

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA,
ex rel.; CORI RIGSBY;
AND KERRI RIGSBY

RELATORS/
COUNTER-DEFENDANTS

V.

CASE NO. 1:06-cv-433-LTS-RHW

STATE FARM MUTUAL
INSURANCE COMPANY

DEFENDANT/COUNTER-PLAINTIFF

and

FORENSIC ANALYSIS ENGINEERING
CORPORATION; EXPONENT, INC.;
HAAG ENGINEERING CO.; JADE
ENGINEERING; RIMKUS CONSULTING
GROUP, INC.; STRUCTURES GROUP;
E.A. RENFROE, INC.; JANA RENFROE;
GENE RENFROE; AND ALEXIS KING

DEFENDANTS

DEPOSITION OF ALEXIS B. KING

Taken at Butler, Snow, O'Mara, Stevens &
Cannada, 210 E. Capitol Street, Suite 1300,
Jackson, Mississippi, on Tuesday, May 5,
2009, beginning at 9:06 a.m.

REPORTED BY:

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 18
 19 ALSO PRESENT: Cori Rigsby (afternoon session)
 20 Kerri Rigsby (afternoon session)
 21 ---
 22
 23
 24
 25

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STIPULATION

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys of record, that this deposition may be taken at the time and place hereinbefore set forth, by Elizabeth Bost Simpson, RDR, CRR, CSR 1293, Court Reporter and Notary Public, pursuant to the Federal Rules of Civil Procedure, as amended;

That the formality of READING AND SIGNING is specifically NOT WAIVED;

That all objections, except as to the form of the questions and the responsiveness of the answers, are reserved until such time as this deposition, or any part thereof, may be used or is sought to be used in evidence.

represent Forensic Analysis and Engineering Corporation.

MR. ROBINSON: Barney Robinson, representing State Farm.

MR. HOLLOWAY: I'm Joe Hollomon. I represent Lecky King individually.

MR. GALLOWAY: Robert Galloway. I represent State Farm Fire and Casualty Company and Ms. King.

MR. BEERS: Michael Beers. I represent State Farm Fire and Casualty Company, as well as the witness, Ms. King.

VIDEOGRAPHER: And on the phone?

MS. RENNICK: Tamara Rennick, in-house counsel for State Farm.

MR. ROBINSON: And I should add that I also represent the witness, Ms. King.

VIDEOGRAPHER: You can swear the witness, please.

(OATH ADMINISTERED)

ALEXIS B. KING, having been produced and first duly sworn, testified as follows:

EXAMINATION

VIDEOGRAPHER: We are on record. This is the video deposition of Alexis King taken in the matter of the United States of America, ex rel., and Cori Rigsby and Kerri Rigsby versus State Farm Mutual Insurance Company and Forensic Analysis Engineering Corporation, Inc., et al. It's in the United States District Court for the Southern District of Mississippi, Southern Division, Case Number 1:06-CV-433-LTS-RHW. Today's date is May 5th, 2009. The time is 9:06 a.m.

Would the attorneys please introduce themselves on audio.

MR. MATTEIS: I'm August Matteis from Gilbert Oshinsky, and I represent the Rigsbys.

MR. DAVIDSON: I'm Ben Davidson from Gilbert Oshinsky, and I represent the Rigsbys.

MR. HEIDELBERG: Maison Heidelberg on behalf of the Rigsbys.

MR. TWIFORD: My name is Hunter Twiford, McGlinchey Stafford, and I represent E.A. Renfroe and Company.

MR. GHOLSON: I'm Bob Gholson. I

BY MR. MATTEIS:

Q. Good morning, Ms. King.

A. Good morning.

Q. Could you state your full name and address, please?

A. My full name is Alexis B. King, and I live in Pensacola, Florida.

Q. What's the address where you live?

A. 9530 Lorikeet Lane, Pensacola.

Q. Okay. Have you been deposed before?

A. I have been deposed before.

Q. How many times?

A. I'm not sure how many times I've been deposed.

Q. More than one other time?

A. Yes. I've been deposed more than once.

Q. Okay. Do you remember the last time you were deposed?

A. I do not remember the last time I was deposed.

Q. Do you remember any of your prior depositions?

MR. BEERS: Object to the form of the question.

A. I remember all my prior depositions.

1 BY MR. MATTEIS:
 2 Q. Were you deposed more than five times in
 3 the past?
 4 A. Yes. I was deposed more than five
 5 times.
 6 Q. Okay. How many times were you deposed
 7 after Hurricane Katrina struck the Gulf Coast?
 8 A. I don't know how many times I was
 9 deposed after Katrina.
 10 Q. More than five times?
 11 A. Yes. It would be more than five times.
 12 Q. Were they all in individual policyholder
 13 cases?
 14 A. I don't know the answer to that.
 15 Q. Do you remember the names of any of the
 16 cases in which you were deposed in after Hurricane
 17 Katrina struck the Gulf Coast?
 18 A. No, sir. I can't remember specific
 19 names.
 20 Q. You don't remember any policyholder
 21 names in any of those cases?
 22 A. No, sir. I can't remember any of the
 23 names.
 24 Q. Did you assert your Fifth Amendment
 25 rights in each of those depositions that were

1 taken of you after Hurricane Katrina hit the Gulf
 2 Coast?
 3 A. I did assert my Fifth Amendment rights.
 4 Q. In every -- every one of those
 5 depositions?
 6 A. Yes, sir, in every deposition.
 7 Q. Okay. So in every deposition that was
 8 taken of you after Hurricane Katrina hit the Gulf
 9 Coast, you asserted your Fifth Amendment rights to
 10 every question asked? Is that right?
 11 A. I did assert my Fifth Amendment rights.
 12 Q. Are you on any medications that could
 13 affect your testimony today?
 14 A. I'm not on any medications.
 15 Q. Okay. Have you taken any drugs or
 16 ingested any alcohol in the last 24 hours?
 17 A. I have not taken any drugs nor ingested
 18 any alcohol in the last 24 hours.
 19 Q. Have you heard the names Tom and Pamela
 20 McIntosh?
 21 A. Yes, I've heard the names Tom and Pamela
 22 McIntosh.
 23 Q. Do you know that they submitted flood
 24 and wind claims regarding their property at 2558
 25 South Shore Drive in Biloxi for damage caused by

1 Hurricane Katrina?
 2 A. I do know that the McIntoshes submitted
 3 claims.
 4 Q. Are you familiar with those claims?
 5 A. I am not familiar with the McIntosh
 6 claims.
 7 Q. Do you know anything about the McIntosh
 8 flood or wind claims?
 9 A. I know about the McIntosh flood claim.
 10 Q. Okay. You don't know anything about the
 11 McIntosh wind claim.
 12 A. No, sir. I'm not familiar with the wind
 13 claim.
 14 Q. Are you familiar with Tom and Pamela
 15 McIntosh's property in Biloxi, the one that's at
 16 2558 South Shore Drive?
 17 A. I'm not familiar with the McIntosh
 18 property.
 19 Q. Have you ever -- and from now on, when I
 20 say "the McIntosh property," I'm going to be
 21 referring to the property owned by the McIntoshes
 22 at 2558 South Shore Drive in Biloxi; okay? I'm
 23 going to call that the McIntosh property.
 24 A. That's fine.
 25 Q. Have you ever visited the McIntosh

1 property?
 2 A. I have never visited the McIntosh
 3 property.
 4 Q. Has anyone ever talked to you regarding
 5 the McIntosh property?
 6 MR. BEERS: Object to the form.
 7 BY MR. MATTEIS:
 8 Q. You can answer.
 9 A. I have talked to individuals regarding
 10 the McIntosh property.
 11 Q. Who have you spoken to regarding the
 12 McIntosh property?
 13 A. Spoke to Dave Randel. Spoke to Cori and
 14 Kerri Rigsby. I spoke to Brian Ford. I spoke to
 15 Bob Kochan.
 16 Q. Have you spoken to anyone else regarding
 17 the McIntosh property?
 18 MR. BEERS: I assume you mean outside of
 19 counsel.
 20 MR. MATTEIS: Well, let me ask the
 21 question generally. She can tell me
 22 exceptions.
 23 MR. BEERS: Okay.
 24 A. There are others. Specifically, I can't
 25 come up with any names other than my counsel.

1 BY MR. MATTEIS:

2 Q. Okay. When did you speak to Dave Randel
3 about the McIntosh property?

4 A. Spoke to Dave Randel after I received
5 the engineer's report.

6 Q. Which engineer's report are you
7 referring to?

8 A. It was the engineer's report that State
9 Farm received from Brian Ford.

10 Q. Did you have only one conversation with
11 Dave Randel about the McIntosh property?

12 A. I don't know if we had any more than
13 one. We would have had -- no. We would have had
14 more than one, yes.

15 Q. Do you remember how many conversations
16 you had with Dave Randel regarding the McIntosh
17 property?

18 A. It would have been at least two
19 conversations.

20 Q. Okay. And you mentioned the Rigsbys.
21 Let's start with Kerri Rigsby. How many
22 conversations did you have with Kerri Rigsby
23 regarding the McIntosh property?

24 A. There would have been probably more than
25 two conversations with Kerri.

1 Q. How many conversations did you have with
2 Cori Rigsby regarding the McIntosh property?

3 A. There would have been probably more than
4 two.

5 Q. How many conversations with Brian Ford
6 did you have regarding the McIntosh property?

7 A. I had one conversation with Brian Ford.

8 Q. How many conversations did you have with
9 Bob Kochan regarding the McIntosh property?

10 A. I had one conversation with Bob Kochan.

11 Q. Okay. Let's start with Dave Randel. In
12 your conversation with Dave Randel about the
13 McIntosh property, what did you say to him and
14 what did he say to you?

15 A. When I received the engineer's report, I
16 called Dave Randel and requested that he come over
17 to our office to review it with me.

18 Q. And when you're referring to the
19 engineer's report, are you referring to Brian
20 Ford's engineering report?

21 A. Yes, I'm referring to Brian Ford's
22 engineering report.

23 Q. Okay. Before I ask you more about Dave
24 Randel's conversation, let me just ask you
25 regarding documents what you received. Was Brian

1 Ford's engineering report the first document you
2 saw that related to the McIntosh property?

3 A. Brian Ford's report would be the first
4 document I saw relating to the McIntosh property.

5 Q. Have you ever seen any other documents
6 relating to the McIntosh property other than Brian
7 Ford's report?

8 A. I looked at the McIntosh file, flood
9 file.

10 Q. When did you look at the McIntosh flood
11 file?

12 A. I reviewed the McIntosh flood file after
13 I received Brian Ford's engineer's report.

14 Q. Have you ever seen any documents
15 relating to the McIntosh property other than Brian
16 Ford's engineering report and the McIntosh flood
17 file?

18 A. No, sir, I don't -- I don't recall
19 seeing anything other than those two.

20 Q. What is the McIntosh flood file?

21 A. The McIntosh flood file would be the
22 file that State Farm set up for the adjustment of
23 any flood claim filed by the McIntoshes.

24 Q. Are flood files set up for all State
25 Farm policyholders?

1 A. A flood file is only set up if you have
2 a flood policy.

3 Q. Do all State Farm policyholders have
4 flood policies?

5 A. No, sir. All State Farm policyholders
6 do not have flood policies.

7 Q. So there are some State Farm
8 policyholders that have homeowners policy and a
9 flood policy; is that right?

10 A. There are policyholders that have both a
11 homeowners policy and a flood policy.

12 Q. Does State Farm have any policyholders
13 that have only a flood policy?

14 A. State Farm does have policyholders that
15 have only flood policies.

16 Q. Do some of those policyholders have
17 homeowners policies with other carriers?

18 A. There are policyholders who have
19 homeowners policies with other carriers.

20 Q. How does a policyholder become a State
21 Farm policyholder with a flood policy?

22 MR. BEERS: Object to the form of the
23 question.

24 BY MR. MATTEIS:

25 Q. You can answer.

1 A. I suppose they go to their agent.
 2 Q. So a prospective policyholder purchases
 3 a flood policy from an insurance agent and then
 4 they become a State Farm policyholder?

5 MR. BEERS: Object to the form.
 6 A. I'm not involved in agency, but that
 7 would be how I would imagine that is -- that
 8 business is conducted, yes, sir.

9 BY MR. MATTEIS:
 10 Q. Okay. Who underwrites State Farm flood
 11 policies?

12 A. The flood policy is underwritten by the
 13 government.

14 Q. Are all flood policies underwritten by
 15 the government?

16 A. All national flood insurance policies
 17 are underwritten by the government.

18 Q. What is State Farm's role in connection
 19 with flood policies?

20 A. Our role is as a write-your-own carrier
 21 and we adjust the losses for NFIP.

22 Q. What does that mean?

23 A. If State Farm has the flood policy, a
 24 State Farm adjuster would adjust any loss filed by
 25 the policyholder.

1 Q. And what did you call State Farm in that
 2 role? A write-your-own?

3 A. State Farm is a write-your-own carrier.

4 Q. Write-your-own carrier. How does State
 5 Farm become a write-your-own carrier for any
 6 particular policyholder?

7 A. I don't know. I don't know how they do
 8 that.

9 Q. So for each policyholder that has a
 10 flood policy, State Farm creates a flood file?

11 MR. BEERS: Object to the form.

12 A. If a claim is filed for flood damage, a
 13 flood file is set up.

14 BY MR. MATTEIS:

15 Q. So a flood file doesn't exist for
 16 policyholders that have never submitted claims?

17 A. There would be no claim file or flood
 18 file that I am aware of unless a claim is
 19 submitted.

20 Q. And what does a flood file consist of at
 21 State Farm?

22 A. A flood file should contain all the
 23 investigative material, log notes, photographs to
 24 document damage, an inventory form to document any
 25 contents loss, and documentation of building

1 damage.

2 Q. Who creates flood files at State Farm?

3 A. Flood file would be created by our
 4 computer automation department.

5 Q. Can you tell me how that process works,
 6 how a flood file is created?

7 A. When a flood claim comes in, through
 8 whatever department, be it agency or over the
 9 phone, then a report is generated and a file is
 10 set up by CA&P.

11 Q. Who triggers the order to create a flood
 12 file?

13 A. I don't understand your question.

14 Q. Okay. I'll rephrase it. Who tells the
 15 computer to set up a flood file when a flood claim
 16 is submitted?

17 A. I don't know the answer to that.

18 Q. Where are flood files stored at State
 19 Farm?

20 A. I don't know the answer to that.

21 Q. Are flood files accessible by computer
 22 at State Farm?

23 A. Certain portions of flood files are
 24 accessible by computer.

25 Q. Is there also a physical flood file kept

1 for each policyholder that has a flood file at
 2 State Farm?

3 A. I don't know the answer to that.

4 Q. Okay. So turning back to the McIntosh
 5 flood claim, you mentioned that you saw Brian
 6 Ford's engineering report in the McIntosh flood
 7 file. Are those the only documents you've seen
 8 relating to the McIntosh flood claim?

9 A. Yes, sir, those would be the only
 10 documents I've seen.

11 Q. And are those documents also the only
 12 documents you've seen related to the McIntosh
 13 property?

14 A. As far as I can remember, those are the
 15 only documents I've seen related to the McIntosh
 16 property.

17 Q. And are those the documents the only
 18 documents you've seen related to Tom and Pamela
 19 McIntosh?

20 A. As far as I can remember, those are the
 21 only documents I've seen.

22 Q. Okay. Now, turning back to the
 23 conversations regarding the McIntosh property, you
 24 mentioned that your first conversation regarding
 25 the McIntosh property was with Dave Randel; right?

1 A. Yes, sir. As I recall, my first
2 conversation was with Dave Randel.

3 Q. Prior to talking to Dave Randel, was
4 Brian Ford's engineering report the only document
5 you saw relating to the McIntosh property?

6 A. Yes. Prior -- prior to talking to Dave
7 Randel, the only document that I had looked at was
8 Brian Ford's report.

9 Q. Okay. And your first conversation with
10 Dave Randel regarding the McIntosh property, what
11 did you say to him and what did he say to you?

12 A. I can't remember the exact conversation
13 that Dave Randel and I had.

14 Q. Please tell me whatever you can remember
15 about that conversation.

16 A. I called Mr. Randel and told him that we
17 had received an engineering report, that I had
18 great concerns and asked if he would come to the
19 office and review it with me.

20 Q. Do you remember anything else about your
21 first conversation with Dave Randel regarding the
22 McIntosh property?

23 A. That's the only memory I have of that
24 conversation.

25 Q. How long before talking to Dave Randel

1 A. Mr. Ford's investigation showed that
2 there was a waterline of five plus feet to the
3 interior of the McIntosh home. He had pictures.
4 The house was standing. It was very easy to
5 address the damages to the home, and Mr. Ford
6 addressed no flood damage whatsoever to the house.

7 Q. What do you mean the house was standing?

8 A. The McIntosh home was standing. It was
9 not totally destroyed. It was accessible. It was
10 visible. It was easy to attain and to objectively
11 assess the damages.

12 Q. At the time you looked at Brian Ford's
13 engineering report, what did you think that
14 Mr. Ford did wrong?

15 A. I don't know that I felt Mr. Ford did
16 anything wrong. I did -- completely did not
17 understand his report. It made no sense to me.

18 Q. Let me break down the different things
19 you said regarding Mr. Ford's engineering report.
20 You mentioned that he had found a five-foot
21 waterline; is that right?

22 A. Mr. Ford's engineering report stated
23 there was a five-foot waterline.

24 Q. When you read Mr. Ford's engineering
25 report, could you tell how he had determined the

1 that first time did you see the Brian Ford
2 engineering report?

3 A. I have no idea. I don't know.

4 Q. Did you see Brian Ford's engineering
5 report for the first time on the same day that you
6 called Dave Randel regarding the engineering
7 report?

8 A. Best I can remember, yes, it would have
9 been the same day.

10 Q. After you saw Brian Ford's engineering
11 report for the first time, did you talk to anyone
12 else before you called Dave Randel about Brian
13 Ford's engineering report?

14 A. I don't remember talking to anyone else
15 prior to calling Dave Randel.

16 Q. What prompted you to call Dave Randel
17 regarding Brian Ford's engineering report?

18 A. When I looked at Brian Ford's
19 engineering report, I looked at his investigation,
20 I looked at the pictures, and I looked at the
21 conclusion, and the report made absolutely no
22 sense.

23 Q. At the time you first saw Brian Ford's
24 engineering report, why did you believe it made no
25 sense?

1 waterline?

2 A. I'd have to see the report to tell you
3 that.

4 Q. When you first saw Mr. Ford's
5 engineering report, did you not agree with
6 Mr. Ford's conclusions?

7 A. When I looked at Mr. Ford's engineering
8 report, the investigation said there was a
9 five-plus-foot waterline in the home. The
10 pictures depicted that there was flood damage to
11 the home, and Mr. Ford's conclusion was that all
12 damages to the home were wind. Flood was never
13 mentioned. So I did not agree with all the
14 conclusions of Mr. Ford's report.

15 Q. When you first saw Mr. Ford's report
16 regarding the McIntosh property, did you believe
17 his investigation was done incorrectly?

18 A. I had no idea how his investigation was
19 done to reach the conclusion that he reached,
20 which is why I called Dave Randel to come over and
21 discuss it with me.

22 Q. Did you see any pictures of the McIntosh
23 property other than those attached to Mr. Ford's
24 report?

25 A. After reading Mr. Ford's report, I

1 accessed the McIntosh flood file through State
2 Farm.

3 Q. Did you call Mr. Randel before or after
4 you accessed the McIntosh flood file?

5 A. I called Mr. Randel before I accessed
6 the McIntosh flood file.

7 Q. Did you have a second conversation with
8 Mr. Randel about the McIntosh flood claim?

9 A. Dave Randel and I did have another
10 conversation regarding the engineer's report.

11 Q. Was your second conversation with
12 Mr. Randel in person or on the phone?

13 A. My second conversation was in person.

14 Q. Did Mr. Randel come to your office to
15 discuss the Brian Ford engineering report?

16 A. Mr. Randel did come to my office to
17 discuss the Brian Ford engineering report.

18 Q. In that second conversation regarding
19 the McIntosh property, what did you say to Mr.
20 Randel and what did he say to you?

21 A. Again, I cannot recall our exact
22 conversation.

23 Q. Please tell me whatever you can remember
24 about your second conversation with Mr. Randel
25 regarding the McIntosh flood claim.

1 A. Mr. Randel and I discussed the fact that
2 the Brian Ford engineering report, the
3 investigation portion of the report, along with
4 the picture portion of the report, did not equal
5 the conclusion of the report; and Mr. Randel
6 advised me to call the engineering firm, try to
7 determine how Mr. Ford arrived at his conclusion,
8 try to ascertain what scientific data Mr. Ford
9 used to obtain his conclusion, and advise that we
10 should ask to have it reevaluated, and if they
11 were in disagreement of that, that we would no
12 longer need their services.

13 Q. Who suggested calling Forensic? Was it
14 you or Mr. Randel?

15 A. Mr. Randel advised me to call Forensics.

16 Q. And who suggested what the nature of
17 that conversation should be? Was it you or
18 Mr. Randel?

19 A. Mr. Randel suggested the nature of that
20 conversation.

21 Q. Did you make any suggestions to Mr.
22 Randel regarding what to do about Brian Ford's
23 engineering report?

24 A. I may have made some suggestions. I
25 don't -- I don't remember right now.

1 Q. Did you speak to anyone other than
2 Mr. Randel regarding the McIntosh property before
3 you looked in the McIntosh flood file?

4 A. I can't -- I don't remember whether I
5 did or didn't.

6 Q. When you accessed the McIntosh flood
7 file, how long did you look at it?

8 A. I would have -- how long. I don't know
9 how long, sir.

10 Q. Was it more than ten minutes?

11 A. I would say it was probably more than
12 ten minutes.

13 Q. Was it less than a half an hour?

14 A. I would say it was -- it could have been
15 a half an hour, a little bit more. It could have
16 been a little bit less.

17 Q. After the first time you accessed the
18 McIntosh flood file, did you ever access it again?

19 A. I don't remember whether I did or
20 didn't.

21 Q. So between the first time you accessed
22 the McIntosh flood file and now, you're not sure
23 whether you ever accessed it?

24 A. That's correct.

25 Q. Since the first time you accessed the

1 McIntosh flood file, have you -- have you seen any
2 other documents or any documents at all relating
3 to the McIntosh flood claim and/or the McIntosh
4 property?

5 A. No, sir, I don't recall seeing any
6 documents relating to the McIntosh property since
7 the report and my accessing the file.

8 Q. Your counsel hasn't even shown you any
9 documents relating to the McIntosh property?

10 A. I don't recall seeing any, no, sir.

11 Q. Were you prepared by counsel for this
12 deposition?

13 A. Yes, sir, I was prepared for the
14 deposition.

15 Q. How much preparation were you given for
16 this deposition?

17 A. I met with counsel for a day, day and a
18 half.

19 Q. Who did you meet with?

20 A. I met with Mike Beers, Joe Hollomon,
21 James Robie, Tamara Rennick there may have been
22 more people in the room, but right now those are
23 the only ones I can remember.

24 Q. And there was a day and a half of
25 meetings with that group in preparation for this

1 deposition?

2 A. Yes, sir. It was approximately a day
3 and a half.

4 Q. Did you have any other preparation
5 sessions for any depositions that you'd given in
6 the past regarding the McIntosh property?

7 A. No.

8 MR. BEERS: Object to the form. I'm
9 sorry. Could you redate that?

10 MR. MATTEIS: Sure.

11 BY MR. MATTEIS:

12 Q. Were you ever deposed prior to today in
13 connection with the McIntosh property?

14 A. I don't know the answer to that
15 question.

16 Q. Okay. In any prior deposition, have you
17 been asked any questions regarding the McIntoshes
18 and/or their property?

19 A. Yes, sir, I have been asked other
20 questions.

21 Q. In how many other depositions?

22 A. I can't answer that question. I don't
23 know.

24 Q. Were you prepared by counsel for those
25 depositions?

1 A. I was not prepared by counsel for those
2 depositions.

3 Q. So you were never shown any documents
4 relating to the McIntosh property and/or the
5 McIntosh claims in any deposition preparation; is
6 that right?

7 A. That's correct. I've not been shown any
8 documents.

9 Q. When you accessed the McIntosh flood
10 file for the first time, did you see anything in
11 the flood file that was inconsistent with
12 Mr. Ford's report?

13 A. Would you ask that again, please?

14 Q. I'll restate it. When you accessed the
15 McIntosh flood file for the first time, what do
16 you remember about it?

17 A. I accessed the flood file to look at
18 pictures that the adjusters had taken while out
19 there, and I remember finding that the claim had
20 been paid and that file had been closed. The
21 adjusters had found flood damage to the home and
22 had paid the flood claim relative to the damages
23 that they found.

24 Q. Do you remember what day it was when you
25 first saw the McIntosh flood file?

1 A. No, sir, I don't remember which day.

2 Q. Do you remember how long before you
3 first looked at the McIntosh flood file that the
4 -- the claim was closed?

5 A. No, sir, I don't. I don't recall.

6 Q. When you -- on the day that you looked
7 at the McIntosh flood file, did you know whether
8 the wind claim was open or closed?

9 A. I don't remember.

10 Q. Do you remember anything else about the
11 McIntosh flood file other than the fact that the
12 flood claim had been paid and was closed?

13 A. At the time I accessed the file, I saw
14 that Kerri Rigsby had been involved in that claim.

15 Q. Do you remember anything else about the
16 flood file?

17 A. No, sir. My -- I remember that it was
18 consistent with the five-foot waterline, and they
19 had found flood damage.

20 Q. What do you mean you remember that it
21 was consistent with the five-foot waterline?

22 A. I remember that when I looked at the
23 file, what the adjusters had found was consistent
24 with the investigation of the engineer. However,
25 their conclusions were entirely different.

1 Q. What did the adjusters find?

2 A. The adjusters found that the house was
3 inundated with floodwater.

4 Q. What did the adjusters conclude?

5 A. The adjusters concluded that the house
6 had been damaged by flood and paid based on their
7 assessment of the damages.

8 Q. Ms. King, can you briefly describe your
9 educational background starting from high school?

10 A. Yes, sir. I have a high school degree,
11 three years of college, many Estimatics schools,
12 SIU school, internal education with State Farm.

13 Q. Can we stop because I'm not going to
14 remember what some of those were? I'm interested
15 in knowing what they were. Can we start with the
16 three years of college? Where did you go to
17 college?

18 A. I went to the University of South
19 Alabama.

20 Q. Did you obtain a degree?

21 A. I also went to the University of
22 Phoenix. I have not obtained a degree.

23 Q. What did you major in in those two
24 colleges?

25 A. At the University of South Alabama, my

1 major was special education. University of
2 Phoenix was business administration.

3 Q. Okay. And then after college, what was
4 the next education that you mentioned?

5 A. When I began work with State Farm, I
6 began to take classes for them.

7 Q. Okay. When did you begin working with
8 State Farm?

9 A. I began working for State Farm in 1987.

10 Q. When did you gra- -- I'm sorry. When
11 was your last year of college?

12 A. I'm still at the University of Phoenix.

13 Q. You're still taking courses at the
14 University of Phoenix now?

15 A. Yes, sir.

16 Q. Okay. What year did you leave the
17 University of Southern Alabama?

18 A. 1970.

19 Q. What did you do between 1970 and 1987?

20 A. I got married. I had two children.
21 Ultimately went to work as a legal secretary.

22 Q. When did you go to work as a legal
23 secretary?

24 A. I believe it was 1978.

25 Q. How long did you work as a legal

1 secretary?

2 A. I worked as a legal secretary until I
3 went to work for State Farm in 1987.

4 Q. Okay. So other than the college years
5 you mentioned at the University of Southern
6 Alabama and the University of Phoenix, all of your
7 post-high school courses and training was through
8 State Farm?

9 A. All my formal education and on-the-job
10 training have been through State Farm.

11 Q. Okay. Now, at State Farm, what, if any,
12 courses have you taken?

13 A. At State Farm, started with a three-week
14 course on policy, two weeks' Estimatics.

15 Q. Can you -- let me just break this up
16 because I won't remember the words. The
17 three-week course on policy, what does that mean?
18 State Farm policies?

19 A. Yes. That's a three-week course on
20 State Farm policies.

21 Q. Does that mean insurance policies or
22 State Farm corporate policies?

23 A. That would be the insurance policies.

24 Q. Which policies did that address?

25 A. Those courses address all fire company

1 policies within State Farm.

2 Q. Which company were you initially
3 employed by?

4 A. I've always been employed by State Farm
5 Fire and Casualty Company.

6 Q. Did that first three-week course address
7 the flood policies?

8 A. No, sir. That three-week course did not
9 address the flood policy.

10 Q. Okay. And then you mentioned the
11 two-week course after that. What was that?

12 A. There was a two-week course for
13 Estimatics.

14 Q. What does that mean?

15 A. That's a course on learning how to
16 adjust losses to homes.

17 Q. That was in 1987 you took those courses?

18 A. Yes, sir, that would have been 1987.

19 Q. And, again, the Estimatics course was
20 directed at the State Farm fire policy?

21 MR. BEERS: Object to the form.

22 A. No, sir. That was at a technical school
23 in Dallas. It was not specific to State Farm.

24 BY MR. MATTEIS:

25 Q. So that course was just how to adjust

1 under a homeowners insurance policy?

2 A. No, sir. That's an Estimatics course.
3 It's how to estimate damages to a build- -- to
4 buildings, that type of thing.

5 Q. Okay. What other courses have you taken
6 at State Farm?

7 A. I took a three-weeks course in advanced
8 Estimatics.

9 Q. When was that?

10 A. I don't remember when that was.

11 Q. Was it in the 90s?

12 A. That was probably in the early '90s,
13 yes, sir.

14 Q. Any other courses?

15 A. I took -- I went through two separate
16 classes for fire investigation, both of those
17 being two-week courses. I've taken --

18 Q. What did those involve?

19 A. We went through controlled burns. We
20 were -- we went through classes on how to
21 interview people. We went through classes on how
22 to recognize arson. We went through classes on
23 how to recognize fraud.

