

Exhibit A
Deposition of
Pamela Torres McLean

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CASE NO. 6:16-CV-2240-Orl-28GHK

DAVID MADISON CAWTHORN,

Plaintiff,

vs.

AUTO-OWNERS INSURANCE COMPANY,

Defendant.

-----/

VIDEOTAPED DEPOSITION OF

PAMELA TORRES MCLEAN

Volume I (Pages 1-112)

Taken on Behalf of the Plaintiff

DATE TAKEN: May 11, 2017

TIME: 9:35 a.m. - 4:53 p.m.

PLACE: Burr Forman
200 South Orange Avenue
Orlando, Florida

Examination of the witness taken before:

Lance W. Steinbeisser, RPR CSR FPR
Certified Stenographer

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1 THE VIDEOGRAPHER: This is the video
2 deposition of Pamela McLean taken on 11 May
3 2017. We're going on the record at 9:35 a.m.
4 If counsel will state their appearances for
5 the record and the court reporter will swear
6 in the witness so we may proceed.

7 MR. BONNER: Allen Bonner and Bob
8 Martinez appearing on behalf of Madison
9 Cawthorn.

10 MR. VILMOS: Peter Vilmos, Burr Forman,
11 for Auto-Owners.

12 MR. LATTA: With Forrest Latta from Burr
13 Forman.

14 Thereupon--

15 PAMELA TORRES MCLEAN
16 was duly administered the oath: Do you swear or
17 affirm that the testimony you are about to give in
18 this cause will be the truth, the whole truth and
19 nothing but the truth?

20 THE WITNESS: I do.

21 DIRECT EXAMINATION

22 BY MR. BONNER:

23 Q. Ms. McLean, thank you for coming today.

24 Can you please state your full name for
25 the record, please.

1 A. Pamela Torres McLean.

2 Q. Okay. And what is your office address?

3 A. 1700 Southeast 17th Street, Suite 210,
4 in Ocala, Florida.

5 Q. And you're currently employed with
6 Auto-Owners?

7 A. Yes.

8 Q. Have you given a deposition before?

9 A. Yes.

10 Q. How many times?

11 A. Five or six.

12 Q. Have any of those involved insurance bad
13 faith claims?

14 MR. VILMOS: Objection to form.

15 A. No.

16 BY MR. BONNER:

17 Q. The prior times that you've testified
18 have involved insurance matters?

19 A. Yes.

20 Q. We are here in the suit of Madison
21 Cawthorn versus Auto-Owners. It involves an
22 accident that took place in 2014.

23 What did you do to prepare for your
24 deposition today?

25 A. I reviewed the claim file and met with

1 Peter.

2 Q. What is in the claim file?

3 A. A chronology of written and oral
4 correspondence -- well, written correspondence and
5 oral -- notes of oral conversations.

6 Q. When you say the claims file, are you
7 referring to the claims diary? I have a copy of
8 one that we were provided that was previously
9 marked as Exhibit 2.

10 A. That's only one part of the claim file.

11 Q. What additional parts of the claims file
12 did you review? Here, I'll show you Exhibit 2, so
13 we're on the same page.

14 A. The entire file, it includes copies of
15 the policies.

16 MR. MARTINEZ: Excuse me for one second.

17 (Discussion held off the record.)

18 BY MR. BONNER:

19 Q. Sorry. You were saying the additional
20 documents. There's correspondence?

21 A. Yes. There's correspondence, there's a
22 loss notice, copies of the policies, the police
23 report.

24 Q. Okay. And there's documents that
25 postdate November 10th, 2014; correct?

1 A. Yes.

2 Q. Did you happen to see any of the
3 documents that are contained in the home office
4 legal file?

5 A. No.

6 Q. Apart from the claims file, do you have
7 any personal notes from this matter?

8 A. No.

9 Q. Is there a separate log that keeps track
10 of either telephone calls or communications that
11 you might have of witnesses or claimants in a case
12 like this?

13 A. No.

14 Q. The only log is the claims diary that's
15 before you in Exhibit 2?

16 A. That's correct.

17 Q. Have you worked for any other insurance
18 companies other than Auto-Owners?

19 A. Yes.

20 Q. Please tell me.

21 A. Fortune Insurance Company.

22 Q. When did you work for Fortune?

23 A. 1991, for a couple of years.

24 Q. Okay. Did you start with Auto-Owners
25 after working at Fortune?

1 A. No.

2 Q. Where did you work next?

3 A. I went to -- my husband went to law
4 school in Gainesville, and I worked at Eckerd while
5 going back to school, and then I worked for an
6 independent adjusting agency before coming to
7 Auto-Owners in 1998.

8 Q. What was the name of the independent
9 adjusting agency?

10 A. Sewell, Todd & Broxton.

11 Q. Were you an independent adjuster?

12 A. Yes.

13 Q. And you worked at Fortune, what was your
14 job position?

15 A. General claims adjuster.

16 Q. What type of claims did you handle?

17 A. Mostly -- well, entirely automobile, a
18 couple of life claims, I guess.

19 Q. Auto liability claims?

20 A. Yes.

21 Q. Were they also casualty claims?

22 A. Yes.

23 Q. So you did a little bit of a both?

24 MR. VILMOS: Can we go off the record
25 for just a minute? I have something in my

1 office -- real quick.

2 MR. BONNER: Sure.

3 THE VIDEOGRAPHER: We're off the record
4 at 9:40.

5 (Break from 9:40 a.m. to 9:43 a.m.)

6 THE VIDEOGRAPHER: Back on the record at
7 9:43.

8 MR. BONNER: Okay. We're back on the
9 record.

10 Just, counsel, you've provided me with a
11 document that was not disclosed previously in
12 discovery. I'm going to mark this as an
13 exhibit but later, and we'll address it when
14 it comes up, when it's appropriate to do so.

15 BY MR. BONNER:

16 Q. Ms. McLean, you were just telling me
17 about your time at Fortune. You said you handled
18 both casualty and liability claims?

19 A. That's correct.

20 Q. Did you handle represented and
21 unrepresented claims?

22 A. Yes.

23 Q. And did you handle claims limited to a
24 specific amount that was at issue or a policy limit
25 at issue?

1 A. No.

2 Q. Okay. At Auto-Owners, what is your
3 current title?

4 A. Assistant manager.

5 Q. And in 2014 what was your title?

6 A. Senior claim rep specialist.

7 Q. And what previous titles did you hold,
8 if any?

9 A. Senior claim representative and branch
10 claim representative.

11 Q. Okay. What were your duties as senior
12 claim representative?

13 A. To investigate coverage liability and
14 damages of claims that were more serious in nature
15 than just the average fender-bender.

16 Q. Approximately how many claims were you
17 handling at any one time in 2014?

18 A. A wild guess be around 200.

19 MR. VILMOS: Yeah, don't guess. If
20 there's --

21 A. I'm sorry. I don't know exactly.

22 MR. VILMOS: That's okay. If there
23 is -- he's asking questions you know. So if
24 you answer on the record, he's going to
25 presume you know the answer. So if you're

1 going to guess, as you did, tell him it's a
2 guess --

3 A. It's a guess.

4 MR. VILMOS: -- but I would prefer you
5 don't guess.

6 THE WITNESS: Okay.

7 BY MR. BONNER:

8 Q. But an estimate would be around 200,
9 give or take 50?

10 A. Again, I don't know.

11 Q. Okay. Were they all auto liability
12 claims?

13 A. No.

14 Q. What other types of claims were you
15 handling?

16 A. I had two counties, Lake County and
17 Alachua County, that I handled first-party property
18 and casualty claims for.

19 Q. Any other types of claims that you were
20 handling?

21 A. Not in addition to the ones that I was
22 handling in general. I'm not -- I don't understand
23 the question.

24 Q. I'm sorry.

25 Apart from first-party casualty claims

1 and auto liability claims, were you handling any
2 other types of claims in 2014?

3 A. Directors and officers claims for
4 homeowners associations, employment practice
5 liability claims. I can't think of any others.

6 Q. Approximately what portion of your
7 claims in 2014 involved auto liability?

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

9 Q. There's a way to find out, I assume.

10 A. Yes.

11 Q. And how would you go about finding out?

12 A. I believe that you can request a report
13 from somebody in home office that will print out
14 all of the claims that were open at any given one
15 time, and it's broken down by coverage type.

16 Q. Prior to 2014, approximately what
17 percentage of the claims have you been handling
18 over your career were auto liability claims?

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

20 Q. Was it more than 50 percent?

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

22 Q. Okay. Throughout your tenure at
23 Auto-Owners from '98 to 2014, was there ever a time
24 where you were handling only auto liability claims?

25 A. No.

1 Q. Okay. So you've always been handling
2 multiple different lines of insurance?

3 A. Well, no. You said auto liability.

4 Q. Yes.

5 A. There's also auto first-party
6 comprehensive claims. I handled those when I first
7 came to Auto-Owners.

8 Q. Was there ever a time when you were not
9 handling auto liability claims for Auto-Owners?

10 A. No.

11 MR. VILMOS: Are you still in that time
12 frame up through 2014?

13 BY MR. BONNER:

14 Q. Yeah, 1998 through 2014.

15 As assistant manager, have your job
16 duties changed?

17 A. Yes.

18 Q. Okay. Please tell me what your current
19 job duties are.

20 A. The supervision of the claim
21 representatives assigned to our office, training
22 assistants, basically managing the office.

23 Q. Okay. Is there anyone who supervises
24 you?

25 A. Yes.

1 Q. Who?

2 A. Jim Jordan is the regional manager for
3 the State of Florida.

4 Q. And back in 2014, who was your
5 supervisor?

6 A. Stan Smith.

7 Q. Did he retire?

8 A. No.

9 Q. Is he still employed at Auto-Owners?

10 A. Yes.

11 Q. You didn't take his position, though,
12 did you?

13 A. Yes.

14 Q. Okay. What is he doing now?

15 A. He's a claim coordinator.

16 Q. And when did you take over Mr. Smith's
17 position?

18 A. I believe it was September of -- it will
19 be two years ago this September. So
20 September 2015.

21 Q. And Stan, when he was your supervisor,
22 his supervisor was still Jim Jordan?

23 A. Yes.

24 Q. Okay. How many adjusters work in the
25 Ocala office?

1 A. Nine, currently, with one --

2 Q. And in 2014 --

3 MR. VILMOS: I'm sorry. Were you
4 finished with your answer?

5 A. I was going to say with one open
6 position.

7 BY MR. BONNER:

8 Q. Okay. And in 2014, was it also nine?

9 A. No. I believe eight.

10 Q. Okay. How do adjusters typically
11 interact with their supervisors? Is it in person?
12 By email?

13 A. Both.

14 MR. VILMOS: Object to the form.
15 Compound.

16 BY MR. BONNER:

17 Q. Sorry.

18 And what does a supervisor do to
19 supervise an adjuster handling claims?

20 A. They come to me with questions. I help
21 them work through coverage issues. I help them
22 review medical claims, any other general insurance
23 questions they may have.

24 Q. Do you ever audit any of the claims that
25 the adjusters in your office are handling?

1 A. Yes.

2 Q. Did that happen when you were an
3 adjuster?

4 A. I'm not sure if Stan did or not.

5 Q. Okay. And when you do an audit, what do
6 you do?

7 A. I request a computer random selection of
8 files in preparation for their performance review.

9 Q. Okay. And as part of a performance
10 review, what are you looking for in their files?

11 A. That they adhere to the claims handling
12 guide as often as possible, that they're providing
13 good customer service, and that there aren't any
14 consistent coverage mistakes, that sort of thing.

15 Q. In order to make sure that they're
16 providing good customer service, do you look for
17 communications being documented in the file?

18 A. Not necessarily. It's more timeliness,
19 responding to agent and insured inquiries in a
20 timely manner, and that sort of thing.

21 Q. And how do you determine if they're
22 timely? Is there some documentation or...

23 A. There would be -- there would be a
24 request, and then there would be an email or -- if
25 it were a phone call, usually there's a note about

1 speaking with whoever it was asking whatever it was
2 they were asking.

3 Q. Okay. And when you refer to a note, you
4 mean an entry in the claims diary, like what we're
5 looking at in Exhibit 2?

6 A. Yes, but there's not always a note.

7 Q. Okay. But that's the type of stuff that
8 you're looking for when you're evaluating the
9 timeliness of the communications?

10 MR. VILMOS: Object to the form.

11 A. Are you asking me if I'm only looking
12 for claim notes? I don't understand the question.

13 BY MR. BONNER:

14 Q. No.

15 You're looking for claims notes, you're
16 looking for emails, you're looking for
17 communications; those are the sorts of things you
18 look for to identify the communication that's been
19 timely met?

20 MR. VILMOS: Object to the form.

21 A. Yes.

22 BY MR. BONNER:

23 Q. Do you happen to know if the
24 Ledford-Cawthorn claim was ever audited by anyone?

25 A. It wouldn't have been, no.

1 Q. Why do you say it wouldn't have been?

2 A. Audited files tend to be closed files.

3 Q. Okay. Tend to be. Are they always
4 closed files?

5 A. On a formal audit, yes.

6 Q. What about do you happen to know if the
7 Cawthorn-Ledford claim was ever informally audited?

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

9 Q. Who would? Stan Smith?

10 A. No. He would not have audited that file
11 for any reason, so... I don't -- I'm sorry. I
12 don't know what the answer is.

13 Q. Okay. Back in 2014, did you have a
14 specific level of settlement authority for auto
15 liability claims?

16 A. Settlement authority is always a
17 confusing term because settlement authority is a
18 number arrived at upon consultation sometimes with
19 others, taking into account all of the facts of the
20 accident. I did need to consult with someone else
21 if I felt the potential for the claim was in excess
22 of \$50,000.

23 Q. So you had discretion to make a
24 settlement offer in an auto liability claim up to
25 \$50,000 without consulting anyone else?

1 A. That's correct.

2 Q. Okay. But if you wanted to make a
3 settlement offer in excess of \$50,000, that
4 required approval from someone?

5 A. It didn't require it, but it is strongly
6 recommended.

7 Q. Okay. Who would be approving a
8 settlement offer in excess of \$50,000?

9 A. I would be consulting with Melinda
10 Pitman in our legal department.

11 Q. Would there be anyone else who would be
12 consulted for that decision?

13 A. I don't know what their level of
14 consultation is. I don't know.

15 Q. The only person from whom you would seek
16 consent to make a settlement offer in excess of
17 \$50,000 is Ms. Pitman?

18 A. That's correct.

19 Q. Okay. Mr. Smith would not be involved?

20 A. No.

21 Q. And neither would Mr. Jordan?

22 A. No.

23 Q. For a settlement of a claim with a
24 policy limits of \$3 million, Mr. Smith wouldn't be
25 involved in that decision to extend a \$3 million

1 settlement offer?

2 A. No.

3 Q. And the same question for Mr. Jordan, he
4 also would not be involved in a decision to extend
5 the \$3 million settlement offer?

6 A. No.

7 Q. Okay. It appeared, based on one of the
8 answers you gave a moment ago, that there would be
9 circumstances in which you could extend a
10 settlement offer in excess of \$50,000 without
11 Ms. Pitman's consent; is that true?

12 A. Yes.

13 Q. Can you describe for me those
14 circumstances?

15 A. Being presented with facts that
16 justified an offer in that amount, being unable to
17 get in touch with them at that point often at
18 mediation that extends late, that sort of thing.

19 Q. When you said unable to get in touch
20 with them, do you mean Ms. Pitman?

21 A. Yes.

22 Q. So one example of when you might extend
23 a \$50,000 settlement offer without Ms. Pitman's
24 consent is when she was unavailable?

25 A. No. I could extend a \$50,000 settlement

1 without anyone's being available.

2 Q. Okay. Without anyone -- anyone being
3 without any person in the legal department?

4 A. You said --

5 MR. VILMOS: Object to the form.

6 A. You said \$50,000. I could make that
7 decision without consultation with anyone.

8 BY MR. BONNER:

9 Q. My apologies. I was not trying to be
10 tricky. I meant to say in excess of \$50,000. So
11 let me see if I can get the question right --

12 A. Okay.

13 Q. -- and then I'll get the answer I'm
14 looking for.

15 My question is: One example of an
16 occasion where you might extend a settlement offer
17 in excess of \$50,000 is when Ms. Pitman were
18 unavailable for a consultation?

19 MR. VILMOS: Objection. Leading.

20 You can answer the question.

21 A. Yes, but that's only if there wasn't
22 anybody else available either. You can always ask
23 to speak to someone else and have them discuss the
24 situation with you.

25

1 BY MR. BONNER:

2 Q. So, as a general matter, you would not
3 extend an offer in excess of \$50,000 without first
4 trying to reach either Ms. Pitman or someone else
5 in her department?

6 A. That's correct, unless it were after
7 hours.

8 Q. And if it were after hours, would you go
9 forward with the settlement offer or you would wait
10 until the next day?

11 A. I would go forwarded with the offer.

12 Q. And apart from Ms. Pitman or another
13 representative in the legal department being
14 unavailable, are there any other circumstances in
15 which you might extend an offer in excess of
16 \$50,000 without Ms. Pitman's consent?

17 A. When provided irrefutable facts of the
18 value of the claim, I think it's my good faith duty
19 to do that.

20 Q. Back in 2014, was there anyone else,
21 other than Ms. Pitman, who worked on the
22 Ledford-Cawthorn matter with you?

23 A. I don't believe so.

24 Q. And you suggested that as a senior
25 claims representative, you handled more serious

1 cases?

2 A. That's correct.

3 Q. And in 2014, the Cawthorn-Ledford matter
4 was assigned to you because it was identified early
5 on to be a serious case?

6 A. Yes.

7 Q. I understand that it was transferred to
8 the Ocala office from the South Carolina office?

9 A. That's correct.

10 Q. Do you know if it had been identified as
11 a serious claim before it was transferred to you?

12 A. No.

13 Q. Who identified it as a serious claim?

14 A. I believe that I did.

15 Q. Were you the first person in the Ocala
16 office to review the claim?

17 A. Yes, other than support staff setting it
18 up and assigning it.

19 Q. Okay. In 2014, when you were assigned
20 an auto liability claim, did you have any
21 particular protocols that you tried to follow in
22 every case?

23 A. We typically try to get in touch with
24 the insured to determine the facts of the accident.

25 Q. Okay. Anything else?

1 A. Again, the investigative process and,
2 you know, accumulate incident reports, police
3 reports, try to contact parties via mail that you
4 don't have phone numbers for, that sort of thing.

5 Q. What specifically about the
6 Cawthorn-Ledford claim when you first received it
7 led you to identify it as a serious claim, if you
8 recall?

9 A. I believe it was because Madison had
10 been airlifted from the scene.

11 Q. And that information -- I suspect you
12 recall this -- is on the police report; correct?

13 A. Yes.

14 Q. We'll get to it in a minute. It's not a
15 memory test, but I also recall that information too
16 specifically being there.

17 Do you recall the date that you
18 identified the Ledford-Cawthorn claim as being a
19 serious claim?

20 A. I can refer to these notes to give you
21 the specific date.

22 Q. Okay. Let the record reflect that the
23 witness is looking at the claims diary marked as
24 Exhibit 2.

25 A. I believe that would have been on

1 April 17th of 2014.

2 Q. April 17th?

3 A. Yeah.

4 Q. In a case where a settlement offer is
5 extended in excess of \$50,000, I believe you said
6 that the decision to determine the amount is, for
7 lack of a better word, collaborative?

8 MR. VILMOS: Object to the form.

9 A. Answer or don't answer?

10 BY MR. BONNER:

11 Q. Oh, you can answer the question if you
12 understand it.

13 MR. VILMOS: You can answer.

14 A. Under most circumstances, yes.

15 BY MR. BONNER:

16 Q. Okay. And when I use the word
17 "collaborative," what I mean is it's a joint
18 decision between more than one person.

19 A. Yes, under most circumstances.

20 Q. And in the claims you were handling, in
21 most circumstances it was a joint decision between
22 you and Ms. Pitman?

23 A. Can you repeat that question?

24 Q. Sure.

25 And in most cases where you ultimately

1 extended an offer in excess of \$50,000, was the
2 decision a joint one between you and Ms. Pitman, or
3 was it a decision by you primarily, or was it
4 primarily a decision by Ms. Pitman?

5 A. When offers were made in excess of
6 \$50,000, yes, generally it was collaborative with
7 Ms. Pitman.

8 Q. Okay. Were there ever times where
9 Ms. Pitman wanted to extend an offer that you
10 disagreed with?

11 A. I don't recall.

12 Q. And what about the opposite situation
13 where you wanted to extend an offer and Ms. Pitman
14 disagreed with that?

15 A. I could -- I have made recommendations
16 before that she didn't agree with, but we usually
17 talked about the situation and got on the same page
18 with input from her that I may not have considered
19 or vice versus.

20 Q. In the cases where there's a
21 disagreement between what amount to make in a
22 settlement offer between you and Ms. Pitman --

23 MR. VILMOS: Object to the form. It's
24 not the word she used.

25

1 BY MR. BONNER:

2 Q. All right. Well, that's fine.

3 In the event there's a disagreement
4 between you and Ms. Pitman regarding the amount of
5 the settlement offer to make, does Ms. Pitman's
6 decision trump yours?

7 MR. VILMOS: Object to the form.

8 A. We don't end up in disagreement. I may
9 disagree at the beginning; but after further
10 consultation between the two of us, we are on the
11 same page.

12 BY MR. BONNER:

13 Q. Okay. That notwithstanding, in 2014,
14 did you have authority to disregard Ms. Pitman if
15 she disagreed with you about extending a settlement
16 offer?

17 MR. VILMOS: Objection to the form.

18 You can answer, if you understand the
19 question.

20 A. No.

21 BY MR. BONNER:

22 Q. You did not have authority to do that?

23 A. To disregard her --

24 Q. Right.

25 A. -- evaluation, no.

1 Q. I'll rephrase the question, just in case
2 there was any ambiguity.

3 In 2014, you did not have authority to
4 disregard Ms. Pitman if she disagreed with you
5 about extending a settlement offer?

6 MR. VILMOS: Objection to the form. Are
7 you asking a hypothetical? Because she
8 testified that they were on the same page.

9 BY MR. BONNER:

10 Q. Do you understand the question?

11 A. Not specifically, no.

12 MR. BONNER: Okay. Can you reread the
13 question?

14 (The last question was read back by the
15 court reporter.)

16 MR. VILMOS: Objection to the form. It
17 misstates the prior testimony.

18 BY MR. BONNER:

19 Q. That's fine.

20 If you understand, you can answer.

21 A. I can't think of a single circumstance
22 where I would need to disregard her opinion. And
23 if it ever came to that level, then we would bring
24 in a third party to all be on the same page.

25 Q. I hear you.

1 There is a claims handling manual that
2 Auto-Owners adjusters use?

3 A. That's correct.

4 Q. And it sets forth specific standards,
5 protocols for proper claims handling?

6 A. That's correct.

7 Q. And according to that claims manual, an
8 adjuster cannot make a settlement offer in excess
9 of \$50,000 without receiving consent from home
10 office legal; true?

11 A. I don't specifically recollect that
12 passage.

13 MR. BONNER: Let's go ahead and mark
14 this as Exhibit 56.

15 MR. MARTINEZ: That's already marked.

16 MR. BONNER: I --

17 (Plaintiff's Exhibit 56 was marked for
18 identification.)

19 BY MR. BONNER:

20 Q. I'm going to mark this as Exhibit 56.

21 All right. I'm going to show you
22 page 25. And this might not be the correct
23 section. And if it's not the correct section that
24 governs when or under what circumstances an
25 adjuster would have authority to extend an offer

1 over \$50,000, please tell me.

2 MR. VILMOS: Mr. Bonner, do you have a
3 copy of that for us?

4 MR. BONNER: Oh, yeah, sure, here.

5 MR. VILMOS: Page 25 you said?

6 MR. BONNER: 25.

7 BY MR. BONNER:

8 Q. First of all, is that the appropriate
9 section that would govern extending a settlement
10 offer in excess of \$50,000?

11 A. This doesn't govern settlement offers.
12 It's reporting requirements.

13 Q. Okay. Could you do me a favor? Because
14 I've been told that this manual is not complete.
15 Could you confirm for me that it's not a complete
16 claims manual?

17 A. Yes.

18 Q. Can you leaf through it and tell me if
19 there's a section that governs when you have
20 authority to make a settlement offer in excess of
21 \$50,000? And if so, is that missing from the
22 production I've been given?

23 MR. VILMOS: Object to the form to the
24 extent it asks about the production.

25 I'm not sure that she is the attorney in

1 this case that was responsible for the
2 production; otherwise, you can answer.

3 MR. BONNER: It's a fact question.

4 MR. VILMOS: It assumes facts not in
5 evidence. The same objection.

6 You can look through and answer.

7 A. I don't believe that there is a section
8 specifically with regard to settlement authority.

9 BY MR. BONNER:

10 Q. Okay. You don't believe there's a
11 section in the claims handling manual?

12 A. No, which was why I answered previously.

13 Q. Okay. So let me ask a related question.

14 Is there a section in the claims
15 handling manual that governs communications to home
16 office legal in which you would make a request for
17 authorization to extend a settlement in excess of
18 \$50,000?

19 A. There's a section that addresses what
20 should be contained in a settlement authority
21 request, but it doesn't have a dollar amount
22 attached to it in that section.

23 Q. Is that in the Exhibit 56 that I've
24 provided to you?

25 A. Yes.

1 Q. Can you point to me the page number?

2 A. On -- I don't see a page number -- oh,
3 I'm sorry. The -- 19.

4 MR. VILMOS: Just for the record, when
5 you say page number, it appears that there
6 are no page numbers on these documents, but
7 you're referring to the Bates stamp label at
8 the left corner?

9 MR. BONNER: I think the witness is
10 referring to -- and you can confirm if I've
11 got this wrong -- the five numeral number in
12 the lower right-hand page.

13 THE WITNESS: That's correct.

14 MR. VILMOS: That's actually more about
15 your question. When you're referring to page
16 numbers, is that what you were referring to?

17 BY MR. BONNER:

18 Q. Okay. So it says, "Requests should be
19 presented well in advance of mediation settlement
20 conferences or trial."

21 Correct? This would be in the third
22 paragraph.

23 A. Yes.

24 Q. Okay. It also says, in the second
25 paragraph, "Home office should be advised of

1 current reserves on files and all changes."

2 Correct?

3 A. Yes.

4 Q. Okay. So when you make a request to
5 home office legal -- well, sorry. Strike that.

6 This provision governs what should be
7 contained in a request for settlement authority
8 that's made to home office legal; correct?

9 A. Yes.

10 Q. But it does not say the circumstances
11 when a request should be made to home office legal?

12 A. That's correct.

13 Q. Are there rules and protocols that
14 govern when a request should be made to home office
15 legal?

16 A. No.

17 Q. There are none?

18 A. No.

19 Q. All right. You are familiar with the
20 Auto-Owners' standard and protocols for proper
21 claims handling; correct?

22 A. Yes.

23 Q. You've been at Auto-Owners since 1998;
24 so you've been there 19 years?

25 A. Correct.

1 Q. Over the 19 years you've been at
2 Auto-Owners, you've received training on the
3 covenant of good faith as it applies here in
4 Florida?

5 A. We review the Unfair Claims Practices
6 Act yearly.

7 Q. Okay. Have you received any other
8 training in addition to reviewing the Unfair Claims
9 Practices Act with regards to the covenant of good
10 faith as it applies in Florida?

11 A. There aren't any formal -- isn't any
12 formal training I've had at Auto-Owners. I've
13 attended seminars and that sort of thing.

14 Q. Over the 19 years of working for
15 Auto-Owners, you've become familiar with the
16 standards and practices that are consistent with
17 the obligation of good faith in Florida?

18 A. Yes.

19 Q. Okay. With respect to the
20 Ledford-Cawthorn matter, do you contend that you
21 followed proper standards and protocols?

22 A. Yes.

23 Q. To your knowledge, was any part of the
24 Ledford-Cawthorn matter handled improperly?

25 A. No.

1 Q. If you had it to do all over again,
2 would you do anything differently with respect to
3 the Ledford-Cawthorn matter?

4 A. No.

5 Q. An insurance company has a duty of good
6 faith to protect a policyholder's best interest;
7 true?

8 A. Yes.

9 Q. It also has the duty of good faith to be
10 honest with its policyholder; true?

11 A. Yes.

12 Q. An insurer must not misrepresent
13 material information to its policyholder?

14 A. Yes.

15 Q. If an insurance company receives notice
16 that an accident has occurred, an insurance company
17 should interview its policyholder with regards to
18 the accident; true?

19 A. If that's a possibility, yes.

20 Q. If the insurance company is able to
21 interview its policyholder, that interview should
22 be well documented in the insurance company's file;
23 true?

24 A. Not necessarily.

25 Q. Should it be recorded?

1 A. Not necessarily.

2 Q. If there are more than one insureds,
3 then all insureds should be interviewed following
4 the accident, if possible; true?

5 A. It depends on a number of factors.

6 Q. So they should not be interviewed?

7 MR. VILMOS: Object to the form. It
8 misstates the --

9 BY MR. BONNER:

10 Q. Do you understand the question?

11 A. You said, I believe, that all insureds
12 should be interviewed on every claim, and I said
13 that it depends on the nature of the claim.

14 Q. Okay. And in what circumstances should
15 you not interview an insured?

16 A. Husbands and wives are often listed as
17 co-insureds on a policy, and I don't believe it's
18 necessary to speak with all parties when one of
19 them can tell you the facts.

20 Q. Okay. Apart from situations where you
21 have a married couple as co-insureds, are there
22 other situations where an insurance company should
23 not interview an insured following an accident?

24 A. I don't believe that there are
25 circumstances where they should not be interviewed.

1 I'm saying that it's not necessary that they always
2 be contacted.

3 Q. Okay. You'd agree with me, though --
4 and if you don't, just tell me -- that best claims
5 handling practices include attempting to contact
6 and interview any insurer involved in an accident?

7 A. No.

8 MR. VILMOS: Object to the form.

9 You can answer.

10 BY MR. BONNER:

11 Q. Okay. Outside of a case where a
12 coinsured is a spouse of a person involved in an
13 accident, what other circumstances are there in
14 which it is proper claims handling practices to not
15 interview an insured?

16 MR. VILMOS: Object to the form.

17 A. I could sit here all day and try to
18 figure out circumstances. I mean if you want to
19 ask me about one specifically, then I can say yes
20 or no, but I can't --

21 BY MR. BONNER:

22 Q. Well, let's do this. Following an auto
23 liability accident, do you agree with me that best
24 claims handling practices require that the
25 insurance company should interview the driver of

1 that accident?

2 A. Under most circumstances, yes.

3 Q. Can you name for me any circumstances
4 other than death in which you should not interview
5 the driver involved in an accident?

6 A. When the facts about the accident are
7 clear, such as in this case, and when the person
8 who was driving is emotionally broken from the
9 results of the accident.

10 Q. Okay. Let's move on. Let's go to
11 whether or not you should investigate a claim.

12 You agree with me that after an
13 accident, an insurance company should investigate a
14 claim; correct?

15 A. Of course.

16 Q. And after an accident investigate the
17 circumstances of an accident; true?

18 A. Of course.

19 Q. And to do that, an insurance company
20 must identify witnesses who might have relevant
21 information; true?

22 A. Yes.

23 Q. And once identifying witnesses who have
24 relevant information, it should attempt to
25 interview those witnesses to find out what

1 information they have?

2 MR. VILMOS: Object to the form.

3 Argumentative.

4 You can answer.

5 A. I don't believe that interviewing any
6 witnesses would have changed my initial evaluation
7 of this case.

8 BY MR. BONNER:

9 Q. I understand that.

10 I'm talking about as a general practice,
11 when you handle a claims investigation, you agree
12 with me that you must identify the key witnesses
13 who have relevant information; true?

14 A. I believe that the identification of the
15 witnesses is important but not necessarily the
16 contact of those witnesses.

17 Q. And the reason identifying a witness
18 with relevant information is important is because
19 you weren't there for the accident; correct?
20 You're not there for the accident; so you don't
21 know what happened unless you investigate it?

22 MR. VILMOS: Objection. Compound.

23 Form.

24 A. That's correct, but a witness isn't
25 always necessary to confirm facts that you may have

1 obtained otherwise.

2 BY MR. BONNER:

3 Q. Okay. Without having been at the
4 accident, you have to collect evidence to determine
5 what happened; true?

6 A. Yes.

7 Q. Okay. Part of determining what happened
8 involves collecting -- analyzing a situation and
9 finding out what evidence exists; correct?

10 MR. VILMOS: Form.

11 A. I don't believe that you have to talk to
12 every single person in an accident when you come to
13 a conclusion prior to talking to those people that
14 leads you to believe that their information would
15 not affect your evaluation.

