

HOFER, ET AL v. THE GAP, INC., ET AL
STEPHANIE A. HOFER

July 10, 2006

Prepared for you by



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July 10, 2006

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
NO. 05-40170 FDS

STEPHANIE HOFER and)
DOUGLAS HOFER,)
Plaintiffs,)
)
vs.)
)
THE GAP, INC., EXPEDIA, INC.)
and TURTLE BEACH TOWERS,)
Defendants.)
_____)

VOLUME II
PAGES 239 - 354

CONTINUED VIDEOTAPED DEPOSITION OF
STEPHANIE A. HOFER
MONDAY, 10 JULY, 2006
9:25 AM

STEPHANIE A. HOFER
July 10, 2006

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CONTINUED VIDEOTAPED DEPOSITION of
STEPHANIE A. HOFER, called as a witness by and on
behalf of The Gap, Inc., pursuant to the applicable
provisions of the Federal Rules of Civil Procedure,
before P. Jodi Ohnemus, Notary Public, Certified
Shorthand Reporter, Certified Realtime Reporter and
Registered Merit Reporter, within and for the
Commonwealth of Massachusetts, at the offices of
Morrison, Mahoney, LLP, 250 Summer Street, Boston,
Massachusetts, on Monday, 10 July, 2006, commencing
at 9:30 a.m.

STEPHANIE A. HOFER
July 10, 2006

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STEPHANIE A. HOFER
July 10, 2006

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1 VIDEO OPERATOR: We are now on the record.
2 This is the videotape deposition of Stephanie Hofer
3 being taken on July 10th, 2006. The time is 9:30
4 a.m. We are located at Morrison Mahoney, 250
5 Summer Street, Boston. This deposition is being
6 taken on behalf of Stephanie Hofer, Plaintiff, in
7 the matter of Hofer versus The Gap, Incorporated,
8 Expedia, Incorporated, Turtle Beach Towers, Case
9 No. 05-40170 FDS. This matter is being held at the
10 -- for the US District Court, District of
11 Massachusetts. My name is Ralph Scopa, videotape
12 operator. Will the court reporter swear in the
13 witness and the attorneys briefly identify
14 themselves for the record, please.

15 MS. MINCHOFF: Attorney India Minchhoff for
16 Stephanie Hofer.

17 MR. FERINGA: Scott Feringa for the Gap.

18 MR. REITH: Thomas Reith for Defendant
19 Expedia, Inc.

20 STEPHANIE HOFER,
21 having first been duly sworn,
22 testified as follows to
23 continued direct interrogatories

24 BY MR. FERINGA:

25 Q. Good morning, Mrs. Hofer.

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1 A. Good morning.

2 Q. I'm going to show you what I've marked as
3 Exhibit No. 8, which is a copy of the notice of
4 deposition for today.

5 (Deposition notice marked Exhibit 8.)

6 Q. Did you ever receive a copy of Exhibit 8?

7 A. (Witness reviews document.) Yes.

8 Q. All right. At your last deposition that
9 took place on June 29, we had asked for you to
10 bring groups of documents, and no -- you didn't
11 produce any documents. And so my question is, for
12 example, you have -- you had photographs on your
13 camera on your -- on your computer. You said that
14 you took approximately two photographs a month over
15 a six to eight-month period of time. You only
16 produced a portion of those. I was hoping that you
17 would bring the rest of those today. Did you?

18 A. I produced those to my attorney, and upon
19 review, I assume that they will be presented.

20 Q. So they haven't been brought here today?

21 A. No, I did not bring them today.

22 Q. All right. We also asked you to produce
23 today, as well as on June 29, your employment and
24 personnel records from the dental office at which
25 you served as a dental assistant. Did you bring

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1 those?

2 A. There are no records of employment or
3 unemployment from my last dental position. All I
4 have are my pay stubs and my W-2.

5 Q. That's -- my question, however, is, are
6 you aware of whether --

7 A. There are no documents.

8 Q. How do you know that?

9 A. Because I asked.

10 Q. So the employer -- if we send a subpoena
11 to the employer, the employer will have no records
12 as -- as far as you know?

13 A. As far as I know.

14 Q. Who did you speak with at that office to
15 determine whether there were employment records?

16 A. The office manager.

17 Q. And that individual's name is who?

18 A. Anne.

19 Q. Anne what?

20 A. Meszaros.

21 Q. Spell the last name.

22 A. M-e-s-z-a-r-o-s.

23 Q. And when did this conversation take place?

24 A. Couple of weeks ago.

25 Q. Was it prior to your deposition of June

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1 29?

2 A. I can't recall.

3 Q. Well, did you inquire about your
4 employment records before or after your last
5 deposition?

6 A. I did before.

7 Q. While I'm on the subject, between June 29
8 and today, have you reviewed any documents in
9 preparation for your testimony today?

10 A. I've reviewed documents with my attorney.

11 Q. What documents have you reviewed in
12 preparation for your testimony today?

13 A. Just the continued -- notice of continued
14 deposition.

15 Q. The document that we've marked as Exhibit
16 No. 8, correct?

17 A. Uh-huh.

18 Q. Yes?

19 A. I'm sorry.

20 Q. No. No. Don't worry. Did you review any
21 other documents in preparation for your testimony
22 today between June 29th and today?

23 A. No.

24 Q. The last time that we talked, you had
25 indicated that you had been granted disability

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1 status. Have you produced those records --

2 A. To my attorney.

3 Q. -- today? You don't have those today?

4 A. No, I don't.

5 MR. FERINGA: Do we have -- if records
6 have been requested once again, do we have those
7 today so we can --

8 MS. MINCHOFF: No, I haven't had an
9 opportunity to review anything myself.

10 MR. FERINGA: Okay.

11 Q. All right. We have also asked you to
12 produce copies of all of the medical records and
13 mental health records. The records that we have
14 received are the Mass. General records, two pages
15 of records from St. Anne Hospital in Jamaica, and
16 the records we have from Mass. General are some
17 inpatient, some outpatient records. We also have a
18 visiting nurse -- we have some physical therapy
19 records. Have you brought with you the remaining
20 records that have been outstanding?

21 A. I have produced all of the records that I
22 have, to my knowledge, to my attorney.

23 Q. Apparently there were reports from Doctor
24 Fraser, a Doctor Hord, H-o-r-d, a Doctor
25 B-o-r-g-e-n, and a Doctor A-m-e-y that were

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1 forwarded or filed in conjunction with your Social
2 Security disability status. Did you bring those
3 reports?

4 A. I do not have copies of those reports.

5 Q. My question is, did you bring them?

6 A. No, I did not.

7 Q. In the Rule 26 disclosures there was a --
8 address for the cab driver, Mr. McKenzie,
9 M-c-K-e-n-z-i-e. There was an address for him, but
10 there was no telephone number. You indicated in
11 the deposition that you gave on June 29 that you
12 had the phone number. Do you have that phone
13 number with you?

14 A. Whatever I have of Mr. McKenzie was on
15 that one piece of paper.

16 Q. So --

17 A. If it didn't include --

18 Q. What --

19 A. If it didn't include a phone number, then
20 it didn't include a phone number.

21 Q. What one piece of paper are you talking
22 about?

23 A. I had produced one piece of paper with his
24 name and address, and I believe there was a phone
25 number on it, but if there is not, there is not.

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1 Q. And Ms. Minchoff said that -- said before
2 we started the deposition that you've requested
3 your credit card statements for the time period
4 that we had requested, and those have not as yet
5 come in, is that correct?

6 A. No, they have not.

7 Q. Have you been able to identify any of the
8 fees, costs, or records of your personal
9 expenditures for the medical care that you have had
10 since March 18, 2004?

11 A. I don't understand the question.

12 Q. Sure. You've indicated in your last
13 deposition that there were monies that you had to
14 pay separate and apart for -- from the money that
15 was paid by your insurance companies for your care.
16 The -- we had asked for all records that dealt with
17 the money that you and your family paid for your
18 care -- copays, things of that nature. Have you
19 brought that information with you today?

20 A. All of that information my attorney has.

21 Q. But we don't have it here today, is that
22 correct?

23 A. Not to my knowledge.

24 Q. Have you brought with you all of -- any of
25 the personal notes, calendars that you identified

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1 in your previous deposition? Those would be dates
2 2004, 2005, 2006, in which you have discussed or
3 put down notes regarding medical care and treatment
4 or mental health care and treatment?

5 MS. MINCHOFF: Objection. You can answer.

6 A. I don't have any personal notes regarding
7 treatment. I have appointment dates and medication
8 lists.

9 Q. All right. Did you bring those with you?

10 A. No, I did not.

11 Q. Is there a reason why you didn't bring
12 those with you?

13 A. I didn't realize I needed to keep
14 appointment cards and, you know, when that's all
15 listed in my medical records.

16 Q. That's not my question.

17 A. What is your question?

18 Q. Did -- did you keep them?

19 A. No.

20 Q. Did you -- so all of that's been
21 destroyed.

22 MS. MINCHOFF: Objection.

23 Q. Yes?

24 A. I can't recall if I've destroyed it or if
25 I've filed it.

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1 Q. All right. We went over this a bit on
2 June 29, but you had said that you had maintained a
3 file or a collection of documents that you
4 identified as calendars or notes or appointment
5 cards. I think you indicated that at least for a
6 portion of those -- and I can go to the transcript
7 should you wish -- that a portion of those you
8 destroyed.

9 MS. MINCHOFF: Objection.

10 MR. FERINGA: She did say that.

11 Q. The question is, where is the rest of that
12 information? Where are your appointment cards,
13 calendars, any notes that you received from
14 physicians?

15 A. I don't know.

16 Q. Do you have those at your house?

17 A. I don't know.

18 Q. How would we go about looking for those?

19 A. I don't know.

20 MR. FERINGA: I really have to state for
21 the record a protest of the manner in which the
22 lack of production of documents has -- has taken
23 place. We had sent a very detailed, very specific
24 request for production of documents pursuant to the
25 federal rules for the June 29th deposition. No

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1 documents were produced. There was no protective
2 order. There was no letter sent by your -- by
3 counsel for Plaintiffs' office indicating that
4 nothing was going to be produced.

5 We then sent an amended deposition notice
6 for today. Between June 29 and today we received
7 no -- no protective order or claim of protective
8 order. We have received no -- no document from
9 Plaintiffs' counsel's office in protest. Yet, once
10 again, we're here without any documents whatsoever.

11 MS. MINCHOFF: Scott, I think what you are
12 missing is that perhaps you're not asking the right
13 questions. The documents that she has she's
14 produced through me to you already.

15 MR. FERINGA: No, that's not quite
16 correct.

17 MS. MINCHOFF: It is correct, because I
18 know what your request says. You spoke -- and I'm
19 going to respond to it. I know what your request
20 says. I know what your prior three document
21 requests have said.

22 MR. FERINGA: It was identified that your
23 client did not provide you with complete copies of
24 documents when documents were provided
25 specifically. For example, the photographs that

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1 exist on her computer.

2 MS. MINCHOFF: Specifically, the
3 duplicates that you are looking for are identical.
4 Which you said you tend to keep on ignoring that in
5 your questions. She's produced to me a disk of
6 those identicals of what you already have. I will
7 look at them and produce them to you. I got that
8 this morning. I'm not going to not look at it
9 prior to producing it to counsel.

10 MR. FERINGA: I don't disagree that it is
11 incumbent upon counsel for any party to review
12 documents before they're turned over. The
13 difficulty that I have is that we've asked for
14 these documents be produced at this deposition, and
15 nothing has been produced at this deposition or the
16 prior deposition. We have -- we still are missing
17 medical records. We still are missing the
18 disability records and all -- apparently a series
19 of reports that have been filed, none of which have
20 ever been turned over, all of which you are
21 required to turn over, and --

22 MS. MINCHOFF: And I don't disagree with
23 you. I will state for the record, as I've made it
24 very clear to both attorneys here, requests have
25 been made for her medical records. As they funnel

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1 in, I continue to supplement the document requests
2 that the two of you have sent. And there is no
3 more that I can do. I know that -- actually, your
4 office, Scott, has sent out your own subpoenas, and
5 I query whether you've had better luck than I have
6 with receiving all of the documents. But you
7 actually have more medical records than what you've
8 cited for the record. I am aware of that. But
9 simply put, as we would get them, they've been sent
10 over to you. There is no more that can be done
11 when formal requests have been made.

12 MR. REITH: I --

13 MR. FERINGA: For example, the fees, costs
14 that --

15 MS. MINCHOFF: You know what, I'm actually
16 going to also state that if you have an objection
17 to anything with respect to discovery, I suggest
18 you put it in a motion, and I'm not going to spend
19 the time on the deposition talking about a
20 discovery dispute.

21 MR. FERINGA: Then what I'm going to do,
22 I'm going to continue the deposition under protest.
23 Simply put, I've never been in a situation where
24 these types of requests have been ignored and not
25 produced.

