

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

* * * * *	* * * * *
	* CIVIL ACTION NO.
NEWTON MCNEALY	* 2:14-cv-02181-SM-JCW
	*
VERSUS	* JUDGE SUSIE MORGAN
	*
DARRYL J. BECNEL, ET AL	* MAGISTRATE JUDGE
	* JOSEPH WILKINSON
* * * * *	* * * * *

VOLUME I

Videotaped Deposition of NEWTON T. McNEALY, JR., taken on Wednesday, November 16, 2016, commencing at 9:49 a.m., in the offices of Robein, Urann, Spencer, Picard & Cangemi, Attorneys at Law, 2540 Severn Avenue, Suite 400, Metairie, Louisiana, 70002.

I N D E X

Page

Caption	1
Index of Exhibits	3
Appearances	5
Agreement of Counsel	8
Examination	
THOMAS J. McGOEY II, ESQ.	9
JULIE RICHARD-SPENCER, ESQ.	244

* * * * *

Witness' Certificate	273
Reporter's Page	274
Certificate	275

INDEX OF EXHIBITS

VOLUME I

Number	Page
1 February 6, 2014 Certified - Return Receipt Requested Letter from Tammy V. Troxclair, Human Resources Associate Motiva to Newton McNealy	145
2 4/30/3024 Separation Notice	146
3 Excerpt of Deposition of Newton T. McNealy taken on January 17, 2014 in the matter filed with the Office of Workers' Compensation entitled Newton T. McNealy v. Motiva Enterprises, LLC	147
4 5/5/2015 Letter from Zaida Monconduit, Program Operations Specialist, U.S. Equal Employment Opportunity Commission to Newton McNealy	168
5 Shell and Motiva Harassment Policy April 2009	176
6 March 24, 2014 Handwritten letter of intent by Newton McNealy to appeal MetLife's decision concerning claim and February 6, 2012 Letter from Mr. McNealy to MetLife M-0332, M-0658	203
7 Plaintiff's Response to First Set of Interrogatories	225
8 Plaintiff's Response to Admission	225

1 (Cont.) INDEX OF EXHIBITS

2

3 Number Page

4

5 9 Order of Approval and Dismissal 227
6 of Suit/Claim with Prejudice in
7 matter of Newton T. McNealy v
8 Motiva Enterprises, LLC filed
9 with the Office of Workers'
10 Compensation

11 10 Notice of Award by the Social 228
12 Security Administration,
13 Retirement, Survivors, and
14 Disability Insurance to Newton
15 W. McNealy, Jr.

16 11 Orientation Documents Checklist 238
17 for New Hire

18 12 September 4, 2012 Letter from 239
19 Randy Cavalier, Human Resources
20 Account Manager, Maintenance,
21 Motiva to Newton McNealy

22 VOLUME II

23 13 Plaintiff's Response to United 337
24 Steel Workers, Local Union's
25 First Set of Interrogatories,
Requests For Production of
Document and Request for
Admissions

14 April 12, 2011 Written Reminder 341
from Brandon Dufrene, Hard
Crafts Supervisor and Clay
Threadgill, Maintenance Team
Leader to Newton McNealy

15 March 25, 2011 News Article re: 342
Louisiana man arrested for
stealing cattle, Natchez,
Mississippi

25

1 (Cont.) INDEX OF EXHIBITS

2

3 Number Page

4

16 Crime Reports: May 23, 2011 344
Natchez Police Department

5

17 Plaintiff's Fourth Amended and 346
Supplemental Complaint Request
for Trial by Jury

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 APPEARANCES:

2 Representing the Plaintiff, Newton T.
McNealy, Jr.:

3 HUNT-CLARK LAW FIRM
4 Attorneys at Law
5 5727 St. Claude Avenue
New Orleans, Louisiana 70117

6 BY: QUIANA M. HUNT, ESQ.

7

8 Representing the Defendants, USW Local 750 and
the International:

9

10 ROBEIN, URANN, SPENCER,
PICARD & CANGEMI, APLC
11 Attorneys at Law
2540 Severn Avenue, Suite 400
12 Metairie, Louisiana 70002

13 BY: JULIE RICHARD-SPENCER, ESQ.
KEVIN R. MASON-SMITH, ESQ.

14

15 Representing the Defendants, Motiva
16 Enterprises, Shell Chemical, Shell Oil and
Saudi Refining:

17 LISKOW & LEWIS
Attorneys at Law
18 One Shell Square, Suite 5000
701 Poydras Street
19 New Orleans, Louisiana 70139

20 BY: THOMAS J. McGOEY II, ESQ.
PHILIP R. DORE, ESQ.

21

22

Reported by:

23 KAY E. DONNELLY
Certified Court Reporter
24 State of Louisiana

25

1 APPEARANCES: (Cont.)

2

ALSO PRESENT:

3

Representing Metropolitan Life:

4

ELKINS, PLC

5

Attorneys at Law

One Shell Square, Suite 5000

6

201 St. Charles Avenue, Suite 4400

New Orleans, Louisiana 70170

7

BY: VIRGINIA N. RODDY, ESQ.

8

9

James Preston

Industrial Relations Manager

10

Shell Chemical and Motiva Norco

11

Stanley Price

Paralegal

12

Hunt-Clark Law Firm

13

Mark Ancalade

14

Videographer

US Legal Support

15

16

Reported by:

17

KAY E. DONNELLY

Certified Court Reporter

18

State of Louisiana

19

20

21

22

23

24

25

S T I P U L A T I O N

1
2
3 It is stipulated and agreed by and among
4 counsel that the videotaped deposition of NEWTON
5 T. McNEALY, JR., is hereby being taken under the
6 Federal Rules of Civil Procedure in accordance
7 with the Rules.

8 The formalities of sealing and
9 certification are hereby waived. The witness
10 reserves the right to read and sign the
11 deposition. The party responsible for service
12 of the discovery material shall retain the
13 original.

14 All objections, save those as to the form
15 of the questions, are hereby reserved until such
16 time as this deposition, or any part thereof,
17 may be used or sought to be used in evidence,
18 and are to be made in accordance with the
19 Federal Rules of Civil Procedure.

20 * * * * *

21 KAY E. DONNELLY, Certified Court Reporter,
22 in and for the State of Louisiana, officiated in
23 administering the oath to the witness.

24
25

1 NEWTON T. McNEALY JR., 39392 Highway 74,
2 Gonzales, Louisiana, 70737, after having been
3 first duly sworn, testified on his oath as
4 follows:

5 THE VIDEOGRAPHER:

6 We are now on the Record at 9:49.
7 This is the videotaped deposition of Mr. Newton
8 McNealy, Jr., taken in a matter of Newton
9 McNealy versus Darryl J. Becnel, et al. Cause
10 Number 14-2181.

11 Today's deposition is being held at
12 2540 Severn Avenue, Suite 400, Metairie,
13 Louisiana, on November the 16, 2016.

14 My name is Mark Ancalade, the
15 videographer. The Court Reporter is Ms. Kay
16 Donnelly.

17 I would ask that Counsel please
18 state their names for the Record, which
19 thereafter will the Court Reporter please swear
20 in the witness?

21 MR. McGOEY:

22 Thomas McGoey for Motiva
23 Enterprises, Shell Chemical, Shell Oil and Saudi
24 Refining, along with my colleague, Philip Dore.

25 MS. RICHARD-SPENCER:

1 Julie Richard-Spencer for USW Local
2 750 and the International.

3 MS. RODDY:

4 Virginia Roddy from Metropolitan
5 Life Insurance Company.

6 MS. MASON:

7 Kevin Mason-Smith for USW Local 750
8 and also USW International.

9 MS. HUNT:

10 Quiana Hunt for Newton McNealy,
11 Plaintiff.

12 (Witness sworn.)

13 EXAMINATION BY MR. McGOEY:

14 Q. Good morning, Mr. McNealy. We just met.
15 As I explained, I represent four of the
16 defendants that you have sued in this lawsuit:
17 Motiva Enterprises, Shell Chemical, Shell Oil
18 Company Mand Saudi Refining, Inc.

19 And we are here today to take your
20 deposition. How many depositions have you given
21 in the past?

22 A. One.

23 Q. And what case was that in?

24 A. A workman comp case.

25 Q. Was that your workmen's comp case

1 against Motiva?

2 A. Yes.

3 Q. All right. Do you understand the
4 meaning of the oath that you have taken?

5 A. Absolutely.

6 Q. Do you understand that you have to
7 testify truthfully, just as if we were in court?

8 A. Yes.

9 Q. Do you understand that your testimony
10 today could be used at the trial of this case?

11 A. I hope it does.

12 Q. And that it could be used in connection
13 with motions in this case?

14 A. I -- yes.

15 Q. If you have a problem understanding any
16 of my questions, will you let me know?

17 A. Absolutely.

18 Q. So you are doing an excellent job of
19 giving verbal responses. That helps the Court
20 Reporter.

21 It is much better to give a verbal
22 response than a nod or a shake so please keep
23 doing that. Okay?

24 A. Yes, sir.

25 Q. And if you want me to rephrase a

1 question or repeat a question, will you let me
2 know?

3 A. Absolutely.

4 Q. Are you on any medication today that you
5 believe will impact your ability to understand
6 my questions?

7 A. Yes.

8 Q. So tell me what medication that you are
9 on today?

10 A. I am on Xanax, and one other medicine I
11 can't pronounce that will have an impact.

12 Q. Okay. So let's talk for a minute about
13 the Xanax. Who prescribed the Xanax for you?

14 A. Dr. Atluri.

15 Q. And what do you -- what condition do you
16 believe that that medicine has been prescribed
17 to treat?

18 A. Anxiety and severe depression disorder.

19 Q. And what is your normal dosage of Xanax?

20 A. One milligram twice a day.

21 Q. And did you take your normal dosage
22 today?

23 A. On schedule.

24 Q. Okay. All right. The other medicine,
25 you don't -- you are not sure of the name?

1 A. It is something like Zoloft. Something
2 to keep me calmed down.

3 Q. And who prescribed that medicine?

4 A. Dr. Atluri.

5 Q. And what is the dosage?

6 A. I think the same. About one milligram
7 twice a day.

8 Q. And did you take your normal dosage
9 today?

10 A. Yes.

11 Q. How do you think that -- well, first of
12 all, let's go it one by one.

13 Do you think the Xanax is going to
14 affect your ability to understand my questions?

15 A. No, not -- it won't affect that, I don't
16 think.

17 Q. Do you think the Zoloft is going to
18 affect your ability to understand my questions?

19 A. No. It just won't be, you know,
20 animated. It won't be -- you know, it is mellow
21 -- it mellows me out.

22 Q. All right. Do you feel like you will be
23 able to truthfully respond to my questions today
24 despite whatever medication you have taken?

25 A. Yes.

1 Q. All right. All of us want to make sure
2 that you -- we get accurate, truthful testimony
3 from you. So if you -- if you don't believe you
4 can do that today, we need you to tell us.

5 But I think I am understanding that you
6 are comfortable with that, but I want you to
7 confirm that for us. Okay?

8 MS. HUNT:

9 Objection. He -- that is
10 speculation.

11 He doesn't know how this medicine is
12 going to affect him today. He can only answer
13 to the best of his ability, which he is going to
14 try to do.

15 MR. McGOEY:

16 Well, I think the defendants are
17 entitled to know that we are not going to get a
18 transcript that the plaintiff later says is
19 worthless because he couldn't understand the
20 questions.

21 So, I mean, we need a commitment
22 from the plaintiff's side of this case that you
23 all are ready to proceed with this deposition.

24 MS. HUNT:

25 We are ready to proceed, as we are

1 required to.

2 However, the medication and his
3 mental disability may preclude him from being
4 able to adequately recall certain incidents and
5 be able to convey those things to you
6 adequately.

7 He does also have PTSD. He does
8 have spots of his memory that needs jogging,
9 some things blacked out.

10 So, I mean, we are here in good
11 faith to answer the questions to the best of his
12 ability.

13 We definitely have a letter coming
14 from his doctor also about the deposition. We
15 are here in good faith.

16 MR. McGOEY:

17 Well, what -- so what is the letter?

18 MS. HUNT:

19 She hasn't given it to us yet, which
20 she is going to reduce it to writing about the
21 videotaped deposition and the deposition in
22 general, her recommendations on the deposition
23 and the videotape deposition. We should have
24 those today.

25 MR. McGOEY:

1 Why didn't we get them before
2 everybody came here and made arrangements and we
3 have court reporters and I mean --

4 MS. HUNT:

5 I am just saying that Mr. McNealy
6 cannot -- he had -- like he said, he does -- he
7 does -- he does think this medicine is going to
8 affect him reflecting.

9 He cannot tell you that he is going
10 to be able to adequately respond to these
11 questions given his mental condition and the
12 medication that he is on, which all of you guys
13 had knowledge of his mental condition and the
14 medication that he is on.

15 MR. McGOEY:

16 I don't -- okay.

17 MS. RICHARD-SPENCER:

18 And let me -- can I try it?

19 MR. McGOEY:

20 Yeah.

21 MS. RICHARD-SPENCER:

22 Do you -- are you saying that -- I
23 just want to be clear, because I think I know
24 what you are saying, but I want to be clear.

25 Are you saying that the medications

1 make it so that he can't testify truthfully, or
2 that it may affect his ability to recall?

3 MS. HUNT:

4 The latter.

5 MS. RICHARD-SPENCER:

6 Okay. So, he is -- we don't have an
7 issue about his ability to testify truthfully?

8 THE WITNESS:

9 Right.

10 MS. HUNT:

11 No.

12 MS. RICHARD-SPENCER:

13 But he may not be able to recall
14 things, is what you are saying?

15 MS. HUNT:

16 Correct.

17 THE WITNESS:

18 Exactly.

19 MS. RICHARD-SPENCER:

20 Can it -- Tommy, you may have to
21 decide if you want to move forward, but can we
22 move forward with an agreement that Mr. McNealy
23 will tell us where he can't recall something, so
24 that we know that there is a recall issue on
25 those questions? Could we do that?

1 MS. HUNT:

2 Yes.

3 MS. RICHARD-SPENCER:

4 And if at some point in time his
5 condition deteriorates to a point that he
6 believes he cannot testify truthfully any longer
7 because of the impact of the medication, you
8 guys will tell us that so we can stop the
9 deposition at that point, so we don't end up
10 with a transcript that we cannot use at a later
11 point in time?

12 MS. HUNT:

13 Yes.

14 MS. RICHARD-SPENCER:

15 Tommy, does that help any or --

16 MR. McGOEY:

17 I -- I think it does. So, let's --
18 let's -- let's go back.

19 EXAMINATION BY MR. McGOEY:

20 Q. So, Mr. McNealy, you are comfortable
21 going forward, correct?

22 A. Yes.

23 Q. And you are going to -- you are going to
24 testify truthfully, to the best of your ability?

25 A. Yes.

1 Q. And --

2 A. If I'm given a little time. My mind
3 don't work as good as it used to before this
4 happened, but I will do the best I can.

5 Q. Fair enough. Okay. All right.

6 Did you review any documents in
7 preparation for this deposition?

8 A. No. Not by -- not until I am here
9 today, and I was handed that (indicating).

10 Q. All right. When -- can you show me the
11 folder that you just pointed to?

12 A. (Indicating.)

13 Q. So, who handed you this folder?

14 A. My attorney.

15 Q. And did you see it when you first got to
16 the building?

17 A. Yes.

18 Q. Have you read through it today?

19 A. No.

20 Q. Okay. All right.

21 MR. McGOEY:

22 So the let Record reflect that the
23 folder contains a couple of blank pages of paper
24 and a copy what appears to be the Plaintiff's
25 Fourth Amended and Supplemental Complaint. It

1 doesn't have a file stamp, so it may be a draft.

2 EXAMINATION BY MR. McGOEY:

3 Q. But -- all right. So, you really didn't
4 review any documents before the deposition?

5 A. I didn't know about this deposition
6 until 8:00 last night.

7 Q. Have you talked to anyone other than
8 your attorney about the deposition?

9 A. Yes.

10 Q. Who have you talked to about it?

11 A. Just close, close relatives,
12 acquaintances.

13 Q. What are their names?

14 A. Close friends. I don't know if I want
15 to give anybody's name.

16 Q. Well, why -- why are you reluctant to
17 give the names?

18 A. It is just -- family members.

19 Q. So, what did you talk about with them?

20 A. Just -- I got a brother in the hospital.
21 I talked to him about it. And he was trying to
22 get me to come to Dallas to see him, but I
23 couldn't make it because of the one Thursday,
24 but --

25 Q. Did you talk to anybody about questions

1 you might -- other than your lawyer, about
2 questions you might be asked and how you would
3 respond?

4 A. No.

5 Q. Is your current address 39392 Highway
6 74, Gonzales, Louisiana, 70737?

7 A. Yes.

8 Q. And have you lived at that address for a
9 good while?

10 A. Yes.

11 Q. Since 1995?

12 A. May have been then. Yeah, that sounds
13 about right.

14 Q. So, roughly 20 years at that address?

15 A. Yes.

16 Q. Have you lived anywhere else since 1995?

17 A. No.

18 Q. Do you get your mail at that address?

19 A. Yes.

20 Q. Is that a house or an apartment?

21 A. A house.

22 Q. Who owns the house?

23 A. Me.

24 Q. Does anyone live with you at that
25 address?

1 A. No.

2 Q. If we go back in time to when you last
3 worked for Motiva, back in -- I think your last
4 day of work was in 2012. Does that sound
5 correct?

6 A. Yes.

7 Q. When you worked with Motiva, was anyone
8 living at this address with you, or were you
9 there alone?

10 MS. HUNT:

11 Objection. Relevance.

12 MR. McGOEY:

13 The objection is noted. You can
14 answer.

15 THE WITNESS:

16 Yeah. Nobody lived there with me in
17 2012.

18 EXAMINATION BY MR. McGOEY:

19 Q. How about in 2011?

20 A. No.

21 Q. Are you married?

22 A. No.

23 Q. Have you been married to anyone other
24 than Debra Lee and Catherine Carey?

25 A. No.

1 Q. How many children do you have?

2 A. Four.

3 Q. Is that Michary McNealy?

4 A. Yes.

5 Q. That is a woman, correct?

6 A. Right.

7 Q. Does she live in Mississippi?

8 A. No.

9 Q. Where does she live?

10 A. Atlanta.

11 Q. And what is her age?

12 A. Thirty-seven, I think.

13 Q. You have another daughter named Stacy?

14 A. Yes.

15 Q. What is Stacy's last name?

16 A. Stacy McNealy.

17 Q. How old is she?

18 A. Twenty-one.

19 Q. And where does she live?

20 A. Gonzales.

21 Q. But not in the house with you?

22 A. No.

23 Q. And then you have two sons, as well,

24 correct?

25 A. Correct.

1 Q. KaShawn Campbell?

2 A. Yes.

3 Q. How old is he?

4 A. Forty-five.

5 Q. And does he live in Maryland?

6 A. He used to.

7 Q. Where does he live now?

8 A. Virginia.

9 Q. And then another son named Armon Link?

10 A. Yes.

11 Q. How old is he?

12 A. Twenty-five.

13 Q. Where does he live?

14 A. Baton Rouge.

15 Q. Do you provide financial support for any
16 of your children at this point in time?

17 MS. HUNT:

18 Objection. Relevance.

19 THE WITNESS:

20 Well, it ain't necessary, but I am
21 going to do everything I can for those kids
22 until they get 80.

23 EXAMINATION BY MR. McGOEY:

24 Q. Is there -- are there any bills that you
25 currently pay for any of your children?

1 A. Yes.

2 Q. Who are you paying bills for? Which of
3 the kids?

4 A. The youngest one that is still in
5 college. Stacy, 21.

6 Q. And where is she in college?

7 A. Southern.

8 Q. How far did you go in school?

9 A. I had high school, plus a couple of
10 years of trade school.

11 Q. What kind of -- did you get a degree
12 from trade school?

13 A. Yes. An Associate's Art in Machine Shop
14 Technology.

15 Q. And you are comfortable reading and
16 writing, correct?

17 A. Limited.

18 Q. What do you mean by that answer?

19 A. Spelling and stuff and, you know, and
20 just composing something in writing is a little
21 bit more difficult than speaking, than verbal
22 for me.

23 Q. Okay. Do you have a computer?

24 A. Yes.

25 Q. Do you have an Email address?

1 A. Yes.

2 Q. What is your Email address?

3 A. Newtorque.

4 Q. Is that N-E-W-T-O-R-Q-U-U-E?

5 A. Yes.

6 Q. At Gmail (dot) com?

7 A. Exactly.

8 Q. Did you set up the Gmail account?

9 A. Years ago, yes.

10 Q. Do you have any other Email addresses?

11 A. No.

12 Q. Do you have a home phone?

13 A. No.

14 Q. Do you have a cellphone?

15 A. Yes.

16 Q. What is your cellphone number?

17 A. 225-337-1893.

18 Q. And who is your carrier?

19 A. Verizon. No, no. AT&T now.

20 Q. Did you make the arrangement for the
21 phone with AT&T?

22 A. Yes.

23 Q. Do you send text messages from time to
24 time?

25 A. Yes.

1 Q. Do you belong to any clubs?

2 A. No.

3 Q. Have any hobbies?

4 A. No.

5 Q. Do you belong to a church?

6 A. No.

7 Q. Have you ever declared bankruptcy?

8 A. No.

9 Q. Have you ever asked any employees of
10 Motiva to get you any documents?

11 A. No.

12 Q. How about any employees of Shell
13 Chemical to get you any documents?

14 A. No.

15 Q. Is your birthday March 6th of 1955?

16 A. Yes.

17 Q. And where were you raised?

18 A. Natchez, Mississippi.

19 Q. Are your parents still alive?

20 A. No.

21 Q. Were they alive in 2011?

22 A. No.

23 Q. How many siblings do you have?

24 A. Five.

25 Q. And where are they located? Any in

1 Louisiana?

2 A. No.

3 Q. Is your -- well, what is your Social
4 Security number?

5 A. 587-90-4451.

6 Q. How about your driver's license number?

7 A. 5044804.

8 Q. Do you have a vehicle?

9 A. Yes.

10 Q. What is it?

11 A. Dodge Ram pickup.

12 Q. What year?

13 A. '06.

14 Q. Do you have any other vehicles?

15 A. Yes.

16 Q. What other vehicles do you have?

17 A. Toyota Tacoma '05.

18 Q. Any other vehicles?

19 A. Not that I own, but I got the use of one
20 more. I don't own it.

21 Q. Okay. So what vehicle do you have the
22 use of?

23 A. That is my dad's. My dad's '95 Buick
24 Roadmaster.

25 Q. Classic.

1 A. It is a lot more than that to me.

2 Q. I bet.

3 Okay. Did you drive yourself from
4 Gonzales to Metairie today for the deposition?

5 A. Yes.

6 Q. And do you typically drive yourself
7 around?

8 A. Yes.

9 Q. Do you buy your own groceries?

10 A. No.

11 Q. Okay. How do you get groceries?

12 A. I got somebody that cooks for me.

13 Q. Who cooks for you?

14 A. A friend of mine.

15 Q. What is the person's name?

16 A. Lynn Matthews.

17 Q. Okay. Do you pay her to cook?

18 A. I provide -- it is like barter, you
19 know.

20 Q. So, what do you give Lynn? Lynn is a
21 woman?

22 A. Yes.

23 Q. What do you give Lynn in exchange for
24 her cooking meals for you?

25 A. She gets compensated. She gets, you

1 know -- yeah.

2 MS. HUNT:

3 Objection. Relevance.

4 EXAMINATION BY MR. MCGOEY:

5 Q. Do you have a bank account?

6 A. Yes.

7 Q. Do you handle your own banking?

8 A. Yes.

9 Q. You have credit cards?

10 A. No.

11 Q. You have a checkbook?

12 A. Yes.

13 Q. Do you balance the checkbook?

14 A. No.

15 Q. Does somebody else balance it for you?

16 A. I -- well, I just make sure I don't
17 overdo anything. I don't splurge. I don't do
18 anything, you know, extravagant or anything like
19 that. That only those things that are
20 necessary.

21 Q. But you are the one who watches to make
22 sure that you are not spending more than you
23 have in the bank?

24 A. Yeah.

25 Q. Do you ever buy things from the

1 Internet?

2 A. Not -- not too often. I -- I can't
3 think of anything I bought.

4 Q. Do you go on the Internet to look at
5 websites and read?

6 A. Sometimes, yes.

7 Q. Do you work on your vehicles?

8 A. Sometimes, depending on what it is.

9 Q. Do you work on your house? Do repair
10 work?

11 A. No.

12 Q. Do you have any grandchildren that you
13 see?

14 A. Yes.

15 Q. Do you play with them?

16 A. Yes.

17 Q. Ever take them on trips to museums or
18 parks or anything like that?

19 A. No.

20 Q. Are you a fisherman or a hunter?

21 A. No.

22 Q. Do you have any friends at Motiva?

23 A. I don't -- I don't know if I got any or
24 not, you know, because I haven't talked to
25 anybody since -- since I left there.

1 Q. When you were there, who were you
2 friendly with?

3 A. Practically, everybody.

4 Q. And do I understand correctly that you
5 have been diagnosed with sleep apnea?

6 A. Yes.

7 Q. And when were you first diagnosed with
8 that condition?

9 A. It is a long time ago. Maybe a -- that
10 could be almost 20 years ago.

11 Q. That was certainly before any of the
12 events that this lawsuit is about --

13 A. Exact --

14 Q. -- correct?

15 A. Exactly.

16 Q. Do you also have -- do you have
17 hypertension?

18 A. Yes.

19 Q. Do you have diabetes?

20 A. Yes.

21 Q. Asthma?

22 A. No.

23 Q. Chronic fatigue?

24 A. No.

25 Q. Where do you get your medicine?

1 A. Walgreens.

2 Q. Where is the Walgreens location?

3 A. Highway 73 in Gonzales.

4 Q. And do you deal with Walgreens to pick
5 up the prescriptions and pay for them, et
6 cetera?

7 A. Yes.

8 Q. I want to talk about your work history
9 before you got to the Shell in the Motiva
10 facility in Norco.

11 Were you fired from any job before you
12 started working at Shell Chemical in 2006?

13 A. Yes.

14 Q. Where? What company?

15 A. Emerson Process Management.

16 Q. And why were you terminated by them?

17 A. I have no idea.

18 Q. Did they give you anything in writing
19 with a reason?

20 A. No.

21 Q. Did you ask anybody what the reason was?

22 A. No. But I knew what it was.

23 Q. Okay. And what did you think the reason
24 was?

25 A. Just standing up for my personal rights.

1 Q. So, what personal rights did you stand
2 up for when you were with Emerson?

3 A. Discrimination and the right to not be
4 exposed unnecessarily to hazardous chemical.

5 Q. So what hazardous chemical do you think
6 you were exposed to at Emerson?

7 A. It may have been cadmium and lead.

8 Q. And how do you think you were exposed to
9 them?

10 A. They were putting that in the dumpster
11 by the 55-gallon drum full like it was paper.

12 Q. And what kind of discrimination did you
13 believe that you suffered at Emerson?

14 A. Just racial.

15 Q. So what -- what kinds of things happened
16 to you there that you believe were race
17 discrimination?

18 A. I worked there for 19 years. The first
19 10 years were night -- nightshift. And the -- I
20 was refused the opportunity to go to the day
21 shift.

22 I was refused the opportunity to be -- I
23 was a machinist. That is the job they wanted me
24 to do, but I -- they had mechanics' jobs also.
25 And they had day shift jobs that were mechanics.

1 And that is what I was attempting to do,
2 to try to be a mechanic on days, rather than
3 just a machinist on nights.

4 Q. And so -- so how do you think
5 discrimination came into play?

6 A. They hired people right off the street
7 with no experience and gave them the day jobs
8 that I was applying for each time.

9 Q. And you ultimately -- you ultimately
10 sued Emerson, correct?

11 A. Correct.

12 Q. And what happened with the case?

13 A. That has been a long time ago. Right
14 before Katrina. The attorney I had representing
15 me failed to answer a summary judgment.

16 Q. All right. And so summary judgment was
17 granted against you dismissing the case?

18 A. Exactly.

19 Q. And did you appeal?

20 A. Yes.

21 Q. And what happened on appeal?

22 A. I couldn't find representation. I --
23 you know.

24 Q. All right. Is it your understanding
25 that the appellate court affirmed summary

1 judgment dismissing the case?

2 A. I think so. If I'm understanding your
3 question correctly, I believe the answer can be
4 yes as far as that.

5 Q. Have you -- other than Motiva and Shell
6 Chemical in this case, and Emerson that we just
7 talked about, have you ever made a
8 discrimination claim against another employer?

9 A. No.

10 Q. Have you filed any other lawsuits for
11 car wrecks or anything like that?

12 A. No.

13 Q. Have you had any car wrecks since 2010?

14 A. No.

15 Q. Can we agree that you started with Shell
16 Chemical in Norco in 2006?

17 A. Yes.

18 Q. Let's talk for a minute about the Norco
19 facility. So, at one site, there is a Shell
20 Chemical plant and a Motiva refinery, correct?

21 A. It is all intertwined. There is no
22 boundaries, or there is no absolute dividing
23 line. They are all intertwined. Both plants
24 are intertwined.

25 Q. All right. Can we agree that some of

1 the people who work at that site are employed by
2 Shell Chemical and some are employed by Motiva?

3 A. That was all elastic. You know, they
4 moved -- everybody -- it was intertwined. It --
5 I believe everybody there was employed by Shell
6 Oil.

