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I N D E XPROCEEDINGS:PAGE:

Thursday, March 28, 2019

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WITNESSES:DIRECTCROSSREDIRECTRECROSSALJ

Karlene Petitt

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EXHIBITS:IDENTIFIEDRECEIVEDREJECTEDJOINT

(None identified, nor received.)

COMPLAINANT

(None identified, nor received.)

RESPONDENT

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P R O C E E D I N G S

1 (9:06 o'clock a.m.)

2 JUDGE MORRIS: On the record.

3 This is the case of Karlene Petitt versus Delta Air
4 Lines, Incorporated, U.S. Department of Labor Case Number
5 2018-AIR-00041. This is day four of the proceedings.

6 We are, at this point, if I understand correctly,
7 we're going to begin the cross-examination of the
8 Complainant, who has already testified on direct. Is that
9 correct?

10 MR. ROSENSTEIN: That is correct.

11 JUDGE MORRIS: All right. Since it's a new day,
12 I'm going to administer a new oath.
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.

18 You may begin your cross of Ms. Petitt, counsel.

19 CROSS-EXAMINATION

20 BY MR. ROSENSTEIN:

21 Q Ms. Petitt, do you pride yourself on being an
22 expert on airline safety, correct?

23 MR. SEHAM: Objection, form.

24 JUDGE MORRIS: Overruled.

1 BY MR. ROSENSTEIN:

2 Q And you'd agree with me that if an airline receives
3 credible information that a pilot may be unfit to fly, it has
4 a duty to investigate that further, correct?

5 A Okay. Standby.

6 THE WITNESS: You overruled that, so shouldn't I
7 answer the first question, because I never did? About the
8 expert.

9 JUDGE MORRIS: Hold on.

10 MR. ROSENSTEIN: I thought I heard her say yes, but
11 that's absolutely right.

12 BY MR. ROSENSTEIN:

13 Q You pride yourself on being an expert on airline
14 safety, correct?

15 A No, I don't believe I'm an expert.

16 Q Oh, okay. Would you characterize yourself as very
17 knowledgeable about many aspects of safety?

18 A I make an effort to learn as much as I possibly
19 can, yes.

20 Q The answer is yes?

21 A Yes.

22 Q And you'd agree that if an airline receives
23 credible information that a pilot may be unfit to fly, it has
24 a duty to investigate that further, correct?

25 A One would have to define "credible," but yes, if

1 there was a "credible," then I would agree.

2 Q And you'd agree with me that response should be
3 immediate, prompt at least, correct?

4 A Prompt response to investigate?

5 Q Yes.

6 A Yes.

7 Q Okay. You agree that nothing in this industry is
8 more important than safety?

9 A Yes.

10 Q You'd agree with me that if someone reported that
11 they think this person is unfit because of whatever reason,
12 then the airline would have a duty to investigate that,
13 correct?

14 A They would have a duty to investigate the
15 allegation under the Advisory Rule Making Committee.

16 Q And you'd agree that it's best to be cautious in
17 those situations, correct?

18 A It's always good to be cautious.

19 Q And you'd rather fly with somebody who had a runny
20 nose than somebody who might be upset about a divorce or
21 something emotional, correct?

22 A Actually, no. I've flown with many pilots who have
23 had divorce and we have many hours and you can talk them
24 down. But if they're out there flying sick, I don't want to
25 get sick, that makes the whole airplane contagious. I

1 actually got sick off an airplane, all three of the pilots
2 did the bunk about a month ago.

3 Q But if you had a choice between flying with
4 somebody who had a runny nose or somebody who you felt was
5 going through an emotional problem, you'd prefer to fly with
6 the person with a runny nose, correct?

7 A No.

8 Q Didn't you tell your doctor that?

9 A It would be the different -- you know, it would
10 determine on the different emotion, what they were going
11 through. So, it's kind of subjective.

12 Q Didn't you tell your doctor, Dr. Greenblatt:

13 "I would rather fly with someone with a runny
14 nose than someone going through a
15 horrible divorce, as their head is not in
16 the game?"

17 A If you have an e-mail where I said that, but I
18 don't remember it. I don't remember that e-mail.

19 MR. ROSENSTEIN: I have to use this as a rebuttal
20 exhibit.

21 THE WITNESS: I mean if I said it to him, I said it
22 to him.

23 MR. ROSENSTEIN: Can I use this as a rebuttal
24 exhibit? It would be renumbered. I have a copy.

25 JUDGE MORRIS: You'll have to -- anything you're

1 going to hand her, you're going to have to identify as an
2 exhibit.

3 MR. ROSENSTEIN: Yes.

4 MR. SEHAM: It is something that has been produced?

5 MR. ROSENSTEIN: It has been produced.

6 MR. SEHAM: Okay.

7 MR. ROSENSTEIN: By Complainant. So, this would be
8 Respondent's --

9 MR. SEHAM: It is something in the pre-hearing
10 disclosures?

11 MR. ROSENSTEIN: Mr. Bisbee is checking. I was
12 told it was not, but I could be wrong. I mean it was
13 produced, it wasn't listed as an exhibit, because it's a
14 rebuttal exhibit.

15 MR. BISBEE: I think it's RX-15, though.

16 MR. SEHAM: I'll object on that basis, that it
17 wasn't disclosed.

18 JUDGE MORRIS: Well, there's a difference between
19 it not being disclosed and it not being initially identified
20 as an exhibit.

21 MR. ROSENSTEIN: It's RX-15.

22 MR. SEHAM: Okay.

23 MR. ROSENSTEIN: All right. Then take a look at
24 RX-15.

25 JUDGE MORRIS: Fifteen or fifty?

1 MR. ROSENSTEIN: One-five.

2 THE WITNESS: What book is that?

3 MR. ROSENSTEIN: The Respondent's Exhibits books,
4 those are the -- you've got it.

5 THE WITNESS: I have RX down here, I just don't
6 know what volume it is. I don't see -- I don't seem to have
7 and RX-115 (sic). Oh, wait a minute.

8 MR. ROSENSTEIN: You don't seem to have a binder
9 that goes up to number 50?

10 THE WITNESS: Can you please tell me what volume
11 number it is, that might help?

12 JUDGE MORRIS: It's four.

13 MR. ROSENSTEIN: You've got it here in front of
14 you, that binder, yeah. It's in Volume 4.

15 THE WITNESS: I don't have a Volume 4 here for some
16 reason.

17 MR. ROSENSTEIN: That's odd. Take a look.

18 THE WITNESS: Oh, here it is.

19 MR. ROSENSTEIN: You found it?

20 THE WITNESS: I did.

21 BY MR. ROSENSTEIN:

22 Q So, if you turn to the page -- sorry for the
23 confusion there -- but if you turn to the page C-5-126?

24 JUDGE MORRIS: All right. That's RX-15 page 002.

25 THE WITNESS: Okay. Thank you. Okay.

1 BY MR. ROSENSTEIN:

2 Q Is this an e-mail that you wrote to your physician?

3 A It is.

4 Q And what's the physician's actual full name?

5 A Larry Greenblatt.

6 Q Okay. And you call him "Dr. Larry"?

7 A I do.

8 Q Okay. And the heading on this, where it says: "Re:
9 Dr. Larry and Pilot Fitness Initiatives," is that something
10 that you typed onto the e-mail?

11 A Yes.

12 Q Okay. And did you do that as part of this case or
13 did you do that in the ordinary course?

14 A So, November 2015, so that would have been when I
15 was -- around the time they were planning to do this to me.
16 So, obviously, we hadn't filed the AIR-21, yet, but I
17 probably had been warned about the mental health, maybe, or
18 it could have been an alignment with --

19 Q Do you know when you wrote that section?

20 A I'd have to read all these e-mails to try and get
21 context. Do you want me to?

22 Q No. Just the e-mail that I showed you. And then
23 if you can't answer it, then you can certainly tell me you
24 can't answer the question, which is fine?

25 A Well, I said I wish I were there, but I don't know

1 where "there" is, so I don't know the context of what we were
2 talking about.

3 Q Just answer the question. If you turn to page
4 C-05-126, I only am asking you whether you remember when you
5 wrote: "Re: Dr. Larry and Pilot Fitness Initiatives." If you
6 don't remember, you can just tell me you don't remember?

7 A This was November 2nd, 2015, what, four years ago.
8 So, yes, I did write that -- there is the date. But the
9 question I thought was, was this a part of this case?
10 Clearly, by that date it was before the case.

11 Q I revised the question to make it easier for you.
12 So, the question that I'm asking is, when did you write: "Re:
13 Dr. Larry and Pilot Fitness Initiates," if you know?

14 A Let's -- I --

15 Q If you don't know, you can tell us you don't know?

16 A I can clearly tell you it was November 2nd, because
17 I'm looking to see if there was any earlier e-mail or any
18 later -- or any earlier e-mails --

19 Q Okay. That's fine --

20 A -- it looks like November 2nd --

21 Q -- the answer is November 2nd, that's good enough
22 answer for me --

23 A -- 2015 --

24 Q -- thank you for answering the question. Let's
25 move on to another question, okay?

1 A Okay.

2 Q Thank you. I'm going to read to you from it. It
3 says:

4 "Many people from various airlines
5 thanked me for my comments, as I'm a
6 proponent of don't fly if you're not
7 fit."

8 That's true, correct?

9 A Correct.

10 Q That's true, correct?

11 A Correct, yes.

12 Q Thank you. And then you wrote:

13 "Think about this and Germanwings.
14 Even if the airline had to pay that pilot
15 to stay home for the rest of his life,
16 what value was there in losing that
17 plane? Not worth it. Fatigue, mental, I
18 would rather fly with someone with a
19 runny nose than that, someone going
20 through a horrible divorce, as their head
21 is not in the game."

22 That's something you wrote in November of 2015,
23 correct?

24 A Yes.

25 Q And you meant it?

1 A At the time -- yeah, I did mean it.

2 Q You mean it now, too, correct, you would agree with
3 that now, wouldn't you?

4 A No. Let's just say four years have passed and I've
5 gone through a lot, so now things have changed just a little
6 bit.

7 Q Okay.

8 A But this was in the context of the Germanwings
9 discussion, so that helped me a lot.

10 Q Okay. You'd agree with me that if there was a
11 concern about a pilot's fitness, prior to a flight, you would
12 remove the pilot from the trip, correct?

13 A Me, personally?

14 Q Yeah.

15 A I don't have the authority to remove a pilot.

16 Q Hypothetically, if you did?

17 A If I were -- what I would do in my position as a
18 first officer, and the pilot was unfit, I would ask the pilot
19 to remove themselves, and if they didn't, I thought they were
20 unfit, I would contact the company, for whatever reason, and
21 say --

22 Q If you had --

23 MR. SEHAM: Excuse me. May the witness finish her
24 answer before the next --

25 MR. ROSENSTEIN: She was finished.

1 BY MR. ROSENSTEIN:

2 Q If you -- you'd agree with me --

3 MR. SEHAM: Then I'll object.

4 JUDGE MORRIS: Wait.

5 MR. SEHAM: I'll object. If she is still uttering
6 words, the next question should not yet come.

7 MR. ROSENSTEIN: I'll be polite, but she wasn't
8 uttering words, she had stopped.

9 JUDGE MORRIS: What I would ask is just take a
10 pause. I know it can be exciting and you want to get into
11 the roll, I've got that, but -- it appeared that she had
12 finished, but there was such a short time period between the
13 end of her response and your next question, it's a fair
14 observation from Mr. Seham. So, go ahead.

15 MR. ROSENSTEIN: Okay.

16 BY MR. ROSENSTEIN:

17 Q You'd agree that if there is a concern about the
18 pilot's fitness, prior to a flight, and you had authority to
19 remove the pilot from that flight, hypothetically, you would
20 remove the pilot from that flight, correct?

21 MR. SEHAM: Objection, calls for speculation, no
22 foundation.

23 JUDGE MORRIS: Overruled.

24 THE WITNESS: On an aircraft, if somebody is
25 performing inappropriately on the aircraft, yes, I would have

1 the pilot removed.

2 BY MR. ROSENSTEIN:

3 Q And you would do that with pay, if you had that
4 authority, you wouldn't dock their pay, correct?

5 A Correct.

6 Q And you would look into it more, correct, if you
7 had that authority, correct?

8 A Well, if I'm removing -- there must be a
9 significant performance issue if you're removing them from
10 the aircraft. If they're doing something abnormal on the
11 aircraft, then you would remove and find out why, where
12 that's coming from. It could be medical reason or --

13 Q Right. You would want to look into it more,
14 correct?

15 A I would.

16 Q Okay. Do you agree that anyone can shutdown a
17 flight over a safety concern at Delta Air Lines, correct?

18 A That's what Richard Anderson said.

19 Q And you agree with that, correct?

20 A I agree with that. If I'm the pilot I can.

21 Q You praised Mr. Anderson for saying that, correct?

22 A I did.

23 Q Would you say that that's a basic tenant of Safety
24 Culture at an airline?

25 A Yes, it is.

1 Q Consistent with SMS?

2 A Yes, it is.

3 Q And you'd agree with me that if a carrier received
4 a credible report of a potential situation of a pilot being
5 unfit for flight, you'd expect the airline to engage with the
6 proper experts to help them figure out what was going on,
7 correct?

8 A That would not be the first step, no sir.

9 Q I didn't ask whether it was the first step. I
10 asked whether you would agree that they should engage with
11 experts to help them identify what was going on, correct?

12 A I cannot answer that question, because you'd have
13 to go through a phase. You'd have to authenticate the
14 credibility of the report and investigate the report, first.
15 And then if that ensuing investigation of the credibility of
16 the report, from that investigation, showed that yeah, this
17 was a credible report, then there would be a responsibility
18 to take action. So, just to say the report came in, you're
19 going to take action from succinctly that report, no, I would
20 not.

21 Q But Ma'am, I didn't ask you that question. I asked
22 you whether or not if you received a credible report that a
23 pilot might be unfit for duty, you would expect the airline
24 to engage in the appropriate experts to help them determine
25 whether or not that was true or not, not initially,

1 necessarily, but at some point you would expect them to
2 engage in experts to help them do that, would you not?

3 A No.

4 Q You wouldn't, okay. That's fine.

5 A No, that's --

6 Q The answer is no -- it's as yes or no -- that's
7 fine.

8 So, you would -- if somebody had -- if there was a
9 suspicion that a pilot was unfit for duty because of a back
10 injury, you think that the airline should not engage an
11 orthopedist to help them determine whether or not that back
12 injury was actually something that made the pilot unfit,
13 that's your testimony?

14 A No, that is not what I said.

15 Q So, you agree then, that they should hire an
16 expert? Are you changing the answer?

17 A No, the company wouldn't hire the expert. The
18 pilot, if they had a back problem, they would go their doctor
19 and find out what the problem is.

20 Q What if the pilot didn't think they had a problem,
21 but the air carrier thought they did, should you just trust
22 the pilot in that situation, always?

23 A Okay. If -- can you explain -- I'll answer your
24 question if you explain to me how the pilot -- how the
25 airline knew that the pilot had a back problem? What was

1 manifesting?

2 Q What if -- I will do that for you. What if a
3 fellow pilot or another employee, presented to the carrier
4 that they believed that the pilot was unfit to fly, because
5 they had a back problem, and the carrier believed that was a
6 credible report, do you agree with me that the air carrier
7 would have the need to have that investigated or looked into
8 by an expert in back injuries?

9 A No, I don't, because I could --

10 Q Okay.

11 A -- go out and say Phil Davis, I think he has a back
12 problem --

13 Q I'm fine with the answer yes or no -- it's a yes or
14 no answer --

15 A -- and the company would have to go and
16 investigate.

17 Q -- and I'm fine with the answer. Thank you.

18 JUDGE MORRIS: Wait a minute.

19 MR. ROSENSTEIN: Your counsel will get to do a
20 redirect if there's more information that he wants to get
21 from you on that.

22 MR. SEHAM: Is the witness not permitted to explain
23 her answer?

24 JUDGE MORRIS: She can explain her answer on
25 redirect.

1 MR. SEHAM: Okay.

2 BY MR. ROSENSTEIN:

3 Q Is it your belief that if a pilot makes a report on
4 safety or engages in other forms of protected activity, that
5 they are insulated from any future discipline for any reason?

6 A They make a report on safety, they're insulated?
7 If they file an AIR-21 and the company decides they're going
8 to retaliate, because of that filing --

9 MR. ROSENSTEIN: I'd ask the witness to be
10 instructed not to change my question and answer her own
11 question, but to answer just my question.

12 MR. SEHAM: Let me object that these are legal
13 questions.

14 JUDGE MORRIS: Yeah, I'm not going to hear a legal
15 argument.

16 BY MR. ROSENSTEIN:

17 Q Is it your belief, as a lay person, as a pilot,
18 that if an airline receives a credible report from an
19 employee, that involves safety, that pilot cannot be
20 disciplined going forward?

21 A Oh, heaven's no. If they filed an AIR-21 they're a
22 little bit protected, if it's retaliation, but --

23 Q Right. And again, just to be clear, I'm not asking
24 -- okay -- that answer is fine. Thank you.

25 You'd agree with me that if a pilot engages in

1 protected activity involving a safety concern, but there's a
2 subsequent concern about whether that pilot gets --

3 JUDGE MORRIS: Wait a minute. You're using a term
4 of art that's a legal term.

5 MR. ROSENSTEIN: Protected activity is the issue.

6 JUDGE MORRIS: Yes.

7 MR. ROSENSTEIN: Fair enough.

8 JUDGE MORRIS: You phrase it differently, I'm fine
9 with it. But I --

10 MR. ROSENSTEIN: I understand. And I can rephrase
11 it.

12 MR. SEHAM: So, not to interrupt his flow, but
13 whether you change the phrase or not, it doesn't change the
14 nature of the question that these are legal questions, asking
15 for legal comment.

16 JUDGE MORRIS: Well, I don't know until I hear the
17 question, so.

18 MR. SEHAM: Okay.

19 BY MR. ROSENSTEIN:

20 Q You'd agree with me that an airline has a
21 responsibility to investigate concerns about safety in all
22 cases, correct?

23 A Can you repeat that?

24 Q You'd agree with me that if an airline has a
25 concern about safety, it always has the duty to investigate

1 that, no matter what, correct?

2 A Yes, it does.

3 Q Okay. You began writing to Delta executives in
4 Flight Operations, about setting up a meeting with Captain
5 Graham and Captain Dickson, in around November of 2015, is
6 that right?

7 A Yes. I sent an e-mail to Phil Davis.

8 Q And you were -- in the lead up to that period, you
9 had engaged in a back and forth with Captain Davis,
10 expressing your concerns about some treatment that you were
11 going under, correct?

12 A Correct.

13 MR. SEHAM: Objection, vague. Objection, vague.

14 JUDGE MORRIS: Repeat the question. I didn't hear
15 it.

16 MR. ROSENSTEIN: That's fair.

17 BY MR. ROSENSTEIN:

18 Q In the lead up to that meeting, to that request to
19 meet with Captains Graham and Captain Dickson, you were
20 undergoing some issues that you were raising with Captain
21 Davis, correct?

22 A Captain Davis and I had many e-mail exchanges, but
23 I did -- what led up to that is I did send him an e-mail
24 telling him that various harassment treatment should be
25 stopped.

1 Q Okay. Pull out the other Complainant's binder, if
2 you don't mind -- Complainant's 61?

3 JUDGE MORRIS: That would be in Volume 3.

4 MR. ROSENSTEIN: Let me know when you get there.

5 BY MR. ROSENSTEIN:

6 Q If you could turn to Complainant's 61-16 in the
7 exhibit?

8 A Okay.

9 Q This is an e-mail that you sent to Mr. Davis,
10 Captain Davis, on September 9th, correct?

11 A Correct.

12 Q Okay. And what you told Captain Davis, reading
13 from paragraph two is:

14 "I feel I have been unfairly singled out for
15 attempting to follow Delta's rules of the
16 road, as a corporate citizen and become
17 involved in our community."

18 That's what you wrote, correct?

19 A I did.

20 Q And you wrote:

21 "I feel I am being treated differently than my
22 fellow pilots."

23 Correct?

24 A Correct.

25 Q And what you were complaining about there was that

1 you had been asked to report your outside activities and
2 events directly to Captain Davis, is that right?

3 A In part. The next sentence says I was not allowed
4 to -- I was ordered not to speak to anyone in my chief
5 pilot's office. I was supposed to go only to Phil Davis. I
6 was also ordered not to talk to -- following the FOM -- I was
7 supposed to only go to him. And I noticed when I first
8 opened on CX-61-02, that e-mail shows that.

9 Q Who was your chief pilot at that point?

10 A I want to say Rip Johnson. OC Miller was initially
11 chief pilot, he moved up, and I believe Rip came after.

12 JUDGE MORRIS: Wait a minute. So, in the context
13 of this e-mail, "FOM" is Flight Operations Manual?

14 THE WITNESS: Yes, correct.

15 JUDGE MORRIS: All right. Thank you.

16 BY MR. ROSENSTEIN:

17 Q And that was September of 2015, correct?

18 A Correct.

19 Q Okay. Were you also complaining that you were
20 being harassed for not being allowed to wear your Delta
21 uniform at the Women in Aviation Conference?

22 A Absolutely not.

23 Q You never said that to --

24 A I was never harassed for not wearing -- you don't
25 get harassed for not doing something.

1 Q Did you tell Captain Davis that you were working in
2 a hostile work environment?

3 A I did.

4 Q Who did you feel was responsible for that
5 treatment?

6 A For my hostile work environment?

7 Q Yes?

8 A I wasn't quite sure. At the time it appeared OC,
9 just because he was the chain up and he wrote the false
10 letter in my file --

11 Q You were complaining --

12 A -- but it might have been --

13 JUDGE MORRIS: Wait a minute. Let her finish.

14 THE WITNESS: Yeah. It's -- everything is in the
15 chain of command, so I think at the time I assumed it was OC,
16 I didn't realize that he probably had been directed above
17 him.

18 BY MR. ROSENSTEIN:

19 Q So, you were concerned about Captain OC Miller at
20 that point, correct?

21 A Maybe. It's quite awhile ago, so I mean maybe.

22 Q You weren't complaining that Captain Davis was
23 harassing you, correct?

24 A No, because actually, when we had the meeting, and
25 I received a line check shortly after writing this letter to

1 him, when we had a meeting the meeting was we're going to
2 take this to legal, because these are threats --

3 MR. ROSENSTEIN: Sorry, that's non-responsive.

4 THE WITNESS: Well, no -- it's --

5 MR. ROSENSTEIN: The only question pending is
6 whether she was complaining to Captain Davis, about Captain
7 Davis harassing her.

8 MR. SEHAM: Well, the appropriate process is to
9 object. I'll allow the Tribunal to decide.

10 MR. ROSENSTEIN: I don't listen to counsel's
11 rulings on my motions. So, I will --

12 MR. SEHAM: Well, that's my objection to --

13 JUDGE MORRIS: Stop. We're not going to have a
14 discourse between the two. You will address the Tribunal.

15 I will infer, but if you have an objection, give me
16 your objection.

17 MR. ROSENSTEIN: Well, I object that she's not --
18 the witness is not answering the question that I asked her,
19 which was a simple question of whether or not she believed
20 Captain Davis was harassing her. And I don't want her
21 cross-examination to go off into colloquies about other
22 subjects that I haven't asked about. And that's why I'm
23 trying to cut that off.

24 JUDGE MORRIS: Please, limit your answers to the
25 question posed.

1 THE WITNESS: I will. Because it's --

2 JUDGE MORRIS: Stop.

3 THE WITNESS: Sorry.

4 JUDGE MORRIS: Go ahead.

5 BY MR. ROSENSTEIN:

6 Q So, my question was whether or not you were, at
7 that point, had a belief that Captain Davis was harassing
8 you?

9 A That's not a yes/no question. Can I give a short
10 explanation? May I explain?

11 JUDGE MORRIS: No. It's --

12 MR. ROSENSTEIN: It's a yes or no, and then I can
13 follow up.

14 THE WITNESS: Then I will say yes. I will say yes.

15 BY MR. ROSENSTEIN:

16 Q You thought Captain Davis was harassing you, is
17 that your answer, just so I can understand?

18 A I will say yes.

19 Q Okay. Did you have a generally positive
20 interrelationship with Captain Davis at that point?

21 A Yes.

22 Q Okay. You had not as positive a relationship with
23 Captain Miller at that point, though, correct?

24 A No, Captain Miller and I had a fine relationship.

25 Q Didn't you blame Captain Miller for putting the

1 letter of counsel in your file?

2 A No. I never blamed him. He was directed, I
3 believe by Barry Wilbur, to do that. He even apologized at
4 our meeting.

5 Q Did you believe that Captain Miller was acting --
6 behaving against corporate standards at that point in time?

7 A He was following Delta's policy of you do what I
8 tell you to do.

9 Q Did you believe that Captain Miller was behaving
10 against corporate standards, at that point?

11 A Putting -- well, he signed the letter and it was a
12 letter that misrepresented the blog that I wrote, and who had
13 it and who published it. And so yeah, that is beyond
14 corporate standards, because we're supposed to have truth,
15 honesty, integrity and not harm anyone else at our
16 corporation.

17 Q So, the answer is yes?

18 A Yes, yes.

19 Q Okay. And he acted -- he behaved against corporate
20 standards because he had placed this letter in your file, is
21 that -- or were there other reasons, as well?

22 A That would be -- the only other reasons -- this is
23 so difficult because I know how the chain of command works --
24 the unwritten chain of command works, and orders being done.

25 And he took orders to do them. I don't believe that he would

1 have done this on his own accord.

2 Q Okay.

3 MR. ROSENSTEIN: Non-responsive to my question,
4 though.

5 THE WITNESS: Can you ask it again?

6 BY MR. ROSENSTEIN:

7 Q The question is whether or to you had -- you
8 believed that he had behaved against corporate standards,
9 because he had placed a letter in your file or for some other
10 reason?

11 A That he placed a false letter in my file and
12 because he had directed, I believe, Phil Davis to order me to
13 not go to anybody else in the company, only talk to Phil.
14 And that I don't know if he ordered Phil to direct me to do
15 all the things on my days off or not, I just don't know.

16 JUDGE MORRIS: I don't want to hear all this. I
17 want the answer to the question posed.

18 THE WITNESS: Okay.

19 JUDGE MORRIS: Okay. Now, Mr. Seham will have the
20 opportunity to allow you to elaborate on anything, but answer
21 the question posed.

22 THE WITNESS: Okay.

23 BY MR. ROSENSTEIN:

24 Q And the first part -- I understood your answer, I
25 appreciate it, thank you.

1 A Okay.

2 Q Remind me again when that letter was placed in your
3 file?

4 A I don't know the date.

5 Q What year?

6 A I'd have to look at the letter, I'm sorry.

7 Q 2011?

8 A Okay, yes.

9 Q Does that seem right?

10 A That seems right.

11 Q Okay. All right. Take a look at page 18 in the
12 same exhibit?

13 JUDGE MORRIS: JX-61?

14 MR. ROSENSTEIN: Yes. We're still on the same --
15 CX-61.

16 JUDGE MORRIS: CX -- thank you -- CX-61.

17 MR. SEHAM: Sorry, what page?

18 MR. ROSENSTEIN: CX-61, page 18 in the document.

19 Yeah, 18.

20 BY MR. ROSENSTEIN:

21 Q And on the bottom of the page, is this another e-
22 mail that you sent to Captain Davis?

23 A Yes.

24 Q And it says: "bcc: David, bcc: Ken," who is that?

25 A The crew I was flying with.

1 Q What are their names?

2 A Dave Sheldahl and I don't remember the first
3 officer's, but I'm only saying I'm assuming it was the first
4 officer, because David would have been David Sheldahl, the
5 captain. I don't remember who the first officer was.

6 Q And this is an e-mail that concerns what you
7 testified in this case on direct, your view that you had a
8 retaliatory line check at some point in September, correct?

9 A Ah --

10 Q You can read it -- I mean there's more to it --

11 A Yes, yes, it is. And can I rephrase that? Ken
12 might have been Ken Watts. I might have been copying Ken on
13 this.

14 Q Okay. So, okay, understood. And did you try to
15 repeat the other question or do you remember it?

16 A Can you repeat it, please?

17 Q Okay. This is an e-mail that refers, at least in
18 part, to your belief that you had been subjected to a
19 retaliatory line check on a flight with Captain Sheldahl and
20 -- well, we'll leave it at that, correct?

21 A Yes.

22 Q And you write in this e-mail:

23 "As you know, I expressed a fear of
24 retaliation because I voiced my concern
25 and this concern cannot be overlooked."

1 What was the concern that you were referring to
2 there?

3 A That would have been reference to that November 9th
4 e-mail.

5 Q Okay.

6 A Excuse me -- September 9th e-mail.

7 Q So, it's your view that because you sent the
8 September 9th e-mail to Captain Davis, Captain Sheldahl was
9 scheduled for a line check on September 18th, as a result,
10 that there's a connection between those?

11 A Correct.

12 Q And who did that, in your view?

13 A Who did the line check?

14 Q No. Who made the decision to schedule a
15 retaliatory line check between September 9th and September
16 18th?

17 A I have no idea.

18 Q Who else knew about your communication to Mr.
19 Davis, or Captain Davis, on September 9th?

20 A My chief pilot, Rip Johnson.

21 Q Do you believe --

22 A Ken Watts.

23 Q Well, you don't believe Ken Watts scheduled a
24 retaliatory line check?

25 A No, of course not. I didn't know those two were

1 tied together, you thought that one led to the other, so.

2 Q That's fine. So, Ken Watts knew that you had
3 complained to Captain Davis on September 9th?Z

4 A He absolutely did.

5 Q Okay. And who else knew, besides Ken Watts and Rip
6 Johnson?

7 A The crew.

8 Q Okay. And you don't believe that the crew
9 scheduled a retaliatory line check on September 9th?

10 A No. And ALPA also knew.

11 Q When you say that they knew, I want to make sure
12 I'm understanding you and you're not confusing the issues.
13 I'm not asking you who knew, that you believed that you'd
14 suffered a retaliatory line check. I'm asking you who knew
15 that you had raised complaints in your e-mail to Captain
16 Davis on September 9th? Do you understand that?

17 A I do understand that. And I know who knew.

18 Q So, just let me go through it again, just to be
19 sure we're clear on it?

20 A Okay.

21 Q And I apologize if you have to repeat yourself.
22 Who knew that you had sent an e-mail to Captain Davis on
23 September 9th, complaining about the issues of having to
24 report to him, among other things?

25 MR. SEHAM: I'm going to object, both asked and

1 answered and calls for speculation.

2 JUDGE MORRIS: Well, I would allow it on the basis
3 of asked and answered, because I've given, frankly, the
4 Complainant's side great leeway in both hearsay and the
5 questions being posed. I'll ask you to limit it to if she
6 knows personally.

7 MR. ROSENSTEIN: Absolutely.

8 BY MR. ROSENSTEIN:

9 Q All questions are based on your personal knowledge.
10 And so if you know -- do you know who knew -- if anyone knew
11 about your e-mail to Captain Davis on September 9th?

12 A I can only assume.

13 Q Okay.

14 A It would be OC Miller and Jim Graham, because we
15 have e-mails that when I write to Phil Davis, he would
16 forward them to OC Miller. And actually OC Miller would
17 forward them to Captain Graham. So, I can only make that
18 assumption that he followed his standard protocol with this
19 one, too.

20 Q Okay. And is it your contention in this case that
21 any of those three people scheduled a retaliatory line check
22 of Captain Sheldahl, between September 9th and September
23 18th?

24 A I have no idea.

25 Q Okay. Take a look at Respondent's 83.

1 JUDGE MORRIS: Wait a minute, I have to write a
2 note. Okay.

3 BY MR. ROSENSTEIN:

4 Q Let me know when you get to 83?

5 A I'm there.

6 Q Okay. And you don't have to look at the first
7 page, but if you look at the second and third page, you've
8 now seen this document in the course of this case at least,
9 correct?

10 A Correct.

11 Q And this is from Captain Sheldahl, correct?

12 A From what?

13 Q This is a document that at least suggests that it's
14 been signed by Captain Sheldahl, correct?

15 MR. SEHAM: Did you say CX-83?

16 MR. ROSENSTEIN: RX.

17 MR. SEHAM: Oh.

18 THE WITNESS: I'm looking at my flight hours --

19 MR. ROSENSTEIN: Did I say C?

20 MR. SEHAM: Yes, you did.

21 JUDGE MORRIS: You did.

22 MR. BISBEE: Maybe you did.

23 MR. ROSENSTEIN: We'll never know. But it is
24 RX-83.

25 JUDGE MORRIS: Yeah, well, you definitely said CX.

1 MR. ROSENSTEIN: I believe you. Mr. Bisbee is
2 being kind to me.

3 THE WITNESS: Okay.

4 BY MR. ROSENSTEIN:

5 Q And when you're there, just the second and third
6 page is all I'm asking about.

7 A Okay.

8 Q When did you first become aware, if ever, of this
9 report by -- this interview of Captain Sheldahl?

10 A In my medical report.

11 Q When you received Dr. Altman's --

12 A Dr. Altman's medical report, January 2017.

13 Q Okay. And you wrote then to Captain Sheldahl by
14 e-mail, I think you testified?

15 A We had a couple of phone calls and we had e-mail
16 exchanges, as well.

17 Q And ultimately, you asked Captain Sheldahl whether
18 he had ever stated that -- to anybody -- that he believed you
19 were unfit for flying or a safety risk, something of that
20 nature?

21 A He said he could not imagine ever saying that.

22 Q What were the exact words? I don't remember.

23 A I think he wrote: "I cannot imagine ever saying
24 that."

25 Q And what were the words that he couldn't imagine

1 saying?

2 A That I was unfit to the safety of the aircraft.

3 Q Okay. Does it say, in here, in Captain Sheldahl's
4 report, that he'd ever called you unfit for flying on that
5 day?

6 A Captain Albain --

7 Q I'm not asking you about that.

8 A No -- may I explain?

9 Q No. Well, the answer is yes, but not right now.
10 Who selected Captain Sheldahl for a line check, if
11 you know?

12 A I don't know who scheduled it.

13 Q Okay. Then you don't know. And there were no
14 consequences to you from that line check, correct?

15 A No.

16 Q Okay. You were upset that the line check was
17 performed or the line check officer was Captain Albain, is
18 that right?

19 A I don't know if "upset" would be the correct word.
20 I was concerned.

21 Q You believed the fact that Captain Albain was
22 conducting the line check of the crew was connected, in some
23 way, to you, correct?

24 A As I told Captain Davis, I could not overlook the
25 coincidence.

1 Q And the reason that you were unhappy with Captain
2 Albain was because of an incident that had occurred in a
3 simulator exercise that you had been involved in with Captain
4 Albain, correct?

5 A I will say yes, but --

6 Q And when was that -- what year was that?

7 A That would have been 2011.

8 Q Okay. And this was occurring in September of 2015,
9 correct?

10 A Correct.

11 Q And you told -- okay. And you continued to
12 communicate with Captain Davis about selling books and a
13 variety of different issues throughout the fall of 2015. You
14 can review the rest of Complainant's 61 through page 21, if
15 you'd like?

16 A Sixty-one?

17 Q Sixty-one, the exhibit that we had -- sorry, I
18 should have told you not to put that one away.

19 A And what volume number was that one, again?

20 MR. SEHAM: It's three, CX-3.

21 THE WITNESS: Oh, CX-3.

22 MR. SEHAM: Yeah, yeah.

23 JUDGE MORRIS: Not CX-3 -- Volume 3.

24 MR. SEHAM: No, no -- I'm referring to the volume.

25 THE WITNESS: CX-61, Volume 3, okay.

1 JUDGE MORRIS: What's the question, again, counsel?

2 MR. ROSENSTEIN: That she continued to communicate
3 with Captain Davis about uniform issues and other related
4 subjects, throughout the fall of 2015, in general. And I
5 asked her to go up to page 20 of the document.

6 THE WITNESS: Oh, page 20. I thought you told me
7 to review all of them.

8 MR. ROSENSTEIN: No.,

9 THE WITNESS: I'm sorry.

10 MR. ROSENSTEIN: We started at 18 and now I'd like
11 you just to look up to page 20, and then see if you can
12 confirm or deny what I asked you.

13 MR. SEHAM: Okay.

14 JUDGE MORRIS: So, CX-61, page 20.

15 MR. ROSENSTEIN: Through pages 18, 19 and 20.

16 THE WITNESS: No, this looks like I wanted to
17 donate books for charity, not sell them.

18 MR. ROSENSTEIN: Okay.

19 BY MR. ROSENSTEIN:

20 Q You communicated about the subject matter that's in
21 these e-mails with Captain Davis, from --

22 A These are e-mails from Captain Davis and I, yes.

23 Q Okay. Thank you. And then, by the way, do you
24 know whether Delta investigated the issues that you'd raised
25 about Captain Albain performing that line check?

