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I N D E X

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| <u>WITNESSES:</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> | <u>ALJ</u> |
| Thomas Faulkner | 1284 | 1381 | | | 1469 |
| Claire Kelley Nabors | 1473 | | | | |

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| <u>EXHIBITS:</u> | <u>IDENTIFIED</u> | <u>RECEIVED</u> | <u>REJECTED</u> |
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JOINT

(None identified, nor received.)

COMPLAINANT

201 1395

RESPONDENT

(None identified, nor received.)

P R O C E E D I N G S

1 (8:25 o'clock a.m.)

2 JUDGE MORRIS: On the record.

3 This is the hearing of Karlene Petitt versus Delta
4 Air Lines, U.S. Department of Labor Case Number
5 2018-AIR-00041. Pursuant to a notice of continued hearing
6 that I had previously issued in this case.

7 At the last convening, we were supposed to have
8 Captain Graham testify, but that did not work. So, I am to
9 substantively consider the deposition testimony from the
10 parties as per the parties' agreement.

11 It's my understanding that the next witness in this
12 case is Mr. Faulkner, is that correct?

13 MR. SEHAM: Dr. Faulkner.

14 JUDGE MORRIS: Dr. Faulkner, all right.

15 I also noticed that Mr. Bisbee is not here. Is he
16 not going to be here for the remaining of these proceedings?

17 MR. ROSENSTEIN: It's unlikely that he'll be here
18 for the remaining of the proceedings.

19 JUDGE MORRIS: All right. I just wanted to note
20 that for the record, that he's no longer here.

21 All right. Dr. Faulkner, please step forward.

22 Turn and face me and raise your right hand.

23 Whereupon,

24 THOMAS BOND FAULKNER

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

3 JUDGE MORRIS: Please take your seat. Once you're
4 seated, please provide your full name and contact
5 information?

6 THE WITNESS: Thomas Bond Faulkner,
7 F-a-u-l-k-n-e-r. Phone number 678 -- I'm sorry --
8 404-862-8541.

9 JUDGE MORRIS: And your business address?

10 THE WITNESS: 100 Hartsfield Centre, C-e-n-t-r-e,
11 Parkway, Atlanta, Georgia, Suite 340.

12 JUDGE MORRIS: Okay. And tell me a little bit
13 about your medical background and qualifications?

14 THE WITNESS: Graduated from med school at Chicago
15 Medical School in 1989. Did a residency in Family Medicine.
16 Subsequently worked for a few years as a family physician.
17 Went on to a fellowship at Duke in Occupational and
18 Environmental Medicine. Also, getting a degree, a Masters of
19 Healthcare Administration at the University of North
20 Carolina, Chapel Hill. Was also in the Navy at that time,
21 going through flight surgeon training, winged as a Navy
22 Flight Surgeon in June of 1994.

23 I'm trying to think. Board Certified in Family
24 Medicine, Occupational and Environmental Medicine, Addiction
25 Medicine, Aerospace Medicine. Trained as a Medical Review

1 Officer. Trained as an Aviation Medical Examiner and
2 qualified as an HIMS, H-I-M-S, Aviation Medical
3 Examiner/Independent Medical Sponsor.

4 JUDGE MORRIS: Do you have any FAA certificates or
5 ratings?

6 THE WITNESS: No.

7 JUDGE MORRIS: All right.

8 Go ahead, counsel.

9 MR. ROSENSTEIN: Before we begin, Dr. Faulkner,
10 could you grab a couple of binders that are in front of you,
11 just so that it can be handy because we'll be working -- if
12 you grab the binder that has, I should say, Joint Exhibits A
13 through N.

14 MS. BROWN: It's going to be the green one.

15 MR. ROSENSTEIN: It will be green.

16 MR. SEHAM: The green one on the far left, far
17 left.

18 THE WITNESS: Gotcha.

19 MR. ROSENSTEIN: And you might, also, while you're
20 down there, grab the one that says -- you can grab them both,
21 that's fine, just put them over on the desk -- and then if
22 you can grab the one that says Respondent's, it should run
23 from about 50, RX-50.

24 MS. BROWN: Volume 5.

25 MR. ROSENSTEIN: Volume 5.

1 served as a physician consultant, Aviation Medical Examiner
2 consultant for several companies and loss of license
3 insurance companies. And then in 2013 established my
4 Aviation Medical Examiner office in Atlanta, which I
5 currently still work at today.

6 Q And what's the name of that office?

7 A It's Tom Faulkner M.D., AME.

8 Q Hang on for one second. What was your professional
9 relationship with Delta during the period from 2015 through
10 the present, and if it's changed, describe it?

11 A Well, my title was physician consultant. I was
12 there to answer, predominantly, Aerospace Medicine issues
13 there, focused on Flight Operations, but also for In-flight
14 Services, and also respond to questions regarding
15 Occupational Health and Safety for Delta.

16 Q And how are you compensated in that role?

17 A I am on a contract with them, yearly contract.

18 Q And you've described your role as being a DHS, am I
19 remembering that right?

20 A Correct.

21 Q What is that?

22 A That's Director of Health Services.

23 Q And is that a role that you had in that same time
24 period?

25 A Yes, from 2015, yes.

1 Q And what's your current role?

2 A Still serve as director of Health Services.

3 Q Explain the role of director of Health Services at
4 Delta, as you understand it?

5 A In the contract here, I am to serve -- especially
6 for the contract, the Pilot's Working Agreement from Delta --
7 and the Airline Pilots Association -- as the representative
8 for the company on Aeromedical Certification issues.

9 Q And your testimony is that you derive that position
10 from the Collective Bargaining Agreement?

11 A Correct.

12 Q Explain what that role is?

13 A The predominant role is under the Collective
14 Bargaining Agreement, the Pilot Working Agreement, if a pilot
15 has been out for more than four months, for an Aeromedical
16 reason, before they can return to active flight status they
17 need to come to my office where I can review documentation to
18 substantiate the medical reasons they were out for and make
19 sure they met the current FAA medical standards to hold a
20 valid first class medical certificate.

21 I also serve as a resource for pilots and their
22 management, regarding questions on Aeromedical Certification.

23 So, for instance -- can I fly on this medication -- what's
24 the FAA's policy following this procedure? And then finally,
25 as mentioned, under the Section 15 part of the Pilot Working

1 Agreement, I'm involved in the Fitness For Duty Evaluations
2 from the medical standpoint, for pilots, if there is a
3 question to believe if they meet the FAA Medical Standards.

4 Q Do you know what an AME is, within the industry?

5 A Aviation Medical Examiner, A-M-E.

6 Q Yeah.

7 A Yes.

8 Q What is that?

9 A He is a -- sorry -- forgive me -- he or she is a
10 physician that is designated by the federal air surgeon to
11 serve as a representative for the federal air surgeon in
12 matters pertaining to FAA medical standards, as they apply to
13 pilots. These physicians do the exams on the airmen to make
14 sure that they do meet the medical standards, or if there are
15 questions, defer the exam to the FAA for further
16 consideration.

17 Q Were you the AME for Delta in the 2015 to current
18 time-frame?

19 A There's no -- I was director of Health Services,
20 and I want to qualify that that means while I am an AME under
21 the provision there, I'm a physician that knows the FAA rules
22 and regs as an AME, but Delta does not have an official AME.

23 Q Okay. You had mentioned Section 15, what's your
24 understanding of your role as the DHS within the Section 15
25 process?

1 A So, should there be concerns raised by the company
2 about an airman meeting medical standards -- "medical
3 standards," I stress that, please -- that they engage me to
4 investigate the case, often just hearing what the concerns
5 are, getting reports to review and then determining if
6 anything else needs to be further investigated, to see if the
7 airman does, indeed, meet the FAA Medical Standards.

8 Q And during the time that you've been DHS at Delta,
9 how often have you been involved in a Section 15 related
10 issue, approximately?

11 A Since -- boy -- I'm going to go since 1998, when I
12 came aboard as regional medical director, I'd probably say
13 maybe 24 cases.

14 Q Two dozen, is that --

15 A Sure.

16 Q -- give or take. And of those, can you estimate
17 how many of those involved mental health issues as opposed to
18 physical issues?

19 A I'd probably say a quarter of them.

20 Q Something in the neighborhood of five or six, is
21 that what you're saying?

22 A Well, let me think, let me qualify that. Maybe up
23 to eight.

24 Q Okay. And out of those, approximately eight, how
25 many of those, if you could estimate, revolved around

1 concerns over drug and alcohol issues as opposed -- well,
2 first of all -- would a mental health issue include a drug
3 and alcohol issue?

4 A Well, it is -- and I guess let me qualify that --
5 under the category there, I would say of the 24 or two dozen
6 I've seen, I'd say probably a good 12 to 15 of those have
7 been a substance abuse concern issue.

8 Q And some of those -- am I understanding your
9 testimony -- some of those also involve mental health
10 concerns, but not all?

11 A Well, again, when there were concerns raised, they
12 were evaluated then and it often turned out they had a single
13 diagnosis, a mental nervous diagnosis, a combined or
14 co-morbid diagnosis, mental nervous along with a substance
15 abuse or, independently, just a substance abuse diagnosis.

16 Q Describe -- continue describing what your role is
17 as the DHS in the Section 15 process -- I sort of cut you off
18 as you were describing it?

19 A Okay. Well, when there's concerns raised, I'm
20 typically contacted by Flight Ops Administration, their
21 leadership there. It could be chief pilots, often with Labor
22 Relations involved. They will give me their concerns. I
23 typically will weigh those, but I'll ask for something in
24 writing from the representatives there, something where they
25 sign their name to it, indicating what they observed, what

1 statements were made, what their general concerns are.

2 Once I get that information, I review it and then
3 typically say there is something going on here that we need
4 to investigate further, and would recommend to Flight Ops
5 Administration that we pursue the Section 15 process.

6 Q Why would that be typical -- why would that be your
7 typical response?

8 A Well, if there is something found there, that we
9 need more information on, or there are concerns raised, just
10 from what I have there, again we go with the Section 15
11 process. It's not punitive or anything like that, it's just
12 like I need more information on this, I believe there's
13 reasons to investigate further to see if there's an
14 underlying medical condition and/or treatment that is
15 responsible for observed behaviors or statements.

16 Q Okay. And then what happens next, assuming that
17 you've gone past that stuff?

18 A So, I recommend that to Flight Operations. They
19 are typically the ones that, again, they determine, they make
20 the decision, they send out the letter for a Section 15
21 evaluation.

22 Q In your experience, has Flight Operations ever not
23 followed your recommendation?

24 A If I may qualify that. There have been a few times
25 that the pilot knows something is going on, in my opinion,

1 and retires. But in a majority of the cases they will then
2 generate the letter to the pilot and that will announce that
3 you're being removed from active flight status, putting them
4 on administrative leave, Dr. Faulkner will be in touch with
5 you to proceed with the Section 15 evaluation process.

6 Q And continue describing the process as you
7 understand it?

8 A So, when that letter is sent, I confirm that it's
9 been sent, typically they have the airman sign that they
10 received that letter from the company, so they're aware of
11 it. And I'll get a copy of that, then I will contact the
12 airman, introduce myself, explain what the concerns are, ask
13 their opinion of things to get their side of the story, if
14 you will. And then ask if there's any underlying medical
15 reason and/or treatment that could have caused the observed
16 behaviors or the statements of concern.

17 Again, I will often work with releases to get his
18 information directly from their healthcare providers. I
19 also, at that time, typically state this is not punitive,
20 this is kept confidential, Delta will not be sharing any
21 medical documentation on this or information.

22 Q Do you have an understanding as to why it's kept
23 confidential?

24 A It's confidential medical information there. They
25 don't need to know it. In fact, that's why they have me

1 there, to make sure that you don't have a chief pilot finding
2 out about specific medical conditions.

3 Q And do you report to the FAA that this is
4 happening?

5 A Under the Section 15 agreement, the FAA is not to
6 be involved. This is, again, for the pilot's protection --
7 because again, if the FAA does get involved, there's
8 potential that they would pull the FAA or the airman's
9 certificate, which would then result in them being on sick
10 leave or disability. So, it's a way of not having the FAA
11 involved. At the same time, the pilot is removed from active
12 flight status, so they're not flying, while we get time to
13 investigate this further.

14 Q Why remove the pilot from active flight status?

15 A Until we can find out if there's something of
16 concern that could compromise their performance in the
17 cockpit, the safe operations in the cockpit.

18 Q So, you were explaining your process of meeting or
19 speaking with the pilot -- continue?

20 A So, again, I will meet with the pilot, explain to
21 them then not punitive, confidential, that, again, I want to
22 work to get this done as promptly as possible, but also have
23 the information we need. So, it behooves them to cooperate,
24 to work with their providers, with us, to get the releases so
25 we can get the documentation there. And I also inform them

1 that they should reach out to their ALPA, Air Medical
2 representatives known as Aviation Medical Advisory Services,
3 and --

4 Q Is that acronym AMAS?

5 A AMAS, A-M-A-S, in Colorado.

6 Q Okay.

7 A Who are physicians who have been trained as AMEs,
8 but are not certified AMEs, except under a certain provision
9 I can expound on if you'd like, but to advise them on this
10 process, to give them resources and assist them with any
11 questions they have on it.

12 Q And then what happens?

13 A Provided once I get the information and
14 documentation from there, from their personal physicians,
15 that may explain what's going on there, it may lead to some
16 more questions.

17 Q Have you had situations among the two dozen or so,
18 where the process has ended upon such a submission?

19 A Yes.

20 Q More than one?

21 A I would say probably, I'm going to say three to
22 four.

23 Q Okay. If that doesn't happen, which it sounds like
24 in the majority of cases, what happens next?

25 A If there's concerns there, then based on the

1 information presented from the behavior or statements
2 observed, and then from the medical documentation recommend
3 that they go for an independent evaluation, typically
4 selecting a specialist in the area that I believe, from the
5 review of the documentation, needs to be looked into further.

6 Q And would that specialist have a title or a name
7 within the process?

8 A Well, it's known as the CME, Company Medical
9 Examiner.

10 Q How do you select the CME, other than, as you've
11 already testified, finding somebody with expertise,
12 typically?

13 A Ideally -- well, certainly they have to be a
14 specialist in the area we're looking for here. And a strong
15 component is that they are familiar with the Federal Aviation
16 Office of Aerospace Medicine Medical Standards for Airmen.
17 So, look for those who are involved in that, understand the
18 specific medical standards that pilots must meet.

19 Q Who is responsible for choosing the CME under the
20 system?

21 A I am responsible for that.

22 Q Does anyone else contribute to the choice?

23 A No.

24 Q What about the airline, does the airline have a
25 say?

1 A No.

2 Q Once the CME is selected, what role do you play in
3 that person's review?

4 A It is then I get into the facilitation role, and by
5 that I mean an admin or facilitation role. So, I'll inform
6 the airman -- several things -- I will inform the airman that
7 we're going for the evaluation by a CME, and that their job
8 is to cooperate with the evaluation, provide information
9 asked for. Typically, with a release, I will forward on
10 information to that CME that has been provided to me by the
11 airman, if there is any such any information, and the
12 company, regarding the concerns, any notes I have there. I
13 will also contact AMAS and share with them, as the contract,
14 the concerns raised, why I am directing towards a CME
15 evaluation, who that CME is.

16 Q And then walk us through the conclusion of the
17 Section 15 process?

18 A So, my office often will coordinate and try and get
19 the travel arrangements made for the pilot to get to their
20 CME evaluation, again travel up there, hotel, incidentals, et
21 cetera. And then depending on where -- get the report, the
22 evaluation back from the evaluator and based on that
23 determine what the evaluator finds and make recommendations
24 based on the findings of that evaluator.

25 Q If the CME makes the finding that in his or her

1 opinion the pilot should be deemed ineligible or not
2 qualified, then what happens?

3 A Well, when I get the report I'll review it. Then I
4 typically contact -- I will contact the CME by phone
5 afterwards, to ask specific questions, any problems they
6 encountered that may have compromised the evaluation, maybe
7 missing information, whatever. But then after that, if the
8 documentation stands, I have it written by a medical
9 professional versed in FAA Standards, I will make the
10 recommendation to Delta simply that the pilot be removed from
11 the active seniority list and be put on sick leave of
12 absence.

13 Q Then what happens within the process, if that
14 occurs?

15 A If that's the case, as I understand, Delta will put
16 them off, take them off of administrative leave, which
17 they've been under for this process, and put them on sick
18 leave of absence.

19 Q And is that the end of the collectively bargained
20 process?

21 A No.

22 Q What happens next?

23 A The pilot has the right to challenge that decision.
24 And so we now engage the Pilot Medical Examiner, or PME.
25 Typically, this -- again working with AMAS -- is where the

1 pilot works to find a healthcare professional comparable,
2 ideally, to the CME, to review the information, to review the
3 CME's report and come up with their determination.

4 Q What's your role with regard to the PME, if any?

5 A Typically, again, it's facilitating. There's
6 several questions made with these things. So, for instance,
7 making sure they know the process, where the reports go to,
8 who should get the reports, who is responsible for the costs
9 of these reports. Again, when it gets to the PME, that's
10 often on the pilot's nickel to go pay for that and get
11 transportation to and from. Typically, I'm also talking to,
12 again, AMAS, to make sure, you know, every report is provided
13 to them there and they're working with the PME, if necessary,
14 to coordinate the communication and exchange of
15 documentation.

16 Q And of the two dozen or so cases you had, what
17 percentage of those have proceeded to a CME and then to a
18 PME, if you could approximate?

19 A I'm going to say two.

20 Q Two?

21 A Yes.

22 Q So, in the majority of the cases that have gone to
23 a CME, the CME has not recommended that the pilot be deemed
24 ineligible or not qualified?

25 A So, in the majority of the cases sent for a CME

1 evaluation, yes, a majority of them come back saying there's
2 an issue here, they do not meet medical standards.

3 Q They do not meet medical standards?

4 A I'm sorry. Well, let me see -- yeah, of the
5 majority there, there's four, I think, that came back --
6 well, let me hold on and qualify that. I'm just trying to
7 think through the process here. I'd say a majority still
8 have said there is something the pilot does not meet the
9 medical standards.

10 Q And then out of those -- out of that majority of
11 times when that's happened -- not all the time, though,
12 correct?

13 A No.

14 Q Okay. And the ones that have come back, where they
15 found that the pilot does not meet medical standards, how
16 many of those have proceeded to a PME?

17 A Few -- two.

18 Q Okay. Including Ms. Petitt's situation?

19 A Correct.

20 JUDGE MORRIS: Hold on.

21 Was the other one a mental health one as well, or
22 was it a physical or a drug and alcohol?

23 THE WITNESS: It was a drug and alcohol.

24 JUDGE MORRIS: All right. Continue.

25 BY MR. ROSENSTEIN:

1 Q Okay. If the PME -- and since there are only two
2 of them, I guess you can't talk too much about a large amount
3 of personal experience with it, but in general your
4 understanding -- what is your understanding of what happens
5 if the PME disagrees with the CME?

6 A Under the contract, and again, this is unique
7 territory --

8 Q Yeah.

9 A Under the contract, the CME and the PME discuss
10 going to an N, as in Neutral Medical Examiner, where they,
11 the CME and the PME, decide who that specialist will be. And
12 then I serve, again, more as an administrative facilitator in
13 this, in terms of contacting an NME, just to make sure they
14 understand the Section 15 process, again, that they have
15 access to any documentation they desire, that they are to
16 have the report from the PME and the CME, as well as access
17 to anything they want from Delta regarding the case there.
18 And payment issues there, and again, where the report should
19 be sent.

20 Q Do you have a role in selecting the NME?

21 A I do not.

22 Q If the NME agrees with the PME, what happens in
23 that situation?

24 A So, if the -- I'm just going to say -- so if the
25 PME supports or believes the pilot meets the medical

1 standards, the NME evaluates the pilot, looks at both the CME
2 and the PME records and agrees with the PME, then the
3 information comes back to me and I recommend that they do a
4 return back to flight status.

5 Q Do you conduct any medical evaluation on your own,
6 during any of this process?

7 A No really physical exam. I will, in my initial
8 intake, if you will, I will ask them, the individual
9 involved, again about any underlying medical conditions they
10 may have. I ask for any medical documentation, history
11 there, treatment medications.

12 Q Why?

13 A Again, I'm looking at that ground level to see if
14 there's any medical reason for what's going on there. And as
15 it has in a few cases in the past, I've found enough
16 information there to say we don't have to proceed up the
17 ladder with the CME.

18 Q If the CME makes a finding that the pilot is not
19 qualified, do you have an understanding of what happens to
20 the pilot's employment status?

21 A Well, what I send back there that there's something
22 that they do not meet the medical standards, I recommend that
23 they be put on sick leave of absence, okay. What happens
24 from there, again, it's a recommendation. But in my
25 experience, they typically are placed on sick leave of

1 absence.

2 Q Let's get a little bit into the specific situation
3 with First Officer Petitt. When did you first hear about
4 First Officer Petitt in 2016?

5 A I believe it was around early March.

6 Q And how was it raised to you?

7 A As often these are, it was a phone call from Flight
8 Ops, and I believe in this case it was Labor Relations, Chris
9 Puckett. And I can't recall if there was actually someone
10 from Flight Ops on the call. But also, Kelley Nabors.

11 Q So, did you know who Mr. Puckett was at that time?

12 A I had worked with him in the past, yes.

13 Q Did you know who Ms. Nabors was?

14 A I do not.

15 Q Did not?

16 A I didn't know her, no, I hadn't worked with her
17 before.

18 Q And did you know who First Officer Petitt was, when
19 it was raised to you?

20 A Very familiar -- no. As record, in my role of
21 reviewing records for her back in 2010, she came on back
22 after, I believe, an orthopedic issue, and I reviewed her
23 records there to recommended a return to work.

24 Q Other than that, did you have any knowledge of
25 First Officer Petitt's Delta experience?

1 A I did not.

2 Q Tell us what happened during -- was that -- you
3 said it was in March. Do you know whether that was March
4 10th, just because this case -- does that sound right?

5 A Yeah, I think March 10th, yeah, it sounds familiar.

6 Q Yeah. So, just for -- you don't remember the
7 specific date, you don't have a calendar?

8 A Right. I know it was in early March and it was a
9 phone call with Chris Petitt (sic) and Ms. Nabors was on the
10 call.

11 Q Okay.

12 A And the concern was Ms. Nabors was reporting her
13 recent interaction, interview with Ms. Petitt.

14 Q So, tell us just what you remember happening during
15 that phone call -- I think the record shows it's March 10th?

16 A Okay. Well, Ms. Nabors was very concerned about
17 Ms. Petitt's behavior.

18 Q Well, how did it -- start at the beginning -- how
19 did they introduce themselves?

20 A Oh. Well, I got a call -- again, often it's -- I
21 believe I was there and took the call, it wasn't called back
22 to them there.

23 Q Okay.

24 A But I was called and was told, basically, we have
25 concerns about a pilot we'd like to run by you.

1 Q Told by who?

2 A I believe it was Chris Puckett.

3 Q Okay. Continue?

4 A And so Chris kind of gave an intro and then said:

5 "Let me introduce Kelley Nabors and
6 hear what she has to say about her
7 interaction."

8 Q And tell us what you heard from Ms. Nabors then?

9 A Ms. Nabors had indicated that she had been out
10 there for an interview with Ms. Petitt for -- I think Ms.
11 Nabors is an EO, Equal Opportunity, representative, so had
12 gone out there to interview Ms. Petitt for some concerns
13 raised. And during her interview with Ms. Petitt, was
14 concerned about her behavior, saying she was very anxious,
15 very tearful, very stressed. And then her statements,
16 specifically focusing in on that Ms. Petitt voiced that she
17 felt threatened and concerned for her health and safety,
18 because of information she had about the company. And I
19 believe also some harassment that she had raised in the past
20 -- harassment issues, rather.

21 Q Do you remember anything else specifically that Ms.
22 Nabors said during that first call?

23 A It was unique for her to ever encounter something
24 like this. That, you know, she tried to ask various ways to
25 find out if she could get down to what the concerns were, but

1 that the continual impressive point was Ms. Pettitt talked
2 rapidly, frequently jumping on topics, but still coming back
3 that she felt threatened by what she knew about what was
4 going on with Delta's Safety Program.

5 Q Anything else that you remember Ms. Nabors saying
6 on that call -- I know that there might have been others?

7 A I think the gist of it was there, again, she hadn't
8 experienced anything like this, but she felt she was dealing
9 with an employee that felt threatened about where she worked,
10 and that she was voicing that she felt that the company was
11 going to come after her.

12 Q And what was -- did Mr. Puckett say anything during
13 that first call?

14 A He listened, more than anything else.

15 Q And what -- how did he react to it?

16 A Well, it was concerning, but as is typical and my
17 policy, I listened to what she had to say and said: "I'd like
18 you to put that in writing."

19 Q Well, first of all, why was it concerning?

20 A You have -- well, you had an employee, that's in
21 charge of flying aircraft there, very anxious and -- an
22 armchair thing -- paranoid, feeling threatened, feeling that
23 they were out to get her for what she knew. That's unique.
24 I don't see that. I mean it may be that they have some
25 issues with you, but not physical harm to you because of what

1 you know. So, that was concerning, that was unique.

2 Q And you said that you reacted with a recommendation
3 of some sort?

4 A I just asked for -- I said that I think we need to
5 know more about this, but I want you to provide that, Ms.
6 Nabors, in writing, about what she observed and what she
7 heard.

8 Q Why?

9 A I don't go after it, unless it's in writing?

10 Q Why?

11 A I don't go by hearsay. Forgive me, but again we're
12 getting into territory where an employee can lose their job
13 or have other administrative action there, you don't want to
14 say: "Because someone said." The FAA may work that way, they
15 have a hotline, they do that stuff, but we can't do that by
16 hearsay.

17 Q Did you find Ms. Nabors credible?

18 A I will say I hadn't known her before, but she
19 seemed very sincere and was consistent with her story. I did
20 not have reason to doubt her.

21 Q When you were speaking with Ms. Nabors and Mr.
22 Puckett, was that in your role as director of Health
23 Services?

24 A Yes.

25 Q Did Ms. Nabors ever provide you with a written

1 report of what she had told you on that March 10th call?

2 A Yes. I believe in the subsequent week she did
3 provide a written summary of her interaction with Ms. Petitt.

4 Q Take a look at Joint Exhibit J?

5 A Yeah.

6 Q Oh, I'm sorry -- I gave you the wrong one -- Joint
7 Exhibit E.

8 A I'm sorry -- E?

9 Q E.

10 A And I'd ask you to turn to the page that's Bates
11 numbered JX-E-10?

12 A Um-hum.

13 Q Can you identify what that is, if you can?

14 A It looks like --

15 Q Under the section that says: "Additional Notes,"
16 specifically?

17 A Oh, I see. So, this, I believe, is from -- looking
18 at the headline, this is from Ms. Nabors' report.

19 Q And is this the document that you reviewed in that
20 March time-frame?

21 A Yes.

22 Q Do you recall whether you had the entirety of the
23 document at that time?

24 A No. I mean this is what I had. I mean I asked for
25 a write-up there. There was a subsequent document sent to me

1 later -- I can't recall when -- but involving some follow-up
2 conversations Ms. Nabors had with Ms. Pettitt.

3 Q Take a look at Joint Exhibit J now, and just take a
4 look through it and tell me if you can identify what that is?

5 A Yeah, I'm going to -- okay. So, yeah, this looks
6 like the addition, because it talks about what happened in
7 later March phone conversation Ms. Nabors had.

8 Q So, Joint Exhibit E, the section that is under
9 "Additional Notes," is what you had in March. Joint Exhibit
10 J you received at a later date, is that -- am I getting your
11 testimony accurate?

12 A Correct, correct.

13 Q Okay.

14 A Yes.

15 Q Okay. What did you do -- what else did you do
16 after the March 10th meeting, if anything, besides asking Ms.
17 Nabors to put her concerns in writing?

18 A Well, now I had something in writing, it
19 substantiated what she had basically reviewed on the phone,
20 giving a little more details there. So, I had, again,
21 someone put it in writing.

22 Q Yeah.

23 A And stood by it, that that was the interaction she
24 had with this employee.

25 Q Got it. So, after the March 10th call, you told us

1 what Ms. Nabors said to you. Did you reach out to anyone
2 else to get expertise as per your -- Dr. Altman?

3 A No. I don't believe I reached out to Dr. Altman
4 directly, no.

5 Q You didn't speak to Dr. Altman at that time?

6 A No.

7 Q Do you recall whether or not Mr. Puckett reached
8 out to Dr. Altman, or told you he would?

9 A I believe there was discussion about him, given the
10 nature of this case, to involve Dr. Altman.

11 Q And what do you recall discussing with Mr. Puckett
12 about seeking out Dr. Altman in that March time-frame?

13 A The general concerns raised by this were leaning
14 towards mental nervous, but at the same time it was unique to
15 have, again, I've not encountered this before with an
16 employee saying like this and writing it down there. So, I
17 believe it was suggested they have Dr. Altman, who is a
18 psychiatrist, who has had a lot more experience in aviation
19 psychiatry than I have, to get his opinion on --

20 Q You knew Dr. Altman at that point?

21 A I've worked with him in the past. I've referred
22 pilots to him and, forgive me, flight attendants and
23 maintenance workers, and air traffic controllers.

24 Q Is he a friend of yours?

25 A No.

1 Q Had you ever met him at that point?

2 A No.

3 Q Did Mr. Puckett know Dr. Altman?

4 MR. SEHAM: Objection.

5 BY MR. ROSENSTEIN:

6 Q To your knowledge?

7 JUDGE MORRIS: Overruled.

8 BY MR. ROSENSTEIN:

9 Q You don't know whether --

10 A I don't think they met.

11 Q Do you know whether Mr. Puckett knew of Dr. Altman
12 at that point?

13 A I believe so.

14 Q Why do you believe so?

15 A Previous case that we had worked on together that
16 Dr. Altman was involved in the evaluation.

17 JUDGE MORRIS: Wait a minute.

18 Was that previous case the same one that went to
19 the Pilots Medical Exam?

20 THE WITNESS: No.

21 JUDGE MORRIS: Okay. Go ahead.

22 BY MR. ROSENSTEIN:

23 Q Other than the document that's Joint Exhibit E in
24 front of you, did Mr. Puckett provide you with any other
25 information -- any other documentation, assuming that he gave

1 you -- I shouldn't assume that. Did you receive Exhibit E
2 from Mr. Puckett?

3 A I received it, I believe, from him, yes.

4 Q Okay. And do you think he handed it to you or do
5 you know how you got it from him?

6 A No.

7 JUDGE MORRIS: Wait a minute.

8 So we're clear, did he receive all of Joint Exhibit
9 E, or just the additional notes?

10 MR. ROSENSTEIN: I wasn't clear on that either.
11 So, please --

12 THE WITNESS: So, we have Exhibit E, we have
13 Exhibit J --

14 MR. ROSENSTEIN: Take a look at it.

15 BY MR. ROSENSTEIN:

16 Q Take a look at E, because I -- so, Exhibit E, just
17 to be very clear, the way it is in evidence in this case is
18 as an attachment to an e-mail from Chris Puckett to Dr.
19 Altman, dated March 16th. Do you see that on the first page?

20 A Right.

21 Q And the second page of it is the actual e-mail.
22 But you're not copied on that, correct?

23 A Right.

24 Q The exhibit goes on to attach something called:
25 "Karlene Petitt Safety Issues." And then the last page, the

1 page I asked you about, has the additional notes, which is
2 what you've testified were the Kelley Nabors response to your
3 request that she put it in writing, correct?

4 A Okay.

5 Q Am I correct? I don't want you to just agree with
6 me --

7 A Let me just make sure. No, I've got to make sure
8 here that --

9 Q -- I want you to -- yeah --

10 A My read on it is I received everything in that
11 early march time-frame, in Joint Exhibit E.

12 Q Right. Other than --

13 JUDGE MORRIS: Everything in E, all right.

14 BY MR. ROSENSTEIN:

15 Q Other than the cover note to Dr. Altman, or
16 including the cover note?

17 A I think it was -- I don't believe the cover note to
18 Dr. Altman was there.

19 Q So, everything from Joint Exhibit E-3 through the
20 end of the document JX-E-11?

21 A Correct?

22 Q Okay. And so your testimony is that Mr. Puckett
23 handed it to you?

24 A No.

25 Q You don't remember?

1 A No. I meet with Mr. Puckett, but that did not come
2 to --

3 Q You don't recall --

4 A -- no, he didn't meet with me --

5 Q -- am I correct, you don't recall how you received
6 it?

7 A No.

8 Q Okay. All right. Other than speaking -- well --
9 tell us what happened once you received this report from Mr.
10 Puckett, what was the next thing that happened?