24 Q. Everything in those courses was related
25 to fire?

1 A. Everything in those courses was related
2 to the fire company.

3 Q. Was that course directed only at
4 fire-related damage?

5 A. No, sir. That was related to any type
6 of fraud within the insurance homeowners arena.

7 Q. Okay. Have you taken any other courses
8 at State Farm?

9 A. I've taken the commercial -- courses on
10 the commercial policies. I've taken the course on
11 business interruption.

12 Q. With the -- regarding the commercial
13 courses, what are those?

14 A. Those are classes that are targeted to
15 the commercial policy, commercial buildings, large
16 commercial losses, and how to estimate those and
17 how to interpret and apply policy language.

18 Q. What was the next course you mentioned?

19 A. Next course was business interruption.

20 Q. What is that?

21 A. That applies, again, to commercial
22 policies. It's how to deal with and figure
23 business interruption for long lengths of time for
24 large businesses that are unable to work due to
25 damages.

1 A. I've not taken any courses at State
2 Farm, no.

3 Q. Okay. And have you taken any other
4 courses at State Farm other than the ones you've
5 mentioned?

6 A. Yes, sir, I'm sure I have. I can't
7 remember everything that I've taken.

8 Q. And when I've been using the word
9 "courses," are you considering that to mean
10 courses and/or training?

11 A. Most of what I have talked about have
12 been courses.

13 Q. Okay. Have you received any training
14 while you've been at State Farm other than the
15 courses that you've mentioned?

16 A. Training is involved in those courses,
17 and there's ongoing training, but specifically
18 right now, I can't think of any.

19 Q. Have you received any training at State
20 Farm regarding flood claims other than the one
21 course you took in 1994?

22 A. Yes, sir. On every flood loss there are
23 trainers, and in the beginning, it's ongoing
24 training.

25 Q. What do you mean on every flood loss?

1 Q. Did you take any other courses while
2 you've been at State Farm?

3 A. I -- I took the flood instruction at
4 State Farm.

5 Q. When did you take that?

6 A. My first class would have been 1994.

7 Q. What did that involve?

8 A. That was a class on understanding the
9 flood policy, reading the flood policy, and
10 estimating a flood loss.

11 Q. How long was that course?

12 A. As I recall, it was two days.

13 Q. Who taught that?

14 A. I do not remember who taught that.

15 Q. Was it a State Farm employee?

16 A. I don't remember.

17 Q. Other than that first one, have you
18 taken any other flood courses at State Farm?

19 A. I am the one that teaches the flood
20 courses. Have taught them since then and have
21 written the flood training.

22 Q. Okay. I'll get to that in a moment, but
23 other than the first flood course you took, have
24 you taken any courses as opposed to taught them
25 while you've been at State Farm?

1 A. I misstated that. On every catastrophe,
2 there's ongoing training, be it flood, be it a
3 tornado, be it wind, be it hail. There are
4 trainers there at all times.

5 Q. Have you taken any courses or received
6 any training on structural engineering?

7 A. I have attended during our training
8 classes where they talk about structural
9 engineering.

10 Q. Which classes were those?

11 A. That would have been during the
12 Estimatics courses and training.

13 Q. During those courses, what did you learn
14 about structural engineering?

15 A. I don't even remember, sir.

16 Q. Have you taken any courses or received
17 any training on meteorology?

18 A. We've been to meetings where there have
19 been breakout sessions and trainings on
20 meteorology.

21 Q. How many times?

22 A. Again, I can't remember.

23 Q. What did you learn about meteorology?

24 A. Again, sir, I can't -- I can't recall
25 offhand.

1 MR. MATTEIS: Can we take a few minute
2 break?

3 MR. BEERS: That would be great. I was
4 going to suggest that.

5 VIDEOGRAPHER: Off record at 10:02.

6 MR. BEERS: Ms. Rennick, we're taking a
7 break at this time.

8 MS. RENNICK: Okay. I'll just leave the
9 phone line open.

10 (OFF RECORD)

11 VIDEOGRAPHER: Okay. We are back on
12 record. The time is 10:17 a.m.

13 MR. MATTEIS: Okay. I believe we have
14 one gentleman who's joined us since we went
15 on record last time, if he would identify
16 himself.

17 MR. CANADA: Yes. My name is Larry
18 Canada. I represent Haag Engineering.

19 MR. BEERS: Ms. Rennick, are you there?

20 MS. RENNICK: Yes, I am.

21 MR. BEERS: Okay.

22 BY MR. MATTEIS:

23 Q. Okay. Ms. King, I'd like to turn back
24 to the conversations that you said you had with
25 various people regarding the McIntosh property,

1 Q. Please tell me anything you remember
2 about the first conversation with Kerri Rigsby
3 regarding the McIntosh property.

4 A. I discussed with Kerri that I had an
5 engineer's report that made no sense.

6 Q. Do you remember anything else about that
7 first conversation?

8 A. I don't remember any specifics regarding
9 that -- our conversations.

10 Q. You don't remember any of the specifics
11 of any of your conversations with Kerri Rigsby
12 regarding the McIntosh property?

13 A. I don't recall any specifics, no, sir.

14 Q. You also had some conversations with
15 Cori Rigsby regarding the McIntosh property; is
16 that right?

17 A. Yes. I had conversations with Cori
18 Rigsby, also.

19 Q. Do you remember any of the specifics of
20 those conversations?

21 A. I don't remember any specifics regarding
22 my conversations.

23 Q. Do you remember anything about your
24 conversations with Cori Rigsby?

25 A. My conversation would have been based on

1 and we've talked about two conversations you've
2 had with Dave Randel. First there was one by
3 phone, and then there was a second conversation in
4 person that we discussed. Did you have any more
5 conversations with Dave Randel regarding the
6 McIntosh claim and/or property?

7 A. I don't recall any other conversations
8 with Dave Randel.

9 Q. Okay. How many conversations did you
10 have with Kerri Rigsby regarding the McIntosh
11 property?

12 A. I don't recall how many conversations I
13 would have had with Kerri.

14 Q. More than two?

15 A. It could have been more than two, yes,
16 sir.

17 Q. Did you have any conversations with
18 Kerri Rigsby regarding the McIntosh property on
19 the first day that you saw Brian Ford's report?

20 A. I don't recall whether it was the first
21 day that I saw the report.

22 Q. In your first conversation with Kerri
23 Rigsby about the McIntosh property, what did you
24 say to her and what did she say to you?

25 A. I don't recall our entire conversation.

1 the fact that there was an engineer's report that
2 made no sense.

3 Q. And you had a conversation with Brian
4 Ford himself about his engineering report; right?

5 A. Yes, sir, I had a conversation with
6 Brian Ford.

7 Q. In that conversation, what did you say
8 to him and what did he say to you?

9 A. I inquired of Mr. Ford how he came to
10 his conclusions based on his investigation and the
11 pictures that he presented to us in his report.

12 Q. Do you remember what you said to him in
13 that inquiry?

14 A. I asked Mr. Ford to look at the
15 pictures. I asked Mr. Ford how he concluded that
16 the lower portion of the home was damaged by wind
17 only when there was a five-foot waterline, as
18 stated in his investigation. I asked Mr. Ford
19 what scientific evidence he used to come to his
20 conclusion.

21 Q. What did Mr. Ford say to you?

22 A. Mr. Ford advised me that it looked like
23 flood to him, also. However, he -- that there was
24 an eyewitness who on their way to their attic
25 witnessed houses being blown apart and blown into

1 the McIntosh property.

2 Q. Did he identify who the eyewitness was?

3 A. He identified who the eyewitness was,
4 yes.

5 Q. And that was the person identified in
6 his report?

7 A. He stated that the person he identified
8 in his report was the eyewitness that he had never
9 talked to.

10 Q. Other than your questions for Mr. Ford,
11 did you tell Mr. Ford anything in your
12 conversation?

13 A. I asked Mr. Ford whether or not he would
14 relook at the file and give us -- or his report
15 and give us scientific information to justify his
16 conclusions. He advised me that he would not. I
17 then advised him that we would no longer need his
18 services and thanked him for all the work he had
19 done.

20 Q. Did he tell you why he would not?

21 A. His statement was an eyewitness saw
22 debris being blown into the house, and his report
23 would stand.

24 Q. What did you ask him to add to the
25 report?

1 conclusion.

2 Q. What type of scientific data are you
3 referring to that was on the Internet?

4 A. There was weather data. There was the
5 National Weather Service. There was NASA. There
6 were just a plethora of different sites out there
7 that could be obtained.

8 Q. So you were referring to general weather
9 data regarding the storm?

10 A. I was referring to weather data that was
11 on the Internet with regard to what had occurred
12 in Katrina.

13 Q. So when you had your conversation with
14 Mr. Ford, you asked him to include generalized
15 weather data that would support the conclusions he
16 drew in his report?

17 MR. BEERS: Object to the form.

18 A. I just asked Mr. Ford to please advise
19 us how he came to his conclusion and to base that
20 on scientific data.

21 BY MR. MATTEIS:

22 Q. At that time, would you have been
23 satisfied if Mr. Ford came back and provided data
24 that suggested that strong winds preceded the
25 storm surge in Hurricane Katrina?

1 MR. BEERS: Object to the form.

2 A. I never asked Mr. Ford to add anything
3 to his report.

4 BY MR. MATTEIS:

5 Q. What did you ask Mr. Ford to do
6 differently in his report?

7 A. I asked Mr. Ford if he could relook at
8 the report and give us the scientific evidence on
9 which to base his conclusion.

10 Q. Did you ask him for anything more
11 specific than that statement?

12 A. No, sir, I didn't. I asked him simply
13 to give us scientific evidence on which he could
14 base his conclusion.

15 Q. Did you tell Mr. Ford what type of
16 scientific evidence you had in mind?

17 A. No, sir. I did not give him any
18 indication of any scientific evidence that I had
19 in mind.

20 Q. Did you have any type of scientific
21 evidence in mind when you had the conversation?

22 A. There was scientific data out on the
23 Internets. There was all sorts of weather data
24 and in my mind, I felt he could look it up and
25 give me an idea of how he came up with his final

1 A. I don't think I understand your
2 question.

3 Q. Well, you've stated that you asked
4 Mr. Ford to provide scientific data to support his
5 conclusions; right?

6 A. Yes, sir, I asked Mr. Ford for
7 scientific data to support his conclusion.

8 Q. And the type of scientific data you had
9 in mind was weather data; correct?

10 A. That was one part of the data that he
11 could have obtained, yes, sir.

12 Q. And Mr. Ford's conclusion was that wind
13 did the damage to the McIntosh property; right?

14 A. Mr. Ford's conclusion was that the
15 McIntosh property was damaged solely by wind.

16 Q. So if Mr. Ford provided scientific data
17 which showed that extremely powerful winds
18 preceded any floodwaters to hit the McIntosh home,
19 his conclusions would have been supported;
20 correct?

21 MR. BEERS: Object to the form.

22 A. No, sir, his conclusions would not have
23 been supported. There was a five-and-a-half-foot
24 waterline in the house. Therefore, you can't
25 ignore that there was at least five and a half

1 feet of floodwater in that home.

2 BY MR. MATTEIS:

3 Q. When you asked him to provide scientific
4 data to support his conclusions, did you think any
5 scientific data existed at the time that would
6 have supported his conclusions?

7 A. There was and is no scientific data that
8 supports that there was no flood damage to that
9 home when there's a five-and-a-half-foot
10 waterline, no, sir.

11 Q. So every home that has a waterline in it
12 has some flood damage? Is that what your
13 testimony is?

14 A. No, sir. My testimony is to the
15 McIntosh house, there was a five-and-a-half-foot
16 waterline. Therefore, the McIntosh home sustained
17 flood damage.

18 Q. Okay. Let me ask it more generally. If
19 any house contains a five-and-a-half-foot
20 waterline, does that mean by definition the house
21 has been damaged by flood?

22 A. Under the definition of the flood
23 policy, if a house has a five-and-a-half-foot
24 waterline, based on my years of experience, yes,
25 sir, that would conclude that there is some flood

1 damage to that home.

2 Q. How about if a home is completely
3 destroyed prior to floodwaters rising above it?
4 Does that mean it necessarily was damaged by
5 flood?

6 A. If a flood -- if a home is completely
7 destroyed prior to rising water, then that would
8 not necessarily conclude that it was damaged by
9 flood.

10 Q. Why not?

11 A. Because the home did not exist at the
12 time.

13 Q. So if a home doesn't exist prior to the
14 time when floodwaters touch where the home would
15 have been, then the home would not have been --
16 could not have been damaged by flood. Is that
17 your testimony?

18 A. My testimony is if there's no home there
19 to damage, then it is not going to be damaged by
20 flood, yes, sir.

21 Q. What if a home is damaged by wind first
22 and then floodwaters touch it and no additional
23 damage is done? Would such a house be damaged by
24 flood?

25 A. If floodwaters enter a home and

1 damage -- physically damage the home, then there
2 is a flood claim. There is damage.

3 Q. Let me give a more specific example. If
4 winds come and allow rain to enter a house, only
5 one floor is destroyed, the floor in one room,
6 okay, and then after that floor has been
7 destroyed, floodwaters enter it and don't do any
8 additional damage to that floor or anything else,
9 does a house like that contain flood damage?

10 MR. BEERS: Object to the form.

11 A. If a house is damaged by -- by wind and
12 rainwater and there is a flood that causes no
13 damage, then that house would be paid for under
14 the rainwater/wind policy.

15 BY MR. MATTEIS:

16 Q. So if rainwater and wind caused the
17 damage first, then that claim would be paid under
18 the State Farm wind policy?

19 A. If it can be conclusively determined
20 that wind and rain caused the damage, that would
21 be paid under the State Farm homeowners policy.

22 Q. And if wind and rain caused the damage
23 first, there would not be a flood claim; right?

24 A. If there was flooding in the area and
25 the policyholder filed a claim, there would still

1 be a flood claim.

2 Q. So there would still be a flood claim
3 even if all the damage sustained to a property was
4 caused by wind first?

5 MR. BEERS: Object to the form.

6 A. Yes, sir. If -- the claim is made by
7 the policyholder. If they made a claim for flood,
8 then we would have to investigate that.

9 BY MR. MATTEIS:

10 Q. Okay. But in such a claim if all the
11 damage was caused first by the wind, would State
12 Farm pay under the flood policy?

13 A. If the damage is paid -- if the damage
14 is caused by wind and rain, we would pay for that
15 under our wind and rain policy.

16 Q. Would you also pay for it under the
17 flood policy?

18 A. We would not pay for that damage caused
19 by wind and rain under the flood policy.

20 Q. Okay. After you had a conversation with
21 Brian Ford regarding the McIntosh property, you
22 also had a conversation with Robert Kochan; right?

23 A. Yes. I had a conversation with Robert
24 Kochan.

25 Q. And Mr. Kochan was the head of Forensic

1 Engineering Company; is that right?
 2 MR. BEERS: Object to the form.
 3 A. I don't know Mr. Kochan's title.
 4 BY MR. MATTEIS:
 5 Q. Okay. In your conversation with
 6 Mr. Kochan regarding the McIntosh property, what
 7 did he say to you and what did you say to him?
 8 A. Mr. Kochan asked me if -- if I would
 9 reconsider allowing them to do -- continue doing
 10 State Farm work. I showed him the Brian Ford
 11 engineering report and asked him to look at it and
 12 tell me what his opinion was.
 13 Q. So was your conversation with Mr. Kochan
 14 in person?
 15 A. My conversation with Mr. Kochan was in
 16 person.
 17 Q. Where did it take place?
 18 A. Mr. Kochan came to the Gulfport
 19 catastrophe office.
 20 Q. How long was your conversation with
 21 Mr. Kochan?
 22 A. I don't recall how long it was.
 23 Q. Was anyone else in the room other than
 24 you and Mr. Kochan?
 25 A. Yes. That was an open office. There

1 were many, many people in the room.
 2 Q. Was anyone close enough to hear what you
 3 and Mr. Kochan were discussing?
 4 A. I don't know if anyone was close enough
 5 to listen to our conversation.
 6 Q. Was anyone else a part of the
 7 conversation with you and Mr. Kochan?
 8 A. I don't recall if anyone else was there
 9 or not.
 10 Q. How did Mr. Kochan know to come to your
 11 office that day to have the conversation?
 12 A. I received a call from Mark Wilcox,
 13 stating that Mr. Kochan wanted to come and talk to
 14 me with regard to the Brian Ford engineering
 15 report.
 16 Q. Did you receive a call from Mark Wilcox
 17 after you had your conversation with Brian Ford?
 18 A. Yes. I received that call after my
 19 conversation with Brian Ford.
 20 Q. Okay. And then in your conversation
 21 with Mr. Kochan, what did you tell him, if
 22 anything?
 23 A. Again, I told -- asked Mr. Kochan to
 24 review the file of Brian Ford and give me his
 25 opinion.

1 Q. Did you tell him why you wanted him to
 2 review it?
 3 A. I told Mr. Kochan that I had an
 4 engineer's report that made no sense.
 5 Q. You told him that before he reviewed it.
 6 A. This was during our conversation, sir.
 7 I don't know if he had the report in his hand or
 8 not.
 9 Q. Mr. Kochan reviewed Brian Ford's report
 10 during your conversation with Mr. Kochan?
 11 A. He looked at it then, yes, sir.
 12 Q. Did you tell Mr. Kochan why you believed
 13 the report didn't make any sense?
 14 A. No, I did not.
 15 Q. Did Mr. Kochan say anything to you
 16 regarding Brian Ford's report?
 17 A. Mr. Kochan advised me that in looking at
 18 the report, he could not understand how Mr. Ford
 19 could not have said that there was flood damage to
 20 the home.
 21 Q. Was your conversation with Mr. Kochan on
 22 the same day that you first saw Brian Ford's
 23 report?
 24 A. No. My conversation with Mr. Kochan was
 25 not on the same day.

1 Q. Was it on the next day?
 2 A. I don't remember. I don't think it was
 3 the next day.
 4 Q. Do you remember anything else about your
 5 conversation with Mr. Kochan?
 6 A. Yes. Mr. Kochan said that he was going
 7 to take Brian Ford's -- one of -- a duplicate of
 8 Brian Ford's report back with him and have someone
 9 else go out and look at the property and that he
 10 would advise whether or not that engineer reached
 11 the same conclusion or a different conclusion. At
 12 that time, if they reached a different conclusion,
 13 we would pay based on that bill. Otherwise, if it
 14 was the same conclusion, we would pay based on the
 15 bill received on the Brian Ford original report.
 16 Q. Did you tell Mr. Kochan that you wanted
 17 anything done differently in any subsequent
 18 report?
 19 A. I did not tell Mr. Kochan that we wanted
 20 anything done any differently.
 21 Q. So you didn't give him any suggestions
 22 about the second report at all?
 23 A. I did not make any suggestions about any
 24 report to Mr. Kochan.
 25 Q. What did Mr. Kochan do after you had

1 that conversation with him regarding Brian Ford's
2 report?

3 A. I never talked to Mr. Kochan after that
4 day.

5 Q. What did Mr. Kochan tell you he was
6 going to do in that conversation regarding Brian
7 Ford's report?

8 A. Mr. Kochan advised that he was going to
9 take the duplicate report back with him. He was
10 going to have someone else look at the property.
11 If the engineer agreed with Mr. Ford's conclusion,
12 we would pay based on the first original
13 engineer's bill. If the engineer found a
14 different conclusion, we would pay based on the
15 second billing.

16 Q. And you told Mr. Kochan nothing
17 regarding how the second engineering report should
18 be done; is that right?

19 A. I gave Mr. Kochan no suggestions.

20 Q. You also mentioned Mark Wilcox. Did you
21 have a conversation with Mr. Wilcox regarding the
22 McIntosh property?

23 A. I don't recall having a conversation
24 with Mark Wilcox, but I could have.

25 Q. Okay. Okay. Now, back to training and

1 courses that you received at State Farm. You
2 mentioned that there was training associated with
3 each catastrophe; is that right?

4 A. Yes, sir. There's a group of trainers
5 present at each catastrophe site.

6 Q. And are those trainers State Farm
7 employees?

8 A. Yes. That's a group of State Farm
9 employees.

10 Q. What training did you receive in
11 connection with Hurricane Katrina?

12 A. I did, myself, receive no training. I
13 was involved in putting on training.

14 Q. Okay. You said after your 1994 flood
15 course, you began teaching flood courses; is that
16 right?

17 A. Yes, sir.

18 Q. Okay. What teaches -- what -- I'm
19 sorry. Strike that.

20 What courses at State Farm regarding
21 flood have you taught?

22 A. I teach flood policy and Estimatics,
23 flood Estimatics. I have taught that quite a few
24 years. I also wrote the on-line web-based State
25 Farm flood training.

1 Q. When did you write that?

2 A. I don't recall. Sometime in early 2000.

3 Q. And is the on-line flood training that
4 you wrote provided to all flood adjusters at State
5 Farm?

6 A. The on-line flood training is provided,
7 is made available, to everyone, yes, sir.

8 Q. Is the on-line flood training an on-line
9 course, or is it more like a handbook?

10 A. It is a -- the on-line training is an
11 on-line course.

12 Q. Have you ever written any type of
13 flood-related handbooks or policies or procedures
14 for State Farm?

15 A. I have not written any handbooks or
16 policies or procedures.

17 Q. Okay.

18 MR. MATTEIS: I'd like to request that
19 document, the on-line flood training course
20 that Ms. King authored.

21 BY MR. MATTEIS:

22 Q. How often since 1994 have you taught
23 flood-related courses for State Farm?

24 A. I don't have a number.

25 Q. Have you taught flood-related courses

1 each time there was a catastrophe with potential
2 flooding since 1994?

3 A. If I was involved in the catastrophe, I
4 was generally tasked with teaching flood, yes.

5 Q. Did you teach any flood courses in
6 connection with Hurricane Katrina?

7 A. I did teach flood courses in connection
8 with Hurricane Katrina.

9 Q. How many?

10 A. I don't know the number.

11 Q. How many people did -- attended the
12 courses that you taught related to Hurricane
13 Katrina and flooding?

14 A. I don't have that number.

15 Q. Did you teach hundreds of people
16 regarding flood claims in Hurricane Katrina?

17 A. Yes, I taught hundreds of people with
18 regard to flooding in Hurricane Katrina.

19 Q. Did you teach any courses related to
20 flood in Hurricane Katrina that included hundreds
21 of people in one session?

22 A. I don't believe there were hundreds of
23 people in any one session, no, sir.

24 Q. Collectively, do you believe you taught
25 thousands of people about flood claims related to

1 Hurricane Katrina?

2 A. I don't believe there were thousands of
3 people that I taught regarding Hurricane Katrina.

4 Q. You taught hundreds.

5 A. I would say more than a hundred, yes,
6 sir.

7 Q. What positions did the people hold who
8 took flood courses from you relating to Hurricane
9 Katrina?

10 MR. BEERS: Object to the form.

11 A. I don't know that. I don't know the
12 answer to that, sir.

13 BY MR. MATTEIS:

14 Q. Did you teach claims adjusters?

15 A. I did teach claims adjusters.

16 Q. Did you teach team managers?

17 A. Yes. There were team managers involved
18 in the training.

19 Q. Did you teach trainers?

20 A. There may have been trainers involved.

21 Q. Did you teach reinspectors?

22 A. There may have been reinspectors at my
23 training.

24 Q. Did you teach Renfroe adjusters and team
25 managers?

1 A. I taught Renfroe adjusters. I don't
2 know about the managers.

3 Q. Did you teach section managers?

4 A. There may have been section managers
5 involved.

6 Q. Did you teach claim managers?

7 A. I don't know the answer to that.

8 Q. Do you remember which section managers
9 were involved in the courses you taught regarding
10 flooding in Hurricane Katrina?

11 A. No, sir. I'm just saying they may have
12 been involved.

13 Q. How did you get in the position where
14 you were teaching so many people about flood
15 claims?

16 A. The flood policy became a policy that
17 interested me in the '90s, and I attended NFIP
18 training, got involved with the policy and
19 volunteered and became very fluent in that policy.

20 Q. What type of NFIP training did you
21 participate in?

22 A. I attended NFIP workshops and the NFIP
23 conferences.

24 Q. And those NFIP workshops and conferences
25 were run by NFIP?

1 A. Yes. Those workshops and conferences
2 are run by NFIP.

3 Q. So government employees teach and train
4 in those courses?

5 A. I don't know who trains all the courses,
6 but there are government employees involved, FEMA.

7 Q. Since 1994 have you been State Farm's
8 primary person for training regarding the flood
9 policy?

10 A. Since 1996 or '7, there were two of us
11 that were State Farm's primary trainers.

12 Q. Since 1996 or '7, you and one other
13 person were State Farm's primary flood policy
14 trainers?

15 A. Yes, sir.

16 Q. Who is the other person?

17 A. The other person was David Serfass.

18 Q. In September 2005, do you know what his
19 position was?

20 A. Yes. He's the owner of an independent
21 firm.

22 Q. Which firm?

23 A. I don't know the name of the firm.

24 Q. So he was not a State Farm employee?

25 A. That's correct. He no longer works for

1 State Farm.

2 Q. So of all the State Farm employees since
3 1996 or 1997, you have been the primary trainer
4 regarding the flood policy and flood claims?

5 A. No, sir. Another trainer was -- another
6 team manager was added as a primary source.

7 Q. When?

8 A. That would have been early in 2000.

9 Q. Who is that other person?

10 A. That would be Michael Ferrier.

11 Q. In September 2005, do you know what
12 Michael Ferrier's position was?

13 A. Michael Ferrier is the team manager.

14 Q. So in September 2005, you and Michael
15 Ferrier were the two principal State Farm
16 employees regarding flood policy and flood claims?

17 A. Yes, sir, it would have been myself and
18 Michael Ferrier.

19 Q. Did either of you report to the other?

20 A. No. Michael and I are equal.

21 Q. Can you briefly just go through your
22 positions that you've held at State Farm since you
23 started in 1987 and give me the years, if you
24 remember them?

25 A. I started as a -- an investigator for

1 the then senior referral unit. I did that for
2 either three or four years. Then I became a claim
3 rep on -- for a regular zone line unit for
4 probably six months and then became a voluntary
5 catastrophe claim rep, then became a trainer on
6 catastrophe services.

7 Q. When did you become a trainer?

8 A. 1996.

9 Q. Until when?

10 A. Until 1997.

11 Q. And then what?

12 A. I was promoted to team manager.

13 Q. And as a team manager in 1997, were you
14 in a particular division or department of State
15 Farm?

16 A. I was a team manager for catastrophe
17 services.

18 Q. What does that mean?

19 A. I worked for the department of
20 catastrophe services.

21 Q. What is the department of catastrophe
22 services?

23 A. We're the group -- catastrophe services
24 is the group that travels around the country where
25 catastrophes are declared and handle the claims

1 due to the catastrophes.

2 Q. Do you physically move to wherever a
3 catastrophe occurs when you're in that group?

4 A. Yes, sir. We're deployed there. They
5 set us up to -- to live there as long as our
6 deployment lasts.

7 Q. So in September 2005, you were still a
8 team manager in the catastrophe services
9 department?

10 A. Yes, sir. I was a team manager in 2005
11 for catastrophe services.

12 Q. Can you describe to me in the state of
13 Mississippi how the catastrophe services
14 department was deployed after Hurricane Katrina
15 struck? And by that I mean what offices were set
16 up, how it worked.

17 A. When we initially got to Mississippi, we
18 were set up in a claims office in Biloxi while
19 looking for other office space; and ultimately two
20 offices were set up, one in Biloxi and one in
21 Gulfport.

22 Q. And where were you deployed?

23 A. I was tasked with the Gulfport office.

24 Q. How soon after Hurricane Katrina struck
25 were you tasked with the Gulfport office?

1 A. I -- the time is very difficult because
2 there was no office space. I would say maybe two
3 weeks.

4 Q. And what do you mean by you were tasked
5 with the Gulfport office?

6 A. I -- by that I mean I was sent to work
7 in the Gulfport office.

8 Q. So there was a Biloxi office and a
9 Gulfport office?

10 A. Yes. There was a Biloxi office and a
11 Gulfport office.

12 Q. Were those the only cat services offices
13 set up by State Farm after Hurricane Katrina in
14 the state of Mississippi?

15 A. No, sir. It's my understanding there
16 were offices all over the state of Mississippi.

17 Q. Which other ones?

18 A. I have -- I don't know.

19 Q. Were the Biloxi and Gulfport offices the
20 two State Farm catastrophe services offices that
21 were set up on the coast of Mississippi?

22 A. Yes. Biloxi and Gulfport were the two
23 coastal offices.

24 Q. Was there any one person that oversaw
25 both offices, the Biloxi and Gulfport offices?

1 A. The section manager for the Biloxi and
2 Gulfport office was Dave Randel.

3 Q. How many section managers exist --
4 existed in September 2005 in State Farm's
5 catastrophe services department?

6 A. I don't know the answer to that.

7 Q. Were there several?

8 A. Yes, there's several section managers.

9 Q. Who was in charge of State Farm's Biloxi
10 cat services office in Hurricane Katrina?

11 A. Dave Randel was in charge, Biloxi
12 office.

13 Q. Who was in charge of the Gulfport
14 office?

15 A. Dave Randel was in charge of the
16 Gulfport office.

17 Q. Was he physically located in one or the
18 other?

19 A. He had a desk in both offices.

20 Q. Do you know John Deganhart?

21 A. Yes, I do know John Deganhart.

22 Q. What was his position in September 2005?

23 A. John was the coordinator in the Biloxi
24 office.

25 Q. What was his job as coordinator in the

1 Biloxi office?

2 A. John oversaw -- the coordinator oversees
3 the daily -- daily running of the office and
4 reports to the section manager.

