sir. Then what?

23 A Wind can throw things through items and
24 can damage them, also.

25 Q Certainly. My question to you was whether you

255

1 have a judgment about whether --

2 A This is typical of water damage, yes.

3 Q Okay. And when you say 'this' you are talking
4 about Photograph A on Page 371?

5 A Correct.

6 Q Okay. Look at Page 376, please, sir. Do you
7 recognize Photographs A and B as being on the McIntosh
8 property?

9 A It certainly looks like it.

10 Q Yes, sir.

11 A These are a little harder to tell.

12 Q Go ahead. Don't let me interrupt you.

13 A I think it is, yes.

14 Q Okay. You didn't have an opportunity because
15 of the time that you got the assignment and went out
16 there to see the condition as reflected in these
17 photographs, correct?

18 A No. None of this debris was there.

19 Q Do you have a judgment as to what put this
20 debris in Photograph A where it is?

21 A What put it there?

22 Q Yes, sir.

23 A Well, it is obvious the nearby house came
24 apart and came to rest here. I can't tell you what
25 brought it here.

1 Q You don't have a judgment as to whether that
2 was carried by storm surge water, or whether it was blown
3 there by the wind? Is that what you are saying?

4 A That's very difficult to tell.

5 Q Okay.

6 A I can't tell what's over here. If you had
7 a plain view of this, you could better see the
8 build-up of it to know if it is funneled and brought

9 in and how it would be.

10 Q What about B? Do you think -- do you have a
11 judgment as to whether a wind strong enough to carry
12 debris like this shown in A would leave those leaves on
13 that tree down there?

14 A Is that a Magnolia?

15 Q I was going to say Magnolia in my question, but
16 I was afraid you would ask me how did I know it was a
17 Magnolia. And so I don't know.

18 A It kind of looks like it.

19 Q It does, doesn't it?

20 A They are a little more stubborn than
21 others.

22 Q Okay. Was that the answer? You think a wind
23 could take that debris over there like that and leave
24 those leaves because Magnolia trees are a little
25 stubborn?

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1 A I think winds in this area, as I have said
2 before, you have wind speeds, nominal wind speeds,
3 in a hurricane. You have gusts within the
4 hurricane. There are proven tornados within the
5 hurricane in certain areas.

6 Q Not on this property that you are aware of.

7 A Not that I'm aware of.

8 Q Yes, sir.

9 A I guess what I'm saying is it is not a
10 simple, easy answer to your question. It varies
11 throughout. What structures are shielded by winds.
12 The height is a variable. And I can't -- why do
13 some get damaged and some don't in the same area?

14 Q Would it be important to you to know whether
15 this house that came apart came apart as a result of

16 water and waves pushing it down?

17 A Yes.

18 Q If you knew that, would you be more inclined to
19 think that this damage occurred as a result of storm
20 surge?

21 A I would be more inclined to think this
22 pile of rubble here is from that, yes.

23 Q Okay. And if that were true, then I think --
24 correct me if I'm wrong about this, it would logically
25 seem that any damage caused by that pile of debris would

258

1 be resulting from that same storm surge that took that
2 house down, correct?

3 A I'm not sure it is that simple, but that's
4 possible, yes.

5 Q Yes, sir, it is, isn't it? Look at the next
6 page -- maybe not the next page, Page 378 and Photograph
7 B. Once again there are cabinets there and there are
8 portions of the wall under those cabinets missing. And I
9 take it -- and correct me if I'm wrong about this, that
10 in that photograph as well as if you look at the
11 wallpapered area on Photograph A, where there is some
12 tattered wallpaper, that that damage would be consistent
13 with that water that was in that house?

14 A That five and a half feet, except that
15 looks a little low right there.

16 Q Could be.

17 A I don't know what room we are in.

18 Q But that looks like damage done by water?

19 A Yes.

20 Q Okay. Go to Page 379 and look at the top
21 photograph. There is a sheetrock wall -- I'm talking
22 about the area that is just under what appears to be a

23 chandelier hanging down. That wall appears to be fairly
 24 consistent with the same area of water damage there,
 25 doesn't it?

259

1 A Yes, sir.

2 Q You don't have any reason to doubt that the
 3 last two photographs show water damage to this house, do
 4 you?

5 A These two?

6 Q Yes, sir. I'm sorry, this Photograph A on 379.
 7 And Photograph A on 378. They show water damage to this
 8 house?

9 A They show water damage.

10 Q Yes, sir. I believe you -- and you can correct
 11 me if I'm wrong about this. But I believe you noted that
 12 there were scrub marks on some of the pillars and posts
 13 around this house.

14 Do you know or did you know then,
 15 what were the most likely causes for that to occur
 16 in the way that it occurred at this house?

17 A It is caused by debris hitting it.

18 Q Okay. It is caused by debris hitting it.
 19 Isn't it true that if scrub marks appear in a fairly
 20 uniform fashion at a uniform level, that it is most
 21 likely occurring as a result of debris being pushed into
 22 it by water?

23 A More than likely.

24 Q Yes, sir.

25 A But the debris probably would be near the

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1 surface so that the marks should be near the surface

2 that it is pushing on it.

3 Q Or there could be so much debris that it is --

4 A Some of it under, yes.

5 Q Under the surface?

6 A Correct.

7 Q Just as a sidenote, Photograph 388 and there
8 are a couple of others that show automobiles. Did you
9 see any of those automobiles out there when you were out
10 there?

11 A No.

12 Q So the automobiles in the neighborhood to your
13 recollection had been removed before you arrived? Not
14 implying anything inappropriate about that. You can look
15 back at 386 and see maybe a pickup and an SUV. 386. Do
16 you see that none of those were there?

17 A No. Where are we? Where are we looking
18 at? Which property?

19 Q If you take McIntosh and come around this way
20 toward the vacant lot, it is there where the house used
21 to be in that neck of the woods as I believe it to be.
22 But it is out there on the peninsula.

23 A No. They were not there. Or I don't
24 remember seeing them there.

25 Q Look at Page 387, the very next page. Do you

1 see Photograph A on that page? Does that appear to be
2 the McIntosh house in the right and then an adjacent
3 house next to it? Or can you tell?

4 A Uh-huh. It appears to be.

5 Q And look at B on that. Can you make a judgment
6 as to whether -- or is it your recollection that that
7 area there is what you said was a slab and a hole per
8 your recollection and/or a slab as you move around

9 standing in front of the McIntosh house, move around to
10 the left?

11 A That looks like it could be a Site 3 per
12 your map, yes.

13 Q Do you have any idea of what put any of those
14 vehicles where they are? Wind or water?

15 A I have no idea. No idea.

16 Q No idea, okay. Let me show you Photograph 393,
17 Photograph B. Do you remember talking with Mr. McIntosh
18 about him having an outbuilding of sorts or a storage
19 shed? Do you remember that? Do you remember him telling
20 you it was gone? Did y'all, per your recollection, get
21 into any further more detailed discussion about what
22 happened to his outbuilding other than it just wasn't
23 there?

24 A I do not recall. I just simply noted in
25 the observations that, you know, an outdoor metal

262

1 storage shed was missing. No, I don't recall.

2 Q Do you remember him telling you or if he told
3 you, and I'm referencing B here, that he had ropes over
4 it to keep it there? He may not have mentioned that to
5 you. You just don't recall?

6 A I don't recall.

7 Q Do you remember seeing those ropes when you
8 were out there?

9 A No, I don't.

10 Q Okay.

11 A They may have been there. I don't
12 remember them.

13 Q Okay. Do you have a judgment as to how wind
14 would take that away, leave those trees and leave those
15 ropes? Would that more likely have occurred as a result

16 of water lifting it up and leaving the ropes? If you
17 know?

18 A It is possible either could occur. I do
19 not know what did occur with the building. I don't
20 know -- I don't even recall seeing how or if it was
21 anchored.

22 Q Okay. Well, if it wasn't anchored other than
23 with the ropes, do you have a judgment on this?

24 A On that foundation, right.

25 Q Right. If it wasn't anchored other than with

263

1 the ropes, wouldn't it be more likely that the water
2 would be what's taking it away?