16 BY MR. BONNER:

17 Q. But when you first get a claim, you have
18 to evaluate the claim to see what evidence there is
19 before you do anything else; correct?

20 A. No. You review coverage under the
21 policy and then you investigate liability and then
22 you investigate damages.

23 Q. Okay. But to investigate liability, you
24 have to first identify what evidence of liability
25 there is; true?

1 A. Yes, but I believe that you're trying to
2 get me to say that you should interview every
3 witness on every claim, and that is not necessary.

4 Q. That wasn't my question.

5 My question was simply you must identify
6 the evidence that's relevant to the issue of
7 liability, and that much I think you agree with?

8 A. Yes.

9 Q. And I think you said coverage was
10 another one. So you have to identify the evidence
11 that might be relevant to coverage; true?

12 A. Yes.

13 Q. Okay. And once you identify that
14 evidence, then you can make decisions about what
15 you do next in your investigation?

16 A. Yes.

17 Q. You can make a decision about whether
18 you think that a particular piece of evidence is
19 important or unimportant; true?

20 A. Yes.

21 Q. And if it's unimportant, I believe what
22 you're telling me is you don't have to follow up
23 that piece of evidence?

24 MR. VILMOS: Object.

25 A. Not always. It depends.

1 BY MR. BONNER:

2 Q. It depends.

3 And what I'm saying is that if you
4 identify a piece of evidence as being not
5 particularly important, your testimony is that you
6 don't always have to follow up that piece of
7 evidence?

8 MR. VILMOS: Form. Argumentative.

9 You can answer.

10 A. Can you repeat the question again?

11 MR. BONNER: Can you read it back?

12 MR. VILMOS: Please.

13 (The last question was read back by the
14 court reporter.)

15 A. I don't think that I would characterize
16 it as necessarily unimportant but not integral to
17 the evaluation of the claim.

18 BY MR. BONNER:

19 Q. When you identify the evidence, you
20 probably have certain evidence that you give
21 priority to? I mean certain components of your
22 future investigation that are given priority.

23 MR. VILMOS: Form. Compound.

24 A. I don't -- I don't -- I didn't hear a
25 question.

1 BY MR. BONNER:

2 Q. Okay. When you identify all of the
3 evidence that's available in a claim, I believe you
4 said that you don't have to, for example, interview
5 every witness; correct?

6 A. Yes.

7 Q. Okay. So what informs that decision?
8 You must evaluate the evidence and decide what
9 pieces of evidence you should give priority to
10 following up as opposed to ones that might have a
11 lesser priority?

12 MR. VILMOS: Form. Compound.

13 A. In this case and in others like it, when
14 you have enough -- when you have enough information
15 already to make a liability decision, then whether
16 or not a witness is important or not doesn't have
17 anything to do with the follow-up. You already
18 have enough information.

19 BY MR. BONNER:

20 Q. Okay. And it's because you've
21 identified the most important information, and
22 you've given weight to it; correct?

23 A. I wouldn't characterize it as the most
24 important. I had the information necessary to make
25 what I felt was an informed liability opinion.

1 Q. And when you say you had the information
2 necessary, when you're first introduced to a case,
3 you don't have any information?

4 A. That's correct.

5 Q. So then you gather the information;
6 true?

7 A. Yes.

8 Q. Okay. And part of gathering the
9 information is you identify what's out there? You
10 identify if there's a police report, for example?

11 A. Yes.

12 Q. You identify if there are any
13 eyewitnesses, for example?

14 A. Yes.

15 Q. Okay. You identify whether or not your
16 insured is incapacitated?

17 A. Yes.

18 Q. Okay. And if he's not incapacitated,
19 you observe that fact; true?

20 A. Yes.

21 Q. You might see if there's any video
22 cameras that took a videotape of the accident;
23 true?

24 A. I wouldn't seek that information unless
25 I didn't have enough information to make a

1 decision --

2 Q. Sure.

3 A. -- and especially if it wasn't
4 referenced on the police report.

5 Q. So once you had the police report, once
6 you've identified who the witnesses are and once
7 you've identified whether or not your insured is
8 capacitated, your investigation isn't done then, is
9 it?

10 A. If that information provides you with
11 enough information to make a liability decision,
12 then yes.

13 Q. Okay. And if it does not provide you
14 with enough information, you continue to
15 investigate; true?

16 A. That's correct.

17 Q. Okay. And part of that investigation
18 can entail interviewing witnesses?

19 A. Of course.

20 Q. Okay. Some of that information or that
21 follow-up can entail interviewing your insured;
22 correct?

23 A. Yes.

24 Q. Okay. And it can involve taking
25 pictures of the accident scene; true?

1 A. Yes.

2 Q. And it can involve taking pictures of
3 the accident vehicle?

4 A. Yes.

5 Q. It can involve following up with the
6 trooper who investigated the scene to find out if
7 the trooper had any evidence or any information
8 relevant to your inquiry; true?

9 A. Yes.

10 Q. Okay. You might also request 9-1-1
11 tapes, if they were relevant to your inquiry?

12 A. I might, yes.

13 Q. Okay. Do you agree with me that an
14 insurance company has a duty to investigate whether
15 or not its policyholder is liable for an accident?

16 A. Yes.

17 Q. Okay. And its investigation of the
18 accident should be impartial --

19 A. Yes.

20 Q. -- true?

21 And its investigation of the accident
22 should be prompt; true?

23 A. Yes.

24 Q. And its investigation of the accident
25 should be thorough; true?

1 A. Yes.

2 Q. Its investigation of the accident should
3 be well documented in the file; true?

4 A. Yes.

5 Q. As part of an insurance company's
6 investigation, it should investigate whether the
7 policyholder is at fault for the damages being
8 claimed; true?

9 A. It depends.

10 Q. It should also investigate whether other
11 parties might be at fault for the damages being
12 claimed?

13 A. Not in every case. It depends.

14 Q. If a claim is made against an insured,
15 the insurance company's duty to investigate
16 includes investigating whether or not the insured
17 is at fault?

18 A. Yes.

19 Q. And if a claim is made against an
20 insured, an insurance company's duty to investigate
21 involves looking into whether other parties, not
22 your insured, might be at fault for the accident?

23 A. Not necessarily. It depends.

24 Q. You agree with me that when you defend
25 an insured, the insured gives over the right to

1 control his own defense?

2 A. No.

3 Q. The insurance policy includes what's
4 called a duty and a right to defend; correct?

5 A. Yes.

6 Q. Okay. And under that duty and right to
7 defend, Auto-Owners has an obligation to defend its
8 insured; correct --

9 MR. VILMOS: Object to the extent it
10 calls for a legal conclusion.

11 BY MR. BONNER:

12 Q. -- based on your 19 years of experience
13 at Auto-Owners?

14 A. Yes.

15 Q. Okay. An insured, who is being defended
16 by an insurance company, is not allowed to settle
17 his own claim without the insurance company's
18 consent; true --

19 MR. VILMOS: The same objection.

20 BY MR. BONNER:

21 Q. -- based on your 19 years of experience?

22 A. That depends.

23 Q. Okay. The insurance company's duty to
24 defend means that it pays for the lawyer defending
25 the insured; correct?

1 A. That's correct.

2 Q. And as part of an insurance company's
3 duty to defend its insured, the insurance company
4 must look into whether or not the insured is
5 actually at fault for the damages being claimed?

6 MR. VILMOS: Object to the form.
7 Argumentative.

8 A. As part of the duty to defend?

9 BY MR. BONNER:

10 Q. Mm-hmm.

11 A. I don't -- I don't know the answer to
12 that. I'm sorry.

13 Q. And as part of its obligation to defend
14 the insured against suits against him, an insurance
15 company has a duty to look into whether another
16 party might be potentially at fault for the damages
17 being claimed?

18 MR. VILMOS: Object to the form.

19 A. Isn't that the same question?

20 BY MR. BONNER:

21 Q. No, no. I asked whether or not it had a
22 duty to investigate the liability of the insured
23 and also, a follow-up, whether or not it had a duty
24 to investigate whether other parties might be
25 liable for some or all of the damages.

1 A. I don't know whether or not that falls
2 under the duty to defend.

3 Q. Okay. Do you agree with me that if
4 relevant to the insurance company's investigation,
5 an insurance company should identify any physical
6 evidence that might be relevant to the ultimate
7 outcome of a claim against its insured?

8 A. I believe the key word is relevant, but
9 yes.

10 Q. True.

11 And an insurance investigation should
12 identify any witnesses who may have relevant
13 knowledge that would be ultimately -- sorry.
14 Strike that.

15 And as part of the insurance company's
16 duty to investigate, it should also identify any
17 witnesses who would have relevant information to
18 whether or not the insured is ultimately liable?

19 MR. VILMOS: Asked and answered.

20 You can answer again.

21 A. If it's relevant. But, again, I don't
22 know that taking a statement from a witness, when
23 you have enough information to determine liability,
24 is required.

25

1 BY MR. BONNER:

2 Q. Okay. Not my question.

3 My question was simply: Do you agree
4 that the insurance company's duty is to identify a
5 witness who may have relevant information to an
6 insured's liability?

7 MR. VILMOS: Asked and answered.

8 BY MR. BONNER:

9 Q. True?

10 A. Yes.

11 Q. If appropriate, physical evidence should
12 be collected in investigation of a claim?

13 A. If appropriate, yes.

14 Q. And if appropriate, the vehicle involved
15 in an accident should be investigated; true?

16 MR. VILMOS: Object to the form.

17 A. If you are able to.

18 BY MR. BONNER:

19 Q. If you are able to.

20 And if appropriate, an insurance company
21 should collect evidence regarding an injured
22 party's claims?

23 A. Yes.

24 Q. Okay. If photographs are available of
25 the injured party's claims, an insurance company

1 should collect them --

2 MR. VILMOS: Objection to form.

3 BY MR. BONNER:

4 Q. -- true?

5 A. If you still need additional information
6 to make a decision, then yes.

7 Q. So if you do not need photographs to
8 make a decision as to whether or not to extend the
9 settlement offer to a claimant, you do not need to
10 seek those photographs?

11 A. I don't believe so, no.

12 Q. Okay. Based on an insurance company's
13 investigation, an insurance company should
14 determine as promptly as possible whether the
15 policyholder is liable for the damages being
16 claimed against him?

17 A. Yes.

18 Q. It should notify the policyholder of its
19 determination regarding liability promptly?

20 A. Yes.

21 Q. An insurance company should advise the
22 insured that the probable outcome of any litigation
23 filed against him or her?

24 A. That depends on the circumstances.

25 Q. Okay. And if the potential damages are

1 likely to exceed the insured's policy limits, the
2 insurance company should promptly advise the
3 insured of his potential liability above his policy
4 limits?

5 A. Yes.

6 Q. An insurance company should advise the
7 insured of any steps that he or she might take to
8 avoid having to pay damages in excess of his or her
9 policy limits?

10 A. Yes.

11 Q. An insurance company should advise its
12 insured of his right to contribute personal assets
13 towards any potential settlement; true?

14 MR. VILMOS: Repeat the question back.
15 Lance.

16 (The last question was read back by the
17 court reporter.)

18
19 A. That depends. I --

20 BY MR. BONNER:

21 Q. Let me change the question.

22 In a situation where the insured is
23 facing exposure to liability above his policy
24 limits, it is a duty in Florida for the insurance
25 company to advise the insured of his right to

1 contribute his personal assets towards a settlement
2 of his claim?

3 MR. VILMOS: Objection to the form.

4 A. I am unaware if -- of that specific
5 requirement, but we would suggest that they seek
6 legal advice, not advise them any further than
7 that.

8 BY MR. BONNER:

9 Q. Okay.

10 MR. VILMOS: Allen, we've been going for
11 about an hour. Maybe it's a good time to
12 take --

13 MR. BONNER: I've got six more
14 questions, and then I'm at a great stopping
15 point. Can we do that?

16 MR. VILMOS: Are you okay that?

17 THE WITNESS: Mm-hmm.

18 MR. BONNER: I mean if you need it, just
19 tell me and you can have it.

20 THE WITNESS: No, I'm good.

21 BY MR. BONNER:

22 Q. An insurance company should settle, if
23 possible, where a reasonably prudent person faced
24 with the prospect of paying a total recovery would
25 do so?

1 A. Yes.

2 Q. And where prudent, an insurance company
3 should offer its policy limits in settlement to
4 avoid exposing an insured to excess liability?

5 A. That depends.

6 Q. If it is prudent to do so, an insurance
7 company should offer its policy limits in
8 settlement to avoid exposing its insured to excess
9 liability?

10 MR. VILMOS: Object to the form. Asked
11 and answered.

12 A. It depends.

13 BY MR. BONNER:

14 Q. In other words, where an insurer reaches
15 a point where it concludes that the potential
16 liability for a claimant's injuries would exceed
17 its policyholder's limits, it should settle for the
18 policyholder's limits, if possible?

19 A. If you have reached the point where you
20 know that it exceeds the limits, then yes.

21 Q. And an insurance company should treat
22 the interests of its policyholder as at least equal
23 to the interests of the insurance company's?

24 A. I believe they should be higher than the
25 interest of the company.

1 Q. You anticipated my very next question.
2 Thank you very much.

3 And the last question I have before we
4 break is: And you agree that the policyholder's
5 interest is paramount to the financial interest of
6 the insurance company?

7 MR. VILMOS: Object to the form. Asked
8 and answered, and it misstates her testimony.

9 BY MR. BONNER:

10 Q. If you understand the question --

11 MR. VILMOS: You can answer.

12 A. I'm sorry. Ask it again.

13 MR. VILMOS: Lance, can you read it
14 back.

15 MR. BONNER: I'll rephrase it.

16 BY MR. BONNER:

17 Q. The policyholder's interests are more
18 important than the financial interests of the
19 insurance company?

20 A. Yes.

21 MR. BONNER: Okay. We can go off the
22 record.

23 THE VIDEOGRAPHER: We're off the record
24 at 10:33.

25 (Break from 10:33 a.m. to 11:12 a.m.)

1 THE VIDEOGRAPHER: We're back on the
2 record at 11:12.

3 BY MR. BONNER:

4 Q. Ms. McLean, do you have Exhibit 56 in
5 front of you?

6 A. Yes.

7 Q. Just confirm for me -- I think you
8 already have. That's not the complete claims
9 handling manual, but it is excerpts of the claims
10 handling manual that was applicable in 2014?

11 A. Yes.

12 Q. Okay. I think you looked through it
13 earlier. Are there any specific sections that
14 pertain to auto liability claims in Florida that
15 are not reflected in that document?

16 MR. VILMOS: Object to the form.

17 BY MR. BONNER:

18 Q. If you can just review the document and
19 tell me, because I don't know what the complete
20 manual has. So I'm trying to ask a person who
21 might know whether there are any sections
22 applicable to auto liability claims that are
23 missing.

24 MR. VILMOS: Are you asking her to look
25 through Exhibit 56 and see what's not in

1 there?

2 MR. BONNER: Just if there is a section
3 that she's aware of that deals with auto
4 liability claims that has been omitted.

5 MR. VILMOS: Omitted.

6 You may answer the question.

7 A. I mean not that I'm aware of. I don't
8 have a catalog.

9 BY MR. BONNER:

10 Q. Yeah.

11 And are you aware of a section specific
12 to Florida bad faith that exists in the claim
13 manual that's not reflected there?

14 MR. VILMOS: Object to the form.

15 A. No.

16 BY MR. BONNER:

17 Q. If you turn to page 0003 of Exhibit 56,
18 the second bullet point refers to the special
19 investigation unit. What is the special
20 investigating unit?

21 A. It's a unit that investigates fraud
22 or -- well, fraud.

23 Q. Okay. All right. So it wouldn't be
24 applicable to this claim, the Cawthorn-Ledford
25 matter?

1 A. No, not at all.

2 Q. Do adjusters in Ocala have access to
3 investigators?

4 A. Yes.

5 Q. And what would an adjuster in Ocala use
6 an investigator to do? Can you give me an example?

7 A. Social media, EUOs, you know, that sort
8 of thing.

9 Q. So an investigator would actually take
10 the examination under oath?

11 A. Under certain circumstances, yes.

12 Q. Sorry. You said social media. So the
13 investigator might look up information available on
14 social media?

15 A. Yes, that's correct.

16 Q. Would an investigator ever interview a
17 witness that was not an examination under oath?

18 A. Yes.

19 Q. Could you dispatch an investigator to
20 take photographs?

21 A. Yes.

22 Q. And could you dispatch an investigator
23 to collect evidence, if you knew where the evidence
24 was?

25 MR. VILMOS: Objection. Relevance.

1 A. I can't think of a circumstance where we
2 would need for them to get something for us.

3 BY MR. BONNER:

4 Q. For example, if there were records that
5 you wanted to pick up at a location outside of
6 Ocala, might you use an investigator to pick up the
7 records?

8 A. We would do that ourselves.

9 Q. Are there any circumstances where you'd
10 use an investigator to do something like that, pick
11 up a police report?

12 MR. VILMOS: Object to the form.

13 Are you talking about a special
14 investigation unit that you just said was not
15 relevant to this claim?

16 MR. BONNER: Can you reread the
17 question?

18 (The last question was read back by the
19 court reporter.)

20 A. No, we would do that ourselves.

21 BY MR. BONNER:

22 Q. Turn to page 13 of Exhibit 56.

23 This is Bates number AO-CHG00013. Are
24 you on that page?

25 A. Yes.

1 Q. Okay. There's a heading that says
2 "Florida Liability Claims"; true?

3 A. Yes.

4 Q. The second paragraph starts with,
5 "Florida's unique exposures benefit from associates
6 accustomed to dealing with Florida issues."

7 Do you see that?

8 A. Yes.

9 Q. Is there anywhere in the claims manual
10 that explains what the phrase "Florida's unique
11 exposures" means?

12 A. Not that I'm aware of.

13 Q. Do you have an understanding what
14 "Florida's unique exposures" means?

15 A. No.

16 Q. In your experience, 19 years, working at
17 Auto-Owners, have you come to learn whether or not
18 there's any aspects of Florida's claims handling
19 that's different from claims handling in other
20 states?

21 A. No.

22 Q. Okay. Further down there's a line that
23 includes the remark that a Florida claim should be
24 resolved without delay. Let me see if I can help
25 get you there.

1 If you look at the fourth bullet point.
2 The last sentence of that paragraph says, "If
3 retained, such claim should be resolved without
4 delay, with a manager's markover to assure delay is
5 avoided."

6 Please take a moment to read that whole
7 paragraph, and look up when you've read it.

8 A. Okay.

9 Q. Okay. So this provision is discussing a
10 claim that's transferred to a Florida office;
11 correct?

12 A. Correct.

13 Q. Okay. And in the context of the claims
14 transferred to a Florida office, it states that
15 those claims should be resolved without delay?

16 A. Yes.

17 Q. Okay. And if you go to the fifth bullet
18 point, it says, "Any file transfer should be
19 handled with sufficient priority that there is no
20 delay in the contact or follow-up of the parties
21 involved."

22 Do you see that?

23 A. Yes.

24 Q. It's true that when handling auto
25 liability claims in Florida it's important to avoid

1 delays?

2 A. Yes.

3 Q. Going back to that fourth bullet point,
4 you'll see that that sentence that I read to you,
5 "If retained, such claims should be resolved
6 without delay."

7 Do you agree with me that it is
8 important to resolve a claim without delay?

9 A. Yes.

10 Q. Okay. In your experience and training,
11 do you agree that a delay can adversely impact the
12 insured?

13 A. Yes.

14 Q. Specifically, a delay can affect whether
15 or not a claimant is willing to settle a claim;
16 true?

17 A. Yes.

18 MR. VILMOS: Object to the form.

19 BY MR. BONNER:

20 Q. And that's one of --

21 MR. VILMOS: I'm sorry. Could you have
22 that question and answer read back?

23 (The last question and answer were read
24 back by the court reporter.)

25

1 BY MR. BONNER:

2 Q. And that's one of the reasons why
3 Florida adjusters are supposed to, quote, resolve,
4 end quote, claims without a delay?

5 A. I think you may be reading that sentence
6 wrong. The sentence is "if retained," which would,
7 in my opinion, mean if a branch outside of Florida
8 keeps the file.

9 Q. Okay. And if a branch outside keeps a
10 file, you agree with me that a delay could
11 adversely affect the outcome of that claim?

12 A. Yes.

13 Q. Okay. Now, I see that this section
14 applies -- this section being the Florida liability
15 claims section on page 13 of document 56 applies to
16 Florida liability claims.

17 Once again, I don't have the whole
18 claims manual. I'm asking you, based on your
19 personal knowledge, if you know there are any other
20 provisions of the claims manual that particularly
21 apply to Florida liability claims that exists that
22 I don't have?

23 A. No, I do not think so.

24 MR. VILMOS: I also just want to make
25 sure the record is clear that on page 12,

1 00012, the heading under which you are
2 referring to page 13 is under claims outside
3 of the branch territory.

4 MR. BONNER: All right.

5 MR. VILMOS: That is the majority of
6 claim of which this is a subsection, which is
7 what the witness was referring to.

8 MR. BONNER: Ms. McLean, will you step
9 outside.

10 (The witness exited the conference
11 room.)

12 MR. BONNER: You get a direct or you get
13 a cross. You can go back and clarify. I
14 don't want you to clarify them on the record
15 in the middle of my interrogation.

16 MR. VILMOS: I'm going to ask you,
17 again, not to intentionally mislead the
18 witness by putting her in the middle of a
19 section of a document without giving her any
20 opportunity to reference the beginning of the
21 document or where she is reading from.

22 MR. BONNER: The witness has had this in
23 front of her for three hours.

24 MR. VILMOS: You directed her to page 13
25 and said look at bullet point four.

1 MR. BONNER: That's correct, I did, and
2 she read it, and she has the document in
3 front of her.

4 MR. VILMOS: And then she corrected you
5 and said --

6 MR. BONNER: And you have an opportunity
7 to clarify whatever you want on your
8 examination.

9 MR. VILMOS: That's fine. I will take
10 that opportunity, but you have a professional
11 obligation not to intentionally put her in a
12 place where she is going to give a confusing
13 answer.

14 MR. BONNER: I don't think she gave a
15 confusing answer.

16 MR. VILMOS: I think she corrected
17 herself when she realized what she was
18 reading.

19 MR. BONNER: All right. Bob, will you
20 go get Ms. McLean?

21 MR. MARTINEZ: Sure.

22 MR. BONNER: My suggestion would be
23 excuse the witness before you give a
24 statement that might affect her testimony.

25 If you have something that you want to

1 ask me to ask or rephrase, I'm happy to
2 address it, but you know the context of an
3 objection in front of a witness can change
4 the testimony.

5 MR. VILMOS: I'm happy to make that
6 accommodation.

7 (The witness re-entered the conference
8 room.)

9 BY MR. BONNER:

10 Q. All right. Thank you, Ms. McLean, for
11 coming back. Let me know when you're ready.

12 A. I'm ready.

13 Q. All right. Let's go to page 22 of
14 Exhibit 56.

15 Okay. Confirm with me that the title of
16 this page is Reserved/File Report Thresholds?

17 A. Yes.

18 Q. As part of your duties as an adjuster in
19 2014, you had a duty to set reserves on the claims
20 you handled; true?

21 A. Yes.

22 Q. And "a reserve" means an estimate of the
23 total cost Auto-Owners might pay on a claim?

24 A. Yes.

25 Q. A reserve is supposed to reflect

1 Auto-Owners' estimate of the damages based on the
2 information it has at the time it sets the reserve?

3 A. Yes.

4 Q. Okay. Reserves can be changed; true?

5 A. Absolutely.

6 Q. And if an adjuster becomes aware of
7 information that justifies changing a reserve, he
8 or she can make that change without seeking any
9 additional authority?

10 A. Yes.

11 Q. Okay. If you turn to page 23 of
12 Exhibit 56, I'll just draw your attention to the
13 last sentence. It says, "Attention to detail on
14 reserving affects the financial stability of
15 Auto-Owners."

16 Correct?

17 A. Yes.

18 Q. Are you training to be as accurate as
19 you can with respect to setting your reserves?

20 A. Yes.

21 Q. Okay. Just real quick, there's an
22 acronym -- and I can find it, if you'd like me
23 to -- but really, I just don't know what it means,
24 and maybe you know off the top of your head.

25 LEE -- I'm sorry. "LAE consideration" means what?

1 A. Loss adjustment expense.

2 Q. What is "loss adjustment expense"?

3 A. The costs for investigating or defending
4 the insured.

5 Q. I see.

6 And so you can include those
7 accompanying costs in addition to potential
8 liability exposure in setting a reserve?

9 A. No, I don't --

10 Q. Oh, no. Okay.

11 A. No.

12 Q. So you exclude loss adjustment expenses
13 from the reserve that you set?

14 A. The reserve is set based on what you
15 think the value of the injured party or damaged
16 properties claim value is.

17 Q. So in the context of a liability claim,
18 the reserve is set based on what you believe the
19 claimant's liability damages are?

20 A. Could be.

21 Q. Could be. Excuse me.

22 And there's a mention on here -- again,
23 I'll find it for you, if you'd like, but maybe you
24 can just tell me what it is.

25 What is a "liability captioned report"?

1 A. It's just the title of a report that you
2 send to the legal department when you notify them
3 of a file that you'd like for them to follow.

4 Q. And is there a particular form that has
5 to be used when you prepare a liability captions
6 report?

7 A. No.

8 Q. It can just be an email?

9 A. Yes.

10 Q. Does it have specific information that
11 must be included in the report?

12 A. There's information that's requested to
13 be included, but it's not required.

14 Q. Okay. Is there nothing that's required
15 to be in the report, specifically?

16 A. Not that I'm aware of.

17 Q. Okay. For example, the report does not
18 require the adjuster to send a plan of action to
19 the legal department?

20 A. No.

21 Q. All right. If you'll turn to page 27.
22 It's a section that says "third-party liability,"
23 subheading, "liability investigation
24 documentation."

25 Do you see that section?

1 A. Yes.

2 Q. Okay. The very first statement is
3 "Documenting and preserving the facts and evidence
4 in a liability investigation are important."

5 You agree with that statement; correct?

6 A. Yes.

7 Q. Okay. And would you agree that one of
8 Auto-Owners' standard protocols for adjusters
9 handling liability claims is to document and
10 preserve facts and evidence?

11 A. Yes.

12 Q. The first paragraph continues with the
13 second sentence that says, "Many tools are
14 available to accomplish this documentation.
15 Telephone contacts, recorded written interviews,
16 ISO claims search, letters, scene inspections,
17 photographs, measurements, and diagrams are a few."

18 Do you see that?

19 A. Yes.

20 Q. Do you agree with me that one of
21 Auto-Owners' standard protocols for adjusters
22 handling liability claims is to utilize telephone
23 contacts, recorded written interviews, ISO claims
24 searches, letters, scene inspections, photographs,
25 measurements, diagrams, and where appropriate to

1 use those to investigate a claim?

2 A. This is a guide. It's not a checklist
3 that you have to complete in order to successfully
4 investigate a claim. I mean this is a claims
5 handling guide.

6 Q. Then let me rephrase my question.

7 Do you agree that as part of
8 Auto-Owners' standard protocols for adjusters
9 handling liability claims, they should consider
10 using the following investigation tools:

11 Telephone contacts; true?

12 A. Depending on the circumstances of the
13 claim that you're investigating.

14 MR. VILMOS: Object to the form.

15 BY MR. BONNER:

16 Q. And my question is not saying that it's
17 required. I'm saying that Auto-Owners' protocols
18 suggest that the following tools may be used.

19 So using that format, do you agree that
20 Auto-Owners' protocols suggest to adjusters that
21 one of the investigative tools they may use is
22 recorded in written interviews?

23 A. Yes.

24 Q. And do you agree that Auto-Owners'
25 protocols suggest to adjusters in liability claims

1 that other investigative tools that they might use
2 include ISO claims searches, letters, scene
3 inspections, photographs, measurements, and
4 diagrams?

5 MR. VILMOS: Object to the form.

6 A. Yes, they may be used.

7 BY MR. BONNER:

8 Q. Okay. And it is up to the adjuster's
9 discretion to decide when appropriate to use those
10 investigative tools?

11 A. Unless it's a file being followed by
12 legal and they make additional suggestions.

13 Q. Okay. So I'll rephrase the question.

14 It is within the discretion of the
15 adjuster and, if referred to home office legal, the
16 person in home office legal also working on the
17 claim to decide whether or not to use any of these
18 investigative tools in a given case?

19 A. Yes.

20 Q. Okay. If you go to paragraph 4 and if
21 you read the first sentence, the statement says,
22 "The claim associate should consider defenses or
23 reasons why the insured may not be legally liable."

24 Do you agree that one of Auto-Owners'
25 standard protocols for adjusters handling liability

1 claims is that it should investigate defenses or
2 reasons why an insured might not be liable for an
3 accident?

4 A. Again, this is a guide that this is a
5 suggestion on how to proceed.

6 Q. Okay. So do you agree with me that one
7 of Auto-Owners' standard protocols for adjusters
8 handling claims is to suggest that a claims
9 associate should consider defenses or reasons why
10 the insured may not be legally liable?

11 MR. VILMOS: Object to the form.

12 A. It depends on the case.

13 BY MR. BONNER:

14 Q. Okay. Look to paragraph 6.

15 It states, "Investigation and
16 documentation of the damages sustained as
17 necessary."

18 True?

19 A. Yes.

20 Q. It goes on to state that, at the very
21 last sentence, "Investigation and communication
22 with claimants are important in working towards a
23 prompt resolution."

24 Do you see that statement?

25 A. Yes.

1 Q. Do you agree that one of Auto-Owners'
2 standard protocols for adjusters handling claims is
3 that adjusters should consider communicating with
4 claimants because doing so is important to working
5 toward a prompt resolution of a claim?

6 A. Again, it depends on the nature of the
7 claim.

8 Q. Do you agree that the protocol suggests
9 to investors to consider that option, depending on
10 the circumstances of the claim?

11 MR. MARTINEZ: Excuse me a second.

12 MR. VILMOS: Object to the form.

13 MR. MARTINEZ: Let me have that read
14 back.

15 (The last question was read back by the
16 court reporter.)

17 MR. VILMOS: Object to the form.

18 BY MR. BONNER:

19 Q. Let me rephrase.

20 Do you agree with me that Auto-Owners'
21 standard protocols suggests to adjusters that
22 communicating with claimants is important because
23 doing so can facilitate working to a prompt
24 resolution of the claim?

25 MR. VILMOS: Object to the form. I'm

1 sorry to interrupt the end of the question.

2 Can you please read the question back?

3 (The last question was read back by the
4 court reporter.)

5 MR. VILMOS: Object to the form.

6 A. I wouldn't use the word "protocol." I
7 believe that it's suggested in the claim handling
8 guide that contact with the claimant is important.

9 BY MR. BONNER:

10 Q. Okay. And back in 2014, you were
11 familiar with all of these provisions in the claims
12 manual?

13 A. Yes.

14 Q. The last paragraph reads, "A release
15 should be obtained when settling a liability
16 claim."

17 Do you agree with me that one of
18 Auto-Owners' standard protocols for adjusters
19 handling liability claims is to request a release
20 in connection with making a settlement offer?

21 MR. VILMOS: Object to the form.

22 A. That depends on the nature of the claim.

23 BY MR. BONNER:

24 Q. Okay. So it's not a standard protocol?

25 MR. VILMOS: Object to the form.

1 A. I, again, don't like the
2 characterization "protocol." This is a guide.

3 BY MR. BONNER:

4 Q. Okay. It's not a guideline of
5 Auto-Owners that adjusters should request a release
6 in connection with making a settlement offer on a
7 claim?

8 A. It depends on the claim.

9 Q. So it is not a guideline?

10 A. No.

11 Q. You've done insurance claims for 19
12 years. I've done some insurance stuff. I have an
13 idea what an ISO claim is, but I'd like to ask you
14 to tell me, for the record, what is a ISO claims
15 search.

16 MR. VILMOS: Object to the form, but you
17 can answer the last part.

18 A. It's a company that some insurers
19 subscribe to that collects information that
20 indicates prior injuries, concurrent claims.

21 BY MR. BONNER:

22 Q. Okay. Would you characterize an ISO
23 claim search as something you could perform on an
24 individual once you have his or her name?

25 A. Yes.

1 Q. And when you perform an ISO claim
2 search, I believe there's one in the claims file,
3 which you can see if you'd like; but it generally
4 generates, if there's a match, information like an
5 address?

6 A. Yes.

7 Q. Sometimes, but not always, it might have
8 a telephone number associated with the person being
9 searched?

10 A. Sometimes.

11 Q. Okay. If you look at paragraph, I
12 believe, 2 under the ISO claims search -- and I'm
13 going to paraphrase. You're welcome to correct my
14 paraphrasing.