1 A Say that one more time.

2 Q Sure.

3 A I mean what issues are you referring to?

4 Q Well, you suggested, on September 18th, to Captain
5 Davis, that you thought that you had undergone a retaliatory
6 line check, correct?

7 A Correct.

8 Q And one of the reasons that you thought it was
9 retaliatory -- maybe the only reason you thought it was
10 retaliatory, was because Captain Albain was performing it?

11 A No, sir, that's not true.

12 Q Okay. Then I'll break down the question, I
13 apologize. You believe that line check was retaliatory
14 because it had come close on the heels of the e-mail that
15 you'd sent to Captain Davis, is that right?

16 A Yes, that's correct.

17 Q And then you found the fact that Captain Albain was
18 performing the line check to be a coincidence that you could
19 not overlook, correct?

20 A The coincidence I couldn't overlook was the line
21 check. The fact that Captain Albain was there was we
22 shouldn't be doing that with him on the airplane.

23 Q In other words, it wasn't that you thought that
24 Captain Albain had been selected in order to attack you in
25 some way?

1 A No.

2 Q And you just thought that Captain Albain was
3 incompetent?

4 A No. I never said he was incompetent.

5 Q Well, then I will --

6 A No.

7 Q -- violate a general rule of examination and ask
8 you why you felt that Captain Albain's presence on the line
9 check was a coincidence that could not be overlooked?

10 A The coincidence that couldn't be overlooked was the
11 fact we were getting a line check shortly after I had
12 received this. The fact that it was Captain Albain, was a
13 concern because he's an instructor that I had reported for
14 texting in the simulator, not giving us an oral, and then
15 putting false grades into the computer -- because he didn't
16 normally put a grade in there. And when I went back to do my
17 recency, he had changed schedules with another instructor and
18 put himself to do the recency. And I called my manager and
19 they asked me to stay that extra day and not do it, and had
20 told me not to be in the simulator with him. So, in my mind,
21 I thought if I'm not supposed to be in the simulator with
22 him, I probably should not be in an aircraft with him,
23 either.

24 Q Okay. And that's contained in your September 18th
25 e-mail, correct, basically?

1 A No, I didn't go into details on that. I mean I'd
2 have to read the e-mail again. I don't remember if I went
3 into that lengthy detail. You know what, I did, because I
4 think I told him that he had sabotaged the simulator.

5 Q Yeah, something like what you just testified
6 about --

7 A Something, yeah, yeah.

8 Q -- is in the September 18th e-mail, correct?

9 A Yeah, yeah, yes.

10 Q You can look at it, if you want. I'm not trying to
11 put the words --

12 A No, it was. I do remember telling him why Albain
13 was a concern.

14 Q Okay. And did you understand that Delta then
15 looked into Captain Albain and the line check that took place
16 on September 18th?

17 A Not until September 28th -- 27th, the day before I
18 met with Captain Graham, did I come to an assumption that
19 something was going on.

20 Q Sorry. You said September 27th, but I think you
21 meant January 27th, is that right?

22 A Excuse me -- January -- yeah, thank you -- January.

23 Q And so just my question to you is -- I'm not sure
24 you answered the question. Did you become aware as to
25 whether or not Captain -- whether or not Delta looked into

1 the concerns you'd raised about the September 18th line
2 check? That's a yes or no -- did you become aware?

3 A No. The company never notified me.

4 Q No. Are you now aware of that?

5 A I'm still not -- well -- I'm still not sure.

6 Q Okay. Take a look at Respondent's 18?

7 A That would be RX?

8 Q RX.

9 A And what volume?

10 Q Probably --

11 MR. BISBEE: Volume 1.

12 MR. ROSENSTEIN: There you go -- 1. What are the
13 numbers in 1?

14 MR. BISBEE: One to 20, everything else is in 2.

15 MR. ROSENSTEIN: Got it.

16 JUDGE MORRIS: Joint Exhibit or Respondent's
17 Exhibit?

18 MR. ROSENSTEIN: Respondent's 18.

19 MR. SEHAM: So, it's not Volume 1, right?

20 MR. ROSENSTEIN: Respondent's 18 is --

21 MR. BISBEE: It's possible that we were looking at
22 different volume numbers, unfortunately, because I have
23 larger binders than you all. I apologize.

24 THE WITNESS: So, this is an RX?

25 MR. BISBEE: It would be Volume 4. We're taking

1 about Respondent's 18.

2 BY MR. ROSENSTEIN:

3 Q Do you have Respondent's 18?

4 A I do.

5 Q Okay. And you'd agree with me that that's,
6 hopefully, since I don't have it in front of me, hopefully
7 that is a report of an interview of Captain Albain, is it
8 not?

9 A Yes, it is.

10 Q And what's the date of that?

11 A That is January 2016.

12 Q What date, exactly?

13 A What date exactly -- January 8th, 2016.

14 Q January 8th, you said?

15 A Yes.

16 Q Oh, I didn't hear you say it. I'm sorry. That's
17 before you met with Captain Graham and Captain Dickson,
18 correct?

19 A Correct.

20 Q And -- okay. Take a look at Respondent's Exhibit
21 19 -- I'm sorry -- Respondent's Exhibit 17. I think it's 17.

22 MR. ROSENSTEIN: Sorry, I lost my place. Forgive
23 me. I'm sorry, I literally had this open. I don't know
24 where it went. All right. I apologize to everybody.

25 BY MR. ROSENSTEIN:

1 Q Actually, could you turn to RX-16, just one back,
2 and turn to the last page of that exhibit, which is --
3 actually, I guess you have to flip one page before. So, the
4 page is 16-003, and you see there's an e-mail that says --
5 it's from you to Jim Graham, a copy to Jud Crane, Rip Johnson
6 and Phil Davis. Do you see that?

7 A I do.

8 Q Okay. And you wrote that:
9 "I'd like to schedule a meeting with you and Captain Dickson"
10 -- misspelled in this case, but you eventually figured that
11 one out, right?

12 A Yes, but Kelley Nabors hasn't.

13 Q All right.

14 MR. ROSENSTEIN: Move to strike.

15 MR. SEHAM: Yeah, well I -- this is kind of --

16 JUDGE MORRIS: Overruled in this case.

17 MR. SEHAM: Okay.

18 MR. ROSENSTEIN: Okay. Kelley Nabors has, okay.

19 BY MR. ROSENSTEIN:

20 Q And you asked to schedule a meeting with you and
21 Captain Dickson at your earliest convenience in December.
22 Just to be clear, when you wrote D-i-x-o-n, you meant Captain
23 Steve Dickson, correct?

24 A I did, yes.

25 Q Okay. And you said:

1 "Please note that I have followed the
2 chain of command in an effort to solve
3 the problem. However, the problem
4 appears to point to an individual within
5 our management team, who is behaving
6 against corporate standards."

7 Correct?

8 A Correct.

9 Q And that's what you told Captain Graham that you
10 wanted to meet with him and Mr. Dickson about initially,
11 correct?

12 A Initially.

13 Q Okay. And the person -- the individual who you are
14 referring to there is OC Miller, correct?

15 A Correct.

16 Q Okay. And what OC Miller did that was behaving
17 against corporate standards was, based on your prior
18 testimony, put a letter in your file in 2011 and, to your
19 mind, required you to report your activities to Captain
20 Davis, correct?

21 A In part, yes.

22 Q You had some -- you didn't have that meeting in
23 December, in the end, correct?

24 A No, I did not.

25 Q There were some scheduling delays, you had finals,

1 I think, is that right?

2 A The December 1st date, that they offered, didn't
3 happen because of their scheduling it in between my trip and
4 my reserve, I would not have been able to be rested for work
5 coming back on duty in the same day. It wouldn't have been
6 legal, let's just put it that way, it wouldn't have been
7 legal.

8 Q And then you spent some time, I think you were in
9 the hospital for some period of time in that time-frame?

10 A No.

11 Q That's not true?

12 A I was in the hospital one day to have a
13 colonoscopy.

14 Q Just one day for a colonoscopy?

15 A Correct.

16 Q Didn't you delay scheduling a meeting because of
17 that colonoscopy?

18 A No.

19 Q You didn't. Take a look at Complainant's 23.

20 JUDGE MORRIS: That would probably be in Volume 2
21 -- well, it's in Volume 1.

22 THE WITNESS: It's RX-23?

23 MR. ROSENSTEIN: CX-23.

24 THE WITNESS: CX.

25 MR. ROSENSTEIN: No -- we'll skip that one for now.

1 BY MR. ROSENSTEIN:

2 Q You do, eventually, meet with Captain Graham and
3 Captain Dickson on January 28th, correct?

4 A We do.

5 Q Okay. You said you met with ALPA first on January
6 27th, is that right?

7 A Right.

8 Q And the meeting with Captain Graham and Dickson was
9 the next day, correct?

10 A Correct.

11 Q By the way, why did you copy Jud Crane on your
12 November 9th e-mail?

13 A Because he was my captain rep.

14 Q Okay. Could you go back to Respondent's 16? After
15 you met -- tell me when you're there?

16 A Standby --okay.

17 Q You -- Captain Graham responded to your November
18 9th e-mail pretty promptly, correct?

19 A Captain Graham responded to my --

20 Q Well, you wrote to him, it looks like, 11:28
21 Pacific time on --

22 MR. SEHAM: What page are you on?

23 MR. ROSENSTEIN: The same page 3.

24 THE WITNESS: You're looking at RX-16-01?

25 MR. ROSENSTEIN: 16-003.

1 THE WITNESS: Oh, I was looking at 01.

2 MR. ROSENSTEIN: That's okay.

3 THE WITNESS: Okay.

4 BY MR. ROSENSTEIN:

5 Q Captain Graham responded to you promptly, correct?

6 A He did.

7 Q Okay. And you responded to him and asked to give
8 him a call, correct -- or asked him to give you a call,
9 correct?

10 A Correct.

11 Q And he did so, correct?

12 A Correct.

13 Q And during that call you offered to send a copy of
14 a prior e-mail that you'd sent to Captain Davis, correct?

15 A Correct.

16 Q And then if we keep reading up the e-mail chain,
17 after you hung up on that call, you sent that document to
18 him, correct?

19 A Correct.

20 Q Okay. And in that document you were discussing a
21 speech that you had gone to, that Delta chief executive
22 officer had given, Richard Anderson, correct?

23 A Correct.

24 Q And Mr. Anderson was the chief executive officer of
25 Delta until that February of 2016, correct?

1 A Correct.

2 Q This was in November of 2013, correct?

3 A Correct.

4 Q And in that e-mail you told Captain Graham that:

5 "Richard's entire speech contradicts what OC has

6 been doing to me."

7 Correct?

8 A Let me read and see what it says. Correct.

9 Q Okay. And you referred, again, to the letter with
10 multiple false accusations. Is that, again, the 2011 letter
11 of counsel?

12 A Correct.

13 Q Okay. And then you complained that there was a
14 secret file that holds that letter, is that right -- that's
15 what you said, correct?

16 A There is a second file, yes.

17 Q A "secret file," correct?

18 A Well, it was secret from the pilots. I found out
19 by my chief pilot told me.

20 Q Okay. And then you stated that OC had reached an
21 arm into your personal life with your motivation book,
22 correct?

23 A Correct.

24 Q Okay. What did Captain Miller do to reach an arm
25 into your personal life with your motivation book?

1 A He told me that I couldn't -- that I -- he was
2 trying to edit my -- he was trying to edit the content, is
3 what he was doing.

4 Q Okay. And he was trying to edit the content
5 because of concern that you were representing Delta in the
6 motivation book, correct?

7 A I don't believe so. I asked him if they wanted to
8 use the aircraft, and they said no, so that was fine. So, it
9 wasn't -- it didn't have anything to do with Delta.

10 Q Didn't Delta ask you to remove references to Delta
11 and Northwest from your motivation book?

12 A There were no references to Delta. They said that
13 they owned Northwest Airlines. And then I contacted a
14 copyright attorney and they said, no, because I'm not using
15 it for the name for profit --

16 MR. ROSENSTEIN: Move to strike.

17 THE WITNESS: Okay. Sorry.

18 MR. ROSENSTEIN: I'm only asking whether Delta
19 offered -- objection to the answer.

20 THE WITNESS: Yes, they did tell me to do that,
21 tell me -- yes, they did.

22 MR. ROSENSTEIN: That's all. Thank you.

23 BY MR. ROSENSTEIN:

24 Q And then you accused OC Miller of censoring your
25 book, correct?

1 A That's what we were just talking about, yes.

2 Q Okay. And Captain Graham had explained to you in
3 the phone call that he didn't believe that you were -- that
4 Delta was censoring you, he said that to you, correct?

5 A No, he didn't.

6 Q You don't remember -- you don't believe he said
7 that?

8 A No, because the phone call I was --

9 Q No, was fine.

10 A Yeah -- no.

11 Q How long did you speak to Captain Graham on
12 November 9th?

13 A Probably 45 minutes, maybe.

14 Q Okay. And Captain Graham -- the subject matter of
15 discussion was some of the issues that are raised in this
16 e-mail that you'd send to Captain Davis, correct?

17 A Well, the SMS and the Safety Culture part of it
18 were.

19 Q Well, let me ask you specifically whether or not
20 you spoke to Captain Graham about your belief that OC Miller
21 was censoring your book, do you recall that?

22 A No, because I didn't --

23 Q No, okay.

24 A No, I didn't use --

25 Q Do you recall talking to Captain Graham about your

1 belief that there was a secret file holding your letter of
2 counsel?

3 A I did discuss the second file, yeah.

4 Q Okay. Do you believe that you complained to
5 Captain Graham about what OC Miller was doing to you, in your
6 opinion?

7 A Doing to me -- in part, yes.

8 Q Okay. And do you believe you told Captain Graham
9 that there was a fight about donating books to flight
10 attendants?

11 A A fight?

12 Q Well, you wrote:

13 "Then the fight about donating those books to
14 the flight attendants" --

15 A Yeah, I don't know if I used that language --

16 Q "That delay gave them one week to sell them" --

17 JUDGE MORRIS: Wait, wait.

18 MR. ROSENSTEIN: -- "that did not hurt me, I was
19 donating anyway, but it hurt them."

20 And then it goes on. Do you see that?

21 THE WITNESS: I do.

22 BY MR. ROSENSTEIN:

23 Q Do you believe you spoke about that with Captain
24 Graham?

25 A I don't think we got into too much about the books,

1 just the fact that I was not allowed to donate them.

2 Q And you told Captain Graham that you thought OC was
3 making a different set of rules for you than other employees?

4 A Definitely.

5 Q And you told Captain Graham that the social media
6 accusation had been resolved prior to the meeting, yet --
7 well -- I'll get back.

8 Did you tell Captain Graham that you believed that
9 all that has transpired contradicts Richard Anderson's
10 beliefs in our company, the people and its vision for
11 leadership, support and accountability?

12 A I did. I told him we had a Safety Culture -- yes.

13 Q Yes?

14 A Yes.

15 Q Okay. Did you raise issue of -- that you put in
16 this letter -- about being asked to send a letter of apology
17 to senior pilots because of a Christmas party for the crew?

18 A Did I tell him about that?

19 Q Yes.

20 A No.

21 Q You didn't raise that in a phone call?

22 A No. We had already previously discussed it, years
23 before.

24 Q Okay. But you put it in the letter that you sent
25 to Captain Davis, correct?

1 A Correct.

2 Q And then you forwarded that letter to Captain
3 Graham, correct?

4 A Correct.

5 Q And when you're talking about that issue, you're
6 referring to your communications with Captain Graham in 2010,
7 regarding your efforts to ask CEO Anderson to secure rooms in
8 Hawaii for a Christmas celebration of some sort, is that
9 right?

10 A What was the question again?

11 Q When you included this -- fair enough. When you
12 included this in the letter, in the paragraph that starts:
13 "And about that open door policy," if you want to see it --
14 you were referring to communications that you'd had with
15 Captain Graham about your communications with CEO Richard
16 Anderson to secure some space in Honolulu, for some sort of
17 event during Christmas, is that essentially right?

18 A No. Captain Graham had nothing to do with it. He
19 received a letter of apology for bypassing him.

20 Q But I'm just trying to set the -- that's the
21 subject, the general subject matter of that paragraph, is the
22 event that took place and that you testified about in Hawaii,
23 in 2010, is that right?

24 A The subject matter was chain of command.

25 Q The subject matter was:

1 "This all started because I violated
2 the mandated, unwritten chain of command
3 policy and subsequently ordered to write
4 letters of apology to three senior
5 pilots, all because of a Christmas party
6 for crews."

7 That's what you wrote, correct?

8 A Yes.

9 Q And when you said: "This all started," you were
10 referring to the Social Media Policy issues, the letter of
11 counsel, the retaliatory line check, all of the things or
12 just some of them, or none of them?

13 A Perhaps the being treated differently.

14 Q Okay. So, it's your view, sitting here today, that
15 you've been treated differently at Delta, because of your
16 behavior in 2010, in writing to Richard Anderson?

17 A No.

18 Q So, why did you say then -- well, you said --
19 strike that.

20 You said: "This all started," right -- those are
21 your words, right?

22 A Yeah. But I'm going to say no, and may I explain?

23 Q Eventually, but not right now.

24 A Okay.

25 Q Take a look at R-12?

1 A Not RX-12, just R-12?

2 Q RX-12?

3 A RX-12.

4 JUDGE MORRIS: Volume 4.

5 MR. ROSENSTEIN: And tell me when you're there.

6 THE WITNESS: I'm there.

7 BY MR. ROSENSTEIN:

8 Q Let's go to the last page, which is 12 -- next to
9 last page, 12-002?

10 A Okay.

11 Q This is a letter that you sent to Captain Graham in
12 December, Christmas Eve, December '10, right?

13 A Correct.

14 Q December 2010, correct?

15 A Correct.

16 Q Okay. And you apologized for e-mailing Richard
17 Anderson with a request for a suite, correct?

18 A Correct.

19 Q And Captain Graham wrote back to you, did he not?

20 A He must have, if you say -- I don't remember.

21 Q Well, read up to the page 12-001, you'd agree that
22 that's an e-mail back to you?

23 A Okay. Yes, yes.

24 Q And in fact, it was sent, it looks like Christmas
25 Day?

1 A Yes.

2 Q Okay. And you'd agree that Captain Graham wrote to
3 you:

4 "So, Karlene, neither of us thinks an
5 apology is in order, nor was any ever
6 expected."

7 Correct?

8 A Correct.

9 Q He also talked about Delta's Safety Culture in the
10 letter to you, would you agree?

11 A Can I read it?

12 Q Yes, take your time?

13 A This has been nine years since I've read this, so
14 I've to read it.

15 Q I understand.

16 A I don't see anything about Safety Management
17 Systems or Safety Culture in here.

18 Q So, when he said:

19 "There is a misconception about the
20 philosophy you stated below, concerning
21 things must have changed after the
22 merger, being open and honest are the
23 cornerstones of our organization."

24 It's your testimony that does not involve Safety
25 Culture, those issues?

1 A Yeah. Actually, those do. I just thought you said
2 he said the words -- brought the words up. But yeah, the
3 culture there, Safety Culture, so yes.

4 Q Let me ask you a question about Safety Culture,
5 that's come up a few times?

6 A Okay.

7 Q Does everything that an airline does, in your view,
8 have an impact on Safety Culture?

9 A I'm going to say yes. And may I explain?

10 Q Not right now. And just for completeness, take a
11 look at Tab Respondent's 13?

12 A Okay.

13 Q And you'd agree that this is a continuation of your
14 e-mail communications with Captain Graham, in or about the
15 Christmas weekend of December 10th, correct?

16 A Correct.

17 Q That's right?

18 A Yes.

19 Q Okay. Thank you. Why did you send Captain Graham
20 the e-mail you had sent to Captain Davis, after your phone
21 call, what was your purpose for doing that?

22 A Which Exhibit are you talking about?

23 Q We're still on the same Exhibit 16. You had said
24 that you had forwarded -- and just to be clear, because
25 e-mails sometimes are hard to read -- if you pull back to the

1 first page of RX-16-001?

2 JUDGE MORRIS: Sixteen.

3 MR. ROSENSTEIN: Sixteen, 1-6.

4 JUDGE MORRIS: All right.

5 THE WITNESS: Okay.

6 BY MR. ROSENSTEIN:

7 Q Let's just make sure we understand the timing of
8 this, because there's lots of dates. The top e-mail there,
9 if you ignore the Chris Puckett line, says: "Karlene Petitt
10 to Jim Graham, November 9th, 12:56 o'clock p.m.," correct?

11 A I do not see that -- sorry -- RX-16.

12 Q 16-001?

13 A Okay.

14 Q Now you see it?

15 A I do.

16 Q Okay. And you'd agree that that's what it says?

17 A Correct.

18 Q It's from you to Jim Graham?

19 A Correct.

20 Q And what's below that, it says: "Karlene Petitt to
21 Phil Davis, 11/2, and then it says: "Phil, you want me to
22 send you my homework." And then it says: "From Karlene
23 Petitt, November 3rd, at 9:22 o'clock," also to Phil Davis,
24 and there's a relatively lengthy e-mail, correct?

25 A Correct.

1 Q You'd agree that those two e-mails, the November
2 2nd, and the November 3rd, were attachments to the November
3 9th e-mail, correct?

4 A I don't remember. It could have been.

5 Q Well, you wrote: "Below is a copy and paste of the
6 letter to Phil," in your November 9th e-mail. Does that
7 refresh your recollection?

8 A Okay. So, it's a copy and paste, yeah, they
9 weren't attached. If it says I copied and paste, then that's
10 what I did.

11 Q Okay.

12 A I just didn't remember how.

13 Q That's fine. And I just want to be clear. So, my
14 question was, now that we've understood what this document
15 actually is from the e-mail perspective, why did you feel
16 that it was useful to send this e-mail Captain Graham on
17 November 9th, at 12:56 o'clock, with the cut and paste?

18 A Captain Graham requested I give him more
19 information, because he alluded to the fact he did not know
20 what was going on at the time.

21 Q Okay. Take a look at Respondent's 17, RX-17?

22 A Okay.

23 Q And again, we'll work from the back. So, if you
24 turn to RX-17-004. Are you there?

25 A Yes.

1 Q Okay. And so we'll do you recall on November 9th
2 you had asked to have a meeting with Captain Graham and
3 Captain Dickson, correct?

4 A Correct.

5 Q And now it's November 16th, and you're asking Phil,
6 actually, to block your schedule for November 3rd (sic) and
7 December 1st, for a meeting in Atlanta, correct?

8 A Correct.

9 Q And that was the meeting with Captain Graham and
10 Captain Dickson, correct?

11 A Correct. What were the dates, November what?

12 Q 30th and -- well 1st was the meeting, correct?

13 A 30th, yes. Correct, correct.

14 Q Okay. And you asked for positive space travel and
15 a hotel for that night, correct?

16 A I did, yes.

17 Q Okay. And Phil Davis didn't write back to you, but
18 Captain Graham did, correct?

19 A Correct.

20 Q Again, pretty quickly thereafter, at 2:45 o'clock
21 p.m., right?

22 A Correct.

23 Q And you'd agree with me, again, just to be clear,
24 you were out here one West Coast time, correct?

25 A Correct.

1 Q Captain Graham and -- at least Captain Graham was
2 in the East Coast, correct?

3 A I have no idea where he was.

4 Q But you'd agree that from this e-mail it suggests
5 that he was on the East Coast, at least when he sent this
6 letter, it's dated (sic) 2:45 o'clock p.m., which would be
7 5:45 o'clock p.m., and, therefore, after you sent your
8 e-mail, correct?

9 A I --

10 Q You'd agree with my logic?

11 A I agree with your logic.

12 Q Okay.

13 A That he would send his e-mail after I sent him one.

14 Q That's right.

15 A And he would respond after. I do agree with that
16 logic.

17 Q Thank you. Perhaps unnecessary, but. And Captain
18 Graham denied your request for positive space travel and a
19 hotel at that point, correct?

20 A He did.

21 Q Okay. And you were not -- you didn't agree with
22 that decision, and you wrote back to him at 8:40 o'clock
23 p.m., correct? And that's the e-mail that begins on page 17-
24 003, correct?

25 A Okay. Yes.

1 Q Okay. And in that e-mail you wrote to Captain
2 Graham:

3 "As you know, the reason I requested
4 to have this meeting is that I felt I am
5 being singled out and harassed by a
6 senior VP, in violation of company
7 policy."

8 Correct?

9 A Where aware you reading that?

10 Q The second sentence. It says:

11 "Jim, I was not aware of the
12 scheduling constraint, but assumed this
13 was protocol, as the blocking or reserve
14 date transpired at the last meeting of
15 similar content and not by my choice. As
16 You know, the reason I requested to have
17 this meeting is that I feel I am being
18 singled out and harassed by a senior VP,
19 in violation of company policy."

20 Correct? That's what you wrote?

21 A I did. And one more sentence.

22 Q But you wrote the sentence I read to you, correct?

23 A Yes.

24 Q Okay. And then Captain Graham wrote back to you,
25 again pretty promptly, probably within half hour, above,

1 correct?

2 A He did respond.

3 Q Okay. And in that he said, among other things, he
4 said:

5 "There is a big difference if you are
6 saying you are or have been harassed.
7 You indicated to me a difference of
8 opinion on censoring use of Delta
9 information and access to Delta work
10 areas. If this is a formal accusation,
11 we are in a different place and you will
12 need to also have a discussion with a
13 representative from our HR team, who will
14 help coordinate appropriate next steps.
15 Please let Captain Davis know if this is
16 a harassment complaint, and we will
17 immediately get you engaged with the
18 appropriate resources. It will be
19 necessary for HR to become immediately
20 involved, along with EEOC, prior to
21 meeting with Captain Dickson and me. I
22 will ask Captain Davis to reach out in
23 the morning."

24 He wrote that to you, correct?

25 A Correct.

1 Q Okay. And then you wrote back quickly, as well --
2 relatively, anyway, the same day -- and you said that --
3 among other things -- in the third paragraph:

4 "At this time I would prefer to table
5 the personal issues as to why and proceed
6 with a meeting with you and Captain
7 Dickson to bring Safety Culture issues to
8 your attention, regarding the events that
9 transpired over the previous year and as
10 far back as six years ago."

11 Correct?

12 A Correct.

13 Q And you mentioned SMS, as well?

14 A Correct.

15 Q And that was at 11:34 o'clock p.m., on November
16 16th, correct?

17 A Yes.

18 Q Okay. And if you flip ahead, you see at 8:07
19 o'clock a.m., on November 18th, Jim writes back to you and
20 says:

21 "Steve and I will look forward to
22 meeting with you to understand your
23 Safety Culture concerns on December 1st."

24 And he actually sets up a jump seat for you to come
25 down the night before, and asks: "If you had anything to

1 pre-read, please send it by November 27th."

2 Correct?

3 A No, he didn't set up a jump seat for me, number
4 one. Where are you looking at?

5 Q I'll just read it to you. If you'd look at the e-
6 mail on page 17-002?

7 A Okay.

8 Q You'd agree with me that Captain Graham wrote to
9 you at 8:07 o'clock a.m., on November 18th, and said:

10 "Steve and I will look forward to
11 meeting with you to understand your
12 Safety Culture concerns on December 1st,
13 in the morning. Please contact Phil and
14 Wendy and they will set up a jump seat
15 for you to come down the night before,
16 30th, as well as return jump seat after
17 the meeting on the 1st. If there is
18 anything you would like to have pre-read,
19 please ensure we receive it by Friday,
20 November 27th."

21 That was sent to you, correct?

22 A Yes, it was.

23 Q Okay. And then you wrote back later that same day
24 and told him that you had finals due and that you would not
25 be able to meet the request of having documents by the 27th,

1 correct?

2 A Correct.

3 Q Okay. And then you suggested:

4 "If January works for you, we could
5 get through the holidays. I will have
6 time to prepare documents and then
7 coordinate the meetings with my recency
8 at the end of the month."

9 Correct?

10 A Correct.

11 Q That was by your suggestion to put the meeting off
12 until January, from when it had been scheduled in December?

13 A Yes. May I explain?

14 Q No, not yet. Now, if you look at the e-mail ahead
15 of that, Captain Graham wrote back to you and said:

16 "Whatever makes the most sense for
17 your schedule is good for us."

18 Correct?

19 A Correct.

20 Q And he offered you the chance to talk by phone, if
21 you wanted to?

22 A Yes.

23 Q And you wrote back and said that you preferred not
24 to go by phone and you would like to meet in person and try
25 to schedule a meeting for January. Those all happened,

1 correct?

2 A Yes.

3 Q Okay. And you did, in fact, come to Atlanta on
4 January 28th, to meet with Captain Graham and Captain
5 Dickson?

6 A Yes.

7 Q And you knew what Captain Dickson's role was at
8 that point, at Delta -- did you know what his job was?

9 A He was the senior VP of Flight Operations.

10 Q Is that the most senior person in Flight
11 Operations, to your knowledge?

12 A Today it's not. Today, I think they pulled out
13 another position over Dave.

14 Q At the time?

15 A But at the time, I believe he was.

16 Q And Captain Graham was his direct report, is that
17 right?

18 A Correct.

19 Q So, these are the two top people in Flight
20 Operations, correct?

21 A Correct.

22 Q And you describe your meeting on January 28th, in
23 some detail, so we won't go over it here. But at some point
24 you presented your report to Captain Graham and Captain
25 Dickson, correct?

1 A Correct.

2 Q Were they the first people who had ever seen that
3 report, other than you? I mean, in other words, had you
4 given it to anybody before you handed it to Captain Graham
5 and Captain Dickson?

6 A Oh, yes.

7 Q Who else had you given it to?

8 A I had given it to my husband had read it, my mother
9 had read it, the union -- I know for sure Rachel read it, I
10 don't know who she gave it to.

11 Q Just for the completeness of the record --

12 A Rachel, the ALPA rep.

13 Q Okay.

14 A And I don't know who -- that's I know for sure I
15 gave it to those people. Jud might have had a copy. Jud
16 Crane might have received a copy of it, also.

17 Q How would you have sent it to Jud Crane -- in
18 person or by e-mail?

19 A I would have e-mailed it to him, or I could have
20 given it in person, because we had a meeting out in SeaTac,
21 so I don't remember.

22 Q At the conclusion of the meeting on January 28th,
23 either Captain Graham or Captain Dickson suggested that you
24 would be an inspector yourself, is that right?

25 A No.

1 Q At the conclusion of the meeting, either Captain
2 Graham or Captain Dickson suggested that you could be an
3 instructor, yourself? I'm sorry.

4 A That I -- they instructed -- not worded that way,
5 but they did mention: "Maybe we should make her an
6 instructor," yes.

7 Q And somebody said: "We should make her an
8 ambassador," is that right?

9 A Not an ambassador, part of the "Ambassador
10 Program," I think, yeah.

11 Q Ambassador Program. And just describe, briefly,
12 what the Ambassador Program is, I'm not sure we got that on
13 direct?

14 A I don't know the details of it, other than it's a
15 Delta had very strict who could go out and talk as a Delta
16 employee, so that would have been that person, I believe.

17 Q You were ultimately nominated to be part of the
18 Ambassador Program?

19 A No. I think that's a different -- there's a
20 Chairman's Club and there's an Ambassador, but I don't know
21 the names between -- the difference between the two. But I
22 believe what Corbin nominated me for is what peers nominate
23 you for. The other one is a company position, company
24 selected. So, they're two different things.

25 Q Got it. Was your nomination, that Corbin suggested

1 for you, granted -- in other words, were you made -- did you
2 meet that club or whatever it was?

3 A No.

4 Q Not to your knowledge?

5 A Not to my knowledge. No, I think I would have
6 known.

7 Q Okay. Fair enough.

8 A I think I would have known.

9 Q At the conclusion of the January 28th meeting,
10 Captains Graham and Dickson promised to look into the safety
11 issues that you had raised at the meeting, correct?

12 A They did.

13 Q Okay. And they invited you to --

14 A Well, let me take that back. That wasn't really
15 what was said.

16 Q So, they did not promise to look into the safety
17 issues that you raised?

18 A Captain Graham said: "I will read this tonight and
19 get back to you," is what he said.

20 Q Did you form an impression that Captain Graham
21 would look into the safety issues that you had raised, as a
22 result of your January 28th meeting?

23 MR. SEHAM: Objection, vague.

24 JUDGE MORRIS: Overruled.

25 THE WITNESS: I formed the impression they weren't

1 going to do a darn thing about it. I thought they'd just
2 toss them in the garbage, is what I thought.

3 BY MR. ROSENSTEIN:

4 Q So, you thought, on January 28th, in the evening,
5 that Captain Graham and Captain Dickson would toss your
6 report into the garbage?

7 A Yeah. I didn't really think they would do
8 anything, yes. And I just said that figuratively. Would
9 they have really tossed it in the garbage? I just, at the
10 time, didn't think that they were going to do anything about
11 it.

12 MR. ROSENSTEIN: Is this a good time for a bathroom
13 break?

14 JUDGE MORRIS: Sure. We've been going for a little
15 bit now, so let's take 10 minutes. Let's reconvene at 10:40.

16 The hearing is recessed.

17 Do not discuss your testimony while you're in
18 recess.

19 (Off the record at 10:30 o'clock a.m.)

20 JUDGE MORRIS: Back on the record.

21 All parties present when the hearing last recessed
22 are again present. You may continue with your cross.

23 MR. ROSENSTEIN: Thank you.

24 BY MR. ROSENSTEIN:

25 Q Ms. Petitt, you testified, before we took the

1 break, that you didn't think that Captain Graham and Captain
2 Dickson would do anything, after they received your report?

3 A Correct.

4 Q Is that because you didn't think they liked you,
5 personally?

6 A No.

7 Q You believed, at the time, that Delta flight safety
8 was amazing, didn't you?

9 A What?

10 Q At the time that you submitted your report, didn't
11 you believe that Delta flight safety was amazing?

12 A Well, I'm assuming you read that, but their flight
13 training is not amazing. I have to define what you mean by
14 flight safety?

15 Q Well, didn't you believe that flight safety is
16 amazing and that they were doing incredible things and
17 opening discussion on many safety topics, isn't that what you
18 believed in January of 2016, when you met with Captain
19 Dickson and Captain Graham?

20 A May I explain? I mean in what context?

21 Q Well, it's either yes or no at this point, and then
22 maybe you can explain, but first tell me whether it's yes or
23 no?

24 A I can't answer that with a yes or no, because it's
25 not an actual question. I mean it's not a -- it's a --

1 Q Okay. I understand. I'll ask a different
2 question, if that's okay.

3 JUDGE MORRIS: That's fine.

4 MR. ROSENSTEIN: Okay.

5 BY MR. ROSENSTEIN:

6 Q Take a look at Respondent's 15, again, RX-15, and
7 turn to page 003. At the bottom of the page it's an e-mail
8 that you sent to Dr. Larry, at what sounds like 3:00 o'clock
9 a.m., on November 3rd, 2015, do you see it?

10 A I do.

11 Q You could have been traveling in a different time
12 zone, correct?

13 A Um-hum.

14 Q It's not your habit to send e-mails at 3:00 o'clock
15 a.m., I'm guessing?

16 A No, it's not.

17 Q And in that e-mail, if you turn to the page, it
18 says, does it not:

19 "We were discussing SMS mandated in 2018, and
20 then some talk about mental health. Then
21 I stood up and posed the concept, if
22 we're addressing SMS company-wide, then
23 they must apply that to fitness for
24 flight, too. And discussed how we are
25 responsible for hundreds of lives, we

1 should be able to assess our own fitness
2 to walk into that aircraft. Yes, flight
3 safety is amazing, and they are doing
4 incredible things, and we are opening
5 discussion on many safety topics.

6 Actually, Richard Anderson is far more
7 progressive and forward thinking, and
8 safety minded, than many of our upper
9 level pilot managers. I'm actually going
10 to go talk to him."

11 That's what you thought at the time, correct?

12 A Correct.

13 Q And you believed that Captain Graham and Captain
14 Dickson would have a similar attentiveness to flight safety
15 when you met with them in January, correct?

16 A No.

17 Q You believed that Phil Davis was attentive to
18 flight safety, did you not?

19 A No.

20 Q Had you ever interacted with Captain Dickson?

21 A Yes.

22 Q And did anything that you -- in your interactions
23 with Captain Dickson -- inform your opinion that Captain
24 Dickson was not committed to safety at Delta Air Lines?

25 A No, not at all.

1 Q Did anything in your interaction with Captain
2 Dickson inform your opinion that Captain Dickson would not
3 take your safety concerns seriously, when you met with him in
4 January?

5 A Okay. So, what -- say that again?

6 Q Did anything in your interactions with Captain
7 Dickson inform your opinion that Captain Dickson would not
8 take your concerns about flight safety seriously, when you
9 met with him in January?

