

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:)
)
KARLENE PETITT,)
)
Complainant,)
)
versus) Case No. 2018-AIR-00041
)
DELTA AIR LINES, INC.,)
)
Respondent.)

Volume 8

Tuesday,
April 30, 2019

Federal Aviation Administration
Northwest Mountain
Regional Office
2200 S. 216th Street
Des Moines, Washington 98198

The above-entitled matter came on for hearing,
pursuant to notice, at 8:30 o'clock a.m.

BEFORE: THE HONORABLE SCOTT R. MORRIS,
Administrative Law Judge

APPEARANCES:On behalf of the Complainant:

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I N D E XPROCEEDING:PAGE:

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WITNESSES:DIRECTCROSSREDIRECTRECROSSJUDGE

Claire Kelley Nabors

1536

1666

1669

1678

1679

Christopher Puckett

1683

1794

1968

1974

1976

1978

EXHIBITS:IDENTIFIEDRECEIVEDREJECTEDW/DJOINT

(None marked, nor received.)

CLAIMANT

CX-203

1834

CX-204

1980

1980

RESPONDENT

(None marked, nor received.)

ADMINISTRATIVE LAW JUDGE

(None marked, nor received.)

P R O C E E D I N G S

(8:33 o'clock a.m.)

JUDGE MORRIS: This is Tuesday morning. We had finished with the direct examination of Ms. Nabors. We're now about to begin with the cross.

Ma'am, although -- it's a separate day. I'm going to re-administer the oath.

Whereupon,

CLAIRE KELLEY NABORS,

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

JUDGE MORRIS: All right. Counsel, you may proceed.

MR. SEHAM: Yes.

CROSS-EXAMINATION

BY MR. SEHAM:

Q Good morning, Ms. Nabors.

A Good morning.

Q What did you do to prepare for trial yesterday and prior to yesterday?

A I went through the deposition, the deposition that I gave. And read through that several times.

Q Okay. And as you read through it, was there -- did there come to your attention any time where you gave testimony that was inaccurate?

1 A The March 16th date is just something that I'm not
2 a hundred percent accurate on.

3 Q That might have been March 17th -- in other words,
4 the --

5 A It -- it could have been. I -- I know factually
6 that I talked to Dr. Faulkner on the 10th.

7 Q M'hmm.

8 A And I know that I talked to him on the 17th. The
9 16th date very well could have been a typo, which
10 unfortunately, I had some in my summary. But that probably
11 was the biggest piece that stuck out to me. I don't -- don't
12 remember if there was anything else that was inaccurate.

13 Q Okay. Now when you came -- if you could turn to
14 the Joint Exhibits. So, it's going to be this green -- this
15 green page.

16 A Okay.

17 Q And I'm going to refer you to JX-B. And we're
18 going to pass by the first page.

19 A Okay.

20 Q -- to JX-B 002. You're looking at -- you should be
21 looking at a document entitled "Assessment of Delta Airlines
22 Flight Operation Safety Culture."

23 A Yes.

24 Q Now you referred to this as Ms. Petitt's letter in
25 direct testimony. Correct?

- 1 A Yes.
- 2 Q Okay.
- 3 A The letter or document she provided.
- 4 Q Okay. And you received a copy of this document?
- 5 A I did.
- 6 Q And you -- and you read through this document prior
7 to interviewing Ms. Petitt on March 8th. Correct?
- 8 A Yes. I mean, I looked through the entire document.
9 Yes.
- 10 Q Okay. And you brought it to the meeting on March
11 8th with Ms. Petitt. Correct?
- 12 A I don't know that I brought the entire document to
13 that -- to my meeting with -- with Ms. Petitt.
- 14 Q Okay. Do you recall testifying in your deposition
15 that you actually took notes on this document?
- 16 A I did take notes on the document that I scaled
17 down. Like I said, I don't remember if I brought the entire
18 document or the outline that I made. It -- it -- the outline
19 that I made, may very well have been on this. I'm just
20 saying, I can't remember if I brought the entire document
21 that she provided because, again, some of this was completely
22 safety related and not within my scope.
- 23 Q If you could turn to page 76 of your deposition.
- 24 A That's this one here?
- 25 Q Yes, please.

1 A Okay.

2 Q And I'd ask you to turn to page 76, which is going
3 to be in the lower right-hand quadrant.

4 JUDGE MORRIS: Which is CX-202 for identification.

5 MR. SEHAM: Correct. So, CX-202.

6 BY MR. SEHAM:

7 Q You let me know, please, when you get to page 76.

8 A Okay. One moment. It's going to be in the lower,
9 right-hand quadrant?

10 Q Yeah.

11 A So, I see 33, 76 on every page. Let's see --

12 JUDGE MORRIS: Look in the top right-hand type
13 which is the page number --

14 MR. SEHAM: You're on the right page.

15 THE WITNESS: Okay.

16 MR. SEHAM: Okay.

17 THE WITNESS: I believe I'm on the page you're
18 looking -- at the top, it says, "73 through 76".

19 MR. SEHAM: Correct, yeah.

20 THE WITNESS: So --

21 BY MR. SEHAM:

22 Q And if you go down to the lower right-hand
23 quadrant, beginning of line two:

24 "QUESTION: Now you took notes during
25 your interview of Ms. Petitt."

1 "ANSWER: I took some notes, yes."

2 "QUESTION: To what extent?"

3 "ANSWER: I would write down different
4 quotes that she made if I thought that
5 those were -- when I felt that those were
6 important, and different information that
7 I would obviously want to follow up on,
8 and just different notes."

9 "QUESTION: Okay. And on what did you
10 take these notes?"

11 "ANSWER: Her -- the letter she had
12 written, I had that document."

13 Does that -- does that refresh your recollection
14 that the notes you took were on this Joint Exhibit B?

15 A It does refresh my memory. And I may very well
16 have brought the entire document. It -- my -- what I'm
17 saying to you is, is I honestly cannot remember if I brought
18 the entire document, or the scaled-down version. What I'm
19 saying is, portions of the letter that she provided, or the
20 document that she provided, that's what I used to take my
21 notes on. So, I had the outline that I do, with the
22 questions I also ask. So, it may have been the complete full
23 document --

24 Q M'hmm.

25 A -- and I'm not saying that it wasn't. It may have

1 been a scaled-down document as well. I can't remember if I
2 brought the entire document or not.

3 Q Well, you go on to say, resuming at 16 on Exhibit
4 2:

5 "ANSWER: Correct. And I had a note
6 pad as well."

7 A Correct.

8 Q Okay. And so that -- would that have been a yellow
9 pad?

10 A Yes.

11 Q Okay. And you discarded the notes that you had
12 taken on a copy of JX-B. Correct?

13 A Correct.

14 Q Okay. And you discarded the notes that you had on
15 the note pad. Correct?

16 A Correct.

17 Q And would you -- would you agree with me that the
18 -- your note taking was -- well, strike that. Strike that.

19 You say you wrote down quotes you thought were
20 important.

21 A Correct.

22 Q Okay. And information that you wanted to follow up
23 on. Is that correct?

24 A Yes.

25 Q Now looking at JX-E, starting at -- at page JX-E

1 003, you -- you -- is it your testimony that you drafted this
2 document?

3 A Yes. I partnered with Chris Puckett to ensure that
4 I knew I was looking at the EO-related issues, and that the
5 safety bucket was -- was different.

6 Q So, portions of this were written by Chris Puckett.
7 Correct?

8 A I can't remember who wrote the exact -- which
9 portions I wrote, if he wrote some of the portions. What I'm
10 saying is, he and I came to an agreement in what was going to
11 be in this document.

12 Q Okay. And JX-J is a subsequent report that you
13 drafted. Correct?

14 A Correct.

15 Q Were there any reports that you submitted between
16 -- well, let me -- let me just clarify, JX-E is a document
17 that was created prior to JX-J. Correct?

18 A Correct.

19 Q All right. And were there any documents that were
20 created in the interim period between the creation of JX-E
21 and JX-J?

22 A Not that I remember specifically. These would have
23 been a little bit of a working document for JX-E as well,
24 just ensuring I had what I needed to -- in order to have my
25 conversations.

1 Q Do -- do you remember transmitting drafts of any
2 document between the creation of JX-E and the creation of
3 JX-J?

4 A I don't specifically. I -- I may have, JX-E, but I
5 -- I don't specifically remember.

6 Q Okay. There's no -- you were asked at some point
7 by Delta to produce any e-mails that you had related to this
8 matter?

9 A M'hmm.

10 Q Yes? Is that, "Yes"?

11 A Yes.

12 Q Okay. And -- and do you -- did you ever send an
13 e-mail to Dr. Faulkner related to Ms. Pettitt?

14 A Not that I remember.

15 Q Okay. So, after your delivery of JX-E to Dr.
16 Faulkner -- and by the way, did you -- do you remember if you
17 sent that by e-mail, or you handed it to him, or whether --

18 A I --

19 Q -- whether someone else handed it to him?

20 A -- I do not remember.

21 Q You don't remember. Okay. And do you have any
22 recollection of sending JX-J to Dr. Faulkner?

23 A I don't remember.

24 Q Do you have any -- after the March 17th meeting
25 with -- that included Dr. Faulkner and Captain Graham, and

1 Dr. Altman after March 17th. did you have any further
2 discussion with Dr. Faulkner?

3 A Not that I remember.

4 Q Okay. And this -- this document includes entries,
5 if you go to JX-J 10, this includes entries that go as late
6 as March 23rd. Correct?

7 A Correct.

8 Q Okay. So, you would not have sent this document to
9 Dr. Faulkner, given that it was created sometime after March
10 23rd. Correct?

11 A No. This was a living document. So, I created my
12 summary shortly after I spoke with Ms. Pettitt originally.
13 So, that's when I started this. The phone conversations that
14 I have that were March 21st and March 23rd would have then
15 been added. It was a fluid document for me.

16 Q But added onto JX-E. Correct?

17 A Added onto JX-J, my investigation summary, which is
18 where the dates are for the phone conversations.

19 Q But you have no -- but you have no -- no
20 recollection of sending anything other than JX-E to Dr.
21 Faulkner.

22 A I don't have a recollection of what I sent to Dr.
23 Faulkner --

24 Q Okay.

25 A -- at all.

1 Q Okay. And do you -- going back to JX-E, do you
2 have a specific recollection as to when you drafted JX-E?

3 A This would have been drafted around that -- that
4 end of February time frame of 2016 when I met with Chris
5 Puckett originally.

6 Q Okay. And would you agree -- I believe this came
7 out in direct, that you didn't draft either the first or
8 second paragraph of JX-E, appearing on E003. Correct?

