

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

CARRIE L. LaROCHE

July 27, 2006

Prepared for you by



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CARRIE L. LaROCHE
July 27, 2006

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 C.A. No. 05-40170 FDS

4 * * * * *

5 STEPHANIE HOFER and DOUGLAS HOFER, *

6 Plaintiffs *

7 v. *

8 THE GAP, INC., EXPEDIA, INC. and *

9 TURTLE BEACH TOWERS, *

10 Defendants *

11 * * * * *

12 VOLUME I

13 PAGES 1-210

14

15 VIDEOTAPED DEPOSITION OF CARRIE L.

16 LaROCHE, a witness called on behalf of the

17 Defendant Expedia, Inc., pursuant to the

18 Federal Rules of Civil Procedure, before

19 Jessica L. Williamson, Registered Merit

20 Reporter, Certified Realtime Reporter and

21 Notary Public in and for the Commonwealth of

22 Massachusetts, at the Offices of Morrison,

23 Mahoney, LLP, 250 Summer Street, Boston,

24 Massachusetts, on Thursday, July 27, 2006,

25 commencing at 9:46 a.m.

CARRIE L. LaROCHE
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1 A P P E A R A N C E S

2

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25

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1 A P P E A R A N C E S, Continued

2

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9 Counsel for the Defendant Expedia, Inc.

10

11 ALSO PRESENT:

12

13 Shawn Budd, Videographer

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22 Note: Original Exhibits 1 - 8 were retained

23 by the court reporter and forwarded on to

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25 distribution.

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Okay. We are on
3 the record. This is the video operator
4 speaking, Shawn Budd. Today's date is July
5 27th, 2006, and the time is 9:46. We are
6 here at the offices of Morrison Mahoney
7 located in Boston, Massachusetts, to take
8 the videotaped deposition of Carrie LaBelle
9 in the matter of Stephanie Hofer vs. -- and
10 Douglas Hofer vs. The Gap, Inc., et al.

11 Would counsel please introduce
12 themselves.

13 MS. MINCHOFF: Attorney India
14 Minchoff for the plaintiffs.

15 MR. FERINGA: Scott Feringa for
16 Gap.

17 MR. REITH: Thomas Reith, Burns &
18 Levinson for Expedia, Inc.

19 THE VIDEOGRAPHER: And would the
20 court reporter please swear in the witness.

21
22
23
24
25

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1 CARRIE L. LaROCHE,
2 a witness called on behalf of the Defendant
3 Expedia, Inc., having first been duly sworn,
4 was deposed and testifies as follows:

5

6

* * * * *

7

8 MR. REITH: For the record, this is
9 Attorney Reith. The parties have agreed to
10 the usual stipulations, that being that the
11 parties will reserve all objections, except
12 as to form, but including motions to strike,
13 until the time of trial. The witness will
14 have 30 days to read and sign the deposition
15 transcript, and the parties will waive
16 notary on that?

17 MS. MINCHOFF: I'm fine with that.
18 I don't know if the witness knows what that
19 means.

20 MR. REITH: I'll explain it to her
21 in a second.

22 MR. FERINGA: I agree to the
23 stipulations.

24

25

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1 DIRECT EXAMINATION

2

3 BY MR. REITH:

4 Q. First let me introduce myself. My name is
5 Thomas Reith. I represent Expedia, Inc.
6 Today I'm going to be asking you some
7 questions. If I ask a question that you
8 don't understand, you can't hear me, please
9 let me know, and I'll do my best to either
10 rephrase or to speak up, all right?

11 A. Okay.

12 Q. You've already caught on to one of the rules
13 in today's deposition is please answer with
14 a verbal response, and I appreciate that you
15 did. If you have any questions for me about
16 the process or what have you as we go
17 through this today, please let me know, and
18 I'll try to answer the question to the best
19 of my ability, all right?

20 A. Okay.

21 Q. You just heard me read into the record
22 various stipulations that the parties agreed
23 to. The only stipulation that you need to
24 concern yourself with is the reading and
25 signing of the transcript. After we finish

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1 the deposition today a transcript will be
2 put together and will be, in essence, the
3 questioning and testimony of you today.

4 You will receive it in the mail.
5 You'll then have 30 days to read it, go
6 through it. If there's anything that you
7 find is not as you recall it, you'll be
8 given a chance to make a change on what's
9 called an errata sheet. It will be in the
10 back of the packet usually. Just take that,
11 fill it out. If there are no changes to be
12 made, just sign it and send it back to me,
13 okay?

14 A. Okay.

15 Q. Thank you. First, please state your name
16 for the record.

17 A. My married name now or as it is on all the
18 other paperwork?

19 Q. All right. Well, let's first try your
20 married name.

21 A. My married name is Carrie LaRoche.

22 Q. And when were you married?

23 A. July 8th.

24 Q. Congratulations.

25 A. Thank you.

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- 1 Q. Now, what was your name -- last name prior
2 to July?
- 3 A. Previously Carrie LaBelle.
- 4 Q. Okay. How do you spell LaBelle, please?
- 5 A. L-A capital B-E-L-L-E.
- 6 Q. Okay. Have you ever had the last name
7 LaBlanc?
- 8 A. Never.
- 9 Q. Are you hear today with counsel, Ms.
10 LaRoche?
- 11 A. No.
- 12 Q. Does Minchoff represent you?
- 13 A. No.
- 14 Q. Prior to today have you spoken with Ms.
15 Minchoff?
- 16 A. Yes.
- 17 Q. Okay. When was the last time that you spoke
18 with her?
- 19 A. Last night.
- 20 Q. Okay. And what did you talk about?
- 21 A. I called her to find out what exactly a
22 deposition was.
- 23 Q. Okay. And what did she tell you?
- 24 A. She told me that the lawyers would ask me a
25 series of questions related to the trip to

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1 Jamaica.

2 Q. Is that all she said?

3 A. We talked a little bit about my wedding and
4 honeymoon.

5 Q. Okay. Aside from the wedding and honeymoon,
6 any discussion about the procedure of
7 depositions, was there anything else that
8 you talked about?

9 A. No.

10 Q. Did you discuss the substance of Ms. Hofer,
11 who is here today, her deposition testimony?

12 A. I don't think I understand what you're
13 asking.

14 Q. When you were talking with Ms. Minchoff last
15 night, did you talk at all about what Ms.
16 Hofer testified to during her deposition?

17 A. No.

18 Q. Prior to last night, when was the -- prior
19 to last night, were there any other
20 instances where you spoke with Ms. Minchoff?

21 A. Once.

22 Q. Okay. When was that?

23 A. I don't recall the exact date.

24 Q. Okay. Can we talk about a year? When was
25 the year?

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- 1 A. This year.
- 2 Q. Okay. Was it in the winter of this year?
- 3 A. No. There hasn't been a winter of this year
- 4 yet, really.
- 5 Q. Would you include January and February in
- 6 that?
- 7 A. I don't believe so.
- 8 Q. Okay. Was it in the spring?
- 9 A. Yes.
- 10 Q. Okay. And what did you discuss with Ms.
- 11 Minchoff during that conversation?
- 12 A. Possible dates for the deposition.
- 13 Q. Okay. And, again, did you talk about
- 14 anything substantively about the case during
- 15 that discussion?
- 16 A. No.
- 17 Q. Aside from Ms. Minchoff, have you spoken
- 18 with any other attorney about this matter?
- 19 A. No.
- 20 Q. Do you recognize the name Stephen Kuzma?
- 21 A. No.
- 22 Q. Okay. Aside from attorneys, was there
- 23 anybody else from Ms. Minchoff's office that
- 24 you spoke with prior to today?
- 25 A. Maja.

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- 1 Q. Who is Maja?
- 2 A. Her secretary.
- 3 Q. Okay. And what did you talk to Maja about?
- 4 A. Deposition dates.
- 5 Q. Is that it?
- 6 A. Yes.
- 7 Q. And when you first spoke with Ms. Minchoff
- 8 about deposition dates, who initiated that
- 9 call?
- 10 A. She did.
- 11 Q. When were you born?
- 12 A. December 30th.
- 13 Q. Of what year?
- 14 A. 1976.
- 15 Q. Can you just tell me a little bit about your
- 16 education, beginning with high school to
- 17 present, please.
- 18 A. I went to Killingly High School.
- 19 Q. I'm sorry, Killingly?
- 20 A. Killingly High School.
- 21 Q. Do you mind giving us a spelling for the
- 22 record?
- 23 A. K-I-L-L-I-N-G-L-Y.
- 24 Q. And where is that?
- 25 A. That would be in Danielson, Connecticut.

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1 Q. Okay. And after Killingly High School in
2 Danielson, Connecticut, where did you go?

3 A. To Nichols College.

4 Q. Okay. And where is Nichols College?

5 A. That would be in Dudley, Massachusetts.

6 Q. I probably should have asked this in
7 connection with Killingly, but when did you
8 graduate from Killingly?

9 A. 1994.

10 Q. Did you graduate from Nichols?

11 A. Yes.

12 Q. Okay. And what did you graduate with by way
13 of degree?

14 A. Marketing degree, the first time.

15 Q. When you say "the first time," what do you
16 mean by "the first time"?

17 A. I graduated from Nichols the first time with
18 a marketing degree, then went back to
19 Nichols to get my teaching degree.

20 Q. Okay. When did you graduate with a
21 marketing degree?

22 A. '98.

23 Q. And when did you graduate with a teaching
24 degree?

25 A. 2005.

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- 1 Q. Okay. After Nichols did you continue on
2 with any postgraduate work?
- 3 A. No.
- 4 Q. And are you certified to teach in any state?
- 5 A. Yes.
- 6 Q. Which state?
- 7 A. Massachusetts and Connecticut.
- 8 Q. When did you receive your Massachusetts
9 certification, to the best of your
10 recollection?
- 11 A. June of '05.
- 12 Q. And when did you receive your Connecticut
13 certification?
- 14 A. August of '05.
- 15 Q. Where do you presently live?
- 16 A. In Connecticut.
- 17 Q. Where in Connecticut?
- 18 A. Danielson.
- 19 Q. Where is Danielson, Connecticut in relation
20 to this office?
- 21 A. In relation to this office? About an hour
22 and 15 minutes away.
- 23 Q. North or south?
- 24 A. Southwest.
- 25 Q. Just wondering if you had any problems with

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1 the traffic this morning.

2 A. No.

3 Q. Whom do you live with?

4 A. My husband.

5 Q. Okay. And what's your husband's name?

6 A. John LaRoche.

7 Q. Do you have any children?

8 A. Not yet.

9 Q. How long have you lived in Danielson with
10 your husband?

11 A. A year and a half.

12 Q. Okay. And what's the address?

13 A. 163 Snake Meadow Road.

14 Q. How long have you lived at 163 Snake Meadow
15 Road?

16 A. Three and a half years.

17 Q. Prior to 163 Snake Meadow Road, where did
18 you live?

19 A. Massachusetts.

20 Q. Where in Massachusetts, please?

21 A. Leominster.

22 Q. Okay. Do you have any plans about moving
23 within the next year?

24 A. No.

25 Q. Where do you presently work?

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- 1 A. I'm self-employed, and I'm also a teacher.
- 2 Q. What do you do for self-employment?
- 3 A. I own three Curves For Women locations.
- 4 Q. Three what?
- 5 A. Curves For Women locations.
- 6 Q. And what is that?
- 7 A. It's a women's fitness facility.
- 8 Q. And where are those locations?
- 9 A. Leominster, Mass., Clinton, Mass. and
- 10 Holden, Mass.
- 11 Q. None in Connecticut, though?
- 12 A. No.
- 13 Q. And where do you teach?
- 14 A. Woodstock Academy.
- 15 Q. And where is Woodstock Academy, please?
- 16 A. In Woodstock, Connecticut.
- 17 Q. Fair enough. In connection with your
- 18 teaching job, have you ever had any computer
- 19 training?
- 20 A. Do you mean like through the school that I
- 21 teach at?
- 22 Q. Yeah. In connection with your job, have you
- 23 had any training via the school system?
- 24 A. No.
- 25 Q. Have you ever had any computer training

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1 outside of your job?

2 A. Yes.

3 Q. What type of computer training?

4 A. In Microsoft Office and --

5 Q. Okay. I didn't mean to interrupt you. Go
6 ahead.

7 A. Microsoft Office. I've done a lot of
8 teaching myself.

9 Q. Just with software programs and books and
10 the like?

11 A. Correct.

12 Q. Do you know how to read computer source
13 codes?

14 A. To read? I'm sorry.

15 Q. Well, let me ask in the first place, do you
16 know what computer source codes are?

17 A. Not by how you said it. If it's explained,
18 I might know what they are.

19 Q. All right. Do you know how computer
20 programs are written?

21 A. No.

22 Q. Okay. I don't need to ask the other
23 question then. Please don't take offense.
24 I ask this of all deponents. Have you ever
25 been convicted of a crime?

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1 A. No.

2 Q. Are you taking any medications today that
3 would affect your ability to understand what
4 I'm saying?

5 A. No.

6 Q. Okay. Are you taking any medication today
7 that would affect your ability to tell the
8 truth?

9 A. No.

10 Q. Have you ever been deposed before?

11 A. No.

12 Q. Something I probably should have said a
13 little bit earlier. Because you haven't
14 been deposed before, you may hear, and I
15 hope not too much from one or both counsel.
16 To the extent an objection is put out there,
17 just allow it to be made so that the record
18 can get the objection, and then you can go
19 ahead and answer, okay?

20 A. Okay.

21 Q. Have you ever been party to a lawsuit?

22 A. Yes.

23 Q. Okay. When was that lawsuit filed?

24 A. I don't remember the exact dates.

25 Q. Okay. What year?

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1 A. '95, '96.

2 Q. Is that case still open?

3 A. No.

4 Q. What was the dis -- strike that.

5 How did that case resolve itself?

6 A. Through the lawyers.

7 Q. Okay. Fair enough. I'll ask it a different
8 way. Was that case settled, or did it go to
9 trial?

10 A. It was settled.

11 Q. What type of case was it?

12 A. A car accident.

13 Q. Can you just explain to me the facts of that
14 case a little bit?

15 A. An 80-year-old lady sideswiped me in my
16 mom's car.

17 Q. Okay. And there was a settlement ultimately
18 between the parties?

19 A. Yes.

20 Q. And aside from that one case, which settled
21 in when? When did that settle?

22 A. '95 or '96.

23 Q. Okay. So aside from that one case, have you
24 ever been involved in any other lawsuits?

25 A. No.

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- 1 Q. What did you do to prepare for today?
- 2 A. I looked through my files.
- 3 Q. Okay. And what files did you look through?
- 4 A. The files on my computer and in my office.
- 5 Q. And when you say on your computer, you mean
- 6 your home computer?
- 7 A. Yes.
- 8 Q. And presumably this home computer has
- 9 Internet access?
- 10 A. Yes.
- 11 Q. Who is your Internet carrier -- provider?
- 12 A. Currently, it's through my cable company.
- 13 Q. Who is that?
- 14 A. Eastern Connecticut Cable.
- 15 Q. Going back to 2004 who was your Internet
- 16 service provider at home?
- 17 A. I am not sure.
- 18 Q. Okay. We'll talk about that a little bit
- 19 later. Now, you say in your office you also
- 20 looked for files. Was that your Woodstock
- 21 Academy office or your office --
- 22 A. Home office.
- 23 Q. Oh, so you have a home office as well?
- 24 A. Yes.
- 25 Q. And is the home office computer different

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1 than your general home computer?

2 A. No, one and the same.

3 Q. And when you were looking on the -- for
4 files on your computer, what did you find?

5 A. Nothing.

6 Q. You didn't find any e-mails?

7 A. Nope.

8 Q. Didn't find any photographs?

9 A. Nope.

10 Q. Didn't find any letters?

11 A. Nope.

12 Q. Didn't find any screen pages about the book
13 of the trip?

14 A. Nope.

15 Q. We'll get into that a little bit later as
16 well. Aside from looking on your computer
17 and calling Attorney Minchoff about the
18 process itself about depositions, was there
19 anything else that you did to prepare for
20 the deposition today?

21 A. No.

22 Q. Well, did you speak with Ms. Hofer before
23 today about the deposition?

24 A. We mentioned it last night at her house.

25 Q. So you met with Ms. Hofer last night?

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1 A. Yes.

2 Q. Okay. And what was the purpose of that
3 meeting?

4 A. I stayed at her house last night.

5 Q. And you and Ms. Hofer are friends?

6 A. Yes.

7 Q. And how long have you been friends?

8 A. Five years.

9 Q. And how did you first meet Ms. Hofer?

10 A. Through my clubs.

11 Q. The clubs, you mean the Curves?

12 A. The Curves.

13 Q. All right. "Clubs" has a couple different
14 meanings.

15 A. Sorry.

16 Q. No worries. Just want to make sure we're
17 clear.

18 And while you were at her house last
19 night, this being Ms. Hofer's house, what
20 did you discuss?

21 A. We talked about my wedding and the honeymoon
22 and looked at pictures.

23 Q. And presumably the pictures you're talking
24 about were from the wedding and the
25 honeymoon?

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1 A. Yes. Sorry.

2 Q. That's all right. And aside from talking
3 about the wedding and the honeymoon and
4 looking at pictures relating to those two
5 things, did you talk at all about this case?

6 A. No. We just -- I just asked her what time
7 we had to leave in the morning when we were
8 going to bed.

9 Q. So you didn't discuss the substance of this
10 case at all?

11 A. No.

12 Q. All right. Prior to last night had you ever
13 talked to Ms. Hofer about this case?

14 A. Yes.

15 Q. Okay. And when was the last time you spoke
16 to Ms. Hofer about this case?

17 A. Sunday.

18 Q. And when you spoke to Ms. Hofer about the
19 case on Sunday, what did you discuss?

20 A. I called her to let her know that I got my
21 subpoena to come here today.

22 Q. And aside from that, what did you discuss
23 about the case?

24 A. I asked her if she knew where the building
25 was, and that's when we had talked about me

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1 staying over at her house to drive in
2 together so that I wouldn't get lost.

3 Q. Smart move with the changes.

4 Aside from those things, did you talk
5 about the claims that Ms. Hofer and her
6 husband have made against the defendants in
7 this case?

8 A. No.

9 Q. Aside from those few things you've just
10 identified, did you discuss with Ms. Hofer
11 the occurrences -- or I should say the
12 events that happened down at the resort in
13 Jamaica?

14 A. No.

15 Q. Okay. Prior to that discussion this past
16 Sunday, have you ever discussed with Ms.
17 Hofer what happened down in Jamaica?

18 A. Yes.

19 Q. Okay. And when was the last time you spoke
20 with Ms. Hofer about what happened down in
21 Jamaica?

22 A. I'm not sure of an exact date.

23 Q. Okay. Let's talk in months. Was it after
24 January of 2004 that you spoke to her?

25 A. Yes.

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1 Q. Okay. And was it after March of 2004 that
2 you spoke to her about the events in
3 Jamaica?

4 A. Yes. Actually, it wasn't January of '04
5 because the accident didn't happen until
6 March of '04.

7 Q. I know that. I was just asking if you had
8 spoken with her after. We'll go forward.

9 Just by way of reference, the
10 complaint in this case was filed by Ms.
11 Hofer and her husband via her attorneys in
12 September of '05. Have you discussed the
13 substance of this case with Ms. Hofer since
14 September of 2005?

15 A. Yes.

16 Q. Okay. And just in general, can you recall
17 the dates that you talked with Ms. Hofer
18 after September of 2005 about this case?

19 A. I'm not sure.

20 Q. That's fine. Let's just talk about the
21 substance of the communications then, okay?
22 Can you recall what you and Ms. Hofer spoke
23 about concerning the substance of this case?

24 A. The trip to Jamaica.

25 Q. Okay. And specifically as it relates to the

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1 trip to Jamaica, what did you talk about?

2 A. Basically me trying to fill in things that
3 she didn't remember.

4 Q. Okay. And about those things that you tried
5 to fill in, what did you try to fill in?

6 A. The time at the hospital.

7 Q. And what did you tell Ms. Hofer about the
8 time at the hospital?

9 A. Basically what happened there.

10 Q. Okay. Well, what basically happened there
11 that you told her about?

12 A. Do you want me to start from the time she
13 was admitted or...

14 Q. Let's start from the time she was admitted.

15 A. She was admitted to the hospital. They took
16 us back to an exam room, if you can call it
17 that, and the doctor started to try to stop
18 the blood loss.

19 Q. Okay. And after that what happened?

20 A. Once they had her stabilized, then they took
21 her to do X-rays and things of that nature
22 to try to see how severe all of the damage
23 was.

24 Q. And you were there during this time period?

25 A. I wasn't in the exam room. They took her

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1 into a different section to do the X-rays
2 and things like that. I was in the waiting
3 area by that room.

4 Q. Okay. And so when you had this discussion
5 with Ms. Hofer where you were filling in the
6 blanks, you told her all of these things?

7 A. Yes.

8 Q. Okay. And what else did you tell her when
9 you were trying to fill in the blanks for
10 her?

11 A. I told her about how when she was out of it,
12 all she kept asking was for some Tylenol and
13 she'd be fine, "Just give me Tylenol, and
14 I'll be fine." So I was telling her that
15 "They're giving you Tylenol. It'll kick in
16 in a minute. Just relax."

17 Q. You say -- your words, I think you said "out
18 of it." What do you mean by that?

19 A. She was pretty much incoherent. She was in
20 shock at that point, she had lost so much
21 blood.

22 Q. What do you mean, "She was in shock"?

23 A. She was in shock from cutting her leg.

24 Q. Did the doctors tell you she was in shock?

25 A. I don't recall at this time if they used

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1 that specific word.

2 Q. All right. Do you have any medical
3 training?

4 A. No.

5 Q. Was Ms. Hofer inebriated at this point?

6 A. Absolutely not.

7 Q. All right. Aside from the -- being
8 admitted, the stopping of the blood, the
9 stabilization, the going on to the X-rays,
10 what else happened while at the hospital
11 that you filled in the blanks for her?

12 A. The fact that she called her husband from my
13 cell phone when we were there to let him
14 know that she had been in an accident, and
15 when she was on the phone with him, she told
16 him that we were going to go home according
17 to -- as planned. It was just a little cut
18 and we were going to go and lay on the beach
19 the next day.

20 Q. All right. And so you overheard her on the
21 cell phone with her husband?

22 A. Yeah, I was standing right there.

23 Q. And what else did she say to him while she
24 was on the phone with him?

25 A. Specifically, I'm not -- I don't remember.

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1 Q. Okay. Did you speak to Ms. Hofer -- Mr.
2 Hofer at that point?

3 A. Yes.

4 Q. And so you got on the phone with him?

5 A. Yes.

6 Q. And this was your phone again?

7 A. Yes.

8 Q. And what did you discuss with Mr. Hofer at
9 that point?

10 A. I let him know that the accident was more
11 severe than what she had told him and that
12 it wasn't just a little cut, that she had a
13 lot of stitches and lost a lot of blood.