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1 MS. MINCHOFF: Well, I think you're
2 misqualifying it as being ignored. They are not
3 ignored. You have everything that we have, Scott,
4 with the exception of the duplicate photographs,
5 which, by all means, I'll take a look at and get to
6 you the exact copies of what you already have so
7 you have it at today's or the next deposition. But
8 they're not ignored. You have everything that we
9 have. I would actually state for the record, I
10 don't think your questions were artful in the fact
11 that they were including a lot of document requests
12 that were previously asked for. And so when the
13 deponent is testifying that they've been produced
14 to her knowledge, they have been produced, and
15 they're in your possession.

16 But I'm going to conclude with -- I'm not
17 going to continue this at the deposition. If you
18 want to suspend, by all means, that's your right.
19 I'll put an objection up to the suspension and see
20 if Attorney Reith would like to start, but --

21 MR. FERINGA: No, I'm going to continue
22 under protest.

23 MS. MINCHOFF: All right.

24 MR. FERINGA: I don't -- I don't attempt
25 to waste people's time, although I'm -- it's

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1 getting to that point.

2 MR. REITH: If I could, Scott. I just am
3 going to join in the protest. You know, I
4 understand your position, Indie, that you state
5 everything your client's produced to you you have
6 produced on to us, but there are certain instances
7 that were novel in each of these latter requests
8 that I was hoping to see not only for the first
9 day, but the second day as well. With
10 everything -- the specifics, yes, the photographs,
11 even if they're duplicates, and they could be
12 produced in toto. And as to the other documents,
13 the disability thing, bothers me to no end that
14 should have been produced to today because
15 obviously that should have been produced in
16 connection with your initial disclosures. I'm not
17 going to waste any time. I don't think it was a
18 waste for Scott and/or you to discuss it on the
19 record. I think it's necessary -- specifically,
20 if, in fact, we do have to move later on -- I think
21 it's necessary that a record be created. And at
22 that, I will stop my secondary protest and allow
23 Scott to continue.

24 Q. All right. Have you spoken with your
25 mother, your husband, or Ms. LaBelle about the

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1 circumstances of your injury or this deposition
2 between June 29 and today?

3 MS. MINCHOFF: Objection.

4 A. No.

5 Q. Have you had any communications with Ms.
6 LaBelle between June 29th and today?

7 A. Yes, I have.

8 Q. All right. And how -- what communications
9 have you had with her?

10 A. She got married.

11 Q. Okay. And were you at her wedding?

12 A. Yes, I was.

13 Q. Okay. Did you talk to her at all about
14 the -- this lawsuit between June 29th and today?

15 A. No.

16 Q. Did you provide her with any documents,
17 including a copy of your deposition transcript?

18 A. No.

19 Q. All right. I want to ask you some
20 questions to go back over the fall, the
21 circumstances of the fall. I've handed you what
22 I've specifically marked Exhibit No. 9, which is a
23 copy of the photographs that were part of the
24 initial -- initial document production.

25 (Copy of photograph marked Exhibit 9.)

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1 Q. And I will --

2 MS. MINCHOFF: I'm sorry. Did you just
3 say a copy of a photograph that was part of the
4 initial document production?

5 MR. FERINGA: I misspoke. The -- a copy
6 of the photograph that was produced at the last
7 deposition on June 29th.

8 Q. You would indicate that just before the
9 fall you looked down and saw your flip-flop had
10 separated, correct?

11 A. Yes.

12 Q. And looking at this photograph, Exhibit
13 No. 9, and looking at Exhibit No. 9, where do you
14 think you were in relationship to the turtle pond,
15 which is shown --

16 A. I don't know.

17 Q. When you were -- looked down and saw the
18 toe of -- toe piece of your flip-flop, your left
19 flip-flop -- strike that. Was it your left or your
20 right?

21 A. It was my right flip-flop.

22 Q. Your right flop-flop. When you looked
23 down and saw your right flip-flop had separated,
24 had you just taken a step onto the right foot or
25 had you taken -- were you stepping onto your left

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1 foot?

2 A. I can't remember that.

3 Q. What was happening? In terms then of
4 Exhibit No. 9, can you -- you told us before that
5 you fell into the turtle pond as a result, you say,
6 of the flip-flop failing, correct?

7 A. That's what I said.

8 Q. All right. Your intention was to head
9 down the stairs, correct?

10 A. That would be correct.

11 Q. So how is it then that you fell to your
12 right?

13 A. I couldn't really answer that.

14 Q. All right.

15 A. I lost my balance.

16 Q. I recognize that. But you were -- you
17 were in the process of walking, correct?

18 A. I was in the process of leaving the door
19 to turn around to walk.

20 Q. Okay. I'm going to show you what we
21 marked as Exhibit No. 7 at the previous deposition,
22 okay. When you say you were in the process of
23 leaving the door to turn around to walk, are you
24 talking about the glass doors that show up in
25 Exhibit No. 7?

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1 A. I can't recall that.

2 Q. Well, what door are you talking about if
3 it's not those glass doors?

4 A. I have a memory of a door --

5 Q. Okay.

6 A. -- that doesn't look like that.

7 Q. What --

8 A. I don't recall if this is where I fell.

9 Q. What shows up in Exhibit No. 7 you're now
10 saying you don't recall whether Exhibit No. 7 or
11 what is depicted in Exhibit No. 9 is actually where
12 you fell?

13 A. I am not sure if this is the area where I
14 fell (indicating).

15 Q. Right. Was the -- have you -- are there
16 pictures of any other places on Turtle Beach Towers
17 in the property of Turtle Beach Towers upon which
18 there is a door and then a series of steps and a
19 turtle pond?

20 A. Can you repeat that question --

21 Q. Sure.

22 A. -- in a different way, please.

23 Q. Sure. Is there another door and building
24 with a turtle pond that existed on the Turtle Beach
25 Towers property --

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1 A. No --

2 Q. -- other than the one that's shown on
3 Exhibit 7 or 9?

4 MS. MINCHOFF: Objection.

5 MR. FERINGA: Can she answer?

6 MS. MINCHOFF: Yes.

7 A. I don't know.

8 Q. All right. Do you -- do you have it in
9 your memory seeing more than one building that had
10 glass doors and a turtle pond next to the stairs?

11 A. I don't know. I wasn't there very long.

12 Q. Okay. So in your memory do you remember
13 seeing only one then?

14 A. I remember seeing only one.

15 Q. All right. And if there was only one,
16 would you agree that it was in the building in
17 front of the glass doors where the lobby for the --
18 and the reception area for Turtle Beach Towers was?

19 A. Can you repeat that.

20 MS. MINCHOFF: Objection.

21 Q. Sure. The turtle pond into which you fell
22 was located out on the outside of the building
23 where the reception area was, correct?

24 A. Yes. To my knowledge, it was.

25 Q. And -- and it was -- I think you testified

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1 that the reason why you were there at -- I believe
2 between 11 and 12:30 at night?

3 A. No, it was between 10:30 and 11.

4 Q. Okay -- between 10:30 and 11 at night was
5 because you wanted to check with the receptionist
6 to make sure that you could perhaps arrange for a
7 trip to some sort of falls.

8 MS. MINCHOFF: Objection.

9 A. No.

10 Q. What was the reason that you were there
11 that night?

12 A. For brochures, not to speak to anybody.

13 Q. Okay. But you were going to go to the
14 reception and lobby area, correct?

15 A. Yes, I was.

16 Q. All right. So assuming that this is the
17 only turtle pond and these -- what shows up in
18 Exhibit No. 7 is, in fact, the photograph of the
19 lobby area, would you agree that this is then the
20 area where you likely would have fallen?

21 A. No, I will not agree. I do not know if
22 this is even Turtle Beach Towers.

23 Q. You don't even recognize that.

24 A. No, I don't.

25 Q. You recognize the turtle pond?

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1 A. No, I don't.

2 Q. So does it look completely different from
3 what you remember?

4 A. Yes, completely different from what I
5 remember.

6 Q. All right. So what is it that you -- what
7 is it that you remember about the -- the turtle
8 pond into which you fell? How is it different from
9 what's shown on Exhibit No. 9?

10 A. I couldn't tell you how it's different. I
11 don't remember very much of the accident. I
12 certainly didn't examine it before I fell.

13 Q. So how is it that you can say that Exhibit
14 No. 9 does not show the turtle pond into which you
15 fell?

16 MS. MINCHOFF: Objection.

17 A. Because I don't know if that's the turtle
18 pond in which I fell.

19 Q. That's not my question.

20 A. That's my answer.

21 Q. How is it that you can say it is not?

22 A. I said I don't know if it is. I don't
23 know if these pictures are representative, if
24 they're that area. I don't know if it's Turtle
25 Beach Towers.

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1 Q. You just don't remember that at all?

2 A. It was almost three years ago, Scott.

3 Q. I recognize that it was almost three years
4 ago.

5 A. I do not remember.

6 Q. All right. So let's -- let's look at this
7 then.

8 A. Uh-huh.

9 Q. You said that you were -- you were at the
10 -- you were at the door, you turned around, and it
11 was at that point that you fell?

12 A. It was at that point when my flip-flop
13 broke.

14 Q. Okay. And how far were you, in your
15 memory -- let me ask this question.

16 MR. FERINGA: Do we need to go off the
17 record?

18 MS. MINCHOFF: No. No.

19 Q. You drew Exhibit No. 5 at the last
20 deposition --

21 A. Yeah.

22 Q. -- remember?

23 A. Yes, I do.

24 Q. Okay. So we have Exhibit No. 5 now in
25 front of you, and -- does Exhibit No. 5 now meet

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1 with your recollection of the layout of the Turtle
2 Beach Tower door, stairs, and turtle pond?

3 MS. MINCHOFF: Objection.

4 A. This is what I drew to my memory.

5 Q. I know it is. But does it represent it?

6 A. To my memory.

7 Q. Okay. So you said that you were at the
8 doorway where it says, "Enter door," on Exhibit No.
9 5 and turned around and your right flip-flop broke,
10 correct?

11 A. Correct.

12 Q. All right. And were you -- were you right
13 at the door --

14 A. Yeah.

15 Q. -- or had you taken a step?

16 A. Oh, I probably had taken a step.

17 Q. Do you have any memory of whether you did
18 or didn't?

19 A. No, I don't.

20 Q. Okay.

21 A. The door was locked.

22 Q. Okay. So you went to the door, tried to
23 get into the door, pulled on it, and it didn't
24 open, correct?

25 A. The door was locked, correct.

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1 Q. And you remember the door at least being a
2 glass door, correct?

3 A. Correct.

4 Q. When you -- had you completed turning
5 around to go back down the stairs before your
6 flip-flop broke, or did it break in the process of
7 turning?

8 A. I don't know.

9 Q. Do you remember actually taking a step
10 away from the door?

11 A. I don't know.

12 Q. Do you remember, though, being in the
13 process of moving in a direction toward the
14 stairs --

15 A. Yes.

16 Q. -- when your flip-flop broke?

17 A. Yes.

18 Q. And you remember moving. You weren't
19 standing still when your flip-flop broke, correct?

20 A. Correct.

21 Q. So might I assume then that that -- that
22 your direction would have been toward the stairs?

23 A. (Witness nods.) It's possible. I don't
24 quite remember.

25 Q. Likely?

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1 A. Likely.

2 Q. Okay. Do you remember the distance
3 between -- at least from your recollection -- from
4 the doorway to the stairs?

5 A. No, I do not.

6 Q. In terms of Exhibit No. 7, there is a
7 distance from the stairs to the doorways at least
8 that are depicted. Do you see those?

9 MS. MINCHOFF: Objection.

10 A. I do.

11 Q. You do?

12 A. I see that.

13 Q. All right. Do you have any memory of
14 whether that distance, as depicted on Exhibit No.
15 7, was, at least in your mind of what the scene
16 actually looked like, whether it was a shorter
17 distance, longer distance?

18 A. Are you asking strictly about the distance
19 between the door and the stairs?

20 Q. Yes.

21 A. I would -- to my memory, I think it was
22 shorter.

23 Q. Right. And how much shorter?

24 A. I can't recall how much shorter.

25 Q. You have drawn on Exhibit No. 5 a doorway

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1 which seems to immediately abut some stairs. Is
2 that what you remember?

3 A. I remember a set of stairs and a door --

4 Q. Right.

5 A. -- and a small landing.

6 Q. All right. And what is depicted on
7 Exhibit No. 7 does not meet with your recollection,
8 correct?

9 A. No, it does not.

10 Q. On Exhibit No. 7 there are two stairs
11 shown. Do you remember whether there were more
12 stairs on the location where you claim this took
13 place?

14 A. To my best recollection, in my memory, I
15 believe there were more stairs than that.

16 Q. And how many more stairs were there?

17 A. Possibly two more. I believe maybe there
18 were between four and six stairs.

19 Q. Okay. Were you on the landing when you
20 claim the right flip-flop separated?

21 A. Yes, I was.

22 MS. MINCHOFF: Scott, just so we're clear,
23 since there was quite a few photographs in Exhibit
24 No. 7, can we just identify which photograph we're
25 speaking of or maybe have her hold it up.