7 Q. Why do you believe -- first of all, when
8 you say Shell Oil --

9 A. Shell Chemical, Shell Oil.

10 Q. Okay. So the --

11 A. By Shell.

12 Q. So, those are two different companies.

13 So, let me ask you: When you refer to Shell
14 Oil, what company are you talking about?

15 A. Shell Oil, I am referring to the -- the
16 -- the site, the location. Norco location is --
17 is Shell.

18 Q. So when you worked at this facility, you
19 were a member of the Steelworkers Union,
20 correct?

21 A. Yes.

22 Q. And there was a time in July of 2008,
23 when you bid on a job with Motiva, correct?

24 A. Yes.

25 Q. So, and that was your choice whether to

1 make that bid or not, correct?

2 A. Yes.

3 Q. And you -- you chose to put in a bid
4 that would switch you from being a machinist for
5 Shell Chemical to being a machinist for Motiva,
6 correct?

7 A. That put me to a point where Motiva had
8 first dibs, but I still was a machinist for
9 Shell also.

10 There wasn't but one machine shop. Even
11 Shell's people, that so-called worked for Shell,
12 had to use that one machine shop.

13 Q. Why did you bid over from Shell Chemical
14 to Motiva?

15 A. It was getting a little bit slow on --
16 on the Shell side, and the work -- I was
17 following the workload.

18 Q. So, you thought if you bid over to
19 Motiva, there would be more available work for
20 you?

21 A. More available overtime work.

22 Q. All right. And you wanted to get as
23 much overtime as you could?

24 A. Exactly.

25 Q. So, do you recall giving a deposition in

1 the workers' compensation case you filed against
2 Motiva?

3 A. Yes.

4 Q. And when you -- when you filed a
5 workers' compensation case, you only filed it
6 against Motiva, correct?

7 A. At that -- at that time, I think so.

8 Q. All right. So do you remember
9 testifying in the workers' compensation case,
10 and I am quoting, "I was actually employed"
11 comma "when all of this stuff was happening"
12 comma "by Motiva." Closed quotes.

13 A. It was Motiva's turnaround. It was
14 Motiva's turnaround, that 12-hour shift. 7:00
15 to 7:00 nights. 7:00 p.m. to 7:00 a.m. nights
16 on Motiva's equipment.

17 Q. And, yet, you are trying to say that you
18 were not only employed by Motiva, but you were
19 employed by some other company, too?

20 A. Shell, yes.

21 Q. Okay. The Norco site has a medical
22 facility on the property, correct?

23 A. Yes.

24 Q. And employees who work at the site can
25 go see either a doctor or a nurse, who is right

1 there, if there is an injury?

2 A. Yes.

3 Q. Did you ever go to the medical site at
4 the Motiva facility in Norco while you were
5 employed there?

6 A. Yes.

7 Q. What do you know about Saudi Refining,
8 Inc.? Do you know anything about that company?

9 A. The only thing I know about them is that
10 they are in contract with Shell, Motiva, Shell
11 Refinery. Just -- that was a name that wasn't
12 really used on the site very much.

13 Q. So, how do you know anything about that
14 company? Where have you gotten whatever
15 information you have about Saudi Refining, Inc.?

16 A. I am just now hearing it for the most
17 part. I am just getting familiar with it.

18 Q. And how -- what -- how are you learning
19 about this?

20 A. Through this -- through this legal
21 procedure.

22 Q. Do you -- can you name anybody who is
23 employed by Saudi Refining, Inc.?

24 A. No.

25 Q. Did you ever get a paycheck from Saudi

1 Refining, Inc.?

2 A. No.

3 Q. Do you have any information that anybody
4 employed by Saudi Refining, Inc. was involved in
5 any of the incidents described in your lawsuit?

6 A. I don't know where those people were
7 employed or whatever. I don't know who gave --
8 who paid who. I can't.

9 Q. So --

10 A. I can't verify that.

11 Q. So, everybody involved in the incidents
12 that you filed this lawsuit about was in the
13 same union as you, correct?

14 A. No.

15 Q. All right. We will talk about that more
16 in a little while.

17 Have you ever tape recorded any
18 conversation with any Motiva employee?

19 A. No.

20 Q. How about with any Shell Chemical or
21 Shell Oil employee?

22 A. No.

23 Q. How about with any Saudi Refining
24 employee?

25 A. No.

1 Q. Did you ever send any text messages to
2 Motiva employees?

3 A. Maybe back then, yes.

4 Q. But not since you have been gone?

5 A. No.

6 Q. Any Emails with Motiva or Shell Chemical
7 or Shell Oil employees since you have been gone?

8 A. No.

9 Q. Have you deleted any of the text
10 messages -- have you deleted any text messages
11 with any Motiva or Shell Chemical or Shell Oil
12 employee?

13 A. That -- that is long gone, man. You --
14 the phones don't last that long.

15 Q. Did you keep any kind of journal when
16 you were working for Motiva?

17 A. No.

18 Q. Did you keep a calendar that you would
19 make notes on about things that happened at
20 work?

21 A. No.

22 Q. Did you keep a notebook about things
23 that were happening at work?

24 A. No.

25 Q. All right. So let's -- let's talk about

1 that cattle charge.

2 MS. HUNT:

3 Objection. Relevance.

4 EXAMINATION BY MR. MCGOEY:

5 Q. Tell me the story of you being jailed in
6 connection with cattle theft. What is the story
7 on that?

8 A. I am originally from Natchez,
9 Mississippi. They had a -- my dad left about
10 150 acres of timberland.

11 And I was trying to raise cattle on it,
12 84 miles, 100 miles from where I lived. And it
13 worked. It worked for two or three years.

14 But I noticed that they were having
15 calves, and the calves, by the time they get
16 about six months old, somebody would steal the
17 calves. So me not living there, I couldn't see
18 them every -- every day or every week even.

19 So I had to make a decision to go up
20 there and sell them all. So I sold the cattle
21 that I had in there, all of them. And it was
22 just like a family dispute.

23 They didn't want it to end, so they
24 brought charges on me for cattle theft for
25 selling my own cattle.

1 Q. Who -- so, who was it that brought the
2 charges?

3 A. They was an uncle and his friend and my
4 brother. It was three people.

5 Q. What are their names?

6 A. William. William McNealy is my uncle.
7 Carl McNealy is my brother. And the other guy,
8 I can't think of his real name.

9 Q. All right. Just -- I am not sure I
10 understood it.

11 William is the uncle and Carl is the
12 brother?

13 A. Yeah.

14 Q. Okay. And so you got arrested?

15 A. Yes.

16 Q. Where?

17 A. At home in Gonzales.

18 Q. And what happened after that?

19 A. Well, it is just -- you got -- you are
20 dealing with two states there. The arrest order
21 came from Mississippi.

22 I mean, the communication problem -- you
23 know, the -- all three of those guys were
24 working trying to -- because they -- they didn't
25 think it would happen.

1 And they were working hard up in
2 Mississippi trying to get the judge to -- and by
3 the time the judge dismissed it, it was Monday.
4 Monday morning, because it happened Friday
5 night. Nothing is open all weekend. So I had
6 -- I wind up staying there.

7 Q. You spent the weekend in jail in
8 Ascension Parish?

9 A. Yes.

10 Q. And you missed some work?

11 A. Yes.

12 Q. And that was in March of 2011?

13 A. No. It might have been 2010.

14 Q. All right. Do you have any paperwork
15 related to that?

16 A. No. As a result that, they put me on a
17 program, an absenteeism program where I couldn't
18 be late. I couldn't miss any more work for one
19 year.

20 And that is -- that is where the stress
21 came at. And -- and see -- and that was a -- a
22 big deal because they found an article in the
23 paper with that arrest on there and blew it up
24 big and put it on the bulletin board for
25 everybody to see it.

1 So they knew I was in the program. I
2 couldn't be late. I couldn't miss any more time
3 or it would have been the next step. So --

4 Q. So, Motiva had an attendance program --

5 A. An attendance.

6 Q. -- correct?

7 A. Yes.

8 Q. And they -- and -- and if you missed
9 work and didn't have a proper reason, you would
10 be disciplined at some level for that, correct?

11 A. Correct.

12 Q. So even before you were arrested, you
13 had some absences that were against your record,
14 right?

15 A. Not really. Nothing to speak of.
16 Nothing to my -- to my degree significant.

17 Q. Okay. So then -- then the arrest
18 happens and you miss -- how many days did you
19 miss because of the arrest?

20 A. Two days, Monday and Tuesday.

21 Q. So you are saying you were put on -- you
22 were given a reminder of some kind?

23 A. Yeah.

24 Q. Do you remember was it an oral reminder?
25 A written reminder? Do you remember what the

1 level was?

2 A. No.

3 Q. If the paperwork reflects that that was
4 in 2011, would you disagree with that?

5 A. That -- that is part of the condition.

6 Man, my perception of time is different.

7 As far as I can remember, I would say March of
8 2010.

9 Q. Fair enough.

10 Do you know who it was that you say put
11 something from the paper about you being
12 arrested up -- up at work?

13 A. No.

14 Q. Did you ever ask to find out?

15 A. No. You -- you -- you are going to
16 never know what happens, who is doing what.

17 Q. All right. Did --

18 A. No.

19 Q. Did you ask? Did you try to find out?

20 A. Well, I kind of knew, but it is best not
21 to know some of those things.

22 Q. So, who do you think did that?

23 A. Might have been David Mendel.

24 Q. And why do you think that it might have
25 been David Mendel?

1 MS. HUNT:

2 Objection. Calls for speculation.

3 He said he does not know.

4 THE WITNESS:

5 I -- you know, and that is the best

6 I can remember.

7 EXAMINATION BY MR. McGOEY:

8 Q. Did you ever ask David about it?

9 A. No.

10 It was corrected. It was taken down

11 before everybody got a chance to see it, but

12 everybody knew.

13 Q. So, you felt stressed about being given

14 discipline for attendance?

15 A. Not really.

16 Q. Can we agree that a Motiva employee is

17 not supposed to sleep on the job?

18 A. No employee should sleep on the job.

19 Q. And can we agree that you were aware

20 that employees who slept on the job at Motiva

21 received discipline?

22 A. Sometimes.

23 Q. Isn't it true that you were caught

24 sleeping on the job at Motiva on several

25 occasions?

1 A. No.

2 Q. Were you ever caught sleeping on the job
3 at Motiva?

4 A. No.

5 Q. So, it is your testimony that you were
6 never --

7 MS. HUNT:

8 Objection.

9 MR. McGOEY:

10 -- found --

11 MS. HUNT:

12 Asked him -- asked and answered.

13 MR. McGOEY:

14 And I want to make absolutely sure.

15 EXAMINATION BY MR. McGOEY:

16 Q. Is it your testimony that you never were
17 found sleeping on the job at Motiva?

18 A. No.

19 Q. No, that is not your testimony, or, no,
20 you were never caught?

21 MS. HUNT:

22 Objection. Asked and answered.

23 EXAMINATION BY MR. McGOEY:

24 Q. I just -- I want to understand your
25 answer to my question.

1 A. Yeah.

2 Q. You want me to ask again?

3 A. No, you don't need to. I mean, it is up
4 to you.

5 Q. Isn't it true that your fellow Union
6 members covered for you when you were caught
7 sleeping on several occasions?

8 A. They couldn't cover for me no more than
9 they could cover for themselves.

10 Q. So, let's talk about the three incidents
11 that are mentioned in your lawsuit.

12 And I am talking about the control box
13 in the shop, the Saran wrap of the truck, and
14 the goosing incident. Okay? We will go through
15 them. We will go through them one at a time.

16 First of all, can we agree that they all
17 occurred in 2011 during a turnaround that was
18 going on towards the end of the year?

19 A. Yes.

20 Q. And -- and the turnaround only lasted,
21 what, a few weeks?

22 A. It was seven weeks.

23 Q. Okay. And is that because there was a
24 turnaround and then a -- like a restart?

25 A. Yes.

1 Q. And was -- was it all in October and
2 November of 2011?

3 A. Yes.

4 Q. Let's step back a minute from the
5 turnaround.

6 When you weren't in a turnaround
7 situation, what was your typical shift?

8 A. 7:00 to 3:30, I think.

9 Q. Okay. 7:00 a.m. to 3:30 p.m.?

10 A. Yes.

11 Q. And you were a machinist?

12 A. Yes.

13 Q. And who was your supervisor?

14 A. Clay Threadgill.

15 Q. Okay. And do you know -- going up the
16 chain of command, do you know who was above
17 Clay?

18 A. Brandon Dufrene.

19 Q. And how many other Motiva machinists
20 were there, roughly?

21 A. Thirty.

22 Q. Okay. How many other African-American
23 machinists were there?

24 A. One, I think.

25 Q. And who was that?

1 A. Ivory Brown.

2 Q. And the shop, where was the shop?

3 A. Since the shop is right in the middle of
4 the Shell facility, right in the center, central
5 -- it is centrally located where you can branch
6 out to all the units.

7 Q. All right. So the shop you -- the
8 machinists worked in was called the Central
9 Shop?

10 A. Right.

11 Q. Did you have any problems with what you
12 believed to be the discrimination before this
13 turnaround in October of 2011?

14 A. Yes.

15 Q. All right. Had you ever reported any
16 problem with something that you believe to be
17 discrimination before this turnaround in October
18 of 2011?

19 A. No.

20 Q. Why not?

21 A. I wanted the job.

22 Q. So what -- what had you experienced
23 before this turnaround in October 2011, that you
24 considered to be discrimination?

25 A. The ability to get work. To move around

1 to get work. The type of jobs that I was given
2 versus the type of jobs the white employees were
3 given.

4 It is, you know, you are there for a
5 specific task to do the things that we don't
6 want to do. The undesirable jobs. The tough
7 difficult jobs. And that is -- you know, that
8 is -- that became your baby. That is what you
9 -- that is what you are here to take care of.

10 Q. And you didn't think that was right?

11 A. Well, it was -- it was right to a
12 certain extent. It was -- you know, it was
13 right, but it was a lot of other things.

14 Q. Why did you believe that you shouldn't
15 report it?

16 A. You are blackballed.

17 Q. Did you ever see something that you
18 considered to be blackballing?

19 A. Yes. It gets worse. Don't get any
20 better if you report something.

21 Q. Did you ever try to report anything?

22 A. I talked to the -- I talked to the --
23 about it to -- to the Union steward. To the
24 Union people.

25 Q. Did you ever talk to Motiva's HR

1 department prior to this turnaround in October
2 of 2011?

3 A. Motiva -- Motiva didn't have an HR
4 department. It was Shell's HR department.

5 Q. Did you ever talk to the HR department
6 prior to October of 2011?

7 A. No. Nothing about it. But just the --
8 no.

9 Q. You had been doing machinist work going
10 all the way back to the mid '70s, correct?

11 A. Yes.

12 Q. And at various places where you have
13 worked, have the employees played pranks on each
14 other?

15 A. Yes, but not to the extent that I
16 experienced it out there.

17 Q. Okay. And we can -- we will talk about
18 that some more.

19 But you did experience pranks and see
20 employees committing pranks with each other at
21 the other companies you worked with before you
22 came to Norco?

23 MS. HUNT:

24 Objection. Relevance.

25 MR. McGOEY:

1 You can answer.

2 THE WITNESS:

3 Yeah, I seen it before.

4 EXAMINATION BY MR. MCGOEY:

5 Q. When you were with Shell Chemical, and
6 later with Motiva in Norco, didn't you
7 participate in pranks in the Central Shop?

8 A. No.

9 Q. Is it your testimony that you never
10 participated in any prank in the Central Shop?

11 MS. HUNT:

12 Objection. Asked and answered.

13 EXAMINATION BY MR. MCGOEY:

14 Q. Do you understand my question?

15 A. Yeah.

16 No, I didn't participate in that.

17 Q. Did you laugh at pranks?

18 A. No.

19 Q. Never?

20 A. No.

21 Q. Were the pranks against male employees
22 and female employees and white employees and
23 black employees?

24 A. What pranks are you referencing to?

25 Q. So, we are talking about the timeframe

1 when you were at Norco in the Central Shop.

2 Didn't you see pranks played on male employees,
3 female employees, white employee and black
4 employees?

5 A. No.

6 Q. Okay. So, who do you claim pranks were
7 played on?

8 A. Who? You -- you -- you mentioned a
9 whole group of people. A whole group. There
10 wasn't no female employees.

11 Q. Okay. Fair enough. So let me rephrase
12 the question.

13 When you were at Norco, did you see
14 pranks in the Central Shop played on both white
15 employees and black employees?

16 A. Not on -- no black employees.

17 Q. Just on white employees?

18 A. Right. It wasn't -- it was very few
19 black employees.

20 Q. So, most of the pranks were played on
21 white employees?

22 A. As far as I know, yes.

23 Q. So when we talk about a turnaround, what
24 is that?

25 A. Well, they shut a unit down and repair

1 the things that -- that is wrong that they
2 couldn't fix while it was running.

3 Q. And it is a -- it is a temporary thing,
4 correct?

5 A. Exactly.

6 Q. And the work during a turnaround is done
7 24 hours a day, right?

8 A. Yes.

9 Q. And there is a lot of repair type stuff
10 going on all over the unit?

11 A. Yes.

12 Q. And there is a change to the shifts for
13 machinists who work the turnaround?

14 A. Yes.

15 Q. So, a turnaround shift is a 12-hour
16 shift, correct?

17 A. Yes. Yes.

18 Q. And it is normally from 7:00 a.m. to
19 7:00 p.m., or vice versa?

20 A. Right.

21 Q. The night shift on a turnaround is 7p to
22 7a?

23 A. Exactly.

24 Q. When is lunch, if you are working a
25 turnaround night shift?

1 A. Somewhere around mid shift, 11:30,
2 12:00.

3 Q. So 11:30 p.m. or midnight is when you
4 normally have lunch?

5 A. Right.

6 Q. And is it fair to say that in October of
7 2011, you volunteered to work the night shift
8 during the turnaround?

9 A. That whole turnaround night shift was
10 volunteers. We were all volunteers.

11 Q. Okay. And -- and you chose to work that
12 shift because it created a lot of opportunity
13 for overtime, correct?

14 A. Right.

15 Q. Which would mean extra money?

16 A. Right.

17 Q. And does the word "restart" mean
18 anything to you?

19 A. Huh?

20 Q. Does the word "restart" mean anything to
21 you?

22 A. Yes.

23 Q. What does that mean?

24 A. That means when they are getting ready
25 to start the unit back up.

1 Q. After the turnaround?

2 A. Is complete.

3 Q. Okay. And they do the same two 12-hour
4 shifts?

5 A. Yes.

6 Q. And the night shift is still 7p to 7a?

7 A. Yes.

8 Q. And you volunteered for the restart in
9 November of 2011, correct?

10 A. Yes.

11 Q. Who was your supervisor during the
12 turnaround and the restart in October and
13 November of 2011?

14 A. They had David Mendel as a leadman.
15 They had George Kestler, the supervisor. They
16 had Matt Louque as the inspector with the --
17 Matt Louque, a/k/a Psycho.

18 Q. Let's go ahead and talk about Matt for a
19 minute while Matt's name is on the table.

20 You had been working -- as of 2011, you
21 had been working with Matt for several years,
22 correct?

23 A. Well, a couple of years, yeah.

24 Q. And you all were pretty close, weren't
25 you?

1 A. Yeah, we were. And when we got a chance
2 to work together, we worked together well. We
3 got the job done.

4 Q. You never had any problems with Matt
5 before this turnaround in October of 2011 --

6 A. No.

7 Q. -- had you?

8 A. Him or -- nor his daddy.

9 Q. All right.

10 A. His dad, the same age I am, worked in
11 that same Central Shop.

12 Q. What is his dad's first name?

13 A. I don't know. I don't remember. It
14 might have been David. I am not sure.

15 Q. You referred to David Mendel as the
16 leadman. What was -- what was David's job
17 before the turnaround?

18 A. He was a machinist.

19 Q. So, he was a member of the Union
20 Bargaining Unit just like you?

21 A. Yes.

22 Q. Did the same job as you?

23 A. Yes. I -- I -- I recall he was in
24 Safety at one time, too. He did have a safety
25 position at one time.

1 Q. Okay. And George Kestler had been a
2 machinist for many years, right?

3 A. Yeah.

4 Q. But he had -- he had become a Staff
5 employee before this turnaround, right?

6 A. Right.

7 Q. So Staff employees are not in the Union
8 anymore?

9 A. I don't know if they are or not.

10 Q. Fair enough.

11 And who was over Kestler on the
12 turnaround?

13 A. That might have been --

14 Q. Was it Perry Munce?

15 A. Yes. Yes.

16 Q. And what was Perry's job before the
17 turnaround? Do you know? He was a manager of
18 some sort, right?

19 A. Right. He is some -- some cush job in a
20 little cush office in the back. Yeah. He
21 didn't handle nothing.

22 Q. So on this turnaround in October and
23 November of 2011, you were paired with another
24 machinist?

25 A. Right.

1 Q. His name is Bill LeBoeuf?

2 A. Exactly.

3 Q. And you guys worked together every
4 night?

5 A. For the turnaround.

6 Q. Correct. And you, basically, were
7 supposed to stay together and work as a pair
8 throughout the shift, right?

9 A. Right.

10 Q. And be in communication with each other
11 throughout the shift?

12 A. Yes.

13 Q. Did you get along with Bill LeBoeuf?

14 A. Yes.

15 Q. Ever have any problems with Bill
16 LeBoeuf?

17 A. No.

18 Q. He is Caucasian?

19 A. Yes.

20 Q. Did you carry a radio during the
21 turnaround?

22 A. Yes.

23 Q. Isn't it true that on the night shift on
24 October 18 of 2011, during this turnaround you
25 could not be found for six hours?

1 A. That is not true.

2 Q. Okay. Do you recall any situation where
3 a supervisor talked to you during the turnaround
4 about being missing and no one being able to
5 find you?

6 A. Yes.

7 Q. Tell me about that.

8 A. Perry Munce. And it wasn't about being
9 missing, nobody could ever find me.

10 He was covering for George because
11 George had already hit me with that control box
12 to that crane.

13 And they called me into a private
14 meeting, and that is when I got the backlash,
15 the racist slurs, and the F-bomb, and this
16 cussing out. And then no witness, but them two.

17 And he was trying to divert George
18 hitting me with that crane making an issue out
19 of -- what is that word he used?

20 Accountability.

21 But the accountability was with that
22 crane incident. And he was covering for George
23 with a -- with them both. They called me into
24 the office on the radio saying, "We need to talk
25 to you."

1 But I got in there, and it was a
2 tongue-lashing with no Union representation.
3 Nobody in there, but him. Nobody to witness
4 what was happening, but me, him and George.

5 Q. And -- and you are saying that that
6 occurred after the crane box?

7 A. Right.

8 Q. All right. So we are going to -- we
9 will come to that -- we will come back to that
10 in a couple of minutes.

11 A. They was covering for George.

12 Q. Did you use a truck inside the refinery?

13 A. Yes.

14 Q. Company truck?

15 A. Shell's truck.

16 Q. Not your personal truck?

17 A. No.

18 Q. Is it your opinion that if it was
19 Shell's truck, that means you were a Shell
20 employee?

21 A. Yes.

22 Q. No matter who sent you your paycheck?

23 A. No matter who.

24 Q. Did you have a truck that was assigned
25 to Newton McNealy?

1 A. No.

2 Q. It was a truck available for --

3 A. Anybody to use.

4 Q. And when would you have a need for a
5 truck?

6 A. To come in and out of the plant, to go
7 pick up materials to bring to the unit, to just
8 use in there to get from one Point A to Point B
9 depending on what was happening.

10 Q. So where are the keys for the truck
11 kept?

12 A. Always in the ignition.

13 Q. And was there one particular truck
14 available to machinists?

15 A. There was several different trucks,
16 especially on nights. All the trucks were
17 available to everybody.

18 Q. So where would the trucks normally be
19 parked in relation to the Central Shop?

20 A. In the front of the Central Shop, down
21 the side of it.

22 Q. So let's talk about the crane box. Are
23 you able to pinpoint a specific day when the
24 crane box incident happened?

25 A. Time stopped for me at that moment. It

1 -- it -- you know, you go to work on the fourth,
2 you get off on the fifth. You are working two
3 days in one shift.

4 And I can't -- I really can't pinpoint
5 the exact day, but it was somewhere -- but I
6 know it happened after the first of -- of -- a
7 couple of days after the first, at least.

8 Q. Of what month?

9 A. November.

10 Q. Okay. Of 2011?

11 A. Of 2011.

12 Q. Do you know what day of the week it was?

13 A. Like I said, as far as I can recall, it
14 was two days encompassed in one shift.

15 I don't -- and then working Saturday and
16 Sunday and all -- all those days were the same.
17 I couldn't tell what day of the week.

18 Q. Fair enough.

19 Can you tell me what time it was in the
20 shift?

21 A. Yes. It was -- it was around 11:15.

22 Q. p.m.?

23 A. p.m.

24 Q. What had you been doing earlier in that
25 shift?

1 A. I was loading -- unloading valves for a
2 compressor. Forty valves. At least 40, and
3 they probably weigh 40 pounds each.

4 Getting them out of a crate, putting
5 them on the table. Out of the crate.
6 Repetitious. Out of the crate. And -- and they
7 timed the exact moment when I would be coming
8 up.

9 They watch -- they was standing there
10 watching me unload this. The three: George;
11 David Mendel -- no, not David Mendel -- Matt
12 Louque, Psycho; and Pat Meche. And they timed
13 my movements.

14 And when I raise up, you know, after I
15 probably had unloaded half of them or more than
16 half of them -- because it was just like
17 repetitious. The same thing over and over.
18 Same movement. Stacking them. Getting them
19 ready to be put into the equipment.

20 And they timed it. And only thing I
21 know is that, you know, something just -- I just
22 heard something, boom, it bust me upside the
23 head.

24 Q. So, you are inside the Central Shop?

25 A. Yes.

1 Q. And you are saying that George Kestler,
2 Pat Meche, and Matt Louque were also inside the
3 Central Shop with you?

4 A. Right.

5 Q. Anybody else?

6 A. All the Sulzer employees, because they
7 were waiting on what I was doing to install it.

8 Q. Okay.

9 A. Sulzer is a contractor, compressor
10 company that was -- that was doing the work.
11 Six to 12 guys was standing up against the wall
12 waiting.

13 Q. Do you know the names of any of these
14 contractors?

15 A. I know one of them is named Richard.
16 The first name Richard, but I didn't get to know
17 any others.

18 Q. So where -- where were you in relation
19 to -- let's talk about the crane box. The crane
20 box hangs down from overhead?

21 A. Yes.

22 Q. Is it on a rope? Is it on a cord? Is
23 it on an electrical line? What -- what -- how
24 does it hang?

25 A. It is -- it is -- it is -- it is hung --

1 it has got a cable -- a small cable.
2 Quarter-inch cable. Maybe a three-quarter inch.
3 A five-eighth-inch of diameter wire with all the
4 control wires in it.

5 And it is a box about -- I don't know.
6 It is 16, 18 inches long by four inches square.
7 It is a big box.

8 Q. Is it plastic?

9 A. It may be hard plastic.

10 Q. And how -- how close to the ground does
11 it hang down?

12 A. I don't know. Maybe a --

13 Q. Does it hang down to eye height? Does
14 it hang down to waist height?

15 A. Maybe waist height if you just -- if you
16 are standing up.

17 Q. Okay. I mean, it definitely does not
18 hang all the way down to the ground?

19 A. Oh, definitely not.

20 Q. Okay. So where -- when you were
21 unloading the valves, where was the box in
22 relation to where you were?

23 A. Behind me.

24 Q. And where was Kestler?

25 A. All of the people was just in the

1 perimeter in the circumference of me.

2 Q. Okay. I want to figure out where they
3 were in relation to you. So I want to know
4 front, back, left, right.

5 So let's talk about Kestler. Where was
6 Kestler compared to you?

7 A. Kestler was probably from me -- to the
8 videoman from me.

9 Q. To the end of this table?

10 A. Yes.

11 Q. And you think this table -- I mean, what
12 is your best estimate of the length of the
13 table?

14 A. Twelve feet.

15 Q. Okay. Where was the -- Pat Meche in
16 relation to you?

17 A. He was right there (indicating). All
18 three of them were standing there together.

19 Q. So all three of them were about 12 feet
20 away and to your --

21 A. I say it had to be a 90-degree to the
22 right or to the left of me at a straight --
23 straight on. Because I was coming over here
24 picking up, putting it on the table, so --

25 Q. And what were they doing?

1 A. Nothing. Lollygagging. Just standing
2 there.

3 Q. Were you talking to them?

4 A. No.

5 Q. Did you see any of them touching the
6 crane box?

7 A. No.

8 Q. Did you have any idea that anybody was
9 using the crane box?

10 A. The crane -- the block was by me. The
11 block is a big piece of metal. But it was
12 standing -- it was right there by me, but it was
13 three or four foot over my head.

14 Q. So, where does the box hang in relation
15 to the block?

16 A. Right along with my -- along with it.

17 Q. So, are you saying the box was closer to
18 you than it was to Mendel and Meche?

19 A. No. I am saying the block.

20 Q. Okay. So -- so how far away was the box
21 from you when you were unloading valves?

22 A. The -- the block may have been --

23 Q. I'm not talking about the block. You
24 are saying the block was right over your head?

25 A. Yeah.

1 Q. Correct?

2 A. Right.

3 Q. The box. Where was the box in relation
4 to you?

5 A. Maybe three feet away.

6 Q. The box was closer to you than it was to
7 the three guys?

8 A. Exactly.

9 Q. Okay. Did you see any of the three guys
10 make a move toward the box before you say the
11 box hit you?

12 A. No.

13 Q. So until the -- until the time when you
14 say the box hit you, you have no idea that
15 anybody is touching the box or that it is
16 moving?

