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I N D E X

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<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>ALJ</u>
Richard Petitt	32	38	40	42	42
John Nance	44	54			58
William "Bo" Corby	62	91	109		
Kenneth Watts	114	124	129		130
Corbin E. Walters	134	172			
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<u>EXHIBITS:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
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COMPLAINANT

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RESPONDENT

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P R O C E E D I N G S

(9:40 o'clock a.m.)

JUDGE MORRIS: This is a hearing in the matter of Karlene Petitt versus Delta Air Lines, Incorporated, U.S. Department of Labor Case Number 2018-AIR-00041, pursuant to a Notice of Hearing, which I issued in this case back in September 28th, 2018. This matter involves a claim for compensation under the Wendell H. Ford Investment and Reform Act for the 21st Century, also known as AIR-21, which was signed into law on April 5th, 2000. It'd codified at 49 United States Code Section 42121. The Act includes a whistleblower protection provision with the Department of Labor Complaint Procedure, implementing regulations are contained at 29 CFR Part 1979.

My name is Scott R. Morris and I'm the Administrative Law Judge assigned to conduct this hearing and decide this case.

Would counsel for Claimant please enter an appearance, including full name, address and other contact information.

MR. SEHAM: Lee Seham, S-e-h-a-m, of the Law Firm of Seham, Seham, Meltz & Petersen, at 199 Main Street, White Plains, New York 10601, Seventh Floor.

JUDGE MORRIS: And would the Employer's counsel enter an appearance please?

1 MR. ROSENSTEIN: Ira Rosenstein from Morgan, Lewis
2 and Bockius, representing Respondent.

3 MS. BROWN: Amanda Brown, also Morgan, Lewis and
4 Bockius. Address is 1717 Main Street, Suite 3200, Dallas,
5 Texas 75201.

6 MR. ROSENSTEIN: My address is 101 Park Avenue, New
7 York, New York 10017.

8 JUDGE MORRIS: All right.

9 MR. BISBEE: Lincoln Bisbee, also at Morgan Lewis
10 and Bockius, 1111 Pennsylvania Avenue, North West,
11 Washington, DC 2004.

12 JUDGE MORRIS: And is the Respondent's corporation
13 going to have a corporate representative participating in
14 this proceeding?

15 MR. ROSENSTEIN: We do, Your Honor. Phil Davis is
16 the corporate representative, and also with us is Kelly
17 Jessina (phonetic), in-house counsel of Delta Air Lines.

18 JUDGE MORRIS: All right.

19 The record should show that neither -- well, the
20 FAA is not participating in these proceedings.

21 Are there any outstanding motions or procedural
22 issues that we need to address before we start taking
23 evidence?

24 MR. SEHAM: From the Complainant, no.

25 MR. ROSENSTEIN: From the Respondent, no.

1 JUDGE MORRIS: All right. Complainant's Exhibits 1
2 through 197 are admitted into evidence.

3 (Complainant Exhibit Nos.
4 1 through 197 were marked
5 for identification and
6 received in evidence.)

7 JUDGE MORRIS: I've got Respondent's Exhibits 1
8 through, it looks like, 138. Any objection to Respondent's
9 Exhibits 1 through 138?

10 MR. SEHAM: None other than reserving arguments
11 related to relevance, no.

12 JUDGE MORRIS: All right, they're admitted.
13 (Respondent Exhibit Nos.
14 1 through 138 were marked
15 for identification and
16 received in evidence.)

17 JUDGE MORRIS: Speaking of which, I'll tell the
18 parties, I routinely receive these vast quantities of
19 documentary exhibits, which at the end of the day about half
20 of them end up not being utilized by other party, either in
21 the presentation or in their briefs. The parties are
22 forewarned that if it's not identified in your briefs, I'm
23 going to consider them either duplicative or not particularly
24 relevant or persuasive for your case and, accordingly, I will
25 give them little or no weight. Just so you know that up

1 front. My practice is, instead of going through a couple
2 hundred evidentiary foundation stuff, just get them all in
3 and I'll let you, at the end of the day, tell me what really
4 is important for me to decide, when it comes to deciding this
5 case.

6 All right. Ms. Pettitt, under AIR-21 a Complainant
7 must show, by a preponderance of the evidence, the employer
8 is subject to the Act and the employee is covered under the
9 Act. It's my understanding that that has been stipulated to
10 by the parties, is that correct?

11 MR. SEHAM: Yes, Your Honor.

12 MR. ROSENSTEIN: Yes, Your Honor.

13 JUDGE MORRIS: All right.

14 Number 2: That you engaged in protected activity
15 as defined under Section 42121A. It's my understanding that
16 the parties have stipulated to that, in part, and I have
17 separately made a finding that the referral to a mental
18 health evaluation was a protected activity. That does not
19 mean that other protected activities could not either be
20 raised or established in this hearing.

21 Number 3 --

22 MR. ROSENSTEIN: Your Honor, excuse me.

23 JUDGE MORRIS: Yes.

24 MR. ROSENSTEIN: You said that the referral to a
25 medical facility was protected activity. I'm not sure that

1 that was what your ruling was -- that the referral was
2 protected activity. But we do agree that -- we did stipulate
3 that Complainant engaged in protected activity and you did
4 rule that she had engaged in protected activity. But the
5 referral was by Delta, not by Complainant. So, I think you
6 ruled that that was an adverse action.

7 JUDGE MORRIS: An adverse action, thank you. I
8 stand corrected. Thank you.

9 Number 3: The Employer was aware or had knowledge
10 of the protected activity.

11 Number 4: That you suffered an unfavorable or an
12 adverse personnel action at the behest of the Employer.

13 Number 5: The protected activity was a
14 contributing factor in the unfavorable action. It need not
15 be the primary reason, it just has to be a factor in an
16 unfavorable action, that being under the Palmer case.

17 If the Complainant proves its case of retaliation
18 under AIR-21, that she is entitled to relief unless the
19 Respondent demonstrates, by clear and convincing evidence,
20 that it would have taken the same unfavorable action absent
21 that protected activity.

22 Are there any specific provisions that either party
23 wants me to take official notice of, as far as the
24 regulations, advisory circulars, anything of that nature?

25 MR. SEHAM: Not at the outset of the hearing. I

1 think those will be highlighted as we go through the process.

2 JUDGE MORRIS: All right. As I said, in my Notice
3 of Assignment, I believe, if not for sure in my Pre-Hearing
4 Order, I intend to take -- as either the hearing goes on or
5 in my deliberations in writing the decision -- official
6 notice of any published FAA order, FAA Advisory Circular,
7 NTSB case law, anything of that nature that deals with
8 aviation or is publicly available, that relates to this case,
9 I intend to take official notice of that.

10 I would encourage the parties, if there are any
11 specific items they want me to take official notice of, to
12 assist me in that, because routinely classic example -- and
13 of course this is a pilot's case versus a maintenance case --
14 well, where do you find, in publicly available -- by publicly
15 available I mean FAA, generally -- guidance that talks about
16 a C Check. Well, that's an aviation term as opposed to an
17 FAA term, so it makes it difficult for me, without your
18 assistance, particularly in doing research, to find something
19 where I can reference, to explain to the public -- since this
20 will be a published decision -- what exactly that term means.

21 I don't know if that's going to apply in this case, but you
22 know, for example, I'll make reference to the AIM, the
23 Aeronautical Information Manual.

24 Suppose this case comes up and we're talking about
25 ILS, you know, I've got to explain what an ILS is and how

1 that generally works. Those types of things, for resources,
2 can make it immensely helpful for me.

3 Are there any stipulations of facts?

4 MR. SEHAM: Beyond the ones that we stipulated in
5 the Pre-Hearing Order?

6 JUDGE MORRIS: The Pre-Hearing Order -- no?

7 MS. BROWN: No. Just what's included in the
8 pre-hearing statement.

9 JUDGE MORRIS: Okay. I don't know if the parties
10 sent that to me, but either party -- actually, I'll ask
11 Complainant in this case if you would provide me a Word
12 version of that? Because what I like to do is, instead of
13 having it read into the record, I'll just cut and paste --
14 because stipulations of fact go into the decision. So, why
15 reinvent the wheel? I can just cut and paste and move that
16 stuff right there.

17 MR. SEHAM: There were separate pre-hearing
18 statements, so we probably, both parties, would probably want
19 to send those in. The reason I say that, in terms of
20 stipulations, they're not completely duplicative. We have a
21 series of stipulations that the parties agreed to, but we, on
22 our part, also combed through the pleadings complaint and the
23 Respondent's answer, and noted that those --

24 JUDGE MORRIS: Hold on.

25 MR. SEHAM: Oh -- Judge, I actually don't know who

1 they are, but I'll certainly --

2 JUDGE MORRIS: Okay. Hold on. We're going to go
3 off the record.

4 (Off the record at 9:51 o'clock a.m.)

5 JUDGE MORRIS: Back on the record. All parties
6 present when the hearing last recessed are again present.

7 I stopped the hearing and went off the record
8 because we had both members of the public and a witness come
9 in, and I did not want them to hear the proceedings.

10 Go ahead, counsel.

11 MR. SEHAM: Just out of fairness to the Respondent,
12 I wanted to note that we should both send in our pre-hearing
13 statements, because we added to the stipulations of facts
14 that we had agreed to immediately prior to submission --

15 MS. BROWN: Well, I think he's asking for just the
16 Joint facts.

17 JUDGE MORRIS: Just the Joint facts.

18 MR. SEHAM: Okay.

19 MS. BROWN: Those wouldn't be Joint facts, then.

20 MR. SEHAM: Well, I would consider them -- and I
21 believe the Tribunal has treated them as stipulated facts, to
22 the extent that we plead them --

23 MS. BROWN: We don't agree to that, so they're not
24 Joint.

25 MR. SEHAM: Would you let me finish, please?

1 There's been a pleading and there has been an
2 answer and, therefore, we consider anything that was answered
3 admitted, would also be stipulated. So, I just wanted to --
4 out of fairness to the Respondent -- highlight that our
5 pre-hearing statement in that regard differs from theirs.

6 JUDGE MORRIS: Okay. Well, I will tell you that
7 what I want is -- I'll take both, because, frankly, I go
8 through the complaint and the answer to come out with those
9 found in the pleading in the answer, so there's always
10 something that helps me to check my traps. But what I'm
11 talking about -- and what Ms. Brown was referring to -- is
12 that which the parties have stipulated to separate and apart
13 from the complaint and the answer to the complaint. Okay.

14 All right. Next, I want to hear opening arguments,
15 just to focus me in on -- I don't need an hour and a half
16 oration of what the evidence tends to provide, I'll glean
17 that -- well, both parties have -- at least both sides have
18 counsel that have been before me before, I will ask questions
19 if I think I need to find out what they are. If I interrupt
20 the witness, it's not intended to be rude, but because we
21 deal with community -- aviation community -- acronyms, I've
22 got to contemporaneously get the Court Reporter to know
23 exactly what they are, because I'll forget. Particularly
24 since I don't have a laptop working right now, I can't make
25 notes to myself to check my traps.

1 and accounts of Delta pressuring its pilots to fly while
2 fatigued.

3 The knowledge has also been stipulated to. We
4 would highlight that one of the primary vehicles for the
5 protected activity was the 45-page safety report first
6 presented to Captains Dickson and Graham, respectively, the
7 senior vice president of Flight Operations and the vice
8 president of Flight Operations, on January 28th, 2019, but
9 that the evidence will show that every decision maker, with
10 respect to the initial adverse action, which was the referral
11 to a Section 15 Mental Health Evaluation, actually had a copy
12 of that report in their possession prior to that adverse
13 action being taken.

14 The Tribunal has already held that the grounding of
15 Ms. Petitt, in March 2016, for the compulsory Section 15
16 Mental Health Evaluation, which ultimately included a
17 psychiatric examination by Dr. David B. Altman, constituted
18 an adverse action. As elaborated in greater detail in her
19 pleading complaint, Ms. Petitt also alleges additional
20 adverse actions, including a biased and abusive psychiatric
21 evaluation, the threat of court sanctions by Delta's legal
22 counsel, and other adverse actions that are perhaps too
23 numerous to name at this juncture.

24 Now, addressing the element of the contributing
25 factor, that's inherently complex just under AIR-21 ARB

1 precedent, in that employers -- it's recognized by the ARB
2 that employers rarely admit their discriminatory intent and
3 there is a consequence necessity of relying on a wide range
4 of circumstantial evidence, including temporal proximity
5 between the adverse action and the protected activity,
6 indications of pretext, inconsistent applications of employer
7 policies, shifting explanations for the employer's actions,
8 and on and on.

9 And the contributing factor element in this case
10 may be more complex than in a standard AIR-21 case, because
11 there are multiple adverse actions. Now, going right to that
12 final element, in terms of the prima facie case, with respect
13 to the initial grounding of Ms. Petitt and the Section 15
14 referral, the evidence we present will focus, primarily, on
15 Delta's contention that the "sole", quote/unquote, "sole"
16 reason for directing the Section 15 evaluation was Ms.
17 Petitt's statements and conduct during an Equal Opportunity
18 or EO investigation on March 8th, 2016. We will present
19 evidence that:

20 1. The EO investigation, itself, was directly
21 triggered by, and inextricably intertwined with, Ms. Petitt's
22 protected activity in a manner that satisfies ARB precedent,
23 with respect to the issue of a causal nexus.

24 2. That Ms. Petitt's protected activity
25 contributed to Ms. Nabors' negative report.

1 3. That Delta has relied on shifting rationales
2 for this initial adverse action, because the evidence will
3 show that Ms. Nabors' report was not the sole factor for its
4 decision, as the carrier has contended.

5 With respect to the adverse action of the
6 psychiatric examination and its abusive nature, and the
7 ultimate result of diagnosis -- adverse diagnoses -- the
8 contributing factor issue is both easier and harder. I say
9 easier, because in Dr. Altman's report, on its face, there's
10 a reflection that Ms. Petitt's protected activity contributed
11 to his adverse diagnoses.

12 The more complicated question is whether Delta
13 should be considered to have been a partner in the adverse
14 evaluation process, and we will submit evidence that Delta,
15 by its actions, did assume that status.

16 Now, with respect to the threats of legal sanctions
17 if Ms. Petitt persisted in her dissemination of her safety
18 report, there can be no question that the threats arose
19 directly from Ms. Petitt's protected right to prosecute this
20 action. Now, here, again, we submit that the primary action
21 is whether the adverse action is attributable to the carrier.

22 Now, we have just described -- what we have just
23 described is a mere skeletal outline of the Complainant's
24 case, additional circumstantial evidence will be presented,
25 including Delta's deviation from accepted norms related to

1 employee related investigations and the initiation and
2 conduct of a mental health inquiry or evaluation, including
3 norms recognized by federal agencies and federal courts.

4 We will also present evidence that Delta's
5 hostility to Ms. Petitt, which persists to the present day,
6 arises, in part, from the scope of its own non-compliance
7 with Federal Aviation Standards.

8 Now, from our perspective, the case proceeds in a
9 happy context, in that a psychiatric process of about 18
10 months, has confirmed that Ms. Petitt was fit for duty. She
11 is an active pilot, currently flying for Delta Air Lines.
12 But that fact in no way lessens the importance of this case.

13 Delta has, in its briefs and oral arguments, for
14 motions and practice in this case, has repeatedly invoked the
15 Germanwings tragedy, by way of asserting the threat to safe
16 options, should the carrier not prevail in this case. Now,
17 we believe that hundreds, if not thousands, of pilots -- of
18 Delta pilots -- who do not possess Ms. Petitt's courage, are
19 now wondering what consequences they might suffer if they
20 report pilot fatigue, deficient pilot training or SMS
21 violations. We, respectfully, submit that such gnawing doubt
22 in the pilot community at Delta presents the greater threat
23 to the public interest.

24 Thank you.

25 JUDGE MORRIS: Counsel.

1 principle firmly in mind -- safety first, always safety
2 first.

3 Secondly, it's important because the stakes here
4 are so high -- one of the few times we might agree during the
5 week we're spending here together -- they couldn't be higher.

6 We'll demonstrate that Complainant, through this action and
7 the allegations against these good people, who you'll hear
8 from, would undermine Delta's commitment to safety. And so
9 we're here to show you that evidence, to ask you to interpret
10 the law, and to ultimately uphold and recognize that far from
11 retaliating against Complainant in this case, in a way that
12 would diminish safety or cover up legitimate safety concerns,
13 Delta Air Lines, when it placed Complainant within its
14 medical review process -- which is defined in Section 15 of
15 its Collective Bargaining Agreement -- acted consistent,
16 consistent with its mandate, consistent with its negotiated
17 Collective Bargaining Agreement, and consistent with its
18 primary duty, its sacred duty under FAA rules in general,
19 notions of public policy to preserve safety, here's what
20 we're going to present:

21 And we should start, really, by pointing out what
22 you, Your Honor, stated at the onset of this case. We've
23 stipulated that Complainant engaged in protected activity
24 under the statute when she made her report to Captain Graham
25 and Captain Dickson on January 28th, 2016, a little over

1 three years go.

2 So, this hearing should not be about grinding
3 through the specific safety related issues that she raised in
4 that document. Delta has never contested -- never contested
5 -- that Complainant raised those issues, for any reason other
6 than that she, herself, is concerned about safety -- as she
7 should be.

8 Delta expects every pilot, every employee, to be
9 committed to safety, and the evidence will demonstrate,
10 beyond any doubt, that Delta took those concerns seriously,
11 as it should. You'll hear and see that the heads of Delta's
12 Flight Operations met with her. These are not low-level
13 employees, these are the top people at Delta. Mr. Graham --
14 you'll see that Mr. Graham painstakingly went through her
15 report, which is a disorganized, convoluted, rambling report
16 -- and you'll see that, you'll have that document -- and
17 tried to parse out the safety issues from a whole bunch of
18 other personal disputes. You'll see that document and those
19 are all interspersed throughout the documents. He tried to
20 do his best. Why? Because, as Mr. Graham is going to
21 explain and as Mr. Dickson -- who just, as we know, was
22 nominated to a pretty important job here -- testified Delta's
23 always seeking continuous improvement in the areas of safety,
24 and listens to every single pilot when they come up with
25 concerns. So, you'll see that Captain Graham, personally --

1 personally -- reviewed the safety issues that First Officer
2 Petitt raised. He enlisted others and he invited First
3 Officer Petitt to address Delta's most senior safety
4 officers, to both educate her, because she didn't seem to
5 understand what Delta was doing, and because she had some
6 things that were just wrong -- and you'll hear about that --
7 and to allow her to share her ideas. And that meeting
8 happened, and it happened notwithstanding the Section 15
9 process that we're here about, it happened after the Section
10 15 process, hardly evidence suggesting a cover up or an
11 effort to discredit Ms. Petitt, it's the opposite of that.
12 You'll see that Delta credited -- you'll see the documents
13 that show that Delta credited Ms. Petitt for some of the
14 ideas that she raised. You'll see that they engaged her in
15 dialogue. And you'll hear -- I think you'll hear -- the word
16 "Safety Culture" used in this case quite a bit, and that's a
17 vague sort of a term, "Safety Culture." I think Ms. Petitt
18 will contend that pretty much everything an air carrier does,
19 from interpersonal relationships to diversity, to
20 compensation, to allegations of unequal treatment, all that
21 impacts Safety Culture in some way. And that seems a little
22 bit of an over-broad definition, but regardless of that, what
23 you'll see is that Delta is relentlessly committed to Safety
24 Culture and you'll see that evidence.

25 You'll see that Delta was the first carrier to have

1 its SMS program approved. You'll see that after receiving
2 Ms. Petitt's report, and at least potential -- partially as a
3 result of that report -- Delta Flight Operations engaged a
4 third party consultant, named Prism, to come in and audit and
5 review its Safety Culture. You'll see that document, you'll
6 see that report. And I hope at the end you'll ask yourself,
7 at the end of the case, are those the acts of a carrier, are
8 those the acts of individuals who are looking to suppress a
9 whistleblower? Are they looking to discredit her? Are they
10 looking to cover up issues?

11 So, let's talk, very briefly, about the evidence
12 that you'll actually hear in this case and the decision that
13 Captain Graham made, a decision made on the advice of Delta's
14 Director of Health Services Dr. Thomas Faulkner, who will
15 also be here, to have Ms. Petitt undergo a medical
16 examination in March 2016.

17 What you're going to see and what you're going to
18 hear is, I think, not easily disputed. I don't think it can
19 be disputed. You'll see that Ms. Petitt raised some concerns
20 she had with managers in the fall of 2015. She used the term
21 "Safety Culture." You'll see that document, but you won't
22 see any specific examples of any safety violations in that
23 early correspondence, you'll see that.

24 You'll see that Captain Graham and Captain Dickson
25 agreed to meet with her, in January. And that after some

1 delay she transported from here, Emerald City, to Atlanta,
2 and she met with them on January 28th, 2016, and she
3 presented the report that I described before. It's a pretty
4 voluminous report. And you'll see, very importantly, that
5 Captain Graham responded very seriously to that report. He
6 separated out the allegations, he started to investigate the
7 safety issues. And you'll see the report has allegations
8 that largely -- largely -- revolve around her own personal
9 experiences, her personal experience at Northwest, before the
10 merger with Delta, her personal experience at Delta,
11 anecdotal information, things that date back -- some to 2008,
12 some to 2011 -- you'll see that she raised issues of
13 harassment, of unequal treatment by people. And you'll see
14 -- the evidence will be clear -- that Captain Graham
15 consulted with a gentleman named Chris Puckett, who is head
16 of or handles legal issues involving their Labor Relations --
17 he's a lawyer. And you'll see that he decided to separate
18 out the issues that related to claims of unequal treatment
19 and claims at issue that involved safety. And that's no
20 question.

21 What you won't see is, I think, as important. You
22 won't see any talk of retaliation against Ms. Pettitt for
23 bringing the issues to light. You won't see any talk about
24 dismissing her ideas. You won't see any talk about
25 discrediting her. You won't see any talk about Section 15 or

1 having a medical review after January 28th. You won't see
2 anything like that.

3 You'll see a serious, serious response. You'll see
4 that an EEO investigation was actually commenced -- Equal
5 Employment -- and somebody was selected to talk to her -- not
6 by Captain Graham, but by their HR, Human Resources
7 Department. You'll see that that was explained to her and
8 there's going to be no dispute that she was told that she was
9 going to meet with somebody separate. And you'll see and
10 hear from the person who met with her. And that meeting took
11 place, and it was an important meeting in this case, because
12 at that meeting that HR person -- you'll hear from -- was
13 very troubled at the result of it. It actually happened at
14 the Crowne Plaza, where we're staying, and Ms. Nabors will
15 testify about it. And she'll testify that she walked away
16 with concern about Ms. Petitt's well being, and she'll
17 describe it. I'll let you make a decision about her
18 credibility. She reported it immediately and Delta put her
19 in touch with Mr. Puckett, who deals with the union issues,
20 because, of course, once that issue came to light, Delta
21 needed to ensure that they were complying with the Collective
22 Bargaining Agreement, as going forward.

23 You'll see that Mr. Puckett put her in touch with
24 Dr. Faulkner. You'll see that Dr. Faulkner asked for
25 information in writing. You'll see that writing. You'll see

1 that Dr. Faulkner engaged a psychiatrist. You'll know and
2 hear that Dr. Faulkner is not a psychiatrist, himself. But
3 you'll see that all of the people who heard from Ms. Nabors
4 took her seriously, as they should -- as they should -- as
5 they had to.

6 And then you'll hear about the communications from
7 those doctors to Captain Graham, which took place on March
8 17th, nearly two months after. There is no talk about Ms.
9 Petitt going on Section 15 until Ms. Nabors makes her report.
10 That is absolutely true.

11 There may be an allegation that Captain Graham
12 thought about Section 15 before the January 28th conference,
13 but what you won't see is anything from January 28th, until
14 she is put -- until Ms. Nabors makes her report.

15 And Captain Graham, as any rational person would
16 under those circumstances, as you'll hear, accepts the
17 recommendation of Dr. Faulkner. He takes the conservative
18 approach and he approves requiring Ms. Petitt to undergo a
19 medical review, with full pay and full benefits under the
20 contract. And that's the evidence, that's what you'll hear.

21 It has nothing to do with safety, it had nothing to do with
22 her report, it had nothing to do with anything but her
23 conduct during that meeting with Ms. Nabors. Nothing to do
24 -- and that's a very important distinction.

25 The decision, as we've stated from the onset of the

1 case, to place Ms. Petitt in the Section 15 process, was
2 solely, solely made because of the information that Ms.
3 Nabors recorded, not about what was in Ms. Petitt's report,
4 not about her complaints, not about her suggestions of safety
5 issues, not about her suggestions of unequal pay, not about
6 any of those things, but about her demeanor and her behavior
7 during that meeting, period. There was zero contribution --
8 zero contribution -- to the decision from anything having to
9 do with safety or any of the protected activity, at all --
10 zero.

11 And you'll also hear evidence on the second part of
12 the case, the evaluation. You'll see that it was Dr.
13 Faulkner who selected Dr. Altman. You'll see they're not
14 buddies, as has been alleged in the complaint. You'll hear
15 from Dr. Altman, you'll look at his credentials, and you'll
16 see that Dr. Altman did his job. He did a thorough job --
17 and why shouldn't he, it's a serious business.

18 We talked about Germanwings, that had happened one
19 year earlier. Dr. Altman was going to make sure -- and no
20 one should do any differently -- and that does not undermine
21 safety in the industry, that does not chill other people from
22 bringing safety information to Delta.

23 You'll hear from Delta about its robust -- robust
24 -- program to make sure that they get reporting of anything
25 and how competent they are that they get accurate and

1 positive reporting from its pilots and from all its
2 employees. You'll hear from all of those individuals.

3 You'll see that Delta cooperated with Dr. Altman,
4 as they should. You'll see that they wanted and repeatedly
5 told Dr. Altman they wanted him to call the balls and
6 strikes, and not get involved in it. And he worked
7 diligently.

8 There will be other issues that will come up, and
9 you'll see it here and see the evidence of all of that. But
10 in the end, you will not -- you will find, as you must, that
11 there was absolutely no connection between Ms. Petitt's
12 protected activity and what you have determined to have been
13 an adverse action, the placement into Section 15, nor will
14 you see any evidence that once Ms. Petitt was in Section 15,
15 Delta took any steps -- any steps at all -- in retaliation --
16 in retaliation -- for Ms. Petitt having engaged in that
17 protected activity, none at all.

18 We look forward to putting on the evidence. Thank
19 you for patience in listening.

20 JUDGE MORRIS: Okay.

21 One thing I didn't hear in the opening, Mr. Seham,
22 is if you are to prevail, what are the remedies that you're
23 seeking?

24 MR. SEHAM: Those, to some degree, are complex.
25 Those are in our pleading complaint. But it starts with

1 attorney's fees and mental distress, but it also -- and
2 damages -- but also moves on to our position that she was not
3 fully compensated for in terms of "make whole" relief. And
4 we'll have to elicit testimony from Ms. Petitt in terms of
5 the complex calculation of what she would have earned or
6 could have earned when she was on -- when she was suspended
7 and grounded.

8 JUDGE MORRIS: Okay.

9 All right. Call your first witness.

10 MR. SEHAM: If I could -- maybe two housekeeping
11 issues. One, I think, is semi-critical and we've already
12 agreed to it, but I want to confirm that there's been an
13 accommodation with respect to the witness, Ed Bastian, and
14 Steve Dickson, and that their deposition testimony is going
15 to be admitted in this proceeding as their testimony, along
16 with the exhibits.

17 Is that correct -- consistent with our stipulation,
18 counsel?

19 MR. ROSENSTEIN: Yeah, I think we went through that
20 on the call, but we can say it again.

21 MR. SEHAM: I just wanted it on this record.

22 JUDGE MORRIS: That's my understanding, as well.

23 MR. SEHAM: Okay.

24 And then the other -- before I call on the first
25 witness -- this happens to be Ms. Petitt's husband, and the

1 reason we're having him first is because he very much wanted
2 to continue in the hearing. I e-mailed Ms. Brown and said
3 we'd like to have him as a witness and then allow him to
4 stay, because we would waive any right to recall him. And I
5 wanted to make sure that didn't become a controversy after.

6 JUDGE MORRIS: It's not. If the witness is done
7 testifying, they may sit and watch the rest of the
8 proceeding.

9 MR. SEHAM: Thank you.

10 MR. ROSENSTEIN: And there would be no problem with
11 that from our end, either, of course. But Ms. Brown reminds
12 me that the depositions -- there may have been some
13 objections in the depositions, to questions, I don't recall,
14 but we would reserve those objections that we made in the
15 deposition.

16 JUDGE MORRIS: Oh, certainly. If there's an
17 objection, I'll consider them as preserving whatever specific
18 basis there is for that, as I read through them. And again,
19 if it hasn't been done, it's always easier -- in fact, I
20 think it was your firm, to be commended, where I had the case
21 where it was highlighted, the little bracket things, it makes
22 it a whole lot easier for me to quickly go through stuff.
23 And it could be highlighting, I don't care, you know, as long
24 as it's done in a decent manner.

25 MR. SEHAM: We're shipping everything to you after

1 the hearing, correct?

2 JUDGE MORRIS: Yes.

3 MR. SEHAM: So, we could do that.

4 JUDGE MORRIS: I've got one for each of you here.

5 MR. SEHAM: Oh, excellent. Very good. Well, I'll
6 go fetch the first witness.

7 JUDGE MORRIS: All right.

8 While we're waiting, I'm assuming -- if I didn't
9 beforehand -- just make sure people's phones are silenced or
10 off, to include myself.

11 Sir, would you please raise your right hand?

12 MR. PETITT: I will.

13 Whereupon,

14 RICHARD PETITT

15 having been first duly sworn by the Administrative Law Judge,
16 was examined and testified as follows:

17 JUDGE MORRIS: All right. Please, take your seat.

18 Before you begin, sir, I just want to remind the parties,
19 and the general public, the public can come and go as they
20 please, just please be quiet if you have to leave. Also, I
21 tend to get myopic in these cases, and I don't break unless
22 someone has a physiological need or just needs a break. So,
23 I'm not going to be offended if you raise your hand and say:
24 "Hey, we need five minutes" -- okay. People have different
25 levels of ability to continue to operate past a certain

1 point.

2 Sir, please identify yourself for the record,
3 including full name and contact information?

4 THE WITNESS: My name is Richard Petitt. I live in
5 Seattle, SeaTac, Washington, 3743 South West 188th Street,
6 zip code for SeaTac 98188.

7 JUDGE MORRIS: All right. Mr. Petitt, I am
8 assuming that you are -- or we heard that you're the spouse
9 of the Complainant in this case, correct?

10 THE WITNESS: Yes, I am.

11 JUDGE MORRIS: Are you a pilot?

12 THE WITNESS: No, I am not.

13 JUDGE MORRIS: All right.

14 Go ahead, counsel.

15 MS. BROWN: Okay.

16 DIRECT EXAMINATION

17 BY MR. SEHAM:

18 Q Sir, how long have you been married to Ms. Petitt?

19 A Thirty-seven some years.

20 Q And how many children do you have?

21 A I have three children, three daughters.

22 Q And what are their ages?

23 A Thirty-three, 34 and 36.

24 Q And do you have any grandchildren?

25 A I have eight grandchildren.

1 Q Are you currently raising your children?

2 A No. They are on their own and doing very well.

3 Q Are your children college educated?

4 A Yes, they are.

5 Q And do any of them have advanced degrees?

6 A Yes. My middle daughter has a Doctorate and my
7 youngest daughter has a Masters.

8 Q How long has your wife been involved in aviation?

9 A Well, it's probably pushing 40 years now. She
10 started flying when she was 16.

11 Q And now aside from doing it for a living, does she
12 demonstrate any interest outside of the actual job in the
13 aviation field?

14 A Yes, she does.

15 Q Could you describe that in general terms?

16 A Well, she does -- she's a mentor to young ladies
17 and men, too, that want to get into the industry. She does
18 speaking engagements on industry situations. She has held
19 flying events to get people their first flight out at Boeing.

20 And I could probably go on -- she's just passionate about
21 airlines, airline safety.

22 Q Now, the parties have stipulated that there was an
23 interview meeting between Ms. Kelly Nabors and Ms. Pettitt on
24 March 8th, 2016. Were you aware, at the time, that that
25 meeting was taking place?

1 A Yes.

2 Q And what is the -- let me reverse this. Can you
3 describe your wife's demeanor when she returned from the
4 meeting with Ms. Nabors?

5 A She had gone to the meeting under the premise that
6 it was about a safety report that she had filed, or had made
7 and presented to the company. And during the interview --
8 which as I remember lasted about three hours -- her
9 frustration was that the person she was interviewing with had
10 very little knowledge on airline safety and the subjects that
11 were in her report.