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1 MR. FERINGA: I think we have and -- and
2 she can --

3 MS. MINCHOFF: Well, 7 had a few.

4 MR. FERINGA: No, this is --

5 MS. MINCHOFF: You've asked her about
6 Exhibit No. 7 for the last few questions.

7 MR. FERINGA: It's the one -- it's the one
8 with the mark -- actually the exhibit on it --
9 exhibit sticker on it, but if you'll hold it up.

10 MS. MINCHOFF: You're the only one that
11 has the exhibit sticker.

12 MR. FERINGA: No, it was copied attached
13 to all copies of the deposition when it was --

14 MS. MINCHOFF: I didn't get the
15 deposition, so I'm going off of the exhibits you
16 handed out on the 29th.

17 MR. FERINGA: Got it.

18 VIDEO OPERATOR: Yes.

19 MS. MINCHOFF: That's fine.

20 MR. FERINGA: That's fine. Thank you.

21 Q. All right. You saw the flip-flop -- the
22 right flip-flop separate before you reached the
23 stair, correct?

24 A. I can't recall if it was before I reached
25 the stair or as I was going down. I can't recall.

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1 I know I saw it, but I don't know when.

2 Q. Did you have time to stop?

3 A. No, I did not.

4 Q. So tell me, as best as you can recall, the
5 configuration of your body as you fell.

6 A. I don't know.

7 Q. Did you -- were you holding anything in
8 your hands?

9 A. No, I was not.

10 Q. On Exhibit No. 5, which is the drawing
11 that you made, you have an arrow pointing into the
12 turtle pond that would have been to your right as
13 you're walking down the stairs, correct?

14 A. Correct.

15 Q. How is it that you ended up there?

16 A. I don't know.

17 Q. Do you remember -- do you remember what
18 portion of your body -- strike that. Do you
19 remember how you fell into the turtle pond? That
20 is, to your side, to your front forward, on your
21 back, on your left side?

22 A. I don't know.

23 Q. Do you remember what portion of your body
24 struck what first?

25 A. I don't recall what portion of my body

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1 struck what first.

2 Q. Do you remember your right or left leg
3 impacting the side of the turtle pond?

4 A. No, I do not.

5 Q. You do remember that the turtle pond was
6 encased in some sort of concrete rectangle,
7 correct?

8 A. I was under the impression it was a stone
9 wall type.

10 Q. So what appears on Exhibit No. 9 does not
11 appear to look like the turtle pond into which you
12 fell?

13 A. No, it does not.

14 MS. FERINGA: Let's go off the record,
15 because I'm going to ask you to draw what you
16 remember the turtle pond looked like, okay?

17 VIDEO OPERATOR: Off the record at 10:04.

18 (Discussion off the record.)

19 VIDEO OPERATOR: On the record at 10:08.

20 Q. While we were off the record, Ms. Hofer, I
21 asked you to draw the turtle pond. Have you done
22 so?

23 A. To the best of my ability.

24 Q. All right. I'm going to reach over and
25 place an exhibit sticker, No. 10, on it, and I'm

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1 asking you to -- if you would -- hold it up to the
2 camera so the camera can see it, please.

3 A. (Witness complies.)

4 (Diagram marked Exhibit 10.)

5 Q. All right. Good. So can you describe for
6 us now what you've drawn on Exhibit No. 10.

7 A. I've drawn some stairs, and next to the
8 stairs I have drawn, to the best of my ability,
9 what I remember about the turtle -- the turtle
10 pond.

11 Q. Now, I accept the fact that you're not an
12 artist.

13 A. Thank you.

14 Q. And so I have some questions about what
15 you drew if I could, okay.

16 A. Please.

17 Q. You have drawn an area that you've
18 identified as the turtle pond, correct?

19 A. Yes.

20 Q. And around that area that you've
21 identified as a turtle pond you have a series of
22 black squiggly lines. Can you -- can you tell us
23 what the black squiggly lines mean?

24 A. You know, stone wall, stones, stones,
25 stones, you know, round stones.

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1 Q. Okay. That's -- okay.

2 A. I am horrible -- I -- I am not an artist.

3 Q. And I appreciate that, believe me. I
4 appreciate that. So if -- if you could hold up --
5 again, I'm sorry, for the camera, the area on the
6 lower left-hand side you've identified as stones
7 and those squiggly lines represent stones that
8 would have been on the outside of the turtle pond.

9 A. Yes.

10 Q. Okay. And you have plants and flowers
11 behind the turtle pond closest to the building, is
12 that fair?

13 A. Uhm, I would think, to my best of -- the
14 best of my knowledge, this is what I recall of that
15 area.

16 Q. Okay. And if you could hold up Exhibit
17 No. 9 this one --

18 A. Oh.

19 Q. -- next to yours, if we could, what
20 you're saying is that what is shown in the
21 photograph of Exhibit No. 9 is not the turtle pond
22 into which you fell.

23 MS. MINCHOFF: Objection.

24 A. To the best of my knowledge.

25 Q. Okay. So what you're saying is that the

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1 stones were jagged on the outside of the turtle
2 pond?

3 A. No.

4 Q. Round?

5 A. I'm saying it looked like a stone wall --

6 Q. Okay.

7 A. -- on the outside.

8 Q. And the -- and the top of the wall, was
9 the top of the wall flat or was it a stone, sort of
10 stones on the top?

11 A. I -- I can't recall that.

12 Q. Do you have any sense, as you fell into
13 the turtle pond, of feeling pain or an impact on
14 your left leg?

15 A. Can you rephrase that.

16 Q. Sure. Probably a bad question. As you're
17 falling, do you remember feeling pain specifically
18 on your left leg between your knee and your shin?

19 A. Yes.

20 Q. As you're falling?

21 A. No.

22 Q. Okay.

23 A. Oh, okay. I see where you -- can you
24 clarify that again.

25 Q. I'd be more than happy to.

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1 A. Thank you.

2 Q. What I'm attempting to do is sort of
3 explore what your memory is about how you fell, and
4 then what I'm trying to do is, like, if you're
5 narrating a videotape, if we have a silent
6 videotape of watching you fall in slow motion,
7 seeing what portions of that you remember.

8 A. I understand.

9 Q. Okay. So the question that I have is, as
10 you're falling into the turtle pond, do you have
11 any memory of your impacting your left leg on the
12 outside or -- of the wall of the turtle pond that
13 you've drawn now in Exhibit No. 10?

14 A. I have no memory of that.

15 Q. Do you have any memory as to how you
16 exactly landed in the turtle pond?

17 MS. MINCHOFF: Objection.

18 A. No, I do not.

19 Q. Do you have any memory of feeling any pain
20 as you're -- as you've come to rest in the turtle
21 pond?

22 A. I can't recall that.

23 Q. Do you have any memory of being -- for the
24 lack -- for lack of a better word -- draped across
25 stones and coral within the turtle pond? That is,

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1 not -- you're not flat in the bottom of the turtle
2 pond, but you're lying on some stuff that's inside
3 of it.

4 MS. MINCHOFF: Objection.

5 Q. Do you understand what I'm asking you?

6 A. I couldn't answer how I landed. It
7 wouldn't be possible for me to remember exactly how
8 I landed and what I was draped over.

9 Q. All right. If you fell on the floor that
10 we have here, we -- we would land on a flat carpet,
11 essentially. What I'm attempting to understand is
12 do you have any sense of landing on stones or slate
13 or coral or anything in the turtle pond?

14 A. I recall cutting my leg, but I do not
15 recall how I landed.

16 Q. Do you recall how you cut your leg?

17 A. I cut my leg on sharp coral and rock and
18 flat stone, whatever -- what was in there was razor
19 sharp.

20 Q. Okay. Now, when you say, "what was in
21 there was razor sharp," are you talking about --

22 A. I am talking about the coral and the tile
23 or flagstone. The rock.

24 Q. What my question was was -- are you
25 talking about what was inside of the pond as

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1 opposed to the stuff the walls were made out of?

2 A. I am talking what was inside.

3 Q. Okay.

4 A. What I gouged my leg on is what I am
5 speaking of.

6 Q. And we're talking about your left leg.

7 A. Yes.

8 Q. Now, do you have any sense of at what
9 point you gouged your leg?

10 A. No, I do not.

11 Q. And my question -- and the question that
12 I'm asking you is, as you are -- you found yourself
13 in the turtle pond, I think you told us that you
14 attempted to step up -- stand up, and you couldn't.

15 A. Yes.

16 Q. Now, did you -- did you have the sense
17 that your left leg, at that point, was caught or
18 impacted or stuck on something?

19 A. When I could not raise my leg out, I
20 looked down and had the sense that something was
21 wrong.

22 Q. Okay. So if I envision how you fell, you
23 attempt to stand up and can't get all the way up.
24 Is that fair?

25 MS. MINCHOFF: Objection.

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1 A. I can't recall.

2 Q. Well, I'm --

3 A. I can't recall -- you say, "stand up." I
4 can't recall if I were flat on my back or face
5 down. So I can't recall whether I was standing --
6 I recall making an attempt to step out.

7 Q. Okay. In order to step out, you would
8 have to be off of your back or stomach or butt or
9 whatever you're on, correct?

10 A. Yes.

11 Q. Logically.

12 A. Yes.

13 Q. So you would have to have made some
14 maneuver -- whatever it was -- from your initial
15 resting place within the pond to try and get out of
16 the pond.

17 A. Can you rephrase that.

18 Q. Sure. You find yourself in the pond.
19 Clearly, you weren't expecting to be there. You
20 find yourself in the pond, and now you're going to
21 try and get out, okay?

22 A. Yes.

23 Q. At the point where you're going to try to
24 get out, you have to do something, correct?

25 A. Yes.

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1 Q. All right. Do you remember when you
2 attempted to step out whether you actually were
3 successful in standing or moving to a partial
4 standing position?

5 A. I can't recall.

6 Q. Do you remember rolling around to try to
7 get to a position where you could try to stand up?

8 A. I remember trying to get to a position
9 where I could get off my foot.

10 Q. Okay. So does that mean that you had
11 landed on -- when you were talking about your foot
12 -- your left foot?

13 A. My left leg, foot.

14 Q. Okay. Do you have the sense, then, that
15 you had landed on your left foot or leg, now
16 thinking back on things?

17 A. I -- I don't have the sense of -- I could
18 not tell you how I landed.

19 Q. Okay. Are you right-handed or
20 left-handed?

21 A. I'm right-handed.

22 Q. Okay. Do you have a sense of attempting
23 to stand up in any way before you -- in order --
24 strike that. Do you have a sense of attempting to
25 stand up inside of the turtle pond in an effort to

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1 try to get out of the turtle pond?

2 MS. MINCHOFF: Objection.

3 A. I don't recall.

4 Q. Do you have a sense of whether your left
5 foot or leg were caught underneath something?

6 A. I don't recall.

7 Q. Do you have a sense of looking down and
8 seeing your left leg touching or impacted by or
9 around either coral or flagstone or some -- some
10 sort of object within the turtle pond?

11 A. Can -- can you say that again.

12 Q. Sure. You said that you attempted to
13 stand up or you attempted to get out of the turtle
14 pond, to be more accurate, I believe.

15 A. Yes.

16 Q. And -- and you couldn't because something
17 was wrong with your left leg, okay?

18 A. (Witness nods.)

19 Q. Is that --

20 A. Correct.

21 Q. Okay. Now, again, using my videotape
22 slow-motion analogy that I'm trying to work on
23 here, as you're focusing now down, as you're
24 looking down at your left leg to see why in the
25 heck things aren't working, what do you see?

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1 MS. MINCHOFF: Objection.

2 A. I know very vividly what I saw and --

3 Q. And that's what I want you to describe.

4 A. Okay. But it has nothing to do --

5 Q. Do you remember seeing --

6 A. -- with what was around me. It was what
7 to do -- what happened to my leg.

8 Q. Okay.

9 A. That's all I saw. I didn't see anything
10 around me.

11 Q. What I'm asking -- what I'm asking about
12 is as you're looking down -- with this vivid
13 memory -- do you remember seeing anything impacting
14 your leg at that point?

15 A. No. My very -- my very vivid memory is
16 only my leg. I don't recall anything around me.
17 All I know is that this pond was filled with these
18 coral and slate, and I could only, you know, see
19 the -- the severe laceration and blood pouring from
20 my leg. That's all I could see. I don't know if I
21 was hung up on anything. I couldn't answer that.

22 Q. Do you remember whether your foot was
23 underneath something?

24 A. No, I do not.

25 Q. Do you remember seeing your foot at all?

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1 A. No, I do not.

2 Q. Okay. So what you saw, looking down at
3 your leg, was the laceration, lots of blood. Do
4 you remember the flap of skin?