15 Essentially this guideline suggests to
16 adjusters that if they perform an ISO search on a
17 file and discard it, they should note that in their
18 file?

19 MR. VILMOS: Object to the form.

20 BY MR. BONNER:

21 Q. Do you understand the question?

22 A. Yes. Can you repeat it, though?

23 Q. According to page 28 of Exhibit 56, it
24 is an Auto-Owners' guideline that if an adjuster
25 performs an ISO search but disregards it or

1 discards it, that should be noted in its claims
2 file?

3 A. Yes.

4 Q. Okay. Not all the questions are hard.

5 A. I just want to make sure I'm reading it
6 first.

7 Q. Now, I guess I'm just going to ask you
8 this.

9 Is there a particular part of the claims
10 manual that would deal with catastrophic claims,
11 such as paralysis or wrongful death?

12 A. Not to my knowledge, not specifically.

13 Q. And you are not aware of any specific
14 guidelines that would apply to catastrophic claims
15 such as those involving paralysis or wrongful
16 death?

17 A. No.

18 Q. According to Auto-Owners' guidelines,
19 whether it's a catastrophic claim or a less severe
20 claim, they're both to be handled in the same
21 fashion?

22 A. Yes.

23 Q. Which is diligently, of course?

24 A. Yes.

25 Q. Does Auto-Owners have a specific

1 guideline for adjusters working on claims to set
2 diaries, for example, to mark when something should
3 be followed up?

4 A. No.

5 Q. Okay. Whether or not to set a diary to
6 remind an adjuster to follow up on a particular
7 event is within the discretion of the individual
8 adjuster?

9 A. Yes.

10 Q. In 2014, did you have a practice of
11 making diaries to remind you to follow up on tasks?

12 A. Yes.

13 Q. Okay. What system did you use?

14 A. It was totally relevant to the claim
15 involved. There wasn't any set number for any
16 specific circumstances.

17 Q. Okay. And the reason I ask is just was
18 it -- you know, if it's on Outlook, there might be
19 an Outlook record.

20 A. No, it's within our -- our claim noting
21 system.

22 Q. Okay. So when you made diaries, you
23 would have made the diary in your claims notes?

24 A. No, it's in a program called CICS.
25 You -- I don't know anything -- I'm not a technical

1 person.

2 Q. CICS is what? It's a --

3 A. It's a computer system. I don't --

4 Q. Does it include something that has a
5 calendar?

6 A. No.

7 Q. How would you go about making a diary in
8 the CICS system?

9 A. I would ask the support staff to do it
10 for me.

11 Q. And, again, I'm just trying to --
12 because I don't know how it works.

13 When you ask your support staff to set a
14 diary, do you know how that diary then prompts the
15 support staff to notify you that a deadline has
16 passed, for example?

17 A. They don't. When you have your diary
18 day come up, it automatically shows up on your
19 to-do list.

20 Q. Okay. And so where does the to-do list
21 come from?

22 A. I have no idea.

23 Q. It's generated in the CSCI program?

24 A. Or Image.Right.

25 Q. Okay. In Image.Right. And you get a

1 to-do list every day you go into work?

2 A. Yes.

3 Q. Okay. So if you had a particular diary
4 follow-up entered for a particular day, that would
5 come up on the day it was supposed to be performed?

6 A. Yes.

7 Q. Okay. Are you still using the same
8 system in 2017 as you were using in 2014?

9 A. No. We have a different computer system
10 now.

11 Q. Okay. Is the diary system the same?

12 A. No.

13 Q. So at some point between 2014 and 2017
14 you changed the way the diaries are done?

15 A. Yes, but we still do use the Image.Right
16 system that was in effect for 2014 for claims that
17 have not concluded that originated in that system.

18 Q. So the Image.Right system still exists?

19 A. Yes.

20 Q. I'm sure you could not do this yourself,
21 but do you know if a IT person would be able to
22 pull your diaries for a particular day back in
23 2014?

24 MR. VILMOS: Object to the form.

25 A. I have no idea.

1 BY MR. BONNER:

2 Q. Okay. Do you have any reason to believe
3 that an IT person could not do that?

4 MR. VILMOS: Object to the form.

5 A. I have no idea.

6 BY MR. BONNER:

7 Q. Do you recall making any diary notes to
8 yourself in the Image.Right system for the
9 Cawthorn-Ledford claim?

10 A. I would have set diaries.

11 Q. Have you ever received a performance
12 review or an annual review which discussed your
13 work on the Cawthorn-Ledford matter?

14 A. No.

15 Q. Did you ever have an informal
16 performance review that discussed your handling of
17 the Cawthorn-Ledford matter?

18 A. No.

19 Q. Do you have an annual review?

20 A. Yes.

21 Q. To your knowledge, is the
22 Cawthorn-Ledford matter addressed in your personnel
23 file at all?

24 A. No.

25 Q. Does your annual review include

1 information regarding how much has been paid out by
2 Auto-Owners in a given year on liability claims
3 that you've handled?

4 A. No.

5 Q. This should be an easy question for you.
6 What were the circumstances of your
7 promotion?

8 MR. VILMOS: Object to the form.

9 You can answer.

10 BY MR. BONNER:

11 Q. I would just like to know how it was
12 that you came to be promoted.

13 A. Stan chose to take another position, and
14 I would like to think that I was the logical
15 choice.

16 Q. Were you interviewed for it?

17 A. Yes.

18 Q. Did you have to apply for it?

19 A. No.

20 Q. Ms. Pitman was not involved in the
21 interview process in any way?

22 A. No.

23 Q. Who was? And it's --

24 A. My regional manager, Jim Jordan, and
25 then I flew to Lansing and met with four officers.

1 Q. Okay. Let's turn to -- you can actually
2 give me back Exhibit 56. We should be done with
3 that.

4 And now let's go ahead and -- you have
5 Exhibit 2 in front of you; correct?

6 A. Yes.

7 (Plaintiff's Exhibit 57 was marked for
8 identification.)

9 BY MR. BONNER:

10 Q. Let me go ahead and mark Exhibit 57 as
11 the one-page diary note printout that was provided
12 to me today by counsel, time stamped 135117, marked
13 6/20/17.

14 Do you guys have an extra copy? Because
15 I would like to be able show the witness this --
16 oh, you've got one. All right. May I have your
17 copy?

18 A. (Handing).

19 Q. Before you is Exhibit 2 and Exhibit 57.

20 These are not all of the diary notes
21 that exist for the Ledford-Cawthorn matter;
22 correct? If you look at --

23 A. I don't know about your characterization
24 of diary notes, but these are all of the formal
25 claims notes that exist.

1 Q. I wasn't trying to be tricky. I'll use
2 your terminology, formal claims notes.

3 I ask this because if you look at
4 Exhibit 2 -- and what other exhibit do you have in
5 front of you there?

6 A. Two copies of 2.

7 Q. May I have one of your copies of the
8 two?

9 A. Sure.

10 Q. Thank you.

11 If you look at Exhibit 2, you'll see
12 that the last formal claims note on the first page
13 is April 29, 2015?

14 A. Yes.

15 Q. Is that the last formal claims note that
16 was entered on the Ledford-Cawthorn claim?

17 A. Yes.

18 Q. Okay. And in addition, you have
19 Exhibit 57?

20 A. Yes.

21 Q. And 57 are claims notes that were opened
22 for the umbrella policy?

23 A. Yes.

24 Q. And that is an umbrella policy that was
25 also applicable to Mr. Cawthorn's claim against Bob

1 Ledford RV & Marine?

2 A. Yes.

3 Q. Are there any other claims notes
4 associated with that open umbrella claim other than
5 what I've represented here in Exhibit 57?

6 A. No.

7 Q. Apart from what we have in Exhibit 2 and
8 Exhibit 57, are these all of the formal claims
9 notes that were generated by Auto-Owners with
10 respect to the Cawthorn claim against Bob Ledford
11 RV & Marine and Bradley Ledford?

12 A. Yes.

13 Q. Are there informal notes taken?

14 A. No.

15 Q. And from your work as the adjuster, were
16 there any other notations other than these notes in
17 Exhibit 2 and Exhibit 57 and the correspondence
18 reflected in the claims file that you created in
19 connection with the Cawthorn-Ledford claim?

20 A. There are no other notes.

21 Q. Okay. There's not like a personal diary
22 where this would come up or something like that?

23 A. No.

24 Q. And I didn't think so, but you
25 understand the purpose here is for me to figure out

1 what the world of the evidence is and then narrow
2 it down.

3 A. Absolutely.

4 Q. And so having received the claims, all
5 the correspondence that's in the claims file and
6 Exhibit 2 and Exhibit 57, that should be all the
7 information that Auto-Owners has with respect to
8 the Cawthorn-Ledford claim, excepting privilege
9 logs and documents generated after November 10th of
10 2014, which I represent to you have not been given
11 to me?

12 A. That's all in a claim file, yes.

13 Q. Can you edit a claims note such as those
14 that appear in Exhibit 2 after one is entered?

15 A. I believe you can, but the system will
16 show you that it had been removed. You can't
17 remove it completely.

18 Q. Okay. Would that removal show up on the
19 printout that I have as reflected in Exhibit 2?

20 A. Yes.

21 Q. Okay. How would it appear?

22 A. I'm not sure.

23 Q. Part of your responsibilities as an
24 adjuster working on the claim is to make the claims
25 notes?

1 A. Yes.

2 Q. Okay. And any adjuster who happens to
3 work on the claim, for example, Reggie Anderson,
4 they equally have a duty to document their efforts
5 in the claims notes?

6 MR. VILMOS: Object to the form.

7 A. I don't believe that there's a duty to
8 document every effort that you make on a claim in
9 the claim notes by anyone.

10 BY MR. BONNER:

11 Q. I'll try to use a different word.

12 Is it a guideline used by Auto-Owners
13 that adjusters should document important matters in
14 the claims notes?

15 A. I'm not aware of any guideline.

16 Q. Okay. Are there no guidelines that
17 apply to when an adjuster should make an entry in
18 the claims notes?

19 A. I'd have to review the handling guide,
20 but not that I'm aware of, no.

21 Q. For right now, I just want to know when
22 you were writing these claims notes in 2014, for
23 example, you were not doing so with any particular
24 guideline governing how you did that in mind?

25 A. That's correct.

1 Q. Okay. So whatever the guidelines might
2 say, whatever the written ones might say, in 2014,
3 when you wrote these claims notes that are
4 represented in Exhibit 2, it was discretionary when
5 you entered them?

6 MR. VILMOS: Object to the form.

7 A. I wouldn't describe it as discretionary.
8 I may have taken phone calls while out of the
9 office or simply allowed a document in the file to
10 complement the notes. It wasn't a discretion that
11 I necessarily used.

12 BY MR. BONNER:

13 Q. So what considerations did you take into
14 account when you decided to make a claims note in
15 the Ledford-Cawthorn matter?

16 A. None specifically.

17 Q. Okay. And when I use the word
18 "discretion," I'll admit to you that's kind of what
19 I was getting at. It was your own choice when to
20 enter a claims note in the Ledford-Cawthorn matter?

21 MR. VILMOS: Object to the form.

22 A. I would say yes but with the caveat that
23 I don't know that a specific choice was made
24 anytime I saw the file to note or not note the
25 activity at the time.

1 BY MR. BONNER:

2 Q. Okay. Your general practice was to note
3 important activity in the claims file?

4 A. No.

5 Q. Okay. Is it fair to say you didn't have
6 a general practice with respect to when you noted
7 something in the claims file and when you did not?

8 A. Yes.

9 Q. Now, the claims file can be reviewed by
10 a supervisor?

11 A. Yes.

12 Q. Is that generally how a supervisor knows
13 what's taken place on a claim?

14 MR. VILMOS: Object to the form.

15 A. No. They look at the entire file.

16 BY MR. BONNER:

17 Q. But it's part of what they look at to
18 see what's happened on a claim?

19 A. It's a piece of information, yes.

20 Q. And the other information they would
21 look at would be the remainder of the claims file?

22 A. That's correct.

23 Q. So the claims file would include the
24 communications that were sent or received in
25 connection to a matter; correct?

1 A. Yes.

2 Q. It would include these claims notes?

3 A. Yes.

4 Q. Okay. And I suppose it would include
5 reports or other evidence that's been collected in
6 a case?

7 A. That's correct.

8 Q. And then based on that world of
9 material, then the supervisor would be able to find
10 out what you've done on a claim?

11 A. That's correct.

12 Q. Okay. So the claims notes are at least
13 a component part of how a supervisor knows what's
14 happened on a claim; true?

15 A. Yes. Again, a part.

16 Q. A component part.

17 So insofar as something has happened on
18 a claim that's not documented in an email or a
19 letter or in a police report, the claims notes are
20 the only other place it would be documented?

21 MR. VILMOS: Object to the form.

22 A. The only other place it would be
23 documented, but I mean people are human. I'm sure
24 some things happen that don't get noted.

25

1 BY MR. BONNER:

2 Q. The goal is to have everything
3 documented between the emails, the reports, and the
4 claims notes?

5 A. Yes.

6 Q. Okay. And do you agree with me that
7 between the reports, the claims notes, and the
8 correspondence, Auto-Owners has a guideline that
9 everything important should be included in that
10 world of things?

11 MR. VILMOS: Object to the form.

12 A. I'm not aware of a guideline.

13 BY MR. BONNER:

14 Q. Okay. In your 19 years working at
15 Auto-Owners, the expectation is that you get
16 everything important included in the claims file?

17 MR. VILMOS: Object to the form.

18 A. Everything important to that claim, yes.

19 BY MR. BONNER:

20 Q. Yes, right. Whether it's a
21 communication, a copy of an email or a claims note,
22 that particular part doesn't matter. It just needs
23 to be documented somewhere in the claims file?

24 MR. VILMOS: Object to the form.

25 A. Yes. But, again, it doesn't negate

1 other activities that may have been forgotten to be
2 documented. I mean nobody's --

3 BY MR. BONNER:

4 Q. Nobody's perfect?

5 A. Exactly.

6 Q. And it's okay to be not perfect.

7 All right. Let's look at the -- I think
8 the last page. It's Bates-numbered AO 655 of
9 Exhibit 2.

10 We've got two claims notes on 4/7/2014;
11 true?

12 A. Yes.

13 Q. The bottom claims note appears to
14 memorialize when Auto-Owners first received notice
15 of this claim?

16 A. Yes.

17 Q. It appears that the claim was first
18 assigned to Reggie Anderson?

19 A. Yes.

20 Q. Do you know if Reggie Anderson is a male
21 or a female?

22 A. I believe it's a male.

23 Q. Okay. For purposes of my questions,
24 I'll refer to him as "Mr. Anderson."

25 Mr. Anderson's entry states that he

1 called the listed number for the insured and spoke
2 to Amber. Do you see that?

3 A. Yes.

4 Q. Okay. Upon taking over this file later
5 in April, did you come to learn who Amber was?

6 A. She's an employee at Bob Ledford's RV.

7 Q. Did you ever speak to Amber?

8 A. Not that I recall.

9 Q. I believe Mr. Anderson's claims note
10 also mentions Charles Wilson?

11 A. Yes.

12 Q. Is he also an employee at Bob Ledford
13 RV & Marine?

14 A. Yes.

15 Q. Did you ever speak to Mr. Wilson?

16 A. I believe so.

17 Q. Do you know when you spoke to
18 Mr. Wilson?

19 And let the record reflect the witness
20 is reviewing Exhibit 2.

21 A. April 21st.

22 Q. Was April 21st the only time you would
23 have spoken to Mr. Wilson?

24 A. To my recollection.

25 Q. Okay. Is there anything that would

1 refresh your recollection?

2 A. No.

3 Q. Okay. There's also a note from
4 Mr. Anderson stating that he received a call from
5 David Ledford; correct? It's on the page 655 --

6 A. Yes.

7 Q. Mr. Anderson reports that he was not
8 able to speak to Mr. Ledford?

9 A. Yes.

10 Q. Do you know if Mr. Anderson ever spoke
11 to Mr. Ledford?

12 A. No.

13 Q. You do not know, or no, he did not?

14 A. I do not know.

15 Q. If you turn to page 654 of Exhibit 2,
16 you'll see a claims note dated April 8, 2014.

17 The note is written by Mr. Anderson, and
18 it indicates that he attempted to follow up with
19 Mr. Ledford on April 8, 2014; true -- strike that.
20 I'm rereading it, and I've misread it.

21 A. I don't believe so.

22 Q. It says on April 8, 2014, Mr. Anderson
23 reported that he had still not heard from
24 Mr. Ledford; is that true?

25 A. Yes.

1 Q. The note written by Mr. Anderson
2 indicates that he spoke to Mr. Ledford's insurance
3 agent; true?

4 A. Yes.

5 Q. Okay. It also reports the agent was
6 forwarding a copy of the investigative report;
7 true?

8 A. An investigative report. I don't know
9 that it was an entire report or if it was an
10 exchange. I don't know exactly what it was.

11 Q. It indicates that a report of some sort
12 is being forwarded --

13 A. Yes.

14 Q. -- to Mr. Anderson?

15 And appropriate thing for Mr. Anderson
16 to do with that report would be to upload it into
17 the claims file?

18 MR. VILMOS: Object to the form. It's
19 not a question.

20 BY MR. BONNER:

21 Q. Question mark --

22 A. Yes.

23 Q. Okay. But because the claim was located
24 in Florida and not South Carolina, Mr. Anderson's
25 note concludes by saying he was transferring it to

1 the Ocala's office?

2 MR. VILMOS: Object to the form.

3 A. Yes.

4 BY MR. BONNER:

5 Q. And that's, in fact, what happened? It
6 was transferred to the Ocala office, and you were
7 the first adjuster to review it?

8 A. Correct.

9 Q. And it was assigned to you, given the
10 severity of the claim?

11 MR. VILMOS: Object to the form.

12 A. Yes.

13 MR. BONNER: Let's look at a couple
14 documents here. We're going to mark these
15 up.

16 (Plaintiff's Exhibit 58 was marked for
17 identification.)

18 BY MR. BONNER:

19 Q. Okay. Ms. McLean, I'm handing you an
20 exhibit marked as 58. It is an email to Reggie
21 Anderson from Holly Caldwell.

22 During the course of your handling of
23 the claim, did you come to learn who Holly Caldwell
24 was?

25 A. Yes.

1 Q. She's the agent who represented Bob
2 Ledford RV & Marine?

3 MR. VILMOS: Object to the form.

4 A. She's not the agent. She just works at
5 the agency.

6 BY MR. BONNER:

7 Q. Okay. She was somebody, though, at the
8 agency who handled certain aspects of the
9 Cawthorn-Ledford claim, to your understanding?

10 A. Yes. She certainly sent this email.

11 Q. Okay. Did you receive a copy of that
12 email when the file was transferred to you?

13 A. I believe so.

14 (Plaintiff's Exhibit 59 was marked for
15 identification.)

16 BY MR. BONNER:

17 Q. Okay. And I'm also showing you
18 Exhibit 59. You can see that exhibit in front of
19 you for now.

20 Exhibit 59 is an Accord loss form?

21 A. Yes.

22 Q. These are standard forms in the
23 insurance industry?

24 A. Yes.

25 Q. Okay. Are they generally filled out by

1 an agent and then forwarded to an insurance company
2 when there's a claim?

3 A. Yes.

4 (Plaintiff's Exhibit 60 was marked for
5 identification.)

6 BY MR. BONNER:

7 Q. I'm showing you what's marked as
8 Exhibit 60. Can you identify that document for me?

9 A. It's an email from Reggie Anderson to
10 the Ocala office.

11 Q. And would you have received that email
12 from Mr. Anderson?

13 A. No.

14 Q. Would you have seen it when you took
15 over the file?

16 A. Yes.

17 Q. And the email in front of you is dated
18 April 8 of 2014?

19 A. Yes.

20 MR. VILMOS: Just let the record reflect
21 that Exhibit 59 is entitled General Liability
22 Notice of Occurrence/Claim, and it is Bates
23 labeled AO 00289 through AO 00291.

24 BY MR. BONNER:

25 Q. Okay. Looking at Exhibits 58, 59, and

1 60, can you confirm that you would have had all
2 three of those documents upon taking over the
3 claim?

4 A. Yes.

5 Q. I'm going to show you a document that's
6 previously been marked as Exhibit 7.

7 This is an email between Mr. Anderson
8 and Holly Caldwell, dated April 9, 2014 --

9 MR. VILMOS: Object to the form.

10 BY MR. BONNER:

11 Q. -- correct?

12 A. I'm sorry. Repeat that. I was reading
13 it.

14 Q. Sure, sure.

15 Exhibit 7 is an email between
16 Mr. Anderson and Holly Caldwell, dated April 9th,
17 2014?

18 A. Yes.

19 Q. Did Mr. Anderson forward this email
20 between him and Ms. Caldwell to you?

21 A. I don't recollect seeing this before.

22 Q. Would this have been available to you in
23 the claims file?

24 A. No.

25 Q. Why would it not have been available in

1 the claims file?

2 A. You would have to specifically save it
3 to the claims file. It doesn't automatically just
4 drop in.

5 Q. Do you know, one way or the other,
6 whether this was saved to the claims file?

7 A. No, I do not.

8 Q. Is it possible it was saved to the
9 claims file?

10 A. I've reviewed the file, and I've never
11 seen this email before.

12 Q. Okay.

13 MR. MARTINEZ: What number is that,
14 Allen?

15 MR. BONNER: That's Exhibit 7.

16 MR. MARTINEZ: Thank you.

17 BY MR. BONNER:

18 Q. Did Mr. Anderson contact either you or
19 the Ocala office following his email exchange with
20 Holly Caldwell?

21 A. Not that I'm aware of.

22 Q. You did not personally speak to
23 Mr. Anderson on or about April 9th, 2014?

24 A. Not on that date, no.

25 Q. Well, just because of the way you

1 answered it, what date did you speak to
2 Mr. Anderson?

3 A. I don't know specifically, but I did
4 tell Mr. Anderson that we weren't going to be able
5 to inspect the vehicle because it was insured with
6 someone else.

7 Q. When did you have that conversation?

8 A. I don't know. It was early on.

9 Q. Okay. Is it reflected in Exhibit 2?

10 A. No.

11 Q. Is there an email communication
12 memorializing that conversation?

13 A. No.

14 Q. Is there any note in the claims file
15 memorializing that conversation?

16 A. No.

17 Q. Do you know what else you discussed with
18 Mr. Anderson during that conversation?

19 A. Likely, nothing else.

20 Q. So it was likely a short conversation?

21 A. Very.

22 Q. How did Mr. Anderson respond to what you
23 told him during that conversation?

24 A. I believe it was along the lines of I
25 didn't realize there wasn't a dealer blanket

1 endorsement on there.

2 Q. What is a deal blanket endorsement?

3 A. It's an endorsement to a garage
4 liability policy that provides first-party coverage
5 for dealer-owned vehicles.

6 Q. And I think you said that you told
7 Mr. Anderson you could not inspect the vehicle?

8 A. No. I told him that we wouldn't be
9 inspecting the vehicle, because it was insured by
10 someone else.

11 Q. And the reason you would inspect the
12 vehicle is if it was insured with Auto-Owners,
13 there would be some sort of casualty insurance?

14 MR. VILMOS: Object to the form.

15 A. There might be first-party coverage for
16 the loss of the automobile, yes.

17 BY MR. BONNER:

18 Q. I mean that's why you mentioned the
19 endorsement. The endorsement would provide
20 first-party coverage?

21 A. That's correct.

22 Q. Okay. And without first-party coverage,
23 you said you would not investigate or examine the
24 vehicle?

25 A. Because it was my understanding it was

1 insured by someone else who would perform that
2 function.

3 Q. Okay. And if another insurance company
4 investigated the vehicle, it would be to pay out
5 the casualty claim; correct?

6 MR. VILMOS: Object to the form.

7 A. It would be to pay for the actual
8 vehicle itself.

9 BY MR. BONNER:

10 Q. Okay. And so that's what you discussed
11 with Mr. Anderson is the fact that another
12 insurance company would be liable for paying for
13 the damage to the car?

14 A. I very briefly spoke to Mr. Anderson to
15 let him know: Hey, there's first-party coverage
16 with somebody else. We're not inspecting the
17 vehicle.

18 Q. Okay. When there's first-party coverage
19 with another insurance company, does that
20 insurance -- that insurance company -- strike that.

21 The vehicle in question was owned by Bob
22 Ledford RV & Marine?

23 A. According to the police report, yes.

24 Q. Did you ever come across any information
25 that was contrary to that?

1 A. No.

2 Q. You did speak to David Ledford after
3 taking over the file; correct?

4 A. Yes.

5 Q. Did you ask David Ledford for permission
6 to investigate the vehicle?

7 A. No.

8 Q. Did you speak to Mr. Anderson any other
9 times apart from that conversation?

10 A. Not that I recall.

11 Q. And reviewing Exhibit 2, there are no
12 additional conversations between you and
13 Mr. Anderson documented in Exhibit 2?

14 A. Correct.

15 Q. And there are no additional
16 conversations between you and Mr. Anderson
17 documented in the claims file that you reviewed in
18 preparation for testifying today?

19 A. I don't -- let me look. It's possible
20 that I called him to ask him to email anything that
21 he had after suit had been filed to defense
22 counsel --

23 Q. Sure. That's the --

24 A. -- but other than that -- I mean --

25 Q. Does Exhibit 2 reflect that you had that

1 conversation?

2 A. Yes.

3 Q. Okay. And when did you have that
4 conversation?

5 A. August 11th.

6 MR. VILMOS: What year, ma'am?

7 THE WITNESS: 2014.

8 BY MR. BONNER:

9 Q. Let's see here. Did Mr. Anderson call
10 you or did you call Mr. Anderson during that first
11 phone call?

12 A. I would have called him.

13 Q. And for what purpose would you have
14 called him?

15 A. To keep him in the loop should he talk
16 to the agent or the insured about the vehicle,
17 again, for some reason that there wasn't
18 first-party coverage.

19 Q. And what prompted you to call
20 Mr. Anderson to discuss first-party coverage on
21 Mr. Ledford's vehicle?

22 A. My review of the coverage aspects of the
23 claim.

24 Q. And why did Mr. Anderson need to know
25 the case had been transferred?

1 A. Again, to keep him in the loop. Many
2 times agents call the claims offices that they're
3 the most comfortable with to ask questions.

4 Q. Did Mr. Anderson ever ask you to inspect
5 the insured's vehicle?

6 A. No.

7 Q. Did he ever tell you to inspect the
8 insured's vehicle?

9 A. No.

10 Q. Going back to Exhibit 10, there's an
11 entry dated April 10th, 2014. Do you see that
12 entry?

13 A. I don't have an Exhibit 10.

14 Q. I mean I said 10, but I meant 2.

15 MR. VILMOS: Let's just go off the
16 record for just a second.

17 MR. BONNER: Sure.

18 THE VIDEOGRAPHER: We're off the record
19 at 12:08.

20 (Break from 12:08 p.m. to 12:10 p.m.)

21 THE VIDEOGRAPHER: We're back on the
22 record at 12:10.

23 BY MR. BONNER:

24 Q. There's something I neglected to ask you
25 with respect to Exhibit 57.

1 None of the claims notes on Exhibit 57
2 are authored by you; correct?

3 A. That's correct.

4 Q. When did you first learn that those
5 claims notes had been entered by Mr. King or
6 Ms. Hagedon?

7 A. It would have been very soon after
8 May 5th, but I don't recall the exact date.

9 Q. Did Mr. King alert you to these claims
10 notes or did they automatically appear in your
11 claims file?

12 A. No. Actually, Mr. King used to sit next
13 to me, and I heard him speaking with Mr. Ledford at
14 which point I said, "Mike, is that Mr. Ledford with
15 regard to an accident in Florida?"

16 Q. Did you take over the call at that
17 point?

18 A. No. He had finished speaking with him.
19 I didn't interrupt him while he was on the phone.

20 Q. So when you say shortly, probably the
21 day of or the day after these claims notes were
22 entered you were aware of them?

23 MR. VILMOS: Objection to form.

24 A. Yes.

25

1 BY MR. BONNER:

2 Q. And then Mr. King had no further
3 involvement?

4 A. No.

5 Q. And there's this entry by Ms. Hagedon on
6 2/24/15. Who is Ms. Hagedon?

7 A. I don't know specifically, but that's
8 with regard to an accounting -- a check that had
9 not been cashed after a specific period of time.

10 Q. You never spoke to Ms. Hagedon about
11 this case, did you?

12 A. No.

13 Q. And with respect to your conversation
14 with Mr. King, did Mr. King tell you any
15 information about his conversation with David
16 Ledford that is not reflected in his entry of 5514
17 on Exhibit 57?

18 A. Not that I recall.

19 Q. Did he tell you anything about the claim
20 that is not reflected on Exhibit 57?

21 A. We may have casually discussed it when I
22 realized he had a claim that was the companion to
23 mine, but I can't recall anything specific.

24 Q. And there's nothing that will refresh
25 your recollection?

1 A. No.

2 Q. Let's see if I can get use out of the
3 last three minutes of this tape.

4 Okay. On April 10, 2014, referencing
5 Exhibit 2, you spoke to David Ledford, owner of the
6 Bob Ledford RV & Marine?

7 A. No. His voice mail was full.

8 Q. Oh, I'm sorry. You attempted to contact
9 Mr. Ledford?

10 A. Yes.

11 Q. Okay. Did you also attempt to contact
12 Holly Caldwell on April 10th, 2014?

13 A. Not that I recall.

14 Q. And there's no entry reflecting that you
15 attempted to call Holly Caldwell on April 10, 2014,
16 on Exhibit 2?

17 A. That's correct.

18 Q. There's nothing else that would refresh
19 your recollection on this issue?

20 A. No.

21 Q. Your note of April 10, 2014, states that
22 you are ordering the police report; is that
23 correct? Did you order the police report?

24 A. Yes.

25 Q. How did you do that?

1 A. I would have either manually entered it
2 myself or sent a request to the support staff to
3 order it.

4 Q. And it's just an online form?

5 A. Yes.

6 Q. Did you use a particular person during
7 the Cawthorn-Ledford claim as your support?

8 A. No.

9 Q. The police report referred to in the
10 April 10th, 2014, entry is different than the
11 investigative or the report that's referred to in
12 Mr. Anderson's entry of 4/8/14; correct?

13 MR. VILMOS: Object to the form.

14 A. Yes.

15 MR. BONNER: We're done?

16 THE VIDEOGRAPHER: Yes, sir.

17 MR. BONNER: All right. We can go off
18 the record.

19 THE VIDEOGRAPHER: This is the end of
20 disk No. 1 in the deposition of Pamela McLean
21 to be continued on disk No. 2. We're off the
22 record at 12:14 p.m.

23 (Lunch break from 12:14 p.m. to
24 12:53 p.m.)

25 (Continued in Volume II.)

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CASE NO. 6:16-CV-2240-Orl-28GHK

DAVID MADISON CAWTHORN,

Plaintiff,

vs.

AUTO-OWNERS INSURANCE COMPANY,

Defendant.

-----/

VIDEOTAPED DEPOSITION OF

PAMELA TORRES MCLEAN

Volume II (Pages 113 - 293)

Taken on Behalf of the Plaintiff

DATE TAKEN: May 11, 2017

TIME: 9:35 a.m. - 4:53 p.m.

PLACE: Burr Forman
200 South Orange Avenue
Orlando, Florida

Examination of the witness taken before:

Lance W. Steinbeisser, RPR CSR FPR
Certified Stenographer

1 (Proceedings continued from Volume I.)

2 THE VIDEOGRAPHER: This is the beginning
3 of disk No. 2 in the deposition of Pam
4 McLean. We're back on the record at 12:53.

5 DIRECT EXAMINATION (continued)

6 BY MR. BONNER:

7 Q. Okay. Ms. McLean, thank you. I hope
8 you had a nice lunch.

9 I'm going to show you what's been
10 previously marked as Exhibit 6. When we left off
11 in Exhibit 2, I believe you just testified that
12 there was an entry memorializing that you had
13 ordered the police report -- and this would be on
14 page 654, the entry dated 4/10/14.

15 A. Yes.

16 Q. Okay. I believe you said earlier today
17 that you received the report on the 17th of April
18 2014?

19 A. Yes.

20 Q. And is that reflected on Exhibit 2?

21 A. No.

22 Q. How do you know that you received the
23 police report on April 17, 2014?

24 A. I'm assuming it was noted in the file --
25 or I mean that it was in the file with the

1 April 17th date on it. Is there a --

2 Q. All right. So it was something you
3 reviewed in preparation for today. You saw a
4 document that was dated 4/17/14?