12 Q Now, how soon after the meeting with Ms. Nabors did
13 you see your wife?

14 A Probably about five minutes. The meeting was held
15 in a hotel lobby about two miles from our home. And Karlene
16 had called me up and said: "Okay, that's over. I'm on my way
17 home." And so it was probably about five, maybe 10 minutes,
18 at the most.

19 Q When she arrived at the house, did you witness any
20 emotional upset?

21 A No emotional upset, just the meeting didn't quite
22 go as well as she thought it was.

23 Q Was there any indication in your wife's appearance
24 or visage, that she had been crying?

25 A No, not at all.

1 Q Have you seen your wife cry before?

2 A Oh, yes.

3 Q Do you think you would have been able to tell if
4 she had been crying in the last 10 to 15 minutes?

5 A Most definitely.

6 Q Prior to March 8th, 2016, had anyone told you that
7 your wife might be subject to a Section 15 referral?

8 A Yes.

9 MS. BROWN: Object to those comments as hearsay.

10 JUDGE MORRIS: Overruled. Hearsay is allowed in
11 these proceedings.

12 THE WITNESS: Her pilot rep at the Seattle base up
13 here told her that she was putting herself in harm's way,
14 that the changes of getting an Article 15, if she turned this
15 report in, would be significant.

16 BY MR. SEHAM:

17 Q Has your wife ever made an EO, an Equal
18 Opportunity, complaint of any kind ?

19 A No, she has not.

20 Q Did you hear a conversation between your wife and a
21 Dr. Faulkner?

22 A Yes.

23 Q Okay. And can you tell me why you were listening
24 to that conversation?

25 A Karlene had done a presentation down in Atlanta, on

1 her safety report, and right after she was through that, she
2 and Dr. Faulkner had met. And she came home and described
3 that meeting. And he called the next day, and I happened to
4 be in her office and we were talking when he called.

5 Q And what's your -- would this have been in the
6 April of 2016 time-frame?

7 A I don't so.

8 Q And what, if anything, do you recall Dr. Faulkner
9 saying when he called your wife?

10 A The things that stick out where he -- the main
11 thing he said was he felt this was a misunderstanding, but
12 that he was a medical doctor, he really couldn't stop the
13 flow of events and she was going to have to see a
14 psychologist -- after the fact. And I forget -- the main
15 thing was he just thought it was a misunderstanding. And I
16 had thought it was somewhat curious, when she came home and
17 related that he didn't ask for any medical information, or
18 medical records.

19 Q Did he express any concerns, Dr. Faulkner, about
20 his own professional welfare?

21 A Yes. He said if he were to stop this now and
22 something happened down the road, he would be responsible for
23 it.

24 Q And did he tell you to what psychiatric Ms. Pettitt
25 would be referred?

1 A He did, and he referred to a Dr. Altman. And
2 really what somewhat peaked my interest, he referred to him
3 as his good friend.

4 Q When did your wife receive her notice that Dr.
5 Altman had diagnosed her as having a bipolar disorder?

6 A Just one or two days before Christmas, in 2016. it
7 was a great little present.

8 JUDGE MORRIS: To the extent necessary, I'll take
9 official notice of DSM-5. Go ahead.

10 BY MR. SEHAM:

11 Q During the process of his analysis, did Dr. Altman
12 ever contact you?

13 A No.

14 Q During the entire 16, Section 16 (sic) process,
15 which proceeded on to an additional psychiatrist, did any
16 other doctor contact you?

17 A The only doctor I had talked to was a doctor from
18 the Mayo Clinic. He called up and asked me three questions.
19 he asked me how long I had known Karlene. He asked me:
20 "Does she speak fast?" And he asked me: "Has she always
21 spoken fast?" And I said: "Yes, she speaks fast. Yes, she
22 has always spoken fast." And that was the substance and he
23 said: "Thank you."

24 MR. SEHAM: I have no further questions, but
25 counsel for Delta Air Lines may.

1 CROSS-EXAMINATION

2 BY MS. BROWN:

3 Q You never contacted Dr. Altman?

4 A No, I did not.

5 Q Never wrote him a letter?

6 A No.

7 Q You said that your wife was warned about being
8 placed into a Section 15. Who warned her?

9 A His name is Jud Crane. He was a pilot in the
10 Seattle Base.

11 Q And you weren't there for that conversation?

12 A I was not there for that conversation.

13 Q You just heard about it through your wife?

14 A I did hear a conversation on the telephone at a
15 later time.

16 Q I'm not asking about that conversation. I'm asking
17 about the Jud Crane conversation. You weren't there for that
18 conversation, were you?

19 A No, I was not.

20 Q And you don't know if Jud Crane was involved in the
21 decision for Ms. Pettitt to be referred for a Section 15, do
22 you?

23 A I don't know what his involvement would be.

24 Q You testified that you recall Dr. Faulkner saying
25 that this was all a misunderstanding, the referral to a

1 Section 15. That's the only thing that you really recall
2 from that conversation?

3 MR. SEHAM: I'm going to object, because it
4 mis-characterizes the testimony.

5 MS. BROWN: Well, go ahead, tell me.

6 JUDGE MORRIS: Yeah. Overruled.

7 You may answer.

8 THE WITNESS: Was that the only thing I recall from
9 that conversation? That's the main thing I recall.

10 BY MS. BROWN:

11 Q And you're absolutely sure that that was the
12 language he used, that he felt it was a misunderstanding?

13 A I do, absolutely on that.

14 Q It's not possible that he might have said that it
15 could be a misunderstanding?

16 A No. He said it was -- he said in his -- it's hard
17 for me to say exactly what he said, but he did say: "In my
18 estimation, this is a misunderstanding."

19 Q So, you don't recall the exact wording, though?

20 A Well, I can't replay it, so I don't know if I've
21 given you the exact wording or not.

22 Q And then, correct me if I'm wrong, but did you
23 testify about Dr. Faulkner referring to Dr. Altman, at all,
24 during that conversation that you overheard?

25 A Yes. He said that's who he was going to refer her

1 to.

2 Q And did he tel you that he knew Dr. Altman?

3 A He said he was just a good friend.

4 Q And so Dr. Faulkner is being candid that he knew
5 Dr. Altman, he had readily admitted that during the phone
6 call?

7 A I accepted it that way, yes.

8 Q He was transparent about the fact that he knew him?

9 A Yes.

10 MR. SEHAM: Objection, asked and answered.

11 JUDGE MORRIS: Overruled.

12 MR. SEHAM: Withdrawn -- withdrawn.

13 MS. BROWN: No further questions. Thank you.

14 MR. SEHAM: Just --

15 JUDGE MORRIS: Go ahead.

16 MR. SEHAM: -- perhaps, one or two.

17 REDIRECT EXAMINATION

18 BY MR. SEHAM:

19 Q You were testifying, during cross-examination,
20 concerning Jud Crane and you had begun to testify about a
21 later telephone call. Could you tell us what happened during
22 that later telephone call?

23 A The only part that I remember of the other
24 telephone call was the reiteration about the Section 15, and
25 that she would be wise not to do -- not to present the

1 information she was going to.

2 Q Is this a phone call that you overheard?

3 A Yes. I've listened to quite a few of the phone
4 calls that come in on this situation and have saved Karlene
5 the time of having to replay the thing to me. And that
6 particular time I was in her office and then he called. She
7 put it on speaker-phone and I was able to hear what he was
8 saying.

9 Q And when you say --

10 A My recollection of everything he said is probably
11 pretty limited, but he did, again, get into the possibility
12 of a Section 15.

13 Q And the "he," to whom you're referring, is that Jud
14 Crane?

15 A The "he" is Jud Crane, yes.

16 Q And this was prior to -- was this prior to the
17 actual referral to Section 15 in March?

18 A Yes, yes, this was probably in November, before
19 Christmas, the year before, because they had -- Karlene had
20 tried to set up a time to present this to him, and it was --
21 they were delaying the process.

22 MR. SEHAM: No further questions.

23 JUDGE MORRIS: Counsel?

24 RE-CROSS-EXAMINATION

25 BY MS. BROWN:

1 Q So, you testified that this phone call with Jud
2 Crane was in November 2015?

3 A To the best of my knowledge it was that, because
4 Karlene gave the presentation after the first of the year,
5 but they were trying to get it set together prior to that.

6 Q So, it was four months plus until she was referred
7 to the Section 15?

8 A Very possible that long, yes.

9 Q And again, you don't know what, if any, role Jud
10 Crane played in the Section 15 decision process?

11 A I do not.

12 MS. BROWN: No further questions.

13 JUDGE MORRIS: I have a couple of questions for
14 you, sir.

15 EXAMINATION

16 BY JUDGE MORRIS:

17 Q What's your educational background?

18 A One year of college.

19 Q Okay. And what did you do during your career?

20 A I was in the grocery business. I had started as a
21 box boy and ended up owning a couple of stores, then got beat
22 up by the electronics.

23 Q you mentioned the diagnosis. Did you ever actually
24 see the diagnosis that was given?

25 A I read the letter, yes.

1 Q You read the letter?

2 A That was presented to her, yes.

3 Q Did you ever see anything that referred to various
4 Axis, like Axis I, Roman Numeral I, Axis V, Roman Numeral V,
5 anything like that?

6 A I don't recall that, as far as the -- usually in
7 the 1 through 5 scale, it seemed like the points that back up
8 the diagnosis, but I don't remember seeing that information
9 or I can't relate to it that way.

10 Q Do you ever recall seeing something called a GAF,
11 it's capital G, capital A, capital F?

12 A I do not remember.

13 JUDGE MORRIS: Okay. Thank you.

14 Questions based on mine?

15 MR. SEHAM: None from the Complainant.

16 MS. BROWN: None.

17 JUDGE MORRIS: All right. Thank you. You may step
18 down. You may stay and listen to the proceedings, if you
19 want to, sir.

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 MR. SEHAM: I should be back in 60 seconds.

23 JUDGE MORRIS: All right.

24 Sir, please turn and face me, raise your right
25 hand.

1

2 Whereupon,

3

JOHN J. NANCE

4 having been first duly sworn by the Administrative Law Judge,
5 was examined and testified as follows:

6

JUDGE MORRIS: Please take your seat.

7

THE WITNESS: Thank you.

8

9 JUDGE MORRIS: After taking your seat, sir, please
provide your full name and contact information?

10

THE WITNESS: My name is John J. Nance, N-a-n-c-e.

11

Telephone and address and all that?

12

13 JUDGE MORRIS: I don't want your telephone number,
just contact information, your home address or whatever
14 address?

15

16 THE WITNESS: Contact information. P.O. Box 1219,
Friday Harbor, Washington 98250. Contact information would
17 be jjncom@aol.com.

18

JUDGE MORRIS: All right.

19

DIRECT EXAMINATION

20

BY MR. SEHAM:

21

22 Q Mr. Nance, could you tell us what your current
employment is?

23

24 A Currently, I am the aviation analyst for ABC World
News and Good Morning America. That's really the only
25 current paid position. I am self-employed as an author,

1 writer, working on a couple of books, not under contract at
2 the moment. And I also am maintaining my business of about
3 27 years running as a professional speaker, mostly in
4 medicine.

5 Q Okay. And can you tell us about your previous
6 employment?

7 A Yes. I was an airline pilot before that with
8 Braniff International, from 1975, December 5th, 1975, until
9 we collapsed in bankruptcy on May 12th of '82. I joined
10 Alaska Airlines on December -- pardon me -- July 15th, of
11 1985. And early retired from them in 2004, I believe it was.

12 Q And prior to that employment with Braniff and
13 Alaska, were you ever in the military?

14 A Yes. I was a United States Air Force
15 officer/pilot, commissioned in 1968, regulars, on active duty
16 until 1975. And then I shifted to the 97th Reserve Squadron
17 at McCord, under the 446, where I remained for a total of 23
18 years.

19 Q And could you, through your career as a pilot,
20 could you tell us approximately flight hours you have?

21 A I'm a little over 16,000.

22 Q And can you tell us about your type ratings?

23 Q Yes. I have a type rating in the L300, which is
24 essentially useless, because that was supposed to be the
25 civilian version of the C141 that never happened, but I have

1 it, nonetheless. I have the DA20, which was a Fan Jet Falcon
2 at Federal Express, and the Boeing 737.

3 Q And could you describe your educational background?

4 A I have a Bachelor of Arts Degree from Southern
5 Methodist University in Dallas, and I have my Juris Doctorate
6 Degree, also from SMU Law School, we now call it the Dedman
7 School of Law.

8 Q Did you receive anything from the Air Force?

9 A Yes. I was a distinguished graduate in the Class
10 of 7108 at Williams Air Force Base.

11 Q And you said you were an author, could you tell us
12 have you written any books related to the Aviation Industry?

13 A Yes. Out of the 22 books I've written, I would say
14 probably 17 to 18 of them were about or have the background
15 of aviation in one form or another. They're not all about
16 airlines, but the platform is aviation.

17 Q Have you received any award for your writing?

18 A For one of them on medicine, Why Hospitals Should
19 Fly, was the name of it, Second River Healthcare Press in
20 Bozeman, Montana, won the 2009 Book of the Year Award by the
21 American Academy of Healthcare Executives.

22 Q And with respect to the books you've written
23 related to the Aviation Industry, whether non-fiction or
24 fiction, what is the purpose for your writing?

25 A Well, the purpose of my writing started out to be

1 to tell the story of Braniff International. I had had
2 experience as a journalist, so it's always been a combination
3 of trying to tell a story that I think the public should
4 know. My first books were non-fiction. And as they got into
5 fiction, it gave me a platform for being able to talk about
6 things like human factors and the communication in the
7 cockpit, and one of the areas that I was heavily involved in,
8 in the '80s, which was crew resource management.

9 Q And how long have you known Karlene Petitt?

10 A About 30 years.

11 Q Have you worked with her professionally?

12 A Only to this extent -- about a number of years ago
13 I called her, because I had a book -- I think about four
14 years ago, maybe three -- that featured the Airbus 8-330, and
15 I knew she was a consummate captain and instructor on that
16 airplane, and I needed a lot of help on that, because I was
17 not an Airbus pilot. I knew a lot about the 320, I had been
18 in the simulators, but I was getting deep into the systems of
19 the 330 and she was invaluable in her help with that.

20 Q Have you read any of Ms. Petitt's books?

21 A I have. I read two of the novels and skimmed the
22 third. Sorry to say I never completed the third.

23 Q Okay. And based on your reading -- do you know
24 what a "Squib" is?

25 A I do, I do. And I wrote --

1 Q What is it? Just in case somebody doesn't know.

2 A Okay. A "Squib" is basically where an author
3 provides a promotional statement of a couple of sentences,
4 that the other author can use in their books, in the
5 promotion of their books. Usually it's put on the back.
6 You'll see somebody say, you know: "The greatest book since
7 sliced bread," or whatever, by such and such. And I wrote
8 one -- as a matter of fact, I was just reviewing it the other
9 day -- I believe I wrote two, though, I think I had one on
10 the second one.

11 Q And how would you describe the focus of her
12 aviation related books?

13 A The focus was most definitely on the sanctity of
14 the safety aspect and an awful lot of it was about the
15 difficulty of getting the information on something that's
16 going wrong, systemically, to the people who can do something
17 about it, and the difficulties involved in the human system,
18 which, of course, is the area that I've been most involved
19 with, both aviation and medicine.

20 Q What have you witnessed with respect to Karlene's
21 professional demeanor?

22 A An extraordinary individual, would be just my
23 overture to the answer to that question. Because we try,
24 definitely, in any high risk industry -- because I haven't
25 been just associated with aviation -- to get people to

1 engage, to own the situation on the front lines, whether
2 you're in a managerial position or whether you're in an
3 instructor position, or whether you're just a participant.
4 And my impression has always been that she owned the
5 situation in regard to safety, in regard to the atmosphere
6 and the receptivity of the Safety Culture -- in her case
7 Delta -- and this is something that we want. We want people
8 to be engaged, we want them to have the ability, as well as
9 the chutzpah, if you will, to say to power: "We've got a
10 problem."

11 MS. BROWN: Your Honor, I'm going to object to the
12 testimony of Mr. Nance, to the extent he's testifying as an
13 expert on human factors. He's never been disclosed as an
14 expert and we certainly didn't have any notice that he would
15 be testifying as someone with expertise in this matter.

16 MR. SEHAM: If I may respond? It was recognized,
17 as we discussed the experts in the context of our raising the
18 non-disclosure of Dr. Altman, but our recollection is that
19 the Tribunal has recognized that pilots, through their ATP
20 and experience, have an expertise that's worth testifying
21 about and is recognized by the federal rules. Just because
22 you're an expert, doesn't mean you're giving expert
23 testimony.

24 JUDGE MORRIS: Are you an ATP, sir?

25 THE WITNESS: I am an ATP, yes.

1 JUDGE MORRIS: All right. Overruled. I'll hear it
2 with some caveats, as I view part of this case -- a large
3 part of this case -- involving credibility and, therefore,
4 I'm going to consider the testimony, in part, as it relates
5 to her credibility, since that's been put on the table, as I
6 understand this case, from the very beginning.

7 Go ahead.

8 BY MR. SEHAM:

9 Q Now, based on your description of your position at
10 ABC, have you participated in live broadcast interviews
11 concerning aviation subjects?

12 A Rather constantly for the past 27 years, yes.

13 Q Is that a stressful endeavor?

14 A I usually -- especially when we're involving a live
15 broadcast -- describe it as a "high wire act without a net."

16 But it's exhilarating if you do it right, and it's very
17 upsetting if you do it wrong. But it's a very high stress
18 situation, yes.

19 Q And have you witnessed Ms. Petitt participate in TV
20 interviews?

21 A I have. A couple of interviews on CNN.

22 Q And how did she conduct herself in that stressful
23 environment?

24 A Very well. As a matter of fact, I was quite
25 pleased of the degree of casualty -- which is what you want

1 to show -- with which she was able to handle the interview's
2 questions.

3 Q Now, you made a reference, a couple minutes ago, to
4 "Safety Culture"?

5 A Yes.

6 Q What do you mean by that?

7 A Safety Culture in any high risk industry, and
8 especially aviation, has to do with the way things are
9 viewed, including communication. In other words, if you've
10 got a culture that is primarily concerned with keeping things
11 safe, then that is an overriding core value and nothing is
12 allowed to get in the way -- not personal aggrandizement or
13 personal differences, or worries about individual versus
14 individual. In other words, somebody brings a problem to
15 leadership or to any level, and that problem, because it's
16 safety, becomes the focus -- not batting down the individual
17 because it's inconvenient or saying, fine, we'll get to it
18 later on. A Safety Culture means that the number one thing
19 you're concerned about -- and I've been dealing with this in
20 hospitals for 25 years, trying to teach them what we've
21 learned in aviation -- is that when somebody speaks up,
22 you've got to not only support them, but you've got to show
23 everybody else that the organization is supportive of exactly
24 what you say they're supported of. Because all it takes is
25 batting one person down and you have seriously damaged the

1 so-called Safety Culture.

2 Q Have you, in your experience in the airline
3 industry, witnessed retaliation against anyone who reported
4 safety concerns?

5 A Yes, I have.

6 Q Have you ever witnessed the use of simulator
7 training or are you familiar with the use of simulator
8 training as a retaliatory tool?

9 A All too often. And I will say, if permitted to,
10 that that's one of the greatest fears of an airline pilot,
11 because there is no pilot, no matter how good, no matter how
12 experienced, who can't be busted on a check ride if somebody
13 wants him.

14 Q Now, based on your aviation experience, can you
15 comment on the significance of SMS programs in aviation?

16 A SMS, primarily, Safety Management System, is a
17 methodology of moving from a personality based or an
18 individual based culture of safety or culture of air crew
19 management, to one involving a systematized approach, where
20 there's a fair balance and predictable response for just
21 about everything. And that is a very painful thing, because
22 it's always been, traditionally, individually driven by the
23 personality of the leaders and those under him or her.

24 So, SMS is challenging a lot more than just adding
25 a particular program, it is really changing a culture.

1 JUDGE MORRIS: Do you want me to take judicial
2 notice of Part 5?

3 MR. SEHAM: Yes, Your Honor.

4 JUDGE MORRIS: All right.

5 BY MR. SEHAM:

6 Q Do you have any concern as to the impact on Safety
7 Culture and SMS programs in referring a pilot such as Ms.
8 Pettitt for psychiatric examinations?

9 A Every alarm bell that I have goes off in something
10 like that. Because if that is done without a great degree of
11 evidentiary rationale, then what it does is send -- rightly
12 or wrongly -- but it sends a message, to literally everybody
13 else who knows about in the Flight Department, that if you
14 speak up about something, this is what's going to probably
15 happen to you, too.

16 Now, when I say that, it doesn't matter whether or
17 not that's a factual analysis by the other members, by the
18 other pilots. The fact is, this is a fear driven society in
19 aviation, just like it is in medicine, because you are
20 constantly possessed of the responsibility for a lot of lives
21 and an awful lot of equipment, and you know that you're under
22 scrutiny, and you know that one mistake could cost you your
23 career. So, the idea that you might, all of a sudden, become
24 persona non grata and be sent to a psychiatrist and have a
25 stain on your record, and something in your file, as a result

1 of having just spoken up, may not square with the facts of
2 what actually happened. But this is one reason, in a Safety
3 Culture, where you've got to be extremely careful, in
4 leadership, not to do something that sends that message,
5 because you will harpoon the willingness of other people to
6 come forward. This is an incredibly serious situation.

7 MR. SEHAM: Thank you. No further questions.

8 JUDGE MORRIS: Counsel?

9 MS. BROWN: I am also an SMU Law Grad, so I will
10 say "Go Ponies."

11 CROSS-EXAMINATION

12 BY MS. BROWN:

13 Q So, Mr. Nance, you've never worked at Delta Air
14 Lines, have you?

15 A I have never worked at Delta, no.

16 Q So, you don't have any personal knowledge of
17 Delta's Flight Operations culture?

18 A No.

19 Q So, earlier you talked about doing live TV
20 broadcasts and how it's a very high stress situation. Do you
21 believe that flying an aircraft, as a pilot, is the same
22 level of stress, where you're responsible for thousands of
23 lives, as a live TV broadcast?

24 A Well, I don't think there's any comparison. The
25 live TV broadcast doesn't have lethal potential -- well, it

1 may have in some respects -- but no, I mean you're in an
2 airplane just like in an operating room, you're right there,
3 in responsible terms, responsible for all those lives. I
4 could -- well, that would be my answer.

5 Q And you also testified about a retaliatory
6 simulator training?

7 A Yeah.

8 Q You've never had any personal experience with
9 simulators at Delta Air Lines, have you?

10 A Not at Delta, no.

11 Q And so you don't have any personal knowledge of
12 retaliation simulator training at Delta?

13 A I don't have any specific to Delta, no.

14 Q You talked earlier about Safety Culture and the
15 fact that you should -- you need an evidentiary rationale for
16 a Section 15 evaluation, Mental Health Evaluation?

17 A Correct.

18 Q Don't you believe that an airline should err on the
19 side of safety, and while they're gathering all that evidence
20 the pilot should be pulled from flying aircraft?

21 A I believe that an airline -- any airline -- has a
22 responsibility to be very, very careful on two counts.
23 Number one, with investigating anything that might have a
24 component of mental or emotional instability, certainly must
25 not be swept under the rug. But secondly, because of what I

1 was talking about, the extreme sensitivity of all the pilots
2 to the nuances, if somebody is seen to have been pulled into
3 a psychiatric evaluation and the only overt reason for that
4 seems to be that he or she presented a safety concern, you
5 have tripped off in the other direction. So, there's a
6 delicate line here, it's not a clear, shiny white line, but
7 it's one that the flight managers must be very, very careful
8 about. There has to be something more than just a single
9 point reason that is raised to call somebody in for that,
10 it's a very serious analysis.

11 MS. BROWN: I'm going to object to that as
12 non-responsive to the question.

13 BY MS. BROWN:

14 Q So, I was asking if an air carrier has been
15 notified of concerns for a pilot's mental health evaluation
16 by an employee, and you said that you should have an
17 evidentiary rationale, the carrier should pull the pilot
18 while they're gathering that evidentiary rationale?

19 A I'm not sure that I would answer that the pilot
20 should be pulled, but certainly it should be pursued.

21 Q And when they're pursuing it, do you think the
22 pilot or the carrier has notice that there's concerns about
23 that pilot's mental safety or mental health, that that pilot
24 should be allowed to continue flying?

25 A I think that has to be evaluated in each case, not

1 an automatic thing. As a matter of fact, if it's not
2 evaluated in each case, and it does become automatic, then it
3 probably is going to miss, in one form or another, realities.

4 So, am I responsive to you on that?

5 Q Not quite, but we'll move on.

6 A All right.

7 Q So, you also testified, too, about pulling pilots
8 for Section 15s after they've raised safety complaints?

9 A Yes.

10 Q But you don't have any personal knowledge of the
11 reason that Ms. Pettitt was pulled for a Section 15, do you?

12 A I have read and heard about this, but I don't have
13 any personal knowledge, no.

14 Q Okay. And you've heard about it from Ms. Pettitt?

15 A That's correct. And from the filings in the case.

16 Q And the filings in the case?

17 A Yes.

18 Q Based on your understanding of Safety Culture, if
19 an airline has concerns about a pilot's mental health, it's
20 incumbent on the airline to look into those concerns, even if
21 the pilot is ultimately exonerated?

22 MR. SEHAM: Asked and answered.

23 JUDGE MORRIS: It has been asked and answered, but
24 I'll allow it this last time.

25 MS. BROWN: Okay.

1 THE WITNESS: All right. I'm sorry, did you ask it
2 as a yes or no? I apologize, but would you give it to me
3 again?

4 MS. BROWN: Can you read it back or do I need to?

5 COURT REPORTER: I can play the tape.

6 MS. BROWN: Oh, I'll ask it again.

7 THE WITNESS: All right.

8 BY MS. BROWN:

9 Q So, if an air carrier has been notified of mental
10 health concerns of a pilot, and it's incumbent on the air
11 carrier to investigate those concerns, even if that pilot is
12 ultimately exonerated, correct?

13 A Yes.

14 MS. BROWN: No further questions.

15 MR. SEHAM: No further questions.

16 JUDGE MORRIS: I've got a couple of questions, sir.

17 THE WITNESS: Yes, sir.

18 EXAMINATION

19 BY JUDGE MORRIS:

20 Q Can you give me a little bit more about your
21 aviation background and experience -- you said you're an ATP,
22 an Airline Transport Pilot, you mentioned spending some time
23 in a simulator in the A320, do you have a type rating in the
24 320?

25 A No, I do not.

1 Q Besides your ATP, do you have any other FAA
2 certificates and ratings?

3 A I have a Flight Engineer Turbo Jet, that goes way
4 back to the 727 days. But basically my training was through
5 the U.S. Air Force, and then after that through getting the
6 DA20 rating, through Federal Express, when that was all they
7 flew, and then getting hired by Braniff International and
8 flying for them as a first officer -- or, rather, a second
9 office and then a first officer.

10 Q You indicated you had, approximately, 16,000 hours
11 total time. How many in jets?

12 A I would -- I'm just going to have to guess, Your
13 Honor, but I would guess at least 13,000 hours.

14 Q Okay. Do you still fly?

15 A Yes, I do.

16 Q Do you use a Third Class or the --

17 A I dropped this year to a Third Class, but I'm still
18 qualified for First.

19 Q Okay.

20 JUDGE MORRIS: Questions based on mine?

21 MR. SEHAM: No, not from the Complainant.

22 MS. BROWN: No, Your Honor.

23 JUDGE MORRIS: Sir, you are free to go. If you
24 want to stay and watch, please feel free to do so.

25 THE WITNESS: Thank you, Your Honor. I do have to

1 go, unfortunately.

2 JUDGE MORRIS: All right.

3 (Witness excused.)

4 JUDGE MORRIS: Next witness?

5 (Mr. Seham leaves room to call witness.)

6 JUDGE MORRIS: Stand and turn, face me and raise
7 your right hand.

8 Whereupon,

9 GAILEY WILLIAM CORBY

10 having been first duly sworn by the Administrative Law Judge,
11 was examined and testified as follows:

12 JUDGE MORRIS: All right. Please, take a seat.
13 After you're seated, sir, please provide your full name and
14 contact information.

15 THE WITNESS: My name is Gailey (phonetic) William
16 Corby, I'm known as "Bo," for obvious reasons. I live at 103
17 South 297th Place, Federal Way, Washington. Do you need
18 more?

19 JUDGE MORRIS: No. Are you a pilot?

20 THE WITNESS: I am.

21 JUDGE MORRIS: Please give me your FAA certificates
22 and ratings, please?

23 THE WITNESS: I have an Airline Transport Pilot
24 License, Certificate Number 17235 --

25 JUDGE MORRIS: I don't want that.

1 THE WITNESS: Okay.

2 JUDGE MORRIS: Okay. Just tell me your ratings,
3 your certificates. I don't want your certificate number.

4 THE WITNESS: Okay.

5 JUDGE MORRIS: And the reason -- well -- I just
6 don't want it.

7 THE WITNESS: That's all right. I won't give it to
8 you again.

9 JUDGE MORRIS: Okay.

10 THE WITNESS: ATP.

11 JUDGE MORRIS: Okay.

12 THE WITNESS: Flight Instructor, Flight Instructor
13 Instrument, Flight Instructor Multi-Engine, type ratings.

14 JUDGE MORRIS: In what?

15 THE WITNESS: A320, Boeing 727, 737, 747, 400, 757,
16 767, 777, BE300, Cessna 650, DC3, DC9, DC10, DA50, which is a
17 Falcon 5900, Lear 45. I have a Flight Engineer License,
18 Turbo Jet, Turbo Prop. Ground Instructor License, Advanced
19 and Instrument. I think that's it.

20 JUDGE MORRIS: Total time?

21 THE WITNESS: Just short of 32,000 hours.

22 JUDGE MORRIS: How many in jets?

23 THE WITNESS: How many what?

24 JUDGE MORRIS: How many hours with jets?

25 THE WITNESS: About 29,000.

1 JUDGE MORRIS: Okay, counsel.

2 DIRECT EXAMINATION

3 BY MR. SEHAM:

4 Q Could you give us some background on your
5 education?

6 A I have a Bachelor of Science in Aeronautics from
7 St. Louis University.

8 Q And how many years of airline experience do you
9 have?

10 A Probably over 40.

11 Q And you may have covered this to some degree, but
12 can you describe your training specific experience?

13 A Having been trained or --

14 Q No, no, no --

15 A -- producing?

16 Q -- your professional activity as a trainer?

17 A I started in '69 with the Boeing Company as a
18 flight crew instructor. I worked there seven months, I was
19 right out of college, taught in the ground school. Got laid
20 off when Senator Proxmire shut down the SSTs, so I went back
21 to the Midwest and flew mail for the Postal Service. Came
22 back to Boeing in '72. Worked in flight crew training,
23 again, until 1974. I went to the Middle East, lived in the
24 Middle East about two, two and a half years. Came back, went
25 to work for a non-sked airline, and there became director of

1 training, it was a 121 airline.

2 Let's see, from there, went to Hughes Air West. At
3 Hughes Air West, I did ground training with them as well as
4 fly. They merged with Republic and I did some training at
5 Republic in cockpit resource management. Then on to
6 Northwest, became an instructor check airman on the DC9. In
7 the meanwhile, in 1979, I started a training facility in
8 Seattle. And I had an organization that trained -- on a
9 contract basis -- small airlines. I owned a 727, 737 and a
10 Lockheed Electra Simulator. So, I've been involved in
11 training all my life, basically.

12 Q Thank you. How long have you known Ms. Pettitt?

13 A Over 30 years, probably.

14 Q And did you have any involvement in her application
15 to Northwest Airlines?

16 A In the sense that I wrote a recommendation letter
17 for Karlene to Northwest.

18 Q And why did you write a recommendation letter for
19 Ms. Pettitt?

20 A Well, Karlene came to my school -- I can't remember
21 the exact year, probably -- I just can't remember. But she
22 came and told me she wanted to get a type rating in the 727,
23 737 and a Flight Engineer's License. And I asked her about
24 her qualifications. She had -- I'll never forget this -- 472
25 hours total time. So, I explained to her that the likelihood

1 of her being able to complete one of those programs would be
2 questionable, because of her experience level. And she told
3 me, she says: "Well," she says:

4 "Look, I'll pay you even if I don't make it.

5 And I'll be the best student you've ever
6 seen in your life."

7 And at the time, I was thinking -- there was talk
8 in the industry about trying to get lower time pilots into
9 cockpits sooner and they were experimenting with multi-crew
10 training ideas and so forth. And I just wondered, on my own,
11 I wondered if you could take a 472 general aviation hour,
12 general aviation pilot and get them qualified in transport
13 category jets. So, I was kind of curious as to whether we
14 could do it anyway.