3 MR. WYATT: Objection. Asked and answered.

4 THE WITNESS: Again, either could take it
5 away. If the wind didn't blow it away, the water
6 certainly could have floated it away. And either
7 could snap the rope. I didn't look at the rope to
8 see how it snapped or how it failed.

9 BY MR. WEBB:

10 Q You don't have a judgement about that?

11 A I don't have a judgment about that.

12 Q Okay. Look at Photograph 395. Actually A and
13 B on that page and if...

14 A Wow.

15 Q Did you see any of those things when you were
16 out there?

17 A No.

18 Q Were there that many leaves on those trees when
19 you were out there?

20 MR. WYATT: Object to the form of the
21 question.

22 THE WITNESS: No. I don't -- no. I guess

23 you could go back and look at these photographs
24 and see. There are some leaves on some of the
25 trees. The front is fairly bare. I don't know

264

1 the proper name for it, but the wind and the
2 solemnity of the rain and the water pretty much
3 ate up most everything including leaves.

4 BY MR. WEBB:

5 Q Yeah. Once that salt water gets on them they
6 will go away. And that may be an account for a
7 difference in the amount of leaves when you were there as
8 opposed to --

9 A Rapid aging, yes.

10 Q Rapid aging, okay.

11 A I don't know the proper name for it.

12 Q But there were a good many more leaves at the
13 time those photographs were made than at the time you
14 were out there, correct?

15 MR. WYATT: Object to the form of the
16 question.

17 THE WITNESS: From my photographs, yes. And
18 from what I recall.

19 BY MR. WEBB:

20 Q And would you normally expect the wind to be
21 blowing through there enough to blow a hole in that house
22 and leave all of those leaves on those trees that you
23 see?

24 MR. WYATT: Did you say 'normally expect'?

25 MR. WEBB: Yes. Would you normally expect

265

1 that to happen?

2 MR. WYATT: Object to the form of the
3 question.

4 THE WITNESS: I wouldn't normally expect the
5 wind to blow holes in houses. Period. If houses
6 are not constructed well, windows, doors,
7 penetrations, as I call them, can be breached. Or
8 if a wind generated missile or water born missile
9 hits it then, yes, you can rupture that envelope.

10 BY MR. WEBB:

11 Q Would it be more consistent with water damage
12 having doen that for the leaves to be left on the trees
13 than wind damage?

14 A Yes.

15 Q But that's something that once again you didn't
16 have available to you when you looked at this site,
17 correct?

18 A Correct. It is a whole lot more important
19 now that it was then.

20 Q Yeah, for everyone. Mr. McIntosh didn't happen
21 to mention to you about having pictures that would show
22 that when he was talking to you?

23 A I didn't see any pictures. But I do not
24 recall whether he offered those or said he had them
25 or not. Many homeowners certainly did before and

266

1 after. Some shared. Some didn't have them with
2 them. I don't recall seeing any -- I didn't see
3 these.

4 Q Okay. So you just didn't see these before
5 today is what I understand. Is that right?

6 A That's correct.

7 Q Look at Page 397, Photograph A. Do you

8 recognize that as any area around the McIntosh property?

9 A It looks like a photograph under the
10 carport.

11 Q Uh-huh. Perhaps looking at that debris that we
12 looked at in that other photographs back the other way?

13 A Uh-huh. Looking towards the street. Is
14 that correct?

15 Q I believe that's right.

16 A You have sticks and debris piled up
17 against the front of it.

18 Q Look at Page 399. Photograph B. You could
19 talk about A, too, but I'm focusing on B. Photograph B
20 on that page again shows water damage to that house from
21 the water that was in there, correct?

22 A Yes. And again it is a little lower than
23 I would have expected for five and a half feet.

24 Q Okay. But you did measure it for five and a
25 half feet, obviously?

267

1 A Yes, definitely. It is just a matter of
2 how the sheetrock is placed.

3 Q Yes, sir. The next page is 400. Photograph B
4 on that photograph also shows water damage to that
5 McIntosh property, correct?

6 A Uh-huh.

7 Q Sir?

8 A It shows water damage, yes.

9 Q Yes, sir. And water damage -- just so it is
10 clear in the record, I think you understand when I'm
11 saying water damage that we are talking about water
12 damage --

13 A The rising water.

14 Q -- the rising water and/or with whatever waves

15 that are on top of it that came ultimately out of the
16 Gulf in through the lake and up into this house, correct?

17 A What am I looking at in this ceiling on B?

18 Q What are you looking at?

19 A Is the ceiling missing?

20 Q The ceiling was missing in some areas. I don't
21 know, is this one of them? There were two areas, I
22 believe, that you photographed in your photographs.

23 A Which is not consistent with five and a
24 half feet of water.

25 Q Okay. Would depend on how high the waves are,

268

1 wouldn't it?

2 A They wouldn't be that high inside the
3 house. Normal waves are running two to three feet
4 in the reports that I have seen.

5 Q Do you know whether or not waves on top of
6 water are normally about 50% of the depth of the water?

7 A In surge -- storm surge inland like this?

8 Q Yes, sir.

9 A I would not think so.

10 Q Okay. But you haven't studied that and don't
11 know one way or the other for certain?

12 A I have seen the actuals recorded for this
13 storm and that's what I can report on. I can't -- I
14 have not researched that phenomena in general, no.

15 Q Okay. Okay. Let's go to Photographs A and B
16 on Page 404. And once again just to move on through
17 these things, those things seem to be photographs that
18 depict water damage to the walls at least and also to
19 some of the contents in those rooms.

20 Do you agree with that, water damage
21 in the sense of storm surge damage?

22 A To that wall, yes.
23 Q What about the contents?
24 A It is pretty hard to tell anything about
25 the contents.

269

1 Q Okay.
2 A What is that white thing in the floor? It
3 is too small for a mattress.
4 Q Is it?
5 A Well, I think it is unless it is a child's
6 mattress. Is that a full size mattress? Maybe it
7 is a big room.
8 Q That appears to be some kind of table or is
9 that -- that's not a table is it? That's a...
10 A I don't know, a wall section?
11 Q You can't see that, can you, for sure?
12 A It must be debris from somewhere else. I
13 don't know.
14 Q It wasn't an uncommon thing for debris from
15 other locations to be brought in to houses like that by
16 the storm surge, was it?
17 A No. And the only -- the corner of this
18 house was missing, the lower portion.
19 Q Yes, sir.
20 A That doesn't look like -- it could be but it
21 doesn't look like that.
22 Q Doesn't look like what?
23 A That it would be that corner of the house.
24 But I don't know what room in the house this is
25 anyway so no need to discuss that.

270

1 Q Go to 409. Look at the Photograph A on 409.
2 You will see I believe -- and you can correct me if I'm
3 wrong, but you can see in Photograph A that there is a
4 portion of the sheetrock missing on both sides of an
5 interior wall. That would be reflective of that same
6 water damage we had talked about in those other rooms,
7 correct?

8 A Uh-huh.

9 Q Do you see over here on the right side of that
10 photograph where there appear to be some items of
11 clothing up on about the third -- excuse me, the 4th
12 shelf?

13 A Uh-huh.

14 Q But yet there are no items of clothing down
15 below that?

16 A Right. Right. Or anything else.

17 Q That would also be consistent with the water
18 damage doing that, correct? As a opposed to wind?

19 A Yeah, I would think so.

20 Q Because just as a simple --

21 A Clothes hanging in the closet.

22 Q Yes, sir. It is a simple matter if wind is
23 doing this, you would not expect to see those lightweight
24 items still lying folded in that closet area, would you?

25 A No. This looks like the five and a half

271

1 feet of water.

2 Q Yes, sir.

3 A Although I'm surprised those are still on
4 the shelf. At that fourth shelf. In 409.

5 Q Okay. Do you think at this stage having first
6 seen these pictures here today, do you think that those
7 photographs do, in fact, confirm that there was water

8 damage to the first floor of that house caused by storm
9 surge, don't they?