5 A. Right. It would have been the police
6 report, though, not an additional document.

7 Q. Okay. Is this not the police report?

8 A. Yes.

9 Q. This is the police report? This is the
10 Florida Traffic Crash Report --

11 A. This is a copy of the police report,
12 yes.

13 Q. All right. And is this the document
14 that you received on April 17, 2014?

15 A. Yes.

16 Q. Okay.

17 MR. VILMOS: I'm sorry. Can you go back
18 two or three questions about the Exhibit 2
19 reference?

20 BY THE REPORTER:

21 "QUESTION: And is that reflected on
22 Exhibit 2?

23 "ANSWER: No."

24 BY MR. BONNER:

25 Q. Is the receipt of the police report

1 reflected on Exhibit 2?

2 A. No.

3 Q. That's what I had understood as well.

4 Okay. If you look at --

5 A. Hold on just a second. Did you ask me
6 if Exhibit 6 was the police report?

7 Q. I did.

8 A. Because I don't believe that 1305 and
9 1306 would have come with that.

10 Q. Okay. So did you receive either 1305 or
11 1306 in connection with your request for a police
12 report?

13 A. I don't believe so, no.

14 Q. Did you receive pages 1302, 1303, and
15 1304 in connection with your request for the police
16 report?

17 A. Yes.

18 Q. Okay. Did you receive any additional
19 pages to the police report in response to your
20 request?

21 A. It doesn't appear so. I can't say for
22 sure.

23 Q. Now, the document that appears in
24 Exhibit 6 as 1305, I believe that document is
25 attached to Exhibit 58. I'm going to show you the

1 second page of Exhibit 58.

2 A. Yes.

3 Q. Okay. And this Exhibit 58 was an email
4 from Holly Caldwell to Reggie Anderson, and I
5 believe you testified that you would have received
6 Exhibit 58 when you received the file?

7 A. Can I see that again?

8 Q. Sure.

9 A. From Holly to Reggie, yes. I'm sorry.
10 Yes, you are correct.

11 Q. Do you still want to see it?

12 A. No.

13 Q. So you would have had --

14 MR. VILMOS: I'm sorry. For the record,
15 do you have Exhibit 2 in front of you?

16 THE WITNESS: Yes.

17 BY MR. BONNER:

18 Q. So page 1305 you would have received on
19 or before April 17, 2014; correct?

20 A. Yes.

21 Q. Let's go to page 1306 of Exhibit 6.
22 This is a Florida Highway Patrol Vehicle Tow slip.
23 Have you seen one of these that's not completed
24 before?

25 MR. VILMOS: Object to the form.

1 A. I don't believe so. I don't know.

2 BY MR. BONNER:

3 Q. Okay. Let me rephrase the question.

4 Have you ever seen a Florida Highway
5 Patrol Vehicle Tow slip in the 19 years that you've
6 handled auto liability claims in Florida?

7 A. Yes.

8 Q. And the Florida Highway Patrol has a
9 standard form, and this is it for vehicle tows?

10 A. I have no idea if that's their only
11 form.

12 MR. VILMOS: Object to the form.

13 BY MR. BONNER:

14 Q. But this is a form that you've seen
15 before?

16 A. Yes.

17 Q. And have you acquired documents like
18 page 1306 of Exhibit 6 in the course of handling
19 other claims?

20 A. Yes, but not with a police report
21 request.

22 Q. Okay --

23 MR. VILMOS: I just want to make a
24 standing objection to Exhibit 6 to the extent
25 that the witness said it was two documents

1 seemingly put together as one.

2 BY MR. BONNER:

3 Q. Well, it's been authenticated already,
4 so...

5 Let's go back to page 1306, because I
6 don't think there's any question that you're saying
7 that you did not receive 1306 in connection with
8 your police report request; correct?

9 A. I don't believe so, no.

10 Q. Okay. Do you know how to request a
11 Florida Highway Patrol Vehicle Tow slip?

12 A. No.

13 Q. Have you ever requested a Florida
14 Highway Patrol Vehicle Tow slip in connection with
15 investigating any of your auto liability cases?

16 A. No.

17 Q. How is it that you've come to receive
18 these in past cases?

19 A. They would have been submitted by the
20 insured or the agent or some other party.

21 Q. But you're aware that these exist?

22 A. Yes.

23 Q. Okay. And they're typically filled out
24 when a vehicle is towed --

25 MR. VILMOS: Object to the form.

1 BY MR. BONNER:

2 Q. -- from the scene?

3 A. I have no idea what their protocol is.

4 Q. In the cases where you have seen these
5 before, they've all involved automobiles that have
6 been incapacitated because of an accident?

7 A. Well, it's a vehicle tow report.

8 Q. Right. So yes?

9 A. Yes.

10 Q. When you make a request for the Florida
11 Traffic Crash Report, you do that through the
12 Department of Highway Safety and Motor Vehicles?

13 A. No.

14 Q. Where do you do that from?

15 A. LexisNexis.

16 Q. Have you ever attempted to obtain a
17 vehicle tow slip through LexisNexis?

18 A. No.

19 Q. Have you ever had to contact the Florida
20 Highway Patrol in the 19 years that you've
21 investigated auto liability claims in Florida?

22 A. Yes.

23 Q. So you know how to do that? Yes?

24 A. Yes.

25 Q. Now, let's see. I believe if you turn

1 to Exhibit 2, you have an entry that continues from
2 page 653 to 654, dated 4/17/14. It says "received
3 police report." So actually, this does say that
4 you received a police report on that day; correct?

5 A. Yes.

6 Q. Okay. And "confirming facts as
7 reported. Insured appears liable."

8 The facts that had been reported to you
9 at that point were what?

10 A. That Bradley had fallen asleep and
11 driven off the road and hit a concrete barrier.

12 Q. And who had provided those facts to you
13 prior to 4/17/14?

14 A. David Ledford.

15 Q. And when had you spoken to David
16 Ledford?

17 A. I don't recollect from this exhibit, but
18 there's an email that I sent to our legal
19 department memorializing that conversation. That
20 be would the date.

21 Q. You sent an email to the legal
22 department prior to 4/17/2014 --

23 A. I don't know the date.

24 Q. Okay. I believe you did send an email
25 to the legal department on Monday, April 28th,

1 2014. This is a little ahead of where I am, but I
2 think this might clarify. This is Exhibit 8 that
3 I'm showing the witness.

4 Have you seen this email before?

5 A. Yes.

6 Q. When you referred to a moment ago an
7 email that memorialized a conversation you had with
8 Mr. Ledford, is Exhibit 8 that email?

9 A. Yes.

10 Q. May I have Exhibit 8 back.

11 Okay. So prior to 4/17/14, where did
12 the information regarding what had happened -- the
13 information that was confirmed by the police
14 report, where did that information come from?

15 MR. VILMOS: Object to the form.

16 A. From the notes that Mike made in the
17 umbrella file, and I also had a conversation with
18 Mr. Ledford that is not noted in the claim notes.

19 BY MR. BONNER:

20 Q. Okay. The notes from Mike King are
21 Exhibit 57, and I don't see any claims notes here
22 that are dated before April 17, 2014 --

23 A. You're right. I didn't hear you ask me
24 before 4/17.

25 Q. That's fine. I'm going to reask it

1 again, and it's not to be redundant. I just want
2 to see if I can understand your testimony.

3 Prior to 4/17/2014, from where had you
4 received information about the accident?

5 A. The loss notice, and I guess that's
6 about it.

7 Q. Okay. So just to make sure the record's
8 clear. Prior to April 17, 2014, you had not spoken
9 to David Ledford; correct?

10 A. I feel -- yes, I did.

11 Q. Oh, okay.

12 A. Like I said before, it just isn't noted
13 in the file.

14 Q. So during that conversation with
15 Mr. Ledford, did you talk about the facts of the
16 accident?

17 A. Not that I recall.

18 Q. Okay. The conversation with Mr. Ledford
19 that would have taken place before 4/17/14, it's
20 not noted in the claims diary in Exhibit 2;
21 correct?

22 A. That's correct.

23 Q. If you can, tell me everything you can
24 recall about that conversation.

25 A. I don't have a specific recollection of

1 the content.

2 Q. And is it fair to say that nothing would
3 refresh your recollection?

4 A. That's correct.

5 Q. You do not think that you spoke about
6 the facts of the accident?

7 A. No.

8 Q. Is there a reason why you say that?

9 A. I believe it was a quick call, he didn't
10 have time to talk, or something along those lines.

11 Q. Did he call you or did you call him?

12 A. My recollection is that I called him.

13 Q. Okay. And you've said that there's no
14 claim notes specifically referencing that
15 conversation with Mr. Ledford.

16 Is there any documentation anywhere that
17 you're aware of that memorializes that conversation
18 with Mr. Ledford?

19 A. Nothing other than my telling you that
20 it happened.

21 Q. That's fine. If there were a document,
22 I would ask your lawyer for it. All right. Thank
23 you very much.

24 You're confident that the date is before
25 April 17, 2014?

1 A. I couldn't say with a hundred percent
2 certainty, but I feel, yes, that it was.

3 Q. Okay. And part of the reason you can't
4 say with certainty is there's no document that
5 memorializes the date?

6 A. That's correct.

7 Q. So looking at your claims note from
8 4/17/14 on Exhibit 2, where you said, "insured
9 appears liable," that assessment never changed;
10 correct?

11 A. Yes.

12 Q. Yes, it did change, or...

13 A. You said it never changed, and I said
14 never changed.

15 Q. Okay. Thank you.

16 And by "insured," you meant both Bradley
17 Ledford and Bob Ledford RV & Marine?

18 A. No. The only insured here is Bob
19 Ledford's RV & Marine.

20 Q. But Bradley Ledford is an additional
21 insured; correct?

22 A. No.

23 Q. What is he?

24 A. He's a permissive user.

25 Q. Okay. He's a permissive user.

1 He is insured under the garage policy;
2 correct?

3 A. No.

4 Q. Okay. So --

5 A. He used an insured vehicle with
6 permission, and we provided coverage to him, but he
7 is not an insured.

8 Q. Okay. Is that like an omnibus insured
9 then?

10 A. I'm sorry. I'm not familiar with that
11 term.

12 Q. But when you say you provide coverage
13 for him, you provided him with a defense; correct?

14 A. For the circumstances in this accident,
15 but he's not an insured under the policy.

16 Q. Okay. Let me backtrack out.

17 You provided coverage to Bradley
18 Ledford; correct?

19 A. For this accident, yes.

20 Q. Yes.

21 And you provided a defense for Bradley
22 Ledford; correct?

23 A. Yes.

24 Q. And I believe there are documents that
25 acknowledge Bradley Ledford as being protected as

1 an insured?

2 A. I don't know if it's characterized as an
3 insured.

4 Q. Okay. So it's your position that this
5 was a volunteer defense?

6 MR. VILMOS: Object to the form.

7 A. He qualified for coverage under our
8 policy; so we defended him --

9 BY MR. BONNER:

10 Q. Okay.

11 A. -- but he is not a named insured.

12 Q. I never said "named insured."

13 A. He's not an insured in any way.

14 Q. Okay. But if he's covered by the
15 policy, how is that different than being an insured
16 by the policy?

17 A. If he had been driving a vehicle that
18 was not owned by Bob Ledford's RV, we wouldn't have
19 provided any coverage or defense to Bradley
20 Ledford.

21 Q. But because he was provided coverage --

22 A. Correct, as a permissive user.

23 Q. And the policy terms provide coverage
24 for permissive uses?

25 A. Yes.

1 Q. And perhaps we're just getting hung up
2 on terms here. But when you provide coverage to a
3 permissive user because that's covered by the
4 policy, that renders the permissive user what?

5 A. A covered party. It doesn't give them
6 insured status.

7 Q. Okay. So what is "insured status"?

8 A. The first named insured in the policy
9 and if a person who's resident spouse.

10 Q. But there can be other people who are
11 covered by a policy who are not the named insured
12 or the covered spouse?

13 MR. VILMOS: Asked and answered.

14 A. That's correct.

15 BY MR. BONNER:

16 Q. And for purposes of my questions --
17 because I -- terminology is not going to matter.
18 For purposes of my questions, when I refer to
19 Bradley Ledford as an insured, I'm not referring to
20 him as the named insured, and I'm not referring to
21 him as the spouse. I'm simply referring to the
22 fact that coverage was provided to him under the
23 terms of the policy. Okay?

24 A. Okay.

25 Q. All right. So using that terminology,

1 when you write here that it appears that the
2 insured appears liable, did you mean to exclude
3 Bradley Ledford from that?

4 A. No.

5 Q. Okay. So when you are saying that the
6 insured appears liable, did that mean both Bradley
7 Ledford and Bob Ledford RV & Marine?

8 A. No. It meant the insured Bob Ledford's
9 RV & Marine appeared liable.

10 Q. Okay. And if Bradley Ledford appeared
11 liable, would Auto-Owners still have to cover that
12 claim?

13 A. I can't think of a circumstance where he
14 would be liable and Bob Ledford's wouldn't.

15 Q. Okay. That might be true, but my
16 question still remains the same.

17 If Brad Ledford was found liable,
18 wouldn't Auto-Owners have to provide coverage to
19 Bradley Ledford?

20 MR. VILMOS: Form.

21 A. Yes.

22 BY MR. BONNER:

23 Q. Okay. And it's not Bob Ledford that
24 fell asleep at the wheel; correct -- Bob Ledford RV
25 & Marine -- it's Bradley Ledford?

1 A. I'm assuming that's a rhetorical
2 question.

3 Q. Right.

4 Bradley Ledford fell asleep at the
5 wheel?

6 A. That is correct.

7 Q. And it's because Bradley Ledford fell
8 asleep at the wheel that you concluded that Bob
9 Ledford RV & Marine was liable?

10 A. No. It's because the owner of a vehicle
11 is responsible for its use no matter who's driving
12 it in Florida, and that made the insured liable.

13 Q. Okay. And because Bradley Ledford was
14 driving the vehicle and caused an injury to Madison
15 Cawthorn, you concluded that Bob Ledford RV &
16 Marine was liable?

17 MR. VILMOS: Object to the form.

18 A. Yes.

19 BY MR. BONNER:

20 Q. And after April 17, 2014, you did not
21 investigate the liability of Bob Ledford RV &
22 Marine further; true?

23 A. I don't specifically remember that, no.

24 Q. Okay. Because this police report, if
25 you go to the second page of the police report

1 Bates numbered 1303, you'll see three witnesses
2 identified: John Wandeck, Chuck Medovich, and
3 Robert Northrop; true?

4 A. Yes.

5 Q. And you did not investigate or interview
6 any of those witnesses; correct?

7 A. No.

8 Q. And you'll see here under Madison
9 Cawthorn, David Madison Cawthorn is identified as
10 the passenger in Bob Ledford RV & Marine's vehicle;
11 true?

12 A. Yes.

13 Q. It notes his injury severity as
14 incapacitated; correct?

15 A. Yes.

16 Q. And it states under "airbags deployed,"
17 two not deployed; true?

18 A. Yes.

19 Q. And you did no investigation of whether
20 or not the airbags deployed in Bob Ledford RV &
21 Marine's vehicle; true?

22 A. No.

23 Q. That means you did no investigation;
24 correct?

25 A. I did not.

1 Q. In this report at the bottom lists
2 Trooper KM Ruede; correct?

3 A. Yes.

4 Q. Okay. Florida Highway Patrol, Badge
5 No. 3401; correct?

6 A. Yes.

7 Q. Okay. And you did not call and
8 interview Trooper Ruede?

9 A. No, because I believe that I had
10 gathered the information to confirm liability was
11 adverse to the insured already.

12 Q. That's exactly my point.

13 As of April 17, 2014, you had concluded
14 on the basis of this police report that Bob Ledford
15 RV & Marine was liable for the injuries sustained
16 by Madison Cawthorn; correct?

17 A. Because it confirmed the loss notice
18 submitted by the agent after speaking with the
19 insured that Bradley nodded off, causing the
20 accident.

21 Q. Okay. So as of April 17, 2014, you
22 believe you had sufficient information to conclude
23 that Bob Ledford RV & Marine was liable for this
24 accident?

25 A. Yes.

1 Q. Okay. And because you had sufficient
2 information that Bob Ledford RV & Marine was liable
3 for this accident, you did not perform any
4 additional investigation into liability of this
5 accident?

6 A. I did not believe it was necessary.

7 Q. Okay. The police report on page 2 says
8 that Madison Cawthorn was transported to Halifax
9 Hospital by helicopter due to life-threatening
10 injuries; correct? This is in the narrative --

11 A. Yes.

12 Q. -- the last sentence --

13 A. Yes.

14 Q. -- in very, very small print.

15 But you agree that's what it says;
16 correct?

17 A. Yes.

18 Q. Okay. Let's go back to Exhibit 2, the
19 claims notes.

20 There is a note from 4/17/14 that says
21 disclosure to Progressive. Do you see that note?

22 A. Yes.

23 Q. Is that a typo?

24 A. Yes.

25 Q. Okay. Did you intend to say USAA?

1 A. Yes.

2 (Plaintiff's Exhibit 61 was marked for
3 identification.)

4 BY MR. BONNER:

5 Q. And I'm going to show you an exhibit
6 that I'm going to mark as Exhibit 61.

7 Ms. McLean, I just remembered that your
8 pronunciation is different than the way I want to
9 say it as it's spelled, which is throwing me off.

10 Ms. McLean, can you confirm that you
11 received Exhibit 61?

12 A. Yes.

13 Q. And you received this on or about
14 April 17, 2014?

15 A. Yeah, it looks like it was faxed to us
16 on April 9th.

17 Q. I was referencing your disclosure
18 letter. Do you know if you saw this before
19 April 17, 2014?

20 A. I have no idea.

21 Q. But in response to receiving Exhibit 61,
22 you did prepare an insurance disclosure for USAA?

23 A. Yes.

24 Q. And USAA was the auto insurer for
25 Timothy R. Cawthorn?

1 A. Yes.

2 Q. You later identified Timothy R. Cawthorn
3 was one and the same with Roger Cawthorn, Madison's
4 father?

5 A. I don't specifically remember.

6 Q. I'm going to get a little ahead of
7 myself.

8 You did have a conversation with
9 Madison's father at some point?

10 A. Yes.

11 Q. And he identified himself as Roger
12 Cawthorn?

13 A. I'm not sure.

14 Q. Do you have any reason to believe that
15 Timothy R. Cawthorn is not the same person as
16 Madison's father?

17 A. No.

18 Q. In fact, you believe that to be the
19 case?

20 A. Yes.

21 Q. There's no particular date in Exhibit 2
22 that corresponds to the date of April 9th, 2014,
23 the date that Exhibit 61 would have been faxed?

24 A. No, there's not.

25 Q. Okay. This is a disclosure with regards

1 to Timothy Cawthorn, but it states that the injured
2 party is David Madison Cawthorn.

3 When you received that, did you
4 interpret that as meaning that David and Timothy
5 Cawthorn were related?

6 A. I don't know that I ever entertained any
7 thought about that at all.

8 Q. Okay. Did you notice that the
9 policyholder was not the same as the injured party?

10 A. Yes.

11 Q. And did you attach any significance to
12 that --

13 A. No.

14 Q. -- maybe these were related people or
15 something like that?

16 A. No.

17 Q. If you turn back -- I'll take that
18 exhibit back, because I think that's all the
19 questions I have for it.

20 If you turn back to Exhibit 2, there's
21 another claims note dated 4/17/14. It says,
22 "Sending BI package to claimant." Correct?

23 A. Yes.

24 Q. The claimant was not Timothy Cawthorn;
25 it was Madison Cawthorn; correct?

1 A. Yes, known to me as "David" at the time.

2 Q. Known to you as "David." I'm not trying
3 to be tricky. David Madison Cawthorn?

4 A. Yes.

5 (Plaintiff's Exhibit 62 was marked for
6 identification.)

7 BY MR. BONNER:

8 Q. I'm showing you what we'll mark as
9 Exhibit 62. I'm going to bury you in paper. Here
10 is 62.

11 Ms. McLean, can you confirm for me that
12 Exhibit 62 corresponds to the BI package that's
13 noted on Exhibit 2 with the entry dated 4/17/14?

14 A. That's correct.

15 Q. And it's complete?

16 A. It would have included a self -- or a
17 postage-paid envelope, but the correspondence is
18 complete.

19 Q. Okay. Did you take the body of this
20 letter from a pre-existing template?

21 A. Yes. I use this letter often.

22 Q. Okay. Would you characterize this
23 Exhibit 62 as a form letter?

24 A. No. I often change sentences here or
25 there.

1 Q. Did you change any sentences with
2 respect to the template you used when drafting
3 Exhibit 62? And you can disregard the addressee
4 and the address information.

5 A. Honestly, I don't know. It saves every
6 time I open it; so it may have had language that I
7 had changed for another one, but not significantly.

8 Q. Is there any language here that you
9 noted as being specifically tailored to the
10 Cawthorn-Ledford claim? And, once again, you can
11 disregard the addressee and the address
12 information.

13 A. Other than needing specifically
14 Mr. Cawthorn's medical records, which it does
15 reference, it's not any different than the one that
16 I would normally send.

17 Q. The date you drafted this letter
18 April 17, 2014, you had reviewed that Accord loss
19 notice that I showed you earlier today; correct?
20 That was Exhibit 59. I'm showing the witness.

21 A. Yes, I had seen that before.

22 Q. Okay. Before April 17, 2014?

23 A. Yes.

24 Q. Okay. I'll take that back.

25 And you had also reviewed the police

1 report that I showed you or at least the three
2 pages, which you confirmed receiving, that was
3 Exhibit 6?

4 A. Yes.

5 Q. And based on those two documents, you
6 know that Mr. Cawthorn had been transported to
7 Halifax Hospital at the time of the accident due to
8 life-threatening injuries; true?

9 A. Yes.

10 Q. And you also knew that Mr. Cawthorn was
11 in critical condition based on what was noted on
12 the Accord notice; true?

13 MR. VILMOS: Object to the form.

14 A. I know that he was on April 4th when it
15 was reported.

16 BY MR. BONNER:

17 Q. That's right. So you knew on April 17th
18 that as of April 4th Mr. Cawthorn was in critical
19 condition; correct?

20 A. Yes, but I didn't know that he still
21 was.

22 Q. And as of April 17, 2014, you had not
23 performed an ISO search for Timothy Cawthorn, the
24 individual named on USAA's letter of April 9th of
25 2014?

1 A. I'm not certain. I know there's an ISO
2 in the file, but I don't know the timing of it.

3 Q. We'll go ahead and mark the ISO in the
4 file, which I have received from opposing counsel
5 as Exhibit 3. You'll note that the date on this is
6 April 28, 2014.

7 Is April 28, 2014, the date you
8 performed this ISO search?

9 A. I did not perform this ISO search.

10 Q. Who performed this ISO search?

11 A. It's a system generated match report.

12 Q. Okay. Was it generated on April 28,
13 2014?

14 A. Yes.

15 (Plaintiff's Exhibit 63 was marked for
16 identification.)

17 BY MR. BONNER:

18 Q. Okay. You're not aware of any other ISO
19 report that's in the claims file for the
20 Cawthorn-Ledford matter other than Exhibit 63?

21 A. Correct.

22 Q. Okay. So as of April 17, 2014, you had
23 not performed an ISO search of Timothy Cawthorn,
24 the individual listed in USAA's letter of
25 April 9th, 2014?

1 A. That's correct.

2 Q. And you had not performed an ISO search
3 of Madison David Cawthorn --

4 MR. VILMOS: Object to the form.

5 BY MR. BONNER:

6 Q. -- as of April 17 of 2014?

7 A. No.

8 MR. VILMOS: Object to the form.

9 BY MR. BONNER:

10 Q. And, of course, if you look at
11 Exhibit 2, Exhibit 2 reflects that no ISO searches
12 had been performed prior to April 17 of 2014?

13 A. That's correct.

14 Q. In looking at Exhibit 2, there's no
15 entry reflecting that you contacted Ms. Caldwell,
16 the person working at Bob Ledford RV & Marine's
17 insurance agency, to inquire whether she had
18 information regarding the location of the injured
19 claimant, Madison Cawthorn?

20 A. No.

21 Q. Sticking with Exhibit 2, there's no
22 entry on Exhibit 2 reflecting that prior to
23 April 17, 2014, you contacted USAA to inquire if it
24 knew the location of Mr. Cawthorn?

25 A. I don't know the date that -- there's

1 reference in the file somewhere that I spoke with
2 USAA, and they wouldn't give me the Cawthorns'
3 personal information, address or phone number. I
4 don't know where that is, and I don't know what the
5 date of that was.

6 Q. Okay. I'm going to show you what's
7 previously been marked as Exhibit 8. I showed this
8 to you a little bit ago.

9 This is the email that you had testified
10 memorialized a conversation you had had between
11 David Ledford and yourself. I believe this is the
12 document that states that you contacted USAA.

13 A. It doesn't reference any date at all.
14 It's just got the information about USAA in it.

15 Q. Nothing in Exhibit 8 -- you can keep
16 this in front of you for this question.

17 Nothing in Exhibit 8 reflects that you
18 had contacted USAA prior to April 17, 2014, to
19 learn of the whereabouts of Madison Cawthorn?

20 A. It doesn't reference a date in any way.

21 Q. Okay. So if it doesn't reference a date
22 in any way, it doesn't state that you contacted
23 USAA before April 17, 2014?

24 MR. VILMOS: Objection to form.

25 A. It doesn't state that I didn't either.

1 It doesn't state it at all.

2 BY MR. BONNER:

3 Q. Okay. The information does not appear
4 on Exhibit 8?

5 A. Either way.

6 Q. Right.

7 And if you look at Exhibit 2, there's no
8 entry on Exhibit 2 that would tell you, one way or
9 the other, whether you contacted USAA before
10 April 17 to inquire of the whereabouts of Madison
11 Cawthorn; true?

12 A. That's correct.

13 Q. In other words, the date that you
14 contacted USAA is not documented in the file?

15 A. That is correct.

16 Q. And standing here today, you don't know
17 if you contacted USAA prior to April 17 of 2014?

18 A. That's correct.

19 Q. If you look at Exhibit 2, there's no
20 entry memorializing that you contacted Halifax
21 Hospital to find out whether Mr. Cawthorn was a
22 patient there or if he was dead; true?

23 MR. VILMOS: Object to the form.

24 You can answer.

25 A. I would not have done so, because in

1 prior claims they won't release that information.

2 I knew they would not give it to me.

3 BY MR. BONNER:

4 Q. So you agree that prior to April 17,
5 2014, you had not contacted Halifax Hospital?

6 A. Yes. But, again, like I told you, they
7 won't give you that information over the phone.

8 Q. And prior to April 17, 2014, you had not
9 contacted Halifax Hospital to inquire whether you
10 could speak to Timothy Cawthorn, the person
11 identified on the USAA letter of April 9th, 2014?

12 A. No, I did not.

13 Q. Do you still have Exhibit 61 in front of
14 you? And I'll take back the ISO search.

15 A. I don't have 61.

16 Q. May I have the document? May I have the
17 police report?

18 Okay. Is 61 not the right-hand
19 document? I'm sorry. What document is that?

20 A. 62.

21 Q. 62. My apologies.

22 Looking at the letter of April 17, 2014,
23 Exhibit 62, it is addressed to Madison Cawthorn's
24 home address in Flat Rock, North Carolina; correct?

25 MR. VILMOS: Object to the form.

1 A. Yes.

2 BY MR. BONNER:

3 Q. That's the address that corresponds to
4 the address listed in Exhibit 6 on the police
5 report?

6 A. That's correct.

7 Q. Just looking at Exhibit 62, it lists the
8 insured as Bob Ledford RV & Marine, and states,
9 "It's my understanding that you were injured in an
10 accident with the above-mentioned insured."

11 Correct, that's what it says?

12 A. Yes.

13 Q. Madison Cawthorn was involved in an
14 accident with Bradley Ledford; correct?

15 A. Yes.

16 Q. Okay. If you'll turn to the page on
17 Exhibit 62 that's numbered 00450. Do you see that
18 page?

19 A. Yes.

20 Q. Okay. This is a form called an
21 Authorization for Release of Medical and Employment
22 Information; correct?

23 A. Yes.

24 Q. Your letter of April 17, 2014, asked
25 Mr. Cawthorn to sign this form?

1 A. Yes.

2 Q. If you'll look back at Exhibit 2.

3 There is an entry dated 4/21/14 that
4 reads, "S/W Charlie," which I interpret that to be
5 "spoke with Charlie." Is that the correct
6 interpretation?

7 A. Yes.

8 Q. Charlie is the gentleman who worked for
9 Bob Ledford RV & Marine?

10 A. Yes.

11 Q. What was the purpose of your calling
12 Charlie on April 21, 2014?

13 A. Just making sure that Madison was not an
14 employee and then subject to a coverage exclusion.

15 Q. Okay. I think I can take back some
16 paper that's in front of you. I'll take that
17 Exhibit 62. And if you need to reference it again,
18 you can ask.

19 Where did you obtain Charlie's contact
20 information?

21 A. I believe from Mike's notes or was it
22 the -- an agency notice. I don't know.

23 Q. Okay. But, as you said, the purpose was
24 to find out if an exclusion to the policy applied?

25 A. Correct.

1 Q. Had the exclusion applied, there would
2 be no coverage for Bob Ledford RV & Marine or
3 Bradley Ledford under either the garage or umbrella
4 policies?

5 A. I'm not certain about the umbrella, but
6 certainly the garage.

7 Q. All right. So, in other words, the
8 exclusion would have prevented coverage for Bradley
9 Ledford and Bob Ledford RV on the garage policy for
10 certain?

11 A. Yes.

12 Q. As of April 21, 2014, other than the
13 brief conversation that's not reflected on
14 Exhibit 2, had you had any other conversations with
15 David Ledford about this accident?

16 A. Ask me the beginning part of the
17 question again.

18 Q. Sure.

19 As of April 21, 2014, had you had any
20 communications with David Ledford other than the
21 brief conversation that's not documented in
22 Exhibit 2?

23 A. Not that I recall.

24 Q. And you had not had a conversation with
25 David Ledford regarding the circumstances of the

1 accident; correct?

2 MR. VILMOS: Object to the form.

3 A. Correct.

4 BY MR. BONNER:

5 Q. And as of April 21, 2014, you had not
6 spoken to David Ledford regarding Madison
7 Cawthorn's injuries; correct?

8 A. Correct.

9 Q. And as of April 21, 2014, you had not
10 spoken to David Ledford regarding whether Madison
11 Cawthorn was still hospitalized; correct?

12 A. That's correct.

13 Q. And as of April 21, 2014, you had not
14 spoken to Bradley Ledford; correct?

15 A. That is correct.

16 Q. And as of April 21, 2014, you had not
17 spoken to Roger Cawthorn, Timothy Roger Cawthorn,
18 the individual identified on the USAA letter of
19 April 9th, 2014?

20 A. That's correct.

21 Q. And as of April 21, 2014, you had not
22 spoken to Mr. Cawthorn, the injured claimant?

23 A. No.

24 Q. But as of April 21, 2014, you had
25 investigated whether Auto-Owners had a defense to

1 coverage under the garage policy; correct?

2 A. Yes.

3 Q. The next entry on Exhibit 2 is dated --
4 I think it's also dated April 21st, 2014, by
5 Stephanie Krauss. Do you see that entry?

6 A. Yes.

7 Q. She's the adjuster that was listed on
8 USAA's letter of April 9th, 2014; correct?

9 A. I didn't realize that.

10 Q. Oh, and I might not be accurate. So
11 let's see. It's not. It is Amber Morgan. Here it
12 is, Exhibit 61.

13 Do you know -- let's see here...

14 A. Amber Morgan is the sender, and it is
15 addressed to me.

16 Q. Okay. Who is Stephanie Krauss?

17 A. She's another claim person in our
18 office.

19 Q. And it says, "Claimant carrier is Amber
20 at USAA." It has Amber's telephone number.

21 But Amber is the person who addressed
22 the Exhibit 61; correct?

23 A. Yes.

24 Q. All right. And do you have any specific
25 recollection of why Ms. Krauss would have entered

1 this information?

2 A. She must have taken a call for me when I
3 was unavailable and noted the information in the
4 file.

5 Q. Did you ever have a conversation about
6 the substance of that communication?

7 A. No.

8 Q. Is there any other record or notes about
9 that communication other than what is reflected in
10 Exhibit 2?

11 A. No.

12 Q. I'll take 61 back.

13 The next entry on Exhibit 2 is dated
14 April 7th of 2014, and I just want to note
15 there's -- okay. So you have an entry from 4/21
16 and then an entry on April 7th, 2014; correct?

17 MR. VILMOS: Object to the form.

18 A. It's May 7th, actually.

19 BY MR. BONNER:

20 Q. May 7th. Excuse me. I misspoke.

21 I'm going to show you what's been
22 previously marked as Exhibit 5.

23 Ms. McLean, do you recognize Exhibit 5?

24 A. Yes.

25 Q. This is a report you authored on

1 April 21, 2014?

2 A. Yes.

3 Q. And it was sent to legal?

4 A. Yes.

5 Q. Did you know it was going to Ms. Pitman?

6 A. Yes.

7 Q. Did you have a conversation with
8 Ms. Pitman on or about the time that you sent this
9 report?

10 A. Not that I recall.

11 Q. And there are no notes in Exhibit 2 that
12 document that a conversation between you and
13 Ms. Pitman took place; correct?