14 Q. And can I ask -- strike that.

15 I'm going to ask, what did Mr. Hofer
16 say in response.

17 A. He just asked how she was, if she was okay.

18 Q. Did he say anything to the effect, "What
19 happened?"

20 A. Yes. He asked how it happened, and I told
21 him that apparently she had fallen into the
22 turtle pond.

23 Q. When you say "apparently," why do you say
24 "apparently"?

25 A. Because I wasn't there. I didn't see it.

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1 Q. Did anybody tell you that she fell into the
2 turtle pond?

3 A. Stephanie did.

4 Q. What did Stephanie say about the falling
5 into the turtle pond?

6 A. She said that her flip-flop broke, she fell
7 down the stairs and fell into the turtle
8 pond.

9 Q. When did she tell you that the flip-flop
10 broke?

11 A. When I saw her when she was laying on the
12 bench right next to the turtle pond right
13 after it happened.

14 Q. Let's just talk about that for a second,
15 your getting to the turtle pond, okay?

16 A. Uh-huh.

17 Q. Forgive me as I flip. When did you first
18 find out that Stephanie hurt herself?

19 A. When someone from the hotel called the room.

20 Q. Okay. Do you recall who called the room?

21 A. No.

22 Q. Did they identify themselves as being from
23 the hotel?

24 A. No.

25 Q. Can you be certain they were from the hotel?

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1 A. No.

2 Q. Okay. You just assumed it was someone from
3 the hotel calling about it?

4 A. Nobody else would know our room number.

5 Q. Did the person who called you explain what
6 happened?

7 A. No.

8 Q. What did they say?

9 A. They said, "Your friend cut her foot. You
10 need to come to the front desk."

11 Q. Okay. And so did you go to the front desk?

12 A. Yes.

13 Q. Okay. And what did you see when you got to
14 the front desk?

15 A. Before I made it to the actual front desk, I
16 saw Stephanie laying on the bench in front
17 of the turtle pond with her leg half hanging
18 off gushing blood everywhere.

19 Q. I just want to talk to you about who else
20 was there when you arrived. When you first
21 got to see Stephanie and she was sitting on
22 the bench, were there any other persons
23 standing around?

24 A. Yes.

25 Q. Who else was standing around?

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- 1 A. I don't know their names.
- 2 Q. Do you know their occupations?
- 3 A. No.
- 4 Q. Did you ever ask their names?
- 5 A. No.
- 6 Q. What were those persons doing standing
7 around?
- 8 A. They were literally standing there.
- 9 Q. Okay. Were they doing anything to help --
- 10 A. No.
- 11 Q. -- Stephanie?
- 12 A. They were standing there watching her as she
13 screamed.
- 14 Q. Okay. And what was she screaming?
- 15 A. She was yelling, "Get my friend. Get my
16 friend."
- 17 Q. And "the friend" being you?
- 18 A. Yes.
- 19 Q. All right. Upon your arrival did you talk
20 to Stephanie right away? I'll rephrase it.
21 When you came upon the scene of the
22 accident, did you go over to Ms. Hofer and
23 talk to her?
- 24 A. Yes.
- 25 Q. And what did you talk about?

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- 1 A. I wouldn't say it was a conversation. I
2 more started yelling orders to everybody.
- 3 Q. Okay. Well, did Ms. Hofer say anything to
4 you?
- 5 A. Just basically like "Thank God you're here.
6 Help me."
- 7 Q. Did you ask her at that point what happened?
- 8 A. Not yet.
- 9 Q. But you did at some point?
- 10 A. Yes.
- 11 Q. And when was that?
- 12 A. Shortly afterwards.
- 13 Q. Okay. Was this on the ride to the hospital?
- 14 A. No.
- 15 Q. Okay. When you say "shortly after," was it
16 still at the scene of the accident?
- 17 A. Yes.
- 18 Q. And who were you shouting orders at?
- 19 A. I don't know their names.
- 20 Q. So was it just a sort of anybody at all --
- 21 A. Whoever was there. I yelled for people to
22 get towels, call 911, get an ambulance here.
- 23 Q. And did they react?
- 24 A. Yes.
- 25 Q. How did they react?

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1 A. Someone went and got towels, because towels
2 appeared, and someone said, "There is no
3 ambulance on the island."

4 Q. And after someone brought over the towels
5 and someone responded about the ambulance,
6 what did you do next?

7 A. I tried to stabilize her leg and tried to
8 stop the bleeding.

9 Q. And how did you try to do that?

10 A. I had her elevate her leg up to try to stop
11 the flow of blood and tried to wrap the
12 towels around it to keep pressure on it to
13 try to stop the flow of blood.

14 Q. And, again, you don't have any medical
15 training, right?

16 A. No.

17 Q. So it was just something you thought to do?

18 A. Yeah.

19 Q. After you were telling people to help and
20 trying to get them to bring whatever sort of
21 assistance to you, did you then turn to
22 Stephanie and ask her what happened?

23 A. Yeah.

24 Q. Okay. And what did you ask her
25 specifically?

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- 1 A. I asked her what happened.
- 2 Q. Fair enough. And what did she say?
- 3 A. She said that her flip-flop broke, she fell
- 4 down the stairs and into the turtle pond.
- 5 Q. Did you see the flip-flop?
- 6 A. I did see it on the stairway.
- 7 Q. Okay. Where on the stairway?
- 8 A. On the stair.
- 9 Q. Top stair, bottom stair, middle stair?
- 10 A. Middle.
- 11 Q. Middle stair?
- 12 A. (No verbal response.)
- 13 Q. Are you an artist?
- 14 A. No.
- 15 Q. That's fine. I'm going to take the mike off
- 16 in a second, but just so we get our bearings
- 17 I'd like have you draw the scene of the
- 18 accident, okay?
- 19 A. Okay.
- 20 Q. Whether -- the staircase, the front door,
- 21 whatever the scene of the accident was,
- 22 okay?
- 23 A. Okay. (Witness complies.)
- 24 Do you want me to draw trees?
- 25 Q. I'd like you to draw it as the accident

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1 scene appeared. If there were trees --

2 A. Well, I think they were more like shrubs.

3 Q. Trees, stone, walkways, et cetera. I would
4 like you to draw in as much detail as you
5 can, please, and then just label it.

6 MR. REITH: Did you get that on
7 tape?

8 THE VIDEOGRAPHER: (No verbal
9 response.)

10 A. (Witness complies.)

11 Q. Are we done?

12 A. I think that's as good as my drawing gets.

13 Q. Okay. I'm just going to come over to your
14 angle, okay?

15 A. Sure.

16 MR. REITH: I should have used a
17 different color paper, but before we go any
18 further, I'm just going to ask you to mark
19 this as Exhibit 1 for identification today,
20 please.

21 (Exhibit No. 1, Drawing, marked for
22 identification.)

23 Q. Excuse my reach.

24 A. Uh-huh.

25 Q. I don't mean to hover.

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1 MR. REITH: Can you just zoom in on
2 this, please?

3 MR. FERINGA: You might want to
4 move the soda.

5 THE WITNESS: Sorry.

6 MR. FERINGA: That's all right.
7 Don't worry.

8 MR. REITH: Let me do this: Put
9 something behind it, okay? And if you just
10 stay zoomed, I'm just going to ask the
11 witness to describe what she has drawn here.

12 A. This down here (indicating) would lead to
13 where the parking lot was.

14 Q. Okay.

15 A. There was a walkway on either side. The
16 stairs went up to the front door, which that
17 was the lobby in there. On the side there
18 was the turtle pond with some shrubs behind
19 it, and there was a bench.

20 Q. Okay. Was there anything on this side?
21 You've left it blank.

22 A. I don't remember that side.

23 Q. Okay. And these doors (indicating), were
24 they a single door or split doors?

25 A. I don't recall.

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1 Q. Okay. And you've drawn something large and
2 box-like around the door.

3 A. The building.

4 Q. Is that the building?

5 A. That's the building.

6 Q. Okay. And you've -- how many stairs have
7 you drawn here?

8 A. I drew four.

9 MR. REITH: Okay. We'll just leave
10 that for now. Counsel, I'll have a copy of
11 that made during a break.

12 Q. Using the diagram that you have just put
13 together -- and if I could just ask for my
14 pen back in the interim.

15 A. Oh, sorry.

16 Q. You can hold onto the pen, and then I'll
17 take it back after --

18 MR. REITH: India, do you have a
19 pen for her? Thank you. I just have to
20 take my copious notes.

21 Q. If you can draw on Exhibit 1 for
22 identification today where you saw the
23 sandal.

24 A. (Witness complies.)

25 Q. If you can just hold that up, please.

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1 A. Uh-huh.

2 MR. REITH: Can you just zoom in on
3 that? You all set?

4 THE VIDEOGRAPHER: (No verbal
5 response.)

6 Q. And if you could just circle that and write
7 next to it "Sandal."

8 A. (Witness complies.)

9 Q. Okay. What color was the sandal?

10 A. I don't remember.

11 Q. What did the sandal look like?

12 A. It was a flip-flop.

13 Q. Describe for the record what you mean by
14 "flip-flop."

15 A. A flip-flop where it has the spot where your
16 toe -- your big toe goes on one side and the
17 rest of your toes are on the other side, and
18 it goes from the middle out to the two sides
19 of the shoe.

20 Q. But you saw that sandal, you say, sitting on
21 one of the stairs?

22 A. Yes.

23 Q. Okay. And it appears from your drawing that
24 it was on one of the many stairs there more
25 towards the middle --

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1 A. Yes.

2 Q. -- of the staircase?

3 And it's your testimony that that
4 right there (indicating) is the lobby or the
5 scene of the accident at Turtle Beach
6 Towers?

7 A. To the best of my memory.

8 Q. Okay. Have you discussed with Ms. Hofer the
9 portion of her deposition where she was
10 asked to make a drawing similar to that?

11 A. No.

12 MR. REITH: Can I just ask that
13 that be marked as Exhibit 2 for
14 identification today. I'm just going to
15 pass that down to counsel. Thank you for
16 the copies, Scott.

17 (Exhibit No. 2, Copies of
18 photographs, 5 pages, marked for
19 identification.)

20 Q. I'm just going to ask you to take a look at
21 one, two, three, four, five, the five
22 photographs that have been given to you --
23 or I should say copies of photographs given
24 to you, and let me know when you've had a
25 chance to take a look at them.

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1 (Witness reviews photographs.)

2 Q. Using the first photograph, can you just
3 tell me where Ms. Hofer was situated when
4 you came upon the scene?

5 MS. MINCHOFF: Objection.

6 Q. All right. I'll back up a little bit. Do
7 you recognize this series of photographs?

8 A. No.

9 Q. You don't recognize this series of
10 photographs as a pictorial of the scene of
11 the accident down in Jamaica?

12 A. No.

13 Q. So you don't recognize this series of
14 photographs as the staircase leading to the
15 front lobby of Turtle Beach Towers?

16 A. No.

17 Q. Have you ever seen or visited the location
18 that is depicted in this series of pictures?

19 A. No.

20 Q. So it's your testimony that this series of
21 pictures is not the location where you came
22 upon Stephanie after her accident in
23 Jamaica?

24 A. Not to my knowledge.

25 Q. And it's also your testimony that this is

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1 not the depicted staircase where you saw --
2 well, I should say allegedly saw the sandal
3 located after the accident?

4 A. No.

5 Q. Is it your testimony that this bench which
6 is depicted throughout this series of
7 photographs is not the bench that you saw
8 Stephanie sitting on when you came upon her
9 after the accident in Jamaica?

10 MS. MINCHOFF: Objection.

11 A. Can you repeat that?

12 Q. Okay. This bench that's identified in the
13 first page of Exhibit 2 for identification
14 today, is that the bench that you saw
15 Stephanie sitting on?

16 MS. MINCHOFF: Objection.

17 A. I wouldn't remember.

18 Q. But you testified a little bit earlier,
19 probably about four questions ago, that you
20 do not recognize this location to be where
21 Stephanie had her accident, correct?

22 A. No.

23 Q. When you came upon Stephanie after the
24 accident, was she wearing any clothing?

25 A. Yes.

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- 1 Q. What was she wearing?
- 2 A. Shorts and a T-shirt.
- 3 Q. What color were her shorts?
- 4 A. Tan.
- 5 Q. What color was her T-shirt?
- 6 A. White.
- 7 Q. Was she wearing anything on her feet?
- 8 A. No.
- 9 Q. Had she been wearing anything on her feet
10 that day?
- 11 A. Yes.
- 12 Q. What was she wearing?
- 13 A. Flip-flops.
- 14 Q. But, again, you can't remember the color of
15 the flip-flops?
- 16 A. No.
- 17 Q. But you're sure she was wearing flip-flops
18 that day?
- 19 A. Yes.
- 20 Q. How can you be sure?
- 21 A. Because before we left she said, "Look at my
22 new flip-flops."
- 23 Q. And did you look at them?
- 24 A. Yes.
- 25 Q. But you don't recall what color they were?

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1 A. No.

2 Q. Was she wearing anything else besides her
3 tan shorts and her white shirt?

4 A. Underwear and a bra.

5 Q. We don't have to get into that.

6 And forgive me if I asked this. I
7 probably did. I just don't recall the
8 answer right now. What did Carrie (sic) say
9 to you when you were talking to her at the
10 scene of the accident?

11 MS. MINCHOFF: Objection.

12 Q. You can answer.

13 MS. MINCHOFF: What did Stephanie
14 say to her?

15 MR. REITH: Yes.

16 MS. MINCHOFF: You said Carrie.

17 MR. REITH: Oh. Well, that's a
18 good objection, then.

19 BY MR. REITH:

20 Q. What did Stephanie say to you, "you" Carrie,
21 at the scene of the accident?

22 A. She said to "Help me."

23 Q. Okay. Aside from helping her, anything
24 else?

25 A. I asked her what happened.

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1 Q. Okay. And that's when she said what?

2 A. She said that she was walking down the
3 stairs, her flip-flop broke and she fell in
4 the turtle pond.

5 Q. Okay. What time was this?

6 A. I don't recall exactly.

7 Q. Okay. Well, all right. Let's talk about
8 general time periods. Was it after 9:00?

9 A. Yes.

10 Q. Was it after 10:00?

11 A. Yes.

12 Q. Was it after --

13 MR. FERINGA: 10:00, 9:00 p.m.,
14 a.m.?

15 MR. REITH: Forgive me, counsel.

16 Q. Was it after 9:00 p.m.?

17 A. Yes.

18 Q. Was it after 10:00 p.m.?

19 A. Yes.

20 Q. Was it after 12:00 a.m.?

21 A. No.

22 Q. Are you sure?

23 A. Yes.

24 Q. How can you be sure?

25 A. Because I had the 11:00 news on.

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1 Q. How far into the 11:00 news were you when
2 you got the call from the resort?

3 A. I don't remember.

4 Q. 10 minutes, 15 minutes?

5 MS. MINCHOFF: Objection.

6 A. I'm not sure.

7 Q. Do you know if it was near the end of the
8 11:00 news?

9 A. I don't remember.

10 Q. Which 11:00 news was it?

11 A. I don't remember.

12 Q. Okay. Was it being broadcast out of
13 Florida?

14 A. I don't remember.

15 Q. Was it being broadcast out of anywhere else
16 in the continental United States?

17 A. I don't remember.

18 Q. Okay. After you came upon the scene, asked
19 for people's help, stabilized Ms. Hofer,
20 asked her what happened, what did you do
21 next?

22 A. I asked if there was anyone that could take
23 us to the hospital.

24 Q. And who did you ask that of?

25 A. I asked in general.

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1 Q. How many people were there, including you
2 and Ms. Hofer?

3 A. Approximately four to eight maybe.

4 Q. Okay. I'm trying to figure out a way how to
5 differentiate this. Were they local
6 residents or tourists?

7 A. Some of both.

8 Q. Some of both.

9 Did you get into any specific
10 discussions with any of them aside from
11 asking them to help?

12 A. I talked with Henry McKenzie once we were in
13 his car.

14 Q. And who is Henry McKenzie?

15 A. He's the gentleman that offered to drive us
16 to the hospital.

17 Q. Do you know what Mr. McKenzie does for a
18 living?

19 A. No.

20 Q. Where was Mr. McKenzie's car?

21 A. In the parking lot.

22 Q. Was it a cab?

23 A. No.

24 Q. So what happened after Mr. McKenzie offered
25 to take you in his car?

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1 A. A couple of the people helped me put
2 Stephanie in the back seat of the car.

3 Q. And did you ever get the names of these
4 people who helped you?

5 A. No.

6 Q. What was the condition of Stephanie's leg at
7 this point? Was it in some sort of traction
8 so it didn't move, or was it just being
9 covered in towels?

10 A. I had it wrapped in towels.

11 Q. Okay. But there was no splint on it at this
12 point?

13 A. No.

14 Q. Before you put the towels on, did you wash
15 the cut out with anything like water?

16 A. No.

17 Q. After certain persons assisted you getting
18 Ms. Hofer into the car, what happened next?

19 A. We drove to the hospital.

20 Q. How far of a drive was it?

21 A. Approximately 10 to 15 minutes.

22 Q. And what was Ms. Hofer's state at this
23 point?

24 MS. MINCHOFF: Objection.

25 Q. I can rephrase for you.

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- 1 A. Yeah.
- 2 Q. Was Ms. Hofer coherent?
- 3 A. Not really.
- 4 Q. Okay. Was she saying anything to you in the
5 car ride?
- 6 A. She was kind of rambling.
- 7 Q. What was she rambling about?
- 8 A. It didn't really make sense.
- 9 Q. Any specific recollections?
- 10 A. I don't remember exactly what she said, no.
- 11 Q. Do you remember generally what she said?
- 12 A. No.
- 13 Q. And Mr. McKenzie, you talked to Mr. McKenzie
14 in the car ride over?
- 15 A. Not really.
- 16 Q. Did you call Mr. Hofer in the car ride over
17 to the hospital?
- 18 A. No.
- 19 Q. Did you call anybody using your cell phone
20 on the car ride over?
- 21 A. No.
- 22 Q. So in the car ride over you were mainly just
23 monitoring Ms. Hofer?
- 24 A. I was trying to calm her down.
- 25 Q. Okay. When you say "calm her down," what do

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1 you mean by that?

2 A. She kept complaining about how much pain she
3 was in and rambling, and I just kept telling
4 her "We're going to be there. Calm down.
5 It's okay."

6 Q. And we talked about the admission process to
7 the hospital, but what happened between
8 getting in the car to the point of admission
9 into the hospital?

10 A. What do you mean, what happened in the car?

11 Q. It took you about 15 minutes to get to the
12 hospital?

13 A. Right.

14 Q. Okay. Where did you pull up to, the front
15 entrance, the emergency entrance?

16 A. I believe it was the emergency entrance.

17 Q. Okay. And what happened next after you
18 pulled up?

19 A. Someone brought a wheelchair out, and we got
20 Stephanie into the wheelchair and wheeled
21 her into the exam room.

22 Q. Okay. Now, flashing forward to the point
23 where Ms. Hofer is talking on the phone with
24 her husband, okay?

25 A. Uh-huh.

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1 Q. You next got on the phone with Mr. Hofer?

2 A. Yes.

3 Q. Okay. After you spoke to Mr. Hofer, what
4 happened next?

5 A. We waited for the doctors.

6 Q. Okay. And how long did you wait for the
7 doctors?

8 A. Approximately a couple hours.

9 Q. And at some point did the doctors come back
10 to talk to you and Stephanie?

11 A. Yes.

12 Q. And what did they say to you when they came
13 back?

14 A. They said that she was going to need
15 surgery.

16 Q. Okay. Did they specify what type of
17 surgery?

18 A. I don't recall.

19 Q. Okay. Did you react in any way to their
20 saying that she needed surgery?

21 A. What do you mean?

22 Q. Did you say anything in response to the
23 doctors?

24 A. When they told me that she needed surgery?

25 Q. Yes.

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1 A. I don't remember exactly how I reacted.

2 Q. Okay. Was there a discussion of whether or
3 not Ms. Hofer would have the surgery in
4 Jamaica?

5 A. Yes.

6 Q. Okay. And what was said during that
7 discussion?

8 A. I told them that I'm not giving them
9 permission to operate on her. I'm not in
10 charge of her person and that she has a
11 husband, and I asked them if it was possible
12 to have it done in the States or if it
13 needed to be done down there.

14 Q. But Mr. Hofer wasn't on the phone at this
15 point?

16 A. No.

17 Q. Did you offer to call Mr. Hofer to ask if
18 the surgery could take place in Jamaica?

19 A. I'm sorry?

20 Q. Did you offer to call Mr. Hofer to ask him
21 if the surgery could take place in Jamaica?

22 A. Not at that point, no.

23 Q. Okay. At any point did you offer that?

24 A. Yes.

25 Q. Okay. And when was that that you offered to

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1 call Mr. Hofer?

2 A. It was after the doctor told me that they
3 could stabilize her for us to fly home so
4 she could have the surgery back home.

5 Q. And after they had that discussion with you,
6 did you in fact call Mr. Hofer again?

7 A. Yes.

8 Q. Okay. Do you recall when you spoke to Mr.
9 Hofer about the possibility of surgery or
10 coming home?

11 A. Around midday.

12 Q. Okay. This is midday what day?

13 A. The 19th.

14 Q. Okay. Forgive me, I should have asked this
15 before. When was Ms. Hofer admitted to the
16 hospital?

17 MS. MINCHOFF: Objection.

18 A. I don't know the exact time.

19 Q. Was it after midnight on the morning of the
20 19th?

21 A. Yes.

22 Q. How can you be sure about that?

23 A. Because by the time we left the hotel and
24 got to the emergency room and they worked on
25 her to stabilize her first and did the

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1 X-rays, all before they admitted her, it was
2 daylight outside when they admitted her.

3 Q. Okay. All right. So maybe I misunderstand
4 the chronology. They admitted her after
5 they brought her into the exam room and took
6 the X-rays and stabilized her?

7 A. Yes.

8 Q. Okay. What did the admission process
9 entail?

10 A. I don't remember exactly.

11 Q. Was there any paperwork to be filled out?

12 A. Yes.

13 Q. Did you fill out the paperwork for her?

14 A. No.

15 Q. Ms. Hofer filled out the paperwork?

16 A. Yes.

17 Q. And do you recall the types of questions the
18 paperwork asked of her?

19 A. No.

20 Q. Did you review the paperwork before she
21 executed it?

22 A. At the time I did.

23 Q. Okay. But as you sit here today, you can't
24 remember the questions asked?

25 A. Not off the top of my head, no.

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1 Q. You don't have any of those admission
2 documents yourself, do you?