9 A I don't believe I did. The -- I don't remember me
10 drafting those two specific paragraphs.

11 Q Okay. Now it says, in the last sentence:

12 "That leaves the EO specific
13 complaints and I have done my best to
14 break them out below."

15 That "I" would be referring to Mr. Puckett and not
16 to you. Correct?

17 A It would have been, yes, if he drafted this.
18 Correct.

19 Q Okay. And the issues that arise under safety
20 complaints, none of those issues were within the scope of
21 your investigation. Correct?

22 A Correct.

23 Q So, you would not have drafted any of those
24 questions under the title "safety complaints". Correct?

25 A Correct. They were pulled from her original

1 complaint and that was the purpose of Mr. Puckett and I
2 working together, to ensure I understood the buckets of the
3 safety, and the EO-specific complaints.

4 Q My question, though, is Mr. Puckett drafted these
5 questions under the heading of safety complaints. Correct?

6 A If you're talking about who wrote these, he may
7 very well have. What I'm saying to you is, he and I talked
8 together regarding the document that she provided and pulled
9 these out. We had a discussion about these.

10 Q Okay. Did he give you an advance -- well, let me
11 -- before I ask that, do you know what green slips are?

12 A We talked a little bit about green slips. I don't
13 know specifically.

14 Q Okay. And do you know what trip buys are?

15 A Again, talked a little bit specifically -- a little
16 bit about those but I don't remember specifically.

17 Q Okay. So, if you go to JX-E 009, page seven of the
18 report, the JX-E 009 of the document --

19 A Okay.

20 Q -- that category under miscellaneous, that would
21 also be outside the scope of your EO investigation. Correct?

22 A I think it was miscellaneous, if I had some
23 questions about it, they may very well have come up during
24 the investigation. I think there were some things that were
25 either both kind of safety and EO but that I might need to

1 know a little bit more about as well.

2 Q Did you ever ask any questions to Ms. Petitt about
3 green slip policy?

4 A Ms. Petitt and I did talk about green slip and sick
5 leave. And like I said, I just don't remember specifically
6 what the green slip policy is.

7 Q Okay. So, you don't recall asking her any
8 questions?

9 A I don't remember if I brought up green slip or she
10 did.

11 Q Okay. You don't recall whether it was part of your
12 task to bring up green slip policy.

13 A Correct.

14 Q Okay. And do you recall whether it was part of
15 your task to bring up trip buys?

16 A No. I do not.

17 Q Did you have, prior to going into the
18 investigation, did you have any answers to any of the
19 questions under the category of EO complaints?

20 A Well, they were her complaints. So, I wouldn't
21 have had answers from her because I spoke with her on the
22 8th.

23 Q Did Mr. Puckett provide you with some answers
24 before you went to speak to Ms. Petitt?

25 A No. I didn't ask him any questions. They were her

1 concerns so my focus was being able to talk with her.

2 Q All right. Well, if you can turn to JX-E 006 --

3 A Okay.

4 Q -- and there's a bullet point, the second to the
5 last bullet point, which reads:

6 "Are there any other examples of times
7 you have been told not to publicly
8 identify yourself as a Delta pilot when
9 publicly opining on the aviation industry
10 [multiple times or not to use Delta
11 trademarks on published materials]
12 multiple times?"

13 Mr. Puckett provided you these answers even before
14 you went into see Ms. Petitt --

15 MR. ROSENSTEIN: Objection.

16 BY MR. SEHAM:

17 Q -- on March 8th. Correct?

18 MR. ROSENSTEIN: Objection.

19 JUDGE MORRIS: Basis?

20 MR. ROSENSTEIN: Mischaracterizes -- there's no
21 foundation for -- that they're answers in this document. I
22 don't see any answers in this -- in that paragraph.

23 JUDGE MORRIS: Sustained. Rephrase. I understand
24 what you're trying to ask but --

25 MR. SEHAM: Okay.

1 MR. ROSENSTEIN: -- it's --

2 BY MR. SEHAM:

3 Q When you see the term "multiple times," do you
4 understand that to mean that Ms. Petitt had been instructed
5 multiple times as a Delta pilot with respect to publicly
6 opining on the aviation industry?

7 A It -- to me, it may have meant she had asked more
8 than once, and on different occasions, she may very well have
9 been told "yes" or "no". But again, my focus was on what she
10 was bringing up. So, the "multiple times" wasn't something I
11 -- I really paid much attention to. My goal was to talk with
12 Ms. Petitt and figure out what her concerns were.

13 JUDGE MORRIS: I think the question is, "How did
14 you come to know that it was multiple times?"

15 THE WITNESS: This would be the only thing I would
16 have had prior to talking to Ms. Petitt.

17 JUDGE MORRIS: Yeah. But --

18 THE WITNESS: This was --

19 JUDGE MORRIS: -- who would have put that entry in
20 there, "multiple times"?

21 THE WITNESS: It was not me. So, if Chris and I
22 were working, if Mr. Puckett and I were working on this
23 together, it would have been --

24 JUDGE MORRIS: So, he would have provided you --

25 THE WITNESS: -- him, I would have suspected.

1 JUDGE MORRIS: -- that information?

2 THE WITNESS: Correct, the --

3 JUDGE MORRIS: All right. Continue.

4 THE WITNESS: -- the words.

5 BY MR. SEHAM:

6 Q And then is it the same answer with respect to the
7 non-use of Delta trademarks and published materials with the
8 bracketed -- in brackets following multiple times that Mr.
9 Puckett provided that information?

10 A Correct.

11 Q And if you can -- and, in fact, when you spoke to
12 Ms. Petitt about whether she had engaged in multiple
13 violations -- did you ask Ms. Petitt that question, whether
14 she engaged in multiple occasions when she publicly opined on
15 the aviation industry as a Delta pilot?

16 MR. ROSENSTEIN: Objection. That's not what that
17 bullet point says. It says:

18 "Are there any other examples of times
19 you have been told not to publicly
20 identify yourself as a Delta pilot when
21 publicly opining on the aviation
22 industry?"

23 MR. SEHAM: Okay.

24 MR. ROSENSTEIN: That's what it says.

25 MR. SEHAM: All right. That's fine.

1 BY MR. SEHAM:

2 Q Are there any -- so, that question:

3 "Are there any other examples of times
4 you have been told not to publicly
5 identify yourself as a Delta pilot when
6 publicly opining on the aviation
7 industry?"

8 Did you ask Ms. Petitt that question?

9 A We talked about that. Yes.

10 Q Okay. And she did not tell you that she had
11 engaged in such activity multiple times. Correct?

12 A I don't remember how many times she told me she had
13 engaged in that but I do remember talking about that and that
14 she had been told not to.

15 Q Okay. And then with respect to using Delta
16 trademarks and published material, would you agree that she
17 did not tell you that she engaged in that activity multiple
18 times?

19 A I can't agree to that. I don't remember how many
20 times she told me she did or didn't or wasn't told. But I do
21 know that she -- we talked about it and she was told not to.

22 Q But you -- you provided -- you provided this
23 document with those "multiple time" references to Dr.
24 Faulkner. Correct?

25 MR. ROSENSTEIN: Objection. No foundation that Ms.

1 Petitt -- that Ms. Nabors provided anything to Dr. Faulkner.

2 She's testified she doesn't remember providing anything to
3 Dr. Faulkner.

4 JUDGE MORRIS: Overruled. You may answer the
5 question.

6 THE WITNESS: I don't know what I gave to Dr.
7 Faulkner. I don't know what I specifically sent to Dr.
8 Faulkner.

9 MR. SEHAM: Okay.

10 BY MR. SEHAM:

11 Q And if you -- if you turn to JX-J 004 --

12 A Okay.

13 Q -- and if you look at the last bullet point, which
14 commences:

15 "Are there any other examples of times
16 you have been told not to publicly
17 identify yourself as a pilot when
18 publicly opining on the aviation industry
19 or to not use Delta trademarks or
20 published materials?"

21 Is that -- is that the response what follows?

22 Would that have been the response Ms. Petitt gave as you
23 recorded it?

24 A Yes. That would have been the answer to the
25 question that I asked.

1 Q And then your next question, I'm following onto
2 JX-J 005:

3 "If you were to use a Delta trademark
4 on a book cover without permission, would
5 that violate the social media policy?"

6 My question to you is, would you agree with me that
7 part of your assigned objective was to discredit Ms. Petitt's
8 claims of unfair treatment?

9 A What I was -- my goal in my conversation with Ms.
10 Petitt was to understand what went on. And if something was
11 substantiated, I needed to be able to tell that. And if it
12 was not, that's what I needed to be able to tell. I wasn't
13 trying to discredit or give her more credit for anything. I
14 asked questions to be able to get factual answers.

15 Q And with respect to JX-J, the date on which you --
16 well, with respect to JX-J, you see there's a print date of
17 May 27th. 2016.

18 A Correct.

19 Q Okay. And is that -- is that something that your
20 computer would print as you issued the document or printed
21 the document?

22 A To be frank, I'm not sure where the print date came
23 from. It may very well have printed it, if I had printed it
24 that day but I don't know why that print date is there.

25 Q So, it's possible that your initial issuance of

1 this document did not occur until May of 2016. Correct?

2 A Can I ask a clarifying question? When you say my
3 "initial issuance," to who are you suggesting I have issued
4 it to?

5 Q Did you have -- you have no -- you have no
6 correspondence here in your file of having transmitted it to
7 anyone prior to May 27th, 2016. Correct?

8 A Not that I remember but I very well could have
9 printed it and given it to Chris Puckett --

10 Q Okay.

11 A -- prior to this. As I said, I'm not sure.

12 Q It's possible that you did not finalize that JX-J
13 document until May of 2016. Correct?

14 A No. I believe that I finalized this document prior
15 to May. Shortly after my conversations with Ms. Petitt on
16 the 21st and the 23rd, again, this was a fluid document, and
17 I -- I routinely updated it as I had conversations.

18 Q Okay. If you could turn to your deposition, page
19 13.

20 A Okay.

21 Q Okay. Tell me when you're there at page 13.

22 A I believe I am. Yes.

23 Q Okay. And if you look at line 20, the question,
24 and then it says, "Print date May 27th, 2016," do you see
25 that?

1 A M'hmm.

2 Q And the answer -- if you could say, "yes," just so
3 we could have a clear record rather than -- it would be
4 better for the record.

5 "QUESTION: And it says, "Print date
6 May 27th, 2016".

7 "ANSWER: Correct."

8 "QUESTION: Is that when it was --
9 this document was finalized or was that
10 just when it was printed?

11 "MR. ROSENSTEIN: Objection."