10 A Five and a half feet of it.

11 Q Yes, sir. And as we sit here today, there is
12 no doubt that there was water damage to the bottom floor
13 of that house in your judgment, correct?

14 A Yes.

15 Q And so -- and there was also wind damage to
16 that house?

17 A Whatever was remaining when the water got
18 up that high was damaged. Yes.

19 Q There was wind damage and there was water
20 damage?

21 A Yes.

22 Q And the wind -- is it true or do you know if it
23 is true that wind normally damages from the top of a
24 structure down and that water normally damages from the
25 foundation up?

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1 MR. WYATT: Object to the form of the
2 question. Particularly the part about 'normally'.

3 BY MR. WEBB:

4 Q If you understand the question.

5 A Again, wind has many variables. If you
6 are talking about a skyscraper, the winds are higher
7 at the top of a skyscraper than they are at the
8 ground.

9 Q Yes, sir.

10 A In this structure you are not going to
11 have that kind of variation. The protection of the
12 structure probably contributes more than the height
13 of it in this situation. The amount of other houses
14 and trees that protect it.

15 Q From?
16 A From wind.
17 Q From wind?
18 A Right.
19 Q It has a friction factor that slows the wind
20 down as well as blocks it in some instances, completely?
21 A Correct.
22 Q And there were a fair amount of trees around
23 this house, correct?
24 A There are some trees remaining, yes.
25 Trees standing.

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1 Q And according to the report that you did, as I
2 recall it, there is no mention of any tree being on this
3 house?
4 A I'm not aware of any tree on the house.
5 Something hit the roof to cause the damage to that
6 roof that's covered up.
7 Q Do you have that in your report?
8 A It says, the roof was damaged at the peak
9 and right front sections. Ceilings were damaged.
10 Do I say what caused it?
11 Q Yes, sir.
12 A Not in that paragraph.
13 Q Okay.
14 A In conclusion it says the roof was damaged
15 by wind and wind-driven debris.
16 Q Okay. That would be it?
17 A The probabilities, yes.
18 Q And the probabilities are the roof was damaged.
19 I don't think there is any dispute that the roof was
20 damaged to this house. Are you aware that the
21 McIntoshes -- did they tell you what they did with all of

22 the furniture that was upstairs in their house?

23 A (Witness nods head negatively.)

24 Q To this day you don't know that, in fact, they
25 moved every bit of it because it really had no damage to

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1 it over and are using it at the place where they are
2 living?

3 MR. WYATT: Object to the form of the
4 question and mischaracterization of the testimony.

5 THE WITNESS: I don't know anything about the
6 McIntoshes.

7 BY MR. WEBB:

8 Q Does the fact that their contents upstairs was
9 not damaged have any play in terms of an evaluation of
10 the extent of wind damage upstairs versus wind damage
11 downstairs in your mind?

12 MR. WYATT: Object to the form of the
13 question.

14 THE WITNESS: It means that those rooms, the
15 roof, ceiling, whatever did not let rainwater in
16 to damage those.

17 BY MR. WEBB:

18 Q Yes, sir. And rainwater in the context of what
19 we are talking about here would be part of the wind
20 damage that you would talk about, I assume?

21 A I don't know how you classify -- I know
22 how you separate rising water. I don't know how you
23 classify falling water or blown water. Do you have
24 a term for that?

25 Q Unfortunately, I'm afraid that the questions

275

1 have to be asked on this side of the table.

2 But in your report you say -- I'm
3 looking at -- I'm actually looking at -- it says --
4 and this is the second full paragraph: In this
5 assignment we were tasked to inspect the damage to
6 the left front wall from the front porch to the
7 dining area and determine if it was from wind,
8 water, or both. That's the second full paragraph.
9 Do you see that?

10 A Yes.

11 Q All right. And then down under background in
12 the second full paragraph there is a statement that says,
13 FAEC performed -- and that once again I believe Mr. Wyatt
14 pointed out FAEC here is you. Correct, performed --

15 A I performed the field investigation, yes.

16 Q Of the subject residence to determine the
17 damage -- if the damage to the front wall of the
18 residence was caused by wind, flood water, or a
19 combination of both. And did I read that one correctly?

20 A Yes.

21 Q Do you recall that the -- that the assignment
22 that was made actually, in fact, asked for a
23 determination to be made as to specifically the damage to
24 the left front wall from the front porch to the dining
25 area?

1 A I did not recall that, no.

2 Q Okay. Do you know where you may have gotten
3 that --

4 A That information?

5 Q Yes, sir.

6 A Well, the only place it could have been

7 would have been on the assignment sheet.

8 Q Yes, sir.

9 A Do you have that?

10 MR. WEBB: Well, I have a request for an
11 engineer here that's been produced as part of that
12 homeowner's file.

(WHEREUPON, Exhibit Number 15
was marked for identification.)

14 BY MR. WEBB:

15 Q What I have marked here as Exhibit 15 is 0099H0
16 is the Bates number down at the bottom. And I'm going to
17 hand it to you but because I only have the one copy here,
18 there is a specific reason for request section. I guess
19 you may have seen those before. Or what you saw was the
20 interpretation of that as it came from Forensic?

21 A I saw the assignment sheet, yes. I have
22 never seen this.

23 Q All right. Look at Item Number 1 under that
24 paragraph that I just referred you to. What does it say?

25 A Structural damage to the left corner wall,

1 parentheses, entry from front porch to dining.

2 Q Okay. So somehow or another that information,
3 perhaps in the Forensic assignment sheet, and it is in
4 the record, I believe, in your Exhibit 10, perhaps. But
5 it may not be. That's the same information that you
6 indicated twice on the first page of this report,
7 correct?

8 A Yes.

9 Q That would have been information that you would
10 have input? Or would that have been information that
11 Mr. Sammis would have inputted?

12 A It was given to me already input on the
13 form. By whom, I do not know.

14 Q Okay. But you understood that that specific
 15 request was something that needed to be addressed when
 16 you went out there, right?

17 A Obviously.

18 Q Okay. And I have looked at a few times --
 19 Mr. Wyatt referred to them as bullet points. And on the
 20 conclusions here -- and while there are general
 21 statements that refer to the roof, door, carport, window,
 22 tree failures, and interior damage to the structure as a
 23 result of failure of windows, walls, doors due to wind, I
 24 don't see any specific reference to that question that
 25 was posed on the first page. Is it in there somewhere?

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1 A No.

2 Q Do you believe that you put it in some draft
 3 and it didn't get there or -- well, I guess not because
 4 you wouldn't have signed it without it?

5 A Yes. I wouldn't think so.

6 Q Well, in your judgment -- well, let me ask you
 7 this: As a division manager with MP&L and --

8 A MPC.

9 Q MPC. Please forgive me, I'm sorry. I'm a
 10 North Mississippi boy.

11 A Yeah. What kind of interest have you got?

12 Q And I call them by their old name. But you
 13 have been the -- I assume both a consumer as well as
 14 producers of engineering reports and information over the
 15 years, haven't you?

16 A Yes.

17 Q In fairness wouldn't it be fair for a consumer
 18 of engineering information who had asked about a specific
 19 finding about a specific item and then not have that in
 20 the report they get back, to ask for more information, a

21 supplemental report, additional report or an explanation
22 of some sort?

23 A Sure.

24 MR. WYATT: Object to the form of the
25 question.

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1 THE WITNESS: To have asked for that
2 specific, yes.

3 BY MR. WEBB:

4 Q Okay. And would you as a consumer of
5 engineering information, be concerned if a specific -- be
6 concerned, and I'm not taking any positions with respect
7 to your position here, personally. But would you as a
8 consumer of engineering information, be concerned about
9 the quality of recording and evaluation you were getting
10 if you had asked for something like this and it wasn't
11 addressed in the reports you got back?

12 MR. WYATT: Object to the form of the
13 question.

14 THE WITNESS: If it were widespread and
15 repetitive, yes. One incident you ask for it and
16 you resolve it on your own.