5 Q. Who else --

6 A. Excuse me.

7 Q. Who else was in the Biloxi office other
8 than the coordinating manager? I don't mean
9 specific names, but just job titles.

10 A. Had claim reps. They had trainers.
11 There were reinspectors. There was CAPS. There
12 was temps. There was security, team managers,
13 independents, independent management. That right
14 now, off the top of my head, is all I can
15 remember.

16 Q. Did the Biloxi office and Gulfport
17 office have different roles in Hurricane Katrina?

18 A. Our roles were to handle claims, so I
19 would say we had the same roles.

20 Q. Was either office more or less focused
21 on flood claims?

22 A. Neither office was focused on any type
23 of claims. The Gulfport office handled all the
24 flood claims.

25 Q. So any flood claim that was made in

1 connection with property on the coast of
2 Mississippi was handled through the Gulfport
3 office?

4 A. Could you repeat that?

5 Q. I'm talking about September 2005. Was
6 any flood claim related to property on the coast
7 of Mississippi handled through the Gulfport
8 office?

9 A. They were -- it was the intent for -- if
10 the flood claim was filed for the Gulfport office
11 to handle it. Unfortunately, some didn't make it
12 to the Gulfport office, but that was the intent,
13 yes, sir.

14 Q. Why was that the intent?

15 A. The Gulfport office was closest to the
16 coast and the government had initiated the single
17 adjuster program.

18 Q. What was that?

19 A. The single adjuster program is a program
20 put on by or initiated by NFIP wherein one
21 adjuster handles both the homeowners claim and the
22 flood claim.

23 Q. So what relevance was that to whether
24 the Gulfport office was handling all the flood
25 claims?

1 A. We wanted to make sure that we were
2 adhering to NFIP's standards. Therefore, we
3 wanted all the flood claims and companion
4 homeowners claims in one office.

5 Q. Why would having all the flood claims
6 and homeowners claims in one office make it more
7 likely that you'd be adhering to all the NFIP
8 procedures?

9 A. That is how -- that was where our
10 computer group was set up, to set those claims up
11 that way, and we had a coordinator for flood and a
12 coordinator for the overall office.

13 Q. Was it important that State Farm
14 followed NFIP procedures?

15 A. It's very important that State Farm
16 follow NFIP procedures.

17 Q. Why?

18 A. The flood policy is an NFIP government
19 policy, and we are required to follow NFIP
20 procedures in our adjustment of flood claims.

21 Q. Required by whom or what?

22 A. Required by Congress.

23 Q. And during Hurricane Katrina, you were
24 one of the two principal State Farm employees who
25 directed others as to how to follow NFIP

1 procedures?

2 A. During Katrina I was one of the people
3 that directed State Farm employees on how to
4 follow NFIP procedures.

5 Q. You were one of the two principal
6 people; right?

7 A. No, sir. I was one of two principal
8 trainers. There were -- within State Farm there
9 are many people who are involved in NFIP
10 procedures and the following of government
11 standards.

12 Q. Who other than you and Michael Ferrier?

13 A. You have your underwriting department
14 for flood. You have your claims department for
15 flood. I can't -- I don't know everyone's names,
16 but there are many, many people.

17 Q. You and Michael Ferrier in
18 September 2005 were the two principal State Farm
19 employees who trained others how to follow NFIP
20 flood claim procedures; right?

21 A. Yes. Michael and I were the two main
22 trainers of flood claim procedures.

23 MR. BEERS: Good time for a break?

24 MR. MATTEIS: Could I go just a couple
25 of more minutes? Just background stuff.

1 MR. BEERS: Okay. Couple more minutes?
 2 MR. MATTEIS: I'll be through this
 3 section in two minutes.
 4 MR. BEERS: Okay.
 5 BY MR. MATTEIS:
 6 Q. Who is the coordinating team manager in
 7 the Gulfport office?
 8 A. There were two coordinating team
 9 managers in the Gulfport office.
 10 Q. Who were they?
 11 A. Rick Moore and myself.
 12 Q. Why were there two?
 13 A. I was there to maintain and oversee the
 14 handling and application of the flood. Rick Moore
 15 was there to oversee all other issues.
 16 Q. Who did you report to in September 2005?
 17 MR. BEERS: Object to the form.
 18 A. I reported to Charlie Arnold.
 19 BY MR. MATTEIS:
 20 Q. Who is he?
 21 A. Charlie Arnold is my -- was my section
 22 manager at the time.
 23 Q. Where was he physically located?
 24 A. Charlie Arnold is in Florida.
 25 Q. Where was he in September 2005?

1 A. I don't know where he was in
 2 September 2005.
 3 Q. Did you report to anyone else other than
 4 Charlie Arnold?
 5 A. At Hurricane Katrina I reported to Dave
 6 Randel.
 7 Q. Anyone else during Hurricane Katrina?
 8 A. At times during Hurricane Katrina, I
 9 reported to Katie Benthal.
 10 Q. Who is that?
 11 A. Katie Benthal is a section manager.
 12 Q. You reported to two section managers
 13 during Hurricane Katrina?
 14 A. For a time during Katrina I reported to
 15 two section managers.
 16 Q. Why?
 17 A. Katie Benthal was handling the Alabama
 18 portion of Katrina damages, and for a time I was
 19 over the flood for both Mississippi and Alabama.
 20 Q. So you oversaw all flood claims during
 21 Hurricane Katrina in Mississippi and Alabama?
 22 MR. BEERS: Object to the form.
 23 A. I didn't oversee flood claims, per se,
 24 but I was the flood coordinator. I was the go to
 25 person for questions regarding NFIP flood claim

1 handling and procedures.
 2 BY MR. MATTEIS:
 3 Q. For Alabama and Mississippi?
 4 A. Yes, sir, for Alabama and Mississippi.
 5 Q. Okay. I'm just going to introduce one
 6 document and then we can take a break.
 7 MR. MATTEIS: Would you mark this,
 8 please. Are we calling it King Exhibit 1?
 9 MR. BEERS: I'm sorry. What did you
 10 call it?
 11 MR. MATTEIS: Exhibit 1.
 12 ---
 13 (Exhibit Number 1 marked)
 14 BY MR. MATTEIS:
 15 Q. Show you what's been marked King Exhibit
 16 1. Do you recognize this?
 17 A. Yes, I recognize this.
 18 Q. What is it?
 19 A. This appears to be a roster of the
 20 Gulfport office.
 21 Q. Does this appear to be a true and
 22 correct copy of the roster for the Gulfport
 23 office?
 24 MR. BEERS: Object to the form.
 25 A. This appears to be a copy that was

1 revised on 10/18/05.
 2 BY MR. MATTEIS:
 3 Q. Do you know who made this?
 4 A. I do not know who made this.
 5 Q. Have you ever seen this before?
 6 A. I don't know that I've seen the revised
 7 10/18/05 roster.
 8 MR. MATTEIS: Okay. We can take a
 9 break.
 10 VIDEOGRAPHER: Off record at 11:14.
 11 (OFF RECORD)
 12 BY MR. MATTEIS:
 13 Q. Okay. We're going back on the record.
 14 My goal will be to do one more stint, about as
 15 long as the others, and then we can break for
 16 lunch, if that's okay with you.
 17 MR. BEERS: That's fine.
 18 BY MR. MATTEIS:
 19 Q. And, Ms. King, your counsel told me that
 20 you wanted to add something you remembered
 21 regarding your testimony about conversations; is
 22 that right?
 23 A. Yes, sir.
 24 Q. You can go ahead and do that now.
 25 A. You had asked me about my conversation

1 with Mr. Kochan, and we had -- we discussed the
2 engineer's report of Mr. Brian Ford, and one of
3 the things we did discuss was the eyewitness
4 testimony. And the two of us discussed the fact
5 that eyewitness testimony cannot be used as a
6 stand-alone, that it is one piece of an
7 investigation. It can't be the only reason
8 that -- that you choose to write your conclusion
9 one way or the other and that the eyewitness
10 testimony must be credible, as well.

11 Q. And that conversation with Mr. Kochan,
12 was that the first time you had ever discussed the
13 validity of eyewitness testimony in engineering
14 reports with anyone?

15 A. Yes, sir, as far as I recall.

16 Q. After that conversation with Mr. Kochan,
17 have you ever discussed the validity of eyewitness
18 testimony in engineering reports again?

19 A. Eyewitness testimony was discussed in
20 the office by everyone; and so, yes, I have
21 discussed it since then.

22 Q. So the validity of eyewitness testimony
23 was discussed in the Gulfport office only after
24 your conversation with Mr. Kochan?

25 A. I don't know that I would say only

1 how to deal with eyewitness testimony in Hurricane
2 Katrina?

3 A. No. I was not looked to for guidance as
4 far as eyewitness testimony is concerned.

5 Q. Was any guidance regarding eyewitness
6 testimony given to any of the adjusters in the
7 Gulfport office during Hurricane Katrina's flood
8 adjusting period?

9 A. A group was set up to take eyewitness
10 testimony, and the instruction was if someone says
11 they have an eyewitness, you turn it over to -- to
12 this investigating group to handle.

13 Q. Who is the group made up of?

14 A. I don't know the answer to that.

15 Q. So adjusters were not supposed to take
16 into account eyewitness testimony that they got
17 themselves?

18 A. The adjusters were told that if they had
19 an eyewitness that they were to turn the name over
20 to this group to go investigate.

21 Q. What was the group told to do in
22 connection with investigation of eyewitness
23 reports?

24 A. I was not involved with that group at
25 all.

1 after. I just know that I discussed it after
2 then. I was in discussions with other people.

3 Q. Which people?

4 A. I would say pretty much everybody in the
5 office. It was just kind of an ongoing discussion
6 because there was a lot of eyewitness testimony
7 being taken at the time.

8 Q. What did you tell people in your office
9 regarding eyewitness testimony?

10 A. I didn't tell anyone anything. I was
11 just in and among conversations on how best to get
12 the eyewitness testimony, and a unit was set up to
13 take witness statements.

14 Q. Now, you were the principal training
15 person on flood claims in the Gulfport office;
16 right?

17 A. Once we reached Mississippi, no, I was
18 not the principal training person.

19 Q. You were the principal person in the
20 Gulfport office who people came to for questions
21 regarding flood claims; correct?

22 A. I was the person that people would come
23 to when they had questions that could not be
24 resolved in any other manner.

25 Q. Did anyone look to you for guidance on

1 Q. Who oversaw that group?

2 A. I don't know who oversaw that group.

3 Q. Was the group located in the Gulfport
4 office?

5 A. That group was not located in the
6 Gulfport office.

7 Q. Where were they located?

8 A. I don't know where they were located.

9 Q. Have you ever met anyone in the group?

10 A. There was one gentleman that came to our
11 office one day, and I don't even remember his
12 name.

13 Q. Do you know anything about what the
14 group did in connection with eliciting eyewitness
15 testimony?

16 A. I was not involved with that group at
17 all.

18 MR. BEERS: Before we -- were there any
19 other conversations you wanted to relay based
20 upon your reflection, just before we get off
21 on continuing questions?

22 THE WITNESS: Yes. With regard to the
23 eyewitness testimony, when I talked to Brian
24 Ford, when he told me that there was an
25 eyewitness that while they were on their way

1 to the attic observed structures being blown
 2 apart, I told Mr. Ford -- or actually asked
 3 Mr. Ford if he considered the fact that when
 4 people are heading to their attic, they're
 5 not heading there if they're afraid of
 6 buildings being blown down. They're heading
 7 there because they are being flooded out and
 8 having to go to higher ground.

9 BY MR. MATTEIS:

10 Q. Prior to Hurricane Katrina, did State
 11 Farm ever use a separate group to elicit
 12 eyewitness testimony?

13 A. As I recall, in Ivan we had a group set
 14 up to go and interview the eyewitnesses. And
 15 prior to that, I don't know.

16 Q. Now, were engineers that did reports for
 17 State Farm in Hurricane Katrina, were they also
 18 directed to send any eyewitnesses to this special
 19 group that dealt with eyewitnesses?

20 A. I didn't deal with the instructions to
 21 the engineers, so I -- I can't answer that
 22 question.

23 Q. You never gave directions to engineers?

24 A. No, sir. I was not involved in setting
 25 up of engineers or directing engineers.

1 Q. Who was during Hurricane Katrina in the
 2 Gulfport office?

3 A. To my knowledge, no one in the Gulfport
 4 office was involved in the direction of engineers.

5 Q. Did the NFIP procedures for adjusting
 6 flood claims change after Hurricane Katrina
 7 struck?

8 MR. BEERS: Object to the form.

9 A. There was a change in the way we were
 10 instructed to handle certain structures in
 11 Katrina.

12 BY MR. MATTEIS:

13 Q. Okay. Prior to Hurricane Katrina, what
 14 procedures did State Farm follow to adjust flood
 15 claims?

16 A. State Farm followed the procedures set
 17 out by NFIP in their claims manual and any
 18 directives during each catastrophe.

19 MR. MATTEIS: Okay. Could you mark
 20 this, please?

21 ---

22 (Exhibit Number 2 marked)

23 BY MR. MATTEIS:

24 Q. Okay. I show you what's been marked
 25 King Exhibit 2. I'm certainly not going to ask

1 you to read the whole thing. I'm just going to
 2 start out by asking if you recognize it.

3 A. Yes. This appears to be the national
 4 flood insurance adjuster's claims manual.

5 Q. Is this what you were referring to?

6 A. Yes, sir, I look at it on-line, but this
 7 appears to be it printed out.

8 Q. Okay. So the procedures and policies
 9 set forth in King Exhibit 2 is what State Farm
 10 adjusters followed in adjusting flood claims prior
 11 to Hurricane Katrina?

12 MR. BEERS: Object to the form.

13 A. The adjusters' claims manual is what our
 14 adjusters follow for NFIP claims prior to and
 15 during Hurricane Katrina.

16 BY MR. MATTEIS:

17 Q. Was King Exhibit 2 distributed to all
 18 the adjusters during Hurricane Katrina?

19 A. I did not distribute this to anyone
 20 during Hurricane Katrina.

21 Q. Did all the adjusters have King Exhibit
 22 2 during Hurricane Katrina?

23 MR. BEERS: Object to the form.

24 A. All the adjusters on Hurricane Katrina
 25 had a computer and knew that this was available

1 on-line.

2 BY MR. MATTEIS:

3 Q. After Hurricane Katrina while flood
 4 claims were being adjusted, were all adjusters
 5 told to follow the procedures in King Exhibit 2?

6 A. All adjusters are instructed that we
 7 follow claims pursuant to NFIP.

8 Q. Pursuant to King Exhibit 2, the claims
 9 manual?

10 A. Pursuant to the adjusters' manual.

11 Q. You are one of the people in charge of
 12 training adjusters on how to address -- adjust
 13 flood claims; right?

14 A. Yes, sir. I'm one of the State Farm
 15 people who trains in flood claims.

16 Q. Okay. So prior to Hurricane Katrina,
 17 would you be able to just very briefly walk me
 18 through how a flood claim should be adjusted?

19 A. A flood claim would be adjusted by going
 20 out to the site, obtaining pictures. Have to
 21 determine whether or not there was a general
 22 condition of flooding in the area; determine if
 23 there is a waterline; if so, where; determine
 24 where the water came from; write an estimate.

25 Q. Estimate for what?

1 A. An estimate for building damage. Prior
2 to all that, need to determine that the policy is
3 in effect.

4 Q. What do you mean by that?

5 A. Whether the insured's policy -- the loss
6 occurred within the policy date. You need to
7 determine whether or not a home is insured to
8 value; in other words, if they qualify for
9 replacement cost cover- -- coverage if it's a
10 dwelling or if it will be handled on an actual
11 cash value basis only.

12 Q. That's based on whether the property was
13 insured up to 80 percent of the value.

14 A. That's correct. And -- and it has to be
15 their principal residence and they have to have
16 lived there at least 80 percent of the time that
17 they've owned the property. Also, they need to
18 determine -- make sure if they have contents
19 coverage. If they have contents coverage, then
20 they need to also adjust the contents portion of
21 the claim.

22 Q. How do they do that?

23 A. By obtaining a -- a -- talking to the
24 insured, finding out if there's -- if the contents
25 are not there any longer, find out what the

1 through with them and write down king-sized bed,
2 two bedside tables, mattress, box springs,
3 dresser, whatever furniture item was in each room.

4 We would also -- excuse me -- if they
5 had -- as far as the clothes are concerned, we
6 would tell them, go ahead and put all your shirts
7 that are worth the same amount, just lump those
8 together, five shirts at \$35, but, you know, if
9 you had more expensive shirts or one that's more
10 expensive, that has to be listed out. VCR tapes
11 you could lump together if they were -- of course,
12 that -- VCR, that's old -- or DVRs or any of
13 those, you'd need to -- you could list those on
14 a -- you didn't have to put those on per item,
15 unless it deviated. That's pretty much it.

16 Q. Okay. And I'm still going to be asking
17 questions regarding pre-Katrina policies until I
18 say otherwise; okay?

19 Was there a procedure for how to
20 determine where a waterline was in adjusting a
21 flood claim?

22 A. Depending on the flood event, if -- you
23 would go into the house and you would look for a
24 flood line on the wall, in a closet, on a door,
25 and then you would do the same thing on the

1 insured had. If the contents are there, go ahead
2 and get pictures of the contents, talk to the
3 insured, get a value of the contents, and list
4 them out.

5 Q. Item by item?

6 A. No, sir.

7 MR. BEERS: This is prior to Katrina.

8 Just remember that.

9 A. Item by item is kind of a misnomer in
10 that we would not expect anyone to list out every
11 shirt, every pair of socks, every pair of pants;
12 but for the most part, it's going to be a more --
13 prior to Katrina, it would have been a much more
14 labor intensive and a lot longer list.

15 BY MR. MATTEIS:

16 Q. More labor intensive than after Katrina?
17 Is that what you mean?

18 A. Yes, sir.

19 Q. Okay. What -- what are some things that
20 would have had to have been itemized with respect
21 to contents prior to Katrina?

22 A. We would want -- if you had a couch, we
23 would list couch, chairs, any high dollar items,
24 washer, dryer. All furniture would be -- we'd ask
25 them to go through room by room, literally, or go

1 exterior. You would try to determine and find a
2 flood -- a flood -- waterline, and then you would
3 measure it.

4 Q. Did these waterline procedures ever
5 change after Hurricane Katrina or no?

6 A. No, sir. They didn't change after
7 Katrina, but in a hurricane situation, such as we
8 had down on the coast, many times you'd have to
9 obtain your waterline from -- from a tree or from
10 a post, you know, outside because there would no
11 longer be a home in existence. If there's a house
12 built on piers, it may be that it was just --
13 there is no waterline because water just came
14 right in and went right back out. At that point,
15 again, you have to walk the property and try to
16 determine as best you can how high the water was
17 in that area.

18 Q. If a house still existed, was it easy to
19 find an internal waterline?

20 A. When a house is standing, normally it's
21 not difficult to find a waterline unless it has
22 been in and out water.

23 Q. Do you recall from what you've seen in
24 Mr. Ford's report and in the McIntosh flood file
25 seeing a waterline in the McIntosh property?

1 A. I don't recall. It's been a long time.
2 Q. Was there a procedure for how and
3 whether an adjuster was to document a waterline?

4 A. If you can find a waterline, you are to
5 take your tape measure, measure how high -- how
6 far from the floor, if it's interior, the
7 waterline is, how far from the ground if it's
8 exterior. If it's below an elevated house, you
9 measure from the top of the elevated floor down to
10 that waterline, and photograph that.

11 Q. So State Farm adjusters were required to
12 take a photograph of a tape measure held up to the
13 waterline when they determined there was a
14 waterline at a property?

15 A. If a waterline is found, they were to
16 get a tape measure, hold it up to the waterline,
17 and take a picture of it.

18 Q. Would there be any reason to deviate
19 from that procedure?

20 A. There are many reasons to deviate. Many
21 times it's very hard to -- to determine a
22 waterline, again, in a coastal area where the
23 water flows in and flows back out, where the waves
24 are what is hitting the house. There's no
25 settlement of water. So at that point you have to

1 look at everything around you and determine how
2 high the water was.

3 Q. Okay. But if an adjuster found a
4 waterline under State Farm NFIP procedures, they
5 were supposed to take a picture of the waterline
6 with a tape measure to it; right?

7 A. That is what they were asked to do, yes,
8 sir.

9 Q. Were engineers asked to do the same
10 thing for State Farm?

11 A. Again, I had nothing to do with the
12 engineers. I don't know what they were asked to
13 do.

14 Q. Okay. You've walked me through a flood
15 claim. What documentation was required to be
16 submitted by State Farm to the government in
17 connection with these flood claims?

18 MR. BEERS: Still pre-Katrina?

19 MR. MATTEIS: Sure. Let's start with
20 pre-Katrina. Thank you.

21 A. The only documentation that I know from
22 a claims perspective that was required to be
23 submitted to NFIP was compu- -- over the computer
24 was coding; and once it was coded in, we were
25 done.

1 BY MR. MATTEIS:

2 Q. What do you mean, it was coded?

3 A. There is -- there are a number of codes
4 that we have to -- that need to be inputted into a
5 flood claim when you're trying to pay the flood
6 claim. It's a certain number, certain letters,
7 water height, where the water came from, RC, ACV.

8 Q. Is that all on a single document?

9 A. It's on one piece of paper in the file.

10 Q. What's the name of that document?

11 A. We just refer to it as the flood coding
12 strip.

13 Q. So the -- the check that State Farm can
14 you tell wasn't sent to the government?
15 Government wouldn't receive a copy of the check
16 paid or anything like that?

17 A. I don't know what happens once we hand
18 those checks to our inputters.

19 Q. You're not sure if anything else gets
20 submitted to the government other than the flood
21 coding strip?

22 A. From a claims perspective, that's all I
23 know.

24 Q. And who does the inputting when a flood
25 claim's adjusted -- adjusted on the flood coding

1 strip?

2 A. The adjuster writes down the codes on --
3 on the flood coding strip, and then it is turned
4 in to CAPS; and whoever is working the
5 computers -- it could be a temp, it could be a
6 State Farm employee -- inputs that into our
7 system.

8 Q. What are all the inputs you can think of
9 that exist on a flood coding strip that gets
10 submitted to the government?

11 A. Again, water height; what caused the
12 flooding or where the water came from; the RC of
13 the building; the ACV of the building; the RC of
14 the loss amount; the ACV of the loss amount;
15 building; RC contents if they have it, ACV of
16 contents if they have it; whether they qualify for
17 replacement cost, so that would be an R or an A.
18 Other than -- I'd have to look at the strip.
19 Right off the top of my head, those I know are on
20 there.

21 Q. Okay. And one of the things that you
22 mentioned in adjusting a flood claim prior to
23 Katrina was the writing of an estimate. I just
24 want to focus on the building damage as opposed to
25 the contents. Prior to Katrina, how were

1 adjusters directed to write estimates for building
 2 damage?
 3 A. We are -- we're instructed to write our
 4 estimates pursuant to State Farm's procedures; and
 5 State Farm's procedures, depending on the flood
 6 event and how much damage is done to the house, it
 7 would vary.
 8 Q. What do you mean by State Farm's
 9 procedures?
 10 A. The government says that write-your-own
 11 companies can -- are to adjust their losses based
 12 on their own procedures. Therefore, our State
 13 Farm people were told to write, if they were
 14 writing an estimate, a stick estimate, to write an
 15 Xactimate estimate or years ago to write them by
 16 hand.
 17 Q. Okay. When you say that -- that the
 18 government allows write-your-own companies to
 19 adjust their losses under their own procedures,
 20 are you saying that the NFIP doesn't have any of
 21 its own procedures?
 22 A. We have been told that we are to adjust
 23 losses based on our procedures.
 24 Q. So the government has told State Farm to
 25 adjust flood losses based on State Farm's

1 loss is caused by flood; right? And let's keep
 2 this pre-Katrina for now.
 3 A. The procedures should be pretty much the
 4 same, yes, sir.
 5 Q. Okay. So prior to Katrina, to estimate
 6 loss caused by flood or by wind, State Farm would
 7 use a building damage estimate by applying the
 8 Xactimate computer program; is that right?
 9 A. Yes. Once we started use the Xactimate
 10 program, our estimates would be utilized by using
 11 the Xactimate program.
 12 Q. When did State Farm begin using
 13 Xactimate?
 14 A. I believe the first time I ever saw it
 15 was in 1993, but that's -- that could be wrong.
 16 Q. It's been used ever since?
 17 A. Yes, sir, it's been used ever since.
 18 Q. How does Xactimate work?
 19 MR. BEERS: Object to the form.
 20 A. Xactimate is a computer estimating
 21 program. You input your square footage. You
 22 input what type of building material it is and do
 23 that for the entire damage estimate.
 24 BY MR. MATTEIS:
 25 Q. Okay. Prior to Katrina, was State

1 homeowner procedures?
 2 A. Flood losses are to be adjusted by State
 3 Farm's procedures for writing estimates.
 4 Q. Okay. So State Farm -- and, again,
 5 we'll keep this prior to Katrina. Prior to
 6 Katrina, State Farm had procedures that adjusters
 7 followed to write estimates for losses under both
 8 wind policies and flood policies; right?
 9 A. Yes, sir. We had procedures to write
 10 estimates for both.
 11 Q. Okay. And were they the same
 12 procedures?
 13 A. Yes, sir, the procedures are the same.
 14 Q. Okay. So the NFIP requires State Farm
 15 to use the same procedures that State Farm uses to
 16 adjust wind claims when it adjusts flood claims;
 17 right?
 18 MR. BEERS: Object to the form.
 19 A. NFIP states that we are to use our
 20 normal State Farm procedures when we adjust
 21 claims.
 22 BY MR. MATTEIS:
 23 Q. Okay. So for estimating building
 24 damage, State Farm uses the same procedures when
 25 the loss is caused by wind as it does when the

1 Farm's procedure to input specific room dimensions
 2 when creating an Xactimate building damage
 3 estimate?
 4 A. If the house was standing and it -- and
 5 you could get full room measurements, normally we
 6 asked that they do get the room estimates -- room
 7 dimensions. I'm sorry.
 8 Q. Okay. Prior to Katrina, if the house
 9 was standing for both flood and wind claims, what
 10 other information was an adjuster told to input in
 11 creating a damage estimate?
 12 A. Adjusters were to input whatever was
 13 damaged in the home.
 14 Q. How would they determine that?
 15 A. That's determined by doing a scope of
 16 the home and inputting the damages.
 17 Q. So prior to Katrina, in a flood claim,
 18 adjusters were told to input specifically each
 19 item that they concluded was damaged by
 20 floodwaters; is that right?
 21 A. They -- yes. They input whatever
 22 building item was damaged into the Xactimate
 23 estimate.
 24 Q. So prior to Katrina, if an adjuster was
 25 adjusting a flood claim and the building was

1 standing, they were told to determine which
2 specific items in the home were damaged by flood
3 and then input those specific items into the
4 Xactimate program?

5 A. Yes, sir, you input those into the
6 program.

7 Q. Okay. I've been limiting all my
8 questions to prior to Katrina. Now I'm going to
9 ask the other question. How did the policies and
10 procedures change, if at all, after Hurricane
11 Katrina for adjusting flood claims?

12 A. After Katrina, NFIP initiated an
13 expedited claim handling process, which allowed us
14 to use an abbreviated form of Xactimate in order
15 to expedite the claim handling and pay the claims
16 as promptly as we possibly could.

17 Q. How did NFIP convey those different
18 standards to State Farm?

19 A. We received a directive from NFIP.

20 Q. What form was the directive in?

21 A. The directive was a memo.

22 Q. Do you remember the date of the memo?

23 A. I don't remember the date of the memo.

24 Q. Was that a single memo you're referring
25 to?

1 A. Yes, sir, it's a single memo.

2 Q. So there was only one memo issued by the
3 NFIP after Hurricane Katrina that changed State
4 Farm's procedures for adjusting flood claims?

5 A. There was only one memo issued for the
6 expedited claim handling process.

7 Q. Were there any other memos issued by
8 NFIP to State Farm that changed any procedures
9 related to adjusting flood claims after Hurricane
10 Katrina?

11 A. There were no memos issued. We did have
12 verbal confirmation that we could use Xactotal on
13 any homes that were totaled, that we considered a
14 total.

15 Q. Those verbal confirmation of what?

16 A. It's a verbal -- it was a verbal
17 confirmation that we could use Xactotal. We did
18 not have to write a stick estimate.

19 Q. So there's no memo that confirms that
20 State Farm was allowed to use Xactotal?

21 A. I don't know if there's a memo. I know
22 I got verbal confirmation.

23 Q. Who did you get verbal confirmation from
24 at the FNIP that State Farm was allowed to use
25 Xactotal in adjusting flood claims?

1 MR. BEERS: Object to the form.

2 A. I got verbal confirmation through State
3 Farm, not from NFIP.

4 BY MR. MATTEIS:

5 Q. Who at State Farm told you that State
6 Farm was allowed to use Xactotal for adjusting
7 flood claims?

8 MR. BEERS: Object to the form.

9 A. Juan Guevara would have given me that
10 information.

11 BY MR. MATTEIS:

12 Q. Who is that?

13 A. Juan Guevara. He was -- he is in our
14 corporate claims department.

15 Q. Do you know what his position is?

16 A. No, sir. I want to say consultant, but
17 I'm not sure.

18 Q. Okay.

19 MR. MATTEIS: Please mark this.

20 - - -

21 (Exhibit Number 3 marked)

22 BY MR. MATTEIS:

23 Q. Okay. Show you what's been marked King
24 Exhibit 3. Do you recognize this?

25 A. Yes, I do recognize this.

1 Q. What is it?

2 A. This is an NFIP directive waiving the
3 proof of loss requirement.

4 Q. Okay. Can you tell me if this is the
5 first memo that FEMA issued after Hurricane
6 Katrina that adjusted FEMA's policies?

