

EXHIBIT 7

HOFER, ET AL v. THE GAP, INC., ET AL
DENROY SCARLETT

August 21, 2006

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DENROY SCARLETT
August 21, 2006

<p style="text-align: right;">Page 1</p> <p>1 IN THE DISTRICT COURT OF THE UNITED STATES 2 FOR THE DISTRICT OF MASSACHUSETTS 3 4 STEPHANIE HOFER and DOUGLAS HOFER, 5 Plaintiffs, 6 vs. Case No. 05-40170 7 THE GAP, INC., EXPEDIA, INC., 8 and TURTLE BEACH TOWERS, 9 Defendants. 10 11 12 13 The Videotaped Deposition of DENROY SCARLETT, 14 Taken at Turtle Beach Towers, Main Street, 15 Ocho Rios, St. Ann, Jamaica, W.I., 16 Commencing at 11:46 a.m., 17 Monday, August 21, 2006, 18 Before Rebecca J. Callow, CSR-5228, RPR. 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 3</p> <p>1 THOMAS T. REITH 2 Burns & Levinson, L.L.P. 3 125 Summer Street 4 Boston, Massachusetts 02110 5 (617) 345-3000 6 Appearing on behalf of Expedia, Inc. 7 8 ALSO PRESENT: 9 Lynsey Williams - Video Technician 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 3 STEPHEN J. KUZMA 4 Stephen Kuzma Law Office 5 75 Federal Street 6 Suite 17 7 Boston, Massachusetts 02110 8 (617) 338-3020 9 Appearing on behalf of the Plaintiffs. 10 11 INDIA L. MINCHOFF 12 Russo & Minchoff 13 123 Boston Street 14 Boston, Massachusetts 02125 15 (617) 740-7340 16 Appearing on behalf of the Plaintiffs. 17 18 SCOTT D. FERINGA 19 Sullivan, Ward, Asher & Patton, P.C. 20 25800 Northwestern Highway 21 Suite 1000 22 Southfield, Michigan 48037 23 (248) 746-0700 24 Appearing on behalf of the Gap, Inc. 25</p>	<p style="text-align: right;">Page 4</p> <p>1 Ocho Rios, St. Ann, Jamaica, W.I., 2 Monday, August 21, 2006 3 11:46 a.m. 4 5 VIDEO TECHNICIAN: We are now on the record. 6 This is the videotape deposition of Denroy Scariett 7 being taken on Monday, August 21st, 2006. The time is 8 now 11:46 and 40 seconds a.m. We are located at the 9 Turtle Beach Towers in Ocho Rios, Jamaica. This 10 deposition is being taken on behalf of the defendants 11 in the matter of Stephanie Hofer and Douglas Hofer 12 versus The Gap, Incorporated; Expedia, Incorporated; 13 and Turtle Beach Towers. This is case number 05-40170 14 FDS. This matter is being held in the United States 15 District Court for the District of Massachusetts. 16 My name is Lynsey Williams, video 17 technician. Will the court reporter swear in the 18 witness and the attorneys briefly identify themselves 19 for the record, please. 20 DENROY SCARLETT, 21 was thereupon called as a witness herein, and after 22 having first been duly sworn to testify to the truth, 23 the whole truth and nothing but the truth, was 24 examined and testified as follows: 25 MR. FERINGA: I'm Scott Feringa. I</p>

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1 represent Gap.
 2 MR. REITH: Thomas Reith. I represent
 3 Expedia, Inc.
 4 MS. MINCHOFF: India Minchoff, for the
 5 plaintiff, Stephanie Hofer and Douglas Hofer.
 6 MR. KUZMA: Good morning, sir. My name is
 7 Stephen Kuzma. I represent Stephanie Hofer.
 8 **A. Good morning.**
 9 MR. KUZMA: And note my -- again, the
 10 objection -- the continuing objection to the authority
 11 granted or not granted for the deposition to go
 12 forward today.
 13 EXAMINATION
 14 BY MR. FERINGA:
 15 Q. Can you give me your full name, please?
 16 **A. Denroy Scarlett.**
 17 Q. Mr. Scarlett, we introduced before. My name is Scott
 18 Feringa. I represent Gap. I'm going to be asking you
 19 some questions today. This is an artificial way of
 20 talking, and thus I would ask that before you answer
 21 you wait until any one of the lawyers is finished
 22 asking the question, then you can answer the question.
 23 We'll wait until after you're finished. We do that
 24 because our court reporter needs to get everything
 25 down accurately that is said, and if we talk over each