14 A. Correct.

15 Q. Why was it that you referred this claim
16 to legal?

17 A. Because I was changing the reserve or
18 opening the reserve -- I'm not sure when the change
19 occurred -- at more than \$50,000.

20 Q. Is there a guideline applicable to
21 adjusters handling auto liability claims that
22 anytime a claim is opened with a reserve over
23 \$50,000 that the claim be referred to home office
24 legal?

25 MR. VILMOS: Object to the form.

1 A. It needs to be reported to legal, and
2 it's in the file reporting guidelines in the claim
3 handling guide we previously discussed.

4 BY MR. BONNER:

5 Q. So it's a standard thing that you have
6 to do in any case where you open a reserve in
7 excess of \$50,000; correct?

8 A. That's correct.

9 Q. Do you know why it's a standard
10 practice?

11 A. No.

12 Q. Okay. You said that you set an
13 estimated reserve of \$250,000 as of April 21st,
14 2014; correct?

15 A. Yes.

16 Q. That was based on the information that
17 was in the police report and the Accord loss form
18 with regards to Mr. Cawthorn's injuries?

19 A. Yes.

20 Q. Outside of the information that's
21 contained in Exhibit 5, was there any other
22 information that you were relying upon to set the
23 reserve at \$250,000?

24 A. Yes. I was relying on the loss notice
25 that said that he was in critical condition -- oh,

1 no. I'm sorry. That is in the report.

2 Q. Well, that's in the report, but as you
3 point out, it's also in the Accord loss form;
4 correct?

5 A. Yes.

6 Q. So is it fair to say that the
7 information that you included in Exhibit 5 was
8 information you took from the police report and the
9 Accord loss form?

10 A. Yes.

11 Q. And it was based on the information in
12 those two documents that you set a \$250,000
13 reserve?

14 A. Yes, and the fact that we had confirmed
15 that there were no coverage issues.

16 Q. Okay. You can give me Exhibit 5 back,
17 if you'd like.

18 We looked at the Exhibit No. 8 that
19 reflected the phone call between you and David
20 Ledford. Do you recall that?

21 A. I'd like to see it again.

22 Q. Yeah, of course. Don't worry. It is
23 not a test. I'm showing the witness Exhibit 8.

24 Now, comparing Exhibit 8 to Exhibit 2,
25 you agree with me that there is no claim note in

1 Exhibit 2 that corresponds to a telephone call you
2 had with Ms. Canterbury, who was David Ledford's
3 fiancée, and Mr. Ledford on or about April 28,
4 2014?

5 A. That's correct.

6 Q. Was the conversation on April 28, 2014?

7 A. I believe so, yes.

8 Q. The conversation of April 28, 2014, was
9 the first time you had spoken to Ms. Canterbury;
10 correct?

11 A. I believe so.

12 Q. And it was the second time you had
13 spoken to David Ledford; correct?

14 A. I believe so.

15 Q. But it was the first time that either
16 Ms. Canterbury or Mr. Ledford described to you the
17 accident and Mr. Cawthorn's injuries?

18 A. Yes.

19 Q. You did not speak to Bradley Ledford
20 during the conversation of April 28, 2014; true?

21 A. I don't believe so.

22 Q. This document, document 8, states that
23 this is a follow-up to my -- well, "me" -- a
24 typo -- preliminary report, but would it be
25 appropriate for me to call this a follow-up report?

1 A. Yes.

2 Q. Okay. The follow-up report is marked
3 "importance high"; correct?

4 A. Yes.

5 Q. You wanted Ms. Pitman to look at this
6 report with some degree of urgency?

7 MR. VILMOS: Object to the form.

8 A. Yes.

9 BY MR. BONNER:

10 Q. Okay.

11 A. So that she would know the reserves were
12 being increased to a level that would alert people
13 that would ask her about it.

14 Q. Okay. And you also have more
15 information to share with her in addition to the
16 information you had had on April 21, 2014?

17 A. Yes.

18 Q. And this was information that you
19 thought was important to the ongoing investigation
20 of the claim?

21 A. Well, any new information is important,
22 but the reason I marked this with high importance
23 was so that she would be alerted to the reserve
24 before somebody came to her and said, hey, there's
25 \$3 million. What is this?

1 Q. "What's happening in the claim, can you
2 justify it, Ms. Pitman, in other words." Right?

3 A. Yes.

4 Q. Okay. And this explained your
5 justifications for raising the reserves to
6 \$3 million; correct?

7 A. Yes.

8 Q. And by giving your justifications to
9 Ms. Pitman, she could then communicate those to
10 anyone who asked her what was going on with the
11 claim?

12 A. Correct.

13 Q. During Mr. Ledford and Ms. Canterbury's
14 conversation with you on April 28, 2014, they
15 reported to you that Madison was, quote, paralyzed
16 with a spinal cord compromise at T11, end quote.

17 True?

18 A. Yes.

19 Q. Mr. Ledford and Ms. Canterbury reported
20 to you that Mr. Cawthorn had sustained a fractured
21 pelvis; correct?

22 A. Yes.

23 Q. They reported to you that Mr. Cawthorn
24 had two broken ankles?

25 A. Yes.

1 Q. They reported to you that Mr. Cawthorn
2 had lost a kidney?

3 A. Yes.

4 Q. And they reported to you that
5 Mr. Cawthorn had been on a respirator at some
6 point?

7 A. Yes.

8 Q. They reported to you that he was still
9 hospitalized?

10 A. Yes.

11 Q. That he was still at Halifax Hospital?

12 A. Yes.

13 Q. They described his condition as
14 incredibly serious; correct?

15 MR. VILMOS: Object to the form.

16 A. I'm not sure they said that, but it
17 certainly appears so from the description.

18 BY MR. BONNER:

19 Q. Mr. Ledford and Ms. Canterbury told you
20 that Mr. Cawthorn had almost died?

21 A. I don't know if they used those specific
22 words.

23 Q. Apart from what information is contained
24 in Exhibit 8, do you have any recollection of any
25 additional information that Ms. Canterbury or

1 Mr. Ledford provided to you during the conversation
2 of April 28, 2014?

3 A. No.

4 Q. Your recollection of the conversation is
5 solely drawn from the information that you've
6 memorialized in Exhibit 8?

7 A. Yes.

8 Q. Okay. Mr. Ledford and Ms. Canterbury
9 have both been deposed in this case.

10 Will you affirm or deny that you told
11 them that you would handle this claim?

12 MR. VILMOS: Object to the form.

13 A. I don't know if I said exactly those
14 words, but I've represented myself as the person
15 handling the claim.

16 BY MR. BONNER:

17 Q. Can you affirm or deny that you told
18 Mr. Ledford and Ms. Canterbury that Auto-Owners
19 would be tendering their limits to settle this
20 claim?

21 MR. VILMOS: Object to the form.

22 A. I would only have said, "Upon receipt of
23 confirmation of the significance of the injuries."

24 BY MR. BONNER:

25 Q. Can you confirm or deny that Mr. Ledford

1 and Ms. Canterbury told you that Mr. Cawthorn had
2 nearly died multiple times while at Halifax?

3 A. I do not recollect those specific
4 statements, no.

5 Q. Did you tell Mr. Ledford and
6 Ms. Canterbury that Auto-Owners would be offering
7 less than its policy limits to settle the claim
8 with Mr. Cawthorn?

9 A. No.

10 Q. Did you instruct Mr. Ledford or
11 Ms. Canterbury to assist you in obtaining medical
12 records from Mr. Cawthorn?

13 A. No.

14 Q. Did you ask them to assist you in any
15 way in providing you with additional information
16 with respect to the accident or Mr. Cawthorn's
17 injuries?

18 A. They couldn't get me another person's
19 medical records. I wouldn't think to ask that.

20 Q. So you did not in fact ask that?

21 A. No, because, as I said, there would be
22 no purpose in doing so.

23 Q. Do you have a recollection of how long
24 the telephone call lasted?

25 A. No.

1 Q. Did Mr. Ledford call you?

2 A. I don't recall.

3 Q. Turning back to Exhibit 8. According
4 your report, you tell Ms. Pitman that you've
5 increased the reserve in the garage policy to a
6 million dollars; correct?

7 A. Yes.

8 Q. A million dollars is equal to the policy
9 limits on that policy; correct?

10 A. Yes.

11 Q. You also state in your report,
12 representing Exhibit 8, that the insured has a
13 2 million umbrella policy that is being, quote,
14 opened at the per current limit.

15 Can you confirm that that means that you
16 were setting a \$2 million reserve on the umbrella
17 policy as well?

18 A. Yes.

19 Q. So in aggregate, you had set a reserve
20 of \$3 million on the Cawthorn-Ledford claim?

21 A. That's correct.

22 Q. And \$3 million was the maximum reserve
23 you could set on that claim?

24 A. Yes.

25 Q. And it was equal to the Ledfords'

1 complete policy limits; correct?

2 A. Yes.

3 Q. And on 4/28/14, when you set that
4 reserve, it reflected your best estimate of
5 Mr. Cawthorn's damages based on the information you
6 had on April 28, 2014?

7 MR. VILMOS: Object to the form.

8 A. It was the anticipation of a payment
9 upon receipt of confirmation that those were, in
10 fact, the injuries.

11 BY MR. BONNER:

12 Q. As of April 28, 2014, you still believed
13 that Bradley Ledford was at fault for causing this
14 accident?

15 A. Yes.

16 Q. The letter also references a
17 conversation between you and the USAA adjuster. I
18 think we talked about that before.

19 A. Yes.

20 Q. And the report states that USAA declined
21 to give you Roger Cawthorn's number; correct?

22 A. Yes.

23 Q. But do you agree with me that the report
24 does not state that you asked Mr. Ledford or
25 Ms. Canterbury for Roger Cawthorn's number and that

1 they declined to give you that information?

2 A. It does not.

3 Q. Okay. And, in fact, you did not ask
4 Mr. Ledford or Ms. Canterbury for the telephone
5 number of Mr. Cawthorn?

6 MR. VILMOS: Object to the form. Asked
7 and answered.

8 A. I appreciate what you're trying to
9 accomplish, but I also, as a parent, didn't want to
10 intrude on these people when they had the
11 information to contact me. I mean their son was in
12 critical condition. I wasn't going to stalk them
13 out when I knew they had the information to contact
14 me.

15 BY MR. BONNER:

16 Q. Auto-Owners represents who?

17 MR. VILMOS: Object to the form.

18 BY MR. BONNER:

19 Q. Bob Ledford RV & Marine; correct?

20 A. Yes, that is correct.

21 Q. And to the extent they were defending
22 Bradley, they represented Bradley Ledford as well;
23 correct?

24 MR. VILMOS: Object to the form

25 "represents."

1 You can answer that question.

2 A. That is correct.

3 BY MR. BONNER:

4 Q. Looking at your report, in addition to
5 the statement regarding USAA, the report also
6 doesn't state that you searched for Roger
7 Cawthorn's contact information via an ISO search or
8 were unable to locate any information for him;
9 correct?

10 A. No, it does not.

11 Q. In your report of April 28, 2014, it
12 also doesn't state that you tried to locate Roger
13 Cawthorn's contact information by asking his
14 employer Edward Jones; correct?

15 MR. VILMOS: Object to the form.

16 A. I didn't even know he worked for Edward
17 Jones, but my report does state that his insurance
18 adjuster, who had spoken with him previously, would
19 give him my contact information. It wasn't because
20 I wasn't trying to get in touch with him. I
21 thought he was going to be contacting me.

22 BY MR. BONNER:

23 Q. Your report also doesn't reflect that
24 you performed any internet searches to try and
25 identify contact information for Roger Cawthorn;

1 correct?

2 A. That is correct.

3 Q. Your report continues, quote, please let
4 me know if you want to get defense counsel involved
5 on the front side in order to get this matter
6 concluded without any possibility of excess
7 exposure, end quote; correct?

8 A. Yes.

9 Q. You recognize that this was a very
10 serious claim as of April 28, 2014?

11 MR. VILMOS: Object to the form.

12 A. Yeah, if the evidence supported what I
13 had been told, yes.

14 BY MR. BONNER:

15 Q. Based on the evidence you had as of
16 April 28, 2014, and with no additional evidence,
17 you recognized that this was a very serious claim;
18 true?

19 A. I recognized it was a serious claim, but
20 I didn't have any evidence other than evidence of
21 liability.

22 Q. When you say you didn't have any
23 evidence, you had spoken to Mr. Ledford; correct?

24 A. I understand that, but you can't just
25 take what somebody tells you without verifying that

1 it is, in fact, the truth.

2 Q. And you had also spoken to
3 Ms. Canterbury too; correct?

4 A. The same goes.

5 Q. Okay. And if you look at the bottom of
6 your report, you mention a Facebook page called
7 "Prayers for Madison 2014"; correct?

8 A. Yes.

9 Q. And in fact, as of April 28, 2014, you
10 had reviewed the "Prayers for Madison 2014"
11 Facebook page?

12 A. Yes, I did.

13 Q. And I assume, because you're diligent at
14 your job, you read the whole thing?

15 A. Yes, I did.

16 Q. Okay. So when I asked you you knew that
17 this was a serious claim as of April 28, 2014, you
18 knew it was a serious claim based on the
19 information you had reviewed; correct?

20 A. Yes. But, again, you can't believe
21 everything on Facebook. I had to have some
22 independent verification of the extent of the
23 injuries before writing a check for \$3 million.

24 Q. There are pictures on Facebook; correct?

25 A. Yes, but people recover all the time.

1 Q. And there are pictures on Facebook of
2 Mr. Cawthorn specifically?

3 MR. VILMOS: Object to the form.

4 A. Which Mr. Cawthorn?

5 BY MR. BONNER:

6 Q. Madison Cawthorn.

7 A. Yes.

8 Q. There are pictures that depicted his
9 injuries; correct?

10 A. I'm not sure which injuries that you're
11 talking about.

12 Q. Okay. And you continued to review the
13 Facebook page even after April 28, 2014; correct?

14 A. I did. I had an unbelievable amount of
15 empathy for that family. I wanted to know what was
16 happening.

17 Q. And I suspect that you kept yourself, if
18 not daily, up to date, and very regularly; correct?

19 MR. VILMOS: Object to the form.

20 A. I don't know that I would say "very
21 regularly." I don't know.

22 BY MR. BONNER:

23 Q. Did you check it again before June 11th,
24 2014?

25 A. Most likely, yes.

1 Q. Okay. Did you check it after June 11,
2 2014?

3 A. Most likely.

4 (Plaintiff's Exhibit 64 was marked for
5 identification.)

6 BY MR. BONNER:

7 Q. I'm showing you an exhibit I'm marking
8 as Exhibit 64. Here's your copy.

9 MR. VILMOS: You said 64?

10 MR. BONNER: Yes, 64.

11 MR. VILMOS: You wrote 65.

12 BY MR. BONNER:

13 Q. 64.

14 This is a selection of screen captures
15 taken from the "Prayers for Madison 2014" Facebook
16 page, dated from April 4th, 2014, to June 11, 2014.

17 Between the dates of April 4th, 2014 and
18 June 11, 2014, the Facebook page "Prayers for
19 Madison" disclosed that Mr. Madison Cawthorn had
20 had surgery to remove a kidney; true?

21 A. Yes.

22 Q. The "Prayers for Madison 2014" Facebook
23 page disclosed that the kidney removal was followed
24 by complications; correct?

25 A. Yes.

1 Q. The "Prayers for Madison" Facebook page
2 also disclosed that he had a punctured lung; true?

3 A. I don't know. I'm looking.

4 Q. If you go to page 1321, 1324, or 1326.

5 MR. VILMOS: Can you repeat that last
6 question, Lance?

7 BY MR. BONNER:

8 Q. The "Prayers for Madison" Facebook page
9 disclosed that Madison had had a punctured lung;
10 correct?

11 A. First mention is on April 8 on
12 page 1326.

13 Q. Okay. Do you agree with me that between
14 April 4th, 2014, and June 11th, 2014, the Facebook
15 page "Prayers for Madison" disclosed that Madison
16 Cawthorn had had a punctured lung?

17 A. I see mention of it on April 8th.

18 Q. Okay. The Facebook page also disclosed
19 that Mr. Cawthorn, Madison Cawthorn, had had a
20 damaged diaphragm?

21 A. Can you reference the page?

22 Q. 1351.

23 MR. VILMOS: Objection. Relevance.

24 A. And what was your question, again?
25

1 BY MR. BONNER:

2 Q. The Facebook page "Prayers for Madison"
3 between April 4th, 2014, and June 11, 2014,
4 disclosed that Mr. Cawthorn had suffered a damaged
5 diaphragm?

6 A. Yes.

7 Q. Between those same dates, the Facebook
8 page disclosed that Mr. Cawthorn had suffered from
9 a bout of pneumonia while in the hospital; true?

10 A. What page?

11 Q. 1328.

12 A. Yes.

13 MR. VILMOS: The same objection.

14 BY MR. BONNER:

15 Q. And in between April 4th, 2014, and
16 June 11, 2014, the "Prayers for Madison 2014"
17 Facebook page disclosed that the pneumonia that
18 Madison Cawthorn suffered required him to be placed
19 on a ventilator?

20 A. Again, page?

21 Q. 1329.

22 MR. VILMOS: The same objection.

23 A. It references that he's off the
24 ventilator.

25

1 BY MR. BONNER:

2 Q. Do you agree with me that the Facebook
3 page indicates that he was once on a ventilator?

4 A. Yes.

5 MR. VILMOS: Object to the form.

6 BY MR. BONNER:

7 Q. Between April 4th, 2014, and June 11,
8 2014, the "Prayers for Madison" Facebook page
9 reflects that Madison Cawthorn had had a
10 tracheostomy tube inserted into his throat?

11 A. Page?

12 Q. 1350 and 1355.

13 A. Yes.

14 Q. If you look at page 1350, it indicates
15 that Madison Cawthorn was unable to breathe on his
16 own?

17 A. Yes.

18 MR. VILMOS: The same objection.

19 BY MR. BONNER:

20 Q. If you'll look at page 1354, you can
21 confirm that between April 4th, 2014, and June 11,
22 2014, the Facebook page disclosed Madison Cawthorn
23 had to have his lungs drained?

24 MR. VILMOS: The same objection.

25 Relevance.

1 A. Mr. Bonner, I agree that the Facebook
2 page has all kinds of information about the
3 terrible injuries that this boy sustained. Do we
4 have to go through every page this way?

5 Q. Can you confirm with me that the
6 information that you reviewed between April 4th,
7 2014, and June 11, 2014, on the "Prayers for
8 Madison" Facebook page indicated that Madison
9 Cawthorn had to have his lungs drained?

10 If you would like a specific page
11 number, you can look at 1354.

12 A. Yes.

13 Q. Okay. And the Facebook page disclosed
14 that Madison Cawthorn had had a broken pelvis;
15 true?

16 A. Yes.

17 Q. And it disclosed between the dates of
18 April 4th, 2011 [sic], and June 4th, 2011 [sic],
19 that Madison Cawthorn's broken pelvis required
20 surgery; true?

21 MR. VILMOS: The same relevance
22 objection.

23 A. Yes.

24 MR. MARTINEZ: Excuse me for one second.

25 Excuse me for one second. Let me talk to

1 you.

2 MR. BONNER: Would you like to take a
3 break?

4 THE WITNESS: No.

5 MR. MARTINEZ: I would, please. I would
6 like to go to the restroom.

7 THE VIDEOGRAPHER: We're off the record
8 at 1:58.

9 (Break from 1:58 p.m. to 2:07 p.m.)

10 THE VIDEOGRAPHER: We're back on the
11 record at 2:07 p.m.

12 BY MR. BONNER:

13 Q. Ms. McLean, I realize that these
14 questions about what was on the Facebook page go
15 into some very difficult issues. I'm here asking
16 these questions because I represent Madison
17 Cawthorn. I'm not going to ask you all of the ones
18 I have here, but there are a few more that I want
19 to ask you about, specifically because they're
20 important to my case and my client's case.

21 So with respect to the injuries that
22 were depicted on Mr. Cawthorn's "Prayers for
23 Madison" Facebook page between April 4th, 2014, and
24 June 11th, 2014, do you agree with me that the
25 Facebook page disclosed that he had had both of his

1 ankles broken and that he had had surgery to repair
2 one of his ankles?

3 MR. VILMOS: Object to the preamble to
4 the question. Generally, you can answer the
5 question about the ankles.

6 A. If you can tell me the page.

7 BY MR. BONNER:

8 Q. Direct your attention to 1326 and 1327
9 and I believe also 1342.

10 A. Yes.

11 Q. Okay. At one point between April 4th,
12 2014, and June 11th, 2014, Mr. Cawthorn's colon
13 became so critically inflated that it necessitated
14 surgical intervention to deflate?

15 MR. VILMOS: Object to the form.

16 A. I believe you.

17 BY MR. BONNER:

18 Q. And that's reflected on page 1345.

19 And according to the information on the
20 "Prayers for Madison" Facebook page between
21 April 4th, 2014, and June 11, 2014, Mr. Cawthorn
22 had a crushed vertebrae in his back, could not
23 control his bowels, and was not able to walk?

24 MR. VILMOS: The same objection.

25 Relevance.

1 A. I believe that it's in there.

2 BY MR. BONNER:

3 Q. Now, getting back to your report to
4 Ms. Pitman on April 28, 2014. There's a
5 statement --

6 MR. VILMOS: It's Exhibit 8.

7 BY MR. BONNER:

8 Q. Do you have the email in front of you?

9 A. Yes.

10 Q. What's the exhibit number?

11 MR. VILMOS: It's Exhibit 8.

12 BY MR. BONNER:

13 Q. You have the statement I pointed out to
14 you before: "Please let me know if you want me to
15 get defense involved on the front side in order to
16 get this matter concluded without any possibility
17 of excess exposure."

18 Correct?

19 A. Yes, that is in there.

20 Q. Now, when you made that statement, you
21 made it with the benefit of the information you had
22 learned in your investigation to that point, which
23 included the review of certain Facebook pages
24 between April 4th, 2014, and the date of your
25 report, April 28, 2014?

1 A. Yes.

2 Q. And if I interpret this statement
3 correctly, what you're suggesting is that
4 Ms. Pitman and you discussed making a settlement
5 offer to Madison Cawthorn through defense counsel?

6 MR. VILMOS: Object to the form.

7 A. No.

8 BY MR. BONNER:

9 Q. And the reason I mention that is because
10 if you can settle a case within policy limits, you
11 can, quote, conclude it without any possibility of
12 excess exposure, end quote; correct?

13 A. Yes.

14 Q. So one way to interpret this is that
15 you're suggesting to Ms. Pitman that you can avoid
16 an exposure to the Ledfords by doing something, by
17 involving defense counsel, I suppose?

18 MR. VILMOS: Object to the form.

19 A. I understand the statement you just
20 made, but you asked me if I said that in
21 anticipation of making a settlement offer, and
22 that's not correct.

23 BY MR. BONNER:

24 Q. Was it in connection with possibly
25 making a settlement offer?

1 MR. VILMOS: Object to the form.

2 A. Yes.

3 BY MR. BONNER:

4 Q. In other words, this was broaching to
5 Ms. Pitman whether or not it was the correct time
6 to get defense counsel involved to discuss whether
7 or not to make a settlement offer?

8 MR. VILMOS: Objection.

9 A. No.

10 MR. VILMOS: It speaks for itself.
11 You can answer the question.

12 A. No. We would have required additional
13 information still. A Facebook page, author
14 unknown, though I believed it, still needs some
15 independent verification.

16 BY MR. BONNER:

17 Q. But just hiring a defense counsel won't
18 prevent an excess exposure to the Ledfords;
19 correct?

20 A. I have no idea.

21 Q. But you understand an excess exposure,
22 because when you wrote it, you were referring to
23 the Ledfords having to pay out of pocket above
24 their limits; correct?

25 A. I know what an excess exposure is, yes.

1 Q. And what you were hoping to achieve in
2 sending this report is avoiding the Ledfords facing
3 an excess exposure?

4 A. Yes.

5 Q. At least in part that was the purpose of
6 your letter?

7 A. Yes.

8 Q. And when you mentioned the Facebook page
9 down at the bottom of your report to Ms. Pitman,
10 you suggest to her that she might want to review
11 it; correct?

12 A. Yes.

13 Q. And it wasn't because the information
14 was irrelevant. It was because you thought
15 Ms. Pitman might find some relevance to that
16 information?

17 MR. VILMOS: Object to the form.

18 A. It was mostly because I wanted her to
19 get an overall picture of the claimant. I was
20 telling her what I was being told about the
21 injuries. She didn't need to review it for that.
22 I wanted her to see a picture of Madison.

23 BY MR. BONNER:

24 Q. But you certainly suggested to her to
25 look at the "Prayers for Madison" website and the

1 information that was on it?

2 A. Not for confirmation of injuries, just
3 for an overall picture of the claimant.

4 Q. Okay. Ms. Pitman never looked at the
5 "Prayers for Madison" Facebook page.

6 MR. VILMOS: Object to the form of the
7 question.

8 BY MR. BONNER:

9 Q. Did you know that?

10 MR. VILMOS: That's a question at this
11 point.

12 A. I don't know.

13 BY MR. BONNER:

14 Q. In response to your report, I believe
15 she sent you what I'm showing you is Exhibit 9.

16 Can you confirm that this is the
17 response that Ms. Pitman sent you following her
18 receipt of your report?

19 A. Yes.

20 Q. And it's dated May 8, 2014; correct?

21 A. Yes.

22 Q. And in response to your question to
23 Ms. Pitman, "Do you want me to get defense counsel
24 involved on the front side in order to get this
25 matter concluded without any possibility of excess

1 exposure," Ms. Pitman does not directly respond to
2 that question; correct?

3 A. That's correct.

4 Q. In other words, nothing on Exhibit 9
5 discusses the suggestion to get defense counsel
6 involved; correct?

7 A. Correct.

8 Q. And nothing in Exhibit 9 discusses
9 whether or not there's even a possibility of excess
10 exposure to the Ledfords?

11 A. No.

12 Q. Her response on May 8, 2014, to your
13 follow-up report of April 28, 2014, does not give
14 you settlement authority to make a settlement offer
15 to Madison Cawthorn in the amount of \$3 million;
16 true?

17 MR. VILMOS: You can answer that
18 question.

19 A. Correct.

20 BY MR. BONNER:

21 Q. And, in fact, Ms. Pitman did not give
22 you settlement authority to make a settlement offer
23 to Mr. Cawthorn for \$3 million in the entire month
24 of May 2014; true?

25 A. I don't remember the exact date; though,

1 the number of references to June 11th would lead me
2 to believe that was the date.

3 Q. Well, I'll show you a document marked
4 from August 6th. Let's see if this refreshes your
5 recollection.

6 This is Plaintiff's Exhibit 20. It's an
7 email from Ms. Pitman to you, dated August 6, 2014.

8 Do you recall receiving this letter?

9 A. I do. That was in response to my
10 sending her a copy of a health insurance lien that
11 we finally received with a dollar number on it.

12 Q. Are you aware of any other document in
13 the claims file that memorializes Ms. Pitman
14 extending you settlement authority to make a
15 \$3 million settlement offer to Mr. Cawthorn in
16 exchange for his release of his claims against the
17 Ledfords?

18 A. We had not received confirmation of the
19 injuries before that date.

20 Q. Okay. So, in other words, the document
21 before you as Exhibit 20 is the first time
22 Ms. Pitman extended you settlement authority to
23 make a settlement offer to Mr. Cawthorn for
24 \$3 million in exchange for a release of his claims
25 against the Ledfords?

1 A. It's the first time she had the
2 information necessary to do so.

3 Q. But it's also the first time she gave
4 you authority to do so; correct?

5 A. Because she received independent
6 confirmation justifying the payment of the
7 \$3 million.

8 Q. Did she authorize at any time before
9 August 6, 2014, a settlement offer to Madison
10 Cawthorn in the amount of \$3 million in exchange
11 for a release of his claims against the Ledfords?

12 A. She couldn't have without independent
13 confirmation of the injuries.

14 Q. And, of course, my question wasn't could
15 she have. My question was factual. It was: Did
16 she?

17 A. No.

18 Q. Let's see. You've got Exhibit 20 in
19 front of you.

20 Can you confirm to me that Ms. Pitman's
21 authority to make a settlement offer in the amount
22 of \$3 million to Mr. Cawthorn is equal to the
23 amount for which you set a reserve on the
24 Cawthorn-Ledford matter on April 28, 2014?

25 A. Yes.

1 Q. Can we go back to Exhibit 9? And, here,
2 I'll collect some documents from you. Give me the
3 Facebook pages.

4 Okay. Let's stick to Exhibit 9.
5 Exhibit 9, once again, is Ms. Pitman's response to
6 your follow-up report of April 28, 2014, and she
7 asks, "Is Madison Cawthorn's spinal injury
8 correctable and whether or not the paralysis will
9 resolve."

10 Correct?

11 A. Yes.

12 Q. Okay. If Madison's spinal injury were
13 correctable, that would be information that would
14 be relevant to the amount of a settlement offer
15 that Auto-Owners might make to Mr. Cawthorn in
16 exchange for releasing his claims against the
17 Ledfords?

18 MR. VILMOS: Object to the form. It's
19 not a question.

20 BY MR. BONNER:

21 Q. True?

22 A. By itself, yes. But the medical records
23 in their entirety might not affect the settlement
24 offer.

25 Q. I understand.

1 So it's possible that upon receipt of
2 the medical records, Auto-Owners would decide to
3 make a settlement offer in the amount of \$3 million
4 to Mr. Cawthorn; correct?

5 A. I'm sorry. Ask the question again.

6 MR. VILMOS: Lance, can you read that
7 back.

8 MR. BONNER: Actually, you know what?
9 Strike the question. I'll just move on.

10 BY MR. BONNER:

11 Q. Specifically with respect to
12 Ms. Pitman's inquiries about whether the spinal
13 injury is correctable and whether the paralysis
14 will resolve. In Ms. Pitman's view or in your
15 view, that was material to the amount of a
16 settlement offer that Auto-Owners might extend to
17 Mr. Cawthorn?

18 MR. VILMOS: Object to the form.

19 A. Certainly, if the information was that
20 it wasn't correctable.

21 BY MR. BONNER:

22 Q. In the event that the information was
23 that the paralysis was not permanent, it's possible
24 that Auto-Owners would judge the damages as being
25 less than \$3 million?

1 A. It's impossible to say without knowing
2 the extent of the other injuries and whether or not
3 they were permanent in nature.

4 Q. All I'm asking is is it a possibility?

5 A. A possibility, yes.

6 Q. Okay. And if Auto-Owners extended a
7 \$3 million settlement offer to Mr. Cawthorn and it
8 turned out that his injuries were less severe than
9 what had been reported, there's a risk that
10 Auto-Owners would have exhausted the policy limits
11 unnecessarily?

12 A. I wouldn't consider that a risk.

13 Q. You wouldn't consider that a risk?

14 A. No.

15 Q. Okay. Ms. Pitman's letter of May 8,
16 2014 is not reflected in Exhibit 2; correct? It's
17 not memorialized in Exhibit 2.

18 A. Correct.

19 Q. Okay. I apologize. I'm trying to
20 locate a letter that I do not have properly written
21 down in my notes.

22 This is a document that was previously
23 marked as Exhibit 10. It's an email from you to
24 Ms. Pitman on April 9th, 2014.

25 This is an accurate copy of an email

1 that you sent to Ms. Pitman on April 9, 2014;
2 correct?

3 A. Yes.

4 Q. It attaches, I believe, four printouts
5 of the "Prayers for Madison 2014" Facebook page.

6 Did you select those printouts for
7 Ms. Pitman's review?

8 A. I believe they're the -- I didn't select
9 them from a bunch. They were the only ones that
10 were in my file.

11 Q. Well, I guess I was asking who printed
12 them.

13 A. Oh, I did.

14 Q. And these are, I guess, posts that you
15 decided or selected to print?

16 A. Yes.

17 Q. When you sent Ms. Pitman this, were you
18 aware that Ms. Pitman was not going to
19 independently review the Facebook page "Prayers for
20 Madison 2014" on her own?

21 MR. VILMOS: Object to the form.

22 A. I have no idea what she would have done.

23 BY MR. BONNER:

24 Q. In other words, you didn't have a
25 conversation in which she expressed her intention

1 not to review the "Prayers for Madison 2014"
2 Facebook page?

3 A. No.

4 MR. VILMOS: Form.

5 BY MR. BONNER:

6 Q. Between April 28, 2014, and May 9th,
7 2014, did you have any oral conversations with
8 Ms. Pitman about this claim?