10 A Not personally. Just --

11 Q And the same question --

12 JUDGE MORRIS: Wait a minute, let her finish.

13 MR. ROSENSTEIN: Okay. I'm sorry.

14 THE WITNESS: Yeah. Not personally, just that the
15 statement in there: "If there was a better way, we'd already
16 be doing it," was Captain Dickson's statement. So, that's
17 where I came from that assumption, if there was a better way,
18 they'd already been doing it.

19 BY MR. ROSENSTEIN:

20 Q When did you personally hear Captain Dickson say
21 that?

22 A I didn't hear him. He said it to a group of
23 instructors, and so a hundred people heard it.

24 Q How do you know he said it to a group of
25 instructors?

1 A Because I had multiple different instructors tell
2 me.

3 Q You weren't there?

4 Q I was not there, no, I was not.

5 Q Do you know when he said it -- allegedly?

6 A It was shortly after the merger, I would say.

7 Q 2008?

8 A No, it couldn't have been then, because I wasn't
9 even on property yet. So, it would have to be after 2010,
10 2011, I'm guessing.

11 Q Who told you that Captain Dickson made that
12 comment, what were the names of the people?

13 MR. SEHAM: Asked and answered -- oh --

14 BY MR. ROSENSTEIN:

15 Q Go ahead. I'm writing them down --

16 A Multiple different instructors.

17 Q I want to hear the names of the people?

18 A I can't recall their names.

19 Q Is there anything else that informed your view that
20 Captain Dickson would not take your safety concerns
21 seriously, when you met with him on January 28th, other than
22 what you've said?

23 A Yes.

24 Q What else?

25 A The warning that if I did it, I was going to get a

1 Section 15.

2 Q And that warning was given to you by Jud Crane, is
3 that right?

4 A Correct.

5 Q Anything else?

6 A No. At the time, no. Today, yes.

7 Q Is there anything that informed your view that
8 Captain Graham would not take your safety concerns seriously
9 when you met with him on January 28th?

10 A Same reasons for Captain Dickson.

11 Q Jud Crane's statement to you?

12 A Jud Crane's statement to me, yes.

13 Q Captain Graham did not allegedly make the comment?

14 A Yeah -- no, he did not. You're correct.

15 Q All right. At the conclusion of that meeting,
16 Captain Graham and Captain Dickson invited you to present to
17 a larger group of safety employees at Delta, correct?

18 A Correct. Can I back up? There is another reason
19 at the meeting, why I didn't think they'd take me serious.
20 If you don't want to hear it, I won't tell it.

21 Q I might. I have to think about it.

22 A I won't, but there was.

23 JUDGE MORRIS: Well, I'm going to allow it. So, go
24 ahead.

25 MR. ROSENSTEIN: Okay.

1 THE WITNESS: Yeah. It was because when I came in
2 to discuss the meeting with them, it was very combative
3 initially, and then it turned into look what we're doing, all
4 these amazing things, so. And then they cut the meeting
5 short from 90 minutes to 60 meetings. So, the meeting itself
6 indicated that they weren't really -- didn't want to hear it,
7 weren't going to take this serious, so.

8 MR. ROSENSTEIN: Okay.

9 BY MR. ROSENSTEIN:

10 Q Anything else? I did ask you an open question, so
11 I do want you to close it.

12 A Okay. That's fine.

13 Q Okay. After the January 28th meeting -- so the
14 next question I don't think you answered, yet. After that
15 meeting, you were asked to, invited to, give a presentation
16 to other Delta safety related employees, correct?

17 A I don't -- yes.

18 Q Okay. And you were enthusiastic about doing that,
19 correct?

20 A I wasn't enthusiastic about it, I was willing to do
21 it, yes.

22 Q You were not enthusiastic?

23 A Enthusiastic -- was I jumping for joy and excited?

24 No. I was very pleased that we were going to do it. Jud
25 Crane was very surprised.

1 Q Okay. You told Jud Crane you were going to do
2 that?

3 A I did.

4 Q Okay. You certainly were not asked to speak with
5 Dr. Faulkner after that January 28th meeting, correct?

6 A I was asked after the January 28th meeting.

7 Q Well, not a immediately --

8 A Just time delay.

9 Q Good point. Not immediately after that meeting,
10 correct?

11 A Correct.

12 Q Okay.

13 A And I was not asked immediately after that meeting
14 to give presentation. There was a time delay on that one,
15 too.

16 Q Oh, they didn't ask you to make the presentation at
17 the January 28th meeting, it was only after?

18 A Oh, no, no, no.

19 Q Okay. All Jim Graham said was that he would try to
20 read it that night and get back to you, correct?

21 A He did.

22 Q And you were a little irritated that he didn't get
23 back to you until February 5th, right?

24 A I was not irritated.

25 Q You were not?

1 A Because I had no expectation that he would get back
2 to me at all.

3 Q Okay. I may have mis-read that. So, take a look
4 at Respondent's 24, RX-24, and this one we can read forward,
5 the way it's drafted. So, first of all, on RX-24, page 1,
6 there's -- at the top of the page there's some writing that
7 says:

8 "We stood as this meeting over (sic)
9 and Dickson said they should make me an
10 instructor, Graham said I should be part
11 of the Ambassador Program, and he assured
12 me he would read that report, that night,
13 and get back to me. He did not contact
14 me until February 5th."

15 You wrote that, correct?

16 A I don't know who I wrote that to or where that came
17 from.

18 Q But you --

19 A But if I wrote it, I wrote it, but I don't remember
20 when or where.

21 Q Okay.

22 A Or in what context.

23 Q You wrote it, though, correct, to yourself -- you
24 didn't send that to anybody, you wrote that for your own
25 notes or some purpose, right?

1 A Very well could have, but if it was written at the
2 time, then that gives reference who said which, because I
3 didn't remember who.

4 Q Okay.

5 A But those are from my notes that I gave to you and
6 it was dated at that time-frame, then that would be an
7 accurate assessment at the time.

8 Q Okay. So, I would refer you to the Bates number
9 above the RX, and it says: "C01137," that indicates, does it
10 not, that you produced that to us in this case, correct?

11 A I am looking at just simply three lines of
12 statements, it doesn't have any coding.

13 Q Sorry, not your fault. But if you look at the
14 bottom right corner of the first page?

15 A Okay.

16 Q Above the RX-24, there's another series of numbers,
17 which start with the letter C, do you see that?

18 A I do.

19 Q And you'd agree with me that -- and you've
20 testified that you spent a lot of time being pseudo lawyer in
21 this case -- would you agree with me that if it says "C,"
22 that means that you produced it in this case?

23 A Okay, yes.

24 Q And does that help refresh your recollection about
25 whether you put that writing together on the top?

1 A I'm going to take your word that you got that out
2 of my notes, then I will say yes.

3 Q Okay. And the first e-mail is from you to Jim
4 Graham, correct -- I'm sorry -- from Jim Graham to you,
5 correct?

6 A Correct.

7 Q Okay. And this is the first contact that Jim
8 Graham had with you after your January 28th meeting?

9 A Correct.

10 Q Okay. And then you responded -- we don't have
11 times on this -- that you were in Amsterdam, correct?

12 A Correct.

13 Q And that's your recollection from your direct
14 testimony, that you were in Amsterdam, correct?

15 A I was, yeah.

16 Q Okay. And was it at that communication where you
17 spoke about giving a presentation or was that later?

18 A That was one of the times.

19 Q Okay. Did he -- did you -- because he writes in
20 the e-mail:

21 "I will try to reach you at the time you deem

22 best, if you'd rather wait until you

23 return home, I'm very happy to call next

24 week, as well.

25 Do you recall whether you spoke to him right around

1 that February 5th time-frame, or did you wait a week or so?

2 A I -- the first phone call, it sounded important,
3 because he wanted to know if I was amenable to calling him on
4 my layover in Boston. So, when I got to my layover in
5 Boston, I did call him.

6 Q Okay. If you turn to the next page, RX-002,
7 24-002, again there's notes, what I'll call "notes," that's a
8 phone conversation, and it says:

9 "Jim Graham called me on a Saturday night, per
10 his request, on my BOS layover, and he
11 simply asked if I would be willing to
12 give a safety presentation. I said yes,
13 and he said we would talk when I
14 returned."

15 A Okay.

16 Q So, does that refresh your recollection?

17 A Yeah. So, he's the one that called me, I didn't
18 call him. So, yes.

19 Q Okay. And then if you go down the page, there's
20 another -- from the type font, it looks like the same type of
21 note, it starts: "Phone conversation:" -- do you see that?

22 A I do.

23 Q And does that indicate that that phone conversation
24 took place on or about February 17th, 2016?

25 A Correct.

1 Q Okay. So, you had a second phone call with him on
2 February 17th?

3 A I did.

4 Q And on that phone call, you spoke for about 90
5 minutes, is that right?

6 A Correct.

7 Q And you talked about what to ask the divisional
8 leaders during the presentation, correct?

9 A Correct.

10 Q Okay. And it was your recollection that on that
11 phone call he also told you that he wanted you to meet with
12 what you've defined as -- described as the HR safety
13 investigator, correct?

14 A Yes. And once again, if these were notes that you
15 took -- that I had written down at the time, that would be an
16 accurate assessment, because it would have been not a written
17 memory, it would be at the time of when this happened.

18 Q I'll just represent to you that we didn't take any
19 notes, but these are notes that you produced to us in
20 discovery in this case. Is that your recollection?

21 A Okay. Yes.

22 Q Take a look at the e-mails now. So, there are a
23 couple of e-mails from February 17th, right?

24 A Correct.

25 Q Jim writes to you and says he wants to have that

1 phone call, correct?

2 A Correct.

3 Q And he says:

4 "I've asked several key people to be
5 present, including a representative from
6 our Corporate SMS team."

7 Correct?

8 A Correct.

9 Q Do you know who that person ended up being?

10 A Yes, because I met him at the meeting. I don't
11 remember his name now. He had been just promoted from some
12 other position.

13 Q Okay. And he told you that he wanted to review
14 some of the items that appear most relevant to training,
15 including human factors, standards, flight safety and
16 corporate safety, that's what he wrote to you, correct?

17 A Okay.

18 Q And he told you, during that February 17th call,
19 that as he reviewed your report of January 28th, he thought
20 some of the items needed to be dealt with by HR, and some of
21 the items would be safety related and he would deal with
22 that, isn't that right?

23 A No, he did not.

24 Q He didn't say that to you?

25 A He did not.

1 Q Did he tell you, during that February 17th meeting,
2 that he was separating out, into different categories, the
3 information in your January 28th report?

4 A He did not.

5 Q That's your testimony, okay.

6 He told you that Flight Operations could not
7 investigate themselves and, therefore, some of the
8 allegations in your January 28th, report would have to be
9 looked into by a representative in HR, correct?

10 A He referred to the person as an HR safety
11 investigator.

12 Q Right. That's your testimony, but my question is
13 somebody in HR -- you understood an HR safety investigator to
14 be somebody in HR, correct?

15 A Yes.

16 Q Okay. And you wrote back -- and he told you the
17 name of the person who he had spoken to in HR, did he not?

18 A He did not tell me. He didn't give any name at the
19 phone call, at all.

20 Q He told you that Melissa Seppings would be the
21 person who would be -- he'd be talking to about the HR
22 issues, did he not?

23 A I don't -- we -- it was the HR investigation was --
24 we went through everything, and at the very end he says:
25 "Oh," it was kind of like a side note at the end of this

1 lengthy discussion:

2 "Would you be willing to talk to HR
3 safety investigator, we have some
4 questions that we have to go over and we
5 cannot investigate ourselves."

6 I said, "Sure."

7 Q Understood. But --

8 A And he said somebody would be getting to me, but I
9 do not remember him giving me any name at that time.

10 Q Okay. Well, take a look at the next e-mail,
11 February 26th. You write to him, on February 26th, correct?

12 A Okay.

13 Q And you -- first you're talking about having the
14 meeting on the 30th of that month, or maybe that's March,
15 March 30th, is that right?

16 A Correct.

17 Q And asked about the guest list, correct?

18 A Correct.

19 Q But then you say: "In addition, I have not heard
20 from Melissa or anyone in HR." Correct?

21 A Okay.

22 Q Does that refresh your recollection that he
23 mentioned Melissa Seppings to you?

24 A I still don't remember him saying it, but if I
25 wrote that, he must have, so.

1 Q Okay. And you didn't look up to see what Melissa
2 Seppings' title was, or go on the website?

3 A No.

4 Q Why not?

5 A Because it was not on my high priority list. I
6 was, at this time, going to school and working. I had no
7 reason to look her up.

8 Q Okay. And you'd agree that it doesn't say, in your
9 e-mail: "I have not heard from an HR safety inspector," it
10 just says: "Melissa, or anyone in HR," correct?

11 A Correct.

12 Q That's what it says. And then you wrote:

13 "Interesting timing that Ed sent an
14 e-mail assessing Delta culture. I do
15 believe he understands the importance.
16 Nice to see."

17 Do you see that?

18 A I do.

19 Q And that's Ed Bastian?

20 A Correct.

21 Q And that's because Ed Bastian had just been
22 appointed to be the CEO, around that time-frame?

23 A What's because Ed Bastian -- what's because --

24 Q "Because" is the wrong way to ask that question.
25 Would you agree that around that time is when Ed

1 Bastian became the CEO of Delta Air Lines?

2 A Yes. He was announced on February 5th.

3 Q Okay. Thank you. By the way, you had raised
4 issues of unequal treatment and harassment in your January
5 28th report, correct?

6 A Say that again?

7 Q Well, in your January 28th report, you had raised
8 issues of unequal treatment and harassment, those were
9 contained in your report, correct?

10 A They were not -- they were culture issues.

11 Q That's not my question. You testified -- I think
12 you testified earlier that you think everything is related to
13 Safety Culture, correct?

14 A Correct.

15 Q And so within that framework that you believe is
16 Safety Culture, you had raised issues of unequal treatment
17 and harassment, correct?

18 A Correct.

19 Q And you used the words: "unequal treatment and
20 harassment," in the report itself, correct?

21 A Can you, please, find me the spot in the report and
22 then I'll tell you if it was --

23 Q Well, fair enough. But we've seen e-mails that
24 you've talked about this morning, where you use those words,
25 correct?

1 A In one e-mail. May I explain?

2 Q Not yet, but you will be able to. Take a look at
3 JX-B, that's the report?

4 A Okay.

5 Q Okay. And I think you were shown this on direct,
6 but if you'd turn to your appendix K, which is on page
7 JX-B-35?

8 A Okay.

9 Q Tell me when you get there?

10 A I'm there.

11 Q Okay. You had said, in JX-B, on page 35, that's a
12 reprinting of the September 9th e-mail that we've gone
13 through before, correct?

14 A Correct.

15 Q And we pointed out to you, in that e-mail, that you
16 said: "I feel I have been unfairly singled out," it says
17 that, right?

18 A Correct.

19 Q You'd agree that would mean unequal treatment,
20 correct?

21 A Correct.

22 Q Okay. And you talk about being the only pilot in
23 various places, which you italicized, that also is unequal
24 treatment, correct?

25 A Correct.

1 Q And you'd agree that in the middle of it you write:

2 "The sum total of all of this is I
3 feel I am working in a hostile work
4 environment and being treated differently
5 than everyone else in the company."

6 That would be unequal treatment, correct?

7 A Correct.

8 Q And did you understand what the word: "hostile work
9 environment" means, in the context of employment law or
10 employment work?

11 A Captain Ken Watts told me if I used that word in
12 this letter, that it would make -- it would stop the
13 requirement for me having to produce my report to Phil Davis
14 and tell him what I was doing on my days off, and all the
15 things that were inappropriate. That's where that came from,
16 so.

17 Q Do you have a view as to whether an employer, who
18 receives a report that an employee believes they've been
19 forced to be in a hostile work environment, has an obligation
20 to investigate that?

21 A Yes, in a timely manner.

22 Q Okay. And going back to Exhibit K, it says -- in
23 the last paragraph: "I thought that the harassment of the
24 past had subsided." Do you see that?

25 A I do.

1 Q And so at that point you believed that harassment
2 was continuing, correct?

3 A Correct.

4 Q Okay. And you believe that if a pilot is alleging
5 that they are being harassed, that that's something that an
6 employer should investigate?

7 A They should.

8 Q And it's your view that harassment or unequal
9 treatment, or hostile work environments are topics that are
10 subsumed within the general subject of Safety Culture,
11 correct?

12 A Correct.

13 Q Okay. Is there anything that can happen in the
14 interaction of employees in the airline industry, that is not
15 subsumed within the subject of Safety Culture, in your view?

16 A I'm sure there is.

17 Q Nothing that you can think of?

18 A Give me an example of what you think might not be,
19 and I'll tell you if I believe it's true.

20 Q Well, I appreciate that, but I'll decline that
21 offer and ask if you can tell us something that you can think
22 of right now, that would not be? And it's okay if you can't,
23 but --

24 A Are you giving me an open-ended opportunity here?

25 Q I want you to tell me -- well, I don't want to go

1 on for a day, if you have 100 things, but if you can give one
2 example of something that you could think of here, that would
3 not be covered under the umbrella of Safety Culture in this
4 industry?

5 A What I had for lunch in the cafeteria at the
6 training center.

7 Q Okay. Let me continue. Let's go through your
8 report, starting from the beginning, JX-B-002, okay?

9 A Okay.

10 Q I just want to be clear on some things in the
11 report. If you turn to the second page of it, which is --

12 A Page 2.

13 Q Yeah. Page 3, actually, the third page. The first
14 page is not really part of your report.

15 JUDGE MORRIS: You're talking about JX page 3?

16 MR. ROSENSTEIN: JX-B-003.

17 THE WITNESS: Thank you.

18 BY MR. ROSENSTEIN:

19 Q At the bottom of that page, you go through: "Flight
20 Operations Leadership Overview," do you see that?

21 A I do.

22 Q Okay. And you start out by saying something:

23 "I 2008, said pilot was unable to fly
24 due to a hip replacement and contacted
25 Captain Dickson, who politely said" -- it

1 reads how it reads.

2 That pilot you're referring to there is you,

3 correct?

4 A Correct.

5 Q Okay. And the second line, again, that involves

6 you, correct, under: "Jon Tovani"?

7 A Correct.

8 Q Okay. And the third line: "Basic Indoctrination,"

9 that's something that happened in 2010, correct?

10 A Correct.

11 Q And that, again, involved you, correct?

12 A And the other 20 people in the room.

13 Q Okay. You heard that, though, is your allegation,

14 right?

15 A Correct.

16 Q And then it goes through that "Yellow Fever" issue

17 that you discussed on direct, which we don't need to go

18 through here, but again, that involved you, correct?

19 A Correct.

20 Q Okay. And then the last one in that bullet point:

21 "Seattle assistant chief pilot," involves the Honolulu issue

22 that we discussed in detail, and that, again, involved you,

23 correct?

24 A Correct.

25 Q Okay. If you turn to page 6, JB-006, there are

1 bullet points in the bottom of that: "Delta Senior Flight
2 Operations Management," do you see that?

3 A Sorry. I went to page 6 of the report.

4 Q That's okay.

5 A Yes.

6 Q "If there was a better way, Delta would already be
7 doing it." You're attributing that to something that
8 somebody told you that Steve Dickson said at a meeting?

9 A Correct, yes.

10 Q Okay. "Stop writing e-mails, there is nothing you
11 can say that they don't already know." Did you hear that,
12 yourself?

13 A I did.

14 Q And who said it?

15 A OC Miller.

16 Q When?

17 A At the meeting that I was called in -- so it was --

18 Q Just when, I'm looking for, not the date?

19 A It would have been January -- what date did I do
20 the Christmas Party -- November?

21 Q 2010.

22 A So, it would have been -- it was the January right
23 after I was called in, shortly after writing my letters of
24 apology, because of my letters of apology.

25 Q So, this bullet point was about the communications

1 about talking directly to Mr. Anderson?

2 A No.

3 Q What were the e-mails about then?

4 A It was -- if you can go back to that e-mail where I
5 wrote -- where Jim Graham and I are responding, and I
6 apologized to him, and he responded, and I said: "By the way,
7 we had this issue in Seattle," and it was -- basically, it
8 was a safety and messed up issue, a Flight Ops issue. And I
9 had written that to him. OC Miller had that letter in his
10 hand and put it on the table and said: "Stop writing
11 e-mails."

12 Q You're referring to Respondent's 17?

13 A Let me look. No, this was in November. It was a
14 letter -- the sequence of letters of apology for violating
15 the unwritten chain of command. You presented in one of your
16 exhibits.

17 Q Is it 16?

18 A Nope.

19 Q Sorry. Oh, you know what, I was showing off that I
20 could remember things. Could you look at 12 and 13?

21 MR. SEHAM: That's RX?

22 MR. ROSENSTEIN: RX, sorry, that was my fault.

23 THE WITNESS: Yes, it was the"

24 "December 26th, '17, situation

25 rotation 3556, Flight 295, we were loaded

1 with 9,000 pounds of extra fuel."

2 That whole scenario.

3 BY MR. ROSENSTEIN:

4 Q I just wanted to get the date. So, what you're
5 referring to in bullet point two revolved around the exhibits
6 that are in 12 and 13, is that right?

7 A It revolved around 13, and two pages of that
8 lengthy letter that I wrote to him about that issue.

9 Q Okay.

10 A Multiple issues, actually.

11 Q And then the third bullet point says: "You should
12 stop all this writing and drink more beer." Did you hear
13 that yourself or was that something that was told to you?

14 A Yes, "You should stop" and "drinking more," that
15 bullet point was also said at that meeting, the same meeting,
16 yes. And OC Miller said that.

17 Q At the same meeting that: "Stop writing e-mails,
18 there's nothing you can say that they don't already know?"

19 A Correct.

20 Q Okay. And then the fourth bullet point says:
21 "At Delta we have the power to do what we want." Who said
22 that?

23 A That was Tom Albain.

24 Q Okay. And when did he say it?

25 A At the simulator, when I told him I was going to

1 report him for texting, and not giving me my oral, and that I
2 wanted another check ride.

3 Q Got it. And what year was that again?

4 A It would have been 2011, I think.

5 Q Okay. And then it says: "You're not the first
6 person who gets multiple retaliatory line checks." I'm going
7 to guess that that's Ken Watts, is that right?

8 A Yes, but that general statement has gone from many
9 people on the line have said it, I couldn't tell you who
10 their names are.

11 Q Okay. But the only -- you testified on your direct
12 examination that the only retaliatory line checks that you
13 know about were based on your communications with Ken Watts,
14 and then your own experience that you described. That
15 testimony was accurate when you gave it yesterday, correct?

16 A It is accurate, but it could be hearsay.

17 Q Fair enough. Take a look at the next page of it,
18 under page JB-007? Sorry, we're in JX-B, and then it's page
19 007. Some day we're going to figure out an electronic way of
20 doing this and we'll do it with iPads.

21 Take a look at the top of that page. You wrote
22 that heading: "Lack of Diversity," correct?

23 A I did.

24 Q Okay. And it's your view that diversity is
25 something that's subsumed within Safety Culture, correct?

1 A Absolutely.

2 Q Okay. And take a look at page 9 of the document?

3 JUDGE MORRIS: So, JX-B-10?

4 MR. ROSENSTEIN: Yes.

5 MR. BISBEE: I think you're at JX-B-9, actually.

6 MR. ROSENSTEIN: JX-B-9, yeah.

7 BY MR. ROSENSTEIN:

8 Q You wrote the heading: "Different Treatment for
9 Different People," there, correct?

10 A Correct.

11 Q You'd agree that that's an allegation of unequal
12 treatment, correct?

13 A Correct.

14 Q And in this one you said that:

15 "Said pilot was penalized and a letter
16 was placed in her file for writing an
17 A330 training post concerning AF447-BEA,
18 2012, on a blog, whereas a male captain
19 was giving permission to publish a book
20 on the exact same subject."

21 You wrote that, correct?

22 A I did.

23 Q And you chose to differentiate between you and a
24 male captain, correct?

25 A Yes.

1 Q Okay. And then you followed that up by writing:
2 "Deals for the good ol' boys," correct?

3 A It wasn't a follow up, it was just another bullet.

4 Q Well, the next bullet after that, the following
5 bullet --

6 A Yeah, next bullet, yeah.

7 Q -- is: "Deals for the good ol' boys," correct?

8 A Correct.

9 Q Okay. And in that you stated that

10 "A particular pilot was given three
11 days off when her husband of 25 years
12 died, company policy."

13 Who was that?

14 A Do I have to give a name?

15 Q No. Was it a male or a female?

16 A Does it matter?

17 Q Well, male or female, it matters, I assume --

18 "A particular pilot was given three days off when
19 her husband" -- so I'm assuming that that was a female,
20 correct?

21 A Maybe.

22 Q Well, do you know?

23 A Yes, it was. Yes, it was.

24 Q Okay. Thank you. And then it says:

25 "Yet, a director gave a pilot an

1 entire month off to speak at a funeral,
2 and then the pilot picked up a green
3 slip. These deals are rampant for those
4 boys in the club."

5 Correct?

6 A Correct.

7 Q You wrote that?

8 A I did.

9 Q And so you were differentiating an only three-days
10 off process for a female pilot, while a male pilot got a
11 month off to speak at a funeral and then got a green slip,
12 that's what you were stating in this section, correct?

13 A That was the example on this one, yes.

14 Q Yes, okay. Could you turn to JX-B-10?

15 A Yes.

16 Q In this section, you go through some of the issues
17 that we'd already been -- spoken about before, about blogs
18 and things of that nature. But at the bottom, under six, you
19 say: "Different Rules for Different People," do you see that?

20 A I do.

21 Q Okay. And you'd agree that that's unequal
22 treatment, correct?

23 A Correct.

24 Q Okay. And then the bullet point behind it says:

25 "The chief pilot, who placed this

1 letter in the pilot's file for simply
2 writing a blog, also gave a captain
3 permission to write a book on the same
4 subject."

5 It says that, correct?

6 A Correct.

7 Q And that captain is male, correct?

8 A Correct.

9 Q Can you turn to page 11 -- or you're on that page,
10 I guess.

11 A Is it JX-11 or page 11 of the report?

12 Q It's JX-B-11.

13 A Okay.

14 Q So, the same page, but under number 7, at the
15 bottom of it, the third bullet point, you write:

16 "Said pilot did not receive an
17 opportunity for the position. Who would
18 interview as pilot for a management
19 position, who (falsely accused) violates
20 policy? Or could this be a diversity
21 issue."

22 You wrote that, correct.

23 A I did.

24 Q You were claiming that you were not given an
25 opportunity to receive a position because of your gender?

1 A No, sir.

2 Q Because of a diversity issue?

3 A No, sir, that's not what I wrote in that statement.

4 Q You asked whether -- you were queried as to whether
5 or not the "said pilot" did not receive an opportunity for
6 the position, because it could be a diversity issue, correct?

7 A (No verbal response.)

8 Q That's what you wrote?

9 A Look at the -- it wasn't a period, question mark,
10 it makes two different meanings.

11 Q Right. Okay. That's fine. Can you turn to page
12 22, JX-B-22? Were you referring to "Deals for good ol'
13 boys," on this page?

14 A Can you find me --

15 Q Sure, it took me awhile, too. Under "Flight
16 Operations Leadership Issue," did you not write:

17 "Pilots are disgruntled for losing
18 their sick leave and others are getting
19 what they can, because they watch what is
20 happening within the Flight Operations'
21 good ol' boy deals available to a select
22 few."

23 A Correct.

24 Q Do you see that?

25 MR. SEHAM: What page?

1 MR. ROSENSTEIN: JX-B-22.

2 MR. SEHAM: Oh, JX.

3 BY MR. ROSENSTEIN:

4 Q That's what you wrote, correct?

5 A I did write that.

6 Q Okay.

7 MR. SEHAM: I'm sorry, where?

8 JUDGE MORRIS: Third sentence.

9 MR. SEHAM: Third.

10 BY MR. ROSENSTEIN:

11 Q Can you turn to page JX-B-24?

12 JUDGE MORRIS: Wait a minute. Are you caught up,
13 Mr. Seham?

14 MR. SEHAM: Thank you. Yes, sufficiently.

15 JUDGE MORRIS: All right.

16 BY MR. ROSENSTEIN:

17 Q JX-B-24?

18 A Correct.

19 Q You have a heading that is titled: "Harassment
20 Concerns," correct?

21 A Correct.

22 Q And in that, you said that you became tired of
23 mistreatment and hostile work environment, correct?

24 A Correct.

25 Q And then you went on to allege that you had

1 suffered a retaliatory line check, as a result of complaints
2 that you'd made, correct?

3 A Correct.

4 Q Okay. Could you turn to RX-30?

5 A Okay.

6 Q All right. Is it correct that Rip Johnson sent you
7 a copy of Mike Maderos' contact information?

8 A He did.

9 Q And was that an issue that you had raised in your
10 report, that you were looking -- that you felt that you had
11 been denied contact information for Mr. Maderos?

12 A No.

13 Q Did you mention anything about Mr. Maderos in your
14 report?

15 A I did.

16 Q What did you say?

17 A I'd have to go back and look, but I remember --

18 Q In general.

19 A I'm not going to speak in general, because I don't
20 remember what I put in the report, just the fact that they
21 had made him our marketing manager and I was going to stop by
22 and say hello to him. And I think it had something to do
23 with the book, or my hosting a flying event, because I was
24 going to be giving them out. It had something to do with an
25 activity I was doing supporting in the Seattle -- and Delta

1 and Alaska were just kind of parting ways. And I think I
2 called him, wanted to just go out and meet him and see if I
3 could help with marketing.

4 Q And you raised that issue to Captain Graham and
5 Captain Dickson?

6 A I believe know if I raised the issue, because it
7 wasn't really an issue. I mean other than the fact he was
8 somewhat rude and said he is the only person who can speak on
9 the West Coast, but --

10 Q You raised your interest in communicating with Mr.
11 Maderos during the January 28th meeting, correct?

12 A It was in the report.

13 Q Right. And Captain Graham responded and had the
14 information sent to you, correct?

15 A Captain Graham responded to what?

16 Q Captain Graham had the information sent to you on
17 February 22nd, correct? You got the information you were
18 looking for, in Respondent's 30?

19 A Oh, you mean Rip?

20 Q Right, but Captain Graham is copied on it, right?

21 A Oh, yeah, he is.

22 Q Okay. Take a look at Respondent's 31, are you
23 there?

24 A Yes.

25 Q You'd agree with me that Captain Graham wrote back

1 to you on February 26th, after you wrote that you have not
2 heard from Melissa or anyone in HR, and told you that he
3 believed Melissa has been in AMS, "so I'm not sure we got the
4 appropriate reaction this week." Correct -- that's what he
5 wrote?

6 A Okay.

7 Q You agree?

8 A I agree.

9 Q And then he offered to check in with Melissa this
10 weekend, and ensure that she touch base with you, correct?

11 A Correct.

12 JUDGE MORRIS: Wait a minute. AMS, is that
13 Amsterdam?

14 THE WITNESS: That's Amsterdam.

15 BY MR. ROSENSTEIN:

16 Q Do you know who was ultimately selected from the HR
17 Department to speak to you?

18 A Yes. I met with Ms. Nabors.

19 Q And do you know who selected her -- do you know who
20 selected her?

21 A She told me -- I learned, in the deposition, it was
22 Ms. Melissa Seppings.

23 Q Okay. You only know that because you heard Ms.
24 Nabors testify at her deposition about it, though, correct,
25 you don't know it from any other source, correct?

1 A I don't think so, I don't remember any.

2 Q Take a look at Respondent's 37. Were you aware
3 that Captain Graham sent a copy of your report to John
4 Lauder? Were you aware of that?

5 A No.

6 Q Do you know what John Lauder's job is?

7 A I think I looked him up when I was going through
8 depositions, but I don't remember.

9 Q You don't currently know what Mr. Lauder's job is?

10 A I don't. I couldn't tell you what he does right
11 now, no.

12 Q Okay. Didn't you ask that John Lauder participate
13 in your safety presentation, didn't you specifically ask that
14 he participate?

15 A What is his job title, and I'll tell you when we
16 were discussing it?

17 Q I'll be with you in one second. I apologize.

18 Take a look at Respondent's Exhibit 19, tell me
19 when you're there?

20 A I'm there.

21 Q Does that refresh your recollection that you asked
22 Captain Graham to invite John Lauder to the meeting?

23 A Yeah, but I still don't know who he is. And if
24 you'd give me that -- because the people who were at the -- I
25 would have looked up in the company to see who was

1 responsible for areas, and then found their name on the
2 organizational chart. But unless you tell me that, I just --

3 Q Okay.

4 A I mean I must have asked him and I must have at the
5 time --

6 Q But my question was --

7 A -- but it's been so long, I don't remember who.

8 Q Okay.

9 A I don't know who he is. I don't remember who he
10 is.

11 Q Okay. No problem. Did you communicate with
12 Captain Graham, again, after February 26th?

13 A I met with -- February 26th -- after this --

14 Q Did you communicate with Captain Graham, again,
15 after February 26th, about your safety presentation?

16 A Oh, the day after they pulled me we spoke on the
17 telephone. Is that what you're referring to?

18 Q I'm not referring to anything, I'm just asking
19 whether you recall?

20 A Yes, I did speak to -- I have spoken to Captain
21 Graham many times since February 26th.

22 Q No, no, prior to your delivery of your safety
23 presentation, is what I'm asking?

24 A Yes.

25 Q Okay. So, take a look at 43, Respondent's 43. Do

1 you recall this communication with Captain Graham on March
2 16th, 2016?

3 A I do.

4 Q And why were you communicating with Captain Graham
5 at that point?

6 A That's an open-ended question, right? Yeah,
7 because when we were talking at this meeting about the
8 players and going back who was going to be there, Captain
9 Dempsey was one of the people that he wanted to have in this.
10 And I felt very uncomfortable doing a presentation with
11 Captain Dempsey in here, because he was a significant player
12 in the safety report. He was the captain who flew in RVSM
13 air space without authorization. He was the captain who had
14 e-mailed me. And he was the one that I referred to with just
15 the header: "Captain Emergency." And he was the one who
16 wrote to me that we couldn't fly, Delta as a group, couldn't
17 fly Level 0, Level 4, and that his flying skills, you know,
18 going to, you know, to becoming an emergency. And so I,
19 personally, did not want to have an individual disparaged in
20 that meeting like that. So, that kind of bothered me,
21 because I didn't want to put him on the rope.

22 But we did -- I don't know if it was e-mail or
23 communication later, but Jim Graham told me that Captain
24 Dempsey would not be at that meeting, and I thought, okay,
25 good. So, the report went as. I didn't have any names in

1 it. And then it turned out he was at that meeting. But that
2 was kind of a surprise.

3 Q Okay. But my only question is why you wrote to
4 him? And you wrote to him to explain your views on whether
5 Captain Dempsey should be present, is that essentially
6 correct?

7 A Yeah, just a content -- just how the presentation
8 was going to come across and what should I put in there, if
9 he was present. I didn't -- I didn't -- I almost was not
10 even going to put that in there, if I knew he was going to be
11 there. I just felt uncomfortable, because he was a manager
12 of the company and I didn't want to disparage him.

13 Q Okay. But I'm not asking you any of those
14 questions. Okay. I'm sorry, I cut you off. My apologies --

15 A Well, that's -- yeah, you ask me why --

16 Q Finish your answer.

17 A -- that conversation was going on, and that was why
18 it was going on.

19 Q -- I did. Go ahead. Go ahead, I'm sorry.

20 Are you done?

21 A I'm done.

22 Q Okay. Captain Graham wrote back to you on March
23 16th?

24 A He did.

25 Q Okay. And March 16th was after you had met with

1 Kelley Nabors, correct?

2 A Yes.

3 Q And it was before you had been told that you would
4 be placed into the Section 15 process, correct?

5 A Correct.

6 Q You'd agree with me, there's nothing in this e-mail
7 that suggests information about your meeting with Kelley
8 Nabors, correct?

9 A Correct.

10 Q Do you know when Captain Graham learned about the
11 events that took place in your meeting with Kelley Nabors, do
12 you know?

13 A Let me go back and think. I might know, but I'm
14 going to have to think about this, the chain of events.
15 Because just going through the depositions, or through the
16 chain of events we learned, but I think --

17 Q And let me instruct you that --

18 JUDGE MORRIS: Wait a minute. Give her a chance to
19 put her thoughts together.

20 MR. ROSENSTEIN: Okay.

21 THE WITNESS: Can I put my thoughts together out
22 loud? I believe he would have known on the 16th.

23 BY MR. ROSENSTEIN:

24 Q What's the basis of that belief?

25 A Because they had a conference call on the 17th. He

1 was present, so he would have to know the day before, that he
2 was going to be involved in a conference call, making a
3 decision to put me in a Section 15 or not.

4 Q You don't know what Jim Graham's knowledge was
5 prior to March 17th, though, correct?

6 A He had to have known that they were having a
7 conference call about me. I mean yeah, he had to have
8 knowledge. He had to have knowledge.