15 So, I told Karlene at the time that:

16 "We'll take you on, but you have to
17 complete an instrument training course
18 with us in instrument scan technique and
19 flight management skills, and if you do
20 that -- and pay for it, of course --
21 we'll give you a shot at the 727. And if
22 that goes well, we'll do the 73 and then
23 we'll see about the Flight Engineer
24 License."

25 And that's, basically, what we did. It was

1 amazing. And she did it.

2 Q And you say it was amazing, how did she -- did you
3 fly with her?

4 A Well, I gave her instruction, but I've always felt
5 that when a person goes through the training, they need to
6 have a viewpoint of different instructors, because every
7 instructor has their own talents and unique and specific
8 skills at being able to impart information. So, I probably
9 did, maybe, 50 percent of her training through that program,
10 and I had two other instructors there that probably worked
11 with her, as well.

12 But what was funny was -- I don't mean funny -- ha
13 ha -- but what was interesting was, when the FAA came in to
14 give her the check ride -- and this I remember distinctly --
15 they went into the briefing room, her and the FAA inspector
16 out of the Seattle office here, by the way. So, they're in
17 there for about 20 minutes and the inspector came out and he
18 says to me, he says: "Bo, can I talk to you for a second?"
19 I said: "Sure."

20 So, we go into my office and I said: "What's
21 wrong?" And he says: "I can't give her a check ride." And I
22 said: "Why not?" He goes: "She doesn't have enough
23 experience." And I said: "Well, John, she has a private
24 pilot license and she has a medical, you have to give her the
25 check ride." And he said: "I'm going to call the office.

1 So, he called the office, at the time it was over
2 in Boeing Field. And he came back in and he says: "Well,
3 I'll you what," he says: " I have to give her the check ride,
4 you're right." He says: "But if she messes one thing up, you
5 know, it's over." I said: "John, if she messes one thing up,
6 fail her, that's your job, you have to do that anyway." So,
7 he says: "Okay."

8 So, they went in the SIM. And a normal check ride
9 for type rating should take two hours to two and a half
10 hours. So, it got to two and a half hours, and I'm thinking
11 -- ah, oh, this is not good. About two hours and 45 minutes,
12 they came out, went in the briefing room. Then he come over
13 to my office and said: "Can I talk to you for a second?" I
14 said: "Yeah."

15 So, he comes in my office and he closes the door.
16 He says: "How did you guys do that?" I said: "How did we do
17 what?" He says: "Man, I've given check rides to 10,000 hour
18 captains who were not near as good as that." He said: "That
19 check ride was flawless." I said: "Well, John, why did it
20 take two hours and 45 minutes?" He said: "Because I couldn't
21 believe it, I just kept piling it on and she handled
22 everything." He said: "I gave up." He said, you know:
23 "We're going to pass her."

24 So, when she went on to complete the 73, then she
25 went on to complete the Flight Engineer's License. She had

1 -- I can't remember how long after that -- got a job with
2 Evergreen Airlines. And I remember her coming to me some
3 time later, asking if I would write a letter of
4 recommendation to Northwest, and I said absolutely, so I did.

5 Q And what positions have you held at Northwest
6 Airlines?

7 A Flying pilot, first officer, captain, instructor in
8 a DC9, check airman. I taught some ground schools, helped
9 develop the CRM program. Actually, that was kind of morphed
10 into Northwest. I guess I help set that up with Republic,
11 but then was involved in the amalgamation of those two,
12 Northwest and Republic CRM Program.

13 Now, I suspect that's probably most of what I did,
14 just at Northwest, with the exception of union work, I did
15 union work.

16 Q That was my -- you were a member of the Airline
17 Pilot's Association, ALPA?

18 A I was.

19 Q Okay. And did you hold any particular positions
20 within the ALPA structure?

21 A I did. I was on the Training Committee at Hughes
22 Air West, and involved when they amalgamated the procedures
23 between Hughes and Republic. And subsequent to that, I was
24 asked to be the training chairman of the ALPA Training
25 Committee for Northwest. And I did that for eight years.

1 Q Have you consulted with organizations regarding
2 pilot training?

3 A Sure, lots of them.

4 Q Can you give us a few examples?

5 A Well, probably a lot of foreign airlines. When the
6 Lockheed Electra was first brought into Sweden, I actually
7 went over to Stockholm and met with their FAA, because I had
8 the only Lockheed Electra Simulator left in the world, and it
9 had to be approved for that particular airline. So, they
10 wanted to understand how we did the training, what
11 curriculum, what syllabus, et cetera, et cetera. So, I did
12 that.

13 I helped set up the first charter airline in
14 Indonesia, in the 737. I trained all of the initial
15 Indonesian pilots in that group for that airline, called
16 Airfast Indonesia.

17 I've worked with several Canadian carriers that had
18 pilots with core skill issues, that I consulted on and, you
19 know, how to correct some of those difficulties. Just a
20 myriad of things like that.

21 Q In your experience, is it possible for a check
22 airman to manipulate the environment to influence a simulator
23 checking event?

24 A Absolutely, very easy.

25 Q In your experience, did Northwest ever use a line

1 or simulator check for retaliation purposes?

2 A I can't say the airline, itself, would have done
3 that, but certainly there were situations where certain check
4 airmen -- they certainly had the capability of doing that.
5 Any check airman does in a check ride. And we had a very
6 contentious merger agreement between Northwest and Republic,
7 and there were situations that resulted in a pilot's
8 detriment, because of something other than their performance,
9 that did happen.

10 Q You say -- you referenced a merger, do you have any
11 experience with differing airline cultures?

12 A Oh, yes. I've worked -- let's see -- I think I've
13 been involved in four mergers, in my career. And they're all
14 interesting, because you're trying to put different cultures
15 together.

16 Q Have you had professional dealings or social
17 interactions with many Delta pilots?

18 A Well, quite a few. I have a lot of friends that
19 fly for Delta. And I have many friends that fly for
20 Northwest, that amalgamated into the Delta culture.

21 Q Based on the information that you've received from
22 them, can you describe to me your understanding of the
23 difference, if any, between culture at Northwest and Delta?

24 MS. BROWN: I'm going to object. This isn't based
25 on personal knowledge, at all, it's all secondhand

1 information he's received from individuals about Delta's
2 culture.

3 JUDGE MORRIS: Counsel?

4 MR. SEHAM: Yes. We've heard about his extensive
5 experience and also his training experience, the use of
6 simulator checks to retaliate. This is man immersed in the
7 Airline Industry and the Airline Industry culture. And
8 whatever value the testimony may have, it's relevant and it's
9 really for the Tribunal to later ascertain the level of value
10 to attribute to it.

11 MS. BROWN: I don't think we've heard anything
12 about his experience at Delta, because he's never been
13 employed by Delta.

14 JUDGE MORRIS: Well, the fact that he hasn't been
15 employed by Delta, doesn't necessarily sway me. Has he been
16 identified as an expert?

17 MR. SEHAM: He's, again, by virtue of his -- oh,
18 you mean in terms of our disclosures?

19 JUDGE MORRIS: Yes.

20 MR. SEHAM: No, he has not been identified, beyond
21 -- and we were relying on what was previously discussed with
22 the Tribunal to the effect that pilots acquire experience
23 that's relevant with respect to -- based on their ATPs and
24 their decades of experience in the industry.

25 JUDGE MORRIS: That's as pretty liberal

1 interpretation of what I had understood it to be.

2 MS. BROWN: He's not really testifying about his
3 pilot experience. He's testifying about Safety Culture.

4 MR. SEHAM: Well, airlines have cultures and those
5 cultures matter. And this is something that's, in effect,
6 identified in 14 CFR Part 5, and has been relied upon by the
7 Respondent as a defense, that they have a robust Reporting
8 Culture. And what we're trying to elicit from this witness
9 is based on the information he has that it's not as robust as
10 has been represented.

11 JUDGE MORRIS: I'm going to allow it, but I'm
12 allowing it because the bar is so incredibly low at these
13 administrative proceedings. Whether or not I give it weight,
14 is a different matter, okay.

15 Go ahead.

16 THE WITNESS: Would you repeat the question,
17 please?

18 MR. SEHAM: Yes.

19 BY MR. SEHAM:

20 Q Based on your professional experience and the
21 information you've received over the years, can you comment
22 on the comparative airline culture of Delta and Northwest
23 Airlines?

24 A It might be easier to comment on culture in general
25 between any airline.

1 Q Why don't we begin with that?

2 A Okay. So, understanding what a culture is, is
3 interesting. A culture is a few things. It's a
4 communication system, it's a sense of normalcy, and in the
5 airline world it's a sense of collective desire to reach a
6 particular goal -- in this case, safety. Everybody goes home
7 safe today. And the best example I can give is I remember
8 when I first went to the Middle East. We, as Americans, have
9 normals, it's what's normal, the way we communicate with each
10 other, there's a certain protocol that's not, necessarily,
11 formal, it just is the way it is. And you don't do this on a
12 conscious level. You couldn't, your brain couldn't accept
13 that. So, it's normal to be here in America and the way we
14 do things.

15 When I first went to the Middle East, all the
16 "yes/no's" go to "maybe." As an example, if you were, let's
17 say, a Persian, and I'm an American, I may say to you: "Mr.
18 Lee, why don't we meet tomorrow night at 6:00 o'clock p.m.,
19 at the XYZ Restaurant." Now, two things happen in your mind
20 when I say that. The first thing is, you're really upset,
21 because I have asked you to be somewhere in the future and
22 they can't do that, because God controls where you're going
23 to be in the future, and you just can't say it that way. You
24 can't agree to be somewhere in the future, okay.

25 The second thing I did is, I appointed a specific

1 time for you to be there, and that's even worse. In their
2 culture, they would never say it the way I said it. They
3 would say, for example: "Inshallah, God willing, wouldn't it
4 be nice if perhaps tomorrow we could have dinner together?"
5 And I would say: "There are many restaurants that are good in
6 Tehran, but I would really like, God willing, to go to this
7 one." And you would say: "If God wills it, so be it."

8 Now, tomorrow, I would show up, perhaps, and maybe
9 you'd be there at 6:00 o'clock p.m., maybe you'd be there at
10 9:00 o'clock p.m., or maybe you wouldn't be there at all.

11 All of which is acceptable. That's their normal. Now, as an
12 American, it would become incredibly frustrating, because I'm
13 in a culture where I can no longer anticipate what's normal.

14 And that's why people go through culture shock, the three
15 stages of culture shock. First stage: This is really cool, I
16 can't believe I'm getting this opportunity, this is great.
17 The second stage is: I can't anticipate what's going on, my
18 frustration level is through the roof, I'm out of here. And
19 the third stage is: No matter what they do, I'm going to have
20 a good time, I'm going to adapt to this.

21 And what's interesting is, when you live in a
22 culture for a period of time long enough, you will
23 subconsciously adapt to that culture. As an example I can
24 give when I came back to this country, after that experience.

25 In the Middle East, when you walk to a doorway in a group of

1 people, there's a protocol for who goes first. Certain
2 things have to be offered, certain things have to be
3 rejected. So, when you walk toward a doorway in a group of
4 people, your brain starts clicking off -- who do I have to
5 offer this to, who do I have to reject, et cetera, et cetera.

6 When I came back to America, I'd walk to the
7 doorway and people would start walking through, I could feel
8 myself getting frustrated. And I'm going, that's rude, why
9 are you doing that?

10 Q Well, this is a premise. How would you describe
11 Northwest's Safety Culture --

12 A I'm getting to that.

13 Q Okay. All right.

14 A So -- and it's not just Northwest or any other
15 airline. It's two different airline cultures coming
16 together. Now, specifically with Northwest versus Delta, the
17 best way I could describe that is say, okay, let's put the
18 Northwest chief pilot's door here and we'll put the Delta
19 chief pilot's doorway here, okay. The Northwest door would
20 be opened, the Delta door would be closed. In the Northwest
21 door, I would walk in and say:

22 "Blaine, I noticed a problem, I was
23 giving a SIM period, I looked at the
24 procedure, this is messed up, because
25 down the road if they did this, that

1 would happen."

2 Now, what would happen there is: "You know what,
3 Bo, we're going to check into that." And a week later, two
4 weeks later, I'd get a call:

5 "Hey Bo, we ran this past Standards,
6 we ran it past Training, and we think
7 it's a good idea and we're going to
8 implement it, and I think it will be done
9 by, maybe, three to six months. Are you
10 okay with that?

11 "Sure." All right.

12 MS. BROWN: I'm going to object, again. There is
13 no personal knowledge of this. I mean this is all based
14 on --

15 THE WITNESS: Well, that's specific knowledge.

16 MR. SEHAM: He's talking about Northwest up until
17 now.

18 MS. BROWN: He's talking about what happens with a
19 door at Delta and a door at Northwest, and he was never
20 employed at Delta.

21 THE WITNESS: Well, I haven't got to the Delta
22 door, yet.

23 JUDGE MORRIS: Wait a minute.

24 MR. SEHAM: The objection --

25 JUDGE MORRIS: I'm hearing as to Northwest. It's

1 my understanding there's some understanding of Northwest.
2 We'll see what happens when we talk about Delta.

3 MR. SEHAM: Okay.

4 JUDGE MORRIS: And counsel, this is more than ATP
5 testimony, so I have -- you have leeway, counsel, on
6 cross-examination.

7 THE WITNESS: So, very simply, in the Delta door, I
8 would go up and knock on the door. Maybe the chief pilot is
9 there and maybe he's not. I would maybe have the same
10 conversation. And from that would follow the same similar
11 process at Delta, but the outcome would most likely be,
12 hopefully, the same, but would happen in a different
13 time-frame, because the cultures are different how
14 information flows.

15 BY MR. SEHAM:

16 Q And you base your comments related to Delta on
17 what?

18 A Well, on people that I know, that have worked in
19 the system, a number of Western pilots that went through a
20 merger with Delta, and their experience. So, I don't know
21 that you have to be immersed into the culture to have an
22 understanding of the general process and differences between
23 the two.

24 Q I'd like you to -- we're going to move to sort of a
25 cumbersome process of pulling documents out. So, if you look

1 at those -- that first set of black --

2 MR. SEHAM: May I set it up for him, is that okay?

3 JUDGE MORRIS: You may.

4 MR. SEHAM: Oh, and counsel, it's going to be 133,
5 CX-133.

6 Are we on the record?

7 JUDGE MORRIS: We're still on the record, yeah.

8 MR. SEHAM: Okay.

9 BY MR. SEHAM:

10 Q So, I've asked you to turn to a document that's
11 been identified as Exhibit CX-133, and can you identify what
12 that document is?

13 A It's a letter I wrote to Dr. Altman.

14 Q So, it's a long letter and I'm not going to ask you
15 to read it out loud, but with the permission of the Tribunal
16 and counsel, I would just ask you is it your testimony that
17 everything contained herein is factually accurate?

18 MS. BROWN: I'm going to object, it's hearsay.

19 MR. SEHAM: Do you want him to read the letter?

20 MS. BROWN: I'm making my objection noted.

21 JUDGE MORRIS: We're not going to read the letter.

22 MR. SEHAM: Okay. So, is the objection overruled?

23 JUDGE MORRIS: The objection is overruled. These
24 proceedings specifically allow hearsay, again the weight I
25 give it, fine. We're past the seven days, so there's no

1 objection to the foundation.

2 You authored this letter, right?

3 THE WITNESS: I did.

4 JUDGE MORRIS: All right.

5 BY MR. SEHAM:

6 Q And perhaps just as significantly, to whom did you
7 send it?

8 A Karlene.

9 Q Okay. But you see at the top it's addressed to Dr.
10 Altman?

11 A Yes.

12 Q Okay. Was the purpose of this letter to provide
13 information to the psychiatrist, Dr. Altman?

14 A It was. Karlene called and asked if I would mind
15 writing a letter in her support, for what she explained to me
16 what was happening to her at the airline. I said,
17 absolutely, I'd be more than pleased to.

18 Q Now, did Dr. Altman ever contact you?

19 A He did not.

20 Q Did a Dr. Huff, who we've stipulated was the
21 neutral medical examiner in this proceeding, did he contact
22 you?

23 A Yes, he did.

24 Q And what did you discuss with psychiatrist, Dr.
25 Huff?

1 A Well, as I recall, the conversation centered around
2 Karlene, of course, what I had observed in having trained her
3 and known her over the years. Did I see any signs of
4 emotional stress at any point? And I related that no, I did
5 not. He wanted to know if she became emotionally upset,
6 crying, under high stress conditions. And I do recall
7 telling him that what we put her through in the simulator
8 would make a grown man cry and she never shed a tear. I
9 remember that comment to him.

10 And it was interesting, because he asked a lot of
11 questions. I can't recall all the things he asked.

12 Q Can you tell us, approximately, how long the
13 conversation lasted?

14 A Probably about 30 minutes, I would say maybe 20, 30
15 minutes.

16 Q Okay. Have you read Ms. Petitt's book Flight to
17 Success: Be the Captain of Your Life?

18 A Yes.

19 Q And can you tell us your opinion of that book?

20 A Well, I, personally, feel that the book was very
21 inspirational. I thought it was very clever in how she took
22 and built a relationship between terms we actually use in the
23 industry and created an inspirational support system for
24 young people to get involved in aviation. I bought 10 copies
25 of the book and sent them to my high school in Pennsylvania.

1 Q To whom would you recommend the book?

2 A Well, I'd recommend it to any parent who had a
3 child that didn't know what they wanted to do in life. If
4 any young person came to me and asked what I thought about
5 what they should do as a career, I'd strongly recommend
6 aviation. Which is kind of interesting, because in these
7 latter years, most parents have discouraged their children
8 from getting involved in aviation, because of all the
9 financial turmoil and instability of the industry. We find
10 ourselves now in a pilot shortage.

11 MR. SEHAM: The next question I'm going to ask the
12 witness relates to JX-L, at page 204. And again, with the
13 permission of the Tribunal, I'll assist the witness.

14 JUDGE MORRIS: All right.

15 MS. BROWN: Lee, what page in JX-L?

16 MR. SEHAM: 204.

17 BY MR. SEHAM:

18 Q Okay. What I'm going to draw your attention to is,
19 first draw your attention to the middle of page JX-L, 204,
20 and you see there's a caption a little over halfway down that
21 says: "Discussion of FO Petitt's Motivational Book"?

22 A Correct.

23 Q You see that?

24 A Yes.

25 Q And I'd like to move you now over to the next page,

1 starting with the second full paragraph: "Later in the book,
2 pages 177 to 180" -- and just for the sake of expedition,
3 unless the Tribunal would like us to proceed in different
4 form, I would ask you to read from there: "Later in the
5 book," to the end of the page, in preparation for my next
6 question?

7 A You want me to read that?

8 Q Yeah, just read it to yourself, please?

9 A Okay.

10 Q And in that first paragraph that I asked you to
11 read, are you familiar with that incident?

12 A I can't remember exactly the passage in the book,
13 but I think it was on her 737 check ride where they had a
14 pre-flight omission -- and this, by the way, was during an
15 FAA check, as I recall -- and because of the omission, the
16 FAA inspector decided to give an event that would cause an
17 abort. Now, what they had both missed, on the pre-flight
18 inspection, was the fact that the hydraulic indicator showed
19 zero quantity. And because there was zero quantity, there
20 was a braking issue. So, on the takeoff roll, the FAA
21 inspector initiated an engine fire, which is an abort
22 requirement. They aborted, discovering that they had no
23 brakes, they activated the emergency brake system and
24 stopped, okay.

25 Q You talked about the activities of the flight

1 instructor, did you ever have any discussions with the flight
2 instructor?

3 A Well, I had a discussion with the FAA.

4 Q Okay.

5 A After the ride. Because when they did check rides
6 at our place, at our facility, they would debrief the
7 student, but I always liked to get a debriefing from the FAA
8 inspector, so I could get feedback -- are there any holes in
9 our training program, any areas that we need to improve. And
10 I do recall this incident.

11 And in some cases an event can be so egregious that
12 the FAA will issue a failure immediately. But there's other
13 cases where the FAA has to apply judgment. Now, as a good
14 evaluator, you do not want to have someone that is perfect,
15 because you have to determine not only do they need to
16 understand how the airplane and the systems work, you want to
17 see if they screw something up, can they fix it? That's just
18 as important as someone who flies a perfect check ride.

19 And in this particular case, we discussed the
20 incident and he indicated that this is a debriefing incident,
21 everything else in the ride was really good, and it showed
22 that the crew understood how to use the emergency braking
23 system. And I'm sure it's a mistake they'll never make
24 again. So, these things can be learning events, even during
25 an evaluation.

1 Q Did you have any negative reaction to her
2 discussing this incident in the book that she published?

3 A Absolutely not.

4 Q And why not?

5 A Well, like a good comedian, you know, the more
6 deprecating they are to themselves, the funnier it is. The
7 question is, how much impact does it make? And she's writing
8 a book and saying I made a mistake, it's okay for you to make
9 a mistake, you have to learn how to fix it, you have to be
10 able to fix your mistakes. I thought that was inspiring in
11 itself.

12 Q Did Dr. Altman ever call you to discuss or request
13 this -- did Dr. Altman ever call you to discuss this incident
14 or seek any clarification of this event?

15 A No.

16 Q Do you consider Dr. Altman's characterization of
17 the flight event to be accurate?

18 MS. BROWN: I'm going to object to the form. I
19 mean to the extent he's criticizing Dr. Altman's report, he's
20 not qualified to do that.

21 JUDGE MORRIS: It's overruled.

22 You may answer.

23 THE WITNESS: Well, I don't think he knew what he
24 was talking about, to be really honest with you. It was
25 obvious he misinterpreted what was in that book and what the

1 real objective of making the comments that she did.

2 "New first officers are not closely
3 supervised by the captains they fly
4 with."

5 Well, that's not necessarily true. Could it
6 happen? On occasion. But I tried to watch everything I
7 could in the first officer, what they did, and I certainly
8 expected them to watch me. It's a team up there, it's not
9 one person. And the best leader takes input from the person
10 sitting next to them. It doesn't matter how much experience
11 they have, because you can't take a chance that they may see
12 something you don't.

13 So, obviously, in this case, I don't think the man
14 knows what he was talking about in evaluating that particular
15 statement.

16 BY MR. SEHAM:

17 Q Now you -- I'm sorry --

18 A Experienced pilots follow unsafe flight practices.
19 Experienced pilots will screw up. I don't care how
20 experienced they are, they will screw up. And the day you
21 stop learning is the day you become a danger to the industry.
22 So, I don't think experienced pilots follow unsafe slight
23 practices, I think mistakes are made. And admitting that you
24 made a mistake, you get an A plus in my book, first of all
25 for admitting it, and you get a double A plus for correcting

1 it.

2 "The qualification process for pilots
3 has a lower standard than I believe most
4 people would assume. Even if the pilot
5 makes a potentially life-threatening
6 error, if a crash is avoided, the pilot
7 will still pass without any additional
8 training being required."

9 That's not true. Because after ever training
10 session and after every evaluation event, there is always a
11 debriefing. And the objective of the debriefer is to take
12 the event in the most impactful way, to try to assure that
13 learning took place, irrespective of whether it was a
14 training period or evaluation period, either one, you're
15 trying to effect learning. And when that person walks away
16 from you, you have to know, in your own heart, that changed
17 as effected to the positive.

18 So, I don't put any weight to his statements,
19 whatsoever.

20 Q You've known Karlene for over 30 years?

21 A Yes.

22 Q And have you discussed important flight safety
23 issues with her during that time?

24 A From time to time, sure.

25 Q And what was her demeanor during these discussions?

1 Was she ever fretful, upset?

2 A Well, I'd say Karlene is passionate about safety.
3 Karlene is a really unique individual. She's not like a lot
4 of people. I'm sorry, I don't mean that in a bad way. What
5 I mean is she has a capacity that most people could never
6 achieve. And I've always wondered how she did it. Raised
7 three kids, with a very, very low flight time accomplished
8 getting not one type rating, but two and an Engineer's
9 License, going on the line for a freighter while raising a
10 family and having a husband who supported her, goes out and
11 gets a Master's Degree -- actually one or two of them, I
12 don't know how many -- and then a Doctorate Degree on top of
13 all that, while fighting a company that basically,
14 essentially, created an event that could have trashed her
15 whole career. When you accuse someone of a mental --
16 especially shortly after what happened in Germany -- that
17 takes away your whole livelihood. I think that, in itself,
18 is egregious.

19 So, Karlene is a very, very different, unique
20 person. But she's passionate about safety. That is the
21 thing that she has latched onto. She has written -- oh, on
22 top of that -- writing all these books. You know, is it bad
23 to be different? Well, let me tell you, it's people that are
24 different that change the world, whether we like it or not.

25 Q Now, as she discussed these safety issues, how

1 would you describe her composure?

2 A Well, just like we're having a discussion right
3 here. You know, two people can have differences of opinion.

4 And I've had differences of opinion with Karlene on
5 occasion. I didn't feel the way she did about some things.
6 But the approach was always one where she'd look at you kind
7 of funny and you could tell she's thinking about this, and
8 we'd come to no conclusion. Maybe her mind was changed,
9 maybe it wasn't. But that happens every day with people. I
10 didn't see anything different in that respect with her, than
11 I do with anybody else I have a lively discussion with.

12 Q Now, in all the years you've known Karlene, have
13 you ever known her to report a gender based harassment
14 complaint or an EO, Equal Opportunity, complaint?

15 A I have to laugh at that, because she's probably had
16 a million opportunities where she could have, but never did,
17 to me.

18 Q And how many years have you owned a training
19 facility?

20 A I had my training facility for 24 years.

21 Q And how many years were you the ALPA training
22 representative?

23 A At Northwest, eight years.

24 Q How many instructors have you worked with and
25 supervised over the years?

1 A Oh, god, well, if you group it all together, that's
2 a hard one, 50, 100, something like that, I guess, I have no
3 idea, just a ton.

4 Q How would you respond to a training instructor who
5 was texting during a simulator job?

6 A Well, you have to take it in context. If you got a
7 text that said -- hey, your wife just died -- that's one
8 thing. But if he's in the device and he's not paying
9 attention, it's a matter of degree, right. If he got one
10 text and it was just, you know, something that really needed
11 attention -- okay, fine, you take the text, you put the phone
12 down, you put your head back into the student, because you're
13 there to help the student, okay. Your job is through put,
14 every instructor wants -- should want to get that student
15 through in that footprint. And it's not easy to do, because
16 there's a lot of stuff crammed into these simulator periods.

17 And if you're not paying attention, something suffers,
18 usually the person up there is suffering, because they're not
19 getting the full advantage of that short window to learn the
20 behaviors, the procedures, the systems, all that kind of
21 stuff. So, if it was a pervasive lack of attention to what's
22 going on up front, that is a real issue.

23 Q Well, in the age before texting, did you ever have
24 a situation where an instructor left the area briefly, to
25 take a telephone call?

1 A What do you mean, left -- left the simulator?

2 Q Left the simulator?

3 A No. We just didn't do that.

4 Q You're familiar with the oral requirement that
5 precedes the simulator check?

6 A Yes.

7 Q If there was a requirement of a 60-minute pre-check
8 oral, and the check, the oral that was actually given, was 10
9 minutes, how would you respond to that?

10 A I'd have to think about that for a second. If I
11 was giving an oral to a fellow instructor, I would assume he
12 has certain knowledge on all the basic things. So, the oral
13 I gave him might be a little bit different than an oral I
14 gave to a regular line pilot. The FAA mandates that an oral,
15 or written exam, is given prior to a proficiency check, or if
16 you're in an AQP program it's required prior to the line
17 operational evaluation. It's a requirement.

18 JUDGE MORRIS: What does AQP stand for?

19 THE WITNESS: Can I draw a blank?

20 JUDGE MORRIS: You can. I'm doing it for the
21 benefit of the Court Reporter. We can find out later.

22 MS. BROWN: Air Crew qualifications.

23 THE WITNESS: Air Crew Qualifications, correct.

24 I'm 72, sir, this happens once in awhile.

25 So, anyway, getting back to it. An oral is a

1 requirement, and if you're a really good evaluator you use
2 that oral, again, as a learning experience. You also use it
3 as a challenge to the -- I'll say -- student or pilot taking
4 this exam, to give them the confidence they really know the
5 information they should be knowing.

6 So, does it occasionally happen that this is not
7 followed? It does. Now, most pilots are very happy if they
8 don't get an oral. And when I say most, I'm saying probably
9 40 percent of the pilots out there, they'd be happy not to
10 get an oral. In fact, they'd be very happy not to have a
11 check ride, because every time you get a check ride, it's an
12 opportunity to lose your license, right. A lot of people
13 hate check rides.

14 However, there are others who are professional
15 enough to realize that these are requirements. And the
16 training event is an opportunity to refresh your information,
17 to make sure that when you're up there and something happens,
18 you really know what you're doing, or you have some clue as
19 to what to do if it's not in the book.

20 So, for the pilots that want a comprehensive check
21 ride, a comprehensive experience, it ensures them that they
22 have an adequate grasp of the knowledge. It gives them that
23 internal comfort that they do. It also gives them a sense of
24 accomplishment. And you have to have that bar raised to a
25 point where a person walks away from a checking event feeling

1 as though they've accomplished something good, for themselves
2 and of course for others, as well.

3 MR. SEHAM: Thank you. No further questions.

4 JUDGE MORRIS: Cross?

5 MS. BROWN: Okay.

6 CROSS-EXAMINATION

7 BY MS. BROWN:

8 Q Mr. Corby, you were testifying at the beginning of
9 your testimony about Ms. Petitt coming to you to acquire a
10 type rating. When did that occur?

11 A I can't tell you the specific day, '80s or early
12 '90s, I suspect.

13 Q Do you know when Ms. Petitt was referred for a
14 Section 15 Mental Health Evaluation by Delta?

15 A Only what Karlene told me -- what was it, 2015,
16 '16, something like that.

17 Q So, this type rating event, where you described at
18 the beginning of your testimony, and the referral for a
19 Mental Health Evaluation, there was a 25-year gap between
20 those two events?

21 A Oh, I suspect probably so.

22 Q And we talked about this a little bit earlier, but
23 you were never employed by Delta, correct?

24 A Well, through association.

25 Q You were never -- you never received a paycheck

1 from Delta, you had never been on the Delta seniority list?

2 A Oh, I've received money from Delta, just not a
3 paycheck.

4 Q I don't know what you mean?

5 A I have stock.

6 Q Okay. Can you just answer me, yes or no, you've
7 never been an employee of Delta?

8 A And I hope that stock keeps going up. No. To
9 answer your question, no.

10 Q Okay. Thank you.

11 A You bet.

12 Q That's helpful. So, we've talked about this, to
13 your knowledge of Delta 's Flight Operations culture, that
14 comes from conversations you've had with people, correct?

15 A For the most part, yes.

16 Q And when did you leave Northwest Airlines?

17 A I retired in 2006.

18 Q Okay. So, that was before the merger between Delta
19 and Northwest?

20 A Yes. There were merger talks going on, but I was
21 invited to leave at age 60.

22 Q So, you don't have any personal knowledge of how
23 the merger affected the two cultures between Delta and
24 Northwest?

25 A I was not subjected to it, personally, because I

1 was not there. My knowledge comes from all the friends --
2 when I say friends -- people I knew. As the ALPA
3 representative, everyone knew me, I didn't know everyone.
4 But I had lots of conversations with pilots that went through
5 the experience, so that's the extent of my knowledge.

6 Q And so since you were never employed by Delta,
7 you've never had an occasion to present safety concerns to
8 Delta, have you?

9 A No.

10 Q So, you've never knocked on that door, I guess, to
11 use your terminology from earlier?

12 A No, I've never been to Atlanta to knock on those
13 doors, no.

14 Q And so you also have no experience with any sort of
15 simulator check retaliation at Delta?

16 A I never took a check ride at Delta.

17 Q Okay. So, that's a yes, you don't have any
18 personal knowledge of any alleged retaliatory simulator
19 checks or line checks at Delta?

20 A Well, that's a yes and a no.

21 Q I don't understand how it can be both, it's a yes
22 or no question?

23 A Well, because I know some people that --

24 Q That's not personal knowledge.

25 A -- had issues and that's -- okay --

1 Q So, you have no personal knowledge?

2 A No firsthand knowledge, you're right.

3 Q Okay. And so if you left Northwest Airlines in
4 2006, you certainly weren't present for any sort of 2011 line
5 check Karlene had when she was at Delta, were you?

6 A No.

7 Q So, you wouldn't have any personal knowledge of
8 what occurred during that line check. What about any sort of
9 simulator training in 2011, that Karlene had at Delta, no
10 personal knowledge of that?

11 A I wasn't there.

12 Q Okay. So, you wouldn't know if an instructor was
13 texting in the simulator or not, would you?

14 A No. All I know is I've seen it with just about --
15 not texting, of course, because I'm old -- but the point is,
16 do I know these things go on -- yes.