3 A. No.

4 Q. Did you ever have any of those admission
5 documents?

6 A. Yes.

7 Q. Okay. When did you have them?

8 A. When we were in Jamaica.

9 Q. What happened with the admission documents
10 eventually?

11 A. They went to Stephanie and her husband.

12 Q. Okay. When did they go to her husband?

13 A. I don't recall the exact date.

14 Q. Presumably they went to Ms. Hofer and her
15 husband after you all got back from Jamaica,
16 though?

17 A. Yes.

18 Q. And was it the next day when Mr. Hofer
19 picked you all up at the airport, or was it
20 at some later point?

21 MS. MINCHOFF: Objection.

22 MR. REITH: That's fine.

23 A. Say that again.

24 Q. I'll ask it a different way. When did you
25 arrive back from Jamaica?

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- 1 A. Later on in the afternoon on the 19th.
- 2 Q. Okay. And how did you arrive back to
3 Boston?
- 4 A. By plane.
- 5 Q. Or how did you arrive back to the United
6 States?
- 7 A. By plane.
- 8 Q. And where did you fly back into?
- 9 A. Into Logan.
- 10 Q. Okay. Was it a direct flight?
- 11 A. Yes.
- 12 Q. Okay. And did anybody pick you up at the
13 airport?
- 14 A. Yes.
- 15 Q. Okay. Who picked you up at the airport?
- 16 A. Who picked me up, or who picked Stephanie
17 up?
- 18 Q. Fair question. Who picked Stephanie up?
- 19 A. Her mom and her husband.
- 20 Q. And who picked you up?
- 21 A. My roommate at the time.
- 22 Q. Okay. At the time that Mr. Hofer and, is it
23 Ms. Pompei? Is that -- who's that --
- 24 A. Her mom?
- 25 Q. Yes.

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1 A. Yes.

2 Q. At the time they picked up Stephanie, did
3 you turn over to them the admission papers
4 from the Jamaican hospital?

5 A. Yes.

6 Q. Okay.

7 A. I believe so.

8 Q. Okay. Going back now to Jamaica --

9 A. Can I ask a question?

10 Q. Sure.

11 A. I just want to make sure that I'm talking
12 about the same thing. By "admission
13 paperwork," do you mean they sent us back
14 with a packet of X-rays and a letter stating
15 that we were flying home for medical
16 reasons, or do you mean like receipts like
17 paperwork from her going in?

18 Q. We can flush it out together. When you were
19 down in Jamaica, what type of paperwork, any
20 type of paperwork did you or Ms. Hofer
21 receive from the hospital?

22 A. They gave us a packet that had her I believe
23 medical X-rays, the doctors' notes from down
24 there so that we could give it to the
25 doctors up here so that they would know what

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1 was done while we were down there.

2 Q. Okay. But was there a specific series of
3 documents that actually related to the
4 checking in or admitting, like name,
5 address, contact information, anything along
6 those lines?

7 A. I don't remember specifically.

8 Q. Okay. But you do remember Ms. Hofer filling
9 out something in the hospital?

10 A. Yes.

11 Q. And you remember reviewing some sort of
12 documents in the hospital that Ms. Hofer had
13 executed?

14 A. Yes.

15 Q. You're just not sure what type of papers
16 those were?

17 A. Not two and a half years later.

18 Q. Do you understand that those papers that Ms.
19 Hofer filled out were in the packet that
20 were given to Mr. Hofer?

21 A. I am not sure --

22 MS. MINCHOFF: Objection.

23 A. -- if they were or not.

24 Q. Okay. Did you ever look into the packet of
25 documents that was given to Mr. Hofer?

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1 A. No.

2 Q. So this was a packet that was just given to
3 you by the hospital on the way out the door?

4 A. By the doctors to give to the doctors here
5 in the States.

6 Q. Okay. You mentioned a document that talked
7 about traveling for medical reasons?

8 A. Uh-huh.

9 Q. What type of document was that?

10 A. They had given us a letter to give to the
11 check-in counter at the airport.

12 Q. Okay. Do you recall if there was any sort
13 of release that was signed while both of you
14 were in the hospital saying that you would
15 leave the hospital?

16 A. I am not sure off the top of my head.

17 Q. Okay. Did the doctors in discussing Ms.
18 Hofer's condition with you talk about her
19 staying at the hospital in Jamaica to have
20 the surgery instead of traveling?

21 A. No.

22 Q. Did the doctors at the hospital present you
23 with any scenarios as to the impact of
24 traveling with this accident -- with the
25 injury?

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1 A. No.

2 Q. Aside from the doctors saying to you and Ms.
3 Hofer that she would need surgery, what else
4 did they say?

5 A. I don't recall specifically.

6 Q. Okay. In general, what did they talk about?

7 A. That she would need surgery.

8 Q. Okay. At one point did you all elect to
9 leave the hospital?

10 A. After the doctors said she needed surgery, I
11 then called Steph's husband, Doug, to let
12 him know.

13 Q. And during that conversation what did Mr.
14 Hofer say?

15 A. We discussed having the surgery done down
16 there versus in the States.

17 Q. When you say "we," you mean you and Mr.
18 Hofer?

19 A. Yes.

20 Q. Okay. What specifically was said about
21 doing this surgery in Jamaica versus the
22 States?

23 A. He said to have it done in the States. He
24 said if they could stabilize her for travel,
25 he wanted it done here versus down there.

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1 Q. Okay. And during that conversation did you
2 also explain to him the severity of the
3 injury?

4 A. Yes.

5 Q. And what did you tell him about the injury?

6 A. I don't understand.

7 Q. Well, what did you say about the extent of,
8 you know, Ms. Hofer's injury to her husband?

9 A. I don't remember exactly. I told him that
10 they said she needed surgery.

11 Q. And what did Mr. Hofer say in response? Was
12 it just you discussed going to the States?

13 A. Yes.

14 Q. Okay. Did he have any other reaction to how
15 severe the injuries sounded?

16 A. Well, he was asking if she was okay and if I
17 thought that she would be okay to come back
18 to the States.

19 Q. And what did you tell him in response to his
20 inquiry?

21 A. I told him that "If it were my wife, I
22 wouldn't have her have surgery down here."

23 Q. Okay. So after that phone call with Mr.
24 Hofer, did Ms. Hofer get on the phone with
25 him?

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1 A. No.

2 Q. Okay. After that phone call that you had
3 with Mr. Hofer, did you elect to leave the
4 hospital?

5 A. Not right away.

6 Q. Okay. What did you do then next after that
7 phone call?

8 A. I went back and talked to the doctor again.

9 Q. Okay. And where was Stephanie at this
10 point?

11 A. In the bed.

12 Q. Okay. Was the doctor with her in the room?

13 A. I don't know if he was when I was on the
14 phone. I had -- I went outside to use the
15 phone.

16 Q. Okay. Where did you speak to the doctor
17 after talking with Mr. Hofer?

18 A. Back in the hospital.

19 Q. Okay. And this is in the exam room?

20 A. Yes.

21 Q. All right.

22 A. Well, no, at that point they had moved her,
23 so she was in like a cattle call room, is
24 how they have them down there.

25 Q. And by "cattle call," do you mean multiple

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1 persons in multiple beds?

2 A. It's just bed after bed after bed lined up
3 all across the room.

4 Q. Okay. So you went back into that room to
5 talk with the doctor about moving or not
6 moving Ms. Hofer?

7 A. Yes.

8 Q. Okay. And what did you talk to him about?

9 A. I told him that her husband wanted her to go
10 back to the States to have surgery and
11 talked about what we needed to do to get her
12 back to the States.

13 Q. Okay. Did Mr. Hofer ever directly speak to
14 any of the doctors?

15 A. No.

16 Q. At this point was Ms. Hofer speaking to the
17 doctors directly herself, or were you acting
18 as her intermediary?

19 A. I was acting as intermediary. She was
20 drugged up at that point.

21 Q. Do you know if the doctors did any
22 toxicology tests while she was down there?

23 A. I have no idea.

24 Q. The doctors, did they take blood?

25 A. I don't know.

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1 Q. Okay. And what was the result of your
2 discussion with the doctor about moving Ms.
3 Hofer to the States?

4 A. He said that he could stabilize her leg into
5 a makeshift cast that would be okay for us
6 to get her back home, and then the doctors
7 back home could do the surgery.

8 Q. And it's at that point that you and Ms.
9 Hofer checked out of the hospital?

10 A. No.

11 Q. Okay. What happened next after you had that
12 discussion, then, with the doctor about
13 stabilizing her in the air cast and moving
14 her back?

15 A. Then we tried to figure out how to get her
16 back to the United States.

17 Q. And did you figure out how to get her back
18 to the United States?

19 A. Yes.

20 Q. She's here today, so I see that you did.
21 How -- what did you do to get her back to
22 the United States?

23 A. I called the airlines to change our
24 reservation so that we could get on a flight
25 back to Boston.

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1 Q. Was there anything else you did?

2 A. When?

3 Q. Fair enough. Was there anything else you
4 did after you spoke to the airlines about
5 changing the tickets?

6 A. Once I confirmed our switched reservations,
7 then I called Doug back to let him know when
8 our flight would be arriving so that they
9 could meet us there.

10 Q. Okay. At that point did Ms. Hofer get on
11 the phone with her husband?

12 A. No.

13 Q. After you spoke to Mr. Hofer on the phone
14 about coming back to Boston, what happened
15 next?

16 A. Then the hospital gave us some
17 prescriptions. I left the hospital with
18 Henry McKenzie to go back to the hotel to
19 pack up our belongings. Henry drove me back
20 to the hospital, and then he -- we picked up
21 Stephanie at the hospital, and then we drove
22 to the airport.

23 Q. So what did you do to pack up your
24 belongings at the hotel?

25 A. I went back to the room, put all our stuff

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1 in our suitcases, brought the key back to
2 the front desk and left.

3 Q. Okay. Did you ever go back to the front
4 desk and try to find the sandal that was
5 allegedly sitting on the staircase the night
6 before?

7 A. It didn't come into my mind at that point.

8 Q. I should ask, what type of room were you in?

9 A. A dump.

10 Q. Okay. Aside from a dump, was it a studio, a
11 one bedroom, two bedroom?

12 A. I don't know if they technically called it a
13 one bedroom, but there was a full size bed,
14 but it wasn't like a separate room with a
15 door. It just had like a curtain that
16 pulled across, so I don't know if they
17 consider that a studio or if they consider
18 that a one bedroom.

19 Q. Was the bedroom bigger than the room we're
20 sitting in here?

21 A. No.

22 Q. Smaller?

23 A. The bedroom part or the whole place?

24 Q. The entire place.

25 A. The entire place was probably about this

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1 big.

2 Q. Did you have a TV in your room?

3 A. Yes.

4 Q. Did you have a radio in your room?

5 A. I am not sure if there was a separate radio.

6 Q. Did you have a refrigerator in your room?

7 A. Yes.

8 Q. Did you have a mini bar in your room?

9 A. No.

10 Q. Did you have any alcohol supplied by the
11 hotel in your room?

12 A. No.

13 Q. Did you have any of your own alcohol in the
14 hotel room?

15 A. No.

16 Q. When you went back to the hotel to pack up
17 your and Stephanie's belongings, did you go
18 to the front desk and discuss the events
19 where Ms. Hofer was hurt?

20 A. We didn't discuss the events. When I
21 dropped off the room key to check out, the
22 lady asked how my friend was, and I said,
23 "We're flying her back home for surgery."
24 It wasn't a real discussion.

25 Q. Do you know who that woman was?

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1 A. No.

2 Q. Do you know her name?

3 A. No.

4 Q. Did you ask if you could file a complaint
5 with the hotel?

6 A. No.

7 Q. After you left the island, did you ever file
8 a complaint with the hotel?

9 A. No.

10 Q. Did you file any sort of incident report
11 with the hotel at any time?

12 A. No.

13 Q. Did you file any sort of incident report or
14 complaint with the local police in Jamaica
15 at any time?

16 A. No.

17 Q. Did you make any reports to anyone on the
18 island about the incident?

19 MS. MINCHOFF: Objection.

20 A. What do you mean by "reports"?

21 Q. Did you fill out any paperwork explaining
22 what happened to Ms. Hofer or your
23 observation of what happened to Ms. Hofer at
24 any point after you left the island?

25 A. I didn't fill out any paperwork, no.

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1 Q. Let's go from the hospital when you were
2 about to check out. What happened after you
3 left the hospital? Where did you go next?

4 A. Straight to the airport.

5 Q. Okay. And this is after you had gone back
6 to the hotel, packed and returned back to
7 the hospital you left for the airport?

8 A. Yes.

9 Q. Okay. And Mr. McKenzie drove you?

10 A. Yes.

11 Q. Okay. And how long was it from the hospital
12 to the airport?

13 A. I don't recall.

14 Q. Was it longer than a half hour?

15 A. I'm not sure.

16 Q. Okay. Well, let me ask this: Where was the
17 hospital? Was it in Ocho Rios?

18 A. I don't know.

19 Q. Flashing back to testimony from before,
20 though, you believe the ride from the resort
21 to the hospital was about 15 minutes, 10, 15
22 minutes?

23 A. 10, 15 minutes, yes.

24 Q. But as you sit here today, you cannot tell
25 us how long it was from the hospital to the

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1 airport?

2 A. No.

3 Q. All right. Do you recall it being a long
4 ride?

5 MS. MINCHOFF: Objection.

6 A. Define a long ride.

7 Q. Longer than an hour?

8 A. I'm not sure. It seemed like it took a
9 while, but we were rushing to catch the last
10 flight out of that day, so I'm not sure
11 exactly how long it took.

12 Q. Okay. And you did make the last flight of
13 the day?

14 A. Yes, we did.

15 Q. And after you arrived in Boston, what
16 happened?

17 A. We greeted Steph's mom and her husband and
18 my roommate at the time, and they took Steph
19 and went to the hospital, and me and my
20 roommate went home.

21 Q. After you got back from Boston, when was the
22 next time you spoke to Ms. Hofer?

23 A. A week later, approximately.

24 Q. And what did you talk to Ms. Hofer about
25 during that discussion?

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- 1 A. I called to see how she was doing.
- 2 Q. Any reason you waited a week?
- 3 A. Because I had talked to her mom in between.
- 4 Q. Okay. And who's her mom again, please?
- 5 A. Ms. Pompei.
- 6 Q. What's her first name?
- 7 A. Lauren.
- 8 Q. So you spoke with Ms. Pompei after you came
- 9 back from Jamaica?
- 10 A. Yes.
- 11 Q. And you talked to her about Stephanie's
- 12 condition?
- 13 A. Yes.
- 14 Q. And when was the first time you spoke with
- 15 Ms. Pompei after coming back from Jamaica?
- 16 A. At the airport.
- 17 Q. And what did you say to Ms. Pompei at the
- 18 airport?
- 19 A. I gave her the envelope that the doctors had
- 20 given us and tried to explain a little bit
- 21 of what happened, and then they rushed her
- 22 to the hospital.
- 23 Q. What did you explain to Ms. Pompei happened?
- 24 A. That Stephanie said she fell down the stairs
- 25 because her flip-flops broke and she fell in

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1 the turtle pond.

2 Q. And when you came on Ms. Hofer after the
3 accident, you know, when she was sitting on
4 the bench, were there lights on at the front
5 lobby entrance?

6 A. There was lights inside the lobby.

7 Q. Were there lights outside the lobby?

8 A. Parking lot lights.

9 Q. But you could see Ms. Hofer as you
10 approached her from your room, correct?

11 MS. MINCHOFF: Objection.

12 Q. I'll ask it this way, was it dark at the
13 lobby entrance when you came upon the
14 accident scene?

15 A. Define "dark."

16 Q. Could you see Ms. Hofer as you stood over
17 her as she sat on the bench?

18 A. Yes.

19 Q. Okay. Could you see the other persons
20 standing around Ms. Hofer as she was sitting
21 on the bench?

22 A. Yes.

23 Q. And from where you were standing to where
24 the sandal was allegedly sitting on the
25 staircase, how far was that, approximately?

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1 A. Approximately from me to you.

2 Q. Okay. All right. How far would you say
3 that is?

4 A. I don't know.

5 Q. 12 feet?

6 A. Is that 12 feet?

7 Q. I'm just trying to do a yardstick in my
8 head.

9 MS. MINCHOFF: Objection.

10 A. I don't know if that's 12 feet or not.

11 Q. All right. Well, it's almost three-quarters
12 of the length of this table; would you
13 agree?

14 A. Yes.

15 Q. Okay. And when you were at the -- flashing
16 back to the airport now -- forward to the
17 airport, did you talk to Mr. Hofer in any
18 more detail about the accident?

19 A. No.

20 Q. Okay. And after the airport where you spoke
21 with Ms. Pompei, when was the next time you
22 spoke with Ms. Pompei?

23 A. I'm not sure exactly.

24 Q. Was it a couple days after?

25 A. I believe so.

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1 Q. Okay. But it was definitely before you
2 spoke to Ms. Hofer herself?

3 A. Yes.

4 Q. And in that interim conversation with Ms.
5 Pompei, what did you discuss?

6 A. How Stephanie was doing.

7 Q. Okay. What did Ms. Pompei say?

8 A. She said that she was having surgeries.

9 Q. Other than that, what did Ms. Pompei say?

10 A. I don't recall that we talked about anything
11 else.

12 Q. Between the time that you arrived back from
13 Boston and first spoke to Ms. Hofer, did you
14 speak to her husband?

15 A. I don't remember.

16 Q. Okay. When you spoke to Ms. Hofer
17 approximately a week after you got back from
18 Jamaica, what did you all talk about?

19 A. How she was doing.

20 Q. Okay. And what did she say?

21 A. She said that she was in a lot of pain and
22 had the surgery and that there was going to
23 be more.

24 Q. And after that discussion did you keep in
25 contact with Ms. Hofer about her condition?

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1 A. Yes.

2 Q. How often did you talk?

3 MS. MINCHOFF: Objection.

4 A. Not -- I don't recall every phone
5 conversation. I'm not sure.

6 Q. Okay. Did you ever keep any notes about
7 your conversations with Ms. Hofer?

8 A. No.

9 Q. Did you ever keep any sort of personal diary
10 about the events that occurred down in
11 Jamaica?

12 A. No.

13 MR. REITH: I'm about to get into
14 another line of questioning. Is there any
15 way we can take a two-minute break?

16 MS. MINCHOFF: Sure.

17 THE VIDEOGRAPHER: The time is
18 10:56. We are off the record.

19 (Recess taken.)

20 THE VIDEOGRAPHER: Okay. We are
21 back on the record. This is Tape No. 2.
22 The time is four minutes after 11:00.

23 MR. REITH: All right. We're back
24 on. I would just ask that this be marked as
25 Exhibit 3 for identification today.

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1 (Discussion of the record.)

2 (Exhibit No. 3, Amended Notice of
3 Videotaped Deposition Duces Tecum Directed
4 to Plaintiffs, marked for identification.)

5 BY MR. REITH:

6 Q. I would just ask you to take a look at that
7 document. Let me know if you have a chance
8 to familiarize yourself with it.

9 (Witness reviews document.)

10 Q. Have you had a chance to review it?

11 A. Yes.

12 Q. Do you recognize that document?

13 A. I believe it's the same document that the
14 court marshal gave to me.

15 Q. Okay. And did you review that document the
16 court marshal give to you before today?

17 A. Yes.

18 Q. And directing your attention to the part of
19 that document which has Schedule A, which is
20 on the third page in.

21 A. Uh-huh.

22 Q. So let me know when you're there.

23 A. Okay.

24 Q. Did you review Schedule A after the
25 marshal -- we call him constable -- served

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1 it upon you?

2 A. Yes.

3 Q. And did you search your files for the
4 various documents and information that were
5 requested that you search for?

6 A. Can you say that one more time?

7 Q. Sure. I'll represent to you that Schedule A
8 asks you to look for certain documents --

9 A. Correct.

10 Q. -- and to produce certain documents that you
11 have in your possession.

12 A. Right.

13 Q. And you understood that?

14 A. Yes.

15 Q. And you understood that when you read it?

16 A. Yes.

17 Q. Did you look for the documents that this
18 Schedule A identifies?

19 A. Yes.

20 Q. Okay. And what did you do to look for those
21 documents?

22 A. I looked on my computer, and I looked in my
23 office files.

24 Q. Okay. And by "office files," do you mean
25 hard documents?

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- 1 A. File cabinets, yes.
- 2 Q. And what was the result of your search?
- 3 A. Nothing.
- 4 Q. You didn't find any documents?
- 5 A. None.
- 6 Q. So you didn't find any photographs taken of
- 7 Ms. Hofer during the Jamaica vacation?
- 8 A. No.
- 9 Q. Did you take any photographs while you were
- 10 down there in Jamaica?
- 11 A. No.
- 12 Q. Had you ever been to Jamaica before?
- 13 A. Nope.
- 14 Q. Did you bring a camera with you?
- 15 A. Yes.
- 16 Q. But you didn't take any pictures?
- 17 A. Not yet.
- 18 Q. What type of camera was it that you brought
- 19 down?
- 20 A. Digital camera.
- 21 Q. Did you bring a video recorder with you?
- 22 A. No.
- 23 Q. Did you bring a camcorder with you?
- 24 A. No.
- 25 Q. Did you bring a CD recorder with you?

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- 1 A. No.
- 2 Q. So there were no recordings made of Ms.
3 Hofer down on the trip?
- 4 A. No.
- 5 Q. Did Ms. Hofer take any pictures of you while
6 you were on the trip?
- 7 A. Not that I remember.
- 8 Q. Do you know if Ms. Hofer took any pictures
9 of the resort while you were down on the
10 trip?
- 11 A. Not that I remember.
- 12 Q. So you didn't find any documents that were
13 responsive to the first and second request,
14 then?
- 15 A. No.
- 16 Q. And those are the -- just so we're all on
17 the same page, those are the first and
18 second requests on Schedule A?
- 19 A. Yes.
- 20 Q. All right. Now, did you take a look on your
21 computer for any e-mails or electronic
22 correspondence with Ms. Hofer?
- 23 A. Yes.
- 24 Q. Okay. And what was the result of that
25 search?

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1 A. There were none.

2 Q. Do you maintain any backups of e-mails on
3 your computer?

4 A. No.

5 Q. And forgive me, who do you use as an
6 Internet service provider now?

7 A. Currently it's through Eastern Connecticut
8 Cable.

9 Q. And you don't recall what you used back in
10 2004?

11 A. I'm not sure.

12 Q. Do you know if it was Verizon?

13 A. I'm not sure.

14 Q. Okay. AOL?

15 A. I'm not sure.

16 Q. Do you recognize the e-mail address
17 CarrieLaBelle@AOL.com?

18 A. Yes.

19 Q. And when did you use the e-mail address
20 CarrieLaBelle@AOL.com last?

21 A. When did I use it last?

22 Q. Yes.

23 A. I am not sure exactly.

24 Q. Okay. And do you -- but as you sit here
25 today, you can't recall who provided you the

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1 Internet so that you could go onto AOL.com,
2 correct?

3 A. Say that again.

4 Q. You don't remember who the Internet service
5 provider was back in 2004, correct?

6 A. No.

7 Q. Do you recall back in 2004, whoever your
8 Internet service provider was, if you
9 maintained backup for your e-mails?