9 Q Just to be clear, it's your testimony that Jim
10 Graham had to know that there was going to be a meeting about
11 you on March 17th, correct?

12 A He would know the content. Even when I asked him
13 to the meeting, he said: "Please let me know what we're going
14 to discuss before I show up at my meeting." An executive
15 does not show up to a meeting without knowledge of what that
16 meeting is about.

17 Q So, you're assuming that he knew the content,
18 correct?

19 A Yeah, that would be a very good assumption.

20 Q Okay. You'd agree that Jim Graham could have been
21 told that there was going to be a meeting on March 17th, and
22 that he would be told information about the meeting, relevant
23 to the meeting, on -- during the meeting, that's possible,
24 correct?

25 A No, it's not.

1 Q It's impossible, is that your testimony?

2 A Well, nothing is impossible.

3 Q Okay. That's fine. I'm comfortable with your
4 answer.

5 A But highly improbable, let's say that.

6 Q Okay. Take a look at Tab 44, RX-44. This is an
7 Exhibit from Wendy Tistic, do you know who she is?

8 A Captain Graham's secretary.

9 Q Okay. And in it, it says: "We are bringing Karlene
10 Pettitt to Atlanta for a meeting on April 4th." AND then it
11 goes on to talk about getting positive space, do you see
12 that?

13 A I do.

14 Q Okay. And the meeting, did it take place on April
15 4th?

16 A No, it did not.

17 Q Okay. Did you receive positive space when you
18 flew?

19 A I was out on mental health when I went down there,
20 so I don't know how they actually sent me.

21 Q You'd agree with me that as of March 16th, at --

22 A I did not buy a ticket.

23 Q -- 3:38 o'clock p.m., Jim Graham's secretary was
24 indicating that you were expected to be in Atlanta, for
25 company business, on April 3rd, April 4th, and that you would

1 be traveling on positive space?

2 A Correct.

3 Q Okay. And you were pulled from reserve days for
4 that?

5 A That meeting never happened, so I wasn't pulled
6 from anything.

7 Q Got it. Do you know if Captain Dickson ever spoke
8 with Ms. Nabors or Dr. Faulkner?

9 A I'm going to silently reflect to see what I
10 remember his deposition said.

11 Q Sure.

12 A No. He said he only spoke to Jim Graham.

13 Q Okay. And do you know if Ed Bastian ever spoke
14 with Ms. Nabors or Dr. Faulkner about you?

15 A I don't know.

16 Q You don't have any indication -- you don't have any
17 knowledge that Captain Dickson or Mr. Bastian had involvement
18 in the decision to place you in Section 15, correct?

19 A Yes, I do have knowledge.

20 Q You have knowledge that Captain Dickson had
21 involvement in the decision to place you in Section 15?

22 A Yes.

23 Q What is that knowledge?

24 A At his deposition, he said: "I knew Jim was doing
25 it, I had the authority to stop it, and I didn't." And

1 that's a paraphrase, but it could be more correct.

2 Q Fair enough. Anything else?

3 A No. Yes, there is something else.

4 Q Okay.

5 A He did acknowledge, it took three questions, but he
6 did acknowledge that he had heard, in fact, prior to March
7 8th, that they were -- Captain Graham was thinking about
8 giving me a Section 15.

9 Q Okay. Anything else?

10 A No.

11 Q Okay. What about Mr. Bastian?

12 A No indication.

13 Q What about Mr. Davis or Captain Davis, excuse me?

14 A What about him? What's the question?

15 Q Fair enough. Let me --

16 A I could tell you a lot about him, but I didn't know
17 if that's where we want to go.

18 Q Let me state the question specifically, again, for
19 you. You have no --

20 JUDGE MORRIS: Please rephrase your question.

21 BY MR. ROSENSTEIN:

22 Q Do you have any knowledge that Captain Davis was
23 involved in the decision to place you into the Section 15
24 process?

25 A One could only assume, he signed the letter.

1 Q Other than that?

2 A No, that's pretty solid.

3 Q Okay. You've seen Kelley Nabors' written report
4 about the meeting you had with her on March 8th, 2016,
5 correct?

6 MR. SEHAM: Objection, vague. There's more than
7 one report.

8 BY MR. ROSENSTEIN:

9 Q Well, take a look at C-12 -- or it may be a Joint
10 Exhibit -- is it C-12?

11 MR. BISBEE: It's a Joint Exhibit.

12 THE WITNESS: Well, the only one I looked at was
13 Dr. Altman's report, so that's the only one I could possibly
14 have seen. And that would be in L, JX-L.

15 MR. ROSENSTEIN: It's Joint -- take a look at Joint
16 Exhibit E.

17 THE WITNESS: E?

18 MR. ROSENSTEIN: E, as in Edward. And turn to page
19 JX-E-10.

20 MR. SEHAM: JX-E-10?

21 MR. ROSENSTEIN: Yeah.

22 BY MR. ROSENSTEIN:

23 Q And I'm asking you to look under the section
24 called: "Additional Notes." And I'm just asking if you've
25 seen that?

1 A I cannot tell you if I did or not, unless we go
2 through Dr. Altman's report. Because the only information
3 I've ever seen from Ms. Nabors was in Dr. Altman's report.

4 Q But you've seen it now, you've been in this case?

5 A I see it, I see it now.

6 Q But you've seen it, also, before you were on the
7 stand, correct -- you've read it before today, correct?

8 MR. SEHAM: Objection, it's asked and answered.
9 You keep referring to "it" and the witness has testified she
10 can't confirm that without seeing the context.

11 MR. ROSENSTEIN: It's not a deposition.

12 THE WITNESS: I'd have to read --

13 JUDGE MORRIS: Wait a minute.

14 THE WITNESS: I'm sorry.

15 MR. ROSENSTEIN: Is that an objection?

16 JUDGE MORRIS: I'm going to sustain what I'm
17 assuming is an objection and ask you to re-word or clarify
18 your question.

19 MR. ROSENSTEIN: Sure.

20 BY MR. ROSENSTEIN:

21 Q Take a look at JX-E-10, under: "Additional Notes."

22 And my question is whether or not you've read that before
23 today?

24 A I believe know.

25 Q Okay. Take a look at Respondent's 64, I think --

1 the printout notes?

2 MR. SEHAM: RX-64?

3 MR. ROSENSTEIN: I think it's 64. I'm just going
4 on memory, though.

5 MR. SEHAM: That hasn't worked.

6 MR. ROSENSTEIN: Try J, Joint J. Yeah, I was
7 right, Joint J, Joint Exhibit J.

8 MR. SEHAM: J.

9 MR. ROSENSTEIN: Tell me when you get there?

10 THE WITNESS: I'm there.

11 BY MR. ROSENSTEIN:

12 Q Is this -- does this refresh your recollection as
13 to what the form of Ms. Nabors' report that you had seen
14 prior to today?

15 A It looks like the form, but I've learned that
16 there's multiple reports out there, so I don't know. The
17 only one I read of her report was in Dr. Altman's medical
18 report.

19 Q Okay.

20 A We have a copy of that, so I don't know why we just
21 don't use that?

22 JUDGE MORRIS: Well, he gets to decide that.

23 THE WITNESS: I'm sorry.

24 MR. ROSENSTEIN: It's a suggestion. If you want
25 to, we can.

1 THE WITNESS: Yes.

2 MR. ROSENSTEIN: Do you recall what the number of
3 Dr. Altman's report is?

4 JUDGE MORRIS: JX-11.

5 MR. SEHAM: L.

6 THE WITNESS: L.

7 JUDGE MORRIS: L.

8 MR. SEHAM: It's separate, it's just its own
9 volume, right.

10 MR. BISBEE: That's correct.

11 THE WITNESS: If you can assure me that this was in
12 it, then I can -- I'll be fine.

13 MR. ROSENSTEIN: You've made a fuss about it, let's
14 just go with the thing that you want to do.

15 MR. SEHAM: Excuse me, she's made a what?

16 MR. ROSENSTEIN: Fuss.

17 THE WITNESS: What page is it on?

18 MR. ROSENSTEIN: Well, we'll find out together.

19 Take a look at JX-L --

20 THE WITNESS: He has an index, that should help us.

21 JUDGE MORRIS: Are you looking at JX-L, page 40,
22 counsel?

23 MR. ROSENSTEIN: I don't think so.

24 MR. BISBEE: I think it's going to be later, Your
25 Honor.

1 THE WITNESS: Oh, it's JX-L-47.

2 MR. ROSENSTEIN: Okay.

3 BY MR. ROSENSTEIN:

4 Q So, would you agree -- looking, together, at Joint
5 Exhibit J and Joint Exhibit L, at page 47, that they appear
6 to be the same document?

7 A Okay. What was the first one we were at?

8 Q J?

9 JUDGE MORRIS: JX-J.

10 THE WITNESS: Okay. Thanks.

11 MR. SEHAM: I'm going to object to the question,
12 unless she's allowed to review it. And I don't know why
13 we're doing this.

14 MR. ROSENSTEIN: She's making -- there's no reason
15 to. Just very simple question, but I'm following your
16 client's --

17 MR. SEHAM: Well, it's a 24-page document, if it is
18 the same, I would request, as a courtesy, that you simply
19 question her on the document within the report?

20 MR. ROSENSTEIN: I'd just ask the Tribunal, I don't
21 want to engage in colloquy with opposing counsel. I don't
22 understand why we're doing that.

23 MR. SEHAM: Well, okay. From now on, I guess we're
24 changing and going according to Hoyle, but I've gotten any
25 number of comments from counsel, so I was always just trying

1 to be constructive, but we'll all face forward.

2 MR. ROSENSTEIN: I don't believe that's true,
3 certainly not about the testimony in the case.

4 JUDGE MORRIS: Do the parties need a break to
5 regroup their composure?

6 MR. ROSENSTEIN: My composure is perfect right now.
7 I do not need a break. Thank you, though.

8 JUDGE MORRIS: Is there a question?

9 MR. ROSENSTEIN: It's a very simple one. Whether
10 the two documents appear to be the same document?

11 THE WITNESS: And I'm looking through it right now,
12 to confirm that. Yes.

13 MR. ROSENSTEIN: Okay. Thank you.

14 JUDGE MORRIS: So, which one are you going to be
15 referring to, counsel?

16 MR. ROSENSTEIN: I'm going to refer back to Joint
17 Exhibit E.

18 THE WITNESS: E?

19 MR. ROSENSTEIN: Yeah.

20 BY MR. ROSENSTEIN:

21 Q And I'm going to ask you to go to page 10, JX-E-10,
22 tell me when you get there?

23 A I'm there.

24 Q Okay. Do you see that in that bottom section,
25 under: "Additional Notes," there's information that appears

1 to be comments from Ms. Nabors, do you see that?

2 A I see that.

3 Q Okay. And I know you testified that you haven't
4 read -- you don't remember whether you read this before
5 today, so why don't you take a look at and read it now?

6 A Just a minute. Are you saying -- was this part of
7 her report?

8 Q Well, I can try to resolve this issue --

9 A No, I'm just -- okay, you're right --

10 Q Wait, wait --

11 A -- you're correct, it was not. Those additional
12 notes were not in that report, so, no.

13 Q All I'm asking you to do is read it now?

14 A Okay. Give me one minute. Okay.

15 Q Do you have any knowledge that Ms. Nabors did not
16 draft this document?

17 A I'm assuming she did.

18 Q Okay. And do you have any knowledge that she did
19 not draft this document, in or about March 9th, 10th, 11th,
20 or thereabouts, in 2016?

21 A I have absolutely no knowledge of that.

22 Q You'd agree with me that -- if you go to page
23 JX-E-001, that this document has been represented to have
24 been sent to Dr. Altman on March 16th, 2016, correct?

25 A JX-E-001? I don't know if this was the document

1 sent to --

2 Q You don't know, but you agree that it's been
3 represented, in discovery in this case, that this was sent to
4 Dr. Altman, correct?

5 A Correct.

6 Q And in fact, it was produced by Dr. Altman, it has
7 a Bates number DA0053, correct?

8 A Correct.

9 Q Okay. And you'd agree with me that that would mean
10 that the information here would have had to have been created
11 sometime prior to March 16th, correct?

12 MR. SEHAM: Objection, calls for speculation.

13 JUDGE MORRIS: Overruled.

14 THE WITNESS: Based on what's -- I have absolutely
15 no -- no -- trust, but verify is my motto, but I'm going to
16 assume that if, in fact, this cover letter was attached to
17 these notes, and that this is what was transpired to Dr.
18 Altman --

19 MR. SEHAM: Again, objection. The testimony being
20 elicited is, by definition, speculation. The answer starting
21 with "I assume."

22 MR. ROSENSTEIN: It's tough to object to your own
23 witness.

24 MR. SEHAM: No. I mean it confirms that my
25 original objection, I think, was appropriate. So, I'm asking

1 the Tribunal to reconsider.

2 MR. ROSENSTEIN: That's fair. I'll let the Court
3 take judicial notice of the document and we can move on, if
4 that's okay.

5 JUDGE MORRIS: I'll use common sense in looking at
6 the order of the exhibits, as presented and represented to
7 the Tribunal.

8 MR. ROSENSTEIN: Thank you.

9 BY MR. ROSENSTEIN:

10 Q And is it your testimony that Ms. Nabors was told
11 by somebody to write this in the manner that she did, and
12 include this information?

13 A I don't know that.

14 Q You don't know, okay.

15 A I don't know what she was told.

16 Q You're not contending, in this case, that Captain
17 Graham conspired with Ms. Nabors to create this report,
18 correct?

19 A Of course not.

20 Q Okay. And you're not contending that anyone else
21 at Delta conspired with Ms. Nabors to create this report,
22 correct?

23 A No.

24 Q Your contention is that Ms. Nabors is mistaken in
25 the way she described your interactions on March 8th,

1 correct?

2 A Yes. And many things may have gone into that
3 misunderstanding, but yes.

4 Q Your contention is that Ms. Nabors misunderstood
5 your interactions with her?

6 A My contention is this is an inaccurate assessment
7 of what transpired.

8 Q Right. You were not overly emotional in your view,
9 correct?

10 A No.

11 Q And you did not feel that you were being
12 threatened, physically, when you met with her, correct?

13 A No. She even said she --

14 Q I'm not asking what she said --

15 A -- that I never said it -- she inferred it --

16 Q -- I'm just asking what you -- what you believed.
17 You do not believe that you were being threatened?

18 A No, not physically.

19 Q Right.

20 A Professionally, yes.

21 Q Right. And it's your view that she got it wrong,
22 right?

23 A (No verbal response.)

24 Q Ms. Nabors got it wrong in what she wrote, correct?

25 A Got what wrong?

1 Q Her description of your behavior is inaccurate,
2 it's wrong?

3 A It's an inaccurate assessment, correct.

4 Q Okay. Now, after you met with Ms. Nabors, you
5 still delivered your presentation, correct?

6 A I did.

7 Q Okay. And that was on May 27th, right?

8 A Correct.

9 Q April 27th -- excuse me.

10 A Oh, no, no -- April 27th.

11 Q See, I could have tricked you. April 27th?

12 A Correct.

13 Q Sorry about that. Take a look at Respondent's 52,
14 RX-52 in the yellow binder?

15 JUDGE MORRIS: That would have to be Volume 5, I
16 assume?

17 MR. ROSENSTEIN: Yes.

18 MR. SEHAM: RX?

19 MR. ROSENSTEIN: RX-52. Tell me when you're there.

20 THE WITNESS: I'm there.

21 BY MR. ROSENSTEIN:

22 Q Okay. If you'd turn to the first page, 52-001, we,
23 once again, have one of those what I'm calling "notes," at
24 the bottom of the page. It says:

25 "March 22nd, Phil Davis told me to contact Jim

1 Graham, because he still wanted me to
2 have that meeting. I called Graham the
3 next day, I followed up with this e-
4 mail."

5 MR. SEHAM: I'm sorry, what page?

6 MR. ROSENSTEIN: One, of Exhibit 52.

7 MR. SEHAM: RX-52?

8 MR. ROSENSTEIN: Yes.

9 JUDGE MORRIS: Bottom of the page.

10 MR. ROSENSTEIN: Those --

11 MR. SEHAM: Oh, okay. I'm sorry. Yeah, I see it.

12 MR. ROSENSTEIN: No problem at all.

13 BY MR. ROSENSTEIN:

14 Q Do you remember the question?

15 A No.

16 Q On RX-52-01, you wrote:

17 "March 22nd, Phil Davis told me to
18 contact Jim Graham, because he still
19 wanted me to have that meeting. I called
20 Graham the next day, I followed up with
21 this e-mail."

22 You wrote that, correct?

23 A Correct.

24 Q And did you have a call with Jim Graham the next
25 day, March 22nd?

1 A I did.

2 Q Okay. By the way, it was Phil Davis who presented
3 the letter to you, stating that you were being placed into
4 the Section 15 process?

5 A Yeah, he had signed it and gave it to me.

6 Q Okay. And Captain Davis told you that it had
7 something to do with your meeting with Kelley Nabors, but
8 that he didn't know more, or that it was confidential, if I
9 remember your testimony from direct?

10 A Correct.

11 JUDGE MORRIS: Wait a minute. I didn't hear your
12 response.

13 THE WITNESS: Correct.

14 JUDGE MORRIS: Correct. Okay. Thank you.

15 BY MR. ROSENSTEIN:

16 Q Were you surprised that Jim Graham still wanted you
17 to have the meeting?

18 A Very much so.

19 Q Were you pleased?

20 A No. I mean neither here nor there.

21 Q Your feelings were neutral about it?

22 A Yeah.

23 Q Well, isn't it your view that you want to improve
24 Delta's Safety Culture?

25 A Well, they didn't to have a meeting --

1 Q Yes or no on that, and we'll get into it?

2 A Yes.

3 Q Okay. And so wouldn't you have been happy to
4 present, given that view?

5 A No.

6 Q You're currently a Delta pilot, correct?

7 A Correct.

8 Q Don't you want Delta to improve its Safety Culture,
9 to this day?

10 A Definitely.

11 Q Okay. Did you write back to Captain Graham when he
12 wrote to you -- after he spoke to you on March 22nd?

13 A I don't remember, but if I did, it's in here, we
14 can go look at it.

15 Q Well, there's a 4/15 e-mail there, in which you say
16 -- if you turn the page -- it says:

17 "Thank you for requesting me to give
18 this presentation. This will be well
19 worth the effort and expense, as the
20 safety of our industry and the continued
21 success of Delta are mutually inclusive
22 goals. I'm looking forward to sharing
23 with your team what I've learned through
24 my doctoral program."

25 Does that refresh your recollection as to your

1 sense -- state of mind, at that stage?

2 A Correct.

3 Q Okay.

4 A May I explain?

5 Q Eventually, but not right now.

6 You continued to communicate on 4/19, with Captain
7 Graham, if you turn to page 52-002?

8 A Correct.

9 Q And the attendees are listed on that page as Ed
10 Sternstein, Jon Tovani, Bill Klein, Jason Ragogna, and that
11 Steve Dempsey is flying and unable to attend. And then
12 Captain Graham lists who -- what those jobs are. Do you see
13 that?

14 A I do.

15 Q Okay. Those are senior people involved in safety
16 at Delta, correct?

17 A Correct.

18 Q Okay. Were you pleased that they were going to be
19 attending?

20 A Pleased?

21 Q Yes.

22 A I don't know if I had pleasure or not, but --

23 Q All right. You presented to them voluntarily,
24 correct, no one forced you to do this?

25 A They did not. Yes, I presented voluntarily.

1 Q Okay. Incidentally, you did not meet with Dr.
2 Faulkner about the Section 15 until the same day as you gave
3 the presentation, if I remembering your testimony right, is
4 that right?

5 A That's correct.

6 Q Okay. And you actually asked for some additional
7 time to delay your first meeting with Dr. Faulkner, correct?

8 A I did not.

9 Q Take a look at Respondent's RX-49?

10 JUDGE MORRIS: Volume 4.

11 MR. BISBEE: Okay. Thank you.

12 BY MR. ROSENSTEIN:

13 Q If you'd turn to page 49-001, it's only a one-page
14 document. It's an e-mail from you on March 22nd, that
15 evening:

16 "Phil, I would like to speak with Jim
17 tomorrow, if that is still possible."

18 Correct?

19 A Okay.

20 Q Is that right?

21 A Correct.

22 Q And that's, again, March 22nd is the day you
23 learned you'd be placed in Section 15, correct?

24 A Correct.

25 Q Okay. And then he writes back to you and says:

1 "As promised, I requested that you
2 could have until March 31st, without any
3 requirement to respond to our process.
4 That request has been granted and has
5 been communicated to Dr. Faulkner. Good
6 luck on your finals."

7 Do you see that?

8 A I do.

9 Q Does that refresh your recollection that you asked
10 Captain Davis to have a little more time before contacting
11 Dr. Faulkner?

12 A Well, my finals were ending on the 27th, 28th, I
13 mean that week, so -- but if he wrote that, then yes.

14 Q Okay. And if you turn to the next document, 50 --
15 I realize that you're not on this document, but if you look
16 at the e-mail on page 50-001, Captain Davis writes to Medical
17 Direction, LLC. Would you agree, first of all, that to your
18 knowledge Medical Direction, LLC is Dr. Faulkner?

19 A Yes, I agree to that.

20 Q Okay. And then he says:

21 "Captain Graham has agreed that we will
22 hold off on contacting her until she has
23 finished her college finals on 31st
24 March."

25 Do you see that?

1 A I do.

2 Q Okay. Did you know Dr. Faulkner?

3 A No.

4 Q Ms. Nabors called you on March 21st, and told you
5 that Dr. Faulkner would, at some point, be reaching out to
6 you, correct?

7 A I believe so.

8 Q Take a look at JX-J, and I'd ask you to turn to
9 JX-J-007, tell me when you're there?

10 A Okay.

11 Q Okay. And the bottom of that page -- I think you
12 said you've seen this document, because it was in Dr.
13 Altman's report, correct?

14 A Correct.

15 Q And at the bottom of the page it appears to relate
16 a phone call taking place between you and Ms. Nabors at 3:37
17 o'clock p.m., on March 21st, do you see where I'm referring?

18 A I do.

19 Q Okay. And this is, as far as you know, this is Ms.
20 Nabors' description of what happened on that call, correct?

21 A Correct.

22 Q Okay. But you'd agree that during that call Ms.
23 Nabors told you that she was concerned about her (sic) --
24 since your conversation, correct?

25 A Correct.

1 Q And she told --

2 A Well, I take that back. We had two phone calls and
3 I don't think she told me at that phone -- there were two
4 different ones -- yeah.

5 Q Okay. Fair enough. Take a look at page JX-J-8?

6 A Correct.

7 Q And if you'll go to the third paragraph from the
8 bottom?

9 A Um-hum.

10 Q Ms. Nabors writes:

11 "At this point, I explained to Karlene that I
12 wanted to let her know that I had been
13 concerned about her since our last
14 conversation."

15 Does that help you clarify that she mentioned that
16 during the first of the two calls you had on March 21st, or
17 do you still not remember?

18 A Yes.

19 Q Okay.

20 A That does confirm it.

21 Q Okay. And --

22 A Well -- yes, but it's out of context -- but yes.

23 Q Right. And I'm not asking about the context.

24 A Yeah.

25 Q I understand.

1 A Yes.

2 Q But you do recall her telling you that she had
3 contacted Dr. Faulkner, who is the director of Health
4 Services, correct?

5 A She did, at one of those calls, yes.

6 Q Okay. And do you recall saying that you
7 appreciated that, that most people don't care?

8 A No.

9 Q You didn't think -- if I'm understanding your prior
10 testimony on direct and at your deposition -- you didn't
11 believe, at that point, that Ms. Nabors had contacted Dr.
12 Faulkner as part of a Section 15 process. You subsequently
13 reached that conclusion, correct?

14 A Can you ask the question more succinctly?

15 Q I can. Well that was a good question, but I'll try
16 it again.

17 When Ms. Nabors first mentioned Dr. Faulkner, you
18 did not connect that with Section 15 process?

19 A After she mentioned, I hung up the phone and I
20 called Jud Crane, and he said: "That's what I was worried
21 about."

22 Q Right. And that's --

23 A That's where the connection came, when she said Dr.
24 Faulkner, because I didn't know who he was.

25 Q Okay. So, you'd agree that that's -- when you were

1 on the phone with Ms. Nabors, you didn't make a connection
2 between her reference to Dr. Faulkner and Section 15, it was
3 only after you hung up, correct?

4 A Not on the first phone call.

5 Q Okay. You then called -- well -- let's go through
6 this a bit. Turn to JX-J-9, please?

7 A Okay.

8 Q And there are a few bullet points where Ms. Nabors
9 says -- when she talked about Dr. Faulkner, you said:

10 "I really appreciate that. You tell people
11 things and they never do anything with
12 it."

13 And then it goes on, as written there. Do you
14 recall making any of the comments in those bullet points to
15 Ms. Nabors?

16 A No. Because that phone call -- she was calling
17 because I had promised her I would give her documents, that I
18 had not done, because I just left her meeting and went to
19 Women in Aviation, came back, was working on finals, and she
20 called me while I was in the middle of homework. And so
21 while she was talking, I was busily in my computer looking
22 up, trying to find the documents that she had requested. So,
23 I was kind of half listening to her, but I don't remember
24 saying those statements.

25 Q You don't remember it, but you don't know whether

1 they were said or not, you just don't remember?

2 A I would not -- let's see -- yeah, I'm going to
3 deny.

4 Q Are you saying that you didn't make the statements
5 or you're saying you don't remember making the statements?

6 A I'm going to say, as written, I would not have made
7 those statements.

8 Q Okay. And then she has three other statements
9 attributed to you in quotes. Do you recall making those
10 statements to her?

11 A No.

12 Q Do you not remember making them, or are you denying
13 that you made them?

14 A No, I'm going to deny I made them.

15 Q So, is it your contention that Ms. Nabors
16 fabricated her recitation of your phone call?

17 A I'm going to say the conversation -- if we made any
18 conversation, they were taking out of context, because I
19 would never say:

20 "As long as we keep Albain, Popeye, OC, out of
21 the cockpit we'll do okay."

22 OC is an excellent pilot. I flew with him over at
23 Northwest. Popeye -- eh. Albain is probably a good pilot,
24 judgment on instructing ability. But at our meeting, I told
25 her that everyone should be held accountable. And so she

1 turned that statement into keeping them out of the -- from
2 being accountable. So --

3 I "study even hard, because of this culture." I'm
4 not studying harder. I put all my effort into, you know, I
5 put a lot of effort into research and working towards my PhD,
6 but I wouldn't say "study harder." So, that's why these
7 statements just don't make sense to me.

8 Q Turn back to page -- are you done? I'm sorry.

9 A I guess.

10 Q Turn back to page 8 -- well, if you're not, I do
11 want -- okay. Turn back to page 8, Ms. Nabors attributes to
12 you a statement, during this phone call -- or a statement to
13 herself where she told you that she explained that"

14 "Because she, (meaning you), appeared to be so
15 frightened, I, (meaning Nabors), felt I
16 needed to speak with an expert, because I
17 am not an expert and I felt I needed to
18 engage Dr. Faulkner and that Dr. Faulkner
19 would be reaching out to speak to her
20 sometime soon."

21 Do you recall Ms. Nabors saying that to you?

22 A No.

23 Q Do you deny -- I'm sorry?

24 A No. Ms. Nabors called up and said --

25 Q No, no -- just yes or no then?

1 A I'm going to say no.

2 Q Okay. And are you saying that you don't remember
3 it, or that it didn't happen?

4 A Did not happen.

5 Q Okay. So, it's your testimony that Ms. Nabors
6 fabricated that description?

7 MR. SEHAM: Objection.

8 JUDGE MORRIS: Overruled.

9 THE WITNESS: I'm not going to say she fabricated.
10 I'm going to say the conversation we had was definitely
11 taken out of context and rewritten not what was said.

12 MR. ROSENSTEIN: Okay.

13 BY MR. ROSENSTEIN:

14 Q So, after this first call, you reached out to Jud
15 Crane, is that right?

16 A Correct.

17 Q How soon after?

18 A Like seconds. I hung up one phone, picked up the
19 other one.

20 Q Okay. And did you contact Mr. Crane because he's
21 your union representative or because he's your friend, or for
22 some other reason?

23 A Because he's my captain rep. I called him up and
24 said: "Who's Dr. Faulkner?" And he said: "What's going on?"
25 And I said: "I met with HR safety investigator, or Ms.

1 Nabors." And I think at that time I had told him I found out
2 that she wasn't an HR safety investigator, she was actually
3 the manager of the Pass Travel Complaint Department. And she
4 said that she wanted me to -- said something about a Dr.
5 Faulkner. And that's when he said: "That's what I was
6 worried about."

7 Q Okay. By the way, it's your testimony that Ms.
8 Nabors requested that you meet in the hotel and not at the
9 airport?

10 A Correct.

11 Q Can you describe exactly what she said?

12 A It's not going to be exact, because it was so many
13 years ago, but when we were talking on the phone she said
14 that -- I asked her where we're going to meet and she said
15 she'd like to keep it away from the airport. I said:

16 "I have a -- I said I live 10 minutes from
17 SeaTac, you can come over here and have a
18 cup of tea, the only person here is my
19 husband."

20 And she said: "No, I have a room at the hotel."

21 Q And did you want to have the meeting at the
22 airport?

23 A I didn't care.

24 Q You didn't care. So, when Ms. Nabors stated that
25 you were the one who requested that the meeting not be at the

1 airport, that's a fabrication, as well?

2 A I was quite surprised that she said that, yes.

3 Q But yes, it's a fabrication is what you're saying?

4 A I don't like your choice of word "fabrication."

5 I'm sorry, I don't think fabricate things.

6 Q I'm trying not to say "liar."

7 A Well, I don't think they -- unless they
8 misrepresented -- I don't, you know, for whatever happened,
9 this was so long ago, however that conversation came --

10 Q Sure.

11 A -- it was my understanding she was calling, and she
12 wanted to keep it away, and she had a room at the hotel. And
13 so I don't care if I went to the Seattle base --

14 Q Well, you --

15 MR. SEHAM: She's testifying.

16 MR. ROSENSTEIN: Are you done?

17 THE WITNESS: No. I mean it's like as I read
18 through stuff, I was afraid to talk to leaders, or have my
19 leaders see me -- but I've gone into each and every -- all
20 their offices. It just didn't make intuitive sense. So, I
21 don't know why she did it, why she wrote that. I have no
22 idea.

23 MR. ROSENSTEIN: Okay.

24 BY MR. ROSENSTEIN:

25 Q You'd agree that Ms. Nabors wrote that

1 contemporaneously with the events of this case. She said
2 that you were the one who had requested the meeting be at the
3 airport.

4 A I don't know she wrote them contemporaneously.

5 Q Well, you'd agree with me that that information is
6 contained on page 1 of JX-J, correct?

7 A Page 1. There's also a lot of writing for --

8 Q Take a look at JX-J-1, page 1, the second paragraph
9 that says:

10 "Karlene requested that we not meet at the
11 airport, because she was afraid leaders
12 would find out she was talking to me and
13 start asking questions."

14 That's what Kelley Nabors wrote, correct?

15 A Yes.

16 Q And that was --

17 MR. SEHAM: I'm going to object. There's a print
18 date of May 27th, 2016.

19 MR. ROSENSTEIN: How is that an objection? It
20 sounds like a statement.

21 MR. SEHAM: Then you're just -- I'm going to object
22 to the Tribunal that there's a misrepresentation with respect
23 to this document. There's nothing that says when this
24 document was drafted.

25 JUDGE MORRIS: I will look at the document in its

1 entirety. I understand that it was printed, according to
2 this, on May 27th, 2016. So, at a very minimum, it was
3 generated prior to May 27th, 2016. The contents may reflect
4 an earlier date.

5 Is now a good time for a break?

6 MR. ROSENSTEIN: It is. I can give a pretty good
7 indication, if we take a minute off the record, of how much
8 longer I have.

9 JUDGE MORRIS: All right.

10 MR. ROSENSTEIN: One thing -- can we talk off the
11 record for a minute?

12 JUDGE MORRIS: Yeah. We'll go off the record.
13 We'll come back on the record if we're not going into recess.

14 Off the record.

15 (Whereupon, at 12:10 o'clock p.m., the hearing was
16 recessed for lunch.)

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1 AFTERNOON SESSION

1:05 O'CLOCK P.M.

2 JUDGE MORRIS: Back on the record.

3 All parties present when the hearing last recessed
4 are again present.

5 Counsel, you may continue your cross?

6 CROSS-EXAMINATION RESUMED

7 BY MR. ROSENSTEIN:

8 Q Ms. Pettitt, we had been discussing -- prior to the
9 lunch break -- your conversations with Ms. Nabors over the
10 phone on the 21st. And I think you said that you recall
11 there were two different conversations, correct?

12 A There might have been three.

13 Q There could have been three. The first
14 conversation we've gone through. You then said you spoke to
15 Jed (sic), correct, after that first conversation?

16 A No -- Jud, J-u-d.

17 Q Jud, excuse me. And then you called back Ms.
18 Nabors, the second time, am I correct about that?

19 A Yeah. There was another phone call in there,
20 because I think when I was talking to her the first time I
21 received a phone call from Phil, as a matter of fact,
22 inviting me to come into this meeting. And then I told him
23 -- because I was not in appropriate attire to go over and
24 meet, I mean I had been working out or something, and so I
25 wasn't dressed or ready to go over there, and I was on my

1 days off. And I asked him what it was about and he wouldn't
2 tell me.

3 Q Before you tell me about that conversation, I just
4 asked whether or not you had a second call with Ms. Nabors,
5 and that you called her back, is that --

6 A What I was saying is, I was talking to her -- he
7 was calling, and I think I switched off and then came back --
8 called her back.

9 Q Okay. But you called Kelley Nabors back on march
10 21st, 2016, correct? That's all I'm asking.

11 A Within that short period of time, yes.

12 Q Okay. And if you turn to JX-J, if you're there,
13 page 9?

14 A I am there.

15 Q Okay. Great. On the bottom of that page Ms.
16 Nabors relates what she says occurred during that second
17 call. You'd agree that that's what is on the bottom of the
18 page, or appears to be?

19 A I agree that's what's on that page.

20 Q Okay. And she says: "Karlene called me back and
21 she was crying." Were you crying when you called her back?

22 A No.

23 Q Okay. And why do you -- do you have any reason to
24 form an opinion as to why Ms. Nabors wrote that you were
25 crying, if you were not?

1 A I have no idea.

2 Q Okay. You did tell her that Phil Davis had called
3 you, that part you'd agree, correct?

4 A I did, yes.

5 Q And tell me, do you recall saying the items that
6 are in the four bullet points afterward -- I won't read them,
7 but you can read them to yourself?

8 MR. SEHAM: What page are you on?

9 MR. ROSENSTEIN: Same page.

10 MR. SEHAM: I lost track. Eight?

11 THE WITNESS: Nine. JX-J-9.

12 BY MR. ROSENSTEIN:

13 Q Do you remember the question?

14 A The four bullet points you're referring to where he
15 said he needed to talk, couldn't come in now, said I wasn't
16 at liberty to tell her why.

17 Q Right.

18 A "Karlene said she was just tired of this," quote:
19 "They are just messing with me and I feel harassed," quote:
20 "He's pissed at me, he's pissed."

21 Q Right. My question is, do you recall saying those
22 things to Ms. Nabors on the second call on March 21st?

23 A No. I did tell her that Phil Davis called --

24 Q Just "no," is fine, if that's the answer?

25 A Well, I can't say no, because two of them, yes, and

1 two of them, no, so.

2 Q That's fair. Okay. Which ones of them do you
3 recall saying?

4 A That I did -- I didn't use these words that she put
5 in there, but I did tell her that Phil Davis called and that
6 he wanted me to come over.

7 Q Okay.

8 A And I might have told her -- I didn't say -- I
9 might have told her he appeared angry, because I think he
10 did, which was odd, and that he wouldn't tell me why I had to
11 come over.

12 Q Okay. And Ms. Nabors says that she told you that
13 it would be best if you would speak to Phil. And that:

14 "It likely had something to do with Dr. Faulkner
15 needing to speak to her."

16 Do you recall Ms. Nabors saying that?

17 A She told me: "Don't worry about it, it will just be
18 fine, just go through the process" --

19 Q My question is, do you recall her saying that?

20 A No.

21 Q I didn't ask what she might have also said.

22 A No.

23 Q Okay. Do you recall Ms. Nabors telling you that,
24 effectively, that the call from Phil Davis likely had
25 something to do with Dr. Faulkner needing to speak to her?

1 A No.

2 Q She didn't say that at all?

3 A She didn't say that at all.

4 Q Okay. Do you recall you saying that you would then
5 call the union rep to see if he knew what the meeting was
6 about?