11 A I, again, reviewed it, looking for, again, to put
12 it in writing, the statements, the behaviors observed. I had
13 information here that I believed warranted further
14 investigation. And I believe I may have shared it with -- I
15 think I did share with Mr. Puckett -- it was a phone call
16 made to arrange for a conference call later.

17 Q Who was that teleconference to be with?

18 A That would be with?

19 Q That would be with myself, Mr. Puckett, I think Ms.
20 Nabors, to follow up on any questions we had. I believe Dr.
21 Altman was included in that, as well.

22 Q Anyone else with Delta?

23 A I think there was someone from Flight Ops, I can't
24 remember exactly who. It could have been OC Miller.

25 Q Was Captain Graham involved in that teleconference

1 that was scheduled?

2 A I can't recall, I don't believe --

3 Q Okay. You were on -- that meeting took place --

4 MR. SEHAM: I'm sorry -- I thought, you know --

5 BY MR. ROSENSTEIN:

6 Q Were you finished with your answer?

7 MR. SEHAM: Yeah.

8 THE WITNESS: What's the question please? I'm
9 sorry.

10 MR. SEHAM: I thought that answer was interrupted.

11 BY MR. ROSENSTEIN:

12 Q Did you have a teleconference with Flight Ops on
13 March 17th, 2016?

14 A Yes.

15 Q And who was present, to your knowledge, during that
16 teleconference?

17 A Okay. So, I will say Kelley Nabors, Chris Puckett,
18 Dr. Altman was listening in there, I believe OC Miller and,
19 again, Jim Graham was actually, I as recall, I think part of
20 it there.

21 Q On that March meeting --

22 A The 17th call, I believe --

23 Q -- that took place on March 17th?

24 A Yeah.

25 Q Okay. Do you know for a fact whether OC Miller was

1 there?

2 A And I can't recall. OC Miller was involved in a
3 lot of these fitness for duty things or reviews in the past,
4 so I'm just assuming that he would have been involved in
5 something like this.

6 Q When you say he was involved in these fitness for
7 duty things, you're referring to incidents involving other
8 people, not Ms. Petitt?

9 A Yeah.

10 Q Okay. You were not physically present during that
11 meeting?

12 A No. I was calling in.

13 Q Okay. And it was your testimony that that meeting
14 was set up with a call with Mr. Puckett on March 16th, is
15 that what I understand?

16 A It was set up and we had the call on the 17th.

17 Q Okay. And was Dr. Altman -- do you recall whether
18 Dr. Altman was on the March 16th call to set it up? He
19 participated on the 17th, I assume somebody told him to be
20 here?

21 A Yeah. I don't recall.

22 Q You just don't remember?

23 A No.

24 Q Okay. What's your recollection of the purpose of
25 the March 17th meeting/call?

1 A It was to follow up. Again, I'm looking for
2 consistency on this. So, I had received her report there,
3 from Ms. Nabors. Of course I'd heard her roughly a week
4 ahead of time there, had reviewed this. So, it was just,
5 again, asking her maybe some specific questions to see if
6 there was any inconsistencies there. And then based on that
7 recommendation.

8 Q What do you mean, "based on that recommendation"?

9 A There was information sufficient enough to warrant
10 a Section 15 evaluation.

11 Q Got it. Do you recall, other than -- do you recall
12 whether you spoke to Dr. Altman at any point before the March
13 17th conference call, if you recall one way or another?

14 A I don't recall I did, no.

15 Q You don't remember?

16 A I don't believe so. I think it was Mr. Puckett and
17 I discussed it, that it would be good to have him on the
18 conference call, but then it was a lot of listening. And at
19 the end, I think we exchanged some thoughts.

20 Q Did you speak to anyone other than Mr. Puckett and
21 Ms. Nabors, between March 10th and the March 17th call, about
22 Ms. Petitt?

23 A No.

24 Q Did you receive any documents from anyone other
25 than the ones you've described, between March 10th and March

1 17th?

2 A No. And I don't believe I asked for any, either.

3 Q Did you review, do any research on Ms. Pettitt on
4 your own during that time-frame?

5 A I may have looked in my records just to see the
6 previous 2010 return to work evaluation, to see if there had
7 been anything there before it, but that was about it.

8 Q Did you go on the internet to do any kind of
9 research on her?

10 A No.

11 Q Did you look at her blog?

12 A No.

13 Q Did you read any of her books?

14 A No.

15 Q Did you know anything about her prior history with
16 Delta during that time-frame?

17 A No.

18 Q Did you -- you didn't speak to Captain Graham
19 between March 10th and this phone call on March 17th?

20 A No.

21 Q Do you speak to Captain Graham on a regular basis?

22 A No.

23 Q Did you speak with Phil Davis during that period of
24 time?

25 A No.

1 Q Did you speak with any Delta lawyers during that
2 time, to your recollection, I mean other than Mr. Puckett,
3 who is a lawyer?

4 A No.

5 Q During the March 17th call, were you aware of any
6 lawyers being present during the time that you were
7 participating?

8 A Aside from Mr. Puckett, no.

9 Q Give us your general recollection of what happened
10 during that March 17th teleconference -- for you it was a
11 teleconference?

12 A It was kind of a follow-up on this. Again, like I
13 said, Ms. Nabors there reviewed her report. I then asked her
14 to reiterate what she had said before there, just to see if
15 there was any inconsistencies. After listening to that
16 story, I said I believe there's enough there. I think since
17 Dr. Altman was listening, I asked him if he'd ever
18 encountered anything like this, but if he felt there was
19 something that needed to be looked into further. And you
20 know, he said, yeah, there is something, probably, to look
21 into further.

22 Q Okay. Did you come to a conclusion at the end of
23 that meeting?

24 A No.

25 Q Did you come to a decision as to what should happen

1 with regard to the Section 15 process, in terms of your
2 recommendation, at the end of that meeting?

3 A It was my recommendation, based on that
4 information, that we proceed with the Section 15 process. I
5 recommended that to Mr. Puckett when I was listening in.

6 Q Okay. And did Dr. Altman -- do you recall Dr.
7 Altman offering his opinion on the subject?

8 A He just said -- I don't think he mentioned Section
9 15 -- he said there is concerns here. I'm the one that
10 pulled the trigger and said Section 15.

11 Q Do you recall a discussion about Ms. Petitt's prior
12 history with Delta, during the March 17th meeting?

13 A No.

14 Q What was the basis for your recommendation?

15 A It was based on the behaviors and statements made
16 by Ms. Petitt with her interview with Ms. Nabors.

17 Q Did you base it on anything else?

18 A No.

19 Q Were you aware that at the time that Ms. Petitt had
20 raised -- well, you are aware that Ms. Petitt had raised
21 other issues, correct?

22 A Well, in Ms. Nabors' report, yes.

23 Q Okay. What role did that play in your
24 recommendation, if any?

25 A Nothing. If I may? It was essentially explained

1 to me, and I think Mr. Graham was there, he said there's
2 three issues going on here. One is concerns about harassment
3 and that's why Ms. Nabors was out there interviewing her.
4 One was the concerns Ms. Petitt had raised about safety at
5 Delta, and that was something that was being investigated
6 independently. And then Dr. Faulkner, from your review of
7 this information and interview, do you think there's a
8 medical concern here? So, it was explained to me, you know,
9 your job is not about what's her safety complaints and the
10 validity of that, nor her harassment claims, I didn't look
11 into that stuff. It was more about given what you're seeing
12 here, given what this employee, fellow employee, documented,
13 was there medical concerns? And that's what I acted on.

14 Q Did you identify, during that meeting, that you
15 were concerned about Ms. Petitt's inability to follow
16 policies at Delta, as a basis for your decision to recommend
17 the implementation of Section 15?

18 A No.

19 Q Did you identify Ms. Petitt's alleged inability to
20 let go of issues that had been raised in her past, as a basis
21 for your recommendation?

22 A No.

23 Q Do you recall there being a discussion of memory
24 issues or the subject of something called memory issues
25 coming up in that meeting?

1 A No.

2 Q Is it your understanding that a Section 15 process
3 cannot be initiated without your recommendation?

4 A That's my understanding, yes.

5 Q What happened after the March 17th meeting, did you
6 have any follow up?

7 A Well, again, I recommended and then I believe
8 shortly thereafter I received a copy of the letter that had
9 been sent to Ms. Petitt, regarding her being involved in the
10 Section 15 process.

11 Q By the way, prior to the period March 10th and
12 March 17th, 2016, had anyone at Delta ever approached you to
13 discuss a Section 15 for Ms. Petitt?

14 A No.

15 Q So, after the letter was initiated -- you didn't
16 draft that letter, I assume, correct?

17 A Those are standard form letters coming from Flight
18 Operations.

19 Q Okay. You're familiar with the content of the
20 letter, is that right?

21 A Correct.

22 Q Okay. So, what did you do, once that letter was
23 provided to --

24 A So, my process, once those letters are sent out --
25 and typically, again, those are typically signed by the

1 employee that they have received them, often in the presence
2 of their chief pilot. I give it a couple of days, but
3 typically no later than a week, I will reach out to the pilot
4 by phone to introduce myself, explain the Section 15 process,
5 again stressing not punitive, confidential, need their
6 cooperation, use AMAS as your Air Medical Advisor. Certainly
7 use ALPA if you have any legal questions like that, try and
8 answer any of their questions there. In most cases I will
9 say the interviews are done over the phone, there, when I'm
10 asking about, hey, here are the concerns raised, and then as
11 her to commentary, I want their thoughts. And again, then
12 start looking for -- are you aware of any medical reasons
13 that this could have happened, any physicians or healthcare
14 providers or facilities that you can share information or
15 please share information with me that can explain the
16 observed behaviors or statements.

17 Q And did that happen with Ms. Pettitt, did you have
18 that phone call?

19 A I had a phone call with her there, but I believe it
20 was determined that -- I went through it there, but as I'm
21 recalling we elected to have her come in. She was going to
22 be coming into Atlanta anyway. And also, given some
23 scheduling things going on that she had, we decided to rather
24 than do this by phone when she's in Atlanta, have her meet.
25 Now, again, she is taken off active flight status, she has

1 received a Section 15 letter at this point. So, typically we
2 say that's fine, but I do want to move this process forward.

3 Q Okay. Take a look at Respondent's 50?

4 JUDGE MORRIS: I think that's going to be in Volume
5 4.

6 MR. ROSENSTEIN: Oh, is it?

7 MS. BROWN: Yeah.

8 MR. ROSENSTEIN: Sorry. I did warn everybody I
9 would make him get up at least once.

10 THE WITNESS: Okay.

11 BY MR. ROSENSTEIN:

12 Q Can you identify -- looking at the top e-mail --
13 what that is?

14 A So, this is an e-mail from me, out of my office.
15 My consultant contracting with Delta's Medical Direction,
16 LLC, so just kind of a headline on that. And it's an e-mail
17 to Chris Puckett.

18 Q The top one is keeping him in the loop, correct?

19 A Right.

20 Q But if you read from the bottom up, as you have to
21 do with e-mails --

22 A So, the last page and moving forward.

23 Q Well, the one that starts to go to you is from you
24 to Philip Davis, do you see that, at 12:23 o'clock p.m.?

25 A I have one at 1:31 o'clock p.m., in the morning --

1 in the afternoon, rather -- or --

2 Q Are you on page that's 50-003?

3 A Oh, here we go. Okay.

4 Q It's an e-mail from you -- I assume "Medical
5 Direction" is you, is that correct?

6 A Correct.

7 Q Okay.

8 A So, the top of the page there?

9 Q Yeah. And it says -- it's from you, it says:
10 "Thanks Captain."

11 A Yes.

12 Q So, I guess he forwarded you the letter on the
13 Section 15 at that point --

14 A Right.

15 Q -- correct?

16 A Correct.

17 Q Okay. And if you read up that, at 1:31 o'clock
18 p.m., on March 23rd, on page 50-001, you reply to an e-mail
19 from Captain Davis that he'd sent you at 3:29 o'clock p.m.,
20 that says:

21 "Could you please hold off on calling her until
22 I get back to you. She is requesting we
23 leave her alone while she finishes up her
24 college finals."

25 A Right.

1 Q And you recall receiving this, correct?

2 A I did. And I put: "Roger that."

3 Q Okay. And did you eventually then meet in person
4 with Ms. Petitt?

5 A We did.

6 Q And was that on April 27th?

7 A Yes.

8 Q Take a look at J, Joint Exhibit G?

9 A Yes.

10 Q Joint Exhibit G should be some typed notes followed
11 by some handwritten notes in their binders, is that correct?

12 A That's correct, yes.

13 Q Okay. So, looking at the handwritten section only,
14 can you identify what that is?

15 A That is my handwritten scroll of my meeting notes
16 with Ms. Petitt on April 27th, starting roughly 11:00 o'clock
17 a.m., 2016. And then I believe a page --

18 Q Eight?

19 A -- thank you -- 8. I did have a follow-up call
20 with her, again roughly 12:00 o'clock p.m. Eastern Time, on
21 April 28th.

22 Q Okay.

23 A A phone call.

24 Q These are your handwritten notes?

25 A They are.

1 Q And you took them on the dates that they're noted
2 April 27th and April 28th?

3 A I did.

4 Q Did you take them while the calls were going on or
5 after the calls, or some other --

6 A No. In both cases I was taking while I was talking
7 to Ms. Petitt.

8 Q Okay. And because of the Tribunal's wise policy,
9 you have a typewritten version of it attached. And if it's
10 okay with you, I'll work off the typed one. But if you see
11 something that you think is not accurate in the typing, in
12 the transcription, please identify it for us?

13 A Will do.

14 Q Okay. And read through it and then just answer the
15 question as to whether or not you believe that these notes
16 accurately reflect what occurred during the April 27th
17 meeting with Ms. Petitt, and the follow-up call on April
18 28th?

19 A Read quietly, alone?

20 Q Read quietly, alone. And if you want to read your
21 handwritten ones, that's fine, you probably know your
22 handwriting. But we'll take time to let you do that.

23 A (Witness reviewing documents.) Yeah, there's a
24 pretty good translation there -- transcription, yeah.

25 Q There's nothing that you believe was inaccurate in

1 there?

2 A No.

3 Q So, you gave her, Ms. Petitt, a chance to explain
4 her version of the meeting with Ms. Nabors, during the April
5 27th meeting?

6 A I did.

7 Q And what do you recall her saying?

8 A She had a different perspective of what occurred,
9 and she -- I think it was overblown. I will say it took
10 awhile to get really to that, I did mention that, but she
11 wanted me to hear more about -- as I guess a setting or an
12 understanding on it there -- the harassment concerns and then
13 her safety program that she was challenging here. But again,
14 she thought that Kelley got the wrong impression -- Ms.
15 Nabors got the wrong impression -- from meeting with her.
16 That she was not anxious or tearful. She was enthusiastic, I
17 believe -- I don't know if that's the exact word in there --
18 but that she was not --

19 Q Well, given that you had Ms. Nabors reporting one
20 thing and Ms. Petitt reporting a different thing, you know,
21 what made you decide that a further medical review was
22 appropriate?

23 A Well, and again, I'm honored, but I'm dealing with
24 a select group, an employee group that very few in this
25 country do, that by law have to meet FAA medical standards

1 and are examined six to 12 months there. And so they're
2 responsible for the flying public. This is not something
3 that we'll ignore and look the other way, it had to be looked
4 into, to make sure that we gave it the full attention it
5 deserved there. So, I have one employee put it in writing,
6 saying this is what she observed, this is what she heard. I
7 had the employee, themselves, saying that didn't occur, that
8 was misinterpreted. And I had to -- while that's both of
9 their opinions, with someone who flies the aircraft up there,
10 we don't want an accident, we don't want a smoking hole, and
11 someone coming back and say why don't you give more attention
12 to this, you know, statement that someone put out in writing
13 and signed, that this is what they observed.

14 Q Between March 17th and April 27th, had you spoken
15 to anyone at Delta about Ms. Petitt's background with the
16 company or anything else?

17 A No.

18 Q Did anybody from Delta talk to you about the
19 process that you were going through with Ms. Petitt, in any
20 way?

21 A No.

22 Q Other than the conversation you had with Captain
23 Davis, about the timing of the call or the meeting with Ms.
24 Petitt, did you speak to Mr. Davis -- Captain Davis -- about
25 anything?

1 A No. And again, part of my role in this is to move
2 this forward. You have an employee that could be flying, who
3 is getting paid, so it's to move the process forward. But
4 otherwise, it was just, I guess, periodically, as that e-mail
5 suggested there, this is what's going on, haven't forgotten
6 about her, we are moving this process forward.

7 Q Did Ms. Petitt try to call you between March 17th
8 and April -- March 22nd and April 17th, do you recall?

9 A I don't believe so, no.

10 Q In your notes you write -- I'm looking at the typed
11 one on the third page and you wrote:

12 "She understands concern and agrees to
13 the need for an evaluation to clear
14 things up."

15 Do you see that? The last line on the third page
16 of the typed --

17 A Yes.

18 Q What -- if you recall anything about what she said
19 that caused you to write that, describe it to us, if you do?

20 A I think I shared with her I have Kelley Nabors
21 saying one thing here, adamant about it, signing -- I have
22 you saying something else, can you see, again once you do,
23 the importance of clearing this on up there, going above and
24 beyond for someone in a safety sensitive position, and we'll
25 take your word for it there. And she impressed me that she

1 not only understood it, she agreed that it was an appropriate
2 evaluation to get this cleared up.

3 Q Did you ask Ms. Petitt for medical information
4 during that meeting?

5 A Yes. As I think I alluded to above, regarding her
6 medical history, aside from the orthopedic issue she had
7 earlier, I go into -- and this is for the Section 15 -- we'll
8 ask them about any medical history, any treatment, any
9 previous counseling, recommendations or treatment for mental
10 health issues there. So, yes, I did ask her about if there
11 was any possible medical reason she knew and, if so, could I
12 please get documentation from these providers.

13 Q And what was her response to that?

14 A She did not have any care other than I think she
15 was being seen by an OB-GYN on a periodic basis, but there
16 was no medical conditions going on there, no treatment, no
17 medications. There may have been supplements or something
18 like that, but otherwise no history of substance abuse or
19 mental health issues there, no pending referrals by any
20 physician or healthcare provider, so nothing there.

21 Q Did you subsequently request any medical records
22 after the meeting or independently?

23 A No.

24 Q Why not?

25 A There was nothing to go after. She gave me nothing

1 to say there was any medical provider that would have
2 provided any information to explain what happened, or that
3 observed behaviors and statements.

4 Q Did you explain to Ms. Nabors what was going to
5 happen next in this process?

6 A Ms. Petitt?

7 Q Ms. Petitt -- what would happen next in this
8 process?

9 A Yes.

10 Q And what did you say?

11 A Well, I explained again, I think I explained that
12 we're going to have to go for an independent evaluation
13 there. And then the next steps would we would be
14 coordinating that for her under the Section 15 process there.

15 Q In your notes on the phone call that you had on
16 April 28th, with Ms. Petitt, you wrote:

17 "Questions asked and answered about the
18 psychological and psychiatric assessment
19 and Section 15 process."

20 Do you recall what the questions were that were
21 asked and answered?

22 A Offhand, no. But I probably would have reiterated
23 confidential and not going to the FAA. And, again, how the
24 process worked and who the reports would be going to.

25 JUDGE MORRIS: Wait a minute here.

1 I'm troubled by this. We're concerned about
2 safety, but we don't want to tell the FAA. Why don't you
3 explain that to me?

4 THE WITNESS: I'd be delighted. This is an
5 agreement, a contract between the airlines -- and I'm not
6 just going to say it's Delta, if you look up the Section 15
7 for United and American, and Fed Ex, they all have this
8 provision -- agreed to by the Pilots Union and the company to
9 have these evaluations done without the FAA's involvement, to
10 find out if there truly is an issue going on.

11 Now, as you know -- sorry -- as the Court knows,
12 it's up to the airman to typically report this on their own,
13 volunteer if there's something going on.

14 JUDGE MORRIS: Yeah.

15 THE WITNESS: I hate to say it --

16 JUDGE MORRIS: Speaking of which, I'll take
17 official notice of 14 CFR 61.53.121.383 and 67.107.

18 THE WITNESS: Okay.

19 JUDGE MORRIS: Go ahead.

20 THE WITNESS: Got it. So, in this case, again, you
21 can have airmen that have medical conditions that have not
22 been reported to the FAA. And this allows a way to look into
23 the mental and physical health of the pilot, if there are
24 concerns, to see if there's a problem going on there. And
25 you know, the end result -- if I may -- with this, if there

1 is indeed a problem found out, then ideally the pilot will
2 get that treated, they will not come back. If the
3 determination is they do not meet the medical standards, if
4 the CME says they do not meet it, the pilot understands that,
5 goes into treatment, gets effectively treated, reapplies for
6 certification, again in a Section 15 review process I would
7 say you've been out for more than four months, or whatever, I
8 need to see all the documentation submitted to the FAA and
9 the written response from the FAA, typically special issuance
10 or SOTAs (phonetic) -- if you know what those things are, et
11 cetera -- saying that they have reviewed it and determined
12 that you meet the medical standards.

13 JUDGE MORRIS: I'm still having trouble here with
14 the FAA is mandated with the issuance of the First Class
15 Medical Certificate. There's a form that's completed out.
16 Did you omit anything? There's like, I believe it's
17 Item 18-X or Y, that talks about any new changes. So, why
18 not provide this information to the FAA if there's any
19 concern, and the air carrier, under 121.383, is not to
20 utilize a pilot where they have a medical concern?

21 THE WITNESS: I will defer, if I can, to lawyers
22 from the Airline Pilots Association and the companies on
23 this. Again, this is, I think, something that does not get
24 the FAA involved until they can work it out among themselves.

25 JUDGE MORRIS: Is the concern because the FAA will

1 actually then do an investigation?

2 THE WITNESS: Well, in this case you want to
3 protect -- my two cents -- in this case a pilot is pulled off
4 active status and can be put on sick leave, in some cases for
5 a short time and then have zero, nothing. In this case,
6 they're put on administrative leave, where they're getting
7 full pay, comparable pay, until eventually a determination is
8 made and then they're put on sick leave of absence. So, I
9 think it's there to -- if the FAA does get involved -- the
10 control over that certification is then turned over to the
11 FAA and a pilot, if they're disabled or the FAA determines
12 you're disabled or sick, or we need more information.

13 JUDGE MORRIS: So, the party that is to provide the
14 certification is kept out of the loop, is what you're telling
15 me.

16 THE WITNESS: Well, eventually they will be
17 involved, but they're kept out of the loop until a
18 determination is made between the company and the
19 Association.

20 JUDGE MORRIS: All right. Continue.

21 BY MR. ROSENSTEIN:

22 Q Yes. So, take a look at Volume 5 of Respondent's,
23 Exhibit 56.

24 MS. BROWN: It's the blue binder.

25 THE WITNESS: Fifty-six.

1 MS. BROWN: It's the next volume, probably, from
2 what you have.

3 BY MR. ROSENSTEIN:

4 Q Just can you identify this was a communication from
5 you to Mr. Puckett, copy to Ms. Taylor, regarding your April
6 27th meeting, is that correct?

7 A It is, yes.

8 Q Is this -- did you have any additional
9 communication with Mr. Puckett, other than just letting him
10 know this happened on the 27th, to your recollection?

11 A I think -- no, I think this is -- well, let me see
12 -- this is, again, he wanted to know if I had met with Ms.
13 Petitt, which I did. I explained that -- this was, again on
14 the 27th, that evening -- that I had met with her, but we had
15 a follow-up phone call the following morning, which was the
16 28th. And that I anticipate after that call I would have
17 then, to keep them in the loop, recommended that we go for a
18 Company Medical Examiner evaluation.

19 Q And did you select that Company Medical Examiner?

20 A I did.

21 Q And who did you select?

22 A Dr. David Altman.

23 Q Why?

24 A Dr. Altman -- well -- again, in this case the
25 documentation, the statements made suggested that it was a

1 mental nervous condition. So, when going for the CME, you're
2 looking for two criteria. Certainly the first is that they
3 are specialists in that area, mental nervous, so in other
4 words I'm not going to send them to a cardiologist or
5 gastroenterologist, and I'm not going to send them to an
6 internist. I want someone who has experience in this. And
7 then, secondly, someone who is versed -- well-versed in FAA
8 Medical Standards, which can vary from general medical
9 standards or specialty medical standards when it comes to
10 certification issues.

11 So, Dr. Altman, I'm going to say is probably one of
12 40 FAA identified psychiatrists throughout the country that
13 does these evaluations. Now you get into a little more of a
14 select group of psychiatrists that do not do this just for
15 FAA certification purposes. For pilots who are
16 antidepressant medications or substance abuse, but those who
17 have gone through the fitness for duty evaluations, as
18 example Section 15 there, recognizing that it's not just
19 certification issues here, it's employment issues going on
20 there. So --

21 Q Why is that a consideration for you, why is that -
22

23 A We have livelihood issues going on here. And so
24 it's to make sure that they can do a thorough investigation
25 that can hold up to scrutiny either way it goes. Forgive me,

1 even though they may be absolutely fine and healthy and
2 flying, if they have an accident, you know, the first fingers
3 are pointed at the two people sitting in the front of that
4 airplane. So, Dr. Altman has experience, many years of
5 experience doing this, and writes good reports.

6 Q Out of the 40 or so psychiatrists, how many of them
7 fit in the category that you considered to be potentially
8 eligible to be selected for this role?

9 A From my experience, I'd say roughly around six.

10 Q And would the doctor selected as the CME be acting
11 as a personal physician to the individual who was being
12 looked into -- in other words, would they be his or her
13 doctor?

14 A No.

15 Q What would their role be?

16 A It's much like an Aviation Medical Examiner, they
17 are an evaluator, they're to determine if the airman meets
18 the FAA Aviation Medical Standards.

19 Q Did you have any prior experience working with Dr.
20 Altman at that time -- I think you said you did?

21 A I did, yes.

22 Q How many times had you worked with Dr. Altman?

23 A Between -- well, before this case, I'd probably say
24 half a dozen pilots from several airlines. And I should say
25 not just pilots.

1 Q And was it always as a CME or was it in other
2 roles, as well, that you worked with Dr. Altman?

3 A CME for the most part. I believe with one carrier
4 he serves as their HIMS consultant.

5 Q Okay. And you said you weren't friends with Dr.
6 Altman. Am I remembering your testimony accurately?

7 A That's correct.

8 Q Were you acquainted -- I mean how would you
9 describe your relationship with him?

10 A We had talked by phone, e-mail, and letters.

11 Q It's your testimony that you were responsible for
12 selecting Dr. Altman?

13 A I was.

14 Q Was anybody else responsible for that, besides you?

15 A No.

16 Q Did anyone influence that decision?

17 A No.

18 Q You said that your general practice is to inform
19 the pilot that they ought to talk to AMAS -- I'd better
20 pronounce --

21 A AMAS.

22 Q I say that A-MAS, instead of -- yes, let me
23 re-pronounce that one for the record --

24 A ALPA Air Medical is also used, but yeah.

25 Q I'm going to call it ALPA Air Medical. Did you do

1 that in Ms. Petitt's case?

2 A Yes.

3 Q I'm causing everybody to drop things.

4 Did you do that?

5 A Yes.

6 Q Who was that person, by the way?

7 A I think eventually it was Dr. Jon Riccitello.

8 Q Okay. And did you tell Dr. Riccitello that you
9 would be selecting Dr. Altman?

10 A Yes.

11 Q And was there a response to that, that you recall?

12 A He had no -- he understood why it was being done,
13 had no issues with Dr. Altman being selected.

14 Q He didn't express any issues to you?

15 A No.

16 Q Had ALPA -- does ALPA have a role in selecting the
17 CME?

18 A For the CME, no, typically. But they do need to be
19 advised, be it courtesy or contract, to be advised so that
20 they can weigh in on that. And they can raise protest, they
21 can, for the record, document we do not agree with this
22 evaluation and/or the CME selected.

23 Q And had that ever happened, in your experience?

24 A Not with this airline. With another one, yes.

25 Q Okay.

1 A But it wasn't with Dr. Altman, either.

2 Q It wasn't with Dr. Altman, okay. Do you recall
3 telling Ms. Petitt, during your April 27th meeting, or April
4 28th call, that the whole situation was the result of a
5 misunderstanding?

6 A I'll take that right as it was, it was out of
7 context.

8 Q Okay.

9 A We had two people saying opposed things there and
10 in the realm of possibilities it could be a mixup, poor
11 communication, that's a possibility. It could also be that
12 we have someone who has mental nervous conditions. It also
13 could be someone does not have mental nervous conditions.
14 But I wanted someone who had the expertise here to weigh in
15 on that.

16 Q Did you believe it was -- had you reached a
17 conclusion that it was a misunderstanding at that point?

18 A No.

19 Q Okay. Take a look in Volume 5 at 57, RX-57. It's
20 an e-mail at the bottom of that page --

21 A Yes.

22 Q -- April 28th -- is that -- it speaks for itself,
23 but why don't you describe what it is?

24 A So, this is an e-mail I sent on April 28th to Dr.
25 Altman, informing him I would like to refer him -- or the

1 pilot for a Section 15 evaluation under the Pilot Working
2 Agreement.

3 Q Okay. And he immediately -- or relatively quickly,
4 at least -- wrote back and asked for a bunch of documents,
5 right?

6 A Correct.

7 Q And did you arrange for him to get those documents,
8 as the facilitator?

9 A I believe I directed that to Delta. I don't have
10 access to this information, I wouldn't know where to look.

11 Q Got it. Who at Delta?

12 A I imagine I would have started off with Chris
13 Puckett and maybe someone else from Flight Ops.

14 Q Okay. Take a look at Joint Exhibit H, please. Can
15 you identify what this is?

16 A It's a letter from my company, myself, April 4th,
17 2016, to Dr. Altman.

18 Q And what was the purpose of this letter?

19 A This is my standard, kind of a Section 15, get the
20 process started letter.

21 Q Is everything in -- is this accurate to call this a
22 retention letter?

23 A Sure, yes. I'm engaging him, directing him to be
24 the Company Medical Examiner here.

25 Q Okay. And it says -- first of all, read it and

1 tell me if everything in here is accurate?

2 A Yes.

3 Q And it says:

4 "Of particular concern, as mentioned by this pilot to another
5 employee, that she feels she may be physically harmed due to
6 information she has regarding safety issues at Delta Air
7 Lines."

8 Do you see that?

9 A Correct.

10 Q Were there other concerns that you expressed to Dr.
11 Altman, besides that?

12 A I think, again, reviewing Kelley Nabors' discussion
13 about her emotions with that, but the bring-home there is the
14 statement she made, the employee made, that she felt harm.

15 Q Do you recall any other discussions you had with
16 Dr. Altman, prior to May 4th, besides issues related to Ms.
17 Nabors, if you remember?

18 A I'm just saying I have an e-mail here on the 28th,
19 I do -- in fact I did talk to him, between that date and the
20 4th, because he was the one that, after discussing this,
21 said: "I want her to undergo a neuropsychological testing
22 prior to seeing me."

23 Q Anything else that you remember talking to Dr.
24 Altman about, other than Ms. Nabors' report and this line
25 about your particular concern?

1 A Not that I can recall.

2 Q Okay. And you reference this neuropsychological
3 exam, how did that come to pass?

4 A So, for a lot of mental nervous -- a majority of
5 mental nervous evaluations, a neuropsychological evaluation,
6 if you will, is an exam or a tool, more quantitative and, if
7 you will, a qualitative assessment of any underlying mental
8 nervous or in some cases neurological conditions, defects.
9 So, for instance, for those pilots who are seeking medical
10 certification after substance abuse, or for being on SSRIs,
11 or for head injuries, or for other mental nervous conditions,
12 the FAA will typically dictate that they undergo
13 neuropsychological testing, as well as a psychiatric
14 evaluation -- again, by specialists who are versed not only
15 in the skill in their field, certified in their field, but
16 also cognizant of the FAA Medical Standards.