12 "THE WITNESS: I don't remember if it
13 was printed on May 27th or not."

14 "QUESTION: Well, do you know when it
15 was when you finalized this report in
16 this version?"

17 "ANSWER: I do not remember the exact
18 date that I finalized it."

19 "QUESTION: Okay. Could it have been
20 in May?"

21 "MR. ROSENSTEIN: Objection."

22 "THE WITNESS: I don't remember when I
23 finalized it."

24 "QUESTION: So, it may have been in
25 March, April or May. Correct?"

1 "MR. ROSENSTEIN: Objection."

2 "THE WITNESS: Any time after the --
3 my conversation with her is when it could
4 have been but I don't remember an exact
5 date so I don't want to tell you an exact
6 date."

7 Was that your testimony during your deposition in
8 November --

9 A Yes.

10 Q -- 2018? And that time -- that time, you didn't
11 want to tell me an exact date. Correct?

12 A Because I don't remember an exact date.

13 Q Okay. And at that time, you couldn't ascertain
14 whether it was March or April or May. Correct?

15 A Correct.

16 Q Now did you give -- did you ever -- okay. And you,
17 at some time, did you provide this report directly to Dr.
18 Altman?

19 A I don't remember giving it to Dr. Altman directly.

20 Q Okay. Did you ever provide the document to Meg
21 Taylor?

22 A I may have. Yes. I may have shared it with Meg.

23 Q Okay. Did you ever -- and do you recall that --
24 during what time period you would have provided it to Meg
25 Taylor?

1 A I don't.

2 Q Okay. Do you remember any time after March 17th
3 having any discussion with Dr. Faulkner?

4 A I don't specifically remember.

5 Q Well, if you had -- if you had, had a conversation
6 with Dr. Faulkner after March 17th, would you have made some
7 notation of that conversation?

8 A Likely not. I may have but I don't know.

9 Q Would you agree with me that Delta policy is to
10 promptly investigate and resolve any harassment or bullying
11 complaint?

12 A I do agree.

13 Q Okay. And supervisors within Delta are told to
14 bring harassment or bullying complaints to their leaders for
15 immediate action. Correct?

16 A Yes.

17 Q And Delta's policy is to commence investigation of
18 any harassment or EO issues as quickly as possible.

19 A Correct.

20 Q If I could refer you back to JX-E, and page 004 --

21 A I'm there.

22 Q Okay. So, under -- under EO complaints, there's a
23 bold header of "Allegations against an instructor who later
24 became a line check airman," bullet point alleges that an
25 instructor falsified records by inputting false grades into a

1 computer, did not observe pilots in simulator, did not
2 provide a debrief, and indicated that he had the power to
3 arbitrarily fail a pilot in a training evolution.

4 The next bullet point is, "Who is the instructor?"

5 The next bullet point is, "When did this occur?" And here,
6 there's another bracketed comment, "reasonably certain it was
7 2010". Would you agree with me that Mr. Puckett inserted
8 that observation as well?

9 A Yes. He may have.

10 JUDGE MORRIS: Well, wait a minute. Did anybody
11 else deal with this document besides you and Mr. Puckett?

12 THE WITNESS: No.

13 JUDGE MORRIS: Did you have any information at the
14 time --

15 THE WITNESS: No. I did not.

16 JUDGE MORRIS: So, if it wasn't you --

17 THE WITNESS: So, right.

18 JUDGE MORRIS: -- then who is it?

19 THE WITNESS: So, I would suspect that it was Mr.
20 Puckett.

21 JUDGE MORRIS: All right.

22 THE WITNESS: Yes.

23 JUDGE MORRIS: Go ahead.

24 BY MR. SEHAM:

25 Q And if you could turn to JX-J 002, and if you go to

1 the corresponding bullet point, so, it would take you through
2 the frame work here, EO complaints, under that, "Allegations
3 against instructor who later became a line check airman," and
4 then there's a dark bullet point, and the third hollow bullet
5 point under that head was, "When did this occur?" And you
6 entered -- did you enter this, "March 2011"?

7 A Yes.

8 Q So, you were -- there's this incident that was
9 described under EO complaints, the first bullet point, you
10 considered that an allegation of harassment.

11 A In looking at falsifying records and -- and you
12 know, inputting different things in the computer, my
13 questions were, why was this done and did Ms. Petitt feel as
14 though she was being treated differently.

15 Q Well, Ms. Petitt conveyed to you that she
16 considered Mr. Albain's actions in this -- in this respect to
17 be retaliatory. Isn't that correct?

18 A I believe she said something to that effect.

19 Yes --

20 Q Okay.

21 A -- to look back specifically.

22 Q And you see, now you determined that the incident
23 arose in 2011. Correct?

24 A That's what she shared with me. Correct.

25 Q Okay. Well, did you -- did you make any contrary

1 determination in terms of when this problem originated?

2 A In my questioning with Mr. Puckett, I think he went
3 back to as much as he could. What I asked for was -- because
4 I don't have access to the training documents, so I asked
5 just to verify so we could understand when that did take
6 place and if there was any additional information about that.

7 Q Well, what was your ultimate conclusion about what
8 year this transpired in?

9 A I didn't have any reason to suggest that March in
10 2011 wasn't accurate.

11 Q Okay. Had -- did you have any notice or any -- did
12 you ever acquire any information that Delta had investigated
13 this incident prior to 2016?

14 A I believe in speaking with Mr. Puckett, yes.
15 Somebody -- well, I apologize. I believe it had been brought
16 up at some point earlier but I don't know if anybody had --
17 had investigated it or not.

18 Q Okay. When you say, "brought up," you mean,
19 "brought up by Ms. Petitt"?

20 A Correct.

21 Q Okay. And to the best of your -- you didn't have
22 any knowledge of any prior investigation of -- of a complaint
23 she made with respect to this 2011 incident. Correct?

24 A I don't. I did not. No.

25 Q Did it cause you any concern that the harassment

1 issue had not been acted on for five years?

2 MR. ROSENSTEIN: Objection.

3 JUDGE MORRIS: Overruled. You may answer.

4 THE WITNESS: Thank you. I don't -- it wasn't that
5 I didn't think that it had been followed up on. I don't know
6 what the outcome was or specifically what was brought up.
7 So, I'm -- I'm not sure what she said to them. I don't
8 remember what she said to them. And I don't remember the
9 action that was taken.

10 BY MR. SEHAM:

11 Q Well, did you feel any sense of urgency in
12 investigating this issue that had originated in 2011?

13 A It was part of what we wanted to look into and part
14 of what we would want to follow up with Mr. Albain and
15 continuing the investigation. It was 2011. So, not that it
16 wasn't critical or -- or urgent but it happened several years
17 ago. So, if the training documents were there, and
18 information was there, it was still going to be there. If
19 this was a yesterday kind of a deal, then we need to look and
20 try to figure out what's going on immediately.

21 The longer something -- the longer period of time
22 it goes by, it's not that it's not urgent but there were
23 other things that I think were more time sensitive. And so,
24 following up on everything was important. But the 2011
25 situation, it had been that for several years.

1 Q But wasn't that 2011 situation related to
2 subsequent complaints concerning Mr. Albain's retaliatory
3 actions that occurred in the last quarter of 2015?

4 A Which is why we would have wanted to follow up on
5 all of it. But I did not speak to Mr. Albain.

6 Q Okay. But you never spoke to Mr. Albain?

7 A I did not specifically.

8 Q So, I mean, is it fair to say there was no sense of
9 urgency with respect to the allegations made by Ms. Pettitt
10 concerning Mr. Albain's comment?

11 A That's not fair to say. I didn't speak with Mr.
12 Albain for a couple of reasons. One, there was also the
13 safety investigation going on. That was critical in the most
14 forefront. Two, I didn't speak to Mr. Albain because, if he
15 had concerns, I couldn't speak to him directly, just me. The
16 investigation, I was partnering with Mr. Puckett on. So, to
17 ensure that I didn't interfere with any of the safety
18 investigation, sometimes I would take a back seat to what
19 they were doing. But the full intention was to finish the
20 investigation.

21 Q You -- you did not participate in any of the --
22 what you refer to as "safety investigation," and that's one
23 of the three buckets of -- that -- that Ms. Pettitt's report
24 was separated into. Correct?

25 A Correct.

1 Q And is it -- would you agree with me that you did
2 not participate in the safety investigation portion of that?

3 A Yes. I agree.

4 Q Okay. So, you agree or were -- then, it was your
5 policy in terms of proceeding with the -- with the harassment
6 and unfair treatment issues that you were going to wait until
7 the safety investigation was completed?

8 A Not completely right. For those individuals in
9 different -- information that I could follow up on, I was
10 trying to follow up on many of those.

11 JUDGE MORRIS: Who did you follow up on, on this
12 falsification of training records? And as I understand your
13 testimony, you didn't have access to the training records.

14 THE WITNESS: Correct.

15 JUDGE MORRIS: You didn't interview Mr. Albain.

16 THE WITNESS: Correct.

17 JUDGE MORRIS: The only person that I've heard so
18 far you testified to was you interviewed Ms. Petitt. Who
19 else did you interview in reference to this?

20 THE WITNESS: In reference to the safety record
21 specifically, I spoke with a retired pilot, Phil Drennon, who
22 was involved in one of the line checks, or one of the -- I
23 think AQP that Ms. Petitt was on the same day, in which she
24 had made some complaints about what the actions of Mr.
25 Albain.

1 JUDGE MORRIS: Who -- and I'm sorry, Counsel, who
2 decided to make this falsification of records in the EO
3 bucket as opposed to the safety bucket?

4 THE WITNESS: In speaking with Mr. Puckett, if
5 we're looking at something that's been falsified, from an EO
6 perspective and an HR perspective, it's a matter of why were
7 they falsified. I think, again, it was critical for them,
8 and there were some things the lines were a little bit
9 blurry, quite frankly, because obviously, this would be a
10 safety concern that I think they would also be looking into.

11 But part of my concern is, if this was an instructor who's
12 not treating somebody fairly, then we would want to know
13 about that as well.

14 JUDGE MORRIS: But again --

15 THE WITNESS: So --

16 JUDGE MORRIS: -- you never interviewed the
17 instructor.

18 THE WITNESS: I, personally, did not.

19 JUDGE MORRIS: Okay.

20 THE WITNESS: But I also left at --

21 JUDGE MORRIS: Are you aware --

22 THE WITNESS: -- some point.

23 JUDGE MORRIS: -- that falsification in the
24 aviation community goes to lack of qualifications?

25 THE WITNESS: I'm aware that it's obviously

1 serious. I don't know specifically, which is, again, why --
2 if I understood correctly, it was also in the safety bucket.