7 A Yes.

8 Q So, does that refresh your recollection that you
9 hadn't, yet, talked to Jud Crane?

10 A Yeah. That first phone call was Ms. Nabors. It
11 was interrupted by Davis. And I had forgotten that until
12 after this came up, I started thinking back. So, that first
13 phone call, he had called in, and then I called her back.
14 And it was at that time that she mentioned -- said something
15 about Faulkner. And then she -- well, you don't want to hear
16 what I said, so I won't tell you.

17 Q Not yet.

18 A I won't tell you.

19 Q It's not that I don't --

20 A But anyway, but that was --

21 Q -- want to hear --

22 A -- I will call those two phone calls the first
23 phone call, because they were within minutes of each other.
24 It was just interrupted by his. But it was the same
25 conversation.

1 Q Okay. So, just to get the order of it all right.
2 You spoke to -- Kelley Nabors called you on March 21st?

3 A Correct.

4 Q Then Phil Davis called you. Then you called Kelley
5 Nabors back?

6 A Correct.

7 Q Then you called your union rep, Jud Crane?

8 A Correct.

9 Q And then you called Ms. Nabors back, again,
10 correct?

11 A Correct.

12 Q Okay. And on the -- what we'll call now the third
13 call that day with Ms. Nabors, which you've said was sort of
14 a continuation of the second call, is that what you're trying
15 to say -- you were moving your hands like you didn't agree
16 there was a third call?

17 A No, no, no, no.

18 Q So, then let's call it the third call. Ms. Nabors
19 reports that you were upset and angry and that you raised
20 your voice, and that you were crying. Is that a true
21 statement by Ms. Nabors?

22 A I was not crying. I might have been upset and
23 might have had an irritable mood.

24 Q Okay. And that was because Jud had told you that
25 Dr. Faulkner would be the one who determines Section 15,

1 correct?

2 A No.

3 Q Had Jud told you that Dr. Faulkner is the one who
4 determines Section 15?

5 A Yes.

6 Q Okay. And were you upset about that?

7 A I was bothered that they did it, yes.

8 Q Okay. And did you tell Ms. Nabors that:

9 "This is angry Phil Davis, he's nice normally,
10 why do you think he's angry, that's what
11 I'm trying to figure out."

12 A Not in those words, no.

13 Q So, when she puts that in quotations, you're saying
14 that she's mistaken, that that's not what you said?

15 A Not what I said.

16 Q Okay. She put in quotations that you said:

17 "That's exactly what's going on. I'm going to
18 have my medical pulled."

19 Are you telling us, again, that you don't agree
20 that that's what you said, or did you say that?

21 A No. I wouldn't -- the thing is, the words here are
22 not words that would come out of my -- how I would say
23 things. So, did we discuss that? Yes.

24 Q Did you record the conversation with Ms. Nabors?

25 A No.

1 Q Did you take notes?

2 A If I did, then you have them.

3 Q Okay. Your testimony that you don't believe that
4 this is what you said, is because you don't think this is the
5 way you speak, am I understanding that correctly?

6 MR. SEHAM: Objection.

7 JUDGE MORRIS: Overruled.

8 THE WITNESS: Yeah. Because I wouldn't say: "This
9 is angry Phil Davis, he's nice normally." I mean it's -- I'm
10 sorry -- it's just --

11 MR. ROSENSTEIN: Okay.

12 BY MR. ROSENSTEIN:

13 Q Do you recall making any of the other statements
14 that Ms. Nabors has placed in quotes on this report, on page
15 10?

16 A Do you want me to read them all right now?

17 Q Yeah. Read them to yourself, though. You don't
18 have to read them out loud?

19 A There is one statement on here that about half of
20 it is accurate.

21 Q Okay. Which one is that?

22 A The "rape victim."

23 Q "This is like the rape victim who goes on the stand
24 and gets turned around"?

25 A Yeah.

1 Q What did you say that you think was approximate of
2 that?

3 A Because when I figured out what was going on, I
4 said: "Ms. Nabors, do you know what you have just done?" I
5 said: "This is like placing a person who has just been raped
6 on the stand."

7 Q Okay.

8 A That's what I said to her.

9 Q The other bullet points in that first grouping, you
10 don't recall saying?

11 A In the first grouping? Not in those words, no.

12 Q Okay. And is it that you don't remember saying it,
13 or that you know that you didn't say it?

14 A No, everything that is in a quotation is not
15 verbatim what I said.

16 Q How do you know it's not verbatim what you said?

17 A Because I don't -- the conversational tone, the
18 language that's used, it would not me.

19 Q Do you know when Kelley Nabors wrote this?

20 A I have no idea.

21 Q Okay. After the bullet points, it says:

22 "I explained to Karlene that my intent was not

23 to make her feel that way, but to make

24 sure she was okay. And she said:

25 (according to Ms. Nabors) 'It may not

1 have been your intent, but that's what it
2 turned into. I'm a bad guy, I'm so
3 disappointed, I can't even tell you.'"

4 Do you recall having a discussion with Ms. Nabors
5 in which that was described?

6 A I did tell her I was so disappointed. I don't
7 remember saying I was a bad -- I mean I was a bad -- I'm a
8 bad guy or -- but I did tell her that I was disappointed that
9 this manifested because I reported a safety report and it
10 turned into this.

11 Q Did Ms. Nabors tell you that her intent was not to
12 make you feel that way, but to be sure you were okay, or
13 words to that effect?

14 A No. The "okay," came at the very beginning of the
15 phone call, and that was out of context.

16 Q Well, did she use words to the effect of that her
17 intent was not to make you feel badly, but to make sure you
18 were okay?

19 A No.

20 Q She never said that on the phone?

21 A We used the word "okay," when she first called me.

22 Q I hear you, but --

23 A She did not -- that statement was not made.

24 Q I just want you to listen exactly to the question,
25 and if your answer is the same, that's fine, but I want to

1 make sure. During the phone call you had with Ms. Nabors,
2 the second phone call, do you recall Ms. Nabors telling you,
3 in effect, not necessarily using the precise language that's
4 on this page, but in effect, that her intent was not to make
5 you feel badly, but to make sure you were okay?

6 A No.

7 Q That never happened on the phone?

8 A No

9 Q And then if you look at the next bullet point, she
10 has more issues in quotes. It says:

11 "She told me that if I was concerned, I needed
12 to get rid of the people creating the
13 issue. This is not the end. I'm now
14 pushed to the level of beyond pissed.
15 I'm going to be on CNN and tell exactly
16 what happened. Don't say I'm not safe in
17 the cockpit.

18 Those are statements that Ms. Nabors attributes to
19 you during that call. Would you agree that she attributes it
20 to you, not that you said it?

21 A She attributes those to me.

22 Q And would you -- do you recall making statements of
23 that nature to Ms. Nabors, during the phone call, not
24 necessarily verbatim the way she has it in quotes?

25 A Not even close.

1 Q Okay. You don't recall --

2 A There was -- there was a discussion --

3 Q Well, actually, that's fine --

4 A -- may I explain --

5 Q -- "not even close" --

6 A -- I'm going to say no, I'm going to say no, unless
7 I may explain.

8 Q Okay. That's fine. So, you don't recall telling
9 Ms. Nabors that you're going to be on CNN and tell exactly
10 what happened, or words to that effect?

11 A No.

12 Q Okay. You don't recall reminding Ms. Nabors --
13 well -- withdrawn.

14 Ms. Nabors says that she reminded you that she was
15 here to assist, if possible, and that if you had questions,
16 she could, and that's how the call ended. Is that your
17 recollection of how the call ended?

18 A No.

19 Q Okay. Did Ms. Nabors tell you that she was
20 available to assist, if possible -- or words to that effect?

21 A I don't recall if she did. I don't remember if she
22 did or not. I don't remember it.

23 Q Okay. And then you did -- after March 21st, that
24 was an evening call, you did meet with Captain Davis on March
25 22nd, correct?

1 A I did.

2 Q And he handed you the letter that's -- I think it's
3 R-46 -- it may be a Joint Exhibit, actually.

4 A Joint Exhibit which one?

5 Q Hold on a second. I'm thinking it's in here as a
6 Joint Exhibit -- yeah -- Joint Exhibit F. That's the letter
7 he handed you, correct?

8 A It was.

9 Q Yes? I'm sorry.

10 A It was.

11 Q Okay. And it's dated March 17th, 2016, but you
12 didn't get it until March 22nd, 2016, correct?

13 A Correct.

14 Q Okay. And no one else was present when he handed
15 it to you, or was somebody else there?

16 A My union rep was there and they always have a note
17 taker, I don't remember who it was. Christina Wallace,
18 maybe.

19 Q Christina --

20 A She had been at subsequent -- Phil was there. I
21 forget who was there. But Jud was there, definitely.

22 Q Got it.

23 A And it says in the letter that:

24 "You've been removed from service with pay for
25 purposes of conducting a review under

1 Section 15(b) of the Pilot Working
2 Agreement."

3 And it continues.

4 That is exactly what happened, right, you were
5 removed from service with pay, and there was a review under
6 Section 15(b) of the PWA?

7 A Correct.

8 Q Okay. And if we go back now to J, Joint Exhibit J.

9 A J which?

10 Q Joint Exhibit J, page 10?

11 A JX-J.

12 Q The same page we had been on, JX-J-010.

13 A Okay.

14 Q Are you there?

15 A I am there.

16 Q So, on the bottom of that page, there looks like
17 Ms. Nabors relates a phone call on the next day, March 23rd.

18 Would you agree that's what at least it reports to be?

19 A It purports to be that, yes.

20 Q Okay. And on that call, do you recall asking Ms.
21 Nabors questions about her job title?

22 A I did.

23 Q Okay. You had, in the interim, looked up her job
24 title?

25 A I did.

1 Q When Ms. Nabors first started the interview with
2 you, it became clear to you, straightaway , that she was not
3 an HR safety inspector, correct?

4 A Clear to me straightaway -- at what point of the
5 meeting of the three hours are you talking about - the first
6 five minutes, 10 minutes, half hour, at what point?

7 Q Fair enough. At some point did it become apparent
8 to you that she was not a person who knew anything about
9 operational safety in the Flight Operations Department?

10 A It became clearly apparent to me that she lacked
11 knowledge.

12 Q You understood that she was an EO investigator of
13 some sort?

14 A No, I did not. She was supposed to be an HR safety
15 investigator.

16 Q I understand your testimony. I'm asking you
17 whether or not it became clear to you, soon after the meeting
18 began, that Ms. Nabors was not what you were describing as HR
19 safety inspector, but simply an EO investigator?

20 A No.

21 Q And you can say no or yes, but --

22 A No. That's a no.

23 Q Okay. You're suggesting that Ms. Nabors never
24 introduced herself to you and what her task would be?

25 A She said -- no -- she introduced herself, but she

1 said: "We're going to get to the bottom of this," and touched
2 the safety report.

3 Q Ms. Nabors told you, repeatedly during your
4 meeting, that she could not respond to issues of safety,
5 because she lacked expertise in that area and that others
6 would be reviewing those issues, did she not?

7 A Never, not once.

8 Q So, if Ms. Nabors testifies that she said that
9 repeatedly, it's your contention that she's lying -- not to
10 use the word "fabrication"?

11 A She is misrepresenting, yeah. She never said that.
12 She never said it.

13 Q She never said that she could not respond to issues
14 of safety, but only issues involving EO?

15 A Never said that. She just want through the safety
16 report and picked out sections that she wanted to discuss.

17 Q Can you estimate for me -- if you can -- who spoke
18 more during the three-hour meeting with Ms. Nabors, did you
19 speak more or did Ms. Nabors speak more?

20 A Oh, I would say I did probably 85 percent of the
21 talking.

22 Q You had communications with Ms. Nabors before she
23 came to Seattle, correct?

24 A I did.

25 Q And you sent her a copy of your Ethnographic Study,

1 correct?

2 A Correct.

3 Q Okay. Did you look up on her -- did you look it up
4 on the Delta website, to see who it was that you'd be meeting
5 with?

6 A No. I looked up after -- right after I returned
7 home, I went and looked her up.

8 Q Did you ask anybody -- no -- I'm asking before you
9 met with her, not after?

10 A No, no.

11 Q No. Did you see if there was somebody called an HR
12 safety inspector within Delta?

13 A No.

14 Q Is there some title -- have you now checked to see
15 if there's a job "HR safety inspector" within Delta Air
16 Lines?

17 A Clearly there is not. And apparently she wasn't
18 even with HR, she was in EO, so the whole thing was false.

19 Q Well, you knew that she would be from HR, didn't
20 you?

21 A I did.

22 Q You had been told by Captain Graham that Melissa
23 Seppings, in HR, would reach out to you -- we've seen that
24 document?

25 A Correct.

1 Q And you knew that HR was not a part of Flight
2 Operations, you knew that was not part of Flight Operations,
3 correct?

4 A I really didn't know. It made sense to me, if they
5 couldn't investigate themselves on safety issues, that HR is
6 a company department, it made sense to me that they would
7 have a Safety Division in an airline.

8 Q Well, Captain Graham didn't say that Flight
9 Operations couldn't investigate itself on safety issues, did
10 he?

11 A He said: "We can't investigate ourselves."

12 Q Right. And that was in a conversation related to
13 your claims of harassment and unequal treatment, correct?

14 A No, sir.

15 Q No?

16 A That was in a conversation that tailed the
17 conversation that we just spent all that time discussing what
18 would be shared at my presentation, based on the safety
19 report.

20 Q Can you turn back to Respondent's 26, RX-26?

21 A Yes.

22 Q And I'd refer you back to your own note in the
23 middle of the page. You write:

24 "This is when he said he wanted to
25 meet with the HR safety inspector, and

1 this is a directive of the Legal
2 Department, because Flight Operations
3 could not investigate themselves."

4 That's what you wrote, correct?

5 A Correct.

6 Q Okay. And in the subsequent e-mail that you wrote
7 on February 26th, you asked:

8 "Has the date and time been confirmed for the
9 meeting on the 30th? And has the guest
10 list been confirmed? In addition, I have
11 not heard from Melissa or anyone in HR."

12 That's what you wrote, correct?

13 A Correct.

14 Q Did you fly in your capacity as a first officer,
15 between March 9th and March 22nd, 2016?

16 A Yes.

17 Q Where did you fly?

18 A Oh, could I fly? I thought you said could I fly.

19 Q No, did you?

20 A Not as a pilot, but I accessed an aircraft as a
21 passenger.

22 Q Right. I'm only asking as a pilot, not as a
23 passenger?

24 A I was invited to the flight deck.

25 Q You attended a conference during that period of

1 time?

2 A Yeah.

3 Q And you told Ms. Nabors that you were attending
4 that conference, she knew that, right?

5 A She did.

6 Q Okay. Do you know if Delta took any further action
7 reviewing the Safety Culture issues that you had raised in
8 your January 28th report?

9 A Do I know now?

10 Q Well, that's fair. Do you know now?

11 A Yes.

12 Q Okay. What do you know that Delta did?

13 A Actually, I knew when I was pulled. I started
14 watching the pilot -- the "Sorbetes" (phonetic) came out,
15 which were clearly culture surveys on Reporting Culture,
16 Flight Ops Management type stuff. And so there was not only
17 that one that I had e-mailed Mr. Bastian about, but I believe
18 there were two more after that. At the union meeting, the
19 chief pilot -- now who had never done this before -- came in
20 and said: "Hey guys, you know I'm here for you, come see me
21 if you need anything." And I received messages from the
22 Training Department that -- hey, it looks like they're making
23 changes in here. So, I started hearing stuff was going on
24 within the company, while I was out.

25 Q Do you know what the AWAS system is at Delta?

1 A The AWAS?

2 Q Yeah.

3 A What's --

4 Q Do you know what the acronym is? I always get my
5 acronyms wrong. Oh, sorry. Do you know what the ASAP system
6 is at Delta?

7 A Yes.

8 Q Way too many acronyms.

9 JUDGE MORRIS: I'm thinking the Area Wide
10 Augmentation System. I was going to say, okay --

11 MR. ROSENSTEIN: I should have known there would be
12 something that was that, and that you would know it, but --

13 JUDGE MORRIS: So, ASAP, okay.

14 MR. ROSENSTEIN: ASAP is the question, though.

15 BY MR. ROSENSTEIN:

16 Q Do you know what that is?

17 A Yes.

18 Q Have you ever utilized that system?

19 A Yes.

20 Q When is the last time you ever utilized that?

21 MR. SEHAM: I'm going to object. These are
22 designed to be anonymous and de-identified. So, I would say
23 that Delta is now violating its own Safety Program, by asking
24 these questions.

25 MR. ROSENSTEIN: I'll tell you what -- I'll tell

1 you what -- I will rephrase the question. I appreciate,
2 actually, the point, because that's -- I'll ask a more
3 thoughtful question. I won't ask you any questions about
4 what you talked -- what you engaged in it for or what you
5 did.

6 BY MR. ROSENSTEIN:

7 Q You've used it, though, correct?

8 A Yes.

9 Q And have you always used it anonymously?

10 A Well, it is an anonymous program, it's
11 de-identified.

12 Q Right. Have you ever identified yourself as
13 somebody who had an issue that you wanted addressed through a
14 Delta program, other than the communications that we're
15 talking about in this case?

16 A What do you mean at Delta? I don't understand what
17 you're talking about, "Delta program"?

18 Q Well, had you used any internal programs at Delta
19 to identify any safety concerns that you might have as a
20 Delta pilot, other than the ASAP program that you've
21 described?

22 A Other than direct e-mails to people I thought it
23 would be appropriate.

24 Q Okay. And have all of the direct e-mails that you
25 utilized for such purposes, been produced in this case?

1 A I would imagine so.

2 Q Describe your understanding of how the ASAP system
3 operates at Delta?

4 A It operates the same everywhere.

5 Q Okay.

6 A You put in your -- and you actually do put in your
7 name and your number. If they want to go back and find you,
8 they can find out who is reporting it. So, while it's
9 anonymous, it's not really anonymous. But you have to go in
10 and put in your flight, you put in your name, your
11 information, your contact information, so they can send it
12 back to you. And then specific flight, phase of flight, what
13 transpired. Not only that, what you think what happened, and
14 then how you think that you can change it or make it better.
15 You can give comments, you can give proactive comments to
16 it.

17 Q And do you know what the FOCUS program is at Delta?

18 A FOQA data.

19 Q What is that?

20 A FOQA data is the data that the company can see,
21 that the aircraft's actual performance and what it's doing
22 for the flight.

23 Q And do you know whether Delta engages with ALPA on
24 safety issues on a regular basis, if you know?

25 A Yeah, we have a Safety Committee at ALPA, yes. But

1 now much they engage, I have no knowledge.

2 Q Take a look at RX-101 -- sorry, I think you'll
3 probably have to switch binders.

4 JUDGE MORRIS: While we're doing that, am I going
5 to be seeing the -- if you think it's relevant -- am I going
6 to see the MOU dealing with the ASAP program?

7 MR. ROSENSTEIN: You might see that from one of our
8 witnesses. But -- no, I don't think so, Your Honor. I don't
9 think that's been identified.

10 JUDGE MORRIS: Do you want me to take official
11 notice? I'm intimately familiar with FOQA, VDRP, ASRP, ASAP
12 and the various self-disclosure programs, and how they're
13 implemented.

14 MR. ROSENSTEIN: Yeah. We will -- yeah -- I think
15 that can truncate some testimony, your knowledge.

16 JUDGE MORRIS: Okay.

17 MR. ROSENSTEIN: Thank you.

18 JUDGE MORRIS: I know about the de-identifying, the
19 ERC, the Big Five, all that stuff.

20 BY MR. ROSENSTEIN:

21 Q Do you know -- have you ever seen this document
22 before?

23 A Just in discovery.

24 Q Just in this, as part of this case?

25 A Correct.

1 Q Got it. You'd agree with me that this indicates --
2 on page RX-101-004, that Delta engaged PRISM to conduct an
3 independent health assessment of the organizational Safety
4 Culture, in or about July of 2016, correct?

5 A Yes, they did.

6 Q Okay. And do you know whether or not this
7 engagement was, at least in part, as a result of your report
8 on Safety Culture?

9 A I know definitively it was.

10 Q You do know definitively it was, or you don't know?

11 A Yes, yes.

12 Q Oh, you do know. How do you know that
13 definitively?

14 A Because at Captain Dickson's testimony -- excuse
15 me, his testimony -- his deposition, he stated that
16 everything -- and I say "everything" -- "everything" in my
17 safety report was FAA requirement, that it was brought in
18 good faith and that Delta -- that my report was a catalyst
19 for change at Delta Air Lines, and they employed an outside
20 safety auditor, who confirmed much of what I wrote.

21 Q You'd agree that that suggests that your report was
22 taken seriously by Delta, correct?

23 A Correct.

24 Q And you'd agree that Delta made some changes to its
25 training program, also in response to the issues that you

1 raised, correct?

2 A I'm not sure on the training program.

3 Q Do you think that Delta made any changes as a
4 result of your complaint or your report -- excuse me?

5 A I believe that this audit recommended it. I
6 believe Steve Dickson said that they were taking it -- we're
7 going to take it seriously and they would make change.

8 Q Do you know whether Delta internally identified
9 that it was taking action as a result of issues that you had
10 raised personally?

11 A Ah --

12 Q Do you know if Delta indicated internally to other
13 people at Delta, that they had made changes to their systems,
14 at least in part as a result of issues that you had raised?

15 A Yes.

16 Q Okay. Take a look at Complainant's 4, and also
17 keep handy Respondent's 138, at the same time?

18 MR. SEHAM: Did you say Respondent's 138?

19 MR. ROSENSTEIN: It's CX-4, but also keep RX-138
20 handy.

21 MR. SEHAM: Okay.

22 MR. ROSENSTEIN: They kind of work together, as the
23 Tribunal has pointed out.

24 BY MR. ROSENSTEIN:

25 Q I think we've had some testimony that you received

1 Complainant's 4 from the FAA, correct?

2 A That I received what from the FAA?

3 Q That you received this document from the FAA,
4 correct?

5 A Correct.

6 Q Okay. And you were the person --

7 A Let me take that back.

8 Q Sorry.

9 A I didn't receive this from the FAA. I received
10 this from Delta during the discovery. My response from the
11 FAA was I had put in a Freedom of Information Act, just to
12 see what transpired.

13 Q Well, are you looking at Complainant's 4?

14 A Thirty-eight?

15 Q No. Complainant's CX-4. Sorry.

16 A Right now I have open RX-101 --

17 Q You don't need RX-101 anymore.

18 A -- RX-138 open. Okay.

19 Q You can close RX-101.

20 A And you want CX what?

21 Q You can just have open CX-4, and you might want to
22 have RX-138 handy, because they're going to be working
23 together.

24 A Okay.

25 Q So, now my question is only about CX-4?

1 A Yes, that was what ai received.

2 Q Okay. By the way, what's "Tanner and Associates"?

3 A That was my first law firm who actually file the
4 AIR-21.

5 Q Oh, okay. But this document was not part of the
6 AIR-21 case, is that right -- or was it -- do you know -- let
7 me ask you another general question about it. Why -- do you
8 have any idea why this was sent to you?

9 A Why it was sent to me?

10 Q Yeah.

11 A I don't remember if I was the one that requested it
12 or he did it on my behalf, or he told me how to do it, I
13 don't know.

14 Q Well, why --

15 A If it was sent to me, it was because I had to have
16 requested it.

17 Q Do you have an understanding as to why Vincent
18 Murray, at the FAA, sent you an e-mail, a letter that said
19 that:

20 "FAA's Flight Standards Service has
21 completed their investigation of your air
22 carrier safety allegations in Case
23 EWB1637."

24 A Yeah. I was thinking this was my FOIA request.
25 That was two different things, because they said they

1 couldn't tell me, because they were under investigation.

2 Yeah, why did they send that to me?

3 Q Yes.

4 A I don't know. We should ask them, because I don't
5 know.

6 Q Had you raised allegations in a case with the FAA?

7 A No, never. This was a result of my AIR-21.

8 Q Had you asked for an investigation of an order
9 related to air carrier safety, some time prior to September
10 8th, 2016?

11 A No.

12 Q Okay. Had you filed a complaint separate and apart
13 from allegations of discrimination with the FAA, prior to
14 September 8th, 2016?

15 A No. I only filed an AIR-21.

16 Q Okay. Do you know whether the AIR-21 was referred
17 to the FAA?

18 A The AIR-21 is a joint OSHA/FAA requirement. OSHA
19 takes their part, and two years to do it. FAA took their
20 part, and in this case only had to weeks to investigate.

21 Q Were you ever interviewed by anybody from the FAA,
22 as a result of your filing?

23 A Yes, I was. Yes, I was.

24 Q And who interviewed you?

25 A Actually, I spoke to three individuals -- actually,

1 four individuals.

2 Q Who were they?

3 A The first one was Tom Fisher, who contacted me and
4 told me it ended up on his desk. And then we had a
5 conversation. Do you want me to tell you what our
6 conversation was?

7 Q No.

8 A No?

9 Q Not yet.

10 A Okay. And then I'll have to look at the names in
11 here, because on your 138 -- because I wouldn't have
12 remembered their names until I saw it.

13 Q That's okay. You can refer to 138 to answer the
14 question.

15 A And so yeah, so the -- I forget the name -- I don't
16 see the name.

17 JUDGE MORRIS: While she's doing that, I'm going to
18 take official notice of the MOU between OSHA and the FAA.

19 MR. ROSENSTEIN: Thank you.

20 JUDGE MORRIS: Memorandum of Understanding.

21 THE WITNESS: If you have their names highlighted?

22 MR. ROSENSTEIN: I don't. But if you remember --

23 THE WITNESS: Mr. Ragogna and Moore, yeah, the
24 other one was Moore. And then there was an "Edge" or "Egge,"
25 or something like that.

1 MR. ROSENSTEIN: Okay.

2 BY MR. ROSENSTEIN:

3 Q And the substantiation of a violation of an order,
4 you'd agree with me, is listed on the first page of 138, is
5 that right?

6 A Correct.

7 Q Okay. And that was the: "Failure to account for
8 company provided travel when computing duty day." Is that
9 right?

10 A Correct.

11 Q And if you turn to page 138-003, under:
12 "Investigation Findings," it says:

13 "The Complainant provided a computer
14 printout of a trip where such travel time
15 was allegedly not properly included,
16 therefore, by scheduling a pilot, in
17 August of 2014, to deadhead to home base,
18 then begin a scheduled trip, Delta Air
19 Lines violated 14 CFR 117.11(a) and (b)."
20 It says that, correct?

21 A Correct.

22 Q Okay. And then it says:

23 "This office has initiated
24 administrative action in accordance with
25 FAA compliance philosophy."

1 And it lists what that is. And then it says:

2 "Respondent" -- and then there's a
3 redacted name there -- "declare that
4 Delta no longer schedules duty time
5 involving deadhead transportation,
6 therefore, this office will schedule
7 periodic follow-up, not notice
8 inspections of scheduling records to
9 verify further that such violations no
10 longer occur."

11 That's what it says, correct?

12 A Correct.

13 Q So, by the time it was 2016, the issue that the FAA
14 found to have been a violation had been self-corrected by
15 Delta, is that right?

16 MR. SEHAM: Objection, the document speaks for
17 itself and it's subject to interpretation.

18 JUDGE MORRIS: The Tribunal will also take official
19 notice of FAA Order 2150.3(b). I forget the chapter number.

20 MR. ROSENSTEIN: Thank you.

21 BY MR. ROSENSTEIN:

22 Q And you'd agree with me that the other allegations,
23 2, 3 and 4, were found by the FAA to be unsubstantiated,
24 correct?

25 A This document states they're unsubstantiated.

1 Q Unsubstantiated, correct?

2 A Unsubstantiated.

3 Q And 4 specifically involves -- regards allegations
4 of pressure for pilots to not call in fatigued, correct?

5 A Correct.

6 Q Okay. Now, you understand that Delta is a party to
7 a contract with ALPA, right?

8 A Correct.

9 Q And you understand that Delta negotiated with ALPA
10 about how to handle concerns about pilots who are alleged to
11 be unfit to fly for medical reasons, correct?

12 A Correct.

13 Q And you agree that that is covered in Section 15 of
14 the Pilots Working Agreement, correct?

15 A Correct.

16 Q And the pilots -- I don't want to go -- the Pilots
17 Working Agreement is in the exhibits in this case, correct?

18 A Correct.

19 Q You'd agree with me -- and it's actually Joint
20 Exhibit A -- if you want to look -- we might as well identify
21 it. You'd agree with me that Section 15 defines the process
22 by which Delta has to act if it believes that a pilot may be
23 unfit for medical reasons, correct?

24 A It identifies the process they should follow.

25 Q Just "should," or "must"?

1 A Well, they don't follow many things in our contract
2 and we grieve them all the time.

3 Q Fair enough. So, let me --

4 MR. SEHAM: I'm going to object. He's asking for
5 interpretation of a Collective Bargaining Agreement that's
6 inherent --

7 MR. ROSENSTEIN: Let me ask my next question --

8 JUDGE MORRIS: Hold on, let him --

9 MR. ROSENSTEIN: -- I think that's fair -- the
10 answer, not the objection.

11 BY MR. ROSENSTEIN:

12 Q Your position is that if Delta did not follow the
13 process defined in Section 15 of the Collective Bargaining
14 Agreement, in acting when it believes a pilot may be unfit
15 for medical reasons, it would be in violation of the
16 contract, correct?

17 MR. SEHAM: Objection, it calls for legal
18 interpretation.

19 JUDGE MORRIS: Overruled.

20 You may answer.

21 THE WITNESS: Okay. Can you repeat the question,
22 please?

23 MR. ROSENSTEIN: Sure. Maybe.

24 BY MR. ROSENSTEIN:

25 Q You'd agree that if Delta was to ignore the process

1 defined in Section 15, when it believed that a pilot may be
2 unfit for medical reasons, it would be violating the
3 contract?

4 A Yeah, the contract really only states the process
5 once you're into it. But yes, if the company violates
6 anything in our contract, it would be a violation of the
7 contract. That would be a fair statement, yes.

8 Q Okay.

9 JUDGE MORRIS: You can ask her questions about
10 her understanding, but the Tribunal will make its own
11 decision about what the law and the process is consistent
12 with that.

13 MR. ROSENSTEIN: Understood.

14 BY MR. ROSENSTEIN:

15 Q You'd agree that Section 15 deals with items like
16 pilot pay and rules about how the Section 15 process is to
17 work, right?

18 A Can we look it up?

19 Q You can look at it.

20 A Yeah, where is it?

21 Q It's A, JX-AA.

22 A Okay. So, your question was?

23 Q Just that Section 15 deals with pay, pilot pay, and
24 lays out rules on how the Section 15 process is to proceed?

25 A Correct.

1 Q Okay.

2 A I thought you said "K," not "pay," that's why I
3 didn't know what you were talking about.

4 Q No problem.

5 A Okay.

6 Q And you filed a grievance under the PWA, related to
7 your being placed in a Section 15 process, at some point,
8 correct?

9 A Correct.

10 Q And if you turn to RX-79? Are you there?

11 A I'm there.

12 Q Is that the initial grievance that you filed?

13 A It appears so.

14 Q Okay. And what was the subject matter of that
15 grievance?

16 A That they placed me into Section 15, I believe for
17 retaliation versus an actual medical concern.

18 Q Okay. And you eventually dropped that grievance,
19 is that right?

20 A Yes.

21 Q Were you represented by counsel when you filed that
22 grievance?

23 A Represented by counsel?

24 Q Did you have a lawyer?

25 A Oh. I have a lawyer for the AIR-21, but not for

1 the grievance. Then later I told ALPA that I was going to
2 have Mr. Seham represent me.

3 Q Okay.

4 A But the initial filing, I just filed it.

5 Q Okay. And the basis of that grievance is that you
6 were sent into Section 15, in retaliation for reporting
7 safety, correct?

8 A The nature of the grievance is that they were --
9 the Section 15 says you're only supposed to send a pilot in
10 if you have concern for their medical, you know, physical or
11 medical, and yes, they were doing it for retaliation.

12 Q Okay. You canceled the grievance, right, you
13 dropped it?

14 A I did.

15 Q You didn't believe that the labor arbitration
16 process would be fair to you, is that right?

17 A That's correct.

18 Q You thought that Delta had influence into ALPA's
19 selection of the arbitrator and that you would not be able to
20 receive a fair arbitration process, correct?

21 A I know they did.

22 Q And you believed that Delta and ALPA, jointly, were
23 violating OSHA's requirement for this to be carried through
24 the arbitration process, correct?

25 A Restate that question?

1 Q Sure. You believed that Delta and ALPA, jointly,
2 were violating OSHA's requirement for this to be carried
3 through the arbitration process?

4 A No.

5 Q So, in your deposition I asked you: "Why did you
6 cancel your grievance?" And you said:

7 "Clearly, Delta had influence into ALPA's
8 selection of the arbitrator and I was not
9 going to be able to receive a fair
10 arbitration process. And Delta and ALPA,
11 jointly, were violating OSHA's
12 requirement for this to be carried
13 through the arbitration process."

14 Was that not what you meant?

15 MR. SEHAM: I'm going to object, because I think
16 the proper procedure is to show the witness the portion of
17 the transcript that's being read from.

18 THE WITNESS: May --

19 MR. SEHAM: There's a pending objection.

20 JUDGE MORRIS: Show her the --

21 MR. ROSENSTEIN: Sure.

22 MR. BISBEE: Do you want a copy, also, Your Honor?

23 JUDGE MORRIS: Yes, please.

24 MR. BISBEE: Do you have one, Mr. Seham?

25 MR. SEHAM: No, I don't.

1 JUDGE MORRIS: This would be -- what's the next
2 Respondent's Exhibit in order?

3 MR. ROSENSTEIN: 139.

4 MR. BISBEE: 139, I believe.

5 MR. ROSENSTEIN: Yeah.

6 JUDGE MORRIS: All right. This is offered as 139
7 for identification, only.

8 (Respondent Exhibit No.
9 139 was marked for
10 identification.)

11 MR. SEHAM: Do you have a copy for me?

12 MR. ROSENSTEIN: Yes, we're just pulling it.

13 MR. SEHAM: Thanks.

14 MR. ROSENSTEIN: I assume you had one, so I didn't
15 pull three originally.

16 MR. SEHAM: No, no, I wasn't going to use it.
17 Thank you.

18 MR. ROSENSTEIN: No problem.

19 MR. SEHAM: What page?

20 MR. ROSENSTEIN: Fifty-seven, line 20 is what I
21 read. Actually, I started with my question, which is
22 starting on line 11.

23 THE WITNESS: And yes, I said that. May I explain?

24 BY MR. ROSENSTEIN:

25 Q Well, was that accurate when you said it during

1 your deposition?

2 A Yes, it was.

3 Q Okay. And has anything changed since then?

4 A Yes, it has.

5 Q Something has changed that makes what you answered
6 on November 12th, 2018, different than it is now?

7 A Yes.

8 Q What is that? I'll give you --

9 A Well, because I was thinking that OSHA and ALPA had
10 this joint responsibility -- mean Delta and ALPA had the
11 responsibility, because at the time that OSHA told Delta that
12 they wanted to -- if they were going to pursue this, that
13 there were certain requirements that I was -- and one most
14 important -- would I be -- the ability to select the
15 arbitrator. And so -- but my union wouldn't let me do that.

16 They actually selected somebody that Delta's other legal
17 counsel, Jeff Wallace, said he didn't want and, also, you
18 guys selected for the mediator. So, anyway, I didn't want
19 this, so I kept going to my union and saying, no, this is
20 what the OSHA rules -- and they would not follow through.

21 Subsequently, since that time, I spoke to Rachel
22 Samuda, and she said we, at ALPA, don't have any legal
23 responsibility to follow OSHA's rules, only Delta did. And I
24 thought about it, I thought, you're right, Delta had the
25 legal responsibility to follow OSHA's rule, you had the legal

1 responsibility to represent me and take it back to the table
2 to them, and tell them you couldn't.

3 So, yeah, when I said this, I more perceived it was
4 a joint responsibility, but technically Rachel is correct.
5 She didn't have -- ALPA did not have the legal obligation to
6 OSHA, only Delta did. But they had the obligation to me, to
7 represent me the best they could, which did not happen, and
8 that's why I dropped it.

9 Q So, you had said, in your deposition, that you were
10 considering, at least, a claim against ALPA. Did you ever
11 file that claim?

12 A No. I wasn't -- no, I did not file a claim against
13 ALPA.

14 Q And you testified that you had four years to file
15 such a claim. Have you decided that you're not going to file
16 a claim --

17 A No, the --

18 Q -- or do you still believe you have claims against
19 ALPA?

20 A The four years -- there's no -- I don't know what
21 claim you're talking that has a four-year statute of
22 limitations. I think to file for a complaint against an
23 attorney with the Bar, I believe was the four-year limit.