5 A. Yes, I do, very vividly.

6 Q. And the flap of skin was -- was going from
7 essentially your mid shin --

8 A. Yes.

9 Q. -- down toward your foot, correct?

10 A. Toward my foot, yes.

11 Q. But you don't remember seeing your foot?

12 A. No, but I do remember seeing the blood
13 vessels and the nerves hanging out of my leg like
14 spaghetti.

15 Q. Okay. In attempting to get up and out of
16 the pond, just before you looked down at your leg,
17 were you trying to get out in the direction toward
18 the stairs, or were you trying to get out in the
19 direction now -- which would be parallel to the
20 stairs, that is, toward the pond, the back --
21 bottom part of that exhibit?

22 A. I don't remember.

23 Q. Do you remember getting out of the pond at
24 all?

25 A. I don't remember.

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1 Q. And from -- from the point where you have
2 this very vivid memory of your -- the flap of skin
3 and the nerves and blood vessels hanging down like
4 spaghetti, after that point in time, your memory is
5 spotty, fair?

6 A. That's -- my memory is more -- is worse
7 than spotty.

8 Q. Okay. And just so that I am clear, the
9 deposition of June 29th and today was the first
10 time that you've seen photographs of what is
11 purported to be the turtle pond into which you
12 fell, correct?

13 A. Purported to be, yes.

14 Q. And again, so that we're clear, you are
15 not aware of any photographs taken by any
16 individual on your behalf of the turtle pond into
17 which you claim you fell, correct?

18 A. I have no knowledge of any other photos
19 taken on my behalf. Is that what you -- can you re
20 -- rephrase that so I can --

21 Q. I'll be glad to.

22 A. So I can finish -- so I can finish my
23 thought. I'm sorry.

24 Q. Sure. So that we're all clear, you have
25 not seen any photographs of the turtle pond into

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1 which you claim you fell taken by anybody, correct?

2 A. Correct.

3 Q. Okay. I'll move to a different area, if I
4 could. You have named in your Rule 26 disclosures
5 identification of persons having discoverable
6 information, and you've named Ms. Loren Pompei, who
7 we understand is your mother, P-o-m-p-e-i.

8 A. Can I see that, please.

9 Q. Sure. This is my copy of this, but this
10 is the Rule 26 disclosure, which is a legal
11 document filed by your lawyer in this matter. Look
12 at No. 3.

13 A. Yeah.

14 Q. And in there it says that Ms. Pompei is
15 familiar with the "averments to Plaintiffs'
16 complaint," if my memory serves me right. What
17 knowledge does Ms. Pompei have about what occurred
18 on March 18 at the Turtle Beach Towers?

19 A. I couldn't say.

20 Q. Okay. She wasn't there, huh?

21 A. She was not there.

22 Q. All right. And whatever knowledge she has
23 would have been learned from you or potentially Ms.
24 LaBelle, L-a-B-e-l-l-e?

25 A. Regarding the fall?

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1 Q. Correct.

2 A. Yes.

3 Q. She, to your knowledge, hasn't spoken with
4 Mr. McKenzie, the cab driver, correct?

5 A. Not to my knowledge, no.

6 Q. To your knowledge, she has had no
7 communications with anyone at the Turtle Beach
8 Towers, correct?

9 A. Not to my knowledge, no.

10 Q. All right. So, tell me what information
11 Ms. Pompei has then with respect to this case.

12 A. My mother was my almost full-time
13 caregiver after the accident.

14 Q. And I assume that that would have been
15 after you returned back from the hospital after
16 being discharged from Mass. General?

17 A. Yes.

18 Q. And how long did your mother remain as
19 your almost full-time caregiver?

20 A. While working full-time, she maintained --
21 you know, she would check on me multiple times a
22 day, make sure the medications were lined up. She
23 would drive me to my doctors' appointments day in
24 and day out. I did not drive. She drove me to all
25 of my doctors' appointments, every single one.

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1 Q. For how long?

2 A. About nine months, approximately. I
3 couldn't say.

4 Q. So approximately by -- would it be fair
5 that by the end of 2004 she had stopped doing this?

6 A. I couldn't say.

7 Q. Would it --

8 A. It could have been longer.

9 Q. Do you have any knowledge of that?

10 A. No.

11 Q. Do you -- do you have any sense of whether
12 you reimbursed your mother for any of her
13 expenses -- gas money, parking money, or anything?

14 A. Not to my knowledge.

15 Q. Did she stay with you -- actually live at
16 your house -- during the initial portion of after
17 -- of when you -- strike that. Did your mother
18 live with you after you were discharged from the
19 hospital for any period of time?

20 A. No, she did not.

21 Q. Who was the one that took care of her --
22 you if she was not there?

23 A. The visiting nurses during the day, and my
24 husband at night.

25 Q. And the Visiting Nurse Association sent a

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1 series of nurses each day?

2 A. Yes.

3 Q. Once a day?

4 A. A nurse once a day, and a physical
5 therapist once a day.

6 Q. Was that only in the morning?

7 A. Nurse in the morning, physical therapist
8 in the afternoon.

9 Q. Did you have anybody to assist --

10 A. Varied between days. I couldn't give you
11 a schedule.

12 Q. Do you remember the names of the nurses?

13 A. No, I do not.

14 Q. Do you remember the names of the physical
15 therapists?

16 A. No.

17 Q. How long did the VNA nurses continue to
18 come once a day?

19 A. I believe that's in the records. I -- I'm
20 not positive on the time.

21 Q. We haven't seen those records yet. That's
22 why I'm asking.

23 A. They've been requested.

24 Q. Do you have any knowledge -- do you have
25 any sense whatsoever whether they were still coming

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1 once a day by Memorial Day or July 4th or --

2 MS. MINCHOFF: Objection.

3 A. I couldn't tell. I couldn't say.

4 Q. What about the physical therapist, do you
5 have any sense of whether the physical therapist
6 showed up once a day or --

7 A. I couldn't tell you for how long.

8 Q. Other than the visiting nurse who would
9 come once a day and the physical therapist that
10 would come once a day, did you have -- and your
11 mother that would come, did you have anyone else
12 that was assisting in your care?

13 MS. MINCHOFF: Objection.

14 A. No.

15 MS. MINCHOFF: She said her husband as
16 well.

17 MR. FERINGA: She didn't. She just said
18 no.

19 MS. MINCHOFF: The first time she said her
20 husband.

21 A. The first time I said my husband. I'm
22 sorry.

23 Q. What did your husband do for you?

24 A. That's a list too long to go through.

25 Q. Can you give me a sense of what he did to

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1 help take care of you during the first month that
2 you were home.

3 A. He did everything. He took care of my
4 medications. He bathed me. He clothed me. He
5 helped me to get to the bathroom. He cooked for
6 me. He cleaned. He did the laundry. He took care
7 of the dogs. He did everything that I -- that I
8 would normally do for myself and more.

9 Q. May I have my -- this back?

10 A. Oh, yes.

11 Q. Sure. Thanks. He was working full time
12 at the time?

13 A. Yes, he was. He had taken maybe a week or
14 -- I can't -- I can't recall. Yes, he worked full
15 time.

16 Q. I was going to ask about that. Do you
17 remember whether your husband took any vacation or
18 sick time that he was entitled to to help take care
19 of you?

20 A. I believe he may. I don't recall how
21 much.

22 Q. There is something known as the Family
23 Medical Leave Act. Are you aware of whether he
24 applied for and received the federal family medical
25 leave so that he could be with you for up to 12

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1 weeks at home?

2 A. No.

3 Q. Do you have a Massachusetts driver's
4 license?

5 A. Yes, I do.

6 Q. Is it current?

7 A. Yes, it is.

8 Q. Are there any restrictions?

9 A. No, there aren't.

10 Q. Some states have what they call
11 handicapped stickers for their cars that have to be
12 -- does -- does Massachusetts have that?

13 A. Yes, they do.

14 Q. Do you have one?

15 A. Yes, I do.

16 Q. Who -- in order to get those, at least in
17 some states, there has to be some sort of note or
18 letter from a doctor that you have to supply to
19 whatever agency provides them.

20 A. Correct.

21 Q. What doctor provided you with that -- that
22 information so that you could get that sticker?

23 A. Doctor Hord, my neurologist/pain
24 management doctor.

25 Q. I wanted to ask some questions about the

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1 treating doctors, if I could.

2 A. Uh-huh.

3 Q. You saw a Dr. David L-h-o-w-e, who is a
4 surgeon at Mass. General, correct?

5 A. Doctor Lhowe.

6 Q. And Doctor Lhowe you only saw through
7 Mass. General, correct?

8 A. Yes.

9 Q. Did Doctor Lhowe have an office outside of
10 the Mass. General system?

11 A. Outside of the Mass. General system? I
12 don't understand.

13 Q. Meaning was he a private doc who simply
14 had privileges at -- at this hospital?

15 A. I don't know.

16 Q. Was his office within the Mass. General
17 complex?

18 A. Yes, it was.

19 Q. Doctor Zachary, did you only see him -- or
20 her? I can't tell.

21 A. Yeah, it's a he.

22 Q. Okay. Did you see that physician only
23 through Mass. General?

24 A. Yes.

25 Q. And was that only when you were

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1 hospitalized, or did you see Doctor Zachary after?

2 A. I saw Doctor Zachary for a very long time.

3 Q. Okay. And was his office at the Mass.

4 General system -- Mass. General complex as well?

5 A. Yes.

6 Q. Doctor Hord, who's listed as the attending
7 physician, H-o-r-d --

8 A. Uh-huh.

9 Q. -- Daniella Hord --

10 A. Yes.

11 Q. -- is her office within the Mass. General
12 system as well?

13 A. Yes.

14 Q. Dr. Ingrid Bassett, did you see her
15 outside of the hospitalization?

16 A. No.

17 Q. Okay. So that would --

18 A. Oh, excuse me. I'm sorry. I saw her as
19 part of the outpatient infectious disease. She and
20 Doctor Zachary --

21 Q. Worked together?

22 A. -- worked together.

23 Q. And you would have seen them within the
24 sort of same office complex at the Mass. General
25 complex?

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1 A. Yes, at different times.

2 Q. Okay. Now, Doctor Fraser is your primary
3 care provider. He is not with the Mass. General
4 system, correct?

5 A. Correct.

6 Q. And you would have seen him at a different
7 office?

8 A. Yes.

9 Q. And you had been seeing Doctor Fraser for
10 some period of time before this incident, correct?

11 A. He's my primary care physician.

12 Q. So you would have been seeing --

13 A. I see him on a regular basis.

14 Q. And you had been seeing him before this
15 injury, correct?

16 A. On a regular basis.

17 Q. Okay. In terms of Doctor
18 S-t-o-j-a-n-o-v-i-c in the neurology department at
19 Mass. General, did you see him outside the Mass.
20 General system -- strike that that was a poor
21 question. Did you see Doctor Stojanovic as an
22 outpatient?

23 A. I can't answer that yes or no.

24 Q. Okay.

25 A. That's -- can you rephrase that, please.

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1 Q. Sure, I just -- do you remember seeing
2 Doctor Stojanovic on an inpatient basis or an
3 outpatient?

4 A. Both.

5 Q. Both. And is Doctor Stojanovic at the
6 Mass. General system as well?

7 A. Yes.

8 Q. And his office is within the Mass. General
9 complex?

10 A. Yes.

11 Q. Doctor Kulich, K-u-l-i-c-h, or Kulich?

12 A. Kulich.

13 Q. Have you seen that psychologist on an
14 outpatient basis?

15 A. Yes.

16 Q. And that psychologist is within the Mass.
17 General system?

18 A. Yes, he is.

19 Q. Is that associated with the pain
20 management?

21 A. Yes, it is.

22 Q. And you continue in your treatment with
23 Doctor Kulich?

24 A. No.

25 Q. When did you last treat with Doctor

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1 Kulich?

2 A. I can't remember.

3 Q. Have you seen Doctor Kulich at all in
4 2006?

5 A. I can't recall.

6 Q. There's a Dr. Sarah R-e-i-f-f hyphen
7 H-e-k-k-i-n-g --

8 A. Reiff.

9 Q. -- pain management, UMass?

10 A. Yes.

11 Q. Is -- is that the pain management
12 physician?

13 A. That took over for Doctor Kulich.

14 Q. Doctor Kulich is listed as a psychologist.
15 Is Dr. Sarah Reiff-Hekking a psychologist?

16 A. She is an physiatrist.

17 Q. Physiatrist, physical medicine and
18 rehabilitation specialist?

19 A. Yes.

20 Q. And is she in charge of your rehab now?

21 A. No, I actually am not seeing her anymore.
22 She left UMass and Dr. Elaine Borgen, B-o-r-g-e-n,
23 who is also a physiatrist in rehabilitative
24 medicine, is who I am seeing currently.

25 Q. When did you last see Dr. Sarah

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1 Reiff-Hekking?