17 Q But you don't know if it occurred to Karlene, when
18 she was at Delta?

19 A I do not.

20 Q Okay. And you don't know whether or not she
21 received an oral following that simulator training, do you?

22 A Sounds like I don't know much of anything, doesn't
23 it.

24 Q Just asking questions.

25 A Would you repeat the question?

1 Q So, we were talking about 2011 simulator training
2 Karlene received at Delta. Since you weren't around at
3 Delta, at that time, you wouldn't have knowledge, one way or
4 another, whether she received an oral following that
5 training?

6 A No, I wouldn't.

7 Q Okay. So, you testified about -- well, let me ask
8 you this. Do you have any personal knowledge of the decision
9 by Delta to put Ms. Petitt in a Section 15 Mental Health
10 Evaluation, or does that all come from what she's told you
11 about it?

12 A No, it actually came from what she showed me that
13 was written.

14 Q And when you say what was written, what are you
15 referring to?

16 A I saw some documents and I can't recall at the
17 present time, but she did show me documents saying that she
18 was being required to go through a mental health evaluation.

19 Q But you've never talked to anyone at Delta about
20 why that decision was made, anyone who participated in that
21 decision, correct?

22 A I wouldn't expect to, no.

23 Q Okay. So, you don't know if Ms. Petitt's safety
24 concerns that she raised at Delta were a factor in that
25 decision?

1 A I don't have any personal knowledge of that.

2 Q Okay. So, you don't know --

3 A But it sure seems interesting.

4 Q I'm going to strike that as non-responsive.

5 So, you also don't know if her flight
6 performance --

7 JUDGE MORRIS: Well, I'll make that call, but
8 granted.

9 MS. BROWN: I'll move to strike it as
10 non-responsive.

11 BY MS. BROWN:

12 Q So, you don't know, similarly, if her flight
13 performance at all related to the decision to put her in a
14 Section 15?

15 A Well, I was not in the check ride and I did not see
16 exactly what went on in that simulator relative to her
17 performance.

18 Q When you say check ride or simulator, what were you
19 referring to?

20 MR. SEHAM: I'm going to object. I'm pretty
21 certain he hadn't finished testifying.

22 JUDGE MORRIS: Well, hold on. Ask your question
23 again, because I had two interruptions here for me to try to
24 figure out what's going on. Ask your question again.

25 BY MS. BROWN:

1 Q Do you know if Ms. Petitt's flight performance was
2 a factor, at all, in the decision to put her in a Section 15
3 evaluation?

4 A No.

5 Q So, if an air carrier like Delta is told that one
6 of their employees has concerns about one of their pilot's
7 mental health, do you think that the employer would have a
8 valid reason to be concerned and to investigate that pilot's
9 mental health?

10 A I need you to ask me that again, if you don't mind,
11 please?

12 Q Sure. So, if an airline is told by one of its
13 employees that that employee has a concern about a pilot's
14 mental health, for example the employee is under the
15 impression that the pilot believes that someone is out to
16 kill her, do you believe that that airline would have a valid
17 reason to be concerned about that pilot's mental health?

18 MR. SEHAM: Objection, assumes facts not in
19 evidence.

20 JUDGE MORRIS: Overruled. I told you I'd give her
21 leeway.

22 THE WITNESS: Well, that would depend on who the
23 employee is making the charge.

24 MS. BROWN: Okay.

25 BY MS. BROWN:

1 Q Will you turn to Exhibit 133 in front of you, it's
2 the letter you provided to Dr. Altman?

3 A Okay.

4 Q Will you go to the second page for me, please?

5 A I'm sorry, what would you like?

6 Q The second page of your letter, please?

7 A Okay.

8 Q And do you see the last line in that first
9 paragraph that starts with the word: "Rather"?

10 JUDGE MORRIS: "Rather"?

11 MR. SEHAM: "Rather than push," is that where you
12 are?

13 MS. BROWN: "Rather than push."

14 MR. SEHAM: The last line in the first full
15 paragraph.

16 JUDGE MORRIS: Oh, I've got it. Thank you.

17 THE WITNESS: "Rather than push this employee
18 aside through the mental stability gate, they may
19 well be better off listening to what she
20 has to say, I don't know."

21 BY MS. BROWN:

22 Q So, you told Dr. Altman that you didn't know what
23 an airline should do in a situation that was presented by Ms.
24 Petitt, is that correct?

25 A I never -- say that again.

1 Q In this letter to Dr. Altman, you told him that you
2 didn't know what an airline should do when faced with a
3 report of a pilot's mental health?

4 A Well, you could interpret that way, I suppose,
5 but --

6 Q Is that what you wrote: "I don't know"?

7 MR. SEHAM: Let -- I would object to the witness
8 not being permitted to answer the question. This is the
9 second time.

10 JUDGE MORRIS: You may answer the question.

11 THE WITNESS: Okay. When I say: "I don't know,"
12 it's manner of speaking. And I thought, at the time, knowing
13 what I know about Karlene, that to accuse her of being
14 mentally unstable, because she was trying to bring a safety
15 issue to the forefront, was unreasonable. And I did feel
16 that the company, from what I had seen, was creating a
17 situation for her that was unfair.

18 BY MS. BROWN:

19 Q Why did you say: "I don't know"?

20 A Just a manner of speaking. I say a lot -- see, I
21 grew up in a family that had sayings. My grandmother told
22 me, always: "You get like the people you live with." It's
23 just a way of speaking.

24 Q You said that if a carrier referred Ms. Petitt, or
25 Delta referred Ms. Petitt for a Section 15, based on her

1 safety complaints, but I think you testified earlier you
2 actually don't have any personal knowledge of why Delta
3 referred her for a Section 15, isn't that right?

4 MR. SEHAM: Asked and answered.

5 JUDGE MORRIS: Overruled.

6 THE WITNESS: Well, other than the documents that
7 she showed me, letters between herself and the management,
8 she showed me copies of those. And I based my decision -- my
9 position -- on that.

10 BY MS. BROWN:

11 Q I'm going to try and get a responsive answer. So,
12 you don't have any personal knowledge of why Delta referred
13 Ms. Petitt for a Section 15?

14 A You mean did I talk to Delta Air Lines about this?

15 Q Yeah. You never talked to anyone who was involved
16 in the decision?

17 A I never talked to Delta Air Lines about this, no.

18 Q Okay. So, you don't know if it was a decision
19 based on her safety report?

20 A No.

21 Q And so I want to go back to CX-133, which is the
22 letter you provided to Dr. Altman. Did you provide the same
23 letter to Dr. Huff?

24 A Did I?

25 Q Yeah. Did you provide a similar letter to Dr.

1 Huff?

2 A No. He didn't ask me for one. And Karlene didn't
3 ask me to write one.

4 Q And so you testified that you spoke to Dr. Huff.
5 When you spoke to Dr. Huff, did information you provide him
6 overlap with the letter that you provided to Dr. Altman?

7 A Well, you'll have to explain that question. What
8 do you mean by: "did it overlap"?

9 A Sure. So, when you spoke with Dr. Huff, the things
10 you discussed with him -- because I don't know what you
11 discussed -- did it overlap with the information that you had
12 provided to Dr. Altman in this letter? For instance, did you
13 tell him about the type rating incident in 1990, things like
14 that, any overlap between this letter to Dr. Altman and your
15 conversation with Dr. Huff?

16 A He asked me a series of questions and I suspect
17 that I gave a few examples of situations where I observed
18 Karlene's behavior under certain conditions.

19 Q So, I didn't hear a response to my question. Do
20 you know if it overlapped, at all?

21 A I can't remember if it did or not, honestly.

22 Q And when you wrote this letter to Dr. Altman, it's
23 pretty long, you tried to be pretty inclusive about
24 everything you thought would be helpful for him, is that
25 right?

1 A Well, in the time period I wrote it, most likely,
2 yes.

3 Q You weren't -- you didn't leave out anything that
4 you felt was pertinent at the time?

5 A I'm not sure if I did or not. I would never intend
6 it to.

7 Q You intended it to be a very inclusive letter?

8 A Well, of course. Otherwise I wouldn't have written
9 the letter.

10 Q So, I want to go back to JX-L, it's Dr. Altman's
11 report that you were talking about earlier?

12 A This one here?

13 Q Uh-hum.

14 A Okay.

15 Q And I believe Mr. Seham directed you to the last
16 complete paragraph on JX-L, 205?

17 A Okay.

18 Q Did you describe that incident in your letter to
19 Dr. Altman?

20 A About this book that she wrote?

21 Q Yeah.

22 A No.

23 Q Okay. So, Dr. Altman wouldn't have known that you
24 have any personal knowledge of that incident, would he?

25 MR. SEHAM: Objection, no foundation. Not from

1 him.

2 JUDGE MORRIS: I'm going to sustain that one.

3 BY MS. BROWN:

4 Q So, if you never mentioned this incident to Dr.
5 Altman, is there any way he would have known that you had
6 personal knowledge of it?

7 MR. SEHAM: Objection, calls for speculation.

8 JUDGE MORRIS: Sustained.

9 BY MS. BROWN:

10 Q So, you see the bullet points below that paragraph,
11 and where it says: "I believe most people would assume," by
12 Dr. Altman?

13 A No.

14 Q It's that fourth bullet point?

15 A I'm lost as to where you are.

16 Q JX-L, 205.

17 A Okay.

18 Q There's four bullet point?

19 A Yes.

20 Q Go to the fourth bullet point?

21 A Right.

22 Q And you see that first sentence?

23 A Yes.

24 Q "The qualification process for most --
25 for pilots -- has a lower standard than I

1 believe most people would assume."

2 A Are you talking about:

3 "New first officers are not closely
4 supervised by the captains they fly
5 with"?

6 Q Nope. I'm talking about the fourth bullet point?

7 A The fourth bullet point.

8 "The qualification process for pilots
9 has a lower standard than I believe most
10 people would assume. Even if the pilot
11 makes a potentially life-threatening
12 error" --

13 Q I don't need you to read it. I just wanted to
14 direct you to that paragraph.

15 A I'm trying to read it -- I'm sorry -- because I --

16 Q Okay, well, if you need to re-read it, go ahead.

17 A -- I understand it better when I read it to myself.

18 Well, what's your question about this statement?

19 Q Would you agree that you have more experience
20 related to that issue than most people?

21 A Well, I'd have to say yes, when you say "most
22 people," of course.

23 Q Do you have any knowledge about why Dr. Altman
24 chose to include this discussion of Ms. Pettitt's motivational
25 book in his report?

1 A I have no idea why he did that.

2 Q You've never performed a mental health evaluation
3 of a pilot, have you?

4 A Well, I've been involved with a lot of pilots that
5 had some mental issues, I can tell you that.

6 Q Can you give me a yes or no, please?

7 A Yes, with qualifications.

8 Q So, you've actually performed a mental health
9 evaluation of a pilot for an air carrier?

10 A In a sense, not on a professional level, but yes.

11 Q What do you mean not on a professional level?

12 A Well, we had a pilot at Northwest everyone called
13 "Rudy Runoff." Rudy would actually see angels on the wing of
14 the aircraft. And the company wanted him to be gone in the
15 worst way. He had runoff the runway twice, because he
16 believed that the use of reverse was too loud for the
17 passengers. I know this is irritating to you, but you asked
18 the question, I have to explain it.

19 So, the company asked me is there anything we can
20 do with Rudy. When I'm talking about the company, it was the
21 fleet captain and the director of Training. So, I thought
22 about it. Rudy was having problems in a DC10, it was costing
23 a lot of money, he was not qualified. So, I went to Rudy and
24 I explained to him that he had to qualify and his inability
25 to qualify in the airplane was costing the company a lot of

1 money, and it could result in him being released. So, I
2 suggested to him that he retire. Which he evaluated and
3 decided he was -- it would be a good thing.

4 Q So, you're saying your recommendation that he
5 retire was a mental health evaluation?

6 A Well, when he saw angels on the wings, I don't know
7 what else you'd call it.

8 Q You're not a licensed psychologist?

9 A I don't have to be to know that that's a little --

10 Q Can you please just give me yes or no, it would
11 really help things?

12 A Well, you have to ask yes or no questions.

13 Q Are you a licensed psychologist?

14 A No.

15 Q Thank you. Have you ever performed a mental health
16 evaluation for the FAA?

17 A No.

18 Q Are you familiar with Human Intervention Motivation
19 Study or HIMS?

20 A Yes.

21 Q Are you HIMS qualified?

22 A No.

23 Q Have you ever read the January 28th, 2016, report
24 that Ms. Pettitt provided to Delta?

25 A I did.

1 Q So, you testified earlier that you don't know why
2 Ms. Petitt was placed in the Section 15 by Delta, correct --
3 you don't have firsthand knowledge of it?

4 A I have to think about that. Only through reading
5 the information I was provided through written documents did
6 I understand that.

7 Q And if an airline received a report that a pilot
8 might have a mental health issue or might be unfit, that the
9 airline has a duty to do something about it?

10 JUDGE MORRIS: That's been asked and answered at
11 least a half dozen times.

12 MS. BROWN: Well, I'm kind of setting up a
13 question.

14 JUDGE MORRIS: All right.

15 BY MS. BROWN:

16 Q You said that it would depend on who made the
17 report, correct?

18 A Correct.

19 Q Okay. And if it was from a credible witness, would
20 the airline have a duty to do something?

21 MR. SEHAM: Objection, asked and answered.

22 JUDGE MORRIS: What's the question you want to get
23 to, counsel?

24 BY MS. BROWN:

25 Q So, just to clarify the testimony, if it's from a

1 credible source, an air carrier would have a duty to
2 investigate concerns about a pilot's mental health?

3 A And air carrier would certainly have to address the
4 issue. How they did that --

5 Q Until the carrier addressed that issue, should the
6 pilot be allowed to fly?

7 A I would say yes, until such point that there was
8 corroborating evidence that there really was an issue.

9 Q So, even if the pilot is removed with pay, while
10 the airline is investigating the credibility of this
11 accusation, you think that the pilot should still be allowed
12 to fly, while there's pending concerns about a pilot's mental
13 health?

14 A Well, I think if a pilot had a vendetta against
15 another pilot, and they said that -- hey, this guy is a nut
16 job -- well, if I'm in a supervisory position, I have to take
17 that seriously, but I also have to immediately get
18 corroborating evidence that that's the case and it's not just
19 a vendetta of one pilot against another.

20 Q Okay. Well, that's not really the question I
21 asked.

22 A Okay.

23 Q So, while the airline is gathering that information
24 to determine if it's a credible threat and it's not just a
25 vendetta, because you know that takes time, it doesn't happen

1 instantly always, do you think that a pilot should be allowed
2 to fly, even if they're removed with pay, while the
3 investigation is ongoing?

4 MR. SEHAM: Objection to form.

5 JUDGE MORRIS: Overruled.

6 You may answer.

7 THE WITNESS: I stand by the statement I had.

8 BY MS. BROWN:

9 Q It's a different question, you need to provide an
10 answer.

11 MR. SEHAM: I'm going to object, asked and
12 answered. I don't understand the question.

13 JUDGE MORRIS: State the question again, counsel.
14 We're trying to get blood out of a turnip here.

15 MS. BROWN: Yeah, it feels like it.

16 BY MS. BROWN:

17 Q So, if an airline had a credible report concerning
18 a pilot's mental health, the airline would have a duty to --
19 the airline should ground that pilot while they determine the
20 credibility of that report?

21 A Yes.

22 Q Thank you.

23 MS. BROWN: No further questions.

24 MR. SEHAM: Just one or two, based on cross.

25 REDIRECT EXAMINATION

1 BY MR. SEHAM:

2 Q Do you recall during the cross-examination you were
3 asked whether you had knowledge of the misuse of the
4 simulator checks at Delta, and you said yes and no, do you
5 retaliation that?

6 A Yes.

7 Q Could you explain?

8 A Well, I just -- I happen to know a Western pilot
9 that was involved with Delta, and they had issues with the
10 simulator check that they were given. And I can't recall
11 what the outcome was, but I was told that this was the case,
12 that they had a conflict between them and the Delta
13 instructor. I don't know if it was retaliatory or what the
14 case was, but they failed the check ride and they didn't feel
15 it was fair.

16 MR. SEHAM: No further questions.

17 MS. BROWN: No further questions.

18 JUDGE MORRIS: All right. Thank you, sir, you may
19 step down.

20 THE WITNESS: Thank you.

21 JUDGE MORRIS: You can stay and watch additional
22 proceedings, if you need to.

23 (Witness excused.)

24 JUDGE MORRIS: Do we need a short break?

25 MS. BROWN: Please.

1 AFTERNOON SESSION

1:05 O'CLOCK P.M.

2 JUDGE MORRIS: On the record. All parties present
3 when the hearing last recessed are again present.

4 Call your next witness.

5 MR. SEHAM: We'll be calling Captain Ken Watts, who
6 we're trying to link up by telephone.

7 JUDGE MORRIS: All right.

8 MR. SEHAM: Captain Watts?

9 CAPTAIN WATTS: Yes.

10 MR. SEHAM: It's Lee Seham. What we're going to do
11 is we're going to put this phone up near the Judge, okay.

12 CAPTAIN WATTS: Okay.

13 MR. SEHAM: All right. Then you should have a
14 couple of the Respondent -- Delta wanted you to have two
15 exhibits available for cross.

16 CAPTAIN WATTS: Okay.

17 MR. SEHAM: Okay. You have those?

18 CAPTAIN WATTS: Yes, I see the file here.

19 MR. SEHAM: Okay.

20 CAPTAIN WATTS: Okay.

21 MR. SEHAM: Okay. So, I'm going to put the phone
22 next to the Judge, who is going to swear you in.

23 CAPTAIN WATTS: Okay.

24 JUDGE MORRIS: Can you hear me, Captain Watts?

25 CAPTAIN WATTS: Yes, I can.

1 JUDGE MORRIS: All right. Please, raise your right
2 hand.

3 Whereupon,

4 KENNETH WATTS

5 having been first duly sworn by the Administrative Law Judge,
6 was examined and testified as follows:

7 JUDGE MORRIS: All right. Please provide your full
8 name and contact information for the record?

9 THE WITNESS: Kenneth Watts, K-e-n-n-e-t-h,
10 W-a-t-t-s. My primary contact is my cell phone,
11 225-747-00731. And my e-mail is 757capt@gmail.com.

12 JUDGE MORRIS: All right, Mr. Watts -- or Captain
13 Watts, would you please provide me an overview of your FAA
14 certificates and ratings?

15 THE WITNESS: Yes, sir. I'm an Airline Transport
16 rated pilot, type rated in A330, A320, 767, 757, 727. I have
17 commercial privileges, multi-engine land. I'm a flight
18 instructor and a flight engineer.

19 JUDGE MORRIS: Total time?

20 THE WITNESS: Approximately 24,000 hours.

21 JUDGE MORRIS: How many in jets?

22 THE WITNESS: Probably about 20,000.

23 JUDGE MORRIS: Go ahead, Mr. Seham.

24 MR. SEHAM: Could --

25 JUDGE MORRIS: You can come closer, if that helps.

1 MS. BROWN: Okay.

2 DIRECT EXAMINATION

3 BY MR. SEHAM:

4 Q Captain Watts, can you hear me?

5 A Yes.

6 Q Oh, good. So, could you give us your educational
7 background?

8 A I have a four-year college degree from Northwestern
9 State University in Natchitoches, Louisiana, that's
10 N-a-t-c-h-i-t-o-c-h-e-s, Louisiana.

11 Q And you were a pilot for Northwest Airlines

12 A I was hired at Northwest Airlines in November 1983.

13 Q Very good. And you became a Delta pilot
14 thereafter, correct?

15 A Yes, with the merger in 2008.

16 Q Did you ever have a position with the Airline
17 Pilots Association, ALPA?

18 A I did, from 1987 through 1993, I was elected
19 representative for the Minneapolis Council 1, second officer
20 rep and first officer rep, and captain rep. And then in 1998
21 I was the Master Executive Council contract administrator.

22 Q And for how many years did you hold that position?

23 A Twelve years.

24 Q And do you know Karlene Petitt?

25 A I do.

1 Q For how many years have you known her?

2 A I guess probably 10 years.

3 Q And what equipment have you flown with her?

4 A The A330.

5 Q And how would you describe her performance?

6 A I would say it was excellent, I mean nothing
7 outstanding that I would remember as derogatory, just the
8 same as every other pilot.

9 Q Now, you're familiar with the fact that Ms. Petitt
10 received a Section 15 referral in March of 2016, correct?

11 A That's correct, I'm familiar with that through her
12 telling me.

13 Q And were you ever contacted by Delta management
14 representatives, concerning Ms. Petitt, after that referral?

15 A Yes.

16 Q Do you recall who contacted you?

17 A Yes. There were two people, one from Human
18 Resources, Mr. Santouci (sic) or something similar to that,
19 and Scott -- I'm trying to recall the last name now --

20 Q Would it be Woolfrey?

21 A Scott Woolfrey, yes.

22 Q And did the issue of line checks come up during
23 their interview of you?

24 A Yeah. They asked me some questions about that.

25 Q Okay. Can you recall what their questions were

1 and, perhaps more importantly, what your answers were?

2 A Well, they asked me did I feel I had ever been
3 subjected to any sort of retribution while at Delta. And I
4 said yes, not only at Delta, but previously at Northwest, as
5 well. And they asked me to describe how -- why I felt that
6 way. And I described, you know, circumstances that led me to
7 feel that way.

8 Q Okay. And could you share with us what the
9 circumstances were that made you feel that way?

10 A Well, in May of 2010, I was a witness at an
11 arbitration for a pilot who had been discharged by Northwest.
12 And the reason I was involved in it was because it happened,
13 the incident happened while I was at Northwest, while I was
14 the contract administrator, and so I had been involved in the
15 defense of that pilot. And the attorney representing the
16 pilot eventually asked me to be a witness in the case. And
17 we ended up prevailing in the case, we won the case, the
18 pilot got his job back. And it was my feeling that the
19 company -- and it was a difficult case -- it was my
20 impression that the company was not happy, (a) that the pilot
21 got his job back and (b) with my testimony in the case. And
22 shortly after that, a very short period of time, I received a
23 number of line checks and a random drug test.

24 And within a short period of time from my testimony
25 and the resolution of that case, I received three line checks

1 and a random drug test. And I had recently been qualified on
2 the A330 and had a qualification line check, and the three
3 line checks and the random drug test that were assigned to
4 me. And then there was a fifth line check that I was
5 scheduled for that the check airman didn't show up for. And
6 so the way I interpreted what happened in that short period
7 of time, five line checks and a random drug test in that
8 short period of time, seemed to me to be unusual.

9 Q And your testimony that you gave, can you tell us
10 the month and year in which you gave the testimony?

11 A May 2010, is when the arbitration for the pilot in
12 question happened.

13 Q Okay.

14 A And the arbitration took place in Minneapolis.

15 Q And did you talk to Ms. Pettitt about these
16 circumstances that you had undergone?

17 A Yes.

18 Q Did you tell her, essentially, what you just
19 testified to?

20 A Yeah. I mean I didn't -- I don't ever open a
21 conversation with that. When the issue comes up -- I think
22 in our case Karlene mentioned that she was having some
23 difficulties with the company, with what she considered to be
24 retribution in her case, and I relayed my experience, which
25 happened to be similar.

1 Q And are you familiar or do you have knowledge of
2 other pilots complaining that they had been subject to
3 retaliatory line checks?

4 MS. BROWN: I'll object --

5 THE WITNESS: Yes, I have anecdotal information on
6 that, yes.

7 MS. BROWN: -- it's not based on personal
8 knowledge.

9 JUDGE MORRIS: Overruled.

10 BY MR. SEHAM:

11 Q I'm sorry, I didn't hear your answer?

12 A I said, yes, I've seen things posted on public web
13 boards from some pilots.

14 Q Okay. Very good. And at the end -- going back to
15 your interview with Mr. Woolfrey and his colleague, do you
16 recall how they concluded their interview of you?

17 A The last thing that was said from the company on
18 that call was that I was directed not to discuss it with
19 anyone else, and I complied with that.

20 Q Okay. And typically, how many line checks have you
21 had in a year or typically with what frequency have you had
22 line checks?

23 A We're required to get a line check once every
24 couple of years. I've recently been notified that my last
25 line check, two years ago, was due to be renewed and I'll be

1 receiving one probably sometime this year. That's normal,
2 once every couple of years we get a line check.

3 Q And did you -- did the interviewers ask you any
4 questions about Karlene?

5 A Yes.

6 Q And so can you tell us what they asked and how you
7 responded?

8 A They just asked me the specifics of her case and I
9 refused to discuss her or any other pilot that had issues
10 with the company. I didn't feel like it was my place to
11 discuss their issues.

12 Q Did you have any union representation during this
13 interview?

14 A I did not. I did ask if I needed union
15 representation. They called me, it was probably 8:00 o'clock
16 a.m., on a Sunday morning, I was sitting in the chair reading
17 the Sunday paper, and it took me completely by surprise.
18 That was one of my first questions, do I need representation
19 here, and they assured me that I didn't.

20 Q Based on your experience, what procedures apply if
21 a first officer presents a threat to safety during the
22 operation of a light?

23 A Well, obviously the same operation of the airplane,
24 it would be considered a Level 4 threat, and we have
25 procedures in our manuals on how to do that, but essentially

1 I would remove the threat from the cockpit.

2 Q Given that you've flown both for Northwest and
3 Delta, did you experience any difference in airline policy
4 between these two airlines, with respect to pilot fatigue
5 calls?

6 A Yeah, there is a difference. Northwest -- at
7 Northwest, we considered -- and "we" being management and
8 ALPA -- considered a pilot who was mentally or physically
9 unfit to perform their duties as being sick. And so the
10 pilot would be removed under those circumstances and paid out
11 of their sick leave.

12 At Delta, there's a slightly different procedure
13 that if you claim to be fatigued, you have to fill out a
14 report. And to be fair, at Northwest we also had to fill out
15 what's called an "ASAP Report," An Aviation Safety Report,
16 and that would be reviewed by the chief pilot.

17 Here we fill out a fatigue report that goes to a
18 Fatigue Review Board, who determines if the claim you're
19 making for fatigue is justified in their eyes. And you may
20 or may not be paid for it. So, that's how they do it here.

21 Q Okay. Have you ever heard the term: "Good Ol' Boys
22 Club," used at Delta?

23 A Yes.

24 Q In what context, can you describe the context and
25 your understanding of that phrase?

1 A Yeah. I've also heard the term at Northwest, as
2 well. And the context would be "friend of the family," so to
3 speak. If you're a known entity, if you're a friend of
4 whoever happens to be in charge, you can get in. I've never
5 been a member of the "Good Ol' Boys Club." It refers to,
6 like I said, being friends with whoever is in charge. It
7 could also apply to gender. But in my experience it's been,
8 you know, you're not part of the in-crowd.

9 Q Okay. Could this -- well, let me ask you this.
10 What is a "trip buy"?

11 A A "trip buy" is when you're scheduled to fly a trip
12 and if I'm scheduled to fly a trip the company would call me
13 and say, okay, we're taking you off the trip and we're paying
14 you for it, and someone else is going to fly it. That's what
15 it's like from my perspective. And I've been contacted
16 several times by the company for reserve pilots who haven't
17 flown in awhile and need the currency, and the reserve pilot
18 would go out and fly the trip. I would be paid for it and
19 the reserve pilot would get his normal reserve guarantee. He
20 would get the per diem for being gone on the trip to the
21 different cities, and I would not. But I'd be paid and he'd
22 get he'd be getting his reserve guarantee and the currency.

23 Q So, if the reserve pilot who receives the bought
24 trip does not exceed the reserve guarantee, is there any
25 additional wage cost to the airline?

1 A No.

2 Q Do you know what a "green slip" is?

3 A I do.

4 Q Could you explain for the Tribunal what a green
5 slip is?

6 A A green slip is an extra trip that's not previously
7 on your schedule. It's a trip that needs to be covered, and
8 you've put in a request or offer to fly a trip for premium
9 pay. And a green slip would pay 200 percent, double pay.
10 And you know, if you meet all the FAR legalities and whatnot,
11 you could be awarded an extra overtime trip, in seniority
12 order of those who have requested a trip.

13 Q I'm sorry, beyond the 200 percent premium?

14 A No, it's the 200 percent premium. For instance, if
15 you were to fly a 20-hour trip, you'd be paid 40 hours for
16 it.

17 Q Okay. And are you familiar with the A350 pilots
18 using green slips to have a significant impact on their
19 income?

20 A Oh, absolutely. They were flying green slips, they
21 were flying green slip with conflict, you know, there was a
22 unique money-making opportunity for the 350 pilots, as the
23 350 was introduced into our system as they were getting
24 people initially qualified.

25 Q You referenced green slip with conflict, can you

1 tell us what that relates to?

2 A Right. If I have a trip leaving in two days and
3 they have a trip leaving tomorrow, that they have no coverage
4 for, that they need coverage, I could be assigned that trip
5 if I volunteered to fly a green slip with conflict, and be
6 paid normal pay for the trip that they've just assigned me,
7 and normal pay for the trip that I was going to fly. So, I'd
8 be paid for both trips and just fly one.

9 Q Now, I just want to be clear about -- you testified
10 earlier about talking to Karlene about your multiple line
11 check experience, was that prior or after her March safety
12 referral?

13 A I think it was when we flew together, which was
14 probably in the 2013, 2014, time-frame. I looked back in my
15 log book, which goes back to I think it was 2015, and I
16 didn't see her name in there, so it was likely prior to that.

17 And it wasn't just Karlene. I mean anybody that -- when we
18 get into a conversation in the cockpit and we talk about
19 issues, that may come up, it's come up with many different
20 pilots.

21 Q Okay. When you say it's come up, you mean
22 recounting your experience with the line checks?

23 A Yes. It was significant for me to have that number
24 of line checks in such a short period of time, because it was
25 apparent to me that they were focused on me. And I would ask

1 each of the line check airmen, who showed up to give me the
2 line check: "Why are you here, I just had a line check?" And
3 they would tell me: "I don't know, I was just told to come
4 give you a line check."

5 Q Okay.

6 MR. SEHAM: I have no further questions for you at
7 this time, Captain, but counsel for Delta Air Lines will have
8 some questions for you.

9 THE WITNESS: Thanks.

10 JUDGE MORRIS: Go ahead, counsel.

11 CROSS-EXAMINATION

12 BY MS. BROWN:

13 Q Mr. Watts, can you hear me?

14 A Yes, Ma'am.

15 Q Okay, perfect. So, you testified earlier that you
16 were interviewed by two individuals, Brian San Souci and
17 Captain Woolfrey, as part of Delta's investigation. Do you
18 recall telling Mr. San Souci, and Captain Woolfrey, that you
19 didn't have sufficient experience at Delta to opine on
20 possible misuse of the Section 15 process?

21 A I do.

22 Q And you also testified earlier about your
23 participation in a 2010 arbitration on behalf of the
24 Northwest pilot, and that after that you experienced
25 retaliatory line checks in 2010 and 2011. So, those line

1 checks that you experienced, that you believe to be
2 retaliatory, they weren't a result of you reporting safety
3 issues, they were a result of your participation in
4 arbitration, correct?

5 A As far as I know. I mean it's only my feeling that
6 the line checks were retaliatory. I have previously filled
7 out any number of ASAP reports, you know, the safety reports
8 that line pilots use to notify the company of safety issues,
9 I've filled out many of those. But it was a coincidence to
10 me that the line checks came subsequent to my testimony in
11 that arbitration in May of 2010.

12 Q And interesting that you mentioned ASAP reports, I
13 want to talk to you a little bit about those. Do you recall
14 being interviewed by an OSHA investigator, as part of the
15 investigation into Ms. Pettitt's AIR-21 lawsuit?

16 A I do.

17 Q And do you recall telling the investigator that you
18 did not believe that you -- that you had reported and
19 submitted ASAP reports to Delta and that you did not believe
20 you had received retaliatory line checks, as a result of
21 reporting safety concerns through an ASAP report?

22 A I do.

23 JUDGE MORRIS: I'll take official notice of
24 AC210-66 and the appropriate extract of FAA Order 8900.1.

25 BY MS. BROWN:

1 Q And Captain Watts, do you recall telling the OSHA
2 investigator that you did not tell anyone in management at
3 Delta that you believed your line checks were retaliatory?

4 A I do. I do recall giving an explanation for why I
5 didn't. Because I had experienced the same thing at
6 Northwest and I didn't feel that my complaint, that I -- at
7 Northwest it was drug tests, not line checks -- but I did ask
8 each of the line check airmen: "Why are you here? I just had
9 a line check," you know, I was uncomfortable with getting
10 this many line checks. And I was concerned whether it was a
11 performance issue that they had identified for me, or if it
12 was some external issue. And I never really received an
13 explanation. So, I came to my own conclusion that it wasn't
14 a performance issues, because all the line checks were
15 satisfactory, and that it could only have been from that May
16 2010 testimony.

17 Q And so I just want to clarify and make sure I have
18 an answer to my question. You did not tell anyone in
19 management at Delta that you felt the line checks you
20 received were retaliatory?