10 A. I don't remember.

11 Q. But during your search for documents that
12 were requested in Schedule A, you didn't
13 find anything that was responsive to
14 Paragraph No. 3 then?

15 A. No.

16 Q. Turning your attention to Paragraph No. 4,
17 did you review any documents before you came
18 here today, other than the subpoena that the
19 constable served on you?

20 A. Not other than this, no.

21 Q. All right. So you didn't bring any
22 documents then --

23 A. No.

24 Q. -- for No. 4?

25 A. No.

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1 Q. Did you bring any documents that related to
2 any communications between you and Expedia,
3 Inc.?

4 A. No.

5 Q. All right. Did you have any documents at
6 any point that related -- between you and
7 Expedia, Inc. concerning the Jamaica trip?

8 A. At one point I did.

9 Q. Okay. And what did you have?

10 A. The travel itinerary.

11 Q. Anything else?

12 A. Not that I can remember.

13 Q. And was that from Expedia, Inc. or
14 Expedia.com?

15 A. Is there a difference?

16 Q. I'm not going to answer that question, but
17 I'm going to ask, do you recall who it was
18 from? Was it Exped --

19 A. I printed it off the Internet.

20 Q. Okay. And what website did you print it off
21 of?

22 A. I went to Expedia.com, but I can't guarantee
23 if I wasn't forwarded to a different site or
24 anything like that.

25 Q. Aside from the travel itinerary, was there

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1 anything else that you had?

2 A. No.

3 Q. And what happened to that travel itinerary?

4 A. I gave it to Stephanie.

5 Q. Oh, when did you give it to Stephanie?

6 A. I don't remember the exact date.

7 Q. And why did you give it to Stephanie?

8 A. Because she asked for it.

9 Q. I know you can't remember the specific date,
10 but can you remember the year?

11 A. It wasn't this year. It wasn't '06. I'm
12 not sure if it was in '04 or '05. I'm not
13 sure.

14 Q. Do you know if you gave it to her after
15 September of 2005?

16 A. I am not sure.

17 Q. Aside from the travel itinerary that you
18 gave to Stephanie, what other documents did
19 you give to Stephanie?

20 A. Some receipts from the trip.

21 Q. And what receipts were those?

22 A. I'm not sure specifically. I know there was
23 one for dinner. I'm not sure what else was
24 in there.

25 Q. But there was more than one receipt?

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1 A. Yes.

2 Q. And were they credit card receipts or just
3 statement accounts from your bank? What
4 type of receipts were they?

5 A. Receipts from down in Jamaica. It wasn't
6 bank statements or anything like that, it
7 was receipts from when we were in Jamaica.

8 Q. Okay. But do you know if they were debit
9 cards that related to your credit card?

10 A. I don't remember at the time.

11 Q. But you didn't keep a copy of the receipts
12 that you gave to Stephanie?

13 A. No.

14 Q. And you didn't keep a copy of the itinerary
15 that you gave to Stephanie?

16 A. No.

17 Q. Aside from the itinerary and receipts,
18 multiple receipts that you gave to
19 Stephanie --

20 MS. MINCHOFF: Objection.

21 Q. -- what other documents did you give to her?

22 MS. MINCHOFF: Objection.

23 A. It was just the itinerary and some receipts.

24 Q. Did you just offer those to Stephanie, or
25 did she ask for them?

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- 1 A. She asked for them.
- 2 Q. And you don't recall when she asked for
3 them?
- 4 A. No.
- 5 Q. Did she tell you why she needed them?
- 6 A. No.
- 7 Q. She didn't say anything to the effect "I
8 need them for this lawsuit that I'm engaged
9 in"?
- 10 A. No.
- 11 Q. Did you ask her why she needed them?
- 12 A. No. I had assumed it was to pay me back the
13 money that I had dished out while we were
14 down there.
- 15 Q. Did she ever pay you back?
- 16 A. Yes.
- 17 Q. When did she pay you back?
- 18 A. I am not sure the exact date.
- 19 Q. How much did she pay you back?
- 20 A. I don't remember what the total was.
- 21 Q. Was it over \$100?
- 22 A. Yes.
- 23 Q. Was it over \$500?
- 24 A. Yes. It was probably -- I don't know exact,
25 but it was approximately probably around 700

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1 or thereabouts.

2 Q. And how did she make payment to you, cash or
3 check?

4 A. Some of it was cash, and I think there might
5 have been a check.

6 Q. Do you have a copy of that check still?

7 A. No.

8 Q. Would your bank?

9 A. No. I deposited the check.

10 Q. You said that there was pay-back for the
11 money that you dished out down there. What
12 do you mean by that?

13 A. The money that I had used while she was in
14 the hospital to get her prescriptions and
15 things like that.

16 Q. Okay. And was it also for the dinner that
17 you talked about before?

18 A. No.

19 Q. Did she ever pay you back for the dinner?

20 A. She paid for the dinner.

21 Q. But you gave her a receipt for the dinner,
22 too, didn't you?

23 A. Yes. I had the receipt for dinner.

24 Q. Okay. So she paid for dinner, and you kept
25 the receipt?

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1 A. Yes.

2 Q. And why?

3 A. The receipt ended up in my purse through all
4 the running around, and I had her purse
5 while I was at the hospital, so somehow it
6 ended up in my purse.

7 Q. Fair enough. Aside from the travel
8 itinerary and the receipts, can you think of
9 any other documents you gave to Stephanie?

10 A. Not right now, no.

11 Q. Okay. Have you ever asked for those
12 documents back?

13 A. No.

14 Q. Why not?

15 MS. MINCHOFF: Objection.

16 A. I have no need for them.

17 Q. But, again, you didn't know why Stephanie
18 needed them, either, did you?

19 A. I didn't ask her specifically.

20 Q. Do you have any documents -- or did you
21 discover any documents after your search
22 relating to communications with Turtle Beach
23 Towers?

24 A. No.

25 Q. Did you ever have any written communications

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1 with Turtle Beach Towers?

2 A. Nope.

3 Q. Did you search for documents relating to
4 communications with The Gap?

5 A. No.

6 Q. Did you ever have any communications in
7 connection with the Jamaican incident with
8 Gap?

9 A. No.

10 Q. Did you have any -- strike that.

11 Did you find any documents concerning
12 any communications with Henry McKenzie?

13 A. No.

14 Q. Did you have any communications with
15 McKenzie?

16 A. Nope.

17 Q. Did you keep any notes on your discussions
18 with Mr. McKenzie?

19 A. Nope.

20 Q. Turning your attention to No. 6, did you
21 look for the subject sandals?

22 A. No.

23 Q. Why not?

24 A. Because it wasn't high on my priority list.

25 Q. Okay. I'm talking in connection with this

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1 actual request. You don't possess the
2 sandals?

3 A. No.

4 Q. At any point did you give a call back to the
5 hotel saying, "Did you find those sandals?"

6 A. No.

7 Q. Did you and Stephanie ever talk about
8 calling back to the hotel and asking for the
9 sandals?

10 A. No.

11 Q. Other than when Stephanie talked to you
12 about the sandals at the time of the
13 incident, did you ever talk about the
14 sandals again?

15 A. Afterwards?

16 Q. Yes.

17 A. Like after the accident happened?

18 Q. Yes.

19 A. We might have mentioned it at some point in
20 conversation. I don't recall an exact
21 conversation or what was said.

22 Q. Okay. Do you have any documents or did you
23 discover any documents that concerned the
24 actual reservation or purchase of the trip
25 on Expedia.com?

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- 1 A. Can you say that one more time?
- 2 Q. Sure. When you booked the trip through
3 Expedia --
- 4 A. Uh-huh.
- 5 Q. -- did you print out as you went along, you
6 know, the various screens?
- 7 A. No.
- 8 Q. Did you print out the confirmation of the
9 reservation on Expedia.com?
- 10 A. Yes.
- 11 Q. Okay. And did you maintain that document?
12 Did you keep that document?
- 13 A. For how long? Till today?
- 14 Q. That's a good question. How long did you
15 hold onto the document that you printed out
16 concerning the confirmation?
- 17 A. I had it till I gave it to Stephanie.
- 18 Q. Okay. And that's a travel itinerary you're
19 talking about?
- 20 A. It was the print-off confirmation of what
21 our itinerary was.
- 22 Q. Okay. Let's see here. Do you have any
23 credit card receipts concerning the
24 reservation and purchase of the trip?
- 25 A. No.

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- 1 Q. Who paid for the trip?
- 2 A. I did.
- 3 Q. And how did you pay for it?
- 4 A. Initially by credit card.
- 5 Q. What do you mean by "initially"?
- 6 A. Stephanie paid me back afterwards for her
7 portion.
- 8 Q. When did that happen?
- 9 A. I don't know exactly.
- 10 Q. How much did she pay you back?
- 11 A. Approximately around the 700, 750, like I
12 mentioned earlier.
- 13 Q. Okay. So the 700, 750 is not just for the
14 money that you, quote, dished out while you
15 were down there?
- 16 A. It includes it, because the original trip
17 was only approximately 700. The 700 to 750
18 approximately included the money that I
19 dished out for her prescriptions when we
20 were down there.
- 21 Q. And, again, she repaid you that 700 to 750
22 in both cash and check?
- 23 A. Yes.
- 24 Q. Were you ever reimbursed for the trip by the
25 resort?

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1 A. No.

2 Q. Were you ever reimbursed for the trip by
3 Expedia.com?

4 A. No.

5 Q. Did you ever request a reimbursement from
6 the hotel?

7 A. No.

8 Q. Did you ever request a reimbursement from
9 Expedia?

10 A. No.

11 Q. Can I ask you why you didn't ask the Turtle
12 Beach Towers for a reimbursement?

13 MS. MINCHOFF: Objection.

14 A. My concern wasn't with that at that point in
15 time.

16 Q. I'm talking ever. Why didn't you ask for a
17 reimbursement for the trip at any point
18 after the accident?

19 A. My concern was getting my friend home and
20 getting her well. When I got back to the
21 States after that, I was consumed with my
22 life and didn't have time to deal with it.

23 Q. Is that the same reason why you didn't ask
24 Expedia --

25 A. Yes.

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1 Q. -- for reimbursement?

2 Again, in connection with No. 7, did
3 your review of documents at home result any
4 papers concerning Turtle Beach Towers
5 brochures or related documents?

6 A. No.

7 Q. And your review of your documents at home,
8 did it come up with any documents concerning
9 your on-line browsing for vacation packages
10 prior to making the trip through
11 Expedia.com?

12 A. No. There are no documents at my house.

13 Q. So you don't have any videotapes,
14 photographs, personal diaries, video
15 recordings or notes concerning the trip?

16 A. No.

17 Q. I know this may seem a little bit mundane to
18 go through each and every one, but I have to
19 do it as a matter of form.

20 A. That's fine.

21 Q. I appreciate your patience.

22 So you don't have any documents, then,
23 in connection with Request No. 10, which
24 asks for documents concerning the monies you
25 spent while on vacation, costs incurred by

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1 you or fees and charges assessed by you
2 while at Turtle Beach or down there in
3 Jamaica?

4 A. I have no documents, no.

5 Q. Okay. And whatever documents you had
6 concerning costs or monies that you expended
7 were turned over to Stephanie?

8 A. Yes.

9 Q. And, again, in connection with Document
10 Request No. 11 here, you didn't make any
11 written incident reports or complaints to
12 anyone about the accident down in Jamaica,
13 correct?

14 A. No.

15 Q. So you don't have any documents in
16 connection with No. 11, then, do you?

17 A. No.

18 Q. That's over. Put No. 3 aside.

19 Just jumping ahead now to your booking
20 of the trip, okay?

21 A. Uh-huh.

22 Q. You testified earlier that you have the
23 Internet at home?

24 A. Yes.

25 Q. And do you use the Internet at home?

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1 A. Uh-huh.

2 Q. And what do you use the Internet for?

3 A. Business things, personal things.

4 Q. Peruse various websites?

5 A. I'm sorry?

6 Q. Do you peruse various websites?

7 MS. MINCHOFF: Objection.

8 A. I go on different websites.

9 Q. Okay. And when going on the different
10 websites that you view on-line, have you
11 ever come across a portion of a website that
12 says, "Before you continue on here, please
13 read the following terms and conditions"?
14 Have you ever seen that on a website that
15 you've explored on the Internet?

16 A. Yes.

17 Q. And so you're familiar with that process
18 that you are demonstrated or shown certain
19 terms and conditions; someone asks you to
20 either click on something or to agree to
21 those terms and conditions, right?

22 MS. MINCHOFF: Objection.

23 A. Say that one more time.

24 Q. Have you ever gone on a website that
25 identifies certain terms and conditions that

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1 govern the use of that website?

2 MS. MINCHOFF: Objection.

3 A. Yes.

4 Q. Okay. And what was the last website that
5 had that sort of language?

6 A. I believe it was a credit card website.

7 Q. Okay. And aside from that credit card
8 website, are there any other websites that
9 you've viewed in the past, albeit a lot,
10 that have those sorts of terms and
11 conditions?

12 MS. MINCHOFF: I'm sorry, albeit
13 what?

14 MR. REITH: A lot. I'm referring
15 to number of websites that she may have
16 viewed. I'll ask it a different way.

17 Q. Aside from your credit card website that
18 you're referring to that had the terms and
19 conditions section --

20 A. Uh-huh.

21 Q. -- had you ever viewed any other websites
22 that contain such terms and conditions
23 language?

24 MS. MINCHOFF: Objection.

25 A. I don't know if they're specifically the

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1 same as the credit card ones.

2 Q. Aside from being specifically the same, did
3 they have sections that say, "These terms
4 and conditions govern our specific website"?
5 Have you ever seen that other than the bank
6 website?

7 A. Yes.

8 Q. Okay. How many trips have you booked
9 on-line?

10 A. I am not sure off the top of my head.

11 Q. Okay. More than five?

12 A. It might be right around five. I'm not sure
13 of a specific number.

14 Q. And what websites did you use when you
15 booked those trips?

16 A. Various websites.

17 Q. Which various websites?

18 A. Different airline ones, Expedia, a couple of
19 other ones that I'm not sure of the names
20 that people have told me to try.

21 Q. Have you ever been on Orbitz?

22 A. Yes.

23 Q. Have you ever been on Travelocity?

24 A. Yes.

25 Q. Ever been on Hotels.com?

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1 A. No.

2 Q. And where did you book those five trips to?

3 MS. MINCHOFF: Objection.

4 A. Off the top of my head, I'm not sure of
5 specifically all of them. I booked my
6 honeymoon.

7 Q. To where?

8 A. To Sedona, Arizona.

9 Q. It's nice there.

10 Any others that you can remember?

11 A. I booked the trip with Stephanie and I down
12 to Jamaica. I know I've booked a cruise
13 on-line before. There might be other ones.
14 I'm not sure.

15 Q. All right. And when you booked those trips
16 on-line using those websites that you talked
17 about, did you ever come across a section of
18 the websites that said you needed to review
19 certain terms and conditions of that
20 website?

21 A. I'm not positive.

22 Q. Okay. You have at least encountered it in
23 connection with the bank that we talked
24 about earlier?

25 A. Yes.

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1 Q. And when you encountered it in connection
2 with the bank, what was the language like?
3 What were the terms and conditions like?

4 MS. MINCHOFF: Objection.

5 A. Are you asking for, like, what they stated
6 throughout the whole thing?

7 Q. Yeah. What do they state?

8 A. I am not exactly sure.

9 Q. Okay. Were you required to review on the
10 bank's website those documents before you
11 proceeded using the bank's website?

12 A. Yes.

13 Q. And did you read the terms and conditions on
14 that bank website?

15 A. I skimmed them.

16 Q. Okay. But you continued to use the website
17 after you skimmed them?

18 A. Yes.

19 Q. Who booked the trip to Jamaica?

20 A. I did.

21 Q. Who was present when you booked the trip?

22 A. Nobody.

23 Q. Where did you book the trip from?

24 A. My house.

25 Q. This was in Danielson, Connecticut?

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1 A. Yes.

2 Q. Before you booked the trip, did you and
3 Stephanie discuss going on vacation?

4 A. Yes.

5 Q. And did you discuss possible locations for
6 the vacation?

7 A. I'm not positive off the top of my head.
8 I'm assuming we would have.

9 Q. Why do you assume that?

10 A. Because I wouldn't just book a trip and say,
11 "You're going here." I would ask for input.

12 Q. Okay. Do you recall asking her for input?

13 A. Not specifically, but I would assume I
14 wouldn't just call up my friend and say,
15 "Hey, we're going here."

16 Q. Do you recall Stephanie offering any input
17 on where you should go for vacation?

18 A. I don't remember.

19 Q. Do you remember what day of the week it was
20 that you flew down to Jamaica?

21 A. It was a Thursday.

22 Q. How soon did you and Stephanie begin talking
23 about going on vacation prior to that?

24 A. Monday night.

25 Q. Okay. Do you recall any other specific

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1 destinations, you know, locations that you
2 would consider going?

3 MS. MINCHOFF: Objection.

4 A. I don't remember.

5 Q. Well, who chose to go to Jamaica?

6 A. I'm not sure whose decision it actually was
7 at this point.

8 Q. Did anyone recommend to either of you that
9 you should go to Jamaica?

10 A. I don't remember.

11 Q. Well, did anybody say to you specifically,
12 "You should go to Jamaica for a vacation"?

13 A. I don't remember that far back.

14 Q. Okay. Well, did anyone from Expedia.com
15 refer Jamaica to you as a vacation location?

16 A. Do you mean a specific person?

17 Q. Yes.

18 A. I didn't talk to a specific person, no.

19 Q. Okay. Did Stephanie give you her permission
20 to book the trip for her?

21 A. Yes.

22 Q. What did she say to let you know that you
23 could book the trip for her?

24 A. I believe I called her and said, "How does
25 this sound?" And she said, "Go for it."

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1 Q. Okay. So before you actually booked the
2 trip you gave a call to Stephanie to talk
3 about the actual booking?

4 A. Yes.

5 Q. Okay. Do you recall what you said to her?

6 A. Not specifically. I'm assuming I would have
7 told her where we would be staying, the
8 price, when we would leave, those kinds of
9 things.

10 Q. Okay. Do you remember generally talking to
11 her about it being in Jamaica?

12 A. Yeah.

13 Q. Do you remember talking to her generally
14 about it being Ocho Rios?

15 A. We weren't in Ocho Rios.

16 Q. Where were you?

17 A. I know it wasn't Ocho Rios.

18 Q. So when you traveled down to Jamaica, the
19 resort you stayed at was not in Ocho Rios?

20 A. I'm not positive at this point.

21 Q. Do you recognize the name Ocho Rios?

22 A. Yes.

23 Q. What do you recognize it from?

24 A. I don't know.

25 Q. When you were in the planning process of the

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1 vacation, did you -- how did you search for
2 possible destinations?

3 A. I don't recall at this point.

4 Q. Okay. Do you remember doing a Google search
5 in general?

6 A. I was on Expedia, and I did a search through
7 Expedia.

8 Q. Okay. And when you did the search for
9 Expedia, how did you access the Internet, as
10 a new customer or as a previous customer?

11 A. I'm not positive.

12 Q. Had you booked a trip on Expedia.com prior
13 to the Jamaica trip?

14 A. I believe I did.

15 Q. Do you recall where it was to?

16 A. I believe it was a cruise.

17 (Pause.)

18 Q. Do you recognize the account name
19 Curves1230?

20 A. I'm not sure off the top of my head. It
21 might be one of my business credit cards.
22 I'm not sure.

23 Q. Okay. Do you know if you used the name
24 Curves1230 to sign onto Expedia.com when you
25 booked the trip for Jamaica?

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1 A. I don't remember.

2 Q. At any point did you ever have a user name
3 and password to book trips on Expedia.com?

4 A. Yes.

5 Q. Okay. When?

6 A. When did I have a password?

7 Q. Yes.

8 A. I'm assuming I still have one now.

9 Q. Okay. What is that password?

10 A. I have no idea.

11 Q. When was the last time you booked a trip via
12 Expedia.com?

13 A. The Jamaica one.

14 Q. Who chose Turtle Beach Towers to stay at?

15 A. I did.

16 Q. Why?

17 A. Because the pictures looked nice on the
18 Internet.

19 Q. Aside from the pictures looking nice, did
20 you do any review of other persons' comments
21 who had stayed there in the past?

22 MS. MINCHOFF: Objection.

23 A. I believe on the website there was like a
24 star kind of rating, if I remember right.

25 Q. Was there a section in the star rating that

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1 said "Review" -- "Customer Reviews"?

2 A. There may have been. I don't remember at
3 this time.

4 Q. Do you have any specific recollection that
5 you did any sort of these -- reviewed any of
6 these reviews?

7 MS. MINCHOFF: Objection.

8 A. I am not positive. I would have assumed
9 that I would have tried to find out
10 information about the place to make sure
11 that it was a safe and decent place to go
12 to.

13 Q. And you wouldn't have gone to a place that
14 you thought was not safe or decent, correct?

15 A. Not to my knowledge, no.

16 Q. Again, during the planning process and right
17 before you booked the trip, did you talk to
18 Stephanie about how you were going to book
19 the trip, whether it be on-line or via a
20 conventional travel agent?

21 A. I don't remember if we discussed that.

22 Q. Now, you said you had Stephanie's permission
23 to book the trip for her, correct?

24 A. Yes.

25 Q. Did Stephanie give you permission to book

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1 the trip via Expedia.com?

2 A. I don't know if she specifically said, "I
3 give you permission to book it through
4 Expedia."

5 Q. Well, you understood that you had her
6 permission to book the trip for her,
7 however?

8 A. To the best of my knowledge, yes.

9 Q. And you used Expedia.com to book the trip?

10 A. I did use Expedia.com, yes.

11 Q. How did you get to Expedia.com? Did you
12 type it into your cursor?

13 A. I don't remember at this point.

14 Q. Okay. So you don't recall if you were
15 hyperlinked from some other website?

16 A. I'm not sure.

17 Q. Prior to booking the trip on Expedia.com,
18 did you search any other websites for travel
19 packages to Jamaica?

20 A. I may have. I'm not sure.

21 Q. Okay. Prior to booking the trip via
22 Expedia.com, did you do any other research,
23 if you would, on Turtle Beach Towers via any
24 other websites?

25 A. I don't remember.

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1 Q. Can you say for certain that you did not?

2 MS. MINCHOFF: Objection.

3 A. I don't remember.

4 Q. When you called Ms. Hofer about booking the
5 trip, did you tell her that you were going
6 to book it via Expedia.com?

7 A. I'm not sure if I mentioned it or not.

8 Q. At some point did you tell Ms. Hofer that
9 you booked the trip via Expedia.com?

10 A. At some point I'm sure I did.

11 Q. Do you know when it was?

12 A. I have no idea.

13 Q. Do you know if you told her over the
14 telephone or by some other method?

15 A. I don't know. I don't remember.

16 MR. REITH: Just please mark that
17 as the next exhibit.

18 (Exhibit No. 4, Multipage document
19 headed "Exhibit B1," marked for
20 identification.)