2 A. I can't recall.

3 Q. Did you see her in 2005?

4 A. Yes.

5 Q. What about 2006?

6 A. No.

7 Q. There's also a doctor listed Dr. Jean
8 L-e-B-l-a-n-c at the Worcester County Rehab Health
9 Alliance plan, physical therapist?

10 A. Could I see that, please.

11 Q. Sure.

12 A. Thank you.

13 Q. This is -- I'm looking at -- under the
14 Plaintiffs' Rule 26 disclosure, Capital B,
15 "Description of Documents Supporting Plaintiffs'
16 Claims," Paragraph 1, "Medical Records By
17 Category," Item No. 10.

18 A. Thank you. (Witness reviews document.)
19 This is a typo. Oh, no, you read it wrong. Her
20 name is Jen LeBlanc and not Jean LeBlanc.
21 Unfortunately, it is a typo. She is a licensed
22 physical therapist.

23 Q. Okay. Not a physician?

24 A. Not a doctor. And same with Bill Chapman.
25 He is a licensed physical therapist.

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1 Q. Bill Chapman is listed on No. 11?

2 A. Yes, he is.

3 Q. Okay.

4 A. And they are in charge of my physical
5 therapy.

6 Q. And when -- are you presently seeing both
7 of those individuals?

8 A. I do have an appointment coming up. My
9 doctor recently ordered physical therapy again.

10 Q. How long has it been since you have had
11 physical therapy?

12 A. With a provider?

13 Q. Yes, ordered.

14 A. Ordered? Maybe eight months.

15 Q. And which of your physicians recently
16 ordered you to go -- made an order for physical
17 therapy?

18 A. My primary care physician.

19 Q. Doctor Fraser?

20 A. Doctor Fraser.

21 Q. And had you seen Ms. Jen LeBlanc and Mr.
22 Bill Chapman before? Had you seen them as physical
23 therapists before?

24 A. Yes.

25 Q. Was that eight months ago?

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1 A. Yes, from my introduction into an
2 outpatient physical therapy program.

3 Q. And are you going to back -- go back and
4 see these two physical therapists again?

5 A. If they are available.

6 Q. And do you want -- what is your
7 understanding of the purpose of the physical
8 therapy that Doctor Fraser has now ordered?

9 A. To strengthen my leg and to increase range
10 of motion and hopefully to reduce some of the pain
11 by using different methods not known to me yet.

12 Q. Did you receive any sort of order or
13 letter or document from Doctor Fraser requesting
14 this physical therapy?

15 A. No. I call and make an appointment.

16 Q. And what is Health Alliance?

17 A. That is the local -- UMass is -- is a
18 large network of hospitals, and Health Alliance is
19 part of UMass at -- in my local area.

20 Q. Let me ask this question: Do you have --
21 are you a member of what is known as a PPO or an
22 HMO?

23 A. I -- I don't know that.

24 Q. Primary care or primary provider
25 organization, PPO, or HMO, health maintenance

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1 organization?

2 A. I have -- I have no idea.

3 Q. Is it -- in order for you to receive care
4 from specialists, must that care be ordered by
5 Doctor Fraser?

6 A. Do you mean do I need to have a referral?

7 Q. Yes.

8 A. No, I do not.

9 Q. So you can make an appointment without
10 going through Doctor Fraser, for example, to see
11 Doctor Borgen.

12 A. Yes.

13 Q. Are you aware of any liens that have been
14 placed on this matter or have you received letters
15 from any insurance provider indicating that they
16 are seeking reimbursement for any medical costs?

17 A. I'm sorry?

18 Q. Sure.

19 A. Can you explain that.

20 Q. Have you -- for your husband's insurance,
21 you're on your husband's medical insurance,
22 correct?

23 A. Yes, I am.

24 Q. Have you received any letters from the
25 medical insurance carrier indicating that they are

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1 claiming a lien on any proceeds for this lawsuit?

2 A. I have not read any such thing.

3 Q. I wanted to ask you some questions about
4 how this incident has affected your marriage,
5 correct?

6 MS. MINCHOFF: Do you mind taking just a
7 quick break before we get into a new line of
8 questions?

9 MR. FERINGA: I don't mind. Sure. Go
10 ahead. Let's go off the record.

11 VIDEO OPERATOR: Off the record at 10:41.

12 (Recess was taken.)

13 VIDEO OPERATOR: On the record at 10:49.

14 Q. Ms. Hofer, looking at the experience that
15 you've been through with your injury, your rehab,
16 the pain issues that you have, do you think that
17 the injury and your responses to it have brought
18 you closer to your husband?

19 A. Yes.

20 Q. Has it, in a strange way, strengthened
21 your marriage?

22 A. In a strange way.

23 Q. How?

24 A. There is that in sickness and in health
25 clause in the vows that you don't sometimes get an

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1 opportunity to actually follow through with until
2 you're very old and we've had an opportunity to
3 follow through.

4 Q. In what way?

5 A. Things have strengthened significantly our
6 bond, because there are a lot of things, whether
7 you're a completely happy person that you take for
8 granted in your spouse or vice versa, and those
9 things are no longer taken for granted.

10 Q. In terms of Mr. Hofer's response to your
11 injury and you, have you seen a side of him that
12 you didn't realize was there?

13 A. I knew it was always there, but it's --
14 he's a very compassionate man.

15 Q. So then might I assume that between March
16 18 and today you and your husband have not
17 separated, filed for divorce, thought -- sought
18 marital counseling, or anything of the sort, is
19 that --

20 A. No.

21 Q. Is that fair?

22 A. No, we have not.

23 MR. FERINGA: I don't have any other
24 questions at this point, pending the receipt of
25 documents, but I'm certain that if I have further

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1 questions, I'm sure that Ms. Minchoff and I can
2 work them out. Thank you.

3 CROSS-EXAMINATION

4 BY MR. REITH:

5 Q. Good afternoon. My name is Thomas Reith.
6 And we've met before. I'm counsel for Expedia,
7 Inc. I would ask you to bear with me today and all
8 counsel as well. I'm dealing with an uber
9 migraine. And so, to the extent you can't
10 understand me, please let me know.

11 MS. MINCHOFF: Do you --

12 MR. REITH: And I do not need to stop.
13 I'm more than happy to keep going.

14 MS. MINCHOFF: Are you sure? Okay. Cause
15 I mean, we can do it tomorrow.

16 MR. REITH: No. No, I am here, ready and
17 rearing to go, as you can tell from my enthusiasm.

18 MS. MINCHOFF: All right.

19 A. I'm sorry.

20 Q. Don't be sorry.

21 A. No, I've had migraines. I feel bad for
22 you.

23 Q. Well, I'm glad we've already endeared
24 ourselves to each other, but here we are. I'm
25 going to be asking some questions, just as Attorney

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1 Feringa has been doing over the last couple of days
2 that we've seen each other.

3 A. Yeah.

4 Q. If you don't understand me, please let me
5 know.

6 A. Okay.

7 Q. If you have any questions, please let me
8 know. I'll attempt to rephrase, I'll attempt to
9 restructure the question, and we'll work together
10 so we can get an answer to the question, okay?

11 A. Okay.

12 Q. One thing I'm going to ask -- this is
13 something that Attorney Feringa asked as well,
14 because it does cause problems for the
15 stenographer -- allow me to finish the question.

16 A. Uh-huh.

17 Q. Answer my question, to the extent your
18 attorney says it's allowable, and I'll allow you to
19 finish your answer, and I'll try not to interrupt
20 you. If at any point you want to finish a question
21 you felt you had not had an opportunity to do so,
22 please let me know, and I will allow you an
23 opportunity to finish it, okay?

24 A. Okay.

25 Q. Another thing, verbal responses, always

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1 the way to go.

2 A. Yes.

3 Q. Okay. Before I get started, do you have
4 any questions for me?

5 A. Actually, I do.

6 Q. Okay.

7 A. Do you represent Expedia, Inc.?

8 Q. Yes.

9 A. Okay. That just -- wondered if they
10 encompassed -- do they encompass Turtle Beach
11 Towers, is that --

12 Q. (Nods.)

13 A. No?

14 Q. Quick answer is no, they do not.

15 A. It's a separate.

16 Q. It's a separate entity completely.

17 A. Okay.

18 Q. It encompasses Expedia.com, Inc.?

19 A. Okay. I was curious.

20 Q. That's fine. I asked if you have any
21 questions. That's fine.

22 A. That's --

23 Q. Have you ever been deposed before?

24 A. No, I have not.

25 Q. Okay. Have you ever been a party to any

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1 other litigation prior to the present?

2 A. No, I have not.

3 Q. And by "party," I mean have you ever been
4 sued by anybody?

5 A. No.

6 Q. And you've never sued anyone?

7 A. No.

8 Q. Has your husband ever been sued before?

9 A. No, he has not.

10 Q. Has your husband ever sued anyone?

11 A. No, he has not.

12 Q. Okay. I'm going to go over just some
13 general inquiry questions and probably touch upon
14 some issues that Attorney Feringa touched upon,
15 maybe do some follow-up that I feel is necessary
16 from my end, okay?

17 A. Okay.

18 Q. We may have touched upon this before, but
19 when were you born?

20 A. July 18th, 1972.

21 Q. And where do you presently live?

22 A. Leominster, Massachusetts.

23 Q. Do you rent or own?

24 A. Own.

25 Q. Okay. And do you own that by yourself?

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1 A. No, I own it with my husband.

2 Q. Okay. And your husband's name, please?

3 A. Douglas Hofer.

4 Q. Okay. And does Douglas live with you?

5 A. Yes, he does.

6 Q. How long have you lived in Leominster?

7 A. I've lived in Leominster since I was six-
8 years old.

9 Q. What's the present address?

10 A. My present address is 193 Hill Street.

11 Q. Okay. How long have you lived at 193 Hill
12 Street?

13 A. Ten years.

14 Q. Do you have any plans on moving within the
15 next year?

16 A. No, I do not.

17 Q. Okay. And again, we may have touched upon
18 this during the first day, which I think was June
19 29: Do you presently work?

20 A. No, I do not.

21 Q. Okay. And I believe you testified that
22 you did attempt to go back to work shortly after
23 the accident, correct?

24 A. Yes, I did.

25 Q. Okay. And how long was that period that

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1 you went back?

2 A. It was a couple of days in a few-week
3 period -- couple of weeks. Just a day here or
4 there, and didn't -- that didn't work out.

5 Q. Okay. And I believe I saw in your medical
6 records that was sometime in April of 2004?

7 A. It --

8 Q. Is that correct?

9 A. No.

10 Q. Okay. When do you recall going back to
11 work?

12 A. April of 2004 I was still in bed. I think
13 it might have been discussed in a doctor's
14 appointment about my wish to be able to go back to
15 work. I don't recall the dates that I did attempt
16 to go back to work.

17 Q. Okay.

18 A. The days that I did try didn't work out,
19 so there -- you know, therefore, there was no work
20 done.

21 Q. Have you attempted to determine when you
22 went back to work by speaking to anybody at the
23 former employer?

24 A. Yes, I had.

25 Q. Okay. And what was the response when you

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1 inquired as to when you went back to work?

2 A. They were absolutely -- when I asked them
3 that I would be interested in coming back to work,
4 you're looking for their response?

5 Q. I'll rephrase, because the first -- the
6 first question was a little bit confusing.

7 A. Thank you.

8 Q. Since your last day of deposition, okay,
9 which is June 29 --

10 A. Yes.

11 Q. -- between that time and today, did you
12 call anybody at the doctor's office you used to
13 work at to attempt to determine when you tried to
14 go back to work?

15 A. No.

16 Q. Okay. Have you done any searching outside
17 of the documents that have been produced to your
18 attorney which had been produced to us to determine
19 when you went back to work?

20 A. No.

21 Q. Okay.

22 A. Well -- excuse me.

23 Q. Yeah.

24 A. Are -- you're asking if I have seen dates
25 regarding when I've tried to go back to work, is

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1 that --

2 Q. (Nods).

3 A. Okay. No, I have not seen any of those
4 dates.

5 Q. (Nods.) So as you sit here today, you're
6 not sure exactly when you went back to work?

7 A. Exactly.

8 Q. All right. Do you know if it was after
9 April 2004?

10 A. It was -- it would be after April -- it
11 would be after April 2004, but I couldn't tell you
12 when.

13 Q. Can we talk seasonally? Was it in the
14 summer of 2004?

15 A. I couldn't recall.

16 Q. Okay. And you just touched upon an issue
17 what I'm talking about is and it's about been when
18 you inquired about actually going back to office,
19 okay, just focusing on that.

20 A. Yes. Yes.

21 Q. Do you recall when you reached out to the
22 doctor's office to ask them or to let them know
23 that you were interested in coming back?

24 A. Actually, I did not reach out to them.
25 They called me.

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1 Q. Okay. Do you recall when they called you?

2 A. Quite a few times. But I don't recall
3 when.

4 Q. Okay. And why were they calling quite a
5 few times?

6 A. They wanted to know how I was doing, and
7 if I thought I would be able to come back to work
8 at any point. I don't remember when.