24 Q Well, in your deposition, I asked you, on page 58:

25 "Question: Have you brought any kind

1 of action against ALPA, as a result of
2 what you just described?

3 "Answer: I requested an investigation
4 into the attorneys for these and numerous
5 other issues.

6 "Question: The ALPA attorneys?

7 "Answer: ALPA attorneys, correct.

8 "Question: What are their names?

9 "Answer: Rachel Samuda and Gordon
10 Rose.

11 "Question: Anything else besides what
12 you just told me?

13 "Answer: Why I did that?

14 "Question: No. Anything else that
15 you have done to bring any action against
16 ALPA?

17 "Answer: Yeah. I actually called the
18 Bar in Georgia to find out, and did a
19 little research on ethics of attorneys
20 and what the requirements are, and they
21 have, down in Atlanta, I forget the name
22 of the committee, but it's a group that
23 tries to mediate and solve it before it
24 goes to writing a letter to the Bar. The
25 woman returned my phone call, we spoke

1 about 10 minutes. She said: 'You don't
2 have to go through our group, I'm sending
3 you the paperwork, file it.' And she
4 told me that I have four years to do it,
5 so I haven't taken the time to do that,
6 yet, but --

7 "Question: Anything else against
8 ALPA, besides what you've already told
9 me? I just want to make sure there is
10 nothing else.

11 "Answer: I can't recall."

12 Is that testimony still true?

13 A Absolutely.

14 Q Okay.

15 A Yes.

16 Q You did drop the grievance that you had against
17 Delta related to being placed in Section 15 in retaliation
18 for reporting safety, because you did not believe you were
19 being fairly represented, correct?

20 A Correct.

21 Q Okay.

22 A And there's more to that, too.

23 JUDGE MORRIS: How is all this stuff relevant,
24 counsel?

25 MR. SEHAM: Yeah.

1 MR. ROSENSTEIN: I'll go quickly through it.

2 MR. SEHAM: We're going to have --

3 MR. ROSENSTEIN: I think it's relevant, but I will
4 move fast through it.

5 JUDGE MORRIS: Well, give me an offer of proof as
6 to how it's relevant, if you want to.

7 MR. ROSENSTEIN: I think, with respect, I think we
8 had a motion that we filed before the hearing.

9 JUDGE MORRIS: Are you talking about the Railway
10 Labor Act issue?

11 MR. ROSENSTEIN: Right.

12 JUDGE MORRIS: Okay.

13 MR. ROSENSTEIN: Which was denied. And I believe
14 we need to create a record, at least, as to the interactions
15 between the grievance process and the process here, to at
16 least respond to some of the rationales for that motion.
17 Respectfully.

18 MR. SEHAM: Just for housekeeping purposes -- I'll
19 defer to the Tribunal. I'm not going to be passionate, but
20 we have to now plan for redirect to last the greater part of
21 the remainder of the day.

22 JUDGE MORRIS: Okay. So be it.

23 Go ahead.

24 MR. ROSENSTEIN: Okay.

25 BY MR. ROSENSTEIN:

1 Q You have filed additional grievances, as well,
2 against Delta, after you withdrew the first grievance,
3 correct?

4 A Yes.

5 Q Take a look at RX-122?

6 JUDGE MORRIS: That would be Volume 7.

7 THE WITNESS: Okay. I'm there.

8 BY MR. ROSENSTEIN:

9 Q Is that another grievance that you filed against
10 the Delta?

11 A Absolutely.

12 Q Okay. And what was the basis of the grievance
13 17-14?

14 A Okay. I'm going to have to read it, because I
15 filed multiple grievance, and so I don't know which one this
16 was. So, just standby.

17 Q Okay.

18 JUDGE MORRIS: RX-120, correct?

19 THE WITNESS: Is it 120?

20 MR. ROSENSTEIN: No, it's --

21 THE WITNESS: 122.

22 MR. ROSENSTEIN: -- 122.

23 JUDGE MORRIS: I'm sorry.

24 MR. SEHAM: I don't want to be accused of
25 interfering, but maybe it would help. We stipulate that all

1 these are documents that were initiated by either Ms. Petitt
2 or by ALPA at the request of Ms. Petitt. The documents speak
3 for themselves. Let's make it an objection.

4 MR. ROSENSTEIN: I appreciate that. I mean, again,
5 I'm all in favor of moving things as quickly as we possibly
6 can.

7 BY MR. ROSENSTEIN:

8 Q So, if that is being stipulated to, I would ask the
9 witness just to identify -- in addition to RX-122 -- RX-1227
10 and 129, please?

11 A Yes.

12 Q Those are grievances that you filed?

13 A On 127 and -- yes.

14 Q In grievance RX-17-14, which is 122?

15 A Okay.

16 Q You make the claim, as I read it, that there was a
17 violation of the contract because Delta provided non-medical
18 related documents to its CME during the Section 15 process.
19 Am I understanding that claim accurately?

20 A Correct.

21 Q And is that a claim that you're also making in this
22 case?

23 A Am I making a claim they --

24 Q Yes.

25 A I'd have to go back and look at the AIR-21 filing,

1 I don't remember. It's all part of it. It's all part of it.

2 It was -- yes, because Delta forced -- it was using Dr.
3 Altman as an agent to do something. They were giving him
4 non-medical safety training, things that had nothing to do
5 with mental health, to the doctor.

6 Q Is it your assertion that the act of giving Dr.
7 Altman non-medical related documents, in conjunction with his
8 CME efforts, was a violation of AIR-21?

9 MR. SEHAM: Again, we're --

10 THE WITNESS: No.

11 MR. SEHAM: -- I'm going to object and move to
12 strike that answer. We're, again, asking for legal
13 interpretation. The grievances say what they say. And based
14 on what they say, Delta can make the same arguments they've
15 made before that, somehow, a parallel course is an election
16 of remedies that precludes this claim, or they can say
17 there's an active dispute in contract interpretation, without
18 resolution, of which the Tribunal cannot make its decision.
19 But cross-examining this witness on what these documents say
20 or how the Collective Bargaining Agreement should be
21 interpreted, is irrelevant, because, (a) the documents speak
22 for themselves, (b) the Collective Bargaining Agreement
23 speaks for itself, (c) they're asking for legal
24 interpretation from a lay person, (d) again, the company has
25 never identified an active dispute between the parties, in

1 terms of interpreting any contract ambiguity on which this
2 case turns. So, let me add a relevancy issue here, as well.

3 MR. ROSENSTEIN: In fairness, the question had
4 nothing to do with the grievance or the Collective Bargaining
5 Agreement, at all. My question -- and you can hear it on the
6 tape, but it had nothing to do with that.

7 JUDGE MORRIS: What was the question?

8 MR. ROSENSTEIN: The question was whether in this
9 case she is asserting that the presentation by Delta to Dr.
10 Altman of non-medical related documents was a violation of
11 AIR-21? And she answered: "No," which -- and then there was
12 an objection and move to strike. But I wasn't asking her a
13 question about the Collective Bargaining Agreement, or asking
14 for her legal conclusion. It's her claim, she should know
15 what she's claiming, and we should know what she's claiming,
16 from her.

17 JUDGE MORRIS: Well, it's in the complaint.

18 MR. ROSENSTEIN: Right, at some level, but
19 sometimes the interpretation of what -- the complaint is not
20 required to provide a fulsome description of everything that
21 is being asserted. You can claim I've been retaliated
22 against, that's very broad. I think I'm entitled to drill
23 down a little bit into understanding what she thinks is the
24 retaliation, so that we can respond.

25 JUDGE MORRIS: That's called a "Bill of

1 Particulars."

2 MR. ROSENSTEIN: It can be a Bill of Particulars,
3 but it's also in the discovery process. But there's
4 certainly, in my view, nothing improper about asking a
5 witness on the stand questions that you could have also asked
6 in a Bill of Particulars.

7 MR. SEHAM: My modified objection is these are
8 vague and it's not only asking for legal interpretation, but
9 they're vague and meaningless questions. When you ask
10 someone is providing non-medical information in an AIR-21,
11 AIR-21 is a page and half and it doesn't figure there.
12 What's relevant is evidence of hostility or deviation from
13 normal practices. But how can you ask a lay witness?

14 JUDGE MORRIS: Yeah, I mean you've got the exhibits
15 in for preservation, you've made the motion, I've issued an
16 order, you got the documents in here to preserve. If you
17 still think that you've got a Railway Labor Act issue, on
18 appeal, I mean, you know, it's one of those "Go for it."

19 MR. ROSENSTEIN: I understand. And I hope you
20 don't -- I know that you don't take offense, because you've
21 been doing this long enough, but I'm not asking the question
22 -- the question I asked has nothing to do with RLA
23 preemption or the arbitration, or the grievance. It's not --
24 that's not why I asked the question, and it's not what the
25 question is about, as I said before. The question is about

1 this case and understanding her complaint in this case. It
2 happened to follow on some questions that were presented for
3 the reasons that you just described, but I've moved past
4 that, thanks to the stipulation and the order of the Court.
5 So, that's not why the question is being asked, at all. And
6 so I don't think we've heard an objection that actually
7 responds to the question that was asked and answered.

8 MR. SEHAM: That was my last objection, was you're
9 asking a lay person to interpret the AIR-21, and what AIR-21
10 prohibits and doesn't prohibit.

11 JUDGE MORRIS: Well, this is what I'm going to do.
12 I'm going to allow it, but then I don't want to hear in the
13 brief about -- I wasn't on notice and, you know, they waived
14 the issue because I didn't identify it in the complaint.

15 MR. ROSENSTEIN: Yeah, I mean you may hear things
16 in the brief you might not agree with us, but we're not, you
17 know --

18 JUDGE MORRIS: I got that, but --

19 MR. BISBEE: Just so I understand, Your Honor, is
20 your position on this objection that now they can say
21 anything they want, beyond the scope of the complaint, in the
22 post-hearing briefing, because of this one particular
23 question?

24 JUDGE MORRIS: No, I'm not saying that. I'm saying
25 if you -- what I don't want is for you to create an opening

1 and then argue, well, wait a minute, we didn't know about
2 this and, therefore, I shouldn't consider the answer. I mean
3 once the cat is out of the bag, the cat is out of the bag.

4 MR. BISBEE: Yeah.

5 MR. SEHAM: What we've pled is what we've pled.
6 And whether she remembers a paragraph, whether I drafted it
7 as opposed to a lay person, these are just not relevant
8 questions.

9 MR. ROSENSTEIN: You know, I hear all of the
10 conversation, I get it. We're in front of Your Honor, in
11 this Tribunal, and I've been doing this long enough to know
12 that if you think something is important, you're going to
13 listen to it, and if you think it's not, then probably we
14 should move on. So, I will withdraw the question and we will
15 move on, and I'll ask a different question, if that's
16 acceptable?

17 JUDGE MORRIS: Fair enough.

18 BY MR. ROSENSTEIN:

19 Q We had been talking earlier, before the lunch
20 break, about your interview with Ms. Nabors. I'm sure you
21 remember that, right?

22 A (No verbal response.)

23 Q And you testified that you think that Kelley Nabors
24 described what happened incorrectly, inaccurately, correct?

25 A Correct.

1 Q And you heard Dr. Altman testify yesterday,
2 correct?

3 A Correct.

4 Q And am I correct that your view is that Dr. Altman
5 also got it wrong?

6 MR. SEHAM: Objection to form.

7 JUDGE MORRIS: Overruled.

8 THE WITNESS: Yes. May I explain?

9 MR. ROSENSTEIN: Eventually, but not just yet.

10 BY MR. ROSENSTEIN:

11 Q You disagree with his conclusions, correct?

12 A The conclusion that a woman couldn't possibly go to
13 school and have children, so she must be manic --

14 Q Not that particular conclusion --

15 A -- yes, I disagree with that.

16 Q Sorry to interrupt you. You disagree with the
17 conclusion that he reached that you suffered from bipolar,
18 correct?

19 A Correct.

20 Q And you disagree with the interim conclusions that
21 he reached, that led him to that decision, correct?

22 A Interim conclusions? Do you mean I disagree with
23 his analysis in his report?

24 Q I'm fine changing the question to that. You
25 disagree with the analysis in his report, correct?

1 A Yes.

2 Q You disagree with his methodology that he used,
3 correct?

4 A Which part of the methodology?

5 Q You disagree that he did not interview Kelley
6 Nabors, for example?

7 A Definitely.

8 Q You disagree that he looked at non-medical
9 information, for example?

10 A That's out of context. He could have looked at
11 non-medical information that would have been appropriate to a
12 Mental Health Evaluation, but meeting with the regional
13 director and an attorney on RVSM air space and communications
14 with the CEO, yeah, I agree, that was inappropriate.

15 Q You ultimately selected doctors from the Mayo
16 Clinic to be the PME, correct?

17 A Correct.

18 Q And you first reached out to a doctor named Dr.
19 Altshule (sic), is that right?

20 A Altschuler, yes.

21 Q Altschuler?

22 A Altschuler.

23 Q Altschuler.

24 JUDGE MORRIS: Do we have as spelling of that in
25 the file?

1 MR. ROSENSTEIN: Yeah. It's A-l-t-s-c-h-u-l-e-r.

2 Is that right?

3 THE WITNESS: I don't think there's an "s" in
4 there. A-l-t-c-h- I forget. It's in the Mayo Clinic's --

5 MR. ROSENSTEIN: Okay. It's in the record, though.

6 JUDGE MORRIS: That's my biggest concern, so the
7 Court Reporter can get it.

8 MR. ROSENSTEIN: Thank you.

9 BY MR. ROSENSTEIN:

10 Q And you were interviewed personally by a number of
11 doctors at the Mayo Clinic, correct?

12 A Correct.

13 Q And their report is in evidence in this case, as
14 far as you know, correct?

15 A They've been what?

16 Q Their report or conclusions have been presented to
17 this Tribunal, correct?

18 A Correct.

19 Q And you'd agree with me that the doctors from the
20 Mayo Clinic did not interview Ms. Nabors either, correct?

21 A No. They reviewed Dr. Altman's report.

22 Q Right. They did not interview Captain Graham,
23 correct?

24 A No.

25 Q They didn't interview Dr. Altman, they had his

1 report, correct?

2 A Correct.

3 Q They didn't call him to discuss his interpretations
4 of things?

5 A Well, I'm sitting here saying no, but actually I
6 don't know. You know what, on every one of those questions,
7 I was just assuming. I have no idea if they did or not. I
8 have absolutely no idea.

9 Q You'd agree -- fair enough. There's nothing in
10 their report that suggests that any of those doctors
11 contacted anyone at Delta Air Lines, correct?

12 A Correct.

13 Q They reached their determination based on their
14 interview with you, correct?

15 A No.

16 Q They also spoke to members of your family, is that
17 right?

18 A Are you asking me what they reached their
19 conclusions based on?

20 Q What their methodology was. They spoke to you,
21 that's one thing they did, correct?

22 A They did speak to me.

23 Q And did they speak to your husband?

24 A No.

25 Q Did they speak --

1 A Oh no -- I take that back -- yes, they did, yes
2 they did.

3 Q Did they speak to your -- did your husband visit
4 them in person or did they just have a phone call, to your
5 knowledge?

6 A A phone call.

7 Q Okay. And do you know how long that phone call
8 was?

9 A It was very short, 10, 15 minutes.

10 Q Did they speak to your mother --

11 A No

12 Q -- or other family members, your children?

13 A No.

14 Q Any other pilots, that you know of, that they spoke
15 to?

16 A Not that I know of.

17 Q Did they ask for any information from Delta, to
18 your knowledge?

19 A They didn't need to, they had everything Delta gave
20 Dr. Altman.

21 Q Well, but you don't think that what Delta gave Dr.
22 Altman was appropriate for the consideration of whether you
23 were medically fit, isn't that right?

24 A Yeah, there are definitely documents they gave
25 them, yeah, correct.

1 Q But you agree that the Mayo Clinic doctors didn't
2 reach out for any additional information, correct?

3 A Correct.

4 Q Okay. And eventually, after some period, Dr.
5 Altman and the Mayo Clinic doctors selected Dr. Huff to be
6 the Neutral Medical Examiner, is that right?

7 A Correct.

8 Q And you didn't know Dr. Huff prior, did you?

9 A No.

10 Q You didn't personally have anything to do with his
11 selection, correct?

12 A No.

13 Q And did you visit with Dr. Huff?

14 A I did.

15 Q How long was that?

16 A I don't know, it's probably in his bill. I can't
17 remember. The first time -- both times were each a day, for
18 a few hours each day.

19 Q So, all in a few hours?

20 A No. We'd have to look at the records, I don't
21 remember how long I was there in his office.

22 Q Was it more than a half day each time you met with
23 him?

24 A I really don't know.

25 Q You just don't know?

1 A No, because I went from West Coast to East Coast
2 and I was very nervous, because that was the -- that would be
3 my determination of the end of my career at that point, so it
4 could have been two hours and it felt like 10. So, that's
5 why it's really difficult for me to tell you how long that
6 was. But I know it definitely was not a full day, because it
7 was -- we didn't spend the whole day together.

8 Q Who paid Dr. Huff, by the way?

9 A I did.

10 Q Do you remember how much you paid him?

11 A Well, the first time I believe it was close to
12 \$2,400.00 and some dollars.

13 Q And did you pay him anything more than that?

14 A What do you mean -- the second time?

15 Q If you paid him more for any reason? You paid him
16 \$2,400.00 and then --

17 A Well, I had to, because Dr. Faulkner told him to
18 back and do another more expansive evaluation, and then I
19 paid him again for that one.

20 Q How much was that?

21 A That was \$4,900.00, something, just under
22 \$5,000.00.

23 Q Were you reimbursed for that?

24 A Yes.

25 Q In full?

1 A Pardon?

2 Q In full?

3 A For Dr. Huff's evaluation?

4 Q Yes.

5 A Yes.

6 Q Who reimbursed you?

7 A Delta Air Lines, I believe.

8 Q You're not denying, in this case, that Dr. Altman
9 reached the conclusions he reached, based on his own ideas,
10 right or wrong, correct?

11 MR. SEHAM: Objection.

12 THE WITNESS: Say that one more time?

13 BY MR. ROSENSTEIN:

14 Q You're not --

15 A You're not --

16 Q -- contending here that Dr. Altman was coerced --
17 was being untruthful when he reached the determination that
18 he believed that you suffer from bipolar. You're just saying
19 that you disagree with it, correct --

20 MR. SEHAM: Objection.

21 MR. ROSENSTEIN: -- as did the May Clinic and Dr.
22 Huff?

23 MR. SEHAM: Objection. This is addressed in the
24 pleading complaint, in terms of what the party contends.

25 JUDGE MORRIS: Well, you've still go to prove. So,

1 go ahead, overruled.

2 THE WITNESS: So, that's kind of a double negative,
3 "you're not doing something."

4 MR. ROSENSTEIN: I can do better.

5 THE WITNESS: Are you asking me do I believe he did
6 this with intent to do harm --

7 MR. ROSENSTEIN: You're --

8 THE WITNESS: -- or was he just incompetent -- what
9 are you asking?

10 BY MR. ROSENSTEIN:

11 Q Do you believe that Dr. Altman was incompetent?

12 A I believe -- no, I do not believe he's incompetent.

13 Q Do you believe that Dr. Altman was being untruthful
14 when he reached the decision that he thought that you
15 suffered from bipolar?

16 A For somebody of his experience level and his
17 knowledge, to prepare the report and make the analysis on,
18 let's say, speech pattern, talking fast, without ever knowing
19 what my speech pattern was the day before, the week before,
20 the year before, and never following up on asking -- because
21 I spent 10 hours with executives from the company -- "Do you
22 call Ed - Ed?" Those are the -- or the chain of command,
23 which they've all testified we don't have one, but he
24 believes we do, so therefore I'm lying. Yeah, there were
25 some grave errors.

1 Now, did he --

2 Q Do you remember the question?

3 A -- I --

4 Q Do you remember what the question was?

5 A Do I remember what the question was?

6 Q My question was, to you?

7 A Yeah. Do I believe it was false or he was
8 qualified?

9 Q No, no, that's not the question. The question is,
10 do you believe that Dr. Altman was untruthful when he reached
11 the conclusion that you suffer from bipolar?

12 A That's what I meant when I said "false."

13 Q Okay.

14 A Yeah, I'm sorry, I didn't use your same language.
15 I'm sorry.

16 Q Okay.

17 A Yeah, he was --

18 Q It's kind of a yes or no?

19 A -- yeah, I am perplexed now, after listening to
20 him, watching him. I'm perplexed because he sounded like he
21 was sincere. He almost sounded like he truly believed what
22 he did. So, it's very perplexing for me right now to
23 understand that, because it's a man of that assumed
24 competency, and he's spent so many years evaluating pilots,
25 should know better. So, at this point, I'm really not sure.

1 But the fact the company paid him \$74,000.00, and he made
2 such gross errors, and it's not only my complaint but half
3 dozen others and he is at the Prosecution Board. I believe
4 -- I believe that, yeah, that this was intent to do harm and
5 not an accurate evaluation.

6 JUDGE MORRIS: The Tribunal will disregard any
7 comment about the Prosecution Board. There's been no finding
8 and I will not consider a mere allegation to a medical
9 disciplinary board.

10 BY MR. ROSENSTEIN:

11 Q It's your -- I'm trying to understand that
12 response. Is it your testimony that Dr. Altman had an intent
13 to do harm to you?

14 A I believe Delta paid him for one goal, only. And I
15 don't believe that's only -- well -- may I expand on that,
16 just a little bit?

17 Q You're saying that you believe that Dr. Altman had
18 the intent to harm you, that's your testimony, yes or no?

19 A No, I'm not saying he had intent to harm me.

20 Q Okay. And do you believe that Dr. Altman was
21 being dishonest in his conclusion, as a psychiatrist, that he
22 believed that you suffered from a bipolar disorder and were
23 unfit to fly?

24 A I believe so, yes.

25 Q Okay. And what is the -- and you believe he acted

1 in bad faith in reaching that determination?

2 A Absolutely.

3 Q And what knowledge do you have to support the
4 accusation that Dr. Altman acted in bad faith and was
5 dishonest in reaching the conclusion that he thought you were
6 unfit to fly?

7 A Okay. So, what knowledge do I have?

8 Q Yeah.

9 A First off, when I went through his medical report
10 and looked at all his items and how he analyzed this, there's
11 no way -- I shouldn't say that -- improbable that an
12 individual could have a 34, 40-year manic episode, which he
13 contends has been my entire life -- that's impossible.

14 His inability to assess speech patterns. His
15 paleological thinking -- nothing ever -- nothing really
16 worked. And then, on top of that, when I went and met with
17 the Mayo Clinic doctor, I met Dr. Steinkraus for the first
18 time, and he introduced himself and made a pleasant comment
19 to me, and I said: "Didn't you read Dr. Altman's report?"
20 And his statement was: "We all did and we know the difference
21 between a political corporate action versus a medical
22 diagnosis."

23 I subsequently found, in Dr. Altman's discovery,
24 That he had written the same thing to Dr. Altman, about this
25 being a political corporate action.

1 Then the e-mail from the FAA to my AME saying that
2 -- referring to: "Is Delta being the baddies?" "This is a
3 political timebomb between the Mayo Clinic and Dr. Altman"" -
4 - added credence to that.

5 The fact that on the most recent grievance -- that
6 is what it transpired as we got into the process -- and
7 Delta's over-involvement in an effort to attempt to create a
8 diagnosis that would remove me from duty, was -- this was
9 anything but a neutral assessment. And even after -- even
10 after the -- and then -- and then Delta's not accepting Dr.
11 Gitlow to work with me. You know, if the company wants to
12 hire a forensic psychiatrist and believes them enough, and
13 that forensic psychiatrist says: "But I read a report and I
14 talked -- she's not bipolar," and they say: "Okay, but you
15 can't come to work for us if you're her doctor." So, they
16 dismissed that.

17 Then the Mayo Clinic. Ten people go through Dr.
18 Altman's report. I meet with four. I have tests, take the
19 MMPI, again. They even do blood work to see if there's any
20 medical, you know, issue around. And then all the chain of
21 e-mails. And then, even after all that, I still wasn't
22 allowed to come back, so then Delta violated the contract and
23 gave this whole packet to the FAA. And so the FAA Medical
24 Appeals Board reviewed all this and said, no, she's not
25 bipolar. They still wouldn't let me come back.

1 And then I read all the e-mail chains about Dr.
2 Huff. And Delta, even though the contract says that the
3 Neutral Medical Examiner is only to be selected as a mutual
4 agreement between PME and CME, no else involvement -- found
5 an e-mail from Delta that says -- from Chris Puckett, as a
6 matter of fact -- it says -- Dr. Altman, this is your call,
7 this is your decision, you get to decide if you want Dr. Huff
8 or not. It turns out that Dr. Altman knew Dr. Huff, they
9 were acquaintances, but that did not sway Dr. Huff's
10 decision.

11 And then when he -- ever after all this -- and I
12 was cleared -- they still went back to the table one more
13 time and said -- no, no expense spared -- no expense spared
14 -- we will fly anyone out to see you, anyone you want. And
15 they said -- Dr. Faulkner said: "This will be a shared
16 expense." And I know this, because when I met with Dr. Huff
17 the second time, he actually had me sign a release, because
18 he was very uncomfortable now with this "no-shared expense."

19 And what that meant was, we clearly, on day one, discussed
20 who was going to be responsible for the bill and who was
21 going to pay. And we don't have anything set up in our
22 contract that the company will pay the doctor. Or really
23 ALPA should be doing this, but that's my opinion. So, I told
24 him I'd give him my credit card, but if I was cleared I get
25 reimbursed full, and if I am found to be medically unfit,

1 then they would reimburse me partial, that it would be a
2 shared expense. And I told him that day one. So, the second
3 time around he had me sign a release that I was in no way
4 buying a medical opinion. And I said, absolutely and signed
5 it. And he said: "Okay, let me tell you." And this is what
6 Dr. Faulkner had said, and he said that it would be a shared
7 expense and he's fly anyone out here. He says: "Now, tell me
8 again how this pay works?" And I told him once again.

9 And so yes, after all these things, I absolutely
10 believe that this was an overt act to not only remove me from
11 duty, but this bipolar diagnosis, to remove me from my career
12 and completely discredit me for anything and everything I
13 would ever do aviation wise in the future, or anything else.

14 Q That's the evidence that you believe supports your
15 contention that Dr. Altman acted in bad faith, correct?

16 A Yes.

17 Q Okay. Thank you. By the way, do you agree that it
18 would be sensible for an air carrier to make sure that the
19 Neutral Medical Examiner had sufficient information to make
20 his or her determination, before returning an airman to duty
21 after a diagnosis by the CME of unfitness for duty?

22 A That was a very -- you had a lot of questions in
23 there, so --

24 Q No, just one.

25 A -- it was a compound -- so what was the -- it felt

1 like a compounded question. Did I feel --

2 Q No, just one question.

3 A Okay.

4 Q Do you need me to rephrase it?

5 A I would love you to rephrase it.

6 Q Sure. Do you agree with me that it would be
7 sensible for an airline to ensure that the NME had as much
8 information as they needed before rendering a decision to
9 return or not return an airman to duty, who had been
10 diagnosed as having a disorder by a CME?

11 A Sensible?

12 Q Yeah.

13 A Are they following the contract and doing what the
14 contract says?

15 Q Well, let me ask you this. Which is more
16 important, do you think, following the contract or safety?

17 A I believe -- that's why --

18 Q To you -- I'm asking you?

19 A You know what, it should be the same thing in this
20 section, because this section was written for the safety of
21 the passengers. We don't want people to fly -- so when the
22 company violates -- my last grievance, I believe there was 12
23 items on there, they violated our contract in the process.
24 And so they are violating the safety of the system by
25 violating the contract.

1 Q Okay. So, can you answer the question, though?

2 A So, yeah, safety.

3 Q Okay.

4 JUDGE MORRIS: Wait a minute. There's one thing
5 that just jumped out. NME, Neutral Medical Examiner, not
6 "enemy," e-n-e-m-y, it's "NME."

7 MR. ROSENSTEIN: I've been doing that for the whole
8 thing.

9 THE WITNESS: Which could be an enemy.

10 JUDGE MORRIS: My antenna went up with your
11 pronunciation, counsel, that's why I'm making that clear for
12 the record.

13 BY MR. ROSENSTEIN:

14 Q You'd agree with me, wouldn't you, that if any of
15 the medical examiners, CME, NME, PME, sought information from
16 Delta that they believed would help in their analysis, it
17 would be appropriate for Delta to provide that information,
18 correct?

19 A If they sought information that was appropriate to
20 say the performance or behavior of the person, yes, but to do
21 a medical analysis. If they asked for information for a
22 medical assessment, absolutely.

23 Q Just -- okay.

24 A Absolutely, yes.

25 Q And you'd agree with me that Delta employees would

1 not be experts in psychological evaluations, correct?

2 A They might be.

3 Q You agree with me that the individuals who were
4 communicating with Dr. Altman -- Captain Davis and attorney
5 Puckett -- were not psychiatrists, correct?

6 A I agree. Well, I don't know if they're
7 psychiatrists, I don't know their backgrounds.

8 Q Do you think that they're psychiatrists?

9 A Oh, yeah, definitely not.

10 Q Okay. And you'd agree with me that if any of those
11 medical examiners asked for information, it would not be the
12 place of the company to question their medical wisdom in
13 requesting that information, in a general way, correct?

14 A Not necessarily.

15 Q You don't agree with me, that's fine.

16 A Not necessarily.

17 Q Do you know who selected Dr. Altman to be the CME?

18 A I believe it was -- it was supposed to be,
19 initially, initiated with AMAS and Dr. Faulkner were supposed
20 to have a conversation first.

21 Q I didn't ask you what's supposed to happen. I
22 asked you if you know --

23 A Chris Puckett.

24 Q -- if you know what happened?

25 A Chris Puckett.

1 Q What's the basis of your belief that Chris Puckett
2 selected Dr. Altman?

3 A Because of conversations prior to my meeting with
4 him. And we all know that he called him in, and the
5 assessment -- he was calling him for an assessment. But there
6 were conversations in there and he gave him my safety report.

7 Q Let me rephrase or clarify --

8 A I believe Chris Puckett did it.

9 Q Fair enough. But let me clarify what I was asking.
10 You'd agree with me that Dr. Altman was initially consulted
11 before he was named CME, correct?

12 A He was.

13 Q And it's your contention that Chris Puckett reached
14 out to Dr. Altman for theta purpose, is that right?

15 A Correct.

16 Q Okay. My question was, do you know who selected
17 Dr. Altman to be the CME in this case?

18 A I believe -- the official formal letter, which came
19 out and said -- like as if they had never been communicating
20 and Dr. Altman had no idea who I was -- officially says Dr.
21 Faulkner did it. But I believe Chris Puckett did it.

22 Q And what's the basis for your belief that Chris
23 Puckett, and not Dr. Faulkner, selected Dr. Altman?

24 A Multiple beliefs. Multiple reasons.

25 Q Okay. Well, I asked you, so --

1 A Would you like --

2 Q -- maybe you can tell me --

3 A All right. Okay. So the --

4 Q -- try to keep it, you know, organized, though --

5 A -- so the first one is --

6 MR. SEHAM: I object to that.

7 JUDGE MORRIS: Yeah, that was not necessary,

8 counsel.

9 MR. ROSENSTEIN: Okay. My bad. Okay. I didn't
10 mean to be insulting. But go ahead.

11 MR. SEHAM: No, it was insulting and I think you
12 meant to be insulting.

13 JUDGE MORRIS: Both of you control yourselves.

14 You may answer the question.

15 THE WITNESS: What was the question? No, I am
16 kidding.

17 JUDGE MORRIS: You have multiple reasons.

18 THE WITNESS: Yeah, multiple reasons why. Because,
19 number one, the communication to -- we found -- we see the
20 paper trail of his sending the safety report to Dr. Altman,
21 and then Ms. Nabors the day before. And can see on the
22 surface they were calling him a "consultant." But when we
23 deposed Chris Puckett and asked him:

24 "Oh, so you hired him as a consultant in this
25 meeting, did you pay him?"

1 "Yes.

2 "Well, when?

3 "Ah, well, I think we worked it into the final

4 bill."

5 Okay. So, that was one reason would lead me to
6 believe that if they hired him as a consultant for this
7 meeting, and Chris Puckett said that they probably worked
8 that payment into the bill, means that they were really
9 planning on it, because he would have billed him and he would
10 have paid him accordingly, and that never came up. And we
11 have that deposition.

12 Second, the contract clearly says -- the contract
13 clearly says that the process that's supposed to come down.
14 But the e-mail chain was Dr. Faulkner communicated to Dr.
15 Altman and said:

16 "Okay. Here's what I did. I went in and
17 scheduled Dr. Cornett on this date, but
18 don't say anything for a day."

19 And he basically told him, just kind of stand down,
20 don't do anything for a day. And then after that, then he
21 went and talked to AMAS and said: "We're going to send this
22 pilot, Karlene, to Dr. Altman." And then they kicked back
23 in.

24 So, he kind of did things out of sequence. But the
25 most interesting point was he told -- he and Dr. Altman were

1 communicating ahead of time and he told him not to say
2 anything.

3 And then, also, the way this came down, if the
4 letter that they sent to Dr. Altman, requesting to do this,
5 he had already been involved, he already read the safety
6 report, he already read Kelley Nabors' first report. And he
7 had been at the meeting. But the letter that they sent:
8 "Dear Dr. Altman, We have a pilot that we're interested in
9 you" -- that wouldn't be normal. The normal thing would be
10 -- Dr. Altman, that pilot you came and evaluated, would you
11 be interested in being involved in this case with us -- or
12 something to that effect.

13 Another interesting thing that led me to believe
14 is --

15 BY MR. ROSENSTEIN:

16 Q To believe what?

17 A Pardon?

18 Q That led you to believe what?

19 A Led me to believe that this was not a standard
20 process, that Dr. Altman -- or that Chris Puckett selected
21 him.

22 Q Okay. Thank you.

23 A Yeah. Because that wasn't -- I mean that wasn't a
24 standard process. And so Chris Puckett, also, after he met
25 with -- and I learned this through discovery -- and so after

1 he met with -- after I met with Ms. Nabors on the 8th, Ms.
2 Nabors said, in her testimony, there were two people at the
3 meeting. And then Chris Puckett said there were three people
4 at the meeting. And we finally got to the end of the day and
5 three were five people at the meeting. And then months later
6 we find out there were eight people at the meeting. So, the
7 meeting and who was involved all changed.

8 But the interesting thing is I met with Ms. Nabors
9 on the 8th, and on the 9th, before they ever met, the e-mail
10 from Chris Puckett to Dr. Altman is -- "And I'm copying Meg
11 Taylor on this, because she's been involved in the case."
12 And I'm thinking what case? I just met with this woman the
13 day before. So, I did a little word search in their
14 thousands of documents they sent, and Meg Taylor's name
15 popped up back in the March 9th correspondence, the year
16 before, when Captain Graham had already preplanned that he
17 was going to do this to me.

18 And so Chris Puckett clearly -- if there was no
19 case on the 8th, and Melissa Seppings sent Ms. Nabors to see
20 me, we found out later that Meg Taylor was the first person
21 that she'd called, before she even got on an airplane. How
22 did Meg Taylor, the corporate lady, come involved, who was
23 back in November 9th discussion?

24 Q I'm sorry, do you remember what the question is?
25 Because I feel like we've wandered away from --

1 A Yeah because -- no, because it's why I believed
2 that Chris Puckett was involved in this and did it.

3 Q Okay. Because I'm not following how this line goes
4 to that answer, but continue?

5 A Well, the reason it goes to the answer, because
6 it's just not one thing. You know, it's kind of like at the
7 end of the day I'm sitting back and we have this piece, and
8 this piece, and we have all these pieces to the puzzle and
9 we're putting them together and going -- okay, this is a big
10 picture and this is how the company did what they did. And
11 that's why.

12 Q Okay. So -- Okay. I was trying to help clarify
13 your testimony, but I don't want to cut you off. Is there
14 any other thing that you want to say that supports your
15 position that Chris Puckett selected Dr. Altman, and not Dr.
16 Faulkner?

17 A Probably, but you cut me off and you
18 short-circuited me, so I can't.

19 Q And Chris Puckett is not a pilot, right?

20 A No.

21 Q And he's not in your line of command, he's an
22 attorney in the Labor Relations Department, correct?

23 A He is.

24 Q Okay. So, it's your contention in this case that
25 you were placed into Section 15 because of the safety report

1 that you provided to Captain Graham and Captain Dickson on
2 January 28th, correct?

3 A Because of the content, yes.

4 Q Because of the content, okay. And who do you
5 believe initiated that series of events in violation of
6 AIR-21, who were the people at Delta that you believe
7 violated AIR-21, Delta's Corporation?