17 BY MR. WEBB:

18 Q Okay. But you would at least ask about it in
19 some fashion?

20 A Sure. That's what they asked for. They
21 should have gotten their answer, yes.

22 MR. WEBB: Let's go off the record just a
23 minute.

24 THE VIDEOGRAPHER: Going off the record. The
25 time is 5:50.

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1 (Video off.)

2 (Break taken.)

3 (Video on.)

4 THE VIDEOGRAPHER: Back on the record. The
5 time is 6:04.

6 BY MR. WEBB:

7 Q With -- the October 12th document is Exhibit
8 which -- Number 5?

9 A Five.

10 Q And the October 20th is Number 4, right?

11 A Six.

12 Q Six. Okay. I just wanted to make sure I had
13 those. And you have both of those in front of you?

14 A Yes.

15 Q On Page 2 of the October 12th document, which
16 is yours, just going down through there you say -- you
17 say that the first four elevations are approximately 20
18 to 21 feet. Where did you get that information?

19 A From the homeowner.

20 Q Okay. So Mr. McIntosh told you that, correct?

21 A Yes.

22 Q Have you at any point in time since then seen
23 any information to indicate that the elevation was less
24 than that?

25 A No.

1 Q Do you have any reason to dispute that the
2 elevation of the first floor level was somewhere in the
3 13 to 15-foot range?

4 MR. WYATT: Object to the form of the
5 question.

6 THE WITNESS: I haven't seen anything to that

7 effect. The 20 to 21 plus five and a half is
8 comparable to wave height numbers that I have
9 seen.

10 BY MR. WEBB:

11 Q Okay. So five and a half feet of water
12 demarked by a waterline inside this house on top of 20 to
13 21 feet was not something that surprised you when you
14 were there, correct?

15 A Not anymore than the whole region.

16 Q Yes, sir, I understand I was just --

17 A It was catastrophic waves.

18 Q Yes, sir. And going back to the comment that
19 you made earlier about the digital mapping that you had
20 available to you, I believe, if I'm not stating that
21 incorrectly, regarding the Corp of Engineers, did you
22 have that information --

23 A No.

24 Q You didn't use it when you were doing these
25 reports?

1 A No. I did not have it.

2 Q Where was it? Or was it accessible to you?

3 A No. I left it at the power company. I
4 obtained it when I was working there.

5 Q All right. You didn't -- did you bring that up
6 with anybody at Forensic or anyplace else that you had
7 this if anybody wants to --

8 A I didn't have it nor did I bring it up.

9 Q Okay. Okay. What is the significance of the
10 elevation in this report from your perspective?

11 A I think it helps you to know the wave
12 height and elevation. And it helps you to
13 understand the water level in that area compared to

14 other areas, other properties. It is kind of a
15 benchmark reference point.

16 Q Okay. And then the next -- I'm going down on
17 Page 2. The roof was damaged at its peak in the right
18 front sections. And you had ceilings were damaged and
19 you made a notation of that. And under that it says the
20 doors and windows were all missing. Is that, in fact,
21 correct?

22 A The first floor?

23 Q Well, here in your report it says they were all
24 missing, doesn't it?

25 A It does say that.

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1 Q That is not correct, is it?

2 A Not all -- interior upper level doors, no.

3 Q The upper level -- the house has two dormers on
4 the east side that face to the East. Do you recall that?

5 A Uh-huh.

6 Q Can you -- I don't know if you can tell in
7 those photocopies on the copy of the October 12th report,
8 but can you tell that those dormers still had the windows
9 in them?

10 A No. I can't tell.

11 Q Would it be significant to you in terms of
12 making a judgment about how much wind damage would occur
13 if those dormers were, in fact, not boarded up and still
14 had their windows left intact after the storm?

15 A It could, yes.

16 Q If, in fact, Mr. McIntosh and Ms. McIntosh have
17 testified that those windows were not boarded up --

18 A Okay. I didn't know that.

19 Q Well, you didn't know that at the time you were
20 doing your reports.

21 A No.

22 Q What would that tell you about the likelihood
23 or the extent of wind damage?

24 MR. WYATT: Object to the form.

25

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1 BY MR. WEBB:

2 Q If the glass was still left there in those
3 windows?

4 MR. WYATT: Excuse me. Object to the form of
5 the question.

6 THE WITNESS: That those windows withstood.

7 BY MR. WEBB:

8 Q Whatever wind or debris was there?

9 A Whatever wind. And apparently were not
10 struck by debris sufficient enough to break them.

11 Q Yes, sir.

12 A But I don't know the nature of the
13 windows. I don't know if they are hurricane
14 resistant, double-paned, how they are installed. I
15 don't know anything about them.

16 Q If you had have known -- if you had known that
17 they hadn't been boarded up, would that have caused you
18 to want to check that out when you were out there?

19 A It would have been another piece of
20 information, yes.

21 Q That's something you would have wanted to have
22 known because it could have been --

23 A It would have been another piece that
24 would have been a piece of the puzzle, yes.

25 Q It could have influenced your opinion one way

1 or the other?

2 A It could have helped, yes.

3 Q Okay. And if you assume those facts that I
4 just represented to you to be correct, not boarded up and
5 windows were still there just on those dormers, what
6 would it have helped you do?

7 A Helped me understand that the wind speed
8 and wind pressure did not blow those windows out,
9 that size window. That type construction window,
10 whatever it is.

11 Q Whatever it is. And you -- and those windows
12 face generally to the East, don't they?

13 A That house is facing to the East, that's
14 correct.

15 Q And those windows then therefore would they --
16 and you can correct me if I'm understanding this wrong,
17 but would generally face into the area where the stronger
18 winds from a hurricane tend to blow?

19 A The -- they would face the ones coming out
20 of the East and the Southeast. The Southeast
21 probably being some of the worst.

22 Q Yes, sir. And the fact that you know that is
23 the reason that that could influence your decision
24 related to the wind speeds and wind pressures and the
25 survival of those windows, correct?

1 A Yes.

2 Q Okay. But the way this report is -- may I see
3 the one in front of you that you are looking at just for
4 a moment, please, sir. Thank you. And this report does
5 have an incorrect statement then when it says that the

6 doors and windows were all missing. Or it is incomplete.

7 Put it that way.

8 A Right.

9 Q Incomplete. And someone looking at the
10 pictures and seeing they -- looking at pictures and
11 seeing that, in fact, that was not the case might have
12 reasonably some question about the nature of the
13 investigation of the report, correct?

14 A Want clarification of that, certainly.

15 Q And look at Page 3 before I forget about it.
16 There was a question asked of you about whether 08770 is
17 your Mississippi PE license number on Page 3 above
18 your -- below your signature. Do you see that?

19 A Yes, I do.

20 Q Okay. And you signed it? You testified
21 earlier that that's your signature?

22 A Yes, that's my signature.

23 Q Is your seal on there?

24 A No, it is not on there.

25 Q Why?

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1 A I don't know the answer to that.

2 Q There is no doubt that you signed it then you
3 normally -- I'm guessing your seal is kind of like a
4 notary seal. It is one of those silver things --

5 A It is a rubber stamp. Rubber stamps are
6 better these days because of reproduction.

7 Q Absolutely.

8 A And I don't recall whether we were
9 stamping all of these or not.

10 Q You just don't remember?

11 A I would have to look at other reports and
12 see. I know I did in another project.

13 Q But I thought you testified earlier that in
14 describing the entire process that the routine was that
15 you would sign and seal this part in one act when
16 everything was done and the report was in final, correct?

17 A And I don't know if we -- with the
18 Forensic project, I don't know if we were sealing
19 with the rubber stamp these documents or not.

20 Q Well, what came into my mind, and I guess you
21 could anticipate that this would have come into my mind
22 from the perspective that I'm asking these questions, but
23 I wondered if there was some question as to whether this
24 in your mind was going to be your final report at that
25 time. And that's the reason that it wasn't sealed was

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1 because of things like doors and windows were all
2 missing, for example, and that was incomplete --

3 A I would not think so.

4 Q Okay. But you don't remember? You don't
5 remember --

6 MR. WYATT: Wait. Object to the form. You
7 don't remember what?

8 MR. WEBB: Okay.

9 MR. WYATT: What was the question?

10 BY MR. WEBB:

11 Q You don't remember whether you thought of that
12 or not?

13 A I did not think of that.

14 Q Okay. So that's affirmatively you would not
15 have thought that?

16 A Right.

17 Q Okay. Otherwise, though, you have no
18 explanation as to why you didn't also seal this when it
19 was signed by you?