7 A. I can't tell you whether or not this is
8 the first memo or not.

9 Q. Can you turn to the second page, which
10 is labeled Rigsby-000227? And that's just our
11 Bates number system, for anyone who's wondering.
12 You see that page?

13 A. Yes, sir, I do.

14 Q. I'm going to direct you to the second
15 paragraph, second sentence. It says, Instead,
16 payment of the loss will be based on the
17 evaluation of damage in the adjuster's report. Do
18 you see that?

19 A. Yes, I do see that sentence.

20 Q. Okay. At the time you received this
21 memo, did you know what that meant?

22 A. Yes, sir. When I received this memo, it
23 didn't mean anything for us.

24 Q. Why is that?

25 A. These memos are written to -- in

1 vernacular for the direct adjusters. It does
2 not -- the write-your-own companies don't have
3 adjusters' reports.

4 Q. So this entire memo didn't mean anything
5 to State Farm when you received it?

6 A. No, sir. The memo is very important,
7 but the point of the adjuster's report does not
8 apply to us. We do -- we are not required to fill
9 out an adjuster's report.

10 Q. I see. What about the memo was
11 important to State Farm when you received it?

12 A. This memo is very important in that they
13 waived the proof of loss requirement, which is
14 normally 60 days --

15 Q. Okay.

16 A. -- and --

17 Q. Oh, I'm sorry.

18 A. -- we no longer had -- had to comply
19 with that or to require our insureds to comply
20 with that.

21 Q. So after this memo was sent to State
22 Farm, if the proof of loss requirement was waived,
23 what existed in its stead?

24 A. As far as State Farm was concerned, the
25 way that the government knew that the adjustment

1 had been paid was based on the Xactimate estimate.

2 Q. Okay. A couple of sentences down from
3 the one I read before says, Instead, the loss will
4 be payable as soon as practicable after the
5 insurer receives the adjuster's report. Do you
6 see that?

7 A. Yes, sir, I see that.

8 Q. Okay. So that sentence also had no
9 application to State Farm; is that right?

10 A. That's correct. That would for us be
11 the Xactimate estimate.

12 Q. Okay. So when -- after this memo is
13 sent to State Farm, when were the adjusters told
14 that they could pay flood claims?

15 MR. BEERS: Object to the form.

16 A. The adjusters were told to pay their
17 flood claims just as they always are, which is
18 promptly and as soon as they could complete an
19 accurate estimate.

20 BY MR. MATTEIS:

21 Q. And an accurate estimate, after this
22 memo was issued, referred to an Xactimate
23 estimate?

24 A. It referred to any estimate. It could
25 even have been handwritten. However, we mostly

1 did them by Xactimate. But an estimate was agreed
2 to between the policyholder and our adjuster and
3 was -- made it ready for payment.

4 Q. After this memo was received by State
5 Farm, did you direct adjusters to -- to try to pay
6 policyholders' flood claims as fast as they could?

7 A. I always instruct the adjusters to pay
8 policyholders as soon as they possibly can.

9 Q. Whether it's flood or wind claims?

10 A. Our adjusters are told to pay claims,
11 whether they're flood or wind or fire, as soon as
12 they possibly can.

13 Q. And generally prior to Katrina, would it
14 take adjusters approximately the same amount of
15 time to adjust a flood claim or a wind claim?

16 MR. BEERS: Object to the form. As
17 opposed to -- as opposed to after?

18 MR. MATTEIS: Yeah. Let's start with
19 before. Thank you.

20 A. A claim -- the length it takes to -- to
21 adjust a claim is totally based on each individual
22 claim, so I can't really answer that. There's
23 never been a deviation either before or after. It
24 should be paid as soon as it -- it can be paid.

25 MR. MATTEIS: Please mark this.

1 ---

2 (Exhibit Number 4 marked)

3 BY MR. MATTEIS:

4 Q. Okay. Show you what's been marked King
5 Exhibit Number 4. Do you recognize it?

6 A. Yes, sir, I do.

7 Q. What is it?

8 A. This is an NFIP directive regarding
9 advance payments.

10 Q. Okay. Did you receive this around
11 September 1st, 2005?

12 A. I'm sure I did.

13 Q. Okay. When you received it, did you
14 understand what it meant?

15 A. Yes, sir, I did understand what it
16 meant.

17 Q. What was your understanding of what it
18 meant?

19 A. NFIP was asking that we give advances to
20 the insureds if possible if they had contents
21 coverage on their claim.

22 Q. Okay. I'm going to direct you to the
23 third sentence of the first paragraph. I'm sorry.
24 It must be the fourth sentence. Once the notice
25 of loss is received. Do you see that?

1 A. Yes, sir, I do.

2 Q. What is a notice of loss?

3 A. Where claims is concerned, once we've
4 received the file.

5 Q. What does that mean, when you receive
6 the file?

7 A. Receiving the file would be once
8 confirmation of coverage -- a claim has been
9 filed, coverage has been confirmed, and the claim
10 has been sent to the claims office to handle.

11 Q. Okay. And then the next phrase in that
12 sentence, The company will confirm contents
13 coverage and make a determination that the
14 structure has been flooded. Do you see that?
15 It's in the same sentence.

16 A. Oh. Yes, sir, I do.

17 Q. Who is directed to confirm contents
18 coverage in flood claims?

19 A. If an adjuster receives a file, they
20 should confirm that there is contents coverage.

21 Q. Okay. Then who is directed to make a
22 determination that the structure has been flooded?

23 A. The adjusters should determine based on
24 either a conversation with the policyholder or
25 visual contact that the structure has been

1 flooded.

2 Q. Okay. And once received, were State
3 Farm's adjusters directed to follow the
4 September 1st, 2005, memo, which is King Exhibit
5 4?

6 A. The adjusters were instructed to give
7 advances when possible.

8 Q. Okay.

9 MR. MATTEIS: Please mark this.

10 ---

11 (Exhibit Number 5 marked)

12 BY MR. MATTEIS:

13 Q. Show you what's been marked King Exhibit
14 5. Do you recognize this?

15 A. Yes, sir, I do recognize this.

16 Q. What is it?

17 A. This is the NFIP directive on expedited
18 claim handling.

19 Q. This is the memo that you referred to
20 before in your testimony that provided for
21 expedited claim handling?

22 A. Yes, sir, this would be the memo.

23 Q. Do you remember receiving this memo
24 around September 21st, 2005?

25 A. Yes, sir. I remember receiving this

1 memo.

2 Q. When you received this memo, did you do
3 anything with it?

4 A. When I received the memo I read it
5 thoroughly and then instructed our claims handlers
6 how to proceed.

7 Q. How did you instruct them how to
8 proceed? By that I mean did you have a course or
9 a training program?

10 A. I don't recall us having any kind of
11 training program. This was -- or I did not put
12 one on, no, sir.

13 Q. How did you instruct adjusters regarding
14 how to follow the procedures set forth in King
15 Exhibit 5?

16 A. The team managers were all sent a copy
17 of this memo and the adjusters and a memo went out
18 from -- seven days from the date of this memo, as
19 I recall. They were to proceed with all claims
20 that they had not already looked at, based on this
21 memo.

22 Q. I'm sorry. What's the significance of
23 the seven days? I didn't follow that.

24 A. We had a number, a great number, of
25 independent adjusters who had already gone out to

1 the sites and -- and inspected their claims, and
2 this memo reduces their fee bill and we wanted
3 them to have time to close those files that they
4 had seen prior to this memo coming out.

5 Q. So how did State Farm implement that?

6 A. We told them that they could -- any
7 claims they saw from that day forward, from the
8 date of this memo forward, would be handled under
9 this memo. However, they had seven days to close
10 down those claims that they had already seen but
11 not turned an estimate in for.

12 Q. What does that mean? I'm just not
13 following what the significance is of them being
14 able to close it down within seven days.

15 A. The significance of closing it down
16 within seven days is they had -- they tend to go
17 out and look at claims and not write the estimates
18 because they are trying to see things rapidly.
19 And we were giving them time to bill for having
20 gone to the site and actually spent a lot of time
21 out there rather than cutting their fee bill to
22 750. We gave them seven days to complete those
23 claims they had seen prior to this memo coming
24 out. Any claim not turned in by that time would
25 be based on this \$750.

1 Q. Okay. Was there a memo to that effect
2 that was sent to adjusters?

3 A. As I recall, there was a memo sent to
4 the adjusters, yes, sir.

5 Q. Was the memo sent by e-mail?

6 A. That memo would have gone by e-mail.
7 I'm not sure whether it went to team managers, who
8 then distributed it, or to everyone.

9 Q. Was the memo you're referring to sent on
10 September 21st, 2005?

11 A. I'd have to see the memo. I don't know.

12 MR. MATTEIS: I'd like to request that
13 document. I don't believe we have it.

14 BY MR. MATTEIS:

15 Q. So just so I understand the directive
16 given in the State Farm memo that followed up on
17 the FEMA September 21st memo, if a -- if a site
18 visit was made prior to September 21st, 2005,
19 State Farm allowed its adjusters to collect the
20 fees that were provided for by FEMA prior to the
21 September 21st memo; is that right?

22 A. State Farm allowed the adjusters to
23 build on a site visit, which would be your normal
24 billing even based on this memo if, in fact, they
25 had made a site visit.

1 Q. And that seven-day grace period only was
2 effective if the site visit was made prior to
3 September 21st?

4 A. No, sir. If they made a site visit even
5 after the September 21st memo, they got paid the
6 regular fee. However, they were not to go and
7 make site visits unless the insured was insistent.
8 According to NFIP, they wanted our -- the
9 adjusters to try to handle as many as they could
10 over the phone. What the seven-day grace period
11 was for was to eliminate those adjusters who
12 wanted to bill -- continue to bill on site visits.
13 We wanted to let them know we know you have a
14 certain amount of claims that you've already gone
15 out on but haven't written up. Then you show us
16 why you have to go out on a site visit, if you do.

17 Q. Okay. So the seven-day grace period
18 applied to site visits that took place prior to
19 September 21st, 2005?

20 A. That's correct.

21 Q. Did the NFIP allow State Farm to
22 implement that grace period?

23 A. This really wasn't a grace period, sir.
24 It was just a time to give the adjusters to let
25 them turn in their claims. Those visits were made

1 prior to this memo. They legitimately were owed
2 the money.

3 Q. FEMA didn't say anything about a seven-
4 day grace period, though; right?

5 A. FEMA didn't say anything about any grace
6 period, no, sir.

7 Q. Did you come up with the idea of the
8 seven-day grace period of time?

9 A. Yes. It was discussed amongst some of
10 us as to how to handle the -- we knew that these
11 people had files that they were going to have to
12 get completed that they had seen before, and we
13 wanted to allow them to get those done and get
14 them to us.

15 Q. Who was in those conversations?

16 A. I can't remember everybody that was in
17 on that conversation.

18 Q. Did you send the memo regarding the
19 seven-day grace period?

20 A. Again, it wasn't a grace period. It was
21 simply please turn in all your claims within seven
22 days that you've seen prior to this. And, yes, I
23 sent the memo.

24 Q. Who did you send it to?

25 A. I don't recall if it went to the team

1 managers or went to everyone.

2 Q. Okay. Back to King Exhibit Number 5, in
3 this memo, does FEMA set forth three different
4 processes under which adjusters are supposed to --
5 were directed to adjust flood claims after the
6 memo was issued?

7 A. Yes, this does set out three. It
8 numbers them three different processes.

9 Q. Okay. And I'll just direct you on the
10 first page to the -- the third paragraph, where it
11 says, As a result, we have developed three
12 processes described in Attachment A for handling
13 claims with specific characteristics. You see
14 that?

15 A. I'm sorry. What page?

16 Q. Third paragraph, page 1.

17 A. Yes, I see that.

18 Q. Okay. I'm just going to ask you some
19 questions about each of the processes. The next
20 sentence says, Process number one should be used
21 to expedite the claims handling of structures that
22 have or have had standing water in them for an
23 extended period of time. Do you see that?

24 A. Yes, sir, I see that.

25 Q. Okay. When you received the memo, did

1 you know what that meant?

2 A. Yes. When I received the memo, I did
3 know what that meant.

4 Q. What did you think it meant?

5 A. This process was directed to New
6 Orleans.

7 Q. What do you mean by that?

8 A. When Katrina hit New Orleans, there were
9 homes that people couldn't get to, and there was
10 going to be standing water in those homes they
11 knew for a great length of time, and this process
12 was how to handle those claims.

13 Q. So process number one had no application
14 in Mississippi?

15 A. Should we have found an area in
16 Mississippi where there was standing water and our
17 adjusters could not get to them, the homes, we
18 would have used process one, but, in fact, that
19 did not take place.

20 Q. Okay. And then moving down to process
21 number two, which is the last paragraph on page
22 number one of King Exhibit 5. It says, Process
23 number two is to be used when it has been
24 determined that the structure has been washed off
25 its foundation by floodwater and the square foot

1 measurements are known. Do you see that?

2 A. Yes, sir, I do.

3 Q. Okay. When you received the memo, did
4 you understand what that meant?

5 A. Yes, sir, I did.

6 Q. What did you believe that meant?

7 A. This meant that the homes that were
8 washed off their foundations and no longer
9 existed, if you could obtain the square footage of
10 the home, then you could use an expedited claim
11 process.

12 Q. Okay. Based on this memo, who was
13 instructed to determine whether a home had been
14 washed off its foundation by floodwater?

15 A. Based on this memo, it had already been
16 determined by NFIP that those homes that were
17 washed -- that were off their foundations had been
18 washed off their foundations by floodwater. We
19 were to assume that that was flood.

20 Q. Does it say that anywhere in this memo?

21 A. No, sir, it does not.

22 Q. Is there any other document created by
23 FEMA that says that?

24 A. I don't know of any document that says
25 that.

1 Q. So what are you basing your assumption
2 on that any home that was no longer existent after
3 Hurricane Katrina was to be assumed that
4 floodwater caused it to no longer be in existence?

5 A. The homes that were no longer in
6 existence were along the coast, and they -- NFIP
7 had conducted a walk-through and had looked at
8 those and determined that it was -- that they were
9 going to consider that flood, and I got that
10 information from Jim Shortley and David Marstat of
11 NFIP.

12 Q. So you're limiting your statement to
13 homes that were along the coast?

14 A. That would be homes that were in any way
15 in water, directed to water, not along the Gulf,
16 necessarily, but along water, where the water had
17 risen, the water had caused problems. That could
18 be inlets. It could be rivers that were attached
19 to the bays, any water areas, which is where those
20 homes that were completely gone existed in
21 Mississippi.

22 Q. So you were told by NFIP that State Farm
23 could assume that any home that was left with only
24 a foundation after Hurricane Katrina could be
25 assumed to have been caused by floodwaters?

1 A. NFIP had done -- and FEMA had done a
2 walk-through of the areas that were subjected to
3 water, and they stated -- they told us that those
4 would be subjected to the flood policy. Those
5 were flood-damaged homes.

6 Q. So after Hurricane Katrina, if a home
7 was left with only a foundation, State Farm was
8 not required to make a determination of what
9 caused the damage?

10 MR. BEERS: Object to the form.

11 A. No, sir. State Farm still went in to
12 determine whether or not there was also wind
13 damage to the area. What we were told by NFIP was
14 that there was -- that obviously was flood-damaged
15 home and we could apply the flood policy to the
16 damage to that home.

17 BY MR. MATTEIS:

18 Q. Does that direction by NFIP exist in any
19 memo?

20 A. I don't know if that exists in any memo,
21 sir.

22 Q. You were told that personally?

23 A. Yes, I was told that personally.

24 Q. By whom?

25 A. I was told that by Jim Shortley and

1 David Marstat.

2 Q. Okay. When they told you that, did they
3 tell you what they meant by the flood policy could
4 be applied to the damage?

5 A. No, sir. When -- they didn't have to
6 explain that to me. They -- we had been in Ivan
7 together. We -- they had done the walk-through in
8 Ivan, and I had come directly from Ivan to
9 Katrina. Ivan had the exact same damage, just on
10 a much lesser scale. And this had all been
11 discussed two years prior. These events were
12 flood events. It was water damage and it is
13 surge, and, therefore, surge is covered under the
14 flood policy. We need to pay what we can under
15 the flood policy. The determination of wind is --
16 is based on whoever has the wind policy.

17 Q. So after King Exhibit 5 was sent by the
18 NFIP to State Farm, State Farm assumed that
19 foundation-only homes were caused entirely by
20 flood?

21 MR. BEERS: Object to the form.

22 A. No, sir. I don't know what State Farm
23 assumed. I do know that we were told to go out
24 and investigate every claim for wind damage. My
25 portion, my job at Katrina, was to make sure that

1 we paid properly under the flood policy. These we
2 had been told to pay under the flood policy, so
3 I -- my directive to our people was if there is a
4 house that has been washed off its foundation due
5 to surge because it is along these lines or along
6 a body of water, they are owed under their flood
7 policy. Be sure and pay them under their flood
8 policy. It did not at any time stop the
9 investigation into wind damage.

10 BY MR. MATTEIS:

11 Q. After the September 21st memo was sent
12 by FEMA to State Farm, did you tell State Farm
13 adjusters and other adjusters working for State
14 Farm to pay the entire limits of the flood
15 policies on a foundation-only home?

16 MR. BEERS: Object to the form.

17 A. The adjusters were told to go out and
18 pay limits. The adjusters were told that if, in
19 fact, once they did the Xactimate -- they were to
20 do the Xactimate. Once they completed that, if
21 limits were not reached, then they were to take it
22 a step further because one of two things had
23 occurred. We either -- our insureds were
24 overinsured, at which point we wouldn't owe any
25 more than the Xactimate estimate or we had made a

1 mistake and there were specialty items in the
2 house. So at that point they needed to go get
3 with the insured, be very specific about their
4 building materials, to make sure that the insured
5 was getting every advantage under their flood
6 policy.

7 BY MR. MATTEIS:

8 Q. When you're referring to the Xactimate
9 estimate that would be done on the -- on the
10 foundation-only homes, are you referring to
11 Xactimate estimate for flood damage or for wind
12 damage?

13 MR. BEERS: Object to the form.

14 A. When the adjusters were out there
15 adjusting the flood claim, it would be Xactotal
16 based on the flood claim.

17 BY MR. MATTEIS:

18 Q. You said Xactimate the first time. Did
19 you mean Xactotal?

20 A. Yes, sir, I did because those were -- we
21 are talking specifically, as I understand it,
22 about total losses that are gone.

23 VIDEOGRAPHER: I need to change tapes.

24 MR. MATTEIS: Okay.

25 VIDEOGRAPHER: Off record, 12:38.

1 (OFF RECORD)

2 VIDEOGRAPHER: Okay. We are back on
3 record. The time is 1:35 p.m.

4 BY MR. MATTEIS:

5 Q. Mrs. King, when we broke before lunch,
6 the tape ran out, so I just have a few more
7 questions to ask regarding King Exhibit Number 5,
8 which is the September 21st FEMA memo. Do you
9 have that in front of you?

10 A. Yes, I do.

11 Q. Okay. If you would turn to page one
12 again, please. Okay. So you had testified before
13 that this memo created three different processes
14 for handling different types of flood claims;
15 right?

16 A. That's correct.

17 Q. Okay. Can you just briefly describe to
18 me when each of those three processes was to be
19 used based on the September 21st memo?

20 A. Process number one applies to
21 preselected areas.

22 Q. What do you mean by that?

23 A. Well, I'm just reading the memo, sir.

24 Q. Okay.

25 A. It says, This process uses flood depth

1 data to identify structures that have been
2 severely impacted and that depth to data will be
3 furnished by FEMA for the area of flooding caused
4 by failure of the levees in the New Orleans area.

5 Q. Okay. When you received this memo on
6 September 21st, 2005, did you understand what
7 process number one meant?

8 A. Yes, I did.

9 Q. What was your understanding of what it
10 meant?

11 A. Our understanding was that the areas in
12 New Orleans that could not be accessed by claims
13 representatives and that were -- that had water
14 continually in them would use process number one.

15 Q. Okay. And what did it mean based on
16 your understanding at the time, September 21st,
17 2005, to use process number one?

18 A. Well, process number one didn't apply to
19 us, so I didn't -- I didn't read it thoroughly,
20 but my understanding was they were to phone scope
21 those losses.

22 Q. What does that mean?

23 A. They were to call the insureds, use a
24 depth computer-based program, and scope the losses
25 that way.

1 Q. Did FEMA provide or recommend or require
2 a certain computer-based program for process
3 number one?

4 A. I don't know. I wasn't involved in
5 that.

6 Q. Okay. Let's go to process number two.
7 When you received the September 21st memo, did you
8 understand what process number two meant?

9 A. Yes. Process number two, I understood
10 what it meant.

11 Q. What was your understanding?

12 A. Process number two was to apply to
13 structures that washed off their foundations, and
14 it was also to be used in the handling of losses
15 without a site visit where the covered damages
16 appear to exceed policy limits where only a slab
17 or pilings remain or where the company can obtain
18 its own flood depth data.

19 Q. Okay. I'm going to ask you to look at
20 the first sentence in the last paragraph on page 1
21 of King Exhibit 5. That sentence says, Process
22 number two is to be used when it has been
23 determined that the structure has been washed off
24 its foundation by floodwater and the square foot
25 measurements are known. Do you see that?

1 A. I do see that, yes.

2 Q. Did you direct your adjusters to try and
3 determine that a structure had been washed off its
4 foundation by floodwater?

5 A. Yes. The adjusters were to try to
6 determine that.

7 Q. What did you tell them to do to make
8 that determination?

9 A. The adjusters were to phone the
10 insureds, talk to them, find out if their homes
11 had been washed off their foundations.

12 Q. Okay. So State Farm adjusters were
13 directed under process two to rely on the
14 policyholder's representation as to what caused
15 their foundation to be -- or the structure to be
16 washed off the foundation.

17 MR. BEERS: Object to the form.

18 A. There were known areas where this
19 process was being used, and those were the areas
20 where -- where most of what was left was slabs,
21 and they were to verify that with the
22 policyholder.

23 BY MR. MATTEIS:

24 Q. Okay. What does the part of the
25 sentence mean where it says and square foot

1 measurements are known. Did you understand what
2 that meant when you received the memo?

3 A. We were able, according to this memo, if
4 we could determine the square footage through our
5 underwriting or any other means, then we could go
6 ahead and, without a site visit, pay the flood.

7 Q. When you say pay the flood, do you mean
8 pay full limits of the flood policy?

9 A. We could pay full limits if full limits
10 were warranted.

11 Q. In what cases were full limits
12 warranted?

13 A. If the square footage was known and you
14 did -- conducted a phone scope and did an Xactotal
15 and the Xactotal was over the limits of the
16 policy, you could pay the policy limits.

17 Q. And did you direct your adjusters at
18 State Farm and independent adjusters working for
19 State Farm to try to pay the full limits?

20 A. Yes, sir. The adjusters were instructed
21 to pay the full limits of the policy if they could
22 on any home that was a total loss where it was
23 gone, washed off its slab.

24 Q. What do you mean by if they could?

25 A. If the adjusters used their Xactotal and

1 it did not come up to the limits, then they needed
 2 to go back to the insured and determine whether or
 3 not the insured was (a) overinsured or (b) we had
 4 made a mistake; and by making a mistake, I mean
 5 that we had not used the proper building material
 6 in our Xacttotal. Your Xacttotal assumes certain
 7 things, and we had to go back and check with the
 8 policyholder to see if, for instance, they had --
 9 if it assumed a certain type of countertop, maybe
 10 they had a higher grade. If it assumed carpet,
 11 they might have had hardwood floors. They needed
 12 to get exactly how that house was built, if it had
 13 not reached limits, to make sure that we were
 14 giving them every benefit of the doubt.

15 Q. Can you explain to me what Xacttotal is?

16 A. Xacttotal is an estimating tool that uses
 17 the square footage of a building and makes certain
 18 assumptions. For instance, if it's an average
 19 house, its uses average assumptions, average
 20 carpet, average -- linoleum flooring, your average
 21 countertops, your average counters. It assumes
 22 those things. It assumes a certain number of
 23 bathrooms. It assumes a certain number of
 24 bedrooms, et cetera, based on the square footage
 25 of the house the year it was built.

1 Q. And you told your adjusters if the
 2 Xacttotal estimate did not hit flood policies
 3 limits that they were to go back and change some
 4 of the assumptions in order to hit policy limits?

5 MR. BEERS: Object to the form.

6 A. No, sir, I did not tell them to go back
 7 and change things in order to hit limits. I told
 8 them that these houses had -- were gone. They no
 9 longer existed, and these policyholders were
 10 paying a premium for their policy and there was a
 11 certain limit to the policy. If the house is
 12 gone, we have to go under the assumption that they
 13 were insured correctly. Therefore, if we did not
 14 hit limits when we did our Xacttotal, we needed to
 15 see if, in fact, they were overinsured, which
 16 there's nothing we could do anything about, or
 17 whether or not there was some specialty materials
 18 that weren't assumed in Xacttotal, which then
 19 would -- they would need to put those in, exactly
 20 what they had in the home.

21 Q. So you directed your adjusters on
 22 foundation only claims to assume that all the
 23 damage was done by flood.

24 MR. BEERS: Object to the form.

25 A. I directed my adjusters to adjust the

1 flood claims pursuant to the NFIP 5054, which said
 2 if a house is washed off its foundation and these
 3 homes were in an area where it had been determined
 4 by FEMA and by the news and by everything we could
 5 see that these homes had been washed off their
 6 foundation.

7 BY MR. MATTEIS:

8 Q. What was the FEMA director -- directive
 9 that you just referred to?

10 A. That would be the expedited claim
 11 handling, 5054.

12 Q. And that's King Exhibit Number 5?

13 A. Yes, sir, that's King Exhibit Number 5.

14 Q. Does it say anywhere in this memo that
 15 all foundation-only properties were caused
 16 entirely by flood?

17 A. No, sir, it doesn't say that.

18 Q. How do you get to that conclusion from
 19 looking at this memo?

20 A. We got to that conclusion by watching
 21 the weather, by watching the news, by looking at
 22 the scientific data, by looking at videos that
 23 people had taken on site, by watching the people
 24 that had been here, the weather people, by looking
 25 at the aerial shots that were taken of the area.

1 The only places that there were foundation-only
 2 claims were a direct result of those areas that
 3 were right by water. The same wind was blowing
 4 three blocks in and there were no foundation homes
 5 there.

6 Q. So who made the decision to treat all
 7 foundation-only claims as being caused entirely by
 8 flood damage?

9 MR. BEERS: Object to the form.

10 A. The decision was made to pay flood on
 11 the foundation-only claims. We were still
 12 investigating those claims for wind.

13 BY MR. MATTEIS:

14 Q. So when you directed adjusters to
 15 implement the September 21st expedited flood claim
 16 procedures, did you tell them that for
 17 foundation-only claims, there might also be some
 18 wind damage?

19 A. The adjusters were instructed that -- to
 20 instruct the policyholders that we were going to
 21 pay if they had a flood claim. We were going to
 22 pay their flood claim because their home had been
 23 washed off their foundation, but the investigation
 24 as to wind would continue.

25 Q. But what in King Exhibit 5 allows you to

1 draw the conclusion that all foundation-only
 2 properties were caused by flood damage?
 3 A. King Exhibit 5 is not what we used to
 4 make that determination. The determination,
 5 again, was made by the news, the weather, the
 6 pictures, the videos, and the knowledge of what
 7 happened down there.
 8 Q. Okay. Did you make that decision for
 9 all of State Farm?
 10 MR. BEERS: Object to the form.
 11 A. I did not make that decision.
 12 BY MR. MATTEIS:
 13 Q. Who did?
 14 A. I don't know who made that decision.
 15 Q. Who told you about that decision, if
 16 anyone?
 17 A. That was told to me by Dave Randel.
 18 Q. Do you know who told him?
 19 A. I do not know who told Dave Randel.
 20 Q. Do you remember the conversation when
 21 Dave Randel told you that?
 22 A. I don't remember the specific
 23 conversation, no, sir.
 24 Q. Do you remember anything about the
 25 conversation?

1 A. No. I remember many discussions on how
 2 we were going to handle claims on the coast, and
 3 the ultimate result was that we would handle them
 4 in that manner.
 5 Q. Was that conversation with Mr. Randel
 6 after September 21st, 2005?
 7 A. No, sir. The conversations were prior
 8 to September 21st.
 9 Q. Do you remember when they were?
 10 A. The first discussion that we had was
 11 in -- probably in Birmingham, Alabama, during the
 12 induction when we gathered all the weather
 13 information as to what had happened and occurred
 14 down on the coast.
 15 Q. Who was at that meeting?
 16 A. It was a huge building full of people,
 17 sir.
 18 Q. Do you remember the date of the meeting?
 19 A. The first time I was in Birmingham was
 20 August 30th, and that would have been the first
 21 time any conversations would have begun with me
 22 being involved.
 23 Q. When were you told that a meeting was
 24 going to take place?
 25 A. These weren't formal meetings, sir. We

1 were at an induction center. There were thousands
 2 of people and many conversations being conducted.
 3 There was no formal meetings going on where these
 4 discussions were taking place that I was involved
 5 in.
 6 Q. What's an induction center?
 7 A. Induction center is where State Farm
 8 sets up to -- for the adjusters to come, get
 9 training, get signed in, get badges, and get their
 10 deployment to whatever area they're going to go
 11 to.
 12 Q. So people at all levels of State Farm's
 13 catastrophe services department were at that
 14 meeting in Birmingham?
 15 A. Yes. People at all levels were at
 16 that -- were at the induction center.
 17 Q. Including adjusters?
 18 A. Adjusters were coming through.
 19 Q. Was anyone from NFIP at that meeting?
 20 A. There was no one from NFIP there that I
 21 can remember, no, sir.
 22 Q. What conversations were you involved in
 23 at that first meeting in Birmingham regarding how
 24 to treat foundation-only claims?
 25 A. Again, there was no meeting being held

1 in Birmingham. We were at the induction center,
 2 and there were discussions going on and everyone
 3 was talking about what had occurred on the Coast.
 4 Q. So all the discussions were informal?
 5 A. The discussions that I was involved in
 6 were informal.
 7 Q. But it was that first meeting in
 8 Birmingham where the direction was given to treat
 9 all foundation-only claims as being caused
 10 entirely by flood damage?
 11 MR. BEERS: Object to the form.
 12 A. We were never instructed to have all
 13 foundation claims being treated as flood-only
 14 claims.
 15 BY MR. MATTEIS:
 16 Q. Did you ever give that direction to
 17 adjusters?
 18 A. I never gave that direction to
 19 adjusters. The adjusters were told to pay the
 20 flood claims on flood policies on those claims and
 21 that the wind investigation would continue.
 22 Q. Were adjusters told what to do in the
 23 case where they paid a flood claim and then the
 24 wind investigation revealed that wind had actually
 25 caused the -- all the damage on a property?