17 Q So, it was Dr. Altman who recommended this to you?

18 A He was the one that recommended that we get the
19 neuropsychological testing prior to him seeing Ms. Petitt.

20 Q By the way, when you retained Dr. Altman, did you
21 have any conversation about Section 15 with him, at that
22 point?

23 A Bluntly, I think he had experience with a Section
24 15, but typically to go over the ground rules there that we
25 will be responsible -- or Delta will be responsible for the

1 payment, she is to be fully cooperative with anything. I
2 need to know if there's any delays or lack of full
3 cooperativity (sic). If there's anything he needs, again, my
4 office stands by to assist.

5 Q Did you consider the fact that Dr. Altman had been
6 engaged previous to the Section 15 referral for his
7 consultation on Ms. Petitt, when you selected him to be the
8 CME?

9 A Not really.

10 Q Why not?

11 A You know, when he was involved with Miss --
12 listening in on that phone conversation mid-March -- he did
13 say there's something to look into further. And that
14 "something to look into further" is when I met with Ms.
15 Petitt and got her side of the story, and went looking for
16 any medical documentation there. And so -- any information
17 there -- there was none there -- so he's a psychiatrist I had
18 worked with before, was familiar with the industry, was
19 familiar with the standards, that's why I selected him.

20 Q Did you know what --

21 JUDGE MORRIS: Wait a minute.

22 So I'm understanding the timeline here, you get
23 this report involving Ms. Nabors?

24 THE WITNESS: Correct.

25 JUDGE MORRIS: You have a meeting with the company,

1 where you make the decision to do a Section 15 referral. And
2 then you interview First Officer Petitt.

3 THE WITNESS: So, here me out -- if I may?

4 JUDGE MORRIS: Yes.

5 MR. ROSENSTEIN: First of all, tell him whether
6 that's true.

7 THE WITNESS: That's not -- well, let me -- if I
8 can, maybe I can better go through my timeline.

9 MR. ROSENSTEIN: Okay, then go ahead.

10 THE WITNESS: Okay. Section 15 is just a take them
11 out of the lineup to look into it, per the process. So, that
12 could be and that has been, often, I interview or get records
13 from the airman, see that there's a reason here or nothing
14 there, and go on. We're going onto the next step where we're
15 engaging a Company Medical Evaluator. So, the Section 15
16 process was that letter she received in -- help me -- March
17 22nd, 23rd, saying we're going to look into this further,
18 okay.

19 I gave her a chance, came on in, we interviewed,
20 got her side of the story. And then I said, based on this, I
21 can't determine if you're fit to fly or not at this point.

22 JUDGE MORRIS: Wait a minute. As I understand your
23 testimony, it was based on this meeting that you had with Mr.
24 Puckett and Ms. Nabors, if I recall correctly.

25 THE WITNESS: Right.

1 JUDGE MORRIS: There was then the recommendation to
2 do a Section 15.

3 THE WITNESS: Correct.

4 JUDGE MORRIS: Okay. And then you interviewed her.

5 THE WITNESS: Correct.

6 JUDGE MORRIS: Why didn't you or why isn't the
7 process to have you interview the subject prior to making the
8 decision on whether to proceed down this medical path?

9 THE WITNESS: That's the way it's established
10 there. This is the formal situation and again --

11 JUDGE MORRIS: "The way it's established," what's
12 "it"?

13 THE WITNESS: All right. The Section 15 process
14 there. If the company believes -- and this is my experience,
15 we've had pilots who are doing horrific in the simulators,
16 okay, or flying the line, and do we let them keep flying the
17 line? I give them a phone call and find out, or all right,
18 let's take them out of the lineup and work on it first there.

19 JUDGE MORRIS: Well, the fail in the simulator, you
20 ask, you know, are you feeling well, are you sick? Why isn't
21 that being done here?

22 THE WITNESS: Again, it's the process there. From
23 Delta's standpoint -- again, I don't have the lawyers here to
24 explain why they come up with this, for not only Delta, but
25 the other airlines here --

1 JUDGE MORRIS: I don't care about the other
2 airlines. I care about this case.

3 THE WITNESS: If there was a concern about the
4 operational safety of this airman, rather than point the
5 finger and accuse and take them out with that, if they have
6 medical involved there -- but they recognize something there,
7 they say get it looked into, then remove them -- in the
8 process, remove them with pay -- while this gets looked into.

9 And if it came up there, then I did -- once they're removed
10 -- it's to get them out of the cockpit so they're not flying
11 the general public until this is worked out.

12 JUDGE MORRIS: Are you saying that the management
13 cannot remove a person without giving them a Section 15
14 referral?

15 THE WITNESS: Well, for a medical reason, for
16 medical concerns they typically have brought it -- and I'm
17 going to back to the training where a pilot has performed
18 poorly or there's been behaviors there, and you'll often have
19 the pilot raise their hand and remove themselves. Has the
20 company done that? Not that I'm aware of. The company has
21 behaviors there, if the pilot says: "I'm fine," or doesn't
22 think there's an issue, then that's when we have to go to
23 Section 15.

24 MR. ROSENSTEIN: Your Honor, if I may? I think a
25 lot of these questions that you're asking are pertinent to

1 the Labor -- Collective Bargaining -- the Agreement, you
2 know, that's there, which Dr. Faulkner is maybe not the right
3 witness to ask it. But we will have Mr. Puckett here, who is
4 the expert in that, in how the Section 15 process works from
5 management side, and I think he might be somebody who would
6 be better suited to respond to some of these questions. But
7 of course, you know, Dr. Faulkner will do the best he can to
8 answer them. Is that fair?

9 JUDGE MORRIS: All right. That's fair.

10 MR. ROSENSTEIN: Okay.

11 JUDGE MORRIS: Proceed.

12 BY MR. ROSENSTEIN:

13 Q Okay. So, did you set up the neuropath (sic)
14 testing then for Ms. Petitt?

15 A We did.

16 Q Okay. And who did you select it with?

17 A Dr. Cornett -- forgive me -- Kelly Cornett.

18 Q Okay. And do you recall a conversation with First
19 Officer Petitt about whether she could prep for the testing,
20 the neuropsych testing?

21 A Basically, with this testing, I'll just tell these
22 employees or these pilots this is something you can't study
23 for.

24 Q Why is that, in your view?

25 A Well, you've never had this testing before,

1 typically, and we're going under the premise that there's
2 nothing going on here, there's nothing wrong. So, I will say
3 that is arduous testing, often goes on for two days, but they
4 should be well rested, well hydrated, ask questions on what
5 they're being tested on, it is graded on time, accuracy or
6 both? If they do not feel ready -- and by that I mean they
7 don't feel well, they didn't get a good night's sleep, et
8 cetera -- they should remove -- they should voluntarily
9 reschedule the testing there. But again, we didn't have any
10 information to go on, so go in there and give it your best.

11 Q Were there any issues, ultimately determined by Dr.
12 Cornett?

13 A Yes. The results were fine, she passed.

14 Q Do you recall there being somewhat of a delay in
15 getting the neurological testing scheduled?

16 A Well, there was a few delays there. One was I know
17 Ms. Pettitt had some academic work that she had to take care
18 of there, so I believe it was agreed to delay that, given
19 what she was going through there. But then we did have to
20 push on with that testing.

21 Q Okay. Take a look at Complainant's binder, so you
22 have to get up for this one -- it's Complainant's 55, which
23 is in Volume 1.

24 MS. BROWN: Volume 1, yeah.

25 MR. SEHAM: Volume 2.

1 JUDGE MORRIS: Two.

2 MR. ROSENSTEIN: Volume 2.

3 MS. BROWN: Oh, I'm sorry.

4 MR. SEHAM: Did you say 55?

5 MR. ROSENSTEIN: Fifty-five.

6 BY MR. ROSENSTEIN:

7 Q Is that -- oops -- I'll let you get there.

8 A About Ms. Petitt?

9 Q Yes.

10 And is this a communication that you had with Ms.
11 Petitt about the neuropsychological testing?

12 A It was.

13 Q Okay. Other than providing facilitating
14 information, did you speak to Dr. Altman during the process
15 of his investigation or his analysis of Ms. Petitt in 2016?

16 A My conversations were, again, to just check in on
17 how the process was proceeding. If he needed anything.

18 Q Got it. By the way, I apologize for going
19 backwards, but could you take a look at Joint Exhibit I?

20 JUDGE MORRIS: Are you going to come back to 55?

21 MR. ROSENSTEIN: No, I'm done.

22 JUDGE MORRIS: I have a question on 55 then.

23 On the first sentence it says you received word
24 that you should not change the appointment. Who did you
25 receive that word from?

1 THE WITNESS: I think I was keeping Delta up to
2 snuff on what was going on there and I believe it was Mr.
3 Puckett.

4 JUDGE MORRIS: Okay. Did he tell you why?

5 THE WITNESS: So, here, again just understand I'm
6 trying to push this process along, and I think we already had
7 delays going on for other reasons.

8 JUDGE MORRIS: Do you know what those other reasons
9 are?

10 THE WITNESS: I'm going to go back here between
11 April 27th -- we already had a delay from when the, if you
12 will, balloon went up on Section 15, which was -- help me --
13 April 23rd, to when I finally met with --

14 MR. ROSENSTEIN: March 23rd.

15 THE WITNESS: March 23rd -- to when I finally sat
16 down and met with her over a month later.

17 JUDGE MORRIS: All right.

18 THE WITNESS: So, already we have a pilot getting
19 full pay without doing anything in this process. So, okay,
20 we gave that. But now let's move on in the process there.
21 So, I believe we tried to schedule that appointment, which we
22 had with Ms. Cornett on May 11th, and something else came up
23 to push that back. I'm trying to think, this may have been
24 something with a family health issue, so she was asking to
25 postpone the testing on that. So, I let Delta know about it

1 there, and I believe they were just saying we've waited so
2 long on this, you know, what other delay?

3 JUDGE MORRIS: All right. But again, as I
4 understand your testimony, the decision to go forward with
5 this Section 15 process did not consummate until after you
6 met with First Officer Petitt on April 27th?

7 THE WITNESS: The process to go to a --

8 MR. ROSENSTEIN: CME.

9 THE WITNESS: -- a CME, the Company Medical
10 Evaluator, did not occur until April 27th, 28th.

11 JUDGE MORRIS: Okay. Thank you.

12 THE WITNESS: Do you see what I'm saying?

13 JUDGE MORRIS: Yeah.

14 BY MR. ROSENSTEIN:

15 Q Just to follow up on that, did you schedule the
16 neuropsych testing for being one day or is that something
17 that Dr. Cornett did?

18 A I believe my office did.

19 Q And was that typical to schedule in one day?

20 A Well, we get a day there, as it works there. There
21 are some pilots that can get through it in one day, there's
22 some pilots that can't. There's some pilots there's
23 questions raised in some of the preliminary results, so that
24 the neuro-psychologist will say I need further testing, and
25 we'll reschedule down the line. So, we typically start with

1 one day to lock them in, but things happen, it could be
2 delayed or, I mean we could have retesting or it rolls into
3 the next day.

4 Q And despite that letter you sent, the actual
5 appointment with Dr. Cornett actually did get delayed a
6 little bit further, didn't it?

7 A It did get delayed, yes.

8 Q Not only was First Officer Petitt getting paid
9 during this period of time, she was also unable to fly during
10 that period of time, correct?

11 A That's correct.

12 Q Okay. Take a look at Joint Exhibit I?

13 A Yes.

14 Q Okay. And just read that and identify it, and then
15 tell me whether or not it's accurate?

16 A Yes.

17 Q You read it all?

18 A I will read it again now.

19 Q Okay.

20 A Yes. Yeah, this is a signed copy, so between
21 reading it then and when I sent it before, yes.

22 Q Okay. And in that document, you mention the
23 neurological testing in Seattle, correct?

24 A Correct.

25 Q Okay. And you point out:

1 "From our discussions, you mentioned
2 that you were not under any care for
3 psychological and psychiatric conditions,
4 to include counseling or medications.
5 Further, you were not aware of any
6 medical condition or treatment that could
7 impact your behavior. However, if you
8 believe there's any medical information
9 from your current or past healthcare
10 providers that can be of benefit in your
11 appointments with Drs. Cornett or Altman,
12 you are encouraged to complete and sign
13 releases so that information can be
14 included in your evaluations."

15 Do you see that?

16 A Yes.

17 Q Okay. Why did you include that?

18 A There have been cases where an airman will say
19 there's nothing going wrong with me, when they meet with the
20 psychiatrist or specialist something does come up. And so I
21 encourage if there's any information that they think of after
22 the fact, or that the psychiatrist or specialist says, hey, I
23 could use that -- please help with the evaluation, please
24 help the Company Medical Examiner have everything he or she
25 needs to make an objective determination.

1 Q Okay. And you write, in the next paragraph that:

2 "Typically your appointment with Dr.

3 Altman is no sooner than a week after the

4 psychological testing."

5 Do you see that?

6 A Correct.

7 Q And is that consistent with your view to move

8 things along?

9 A It is. So, the evaluation -- and I won't bore you
10 with the details -- it's not just you put it through a
11 computer and get the results right then and there. They
12 typically want to get the data, put it in with the testing of
13 other tests done, do some comparisons there. So, I recommend
14 a minimum of a week to give the neuro-psychologist time to
15 come up with a certainly preliminary report, to include -- I
16 didn't get enough here or I want repeat testing. So, there
17 have been cases in the past where neuro-psych says don't have
18 enough there, I want a repeat test, hold off on the
19 psychiatric evaluation until I can get a more definitive
20 determination on this.

21 Q And it goes on to talk about you tell First Officer
22 Pettitt that you contacted Dr. Riccitello, correct?

23 A Um-hum, yes.

24 Q Okay. And two paragraphs after that you say that
25 you've recommended that Drs. Cornett and Altman can send

1 copies of their evaluations to Dr. Riccitello, so long as
2 First Officer Petitt signs appropriate medical release. Do
3 you see that?

4 A Correct.

5 Q Why did you do that?

6 A So, the standard of care with a lot of medical
7 documentation, but in particular when coming onto psychiatric
8 and psychological issues, so you want to -- again, you don't
9 want it sent to an individual where they may not be home or
10 it falls in the hands of someone else, that it could be used
11 to their detriment. We want it sent to healthcare
12 professionals there. Dr. Riccitello, at the time, I was
13 under the impression was her aeromedical advisor, was briefed
14 or was familiar why this was going on, and would have, in my
15 -- just from that better understanding of what to look at and
16 then would be able to share with her and answer any questions
17 that she may have about the evaluation.

18 Q Did you eventually receive Dr. Altman's report,
19 when it was completed?

20 A I did.

21 Q And you understood that Dr. Altman had made a
22 finding that First Officer Petitt was unfit for duty, or
23 something along those lines?

24 A He had, yes.

25 Q Did you -- in your role, did you make an

1 independent determination of that?

2 A No.

3 Q Why not?

4 A I deferred her to be seen by a specialist for that
5 very reason, so he, with his experience and knowledge could
6 make a determination. I did call him after receiving the
7 preliminary report to ask some questions there, but again, he
8 indicated that she was cooperative, provided the information
9 he had requested, and based on his evaluation and interview
10 and exam of her, he made that determination.

11 Q And you testified earlier that your typical
12 practice, when the CME finds that there's a medical
13 ineligibility, is that the pilot goes on sick leave or
14 disability or something along those lines?

15 A Correct.

16 Q And did that happen in this case?

17 A It did. After the phone call I sent communication,
18 in writing, to Delta, recommending that the findings were she
19 did not meet the FAA Medical Standards. I did not share with
20 him the diagnosis, I did not share treatment recommendations,
21 simply that she did not meet the medical standards, and
22 recommended she be placed on sick leave of absence.

23 Q What was your intent in filling out the disability
24 paperwork?

25 A So, in this case -- forgive me -- in many cases you

1 have an employee that doesn't believe they have a medical
2 problem until it's found here. They don't have a specialist
3 that they've been working with. And so they don't know where
4 to turn to and often between getting appointments with that
5 specialist, getting up to speed, they're uncomfortable
6 filling out disability paperwork. So, as a courtesy, to be
7 nice, to get them paid, to not add insult to injury, if you
8 will, I fill out the disability paperwork, you know,
9 indicating that preliminary data and often provide -- if the
10 disability person wants it or requests it -- the findings
11 about yes, they do not meet the current medical standards
12 and, therefore, are put on disability.

13 Q At the time you submitted that, did you believe the
14 diagnosis was false?

15 A No.

16 Q Did you report anything on the paperwork that you
17 believed not to be factual at the time that you submitted it?

18 A No.

19 Q At the time it was being submitted, just to get the
20 timeline right, only a CME had issued an evaluation of First
21 Officer Petitt, correct?

22 A Yes.

23 Q Did you contact the FAA at that point?

24 A No.

25 Q Did you ever contact the FAA about First Officer

1 Petitt's diagnosis?

2 A At anytime?

3 Q At anytime?

4 A Eventually I did, yes.

5 Q Explain how that came about?

6 A So, we're going through the process here, Section
7 15 initiated, determined to go on to a CME. She went to the
8 CME, the CME found that she did not meet the medical
9 standards. The next step should be she goes on to -- if she
10 wants to challenge this -- go on to a PME. Again, these are
11 rare cases, in the past typically I'm informed, yes, she
12 wants to go on to a PME, who that PME is. Again, it's the
13 pilot's determination, typically with their Air Medical
14 Advisor, again typically AMAS, this is why we're going to
15 them, this is who we're choosing. I make sure that they
16 has access to all information there. But it's still the
17 FAA is not involved until we go through the complete Section
18 15 evaluation process here.

19 So, eventually I received a communication from Ms.
20 Petitt -- here's my brand new First Class Medical. And where
21 did this come from?

22 Q What do you mean -- why were you asking yourself
23 where did this come from?

24 A Well, if there was a First Class Medical, and I had
25 information saying she did not meet the FAA Medical Standard,

1 for what was written as a permanently disqualifying medical
2 condition, something must have happened. It should have gone
3 to the FAA, been looked at by their folks there to determine,
4 yes, she meets the medical standards. The only information I
5 really had was Dr. Altman's report, and then eventually did
6 get the report from Mayo Clinic, that she saw, that said
7 she's good to go. Well, we still now have conflicting
8 information here -- good to go/not good to go. And I was
9 shocked that the FAA said -- Dr. Altman, your report is
10 worthless, we've decided otherwise there. Something wasn't
11 adding up.

12 JUDGE MORRIS: Well, wait a minute.

13 MR. ROSENSTEIN: Yeah. I would clear it up.

14 JUDGE MORRIS: Go ahead, clear this up.

15 MR. ROSENSTEIN: Okay.

16 BY MR. ROSENSTEIN:

17 Q So, well, yeah, I want you to walk us through it
18 slowly, because -- so work with me on it, okay?

19 A Okay.

20 Q At some point you said you became aware that First
21 Officer Petitt had been approved by the -- having her Airman
22 Certificate from the FAA, is that right?

23 A Correct, yes.

24 Q When was that -- when did you learn that,
25 approximately?

1 A I thought it was in the summer of 2017.

2 Q Okay. Some time in 2017?

3 A Correct.

4 Q But you're not sure when it was?

5 A I'm thinking August.

6 Q Okay. But in 2017?

7 A Correct.

8 Q And how did you become aware of it, how did that
9 information come to your attention?

10 A Ms. Petitt e-mailed me, I think with a copy of her
11 First Class Medical Certificate.

12 Q Okay. And at that point, when you learned of that,
13 if I'm understanding your testimony correctly, First Officer
14 Petitt had not finished the Section 15 process and been
15 returned to work at Delta, is that correct?

16 A That is correct.

17 Q And at that point, the question of whether she was
18 qualified or not qualified, medically, was still being
19 determined under the Section 15 process by the CME, the AME
20 -- excuse me -- the CME, the --

21 A PME.

22 Q -- PME and the NME, is that correct?

23 MR. SEHAM: Objection.

24 MR. ROSENSTEIN: I know I'm leading, but --

25 MR. SEHAM: Yeah, objection leading, objection

1 compound.

2 JUDGE MORRIS: Yeah, rephrase.

3 MR. ROSENSTEIN: All right. Fair enough.

4 BY MR. ROSENSTEIN:

5 Q When you learned of the FAA licensure in, you
6 believe, the summer of 2017, had First Officer Petitt been
7 cleared under the Section 15 process to return to work?

8 A No.

9 Q And you testified that that concerned you, correct?

10 A Yes.

11 Q Why did that concern you?

12 A Because we had conflicting information here.

13 Q What was the conflicting information at that point?

14 A We had the CME saying she did not meet medical
15 standards. We had the PME saying she did meet medical
16 standards. You then go on to the NME to determine --

17 Q Okay. And at the time that you had received
18 knowledge of the FAA Certificate, it's your recollection that
19 the NME had not reached a determination one way or another,
20 is that right?

21 A No -- correct, they had not reached a
22 determination.

23 Q And explain, again, why it concerned you that the
24 FAA would have issued the certificate in that circumstance?

25 A Not only would they -- typically they lean towards

1 the conservative. If they have something different, then
2 they'll refer to their specialist, if they're involved just
3 in non-Section 15 cases here. But they made a determination,
4 seemed that they looked -- they had limited information to
5 make that decision on.

6 Q Let me ask you this. At the time that you learned
7 about the certification, did you know, one way or another
8 whether or not the FAA was aware of Dr. Altman's diagnosis?

9 A Can you repeat the question?

10 Q At the time that you learned about the FAA
11 Certification, did you know whether or not the FAA was aware
12 of Dr. Altman's diagnosis?

13 A No, I did not believe they knew Dr. Altman's
14 diagnosis.

15 Q You didn't know and you believed that they were not
16 aware, is that what you're saying?

17 A I believe they were not aware.

18 Q Okay. And why did you believe they were not aware?

19 A I believe, and my experience with them and knowing
20 things, that they would have -- to approve a pilot for
21 certification with a diagnosis like that -- that quickly,
22 also -- goes against everything they've been training the
23 AMEs and they put out about this.

24 Q Okay. So, you had not provided the information to
25 the FAA?

1 A No.

2 Q At that point, you had not contacted the FAA?

3 A No.

4 Q And to your knowledge, Dr. Altman had not contacted
5 the FAA?

6 A No.

7 Q So, but Captain Petitt had applied for
8 certification, to your knowledge, correct?

9 A Yes.

10 Q And am I understanding your testimony that you had
11 concern that Captain Petitt had or had not identified all of
12 this information?

13 MR. SEHAM: Objection, leading.

14 MR. ROSENSTEIN: It is leading, but --

15 JUDGE MORRIS: It is your witness, so rephrase.

16 MR. ROSENSTEIN: Okay.

17 BY MR. ROSENSTEIN:

18 Q Did you form -- did that help you form an opinion
19 as to how the FAA may have -- what information the FAA may
20 have gotten from Ms. Petitt?

21 A I do not believe --

22 MR. SEHAM: Objection, calls for speculation.

23 JUDGE MORRIS: Sustained. I mean I'm already
24 hearing testimony essentially this process is keeping the FAA
25 in the dark.

1 MR. ROSENSTEIN: Right.

2 JUDGE MORRIS: So, it doesn't surprise this
3 Tribunal, anyhow, that a First Class gets issued in the
4 absence of information. The bigger question I have is how
5 does this process promote the highest level of safety, if in
6 fact you have an airman who has a mental health evaluation
7 and we are affirmatively keeping this information from the
8 FAA.

9 MR. ROSENSTEIN: Yeah. We should lobby Congress.
10 I mean what else can I say. But I mean -- I don't mean to be
11 cheeky. I mean I think you need to hear from the Labor
12 Relations people, including maybe ALPA, about why the
13 provisions are in there, because I think it goes -- to use a
14 phrase that you used in the past -- I think it may be out of
15 the lane of this process, and that's why I was being a little
16 bit flip with my statement. But I agree, overall, you know,
17 we're all human beings here, listening to the same testimony,
18 and I understand your view.

19 JUDGE MORRIS: And I clearly understand that I'm
20 not the super HR involved in this, but there's something
21 troubling when a process allows private entities to
22 affirmatively withhold information that directly goes to the
23 heart of the Federal Aviation Act.

24 MR. ROSENSTEIN: Right. And of course --

25 JUDGE MORRIS: Now, it's not my lane to deal with

1 that, I got that. That doesn't mean I like that. Go ahead.

2 MR. ROSENSTEIN: Yeah, we hear it. And I would say
3 that -- if it gives you any comfort -- maybe we should have
4 this conversation off the record --

5 JUDGE MORRIS: No.

6 MR. ROSENSTEIN: I'll stop.

7 JUDGE MORRIS: Yeah. Just keep going.

8 MR. ROSENSTEIN: Right.

9 BY MR. ROSENSTEIN:

10 Q So, what did you do -- in this time-frame in 2017
11 now, you're aware of the FAA granting the certificate. It's
12 your view, as you've testified, that they may not have
13 complete information, correct?

14 A Um-hum.

15 Q What did you do?

16 A I believe at that point, since she did have an FFA
17 Medical Certificate, contacted the FAA.

18 Q And what -- who did you contact?

19 A I believe it was Dr. Wyrick, the regional flight
20 surgeon here that covers the Northwest Region for the FAA.

21 Q And what did you say and what did you learn?

22 A I voiced my concerns that we had information on
23 this pilot that indicated she had a diagnosis that was
24 permanently disqualifying from the FAA and were they aware of
25 this.

1 Q And what was the response?

2 A They were not aware of it and they wanted more
3 information.

4 Q And did you provide that?

5 A Subsequently, with releases from Ms. Petitt, I did
6 release this information to the FAA.

7 Q Were you ever able to review the application that
8 First Officer Petitt submitted in 2017?

9 A It was forwarded to me, yes.

10 Q Take a look at Complainant's 170.

11 JUDGE MORRIS: That's going to be Volume 6.

12 THE WITNESS: Yes.

13 BY MR. ROSENSTEIN:

14 Q That's the application that you reviewed?

15 A Hold on.

16 Q Take your time.

17 A There were two applications. I can't recall, but
18 yeah, it was. I believe the February one was the most
19 interesting.

20 Q Why was it interesting?

21 A Well, so this is the application from February 2017
22 and when it comes down to Question 18: "Medical History," Ms.
23 Petitt did put: "Medical disability benefits," and then at
24 Question 19, about: "Healthcare professional visits in the
25 last three years," she mentions several providers and says:

1 "Labor Relations Safety Report AIR-21 Medical."

2 Q AIR-21 filed?

3 A Filed -- I'm sorry, I can't read that. And so I'm
4 trying to figure out what that means medically. I don't know
5 of any ICB-9 or 10 codes that have that as a diagnosis. But
6 then going on into the explanations, it comes down to: "Past
7 Medical History" on 18, where she did check for
8 hospitalization and I suppose disability benefits, this is
9 where the AME is to respond. And again, she does list
10 everyone -- I'm trying to think of another page here -- she
11 does mention Dr. Altman.

12 Q You're on page 007 now?

13 A No -- 00 --

14 Q CX-170-007?

15 A 007 and 005.

16 Q Under 19?

17 A Oh, yeah, 007 has that, as well. And for the
18 explanations gives where it was there: "Labor Relations
19 Safety Report AIR-21 Filed." One medical diagnosis that does
20 seem to be appeared is: "Allergic reaction, hives." And then
21 when you look for comments by the AME -- I don't see much,
22 actually. Let me see -- it doesn't seem to be on this
23 report, let me see these handwritten notes, which typically
24 would not express -- you actually have the typed in notes
25 from the AME. Oh, yeah, okay, so --

1 "No medical history, just a labor
2 dispute where Delta Air Lines utilizes
3 medical health as a retaliatory tactic.
4 Delta paid Dr. Altman who created a
5 diagnosis in retaliation for my reporting
6 safety issues."

7 Q What page are you reading from?

8 A I'm sorry. This is 005.

9 Q And I just want to make sure I'm understanding.
10 This document that you're looking at, to me, looks like it
11 was submitted in August of -- well, you tell me --

12 A Let's see -- forgive me -- there's as February
13 2017, and then there is a --

14 JUDGE MORRIS: Again, Doctor, I'm looking at
15 170-005.

16 THE WITNESS: Okay.

17 JUDGE MORRIS: And she identifies:

18 "PhD, MD HIMS, Senior ME, HIMS Psychiatrist, Bi-
19 Polar Specialist, PsyD."

20 That wouldn't alert somebody if they had concerns?

21 THE WITNESS: It should have.

22 JUDGE MORRIS: Okay.

23 MR. ROSENSTEIN: Sorry, which page were you
24 reading?

25 JUDGE MORRIS: CX-170-005.

1 MR. ROSENSTEIN: Right. But I want to just clear
2 something up with the document.

3 BY MR. ROSENSTEIN:

4 Q The C-005 is dated August 8th, 2017, do you see
5 that?

6 A Oh, yeah, I see.

7 JUDGE MORRIS: Yeah.

8 MR. ROSENSTEIN: Right.

9 And although it's in the document that Complainants
10 produced and put in as their exhibit as 005, and it precedes
11 006, which is actually the actual application, I believe it's
12 misplaced within that exhibit, because, as I read it at least
13 this is a document that has two applications, one from
14 February and one from August. So, if you go to the first
15 page, Your Honor --

16 JUDGE MORRIS: Okay.

17 MR. ROSENSTEIN: You'll see the first page is a
18 medical certificate that's dated February 22nd, 2017.

19 JUDGE MORRIS: Okay. I'm tracking you.

20 MR. ROSENSTEIN: And you see paragraph 19, or
21 Question 19: "Visits to healthcare professionals," and then
22 you see information in it, right?

23 JUDGE MORRIS: Yeah. I see: "Psychiatrist, Ph.D.,
24 MD HIMS."

25 MR. ROSENSTEIN: Right. You see Altchuler,

1 Steinkraus and Valdic in there, right?

2 JUDGE MORRIS: Right.

3 MR. ROSENSTEIN: And then if you turn to page 004,
4 you see the continuation sheet that describes Altchuler,
5 Steinkraus, Valdic and other people, correct? Do you see
6 where I'm on 4?

7 JUDGE MORRIS: Yeah, I see that.

8 MR. ROSENSTEIN: And then page 5 is actually the
9 exact same page as page 4, but I think it's out of order,
10 because I think page 5 actually should go at the end of page
11 7, or thereabouts, although it's hard to know, because
12 there's a page 7 already that has information of healthcare
13 professionals, as well.

14 JUDGE MORRIS: Okay.

15 MR. ROSENSTEIN: But it's dated August 8th, 2017,
16 and it includes Dr. Huff's report, which hadn't happened in
17 February, so it couldn't have possibly been in February. And
18 it has the information that Dr. Faulkner is reading from.

19 So, just to be clear, you know, I think we have a
20 February report that's pages 1, 2, 3 and 4 of this document,
21 and then an August report that's pages 6, 7 -- 6 and 7, and
22 possibly 5, although it's not really that clear to me from
23 the exhibit. And I'd ask that there be a representation that
24 it is what I described as accurately described.

25 JUDGE MORRIS: Yeah, I think that you're right,

1 counsel. Again, I'm looking at this -- well -- wait a
2 minute.

3 MR. ROSENSTEIN: Complainant's 156 is the Medical
4 Certificate that she got in February. So, we know that -- I
5 mean she got it in February. I think Dr. Faulkner doesn't
6 become aware of it, based on his testimony, until August.

7 MR. SEHAM: Well, it also said August of 2017, and
8 I think there's some confusion being introduced here --

9 MR. ROSENSTEIN: Sorry.

10 MR. SEHAM: -- insofar as 170-006 is August 22nd,
11 2016, and the attachment there references --

12 MR. ROSENSTEIN: 170, page 6, is August 2016, it
13 says.

14 MR. SEHAM: Yeah, that's my point.

15 MR. ROSENSTEIN: Right.

16 MR. SEHAM: The testimony was 2017.

17 MR. ROSENSTEIN: Oh, I'm sorry -- yeah.

18 MR. SEHAM: And it just seemed like -- I think a
19 lot of this should be closing argument, frankly, and I'm a
20 little uncomfortable about pursuing it this way.

21 MR. ROSENSTEIN: Well, I just wanted the witness to
22 be comfortable, because it's a little misleading the way it's
23 in the exhibit thing, so I don't want him to be confused is
24 the only reason I'm raising it.

25 But I agree, Mr. Seham is absolutely right, I

1 misstated. The stand-alone document is page 5. We don't
2 really know where that comes from. It may have been an
3 amendment to the February 2017 document, or it may have been
4 something else. I guess I should have asked Ms. Pettitt when
5 she was on examination, but I didn't realize it at the time.