9 Q. Okay. And during those conversations, did
10 you discuss with them -- them when you thought you
11 would be able to go back?

12 A. I was not able to discuss with them at any
13 time when I thought I would be able to go back to
14 work, because I don't know.

15 Q. Okay. Were they willing to accommodate
16 you when you wanted to go back?

17 A. They seemed to be.

18 Q. Okay. When you say, "they seemed to be,"
19 what do you mean by that?

20 A. We tried a couple of days in a short
21 period of time where they had me come in to pick up
22 on some of my lighter duties, and I was unable to
23 do it. So I don't recall when that was. It was a
24 period in between -- a doctor saying that I could
25 make an attempt to -- and then later on having a

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1 doctor say it's probably not a good idea if you had
2 a difficult time.

3 Q. Okay. Let's just talk, first of all,
4 about the lighter duties that you went back to.
5 What were those lighter duties that you tried out
6 when you went back to work?

7 A. I don't recall. Probably paperwork.

8 Q. Okay. But you recall they were your
9 lighter duties?

10 A. It would be lighter duty. I wouldn't be
11 able to see a patient.

12 Q. Okay. And you may have just touched upon
13 it but when I say, "lighter duties," what are you
14 comparing that to?

15 A. Working chairside with a doctor on a
16 patient in any type of dental procedure.

17 Q. And when was the last time you worked
18 chairside with a patient with a doctor prior to the
19 accident in March of '04?

20 A. March 15th.

21 Q. And again, at March 15th, at that point
22 you still were just part time, correct?

23 A. Yes.

24 Q. And again, at that point you were just
25 being paid hourly, correct?

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1 A. Uh-huh.

2 Q. And I believe you testified it was about

3 18 --

4 A. I'm sorry.

5 Q. It's all right. About \$18 per hour?

6 A. Yes.

7 Q. All right. And there was no benefits

8 being assessed at that point.

9 A. No.

10 Q. By "benefits," I just want to clarify, you

11 weren't receiving health coverage through this

12 office, were you?

13 A. No, I was not.

14 Q. There was no pension of any sort?

15 A. No.

16 Q. No 401-K?

17 A. No.

18 Q. No other investment vehicles?

19 A. No.

20 Q. All right. Now, with the lighter duties

21 you mentioned paperwork. Anything else that may

22 have been lighter duties that you tried when you

23 went back to work?

24 A. I couldn't recall. It wasn't a very long

25 visit.

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1 Q. Okay.

2 A. You know, it was more like a visit to the
3 office to see if I -- I mean, they don't -- my job
4 was chairside assistant. So doing lighter duties
5 is really irrelevant to my job. So we found that I
6 was unable to do my job at that time.

7 Q. Okay. So let me just understand the
8 chronology. When you went back, was the intention
9 that you would work chairside initially?

10 A. Yes.

11 Q. Okay. And did you attempt to work
12 chairside?

13 A. I did.

14 Q. Okay. And was that the first day you went
15 back and tried chairside?

16 A. I believe it was.

17 Q. Okay. And what happened? Break that day
18 down for me.

19 A. I called in another assistant to take over
20 for me after a short period of time.

21 Q. All right. Just to the best you can
22 recall, on that day --

23 A. On that day --

24 Q. -- walk me through coming into the office
25 to the point where you called that individual into

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1 the office to help you.

2 A. She was already in the office.

3 Q. Okay.

4 A. Okay. I came into the office. I seated
5 my first patient, sat down to get that patient
6 ready to be seen by the doctor, and got in position
7 to continue on with what my duties would be as a
8 chairside assistant, and found that I could not
9 stand for very long, and any movement or excess
10 weight on that leg produced excruciating pain. So
11 I had to call her in where she would take over, and
12 I then went home.

13 Q. And what was the position that you were
14 going back to? Was it dental assistant?

15 A. Yes.

16 Q. Okay. And a little side note here, when I
17 go to the dentist, sometimes the dental assistants
18 are sitting in chairs next to the doctors.

19 A. Uh-huh.

20 Q. Maybe they're a bit lazier than your
21 office was, but that being said, were you able to
22 sit in a chair while working on the procedures with
23 the patients?

24 A. I did attempt to sit.

25 Q. Okay.

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1 A. My problem is positioning. It's
2 impossible for me to stand or sit in those
3 positions for any period of time.

4 Q. Okay. So after you experienced this pain,
5 you called the other assistant in the office,
6 correct?

7 A. Yes, I asked her to come.

8 Q. When I say, "office," I mean examining
9 room.

10 A. Yes.

11 Q. And so you decided that you were going to
12 try the lighter work?

13 A. Yes.

14 Q. And you worked with the doctor's office at
15 that point to be assigned to the lighter work?

16 A. No. I left the operatory and went to the
17 office area and decided to do some paperwork, where
18 sitting on my leg was very uncomfortable. I can't
19 sit in a position without moving, fidgeting,
20 standing. None of it is -- it wasn't -- I wasn't
21 able to complete more than an hour at the office
22 that day.

23 Q. Okay. And so you left about --

24 A. I left.

25 Q. -- about an hour. Okay. And did you try

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1 to go back the next day?

2 A. Not the next day.

3 Q. Okay. When did you try to go back?

4 A. It might have been a couple of weeks
5 later. I was trying, as I was hoping that I was
6 getting better, but it doesn't get better.

7 Q. Okay. And I believe a little bit earlier,
8 just prior to this line of questioning, you
9 testified that one doctor or a doctor said to you
10 that, let's give it a shot. Let's try to go back
11 to work.

12 A. At -- at one point my -- it wasn't a let's
13 give it a shot, it was a discussion.

14 Q. Excuse the phraseology.

15 A. Excuse me?

16 Q. Excuse the phraseology.

17 A. It was a discussion between my doctor and
18 I on whether he or she -- it was a series of
19 doctors -- Doctor Hord and her partner -- thought
20 it would be wise for me to attempt to go back to my
21 line of work.

22 Q. And did they express to you why they
23 thought it would be wise for you to go back to your
24 line of work?

25 A. They thought it was worth a try, because

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1 they encourage people to get back into a routine
2 after a traumatic accident, including, you know,
3 where you have any kind of, you know, limb or a
4 neurological damage, they still encourage you to
5 try to form and maintain a new routine. So it was
6 discussed that I would make an attempt to go back
7 to work. But I was also told not to push it.

8 Q. Okay. And you mentioned Doctor Hord.
9 What other doctors discussed this with you?

10 A. Doctor Hord, Doctor Reiff-Hekking, Doctor
11 Stojanovic, Doctor Borgen, my primary care
12 physician. I basically have had opinions from all
13 of them regarding my condition and what they think
14 I could or couldn't do or should or shouldn't do.

15 Q. And this was prior to trying to go back to
16 work.

17 A. This has kind of all been, you know, not
18 particularly at one time or another. You know,
19 I've -- I'm always asking about, you know,
20 medications and what I can do, and you know, what
21 do you think -- you know, do you think I could go
22 back to work? Do you think I could do -- and their
23 consensus at this point is that it's not a good
24 idea.

25 Q. All right. When you say, "at this point,"

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1 you mean as we sit here today?

2 A. As we sit here today.

3 Q. And that's from all the doctors that you
4 just mentioned?

5 A. There are more. There are more.

6 Q. Okay. Are there more doctors than those
7 which have been identified --

8 A. No.

9 Q. -- and discussed?

10 A. In that list, do you mean?

11 Q. Yeah.

12 A. No, all of those doctors have -- I've
13 joined in in the conversation about this --

14 Q. Okay. Just so the record --

15 A. -- at some time another --

16 Q. Okay.

17 A. -- with most -- with most of these
18 doctors.

19 Q. And so I just want for the record to
20 reflect, we're referring to the Plaintiffs' 26
21 disclosure Sub B, Sub 1, right? All the doctors we
22 discussed there?

23 A. Correct.

24 Q. Okay.

25 A. There are a few that don't have -- that we

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1 haven't discussed with, but they are infectious
2 disease doctors and doctors not right now
3 immediately involved in the neurological condition
4 and the pain management condition of my leg --
5 medication.

6 Q. Okay. Do you have any notes from any
7 doctors that say that you should not go back to
8 work?

9 A. I do not have any notes, but I know that
10 when I applied for my disability, my primary care
11 physician declared me completely disabled, and
12 there were two other doctors that filled out forms.
13 I don't recall what kind of form it was --

14 Q. Okay.

15 A. -- uhm, that stated the reasons and the --
16 and -- the reasons and the conditions that they
17 came to to -- to this point.

18 Q. Okay. Just so you know, I'll be following
19 up the written request just as a supplemental
20 request, but on the record, I'm going to request --
21 to the extent it hasn't been done so already -- all
22 the documents that relate to the disability
23 application, specifically the application itself,
24 the doctors' opinions, etcetera, okay.

25 THE WITNESS: I don't have any of that.

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1 Q. Okay.

2 A. That's -- those are things that you turn
3 in. You don't get them back.

4 Q. Okay. To the extent you wanted to request
5 them, would you know where to go?

6 A. No, I would not.

7 Q. Okay. Who did you turn them into?

8 A. Into the Social Security department.

9 Q. Okay. Did you have an attorney that -- if
10 I'm not mistaken --

11 A. Yes.

12 Q. -- you had an attorney who --

13 A. I had an attorney who took over my case
14 for my administrative law judge hearing.

15 Q. Okay. And did she have all those
16 documents at the time she went to the hearing?

17 A. I don't know if she has the application
18 documents or not.

19 Q. Okay. Have you made inquiry of that
20 attorney for those documents?

21 A. I have made inquiry to that attorney and
22 have not heard back.

23 Q. Okay. How many inquiries have you made?

24 A. Many.

25 Q. Okay. By "many," is it more than five?

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1 A. I would say I've called her maybe three to
2 five times.

3 Q. Did you and she -- without getting into
4 any substantive communications -- have a breakdown
5 in the attorney/client relationship such that she
6 wouldn't call you back?

7 A. No. No.

8 Q. Do you have any reason to believe why she
9 wouldn't call you back?

10 A. I believe she's out of the office.

11 Q. Each time you call her?

12 A. Yes.

13 Q. Okay. Is she out of the office such that
14 she could not --

15 A. I don't know.

16 Q. Never call you back?

17 A. Excuse me? I've spoken to her secretary.

18 Q. You have to let me finish the question.

19 A. I'm sorry. I apologize.

20 Q. That's why I keep saying, "excuse me"
21 because I'm not getting it all out. But my
22 question is, basically, why isn't she calling you
23 back?

24 A. I don't know that.

25 Q. Okay. What's her address?

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1 A. I don't know that.

2 Q. Okay. Just give me her name.

3 A. Alida, A-l-i-d-a.

4 Q. Yeah.

5 A. Howard, H-o-w-a-r-d.

6 Q. And she's in Worcester, you said?

7 A. Yes.

8 Q. So to the extent I want to subpoena any
9 documents, you don't know which address she has?

10 A. I do not.

11 Q. Okay. Do you recall discussing during
12 your first day of testimony about vocational
13 counseling?

14 A. I do remember discussing it, and it was a
15 misunderstood conversation between Attorney Feringa
16 and I.

17 Q. That's correct. And that's exactly how I
18 remember it. Do you recall that you clarified that
19 it wasn't a per se vocational therapist?

20 A. Right. It was a therapist. It was Doctor
21 Kulich at the Mass. General Pain Center who spoke
22 to me about talking to a vocational counselor, and
23 he explained to me what a vocational counselor did
24 and how I would get in touch with one. However,
25 there -- there was no contact between a vocational

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1 counselor and I.

2 Q. Now, why not?

3 A. There was not only a mile-long waiting
4 list, but it's -- it was determined not to be
5 necessary in my case.

6 Q. Now, you say, "a mile-long waiting list."
7 So did you at least apply --

8 A. No, I did not.

9 Q. Okay. How did you determine it was a
10 mile-long waiting list?

11 A. One of the doctors -- one of the
12 therapists look -- they look up that information
13 for certain people, apparently, and he said usually
14 there is a waiting list that's a mile long.

15 Q. And you say -- that was my fault that
16 time. And you say, "he." Who was "he"?

17 A. Doctor Kulich.

18 Q. You said -- correct me if I'm wrong --
19 that it was determined in your case that it wasn't
20 necessary?

21 A. I believe so.

22 Q. Okay.

23 A. I mean, it wasn't pursued, and it wasn't
24 -- I wasn't told to pursue it.

25 Q. Okay. Aside from being told by anybody,

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1 did you yourself look up a vocational counselor?