1 A. The instruction to the adjusters was if
2 you have a flood policy, pay that. Continue the
3 investigation into the wind. If a determination
4 had been made that all the damage was wind damage,
5 that wind policy would have been adjusted
6 properly.

7 Q. And would anything -- were the -- strike
8 that.

9 Were the adjusters directed to reopen
10 the flood claim if the wind investigation
11 determined that wind caused all the damage in a
12 given property?

13 A. If an investigation showed that wind
14 damage caused all of the destruction, it would
15 have been the team manager's responsibility to
16 reopen that flood claim and determine whether or
17 not a reimbursement was owed to NFIP.

18 Q. Did you ever give any adjusters or team
19 managers directions about when and under what
20 conditions a flood file should be reopened?

21 A. I'm sure there was discussion to that,
22 that a flood file should always be reopened if
23 there is a mistake in the flood file.

24 Q. And you remember Mr. Ford's October 12th
25 engineering report regarding the McIntosh

1 Q. So, again, if Mr. Ford's conclusion that
2 all the damage was caused by wind to the McIntosh
3 property was accurate, then State Farm should have
4 reimbursed the NFIP for moneys paid under the
5 flood policy; right?

6 A. No, sir. Without his investigative
7 notes that say there was a five-and-a-half-foot
8 waterline in the house, his conclusions are not
9 accurate. Had his -- just his conclusion said it
10 was all wind without any indication of flood,
11 without any pictures depicting flood, with only a
12 report depicting wind damage, then, yes, then, at
13 that point, we would probably have had to
14 reimburse the flood policy.

15 Q. Turning back to King Exhibit 5, back to
16 the first sentence of the last paragraph regarding
17 process number two, you testified before that it
18 had already been determined that foundation-only
19 properties had been washed off their -- had been
20 washed away by floodwater; is that right?

21 A. At the time that we came down to
22 Mississippi, we -- research had been done as to
23 the weather, as to walk-throughs by the
24 government. I had spoken with Jim Shortley and
25 David Marstat. There had been aerial photos. The

1 property, right, that we discussed earlier today?

2 A. Yes, sir, I remember Mr. Ford's report.

3 Q. If his report were accurate, should the
4 McIntoshes' flood file have been reopened?

5 A. Mr. Ford's report was not accurate.
6 There was a five and a -- he said there was a
7 five-and-a-half-foot waterline in the home, which
8 states that there is -- there was flood damage to
9 the lower level. So his report was not accurate.

10 Q. I understand. I'm asking a slightly
11 different question. You had testified earlier
12 that Mr. Ford concluded that all the damage to the
13 McIntosh property was from wind; right?

14 A. I'd have to see the report again, but,
15 yes, as I recall, that was his conclusion.

16 Q. Okay. So if Mr. Ford's conclusion were
17 accurate, does that mean that State Farm should
18 have reimbursed the NFIP for all the moneys paid
19 under the flood policy?

20 A. If Mr. Ford's conclusion, without his
21 investigation and without the pictures and without
22 the house standing and the knowledge that we have
23 of what happened at that house had said all of it
24 was wind damage and flood had been paid, yes, we
25 should have reimbursed the flood policy.

1 only areas where there were foundation-only claims
2 were those areas that had been subjected to storm
3 surge and floodwaters of some sort. At that time,
4 the determine (sic) was made that if a flood
5 policy existed on any of those properties, we were
6 to pay the flood.

7 Q. Did Mr. Marstat and Mr. Shortley tell
8 you that it was acceptable for State Farm to
9 assume that all foundation-only properties were
10 caused by floodwaters?

11 A. Mr. Marstat and Mr. Shortley advised
12 that based on their investigations on the weather
13 data, on the scientific data, that those homes
14 that were along the coast and subjected to surge,
15 it was -- and were foundation-only claims, it was
16 acceptable for us to pay those under the flood
17 policies if a policyholder had one.

18 Q. Did Mr. Shortley or Mr. Marstat ever put
19 that in writing?

20 A. I don't know whether that's in writing
21 or not, sir.

22 Q. Did Mr. Shortley and Mr. Marstat provide
23 State Farm with a lot of verbal directives about
24 what procedure should be followed?

25 A. Mr. Shortley and Mr. Marstat provided

1 verbal directives in their meetings along the
2 coast.
3 Q. Which meetings are you referring to?
4 A. The meetings would have been the
5 adjuster meetings, the adjuster workshops.
6 Q. When did those take place in connection
7 with Hurricane Katrina?
8 A. Those workshops began probably a week
9 and a half to two weeks after Katrina.
10 Q. How many times did the workshops take
11 place during the adjusting that followed Hurricane
12 Katrina?
13 A. I'm not familiar with how many.
14 Q. More than two?
15 A. I don't know, sir. That's an NFIP
16 process.
17 Q. Did you attend any of them?
18 A. I attended two.
19 Q. When were they?
20 A. I don't know.
21 Q. They were both within, say, a month
22 after Hurricane Katrina?
23 A. Yes. They were both within a month
24 after Hurricane Katrina.
25 Q. Did you take any written materials from

1 those workshops?
2 A. I'm sure I did, yes, sir.
3 Q. Do you know if you've ever produced
4 those documents in any litigation?
5 A. That would not be something that I held
6 on to, so, no, I would not have.
7 Q. Did you take any notes from those
8 workshops?
9 A. No, sir, I don't think I did.
10 Q. When you say that the documents wouldn't
11 be something you would have held on to, what do
12 you mean by that?
13 A. They would have been documents that were
14 only germane to Katrina at the time, and once I
15 left Hurricane Katrina, I would have left them.
16 Q. Would have left them in the office?
17 A. Yes, sir. I would have left them. I
18 would have destroyed them. I would not have taken
19 them home with me.
20 Q. Would have destroyed them?
21 A. Yes, sir, I might have.
22 Q. Did you have a policy or procedure
23 regarding destroying documents?
24 A. We have a policy within State Farm to
25 destroy documents with personal information on it.

1 Q. What is that policy?
2 A. That policy is that if you have any
3 document that has any personal information of any
4 of our policyholders, that that is confidential
5 material and it needs to be destroyed.
6 Q. When does it need to be destroyed?
7 A. It should be destroyed if whatever the
8 document is is not going to be used or put in the
9 file.
10 Q. Now, how would documents that you
11 obtained from these workshops with FEMA contain
12 personal policyholder information?
13 A. Those documents wouldn't contain
14 personal policy information.
15 Q. So would you have destroyed them?
16 A. Yes, sir. They were just -- it was just
17 a lot of paper and it was copies of something that
18 thousands of people had. There was no reason for
19 me to keep it and carry it around.
20 Q. Now, focusing back on process number two
21 set forth in the FEMA September 21st memo, did
22 FEMA approve in this memo any particular damage
23 estimation software?
24 A. The only thing on their memo is a
25 valuation worksheet example.

1 Q. What is that? It is Attachment C you're
2 referring to?
3 A. It is Attachment C.
4 Q. Okay. And what's that?
5 A. It appears to be an example of a
6 valuation similar to Xacttotal for an expedited
7 claim handling purpose.
8 Q. Okay. And did you direct your adjusters
9 that they could use Xacttotal when they were
10 adjusting a claim under process number two from
11 the September 21st FEMA memo?
12 A. Our adjusters were directed that they
13 could use Xacttotal when using process two.
14 Q. And how were they to determine whether
15 they could use process number two?
16 A. If the home was a -- was washed off its
17 foundation, as stated in process two, then they
18 could use this Xacttotal valuation without going
19 out for a site visit.
20 Q. Now, what does it mean for a home to
21 have been washed off its foundation? Does that
22 mean literally nothing left except a foundation or
23 a slab, pilings?
24 A. No, sir. A home can be washed off its
25 foundation and be two blocks down the street.

1 It's the fact that a house is no longer in place
2 on its foundation and, therefore, it's no longer a
3 viable structure.

4 Q. So if the house is washed off its
5 foundation, then process number two of this FEMA
6 memo applies?

7 A. That is correct.

8 Q. Is that the only time that process
9 number two applies?

10 A. No. According to this memo, process two
11 also applies where pilings remain or where the
12 company can obtain its own flood depth data.

13 Q. And when you received this memo, did you
14 know what that meant?

15 A. Yes, sir, I did.

16 Q. What was your understanding?

17 A. My understanding is if pilings remain,
18 you have a home where -- that was on a raised
19 piling foundation and the house no longer was on
20 the pilings. The pilings remained, but the house
21 was no longer there. My understanding of the
22 company can obtain its own flood depth data, did
23 not apply to us as we were not using any depth
24 data in Mississippi.

25 Q. So process number two of the.

1 three to all claims that did not come within
2 process number two?

3 A. Process number three is simply stating
4 that we can reduce the amount of information we
5 need for contents losses, and they were instructed
6 to talk to the insureds about their contents and
7 try to lump sum the contents.

8 Q. So is your answer yes to the question?

9 A. Process number three says all other
10 claims, sir. That's what -- process number two
11 was told to them how to apply it. Process number
12 three was told to them how to apply it.

13 Q. Okay. So on the memo again, this is the
14 last sentence on page 1 of King Exhibit 5. It
15 says, All other claims require a site visit and
16 will be handled using the company's normal claim
17 procedures, process number three. What are the
18 company's normal claim procedures?

19 A. The company's normal claim procedures
20 vary from catastrophe to catastrophe. So it
21 depends on what our claims procedures are -- were
22 during Katrina.

23 Q. Okay. So -- and I believe you testified
24 to this before -- the company's normal claim
25 procedures would be those procedures applied to

1 September 21st memo applied only to cases where
2 only a slab or pilings remained?

3 MR. BEERS: Object to the form.

4 A. Based on this memo, process two -- I'm
5 sorry -- process number two applies to the
6 structures that were washed off their foundations
7 or washed off their pilings or where depth data is
8 obtained. We did not use that particular issue.

9 BY MR. MATTEIS:

10 Q. Okay. And then there's a process three
11 that's articulated in the September 21st memo.
12 When did process number three apply?

13 A. Process number three applied to all
14 other claims.

15 Q. So in Mississippi, process number three
16 applied to all claims that did not come within
17 process number two?

18 MR. BEERS: Object to the form.

19 A. Based on this memo, it applied to all
20 other claims not already discussed in process
21 number one or process number two.

22 BY MR. MATTEIS:

23 Q. Okay. When you received this memo
24 September 21st, 2005, did you instruct the
25 adjusters that they should apply process number

1 adjusting wind claims or flood claims; right?
2 Could be the same procedures?

3 A. I believe -- yes, sir. If -- in we have
4 a procedure, in fact, for wind, we have a
5 procedure, in fact, for flood would be the same.

6 Q. Did State Farm's normal company claim
7 procedures change in any way for Hurricane
8 Katrina?

9 A. Not actually. We had changed our
10 procedures in Hurricane Ivan, Hurricane Ivan and
11 actually in Hurricane Isabel. With regard to
12 flood losses and total losses, we had begun using
13 Xacttotal. If there was a total loss, our
14 procedure said that we could -- our adjusters
15 could use Xacttotal rather than stick building the
16 estimate.

17 Q. And what do you mean when you say if
18 there had been a total loss?

19 A. If an adjuster got to a home and was
20 assessing the damage and felt that it was a
21 constructive total loss, then they could call
22 their team manager, ask for permission to use
23 Xacttotal rather than the lengthy process of using
24 a stick built estimate process.

25 Q. Is that process written anywhere?

1 MR. BEERS: Object to the form.

2 A. The Xactotal process is -- there are
3 memos regarding it, yes, sir.

4 BY MR. MATTEIS:

5 Q. Is there any memo that states Xactotal
6 could be used as part of adjusting wind claims?

7 A. I wasn't involved in the wind claim
8 process, so I can't answer that question.

9 Q. Do you know of any wind claim at State
10 Farm that's ever been adjusted using Xactotal?

11 A. Yes, sir. On many tornado catastrophes,
12 we have used Xactotal.

13 Q. Can you give an example of one such
14 catastrophe?

15 A. I just know tornado CAPS, sir. I
16 can't -- I don't know any specific one.

17 Q. Did FEMA ever expressly approve
18 Xactotal?

19 A. The example that you see in this
20 particular memo is an example of an Xactotal
21 valuation worksheet.

22 Q. Were adjusters told how to assess
23 whether a claim involved a constructive total
24 loss?

25 A. I never talked to them about how to

1 evaluate a constructive total loss, no, sir.

2 Q. Have you ever seen any -- anything in
3 writing that discussed how to determine whether
4 there is constructive total loss?

5 A. I have seen things in writing that talk
6 about constructive total loss.

7 Q. Have you ever seen any memo or written
8 procedure or policy that states that an adjuster
9 may use Xactotal estimate where there is a
10 constructive total loss?

11 A. I have seen memos that do instruct
12 adjusters that they may use Xactotal.

13 Q. When were the memos created?

14 A. We've been using Xactotal for quite a
15 few years, sir, so I don't -- I couldn't put a
16 date to it.

17 Q. Okay. And were those memos or
18 directives in effect during Hurricane Katrina
19 adjusting?

20 A. We were advised during Katrina that we
21 could use Xactotal in a -- in the adjustment of
22 our losses.

23 MR. MATTEIS: Okay. I'd like to request
24 on the record any document that State Farm
25 has that directs adjusters to use an Xactotal

1 estimate for any type of loss, including but
2 not limited to constructive total losses.

3 MR. GALLOWAY: I assume you're talking
4 about buildings, not cars and motorcycles and
5 boats and things.

6 MR. MATTEIS: Yes. We can limit that
7 request to building damage. Thank you.

8 BY MR. MATTEIS:

9 Q. So, Ms. King, turning back to the last
10 paragraph in the FEMA memo September 21st, 2005,
11 based on what you just told me State Farm's normal
12 claim procedures are, process number two is
13 entirely superfluous, isn't it?

14 MR. BEERS: Object to the form.

15 A. No, sir. Process two was a FEMA
16 directive that they were explaining how all
17 companies, all write-your-own companies, could
18 handle flood claims in this situation.

19 BY MR. MATTEIS:

20 Q. Your testimony seems to be that State
21 Farm was already using a policy that if, for
22 whatever reason, an adjuster decided something was
23 a constructive total loss, they could make a
24 square foot determination on damages; is that
25 right?

1 A. State Farm had the process in place to
2 use Xactotal in situations where there were total
3 losses.

4 Q. And by total losses, you mean including
5 an adjuster's subjective determination that
6 there's a constructive total loss on property?

7 MR. BEERS: Object to the form.

8 A. If an adjuster determined that a home
9 would qualify for using Xactotal, they had to
10 contact their team manager if it was not a
11 completely gone, a foundation-only claim, but that
12 process was in effect.

13 BY MR. MATTEIS:

14 Q. What if it was completely gone and it
15 was a foundation-only claim?

16 A. The adjusters could use Xactotal.

17 Q. In that case they would not have to
18 contact their team manager?

19 A. They did not have to contact their team
20 manager if it was a foundation-only claim.

21 MR. BEERS: Let's take a break.

22 MR. MATTEIS: Sure. That's fine. It's
23 a good time.

24 VIDEOGRAPHER: Off record. The time is
25 2:19.

(OFF RECORD)

VIDEOGRAPHER: We're back on record.

The time is 2:33 p.m.

BY MR. MATTEIS:

Q. Ms. King, you testified that it was part of State Farm's normal claim procedures to allow adjusters to use the Xactotal damage estimating program if the adjuster made a determination that there was a constructive total loss; right?

MR. BEERS: Object to the form.

A. Yes, sir. On certain catastrophes, we have allowed them or they have been instructed to use Xactotal if there was a constructive total loss.

BY MR. MATTEIS:

Q. Okay. And you had also testified that the company's normal claim procedures would apply to both wind and flood claims; right?

A. Yes, sir. The company's procedures would apply to both.

Q. Okay. And you testified that there have been times with certain catastrophes where adjusters were allowed to use Xactotal estimations where they determined that a constructive total loss was caused by wind; right?

Q. Okay. Can you answer the question, though?

A. My answer is I don't have any knowledge of any wind claims. I had nothing to do with wind claims.

Q. So you don't know of a single wind claim in connection with Hurricane Trina -- Katrina that included an Xactotal estimate; right?

A. There were approximately eight offices throughout Mississippi, Alabama, Louisiana, and I have no knowledge of all the wind claims, so I couldn't come up with one, no, sir.

Q. Okay. In adjusting claims related to Hurricane Katrina, you had mentioned that after the flood claim was closed, the wind investigation typically continued; right?

MR. BEERS: Object to the form.

A. Well, our adjusters, our flood adjusters, were advised to go out and adjust the flood claim and continue the wind investigation, yes, sir.

BY MR. MATTEIS:

Q. What would they do to continue the wind investigation in connection with claims under Hurricane Katrina?

A. Yes, sir. That's my testimony.

Q. Okay. Has there ever been a catastrophe other than Katrina where State Farm allowed adjusters to use an Xactotal estimation where the catastrophe involved both wind and floodwater damage?

A. Yes, sir. In Hurricane Isabel they could use Xactotal. In Hurricane Ivan they could use Xactotal. In the four Florida hurricanes, there were certain areas where they could use Xactotal. Trying to think if there were any hurricanes prior to that. I can't think of any before that, but there could be.

Q. Okay. And in those hurricanes, were adjusters directed to use Xactotal in connection with a wind claim?

A. If there was a total due to wind, Xactotal would -- would have been -- they would have been instructed to use Xactotal.

Q. Okay. In any of those hurricanes, do you recall seeing a wind claim adjusted using Xactotal?

A. I was the flood coordinator on each of those hurricanes, so I would not have the knowledge of that.

A. The adjusters were instructed to go and paint a picture of what occurred at the loss.

Q. For the wind investigation?

A. For their entire investigation to document both flood and wind.

Q. But in many instances, before they painted that picture, the flood claim was already paid; right?

MR. BEERS: Object to the form.

A. No, sir.

MR. BEERS: Go ahead.

A. No, sir. That instruction was given to them when they went out on their first inspection. They were to go out and paint a picture. They would have both files with them.

BY MR. MATTEIS:

Q. This was under the single adjuster program?

A. Yes, sir, this was under the single adjuster program.

Q. So if an adjuster made the determination in Hurricane Katrina that a property was a constructive total loss, would that adjuster be allowed to use Xactotal for both the wind claim and the flood claim?

1 A. In my opinion, if an adjuster came back
2 and said that the house was a constructive total
3 loss due to wind, they should have been instructed
4 they could use Xactotal.

5 Q. Okay. And in that instance, what would
6 the adjuster have been directed to do regarding
7 the flood claim?

8 A. If the home was a total loss due to
9 wind, the flood claim would have been closed.

10 Q. So if the determination was made in
11 Hurricane Katrina claims on a particular claim
12 that there was a constructive total loss due to
13 flooding, would the wind file be closed?

14 A. No, sir, if -- not necessarily because
15 there is a limit on flood claims of \$250,000, and
16 if there's possible wind damage to be found and
17 there is more money owed the policyholder, we
18 would want to look very hard for that and pay them
19 what we owe them.

20 MR. MATTEIS: Okay. Could you mark
21 this, please?

22 ---

23 (Exhibit Number 6 marked)

24 BY MR. MATTEIS:

25 Q. Okay. I show you what's been marked

1 that's inconsistent about the procedures you
2 implemented?

3 A. It doesn't appear there is anything in
4 here that would have been different from my
5 directive to the adjusters under the flood.

6 Q. So everything in -- everything contained
7 in King Exhibit 6 you included in the direction
8 you gave to adjusters in how to adjust a wind and
9 flood claim?

10 MR. BEERS: Object to the form.

11 A. No, sir. Everything included in the
12 form I did not necessarily direct the adjusters,
13 but there is nothing in this form that I disagreed
14 with or would not have a claim representative do.
15 BY MR. MATTEIS:

16 Q. Okay. Let's start with do you see the
17 bullet points under protocol detail on the first
18 page?

19 A. Yes, sir.

20 Q. Is there anything in there that you did
21 not direct adjusters to follow?

22 A. Can you ask that question again?

23 Q. Sure. You see the bullet points under
24 protocol detail on page 1 of King Exhibit Number
25 6?

1 King Exhibit 6. Do you recognize it?

2 A. This appears to be the wind/water claim
3 handling protocol.

4 Q. Okay. Do you recall seeing this around
5 September 13th, 2005?

6 A. I remember getting this in an e-mail.

7 Q. Okay. Was King Exhibit 6 distributed to
8 all State Farm adjusters around September 13th,
9 2005?

10 A. I do not know if this was distributed to
11 all claims adjusters.

12 Q. Did you direct adjusters to follow the
13 procedures set forth in King Exhibit 6?

14 A. I did not instruct adjusters to conduct
15 claims pursuant to this.

16 Q. Did you instruct adjusters to deviate
17 from the procedure set forth in King Exhibit 6?

18 A. I did not instruct adjusters to deviate.

19 Q. Was King Exhibit 6 a procedure that was
20 implemented by State Farm?

21 MR. BEERS: Object to the form.

22 A. I never implemented this procedure. I
23 can't answer for anyone else.

24 BY MR. MATTEIS:

25 Q. Is there anything about this procedure

1 A. Yes.

2 Q. Is there any procedure contained within
3 those bullet points that you did not direct
4 adjusters to follow when they were adjusting
5 claims in connection with Hurricane Katrina?

6 A. I didn't direct adjusters to not follow
7 anything in here or to follow anything in here.
8 None of this -- none of this was used by me to
9 direct any adjusters.

10 Q. Okay. Do you see in the first paragraph
11 where it says, The following materials have been
12 developed and are intended for use as a guide for
13 handling various wind and/or water claims in
14 Louisiana, Mississippi, and Alabama?

15 A. Yes, sir, I see that.

16 Q. Okay. Doesn't that mean that State Farm
17 intended for you to use this as a guide?

18 MR. BEERS: Object to the form.

19 A. I believe it was intended to be used as
20 a guide. However, I had been doing flood for 14
21 years and my instructions never changed from what
22 they've always been.

23 BY MR. MATTEIS:

24 Q. So for Hurricane Katrina, your
25 instructions didn't change at all for adjusting

1 flood claims?

2 A. No, sir. My -- the only part of my
3 instructions that would change would be if, for
4 instance, we instructed our adjusters to use
5 Xactotal, but a flood claim is handled pursuant to
6 NFIP guidelines. Unless an NFIP guideline
7 changes, my instructions do not change.

8 Q. The one thing you mentioned that may
9 have constituted a change in your instructions
10 related to Xactotal. Can you explain that?

11 A. Yes, sir. We don't use Xactotal. We
12 haven't used Xactotal on every single catastrophe.
13 Therefore, prior to instructing claim reps to use
14 it, I asked if, in fact, we were going to
15 implement it on Hurricane Katrina.

16 Q. Okay. Let me ask you some specific
17 questions about King Exhibit 6. Under protocol
18 detail, the first line says, Each claim should be
19 handled on its merits. What does that mean?

20 A. That means that each claim should be
21 handled based on that particular risk.

22 Q. Okay. And the next sentence, A
23 causation investigation should be conducted. When
24 you received this memo, did you know what that
25 meant?

1 A. Yes, sir.

2 Q. What was your understanding of what that
3 meant?

4 A. The claims reps were instructed to go
5 out to the site and paint a picture and tell us
6 what damages -- what caused the damages to the
7 risk.

8 Q. As between wind and water?

9 A. That's between wind, water. It could be
10 a fire. It could have been anything, just
11 whatever damages they determined.

12 Q. Okay. And then under bullet points
13 under protocol detail, the first one mentions
14 evidence gathered on the site inspection. This
15 includes documentation of physical evidence, such
16 as water lines. You see that?

17 A. Yes, sir.

18 Q. And we had discussed before and you
19 testified that if an adjuster found a waterline,
20 he was instructed to take a picture of himself
21 holding a tape measure up to the waterline; right?

22 MR. BEERS: Object to the form.

23 A. Yes, sir, a picture of a tape measure
24 being held up.

25 BY MR. MATTEIS:

1 Q. Okay. And were there any other ways to
2 determine waterlines other than just visibly
3 seeing where water left a mark inside or outside
4 of the house?

5 A. Yes, sir. On the exterior they were --
6 you look for debris marks in trees where floating
7 debris has hit trees, where floating debris has
8 hit other homes, other structures, debris left in
9 trees from a flood.

10 Q. Was there any data that could be used to
11 determine water lines?

12 A. Early on in the storm, the data had not
13 been -- the data that I know of was being gathered
14 by the government, so I don't know of any data
15 early on in Katrina that could be used.

16 Q. What -- what data, if any, came later
17 that could be used to determine waterlines?

18 A. As I recall, there was a report, and I
19 don't remember -- might have been NASA, it could
20 have been FEMA -- where they went out and actually
21 determined height, water heights, based on debris
22 in trees and that -- that criteria.

23 Q. Do you remember when that study was
24 conducted?

25 A. No, sir, I don't.

1 Q. After that was conducted, were adjusters
2 directed to use those FEMA watermarks in adjusting
3 claims?

4 A. That data came in, as I recall, after
5 I'd already left Katrina, so I know I didn't.

6 Q. If that data were available while the
7 Katrina flood claims were being adjusted, would
8 you have directed adjusters to use that?

9 A. If that data had come in and
10 significantly changed anything on the coast, they
11 would have been instructed to use that.

12 Q. Why?

13 A. Anytime data changes that could possibly
14 change the reason -- a damage call, for instance,
15 tornadoes, we consistently and consistently and on
16 a weekly basis checked for tornadoes to see what
17 tornado data was found down on the coast to see
18 if, in fact, there were tornadoes in these areas.
19 And so these are things we continued to look at to
20 see if possibly there's more data that could
21 either change our call or substantiate our call.

22 Q. And in the case of the FEMA high
23 watermarks, do you consider that reliable data?

24 A. I consider it just another -- another
25 piece of data and as -- yes, and reliable and

1 would look at it along with all the other
2 investigative material.

3 Q. Would a FEMA high watermark be more
4 reliable than an adjuster's assessment of where a
5 waterline was on a particular property?

6 A. I'd have to see how the adjuster came up
7 with their waterline, so I don't know that I can
8 answer yes or no on that.

9 Q. If an adjuster's assessment of the
10 height of a waterline was inconsistent with a FEMA
11 high watermark, would that make you question the
12 adjuster's assessment?

13 A. It would make me want to look at the
14 whole file in total, yes, sir.

15 Q. You'd want to look at the whole file to
16 determine whether the adjuster was using an
17 incorrect waterline?

18 A. I'd want to look at the whole file to
19 determine whether or not the adjustment was based
20 on all information available.

21 Q. Did State Farm direct adjusters to
22 continue to follow the data as it was being
23 developed to make sure that some of the
24 assessments they made maybe didn't change?

25 A. The data was being followed by people

1 within State Farm, and as new data was gained, it
2 was sent to the different offices, and that was
3 distributed, if there was anything new or
4 different.

5 Q. If an adjuster found a -- strike that.

6 If an adjuster determined that a
7 waterline was five feet in a particular house and
8 then FEMA subsequently determined that the high
9 watermark in that area was only two feet, would
10 that make a difference in adjusting the claim?

11 A. It would depend on where they based
12 their high watermark. The difference in a
13 waterline and a high watermark are -- they're two
14 different -- two different things.

15 Q. What do you mean by that?

16 A. The terrain of the land determines high
17 watermarks, where the water normally is, that kind
18 of thing, where an adjuster finding the waterline
19 on a house, that house could be down in the
20 valley. That house could be -- I mean, those are
21 two -- that's apples and oranges.

22 Q. Let's assume they were right in the same
23 place. If an adjuster found a higher waterline
24 and a FEMA high watermark in the exact same place
25 was lower, could that be cause to change how the

1 claim was adjusted?

2 MR. BEERS: Object to the form.

3 A. If that happened on a certain house, I
4 would want to relook at that file.

5 BY MR. MATTEIS:

6 Q. Could the difference between, say, two
7 and five feet of water in a house make a
8 significant difference in how much damage was
9 caused by flood in the property?

10 MR. BEERS: Object to the form.

11 A. The difference in the amount of water in
12 a house could be different -- cause different
13 damages, yes, sir.

14 BY MR. MATTEIS:

15 Q. Could even a few inches of difference in
16 how much water goes into a house affect how much
17 damage was caused by flood in the house?

18 A. No, sir. Normally a couple of inches is
19 not going to change anything.

20 Q. How about a couple of feet?

21 A. A couple of feet could change it or it
22 could leave it the same. It depends on where it
23 is in the house.

24 Q. What do you mean by that?

25 A. If you had a seven-foot waterline in a

1 two-story home, that's going to -- with eight-foot
2 ceilings, only the lower floor is probably going
3 to be affected, but if you get -- if it's two feet
4 less, that would be a five-foot waterline. You're
5 still going to go up to eight feet in your
6 determination of damages for taking out walls.
7 However, if it's two feet higher, now it has
8 significantly affected the second floor, so it
9 could go either way.