6 MR. SEHAM: The August 2016 document, which
7 precedes the February 2017, obviously, does reference Dr.
8 Altman.

9 MR. ROSENSTEIN: Well, possibly.

10 MR. SEHAM: Well, it's just being suggested that
11 from the testimony elicited that this is all happening in
12 August of 2017 and that there were --

13 JUDGE MORRIS: Well, a blue ribbon copy would cure
14 that, but we're past that race at this point. So, continue,
15 counsel.

16 MR. ROSENSTEIN: Okay.

17 JUDGE MORRIS: So the record is clear, a blue
18 ribbon copy is the official copy of the airman's medical
19 records from Oklahoma City. Continue.

20 MR. ROSENSTEIN: Okay.

21 BY MR. ROSENSTEIN:

22 Q I mean your understanding in -- okay.

23 MR. ROSENSTEIN: You know what, I think I can move
24 on. I don't think we need to talk with the witness about
25 this anymore. So, we'll just move on.

1 BY MR. ROSENSTEIN:

2 Q Did you ultimately become aware that Dr. Lester
3 Huff had been hired as the Neutral Medical Examiner?

4 A Yes, eventually, yes.

5 Q How did you become aware of that?

6 A Drs. Altman and Altchuler from the Mayo Clinic,
7 both psychiatrists, both HIMS identified, trained, et cetera,
8 agreed to use Dr. Huff as the Neutral Medical Examiner.
9 That's how I was informed by, I believe, Dr. Altman.

10 Q And did you know Dr. Huff?

11 MR. SEHAM: I'm sorry -- just so the record is
12 clear, can we confirm that's Huff, H-u-f-f?

13 MR. ROSENSTEIN: And I said Lester, but it's Andrew
14 Huff, is that right?

15 MR. SEHAM: Right.

16 MR. ROSENSTEIN: Yeah. Thank you.

17 BY MR. ROSENSTEIN:

18 Q Okay. Was there a delay in finding an NME or were
19 you aware of a delay?

20 A There was.

21 Q What's your recollection of why there was a delay?

22 A Well, I believe there was a difference of opinion
23 between the psychiatrists on who best to do the evaluation.
24 And both presented -- sent exchanged lists of who they
25 thought would be good. I don't believe there was a common

1 name on that, so over time I think they eventually came on
2 with Dr. Huff.

3 Q Okay. Take a look at Complainant's 56 and just
4 tell me when you're there -- Complainant's?

5 A Um-hum.

6 Q The bottom e-mail, July 27th, 2017, that's from you
7 to Dr. Huff, is that right?

8 A That's correct.

9 Q And what was the purpose of you sending that?

10 A To introduce myself to him, again predominantly to
11 explain to him my role in the process, about the fitness for
12 duty ground rules, as stipulated here, his role. I think I
13 go on to -- I don't know about here, but eventually I did
14 talk about, you know, charges and things like that, and that
15 he should have access to any information he wants for his
16 evaluation as an NME.

17 Q Okay. And take a look at Complainant's 54?

18 A Okay.

19 Q And if you'll look at page Bates 54-002, there's an
20 e-mail from you to Dr. Huff, where you respond to some
21 questions. Describe to me what your reason was for sending
22 that e-mail?

23 A So, Dr. Huff had sent me some questions and this is
24 my written response to his questions.

25 Q Okay. And other than sending those communications

1 that we've just reviewed, did you have any other contact with
2 Dr. Huff during this process?

3 A Not that I can recall.

4 Q During the time that -- okay.

5 What was your goal in discussing cost of the
6 evaluation with Dr. Huff, why were you talking about how much
7 it would cost?

8 A It's an important thing. We're asking for their
9 expertise and time, and forgive me, you want to get paid for
10 what you're doing and not be left holding the bag in terms of
11 when you do an evaluation and then there's no -- so it's
12 important so they have an understanding you will be
13 reimbursed for this as well as, again, reiterating what they
14 have access to.

15 Q Did Delta impose any limits on Dr. Huff's --

16 A No.

17 Q -- in any way?

18 A No.

19 Q Did they impose any limits on Dr. Altman?

20 A No.

21 Q Was Dr. Altman's -- do you know how much Dr.
22 Altman's report cost in the end, do you have knowledge of
23 that?

24 A I know it was, I think, \$60,000.00.

25 Q Or something -- do you know -- if you don't know,

1 you don't --

2 A I can't recall the specifics, but it was brought to
3 my attention before.

4 Q It was a considerable amount of money, do you agree
5 with me?

6 A Yes, that's correct.

7 Q And did you find that concerning in any way that it
8 was?

9 A I don't want numbers to be -- again, just my two
10 cents -- he's doing a thorough evaluation, he's asking for
11 information there, he's putting the hours in for it and all
12 that, so again, we want to make sure cost is not some barrier
13 so they only go so far in their evaluation.

14 Q Did you review Dr. Huff's determination?

15 A I did.

16 Q And that's Joint Exhibit N, if you take a look.
17 Did you do any analysis yourself, as to whether or not that
18 evaluation was accurate or not?

19 A I think I wanted to make sure he reviewed what we
20 were looking for there. Again, the ultimate comment -- does
21 she or does she not meet the FAA Medical Standards?

22 Q And once Dr. Huff -- what determination did Dr.
23 Huff reach?

24 A The eventual determination was that she met FAA
25 Medical Standards.

1 Q And did you dispute that in any way?

2 A No.

3 Q Did you report that to Delta?

4 A I did.

5 Q And did Delta ask you to do anything in response to
6 that, in any way?

7 A I think eventually just generate the memo directing
8 her to be taken off sick leave of absence and placed on
9 active flight status.

10 Q And to your knowledge, did that happen?

11 A That did.

12 MR. ROSENSTEIN: We can take a break. I may be
13 done with my direct.

14 JUDGE MORRIS: Yeah, we've been doing a couple
15 hours. Do you want 10, 15 minutes?

16 MR. ROSENSTEIN: Yeah. We'll talk about whether or
17 not we have any other questions, but -- what time is it?

18 MR. SEHAM: 10:30 o'clock a.m.

19 JUDGE MORRIS: 10:30 o'clock a.m.

20 I'll see you at a quarter of the hour. Remember,
21 we're going to have to stop at noon so I can take my
22 teleconference.

23 MR. ROSENSTEIN: And I know that we talked about --
24 a relatively speaking thing -- I know that Dr. Faulkner has a
25 flight, he has medical appointments tomorrow to get back to

1 New York for in the morning. So, I know he has a flight in
2 the mid-afternoon, like 3:00 o'clock p.m. So, my hope is
3 that we'll be able to, as we've said, move along. I was
4 relatively quick on direct.

5 JUDGE MORRIS: Okay.

6 MR. ROSENSTEIN: Thanks.

7 JUDGE MORRIS: The hearing is in recess. See you
8 at a quarter of.

9 (Off the record at 10:33 o'clock a.m.)

10 JUDGE MORRIS: Back on the record.

11 All parties present when the hearing last recessed
12 are again present.

13 You may continue, counsel.

14 BY MR. ROSENSTEIN:

15 Q Dr. Faulkner, you said that you received Dr.
16 Altman's report at some point, is that right?

17 A I did.

18 Q Do you remember when you received it?

19 A I'm going to say the preliminary was in December
20 2016.

21 Q You hadn't received it before that?

22 A Not that I recall.

23 Q Take a look at Complainant's Exhibit 192?

24 A Yes.

25 Q Can you describe for me -- this is a communication

1 from Dr. Huff to First Officer Petitt, correct?

2 A It looks like it, yeah.

3 Q Do you recall receiving a copy of this at some
4 point?

5 A I don't believe so.

6 Q Do you recall asking Dr. Huff to do a second
7 report, after receiving an initial report, do you recall
8 anything like that?

9 A No.

10 Q You testified earlier that the PME is -- the cost
11 of the PME is borne, at least in part, by the pilot, is
12 that --

13 A The pilot medical evaluation?

14 Q Right.

15 A Yes.

16 Q If the NME ultimately determines that the pilot is
17 not medically disqualified, does that affect the cost of the
18 PME, to your knowledge?

19 A No.

20 Q You don't know?

21 A I don't believe so.

22 Q Okay. And could you turn to Joint Exhibit G?

23 A Yes.

24 Q Those were your notes of the April 27th meeting,
25 you recall?

1 A Correct.

2 Q On the second page -- I'm looking at the typed
3 version of it --

4 A Right.

5 Q -- there's a -- one, two, three, four, five -- six
6 from the bottom on that page, it says:

7 "Met with Jim Graham afterwards and
8 handed an invoice for her work, 300 plus
9 hours, cost of \$39,000.00 for her
10 expertise."

11 Do you see that?

12 A Yes.

13 Q What was that all about?

14 A Again, we were going through this. She had
15 mentioned that she, you know, from a safety standpoint, had
16 come in and just given a presentation to Delta's training
17 leadership, at the direction of Captain Graham. I think in a
18 previous paragraph it says it went well and that she met with
19 Jim Graham afterwards. He did not attend that presentation.

20 But then handed an invoice to him, in an envelope, for,
21 again, her 300 hours of work involved, and given her
22 expertise as a safety specialist.

23 MR. ROSENSTEIN: I don't have any other questions.

24 JUDGE MORRIS: All right.

25 Cross?

1 MR. SEHAM: Yes.

2 CROSS-EXAMINATION

3 BY MR. SEHAM:

4 Q Dr. Faulkner, do you recall that in mid December of
5 last year you were subject to a deposition in this matter?

6 A Yes.

7 Q Okay. And did you have occasion to review your
8 deposition testimony?

9 A I did.

10 Q Have you done -- were you provided with an errata
11 sheet at that time, to correct any errors?

12 A I did. I did not act on it, in all honesty by the
13 time I could have, it was too late.

14 Q Okay. Did you do anything, since the time of your
15 deposition, to refresh your recollection with respect to what
16 transpired in this matter?

17 A Just reading the deposition and some of the old
18 files I had, yeah.

19 Q Okay. Do you recall if there were any
20 discrepancies in your deposition that came to light after you
21 read your deposition and reviewed those documents?

22 A I think there was confusion, again, on some. I'd
23 have to go through it again there, but nothing
24 earth-shattering.

25 Q Okay. And you knew at the time of interviewing Ms.

1 Petitt, that she resided in Seattle, correct?

2 A Yes.

3 Q And Dr. Altman's office is in Chicago?

4 A That is correct.

5 Q And would you agree with me that there would have
6 been qualified psychiatrists in Seattle?

7 A Well, no -- yes and no. For a fitness for duty
8 evaluation, as I stated previously, that list of FAA
9 designated or defined ones gets whittled down to a handful
10 that will go above and beyond, so.

11 Q A handful that, in your opinion --

12 A Of psychiatrists that will do the fitness for duty,
13 recognizing that it will more than likely go on to a legal
14 environment there.

15 Q Okay. But would you agree with me that there are
16 FAA qualified psychiatrists in the City of Seattle?

17 A Yes.

18 Q Okay. And you didn't make any efforts to locate a
19 psychiatrist in Seattle, correct?

20 A I looked -- more than likely looked at the list
21 there, see if I knew any of them, had some experience with
22 them there, but beyond that, reaching out, no.

23 Q In the specific context of Ms. Petitt's case, you
24 would have looked at the Seattle list?

25 A Most likely, yeah.

1 Q When would you have done that?

2 A Probably when I came down after our April 27th
3 meeting, when it was going on to where to next for a referral
4 to a CME.

5 Q What does that involve, getting a list of
6 psychiatrists for a particular city?

7 A Well, there's online, so again, we're going for a
8 specialist, we're going for ideally a Board Certified
9 specialist -- not ideally, that's what we're looking for.
10 And then those with an aviation expertise that had met the
11 satisfaction of the FAA and worked with them before. So,
12 there is a list online that you can go to, to get a list of
13 the psychiatrists and neuro-psychologists, and that's what I
14 would have referred to.

15 Q Okay. And your recollection is after the April --
16 well, actually, you had a meeting with her on April 27th?

17 A The 27th, correct.

18 Q In Atlanta?

19 A Correct.

20 Q And then you had a follow-on conversation with her
21 on the 28th?

22 A Correct, phone conversation.

23 Q A phone conversation. Had you already made up your
24 mind, by the end of the 27th, that you were going to refer
25 her to a CME?

1 A I'll put it his way, I believe I shared with her
2 the concerns I had going on, but I did want to have a
3 follow-up call to talk to her. She had to leave, she had to
4 catch a flight to get on out of there, so I didn't like that
5 criteria of just rushing on out. So, that's why I wanted to
6 have the follow-up call with her, to review things again and
7 see if there was any questions I missed, see if anything she
8 could present to the case.

9 Q So, you didn't make -- you held your final
10 decision, in terms of a referral to the CME, until you had
11 completed your teleconference on the 28th?

12 A More than likely, yeah.

13 Q I'm sorry -- more than likely?

14 A That's probably -- again just thinking back to it
15 there, I had enough information, I don't recall, but I
16 believe it was at that time, around then, that I made the
17 determination we're going to have to go for something else.

18 Q On the 27th?

19 A I'll go for the 27th, yeah.

20 Q Okay. And at that time, do you recall any effort
21 to locate a psychiatrist on the West Coast, in any location
22 other than Seattle?

23 A I would have looked down in LA. There are a couple
24 of psychiatrists, as I recall, that did some of these
25 evaluations.

1 Q And did you contact any of those psychiatrists?

2 A Not that I recall.

3 Q So, do you know a Dr. Rozantsky, with a Z?

4 A I know he's on the list.

5 Q When you say he's on the list, he's one of those --

6 A FAA psychiatrists.

7 Q And he's one of those half dozen or so

8 psychiatrists is well-suited for this procedure or process of
9 Section 15?

10 A For the fitness for duty, I think he's done some
11 before.

12 Q Okay.

13 JUDGE MORRIS: And he's located here?

14 THE WITNESS: Los Angeles.

15 JUDGE MORRIS: Los Angeles.

16 BY MR. SEHAM:

17 Q And did you contact him?

18 A I did not.

19 Q Did you contact any psychiatrist other than Dr.
20 Altman?

21 A No. I believe I was, at one point, looking towards
22 a Dr. Gitlow, up in New England, but didn't pursue that.

23 Q So, then Dr. Altman is the only psychiatrist you
24 contacted, correct?

25 A Eventually, yes.

1 Q And you had already worked with Dr. Altman in the
2 past, correct?

3 A Yes.

4 Q And you had worked with him in the context of cases
5 at Delta, correct?

6 A Yes.

7 Q And was one of those cases -- did one of those
8 cases involve a Captain Protack?

9 A Yes.

10 Q And were you aware that the Labor Relations
11 Department -- excuse me.

12 Were you advised by anyone within Delta that the
13 Pilots Union, ALPA, had previously complained to Delta that
14 Altman had acted in an unethical manner in the context of a
15 Section 15 determination?

16 MR. ROSENSTEIN: Objection.

17 JUDGE MORRIS: Overruled.

18 THE WITNESS: I don't recall, no.

19 BY MR. SEHAM:

20 Q Were You substantially involved in the Protack
21 matter?

22 A From a Section 15 standpoint, yes.

23 Q Yes. And Mr. Puckett never advised you that there
24 had been complaints from ALPA, with respect to Dr. Altman's
25 conduct in the context of Captain Protack's case?

1 A What I recall is he wanted me -- Captain Protack
2 wanted me removed as DHS. So, I don't recall what he said
3 about Dr. Altman, I think I was more focused on he didn't
4 want me involved in directing the evaluation process.

5 Q Now, I believe you testified on direct that prior
6 to your designation of Dr. Altman as the CME, he was retained
7 to participate in the Section 15 decisional process, correct?

8 A Yeah. I asked him to sit in on the conversation we
9 had with Ms. Nabors. I don't know what "retained" means. I
10 don't know if he got compensation for it. But I did ask him
11 to listen in on that, so yes.

12 Q Okay. And do you have a specific recollection of
13 your having invited Dr. Altman to participate?

14 A I can't recall. I believe it was Mr. Protack --
15 I'm sorry -- Mr. Puckett and I discussed it, and I believe he
16 was the one who reached out -- Mr. Puckett reached out to Dr.
17 Altman to include him.

18 Q Okay. Isn't it also possible that it was Mr.
19 Puckett's idea to use Dr. Altman?

20 MR. ROSENSTEIN: Objection, vague. Use him for
21 what?

22 JUDGE MORRIS: Overruled.

23 MR. ROSENSTEIN: There are two things he was used
24 for. I don't understand which one he's asking about.

25 JUDGE MORRIS: Well, if the witness doesn't

1 understand, he can say so.

2 THE WITNESS: Well, yeah, could you rephrase the
3 question?

4 MR. SEHAM: Okay.

5 BY MR. SEHAM:

6 Q This is all in the context of prior to your
7 designation of Dr. Altman as the CME?

8 A Right.

9 Q Right. Do you have a specific recollection whether
10 it was your idea or Mr. Puckett's idea to involve Dr. Altman
11 in the Section 15 decisional process that preceded his
12 designation as CME?

13 A I guess the best I recall, Mr. Puckett suggested
14 it, just because it did seem like it was mental nervous and I
15 concurred.

16 Q Now, did you have any direct doctor-to-doctor
17 consultations with Dr. Altman prior to the issuance of \,m's
18 Section 15 letter?

19 A So, we had the call on March 17th, and I said we
20 need to look into this further. And Dr. Altman concurred
21 there's more that does look like it needs to be looked into
22 further. I appreciated his time, but then I was the one that
23 made the direction to go for the special issuance process and
24 get he letter generated.

25 Q But Dr. Altman had involvement in the Petitt

1 Section 15 decision process prior to March 17th, correct?

2 A How?

3 Q I'm asking, do you --

4 A I don't recall. I think the first time -- in this
5 case, he was there on a conference call on March 17th. And I
6 asked for his input, simply because his experience -- it
7 smelled to me, at the time, mental nervous.

8 JUDGE MORRIS: Now, you mentioned "Special Issuance
9 Process," that's a term of art for a medical application.
10 Are you talking about the Medical Certificate or are you
11 talking about the Section 15 process?

12 THE WITNESS: No, "Special Issuance," forgive me,
13 I'm sorry if I confused the hearing here. "Special Issuance"
14 is an FAA process for waiver, where an airman has a
15 diagnosis, but has impressed the FAA of the appropriate
16 diagnosis, effective treatment, clinical stability and
17 favorable prognosis, to be issued a Medical, even though that
18 diagnosis would typically be disqualifying, and a decision
19 made by an FAA flight surgeon, not an AMA.

20 JUDGE MORRIS: Okay. Thank you.

21 BY MR. SEHAM:

22 Q You had -- the decision to issue Ms. Petitt a
23 Section 15 letter was made on March 17th, correct?

24 A I believe at the conclusion of that phone call I
25 recommended that to Flight Operations, that we proceed with

1 the Section 15 process.

2 Q And that decision was finalized on that day by the
3 Flight Department, correct?

4 A That recommendation was made by me and then I
5 imagine several days later the letter was generated by Flight
6 Operations.

7 Q You have no recollection whether on March 17th the
8 decision was adopted by whoever was representing the Flight
9 Department in that conversation?

10 A No.

11 Q Okay. And how many days prior to this March 17th
12 teleconference, did you have this conversation with Mr.
13 Puckett, where Dr. Altman's involvement was discussed?

14 A I'm going to say a few days beforehand. I can't
15 recall. I think I heard what Ms. Nabors -- help me, we're
16 going back to March 10th -- and then I believe it was a few
17 days before the conference call where we were arranging it,
18 where it was discussed to bring him aboard.

19 Q If you can turn to CX-3?

20 A I'm sorry -- CX-3?

21 Q Yes.

22 JUDGE MORRIS: It's going to be in another book.
23 It's over there.

24 THE WITNESS: Yes.

25 MR. SEHAM: Okay.

1 BY MR. SEHAM:

2 Q Do you see that that's an e-mail from Chris Puckett
3 to Dr. Altman, with a copy to Meg Taylor?

4 A Yes.

5 Q Okay. And if you go into the third page, there's a
6 document titled: "Assessment of Delta Air Lines Flight
7 Operations Safety Culture"?

8 A CX-3-003?

9 Q Yeah.

10 A I have: "Call with Delta next week."

11 Q I asked you to turn to the third page?

12 JUDGE MORRIS: "Call with Delta next week."

13 MR. SEHAM: Oh, I'm sorry. Then it's my --

14 BY MR. SEHAM:

15 Q Then I'm asking you to turn to the seventh page?

16 A Right.

17 Q Okay. And I may have mixed myself up here. Turn
18 back two prior pages to page 5?

19 A Okay.

20 Q So, you see there's an e-mail from Puckett to
21 Altman on March 15th?

22 A Yes.

23 Q And two pages after there's a document on CX-3-007,
24 titled: "Assessment of Delta Air Lines Flight Operations
25 Safety Culture"?

1 A Yes.

2 Q All right. Have you seen this document before?

3 A I have.

4 Q Okay. And Dr. Altman received this document from
5 the company on March 15th, 2016. Do you recall when you
6 first received this document from the company?

7 A As I recall, I received this directly from Ms.
8 Petitt after we met --

9 Q Okay.

10 A -- on April 27th.

11 Q So, this document was not provided to you?

12 A Not that I recall.

13 Q Now, did you -- so prior to -- did you have any
14 direct conversations with Dr. Altman in which no other person
15 participated?

16 A When?

17 Q In March of 2016?

18 A No, I don't believe so, no.

19 Q Okay. Did you have any substantive discussion with
20 Mr. Puckett regarding Ms. Petitt, prior to Mr. Puckett
21 contacting Dr. Altman?

22 A No.

23 Q Okay. Did you tell Mr. Puckett what information
24 should be sent to Dr. Altman, prior to the March 17th
25 meeting?

1 A No.

2 Q Now, if you can tell us, who in that teleconference
3 in which you made your recommendation of March 17th, who else
4 participated?

5 A So, myself, Kelley Nabors, Chris Puckett, Dr.
6 Altman, and I'm going to say Jim Graham was on that, as well.

7 Q Before do you recall testifying on direct,
8 testifying that OC Miller participated?

9 A Yeah, and I'm just -- it's awhile ago there, but he
10 typically would be on these calls.

11 JUDGE MORRIS: Let's go off the record for a
12 second.

13 (Off the record at 11:10 o'clock a.m.)

14 JUDGE MORRIS: Back on the record.

15 All parties present when the hearing last recessed
16 are again present.

17 Continue.

18 MR. SEHAM: Okay.

19 BY MR. SEHAM:

20 Q Now, what was the purpose of -- do you understand
21 what the purpose of including Dr. Altman in the
22 teleconference was?

23 A From my standpoint, this was a very unique
24 situation between my Navy time and FAA time, AME time there,
25 to have a situation like this where an employee was raising

1 concerns, and I wanted him involved. Again my leaning at the
2 time, just from what I was hearing from the statements,
3 written statements from Ms. Nabors, was it was mental
4 nervous. So, I wanted him in there, if you will, with his
5 experience and his knowledge, to listen to what was to be
6 said, and what he came up with, what his conclusion was or
7 what his thoughts were on this, and if it was something that
8 should be looked into further.

9 Q Do you recall how many separate teleconferences
10 that you participated in, in March, relating to Ms. Pettitt?

11 A I'm going to go with the two, the first one March
12 10th, with Kelley Nabors and Chris Puckett, and then the
13 subsequent one that we're talking about now on the 17th with
14 myself, Chris Puckett, Kelley Nabors, Jim Graham, OC Miller,
15 and Dr. Altman.

16 Q Okay. So, you don't recall any teleconferences or
17 other meetings between March 10th and March 17th?

18 A No.

19 Q Do you know who Jason Zwislak is?

20 A Zwislak.

21 Q Yeah. Do you know how to spell that, for sure?

22 A A good Irish name. Z-w -- may I?

23 JUDGE MORRIS: You may. He's going to refer to his
24 telephone to get the spelling.

25 THE WITNESS: Stand by.

1 MR. SEHAM: By the way, while we're paused. Do you
2 all have -- does Respondent counsel have an extra copy of Dr.
3 Faulkner's deposition? Do you have the small version that
4 the Judge prefers, or the condensed?

5 THE WITNESS: Almost there. Okay. What I have is
6 Jason, last name Z-w-i-s-l-a-k.

7 MR. SEHAM: Okay.

8 BY MR. SEHAM:

9 Q And what's his position at Delta?

10 A He's in charge of pilot leaves, and that can
11 include medical leaves, military absences, disability,
12 personal leaves.

13 Q If you could -- your deposition --

14 MR. ROSENSTEIN: He doesn't quite have it yet.

15 MR. SEHAM: Oh. I have a bigger --

16 THE WITNESS: Oh, good.

17 MR. SEHAM: And I guess we're going to mark this as
18 201.

19 JUDGE MORRIS: CX-201 for identification.

20 (Complainant Exhibit No.

21 201 was marked for

22 identification.)

23 BY MR. SEHAM:

24 Q I'd like you to turn your attention to page 24?

25 A Forgive me. Are we talking about the cute little

1 pages here, or the --

2 Q The pages that are in the upper right of each
3 quadrant. So, there are four pages per --

4 A Got it.

5 Q -- leaf of paper.

6 A Got it.

7 Q Okay. So, I'm referring you to page 24, which is
8 in the lower right-hand quadrant on that page. Are you with
9 me?

10 A Yes.

11 Q And if you can move down to line 20, there's as
12 question:

13 "Question: Who participated in this
14 teleconference?

15 "Answer: I'm going to -- I believe
16 Chris Puckett was aboard, OC Miller,
17 Jason Zwislak may have been aboard, I
18 can't recall, he was off and on.

19 "Question: I'm sorry, who was Jason
20 Zwislak?

21 "Answer: He's involved in pilot leaves
22 and he may have been involved. And
23 obviously, Ms. Nabors. And offhand, I
24 can't recall anyone else.

25 "Question: Dr. Altman, of course?

1 "Answer: Right.

2 "Question: Jim Graham, correct?

3 "Answer: I can't recall."

4 Was that the testimony that you gave on December
5 19th of 2018?

6 A That is right.

7 Q And that was accurate to the best of your capacity
8 at that time?

9 A At that time.

10 Q Okay. But since that time, you now believe that
11 Jim Graham was, in fact, on that call?

12 A I believe at the end of it -- again because he was
13 discussing the three issues going on with Ms. Petitt.

14 Q Okay. What were the issues going on with Ms.
15 Petitt?

16 A The issues were three. That Ms. Petitt had brought
17 harassment claims against Delta, and that was being looked
18 into. And that's why Ms. Nabors had gone out to meet with
19 her, to discuss these harassment claims.

20 That she had brought concerns about safety at
21 Delta. And that also was being looked at by representatives
22 from the department there.

23 Then I was being brought in between of Ms. Nabors'
24 feedback with her meeting out in -- with Ms. Petitt, about
25 could there be a medical concern going on.

1 Q You say it was at the end of the call?

2 A I believe so.

3 Q So, was Captain Graham on the teleconference when
4 Ms. Nabors was providing her account of her interview?

5 A I was not there, I can only assume. I wasn't in
6 the room. But again, he was there, certainly talking at the
7 end of it there. So, he may have been there or he could have
8 walked in and out, I can't swear on a stack of bibles that he
9 was actually there in the room to hear Ms. Nabors testify or
10 give her description of what happened.

11 Q Do you recall Captain Graham asking Ms. Nabors any
12 questions?

13 A No.

14 Q Did you ask Ms. Nabors any questions?

15 A I think I was going to, again to -- with her --
16 just reiterating what she said, what she had documented
17 there, what she observed and what she heard.

18 Q And did Dr. Altman ask Ms. Nabors any questions?

19 A I can't recall. He was mostly in listening mode.

20 Q Okay. And you say Captain Graham, you say towards
21 the end of the call, started describing these different areas
22 of investigation?

23 A I believe -- yeah -- the call I was brought into
24 was really from the medical piece there, but I believe
25 Captain Graham was there to discuss, hey, there's some other

1 issues going on here, we're bringing you in here for the
2 medical aspect here, we know you're not a -- I'm not a
3 specialist in safety, aviation safety, the SMS System, what
4 have you, and I was not aware of the harassment issues that
5 Ms. Nabors had gone out there for, other than reading her
6 report. And then of course when I met with Ms. Pettitt and
7 she expounded on that.

8 Q And that's at the tail end of the march 17th
9 conversation?

10 A Correct.

11 Q Okay. And was it your understanding that there had
12 been a prior teleconference in which you had not
13 participated, to discuss those three items?

14 A I don't know.

15 Q Now, would you agree that you can't recall -- would
16 you agree that Dr. Altman may have made some -- put some
17 questions to Ms. Nabors?

18 A It's possible. I can't recall them.

19 Q Okay. And do you Flight Ops the specifics of Dr.
20 Altman's comments during the March 17th teleconference?

21 A The end was his comments that there was something
22 that needed to be investigated further, from both the
23 documentation that Ms. Nabors provided and then the follow-up
24 questioning where she was consistent with her story.

25 Q And do you have any specific recollection of what

1 Dr. Altman said -- did you make an inquiry to Dr. Altman, of
2 any kind?

3 A Again, I was taking the lead, basically, there's
4 some issues there and I may have said: "Dr. Altman, what do
5 you think?"

6 Q Okay. You may have said that?

7 A I may have said that.

8 Q Okay. And would you agree with me, you don't
9 recall the specifics of what his response was?

10 A He just -- yeah -- just in general, that there's
11 something that needs to be explored further.

12 Q Okay. And do you recall if you referenced issues
13 related to Ms. Petitt's memory issues?

14 A (No verbal response.)

15 Q Did Dr. Altman make references to Ms. Petitt's
16 memory issues?

17 A Not that I recall.

18 Q Would you -- Ms. Nabors, she gave a new account or
19 she provided an account, during the March 17th
20 teleconference, of what transpired?

21 A She -- not a new account. She had already talked
22 to me on the phone on the 10th. She had provided written
23 documentation that I had reviewed prior to our meeting on the
24 17th. So, it wasn't so much a new account, it was querying
25 her on reviewing the documentation she provided, just to get

1 some clarifications on that.

2 Q And the document she provided -- did she provide
3 any new factual details on March 17th, that went beyond her
4 written account?

5 A Not that I recall, no.

6 Q And forgive me, I want to make sure I knock these
7 out. Do you recall asking Ms. Nabors any questions on March
8 17th?

9 A I think -- I'm sure I asked her some questions. I
10 think it was just going through the document I had now
11 received and just clarifying or verifying what she was saying
12 and putting down on paper.

13 JUDGE MORRIS: So I'm clear, the document you had
14 received is that JX-E?

15 THE WITNESS: Right. Let me just verify, if you
16 don't mind. Yeah. And to clarify, this is JX-E from page
17 003 to --

18 JUDGE MORRIS: Right.

19 THE WITNESS: -- 0011.

20 JUDGE MORRIS: All right.

21 BY MR. SEHAM:

22 Q And do you have any recollection of Captain Graham
23 asking Ms. Nabors any questions?

24 A No.

25 Q Okay. Do you have any recollection of Dr. Altman

1 asking Ms. Nabors any questions?

2 A No.

3 Q Isn't it true that after listening to Ms. Nabors,
4 Captain Graham asked you the direct question as to whether
5 you had reason to believe that Ms. Petitt did not meet
6 medical standards?

7 A I don't believe it was that form of a question. I
8 think it was are there concerns here that we should proceed
9 with a Section 15 process, or something along those lines.

10 Q So, after Ms. Nabors concluded, Captain Graham
11 asked you a question whether he should have concerns?

12 A I don't think it was a question. It's, again,
13 getting back to my role in this.

14 Q I'm asking you what he said. Do you have any
15 recollection of what he said to you?

16 A He said:

17 "There are three issues going on here, safety,
18 harassment, medical. You, Dr. Faulkner,
19 are brought in from a medical perspective
20 of things."

21 And that's the best I recall.

22 Q Okay. So, you have no recollection of whether he
23 actually elicited your opinion at the end of Ms. Nabors'
24 account?

25 A No, no.

1 Q Okay. Do you have any recollection of Captain
2 Graham directly eliciting Dr. Altman's opinion, after Ms.
3 Nabors' account?