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1 other, it's very difficult.
 2 Additionally, sir, while we all understand
 3 nods of the head or "um-hmm"s or something like that,
 4 we would ask that your responses be all verbal,
 5 whatever they are.
 6 **A. Okay.**
 7 Q. It has to be verbal.
 8 **A. Okay.**
 9 Q. Okay. Finally, if you have any -- if you don't
 10 understand my question, if I'm unclear or if you're
 11 unclear with any of lawyers' questions, please tell
 12 them, I'm sure they'd be more than happy to rephrase
 13 questions for you. Is that fair, sir?
 14 **A. Okay. No problem.**
 15 Q. Okay. Mr. Scarlett, we are here today at a place
 16 called Turtle Beach Towers on Main Street in Ocho Rios
 17 Jamaica. Is that correct?
 18 **A. Yes, sir.**
 19 Q. And are you a citizen of Jamaica?
 20 **A. Yes, sir, I'm a citizen.**
 21 Q. How old are you, sir?
 22 **A. 24.**
 23 Q. Are you presently employed at Turtle Beach Towers?
 24 **A. Yes, sir, I'm presently employed here.**
 25 Q. And what is your position at Turtle Beach Towers, sir?

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1 **A. Night auditor/reception.**
 2 Q. And in March of 2004, were you also so employed?
 3 **A. Yes, sir.**
 4 Q. How long have you been employed at Turtle Beach
 5 Towers?
 6 **A. It's going forward to five years now.**
 7 Q. So does that mean that you would have been employed in
 8 either 2001, 2002?
 9 **A. Yes, sir.**
 10 Q. And has it always been as the night auditor or
 11 receptionist?
 12 **A. From ever since I've been here.**
 13 Q. And on March 18, 2004, do you know whether you were
 14 presently working at Turtle Beach Towers?
 15 **A. Yes, I was here, sir.**
 16 Q. How many days a week do you work?
 17 **A. Five days per week.**
 18 Q. And does that rotate Monday through Friday or is it
 19 times Tuesday through Sunday?
 20 **A. It's from -- it's normally -- it's from Thursday to**
 21 **Monday.**
 22 Q. Okay. In front of you, or to your left, sir, is a
 23 photograph that has been marked as Deposition Exhibit
 24 Number 1 for Mrs. Miller. Will you look at that,
 25 Exhibit Number 1? Is the reception area at which you

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1 worked in March 18, 2004, located behind the glass
 2 doors that is shown on Exhibit Number 1?
 3 **A. Yes, sir. That's the reception area behind the glass**
 4 **there.**
 5 Q. And would you mind turning that around and showing
 6 that to the camera so we can see that? Thank you,
 7 sir.
 8 And is there a sign on there that says
 9 "Tower Number 4"?
 10 **A. Yes, sir.**
 11 Q. And is this the tower in which -- or in front of which
 12 is -- the turtle pond is located?
 13 **A. Yes, sir. That's it.**
 14 Q. And are there any other turtle ponds on the property
 15 of Turtle Beach Towers?
 16 **A. Not that I have know of or have ever seen. That's the**
 17 **only one.**
 18 Q. Okay. Now, in terms of the glass doors that are shown
 19 on that picture, are those open or locked at various
 20 times during the day?
 21 **A. They're not locked with keys, but they're always like**
 22 **shut that way. They're not locked, but they're shut**
 23 **that way.**
 24 Q. If a guest comes in and at any time during the day or
 25 night, can the guest go through those doors?

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1 **A. Yes. They would have access to it 24 hours.**
 2 Q. And is the desk in which you sat behind those glass
 3 doors to the left?
 4 **A. Yes, sir. That's the desk.**
 5 Q. And thus if somebody came up and knocked on the doors
 6 you would hear them to let them in. Correct?
 7 **A. Yes. That would be correct; because I would be there**
 8 **24 hours for the eight hours working.**
 9 Q. What was your shift?
 10 **A. 11:30 to 7:30.**
 11 Q. 11:30 p.m. --
 12 **A. -- p.m. to 7:30 a.m.**
 13 Q. Now, do you have a memory of a guest, Ms. Stephanie
 14 Hofer, having an accident on March 18, 2004, in which
 15 she injured her leg?
 16 **A. Yes, sir.**
 17 Q. And you were on duty that evening?
 18 **A. Yes. I was the one on duty. I'm the night person.**
 19 Q. From the desk or from the lobby area, can you actually
 20 see the turtle pond?
 21 **A. Not from the -- not from behind the desk, but if**
 22 **you're in the lobby area outside, you could see the**
 23 **turtle pond.**
 24 Q. Where do you normally sit when you're on duty?
 25 **A. I'm behind the desk. I couldn't see the turtle pond.**