10 Q. And could a couple feet more of water
11 just in terms of the sheer volume of the water do
12 more damage coming through a house?

13 A. Again, it could, yes, sir, or it may
14 not.

15 Q. Okay. It's something that you have to
16 look at closely?

17 MR. BEERS: Object to the form.

18 A. Yes, sir, you would have to look at that
19 very closely.

20 BY MR. MATTEIS:

21 Q. Okay. Now I'd like to go to a few
22 bullet points down under protocol detail of King
23 Exhibit Number 6. You see where it says
24 information from witnesses and policyholders?

25 A. Yes, I see that.

1 Q. When you received this memorandum, did
2 you understand what that meant?

3 A. Yes, sir, I did.

4 Q. What did it mean?

5 A. It means that we wanted to gather any
6 information that was out there on the losses, be
7 it from witnesses or from policyholders.

8 Q. Okay. So this protocol detail states
9 that adjusters should use information from
10 witnesses when adjusting flood claims; right?

11 MR. BEERS: Object to the form.

12 A. This -- the protocol says that our
13 investigation or the information should -- can --
14 yes, should include infor- -- any information from
15 witnesses and policyholders.

16 BY MR. MATTEIS:

17 Q. Do you see anything on this memo that
18 states that they should collect any witness
19 information and send it all to a special group
20 that deals with eyewitnesses?

21 A. No. There's nothing on here that speaks
22 to that.

23 Q. But you said that was State Farm's
24 policy; right?

25 MR. BEERS: Object to the form.

1 A. No, sir. I said that we -- they set up
2 a group at Katrina.

3 BY MR. MATTEIS:

4 Q. It was just for Hurricane Katrina?

5 MR. BEERS: Object to the form.

6 A. We have set up groups in other
7 catastrophes, but I don't believe I testified that
8 that was State Farm's policy. It was something
9 that we did.

10 BY MR. MATTEIS:

11 Q. Okay. Then the last bullet point under
12 protocol detail, it says, Input from experts that
13 may be retained to provide guidance. Did you
14 understand what that meant when you received the
15 memo?

16 A. Yes, sir, I did.

17 Q. What did you understand that to mean?

18 A. That we should consider input from
19 experts that may be retained.

20 Q. What would be an example of that type of
21 expert?

22 A. That would be any expert, sir.

23 Q. Like an engineer?

24 A. Yes. An engineer would be included as
25 an expert.

1 Q. Are there any other types of experts
2 that it may refer to?

3 A. Yes. There are experts on what types of
4 carpet are in homes. There -- we -- we use a
5 myriad of experts.

6 Q. Like building materials experts?

7 A. Yes, sir.

8 Q. Okay. Okay. Now, can you turn to
9 page 2 of King Exhibit 3? It's Bates numbered
10 Rigsby-000244. Do you see that page?

11 MR. GALLOWAY: You mean King Exhibit 6?

12 MR. MATTEIS: I'm sorry?

13 MR. GALLOWAY: You mean King Exhibit 6?

14 MR. MATTEIS: I'm sorry. King Exhibit
15 6. Thanks for correcting me.

16 A. Yes, sir.

17 BY MR. MATTEIS:

18 Q. If you go down to two-thirds down the
19 page, there's a title, Damage to Property Caused
20 by Floodwaters with Available Flood Policy. Do
21 you see that?

22 A. Yes, I do.

23 Q. Okay. And I'm just going to read from
24 there. Where wind acts concurrently with flooding
25 to cause damage to the insured property, coverage

1 for the loss exists only under flood coverage, if
2 available. When you received this memo, did you
3 understand what that meant?

4 A. Yes, sir.

5 Q. What did it mean?

6 A. It means that if there is wind and flood
7 acting at the same time, causing the same damage,
8 then it would be paid under the flood policy.

9 Q. Okay. And then it refers to Operation
10 Guide 71-06. Do you see that?

11 A. Yes, sir, I do.

12 Q. Do you know what that is?

13 A. Yes. That is the flood operation guide.

14 Q. Is that a State Farm-created document?

15 A. Yes. Operation Guide 71-06 is State
16 Farm created.

17 Q. Did you create the document?

18 A. I did not create that.

19 Q. Who created it?

20 A. I do not know.

21 Q. Is it essentially the -- the flood claim
22 operations guide?

23 MR. BEERS: Object to the form.

24 A. It is the operation's guide that refers
25 us to flood questions.

1 MR. MATTEIS: Okay. I'd like to request
2 that operation guide as a document.

3 BY MR. MATTEIS:

4 Q. Did you direct adjusters in determining
5 which policies were triggered on a particular
6 claim to try to determine which came first between
7 wind and water?

8 MR. BEERS: Object to the form.

9 A. No, sir, I did not instruct them to
10 consider which came first, wind or water.

11 BY MR. MATTEIS:

12 Q. Why not?

13 A. When a flood occurs or when wind occurs,
14 you've got to look at what the damage is, and my
15 instructions to adjusters is you have to consider
16 whether if -- pretend there was no flood. What
17 damage to that house was caused by wind if there
18 was never a flood event. And then after they
19 finish doing that, then they need to pretend there
20 was no wind, consider the damage caused by flood
21 only, and that's how to adjust that claim. Didn't
22 matter whether the wind came first or the flood
23 came first. It's the damage caused by whatever
24 peril you see.

25 Q. But couldn't that process lead you to

1 include that both hazards totally destroyed the
2 same property?

3 A. There are properties that have been
4 destroyed by both perils separately.

5 Q. Well, let's take an sample of a slab.
6 How would you direct an adjuster to determine
7 whether wind or flood destroyed a home when
8 there's just a slab left?

9 A. The adjuster would be directed to look
10 at the proximity of the house to the water to look
11 at all the weather data, to look at the area
12 around the home, to look at the other homes in the
13 area, to look at the homes two or three blocks
14 north of where the house is or away from the
15 water, to take the whole picture, paint a picture,
16 and at that point to make a determination whether
17 or not it was water or wind.

18 Q. Okay. How would you direct an adjuster
19 to adjust a claim if there was clearly a tornado
20 path where everything, trees, homes, everything in
21 a -- in a line were destroyed, but that same area
22 also was completely inundated with water?

23 A. If the weather data showed that a
24 tornado was in that area, that there was actually
25 tornadic activity, if the house was gone, if it

1 was in close proximity to the water, then, again,
2 they're going to have to look around, look and
3 see. At that point they need to make the
4 determination, and they may need outside help at
5 that point, if you have both tornado and flood.

6 Q. But you directed adjusters in that case
7 that the timing is critical in making that
8 adjustment; right?

9 MR. BEERS: Object to the form.

10 A. I didn't direct the adjusters in any --
11 in any way to that, sir, but I think if -- we
12 would need to find out when the tornadoes were in
13 the area versus when the surge was there.

14 BY MR. MATTEIS:

15 Q. How would you direct someone to adjust
16 such a claim if the tornado clearly came an hour
17 before floodwaters?

18 A. Again, I would direct them to look at
19 everything around them, to paint a picture. If
20 there was tornadic activity, where did it touch
21 down? What did it damage? Look at where it went,
22 where the path is, and the determination might be
23 made that it was a tornado loss rather than a
24 flood loss, but it would take an investigation.

25 Q. So if a tor- -- if it were determined,

1 though, conclusively that the tornado winds
2 destroyed a home prior to the floodwaters reaching
3 the home, then State Farm would adjust that as a
4 total wind loss?

5 MR. BEERS: Object to the form.

6 A. If it was conclusively proven that a
7 tornado destroyed the home, then State Farm would
8 pay that as a tornado loss under their homeowners
9 policy.

10 MR. MATTEIS: Would you mark this,
11 please.

12 ---

13 (Exhibit Number 7 marked)

14 MR. MATTEIS: Maison, can you give me
15 that bottle of water, please?

16 MR. HEIDELBERG: Sure.

17 VIDEOGRAPHER: Can I just change tapes
18 really quick and nobody get up?

19 MR. MATTEIS: Sure.

20 VIDEOGRAPHER: Off record, 3:08.

21 (OFF RECORD)

22 VIDEOGRAPHER: Okay. We're back on
23 record. The time is 3:10 p.m.

24 BY MR. MATTEIS:

25 Q. Ms. King, I show you what's been marked

1 King Exhibit 7. Do you recognize it?
 2 A. Yes, sir, I do.
 3 Q. What is it?
 4 A. This is a report from Haag Engineering
 5 Company.
 6 Q. What does the report include?
 7 A. According to the table of contents, it
 8 includes Hurricane Katrina damage survey. There's
 9 an appendix and Hurricane Katrina damage survey
 10 photos.
 11 Q. Okay. Were you familiar with this King
 12 Exhibit 7 in October 2005?
 13 A. Yes. I saw this report in 2005.
 14 Q. Do you remember when the first time you
 15 saw it was?
 16 A. I do not. It was sometime in October.
 17 Q. Okay. And was this report distributed
 18 to adjusters in -- related to Hurricane Katrina
 19 claims?
 20 A. This report was distributed to team
 21 managers at Hurricane Katrina.
 22 Q. Okay. And did you direct the team
 23 manager that the Haag report -- and I'll refer to
 24 King Exhibit Number 7 as the Haag report from now
 25 on. Did you direct team managers that the Haag

1 report was the definitive meteorological analysis
 2 related to Hurricane Katrina?
 3 MR. CANADA: Object to the form.
 4 MR. BEERS: Objection to the form.
 5 MR. HOLLOWAY: Object to the form.
 6 A. I did not direct this was the definitive
 7 report on meteorology.
 8 BY MR. MATTEIS:
 9 Q. Did you direct team managers and/or
 10 adjusters to use the information contained in the
 11 Haag report to make calculations that involved
 12 weather of Hurricane Katrina?
 13 A. The team managers were directed that
 14 this was another piece of information,
 15 investigative material, that could be used in --
 16 during the investigation of causation on the
 17 Coast.
 18 Q. You personally told adjusters that this
 19 was one piece of information that could be used?
 20 A. I told adjusters this was one piece of
 21 information that could be used, yes, sir.
 22 Q. Did you tell adjusters about any other
 23 pieces of information that could be used to
 24 determine the weather in Hurricane Katrina?
 25 A. Yes, sir. The adjusters were told about

1 multiple pieces of information, many on-line sites
 2 to go to, National Weather Service, NASA,
 3 WeatherData.
 4 ---
 5 (Exhibit Number 8 marked)
 6 BY MR. MATTEIS:
 7 Q. Okay. Show you what's been marked King
 8 Exhibit Number 8. Do you recognize that?
 9 A. I don't think I've ever seen this, no,
 10 sir.
 11 Q. Okay. Have you ever told anyone that
 12 the Haag report was the Bible?
 13 A. I've never told anyone the Haag report
 14 was the Bible.
 15 Q. Did you ever hear anyone say that?
 16 A. I have heard that said, yes, sir.
 17 Q. Who said it?
 18 A. The Rigsby sisters.
 19 Q. When did they say it?
 20 A. The first time I heard that said was on
 21 20/20.
 22 Q. Okay. So you had never heard the Haag
 23 report being referred to as the Bible in the
 24 Gulfport catastrophe office; is that right?
 25 A. That's correct. I'd never heard that

1 before.
 2 Q. Okay. Can you go back to King Exhibit
 3 Number 7 and turn to Bates number Rigsby-000367.
 4 Do you see the heading Timing of Wind Versus
 5 Water?
 6 A. Yes, sir, I see that.
 7 Q. Okay. And then the second sentence
 8 under that heading says, These data show that
 9 water levels began to increase as much as 24 hours
 10 in advance of the hurricane and rose quickly
 11 within 12 hours of the eye making landfall. Was
 12 that your understanding at the time of the weather
 13 in Hurricane Katrina?
 14 A. I never considered which came first or
 15 how -- how much farther the -- the wind was before
 16 the water or the water was before the wind. That
 17 was just not an issue for me.
 18 Q. Why not?
 19 A. Because the information, the weather
 20 that we were watching, the people on site with the
 21 weather, the weather data that we got later, what
 22 happened down there, there was a huge surge. It
 23 was -- whether it came later or first to me was
 24 not an issue. My issue was flood, and that's what
 25 I was concerned with.

1 Q. You had said before that if a property
2 were completely destroyed by wind prior to the
3 floodwater, that would be a wind damage claim
4 rather than a flood damage claim; right?

5 A. Yes, sir. If you could conclusively say
6 that a house was destroyed by wind prior to any
7 flooding, that would have been a wind claim.

8 Q. Okay. And you were the principal person
9 training people in how to adjust flood claims in
10 Hurricane Katrina; right?

11 A. Yes, I was.

12 Q. And you just testified that the timing
13 of the wind versus water was irrelevant to what
14 you were doing?

15 MR. BEERS: Object to the form.

16 A. I said that it didn't matter to me.
17 This -- this report and what it says was not --
18 that did not strike me as very meaningful.

19 BY MR. MATTEIS:

20 Q. You just personally didn't care about
21 the timing?

22 MR. BEERS: Object to the form.

23 A. I didn't care whether the surge -- my
24 opinion is and my -- based on all my years of
25 experience, the winds that occurred on the coast

1 were not blowing hard enough to blow a house down.
2 The surge was very, very high, and it took those
3 houses out. The same wind that was blowing along
4 the coast was blowing three blocks in. All those
5 houses stand. They stand today. The houses right
6 along the water do not stand. That was surge.
7 There was obvious wind blowing long before the
8 first big waves hit, but that wind was not strong
9 enough to knock those houses down, in my opinion.
10 BY MR. MATTEIS:

11 Q. Did you see any instances in Hurricane
12 Katrina where one house on a street was completely
13 gone and the other houses still remained standing?

14 A. I don't remember seeing that, no.

15 Q. Based on all your years of experience,
16 what would that tell you?

17 A. In my years of experience, when I've
18 seen that the house is on a raised foundation very
19 high and it's built to withstand the water, and it
20 is the one house that withstood the surge.

21 Q. Well, how about if one house -- let's
22 assume they're all at roughly the same level and
23 one house is gone and the other houses are still
24 standing. What would that tell you, based on your
25 experience?

1 MR. BEERS: Object to the form.

2 A. And I have not seen that hypothetical,
3 so I can't give an opinion on that.

4 BY MR. MATTEIS:

5 Q. Would it seem more likely to you based
6 on your experience that if there was a single
7 house completely gone on one street that it would
8 have been caused from wind rather than surge?

9 MR. BEERS: Object to the form.

10 A. If -- you have to consider everything
11 when you're looking at these losses, and it's
12 going to depend on where the house sat, how far
13 back from the water, what other houses were in
14 front of that house. You know, I can't make that
15 determination without seeing the hypothetical that
16 you're asking me.

17 BY MR. MATTEIS:

18 Q. So if you had a cluster of houses -- if
19 there were a cluster of houses that were being
20 adjusted in Hurricane Katrina and only one was
21 missing, it would require a careful causation
22 analysis; is that right?

23 A. I think all losses require a causation
24 analysis, yes, sir.

25 MR. BEERS: Yeah. Let's quick -- take a

1 quick break.

2 MR. MATTEIS: Sure. Fine.

3 VIDEOGRAPHER: Off record. The time is
4 3:20 p.m.

5 (OFF RECORD)

6 VIDEOGRAPHER: Okay. We are back on
7 record, 3:37 p.m.

8 BY MR. MATTEIS:

9 Q. Ms. King, referring back to King Exhibit
10 Number 7, the Haag report, do you recall there
11 being a training course in the Gulfport office
12 regarding the Haag report?

13 A. There was training put on where parts of
14 the Haag report were made a part of the training.

15 Q. Who taught the training?

16 A. There were a number of trainers that put
17 on the training.

18 Q. Mr. Abernathy one of them?

19 A. Shane Abernathy may have been one of the
20 them, yes, sir.

21 Q. What did the training involving the Haag
22 report include?

23 A. I did not assist in that training and I
24 did not assist in putting it together, so -- and I
25 really have very little recollection of that

1 training.
 2 Q. Were adjusters told that the conclusions
 3 of the -- in the Haag report regarding weather
 4 were important?
 5 A. I don't know the answer to that.
 6 Q. Would you conclude that since there was
 7 a training course regarding the Haag report that
 8 State Farm considered the Haag report conclusions
 9 important?
 10 MR. BEERS: Object to the form.
 11 A. The training that I'm aware of included
 12 parts of the Haag report, but it was not training
 13 surrounding the Haag report. So, again, I can't
 14 answer that.
 15 BY MR. MATTEIS:
 16 Q. So the adjusters weren't told in
 17 adjusting claims related to Hurricane Katrina what
 18 weather data they should use?
 19 A. No, sir. The adjusters were told to use
 20 all weather data and any other data available.
 21 Q. What if there was conflicting weather
 22 data that was out there? What should the
 23 adjusters have done?
 24 A. If there was conflicting weather data,
 25 they should continue in their investigation,

1 question that, go to other sources, go to their
 2 team managers. They were told to use all weather
 3 data available.
 4 Q. So State Farm did not present to its
 5 adjusters after Hurricane Katrina State Farm's
 6 version of the weather in the hurricane?
 7 MR. BEERS: Object to the form.
 8 A. To my knowledge, there was no training
 9 with regard to State Farm's version of the
 10 weather.
 11 Q. Did you see any adjusters -- strike
 12 that.
 13 Did you see any files where adjusters
 14 based their conclusions on wind preceding storm
 15 surge in Hurricane Katrina?
 16 A. I did not review that many files and,
 17 no, I -- I don't recall one way or the other.
 18 Q. Okay. I'd like to ask some questions
 19 involving State Farm's use of engineering reports.
 20 Prior to Hurricane Katrina, did State Farm have a
 21 particular policy or procedure to follow with
 22 respect to using engineering reports in wind
 23 and/or flood claims?
 24 MR. BEERS: Object to the form.
 25 A. Prior to Hurricane Katrina, on every

1 catastrophe I was a part of, if engineers were
 2 needed, we would gather names of engineers and use
 3 them on an as-needed basis.
 4 BY MR. MATTEIS:
 5 Q. Prior to Hurricane Katrina, who made the
 6 determination of whether an engineer was needed?
 7 MR. BEERS: Object to the form.
 8 A. On the catastrophes, which I was a part,
 9 the adjusters would go to their team manager, give
 10 them the reason why they felt an engineer was
 11 required, and the team manager would either
 12 approve or disapprove.
 13 BY MR. MATTEIS:
 14 Q. Could you give me some examples prior to
 15 Hurricane Katrina of why an adjuster would have
 16 requested an engineer?
 17 A. The majority of the time that I'm aware
 18 of engineers being used, it was for structural
 19 issues, whether or not a building is structurally
 20 sound. It would be for the use of repair methods,
 21 how to repair buildings. Those were the main
 22 reasons that engineers -- that I was involved in
 23 that engineers were -- were used.
 24 Q. Prior to Hurricane Katrina, were
 25 engineers ever used to determine what caused a

1 particular loss between water and wind?
 2 A. On some hurricanes prior to Katrina,
 3 there would be engineers requested to assist in
 4 determination of causation.
 5 Q. Okay. And after Hurricane Katrina
 6 struck, did State Farm adopt a policy of
 7 automatically requesting engineer reports in
 8 certain cases?
 9 MR. BEERS: Object to the form.
 10 A. After Katrina struck, we were instructed
 11 that there were going to be engineers on all
 12 claims that involved flooding.
 13 BY MR. MATTEIS:
 14 Q. Okay. When were you instructed that?
 15 A. That was at a meeting early on after
 16 Katrina struck and after we got to Mississippi.
 17 Q. Who was at the meeting?
 18 A. If I remember correctly, that was an
 19 all-adjuster meeting. So it would have been, for
 20 the most part, anyone who could make it to the
 21 meeting was supposed to be there.
 22 Q. Meaning all adjusters in your office and
 23 all team managers?
 24 MR. BEERS: Object to the form.
 25 A. That would have been all adjusters and

1 all team managers in both offices, Biloxi and
 2 Gulfport.
 3 BY MR. MATTEIS:
 4 Q. Who ran the meeting?
 5 A. That meeting was run by Dave Randel.
 6 Q. Did Dave Randel announce the new
 7 procedure for requesting engineering reports?
 8 A. Dave Randel announced that we were going
 9 to get an engineer on all claims involving flood.
 10 Q. Did he explain why?
 11 A. No, sir. There was no explanation
 12 given.
 13 Q. Were you ever told why?
 14 A. No, sir, I was never told the reason.
 15 Q. Did you ever ask Dave Randel why?
 16 A. No, sir, I never asked the question.
 17 Q. Did you ask anybody why engineers would
 18 be requested for all claims involving flood
 19 damage?
 20 A. No, sir, I didn't ask anyone.
 21 Q. Did you talk to anyone about the new
 22 procedure for engineers?
 23 A. Yes, sir, I talked to quite a few people
 24 about the new procedure.
 25 Q. Who did you talk to?

1 A. It was being discussed with everyone.
 2 Anyone you talked to, it was a discussion.
 3 Q. Did you talk to anyone above you in the
 4 corporate ladder about the engineering policy that
 5 was implemented after Dave Randel announced it at
 6 the meeting you referred to?
 7 A. I don't recall talking to anyone above
 8 me, no, sir.
 9 Q. So you talked to other people in the
 10 Gulfport office about it?
 11 MR. BEERS: Object to the form.
 12 A. I talked to people in the Gulfport
 13 office and I talked to people in the Biloxi
 14 office.
 15 BY MR. MATTEIS:
 16 Q. Do you remember any of those
 17 conversations?
 18 A. I don't remember the specifics of the
 19 conversations, no, sir.
 20 Q. Do you remember the nature of the
 21 conversations?
 22 A. Yes, sir. The nature of the
 23 conversations were that I disagreed with getting
 24 an engineer on every file.
 25 Q. Why?

1 A. In my opinion and through my years of
 2 experience, I felt that an engineer was not needed
 3 on every flood file.
 4 Q. What did Mr. Randel, at that first
 5 meeting, say the role of the engineer was to be on
 6 every flood file?
 7 A. Mr. Randel just announced we were going
 8 to get an engineer on every flood file. I don't
 9 recall there being a discussion about the role of
 10 the engineer.
 11 Q. Okay. Who -- who did Mr. Randel tell to
 12 request engineers on every flood file?
 13 MR. BEERS: Object to the form.
 14 A. The announcement made by Mr. Randel was
 15 to everyone at the meeting.
 16 BY MR. MATTEIS:
 17 Q. Okay. So who actually requested
 18 engineers on each flood file; the adjuster?
 19 A. I think I made a misstatement because we
 20 -- we weren't requesting the engineers on the
 21 flood file, per se. Let me clear that up. They
 22 were going to be on every wind file that involved
 23 flood.
 24 Q. Okay.
 25 A. So we were not ordering engineers on

1 flood files. We were ordering engineers on wind
 2 files if there was also flood involved in that
 3 loss.
 4 Q. Okay. But who would actually retain the
 5 engineer? Was it the adjuster?
 6 A. I wasn't involved in that process at
 7 all.
 8 Q. How did the adjusters know what to tell
 9 the engineers to do?
 10 A. There was a form that the adjusters were
 11 to complete when they were requesting an engineer.
 12 Q. But did Mr. Randel at this first meeting
 13 tell the adjusters what the engineers were
 14 supposed to be requested to do?
 15 A. I don't remember that being said at that
 16 meeting. I just don't remember it being said.
 17 Q. Do you remember anyone saying that
 18 engineers were to be requested on all claims
 19 involving flood in order to determine whether the
 20 damage was caused by flood or wind?
 21 A. I don't recall that being said. That
 22 was the assumption made or that was the
 23 understanding.
 24 Q. Why didn't you think that was necessary?
 25 A. We had adjusters and trainers on site

1 that I felt were very qualified to make the calls
2 without the need of an engineer. We had
3 adjusters, team managers, and trainers who had
4 been in hurricanes over the years for years and
5 years, had seen the damages, had adjusted the
6 damages, and were very qualified to make most of
7 the calls on causation.

8 Q. Do you believe the adjusters were more
9 qualified than engineers to make the determine --
10 the determination of causation?

11 A. I believe that many of our adjusters
12 have years of experience to make the call, perhaps
13 even better than an engineer who's never been to a
14 hurricane before, never seen hurricane or wind or
15 water damage. And, yes, I think they're as
16 qualified and, in some cases, possibly more
17 qualified to make that determination.

18 Q. And you said you had no involvement in
19 the process of engineer reports and engineers
20 being requested; is that right?

21 A. That's correct. I was not involved in
22 that.

23 Q. You had no involvement in it?

24 A. No, sir, I had no involvement in it.

25 MR. MATTEIS: Would you mark this,

1 A. Yes, sir, it does.

2 Q. Okay. So according to the e-mail, you
3 did have some involvement with the engineering
4 reports; right?

5 MR. BEERS: Object to the form.

6 A. I had involvement with the engineering
7 reports. I had no involvement with how the
8 engineers were requested.

9 BY MR. MATTEIS:

10 Q. Okay. Why -- let me just ask you a
11 little bit about your e-mail. What does CR mean
12 where it says please give one to the CR for the
13 file copy?

14 A. CR means claim rep.

15 Q. Okay. And why were you holding a copy
16 of all the engineering reports?

17 A. At the time of this e-mail, the
18 engineering firms were sending us two of the same
19 report, a duplicate report. And we had very
20 little space in the office, and at that time it
21 had not been decided whether we were going to just
22 automatically send a copy of an engineer's report
23 to our policyholders. So instead of bulking up
24 our file drawers, Rick Moore and I decided that we
25 would keep a duplicate copy. That never took

1 please.

2 ---

3 (Exhibit Number 9 marked)

4 BY MR. MATTEIS:

5 Q. Show you what's been marked King Exhibit
6 9. Do you recognize this?

7 A. Yes, I do.

8 Q. Is this an e-mail that you sent to a
9 number of people on October 21st, 2005?

10 A. Yes, it is.

11 Q. Okay. Does the text say, Everyone, when
12 we get two copies of any engineer report, please
13 give one to the CR for the file copy, pay the
14 bill, and then return the second copy to me for
15 safekeeping?

16 A. Yes, it does.

17 Q. Does it also say, These will be kept in
18 a locked file drawer and either Rick or I will
19 have the key?

20 A. Yes, it does.

21 Q. Okay. So does this e-mail -- do you
22 remember this e-mail?

23 A. Yes, sir, I remember that e-mail.

24 Q. And does this appear to be a -- a copy
25 of the e-mail that you sent?

1 place because a decision was made, possibly the
2 same day, that we would send the second copy, not
3 the file copy, to the policyholder.

4 Q. So you never kept any engineering
5 reports in a locked file drawer?

6 A. No, I never kept any engineering reports
7 in a locked file drawer.

8 Q. Did you ever have possession of any
9 engineering reports?

10 A. I had many engineering reports on my
11 desk.

12 Q. Just sitting on your desk?

13 A. I had baskets. They sat in baskets.

14 Q. And those were the second copy of each
15 one that came in?

16 MR. BEERS: Object to the form.

17 A. No, sir. Those were both copies of --
18 of reports. Those were the reports as they came
19 in.

20 BY MR. MATTEIS:

21 Q. So as -- as engineer reports were
22 requested and they came into the office, both
23 copies would be sent to you?

24 A. Yes. I was reviewing the engineers'
25 reports in the beginning.

1 Q. Okay. And you reviewed the engineering
2 reports prior to the adjuster who requested the
3 engineering reports?

4 A. I was reviewing the engineers' reports
5 first.

6 Q. Okay. And then after you reviewed
7 engineering reports, what would you do with the
8 engineering reports?

9 A. Direction was to be given in the log
10 note. I would give direction, and the engineering
11 reports would go into the claim rep's basket.

12 Q. The log notes, do you mean the activity
13 log file?

14 A. Yes, sir, the activity log file.

15 Q. You would make entries into the activity
16 log in the particular files?

17 A. Yes. That was the final decision.

18 Q. I'm sorry. What was the final decision?

19 A. That we would make -- I would make an
20 entry into the activity log.

21 Q. What would the entry say?

22 A. It would just give direction to the
23 claim rep to pay the engineer's bill, pay the file
24 based on either flood or deny the file based on
25 flood, pay the file based on wind, pay the file

1 based on the engineer's report.

2 Q. Why were you reviewing all the
3 engineering reports?

4 A. When we had so many engineer --
5 engineering firms, Dave Randel and I discussed
6 that we would -- that I would review the first two
7 or three that came in from each company for
8 consistency's sake to see what -- what they were
9 using as far as scientific evidence, if everyone
10 was consistent because we would have -- it's on a
11 rotating basis, and you might have five different
12 engineers on the same block. And we -- we just
13 wanted to make sure that everybody was consistent
14 in what they were -- were looking at, what they
15 were looking for, that they were doing a thorough
16 investigation.

17 Q. When did you start the practice of
18 reviewing all the engineering reports?

19 A. From the first engineering reports that
20 came in.

21 Q. Remember when that was?

22 A. No, sir, I don't.

23 Q. Was Brian Ford's one of the first
24 engineering reports that you reviewed?

25 A. Brian Ford's was one of the first ones I

1 reviewed.

2 MR. MATTEIS: Please mark this.

3 ---

4 (Exhibit Number 10 marked)

5 BY MR. MATTEIS:

6 Q. Show you what's been marked King Exhibit
7 10. Do you recognize it?

8 A. Yes, sir, I recognize that.

9 Q. What is it?

10 A. That's the Forensics engineering report.

11 Q. Okay. Is King Exhibit 10 the same
12 document that we've been referring to as Brian
13 Ford's engineering report so far in this
14 deposition?