4 A No.

5 Q Now, as you considered Ms. Nabors' account, you
6 were aware of the fact that she had been instructed to
7 investigate incidents of harassment, correct?

8 A Yes.

9 Q And you later learned from Ms. Pettitt that the
10 harassment included -- or that the issues that she had raised
11 included accounts of reported falsification of her training
12 records, correct?

13 A Yes.

14 Q And that she had raised issues about non-compliance
15 with SMS, correct?

16 A Yes.

17 Q And that she had been told by fellow pilots that
18 she should watch her back?

19 A Yes.

20 Q And that she had been subject to the manipulation
21 of a simulator that she was having a check on?

22 A Yeah, she felt -- yeah, and had been told by a
23 pilot that: "You know who," I believe, "had messed with the
24 simulator."

25 Q Okay. Did Ms. Nabors discuss any of the incidents

1 of harassment during her call with you on March 17th, or the
2 prior call you had with her?

3 A No.

4 Q But in fact, that's one thing that Ms. Nabors and
5 Petitt did concur on, or agree on, was that Ms. Petitt had
6 reported that she had been told by fellow pilots to watch her
7 back?

8 A Yes.

9 Q Okay. Did Ms. Nabors -- I think you said, when you
10 were testifying on direct -- Ms. Nabors reported that Ms.
11 Petitt had become tearful during her interview of Ms. Petitt?

12 A Yes.

13 Q Okay. And did she ever identify any of the subject
14 matter context during which Ms. Petitt allegedly became
15 tearful?

16 A I think the thing that stood out --

17 Q Well, I'm asking a yes or no question. Did she
18 ever identify that she became tearful at this moment, as we
19 discussed this subject, did she identify the subject which
20 might have provoked the tearfulness?

21 A No.

22 Q But you knew, as you were hearing this information
23 from Ms. Nabors, you understood this to be a harassment
24 investigation, correct?

25 A Yes.

1 Q Would you agree with me that it's a fairly common
2 occurrence for an interviewed Complainant to become tearful
3 as she discusses her own harassment?

4 MR. ROSENSTEIN: Objection.

5 JUDGE MORRIS: Overruled.

6 THE WITNESS: No.

7 BY MR. SEHAM:

8 Q It's not common, okay. And did Ms. Nabors raise
9 any issues related to Ms. Petitt's failure to comply with or
10 remember Delta's policies or procedures?

11 A Did she raise any issues about it?

12 Q Correct.

13 A No.

14 Q Okay. Now, did Ms. Nabors reference that Ms.
15 Petitt had provided safety compliance related documentation
16 to her mother, to Ms. Petitt's mother?

17 A Yes.

18 Q And Ms. Nabors placed special emphasis on that
19 reference, correct?

20 A Yes.

21 Q Did Captain Graham, after Ms. Nabors had made that
22 comment, did Captain Graham ever state that he had already
23 heard, in the past, a reference to Ms. Petitt leaving safety
24 compliance related documents with her mother?

25 A When?

1 Q On March 17th?

2 A No.

3 Q Now would you agree with me that you have no
4 specific recollection as to whether Ms. Nabors, on March
5 17th, used the term "harm" or "retaliation," in terms of what
6 Ms. Petitt was afraid of?

7 A I can't recall. I had heard the previous week and
8 now I had documentation in front of me. So, I may have asked
9 the question again to reiterate -- Ms. Nabors to reiterate
10 what she heard, what her impression was.

11 Q But at this point you were relying exclusively on
12 the documentation?

13 A Again, challenging Ms. Nabors just to make sure was
14 there any inconsistencies here, we want something to, you
15 know, clarify it on what her wording was.

16 JUDGE MORRIS: How long did this meeting last?

17 THE WITNESS: With Ms. Nabors?

18 JUDGE MORRIS: Yes.

19 THE WITNESS: As best I recall, it was probably 20
20 minutes.

21 JUDGE MORRIS: Okay. Continue.

22 BY MR. SEHAM:

23 Q Now, going back to the March 10th meeting, did you
24 keep any -- you have written notes of your meeting with Ms.
25 Petitt on April 27th. Do you have any written notes of the

1 discussion that you had on March 10th?

2 A I do not.

3 Q Did you take notes at the time?

4 A No.

5 Q And do you have any notes relating to what
6 transpired on March 17th?

7 A I do not.

8 Q Ms. Nabors tied Ms. Petitt's concerns and Ms.
9 Petitt's fears of an adverse action to Ms. Petitt's
10 communication of information related to Flight Operations,
11 correct?

12 A To safety issues at Delta.

13 Q If you could turn to your deposition, to page 23,
14 line 21?

15 JUDGE MORRIS: CX-201.

16 MR. SEHAM: Yes. CX-201, thank you. Page 23,
17 starting at line 21.

18 BY MR. SEHAM:

19 Q Let me know when you've gotten there?

20 A Yes.

21 Q Okay. So, it reads here:

22 "Question: Let's make sure I
23 understand your testimony. You said that
24 Ms. Nabors had said that Ms. Petitt --
25 that Ms. Nabors said that during this

1 teleconference, in which you
2 participated, prior to the mental health
3 referral, that Ms. Petitt had expressed
4 concern that Delta would harm her. Is
5 that correct?

6 "Answer: To Ms. Nabors, when she met
7 with her out in Seattle. Ms. Nabors
8 relayed that Ms. Petitt had told her she
9 was concerned about her health. Now, I'm
10 going to imply -- I can't remember the
11 specifics, if she said actually Delta was
12 going to hurt me or she felt she was
13 concerned about her well-being, so I
14 don't know if -- I can't recall, I can't
15 identify specific individuals or
16 whatever, but that she felt concern about
17 her harm, that she would be harmed from
18 the information she had, is what Kelley
19 seemed to relate to us."

20 Now, did you give that testimony?

21 A I did.

22 Q Okay. And would you agree with me that your
23 recollection of what transpired on March 17th is hazy?

24 A At this point?

25 Q No. Well -- yes, at this point, correct?

1 A Four months later?

2 Q Yeah.

3 A Yes.

4 Q It's hazy. And it was hazy back in December of
5 2018?

6 A I can't -- I mean -- well, it was, at that point,
7 how many years after this had gone on?

8 Q I'm just asking whether you would agree with me?

9 A It's fair that it could be off.

10 Q Okay. Now, your recollection that no final
11 decision was made on March 17th, for a Section 15 referral?

12 A Okay. So, remember, the Section 15 -- to activate
13 the Section 15 was made, more than likely, by the end of that
14 day. The referral to Dr. Altman, that's a different story.

15 Q Well, I'm saying --

16 A So, to implement --

17 Q My question is, isn't it true that by the end of
18 that teleconference, in which you participated, the decision
19 had already been made to send Ms. Petitt a Section 15 letter?

20 A Yes.

21 Q Okay. And at that time, you had had no discussion
22 with Ms. Petitt, correct?

23 A Correct.

24 Q Do you know if anyone who participated in the March
25 17th call discussed Ms. Nabors account with Ms. Petitt, prior

1 to your reaching the Section 15 referral decision on March
2 17th?

3 A I don't know. I don't recall.

4 Q Now, if we could turn to JX-E?

5 A I have it.

6 Q Okay. Now, the first page shows this is an e-mail
7 of March 16th, 2016, at 9:18 o'clock a.m. from Chris Puckett
8 to Dr. Altman. And starting on the third page is a document
9 that starts: "Karlene Petitt Safety Issues."

10 A Right.

11 Q Okay. Do you know, for certain, on what day you
12 received this document?

13 A I cannot say with certainty what exact day I
14 received this.

15 Q Do you know, for a certainty, that you received
16 this document prior to March 17th?

17 A I can say that I referenced it or had it when we
18 had the conference all on the 17th.

19 Q And was this the form of the document -- was the
20 document you received from Ms. Nabors of this length in
21 pages?

22 A I believe so, yes.

23 Q And you see, starting at JX-E-004, there are a list
24 of questions under: "EO Complaints"?

25 A Yes.

1 Q And you see there are no answers to any of those
2 questions?

3 A Correct.

4 Q Now, you had asked Ms. Petitt directly -- so would
5 you agree with me the only account of her meeting with Ms.
6 Petitt commenced on JX-E-010, under the caption: "Additional
7 Notes"?

8 A From my standpoint, yes. From the medical
9 standpoint, that's when I got -- that's what I was interested
10 in seeing.

11 Q Isn't it true that you had asked Ms. Nabors to give
12 you a verbatim account of her meeting with Ms. Petitt?

13 A Yes.

14 Q Okay. And you know the meeting she had with Ms.
15 Petitt went on for about three hours?

16 A From what she said, yes.

17 Q And when you got these four paragraphs from Ms.
18 Nabors, you were satisfied that she was giving you a verbatim
19 account of the three-hour meeting?

20 A Yes.

21 Q Now, at some point -- at some point after March
22 17th, you decided Ms. Petitt should be referred to a CME for
23 a psychiatric evaluation, correct?

24 A That is correct.

25 Q Okay. And your recollection is that at the

1 conclusion of the teleconference on March 17th, the Section
2 15 referral had been made, but not yet a decision that she
3 undergo psychiatric evaluation, is that correct?

4 A So, the end of -- roughly March 17th or so, yes,
5 she should enter the Section 15 process.

6 Q Okay. But no -- your testimony is that decision
7 with respect to a psychiatric evaluation didn't take place
8 until April 27th or April 28th?

9 A Correct.

10 Q Okay. Now, in a typical case, after the initial
11 March 17th Section 15 referral decision, you would then
12 proceed to contact the pilot and share with him or her the
13 concerns that Delta had, correct?

14 A Yes.

15 Q Okay. And would you agree that it's important not
16 to proceed with any referral to a CME until the pilot's side
17 of the story has been obtained with respect to the reported
18 event?

19 A Yes. And with the pilot's side to include any
20 medical information they want to submit.

21 Q Okay. And your face-to-face meeting with her was
22 on April 17th?

23 A Correct.

24 Q And now at that time you confirmed that Ms. Pettitt
25 had no recorded history of mental health issues, correct?

1 A Correct.

2 Q And that you confirmed that she had no history of
3 substance abuse, correct?

4 A Correct.

5 Q And you confirmed that she was not taking any
6 medications that would be indicative of mental health issues?

7 A From what she provided to me, what she answered to
8 my question on this, yes.

9 Q Okay. Well, did you make any effort to corroborate
10 that one way or the other?

11 A Since she said there was no healthcare providers
12 recommending that or treating her for that, I had nowhere to
13 go on that.

14 Q Now, if she -- you would have considered -- if she
15 had been taking some medication, you would have considered
16 that as a mitigating factor?

17 A Yeah. Possibly -- yes.

18 Q Okay.

19 A And the basis for that would be if she had lapsed
20 from taking her medication that would explain a momentary
21 emotional outburst, is that your logic?

22 A Well, there's a possibility. Is it possible she
23 was having an adverse reaction to medication or side effect,
24 an adverse interaction with another medication or supplement.

25 Q So, the fact that she wasn't taking any medication

1 at all weighed against her?

2 A Weighed against her in what --

3 Q In terms of your analysis, in terms of your trying
4 to find some reason why you might not proceed with a
5 psychiatric examination?

6 A If I'm understanding the question correctly, she
7 had no -- she presented to me no history of mental illness or
8 recommendations for treatment, or undergoing treatment for
9 that. I took her at her word. So, given that, her
10 behaviors, her statements could then not be explained.
11 Again, if she did say it was something, certainly I would
12 have investigate it there. I can't say that it would have
13 contributed to her behavior and statements, I certainly
14 wouldn't know unless we looked into it. In this case there
15 was no healthcare providers that were treating her for this
16 or recommending treatment.

17 Q But you would have investigated those issues of
18 substance abuse, medications, and prior psychiatric or
19 psychological care as mitigating factors that would,
20 perhaps --

21 A Yes.

22 Q Okay. And you confirmed that she had no history of
23 mental health counseling, correct?

24 A That's correct.

25 Q Okay. So, ultimately, would you agree that you

1 made your determination that Ms. Pettitt undergo psychiatric
2 examination based exclusively on information that you
3 received prior to the issuance of the Section 15 letter,
4 correct?

5 A Let me make sure I clarify here. I got her into
6 the Section 15 process. I wanted to know information. The
7 decision to refer her for psychiatric evaluation only came
8 after I interviewed her and asked if there was any
9 documentation there. So, no, March 17th, that was not knee
10 jerk she is going for a psychiatric evaluation. I gave her a
11 chance to present her side of things, see if there's any
12 mitigating circumstances there or treatment, whatever. There
13 was none.

14 Q Let me ask again. Would you agree with me that
15 your decision on April 27th or 28th, to refer for a
16 psychiatric evaluation, relied exclusively on information
17 that you had obtained as of March 17th?

18 A Yes. And no information shared by Ms. Pettitt when
19 I met her on the 27th.

20 Q I'm sorry -- you're saying you also relied --

21 A So, she provided nothing to challenge that on the
22 27th, no medical documentation. So, to answer your question,
23 yes, the Kelley Nabors report gave concern, but I did not
24 refer for a psychiatric evaluation simply based on that, at
25 that time. I gave Ms. Pettitt a chance to present her side.

1 Q Well, okay. Did you conduct any investigation
2 between March 17th and April 27th?

3 A No.

4 Q Aside from the teleconference you had with Ms.
5 Nabors in March -- and let me make sure I have this correct
6 -- you spoke with Ms. Nabors on March 10th and March 17th,
7 correct?

8 A She was included in the conference calls, yes.

9 Q Okay. And you never met with her face-to-face,
10 correct?

11 A No.

12 Q But you felt it was -- well -- so -- and you never
13 -- after March 17th, did you ever again have a conversation
14 with Ms. Nabors?

15 A I don't believe so. I asked for things in
16 documentation, she provided that documentation.

17 Q Okay. That's referring to JX --

18 A JX-E.

19 Q -- E -- okay.

20 Have you looked at JX-J?

21 A Yep.

22 Q Do you see that -- are you there?

23 A Yes.

24 Q And you see at the bottom it says: "Print Date: May
25 27th, 2016"?

1 A Yes.

2 Q Do you remember when you received this -- did you
3 actually -- did you ever receive this document, JX-J?

4 A I believe I did eventually receive this.

5 Q Are you certain that you received it?

6 A No.

7 Q Okay. So, when you met with Ms. Petitt
8 face-to-face on April 27th, part of the reason you met with
9 her was to get her side of the story regarding Ms. Nabors'
10 observations and reactions, correct?

11 A Yes.

12 Q Would you agree with me that when you met with Ms.
13 Petitt, there was nothing in her department that contributed
14 to your decision to refer her to a psychiatrist, correct?

15 A No. There was nothing in her department.

16 Q Okay. Nothing -- and there was nothing in her
17 interaction with you, on the 27th or on the 28th, that gave
18 you any concerns about her mental health at that time,
19 correct?

20 A No.

21 Q And when you met with her, she provided you with
22 information concerning issues related to Delta Flight
23 Operations compliance with safety standards, correct?

24 A Yeah.

25 Q And she identified that, in her view, that Delta

1 was non-compliant with its SMS obligations, correct?

2 A Yes.

3 Q And she identified for you that Delta was
4 non-compliant with its Pilot Training Program, correct?

5 A In general, yes.

6 Q Okay. And she advised you that as a result of her
7 having raised these compliance issues, these Federal Safety
8 Standards compliance issues, that she had been subject to
9 retaliation, correct?

10 A Suggested between the harassment and the safety
11 concerns that she was -- yeah -- subject to retaliation.

12 Q And you know from Ms. Nabors' report that Ms.
13 Petitt reported that she had been told by fellow pilots that
14 she would be subject to retaliation for raising safety
15 compliance issues, correct?

16 A And she confirmed that in my conversation with her,
17 yes.

18 Q Okay. But you knew that from Ms. Nabors, as well?

19 A That is correct.

20 Q Okay. And you didn't make any effort to interview
21 these pilots who had made these comments to Ms. Petitt, did
22 you?

23 A No, and that really wasn't my responsibility.

24 Q Do you know whether anyone in the company had made
25 any effort to identify and interview these pilots who had

1 warned Ms. Petitt that she would be subject to retaliation?

2 A I don't know. I don't know.

3 Q Wouldn't it be a mental health issue for those
4 pilots, as well, that they were paranoid about Ms. Petitt
5 being subject to retaliation?

6 A Could be, I don't know. I mean, again, I was not
7 interviewing these pilots. I was not interviewing some of
8 the people she called out as being after her.

9 Q Did you ever suggest to Delta Flight Operations
10 that they should identify and interview those pilots who had
11 been warning Ms. Petitt, in order to determine whether they
12 had paranoia issues?

13 A No.

14 Q Or any mental health issues?

15 A No.

16 Q Okay.

17 JUDGE MORRIS: Ten minutes, counsel.

18 MR. SEHAM: Okay.

19 BY MR. SEHAM:

20 Q And she had -- in fact, when she came to interview
21 with you, she had just given a safety briefing that day to
22 Delta personnel, to Flight Department personnel in Atlanta?

23 A Yeah, as best I understand the Training Department
24 leadership.

25 Q Now, would you agree with me that sometimes your

1 evaluations, in your capacity as DHS at Delta Air Lines,
2 require you make credibility evaluations?

3 A Credibility of the medical documentation,
4 credibility of the pilot?

5 Q Credibility of the individual who is giving you
6 information?

7 A It's possible.

8 Q Well, it's possible or you have --

9 A All right, yes. I guess I'm just saying in terms
10 of -- I'm a little confused on the question. The source of
11 the information coming to me?

12 Q When you're making evaluations, do you ever have to
13 make assessments with respect to credibility?

14 A Yes.

15 Q And did you discredit any of the information that
16 Ms. Petitt gave you on April 27th and April 28th?

17 A No.

18 Q So, you assumed that Ms. Petitt was telling you the
19 truth, in terms of what she reported?

20 A Yes. As I assumed Ms. Nabors was telling the truth
21 in her written documentation.

22 Q And more specifically, you made no effort to
23 determine whether Ms. Petitt's account of being subjected to
24 retaliation for raising training compliance issues
25 contributed to the emotions that Ms. Nabors reported?

1 MR. ROSENSTEIN: Objection, asked and answered.
2 We're going to be here for two days with this witness. We
3 keep going over the same questions over and over again.

4 MR. SEHAM: I'm specifically asking training
5 compliance.

6 JUDGE MORRIS: Yeah. Overruled.

7 THE WITNESS: So, three areas here: safety,
8 harassment, medical. I was going on the interactions she had
9 with Ms. Nabors in early March. I cannot testify to the
10 harassment concerns. I know someone else was looking into
11 it, Ms. Nabors. I cannot testify to the safety concerns and
12 things run up there, there's specialists in that. I was
13 brought in to -- we have an employee who interfaced with Ms.
14 Petitt for three hours and while investigating the harassment
15 was concerned about her statements and her behavior -- and
16 that's what I was going on.

17 BY MR. SEHAM:

18 Q Okay. So, you knew -- she had advised you that she
19 had raised issues related to non-compliance in terms of a
20 simulator check she had?

21 MR. ROSENSTEIN: Asked and answered.

22 JUDGE MORRIS: Overruled.

23 THE WITNESS: Yes.

24 BY MR. SEHAM:

25 Q And she advised you that as a direct result of her

1 raising those compliance issues, that the instructor had
2 sabotaged her check?

3 A That was her feeling, yes.

4 Q Okay. And you -- would you agree with me that you
5 made no effort to determine whether that kind of retaliation
6 had contributed to her alleged tearfulness or emotion?

7 A I did not go into that, no.

8 Q Do you know whether -- did Ms. Nabors ever tell you
9 she had some basis for disbelieving Ms. Petitt's account of
10 the retaliation she had suffered?

11 A No.

12 MR. SEHAM: I defer to the Tribunal, this would be
13 a logical place to break, if you needed an extra couple of
14 minutes to prepare for your call.

15 JUDGE MORRIS: That's fine. We'll take a half-hour
16 break.

17 MR. SEHAM: Okay.

18 JUDGE MORRIS: So, we'll be back here at 25 after
19 the hour, all right.

20 Sir, do not discuss your testimony with anyone
21 during the lunch break. You can talk about the weather, Game
22 of Thrones, whatever, but not about that, all right?

23 THE WITNESS: All right.

24 JUDGE MORRIS: The court is in recess until 12:25
25 o'clock p.m.

1 AFTERNOON SESSION

12:30 O'CLOCK P.M.

2 JUDGE MORRIS: On the record.

3 All parties present when the hearing last recessed
4 are again present.

5 You may continue your cross.

6 CROSS-EXAMINATION RESUMED

7 BY MR. SEHAM:

8 Q Dr. Faulkner, would you agree with me that with
9 respect to Ms. Petitt's Section 15 matter, that you did not
10 consider any psychiatrists other than Dr. Altman?

11 A I did consider Dr. Gitlow.

12 Q Okay. And when did you do that?

13 A That was -- I don't recall specifics, but he was
14 another one I had worked with in the past. I would say
15 probably the following weeks after the letter was issued, the
16 March whatever, March letter to her putting her in the
17 Section 15 process, if we were to proceed with the
18 psychiatric evaluation.

19 Q So, you were vetting psychiatrists even before you
20 met with Ms. Petitt?

21 A I was thinking if it was to go down that way -- I
22 didn't know, yet, I still didn't have her side of the story,
23 but again, if we were to go, there's that list out there.

24 Q So, prior to your interview, you were looking for a
25 psychiatrist for Ms. Petitt?

1 A So, again, hadn't heard her side of the story, but
2 if we were to proceed down that route, again to try to
3 expedite the process there, we'd probably have some names.

4 Q Did you call Dr. Gitlow?

5 A No.

6 Q Did you call anyone else other than Dr. Gitlow?

7 MR. ROSENSTEIN: Asked and answered.

8 JUDGE MORRIS: Overruled.

9 THE WITNESS: No.

10 BY MR. SEHAM:

11 Q Now, you count, approximately, 2,000 Delta pilots
12 as clients, correct?

13 A Yeah, I've done physical FAA exams on them and
14 assisted them in seeking their Medical Certification.

15 Q And would you agree with me that referring a pilot
16 for a compulsory psychiatric examination is a source of
17 significant stress for the pilot?

18 A Yeah. It can be, yes.

19 Q And it's a potentially -- the process of
20 psychiatric examination can be potentially a career ending
21 process, correct?

22 A Sure.

23 Q And if Ms. Petitt had failed to prevail in the
24 Section 15 process, she would be no longer permitted to fly
25 for Delta, correct?

1 A She would -- if she went through the process, the
2 CME determined she did not meet the standards, she would not
3 be flying for Delta.

4 Q Correct. And if the whole Section 15 process had
5 concluded in an unfavorable manner, with the NME deciding
6 against her, then she would be barred from general aviation,
7 as well, isn't that correct?

8 A Well, it would be contingent on her reporting to
9 the FAA on a general aviation aspect.

10 Q Well, would Delta -- upon receipt of an unfavorable
11 NME determination, then Delta would be free, under Section
12 15, to report that to the FAA, correct?

13 A I don't think we've ever -- well, again, this is
14 the first time we've gone that far, but I don't think they're
15 obligated to contact the FAA at that point.

16 Q That wasn't my question. Delta would be free to
17 make that report?

18 A That would be free, but would they do it? I don't
19 know.

20 Q Now, you serve as an AME, correct?

21 A I do.

22 Q And an AME who conducts a pilot evaluation for the
23 purpose of issuing a First Class Medical Certificate, must
24 obtain a general impression of mental health, based on the
25 behavior statements and supporting documentation of the

1 pilot, correct?

2 A Correct.

3 Q And in fact, you regularly interview pilots for the
4 purpose of having a First Class Medical issued, correct?

5 A First, Second and Air Traffic Controllers, and some
6 Third Class.

7 Q I didn't hear the beginning of that?

8 A So, First Class Airmen.

9 Q Okay.

10 A Second Class Airmen.

11 Q All right.

12 A Third Class Airmen. Air Traffic Controllers.

13 Q And you engage them in a series of questions to
14 confirm their openness, correct?

15 A I wouldn't say necessarily "openness," but general
16 impression of their behavior.

17 Q Okay. And among the signs you would be looking
18 for, in terms of performing the AME mental health evaluation
19 process is the slurring of words, correct?

20 A That's one, sure.

21 Q Inappropriate speech, correct?

22 A Correct.

23 Q Inappropriate dress, correct?

24 A Correct.

25 Q Lack of personal hygiene, correct?

1 A To name but a few, yes.

2 Q Inappropriate statements by the pilot, correct?

3 A Correct.

4 Q And Ms. Petitt, would you agree, manifested none of
5 those indicators for mental health when you spoke with her
6 either in person or by phone?

7 A And again, I was not serving as her AME at the
8 time, but yes, when I met with her on 27th April and the
9 follow-up phone call on 28th April.

10 Q All right. That she manifested none of those
11 signs?

12 A No.

13 JUDGE MORRIS: Any objection to me taking official
14 notice referring to the AME's Guidelines, it's an FAA
15 publication?

16 MR. ROSENSTEIN: Only that it's not relevant, but
17 no objection to you taking official notice of it.

18 JUDGE MORRIS: All right. Well, I'll determine if
19 it's relevant.

20 MR. SEHAM: No objection from the Complainant's
21 side.

22 MR. ROSENSTEIN: You asked if I objected, so.

23 JUDGE MORRIS: Go ahead.

24 BY MR. SEHAM:

25 Q Now, prior to referring Ms. Petitt for the

1 compulsory psychiatric evaluation, did you contact her AME?

2 A No.

3 Q And did you review her AME's records?

4 A No.

5 Q Did you request any medical records?

6 A I had no medical records to request.

7 Q So, the answer to that is no?

8 A No.

9 Q And did you review her attendance records?

10 A No.

11 Q Did you review a history of tardiness or late
12 arrivals at work?

13 A No.

14 Q Did you review her sick leave usage?

15 A No.

16 Q If we could turn to CX-31.

17 JUDGE MORRIS: In Volume 2.

18 THE WITNESS: There we go. Thanks.

19 BY MR. SEHAM:

20 Q Are you there, sir?

21 A I am.

22 Q Okay. And do you recognize this document?

23 A Yes.

24 Q And would you agree that this document provides FAA
25 guidance to AMEs, with respect to how to conduct pilot mental

1 health evaluations?

2 A Yes and no. So, this is more directing about the
3 specifics of the psychiatric/psychological evaluation. So,
4 if a pilot was referred for psychiatric/psychological
5 evaluation, what they would be looking for, from that
6 psychologist and psychiatrist.

7 Q Could you turn to your deposition, please, and turn
8 to page 65?

9 A Got it.

10 Q Okay. I'm going to refer you to line 17, which
11 commences with the question:

12 "Question: Sir, I have handed you a
13 document which we have identified as
14 Faulkner Exhibit 2, a Guide for Aviation
15 Medical Examiners, the subtitle is:
16 Decision Considerations, Disease
17 Protocol, Psychiatric and Psychological
18 Evaluations Specifications for
19 Psychiatric and Psychological
20 Evaluations. And it is, just for the
21 record, Bates Stamped 8441 to 8445, are
22 you familiar with this document?

23 "Answer: Yes."

24 Would you agree with me that what we were
25 discussing there is what we now identify as CX-31?

1 A Yes.

2 Q Okay. And then the follow-up question is:

3 "Question: And this provides FAA
4 guidance to AMEs on how to make mental
5 health evaluations, correct?

6 "Answer: Yes."

7 A Okay.

8 Q Do you consider this -- you gave that testimony,
9 correct?

10 A Yes.

11 Q Okay. And do you consider that testimony to be
12 accurate?

13 A I do.

14 Q Okay. So, you would agree that you never made your
15 own determination that Ms. Petitt had a mental health issue,
16 correct?

17 A I did not.

18 Q Do you have a role in explaining to the CME his
19 role -- his role, the CME's role -- under Section 15?

20 A Simply what they're -- what we're asking -- what
21 they're to do, what they're available to have, you know,
22 again, the process there and what we're expecting from them.

23 Q And how do you advise the CME?

24 A Typically, with a phone call and then follow it up
25 with a letter, and then answer their questions or e-mails

1 from there.

2 Q Okay. And that reminds me. Did you say -- with
3 respect to JX-E, the document that you said you received
4 concerning Ms. Nabors' report, you said you think that was
5 handed to you?

6 A I don't recall it being handed to me. It could
7 very well have been.

8 Q So, it wasn't --

9 A It was in my receipt. I remember having that
10 before we had the call.

11 Q And you got it by e-mail?

12 A I can't recall the way I received it. It could
13 have been printed off. Typically, my staff, the way they do
14 it is they'll print it on off and present it to me.

15 Q So, you say you went to Delta's offices to retrieve
16 this?

17 A No.

18 Q You were asked by Delta counsel to review your
19 e-mail files for documents related to this matter, correct?

20 A Right.

21 Q And you didn't find any document indicating the
22 transmission of this document to you?

23 A I honestly can't recall. I did have the document.

24 Q Now, is it part of your role as the DHS to
25 intervene, to provide the CME, PME or NME information that

1 you think they should have?

2 A No.

3 Q Okay. And you say the CME and PME, together,
4 select the NME, correct?

5 A That is correct.

6 Q And does the DHS participate in that process?

7 A No, other than when a decision is made. After the
8 decision is made.

9 Q Okay. In terms of coordinating the analysis for
10 the NME?

11 A Correct.

12 Q And does Delta participate in the selection of the
13 NME?

14 A No.

15 Q Can you turn to Exhibit CX-32?

16 A Um-hum.

17 Q Are you familiar with this document?

18 A Yes.

19 Q And if I could ask you to turn to the third page,
20 CX-32-003?

21 A Yes.

22 Q Okay. I'm going to refer you to -- in the first
23 two sentences:

24 "The Pilot Fitness Aviation

25 Rule- Making Committee, ARC, as chartered

1 by the Federal Aviation Administration,
2 FAA, on May 11th, 2015, to consider
3 specific objectives and tasks in a form
4 for the U.S. Aviation Community, to
5 discuss and provide recommendations to
6 the FAA on pilot mental fitness for duty.
7 The ARC was chartered after the
8 Commercial Aviation Safety Team, CAST,
9 considered the circumstances surrounding
10 the Malaysia Flight 370 and Germanwings
11 Flight 9525 events."

12 And my question is, is that your understanding of
13 the origin of this document?

14 A I believe it was following Germanwings, and now, as
15 you mention, Malaysian Air.

16 Q Okay.

17 A Germanwings was a definite pilot suicide.

18 Q Okay. All right. And is this a reference document
19 generally used in the aviation community?

20 A No.

21 Q No, it's not. You don't rely on this document?

22 A You go to the guide. And this is an interesting
23 thing to have, but I think they made some recommendations.
24 The real document you keep going to is the Guide for Aviation
25 Medical Examiners.

1 Q The Guide for what?

2 A Aviation Medical Examiners.

3 Q Okay. Was that the document we were previously
4 reviewing?

5 A That was part of it, yeah.

6 Q Okay. Do you know who participated in the
7 elaboration of this ARC document?

8 A I know it was members of the FAA, several airlines,
9 union representation, pilot union representation, and then
10 independent psychiatrists, psychologists and there may have
11 been some other specialists that are familiar with the FAA
12 rules and regs.

13 Q If you could turn to page -- it's 10 of the report,
14 but it's 32-012?

15 A Yes.

16 Q And if you look at the last paragraph, which reads:

17 "The working group examined how an
18 event is handled, in which air carrier
19 management receives a report concerning
20 the emotional or mental health of a
21 pilot. In those cases, an investigation
22 is initiated to determine the credibility
23 of the report. After this evaluation, if
24 management determines additional research
25 into the report is necessary, the pilot

1 will be removed from flying status and a
2 mandatory fitness for duty exam may be
3 required."

4 In your opinion did Delta and you, as the Delta
5 DHS, follow this protocol?

6 A I believe so.

7 MR. ROSENSTEIN: Objection.

8 JUDGE MORRIS: Overruled.

9 BY MR. SEHAM:

10 Q And if you could look at the third to last
11 paragraph on this page, where it says:

12 "The working group found when an
13 emotional or mental health concern is
14 reported, the pilot is engaged in a
15 timely manner to investigate the
16 situation and to be offered support and
17 assistance and a formal mental health
18 triage is provided and the pilot is
19 assisted in assessing his or her problem
20 and fitness for duty, potential resources
21 for help are discussed with the
22 individual, some of which may include a
23 referral to a medical or mental health
24 professional."