21 Q. I'm just going to walk you through these.
22 I'm not going to ask you to review the whole
23 packet right now. We'll go one by one.

24 A. Okay.

25 Q. So that way we'll try to expedite this as

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1 much as possible, okay?

2 A. Uh-huh.

3 Q. I will represent to you and counsel at the
4 table this is B1 from plaintiffs'
5 supplemental document disclosures. I just
6 extracted it from the overall production.

7 MS. MINCHOFF: B1, B2, B3?

8 MR. REITH: Yes, yes, and
9 following. It was just pursuant to the
10 second supplemental production --

11 MS. MINCHOFF: All right.

12 MR. REITH: -- okay?

13 BY MR. REITH:

14 Q. Just directing your attention to the next --
15 the first page after B1, do you see at the
16 top there where it says "From," "To"?

17 A. Uh-huh.

18 Q. Okay. Do you recognize that address,
19 CarrieLaBelle@AOL.com?

20 A. Yeah.

21 Q. Okay. Do you recognize this document?

22 A. It looks like it was our travel summary.

23 Q. Okay. Is this the travel summary or
24 itinerary that you provided to Stephanie?

25 A. I'm not sure at this point. I don't recall

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1 exactly what the document looked like.

2 Q. Okay. I hate to do this, but I'm going to
3 have to ask everybody to count off with me.
4 It's one, two -- it's 12 documents in after
5 B1.

6 MR. FERINGA: What's the heading of
7 the document?

8 MR. REITH: The document is Page 1
9 of 4 at the top right corner, "Subject:
10 Forward: Expedia.com Vacation package
11 Purchased."

12 MR. FERINGA: "Date: 3/15/2004
13 6:10:12 p.m. Eastern Daylight Time"?

14 MR. REITH: That's correct,
15 counsel.

16 BY MR. REITH:

17 Q. Do you see that e-mail?

18 A. Uh-huh.

19 Q. Okay. And you recognize the "From"
20 addressee --

21 A. Yeah.

22 Q. -- or addressor, I should say?

23 Who is that?

24 A. That's my e-mail account.

25 Q. Okay. And do you know who the "To" line

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1 identifies?

2 A. Uh-huh.

3 Q. Okay. Who is that?

4 A. That's Steph's.

5 Q. Okay. And this was sent on 3/15/2004, so

6 about three days before you left for

7 Jamaica?

8 A. Uh-huh.

9 Q. Okay. And was this your forwarding to Ms.

10 Hofer the booking of the trip and telling

11 her where you were going?

12 A. I believe so. It appears to be.

13 Q. Do you know if you told her prior to this

14 e-mail that you were booking the trip

15 through Expedia.com?

16 A. I'm not sure.

17 Q. Do you have any other documents or

18 information that you can refer to to make

19 sure that you did or did not send something

20 to her about Expedia prior to this day?

21 A. I don't have any documents, no.

22 Q. You can put that aside. We'll come back to

23 that a little bit later. Now, I just want

24 to direct your attention and focus all of

25 our attention on the actual booking of the

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1 Expedia.com for the Jamaica trip. You had
2 used Jamaica (sic) in the past for the, I
3 think you said it was a cruise maybe; is
4 that correct?

5 MR. FERINGA: Used Expedia, not
6 Jamaica.

7 MR. REITH: Did I say Jamaica?

8 MR. FERINGA: Yeah.

9 Q. Well, that's obviously a faux pas obviously
10 on my part. Again, I'm not doing well
11 today.

12 Had you used Expedia.com prior to the
13 Jamaica trip?

14 A. I believe so, yes.

15 Q. Okay. And you believe it was in connection
16 with a trip on a cruise, correct?

17 A. I believe so, yes.

18 Q. All right. Other than the cruise trip, were
19 there any other trips that you booked
20 through Expedia.com?

21 A. I am not sure.

22 Q. Do you know when you -- if you had to create
23 a user account with Expedia.com when you
24 booked that cruise trip?

25 MS. MINCHOFF: Objection.

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1 A. I'm not sure if I booked -- if I made the
2 account for that cruise trip or not. I'm
3 not sure.

4 Q. Okay. At some point did you make a user
5 account with Expedia.com?

6 A. At some point I think I did, yes.

7 Q. Okay. Are you -- can you tell me when that
8 happened?

9 A. I have no idea.

10 Q. So do you know if you were -- had a user
11 account with Expedia.com on the day that you
12 booked the trip to Jamaica?

13 A. I am not sure.

14 Q. So do you know if you had a PIN number for
15 Expedia.com or a PIN identifier for
16 Expedia.com when you booked the trip to
17 Jamaica?

18 A. I am not sure.

19 Q. As you sit here today, do you recall the
20 various screens that you had to go through
21 to book the trip on Expedia.com?

22 A. No.

23 Q. Tell me what you do remember about the
24 booking process via Expedia.com.

25 A. I really don't remember much. I know that I

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1 booked it through Expedia. I couldn't tell
2 you the process that I took at that point.

3 It was over two and a half years ago.

4 Q. Okay. Well, do you recall going on
5 Expedia.com and typing in a possible
6 destination for Jamaica?

7 A. I don't remember at this point.

8 (Exhibit No. 5, Expedia.com sample
9 trip pages, marked for identification.)

10 Q. Okay. What's been marked as Exhibit 5 for
11 identification today is an example book of a
12 trip via Expedia.com, okay? I just am going
13 to walk through with you on this to see if
14 you recognize any of the types of pages that
15 are used in Expedia.com booking process,
16 okay?

17 A. Yes.

18 Q. All right?

19 MS. MINCHOFF: Just so I'm clear --
20 I'm sorry, Tom -- this is what you went
21 through and printed out the pages? Is that
22 what this is?

23 MR. REITH: Yeah, this is, in
24 essence, an example of a booking process
25 that is uniform for the booking of a

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1 vacation on Expedia.com.

2 MS. MINCHOFF: Objection.

3 MR. REITH: And for clarification
4 purposes, this is not the specific booking
5 of the Jamaica trip, and I understand your
6 objection.

7 BY MR. REITH:

8 Q. Turning your attention to the first page, do
9 you recognize this page or having signed
10 onto a similar type of page when you booked
11 the trip for Jamaica?

12 A. I am not sure.

13 Q. So do you remember anything about the first
14 page of Expedia.com when you signed on for
15 the Jamaica trip?

16 A. Not two and a half years ago, no, I don't
17 remember.

18 Q. Do you recall typing in Jamaica as a
19 possible destination vacation -- possible
20 vacation destination and then having to wait
21 while Expedia retrieved potential hotels to
22 stay at?

23 MS. MINCHOFF: Objection.

24 A. I don't remember.

25 Q. So turning your attention, then, to the

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1 document that is three in that's labeled

2 No. -- Page 2 above. Do you see that?

3 A. This one?

4 Q. That's it. Do you recall seeing a page like
5 that during your booking process?

6 A. I don't remember.

7 Q. Do you recall being directed back to a page
8 on Expedia.com where there were travel
9 vacation package options?

10 A. I'm not sure.

11 Q. Do you recall choosing one of the vacation
12 packages or a vacation package from a number
13 of possible vacation packages on
14 Expedia.com?

15 A. Can you clarify?

16 Q. Do you recall if during the -- strike that.

17 During the booking process, did
18 Expedia.com offer to you one booking
19 possibility or multiple booking
20 possibilities for Jamaica?

21 A. I am not sure.

22 Q. Did Expedia.com when you were booking the
23 travel package in general offer you a number
24 of possible travel destinations that you
25 could choose from?

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1 MS. MINCHOFF: Objection.

2 A. I don't remember.

3 Q. Well, do you recall Expedia.com offering you
4 only one possible vacation destination, that
5 being Turtle Beach Towers, in Jamaica?

6 A. I don't remember.

7 Q. All right. Just turning your attention,
8 then, to the document that's marked No. 5 in
9 the top corner, just a few more pages in
10 there. Do you remember at the time that you
11 were booking the trip for Jamaica that you
12 were offered a page like this with package
13 details for various vacation destinations?

14 A. I don't remember.

15 Q. Turning your attention to Page 6, which is a
16 few more in, do you recall getting a page
17 from Expedia.com when you were booking the
18 Jamaica vacation that would allow you to
19 customize your vacation?

20 A. I don't remember.

21 Q. Turning your attention, then, to what's been
22 circled as Page No. 7. Forgive me that
23 these are not labeled any better. Do you
24 see where I am? It says "Expedia.com," up
25 top left, "sign in"?

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1 A. Uh-huh.

2 Q. Are you with me?

3 A. Yeah.

4 Q. All right. Do you see "Already a registered
5 user"?

6 A. Yes.

7 Q. Okay. Do you recall seeing this page when
8 you booked the trip to Jamaica?

9 A. I don't remember.

10 Q. So as you sit here today, you can't tell me
11 if you signed in with a user name and
12 password for booking the trip to Jamaica?

13 A. I don't remember.

14 Q. You do recall, though, somehow signing onto
15 Expedia.com to actually book the trip,
16 correct?

17 MS. MINCHOFF: Objection.

18 A. I don't know if I signed on or if I just
19 logged onto their website. There's a
20 difference between signing in to something
21 and then just going to the website on the
22 Internet. I don't remember how I got onto
23 the website to book the trip.

24 Q. Do you see on the next page circled Page 8,
25 it says, top left, "Create a new account"?

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1 Do you see that page?

2 A. Yes.

3 Q. Do you see where it says "Create a new
4 account"?

5 A. Uh-huh.

6 Q. And then it lists a number of different
7 subcategories thereunder. Do you recall
8 seeing a page like this when you booked the
9 trip via Expedia.com to Jamaica?

10 A. I don't remember.

11 Q. Okay. Do you recall any of the times that
12 you used Expedia.com viewing a page like
13 this that says "Create a new account"?

14 A. I am not sure. I'm assuming that if I made
15 an account at some point, if this is a
16 standard page, then it -- I'm assuming it
17 would have shown up. I don't recall seeing
18 this page off the top of my head.

19 Q. Okay. Okay. Just turning your attention to
20 a little bit further down the page, do you
21 see where it says "Review membership
22 agreement"?

23 A. Uh-huh.

24 Q. Do you see the sentence where it says, "By
25 continuing on you agree to the following

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1 terms and conditions"?

2 A. Uh-huh.

3 Q. Do you recall seeing a page like that when
4 you created a new account with Expedia.com?

5 MS. MINCHOFF: Objection.

6 A. I don't remember.

7 Q. You do have an account with Expedia.com,
8 correct?

9 A. I believe I do.

10 Q. Okay. And to have an account, you assume
11 you had to create an account with
12 Expedia.com, correct?

13 A. I would assume so, yes.

14 Q. And if this page is a uniform page for the
15 creation of a new account, would you have
16 read this page when you did, in fact, create
17 the new account?

18 MS. MINCHOFF: Objection.

19 A. If it was part of making an account at
20 whatever time I made the account, then I
21 would assume it was there and I would have
22 read it --

23 Q. Okay.

24 A. -- or skimmed it. I don't remember off the
25 top of my head if I've seen this or -- in

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1 making my account or not. I don't remember
2 when I made my account.

3 Q. Sure. But if this -- if this page was part
4 of a customer account creation process, you
5 would have read it or at least skimmed this
6 page, correct?

7 A. I'm assuming I would have either read it or
8 skimmed it.

9 Q. Okay. Turning your attention to the part
10 where it says, "Agreement between customer
11 and Expedia, Inc."

12 Do you see that?

13 A. Uh-huh.

14 Q. Do you see it on the internal box there?

15 A. Yeah.

16 Q. Do you remember having read something that
17 said "Agreement between customer and
18 Expedia, Inc." before today?

19 A. I don't remember, no.

20 Q. Okay. If this agreement between customer
21 and Expedia, Inc. were part of a standard
22 customer account creation process and you
23 created a customer account with Expedia,
24 would you have read this customer agreement?

25 MS. MINCHOFF: Objection.

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1 A. I'm assuming I would have read it or skimmed
2 it. I don't remember.

3 Q. Okay. Just like you read or skimmed the
4 bank website terms and conditions we talked
5 about earlier, correct?

6 MS. MINCHOFF: Objection.

7 A. Yes.

8 Q. Do you see where it says "Sign up and
9 continue using Expedia.com"?

10 A. Yes.

11 Q. Do you remember clicking through on "Sign up
12 and continue using Expedia.com" when you
13 booked the Jamaica vacation?

14 A. I don't remember.

15 Q. All right. Do you remember ever clicking on
16 the icon that says "Sign up and continue
17 using Expedia.com"?

18 A. I don't remember.

19 Q. Do you recall if when you signed up for the
20 Jamaica vacation, that the website -- strike
21 that. That was going to be a bad question.
22 Let's back up.

23 Turning your attention to the document
24 that's -- or page that's marked circled 10,
25 it's a few more pages into it. Are you

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- 1 there?
- 2 A. Yeah.
- 3 Q. Do you see at the top left corner where it
- 4 says "Trip Preferences"?
- 5 A. Yeah.
- 6 Q. Below that "Expedia.com," the icon
- 7 "Expedia.com"?
- 8 A. Oh, you're talking about the upper, upper
- 9 "Trip" --
- 10 Q. Yes.
- 11 A. -- "Preferences"?
- 12 Q. Upper, upper.
- 13 A. Okay.
- 14 Q. Do you see right below it says
- 15 "Expedia.com"?
- 16 A. Yeah.
- 17 Q. And then do you see down below it says
- 18 "Welcome, Jill"?
- 19 A. Uh-huh.
- 20 Q. Okay. Do you recall seeing something that
- 21 said "Welcome, Carrie" when you booked the
- 22 trip for Jamaica?
- 23 A. I don't remember.
- 24 Q. Do you recall ever seeing a greeting like
- 25 "Welcome, Carrie" when using Expedia.com?

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1 A. I don't remember.

2 Q. Do you recall seeing a page like this that
3 identifies itself as a trip preferences
4 page?

5 A. I don't remember anything.

6 Q. Turning your attention to the document
7 that's been marked circle 12, a few more
8 pages in. You there?

9 A. Yeah.

10 Q. Forgive me. Do you recall receiving a --
11 reviewing a page like this or seeing a page
12 like this that said, "Expedia.com is loading
13 your Seat Pinpointer. Please wait" when you
14 booked the trip for Jamaica?

15 A. I don't remember.

16 Q. Okay. Do you recall ever having seen a page
17 like this prior to today?

18 A. I don't remember.

19 Q. Okay. Turning your attention to the
20 document that's been marked as circled 14.
21 It's a few more pages in. Do you see where
22 it says, "Review your trip items"?

23 A. Yeah.

24 Q. In connection with booking the Jamaica trip,
25 do you recall seeing a page that said

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1 "Review your trip items"?

2 A. I don't remember.

3 Q. Okay. In connection with your prior usage
4 of Expedia.com, do you recall ever seeing a
5 page that said "Review your trip items"?

6 MS. MINCHOFF: Objection.

7 A. I don't remember.

8 Q. Turning your attention to the document
9 that's been marked circled 14a, again, a
10 couple more pages in.

11 A. Uh-huh.

12 Q. Do you see where it says -- very top, top
13 left-hand corner it says, "Detailed Rules
14 and Restrictions"?

15 A. Yeah.

16 Q. In connection with your booking of the
17 Jamaica trip, do you recall seeing a page
18 like this that said "Detailed Rules and
19 Restrictions"?

20 A. I don't remember.

21 Q. Turning your attention to the document
22 that's been marked circled 15, it's
23 basically the last -- within the last few
24 pages, the heading is "Billing and delivery
25 information"?

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- 1 A. Uh-huh.
- 2 Q. So you're there with me?
- 3 A. Yeah.
- 4 Q. Okay. In connection with the Jamaica trip,
5 do you recall seeing a document that was
6 entitled "Billing and delivery information"?
- 7 A. I don't remember.
- 8 Q. Do you remember anything about the closeout
9 of the booking process for the Jamaica trip?
- 10 A. No.
- 11 Q. Okay. So you don't remember receiving a
12 confirmation about the cost of the trip?
- 13 A. At some point I received the itinerary
14 because that's what I had given to
15 Stephanie.
- 16 Q. Is that all you recall receiving?
- 17 A. That's all I can remember right now.
- 18 Q. About these other websites that you may have
19 used to book trips, we talked about Orbitz
20 and Travelocity, have you actually used
21 those to book trips or have you just
22 reviewed them?
- 23 A. I am not sure off the top of my head.
- 24 Q. Okay. When was the last time you visited
25 Orbitz?

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1 A. I don't know.

2 Q. Well, whenever you visited Orbitz, did you
3 go through the various website pages to
4 actually book a trip?

5 MS. MINCHOFF: Objection.

6 A. I'm not sure. I don't remember the last
7 time I was on their website.

8 Q. How about Travelocity; when was the last
9 time you viewed that website?

10 A. I don't know.

11 Q. Did you go through pages of that website
12 before booking a trip?

13 MS. MINCHOFF: Objection.

14 A. I'm not sure.

15 Q. Well, have you booked a trip via
16 Travelocity?

17 A. I don't believe so.

18 Q. Okay. Which websites have you used on-line
19 to book a trip besides Expedia.com and I
20 believe you mentioned an airline one before?
21 What other websites?

22 A. I'm not sure off the top of my head. I've
23 booked trips for myself. I have booked
24 trips for family and things like that. I
25 don't remember exactly what websites I've

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1 been on and what I was booking or for who.

2 Q. Okay. What airline website did you use to
3 book trips?

4 A. Trips in general?

5 Q. Yeah. The one that you were talking about
6 earlier. You mentioned that you may have
7 booked a trip using an airline website.
8 Which airline website?

9 A. I've searched all airline websites, U.S.
10 Airways, Delta, Southwest.

11 Q. Okay. Aside from searching, have you
12 actually booked on-line using one of those
13 websites?

14 A. Yes.

15 Q. Okay. Which one was the last one you booked
16 on?

17 A. Southwest.

18 Q. Okay. And do you recall if Southwest
19 contained any terms and conditions for your
20 usage of that website?

21 A. What do you mean?

22 Q. Was there a section on that website that
23 said "Please review the bottom terms and
24 conditions before proceeding with your
25 booking of the trip"?

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1 A. I'm not sure.

2 Q. Do you recall if there was any language like
3 that at all?

4 A. I don't remember.

5 Q. Okay. When you booked the trip using
6 Expedia.com, whose contact information did
7 you provide to Expedia?

8 MS. MINCHOFF: Objection.

9 A. I don't remember. I'm assuming it's mine if
10 they sent me the e-mails.

11 Q. Okay. Did you give Expedia.com Stephanie's
12 name?

13 A. I would assume I did.

14 Q. Did you give Expedia.com -- well, let's go
15 back. Why do you assume that?

16 A. Because her name was listed in the copies of
17 the e-mails that you showed me.

18 Q. Okay. And did you provide Stephanie's
19 address to Expedia.com?

20 A. I don't remember.

21 Q. Okay. Did you provide Stephanie's telephone
22 number to Expedia.com?

23 A. I don't remember.

24 Q. Do you recall giving any information to
25 Expedia.com that would allow Expedia.com to

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1 contact Stephanie?

2 A. I don't remember.

3 Q. But you were the only one who booked the
4 trip?

5 A. Yes.

6 Q. Okay. And Stephanie had no part in the
7 booking of the trip through Expedia.com?

8 MS. MINCHOFF: Objection.

9 A. I was the one that booked the trip on
10 Expedia.

11 Q. Okay. How much were you charged for the
12 trip to Jamaica?

13 A. I don't remember the exact amount.

14 Q. But to this day you've never received any
15 sort of credit on that trip?

16 A. No.

17 MS. MINCHOFF: Objection.

18 Q. I'll clarify. To this day you've never
19 received a credit from Expedia.com on that
20 trip, have you?

21 A. No.

22 Q. And you haven't received a credit from the
23 hotel in connection with that trip, have
24 you?

25 A. No.

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1 Q. Did you directly communicate with anyone at
2 Expedia.com after you got back from Jamaica?

3 A. No.

4 Q. Did you directly communicate with anyone at
5 Expedia.com after Stephanie hurt herself in
6 Jamaica?

7 A. Repeat that.

8 Q. Yeah. Did you directly communicate with
9 anyone at Expedia.com after Stephanie had
10 hurt herself in Jamaica?

11 A. Not that I remember, no.

12 Q. Have you visited Expedia.com since the
13 booking of the Jamaica trip?

14 A. I believe so, yes.

15 Q. Okay. When was that?

16 A. I am not sure of the exact dates.

17 Q. Okay. But it was after the trip to Jamaica
18 that you visited Expedia.com?

19 A. I believe so, yes.

20 Q. Do you recall why you visited Expedia.com
21 after Jamaica?

22 A. I would assume to check rates.

23 Q. Check rates on what?

24 A. Some sort of trip.

25 Q. Okay. So looking into the possibility of

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1 booking another vacation via Expedia.com?

2 A. I don't know if I looked for a specific
3 vacation or not, but I believe I might have
4 went to Expedia.com to look for flights for
5 my honeymoon.

6 Q. So you still use Expedia.com to this day,
7 then?

8 MS. MINCHOFF: Objection.

9 A. I have not purchased another thing from
10 Expedia.com, no.

11 Q. But you have used the website to explore the
12 possibility of airline prices or other
13 travel --

14 A. To compare rates with other companies, yes.

15 MR. REITH: How is everyone doing?

16 MS. MINCHOFF: What time do you
17 want to break?

18 MR. REITH: What time do you have?

19 THE VIDEOGRAPHER: It's four
20 minutes after 12:00.

21 MR. REITH: Now is a good time to
22 break, and then we'll come back.

23 MS. MINCHOFF: Okay.

24 MR. REITH: So counsel agrees to 45
25 minutes? I know we say a half hour each

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1 time, and we end up at 45 minutes anyways.

2 MS. MINCHOFF: 45 minutes is fine.

3 MR. REITH: Is that all right for
4 you, Jessica?

5 MR. FERINGA: Go off the record.

6 MR. REITH: Off the record.

7 THE VIDEOGRAPHER: The time is five
8 minutes after 12:00. We're off the record.

9 (Lunch recess taken.)

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1 AFTERNOON SESSION

2 THE VIDEOGRAPHER: Okay. We are
3 back on the record. This is Tape No. 3.
4 The time is 12:52.

5
6 (CARRIE L. LaROCHE, Resumed.)

7 DIRECT EXAMINATION, Continued

8
9 BY MR. REITH:

10 Q. Before the break we were talking about the
11 booking process via Expedia.com. I just
12 want to ask you a few more questions about
13 that. I'll put one more document in front
14 of you.

