

0001

1 1 IN THE DISTRICT COURT OF GRADY COUNTY  
STATE OF OKLAHOMA

2 2  
3 3 DONALD L. WATKINS, JR. and )  
BRIDGET WATKINS, individually )  
4 4 and as representatives of a )  
class of similarly situated )  
5 5 individuals, )  
6 6 Plaintiffs, )  
7 7 vs. ) CIVIL ACTION  
8 8 STATE FARM FIRE & CASUALTY )  
COMPANY, and DANNY WALKER, )  
9 9 and other similarly situated )  
agents of State Farm Fire & )  
10 10 Casualty Company. )  
11 11 Defendants. )

\* \* \*

12 12  
13 13 Deposition of W. TYRONE SMITH taken on behalf  
of  
14 14 the Defendants in accordance with the applicable  
court  
15 15 rules before Deborah Halley, RPR, CCR No. B-294 at  
125  
16 16 Tenth Street, Atlanta, Georgia, on the 29th day of  
17 17 November, 2006, commencing at the hour of 1:40

p. m.

18 18  
19 19  
20 20  
21 21

\*\*\*\*\*

22 22 FISCHER REPORTING SERVICE  
S

23 23 Certified Court Reporters  
Post Office Box 801076  
Acworth, Georgia 30101-1076  
24 24 Phone or Fax (770) 424-4862  
mafi scher@bel l south. net

25 25

0002

1 INDEX TO EXAMINATIONS  
2 Examination by Mr. Marr 3

3 \* \* \*

4 INDEX TO EXHIBITS

5 Plaintiff's  
6 Exhibit No. Description Marked

7  
8 1 Emergency Motion to Quash Subpoena 22

9 2 Order re Documents to Preserve 44

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0003

1 APPEARANCES OF COUNSEL

2 For the Plaintiffs:

3 JEFF D. MARR, Esq.

DREW HOUGHTON, Esq.

4 4301 Southwest Third Street, Suite 110

Oklahoma City, Oklahoma 73108

5 405-236-8000/405-516-4299 fax/800-516-4299

6 For the Defendants:

7 THOMAS W. CURVIN, Esq.

Sutherland, Asbill & Brennan, LLP

8 999 Peachtree Street, N.E.

Atlanta, Georgia 30309-3996

9 404-853-8314/404-853-8806 fax

tom.curvin@sablaw.com

10

LeANNE BURNETT, Esq.

11

Crowe & Dunlevy

11-29-06 w tyrone smith (2).txt  
20 North Broadway, Suite 1800  
Oklahoma City, Oklahoma 73102-8273  
405-235-7700/405-239-6651 fax  
burnett@crowedunlevy.com  
STUART D. KENNEY, Esq.  
State Farm Insurance Companies  
Bloomington, Illinois 61710

Also Present: Justin Stewart, Videographer

\* \* \*

(Whereupon, the Court Reporter Disclosure  
Statement was tendered into the record.)

VIDEOGRAPHER: On video.

W. TYRONE SMITH,

having been first duly sworn, was  
examined and testified as follows:

EXAMINATION

BY MR. MARR:

Q Would you please introduce yourself to the  
jury.

A My name is Wilford Tyrone Smith.

Q And who are you employed by, Mr. Smith?

A State Farm Insurance.

Q Which State Farm entity, the mutual company  
or the fire and casualty company?

A The mutual company.

Q How long have you been employed by State Farm  
Mutual?

A Twenty-two years.

Q What were your responsibilities in regard to  
the southern zone at the time of the Katrina  
catastrophe?

A I had responsibility for claims, operations,  
our human resources department and learning and  
development.

Q Okay. Give me specifics as to what it was  
you were responsible for in regard to the claim  
handling.

A I have oversight for claims, specifically  
fire claims for the zone; as it relates to my activity  
was providing that oversight to our claim management

1 group.

2 Q And how did you go about providing oversight  
3 to your claim management group?

4 A Participating in meetings where appropriate,  
5 being available, having discussions with management in  
6 terms of resource needs, et cetera.

7 Q What meetings did you participate in  
8 regarding Katrina claim handling?

9 A Core group meetings, as we refer to them as,  
10 which was our main meeting of departments to look at  
11 readiness and to make sure that needs were being met on  
12 site; other meetings as appropriate.

13 Q Who were members of the core group?

14 A The core group involves most of our  
15 departments that would have activity associated with  
16 any CAT operation, particularly the Katrina, with the  
17 size. It would involve administrative services, public  
18 affairs, human resources, our claim departments, and  
19 typically those meetings would be attended by the  
20 department heads or their designated representative.

21 Q Okay. That's what I'm wanting to know is who  
22 the core group members were, the zone core group  
23 members.

24 A The zone core group members by name?

25 Q Yes.

0006

1 A I would need a list in order to be able to  
2 provide all their names.

3 Q Okay. Do your best.

4 A Our regional CAT coordinator, his name is  
5 Kevin Peterson. From there we, many of our department  
6 heads, Jim Burwell, Clarence Hearn, Sue Cook, Alan  
7 Dunaway, Jerry Melton, Rob Lowenthal; those are the  
8 names that I recall offhand. I do have a list of core  
9 group members.

10 Q Okay. That's fine.

11 When was the first meeting with the zone core  
12 group concerning Katrina?

13 A I do not recall the exact date, but it would  
14 have been prior to Katrina making landfall, a day or  
15 two prior to landfall.

16 Q And who asked for that meeting or who called  
17 for that meeting?

18 A Typically the zone catastrophe coordinator

19 would call that meeting.

20 Q Was that the case here, Mr. Peterson?

21 A To the best of my knowledge that was the case  
22 here.

23 Q How were you notified of the meeting?

24 A I was a part of the distribution list, the  
25 e-mail communication.

0007

1 Q And the e-mail was transmitted by  
2 Mr. Peterson?

3 A The e-mail was transmitted by Mr. Peterson,  
4 to the best of my knowledge.

5 Q Was Mr. Peterson the one who drafted the  
6 e-mail?

7 A I believe so.

8 Q Tell me what was discussed during this  
9 meeting before Katrina made landfall? Was this the  
10 meeting in Georgia?

11 A This meeting was in Georgia at our operations  
12 center, and in terms of what was discussed, many of the  
13 details associated with resource needs were discussed  
14 during the meeting.

15 Q Such as?

16 A Such as locations for CAT sites, such as the  
17 need for mobile units, such as the number of claim  
18 representatives that we had available for responding,  
19 such as react personnel, the initial personnel that  
20 would be on the ground as soon as possible after the  
21 event.

22 Q Was there discussion as to the makeup of  
23 independent adjusters versus State Farm adjusters?

24 A No, not that I recall.

25 Q What was the composition? Was it 50-50,

0008

1 independents versus State Farm; how was that decided?

2 A I do not recall the actual composition.  
3 There was certainly a percentage of employees or  
4 adjusters that were independent adjusters.

5 Q Who made the decision to utilize the services  
6 of E. A. Renfroe & Company?

7 A That would have been our catastrophe services  
8 department.

9 Q Okay. Which is led by whom in this  
10 particular instance?

11 A Well, the catastrophe division manager,  
12 Daycon Kenzer, was our primary contact.

13 Q Now, Daycon Kenzer is out of course in  
14 Bloomington, correct?

15 A That's correct.

16 Q And did he provide you with the names of the  
17 independent adjusting firms that were available to  
18 assist in the handling of this catastrophe?

19 A No.

20 Q Who did?

21 A I don't recall the names of the firms being  
22 discussed in any of our meetings.

23 Q All right. How did you know which firms to  
24 use?

25 A How did I know personally?

0009

1 Q Yeah.

2 A We primarily look for the resources in terms  
3 of the number of people without getting that much into  
4 the detail in terms of who in which firms would be  
5 used.

6 Q Okay. So how is it that -- who made the call  
7 to retain E.A. Renfroe & Company?

8 A I'm not sure. I do not know.

9 Q Okay. How did you know or when did you  
10 know -- actually that's two separate questions. How  
11 did you know E.A. Renfroe & Company was going to be  
12 used to adjust claims in Katrina?

13 A I did not know.

14 Q When did you first find out?

15 A I'm unsure as to the exact time, but I know  
16 at some point in time I did hear that E.A. Renfroe was  
17 one of the independent firms being used.

18 Q Okay. Did you know this before Katrina  
19 struck?

20 A No, I did not.

21 Q Okay. How long after Katrina made landfall  
22 was it you learned that E.A. Renfroe was going to be  
23 used by State Farm?

24 A I'm not sure.

25 Q Give me your best estimate.

0010

1 A I'm not certain that I ever knew specifically  
2 the names of any of the firms other than the media

3 attention that was drawn to the allegations being made  
4 by the Rigsby sisters when the firm was identified.

5 Q Okay. So to the best of your recollection  
6 the first time you realized there was a relationship  
7 between E. A. Renfroe & Company and Katrina was when the  
8 Rigsby sisters brought it to the attention of the  
9 media?

10 A To the best of my knowledge that's the first  
11 time I was involved in discussions or recall anything  
12 specific about E. A. Renfroe.

13 Q Okay. Were you aware at the time Katrina  
14 made landfall that E. A. Renfroe was, State Farm's use  
15 of E. A. Renfroe & Company was an issue in a class  
16 action lawsuit in Oklahoma?

17 A No, I was not aware.

18 Q Who is the general claim consultant you would  
19 communicate with as vice president of operations for  
20 the southern zone?

21 A Steve Hinkle.

22 Q What are the types of things that Mr. Hinkle  
23 is obligated to keep you apprised of as a general  
24 claims consultant?

25 A Well, as a general claim consultant Steve

0011

1 Hinkle works primarily with our fire claim section  
2 managers and also with our fire claim manager. My  
3 interaction with Steve would be limited.

4 Q Who were the fire claim section managers in  
5 the southern zone?

6 A Primarily Terry Blalock, being located in  
7 Jackson, Mississippi during Katrina. We also have  
8 others. Andre Cole as well as Van Huffman as well as  
9 John Hill.

10 Q Do you have any knowledge of any of these  
11 individuals being deposed in relation to litigation  
12 arising from Katrina?

13 A Nothing outside of what was shared with me by  
14 counsel.

15 Q I'm just asking if you know whether or not  
16 any of these folks have been deposed in litigation  
17 arising from Katrina. I'm not asking you to disclose  
18 the conversation.

19 A In terms of knowledge --

20 Q Yes.

21 A -- that they've been deposed; nothing outside  
22 of what was discussed with me by counsel.

23 Q Who do you know, who do you believe has been  
24 deposed in civil litigation arising from Katrina of  
25 these fire claim section managers you just named?

0012

1 A I believe Terry Blalock.

2 Q Do you have any knowledge as to why  
3 Mr. Blalock was deposed?

4 A No, sir, I do not.

5 Q Have you had an opportunity or been afforded  
6 the opportunity to review Mr. Blalock's testimony?

7 A No, sir.

8 Q Has Mr. Blalock's testimony been discussed  
9 with you?

10 A No, it has not.

11 Q What did you do to prepare for your  
12 deposition today?

13 A Several meetings with counsel.

14 Q All right. Which counsel?

15 A Tom Curvin, to my left; also LeAnne, don't  
16 recall her last name offhand, and Stu Kenney.

17 Q Okay.

18 A In addition, there was another gentleman by  
19 the name of Stuart that participated in some of the  
20 meetings as well.