25 Did you offer Ms. Petitt support and assistance?

1 MR. ROSENSTEIN: Objection.

2 JUDGE MORRIS: Basis?

3 MR. ROSENSTEIN: Relevance. It's an AIR-21
4 complaint, I don't believe this Tribunal is here to determine
5 whether or not Delta or Dr. Faulkner complied with this
6 committee report.

7 JUDGE MORRIS: Okay.

8 MR. SEHAM: In our view, this is an industry
9 standard that was originated by an FAA appointed working
10 group. And to the extent that -- AIR-21 is a discrimination
11 statute -- to the extent that procedures are being applied,
12 or standards or procedures are being applied to Ms. Petitt
13 that deviated from industry norms, we consider that relevant.

14 JUDGE MORRIS: I will overrule it, but I will also
15 tell you that this is not a standard, this is as
16 recommendation from the ARC Committee. So, to that extent
17 I'll allow it, but it's not a standard, it's only a
18 recommendation for, I'll call it, "best practices."

19 MR. SEHAM: Okay.

20 BY MR. SEHAM:

21 Q Did you offer Ms. Petitt support and assistance?

22 A "Be advised," -- it says at the bottom there --

23 Q I'm asking you a question --

24 A -- "air carrier management" --

25 Q Sir -- I'm asking, did you offer Ms. Petitt support

1 or assistance?

2 A I didn't need to. She didn't have a problem.

3 Q Okay. At the time you were performing your duties
4 as an DHS, pursuant to Section 15, did you have an
5 understanding as to whether the Hippocratic Oath applied to
6 the services you were --

7 MR. ROSENSTEIN: Objection.

8 MR. SEHAM: -- applied to the --

9 MR. ROSENSTEIN: Your Honor --

10 JUDGE MORRIS: Let him finish the question.

11 MR. ROSENSTEIN: -- you overrule all my objections,
12 so I hesitate to object, but the witness is not here for --
13 these are inappropriate questions to be asking this witness,
14 about the Hippocratic Oath and about whether or not he
15 provided care to First Officer Petitt, who was not his
16 patient, and he was performing a different role, which has
17 been made clear already by the testimony that's here and
18 hasn't been refuted. So, it goes beyond the scope of what
19 this case is about. Even though the Tribunal has stated that
20 they prefer to get more information and then cull through it,
21 attacking the integrity of Dr. Faulkner, by asking a question
22 about the Hippocratic Oath, an oath that I think also
23 declares that we are following the God Mars, is inappropriate
24 in this forum.

25 JUDGE MORRIS: You may be heard.

1 MR. SEHAM: Yes, okay. There has been the repeated
2 contention from the company that they were motivated
3 exclusively by Ms. Petitt's well-being. Our contention is
4 that Section 15, in reality, was being used as an alternative
5 to a disciplinary process. And it would be supportive of our
6 contention that there truly was no consideration of her
7 well-being, there was never any view of this as a medical
8 problem.

9 JUDGE MORRIS: All right. Well, given the lengthy
10 objections and responses from both parties, I've forgotten
11 what the question was. So, restate the question.

12 MR. SEHAM: Well, that in the performance of his
13 duties as the DHS, in this context, did he consider the
14 Hippocratic Oath to have any application?

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

16 BY MR. SEHAM:

17 Q If you can turn to RX-49?

18 JUDGE MORRIS: RX-29?

19 MR. SEHAM: Forty-nine.

20 JUDGE MORRIS: Forty-nine.

21 THE WITNESS: I have it.

22 MR. SEHAM: Okay.

23 BY MR. SEHAM:

24 Q And I believe you testified on direct about this,
25 but if you go down to the page it reads -- from Davis to

1 Karlene Petitt:

2 "Greetings Karlene. As promised, I
3 requested you could have until March
4 31st, without any requirement to respond
5 to our process. The request has been
6 granted and it has been communicated to
7 Dr. Faulkner. Good luck on your finals."
8 And that e-mail was forwarded to you at some point,
9 correct?

10 A It may have been. I can't recall. I just was
11 informed that they were going to let her delay the process.
12 I don't know if it was an e-mail or phone call or what have
13 you.

14 Q Okay. So, do you recall whether she had made a
15 request for a delay until March 31st?

16 A I think she made a request. I can't remember the
17 specific time she wanted.

18 Q Okay. And do you know why there was a delay from
19 March 31st to April 27th, to have the face-to-face meeting
20 with her?

21 A There were two things and I'm trying to think. I
22 think the one was academically, she had testing going on, I
23 believe. And then the other one was her mother had a medical
24 problem that she had to be there to attend.

25 Q And when you met with her face-to-face, did you

1 provide her with any assurances with respect to the
2 confidentiality of the process?

3 A Yes.

4 Q And did you assure her that nothing would be shared
5 with Delta, in terms of diagnosis or findings?

6 A Yes.

7 Q Now, would you agree that in your discussion with
8 Ms. Petitt, that the issue -- you discussed with Ms. Petitt
9 the disagreement in the accounts between her account and Ms.
10 Nabors' account as very well being just a misunderstanding?

11 A Again, I put that in perspective of one of the
12 possible findings, possible reasons for this, yes.

13 Q You say in the realm, it wasn't -- didn't you tell
14 her that this could very well end up being a result of a
15 misunderstanding?

16 A It could. It could.

17 Q And you said that to Ms. Petitt?

18 A I did.

19 Q Okay. And if you could turn to CX-44, is this an
20 e-mail that you sent to Dr. Altman on January 3rd, 2017?

21 A Yes, it appears so.

22 Q And you see after the first one-sentence paragraph,
23 it continues:

24 "I did inform her that the evaluation
25 could very well end up being the result

1 of a misunderstanding between Ms. Petitt
2 and the HR rep, but that given the
3 impression that she was under threat from
4 DAL, an evaluation by a psychiatrist like
5 yourself was warranted."

6 So, you wrote that to Dr. Altman?

7 A I did.

8 Q And why were writing that on January -- let me back
9 up. This was after Dr. Altman had already issued his
10 psychiatric report, correct -- January 3rd of 2017, that's
11 after he issued his report, correct?

12 A Hold on -- yes.

13 Q So, why were you writing him on January 3rd, 2017,
14 concerning this issue?

15 A I'm going through the rest of the e-mail discussion
16 here. So, I contacted her at the end of December -- going
17 back that's 44-002. And then she got back to me on January
18 3rd, including several folks there. So, I think I'm
19 responding to her e-mail here about such things as "My good
20 friend, Dr. Altman," and again making sure it was for the
21 record with him that I did not say it was -- that absolutely
22 my opinion was this was a misunderstanding. It could have
23 been a misunderstanding. And that Dr. Altman is not my good
24 friend, nor is Dr. Steinkraus, nor is Dr. Riccitello.

25 Q So, you're denying that you ever characterized Dr.

1 Altman as your friend?

2 A Yes.

3 Q Didn't you offer Dr. Altman the position as CME
4 even before you had had your follow-up teleconference with
5 Ms. Petitt on April 28th?

6 MR. ROSENSTEIN: Asked and -- I'm sorry, I'm sorry
7 -- withdrawn.

8 THE WITNESS: No, I don't recall that.

9 BY MR. SEHAM:

10 Q Would that have been inappropriate?

11 A I didn't have her side of the story, yet. I mean I
12 was listening on the 28th there, but if I had done that it
13 would have been after -- maybe it was after that evening, but
14 I did a follow-up call on the 28th. Looking back on it, I
15 think I did have a determination at that point.

16 Q Didn't you call Dr. Altman, in fact, on the 28th,
17 and offer him the CME position?

18 A No. I believe you saw in an e-mail earlier I sent
19 to him, there's a pilot I want to refer to you for further
20 evaluation.

21 Q And that was on April 28th, that you recall?

22 A Yeah, I believe it was around that time-frame.

23 Q Okay. And isn't it true that that e-mail was sent
24 before you had the teleconference with Ms. Petitt?

25 A So, yes, it was after I had the meeting with her

1 where she agreed. She said to me: "Yes, I can see the --

2 Q I'm not asking --

3 A -- evaluation," so that's why I proceeded forward.

4 Q I'm not -- I'm not asking for --

5 A Oh, I'm sorry, I'm sorry.

6 Q -- for argument. I'm asking you to answer the
7 question?

8 A I'm not arguing.

9 Q You offered Dr. Altman the CME position --

10 A Yes.

11 Q -- before you had your follow-up conversation with
12 Ms. Petitt, correct?

13 A Yes.

14 Q Would you agree with me that you scheduled
15 neuro-cognitive testing for Ms. Petitt, correct?

16 A I did. My office did.

17 Q Okay. And that was at Dr. Altman's request?

18 A He requested that she undergo neuropsych testing
19 before he saw her.

20 Q Okay. And you agree that that's an exhausting
21 process?

22 A Yes.

23 Q Okay. A process for which a pilot should be well
24 rested?

25 A Yes.

1 Q And that frequently it's conducted as a two-day
2 process?

3 A It can be, yes.

4 Q And in fact, there are some professionals that will
5 assist a pilot to prepare for a neuro-cognitive test,
6 correct?

7 A There's one I'm aware of.

8 Q Who is that?

9 A I think his name is Dr. Bracey, up in Indiana.

10 Q Okay. And you, in the past, have suggested to a
11 pilot that he obtain Dr. Bracey's assistance with such
12 preparation, correct?

13 A As the deposition proved there was one pilot that
14 was not in the Section 15 process, that had failed or not
15 done well on the neuro-cognitive testing before, and I said
16 I've heard Dr. Bracey will often help pilots with this. I
17 did not organize a referral, I just made him aware of it, but
18 didn't push the issue.

19 Q Okay. Now, Ms. Petitt requested a delay with
20 respect to her neuro-cognitive test, correct?

21 A Yes.

22 Q And you were instructed by Delta to deny that
23 request, correct?

24 A At first, yes.

25 Q At first?

1 A So, again, this had been going on for awhile. We
2 had delayed. Now it's coming back, I believe, because she
3 had finals. So, we had already taken a process and drawn it
4 out for over a month, she's getting paid, part of my process
5 is to move this along. So, now I was getting some other
6 delay being requested and I asked, and Delta said no.

7 Q Okay. Who did you ask at Delta?

8 A I think I just passed it on, probably to Chris
9 Puckett.

10 Q And then isn't it true that Ms. Petitt was asking
11 for an opportunity to prepare for the neuro-cognitive test?

12 A She -- I think she mentioned to me before, as I
13 said in my letter to her, you can't prepare for this. I
14 don't believe it was to prepare for -- I'm going to go take
15 Psychology 101 on how to do that. So, I don't recall her
16 asking so I can take time to study for it there.

17 Q Did you also speak to OC Miller about Ms. Petitt's
18 request to have an opportunity to delay the neuro-cognitive
19 test?

20 A I don't recall.

21 Q If you could look at your deposition?

22 A Page?

23 Q Page 146.

24 JUDGE MORRIS: And that's CX-201 for I.D.

25 MR. SEHAM: Yes, thank you.

1 THE WITNESS: Yes.

2 BY MR. SEHAM:

3 Q All right. If you can go to line 11 it says -- the
4 first sentence reads:

5 "I investigated your request to
6 reschedule and postpone the
7 neuropsychological testing and received
8 word that I should NOT --

9 "Question: And "NOT" is in caps?

10 "Answer: Yes.

11 "Question: -- change your appointment
12 with Dr. Cornett on May 11th."

13 "Question: You received word from
14 home?

15 "Answer: I believe this was in
16 conversation with Delta that -- remember,
17 the letter was sent to her probably
18 mid-March, we had delayed the process in
19 going forward because of her finals, her
20 exams, so we said that's fine, we will
21 make this appointment. And here I was
22 telling Delta this process that is
23 supposed to move efficiently for all
24 concerned is now being requested to be
25 pushed back, again.

1 "Question: Who did you speak to at
2 Delta?

3 "Answer: I believe that would be OC
4 Miller, Chris Puckett, Jason Zwislak."

5 A Um-hum.

6 Q Did you speak to all three of those individuals
7 regarding Ms. Petitt's request for delay in neuro-cognitive
8 testing?

9 A Like I say, I believe, I can't be for certain.

10 Q Now, Ms. Petitt did fine on her neuro-cognitive
11 test, correct?

12 A She did.

13 Q I'm going to ask you to refer to Exhibit 200, which
14 is here on the floor.

15 JUDGE MORRIS: CX-200?

16 MR. SEHAM: Yes, CX-200.

17 JUDGE MORRIS: Which is what?

18 MR. SEHAM: The Graham testimony. It's on your
19 desk now.

20 BY MR. SEHAM:

21 Q If you could turn to page 32, starting at line 21?

22 A Yes.

23 Q It reads:

24 "Question: I am confused. As I
25 recall, you identified three different

1 components underlying Dr. Faulkner's
2 Section 15 recommendation and that they
3 were:

4 1. Her expression of concern that
5 Flight Ops was going to harm her.

6 2. Issues related to policies and
7 procedures.

8 3. Harboring an inability to release
9 things from the past.

10 Did Dr. Faulkner bring up those,
11 information in those three categories, in
12 terms of justifying the Section 15
13 referral?

14 "Answer: Yes, he did."

15 Do you consider Captain Graham's testimony in this
16 regard to be inaccurate?

17 A I can't testify to what he says. I don't recall
18 saying that to him at all.

19 JUDGE MORRIS: That's the question. You don't
20 recall telling him that at all?

21 THE WITNESS: No.

22 JUDGE MORRIS: Is this the type of thin you would
23 tell him?

24 THE WITNESS: No. I mean, forgive me, but
25 basically I've got enough information here, I want to pursue

1 this further. It's to keep Delta out of the medical
2 thoughts, concerns, diagnosis, things like that. There's
3 been enough to proceed.

4 BY MR. SEHAM:

5 Q You did allow them to control whether Ms. Pettitt
6 would have an opportunity to prepare for a neuro-cognitive
7 test, correct?

8 A How did I -- okay. One more time. You can't
9 prepare --

10 Q That's a yes -- are you denying that?

11 MR. ROSENSTEIN: Can I hear the question again, I
12 didn't hear it, whether I want to object to it.

13 JUDGE MORRIS: Let's try it again.

14 THE WITNESS: Yeah.

15 JUDGE MORRIS: He's going to ask you the question.

16 MR. SEHAM: Yeah.

17 BY MR. SEHAM:

18 Q You denied Ms. Pettitt's request to have a
19 postponement so that she could prepare for a neuro-cognitive
20 test, correct?

21 A I asked --

22 Q I'm asking this as a yes or no question. Did you
23 deny her that request?

24 MR. ROSENSTEIN: Asked and answered. This is
25 badgering.

1 JUDGE MORRIS: Overruled.

2 You may answer the question.

3 THE WITNESS: I denied her --

4 BY MR. SEHAM:

5 Q You denied her --

6 A -- in my e-mail sent to her --

7 Q Sir --

8 A -- yes.

9 Q -- I asked you a yes or no question --

10 MR. ROSENSTEIN: Object to the badgering. It's
11 unfair, it's unbelievable.

12 JUDGE MORRIS: What's unbelievable is you're
13 interrupting, counsel, the questions. Now, let him finish
14 the questions.

15 Go ahead, counsel.

16 BY MR. SEHAM:

17 Q Ms. Petitt requested a delay in her neuro-cognitive
18 testing process so she could prepare, correct?

19 A I think it was that, but also her mother was ill
20 and she could not go for the testing.

21 Q Okay.

22 A Because she was to take care of her ill mom.

23 Q And you -- when -- you denied her an opportunity to
24 prepare for that neuro-cognitive testing, correct?

25 A It's not to prepare. To take the date later.

1 Q No. I'm asking you -- you told her that she could
2 not prepare for that neuro-cognitive test?

3 A In passing, I think in documentation, I said it's
4 not a test you can prepare for.

5 Q So, you denied her that opportunity, correct?

6 A I told her you can't prepare. She could do
7 whatever she wants.

8 JUDGE MORRIS: You made your point, counsel. Move
9 on.

10 MR. SEHAM: Yeah. All right. All right. I'll
11 move on.

12 THE WITNESS: Go online, try that.

13 BY MR. SEHAM:

14 Q If you could turn to JX-G?

15 A Yes.

16 Q I'm going to ask you to turn to -- they're not
17 numbered, but I guess, the first page. And if you can look
18 under: "Her Opinion on Current Situation," she writes:

19 "Fall, September 2015, she raised
20 concerns about training, quote,
21 'falsification of records on her
22 performance.' Instructor adjusted
23 simulator. She was into impact, hurt,
24 her sign-off. Instructor working with
25 her said: 'You know who,' when asked:

1 'Who messed with simulator?'"

2 Is that an accurate account of her explanation --

3 A That's what I documented, yes.

4 Q Okay. Now, these were issues that were arising in
5 the context of a harassment investigation, correct?

6 A Well, this -- she came in from the medical
7 standpoint.

8 Q No, I'm saying that what she was explaining -- what
9 she had explained to Ms. Nabors in the context of a
10 harassment investigation, correct?

11 A Yes.

12 Q And isn't it true that she denied that she ever
13 made claims of harassment?

14 A Who denied they made claims of harassment?

15 Q That Ms. Pettitt told you that she had never raised
16 claims that she had suffered gender based harassment?

17 A No -- sexual harassment, gender based -- she did
18 not, she did not. She said she had not been harassed based
19 on her gender or sexual harassment.

20 Q Okay. And she had expressed a concern to you,
21 beyond this documentation -- isn't it true that she expressed
22 a concern to you that Delta's failure to address its
23 compliance issues would result or could result in an aviation
24 accident?

25 A I think later on in the statements and notes here

1 it does say -- she mentions that it could. It hadn't
2 happened, yet, but it could.

3 Q And she also raised issues relating to near impacts
4 in the context of taxiing aircraft, correct?

5 A I think there was one issue mentioned there, a
6 close call.

7 Q And she told you that Delta was actually behind in
8 its CMS -- SMS implementation, correct?

9 A Yes.

10 Q Okay. If you could turn to CX-39?

11 A Yes.

12 Q Is this the first -- this is an e-mail -- excuse me
13 -- this is a letter from Dr. Altman to you, that you received
14 on or about December 7th, 2016?

15 A Yes.

16 Q And did you ever call him to get more specifics
17 about this summary diagnosis?

18 A I did.

19 Q You did.

20 A I would have, but I'm pretty sure I did.

21 Q Oh, you're not certain one way or the other?

22 A It was standard protocol. Like I told you many
23 times before, I receive the documentation, I'll review it and
24 then I'll call the evaluator to ask questions.

25 Q Do you --

1 A I did call him afterwards to discuss this.

2 Q Okay. And how many days after December 7th did you
3 contact him?

4 A I can't recall. I would say within a week or so,
5 again, December 7th it was sent, when it was received, but I
6 would say typically a week to 10 days after.

7 Q And did you read through his entire report?

8 A This was, I believe, the preliminary report. There
9 was a CD attached. So --

10 Q Didn't the CD have the entire psychiatric
11 examination of Dr. Altman?

12 A I believe it did.

13 Q Okay. So, you called him to ask him some questions
14 about the report?

15 A Right.

16 Q What questions did you ask him?

17 A That was she cooperative throughout the evaluation?
18 Were there any things that were of a concern that were not
19 provided, that you had asked for?

20 Q What's the point of asking those questions after
21 the report is done?

22 A I want to make sure he had a full evaluation.
23 Again, if the pilot does not provide everything, he may not
24 have an accurate assessment of her.

25 Q Okay.

1 A So, you know, were there records that she mentioned
2 that could have, you know, did he again reiterate do you have
3 anything that could help in my evaluation?

4 Q So, you asked if she had been cooperative and you
5 asked him if Ms. Petitt had provided all the documents he had
6 requested?

7 A Basically, it was a general statement there,
8 basically -- was she cooperative in providing everything you
9 had asked for? Again, any other resources that you had asked
10 for, that there were delays or inconsistencies, or never
11 received?

12 Q Any other questions you asked him?

13 A I think just a general assessment of how he went
14 through the process there.

15 Q So, you didn't ask him any questions about why he
16 reached the determinations he had reached?

17 A No. I mean I got the determination and read
18 through the documentation that came with it. I think he had
19 given a fairly decent written explanation of why he came to
20 that conclusion.

21 Q Did you ask him whom he had interviewed in reaching
22 his conclusions?

23 A Aside from what was in the record, no, not that I
24 can recall.

25 Q Do you recall -- you didn't ask him whether he had

1 interviewed the pilots who had been telling Ms. Pettitt that
2 she should watch her back?

3 A I didn't ask him about that specifically, no.

4 Q Could you turn to CX-40? Just for the record, this
5 is a very brief document. It says:

6 "Progress Note: Karlene Pettitt, 12/21/16, 2:52

7 o'clock p.m., three minutes, telephone

8 call with Dr. Faulkner. I asked Dr.

9 Faulkner to call me when he hears from

10 Delta Legal, rather than e-mailing me.

11 David Altman, M.D."

12 Do you recall, did you have this conversation along
13 these lines with Dr. Altman on December 21st, 2016?

14 A I believe I had a phone call with him, yes.

15 Q And did he provide you any explanation as to why he
16 wanted to have a call from you, rather than an e-mail?

17 A I can't recall. He may have been -- it was the
18 holidays, he may have been out of his office.

19 Q You can't recall?

20 A I can't recall.

21 Q If you could turn to CX-45.

22 MR. ROSENSTEIN: What number are we? Sorry.

23 MR. SEHAM: CX-45.

24 MR. ROSENSTEIN: Forty-five, thank you.

25 BY MR. SEHAM:

1 Q And is this -- this is an invoice that you received
2 for \$60,263.45 from Dr. Altman?

3 A Yes.

4 Q And then if you can turn to CX-50, you see there's
5 an additional invoice here in the amount of \$13,660.00?

6 A Yes.

7 Q Okay. You know that there had been two separate
8 invoices totaling in excess of \$73,000.00?

9 A Yes.

10 Q In your experience, what would you say is the
11 average charge for a Section 15 CME analysis?

12 A It depends on what's being evaluated.

13 Q Well, in the substance abuse context, would you
14 agree they generally run \$15,000.00 to \$16,000.00?

15 A Yeah, for substance abuse.

16 Q And that include -- that \$15,000.00 to \$16,000.00
17 would include the cognitive testing bill, correct?

18 A Yes.

19 Q Do you know Dr. Altman's invoices don't include
20 that cognitive testing bill, correct?

21 A That's correct.

22 Q Okay. If you could turn to CX-47?

23 A Yes.

24 Q And did you -- if you could turn to the third page,
25 CX-47-003?

1 A Yes.

2 Q And these individuals listed, Edythe Harvey, John
3 Marcellus, Ryan Pierson, do you know them by reputation?

4 A No.

5 Q You don't. Do you know any reason why Dr. Altman
6 would have not accepted them as NMEs?

7 A No.

8 Q Did anyone ever tell you that the PME group at the
9 Mayo Clinic was being unreasonable in terms of the NME
10 selection process?

11 A No.

12 JUDGE MORRIS: Do you recognize any of these three
13 names?

14 THE WITNESS: I do not.

15 JUDGE MORRIS: Okay. Thank you.

16 BY MR. SEHAM:

17 Q The May Clinic panel included an expert in bipolar
18 disorder, correct?

19 A I believe so.

20 Q Okay. Now, you had talked about getting a
21 preliminary report from Dr. Altman, is that correct?

22 A I believe so.

23 Q Did you get some report prior to the December 7th?

24 A No.

25 Q Okay. Do you know why Chris Puckett would have

1 received a report in October, two months before you received
2 a report from Dr. Altman?

3 A Not that I recall, no.

4 Q Are you furrowing your brow over that?

5 A Again, I'm going for the medical evaluation. If he
6 had a conversation with Mr. Puckett, I was not aware of that.

7 JUDGE MORRIS: Would that be not consistent with
8 the process you normally practice?

9 THE WITNESS: I believe Dr. Altman did ask, on
10 several occasions, for information I just didn't know where
11 to get it, and so I think it was like for flight hours and
12 the training programs, and sick leave and things like that.

13 JUDGE MORRIS: You might be misunderstanding my
14 question. My question is would it be not normal for a
15 preliminary report to go directly to the company, as opposed
16 to you as the DHS?

17 THE WITNESS: The preliminary report should go to
18 me.

19 JUDGE MORRIS: Okay.

20 Continue.

21 BY MR. SEHAM:

22 Q If you could turn to CX-56. Now, starting halfway
23 down the page of this correspondence from you to Dr. Huff,
24 the NME?

25 A Um-hum.

1 Q Is that yes?

2 A Yes, Dr. Huff was the designated NME.

3 Q And what was the purpose of this correspondence to
4 the NME?

5 A As is stipulated here, I wanted to introduce myself
6 and then go through the Section 15 process.

7 Q Okay. And can you explain why you forwarded this
8 communication with Dr. Huff to Chris Puckett?

9 A This would be, again, to keep then in the loop
10 about how the process was moving forward or moving. The NME
11 had been selected, that I'd reached out and contacted the
12 NME.

13 Q Wouldn't it have been sufficient just to tell Mr.
14 Puckett that an NME had been selected?

15 A I suppose you're right, but just to explain the
16 nature of the e-mail there, that I was not influencing Dr.
17 Huff, just introducing the process.

18 Q Did you forward this e-mail to Ms. Petitt, as well?

19 A I did not.

20 Q Did Mr. Puckett review the content of this e-mail
21 as a draft, before you sent it?

22 A I believe so.

23 Q Throughout Dr. Altman's examination of Ms. Petitt,
24 did you get periodic updates from Dr. Altman?

25 A Just on -- I think I would query him on the status

1 of things - was he waiting for anything. We were eager to
2 get this process moving onward, so just wanted to make sure
3 there were no delays that couldn't be corrected.

4 Q And would you agree that he worked more closely
5 with Flight Ops representatives than with you?

6 A You'll have to talk to him about that. I mean I
7 know he had questions for them about training things I
8 couldn't answer.

9 Q Now, you knew that he was getting material from
10 Flight Ops, correct?

11 A He requested it and I assumed that he was getting
12 it, yes.

13 Q And that he was interviewing individuals at Flight
14 Ops?

15 A I believe so, yes.

16 Q And he was getting records relating to her sick
17 time?

18 A He requested records there, I think her flights per
19 month was included, yes.

20 Q After March 17th, did he ever arrange for an
21 interview of Ms. Nabors?

22 A I don't recall he did.

23 Q Were you copied in on the correspondence that Dr.
24 Altman was having with Flight Ops?

25 A Typically, no.

1 Q Would you agree that in the context of a Section 15
2 substance abuse related examination, that the average
3 duration by the psychiatrist would be about three weeks?

4 A Yes.

5 Q Okay. And that non-drug related examinations might
6 be typically three months?

7 A Depending on what's involved, the cooperation, the
8 resources being interviewed, sure.

9 Q And the time from your referral of Ms. Petitt to
10 Dr. Altman, until his final report, that was, approximately,
11 eight months, correct?

12 A The referral happened at the end of April, and then
13 we got the report in December, so roughly eight months, seven
14 or eight months.

15 Q Did you ever communicate to Dr. Altman that he
16 should accelerate the process?

17 A No.

18 Q Do you know if anyone in the company ever spoke to
19 Dr. Altman and encouraged him to accelerate the process?

20 A Not that I'm aware of.

21 Q If you could turn to CX-57, is this an e-mail that
22 you received from Chris Puckett on or about July 18th, 2016?

23 A Yes.

24 Q And this relates to a request for flight hour
25 information related to Ms. Petitt, correct?

1 A Correct.

2 Q Okay. And what Mr. Puckett writes to you and Dr.
3 Altman is, quote:

4 "We have done things like this before.

5 I am not adverse to anything that will
6 allow for a fair and balanced
7 determination, but I think before we go
8 down this road, we should discuss where
9 we are at in the process and figure out
10 how important this type of analysis is to
11 the evaluation. In any event, probably a
12 good time for a status check, including
13 Dr. Faulkner."

14 Now, that's closed quote.

15 Dr. Faulkner, that status check involving you and
16 Mr. Puckett and Dr. Altman, that never occurred, correct?

17 A The three of us, I don't think so, no. I can't
18 recall. And again, this is getting the stuff I just can't
19 speak to in terms of her flight hours and her training and
20 that kind of stuff.

21 Q Did you ever provide an update to Captain Graham
22 during the course of Dr. Altman's examination?

23 A Not that I recall.

24 Q If you could turn to your deposition, page 158.

25 JUDGE MORRIS: CX0-201, for I.D., page 158.

1 MR. SEHAM: Yes. Thank you.

2 THE WITNESS: I have it.

3 BY MR. SEHAM:

4 Q So, if you go down to line 15 it says:

5 "Question: Throughout the Section 15
6 process, do you have any recollection of
7 having a discussion with Captain Jim
8 Graham?

9 "Answer: I think there was a time, I
10 can't recall the date.

11 "Question: Can you recall what was
12 discussed with him?

13 "Answer: I think it was simply an
14 update on the process."

15 Does that refresh your recollection as to whether
16 you ever had a discussion with Captain Graham regarding Ms.
17 Petitt's evaluation process?

18 A So, I will say, as background, there is -- for
19 pilots going through individual evaluations, Section 15s or
20 other things like that, I'm often brought in to give an
21 update to a conference call. Mr. Graham may have been on
22 that call.

23 Q Okay.

24 A I don't recall specifically calling him on my own
25 and/or in a conference call with Chris Puckett and/or with

1 Dr. Altman.

2 Q Well, you had that recollection during your
3 deposition, though, didn't you?

4 MR. ROSENSTEIN: Objection, mis-characterizes the
5 testimony.

6 MR. SEHAM: I'll withdraw that question.

7 I'd like to have -- hold on, actually -- yeah --
8 I'd like to have 10 minutes to see if there's anything.

9 JUDGE MORRIS: All right. We'll take 10. The
10 hearing is in recess.

11 Again, don't talk about your testimony.

12 (Off the record at 1:27 o'clock p.m.)

13 JUDGE MORRIS: Back on the record.

14 All parties present when the hearing last recessed
15 are again present.

16 Go ahead, Mr. Seham.

17 MR. SEHAM: Yes.

18 BY MR. SEHAM:

19 Q If you could turn to JX-E?

20 A Yes.

21 Q Page 10 -- page 10 and 11, this is the
22 documentation you relied upon in terms of your Section 15
23 referral, correct?

24 A Yes.

25 Q Okay. And is there any reference here, that you

1 can point out to us, in which Ms. Nabors is reporting a
2 concern that Karlene was afraid of physical harm?

3 A I mean again, it's Delta is out to get you, so --
4 there's someone after you and you should fear more than
5 losing your job.

6 Q Well, a Section 15 psychiatric -- adverse
7 psychiatric result would mean the loss of more than her job,
8 correct?

9 MR. ROSENSTEIN: Objection. Was he done with his
10 answer to the question?

11 JUDGE MORRIS: Well -- overruled.

12 You may answer.

13 THE WITNESS: So, if the result of the Section 15,
14 the full process -- again she had recourse on this -- but if
15 it was determined that she did not meet the FAA Medical
16 Standards, then she could not fly for Delta.

17 BY MR. SEHAM:

18 Q Did you derive, from JX-E, that Ms. Nabors was
19 reporting a concern expressed by Ms. Petitt that she was
20 going to be physically assaulted?

21 A The impression -- I know she's coming to follow-up
22 here -- but she felt physically threatened for her safety and
23 her health.

24 Q Okay. Could you show me where the language is, in
25 this document, in which Ms. Nabors conveys that Ms. Petitt

1 had expressed a concern related to physical assault?

2 A "You should fear more than losing your job."

3 Granted, that's a wide open thing there, but --

4 "No, but I'm scared every day." This is her
5 comments there:

6 "Even though it had not been mentioned
7 by anyone it was going to hurt her, that
8 she still felt fear, for what reason, I
9 don't know."

10 And that I think Kelley was saying there that she
11 had -- because she was so concerned about the physical harm,
12 she should have talked to the police about that.

13 Q She doesn't describe Ms. Petitt as characterizing
14 it as physical assault. She's just inferring there, correct?

15 A Um-hum -- yes.

16 Q So, at least in writing, Ms. Nabors never reported
17 that Ms. Petitt had expressed a concern with respect to
18 physical assault?

19 A Well, again -- yes.

20 Q Okay.

21 A There was mention made that if something was to
22 happen to her, that's where we go on to these records are to
23 be turned over to the media. She was entrusting her mother.