20 MR. WYATT: Object. That's a
21 mischaracterization of what he just testified to.
22 He didn't say he didn't have any explanation.
23 MR. WEBB: Remember those rules of speaking
24 objections?
25 MR. WYATT: If you mischaracterize his

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1 testimony.

2 MR. WEBB: Well, if I mischaracterize your
3 testimony --

4 MR. WYATT: That's my objection.

5 MR. WEBB: I understand that.

6 BY MR. WEBB:

7 Q I certainly didn't mean to do that. I
8 understood you to say -- and correct me if I'm wrong
9 about it, that you did not have a specific recollection
10 about why your seal was not on here. And I took that to
11 mean you had no idea or recollection about why you didn't
12 seal it when you signed it. Is that true?

13 A I do not recall why it is not stamped.
14 No, sir.

15 Q Okay. And here it says -- you make a comment
16 about all of the debris being cleaned out of the house
17 and we have since looked at some photographs produced in
18 this case where that's not the case.

19 But the next comment here says,
20 according to Mr. McIntosh and a neighbor, Mr. Mike
21 Church reported that houses were blown apart and
22 debris was thrown into the McIntosh house at
23 approximately 8:00 a.m. And the flood water began
24 rising at 11:00 a.m. Now, the way I read this, this
25 is something that Mr. McIntosh told you?

1 A Yes.

2 Q Did you talk to Mr. Church?

3 A I requested his phone number. I tried to
4 get in touch with him and was not able to.

5 Q Okay.

6 A I was given another number and name.

7 Q By whom?

8 A By Mr. McIntosh.

9 Q Do you recall who the other number and name
10 was?

11 A The number, no. The name.

12 Q Was?

13 A Your going to love it. Mr. Smith.

14 Q Mr. Smith?

15 A Right.

16 Q He didn't say anything about going to see
17 somebody about a dog, did he?

18 A A dog, no.

19 Q Mr. Smith going to see a man about a dog? I
20 apologize.

21 Nothing other than Mr. Smith?

22 A And the phone number. I contacted him.

23 Q Do you still have that phone number?

24 A No. I said I didn't.

25 Q Okay. And you contacted Mr. Smith?

1 A Yes.

2 Q Okay. And I didn't see any reference to
3 Mr. Smith anywhere in your report. Why would that be?

4 A I called Mr. Smith and described what I
5 was doing and what I was looking for and he

6 wouldn't -- and I don't know where he resides in
7 this area, if he does or not. He was reported to be
8 an eyewitness. And Mr. Smith would not confirm or
9 deny anything. He simply said, I don't want to be
10 involved in a lawsuit.

11 Q Okay. And you told him that Mr. McIntosh told
12 you that he was an eyewitness?

13 A Yes.

14 Q And you don't remember his name. Do you still
15 have the number?

16 A Mr. Smith, yes, I do.

17 Q First name. Was it John?

18 A No. I didn't get a first name. I don't
19 recall the first name.

20 Q Do you still have his phone number?

21 A For the third time, no.

22 Q No where? Not in those notes you haven't
23 produced or anything?

24 A I'm objecting now.

25 Q Okay. And all you can remember from that phone

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1 conversation related to his position was he didn't want
2 to get involved in a lawsuit?

3 A Right.

4 Q He didn't tell you anything about what he was
5 alleged to have seen or anything like that at all?

6 A No.

7 Q Okay. Consequently, that's the reason he is
8 not in the report?

9 A Yes.

10 Q Okay. Do you know for certain that you talked
11 to Mr. Smith before you did the report?

12 A Yes.

13 Q Okay. It is not possible that you signed it
14 and waited to save it until after you talked to
15 Mr. Smith?

16 A No. I talked to Mr. Smith, too.

17 Q It says here in the next -- if Mr. Church --
18 would it be important to you if you had talked to
19 Mr. Church and you learned that Mr. Church didn't report
20 seeing anything at the McIntosh house. Would that be
21 important to you?

22 A Sure. He was an eyewitness. Sure.

23 Q And how important would that be here?

24 A It would be important to me to know what
25 he saw.

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1 Q Yes, sir.

2 A And if he saw debris hitting the house,
3 that's very important.

4 Q Yes, sir.

5 A If he said he watched the entire episode
6 and saw nothing, yes, that would be important.

7 Q Yes, sir.

8 A And along with everything else he
9 observed.

10 Q Right. And if Mr. Church or some -- do you
11 know where the church -- I hate to say it like this, do
12 you know where the Church house is?

13 A No.

14 Q Okay. If Mr. Church was not in a position to
15 see things happening at the McIntosh house, would that be
16 important to you?

17 A That means he didn't see it.

18 Q Right. If Mr. Church described water beating
19 against this house with waves in it, would that be

20 important to you?

21 A Sure. Which house is he?

22 Q I believe Mr. Church is -- subject to looking
23 back at Ms. McIntosh's deposition testimony, I believe
24 that this is his house right here. The smaller one.

25 A Number one, Mr. McIntosh provided these

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1 eyewitness names --

2 Q Yes, sir.

3 A -- for contacts. He describes these
4 residents that stayed when the storm got bad, went
5 across the street and got onto the second floor on
6 the second story of the house across the street.

7 Q Which residence?

8 A The one across the street. Meaning, one
9 of these on this side of the street.

10 Q The people whose house was left with a slab and
11 a hole or someone else?

12 A I don't know which house. The people who
13 had remained in their houses who feared for their
14 lives went across the street and got onto the second
15 floor -- second story of --

16 Q All of them or just some of them?

17 A I don't know if it was all or not.

18 Q Okay. And you specifically don't know if it
19 was Mr. Church and Ms. Church and their son, Jordan, and
20 Jordan's girlfriend or anybody?

21 A I don't know.

22 Q Okay. As I recall when you were actually going
23 back to the e-mail that Mr. Wyatt asked you about when
24 you talked to Ms. King, there was some discussion that
25 you recorded in your note when you were telling

1 Mr. Kochan about the conversation that you had with
2 Mr. Sammis, I believe it was, put her on the phone with
3 you. And part of that was in terms of your response to
4 her that she -- that there was an eyewitness who reported
5 debris going into the McIntosh house. Wasn't that part
6 of your response?

7 A Yes.

8 Q Did you, in fact, tell Ms. King that you had
9 spoken to that person?

10 A No.

11 Q Okay. Did you, in fact, tell her that you had
12 spoken to that person and then later say, well, no, you
13 didn't?

14 A No.

15 Q Okay. Did -- strike that.

16 The fact that your recorded
17 information in your discussion with Ms. King
18 referred to the eyewitnesses and you even added the
19 statement today that as far as I know that statement
20 that you said that you made today, I have never seen
21 written down anywhere else. Have you given that
22 information out to anybody other than your testimony
23 today?

24 A Yes.

25 Q Okay. Who?

1 A In the depositions I have given and in the
2 session with Mr....

3 Q Don't tell me about the grand jury testimony.
4 I apologize for leaving that in the question. Okay.

5 It seemed to me from reading that,
6 before I came in here reading your note, that the
7 witness -- eyewitness statement was a very important
8 thing to you in the final decisions that you made
9 before you did your report. Is that true?

10 A Yes.

11 Q And if the eyewitness information is
12 inconsistent with that, could that change your view?

13 A Any additional information would affect
14 your outcome, yes.

15 Q For example, if there was no eye witness,
16 specifically, Mike Church who said that they saw -- or
17 claimed that they saw a house blown apart and debris
18 thrown into the McIntosh house, that would affect your
19 judgment about the cause here, wouldn't it?