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1 Q. Is there a way from the desk area to see whether
 2 guests are approaching the glass doors?
 3 **A. You could see when they're approaching the glass**
 4 **doors.**
 5 Q. How?
 6 **A. When they're on the -- like the landing here stepping**
 7 **up, you could -- if you're looking out, if you're at**
 8 **the desk like, not sitting. If you're sitting, you**
 9 **couldn't see. But if you're like standing and maybe**
 10 **at the desk, you could see when they're coming in.**
 11 Q. When you're talking about the landing, sir, you're
 12 talking about the area in front on top of the stairs,
 13 if you'll show the camera. Is the landing where that
 14 mat is located?
 15 **A. Yes, sir.**
 16 MR. KUZMA: Objection.
 17 BY MR. FERINGA:
 18 Q. What -- I want to ask you what first drew your
 19 attention to something happening on that shift -- on
 20 your shift that day?
 21 MR. KUZMA: Objection.
 22 BY MR. FERINGA:
 23 Q. Go ahead.
 24 **A. Someone screaming for help.**
 25 Q. And do you remember what that individual said?

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1 **A. I don't remember the exact words, but I think she was**
 2 **saying like, "somebody help me, somebody help me."**
 3 **Something of this sort.**
 4 Q. And the glass doors were shut?
 5 **A. Yes, sir.**
 6 Q. And so you could hear this lady screaming from the
 7 outside through the glass doors?
 8 **A. That's right.**
 9 Q. What did you do response to that, Mr. Scarlett?
 10 **A. Well, I went out immediately and I assisted her by**
 11 **getting her out of the pond.**
 12 Q. Okay. Now, we're talking about "her." Who is it that
 13 you assisted?
 14 **A. Well, it's a white female. Her -- I think her name**
 15 **was Stephanie, and she was like a thick-built person,**
 16 **you know. So she was in the pond.**
 17 Q. All right. I want to ask you, if you could go to the
 18 photograph and perhaps the -- if I might, sir, with
 19 respect to Exhibit Number 1, when you saw
 20 Ms. Stephanie, as you've described it, where
 21 specifically was she located in the pond? And if
 22 you'll show the members of jury.
 23 **A. She was -- her legs was in the pond down here and she**
 24 **was like hanging out of the pond, and her head was out**
 25 **like this.**

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1 Q. Which was -- when you say her legs were in the pond,
 2 there's a dark section on that photograph. Can you
 3 indicate where her legs were inference to that dark
 4 section?
 5 **A. It was down here.**
 6 Q. Do you want to use this to point, sir?
 7 **A. Like down here. This section. This area.**
 8 Q. Okay. And when you said she was spread out and her
 9 legs -- and her head was in a location, where was her
 10 head?
 11 **A. She was more like -- she was more resting on the bench**
 12 **here, leaning on the edge of the pond and the bench.**
 13 Q. So was she in the pond or outside the pond at this
 14 point?
 15 MR. KUZMA: Objection.
 16 **A. She was part -- partly in the pond and partly out.**
 17 BY MR. FERINGA:
 18 Q. What part of her was out?
 19 **A. The upper body.**
 20 Q. Where was -- where was her buttocks?
 21 **A. It was more in the pond.**
 22 Q. Okay. And in terms of where her legs were facing,
 23 where were her legs -- or were her feet facing toward
 24 the green shrubbery in the back of the pond where it
 25 says "Tower Number 4"?

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1 MR. KUZMA: Objection.
 2 **A. They were facing that way.**
 3 **BY MR. FERINGA:**
 4 Q. They were facing toward the tower?
 5 **A. She was here.**
 6 Q. Okay. Were her legs and feet still in the pond?
 7 **A. Yes, sir.**
 8 Q. You have to speak --
 9 **A. Yes. Yes, sir. I'm sorry.**
 10 Q. And her buttocks were in the pond?
 11 **A. Yes, sir.**
 12 Q. And her upper back was on the edge of the pond?
 13 **A. Yes, sir.**
 14 Q. When you first got to her, what did she say to you,
 15 what did you say to her?
 16 **A. Not exact words, but she said she was looking at the**
 17 **turtles. She was looking at the turtles and, you**
 18 **know, she was like crying and all of that, and she was**
 19 **just -- she was like repeating, saying that she was**
 20 **just admiring the turtles, and she thinks she slipped**
 21 **on something, you know. But when I went there, it was**
 22 **like -- she was -- she was actually too close to the**
 23 **edge of the pond.**
 24 Q. When you said she was too close to the edge of the
 25 pond, what do you mean by that, sir?