9 A. Not that I recollect specifically.

10 Q. I understand it's been three years.
11 Confirm for me that there are no oral
12 communications between you and Ms. Pitman reflected
13 in Exhibit 2, the claims notes.

14 A. No.

15 Q. Okay. And you have no independent
16 recollection of a conversation taking place between
17 you two?

18 A. No.

19 Q. Okay. So your sole recollection of your
20 discussions with Ms. Pitman regarding the
21 Cawthorn-Ledford claim between April 28, 2014, and
22 May 9th, 2014, are the emails that I just showed
23 you?

24 A. Yes.

25 Q. I previously showed you this ISO search.

1 You can give me back that exhibit, and I believe
2 you can give me back the other exhibit.

3 This was an exhibit we previously marked
4 as 63. This is the ISO report.

5 Sorry. I've forgotten. Did you testify
6 that you did not perform this report?

7 A. That's correct.

8 Q. Who did?

9 A. The computer generates it somehow.

10 Q. Is it automatically generated?

11 A. Yes. When a claim gets set up and you
12 enter someone's name, a match -- it doesn't
13 anymore, but at the time a match report would come
14 to you.

15 Q. Back in 2014, who did the system
16 automatically generate reports for, just the name
17 of insured or would it also have generated one for
18 Bradley Ledford?

19 A. It would generate one for anybody who
20 had been entered in the system as a party to a
21 claim.

22 Q. I believe this ISO reflects only Bob
23 Ledford RV & Marine, but please confirm that for
24 me, if you can.

25 A. Yes, that's correct.

1 Q. Here, I'll have it back.

2 The ISO search reflected in Exhibit 63,
3 it's not reflected on Exhibit 2; correct?

4 A. No.

5 Q. But if you look at Exhibit 2, the next
6 activity is on May 7th, 2014; correct?

7 A. Yes.

8 Q. And it states that you had received
9 signed medical authorizations from Mr. Cawthorn;
10 correct?

11 A. Yes.

12 Q. And these were the authorizations that
13 were attached to your letter of April 17, 2014?

14 A. Yes.

15 (Plaintiff's Exhibit 65 was marked for
16 identification.)

17 BY MR. BONNER:

18 Q. We'll mark this as Exhibit 65.

19 Ms. McLean, can you confirm that
20 Exhibit 65 reflects the medical authorizations that
21 you've noted here in Exhibit 2 with a note dated
22 May 7, 2014?

23 A. Yes.

24 Q. And this is everything you had received;
25 correct?

1 A. Yes.

2 Q. Was there a cover letter or anything?

3 A. No.

4 Q. The documents in 65 are marked received
5 May 5th, 2014; correct?

6 A. That's correct.

7 Q. If you turn back to Exhibit 2 -- and you
8 may keep the authorizations in front of you as
9 well -- the claims note from May 7, 2014, states
10 that you called Halifax but that Halifax was unable
11 to provide you with records at that time; correct?

12 A. They won't provide them while a patient
13 is still inpatient.

14 Q. And that's the reason they explained to
15 you on May 7, 2014, that they could not provide you
16 with medical records at that time?

17 A. Yes.

18 Q. Prior to that time, were you aware that
19 Halifax had this requirement that a patient no
20 longer be hospitalized with them before it would
21 release medical records?

22 MR. VILMOS: Objection to form.

23 You can answer.

24 A. I didn't know one way or the other.
25

1 BY MR. BONNER:

2 Q. Is that a common, for lack of a better
3 word, obstacle that you encounter in cases
4 involving medical records?

5 A. No.

6 MR. VILMOS: Form.

7 BY MR. BONNER:

8 Q. Is Halifax the only hospital that's ever
9 told you that?

10 A. I don't recall.

11 Q. But would you regard Halifax's protocol
12 as unusual?

13 MR. VILMOS: Object to the form.

14 A. It's the first time I recollect someone
15 telling me that.

16 BY MR. BONNER:

17 Q. Okay. Was May 7, 2014, the first time
18 that you had attempted to contact Halifax Hospital
19 in connection with the Ledford-Cawthorn claim?

20 A. Yes.

21 Q. Your transfer note on Exhibit 2, dated
22 May 7, 2014, continues that -- I'm sorry. I said
23 transfer note. Strike that. Let me start over.

24 Your note of May 7, 2014, continues
25 that, "Per Facebook, it looks like he" -- he being

1 Madison Cawthorn -- "is being transferred to
2 Atlanta soon. Will check back in seven days."

3 Correct?

4 A. Yes.

5 Q. We had this conversation about diary
6 entries earlier today. Is this an example of
7 something you would have created a diary entry for?

8 A. Yes.

9 Q. Okay. And this clears up my next
10 question, because I noted that the claims notes
11 don't have an entry for May 14. That would be
12 seven days after May 7; correct?

13 A. Right.

14 Q. But I also notice that -- I believe
15 there's a facsimile in this case that memorializes
16 you sending something to Halifax on May 15th, 2014?

17 A. Yes, I believe that to be true.

18 Q. Okay. We'll get to that in just one
19 second.

20 Okay. If you look back at Exhibit 2,
21 there's another entry dated May 7, 2014, and I
22 believe it says, "fax for records request"?

23 A. Yes.

24 Q. Okay. Can you explain that entry to me?

25 A. Earlier, as I indicated, you can't alter

1 notes after they've been entered. And I had likely
2 written the fax number for the medical records
3 request on a sticky or something like that, and I
4 wanted to make sure that the information wasn't
5 lost when the time came.

6 Q. So this is a notation to you of the
7 appropriate fax number to send the medical
8 authorizations to for Halifax?

9 A. Yes.

10 Q. Okay. After May 7, 2014, on Exhibit 2,
11 the next entry is June 11, 2014; correct?

12 A. Yes.

13 Q. And that entry states that you spoke to
14 Madison's father. Can you confirm that the person
15 you spoke to was Roger Cawthorn?

16 A. He told me that he was.

17 Q. Okay. That's fine.

18 The person you spoke to on June 11 told
19 you that his name was Roger Cawthorn?

20 A. I assume so, yes.

21 Q. Okay. And he called you?

22 A. Yes.

23 Q. The note dated June 11, 2014,
24 furthermore states that you were sending Madison's
25 father a letter via email that day in order to

1 obtain new medical authorizations; correct?

2 A. Yes.

3 MR. VILMOS: Object to the extent that
4 it's not exactly what it says, but otherwise
5 no objection.

6 BY MR. BONNER:

7 Q. Was there anything factually inaccurate
8 about my previous question?

9 A. Do you want to read it all back?

10 Q. Let's strike it. What I'll do is I'll
11 make it real simple.

12 Your entry states that, quote, sending
13 letter via email in order to obtain medical
14 authorizations for records; true?

15 A. Yes.

16 Q. And by that, you meant you were sending
17 new authorizations to Madison's father?

18 A. I was resending a letter that I had
19 addressed to their home that he indicated he had
20 never received, and he asked for it to be sent via
21 email because he wasn't at home.

22 Q. The letter you're referring to is a
23 letter dated May 27, 2014?

24 A. Yes.

25 Q. And there's no entry that corresponds to

1 you sending that letter on May 27, 2014, on
2 Exhibit 2; correct?

3 A. That's correct.

4 Q. And I'm just going to show you your
5 letter of May 27, 2014. Can you confirm that
6 Exhibit 12 is the letter of May 27, 2014, that you
7 sent to Roger and Priscilla Cawthorn?

8 A. Yes.

9 Q. Okay. You can give it back.

10 The reason behind requesting new medical
11 records authorizations is because Halifax Hospital
12 had refused the first ones that you provided to it?

13 A. Yes.

14 (Plaintiff's Exhibit 66 was marked for
15 identification.)

16 BY MR. BONNER:

17 Q. Okay. And we'll mark this facsimile as
18 Exhibit 66.

19 Ms. McLean, do you recognize Exhibit 66?

20 A. Yes.

21 Q. Can you tell me what Exhibit 66 is?

22 A. It is a document we received in the mail
23 from Halifax Medical Center where they attached to
24 my fax request a check sheet about why the medical
25 authorization was not acceptable.

1 Q. Okay. And the sheet Halifax attached is
2 numbered AO 00423; correct?

3 A. Yes.

4 Q. There is no entry in Exhibit 2 that
5 corresponds to either the facsimile date of 5/14 on
6 Exhibit 66 or the receipt date of 5/29 on
7 Exhibit 66; true?

8 A. Yes.

9 Q. If you look at the narrative in the
10 facsimile, it reads, "First, we are trying to get
11 this young man some help." Well, the exhibit first
12 says that; correct?

13 A. Yes.

14 Q. And that you need the records as soon as
15 possible; correct?

16 A. Yes.

17 Q. It also states, quote, please let me
18 know when these records are ready so that I can
19 pick them up, end quote; correct?

20 A. Correct.

21 Q. So you were planning on driving to
22 Halifax Hospital to pick up the records when they
23 were ready?

24 A. Yes.

25 Q. And I think you said that you didn't use

1 investigators to do something like that. Adjusters
2 in your office typically do tasks like that
3 themselves?

4 A. Yes.

5 Q. If you had a case where you were
6 investigating a vehicle, I understand the vehicle
7 in this case was not investigated. Is that
8 something that's typically done by adjusters?

9 MR. VILMOS: Objection. Compound.

10 A. No. We use outside appraisal firms.

11 BY MR. BONNER:

12 Q. And if the inspection of the vehicle
13 does not have to do with the amount of damage but
14 is instead for purposes of establishing either
15 liability, the causation, do the adjusters do that
16 inspection?

17 A. No. We would have used an outside
18 engineering firm if we were investigating it for
19 that purpose.

20 Q. But for purposes of picking up paperwork
21 from a hospital, you would make the drive yourself?

22 A. Absolutely.

23 Q. And how far of a drive is it from your
24 office to Halifax Hospital?

25 A. Hour 15, hour 20.

1 Q. So it's drivable. You don't have to
2 take a plane?

3 A. Oh, no.

4 Q. Between the date you were assigned the
5 claim on April 10, 2014, and -- well, you were
6 assigned the claim on April 10th, 2014?

7 A. I believe it was April 9th, but I didn't
8 see it until April 10.

9 Q. Between April 9th, 2014, and May 7,
10 2014, the date of your diary entry discussing
11 Madison's medical records on Exhibit 2, between
12 those two dates --

13 A. I'm sorry. Can you tell me the second
14 day, again?

15 Q. Oh, May 7, 2014. I'll start over.
16 So you started on the claim on
17 April 9th; correct?

18 A. Yes.

19 Q. On May 7, 2014, you have a claims note
20 that mentions your attempts to get medical records
21 from Halifax; correct?

22 A. Yes.

23 Q. Between April 9th, 2014, and May 7,
24 2014, you never visited Halifax Hospital to speak
25 with either Madison or his family; correct?

1 A. Absolutely.

2 Q. You did?

3 A. No. After what I had seen on Facebook,
4 there's no way I would have gone over there when
5 they were dealing with that.

6 Q. And between April 9th, 2014, and May 7,
7 2014, you never sent Madison or his family a
8 Facebook message via the "Prayers for Madison 2014"
9 Facebook page?

10 A. I would never -- that Facebook page was
11 about praying for that child to get better. I
12 wasn't going to turn it into a contact for an
13 insurance claim.

14 Q. Okay. And between April 9th, 2014, and
15 May 7, 2014, you never dispatched any person in
16 your stead to meet with Madison and ask him to
17 provide you with a medical records authorization?

18 A. The hospital won't even tell me that
19 he's a patient there. I mean we -- how do we even
20 get to him?

21 Q. Well, between April 10th, 2014, and
22 May 7, 2014, the only time you had ever called
23 Halifax was in connection with sending the medical
24 records authorizations; correct?

25 A. Yes. But as I mentioned earlier, it's

1 because I knew from previous experience, Halifax
2 won't even confirm whether or not someone's a
3 patient.

4 Q. You did know that he was at Halifax
5 Hospital based on your conversations with
6 Mr. Ledford and Ms. Canterbury; correct?

7 A. Yes, that's correct.

8 Q. And you also knew he was at Halifax
9 Hospital because it was reported that he was on his
10 Facebook page.

11 A. Again, I hear what you're saying. Those
12 parents, as you characterized earlier, were in
13 unbelievable emotional turmoil. I was not going to
14 send someone there when I had contact information
15 and knew that his insurance company had given my
16 phone number to Mr. Cawthorn.

17 Q. The Facebook compilation that I had
18 before -- Exhibit 62, there is an entry that
19 corresponds to May 7, 2014, which talks about his
20 move to Shepherd's, and I believe you saw it
21 because of the entry you've written here about him
22 being transferred to Shepherd's in Exhibit 2.

23 Do you recall the -- I'll show it to you
24 here. It's Exhibit 62, marked 1363. Do you recall
25 seeing that Facebook page on or about May 7th?

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1 A. I don't know if I saw that -- I don't
2 know why I would have written a note that said I'll
3 check back in seven days if I knew it was tomorrow.
4 So I'm pretty sure the note I might have seen was
5 May 6 --

6 Q. Okay.

7 A. -- where it says he's being flown on
8 Thursday. I can't -- I can't swear that I saw that
9 on or before May 7.

10 Q. You continued to check the Facebook page
11 after your May 7th, 2014, entry; correct?

12 A. Occasionally, but I have no
13 recollection.

14 Q. You agree that Mr. Cawthorn's contact
15 information at Shepherd's was available on the
16 "Prayers for Madison" Facebook page as of May 7,
17 2014?

18 A. His contact information?

19 Q. Well, it has his room number -- oh, this
20 one doesn't. This one just says he's at Shepherd's
21 Rehab. This just says his address.

22 MR. VILMOS: Object to the form.

23 BY MR. BONNER:

24 Q. If you look at the page 1366 on
25 Exhibit 64, there is a Facebook page dated May 14,

1 2014. Do you see this?

2 A. Yes.

3 Q. And can you confirm with me that the
4 address on this Facebook page has Madison
5 Cawthorn's room number?

6 A. Yes, but I don't know if I saw that
7 page.

8 Q. Any reason to believe that this was not
9 on the "Prayers for Madison 2014" Facebook page as
10 of May 14th, 2014?

11 A. No. I believe that that was posted. I
12 just don't know that I saw it. I don't know when
13 the last date was that I went on Facebook, and I
14 don't know that I would have needed to continue
15 doing it after I found out that he was being
16 transferred, and I had an avenue to get the
17 records.

18 Q. And I wasn't asking whether you saw it.
19 I was asking if you had any reason to believe that
20 this information wasn't on the Facebook page?

21 MR. VILMOS: Object to the form of the
22 question.

23 BY MR. BONNER:

24 Q. And if I am to understand you, your
25 answer was you have no reason to disbelieve that

1 this was on Madison's Facebook page?

2 MR. VILMOS: The same objection. If you
3 know the answer, you can answer. If you
4 don't, don't guess.

5 A. I don't remember my actual answer to
6 your question; but, yes, I believe it was on the
7 Facebook page.

8 BY MR. BONNER:

9 Q. Okay. Between May 7, 2014, and June 11,
10 2014, you did not personally go to Shepherd's
11 Hospital to visit with Madison?

12 A. No, I did not.

13 Q. Between May 7, 2014, and June 11, 2014,
14 you did not call Shepherd's Hospital and ask to
15 speak to Madison personally?

16 A. No, I did not.

17 Q. And between May 7, 2014, and June 11,
18 2014, you did not call Shepherd's Hospital to speak
19 to either Roger or Priscilla Cawthorn?

20 MR. VILMOS: Form.

21 A. No, I did not.

22 BY MR. BONNER:

23 Q. And between May 7, 2014 and June 11,
24 2014, you did not send a representative to
25 Shepherd's to ask Madison Cawthorn to execute a new

1 medical records authorization; correct?

2 A. No, I did not send an insurance
3 representative to a spinal rehab facility to get an
4 insurance signature. No, I did not.

5 Q. And between May 7, 2014, and June 11,
6 2014, you did not reach out to Madison through his
7 Facebook page to tell him that you needed new
8 medical records authorizations?

9 A. I answered that question previously. I
10 would never have done that.

11 Q. Between April 3, the date of the
12 accident, and June 11, 2014, you had not performed
13 any investigation with respect to Mr. Ledford's
14 car; correct?

15 A. Correct.

16 Q. Between April 3rd, 2014, and June 11,
17 2014, you had not spoken to Bradley Ledford;
18 correct?

19 A. Not that I recall.

20 Q. And if you'll look on Exhibit 2, there's
21 no entry between April 3rd, 2014, and June 11,
22 2014, that reflects that you spoke to Bradley
23 Ledford; correct?

24 A. That's correct.

25 Q. And between April 3, 2014, and June 11,

1 2014, neither you or anyone from Auto-Owners had
2 visited the scene of the accident; correct?

3 MR. VILMOS: Object to the form.

4 A. That's correct.

5 BY MR. BONNER:

6 Q. Between April 3rd, 2014, and June 11,
7 2014, neither you or anyone at Auto-Owners
8 attempted to locate Mr. Ledford's vehicle; correct?

9 MR. VILMOS: Object to the form.

10 A. No.

11 BY MR. BONNER:

12 Q. No, it's not correct?

13 A. I'm sorry. You ask a negative question
14 sometimes. I don't mean negative as in bad. It
15 was in kind of double negative. Anyway, ask me
16 again, please.

17 Q. You might view them as bad.

18 A. No, no, not at all. Just --

19 Q. I'm sorry.

20 A. -- sometimes yes means no, the way you
21 ask your questions.

22 Q. And if that means we need to take a
23 break --

24 A. No, no, no, I'm good.

25 Q. Between April 3, 2014, and June 11,

1 2014, neither you or anyone at Auto-Owners had
2 attempted to locate the vehicle that had been
3 involved in this accident?

4 MR. VILMOS: Object to the form.

5 A. No, because it was insured by another
6 party, and Mr. Ledford was aware of that.

7 BY MR. BONNER:

8 Q. And because it was insured by another
9 party, you determined that it was not something
10 that you needed to investigate?

11 A. Correct.

12 Q. And between April 3, 2014, and June 11,
13 2014, neither you or anyone at Auto-Owners had
14 investigated the information on the police report
15 stating that Mr. Cawthorn's airbag had failed to
16 deploy?

17 A. No.

18 Q. If you'll look at Exhibit 2. Between
19 April 29, 2014, and June 11, 2014, there are no
20 entries reflecting that you communicated with David
21 Ledford or Ms. Canterbury during that period; true?

22 A. Yes.

23 Q. Is it therefore accurate to say that you
24 did not have any communications with Mr. Ledford
25 and Ms. Canterbury during that period?

1 A. No, it's not fair to say that.

2 Q. You did have a conversation or more with
3 Mr. Ledford and Ms. Canterbury during that period?

4 A. Yes.

5 Q. Okay. Approximately how many?

6 A. I don't know.

7 Q. Do you have a specific recollection of
8 any of the communications?

9 A. When they were on speakerphone in their
10 office, yes.

11 Q. Well, there you go. Do you know the
12 approximate date of -- sorry.

13 They were on speakerphone in their
14 office speaking to you?

15 A. Yes.

16 Q. Do you know the approximate date of that
17 telephone call?

18 A. No, but it had to have been just before
19 the email that I sent to Melinda with the second
20 update, whatever date that was --

21 Q. Oh, well, I'm sorry. I chose the time
22 frame 4/29 to 6/11 because the date of your
23 follow-up email was April 28th. And I can refresh
24 your recollection as to that date, if you'd like.

25 So what I'm asking is following your

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1 conversation with Ms. Canterbury and Mr. Ledford on
2 April 28, 2014, from that time until your
3 conversation with Roger Cawthorn on June 11, 2014,
4 in that space of time, did you have any additional
5 communications with either Mr. Ledford or
6 Ms. Canterbury?

7 A. Not that I recall.

8 Q. And that's why I asked you, because
9 there were none documented on Exhibit No. 2 during
10 that time frame --

11 A. But the other call wasn't documented
12 either, which was the reason for my confusion.

13 Q. Well, exactly. I'm just trying to
14 identify if one had happened and if you had a
15 recollection.

16 So prior to June 11, 2014, you recall
17 only having the brief conversation with Mr. Ledford
18 early in April and the conversation with
19 Mr. Ledford and Ms. Canterbury jointly on or about
20 April 28, 2014; correct?

21 MR. VILMOS: Objection. Compound.

22 A. Up until what date?

23 BY MR. BONNER:

24 Q. June 11.

25 A. Yes.

1 Q. After June 11, 2014, and until
2 July 18th, 2014, which I'll represent to you is a
3 date that Mr. Ledford and Ms. Canterbury recall
4 speaking to you, do you have a recollection of
5 communications between you and Mr. Ledford or you
6 and Ms. Canterbury?

7 MR. ORR: Objection to the form.

8 A. If that was when they called me after
9 the suit had been filed, then yes.

10 BY MR. BONNER:

11 Q. It was after the suit was filed.

12 And so I'm not trying to be tricky.
13 Again, I wasn't there. I need to find out how many
14 conversations you had, and then I'll ask you about
15 them.

16 So we've asked about all the
17 conversations before June 11, 2014, and now I'm
18 identifying this period of time between June 11,
19 2014, and July 18, 2014, which was after the suit
20 was filed.

21 In that space of time, did you have any
22 conversations with Ms. Canterbury or Mr. Ledford?

23 A. One or both of them called me to let me
24 know that they had been served the lawsuit --

25 Q. Okay.

1 A. -- but I don't recollect anything other
2 than what I would normally tell people: We're
3 going to hire a lawyer on your behalf. Then that
4 person will be in contact with you.

5 Q. Well, we can go through the dates with
6 documents, if that would be helpful. But if I
7 represent to you that July 14th, 2014, was the date
8 they received the lawsuit and that July 18th, 2014,
9 is the date they recall speaking with you, can you
10 tell me, do you recall there being more than the
11 one phone call about the lawsuit?

12 A. I don't recall.

13 Q. And there's nothing in the exhibit that
14 would refresh your recollection of Exhibit 2?

15 A. That's correct.

16 MR. BONNER: How much time do we have
17 left on the video?

18 THE VIDEOGRAPHER: Seven minutes.

19 BY MR. BONNER:

20 Q. Okay. We'll finish up this video, and
21 then we'll take a break. Okay?

22 A. Sure.

23 Q. Okay. On June 11, 2014, you spoke to
24 Roger Cawthorn. You've said that. And I believe
25 you said he called you.

1 On June 11, 2014, you discussed the
2 letter that you sent to him and Priscilla on
3 May 27, 2014; correct?

4 A. Yes.

5 Q. Okay. Now, do you have a copy of that
6 letter?

7 A. No.

8 Q. Because I have it right here, if you
9 need it.

10 A. Please.

11 Q. May I have whatever -- not the claims
12 notes but the other documents back. And if at any
13 time you would like to see these again, you're
14 welcome to it.

15 Okay. I'm showing the witness
16 Exhibit 12.

17 And Mr. Cawthorn told you that he had
18 not received Exhibit 12; correct?

19 A. Yes.

20 Q. And you told him that Auto-Owners needed
21 new medical authorizations because the ones that
22 had previously been signed had been signed by a
23 parent?

24 A. Actually, wait. Is it -- I think
25 someone may have brought his mail to him, and he

1 was calling me -- no, I don't know. I'm sorry.

2 Q. Well, why don't I do this. Tell me what
3 you recollect of your conversation with Roger
4 Cawthorn on June 11, 2014.

5 A. He called me to discuss his son's claim.
6 I explained to him that the hospital wouldn't
7 accept the records, that I sent him on May 27th
8 another authorization that Madison needed to sign
9 so that we could get the records, that I wanted to
10 close the insurance portion so they could move on.

11 I expressed happiness that his son
12 appeared to be making improvement. I had told him
13 at some point he would -- he would need to get a
14 lawyer to help him -- I have a disabled child, and
15 I suggested a special needs trust of some kind and
16 that they could assist with medical lien reduction
17 and that sort of thing, and he asked that I email
18 the release to him along with the letter, and I did
19 so.

20 Q. Okay. Did he tell you any information?

21 A. Not that I specifically recollect, no.

22 Q. You have no recollection of any
23 questions he specifically posed to you?

24 A. No, not in that conversation.

25 Q. You're aware that Mr. Cawthorn, Roger

1 Cawthorn, testified in 2016 with respect to, well,
2 really of all of his involvement in the case in
3 2014?

4 A. I'm aware that he testified, but I have
5 not seen his deposition.

6 Q. That was my next question. Very good,
7 anticipated my second question.

8 So you've never seen what he said?

9 A. No, I have not.

10 Q. As of the time of your call to
11 Mr. Cawthorn on June 11, 2014, Roger had not seen
12 your letter of May 27, 2014; correct?

13 MR. VILMOS: Objection. I think that
14 misstates the testimony.

15 A. I can't state for certain. I can't.
16 I'm sorry.

17 BY MR. BONNER:

18 Q. You agree with me that under good faith
19 claims handling practices, an adjuster should never
20 advise an unrepresented claimant not to hire an
21 attorney?

22 A. I wholeheartedly agree.

23 Q. To advise a claimant who is
24 unrepresented not to hire an attorney would be
25 unethical?

1 MR. VILMOS: Objection to the -- well, I
2 withdraw the objection. I'm sorry.

3 A. I think I mentioned to you before the
4 deposition started, my father was a lawyer, my
5 husband's lawyer. I would never tell someone not
6 to seek legal advice.

7 BY MR. BONNER:

8 Q. Now, Roger Cawthorn has testified that
9 when he spoke to you on June 11, 2014, you told him
10 not to hire a lawyer. Do you deny saying that?

11 A. I told him he would need a lawyer with
12 regard to the special needs trust I just mentioned,
13 a reduction in medical liens. No.

14 Q. So he also recalls or has testified that
15 you told him that if he hired a lawyer, the lawyer
16 would just take some of the settlement money. Do
17 you deny saying that?

18 A. I have no recollection of that
19 whatsoever.

20 Q. Do you deny telling Roger Cawthorn on
21 June 11, 2014, that it was not in his son's best
22 interest to hire a lawyer?

23 A. I would never say that.

24 Q. Did you discuss or do you deny
25 discussing with Mr. Cawthorn, Roger Cawthorn, the

1 attorneys' fees that he would have to pay to hire a
2 lawyer?

3 A. I don't recollect that, no.

4 Q. Do you deny saying it?

5 A. I don't recollect anything about
6 attorneys' fees.

7 Q. Do you deny that Mr. Cawthorn asked you
8 for a specific amount of money that Auto-Owners
9 would be paying in exchange for his son releasing
10 his claims against the Ledfords?

11 A. I don't believe he ever asked me that in
12 a conversation.

13 Q. You deny he asked you for that
14 information three separate occasions during your
15 conversation of June 11, 2014?

16 A. I would remember if he'd asked me three
17 times. No.

18 THE VIDEOGRAPHER: Two minutes.

19 BY MR. BONNER:

20 Q. You stated earlier that -- you told
21 Mr. Cawthorn that you were hopeful that you'd get
22 the insurance portion of the suit resolved soon; is
23 that accurate?

24 A. Yes.

25 Q. Did you use those words?

1 A. I don't know the exact words.

2 Q. Mr. Cawthorn says or has testified that
3 you never mentioned a specific dollar amount in his
4 conversation with you with regards to what
5 Auto-Owners was prepared to offer Madison Cawthorn
6 in exchange for a release of his claims against the
7 Ledfords; is that true?

8 A. Yes. We didn't have the information
9 necessary to put a dollar value on it at that
10 point.

11 Q. And you never mentioned the figure of
12 \$3 million to Roger Cawthorn during the
13 conversation of June 11, 2014, just the oral
14 conversation?

15 MR. VILMOS: Asked and answered, but you
16 can answer again.

17 A. I have no recollection of that.

18 BY MR. BONNER:

19 Q. Before your testimony today, has anyone
20 told you what Roger Cawthorn testified in his
21 deposition about his conversations with you on
22 June 11, 2014?

23 MR. VILMOS: So to the extent any of
24 your conversations with counsel come into
25 this answer, I'm instructing you not to

1 answer on attorney-client privilege. But to
2 the extent you can answer otherwise, you are
3 welcome to answer.

4 A. No.

5 BY MR. BONNER:

6 Q. You never disclosed to Roger Cawthorn
7 Auto-Owners' policy limits during a conversation
8 with him on June 11, 2014?

9 MR. VILMOS: Asked and answered three
10 times, but you can answer a fourth time.

11 A. I don't recall that specifically, no.

12 THE VIDEOGRAPHER: This is the end of
13 disk No. 2 in the deposition of Pamela McLean
14 to be continued on disk No. 3. We're off the
15 record at 3:00 p.m.

16 (Break from 3:00 p.m. to 3:11 p.m.)

17 THE VIDEOGRAPHER: This is the beginning
18 of disk No. 3 in the deposition of Pamela
19 McLean. We're back on the record at
20 3:11 p.m.

21 BY MR. BONNER:

22 Q. Ms. McLean, do you still have Exhibit 12
23 in front of you?

24 A. Yes.

25 Q. And that's the letter of May 27, 2014,

1 that you sent to Roger and Priscilla Cawthorn;
2 correct?

3 A. That's correct.

4 Q. The letter reads on the third paragraph:
5 "Mr. Ledford carries quite a bit of insurance
6 coverage that would no doubt benefit your family in
7 this very difficult time."

8 That's what it reads; correct?

9 A. Yes.

10 Q. The letter does not mention \$3 million
11 on it?

12 A. No.

13 Q. And, in fact, the letter does not
14 contain the phrase, quote, policy limits, end
15 quote, anywhere on it?

16 MR. VILMOS: Is there a question
17 pending?

18 BY MR. BONNER:

19 Q. Is that true?

20 A. Yes.

21 Q. And the letter of May 27, 2014, does not
22 extend a settlement offer to Madison Cawthorn in
23 the amount of \$3 million in exchange for a release
24 of his claims against the Ledfords; correct?

25 MR. VILMOS: Objection -- sorry.

1 A. That's correct.

2 BY MR. BONNER:

3 Q. As of May 27, 2014, Ms. Pitman had not
4 authorized you to extend a \$3 million settlement
5 offer to Madison Cawthorn in exchange for a release
6 of his claims against the Ledfords; correct?

7 A. That is correct.

8 Q. And moving forward to June 11, 2014,
9 Ms. Pitman had not extended you authority as of
10 June 11, 2014, to extend a settlement offer to
11 Madison Cawthorn in the amount of \$3 million in
12 exchange for a release of his claims against the
13 Ledfords; true?

14 A. Yes.

15 Q. When you spoke to Roger Cawthorn on the
16 phone on June 11, 2014, you did not make a
17 settlement offer to him on behalf of Madison
18 Cawthorn to settle Madison Cawthorn's claims for
19 over \$3 million in exchange for a release of the
20 Ledfords; correct?

21 A. I did not.

22 (Plaintiff's Exhibit 67 was marked for
23 identification.)

24 BY MR. BONNER:

25 Q. All right. Let's go to another exhibit.

1 I'll take those back, but in the event you need it
2 again, please let me know.

3 I'm now going to show you a series of
4 emails that we'll mark as Exhibit 67.

5 Ms. McLean, do you recognize the four
6 emails that are memorialized in Exhibit 67?

7 A. Yes.

8 Q. These are four emails exchanged between
9 you and Roger Cawthorn on June 11 of 2014; correct?

10 A. Yes.

11 (Plaintiff's Exhibit 68 was marked for
12 identification.)

13 BY MR. BONNER:

14 Q. I actually want to show you one more
15 document. We'll mark this one as Exhibit 68. This
16 is an email dated June 30, 2014, from you to Roger
17 Cawthorn. Can you confirm that's true?

18 A. Yes.

19 Q. You recall sending and receiving both
20 the emails reflected in Exhibit 67 and 68 --

21 A. Yes.

22 Q. -- correct?

23 MR. VILMOS: Do you have a copy of 68
24 for me?

25

1 BY MR. BONNER:

2 Q. Apart from the emails that you see in
3 Exhibits 67 and 68, can you confirm that you had no
4 other email communications with Roger Cawthorn?

5 A. Not that I recall, but I would like to
6 point out that I think that the attachment is with
7 the wrong exhibit. June 30th had no attachment,
8 and June -- the original one on June 11th had the
9 letter attached --

10 Q. The August?

11 A. -- to what you have attached.

12 Q. All right. Let's correct the exhibit --

13 A. Wait.

14 Q. I agree. This looks like a mistake.
15 They were printed in sequence. Let's correct this.

16 Let the record reflect that Exhibit 67
17 is a one-page email --

18 MR. VILMOS: 68.

19 BY MR. BONNER:

20 Q. -- 68 is one-page email, dated June 30,
21 between Ms. McLean and Roger Cawthorn; correct?

22 A. Yes.

23 Q. Let me restate the question, now that we
24 have the appropriate exhibits.

25 Can you confirm that the only email

1 communications you had with Roger Cawthorn are the
2 emails reflected in Exhibit 67 and 68?