20 A Yes.

21 Q And if someone in the Church house, for
22 example, also said that that house where that slab is
23 there was pushed over by water and taken away, that would
24 affect it too, wouldn't it?

25 A Yes.

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1 Q Okay. And if those things would be true,
2 wouldn't that lead you to conclude more likely than not
3 given that information that the predominant cause of the
4 damage to that house -- given the fact there is wind
5 damage, was the storm surge?

6 MR. WYATT: Object to the form of the
7 question.

8 THE WITNESS: If there were eyewitnesses that
9 saw those houses float away. That the
10 eyewitnesses that were there watching the entire
11 event that did not see debris going into that

12 house, yes, that would affect my decision.

13 BY MR. WEBB:

14 Q And if those things existed, specifically with
15 reference to this eye witness that you were told about
16 that you relied upon, if information was inconsistent
17 with that, wouldn't that -- wouldn't that tend to lead
18 you to be able to conclude that the predominant cause of
19 the damage to that house, other than the roof damage and
20 the damage upstairs, was the storm surge?

21 MR. WYATT: Object. Asked and answered.

22 MR. WEBB: I don't know if he exactly
23 answered it.

24 THE WITNESS: The word 'predominant' I don't
25 think ought to be appropriate here.

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1 BY MR. WEBB:

2 Q Oh, okay.

3 A There is damage from wind. There is
4 damage from water.

5 Q It is a question of how much of each?

6 A Right. And if there was no wind-driven
7 debris hitting the lower section of the house --

8 Q Or you had no evidence of it?

9 A Or no evidence of it, then there is a much
10 better probability that that damage was from water.
11 Yes.

12 Q Okay. Have you ever been provided any of the
13 expert reports by any of the experts in this case by any
14 of the lawyers at all?

15 A I don't know what you are referring to.

16 Q Okay. I take it the answer then is probably
17 no?

18 The answer that you just gave to the

19 questions that I posed to you, if additional
20 information or facts -- I'm looking at the last page
21 here and this is on the report that you signed off
22 of and it says, if additional information or facts
23 become available which materially affect the stated
24 conclusions and opinions then FAEC reserves the
25 right to amend or change its opinions and

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1 conclusions as-needed. That's pretty much
2 boilerplate standard language in an engineering
3 report, correct?

4 A That's Forensic's standard, yes.

5 Q Have you seen it in other reports?

6 A Something similar to that, yes.

7 Q And you put it in other reports yourself,
8 correct?

9 A For Forensic, yes.

10 Q In other reports for anyone else?

11 A There were similar statements in other
12 projects, yes.

13 Q That you signed?

14 A Yes.

15 Q And you have seen those in reports that you
16 have received as a consumer of engineering reports,
17 correct?

18 A Yes. And as an example I gave earlier
19 about the new weather report was a reason to go back
20 in and reexamine it.

21 Q Exactly. That's a recognition that if more
22 information is learned, there may very well be a basis to
23 change the conclusions in a report even, correct?

24 A To change the findings, the conclusions,
25 yes.

1 Q Sure. Yes. Now, you mentioned that Jack Kelly
2 was your neighbor. Did you know Jack Kelly or do you
3 know him very well?

4 A Oh, yes.

5 Q How long have you known him?

6 A I moved there in '98. So I have known him
7 since '98?

8 Q Did y'all visit in each other's homes and cook
9 out and that sort of thing? Was it that kind of
10 relationship?

11 A No. Mostly -- we visited, yes. Mostly,
12 talked in the yard.

13 Q Did you ever work with Mr. Kelly before your
14 experience with Forensic? Did you ever work with
15 Mr. Kelly as an engineer?

16 A No.

17 Q Okay. Did he ever work for you when you were
18 at the power company as an engineer?

19 A No. I think he had done some work with
20 some of our geotechnical engineers.

21 Q Okay. And do you know what kind of work he had
22 done for the power company's geotechnical engineers?

23 A I think it had to do with prestressed
24 concrete.

25 Q Having to do with prestressed concrete meaning

1 what?

2 A He designs and -- he worked a long time
3 for a company that actually manufactured and he was
4 an engineer for that designing prestress

5 pre-concrete structures. I think he was doing some
6 foundation work for someone at the power company.

7 Q Okay. Did any of those people that he worked
8 for with the power company to your knowledge ever
9 complain about his work?

10 A No.

11 Q Do you have any reason to believe that he is
12 not a competent engineer?

13 A No, certainly not. I have every reason to
14 believe he is. He has been in the consulting
15 business, private practice for a very long time and
16 I think he is well-respected. He is a good man.

17 Q Do you have any reason to believe that
18 Mr. Kelly did anything other than apply his -- his best
19 engineering training to the facts that he knew of when he
20 was doing that October 20th report?

21 A I have no reason to believe that. No.

22 Q Okay. And with respect to the October 20th
23 report, you have that there as Exhibit Number 6. I
24 believe you pointed out earlier that in the bullet points
25 in the conclusions, the first one is identical, I

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1 believe, you said. The second one is a description of
2 wind damage to the house. In certain areas of the house,
3 correct?

4 A Uh-huh.

5 Q That uh-huh was a yes?

6 A Yes.

7 Q I'm sorry. But on the transcript sometimes it
8 is hard to distinguish between a uh-huh from a huh-uh.

9 And the third one in his says what?

10 A The damage to the first floor walls and
11 floors appears to be predominately caused by rising

12 water from the storm surge waves.

13 Q Have you read his report completely?

14 A No.

15 Q Okay. Do you know now as we sit here today
16 whether the information that he refers to in his report
17 justifies those conclusions?

18 A I haven't read it yet.

19 Q Okay. So you don't know as we sit here today
20 whether you agree or disagree with that particular
21 conclusion based on the information in his report?

22 A I think I said earlier, five and a half
23 feet of water causes floor and wall damage.

24 Q Yes, sir.

25 A I agree with that.

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1 Q Okay. So you agree with the three conclusions
2 as stated in the October 20th report as well?

3 A Yeah. He covers the first floor ceiling
4 damage in his second --

5 Q Yes, sir.

6 A -- conclusion.

7 Q So you agree with those three? Sir?

8 A Yes.

9 MR. WEBB: Thank you. Let me go off the
10 record for just a minute.

11 THE VIDEOGRAPHER: Going off the record. The
12 time is 6:32.

13 (Video off.)

14 (Break taken.)

15 (Video on.)

16 THE VIDEOGRAPHER: Back on the record. The
17 time is 6:39.

18 BY MR. WEBB:

19 Q One or two -- honestly -- questions. Have you
20 been retained by any lawyers or law firms to consult
21 related to any claims or lawsuits they have got going on
22 related to Katrina?

23 A No.

24 Q Have you been -- have you had any discussions
25 with any lawyers or law firms about that?

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1 A Yes, several. Just -- you know, saying it
2 is a possibility, but no...

3 Q With the Scruggs Group?

4 A That's one.

5 Q What's the status of that?

6 A No.

7 Q No? You said no? Is that a final no?

8 A We didn't agree to work together.

9 Q Okay. And you didn't agree to work together
10 why?

11 A I took a full-time job.

12 Q Okay. Is that the only reason?

13 A I don't know what their reasons would be.

14 Q Okay. From your standpoint?

15 A Right.

16 BY MR. WEBB:

17 Q With that, and I have got copies of these for
18 y'all. I have had my -- let's do this on the record
19 before I tender it. In view of the fact that you brought
20 information that you have records over there and to make
21 the record very clear, I did not have a Subpoena for you.
22 I am serving you with one related to those documents
23 which will allow us to be in a position to ask the Court
24 to see whether we can obtain those documents that you
25 have declined to produce here as well as anything else

1 otherwise, you might have and I am giving you notice on
2 that. I have got a copy of that.

3 A Say again, this -- you intend to file or
4 this is?

5 Q No. That's service of a Subpoena on you.

6 MR. WYATT: Are you tendering --

7 MR. WEBB: And with that I'm --

8 THE WITNESS: And what documents are we
9 talking about?

10 MR. WYATT: Hold on one second. Let me
11 object to the service of the Subpoena for all
12 reasons under Rule 45, including lack of prior
13 notice and that's reserved and I'm sorry. Go
14 ahead. You had a question for him, Mr. Webb?