15 A. Sure.

16 MR. REITH: Ask you to mark that,
17 please.

18 (Exhibit No. 6, Document headed
19 "Expedia, Inc. Web Site Terms, Conditions,
20 and Notices," marked for identification.)

21 MS. MINCHOFF: 5?

22 MR. REITH: 6.

23 Q. I'm just going to ask you a few questions
24 about this. I can ask you first off the bat
25 if you recognize this document.

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1 A. Not really, no.

2 Q. Okay. Do you recognize reviewing a document
3 or a screen printout like this when you
4 booked the trip to Jamaica via Expedia.com?

5 A. I don't remember.

6 Q. Okay. Do you recall reviewing this
7 particular document or a document like it
8 when you booked any other trips via
9 Expedia.com?

10 A. I don't remember.

11 Q. All right. Just directing your attention
12 down to the part that says "Liability
13 Disclaimer," I'm just going to ask you to
14 read that section, please, to yourself, and
15 let me know when you're done.

16 A. Okay.

17 (Witness reviews document.)

18 (Discussion off the record.)

19 A. How far did you want me to read?

20 Q. Just to the end of that section, "Liability
21 Disclaimer." It ends right before you get
22 to "Indemnification."

23 A. Right, at the top here. Okay.

24 Q. Have you seen this language before today?

25 MS. MINCHOFF: Objection.

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1 A. This particular, like, word for word this
2 (indicating) or --

3 Q. Yes. Have you seen the section labeled
4 "Liability Disclaimer" prior to today?

5 A. I don't know.

6 Q. Okay. Do you recall -- strike that.
7 Did you see this specific language or
8 something similar to it at the time you
9 booked the trip using Expedia.com?

10 A. I don't remember.

11 Q. All right. Let's just talk about the travel
12 to Jamaica. You took a plane, correct?

13 A. Yes.

14 Q. Do you enjoy flying?

15 A. Sometimes.

16 Q. Did you enjoy flying this day down to
17 Jamaica?

18 A. It was okay.

19 Q. Okay. Do you ever get nervous on planes?

20 A. Sometimes.

21 Q. When you get nervous, what do you do to try
22 to calm your nerves?

23 A. Go to sleep.

24 Q. Do you do anything else like read?

25 A. Yeah, sometimes.

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- 1 Q. Do you ever drink on the plane?
- 2 A. No.
- 3 Q. Do you drink ever?
- 4 A. Occasionally.
- 5 Q. Okay. Do you take any medications to help
6 you fly?
- 7 A. No.
- 8 Q. On the actual flight on May -- I'm sorry,
9 March --
- 10 A. March.
- 11 Q. -- 18, 2004, did you eat on the plane?
- 12 A. I believe we brought breakfast on the plane.
- 13 Q. Do you recall what it was?
- 14 A. Not off the top of my head, no.
- 15 Q. Okay. So no idea what you ate for breakfast
16 that day on the flight?
- 17 A. I'm not -- I'm not positive, no.
- 18 Q. Okay. Do you have any idea?
- 19 MS. MINCHOFF: Objection.
- 20 A. I'm assuming, knowing me, it was probably a
21 ham, egg and cheese sandwich.
- 22 Q. Did you drink any beverages on the plane?
- 23 A. I don't remember.
- 24 Q. Okay. Do you remember having water on the
25 plane?

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- 1 A. I don't remember.
- 2 Q. Did you have any alcoholic beverages on the
3 plane?
- 4 A. No.
- 5 Q. Did Stephanie have any alcoholic beverages
6 on the plane?
- 7 A. No.
- 8 Q. You're sure of that?
- 9 A. I'm positive.
- 10 Q. How can you be positive of that?
- 11 A. Because she sat next to me the whole time.
- 12 Q. And when you got off the plane -- where did
13 you fly into?
- 14 A. We had a layover where we switched planes, I
15 believe, and then we flew into an airport in
16 Jamaica.
- 17 Q. Do you recall where the layover was?
- 18 A. I'm not sure.
- 19 Q. Could it have been Philadelphia?
- 20 A. It may have been. I'm not sure off the top
21 of my head.
- 22 Q. And do you recall how long the layover was?
- 23 A. Not long because our flight left late from
24 Boston because of snow.
- 25 Q. Okay. So did you go immediately from the

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1 Boston plane to the plane in Philly?

2 A. Yes.

3 Q. So you didn't stop at any restaurants in
4 between?

5 A. No. We didn't have time.

6 Q. And then after Philly or wherever you
7 stopped over, where did you fly into?

8 A. The airport in Jamaica.

9 Q. Was it in Montego Bay?

10 A. I don't remember names at this point. I'm
11 sorry.

12 Q. That's all right. If it says that on your
13 travel itinerary --

14 A. If it says that on the itinerary, then
15 that's where we flew into.

16 Q. Okay. Were you greeted by anyone when you
17 got off the plane?

18 A. What do you mean, "greeted by anyone"?

19 Q. I'll hearken back to some of my vacations in
20 that part of the world, and I know when I
21 got off the plane I was greeted by either a
22 travel agent or I was greeted by a customs
23 agent, but I was met by someone immediately
24 after the plane. When you disembarked the
25 plane, did anyone approach you?

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1 A. There may have been someone there. I'm not
2 sure.

3 Q. Okay. Was there any sort of welcoming
4 committee coming over to you with any drinks
5 or anything like that off the plane?

6 A. Not that I remember, no.

7 Q. Anyone greeting you with island punch or
8 anything along those lines?

9 A. No.

10 Q. Anybody coming over to you and trying to
11 sell you any goods?

12 A. What do you mean by "goods"?

13 Q. I don't know, wicker baskets?

14 A. Not that I remember, no.

15 Q. After you got off the plane, did you have to
16 go to customs?

17 A. I don't remember.

18 Q. Okay. Well, after you got off the plane,
19 what do you remember next?

20 A. I remember we got on a bus and the bus took
21 us to the hotel.

22 Q. Okay. How long was the bus trip?

23 A. Quite a while. I don't -- I don't know an
24 exact time frame for you, but it seemed like
25 we were on there forever, but that could

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1 also have been because it had been a long
2 day. We were at the airport at 6:00 in the
3 morning, so...

4 Q. I know you don't know specifically, but was
5 it greater than an hour on the bus?

6 A. It may have been. I'm not -- I'm not
7 exactly sure of a specific.

8 Q. Okay.

9 A. I can't say for sure that it was an hour,
10 two hours. I don't -- I don't know. It
11 seemed like we were on there for a while,
12 but the bus did make some stops.

13 Q. Okay. Where did the bus make stops?

14 A. At other hotels.

15 Q. Okay. Did the bus make any stops at any
16 roadside markets?

17 A. No.

18 Q. Did the bus make any stops at any
19 supermarkets?

20 A. No.

21 Q. Did the bus make any stop at any liquor
22 stores?

23 A. No.

24 Q. Was anybody drinking on the bus, any other
25 passengers?

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1 A. Not that I saw.

2 Q. Did you talk to anybody on the bus?

3 A. I don't remember at this point.

4 Q. Okay. Well, what did you do on the bus that
5 you can remember?

6 A. Stephanie and I talked, and we looked out at
7 the scenery.

8 Q. Did you have anything to eat on the bus?

9 A. I don't remember at this point. We might
10 have had some snacks with us. I'm not sure.

11 Q. And where did the bus end up leaving you
12 off?

13 A. At the hotel.

14 Q. Okay. Which hotel was this?

15 A. The Turtle Beach.

16 Q. Do you know the full name of the resort?

17 A. To the best of my knowledge, it's Turtle
18 Beach Towers.

19 Q. And where on the resort premises did the bus
20 take you?

21 A. Right by the lobby.

22 Q. Okay. And is this the lobby that we've
23 talked about earlier and you drew a
24 picture --

25 A. Yes.

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1 Q. -- which has been marked as Exhibit 1 for
2 identification today?

3 A. Yes.

4 Q. And after the bus dropped you off at the
5 lobby, what happened next?

6 A. We checked in.

7 Q. When you say "we," did both you and
8 Stephanie check in?

9 A. No. It was under my name.

10 Q. Okay. So the hotel had your information,
11 your name, your credit card, et cetera?

12 A. Yes.

13 Q. Did the hotel have any of Stephanie's
14 information?

15 A. I don't know.

16 Q. But you were the main point of contact for
17 the hotel when you were checking in?

18 A. Yes.

19 Q. Did the hotel front desk require Stephanie
20 to check in as well?

21 MS. MINCHOFF: Objection.

22 A. I don't remember.

23 Q. But you physically were the one who went
24 over to the desk and signed you both in?

25 A. I went in and said, "I'm registering. This

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1 is my thing."

2 Q. By "thing" you mean this is my --

3 A. I showed them the itinerary.

4 Q. And what happened -- or what did you do

5 next, excuse me, after you checked in?

6 A. They walked us to our room.

7 Q. And who's "they"?

8 A. One of the hotel people.

9 Q. Was it the person working behind the desk?

10 A. I don't remember.

11 Q. Okay. Was it a man or a woman?

12 A. It was a man.

13 Q. Okay. How old?

14 A. I don't remember.

15 Q. Late 20s, 30s?

16 A. I have no idea.

17 Q. Explain to me how the resort is set up.

18 Were you staying in a villa, or were you

19 staying in a room? Were you staying in a

20 tower? How is the resort set up by way of

21 the premises itself?

22 MS. MINCHOFF: Objection.

23 A. They have buildings. They walked us to our

24 building and said "This is your room."

25 Q. Okay. And what building was your room in?

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1 A. I don't remember.

2 Q. Well, did they say you're in Tower No. 2,
3 Room No. X?

4 A. I don't remember. They walked us to it. I
5 didn't pay attention to, you know, this is
6 such and such building. They walked us to
7 it, and that's how I knew it as this is our
8 building.

9 Q. Okay. And when you all checked in at the
10 front desk, were you offered any sort of
11 beverages, alcoholic or otherwise?

12 A. No.

13 Q. All right. So you weren't offered water?

14 A. No.

15 Q. You were not offered any rum punch?

16 A. They offered us nothing when we checked in.

17 Q. So it was simply filling out paperwork and
18 walking over to your room?

19 A. Yup.

20 Q. Just referring your attention back to what's
21 been marked as Exhibit 1 for
22 identification --

23 MR. REITH: Excuse me, Scott.

24 Thank you.

25 Q. -- you see that turtle pond there that you

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1 drew?

2 A. Uh-huh.

3 Q. At any point during the day did you go into
4 that turtle pond?

5 A. Did I go into the turtle pond?

6 Q. Yes. Did you go into the turtle pond?

7 A. No.

8 Q. Did you ever try to catch any turtles in
9 that turtle pond?

10 A. No.

11 Q. Did you ever climb into the turtle pond and
12 climb out of the turtle pond?

13 A. No.

14 Q. Did Stephanie ever climb into the turtle
15 pond?

16 A. No.

17 Q. Did Stephanie ever climb into the turtle
18 pond and try to catch turtles?

19 A. No.

20 Q. Did Stephanie ever climb into the turtle
21 pond and climb out of the turtle pond for
22 any reason?

23 A. No.

24 Q. And you say that fairly emphatically. How
25 do you know?

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1 A. Whenever she was around me, I would have
2 seen her if she had climbed in.

3 Q. Okay. Well, let's talk about that. Was she
4 around you the entire time that you were at
5 the Turtle Beach Resort?

6 A. The entire time except for when she went to
7 get the brochures at night.

8 Q. Okay. So from the moment you got off the
9 plane until the moment you checked in your
10 room and until the time that she hurt
11 herself late on the night of the 18th you
12 were together?

13 A. Yes.

14 Q. The entire time?

15 A. Except for if she went into the ladies'
16 room, I didn't follow her in --

17 Q. Okay.

18 A. -- in our room.

19 Q. Any --

20 A. But any other time we were together.

21 Q. Sorry. I didn't mean to cut you off there.

22 And during your entire time together
23 you didn't see Stephanie take a drink of
24 alcohol?

25 MS. MINCHOFF: Objection.

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- 1 A. She had one drink at dinner.
- 2 Q. Okay. And where was dinner?
- 3 A. At Jimmy Buffet's Margaritaville.
- 4 Q. And where was Jimmy Buffet's Margaritaville?
- 5 A. Someplace within walking distance of the
- 6 hotel.
- 7 Q. How far in walking distance?
- 8 A. I'm not sure exactly, maybe a five-minute
- 9 walk, thereabouts.
- 10 Q. Is that a five-minute walk from your hotel
- 11 room or a five-minute walk from the lobby?
- 12 A. From the lobby to our room is probably about
- 13 a minute walk, so around five minutes or so.
- 14 I didn't time it.
- 15 Q. Now, when the staff brought you to your room
- 16 after checking in, what did you do next?
- 17 A. We unpacked.
- 18 Q. What else did you do when you were in your
- 19 room?
- 20 A. We unpacked, we changed and went to dinner.
- 21 Q. How long were you in your room for before
- 22 you went to dinner?
- 23 A. Maybe around a half hour.
- 24 Q. And during that time did you do anything
- 25 else besides unpack and get ready and go to

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- 1 dinner?
- 2 A. We had the TV on.
- 3 Q. Do you recall what time you went to dinner?
- 4 A. I'm not sure exactly, no.
- 5 Q. Was it dark yet?
- 6 A. Not on the way over, no.
- 7 Q. But on the way back from dinner it was?
- 8 A. Yes.
- 9 Q. Do you recall what time you came back from
10 dinner?
- 11 A. Around 10:30ish.
- 12 Q. And while you were at dinner what did you
13 have to eat?
- 14 A. I don't remember off the top of my head.
- 15 Q. Did you have anything to drink at dinner?
- 16 A. I had one drink.
- 17 Q. What drink was that?
- 18 A. I don't remember.
- 19 Q. Was it a margarita?
- 20 A. I don't remember. Knowing me, it would
21 probably be a toasted almond.
- 22 Q. What's a toasted almond?
- 23 A. It's Kahlua, Amaretto and milk.
- 24 Q. Now I can understand why.
25 Did you have any dessert at dinner?

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1 A. I don't remember if we did or not.

2 Q. Okay. And what did Stephanie eat?

3 A. I'm not sure.

4 Q. What did Stephanie drink?

5 A. She had a margarita.

6 Q. And after dinner, what did you do next?

7 A. When we left the restaurant, we stopped at
8 one or two of the kiosks and went back to
9 the room.

10 Q. By "kiosks," you mean a shopping center of
11 some sort?

12 A. Yeah.

13 Q. Like a booth or something?

14 A. There was like booths kind of almost
15 attached to the restaurant.

16 Q. Okay. So this is in Jimmy's Margaritaville?

17 A. Yes.

18 Q. Do you recall what those kiosks were?

19 A. The names of them?

20 Q. Yeah, or what they sold.

21 A. All different kinds of souvenirs and things
22 like that, suntan lotion and whatnot.

23 Q. Did you buy anything?

24 A. I bought suntan lotion.

25 Q. And after you went to the kiosks, what did

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1 you do next?

2 A. We left the kiosks and went back to the
3 room.

4 Q. Did you walk directly to the room?

5 A. Yes.

6 Q. Did you have to walk past the lobby to get
7 to your room?

8 A. I believe we walked through the parking lot
9 in front of the lobby.

10 Q. Did you stop by the turtle pond at all on
11 your way back to your room?

12 A. No.

13 Q. After you got back to your room, what did
14 you do then, you personally?

15 A. I got changed into my pajamas.

16 Q. Okay. And what did Stephanie do when you
17 got back to your room?

18 A. Stephanie -- while I was changing into my
19 pajamas Stephanie said she was going to go
20 outside and have a cigarette.

21 Q. And did she leave the room?

22 A. Yes.

23 Q. Do you know what time she left the room to
24 have her cigarette?

25 A. I'm not sure of an exact time. I would

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1 probably say somewhere around 11:00.

2 Q. Okay. Was it before the 11:00 news started
3 that you talked about before?

4 A. No. The news was on when she left.

5 Q. How long had the news been on before she
6 left?

7 A. I don't know.

8 Q. And when did she come back from having her
9 cigarette?

10 A. Come back in the room or --

11 Q. Yes, come back in the room.

12 A. She didn't come back in the room.

13 Q. Well, what happened next after she left the
14 room to have her cigarette?

15 A. She left the room, and a couple minutes
16 later she tapped on the outside window of
17 our room and scared the daylights out of me.

18 Q. Okay. I assume you had some choice words
19 for her --

20 A. Yes.

21 Q. -- but we won't get into that.

22 What happened after she banged on the
23 window?

24 A. When she banged on the window, I opened it
25 up and told her that she scared the living

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1 daylights out of me, not quite in those
2 terms, but -- and she was like "I'm sorry,"
3 you know, just kind of -- you know, we kind
4 of laughed it off, and she said that she was
5 going to go to the front desk and grab some
6 brochures for us.

7 Q. Okay. And what type of brochures did she
8 say she was going to get?

9 A. I believe we were looking to go to Dunn
10 River Falls which is out there.

11 Q. What's Dunn River Falls?

12 A. I'm not quite sure exactly. Steph had heard
13 about it, I believe. I don't know much
14 about it myself.

15 Q. After you had the discussion about getting
16 things for the next day, what happened next?

17 A. I shut the window and I went and laid down
18 in bed.

19 Q. After you were laying in bed, is that when
20 you received the call from someone from the
21 hotel about Stephanie's accident?

22 A. I'm sorry, what?

23 Q. I'll ask it this way: How soon after you
24 were laying in bed did you receive the call
25 from the front desk about Stephanie's

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1 accident that we talked about earlier?

2 A. Maybe five, ten minutes.

3 Q. Okay. And before you went to see Stephanie
4 at the accident site, did you change?

5 A. No.

6 Q. And Stephanie -- strike that.

7 Did Stephanie change before she went
8 outside to have her cigarette?

9 A. I'm not sure.

10 Q. Okay. What do you recall her wearing as she
11 walked out of the room?

12 A. When she left the room to go smoke a
13 cigarette?

14 Q. Yes, please.

15 A. She was in shorts and a T-shirt.

16 Q. Okay. Same tan shorts and white T-shirt we
17 talked about before?

18 A. Yes.

19 Q. What was she wearing on her feet?

20 A. The flip-flops.

21 Q. And you know that for certain?

22 A. She had them on her feet all day.

23 (Pause.)

24 Q. Did Ms. Hofer talk to you about this case
25 before she filed the complaint?

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1 A. Not that I can remember.

2 Q. Did you speak to Ms. Minchoff's office
3 before Stephanie and her husband filed the
4 complaint?

5 A. No.

6 (Discussion off the record.)

7 Q. Did Ms. Hofer ask you to assist in
8 responding to discovery requests in this
9 case?

10 A. I'm not sure what you mean by that.

11 Q. Well, did Ms. Hofer ask you to provide her
12 with your recollections of the trip at any
13 point after September 2005?

14 A. After September of 2005?

15 Q. Yes.

16 A. I'm not sure.

17 Q. Okay. Did Ms. Hofer ask you at any point to
18 provide her with your recollections at any
19 point after the accident?

20 A. Yes.

21 Q. Okay. And when was that?

22 A. I'm not sure of an exact time.

23 Q. At any point after the accident in Jamaica
24 did Mr. Hofer ask you to provide your
25 recollections of what happened on the trip

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1 to Jamaica?

2 A. Say that one more time, please.

3 MR. REITH: Can you repeat that
4 back.

5 (Record read.)

6 A. No.

7 Q. Have any of Ms. Hofer's attorneys asked you
8 to provide them with any information
9 concerning the trip to Jamaica?

10 A. No.

11 Q. Have any of Ms. Hofer's attorneys asked you
12 to provide them with documents concerning
13 the trip to Jamaica?

14 A. No.

15 Q. Don't worry, these (indicating) are the ones
16 I don't need.

17 Did Ms. Hofer ever present to you a
18 document entitled "Request for Admissions"
19 and ask you to help her answer them?

20 A. No.

21 Q. Did Ms. Hofer ever present you with a
22 document entitled "Interrogatories" and ask
23 you to help her answer them?

24 A. No.

25 Q. Did Ms. Hofer ask -- ever present to you a

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1 document entitled "Request for Production of
2 Documents" and ask you to assist her in
3 providing documents?

4 A. No.

5 Q. Have any of Ms. Hofer's attorneys ever
6 provided you with a document entitled
7 "Request for Admissions" and asked you to
8 provide answers for them?

9 A. No.

10 Q. Have any of Ms. Hofer's attorneys provided
11 you with a document entitled
12 "Interrogatories" and asked you to provide
13 answers for them?

14 A. No.

15 Q. Have any of Ms. Hofer's attorneys provided
16 you a document entitled "Request for the
17 Production of Documents" and asked you to
18 provide documents --

19 A. No.

20 Q. -- in connection with them? No? Is that a
21 no?

22 A. No.

23 Q. Before Ms. Hofer and Mr. Hofer filed a
24 complaint, which was September 2005, did Ms.
25 Hofer let you know that she was going to be

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1 suing Expedia, Inc.?

2 A. Before 2005, before September --

3 Q. Yeah.

4 A. -- of 2005?

5 She had talked about the possibility
6 of filing a lawsuit, but I didn't know if
7 there was anything definite or not.

8 Q. What did she say about filing a lawsuit?

9 A. She had just mentioned that she was
10 considering it.

11 Q. Did she say who she was considering suing?

12 A. I don't believe so.

13 Q. So she didn't say, "I'm considering suing
14 Turtle Beach"?

15 MS. MINCHOFF: Objection.

16 A. I don't really remember at this point what
17 the exact conversation was.

18 Q. Do you recall around the time that you had
19 this conversation?

20 A. I have no idea.

21 Q. All right. So you can't pinpoint a month
22 for me?

23 A. No.

24 Q. Do you know if it was after September 2005,
25 though?

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1 A. I have no idea.

2 Q. Okay. During that conversation that Ms.
3 Hofer talked about the possibility of a
4 lawsuit, did she ask for your opinion about
5 bringing a lawsuit?

6 A. Not that I remember, no.

7 Q. At any point had Ms. Hofer asked for your
8 cooperation in prosecuting this lawsuit
9 against Expedia, Inc.?

10 A. What do you mean by asking for my
11 cooperation?

12 Q. Has she asked you to provide her documents?

13 A. No.

14 Q. I thought she asked you to provide her
15 documents and you provided her the itinerary
16 and the copy of the receipts from the money
17 that you put out on vacation.

18 MS. MINCHOFF: Objection.

19 A. She did ask me for that, but she did not say
20 that it's for a lawsuit.

21 Q. Okay.

22 A. I had no idea what it was for. Like I said
23 before, I had assumed it was to tally, you
24 know, what we had spent down there so she
25 could pay me back.

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1 Q. Okay. Did she ask if you would appear on
2 her behalf as a witness at trial should this
3 case get to trial?