3 JUDGE MORRIS: Okay.

4 MR. SEHAM: Okay.

5 BY MR. SEHAM:

6 Q So, if you could turn to JX-D, you see that's a
7 document entitled "Petitt Action Plan".

8 A I see this.

9 Q Okay. Have you ever seen this document before?

10 A I have not.

11 Q If you could turn to the third page, there's a
12 subheading of "Harassment and Unequal Treatment Concern". Do
13 you see that?

14 A I do.

15 Q And that continues through to the top of page five,
16 JX-D 005. I'm going to ask you to review these two pages in
17 total --

18 A Okay.

19 Q -- and ask me if -- to confirm whether these issues
20 were -- were within the scope of what you were assigned to --

21 A Okay.

22 Q -- investigate.

23 A One moment. This is relatively accurate from what
24 I was --

25 Q Okay. I mean, is there anything within those pages

1 to which you would react by stating that, that was not a task
2 assigned to you for investigation?

3 A I -- so, some of these, again, have a safety
4 aspect. And I know I talked with Ms. Petitt about them. But
5 the -- so, for example, the forced to fly even through
6 fatigue during caring for hospitalization of the husband --
7 of her husband, again, this is a policy-related safety
8 concern as well. So, some of these things, while they came
9 up during our conversation, were not necessarily specific EO
10 situations that I was completely looking into.

11 Q Well, was anybody looking into those?

12 A The flying fatigued, I would assume would have been
13 under the safety aspect of things. But as I said, I know
14 that Ms. Petitt and I talked about them.

15 Q And you would agree with me that you were expected
16 to talk to Ms. Petitt concerning coercion of -- of her or
17 other pilots to fly while fatigued.

18 A So, the word "coercion," I don't know that, that
19 came up. I would have talked with Ms. Petitt about things
20 that she felt she was being treated differently for, or
21 inappropriately differently than other pilots. So --

22 Q I'm sorry. You're testifying that you don't recall
23 whether you discussed with Ms. Petitt whether Ms. Petitt
24 considered herself to be subject to coercion to fly fatigued?

25 A I'm -- the word -- you're using a word that I don't

1 remember Ms. Petitt and I using in our conversation.

2 Q Okay. How about the word "pressured"?

3 A She --

4 Q Did she --

5 A -- she may very well have used that. Yes.

6 Q Okay.

7 A I don't know for sure but yes.

8 Q Now you -- you refer to the fact that your
9 participation in the Complaint, and in terms of this
10 investigation, was curtailed to some extent by a disability?

11 A Yes. So, when I accepted the position in Salt
12 Lake, I then, also, had a -- an injury. And I went out for
13 several weeks.

14 Q In what month of -- this was in 2016?

15 A Correct.

16 Q Okay. And was it --

17 A I had surgery in October of 2016. I moved to Utah
18 in July of '16. And I was put on flying restrictions in
19 September of 2016.

20 Q From -- from March 8th, 2016 until July of 2016,
21 you were the primary person responsible for the Petitt EO
22 investigation. Correct?

23 A I was. Yes.

24 Q Did you assign any of your EO investigatory tasks
25 to anybody else?

1 A No.

2 JUDGE MORRIS: Ma'am, I don't need to know any
3 details about your surgery but leading up to this, did it, at
4 all, impact your mobility?

5 THE WITNESS: During my time of the investigation?

6 JUDGE MORRIS: Before. Yes.

7 THE WITNESS: No.

8 JUDGE MORRIS: No. Okay. Thank you.

9 THE WITNESS: You're welcome.

10 MR. SEHAM: Okay.

11 BY MR. SEHAM:

12 Q If you could turn, again, to JX-J, and I'm going to
13 ask you to look at the last page.

14 A Okay.

15 Q Okay. And do you see, there's a header there,
16 "Investigation Follow Up Required. "Potential follow up with
17 Karlene re: pilot items." The next line reads, "EO questions
18 to flight ops leadership". Were those arrow-shaped bullet
19 points, were those issues that you determined that you had to
20 follow up on after your interview of Ms. Pettitt on March 8th?

21 A Yes. Those were questions that I -- that I had
22 that were outstanding. Correct.

23 Q Okay. So, when you finalized JX-J, you -- you
24 didn't have an answer to the question:

25 "Has there been any complaints about Albain's

1 job performance or conduct? If so, by
2 who, when, and describe the details of
3 the complaint."

4 You didn't have an answer to that when you
5 finalized JX-J?

6 A I don't believe I had a complete answer to that. I
7 believe that I had asked Chris Puckett if there had been any
8 other complaints that he was aware of. And I was not made
9 aware of any -- any other complaints from anybody other than
10 Ms. Petitt.

11 Q And isn't it true that when you left your position
12 in July of 2016, you still didn't have answer to that
13 question for the first hour?

14 A Beyond what I spoke with Chris Puckett about.

15 Correct.

16 Q Okay. The next question you ask is, "What is the
17 required amount of time for the oral portion of an LOE?"
18 What is an LOE?

19 A I don't remember.

20 Q Okay. Did you get an answer to that question prior
21 to leaving EO in July of 2016?

22 A I don't believe I did.

23 Q Okay. And the third question is:

24 "Is there any reason that an
25 instructor would tell a student to come

1 in only 10 minutes prior to simulator
2 time rather than 90 minutes? If so,
3 when, why, who did it impact, and were
4 the deviations from those exams
5 documented some place?"

6 Did you get an answer to those questions before you
7 left your position in July?

8 A No.

9 Q Okay. And the next bullet is:

10 "What is the process flight ops would
11 follow if someone, anyone, employee or
12 otherwise, report to the company that
13 they knew training records were
14 falsified?"

15 Did you get an answer to this question any time
16 before you left in July of 2016 your EO position?

17 A I believe, again, I spoke with Chris Puckett about
18 this, just in general, as to what that process was. But I
19 don't have it documented anywhere.

20 Q Do you remember what Chris Puckett told you?

21 A I don't remember the process he gave me.

22 Q Now the next section begins, "EO Questions for
23 Flight Ops to Ask Tom Albain re: My Conversation with
24 Petitt".

25 "Has he ever falsified, changed, or

1 altered training records for any reason,
2 for anyone at any time he has been with
3 NW or DL? If so, who, when, and why?"

4 Did you ever get an answer to these questions prior
5 to leaving in July of 2016?

6 A I did not.

7 Q Okay. And the next question --

8 A I --

9 Q -- the next question -- I'm sorry, were you going
10 to say something else?

11 A I was saying that, with the Albain, a lot of his
12 situations were safety-related.

13 Q M'hmm.

14 A So, yes, while I had the questions, they were
15 being, really, again, reviewed from that safety perspective.
16 So, looking at making sure the answers were, from that
17 safety side of things, understood.

18 Q Did you ever -- did you ever prompt flight ops to
19 provide you with answers to these questions?

20 A I know I spoke with Mr. Puckett about my questions,
21 and what I needed to follow up on.

22 Q Mr. Puckett is in labor relations. Correct?

23 A Correct.

24 Q So, my question is, did you ever talk to anyone in
25 flight operations to prompt them to provide you answers to

1 these questions?

2 A No.

3 Q Okay. And that next --

4 "Have you ever told a student, Karlene Petitt
5 specifically, that you only needed to
6 come in 10 minutes early for the oral
7 portion of an LOE, which according to
8 her, was supposed to be a 90-minute talk
9 through?"

10 Did you obtain an answer to that question before
11 leaving EO in July of 2016?

12 A No.

13 Q And this question:

14 "Have you ever, for any reason, even
15 in jest, switched almost or all of the
16 instruments in a simulator because you
17 knew Petitt was going to be using that
18 simulator next?"

19 Did you ever get a question of -- an answer to that
20 question before leaving your EO position in 2016?

21 A In speaking with Chris Puckett, he said that he
22 didn't know of any complaints that they had had.

23 Q This was -- this was a question to be directed to
24 Mr. Albain. Correct?

25 A Correct. What I'm saying to you is, I didn't speak

1 to Mr. Albain.

2 Q Okay.

3 A And in speaking with Mr. Puckett, that's what I was
4 made aware of.

5 Q Had Mr. Puckett spoken to Mr. Albain?

6 A Not at the time, not about these questions that I'm
7 aware of.

8 Q Okay. And then the last one is:

9 "Have you ever changed, swapped
10 assignments with another instructor in
11 order to be the instructor for Karlene
12 Petitt with the intent to retaliate
13 against her for reporting that you
14 falsified training records?"

15 And you never got an answer to that question prior
16 to leaving EO in July of 2016 either. Correct?

17 A Correct.

18 Q Today, do you -- do you know whether a 10-minute
19 briefing for an LOE is adequate?

20 A I do not.

21 Q Now you were familiar with Ms. Petitt being told in
22 the training context or were -- Ms. Petitt alleging that she
23 had been told in the training context at Delta, "We have the
24 power to do what we want"?

25 A She -- when she and I talked, she did tell me that.

1 Q Okay. And that was a -- was that a matter of
2 concern for you when she reported that to you?

3 A Certainly, yes.

4 Q But would you agree that you did not investigate
5 that issue prior to leaving the EO in July of 2016?

6 A I didn't speak with anybody specifically about that
7 particular statement.

8 Q So, the answer is -- well, okay, I think that
9 that's an adequate answer.

10 And when a pilot instructor says to a pilot that he
11 is instructing, "We have the power to do what we want," that
12 would be a matter for an EO investigator such as yourself to
13 investigate. Correct?

14 A If any leader is -- is saying, or somebody in -- in
15 -- you know, that type of position is telling somebody that
16 we have the power to do what they want, I would want to
17 understand the context in why somebody would be saying that.

18 Q But you did not pursue any context or explanation
19 for that allegation. Correct?

20 A That particular -- I did not talk to anybody about
21 that one specifically.

22 Q Now prior to meeting with Ms. Petitt on March 8th,
23 you spoke with -- you spoke with Mr. Puckett.

24 A Correct.

25 Q Correct? And did you actually sit down -- did you

1 meet with him face to face?

2 A I did. Yes.

3 Q Okay. And did you actually sit down together and
4 draft JX-E?

5 A I believe we did. We sat down in a conference room
6 and looked over the document that she had provided --

7 Q M'hmm.

8 A -- and discussed what -- again, safety buckets, EO
9 buckets, and things like that. Yes.

10 Q And when you say, "the document that she had
11 provided," you were referring to JX-B?

12 JUDGE MORRIS: "E" do you mean?

13 MR. SEHAM: No. JX-B.

14 JUDGE MORRIS: JX-B.

15 BY MR. SEHAM:

16 Q When she referenced that we looked over the
17 document that she, "Ms. Petitt," had provided. I just want
18 to confirm that, that was JX-B.