15 MR. WEBB: No. That's fine.

16 THE WITNESS: Was that an 'I won't answer you
17 or wait'?

18 MR. WEBB: Wait. There is no reason to use
19 up deposition time.

20 THE WITNESS: Okay.

21 MS. PLATT: I have no questions at this time.

22 MR. WEBB: The hotel sent me eight copies of
23 the bill.

24 THE VIDEOGRAPHER: You have the microphone
25 on.

1 MR. WEBB: I'm sorry.

2 MR. WYATT: There are two of them? There are
3 two separate Subpoenas.

4 MR. WEBB: Yeah. There is one just to appear
5 for today. And the other one was just a --

6 MR. WYATT: To appear for today?

7 MR. WEBB: Yeah. To appear for today just so
8 we won't walk out of here without it.

9 MR. WYATT: I mean, you are serving a
10 Subpoena on him right now to appear for today to
11 testify?

12 MR. WEBB: That's correct.

13 THE WITNESS: It is not -- no, it says it is
14 related to documents is what a read.

15 MR. WEBB: There are two Subpoenas there.
16 One is to produce on the 19th.

17 THE VIDEOGRAPHER: We are on the record.

18 MR. NORRIS: Do y'all have anything more to
19 talk about? If you do, let's go off first.

20 MR. WYATT: Excuse me.

21 Examination

22 BY MR. NORRIS:

23 Q Mr. Ford, my name is David Norris and I
24 represent E.A. Renfroe Company, Inc. Let me ask you -- I
25 want to ask you a few questions. I will not be nearly as

1 long as anybody else today. When was the first occasion
2 that you heard of E.A. Renfroe Company?

3 A Months after I was involved in anything
4 with Katrina.

5 Q Okay. It would have been well after the period
6 of time in which you were employed by Forensic?

7 A Yes.

8 Q And well after the time in which you had
9 completed the report that you have talked about today.
10 Is that accurate?

11 A Yes, that's correct.

12 Q Can you tell me the occasion -- tell me the
13 occasion -- tell me about the occasion when you did come
14 to hear about E.A. Renfroe.

15 A I think just in the press. And I don't
16 know when.

17 Q You haven't had any discussions with any
18 attorneys about E.A. Renfroe?

19 A No.

20 Q Outside of the -- perhaps, the press items, you
21 may have seen, and outside of today, do you recall ever
22 having heard of E.A. Renfroe?

23 A No. Never.

24 Q Okay. Do you know a person by the name of Cody
25 Perry?

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1 A No.

2 Q Do you know a person by the name of Kerry
3 Rigsby?

4 A I have heard the name, but I do not know
5 that person.

6 Q What about Cory Rigsby?

7 A No.

8 Q How about Jana Renfroe?

9 A No.

10 Q How about Gene Renfroe?

11 A No.

12 Q So would it be fair to say that you have never
13 had any conversations with any of those persons, right?

14 A That is correct.

15 Q Have you ever had any discussions with anyone
16 whom you understood to be associated with E.A. Renfroe
17 Company?

18 A No, I -- except --

19 Q Except for me.

20 A Well, except for the fact that I assumed
21 they were working for State Farm. And I have had
22 conversations with two people from State Farm. That
23 would be the only -- but it was not in the context
24 of Renfroe.

25 Q Okay. So you had -- you have had conversations

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1 with two people at State Farm, is that correct?

2 A Correct.

3 Q Did you have any discussions with anybody else
4 at State Farm?

5 A No.

6 Q Okay. And those just for the purposes of the
7 record, could you tell us the identity of those two
8 people?

9 A Lekie King and Mark Wilcox.

10 Q Okay. If I represent to you that neither of
11 those persons are associated -- or have been associated
12 with E.A. Renfroe, would it be fair to say then that you
13 have never had any conversations with someone whom you
14 understood to be associated with E.A. Renfroe?

15 THE WITNESS: Assuming that to be true,
16 that's correct.

17 MR. WYATT: Object to the form of the
18 question. Sorry.

19 THE COURT REPORTER: And I need your answer
20 again.

21 THE WITNESS: I said assuming that's correct,
22 yes.

23 THE COURT REPORTER: Thank you.

24 MR. NORRIS: Very good. That's all of the

4 MR. WYATT: Excuse me, I didn't recognize
5 that myself. I understood Mr. Webb to say they
6 were Mr. McIntosh's photos.

7 However, since now Mr. Webb has indicated
8 those are not all Mr. McIntosh's photos, what
9 was your understanding of what he said when he
10 asked you the questions about them?

11 MR. WEBB: Object to the form.

12 MR. NORRIS: Object to the form.

13 MS. PLATT: Object to the form.

14 THE WITNESS: It is my understanding they
15 were Mr. McIntosh's photographs.

16 BY MR. WYATT:

17 Q Okay. So in other words, when you were
18 answering those questions that was the impression you
19 were under?

20 A Yes.

21 MR. WEBB: Object to the form.

22 MS. PLATT: Same.

23 BY MR. WYATT:

24 Q Was that a yes?

25 A Yes.

1 Q Very quickly I just want to -- do you still
2 have this big thing of photos over there?

3 A Yes. It is right here.

4 Q Okay. He asked you questions about a lot of
5 these and I'm not going to do that. I'm going to take
6 you through a couple of representative photos. Let's go
7 to 378 and 379. I know those were asked about.

8 You can go to 378. Do you see that
9 Photo B and do you recall Mr. Webb asking you about
10 whether that represents water damage there where

11 there is no wall board?

12 THE COURT REPORTER: No what?

13 MR. WYATT: Wall board.

14 BY MR. WYATT:

15 Q There is no sheetrock there, right? The studs
16 are showing?

17 A Right.

18 Q And do you remember those questions that he
19 asked you about whether or not photos like this that
20 showed where the sheetrock was removed represented water
21 damage?

22 A Typically, represents the damage you
23 associate with rising water, yes.

24 Q Would you agree that the photo represents the
25 after-effect of water damage and not necessarily what

313

1 occurred that led to the water getting there?

2 MR. NORRIS: Object to the form.

3 MR. WEBB: Same objection.

4 MS. PLATT: Objection.

5 THE WITNESS: I don't understand the
6 question. would you try it again?

7 BY MR. WYATT:

8 Q I believe you testified earlier that
9 wind-driven debris, for example, can compromise the
10 envelope of a house. Is that right?

11 A Yes.

12 Q And so can water-borne objects, can't it?

13 A Yes.

14 Q Did State Farm by the way ever ask you to look
15 for damage from water-borne objects?

16 MR. WEBB: Objection to the form of the
17 question.

18 BY MR. WYATT:

19 Q And so my question to you about this photo and
20 those other similar photos, this photo does not tell us
21 what occurred previous to what is depicted here, does it?

22 MR. WEBB: Object to the form.

23 MS. PLATT: Object to the form.

24 THE WITNESS: would you say that again?

25 BY MR. WYATT:

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1 Q Sure. If the photo shows us that water damage
2 may have caused the sheetrock to be missing here, it
3 doesn't tell us what happened before the point where the
4 water got --

5 A I understand the question now. No, there
6 could have been damage to the wall prior to the
7 water moving the sheetrock. Yes, that's possible.

8 Q And that's true of all of those photos that
9 Mr. Webb took you through and asked you if that shows
10 water damage, isn't it?

11 MR. WEBB: Object. Asked and answered.

12 MS. PLATT: Object.

13 THE WITNESS: Below the waterline, yes.

14 MR. WYATT: Below the waterline. Do we have
15 to change a tape?

16 THE VIDEOGRAPHER: In three minutes? Okay, I
17 will keep going.

18 BY MR. WYATT:

19 Q And it is also true that the homeowner could
20 have removed some sheetrock to stop mold growth, isn't
21 that true?