4 A. I'm not sure if she specifically asked me
5 that or not.

6 Q. Okay. Has she generally asked you that?

7 A. Yes.

8 MS. MINCHOFF: Objection.

9 Q. Okay. What did she say?

10 A. I don't remember specifically.

11 Q. Well, what did -- what do you remember
12 generally?

13 A. There was a conversation, and she mentioned
14 that, you know, I might have to be called in
15 to say what I remembered.

16 Q. When was that conversation?

17 A. I don't remember.

18 Q. Okay. Was her attorney present at the time
19 that you had that conversation?

20 A. No.

21 Q. Has anybody from her attorney's office asked
22 you to cooperate as a witness in this case?

23 A. Specifically asked me to cooperate as a
24 witness?

25 Q. Yes.

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1 A. No.

2 Q. Did Ms. Hofer tell you how much she is suing
3 Expedia, Inc. for?

4 A. No.

5 Q. Did Ms. Hofer ever discuss with you how much
6 she intended on suing anybody for in
7 connection with the Jamaica vacation?

8 A. No.

9 Q. Did she ever discuss with you what she hopes
10 to get out of this lawsuit by way of
11 recovery financially?

12 A. No.

13 Q. Did she ever make any overtures to you that
14 you would be able to share in any sort of
15 windfall as a result of this litigation?

16 A. No.

17 MR. REITH: I presently have
18 nothing further for the witness.

19 MS. MINCHOFF: Scott, before we
20 start, how long do you think you're going to
21 have?

22 MR. FERINGA: I don't know.

23 MS. MINCHOFF: All right. I didn't
24 know if you just had a few questions
25 after -- if you thought about that.

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1 MR. FERINGA: I don't know.

2 MS. MINCHOFF: Okay. Go ahead.

3

4 CROSS EXAMINATION

5

6 BY MR. FERINGA:

7 Q. Hi. We were introduced off the record. My
8 name is Scott Feringa. I represent The Gap.
9 I'm going to follow up on some questions
10 that Mr. Reith has asked, and if I am in any
11 way unclear, please let me know. I'll be
12 more than happy to rephrase the question,
13 all right?

14 A. Okay.

15 Q. In 2004 how would you characterize your
16 relationship with Mrs. Hofer?

17 MS. MINCHOFF: Objection.

18 A. What do you mean, how would I characterize
19 it?

20 Q. How would you characterize it? Were you
21 acquaintances? Were you friends? Were you
22 close friends? Were you best friends?

23 MS. MINCHOFF: Objection.

24 A. What do you consider the difference between
25 close friends, best friends?

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1 Q. Do you have best friends, people that you
2 consider your closest friends?

3 A. To me closest friends and best friends is
4 one and the same.

5 Q. Okay. That's fine. Whether you use close
6 friends or best friends, do you consider --
7 did you in 2004 consider Mrs. Hofer to be
8 one of your closest or best friends?

9 A. Yes.

10 Q. And does that continue today?

11 A. Yes.

12 Q. In that light, how often in 2004 would you
13 guys see each other?

14 A. Back in 2004?

15 Q. Yeah.

16 A. I'm not sure exactly.

17 Q. You know, once a week, twice a week? Did
18 you talk on the phone once a day, once a
19 week, something like that?

20 A. I can't remember --

21 MS. MINCHOFF: Objection.

22 A. -- back in 2004.

23 Q. What about --

24 A. Sorry.

25 Q. That's fine. What about presently?

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1 A. Presently if -- we see each other once every
2 couple of weeks.

3 Q. What about do you talk on the telephone
4 between that period of time?

5 A. Sometimes, not all the time.

6 Q. Do you e-mail or instant message?

7 A. No, not really. We forward the occasional
8 joke, but we don't, like, have conversations
9 through e-mail.

10 Q. Was Mrs. Hofer invited -- Mr. and Mrs. Hofer
11 invited to your wedding?

12 A. Yes.

13 Q. Mr. Hofer in his deposition testified that
14 there was no reimbursement for the trip from
15 the Hofers to you.

16 MS. MINCHOFF: Objection.

17 Q. Do you -- is that correct?

18 MS. MINCHOFF: Objection.

19 A. I have no idea what he said.

20 Q. I would like you to assume that that is what
21 his testimony was. Assuming that that was
22 his testimony, would that be correct
23 testimony?

24 MS. MINCHOFF: Objection.

25 A. Assuming that he said that there was no

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1 money paid to me?

2 Q. Correct.

3 A. Is that what you're saying?

4 Q. Correct.

5 A. Then that would be incorrect.

6 Q. All right. This was not an understanding on
7 your part that you would be paying for the
8 trip to take your friend to Jamaica,
9 correct?

10 A. Say that one more time.

11 Q. Sure. This was not a trip in which you had
12 agreed to pay for your trip for your friend
13 to accompany you on the trip to Jamaica,
14 correct?

15 A. Correct.

16 Q. The understanding was that Mrs. Hofer was
17 going to reimburse you for the -- half of
18 the trip, essentially her portion of the
19 trip, correct?

20 A. Correct.

21 Q. And I believe you testified that the
22 reimbursement was both in cash and in the
23 form of a check?

24 A. Yes.

25 Q. And was that reimbursement received by you

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1 sometime in the year 2004?

2 A. I don't remember.

3 Q. Would you assume that to be the case?

4 MS. MINCHOFF: Objection.

5 A. I don't remember.

6 Q. All right. And is the reason -- you've used
7 that a number of times, you don't remember.

8 Is that because it's now two and a half
9 years ago that some of the events may have
10 faded from your memory?

11 MS. MINCHOFF: Objection.

12 A. It's not necessarily that some of the events
13 have faded from my memory, it's my main
14 memories are of seeing my friend bleeding
15 out.

16 Q. Okay. You've told us that -- and correct me
17 if I'm wrong -- your testimony was that Mrs.
18 Hofer had had the same flip-flops on, I
19 believe your words were, quote, all day, end
20 quote; is that correct?

21 A. Uh-huh.

22 Q. Yes, no?

23 A. Yes. Sorry.

24 Q. And I don't mean to interrupt. I'm not
25 trying to be rude, but we have to have a

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1 verbal response.

2 A. Sorry.

3 Q. No, no, no, no. Don't be sorry. It's a
4 strange way of communicating, trust me.

5 And when you said to Mr. Reith in
6 answer to one of his questions where
7 Stephanie said, "Look at my new pair of
8 flip-flops," was that conversation that --
9 or that comment made when you picked her up
10 or when you first met to go to the airport
11 that morning?

12 A. I'm not positive if it was that morning or
13 if it was the night before.

14 Q. Okay. Did you two stay together someplace
15 and then travel to the airport together the
16 morning of the 18th when you took the flight
17 to Jamaica?

18 A. Yes.

19 Q. Okay. And where was that?

20 A. We stayed at Stephanie's house.

21 Q. Okay. On the morning of the 18th, then, was
22 Stephanie wearing the flip-flops that she
23 eventually wore at Turtle Beach Towers,
24 which are now in part the subject matter of
25 this litigation?

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1 A. Yes.

2 Q. When -- and if your flight from Boston to
3 Philadelphia, Philadelphia to Montego Bay,
4 Jamaica was at 7:30 in the morning, what
5 time would you guys have dressed and then
6 left for the airport in order to make the
7 7:30 flight?

8 MS. MINCHOFF: Objection.

9 A. I'm not sure exactly. I believe we probably
10 left by 5:00, I would assume, to make sure
11 that we got there in time.

12 Q. And you said that it was snowing out?

13 A. Yes.

14 Q. And Mrs. Hofer, you told us, was wearing the
15 flip-flops that she was -- ended up wearing
16 in Jamaica, the same pair, correct?

17 A. Yes.

18 Q. Did you -- because it was snowing, were you
19 late in getting to the airport at all?

20 A. No.

21 Q. Do you remember up until the time that the
22 two of you boarded the plane, the U.S. Air
23 flight from Boston to Philadelphia, whether
24 Mrs. Hofer had made any complaints about the
25 flip-flops; that is, "These things don't

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1 feel right. Something is wrong with them"?

2 A. Not that I remember.

3 Q. Did she appear to you to have any difficulty
4 walking in the flip-flops?

5 A. I can't say that I paid attention to her
6 walking.

7 Q. And I understand that, but you don't
8 remember her tripping or falling or taking
9 the flip-flops off and looking at the
10 flip-flops or anything like that?

11 A. No.

12 Q. Did you have to run to make the plane in
13 Boston?

14 A. No.

15 Q. You said, I think, that the plane was late
16 in getting into Philadelphia from Boston
17 because you were delayed in Boston, correct?

18 A. Yes.

19 Q. If the itinerary at least that we've
20 received from Expedia demonstrates that you
21 were supposed to arrive at -- airlines --
22 8:59 a.m. and then leave Philadelphia to
23 Montego Bay at 10:30 a.m. --

24 A. Uh-huh.

25 Q. -- do you know about how much time you had

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1 between the two flights?

2 A. I don't remember anymore.

3 Q. Do you remember being concerned about making
4 your connection from Philadelphia to
5 Jamaica?

6 A. No.

7 Q. Philadelphia airport is a big, long airport
8 with a number of different pods on it.

9 A. Yeah.

10 Q. Do you remember whether you had to go from
11 one of the pods or one of the arms of the
12 airport along the moving walkways to get to
13 another pod, or was the connection on the
14 same -- in the same arm?

15 A. It was in a different arm.

16 Q. All right. Do you remember then having to
17 hurry or run or walk fast from the time you
18 disembarked from the flight from
19 Philadelphia to -- I mean, from Boston to
20 Philadelphia --

21 MS. MINCHOFF: Objection.

22 Q. -- in order to get to the flight from
23 Philadelphia to Jamaica?

24 MS. MINCHOFF: Objection.

25 A. We didn't have a problem because they had a

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1 golf cart waiting for us.

2 Q. Okay. And did the golf cart take you right
3 to the next gate?

4 A. Yes.

5 Q. Do you remember whether on getting off the
6 plane to get to the golf cart and then from
7 the golf cart to the next plane whether Mrs.
8 Hofer had any difficulty with her sandals at
9 all?

10 MS. MINCHOFF: Objection.

11 A. I don't remember.

12 Q. Do you remember her taking them off and sort
13 of walking in her bare feet?

14 MS. MINCHOFF: Objection.

15 A. Not that I remember.

16 Q. When you arrived in Jamaica -- at least the
17 flight itinerary indicates that the arrival
18 time was supposed to be 2:09 p.m. -- do you
19 remember whether the plane at least in
20 arriving in Jamaica was on time, early or
21 late?

22 A. I'm not sure.

23 Q. And do you remember the amount of time that
24 it took to clear customs, get your bags and
25 then get on the shuttle?

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1 A. I don't remember.

2 Q. And why is it that you don't remember?

3 MS. MINCHOFF: Objection.

4 A. Because we had landed. We were on vacation.

5 Q. And you didn't care?

6 A. I wasn't concerned about time at that point.

7 Q. All right. Do you remember at any point in
8 time after landing in Jamaica to the time
9 that the two of you got on the shuttle that
10 was going to then take you to the hotel
11 whether Mrs. Hofer complained at all about
12 the sandals that she was wearing?

13 A. I don't remember.

14 Q. Do you remember her taking them off and
15 essentially walking barefoot around the
16 airport?

17 A. I don't remember her ever walking barefoot
18 around an airport, no.

19 Q. You don't remember her complaining about
20 anything; is that fair to say?

21 A. Not that I can remember.

22 MS. MINCHOFF: Objection.

23 Q. Now, the -- I think you had told Mr. Reith
24 that you don't remember being in a place
25 called Ocho Rios, correct?

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1 A. I remember saying that to him.

2 Q. Okay. I'm going to show you --

3 MR. FERINGA: We're going to have a
4 deposition exhibit marked whatever number
5 we're on, 7.

6 (Exhibit No. 7, Sunrays Co., Ltd.
7 receipt dated 19-03-04, marked for
8 identification.)

9 Q. And this is a document that has been
10 produced to all counsel in a -- in what is
11 known as The Gap's third supplemental or
12 Rule 26 disclosure. This is -- is your
13 writing on this document?

14 A. Yes.

15 Q. All right. And under "Name," "Street,"
16 "City," "Telephone Number," "Nationality"
17 and then "Signature," those are all your --
18 that's all your writing -- copies of your
19 writing, correct?

20 A. Not all of it, no.

21 Q. There is a section where it says -- past
22 "Nationality" there's something that says
23 "Stephanie," and then there's a telephone
24 number?

25 A. Correct.

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1 Q. That is not your writing, correct?

2 A. That is not my writing.

3 Q. And in terms of what is in the, quote, "For
4 Official Use Only," and then there's a
5 series of things on the right-hand side,
6 boxes, it would appear to be "Arrival Date,"
7 "Departure Date," et cetera, that's not your
8 writing, correct?

9 A. That's not my writing.

10 Q. So your writing, then, would be "Name,"
11 "Street," "City," "Telephone Number,"
12 "Nationality," with the exception of
13 "Stephanie" and then the telephone number
14 and then your signature, correct?

15 A. Correct.

16 Q. If Turtle Beach Towers is in Ocho Rios, you
17 would not disagree with that, would you?

18 A. No.

19 Q. And they have listed there a room number,
20 106. Do you remember -- does that help
21 refresh your recollection that that was a
22 room number where you were in?

23 MS. MINCHOFF: Objection.

24 A. Where do you see 106?

25 Q. Under "Room Number" under the section "For

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1 Official Use Only" there's "Arrival Date,"
2 "Departure Date," and then it says "Room
3 Number."

4 MS. MINCHOFF: Objection.

5 A. That doesn't look like 106.

6 Q. Okay. You were on the first floor of the
7 building, correct?

8 A. Yes.

9 Q. Just to complete this line, I'm going to
10 show you what we're going to be marking as
11 Exhibit No. 8.

12 (Exhibit No. 8, Expedia, Inc.
13 document headed "Turtle Beach Towers
14 Reservation information," marked for
15 identification.)

16 Q. And this is a document that was also
17 contained in the document production. You
18 would have received Turtle Beach Towers
19 reservation confirmation from Expedia,
20 correct?

21 A. I don't know.

22 Q. In any event, do you see where it says
23 "Turtle Beach Towers, Ocho Rios," and then
24 it says, comma, "JAM" at the top left-hand
25 corner?

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1 A. Yes.

2 Q. You're not denying that you went to an
3 entity identified as Turtle Beach Towers in
4 Ocho Rios, Jamaica on October 18, correct?

5 MS. MINCHOFF: Objection.

6 A. I wasn't there in October.

7 Q. I mean, I'm sorry, March 18?

8 MS. MINCHOFF: Objection.

9 A. I mean, if this is the accurate one, I have
10 not seen this before, so I'm not sure where
11 this came from.

12 Q. Okay. But in any event, you're not denying
13 that you were -- that you had booked a
14 reservation at an entity identified as
15 Turtle Beach Towers in Ocho Rios, Jamaica,
16 correct?

17 MS. MINCHOFF: Objection.

18 A. Yes. I did mistake that earlier.

19 Q. Okay. I wanted to ask you, then, some
20 questions about the day that you had. From
21 the time that you arrived at your -- when
22 you arrived at the Turtle Beach Towers, you
23 went into the lobby area of the reception
24 and spoke with a female desk clerk, correct?

25 A. I don't believe I said it was a female desk

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1 clerk.

2 Q. No. I did. You spoke with a female desk
3 clerk who checked you in, correct?

4 MS. MINCHOFF: Objection.

5 A. I'm not sure at this point. I don't
6 remember who checked us in.

7 Q. Can you say one way or the other whether it
8 was a male or female desk clerk who checked
9 you in?

10 A. I don't remember.

11 Q. In order to go into the lobby area, you
12 would have had to pass a turtle pond,
13 correct?

14 A. The turtle pond was next to the steps. You
15 had to walk up the steps to go into the
16 lobby, yes.

17 Q. Did you even pay any attention to the turtle
18 pond as you were walking for the first time
19 into the reception area?

20 MS. MINCHOFF: Objection.

21 A. I don't -- I'm not sure exactly what was
22 said, but I know -- I'm sure we made
23 reference to the fact that, "Oh, look, a
24 turtle pond."

25 Q. All right. Do you remember anything more

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1 about that turtle pond other than the fact
2 that it was there?

3 A. What do you mean, do I remember anything
4 more?

5 Q. Yeah, did you pay any attention to it at
6 that point in time as to its configuration,
7 whether there were rocks in it, whether
8 there were smooth walls, anything of the
9 sort?

10 MS. MINCHOFF: Objection.

11 A. Not while walking into the hotel, no.

12 Q. Did you have any conversation with Mrs.
13 Hofer about the turtle pond as you were
14 walking from the shuttle into the reception
15 area?

16 A. I don't remember exactly.

17 Q. Do you remember generally?

18 A. Generally we made reference to the fact
19 that, "Oh, look, a turtle pond."

20 Q. Okay. Do you remember whether Mrs. Hofer
21 made any comments about it?

22 A. Other than the, "Oh, look, it's a turtle
23 pond," not that I can remember. We -- I
24 went in, and we checked in.

25 Q. Before you checked in and as you're walking

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1 into the door, did you see any other guests
2 or people around the turtle pond?

3 A. I don't remember if they were around the
4 turtle pond. I have no idea.

5 Q. Okay. As you left the shuttle and walked
6 into the reception area, do you remember
7 having -- Mrs. Hofer having any difficulty
8 with her sandals whatsoever?

9 A. I don't remember.

10 Q. Did she make any comments about them?

11 A. I don't remember.

12 Q. Did she take them off and walk barefoot?

13 A. She didn't walk barefoot, that I remember.

14 Q. Okay. Fine. Do you have your -- that
15 drawing that you have?

16 A. Yes.

17 Q. Okay. I'm going to switch over the court
18 reporter. Can you hold up -- what I'm going
19 to ask you to do is compare what is the
20 second page of -- excuse me for standing
21 over you.

22 A. No problem.

23 Q. I apologize. I don't mean to be rude.

24 What I'm going to -- is the third page
25 of the Group Exhibit No. 2, and ask whether

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1 the bench that you have identified and the
2 turtle pond that you identified is the same
3 bench and turtle pond that exist in the
4 photograph.

5 MS. MINCHOFF: Objection, asked and
6 answered.

7 MR. FERINGA: I have not asked this
8 question.

9 MS. MINCHOFF: No, you're --

10 MR. FERINGA: All right.

11 MS. MINCHOFF: -- badgering --

12 MR. FERINGA: And thus, your
13 objection under the Federal Rules is not a
14 good objection.

15 MS. MINCHOFF: I'm making my
16 objection --

17 MR. FERINGA: Thank you.

18 MS. MINCHOFF: -- Scott.

19 MR. FERINGA: Go ahead.

20 MS. MINCHOFF: It's asked and
21 answered.

22 BY MR. FERINGA:

23 Q. The question is, is the turtle pond and the
24 bench the same turtle pond and bench that
25 exists in Group Exhibit No. 2?

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1 A. No.

2 Q. Were there more than one turtle pond in the
3 area in Turtle Beach Towers?

4 A. I can't answer that. We didn't go around
5 the whole area.

6 Q. You only saw one?

7 A. That was the one that I saw.

8 Q. And you only saw the one that was at the
9 reception area, correct?

10 A. The turtle pond by the lobby, yes.

11 Q. Okay. Can you hold up both of those, your
12 drawing and that photograph to the camera,
13 please, so the camera can --

14 A. Sure.

15 Q. -- zoom in on it? The other way.

16 A. (Witness complies.)

17 Q. There we go.

18 MR. FERINGA: (To videographer.)

19 Got it?

20 THE VIDEOGRAPHER: (No verbal
21 response.)

22 Q. Now, you have drawn a set of stairs to what
23 would be the -- as you're moving into the
24 lobby, the right of the turtle pond,
25 correct?

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1 A. I'm sorry, say that again.

2 Q. Sure. That was probably poorly asked. If
3 you look at the -- if you look at the front
4 door as you have identified the door?

5 A. On my drawing or on this drawing
6 (indicating)?

7 Q. On your drawing.

8 A. Okay.

9 Q. You have drawn the stairs to the right of
10 the turtle pond, correct?

11 A. If you're looking at the door --

12 Q. Yes.

13 A. -- the stairs are to the right of the turtle
14 pond, yes.

15 Q. And in the photograph that is in your right
16 hand, are there stairs to the right of the
17 bench and what I will represent to be the
18 turtle pond?

19 MS. MINCHOFF: Objection.

20 A. There is a stair, yes.

21 Q. Yes. And you remember there to be more
22 stairs, correct?

23 A. Yes.

24 Q. Okay. Now, in back of the turtle pond
25 between the building and the turtle pond on

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1 your drawing you have trees or bushes,
2 correct?

3 A. Yes.

4 Q. And in the photograph in your right hand are
5 there trees and bushes in back of the turtle
6 pond before the building?

7 A. There is some sort of shrubbery, yes.

8 Q. And what you're saying is that that
9 shrubbery is not the same shrubbery that you
10 remember, or can you say?

11 A. I don't believe it is, no.

12 Q. Okay. Now, if you'll go to the first page
13 of that group exhibit.

14 A. That page (indicating)?

15 Q. Yes. Do you see there to be a walkway in
16 front of the stairs and turtle pond and
17 bench?

18 A. Are you talking about this area here
19 (indicating)?

20 Q. Yes, extending -- extending toward the back
21 part of that photograph.

22 A. Yeah.

23 Q. Okay. And in front of -- and in your
24 photograph -- I mean, in your drawing is
25 there a walkway that would -- that exists in

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1 front of the bench in front of the stairways
2 and in front of the building?

3 A. Yes.

4 Q. And you then have -- in the photograph that
5 you have that is in your right hand, do you
6 see beyond that walkway what appears to be a
7 roadway or parking lot?

8 MS. MINCHOFF: Objection.

9 A. Do you mean over here (indicating)?

10 Q. Yes.

11 A. I see that something goes off in that area.
12 I can't say from this picture whether it's a
13 parking lot or...

14 Q. In your drawing you have at the bottom -- I
15 think it's covered up by your fingers -- a
16 parking lot?

17 A. Right. That's right in front of the lobby,
18 though, not off to the side.

19 Q. Right.

20 A. What you're talking about is off to the
21 side, correct?

22 Q. Right. Can you see in front of the lobby
23 area the beginning of a roadway sort of
24 where the stairs would continue on?

25 A. There's the beginning of something here

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1 (indicating), yes.

2 Q. Yes. If I represented to you that this was
3 the turtle pond in that -- the only turtle
4 pond at the Turtle Beach Towers, are you
5 saying that this is not the photograph of
6 the reception area -- strike that.

7 I want to represent to you that the
8 testimony is going to be that this is the
9 turtle pond at which it is claimed Mrs.
10 Hofer fell.

11 MS. MINCHOFF: Objection.

12 Q. Assuming that to be the case, is it your --
13 aren't you mistaken regarding your memory of
14 the configuration of the turtle pond?