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1 **A. She was up on the edge here. She had to be up on the**
 2 **edge here to slip in the pond.**
 3 Q. Okay. Let me show you another exhibit. And this is
 4 an exhibit that has been marked as Exhibit Number 5,
 5 and this is a side view.
 6 When you say she was close -- she was close
 7 to the edge of the pond, what -- you showed that,
 8 would you hold that up? When you said she was close
 9 to the edge of pond, where was she?
 10 **A. She would have to be here.**
 11 Q. So are you pointing to the section -- is that section
 12 close to the bench?
 13 **A. Yes. That's the section close to the bench.**
 14 Q. All right. And did she tell you specifically where
 15 she was standing before she fell into the pond?
 16 **A. No, she didn't; but, you know --**
 17 MR. KUZMA: Objection.
 18 **A. -- just looking at what happened, she must have been**
 19 **close to the edge of the pond to fall into it.**
 20 MR. KUZMA: Objection. Move to strike.
 21 **BY MR. FERINGA:**
 22 Q. Let me ask this question. Did she tell you, sir --
 23 first of all, did she tell you that she was attempting
 24 to look at the turtles?
 25 MR. KUZMA: Objection.

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1 **A. Yes, sir.**
 2 **BY MR. FERINGA:**
 3 Q. Okay. What specifically did she tell you?
 4 MR. KUZMA: Objection. Asked and answered.
 5 **A. She told me that she was admiring the turtles. You**
 6 **know, she was just admiring the turtles.**
 7 **BY MR. FERINGA:**
 8 Q. Did she how it was that when she was admiring the
 9 turtles that she ended up in the pond?
 10 **A. She said that she was just admiring the turtles and**
 11 **she slipped -- you know, just slipped in the pond. I**
 12 **don't know how, but she just slipped in the pond.**
 13 Q. Okay. Did she say -- when you asked her how did this
 14 happen, did she say anything about the fact that a
 15 flip-flop or her slipper broke which caused her to
 16 fall in the pond?
 17 MR. KUZMA: Objection, that he even asked
 18 her that.
 19 **A. Well, I saw the flip-flop --**
 20 **BY MR. FERINGA:**
 21 Q. No. My question was --
 22 MR. KUZMA: No, if he could finish the --
 23 MR. FERINGA: No. Move to strike.
 24 MR. KUZMA: If the witness can finish the
 25 answer before interrupting.

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1 MR. FERINGA: Mr. Kuzma, you have been
 2 interrupting --
 3 MR. KUZMA: He's in middle of an answer.
 4 I'd like his full answer.
 5 MR. FERINGA: I'm going to ask my question.
 6 **BY VIDEO TECHNICIAN:**
 7 Q. My question specifically is, did she tell you that
 8 the -- that she slipped because there was a broken
 9 flip-flop?
 10 **A. No, sir.**
 11 Q. All right. Did you see the flip-flop?
 12 **A. Yes, sir.**
 13 Q. Where did you see the flip-flop?
 14 **A. It was there.**
 15 Q. Okay. Where?
 16 **A. In the pond.**
 17 Q. All right. So show me where you saw the flip-flop.
 18 **A. I couldn't remember and tell you exactly where we took**
 19 **the flip-flop, but we took the flip-flop from out of**
 20 **the pond.**
 21 Q. So when you first saw the flip-flop it was in the
 22 pond?
 23 **A. Yes, sir.**
 24 Q. Was -- and was there any flip-flop on the staircase or
 25 the landing?

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1 **A. No, sir.**
 2 Q. All right. And so the flip-flop -- who was the one
 3 that took the flip-flop from the pond?
 4 **A. Well, I can't remember that. It was either me or**
 5 **Mr. MacKenzie.**
 6 Q. All right. And Mr. MacKenzie is who?
 7 **A. He's ones of the security who was on duty.**
 8 Q. All right. And we've heard his name before. Did he
 9 somehow assist Ms. Hofer to go to -- Stephanie Hofer
 10 to go to the hospital?
 11 **A. Yes, sir.**
 12 Q. Was it -- was it a taxi that drove or was it
 13 Mr. MacKenzie?
 14 **A. Mr. MacKenzie.**
 15 Q. Okay.
 16 **A. In his personal car.**
 17 Q. All right. So let me go back what you saw and what
 18 you did when you first spoke to Ms. Hofer.
 19 When you asked her what she -- what
 20 happened, you said she was crying. Correct?
 21 **A. Yes, sir.**
 22 Q. Was she upset?
 23 **A. No, sir. Not from what I see. She was more in the**
 24 **crying mode. More crying.**
 25 Q. When you asked her a question, did she respond to you?