17 A. Exactly.

18 Q. Okay. So, to this day, you don't know
19 which of them touched the box, do you?

20 A. I didn't see. I didn't see who -- who
21 touched -- who -- who -- who let it go.

22 Q. So, how can you say that somebody was
23 timing up the movements that you were making, if
24 you didn't even see somebody touch the box?

25 A. It is simple. It don't -- it -- it

1 ain't going -- it -- it -- that had to be timed
2 exactly for it to happen that way. And they
3 knew exactly when to let it go after they grab
4 -- you know, moved it.

5 Q. Who is "they?"

6 A. One of the three guys.

7 Q. Okay. So, you think it was one of the
8 three, but you can't say which one it was,
9 right?

10 A. No. Sulzer will be able to tell you.
11 They -- they saw it from a distance. They know
12 exactly who did it.

13 Q. So, did you ever talk to any of those
14 contractors about it?

15 A. Yes.

16 Q. Who did you talk to?

17 A. One of them. I don't remember his name.

18 Q. What did he tell you? Was it a he or a
19 she?

20 A. It was a he.

21 Q. What did he tell you?

22 A. He said, "I saw what happened. I saw
23 exactly what happened, and it was intentional."

24 Q. That is what the contractor told you?

25 A. Yes.

1 Q. Did he tell you who it was?

2 A. No.

3 Q. Did he tell you why he thought it was
4 intentional, assuming that is what he thought?

5 A. No. He couldn't -- that was -- that was
6 from a distance I talked to him. I didn't meet
7 him. I don't remember who he was. I didn't --
8 you know, in passing.

9 Q. So, what part of your body came into
10 contact with the control box?

11 A. When I was bending over, that thing bust
12 me in the top of my head.

13 Q. So, will you -- will you point to the
14 spot on your head where it hit you?

15 A. Right on the top (indicating).

16 Q. Right on the top. Right in the middle
17 of the top?

18 A. Exactly.

19 Q. Do you think it was swinging at you from
20 in front of you or from behind you?

21 A. It had to be from in front.

22 Q. What happened after it came into contact
23 with your head?

24 A. I just grabbed my head and tried to get
25 out of harm's way. I couldn't believe that they

1 let it go. I couldn't believe, you know -- I
2 just couldn't -- I was in disbelief.

3 Q. Did it knock you off your feet?

4 A. It knocked me back. I didn't fall, but
5 it knocked me back.

6 Q. Were you cut?

7 A. No.

8 Q. Did you have a bump?

9 A. Yes.

10 Q. Did you say anything to anybody when
11 this happened?

12 A. All I could do was think about just get
13 out of harm's way. I couldn't believe that it
14 happened. I -- I was in disbelief.

15 Q. Did you look at any -- did you look at
16 Meche, Kestler, and Louque after it happened?

17 A. No.

18 Q. Did you talk to any of those three guys?

19 A. No.

20 Q. Did you ask anybody, "Hey, who did
21 that?"

22 A. When that thing hit me, all I could hear
23 is one of the Sulzer contractor's saying, "Man,
24 if you need a -- I will be your witness, if you
25 need one."

1 He hollered that from a distance. And
2 all I wanted to do is just get out of harm's
3 way.

4 Q. Did -- did Pat Meche say anything about
5 what happened with the control box?

6 A. No. No. No.

7 Q. Did George -- did George Kestler say
8 anything about what happened with the control
9 box?

10 A. No.

11 Q. Did Matt Louque say anything about what
12 happened with the control box?

13 A. Matt Louque said, "Thank God it wasn't a
14 block." Because it was a direct hit. And they
15 could have very easily pulled the block back,
16 but it was three feet above my head.

17 Q. Did Matt Louque say anything else?

18 A. No.

19 Q. Did anybody -- did any of the three guys
20 indicate to you who it was that might have moved
21 the box?

22 A. No.

23 Q. Did any of the three guys tell you that
24 the box was moved intentionally to hit you?

25 A. No.

1 Q. Isn't it true that you laughed about the
2 incident when it happened?

3 A. No.

4 Q. Did you take any pictures of the box?

5 A. No.

6 Q. Did you take any pictures of the bump on
7 your head?

8 A. No.

9 Q. Did you report the bump to your
10 supervisor?

11 A. The supervisor was the one that let the
12 crane go.

13 Q. Okay. So, who are you talking about?

14 A. George Kestler.

15 Q. So, you are claiming it was George
16 Kestler --

17 A. That is who I heard that it was.

18 Q. So, who told you that?

19 A. I -- you know, I don't -- I don't
20 recall.

21 Q. Did Kestler tell you that?

22 A. No.

23 Q. Did Meche tell you that?

24 A. No.

25 Q. Did Louque tell you that?

1 A. No.

2 Q. There weren't any other Motiva employees
3 there?

4 A. Yeah.

5 Q. Were there? Were there any other Motiva
6 or Shell employees that were there?

7 A. I don't -- I am not -- I don't recall.
8 It could have been, but I don't recall anybody
9 else.

10 Q. Did you tell Perry Munce about this
11 incident?

12 A. No. But George and them did.

13 Q. And how do you know that?

14 A. Because of the way he reacted in that
15 little spring -- that meeting he sprung on me.

16 Q. Did you go to the medical office at the
17 refinery?

18 A. The medical office shuts down at 4:00 in
19 the evening and don't open up until 8:00 the
20 next morning.

21 Q. Did you reach out to the site
22 supervisor?

23 A. No.

24 Q. Why not?

25 A. Listen. Look, I had got hit upside the

1 head. I was in and out of consciousness for
2 four or five hours. I didn't know what to do.

3 Q. Can we agree that you were not knocked
4 unconscious when it happened, when the box came
5 into contact with your head?

6 A. Yeah. But it wasn't but about five
7 minutes after that, that I was out.

8 Q. So, you are claiming that you weren't
9 knocked unconscious when you were hit, but you
10 became unconscious later?

11 A. Well, I am just saying I was in and out.
12 I could -- I mean, it -- it was throbbing. It
13 was hurting. I don't know.

14 Q. Did you put any ice on it?

15 A. No.

16 Q. Why not? Isn't there a kitchen in
17 Central Shop?

18 A. Yes, there is a kitchen in there.

19 Q. And there is ice in there, right?

20 A. Yeah.

21 Q. Did you ask anybody to go get you ice?

22 A. No.

23 Q. Did you sit down in the shop to collect
24 your thoughts?

25 A. No. I sat down in that truck. The only

1 safe spot I had at that whole facility. And if
2 I wasn't in that truck, I was going to be
3 harassed, humiliated, embarrassed, ashamed in
4 some way.

5 Q. So, you had been working at this
6 refinery for five years. And it is your
7 position that the only safe spot you had in the
8 refinery --

9 A. Absolutely.

10 Q. -- was inside the truck?

11 A. Inside that truck. Absolutely.

12 Q. Did you talk to anybody before you
13 walked out of the building and went and got in
14 the truck?

15 A. No.

16 Q. Why not?

17 A. There was nobody to talk to. The people
18 that prep -- that did this were the people that
19 I would have to talk to about this.

20 MS. HUNT:

21 Objection. Asked and answered.

22 EXAMINATION BY MR. MCGOEY:

23 Q. Did you not want to know what happened?

24 A. Want to know? I knew what happened.

25 Q. Did you not want to know who did what

1 you say they did?

2 A. I already knew who did it. You know, I
3 would suspect -- it had to be one of the three.

4 Matter of fact, all three of them did it
5 because all one of them had to do was say, "Hey,
6 watch out." And it wouldn't have happened. All
7 three of them were guilty of doing it because
8 they were standing there all three together.

9 I know if I had been one of the guys
10 standing there, I would have said, "Man, look
11 out. Watch out." One little warning, "Watch
12 out," you know. And they had to pull it away
13 from me and get it over there to a spot and just
14 -- and time it.

15 Q. And it was -- the box is only three feet
16 away from you and you didn't see anybody come up
17 and get it and -- and --

18 A. No, I didn't see them move the box.

19 Q. So, how did you decide which truck to go
20 to?

21 A. That is the truck that is right outside
22 of the Central Shop door.

23 Q. Did you eat lunch?

24 A. No.

25 Q. Did you ever eat at any time the rest of

1 that shift?

2 A. No.

3 Q. What did you do when you got to the
4 truck?

5 A. I sat down in there. I thought I was
6 okay. I'm going to sit here for five minutes.
7 It is going to be lunch in a little bit. I'm
8 going to go in there. I'm going to deal with it
9 then for lunch.

10 But it never came. Five hours was just
11 like five minutes in and out of -- in and out of
12 awareness.

13 Q. Okay.

14 MR. McGOEY:

15 We are about to run out of
16 videotape, so let me just try to wrap this part
17 up real quick.

18 EXAMINATION BY MR. McGOEY:

19 Q. When you got to the truck, did you drive
20 it anywhere?

21 A. No.

22 Q. Okay. All right.

23 MR. McGOEY:

24 Let's take a restroom break.

25 MS. HUNT:

1 Yeah.

2 THE VIDEOGRAPHER:

3 This is the end of Tape 1.

4 We are now off the Record. 11:09.

5 (Off the Record.)

6 THE VIDEOGRAPHER:

7 This is the beginning of Tape 2.

8 We are now back on the Record. And

9 the time is 11:27.

10 EXAMINATION BY MR. MCGOEY:

11 Q. So, Mr. McNealy, before the break, we
12 were talking about the crane control box
13 incident.

14 Do you recall having a meeting with
15 Brandon Dufrene, David Naquin, yourself, and
16 Wilton Ledet on the -- November the 10th of
17 2011?

18 A. I kind of recall that, yes.

19 Q. Okay. So I want to go back for a
20 minute.

21 Can -- can you we agree that you did not
22 report the control box incident to either HR or
23 any manager prior to that meeting with Brandon
24 and David Naquin and Wilton on November the 10th
25 of 2011?

1 A. I will agree to that.

2 Q. All right. Do you claim that anything
3 connected with the control box was a crime?

4 A. Yeah. It was intentional. It was
5 timed. It was premeditated.

6 Q. All right. Do you think it was a
7 criminal act?

8 A. Yes.

9 Q. Did you report that to the police?

10 A. I -- I -- no. I didn't know. I didn't
11 know it at that time.

12 Q. Okay. Well, what has changed that --
13 since that time, that makes you think it was a
14 crime?

15 A. The way I have been treated by Shell
16 since then. They are in control of the benefits
17 and all that. They cut the medical off, cut the
18 pay off, cut all of that. I was two years
19 without medical insurance.

20 Q. Well, at whatever point that you decided
21 that something connected with the crane box was
22 criminal, did you go to the police then?

23 A. No. The one-year statute of limitation
24 was up.

25 Q. Did you go to the medical facility

1 onsite after the crane box incident, like the
2 next day?

3 A. No. They are not open during the hours
4 that I was there.

5 Q. Did you seek medical attention for
6 anything associated with the crane box that
7 night, the next day from anywhere?

8 A. Yes.

9 Q. Where?

10 A. The first place I stopped was at Dr.
11 Ravengi Reddy, because I was feeling some kind
12 of way about everything.

13 Q. Dr. Reddy? Is that R-E-D-D-Y?

14 A. Yes.

15 Q. When do you think you went to see Dr.
16 Reddy?

17 A. It might have been on the 10th or 11th.

18 Q. Is that after the meeting with Brandon
19 and David Naquin?

20 A. Yes.

21 Q. All right. So between -- between the
22 control box incident and the meeting on November
23 10th, did you get any medical attention for your
24 head?

25 A. Say that again.

1 Q. Between the control box incident,
2 whenever it was, and the day of November 10th,
3 2011, when you met with Brandon Dufrene and
4 David Naquin and Wilton Ledet, did you get any
5 medical attention for your head?

6 A. I treated it myself. I had a little
7 bump. A little bo-bo on there.

8 Q. What treatment did you -- did you do for
9 yourself?

10 A. Well, just some Neosporin and -- and
11 just to treat it. You know, treat it. Rubbed
12 some liniment myself.

13 Q. So, let's talk now about the Saran wrap
14 and the truck incident. Okay? You know what
15 I'm talking about?

16 A. Yes.

17 Q. What date do you believe that happened?

18 A. Look, when I got -- when I walked to
19 that truck after being hit with that crane, it
20 was shortly after that that they wrapped up the
21 truck. So, the Saran wrap happened
22 simultaneously with the lick with the crane.

23 Q. So it -- it is your testimony that the
24 crane box and the Saran wrap happened on the
25 same shift?

1 A. Exactly.

2 Q. Okay.

3 A. I was in -- I was in and out. In and
4 out of consciousness. I kind of heard
5 something, but I couldn't -- I couldn't -- I
6 didn't have the motor skills to respond.

7 Q. If -- if other -- if other witnesses
8 testified that the Saran wrap happened on a
9 completely different day, completely different
10 shift, are you saying that they are wrong?

11 MS. HUNT:

12 Objecting. Asked and answered.

13 THE WITNESS:

14 Absolutely. It happened immediately
15 after that.

16 That is the treatment that they gave
17 me. They wrapped me up instead of saying,
18 "Look, are you all right? Don't go -- don't --
19 don't pass out."

20 If somebody been hit upside the
21 head, you don't let them go to sleep. If --
22 if --

23 EXAMINATION BY MR. MCGOEY:

24 Q. So, you remember getting in the truck
25 and cutting on the radio?

1 A. No. No, I didn't cut on nothing.

2 Q. Okay. So tell me again what you did
3 when you got to the truck.

4 A. I just sat down. I said I'm going to
5 sit here for five minutes. It is right before
6 lunch. I'm going to lunch, and then I'm going
7 to deal with this.

8 Q. So, you expected to go back into the
9 Control Shop within five minutes?

10 A. Right.

11 Q. And what is the next time that you were
12 aware?

13 A. Completely aware, my phone was in my top
14 pocket and it -- it vibrated on my chest. And
15 it was Steve Hernandez, and he was panicking.

16 "Man, you all right? Man, Marty just
17 came -- Marty said clean that stuff up before
18 somebody sees -- sees that mess and all that."

19 He -- he didn't -- Marty didn't call
20 himself, but he got Steve to call.

21 Q. So, Steve Hernandez was a member of the
22 Union?

23 A. He is the Union Steward.

24 Q. Okay.

25 A. They both had cush jobs in the morning.

1 Q. You were familiar with him prior to this
2 day?

3 A. Exactly. He worked with me on -- on --
4 you know, for -- directly for about five years.
5 For the whole five years.

6 Q. So, the phone vibrating is the first
7 thing you can remember after you got in the
8 truck immediately after the control box
9 incident?

10 A. No. I -- I heard laughter. I heard
11 noise. I heard that two-foot shrink wrap
12 pulling.

13 I didn't know what I was listening to,
14 and I couldn't respond. I heard the laughter.
15 It sounded like Pat Meche and George.

16 And then -- and then somebody sprayed it
17 with shaving cream. The same truck with shaving
18 cream all over all the windows.

19 Q. So, you are saying that while you were
20 inside the truck, you were hearing the wrapping
21 going on?

22 A. I was hearing laughter and all of that.
23 The wrapping. I just couldn't respond.

24 Q. Why couldn't you respond?

25 A. I don't know. I just -- my -- I was in

1 and out of consciousness.

2 Q. And who do you think you heard laughing?

3 A. I think it was Pat Meche and George
4 Kestler.

5 Q. And why do you think it was them?

6 A. It just -- it is just from -- it was a
7 foggy night, and vaguely that is what I
8 remembers.

9 Pat Meche just kind of had a ball, and I
10 saw a white ball going round and round the
11 truck. It looked like this ball.

12 Q. So, you are actually telling us that you
13 saw people doing this?

14 A. It is -- I didn't know if it was people
15 or aliens or whatever, because I was in and out.

16 Q. So, how was -- do you have any pictures
17 of the truck?

18 A. No.

19 Q. You didn't take any pictures that night?

20 A. I couldn't take pictures -- well, if I
21 did, it would be from inside the truck.

22 Q. Okay. Just from wherever, did you take
23 any pictures of the truck that night?

24 A. No, I didn't.

25 Q. Explain to us what part of the truck the

1 Saran wrap was on.

2 A. The part from the bumper, from the
3 bumper up to the door, up to the window.

4 Q. Okay. So, the Saran wrap was around the
5 truck front to back?

6 A. All the way around.

7 Q. And around the doors?

8 A. And all the way around both doors.

9 Q. But not over the top of the truck?

10 A. No.

11 Q. And not covering the windows?

12 A. No. The shaving cream covered the
13 windows.

14 Q. Okay. And how do you know it was
15 shaving cream?

16 A. Because I had to clean it up. I
17 couldn't -- I couldn't drive it. I mean, it
18 couldn't go through -- the car wash is all
19 broken.

20 All kind of stuff, just trying to, you
21 know -- and I know it is on film. Shell, they
22 got cameras everywhere. It is on film. They
23 got -- they got pictures of it. I don't have
24 them, but they do.

25 Q. Has anyone ever told you that they have

1 pictures of the truck?

2 A. I suspect that Sulzer had it because
3 they made them parade around it. They made
4 Sulzer contractors.

5 Q. Who is "they?"

6 A. George. George Kestler.

7 Q. How do you know that George supposedly
8 made the contractors parade around the truck?

9 A. Because he went back out there and told
10 them what he did -- what they did.

11 Q. How do you know that?

12 A. Because one of the -- from a distance,
13 one of the Sulzer contractors asked me, "Was you
14 in that truck?" He saw the truck.

15 Q. What is his name?

16 A. I don't know.

17 Q. Okay. And you told him that you were
18 not in the truck, correct?

19 A. To save face, yes, I did.

20 Q. Okay. So, when -- when you say that the
21 contractor asked you if you were in the truck,
22 you lied to him, right?

23 A. No, I didn't lie to him. I just didn't
24 tell him what he wanted to hear.

25 Q. Did you --

1 A. He knew I was in that truck. He knew I
2 was in there.

3 Q. What you told him was false, correct?

4 A. Yes. To the question that he asked to
5 see that -- you know, I am just trying to save
6 face, end it, and end the confusion.

7 Q. Why wouldn't you just admit that you
8 were in the truck? Why was that a big deal?

9 A. It wasn't none of them -- it wasn't
10 their concern at that time.

11 Q. Isn't it true that you were sleeping in
12 the truck at the time that the truck was
13 wrapped?

14 MS. HUNT:

15 Objection as to the form of the
16 question.

17 He had been asked and answered.

18 MR. MCGOEY:

19 Okay.

20 THE WITNESS:

21 You can call it -- you can call it
22 sleeping. You can call it knocked out.

23 You can -- but I know where I was.
24 I was struggling in that truck. I could have
25 suffocated in that truck.

1 With that stuff around there, it was
2 the equivalent of a noose around my neck. They
3 didn't know if I was breathing dead or alive in
4 there. And they don't -- they wasn't going to
5 come back to find out.

6 EXAMINATION BY MR. MCGOEY:

7 Q. How long do you think the truck was
8 wrapped before you got out?

9 A. The truck was wrapped from -- from 11:30
10 to 5:00. Whatever time Marty and Steve
11 Hernandez came in.

12 Q. How can you possibly know that if you
13 were unconscious?

14 A. Because I knew what time I sat in the
15 truck.

16 Q. So --

17 A. I didn't go anywhere else once I sat in
18 there. I can't get out of it and get back in
19 it, unwrap it and wrap it back up.

20 Q. I'm -- I am asking you: Do you think
21 you know how long you were in the truck after it
22 was wrapped?

23 A. It was -- I was in and out of
24 consciousness. I don't know exactly how long.
25 I know exactly -- from -- from my watch, I knew

1 what time -- how long I had been in there.

2 Q. Yeah. I am not asking you how long you
3 were in the truck.

4 I am asking you: How long were you in
5 the truck after it was wrapped? In other words,
6 I'm asking you: When was the truck wrapped?

7 A. Oh, okay. The truck had to be wrapped
8 up right after lunch. A little bit after 12:00.

9 Q. Why do you say that?

10 A. Because that is kind of what time I -- I
11 saw them -- you know, I saw the movement. I
12 heard the laughter.

13 I guess it was around that time. It
14 wasn't long. I don't know. It just -- it --
15 that five hours seemed like five minutes to me.

16 Q. Okay. Can we agree that you don't know
17 how long you were in the truck while it was
18 wrapped?

19 A. I know how long I was in the truck.

20 Q. Okay. Can we agree that you don't know
21 when the truck was wrapped?

22 A. The truck was wrapped up around 12:30.

23 Q. And what are you basing that on?

24 A. I'm basing it on the movement that I
25 saw. The movement that I saw.

1 Q. So, you are unconscious?

2 A. I am in and out of consciousness.

3 Q. Okay. So when you saw movement, how did
4 you know what time it was?

5 A. Because I had -- I knew I hadn't been in
6 there -- seemed like I had been in there maybe
7 10 minutes. But it was -- it was after lunch.
8 It was shortly after that.

9 Q. Are you telling us you checked your
10 watch when you saw the movement?

11 A. No. I just -- I had that much of an
12 awareness. But I know that nothing moved for
13 four or five hours after they -- it was wrapped
14 up.

15 Q. How can you possibly know that? How do
16 you know whether it was wrapped at 12:15 a.m.
17 or 4:15 a.m.?

18 A. I know it was wrapped -- it was wrapped
19 a long time. I know that.

20 Q. Who told you that?

21 A. I know. I can just tell. I can just --
22 I know. It was a lack of oxygen in that truck.
23 It was just -- it -- the air was thin. I mean,
24 it just -- it was sealed.

25 Q. Well, you had the wind --

1 A. The Saran wrap didn't have anything to
2 do with the windows. I know. The windows were
3 up, though. It was -- it was chilly. The
4 windows were up.

5 Q. I mean, you could have put the windows
6 down at any time, if you wanted, right?

7 A. Right.

8 Q. Are you telling us you were conscious
9 enough to have a sense of when this was
10 happening, but not conscious enough to tell
11 people, "Hey, what are you all doing?" --

12 MS. HUNT:

13 Objection.

14 EXAMINATION BY MR. McGOEY:

15 Q. --"Stop"?

16 MS. HUNT:

17 Asked and answered.

18 MR. McGOEY:

19 I absolutely have not asked that
20 question.

21 THE WITNESS:

22 Yeah.

23 MS. HUNT:

24 You did. He said he was in and out
25 of consciousness, but depending on what time,

1 when he was in, when he was out.

2 MS. RICHARD-SPENCER:

3 It is just a form objection. He can
4 still answer it.

5 MS. HUNT:

6 Right.

7 THE WITNESS:

8 Yeah.

9 MS. RICHARD-SPENCER:

10 All right.

11 MS. HUNT:

12 I mean --

13 MS. RICHARD-SPENCER:

14 Her objection is noted.

15 MR. McGOEY:

16 All right.

17 THE WITNESS:

18 Yeah. I sensed it was earlier right
19 around 12:00.

20 EXAMINATION BY MR. McGOEY:

21 Q. You were able to get out of the truck by
22 yourself, correct?

23 A. Yes.

24 Q. You had a knife with you?

25 A. Uh-huh.

1 Q. And you were able to push the door open
2 and then cut through the Saran wrap?

3 A. Right.

4 Q. And you cleaned the truck by yourself?

5 A. Yeah. I had some help at the unit when
6 I went there. Somebody took out a fire hose.

7 Q. Who -- who -- who was it that helped
8 you?

9 A. One of the contractors.

10 Q. What is their name?

11 A. I don't remember.

12 Q. Why did you clean the truck, if you
13 didn't think this was something that should have
14 happened?

15 A. The same reason why I didn't go complain
16 and -- I am trying to stay gainfully employed at
17 all costs, even if it is to me. That is why I
18 cleaned it.

19 To keep down confusion, to deal with it
20 as best as I could because I knew once I
21 reported these things, it was over with. And
22 then they threatened me and told me, "If you
23 report it, don't use anybody's name."

24 Q. Who told you that?

25 A. Matt Louque. Don't use names. And that

1 -- that -- the idea that no names were used made
2 them investigate even more.

3 Q. Did you think at any time, "I'm going to
4 clean this truck and I am not going to report it
5 because if I do, they will know I was sleeping
6 in the truck"?

7 A. I didn't never think that. And I did
8 immediately go into that machine shop and report
9 it to Marty Poche, the Union president.

10 Q. But he is a member of the Bargaining
11 Unit. He is not a Company manager or
12 supervisor, is he?

13 A. No. But the Company manager or
14 supervisors are the ones that wrapped it up.
15 So, I definitely couldn't go to them.

16 Q. So, who do you claim wrapped it up?

17 A. George Kestler.

18 Q. Okay. He has got a boss, right?

19 A. Right.

20 Q. Did you go to the -- did you go to his
21 boss?

22 A. His boss wasn't available. His boss
23 wasn't there that -- then during those hours.

24 Q. Did you make any effort to go see
25 George's boss?

1 A. I went to -- that is -- that is Brandon
2 Dufrene and David Naquin.

3 Q. Perry Munce was there that night,
4 correct?

5 A. Well, yeah. And Perry Munce was along
6 with them.

7 Q. Okay. So, you think Perry was involved
8 in wrapping the truck?

9 A. Perry -- Perry Munce was involved in the
10 stalking and the following me around and
11 creating a problem.

12 Q. So, who stalked you?

13 A. Perry Munce.

14 Q. Anybody else?

15 A. They all did. George. They all wanted
16 to know where I was. But Matt Louque, "Where is
17 he? Where is he? Where?"

18 You know, and, see, the reason why, they
19 was all volunteers on that job, because there
20 was nothing to do. It was all taken care of by
21 the contractors.

22 So if unless they needed something
23 delivered to them or brought to them or
24 something that came in, they didn't have to --
25 you know, the -- the Shell employees didn't have

1 to touch anything.

2 Q. So, was your mind set during this
3 turnaround, "Hey, there is not really going to
4 be much for me to have to do. I can slip away
5 for a little while and nobody will know"?

6 A. No. No. Slipping away was the only
7 safe option I had. I couldn't sit in that
8 computer room. I couldn't be in the dining
9 hall. It was going to be something. It was
10 going to be something derogatory. Something
11 said. Something done.

12 So I -- the -- the truck was the only
13 safe place I had at night over there. It was
14 different in the daytime because you had more
15 people.

16 Q. Can we agree that in connection with the
17 truck being wrapped, nobody touched you?

18 A. When?

19 Q. When the truck was being wrapped, did
20 anybody, who you think was involved in that,
21 touch you?

22 A. No. They didn't open the door to the
23 truck.

24 Q. Okay. Did you talk to Kestler about
25 whether he wrapped the truck?

1 A. Kestler looked at me with hatred in his
2 eyes. It was a special kind of -- special kind
3 of hatred. There was no way I could have talked
4 to him about anything.

5 Q. And what was it in his eyes that you
6 interpreted to be hatred?

7 A. You can see it. You can see it when you
8 look at them. When they look at you.

9 Q. Did you talk to Pat Meche about whether
10 he wrapped the truck?

11 A. No.

12 Q. Did you seek any medical treatment in
13 connection with being wrapped in the truck
14 before the meeting with Brandon Dufrene and
15 David Naquin on November the 10th of 2011?

16 MS. HUNT:

17 Objection. Asked and answered.

18 THE WITNESS:

19 No.

20 EXAMINATION BY MR. MCGOEY:

21 Q. Did you go into the shop after the Saran
22 wrap incident and tell the guys, "Your playing
23 days are over"?

24 A. No.

25 Q. Wasn't there an occasion after the shift

1 where the truck was wrapped that you were caught
2 sleeping on the job?

3 A. No.

4 Q. Have you ever seen trucks wrapped
5 before?

6 A. Never.

7 Q. Why do you think the truck was wrapped?

8 MS. HUNT:

9 Objection. Calls for speculation.

10 THE WITNESS:

11 You want to know the -- the real
12 reason is because of hatred.

13 EXAMINATION BY MR. McGOEY:

14 Q. You don't think it is because they were
15 trying to send you a message that you couldn't
16 sleep at work anymore?

17 A. I am coherent. I can understand. You
18 can talk to me. I'm grown. I'm a man just like
19 -- just like everybody else.

20 You want to send me a message, just tell
21 me. That is hatred. That is one -- that is one
22 that he -- that is humiliation and embarrass --
23 they was after basic human dignity.

24 Q. Hadn't they told you before this
25 occasion that you were disappearing and they

1 needed to know where you were and you needed to
2 stay in touch?

3 A. I --

4 Q. Hadn't that already been communicated to
5 you?

6 A. That -- that -- they knew where I was in
7 that truck. If they needed me, that is where I
8 would be. They knew that. That is why they
9 knew to wrap it up.

10 I wasn't hard to find. I wasn't
11 elusive. I am not Houdini that I can disappear.
12 That is the label they wanted to put on me,
13 appear and disappear at will. I ain't got no
14 magical powers.

15 Q. Did you report the Saran wrap incident
16 to the police?

17 A. No.

18 Q. All right. Let's talk about the goosing
19 incident.

20 A. Oh, my goodness.

21 Q. So, the lawsuit calls it sodomy. What
22 does -- what does sodomy mean to you? What does
23 that word mean?

24 A. That is some kind of same-sex sexual
25 act.

1 Q. Okay. All right. Are you able to
2 pinpoint the date when the goosing incident
3 happened?

4 A. All of that was to try to erase the
5 crane and the truck. It had to be the next day.

6 Q. What time was it in the shift?

7 A. Early. Like 9:30 or 10:00.

8 Q. Were you in the shop?

9 A. Absolutely not.

10 Q. Where were you at that point in time?

11 A. It is -- I was on a pump. The number, I
12 will never forget it. 1940.

13 Q. Where is -- what unit is that in?

14 A. Hydro, I believe.

15 Q. What were you doing in that area?

16 A. Repairing a -- re -- re -- reconnecting
17 a pump and motor. The pump is about as long as
18 this room, and the motor is also. And I was in
19 between them two coupling them together.
20 Putting them together.