21 Q His name is what?

22 A I recall his first name is Stuart. I do have  
23 their names.

24 MR. CURVIN: It's Stuart Thompson, Jeff.  
25 He's my partner.

0013

1 MR. MARR: Okay.

2 BY MR. MARR:

3 Q Anyone else?

4 A No, sir.

5 Q Okay. When did you first meet with these  
6 folks, these lawyers?

7 A My first meeting was with Stu several weeks  
8 ago.

9 Q Which Stu?

10 A Stu here, Stu Kenney, I believe.

11 Q Mr. Kenney, one of State Farm's in-house  
12 lawyers from Bloomington?



13 A Yes, sir.  
14 Q Okay. When was that meeting?  
15 A I don't recall the exact date. It was on a  
16 Saturday.  
17 Q A week or so ago?  
18 A It was several weeks ago.  
19 Q Okay. Where did that meeting take place?  
20 A It took place at our zone executive office.  
21 Q In Duluth?  
22 A In Duluth.  
23 Q Was anybody else in attendance at that  
24 meeting?  
25 A Yes, sir, Bob Trippel, my senior vice  
0014 president.  
1 Q Anyone else?  
2 A Tom Curvin was at the meeting as well.  
3 Q Anyone else?  
4 A I don't recall at this time.  
5 Q Was anyone on conference call, on speaker  
6 phone?  
7 A I do not recall anyone being on speaker  
8 phone.  
9 Q Okay. And this was on a Saturday, correct?  
10 A Correct.  
11 Q How long did this meeting last,  
12 approximately?  
13 A I participated in the meeting for  
14 approximately two hours.  
15 Q Okay. Then did Mr. Trippel stay behind and  
16 continue on with the meeting?  
17 A Mr. Trippel stayed behind. I do not know  
18 details in terms of how long the meeting continued.  
19 Q Okay. Were there any subsequent meetings  
20 other than this one you just referenced on Saturday?  
21 A Yes, sir, several meetings took place this  
22 week.  
23 Q Okay. If you would, give me to the best of  
24 your recollection when those were in chronological  
25 order and how long each lasted.  
0015 1 order and how long each lasted.  
2 A The first meeting began on Monday at  
3 approximately 10:30. The second meeting began around  
4 the same time on Tuesday -- no, I'm sorry, correction,

5 the first meeting started on Monday afternoon. The  
6 meeting on Tuesday started at approximately 10:30.

7 Q Okay.

8 A And also I had a brief meeting this morning  
9 prior to this time period.

10 Q Right. That was with Mr. Kenney, correct?

11 A That was with Mr. Kenney and also with  
12 Stuart.

13 Q And that was during my deposition of Bob  
14 Trippel, correct?

15 A I believe so.

16 Q All right. So you had to date four meetings  
17 with counsel in preparation for your deposition,  
18 correct?

19 A Correct.

20 Q The meeting that, the second meeting you  
21 described this Monday in the afternoon, what time did  
22 it start and what time did it roughly conclude?

23 A I recall it starting at approximately  
24 1:00 o'clock.

25 Q And what time did it end?

0016

1 A My recollection is around 5:00 o'clock p.m.

2 Q Okay. And the one that began the following  
3 morning, this Tuesday morning at 10:30, when did it  
4 conclude?

5 A My recall it was at 4:00 or 5:00 p.m. but I  
6 may add that these meetings were not continuous. There  
7 were breaks in between. I would do other State Farm  
8 work when the need was there, so there was not a  
9 continuous meeting where we were sitting in a room for  
10 the whole time period.

11 Q Okay. And what would these lawyers do while  
12 you were taking care of other State Farm business?

13 A I'm not certain.

14 Q Did you put them to work? No?

15 All right. So how many hours would you say  
16 you devoted to preparing for your deposition here  
17 today?

18 A I'm going to guess and say somewhere between  
19 12 to 15 hours.

20 Q Okay. Did you review anything during these  
21 12 to 15 hours of preparation time?

22 A Yes. Yes, I did.

23

Q And what would that be?

24

A The documents that I recall, one was the wind-water call -- the wind-water claim handling

0017

1

protocol.

2

Q All right.

3

A I also reviewed portions of our homeowner's policy.

4

Q Which portion?

5

A The portion associated with the flood, the water exclusionary language.

6

Q Okay. Which policy was that at the, what?

7

A I'm not certain.

10

Q 7945, does that sound right?

11

A I don't recall.

12

Q All right. I'm not sure either.

13

What else besides the homeowner policy?

14

A I looked at one or two communications from our claims vice president, Susan Hood.

15

Q What were they about?

16

A They were about the moratorium that we placed on the use of Haag Engineering.

17

Q Both of them were?

18

A They were associated with the use of engineering firms to the best of my recall, both of them were.

19

Q Okay. And were both prepared by Susan Hood?

20

A I believe so.

21

Q Is that the first time you reviewed those?

0018

1

A No, sir.

2

Q When was the first time you reviewed those communications from Susan Hood?

3

A I don't recall specifically, but they would have been reviewed by me at the time that they were communicated to the State Farm organization.

4

Q Has State Farm continued to utilize the services of Haag in the southern zone?

5

A To the best of my knowledge we have not specifically with any new referrals.

10

Q Well, my question wasn't limited to new referrals, my question was is State Farm still

11

utilizing the services of Haag in the southern zone?

12

A To the best of my knowledge we are not but I

13

14

15 do not know that for sure since I don't work directly  
16 with the referrals or specifically with individual  
17 claim files.

18 Q What else did you review?

19 A I believe that was it.

20 Q Did you watch any videos or anything like  
21 that?

22 A No, sir.

23 Q Have you ever received any training regarding  
24 depositions while at State Farm?

25 A No, other than the meetings and discussions

0019

1 we had prior to this deposition.

2 Q Have you ever given your deposition before?

3 A No, I have not.

4 Q You used to be a claim consultant, didn't  
5 you?

6 A That's correct.

7 Q And you worked at corporate up in  
8 Bloomington, correct?

9 A That's correct.

10 Q What were your responsibilities when you were  
11 a claim consultant?

12 A I was a part of the catastrophe services  
13 department or section within our general claims  
14 department.

15 Q What were your responsibilities?

16 A My responsibilities ranged, I consulted with  
17 a number of different zones or regions as they were  
18 referred to during my time period as a claim consultant  
19 working with the, specifically with the catastrophe  
20 section. I also had direct management oversight of  
21 catastrophe services team members.

22 Q Okay. When you said you would consult with  
23 the regions, what type of consulting would you do for  
24 these regions?

25 A The consulting, consulting work that I would

0020

1 do would deal with resource needs, would deal with  
2 logistics, the overall set up of the catastrophe  
3 operation.

4 Q Did you provide them with coverage  
5 interpretations --

6 A No, sir.

7 Q -- relating to catastrophes?  
8 A No, sir.  
9 Q Now, you've taken the position in your sworn  
10 affidavit that was filed in an attempt to avoid this  
11 deposition that you don't have any knowledge of the  
12 Watkins case, correct?  
13 A That is correct.  
14 MR. CURVIN: Objection to form. The  
15 affidavit speaks for itself.  
16 BY MR. MARR:  
17 Q I didn't hear your answer, sir?  
18 A Outside of --  
19 Q Did you say that was correct?  
20 A -- what has been communicated to me by  
21 counsel I have no knowledge of the Watkins case.  
22 Q Outside of what was communicated to you by  
23 counsel in preparation of the affidavit, correct?  
24 A I'm sorry, I don't understand the question.  
25 Q Well, let me find it here.  
0021  
1 It says you swore that your only knowledge,  
2 your only knowledge of the Oklahoma litigation, which I  
3 assume you meant Watkins, right?  
4 A Yes, sir.  
5 Q Comes from information provided to you by  
6 counsel in connection with preparation of this  
7 affidavit. That's what you swore to, right?  
8 A That's correct.  
9 Q But you knew about Watkins outside of any  
10 preparation or consultation you might have received in  
11 this affidavit, didn't you?  
12 A No, sir, other than the name itself, did not  
13 know any details about Watkins.  
14 Q Okay. Why is that?  
15 A I don't know if I can answer that. I just  
16 did not.  
17 Q You don't know why you didn't know anything  
18 about the Watkins class action in Oklahoma?  
19 A No, sir, I did not have any information about  
20 the Watkins litigation.  
21 Q The only time you learned anything about it  
22 was from discussions with your lawyer in connection  
23 with preparing this affidavit, right?  
24 A That's -- that is correct, other than hearing

25 the name Watkins and knowing that decisions were made  
0022

1 not to continue to use Haag Engineering, a moratorium  
2 was being placed as a result of litigation associated  
3 with the Watkins case.

4 Q Okay. You didn't put that part in your  
5 affidavit, did you? You were very specific in your  
6 affidavit. Paragraph 8 says that your only knowledge  
7 of the Oklahoma litigation -- you use, those are your  
8 words, only -- comes from information provided to me by  
9 counsel in connection with the preparation of this  
10 affidavit. Correct?

11 MR. CURVIN: Would you mind showing him a  
12 copy of what you're reading from.

13 MR. MARR: Yeah. Give me another set of  
14 exhibit stickers. I'll just mark it.

15 (Marked for identification,  
16 Plaintiff's Exhibit No. 1)

17 BY MR. MARR:

18 Q Marked as Plaintiff's Exhibit 1 to your  
19 deposition, Mr. Smith, it's an exhibit to State Farm's  
20 Emergency Motion of Non-Party W. Tyrone Smith to Quash  
21 Subpoena. And it's on page two of your affidavit and  
22 I've circled the paragraph I'm talking to you about.

23 Aren't those your words, that your only  
24 knowledge of the Oklahoma litigation comes from  
25 information provided to me by counsel in connection

0023  
1 with preparation of this affidavit?

2 A The statement starts the sentence prior by  
3 saying I have no personal knowledge of the handling of  
4 those claims, which is a true statement.

5 Q That's not the sentence I'm asking you about,  
6 sir. I'm asking you about the one where you swear, and  
7 I'm quoting: My only knowledge of the Oklahoma  
8 litigation comes from information provided to me by  
9 counsel in connection with the preparation of this  
10 affidavit.

11 Isn't that your sworn testimony here?

12 A I associated the entire paragraph, I have no  
13 knowledge of the handling of those claims and I have no  
14 knowledge of the Oklahoma litigation itself which, in  
15 my opinion, was a true statement. I had heard the name  
16 Watkins before but I had no specific knowledge

17 associated with the litigation.

18 Q Okay. I thought you told me you received a  
19 communication from Susan Hood talking about the Watkins  
20 verdict and the moratorium on Haag?

21 A That is correct.

22 Q So why didn't you put that in here? Why  
23 instead did you represent you don't know anything about  
24 it except what a lawyer told you in preparing this  
25 affidavit?

0024

1 MR. CURVIN: Objection to form.

2 BY MR. MARR:

3 Q Go ahead.

4 A I associated the statement with having no  
5 knowledge of the claim handling associated with the  
6 Oklahoma tornados.

7 Q Okay. So it was just a case of your  
8 interpretation?

9 MR. CURVIN: Objection to form.

10 BY MR. MARR:

11 Q Is that right? Go ahead.

12 A I'm not certain I know how to respond to the  
13 question.

14 Q Okay.

15 All right. So who did you work with on the  
16 catastrophe team? When you were a consultant, who did  
17 you report to, let's do it that way?

18 A My assistant vice president was John Dozzen  
19 for my first two years based on my best recall, and for  
20 my second two years in the operation was Jim Damm.

21 Q Those are the same folks that were still in  
22 that position when Katrina occurred, correct?

23 A Jim Damm was the assistant vice president at  
24 the time of Katrina and I don't believe John Dozzen  
25 was involved.