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1 **A. Yes. She did respond.**
 2 Q. And did you -- did you have any sense of whether she
 3 was coherent or incoherent when you talked to her?
 4 MR. KUZMA: Objection.
 5 **A. She was responding.**
 6 **BY MR. FERINGA:**
 7 Q. When you say she was responding, what do you mean by
 8 that, sir?
 9 **A. She was like, you know, replying to me.**
 10 Q. Okay. And when she was replying to you, did you get
 11 the sense that you two were communicating?
 12 **A. Yes, sir.**
 13 Q. Okay. So when you saw her in the pond, and the legs
 14 in the pond, did you see whether she was injured or
 15 not?
 16 **A. Yes. She was injured.**
 17 Q. And what drew you to the attention that she was
 18 injured, sir?
 19 **A. There was blood, and her legs were tearing.**
 20 Q. And so when you saw that, what did you attempt -- what
 21 did you do? What did you do next?
 22 **A. Well, immediately I couldn't just take her out by**
 23 **myself, so I called for the assistance of the**
 24 **security. And we took her out and put her on the**
 25 **bench --**

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1 Q. Can I stop you? The security that you called for
 2 assistance, was that Mr. MacKenzie?
 3 **A. Yes, sir.**
 4 Q. Okay. So you can't -- you couldn't lift her out of
 5 the pond, you needed some help, and Mr. MacKenzie came
 6 after responding to your calls. Is that right?
 7 **A. Yes.**
 8 Q. Then what did you do, sir?
 9 **A. We put her on the bench and we got some towels and so**
 10 **forth and then we -- I called my manager. And we**
 11 **tried to get in touch with a doctor, but there was no**
 12 **one there, so we shipped her off. Just put her in a**
 13 **car immediately, me and Mr. MacKenzie, and take her to**
 14 **the hospital.**
 15 Q. Let me ask you a couple of questions, if I might, to
 16 follow up with that, Mr. Scarlett.
 17 You said that you called -- after you got
 18 Ms. Hofer out of the pond, you put her on the bench.
 19 Is that the bench that's shown in Exhibit Number 5?
 20 **A. Yes, sir. That's the bench.**
 21 Q. Okay. And, sir, then you made -- then you got some
 22 towels?
 23 **A. Yes.**
 24 Q. Was -- at this point in time, was there any other
 25 individual nearby or close by that identified herself

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1 as a friend of Mrs. Hofer?
 2 **A. To my memory, not that I remember.**
 3 Q. Okay. So you got the towels and attempted to wrap the
 4 leg?
 5 **A. Yes, sir.**
 6 Q. Then you said that you called your manager. Is that
 7 Mrs. Miller?
 8 **A. Yes, sir.**
 9 Q. And what did you tell Mrs. Miller?
 10 **A. That there was this guest that had an accident and she**
 11 **fell in the pond. You know, asking her what to do,**
 12 **and she said call the doctor. And not getting through**
 13 **to the doctor, I think we went ahead and -- you know,**
 14 **Mr. MacKenzie had a car there, so she just asked him**
 15 **to assist by taking her to the hospital.**
 16 Q. Was there a -- was there any point in time at which
 17 somebody attempted to contact Mrs. Hofer's roommate?
 18 **A. I don't remember a roommate. I'm not remembering her**
 19 **roommate.**
 20 Q. So how long was it -- strike that.
 21 You get on duty at 11:30?
 22 **A. Yes, sir.**
 23 Q. About how long into your shift did this take place?
 24 **A. Maybe about an hour.**
 25 Q. Okay.