3 A. I believe that's the case, yes.

4 Q. If you refer to your claims notes,
5 Exhibit 2, you'll note that no emails to
6 Mr. Cawthorn are noted at all; correct?

7 A. That's correct.

8 Q. You said you don't recall there being
9 any other emails; right?

10 A. That's correct.

11 Q. Can you confirm that your telephone call
12 of June 11, 2014, was the only telephone
13 communication you ever had with either Roger
14 Cawthorn or Madison Cawthorn?

15 A. Yes.

16 Q. Looking at Exhibit 67, can you confirm
17 that your email dated June 11, 2014, at 2:17 p.m.
18 is the first time you told Mr. Cawthorn what
19 Mr. Ledford's limits were?

20 A. Yes.

21 Q. Okay. Okay. I think I can take that
22 back. And if you look back at Exhibit 2 -- I'll
23 take back actually everything except your claims
24 notes -- you know, let's look back at Exhibit 2.

25 There is a diary note dated 6/30/14;

1 correct?

2 MR. VILMOS: Object to the form.

3 A. There are two.

4 BY MR. BONNER:

5 Q. Okay. There are two. There is one that
6 notes a health lien letter as being received;
7 correct?

8 A. Yes.

9 Q. And that was a health lien letter from
10 Optum; correct?

11 A. Yes.

12 Q. Who did you understand Optum to be?

13 A. His health insurance carrier.

14 Q. Madison Cawthorn's?

15 A. Oh, I don't know. The person
16 responsible for making payments through a health
17 plan for Madison. I don't know who owned the
18 policy.

19 (Plaintiff's Exhibit 69 was marked for
20 identification.)

21 BY MR. BONNER:

22 Q. Okay. I'm going to show you Optum's
23 letter. We'll mark it -- and I guess I'm going to
24 need a few more of exhibits -- we'll mark it as
25 Exhibit 69.

1 Ms. McLean, do you recall receiving
2 Exhibit 69?

3 A. Yes.

4 Q. And is this the lien letter that's
5 reflected in Exhibit 2?

6 A. Yes.

7 Q. Do you agree that this letter puts
8 Auto-Owners on notice of a lien by Madison's health
9 care provider?

10 A. Yes.

11 Q. Okay. And a lien represents an amount
12 of money that Madison's health care provider could
13 seek to collect from Auto-Owners to reimburse money
14 it's paid on behalf of Madison Cawthorn?

15 A. Yes.

16 Q. The letter includes a signature at the
17 bottom of page 110 for Sandy Harsh; correct?

18 A. Yes.

19 Q. And it also includes her email and
20 telephone number?

21 A. Yes.

22 Q. And if you refer to Exhibit 2, there's
23 no entry in Exhibit 2 that corresponds or -- sorry,
24 that memorializes that you ever called Ms. Harsh
25 after receiving this letter?

1 A. I did not call her.

2 (Plaintiff's Exhibit 70 was marked for
3 identification.)

4 BY MR. BONNER:

5 Q. All right. That's all the questions I
6 have for Exhibit 69.

7 Okay. So let's turn then to an exhibit
8 that I'll mark as 70.

9 Ms. McLean, do you recall receiving this
10 email and attachment, dated July 14th, 2014, from
11 Holly Caldwell?

12 A. Yes.

13 Q. And I think we identified Ms. Caldwell
14 earlier as someone who worked for Bob Ledford RV &
15 Marine's insurance agency?

16 A. Yes.

17 Q. And this letter states that the Ledfords
18 have been served with a lawsuit; correct?

19 A. Yes.

20 Q. If you refer to Exhibit 2, there's no
21 entry in your claims notes of Exhibit 2 that
22 corresponds to the date that this lawsuit was
23 received; true?

24 A. That's correct.

25 Q. Let's look at another exhibit. Please

1 keep that in front of you.

2 On July 14th, 2014, Ms. Caldwell writes
3 to Joni Canterbury, David Ledford's fiancée,
4 stating that she spoke to you.

5 Do you have any recollection of speaking
6 with Ms. Caldwell on July 14th of 2014?

7 MR. VILMOS: Object to the form.

8 BY MR. BONNER:

9 Q. And I'm going to show you this; so it's
10 not a trick question.

11 A. She would have called me to let me know
12 she had received the lawsuit and that it was
13 coming.

14 Q. Was there anything else discussed during
15 that conversation?

16 A. Not that I recall.

17 (Plaintiff's Exhibit 71 was marked for
18 identification.)

19 BY MR. BONNER:

20 Q. I'm going to show you what's been marked
21 Exhibit 71. I doubt that you've ever seen this
22 before, but I'm going to ask you if you have. Have
23 you?

24 A. No.

25 Q. Can you confirm that you told

1 Ms. Caldwell that you advised her that
2 Ms. Canterbury and Mr. Ledford should notify their
3 lawyer that they have been served but that
4 Auto-Owners will handle it?

5 MR. VILMOS: Object to the question and
6 the form.

7 A. I wasn't a party to that. I can see
8 that that's what it suggests, but I don't know.

9 BY MR. BONNER:

10 Q. Well, what I'm asking you, I guess, is
11 giving you an opportunity to say that didn't
12 happen, or if you recall it did happen.

13 A. Can you ask me again, please?

14 Q. Sure.

15 MR. VILMOS: Object to the form.

16 BY MR. BONNER:

17 Q. There's a statement in here that says,
18 "In speaking with the adjuster, Pamela McLean, she
19 advised you to notify your lawyer that you have
20 been served but that Auto-Owners will be handling
21 it."

22 Do you deny making that statement to
23 Ms. Caldwell?

24 A. No, I do not.

25 Q. Can you confirm that you made it?

1 A. I can't recall, but I have no reason to
2 believe I wouldn't have.

3 Q. Okay. The letter continues,
4 "Mr. Ledford's lawyer needs to be advised that the
5 limit of \$3 million will be exhausted, and they
6 will have to handle anything beyond the limit that
7 Auto-Owners will incur."

8 Was that information that you provided
9 to Ms. Caldwell?

10 A. Absolutely not.

11 MR. BONNER: What number is this again?
12 Was that 71?

13 MR. VILMOS: That was 71.

14 BY MR. BONNER:

15 Q. Looking at your claims diary, Exhibit 2,
16 I don't see any entry discussing a conversation
17 between you and Ms. Caldwell; correct?

18 A. Yes.

19 Q. Your recollection was it was a short
20 conversation?

21 A. Yes.

22 Q. All right. In your 19 years of handling
23 claims for Auto-Owners, have you come to understand
24 what an excess letter is?

25 A. Yes.

1 Q. What is an excess letter?

2 A. It notifies the insured that the claim
3 has the potential for exceeding your policy limit.

4 Q. And does Auto-Owners have guidelines for
5 when it instructs adjusters to send excess letters
6 in a given case?

7 MR. VILMOS: Object to the form.

8 A. There is no guideline.

9 BY MR. BONNER:

10 Q. So it's up to your discretion as to
11 whether or not to send an excess letter in any
12 given case?

13 A. That's correct.

14 Q. With respect to Bradley Ledford's
15 involvement in the Cawthorn-Ledford claim, you
16 never sent an excess letter to Bradley Ledford;
17 correct?

18 A. To Bradley, no.

19 Q. Is that a no?

20 A. Yes.

21 Q. My terrible questions. I don't think
22 the record caught that. I'm sorry.

23 A. That's fine.

24 Q. Can you confirm that you never sent
25 Bradley Ledford an excess letter in this case?

1 A. That's correct.

2 Q. And you never sent Bob Ledford RV &
3 Marine an excess letter in this case?

4 A. No, but I knew that they already had a
5 lawyer that knew about this case and was advising
6 them.

7 Q. So your answer is, no, you did not send
8 an excess letter, but you believed that their
9 lawyer, Michael Orr?

10 A. No, their own personal lawyer.

11 Q. So your answer is, no, you did not send
12 an excess letter; correct?

13 MR. VILMOS: Object to the form.

14 MR. BONNER: I'm breaking it into two
15 pieces.

16 A. Yes.

17 BY MR. BONNER:

18 Q. And that the reason you did not send an
19 excess letter is because John Holcomb, Bob Ledford
20 RV & Marine's personal lawyer, was already working
21 with them?

22 A. No. This was before that.

23 Q. Okay. Sorry.

24 A. I didn't know it to be Mr. Holcomb or
25 Mr. Orr, but perhaps another party, their personal

1 lawyer that handles their business stuff. I don't
2 know.

3 Q. I understand now.

4 So Mr. Ledford let you know at some
5 point that he had a personal lawyer?

6 A. Yes.

7 Q. Can you tell me when?

8 A. I only talked to him twice; so I'm
9 assuming it's that.

10 Q. Either the conversation in early April
11 or the conversation on April 28 of 2014?

12 A. It would have been the April 28th
13 conversation with him and his girlfriend -- I don't
14 know --

15 Q. Ms. Canterbury, his fiancée?

16 A. Yes.

17 Q. Okay. So at that point in time,
18 Mr. Ledford advised you that he had talked to
19 personal counsel; correct?

20 A. Yes.

21 Q. Okay. And because he had advised you
22 that he spoke to personal counsel, you never sent
23 Bob Ledford RV & Marine an excess letter in this
24 case?

25 A. No, because that letter tells them that

1 they should seek advice from counsel.

2 Q. Okay. Got it. So I showed you that
3 notice of the lawsuit on July 14th, 2014, and I
4 think I told you earlier that Mr. Ledford and
5 Ms. Canterbury recalled speaking to you after the
6 lawsuit was filed on or about July 18th, 2014?

7 A. Okay.

8 Q. Do you recall having that conversation?

9 A. Yes.

10 Q. Okay. And that conversation is not
11 reflected on Exhibit 2; correct?

12 A. That's correct.

13 Q. And there's no documents or recordings
14 memorializing what was said during your
15 conversation with Mr. Ledford and Ms. Canterbury on
16 July 18, 2014; correct?

17 A. That's correct.

18 Q. Can you confirm or do you deny that
19 Ms. Canterbury asked you if a settlement offer had
20 been made?

21 A. I don't recollect that specifically.

22 Q. Can you confirm or do you deny that you
23 told Ms. Canterbury that none had been made up
24 until that time?

25 MR. VILMOS: Object to the form.

1 Compound.

2 A. Again, I don't recall specifically, but
3 I would have told her that had she asked me that
4 question.

5 BY MR. BONNER:

6 Q. Had Ms. Canterbury asked you if a
7 settlement offer had been made, you believed you
8 would have told her that none had been made?

9 A. That is correct.

10 Q. Can you tell me everything you recollect
11 regarding the telephone call that took place on
12 July 18, 2014?

13 A. I'm not going to tell you specifically I
14 don't know. I would have told them that we were
15 hiring defense counsel on their behalf, and that
16 person would be in contact with them in the next
17 couple of days and that we would be defending them
18 in this matter. I would have answered any general
19 questions. I don't have any other specific
20 recollection.

21 Q. And, in fact, your recollection isn't
22 specific; right? That's what you would have said
23 in the general course of --

24 A. Every time when someone files another
25 lawsuit, yes.

1 Q. I don't want to put words in your mouth.
2 You tell me.

3 Is it true that you have no specific
4 recollection of that conversation of July 18, 2014?

5 MR. VILMOS: Asked and answered. It
6 misstates the testimony.

7 A. Not of the specific words that were
8 spoken, no.

9 BY MR. BONNER:

10 Q. After July 18, 2014, you had no further
11 telephone conversations with either David Ledford,
12 Bradley Ledford, or Joni Canterbury; correct?

13 A. Yes, that's correct.

14 Q. On or about July 18, 2014, you retained
15 Michael Orr to represent Bob Ledford RV & Marine?

16 A. I don't know of the exact date.

17 Q. Did you know Michael Orr previously?

18 A. I knew of him.

19 Q. Okay. Had you worked with him on other
20 cases?

21 A. No. Only my office had worked with him
22 on other cases. We don't handle Jacksonville
23 anymore, and a Jacksonville lawyer was hired.

24 Q. Okay. But you selected him?

25 A. In collaboration with Melinda.

1 Q. Okay. After the suit was filed, did you
2 have any conversations with Ms. Pitman on the
3 telephone?

4 A. Yes.

5 Q. Okay.

6 MR. VILMOS: I'm sorry. Relevant to
7 this case?

8 BY MR. BONNER:

9 Q. Oh, yeah -- I mean yeah.
10 That's what you meant; right? You
11 understood that?

12 A. Yes.

13 Q. Okay. After suit was filed and before a
14 settlement offer was extended, do you recall how
15 many conversations you had with Ms. Pitman?

16 A. Oh, no.

17 Q. Okay. Was it more than one?

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

19 Q. Do you know if they were on the
20 telephone or just by email?

21 A. It would have been on the --

22 MR. VILMOS: Object to the form.

23 THE REPORTER: I'm sorry?

24 MR. VILMOS: Object to the form.

25 Compound.

1 THE REPORTER: No, I heard you, but I
2 didn't hear the witness.

3 A. Oh, I'm sorry. It could have been both,
4 but if the email is not in the file, it wasn't via
5 email. It was only via phone.

6 BY MR. BONNER:

7 Q. And you have no specific recollection of
8 any telephone conversation or the substance of any
9 telephone conversation that you had with Ms. Pitman
10 between suit being filed and the settlement offer
11 being settled in August?

12 A. No. I believe I told you that Michael
13 Orr was chosen in collaboration with Melinda
14 Pitman.

15 Q. Okay. So you do remember the
16 conversation --

17 A. Yes.

18 Q. -- you had with Ms. Pitman about Michael
19 Orr?

20 Can you tell me what took place during
21 that conversation?

22 A. Suit's been filed in the Cawthorn
23 matter. Do you think we should get an Orlando
24 lawyer or a Jacksonville lawyer? The venue is
25 Volusia County. Any thoughts?

1 Q. Exciting stuff.

2 A. Very exciting.

3 Q. Okay. I'm going to hand you a few
4 documents all at once. If you'll hand me back --
5 you can keep the claims notes, but I need these
6 back. Trust me. It will be worth it once I get
7 them all out. We'll save time.

8 A. You are very organized.

9 Q. It starts organized and then descends to
10 chaos, much like my home in the morning.

11 I'm going to show you some emails that
12 were exchanged between you and/or Ms. Pitman and
13 Mr. Orr.

14 So the first one I would like to show
15 you has previously been marked as Exhibit 13. It's
16 dated July 18th, 2014.

17 Do you recall sending this email?

18 A. Yes.

19 Q. Okay. And this is an email just sending
20 documents to Mr. Orr; correct?

21 A. Yes, notifying him of the suit.

22 Q. Okay. And you say here, "The remainder
23 of the file is being sent to you via separate
24 email."

25 What do you mean by "the remainder of

1 the file"?

2 A. Frankly, I didn't know how to liquid
3 file, and so support stuff does that. It's a big
4 document, and it can't all go at once.

5 Q. What's a liquid file?

6 A. Exactly.

7 Q. You don't know what a liquid file is?

8 A. I know that it's an email that's really
9 big that someone sends on my behalf.

10 Q. Okay. What is included in that email?

11 A. The entire claims file.

12 Q. Okay. You later retained Jamie Moses to
13 represent Bradley Ledford; correct?

14 A. That's correct.

15 Q. Let's look at Exhibit 16 next. You can
16 put the exhibit in front of you down and actually
17 just move it here. I don't really have any more
18 questions for you on these.

19 Exhibit 16 is an email of July 18, 2014.
20 It's between you and Mr. Orr. Will you just
21 confirm with me that this is an email that you sent
22 or you exchanged with Mr. Orr?

23 A. Okay.

24 Q. This is an email that you sent with
25 Mr. Orr; correct?

1 A. Yeah.

2 Q. I have no questions about that. You can
3 put that to the side.

4 Let's move on to Exhibit 15. Low and
5 behold, Exhibit 15 is an email from Alicia Mosko to
6 Michael Orr, dated July 18, 2014, with a link to a
7 10-megabyte file.

8 A. That would be the aforementioned liquid
9 file.

10 Q. I assume as much. First of all, can you
11 confirm with me that Exhibit 15 represents an email
12 that was sent to Mr. Orr at your direction?

13 A. Yes.

14 Q. Okay. And it includes a link to the
15 entire claims file in the Ledford-Cawthorn matter;
16 correct?

17 A. Yes.

18 Q. So this memorializes that the entire
19 claims file was sent to Michael Orr on July 18,
20 2014?

21 A. Yes.

22 Q. Okay. You can put that to the side.

23 Okay. Now I'm showing you Exhibit 14.
24 This is an email you sent to Ms. Pitman on July 18,
25 2014?

1 A. Yes.

2 Q. This appears to allude to the
3 conversation that I think you testified to earlier;
4 correct?

5 A. I'm not sure what conversation you're
6 talking about.

7 Q. I should be more specific.

8 The conversation that you recall having
9 had with Ms. Pitman regarding the selection of
10 Michael Orr, Exhibit 14 appears to refer to that
11 oral conversation that you had with Ms. Pitman?

12 A. Yes.

13 Q. Okay. So it's safe to say that
14 conversation took place on July 18th; correct?

15 A. Yes.

16 Q. This letter states that you're
17 instructing Mr. Orr to seek medical records, quote,
18 so that we can go ahead and make our offer, end
19 quote. Correct?

20 A. Yes.

21 Q. Prior to July 18th, 2014, Auto-Owners
22 had not extended a settlement offer to Madison
23 Cawthorn to settle his claims for \$3 million in
24 exchange for a release of the Ledfords; correct?

25 MR. VILMOS: Objection to the form.

1 A. For the same reason that this email
2 suggests. I asked him to please get the medical
3 documentation through discovery or whatever other
4 recourse he had. It was our intention to pay the
5 money upon receipt of the documentation from the
6 getgo.

7 BY MR. BONNER:

8 Q. Right. And not to disregard any of
9 that, but just factually, I need to know the answer
10 that before July 18, 2014, Auto-Owners had not
11 extended a settlement offer to Madison Cawthorn;
12 correct?

13 A. That is correct.

14 Q. And then our last exhibit is Exhibit 23.
15 This is a letter to you from Michael -- well, from
16 Brooke Weedon on behalf of Michael Orr.

17 Can you confirm that you received that
18 document?

19 A. Yes, but the letter is actually from
20 Michael. It's an email attaching it by the support
21 staff that is by Ms. Weedon.

22 Q. I see.

23 But you can confirm that you received
24 both the email and the attachment; correct?

25 A. Yes.

1 Q. And they're dated August 7, 2014;
2 correct?

3 A. Yes.

4 Q. And basically, his letter of August 7,
5 2014, confirms that he has received the claims
6 file; correct?

7 A. Yes.

8 (Plaintiff's Exhibit 72 was marked for
9 identification.)

10 BY MR. BONNER:

11 Q. Okay. We're done with 23. In fact,
12 we're done with all of them.

13 The next document I'm showing you is
14 going to be marked as Exhibit 72. It's a letter
15 dated July 22, 2014.

16 This is a letter to Mr. Ledford, David
17 Ledford, from you; correct?

18 A. Yes.

19 Q. This one's not a signed letter, it's not
20 on letterhead, but can you confirm that a letter
21 such as this one or with the content of this one
22 was sent to David Ledford on or about July 22,
23 2014?

24 A. It was. I'm assuming the girls forgot
25 to scan in the letterhead piece.

1 Q. I can't explain it either. I just want
2 to confirm that this was sent by you to David
3 Ledford; correct?

4 A. Yes.

5 Q. And this is the letter memorializing
6 that you have retained Jamie Moses to represent
7 David Ledford's son, the driver Bradley Ledford;
8 correct?

9 A. Yes.

10 Q. Okay. We're done with that one.

11 Now, I'm showing you a health lien
12 letter from Optum that's been previously marked as
13 Exhibit 19. The cover page is dated August 4,
14 2014. The attached fax is dated July 31st, 2014.

15 Can you confirm that Exhibit 19 is a
16 letter and an attachment that you sent to
17 Ms. Pitman on August 4th, 2014?

18 A. I sent it to the general legal
19 department email address, yes.

20 Q. Was it your intention that Ms. Pitman
21 receive it?

22 A. Yes.

23 Q. Between Optum's last letter that I
24 showed you earlier that was dated June 27, 2014,
25 and the date of this letter, August 4, 2014, is it

1 true that you had no communications with Optum's
2 Sandra Harsh?

3 A. I didn't have a medical authorization.
4 She wouldn't give me any information without it.

5 Q. When Optum sent you this lien letter,
6 you had not given them a medical authorization
7 letter; correct?

8 A. Correct.

9 Q. And they sent you this letter
10 unsolicited?

11 A. Correct.

12 Q. Is there --

13 A. I mean for all I know, the Cawthorns
14 told them it was okay to tell her to send it. I
15 don't know.

16 Q. You never spoke to Ms. Harsh in
17 connection to either this letter or the earlier
18 letter; correct?

19 A. There was no need to without a medical
20 authorization.

21 Q. So it's true that you never asked her
22 prior to receiving the letter of July 31, 2014,
23 what the amount of Madison Cawthorn's medical bill
24 was; correct?

25 A. I didn't ask her to violate HIPAA, no.

1 Q. Are you an expert on HIPAA?

2 A. I wouldn't say expert.

3 Q. Do you have certainty, one way or the
4 other, that the amount of the medical lien is
5 HIPAA-protected information?

6 A. No.

7 Q. So you don't, in fact, know that by
8 disclosing the lien amount, as Ms. Harsh did in
9 Exhibit 19, that that implicates HIPAA in any way?

10 A. I can't imagine that it wouldn't, but I
11 haven't seen that part of the statute that says so.

12 Q. Okay.

13 A. If you just go and tell people that
14 someone's got \$400,000 in medical bills, that's
15 telling people a lot.

16 Q. Well, like you said, you don't know, one
17 way or the other, what HIPAA requires; correct --

18 A. I understand -- no, that's not the case.

19 Q. I'm sorry.

20 A. But what I'm saying -- you've mentioned
21 many times before. In my 19 years of experience,
22 health insurance companies don't give you what you
23 want them to without a medical authorization.

24 Q. Okay. Even when health organizations
25 are trying to collect money from Auto-Owners?

1 A. They put us on notice --

2 MR. VILMOS: Object to the form.

3 A. -- of a lien.

4 MR. VILMOS: Argumentative.

5 BY MR. BONNER:

6 Q. You stated earlier that Mr. Ledford had
7 notified you around April 28, 2014, that he had
8 spoken to personal counsel.

9 Were you aware that as of August 5th,
10 2014, Bob Ledford RV & Marine had retained John
11 Holcomb as personal counsel?

12 A. I don't recollect the date that I knew
13 that.

14 Q. Mr. Holcomb and Mr. Orr had several
15 communications. Were you aware of that -- sorry --
16 several communications starting in August?

17 MR. MARTINEZ: Rephrase it.

18 BY MR. BONNER:

19 Q. Strike it.

20 Starting on August 5, 2014, John Holcomb
21 and Michael Orr had several conversations by email.
22 Were you aware of that?

23 A. No.

24 Q. Did Michael Orr ever forward you emails
25 that he received from John Holcomb?

1 A. Not that I recall.

2 Q. And if he did, you would have saved them
3 in the claims file; correct?

4 A. Yes.

5 Q. Did Michael Orr commencing in
6 August 5th, 2014, tell you by telephone or
7 otherwise orally regarding his conversations with
8 John Holcomb?

9 MR. VILMOS: Object to the form.

10 A. Not that I recall.

11 BY MR. BONNER:

12 Q. Okay. And there's nothing in the claims
13 notes, Exhibit 2, that reflects that Michael Orr
14 ever spoke to you about his conversations with John
15 Holcomb?

16 A. No.

17 Q. John Holcomb on or about August 5th,
18 2014, makes a request to Michael Orr regarding
19 copies of settlement offer letters that Auto-Owners
20 may have made prior to that date, August 5th, 2014.

21 Were you aware of that request?

22 A. Not that I recall.

23 Q. So Mike Orr didn't contact you seeking
24 help to respond to John Holcomb's request?

25 A. He had an entire copy of our claims

1 file. He wouldn't have needed me.

2 Q. Again --

3 A. I'd have no specific recollection.

4 Q. I'm not asking you to guess at what Mike
5 Orr may have been thinking. What I really just
6 want to know is if he actually called you --

7 A. And I don't know.

8 Q. And there's nothing that would refresh
9 your recollection if he did?

10 A. No.

11 Q. Okay. Part of the reason I mention that
12 is there are documents that have been withheld for
13 production from us on a claim of privilege, and I
14 was trying to ascertain if you were involved in any
15 of those emails.

16 A. I don't recollect any of it.

17 Q. With respect to John Holcomb's requests
18 for copies of some or all of the claims file,
19 you're not aware of any emails on which you were
20 copied that dealt with that subject matter?

21 A. No.

22 Q. Okay. It saves me a lot of questions.
23 Thank you. Let me ask the next one.

24 Mick Callahan, at a later point, is
25 hired to retain [sic] Bradley Ledford as personal

1 counsel. Were you aware of that?

2 A. Yes.

3 Q. Mr. Callahan also had communications
4 with both Michael Orr and Jamie Moses via email.
5 Are you aware of that?

6 A. I have some of those communications, but
7 I don't know if it's the extent of it.

8 Q. I think you are recalling, because Mick
9 Callahan also wrote you a couple of letters, I
10 believe, for which I would imagine you had copies?

11 A. Yes.

12 Q. And we'll get to them. It's not a
13 memory test.

14 He also made requests for copies of the
15 claims file. Were you aware of Mick Callahan's
16 requests?

17 A. I don't specifically recall if it's in
18 his letter. I'll be happy to review it. I don't
19 know.

20 Q. Okay. We'll get to it. These are
21 preliminary questions, because depending on your
22 answers, I may or may not ask other questions. And
23 I will show you his letters. Don't worry.

24 Let me just ask you this follow-up --

25 MR. VILMOS: Object to the preface of

1 the question.

2 You can answer this question, if there
3 is one.

4 BY MR. BONNER:

5 Q. Sometimes I just talk to facilitate the
6 next question.

7 So Mick Callahan also made certain
8 requests regarding information related to the
9 Ledford vehicle. Do you recall any of those
10 requests being made?

11 A. Yes, and because he was making
12 allegations that the claim wasn't handled in good
13 faith, I forwarded that to Melinda, and I believe
14 she is the one that responded to his request.

15 Q. And did you and Melinda have
16 conversations about that request?

17 A. No.

18 Q. In other words, you received the
19 communications from Mick Callahan, and you
20 forwarded them to Ms. Pitman with no cover letter
21 or anything like that?

22 MR. VILMOS: Object to the form.

23 Compound.

24 You can answer the question.

25 A. Not that I recall.

1 BY MR. BONNER:

2 Q. Once you received Mick Callahan's
3 letter, you gave it to Ms. Pitman. You let her
4 handle it?

5 A. Yes.

6 Q. Other than conveying those letters, were
7 you involved in responding to them in any way?

8 A. No.

9 Q. Were you involved in any email
10 communications between Ms. Pitman and anyone else
11 discussing Mr. Callahan's requests with respect to
12 the Ledford vehicle?

13 A. No.

14 Q. Okay. I'm showing you Exhibit 22. This
15 is, I believe, a fax that you sent to Joseph
16 Kalbac, who was representing Madison Cawthorn;
17 correct?

18 A. That's correct.

19 Q. And is this an accurate copy of what you
20 sent Mr. Kalbac on August 7, 2014?

21 A. Via fax the documents sent via mail had
22 the payment -- the checks attached to it.

23 Q. I'll show you the checks. Sure.

24 And those came -- and the reason I
25 mention that is those are dated August 8, 2014.

1 Okay. The letter that you've sent by
2 facsimile, which starts on page 372 --

3 MR. VILMOS: For the record, it's
4 Bates-stamped AO 00372.

5 BY MR. BONNER:

6 Q. Do you see that page, Ms. McLean?

7 A. I do.

8 Q. Do you agree with me that this letter
9 reflects an offer by Auto-Owners to Mr. Kalbac on
10 behalf of Madison Cawthorn to pay \$3 million in
11 exchange for a release of his claims against the
12 Ledfords?

13 MR. VILMOS: Object to the form.

14 A. It was for a release of the named
15 insured and Bradley Ledford.

16 BY MR. BONNER:

17 Q. Okay. And this is the first time
18 Auto-Owners extended an offer to Madison Cawthorn
19 of \$3 million in exchange for a release of his
20 claims against Bradley Ledford and Bob Ledford RV &
21 Marine?

22 A. Yes. It was exactly three days after we
23 finally got confirmation of the extent of the
24 injuries.

25 Q. But this is the first time; correct?

1 A. Yes.

2 Q. Okay. And did anyone help you write
3 this letter?

4 A. No. Sorry.

5 Q. I mean I'm sure you're more than capable
6 of writing a two-page letter, but what I'm really
7 driving at is did Ms. Pitman assist you in drafting
8 the words on this letter?

9 A. No.

10 Q. Did anyone else assist you -- your
11 supervisor -- in drafting the words on this letter?

12 A. Just experience of past claims.

13 Q. And where your letter states, quote,
14 while we have not yet received any medical records,
15 we did recently receive a notice of lien from
16 Mr. Cawthorn's health insurance carrier -- and
17 skipping to the next sentence -- after receiving
18 this notice, we do feel that we have the
19 documentation necessary to tender the insured's
20 coverage to your claim.

21 That was wording that you chose;
22 correct?

23 A. Yes.

24 Q. Okay. And there's nothing inaccurate
25 about that wording?

1 A. No, unless you're trying to catch me in
2 a typo or something.

3 Q. No. What I'm trying to get at is you
4 stand by this statement; correct?

5 A. Yes.

6 MR. VILMOS: Which statement do you
7 refer to, sir?

8 BY MR. BONNER:

9 Q. You stand by your statement that, quote,
10 while we have not yet received any medical records,
11 we did recently receive a notice of lien from
12 Mr. Cawthorn's health insurance carrier, and that
13 after receiving this notice, we do feel that we
14 have the documentation necessary to tender the
15 insured's coverage to your client; correct?

16 A. Yes.

17 (Plaintiff's Exhibit 73 was marked for
18 identification.)

19 BY MR. BONNER:

20 Q. I'm showing you what we'll mark as
21 Exhibit 73. Can you tell me what Exhibit 73 is?

22 A. No. I've never seen anything like this
23 before.

24 Q. Okay. I think I know what it is, and I
25 need to find Ms. Pitman's letter to you authorizing

1 you to extend an offer; so if you'll just give me
2 one second.

3 Can we go off the record for 30 seconds
4 while we're --

5 THE VIDEOGRAPHER: We're off the record
6 at 3:56.

7 (Break from 3:56 p.m. to 4:04 p.m.)

8 THE VIDEOGRAPHER: We're back on the
9 record at 4:04.

10 BY MR. BONNER:

11 Q. Ms. McLean, let's stick on Exhibit 73.

12 Having had a moment to look it over, can
13 you tell me what Exhibit 73 is?

14 A. Yes. It's a computer-generated document
15 that goes to legal when a check is issued that
16 requires a countersignature.

17 Q. Okay. Oh, a countersignature. So in
18 this case, the countersignature was the endorsee to
19 whom the check was made; is that it?

20 A. No. I can only sign a check up to a
21 certain dollar amount without somebody else having
22 to sign it also.

23 Q. Okay.

24 A. It doesn't print out that way. It's
25 through the electronic authorization process.

1 Q. I got it.

2 So you sign the check, it then goes to
3 legal, and then someone from legal has to sign the
4 check as well?

5 A. Electronically, yes.

6 Q. But that's almost like a secondary -- I
7 suppose if you didn't have authority to make a
8 \$3 million settlement offer, that would alert
9 somebody in legal to talk to you about the claim?

10 MR. VILMOS: Object to the form of the
11 question.

12 A. Well, I could make a settlement offer of
13 \$3 million that could bind Auto-Owners, but I
14 couldn't send out the check all by myself.

15 BY MR. BONNER:

16 Q. So in order to actually tender the
17 checks, you have to get an electronic signature
18 from someone in legal; correct?

19 A. For the checks to print, yes.

20 Q. For the checks to print.

21 And in this case, was it Ms. Pitman who
22 co-signed the checks or countersigned the checks?

23 A. I have no idea.

24 Q. Okay. And Exhibit 73 just seems to
25 reflect an umbrella policy payment. Would there be

1 a similar page for the garage policy limits?

2 A. Yes.

3 Q. And the co-signature that is required or
4 countersignature that's required for legal, is that
5 for all checks over a certain amount?