21 Q. Who were you working with?

22 A. At that time, I was working with a --
23 man, it is --

24 Q. Was it Bill LeBoeuf?

25 A. No indeed. It was a -- golly. I will

1 come back. I will remember his name.

2 Q. All right. Was it a machinist?

3 A. Yes.

4 Q. Can you describe how he looks?

5 A. Slender guy. Maybe 50 years old.

6 White.

7 Q. Anybody else in the area besides you and
8 this guy?

9 A. Yeah. At the time of the incident, he
10 had just went to the truck. And I was going to
11 follow right after him, but I had to just push
12 the motor back on max center.

13 And it took everything prying and
14 pushing and -- to move it back so we could put
15 the spool piece in between there to couple them
16 together.

17 But there was a -- Bud Becnel right down
18 there. Bill LeBoeuf was right there. They said
19 they didn't see it, but they saw it. It --

20 Q. What is Bud Becnel's job?

21 A. They are all machinists.

22 Q. Okay. So Bud Becnel, Bill LeBoeuf.
23 Anybody else?

24 A. David Mendel was right with Matt Louque.
25 There was another occasion where either one of

1 them could have said, "Watch out." You know,
2 "Watch your back. Newton, watch your back."
3 And I would have known they were behind me or
4 they were approaching me.

5 Q. Did you even -- so, you were not working
6 with Matt Louque or David Mendel?

7 A. No. Matt Louque was the inspector.
8 David Mendel was the lead person.

9 Q. Did you even know they were in the area
10 before this incident happened?

11 A. No. I didn't even know they were in the
12 area. They came up on the south side. I am
13 facing north.

14 Q. Okay. So, you are saying they came up
15 behind you?

16 A. Exactly.

17 Q. You are -- it is in November. You are
18 wearing -- you are wearing pants, right?

19 A. Well, yeah. A jumpsuit. Yeah. The
20 same kind -- well, he got on pants and a shirt.
21 That is a jumpsuit.

22 MR. PRESTON:

23 Jumpsuit.

24 THE WITNESS:

25 Yeah. That same jumpsuit.

1 EXAMINATION BY MR. MCGOEY:

2 Q. Blues?

3 A. Yeah.

4 Q. Okay. You had underwear on underneath
5 the blues?

6 A. Yeah.

7 Q. Did you have pants on underneath the
8 blues?

9 A. No, I didn't have pants on.

10 Q. Okay. Did Matt Louque or David Mendel
11 puts their hands on you?

12 A. No.

13 Q. Was anybody holding you down?

14 A. No.

15 Q. What was -- what were you doing when
16 something made contact with you?

17 A. Pushing that motor back on max center.
18 Back away. So the spool piece will go in
19 between it.

20 Q. Were you standing up?

21 A. Yes.

22 Q. Okay.

23 A. Bending over.

24 Q. Well, those are two different things.

25 So what -- when -- what do you think you

1 were doing?

2 A. I was bending over. I was bent over
3 with -- using my legs and my hands to push it.
4 Thighs and all the strength I had to push that
5 thing back.

6 Q. And --

7 A. Rotate it and push it back at the same
8 time.

9 Q. And what happened?

10 A. Came up behind me with that radio
11 antenna and rammed it and then wiggled it like
12 he -- I didn't know it was a radio antenna. It
13 felt like somebody's finger or somebody's hand
14 or a piece of pipe or something. And wiggled it
15 and drug it up the crack of my behind.

16 Q. So, why do you say it was a radio
17 antenna?

18 A. Because he told me later. I say, "Man,
19 why you messing around with your -- your
20 finger?" He said, "That wasn't my finger, man.
21 That was this radio antenna."

22 Q. Who told you that?

23 A. Matt Louque.

24 Q. And where were you when he told you
25 that?

1 A. Central Shop.

2 Q. Okay. Did he show it to you?

3 A. Yeah. He -- we all carried a radio.

4 The same radio.

5 Q. So, it was actually attached to a radio?

6 A. Exactly. It is the little rubber part

7 that is three or four inches above the radio.

8 Above the -- the radio.

9 Q. Okay. So, a rubber antenna about three
10 or four inches long?

11 A. Exactly.

12 Q. It didn't go through the blues, did it?

13 It didn't make a hole in your coveralls, did it?

14 A. Thank God it didn't.

15 Q. It didn't make a hole in your underwear?

16 A. No.

17 Q. Are you saying there was penetration of
18 your anus?

19 A. No.

20 Q. Did you -- so -- so what did -- what did
21 you do? How did you react at the time?

22 A. Other than I -- un -- in utterly

23 unbelief. You know, he -- like you said

24 earlier, we work together. He know I don't play

25 that.

1 But it is something that had happened
2 to -- to be done to cover for George and the
3 rest of all of the other stuff that happened.
4 It had to be done. It is a distraction. A
5 diversion.

6 Q. Why do you believe that?

7 A. Because it did -- they work in unison.
8 All of them work together.

9 Q. Do you have any reason to believe that
10 Matt Louque talked to George Kestler about --

11 A. Well, they talk --

12 Q. -- goosing you?

13 A. -- all the time. They -- that is the
14 good ol' boy network.

15 Q. But -- but listen to me. I mean, do you
16 -- do you have any reason to believe they talked
17 about this specific incident and -- and planning
18 for Matt to do this to you?

19 Do you follow my question?

20 A. It was all premeditated. Yes.

21 Q. Why do you say it was premeditated?

22 A. Because of the way -- the way he
23 reacted. He never -- it never went that way.

24 Q. So -- so what did you do after it
25 happened?

1 A. Jonas Bourgeois is the guy that I was
2 working with.

3 Q. So, he --

4 A. I went to that truck and -- and -- and
5 -- and -- and tried to explain to him what just
6 took place and tried to get some directions,
7 "Man, I can't believe these people just did that
8 to me." And he -- he was in disbelief, too.

9 Q. When it -- when it happened did you
10 reach around behind you to figure out what was
11 going on?

12 A. I just jumped up and he -- and he was
13 behind me. There are all kind of pipes back
14 there. If I would have pushed him, touched him
15 in any kind of way, it could have been a murder.
16 It could have been a killing.

17 I didn't -- I didn't lay my hands, but I
18 did get in his face. I said, "Man, you got to
19 be out of your mind to try that."

20 Q. And that was Matt Louque that you did
21 that with?

22 A. Right. And David Mendel is standing
23 right there beside him. And they -- and David
24 Mendel is just as guilty because all he had to
25 do is say, "Newton, watch out." The same thing

1 with the crane. So, they planned all of this.

2 Q. So, how did you get from there to the
3 shop when you say you talked to Matt?

4 A. Jonas Bourgeois was driving the truck.
5 He was waiting on me to come on back. I just
6 had to push that thing back just a little bit
7 before we left.

8 And he had already went to the truck.
9 It is just a few seconds -- a few seconds
10 longer, and I wouldn't have even been there.
11 And there is no way you can come up on the south
12 side of 1940. He had to come through a maze of
13 pipe to get to me. A whole maze.

14 And then that boy Becnel -- Bud Becnel
15 and Bill LeBoeuf was working down that low.
16 They could have warned me. They was -- they saw
17 what happened. It is all premeditated, planned
18 and executed. They knew he -- knew what he was
19 going to do. It was premeditated.

20 And then -- and then -- and then bending
21 over the -- in the position it ain't -- it
22 wasn't necessarily my anus, but the ball is
23 right there where he jabbed that thing in there.
24 That is the way the probe came at. And there is
25 some issues I got with that.

1 Q. So, did you report that incident to the
2 police?

3 A. Man, just like everything else, you
4 don't know your rights. And the way the police
5 saw it, you don't know -- I don't know what to
6 do. You don't know what to do. I'm trying to
7 keep a job. I am trying to keep peace and stay
8 employed.

9 Q. Did you go to the doctor that night?

10 A. No.

11 Q. Did you go to the doctor the next day?

12 A. It may have been the day after.

13 Q. Which doctor?

14 A. Dr. Caro or maybe Dr. Rich -- Ravengi
15 Reddy. I told Dr. Caro what happened.

16 Q. Okay. Reddy is -- Reddy is a
17 psychologist or psychiatrist?

18 A. It affects you psychological more so.

19 Q. Okay. Did you -- did you get any
20 medical attention for any physical injuries
21 related to this incident?

22 A. No.

23 Q. So, let's get back to where we were.

24 The -- the conversation you had with Matt

25 Louque, you said it was in the shop, correct?

1 A. It was in the shop or in that -- in the
2 -- on the smoke slab in between the shop -- the
3 shop and the carpenter shop -- machine shop and
4 the carpenter shop. That is where a lot of
5 things took place, in the smoke slab right
6 between there.

7 Q. So which -- which ones --

8 A. It may have been in the smoke slab, as
9 far as I can recall.

10 Q. The same shift?

11 A. Same shift. Well, it was the shift
12 before the meeting because that is when he
13 warned me don't tell no -- don't give nobody no
14 name. Go to the meeting. Tell them what
15 happened, but don't give them no names.

16 Q. So, walk me through that discussion.

17 A. That -- that -- that is it. It is just,
18 you know, he -- "You know, it wasn't my finger.
19 It was the handheld radio." "And don't give
20 them no names when you go in that meeting."

21 And I didn't call the meeting. David
22 Mendel called the meeting. But David Mendel was
23 just as guilty because he was right there with
24 Matt Louque. He -- he could have spoke out and
25 made me aware of them being behind me.

1 Q. Did you seek Matt Louque out to talk to
2 him before you went into this meeting --

3 A. No, I --

4 Q. -- or did he seek you out?

5 A. -- did not. No, I did not. I don't
6 remember. It just happened.

7 Q. Is it accurate to say that you worked
8 for several days after the goosing incident
9 before you had that meeting with Brandon
10 Dufrene?

11 A. The -- the goosing incident was after
12 the -- the blow with the crane control box. And
13 after that, I -- I had -- my perception of time
14 was distorted.

15 Q. Okay.

16 A. I -- you know, and my thinking wasn't
17 even right after that. And the goosing happened
18 after the -- being the blow with the crane.

19 Q. Right.

20 A. And the wrapping of the truck the same
21 night. So, it was a couple of days after that.

22 Q. So the sequence is crane box first,
23 Saran wrap second --

24 A. And then goose --

25 Q. -- goosing third?

1 A. And that is right.

2 Q. Okay.

3 A. That is what -- that is the way I see
4 it.

5 Q. Were you notified in advance of the
6 meeting on November 10th with Dufrene, Naquin --

7 A. Exactly.

8 Q. -- that there was going to be a meeting?

9 A. They -- David Mendel -- David Mendel was
10 -- you know, now he -- now his role in it was,
11 "Okay, we got to make him look -- look bad on
12 his work ethic."

13 So his complaint was I didn't go out
14 there -- I didn't go in the rain to put a guard
15 back on a pump. I wouldn't -- you know, I
16 didn't like going in the rain.

17 And that wasn't -- that wasn't even the
18 issue, but they had to create issues as
19 distraction to try to cover up all this stuff.
20 And it just -- that just made it worse.

21 And they were warned two days before it
22 happened by Armond Thomatis because I told him.
23 I said, "Man, these people are messing with me
24 real bad." He was the -- happen to be the only
25 other black dude that was -- came out on the

1 four-hour callout.

2 I said, "I'm catching pure -- the hell"
3 because it was the pranks. It was messing -- it
4 was messing with that truck, messing with my
5 glasses, the heel on my boot, all my safety
6 equipment.

7 Nothing would be in place. We would go
8 out there and I try to put on goggles and
9 something was wrong with them. They were
10 setting it up.

11 And that is only the tip of the iceberg.
12 They got so many tricks and games that they will
13 play. It is -- I felt my life would be
14 threatened.

15 So I don't know what day -- what
16 happened after the crane incident. And what --
17 and you got this sequence right on there. But
18 it is -- it was just a bit much.

19 Q. You -- you asked for Union
20 representation when you went to the meeting with
21 Dufrene and Naquin, right?

22 A. I didn't know what kind of meeting it
23 was. Just a meeting. And they -- you know, if
24 -- if I needed a Union representation, they
25 should have asked for it.

1 But it wasn't no Union. It was just me,
2 David Naquin, and Brandon Dufrene. And it
3 should have been a Union representation in
4 there.

5 Q. Wasn't Wilton Ledet with you at that
6 meeting?

7 A. I don't think so. No. He was at the
8 meeting on February the 29th. He was at that
9 meeting only. I didn't have Union -- they
10 didn't represent me. They didn't -- they didn't
11 protect my rights.

12 Q. Okay. So you go into the meeting. You
13 are saying it is with Dufrene and Naquin. Where
14 is the meeting?

15 A. In the Central Shop.

16 Q. Is it in an office?

17 A. Yes.

18 Q. Whose office? Brandon's?

19 A. Right.

20 Q. What happens? Did they start talking to
21 you about sleeping on the job?

22 A. No. They are talking about -- they
23 talked to me about not being willing to go in
24 the rain and put a guard on. That is where the
25 -- that is when the meeting started, about not

1 wanting to go in the rain. And that was
2 absolutely -- because they -- they got a saying
3 it don't rain in Norco. And it don't. You put
4 on your rainsuit, whatever you need to go out
5 there and do what you got to do and come on
6 back.

7 That is how it started off. But then
8 they said, "Why -- why is it that they are
9 saying this?" And I'm going to tell you why.
10 Because they hit me with this crane. They did
11 this -- and I -- I remember the sequence and all
12 the details of that. And I told them right
13 then.

14 And David Naquin was in disbelief. He
15 couldn't believe it. And I described a lot
16 clearer than I am doing here today what happened
17 with that radio antenna and the purpose of it.
18 That was sodomy. That is -- that is -- that is
19 -- that is homosexual -- that is a homosexual
20 act.

21 Q. Is it your testimony that there was no
22 discussion about you sleeping on the job in this
23 meeting with Dufrene and Naquin?

24 A. No.

25 Q. You are saying that subject did not come

1 up?

2 A. That subject didn't come up.

3 Q. Okay. So what did Dufrene and Naquin
4 tell you after you told them about these things?

5 A. They -- what did they tell me?

6 Q. Yes.

7 A. I told them. I said, "Listen. Because
8 I reported this, it ain't safe for me to be here
9 anymore." And I said, "I am going to get to the
10 doctor and get an excuse and make sure that" --
11 because I reported that it ain't -- it wasn't
12 safe.

13 It would -- something would happen to me
14 and it look like a freak accident. I know the
15 tricks. I know -- I know what I was dealing
16 with. I know the type of personalities I'm
17 dealing with. A grate will be loose and I walk
18 across there and fall 200 feet out the air.
19 Just anything could happen.

20 And -- and -- and -- and I told them I'm
21 going -- I'm -- I'm -- I got to go see -- I got
22 to go get some help from outside of this place.
23 That is what I told him.

24 Q. Because you concluded that somebody was
25 going to try to do you physical harm?

1 A. Yes. I know that. I know they were,
2 especially after I reported what happened.

3 Q. Are you aware of anybody at the refinery
4 causing physical harm to someone who reported a
5 problem?

6 A. Man, you -- you won't be able to put
7 your finger on it, but you -- you'll see the
8 results of it. And there might be a hangman's
9 noose. Hanging -- left somewhere.

10 It is going to be something. The food
11 has to come there. It could be -- it -- you --
12 you don't know what -- who did what.

13 Q. I'm asking you can you give me any
14 example of somebody who reported a problem
15 experiencing physical harm because they reported
16 the problem?

17 A. I can't give you that, but I know it has
18 happened. It -- it, you know.

19 Q. Dufrene and Naquin said you don't have
20 to come in tonight, correct?

21 A. I think they did.

22 Q. Okay. And is it accurate to say that
23 you didn't work at all from November the 10th of
24 2011 until February the 29th of 2012?

25 A. That is accurate.

1 Q. So, you were home all throughout the
2 holidays, and you are not working at all in that
3 period of time?

4 A. Right.

5 Q. Are you hospitalized for any of that
6 period of time, from November 10th of 2011 to
7 February 29th of 2012.

8 A. No. But I was going through some
9 extensive counseling sessions with my counselor
10 while I -- while I still had health insurance.

11 Q. And who was that?

12 A. I think it is Justin Schleis.

13 Q. Okay. And is that somebody you had
14 already been seeing before?

15 A. No.

16 Q. So, how did you get hooked up with
17 Justin Schleis?

18 A. That was at a doctor's office that I had
19 went to. One of the doctor's office I went to.

20 Q. Do you know which doctor?

21 A. No.

22 Q. Did you --

23 A. I --

24 Q. I'm sorry.

25 A. Go ahead. You can go ahead.

1 Q. Did you come in -- did you come in for a
2 meeting with HR on November the 14th of 2011?

3 A. No, indeed.

4 Q. Okay. Do you ever remember having any
5 meeting with a lady named Mary Snyder?

6 A. No. Not with her personally. Not with
7 her directly. She was in on the other meetings
8 that I had.

9 Q. Okay. So tell me what meetings you had,
10 other than the one that you told us about where
11 you said it was just you and Brandon Dufrene and
12 David Naquin. Was there another meeting?

13 A. No.

14 Q. Well, was Mary at that meeting?

15 A. No.

16 Q. So when were you at a meeting that Mary
17 was involved in?

18 A. The 29th.

19 Q. Okay. Did you talk to Mary on the
20 telephone on November the 14th of 2011?

21 A. No.

22 Q. So, do you think you only had one time
23 that you were in the same -- well, strike that.

24 Do you think there was only one time
25 that you talked to Mary, and it was February

1 29th of 2012?

2 A. Yes. She was in the room when that
3 meeting happened. She didn't talk. She didn't
4 say anything. She witnessed it all, though. Is
5 she still there?

6 Q. She still works for the Company, but she
7 is not in Norco anymore.

8 A. Okay.

9 Q. So, what else were you doing in that
10 three-and-a-half-month window from November 10th
11 to February 29th? Were you working anywhere
12 else?

13 A. No, indeed. What -- what -- the main
14 thing I did was try to process what happened,
15 what and why did that happen and how did it
16 happen.

17 To process the events of what happened
18 and why and trying to understand what -- oh,
19 Lord. Try to understand what happened.

20 They are going to come fix it.

21 Q. It is okay. Okay.

22 A. Uh --

23 Q. Did you -- did you -- we got a little
24 microphone adjustment here.

25 A. And it won't be on -- in that line of

1 fire, huh?

2 Q. It is not easy having to wear these
3 things connected to you, is it?

4 A. You can't -- you can't fold your hands
5 in prayer.

6 Q. All right. Did you talk to any lawyers
7 between November the 10th of 2011 and February
8 the 29th of 2012?

9 A. No.

10 Q. All right. So, how did you -- how did
11 you come to return to the refinery on February
12 29th of 2012?

13 A. The doctor that had the -- prescribed
14 the medicine that I was taking and -- there was
15 some strange stuff then that was causing
16 different side effects. My -- my ears were
17 ringing and stuff like that.

18 Ravengi Reddy, he said, "Well, why don't
19 you just give it a try? Try to go back and we
20 will write you a slip so you can go and try."
21 And I went back. And that is -- when I went
22 back on the 29th, that is when the blow
23 happened.

24 Q. Okay.

25 A. That is -- that is the straw that broke

1 the camel's back, that meeting. That meeting
2 with HR, Shell's HR up at -- that is what broke
3 the camel's back in a room full of nothing but
4 people that happened to be of Caucasian
5 persuasion.

6 And it was like a public lynching. The
7 way I was handled about the things that
8 happened, the way I was -- no, not even about
9 the things that happened. "We are not going to
10 even discuss that. We -- we are here to talk
11 about your attendance only."

12 And I felt like -- and the -- and the,
13 "We are not here to discuss that." They didn't
14 bring up anything until the last question. That
15 question you asked me about, "Why you didn't
16 tell him you was wrapped in the truck?"

17 Brandon Dufrene asked me, "Were you
18 really wrapped in that truck?" at the end of
19 that attendance meeting. I said, "You know, I
20 wasn't wrapped up in that truck," to save face.
21 Because I believe if I would have told him
22 "yes," I would have been terminated on the spot.

23 Q. Okay. Let me make sure I understand.
24 Are you saying that when you met with
25 Brandon and David Naquin back on November the

1 10th, you told Brandon you had not been inside
2 the truck?

3 A. I told -- I told him I was inside the
4 truck.

5 Q. Okay. All right. So, now, let's come
6 -- come back to February 29th. You come back to
7 work on the day shift?

8 A. Right.

9 Q. Correct?

10 A. Right.

11 Q. So, you come in at 7:00?

12 A. Yes.

13 Q. And you start working for some period of
14 time?

15 A. Uh-huh.

16 Q. And at what point during the shift do
17 you end up going for a meeting in HR?

18 A. Well, just out of the blue, I hear --
19 hear Brandon Dufrene walk on the -- walk on the
20 machine shop floor and say, "Hey, come take a
21 ride with me." I said, "Okay. What is going
22 on?"

23 He said, "We are going up front." So I
24 jump in the truck with him to go up there and --
25 and that is when the meeting was about

1 attendance.

2 Q. All right. So the meeting is you,
3 Brandon Dufrene, Mary Snyder, Wilton Ledet?

4 A. Yeah.

5 Q. Anybody else?

6 A. Steve France and another HR -- Shell's
7 HR manager. Steve France and -- I mean, Randy
8 Cavalier, I believe.

9 Q. Okay. And Wilton Ledet is your Union
10 rep?

11 A. Right.

12 Q. And they are talking to you about
13 sleeping on the job and your timecard, right?

14 A. Ain't nobody mention no sleeping on the
15 job. It was mentioned that all it was about is
16 attendance. And I had just came back on three
17 months -- for three months of medical leave.

18 Q. So what did --

19 A. FMLA.

20 Q. So what did they tell you about
21 attendance?

22 A. They -- they pull up gate logs for the
23 last -- I was harassed with gate logs for the
24 past -- prior three years, the time I logged in.

25 And I made sure that I had logged in as

1 close as I could to the time that I had to be to
2 work because I didn't want to hear the -- the
3 locker room mess, the garbage being talked in
4 the locker room.

5 And so all the gate logs -- if I got to
6 be there for 7:00, it might be -- it might say
7 seven minutes before 7:00, or they showed me how
8 I was coming to work at the -- at the latest
9 possible moment.

10 And I had to do that to try to get
11 through that -- that locker room talk and all
12 the stuff in the mornings, first off. All the
13 -- all the -- all the gibberish in the mornings,
14 first off, and -- and, you know, you don't --
15 ain't no telling what you might hear.

16 You think they were bad with what Trump
17 was saying. Ain't no telling what you might
18 hear in those locker rooms. And I avoided that
19 at all costs.

20 Q. So what did you tell them during the
21 meeting?

22 A. Wilton Ledet said, "Don't say nothing.
23 Don't -- don't say nothing. Let them say what
24 they got to say. Now is not the time to fight."

25 And I was instructed before I went in by

1 my Union representation. I didn't bring up -- I
2 couldn't bring up -- I didn't bring up anything.

3 Q. So, wasn't there a day during the
4 turnaround when you were two hours late to work,
5 but you got -- you had a time -- you asked
6 someone else to do a timecard for you?

7 A. I ain't have -- I ain't have nobody do
8 nothing for me.

9 Q. Okay.

10 A. I filled out the time on the time that I
11 came there, when I've been there, what I did.

12 Q. So, is it your position that you always
13 reported your time --

14 A. Correctly.

15 Q. -- 100% accurate?

16 A. Right.

17 Q. So when this meeting ended on February
18 the 29th, you weren't given any kind of
19 discipline document, right?

20 A. Nothing. No. They was shocked that I
21 didn't fill out that timecard that 12 hours on
22 it. That was a setup. That was -- that is
23 another conspiracy.

24 And then they -- you know, to get it
25 from the guys on the floor, the supervisors, the

1 manager, and then to go to Shell's HR and then
2 you get the same kind of treatment. Man, I
3 ain't got a leg to stand on. That is -- that --
4 that is the straw that broke the camel's back.
5 I -- I don't have -- I don't stand a chance.

6 And then the Union telling me, "Don't
7 fight. Don't say nothing. Don't stand up for
8 your rights." Them people were after basic
9 human dignity. And that is what they took from
10 me.

11 Q. So, who do you claim was after your
12 human --

13 A. All --

14 Q. -- dignity?

15 A. All of them, from the top all the way
16 down. You see the examples. And then they even
17 confessed.

18 Q. Who confessed?

19 A. You -- didn't you read that report?
20 Motiva's investigating -- internal
21 investigation. George and them confessed to
22 that and Matt Louque confessed to his part.
23 They all confessed.

24 And then -- and Human Resources attacked
25 me about attendance. Well, quite naturally, I

1 don't want to show up on time at a place where
2 I'm being treated like that daily. I was
3 miserable there.

4 Q. So, is that why you could never come
5 back to work? Is that why you didn't come back
6 to work between --

7 A. Well, the doctor --

8 Q. -- 2011 and --

9 A. The doctor --

10 Q. -- 2014?

11 A. -- that did the evaluations say, "Man,
12 this" -- if -- you know, and -- and -- and all
13 of that say, "Hey, it is better off if you don't
14 go. It is volatile."

15 Q. What --

16 A. They took me off work.

17 Q. Which doctors did that?

18 A. I can't remember all of them names. The
19 hospital at -- in Baton Rouge. Baton Rouge
20 General. And I can't remember the names.

21 I can -- I can get them for you. It
22 might come at -- come back in a few minutes if
23 we keep talking, but --

24 Q. All right. So I'm going to ask this
25 question, again, because you didn't give me any

1 names.

2 Who do you claim was out to take your
3 human dignity?

4 A. Matt Louque, George Kestler.

5 Q. Anybody else?

6 A. Pat Meche. Basic human dignity. "You
7 can't -- you don't hold your head up and think
8 you can walk in here and be a man like us."

9 Q. Do you think anybody else was out to
10 take your human dignity?

11 A. All of Human Resources. Steve France
12 and -- and a -- a -- Randy Cavalier. Them
13 people up in front, in the front office. I
14 caught it all. I caught it from them.

15 Q. Anybody else?

16 A. The whole good ol' boy network.

17 Q. Who is that?

18 A. You name them.

19 Q. I'm asking you.

20 A. It is pre -- it is predominantly white
21 out there. Predominant. And the people in
22 charge were a part of the good ol' boy network.

23 Human Resources even -- even changed --
24 started doing musical chairs. The people that
25 were there when I was working weren't the same

1 people that I went to for the meeting on the
2 29th.

3 They left. They just abandoned ship.
4 It is like you say Mary Snyder is now gone. She
5 is gone. It -- it is musical chairs played by
6 the good ol' boy network.

7 Q. Do you think anybody in HR left because
8 of you?

9 A. Because of the situation.

10 Q. What situation?

11 A. The racism. The discrimination. The --
12 the -- and not wanting to be a part of that.

13 Q. Who do you think left because of racism?

14 A. The whole thing. They was -- I don't
15 know. I don't remember their names. But they
16 -- you know, there was a young fellow. He -- he
17 -- he went to the Hague.

18 Q. Did he tell you that he had left to go
19 to the Hague --

20 A. He couldn't --

21 Q. -- because of racism?

22 A. -- tell me anything. I wasn't in the
23 meeting with them. He couldn't tell me. But
24 you can just see him disappear. It is too much.
25 It is too messy.

1 Q. I mean, you -- you are guessing about
2 the reasons --

3 A. Well, to the --

4 Q. -- people left.

5 A. -- to the best of my knowledge, that is
6 what I believe.

7 Q. It is your -- it is your opinion?

8 A. Well, and knowledge --

9 Q. Right?

10 A. -- too, because I was there.

11 Q. Well, what facts -- what facts do you
12 have about reasons why anybody in HR left the
13 facility?

14 A. I don't have any, but you can see them.
15 They vacate the premises when something happens.

16 Q. After February the 29th of 2012, did you
17 make any attempt to come back to work at Motiva?

18 A. No.

19 Q. Do you know Ivory Brown?

20 A. Yes.

21 Q. He is African-American, correct?

22 A. Correct.

23 Q. Motiva made him a supervisor, right?

24 A. Exactly.

25 Q. And when you went to the meeting on

1 February the 29th of 2012, the people in the
2 meeting, including HR and Brandon Dufrene, told
3 you that the Company was going to make Ivory
4 your supervisor from that point forward,
5 correct?

6 A. I think -- yeah, I think so.

7 Q. So you were going to have an
8 African-American supervisor from that point
9 forward, right?

10 A. Right.

11 Q. Did you consider that to be racism?

12 A. Absolutely.

13 Q. Why?

14 A. Because it just showed that somebody is
15 getting caught with their hand in the cookie
16 jar.

17 Clay Threadgill was my supervisor. And
18 then that is not a move away from taking out
19 that environment. That is changing the man --
20 changing the supervisor in the same environment,
21 in the same location.

22 See, say, for instance, they have 15
23 machinists, 15 -- I mean, 30 machinists. 15
24 went to Ivory; 15 was going to go to Clay
25 Threadgill.