19 A Yes.

20 Q Okay. And was that the first time that you had met
21 Mr. Puckett?

22 A In my career at Delta?

23 Q Yes.

24 A No. I've known him prior to that.

25 Q Okay. Had you met with him multiple times before

1 that?

2 A No. I don't know that I've ever met with him about
3 a Delta issue. I just knew -- knew him.

4 Q Very good.

5 A Yeah.

6 Q Now how many EO investigations have you conducted
7 in your career at Delta?

8 A I was there for 10 years so numerous, hundreds. I
9 don't have a number for you.

10 Q And would you agree with me that aside from Ms.
11 Petitt's case you only ever had one that culminated in a
12 mental health evaluation?

13 A Yes.

14 Q Okay.

15 A That I can remember. Correct.

16 Q And the one that culminated in mental health
17 evaluation involved a woman who claimed that she was being
18 held against her will and subject to helicopter surveillance.
19 Correct?

20 A Yes.

21 Q Okay. And this was your -- in two - you've been
22 conducting, or you had been conducting investigations at
23 Delta, EO investigations, for about two decades. Correct.

24 A Ten years, yes, since 2005, when I went into equal
25 --

1 Q Okay. One --

2 A -- opportunity --

3 Q -- decade. Okay.

4 A Yeah.

5 Q And this was your first investigation involving a
6 flight ops employee. Correct?

7 A Yes. I may have had one other.

8 Q Do you have any specific recollection of the other?

9 A I was speaking more with a flight attendant --

10 Q Okay.

11 A -- who had accused a pilot of something.

12 Q Okay. And this was --

13 A So, but I didn't speak with the pilot specifically
14 in that one.

15 Q Okay. So, this was your first interview of a pilot
16 during your employee (sic) at Delta.

17 A I believe so. Yes.

18 Q Did you check with anyone in flight ops or labor
19 relations prior to meeting with Ms. Petitt to determine if
20 Ms. Petitt should be allowed to bring a representative to
21 your March 8th interview?

22 A Yes. So, Ms. Petitt, this was -- these were her
23 complaints. This was not about her job performance or
24 something she had done wrong. So, from a representative
25 perspective, she didn't need to have one, nor did she ever

1 ask me to bring somebody with her.

2 Q Isn't it true that in advance of the March 8th
3 meeting, you were being told by Delta representatives that
4 Ms. Petitt had, in fact, engaged in misconduct?

5 A I don't know that to be the case. I don't remember
6 if somebody told me she had engaged in misconduct at all.

7 Q Well, Mr. Puckett told you that she had engaged in
8 multiple violations of the social media policy. Correct?

9 MR. ROSENSTEIN: Objection.

10 JUDGE MORRIS: Overruled.

11 THE WITNESS: He put that in his -- in that
12 document. It wasn't something that we had extensive
13 conversation about though, that I remember.

14 MR. ROSENSTEIN: My objection, again, that's not
15 what it says in the document that there were violations of
16 social media policy. It doesn't say that --

17 MR. SEHAM: I'm not referring --

18 MR. ROSENSTEIN: -- in the document.

19 MR. SEHAM: -- I wasn't referring to the document.

20 JUDGE MORRIS: It's overruled, Counsel.

21 BY MR. SEHAM:

22 Q Isn't it true that every other pilot that was
23 eventually interviewed with respect to Ms. Petitt's
24 allegations was afforded a pilot representative?

25 A If they were, it's because we had questions about

1 their conduct. I did not have questions about Karlene's
2 conduct. I had questions about her concerns. And therefore,
3 I needed to be able to speak with her. But if I had
4 questions about -- or in general, there were concerns about
5 the way somebody was treating her, then the representative
6 would have been appropriate.

7 Q Would you agree with me that the -- well, I think
8 you referenced a -- was it Captain Drennon?

9 A I don't know. I know his name was Phil Drennon. I
10 don't know if he was a Captain or --

11 Q Okay.

12 A -- a First Officer.

13 Q And you participated in an interview with him?

14 A I did.

15 Q And was he afforded a representation?

16 A He was retired and he met with us directly.

17 Q M'hmm.

18 A His was not about his conduct. His was about what
19 he noticed and saw during the check that he was in with Ms.
20 Petitt. But I did do that, I believe, with Scott Woolfrey.

21 Q Okay. And -- and Scott -- you did do what he did?

22 A I did do his meeting with Scott Woolfrey. Phil
23 Drennon and I met --

24 Q Oh, I see.

25 A -- with and Scott Woolfrey was there with us.

1 Q And who is Scott Woolfrey?

2 A He is -- I don't know what his title is. He, too,
3 was a -- I believe he was a Captain.

4 Q Okay. He's an ALPA representative. Correct?

5 A He could be.

6 Q Okay.

7 A I don't know for sure.

8 Q Okay. Would you agree that some of the EO issues
9 that you were assigned to investigate involved pilot training
10 compliance?

11 A I would agree that those -- yes, that came up
12 during our investigation. Yes.

13 Q Oh, okay. But that -- but you were specifically
14 assigned to investigate issues related to pilot training
15 compliance.

16 A So, I want to be clear. The compliance piece of it
17 is the safety piece of it. The reason that she felt that she
18 was being treated differently was what my focus had to be.
19 And I understand that it's blurred and it's -- I was not
20 specifically the only one looking at falsification of records
21 or inappropriate compliance or anything like that. That was
22 my scope. But understanding why that occurred from an EO
23 perspective was what was in my scope.

24 Q Would you agree that the EO issues that you were
25 assigned were intertwined with flight safety issues?

1 A Some of them absolutely were. Yes.

2 Q You would agree with me that you have no experience
3 with respect to pilot training. Correct?

4 A Correct.

5 Q And would you agree with me that you have no
6 experience with respect to pilot scheduling issues?

7 A Correct.

8 Q And would you agree that you never spoke to flight
9 operations representatives to get their input with respect to
10 the issues that Ms. Petitt was raising?

11 A Correct.

12 Q Did -- during the course of your investigation, did
13 you acquire any substantive knowledge relating to pilot
14 scheduling issues or pilot training issues?

15 A Again, I know Chris Puckett and I talked a bit
16 about some of those concerns. I didn't try to become an
17 expert on them but tried to get a better understanding of her
18 complaints and where they might be coming from.

19 Q If you could turn to your deposition, page 41. Let
20 me know when you're on that page.

21 JUDGE MORRIS: CX-202?

22 MR. SEHAM: Yes, sir. CX-202. Thank you.

23 THE WITNESS: I'm on the page.

24 MR. SEHAM: Okay.

25 BY MR. SEHAM:

1 Q And I want to refer you to line 13 which reads:

2 "QUESTION: My question is, did you
3 acquire any substantive knowledge with
4 respect to pilot scheduling during your
5 investigation of Ms. Petitt's matter?"

6 "ANSWER: I don't remember."

7 "QUESTION: And it's the same question
8 with respect to pilot training. During
9 the course of your investigation of Ms.
10 Petitt's matter, did you acquire any
11 substantive knowledge of pilot training?"

12 "ANSWER: I don't remember.

13 Do you remember today whether you acquired any
14 substantive knowledge in either of those areas?

15 A No.

16 Q Okay. Now Delta's written policy prohibits
17 retaliation in response to the filing of an EO complaint.
18 Correct?

19 A Correct.

20 Q And you considered Ms. Petitt to have filed an EO
21 complaint?

22 A I considered that some of the document that she
23 provided to be EO and HR-type concerns. Correct.

24 Q Okay. And Delta had decided to treat elements of
25 her safety report as an EO complaint. Correct?

1 A Correct.

2 Q And you typically advise EO complainants that you
3 will listen to them and will investigate their complaints
4 thoroughly. Correct?

5 A Correct.

6 Q And would you agree with me that in your
7 experience, employees have often expressed fear to you about
8 filing complaints, EO complaints?

9 A Yes. Some employees have.

10 Q And what have they articulated as the basis for
11 their fears?

12 A A number of different things. They didn't want to
13 get anybody else in trouble. They didn't want to get in
14 trouble themselves. Different things.

15 Q Did you ever tell these employees that their fears
16 were irrational?

17 A I've never told anybody that their fears were
18 irrational, including Ms. Petitt.

19 Q But you told other people that you thought Ms.
20 Petitt's fears were irrational.

21 A I don't know that I used the word "irrational".

22 Q M'hmm.

23 A What I did is, I said I was concerned for her
24 well-being.

25 Q You considered some of her concerns to be

1 irrational. Correct?

2 A You're putting words in my mouth.

3 Q I'm asking you a question.

4 A I didn't use the word "irrational".

5 Q I'm asking you what you thought. You thought some
6 of her concerns --

7 A So --

8 Q -- were irrational. Correct?

9 A -- I thought that her concerns --

10 Q Excuse me, ma'am. Did you think some of her
11 concerns were irrational? Yes or no.

12 A I didn't use the word "irrational".

13 Q I'm asking you what you thought. Do you understand
14 the difference between what you thought and what you
15 reported?

16 A I thought some of her comments and fears were
17 unusual based on what she was telling me, and concerning.

18 Q Did you consider some of her concerns to be
19 irrational?

20 MR. ROSENSTEIN: Objection. It's a language issue
21 and the words are susceptible to different definitions and
22 different default, and counselor has a view of a word. The
23 witness has to buy as to what she believed, what she thought.
24 She didn't choose to use that word. To force an answer to
25 that question, I think, is unhelpful to the tribunal.

1 JUDGE MORRIS: Mr. Seham.

2 MR. SEHAM: I'll withdraw the question because this
3 will -- we're going to come back to this.

4 BY MR. SEHAM:

5 Q Did you -- did you reach the conclusion that Ms.
6 Petitt considered herself to be subject to a hostile work
7 environment?

8 A I didn't substantiate that that's --

9 Q I'm asking you, did -- was that what Ms. Petitt was
10 expressing to you, that she was subject to a hostile work
11 environment?

12 A I don't know that she used those words. But she
13 felt as though she was being treated differently.

14 Q Have you ever before in the context of an
15 investigation into a hostile work environment concluded that
16 the employees expressed fear of retaliation was not to be
17 credited?

18 A Can you repeat the question? I want to make sure I
19 understand it.

20 Q In the context of a hostile work environment, in
21 which an employee expresses a fear of retaliation, have you
22 ever determined that that fear should be discredited?

23 A I don't believe so, if I understand your --

24 Q M'hmm.

25 A -- if that's what they felt, that's what they felt.

1 I don't -- I'm not sure I fully understand the question.

2 Q Has anyone in the past, in the context of an EO or
3 hostile work environment, claimed, expressed fear about
4 initiating a complaint?