0025

1 Q Both those gentleman were involved in the  
2 Oklahoma catastrophe of May 1999, weren't they?

3 A I'm not sure. I believe Jim Damm was the  
4 assistant vice president at that time and I don't  
5 recall John Dozzen being involved because he was no  
6 longer in that department, to the best of my recall.

7 Q What was your position with the company at  
8 the time of the Oklahoma F-5 tornado in May of 1999?

9 A Claim consultant.  
10 Q For which region?  
11 A I'm trying to recall, but I believe I had the  
12 Florida region, also the sunland region; also mountain  
13 state, our northeastern region and our north Atlantic  
14 region.  
15 Q During your tenure as claim consultant for  
16 these regions, were there lawsuits and verdicts finding  
17 that State Farm had engaged in fraudulent claim  
18 activity?  
19 A Not that I recall.  
20 Q You don't remember anything like that  
21 occurring in the sunland region or the mountain states?  
22 MR. CURVIN: Objection to form.  
23 BY MR. MARR:  
24 Q Go ahead.  
25 A I know that there was litigation. I'm not  
0026  
1 certain as to the time frame.  
2 Q What about jury verdicts, findings that State  
3 Farm had engaged in fraudulent claim activity?  
4 A I don't recall specifics of any litigation.  
5 I do recall there was a Campbell case that was being  
6 litigated. I'm not sure the time frame associated with  
7 that litigation.  
8 Q That's the only one you remember?  
9 A Offhand that is the only litigation that I  
10 recall.  
11 Q All right. While you were a claim consultant  
12 I assume that you would communicate with other general  
13 claim consultants around the country. There weren't  
14 that many of them, were there?  
15 A Could you rephrase or repeat your question.  
16 Q Yes. It was a compound question.  
17 How many claim consultants were there in  
18 1999?  
19 A I'm not sure. If I were to guess, we had  
20 both the fire claim consultants, auto claim  
21 consultants, catastrophe consultants, so we had  
22 different types of consultants involved in claim  
23 handling.  
24 Q Fair enough. How many CAT consultants?  
25 A I believe five or six.

0027



1 Q And who were they?  
2 A To the best of my recall Carol Duarte, Keith  
3 Whitham, Daycon Kenzer, Dan Kerrigan, Rachel McFarland.  
4 Q Would you communicate with these other CAT  
5 consultants on a fairly regular basis?  
6 A Yes, sir.  
7 Q How would you communicate with them?  
8 A Through meetings.  
9 Q Were there regular meetings?  
10 A There would be, would be routine meetings. I  
11 would say that at least monthly.  
12 Q Where would those meetings take place?  
13 A Typically they're at our corporate office.  
14 Q In Bloomington?  
15 A In Bloomington.  
16 Q Is there anyone in addition to these CAT  
17 consultants that would be in attendance during these  
18 meetings such as State Farm in-house lawyers?  
19 A No, not typically.  
20 Q So it would just be a meeting with the CAT  
21 consultants and no one else, correct?  
22 A The CAT consultants and our assistant vice  
23 president who we would all report to.  
24 Q Which was whom?  
25 A Depends on the time frame.  
0028  
1 Q The time of the Oklahoma catastrophe, 1999.  
2 A To the best of my recall that would have been  
3 Jim Damm, D-A-M as in Mary, M as in Mary.  
4 Q Who would Jim Damm report to?  
5 A I believe Steve Williams.  
6 Q What was his position in fire claims?  
7 A He was vice president.  
8 Q Who would Mr. Williams report to?  
9 A Frank Haynes.  
10 Q Claims vice president for State Farm Mutual?  
11 A Yes, sir.  
12 Q And claims vice president for State Farm  
13 Mutual Mr. Haynes would have responsibility for claims  
14 in both the auto and fire companies, correct?  
15 A That would be correct.  
16 Q So these monthly meetings that would occur of  
17 the CAT consultants in corporate were they recorded?  
18 A I don't recall the meetings being recorded.

19 Q Were any minutes kept of these meetings?

20 A I do not recall minutes.

21 Q Have you ever seen any minutes?

22 A Not that I recall.

23 Q What about an agenda to cover the topics that  
24 would be discussed at these meetings?

25 A Quite frankly it's been so long ago I don't

0029

1 recall.

2 Q Okay. Tell me is there some type of manual  
3 or OG that governed CAT consultants?

4 A That governed CAT consultants?

5 Q That were utilized by CAT consultants, let's  
6 start there?

7 A We have manuals and operation guides but not  
8 specifically any that I recall that would govern CAT  
9 consultants.

10 Q Okay. So there was nothing -- what did you  
11 use to tell you how to do your job?

12 A You'll have to be more specific. I'm not  
13 certain I can respond to that.

14 Q Well, how did you know what to do when you  
15 were a CAT consultant? How did you know what you were  
16 supposed to do and how to go about doing it?

17 A Some of it was based on the specific needs of  
18 the CAT operation. It also had to do with personal  
19 experience. Our involvement from a catastrophe  
20 standpoint dealt with logistics, it dealt with  
21 providing the necessary computer equipment, the  
22 necessary personnel based on the magnitude of the  
23 event.

24 Q Well, when you say specific needs of the CAT  
25 situation, tell me what that would equate to in regard

0030

1 to the Oklahoma F-5 tornado in May 1999.

2 A That I don't have any knowledge of the  
3 handling of the 1999 Oklahoma --

4 Q All right. Give me some examples then of  
5 some specific needs of CAT. You said specific needs of  
6 CAT situations. What do you mean? Give me some  
7 examples.

8 A As a CAT consultant I would typically receive  
9 a phone call directly from the involved region. During  
10 that conversation we would talk about the type of

11 damage, their survey, their on-the-ground reports in  
12 terms of how many claims were they anticipating. From  
13 there we would talk about needs, everything from where  
14 do we set the operation up, do we use an existing State  
15 Farm facility, do we need to go outside and lease a  
16 building based on the needs associated with that  
17 particular event.

18 We would also talk specifically about what  
19 are the resource needs, how many people do we need to  
20 respond to this event in order to properly service our  
21 policyholders.

22 Q Okay. Who in the region would you routinely  
23 receive phone calls from, what position?

24 A Typically back then the person was referred  
25 to as the regional catastrophe coordinator.

0031

1 Q Such as a David Cahill?

2 A I do believe David Cahill was a catastrophe  
3 coordinator.

4 Q Would you ever discuss the problems  
5 associated with determining causation that the region  
6 maybe facing?

7 A Not me specifically.

8 Q Is that something to your knowledge other CAT  
9 consultants provided insight on?

10 A The responsibility of CAT consultants was to  
11 deal with the logistics and the setup of the operation  
12 and resource needs. The coverage interpretation,  
13 claims-specific issues, there was another consultant  
14 group that would handle those types of questions.

15 Q That's like a Mike Seabolt?

16 A I do recall Mike Seabolt being one of them.

17 Q That's like Steven Hinkle?

18 A Yes, sir.

19 Q Now, did you have any involvement in the  
20 supervision or monitoring of extra-contractual  
21 litigation arising from catastrophes?

22 A No, none whatsoever.

23 Q Which member of or did any member of your CAT  
24 consulting team do that?

25 A To the best of my knowledge no CAT consultant

0032

1 would be involved in litigation.

2 Q Would that be left to the general claim

3 consultant?

4 A To the best of my knowledge that would be  
5 left to the general claim consultant along with the  
6 involved region and their claim personnel.

7 Q All right. So having been a CAT consultant  
8 at corporate prior to Katrina, you were very familiar  
9 with State Farm's utilization of Haag Engineering, were  
10 you not?

11 A Not specifically, but the fact that we had  
12 used Haag I was aware of that.

13 Q How did you become aware of that?

14 A Over the years being involved in claims we  
15 have used Haag Engineering, along with other  
16 engineering firms.

17 Q You're aware, are you not, that State Farm  
18 used Haag in its training of its claim personnel, are  
19 you not?

20 A I am aware we have used Haag for some claim  
21 training.

22 Q You've seen the roof damage assessment  
23 workbook, I would assume, that's been around since the  
24 eighties, correct?

25 A I don't recall offhand, but I believe that I

0033

1 probably have at one time or another.

2 Q What about back as far as '84 when you were a  
3 claim representative trainee in the Frederick, Maryland  
4 region, was any Haag materials utilized in your  
5 training?

6 A That I don't recall.

7 Q You were familiar, I would assume, as a CAT  
8 consultant of State Farm's utilization of Haag  
9 Engineering in Texas, weren't you?

10 A Not any specific insight other than I believe  
11 that I've heard reference to using Haag.

12 Q Were you aware from your other catastrophe  
13 consultants of litigation arising from State Farm's use  
14 of Haag?

15 A I don't recall any knowledge of litigation --

16 Q Don't --

17 A -- associated with Haag.

18 Q You don't recall anyone ever bringing that to  
19 your attention?

20 A I do not recall.

21 Q Okay. So did you have a problem knowing what  
22 you, given your experiences as a CAT consultant up at  
23 corporate, you pretty much knew what you were getting  
24 with Haag when Haag was being used in the southern zone  
25 to inspect Katrina claims, right?

0034

1 MR. CURVIN: Objection to form.

2 BY MR. MARR:

3 Q Go ahead.

4 A I'm not sure I understand the question well  
5 enough to respond.

6 Q Well, I mean you'd had past experiences with  
7 Haag, correct?

8 A I'm sure as a claim handler during my State  
9 Farm career that I've had some past experience with  
10 Haag.

11 Q As a CAT consultant you had some experiences  
12 with Haag, correct?

13 A I would assume that Haag was being used in  
14 some of the CAT operations but since I didn't deal  
15 specifically with the claim handling I can't speak to  
16 that question.

17 Q Okay. What participation, if any, did CAT  
18 consultants have in preparation of what was referred to  
19 back then as the regional catastrophe plan?

20 A The CAT consultants would typically review  
21 plans from regions when they were submitted.

22 Q And what was the purpose of the review?

23 A The purpose was to check on their overall  
24 preparation and we would provide feedback. Ultimately  
25 it was still the region's plan but we would provide, we

0035

1 would review and provide feedback where appropriate.

2 Q Have you ever seen Haag listed as a corporate  
3 resource in one of these regional catastrophe plans?

4 A I don't recall but it wouldn't surprise me.  
5 I don't know if I would have really made any particular  
6 note of Haag or any other engineering firms.

7 Q How does one come to be identified as a  
8 corporate resource by State Farm?

9 A I'm not sure I'm in a position to respond to  
10 that either.

11 Q Well, can you tell me as a CAT consultant at  
12 the time of our catastrophe in Oklahoma how it is that

13 a firm that State Farm had been found to have acted in  
14 bad faith for using remained on the list as a corporate  
15 resource?

16 MR. CURVIN: Object to the form.

17 THE WITNESS: Can you rephrase the  
18 question because I'm not sure I quite  
19 understand what you're asking.

20 BY MR. MARR:

21 Q Sure. I mean did you ever know that -- well,  
22 I guess you already answered that.

23 Do you think that State Farm should continue  
24 to list the firm, a vendor, as a corporate resource  
25 after State Farm has already been found in bad faith

0036

1 for using this particular vendor and that vendor was  
2 determined to be biased in the company's favor?

3 MR. CURVIN: Objection to form.

4 THE WITNESS: To the best of my knowledge  
5 we have discontinued using Haag Engineer as a  
6 result of some of the litigation that I believe  
7 you're referring to.

8 BY MR. MARR:

9 Q No, I'm talking about litigation that existed  
10 and the jury finding it existed even prior to our  
11 catastrophe in Oklahoma in May of 1999.

12 A I'm not familiar or aware of the specific  
13 litigation that you're referring to.

14 Q Do you think someone, do you think State Farm  
15 should continue to list a vendor as a corporate  
16 resource once they've been found in bad faith for using  
17 the vendor?