1 That the -- the fact that they moved me
2 to Ivory Brown showed me the prejudice and the
3 racism. They -- they were admitting that they
4 were -- there was.

5 Q. Didn't you prefer to be reporting to
6 Ivory Brown?

7 A. I -- I -- I had no preference because I
8 had never worked for Ivory Brown as a
9 supervisor. The damage was done before Ivory
10 gave that -- was given that job. I had no
11 preference -- no preference. It didn't matter.

12 Q. It didn't matter who was going to be
13 your supervisor because you weren't going to
14 come back to work?

15 MS. HUNT:

16 Objection.

17 EXAMINATION BY MR. McGOEY:

18 Q. Right?

19 MS. HUNT:

20 He already answered that.

21 MR. McGOEY:

22 No, he didn't.

23 THE WITNESS:

24 Well, I was at work.

25 MS. HUNT:

1 He said the hostile environment is
2 still existing.

3 MR. McGOEY:

4 So, you can't testify, Counsel.

5 EXAMINATION BY MR. McGOEY:

6 Q. I mean, Mr. McNealy, did you decide at
7 some point during this meeting on February 29th
8 of 2012, that you were never going to work at
9 Motiva again?

10 A. I cracked. I cracked. Yes. The --
11 under that pressure, yes, I cracked. And that
12 is the -- that is partially where the decision
13 was made at. I couldn't.

14 Q. After February the 29th, didn't Ivory
15 Brown call you on a regular basis to see how you
16 were doing?

17 A. Yeah. He was instructed to do that.

18 Q. Were you offended that he would call you
19 and check on you?

20 A. Somewhat, yes.

21 Q. Why?

22 A. He didn't offer any help, if I needed
23 anything or any -- you know, he couldn't -- he
24 couldn't help you. He was in a helpless
25 position. He couldn't help me.

1 Q. Didn't he call you once and tell you,
2 "Hey, there is a hurricane headed this way. Do
3 you need any help" --

4 A. No.

5 Q. -- "getting ready for the hurricane?"

6 A. No, he didn't. He didn't. But somebody
7 else did. Some -- one of the other
8 Safety-related people did. It wasn't Ivory
9 Brown.

10 Q. Were you offended by getting that call?

11 A. No.

12 Q. So you went -- you went on a disability
13 leave after February 29th of 2012, correct?

14 A. That is the leave they put me on, yeah.

15 Q. Actually, let's step back for a minute.

16 Did you -- did you finish out the shift
17 on February 29th of 2012?

18 A. Yes.

19 Q. And did you go home that night?

20 A. Yes.

21 Q. And then you went to the hospital at
22 some point after that?

23 A. Yes.

24 Q. When?

25 A. I didn't sleep. I couldn't sleep at

1 all. Just -- you know, just anxiety,
2 overwhelmed with the anxious. Nerves shaking.
3 Just -- I went to -- after I couldn't sleep all
4 night, I know I couldn't do a whole shift the
5 next day.

6 So I said, "Uh-huh, I am going to --
7 going to the emergency room." It threw the
8 sleep pattern off. Awake; asleep. I couldn't
9 sleep for nothing. And just staring at the
10 wall. I needed something to calm me down after
11 that meeting.

12 That meeting was the real blow. That is
13 where the damage really -- it sealed the deal on
14 all the other stuff that happened. Because now
15 the people at the very top, you see that the
16 problem is trickled down.

17 It -- it -- and there is no help. No
18 way up and down this, even from the Union. They
19 never called me, say, "Look, how are you doing?
20 What are you going -- what your plans are? What
21 -- did you make it? When you been to the
22 doctor?" They never gave me not one phone call.

23 Q. So, you got yourself to the hospital?

24 A. Yes. With the help of a friend.

25 Q. Okay. Who took you to the hospital?

1 A. It is a friend that I know that, you
2 know, that -- that is a -- and my little
3 stepdaughter helped me. She was a big help.

4 Q. Who is -- what is her name?

5 A. Wanda Carey.

6 Q. While you were out on leave, you got
7 full pay for a certain period of time, correct?

8 A. No.

9 Q. So the records I have seen show you got
10 \$6,932 in full pay, even though you were not
11 working. Are you disputing that?

12 A. Yes.

13 Q. Okay. And then after the full pay was
14 exhausted, you got half pay, correct?

15 A. That is all I received all the time.
16 All along.

17 Q. So the records I see say that you got
18 \$17,154.20 in half pay, even though you were not
19 working. Is that correct?

20 A. That is possible.

21 Q. And then after you exhausted all the
22 full pay and the half pay, you were on unpaid
23 leave for two years, correct?

24 A. The best -- as best I can recollect.

25 Q. And you had health insurance on the

1 Humana plan --

2 A. Yeah.

3 Q. -- throughout that whole time you were
4 on leave?

5 A. For two years.

6 Q. Correct.

7 A. We are talking about 2011 now to 2013.
8 And after that, I mean, nothing.

9 Q. Okay. Let me show you a document.

10 So, Mr. McNealy, I've shown you a letter
11 dated February the 6th, 2014 from Tammy
12 Troxclair, Human Resources at Motiva, addressed
13 to you. Take a minute and -- and look at it and
14 you let me know when you are ready to answer
15 questions about it.

16 A. I am ready now. I remember that letter.

17 Q. Okay. So the letter explains in the
18 very first paragraph that your -- that your
19 leaves started on February 29th of 2012. Do you
20 see that?

21 A. Yes.

22 Q. And it describes the fact that you got
23 full pay for some period of time, and then half
24 pay up until April 30th of 2012. Do you see
25 that?

1 A. (Reviewing document.) Yeah.

2 Q. And then you went on leave and the
3 Company's policy is that you can remain on leave
4 for a period not to exceed two years, correct?

5 A. Okay.

6 Q. And the -- the second and third pages of
7 this Exhibit 1 show that you received this
8 letter, right? I think you signed for it on the
9 last page of Exhibit 1?

10 A. Yeah.

11 Q. When you received it, you read it,
12 correct?

13 A. To the best of my ability.

14 Q. And did you understand that if you
15 weren't able to return to work by April 30th of
16 2014, you were going to be terminated in
17 accordance with the Company policy?

18 A. Yes.

19 Q. And can we agree that you did not return
20 to work?

21 A. Oh, absolutely not.

22 Q. Okay. That was a bad -- I asked that
23 question in a bad way.

24 Did you return to work by April 30 of
25 2014?

1 A. I couldn't because I was still on doc --
2 on the doctor's care. He hadn't released me.

3 Q. So, then, did you then receive what I'm
4 going to mark as Exhibit 2. It is labeled
5 Separation Notice.

6 A. (Reviewing document.)

7 Q. Did you see Exhibit 2?

8 A. Yes.

9 Q. Okay. So the Separation Notice, which
10 is Exhibit 2, states, "Employee was on
11 nonoccupational disability since 2-29-2012."
12 And above it, there is a box Reason For
13 Separation, Number 2.

14 There is a box that is checked. It
15 says, "Not physically able to work." Do you see
16 that?

17 A. (Reviewing document.) Yeah.

18 Q. Do you have any reason to dispute that
19 that is, in fact, the reason why the Company
20 terminated your employment?

21 A. Not physically able to go to work. I
22 think that is why, the reason why.

23 Q. Okay. Let's talk about the EEOC.

24 Have you ever received a Right to Sue
25 letter from the EEOC authorizing you to file

1 suit against Motiva, Shell Chemical, Shell Oil
2 or Saudi Refining?

3 A. No, I didn't.

4 Q. Can we agree that you never filed a
5 Charge of Discrimination against Motiva or Shell
6 Chemical or Shell Oil or Saudi Refining?

7 A. File it where?

8 Q. The EEOC.

9 A. No, I filed it. I filed twice with
10 them.

11 Q. So, I'm going to show you an excerpt
12 from your deposition in your workers' comp case,
13 which we are going to mark as Exhibit 3.

14 A. (Reviewing document.)

15 Q. There is -- a lot of it is sort of cover
16 pages, but if you -- if you would, turn to Page
17 142.

18 A. (Complying.)

19 MS. HUNT:

20 Where are the page numbers?

21 MR. McGOEY:

22 The page numbers are in the top
23 right.

24 EXAMINATION BY MR. McGOEY:

25 Q. So do you see the -- the line numbers

1 down the left side?

2 A. Yes, sir.

3 Q. If you go to Line 21, do you see you
4 were asked, "Have you filed an EEOC claim in
5 connection with your employment at Motiva, Mr.
6 McNealy?" What was your answer?

7 A. I said "No" and "Why not?"

8 Q. And what was your answer to the question
9 "Why not?"

10 A. (Reviewing document.) "I had been down
11 that road before with Emerson."

12 Q. So you testified under oath on January
13 the 17th of 2014 --

14 A. Uh-huh.

15 Q. -- that you had not filed an EEOC charge
16 against Motiva, right?

17 A. Yeah.

18 Q. So, there is a recording -- there is a
19 recording that you -- your attorney has produced
20 to us of a conversation with somebody from the
21 EEOC.

22 Let me see if I can find it. Bear with
23 me for just a minute.

24 So I'm going to play this recording that
25 was produced to us by your Counsel. Hopefully,

1 we will be able to hear it, but if not let me
2 know.

3 (START OF EEOC RECORDING)

4 EEOC REPRESENTATIVE:

5 You say discriminated against
6 because of your --

7 MR. McNEALY:

8 I never said I was going to go back
9 to work. I never said that. And there is no
10 pay. And they said long as they paying, you
11 don't worry about it.

12 EEOC REPRESENTATIVE:

13 I don't know who said that.

14 MR. McNEALY:

15 Demetrius.

16 EEOC REPRESENTATIVE:

17 Uh-huh.

18 MR. McNEALY:

19 And then the other little heavysset
20 lady, she just walked in the back. I saw her
21 again. I can't remember her name. She took the
22 second intake.

23 You know, I can't remember her name,
24 but I remember Demetrius. And as long as they
25 keep paying, you don't worry about it.

1 EEOC REPRESENTATIVE:

2 Don't worry about what?

3 MR. McNEALY:

4 End of this paperwork that I filled
5 out here.

6 EEOC REPRESENTATIVE:

7 Okay. Like I said, I don't know
8 what was said to you at --

9 MR. McNEALY:

10 Yeah, but they dropped the ball
11 completely.

12 EEOC REPRESENTATIVE:

13 And if they have, I really don't
14 know. The only thing I know -- the only thing I
15 know -- only thing I know is I -- I -- I don't
16 know anything --

17 MR. McNEALY:

18 Why -- why would they withhold the
19 claims that I filled out? The paperwork, why
20 would they withhold that?

21 EEOC REPRESENTATIVE:

22 It is not that -- that -- I don't
23 think it is that they withheld it. You know,
24 and so I know this is the second time you came
25 in.

1 The first time you came in whatever,
2 you were going to claim -- now what were you
3 claiming? Discrimination based on a disability?

4 MR. McNEALY:

5 No. I'm -- I -- I'm claiming on
6 being injured, harassed, hazed, bullied, and all
7 that on the job. That is all I always claimed.

8 My supervisor, the manager and
9 inspector is the one that hit me. I gave them a
10 copy of their investigation where they admitted
11 doing those things to me.

12 EEOC REPRESENTATIVE:

13 Okay. But how -- but how did that
14 affect your job? I mean, in terms of
15 discrimination, how were you discriminated?

16 MR. McNEALY:

17 It is race.

18 EEOC REPRESENTATIVE:

19 How -- how is it race? How were you
20 discriminated?

21 MR. McNEALY:

22 Because I was the only black on that
23 crew that night.

24 EEOC REPRESENTATIVE:

25 Okay. Well, just because you were

1 the only black --

2 MR. McNEALY:

3 I know. I know that.

4 EEOC REPRESENTATIVE:

5 -- does that mean -- does that mean
6 that you were -- just because you are the only
7 black by yourself doesn't mean that you were
8 discriminated. If you were injured, if they --
9 if --

10 (END OF EEOC RECORDING)

11 MR. McGOEY:

12 Okay. We have some kind of
13 technical issue.

14 (RESUME EEOC RECORDING)

15 EEOC REPRESENTATIVE:

16 -- hit you because somebody was --

17 MR. McNEALY:

18 Intentionally.

19 EEOC REPRESENTATIVE:

20 -- operating -- okay.

21 (END OF EEOC RECORDING)

22 MR. McGOEY:

23 Counsel, do you want me to play the
24 whole thing?

25 MS. HUNT:

1 I would so it is not taken out of
2 context.

3 (RESUME EEOC RECORDING)

4 EEOC REPRESENTATIVE:

5 -- you go to -- you sue them for --
6 for court. You sue them for workers'
7 compensation and stuff like that.

8 You know, I mean if -- if you felt
9 that -- you know, say like you were -- you were
10 injured on the job, anytime anything dealing
11 with an injury on the job deals with, you know,
12 workers' compensation or you file a civil suit
13 saying somebody injured you. You know, and --

14 MR. McNEALY:

15 Okay. Okay. I follow what you are
16 saying.

17 EEOC REPRESENTATIVE:

18 And I think that is what they were
19 trying to tell you. You know, and stop -- and I
20 don't know if --

21 MR. McNEALY:

22 And I did that, but I'm exhausted.
23 See, they used the EEOC. Shell's, Motiva's
24 attorney is using EEOC that I did not exhaust
25 all my administrative remedies. I never went to

1 the EEOC.

2 EEOC REPRESENTATIVE:

3 Well, that proves that you did.

4 MR. McNEALY:

5 Right.

6 EEOC REPRESENTATIVE:

7 I Email the letter to you.

8 MR. McNEALY:

9 I waited. I waited.

10 EEOC REPRESENTATIVE:

11 Yeah, I -- I talked to --

12 MR. McNEALY:

13 Oh, okay.

14 EEOC REPRESENTATIVE:

15 I didn't get a -- I did not get a --

16 MR. McNEALY:

17 Yeah, I mean, if I -- I --

18 EEOC REPRESENTATIVE:

19 I know you called me.

20 MR. McNEALY:

21 And I gave you the right Email
22 address.

23 EEOC REPRESENTATIVE:

24 And I gave you the -- a thing saying
25 that it failed.

1 (END OF EEOC RECORDING)

2 MR. McGOEY:

3 Anytime it touches anything, it --

4 MS. RICHARD-SPENCER:

5 No. It is because somebody is
6 trying to call.

7 MR. McGOEY:

8 All right. Do you want to play the
9 whole thing?

10 MS. HUNT:

11 Yes, i would like to play the whole
12 thing.

13 MR. McGOEY:

14 Okay.

15 MS. RICHARD-SPENCER:

16 While we are -- well, before you
17 start it again, Tommy, we have three minutes
18 left on video. How much longer is the tape?

19 MR. McGOEY:

20 I don't know. It is like an
21 eight-minute -- it is like an eight-minute tape.

22 MS. RICHARD-SPENCER:

23 All right.

24 MR. McGOEY:

25 I mean, where it looks like we are

1 halfway through.

2 MS. RICHARD-SPENCER:

3 Keep going.

4 (RESUME EEOC RECORDING)

5 MR. McNEALY:

6 The phone that I used it is on
7 there.

8 EEOC REPRESENTATIVE:

9 Well, I don't --

10 MR. McNEALY:

11 Okay.

12 EEOC REPRESENTATIVE:

13 I know I sent it because it is like
14 you called me. You know, that last time you
15 called me, you said you had gotten it and I told
16 you I didn't --

17 MR. McNEALY:

18 Yeah.

19 EEOC REPRESENTATIVE:

20 You know, unfortunately --

21 MR. McNEALY:

22 But it is -- it is hot and heated in
23 a federal courthouse. It is a -- a lawsuit has
24 been filed with Shell Motiva and all the
25 other --

1 EEOC REPRESENTATIVE:

2 Based upon what? What? You filed
3 based upon what?

4 MR. McNEALY:

5 Hate crime.

6 EEOC REPRESENTATIVE:

7 Okay. Well, that -- like I said,
8 that -- that is on you.

9 MR. McNEALY:

10 That is what it is. That is --

11 EEOC REPRESENTATIVE:

12 But we don't deal with hate crimes.

13 MR. McNEALY:

14 Well, I mean, that is what the
15 racism and discrimination is.

16 EEOC REPRESENTATIVE:

17 Yeah, but --

18 MR. McNEALY:

19 Civil rights violation.

20 EEOC REPRESENTATIVE:

21 Okay. But we deal with -- with
22 civil rights filed -- we deal with
23 discrimination in a -- it is kind of when -- let
24 me see if I can explain this to you. Okay. You
25 were injured on the job, right?

1 MR. McNEALY:

2 Right.

3 EEOC REPRESENTATIVE:

4 Okay. And you were collecting
5 workers' compensation?

6 MR. McNEALY:

7 No. Never.

8 EEOC REPRESENTATIVE:

9 Okay. You know --

10 MR. McNEALY:

11 I gave them -- the paper would be --
12 they were paying --

13 (END OF EEOC RECORDING)

14 MS. RICHARD-SPENCER:

15 You got to keep pressing it.

16 MR. McGOEY:

17 Pressing what? Oh, it is the -- it
18 is the lock.

19 (RESUME EEOC RECORDING)

20 MR. McNEALY:

21 -- through my own personal insurance
22 that I elected to buy. Half paid by MetLife
23 Insurance. That paperwork was attached. He
24 showed it to me.

25 EEOC REPRESENTATIVE:

1 Okay. But that has nothing to do
2 with EEOC, is what I'm trying to say. If an
3 insurance -- so did you claim workers' comp?

4 MR. McNEALY:

5 Yes, I claimed that, and never
6 received it.

7 EEOC REPRESENTATIVE:

8 And why not? Did you follow up on
9 that?

10 MR. McNEALY:

11 Oh, yes. And it is -- and that is
12 in the process. They are withholding that, too.

13 EEOC REPRESENTATIVE:

14 Okay.

15 MR. McNEALY:

16 That is happening now, too.

17 EEOC REPRESENTATIVE:

18 Uh-huh. Well, like I said, I -- I
19 don't know. I'm not an investigator.

20 MR. McNEALY:

21 Right.

22 EEOC REPRESENTATIVE:

23 So, I can't really -- I can't sit
24 here and tell you this was done wrong. This was
25 done right. Because I really don't know. I

1 don't know what the conversation was and I --

2 MR. McNEALY:

3 Yeah, you are just over --

4 EEOC REPRESENTATIVE:

5 -- am trying to get --

6 MR. McNEALY:

7 -- records.

8 EEOC REPRESENTATIVE:

9 I'm -- yeah.

10 MR. McNEALY:

11 Records.

12 EEOC REPRESENTATIVE:

13 I try not to get involved.

14 MR. McNEALY:

15 Yeah. I understand. I understand.

16 EEOC REPRESENTATIVE:

17 Because I don't know. And I don't
18 want to tell you something --

19 MR. McNEALY:

20 That is not --

21 EEOC REPRESENTATIVE:

22 -- wrong or tell you something and
23 then you say, "Oh, Ms. Zaida said -- Ms.
24 Monconduit said this," you know, because I -- I
25 don't -- I honestly don't know.

1 MR. McNEALY:

2 Yeah. I understood. I believe you.
3 I trust. I know. It is just the ball got
4 dropped.

5 I never received a letter or a phone
6 call from any of these inquiries. I never been
7 -- I came down here trying to get a follow up on
8 it and got nothing.

9 "Well, you didn't check this. Oh,
10 well, we can't do anything now. It has been
11 more than 300 days since you had the injury."

12 EEOC REPRESENTATIVE:

13 Uh-huh.

14 MR. McNEALY:

15 That was -- that is what I was told
16 one day. "And after 300 days, we can't do
17 anything with it. Okay. Unless they terminate
18 you, then we can do something."

19 They terminated me last year. See,
20 this happened in 2011, in November. They
21 terminated me last year in April, and I was here
22 right before I went to the courthouse, the
23 federal courthouse. And they said, "Well, you
24 -- we can't do anything for you."

25 EEOC REPRESENTATIVE:

1 I don't -- I don't know anything
2 about --

3 MR. McNEALY:

4 That is why the -- the -- the
5 history --

6 EEOC REPRESENTATIVE:

7 Uh-huh.

8 MR. McNEALY:

9 -- the timeline and the paper trail
10 associated with when I came and filed these
11 complaints, but their defense attorneys say I
12 never went to EEOC.

13 EEOC REPRESENTATIVE:

14 Okay. Well, at least they know that
15 you did come to the EEOC.

16 MR. McNEALY:

17 And the judge may order this. The
18 federal judge may order those records.

19 EEOC REPRESENTATIVE:

20 Okay. The only thing I -- the only
21 thing I have, like I said, that is your in --
22 your request for --

23 MR. McNEALY:

24 And this -- this -- all this will
25 make it appear like this is my first time

1 coming. But this is the third time.

2 EEOC REPRESENTATIVE:

3 No. What it says in there is that I
4 can't release those documents because it is over
5 a year old.

6 MR. McNEALY:

7 Okay.

8 EEOC REPRESENTATIVE:

9 But the -- you have the charge
10 numbers, you know, here.

11 MR. McNEALY:

12 Uh-huh.

13 EEOC REPRESENTATIVE:

14 They should have --

15 (END OF EEOC RECORDING)

16 MR. McGOEY:

17 Okay. We stopped the recording for
18 a minute because the tape is about to run out.

19 THE VIDEOGRAPHER:

20 This is the end of Tape 2. We are
21 now off the Record at 12:50.

22 MS. HUNT:

23 Yeah, we need to take lunch.

24 MR. McGOEY:

25 Well, let me -- let me finish this

1 recording issue.

2 I -- I don't need to play any more,
3 but if you want me to play it, I will play it.
4 But I want to finish the recording issue, and
5 then we can do that.

6 And I will give you a copy.

7 THE VIDEOGRAPHER:

8 It is going to take three minutes.

9 MR. McGOEY:

10 Okay.

11 (Off the Record.)

12 THE VIDEOGRAPHER:

13 This is the beginning of Tape 3.

14 We are now back on the Record. And
15 the time is 12:53.

16 MR. McGOEY:

17 Okay. We are going to resume with
18 the completion of the recording that was playing
19 at the end of the last tape.

20 (RESUME EEOC RECORDING)

21 EEOC REPRESENTATIVE:

22 I mean --

23 MR. McNEALY:

24 They show the date on it?

25 EEOC REPRESENTATIVE:

1 No. In 2013 and 2012.

2 MR. McNEALY:

3 Okay.

4 EEOC REPRESENTATIVE:

5 It is -- that -- that it had to have
6 occurred in 2012 and 2013.

7 MR. McNEALY:

8 Okay.

9 EEOC REPRESENTATIVE:

10 You know, so --

11 MR. McNEALY:

12 Well --

13 EEOC REPRESENTATIVE:

14 Yeah. It says your visit to our
15 office on May 23rd, 2012. And during your
16 visit --

17 MR. McNEALY:

18 Request for -- that may be enough.
19 That may be enough.

20 EEOC REPRESENTATIVE:

21 Okay.

22 MR. McNEALY:

23 That may be enough. And they could
24 -- in the report, even when I fill out the
25 questionnaire, I put my supervisor's name, the

1 one that hit me, George Kestler, on there.

2 I put Matt Louque, the inspector. I
3 put Pat Meche, because they Saran wrapped me in
4 a full-sized company truck. So they
5 shrinkwrapped the truck. Sprayed the windows
6 with shaving cream. And left me there for dead
7 for five hours. The equivalent of putting me
8 in --

9 EEOC REPRESENTATIVE:

10 Well, why didn't you file -- why
11 didn't you file criminal charges?

12 MR. McNEALY:

13 I didn't know. I had a lawyer that
14 was -- was already employed by Shell Motiva.

15 EEOC REPRESENTATIVE:

16 But I don't understand. Why didn't
17 you go to the police department?

18 MR. McNEALY:

19 I did not know.

20 EEOC REPRESENTATIVE:

21 I mean, if somebody does that to me,
22 somebody is going to -- if you stood in here and
23 punched me, I'm calling the cops.

24 MR. McNEALY:

25 That is right.

1 EEOC REPRESENTATIVE:

2 You know? So I'm saying somebody --

3 MR. McNEALY:

4 But then these were people of
5 authority over me. These are people I should
6 report stuff to like that.

7 EEOC REPRESENTATIVE:

8 Yeah. But I don't care. If my
9 director came in here right now and punched me
10 in the face, I will call the cops on him.

11 MR. McNEALY:

12 That is what --

13 EEOC REPRESENTATIVE:

14 Now, see, that is -- that is --

15 MR. McNEALY:

16 That is --

17 EEOC REPRESENTATIVE:

18 That is when you need to --

19 MR. McNEALY:

20 And it is horseplay playing. "We
21 like you. That is why we did it."

22 EEOC REPRESENTATIVE:

23 Yeah, well. Then they have to
24 explain that to the cops.

25 MR. McNEALY:

1 Okay.

2 EEOC REPRESENTATIVE:

3 All right.

4 MR. McNEALY:

5 Thanks.

6 (END OF EEOC RECORDING)

7 EXAMINATION BY MR. McGOEY:

8 Q. Okay. Mr. McNealy, the recording that
9 we just listened to, you made that recording,
10 correct?

11 A. Yes.

12 Q. The male voice is your voice, correct?

13 A. Yes.

14 Q. And the female voice, do you know what
15 that lady's name is?

16 A. Zaida something. I saw an Email.

17 Q. So if you will look at the letter that
18 I've just marked as Exhibit 4, and put in front
19 of you, there is a name under the "Sincerely"
20 line. It says Zaida or Zaida Monconduit?

21 A. Right.

22 Q. Do you believe that that is the person
23 that is the female voice on the recording?

24 A. I -- I think so.

25 Q. Okay. Do you see that this letter has a

1 date on it of May 5th of 2015?

2 A. (Reviewing document.) Yes.

3 Q. See that?

4 A. Yeah.

5 Q. Is -- is this letter the piece of paper
6 that was being discussed on that recording?

7 A. No. No.

8 Q. Okay. So what paper was being discussed
9 on that recording?

10 A. The -- the paperwork that I was
11 discussing and she had them in her hand. That
12 is why I was irate in there. She was holding
13 the papers.

14 I wanted copies of my complaint that I
15 filed. And she wouldn't give me the copies of
16 those complaints, those attempts to file an EEOC
17 charge.

18 Q. Okay. Was it your idea to make the
19 recording?

20 A. Yes, because I had attempted to get the
21 papers three or four times prior to that.

22 Q. When did you make the recording?

23 A. On that same date that this -- this --
24 it is on there. This -- it was around the 15th.

25 Q. You made this recording on May the 5th

1 of 2015?

2 A. 2015.

3 Q. Right?

4 A. Something like that, yeah.

5 Q. After the lawsuit was already underway?

6 A. Exactly.

7 Q. And you planned to make the recording
8 before you got to the EEOC office?

9 A. No. Because I -- I planned because I
10 sat there they made me -- they wouldn't let me
11 see anybody. And, finally, they sent her out
12 there with the papers --

13 Q. So, you --

14 A. -- that I was trying to get copies of to
15 prove that I had been there.

16 Q. So, did you use your phone to make the
17 recording?

18 A. Yes.

19 Q. Did you tell her that you were recording
20 her?

21 A. No.

22 Q. Why not?

23 A. Because I didn't know if it would even
24 work. That is the first recording I ever made.

25 Q. Wouldn't you want to know if somebody

1 was recording a conversation with you?

2 A. Yes.

3 Q. But you didn't tell her that you were
4 recording the conversation --

5 A. No.

6 Q. -- with her?

7 Did you edit it at all?

8 A. Not that I know of. I didn't know if I
9 would have even remembered to keep it. I never
10 listened to it.

11 I never did anything, but I knew I was
12 -- I felt like I was now being discriminated
13 against by EEOC.

14 Q. You still --

15 A. That is the reason why I feel -- that is
16 the reason I made that recording.

17 Q. Do you still have the phone that that
18 recording is on?

19 A. Yes.

20 Q. Okay. What kind of phone is it?

21 A. It is an Android.

22 Q. All right. Hang on to that phone and
23 that recording, please.

24 A. I ain't -- getting back to this -- this
25 deposition, I want -- I want to straighten up

1 something where you said you -- they want to try
2 to catch me in a lie. And I have been down that
3 road with Emerson.

4 I was at Brad Price -- Brad Price's
5 office, esquire attorney for workers' comp
6 representing me and quit. Dropped the ball. He
7 didn't advise me any way possible on this, a
8 deposition. And I took it very lightly.

9 You know, I didn't -- and then -- and he
10 didn't help me with that. He -- he got bought
11 out by somebody also. So that was another
12 person that turned against me. He was my
13 attorney doing that -- doing this deposition for
14 the workman comp.

15 Q. Who do you claim bought Brad Price out?

16 A. People with money.

17 Q. Who?

18 A. People who got money that would like to
19 see this be -- not be successful.

20 Q. So I want to look, again, at a copy of
21 this --

22 A. And then --

23 Q. -- brief deposition.

24 A. -- I don't know -- I don't know when did
25 that come about. You got it there. I said it.

1 But I -- you know, it might have been something
2 out of context.

3 Q. So, let's look at Exhibit 3. The very
4 first page tells you the date of the deposition,
5 January the 17th of 2014. Do you see that?

6 A. (Reviewing document.) Right.

7 Q. All right. You were asked --

8 A. And at that time, I was still being paid
9 by Shell -- by -- by MetLife. Half pay on the
10 thing. On the disability.

11 Q. So you were asked a very simple
12 question, "Have you filed an EEOC claim in
13 connection with your employment at Motiva, Mr.
14 McNealy?"