5 A Yes. Employees have.

6 Q And -- and in that context, do you credit their
7 expression to fear?

8 A I don't know that I credit it. I understand why
9 employees are sometimes concerned to come forward.

10 Q Okay. Now this is -- I'm going to refer you to
11 your deposition, to page 51, CX --

12 JUDGE MORRIS: 202.

13 MR. SEHAM: -- 202.

14 THE WITNESS: I'm there.

15 MR. SEHAM: Okay.

16 BY MR. SEHAM:

17 Q I'm going to refer you to line nine, which reads:

18 "QUESTION: Has anyone who has been
19 subject to a hostile work environment in
20 your experience expressed fear about
21 initiating a complaint?"

22 "ANSWER: We've had employees that
23 have said that in the past."

24 "QUESTION: And did you not credit
25 their expression of fear?"

1 "ANSWER: Absolutely."

2 Was that your testimony?

3 A Yes. It's there.

4 Q So, would you agree with me that it's your general
5 policy when you've conducted hostile work environment
6 investigations to credit the employee with a genuine and
7 legitimate fear of retaliation?

8 A Yeah. If they're concerned, they certainly do, and
9 I do what I can to try to help them understand that we do not
10 tolerate retaliation.

11 Q Now when an EO department has received a harassment
12 complaint, is part of your standard approach in your
13 experience to review the complainant's personnel file prior
14 to interviewing him or her?

15 A Not all the time. Sometimes they do. Sometimes I
16 look at different things in their file but not the whole
17 file.

18 Q Is it part of your standard approach to obtain
19 information about the Complainant's prior misconduct?

20 A Not necessarily prior to talking to the
21 Complainant. No.

22 Q Okay. Well hidden -- okay. Is -- is part of your
23 standard approach, prior to interviewing the Complainant, to
24 see if the Complainant's own conduct has contributed to his
25 or her situation?

1 A Not necessarily prior to my conversation with the
2 employee. No.

3 Q Not necessarily or --

4 A It depends. Sometimes I do --

5 Q Sometimes you do that.

6 A -- and sometimes I don't. Yes.

7 Q Now part of your standard approach to an EO
8 investigation is to assure the Complainant that she will not
9 be subject to retaliation. Correct?

10 A I am clear that Delta does not tolerate
11 retaliation.

12 Q Yeah. That's not my question. I'm asking you, is
13 it your standard approach to tell the Complainant and assure
14 them that Complainant will not be subject to retaliation?

15 A I can't assure what anybody will do. But what I am
16 very clear on is that Delta does not tolerate retaliation.
17 So, if she, or anybody that I am talking with because of
18 their concerns, then comes to me later to say, "I've been
19 retaliated against," then I would take action on that.

20 Q M'hmm. If you could turn your -- to your
21 deposition, CX-202, page 52, line six. Let me know when
22 you're there.

23 A I'm there.

24 Q And the question was:

25 "QUESTION: And is that part of your

1 standard interview approach to assure the
2 Complainant that he or she won't be
3 subject to retaliation?"

4 "ANSWER: Absolutely. It's our company
5 policy."

6 Does that refresh your recollection as to whether
7 it's your standard interview approach to assure the
8 Complainant that he or she won't be subject to retaliation?

9 A It does. And let me just clarify with that
10 because, again, somebody else's conduct I can't -- I don't
11 have control over somebody else's conduct. So, if somebody
12 is retaliating against them, I don't have control over that.
13 What I do have control over is to ensure that when I'm
14 talking with people that are involved in whatever situation,
15 I remind everybody that retaliation is against our policy.
16 It's not acceptable. And I do all possible to ensure that
17 never takes place. If it does, then the Company takes action
18 on that immediately.

19 Q M'hmm. So, is the answer "yes" that your standard
20 interview approach is to provide that assurance of no
21 retaliation to the Complainant?

22 A I do my best to assure the Complainant, yes, that
23 our policy is no retaliation.

24 JUDGE MORRIS: At the beginning of the interview,
25 if you're going to talk to someone, do you tell them, "Oh, by

1 the way, it's the Company's policy not to retaliate."

2 THE WITNESS: Correct.

3 JUDGE MORRIS: "And if anyone does retaliate
4 against, you come see me" --

5 THE WITNESS: Let me know immediately.

6 JUDGE MORRIS: -- "and let me know."

7 THE WITNESS: I do. Beginning and the end of the
8 interviews I talk about that. Yes.

9 JUDGE MORRIS: And that's your normal practice --

10 THE WITNESS: That's my normal --

11 JUDGE MORRIS: -- in your investigations.

12 THE WITNESS: -- practice. Yes.

13 JUDGE MORRIS: Continue.

14 MR. SEHAM: Okay.

15 BY MR. SEHAM:

16 Q And do you have any specific recollection of having
17 provided Ms. Petitt with that assurance?

18 A I do.

19 Q Okay. How did you express it?

20 A In -- in that manner. I basically say that our
21 company policy is not to retaliate.

22 Q Okay. And if you -- oh, I'm sorry.

23 A It's all right. We don't retaliate and if there
24 was a feeling of retaliation at some point, that again, I
25 would want her to let me know.

1 Q If you could refer to your deposition, page 52 at
2 line 12.

3 A Yes.

4 Q Okay. And you see the question is:

5 "QUESTION: Did you ever tell Ms.
6 Petitt that she would not be subject to
7 retaliation?"

8 "ANSWER: I don't remember if I said
9 those words specifically to her."

10 That was --

11 MR. ROSENSTEIN: Objection.

12 JUDGE MORRIS: Basis?

13 MR. ROSENSTEIN: The manner in which that was
14 described connoted a definition by the emphasis on how it was
15 read to the witness. The witness should be allowed to read
16 her own testimony.

17 JUDGE MORRIS: Overruled. Go ahead, Counsel.

18 MR. SEHAM: Okay.

19 BY MR. SEHAM:

20 Q Was that the testimony that you gave during your
21 deposition?

22 A I did, based on the question you asked me.

23 Q Okay. And based on the question I asked you, was
24 that an accurate answer at the time?

25 A Again, I can't tell --

1 Q I'm asking you, was that accurate? Did you -- did
2 you -- in response to that question, did you testify
3 accurately?

4 A Yeah. I don't remember if those words are what I
5 said specifically to her.

6 Q Okay.

7 A Correct.

8 Q So I believe you testified -- well, let me not even
9 make a reference to that. Under -- under Delta policy, Delta
10 may require an employee victim to participate in an EO
11 investigation even if that victim does not want to
12 participate?

13 MR. ROSENSTEIN: Objection to the term victim.

14 JUDGE MORRIS: Well, I don't know if the term is
15 used so overruled.

16 THE WITNESS: A Complainant at Delta --

17 MR. SEHAM: Yeah. Let's change the question to
18 Complainant and then we'll resolve the objection. Let me
19 rephrase the question.

20 BY MR. SEHAM:

21 Q Delta may require an employee -- well, no,
22 actually, I'm sorry. I can't say Complainant because that's
23 the whole point of the question, that sometimes Delta
24 conducts an investigation of an issue involving a potential
25 victim, when that potential victim has no interest in an

1 investigation. Correct?

2 A If something is brought to our attention about
3 somebody that is -- by somebody else, yes, we look into those
4 matters. Or if an employee comes to us directly and says,
5 "Hey, look, I need to tell you something but I don't want you
6 to do anything," we can't always honor that. So, if Delta
7 needs to investigate, we will investigate even if that
8 employee asks us not to or does not want us to investigate.

9 Q So -- so, even in -- even if that person who is
10 being -- I don't want to use the word "complainant" because
11 they're not filing a complaint. If the purported victim has
12 no interest in participating in that EO investigation, is she
13 entitled to union representation when she -- when she is,
14 thereafter, required to participate?

15 A If you're speaking about Ms. Petitt directly, she
16 never said she wasn't going to participate --

17 Q No, no. I'm not -- I'm asking a generic question.

18 A So --

19 Q Someone is disinterested in participating in the
20 company's EO investigation, having been identified as the
21 purported victim, is that person entitled to union
22 representation?

23 A I don't know the collective bargaining agreement
24 well enough.

25 Q Okay.

1 A But at the end of the day, when somebody --

2 Q The answer is, you don't know?

3 A -- makes a complaint --

4 MR. ROSENSTEIN: Well, could she finish her answer?

5 That was an open question.

6 JUDGE MORRIS: Yes. She may finish your question.

7 THE WITNESS: When somebody makes a complaint, if
8 it's flight ops, I would follow the collective bargaining
9 agreement, whatever that might be. In any other division
10 that's not represented, they don't have a representative
11 anyway but we do ask them to cooperate with the company
12 investigation regardless of who they are or where they are.

13 BY MR. SEHAM:

14 Q Have you had EO complainants who cried during an
15 interview with you?

16 A I'm sure I've had some that have become emotional.
17 Yes.

18 Q Have you had both men and women become emotional
19 and/or cry?

20 A I could have. Yes.

21 Q You don't have any specific recollection?

22 A I don't remember specifically of men and/or women.
23 I mean, I know I've had people that, again, become emotional.

24 Q Sometimes you've had occasions to offer a person a
25 tissue or Kleenex during an interview. Isn't that correct?

1 A Yes.

2 Q Okay. So, clearly, people have cried during these
3 interviews. Correct?

4 A I'm sure.

5 Q Okay. Or a glass of water to calm them down.
6 Correct?

7 A Yes.

8 Q Did any of these persons who cried during their EO
9 interview use -- ever get referred to you for -- referred by
10 you to the company doctor, to the DHS?

11 MR. ROSENSTEIN: Objection to the form and
12 foundation. Ms. Nabors -- is there foundation that Ms.
13 Nabors referred anyone to the company doctor?

14 JUDGE MORRIS: Yes. Overruled.

15 MR. ROSENSTEIN: There's evidence that Ms. Nabors
16 referred somebody to the company doctor? I don't believe --

17 JUDGE MORRIS: I don't know. I'm waiting for the
18 answer.

19 MR. ROSENSTEIN: So, that's why it's a foundation.

20 I mean, with all respect, that's -- I think the first
21 question is, did you refer Ms. Pettitt to the company doctor.

22 And then -- otherwise, it's presuming that something
23 happened that I don't think there's evidence of.

24 JUDGE MORRIS: Ask your preparatory question,
25 Counsel.

1 MR. ROSENSTEIN: Thank you. I apologize.

2 BY MR. SEHAM:

3 Q Well, do you -- in -- well, let me go back. Would
4 you agree with me that you had at least 10 or more occasions
5 when you've had men or women crying during an EO interview?