18 A Without --

19 MR. CURVIN: Objection to form and  
20 foundation. He's already told you he doesn't  
21 have any knowledge of this.

22 BY MR. MARR:

23 Q Go ahead.

24 A Without knowing the specifics my expectation  
25 is that State Farm would take everything into

0037

1 consideration, conduct a thorough review and make a  
2 decision based on all the facts.

3 Q Is that kind of like the review that's being  
4 conducted now down in their fraudulent claim handling in

5 Katrina?

6 MR. CURVIN: Objection to form.

7 BY MR. MARR:

8 Q Go ahead.

9 A I'm not certain I can respond to that  
10 question because the characterization is one that I  
11 would disagree with.

12 Q Are you just oblivious to the Nicolau  
13 opinion?

14 MR. CURVIN: Objection --

15 MR. MARR: And for the record Nicolau is  
16 N-I-C-O-L-A-U.

17 BY MR. MARR:

18 Q Out of Texas.

19 A Can you rephrase the question.

20 Q Are you oblivious to the Nicolau opinion, the  
21 findings of the jury in Nicolau concerning State Farm's  
22 use of Haag Engineering in Texas?

23 MR. CURVIN: Objection to form.

24 BY MR. MARR:

25 Q Go ahead.

0038

1 A Other than what was recently shared with me  
2 by counsel I have no knowledge of the Nicolau  
3 litigation.

4 Q And you were a CAT consultant working at  
5 corporate headquarters in Bloomington, Illinois, is  
6 that correct?

7 A That's correct.

8 Q When was the first time you learned that a  
9 jury had already found State Farm was in bad faith for  
10 using Haag and Haag was biased in State Farm's favor,  
11 when's the first time you heard about that?

12 MR. CURVIN: Objection to form.

13 BY MR. MARR:

14 Q Go ahead.

15 A Could you repeat the question.

16 Q When is the first time that you heard that  
17 there was a case, the Nicolau case, wherein State Farm  
18 was found to be in bad faith for using Haag knowing  
19 that Haag was biased in its favor?

20 MR. CURVIN: Objection to form, been asked  
21 and answered --

22 MR. MARR: Go ahead.

23

MR. CURVIN: -- he's already --

24

BY MR. MARR:

25

Q Go ahead. I'll ask what you just said.

0039

1

MR. CURVIN: It's what he said.

2

MR. MARR: Go ahead.

3

BY MR. MARR:

4

Q Go ahead.

5

A Other than through counsel, I have no knowledge of the Nicolau case that you're referring to.

6

Q Well, listen to my question. My question was when, not how. When did you learn about it? When did you first learn about it?

7

8

9

A The when would be this week during meetings with counsel.

10

11

12

Q Do you have any explanation as to why this wasn't brought to your attention earlier given the fact that you were a CAT consultant?

13

14

15

A No, sir, I do not know why. I do know that you referenced the state of Texas and that is a state I did not have responsibility for.

16

17

18

Q Is that a piece of information you as a CAT consultant would like to have had when making -- excuse me -- recommendations to these regions?

19

20

21

A I as a CAT consultant, any information available to me I would certainly, certainly would consider it but I would also direct information to the appropriate channels for decision making.

22

23

24

25

Q When did you first learn that State Farm's

0040

1

use of Haag and Renfro was an issue in a class action

2

that had been certified in Oklahoma?

3

A To the best of my knowledge it was after receiving communication from our claims vice president Susan Hood.

4

5

6

Q After Katrina?

7

A That would be then after Katrina, yes, sir.

8

9

Q Did you receive any type of litigation

10

reports or did you as a claim consultant?

11

12

Q What about did you get the memo in April of this year asking to return or recall a recent Haag publication that was being utilized by State Farm?

13

14

A I don't specifically recall a communication.



15 There may have been one. Oftentimes communications  
16 would go directly to our claim managers and section  
17 managers.

18 Q Do you have any recollection of there being  
19 communication asking for the return of any Haag  
20 materials?

21 A I don't recall any specifics. There may have  
22 been, but I don't recall any specifics.

23 Q I'm not talking about specifics. Generally,  
24 I'll settle for that. Do you have any recollection of  
25 just this year in the spring receiving a memo asking

0041

1 you to return Haag materials to corporate?

2 A We very well could have received a memo and I  
3 would expect my claim manager and claim section manager  
4 to provide the proper oversight and to make sure we  
5 responded accordingly.

6 Q Okay. But if it happened you don't have any  
7 knowledge of it, is what you're telling me?

8 A I don't recall at this time any specific  
9 knowledge of it.

10 Q Would that be an unusual request or does that  
11 kind of thing happen on a routine basis at State Farm?

12 A You'll have to be more specific. There's a  
13 lot of things that happen within the organization and  
14 I'm not sure I can respond to the question.

15 Q Okay. Well, let me ask it this way. Were  
16 there any Haag materials, Haag training materials, Haag  
17 workbooks, anything published by Haag dealing with  
18 damage assessment that were utilized by your folks in  
19 the southern zone in handling Katrina claims?

20 A That I do not know.

21 Q Okay. Your title again is what?

22 A Vice president of operations.

23 Q Do you happen to know what types of materials  
24 were used at the CAT induction center when you brought  
25 these folks in and inducted them before they went out

0042

1 to adjust Katrina claims?

2 A Not the -- no specific information.

3 Q Do you know of any Haag materials that were  
4 used there?

5 A No, I do not know.

6 Q Have you seen -- let me ask you this, have

7 you ever attended any seminars or -- well, we'll just  
8 leave it at seminars put on by Haag Engineering?

9 A Not that I recall.

10 Q Are you aware of the order that was executed  
11 by the judge in this case prohibiting the destruction  
12 of any Katrina-related documents?

13 A Yes, I am aware.

14 Q Were you provided a copy of that order?

15 A I believe so.

16 Q When, roughly?

17 A I'm not certain as to the specific date  
18 associated, but I do know that we have received  
19 correspondence that would involve a hold order  
20 associated with Hurricane Katrina documents.

21 Q I'm not talking about a hold order now,  
22 Mr. Smith. I'm talking about a copy of the Court's  
23 order in the Watkins class action in Oklahoma. Have  
24 you been provided a copy of that order?

25 A I haven't read the specific court order.

0043

1 Q Okay. Because as you testified to in your  
2 affidavit you don't have any knowledge of the  
3 litigation, the Watkins litigation, correct?

4 MR. CURVIN: That's not his testimony.

5 MR. MARR: Go ahead.

6 MR. CURVIN: You're misrepresenting him.

7 MR. MARR: Go ahead. It says what it  
8 says, Counsel. Go ahead.

9 MR. CURVIN: That's right, that's the  
10 basis of my objection.

11 MR. MARR: All right. Good, thanks.

12 BY MR. MARR:

13 Q Go ahead.

14 A Can you repeat your question.

15 Q I'll just hand it to you.

16 In your affidavit you testified you don't  
17 have any information concerning the Watkins litigation  
18 other than that which your lawyers gave you in  
19 preparing the affidavit, right, do you remember that?

20 A I also acknowledge that there was a  
21 communication by Susan Hood that did reference the  
22 Watkins litigation.

23 Q Okay. So you forgot about that one. What  
24 about, have you seen any court orders out of the

25 Watkins case?

0044

1 A None that I specifically recall.  
2 (Marked for identification,  
3 Plaintiff's Exhibit No. 2)

4 BY MR. MARR:

5 Q I'm going to attach as Plaintiff's 2 to your  
6 deposition an order filed on October 5th, 2006, signed  
7 by Judge Vandyck in the Watkins matter. It says: On  
8 the 5th day of October, 2006, the above-styled and  
9 numbered cause came before the undersigned Judge for  
10 hearing on the Plaintiffs' Motion to Preserve Evidence  
11 and Brief in Support. The parties appeared by their  
12 respective counsel of record. Upon review of the  
13 written briefs filed by the parties, after hearing oral  
14 argument and being otherwise fully advised in the  
15 premises, the Court sustains Plaintiffs' Motion to  
16 Preserve Evidence and Brief in Support. Defendant  
17 State Farm is hereby ordered to preserve the documents  
18 and information set forth in Exhibit "A" of Plaintiffs'  
19 Motion to Preserve Evidence -- "attached hereto" is  
20 written in -- and take no measures toward destroying  
21 the same without order of this Court. The subject  
22 order shall remain in effect until the conclusion of  
23 the last class member's trial.

24 Well, did you not understand my question?

25 MR. CURVIN: He's answering as best he

0045

1 can.

2 BY MR. MARR:

3 Q If you didn't just let me know and I'll  
4 rephrase it.

5 A I don't believe I have the entire form that  
6 you were reading because there was --

7 Q You've got the same --

8 All right. Well, let's take a look at  
9 Exhibit "A" that's attached thereto. Have you ever  
10 been provided with this Exhibit "A", documents which  
11 you are prohibited from destroying?

12 Okay. Do you see Exhibit "A" that's attached  
13 to this order of the court?

14 A I do.

15 Q Okay. Have you ever been provided a copy of  
16 Exhibit "A" that's before you entitled Documents and

17 Information to Preserve?

18 A My response would be I'm sure I received this  
19 information outlining the specifics of the information  
20 that we needed to preserve. In terms of this exact  
21 form, this exact piece of paper, a copy of this  
22 specific document, I can't recall, so I do not know for  
23 sure.

24 Q Okay. You have no recollection of ever  
25 receiving this order, or Exhibit "A", is that correct?

0046

1 A I do not recall.

2 Q Well, who wrote the hold order, some one from  
3 corporate legal?

4 A Typically those would be sent to us through  
5 corporate legal.

6 Q Okay. When was the hold order put in place,  
7 before or after October 5th?

8 A I do not recall.

9 Q Okay. All right.

10 Now, you were involved in the payment of  
11 replacement cost benefits up front, weren't you?

12 MR. CURVIN: Objection to form. That's  
13 pretty vague.

14 BY MR. MARR:

15 Q Go ahead.

16 A I'm not certain I understand the question.

17 Q Do you know what holdback is?

18 A I've heard the term before.

19 Q What's it mean?

20 A If we're associating it with claim handling,  
21 a holdback would be where we pay the actual cash value  
22 of a loss and then after the work has been completed  
23 and documentation is provided we would at that point  
24 pay additional replacement cost sums that were not paid  
25 initially.

0047

1 Q And what involvement did you have in the  
2 paying of the, the change paying holdback or  
3 replacement cost benefits up front and then switch back  
4 to holdback?

5 MR. CURVIN: Objection to form.

6 THE WITNESS: I'm not certain I understand  
7 the question.

8 BY MR. MARR:

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
0048  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
0049

Q Who is Spence Stricklee?

A I recall his name as being one of the property consultants.

Q Who is Sandra Camper?

A I'm not certain. I believe she's a secretary that works, or did at one time and may still and maybe she still does, she works in our P&C claims department.

Q Do you recall the decision to begin paying replacement cost benefits at the time of the loss; do you recall that?

A I may have heard mention of it, but the fact that I did not deal specifically with claims and claim handling, I would have had very little knowledge or involvement with those types of decisions and/or activities. Very little personal involvement.

MR. CURVIN: Jeff, we've been going for about an hour and ten. Whatever point we can

break.

MR. MARR: That's fine. Let's take a break.

VIDEOGRAPHER: We are off video.  
(Brief recess).

VIDEOGRAPHER: We are back on video.

BY MR. MARR:

Q All right, Mr. Cahill, we're back on -- excuse me, I'm looking at the Cahill thing.