21 A No one higher than the check airmen, themselves.

22 Q And speaking of the check airmen, the line check
23 airmen don't schedule the line checks, correct?

24 A I'm not sure how they're scheduled, but they told
25 me that they had been directed to give me a line check. I

1 believe know if -- one of the line checks came from the head
2 of the A330 program, a fellow out of Fargo, North Dakota --
3 I'll think of his name here in a sec -- but he was the head
4 of the program. And in fact, he was sitting in the co-pilot
5 seat and an FAA line check -- an FAA inspector was sitting in
6 the jump seat. So, it was kind of like a double line check.

7 But no.

8 Q And so you don't know what factors go into
9 scheduling a line check?

10 A I do not. I'm not part of that program.

11 Q And line checks are conducted of pilots, not first
12 officers, correct?

13 A They are, to my knowledge, the line check is for
14 the captain and whoever happens to be sitting as required
15 crew. They're actually looking at the captain, but if the
16 first officer does something that catches their attention,
17 they will note that in the report.

18 Q Right. Thank you, I meant to say captain, not
19 pilot. You also testified about some online blog postings of
20 alleged retaliatory line checks. You don't have any
21 knowledge of whether those retaliatory line checks were
22 connected to complaints of safety, do you?

23 A I don't. I remember one of the postings -- I can't
24 remember the specifics of the posting, so I can't say one way
25 or another what they dealt with.

1 Q Okay. And do you recall telling the OSHA
2 investigator that you have no direct knowledge of other
3 employees at Delta being retaliated against for raising
4 safety concerns?

5 A Yes.

6 Q And do you recall telling the investigator that you
7 have no personal knowledge of what happened to Ms. Petitt,
8 with respect to her Section 15, other than what she had told
9 you?

10 A That's correct.

11 Q And in 2010 and 2011, when you participated in that
12 arbitration you had referenced earlier, do you recall who was
13 the chief pilot for the A330, at the time?

14 A I believe it might have been Mike Doyle, Popeye
15 Doyle, but I'm not sure of that.

16 Q And what about the chief pilot for your region,
17 would that also be Mike Doyle or is that someone different?

18 A No, that would be different. The chief pilot in
19 attendance at the arbitration was the, at the time,
20 Minneapolis chief pilot, Dave MacNeil. He also testified in
21 the hearing. And what chief pilot were you looking for?

22 Q No, no, I'm just asking for those names, not
23 looking for anything in particular. So, thank you.

24 A Oh.

25 Q How many ASAP reports have you submitted throughout

1 your time at Delta?

2 A Well, I've been at Delta since 2008, and I've
3 probably submitted less than 30.

4 Q So, somewhere around 30?

5 A Less than 30, that's just a guesstimate.

6 Q Is it more than 20?

7 A I don't know, between 20 and 30.

8 Q And you've never been referred for a Section 15
9 evaluation, have you?

10 A I've never been referred for a Section 15
11 evaluation.

12 Q And have you ever been retaliated against for
13 submitting any of those safety reports?

14 A Not to my knowledge.

15 MS. BROWN: All right. No further questions.

16 Thank you.

17 JUDGE MORRIS: Anything else?

18 MR. SEHAM: Yes.

19 REDIRECT EXAMINATION

20 BY MR. SEHAM:

21 Q Captain, if you could standby for one question.

22 A Sure.

23 Q Under the ASAP program, are you required to sign
24 your name at the bottom of the submission?

25 A No. We submit them electronically. We submit them

1 electronically through Delta.net, you know, the Delta
2 computer system. And we have to fill out our name, our base,
3 our seat, employee number, all that stuff. And then we
4 submit them to Delta. And they go to a committee -- once
5 they go to Delta, then they're submitted to a committee in a
6 D-Identified format, in other words the header information
7 that includes the name, the employee number, anything that
8 would identify it to a particular pilot, and it's just only
9 the narrative, you know, what happened is submitted to the
10 committee, which includes the Airline Pilots Association,
11 Delta Air Lines and also the FAA.

12 Q Thank you.

13 MR. SEHAM: I have no further questions. There
14 could be other by either Delta or if the Judge has questions.

15 JUDGE MORRIS: Anything else?

16 MS. BROWN: Just a housekeeping matter. I wanted
17 to identify for the record Mr. Watts' OSHA interview summary,
18 which is Respondent's Exhibit 128, and then also the EO
19 investigation summary that was also referenced, which is
20 Respondent's Exhibit 112.

21 JUDGE MORRIS: Okay.

22 EXAMINATION

23 BY JUDGE MORRIS:

24 Q Captain, this is Judge Morris, I just have a couple
25 of questions. You perked my interest, you said that you

1 hadn't had a line check in a couple of years, but my
2 recollection of 121440 is a line check occurs annually?

3 A Well, there's a -- typically we get one annually.
4 One is from the company and one is from the FAA. The company
5 line check is every couple of years and the FAA line check is
6 every couple of years, so it works out to be about one per
7 year.

8 Q Okay.

9 JUDGE MORRIS: All right, that's the only question
10 I had.

11 Anything else?

12 MR. SEHAM: No.

13 JUDGE MORRIS: All right. Thank you, Captain.
14 Please do not discuss your testimony with anyone until after
15 this hearing is concluded, which is supposed to be at the end
16 of this week.

17 THE WITNESS: Thanks so much.

18 JUDGE MORRIS: All right. Have a good day.

19 (Witness excused.)

20 JUDGE MORRIS: Good morning. Please turn and face
21 me, raise your right hand.

22 Whereupon,

23 CORBIN E. WALTERS

24 having been first duly sworn by the Administrative Law Judge,
25 was examined and testified as follows:

1 JUDGE MORRIS: All right. Please, take your seat.

2 I just have a housekeeping matter before I get some
3 information from you.

4 Am I going to hear more about the ASAP program?
5 Because am I going to see the MOU? I'm intimately familiar
6 with ERC, the Event Review Committee, and how all that
7 process works, so I don't need a lot other than to give me a
8 broad brush, if there's anything peculiar to the Delta
9 program.

10 MR. ROSENSTEIN: Not from us, I don't think.

11 JUDGE MORRIS: All right.

12 Mr. Seham?

13 MR. SEHAM: I don't think so.

14 JUDGE MORRIS: Okay. I'm aware of the Big 5, all
15 that kind of stuff, okay.

16 All right. Sir, please give your full name and
17 contact information for the record?

18 THE WITNESS: Corbin E. Walters. P.O. Box 65049,
19 Tacoma, Washington, 98464.

20 JUDGE MORRIS: Who do you work for, sir?

21 THE WITNESS: Delta Air Lines.

22 JUDGE MORRIS: Okay. Are you a captain?

23 THE WITNESS: I am.

24 JUDGE MORRIS: Please give me your certificates and
25 ratings?

1 THE WITNESS: You mean what am I rated on?

2 JUDGE MORRIS: FAA.

3 THE WITNESS: Okay, yes. I'm type rated on the
4 A330, the Boeing 747, and the Lockheed 18.

5 JUDGE MORRIS: Okay. I'm assuming you're an ATP.

6 THE WITNESS: Yes.

7 JUDGE MORRIS: Any other ratings?

8 THE WITNESS: I have a Ground Instructor Advanced
9 Instrument, I used to be a CFI, but that's not current
10 anymore.

11 JUDGE MORRIS: Okay.

12 THE WITNESS: And my ATP is actually single and
13 multi-engine land, that's kind of unusual.

14 JUDGE MORRIS: Okay. What's your total time?

15 THE WITNESS: A little over 21,000 hours.

16 JUDGE MORRIS: How many in jets?

17 THE WITNESS: Most of that -- that's a good
18 question. Probably between 18,000 and 19,000.

19 JUDGE MORRIS: And how long have you been with
20 Delta?

21 THE WITNESS: I am a former Northwest pilot, so I
22 came to Delta effectively January 1st of 2010, at the Single
23 Operating Certificate date. Prior to that I was at
24 Northwest, I was hired in May of '84. So, I'm going into my
25 37th year in May, I think.

1 JUDGE MORRIS: All right.

2 Go ahead, counsel.

3 DIRECT EXAMINATION

4 BY MR. SEHAM:

5 Q Could you give us your educational background?

6 A I have a B.S. Degree in Aviation Science from
7 Southeaster Oklahoma State University. In addition to that,
8 all the airline training at Horizon, Northwest and Delta.
9 Also was part of an ALPA -- I was an ALPA volunteer on their
10 Air Safety Tech Ops Liaison Group, that was at Northwest. As
11 a result of that, I received training through ALPA at their
12 basic and advanced safety schools in accident investigation.

13 Q And the equipment you currently fly on is what?

14 A The A330.

15 Q And could you describe the training you received
16 for the A330, how the training program was conducted?

17 A It's a little bit like being put through a
18 toothpaste tube. I trained on the A330 in the spring of
19 2010. So, a little bit of a unique situation in that I was
20 Anchorage based on the 747-200, which was the only airplane
21 that did not come over to the Delta fleet from Northwest.
22 So, the last flight for that fleet was probably December 31st
23 of 2009. And at that point there was a whole group of us
24 that were the last, kind of the rear guard staffing of the
25 747-200, that all -- a great majority of us -- went straight

1 to the 330, particularly the captains. There were probably
2 50 to 60 captains in our group of people that went into the
3 training program in the spring and summer of 2010.

4 So, the reason I mention this is that there was a
5 large group of us, I had contemporaries that, you know, we
6 all knew each other, we had similar backgrounds, and I know
7 for me this was -- I'm going to say this was my first glass
8 airplane. The 747-200 was a 1970s technology analog,
9 hydro-mechanical airplane. And the A330 is still, arguably,
10 one of the highest technology wide-body airplanes flying. Z
11 It certainly was at the time that I got on it. It and the
12 777 are sort of peer airplanes.

13 And the background of the people I went through
14 with, again, similar to mine. There may have been a few
15 people that had some 757 background, which is kind of -- it's
16 an early glass, it's kind of a hybrid glass, if you will,
17 compared to the later stuff like the 777 and any of the
18 Airbus products. I don't recall anybody, that went through
19 with us, that had prior Airbus school or Airbus experience.
20 And so this was quite a transition. This was the most
21 difficult thing I've ever faced, as far as a training
22 environment. And the subject matter being difficult, it was
23 made more difficult by the fact that when we went through
24 training the emphasis was not on understanding the airplane
25 as much as it was a rote procedures process, where you would

1 rote memorization of processes and procedures, sequence of
2 button pushing without, necessarily, fully understanding what
3 it was you were doing or why. And that made it very
4 difficult for all of us. And I think we all shared the sense
5 that when we came out the other end of that pipe, that we
6 were really ill-prepared to be turned loose out into the
7 system. There just seemed to be a push to get us through --
8 jump through the various hoops and get us through. That
9 whole process is kind of a blur in my memory.

10 But I do remember some specific things. I remember
11 being in the procedures trainer with my partner -- a
12 procedures trainer is like a simulator, but it doesn't move,
13 it's got a lot of the same cockpit panels, some of them are
14 functional and some are not, but it's for establishing
15 patterns, pattern work in the cockpit -- and I remember
16 sitting in there and one of the two of us, myself or my
17 partner, said, as we were trying to work through a process,
18 said: "So, what does this do when I do this, or why am I
19 doing this?" And the instructor's response was: "Stop asking
20 questions, be the monkey, hit the lever, get the banana."
21 That is a verbatim statement of what we were being told. We
22 were not encouraged to learn about and understand why the
23 equipment did what it did. "You don't need to know that,"
24 was a phrase that was given to us frequently in the course of
25 that process.

1 And as a result, I have to tell you that I have
2 never been so uncomfortable in an airplane as I was in my
3 first year as a captain on that machine. And I know that I
4 am not alone in saying that and feeling that. I know that --
5 I had a good friend, that was a senior captain on the 47,
6 going through this at about the same time, and I remember him
7 saying:

8 "You know, I have got 25 years of wide-body,
9 long-haul international experience, and I
10 feel like that has no value or place
11 here."

12 Q I'm sorry, what has no value or place here?

13 A His experience, his background, and they didn't
14 want to hear questions posed from a well -- on the 47 we did
15 it this way, why or how, or what are the reasons behind this
16 process -- it was not instruction from a common knowledge
17 base. They did not want to hear about what your viewpoint
18 was or what your perspective was from prior experience. That
19 much was very clear.

20 Q How long have you known Karlene Petitt?

21 A I think almost 20 years.

22 Q And what equipment have you flown with her?

23 A The 747 and the A330.

24 Q Now, how would you describe her operations
25 performance?

1 A Oh, she's very confident, steady hand, good stick,
2 good hand flying capability, knows her stuff.

3 MR. SEHAM: I'm going to retrieve an exhibit here.

4 JUDGE MORRIS: What number, counsel?

5 MR. SEHAM: Yeah, I'm sorry. It's R, Respondent
6 Exhibit 71. I got lost for a second, because I was looking
7 in our binder. Respondent Exhibit 71. I'll to give you a
8 head's up next time.

9 THE WITNESS: Your Honor, may I add something to my
10 comments about training?

11 JUDGE MORRIS: No, not unless there's a question
12 pending.

13 THE WITNESS: Okay.

14 BY MR. SEHAM:

15 Q Did you leave anything out that you'd like to say
16 about your training experience on the A330?

17 A I would like to add a couple other things. I
18 mentioned earlier the "hit the lever, get the banana" story.

19 There are two others that have to do with wanting to
20 understand the airplane better. And I know that this
21 question that I posed to a number of people, and that was:

22 "What does activating the FMS approach phase do?

23 What does it mean? What aware we
24 accomplishing when we do this?"

25 JUDGE MORRIS: FMS is Flight Management System.

1 THE WITNESS: Yes. And I didn't really get a clear
2 picture of what that meant. I didn't get a clear, concise
3 answer to that. I got some kind of -- well, it does a number
4 of things, it kind of does this. And I know that a number of
5 us -- a number of us -- struggled with trying to understand
6 what that was all about.

7 Now, you know, this has been a long time ago, this
8 was nine years ago. I have lots of experience on the
9 airplane now. I can answer that question easily. It's like
10 all the other flight phases of the FMS, it's all about speed,
11 it's about what speed is it driving towards. And in the
12 approach phase, it's driving towards a final approach speed,
13 and it will respect flap settings all the way along the way,
14 and drive automatically towards that speed, once you've got
15 the aircraft configured. It really doesn't have anything to
16 do with anything else. That's a pretty simple explanation.
17 But I sure couldn't get that out of anyone at the time.

18 I was also on OE, that's Operating Experience, it
19 means I'm in revenue flying, on a real airplane, but I have a
20 check airman with me. And I can remember going from Honolulu
21 to Osaka, Kansai, across the Pacific, bright sunny day, a
22 place I've been many times, but just in a different airplane.

23 And I looked over at my line check captain and I said,
24 looking down at the FMS I said:

25 "So, what happens if the FMS dumps the flight

1 plan?"

2 And he looked at me like -- "What?"

3 I said:

4 "Yeah, you know, it just goes blank. How do I
5 reconstruct that? What does the process
6 look like to fix that?"

7 And he looked at me and he said:

8 "Well, you know, that's never going to happen,
9 but if it did, you would probably just
10 select heading and then pick a point off
11 your flight plan that you can go direct
12 to, load that in, go direct and then load
13 the points thereafter and kind of
14 reconstruct it."

15 And that seemed certainly plausible to me. It
16 seems like a reasonable approach to something like that. But
17 he didn't direct me to supplement section of the Aircraft
18 Operating Manual, Volume I, page 11.3, where it talks about
19 FMS Re-Synchronization. And in that section it addresses
20 this very issue, and it says it's possible that the FMSs,
21 which are supposed to be talking to each other, are going to
22 get out of sync, and a re-synchronization looks like this --
23 you're going to lose a lot of data, it may even go blank, and
24 it's going to say: "Please wait." Do you know what the next
25 thing you do is, in the procedure? Don't touch anything,

1 just let it resolve itself. It may go through this sequence
2 two or three times. And if it goes through that sequence two
3 or three times, by the end of all that, it may be blank, and
4 you may have to start over -- and here's the sequence that
5 you follow to reset it. That was not the answer that I got
6 from my check airman. It was the answer I needed, but that's
7 not the answer I got.

8 I can't explain why we couldn't get straight
9 answers to these kinds of questions at the time, except that
10 most of us theorized that, you know, the people training us
11 ultimately were products of this same training system, and in
12 the end, if they don't know any more than the syllabus
13 teaches, then they're not going to be much help to us when it
14 comes to understanding the kinds of things we were asking.

15 It's been nine years, you know, we're all a lot
16 more comfortable in the airplane now. But I have concerns
17 about training going forward. We're about to double the
18 size, more than double the size of the A330 base here in
19 Seattle. We're going from about 50 captains to 110-ish, and
20 that's a lot of people, and we're going to do it in 12
21 months. That's a lot of people going through the training
22 cycle. That's more people going through, I think, than what
23 was going through back when they closed Anchorage. Because,
24 as I say, they only had about 50 to 60 captains going through
25 at that point. So, therein lies my concern.

1 BY MR. SEHAM:

2 Q If you can turn to RX, Respondent Exhibit 71?

3 A Yes.

4 MR. SEHAM: And with the permission of the
5 Tribunal, it's not as long and I believe it will give some
6 context to subsequent questions, so if there's no issue with
7 the Tribunal, I'd like him to read the portion that he wrote.

8 JUDGE MORRIS: Go ahead.

9 MR. SEHAM: Okay.

10 BY MR. SEHAM:

11 Q If you could start from where it says: "Corbin
12 Walters says"?

13 A Sure.

14 Q The quotation -- and by way of premise -- did you
15 write this, what follows, or you submitted this?

16 A Yes. Yes, I recognize this.

17 Q All right. So, if you would read it, please?

18 A "To Whom It May Concern:

19 I wish to nominate my co-worker, First Officer

20 Karlene Petitt, for the June 2016

21 Chairman's Club Award. First Officer

22 Petitt is a lifetime learner who readily

23 shares with others her passion for

24 aviation, safety and Delta Air Lines. As

25 a Delta Captain, I have had many

1 occasions to fly with Ms. Petitt and have
2 seen her dedication and professionalism
3 firsthand. In addition to her
4 professional preparation and attention to
5 detail on the flight deck, Ms. Petitt is
6 gracious and engaging to our Delta
7 customers, standing at the aircraft door
8 to greet our customers and give out Delta
9 wings on every flight.

10 In addition to her work at Delta, Ms. Petitt is
11 also a writer and motivational speaker to
12 youth, concerning careers in aviation.
13 She hosts flying events, giving free
14 flights to hundreds of children and young
15 people. She also supports numerous other
16 aviation related community events around
17 the country.

18 Throughout her career, Ms. Petitt has served
19 both as a line pilot and as an instructor
20 on numerous aircraft. She has shown a
21 keen interest in training and is
22 particularly interested in understanding
23 how human beings learn. She is currently
24 continuing her education, pursuing her
25 PhD in Aviation Safety, with a focus on

1 assisting Delta in reaching our 2018 SMS
2 goals.

3 Please, add Ms. Karlene Petitt to your list of
4 Chairman's Club Award recipients.
5 Corbin Walters, Seattle Captain A330."

6 Q And Captain Walters, when you submitted this, was
7 this true and accurate, to the best of your knowledge?

8 A Yes.

9 Q And as you sit here today, is it true and accurate?

10 A It is true and accurate.

11 Q And it refers to -- before the portion that you
12 read, there's a bulleted part that reads:

13 "Congratulations Karlene Petitt, your Chairman's
14 Club Peer to Peer Award from Corbin
15 Walters has been upgraded."

16 Do you know what that means that it's been
17 upgraded?

18 A I believe that means -- I'm not all that familiar
19 with the Chairman's Club process, but I believe it's been
20 escalated, she's made the first cut is the impression I had
21 there.

22 Q Okay. And who is responsible for the upgrade, is
23 that ALPA, is it Delta?

24 A It's the company.

25 Q Okay. Now, how frequently have you discussed

1 flight operations issues with Ms. Pettitt?

2 A It's pretty much the topic of conversation on
3 almost every conversation.

4 Q And how frequent are these conversations?

5 A Lately, they've been pretty frequent. We talk,
6 probably, it could be three months between conversations, but
7 it could be three hours between conversations, it just kind
8 of depends on what's going on.

9 Q Do you talk with any other Delta pilots with that
10 sort of frequency, about flight operations issues?

11 A Not that level of frequency over the length of time
12 that we've known each other. I have a couple other guys that
13 I talk to about these things, a couple of captains, a couple
14 of co-pilots.

15 Q And do you recall some of the topics she raises
16 with respect to flight operations?

17 A Oh, it's run the gamut. It's been many years, you
18 know. But there's usually training related things, procedure
19 related things, what's the best way to accomplish something,
20 and sometimes it's about procedures within the airline,
21 sometimes it's more about the Airline Industry. I know that
22 one of the things we've talked about is the "All Attitude
23 Upset Recovery Strategy," at Delta, that's one of them.

24 Q Okay. And in your experience, are many of the
25 conversations -- well, do any of the conversations include

1 safety compliance?

2 A Yes, yeah.

3 Q And to your perception, were the issues that she
4 raised and discussed rational, irrational, researched, what
5 was the quality of the conversation?

6 A Always excellent, actually. It's always well
7 researched and interesting ideas about -- depending on the
8 subject matter -- whether it's about a training or a process
9 or what happened on some accident that we're familiar with,
10 you know, the recent 737 Max accidents are an example of
11 that. Also, Air France 447, which of course is a frequent
12 reference point, since we both flew the 330 and we think we
13 were qualifying on it at the time when that occurred.

14 Q Can you describe her demeanor as she discussed
15 these safety compliance issues with you?

16 A Interested, concerned. I think you used the term,
17 asked about "rational," yeah, absolutely. Just a peer to
18 peer discussion, I guess.

19 Q After she had been referred for a Section 15 Mental
20 Health Evaluation, did she call and talk to you about that
21 referral?

22 A Yes, that's been discussed.

23 Q And how would you describe her demeanor, behavior,
24 as she discussed those issues with you?

25 A You know, it's a remarkable thing about Karlene, as

1 I've said, I've known her almost 20 years and talked about a
2 lot of things, and as a result of that I consider Karlene a
3 trusted friend, and I think she feels the same way about me.

4 And throughout that process, and all the things that she
5 went through, which I have really a relatively peripheral
6 knowledge of things, but she certainly could have come to me
7 if -- I would be a trusted person she could come to, to
8 confide in, if she -- about her feelings, you know. And I
9 think about myself going through something like that, or
10 anybody that I know in the industry going through something
11 like that, and I can't imagine, at some point, not feeling
12 the need to vent or to lash out, or to just have somebody to
13 talk to and say, you know, I just don't know if I can keep
14 doing this anymore, or you know, this is really getting me
15 down, or you know, those bastards, you won't believe what
16 they did to me this time -- and I never heard anything like
17 that come from Karlene, ever, not once. And I think that is
18 remarkable.

19 Q In the 20 years you've known her, has she ever
20 raised a gender related complaint?

21 A No.

22 Q Now, at anytime after March 8th, 2016, did anyone
23 at Delta contact you to ask about Ms. Pettitt's performance?

24 A No one has ever asked me about her performance.

25 Q Has anyone ever contacted you to comment on her

1 mental health?

2 A No.

3 Q Has anyone ever contacted you to ask about her
4 workplace conduct?

5 A No.

6 Q Are you familiar with a Delta video depicting an
7 aircraft taxi over a tug?

8 A Yes.

9 Q What kind of training did that provide, can you
10 explain the background to that?

11 A That was in our first quarter QCQ, it was a CRM
12 training unit, this is a self-study course, so you get this
13 online and move through the steps.

14 JUDGE MORRIS: Wait a minute. QCQ is what?

15 THE WITNESS: I'm sorry. It's Quarterly Continuing
16 Qualification.

17 JUDGE MORRIS: And CRM?

18 THE WITNESS: Crew Resource Management.

19 JUDGE MORRIS: Okay. Go ahead.

20 THE WITNESS: So, within the QCQ training event,
21 there was a module on CRM.

22 JUDGE MORRIS: Okay.

23 Go ahead, counsel. Sorry.

24 THE WITNESS: And so -- I'm sorry -- back to the
25 tug. So, there was a story that you -- that began with a

1 discussion of an event that involved a collision with a tug.

2 This occurred during push-back and engine start, the
3 aircraft was some model of 737 in the Delta fleet. This was
4 a Delta event. And I don't think that you actually got to
5 see the pilots involved on camera, but they talked about the
6 results of interviews about what the first officer said and
7 what the captain said about how this event occurred. And as
8 the descriptions of what's happening progressed, there would
9 be suggestions on the screen of -- so when somebody says
10 something about I was distracted or I was involved with
11 helping the other pilot do something, there would be the
12 heading "Distraction," as an example of how this process
13 moved along.

14 And then ultimately, in the discussion of the
15 accounts of the crew, there was a point where they had been
16 -- they thought that they had been cleared to taxi by the
17 ground crew, and they initiated taxi and they collided with
18 the tug.

19 BY MR. SEHAM:

20 Q And is this -- the circumstances which contributed
21 to this, is it a common circumstance in your experience?

22 A Well, I don't think we hit tugs every day, but what
23 I think is interesting about that training module is that, as
24 I said, you had this dialogue and a CRM analysis of these
25 various actions by the crew, and their accounts of what was

1 going on. And then when I saw the video, which you see at
2 the very end, you know, now we want you to watch the video,
3 and you see this 737 taxi into the tug. But what I found was
4 remarkable about it -- you know, I am very careful not to
5 shoot other pilots in the foot, I want to make it clear that
6 I'm not second armchair quarterbacking this situation -- but
7 as I look at this video, I see people all around the front of
8 this airplane and in clear view of the cockpit. In addition,
9 I see the tug at about the 10:00, 11:0 o'clock position,
10 looking out from the captain's side of the cockpit, and as
11 the airplane begins to taxi it makes a shallow right turn,
12 and that tug, from a relative position standpoint, just
13 starts sliding past, right past the cockpit windows, right
14 past the side cockpit window, right into that engine, which
15 of course is not -- the tug is not moving, it's the airplane
16 moving into the tug. I can't imagine how it was that that
17 tug, let alone the people, was invisible to the crew. I just
18 can't account for what I'm seeing here.

19 And I think there's more going on there. I don't
20 know what it is. But there's more going on there than the
21 text description of the crew's account. But what I will say
22 is -- back to ground operations in general, and push-back and
23 disconnect at Delta -- I see two things. Number one, there
24 is a very strong push -- now, I don't fly in the domestic
25 system, this was a domestic operation and in the domestic

1 operation there are a lot of cycles, there's a lot of
2 landings and takeoffs, a lot of taxiing into the gate and
3 pushing back, they do it multiple times in a day, I do it
4 once in a day -- but what I see, and I have noticed this
5 since I first came to Delta, is that in my former world when
6 the push-back was complete you get a call to set brakes, and
7 your response is: "Brakes set, pressure normal, clear to
8 disconnect." And they say: "Okay, we're going to go and
9 disconnect, your wave-off will be on the right side."
10 "Okay." And at that point however many walking pedestrian
11 ground crew people there are, they move out away from the
12 airplane and they are out beyond the safety line, out to the
13 side of where the airplane is.

14 So, if you're in a gate area, there's a safety line
15 that delineates the movement area from the gate area itself.

16 They're back over there. The last people to leave the front
17 of the airplane are the tug driver and the marshaller, and
18 usually the last person is the marshaller. But the tug gets
19 completely back out of the way, it's over there by the safety
20 line, as well. Everything is off to the one side. And then
21 your marshaller takes a position -- wherever it was they told
22 you to look for him or her -- and that will be in front or to
23 the right, or to the left, wherever it was they said, but
24 they're well out of the way. They may not be completely out
25 of the way of the path of the overall airplane, but they're

1 well out of the way and they are by themselves. They're
2 standing there by themselves, and they may have wands, they
3 must have orange gloves on, they have a vest on, but they're
4 by themselves. They're clearly recognizable as the
5 marshaller. And you get a salute and you're cleared to taxi
6 and you begin your taxi process.

7 At Delta, there's the group of ground people,
8 however many there are, and there's the tug, and mixed in
9 there is the marshaller, as they disconnect the airplane.
10 And when you get that call: "Okay, Roger, clear to
11 disconnect, look for the wave-off on the right side." And
12 there's this stream of people just sort of ambling away, but
13 they're not really out of the way. And then somebody will
14 come out from underneath the nose and they'll look up and
15 they'll wave. It may be a salute -- it's supposed to be a
16 salute -- but it may be just a wave. And you know what, the
17 rest of the people that are kind of in the same general area,
18 and they're not out of the way of the airplane either,
19 they'll wave, too. So, which one of those people is the
20 marshaller? They don't wear a different colored vest or any
21 other way to really recognize or identify them as "The"
22 marshaller.

23 Now, this may sound like a simple thing. I was
24 actually involved in something that did not result in a
25 collision or any damage, but the story behind it is quite

1 similar to what's described in the video. I had been pushed
2 out in LA -- this is quite a number of years ago, it was a
3 330 -- and you know, clear to disconnect, okay. And we get
4 involved -- I become distracted by something that's going on
5 down here with the first officer putting in performance
6 information or can't get something to -- it was probably
7 something FMS related, performance related -- but I got
8 distracted into what he was working on. And I looked up and
9 I didn't see anybody, there was nobody left around. I'm
10 thinking -- did we miss the wave-off? Because sometimes it
11 happens, they look up, they wave, they can't see in the
12 cockpit window or whatever, and they think I've waved off,
13 and I'm not. So, I'm looking around, looking around, I'm
14 thinking -- well, I sure don't want to taxi without a
15 wave-off, so let's call somebody back out here, call
16 operations, get somebody back out here and we'll get them
17 waved off. And I don't remember for certain if we actually
18 made that call or we were about to make that call, and along
19 from behind the left wing tip comes this guy running. He's
20 got a vest on, he's running, had he's running parallel to the
21 path of the airplane -- we know we're not taxiing yet, but
22 same direction. And I'm looking out there and he looks up at
23 me and he waves -- and I think, did they just realize that
24 they didn't give us a wave-off, and that's the guy that came
25 back out to wave me off? And then I happened to notice out

1 from the bottom of my side window comes a guy, headset on,
2 got a couple of gear pins and stuff, and he's walking out
3 from underneath the airplane. And he looks back up and he
4 goes -- ping -- like that. I could have run over him. That
5 could have happened. It didn't, because I will not taxi
6 without being waved off. But I think that that played a role
7 in the 737 hitting the tug. I can't say for certain
8 everything that happened there, but that's my view of it.

9 Q Sir, did you -- these issues concerning ground
10 operations and the comparative approaches that you describe,
11 did you escalate that to the next level in Flight Management?

12 A No, no, I didn't. I would like to add that, you
13 know, my perspective is not just from my perspective as a
14 former Northwest pilot. I mean I jump seat on other
15 carriers, I see how they operate. I pay attention because I
16 want to know how other people do things. And in particular,
17 on my airplane, even now, I'll go to an international
18 destination like Tokyo, Haneda Airport, and we don't have
19 Delta people handling us for push-back, those are contract
20 people or ANA, I can't remember for sure which it is. The
21 same thing in Amsterdam, we're handled by KLM. They're
22 running the tugs and the push-back and all of that. And they
23 follow that same benchmark safety procedures for disconnect,
24 pushing airplanes back and disconnecting, which is everybody
25 is out of the way, the marshaller is the only one there and

1 you get the wave-off from that one person.

2 So, it's not -- I see that as a benchmark in the
3 industry as to how things are done that way.

4 So, in answer to your question, did I run this up
5 the flag pole? No. Am I a ground ops specialist? No. But
6 it's endemic in how we operate, it's part of the culture of
7 how we do things at Delta. In my experience it's that way at
8 every Delta station. I don't operate in the domestic system,
9 but that's been my experience. And so it's just kind of
10 endemic in the way we operate. And I think I would be trying
11 to point out something that was as clear as the color green
12 on this wall, if I did that.

13 Q Do you have any -- have you ever discussed SMS with
14 other pilots at Delta?

15 A Well, a little bit. Usually when I say SMS they
16 say: "What is that? Is that part of the airplane?"

17 Q Well, to the extent you have knowledge of SMS, to
18 what do you attribute having obtained that knowledge?

19 A Because I know Karlene.

20 Q You don't recall any training from Delta on SMS?

21 A Not that I can recall, certainly nothing extensive.

22 Q Do you have any recent issues involving the A330
23 and long-range fuel issues?

24 MS. BROWN: Your Honor, this is not anything that's
25 in her January 2016 report. It's something he says he's not

1 even flagged for management. I don't see how this is
2 relevant, at all, to the claims here.