15 MS. MINCHOFF: Objection.

16 A. So you're saying that --

17 Q. That's it.

18 A. Assuming that this is it, you want me to
19 admit that what I'm remembering is wrong?

20 Q. Correct.

21 A. No.

22 Q. All right. Did you take any pictures of the
23 turtle pond?

24 A. No, I did not.

25 Q. Did you take any pictures at all of the

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1 area?

2 A. No, I did not.

3 Q. Do you have any, any documents at all that
4 would document the turtle pond and the
5 location other than the drawing that you've
6 made today?

7 A. Do I? No.

8 Q. You are certain that there were four or five
9 steps leading to the reception area,
10 correct?

11 MS. MINCHOFF: Objection.

12 A. Yes.

13 Q. And if you look at the third photograph down
14 in Group Exhibit No. 2 where it has two
15 photographs -- I mean, two stairs, you're
16 saying that that was not present on October
17 18, 2004 at Turtle Beach Towers, correct?

18 MS. MINCHOFF: Objection.

19 A. Not to my knowledge, no.

20 Q. And to the best of your knowledge, you're
21 not mistaken in that recollection?

22 A. That's correct.

23 MS. MINCHOFF: Objection.

24 Q. Between the time that you arrived at Turtle
25 Beach Towers and the time that you left for

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1 dinner going to Jimmy Buffet's
2 Margaritaville, which was off-site, did you
3 see any individuals in and around the turtle
4 pond?

5 A. I don't remember.

6 Q. Did you see anybody that you -- appeared to
7 you to be intoxicated playing inside of the
8 turtle pond?

9 A. Not that I remember, no.

10 Q. If you saw an intoxicated guest playing in
11 and around the turtle pond, that's something
12 that you certainly would have remembered?

13 A. I would think so.

14 Q. At any point in time that you were with Mrs.
15 Hofer from the time you arrived at Turtle
16 Beach Towers to the time that you came back
17 to see her as she -- having been called to
18 see her when she was on the bench with her
19 leg bleeding, did she appear to be -- to you
20 to be altered in her level of consciousness
21 or mentation in any way?

22 MS. MINCHOFF: Objection.

23 A. No.

24 Q. Have you ever seen her altered in mentation
25 prior to October -- I mean, prior to March

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1 18, 2004?

2 MS. MINCHOFF: Objection.

3 A. I don't believe I ever did see her.

4 Q. Altered?

5 A. Altered.

6 Q. All right. We've received -- and this has
7 been supplied to counsel in the request, in
8 our document requests -- a report from Faye
9 Miller, who's the manager of Turtle Beach
10 Towers. And in that report she says, quote,
11 "The guest was intoxicated and was seen by
12 the turtle pond playing with the turtles.
13 She was advised to desist from doing so by
14 other guests and the receptionist on duty.
15 She replied that she wanted to take one up
16 to her room to put in the bathtub," end
17 quote.

18 A. Who said that?

19 Q. Faye Miller, the manager of Turtle Beach
20 Towers.

21 Do you have any knowledge of that?

22 A. Absolutely not.

23 Q. Do you remember Mrs. Hofer being escorted
24 back to her room by the receptionist?

25 A. Absolutely not.

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1 Q. Do you remember any conversation -- so --
2 strike that.

3 So if Ms. Miller puts that in her
4 report following her investigation, you
5 would say that Ms. Miller is mistaken?

6 A. Absolutely.

7 Q. In terms of the bench that you recall seeing
8 Mrs. Hofer sitting upon or being upon when
9 you came upon her after having been summoned
10 to attend your friend, was it similar to the
11 bench shown in the photograph on Exhibit 2?

12 MS. MINCHOFF: Objection.

13 A. I would think most benches are similar. I
14 don't know what you're --

15 Q. Well, it could be a wooden park bench. It
16 could be a stone bench. It could be a
17 concrete bench. I'm not sure. Does that
18 bench as documented in group Exhibit 2 meet
19 your recollection of what the bench was like
20 that Mrs. Hofer was on when you saw her,
21 having been summoned to see her?

22 MS. MINCHOFF: Objection.

23 A. No.

24 Q. In what way was the bench different?

25 A. It's the wrong color.

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1 Q. What color was it?

2 A. It was gray.

3 Q. Was it --

4 A. This one's like a pinky color.

5 Q. All right. And was it a gray concrete
6 color?

7 MS. MINCHOFF: Objection.

8 Q. Was it a gray concrete-like color?

9 A. I don't know if it was definitely concrete,
10 but it was like that grayish color.

11 Q. Was it a wood bench?

12 A. No.

13 Q. Was it a stone bench?

14 A. No.

15 Q. What material did you think it was made of?

16 A. I would -- I don't know specific terms of
17 materials of that kind of nature, but not
18 knowing those kinds of things, I would have
19 said it was a gray concrete bench.

20 Q. All right. Let me back up. When Mrs. Hofer
21 and you walked to dinner, you said it was,
22 what, a five-minute walk, ten-minute walk?

23 A. Around a five-minute walk.

24 Q. And it was across the road from the Turtle
25 Beach Towers?

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1 A. I don't believe I said it was across the
2 road. I'm not --

3 Q. Did you have to go off-property?

4 A. Yes.

5 Q. And when you went off-property, did you have
6 to go across a road?

7 A. I don't fully remember at this point.

8 Q. Okay. Did Mrs. Hofer have any difficulty
9 walking from Turtle Beach Towers to Jimmy
10 Buffet's Margaritaville?

11 A. Not that I can remember.

12 Q. You don't remember her stumbling, tripping,
13 anything of the sort?

14 MS. MINCHOFF: Objection.

15 A. I don't remember. It was over two and a
16 half years ago.

17 Q. Okay. And when you say, "It was over two
18 and a half years ago," is that because the
19 passage of time, two and a half years, has
20 sort of flushed out some of the things from
21 your memory of that time?

22 MS. MINCHOFF: Objection.

23 A. Is that a question or a statement?

24 Q. Yes, that is a question. Isn't it the case
25 that over -- since it had occurred over two

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1 and a half years ago, that your memory is
2 not as good now after the events as then?

3 MS. MINCHOFF: Objection.

4 A. Some details may not be as easily remembered
5 as others.

6 Q. But to the best of your knowledge, Mrs.
7 Hofer had no difficulty walking from Turtle
8 Beach Towers to Jimmy Buffet's
9 Margaritaville?

10 A. Not that I can remember.

11 Q. And she kept her flip-flops on the entire
12 time?

13 A. Yes.

14 Q. From the time she was at Jimmy Buffet's
15 Margaritaville to the time you got back
16 to -- the two of you got back to Turtle
17 Beach Towers, did she have any difficulty
18 walking in the flip-flops?

19 A. Not that I remember, no.

20 Q. And from the time that you made it back
21 after dinner to the room to the time that
22 you saw her leaving to go outside for the
23 cigarette, did she claim -- did she say that
24 she had any difficulty with the flip-flops?

25 A. She did not say anything, no.

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1 Q. Did you see her having any difficulty?

2 A. Not that I can remember, no.

3 Q. When she went outside, was she wearing the
4 same pair of flip-flops that she started off
5 the day with in Boston?

6 A. Yes.

7 Q. And this was the same pair of flip-flops, at
8 least one of the flip-flops, that you saw on
9 one of the four or five steps when you went
10 to be with your friend, correct?

11 A. I'm sorry, repeat that.

12 Q. Sure. This was the same set of flip-flops
13 that you saw, at least one of which was on
14 the steps, when you came to see Mrs. Hofer
15 when she was sitting on the bench with her
16 leg bleeding?

17 A. Yes.

18 Q. When you went back with Mr. McKenzie to pack
19 up and collect your things so that you could
20 take Mrs. Hofer's things back to the air --
21 back to the hospital and then go to the
22 airport, do you remember having a
23 conversation with Mrs. Faye Miller, who
24 identified herself as the manager of Turtle
25 Beach Towers?

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1 A. No.

2 Q. Did you have a conversation with anybody at
3 Turtle Beach Towers about how Mrs. Hofer was
4 doing, which would now be on March 19, 2004?

5 A. Can you repeat that one more time?

6 Q. Sure. You told me that -- or you told us
7 here that you stayed with Mrs. Hofer at the
8 hospital and then returned sometime on March
9 19 after Mrs. Hofer had been admitted to the
10 hospital to go to Turtle Beach Towers to
11 pack up your things and you returned with
12 Mr. McKenzie, correct?

13 A. Correct.

14 Q. When you were at the Turtle Beach Towers and
15 after you had completed packing up, did you
16 go and check out?

17 A. Yes.

18 Q. And did you speak with anybody at Turtle
19 Beach Towers about the fact that -- why you
20 were leaving?

21 A. Yes.

22 Q. And who did you speak with?

23 A. I don't know the person's name.

24 Q. Was it a man or a woman?

25 A. It was a younger girl.

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1 Q. All right. And what did this younger girl
2 say to you, and what did you say to her?

3 A. I'm not sure if this is to a T exactly what
4 was said, but I said that I was checking
5 out, and she said, "Oh, are you the friend
6 of the girl that got hurt?" And I said,
7 "Yes." And she said, "Is she okay?" And I
8 said, "We're going back to the United States
9 so she can have surgery."

10 Q. Do you remember anything else about that
11 conversation?

12 A. No. That was the gist of it.

13 Q. Did you have any other conversations with
14 anyone else that you believed to be
15 associated with Turtle Beach Towers that
16 day, which would be March 19, 2004?

17 A. No.

18 MR. FERINGA: Do you need to take a
19 break?

20 MR. REITH: Yes.

21 MR. FERINGA: We need to go off the
22 record.

23 THE VIDEOGRAPHER: The time is 2:00
24 p.m. We're off the record.

25 (Recess taken.)

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1 THE VIDEOGRAPHER: Okay. We are
2 back on the record. This is Tape No. 4.
3 The time is six minutes after 2:00.

4 BY MR. FERINGA:

5 Q. When you were asked to come -- strike that.

6 You received a telephone call from
7 someone in your room telling you to go to
8 the reception area, or did somebody come to
9 your room?

10 A. I received a telephone call.

11 Q. All right. And was that from a man or a
12 woman?

13 A. It was a man.

14 Q. And he just said, "Your friend has been
15 hurt. Go to the reception area"?

16 A. No. He said, "Your friend cut her foot.
17 You need to come."

18 Q. Anything else?

19 A. No.

20 Q. Okay. And I assume that you ran right
21 over --

22 A. Yes.

23 Q. -- to the reception area?

24 A. Yes.

25 Q. When you got to the reception area, you saw

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1 Mrs. Hofer on a bench that you described as
2 gray and possibly concrete, correct?

3 A. Yes.

4 Q. Did you see any other men or women around
5 her at that time?

6 A. Yes.

7 Q. And was it -- did you see men or women or
8 both?

9 A. There was both.

10 Q. All right. And were there -- were there
11 people who you thought were guests versus
12 people from Jamaica who worked at the hotel?

13 MS. MINCHOFF: Objection.

14 A. I didn't ask the people, so guessing as to
15 why I thought they were there...

16 Q. Were they both black and white guests -- or
17 people?

18 MS. MINCHOFF: Objection.

19 Q. Let me ask this question: The men that you
20 saw, did any of the men that you saw
21 identify themselves as the individual who
22 contacted you?

23 A. Nobody identified themselves to me.

24 Q. Do you remember a man by the name of Denroy
25 Scarlett, who was the night desk clerk?

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1 A. I didn't get anybody's names.

2 Q. Did anybody come and identify themselves as
3 being associated with Turtle Beach Towers to
4 you?

5 A. No.

6 Q. How many men were there?

7 A. I'm not sure exactly, but I believe there
8 was at least two or three gentlemen and one
9 or two ladies.

10 Q. Were the men black or white?

11 A. They were both.

12 Q. All right. Do you remember one of the men
13 eventually being introduced to you as Mr.
14 McKenzie?

15 A. As Henry McKenzie?

16 Q. Correct.

17 A. Yes.

18 Q. Did Henry McKenzie introduce himself to you,
19 or did somebody introduce him to you?

20 A. He introduced himself to me.

21 Q. In terms of the women, were the women black
22 or white or both?

23 A. There was both.

24 Q. Were any of the women that were there
25 speaking to you in English with some sort of

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1 accent, potentially German?

2 A. I don't re -- I don't remember anyone
3 specifically speaking to me.

4 Q. Did anybody say anything to Mrs. Hofer that
5 you were overhearing the conversation?

6 A. Nobody was talking to Stephanie when I got
7 there.

8 Q. Did anybody identify themselves -- strike
9 that.

10 Did any of the people that were there,
11 the men or women, say they saw what actually
12 happened?

13 A. No.

14 Q. At any point in time on the 18th or the 19th
15 did you learn of anyone who actually saw
16 what happened?

17 A. No.

18 Q. In any of your conversations with Mrs. Hofer
19 from March 18 to the present did she
20 indicate to you at any point in time that
21 she was aware that there was another
22 individual or individuals who witnessed her
23 fall?

24 A. No.

25 Q. Looking back on the 18th or 19th when you

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1 arrived and saw your friend bleeding on the
2 bench --

3 (Discussion off the record.)

4 Q. Let me start again. Looking back on the
5 18th or the 19th when you arrived and saw
6 your friend bleeding on the bench, are you
7 aware of whether anybody was taking any
8 photographs of the scene?

9 A. I have no idea.

10 Q. All right. You don't remember in your
11 mind's eye seeing flashes or anything of the
12 sort?

13 A. I don't remember, no.

14 Q. Do you remember anybody complaining to any
15 of the other individuals about the condition
16 of or the steps of Turtle Beach Towers or
17 the walkways or the steps?

18 A. I don't remember.

19 Q. When you went back to Turtle Beach Towers to
20 collect your things and check out, do you
21 remember making any complaints to the
22 younger woman who was behind the desk about
23 Turtle Beach Towers?

24 A. No.

25 Q. Do you remember making complaints about the

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1 walkways, the staircase, the entranceway to
2 the reception area?

3 A. No.

4 Q. And to the best of your knowledge, the last
5 time that you saw the sandals that were at
6 least on Mrs. Hofer's feet the last time you
7 saw them -- strike that.

8 The sandal that you saw on the step,
9 the last time that you saw that sandal was
10 at Turtle Beach Towers, correct?

11 A. Correct.

12 Q. And when you arrived the following day, that
13 sandal was not there, correct?

14 A. Correct.

15 Q. You did nothing to preserve the sandal, that
16 is, keep it, pack it, ask anybody else to
17 save it or pack it, correct?

18 A. Correct.

19 Q. I want to ask you some questions about the
20 hospital.

21 A. Sure.

22 Q. Was there a particular doctor that you dealt
23 with when you were acting as Mrs. Hofer's
24 advocate?

25 MS. MINCHOFF: Objection.

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1 A. What do you mean, like a particular doctor?

2 Q. Was there a doctor with whom you were
3 speaking about, you know, what should be
4 done, what is going to be done, what's not
5 going to be done?

6 A. There was a nighttime doctor, and then there
7 was a daytime doctor.

8 Q. Do you remember the name of the nighttime
9 doctor?

10 A. No.

11 Q. Do you remember the name of the daytime
12 doctor?

13 A. No.

14 Q. Was the nighttime doctor male or female?

15 A. Male.

16 Q. Was the daytime doctor male or female?

17 A. Male.

18 Q. You said that when you -- strike that.

19 You recall that Mrs. Hofer was
20 actually admitted to the hospital and was
21 not any longer in -- strike that.

22 After Mrs. Hofer was in the emergency
23 room, I think you've told us that she was
24 admitted to the hospital itself, correct?

25 A. Correct.

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1 Q. And the hospital itself, as you have
2 described it, was a ward in which there were
3 lots of people?

4 A. Yes.

5 Q. When Mrs. Hofer left the hospital to go to
6 the airport in Mr. McKenzie's car, you were
7 handed a group of papers and X-rays,
8 correct?

9 A. I was handed an envelope.

10 Q. All right. Did you see -- strike that.

11 The envelope was what size?

12 A. It was like a nine by twelve manila
13 envelope.

14 Q. And did you have any sense of how many
15 documents were within this thing?

16 A. No.

17 Q. Like one sheet of paper, two sheets of
18 paper, anything of the sort?

19 A. I'm not sure. I didn't open it.

20 Q. Are you even aware that there were X-rays in
21 there?

22 A. I can't say I'm positive, but the doctor
23 told me that he was putting all the
24 paperwork that the doctors in Boston would
25 need in that envelope.

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1 Q. Do you know -- did you watch the doctor put
2 a group of paper -- a sheaf of papers and
3 X-rays in that envelope?

4 A. No.

5 Q. At any point in time when you were on the
6 plane to travel back to Boston did either
7 Mrs. Hofer or you open that envelope to read
8 about those things?

9 A. Nope.

10 Q. Who had control of those documents?

11 A. I did.

12 Q. And when you arrived in Boston, you handed
13 those documents to Mr. Hofer and Mrs.
14 Pompei?

15 A. Correct.

16 Q. And that was the last that you saw of them,
17 correct?

18 A. Correct.

19 Q. You've told us a couple of times that when
20 Mrs. Hofer left to go have a cigarette and
21 was tapping on the window scaring the heck
22 out of you, that you had the news on?

23 A. Uh-huh.

24 Q. Do you remember that?

25 A. Yes.

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1 Q. Was the news local Jamaican news, or was it
2 United States news?

3 A. I don't remember.

4 Q. Do you have a memory of whether the TV had
5 American programming or Jamaican
6 programming?

7 A. It was American.

8 Q. So, to the best of your knowledge, you were
9 not watching local Jamaican programming?

10 MS. MINCHOFF: Objection.

11 A. I don't know if it was local Jamaican
12 programming or not. I could understand the
13 words that they were speaking.

14 Q. Yeah, but you know how Jamaicans have that
15 fabulous accent. Do you remember hearing
16 the television having people talking in that
17 Jamaican accent or were there Americans?

18 A. I believe they were Americans. I don't
19 remember having a hard time trying to
20 decipher with their accent.

21 Q. So you don't remember whether you were
22 watching American news from some station
23 someplace in the United States or Jamaican
24 news?

25 A. I can't say for sure either way.

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1 Q. Your memory is, however, that there was some
2 newscast on and it was after 11:00 p. -- and
3 because there was a newscast on, that's why
4 you think this took place at 11:00 p.m.?

5 MS. MINCHOFF: Objection.

6 A. Not necessarily, no.

7 Q. Do you remember specifically that you
8 received a call sometime between 11:00 and
9 11:30 p.m.?

10 A. I don't know the specific time that the
11 phone call came in.

12 Q. But is it the case that you're remembering
13 what time the phone call came in because you
14 thought that there was news on and news
15 comes on at 11:00?

16 MS. MINCHOFF: Objection.

17 A. Not necessarily.

18 Q. How -- but when Mr. Reith asked you why do
19 you think it was on the 18th versus after
20 midnight on the 19th, you said, quote,
21 "Because the news was on," end quote?

22 MS. MINCHOFF: Objection.

23 A. Yes.

24 Q. Okay. And so is it the case that you're
25 relating the time of this incident to when

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1 you were watching the news?

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

3 Q. All right. So you remember specifically
4 looking at a clock or being aware of the
5 time when the call came in?

6 A. I remember that -- it being after 11:00,
7 because I remember when the phone rang, I
8 remember thinking who's calling?

9 Q. All right. Do you -- and why is it that you
10 don't remember it being after 12:00?

11 A. Because I would have remembered that.

12 Q. Why?

13 A. Because there's a big difference between
14 11:00 and 12:00.

15 MR. FERINGA: All right. I don't
16 have any other questions.

17 MR. REITH: I just have one follow-
18 up, two follow-ups.

19

20 REDIRECT EXAMINATION

21

22 BY MR. REITH:

23 Q. We've talked a little bit about who was
24 on-site when you all arrived at the resort,
25 and I just want to ask you, did you see any

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1 representative from Expedia, Inc. or
2 Expedia.com at the Turtle Beach Towers
3 resort when you arrived?

4 A. How would I know it's them?

5 Q. The persons that you saw, though, at, let's
6 say, the lobby, you understood those persons
7 to be employees of Turtle Beach Towers,
8 though, correct?

9 A. I couldn't tell you specifically who they
10 were employed by. I walked in, and they
11 were behind the reception desk. I didn't
12 ask them who was their employer.

13 Q. Did anybody identify themselves to you as
14 being an employee of Expedia, Inc. while you
15 were on premises at Turtle Beach Towers?

16 A. No.

17 MR. REITH: That's all I have.

18 Thank you.

19 MS. MINCHOFF: I have no questions.

20 MR. FERINGA: We're off the record.

21 THE VIDEOGRAPHER: Okay. The time
22 is 2:19. We are off the record.

23 (Whereupon the deposition was
24 concluded at 2:20 p.m.)

25

CARRIE L. LaROCHE
July 27, 2006

1 ATTACH TO THE DEPOSITION OF
 2 CARRIE L. LaROCHE
 3 CASE: HOFER -VS- THE GAP
 4 ERRATA SHEET
 5 INSTRUCTIONS: After reading the transcript
 6 of your deposition, note any change or
 7 correction to your testimony and the reason
 8 therefor on this sheet. DO NOT make any
 9 marks or notations on the transcript volume
 itself. Sign and date this errata sheet
 (before a Notary Public, if required).
 Refer to Page 210 of the transcript for
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21 I have read the foregoing transcript of my
 22 deposition and except for any corrections or
 23 changes noted above, I hereby subscribe to
 24 the transcript as an accurate record of the
 statements made by me.

25 CARRIE L. LaROCHE _____
 DATE

CARRIE L. LaROCHE
July 27, 2006

1 In the United States District Court
2 For the District of Massachusetts

3

4 I, Jessica L. Williamson, Registered,
5 Merit Reporter, Certified Realtime Reporter
6 and Notary Public in and for the
7 Commonwealth of Massachusetts, do hereby
8 certify that CARRIE L. LaROCHE, the witness
9 whose deposition is hereinbefore set forth,
10 was duly sworn by me and that such
11 deposition is a true record of the testimony
12 given by the witness.

13 I further certify that I am neither
14 related to or employed by any of the parties
15 in or counsel to this action, nor am I
16 financially interested in the outcome of
17 this action.

18 In witness whereof, I have hereunto set
19 my hand and seal this 10th day of August,
20 2006.

21

22

23 Jessica L. Williamson, RMR, RPR, CRR
24 Notary Public, CSR No. 138795
25 My commission expires: 12/18/2009

CARRIE L. LaROCHE
July 27, 2006

1 DEPONENT'S ERRATA SHEET
2 AND SIGNATURE INSTRUCTIONS

3

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

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

12

13 INSTRUCTIONS TO DEPONENT

14

15 After reading this volume of your
16 deposition, indicate any corrections or
17 changes to your testimony and the reasons
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and sign it. DO NOT make marks or notations
on the transcript volume itself.

18 REPLACE THIS PAGE OF THE TRANSCRIPT WITH THE
19 COMPLETED AND SIGNED ERRATA SHEET WHEN
20 RECEIVED.

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