8 A They violated AIR-21?

9 Q Well, you contend that somebody -- I assume it's
10 your contention that somebody or somebodies (sic) took
11 actions to retaliate against you for raising safety concerns
12 in your January 28th communication, who are those people?

13 A And you want to know who the person is?

14 MR. SEHAM: I'm going to object that these are
15 legal questions as opposed to factual questions, along the
16 lines of the prima facie case, is there any basis for
17 believing that protected activity or communications
18 contributed to the decision. But to ask someone a statutory
19 question on AIR-21, it's --

20 JUDGE MORRIS: He's not asking a statutory
21 question. He's asking who, within the corporation, the
22 Complainant believes took an adverse action against her.

23 You may answer the question.

24 THE WITNESS: Jim Graham.

25 MR. ROSENSTEIN: Okay.

1 BY MR. ROSENSTEIN:

2 Q And what is it that you content that Jim Graham
3 did, precisely, that consisted of retaliation?

4 A That's just the first one. So, we'll go --

5 Q I'll give you a chance to answer this question,
6 don't worry.

7 A Because I gave Jim Graham -- well, actually, in
8 hindsight I believe -- I made a mistake in the AIR-21 -- is
9 if you were told -- you were advised you're going to be
10 reporting and they do something, is that -- I believe that's
11 my understanding.

12 JUDGE MORRIS: I can't advise you on what the law
13 is.

14 THE WITNESS: Yeah, okay. And in hindsight, the
15 fact is I gave Jim Graham that report. He's the one that
16 told me to speak to Ms. Nabors. He is the one who was the
17 decision maker and put me in the Section 15. And then he is
18 also the one, when, granted, I gave my e-mail to him on --
19 that September 9th e-mail, I forwarded to Phil Davis, but he
20 had already had it, because Phil Davis had given it to OC,
21 and OC had given it to him. So, he already had full
22 knowledge of that e-mail before. And because of that,
23 because I was going to request to do this, to meet with them
24 for Safety Culture issues, he said I was a candidate for
25 Section 15. And Captain Phil Davis told Dr. Altman -- and we

1 have that in writing, also -- that this started because I
2 heard Richard Anderson speak and was requesting a meeting
3 with Captain Graham and Captain Dickson. And --

4 BY MR. ROSENSTEIN:

5 Q My question is, what did Captain Graham do that you
6 believe violated --

7 A Put me in a Section 15.

8 MR. SEHAM: Objection.

9 BY MR. ROSENSTEIN:

10 Q Okay. What else --

11 MR. SEHAM: She's addressing the motives. She
12 should be allowed to testify without interruption.
13 Objection.

14 JUDGE MORRIS: He's not asking about motives.

15 MR. ROSENSTEIN: I think counsel is really
16 interfering here. I mean I think these are very legitimate
17 questions.

18 THE WITNESS: I interpreted -- I'm sorry -- I
19 interpreted what you said.

20 JUDGE MORRIS: Hold it.

21 MR. ROSENSTEIN: Yeah.

22 JUDGE MORRIS: Overruled.

23 State your question again.

24 BY MR. ROSENSTEIN:

25 Q What did Jim Graham -- what acts did Jim Graham

1 take? I understand he's the one responsible for putting you
2 in a Section 15.

3 A He was the decision maker of the Section 15.

4 Q Okay. Any other acts that Jim Graham did, that you
5 believe were retaliatory, other than being the decision maker
6 on the Section 15, which I understand?

7 A What acts were retaliatory outside this AIR-21?

8 Q No. What did Jim Graham do that you believed was
9 in retaliation for your raising safety concerns, other than
10 approving or making the final decision that you'd be placed
11 within the Section 15 process, what, if anything -- and it
12 could be nothing?

13 A Well, it was within this process. At his
14 deposition he stated that I still had a mental health
15 problem, because I gave him a concern about -- oh, sorry --
16 recovery training, is that what you're looking for?

17 Q I'm not looking for anything. I'm just looking for
18 you to answer the question as best as you can. Don't -- you
19 know, feel free --

20 A Okay. So, that would be -- I would consider that
21 would be an adverse action, to tell somebody you're mentally
22 unstable because you reported safety. It also would be --

23 Q When did that occur?

24 A At his deposition.

25 Q No, when did the conversation that you're

1 describing occur?

2 A At his deposition.

3 Q Oh, okay. Continue?

4 A And -- well, see I don't know if the adverse
5 actions -- this is not really a grievance process, he was
6 participatory in that, but I don't know if that's -- that
7 wouldn't be part of the AIR-21, so.

8 Q Okay. Jim Graham, who else at Delta do you believe
9 engaged in conduct that you believe constituted retaliation
10 against you.

11 A I heard that.

12 Q I didn't listen, I did something different.

13 A Yeah. Phil Davis.

14 Q Okay. And what is it that Captain Davis did, that
15 you believe was in retaliation for you raising safety
16 concerns?

17 A Well, two days before he signed the letter, we
18 discussed this issue about flying fatigued. And then Captain
19 Davis, when he communicated with Dr. Altman, told Dr. Altman
20 that I would be paid double for -- on that trip buy issue.
21 That not only would I get my reserve line, but I would get
22 the pilot's line, too. So, I'd be paid for both, which was
23 not true. And that question came up back and he clarified
24 that, you know, incorrectly, and he knew better.

25 In questioning him, he said that, well, the

1 rationale for that was if a pilot exceeded their max duty
2 time and then they would get paid more. But that was clearly
3 not my case. I was not flying. And nobody would get a trip
4 buy, even come close to exceeding or coming close to it,
5 because the only reason they would get a trip buy is because
6 they were not flying. So, giving false information to the
7 doctor is wrong.

8 He also knew that I was a simulator instructor.
9 And we'll give Dr. Altman the benefit of the doubt, he would
10 not have knowledge of what flight hours could be logged. But
11 Captain Davis knew what flight hours could be logged. And so
12 when he knew that I was working in the simulator, as a
13 simulator instructor at Northwest, for 12 years, and told Dr.
14 Altman that I only averaged 38 hours a month working, when we
15 deposed him, he said he had no knowledge of you couldn't log
16 as a simulator instructor, teaching second officers, flight
17 time. But as airmen, we are required to know what we can and
18 cannot log as flight time. So, whether he really knew that
19 or to, or intentionally deceived, but there was no effort to
20 go look up and give Dr. Altman an actual reflection of my
21 actual experience teaching versus flying. He said it
22 appeared, on what he gave to him, that that's all that I did.

23 Q Could I ask you what makes you believe that Captain
24 Davis gave, what you contend to be inaccurate information, to
25 Dr. Altman, because you raised issues of safety in your

1 January 28th reports to Captain Graham and Captain Dickson?

2 A What leads me to believe that?

3 Q Yeah.

4 A Well, I gave safety information and they put me in
5 a Section 15. And then there was an action after that to
6 make an extreme effort to make sure that I would have a
7 medical diagnosis, that went away. So, I think they are
8 tied.

9 Q Okay. Is there anything else that you believe
10 Captain Davis did that was in retaliation for your January
11 28th safety report -- besides what you've said, let's not go
12 back to the same things, but different things?

13 A Yeah. Not right offhand. There very well could
14 be.

15 Q So, Graham and Davis. Is there anyone else who you
16 believe acted in a way that was retaliatory, because of the
17 safety issues you raised in your January 28th report?

18 A I believe Chris Puckett was participatory in this
19 process, also.

20 Q And you believe Chris Puckett also gave -- well, do
21 you believe Chris Puckett gave false information to Dr.
22 Altman?

23 A I don't -- as far as the flight hours on the trip
24 buy, would he have had knowledge to that, being a Labor
25 Relations attorney -- probably not. I don't know for sure.

1 Q Okay. So, what is it that you believe Chris
2 Puckett did then, that was in retaliation for your raising
3 safety issues in your January 28th report?

4 A Oh, just all his e-mails and the process that he
5 went through. He was giving my safety report to Dr. Altman,
6 to do a Mental Health Evaluation. That made no sense.

7 Q Okay.

8 A And then his overt involvement in all this. If you
9 just read all the e-mail chains, the communications with Dr.
10 Altman and even after -- even after I was cleared, they were
11 passing information about blogs that I had written about a
12 book, or remark. I mean they made it an effort. But no, his
13 communications, his e-mails.

14 Q Anything else besides that?

15 A Just active process in this.

16 Q Then Jim Graham, Phil Davis, Chris Puckett. Is
17 there anyone else who you believe retaliated against you
18 because of the safety issues you had raised in your January
19 28th report?

20 A That leaves difficulty, because I believe think Tom
21 Albain did what he did because of my safety report. He just
22 -- they just asked him to submit a letter. So, you know, all
23 the interviews are things that those other people, they were
24 just directed by the company, so, no.

25 Q So, those are the three?

1 A I think so.

2 Q Okay. In your complaint, you're seeking the
3 difference in pay between you and Captain Dickson, as damages
4 in this case, is that right?

5 A No. I'm not asking my pay difference between me
6 and Captain Dickson.

7 Q Okay. You testified, during your direct
8 examination, as to the damages you're seeking in this case,
9 correct?

10 A I did.

11 Q Okay. And that's even if there's a disagreement
12 between what you testified to and what's in the complaint and
13 in your pre-motion statement, it's your testimony here that
14 that describes what you're seeking economically in this case,
15 at least, correct?

16 A You know what I'd really be seeking?

17 Q Yes, I'll let you answer that, I think, yes?

18 A I honestly think that this company so willfully,
19 willfully violated the sanctity of the system of the safety
20 of this AIR-21, that they not only -- this wasn't a mistake,
21 this wasn't an accident, they intentionally did this. They
22 planned it, they premeditated. And not only did they not
23 give me just the normal personality disorder that has been
24 known to give to pilots to remove them, they gave me
25 something that would destroy my career forever. They took my

1 career -- attempted to take 12 years of my career away. And
2 the worst thing about this is that they -- in hindsight, I
3 didn't even know anything about this until the end of the day
4 and I get this report and find out that they're trying to
5 plant an EO concern. Everybody knows -- in this room --
6 knows that I could have, while I was out, gone to a law firm,
7 had full contingency, and got triple damages, saying you did
8 this to me because I'm a girl. You removed me because I'm a
9 girl and I don't have a job. And that wasn't about this.
10 This was about safety. And I didn't do that. But you did --
11 it was intent to do harm, this is fraudulent, what happened
12 here hurts on so many levels. And I don't know, if I had my
13 wish, I wish the Tribunal would have the ability to fine
14 Delta \$30 million, and send a message to this industry,
15 because we're going to be going into next gen, and if
16 employees are afraid to come out and speak, we're going to
17 have more issues.

18 Q I appreciate that.

19 MR. ROSENSTEIN: Can I ask the Tribunal, rather
20 than burden everyone with cross-examination on damages, I'm
21 comfortable that we heard damages and we have it in the
22 papers. As long as we're not precluded from dealing with our
23 view of the damage claim in our post-hearing briefs, I would
24 not need to ask anymore questions on cross.

25 JUDGE MORRIS: I expect you to address it in your

1 post-hearing brief.

2 MR. ROSENSTEIN: Okay.

3 JUDGE MORRIS: Absolutely. Because there's no
4 closing argument, so --

5 MR. ROSENSTEIN: Yes, okay.

6 MR. BISBEE: Mr. Seham, we're agreed then that the
7 testimony on direct is the full extent of the damages?
8 Because there's a lot in the pre-hearing statement on damages
9 that are sought, that were not in the direct, but we don't
10 want to leave it on the table if there's going to be a
11 different position.

12 MR. SEHAM: Without more specifics, I can't answer
13 that question. You're free too --

14 MR. ROSENSTEIN: In all fairness, I'm comfortable
15 -- I'm comfortable --

16 MR. SEHAM: I guess we're not supposed to be
17 talking to each other.

18 MR. ROSENSTEIN: Well, that's okay. I mean he
19 addressed you. I'm comfortable with what Your Honor said.
20 And as long as we can address damage issues at the
21 post-hearing briefs and through our witnesses, I'm going to
22 not burden us with direct questions on that subject, okay.

23 JUDGE MORRIS: And so the record is clear, if
24 either party thinks otherwise, I'd like it briefed, but I do
25 not believe it's within my power to impose a fine under

1 AIR-21. I can do back pay, front pay and, in the appropriate
2 case, reinstatement, attorneys fees, compensatory damages are
3 the bounds of my authority under AIR-21. Even if I wanted
4 to, I don't believe I have the authority -- but if you think
5 I do, you are free to try and persuade me.

6 MR. ROSENSTEIN: Okay. Then in that case, I have
7 no more questions on cross.

8 JUDGE MORRIS: Now, wait a minute. The other thing
9 is -- and I disclose this, because I have done this in the
10 past -- one of the things I do have the power to do, or I
11 believe I do, is to require -- if the Complainant was to
12 prevail -- for the company to take certain specific
13 corrective actions. In one case, I have specifically
14 required distribution of the opinion to every senior
15 executive and every employee by e-mail, and I have required
16 certain other administrative or lower level corrections to
17 that, because I do view my role as informational to the
18 target audience -- if a violation is established -- to make
19 aware not only the violations and the extent of the
20 violations, but the curative nature. You know, it's
21 deterrence, but it's also rehabilitative, in my view, if
22 damages were to be -- if it was to be awarded. Okay.

23 MR. ROSENSTEIN: Makes perfect sense.

24 JUDGE MORRIS: Any other subject, counsel?

25 MR. ROSENSTEIN: None from me. Sorry.

1 JUDGE MORRIS: So, you're done with cross?

2 MR. ROSENSTEIN: I am done with cross.

3 JUDGE MORRIS: All right.

4 Redirect, or do you want to take a break?

5 MR. SEHAM: I'd defer to the witness. Would you
6 like a break?

7 THE WITNESS: Yeah, let's take -- do you mind five
8 minutes?

9 JUDGE MORRIS: All right. I'll give you 10.

10 MR. SEHAM: Thank you.

11 (Off the record at 2:53 o'clock p.m.)

12 JUDGE MORRIS: We're back on the record.

13 All parties present when the hearing last recessed
14 are again present.

15 You may begin your redirect.

16 MR. SEHAM: Yes.

17 REDIRECT EXAMINATION

18 BY MR. SEHAM:

19 Q The company has represented that Captain Graham
20 made the Section 15 decision to refer you to the DHS, is that
21 how you understand it?

22 A Correct.

23 Q And do you understand, from the testimony of
24 Faulkner, Dr. Faulkner and others, what the role of the DHS
25 was supposed to be?

1 A From what I understand, the role of the DHS was
2 supposed to be an assessment of my medical records, assessing
3 me and making a determination if he would recommend me or not
4 to a Section 15.

5 Q And do you have any reason to believe that in fact
6 the decision not only to refer you to a Section 15, but also
7 to refer you to a psychiatrist, had been made in the March
8 17th meeting?

9 A Yes.

10 Q And so is Dr. Faulkner one of the participants in
11 the adverse action against you?

12 A I believe he was.

13 Q Now, we've referred to Chris Puckett. Was your
14 alleged participation in a pilot job action referenced in Dr.
15 Altman's report as contributing to his diagnosis, his adverse
16 diagnosis?

17 A It was.

18 Q Now, did you provide him any information related to
19 your alleged participation in the job action?

20 A I did not.

21 Q Who gave Dr. Altman information that you allegedly
22 participated in a job action?

23 A Chris Puckett or Phil Davis, I forget which one,
24 one of the two.

25 Q Okay. And you've been in the airline industry in

1 terms of working for major carriers or jet carriers for how
2 long?

3 A For the airlines, since -- 30 some years.

4 Q Okay. And have you ever heard of a concept of
5 pilots or mechanics boycotting overtime opportunities as a
6 way to create leverage in collective bargaining?

7 MR. ROSENSTEIN: Objection, beyond the scope of
8 cross.

9 JUDGE MORRIS: Overruled.

10 THE WITNESS: Yes, slowdowns and things like that,
11 is that what you mean?

12 MR. SEHAM: Yes.

13 THE WITNESS: Yes.

14 BY MR. SEHAM:

15 Q In your experience, is that a fairly common
16 occurrence?

17 A Yes.

18 Q And can you -- based on your experience in the
19 industry, is it five or 10 pilots and mechanics
20 participating, hundreds, perhaps thousands --

21 A Yes.

22 Q What's your sense of that?

23 A I would -- if they were going to participate, one
24 perfect example would be UPS, when they were trying to get
25 their contract, all the pilots just started following the

1 contract, following everything. They weren't carrying
2 airplanes anymore, they weren't like pushing back with a
3 boost pump -- everything was letter of the law, and they just
4 did that. And it came across as a slowdown, and so they were
5 following the contract. But --

6 Q So, they all must have mental health problems,
7 correct?

8 A Yeah (laughs.) No, no.

9 MR. ROSENSTEIN: Objection.

10 JUDGE MORRIS: Sustained.

11 BY MR. SEHAM:

12 Q Why do you think Mr. Puckett gave this information
13 to Dr. Faulkner?

14 MR. ROSENSTEIN: Objection.

15 JUDGE MORRIS: Sustained.

16 BY MR. SEHAM:

17 Q Do you consider Mr. Puckett to have engaged in
18 adverse actions against you?

19 MR. ROSENSTEIN: Objection.

20 THE WITNESS: Yes.

21 JUDGE MORRIS: Overruled.

22 THE WITNESS: Yes.

23 MR. SEHAM: Frankly, I wish this exceeded the scope
24 of cross.

25 MR. ROSENSTEIN: Objection, move to strike.

1 JUDGE MORRIS: Granted.

2 MR. SEHAM: Granted.

3 BY MR. SEHAM:

4 Q Could you move to Complainant's Exhibit 24. Are
5 you familiar with that document?

6 A I am, yes.

7 Q Do you recall that there was -- that problems arose
8 in terms of the PME and the CME reaching an agreement on the
9 identity of the NME?

10 MR. ROSENSTEIN: Objection, beyond the scope.

11 MR. SEHAM: Well, by no means. And the reasons for
12 that is the question was asked what adverse actions were
13 taken by Captain Graham.

14 MR. ROSENSTEIN: That's not for -- well -- may I
15 respond?

16 JUDGE MORRIS: No -- you may respond.

17 MR. ROSENSTEIN: That's not a basis for a redirect
18 question. Cases would go on forever if you could keep
19 grazing new issues ever time you hear a cross question or you
20 don't put in evidence, and you think about it after the
21 cross. It's inappropriate. Cross is limited to the areas
22 that were raised during the cross.

23 MR. SEHAM: That area was what adverse actions were
24 taken against you, what adverse action Captain Graham --

25 MR. ROSENSTEIN: Counsel --

1 MR. SEHAM: Would you please let me finish?

2 What adverse actions were taken against you, what
3 adverse actions were taken by Captain Graham -- he asked her.

4 JUDGE MORRIS: I'm going to sustain the objection,
5 but allow you to brief it, consider it in your brief.

6 MR. SEHAM: Okay.

7 JUDGE MORRIS: It's in evidence.

8 BY MR. SEHAM:

9 Q Prior to the examination process that you had with
10 the Mayo Clinic, did they explain to you the methodology they
11 would be following?

12 A Prior to going or just when I got there?

13 Q No, as you initiated the process, was there an
14 explanation of what the process consisted of?

15 A Yes. They said that I'd be coming back there, it
16 would be -- I'd be back there for three days. I would be
17 meeting with -- I met with Dr. Steinkraus. I would basically
18 be with numerous individuals. One, specifically, who was the
19 head of the case, the second one would be a bipolar
20 specialist, because of the specificity of the diagnosis, and
21 that they would be doing medical blood analysis to see if
22 there's any chemical issue. And then also a psychiatrist who
23 would be -- the psychiatrist believed Dr. Trenerry was going
24 to be giving me an additional neuro-psychological testing
25 again. But they said that I'd be going through this entire

1 process.

2 And then when that would be complete, that they
3 would meet on a panel. Now, the reason why the panel is only
4 nine, is because Dr. Trenergy couldn't make it to that
5 meeting, so they utilized his report for that. As Dr.
6 Steinkraus said, they all read Dr. Altman's report and all
7 the documents that he provided them, and they went from
8 there.

9 Q And how about with Dr. Huff, did he explain the
10 methodology that he would proceed with?

11 A He did not. He just said come back and we would
12 sit in his office and talk. And so -- and then going back to
13 -- in response to Dr. Faulkner asking to do more expansive --
14 he asked me to provide him names and contact information of
15 people who have known me for, you know, various lengths of
16 time, further back, possible that he could call them and find
17 out if my behavior has changed from back then to now.

18 Q And did Dr. Altman ever ask for contact information
19 for family members and contacts that went back in your life?

20 A No.

21 Q Did he ever tell you that he had met with Captain
22 Davis and Chris Puckett for a full day meeting, prior to
23 meeting with you?

24 A No.

25 Q Did he ever disclose to you that he had received a

1 binder of hundreds of pages from the company, before he had
2 met with you?

3 A No.

4 MR. ROSENSTEIN: Objection, beyond the scope. This
5 seems like it's responsive to Dr. Altman's testimony, not the
6 cross. And it could be used for rebuttal, but it's not
7 proper redirect. I didn't ask her any questions about any of
8 these subjects on cross.

9 MR. SEHAM: The question was --

10 MR. ROSENSTEIN: But Dr. Altman testified about it.

11

12 JUDGE MORRIS: Overruled.

13 You may --

14 BY MR. SEHAM:

15 Q Did anyone at the Mayo Clinic, or did Dr. Huff ever
16 raise their voice to you in anger or exasperation?

17 A No.

18 Q How about Dr. Altman, did he do that?

19 A At one point.

20 MR. ROSENSTEIN: Objection, beyond the scope.

21 JUDGE MORRIS: Overruled.

22 BY MR. SEHAM:

23 Q Did anyone at the Mayo Clinic, or did Dr. Huff, ask
24 you about your past customer with respect to expressing milk
25 for your children?

1 A No.

2 Q Did anyone at the Mayo Clinic, or did Dr. Huff,
3 were they critical of your career ambitions?

4 A No. Actually, quite the opposite.

5 Q Can you explain that?

6 A Yes. At the Mayo Clinic, specifically Dr.
7 Trenergy, his wife had been actually an attorney, she had
8 gone to law school to be an attorney, and then she quit to
9 raise the children and she did not go back in the field.
10 She's a school teacher. And I only say that because it gives
11 you a time of reference on when she probably went to law
12 school. And we had a lengthy discussion on working and
13 having children, and education. And so he was very much so,
14 you know, supportive of what I did. And actually, so was Dr.
15 Steinkraus and Dr. Altschuler. Dr. Steinkraus made the
16 comment, when I first met him, that I was quite an
17 accomplished young lady, I should be very proud of myself.
18 And that's when I asked if he had read Dr. Altman's report,
19 and then he said: "We all had and it was a corporate
20 political action versus a medical diagnosis."

21 Q Did Dr. Altman ever disclose to you that he was
22 going to use information related to your alleged
23 participation in the job action as part of his diagnosis?

24 A No. I actually had never heard of a job action
25 until I got the medical report. I never even --

1 Q He didn't mention it to you?

2 A No.

3 Q Okay. So, did you give him any correspondence
4 related to alleged job action?

5 A I've never even heard about it until the medical
6 report.

7 Q So, it was Chris Puckett who provided --

8 A Chris Puckett provided it.

9 Q Did he ever tell you -- Dr. Altman -- that your
10 references to Ed Bastian as "Ed," by his first name, was
11 going to contribute to an adverse diagnosis?

12 A No.

13 Q Did you provide him the e-mails and handwritten
14 note in which you addressed him as "Ed"?

15 A I didn't provide him any documentation of that
16 sort.

17 Q And did he ever advise you that contributing to his
18 diagnosis was going to be your self-description as having
19 significant aviation experience and instructor experience?

20 A No.

21 Q And did he ever disclose that he was getting flight
22 hour information from the company that he would use to
23 discredit your expertise?

24 A No.

25 Q Did he ever tell you that he considered you -- did

1 he ever advise you that what he considered to be the
2 insufficiency of incidents of pilots operating with fatigue
3 would contribute to your mis-diagnosis or your adverse
4 diagnosis?

5 A No.

6 Q Now, in your review of the e-mails that Captain
7 Davis provided to Dr. Altman, did Captain Davis ever disclose
8 that he had information concerning pilots who were flying
9 fatigued or complained about flying fatigued?

10 A Did?

11 Q Did Captain Davis ever disclose to Dr. Altman --
12 did Captain Davis ever disclose to Dr. Altman that he had
13 this information?

14 MR. ROSENSTEIN: Objection.

15 THE WITNESS: Not to my knowledge.

16 JUDGE MORRIS: Sustained. Hold it.

17 BY MR. SEHAM:

18 Q Did Dr. Altman ever ask you for information that
19 would substantiate your position that there was, in fact, an
20 open door policy at Delta Air Lines?

21 MR. ROSENSTEIN: Just objection.

22 THE WITNESS: No.

23 MR. ROSENSTEIN: I won't object again on this
24 grounds, if the Tribunal tells me not to. This is his
25 witness, every one of these questions is a completely leading

1 question that suggests the answers in the question each time.

2 It also, in my opinion, goes beyond the scope. But I
3 understand, I think, why that objection was not granted. But
4 if leading is just going to be allowed at this level, I won't
5 object again, but I don't think it's proper questioning of
6 your own witness in a case, to be leading at this level.

7 MR. SEHAM: If I can make a short comment here,
8 that there are probably 30 to 40 questions where the witness
9 asked: "May I explain?" The rejoinder each time was: "No,
10 you may not, but you'll have that opportunity later."

11 MR. ROSENSTEIN: Yes.

12 MR. SEHAM: By which I understood to mean on
13 redirect.

14 JUDGE MORRIS: Well, hold on. That is correct,
15 there was -- I didn't keep count, I don't have a little
16 marker here, but counsel, Respondent's counsel, is also
17 correct that -- well, you wanted to explain this -- what did
18 you want to tell the Tribunal about this -- as opposed to --

19 MR. SEHAM: Okay.

20 JUDGE MORRIS: -- tell the Tribunal about the cat
21 being run over by the car.

22 MR. SEHAM: Okay. I'll accept -- thank you for the
23 guidance and I'll move on in that --

24 BY MR. SEHAM:

25 Q You recall you were asked, during

1 cross-examination, questions about grievances, correct?

2 A Yes.

3 Q Now, during the OSHA investigatory process, do you
4 recall Delta ever taking a position with respect to whether
5 there ought to be deferral to the ALPA/Delta grievance
6 process?

7 A Yes.

8 Q And what was their position, what was Delta's
9 position?

10 A Their position was something they had sent to you,
11 that we have a -- that I was made whole, that I was returned
12 to duty, make whole and that we had a neutral arbitrator and
13 we had a process through the Railway Labor Act and the
14 grievance. And then the OSHA investigator told Delta -- all
15 right, if you want to move this into that process, then you
16 have to bide by our rules, and our rules state, in this
17 manual -- and a couple of them that were specific -- most
18 important was that I would be involved in the selection of
19 the arbitrator. And the second one, that we could do full
20 discovery as if it were a courtroom. And then the third one,
21 I believe, was attorney fees. So, there might be some more
22 in there, but those were the points I remember.

23 Q And then at that point, the next day Delta's other
24 law firm -- I think these guys were the third outside law
25 firm -- Benjamin Stone, he was the one that wrote to OSHA.

1 And then OSHA, the very next day said -- okay, we're going to
2 drop this AIR-21. My investigation stops. I don't know if
3 he was dropping -- whatever he was going to do. And then we
4 responded that this is not the correct process. And while
5 you were, I believe, dealing with that, with OSHA, I was
6 trying to go to my union and say, okay, wait a minute, we
7 can't do this. Because what had happened is -- this lasted a
8 year -- I was trying to go to the grievance process at the
9 very beginning, and I was doing that because I didn't have a
10 job and I didn't know how long this OSHA process was, and I
11 didn't know when I was going to get back, and that was a
12 venue for me to maybe get my career back.

13 And so I started that while I was still out on
14 medical, before we had the diagnosis. Then, when I was still
15 out, in July -- I believe it would be 2017, '18, I forget --
16 but the July before I came back, they switched to Jeff Wall's
17 law firm -- I don't remember the law firm, but I remember
18 Jeff Wall saying -- it's when Mr. Seham came onboard and
19 said:

20 "Okay, we're representing Delta,
21 let's just move this right to a five-
22 person board, and here's four arbitrators
23 we want."

24 And obviously, if the other side's legal firm says:
25 "Here's your four arbitrators," we want to strike them off,

1 and we have a strike-off process. I want to say there's 11
2 or 13 on our list. So, we --

3 JUDGE MORRIS: Hold on. Why do I care about the
4 grievance process? The grievance process is not my lane.

5 MR. SEHAM: Fine. Then with that -- we were
6 countering the cross -- but we'll move on.

7 BY MR. SEHAM:

8 Q Let's move on. If you could move to Respondent
9 Exhibit 138?

10 JUDGE MORRIS: You said Respondent's Exhibit,
11 correct?

12 MR. SEHAM: Yes, sir.

13 BY MR. SEHAM:

14 Q I'm going to ask you to turn to -- do you have it
15 in front of you?

16 A I do.

17 Q Then if you could turn to the 14th page -- there
18 are many iterations, but I think the Reader's Digest version
19 starts on RX-138-014?

20 A Okay. I'm there.

21 MR. BISBEE: RX-138?

22 MR. SEHAM: Correct.

23 MR. BISBEE: Four?

24 JUDGE MORRIS: Fourteen.

25 MR. SEHAM: Fourteen.

1 MR. BISBEE: Sorry. Thank you.

2 BY MR. SEHAM:

3 Q So, I'm not going to reach each one off, maybe just
4 the first one because it's brief. "Allegation 1" -- towards
5 the bottom of the page:

6 "Allegation 1: Failure to account for
7 company provided travel time when
8 computing duty day. Finding
9 substantiated. In brief, the general
10 manager of Flight Operations and Pilot
11 Crew Scheduling reported it is the
12 carrier's policy to properly account for
13 company provided travel when computing a
14 pilot duty's day. However, the
15 Complainant provided a computer printout
16 of a trip where such travel time was not
17 properly included. By scheduling a pilot
18 in August 2014 to deadhead to home base,
19 and then begin a scheduled trip, the
20 carrier violated 14 CFR Section
21 117.11(a). Correction Action
22 EIR2016S0650014, was initiated in
23 accordance with FAA compliance
24 philosophy."
25 Now, you spoke to the FAA investigators?

1 A I did.

2

3 Q Did they ever ask you for the names of other pilots
4 who have been placed in similar situations?

5 A They did not.

6 Q And did you have any -- in terms of the practice
7 that's described in this paragraph, did you ever have a
8 discussion with any Delta flight management representative,
9 about whether this practice was lawful or not?

10 A I did. I had a discussion with Captain Davis two
11 days before he signed my Section 15.

12 Q And what was his opinion?

13 A In his opinion, that it was not -- it was legal to
14 utilize pilots as positive space and not categorize it as
15 deadhead, because deadhead was classified in the FARs as duty
16 time. And that then if you had duty time, you had to have
17 required crew rest. And he followed up with an e-mail to Dr.
18 Altman and told him that many pilots rest very well, while
19 deadheading.

20 Q All right. If we go to the next issue of:

21 "Failure to observe elements of Advanced
22 Qualification Program."

23 And reviewing -- I'm going to ask you to review the
24 two paragraphs just north of: "Corrective Action: Non taken
25 or required," and tell me whether, from the context of the

1 description of events you can identify the 1 Airbus A330
2 check airman and instructor who is identified in the first
3 sentence of the second paragraph?

4 A Yes. This investigation was based because of my
5 safety report. And so the two individuals they interviewed
6 for substantiation of AQP was Captain Jim Graham and
7 Instructor Tom Albain.

8 Q So, was Captain Jim Graham there at the time that
9 this incident occurred with Captain Albain?

10 A No. May I explain further?

11 Q Yes, please?

12 A The FAA interviewed Captain Graham and Captain
13 Graham explained that we had differences between Northwest
14 Airlines AQP and Delta Air Lines AQP. And Captain Graham has
15 never worked under Northwest system, as an instructor. I
16 have. I've worked, you know, been an instructor under
17 Northwest AQP and operated as a pilot under AQP. But in the
18 safety report, my concern was not for -- every airline gets
19 to make their own AQP program, to an extent, to an extent,
20 but there are certain minimum requirements that they must
21 follow. And what I put in my safety report were items that
22 we, as a standard practice, don't follow, as far as actual
23 crew compliment or standard, you know, operations, as it's
24 supposed to be a real flight. Because I'm most certain, when
25 they interviewed Captain Albain, texting in an aircraft while

1 we operate the aircraft if not legal for Delta. Looking back
2 to operating as a check airman, it should not be under a
3 checking event, either.

4 Q Did the FAA investigators ever come back to you and
5 ask that you identify other witnesses?

6 A No.

7 Q If I can direct your attention to the second
8 paragraph where it states:

9 "According to the instructor, this
10 transitioning pilot's simulator
11 performance was alarmingly below
12 standards and the instructor suggested
13 additional training."

14 Now, if that had been the case, that your
15 performance was alarmingly below standards, would that be
16 consistent with the FARs to return you to flight without
17 immediate training?

18 MR. ROSENSTEIN: Objection.

19 MR. SEHAM: She's been established as someone who
20 has actually headed up and developed -- headed up the
21 Training Department of airlines --

22 MR. ROSENSTEIN: What -- can I state the reason for
23 my objection?

24 JUDGE MORRIS: Go ahead.

25 MR. ROSENSTEIN: Okay. Beyond the scope,

1 irrelevant, and very leading.

2 MR. SEHAM: May I respond?

3 JUDGE MORRIS: You may.

4 MR. SEHAM: Well, they have submitted this and one
5 of the many questions where they said: "Can you confirm that
6 only three of the four violations were substantiated?" And
7 she's requested: "May I explain," and was denied the
8 opportunity, "You'll have that on redirect." So, in terms of
9 her -- that one sentence, what we're coming to is -- or the
10 points we're trying to make is that there wasn't a very
11 substantial investigation, but, moreover, the investigation
12 actually disclosed other violations, even as the initial
13 violation was excused.

14 JUDGE MORRIS: All right.

15 MR. SEHAM: She's competent to address those
16 issues.

17 JUDGE MORRIS: I get where you're trying to go.
18 I'll just put it out there, if you look at RX-138-015, an EIR
19 is an Enforcement Investigative Report. The number 2016,
20 obviously, is the year. The SO means "Southern." The 65
21 means that it was done by the Atlanta CMO, not the Delta CMO
22 office. And the level of investigation reported in this, I
23 will consider. The Tribunal is aware of the varying quality
24 of investigative rigor that various inspectors and offices
25 perform within the FAA, in their oversight responsibilities.

1 I'll leave it at that.

2 MR. SEHAM: I think there's a pending question. Is
3 she permitted to --

4 JUDGE MORRIS: And the question is?

5 BY MR. SEHAM:

6 Q The question is, the sentence that I pointed to,
7 does that disclose non-compliance with Federal Aviation
8 Standards?

9 JUDGE MORRIS: Overruled. I'll make the decision
10 whether or not it discloses a violation.

11 THE WITNESS: I may answer?

12 MR. ROSENSTEIN: So, it's not overruled?

13 JUDGE MORRIS: No.

14 MR. ROSENSTEIN: Sustained, you meant?

15 JUDGE MORRIS: Yeah.

16 MR. SEHAM: Okay.

17 JUDGE MORRIS: Sorry.

18 MR. ROSENSTEIN: It's a big difference.

19 MR. SEHAM: I understood it. I got me where I
20 needed to be in understanding.

21 BY MR. SEHAM:

22 Q So, if we move to Allegation 3, which is short, so
23 I'll read it:

24 "Allegation 3: Documenting completion
25 of AQP without completing more elements.

1 Finding not substantiated. The reviewing
2 ASI referenced, specifically, the
3 interview with the company employee in
4 charge of maintaining training records,
5 as well as interviews with various
6 company personnel, referenced above in
7 Allegation 2. In this regard, none of
8 the pilot training records, included in
9 the time-frame involving this complaint,
10 showed any anomalies. Investigation into
11 AQP program irregularities did not reveal
12 anything that could be corroborated. The
13 ASI did not substantiate the allegation."

14 Now, what's your understanding of what was the
15 underlying incident that was being investigated here?

16 A The underlying incident is that an instructor, Tom
17 Albain, who put a pilot on the flight line, who he believed
18 was alarmingly below standard, put "satisfactory" into the
19 computer. But more than that he also didn't give an oral,
20 but he had to be put a grade in there to click it off before
21 you could be released. So, this investigator investigated
22 something and said: "But the grades were in there," as if it
23 must have happened.

24 MR. ROSENSTEIN: Objection, move to strike,
25 hearsay.

1 JUDGE MORRIS: Overruled. She has the expertise
2 or, frankly, any ATP has the expertise to talk about the
3 general training records associated with aviation operations
4 in a Part 121.