3 MR. SEHAM: It's very relevant to the opening
4 statement, because Delta has a robust Reporting Culture,
5 Delta is safe, has no flaws in its flight operations, and the
6 testimony we're eliciting from this individual is they have
7 some serious operational issues and pilots just don't report
8 it, because they don't know what SMS is. And because they're
9 concerned about what might happen to them, what happened to
10 Karlene might happen to them. If they had made a different
11 opening statement, if they had taken a different position
12 throughout all the motion practice, if part of their case
13 were not Delta is a safe airline with a robust Reporting
14 Culture, then perhaps this would be less relevant, but it's
15 directly relevant to the company's position.

16 JUDGE MORRIS: And how is this relevant to the
17 complaint?

18 MR. SEHAM: Well, as the company was saying in its
19 opening statement, that they've alleged that Ms. Petitt
20 raised issues that were not substantiated, that her
21 complaints about Reporting Culture, about SMS non-compliance,
22 were exaggerated. And these witnesses are confirming that
23 they're not exaggerated, that they are a consistent problem
24 running through the operations. And it's just that this
25 particular pilot, to my left, has the courage to raise these

1 issues.

2 MS. BROWN: One, the pilot testifying hasn't raised
3 these issues. And opening statements are not evidence,
4 they're just opening statements.

5 MR. SEHAM: Well, we can't afford -- I mean when
6 you look through the exhibits that have been submitted to
7 this Tribunal, there's policy after policy suggesting that
8 Delta does have a robust SMS program, which apparently none
9 of the pilots know anything about. They're ignorant of it.
10 And that's certainly relevant, the failure of Delta. And if
11 you look, if you review 14 CFR Part 5, there's paragraph
12 after paragraph mandating specific training programs, which
13 this experienced pilot has never heard of. His source of
14 knowledge is Ms. Petitt.

15 MS. BROWN: This case is about whether Delta
16 retaliated against her by putting her in a Section 15 for
17 reporting safety concerns. I mean it's not about unreported
18 concerns that a pilot has from 10 years ago. I mean we're
19 going to be here for a week plus, if we allow all this in.

20 MR. SEHAM: This is our second to last witness.
21 The next witness is Ms. Petitt, first of all. And we only
22 have one other witness beside that. But I think I'm very
23 doubtful that Delta is willing to stipulate, right now, that
24 in fact it is a non-compliant airline, that its violation --

25 MS. BROWN: It's an irrelevant stipulation.

1 MR. SEHAM: I have not interrupted you, no matter
2 how provocative --

3 MS. BROWN: I don't go on for 10 minutes.

4 MR. ROSENSTEIN: That's not true. You did
5 interrupt her.

6 JUDGE MORRIS: All right, wait a minute. This is
7 what I'm going to do. I'm going to give you some latitude.
8 I will tell you I'm not seeing the connection here. That
9 doesn't mean that you won't connect it up. I have
10 trepidations about doing this, but I'm going to give you the
11 latitude, because you have the initial burden, and I'm
12 anticipating that if this was raised, this would also address
13 any rebuttal up front, compared to if they're going to make
14 certain allegations. But I'm going to give you the latitude.
15 But again, what I do with this when we go back for briefing
16 and a decision, is another matter.

17 Go ahead.

18 MR. SEHAM: Okay. Thank you.

19 BY MR. SEHAM:

20 Q I think I asked a question about high gross weigh,
21 long-range fuel issues, as it relates to performance limits
22 at LAX?

23 A Yeah, yeah. You want me to talk about that -- was
24 there a specific question about that --

25 Q Yes. If you can provide some background on that,

1 in anticipation of a further question?

2 A Yeah. Since -- actually, since the A330 was placed
3 on the Los Angeles/Haneda route, in September of 2018, I've
4 been flying that route exclusively, meaning I haven't flown
5 anything else, I've flown that exclusively. I flew it right
6 up through -- I had a trip in March that included that.

7 There is an issue with operating out of Los
8 Angeles. For morning departures, there's a prevailing
9 tailwind there, it's very common to have three to five, to as
10 much as six, seven knots of tailwind, depending on the time
11 of day and weather conditions, but it's almost a daily
12 occurrence. This would be tailwinds for a westbound
13 departure, they do that for noise abatement, so they're very
14 un-inclined to turn the airport around and fly airplanes over
15 populated areas and make noise that they don't have to, so
16 that's the reason behind this.

17 So, while we do, we can plan on this, but the long
18 trip to Tokyo and the fact that you're going into headwinds,
19 makes fuel loads and gross weight an issue, especially if
20 these tailwinds surface.

21 What I was finding was that the overall operation
22 between load control and local ops, and dispatch in Atlanta,
23 it was hard to get everybody on the same page as far as how
24 much tailwind we would tolerate and whether -- and we would
25 find ourselves, sometimes, in situations where we had to

1 offload cargo or just wait for the wind to die down, in order
2 to be able to meet performance limits going out of LA.

3 Now, there is the longest runway in LA is runway
4 2-5-right. It is the runway that was the long-haul runway
5 for departure. But for some reason, when our performance
6 data would come up, it would reflect that that was not the
7 best runway for takeoff performance wise, that it was more
8 performance margin on 2-5-left, which was the departure
9 runway. And the odd thing about this was it's a much shorter
10 runway, 2-5-left, it's on the order of 2,000 feet shorter, as
11 I recall, at least 1,500 feet shorter. And yet this was
12 always consistently coming up as the runway that gave us the
13 best performance for departure. And I thought that, you
14 know, there's something wrong with this data or am I not
15 understanding something about why this is happening. And we
16 would have trouble with ATC, as well, trying to access that
17 runway that was shown as the best performance runway, because
18 it was an arrival runway and not a departure runway, and it
19 involved crossing that runway -- crossing the departure
20 runway to get to 2-5-left, the arrival runway we were
21 supposed to use for departure. So, it was a problem and it
22 was a problem on a regular basis.

23 And I thought to myself, you know, this just
24 doesn't make sense. And I was involved in one of these
25 situations with another captain -- these are all full double

1 crews, there's always two captains and two co-pilots -- and
2 the captain that was paired with me on this pattern in
3 December, when we encountered this, he and I talked about
4 this quite a bit. And I said, you know, wouldn't it be great
5 if I could just pick up the phone and call performance
6 engineering and say, you know, I'm seeing -- could you take a
7 look at this? But we decided, you know, the only real way to
8 deal with this is to follow the chain of command, send it up
9 the chain.

10 So, I got back from my trip, I called the chief
11 pilot in Seattle and I said, you know:

12 "This is what I'm seeing and I just think
13 there's got to be a way to either ferret
14 out a problem with the performance data
15 or come up with a more streamline
16 process, so that we don't take these
17 hour-long delays when this situation
18 comes up."

19 And he said:

20 "Tell you what, you should fill out a flight
21 crew report, an FCR, copy me in. I'll
22 make sure it goes up the flag pole. We
23 want to get some visibility on this and
24 see if we can get it fixed."

25 Okay. So, I filled out a flight crew report that

1 described this whole situation and what the possible
2 solutions might be. And I gave it to -- I sent it in via the
3 computer system, I sent a copy to the chief pilot here in
4 Seattle. And by golly, the system worked. It took about a
5 month, but it worked. And I remember talking with the other
6 captain, who had been a 767 check airman, and saying -- back
7 to the -- "

8 I wish I could just call performance engineering
9 and just say -- hey, can you take a look
10 at this."

11 And he said:

12 "You know, yeah, I wish it was that way, too.

13 But there's so much resistance, there's
14 such inertia in trying to get even the
15 smallest changes made here, you just have
16 to go kind of to through the chain of
17 command and go through the process, and
18 hope it works."

19 And so it's comment on the Reporting Culture, the
20 process culture that there is a chain of command and a
21 process. And I think it's evidenced by the fact that it
22 actually worked. It's unusual that it does, but it did.

23 Q Are you aware that Ms. Pettitt had a dispute with
24 the Captain Graham about AAURS, or AAURS?

25 A I'm not aware that she specifically had something

1 like that. She might have said something, I don't recall for
2 sure.

3 Q So, do you have any concerns about AAURS?

4 A Yeah, I do, I do.

5 Q Okay. And could you, generically or generally,
6 describe what the program relates to?

7 A AAURS is All Attitude Upset Recovery Strategy.
8 This has to do with Upset Recovery Training that has been
9 mandated by the FAA. It is for -- it's a little bit like
10 stall recovery, but it's a little more than that. It's
11 recovery from unusual attitudes with transport aircraft.
12 It's supposed to be high and low altitude scenarios, a
13 variety of things.

14 So, Delta's approach to this -- you know, when this
15 first came out, the approach is seemingly a "one size fits
16 all" approach to All Attitude Upset Recovery, that's why it's
17 called All Attitude Upset Recovery, it fits every situation.

18 And it involves the non-flying pilot, the pilot monitoring,
19 saying -- detecting the upset and saying: "Upset Recover."
20 And then the flying pilot says: "Push, Roll, Power
21 Stabilize." And those call-outs are the call-outs you make,
22 regardless of the situation, high or low altitude, upside
23 down, right side up, whatever it is, high or low speed, it's
24 -- that's what you're supposed to do. This runs contrary to
25 the training of myself and anybody else I've talked to about

1 this. And it's not like we've never had Upset Recovery
2 Training in transport jets before. I can specifically
3 remember doing it in the 747 in the mid-2000s, and it was a
4 different approach, it was a more traditional approach. And
5 as far as I know, the people that work for other airlines,
6 that I've talked to, they still train that same method, they
7 don't have anything that looks like the "Push, Roll, Power,
8 Stabilize" call-out, the "one size fits all" approach to
9 Upset Recovery Training. I have not found this to be
10 anywhere but at Delta.

11 I can't tell you exactly why most of us thought
12 this, but I can tell you that we did, that was the general
13 understanding, and that is that somehow this procedure, this
14 All Attitude Upset Recovery process, the "Push, Roll, Power
15 Stabilize," "one size fits all," that this came from the FAA.

16 And I thought -- and this was when we were first introduced
17 to this training -- and I got home and I thought, this
18 doesn't make any sense, they couldn't have gotten this from
19 the FAA, could they? So, I went on the FAA's website, and I
20 looked at Upset Recovery Training, and they had quite a
21 section on it. They had several videos. It was really good.

22 They had interviews with the chief pilot from Airbus --
23 excuse me -- the chief test pilot from Airbus, the chief test
24 pilot from Boeing, their contemporaries at the FAA, and they
25 talked about some high altitude issues, low altitude issues,

1 and they put it in the context of real world oceanic track
2 crossing and things that would create a situation like this.

3

4 There's nothing that looked like this --

5 JUDGE MORRIS: Okay. Wait, wait, hold on, hold on.

6

7 Where is this in your complaint?

8 MR. SEHAM: This is actually in --

9 JUDGE MORRIS: Where is this in her report?

10 MR. SEHAM: It has to do -- it's not in her report.

11 It has to do with ongoing hostility towards Ms. Petitt, even
12 today, based on her safety related activity, and testimony
13 that was obtained from Jim Graham during a deposition, that
14 he still harbors concerns about her situational awareness,
15 based on these kind of issues being raised.

16 MS. BROWN: I haven't heard him testify about Jim
17 Graham anything to do with Ms. Petitt.

18 JUDGE MORRIS: I'm having a little difficult here,
19 counsel, following how this is at all relevant to what is
20 before me in the complaint.

21 MR. SEHAM: If given one second, I wanted to --

22 JUDGE MORRIS: I mean I've just gone back and
23 looked at Complainant's initial report that's the basis for
24 the allegations, I've gone back and looked at the complaint.

25 I see tangential mention of SMS, I see Part 117 stuff for

1 fatigue issues. I'm not seeing anything about this topic.

2 MR. SEHAM: I mean if I might be permitted, because
3 this dovetails not only with the hostility of the Respondent
4 to raising compliance issues, but the existence or
5 non-existence of the Reporting Culture. If I may just ask
6 one question to wrap up this issue and then I'll move on.

7 JUDGE MORRIS: Well, hold on.

8 I want to hear from you, counsel?

9 MS. BROWN: We stipulated to protected activity.
10 To the extent that this is even mentioned in her protected
11 activity. I don't see how we're connecting this witness'
12 testimony to Mr. Graham's alleged continue hostility to Ms.
13 Petitt at all.

14 JUDGE MORRIS: You get your one question, but I'm
15 telling you, I'm concerned about the complaint isn't the
16 Camel's nose underneath the tent approach, so I'm going to
17 limit you -- what I'm going to consider as to what's in this
18 complaint, because they haven't had notice otherwise, and
19 it's not fair to them, but I'm going to allow one more
20 question. Go ahead.

21 BY MR. SEHAM:

22 Q Have reported this to management?

23 A Not to management, no.

24 Q And why is that?

25 JUDGE MORRIS: Well, that's two.

1 MS. BROWN: Your Honor, part of the Respondent's
2 case, unless they're willing to disavow this now, and
3 certainly part of the psychiatric report, is that Ms. Pettitt
4 didn't use all avenues available to her, or didn't use
5 specific avenues in terms of communicating safety and
6 compliance issues. And that's part of -- that's part of her
7 mania, part of her grandiosity, as represented by Dr. Altman.

8 And the company should have known better. and part of what
9 we're trying to put on here is not just rebutting, in
10 anticipation, Captain Graham's representatives, and the
11 opening statement representations that there's a robust
12 Reporting Culture, but also addressing the issues that were
13 raised in Dr. Altman's report, as a basis for finding that
14 she had bipolar disorder.

15 MS. BROWN: Dr. Altman will be here to testify. He
16 can cross-examine him on why he included certain things in
17 his report, just as Mr. Graham will be here to testify and he
18 can be cross-examined about his belief that she may not have
19 used specific reporting avenues.

20 JUDGE MORRIS: You have this much more room.

21 BY MR. SEHAM:

22 Q With that, the follow-up question was why didn't
23 you report it to management?

24 A Well, I don't think it would do any good. I spoke
25 to my flight instructors about it. You know, I understand

1 that they have a syllabus they have to train on, I don't
2 expect them to, you know, necessarily, agree or disagree with
3 me, but I do know that on one occasion -- I think this was
4 the last episode of Upset Recover Training, that I said --
5 okay, I'm going to follow the procedure: "Push, Roll, Power,
6 Stabilize," I did this. And the position that the airplane
7 was in from the start, you start from about a position of a
8 little over 90 degrees of bank, four degrees nose on the low
9 -- on the horizon, perhaps, and cruise power on, and the
10 simulator is frozen in that position. You say: "Okay, you
11 ready, 1, 2, 3, go." And then you go through the process:
12 "Push, Roll, Power, Stabilize." You can't get out of that
13 situation without over-speeding the airplane a little bit.
14 So, I lost a certain amount of altitude, lost, you know, had
15 so much -- so many knots of over-speed, quite a bit, and I
16 said:

17 "You know what, can we do that again,
18 but I'd just like to do it the way we've
19 been taught all along."

20 And he says: "Sure, let's find out what happens."

21 The same thing, except that I had about 30 knots
22 less over-speed and saved 1,500, 2,000 feet of altitude,
23 something like this. So, it's not that the -- I just don't
24 think that that procedure works well. And I think it's worn
25 out in the industry.

1 JUDGE MORRIS: Okay.

2 THE WITNESS: Nobody else is teaching it.

3 JUDGE MORRIS: I got enough.

4 THE WITNESS: Okay. Thank you.

5 BY MR. SEHAM:

6 Q Let me ask you, have you ever heard the term :
7 "Good Ol' Boys Club," used at Delta?

8 A That's a colloquialism I've heard everywhere, you
9 know. To say, specifically, at Delta -- towards some thing
10 specific -- no, I can't recall any specific.

11 Q How do you acquire Delta safety related material?

12 A Oh, it comes in bulletins, it comes in fleet
13 newsletters, it comes as changes to manuals. The only
14 problem is that it comes from a lot of different directions
15 and it's kind of which needle in which haystack.

16 Q have you ever used the term: "Target on your back,"
17 in the context of Delta Flight Operations?

18 A Can -- I need a clarification.

19 Q Yeah. Have you ever heard that -- have you ever
20 heard another pilot express concerns about having --

21 A Yes. Yeah, that phrase: "Target on your back,"
22 yes, yes, I have heard that.

23 Q And in a manner that related to Flight Operations?

24 A Yes.

25 Q And could you give us an example?

1 A I can give you an example. A friend of mine told
2 me a story recently and I don't want to mention any names,
3 because he's not here, I don't know who is protected, and
4 there were check airmen involved. But in this case -- if
5 that's all right -- can I tell that story?

6 MS. BROWN: It seems totally unrelated to anything
7 Ms. Petitt experienced, but --

8 MR. SEHAM: Well, it's actually --

9 JUDGE MORRIS: I can see the relationship, so in
10 general terms.

11 THE WITNESS: In general terms. My friend was on a
12 full augmentation flight, similar to the Tokyo flight that I
13 described where it's two captains and two co-pilots. They
14 were preparing to depart from a European destination, the
15 other captain was a line check airman and he had a student
16 with him in the right seat. As they prepared for push-back
17 from this European destination, to fly westbound across the
18 Atlantic, they started the APU, they turned the PACs on, and
19 one of the PACs failed. The response to this situation from
20 the check airman, who again was in the left seat, was that:

21 "Well, you know, if we just pretend
22 that happened after brake release and on
23 push-back, then the MEL doesn't apply and
24 we're at our discretion on this."

25 The response from my friend was:

1 "What -- what? How in the world can
2 you think that it is safe to fly an
3 airplane across the Atlantic with one
4 PAC?"

5 Does everybody know what a PAC is? Do you know
6 what I'm saying about this? The one source of pressurization
7 and air conditioning. If that remaining PAC fails, you have
8 nothing, the aircraft de-pressurizes, you have to initiate an
9 emergency descent and divert to an alternate airport.

10 JUDGE MORRIS: If you can?

11 THE WITNESS: If you can. The way ETOPS (phonetic)
12 is planned, you're always within this 180 ETOPS airplane,
13 you're within three hours of an alternate.

14 The check airman said, you know: "We'll just go
15 down to 10,000 feet and go to the alternate.

16 And my friend said:

17 "Do you realize that there's more
18 involved than just pressurization here?
19 How are you going to keep these people
20 warm while you're on a three-hour divert
21 to an alternate airport?"

22 And he said: "I'll start the APU."

23 There are so many things wrong with this story,
24 it's hard for me to even believe. But this individual that
25 told me this, I have known for 35 years, he is a good friend

1 of mine, and that is the only reason that I have -- I know
2 that there's credence that this happened.

3 JUDGE MORRIS: All right. I've heard enough.
4 We're at multiple levels of hearsay. Move on.

5 BY MR. SEHAM:

6 Q Did he ask -- did the issue about reporting this
7 incident come up again?

8 A Yes.

9 Q And what did he say?

10 A He says: "It's a check airman, Corbin. I don't
11 want a target on my back."

12 Q And therefore he did not report it?

13 A No, he didn't report it.

14 MR. SEHAM: No further questions.

15 JUDGE MORRIS: Counsel?

16 CROSS-EXAMINATION

17 BY MS. BROWN:

18 Q Captain Walters, you testified that you had
19 submitted Ms. Pettitt for a Chairman's Club Peer to Peer
20 Award, and that it had been nominated and upgraded in June
21 2016?

22 A I'm not sure of the date on that.

23 Q Well, you can flip to it, if you need to. It's on
24 the back.

25 A I'm looking at -- I see June 13th, it looks like,

1 as a date that's on here. I'm not sure exactly -- it looks
2 like -- yes.

3 Q 2016, correct?

4 A I can't speak to the date -- yes -- June 2016 --
5 yes.

6 Q And so your nomination of Ms. Pettitt was upgraded
7 after she was referred for a Section 15 evaluation, correct?

8 A I have no idea.

9 Q You don't know when she was referred?

10 A No.

11 Q It was March 2016, then your nomination would have
12 been upgraded after her Section 15 referral?

13 A I'm not following what you're saying.

14 MR. SEHAM: Is counsel testifying?

15 BY MS. BROWN:

16 Q So, you don't know when she was referred for the
17 Section 15?

18 A No, no, I don't know.

19 MS. BROWN: Okay. No further questions.

20 JUDGE MORRIS: Anything else, counsel?

21 MR. SEHAM: No.

22 JUDGE MORRIS: Thank you, sir, you may step down.

23 THE WITNESS: Thank you.

24 JUDGE MORRIS: You can stay and watch any
25 additional testimony of you're free to go.

1 THE WITNESS: Thank you.

2 JUDGE MORRIS: Just do not discuss your testimony
3 with anyone until the end of this hearing, which is supposed
4 to be by the end of this week.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 JUDGE MORRIS: Okay.

8 All right, let's take 10 minutes. Off the record.

9 (Off the record at 2:41 o'clock p.m.)

10 JUDGE MORRIS: On the record. All parties present
11 when the hearing last recessed are again present.

12 Ms. Petitt, please raise your right hand.

13 Whereupon,

14 KARLENE PETITT

15 having been first duly sworn by the Administrative Law Judge,
16 was examined and testified as follows:

17 JUDGE MORRIS: Please take your seat. Ms. Petitt,
18 you're the Complainant in this case?

19 THE WITNESS: I am.

20 JUDGE MORRIS: All right. Would you please provide
21 your general contact information?

22 THE WITNESS: 3743 South 188th Street, SeaTac,
23 Washington.

24 JUDGE MORRIS: Ms. Petitt, if you would be so kind
25 as to give me a summary of your aviation or FAA certificates

1 and ratings?

2 THE WITNESS: I'm an ATP. I have a type rating on
3 Boeing 727, 737, 757, 767, 747-200, 747-400, Airbus A330 and
4 a Boeing 777. I have a Flight Plan rating. I had an
5 instructor's rating for many years, it's been lapsed now.

6 JUDGE MORRIS: Sorry, I got lost. You have 37, did
7 you say 57 and 67?

8 THE WITNESS: Fifty-seven, 67, 747 both 200 and
9 400.

10 JUDGE MORRIS: Two hundred and 400. I had 300.
11 Okay.

12 THE WITNESS: And the 330 and the 777.

13 JUDGE MORRIS: Total time?

14 THE WITNESS: Flight hours, flying an aircraft,
15 about 6,600. Flight engineer time about 4,500. And then
16 about 14,000 instructing in the simulator. And that's
17 probably split about 7,000 as a second officer instructor and
18 then there's 7,000 teaching captains on 73, 75, 76.

19 JUDGE MORRIS: Okay.

20 All right, counsel.

21 DIRECT EXAMINATION

22 BY MR. SEHAM:

23 Q Can you provide us with your educational
24 background?

25 A Yes. I've got an undergrad degree in Business.

1 I've got an MBA, also Master's in Human Services, and a PhD
2 in Aviation Safety.

3 Q When did you earn your Master's Degrees?

4 A My Master's Degrees were both while I was working
5 at Northwest Airlines. The first one was Master of Human
6 Services, and that would have been probably start around '97,
7 '98'ish. And then the MBA was about the time Delta and
8 Northwest were both filing bankruptcies, just before the
9 merger. I finished it after the merger.

10 Q And can you give me your history of airline
11 experience, which airlines have you worked for?

12 A I've worked for eight airlines, a commuter Coastal
13 Airways up in Sequim, Washington. then I got hired at
14 Evergreen. I was hired as a first officer at Evergreen on
15 727. Then I was hired with Braniff and I was second officer.

16 And then went down with that bankruptcy. And then I went
17 from there to America West Airlines, as a simulator
18 instructor, which initially was a 737 instructor, they ended
19 up qualifying me and typed me on the 757. And so I
20 instructed on both those aircraft. I also assisted America
21 West putting their A320 into service, not in a teaching
22 capacity, but as far as scheduling the FAA to coordinate
23 their check rides, because it was kind of a worldwide complex
24 problem at the time. And then after America West -- or while
25 at America West, I was teaching on the side for a company

1 called Premier, doing some instructing on my days off.

2 After America West, I went to Ghana Airways and
3 became the director of training there. I wrote their 767
4 training program, I wrote their ground school program and
5 simulator. And then I trained all the pilots in that
6 airline. I actually met them at America West, they had a
7 contract and then they pulled me away to go down and set up
8 their own program. And then after that, I left and went to
9 Tower Air, flew right seat on 747 for Tower. And then I went
10 to Northwest Airlines, that would have been in January of
11 1997. And they hired me in my first year as a 747 second
12 officer instructor, because I had the teaching background and
13 had flown the aircraft.

14 Then just shortly before the merger, I became a --
15 they typed me on a 747-400 aircraft. And then during the
16 time of the merger I went out, for about 14 months, with a
17 hip replacement. And when I came back to Delta, it was on
18 the A330, the first officer on Airbus.

19 Q And when did you earn your PhD?

20 A I actually just defended in January of this year,
21 and I started at -- so it would be about five years ago I
22 started a four-year program.

23 Q And sorry, you are official Dr. Petitt at this
24 point?

25 A I am officially Dr. Petitt at this time.

1 Q And what was the focus of your PhD studies and
2 dissertation?

3

4 A The focus was Aviation Safety. When I arrived to
5 -- I actually started -- I ended up going back to get my PhD,
6 because of Delta Air Lines. When we merged, I saw different
7 processes, things that didn't feel right to me, that were
8 quite different from the culture at Northwest. And so I just
9 decided to go back and learn more. And that's when I was
10 first introduced to SMS. And the first day, in this big room
11 where they were giving the briefing, and I heard this word
12 and I'm thinking what in the world is that? So, I had to go
13 back to my room that night and Googled it. And since that
14 I've had quite an education. It's very important, FAA
15 Mandate 2018, that every airline will do this.

16 MR. ROSENSTEIN: Your Honor, objection. The
17 question is when did she go back? And she's responding --

18 MR. SEHAM: No, it wasn't.

19 THE WITNESS: No.

20 MR. SEHAM: No, it wasn't. The question was what
21 was the focus of her studies?

22 THE WITNESS: So, the focus of my study became --
23 because of all this -- the focus of the study became,
24 basically my research was what I saw at Delta Air Lines. And
25 I was looking at -- because the FAA came out with a Safety

1 Alert in 2013, that said that pilots were not manually flying
2 their aircraft. And the Office of Inspector General said,
3 well, now we've identified, you know, even after that alert
4 in 2016, they identified that we're not only not flying our
5 aircraft, but we're not understanding the systems and the
6 remote control panel, and the FMA. And so I wondered if
7 Safety Culture, the level of understanding, pilot training,
8 could be impacting manual flight. And I threw in aviation
9 passion, because I thought that somebody who was so
10 passionate about aviation could be going to any system
11 possible. And so my research -- I ended up with 7,400
12 participants. I only needed 1,599 to validate the research.
13 So, I was able to block it into three different groups.

14 And so I validated the study, but every question on
15 that was design of practices that I saw at Delta Air Lines,
16 that I thought this doesn't seem right, is this impacting
17 safety, is it impacting our level of understanding and
18 impacting how our pilots are operating the aircraft. And I
19 validated the study and proved that it is, it is significant.

20 It explains why Lion Air crashed, why Ethiopian crashed and
21 why the recent Premier flight. And it was all inspired by
22 what I saw at Delta, and is the essence of that safety report
23 I gave them.

24 Q Now, you alluded to a difference between Northwest
25 culture and Delta, could you experience (sic) the difference

1 in culture that you experienced?

2 A Yeah. Right off the bat there's a number of
3 things. As professionals, we can go to an airline, they can
4 ask you to do something and you will do it, you don't need to
5 be threatened. And I never have not worked under an
6 operation -- even at Evergreen, back in the good old days --
7 here a pilot was threatened to either you do this or we're
8 going to take your pay. So, I found that very odd.

9 So, when I first came to Delta, and came back on
10 duty to do the 330, I had read the Flight Operations Manual
11 before I went down to NDOC, and read everything I needed to
12 do. And I got down there and they asked me if I had got my
13 Yellow Fever shot, and I said no, I didn't, I didn't know it
14 was required, it wasn't in the manual. So, I didn't get it.

15 And they said, well, you need to get it. Okay.

16 Well, I went directly from there to Minnesota to
17 train, and in that process I got bronchitis, but I went to
18 the local clinic, got antibiotics, but pressed on with
19 training. And then went to Canada. Well, actually, between
20 Minneapolis -- Canada and Minneapolis, I went home and asked
21 the doctor could I get my Yellow Fever shot, the company
22 needs it and they said they wouldn't give it to me while I
23 was sick. So, I went up to Canada and I received a phone
24 call from -- I believe it was a secretary, I'm going to
25 assume that, because it was a woman -- it's an assumption --

1 but she said: "You got your Yellow Fever shot?"

2 And I said:

3 "No, I can't, the doctor won't give
4 it to me, because I'm sick. But I'm in
5 training and I'm not going to go to any
6 third world country right now, I'll be
7 fine."

8 And she said: "You need it."

9 I said: "Okay, I'll get it."

10 And then about two or three days later, the chief
11 pilot from Detroit called me and told me I had to get it.
12 And I said -- explained to him what had transpired. It
13 wasn't that I didn't want to, I had no intention of not doing
14 it, but I would. And he told me that if I didn't get it,
15 they were going to pull my pay. And this is like being the
16 first -- that's kind of odd that somebody is going to say
17 we're going to pull your pay for this. And I told him that if
18 he signed a release for the doctor, relieve the liability, I
19 would get it. And then he gave me two weeks. Well, two
20 weeks, I ended up getting sick from it anyway, because my
21 immune system was so damaged. And as our last witness --

22 MR. ROSENSTEIN: Your Honor, objection, move to
23 strike the testimony.

24 JUDGE MORRIS: Basis?

25 MR. ROSENSTEIN: Your Honor, this is a case about

1 events that took place in 2016. I think the testimony you're
2 hearing, as far as I could tell, is a circumstance, an
3 anecdote that occurred in 2008. And we've stipulated that
4 the report constituted protected activity. We can't, in my
5 view, we're not here to be litigating each event that Ms.
6 Petitt claims in her career she was mistreated or treated
7 improperly or has a dispute about. We can't have mini trials
8 about each one of those events. We don't have witnesses from
9 2008 to try to respond to the allegations that are being made
10 about a Yellow Fever shot or some random comment that some
11 random person -- who no one knows the name of -- made in
12 2008. And so it's almost impossible for us to respond to
13 that. We'd be spending most of the time in the hearing on
14 all those issues, if we go through it that way.

15 I think we're here for hearing testimony that is
16 related to the events that actually are in the complaint, in
17 the answer, and are relevant to the subject matter of AIR-21.
18 That's my position. Thank you.

19 MR. SEHAM: And this is a reference -- not only is
20 it responsive to the question, but it's also a reference in a
21 Joint Exhibit, submitted by the Respondent and the
22 Complainant, together. It's on page 2 of her safety report
23 submitted on January 28th. And if you look at the
24 psychiatric report, and you look at the information that was
25 provided by Delta to Dr. Altman, on which he relied to find

1 that she had bipolar disorder, that information goes back to
2 2010. This is an airline that dug very, very deep.

3 MR. ROSENSTEIN: I can respond to that, briefly.
4 There's no question that there's information going back even
5 before 2010, in the report that Ms. Petitt gave on January
6 28th, and in her subsequent graphic study that she presented
7 later on that year, in 2016, no question about that. And
8 there's no question that information was provided to Dr.
9 Altman.

10 But we're also not here to decide whether -- this
11 isn't a malpractice case against Dr. Altman. We're not here
12 to decide whether Dr. Altman got it right or got it wrong,
13 that's not what this case is about, either. We can't do
14 that. None of us here have the ability to decide whether or
15 not Dr. Altman was correct in his diagnosis, or incorrect in
16 his diagnosis, that's beyond the purview of AIR-21, as well.

17 JUDGE MORRIS: Is it in Dr. Altman's report?

18 MR. ROSENSTEIN: Is this particular incident
19 regarding --

20 JUDGE MORRIS: This incident, yes.

21 MR. ROSENSTEIN: -- it's a very lengthy report, I
22 don't know, off the top of my head, whether there's anything
23 in there, but we could check. There will be other things
24 that Complainant will testify about, from that January 28th
25 report, that certainly made their way into Dr. Altman's

1 report. And those facts -- the fact that it's in Dr.
2 Altman's report, I don't think would be justification for
3 going back and hearing testimony about the incidents here.
4 But again, I'd leave that to Your Honor. And I'd review the
5 report, if you'd like us to.

6 MR. SEHAM: It's on page 2 of her January 28th,
7 2016, report.

8 JUDGE MORRIS: You're talking about the 43 or
9 45-page report?

10 MR. SEHAM: Forty-five page report, yes.

11 JUDGE MORRIS: I'm going to allow this. If I
12 understand the testimony, part of the testimony is Dr. Altman
13 provided voluminous amounts of information and dug into this
14 airman's records, and relied on portions of that, at various
15 times, to render an opinion -- of which I have not read.
16 I've purposely not read all that stuff, because I want to
17 hear what he has to say at that time.