2 A. No, I did not.

3 Q. And why not?

4 A. I was told it wasn't necessary.

5 Q. And is --

6 A. My -- my -- I'm sorry.

7 Q. And Doctor Kulich is the one who told you
8 it wasn't necessary?

9 A. I -- I believe -- I can't be certain of
10 the exact wording, but we had discussed that it
11 wouldn't be necessary. My goal had been to go back
12 to work in my field. I had a career. So going to
13 a vocational counselor in -- I'm pretty much
14 unaware of what that entails, but --

15 Q. You just --

16 A. So I couldn't really give much more of an
17 answer.

18 Q. Okay. You say you had a career. What
19 career was that?

20 A. I was a dental assistant.

21 Q. Okay, and this is the career that you took
22 some time off from, correct?

23 A. Yes. I was a dental assistant for 12
24 years.

25 Q. Okay. And were you a dental assistant for

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1 the entire 12 years?

2 A. Yes.

3 Q. Okay. I believe you testified during your
4 first day of deposition that there was a period
5 during which you stopped as a dental assistant and
6 did something that may have been related to
7 manicurism. Is that the proper terminology?

8 A. I worked during the day and went to school
9 at night.

10 Q. Okay.

11 A. Yes.

12 Q. So you were not consistently, for 12 years
13 straight, a dental assistant?

14 A. Between part time and full time, I was
15 always working.

16 Q. Okay.

17 A. Yeah. I did take some time off I want to
18 say in -- I can't -- I can't recall. I did take a
19 period of time off.

20 Q. Okay. Just when you were going back to
21 school, what were you going back to school for?

22 A. To be a cosmetologist.

23 Q. And what's a cosmetologist?

24 A. Hair, nails, makeup, esthetician, you
25 know, things like that.

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1 Q. And was that going to be your new career?

2 A. It was going to be something I did on the
3 side. It was not going to be a "career." It was a
4 filler.

5 Q. Okay. Aside from having the career, have
6 you contacted a vocational counselor to discuss any
7 other type of career?

8 A. No, I have not.

9 Q. And why not?

10 A. Because I have not.

11 Q. Okay. That was your choice not to?

12 MS. MINCHOFF: Objection.

13 MR. REITH: Why?

14 MS. MINCHOFF: Why am I objecting?

15 MR. REITH: Yes.

16 MS. MINCHOFF: Because she's been
17 adjudicated disabled. I doubt if that's her
18 choice. She's disabled.

19 MR. REITH: That's fine.

20 A. It --

21 Q. Okay. Did you elect not to contact a
22 vocational counselor?

23 MS. MINCHOFF: Objection.

24 Q. You can answer.

25 MS. MINCHOFF: When?

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1 Q. All right. Have you contacted a
2 vocational counselor ever?

3 A. I was given limited information about
4 that.

5 Q. Okay. Did you follow up on the limited
6 information?

7 A. I looked up some information, which was
8 not pertinent to my situation.

9 Q. Okay. What do you mean, but it wasn't
10 pertinent to your situation?

11 A. I had a career.

12 Q. Okay. Aside from that career did --

13 A. They don't look -- they don't look for
14 people who don't -- you know, they look for people
15 who are going to -- I -- I don't know. That would
16 be an assumption on my part. I -- I apologize. I
17 don't know.

18 Q. Okay. You had one career, correct?

19 A. Yes, I did.

20 Q. Okay. And that career was dental
21 assistant.

22 A. Yes.

23 Q. Okay. You had an injury, correct?

24 A. Yes, I did.

25 Q. And that's the reason why we're here,

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1 correct?

2 A. That's the reason why we're here.

3 Q. Okay. You can no longer do that career
4 you had, a dental assistant, correct?

5 A. No, I cannot.

6 Q. Have you tried to find another career that
7 you can do?

8 A. Yes.

9 Q. Okay. What did you try to find?

10 A. I tried to use my skills that I learned
11 when I went to school in 2002 -- 2001 -- 2001 for
12 the esthetician/manicurist, and I am unable to do
13 that to the best of my ability.

14 Q. Okay. Can you do it at all?

15 A. Not on paying customers, no.

16 Q. Okay. And that was related to the
17 cosmetology schooling?

18 A. Yes.

19 Q. Aside from the dental assistant and the
20 cosmetologist, have you tried any other careers?

21 A. No, I have not.

22 Q. Okay. Why not?

23 MS. MINCHOFF: Objection.

24 A. Because I haven't.

25 Q. All right. And we touched upon -- and we

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1 touched upon the first day and a little bit more
2 today about the Social Security disability issue.
3 Do you receive financial aid from -- not financial
4 aid. Do you receive any assisted -- financial
5 assistance from Social Security?

6 A. I've been adjudicated disabled.

7 Q. Okay. And you will be receiving monies at
8 some point from SS?

9 A. Yes.

10 Q. And as of the last day you -- I don't
11 believe you were sure when the first check would be
12 coming in.

13 A. I was not sure when the first check was
14 coming in.

15 Q. Are you sure today?

16 A. No.

17 Q. Has it come in yet?

18 A. No, I've been adjudicated. I have at -- I
19 have no knowledge of, you know -- I just -- I got a
20 letter. It said, You're adjudicated. Best of luck
21 to when you get this check. I don't -- I don't
22 recall.

23 Q. Okay. Aside from the SS payments, are you
24 going to be receiving any additional monies?

25 A. No.

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1 Q. And your husband works?

2 A. Yes, he does.

3 Q. He works full time?

4 A. Yes, he does.

5 Q. Where does he work?

6 A. Triumvirate Environmental.

7 Q. And what does he do for Triumvirate
8 Environmental?

9 A. He's a field service supervisor.

10 Q. That's full time?

11 A. Yes, it is.

12 Q. And he's salaried?

13 A. I am not aware of his salary.

14 Q. Is he paid a salary?

15 A. Oh, is he paid a salary? He's paid an
16 hourly wage.

17 Q. Okay.

18 A. With -- yeah.

19 Q. And aside from the SS payments and the
20 monies that your husband brings home, is there any
21 other financial assistance that your family
22 receives?

23 A. No.

24 Q. Let's assume for a moment that you did not
25 hurt yourself down in Jamaica, okay?

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1 A. (Witness nods.)

2 Q. Assuming that, what would your career
3 plans have been going forward after March 2004?

4 A. After March 2004, I would have increased
5 my hours working as a dental assistant, and I had
6 hoped to go back to school for dental hygiene to
7 enhance my career.

8 Q. And I believe you testified the first day
9 that the increased hours at the office were
10 dependent upon the doctor having enough patient
11 load?

12 A. It -- not necessarily the doctor having
13 enough patients. I can't speak for him and how
14 many patients he has, but the arrangement was that,
15 you know, if he needed extra, I would be -- you
16 know, if he needed an extra set of hands, my hours
17 were going to increase.

18 Q. How much would they have increased?

19 A. Over a period of time, we were hoping they
20 would have increased to full time.

21 Q. Okay. Was there a firm commitment that it
22 would increase to full time?

23 A. I wouldn't say it was a firm commitment.
24 It was kind of contingent on scheduling and things
25 like that.

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1 Q. Okay. So it wasn't written down

2 anywhere --

3 A. No.

4 Q. -- that you --

5 A. No. And just as an aside, he's a
6 long-time family friend, so as far as writing
7 things down, he and I never wrote a thing down, you
8 know. It was just understood.

9 Q. And by "family friend," what do you mean?

10 A. We've known -- he's -- he's known my
11 mother for 25, almost 30 years.

12 Q. You said you intended to go back to school
13 for was it dental hygiene?

14 A. Yes.

15 Q. Where had you intended to go back to
16 school?

17 A. I hadn't applied yet. I was hoping that I
18 would have been able to look into that and be
19 accepted into a program. There are many programs.
20 I hadn't looked into where.

21 Q. Okay. Where are the many programs?

22 A. All over the state.

23 Q. Can you give me a couple of schools that
24 offer these programs.

25 A. Northeastern has a program. I believe

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1 Quinsigamond Community College has a program. I
2 know I'm trying to think local.

3 Q. That's all right.

4 A. I'm not -- I'm not positive.

5 Q. That's fine. And when did you determine
6 that you wanted to go back to school for dental
7 hygiene?

8 A. I've always wanted to go back to school
9 for dental hygiene.

10 Q. When you say, "always," do you mean for
11 the last five years?

12 A. I mean since I started in the dentistry, I
13 always wanted to do that.

14 Q. You said you had done dentistry for about
15 12 years.

16 A. Yeah. Yeah. Yeah.

17 Q. Okay. And you had intended to go back for
18 hygiene those entire 12 years?

19 A. It was a thought. It was never, you know,
20 a full intention. It was, you know, I think about
21 it here, or I think about it there. I'm going to
22 look into it, or maybe I'm not going to do it right
23 now, because the time's not right.

24 Q. So as of the time of your injury in
25 Jamaica, being March 2004, did you have any

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1 specific intention of returning to school for
2 dental hygiene at that point?

3 A. I had no specific intention. I had not
4 applied for anything like that.

5 Q. Okay. Don't be offended -- I ask this of
6 all persons who I depose. It goes over sometimes,
7 sometimes it doesn't go over too well. Have you
8 ever been convicted of a crime?

9 A. No.

10 Q. Are you taking any medications today that
11 might affect your testimony or your ability to tell
12 the truth?

13 A. I take medications every day, but they do
14 not affect my ability to tell the truth.

15 Q. Okay. And you're on medications today?

16 A. Yes, I am.

17 Q. And could you just tell me which
18 medications those are.

19 A. I take MS Contin, Neurontin, Ultram,
20 Cymbalta, and I believe that's all for the morning.

21 Q. Okay. So that's what you're presently on
22 now?

23 A. Yes.

24 Q. Okay, and for the afternoon session, there
25 will be some other medications?

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1 A. Yes, there will.

2 Q. Do you want to give me the head's up now
3 so we don't have to go back into it later.

4 A. I could.

5 Q. Please do.

6 A. You don't mind if I look?

7 Q. I do not mind at all.

8 A. I keep them organized in a fashion.

9 Q. And again, I'll ask it while you're
10 looking, do any of these medications cause you any
11 confusion?

12 A. Yes, they do.

13 Q. Okay. Do they cause you such confusion
14 that you wouldn't be able to understand my
15 questioning?

16 A. It could be possible. I may need to ask
17 you to clarify things for me. Sometimes it takes
18 me a few minutes to actually process. So I may
19 hesitate a bit, but it -- you know, I can get a
20 little fuzzy, but as the day goes on and the
21 medications have been in my system, I do far better
22 as far as focusing. Focus is my -- is my main --
23 one of my main problems with medication.

24 Q. So is it safe for me and all of us to
25 assume here today that unless you ask me for

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1 clarification, unless you ask me to repeat, that
2 you understand my question and you're not confused?

3 A. Not necessarily. I am doing my very best
4 to understand and ask to clarify.

5 Q. Okay.

6 A. And I am trying my very best to answer my
7 questions -- your questions as best as I can.

8 Q. Okay. I'm just going to have to tell you
9 for the record the way it usually works. I implore
10 you, to the extent you don't understand anything,
11 let me know, because the record, unfortunately or
12 fortunately, is going to reflect that you do
13 understand otherwise.

14 A. Okay. Okay.

15 Q. Thank you. I'll let you finish the task
16 at hand.

17 A. Okay. This afternoon I will be taking
18 Celebrex, MS Contin, Motrin, Zanaflex, and Sinemet
19 -- and Ultram. I apologize.

20 Q. Don't apologize. I just want to talk to
21 you a little bit about preparation for deposition.

22 A. Okay.

23 Q. Okay. I'm not going to get into anything
24 specific you talked about with your attorney, but
25 what I would like to get into is conversations with

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1 other persons, okay?

2 A. Okay.

3 Q. Specifically Carrie, Ms. LaBelle.

4 A. Okay.

5 Q. I've also seen her in as Ms. LeBlanc. Why
6 is that?

7 A. Yeah. That was a typo. Okay.

8 Q. And you've known Ms. LaBelle for
9 approximately five years?

10 A. Yes.

11 Q. You had never gone on vacation with her
12 prior to this one?

13 A. No, I have not.

14 Q. After your injury and before filing your
15 complaint, did you discuss this matter with Ms.
16 LaBelle at all?

17 MS. MINCHOFF: Objection.

18 A. Can you clarify "this matter."

19 Q. Sure. Did you discuss with Ms. LaBelle
20 that you were going to be filing suit against Gap
21 and Expedia?

22 A. No.

23 Q. Since filing your complaint to the first
24 day of your deposition, that being June 29th, 2004
25 -- 2006, excuse me, yes, 2006, did you ask her or

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1 discuss with her anything about the accident?

2 A. Clarify that time period.

3 Q. Sure. Time period being from the time of
4 filing the complaint to the first day of your
5 deposition.

6 A. Have we discussed the matter?

7 Q. Yes.

8 A. In -- in between filing the deposition --
9 no, filing the complaint and the first day of the
10 deposition?

11 Q. Yes.

12 A. Had we discussed it?

13 Q. Yes.

14 A. Yes.

15 Q. Okay. Did you discuss with her the
16 allegations in the complaint?

17 A. We didn't discuss the complaint.

18 Q. What did you discuss?

19 A. We discussed what happened, how we both
20 felt about it, how she feels about it, but we never
21 discussed anything pertaining to the suit.