6 A. Yes, but I don't know what that amount
7 is.

8 Q. It's not for all checks over \$50,000, is
9 it?

10 A. No, no.

11 Q. Could it be that it's required only for
12 umbrella policy payments?

13 A. No.

14 Q. So you can confirm that it's a
15 requirement for both the garage policy and the
16 umbrella policy?

17 A. Yes. It's solely to do with check
18 amount.

19 Q. Does the person in legal have to
20 manually approve the request for a
21 countersignature?

22 MR. VILMOS: Object to the form.

23 A. Well, logged on as themselves, they can
24 electronically approve it, but I don't know who it
25 takes to approve a check this size.

1 BY MR. BONNER:

2 Q. I guess what I'm talking about is they
3 have to see it and affirmatively process what
4 they're doing; right?

5 A. Yes.

6 MR. VILMOS: Object to the form.

7 BY MR. BONNER:

8 Q. Let me just return to this Optum letter.
9 Do you still have that in front of you? It's 19.

10 A. Yes.

11 Q. Okay. It was on the strength of the
12 information contained in the Optum letter that
13 Auto-Owners extended its August 7, 2014, settlement
14 offer to Mr. Cawthorn; correct?

15 A. That's correct.

16 Q. Specifically, the Optum letter in
17 Exhibit 19 states that there is a lien in the
18 amount of \$396,179.98; correct?

19 A. Yes.

20 Q. Nothing in this letter states that
21 Madison Cawthorn's spinal injury is either
22 permanent or can be treated; correct?

23 A. Correct.

24 Q. There's nothing in Exhibit 19 that
25 states whether or not Madison Cawthorn's paralysis

1 is permanent; true?

2 A. That's correct.

3 Q. Okay. There's nothing in Exhibit 19
4 that describes or confirms the existence of a
5 pelvis fracture; correct?

6 A. The only thing it contains is an amount
7 paid of 396,000 and change.

8 Q. And that amount doesn't confirm the
9 existence of any particular injury that
10 Mr. Cawthorn sustained; correct?

11 A. No.

12 Q. What it confirms is that he has received
13 treatment in the amount of \$396,179.98 --

14 MR. VILMOS: Object to the form.

15 BY MR. BONNER:

16 Q. -- correct?

17 A. No. It actually confirms that the
18 treatment is probably much more than that. That's
19 the amount that the health insurance carrier paid
20 on his behalf.

21 Q. And what happens is the hospital
22 contracts with the health insurance carrier for
23 particular rates, particular types of treatment;
24 correct?

25 A. Yes.

1 Q. So it has a billed rate that is one
2 number, but a rate that the insurance company pays
3 which is often a lower number; correct?

4 A. Yes.

5 Q. And when the insurance company pays that
6 lower number, the person receiving treatment is not
7 liable for the rest of the amount; correct?

8 A. No, but the bill charges are the amount
9 that a plaintiff can tell a jury his economic
10 damages are.

11 Q. And what I'm just getting at is when
12 this document says that \$396,179.98 had been paid,
13 that reflects the amount the insurance company paid
14 for Mr. Cawthorn's treatment; correct?

15 A. Yes.

16 Q. It does not reflect a higher amount that
17 might appear on a hospital's billing records;
18 correct?

19 A. This letter, no. My 19 years of
20 experience, the bill was higher.

21 Q. This letter states, "Please contact us
22 prior to settlement to obtain the total amount of
23 paid benefits."

24 Correct?

25 A. Yes.

1 Q. It continues, "Also please include Optum
2 on the settlement draft at the time of settlement."

3 Correct?

4 A. Yes.

5 Q. It also says, "Please advise Optum of
6 the current status of this matter."

7 Correct?

8 A. Yes.

9 Q. Following the receipt of this letter,
10 you did not contact Sandra Harsh to advise her or
11 Optum of the current status of the matter; correct?

12 A. That's correct.

13 Q. If you'll look at Exhibit 69. The last
14 line says, "Our client asserts a subrogation
15 right."

16 Correct?

17 A. Yes.

18 Q. And I believe it states, "Please direct
19 all future communication to my attention."

20 Correct?

21 A. Yes.

22 Q. You never directed any future
23 communication to Ms. Harsh upon receiving her
24 letter of June 27, 2014; correct?

25 A. That's correct.

1 Q. This letter states in bold, "Please
2 contact us prior to settlement to obtain the total
3 amount of benefits paid."

4 Correct?

5 A. Yes.

6 Q. Does anything in this letter indicate
7 that Optum would not tell you, Auto-Owners, the
8 amount of the lien that it was pursuing for
9 reimbursement of the health provider provided
10 benefits to Mr. Cawthorn?

11 A. Not in that letter.

12 MR. VILMOS: Objection to form.

13 BY MR. BONNER:

14 Q. This letter of Exhibit 69, dated
15 June 27, 2014, states that if there is an attorney
16 involved, please advise us of the attorney's
17 contact information.

18 Do you see that provision?

19 A. Yes.

20 Q. You never contacted Ms. Harsh to tell
21 her that Mike Orr was involved in this case;
22 correct?

23 A. June 27th...

24 Q. Let the record reflect that Ms. McLean
25 is looking at Exhibit 2.

1 A. I'm just trying to see when suit was
2 filed. I don't know that Michael Orr was at that
3 point. June 27th --

4 Q. Mr. Orr was not retained until July 18th
5 of 2014 --

6 A. Well, then no, I wouldn't have been able
7 to tell them that.

8 Q. After Michael Orr was retained, did you
9 then go back and tell Ms. Harsh, pursuant to her
10 request in the letter marked as Exhibit 69, that
11 Michael Orr had been retained?

12 A. No.

13 Q. And after Jamie Moses was retained, did
14 you contact Ms. Harsh pursuant to her request in
15 the letter marked as Exhibit 69 that Ms. Moses had
16 been retained to represent Bradley Ledford?

17 A. No, I did not.

18 (Plaintiff's Exhibit 74 was marked for
19 identification.)

20 BY MR. BONNER:

21 Q. Okay. Tab 9. I told you I would show
22 you the checks, and we're going to mark the checks
23 that issued on August 8, 2014, as Exhibit 74. I'm
24 going to try and do it so that it obscures the
25 account number.

1 Okay. Can you confirm for me that these
2 are accurate copies of the checks that Auto-Owners
3 issued on August 8, 2014, in connection with its
4 settlement offer to Madison Cawthorn?

5 A. Yes.

6 Q. Okay. Exhibit 28 -- that's all I needed
7 on that.

8 I'm showing you what's previously been
9 marked as Exhibit 28. It's an email from Ms. Moses
10 to you, dated August 18, 2014. It informs you that
11 Auto-Owners' settlement offer of August 7, 2014, is
12 going to be rejected; correct?

13 A. Yes.

14 Q. Did you memorialize --

15 MR. VILMOS: Object to the form of the
16 question. It misstates the contents of the
17 email.

18 BY MR. BONNER:

19 Q. Okay. You understood by receiving this
20 email in Exhibit 28 that Mr. Cawthorn was not going
21 to accept Auto-Owners' settlement offer of
22 August 7, 2014; correct?

23 A. Yes.

24 Q. And when you received this letter, did
25 you memorialize it in the claims diary in

1 Exhibit 2?

2 A. No.

3 Q. Did you speak to anyone upon receiving
4 this letter in connection to the Cawthorn-Ledford
5 matter?

6 A. I would have either called her or sent
7 an email back saying, yes, go forward with your
8 plan.

9 Q. By "her" you mean Ms. Moses?

10 A. Yes.

11 Q. Did you call Ms. Pitman and inform her
12 that the settlement offer was being rejected?

13 A. I don't recall that.

14 Q. And, in fact, there's no conversation
15 with Ms. Pitman reflected in Exhibit 2 documenting
16 that you communicated the information in Exhibit 28
17 to her?

18 A. That's correct.

19 Q. And did you call Bradley Ledford or
20 David Ledford on behalf of Bob Ledford RV & Marine
21 to inform them that the settlement offer of
22 August 7, 2014, had been rejected?

23 A. I'm not allowed to contact someone who
24 has legal counsel without going through their
25 counsel first.

1 Q. All right. That's fine.

2 So after Mr. Orr and Ms. Moses were
3 retained, you had no further email communications
4 with the Ledfords; correct?

5 A. I do not believe so.

6 Q. Did you contact Mr. Orr to inform him
7 the settlement offer was not being accepted?

8 A. No --

9 Q. Did you advise --

10 A. -- not that I recall. I don't know.

11 Q. Did you advise Ms. Moses or Mr. Orr to
12 communicate the rejection to either Bradley
13 Ledford, in the case of Ms. Moses, or David
14 Ledford, in the case of Mr. Orr?

15 A. I can't tell them how to be a lawyer. I
16 mean they're the lawyers.

17 Q. Okay. So you did not; correct?

18 A. No.

19 Q. All right. Let's look at Exhibit 29.

20 Exhibit 29 is an email from Mick
21 Callahan to you, dated August 21, 2014. I'm going
22 to show it to you in conjunction with Exhibit 30,
23 which is a letter with attachments dated
24 September 10, 2014, from Mr. Callahan to you.

25 With respect to Exhibit 29, did you

1 receive that letter?

2 A. Yes.

3 Q. And upon receiving the letter in
4 Exhibit 29, what did you do?

5 A. I would have forwarded it to legal or I
6 would have called her and told her, please look at
7 page 20 whatever.

8 Q. And do you have a specific recollection
9 of calling Ms. Pitman and talking to her about
10 Mr. Callahan's letter of August 21, 2014?

11 A. I don't recollect specifically
12 discussing a letter of a specific date, but we did
13 discuss that she would be responding to
14 Mr. Callahan.

15 Q. Do you know if that conversation with
16 Ms. Pitman took place after the letter of
17 September 10, 2014, that's marked as Exhibit 30?

18 A. Oh, it would have been before that.

19 Q. So sometime between August 21st and
20 September 10th, you and Ms. Pitman had a
21 conversation in which she confirmed that she would
22 respond to Mr. Callahan?

23 A. Yes.

24 Q. Was anything else discussed at that
25 conversation?

1 A. Not that I recall.

2 Q. Did you explain to Ms. Pitman your
3 reasons for not investigating the Ledfords'
4 vehicle?

5 MR. VILMOS: Object to the form. It
6 misstates the testimony.

7 A. No.

8 BY MR. BONNER:

9 Q. I'm just asking whether that was a topic
10 of conversation.

11 A. No.

12 Q. Did she ask you for any information
13 regarding the Ledford vehicle salvage?

14 A. Not that I recall.

15 Q. Your conversation with Ms. Pitman is not
16 reflected on Exhibit 2; correct?

17 A. That's correct.

18 Q. Is there any documentation that you're
19 aware of that would memorialize your conversation
20 with Ms. Pitman that took place between August 21,
21 2014, and September 10th, 2014?

22 A. No.

23 Q. Do you know if it was a long
24 conversation or if it was a brief conversation?

25 A. I have no idea. We often talk about

1 multiple files in telephone calls.

2 Q. I believe I asked you this question with
3 respect to the August 21st communication. But with
4 respect to the September 10th communication marked
5 as Exhibit 30, can you confirm that there's no
6 entry in Exhibit 2, the claims notice, that
7 correspond to Exhibit 30?

8 A. That's correct.

9 Q. After speaking to Ms. Pitman, you
10 received the letter of September 10, 2014; correct?

11 A. I'm sorry. Ask me again.

12 Q. After speaking to Ms. Pitman by
13 telephone, you then received at some point the
14 letter of September 10, 2014, in Exhibit 30?

15 MR. VILMOS: Object to the form.

16 On what date is the phone conversation
17 to which you're referring?

18 MR. BONNER: Ms. McLean didn't know the
19 date of the conversation. It took place
20 between August 21 and September 10th, 2014, I
21 believe.

22 BY MR. BONNER:

23 Q. So after that conversation, you received
24 the letter of September 10th, 2014?

25 A. Yes.

1 Q. And you did not respond to that letter;
2 correct?

3 A. I would have forwarded it to legal.

4 Q. You would have forwarded it to legal and
5 left it for legal to respond to it?

6 A. That's correct.

7 Q. At any point after receiving either the
8 letter in Exhibit 29 or the letter in Exhibit 30,
9 did you have a conversation with anyone with
10 respect to what happened to the Ledfords' vehicle?

11 A. Not that I recall.

12 Q. Okay. And there's no conversation
13 reflected in the claims file; correct?

14 A. That's correct.

15 Q. Okay. You can put those two documents
16 aside or give them back to me, I guess.

17 I'm going to show you what's marked as
18 Exhibit 44. This is a letter from Michael Orr to
19 David Ledford, dated October 28, 2014.

20 If you turn to the last page -- sorry --
21 the second to last page, which is numbered
22 AO 00634.

23 Are you on that page?

24 A. Yes.

25 Q. First of all, can you confirm that you

1 received a copy of Exhibit 44?

2 A. Yes.

3 Q. And, in fact, if you look on the last
4 page, I believe you're a carbon copy recipient?

5 A. Yes.

6 Q. So turning back to page 634.

7 Mr. Orr in his last paragraph states,
8 quote, we estimate that damages could be well in
9 excess of \$10 million, end quote.

10 Do you recall being told that
11 information by Mr. Orr?

12 A. I recall reading this letter.

13 Q. Did you ever have an oral conversation
14 with Mr. Orr in which you discussed the potential
15 damages suffered by Madison Cawthorn?

16 A. That's likely, but I don't have a
17 specific recollection.

18 Q. All right. Would that conversation be
19 documented in any way?

20 A. No.

21 Q. And I ask you that because I don't have
22 anything in the claims file after November 10th of
23 2014. So if it were a document in an email, I
24 would not be able to show it to you.

25 But you're saying there are no documents

1 corresponding to a conversation you had to Mr. Orr
2 discussing Madison Cawthorn's potential damages?

3 A. No.

4 Q. Okay. The same question for Ms. Moses.
5 Did you have conversations with
6 Ms. Moses discussing Madison Cawthorn's damages?

7 A. I don't believe so.

8 Q. Okay. Did Ms. Moses ever send you a
9 report estimating Mr. Cawthorn's potential damages
10 at trial?

11 A. It's possible. I can't recall without
12 looking at the file.

13 Q. Now, I can't show you that. I
14 apologize. It's possible. Would she have sent you
15 more than one?

16 MR. VILMOS: Objection to the form.

17 A. I don't know without --

18 MR. VILMOS: The witness just testified
19 she doesn't know if she sent anything.

20 BY MR. BONNER:

21 Q. I'm fact finding. I'm just trying to
22 get some facts.

23 With respect to Mr. Orr, did he ever
24 send an additional report in which he estimated the
25 potential damages for Madison Cawthorn?

1 A. No.

2 Q. This is the only one?

3 A. Yes.

4 Q. With respect to the oral conversations
5 you had with Mr. Holcomb, do you recall any
6 specific amounts that he discussed as being
7 potential damages for Madison Cawthorn?

8 A. I don't recall a conversation with
9 Mr. Holcomb.

10 Q. I'm so sorry. I meant Mr. Orr.

11 With respect to Mr. Orr, do you recall
12 any specific amount being discussed with respect to
13 Madison Cawthorn's damages?

14 A. No.

15 Q. So you don't know if Mr. Orr ever
16 adjusted his appraisal from the appraisal reflected
17 in Exhibit 44?

18 A. No.

19 Q. After November 10th of 2014, did you
20 receive an additional appraisal of Madison
21 Cawthorn's injuries from any person, through the
22 end of the tort case?

23 MR. VILMOS: Objection. Compound.

24 You can answer.

25 A. I don't recall.

1 BY MR. BONNER:

2 Q. If you did, it would be reflected in the
3 claims file --

4 A. Yes.

5 Q. -- correct?

6 And if Mr. Orr sent or Ms. Moses sent a
7 report that included an estimate of Mr. Cawthorn's
8 likely damages after November 10th, 2014, those
9 would be in the claims file; correct?

10 A. Yes.

11 Q. In 2015, Auto-Owners attempted to make a
12 med pay payment of \$10,000. Are you familiar with
13 that?

14 A. Yes.

15 Q. What prompted Auto-Owners to attempt to
16 make that payment?

17 A. I don't recall specifically.

18 Q. Was that your decision to extend the
19 payment?

20 A. I don't -- I can't answer that. I don't
21 know.

22 Q. If you look at Exhibit 2, is there any
23 information in Exhibit 2 -- that's the oral report;
24 right? Exhibit 2 is the claims notes?

25 A. Yeah.

1 Q. If you look at Exhibit 2, is there
2 anything in Exhibit 2 --

3 A. No.

4 Q. -- that refreshes your recollection with
5 respect to whose decision it was to extend the med
6 pay payment?

7 A. No.

8 Q. You said you were involved. How were
9 you involved?

10 A. Involved in?

11 Q. Making the med pay payment.

12 A. I actually issued it.

13 Q. Did somebody ask you to issue it?

14 A. I don't know if that's specifically the
15 case or maybe someone called to my attention that
16 it should have been offered. I don't know the
17 circumstances. I physically issued it. I didn't
18 need someone's permission to do so. I don't recall
19 the circumstances.

20 Q. I know you didn't need permission. I'm
21 just trying to find out why the timing in 2015.

22 A. I don't know.

23 Q. Is there any information in the claims
24 file that would memorialize either who told you to
25 make the payment or the reasons why the payment was

1 issued in 2015?

2 A. No.

3 Q. Did Mike Orr suggest to you to make the
4 payment?

5 A. I said I don't know.

6 Q. I thought if I dropped his name, maybe
7 it would mean something, but...

8 Should Auto-Owners have tendered the
9 \$10,000 upon receipt of the Optum lien letter?

10 A. Yes.

11 Q. This case went to mediation in 2016;
12 correct?

13 A. Yes.

14 Q. Mr. Holcomb and Mr. Callahan both sent
15 letters to Auto-Owners requesting that a
16 representative with authority to make a payment
17 above Auto-Owners' policy limits attend mediation.

18 MR. VILMOS: What happens at mediation
19 is confidential. Conversations with your
20 counsel are confidential. I'm not sure
21 there's a question pending yet. But before
22 there's a question pending, before you
23 answer, I want to make sure you are aware of
24 those.

25

1 BY MR. BONNER:

2 Q. I'm not going to ask you about what took
3 place at mediation. I agree; it's confidential.
4 But what took place before mediation, I am going to
5 ask you about.

6 So with respect to Mr. Callahan and
7 Mr. Holcomb, are you aware that they both made
8 requests to Auto-Owners that they send a
9 representative to mediation with authority above
10 \$3 million?

11 MR. VILMOS: To the extent the answer to
12 your question involves conversations with
13 counsel, I'm instructing you not to answer --
14 to identify that they involve conversations
15 with counsel and not to answer. To the
16 extent they don't, then you can answer.

17 BY MR. BONNER:

18 Q. Well, if there are conversations that
19 you had with counsel, don't tell me the contents of
20 them, but I am entitled to know that they took
21 place, between whom, and on what day.

22 MR. VILMOS: I'm not sure that I agree
23 with that.

24 MR. BONNER: Okay. Well, you can
25 instruct her not to answer --

1 MR. VILMOS: I'm going to instruct her
2 not to answer --

3 MR. BONNER: -- figure it out.

4 MR. VILMOS: -- if that's what she's
5 going to recall.

6 A. It is with counsel.

7 BY MR. BONNER:

8 Q. Okay.

9 A. That would be my recollection.

10 MR. BONNER: And you're going to assert
11 a privilege to the date of that conversation
12 and the people between whom?

13 MR. VILMOS: I am, sir.

14 BY MR. BONNER:

15 Q. Did you have a conversation with anyone
16 else with respect to Mr. Callahan or Mr. Holcomb's
17 requests?

18 A. It's likely I would have talked to
19 Melinda --

20 Q. Okay.

21 A. -- but I don't know that for certain.

22 Q. Okay --

23 MR. VILMOS: I'm asking you again. If
24 you know the answer, please answer fully and
25 truthfully. If you don't, don't guess.

1 BY MR. BONNER:

2 Q. Okay. With Ms. Pitman, do you have a
3 specific recollection about a conversation with her
4 about Mr. Holcomb and Mr. Callahan's requests?

5 A. Not a specific recollection, no.

6 Q. And you didn't speak to a supervisor or
7 anyone else with respect to these requests?

8 A. No.

9 Q. I want to show you Exhibit 51.

10 This is a letter by Joe Kalbac with a
11 settlement agreement in the amount of \$33 million
12 that he sent to John Holcomb and Mick Callahan.

13 At some point did you receive a copy of
14 this?

15 A. I believe so.

16 Q. Have you seen it before?

17 A. I believe so.

18 Q. I'm going to show you Exhibit 52, which
19 is a letter from you to Mr. Callahan, dated
20 September 3, 2016. The contents of this letter
21 imply to me that Mr. Callahan contacted you with
22 respect to the settlement offer made in Exhibit 51;
23 is that true?

24 A. Yes.

25 Q. And specifically, if you'll look at

1 Exhibit 51, the proposal says, "This offer is
2 contingent upon acceptance by both defendants and
3 approval by their insurer and the terms set forth
4 in the settlement agreement."

5 At the time you wrote your letter on
6 September 3, 2016, you had read Mr. Kalbac's
7 letter; correct?

8 A. Yes.

9 Q. With respect to your letter of
10 September 3, 2016, did anyone assist you in writing
11 this letter?

12 A. No.

13 Q. Did anyone proof it before you sent it
14 out, other than you?

15 A. No.

16 Q. And did you need any person's authority
17 before you sent out this letter?

18 A. I would have talked to Melinda.

19 Q. Ms. Pitman?

20 A. Yes.

21 Q. And you would have talked to Ms. Pitman
22 how many times before sending out this letter?

23 MR. VILMOS: Object to the question --
24 object to the form.

25 A. Probably just once.

1 BY MR. BONNER:

2 Q. Okay. Do you know if Ms. Pitman told
3 you to write a letter back?

4 A. We agreed on what our response was going
5 to be.

6 Q. Okay. Well, let me ask you this. With
7 respect to conversation you had with Ms. Pitman,
8 can you tell me what you recall of that
9 conversation?

10 A. I recall discussing the proposed
11 release, that they were asking for Auto-Owners to
12 be a signatore to it. What do you think about
13 that, Melinda? We discussed it, and her thoughts
14 were, combined with my input, that you can sign
15 whatever release that you want to, but we're not
16 going to sign it, but that also we would continue
17 defending Bradley, should a settlement or a consent
18 judgment not be reached.

19 Q. Okay. And did you talk about the
20 settlement proposal with anyone else other than
21 Ms. Pitman?

22 A. No.

23 Q. I guess at the time you were your
24 supervisor?

25 A. That's true.

1 Q. But you didn't speak to anyone else at
2 your office branch with respect to this settlement
3 proposal; correct?

4 A. No.

5 Q. With respect to --

6 A. You just did that again, as a matter of
7 fact. I want to correct that.

8 Q. What did I do?

9 A. You said you didn't speak with anybody
10 else, and I said, no, and then you said, correct,
11 which would mean yes.

12 Q. Oh, goodness. My terrible record. It's
13 my record.

14 A. I'm sorry.

15 Q. Okay. So --

16 A. No, I didn't speak with anyone else.

17 Q. -- you didn't speak with anyone else.
18 Okay.

19 Do you agree with me that your letter of
20 September 3, 2016, does not object to a settlement
21 of Mr. Cawthorn's claim against Bob Ledford RV &
22 Marine for \$3 million?

23 A. That's correct.

24 Q. And do you agree that your letter does
25 not object to the entry of a consent judgment

1 against Bradley Ledford; correct?

2 A. Yes.

3 Q. And it, in fact, says that whether or
4 not to enter a future consent judgment will be
5 solely up to him, Mr. Callahan, and Ms. Moses;
6 correct?

7 A. Yes.

8 Q. Your letter does not object to anything
9 contained in Mr. Kalbac's proposal, as reflected in
10 Exhibit 51; correct?

11 A. Yes. We didn't want to sign our
12 signature line that's a part of the agreement.

13 Q. Okay. So apart from not wanting to be a
14 party to the agreement, there are no other
15 objections that you registered to Mr. Kalbac's
16 settlement proposal in your letter of September 3,
17 2016?

18 MR. VILMOS: Objection. It misstates
19 the testimony.

20 A. I'm not sure that an objection to a
21 document that we weren't a party to would have been
22 appropriate.

23 BY MR. BONNER:

24 Q. Okay. But factually, there's no
25 objection to the settlement proposal, other than

1 Auto-Owners being a signatory, that is reflected in
2 your letter of September 3rd, 2016?

3 MR. VILMOS: Objection. It misstates
4 the testimony.

5 A. The decision not to sign the document
6 that was provided to us ended any discussion of the
7 contents of that document.

8 BY MR. BONNER:

9 Q. Okay. So your letter of September 3,
10 2016, does not comment upon the substance of
11 Mr. Kalbac's proposal in any way?

12 A. That's correct.

13 Oh, my God. That's the last page?

14 Q. Are you aware of anyone, other than
15 Mr. Orr with respect to the report that we looked
16 at, dated October 28, 2014 -- anyone other than
17 Mr. Orr ever analyze the potential damages suffered
18 by Mr. Cawthorn for Auto-Owners in this case?

19 MR. VILMOS: Asked and answered.

20 You can answer again.

21 A. Ms. Moses probably did, but I don't
22 recall ever seeing anything formal from her.

23 BY MR. BONNER:

24 Q. If she had done it, if she had estimated
25 damages, is it your belief she would have done that

1 orally?

2 A. No.

3 Q. So it's possible somewhere in the claims
4 file there's a written estimate by Ms. Moses;
5 correct?

6 A. I don't believe there is one.

7 Q. Okay. Do you think maybe she created an
8 estimate and didn't share it with Auto-Owners?

9 A. Well --

10 MR. VILMOS: Object to the form. It
11 calls for speculation.

12 A. That's true -- but I can't imagine that
13 she wouldn't in the course of defending.

14 BY MR. BONNER:

15 Q. There was never an expert witness, to
16 your knowledge, that was retained by Auto-Owners to
17 evaluate Madison Cawthorn's injuries; correct?

18 MR. VILMOS: Asked and answered.

19 A. I don't know -- nobody was ever retained
20 by Auto-Owners. I'm sorry. I do specifically know
21 the answer to that.

22 MR. BONNER: We have some outstanding
23 discovery disputes. I think that me and
24 Mr. Latta mentioned these at the last
25 deposition. And before we took your

1 deposition, Mr. Latta and I discussed our
2 differences, and I told him that we might be
3 challenging those certain discovery issues
4 between us.

5 And depending on the outcome of those
6 discovery issues, we may ask to talk to you
7 some more; but if we lose, I probably won't
8 be able to. That notwithstanding, I'm
9 prepared to adjourn this deposition, pending
10 any questions you have.

11 MR. VILMOS: Let's take a few minutes.

12 MR. BONNER: Sure.

13 THE VIDEOGRAPHER: We're off the record
14 at 4:41.

15 (Break from 4:41 p.m. to 4:48 p.m.)

16 THE VIDEOGRAPHER: We're back on the
17 record at 4:48.

18 CROSS-EXAMINATION

19 BY MR. VILMOS:

20 Q. Good afternoon, Ms. McLean. I'm going
21 to show you what's previously been marked as
22 Exhibit 2 in this deposition.

23 Do you see that?

24 A. Yes.

25 THE VIDEOGRAPHER: We're off the record

1 at 4:48.

2 (Discussion off the record.)

3 THE VIDEOGRAPHER: We're back on the
4 record at 4:49.

5 BY MR. VILMOS:

6 Q. Ms. McLean, I'm going to ask you to look
7 at the front page of Exhibit No. 2. It's stamped
8 AO 00651. Do you see that page?

9 A. Yes.

10 Q. And the top entry, can you explain that
11 entry to me?

12 A. Issuing payment under med pay?

13 Q. Yes.

14 A. No.

15 Q. What is the date on that?

16 A. 4/29/15.

17 Q. And who is Kevin J. Goode?

18 A. I have no idea.

19 Q. Is Kevin J. Goode someone in your office
20 in Ocala?

21 A. No.

22 MR. BONNER: Objection. Form.

23 BY MR. VILMOS:

24 Q. You don't know Kevin J. Goode?

25 A. No.

1 MR. BONNER: Objection. Asked and
2 answered.

3 BY MR. VILMOS:

4 Q. Ma'am?

5 A. No.

6 Q. Did Kevin J. Goode consult with you
7 before issuing a payment under med pay?

8 MR. BONNER: Objection.

9 A. No.

10 BY MR. VILMOS:

11 Q. Was the lawsuit filed as of April 29,
12 2015?

13 A. Yes.

14 Q. Does the filing of the lawsuit in any
15 way impact payments under an insurance policy?

16 A. Not necessarily.

17 Q. Does the med pay payment from Mr. Good
18 in the note indicate that it related to the
19 Cawthorn claim?

20 A. No.

21 Q. Did your prior testimony indicate that
22 you issued the payment under med pay?

23 MR. BONNER: Objection to the form of
24 the question.

25 A. I thought that I must have.

1 BY MR. VILMOS:

2 Q. I'm just trying to understand what
3 happened.

4 A. And looking at that note, I don't
5 understand what happened.

6 Q. Okay. Do you recall issuing a payment
7 under med pay on April 29, 2015?

8 A. No.

9 MR. VILMOS: Let's go off the record
10 briefly.

11 THE VIDEOGRAPHER: We're off the record
12 at 4:52.

13 (Discussion held off the record.)

14 THE VIDEOGRAPHER: We're back on the
15 record at 4:52.

16 MR. VILMOS: Ms. McLean, thank you for
17 your testimony today. I appreciate the
18 length of time it took and the commitment for
19 you to be here.

20 When this deposition is transcribed, we
21 will have you read it for errors. If there
22 are any errors, you will fill out what's
23 called an errata sheet, and that will give
24 you an opportunity to make sure that your
25 answers were properly transcribed and that

1 the answers you gave were accurate in the
2 transcription.

3 MR. BONNER: And we, once again, renew
4 our statement that we are adjourning, subject
5 to previous statements on the record. Thank
6 you.

7 THE VIDEOGRAPHER: This is the end of
8 disk No. 3 and adjourns the deposition of
9 Pamela McLean taken on 11 May 2017. We're
10 off the record at 4:53 p.m.

11 (The reading and signing of this
12 deposition was not waived.)

13 (At 4:53 p.m. this deposition was
14 adjourned sine die.)

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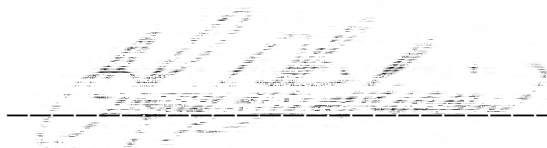
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CERTIFICATE OF OATH

STATE OF FLORIDA :
:SS.
COUNTY OF MIAMI-DADE :

I, Lance W. Steinbeisser, Registered Professional Reporter, Notary Public, State of Florida, certify that PAMELA TORRES MCLEAN personally appeared before me on the 11th of May, 2017.

Signed this 14th day of May, 2017.



LANCE W. STEINBEISSER, RPR CSR FPR
Notary Public, State of Florida at Large
My Commission Number: GG064258
Expires: May 4, 2021

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REPORTER'S DEPOSITION CERTIFICATE

I, Lance W. Steinbeisser, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of PAMELA TORRES MCLEAN; that a review of the transcript was requested; and that the transcript, pages 1 through 289, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 14th day of May, 2017, at Miami, Florida.



LANCE W. STEINBEISSER, RPR CSR FPR
Certified Court Reporter

ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES

RE : CAWTHORN VS. AUTO-OWNERS
DEPONENT : PAMELA TORRES MCLEAN
TAKEN : MAY 11, 2017

Page # Line # Change Reason

Table with 4 columns: Page #, Line #, Change, Reason. Rows 6-20 are empty.

Under penalties of perjury, I declare that I have read the foregoing document, and that the facts stated in it are true.

Signature

Date

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STEINOTYPE, INC.
Stenographic Services
1140 Northeast 86 Street
Miami, Florida 33138
(305)632-4464

May 14, 2017

Pamela McLean
c/o Peter C. Vilmos, Esquire

RE: CAWTHORN VS. AUTO-OWNERS
DEPO OF: PAMELA TORRES MCLEAN
TAKEN: May 11, 2017

Dear Ms. McLean:

This letter is to advise that the transcript of your deposition has been completed and is available for review. Please contact our office at (305)632-4464 to make arrangements for reading and signing.

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter.

In the event other arrangements are made, please send us a list of any and all corrections and/or changes, noting page and line numbers, and the reason for such changes, so that we can furnish respective counsel with a copy.

The original of this transcript has been forwarded to the ordering party, and your errata, once received, will be forwarded to all ordering parties for the inclusion in the transcript.

Sincerely,

Lance W. Steinbeisser, RPR FPR CSR
Steinotype, Inc.

cc: (Copy to all counsel)