Mr. Smith, we're back on the record after a short break. Are you ready to continue with your deposition?

A Yes, sir, I am.

Q Okay. Have there been complaints following Katrina that State Farm was performing inadequate investigations? When I say complaints, I mean complaints by State Farm policyholders.

A I don't know if I would characterize it as performing inadequate investigations, but I do know there have been some complaints about claim handling.

Q Have there been complaints regarding unreasonably low settlements?

A I'm not sure if it's specifically related to a low settlement versus coverage questions associated with what we, State Farm, were able to pay for versus

1 what we were unable to pay for.

2 Q How many claims would you estimate were  
3 denied based on the opinions of engineers retained by  
4 State Farm?

5 A I do not know how many claims were denied,  
6 but I do know there were less than 2 percent of our  
7 claims that were, where engineers were used.

8 Q Right. Were there other claims though where  
9 engineers weren't used but the opinions of the  
10 engineers we're utilized by the adjusters to deny the  
11 claim?

12 A I'm not certain I understand that question.

13 Q Okay. Well, it was a reach so I won't go  
14 back there.

15 Have there been complaints by policyholders  
16 that the engineers retained by State Farm in Katrina  
17 were biased?

18 A I don't know specifics as relates to being  
19 biased. I'm sure there were allegations associated  
20 with decisions being made which may lead one to believe  
21 that there were policyholders that felt that there were  
22 engineers that were biased.

23 Q In a situation where there are conflicting  
24 expert reports, the one retained by the policyholder  
25 says it is caused by wind and the one retained by State

0050

1 Farm says it was caused by water, shouldn't you give  
2 the policyholder the benefit of the doubt and afford  
3 them coverage?

4 MR. CURVIN: Objection to form.

5 THE WITNESS: Could you repeat the  
6 question.

7 BY MR. MARR:

8 Q In situations where the policyholder has one  
9 engineer report that says the damage was caused by wind  
10 and State Farm retains an engineer who concludes the  
11 damage was caused by water, shouldn't you give the  
12 policyholder the benefit of the doubt and afford  
13 coverage under that situation?

14 MR. CURVIN: Objection to form.

15 THE WITNESS: My expectation would be that  
16 the claim representative, as well as the claim  
17 manager involved, would take all the  
18 information under consideration prior to making

19 a decision.

20 BY MR. MARR:

21 Q Okay. So what do you do when, obviously the  
22 adjuster couldn't make the call as to causation because  
23 that's why they would call in an engineer, correct?

24 A In some cases that would be correct.

25 Q Okay. When an adjuster can't make the call

0051

1 and calls in an engineer and the engineer concludes  
2 that the damage was caused by water, and the  
3 policyholder retains an engineer who concludes the  
4 damage was caused by wind, shouldn't State Farm afford  
5 the policyholder the benefit of the doubt and afford  
6 coverage?

7 MR. CURVIN: Objection to form.

8 BY MR. MARR:

9 Q In that particular situation?

10 A My expectation would be that the claim  
11 representative as well as local claim management would  
12 take all the facts associated with the claim into  
13 consideration prior to making a decision.

14 Q Okay. Well, which engineering report do you  
15 go with, the one that supports coverage or the one that  
16 supports denial of coverage?

17 A I'm not certain I can make that assessment  
18 without looking specifically at a claim file.

19 Q Okay. In situations like that in Katrina  
20 what has State Farm done?

21 A Since I haven't personally been involved in  
22 any of the claim handling on specific claim files I  
23 would not be able to speak to that.

24 Q Okay. You're not aware of any complaints  
25 regarding engineers and biased engineers being made by

0052

1 policyholders?

2 A I believe there have been allegations made  
3 but I do not necessarily know of, know specifics.

4 Q Okay. Well, I'm not talking about  
5 allegations made in lawsuits now. I'm talking about  
6 call center or whatever, your policyholders calling up  
7 and saying: This engineer, it's not fair, I've got one  
8 that says it's covered, you should pay my claim. Have  
9 there been any complaints like that?

10 A There possibly could have been, but I would

11 not know specifics of those types of claims situations.

12 Q So I take it you haven't reviewed any of the  
13 complaint logs relating to your claim handling of  
14 Katrina? And when I say your I mean State Farm.

15 A When you're referring to complaint logs,  
16 you're referring to -- can you be a little more  
17 specific?

18 Q No. That's a term that was used by your  
19 boss. Are you not familiar with complaint logs?

20 A I'm familiar with the complaint process and  
21 there would be occasion for me to review complaints.

22 Q Are you familiar with complaint logs?

23 A We have data associated with claims in terms  
24 of where complaints are being generated; from that I  
25 would assume that that's what is being referred to in

0053

1 the reference to complaint logs.

2 Q So you're not aware of a complaint log per  
3 se?

4 A I didn't say that.

5 Q That's what I'm asking.

6 A I am aware that we track complaints that are  
7 received from different sources.

8 Q Okay. And have you reviewed those complaints  
9 that have been received from different sources?

10 A The answer would be in some cases, yes.

11 Q Okay. What is it that makes you do it in  
12 some cases and not in others?

13 A Overall awareness in terms of activity in  
14 what's taken place from the standpoint of claim  
15 handling, getting a sense for how the operation is  
16 running. I would not be directly involved with the  
17 resolution of those claims.

18 Q Do you think it was appropriate for State  
19 Farm to send Haag Engineering out to its policyholders'  
20 homes to inspect their damage and determine causation?

21 MR. CURVIN: Objection to form.

22 THE WITNESS: Can you repeat the question.

23 I want to make sure that I understood what you  
24 were asking.

25 BY MR. MARR:

0054

1 Q Sure. Do you think it was appropriate for  
2 State Farm to have sent Haag Engineering out to its



3 policyholders' claims, policyholders' homes to make the  
4 determination as to causation?

5 MR. CURVIN: Objection to form.

6 THE WITNESS: I have no reason to feel  
7 that it would be, that it would be  
8 inappropriate.

9 BY MR. MARR:

10 Q Okay. So the moratorium notwithstanding, if  
11 Katrina were to occur tomorrow would you have any  
12 problems having, allowing Haag to inspect damage to  
13 your policyholders' homes?

14 MR. CURVIN: Objection to form.

15 THE WITNESS: I would look to our State  
16 Farm attorneys, I would look to our property  
17 and casualty claim consultants and others to  
18 help review all the facts and to make that  
19 decision or to provide a recommendation.

20 BY MR. MARR:

21 Q Okay. Why would you look to State Farm's  
22 attorneys? I mean was that done before you made,  
23 permitted Haag to be utilized in the southern zone  
24 following Katrina? Did you go and ask the attorneys  
25 about it?

0055

1 A I did not have a reason to ask the attorneys  
2 about it prior to Hurricane Katrina to the best of my  
3 knowledge.

4 Q Because you were unaware of previous ruling  
5 by the court in Texas that found State Farm was in bad  
6 faith and that Haag was not objective, correct?

7 MR. CURVIN: Objection to form.

8 BY MR. MARR:

9 Q You're unaware of that?

10 A I do not recall but I will say that even with  
11 knowledge of litigation I would still look to State  
12 Farm attorneys, I would still look to our property and  
13 casualty claim consultants that would have much more  
14 detail, much more information to review the facts and  
15 to provide us with their recommendation.

16 Q Okay. So if Katrina occurred tomorrow, the  
17 moratorium notwithstanding, before you would allow Haag  
18 to go out and inspect your policyholders' homes you  
19 would have to consult with State Farm's attorneys, is  
20 that correct?

21 MR. CURVIN: Objection to form.  
22 He's already asked -- it's also asked and  
23 answered.

24 BY MR. MARR:

25 Q Is that correct? I just want to be clear.

0056

1 A Would you repeat the question one more time.

2 Q Yeah.

3 If Katrina were to occur tomorrow, the  
4 moratorium notwithstanding, would you have to check  
5 with State Farm's attorneys before you would permit  
6 Haag to go out and inspect your policyholders' damage?

7 MR. CURVIN: Same objection.

8 THE WITNESS: I would likely consult, and  
9 I know this is a hypothetical, I would likely  
10 consult with State Farm attorneys and I would  
11 also likely consult with our property and  
12 casualty consultants. I certainly would have  
13 questions about Haag and whether we would want  
14 to use Haag to be involved in inspections of  
15 policyholders' homes.

16 BY MR. MARR:

17 Q Okay. What about the same question as it  
18 applies to E.A. Renfroe & Company?

19 Well, let me rephrase it because it's my  
20 understanding there has been no moratorium whatsoever  
21 placed on the use of E.A. Renfroe & Company, is that  
22 correct?

23 A To the best, I do not know of a moratorium  
24 placed on E.A. Renfroe.

25 Q I mean you haven't received anything that

0057

1 tells you not to utilize independent adjusters from  
2 E.A. Renfroe & Company in catastrophes, have you?

3 A Not that I'm aware of.

4 Q Are you aware of any investigation into State  
5 Farm's utilization of E.A. Renfroe & Company?

6 A Not specific detail and not necessarily aware  
7 of, other than that we are reviewing claim handling.  
8 And I would assume that that would be all aspects of  
9 claim handling of claims associated with Katrina.

10 Q All right. I don't want you to assume  
11 anything. My question is very specific and that  
12 question is: You haven't received anything from anyone

13 telling you not to utilize the services of E.A. Renfroe  
14 & Company?

15 A Not to my knowledge.

16 Q What claim consultants have you been in  
17 contact with regarding the Katrina catastrophe?

18 A The names that I recall, Steve Hinkle, Mike  
19 Carroll, and Keith Hathaway.

20 Q And what did these consultants provide you  
21 with, information-wise?

22 A I'm not certain I know all the specifics. I  
23 do know discussion about the wind-water claim handling  
24 protocol was disseminated and/or reviewed by the claim  
25 consultant or consultants at one time or another.

0058

1 Q Anything else that you can recall?

2 A Received their assurance of their  
3 availability to our claims section managers for  
4 coverage issues, for coverage interpretations, as  
5 needed.

6 Q Anything else you can think of?

7 A Nothing else that I recall offhand.

8 Q Okay. What about Mike Tucker, did you ever  
9 receive any input from Mr. Tucker?

10 A I do not recall any input from Mike Tucker  
11 associated with Katrina.

12 Q Right. But Mike Tucker is now the consultant  
13 supervising Katrina litigation, is he not?

14 A I believe so.

15 Q And it used to be done by Steven Hinkle, used  
16 to have the southern zone and now he's, those duties  
17 and responsibilities have been given to Mr. Tucker,  
18 correct?

19 A I believe you're correct.

20 Q And what about Mr. Carroll, did you have any  
21 conversations with Mr. Carroll following Katrina?

22 A I recall Mike Carroll being involved in some  
23 of the meetings associated with Hurricane Katrina.

24 Q Do you recall any of the specifics?

25 A No, I do not.

0059

1 Q Now, Terry Blalock is the highest claim  
2 person for State Farm Fire & Casualty in Mississippi,  
3 correct?

4 A That's correct, on the fire side.

5 Q Yeah, on the fire side, the one that would be  
6 dealing with homeowners' losses, correct?

7 A Yes, sir.

8 Q And are you responsible for Mr. Blalock?

9 A Terry Blalock would be a section manager that  
10 would be under my area of responsibility. His manager,  
11 Jim Burwell, is one of my direct reports, and Terry  
12 Blalock reports to Jim Burwell. Jim Burwell is a claim  
13 manager.