22 MR. WEBB: Objection to the form.

23 MR. NORRIS: Same objection.

24 BY MR. WYATT:

25 Q Now, do you recall Mr. Webb asked you some

315

1 questions about the request for engineer sheet?

2 A Yes.

3 Q And he pointed out to you that there is a
4 structural damage to the left corner of wall request in
5 here. Is that in Mr. Kelly's report? Did he address
6 that?

7 A I think the same questions in the
8 background of the opening paragraph where it was
9 requested to inspect the damage to the left front
10 wall, determine if it was from wind, water, or both.
11 I will have to go through these to see how it is
12 addressed. Or if it is addressed.

13 BY MR. WYATT:

14 Q When you reviewed that earlier when Mr. Webb
15 asked you to, did you see anything in there where
16 Mr. Kelly had addressed this question right here?

17 MR. WEBB: Object to the form. Asked and
18 answered.

19 THE WITNESS: I have not yet.

20 BY MR. WYATT:

21 Q Okay. Okay. I'm not going to burden you with
22 that at this point in time reading that whole report from
23 that.

24 A I do not see it specifically addressed in
25 the findings nor the conclusions.

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1 Q Okay. Now, Mr. Webb asked you about several
2 matters. The eyewitness subject matter and some other

3 things that he said that had you known them, they might
4 have influenced your opinion. Do you remember those
5 questions?

6 A If I had known.

7 Q Had you known certain things like as depicted
8 in these picture here, for example, leaves on trees and
9 that type of thing. Had you known those things they
10 would have influenced or might have influenced your
11 opinion. Do you recall those questions?

12 A No.

13 MR. NORRIS: Objection to form.

14 THE WITNESS: You have asked several
15 questions. I am going to separate the witness
16 question and answer to the leaves on the tree. It
17 would have been another piece of information, an
18 indicator. Not an overwhelming piece of
19 information.

20 MR. WYATT: I understand. Let him change his
21 tape real quick and we are just about to be
22 finished.

23 THE VIDEOGRAPHER: This marks the end of
24 videotape number five in the deposition of Brian
25 Ford. Going off the record. The time is 6:53.

1 (Video off.)

2 (Tape change.)

3 (Video on.)

4 THE VIDEOGRAPHER: This marks the beginning
5 of videotape number six in the deposition of Brian
6 Ford. Back on the record. The time is 6:55.

7 BY MR. WYATT:

8 Q Okay. We covered the eyewitness subject matter
9 and do you recall the questions you were asked about that

10 by Mr. Webb, right?

11 A Yes.

12 Q Okay. My question to you is this: When
13 Ms. King called you on October the 17th and Mr. Sammis
14 handed you the telephone or she called Mr. Sammis and he
15 handed you the telephone, right?

16 A Right.

17 Q At any time during that conversation did
18 Mrs. King ask you to clarify the subject matter about the
19 eyewitness?

20 A No.

21 Q Did she ask you to clarify any subject matter
22 about leaves on trees being depicted in pictures
23 depicting the house?

24 A No.

25 Q Did she ask you to clarify anything with regard

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1 to the subject matter that Mr. Webb questioned you about
2 and ask you would that possibly influence your opinion?
3 Did she ask you for clarification on any of those things?

4 A No.

5 MR. WEBB: Object to form.

6 BY MR. WYATT:

7 Q So would it be fair to say that Ms. King never
8 expressed to you that she was sincere about trying to
9 clarify problems that were in the report, but was rather
10 outraged with what the conclusions in the report were?

11 MR. WEBB: Object to form. Argumentative,
12 move to strike.

13 MS. PLATT: Object to form.

14 THE WITNESS: She sought no clarification.

15 BY MR. WYATT:

16 Q When you said that there was no question that

17 there was damage to the first floor of the house by storm
18 surge, I have the same question regarding when you made
19 that statement you are not saying, are you, what occurred
20 previous to that that brought the storm surge into the
21 house, right?

22 MR. WEBB: Objection. Asked and answered.

23 MS. PLATT: Objection.

24 THE WITNESS: No. I'm only addressing what
25 five and a half feet of storm surge would do to

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1 the house.

2 BY MR. WYATT:

3 Q Okay. You were asked to express an opinion
4 about Mr. Kelly, your neighbor?

5 A Yes.

6 Q Do you know how many reports Mr. Kelly altered
7 while he was working for Forensic Engineering?

8 MS. PLATT: Object to the form.

9 MR. WEBB: Argumentative. Move to strike.

10 Form.

11 MR. NORRIS: Same objection.

12 THE WITNESS: I have no idea.

13 BY MR. WYATT:

14 Q Do you know how much money Mr. Kelly earned
15 after you were terminated from Forensic Engineering?

16 A No.

17 MR. WEBB: Same objection.

18 MS. PLATT: Same objection.

19 BY MR. WYATT:

20 Q Do you know whether or not Mr. Kelly ever
21 inspected a property without the owner's knowledge?

22 MS. PLATT: Object to the form.

23 MR. WEBB: Join.

3 COUNTY OF WALTON) J. BRIAN FORD

4 Pursuant to Article 8.B of the Rules and
5 Regulations of the Board of Court Reporting of the
6 Judicial Council of Georgia, I make the following
7 disclosure:

8 I am a Georgia Certified Court Reporter.

9 I was contacted by the offices of Merrill Legal Solutions to
10 provide court reporting services for this deposition. I will not
11 be taking this deposition under any contract that is prohibited by
12 O.C.G.A. 15-14-37 (a) and (b).

13 I have no contract or agreement to provide court reporting
14 services with any party to the case, any counsel in the case, or
15 any reporter or reporting agency from whom a referral might have
16 been made to cover this deposition.

17 I will charge my usual and customary rates to all parties in
18 the case, and a financial discount will not be given to any party
19 in this litigation.

20 _____
21 Linda K. Jackson, October 10, 2007
22 Certified Court Reporter #B-995
23 Registered Professional Reporter
24
25

1 E R R A T A S H E E T
2 DEPOSITION OF J. BRIAN FORD

3 I do hereby certify that I have read all
4 questions propounded to me and all answers given by me on October
5 10, 2007, taken before Linda K. Jackson, and that

6 _____ 1) There are no changes noted.

7 _____ 2) The following changes are noted:

8
9 Pursuant to Rule 30(3) of the Federal Rules of

17 And the reason for the change is:_____

18 Page No. ___ Line No. ___ should read:
19 _____

20 And the reason for the change is:_____

21 Page No. ___ Line No. ___ should read:
22 _____

23 And the reason for the change is:_____

24 DEPOSITION OF J. BRIAN FORD LKJ

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1 Page No. ___ Line No. ___ should read:
2 _____

3 And the reason for the change is:_____

4 Page No. ___ Line No. ___ should read:
5 _____

6 And the reason for the change is:_____

7 Page No. ___ Line No. ___ should read:
8 _____

9 And the reason for the change is:_____

10 Page No. ___ Line No. ___ should read:
11 _____

12 And the reason for the change is:_____

13

14

15
16
17 If supplemental or additional pages are
18 necessary, please furnish same in typewriting annexed to this
19 deposition.

20

21 _____
22 J.BRIAN FORD

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LKJ

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1 STATE OF GEORGIA)

4 I, Linda K. Jackson, a Certified Shorthand
5 Reporter in and for the State of Georgia, do hereby certify:

6 That prior to being examined, the witness named in the
7 foregoing deposition was by me duly sworn to testify to the truth,
8 the whole truth, and nothing but the truth.

9 That said deposition was taken before me at the time and
10 place set forth and was taken down by me in shorthand and
11 thereafter reduced to computerized transcription under my
12 direction and supervision, and I hereby certify the foregoing
deposition is a full, true and correct transcript of my shorthand
notes so taken.

13 I further certify that I am neither counsel for nor related
14 to any party to said action nor in anyway interested in the
outcome thereof.

15
16 IN WITNESS WHEREOF, I have hereunto subscribed my name this
17 15th day of October, 2007.

18
19 _____
20 Linda K. Jackson
21 Certified Court Reporter B-995
22 Registered Professional Reporter
23
24
25