15 A. And at that time, I don't know if I had
16 or not or if it didn't even stick. I don't
17 know. I don't know. Okay. And that --

18 Q. Did you need help from your lawyer to be
19 able to answer that question?

20 A. Well, it -- I needed help just knowing
21 what question -- what -- how to even conduct
22 myself during a deposition. But I had tried to
23 file a claim with EEOC, and they wouldn't accept
24 it.

25 Q. So look at Exhibit 4, if you would. It

1 -- it says, "Attached is a copy of the EEOC
2 Intake Questionnaire, which you completed on
3 March 19th of 2015..." Where is that document?

4 A. It never was on there. And it -- I
5 never seen -- seen it again. I never saw the
6 intake. She never sent that out.

7 This is the only thing I saw that came
8 to me in the Email showing these dates where I
9 did go there, but the intake information was not
10 attached to it.

11 Q. So you have an -- you have an Email from
12 the EEOC with Exhibit 4 attached to it?

13 A. Yes.

14 Q. But you were there in person?

15 A. Because they -- it -- it wasn't mailed
16 to me. I didn't -- something was confusing
17 about the Email and all of that.

18 Q. So, it is your position that you don't
19 have the intake questionnaire and that you have
20 never seen it?

21 A. I saw it when I filled it out, but I
22 didn't receive a copy of it afterwards.

23 Q. And EEOC has not given it to you?

24 A. Provided. No, they would not provide
25 it. Can we take a quick bathroom --

1 Q. Yes.

2 MS. HUNT:

3 Yeah. Let's take --

4 MR. McGOEY:

5 Let's take a lunch break.

6 MS. HUNT:

7 You are finished with the EEOC?

8 MR. McGOEY:

9 Yes, I am.

10 MS. HUNT:

11 All right.

12 MR. McGOEY:

13 Let's take a lunch break.

14 THE VIDEOGRAPHER:

15 We are now off the Record at 1:01.

16 (Off the Record.)

17 THE VIDEOGRAPHER:

18 We are now back on the Record. The
19 time is 2:06.

20 EXAMINATION BY MR. McGOEY:

21 Q. Okay. Good afternoon, Mr. McNealy. We
22 are back after a lunch break.

23 Recently, a fourth amended complaint was
24 filed in your lawsuit. Did you review it before
25 it was filed?

1 A. No.

2 Q. When you were employed by Motiva, are
3 you aware that the Company had a policy against
4 discrimination and harassment?

5 A. Somewhat, yeah.

6 Q. Did you receive a copy of that policy in
7 the mail every year from -- from the Management?

8 A. No.

9 Q. All right. Let me show you a document,
10 which I'm going to mark as Exhibit 5. Let's see
11 if you are familiar with this --

12 A. (Reviewing document.)

13 Q. -- Exhibit 5. Let me know when you are
14 ready to talk about it.

15 A. (Reviewing document.) Okay.

16 Q. Have you ever -- do you recall having
17 ever seen those two pages that comprise Exhibit
18 5?

19 A. Not at all.

20 Q. Okay. Did you have access to a computer
21 at the worksite with Motiva?

22 A. Yes.

23 Q. And could you look up Company policies
24 and procedures on that computer?

25 A. Yes.

1 Q. Did you do that from time to time?

2 A. No. The computer room was a target area
3 for the harassing and bullying practices. Small
4 room. Half the size of this.

5 Eighteen, 20 computers right there, and
6 anybody will be there. That is -- that is a hot
7 spot. I -- I didn't frequent that often.

8 Q. Okay.

9 A. I didn't go in there often, if I could
10 avoid it, because that is where -- where
11 everybody hung out and the trouble would start
12 right there. That is almost like a locker room
13 at that facility.

14 Q. Okay. So, what trouble did you
15 experience in the computer room?

16 A. It is just close quarters and you hear
17 everybody's conversation. And if they wanted to
18 say something to you, they could say something
19 derogatory. They could appear to be talking to
20 somebody else.

21 And if -- you couldn't focus. You
22 couldn't get anything done when a lot of people
23 was in there. It was too crowded.

24 Q. So, let's go back briefly to the crane
25 box incident. What evidence -- first of all,

1 let me ask you this:

2 Do you believe that the crane box
3 incident happened because of your race?

4 A. Absolutely.

5 Q. What evidence do you have to support
6 that opinion?

7 A. Because they wouldn't have touched that
8 crane if somebody else had been there. That is
9 -- that is not a prank or a gag. That is --
10 that is intent to harm somebody.

11 Q. Is there anything else that you -- that
12 leads you to the conclusion that that incident
13 happened because of your race?

14 A. Yes. Because most people come by and
15 see that crane -- if they see the block at a --
16 a level not high enough above your head, they
17 push the button and make it go up, out of the --
18 a safe way. Safe. And then you can pull it --
19 you can move it out of the way.

20 You know, and that was a play. You
21 don't -- you make sure you don't get hit by that
22 block or that control box.

23 Q. Why are you connecting the location of
24 the box with race?

25 A. It is not just the location of the box.

1 That box won't move if don't nobody move it.
2 You have three white guys pull that thing back,
3 and they all were silent while it hit me.

4 Q. So, is it -- is it your opinion that
5 because there were three white guys present and
6 you, as an African-American, were hit with the
7 box, that it happened because of your race?

8 A. It was intentionally directed toward me.
9 It couldn't -- that thing don't move by itself.

10 Q. Okay. But do you -- is it your opinion
11 that it happened to you because of your race?

12 A. Yes.

13 Q. Why -- where is the race component for
14 you?

15 A. Because I was the only African-American
16 on that shift at night.

17 Q. So, now, the Saran wrap with the truck,
18 is it your opinion that the truck was wrapped
19 because of your race?

20 A. Yes.

21 Q. What evidence do you have that --

22 A. Same as with the crane. There is nobody
23 there for my protection. Nobody in there to
24 mean me any -- any good. It was to -- to
25 humiliate and embarrass me.

1 They might have played pranks, but that
2 -- and they said they have wrapped other people
3 in the truck. They have never wrapped anybody
4 in the truck. I was the first that I know of
5 out there. And it is because of my race.

6 It just -- and they -- and they bragged
7 about it to Sulzer. They went out there and
8 bragged about it. They paraded them around to
9 look at it.

10 Q. And -- and why do you say that somebody
11 bragged to Sulzer?

12 A. Because they knew about it. They asked
13 -- they asked me, "Were you in that truck?"

14 Q. Okay. But you can't name any of the
15 contractors who asked you that?

16 A. No. But I know them all if I ever see
17 them again. I know Richard.

18 Q. So, is it your opinion that the fact
19 that you are an African-American means that the
20 wrapping of the truck was done to you because of
21 your race?

22 A. Absolutely. And because I was there,
23 singled out with no other African-Americans
24 there on that shift.

25 Q. All right. So, then the goosing

1 incident, is it your opinion that the goosing
2 incident happened because of your race?

3 A. Yes.

4 Q. What evidence do you have to support
5 that opinion?

6 A. I told you, I was on 1940 facing north.
7 They approached from the south behind me where I
8 couldn't see them. And, quietly, snuck up
9 behind -- a whole maze of pipe to get to me.

10 They had a clear walkway in front on the
11 north side of 1940. That is the only way to
12 approach that pump. They went to extreme
13 measures to come from behind a maze of pipe to
14 get to me on the backside, on the south side.

15 Q. All right. So, is it your opinion that
16 you are African-American and this incident
17 happened to you, therefore, it had to have
18 happened because of your race?

19 MS. HUNT:

20 Asked and answered. Objection.

21 MR. McGOEY:

22 You can answer --

23 THE WITNESS:

24 Yeah.

25 MR. McGOEY:

1 -- the question.

2 THE WITNESS:

3 It was -- it was an ongoing process.

4 And it was continuous. And it was because of
5 race and a special kind of hatred.

6 EXAMINATION BY MR. MCGOEY:

7 Q. And I'm -- and I'm asking you to tell me
8 what is the evidence of this special kind of
9 hatred that you are talking about.

10 A. Just -- just racial slurs and the -- the
11 use of the N-word in a -- in a roundabout way.
12 "How we had a sign in our community."

13 That was David Mendel saying, "We had a
14 sign in our community saying N-word, 'Don't you
15 let the sun catch your black ass still in town.
16 Don't let the sun go down with your'" -- you
17 know, with -- and still be in town.

18 Q. All right.

19 A. And the sign read just like that. And
20 he -- and he stressed that.

21 And, see, that is what was happening to
22 me. The sun had caught me down -- down at
23 nighttime at Motiva. And they wanted to make
24 sure that I never volunteered for a nightshift
25 schedule change. They make it that much

1 miserable to -- for me.

2 Q. Who do you claim wanted to make sure
3 that you never --

4 A. All of them involved: Matt Louque, David
5 Mendel, Perry Munce. That is why I was always a
6 problem no matter what. And I was the only one
7 trying to do work.

8 Q. Okay. Is there anybody else that you
9 claim wanted to keep you from ever volunteering
10 for a nightshift again?

11 A. That whole good ol' boy network. That
12 is a cush job that they wanted to keep for
13 themselves.

14 Q. So, who are we talking about?

15 A. I called the names: Matt Louque, David
16 Mendel, George Kestler, Pat Meche.

17 Pat Meche had the -- the ultimate
18 because he was a heavy equipment operator. He
19 wasn't even a machinist. Just go upstairs and
20 sleep all night, unless they wanted to lift
21 something up. A cush job.

22 And they wanted to make sure I never
23 experienced that there. They had a lot of work
24 still going on, on dayshift, but it was grunt
25 work, hard work. And to avoid all the hard work

1 all the time, I volunteered for that schedule
2 change and got it. They want to make sure you
3 never volunteer again for a schedule change.

4 Q. Did anybody ever tell you that there was
5 an effort to prevent -- to make sure that you
6 wouldn't ever volunteer again?

7 A. Their actions spoke -- screamed it at
8 me.

9 Q. Okay. So it --

10 A. And then I -- with no comfort nowhere in
11 that -- during that period unless I was sitting
12 in that truck. That is the only spot -- safe
13 spot I had.

14 Q. All right. I understand your opinion
15 about their actions.

16 Is there anyone who ever told you that
17 there was an effort to prevent you from ever
18 volunteering for nightshift work again?

19 A. Their actions spoke it all the time.
20 "We don't want you here with us on this
21 nightshift." They said it all the times and the
22 way things operated. The way things -- the way
23 things went.

24 Q. All right. So, you brought up racial
25 slurs. So, let's go back. At the time of the

1 crane box incident, did anybody say anything
2 that you considered to be a racial slur?

3 A. At that time, no.

4 Q. At the time of the Saran wrap of the
5 truck, did anybody say anything that you
6 considered to be a --

7 A. The Saran wrap and the crane happened
8 simultaneously.

9 Q. Okay. So --

10 A. The same night. No. I didn't talk to
11 anybody then.

12 Q. All right.

13 A. But then a few nights prior to that, I
14 -- I hear how -- they wasn't allowed out there
15 at night. They wasn't allowed in that community
16 that David Mendel led in at night on the street.

17 Q. And so at the time of the goosing
18 incident, did anybody say anything that you
19 considered to be a racial slur?

20 A. I didn't communicate with -- you know, I
21 just said my piece, and it was over with. I
22 didn't give them a chance to tell me anything.

23 Q. All right. So, any racial slurs that
24 you heard in the workplace happened before the
25 control box incident?

1 A. Exactly.

2 Q. And when -- and did you, personally,
3 hear whatever David Mendel --

4 A. Yes.

5 Q. -- said?

6 A. And he said it -- he said it again. He
7 repeated himself to me.

8 Q. Where -- where was --

9 A. He was the -- in the machine shop. In
10 -- in the Central Shop.

11 Q. Were you offended by what he said?

12 A. Yes.

13 Q. Did you report it to anybody?

14 A. No.

15 Q. Why not?

16 A. At 7:00 at night? Who can you report it
17 to unless you report it to the people that is
18 doing it. It is the people that is involved in
19 it.

20 Q. I mean, you knew Brandon Dufrene. He
21 had been your manager for a long period of time.

22 A. That is right. But he worked from 7:00
23 to 4:00 -- 7:00 to 3:00.

24 Q. Isn't his cellphone posted in the
25 machine shop?

1 A. I don't know. I don't -- I don't
2 remember it being there.

3 Q. Couldn't you have gotten a hold of
4 Brandon Dufrene, if you wanted to?

5 A. It may be possible. It may have been
6 possible.

7 Q. Are you claiming that Motiva failed to
8 promote you because of your race?

9 A. Motiva didn't even give me a chance to
10 apply for any kind of promotions. There was no
11 promotions available that I could even put in
12 for.

13 Those people that were promoted were
14 promoted, "Hey, come over here. Let me tell you
15 something. You want to be an -- you want to be
16 an inspector? You want to be a -- you want to
17 be a -- a foreman?" What -- you know, and they
18 was -- those jobs are offered by word of mouth
19 to each other's buddies, good ol' boys.

20 I never even knew -- we didn't know. I
21 didn't know there was even a promotion available
22 until they come out of a meeting or something
23 and say, "Yeah, now I'm an inspector now."

24 So, okay, that -- that is cool. And try
25 not to question it. Try not to rock -- rock the

1 boat. Keep a job. Stay employed. That is all.

2 And there -- and it is -- and a
3 promotion or anything available to me, they
4 wouldn't come to me like he went to the other
5 people and offered it to them.

6 Q. So, who are you claiming went to other
7 people and offered --

8 A. Brandon Dufrene was running the shop at
9 that time.

10 Q. Did you ever say to Brandon, "Brandon, I
11 would like -- I would like to be considered for
12 a position"?

13 A. No. And nobody -- as far as I'm
14 concerned, I didn't know -- nobody else did. He
15 just picked who he wanted.

16 Q. And do you know what his reason for
17 picking certain people was?

18 A. I have no idea.

19 Q. Do you claim that you have a disability?

20 A. I got a diagnosis.

21 Q. What is your diagnosis?

22 A. Anxiety and major depressive disorder.

23 Q. Okay. Is it your opinion that Motiva
24 discriminated against you because of any
25 disability?

1 A. You know, I don't know how to answer
2 that question. I don't know how to answer it.
3 I didn't have a disability or a diagnosis,
4 either one, before '11. 2011, late.

5 Q. Okay. And as of November the 10th of
6 2011, when you met with Brandon and David
7 Naquin, you hadn't been diagnosed --

8 A. No.

9 Q. -- with anything at that point?

10 A. No.

11 Q. Okay. So, there are allegations in this
12 lawsuit about a conspiracy. What does that mean
13 to you? What does conspiracy mean to you?

14 A. A connection. A conspiracy to cover up
15 the facts that happened. To cover up the intent
16 and make it seem like a -- a gag, a prank, a
17 horseplay when it was actually a hate crime.

18 Q. And who do you think participated in the
19 conspiracy?

20 A. All the people involved. Just -- just
21 like the report said. I don't want to throw
22 nobody under the bus, but -- and the I don't
23 want to do this, but -- you know -- you know, I
24 might have wrapped him in the truck, but I
25 didn't hit him with the crane. You know, that

1 kind of -- and, you know, that kind of
2 conspiracy.

3 Q. But who are you talking about? What --
4 what persons were involved in what you are
5 alleging to be a conspiracy against you?

6 A. Everybody from the -- Matt, George, Pat
7 Meche, and then the Union.

8 The Union president saw me wrapped up in
9 that truck and didn't offer anything, any kind
10 of help, suggestions or anything.

11 It is just that, "Hurry up and clean it
12 up before somebody takes a picture of it." He
13 was more worried about somebody seeing what
14 happened than the effects of what had happened
15 to me.

16 And the -- and the Human Resources were
17 the final straw. They covered it up and didn't
18 want to talk about it in that attendance
19 meeting. But then at the end, they want to ask
20 me, "Were you really wrapped in that truck?"
21 Almost forcing me to lie.

22 Q. And who is it that you say asked you at
23 that meeting, "Were you really wrapped up in the
24 truck?"

25 A. Brandon Dufrene.

1 Q. He is not Human Resources, is he?

2 A. No. But he is a Maintenance manager.
3 He was at that time. I don't know who he is now
4 or what he is or who is the Maintenance manager
5 now.

6 Q. Do you know whether Matt Louque was
7 disciplined for any of the incidents that you
8 have testified --

9 A. How could I -- how could I know anything
10 if I'm not there? I have heard it. You know, I
11 have heard rumors of it, but I don't know what
12 actually happened.

13 Q. If he was disciplined, would you change
14 your opinion about this conspiracy?

15 A. No indeed because they -- they -- they
16 sealed the deal in that meeting on the 29th.
17 February the 29th, they sealed it -- their --
18 their intent, their purpose. Stick to it, shut
19 your mouth, and go back to work and don't ever
20 mention none of this again.

21 Q. Did anybody in that room on February
22 29th say, "Shut your mouth."

23 A. I was told by the Union president. And
24 I mean now. He wasn't the Union president then.
25 Wilton Ledet, "Don't say nothing."

1 Q. Okay. Is the --

2 A. "Now is not the time to -- to fight."

3 Q. Is there anybody else that you claim
4 said something about "don't say anything"?

5 A. No. But I was treated harshly by Steve
6 France.

7 Q. What did Steve France do that you
8 considered to be harsh treatment?

9 A. When he pulled out timecards and gate
10 logs for the -- for the past three years. Gate
11 logs where I logged in at the gate every day. I
12 didn't have no problem going to work and being
13 at work.

14 Q. Who pulled out gate logs?

15 A. Steve France or a -- a -- I hope I'm not
16 calling the names wrong because I didn't meet
17 him but once or twice.

18 Q. What did this guy look like?

19 A. Kind of -- kind of big boned. Kind of
20 heavy-set. Kind of heavy-set white guy. They
21 were all white.

22 So he -- he just -- you know, he -- he
23 wanted to take the attention away from what
24 happened to me in November, and consider my
25 attendance the fore -- in the forefront.

1 And every gate log, every time I clocked
2 in, and the time and the date and everything all
3 for three years, they had that in front of me,
4 which wasn't even an issue. I had one problem
5 when I was arrested for selling my own cattle.
6 And that is it. Them two days.

7 I couldn't bring up anything after I was
8 instructed by the Union rep not to bring up
9 anything.

10 Q. Did any of the Company's managers ever
11 tell you, "Don't bring anything up? We don't
12 want to hear it. Don't talk to us"?

13 A. No. But at the end of the meeting,
14 Brandon Dufrene said, "Well, were you really
15 wrapped up in that truck?" After they done told
16 me don't mention it, that let me know you better
17 lie right now, or you are going to get
18 terminated.

19 Q. Why did you conclude that you would be
20 terminated?

21 A. Because at -- they didn't want to hear
22 anything from the beginning of the meeting about
23 that.

24 They told me don't -- you know, "We are
25 not here to discuss the results of our

1 investigation in November. We are here to
2 discuss your attendance only." And that is why
3 I knew I couldn't bring anything up.

4 Q. Did they say that, "We can't tell you
5 about confidential discipline we have issued to
6 other employees"?

7 A. That -- that wasn't even -- that never
8 was an issue.

9 Q. But -- but you have heard from somewhere
10 or another that Louque was disciplined and
11 Kestler was disciplined, correct?

12 A. I think they -- I think what I heard was
13 they just took away their bonuses for one year.
14 That is what I heard.

15 Q. So, what was a typical bonus?

16 A. I don't know.

17 Q. What was your bonus, typically?

18 A. It was one -- it was only one bonus for
19 may -- it may be anywhere from two to five grand
20 a year at the end of the year. One time.

21 But if you are Staff and Management, if
22 you have been promoted to those positions, that
23 is top secret. It is -- it is written in blood,
24 and they can't be talked about, discussed, and
25 nobody knows what -- who is -- who -- what do --

1 you know, that is not for the hourly people.

2 Q. Okay. So, let's assume what you heard
3 is true. Well, had you read the investigation
4 summaries and seen that there was discipline
5 for --

6 A. I read that summary. I read it.

7 Q. Okay. So, let's assume that -- that
8 Kestler and Louque lost bonuses somewhere
9 between \$2,000 and \$5,000 each.

10 MS. HUNT:

11 An objection. This is calling for
12 speculation, and it is hearsay.

13 THE WITNESS:

14 I assume.

15 MR. McGOEY:

16 It is what Mister -- I'm just asking
17 Mr. McNealy about what he told me.

18 EXAMINATION BY MR. McGOEY:

19 Q. So assuming that that is true, that they
20 lost a bonus somewhere between \$2,000 and
21 \$5,000, wouldn't you --

22 A. It was a lot more than that. It was a
23 lot more than that, if you are Management and
24 Staff.

25 Q. Okay. And -- and --

1 A. Ask Jamie. He might have a better --
2 better understanding of that.

3 Q. And George Kestler was not a manager,
4 was he?

5 A. He was being promoted.

6 Q. Listen to my question.

7 At the time that you were dealing with
8 him in November of 2011, he was not a manager,
9 was he?

10 A. I don't know because all that stuff is
11 done in secret.

12 Q. Okay. Louque was not a manager. Can
13 we --

14 A. He was --

15 Q. -- agree on that?

16 A. -- an inspector. He was act -- acting
17 or working as an inspector.

18 Q. But your suspicion is that the bonus --
19 the bonus lost would have been even more than
20 \$5,000 for those guys, correct?

21 A. And it is -- and it may be even every
22 quarter versus annually.

23 Q. So, let's just assume it was 5,000.

24 A. Quarterly.

25 Q. Okay. Let's assume it was a 5,000

1 quarterly --

2 MS. HUNT:

3 I'm objecting to all of --

4 MR. McGOEY:

5 -- bonus.

6 MS. HUNT:

7 -- this. It is calling for
8 speculation.

9 THE WITNESS:

10 Yeah, speculate.

11 MS. HUNT:

12 Mr. McNealy already said he has no
13 knowledge of it. He heard this from somewhere.
14 And there is no evidence of this that we have
15 been --

16 MR. McGOEY:

17 Your objection is noted. You
18 can't --

19 MS. HUNT:

20 Okay. I'm sorry.

21 MR. McGOEY:

22 -- testify for him.

23 MS. HUNT:

24 My bad.

25 EXAMINATION BY MR. McGOEY:

1 Q. Assume that each guy, Kestler and
2 Louque, lost a bonus of at least \$5,000.

3 Don't you consider that to be a pretty
4 significant penalty for their involvement in
5 these three incidents?

6 A. No. Because, man, I lost -- I lost that
7 every month because I wasn't able to work. And
8 I was -- and I was -- what -- you know, that --
9 that hostile work environment, it was just
10 deteriorated once I reported those in -- those
11 things that happened for me.

12 Q. So, why haven't you ever gone to work
13 somewhere else?

14 A. Why -- why -- why I hadn't gone to work
15 somewhere else?

16 Q. Right.

17 A. That is what -- that was Brad Price
18 because it was -- it was -- it would bring about
19 a fraud charge on me on a lot of different
20 things.

21 And I don't believe I can. I can't
22 focus long enough to -- to maintain a job and to
23 do it properly since that happened.

24 Q. So, is it -- is it your opinion that
25 ever since the end of 2011, you have been unable

1 to do any kind of work?

2 A. Well, I -- it is certain things and
3 certain situations. Yes, I can do -- I can do
4 things.

5 I can do things, but it may take longer.
6 It may take a little bit more concentration.
7 And I -- and it depends on what it is and where
8 it is.

9 Q. So, why haven't you tried to find a job
10 that you think you could do?

11 A. I couldn't do that. That -- it'll --
12 it'll go against all -- it -- it just -- it just
13 -- it would go against the doctor's orders.

14 Q. So, what doctor has told you that you
15 should not try to get any kind of job?

16 A. I got two doctors, Atluri is one and
17 Caro is the other one.

18 Q. And -- and is it your testimony that
19 both of those doctors have told you, "Do not try
20 to get any form of work"?

21 A. No, they hadn't told me that. But you
22 just -- and that -- but it just -- in my
23 opinion, you -- you know, you can't focus. You
24 -- you are disabled. You won't be able to go to
25 work and function like you did.

1 Q. Do you receive any kind of government
2 assistance, other than your Social Security
3 Disability money?

4 A. Medicare. I was on -- I had to have --
5 Obamacare saved my life because when they
6 dropped the insurance and quit paying me, it was
7 two years that I had nothing and no medical,
8 dental or anything.

9 So that Affordable Care Act saved my
10 life, along with the doctors just giving me
11 samples of the medicine that I was taking. I
12 couldn't afford the medicine with no income.

13 Q. So, you are now receiving Social
14 Security benefits, correct?

15 A. Yes.

16 Q. Do you know what they have classified as
17 your disability?

18 A. No, I don't know that to be certain.

19 Q. Did you fill out the applications for
20 Social Security benefits?

21 A. Yes, a long time ago.

22 Q. Do you have copies of those documents?

23 A. No.

24 Q. What did you tell them your disability
25 was?

1 A. The same thing the doctor said.

2 Q. And what is that?

3 A. Anxiety and severe depressive disorder.

4 Q. What damages do you think Motiva owes
5 you?

6 Well, first of all, let's deal with the
7 question that is on the table right now before
8 -- before we start with this. Do you need me to
9 repeat it?

10 A. Yeah. Please.

11 Q. What -- what damages do you think Motiva
12 owes you?

13 A. Well, it is not just Motiva. I worked
14 for Shell, also.

15 Q. Okay. So, what damages do you think
16 Motiva and Shell owe you?

17 A. Well, I -- you know, I've heard things
18 like punitive damage. I -- you know, but lost
19 wages, time, lost benefits.

20 The -- it'll -- the -- I had to
21 deteriorate my 401(k). Loss of medical
22 insurance, loss of dental coverage, which the
23 Union covered that.

24 I had major dental work done that I
25 couldn't afford to pay cash for. I had no

1 insurance. So, it caused a lot of pain and
2 suffering. Just -- just dental work. And it is
3 just on and on.

4 Things could have been a whole lot worse
5 if I wasn't given the samples of the medicine.
6 Could have blowed my kidneys out without high
7 blood pressure. The doctor said, "Man, come in
8 here and get this medicine. You at least need
9 to control that blood pressure."

10 And they had gave me samples to keep me
11 alive. Keep me going until a certain day. But
12 pain and suffering, medical treatment. A lot of
13 different things.

14 Q. You have medical insurance through
15 Medicare?

16 A. Now.

17 Q. Correct. So there was some period of
18 time from part of 2014 into the beginning of
19 2016, where you say you didn't have medical
20 insurance?

21 A. Right.

22 Q. But you used Obamacare. You went to
23 the --

24 A. Exactly.

25 Q. -- exchange and you --

1 A. And they --

2 Q. -- bought a policy?

3 A. -- didn't pay -- they -- they -- yes.

4 And they -- and the -- they didn't pay for
5 anything. The medicine was sky high. I
6 couldn't afford it.

7 It just -- it didn't pay what this --
8 and the -- even now the things that they thought
9 -- that I thought they were paying for, I am
10 being -- receiving medical bills for even with
11 Obamacare, even with the Affordable Care Act.
12 But at least I got the medicine to keep me
13 alive.

14 Q. All right. So if you would take a look
15 at the two letters that I've put in front of you
16 that are marked as Exhibit 6, one is handwritten
17 and one is typed.

18 A. Give the --

19 Q. I'm sorry. I'm sorry. I'm looking at
20 the one that I'm supposed to be giving you.

21 A. (Reviewing document.)

22 Q. So, let me first ask you about --

23 A. This is -- (reviewing document.)

24 Q. So the first page of Exhibit 6 has a --
25 has a number on the bottom. Do you see that; M,

1 dash, 0332?

2 A. Uh-huh.

3 Q. Okay. Is all of the handwriting on the
4 first page of Exhibit 6 your handwriting?

5 A. Yeah.

6 Q. The notation on the bottom, had you
7 talked to this lady whose name is at the bottom,
8 Vicky Grenier?

9 A. Continuously.

10 Q. Okay. So -- and does she work with
11 MetLife?

12 A. Right.

13 Q. So, you handled your own disability
14 benefit claim with --

15 A. I did.

16 Q. -- MetLife?

17 A. I followed her instructions.

18 Q. Okay. But you -- you made the calls to
19 MetLife?

20 A. Yeah. And I followed her instructions.

21 Q. Okay. All right. Let's look at the
22 second page of Exhibit 6, which has the number
23 M, dash, 0658. That is your signature, correct?

24 A. (Reviewing document.) Uh-huh.

25 Q. Did you type this letter?

1 A. No.

2 Q. Who did?

3 A. I don't know. It must have been
4 somebody at Shell.

5 Q. Well, why -- why do you believe that it
6 was somebody at Shell?

7 A. I don't know. And it look like my
8 signature has been superimposed on. I don't
9 remember this -- this letter. I don't remember
10 it at all.

11 Q. I mean, there is no reference -- I'm
12 sorry. There is -- there is -- this is not on
13 Shell letterhead, right?

14 A. Well, if I typed it. I mean, where is
15 this Shell number -- employee of Shell number,
16 claim number and all that? I didn't -- I don't
17 have access -- I didn't have access to all of
18 that.

19 Q. Well, let's talk about that. Look at
20 the first page of Exhibit 6.

21 MS. HUNT:

22 (Indicating.)