14 Q Do you report to anyone other than  
15 Mr. Trippel?

16 A Yes, I do. I report to operations vice  
17 president Joe Fincher.

18 Q Other than Mr. Trippel and Mr. Fincher, is  
19 there anyone else you report to?

20 A As of today, no.

21 Q Has it changed?

22 A For clarity, Mr. Joe Fincher is in the  
23 process of retiring at the end of the year so his  
24 replacement has been named and they're currently in  
25 transition.

0060

1 Q And who is that?

2 A That is Scott Rassi.

3 Q Could you spell that last name, please?

4 A R-A-S-S-I.

5 Q Do you know where he's out of?

6 A As of Monday he's located in the Duluth  
7 office here in Georgia.

8 Q All right. What zone did he come from?

9 A He was a corporate employee in the human  
10 resources department prior to this opportunity.

11 Q At the time of our May 1999 tornado you were  
12 a CAT consultant; what catastrophes have you worked --  
13 excuse me.

14 A They were numerous. There's, it would be  
15 impossible for me to -- during that time period there  
16 were more than a hundred catastrophes that I was  
17 involved in in some form or fashion.

18 Q Okay. Well, why don't we do this, why don't  
19 you give me the larger ones that you recall.

20 A Categorically, the north Atlantic zone we had  
21 hail losses, in the upstate New York area they were  
22 pretty frequent. In addition to that there were a

23 number of wind, ice, freeze type related challenges  
24 that came out of that area. I've been involved in the  
25 state of Florida, and I'm characterizing this over the

0061

1 four years of time, numerous operations there in the  
2 state of Florida ranging from small hail catastrophes  
3 to some of the larger hurricane related events.

4 Q Which hurricanes?

5 A I don't recall offhand the names.

6 Q What period of time where again you were the  
7 CAT consultant from corporate?

8 A From 1996, and I'm not certain of the exact  
9 month, but it was in '96 when I became a catastrophe  
10 consultant, and I spent approximately four years so it  
11 would have been in 2000 when I departed from that  
12 department. In each region that I had responsibility  
13 for there were catastrophes throughout. We define a  
14 catastrophe as an event involving as many as 500  
15 claims.

16 Q Right.

17 A So that would open the door up to a lot of  
18 different events during my time.

19 Q What was the CAT code for Katrina?

20 A I don't --

21 Q Was it PL?

22 A I don't recall.

23 Q Then there was a Z CAT. What's that, Z?

24 A I don't recall. We have something referred  
25 to as Z CAT locations and that's more of an automation

0062

1 term for setting up the electronic transfer of files.

2 Q Okay. So you don't know whether or not  
3 Katrina was coded by State Farm as CAT PL?

4 A It may very well have been.

5 Q You don't know?

6 A I don't recall.

7 Q Okay. State Farm modified its underwriting  
8 requirements following Katrina, did it not, in the  
9 southern zone?

10 A Did we modify our underwriting requirements,  
11 was that the question?

12 Q My question was: State Farm modified, did it  
13 not, its underwriting requirements following Katrina?

14 A Categorically I would answer the question

15 yes, but underwriting requirements are modified on a  
16 continuous basis over the years of an assurance  
17 operation so in term of standards being changed, then  
18 the answer to your question would be yes. And I'm  
19 assuming you're referring to fire underwriting and not  
20 auto underwriting.

21 Q Correct.

22 What has been -- have you had any contact  
23 with Tamarra Rennick?

24 A Yes, sir, I have.

25 Q When was your first contact with Ms. Rennick?

0063

1 A I've been knowing Tamarra Rennick for years.  
2 I'm not certain how I can respond to that but it was  
3 certainly before Hurricane Katrina.

4 Q Okay. When did you first have communication  
5 with her regarding Hurricane Katrina?

6 MR. CURVIN: Tyrone, you can answer these  
7 questions without getting into the substance of  
8 any communications which would be protected by  
9 privilege.

10 MR. MARR: Well, that's debatable but  
11 right now I've just asked when.

12 MR. CURVIN: I heard your question. I'm  
13 giving him some guidance on privilege.

14 MR. MARR: Okay. I didn't ask him to  
15 disclose any confidential, purported  
16 confidential discussions. I just asked when.

17 THE WITNESS: Since I've had frequent  
18 ongoing conversation with Tamarra for the past  
19 four years -- I'm sorry, for the past several  
20 years, I'm uncertain as to when my first  
21 dialogue took place with her associated with  
22 Hurricane Katrina.

23 BY MR. MARR:

24 Q Has she contacted you regarding State Farm's  
25 claim review of Katrina?

0064

1 A We have had some contact associated with  
2 State Farm's claim review.

3 Q Was that contact initiated by you or Ms.  
4 Rennick?

5 A My recall is that it was initiated by me.

6 Q Why did you call Ms. Rennick?

7 MR. CURVIN: Objection; instruct the  
8 witness not to answer on the grounds of  
9 attorney-client privilege.

10 MR. MARR: As to why he did something?

11 MR. CURVIN: Absolutely, why he called  
12 State Farm's lawyer.

13 MR. MARR: All right. We may be back here  
14 on that one.

15 BY MR. MARR:

16 Q All right. So you're going to take the  
17 advice of your lawyer and not tell me why you called  
18 Tamarra Rennick?

19 A I am.

20 Q All right. She provide -- produce any  
21 documents to Tamarra Rennick related to your handling  
22 of Katrina claims in the southern zone?

23 A I'd like to consult with counsel.

24 MR. CURVIN: Would you read -- I didn't  
25 hear the first part of the question.

0065

1 (Whereupon, the record was read).

2 MR. MARR: Nothing objectionable about  
3 that.

4 MR. CURVIN: If you can answer the  
5 question without getting into any, revealing  
6 any communications you had with Ms. Rennick you  
7 can answer it.

8 THE WITNESS: I was instructed to produce  
9 documents associated with Hurricane Katrina so  
10 the answer would be yes.

11 BY MR. MARR:

12 Q What documents?

13 MR. CURVIN: I'm going to object at this  
14 point and instruct him not to answer on the  
15 grounds of attorney-client privilege. Did the  
16 instructions come from Ms. Rennick?

17 THE WITNESS: The instructions came  
18 either -- it was from a State Farm attorney.

19 MR. CURVIN: Okay.

20 THE WITNESS: And Tamarra would have been  
21 involved.

22 MR. CURVIN: Right. That's covered by  
23 attorney-client privilege.

24 BY MR. MARR:

25  
0066

Q Well, who was this lawyer?

1 A I don't recall offhand. I'm sure I have that  
2 information, but I don't recall the name.

3 Q Where would you have that information?

4 A It would be via the e-mail that I received to  
5 produce the documents.

6 Q Okay. Do you keep your e-mails?

7 A Yes, I keep e-mails as it relates to Katrina  
8 related matters. Ones that are not kept for me, and  
9 that would be associated with State Farm's hold order,  
10 and State Farm automatically retaining my e-mails.

11 Q Okay. So you haven't deleted or destroyed  
12 one single document relating to anything to do with  
13 Katrina, is that correct?

14 A To the best of my knowledge documents that  
15 have been requested for me to hold, that I have not  
16 destroyed any documents.

17 Q That wasn't my question. My question didn't  
18 have anything to do with the hold order. My question  
19 had to do with have you destroyed any documents  
20 relating to anything to do with Katrina?

21 A To the best of my knowledge I have not  
22 destroyed. The e-mails were being kept for me so I'm  
23 not certain as to whether any and all e-mails have been  
24 retained in my system, but I do know that we, at State  
25 Farm, there's an accounting for those e-mails. So to

0067

1 the best of my knowledge nothing associated with my  
2 involvement with Hurricane Katrina has been destroyed.

3 Q Okay. Have any documents been collected, the  
4 originals, have any documents been collected relating  
5 to Katrina and transported from the office?

6 A Are you speaking of -- my documents were sent  
7 to corporate based on the attorney request I received.

8 Q Did you keep copies or did you send  
9 everything you had?

10 A In most cases I did not keep copies. I sent  
11 everything I had.

12 Q Was this attorney who advised you what  
13 documents you needed to send, was he or she giving  
14 advice concerning legal implications of past or  
15 proposed conduct?

16

MR. CURVIN: Objection; I'll instruct the



17  
18  
19  
20  
21  
22  
23  
24  
25

witness not to answer on grounds of attorney-client privilege.  
MR. MARR: That's exactly the case in Oklahoma that establishes whether or not an attorney-client privilege exists.  
MR. CURVIN: I agree with that. He's not a lawyer, he's not a judge, he doesn't have to make privilege determinations.  
MR. MARR: He can tell me whether or not

0068

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

this lawyer was giving him advice concerning implications of past or future conduct.  
MR. CURVIN: I'm objecting on grounds of form, it calls for a legal conclusion. And I'm also objecting on grounds of attorney-client privilege because you're asking him to get into the nature of the communication that he got from the lawyer.  
MR. MARR: It only requires a yes or a no.  
MR. CURVIN: And the yes or no reveals the substance of a communication.  
MR. MARR: Okay.  
MR. CURVIN: The objection stands.  
MR. MARR: All right. Let's be clear

15

then.

16

BY MR. MARR:

17  
18

Q Are you going to take the advice of your lawyer here, Mr. Smith?

19

A I am.

20

21

Q Okay. So for purposes of our record you will not answer the question whether the attorney, that you can't recall the name, was giving advice concerning legal implications of past or proposed conduct, is that correct?

22  
23  
24  
25

A It was a he, I do recall speaking with him;

0069

1

do not recall his name offhand. I do have that information and I am taking the advice of counsel.

2

3

Q Okay. Do you think the policyholders are entitled to know what documents you sent up to or were requested of you and you sent to corporate?

4  
5

A I think our policyholders' expectations should be that we handle their claims promptly and fairly.

6  
7

8

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
0070  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
0071

Q Uh-huh.

A Whether they receive my documents or not I don't necessarily see that as being germane.

Q So is that a no, you don't think they should be entitled to know what documents were requested from you, your original documents were requested by corporate?

A It's neither a no nor a yes. I personally do not see the importance of them having those documents.

Q Okay. And you say this in light of the grand jury investigation in the State Farm claim handling of Katrina, correct?

MR. CURVIN: Objection to form.

THE WITNESS: I'm not sure I can respond any differently. I think I've already responded.

BY MR. MARR:

Q Okay. Have you produced any documents in response to any subpoenas?

A The only information I have is associated with State Farm attorneys requesting I produce the documents that were mine associated with Hurricane Katrina.

Q All right.

A And how they were requested, via subpoena or other means, I'm not certain I have all that detail.

Q Okay. Let me ask you a different question. Have you been subpoenaed by anyone?

A I'm not certain what I call this in terms of the Watkins deposition.

Q Right. This one obviously notwithstanding, have you received a subpoena?

A Outside of this and when you said subpoena I was in a broad category, this is the only time I know of that I was ever serviced or received a subpoena.

Q All right. Has your office received a subpoena from any outside entity? And when I say subpoena, I mean subpoena for records.

A I don't know offhand. I do not recall.

Q Okay. How do you know what happened to those original records of which you kept no copies of? How do you know what happened to them?

1 A I'm not certain I can respond to that. I  
2 produced the documents as requested to do so and sent  
3 them to the appropriate person. So I'm not certain I  
4 can give you any additional information in that regard.

5 Q Do you know what happened to them?

6 A No, sir, other than mailing them to our  
7 corporate office, I do not.

8 Q Why is it you didn't keep copies of what you  
9 sent?

10 A I didn't have any information that I felt  
11 that I needed to maintain based on the material that I  
12 produced and sent.