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1 **A. Thereabouts.**
 2 Q. So -- and then from the time that you first noticed
 3 Mrs. Hofer to the time she left in Mr. MacKenzie's
 4 car, how long was -- was she there?
 5 **A. That's about -- from about 10 to 15 minutes,**
 6 **thereabouts.**
 7 Q. Okay. So during that 10 to 15 minutes, did Mrs. Hofer
 8 say anything more about how this accident occurred?
 9 **A. The only thing she said is that she was there admiring**
 10 **the turtles and she fell in the pond and --**
 11 Q. Okay. I'm sorry, sir.
 12 **A. Go ahead.**
 13 Q. At what point in time did -- was the flip-flop taken
 14 out of the pond?
 15 **A. I don't have any exact memory of that one.**
 16 Q. Was it after Mrs. Hofer left?
 17 **A. I couldn't tell. I couldn't tell.**
 18 Q. Okay. Who was it that cleaned up the pond?
 19 **A. There's a ground person who cleans up the pond.**
 20 Q. Okay. But in terms of -- in terms of the flip-flop,
 21 it was -- it was in the pond, it was either you or
 22 Mr. MacKenzie that would have taken it out, or someone
 23 else?
 24 MR. KUZMA: Objection.
 25 **A. Could be someone else.**

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1 **BY MR. FERINGA:**
 2 Q. Okay. Did you look at the condition of the flip-flop?
 3 **A. I'm not remembering.**
 4 Q. Did you see anything wrong with the flip-flop that
 5 came from the pond?
 6 **A. Flip-flop, flip-flop. I not remembering about a**
 7 **flip-flop. I wasn't -- that day I wasn't focusing on**
 8 **the flip-flop. You know, I was more focusing on the**
 9 **guest and her damage.**
 10 Q. Do you know what happened to the flip-flop that you
 11 removed from the pond?
 12 **A. I don't know of it.**
 13 Q. Okay.
 14 **A. I don't know where it is.**
 15 Q. After this 10 to 15 minutes where you were with
 16 Mrs. Hofer, and after she left for the hospital with
 17 Mr. MacKenzie, did you have any further contact with
 18 her at all?
 19 **A. No, sir.**
 20 Q. Did you --
 21 **A. Only with Mr. MacKenzie.**
 22 Q. Only with Mr. MacKenzie. Did you have any contact
 23 with the -- a lady by the name of Ms. Carrie LaBelle,
 24 who was purported to be the roommate with Ms. Hofer?
 25 **A. I don't remember any roommate.**

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1 Q. After that next morning when Mrs. Miller came in and
 2 came on duty, did you have a conversation with
 3 Mrs. Miller?
 4 **A. Yes. I spoke to Ms. Miller. I had to like, you know,**
 5 **talk to her, because she's my manager, before I go.**
 6 Q. And did you have any conversations with her about the
 7 accident that had occurred the night before with
 8 Mrs. Hofer?
 9 **A. Yes, sir.**
 10 Q. All right. And what essentially did you tell her?
 11 **A. Basically what I told Ms. Miller is that -- I told her**
 12 **what happened the night before and what did I do after**
 13 **and how everything run. And after Mr. MacKenzie**
 14 **reported that she was okay and everything was all**
 15 **right with her at the hospital and all of that, that**
 16 **was basically my report to Ms. Miller.**
 17 Q. Okay. Did you fill out anything in writing,
 18 Mr. Scarlett?
 19 **A. No, sir.**
 20 Q. After that conversation that you had with Mrs. Miller
 21 on the morning of now the 19th of March, did you ever
 22 have any further discussions with Mrs. Miller about
 23 this incident?
 24 **A. No, sir.**
 25 Q. You and I have spoken. Is that right?

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1 **A. Yes, sir. Yes.**
 2 Q. All right. And was that in person or by telephone?
 3 **A. By telephone.**
 4 Q. And do you remember what I asked you?
 5 **A. Some stuff. Not everything.**
 6 Q. Do you remember, did I go over questions that I would
 7 purport to ask with you at the deposition?
 8 **A. No.**
 9 Q. Did you agree in that telephone conversation to
 10 voluntarily appear to give a deposition in this
 11 matter?
 12 **A. Yes, sir.**
 13 Q. And our office and you have communicated by e-mail.
 14 Is that right?
 15 **A. Yes, sir.**
 16 Q. And you received a copy of the Notice of Deposition?
 17 **A. Yes, sir.**
 18 Q. Did you and I talk today before the deposition?
 19 **A. No. Only from like maybe a month or so ago, yes.**
 20 Q. Okay.
 21 **A. But not before today.**
 22 Q. Have you talked with any of the other lawyers, either
 23 Ms. Minchoff or Mr. Kuzma or Mr. Reith?
 24 **A. No, sir.**
 25 MR. FERINGA: I don't have any other