6 A It's likely. I couldn't give you a number of -- of
7 the people that have -- you know, cried during my interviews.

8 Q Okay. And to the extent you've had people subject
9 to EO investigations as -- as complainants who cried during
10 their investigation or your interview of them, do you recall
11 any case involving a referral of that person to a physical
12 fitness or a mental health evaluation?

13 A No. I do not remember.

14 Q If you could turn to your deposition, CX-202, page
15 54, starting at line 16, and let me know when you've gotten
16 there.

17 A I'm there.

18 Q Okay. The deposition reads:

19 "QUESTION: Do Complainant's ever
20 become emotional during their
21 interviews?"

22 "ANSWER: Yes."

23 "QUESTION: How frequently has that
24 happened?"

25 "ANSWER: It's happened in the past

1 and it kind of depends on what the
2 situation is."

3 "QUESTION: Does that include men and
4 women crying?

5 "ANSWER: Yes."

6 "QUESTION: How many times have you
7 experienced men or women crying in an EO
8 interview?"

9 "ANSWER: I couldn't give you a
10 number."

11 "QUESTION: More than 10? Less than
12 10?"

13 "ANSWER: Probably more than 10."

14 Now you gave that -- you gave that testimony in
15 November of 2018.

16 A Yes.

17 Q Okay. So, would you agree with me that you
18 probably had more than 10 instances in which individuals --

19 A Could have --

20 Q -- in the context --

21 A -- could have --

22 Q -- let me -- let me -- let me finish the question,
23 please. That you've probably had more than 10 individuals in
24 the context of EO investigations, men and women, who have
25 started to cry.

1 A Could have been more than 10.

2 Q Okay. Now you've testified you were provided with
3 JX-B prior to your interview with Ms. Pettitt.

4 A Yes.

5 Q And that you were provided that document by Mr.
6 Puckett.

7 A Yes. I actually think that it was originally -- it
8 may have originally been given to Melissa Seppings, the
9 Director of Equal Opportunity --

10 Q M'hmm.

11 A -- who then shared it with me. But I -- she
12 connected me with Chris and the document.

13 Q Okay. But you -- but you --

14 A I don't remember.

15 Q -- but you had that report, and you read the report
16 prior to interviewing Ms. Pettitt. Correct?

17 A Correct.

18 Q And you brought that report with you to the
19 interview. Correct?

20 A Some form of the report, possibly that full report,
21 yes.

22 Q Okay.

23 A Yes.

24 Q And Mr. Puckett also provided you with a number of
25 additional documents. Correct?

1 A I don't remember specifically what he provided me
2 with. He may have though.

3 Q Isn't it true that he provided you with
4 correspondence with managers in flight ops?

5 A He could have. Yes.

6 Q And would you agree with me that some of the
7 e-mails that Mr. Puckett provided you might have been outside
8 the scope of your investigation as outlined in the action
9 plan?

10 A I honestly don't remember what he provided me. So,
11 I wouldn't be able to -- to answer that "yes" or "no".

12 Q Now would you agree with me that the -- it was
13 brought to your attention prior to the March 8th interview of
14 Ms. Petitt that she had, had engaged in certain undesirable
15 behaviors and that she was continuing with those behaviors?

16 A I don't know specifically -- I really just don't
17 remember specifically what Mr. Puckett and I talked about
18 other than what was in here, and some of the concerns that
19 may have already been brought up.

20 Q Well, was it ever brought to your attention that
21 she had engaged in certain behaviors that were undesirable
22 and that she was continuing with those behaviors?

23 A I know that, at some point, we talked about the
24 trademarking and social media, that kind of thing. And that
25 there was -- she wasn't necessarily stopping it or she

1 continued to ask. But I don't -- I don't remember the
2 conversation and she continues to desire -- or to, you know,
3 engage in these undesirable -- you know, with this
4 undesirable conduct. I don't specifically remember that.

5 Q Well, do -- you were provided e-mails that -- that
6 evidenced that she was representing herself as a Delta
7 employee in blogs and book signings.

8 A Right. At some point, I do know that I had that
9 information. Correct.

10 Q And that was provided to you in e-mail form.

11 A It could have been but Ms. Petitt and I talked
12 about that as well.

13 Q Okay. And who provided you with that material?

14 A It would have been Chris Puckett if I received any
15 of that information. And Karlene shared different things
16 with me as well.

17 Q M'hmm. Does Delta have a chain of command policy?

18 A You're referring to documents that are sent or --

19 Q Yeah. Well, let's -- let's narrow it to that. Is
20 there -- is there a written published Delta chain of command
21 policy?

22 A Not -- I -- I don't know, honestly.

23 Q Okay. Is there an unwritten chain of command
24 policy at Delta Airlines?

25 A I'm not sure what you're referring to. So, sending

1 the e-mails is something we just do. I don't -- I don't know
2 if you're being specific about certain information or --

3 Q Well, to be more specific, is there -- is there an
4 expectation by Delta management that employee communications
5 adhere to some unpublished chain of command policy?

6 A Oh, I understand what you're saying.

7 Q M'hmm.

8 A I believe. So we have an open door policy. Is
9 that more what you're talking about? I can talk to anybody
10 at the company or what --

11 Q Is that --

12 A -- whether you --

13 Q We can go down that path. There is an open door
14 policy at Delta?

15 A Delta has an open door policy.

16 Q And what does that mean to you?

17 A It means that if employees have a need or desire to
18 -- to reach out to a leader that's not their direct leader,
19 that they can certainly do that. However, we expect
20 employees to try to work up that chain as far as start with
21 your leader if you don't feel as though you're getting the
22 response or -- or understanding that you need, then, you
23 know, if you feel as though you need to talk with somebody
24 else, you certainly can.

25 Q Okay. So -- so, there is an expectation by Delta

1 managers that an individual should work up a chain before
2 going to top management representatives?

3 A I think it depends on what it is. We would expect
4 the employee to utilize top management realistically and
5 professionally. So, if you're reaching out to top management
6 for a specific reason, we would hope that you've already
7 tried to vet whatever that issue is, or situation is, at a
8 lower level. But we all have our roles at Delta. So, it's
9 just a matter of how that works.

10 Q What you've just expressed in terms of
11 expectations, is that codified in any Delta policy document?

12 A I believe we have an open door policy, just in
13 our -- the way we fly or the rules of the road. I think it
14 talks about an open door policy. But I don't know that
15 there's anything called a chain of command policy, if you
16 will.

17 Q Were you advised by anyone with -- in Delta that
18 Ms. Petitt had engaged in communications with the CEO of
19 Delta that did not conform with Delta's chain of command
20 policy?

21 A I was advised by Ms. Petitt, and I may very well
22 have been told that by Chris Puckett as well.

23 Q Okay. Now your view is that Ms. Petitt engaged in
24 communications with a CEO which were inappropriate. Correct?

25 A She told me that she had sent, I believe, Richard

1 Anderson an e-mail or asked him about a Christmas party,
2 which, if you're asking me, personally? I think Richard
3 Anderson has different things to do rather than approving a
4 Christmas Party, or a budget for a Christmas Party.

5 JUDGE MORRIS: So I'm clear, Richard Anderson is
6 the --

7 THE WITNESS: He was the --

8 JUDGE MORRIS: -- was the CEO.

9 THE WITNESS: -- CEO, I believe --

10 JUDGE MORRIS: All right.

11 THE WITNESS: -- at the time she was reaching out.

12 Yes.

13 JUDGE MORRIS: All right. Thank you.

14 THE WITNESS: Sorry. You're welcome.

15 BY MR. SEHAM:

16 Q Well, if you can turn to your deposition, at page
17 65, line 23:

18 JUDGE MORRIS: And that's CX-202 for ID.

19 MR. SEHAM: Yes, yes.

20 THE WITNESS: I'm there.

21 MR. SEHAM: Yes. It's CX-202.

22 BY MR. SEHAM:

23 Q And we'll actually move up to line 19 of page 65.
24 Are you -- are you at that page?

25 A I am on page 65, line 19.

1 Q Okay.

2 "QUESTION: Okay. You mentioned
3 e-mails, certain e-mails. What was the
4 content of the e-mails that reflected
5 misconduct or misbehavior?"

6 "ANSWER: The e-mail that Ms. Petitt
7 and I talked about specifically. Or one
8 of them was the e-mail to Richard
9 Anderson in which she asked -- in which
10 he had asked for a Christmas Party
11 question."

12 "QUESTION: And that was considered
13 misconduct or misbehavior."

14 "ANSWER: As Delta has an open door
15 policy, we still have a process in which
16 Mr. Anderson wouldn't be the one paying
17 for that Christmas Party. So, it's just
18 a different chain of command that we
19 would expect."

20 Is that your testimony?

21 A Yes.

22 Q Okay. And then you went on to testify:

23 "QUESTION: Does it warrant discipline
24 that someone sends an e-mail to the CEO
25 asking to facilitate a Christmas Party?"

1 "ANSWER: It depends on the
2 situation."

3 That was your testimony as well?

4 A Yes.

5 Q So, looking back at line seven, it says, "So, it's
6 just a different chain of command that we would expect." Who
7 are you referring to? Is the reference to "we" --

8 A Delta.

9 Q -- meaning Delta? Okay.

10 A Correct.

11 Q Now in terms of --

12 JUDGE MORRIS: Wait a minute. Could one of the
13 factors be, let's suppose that a person has a personal
14 relationship with the CEO but happens to be the -- a line
15 mechanic.

16 THE WITNESS: Right.

17 JUDGE MORRIS: Would that impact on the
18 appropriateness of reaching out to someone that they had
19 previous contact or knew, or would you expect that, that had
20 to go to the director of maintenance before it went to the
21 CEO?

22 THE WITNESS: I would expect that it would be -- it
23 would go to the person who would be responsible for paying
24 for that. So, whoever would give the approval to say, "Sure,
25 you can have this Christmas Party, and yes, you can use Delta

1 funds," or "Yes, we will secure the space for you." Whoever
2 that person would be, which would likely be that person's
3 immediate --

4 JUDGE MORRIS: Are you saying --

5 THE WITNESS: -- leader.

6 JUDGE MORRIS: -- that the CEO wouldn't have the
7 authority to authorize a Christmas --

8 THE WITNESS: They absolutely would.

9 JUDGE MORRIS: Okay.

10 THE WITNESS: Yes. They would. But I'm also
11 saying he also would have more important things to do, which
12 is why, for something like that, we would suggest your direct
13 leader.