15 A. Yes. This is the Brian Ford engineering
16 report.

17 Q. Do you remember receiving this around
18 October 12th, 2005?

19 A. I don't remember when I received it.

20 Q. You do remember having received it?

21 A. Yes, I do remember receiving it.

22 Q. This appears to be a true and correct
23 copy of what you remember having received?

24 A. Yes, sir, this appears to be a true and
25 correct copy.

1 Q. Okay. On the first page of King Exhibit
2 10, you see in the middle of the page there's some
3 handwriting?

4 A. Yes, sir, I see that.

5 Q. Do you recognize that handwriting?

6 A. Yes, sir, I do.

7 Q. Whose writing is it?

8 A. That's my handwriting.

9 Q. Okay. And what does it say?

10 A. It says, Put in wind file. Do not pay
11 bill. Do not discuss.

12 Q. Do you remember having written that?

13 A. No. I have no conscious memory of
14 actually writing it.

15 Q. What do the words mean?

16 A. The words "Put in wind file" mean put it
17 in the wind file. The words "Do not pay bill"
18 mean do not pay this particular bill that was
19 attached to this particular report, per an
20 agreement with Mr. Kochan and myself. The words
21 "Do not discuss" meant do not discuss it with the
22 policyholder or anyone else.

23 Q. Okay. Let's start with "Do not pay
24 bill." Why did you write "Do not pay bill"?

25 A. Mr. Kochan and I had had a meeting, and

1 he was having someone else look at this risk; and
2 our agreement was if, in fact, their assessment of
3 the damage differed from Brian Ford's, then we
4 would pay the bill that was submitted with that
5 report. If his assessment was the same as Brian
6 Ford's, we would pay this bill.

7 Q. Okay. And then what does "Do not
8 discuss" mean?

9 A. "Do not discuss" means do not discuss
10 with the policyholder or anyone else.

11 Q. Why did you write that?

12 A. Because this report was in question.
13 This report made no sense, and it wasn't -- we
14 didn't want it discussed with anyone until we got
15 a true assessment and tried to determine why the
16 conclusions in this file did not match the
17 investigation or the pictures.

18 Q. Why didn't you want it to be discussed
19 with the policyholder?

20 A. This claim had been paid. Both the wind
21 portion and the flood portion of this claim had
22 been paid. The report on its face made no sense.
23 It was -- it -- it made no sense. We felt it
24 would not be productive to discuss anything this
25 flawed with the policyholder until we had a

1 cut you off. I think you had more to say.

2 A. The second bullet -- bullet point talks
3 that the roof was damaged at the peak and the
4 right front sections. Third bullet point says the
5 doors and windows were all missing. The fifth
6 bullet point says according to Mr. McIntosh, a
7 neighbor, Mr. Mike Church, reported that houses
8 were blown apart and debris was thrown into the
9 McIntosh house at approximately 8:00 a.m. The
10 floodwater began rising at 11:00 a.m. Next bullet
11 point says the lower right front corner of the
12 house wall was missing, approximately three studs.
13 Back porch had a wooden deck and arbor destroyed.
14 Metal shed was missing. Detached carport had nine
15 columns. Several of these were found severely
16 damaged.

17 Q. Now, Ms. King, just one thing. You're
18 listing all the bullet points. Does that mean
19 your testimony is that none of them make sense?

20 A. When you look at those bullet points --

21 Q. Okay.

22 A. -- and that's just how I reviewed this
23 report, and then I went to the pictures --

24 Q. Okay.

25 A. -- the house at the front, not facing

1 determination as to what actually happened.

2 Q. Okay. You've testified a lot today
3 about King Exhibit Number 10 not making any sense.
4 Now that it's in front of you, can you tell me
5 what about it doesn't make sense?

6 A. The first bullet point on this report
7 says that the watermark line in the home is
8 approximately five and one-half feet above the
9 main floor interior flooring.

10 Q. Sorry. Where are you looking, Ms. King?

11 A. Page Rigsby-000325.

12 Q. Okay. And which bullet point?

13 A. The -- the first one.

14 Q. Okay. The first floor elevation is
15 approximately 20 to 21 feet. Is that what you
16 mean?

17 A. No. I mean the second sentence. The
18 watermark line in the house is approximately --

19 Q. Okay.

20 A. -- five and one-half feet above the main
21 floor interior flooring.

22 Q. Okay. Why doesn't that make sense?

23 A. That's -- that makes all the sense in
24 the world, sir.

25 Q. Okay. I'm sorry, then. I might have

1 the water, is intact. The roof damage matches
2 what the bullet point says. There is roof damage
3 to the peak, and the right front section, there
4 was wind damage. The upper story windows -- upper
5 story windows are intact. The next picture on
6 000329 is the rear section where, again, the roof
7 has wind damage, but it is intact. The deck up at
8 the top and the windows are intact, but the lower
9 section is all blown out. Can't really tell what
10 these other pictures are, but I would have looked
11 at the pictures first and compared them with what
12 he's saying in his investigation, which is what I
13 did.

14 And the pictures clearly depict that
15 the -- that there was water in the house. He says
16 there was watermark line in the house of
17 approximately five and a half feet. That made
18 sense. The roof damage was clearly depicted. The
19 doors and windows were all missing. Would have
20 been the lower doors and windows. He doesn't
21 mention that, and that the upper windows were
22 intact. His eyewitness statement is not an
23 eyewitness statement. His eyewitness statement is
24 according to policyholder. Someone else told the
25 policyholder that something happened. Back to the

1 pictures, I'm looking at the pictures. Based on
 2 what he's saying, the lower right front corner of
 3 the house wall missing, I'm -- I'm all over that.
 4 I go to the conclusions, and he says, Tree failure
 5 in the northwesterly direction are the result of
 6 the winds out of the southeast from the
 7 approaching hurricane. Have no problem with that.
 8 The roof, door, carport, and window
 9 damage was caused by wind and wind-driven debris.
 10 Well, I'm looking at the pictures. I have a
 11 little problem with that. The third rule --
 12 Q. How can you tell -- let me just stop
 13 there for a minute. How can you tell from the
 14 pictures that the -- the damage referred to in the
 15 second bullet point was not caused by wind-driven
 16 debris?
 17 A. Wind damage occurs at a high level, at a
 18 much higher level. This is a classic, a classic
 19 example of surge damage to a home. In my 22 years
 20 of experience with State Farm, the only time I
 21 have seen a house in this shape has been as a
 22 proximate result of a house that has been damaged
 23 by storm surge.
 24 Q. And what about the house makes you draw
 25 that conclusion?

1 A. The fact that the lower level and lower
 2 walls in the back on the water side are gone. The
 3 roof is intact. The windows above are intact.
 4 That there are still leaves on the trees. The --
 5 the areas where wind would normally -- the peaks
 6 and val- -- the peaks of the roof would be damaged
 7 by wind if there was that much wind. Any debris,
 8 based on -- on my experience, that hit this house
 9 was being waterborne.
 10 Q. Okay. Let me just take you back to one
 11 of the bullet points above where you mentioned --
 12 Mr. McIntosh is actually the one who talked about
 13 an eyewitness. It wasn't a direct eyewitness
 14 testimony. Would anything change about your
 15 conclusion of this report if it were a direct
 16 eyewitness testimony?
 17 MR. BEERS: Object to the form.
 18 A. This was, for me, just one part of the
 19 reason that I had a question about this file.
 20 And, in fact, when I talked to Mr. Ford, I asked
 21 him about that directly.
 22 BY MR. MATTEIS:
 23 Q. What do you mean you asked him about it
 24 directly?
 25 A. I asked him if he had talked to the

1 eyewitness himself.
 2 Q. Okay. Let's say he had. I mean, would
 3 that change anything if there actually was an
 4 eyewitness that Mr. Ford talked to that said the
 5 winds preceded the floodwater rising by three
 6 hours?
 7 A. At that point, I would have had to have
 8 considered -- I would have had to have known where
 9 the eyewitness was when he stated he saw this. I
 10 would have had to have a lot more information
 11 to -- really to consider the credibility, as there
 12 is a five-and-a-half-foot watermark, and the
 13 pictures depict a classic washout from flood
 14 surge.
 15 Q. Okay. So if Mr. Ford elicited the
 16 eyewitness testimony himself, you would have done
 17 more of an investigation to determine the
 18 credibility of the eyewitness; right?
 19 A. No, sir. I specifically asked Mr. Ford
 20 to talk to the eyewitness and asked him if he had
 21 and then asked him if he would, and I -- I got a
 22 negative answer on that. So it -- if he had
 23 talked to the eyewitness, I may have asked him to
 24 go back and do some more investigation.
 25 Q. But instead, since Mr. McIntosh, rather

1 than Mr. Ford, talked to the eyewitness, you
 2 instead decided to just scrap the report entirely?
 3 A. No, sir. As I --
 4 MR. BEERS: Object to the form.
 5 A. No, sir. As I stated prior, this is one
 6 of the things I called Mr. Ford to ask him about.
 7 I did not scrap the report. The final bullet
 8 point states that it is FAEC's opinion that the
 9 interior damage of the structure is primarily the
 10 result of the failure of the windows, walls, and
 11 doors due to wind. When I read that, together
 12 with his investigative notes and the pictures, I
 13 had a question. The net result was my call to Mr.
 14 Ford.
 15 BY MR. MATTEIS:
 16 Q. Okay.
 17 MR. MATTEIS: Can you mark this, please?
 18 ---
 19 (Exhibit Number 11 marked)
 20 BY MR. MATTEIS:
 21 Q. I'm going to show you what's been marked
 22 King Exhibit Number 11. I'll ask you if you
 23 recognize it. First, I'll just ask you before I
 24 ask anything about the document, do you recall
 25 having a conversation with Adam Sammis regarding

1 Mr. Ford's report?
 2 A. Yes, I do.
 3 Q. Okay. And in that conversation, do you
 4 recall what you said to him and what he said to
 5 you? I'm not asking you to take this off the
 6 document, but I'm just asking you what you
 7 remember.
 8 A. I remember when I called. Mr. Sammis
 9 answered the phone. He asked me how my day was,
 10 and I told him that it wasn't going very well,
 11 based on looking at Mr. Brian Ford's report. He
 12 asked me what my concerns were. I told him that
 13 it appeared Mr. Ford could not tell the difference
 14 between wind and water. At that point he told me
 15 that Brian Ford was right there and put Brian Ford
 16 on the phone.
 17 Q. Okay. And did you tell Mr. Sammis that
 18 the damage to both houses in the area were caused
 19 by water and that data showed surge levels in that
 20 area were so high that it had to be water damage?
 21 A. I don't recall that conversation, but --
 22 Q. Looking at this, does it refresh your
 23 recollection at all?
 24 A. No. My recollection is what I just told
 25 you, that I was -- I was angry. Told him that

1 obviously his engineer did not know the difference
 2 between wind and water. He immediately told me
 3 the engineer was there.
 4 Q. Did you look at any data of water
 5 heights in the area before talking to Mr. Sammis?
 6 A. I was on the Coast. I had been looking
 7 at data for -- for weeks. I didn't specifically
 8 go to data at that time, no.
 9 Q. So when you talked to Mr. Sammis, you
 10 didn't know, based on data, what the water height
 11 was right at the McIntosh house, did you?
 12 MR. BEERS: Object to the form.
 13 A. I knew what the data was in the
 14 McIntosh -- in the area of the McIntosh house,
 15 yes, sir. I did not have to go to data to look
 16 that up.
 17 BY MR. MATTEIS:
 18 Q. What did you know about that data?
 19 A. It's been three years, but I can tell
 20 you the surge in that area was very high.
 21 Q. Do you remember how high?
 22 A. I don't remember at this point, no.
 23 Q. This -- the data that you referred to
 24 was based on FEMA high watermarks; is that right?
 25 A. No. The data would have been based on

1 weather data, NASA, weather reports, videos that
 2 we had seen from people in the area who stayed in
 3 their homes on the second story, videos from news
 4 media, and all the data that was on-line.
 5 Q. But would any of that data have provided
 6 a precise waterline at the McIntosh home?
 7 A. That data would have shown what the
 8 surge levels were in that area and that would have
 9 led me to my conclusion, which I reached, which
 10 was this house was subjected to flood.
 11 Q. You don't remember specifically what the
 12 data was?
 13 A. No, sir. It's been three years.
 14 Q. Okay. So when you looked at Brian
 15 Ford's report, you knew the data so well that you
 16 didn't even have to check, but you knew what the
 17 surge levels would be right at that point on
 18 Mr. McIntosh's peninsula?
 19 MR. BEERS: Object to the form.
 20 A. I don't remember if I went to weather
 21 data or not when I looked at this report. I will
 22 tell you that the data in that area, I had -- was
 23 looking at engineers' reports, checking data, and
 24 had been doing that. So do I specifically
 25 remember going to a report, I don't.

1 BY MR. MATTEIS:
 2 Q. Okay.
 3 MR. MATTEIS: Please mark this.
 4 - - -
 5 (Exhibit Number 12 marked)
 6 BY MR. MATTEIS:
 7 Q. Before I show you King Exhibit Number
 8 12, do you recall having a conversation with Brian
 9 Ford right after speaking with Adam Sammis?
 10 A. Yes, sir, I do.
 11 Q. And in that conversation, what did you
 12 say to him and what did he say to you?
 13 A. My conversation with Mr. Ford, I asked
 14 him to pull the file and go over with me what his
 15 investigation was versus -- his pictures versus
 16 his conclusion. Mr. Ford pulled the file and we
 17 made sure we were looking at the same pictures. I
 18 asked him how he could not -- why he did not think
 19 that the lower level was damaged by flood. He
 20 pointed out to me that there was an eyewitness
 21 that, on their way to the attic, saw houses being
 22 blown down and blown into the McIntosh home. I
 23 pointed out to him that in normal -- in my
 24 experience, when people are going into their
 25 attic, it's not because of high winds and houses

1 being blown apart. That would be an indication
2 that there was high water at their home. I asked
3 him if in looking at the pictures, did he not
4 agree that there was some flood into -- in the
5 house, and he said, yes, he agreed there was
6 flood. Did some flood -- it did look like flood,
7 but the eyewitness said that it was -- that house
8 debris had been blown into the home and he was not
9 going to relook at his report.

10 I then thanked him for all of his work
11 that he had done for State Farm and told him we
12 would no longer need his services.

13 Q. King Exhibit 12 is -- is Mr. Ford's
14 e-mail that recounts that conversation, and I'm
15 just -- you don't have to even look at it to
16 answer this question. I'm just going to ask you.
17 He writes in there that you said, You weren't
18 there and didn't see that. You have to base your
19 opinion on what you see. Did you say that?

20 MR. BEERS: Object to the form.

21 A. I don't remember saying that.

22 BY MR. MATTEIS:

23 Q. Okay. Did you tell Mr. Ford that he
24 should not have used eyewitness reports?

25 A. No, sir, I did not tell him he should

1 not use eyewitness reports.

2 Q. Did you ever tell anyone not to use
3 eyewitness reports?

4 A. No, sir, I didn't tell anyone to use --
5 not to use eyewitness reports.

6 Q. Did you tell anyone at Forensic anything
7 regarding eyewitness reports?

8 A. Yes, I did.

9 Q. What was that?

10 A. Bob Kochan and I discussed the use of
11 eyewitness reports. We discussed the fact that an
12 eyewitness report could not be your sole basis for
13 your conclusion in an engineer's report, that that
14 should not -- it shouldn't be your -- it needed to
15 be one part of the engineer's report, one part of
16 the investigation, and that the eyewitness's
17 credibility needed to also be weighed.

18 Q. So you didn't tell anyone not to use
19 eyewitnesses?

20 A. No, sir.

21 Q. And, in fact, you encouraged the
22 Forensic engineers to use eyewitnesses as part of
23 their overall report?

24 MR. BEERS: Object to the form.

25 A. I neither encouraged nor discouraged.

1 The only discussion I had with Forensic
2 Engineering was, first of all, Brian Ford, second
3 of all, Bob Kochan. And I -- that was the
4 summation of discussions with any of the engineers
5 at Forensics.

6 BY MR. MATTEIS:

7 Q. Do you recall telling Mr. Ford that the
8 McIntosh property was a cabana house?

9 A. No, sir. I may have --

10 Q. Okay.

11 A. -- referred to that.

12 Q. I'll just -- you can look at King
13 Exhibit 12 and I'll ask you if that refreshes your
14 recollection, about the fourth line down. He
15 attributes that statement to you.

16 A. And I may have used that terminology.

17 Q. What does that mean?

18 A. That means that there's a roof or upper
19 portion of the house left, but the interior is
20 gone.

21 Q. The interior meaning the walls?

22 A. Yeah. The lower level is blown out,
23 kind of just -- it's open now.

24 Q. Open. So, in other words, a cabana
25 house has a roof that's intact, but only studs

1 below the roof?

2 MR. BEERS: Object to the form.

3 A. On a cabana house, there could be more
4 than the roof. It -- it's just a descriptive term
5 that we use to say that the lower portion has been
6 blown out or parts of it.

7 BY MR. MATTEIS:

8 Q. Okay. So when you saw Ford's report,
9 you believed that the McIntosh house was a cabana
10 house?

11 A. When I looked at Mr. Ford's report and
12 looked at the pictures, the description of what
13 happened in the back area fit what we would
14 describe in some manner as a cabana house, yes.

15 Q. What conclusions, if any, would you
16 direct adjusters to draw about what caused damage
17 to cabana houses?

18 A. If the roof is intact and the house is
19 subjected to any sort of high flooding, waves,
20 surge, which is the only time I've ever seen a
21 house with that phenomenon, the conclusion would
22 be flood.

23 Q. Is a cabana house the same as a slab or
24 a foundation-only house?

25 A. No, sir. A cabana has something that

1 you can see. It has -- it actually has standing
2 parts to it.
3 Q. Like a roof?
4 A. The roof, walls in many cases, a second
5 story in many cases.
6 Q. So a cabana house could have walls still
7 standing?
8 A. Yes, sir.
9 Q. What makes it a cabana house, then?
10 A. It has -- the upper level is -- is
11 intact. The lower area has walls blown out. The
12 whole thing could be blown out. Part of it could
13 be blown out, except there is a roof, an intact
14 roof.
15 Q. Okay. Remember the FEMA September 21st
16 memo that had the three processes for adjusting
17 flood claims?
18 A. Yes, sir, I remember that.
19 Q. Okay. Would a cabana house -- would you
20 direct adjusters to adjust cabana houses under
21 process number two?
22 MR. BEERS: Object to the form.
23 A. No, sir, because that's a phone scope,
24 and there was -- there was something standing
25 here. You could never -- you can't phone scope

1 home.
2 BY MR. MATTEIS:
3 Q. Okay. Some process two adjustments
4 included site inspections; right?
5 MR. BEERS: Object to the form.
6 A. No, sir. If there was a site
7 inspection, then that would -- that -- that didn't
8 have anything to do with the expedited claim
9 handling process. That would be a number three.
10 MR. BEERS: Ready for a break?
11 THE WITNESS: I am.
12 MR. BEERS: Okay. Off the record.
13 VIDEOGRAPHER: Off record, 4:25 p.m.
14 (OFF RECORD)
15 VIDEOGRAPHER: Okay. We are back on
16 record, 4:42 p.m.
17 MR. BEERS: Before we proceed, let me
18 put on the record on behalf of Ms. King that
19 she wishes to read and sign her -- this
20 deposition.
21 MR. MATTEIS: Okay.
22 MR. BEERS: So what -- what was the
23 time?
24 VIDEOGRAPHER: 4:42.
25 MR. MATTEIS: Okay. Thank you.

1 BY MR. MATTEIS:
2 Q. Okay. Ms. King, you testified that you
3 were reading the first group of engineering
4 reports as they came in, right, in October of
5 2005?
6 A. Yes, sir. I was -- Dave Randel and I
7 had decided that I would read the first group that
8 came in.
9 Q. And did you read any reports other than
10 Mr. Ford's in that first group?
11 A. I read a great deal of reports in that
12 first group.
13 Q. How many?
14 A. I -- I don't know.
15 Q. Did you have issues with any reports
16 other than Mr. Ford's?
17 A. Yes. We had concern -- I had concerns
18 about a few of the reports that were coming in.
19 Q. Were any of the other reports you were
20 concerned with done by Forensic Engineering?
21 A. There may have been some done by
22 Forensics.
23 Q. Do you know if there were reports that
24 you were concerned with that were done by
25 companies other than Forensic?

1 A. Yes, sir. There were other companies
2 that I had concerns with some reports that we were
3 receiving.
4 Q. How did you deal with those concerns?
5 A. I dealt with all my concerns by
6 contacting Dave Randel and asking him how he
7 wished for me to proceed.
8 Q. What did he say?
9 A. Depending on the concern or the report,
10 I would get different direction from Mr. Randel.
11 Q. Do you remember any of that direction?
12 A. No, sir, I don't.
13 Q. Did Mr. Randel tell you to fire any
14 engineering firms as a result of the first set of
15 reports that you read?
16 A. Other than the Brian Ford report, which
17 Mr. Randel directed me to tell them their services
18 would no longer be needed, that did not occur
19 again.
20 Q. Why did Mr. Randel tell you that
21 Forensic's services would no longer be needed?
22 MR. BEERS: Object to the form.
23 A. When Mr. Randel and I discussed Brian
24 Ford's report together and looked at it, he gave
25 me direction to call Mr. Ford, discuss the report

1 with him, discuss our concerns about the report,
2 ask him to give us scientific data and any data
3 that he collected that would help us understand
4 how he reached his conclusion, and if they
5 refused -- if he refused and stood simply on the
6 report as it -- as it was written, to tell him we
7 no longer needed his services.

8 BY MR. MATTEIS:

9 Q. So Mr. Ford refused to take another look
10 at his report?

11 A. Yes, Mr. Ford refused to take another
12 look at his report.

13 Q. Did you, in fact, fire Forensic
14 Engineering?

15 A. Yes, sir, I did fire Forensics
16 Engineering.

17 Q. The same day that you had the
18 conversation with Brian Ford?

19 A. Yes. It would have been on the same
20 day.

21 MR. MATTEIS: Could you mark this,
22 please?

23 ---

24 (Exhibit Number 13 marked)

25 BY MR. MATTEIS:

1 A. I did have issues with others, yes, sir.

2 Q. What did you do with those other
3 engineering reports that you had issues with that
4 weren't created by Forensic?

5 A. I sent them to Dave Randel and asked him
6 to give me direction.

7 Q. What did he do? What did he tell you to
8 do, if anything?

9 A. I have no recollection of him telling me
10 to do anything. Once it went to him, it stayed
11 with him.

12 MR. MATTEIS: Please mark this.

13 ---

14 (Exhibit Number 14 marked)

15 BY MR. MATTEIS:

16 Q. Show you what's been marked King Exhibit
17 14. This is an e-mail that you're not on, so I
18 assume you have not seen it; right?

19 A. I have seen this e-mail.

20 Q. When did you see it?

21 A. This e-mail has been on every blog in
22 Mississippi.

23 Q. Okay. If you go down to the third
24 paragraph, the first sentence: Lastly, as a
25 company practice, I am suggesting that eyewitness

1 Q. Show you what's been marked King Exhibit
2 13. Does King Exhibit 13 appear to be an e-mail
3 that you sent to Nellie Williams of Forensic
4 Engineering on October 17th, 2005?

5 A. Yes, sir. This is a memo that I wrote.

6 Q. Okay. Does this engineer confirm the
7 fact that you terminated Forensic Engineers'
8 services on October 17th?

9 MR. BEERS: Object to the form.

10 A. This e-mail confirms the conversation
11 that I had with Brian Ford and Nellie Williams.

12 BY MR. MATTEIS:

13 Q. Okay. And you didn't terminate the
14 services of any other engineering firms other than
15 Forensic?

16 A. No, sir, I did not.

17 Q. Did you have discussions with any other
18 engineers and/or engineering firms regarding
19 reports and/or conclusions in the reports that you
20 disagreed with in October 2005?

21 A. I did not have any other discussions
22 with any other engineering firms.

23 Q. You did say that you had issues with
24 engineering reports other than those written by
25 Forensic; right?

1 statements are no longer to be relied upon in the
2 development of our opinions. Do you see that?

3 A. Yes, I see that.

4 Q. Does that refresh your recollection of
5 whether you told Mr. Kochan that eyewitness
6 reports should no longer be used in engineering
7 reports?

8 A. I did not tell Mr. Kochan that
9 eyewitness reports should not -- no longer be used
10 in engineering reports.

11 MR. MATTEIS: Okay. Please mark this.

12 ---

13 (Exhibit Number 15 marked)

14 BY MR. MATTEIS:

15 Q. Okay. I show you what's been marked
16 King Exhibit 15. This is another internal
17 Forensic e-mail that you are not on from Randy
18 Down to Bob Kochan, dated October 18, 2005, and
19 I'm going to direct you to the third paragraph:
20 Does this Lecky person understand that eyewitness
21 accounts are standardly included in a Forensic
22 report when available? To ignore them would seem
23 to be ignoring potential facts in the
24 investigation that could hurt our credibility
25 later.

1 Do those words refresh your recollection
2 about any conversation which you told Bob Kochan
3 or anyone else at Forensic not to use eyewitness
4 reports in doing their engineering reports?

5 MR. BEERS: Object to the form.

6 A. I told no one at Forensics not to use
7 eyewitness reports in their engineering reports.

8 BY MR. MATTEIS:

9 Q. Did you ever direct anyone not to break
10 down wind and water damage into specific
11 percentages of a loss?

12 A. I don't recall telling anyone that, no,
13 sir.

14 Q. Do you ever remember an issue arising as
15 to whether engineers were breaking down wind and
16 water damage into specific percentages?

17 A. I remember there was a discussion about
18 percentages early on, but I don't recall any
19 specifics regarding the engineers.

20 Q. Do you remember who was involved in that
21 conversation?

22 A. No. That would have been very early in
23 the storm. I don't recall.

24 Q. Do you remember reviewing any
25 engineering report that contained a percentage

1 breakdown of how much damage was caused by wind or
2 water to a particular property?

3 A. I don't remember seeing an engineering
4 report with a percentage in it. I don't remember,
5 no.

6 Q. You never told anyone not to use
7 percentage breakdowns?

8 A. If I had been asked, I would have said
9 we -- we don't want to do that, but I recall no --
10 never telling anyone that, no, sir.

11 Q. Why would you have said that?

12 A. During Hurricane Ivan, there was a
13 meeting between the Alabama wind pool and NFIP,
14 myself, and a few other adjusters when they were
15 trying to assess the damage, when NFIP was trying
16 to assess the damage. And at that time, the
17 discussion came up as to how to -- if there was a
18 foundation-only claim, should the wind pool and
19 NFIP agree on a percentage to use? And Jim
20 Shortley with NFIP stated that we can't do that.
21 We should never do that simply because what
22 percentage do you use, and then if you pick a
23 percentage, what part of the home would you
24 choose. And at that time, everyone was in
25 agreement that percentages just were not a valid

1 issue. So I would have based my discussion on
2 that prior conversation in another storm.

3 Q. Is the -- the direction to not use
4 percentages in determining loss written anywhere?

5 MR. BEERS: Object to the form.

6 A. Again, I don't know of any direction to
7 not use percentages. I just know that I had that
8 discussion; and I, if asked, would say no, we
9 don't need to use percentages.

10 BY MR. MATTEIS:

11 Q. Do you know of any NFIP procedure or
12 policy to not use percentages?

13 MR. BEERS: Object to the form.

14 A. I know of no written policy by NFIP. I
15 know of my conversation with Mr. Shortley.

16 BY MR. MATTEIS:

17 Q. When was that?

18 A. That was at the beginning of Hurricane
19 Ivan, so that would have been 2004.

20 Q. Okay. After terminating the services of
21 Forensic Engineering on October 17th, at some
22 point you rehired them; right?

23 MR. BEERS: Object to the form.

24 A. I did not rehire Forensics.

25 MR. MATTEIS: Okay. Would you mark this

1 please.

2 ---

3 (Exhibit Number 16 marked)
4 BY MR. MATTEIS:

5 Q. Show you what's been marked King Exhibit
6 16. Do you recognize King Exhibit 16?

7 A. This appears to be an e-mail from Bob
8 Kochan to me.

9 Q. Okay. Dated October 18th, 2005. Do you
10 recall having received this e-mail?

11 A. I don't recall receiving it, but it
12 looks familiar.

13 Q. Okay. In looking at the first line,
14 Dear Ms. King, I wanted to thank you for taking
15 the time yesterday afternoon to speak with me and
16 to review your particular concerns with two of
17 FAEC's recent reports. As discussed, we have
18 assigned another of our qualified professional
19 structural engineers to inspect Thomas and Pamela
20 McIntosh, your insureds, property presented under,
21 and then it gives a claim number. Do you see
22 that?