23 THE WITNESS:

24 Oh, Anna Dow.

25 MR. McGOEY:

1 You -- you really can't -- you
2 really can't do that.

3 MS. HUNT:

4 Well, I was just bringing it to his
5 attention on the top of the paper.

6 THE WITNESS:

7 Yeah.

8 MR. McGOEY:

9 Okay.

10 EXAMINATION BY MR. McGOEY:

11 Q. So if we look at the claim number on
12 Page 1 of Exhibit 6 at the top --

13 A. Yeah. Yeah.

14 Q. -- it matches the claim number on Page 2
15 of Exhibit 6, correct?

16 A. (Reviewing document.) Okay.

17 Q. So, you were in possession of the claim
18 number, right?

19 A. Oh, yeah. Most evidently.

20 Q. So, there is a name at the top of the
21 second page of Exhibit 6, Anna Dow, D-O-W. Do
22 you know who that person is?

23 A. Yes.

24 Q. Who is that?

25 A. That is an attorney in Gonzales.

1 Q. Did she represent you at some time?

2 A. No. She just -- she said she would
3 request some -- some information for me. She
4 did tell me that because I -- I was speaking to
5 her about it.

6 Q. So you -- you were able to tell Ms. Dow
7 about your claim for benefits with MetLife?

8 A. Yes. See, I didn't retain her as an
9 attorney. She just was trying to advise me
10 about it. I didn't -- she never represented me
11 in a -- in a -- in a workmen's comp claim.

12 Q. Did she represent you on the disability
13 claim?

14 A. No. This is an elderly lady, and said
15 it would be way too much work for her and she
16 wouldn't touch it.

17 Q. Do you have any medical condition that
18 you claim was caused by Motiva?

19 A. Yes.

20 Q. What condition?

21 A. Anxiety, major depressive disorder.

22 Q. Are you currently being treated by any
23 doctor for those conditions?

24 A. Yes.

25 Q. Who?

1 A. Dr. Atluri.

2 Q. Any other doctor?

3 A. Dr. Caro.

4 Q. Any other doctor than those two?

5 A. No.

6 Q. How frequently do you see Dr. Caro?

7 A. As needed, and definitely every six
8 months.

9 Q. Is he -- is it a he or a she?

10 A. He.

11 Q. Is he a family medicine doctor?

12 A. Yes.

13 Q. Okay.

14 A. Primary care doctor.

15 Q. How often do you see Dr. Atluri?

16 A. At least every six months, or even in
17 between if I need to. If the medicine ain't --
18 is not doing what they should, she'll -- she'll
19 adjust it.

20 Q. Do you go to any therapy?

21 A. No. I didn't have insurance to afford
22 that. I just got Medicare. I'm going to see if
23 they'll afford it.

24 Q. When is the last time you had any
25 therapy with Mr. Schleis?

1 A. I -- I saw him the other day. It wasn't
2 official, but we sat and talked for a few
3 minutes the other -- just the other day.

4 But I let him know I got Medicare now.
5 I may be able to start coming back to see him.
6 But Obamacare wouldn't pay for that.

7 Q. Okay. So the question is: When did you
8 -- when -- when did you stop going to him for
9 therapy sessions?

10 A. Those dates and times are distorted in
11 my head. I would have to look back at some
12 records to be able to tell you definitely.

13 Q. Do you have those records at -- at home?

14 A. No. I had it -- and then he might have
15 them. But I -- I don't.

16 Q. So --

17 A. If I could have saw him and continued to
18 see him, if I would have had insurance, I would
19 have continued to see him.

20 Q. Did you see him at all in 2015?

21 A. No, I don't think so. I didn't have --
22 I didn't have medical coverage.

23 Q. Okay. Have you seen him at all in 2016?

24 A. No.

25 Q. So, how did you come to run into him the

1 other day?

2 A. Because I was at Dr. Atluri's office.

3 And he is in that office.

4 Q. Okay. And you just -- you saw him or
5 did you like go -- does he have a -- did you go
6 knock on his door? Did you just run into him in
7 the hallway? How did -- what happened?

8 A. I saw him in the hallway, and I asked
9 could I go see him for just a minute, just a
10 second.

11 Q. Okay. All right. Have you set up any
12 appointment with -- with him?

13 A. Yes.

14 Q. When?

15 A. I don't -- that is coming up in the next
16 month or so. I don't know exactly when.

17 Q. Do you have any scheduled visits with
18 either Atluri or Caro?

19 A. Yes.

20 Q. When?

21 A. Every six months. I just saw her last
22 month. And so it is every six months I see
23 either one of them. Either/or.

24 And Dr. Caro handles all the -- all the
25 physical medicine that has got to be renewed

1 every six months: cholesterol, metformin and
2 stuff like that, high blood pressure.

3 Q. How did -- who referred you to Dr.
4 Atluri?

5 A. St. James Behavior Health. Three months
6 I spent in the outpatient care at the hospital.

7 Q. And who referred you to Dr. Reddy?

8 A. I don't remember. I don't recall.

9 Q. Did you start seeing Dr. Reddy at the
10 time that you were arrested for cattle theft?

11 A. No.

12 Q. What did you first start seeing him for?

13 A. The stuff going on at work.

14 Q. What stuff?

15 A. The -- the trouble that was happening in
16 the -- in the shop with the -- between the
17 Management and the employees causing stress and
18 anxiety. And that is when I went and started
19 seeing him.

20 Q. What trouble was that?

21 A. The big issue about newspaper. Simple
22 stuff. Simple stuff that is con -- it was a
23 battle for dominance and -- it was a battle for
24 control and -- and a -- it was a big battle
25 about one guy saved newspapers.

1 Q. Was that Warren Madere?

2 A. Yeah.

3 Q. He is a white guy, right?

4 A. Yeah.

5 Q. He saved like -- he saved newspapers and
6 -- and Management told him they didn't want him
7 saving newspapers.

8 A. And that was a big old mess with
9 everybody in there. And that -- that -- I mean,
10 and then -- and then Clay Threadgill liked big
11 deer racks in his office.

12 See, but this dining hall is for the --
13 for the machinists. But you want to come in
14 here and tell us -- I mean, and us -- nobody
15 talks about machinery repair standards. The
16 safety is going out the window.

17 We fighting over control. Just -- just
18 simple control. The -- the main thing -- the
19 important things were left undone.

20 Q. You -- you felt like Management was --
21 was unfair in the way they treated Madere with
22 these newspapers, right?

23 A. No, not -- not necessarily that. It is
24 just that they were unfair in the way they
25 handled it. It -- it -- it came first and

1 foremost. It is simple newspaper, man. That
2 ain't -- that ain't going -- that ain't going to
3 stop this place from blowing up, or that ain't
4 going to cause it to blow up.

5 You -- machine repair standards is what
6 should be, you know, concentrating on. And they
7 worried about some doggone newspaper on top of a
8 refrigerator.

9 Q. So, you weren't the guy saving the
10 newspapers?

11 A. No.

12 Q. But that situation caused you to go see
13 Dr. Reddy?

14 A. My -- I feel like all -- I feel like all
15 safety was thrown out the window, and we worried
16 about newspaper on top of the refrigerator.

17 This happened in the safety meeting, in
18 a safety setting. We wasn't even supposed to be
19 talking about nothing like that.

20 Q. Did you experience any flooding this
21 year in Gonzales?

22 A. No.

23 Q. You had any close family members pass
24 away in the last five years?

25 A. Yes.

1 Q. Who?

2 A. A lot of people that -- that were close.
3 Maybe not have been necessarily a family member.
4 My cousin died. It is a lot of people in the
5 last five years. There is a lot of people
6 passed away.

7 Q. Did that impact your -- your mental
8 health?

9 A. No.

10 Q. Have you been hospitalized at all since
11 2011?

12 A. Yes.

13 Q. 2012. I'm sorry. That is my mistake.
14 Have you been hospitalized since 2012?

15 A. No.

16 Q. Have you ever had anybody foreclose on
17 you?

18 A. No.

19 Q. Ever filed bankruptcy?

20 A. No.

21 Q. Have you been able to pay whatever bills
22 you had?

23 A. Yes.

24 Q. How much did you take out of your
25 401(k)?

1 A. All of it, just practically, except for
2 about \$2,000.

3 Q. So, how much do you think you took out?

4 A. Over a -- over 120 grand. And, look,
5 the main stress factor, I had a house standing
6 loan for 40 grand when -- when -- when I was
7 dropped my MetLife that caused that loan to
8 forfeit.

9 And -- so it matured that year, and it
10 came back on my taxes for 2012. I wind up owing
11 the IRS way over \$20,000. I'm still owing them.
12 Still got to pay them. A -- a big stress
13 factor.

14 Q. What was that -- what was that loan for?

15 A. That loan was to take care of some bills
16 and stuff like that that I had that I wanted to
17 consolidate, and I was going to pay myself
18 back --

19 Q. When --

20 A. -- the money.

21 Q. When did you take out that -- you took
22 out a loan from your 401(k)?

23 A. Yes.

24 Q. Okay. Have you ever been sued?

25 A. Yes.

1 Q. When?

2 A. It has been -- might have been way back
3 in the -- I don't know. Maybe -- I can't
4 remember. '98. About probably '92.

5 Q. For what?

6 A. It was a paternity suit.

7 Q. Okay. What happened?

8 A. That is -- that is my -- that is my
9 youngest son. That was his mama that sued me.
10 Paternity suit.

11 Q. Armond Link?

12 A. Yes.

13 Q. Were you denying that you were the
14 father?

15 A. Well, I -- I just needed to know
16 legally.

17 Q. So -- so she sued you, and it was
18 determined that you were the father?

19 A. Right.

20 Q. Okay. Have you ever been in a 12-step
21 program?

22 A. No.

23 Q. Do you recall seeing a doctor named
24 Richard Fredrick?

25 A. If I did, it was -- it may have been the

1 -- it may have been a Social Security doctor. I
2 don't -- I don't remember their names and all of
3 that. I saw a bunch of doctors with them.

4 Q. Do you have back issues and feet issues?

5 A. Now I got back issues.

6 Q. Is that something that developed since
7 after the last day you worked at Motiva?

8 A. I think so. It is sciatic nerve because
9 of not having the medicine for diabetes. Being
10 out of that medicine for a year and a half
11 affected me.

12 Q. When is the first time you spoke to an
13 attorney about suing Motiva or Shell Chemical or
14 Shell Oil or anybody else?

15 A. It was probably three or four months
16 after it happened. It was at -- probably after
17 -- I know. It was after that incident on
18 February the 29th, when I knew I hadn't a leg to
19 stand on -- no leg to stand on. And I called
20 practically every attorney I could find in the
21 phone book.

22 And that -- and I was referred to an
23 attorney named Jill Craft. They said whatever
24 you do, get her to represent you. And come to
25 -- and I called her, had a nice conversation

1 with her.

2 She said, "Listen, I already know all
3 about your case. I am already employed by Shell
4 Oil. And I can't represent you."

5 She was -- she was elegant enough to --
6 to not go like Becnel did and represent -- say
7 he would represent me and wouldn't. And he was
8 employed by Shell Oil also. Conflict of
9 interest.

10 Q. Why do you say Becnel was employed by
11 Shell? What reason do you have to believe --

12 A. Well, there is family ties and his --
13 his mother was a secretary and a filer for
14 people for Shell Oil.

15 And they had close family ties because
16 of the Shell in -- the Shell in the Gonzales
17 area up there. Shell Chemical up there. They
18 had close ties because they handled an explosion
19 that happened in 2001.

20 With that explosion, him and a -- that
21 Edward Stauss, I think that is the guy's name,
22 they worked together on a settlement, a final
23 settlement agreement. And they both were in
24 cahoots. And Shell was one of the 250
25 complaints. It was -- it was the Vulcan next

1 door that exploded.

2 Q. Who -- who told you that Becnel and Ed
3 Stauss were in cahoots?

4 A. Well, they was all right there together
5 on the list of the attorneys. I saw it for
6 myself.

7 Q. How did you get any information about
8 the Vulcan suit? Were you involved in that --

9 A. No.

10 Q. -- suit?

11 A. But I got friends who were involved and
12 affected, and didn't get a dime from it.

13 Q. So, they showed you the paperwork and --

14 A. They showed me all the paperwork.

15 Q. And -- and that led you to believe that
16 Ed Stauss and Becnel were in cahoots working
17 together?

18 A. Well, they worked -- they worked
19 together on a final settlement agreement for
20 Shell versus -- versus Vulcan.

21 Q. Do you know what side the two of them
22 were on?

23 A. I don't know. I don't know. I just saw
24 the -- the list of the attorneys. It is -- and
25 it is Daniel Becnel and the Becnel Law Firm and

1 Ed Stauss' name right up under it. The same
2 list. So, there had to be some connection.

3 Q. Well, if one was on the plaintiff side
4 and one was on the defense side --

5 A. Well, all that paperwork was pertaining
6 to the -- the 250 claimants that got injured
7 from the -- the -- you know.

8 Q. I mean, can we agree that you are
9 guessing about whether they were in cahoots?

10 A. Listen, I -- I know the way I -- I --
11 you know the hatred, that special kind of hatred
12 I told you about? I got that -- a double dose
13 of it from Darryl Becnel after he decided he
14 wasn't going to do anything to represent me.

15 Q. So, what did that have to do with him
16 being in cahoots with Ed Stauss?

17 A. Well, he -- he was. I mean, they -- and
18 he stopped the proceedings and he -- and he made
19 sure that I let that one year go so they
20 couldn't bring criminal charges.

21 He worked in Shell's behalf with -- to
22 me. He worked against me in Shell's behalf. He
23 had my paperwork for six months before that
24 statute of limitation would have been up.

25 Q. You are not saying you needed an

1 attorney for you to be able to pick up the
2 telephone and call the police, if you thought
3 that --

4 A. If I had been --

5 Q. -- you --

6 A. -- instructed that within that one year,
7 I would have definitely done it.

8 Q. Well, did you think you were the victim
9 of a crime or not?

10 A. Yes, I was a victim of a crime.

11 Q. Then don't most victims of crimes call
12 the police?

13 A. It -- look, if -- if -- you see the
14 police record and what is happening with police
15 shootings and all that stuff these days?

16 Q. So, let me know this: Did you make a
17 decision not to call the police because you
18 didn't --

19 A. I didn't --

20 Q. -- think that they would help?

21 A. -- even consider the police. That
22 wasn't even considered.

23 Q. Do you know who --

24 A. The Union was supposed to protect me.

25 Q. Do you know --

1 A. Human Resources was supposed to protect
2 me.

3 Q. Do you know who Patricia TaKang is?

4 A. Yeah.

5 Q. Who is that?

6 A. That is a friend of mine.

7 Q. So, what is your relationship with
8 Patricia --

9 A. She is just --

10 Q. -- TaKang?

11 A. -- a good friend.

12 Q. Where does she live?

13 A. In New Orleans.

14 Q. How do you know her?

15 A. I just -- I know her from coming to New
16 Orleans.

17 Q. Well, how often do you come to New
18 Orleans?

19 A. It depends. If -- if I need to come to
20 New Orleans, I will come. I mean, it -- I'm not
21 on -- it is not on a regular basis. I don't
22 come weekly or daily or monthly.

23 Q. Is this a lady that you dated or had an
24 intimate relationship with?

25 A. No. She is a friend.

1 Q. So, what is her connection to this
2 lawsuit because she was named in -- in your
3 discovery responses, and I am trying to figure
4 out why.

5 A. She was named in my discovery responses?

6 Q. Yes.

7 A. She is just a friend. I don't know who
8 -- who named her. I don't know.

9 Q. So, the question was, Interrogatory
10 Number 7, "Please identify each person with whom
11 you have communicated concerning the allegations
12 in this lawsuit or any facts relevant to this
13 lawsuit."

14 And the first name in the answer that
15 you provided is Patricia TaKang. So what have
16 you talked to Patricia TaKang about regarding
17 this lawsuit?

18 A. Yeah, I -- you know, sometimes I am
19 better at other times. That paperwork there, I
20 didn't write that. I don't know if -- you know,
21 I didn't -- it -- it may be done in my behalf,
22 but I don't remember.

23 I know Patricia TaKang. And she is a
24 good friend. But I don't know -- I don't know
25 what she would play into this.

1 Q. Bridget Barkley. Who is Bridget
2 Barkley?

3 A. Bridget Barkley is the timekeeper. She
4 was the timekeeper at Shell when I was working
5 there. She was the secretary in the office.

6 Q. And is she the person who submitted the
7 timecard on the day during the turnaround when
8 you were late?

9 A. Yes.

10 Q. Okay. Had you called her and asked her
11 to submit your timecard?

12 A. No.

13 Q. Okay. So, how did she come to submit a
14 timecard for you?

15 A. I don't know. I -- I mean -- you know,
16 I submitted my own timecard, and it was 10 hours
17 on that card. She submitted a card with 12
18 hours.

19 It messes up their recording -- their
20 paperwork if it is less than 12 hours. Anything
21 less than 12 throws them off. They got to do a
22 lot of special work and stuff like that.

23 So she just -- she just may have wanted
24 to see a card with 12 hours on it. It was less
25 -- less work for her.

1 Q. All right. I'm going to show you what
2 I'm marking as Exhibit 7. It is Plaintiff's
3 Response to the First Set of Interrogatories.

4 A. (Reviewing document.)

5 Q. The only question I'm going to ask you,
6 and take your time before you answer it, is:
7 Did you see these answers before they were sent
8 to the defendants in this lawsuit?

9 A. No. First time seeing it.

10 Q. All right. I am going to show you
11 Plaintiff's Response to Admission, which I'm
12 going to mark as Exhibit 8.

13 A. (Reviewing document.)

14 Q. Same question. Did you see these before
15 they were sent to the defendants in this
16 lawsuit?

17 A. You know, I am going to say this right
18 here at this point. My main way of
19 communicating is verbally. It is kind of hard
20 for me to read it and comprehend it and all
21 that.

22 It is the first time seeing this. These
23 things were answered verbally if -- if I had
24 anything to do with it, in a conversation, a
25 phone conversation or whatever.

1 Q. So, what I'm trying to find out is once
2 these were prepared, did you review them before
3 they were furnished to the defense -- the
4 defendants in this case?

5 A. This is my first time seeing this.

6 Q. Okay. Thank you.

7 Do you claim that any of the people
8 involved in this lawsuit have committed perjury?

9 A. Yes, indeed.

10 Q. Who do you claim has committed perjury?

11 A. Anybody who said -- who denied that
12 those things happened to me.

13 The -- the defendants' attorneys, that
14 they said, at any point, it didn't happen on
15 Shell's facility, they committed perjury.

16 Q. Okay.

17 A. Because it didn't happen, that is --
18 that is what I heard that their response was.
19 That is what I heard the Union's response was,
20 it didn't happen. But -- but it is -- it was
21 admitted to.

22 Q. So, you are talking about lawyers?

23 A. Whoever answered their --

24 Q. Whoever filed pleadings on behalf of --

25 A. Exactly.

1 Q. -- the defendants?

2 A. They -- they perjured, and it is fraud.

3 Q. Okay. All right.

4 I'm going to mark this next document
5 Exhibit 9. It is titled Order and Approval and
6 Dismissal of Suits/Claim With Prejudice?

7 A. (Reviewing document.)

8 Q. Have you seen this document before
9 today?

10 A. No, I haven't.

11 Q. Do you know who put that handwriting on
12 the lower left-hand side of Exhibit 9?

13 A. No.

14 Q. And I take it, you have never talked to
15 anyone about who wrote the information on the
16 lower --

17 A. You know what? I take this back. I
18 have to look at it. This is a -- this is a
19 workmen's comp situation.

20 And I remember -- what jogged my memory
21 was that attorney, Elizabeth Lanier. Lanier,
22 she -- you know, and August the 25th. I -- I --
23 I'm familiar with it now.

24 Q. Okay. All right. So, is it correct to
25 say that Elizabeth Lanier was the judge in your

1 workers' comp case?

2 A. Right.

3 Q. And --

4 A. I never met her, but that -- that is who
5 I'm -- you know.

6 Q. Okay. So, have you ever talked to Judge
7 Lanier or anybody else about that handwritten
8 language on the lower left-hand side of Exhibit
9 9?

10 A. No, I didn't -- I haven't even had a
11 copy of this.

12 Q. Okay.

13 A. But I -- the name jogged my memory.

14 Q. Okay. There is a reference in your
15 discovery responses to you having out of pocket
16 expenses totaling \$38,000. Do you know what
17 that refers to?

18 A. No, but it -- it -- it could be a whole
19 lot more than that. A lot of ripping and
20 running. A lot of doctor visits. A lot of just
21 trying to keep going. Just trying to maintain.

22 Q. Let me show you what I'm going to mark
23 as Exhibit 10. Take a look at that, and let me
24 know when you are ready to talk about it.

25 A. (Reviewing document.) Okay. That

1 sounds -- that -- that is that award letter from
2 Social Security, right?

3 MS. HUNT:

4 Uh-huh.

5 MR. McGOEY:

6 Yeah.

7 THE WITNESS:

8 Okay.

9 EXAMINATION BY MR. McGOEY:

10 Q. That -- that is what it appears to be to
11 me.

12 A. Okay. Yeah.

13 Q. Is that what it appears to be to you?

14 A. Yeah. I can't comprehend all that, but
15 I -- I can glance over and try to --

16 Q. Do you see the address on the top left
17 side of Page 1 of Exhibit 10?

18 A. Yeah.

19 Q. That is your home address, correct?

20 A. Yes.

21 Q. And this letter was sent to your home?

22 A. Yes.

23 Q. You received it there?

24 A. Yes.

25 Q. And it is dated, if you look at the top

1 right, May 24th of 2016, correct?

2 A. Top right? (Reviewing document.) Yes.

3 Q. Okay. Can -- is it fair to say that you
4 received this letter sometime the week of May
5 24th of 2016?

6 A. Yes.

7 THE WITNESS:

8 Is it any way possible that I can
9 get a quick -- quick break right now? I don't
10 need but about two minutes to go to the
11 bathroom.

12 MR. McGOEY:

13 Absolutely. Absolutely.

14 THE VIDEOGRAPHER:

15 This is the end of Tape 3.

16 We are now --

17 THE WITNESS:

18 No.

19 THE VIDEOGRAPHER:

20 -- off the Record --

21 THE WITNESS:

22 I'm --

23 THE VIDEOGRAPHER:

24 -- at 3:06.

25 THE WITNESS:

1 I'll be right back. It don't take
2 but two minutes.

3 MR. McGOEY:

4 Okay.

5 (Brief recess held.)

6 THE VIDEOGRAPHER:

7 This is the beginning of Tape 4.

8 We are now back on the Record. The
9 time is 3:10.

10 EXAMINATION BY MR. McGOEY:

11 Q. Mr. McNealy, you filed this lawsuit on
12 September 22nd of 2014. And you -- you prepared
13 the original lawsuit yourself, correct?

14 A. Yeah, with -- with extensive -- a lot of
15 help.

16 Q. Who did you get help from?

17 A. Friends. People that I know.

18 Q. Who?

19 A. Just people I know. I mean, they ain't
20 got no law degree or nothing like that. They
21 just friends that I know.

22 Q. Well, who is it?

23 A. Is that necessary for me to tell you who
24 my friends are?

25 Q. I think I'm entitled to that, that

1 information.

2 A. Uh-huh.

3 Q. I mean, get the -- I'm asking about
4 people involved in drafting this lawsuit. That
5 is --

6 A. Well, I --

7 Q. -- very relevant.

8 A. Mainly, I did it myself. Mainly, I did
9 it myself completely.

10 Q. Well, you just said other people helped
11 you.

12 A. Well, I do -- and I did have help,
13 suggestions. Family members, friends. And I
14 don't want them involved in this.

15 Q. Did they -- did they continue to help
16 you as you filed additional pleadings in the
17 lawsuit before you brought an attorney in?

18 A. Yes.

19 Q. Was there any attorney involved in
20 helping you before you hired Ms. Hunt in this
21 case?

22 A. No.

23 Q. Was there a paralegal involved in
24 helping you before you brought Ms. Hunt in, in
25 this case?

1 A. Not that I know of.

2 MR. McGOEY:

3 Counsel, Mr. McNealy signed some
4 medical releases for us, but he did not date
5 them right above his name.

6 So while I'm looking at things
7 trying to streamline, can you ask -- have him
8 date those for us, please.

9 MS. HUNT:

10 Yes, I will. And the only issue I
11 have with these were they were not made out to
12 any particular person. So just to confirm, it
13 will be the people that was on the list?

14 MR. McGOEY:

15 The people that are listed in -- it
16 will be -- it will be the Shell -- it will be
17 the Shell Medical Department, Shell Motiva
18 Medical Department, and it will be the doctors
19 that are listed in your initial disclosures or
20 your discovery responses.

21 MS. HUNT:

22 Okay. Sign here (indicating).

23 THE WITNESS:

24 (Complying.)

25 MS. HUNT:

1 Sign here and date here
2 (indicating).

3 THE WITNESS:

4 (Complying.)

5 MS. HUNT:

6 So as far as this -- this one right
7 here was his legal representative, or is that
8 the patient? Is that part necessary if he is
9 the one that is signing it?

10 MS. RICHARD-SPENCER:

11 The doctors are saying it is. They
12 are not releasing the records. We --

13 MS. HUNT:

14 Okay.

15 MS. RICHARD-SPENCER:

16 We submitted them, and we got back a
17 response that said, "Without that other
18 signature, we won't respond."

19 MS. HUNT:

20 No problem.

21 MS. RICHARD-SPENCER:

22 "We won't release."

23 MS. HUNT:

24 Okay.

25 THE WITNESS:

1 And I got --

2 MS. RICHARD-SPENCER:

3 Actually, one doctor sent it to us
4 without it, and we weren't sure he should have,
5 but he did so.

6 THE WITNESS:

7 Who is a --

8 MS. RICHARD-SPENCER:

9 Doctor -- do you remember who sent
10 the Records?

11 MS. HUNT:

12 It doesn't matter.

13 THE WITNESS:

14 Patient's legal representative --

15 MS. HUNT:

16 Yeah, baby. Just --

17 THE WITNESS:

18 I got to sign this?

19 MS. RICHARD-SPENCER:

20 Yes.

21 THE WITNESS:

22 I'm -- am I a legal representative?

23 MS. MASON-SMITH:

24 You are the patient.

25 MS. RICHARD-SPENCER:

1 It says Patient/legal
2 representative.

3 THE WITNESS:

4 Okay.

5 MS. RICHARD-SPENCER:

6 So, it is either --

7 THE WITNESS:

8 Patient signature right there
9 already.

10 MS. HUNT:

11 I know.

12 MS. RICHARD-SPENCER:

13 I know.

14 MS. HUNT:

15 Just sign. You just got to sign it.

16 MS. RICHARD-SPENCER:

17 We -- we agree with you, but the
18 doctors don't agree with us. Doctors are very
19 concerned about HIPAA.

20 MS. HUNT:

21 And they should be.

22 MS. RICHARD-SPENCER:

23 Absolutely.

24 THE WITNESS:

25 Today is the 16th? It is the 11th

1 month 16?

2 MS. HUNT:

3 So, you have this one in here.

4 MR. McGOEY:

5 Bear with me, and we will see.

6 (Reviewing document.) This is dated. Okay. I
7 think that is one -- okay. Sorry about that.

8 MS. HUNT:

9 You want me to put it back in here?

10 MR. McGOEY:

11 Yeah, if you don't mind. That would
12 be great.

13 MS. HUNT:

14 All right. (Complying.) What is
15 this?

16 MR. McGOEY:

17 That is something that I had already
18 sent you. That is going to be an exhibit. And
19 I'm just giving you exhibits beforehand so that
20 when he finishes signing, we can move to the
21 next thing.

22 Those documents I had -- I had
23 Emailed you those a while back.

24 MS. HUNT:

25 Yeah. I -- I got these after the --

1 MS. RICHARD-SPENCER:

2 Guys, this is on the Record, and you
3 don't have a mic on. So we can't hear what you
4 are saying.

5 MS. HUNT:

6 Okay.

7 MR. McGOEY:

8 Okay. If there is -- if there is a
9 whole bunch of these to sign, let's -- I didn't
10 realize there were that many.

11 MS. HUNT:

12 He can finish later.

13 MR. McGOEY:

14 Yeah, let's finish after. Let's
15 finish at the end of the questioning. I'm
16 sorry. I -- I thought I was doing something
17 good expediting the process, but that may not
18 have been the smartest idea. All right.

19 MS. MASON-SMITH:

20 Don't mix them with his.

21 MR. McGOEY:

22 All right. Okay. Sorry. Okay.

23 EXAMINATION BY MR. McGOEY:

24 Q. Mr. McNealy, I'm going to show you what
25 I've marked as Exhibit 11.

1 A. (Reviewing document.)

2 Q. Take a look at that, and let me know
3 when you are ready to talk about it.

4 A. (Reviewing document.) Okay.

5 Q. Okay. Mr. McNealy, is that your
6 signature on Page 2 of Exhibit 11?

7 A. Yes.

8 Q. Okay. And is that your hired date
9 reflected on Page 2?

10 A. Yes.

11 Q. And do you see that this shows that you
12 were hired by Shell Chemical?

13 A. Yes.

14 Q. Is that consistent with your
15 recollection?

16 A. Right.

17 Q. And then is the rest of Exhibit 11
18 documents reflecting your bid in July of 2008 to
19 move from a machinist position with Shell
20 Chemical to a machinist position with Motiva?

21 A. Yes.

22 Q. All right. I am going to show you
23 another document which I'm marking as
24 Exhibit 12. It is the letter dated September
25 4th of 2012, from Randy Cavalier at Motiva to

1 you.