22 Q. After -- strike that. Let me start over.
23 You're aware that Expedia filed an answer to the
24 complaint in this case, are you not?

25 A. I -- I -- I am not familiar with what an

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1 answer is.

2 Q. Okay. In general terms, do you understand
3 that Expedia has denied the claims that you have
4 made against them?

5 A. No, I do not understand that.

6 Q. Okay. Do you have any understanding as to
7 Expedia's position?

8 A. No.

9 Q. Do you understand that Expedia claims that
10 the online booking was subject to a liability
11 disclaimer?

12 A. No -- oh. Excuse me. I'm sorry. Say
13 that again.

14 Q. Do you know that Expedia claims that your
15 allegations, okay, are subject to a liability
16 disclaimer that was online when booked?

17 A. I understand that now. But I did not
18 understand that then, because I did not book the
19 trip.

20 Q. Okay. All right. As to -- let me ask it
21 this way: What do you understand now about the
22 liability disclaimer?

23 A. What I -- I -- I actually don't --

24 Q. Okay.

25 A. -- understand the liability disclaimer.

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1 Q. Okay. Have you ever discussed the
2 liability disclaimer with Carrie?

3 A. No.

4 Q. Had you ever discussed the booking process
5 with Carrie?

6 MS. MINCHOFF: Objection.

7 A. I can't -- no. Carrie booked the trip.
8 You know, we discussed what we were going to do,
9 and then Carrie booked the trip.

10 Q. You're throwing me off my outline. You
11 just jumped ahead a little bit.

12 A. I'm sorry.

13 Q. That's fine. It happens all the time.
14 Just about the trip, then you say Carrie booked the
15 trip. What do you mean by "booked the trip"?

16 A. Carrie and I discussed going away on a
17 quick girls' weekend, relaxation. She is a
18 highly-stressed person and wanted to relax. So we
19 decided that we would go to the beach and at -- you
20 know, in March to read a book. She said, "Do you
21 want to go?" And I said, "Sure." And she said,
22 "Do you care where?" I said, "No." So she booked
23 the trip.

24 Q. And when you were discussing back and
25 forth about where do you care to go, were any ideas

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1 thrown out there about what location to go to?

2 A. Somewhere warm.

3 Q. Somewhere warm like North Carolina, or
4 somewhere warm like the islands?

5 A. Islands. North Carolina's not really warm
6 in March.

7 Q. I was going to correct myself at that
8 point but you caught me. All right. So you were
9 talking about going to the islands.

10 A. Yes.

11 THE WITNESS: I'm sorry.

12 MS. MINCHOFF: That's okay.

13 A. I apologize.

14 Q. Don't apologize. So you talked about
15 going to the islands?

16 A. Yes.

17 Q. Okay. Any islands in particular?

18 A. We did not discuss any particular islands.

19 Q. You didn't say Bermuda versus the
20 Caribbean?

21 A. (Witness nods.) No.

22 VIDEO OPERATOR: Five minutes left on
23 tape.

24 Q. Aside from going to an island, did you
25 discuss any other specifics about the location?

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1 A. (Witness nods.)

2 Q. No?

3 A. Oh. I'm sorry. I'm sorry. No.

4 Q. Okay. And how long did that discussion
5 take place?

6 A. I couldn't recall. I can't recall how
7 long we discussed it.

8 Q. Okay. I believe you testified your first
9 day that it was on maybe a Tuesday that you
10 discussed --

11 A. Yes. We discussed it on a Tuesday. We
12 left on Thursday.

13 Q. Okay.

14 A. It was a very quick decision.

15 Q. That's what I wanted to talk to you about.
16 Ms. LaBelle, you had known her for five years, yes?

17 A. Yes.

18 Q. Okay. You had never been on vacation with
19 her before?

20 A. No.

21 Q. Why did you elect to go on vacation with
22 Ms. LaBelle this time?

23 A. That's a question I couldn't answer.
24 Opportunity?

25 Q. Okay. I'm just going to put before you a

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1 document that's been marked as Exhibit 11 for
2 identification today.

3 A. Okay.

4 Q. Ask you to take a look at it. Let me know
5 when you've had a chance to review it.

6 MR. REITH: Counsel.

7 (Complaint marked Exhibit 11.)

8 A. (Witness reviews document.)

9 Q. If you need to take a break, let me know.
10 There's five minutes left.

11 A. There's five minutes left on the tape.
12 I'll stand up when it's done.

13 MS. MINCHOFF: You can -- I'm sure
14 Attorney Reith won't mind if you want to stand now
15 as he asks you a couple of questions either.

16 THE WITNESS: Do you mind?

17 MR. REITH: No --

18 MR. FERINGA: We have to change the tape,
19 so why don't we go off the record and change the
20 tape.

21 MS. MINCHOFF: If you want to take a walk
22 around the office --

23 VIDEO OPERATOR: The time is 11:34. This
24 is the end of Cassette No. 1. We are off the
25 record.

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1 (Recess was taken.)

2 VIDEO OPERATOR: The time is 11:44. This
3 the beginning of Cassette 2 in the deposition of
4 Stephanie Hofer. We are on the record.

5 Q. Before we went off the record, we were
6 talking about the booking of the trip. Do you
7 remember that?

8 A. Yes.

9 Q. Okay. Do you recall testifying that
10 Carrie is the one who booked it?

11 A. Yes.

12 Q. All right. Just turning your attention to
13 Paragraph No. 7 under the factual allegations in
14 Exhibit No. 11 for today, do you see where it says,
15 "On March 15, 2004, Stephanie and a friend reserved
16 a travel vacation to Jamaica through Expedia.com
17 ('Expedia')"? Do you see that?

18 A. Yes, I do.

19 Q. You didn't reserve the travel vacation,
20 did you?

21 A. No, I did not.

22 Q. So that allegation isn't exactly accurate,
23 is it?

24 MS. MINCHOFF: Objection.

25 Q. You can answer.

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1 A. I would reword that.

2 Q. Okay. How would you reword it?

3 A. Carrie reserved a travel vacation to
4 Jamaica for herself and Stephanie.

5 Q. Who paid for the trip?

6 A. Carrie.

7 Q. Okay. And do you know how Carrie paid for
8 the trip?

9 A. No, I don't.

10 Q. Do you know if she used a credit card?

11 A. No, I don't.

12 Q. Were you present when Carrie actually
13 reserved the trip?

14 A. No, I was not.

15 Q. Do you know how she reserved it, whether
16 it was done telephonically or online?

17 A. I -- Expedia.com.

18 Q. Okay. And how do you know she booked it
19 through Expedia.com?

20 A. I -- I don't. I don't -- or she told me.

21 Q. Okay. So Carrie told you that she booked
22 it via Expedia.com?

23 A. Correct.

24 Q. And when did she tell you that?

25 A. I believe after she booked it.

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1 Q. Okay. How soon after she booked it did
2 she --

3 A. I don't recall.

4 Q. Okay. But you know from speaking with
5 Carrie that she booked it via Expedia.com.

6 A. Yeah.

7 MS. MINCHOFF: Are you okay?

8 THE WITNESS: I'm getting tremors. I'll
9 be all right.

10 MS. MINCHOFF: Let me just state for the
11 record, Stephanie, if you need to tell Attorney
12 Reith at any time to take a break --

13 THE WITNESS: Okay.

14 MS. MINCHOFF: -- I know you're not
15 feeling well right now, just please let him know.

16 THE WITNESS: I'm sorry.

17 MR. REITH: Do you need a second?

18 MR. FERINGA: Do we need to take a lunch
19 break? Do we need to do something just so that --

20 THE WITNESS: No -- I'll be -- I'm okay.
21 I'm uncomfortable.

22 MR. FERINGA: This is not an endurance
23 contest. Please, it's up to you.

24 MS. MINCHOFF: Stephanie, do you want to
25 take a lunch right now? What time is it?

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1 MR. REITH: It's 10 of 12.

2 THE WITNESS: Okay. Yes, please.

3 MR. REITH: Take a lunch break now?

4 THE WITNESS: Yes, please.

5 MR. REITH: We'll take a lunch break now.

6 Can we check back in at 12:30, is that long enough?

7 MS. MINCHOFF: Fine.

8 VIDEO OPERATOR: The time is 11:47. We're
9 off the record.

10 (Whereupon the deposition recessed at
11 11:47 a.m.)

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STEPHANIE A. HOFER
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1 AFTERNOON SESSION (12:30 p.m.)

2 MR. FERINGA: All right. We're back on
3 the record. This is Scott Feringa. We're back on
4 the record. We are now not on video. We were
5 advised before we went back on the record that Mrs.
6 Hofer is simply not feeling well and that does not
7 feel that it was -- it would be a good thing for
8 her to continue. So what we're going to do is
9 suspend this deposition to take place at another
10 date, time, and place that is convenient for Mrs.
11 Hofer and for counsel, and in terms of other
12 documents and things like that, I'm sure that we
13 can work those out between counsel. But -- so at
14 this point, we'll just suspend the deposition
15 because of Ms. Hofer's inability to continue.

16 MS. MINCHOFF: And the only thing I'd like
17 to add to the record is that we at least have an
18 agreement that we're going to attempt to reschedule
19 the deposition to occur in the afternoon,
20 preferably after 2 o'clock, so that the Plaintiff
21 has had an opportunity to have her medications
22 settle in. And we've agreed, if we can find a
23 stenographer that will agree, to go as late as we
24 possibly can on that day.

25 MR. FERINGA: I agree because, actually,

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1 it's better for me because I can fly out in the
2 morning and fly back in the evening. Agreed.

3 MR. REITH: Agreed.

4 (Whereupon the deposition suspended at
5 12:28 p.m.)

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STEPHANIE A. HOFER
July 10, 2006

1 DEPONENT'S ERRATA SHEET
2 AND SIGNATURE INSTRUCTIONS
3
4

5 The original of the Errata Sheet has
6 been delivered to India Minchoff, Esq.

7 When the Errata Sheet has been
8 completed by the deponent and signed, a copy
9 thereof should be delivered to each party of record
10 and the ORIGINAL delivered to Scott Feringa, Esq.
11 to whom the original deposition transcript was
12 delivered.
13
14

15 INSTRUCTIONS TO DEPONENT
16

17 After reading this volume of your
18 deposition, indicate any corrections or changes to
19 your testimony and the reasons therefor on the
20 Errata Sheet supplied to you and sign it. DO NOT
21 make marks or notations on the transcript volume
22 itself.
23

24 REPLACE THIS PAGE OF THE TRANSCRIPT WITH THE
25 COMPLETED AND SIGNED ERRATA SHEET WHEN RECEIVED.

STEPHANIE A. HOFER
July 10, 2006

1 Commonwealth of Massachusetts
2 Middlesex, ss.
3
4

5 I, P. Jodi Ohnemus, Notary Public
6 in and for the Commonwealth of Massachusetts,
7 do hereby certify that there came before me
8 on the 10th day of July, 2006, the deponent herein,
9 who was duly sworn by me; that the ensuing
10 examination upon oath of the said deponent was
11 reported stenographically by me and transcribed
12 into typewriting under my direction and control;
13 and that the within transcript is a true record of
14 the questions asked and answers given at said
15 deposition.

16 I FURTHER CERTIFY that I am neither
17 attorney nor counsel for, nor related to or
18 employed by any of the parties to the action
19 in which this deposition is taken; and, further,
20 that I am not a relative or employee of any
21 attorney or financially interested in the outcome
22 of the action.

23 IN WITNESS WHEREOF I have hereunto set my
24 hand and affixed my seal of office this
25 10th day of July, 2006, at Waltham.

19
20 P. Jodi Ohnemus, RPR, RMR, CRR
21 Notary Public,
22 Commonwealth
23 of Massachusetts
24 My Commission Expires:
25 4/21/2007

STEPHANIE A. HOFER
July 10, 2006

1 ATTACH TO DEPOSITION OF: STEPHANIE HOFER, DAY II
CASE: HOFER VS. THE GAP

2

ERRATA SHEET

3

INSTRUCTIONS: After reading the transcript of your
4 deposition, note any change or correction to your
testimony and the reason therefor on this sheet.
5 DO NOT make any marks or notations on the
transcript volume itself. Sign and date this
6 errata sheet (before a Notary Public, if required).
Refer to Page 352 of the transcript for errata
7 sheet distribution instructions.

8 PAGE LINE

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16 _____ CHANGE: _____

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17 _____ CHANGE: _____

REASON: _____

18 I have read the foregoing transcript of
my deposition and except for any corrections or
19 changes noted above, I hereby subscribe to the
transcript as an accurate record of the statements
20 made by me.

21 _____

STEPHANIE A. HOFER

22 _____ Subscribed and sworn to before me
this _____ day of _____, 2006.

23

24 _____

Notary Public
My Commission Expires:

25