5 MR. ROSENSTEIN: My only objection is to the
6 testimony about what the investigator said to her, the FAA
7 investigator.

8 JUDGE MORRIS: Yeah.

9 MR. ROSENSTEIN: Okay.

10 BY MR. SEHAM:

11 Q Was your complaint that there was -- I'm not even
12 sure how to articulate this. Was your complaint that the
13 wrong information was inputted or false information was
14 inputted?

15 A False information was input.

16 Q Now, Allegation 4 is:

17 "Pressure for pilots to not call in
18 fatigued. Finding not substantiated. In
19 brief, the Complainant alleged that
20 during a segment of the indoctrination
21 training for transitioning pilots, the
22 carrier" --

23 MR. ROSENSTEIN: Objection. Is it necessary for us
24 to take the time for counsel to be reading a document that we
25 can all read? We're trying to move things along.

1 JUDGE MORRIS: Yeah. Just go to -- without reading
2 it in the record -- just go straight to Allegation 4. If the
3 witness needs to read it, that's fine.

4 MR. SEHAM: Okay.

5 THE WITNESS: I don't need to read it. I've read
6 it.

7 BY MR. SEHAM:

8 Q Did the FAA investigators ever ask you for the
9 identities of other pilots who have complained about fatigue
10 issues?

11 A No, because the comment that the investigator was
12 it's just a comment: "Don't call in fatigued, it's the other
13 F-word," that, in itself, is not policy at Delta. They
14 didn't make a policy that fatigue is the other F-word. We
15 have a fatigue policy, but there is pressure on the flight
16 line to fly, you know --- even as testified by Captain Graham
17 and Captain Dickson -- that pilots are under pressure to fly
18 fatigued. And so they just looked at the singular statement
19 of a comment made by a scheduler, by the manager of
20 Scheduling, not really about what the fatigue, push for
21 fatigue was.

22 Q Were there other non-compliance issues that you
23 raised in your report, that were not addressed in 138?

24 A Yes, there were. And I don't know if this is --
25 it's one of the memorandums in RX-138, where they clearly

1 identify that -- somebody writes that they were not all put
2 in -- not all of them were put into this investigation, for
3 some reason.

4 Q All right. Well, the document will speak for
5 itself in that regard.

6 A Yeah.

7 Q Do you have -- I think I saw it -- Steve Dickson's
8 testimony?

9 A Yes.

10 JUDGE MORRIS: The Tribunal is going to make a
11 quick comment. I've heard "falsification," many times during
12 this hearing, thus far, and I will tell both parties that
13 "falsification," is probably the single most serious
14 allegation in aviation. And in every instance in aviation,
15 the FAA finds that it warrants, even on a single incident,
16 grounds for revocation of all airmen certificates, beginning
17 with 14 CFR 61.59, and that's been around since the case of
18 Hart versus McLucas. So, when I hear the word
19 "falsification," I have a different attention span, I'll put
20 it that way. So, that's something that, if the allegations
21 of that are going to be made, I would strongly encourage you
22 to connect the dots, because that's a big deal in aviation.

23 BY MR. SEHAM:

24 Q If I could direct you to the Dickson transcripts at
25 page 176?

1 A Okay.

2 JUDGE MORRIS: Give me a second here. I've got --
3 ah -- CX-199. Okay.

4 MR. SEHAM: I'm sorry. Yes.

5 BY MR. SEHAM:

6 Q And I'm going to direct you to line 17?

7 A Yes.

8 Q Okay. And I'm going to -- as a premise for the
9 next question -- read the following:

10 "Question: I think before you
11 described Ms. Petitt's report as a
12 catalyst for obtaining an outside review
13 of Delta's practices?

14 "Answer: Yes.

15 "Question: In the aftermath of
16 receiving Ms. Petitt's safety report, did
17 Delta make any changes in its policies to
18 training materials?

19 "Answer: Yes.

20 "Question: What changes were made?

21 "Answer: We put a number of process
22 improvements in place, invested in -- and
23 some of this was already in process --
24 but we invested in new analytic
25 technology. We were able to hire

1 resources within our Flight Department
2 from MITRE, with some expertise that we
3 were lacking in-house, to help with
4 analyzing and being even more proactive
5 about transfers, all in the interest of
6 continuous improvement. But that --
7 those were outcomes that came out of that
8 external safety audit.

9 "Question: Where were these new
10 analytic --

11 "Answer: I don't know if they are
12 techniques or processes. One of them is
13 Vistair, which has just recently been
14 implemented.

15 "Question: How would you spell that?

16 "Answer: V-i-s-t-a-i-r. It is a
17 corporate safety reporting system. We
18 also -- I don't remember exactly what the
19 time-frame was -- we made upgrades to our
20 ASAP reporting platform to make it more
21 user friendly, as well.

22 "Question: So the Vistair and the
23 ASAP improvements, is that in furtherance
24 of SMS compliance?

25 "Answer: SMS -- yes, certainly among

1 other things.

2 "Question: Were those changes, in
3 part, promoted by Ms. Petitt's report of
4 SMS issues?

5 "Answer: Yes.

6 "Question: You also refer to hiring
7 new" --

8 MR. ROSENSTEIN: Objection. Are we going to read
9 Mr. Dickson's entire transcript into the record here? Is
10 there a question?

11 MR. SEHAM: I started at 176, so it's not going to
12 be the entire transcript. And it's going to be directly in
13 response to what I heard on cross as an effort to denigrate
14 her efforts to promote safety, to make it all about Petitt
15 centric and only about issues that she had, as opposed to
16 addressing fundamental flaws in an airline's operations --

17 MR. ROSENSTEIN: The document -- sorry.

18 MR. SEHAM: -- that at least one witness has
19 recognized.

20 MR. ROSENSTEIN: The document is in evidence and
21 it's argument, not cross-examination -- certainly not
22 redirect, and not even proper examination for this witness.
23 If he wants to argue that, we have a brief to argue those
24 points, not -- this witness isn't Captain Dickson.

25 MR. SEHAM: I can't counter the impact that the

1 cross-examination may have had on the Tribunal, in terms of,
2 again, denigrating the importance of her safety report and
3 the indication that it was all about her as opposed to
4 systemic problems, without getting this into the record at
5 this point.

6 JUDGE MORRIS: Again, I could tell both parties
7 that I take the statutory language: "The highest level of
8 safety in air commerce," at face value, that's in 49 USC
9 4012, I believe. And I expect, and I believe the public
10 demands that that occur. So, I don't need to -- at least
11 unless there's a question that's coming from this --

12 MR. SEHAM: Well, I'm going to get us where we all
13 -- the Tribunal and counsel for Respondent, apparently want
14 us to go. I'll represent that the transcript continues in
15 this vein, up through page 180. And we'll address that in
16 the brief.

17 BY MR. SEHAM:

18 Q The question is, were these kind of positive
19 comments, concerning your contribution to the airline safety,
20 were they communicated to you by management at anytime prior
21 to Captain Dickson's testimony?

22 A No, they were not.

23 Q And then Captain Graham, the primary decision
24 maker, did he give you similar credit for advancing the
25 safety interests of Delta Air Lines?

1 A Well, I didn't need credit, but I was given no
2 knowledge that they were doing anything, other than what I
3 kind of saw and assumed may have been applicable to my
4 report.

5 Q What I'm asking, if I may, is was there a
6 difference in the tenor between Captain Dickson's description
7 of your efforts, and Captain Graham's description --

8 A Oh, during the depositions?

9 Q Yes.

10 A Yes.

11 MR. ROSENSTEIN: During the depositions?

12 Objection.

13 JUDGE MORRIS: Basis?

14 MR. ROSENSTEIN: The question is what the witness'
15 impressions of the witness' demeanor during their respective
16 depositions? How is that relevant to this case? I don't
17 even understand how --

18 MR. SEHAM: Well, I'll withdraw the question. I'll
19 withdraw the question.

20 MR. ROSENSTEIN: -- could conceivably be relevant.

21 BY MR. SEHAM:

22 Q Did Captain Graham ever describe you as a catalyst
23 for safety improvements?

24 A No, he did not.

25 MR. ROSENSTEIN: Again, my objection is does he

1 mean in the depositions or in --

2 MR. SEHAM: Ever -- ever in the history of time.

3 THE WITNESS: No.

4 MR. ROSENSTEIN: I have no objection to that.

5 JUDGE MORRIS: Obviously overruled.

6 MR. ROSENSTEIN: Withdrawn, also.

7 BY MR. SEHAM:

8 Q Now, on cross-examination you were not permitted to
9 simply give the narrative of the three phone calls that you
10 had with Ms. Nabors, after the Section 15 referral. I don't
11 know, it might help if you refer to JX-J, at least in terms
12 of the date. I'll point you to or refer you to JX-J-007.
13 And do you see there's a reference there at the bottom of the
14 page to: "Call March 21st, 2016, 3:37 o'clock p.m.,
15 over-the-phone conversation."

16 So, what's your best recollection of that phone
17 call?

18 A Well, I had just -- as I stated previously -- I had
19 just come back from the Women in Aviation conference. I was
20 in the middle of finals, working on papers. Ms. Nabors had
21 asked me to send her some information, to follow up of
22 different -- I don't remember exactly what it was, but I knew
23 I was supposed to send her something. Oh, I believe I was
24 supposed to send her -- it had something to do with the
25 letter of counsel, I think. But when she called, she said:

1 "Hi, how are you doing?" I said: "Great." She says: "Good.
2 Everything going okay?" And I said: "Yes." And then that's
3 when the phone call came in from Mr. Davis. So, we really
4 didn't get into any lengthy conversation. So, I asked her, I
5 told her: "My chief pilot is calling, I'll call you right
6 back."

7 So, then I called her back and said that he wanted
8 me to, you know, to come into the meeting. And I don't
9 remember -- and that's why -- because it happened and it was
10 pretty, should I say emotional -- to say I showed emotion --
11 but yeah, it was a pretty stressful time. So, she called --
12 he called in, said he wanted to meet with me. I told him I
13 couldn't come in. When I called her back she said: "I can
14 make it so you don't have to go." I said: "No." Or "I can
15 make it so you could come and go." "No, I don't want to go."

16 I said: "I told him that I wasn't going to come in." She
17 didn't know what it was about. That's when she mentioned Dr.
18 Faulkner. I said: "I'm going to call you back." And I ended
19 that without any further.

20 I called Jud. That's when Jud said that's what he
21 was worried about. I mentioned Dr. Faulkner's name and he
22 said this is what he was worried about was going to happen.
23 And I had told him I had a meeting with her at the hotel on
24 the 8th. And so then he said: "Okay, let me call Phil." So,
25 he called and Phil wouldn't tell me -- he didn't tell me why

1 -- he wouldn't tell me why. I told him he had to. He said
2 he didn't have to -- why I was coming in. So, then Jud said
3 he was going to call and find out.

4 So, when Jud and I got off the phone, Jud was
5 apparently calling Captain Davis, and I called Ms. Nabors
6 back and I said:

7 "Ms. Nabors, when you called me and asked me how
8 I was doing, if I was fine, did you mean
9 was I fine that I wasn't getting line
10 checked, or I was fine because I wasn't
11 going to hurt myself, or I was fine
12 because I wasn't going to hurt somebody
13 else?"

14 And she said: "All of the above."

15 And at that moment I realized what was going on
16 here, that they actually were following through with the
17 Section 15. And then that's when I told her that, I said:

18 "I don't know if you really know what you've
19 just done, but it's like a woman being
20 raped and now being put on the stand and
21 prosecuted."

22 So, that was the language I used, that analogy.
23 That was it.

24 Q Okay. And I think you've covered two calls -- or
25 have you covered three? Was there a third call?

1 A That was -- she called me -- she called me back.
2 And then the third call -- yeah -- the third call is when I
3 called her. Because now I was curious about this EO Pass
4 thing. I had looked her up when I got home, but I called her
5 back to find out why she displayed herself and did she work
6 for HR. And at the time she said she worked -- when I called
7 her, she said she worked for EO, not HR. And then later I
8 learned that EO was, they said EO is a sub-component of HR,
9 so even though she was an HR investigator, but she never did
10 even work for HR. She worked for Equal Opportunity in the
11 Pass Travel Protection.

12 And then I think this would be a good time to put
13 this in. The questioning about my confusion as why she was
14 at that meeting, as if I didn't know what the meeting was
15 about. That wasn't the question. I simply asked her why
16 she, in particular, was there -- did she volunteer or did
17 somebody ask her to be here for it? It was more of a -- hey,
18 how you doing -- opening question, you know -- did you
19 volunteer for this -- are you the lucky one who gets to do
20 this. It wasn't I was confused as to the context of the
21 meeting type thing.

22 Q Okay. If you can turn to RX-52. You recall being
23 asked, during cross-examination, questions about these
24 e-mails and your presentation of your Ethnographic Study on
25 April 27th?

1 A Correct.

2 Q Okay. 2016. And Captain Graham had previously
3 said that he was going to call you back about your January
4 28th safety presentation?

5 A Yes.

6 Q Did he ever call you back to talk about substantive
7 issues within that report?

8 A He did.

9 Q Okay. And what issues did he talk about?

10 A I'd have to go back and look over my notes. But he
11 didn't -- he was giving me questions that he wanted me to ask
12 his divisional leaders. And this is going to be -- because I
13 haven't thought about this for a long time, but they were
14 basically questions on what Delta was doing in this area, and
15 what we were doing in this area. So, he was going through
16 different points in the report, but not so much -- it was
17 more telling me -- and what I thought at the time, because I
18 wrote them all down, so counsel should have all that, because
19 I scanned off my notes -- but I was just writing them down.
20 And my thought was I had no intention of asking any questions
21 when I went down there, because I felt that I wasn't in a
22 position to go challenge the divisional leaders. That I had
23 put this report together, I just intended to make a
24 presentation that I could just share what I learned through
25 my doctoral research, through SMS and Safety Culture, and

1 provide examples of where we might not apply.

2 But what I was sharing with them were all the
3 safety aspects. It was, you know, I think Captain Graham
4 said it was the same thing, because it was.

5 Q Back to Captain Graham's call, you say he was
6 proposing questions for you to ask the participants on April
7 27th?

8 A That's what the call -- yeah -- that's what he was
9 discussing.

10 Q Okay. My question is, did Captain Graham ask you
11 questions that would expand his understanding of your January
12 28th, report?

13 A No, none.

14 Q Did he ask you for more detail about any of the
15 safety incidents that you had listed in the report?

16 A No, he did not. That's what I thought at the end
17 of this conversation, that it was a legality issue and that's
18 why I had to talk to the safety -- and he didn't say I had to
19 -- he asked me if I'd be willing to talk to HR safety
20 investigator.

21 Q Okay. Did he -- okay. And so how were you treated
22 at this April 27th meeting?

23 A I think I gave that on my day one -- I could say it
24 again, but I was introduced very condescendingly and then the
25 two, Captain Dempsey and Captain Tovani were kind of --

1 MR. ROSENSTEIN: Objection. I think this is asked
2 and answered on direct. And now we're not redirecting into a
3 new area.

4 MR. SEHAM: Well, there's not a question I'm asking
5 that isn't on my yellow pad, because I'm responding to cross.
6 And in the cross there was a lot of testimony elicited for
7 the purpose of -- in a very constricted way -- in order to
8 establish that the company was being cooperative in providing
9 a forum for safety, explication of her safety views, and we
10 wish to present, in response to that. And it was actually
11 filling in the square in a hostile venue.

12 MR. ROSENSTEIN: May I respond?

13 JUDGE MORRIS: No. I remember her first day
14 testimony about her talking about how she was greeted in the
15 initial portion of that meeting.

16 MR. SEHAM: Okay.

17 JUDGE MORRIS: And from her perception the
18 hostilities associated by the two participants at that
19 meeting.

20 MR. ROSENSTEIN: May I make one statement? Not
21 about the objection -- not about that issue, but a general
22 statement?

23 JUDGE MORRIS: Go ahead.

24 MR. ROSENSTEIN: I think it's problematic for
25 counsel, twice now, to argue and explain what his rationale

1 is for going through a line of questioning, because it really
2 is coaching the witness when she hears what it is that he's
3 intending to elicit from the testimony. And so, you know, I
4 think he shouldn't do that. And if he does want to do that,
5 then the witness should be excused while he does it, and that
6 would be my request if there's going to be that type of a
7 description as to his rationale of asking the questions.

8 MR. SEHAM: I would just respond this is not a
9 witness that needs to be coached. And I was responding to an
10 objection, which I understood to be about relevance.

11 JUDGE MORRIS: Your objection is noted. But if I'm
12 going to ask what's the relevance of it, I'm not going to
13 excuse the Complainant. I might, frankly, excuse another
14 witness, but I'm not going to excuse the Complainant from her
15 own proceedings in this.

16 So, continue.

17 MR. SEHAM: Okay.

18 BY MR. SEHAM:

19 Q If we can turn to JX-B, your safety report. Now,
20 at the top of page 21, you were asked on cross about this
21 reference to "good ol' boy deals." Do you recall that?

22 A I do.

23 Q And when you're raising this issue of "good ol' boy
24 deals," did this relate to a gender complaint?

25 A No, it did not.

1 Q Could you explain that?

2 A Well the "good ol' boys deals," and the "good ol;
3 boy club," you're either in the club or you're not. I could
4 be one of the good ol' boys if I was in their club, but I'm
5 not. There's thousands of pilots at Delta Air Lines that are
6 men, that are not in the club and they're not going to get
7 the deals. So, it's just a statement, it's not that they're
8 excluding the girls from their -- like it's a boys' club and
9 only boys can go and girls can't. It's a term of an elite
10 group, I should say, or something. Yeah, it's not a gender
11 based statement.

12 Q Okay. And then if you move to page 23, there's a
13 title at the top: "Harassment Concern"?

14 A Correct.

15 Q Does this section relate to gender issues?

16 JUDGE MORRIS: It's page 24 of the exhibit, 23 of
17 the report.

18 MR. SEHAM: Yeah. I'm sorry. Thank you.

19 THE WITNESS: Yeah -- no. Men can be harassed.
20 People can be harassed by getting line checks. Many of the
21 guys get line checks and they're harassed. If Phil Davis
22 ordered one of our male captains to report to him on their
23 days off, that would be harassment. Strictly speaking,
24 because I'm a woman, does not make this an EO complaint.
25 Harassment doesn't have to be gender specific.

1 BY MR. SEHAM:

2 Q And on -- there's also a reference here to --
3 which I'm not finding -- to "Unequal Treatment." Do you
4 recall that reference?

5 A I do. I don't remember where it is, but I'm going
6 to put that right in the same category as harassment. You
7 can treat a man unequally -- as unequally as you can treat a
8 woman. It's just simply unequal treatment. And the entire
9 constrict of this, this was an assessment -- this was titled:
10 "Assessment of Delta Air Lines Flight Operations Safety
11 Culture." And Safety Culture is a learning, informed, just -
12 - and all those items -- were under the "Just Culture"
13 heading. This is like -- this described what a Just Culture
14 is. And so to provide examples -- this could have been --
15 this could have been a 500-page report, if they wanted me to
16 go out and interview people and actually put real examples of
17 what's going on. And actually, as far as Safety Culture
18 goes, I did. I interviewed 7,400 pilots, 44 percent were
19 from the United States, and we identified that our airlines
20 do not have a Safety Culture. So, is it just Delta? No.
21 This is a worldwide problem. And it is impacting safety and
22 it's impacting training, so it's serious. But Just Culture
23 is part of the FAA's definition for Safety Culture. You have
24 to have to have just, and it also has to be flexible, and you
25 have to have a Reporting Culture. And if we had a Reporting

1 Culture, I would not be sitting in this room today.

2 Q Now, if you can turn to page JX-B-11, which is page
3 10 of your report, and I want to look at Item 8.

4 A I see that.

5 Q All right. And there's a reference that says:
6 "This letter will stay in your file for three years."

7 A Correct.

8 Q First of all, what letter is this referring to?

9 A This was the letter of counsel that they put in my
10 file.

11 Q Okay.

12 MR. ROSENSTEIN: Sorry -- what page are we on?

13 MR. SEHAM: JX-B-11.

14 BY MR. SEHAM:

15 Q And what's the standard on the property in terms of
16 -- when I say "property" -- at Delta, in terms of not using
17 critical letters against a pilot?

18 A Not using critical letters versus a letter of
19 counsel, versus discipline?

20 Q No, no, no. What I mean is, is there some time
21 period after which the company is prohibited from using
22 critical letters against a pilot?

23 A I believe it's a three-year period, they're
24 supposed to be out of their file in three years.

25 JUDGE MORRIS: Do we have a copy of Delta's policy

1 about these letters, as an exhibit?

2 MR. ROSENSTEIN: I don't believe so, but witnesses
3 can testify.

4 MR. SEHAM: Could I have a five-minute break?

5 JUDGE MORRIS: All right. We'll take five.
6 It's -- we'll reconvene at 20 after 4:00 o'clock p.m.

7 MR. SEHAM: Thank you.

8 (Off the record at 4:12 o'clock p.m.)

9 JUDGE MORRIS: Back on the record.

10 All parties present when the hearing last recessed
11 are again present.

12 You may continue with your redirect, counsel.

13 MR. SEHAM: Yes.

14 Are you still looking for it?

15 THE WITNESS: RX-7?

16 MR. SEHAM: Actually, I was going to --

17 MR. BISBEE: It's in its own standalone binder,
18 it's the only document in Volume 3, Ms. Pettitt.

19 MR. SEHAM: I'm going to read out loud and maybe
20 you can just listen.

21 MR. ROSENSTEIN: I'm sorry, Lee, what page are you
22 on, Mr. Seham.

23 MR. SEHAM: 197.

24 JUDGE MORRIS: 197.

25 MR. ROSENSTEIN: Thank you.

1 MR. SEHAM: I'm referring to paragraph 4, which
2 reads -- maybe just listen closely:

3 "Prior discipline and/or correspondence of a
4 critical nature will not be admissible at
5 a board hearing involving subsequent
6 discipline provided:

7 (a) The prior discipline consisted of a
8 warning, reprimand, or suspension of less
9 than 30 days.

10 (b) The pilot has completed two years of
11 aggregate service since the issuance of
12 the prior discipline, without being
13 disciplined in any manner."

14 BY MR. SEHAM:

15 Q Now, in terms of the critical letter of counseling,
16 was that being brought up to you more than two years after it
17 was issued?

18 A It was.

19 MR. ROSENSTEIN: Objection. This sounds like it's
20 a grievance issue and not an AIR-21 issue.

21 MR. SEHAM: The question stands as it is.

22 JUDGE MORRIS: Hold on. I'm not going to allow
23 that question.

24 MR. SEHAM: Okay.

25 BY MR. SEHAM:

1 Q There was a reference in, I think it was, RX-15 --
2 maybe you could just go from memory -- you referred to:
3 "Flight safety is amazing," do you remember that reference?

4 A (No verbal response.)

5 Q We need to look at it. It's RX-15, at page 3.

6 A RX-15. What book is that one? Volume?

7 MR. ROSENSTEIN: Probably Volume 2 or 3.

8 MR. BISBEE: Three -- it's not 2.

9 JUDGE MORRIS: It could be 3.

10 JUDGE MORRIS: Three -- that's four -- four.

11 MR. BISBEE: I think you've got 3 somewhere -- oh,
12 it's 4.

13 MR. ROSENSTEIN: It's 4. I apologize.

14 THE WITNESS: I'm sorry. Then RX-15?

15 MR. SEHAM: RX-15 at page 3.

16 THE WITNESS: Okay. Oh, to Dr. Lee, okay.

17 BY MR. SEHAM:

18 Q Have you found the reference?

19 A Okay. So, which page, page 3?

20 Q Yeah. RX-15 at page 3.

21 A Okay. And where is the reference, again?

22 Q I think it's towards the top. Yes, towards the top
23 of the page, about a little more halfway down that paragraph,
24 then the top says: "We're discussing SMS mandated in 2018,"
25 and then going down --

1 MR. BISBEE: I believe it's page 4, not page 3.

2 MR. SEHAM: Oh, my apologies, page 4.

3 BY MR. SEHAM:

4 Q And so a little more than halfway down it says:

5 "Yes, flight safety is amazing and they are
6 doing incredible things, and were are
7 opening discussion on many safety
8 topics."

9 When was that time-wise in juxtaposition to the
10 Anderson speech?

11 A That looks like it was on the November 3rd, so
12 probably the same day as the Anderson speech.

13 Q Okay. Now, you had to write a letter of apology or
14 you wrote a letter of apology at some point?

15 A Three letters of apology.

16 Q Okay. Can you explain why you did that and whether
17 you were directed to do that?

18 A Yes. It was because Steve Lee had stated that I
19 violated the chain of command. I contested that we didn't
20 have one, we had an open door policy. And he said: "Well,
21 that's not how they do it here, it's like in the military."
22 And I told him I'd never been in the military. But he said
23 that I should apologize to the senior managers. And I said:
24 "Do you have their contact information?" He said: "I will
25 get it for you." And so he sent me -- and then I had asked

1 him if he wanted me to apologize to OC, also, and he said
2 that wasn't necessary -- but he sent me the e-mail addresses,
3 subsequently, after that meeting, so I could send my letters
4 of apology.

5 Q And one of the first questions you got was
6 concerning a reference to Germanwings. Do you consider your
7 situation to have been comparable to Germanwings?

8 A From the company perspective or from -- well --
9 Phil Davis said that they took Germanwings very seriously.
10 And so when they didn't do anything with me, and they invited
11 me into corporate headquarters, I found that really
12 confusing, because it didn't make sense if they took
13 Germanwings very seriously and I was somehow aligned to that,
14 but Phil Davis only knew that portion, but he didn't know
15 anything more, I didn't understand, really, where that was
16 coming from.

17 Q So, you wrote a letter in September 9th, 2015,
18 referencing harassment, correct?

19 A Correct.

20 Q Was there any EO investigation in September?

21 A Absolutely not.

22 Q Was there any EO investigation in October?

23 A No.

24 Q Was there any EO investigation in November?

25 A No.

1 Q Was there any EO investigation in December?

2 A No.

3 Q Was there any EO investigation in January?

4 A No.

5 Q What is the company's policy in terms of how soon
6 after a complaint of harassment an investigation should
7 begin?

8 A I don't know what their policy is, but it should be
9 immediately. I think that somebody, in one of the
10 depositions, said that, I don't know. But I think it should
11 be --

12 Q Did the investigation happen -- commence before or
13 after you submitted your January 28th safety report?

14 A After my report.

15 MR. SEHAM: I have no further questions.

16 JUDGE MORRIS: Recross?

17 RECROSS-EXAMINATION

18 BY MR. ROSENSTEIN:

19 Q Can you just look at Respondent's 126, Ms. Pettitt?
20 This is a letter that's from Jon Tovani to you. It starts
21 off by saying:

22 "We appreciate the recommendations you
23 offered in the document titled: 'Safety
24 Culture Ethnographic Study of Delta Air
25 Lines.'"

1 And then it goes on -- I won't read it, but you can
2 read it to yourself -- as can the Tribunal -- the first
3 paragraph, at least. Do you recall receiving this letter?

4 A I received that letter from my regional director on
5 -- it would be a year --

6 Q Wait -- sorry -- is the answer yes, you do recall
7 receiving this letter?

8 A Not in a timely manner.

9 Q I didn't ask that. Do you recall receiving -- I'll
10 ask you another question --

11 A Yes, yes.

12 Q Do you recall receiving this letter?

13 A Yes.

14 Q And do you recall when you received the letter?

15 A Oh, most definitely. I received it, I think it was
16 like a year and a half after I had done the presentation --
17 well, after a year and a half after I'd done the
18 presentation.

19 Q Just give me a date, because I'm not looking for a
20 story, just --

21 A It was -- I'm going to have to give you really
22 close, because I was returned to service in August 2017,
23 officially, and before I came back to the flight line, I had
24 to go down to LA and meet with Captain Mike Levis, to cover
25 the rules of the road before I came back to work. And during

1 that meeting he gave me this letter or gave me a copy. He
2 didn't give it to me, he showed it to me. And then he was
3 going to e-mail me a copy, which he never did.

4 Q So, I don't think you've answered my question. Do
5 you remember when it was?

6 A It was in 2017, probably September or --

7 Q Okay.

8 A -- it was -- yeah -- it was a year and a half later
9 after the meeting.

10 Q Take a look at Respondent's 120, do you recall
11 receiving that letter from Captain Graham on July 7th, 2017?

12 MR. SEHAM: I'm going to object. I don't see how
13 this relates to redirect.

14 Hold on.

15 JUDGE MORRIS: Counsel?

16 MR. ROSENSTEIN: There was a question on redirect
17 about Delta not responding, and Captain Graham in particular
18 not responding in any kind of positive way to Complainant's
19 reports. And minimizing or demeaning her. The opposite is
20 what we've stated throughout this case. Delta took those
21 reports of safety issues extremely seriously. Captain
22 Dickson's testimony -- I'm glad you got a chance to read it
23 -- is exactly Delta's position. And it's also the position
24 of the airline as a whole. And I did not mean to imply, in
25 any way, in any questions on cross, anything other than that.

1 And this document is another example of the responsiveness
2 of Delta to Complainant's raising of safety issues.

3 JUDGE MORRIS: Do you have evidence of them
4 complimenting her about safety issues prior to her
5 reinstatement?

6 MR. ROSENSTEIN: We do, and they're in the evidence
7 that you have in front of you during the period that she was
8 being invited to talk about safety.

9 JUDGE MORRIS: Counsel?

10 MR. SEHAM: There's just another basis -- it's
11 being represented that this is a complimentary letter. It
12 is, in fact, a disdainful letter and it also opens up a very
13 complex subject of AAUR -- I don't even remember the acronym
14 -- AAURS. But it concludes: "Contrary to your claims, Delta
15 takes all safety concerns seriously." So, it's really a
16 confrontational letter and the claim to --

17 MR. ROSENSTEIN: That sounds like an argument.

18 JUDGE MORRIS: I'll assess it when I'm doing the
19 decision.

20 MR. SEHAM: Yeah, yeah. It's in the record.

21 MR. ROSENSTEIN: I just -- as I said --

22 MR. SEHAM: It's not responsive to our redirect.

23 MR. ROSENSTEIN: As I said, my response to the
24 objection is that it's a document that is being presented,
25 because it responds to statements -- questioning on the cross

1 about the response of Delta to the safety issues raised.

2 JUDGE MORRIS: In that light, is there -- or am I
3 going to hear testimony as to RX-126, why there's no date,
4 nor even an address other than to --

5 MR. ROSENSTEIN: Maybe. I believe perhaps one of
6 the witnesses might be able to testify on that. But I can't
7 promise you that you'll have testimony on that, because the
8 person who wrote the letter is not a witness in this case,
9 Captain Tovani.

10 But I have no further questions. So, I just was
11 kind of pointing it out that it existed. It's already in the
12 record, so.

13 MR. SEHAM: We agree, it exists.

14 THE WITNESS: May I go back and answer on 126?

15 JUDGE MORRIS: No.

16 THE WITNESS: Okay.

17 MR. ROSENSTEIN: And I don't have any other
18 questions. Oh -- hold on -- I have to consult with my
19 esteemed counsel.

20 MR. BISBEE: Sorry.

21 MR. ROSENSTEIN: Yeah, I think -- no, there's no
22 need for any further questions, everything is in the record.

23 I would be repeating something that's already been
24 established.

25 EXAMINATION

1 BY JUDGE MORRIS:

2 Q You indicated that you weren't -- or you were
3 afforded the opportunity to say you'd be able to clarify
4 later and I didn't hear from either counsel on this. You
5 said: "Yes," to the question about Captain Davis was
6 harassing you. Why and what do you mean by that?

7 A The fact that I had to report my off duty days. I
8 mean what I was doing on my off duty days to him. That was
9 really the form -- I mean it just felt like harassment. And
10 then I was also not allowed to go to my direct chief pilot, I
11 had to go directly to him if -- I couldn't -- if I needed
12 anything or had any issues.

13 Q Can you explain to me your understanding or how is
14 it retaliation if the line check was not for you, but was for
15 the captain?

16 A Because when line checks are required -- they're
17 required and everybody knows it -- if either pilot on the
18 aircraft gets a line check, anytime a line check comes up,
19 whether it's in a simulator or on the aircraft, all pilots
20 are under observation. And so when the captain says: "I am
21 not due for four months," or "I'm retiring," and there's no
22 reason for that check airman to be there for that person, but
23 there may be something for the first officer going on, then
24 it just -- they're there for that person. It's more of a
25 coercion or threat. On one of them I asked the check airman

1 why is he here and he said he didn't know. They just
2 directed him to go do it.

3 Q What happens to a first officer if the captain
4 fails a line check?

5 A If the first officer was -- we operate as a crew.
6 We operate as a team. It's -- in the simulator now, under
7 AQP, quite often if one fails, they kind of both fail,
8 because they're not backing each other up. Not always, but
9 it depends. But the captain could be substandard and the
10 first officer may be protecting him. So, it wouldn't matter.

11 But if there were line checks and if it were for the
12 captain, as they say, they could fail the first officer and
13 not touch the captain for anything, they could down the first
14 officer and remove him from duty.

15 Q If you turn to RX-83. Do you have RX-83?

16 A I do.

17 Q If you'd turn to page 3. If you know, have you
18 seen Captain Sheldahl's signature before?

19 A I have not.

20 Q Okay. That's the only question I had for that.

21 With Delta, when line checks are performed, does
22 the line check airman get some sort of bonus pay, if you
23 know?

24 A Yes. And I'm going to expand on that. They get
25 -- it depends. Are they getting -- going out on a green slip

1 to do this, or are they going over high time, or are they
2 called out to do it? My union rep, when I went in and talked
3 to Captain Davis about that, my concern, after the fact,
4 after I had the line check with Tom Albain, Captain Crane
5 said:

6 "Karlene, he may not have been out
7 there, just coming to get you, he may
8 have been just doing it for the money,
9 because he said it was more lucrative for
10 him to be a 757 check airman than it was
11 when he was a 747 captain, just flying
12 straight pay."

13 So, they do make extra money.

14 Q Do you know if Delta has a process for removing
15 these letters -- I'll call it the "Christmas Letter"?

16 A I was told that -- by OC Miller -- three years and
17 it would be out of my file.

18 Q Have you ever seen a policy that reflects that?

19 A No.

20 Q You were asked and were given or invited to --
21 given an opportunity to elaborate later -- why does
22 everything in the airline relate to safety?

23 A Because it's safety -- it relates to safety because
24 the Safety Culture is our operational practices, it's our
25 behavior. And under the construct -- which I've named so

1 many times here -- if we aren't informed, if we're not
2 communicating, if we're not sharing information, it's all
3 about threat management, it's about risk mitigation. We've
4 shifted from CRM, from the cockpit, to now SMS for the
5 organization, and if we don't have those policies and those
6 practices in place, then we won't have a safe culture. If
7 we're not sharing information, disseminating information
8 properly, not training correctly, if we're not pushing our
9 aircraft back correctly, if we're rushing the pilot, if we're
10 not arming the doors before push-back, or we're flying over
11 wanting to push-back and fly with an inoperative part,
12 pretend that it occurred later, or we're not -- we're texting
13 in the simulator, we're not taking AQP serious -- and
14 falsification is serious and that's what I tried to convey to
15 Ms. Nabors. We would lose our entire AQP program with this
16 practice. So, it's all around safety, all of it implies --
17 just one little -- if you took one little needle out of the
18 haystack, would it make it fall? No. But it all goes into
19 part of it.

20 Q You mentioned or I remember hearing testimony about
21 Level 0 and Level 4, and problems flying. Are your aircrafts
22 certified for CAT-2 or CAT-3 approaches?

23 A Both.

24 Q Would you not have to be at a Level 4 to fly a
25 CAT-2 or CAT-3 approach?

1 A Yes, sir.

2 Q Okay. You mentioned something about an e-mail from
3 Mr. Puckett to Dr. Altman, about his call. That's all my
4 note is. Would you elaborate on that, if you recall?

5 A About his call? Puckett to Altman -- they had so
6 many e-mails, I don't remember what that was in reference to
7 now.

8 Q You also made reference that there was an e-mail
9 that existed, that the company represented that: "No expense
10 would be spared"?

11 A Yeah. That was not an e-mail. Dr. Huff told me
12 that, that that's what Dr. Faulkner had conveyed to him.

13 Q Are you aware of any document that reflects that?

14 A No.

15 Q All right.

16 JUDGE MORRIS: Questions based on mine?

17 MR. ROSENSTEIN: No. No questions from Respondent.

18 MR. SEHAM: No, Your Honor.

19 JUDGE MORRIS: All right.

20 You may step down.

21 (Witness excused.)

22 JUDGE MORRIS: What do you want to do next,
23 gentlemen?

24 MR. SEHAM: Well, it's 4:45 o'clock p.m., I'd say
25 we go home.

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 28, 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.

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