18 But I'm going to give leeway, if he dug in and
19 provided this information. Now, having said that, I'm going
20 to look at -- when it comes to the violation -- the construct
21 of the complaint or the amended complaint, and I will
22 consider that background. But I'll also consider it for
23 purposes of credibility of Dr. Altman.

24 Now, I'm not a doctor, I can't, you know, I can't
25 dispute his opinion about bipolar or whatever, but I can

1 evaluate the facts that are contained in that report and any
2 rationale he uses to come to a conclusion. I can't question
3 his conclusion, but I may be able to question some of the
4 facts, if they're correct or erroneous, to how he comes to
5 that conclusion.

6 So, I'm going to give you some leeway. She has the
7 burden at this stage. Go ahead.

8 MR. SEHAM: Oh, you only work with a recording, you
9 don't -- you can read back the last question that I asked?

10 COURT REPORTER: Yes.

11 MR. SEHAM: I'm sorry. You know what, the easier
12 way to do it is --

13 BY MR. SEHAM:

14 Q You were describing this issue with the Yellow
15 Fever and the pay issue. Had you completed that account?

16 A Yeah -- no -- because the issue is not to pick
17 apart Delta and say, oh, they did this wrong. It's not to
18 make a complaint about that issue. It's a culture issue,
19 it's a culture of threat, manage by threat. And so that was
20 one of the things that I noticed. As I said, I had to go
21 into NDOC and the scheduling manager came into the room and
22 he said:

23 "Okay, there's four reasons that if
24 you get an inverse assignment you don't
25 have to take it."

1 And inverse assignment is you're not on duty and
2 you are the last ditch person when we need an airplane. We
3 can force you to fly. But the four reasons were: If you had
4 a childcare problem, you couldn't get to the airport, if
5 you'd been drinking, or if you're fatigued.

6 And he said:

7 "Don't ever call in fatigued at Delta
8 Air Lines, that's the other F word, it
9 would be better to call in drinking."

10 And I said: "At 6:00 o'clock a.m., in the morning?"

11 It just blew me away. Now, was he telling us that this is
12 what we had to do? He was using this as an example. And it
13 was just a -- and I'd heard fatigued is the other F word at
14 many airlines. It just is what -- it's a culture thing.

15 And so I was looking at the different cultures.
16 Over at Northwest, as an instructor, there were times where I
17 would be -- we would get a new LOE line oriented evaluation,
18 and we would have the first students come through. And I
19 remember one time there was one student who snagged at a
20 certain point, and we talked about it, and then somebody else
21 did the exact same thing. I'm thinking, okay, it's highly
22 unlikely that each pilot is going to be doing the same thing,
23 it might be our fault.

24 And so I went and looked at this procedure where
25 they were snagging and -- ah ha, I know that this is. And I

1 took it up to my direct of training, didn't go to my
2 supervisor or my boss, but went up to the director of
3 training and said:

4 "Hey, look at this, here's what's
5 going on in this, and here's why."

6 And he said: "Can you fix it?"

7 And I said: "Sure."

8 And he said: "Okay, have at it."

9 So, I went to my hotel room that night, went in,
10 re-wrote it, took it, then I gave it to my boss, who would be
11 considered my -- I don't know if he's really my boss, but he
12 was our fleet manager on my position -- and I showed him, I
13 said: "Hey Matt, here's what's going on, here's how I fixed
14 it."

15 And he looked at me and he goes: "Oh, that looks
16 great. Okay. Take it over to Tech Ops."

17 So, you walk down the hallway, they would type it
18 up, send it to the FAA. We would get stuff changed in two,
19 three weeks over there. Unlike at Delta, there would be
20 emergency bulletins, staying in a bulletin phase, for months
21 or years. I noticed when I first came to 330, they said --
22 when I was going through training -- the manual actually said
23 for stall training -- they identified it was a "stick
24 shaker." Now, Airbus has a stick, but it's unlike the
25 Boeing. When they get a stall, the Boeing stick shakes,

1 that's what literally it does. So, somebody made an error
2 when they were moving the manuals over. And so I had told --

3 JUDGE MORRIS: We're going to take a break in
4 place. Give me five minutes.

5 (Off the record at 3:10 o'clock p.m.)

6 JUDGE MORRIS: On the record. All parties present
7 when the hearing last recessed are again present.

8 Sorry, counsel, go ahead.

9 MR. SEHAM: I'm not sure where we were.

10 THE WITNESS: We were talking the difference
11 between Northwest and Delta.

12 MR. SEHAM: Okay. Well, I --

13 MR. ROSENSTEIN: I concede it, I agree.

14 MR. SEHAM: Okay.

15 BY MR. SEHAM:

16 Q I anticipate some of the issues that you would like
17 to raise are going to come up later as we go through your
18 reports and Ms. Nabors' interview, so if you could give us
19 one -- with the permission of the Judge, giving this witness
20 instructions -- if you could give us one more quick example
21 and then we'll get to those issues?

22 A Absolutely. The big thing is open door policy and
23 chain of command. Richard Anderson was our CO at Northwest
24 Airlines, we had an open door policy, and he came over to
25 Delta Air Lines and we were supposed to have an open door

1 policy, but there's an unwritten rule that it is a chain of
2 command. And if you step over that chain of command, that's
3 when you get into trouble.

4 Q So, how many years have you been flying?

5 A Oh, almost 40, 41 years, maybe.

6 Q When you started, what was the percentage of women
7 flying in the pilot force?

8 A I believe probably about three percent.

9 Q And did that make you a minority?

10 A Yes, definitely.

11 Q Okay. Has that been greatly alleviated today?

12 A No, it's not. Actually we're only about seven
13 percent. Delta has 4.6, ALPA has five percent, but the world
14 has about seven. So, it's still low.

15 Q How many female instructors were there at America
16 West along your side?

17 A I was the only one.

18 Q And how many female pilots were there at Braniff
19 when you joined?

20 A Probably -- I think there were like four of us,
21 four or five.

22 Q Okay. And how about at Evergreen, when you became
23 a pilot there, how many?

24 A I was the only one.

25 Q Okay. And at Tower, how many women pilots were

1 there?

2 A I was the only one there, too.

3 JUDGE MORRIS: So, I'm clear, you're talking about
4 Evergreen down in McMinnville?

5 THE WITNESS: Uh-hum.

6 JUDGE MORRIS: Okay. Understood.

7 MR. SEHAM: Yeah, yes.

8 You should say "yes," just --

9 THE WITNESS: I'm sorry -- yes.

10 MR. SEHAM: -- so the Court Reporter doesn't have
11 to --

12 THE WITNESS: But I was in Terre Haute, Indiana
13 with him.

14 BY MR. SEHAM:

15 Q Now, were you exposed to sexual harassment, gender
16 based discrimination in those days?

17 A Oh, yes.

18 Q Okay. Did you have any personal issues that could
19 have been -- and we're using the term "EO," because that's
20 the company parlance -- that could have been EO or Equal
21 Opportunity issues?

22 A Probably daily.

23 Q Okay. And did you ever file an EO or other gender
24 based complaint at any of these airlines?

25 A Never.

1 Q Why not?

2 A Well, some of the things, like the guys putting
3 their naked pictures of women on a little rope with tiny
4 holes and things they did. You know, they didn't do that to
5 get me. I came into their world. And so it wasn't offensive
6 to me, but I kind of dealt with it in my own way. One night
7 I just put my own pictures up there for them, so they laughed
8 and that was it. So, I didn't do anything, you know, it
9 wasn't anything that I felt I was going to go complain, going
10 into their world.

11 But the real issue is that we are such a small
12 minority that if a woman says anything, she's ostracized in
13 this industry. And even today, you hear all the "Me Too,"
14 stuff, and you don't ever hear about their lives. It's going
15 on. The women just don't say anything about it.

16 Q Have you ever made an EO or gender based complaint
17 at Delta?

18 A Never.

19 Q What has been your experience with respect to
20 Delta's diversity within the pilot force?

21 A They, as I said, they have 4.6 diversity for
22 gender, but they have -- I was working on my MBA while I was
23 out on my hip replacement, when we were merging, and I
24 e-mailed, I believe, Ed Bastian, he was the chief financial
25 officer at the time, and asked him what they were doing,

1 because I had to take a diversity course. And he sent me to
2 Steve Gorman, who -- I believe this is in 2009 -- and he had
3 said they had a difficult time with diversity at Delta Air
4 Lines, at the leadership level, but they were starting a
5 focus group. Which I thought a little odd, because I thought
6 that was kind of those focus groups starting in the early
7 '70s for most airlines, but that's just what it was.

8 Women Aviation Conference, all the airlines had a
9 female chief pilot there, we didn't have one at our airline.

10 And so the representative, she had come from Northwest and
11 worked in a safety audit capacity or something, so they put
12 her as a designated person. But you know, you have to look
13 at the geographical location, where they are, too. It's down
14 south and it just is what it is.

15 But I look at diversity far different than just
16 gender or race or religion, it's really about thoughts and
17 people's thinking. And you really need -- especially in a
18 safety orientated business -- you want the different
19 experiences and the different thoughts that you can bring to
20 the table to solve problems if an emergency came up. So, you
21 know, it depends. You talk airlines, they think diversity is
22 gender. You might talk to a different location and they
23 might think diversity is political.

24 In my frame of reference, diversity is just
25 different thoughts, different people, different thoughts.

1 Q Did you ever apply for a management position at
2 Delta?

3 A I did.

4 Q And what position did you apply for?

5 A It was Seattle based assistant chief pilot.

6 Q And did you consider yourself qualified for the
7 position?

8 A Definitely.

9 Q Why would you consider yourself qualified?

10 A I was type rated on every aircraft that operated in
11 the base, had an MBA, management experience in my past, and I
12 live 10 blocks from the airport and have been known to put in
13 extra hours of work. So, it would have, you know,
14 accommodated their schedule.

15 Q Did Delta offer you an interview for that position?

16 A No, they didn't.

17 Q Did you file any kind of EO complaint in response
18 to the lack of invitation to interview?

19 A No, I did not.

20 MR. SEHAM: Now, to give everyone a head's up,
21 we'll be moving to JX-B, Joint Exhibit B.

22 MR. ROSENSTEIN: While you're looking -- I have an
23 objection and I could wait for cross, but would it be helpful
24 to have a time-frame for the last bunch of questions?

25 MR. SEHAM: Oh, oh, sure. I have no objection to

1 that interjection.

2 BY MR. SEHAM:

3 Q Can you give us a time-frame for when you made the
4 application?

5 A Oh, what I -- that probably was -- I'm going to
6 guess it was probably about six years ago, six or seven years
7 ago.

8 Q Okay. Thank you.

9 JUDGE MORRIS: All right. I've got two questions,
10 kind of out of turn.

11 If I understand your testimony, you have 6,600
12 hours total time, right?

13 THE WITNESS: As far as operating as the pilot in
14 the aircraft.

15 JUDGE MORRIS: In a line pilot?

16 THE WITNESS: Line pilot, yes.

17 JUDGE MORRIS: Okay. Was that a factor in the
18 selection process to be in an assistant chief pilot?

19 THE WITNESS: No. Delta doesn't look at -- I
20 shouldn't say that in every case, but from appearances and
21 experience it doesn't look like it's what they select pilots
22 based on.

23 JUDGE MORRIS: All right. And you said that Delta
24 had 4.9 percent?

25 THE WITNESS: Four point -- I believe they have 4.6

1 percent women, yeah.

2 JUDGE MORRIS: Do you happen to know what
3 percentage of all pilots are female?

4 THE WITNESS: Yeah, seven percent.

5 JUDGE MORRIS: Seven percent. Okay.

6 Go ahead.

7 MR. SEHAM: I recognize that the counsel and the
8 Tribunal, that the parties have stipulated that Complainant
9 engaged in protected activity with respect to the issues of
10 pilot fatigue, pilot training, pilot training records and
11 Safety Management Systems or SMS programs. I want to provide
12 some context.

13 BY MR. SEHAM:

14 Q So, I'll ask the witness, could you turn to JX-B?

15 A B as in Bravo?

16 Q Yes. And it's your assessment of Delta Flight
17 Operations Safety Culture, and there's a cover note from
18 Steve Dickson, so it's an iteration or a version of it that
19 comes with a cover letter.

20 JUDGE MORRIS: Hold on counsel. So I understand
21 your representation is that's his handwriting, is that your
22 representation?

23 MR. SEHAM: And I --

24 MR. ROSENSTEIN: We would confirm that that is Mr.
25 Dickson's file, if that would be helpful.

1 JUDGE MORRIS: Okay.

2 MR. ROSENSTEIN: I don't know whether it's his
3 handwriting or not.

4 JUDGE MORRIS: Okay.

5 MR. ROSENSTEIN: If you want an autograph, I can --

6 JUDGE MORRIS: No, I don't need that.

7 MR. SEHAM: We had a flashing moment of cooperation
8 and we identified this as one of our few Joint Exhibits, and
9 this was the version that Delta offered, and we accepted it.
10 So, it's what she handed in on January 28th, would have been
11 everything but the first page.

12 MR. ROSENSTEIN: I agree with that description.

13 JUDGE MORRIS: Okay. All right.

14 MR. ROSENSTEIN: Other than the fact it was
15 fleeting.

16 MR. SEHAM: That could be a criticism of our side.

17 BY MR. SEHAM:

18 Q Now, I note that under the title -- starting on
19 JX-B 002 -- after the title the first words are: "SMS
20 compliance is mandated to be in effect by January 2018."
21 What was your objective in submitting -- your overall
22 objective in submitting this report January 28th, 2016?

23 A We were coming up on this mandated compliance. We
24 did have an SMS in place, but we weren't following it. We
25 didn't have the Safety Culture to support it. And so what I

1 did is -- and why I titled the next report: "Ethnographic
2 Study," is that I looked over the -- I think at the time it
3 must have been eight years, when I did this, of examples of
4 practices. So, I learned what SMS was. I learned what
5 Safety Culture was. And I said, okay, here's what the FAA
6 mandates, this is what we have to do, this is what the
7 outline for SMS -- next page, Department of Transportation --
8 I guess it's two pages down -- this is a most required --
9 actually, it would be on page five -- you know, identified as
10 "critical elements of Safety Culture." And so --

11 Q I'm sorry -- I'm going to have to ask.

12 A Yes.

13 Q That's page JX-B-5, which would be page 4 of your
14 report?

15 A Oh, correct, page 4 of my report.

16 Q Okay.

17 A So, what I did is, from my indication from
18 Embry-Riddle, and I was fortunate that very first -- when the
19 course had the very first page by Dr. Stolzer, who is now
20 Embry-Riddle's Dean, he wrote the textbooks on SMS. And so I
21 had him for two classes and it was such a valuable education
22 when discussing this, because I didn't believe SMS was going
23 to work. The FAA was mandating it, it was coming out. I
24 believed that it would be wonderful if it did, but the reason
25 I said that is because I had too many examples of lack of a

1 Safety Culture. And so Dr. Stolzer and I had ample
2 opportunity to discuss this.

3 So, what I did is, I took the basic of here's what
4 SMS is, here's what Safety Culture is, here's my assessment
5 of corporate leadership and her's my assessment of Flight
6 Ops. And at the time, when Richard Anderson was in the helm,
7 I believed it was almost like Flight Ops was in an iron
8 bubble. That all this stuff -- dysfunction was going on down
9 here but nobody saw the corporate. Because Delta runs a
10 great airline, our CEO Is wonderful, our flight attendants
11 are wonderful, our service -- we run a great service. But
12 there was all this dysfunction going on in Flight Operations,
13 primarily training, and nobody could come out and say
14 anything, because the word was:

15 "You've got a target on your back, they're going
16 to get you. Don't report an instructor,
17 they're going to get you."

18 So, what I did is, I couldn't just say, well,
19 here's what's going on, and here's SMS, here's Safety
20 Culture, have at it. What I did is I wanted to impress upon
21 them that here's real life examples. This wasn't a
22 compilation just because I'm going to compile all this stuff
23 and go back and re-report every item I had previously
24 reported again. I'm not telling them again -- you did this,
25 I reported it years go and I'm going to tell you again. I

1 used them as examples.

2 And so that's why I designed it the way I did. And
3 if you go through the report, it breaks down Safety Culture
4 from the flexible culture -- Flexible, Just Reporting,
5 Learning and Inform -- and under each header there are
6 example of what fits in there.

7 Q Well, if I could -- now that you've paused for a
8 second, if I could interject a question without objection.

9 If you turn to page 3 of your report, which is
10 JX-B-004, there's a header -- 80 percent down the page --
11 "Safety Culture." Is Safety Culture a term that you invented
12 or is it something that originates from the FAA program?

13 A It originates -- well, I don't know who actually
14 originated it, but it's -- the FAA has very clearly defined
15 Safety Culture. And I found it interesting to listen to the
16 definitions this morning of what Safety Culture is, because I
17 probably couldn't have given you an articulate example until
18 after I really started doing research and looking into it.
19 Because there's five key elements that are part of Safety
20 Culture, and if you don't have them, you're not going to have
21 -- that is the foundation of an SMS program. And Reporting
22 Culture being, in my opinion, the most important, because if
23 you don't have a Reporting Culture, you can't be informing
24 anyone, you can't be learning anything. And if you're going
25 to retaliate, nobody will bring it forward anyway. So --

1 Q Okay. If I could ask, in terms of building in a
2 chronology here, I'm going to ask you to -- and I'm not sure
3 you can get around that desk, so I'm going to ask you to turn
4 to CX-1.

5 JUDGE MORRIS: Before you do that, I've got a
6 question. Structurally, I'm trying to understand where
7 you're going with this. Where does Delta's director of
8 Safety fit in all of this?

9 THE WITNESS: The director of Safety, I would have
10 to look at his job description, but he's not -- this is not
11 -- people thing safety -- you know, director of Safety would
12 be somebody that I would go to if all these pilots are having
13 push-back problems, that's who I would go to, director of
14 Safety. This is more of -- actually, SMS is the COO's
15 responsibility, not unlike the CRM is the captain. The
16 reason, you know, the best analogy for what SMS is today
17 would be CRM. We developed -- our industry developed this
18 because there were times where crew members were afraid to
19 speak out, and they wouldn't tell the captain. They would
20 flight that airplane right into a hole in the ground with
21 that captain. And so we said that's not a good way to
22 operate. We need to have somebody in authority -- that would
23 be the captain -- but then we need to have a captain be
24 willing to listen, to expand. Well, that's what SMS is, the
25 COO is the accountable executive, but now we want all these

1 employees to bring things forward.

2 I asked my regional director who was our SMS
3 manager, before I started reaching out to the COO, and he
4 said: "Who? Social media." And then I found that very odd.

5 So, then later I e-mailed and asked if he preferred reading
6 on Kindle or paper, because I was going to give him Dr.
7 Stolzer's book on Safety Management Systems, very well
8 written, easy to read. And he said he didn't have -- he
9 didn't read, you know, he didn't have time.

10 So, you know, all these little things are -- my
11 regional director didn't know what SMS was. He didn't know
12 we had a person in place. And he didn't want to have time to
13 learn or read about it, so.

14 MR. SEHAM: Has your question been answered?

15 JUDGE MORRIS: One follow-up.

16 MR. SEHAM: Oh, I'm sorry.

17 JUDGE MORRIS: Who's the accountable manager under
18 SMS?

19 THE WITNESS: That was -- excuse me -- it was
20 Richard Anderson, then when Ed Bastian came in, he was
21 accountable executive. And then they just re-designated the
22 chief financial -- no -- the chief operating officer, as of
23 2017, is now the new accountable executive.

24 JUDGE MORRIS: Okay.

25 Go ahead.

1 BY MR. SEHAM:

2 Q So, I'm going to ask you to turn to CX-1, so that
3 would be the first exhibit?

4 A Okay.

5 MR. SEHAM: And I'll stop dead in my tracks -- if
6 you object to this editorial comment -- but the way we have
7 exhibits is the Tribunal is going to see this letter in four
8 or five different places, because it's in the psychiatric
9 report, it's attached to other e-mails, but it's a
10 significant e-mail and so we have an exhibit where it's
11 isolated. So, I'm trying to avoid some confusion that way.

12 JUDGE MORRIS: All right.

13 MR. ROSENSTEIN: No objection. As I said in the
14 pre-conference, I want this to be as efficient as we can.
15 I'll never object to things that are efficient.

16 MR. SEHAM: All right.

17 BY MR. SEHAM:

18 Q In any case, so if you could turn to CX-1. Is this
19 an e-mail that you sent to Captain Phil Davis, November 3rd,
20 2015?

21 A It is.

22 Q Okay. And Phil Davis, at that time, what position
23 did he hold?

24 A He was -- I believe he was a regional director.

25 Q Okay. And it says: "Appendix R," at the top, that

1 was not in your original e-mail, correct?

2 A No, it was not.

3 Q And that's a reference to an appendix in your
4 January 28th safety report, correct?

5 A Correct.

6 Q Okay. So, just to make sure we understand the
7 cross-references, the first two sentences read:

8 "Phil, yes, that did sound funny.

9 Okay about the meeting. Richard was an
10 absolutely eloquent speaker."

11 And to whom are you referring to when you say
12 "Richard"?

13 A Richard Anderson, our CEO.

14 Q And this concerned a speech that he gave shortly
15 before this e-mail, is that correct?

16 A Yes. He was a keynote speaker at the International
17 Aviation Safety Symposium that I attended.

18 Q And just really so that the Tribunal has a
19 cross-reference, if you could turn to CX-148, and the
20 question is really just going to be is that the speech to
21 which this e-mail is referring?

22 MR. SEHAM: Oh, I'm sorry.

23 THE WITNESS: Yeah, I don't know my -- I'm going to
24 let you find it.

25 MR. SEHAM: I'm going to hand you mine for a second

1 here.

2 THE WITNESS: Yes, this was the speech.

3 MR. SEHAM: Okay.

4 BY MR. SEHAM:

5 Q And then the document will speak for itself, but
6 I'm wondering if you could briefly tell me what your
7 take-away was, how this inspired you to further action?

8 A Richard Anderson stood up, he was talking about
9 safety going into the future, and he -- what really struck my
10 attention is he said that any employee at this airline could
11 shut the airline line if we needed to for safety. And then
12 he professed -- and he said it twice -- that we had the
13 unfettered responsibility to bring anything safety related
14 forward -- anything.

15 Q And how, if at all, does that relate to SMS?

16 A This is what SMS is all about.

17 Q If you look back at CX-1, again the letter speaks
18 for itself, but if you could point out to the Tribunal is
19 there a reference herein to Safety Culture -- to SMS?

20 A Yeah, because I mentioned it, yeah. It would be on
21 page 40, second to last -- okay -- yeah, it would be the last
22 paragraph.

23 "With all this said, I want to follow
24 what Richard Anderson professed at this
25 meeting and be proactive. I want

1 accountability. I want to create an
2 organization that Mr. Anderson believes
3 we have, by putting a stop to this
4 inappropriate behavior, as this type of
5 fear based tactics, stuffing false
6 letters in files, are not part of the SMS
7 or any Safety Culture."

8 And then I said that:

9 "I've honored the chain of command,
10 but I'd like to go to Captains Dickson
11 and Graham."

12 Q Okay. Now, if you can go back to JX-B, which is
13 what I'll refer to as the January 28th, safety report?

14 A Okay.

15 Q And turn to page JX-B-5, which is page four of your
16 report? And do you see the title halfway down: "SMS" and
17 below that it begins: "A comparison of Delta versus Alaska,"
18 and could you give us, just succinctly, the general purpose
19 of comparing the two airlines?

20 A I was living with Delta culture and working with a
21 lot of pilots from Alaska, and they just had a different
22 culture. So, I was just showing the difference between
23 here's a positive example, one that was -- and I think I put
24 it in here -- was most prominent, is the chief pilots coming
25 to a new hire class and tell the new hire students, or the

1 pilots, that:

2 "You are a new set of eyes. We've been doing
3 this way too long, we're going to miss
4 stuff. We want you to bring anything you
5 have forward, we want you to bring it
6 forward."

7 Well, at Delta they don't do that. It's quite the
8 opposite.

9 Q And if you could turn to the next page, page 5,
10 which is JX-B-006, those bullet points -- and we'll come back
11 to them -- but are all those bullet points followed by
12 quotations, are those things that -- were those statements
13 made by Delta senior Flight Operations management?

14 A Yes, they were.

15 Q And how did those statements, in general -- and we
16 may come back to the individual statements -- but how did
17 those statements, in general, relate to SMS?

18 A Well, their identification of the culture. They
19 all indicate that they don't -- we know everything -- there's
20 nothing you can tell us to improve -- discouraging employees
21 for coming forward, discussing that they had the power to do
22 what they want -- so it's just a very poor Safety Culture
23 that will not support SMS.

24 Q Did you ever engage in any effort to engage
25 directly with Richard Anderson, regarding SMS issues?

1 A I did.

2 Q Okay. What was the result of those efforts?

3 A Well, after hearing him speak -- and I recorded his
4 keynote -- actually, I recorded everybody at the conference
5 -- I reached out to him, I e-mailed him and told him that I
6 had, you know, had attended his speech, liked what he said
7 and that I just wanted to let him know -- either I asked him
8 or said I was going to do it -- I was going to quote him in a
9 paper I was writing. And he said that would be fine, no
10 problem.

11 And then I reached out to try and have a meeting
12 with him. And so I think I had like two or three e-mail
13 exchanges with his secretary, of trying to pick a date, but
14 he was busy, and we were going to plan on it, I think that
15 next spring.

16 Q Okay. And if you can refer to Respondent Exhibit
17 11, RX-11, those would be --

18 JUDGE MORRIS: It's Volume 4.

19 MR. SEHAM: Well, actually, you know what, there's
20 a faster way to do this, and I think faster would be better
21 at this point. Why don't I refer you to CX-124. And this is
22 by way -- the Tribunal elicited this testimony -- but this is
23 by way of confirmation.

24 BY MR. SEHAM:

25 Q Can you identify what CX-124 is?

1 A Yeah. It's a revision log to our Safety Management
2 System program.

3 Q Okay. And then if you can go down the revisions,
4 1, 2, 3, 4, 5, 6 -- if you go to the sixth block and you see
5 it says: "14 February, 2017," what does that indicate?

6 MR. ROSENSTEIN: I'm sorry, what pages is it?

7 MR. SEHAM: The first page of CX --

8 JUDGE MORRIS: CX-124-001.

9 MR. ROSENSTEIN: No, I'm in the document, but what
10 page of the document is all?

11 MR. SEHAM: The first page.

12 MR. ROSENSTEIN: Oh, I'm sorry. Thank you.

13 THE WITNESS: On February -- what that identified
14 is that on February 14th of 2017, if you look at the fourth
15 bullet point, that's when they changed "accountable
16 executive" from Ed Bastian, CEO, to the chief operating
17 officer.

18 BY MR. SEHAM:

19 Q And that would -- you're referencing the fourth
20 bullet point in that quadrant?

21 A Correct.

22 Q So, in the first quarter of 2016, the CEO and
23 accountable executive for SMS would have been Ed Bastian?

24 A Correct.

25 MR. ROSENSTEIN: Objection. I don't think that

1 there's foundation for this witness to know any of these
2 things, but the document speaks for itself. Is that --

3 MR. SEHAM: Okay. It was already -- well, I
4 thought we were trying to go efficiently.

5 MR. ROSENSTEIN: We are --

6 MR. SEHAM: But in any case, the Tribunal already
7 asked that question --

8 MR. ROSENSTEIN: Fair.

9 MR. SEHAM: -- we got the answer, and now we're
10 providing documentation to confirm the answer that the
11 Tribunal requested.

12 MR. ROSENSTEIN: Okay.

13 MR. SEHAM: And if I was leading, it was just to
14 try to set the premise for the next question.

15 JUDGE MORRIS: Okay. We're spending more time
16 haggling over how to get there than getting there, so.

17 MR. ROSENSTEIN: I agree.

18 MR. SEHAM: Right.

19 JUDGE MORRIS: What I involved know is the CEO, at
20 the time of February of 2017, was whom? Who was the CEO?

21 MR. SEHAM: February -- well, then I'll ask the
22 witness.

23 THE WITNESS: Ed Bastian was the CEO prior to the
24 shift -- at the time of the shift.

25 JUDGE MORRIS: Okay. All right, thank you. It was

1 a missing piece for me.

2 MR. SEHAM: Okay.

3 BY MR. SEHAM:

4 Q And he was -- just to make it clear for the
5 Tribunal -- do you recall when Mr. Bastian, Ed Bastian,
6 became the CEO?

7 A Yes. He became the CEO in, I would say it was
8 February of 2016.

9 MR. SEHAM: And I'm missing --

10 THE WITNESS: I have one of your books up here.

11 MR. SEHAM: Yeah. If I could go off the record for
12 a second, I'm looking --

13 JUDGE MORRIS: Well, before you go off the record,
14 as part of my efforts in this case, if necessary, I intend to
15 refer to the Delta Website, such as number of pilots, number
16 of aircraft, who is who, that kind of stuff, okay. I'm
17 assuming Delta doesn't have a problem with that?

18 MR. ROSENSTEIN: Not in this light, it's publicly
19 available information, the Court is free to --

20 THE WITNESS: What number are you looking for?

21 JUDGE MORRIS: We'll go off the record now.

22 (Off the record at 3:48 o'clock p.m.)

23 JUDGE MORRIS: On the record. All parties present
24 when the hearing last recessed are again present.

25 We had some discussions off the record concerning

1 about the procedural matters dealing with the deposition of
2 Ed Bastian. The parties have handed me a copy that does not
3 contain the exhibits, but contains the -- actually, it does
4 contain --

5 MR. SEHAM: It does, yeah.

6 JUDGE MORRIS: -- the exhibits, but it's not
7 tabbed. It's identified as Mr. Bastian's deposition, CX-198.
8 Any objection to CX-198?

9 MR. ROSENSTEIN: No.

10 JUDGE MORRIS: All right. It's admitted.
11 (Complainant Exhibit No.
12 198 was marked for
13 identification and was
14 received in evidence.)

15 BY MR. SEHAM:

16 Q Okay. Ms. Petitt, I'd like you to turn, please, to
17 page 22 of CX-198, and starting at line eight, the relevant
18 portions that I'd like to read -- and for the next question
19 -- is at line eight:

20 "Question: Now, are you familiar with
21 the acronym SMS?

22 "Answer: Safety Management Systems, I
23 believe.

24 "Question: And what is your
25 understanding of SMS?

1 "Answer: I'm not a pilot or a
2 technician, but I understand it's one of
3 our core systems by which we measure the
4 safety of the operation and monitor and
5 make improvements.

6 Question: What is your
7 understanding of the components?

8 "Answer: I don't know the components
9 off the top of my head, I have no idea."
10 And if you can move to the next page, starting at
11 line two:

12 "Question: I mean how would you
13 describe your current involvement with
14 Delta's SMS program?

15 "Answer: SMS is a broad acronym,
16 there's a lot that falls under that
17 relative safety matrix, so we measure and
18 track an awful lot of safety measures
19 from the system. You can talk about SMS
20 and I think the clarity of what you're
21 talking about gets into the matrix
22 itself.

23 "Question: I'm asking you what your
24 personal involvement is, in SMS
25 compliance?

1 "Answer: I don't have one."

2 Going down to 21, my questions is:

3 "Question: Was there a time during
4 your tenure at Delta where you had more
5 involvement in SMS compliance than you
6 have today?

7 "Answer: No, not that I recall."

8 Now, at the time -- sometime during this time
9 period in the first quarter of 2016, were you attempting to
10 contact Mr. Bastian to discuss SMS issues?

11 A Yes, I was.

12 Q And were you aware, at that time, about his
13 knowledge as he describes in this testimony here?

14 MR. ROSENSTEIN: Objection.

15 JUDGE MORRIS: Basis?

16 MR. ROSENSTEIN: He didn't read the whole
17 testimony. He cherry-picked lines within the testimony. And
18 if he asks the witness what -- he can't use this testimony to
19 ask this witness that question. He can ask the witness what
20 she knew about Ed Bastian's involvement in SMS, but to read
21 parts of a deposition transcript and then ask the witness did
22 you know about this particular testimony -- which obviously
23 hadn't been given in 2016, when she was trying to contact --
24 in fact, the SMS program, I think, wasn't even -- I think the
25 evidence in the record already is that the SMS program wasn't

1 mandated until 2018 -- it's not a proper use of deposition
2 testimony.

3 JUDGE MORRIS: Anything else?

4 MR. ROSENSTEIN: I think I went too far by about a
5 minute and a half already, so I'll stop there.

6 JUDGE MORRIS: Okay. Overruled. You can address
7 it in cross.

8 Go ahead.

9 BY MR. SEHAM:

10 Q Yes. Based on your knowledge of SMS, does this
11 testimony reflect non-compliance by Delta with SMS?

12 MR. ROSENSTEIN: Objection, foundation.

13 JUDGE MORRIS: Sustained.

14 MR. SEHAM: If I may state for the record, it's
15 under 14 CFR Part 5, this is an airline that's required to
16 train its employees and, in effect, make its employees
17 knowledgeable of the requirements of SMS. It states it right
18 in Part 5. So, every Delta pilot ought to be competent --
19 and this one is -- but every Delta pilot, by law, ought to be
20 competent to answer these questions.