2 A. (Reviewing document.)

3 Q. Did you have a chance to read Exhibit
4 12?

5 A. This is 12 here? Yeah.

6 Q. Do you recall seeing this before today?

7 A. Absolutely.

8 Q. Okay. Were you released to return to
9 work on September 3rd of 2012?

10 A. No.

11 Q. Okay. What did you do when you got this
12 letter?

13 A. I didn't do anything.

14 Q. Did you call Mr. Cavalier about it?

15 A. No. I didn't have his number.

16 Q. Okay. Did you call the refinery?

17 A. No.

18 Q. Did you -- what was your reaction when
19 you read it?

20 A. I was still under doctor's care on the
21 medication and still being treated tentatively
22 right then.

23 And this didn't -- this didn't even --
24 this wasn't even a blip on the radar. And they
25 sent it certified mail. I had to sign for it.

1 It ain't on here, but I remember it. I
2 wish I would have had it because I would have
3 used it as proof of intimidation and
4 threatening. I was under doctor's care. They
5 knew that.

6 I was under medical -- under doctor's
7 care at that time.

8 Q. Okay.

9 A. And this was just another form of
10 harassment.

11 Q. Don't you think they got a medical
12 release from a doctor before they sent --

13 A. They didn't have --

14 Q. -- this out?

15 A. They didn't have no medical release.
16 They ain't have no -- if they did, they didn't
17 have it from the right doctor.

18 Q. So, it is possible that they had it from
19 a doctor?

20 A. It is possible. You can get them to do
21 anything. But this was a form of harassment, as
22 far as I am concerned. Another form of
23 harassment.

24 MR. McGOEY:

25 I think I'm going to tender the

1 witness to Counsel for the Union.

2 I appreciate your patience. Thank
3 you.

4 MS. HUNT:

5 You know what? Ms. Spencer, do you
6 want to move forward or -- because I don't think
7 I'm going to have time to go after you.

8 MS. RICHARD-SPENCER:

9 Yeah. I mean, I would -- I would
10 say let's -- Tommy has got a noon deadline
11 tomorrow, so I would say let's try to go. You
12 are thinking that you are going to have to leave
13 at 4:30?

14 MS. HUNT:

15 Yeah.

16 MS. RICHARD-SPENCER:

17 Yeah. I think let's get some of it
18 done.

19 MS. HUNT:

20 Okay.

21 MS. RICHARD-SPENCER:

22 Unless you don't want to -- you
23 know, unless you can't continue. But if Mr.
24 McNealy --

25 MS. HUNT:

1 How do you feel?

2 MS. RICHARD-SPENCER:

3 -- can continue --

4 THE WITNESS:

5 I'm not -- this is about six and a
6 half hours. Look, I -- let's just go one more
7 hour and cut it off at 4:30.

8 MS. RICHARD-SPENCER:

9 Well, I can do that, but I'm not
10 going to be completed.

11 You do realize we will have to come
12 back tomorrow?

13 THE WITNESS:

14 Absolutely.

15 MS. RICHARD-SPENCER:

16 Okay.

17 THE WITNESS:

18 Come to the same place, same
19 location?

20 MS. RICHARD-SPENCER:

21 Same place, same location.

22 THE WITNESS:

23 Okay. Good.

24 MS. RICHARD-SPENCER:

25 Okay.

1 EXAMINATION BY MS. RICHARD-SPENCER:

2 Q. So, Mr. McNealy, I introduced myself to
3 you earlier. My name is Julie Richard-Spencer.
4 I represent Local 750, and I represent the USW
5 International in this case.

6 And I am going to have some questions
7 for you about the allegations you made against
8 the Union and -- and some of what you have
9 already testified to.

10 I'm going to try very hard not to cover
11 the same ground and make you repeat things.
12 Because of that, it is going to mean that I may
13 skip around a little bit more than Mr. McGoey
14 did.

15 And so I want you to be sure you are
16 comfortable with my question. If you are not
17 sure where I am, or if you get confused and you
18 need me to go back and get you caught up with
19 me, please tell me that.

20 Or if you do not understand a question
21 or -- or I've lost you, please make sure you let
22 me know because I want to be sure that you
23 understand the questions I ask?

24 Is that fair, sir?

25 A. Oh, yeah. Yes.

1 Q. Okay. So, I know you have talked some
2 about your ability to operate, that you handle
3 your own bills, you handle your own banking; is
4 that correct?

5 A. Yes.

6 Q. Have you ever been in a situation where
7 you have had to transfer Power of Attorney to
8 anyone for the operation of your business
9 affairs?

10 A. No.

11 Q. So, that has never happened. Not even
12 in 2012, when you were hospitalized?

13 A. No.

14 Q. What about, have you ever been Power of
15 Attorney for anyone?

16 A. No.

17 Q. All right. Now, I want to go back and
18 talk a little bit about the time that you worked
19 for Emerson. And that you -- I know that there
20 was a lawsuit filed against Emerson. Is that
21 correct, sir?

22 A. Yes.

23 Q. And that lawsuit was for a
24 discrimination based on race?

25 A. Right.

1 Q. So I want to make sure I understand.
2 Your testimony is that you retained Counsel in
3 that case.

4 A. Yeah.

5 Q. Do you remember who that was?

6 A. It is a Jewish guy in Baton Rouge.

7 Q. Was his name Dan Scheuermann?

8 A. Yes.

9 Q. Okay. So, Mr. Scheuermann represented
10 you.

11 A. Yeah.

12 Q. And did I understand you to say
13 correctly that the company filed a Motion For
14 Summary Judgment and Mr. Scheuermann didn't
15 respond to it?

16 A. They didn't -- he didn't respond. They
17 didn't answer.

18 Q. All right. And so based upon the fact
19 that he did not respond, your understanding is
20 the judge granted that motion?

21 A. Exactly.

22 Q. And so you -- I assume --

23 A. I didn't know what that meant at that
24 time.

25 Q. So, did you end your relationship with

1 Mr. Scheuermann and represent yourself from that
2 point on?

3 A. I tried to with the help of a paralegal.

4 Q. Which paralegal?

5 A. It is a paralegal in Baton Rouge. I
6 mean -- in Baton Rouge.

7 Q. Do you have -- what is that person's
8 name?

9 A. That -- that was in 2004 or 2006. I
10 can't remember that far back. I don't even
11 remember his name.

12 Q. Was that person a -- just a friend or a
13 family member?

14 A. He was just a friend of a friend of a
15 friend. You know, how people talk and you make
16 connections.

17 Q. So, that individual never entered any
18 type of appearance in the case?

19 A. No.

20 Q. Just helped you?

21 A. Yes.

22 Q. All right. Now, as part of that
23 litigation, some of the things that came out are
24 that on several occasions, that company, Fisher,
25 sent you to be evaluated.

1 Do you remember that, being sent to be
2 evaluated?

3 A. Sent to be evaluated by who?

4 Q. By the company.

5 A. I don't -- I don't remember that. It is
6 so far back, I don't remember the details of it.
7 And if -- if -- I'm not saying it didn't happen
8 or it did, but I just don't remember.

9 Q. Do you remember that when -- during the
10 time you were employed by Fisher you were
11 written up because you allegedly threatened your
12 supervisor with violence?

13 A. No.

14 Q. Now, I'm not saying you did that. But
15 just that they claimed you did it.

16 A. That is -- that is all lies.

17 Q. Okay. So, do you remember that the
18 company said you did that?

19 A. I don't remember them saying I did it.

20 Q. Okay. And I understand this is a long
21 time ago, so --

22 A. Yeah.

23 Q. -- if you don't remember, that is all I
24 need you to tell me.

25 Do you know a man named Henderson Clark?

1 A. Yes.

2 Q. Do you remember that there was an
3 incident at your former employer, Fisher, where
4 you and Mr. Clark had an altercation?

5 A. Not seriously, no.

6 Q. So, there was some disagreement, but
7 you --

8 A. It -- it may have been, but nothing
9 serious.

10 Q. So you -- can you tell me what the
11 disagreement was?

12 A. I don't know nothing. I can't remember
13 that far back. It is so far back. I mean, I
14 can't remember. And that ain't got nothing to
15 do with this case here now.

16 Q. So, you don't have any specific
17 recollection about a disagreement?

18 A. I have nothing. No recollection of a
19 dis -- specific.

20 Q. Do you recall ever threatening Mr. Clark
21 with violence?

22 A. Absolutely not. Violence is not a part
23 of my vocabulary in any case.

24 Q. Do you know -- did Mr. Henderson ever
25 report you to Management and accuse you of

1 harassing him?

2 A. No.

3 Q. No, that did not happen?

4 A. No, I am -- and I am not familiar with
5 it there. What -- what -- why are we talking
6 about that? That is so far back. It is kind of
7 irritating. You -- you cut -- you are digging
8 in deep -- in deep, old wounds.

9 Q. I'm so sorry, but --

10 A. You re -- you are reopening old scabs.

11 Q. I understand that --

12 A. Yeah.

13 Q. -- you might not prefer to answer these
14 question, but I am allowed to ask them.

15 A. And I'll -- I'll --

16 Q. I'll be plain.

17 A. And I'll answer to them, but I'm letting
18 you know -- I'm just letting you know that it
19 has been a minute on all of that. And I have
20 forgotten about it. It has been buried in the
21 sea of forgetfulness. I will try to answer them
22 the best I could.

23 Q. That is certainly fair, sir, because all
24 you can do is answer to the best of your
25 knowledge. And I understand that.

1 A. Uh-huh.

2 Q. And to the best of your recollection.

3 And I think I asked you this, but you
4 don't have any specific recollection of -- on
5 either one or two occasions being sent to be
6 evaluated by a medical doctor?

7 A. Absolutely not.

8 Q. In the case that you filed against that
9 company, did you file an EEOC charge before you
10 went and filed the lawsuit, sir?

11 A. Yes.

12 Q. Okay. And did Mr. Scheuermann assist
13 you with that, or did you do that charge on your
14 own?

15 A. I think he may have assisted me with
16 that.

17 Q. In that case, you -- you did allege that
18 you suffered emotional distress because of your
19 time at Emerson and the discrimination you
20 suffered?

21 A. No.

22 Q. You -- you are saying you did not allege
23 that as part of your lawsuit?

24 A. I -- I -- no, not that I know of. I
25 don't -- I don't know. I don't -- it has been

1 so long ago. I don't know.

2 Q. Do you -- did you see during the time
3 you worked for Fisher, or after your employment
4 with Fisher ended, did you see any healthcare
5 providers for stress or anxiety?

6 A. No.

7 Q. Did you see any psychologist or
8 psychiatrist following your employment with
9 Fisher?

10 A. No.

11 Q. All right. So I am going to move
12 forward to your employment with Motiva. And I
13 am not going to ask any questions about any of
14 the other background employment.

15 You came to Motiva and Shell, and you
16 initially were hired as a Shell Chemical
17 employee; is that correct?

18 A. Yes.

19 Q. And you were hired to be a machinist?

20 A. Yes.

21 Q. Did you work both in the shop and
22 outside the shop?

23 A. Yes.

24 Q. So when you were in the shop, did you
25 perform traditional machinist functions?

1 A. Yes.

2 Q. And when you were out of the shop, did
3 you perform more just mechanical functions?

4 A. Yeah. More millwright.

5 Q. When you came to the Company, did you
6 join the Union?

7 A. Yes.

8 Q. Do you remember when you joined the
9 Union?

10 A. That was -- that was mandatory
11 immediately. And I didn't mind.

12 Q. Had you ever been a member of a Union
13 before?

14 A. No.

15 Q. Did you remain a member of the Union
16 until you were separated by the Company?

17 A. As far as I know, yes.

18 Q. Did you ever hold any position in the
19 Union?

20 A. No.

21 Q. Did you ever run for any position?

22 A. No.

23 Q. Did you attend any Union meetings?

24 A. I -- I did a couple of them.

25 Q. Do you remember when you attended

1 meetings?

2 A. No. It was sometime, you know,
3 periodically. It -- it wasn't on a regular
4 basis. They had one on Tuesday, I remember.

5 Q. Did they hold a monthly meeting every
6 month?

7 A. First Tuesday or something like that.

8 Q. And so what would cause you -- do you
9 remember specifically why you attended the
10 meetings you did?

11 A. It -- it just -- it -- I think the
12 meeting started around 6:30 or 7:00, or
13 something like that. Later. And being living
14 in Gonzales, they had a meeting in -- in Norco.
15 If it was convenient and I happened to be
16 working overtime and I got off in time when the
17 meeting was starting and it would -- it would
18 work out and I -- those are the ones I attended
19 when it was convenient.

20 Q. So, there wasn't any time that you went
21 because you wanted to talk about a particular
22 issue?

23 A. No.

24 Q. Did you ever speak at any of the Union
25 meetings?

1 A. No.

2 Q. Did you ever raise any of the issues
3 that you raised in this lawsuit in any Union
4 meeting?

5 A. No.

6 Q. Do you -- when you went to the Union
7 meetings, there is usually a meal; is that
8 correct?

9 A. Yes. After.

10 Q. Did you eat the meals when you went?

11 A. Sometimes. Depending on what it was.
12 Some of it, yes.

13 Q. Some of it is better than others?

14 A. Yes.

15 Q. Did you talk to people who were in the
16 Union hall at -- attending the meetings?

17 A. Yeah. Lightheartedly afterwards. Yes.

18 Q. Were the people -- did people speak to
19 you?

20 A. Yes.

21 Q. Did anyone ever indicate that you
22 weren't welcome at a Union meeting?

23 A. No.

24 Q. Do you remember the last time you
25 attended a Union meeting?

1 A. No.

2 Q. Do you understand that -- and did you
3 understand that the Union and the Company come
4 together to negotiate the terms and conditions
5 that go into what is called a Collective
6 Bargaining Agreement?

7 A. Yes.

8 Q. Have you ever seen the Collective
9 Bargaining Agreement?

10 A. No.

11 Q. Did you ever ask to see the Collective
12 Bargaining Agreement?

13 A. No.

14 Q. And did you understand that they
15 bargained about employees and not management?

16 A. Well, yeah. They -- the managers wasn't
17 a part of the Union.

18 Q. So, managers couldn't be in the Union?

19 A. That is the way I understood it.

20 Q. And supervisors couldn't be in the
21 Union?

22 A. Right.

23 Q. Now, I've heard a couple of times the
24 term "Staff" being used.

25 A. Yeah.

1 Q. At -- at Motiva and Shell, is the term
2 "Staff" equivalent to Management?

3 A. Yes.

4 Q. So Staff couldn't be in the Union?

5 A. Right. That is inspectors and stuff
6 like that.

7 Q. So, you could be a Staff person and not
8 be a supervisor?

9 A. Yes.

10 Q. All right. If you are a supervisor, it
11 meant people were under you?

12 A. Right.

13 Q. If you are Staff, you might or might not
14 have people under you?

15 A. Right.

16 Q. All right. And you understood that the
17 Union could -- doesn't get to select who becomes
18 Staff?

19 A. Exactly.

20 Q. And the Union doesn't get to determine
21 who becomes a manager?

22 A. Right.

23 Q. So, the Company has the right to pick
24 who they want to pick?

25 A. They pick who they want.

1 Q. And whether we agree or disagree, the
2 Union is, and you, as an employee, are stuck
3 with that?

4 A. Right. That is the way it was set up.

5 Q. Now, at some point, I think you said it
6 was in March -- your recollection is about March
7 of 2010, this issue occurs related to the
8 cattle. And as a result, you missed two days of
9 work?

10 A. Yes.

11 Q. Did -- did someone contact you and
12 indicate that Human Resources wanted to speak to
13 you about that?

14 A. Down the line, maybe later on that week.

15 Q. So, it didn't happen immediately?

16 A. Yeah.

17 Q. So several days later, someone said
18 Management is -- you need to go to HR?

19 A. Right.

20 Q. Do you remember who told you that?

21 A. That was Brandon Dufrene.

22 Q. And did you understand that you were
23 coded as AWOL for that Monday and Tuesday?

24 A. Absent without leave?

25 Q. Yes.

1 A. Failure to call, yes.

2 Q. So were -- and I understand why it
3 happened, but were you absent without leave?

4 A. I guess so. Yes. For that day in 2010,
5 yeah.

6 Q. And so you ultimately had a meeting with
7 Management?

8 A. Yes.

9 Q. And Miss -- and there was a Union
10 representative there with you; is that correct?

11 A. It may have been, yeah.

12 Q. Do you recall that it was Mr. Thomatis?

13 A. Yes. Armond Thomatis.

14 Q. Did you have a good relationship with
15 Mr. Thomatis?

16 A. Somewhat, yes. But I didn't work with
17 him. He didn't -- he was an electrician and I
18 was, you know, in a different department.

19 Q. So did -- that means the two of you
20 didn't work together?

21 A. Just in passing.

22 Q. Passing. Mr. Thomatis is an
23 African-American?

24 A. Yes.

25 Q. And were you aware that he was -- did

1 you understand that he was the president of the
2 Motiva group?

3 A. The Union?

4 Q. Yes.

5 A. Not at all. Not at that time. Not --
6 nowhere near.

7 Q. Okay. What did you understand in 2010
8 his position to be?

9 A. A -- a Union steward.

10 Q. Okay.

11 A. He wasn't president of nothing.

12 Q. Did you understand that he was the
13 chairman of the Motiva group?

14 A. No.

15 Q. Did you vote in the Union elections?

16 A. I can't recall.

17 Q. So, you were there and Mr. Thomatis was
18 there. And you explained to Management what had
19 happened in this situation and how you believe
20 you had been falsely arrested?

21 A. Oh, yeah. Yes.

22 Q. And do you recall that at the end of
23 that discussion, HR indicated that if you
24 brought them some paperwork back that
25 demonstrated that, that it would clear up the

1 matter?

2 A. No.

3 Q. How do you remember the meeting ending?

4 A. The only thing I remember that -- is
5 that -- about that meeting was, since you was
6 two days off work without calling in, I think it
7 was one year or two years you will be in the
8 absenteeism program. And if you go -- if you
9 miss any more time, it is going to go to the
10 next stair.

11 Q. Were you disciplined as a result of this
12 incident?

13 A. I considered that discipline, to be put
14 in that program.

15 Q. So, did they tell you that you were
16 being put in the program and if it happened
17 again, you would be disciplined?

18 A. Well, if anything happened to -- you
19 know, that was a -- that was a part that. You
20 know, it would be part of the discipline.

21 Q. All right. Do you know that the Company
22 has steps of discipline that they follow?

23 A. Yes.

24 Q. And do you know the first step of
25 discipline?

1 A. Yeah.

2 Q. What is it?

3 A. An oral warning or something.

4 Q. Do you know what the next step is?

5 A. Written warning.

6 Q. Okay. And do you know what the next
7 step is?

8 A. DML.

9 Q. And then?

10 A. Termination.

11 Q. All right. So, to your knowledge, there
12 are at least four -- three steps before you get
13 terminated?

14 A. Right.

15 Q. Were you placed on any of those steps as
16 a result of this AWOL incident?

17 A. All I remember was: You are in the
18 program. You can't miss anymore work.

19 Q. All right. And you don't recall that
20 there was discussion about you bringing
21 paperwork in and it would be removed from your
22 record?

23 A. No, I don't recall that.

24 Q. Did -- were you -- were you satisfied
25 with Mr. Thomatis' representation of you in that

1 meeting?

2 A. I -- I had no complaints at that time --

3 Q. All right.

4 A. -- with him.

5 Q. Did you ever have complaints with Mr.
6 Thomatis, or did you and he continue to maintain
7 a good relationship?

8 A. I never had any problems with Mr.
9 Thomatis.

10 Q. You aren't alleging that Mr. Thomatis
11 acted in a way that discriminated against you?

12 A. No.

13 Q. All right. So after that incident
14 occurred, is it correct, other than that
15 incident where you were told you were being put
16 in that program, you were never disciplined by
17 the Company?

18 A. As far as I know, no.

19 Q. All right. Do you know you -- you
20 testified early in your testimony that -- some
21 time ago -- that one of the reasons you bid to
22 move to Motiva was that there would be more
23 available overtime work?

24 A. Yes.

25 Q. And how does overtime work at the

1 facility? Who decides who gets overtime? Or,
2 how is that determined?

3 A. They had different ways at that time of
4 determining. Sometimes if a senior guy had a
5 job that was going to go into overtime, he could
6 refuse to work the overtime.

7 And then a junior guy, somebody who is
8 -- don't have as much time in the facility,
9 would be forced to take that job.

10 Q. So, did you understand that some of the
11 decisions about how overtime would be awarded
12 were in the contract?

13 A. I think so, yes.

14 Q. All right. Did you understand that for
15 something like a turnaround that that would be
16 Management's decision of who would work a
17 turnaround?

18 A. For a turnaround?

19 Q. Yes.

20 A. No. You bid on that, too. You bid
21 on --

22 Q. So --

23 A. Yeah.

24 Q. So, you could bid on that, as well?

25 A. Yes.

1 Q. All right. So overtime, you understand,
2 is contractually determined in some cases, like
3 what you just described, where a junior guy
4 might get forced?

5 A. Uh-huh.

6 Q. And you could bid for a turnaround where
7 there might be a substantial amount of overtime?

8 A. Right.

9 Q. Turnarounds, I think what you said, are
10 desirable because --

11 A. Sometimes. Depends on what it is.

12 Q. Okay.

13 A. Some turnarounds are. Others you want
14 to run from.

15 Q. Who decides if a turnaround is desirable
16 or undesirable?

17 A. It depends on the location. Where the
18 -- what areas is the turnaround going to be in.

19 If you don't want -- if they are having
20 one in the coker plant, you don't want to go to
21 that unit. It is --

22 Q. Okay.

23 A. -- certain units you don't want to go
24 to.

25 Q. So, is that just employees sort of

1 general knowledge?

2 A. Huh?

3 Q. Is that sort of employee general
4 knowledge? The employees are in the know about
5 the places that you don't want to go and you do
6 want to go?

7 A. Yes.

8 Q. Okay.

9 A. Everybody knows. You learn from
10 experience.

11 Q. Had you worked any turnarounds before
12 the one in question?

13 A. Often. All the time.

14 Q. Had you ever worked a turnaround at
15 night before the one in question?

16 A. Yes.

17 Q. And in any of those occasions, did you
18 experience racial discrimination before the --
19 the one in question?

20 A. No.

21 Q. So, in all of those turnarounds where
22 you worked at night, you worked the same 7p to
23 7a schedule?

24 A. Yes.

25 Q. And that resulted in a substantial

1 amount of overtime?

2 A. Yes.

3 Q. Do you know how many turnarounds you
4 might have worked in your whole career?

5 A. No.

6 Q. All right. More than five?

7 A. Absolutely.

8 Q. More than 10?

9 A. Maybe thereabout.

10 Q. Okay.

11 A. I don't -- I just -- I don't want to
12 overexaggerate.

13 Q. Mr. McGoey asked you if you kept any
14 kind of calendar or journal, and I heard your
15 answers to those questions.

16 Did you have anyone else keep a journal
17 or notebook of what was -- what you were
18 experiencing at the worksite?

19 A. No. But I -- I had -- I talked to my
20 stepdaughter about it often, and she may have.

21 Q. And that is Wanda?

22 A. Yeah.

23 Q. All right. So, you don't know whether
24 Wanda kept --

25 A. No.

1 Q. -- notes about what you were telling
2 her?

3 A. No. But she remembers everything.

4 Q. Is -- I am sorry. What is her last
5 name?

6 A. Carey.

7 Q. Carey. Is Ms. Wanda Carey -- is she the
8 person that you would say you spoke to the most
9 about what you were experiencing?

10 A. At that time when I was experiencing it,
11 yes. But -- but we are not as close now.

12 MS. HUNT:

13 Can we take a quick -- my son is
14 calling.

15 MS. RICHARD-SPENCER:

16 Yeah.

17 THE VIDEOGRAPHER:

18 We are now off the Record at 3:46.

19 (Off the Record.)

20 THE VIDEOGRAPHER:

21 Now back on the Record. The time is
22 3:47.

23 EXAMINATION BY MS. RICHARD-SPENCER:

24 Q. So, I wanted to go back to the incident
25 involving the cattle matter. Did that -- were

1 the charges ultimately dismissed?

2 A. I don't even think they brought charges.

3 It was just an arrest, and then they set up a
4 court date. I went there. I said -- What did
5 you hear? Man, we didn't arrest you. What are
6 you talking about? It was kangaroo.

7 Q. Did -- did they -- did they set up a
8 date for it to go to a grand jury? Is that what
9 you appeared for?

10 A. No. It was just a -- it was a little
11 justice court. A little nothing.

12 Q. Did you have to give testimony?

13 A. No.

14 Q. So, you just showed up?

15 A. And then nobody else showed up.

16 Q. And so then the judge dismissed the
17 charges?

18 A. It was -- yeah. It was -- yeah.

19 Q. Okay. And you have no paperwork about
20 that?

21 A. No.

22 Q. All right. Did they give you any
23 paperwork?

24 A. They didn't even give me any paperwork.

25 Q. Did you --

1 A. I --

2 Q. Did -- go ahead.

3 A. I gave them paperwork showing that I
4 bought and purchased those cattle.

5 Q. Did you think to ask them to give you
6 something so that you could get out of that
7 absentee program that you were in?

8 A. I -- yeah. But they -- this -- they
9 didn't want to -- they didn't want to touch it.
10 It is like, We didn't do that. What are you
11 talking about? It never happened.

12 Q. Okay.

13 A. That is the State of Mississippi there
14 now. It is not the State of Louisiana.

15 Q. All right. So your -- did -- and so
16 none of your family appeared at that matter?

17 A. My brother did. My uncle didn't.

18 Q. Did your brother tell them you did own
19 the cattle?

20 A. He was telling them the whole time no.

21 Q. No, you --

22 A. That, no, I didn't do that.

23 Q. Okay. So, to your knowledge, it went
24 away. You are not really sure how it went away?

25 A. Yeah.

1 Q. And you never heard anything again?

2 A. Never heard anything again.

3 Q. But they didn't give you anything that
4 you could bring back to your employer?

5 A. No.

6 Q. And so you stayed in the absentee
7 program?

8 A. As far as I know. I don't know if I was
9 or not.

10 Q. Now, you moved -- you, obviously,
11 weren't disciplined further for absenteeism?

12 A. Right.

13 Q. So, whatever the time period was, you
14 got through that time period without any
15 discipline.

16 A. Yes.

17 Q. All right. Thank you.

18 MS. RICHARD-SPENCER:

19 I think this is where you want to
20 stop?

21 MS. HUNT:

22 Please. And I --

23 MS. RICHARD-SPENCER:

24 What?

25 MS. HUNT:

1 Not on the Record.

2 THE VIDEOGRAPHER:

3 Today's deposition consists of four
4 tapes. This is the end of Tape 4.

5 And we are now off the Record at
6 3:50.

7 * * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 WITNESS' ATTESTATION

2 I have read or have had the foregoing
3 testimony read to me, pursuant to Rule 30(e) of
4 the Federal Rules of Civil Procedure and/or
5 Article 1445 of the Louisiana Code Civil
6 Procedure, and hereby attest that, to the best
7 of my ability and understanding, it is a true
8 and correct transcription of my testimony, with
9 the exception of any attached corrections or
10 changes, complete with reasons for changes, on
11 the Witness' Amendment Pages;

12 I have in no way altered the printed
13 transcript pages containing testimony herein,
14 tampered with the seal on the last numbered page
15 herein, or tampered with the security strip on
16 the binder hereof. The integrity of this
17 certified transcript has been maintained in the
18 identical form as it was received by me, with
19 the exception of any changes on the Witness'
20 Amendment Pages.

21 -----
22 Date

23
24 _____
NEWTON T. McNEALY JR.
(Signature)
25

1 REPORTER'S PAGE

2 I, KAY E. DONNELLY, Certified Court
3 Reporter in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(B)
6 of the Louisiana Code of Civil Procedure, before
7 whom this proceeding was taken, do hereby state
8 on the Record:

9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talkovers; that same is the
13 proper method for a Court Reporter's
14 transcription of proceeding, and that the dashes
15 (--) do not indicate that words or phrases have
16 been left out of this transcript;

17 That any words and/or names which could
18 not be verified through reference material have
19 been denoted with the phrased "(spelled
20 phonetically)."

21

22 _____
KAY E. DONNELLY
23 Certified Court Reporter
State of Louisiana
24 Certificate No. 87008

25

1 C E R T I F I C A T E

2 This certification is valid only for a
3 transcript accompanied by my original signature
and original required seal on this page.

4 I, KAY E. DONNELLY, Certified Court
Reporter in and for the State of Louisiana, as
5 the officer before whom this testimony was
taken, do hereby certify that NEWTON T. McNEALY,
6 JR., to whom oath was administered, after having
been duly sworn by me upon authority of R.S.
37:2554, did testify as hereinbefore set forth
7 in the foregoing two hundred seventy-four (274)
pages; that this testimony was reported by me in
8 the stenotype reporting method, was prepared and
transcribed by me or under my personal direction
9 and supervision, and is a true and correct
transcript to the best of my ability and
10 understanding; that the transcript has been
prepared in compliance with transcript format
11 guidelines required by statute or by rules of
the board; and that I am informed about the
12 complete arrangement, financial or otherwise,
with the person or entity making arrangements
13 for deposition services; that I have acted in
compliance with the prohibition on contractual
14 relationships, as defined by Louisiana Code of
Civil Procedure Article 1434 and in rules and
15 advisory opinions of the board; that I have no
actual acknowledge of any prohibited employment
16 or contractual relationship, direct or indirect,
between a court reporting firm and any party
17 litigant in this matter nor is there any such
relationship between myself and a party litigant
18 in this matter. I am not related to counsel or
to the parties herein, nor am I otherwise
19 interested in the outcome of this matter.

20

21

22

KAY E. DONNELLY
Certified Court Reporter
State of Louisiana
Certificate No. 87008
December 2, 2016

23

24

25