13 Q Okay. Were any of them e-mail transmissions?

14 A There may have been some e-mail  
15 communication.

16 Q Okay. So then did you delete those e-mails  
17 from your computer?

18 A Did I delete the e-mails from my computer?

19 Q Once they were printed off?

20 A I'm not certain I recall all the detail. I  
21 don't recall deleting anything or destroying any  
22 documents from the time I received a request to hold  
23 information associated with Hurricane Katrina or  
24 throughout the catastrophe. At a point in time State  
25 Farm advised us that they would hold certain documents

0072

1 via electronic communication for us and that we no  
2 longer had to actually maintain that information or  
3 actually to send that information to them.

4 Q Were you instructed by anyone not to keep  
5 copies of the documents which you were forwarding to  
6 corporate?

7 A No, sir, personal decision made by me.

8 Q Okay. When were you a divisional claims  
9 superintendent?

10 A From 1993 to 1996.

11 Q So you know about the Fire ACE program, don't  
12 you?

13 A I'm familiar with the term.

14 Q You attended DCS conferences, I would  
15 imagine, during your tenure as a divisional claim  
16 superintendent, correct?

17 A Yes, sir, that would be correct.

18 Q Was ACE discussed at any of these claim

19 superintendent conferences?

20 A I don't recall.

21 Q Do you recall question and answer sessions  
22 during any DCS conferences?

23 A I'm sure we had question and answer sessions  
24 but being that it was more than ten years ago or at  
25 least ten years, I'm not certain I recall.

0073

1 Q Was the Fire ACE program implemented in  
2 states which comprised, now comprise the southern  
3 region?

4 A That I do not know.

5 Q I take it then you've never seen any  
6 initiatives for the region?

7 A No, I have not, not specific to Fire ACE for  
8 the region -- for the zone now.

9 Q Were there focus groups conducted on the ACE  
10 program?

11 A I'm not certain.

12 Q This isn't something that was communicated to  
13 you during any DCS conference?

14 A I don't recall.

15 Q Do you attend the fall leadership meetings?

16 A Can you be more specific?

17 Q No. State Farm has fall leadership meetings,  
18 correct?

19 A I don't know if I can answer that completely.  
20 I know we've had meetings referred to as fall  
21 leadership just because they took place in the fall,  
22 but we've had meetings at various time frames  
23 throughout the year and years that I've been associated  
24 with State Farm.

25 Q Okay. Why don't you tell me what meetings

0074

1 you attend on a regular basis in your capacity as vice  
2 president of operations for the southern zone.

3 A A fairly wide array of meetings. I'll start  
4 by saying my operations staff meetings that are  
5 typically conducted monthly, not each month but  
6 typically on that type of a format.

7 Q Okay. Let me interrupt you. Maybe I can  
8 short circuit some of this. National meetings.

9 A I have attended national claims meetings. I  
10 believe we have one scheduled for the first quarter of

11 next year as well. It's probably been at least 18  
12 months since my last one. I also attend meetings,  
13 typically quarterly, associated with the operations  
14 side of our business which would be auto and fire  
15 operations or underwriting areas.

16 Q What are those meetings called?

17 A They're referred to as P&C -- I believe  
18 referred to as P&C executive operations meetings.

19 Q Where do they normally take place or does it  
20 vary?

21 A The ones I've attended, and I've attended two  
22 so far, have been in Chicago.

23 Q Same place both times?

24 A I believe so.

25 Q Are PowerPoint presentations part of those

0075

1 meetings?

2 A I don't recall.

3 Q Who from corporate attends those meetings?

4 A Typically Rod Matthews, the vice presidents  
5 that report to him, one being Vickie Marvin, one was  
6 Stephanie Colgrove but she was recently replaced or  
7 moved to a different VP position, and I don't recall  
8 offhand, I believe her replacement was a Julie but I  
9 don't recall offhand her -- I believe it was Julie  
10 Muscotte but I'm not certain as to the name, and I know  
11 at a minimum those vice presidents working on the  
12 underwriting side out of our home office would be  
13 present at these meetings.

14 Q And these occur quarterly, is that correct?

15 A Yes, sir.

16 Q Do you receive information materials  
17 electronically prior to these meetings?

18 A I know most recently the last meeting I  
19 attended there was communication prior to the meeting.

20 Q Pertaining to what?

21 A Pertaining to the meeting agenda.

22 Q So there was an agenda?

23 A Yes, sir.

24 Q Has the use of engineers or captive experts  
25 ever been discussed during any of these meetings?

0076

1 A Not that I recall, and typically since that  
2 meeting deals with underwriting activity and functions,

3 claim handling would not be a part of those meetings.

4 Q All right. That's more a focus of  
5 underwriting, correct?

6 A That's correct.

7 Q And the last one you said was when, ballpark?

8 A Two to three months ago.

9 Q Is that where decisions were made regarding  
10 changes to underwriting provisions affecting the  
11 southern region states?

12 A No.

13 Q That was done prior or by a special meeting?

14 A That meeting is not geared to be a decision  
15 making form. We talked about underwriting topics, but  
16 I don't recall decisions being made in any of the  
17 quarterly underwriting meetings that I've attended.

18 Q All right. What other meetings, national  
19 meetings?

20 A Approximately a year and a half ago, and  
21 that's my best recall.

22 Q Sure.

23 A I attended a claims meeting for our claims  
24 section managers, claim managers and vice presidents  
25 with claim responsibilities so that, I believe, would

0077

1 qualify as a national meeting as well.

2 Q And where did this meeting occur?

3 A I recall it being in Florida; specifically I  
4 believe it was Orlando, Florida.

5 Q Any other national meetings that you recall?

6 A No other ones that I recall right now.

7 Q Okay. What is a catastrophe general expense  
8 report?

9 A I'm not sure I can -- I'm not sure I know  
10 what you're referring to there.

11 Q Okay. So that's not something you had any  
12 involvement with during your tenure as a catastrophe  
13 consultant, is that correct?

14 A I don't know. I don't refer to it  
15 necessarily as a report. We have catastrophe expense  
16 elements that are recorded from a budget standpoint  
17 that we review and then we have expenses associated  
18 with catastrophe handling.

19 Q Are they still identified as allocated and  
20 unallocated?

21 A There are categories for allocated and  
22 unallocated expenses.

23 Q General expenses, general claim handling  
24 expenses?

25 A Without it being in front of me I'm

0078

1 uncertain. I believe that is the case, that there's a  
2 general element as well.

3 Q Who would be the person most knowledgeable  
4 about the cost and expenses associated with Katrina  
5 from a claim handling perspective?

6 A From the claim handling perspective it could  
7 vary. Possibly Kevin Peterson who would be our zone  
8 CAT coordinator, possibly Terry Blalock is one of the  
9 CAT section managers, and possibly Jim Burwell. We do  
10 have other claim section managers as well and so that  
11 information would be available to any of them and we do  
12 also have another claim manager on the fire side as  
13 well, so all of those individuals would have access to  
14 that type of information.

15 Q Have there been any core group critiques of  
16 Katrina?

17 A Yes, there has.

18 Q Just one?

19 A Just one that I recall.

20 Q And when was it completed, roughly?

21 A It was this year and my recollection it was  
22 somewhere perhaps in the second quarter of this year.

23 Q Did you provide any input or any contribution  
24 into the critique?

25 A I was present and participated in the meeting

0079

1 and also opened the meeting.

2 Q Minutes are kept of those meetings, are they  
3 not?

4 A Minutes are not kept.

5 Q There were no minutes kept of the meeting?

6 A Not specific minutes. There was a CAT  
7 critique summary done and that may be what you're  
8 referring to. But we had an agenda and then we put  
9 together a critique of the catastrophe's operation.

10 Q Okay. Were there drafts of the core group  
11 critique, drafts leading up to the final product?

12 A I believe so.

13 Q Do you retain any copies of the drafts?

14 A Anything I received associated with Hurricane  
15 Katrina has been retained or it's been sent to our  
16 State Farm attorneys.

17 Q So if you had a draft you don't have it  
18 anymore?

19 A I may have it still. I do know that I have a  
20 copy of the critique and I very well may have a copy  
21 of, if there were drafts I would not have destroyed  
22 that information so as an answer I would still have  
23 that material or the material would be with our State  
24 Farm attorneys.

25 Q All right. Are you aware of any changes that  
0080

1 State Farm has made in the way it handles catastrophes  
2 as a result of Katrina?

3 A The critique itself involves looking at each  
4 department and making decisions as to how we would do  
5 things differently or anything, if there's a need to  
6 make a change, then we would capture that as we would  
7 do on an ongoing basis always trying to improve our  
8 overall operation.

9 Q Right, and I'm not speaking of the critique  
10 right now. I'm talking about just as far as you know  
11 being vice president of operations for the southern  
12 region has State Farm made any changes in the way that  
13 it handles catastrophes as a result of Katrina?

14 A We haven't had any event that would compare  
15 to Katrina since then so if I were to speak to that  
16 question I would strictly be speculating. I do know we  
17 have plans that change as a result of what we've  
18 learned from handling Hurricane Katrina.

19 Q Okay. That's what I want to know. What  
20 changes have been -- how are catastrophes going to be  
21 handled differently as a result of Katrina?

22 A I would actually need to have that document  
23 in front of me in order to speak to it.

24 Q What document are you, would you need to have  
25 in front of you?

0081

1 A I'm referring to the summary that was  
2 produced after the catastrophe critique meeting.

3 Q Okay. So any suggested change would be  
4 identified in the core CAT critique, is that right?



5 A The changes that I'm aware of would be  
6 identified in that document, yes, sir.

7 Q There aren't any other changes outside of  
8 that document that you're aware of, is that right?

9 A In an operation as large as Katrina it's  
10 difficult for me to say if that's right or if it's  
11 wrong. We made adjustments throughout the handling. A  
12 lot would deal with personnel, how we would place  
13 mobile homes, resource needs. To me those are all  
14 adjustments, having people dedicated to be involved,  
15 say, in mobile home deployment. There's many  
16 adjustments that we've made throughout the handling of  
17 Katrina.

18 Q Do you believe State Farm has ever treated  
19 its policyholders, intentionally treated its  
20 policyholders unfairly and in bad faith?

21 MR. CURVIN: Objection to form.

22 BY MR. MARR:

23 Q Go ahead.

24 A No.

25 Q How do you reconcile that with jury verdicts

0082

1 that have been rendered against the company for doing  
2 just that?

3 MR. CURVIN: Objection to form.

4 THE WITNESS: It has not been my  
5 experience that we would intentionally mistreat  
6 any of our policyholders. To the contrary, we  
7 would provide service to the best of our  
8 abilities, promptly and efficiently, in a  
9 courteous manner, so it has not been my  
10 experience that we would intentionally do  
11 anything that would not be fair, ethical and  
12 upright to a State Farm policyholder. In the  
13 event a mistake or an issue is found, then we  
14 would make, take steps to correct that  
15 immediately.

16 BY MR. MARR:

17 Q Do you think the conduct as represented by  
18 the Riggsby sisters is indicative of what you just said,  
19 treating these policyholders fairly, in good faith and  
20 all that business?

21 MR. CURVIN: Objection to form.

22 THE WITNESS: I think you would need to be

23 a little more specific.

24 BY MR. MARR:

25 Q Well, how about this: When they said that

0083

1 State Farm, Katrina was nothing compared to what State  
2 Farm did to these people, do you remember words like  
3 that coming out of these adjusters who adjusted Katrina  
4 claims?

5 A I do recall those words.

6 Q Do you recall where there was, and I think  
7 they even showed a copy of the engineering report,  
8 concluded the damage was caused by wind, and there was  
9 a sticky note put on it that said: Put in wind file.  
10 Do not pay. Do not discuss. Do you remember that?