21 JUDGE MORRIS: Counsel?

22 MR. ROSENSTEIN: First of all, again, you have to
23 read all the testimony. Mr. Bastian is not a pilot. He's
24 not a pilot. Secondly, this witness hasn't been offered as
25 an expert in the SMS system in 2016. There's no record

1 reflecting any of those positions here in this case. And if
2 counsel wants to argue, later on, legal issues about SMS, he
3 can do so.

4 Last, what is the relevance to the claims in this
5 case, of any of this testimony? It has nothing to do with
6 Ms. Petitt being placed in Section 15, as a result of
7 complaints about -- or protected activity about safety --
8 nothing, whatsoever. So, all those reasons, I think your
9 objection, which you've already granted, should be continued.

10 JUDGE MORRIS: Rephrase your question. I mean I'm
11 tracking you for the SMS and where you're going with the SMS
12 route, but rephrase.

13 MR. SEHAM: Okay. To be frank, and since it's
14 throwing me off my pace a little bit, I'm going to move on to
15 a different section and perhaps come back to this, if that's
16 all right.

17 BY MR. SEHAM:

18 Q Had you had, prior to November of 2015, had you had
19 direct correspondence with CEO, Richard Anderson?

20 A Prior to 2015, yes, over at Northwest Airlines, he
21 would often come to our instructor meetings and was very open
22 and said anything we ever needed, we have his e-mail, we can
23 get a hold of him.

24 Q And do you remember any correspondence with him
25 related to a Christmas party?

1 A Yes. So, right when I came back -- because I had
2 been out with my hip replacement, I had been out for the
3 Christmas before -- so now in coming back to work and I
4 decided to bid Christmas, give somebody else a chance to have
5 off, because I had it off last, we did our family's Christmas
6 early. And it was probably about a week before, it occurred
7 to me that -- or he had invited -- he was doing dinners for
8 all the crew members at all the international bases, to tell
9 everyone thank you -- not the bases -- the layover stations,
10 international -- to thank everyone for making this merger
11 work and bringing us together, because we did it so
12 seamlessly. And so I happened to be having a layover in
13 Honolulu. Now, at Northwest Airlines, Honolulu was
14 considered an international base. And the purpose of his
15 dinners was because pilots couldn't get home, you know, even
16 layover and jump home and see their family.

17 And so I had decided that I was going to do a
18 Christmas party for all the crew members. I went and looked
19 to see how many pilots and flight attendants, and I bought
20 little gifts. And then I started thinking, maybe we
21 shouldn't do this at the pool, there might be alcohol
22 involved.

23 So, I thought, you know what, I'll just e-mail him.

24 And I e-mailed him before I talked to him, there was never
25 an issue. So, I e-mailed him to see if I could get a crew

1 room. I happened to be flying with another captain and first
2 officer, who were married, so our three rooms, one of the
3 rooms was going to go vacant anyway. And I thought maybe if
4 we could just get a larger room for them, and you know, and I
5 wrote him and told him I would be responsible for making sure
6 there were no problems. And the interesting thing is that
7 was the first time, ever, I hadn't received an e-mail back
8 from him in response. I just figured, you know, he's busy,
9 so I never pursued it. But all this happened about between
10 five days before, maybe two days before my trip.

11 And so that's when I came in for my trip, was in
12 Flight Planning, and the assistant chief pilot came and
13 pounded on the window and went like that -- and everyone kind
14 of joked: "Oh, you're in trouble." So, I went in his office
15 and he said: "You can't e-mail the CEO, what are you doing?"

16 I said: "No, yeah, I can."

17 He said: "No you can't."

18 I go: "Well, yeah, we have an open door policy."

19 He said: "Not here. We have a chain of command
20 policy."

21 And I said: "Where's that written?"

22 "It's not, it's the way they do things."

23 And before I left, he had said -- which will come
24 up later -- but he had said:

25 "Oh, and by the way, there's a performance chart

1 on your blog, you can't publish Delta
2 materials."

3 And I said:

4 "Well, that didn't come from a Delta manual, I
5 got that off the internet, but I will
6 remove it anyway."

7 And so I got on my laptop and I removed it and that
8 was it. And he told me that I had to write a letter of
9 apology to three individuals, for violating the chain of
10 command, going over their head -- Barry Wilbur, Captain
11 Graham and Captain Dickson.

12 At the time, OC Miller was, I believe, he was the
13 next in line under Jim Graham. And I said: "Do I have to
14 write a letter to OC Miller, also?"

15 And he said: "No, you're fine on that one."

16 And so then I went on my holiday trip and I got
17 overseas, and he had sent me their e-mail addresses, so I
18 could make sure I sent my letter of apology for violating the
19 chain of command. So, that was the Christmas party story.

20 Q Okay. Well, moving forward from that, you made
21 attempts to contact both CEO Richard Anderson and Ed Bastian,
22 regarding safety compliance issues?

23 A Yes.

24 MR. ROSENSTEIN: Objection, leading.

25 JUDGE MORRIS: Overruled.

1 BY MR. SEHAM:

2 Q Okay. And why did you feel it necessary --

3 MR. ROSENSTEIN: Objection, foundation. There's no
4 evidence that -- she just told a story about e-mailing
5 Richard Anderson about getting a hotel room for some people
6 in Honolulu. I didn't hear any testimony about e-mailing
7 Richard Anderson about safety issues. And then the leading
8 question was that you e-mailed Richard Anderson and Ed
9 Bastian about safety issues. I haven't heard any foundation
10 that there was an e-mail to Richard Anderson about that. If
11 there was, I don't think it was this last testimony.

12 MR. SEHAM: I don't know which way to go, because
13 there's been protests about going back too far and going back
14 too much in detail. And now I'm --

15 JUDGE MORRIS: He's asked for it, so give it to
16 him.

17 MR. SEHAM: Okay.

18 BY MR. SEHAM:

19 Q Can you elaborate on your efforts to contact Mr.
20 Anderson?

21 A Yes. As I had stated in my earlier testimony, that
22 I had heard him speak at the conference and that's why I
23 reached out and asked him if I could write that. And at that
24 point, I was attempting to get a hold of him. We were
25 attempting to meet with the secretary for the safety concerns

1 for the SMS program.

2 Q And then subsequently you made efforts to contact
3 Ed Bastian?

4 A Yes.

5 Q Okay. And why were you trying to contact the CEOs?

6 A Because the CEO is the accountable executive. That
7 is the -- that was the initial FAA mandate for SMS. And then
8 the FAA realized, okay, we can't just -- we should let them
9 designate somebody else. But at the time, the CEO was, and
10 at the time I reached out to Richard Anderson, he was our CEO
11 at Delta Air Lines, he was the accountable executive. And
12 then when he went away and Ed Bastian came on -- and that
13 transpired within a month of my reporting my safety report to
14 Captains Dickson and Graham.

15 Q And I'm not sure if I heard you. Did you have the
16 opportunity to meet with Richard Anderson?

17 A No. We never did.

18 Q And but you did -- after that did not come to
19 fruition, you reached out to the CEO Ed Bastian?

20 A Correct.

21 Q Okay. And what was the -- and we're going to come
22 to documents, but I'd like a general overview of what was
23 your first contact with him?

24 A Well, my first contact with him was when I woke up
25 in Amsterdam, after a layover, and I had been waiting,

1 because it was about 10 days after I had reported my safety
2 report, Captain Graham said:

3 "I'm going to read this tonight and I'll call
4 you, you know, I'll get back to you
5 tomorrow."

6 Which didn't happen. So, now, 10 days later
7 occurred and I popped up, woke up after my nap in Amsterdam,
8 and going through my e-mails, and they were right
9 side-by-side, Jim Graham: "Call me when you get to your
10 layover in Boston." And: "Announcement: Ed Bastian CEO."

11 So, I wrote a letter, an e-mail, and said -- to
12 congratulate him. And there's a little bit of history there,
13 because he had provided --

14 MR. SEHAM: With permission of the Tribunal, I
15 actually located the document. It might be helpful to have
16 that.

17 JUDGE MORRIS: Okay.

18 MR. SEHAM: So, I'm objecting to my own client's
19 testimony. If you could move to CX-122.

20 BY MR. SEHAM:

21 Q Can you identify this as an e-mail thread between
22 you and Ed Bastian, February 10th, 2016?

23 A Yes, it is.

24 Q Okay. And there's a reference, the first sentence
25 of your e-mail is:

1 "Ed, I just returned from a six-day
2 trip and wanted to extend my
3 congratulations for your new position. I
4 will never forget your assistance and the
5 impact you made sending those children
6 and teachers to Rome to meet the Pope."
7 Could you, briefly, give us the background on that
8 reference?

9 A Yeah. I don't know how to do that briefly.
10 There's this orphanage and this teacher and she was dying.
11 She got ALS, and then she started painting with her left hand
12 and then her mouth. And then when she couldn't paint
13 anymore, these little kids, they had applied the pain or
14 mixed paint, and they helped finish. And they put all their
15 little hand prints on. And her dying wish was to get this to
16 the Pope. And so I had met the teacher at a writer's
17 conference, and I thought -- they were asking can anyone get
18 airline tickets -- and I thought, I wonder if my airline
19 will. And so I went and I contacted Ed Bastian, and
20 explained what was going on, and he said, yeah, we could
21 help. And they were going to ship he painting, also.

22 So, I coordinated, I got them a hotel room. He
23 coordinated with me. It started out with two tickets and one
24 teacher, and then she felt uncomfortable taking them. There
25 was an canonization of the Pope at the time. And so I had

1 e-mailed and said:

2 "Sorry, I hate to ask you, can we get one more
3 ticket please?

4 And he said: "Absolutely Karlene, you're doing a
5 good thing here."

6 So, he helped me get that. It was really a
7 life-changing event for these kids. And I thought it was
8 very neat that he did that, because it wasn't a marketing
9 ploy, it was just he just did it. I didn't see any
10 advertising for it, at all. So, that gave me a really good
11 feel for this company.

12 And I wrote a book called: The Divine Flight, and
13 told the story and how wonderful he was. And then on the
14 back of that I had a picture of myself, in my uniform, with
15 the kids and the teacher, and printed that and sent him a
16 copy of it.

17 But that's the background to that, to the meeting
18 of the Pope.

19 MR. SEHAM: I'm going to ask you to turn to JX-L.
20 Let me know when you have it.

21 THE WITNESS: Yeah. Wait a minute -- it's empty.

22 JUDGE MORRIS: It's the other Joint Exhibit volume.

23 THE WITNESS: All right, let me look at this one.

24 MR. SEHAM: It's one of the green. You haven't
25 found it? It's one of the green and there's one binder

1 that's just one document.

2 THE WITNESS: Okay.

3 MR. SEHAM: You got it?

4 THE WITNESS: Yea.

5 BY MR. SEHAM:

6 Q And just so we can all follow along, if you look at
7 the first page, can you identify what this document is, JX-L?

8 A I can. It's my -- Dr. Altman's medical report on
9 me.

10 Q Okay. So, I'm going to ask you, that's his
11 psychiatric evaluation of you?

12 A The psychiatric evaluation.

13 Q Okay. So, if you could turn to page 231 of that
14 document, which is JX-L-231, and at the top it's 231 of 366?

15 A Yeah.

16 Q Okay. That first line reads:

17 "FO Petitt had already sent an e-mail to Mr.

18 Bastian on 3/5/16, inviting him to come
19 to the SMS presentation. This note was
20 forwarded to Captain Graham and Captain
21 Dickson."

22 Now, what follows from the entry of: "From:

23 Bastian, ED," to "Karlene K. Petitt," at the end, is that an
24 e-mail that you sent subsequent to the e-mail that we've just
25 referenced?

1 e-mail she invites the future CEO to
2 attend a meeting arranged by others,
3 without asking them. This is another
4 example of the impact of an expansive
5 mood. Also note that she addresses Mr.
6 Bastian as 'Ed,' undo (spelled here
7 u-n-d-o) familiarity as associated with
8 mania."

9 Did Dr. Altman ever bring up the apparent
10 inappropriateness of referencing Mr. Bastian as "Ed"?

11 A I don't think so.

12 Q Okay. Have you --

13 A If we did, I would have corrected him.

14 Q Okay. If we can -- maybe you'll find it before I
15 do -- I'm looking for the Bastian -- yes, here we go -- the
16 Bastian deposition. I'm going to be referring to page 10.
17 And I'm going to start at line seven, just read a couple
18 paragraphs here:

19 "Question by Mr. Seham: For the
20 record, I've handed you a document that
21 is dated February 10th, 2016. It is from
22 Ed Bastian to Karlene Petitt with the
23 subject line being: 'Congratulations.'
24 Do you recall receiving this e-mail from
25 Ms. Petitt?

1 "Answer: I do remember hearing from
2 Karlene. It was around the time of my
3 appointment as CEO, yes.

4 "Question: And you signed off your response
5 here: 'Best Ed.' Is that a common sign-off for you
6 in your e-mail correspondence?

7 "Answer: Oftentimes.

8 "Question: Did you consider it
9 inappropriate for Ms. Pettitt to address
10 you as 'Ed'?

11 "Answer: Not at all."

12 Is that testimony, in terms of the appropriateness
13 of addressing Mr. Bastian or Ed Bastian as "Ed," was that
14 your understanding at the time you addressed the February
15 10th and March 5th e-mails?

16 A Absolutely. From the very first e-mail back in --
17 with him -- back in 2009 or '10, whenever that was, he
18 responded with "Ed." And on our website -- when you go check
19 -- it says, the very first thing it says on the cover: "Ask
20 Ed." And so we can ask Ed everything, that's what he goes
21 by, "Ed."

22 Q If I could refer you to page 12 of the Bastian
23 deposition, starting at line 16:

24 "Question: Is there any violation of
25 Delta policy for an employee to make a

1 request to the CEO concerning benefits
2 for children or benefits for employees?

3 "Answer: No, not that I'm aware of.

4 "Question: Is there any written
5 chain of command policy at Delta that
6 precludes a rank and file employee from
7 e-mailing you?

8 "Answer: Not that I'm aware of."

9 At the time you were writing this February 10th and
10 March 5th e-mails, was that your understanding of official
11 Delta policy?

12 A Yes.

13 JUDGE MORRIS: Where are you reading from that,
14 counsel?

15 MR. SEHAM: Yes. I'm reading page 12, line 16
16 through line 23.

17 JUDGE MORRIS: Page 12.

18 BY MR. SEHAM:

19 Q I'd like to have you turn to page 20 of Mr.
20 Bastian's testimony, starting at line 12:

21 "Question: Have you been -- has
22 anyone ever provided you with information
23 about Ms. Petitt's social media activity?

24 "Answer: No.

25 "Question: Do you have any knowledge

1 of Ms. Petitt ever being subject to
2 discipline while employed at Delta?

3 "Answer: No.

4 "Question: Do you have any knowledge
5 of Ms. Petitt having engaged in
6 misconduct while employed at Delta?

7 "Answer: No.

8 "Question: Have you ever complained
9 to anyone about Ms. Petitt's conduct?

10 "Answer: No.

11 "Question: Did you consider any of
12 her correspondence with you to be in
13 violation of Delta's Rules of Conduct or
14 Delta's policies?

15 "Answer: No.

16 "Question: Did any of her
17 correspondence to you ever cause you
18 concern about her mental health?

19 "Answer: No.

20 "Question: Did you ever complain to
21 anyone concerning Ms. Petitt's
22 correspondence with you?

23 "Answer: No.

24 "Question: Did you consider any of
25 her correspondence to be annoying?

1 "Answer: No."

2 Q Did Mr. Bastian ever indicate to you that he
3 considered your correspondence to be annoying or
4 inappropriate?

5 A Not at all.

6 Q If you could turn to page 44 of the Bastian
7 testimony, and I'll refer you to the question starting at
8 line 24 at the bottom:

9 "Question: Before I ask you questions
10 about this document, is there an open
11 door policy in existence at Delta?

12 "Answer: I certainly try to do my
13 best to promote an open door environment,
14 yes.

15 "Question: And what does that signify
16 to you, an open door policy?

17 "Answer: Accessibility so that if
18 there was any concern or a question from
19 any of our employees, they have direct
20 access to me. And I try to make certain
21 they get attended to."

22 Was that your understanding of Delta's official
23 policy at the time you wrote to Mr. Bastian on February 10th
24 and March 5th?

25 A Yes, it was.

1 Q Now, if we can go back to JX-L-231, and to draw
2 your attention to the sentence, I guess the one-sentence
3 paragraph, again second from the bottom that reads:

4 "Also note that she addresses Mr.
5 Bastian as 'Ed,' undue familiarity is
6 associated with mania."

7 Q Did anyone at the company suggest that you had
8 mania because you were calling Ed Bastian "Ed"?

9 A No.

10 Q And no one -- did anyone ever tell you that your
11 e-mails written to Mr. Bastian violated company policy?

12 A No.

13 Q If you can reference or join me, if you would, at
14 the bottom of 231, which reads, as part of the Altman report:

15 "After the presentation, she did send
16 the Safety Culture report to Mr. Bastian.

17 Here's the note she wrote to him."

18 Q And turning to the next page, there's a handwritten
19 note and is that a note that you sent to Mr. Bastian?

20 A Yes.

21 Q Would that have been in March -- I'm sorry -- when
22 would that have been?

23 A That would have been shortly after the
24 Ethnographics Study, I put that with the Ethnographics Study,
25 that he said he would like to see. And so I submitted that

1 after I gave the presentation. I don't the presentation was
2 April 27th, 28th.

3 Q And how does that -- your "Ethnographnic Study,"
4 which we'll come to later -- how does that relate to your
5 January 28th safety report?

6 A It is the January 28th safety report. What I did
7 is I turned it in to a PowerPoint presentation, and so then I
8 created a document that was more formal for such a
9 presentation, and I bound a copy for all the participants.
10 But the content was the same.

11 Q Okay. Since it's in your handwriting and we don't
12 have, right here at this juncture, a typed version, if you
13 could read your handwritten note here?

14 JUDGE MORRIS: I can read it.

15 MR. SEHAM: Oh, you can read it -- fine.

16 BY MR. SEHAM:

17 Q And that reference at the bottom: "FO 767," did you
18 -- is that your handwriting?

19 A No. It's not only not my handwriting, but I have
20 never been a 767 first officer at Delta or at Northwest. So,
21 I don't know who wrote that or why they wrote it.

22 Q Did you provide this note to Dr. Altman?

23 A I did not.

24 JUDGE MORRIS: A question. That doesn't happen to
25 be your employee number, is it?

1 THE WITNESS: No.

2 JUDGE MORRIS: All right.

3 THE WITNESS: It would be an easy one to remember,
4 though, wouldn't it.

5 BY MR. SEHAM:

6 Q If you could refer to CX-98 --

7 MR. ROSENSTEIN: Sorry, what document?

8 MR. SEHAM: CX-98.

9 Tell me when you've reached --

10 THE WITNESS: I'm there.

11 MR. SEHAM: We're all there.

12 BY MR. SEHAM:

13 Q And if you see -- do you know what the
14 significance, at the bottom right, to the pagination DA0080,
15 do you know what the significance of "DA" is?

16 A Yes. This is what we got from -- we received from
17 Dr. Altman.

18 Q Okay. And it says: "From: Chris Puckett, To: Dr.
19 Altman." Do you know who Chris Puckett is?

20 A Chris Puckett is Delta's Labor Relations attorney.

21 Q And if you refer to the second page, and go to the
22 block that begins:

23 "G - Communications from FO Petitt directly to

24 Delta's CEOs Richard Anderson and Ed

25 Bastian."

1 A Yes.

2 Q Is this a category of documents that Delta sent to
3 Dr. Altman?

4 A It is.

5 MR. ROSENSTEIN: Objection, foundation.

6 MR. SEHAM: Are we going to dispute that?

7 MR. ROSENSTEIN: No.

8 MR. SEHAM: All right. She sat through six
9 depositions, right, so --

10 MR. ROSENSTEIN: That's fine. No need to get
11 testy. I mean it is a proper objection, but I will stipulate
12 that that's what it is.

13 JUDGE MORRIS: All right. Then overruled.

14 MR. ROSENSTEIN: I did rule that it was a proper
15 objection, first.

16 JUDGE MORRIS: I'm getting a lot of help here
17 today.

18 MR. ROSENSTEIN: Sorry. I can stop, if you want me
19 to -- to not make jokes.

20 BY MR. SEHAM:

21 Q Could you give us some background as to how you
22 went about scheduling your meeting for January 28th, 2016?

23 A I can. And it actually started with the November
24 -- I forget the date -- it was November, my e-mail to Captain
25 Phil Davis. And the reason -- and I actually initiated the

1 first e-mail to him -- I was under a directive by Captain
2 Davis that I was supposed to tell him, write to him and tell
3 him everything I was doing on my days off. And I had gone
4 down --

5 JUDGE MORRIS: Say that again?

6 THE WITNESS: I was on a directive by Captain Davis
7 that I was supposed to write to him and tell him everything I
8 was doing on my days off.

9 JUDGE MORRIS: Okay.

10 THE WITNESS: So, based on that, I had gone down to
11 the -- gone to the International Aviation Safety Conference,
12 and I had forgotten to tell him I was going. And so after I
13 went, I e-mailed him and told him that I went, and that I had
14 heard Richard Anderson speak and that I was going to put a
15 statement in my paper. And he made some comment that he
16 wanted to see that. And that was -- oh that sounds funny,
17 because I made the comment: "So, now you want my homework,
18 too." And he said:

19 "That didn't sound funny. But what I
20 really want to know is what Richard
21 Anderson said, what your impression of
22 him was?"

23 And so as I began to tell him he was an eloquent
24 speaker and this is -- as I started writing it, I started
25 thinking about all the other events that were going on over

1 the years, and how they're violating the Safety Culture and
2 violating what our SMS program means, violating our rules --
3 we have rules of the road and most guiding principles, and
4 under our SMS program it identifies those to be a significant
5 component. And so as I started looking at all these
6 behaviors, I thought, no, this is wrong. I need to take this
7 to the next level, because we need to stop. And I asked him
8 if he would schedule the meeting with him. And then I
9 believe his response was: "We'll get together for a
10 chit-chat." And my response was:

11 "No, you know, I'd prefer not to do a
12 chit-chat, we need to go to these people
13 and either you schedule it, if not, I'll
14 do it by Monday morning."

15 And so I never heard from him. So, then I went
16 ahead and e-mailed --

17 JUDGE MORRIS: You're saying "him," being Captain
18 Davis?

19 THE WITNESS: Phil Davis, Captain Davis, yeah. And
20 so I e-mailed Jim Graham that Monday and requested this
21 meeting. And then his response was:

22 "Well, we've love to talk to you, but I
23 have no foundational background. What
24 can we do?"

25 And I said: "Okay, well, I'll send you the letter."

1

2 And as it turns out, from Dr. Altman's documents,
3 he did know everything. They were doing a lot of e-mailing
4 behind the scenes. And Phil Davis, in fact, had reached out
5 to OC Miller, and OC Miller had reached out to Jim Graham,
6 more of a warning:

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"She's trying to talk to you, be aware
she might come. We're very concerned she
might have recorded Richard Anderson's
speech."

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And this is where, in these documents, at this
time, when I wrote that letter, found out that that's when
they first address, well, we'd better get her a -- you know,
we're looking at giving her a Section 15. Which in
hindsight, the timing of when my union rep knew, because he's
good friends with the chief pilot, Rip Johnson, at the time,
was good friends with OC Miller, you know, it's the little
chain of good friends. But so that's where he heard it from,
so it was a very valid warning. But I don't know at the time
all that was going on.

21

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So, I attempted to schedule that meeting. And then
it just got to be this huge -- I assume they would give me
positive space ticket and going down to Atlanta, that turned
into a little back and forth, no, we're not going to do that.
And then I was also finishing up finals, towards the end of

1 November.

2 So, I think I had written to Jim, at one point,
3 that I'd prefer not to do it until after this point. And we
4 went back and forth with this. And then finally I just
5 thought take a deep breath, I'm probably going to bounce this
6 in January, I'll just see if I can schedule the meeting, and
7 if my schedule will let me go do my recency -- my three
8 take-offs and landings at that time.

9 He had come back in that time frame and said, okay,
10 we'll meet with you -- it was like one of the first days in
11 December. Because there big concern was this is a holiday
12 season, we don't want to, you know -- and I get that --
13 however, after -- that was probably the slowest time, to look
14 at that little window, but I kind of said, no, we'll do it
15 later. Well, then he did offer up a date, but the date he
16 offered up was -- I was on a trip, I would have ended up
17 flying an international trip into Seattle, then I would have
18 had to stay at the airport to catch a flight to go to
19 Atlanta, to be at a meeting the next day, to catch a flight
20 the same day back home, to go back on-call. And I looked at
21 that and I though, no, it's not going to happen. So, I just
22 said let's just back out. So, we did. That's why the delay
23 in the meeting. Probably the last month was my
24 responsibility, not theirs, but it did take three months from
25 start to make this happen.

1 And then there's one point he asked me if, you
2 know, we could do a conference call. And I said, no, I think
3 we should meet in person, this is, you know, serious enough
4 that we should, you know, have a face-to-face. And then at
5 one point he told me that he wouldn't speak to me unless I
6 talked to EO or HR first. And I told him I wanted to focus
7 on the safety.

8 So, all this stuff is going on in this time-frame
9 trying to schedule this.

10 MR. SEHAM: We have documents. And if the Tribunal
11 will permit me to address those.

12 BY MR. SEHAM:

13 Q If you could turn to CX-62?

14 A I'm there, whenever you're ready.

15 Q Okay.

16 MS. BROWN: I'm sorry -- 62?

17 JUDGE MORRIS: Sixty-two, correct.

18 MR. ROSENSTEIN: Thank you.

19 BY MR. SEHAM:

20 Q I'm going to refer you to halfway down the page, to
21 the e-mail from Phil Davis to OC Miller. And you've
22 identified Phil Davis before, who is OC Miller?

23 A OC Miller, he was a manager -- and I'm not sure
24 what his title was at that time, but he was in the chain of
25 command that went Phil Davis, OC Miller, Jim Graham, Steve

1 Dickson. So, he was above - he was one step above, OC -- I
2 mean one step above Phil.

3 Q Okay. And before we go into that letter, following
4 the e-mail thread down, where it says: "Phil, okay about the
5 meeting," which continues on to the next page, is this the
6 same document of November 3rd, that we identified as CX-1
7 previously?

8 A Yes, it is.

9 Q All right. And then by way of premise for the next
10 question, Captain Davis writes to OC Miller:

11 "Good evening OC. Karlene Petitt is
12 busy again. She sent me a notice she
13 would be attending a conference at which
14 Richard Anderson would be speaking. She
15 mentioned that she would be writing a
16 paper regarding the presentation and
17 wanted me to be aware that it might be
18 quoted or published. I asked her to
19 please copy me on her writings. In her
20 response she first describes Richard's
21 presentation and then mentions that she,
22 quote, 'recorded,' unquote, the entire
23 presentation. She then goes into a bit
24 of a tirade about her treatment at Delta,
25 and has some comments regarding you."

1 When did you first get this e-mail?

2 A Through Dr. Altman's subpoenaed documents.

3 Q Okay. As part of this litigation?

4 A As part of this litigation.

5 Q Did anyone in management characterize your November
6 3rd e-mail as an objectionable tirade?

7 A No.

8 Q Okay. And then moving up from there, there's some
9 commentary which says, at the very last line -- I'm going to
10 save time and refer to the last sentence of that paragraph:

11 "I believe Jim Graham has all the
12 subsequent e-mails regarding her eventual
13 decision to delay and to change the focus
14 of the meeting to a Safety Culture
15 discussion."

16 Q Now, Ms. Petitt, do you reference -- did you change
17 the subject?

18 A No. Safety Culture is SMS, it's the same thing.

19 Q Well, in fact, don't you reference Safety Culture
20 -- referencing the third to last full paragraph of the letter
21 on the second page?

22 A Yes.

23 Q Can you point us out --

24 A It says:

25 "I'm investing my time and money on

1 the future of Delta and our industry with
2 continuing education, with a focus on
3 Safety Culture and SMS. Will screen
4 future pilots."

5 Q Now, Ms. Petitt, if you could turn to CX-7. I'm
6 going to ask you to turn to the second page, CX-7-02 -- well,
7 I apologize, I take that back -- it's an e-mail from Jim
8 Graham to you, dated November 16th. I'm trying to figure out
9 how to do this expeditiously. Well, the premise for the next
10 question is, is this e-mail to you? And there are cc's to
11 Rip Johnson. Who is Rip Johnson?

12 A He was our Seattle based chief pilot at the time.

13 Q And the e-mail is also copied to Jud Crane, who is
14 that?

15 A Our captain rep, ALPA rep.

16 Q And the e-mail reads:

17 "Karlene, I believe the last meeting
18 was at the request of the chief pilot.
19 This meeting is solely at your request.
20 However, in your statement below you have
21 highlighted a significant difference than
22 what you conveyed to me on the phone last
23 week. There's a big difference if you're
24 saying you are or have been harassed.
25 You indicated to me a difference of

1 opinion on censoring use of Delta
2 information and access to Delta work
3 areas. If this is a formal accusation,
4 we are in a different place and you will
5 need to also have a discussion with a
6 representative from our HR team, who will
7 help coordinate appropriate steps."
8 And skipping down to the second to last line:

9 "It will be necessary for HR to become
10 involved, along with EEOC, prior to
11 meeting with Captain Dickson and me."

12 Now, did you -- had you requested that HR or EO
13 become involved?

14 A No.

15 Q Okay. And when that suggestion was made to you,
16 how did you respond to Captain Graham?

17 A I told him I wanted to focus on the safety issues,
18 that they were the most important thing right now.

19 Q And if you can move up to the e-mail thread before
20 that, from Jim Graham to Steven Dickson, November 16th, and
21 would this be, approximately, three months before your
22 meeting with Ms. Nabors?

23 A Yes.

24 Q It reads:

25 "Here we go. Just FYI, I will brief

1 HR and handle this with kid gloves. She
2 could be a candidate for a Section 15
3 after this goes through. She continues
4 to see herself as the victim and refuses
5 to accept that she cannot just use Delta
6 proprietary information as her own, as
7 well as Delta pictures, aircraft, QRH
8 Volume 1, et cetera, and intellectual
9 knowledge. Will keep you informed."

10 At the time-frame of November, was anyone
11 suggesting that you had a mental health issue?

12 A No. The only suggestion was from Jud Crane. He
13 had told me -- and actually on two different occasions --
14 that he was concerned that if I brought my safety report to
15 Captains Dickson and Graham, that they would utilize the
16 Section 15.

17 MR. ROSENSTEIN: Move to strike, non-responsive.

18 JUDGE MORRIS: Overruled.

19 BY MR. SEHAM:

20 Q And I'm not sure -- I'm going to have to backtrack
21 a little bit, because I'm not sure I got an answer to this
22 question. Did you -- why did you not want to speak to HR or
23 EO representatives at this time?

24 A Because I've never talked to HR or EO in my career,
25 and I wasn't going to start now. I didn't know why their

1 behaviors -- why they were behaving the way they did. It was
2 more -- it was just a violation of culture. This was a
3 Safety Culture issue that we were not going to meet our SMS.

4 So, why they did what they did doesn't really matter,
5 because it was in violation of FAA regulation.

6 MR. SEHAM: Okay.

7 If it's acceptable to this Tribunal, this might be
8 a good break point.

9 JUDGE MORRIS: It is.

10 MR. SEHAM: Okay.

11 JUDGE MORRIS: All right. Ma'am, since you're
12 still on the stand, do not discuss your testimony with
13 anyone.

14 We'll reconvene tomorrow at 9:00 o'clock a.m.

15 Anything we need to take care of on the record,
16 before we go off the record?

17 MR. ROSENSTEIN: Not on the record. Maybe a couple
18 housekeeping things off the record.

19 JUDGE MORRIS: All right.

20 MR. ROSENSTEIN: But it could be on the record, if
21 Your Honor wants it to be.

22 JUDGE MORRIS: Well, we may go back on the record,
23 depending on what it is.

24 This hearing is closed for today. We'll convene
25 tomorrow at 9:00 o'clock a.m.

REPORTER'S CERTIFICATE

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TITLE: Petitt vs. DELTA AIR LINES, INC.,
CASE NUMBER: 2018-AIR-00041
OWCP NUMBER: n/a
DATE: March 25, 2019
LOCATION: Des Moines, WA

This is to certify that the attached proceedings before the United States Department of Labor, were held according to the record and that this is the original, complete, true and accurate transcript which has been compared to the reporting or recording accomplished at the hearing.

SIGNATURE OF REPORTER DATE