23 A. Yes, sir, I do.

24 Q. So October 18, Mr. Kochan seems to
25 believe that Forensic was still working for State

1 Farm; right?
 2 A. Yes. This appears he believes they're
 3 still working for State Farm.
 4 Q. Do you recall whether Forensic was
 5 working for State Farm on October 18th?
 6 A. Yes, they were still working -- they
 7 were working for State Farm on the 18th.
 8 Q. Okay. And how did it come about that
 9 you terminated their services on the 17th and
 10 then they were working for State Farm on the
 11 18th?
 12 A. Mark Wilcox called me on the 18th or
 13 17th and requested -- excuse me. Mark Wilcox
 14 called me after my discussion with Brian Ford and
 15 stated that he had spoken with Bob Kochan with
 16 Forensics and he and Dave Randel had agreed that
 17 Mr. Kochan would come to my office, meet with me,
 18 review the files, and that they would continue to
 19 work with us.
 20 Q. Did he make you any assurances that
 21 caused you to change your mind about using
 22 Forensic?
 23 MR. BEERS: Object to the form.
 24 A. Mr. Kochan didn't make me any assurances
 25 that changed my mind about the situation with

1 Brian Ford.
 2 BY MR. MATTEIS:
 3 Q. Then why did you agree to allow Forensic
 4 to continue working?
 5 MR. BEERS: Object to the form.
 6 A. I had no -- the decisions on engineers
 7 and hiring of engineers and firing of engineers
 8 was one for someone at a much higher level than
 9 myself. That decision was out of my hands.
 10 BY MR. MATTEIS:
 11 Q. Who made the decision?
 12 A. I received a call from Mark Wilcox. I
 13 don't know who made the ultimate decision.
 14 Q. Okay. And in the e-mail, I'm going to
 15 walk you down to the third paragraph, second
 16 sentence. Mr. Kochan says to you, I've directed
 17 all future loss investigations will be better
 18 supported by photographic evidence, as well as
 19 having our conclusions further substantiated by
 20 recently published water height and wind data that
 21 you and I discussed. Do you remember discussing
 22 recently published water height and wind data with
 23 Mr. Kochan?
 24 A. What I remember discussing with
 25 Mr. Kochan was that there was no scientific data

1 at all in Mr. Ford's report and that we would ask
 2 that all engineering reports be supported with
 3 technical data.
 4 Q. Are you referring to something like a
 5 FEMA high watermark?
 6 MR. BEERS: Object to the form.
 7 A. No, sir. At that time, there was no
 8 FEMA high watermark, to my knowledge. Again, I'm
 9 speaking of NASA, everything that was on -- on --
 10 on-line. At that time, I was using most
 11 everything on-line.
 12 BY MR. MATTEIS:
 13 Q. Did you tell Mr. Kochan that they should
 14 use the Haag report?
 15 MR. BEERS: Object to the form.
 16 A. I don't believe we had the Haag report
 17 at the time that Mr. Kochan and I discussed the
 18 Brian Ford report.
 19 BY MR. MATTEIS:
 20 Q. Do you think the Haag report came to
 21 State Farm after October 18th?
 22 A. Yes. I believe the Haag report was
 23 received after that.
 24 Q. Does State Farm still use Haag?
 25 MR. BEERS: Object to the form.

1 A. I have -- I don't know the answer to
 2 that question.
 3 BY MR. MATTEIS:
 4 Q. Have you ever heard that there were any
 5 issues with Haag Engineering?
 6 A. Following Katrina, I know there was a
 7 moratorium on using them.
 8 Q. Why?
 9 A. That's the only e-mail I have.
 10 Q. Do you know why there was a moratorium?
 11 A. No, sir. There was no explanation.
 12 MR. MATTEIS: Can you mark this, please?
 13 ---
 14 (Exhibit Number 17 marked)
 15 BY MR. MATTEIS:
 16 Q. Show you what's been marked King Exhibit
 17 17. Have you ever seen this before?
 18 A. No, sir, I have not ever seen this
 19 before.
 20 Q. Okay. Do you know that this is an
 21 engineering report that John Kelly submitted to
 22 State Farm regarding the McIntosh property? I'm
 23 sorry. Let me -- I guess that was a statement
 24 more than a question. King Exhibit 17 is an
 25 engineering report that John Kelly submitted to

1 State Farm regarding the McIntosh property. Did
2 you know that a second engineering report was done
3 on the McIntosh property after Mr. Ford's?

4 A. Based on my conversation with
5 Mr. Kochan, it was my understanding that he was
6 going to have someone else look at the property.
7 However, I never saw that come to any conclusion.

8 Q. So after you looked at Mr. Ford's
9 engineering report, you didn't continue looking at
10 any other engineering reports?

11 MR. BEERS: Object to the form.

12 A. Yes, sir, I continued to look at the
13 engineering reports.

14 BY MR. MATTEIS:

15 Q. How long after looking at Mr. Ford's
16 engineering report did you continue to look at
17 engineering reports?

18 A. I continued to review engineering
19 reports until I left the catastrophe site.

20 Q. Okay. Was there a reason you didn't
21 review the second Forensic Engineering report
22 regarding the McIntosh property?

23 A. I have no idea. I've never seen this
24 report.

25 Q. Now, how long did you review engineering

1 at the end of November.

2 Q. What did you call them for?

3 A. I was trying to get the result of their
4 investigation.

5 Q. Okay. So this King Exhibit 17 was dated
6 October 20th, 2005. Forensic didn't give it to
7 State Farm on October 20th, 2005?

8 A. Sir, I don't know. I've never seen this
9 report.

10 Q. When you repeatedly called Mr. Kochan
11 regarding this report that you'd never seen, what
12 did he tell you?

13 A. Mr. Kochan never returned my calls.

14 Q. Have you ever since learned why
15 Mr. Kochan wasn't returning your calls?

16 A. No, sir. I have no idea why he didn't
17 return my calls.

18 Q. Did anyone at State Farm ever tell you
19 that the second report by John Kelly was
20 completed?

21 A. No, sir, I did not know about the second
22 report until much later.

23 Q. When did you first learn about the
24 second report on the McIntosh property?

25 A. I learned about it during 20/20.

1 reports in connection with Hurricane Katrina? Was
2 it more than a week?

3 A. Yes, it was more than a week.

4 Q. Was it more than the entire month of
5 October?

6 A. Yes, it was more than the entire month
7 of October.

8 Q. Do you remember when you stopped
9 reviewing engineering reports?

10 A. I stopped reviewing engineering reports
11 the week of Thanksgiving.

12 Q. Okay. The one engineering report that
13 you reviewed that caused you to fire an
14 engineering firm was Mr. Ford's; right?

15 A. Yes, sir.

16 Q. And you continued to be the person
17 reviewing engineering reports until Thanksgiving;
18 right?

19 A. I continued to review engineering
20 reports until Thanksgiving.

21 Q. And you never requested to see the
22 second engineering report on the McIntosh
23 property?

24 A. I repeatedly called Mr. Kochan and
25 Forensics until the day that I left the cat site

1 Q. Were you concerned that Mr. Kochan was
2 never returning your calls after October 18th?

3 A. Because Mr. Wilcox had called me and it
4 appeared they were dealing with Forensics
5 Engineering, I really didn't have a concern. I
6 just was really trying to find the outcome.

7 Q. If you weren't concerned, why'd you keep
8 calling Mr. Kochan?

9 MR. BEERS: Object to the form.

10 A. I was simply trying to find the outcome.

11 BY MR. MATTEIS:

12 Q. Did you ever ask Mr. Wilcox or
13 Mr. Randel about the second Forensic report?

14 A. I talked to Mr. Randel and advised him
15 that I had not heard from Mr. Kochan.

16 Q. What did Mr. Randel say?

17 A. He advised me to keep trying.

18 Q. Did he tell you he had never seen the
19 report either?

20 A. We didn't discuss the report, sir. We
21 just discussed the fact that I was calling and not
22 receiving a call back.

23 Q. Do you -- did you ever ask Mr. Wilcox if
24 he had seen the second report?

25 A. No. I didn't see Mr. Wilcox. He was in

1 the Biloxi office.
 2 Q. You never called him?
 3 A. I didn't call him, no, sir.
 4 Q. You ever heard of -- had you ever heard
 5 of John Kelly in 2005?
 6 A. I had not heard of John Kelly.
 7 Q. Shifting gears for a moment, have you
 8 heard of a flood calculator?
 9 A. I have not heard of flood calculator.
 10 Q. Okay. Was there a process by which
 11 damage was calculated for Hurricane Katrina losses
 12 for flood when it wasn't a total loss?
 13 A. Yes, sir. We had a square foot -- what
 14 we referred to as the square-foot calculator.
 15 Q. Okay. When was the square-foot
 16 calculator used for adjusting Hurricane Katrina
 17 flood claims?
 18 A. I don't remember when we first used it.
 19 Q. Was it first used in Hurricane Katrina
 20 or before Katrina?
 21 A. It was first used in Hurricane Katrina.
 22 Q. Okay. When -- what type of claim
 23 warranted use of the square-foot calculator?
 24 A. The square-foot calculator was used for
 25 homes that were still standing and had water

1 damage to them.
 2 Q. And how were adjusters directed to use a
 3 square-foot calculator in order to calculate flood
 4 damage to that type of property?
 5 A. The adjusters were to go out and get the
 6 square footage of the house and get the pictures,
 7 and then they would pick which calculator was
 8 appropriate for the loss that they were on.
 9 Q. What were the options?
 10 A. There were eight -- I think 18 options,
 11 but it had to do with a house that was constructed
 12 slab on grade versus a house constructed on a
 13 crawl space versus a house constructed on piers.
 14 Q. What did the flood -- I'm sorry. What
 15 did the square-foot calculator calculate?
 16 A. It was -- it had certain calculations
 17 put into it for -- for example, a house on a slab,
 18 if there was two feet of water, then it would say
 19 take out four feet of drywall, four feet of
 20 insulation, et cetera, the normal flood scope.
 21 Q. So to use the square-foot calculator,
 22 was the adjuster directed to put in the actual
 23 dimensions of the rooms in the house?
 24 A. I do not remember.
 25 Q. But the square-foot calculator was used

1 to determine the amount of flood damage in a given
 2 property under a certain waterline; is that right?
 3 A. It was used rather than doing a stick
 4 built estimate. It assumed on any flood loss,
 5 there are certain items that have to come out, for
 6 instance, the walls, certain types of flooring,
 7 depending on the height of the water. It had that
 8 already built into it.
 9 Q. And going back to the FEMA.
 10 September 21st memo, did State Farm use the
 11 square-foot calculator to adjust claims when they
 12 fell under process number three in the FEMA memo?
 13 A. Yes. We did use a square-foot
 14 calculator under process number three.
 15 Q. Okay. So when State Farm adjusted
 16 claims under process number two, it used Xacttotal;
 17 and when it processed claims under process number
 18 three, it used the square-foot calculator. Is
 19 that right?
 20 MR. BEERS: Object to the form.
 21 A. If the house fit all the criteria for
 22 the square-foot calculator under process three,
 23 they could use the square-foot calculator.
 24 BY MR. MATTEIS:
 25 Q. Now, you had seen the McIntosh

1 property's flood file and you saw Brian Ford's
 2 report. Is that a house that was appropriate for
 3 the square-foot calculator to be used in adjusting
 4 that flood claim?
 5 A. We didn't have the square-foot
 6 calculator at the time that that loss was
 7 adjusted.
 8 Q. When did you -- when did State Farm get
 9 the square-foot calculator?
 10 A. That, again, was the middle of October,
 11 as I recall, or possibly later.
 12 MR. MATTEIS: Okay. Please mark this.
 13 ---
 14 (Exhibit Number 18 marked)
 15 BY MR. MATTEIS:
 16 Q. Show you what's been marked King Exhibit
 17 18 -- 18. This is a document from the McIntosh
 18 flood file. Do you recognize this?
 19 A. I recognize it as a payment
 20 authorization form.
 21 Q. Okay. And by looking at it, can you
 22 tell that the McIntoshes were paid \$250,000 for
 23 their flood claim?
 24 A. Looking at this document, an
 25 authorization to pay 250- was made.

1 Q. Okay. And you see the initials and a
 2 date, 9/29/05?
 3 A. Yes, sir, I do.
 4 Q. Does that mean a flood claim was closed
 5 bring 9/29/05?
 6 A. I don't know what those initials mean.
 7 Q. You don't know what the date means?
 8 A. The date means 9/29/05.
 9 Q. You don't know why the -- the initials
 10 and the date are on this document?
 11 A. No, sir, I don't.
 12 Q. Okay. Was it a State Farm policy to put
 13 a date on the payment authorization when the flood
 14 claim was closed?
 15 MR. BEERS: Object to the form.
 16 A. I've never dated or -- and -- initialed
 17 an authorization in order to close a file.
 18 BY MR. MATTEIS:
 19 Q. Do you know whose handwriting is on King
 20 Exhibit Number 18?
 21 A. No, sir, I don't.
 22 MR. MATTEIS: Can you mark this, please?
 23 ---
 24 (Exhibit Number 19 marked)
 25 BY MR. MATTEIS:

1 own, and told that if the insureds still wanted an
 2 engineer or if there was an issue that we could
 3 not make our own decision, that we were still
 4 authorized to get engineers on those files.
 5 Q. Who gave you that direction?
 6 A. That direction was given by Dave Randel.
 7 Q. Do you remember if that was before or
 8 after you first saw Brian Ford's engineering
 9 report?
 10 A. That was after I first saw Brian Ford's
 11 engineering report.
 12 Q. Do you remember how long after?
 13 A. Best of my recollection, about a month,
 14 if not a little bit more.
 15 Q. Were you given any reasons for why the
 16 automatic request for engineers was being
 17 cancelled?
 18 A. We were told at that time that
 19 information, weather information, weather data,
 20 was coming in all over -- from all over the United
 21 States, again on-line, and that we had enough for
 22 our adjusters to go out, do their visual
 23 inspection, look at all the data that -- that was
 24 there regards to wind and surge and everything
 25 combined and make an educated decision.

1 Q. Show you what's been marked King Exhibit
 2 19. Going to ask you if you recognize it.
 3 A. No, sir, I don't recognize that.
 4 Q. Do you recognize the type of document
 5 called XactAnalysis?
 6 A. No, sir, I don't.
 7 Q. Never seen that before? By that I mean
 8 you've never seen a document with the word
 9 "XactAnalysis" on top?
 10 A. I've seen one before, but I don't know
 11 what it is.
 12 Q. At some point was the -- the blanket
 13 order to get engineering reports withdrawn?
 14 MR. BEERS: Object to the form.
 15 A. There was no blanket order to get
 16 engineering reports. The request to get engineers
 17 in our office on all the wind files that had flood
 18 companions was withdrawn eventually.
 19 BY MR. MATTEIS:
 20 Q. Do you remember when?
 21 A. No, sir, I don't.
 22 Q. Do you know why it was withdrawn?
 23 A. We were told that it -- we had enough
 24 weather data to make those decisions on our own,
 25 for the adjusters to make those decisions on their

1 Q. Did you have any conversations with
 2 anyone before that regarding whether the request
 3 to have engineer reports for all flood claims
 4 should be cancelled?
 5 MR. BEERS: Object to the form.
 6 A. No. I never had any conversations like
 7 that with anyone.
 8 BY MR. MATTEIS:
 9 Q. So you had no input into State Farm's
 10 decision to cancel the engineer reports?
 11 A. No, sir, I had no input at all.
 12 Q. Did you have any input into the decision
 13 to cancel pending engineering reports?
 14 A. I had no decision-making in the
 15 engineering reports cancellation whatsoever.
 16 Q. Did you provide any information in
 17 connection with whether to cancel engineering
 18 reports to anyone?
 19 A. Once we were told that engineering
 20 reports were no longer needed on every claim that
 21 had a companion flood, there was a meeting telling
 22 the team managers -- giving the team managers
 23 direction, and I was there for that meeting.
 24 Q. Who -- who spoke at the meeting?
 25 A. I don't recall.

1 Q. You did not?
2 A. I may have. There could have been -- I
3 did not lead the meeting. I could have been
4 involved in conversations, however.

5 Q. What direction was given at the meeting?

6 A. The direction was that the claims reps
7 were to go through their files on any
8 engineering -- pending engineering reports. They
9 were to contact the engineering company and
10 ascertain whether or not an inspection had been
11 conducted. If an inspection had been conducted
12 but no report written, to go ahead and send us a
13 bill; if no inspection had been conducted, to
14 cancel the inspection.

15 Q. And that directive was given as part of
16 the decision to no longer request engineers on all
17 companion flood claims?

18 A. That was the directive that we were
19 given, and we passed it along to the claim reps --
20 or the team managers. Excuse me.

21 MR. MATTEIS: How much time do we have
22 left?

23 VIDEOGRAPHER: We have 50 minutes.

24 MR. MATTEIS: Five zero?

25 VIDEOGRAPHER: Five zero.

1 MR. MATTEIS: We can take our last break
2 now. I may not have a full 50 minutes left.
3 Let's take a break.

4 MR. BEERS: That's fine.

5 MR. MATTEIS: Come back in ten minutes.

6 VIDEOGRAPHER: Off record, 5:24.

7 (OFF RECORD)

8 VIDEOGRAPHER: Okay. We are back on
9 record. The time is 5:39 p.m.

10 BY MR. MATTEIS:

11 Q. Okay. Ms. King, your counsel said you
12 had a correction to make regarding your testimony.

13 A. Yes, sir. When you asked me the
14 question of how long after the Brian Ford
15 engineering report to the time that the directive
16 to -- that we no longer needed engineers on every
17 file came about, I think I told you a month, maybe
18 more, and I was thinking September, October, but
19 it was probably two weeks.

20 Q. Okay. Do you think the directive to no
21 longer request engineers on all flood claims came
22 on October 24th? Does that sound right?

23 A. That would be around the time, yes, sir.
24 I don't know that it was October 24th precisely.

25 Q. Do you know a gentleman named Dave

1 Haddock?

2 A. Yes, I know David Haddock.

3 Q. Did David Haddock report to you?

4 A. David Haddock was my employee. However,
5 he was a team leader in Hurricane Katrina.

6 Q. What do you mean, he was your employee?

7 A. During Katrina, David Haddock was a
8 trainer on my team. During Ivan and Katrina he
9 was pulled up to work as a team leader and have
10 his own team while on those two catastrophes and
11 did not report to me.

12 Q. Okay. Do you recall whether Dave
13 Haddock sent an e-mail to the engineering firms on
14 or around October 24th regarding cancellation of
15 engineering reports?

16 A. I don't recall him doing that.

17 Q. Do you recall whether Dave Haddock
18 instructed engineering reports that where they've
19 done inspections, they would be paid, but that
20 they should not actually write up the report?

21 A. I don't recall that.

22 Q. Would that fact surprise you if it were
23 true?

24 A. The direction that was given was to call
25 the engineering firms and if they had inspected

1 and not written a report, that they were to send
2 us whatever material they had and their bill and
3 not write a report. Therefore, that would not
4 surprise me if that fact -- if that, in fact,
5 happened.

6 Q. So the direction given to the
7 engineering firms was that their bill would be
8 paid fully if they already did the inspection, but
9 that they did not have to write the report?

10 MR. BEERS: Object to the form.

11 A. The direction that was given to us is to
12 advise the engineering firms that if they had
13 already inspected the claim, we would pay them for
14 the work that they had done, but do not write a
15 report.

16 BY MR. MATTEIS:

17 Q. Who gave you that direction?

18 A. That direction would have come from Dave
19 Randel.

20 Q. Do you know if anyone gave him that
21 direction?

22 A. I don't know where he got the direction.

23 Q. Do you know who Dave Randel reported to?

24 A. I don't know who he reported to.

25 Q. Do you know why State Farm agreed to pay

1 the entire bill for engineering firms that did the
2 inspection but told them not to write reports when
3 they were paying for it anyway?

4 MR. BEERS: Object to the form.

5 A. I don't know that State Farm did that.
6 I -- I was not involved in that.

7 BY MR. MATTEIS:

8 Q. Have you ever heard of the engineering
9 firm Dreux Seghers?

10 A. I have heard the name Dreux Seghers.

11 Q. Did any of the Dreux Seghers reports --
12 well, first, let me ask you: Did you review any
13 reports done by Dreux Seghers in October of 2005?

14 A. I did.

15 Q. Did you have issues with any of them?

16 A. As I recall, I had a couple of concerns
17 with Dreux Seghers' reports.

18 Q. Do you remember what the concerns were?

19 A. Most of the concerns that I found were
20 just a lack of scientific evidence backing up the
21 findings.

22 Q. All of the Dreux Seghers reports that
23 you had concerns with, did they all find that wind
24 caused the damage at issue?

25 A. Again, I had some concerns, and I don't

1 Q. Which firms did the reports that you had
2 issues with?

3 A. Sir, that was six years ago. I -- I
4 don't know.

5 Q. Do you recall what the issues were?

6 A. I don't know.

7 Q. Okay. After you worked in the Gulfport
8 catastrophe services office for State Farm in
9 connection with claims after Hurricane Katrina,
10 you left at some point; right? Was it in
11 December?

12 A. No, sir. I left -- my last day was
13 November 30.

14 Q. Okay. What did you do after that?

15 A. State Farm made us take 30 days off, and
16 then I took over and closed down Hurricane Ivan in
17 Pensacola, Florida. After that I was deployed to
18 Sedalia, Missouri. In between I was doing flood
19 training around the country. I then went to
20 Bloomington to assist in some more flood
21 Web-based-type training.

22 Q. When did you go to Bloomington?

23 A. I was in Bloomington August -- July and
24 August of '06, as I recall.

25 Q. Just for those two months?

1 remember what they were with the Dreux Seghers
2 reports, so I can't answer that question.

3 Q. Okay. Do you recall having issues with
4 any engineering reports that found flood to be the
5 predominant cause of damage?

6 A. Most of my concerns were not based on
7 the conclusions of the reports. They were based
8 on the ways that the reports were written or a
9 lack of -- of scientific evidence.

10 Q. Okay. Can you answer the question,
11 though?

12 A. I don't know.

13 Q. Other than claims connected to Hurricane
14 Katrina, did you ever review engineering reports?

15 A. I reviewed engineering reports in
16 Hurricane Ivan.

17 Q. Did you use the same process there where
18 you reviewed all the engineering reports when they
19 came in for Hurricane Ivan?

20 A. Yes, I reviewed all engineering reports
21 for Hurricane Ivan.

22 Q. Did you have issues with any of the
23 engineering reports from Hurricane Ivan?

24 A. Yes, we had issues with reports from
25 Hurricane Ivan.

1 A. Yes, sir, just for those two months.

2 Q. And what did you do after those two
3 months?

4 A. After that I began working strictly on
5 Katrina litigation.

6 Q. What did your job entail in connection
7 with Katrina litigation?

8 A. My job entailed meeting with attorneys.

9 Q. Did your position or title ever change
10 since Hurricane Katrina?

11 A. My position or title have not changed.

12 Q. What is your position or title right
13 now?

14 A. I'm a catastrophe team manager.

15 Q. In the catas- -- catastrophe services
16 department?

17 A. In the catastrophe services department.

18 Q. Since July 2006, you've done nothing but
19 work on Hurricane Katrina-related litigation?

20 A. I have mainly worked on --

21 MR. BEERS: Object to the form. Go
22 ahead.

23 A. Since -- since August of 2006, my job
24 has mainly consisted of Hurricane Katrina
25 litigation.

1 BY MR. MATTEIS:
 2 Q. When you say your job, are you referring
 3 to your role as a fact witness?
 4 A. No, sir.
 5 Q. What have you been doing? And I'm not
 6 trying to get at any privileged information, so if
 7 it's privileged, please don't tell me; but you can
 8 just tell me the basic nature of your job and work
 9 since August 2006.
 10 A. I have reviewed files from the New
 11 Orleans catastrophe. I have given many
 12 depositions. I have reviewed files -- reviewed
 13 flood files from around the Southeast for Katrina
 14 litigation.
 15 Q. When you say you reviewed them for
 16 Katrina litigation, do you mean at the direction
 17 of counsel you reviewed files?
 18 A. Yes, sir. At the direction of counsel,
 19 I reviewed files.
 20 Q. Outside counsel or in-house State Farm
 21 counsel?
 22 A. In-house State Farm counsel.
 23 Q. Which counsel have you worked with?
 24 A. I've worked with Isabel Vidal.
 25 Q. Anyone else?

1 A. No, sir.
 2 Q. Do you ever -- or do you have any
 3 definite plans to return to your former role of
 4 adjusting and working on actual catastrophes?
 5 MR. BEERS: Object to the form.
 6 A. I plan to return to work working regular
 7 catastrophes.
 8 BY MR. MATTEIS:
 9 Q. Do you have a date set for when that
 10 will happen?
 11 A. I -- no, sir, I don't.
 12 Q. Now, you said you'd given depositions in
 13 connection with Hurricane Katrina litigation.
 14 Earlier in the deposition you testified that in
 15 every deposition you gave, you asserted your Fifth
 16 Amendment rights; right?
 17 A. That's correct.
 18 Q. So this is the first deposition today
 19 that you've substantively answered questions asked
 20 of you?
 21 A. Yes. This is the first deposition that
 22 I've substantively answered questions.
 23 Q. Do you know Richard Scruggs?
 24 A. I do not know Richard Scruggs.
 25 Q. You've heard the name?

1 A. Yes, sir, I've heard the name.
 2 Q. Have you ever said to anyone that you'd
 3 be willing to cooperate with Mr. Scruggs if he
 4 were to pay you \$2 million?
 5 MR. BEERS: Object to the form.
 6 A. That statement was made to Cori and
 7 Kerri Rigsby very early on in the catastrophe as a
 8 joke.
 9 BY MR. MATTEIS:
 10 Q. You said it to both of them?
 11 A. Yes, sir.
 12 Q. At the same time or different
 13 conversations?
 14 A. As I recall, it was the same time. It
 15 could have been different conversations.
 16 Q. Was this before you knew that Kerri and
 17 Cori were whistle-blowers?
 18 A. This was before I knew that Cori and
 19 Kerri had any indication of talking to
 20 Mr. Scruggs.
 21 Q. One last question. I'm sorry. Did you
 22 ever have any issues in your entire career with
 23 any reports done by Haag Engineering?
 24 MR. CANADA: Let me just enter an
 25 objection. This is --

1 MR. MATTEIS: I'm sorry?
 2 MR. CANADA: -- beyond -- I said enter
 3 an objection. It's beyond the scope what
 4 the -- I believe the judge has allowed.
 5 MR. BEERS: Same objection.
 6 A. Yes, sir, I had some issues with Haag
 7 reports.
 8 BY MR. MATTEIS:
 9 Q. Were the issues in connection with
 10 Hurricane Katrina?
 11 A. There were some issues in connection
 12 with Hurricane Katrina, yes.
 13 Q. And did those issues arise in your
 14 review of engineering reports in October 2005?
 15 A. Yes. Those issues arose in -- in my
 16 review of files.
 17 Q. What were the issues?
 18 A. Most of my issues, again, were based on
 19 lack of -- of scientific evidence and technical,
 20 but I can't specifically recall what the issues
 21 were on the Haag files.
 22 Q. Did you ever terminate the services of
 23 Haag Engineering?
 24 A. I was never told to terminate Haag
 25 Engineering.

1 Q. You never did it?
 2 A. I don't have the ability. That's beyond
 3 my scope of what I'm allowed to do with State
 4 Farm, sir.
 5 Q. You never had the authority to terminate
 6 an engineering firm?
 7 MR. BEERS: Object to the form.
 8 A. I was given the authority and requested
 9 to terminate Forensics.
 10 BY MR. MATTEIS:
 11 Q. None other?
 12 A. I was never told to terminate another
 13 engineering firm.
 14 Q. Have you ever reported to anyone located
 15 in Bloomington?
 16 MR. BEERS: Object to the form.
 17 A. When I began cat in 1994, my section
 18 manager, Lou Peel, worked in Bloomington.
 19 BY MR. MATTEIS:
 20 Q. How long did you report to that section
 21 manager?
 22 A. I reported to Lou for two and a half
 23 years.
 24 Q. And after that did you have any direct
 25 contact with anyone located in Bloomington?

1 MR. BEERS: Object to the form.
 2 A. I have direct contact with many people
 3 in Bloomington. I -- it's part of my company. I
 4 have lots of friends up there.
 5 BY MR. MATTEIS:
 6 Q. Do you -- let's -- let's put it in the
 7 time frame of September to December 2005. Did you
 8 have frequent contact with anyone located in
 9 Bloomington during that time period?
 10 MR. BEERS: Same objection to the form.
 11 A. No, sir, not -- no, sir, I did not.
 12 MR. MATTEIS: I think I'm all done.
 13 Does anyone else have anything?
 14 MR. BEERS: Let me just put on the
 15 record, I think we need to put on the record
 16 that the Rigsbys did make an appearance for
 17 the afternoon session, have been present
 18 since we began the afternoon session around
 19 1:30, so --
 20 MR. MATTEIS: Right.
 21 MR. BEERS: I don't think that was put
 22 on the record, and I thought we needed to.
 23 MR. MATTEIS: We're also going -- just
 24 to put it on the record, we're also going to
 25 serve Ms. King with a trial subpoena for this

1 hearing.
 2 VIDEOGRAPHER: Okay. Off record. The
 3 time is 5:56 p.m.
 4 MR. MATTEIS: Thank you.
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1 CERTIFICATE
 2 STATE OF MISSISSIPPI
 3 COUNTY OF HARRISON
 4 I, Elizabeth Bost Simpson, RDR, RMR,
 5 CRR, Freelance Court Reporter and Notary Public,
 6 duly commissioned for the County of Harrison,
 7 State of Mississippi, do hereby certify:
 8 That on the 5th day of May, 2009, there
 9 appeared before me ALEXIS B. KING, who was sworn
 10 and examined to tell the truth, and that the
 11 preceding pages contain a full, true, and correct
 12 copy of my stenotype notes and/or electronic tape
 13 recording of the testimony of ALEXIS B. KING.
 14 That the witness has chosen to X the
 15 reading and signing of the deposition.
 16 That I am not related to or in anywise
 17 associated with any of the parties to this cause
 18 of action, or their counsel, and that I am not
 19 financially interested in the same.
 20 In WITNESS WHEREOF, I have hereunto set
 21 my hand.
 22
 23
 24 Elizabeth Bost Simpson, RDR, RMR,
 25 CRR, Notary Public, State of
 Mississippi, County of Harrison.
 My commission expires 6-10-2009.

1 ERRATA SHEET

2 STATE OF MISSISSIPPI

3 COUNTY OF _____

4 I, ALEXIS B. KING, the undersigned

5 Deponent, having read the foregoing deposition,

6 find the same to be a true and correct

7 transcription of the proceedings taken at the time

8 and place indicated therein, except as follows,

9 (if any):

10 PAGE LINE WHERE IT READS: SHOULD READ:

11 _____

12 _____

13 _____

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19 _____

20 _____

21 _____
ALEXIS B. KING

22 Sworn to and subscribed

23 by me, this _____ day of

24 _____, A.D., 2009.

25 _____

Notary Public, State of Mississippi,

County of _____.