24 Q If you could turn to JX-I?

25 A Yes.

1 Q Okay. So, this is a letter -- this is your letter
2 of retention -- no -- withdraw that.

3 This is a letter you sent to Ms. Petitt, explaining
4 why you were taking the actions you were taking with respect
5 to the CME referral?

6 A Yes.

7 Q And if you see, from the first sentence of the
8 second paragraph, you say:

9 "As we discussed last week, there
10 have been documented concerns raised by a
11 Delta employee that you met with,
12 regarding your perception that your
13 physical safety may be at risk, due to
14 your presenting problems with safety at
15 Delta Air Lines."

16 A Yes.

17 Q And the documented concerns, you're referring back
18 to, would be what's documented in JX-E?

19 A Correct.

20 Q Okay.

21 MR. SEHAM: I have no further questions.

22 JUDGE MORRIS: Redirect?

23 MR. ROSENSTEIN: No questions.

24 JUDGE MORRIS: All right.

25 I have just a couple of questions, Doctor.

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EXAMINATION

BY JUDGE MORRIS:

Q We'll stay with JX-E. Turn to page -- I'm talking about pages 3 through 11, what we talked about here?

A Right -- correct.

Q Now, as I understand your testimony, it's you, at some point, came into possession of this immediately prior to that teleconference, is that a fair --

A That is correct.

Q Okay. And you were basically handed this document to read through it in preparation for this meeting, is that correct?

A This meeting, today?

Q No -- the meeting back in March?

A Yes. So, to clarify, we had a conversation on March 10th, where I heard from Ms. Nabors.

Q Right.

A And then I said I need something in writing. And this is what I received prior to our conversation on March -- phone conversation on March 17th.

Q So, you got all pages JX-E-3 through E-10, right?

A Correct.

Q Okay. And again, to summarize, you had asked for a verbatim from her, is that correct?

A I asked for her -- yes -- her written account.

1 Q Okay. And as I'm going through this, the first
2 page talks about her safety complaints, and then we go to
3 page E-004 talks about EEO complaints. Does it matter to
4 you, in this -- for example in the sub-bullets -- who is the
5 instructor, when did this occur, who is the other pilot --
6 how does that relate to any type of medical information?

7 A It didn't, in my opinion.

8 Q All right. The same for the following pages, these
9 list of questions about allegations on who told you not to
10 communicate, unfair treatment, who gave you a copy of the
11 letter of counsel -- these series of questions, what's that
12 got to do with any type of mental health evaluation?

13 A That's correct. I was going for the medical
14 standpoint, and that's what she completed here.

15 Q But would you agree that it does show a list of
16 concerns that the company has, or questions that the company
17 has that they want resolved?

18 A Well, yes, for their investigation for the EO and
19 also the safety issue.

20 Q So, we've got diversity, we've got harassment, we
21 have miscellaneous of the green slip policy, the follow-up
22 required. Do you have any -- do you know why they didn't
23 just send you these last two pages, as opposed to giving you
24 this whole litany of questions that they wanted to have
25 resolved independent of any medical issues?

1 A I do not know.

2 Q Okay. You said there was a list of psychiatrists
3 online. Is this on the FAA website?

4 A Yes.

5 Q Okay. Correct me if I'm wrong, but the testimony
6 was that Dr. Altman is in Chicago?

7 A He is.

8 Q Okay. And again, I'm thinking logistics here, just
9 a common sense, you know, country guy, but there are hubs in
10 L.A. and there's hubs in Seattle, there's hubs in Atlanta,
11 but there's no hub in Chicago. So, why are you looking in
12 Chicago for a psyche?

13 A I didn't really go for the hubs. I was going for
14 the quality of the evaluation there. Like I said, Dr. Altman
15 is on a list of six. Dr. Gitlow is not in a hub. Yes, Dr.
16 Rozantsky is at a hub there. Dr. Glass is not at a hub. Who
17 is the other one I'm missing right now -- but again, between
18 him being a designated HIMS psychiatrist, his experience for
19 the fitness for duty, and perhaps the fact that he had done
20 some work for Delta before, that's why I chose him.

21 Q All right.

22 JUDGE MORRIS: Questions based on mine?

23 MR. SEHAM: None from the Complainant.

24 JUDGE MORRIS: Thank you, Doctor. You may step
25 down. Please do not discuss your testimony with anyone until

1 the conclusion of the hearing, which should be this week.

2 MR. SEHAM: Yes.

3 MR. ROSENSTEIN: Must be this week.

4 JUDGE MORRIS: All right. Thank you.

5 (Witness excused.)

6 MR. ROSENSTEIN: Can we go off the record?

7 JUDGE MORRIS: We're off the record.

8 (Off the record at 1:45 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 Ma'am, please raise your right hand.

13 Whereupon,

14 CLAIRE KELLEY NABORS

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

17 JUDGE MORRIS: Take a seat. Ma'am, please provide
18 your full name and business contact information?

19 THE WITNESS: My full name is Claire Kelley Nabors.

20 I am a senior HR manager for Delta Air Lines.

21 JUDGE MORRIS: And your contact information?

22 THE WITNESS: I'm sorry. My telephone number is
23 801-744-4052. My e-mail address is kelley.nabors@delta.com.

24

25 JUDGE MORRIS: You said you're the senior HR

1 person?

2 THE WITNESS: Correct, senior HR manager in Salt
3 Lake City for Airport Customer Service.

4 JUDGE MORRIS: Do you have any FAA issued
5 certificates or ratings?

6 THE WITNESS: I do not.

7 JUDGE MORRIS: Okay.

8 Go ahead, counsel.

9 MR. ROSENSTEIN: Thank you.

10 DIRECT EXAMINATION

11 BY MR. ROSENSTEIN:

12 Q Ms. Nabors, provide the Tribunal with your
13 education and job history, as much in chronological or as
14 you're willing to go?

15 A Certainly. I have a Bachelor's Degree in Business
16 Administration that I received from Ashford University. And
17 I started with Delta in 1995. I've been an HR professional
18 of some level with Delta since 1998, serving in a number of
19 different capacities, supporting pretty much all of the
20 different divisions at Delta, with the exception,
21 specifically, of Flight Ops and In-Flight, I've never
22 supported them directly. For 10 years, between 2005 and
23 2016, I was the manager of the Equal Opportunity Department
24 at Delta. And in 2016, July, I moved to Salt Lake City and
25 accepted this job that I'm currently in as the senior HR

1 manager of Salt Lake.

2 Q Did you previously have a title related to Pass
3 Protection?

4 A Yes. When I was in Equal Opportunity, my title was
5 manager of Equal Opportunity and Pass Protection. The Pass
6 portion of that was added at some point during that time
7 between 2005, probably around 2013 or '14, when the company
8 started focusing on audits and related to our non-revenue
9 pass travel.

10 Q Explain, briefly if you can, what that entails,
11 audits of non-revenue pass travel?

12 A Certainly, yeah. So, with our pass privileges that
13 we receive, unfortunately people sell them, they give them to
14 people they don't know. And in order to protect the company
15 and the integrity of the pass privilege program, as well as
16 stop, quite frankly, things that shouldn't be happening, as
17 far as people putting things on airplanes that shouldn't go
18 on airplanes, and trying to avoid, quite honestly, having to
19 book tickets in advance, we do audits of our pass privileges,
20 to ensure that if you've got somebody listed as your spouse
21 or your parent, that that's really who they are, et cetera.
22 So, we were responsible for that, as well as just constant
23 and continual complaints that we received about conduct or
24 intoxicated employees or rude or disruptive employees, or
25 employees that were somehow other violating our pass policy.

1 Q Got it. And what was the role that you held as
2 manager of Equal Opportunity, what were those job duties?

3 A I had oversight of three contractors who were
4 mainly involved in our Pass Protection group, and two other
5 -- or three other -- I apologize -- three other managers who
6 were responsible for conducting investigations for
7 harassment, discrimination, unfair treatment. We also
8 reviewed termination appeals, so employees who had been
9 terminated from the company, if they chose to appeal, we
10 reviewed those appeals and spoke with employees, and
11 different things like that, that we partnered with our HR
12 folks out in the field in many of the different divisions, in
13 order to help conduct appropriate investigations.

14 Q And was that your role in 2016?

15 A It was for a portion of 2016, yes, until July when
16 I moved to Salt Lake.

17 Q And until you moved to Salt Lake, you were in
18 Atlanta?

19 A Correct.

20 Q Okay. In the roles that you had in Human Resources
21 at Delta, since 1995, were you ever called upon to conduct
22 investigations yourself?

23 A Oh, several.

24 Q How many?

25 A I don't have a number, but hundreds, I would

1 assume.

2 Q Just again, briefly, tell us what the reporting
3 structure was while you were manager of Equal Opportunity and
4 Pass Protection in 2016?

5 A Certainly. I reported directly to our director,
6 Melissa Seppings. And I had three managers that reported to
7 -- they were program managers -- that reported directly to
8 me. And three contractors that reported directly to me.

9 Q Okay. And did those direct reports have
10 individuals who reported to them?

11 A They did not, no.

12 Q Okay. How, typically, would you receive an
13 assignment to investigate a harassment or other EO type issue
14 -- how would it work in that time-frame?

15 A In that time-frame, when -- the program managers
16 that I support, each supported a different division. And so
17 if something came through, they would partner with the HR
18 person appropriately assigned to that division and that
19 station or state, or unit. With this, Flight Ops is a little
20 bit different, simply because --

21 Q When you say "with this," what are you talking
22 about?

23 A With this particular case, the investigation --

24 Q You're talking about Ms. Petitt's case?

25 A Correct.

1 Q Okay. Before you get into Ms. Pettitt's case --

2 A Certainly.

3 Q -- I just want to hear more of the general of how
4 you get assignments to investigate, generally?

5 A Certainly. They come from a number of different
6 places. So, employees can certainly call our Equal
7 Opportunity Department directly. Many of them would reach
8 out to their HR person. They could reach out to a leader
9 that they work with. And at times we would get anonymous
10 concerns through our compliance help line, or somebody would
11 bring something to the attention of a leader, not simply
12 saying, hey, I want this investigated, but giving concern or
13 telling us about something that they would then partner with
14 us to say we need to review or look into this.

15 Q If an employee raises a concern of harassment or
16 discrimination, but doesn't specifically ask for an
17 investigation, what's Delta's policy in that situation?

18 A Well, we have a duty to investigate, obviously, if
19 somebody is bringing something to our attention, of concern
20 like that.

21 Q Why?

22 A Well, one, it's the right thing to do and it's what
23 Delta does. It's what should be done. So, it's what's
24 important to us. We wouldn't want to just simply ignore
25 somebody's concerns, regardless of how they were brought

1 forward.

2 Q Okay. Take a look at -- there's a binder in front
3 of you that should have a green -- you can close the binders
4 that are in front of you and you'll see the one that's green?

5 A Okay.

6 Q And then there's some that are blue. What I'm
7 looking for is Volume 1 of Respondent's, which would be a
8 blue cover. You might have to get up to find it.

9 A Okay.

10 Q In other words, it might be --

11 A Oh, here's a blue binder.

12 Q But does it say --

13 A This says Volume 5.

14 Q You need Volume 1.

15 MR. ROSENSTEIN: Mr. Seham, thank you.

16 BY MR. ROSENSTEIN:

17 Q And then turn to number 4?

18 A Okay.

19 Q Are you familiar with this document?

20 A I have seen this, yes.

21 Q What is it?

22 A It's our Equal Opportunity Policy, which is found
23 in our DeltaNet Online.

24 Q Okay. And is this a policy that you adhere to at
25 Delta, in your job?

1 A Absolutely.

2 Q Okay. When you conduct an investigation -- why
3 don't you walk us through your process, generally, when you
4 are conducting an investigation, how do you go about doing
5 it?

6 A Certainly. So, once I receive the concern or
7 complaint, regardless of how I receive it, I try to review it
8 to best understand what the issues are. And I would make an
9 outline of questions that I would want to ask the person who
10 is either making the complaint -- if it's anonymous, I try to
11 figure out kind of what my first steps are. I typically
12 would start with the person who is making the complaint, to
13 ensure that I understand really what they need, what their
14 concerns are and what they need us to look into, so that I've
15 got all the information that I would need to then follow-up
16 on that, depending upon what that concern was.

17 But I make an outline of questions that I would
18 like to ask, and would look at anything else that's
19 relatively important, based on what they brought up, just so
20 that I would have some background.

21 Q How could you go about getting such background?

22 A So, we have employee files, different things that I
23 could look into. If I needed schedules, I would be able to
24 look those up or partner with somebody in HR or in the
25 operation, if I needed certain information that I didn't have

1 access to.

2 Q What do you mean by "partner with somebody in the
3 operation"?

4 A So, if I don't have access to scheduling or
5 schedules of that particular person, I would have to reach
6 out to somebody to help coordinate that type of information,
7 to give me that.

8 Q You said your general process is to talk to the
9 complaining party first, is that what you said?

10 A It is, assuming I know who that is. If it's an
11 anonymous complaint, I can't always go that direction.

12 Q And do you typically meet with the complaining
13 party in person or by telephone, do you set it up by e-mail,
14 what do you do?

15 A It really kind of depends on what the concern is
16 and where the person is located, and what they choose to do.

17 Q When I reach out to the person via phone, I
18 sometimes will ask them do you prefer to talk with me over
19 the phone, would you like to meet in person. I give them the
20 opportunity to come to Atlanta, if they're not already there.

21 But I also let them know that if they wanted me to come to
22 them, I would do that. Not in every situation, but in many
23 cases we can and have done that.

24 Q Do you have a preference as to doing phone or
25 in-person interviews?

1 A Again, it kind of depends on what the investigation
2 is about. What's important to me is that I connect with the
3 person that I'm talking to. They don't know me in most
4 situation, and I don't know them, so giving them kind of a
5 face to put with the name is sometimes important for people.

6 Some folks don't really want to meet in person, and I want
7 to respect that if that's the case. But I do my best to make
8 sure that I connect with that person over the phone or in
9 person, and give them the appropriate amount of time that's
10 needed to make sure I get my questions answered and look into
11 their situation.

12 Q Do you ever -- where would you typically meet a
13 complaining party, if you were going to meet them in person?

14 A Certainly. If they're coming to Atlanta, we had a
15 conference room, in our Equal Opportunity area, that we
16 typically use. But if I'm going to see somebody that would
17 be connected where there's an airport customer service area,
18 they usually would have a conference room for me. If it was
19 reservations, again, usually meeting in a reservations
20 building in a conference room. I have had employees that
21 have said I don't want to meet, you know, face-to-face, where
22 I work. So, it just kind of depends on what's going on. But
23 I typically secure a conference room in order for those
24 conversations, if I'm meeting with somebody face-to-face.

25 Q Have you done any investigations in Seattle, other

1 than the one that brings us all here today?

2 A I have, yes.

3 Q Where have those been, generally?

4 A In a conference room in the ACS area, in the
5 leaders area of ACS, not like on a concourse or anything.

6 Q Describe what that location is like?

7 A Certainly. It's above -- it's prior to going
8 through security. You have to take an elevator upstairs.
9 There is an administrative assistant that sits there. And
10 then as you walk around a corner of different offices that
11 are occupied by the managing director, HR -- I can't remember
12 who else is back there, there might be a general manager who
13 also sits back there -- there's a conference room around the
14 corner there.

15 Q Is Flight Operations in that area?

16 A They're not. As far as I understand, ACS is the
17 only division there in that area.

18 Q Do you ever meet with a complaining party in their
19 home or in their personal property?

20 A No, not at home. From a professionalism
21 perspective, it's just going to somebody's home is not the
22 right thing to do. It just -- it's, you know, I've had
23 people that have asked to meet me in like a hotel, if I'm
24 coming in to fly into them, but not in a room, it would be
25 more of in an open area.

1 Q Do you record the interviews that you do, or the
2 investigations?

3 A I do not.

4 Q Why not?

5 A Delta just believes that when we're talking to
6 employees we're not recording the conversations, but more so
7 I'm taking notes and I'm focusing on talking with that
8 employee. I also feel as though people get a little bit
9 anxious when you tell them you're recording something. And
10 my goal is not to make people anxious. The goal is to make
11 sure they feel comfortable enough to share their story with
12 me.

13 Q You said you take notes. Describe your process for
14 taking notes during interviews?

15 A Well, I have my questions that I've got with my
16 outline and I ensure that I'll ask those questions and take
17 notes along with the questions. And many times I will have
18 the -- if they sent in a letter or an e-mail or something to
19 me -- I'll have that with me. And I will take notes,
20 sometimes, in the margins and whatnot, to reference certain
21 areas of their complaint, but on paper, just normal notes.

22 Q And what do you do once the interview is over,
23 what's your process for maintaining notes or maintaining
24 records?

25 A Certainly. I usually write up my investigation

1 summary and once I have all of that down and my notes have
2 been appropriately put into my summary, then I discard my
3 notes.

4 Q You discard the handwritten notes?

5 A I do.

6 Q Why is that?

7 A Because I have the summary and, quite frankly,
8 there's not room for all of the handwritten notes and
9 everything else. As long as I've got the information that I
10 gathered during the investigation, that's what I use, is the
11 summary.

12 Q Okay. Once you've interviewed the complaining
13 party, what's your typical process going forward?

14 A Again, it kind of depends on what type of
15 investigation it is and what the concerns are. Sometimes
16 I've got follow-up for leaders, sometimes I need to talk with
17 the HR professional about different things. But I will
18 really try to figure out what my next step is, so in
19 determining what -- if I've got more questions for folks, I
20 need to know who I need to speak to. But it really just kind
21 of depends on what type of investigation that is.

22 Q How does an investigation conclude, how do you
23 determine that you're done with it?

24 A Once I have been able to talk with the people that
25 are involved, or that somehow came involved, being involved

1 in that investigation, again, I make sure my summary has been
2 updated and/or I've got separate write-ups for those
3 investigation conversations. And I ensure that I am
4 reporting out to my director, but also the operation in
5 wherever that employee was located.

6 Q Is there a time-frame by which you're either
7 required or at least intend to finish your investigation?

8 A We, obviously, want to do it as quickly as
9 possible, and being able to look into things, but again,
10 unfortunately, it kind of depends on what type of
11 investigation there is, how many people are involved, and
12 other things that might either become barriers or obstacles
13 for us to be able to get over before we appropriately
14 complete that.

15 Q So, with regard to Ms. Pettitt, how did you first --
16 how did she first come to your attention?

17 A Melissa Seppings, my director, brought her concerns
18 to my attention. I had been out of the office, I don't know
19 if I was on another investigation or off, but Melissa told me
20 that there was an investigation or a situation in Flight Ops
21 that she would like me to handle.

22 Q And did she or anyone else ever reveal to you why
23 you were the one selected to do that task?

24 A Flight Ops is not one that we really do many
25 investigations with. And so it was a different type of an

1 investigation, number one and, number two, because that --
2 also, the investigation, she had explained, there were some
3 other portions of the investigation that would not be Equal
4 Opportunity specific. She wanted me just to be the one, it
5 was, like I said, a little different. We don't have anyone
6 specifically assigned as Flight Ops, again, mostly because we
7 don't do a lot of investigations with that division.

8 The other three HR manager or program managers, at
9 the time, were incredibly busy. So, at times I will,
10 absolutely, do investigations for different divisions and
11 different situations, whether it's just the level of
12 importance or because other folks really have too much on
13 their plates at that time.

14 Q Were you the most senior person to do --

15 A Yes, I was.

16 Q So, what did Ms. Seppings tell you the assignment
17 would be?

18 A She explained to me that she wanted me to talk with
19 Chris Puckett, just about the concerns and complaints that
20 came in, so that we could understand what really was the
21 Equal Opportunity portions of the concerns.

22 Q Did you know Mr. Puckett?

23 A I know him, yes.

24 Q Had you worked with him before?

25 A Not that I can think of on anything specific.

1 Q Did you know Ms. Petitt?

2 A No.

3 Q So, tell us -- did you then meet with Mr. Puckett
4 to -- or talk to Mr. Puckett about?

5 A I did, yes.

6 Q Was it meet or talk?

7 A Oh, we met in person, yes. I walked over and we
8 met in a conference room next to his --

9 Q And what happened during that conference?

10 A He shared with me the long letter that she, that
11 Ms. Petitt had provided.

12 Q When you say a long letter, are you referring to
13 her report?

14 A Yeah, correct.

15 Q Or something else?

16 A No. The report that she shared with Flight Ops.

17 Q Okay.

18 A And Mr. Puckett and I looked through that and he
19 explained that there would be an investigation as far as the
20 safety aspects go, but as he was going through it, realized
21 there were situations that were really more EO and HR
22 related. So, he and I talked about, specifically, what those
23 were, so that I could formulate an idea of what needed to be
24 investigated.

25 Q And just take a look, for clarity, at the binder,

1 it should have a green cover and it should say Joint Hearing
2 Exhibits A through N?

3 A Okay.

4 Q And I'd ask you to look -- it should be on the
5 desk, if I'm not mistaken -- the green one, it should be the
6 one in front of you?

7 A Oh, A through G, okay.

8 Q Right.

9 A Yes.

10 Q And go to B, and ignore the first page of it, the
11 handwritten page, I'm just looking for the next page?

12 A Okay.

13 Q And let me know is that the document that you went
14 over with Mr. Puckett? You called it a letter, but --

15 A Yes.

16 Q It's not really a letter, is it?

17 A No, it's a document.

18 Q Okay. Take a look at that. First of all, tell me
19 if that's the document -- it may not be, so?

20 A Yes, this is the document I'm referring to.

21 Q Okay. And then you said that you parsed through it
22 with Dr. Faulkner in this conference room?

23 A We did. He and I discussed it.

24 Q And what did you understand to be the -- what you
25 were trying to accomplish by going through it?

1 A Trying to ensure that we were on the same page
2 really, and in agreeance (sic) about the EO portions of the
3 investigation.

4 Q And did you come to a conclusion as to what you
5 would investigate, as a result of your meeting with Mr.
6 Puckett?

7 A We did.

8 Q Okay. And what did you decide to do next, after
9 you parsed through the report -- by the way, do you remember
10 the date that you were doing that or around when it was -- if
11 you remember?

12 A Yeah, I don't remember the specific date that Mr.
13 Puckett and I met.

14 Q Do you remember whether it was -- what month it was
15 in?

16 A It could have been the very end of February, with
17 February being such a short month, but I can't remember the
18 specific date.

19 Q Okay. Sometime in early 2016, though, correct?

20 A Correct, yes.

21 Q And after you had that meeting -- was anybody else
22 present, other than you and Mr. Puckett, during that meeting?

23 A No.

24 Q Okay. What happened next?

25 A I, at that point, reached out to Ms. Petitt, to

1 schedule -- well, to introduce myself, number one, and then
2 to schedule a meeting with her to discuss.

3 Q Did you do anything else in preparation of that
4 meeting -- for that meeting?

5 A Going through her concerns, no, not to start for
6 that meeting, I did not.

7 Q You testified that your general practice was to
8 have some sort of outline when you went into the meeting, is
9 that correct?

10 A Oh, I apologize, right --

11 Q Well, don't apologize, just answer the questions,
12 relax.

13 A I mistakenly thought -- I was thinking you were
14 thinking I met with somebody else.

15 Q Don't -- just listen --

16 A Yes, I do. So, when we -- when Mr. Puckett and I
17 went through this, then I do, I formulate my questions and
18 outline from there.

19 Q Okay.

20 A And I did that prior to meeting with Ms. Pettitt.

21 Q Okay. And did you do that on your own or was Mr.
22 Puckett involved in the outline process?

23 A He and I probably discussed it together, but as far
24 as the questions go, that I specifically have, those are my
25 questions. It's my investigation and so I was driving that.

1 Mr. Puckett and I wanted to ensure, like I said, we were in
2 agreeance (sic) with what I was reviewing and going to talk
3 with her about, not what my questions were specifically.

4 Q Take a look at Joint Exhibit E -- and we had this
5 document with other witnesses -- I'm only going to ask you to
6 turn to the page that starts at page 3?

7 A Okay.

8 Q And I'm only going to ask you for the first page.
9 And if you could identify what pages 1 through 10 are --
10 well, 1 through 8 of the document, JX-E-3 through 10, of the
11 exhibit, up to the point where it says: "Additional Notes,"
12 what did that constitute -- I'm not asking about the
13 "Additional Notes" section, just the rest of it?

14 A Okay. This is the portion of the document she
15 provided that Chris and I worked on together, to ensure,
16 again, that I was looking at -- we were in agreeance as to
17 what I would be reviewing.

18 Q Right.

19 A And then the questions, many of the questions that
20 I then had.

21 Q So, is this your outline -- that's what I'm asking?

22 A Yes.

23 Q So, starting with where is the outline, again, on
24 this document?

25 A That would -- let's see -- so, here where we start

1 with the EO complaint, that would be page 4.

2 Q Okay.

3 MR. SEHAM: I'm sorry, page 4 of?

4 MR. ROSENSTEIN: JX-E.

5 THE WITNESS: JX-E-004.

6 MR. ROSENSTEIN: Okay.

7 BY MR. ROSENSTEIN:

8 Q And then does the outline continue all the way up
9 through that final page that I mentioned, where it says:
10 "Additional Notes"?

11 A Correct.

12 Q Or is it earlier? You tell me, I don't want to
13 tell you what it is.

14 A One moment -- yeah.

15 Q Where does the outline end in this document?

16 A That ends at about JX-E-009.

17 Q Okay.

18 A The miscellaneous is also a part of that, but then
19 the follow-up required is after my conversation with her.

20 Q And originally this document resided on your -- as
21 a document on your computer, correct?

22 A Living document, yeah.

23 Q So, at some point the pages -- am I right -- the
24 page JX-E-10, didn't exist, the only thing that existed was
25 this outline, is that right?

1 A Correct.

2 Q Okay. And this is the outline -- there's no
3 answers to any of these questions, this was the blind version
4 of what you would have gone into interview First Officer
5 Petitt with?

6 A Correct, yes.

7 Q Okay.

8 A Yes.

9 Q And just to make sure I understand what your prior
10 testimony was, you're saying that this document is the
11 outline, something that you created with Mr. Puckett?

12 A Correct, yes.

13 Q Were you investigating Ms. Petitt, as part of what
14 you were doing?

15 A No. Her concerns.

16 Q Okay. So, what did you understand the
17 investigation to encompass?

18 A The Equal Opportunity portion of the investigation
19 would encompass her concerns that had everything to do with
20 -- as the document here -- she claimed things like the "good
21 ole boys," or "unfair treatment," that type of thing that was
22 really EO specific.

23 Q Okay. Were you given directives by Mr. Puckett on
24 how to conduct your investigation?

25 A Absolutely not. This was my investigation.

1 are three groups of items: Safety
2 specific, EO specific, and
3 Miscellaneous."

4 Do you know who wrote that -- was that you or was
5 that Mr. Puckett, or someone else, if you know?

6 A Understood. I don't remember if I sectioned these
7 out.

8 Q I'm only asking if the words that I read to you,
9 who wrote those words on this document, if you know?

10 A I don't know.

11 Q You didn't write them?

12 A I don't know.

13 Q Okay. Read the second paragraph, you can read it
14 to yourself, and I'm going to ask you the same question, if
15 you know who wrote those and whether you wrote them?

16 A I did not write that.

17 Q You definitely know that you did not write the
18 second paragraph?

19 A Correct.

20 Q Do you know who wrote it?

21 A I don't.

22 Q But you were working with Mr. Puckett, correct?

23 A Correct.

24 JUDGE MORRIS: Did Mr. Puckett ever communicate to
25 you -- apparently from what I'm hearing in your testimony --

1 his belief about why First Officer Petitt has a fundamental
2 misunderstanding of the contract language or how a particular
3 policy works?

4 THE WITNESS: No. I was more focused on what the
5 concerns were, kind of from the EO perspective. And if there
6 was a misunderstanding of policy or anything, and that needed
7 to come out in my questions, then I would have looked at that
8 with her and talked to that with her.

9 JUDGE MORRIS: All right.

10 Go ahead.

11 BY MR. ROSENSTEIN:

12 Q So, once you had this outline prepared, that we've
13 looked at, a version of what is now Joint Exhibit E, what did
14 you do next?

15 A So, once I had my outline and whatnot, I likely
16 called her before I had my outline, I'm not sure which -- if
17 my outline was complete before I reached out to her, but I
18 did want to reach out to Ms. Petitt and schedule a meeting.
19 And I did want to meet with her in person.

20 Q How did you contact her?

21 A By phone.

22 Q Okay. And tell us what you recall about your
23 initial communications with her?

24 A Initial communications, I introduced myself and let
25 her know who I was and where I worked. And that I wanted to

1 talk with her about some of the EO portions of the document
2 she had provided to Flight Ops.

3 Q What was her reaction?

4 A She was willing to talk. I know that her schedule
5 was busy, so we -- I don't believe we confirmed a date that
6 first phone call that we had. I think we had an initial --
7 at least one initial follow-up conversation in which we
8 confirmed a date and time to meet.

9 Q Okay. And did you follow up to try to schedule
10 that meeting?

11 A I did, yes. She and I both followed up with each
12 other. I can't remember if she was going to check her
13 schedule or if I was checking mind, but she and I both
14 followed up with each other, yes.

15 Q Okay. And where did you determine to have that
16 initial meeting -- what city?

17 A Seattle.

18 Q Okay. Did Ms. Pettitt indicate a preference as to
19 whether to meet in person or over the phone?

20 A I told her I'd like to meet with her in person and
21 I had secured the conference room in the ACS area for that
22 conversation.

23 Q Okay. And what did -- did Ms. Pettitt react to the
24 idea of meeting in the conference room?

25 A She didn't want to meet in the conference room.

1 She told me that she didn't want anybody from Flight Ops to
2 see us talking -- albeit I don't know anybody in Flight Ops.

3 Q You didn't suggest meeting outside of the airport?

4 A Absolutely not.

5 Q How can you be so sure of that?

6 A Because I had secured the conference room at ACS
7 for the meeting, specifically. I have more time, if I'm
8 talking with people and leaving that same day, if I'm already
9 at the airport. And there would be no reason that I would
10 need to meet with her outside of the airport.

11 Q Got it. Take a look at -- it's a different color
12 binder -- just to confuse you more -- Respondent's, and it
13 should be Volume 4. It might be on the desk, because we were
14 using it before, or it should be convenient somewhere.

15 JUDGE MORRIS: I'm sorry, what was that?

16 MR. ROSENSTEIN: Respondent's Volume 4.

17 JUDGE MORRIS: Respondent's Volume 4.

18 THE WITNESS: Respondent's Volume 4.

19 MR. ROSENSTEIN: Yeah.

20 BY MR. ROSENSTEIN:

21 Q And turn to Tab 32 or Exhibit 32?

22 A Okay.

23 Q Could you just identify what Tab Exhibit 32 is?

24 A Sure. It's an e-mail from me to Chris Puckett.

25 Q And what's going on?

1 MR. SEHAM: I'm sorry -- what?

2 MR. ROSENSTEIN: Thirty-two.

3 MR. SEHAM: Okay.

4 BY MR. ROSENSTEIN:

5 Q What's going on in that e-mail, what are you
6 talking to Mr. Puckett about?

7 A I let Chris know that I called Karlene to let her
8 know I had received her concerns and I'm reviewing them. I
9 only reached her voice mail, so I left a message asking her
10 to call me in the office tomorrow.

11 Q Got it. And in it, it says to Chris:
12 "Send me the EO related issues you want me to focus on." And
13 this is "on," but I think it says -- well -- it says:
14 "Send me the EO related issues you want me to focus on, just
15 let me know."

16 Right?

17 A Right.

18 Q So, that was what you were talking about there,
19 were you talking about the outline or were you talking about
20 something else?

21 A Yeah, I would have been talking about the outline,
22 yeah.

23 Q Okay. So, does that help refresh your recollection
24 of the timing of when you started this?

25 A Yeah, it does. Just that, again, kind of late

1 February of when I got that. But then Chris and I met
2 together to talk through that.

3 Q And it says -- there's a reference to somebody
4 named "Meg," there do you know who that was?

5 A Yes. That's Meg Taylor.

6 Q And do you recall what Meg was being connected to
7 at that time-frame?

8 A I don't remember. I don't know of that particular
9 time-frame.

10 Q Is it unusual for you to work with -- do you know
11 what Meg Taylor's job was at that time?

12 A Yeah. She was -- listen to me -- I apologize --
13 she was an attorney.

14 Q Okay. What kind of attorney?

15 A Pardon me?

16 Q What kind of attorney?

17 A Delta attorney, an employment attorney.

18 Q She was an employment attorney?

19 A Yes.

20 Q Is it unusual for you to work with Delta employment
21 attorneys?

22 A Not at all.

23 Q Take a look at Tab 35, the same binder, RX-35?

24 A Okay, yes.

25 Q And can you identify what these documents are, what

1 this string of e-mails are?