11 MR. CURVIN: Objection to form.

12 THE WITNESS: I do recall from watching  
13 the 20/20 broadcast those allegations.

14 BY MR. MARR:

15 Q And did you think that the statements by  
16 Mr. McFarland who was one of the State Farm  
17 policyholders shown in that 20/20 article was  
18 consistent with someone who would be treated fairly  
19 and like a good neighbor?

20 MR. CURVIN: Objection to form.

21 THE WITNESS: It is my understanding that  
22 all the allegations made associated with our  
23 claim handling are being reviewed, being  
24 investigated, and will thoroughly be looked at.  
25 I don't have any information to support the

0084

1 credibility of the allegations at this point in  
2 time. I do know that we're taking steps to  
3 make sure that we as an organization review any  
4 and all allegations associated with our claim  
5 handling.

6 BY MR. MARR:

7 Q And who's going to make the decision as to  
8 whether or not you did wrong, State Farm?

9 MR. CURVIN: Objection to form.

10 THE WITNESS: If we find issues, mistakes  
11 or mishandling through our review, then we,  
12 where possible, will take steps to correct any  
13 of that, anything that we may find.

14 BY MR. MARR:

15 Q What do you think the chances of that are?

16 A I'm confident in the people that are  
17 conducting the review, confident that we will conduct a  
18 thorough review and will take the appropriate steps.

19 Q You don't think the review is going to be  
20 outcome oriented?

21 A I'm not sure I follow you when you say  
22 outcome oriented.

23 Q Well, you have heard the term outcome  
24 oriented investigations with State Farm before, have  
25 you not?

0085

1 A Not that I recall.

2 Q You're not familiar with State Farm using  
3 outcome oriented medical review companies to reduce the  
4 amount it paid to its own policyholders on med pay  
5 claims?

6 MR. CURVIN: Objection to the form.

7 BY MR. MARR:

8 Q Have you heard about that?

9 MR. CURVIN: Same objection.

10 THE WITNESS: In general I would say yes,  
11 but I don't know the details associated with  
12 some of those allegations.

13 BY MR. MARR:

14 Q From, State Farm's conduct, claim-handling  
15 conduct is even being investigated by the Department of  
16 Justice and the Mississippi attorney general, correct?

17 MR. CURVIN: Objection to form. Also  
18 object to the extent the information you may  
19 have comes from State Farm's lawyers is  
20 privileged.

21 BY MR. MARR:

22 Q Go ahead.

23 A Could you repeat the question.

24 Q Yes. I mean your claim-handling conduct in  
25 Katrina is being investigated by the Department of

0086

1 Justice and the Mississippi attorney general, is it  
2 not?

3 A I believe it is.

4 Q You believe it is. Don't you know that it  
5 is?

6 A Through information provided to me through

7 counsel, I know that we're being investigated.  
8 Q Okay. You haven't read it in the paper?  
9 A I have read some of it in the paper as well.  
10 Q Okay. That's not something that was  
11 unless -- did your counsel provide you with the  
12 newspaper or did you get the newspaper on your own?  
13 A The newspaper would have been received to me  
14 or electronic communication about certain news  
15 articles. It would not have been communicated to me  
16 through counsel.  
17 Q Did you see that several of State Farm, your  
18 claim employees were characterized as targets of the  
19 investigation?

20 MR. CURVIN: Objection to form.  
21 THE WITNESS: I do recall reference to  
22 either a State Farm claim representative or  
23 State Farm team manager.

24 BY MR. MARR:  
25 Q Which one?

0087  
1 A I recall an article about Lecky King.  
2 Q What about Dave Randall, is he a target?  
3 A I'm not -- I don't have detailed information  
4 or know enough to speak to that.

5 Q Okay. So you don't even know which State  
6 Farm employees have been identified as targets?

7 A I mentioned Lecky King as one --

8 Q Right.

9 A -- that I am aware of her name. I'm  
10 uncertain we spoke earlier about Terry Blalock and  
11 whether I had knowledge that he was asked to submit to  
12 a deposition. Beyond that I do not know the specifics.

13 Q What about Lisa Lockter, do you know her?

14 A I do not.

15 Q Mr. Drayne?

16 A Not familiar with his name either nor am I  
17 familiar with Lisa's nor do I recall knowing either one  
18 of those two individuals.

19 Q What do you think about Lecky King taking the  
20 Fifth in her deposition in the Watkins case?

21 MR. CURVIN: Objection to form.

22 BY MR. MARR:

23 Q Go ahead.

24 MR. CURVIN: And foundation.

25  
0088

THE WITNESS: I don't necessarily find

1 myself with an opinion. I would hope that in  
2 that situation she consulted with counsel and  
3 made a decision that was most appropriate and I  
4 don't find myself in the position to evaluate  
5 her one way or the other.

6 BY MR. MARR:

7 Q Okay. So consequently you don't believe she  
8 should be disciplined in any way, is that correct?

9 A I don't have enough information to respond.

10 Q Okay. Why don't you? Why is it you don't  
11 know since Lecky King was one of the team managers who  
12 handled claims in the Katrina catastrophe, how come you  
13 don't know?

14 MR. CURVIN: Objection to form.

15 THE WITNESS: I wasn't personally involved  
16 with the claim handling associated with  
17 Hurricane Katrina nor did Lecky report to me or  
18 under my supervision in any way that, as it  
19 relates to her role as a catastrophe team  
20 manager. My thoughts are that we have people  
21 from our home office, we have State Farm  
22 attorneys and others that are looking into the  
23 allegations.

24 BY MR. MARR:

25 Q Don't you owe any responsibility to these

0089

1 policyholders in the goal to make sure that their  
2 claims are handled like you said, fairly, objectively?

3 MR. CURVIN: Objection to form.

4 BY MR. MARR:

5 Q Don't you owe that to them?

6 MR. CURVIN: Objection to form.

7 THE WITNESS: We as an organization --

8 BY MR. MARR:

9 Q No, you as vice president of operations.

10 A Oh.

11 MR. CURVIN: Let him finish his answer  
12 please. Give him that courtesy.

13 BY MR. MARR:

14 Q Go ahead.

15 A We as an organization, which would include  
16 me, have a responsibility to our policyholders and we

17 take that responsibility very seriously. Our aim has  
18 always been to be fair and treat individuals in a  
19 justly manner and to pay what we owe and never has  
20 there been any attempt in the best of my knowledge in  
21 my tenure with State Farm to do anything than just  
22 that.

23 Q Have you read the Watkins verdict that talks  
24 about the intentional and malicious conduct of State  
25 Farm in its treatment of its policyholders, have you

0090

1 read that?

2 A I've not read the Watkins verdict.

3 Q You haven't even seen the Watkins verdict?

4 A I have not read the Watkins verdict.

5 Q You haven't even seen the verdict form where  
6 the jury checked all those things in regard to State  
7 Farm's use of Haag and Renfro, is that what you're  
8 telling me?

9 A My answer has not changed.

10 Q Why haven't you even bothered to look at it?

11 A I'm confident that we have the right people  
12 reviewing and looking at these allegations.

13 Q Well, what are you going to do if there are  
14 indictments by the Mississippi attorney general and  
15 grand jury?

16 MR. CURVIN: Objection to form. That  
17 calls for speculation.

18 BY MR. MARR:

19 Q Let me finish my question. Are you still  
20 going to take that position?

21 MR. CURVIN: Same objection. It's also a  
22 silly hypothetical.

23 BY MR. MARR:

24 Q Well, you deal with it. Go ahead.

25 A I don't find myself in the position to

0091

1 respond to that because I'm not certain I fully,  
2 completely, with not being an attorney, have the  
3 background or insight to respond to it.

4 Q Okay. So you haven't done anything to look  
5 into anything that was brought forward in the 20/20 by  
6 the Rigsby sisters, have you, personally?

7 A I have relied on counsel and relied on State  
8 Farm consultants and others to do their due diligence

9 to make sure we're giving it the most appropriate  
10 review.

11 Q Okay. So that's what you have done, you have  
12 relied on others?

13 A I have been assured by others.

14 Q All right. Other than relying on others and  
15 being assured by others, what have you done personally  
16 to investigate the matters brought forth in the 20/20  
17 story by the Rigsby sisters?

18 A Personally I have relied on counsel to  
19 conduct the investigation.

20 Q Okay. Is that who runs State Farm, its  
21 attorneys?

22 MR. CURVIN: Objection to form.

23 BY MR. MARR:

24 Q Is it?

25 MR. CURVIN: Objection to form.

0092

1 THE WITNESS: The answer to your question  
2 is State Farm attorneys do not run State Farm.  
3 But they are an important part of State Farm  
4 and we do look to our attorneys to help us to  
5 conduct investigations, to review allegations  
6 and to make decisions that are in the best  
7 interest of our State Farm policyholders as  
8 well as State Farm.

9 BY MR. MARR:

10 Q Tell me how it is that Lecky King taking the  
11 Fifth Amendment and refusing to answer any questions in  
12 a civil deposition regarding her conduct in claims  
13 handling is beneficial to the policyholders?

14 MR. CURVIN: Objection to form.

15 BY MR. MARR:

16 Q Would you tell me that?

17 MR. CURVIN: Objection to form and  
18 foundation.

19 BY MR. MARR:

20 Q Go ahead.

21 A Not being an attorney I don't feel that I'm  
22 qualified to answer. As stated earlier I would hope  
23 that Lecky in her situation that she took advice from  
24 counsel and that they were advising her accordingly.

25 Q I mean the CEO of the company is an attorney,

0093

1 isn't he? Isn't the CEO of State Farm an attorney?

2 A To the best of my knowledge he has a law  
3 degree.

4 VIDEOGRAPHER: Ten minutes left on this  
5 tape.

6 MR. MARR: All right, I'll tell you what.  
7 We're going to go ahead and adjourn your  
8 deposition and I'm going to reserve the right  
9 to recall you given the instruction you receive  
10 from counsel not to answer a few questions.  
11 Whether or not that will be necessary I can't  
12 say at this point in time. So I'll, I guess  
13 you'll hear from your attorney. But with that  
14 said, I don't think I have anything further for  
15 you today, Mr. Smith. I appreciate you being  
16 here.

17 MR. CURVIN: We don't have any questions  
18 and we will read and sign.

19 VIDEOGRAPHER: We are off video.  
20 (Deposition adjourned.)

21 \* \* \*

22  
23  
24  
25  
0094

E R R A T A P A G E

1  
2 I, W. TYRONE SMITH, the witness herein,  
3 have read the transcript of my testimony and  
4 the same is true and correct, to the best of my  
5 knowledge, with the exception of the following  
6 changes noted below, if any:

Page / Line /	Change	/ Reason
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



11  
12  
13  
14  
15  
16  
17  
18  
19  
20

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
W. TYRONE SMITH

21  
22  
23

Sworn to and subscribed before me,  
this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

24  
25

\_\_\_\_\_  
Notary Public  
My commission expires:

0095

C E R T I F I C A T E

1  
2  
3

G E O R G I A:  
DeKALB COUNTY:

4  
5  
6  
7  
8  
9  
10

I hereby certify that the foregoing transcript was stenographically recorded by me, that the questions and answers thereto were reduced to printing by me, and that the preceding pages 1 through 93 represent a true and correct and complete transcript of the testimony given.

11  
12  
13  
14  
15

I further certify that I am not of kin or counsel to the parties in the case, am not in the regular employ of counsel for any of said parties, nor am I financially interested in the result of said case.

11-29-06 w tyrone smith (2).txt  
The deponent reserved signature.  
This, the 1st day of December, 2006.

16  
17  
18  
19  
20  
  
21  
22  
23  
24  
25

---

Deborah E. Halley, RPR  
Certified Court Reporter B-294