2 A Yes. This is a conversation between Karlene and I,
3 via e-mail, about scheduling and confirming our meeting time
4 and date and place.

5 Q Okay. And it references the Crowne Plaza, do you
6 see that?

7 A I do.

8 Q Okay. And why does it reference the Crowne Plaza?

9 A Because she had said to me that she did not want to
10 meet at the airport, because she didn't want anybody from
11 Flight Ops to see us talking. So, I told her that I would
12 see -- I was staying at the Crowne Plaza, and would certainly
13 see if there was a room or something available there that we
14 could talk. But if not, you know, I'd try to find some space
15 there.

16 Q Okay. And what did Ms. Pettitt say in response to
17 that?

18 A That she didn't have any problems -- I don't know,
19 let me look specifically --

20 Q What did she say -- I'm not asking what she e-
21 mailed.

22 A Right.

23 Q But you can go through the documents, just look at
24 me and tell me what she said?

25 A Oh, to me. I apologize.

1 Q That's okay.

2 A Yeah. She said: "That's fine, that time and date,
3 and place is fine with me."

4 Q Okay.

5 A Yeah.

6 Q And then so was it -- were you able to secure a
7 room at the Crowne Plaza?

8 A I was not. I asked them and they said they didn't
9 have any space available for us to meet.

10 Q Okay. And so what did you do?

11 A There is an area in the lobby that has a relatively
12 large pillar that was there, I positioned a table that we
13 could sit at near the pillar, just for a little bit more
14 privacy. It wasn't a busy morning in the lobby, at all, and
15 there was nobody in that area. I say the lobby, but it's a
16 small area, small sitting area next to the lobby area.

17 Q Did you think about canceling the interview as a
18 result of not having a private room?

19 A I did not.

20 Q Why not?

21 A I was okay with it. She agreed to meet me there.
22 And had she come in and said that she had any problem with
23 that meeting location, I would have either: (a) asked her to
24 go to the airport with me and we could have still met in the
25 ACS area, or (b) I would have certainly rearranged, if that's

1 what we needed to do. But neither one of us had an issue
2 with the location.

3 Q How did you introduce yourself when she came in?

4 A When Ms. Petitt came in, she came in and just --
5 she kind of put everything down and started to talk. And so
6 I kind of tried to interject, myself, and just say, you know,
7 I want to introduce myself formally, thanks for meeting with
8 me. I told her, again, my full name --

9 Q Did you give her your job title?

10 A -- that I was the manager of our Equal Opportunity
11 Department, yes. And she asked, you know: "Tell me again
12 what this meeting is about?" And I reminded her that I
13 wanted to talk to her about the EO portions of the document
14 she had provided to Flight Ops.

15 Q All right. So, prior to the meeting, had Ms.
16 Petitt sent you anything?

17 A She had. I can't remember the documents that she
18 sent prior to our meeting.

19 Q Can you describe what it was in general?

20 A She -- I believe she actually sent me the document
21 again, that she had sent to Flight Ops -- not again, but the
22 document she had already sent to Flight Ops. And I don't
23 know if she sent me any other information or not.

24 Q Okay. So, tell us about the meeting, what
25 happened?

1 A Again, Ms. Petitt came in and really just kind of
2 took over, she started talking. It was very difficult for me
3 to get a word in edgewise. It was, again, I had to ask for
4 her to literally stop at one point, so that I could introduce
5 myself, remind her why we were here, and explain, again, that
6 I wanted to really look at the EO portions of her concerns
7 and reminded her, again, that I was not a safety expert. So,
8 that, as I understood, was being already talked about and
9 reviewed, and investigated by a different group of folks in
10 Flight Ops.

11 Q Keep going.

12 A Yeah. She, again, kind of continued to keep
13 talking. And when I had the ability to ask questions, she
14 would give very lengthy answers. And I found that she was
15 kind of all over the board, it was difficult for me to
16 follow. And I really struggled trying to understand the
17 answer within the questions that I had asked. So, several
18 times I had to ask follow-up questions or ask for additional
19 information, just so I understood that I, you know, knew what
20 her concern was or what her response was.

21 She seemed a little off-put when I would ask for
22 follow up or to clarify, like I assumed that she wasn't being
23 truthful and that just wasn't it. It was really because she
24 was kind of all over the place. At times she seemed a little
25 bit frazzled. She was tearful and very emotional during our

1 conversation -- not the whole time, she wasn't crying the
2 whole time, it wasn't a hysterical crying, but she was very,
3 very emotional. And it was -- yeah -- it was just a
4 conversation that continued and was very, very difficult to
5 follow.

6 JUDGE MORRIS: You said: "very, very emotional,"
7 what does that mean, what does that look like?

8 THE WITNESS: It looks like tearful and just she
9 described herself as exhausted at times, and it's just her
10 face, just her demeanor was just a look of concern, look of
11 just not kind of knowing what else to do and just very
12 frazzled. So, like I said, she wasn't crying the whole time,
13 but she was tearful. She took time to -- she really needed
14 to take a breath at times, where she just couldn't finish
15 what she was saying and needed to just wait for a minute,
16 before she could then finish some of her thoughts.

17 JUDGE MORRIS: Okay.

18 BY MR. ROSENSTEIN:

19 Q Did anything that she said concern you during the
20 meeting?

21 A Absolutely. At one point she was describing the
22 fact that she was concerned about Delta's safety and her
23 safety, and that she had given the document that she was
24 preparing for Flight Ops, for her meeting with them, to her
25 mother, and other documents that she wasn't specific about,

1 although I asked, she had given them to her mother. They
2 were locked in a safe at her mom's home. And she had given
3 her mom very specific instructions that if anything happened
4 to her, that she needed to take those documents immediately
5 to the news outlets, local news, CNN, whoever it was, and
6 give those documents to the news outlets. She was specific
7 to say she wasn't going to give that responsibility to her
8 husband, because he would be too distraught and he would need
9 to take care of the children if that happened.

10 Q Did you know how old her children were at that
11 point?

12 A I don't remember how old her children were at that
13 point.

14 She was, again, tearful and just very resigned to
15 the fact hat something was going to happen. And I said to
16 her:

17 "If you feel as though you've been
18 threatened, have you gone to the police,
19 if you're concerned for your safety?"

20 And she said: "And to tell them what?" She said:
21 "Nothing has happened."

22 And I was trying to understand why she felt
23 threatened and there was not an explanation. I couldn't --
24 she wasn't able to communicate to me what she felt threatened
25 -- the reason she felt threatened. But she was very clear,

1 she had a very clear plan as to what was going to happen, who
2 was going to do what, where these documents were to be kept,
3 and she just -- it was -- she was emotional, she was very
4 resigned to that fact.

5 Q How did that -- how did the situation make you
6 feel, how was your reaction?

7 A It was concerning to me, quite frankly. I have not
8 had a situation in which somebody has explained to me this is
9 what I'm going to do if something happens to me, I'm going to
10 make sure my mom goes to the media, I'm going to make sure my
11 husband is okay, because he's going to have to take care of
12 the kids -- it was not something, in all of the years that
13 I've done my investigations, that I had come up across, it
14 just -- it wasn't. It was a very thoughtful plan that --
15 because she wasn't giving me any understanding of why this
16 plan was there and what the rationale behind creating these
17 documents and giving her mom this instruction, it was hard
18 for me to understand, because I didn't -- in the conversation
19 that we had had, nothing had come up in which I was concerned
20 that somebody was trying to hurt her.

21 Q So, how did the meeting conclude, how did it end in
22 that situation?

23 A We talked for about three hours. And once the
24 meeting was over, Ms. Petitt was okay. We had finished our
25 conversation. We had, quite frankly, kind of just taken a

1 breath and made sure that she was ready to go, she was
2 comfortable. We talked about me following up with her, if I
3 had questions. She had had some other documents she wanted
4 to provide. I told her: "You know my e-mail address, let me
5 know if you have anything else." And we ended our
6 conversation and she went on.

7 Q What did you do?

8 A I literally immediately went to the airport and got
9 on a plane.

10 Q And did you communicate with anyone about your
11 meeting?

12 A If I remember correctly, I called Meg Taylor and
13 left her a message. I didn't have much time at all, between
14 the time that I finished my conversation with Ms. Petitt and
15 I got on the airplane. And it was later in the date.

16 Q After you -- did you relate -- you relayed
17 information to Ms. Taylor?

18 A I did, the following morning, yes.

19 Q And did you then meet with anyone else at Delta
20 about your meeting with Mr. Puckett -- with Miss --

21 A I did. I met with Mr. Puckett -- my meeting was
22 with Ms. Petitt on the 8th, I met with Mr. Puckett on the 9th
23 or 10th.

24 Q And you're not sure which day it was, it either a
25 day or two later?

1 A It was a day or two later, correct.

2 Q And that was a physical meeting?

3 A Yes. I did meet with him in person.

4 Q And what did you tell Mr. Puckett?

5 A I relayed my situation and the conversation I had
6 with Karlene. Quite frankly, I told him how the conversation
7 went and relayed exactly what I've just said to you.

8 Q And what was Mr. Puckett's reaction to it?

9 A He appreciated me following up and asked me a
10 couple of questions. And then said that he would want to
11 talk with me and Dr. Faulkner.

12 Q Did you know Dr. Faulkner?

13 A I know of Dr. Faulkner, I knew of Dr. Faulkner,
14 yes.

15 Q You knew of him, meaning you'd heard of him or
16 meaning that you'd met him?

17 A I can't remember if I had met him, specifically,
18 but I knew of him. I knew -- yes.

19 Q Did you have an understanding as to why you would
20 be talking to Dr. Faulkner?

21 A Again, just relaying my concerns and my
22 conversation with Ms. Petitt.

23 Q Do you have familiarity with Delta's Pilot Working
24 Agreement?

25 A I do not.

1 Q Did Mr. Puckett raise any issues related to the
2 Pilot Working Agreement, during your conversation on March
3 10th, to your recollection?

4 A No, not to my recollection.

5 Q Other than counsel and then Mr. Puckett, did you
6 speak to anybody else between March 8th and March 10th, let's
7 say, about your meeting with Ms. Pettitt?

8 A No.

9 Q And were you able to reach Dr. Faulkner?

10 A We connected with Dr. Faulkner at some point. I
11 don't know if we reached him the first time we called or not,
12 I don't remember that.

13 Q And you spoke to Dr. Faulkner over the phone?

14 A I did.

15 Q And was Mr. Puckett present for that?

16 A He called from his office and then, if I remember
17 correctly, he left.

18 Q Puckett left and you talked to Faulkner?

19 A If I remember correctly.

20 Q So, what did you say to Dr. Faulkner?

21 A I told him what I've said to you guys. I explained
22 my conversation with Karlene. And he asked questions, and I
23 did my best to help him understand how that conversation went
24 and exactly what I've done here for you guys.

25 Q Did you receive any direction from anyone at Delta,

1 after meeting with Dr. Faulkner, on what to do next?

2 A No. In regards to my investigation, or in -- no.

3 Q Did there come a time where you put your notes
4 together?

5 A Yes.

6 Q Okay. And take a look at what's in the Joint
7 binder, E, again, and this time I want you to go to the last
8 page, page 10, JX-E-10 of Joint Exhibit E?

9 A Okay.

10 Q And looking under the section: "Additional Notes,"
11 what is that?

12 A This looks to be a portion of my investigation
13 summary.

14 Q Is this a document that you provided to Mr.
15 Puckett, in this form?

16 A It's a portion of it, yes.

17 Q Okay. And under: "Additional Notes," read through
18 it and tell me whether or not there's anything in that
19 section that you think is inaccurate?

20 A That's accurate.

21 Q Did anybody tell you what to write?

22 A Absolutely not.

23 Q Was it edited by anybody?

24 A No.

25 Q And you wrote this within a few days of your

1 meeting with --

2 MR. SEHAM: Objection, leading.

3 JUDGE MORRIS: Overruled.

4 BY MR. ROSENSTEIN:

5 Q You wrote this within a few days of your meeting
6 with --

7 A Yes, I did.

8 Q -- with Ms. Puckett -- Ms. Petitt -- sorry?

9 A Correct.

10 Q Did you have a sense as to what you thought should
11 happen as a result of your expressed concerns about your
12 meeting with Ms. Petitt?

13 A No, I didn't.

14 Q Why are you reporting it?

15 A Because I was concerned about her conduct and her
16 behavior. I was concerned about her well-being.

17 Q Her personal well-being?

18 A Her personal well-being. And -- yes -- her
19 personal well-being.

20 Q Were you concerned about anything else, besides her
21 personal well-being?

22 A It was her that was my concern. I wanted to be
23 sure she was okay. She's a pilot, you know, I don't know how
24 that all works into the Flight Ops world, but obviously, as
25 an employee of Delta, I needed her to be okay. And her

1 well-being was concerning to me.

2 Q Did you consider going back to her, instead of
3 going to Ms. Taylor and Mr. Puckett with your concerns?

4 A The most important thing was for me to make sure I
5 relayed my conversation and my concerns about that
6 conversation I had with her. That's what I did and that's
7 where I started.

8 Q Okay. Did you discuss any options that Ms. Pettitt
9 would have for self-support during your meeting?

10 A Equal Opportunity is always something that I
11 provide.

12 Q What does that mean?

13 A Delta's Equal Opportunity Department, if employees
14 have got questions or concerns, or they feel as though they
15 need to talk with somebody, our Equal Opportunity Department
16 is a resource that employees have at their fingertips.

17 Q When you spoke with Mr. Puckett and Dr. Faulkner,
18 did the subject of Section 15 of the Pilot Worker Agreement
19 arise in those calls?

20 A No.

21 Q Did the subject of pulling Ms. Pettitt off the line
22 arise during those calls?

23 A No.

24 Q Did you have personal concerns about Ms. Pettitt
25 flying after that meeting?

1 A I knew that she wasn't flying. She had shared with
2 me that was part of the reason for the scheduling being a
3 little bit iffy when we talked originally. She was very
4 busy, she had some conferences she was attending for personal
5 reasons, and she was busy with school work. So, from what I
6 remember, she didn't have any flying that was scheduled
7 immediately.

8 Q After you wrote your notes and gave it to Mr.
9 Puckett, what was the next involvement you had with Ms.
10 Petitt's situation, that you recall?

11 A I believe the next thing that I was involved with
12 was a larger meeting on the 17th'ish of March.

13 Q Okay. And who notified you to participate in that
14 meeting?

15 A Likely Chris, if I remember correctly, Puckett.

16 Q Did you participate in person or over the phone?

17 A In person.

18 Q And where was the meeting?

19 A In a conference room in the Flight Ops area.

20 Q Who was physically present when you got to the
21 meeting?

22 A So, there was a couple of different folks. If I
23 can remember correctly, Jim Graham was there, Meg Taylor was
24 there, Peter Carter was there.

25 Q Who is Peter Carter?

1 A Counsel, as well.

2 Q Okay.

3 A Chris Puckett. And I don't know if Dr. Faulkner
4 was there originally or if he came in shortly after a portion
5 of that meeting had already taken place?

6 Q And when you say a portion had take place, did the
7 same participants stay or was there people moving in and out?

8 A There were people moving in and out.

9 Q Do you remember who left initially?

10 A The counsel, Peter Carter, Meg Taylor, they left.

11 Q And then Dr. Faulkner was -- participated at that
12 point on the phone, is that what you're saying?

13 A No. Dr. Faulkner was in the room, if I remember
14 correctly.

15 Q Okay. And was there anybody else there on the
16 phone?

17 A Dr. Altman may have been on the phone.

18 Q Okay. And who else was there?

19 A Jim Graham, me, Chris Puckett, Dr. Faulkner. I
20 don't know if there was anybody else there.

21 Q Okay. Do you know a person named OC Miller?

22 A I've heard of OC Miller, but I don't know OC
23 Miller.

24 Q Was there somebody there who you didn't recognize
25 physically?

1 A No.

2 Q To your knowledge, was OC Miller at the meeting?

3 A Not that I'm aware of, no.

4 Q Okay. And what happened during that phase of the
5 meeting, what do you remember of it?

6 A Again, I recounted my story and the recap of the
7 conversation I had with Ms. Petitt to the group.

8 Q Did the doctor speak, at all?

9 A Asking me clarifying questions, but other than
10 that --

11 Q Do you recall Mr. Graham speaking?

12 A Again, maybe to ask me clarifying questions.

13 Q Do you remember Dr. Altman speaking?

14 A I don't remember specifically if he did or didn't.
15 Again, I just remember a couple different people asking me
16 clarifying questions about what I had shared.

17 Q During the time that you were in the meeting, did
18 you become aware of any conclusions that were reached by
19 Delta, as to how to proceed with Ms. Petitt?

20 A Not that I remember.

21 Q Did you leave the meeting at some point, before
22 others left?

23 A I thought that I did. I can't remember
24 specifically.

25 Q Do you remember Mr. Puckett speaking at the

1 meeting?

2 A Other than to explain kind of what my role was and
3 that, you know, from her concerns, the safety aspect was
4 being reviewed differently or separately. I don't remember
5 if there was anything else that Mr. Puckett shared.

6 Q Do you have a sense as to why you were in this
7 meeting and what was the purpose of it with doctors and
8 lawyers?

9 A That the conversation that I had with Karlene was
10 serious and it was very concerning, and that group of people
11 and that team of people needed to understand, from me,
12 exactly what that conversation was and why, you know, why I
13 was relaying or how I was relaying that to them,
14 specifically.

15 Q And was there a discussion about what the potential
16 consequences of that meeting would be, that you were aware?

17 A That's not part of what I was involved with. Any
18 consequences or outcomes from that were not -- not me.

19 Q After the March 17th meeting, were you notified as
20 to an outcome or informed of an outcome?

21 A I was -- I may have been.

22 Q Well, what do you recall your involvement being
23 with Ms. Pettitt's situation, after the March 17th meeting?

24 A I then was told that Dr. Faulkner was going to
25 reach out to her and wanted to talk with her. So, I then did

1 reach out to Karlene again, to Ms. Pettitt again, to let her
2 know that Dr. Faulkner would be reaching out. I wanted to
3 explain to her why he would be contacting her. And I wanted
4 her to know I had concern for her, and that because of that
5 concern I involved somebody that was qualified, because I was
6 not, to better understand the situation and the conversation
7 that I had with her.

8 Q And that person who is better qualified was who?

9 A Dr. Faulkner.

10 Q Okay.

11 JUDGE MORRIS: I'm confused. You said you didn't
12 know if a decision was made, so why did you reach out to her
13 and how did you know that Dr. Faulkner was going to reach you
14 to her?

15 THE WITNESS: So, I didn't know of any decision. I
16 was told that Dr. Faulkner was going to talk with her. But I
17 don't know what -- I don't know if there had been any kind of
18 a decision on anything.

19 JUDGE MORRIS: All right.

20 BY MR. ROSENSTEIN:

21 Q So, just to make sure I understand, what you recall
22 is that somewhere between March 17th and March 21st, you were
23 told by somebody that Dr. Faulkner would be reaching out to
24 Ms. Pettitt, and that you should call Ms. Pettitt to inform her
25 of that?

1 A What I understood is Dr. Faulkner would be calling
2 Ms. Petitt.

3 Q Right.

4 A Part of what I wanted her to know was that I did
5 engage Dr. Faulkner.

6 Q Oh. So, who made the decision to call Ms. Petitt
7 on March 21st -- is that a decision you made on your own?

8 A I don't know if it was mine, specifically, or if
9 Dr. Faulkner and/or Chris were involved in that decision or
10 not. But I do think it was important for me to help her
11 understand this was my concern when I talked to you, and I
12 wanted you to know that I engaged somebody else.

13 Q Why did you think that was important?

14 A Because the integrity of my investigations is to
15 ensure that I am communicating with the people that I'm
16 talking with. And I wanted her to know what my concerns were
17 and that I was not qualified to understand or know if she was
18 or wasn't okay. And that I just felt as though I needed to
19 engage somebody different. So --

20 Q I'm sorry -- are you finished?

21 A -- yeah -- that's what I wanted her to know.

22 Q Take a look at Joint Exhibit J, and tell me if you
23 can identify what this document is? It seems to be several
24 different types of documents in one, but do your best to
25 describe what it is?

1 A This is my investigation summary.

2 Q So, is this the same -- conceptually is this the
3 same document that's E, but with more information now added,
4 what you called the "living document"?

5 A Yes.

6 Q Okay. And it has a print date, May 27th, 2016, do
7 you see that?

8 A I do.

9 Q Okay. But is this a document that would have
10 existed prior -- electronically -- prior to May 27th, 2016,
11 as well?

12 A Absolutely it did.

13 Q Okay. And so just let's look through -- identify
14 for us what the first page and a half are, just the narrative
15 that stops where it says: "EO Complaint," what is that
16 portion of the document?

17 A This was just kind of a brief synopsis of my
18 conversation with her, you know, where we met, why we met,
19 and really just, again, a synopsis of that conversation.

20 Q And is this first page -- you can look back at
21 Exhibit E, if you want, but is it essentially the same as
22 what was in the additional notes in Joint Exhibit E?

23 A It's similar, yes. I think it's a little bit more
24 in-depth than what I had in E.

25 Q Okay. And then on page 2 it starts: "EO

1 Complaints," and then it looks to be the empty outline that
2 we had seen before in Exhibit E, but now filled in. Am I
3 interpreting this correctly?

4 A Correct. You are, correct.

5 Q And when would this information have been input by
6 you -- would it have been at one time or at various times?

7 A Most of it -- if I had the information right after
8 my conversation with Ms. Pettitt -- it would have been done
9 within a day or two. But again, it was a living document, so
10 if I got additional information, most of that was added, then
11 again, I kind of continued on. As you'll see, my notes from
12 my call then are added, as well.

13 Q Okay. And then if you look at the page that's
14 JX-J-007, after that "Miscellaneous" part, which we saw in
15 Exhibit E, there's a new paragraph. What's that and when was
16 that presented -- take a look at it?

17 A This is -- I summarized my meeting with Ms. Pettitt
18 and then on March 21st, 2016, that started the calls that I
19 made to her regarding Dr. Faulkner.

20 Q It says, in that paragraph, in the middle, in the
21 parenthesis, it says: "All" -- well it starts, it says:

22 "She seemed genuinely concerned and
23 fearful that unnamed people from Delta
24 would cause her physical harm (although
25 she did not say she thought someone would

1 kill her, I infer that meaning from her
2 description of having instructed her
3 mother to go directly to the media,
4 because her husband would be too
5 distracted to carry those instructions
6 out.)"

7 Do you see that?

8 A I do.

9 Q Is that an accurate reflection of what happened
10 during your meeting with --

11 A One hundred percent.

12 MR. SEHAM: Objection. It characterizes an
13 inference. The question has no foundation in the record, it
14 mis-characterizes the document.

15 JUDGE MORRIS: Overruled.

16 BY MR. ROSENSTEIN:

17 Q And there's a reference in the last sentence that
18 says:

19 "On Wednesday, March 16th, Chris Puckett and I
20 talked with Dr. Faulkner over the phone
21 about my concerns."

22 You had testified earlier that you thought that you
23 had spoken to him on March 10th, but here it says March 16th.

24 Is that -- do you know which one of those is correct, or
25 could you have spoken to Dr. Faulkner on March 17th -- do you

1 know what you meant by this -- by the reference?

2 A I'm sorry, can you tell me exactly where you're
3 looking?

4 Q Sure. In the paragraph that we just looked at, it
5 says -- the last paragraph says:

6 "On Wednesday, March 16th, Chris Puckett and I
7 talked with Dr. Faulkner over the phone
8 about my concerns."

9 A Oh.

10 Q You've testified that you had a conversation with
11 Dr. Faulkner that you thought was March 10th, and you've said
12 that you had a conversation with Dr. Faulkner on March 17th.

13 Do you recall having an additional conversation with him on
14 march 16th, too?

15 A I don't. I think I was confused. I know we talked
16 on the 10th and I know he was in the greater meeting on the
17 17th. As far as I know, and even in going through my
18 deposition after I had the opportunity to read that, the 16th
19 -- I think I was confusing the dates between the times that I
20 talked to him, so the 17th and 16th I may very well have
21 mixed up.

22 Q Okay. You'd agree with me, though, that you would
23 have written this paragraph sometime after the March 10th, at
24 least, correct?

25 A Correct, yes, that is accurate.

1 Q And then the next paragraph starts with a
2 description of your March 21st call, that I think you were
3 testifying about earlier. Am I reading that correctly?

4 A Yes, that's my phone conversation.

5 Q Just read through it and, again, just tell me if
6 there's anything in that description that you think is
7 incorrect?

8 A This is accurate.

9 Q And when did you write this?

10 A This would have been written shortly after my
11 conversation, that initial conversation. So, the 16th or
12 17th -- or -- I apologize --

13 Q Well, let's call it on the 21st.

14 A Right. Now I'm going back to the other -- the 21st
15 or the 22nd.

16 Q Okay. And again, did anybody direct you, to your
17 recollection, to call Karlene on March 21st?

18 A To the best -- I don't remember, to the best of my
19 recollection.

20 Q And did Ms. Petitt call you back that same day, on
21 march 21st?

22 A Yes, she did.

23 Q Tell us what you remember about that second call
24 back?

25 A The second call back was different than that first

1 conversation. The first conversation, you know, I explained
2 to her why I had reached out to Dr. Faulkner, and she was
3 appreciative. The second conversation she wanted to get a
4 better understanding. She said that, I believe, Phil Davis
5 had reached out to her and she was a little bit confused.
6 So, again, definitely a different conversation than the
7 first.

8 Q Okay. And I see there's a reference in the first
9 bullet point on page JX-J-10, it says:

10 "Karlene said the union rep told her that
11 Faulkner is the one who determines
12 Section 15 and is/will determine if she
13 loses her First Class Medical."

14 Do you see that?

15 A I do.

16 Q Did you know what she meant by Section 15 at that
17 time?

18 A I don't know that I did know what she meant by
19 Section 15. And I don't know that I equated it to the First
20 Class Medical -- I mean -- yeah, I'm not familiar --

21 Q Okay. Did you tell any -- report to anyone at
22 Delta about these two conversations you had?

23 A Yes. I let Chris Puckett know.

24 Q And did Mr. Puckett give you direction as to what
25 to do next?

1 A No. As far as I know, he didn't direct me to do
2 anything. I mean I just wanted him to know what the
3 conversation was.

4 Q Did you know that, on March 21st, that Ms. Petitt
5 would be removed from flying?

6 A No.

7 Q Did you ever -- did there come a time when you
8 learned that?

9 A She -- at some point -- made that pretty clear to
10 me, in either the conversation on the 21st or that next
11 conversation on the 23rd.

12 Q Okay. So, what happened in the conversation on the
13 23rd?

14 A She basically called to say, hey, who are you, what
15 makes you qualified to suggest that I'm not fit to fly, and
16 she was angry, asked me some follow-up questions about,
17 again, what I did at Delta and that type of thing. And I
18 tried to explain to her, again, as I had in the previous
19 conversations, that my concern was for her well-being, but
20 that was a conversation that was not a lengthy conversation,
21 it was vastly different than the others I had had with her.

22 JUDGE MORRIS: Did she cry during this
23 conversation?

24 THE WITNESS: That particular, on the 23rd?

25 JUDGE MORRIS: Yes.

1 THE WITNESS: No, not that I remember.

2 BY MR. ROSENSTEIN:

3 Q What was her demeanor on that March 23rd
4 conversation?

5 A Pretty pointed. Called with very specific
6 questions. Determined to get on and get off the call, which
7 was unusual, quite honestly, because all of the other
8 interactions I had with her were very lengthy and difficult
9 to follow.

10 Q When you reported your concerns about your
11 interaction with Ms. Petitt, did you have an intention on
12 having her removed from eligibility to be a pilot at Delta
13 Air Lines?

14 A No. That's not within my scope, at all. I
15 couldn't intend to do that, nor was that my goal.

16 Q After you learned that she had been determined to
17 be -- for the time being -- ineligible, did you continue the
18 EO investigation that you had started by interviewing her?

19 A Yes.

20 Q And what did you do?

21 A So, I did meet with a couple of folks that had been
22 either named in her complaint or that she and I discussed
23 when we talked.

24 Q And did you, personally, conclude that
25 investigation?

1 A I did not, personally, conclude it, no.

2 Q Why not?

3 A A couple of different reasons. First and foremost,
4 because in July of 2016, I then changed roles, moved to Salt
5 Lake, and in October I had a pretty extensive surgery and was
6 out for seven or eight weeks. Prior to being, literally, on
7 disability, I wasn't able to fly, I was put on no-flying
8 restrictions by my doctor.

9 Q Did somebody else take over that investigation?

10 A Brian San Souci, who then took over my role as the
11 Equal Opportunity manager.

12 Q Did you become aware of any grievances that Ms.
13 Petitt had filed against Delta, in your role?

14 A The only thing I was ever aware of is anything that
15 I was placed on for like this trial or something of that
16 nature, but no.

17 Q You were interviewed by OSHA, as part of the AIR-21
18 process?

19 A I was.

20 Q And --

21 MR. ROSENSTEIN: Can we take a break? I may not
22 have anymore direct questions, but I want to think it
23 through.

24 JUDGE MORRIS: All right. We'll take 10.

25 The Court is in recess. Do not discuss your

1 testimony while we're on break.

2 (Off the record at 3:38 o'clock p.m.)

3 JUDGE MORRIS: Back on the record.

4 All parties present when the hearing last recessed
5 are again present.

6 Counsel, you may continue your questioning.

7 BY MR. ROSENSTEIN:

8 Q I just wanted to go back. You saw in your notes,
9 Joint Exhibit J, the reference to that March 16th
10 conversation?

11 A Correct.

12 Q I mean do you know for a fact whether or not you --
13 I know you testified you had a call that you remember on
14 March 10th, you had the larger meeting on March 17th. Is it
15 possible that you also had a call on March 16th, too, or are
16 you sure that you didn't have a call on March 16th?

17 A I'm not sure that I didn't have a call. I very
18 well could have mixed up the dates of the 17th with the
19 greater meeting, but I may very well have talked to Dr.
20 Faulkner again on the 16th, yes. I don't know for sure.

21 MR. ROSENSTEIN: That's all I have.

22 JUDGE MORRIS: Okay.

23 Counsel, do you want to start cross or do you want
24 to begin tomorrow morning?

25 MR. SEHAM: Tomorrow morning.

1 JUDGE MORRIS: How soon do the parties want to
2 start?

3 MR. ROSENSTEIN: You know, we're still on Eastern
4 time, we're willing to start as early as you want to. So,
5 I'll leave it to the Tribunal.

6 JUDGE MORRIS: Mr. Seham?

7 MR. SEHAM: I defer to the Tribunal.

8 JUDGE MORRIS: Is 8:30 or 8:00 o'clock a.m.?

9 MR. SEHAM: I think at 8:30 o'clock a.m.

10 MR. ROSENSTEIN: Yeah. We deferred, but not 8:00
11 o'clock a.m.

12 JUDGE MORRIS: All right. The Court will reconvene
13 tomorrow at 8:30 o'clock a.m.

14 Ma'am, because you're still on the witness stand,
15 you cannot speak with anyone about your testimony, okay.

16 THE WITNESS: Yes.

17 JUDGE MORRIS: You can talk about whatever, but not
18 about testifying, okay.

19 All right. Court is in recess until tomorrow.

20 (Whereupon, the proceedings adjourned at 3:44
21 o'clock a.m.)

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TITLE: Petitt vs. DELTA AIR LINES, INC.,

CASE NUMBER: 2018-AIR-00041

OWCP NUMBER: n/a

DATE: April 29, 2019

LOCATION: Des Moines, WA

This is to certify that the attached proceedings before the United States Department of Labor, were held according to the record and that this is the original, complete, true and accurate transcript which has been compared to the reporting or recording accomplished at the hearing.

SIGNATURE OF REPORTER_____
DATE