14 JUDGE MORRIS: So, what I'm hearing from your
15 testimony --

16 THE WITNESS: Yes.

17 JUDGE MORRIS: -- and don't let me put words in
18 your mouth is --

19 THE WITNESS: Okay.

20 JUDGE MORRIS: -- while there is no formal chain of
21 command, you're talking about whether or not the most prudent
22 judgment to write to the CEO as opposed to a policy that
23 precludes that. Is that where you're coming from?

24 THE WITNESS: That's a fair statement. We do have
25 an open door policy. So, if somebody wants to write to the

1 CEO, and ask questions, they can. But again, there's a
2 process with some things that we would say, maybe start with
3 that to follow -- or before you immediately jump to the head
4 of the company.

5 JUDGE MORRIS: Okay. Go ahead, Counsel.

6 MR. SEHAM: Okay.

7 BY MR. SEHAM:

8 Q Now in terms of misconduct -- Ms. Pettitt's conduct
9 prior to March 8th, would you agree that there was nothing in
10 the lead up to the March 8th meeting that caused you any
11 concern?

12 A Correct. I didn't have any conversation with her
13 prior to that.

14 Q Okay. You had --

15 A No. I apologize. That's not true. She and I
16 talked. But I didn't have anything -- that was the point of
17 our March 8th meeting was to try to figure out what was going
18 on and that kind of information.

19 Q Okay. So -- so, the answer is -- would the answer
20 be "no"? No, you did not have any concerns about her prior
21 to March 8th.

22 A That's the answer. I didn't have any concerns --

23 Q Okay.

24 A -- about her prior to March 8th. I apologize. I
25 think I misunderstood the question --

1 Q No. That's fine.

2 A -- at best.

3 Q And would you agree with me that Ms. Petitt never
4 asked for an EO investigation. Correct?

5 A She didn't specifically say, "I want these things
6 looked at by EO," but based on what she provided in that
7 larger document to flight ops, again, that's part of what we
8 do when something comes to our attention.

9 Q If you could turn your deposition to page 68,
10 CX-202, page 68.

11 A I'm there.

12 Q Line eight.

13 "QUESTION: Ms. Petitt never asked for
14 an EO investigation. Isn't that
15 correct?"

16 "ANSWER: Correct. She sent her
17 concerns into flight ops."

18 Is that the testimony you gave?

19 A That's accurate. Yes.

20 Q Okay. And in her discussions with you, she never
21 used the terms EO or Equal Opportunity. Correct?

22 A I don't remember if she specifically used EO or
23 Equal Opportunity in the discussions with me once she knew
24 that I was in Equal Opportunity. She may have but she may
25 not have.

1 Q All right. If you can turn to page 73 of your
2 deposition, line four.

3 A Okay. I'm there.

4 Q Okay. The question was:

5 "QUESTION: Okay. What were -- Ms.

6 Petitt never used the term EO. Correct?"

7 "ANSWER: Correct."

8 Was that -- is that accurate testimony?

9 A It may be. Like I said, I don't remember if she
10 used the term EO or Equal Opportunity specifically. I know
11 -- you know, I used that when I was speaking with her.

12 Q Well, I -- but --

13 A But I don't remember her using it specifically.
14 Correct.

15 Q Well, here you answered affirmatively --

16 A Right.

17 Q -- that Ms. Petitt did not use the term.

18 MR. ROSENSTEIN: Objection.

19 BY MR. SEHAM:

20 Q Correct?

21 JUDGE MORRIS: Counsel.

22 MR. ROSENSTEIN: Asked and answered. I -- I --

23 we're now well over the time that I took on direct for this
24 witness. We gave up time yesterday. I'm looking over at an
25 outline there that looks like it's barely been touched. And

1 I feel like we're going over the same questions that have
2 been established over and over again, none of which is really
3 pushing the ball forward as what is in front of you and being
4 helpful to the tribunal. And I am concerned about the time.

5 And I believe that, that we tried to move quickly through
6 our examinations and I thought that there would be the
7 similar quickness through some of this testimony as well. I
8 think that this is asked and answered.

9 JUDGE MORRIS: Counsel.

10 MR. SEHAM: I don't know what portion of that you
11 want me to respond to. Let me say briefly that we were all
12 on the teleconference, the tribunal and opposing counsel, and
13 part of the pretrial arrangement was that we were not going
14 to subpoena these individuals for our case in chief, meaning
15 the company's witnesses with the understanding that we
16 weren't going to be limited to -- in our cross-examination to
17 the scope of direct. I would say it's hard to give a
18 hierarchy of witnesses but this is probably either -- at
19 least the second most important witness in this case. And
20 yes, it's going to take additional time.

21 In terms of asked and answered, she gave an answer
22 that was at variance with her deposition testimony, in our
23 view, to be noncontentious. And now we're just trying to
24 ascertain whether she's changing her current testimony or
25 whether she has some explanation for the different testimony

1 that she gave in her deposition. I don't consider that asked
2 and answered.

3 JUDGE MORRIS: In response to the objection, it's
4 overruled. I will also note that I do view this witness as
5 one of the key witnesses in this case. So, I am going to
6 give latitude for the testimony that needs to be elicited in
7 this. I'm not in a position or won't opine as to where in
8 the pecking order but it's clear to me that this is a -- this
9 is an important witness for the resolution of this case.

10 You may proceed, Counsel.

11 MR. SEHAM: Okay. All right.

12 BY MR. SEHAM:

13 Q Referring back to the deposition, prior to the
14 pause here, page 73, line four:

15 "QUESTION: Okay. What were -- Ms. Petitt never
16 used the term EO. Correct?"

17 "ANSWER: Correct."

18 Would you agree with me today, Ms. Nabors, that Ms.
19 Petitt never used the term EO during her communication to you
20 on March 8th?

21 A Your initial question was Equal Opportunity --

22 Q I'm --

23 A -- or EO. Let me go back --

24 Q Now I'm -- no, no.

25 A -- to your initial question.

1 Q I'm asking you a question.

2 JUDGE MORRIS: Well, let -- let -- answer his
3 question.

4 THE WITNESS: Is -- as it pertains to this question
5 right here? I would say correct.

6 MR. SEHAM: Okay. Thank you.

7 BY MR. SEHAM:

8 Q Now she -- she communicated to you issues related
9 to recurrent training. Correct?

10 A She did relate -- yeah. She talked about some of
11 the issues in training. Correct.

12 Q Okay. And she actually, specifically raised
13 several issues related to non-compliance with training
14 requirements. Correct?

15 A Correct.

16 Q And you assured her that the EO investigation would
17 follow up on those training compliance issues. Correct?

18 A It -- yes. I -- I assured it that I would look
19 into those or -- and what I did was pass those off to Mr.
20 Puckett from a compliance perspective.

21 Q And can you identify any safety issues that she
22 raised that you considered inappropriate or beyond the scope
23 of your investigation?

24 A The safety issues that were raised from compliance
25 and falsification of training records, those things, again,

1 were under the safety umbrella. It was my job to try to
2 determine whether she was being treated unfairly or
3 differently or -- or if those actions, if you will, by any
4 instructors were deliberate and towards her.

5 Q My question is, can you identify any safety issues
6 that she raised that you considered inappropriate or beyond
7 the scope of your investigation?

8 A The safety issues that she raised, I -- I -- if
9 you're looking for me to give you specifics, as I said, any
10 of the training concerns, compliance concerns, I would have
11 fed those back to Mr. Puckett to ensure that, that team, the
12 flight ops team was looking into those.

13 Q Okay. Okay. Now you knew prior to meeting with
14 her that she was concerned about retaliatory line checks.
15 Correct?

16 A She -- I don't remember if she brought those
17 specifically up before I met with her on the 8th or not. I
18 know it was in her document.

19 Q M'hmm.

20 A But I don't know specifically that she and I talked
21 about that.

22 Q Okay. And you don't recall whether it was in the
23 outline of questions that you and Mr. Puckett came up with.
24 Do you recall?

25 A I -- if it was retaliation, if she was claiming

1 retaliation against something, I probably would have been
2 looking into it.

3 Q M'hmm.

4 A But again, not the actual falsified documents, the
5 compliance of things that falls under the flight ops --

6 Q Okay.

7 A -- safety investigation.

8 Q And that would have been the line check conducted
9 by Mr. Albain. Correct?

10 A The specific check itself, yes. The actions of Mr.
11 Albain, I would have been --

12 Q Do you know what --

13 A -- addressing.

14 Q -- a line check is?

15 A I can't specifically explain it. No.

16 Q Okay.

17 A I understand the process and as I talked with Ms.
18 Petitt, I understood what -- the point, yes.

19 Q Well, what's your understanding --

20 A The current type of training to ensure she's -- any
21 pilot is -- is current and understands portions of their --
22 their responsibilities and duties.

23 Q That's -- that's your understanding of a line
24 check?

25 A Yeah. As I said, I don't know exactly. I wouldn't

1 be able to give you a definition of it.

2 Q Okay. And did you -- do you have any
3 understandings of what the consequences are to a pilot if he
4 or she is determined to have not performed adequately during
5 a line check?

6 A I didn't have a lot of knowledge or understanding
7 of that.

8 Q Okay. At the -- at the time you interviewed her,
9 did you have any understanding of the concept of a
10 retaliatory line check as presenting a potential harm to the
11 targeted pilot's career?

12 A No.

13 Q Okay. Did you ever ask anyone to explain the
14 concept of a retaliatory line check?

15 A Not in those specific -- not in that specific term,
16 no.

17 Q Okay. And as you sit here today, you have no
18 specific recollection of the flight safety issues she raised
19 beyond those issues in your JX-E outline. Correct?

20 A Flight safety was for flight ops and the safety
21 investigations.

22 Q I'm asking, do you have any specific recollection
23 of the safety issues that she raised beyond what was
24 referenced in your JX-E?

25 A No. I do not.

1 Q Okay. Now she told you prior to -- I believe -- I
2 believe you testified that -- that prior to your meeting on
3 March 8th, she had told you that she didn't want to be seen
4 talking to you by anyone in the flight ops group. Correct?

5 A Correct.

6 Q And by this, did you surmise that she was fearful
7 that she would be subject to retaliation by someone in flight
8 ops based on her conversations with you?

9 A Yeah. I didn't know exactly why she didn't want
10 anybody knowing that we were -- I -- mostly because nobody in
11 flight ops knows who I am. But --

12 Q But that's not my question.

13 A Okay.

14 Q My question is, did you surmise -- did you conclude
15 that her desire not to be seen by flight ops was based on her
16 concern that she could be subject to retaliation?

17 A I think what she said is, "I didn't want anybody
18 asking questions or they would start asking questions if they
19 saw us together or saw me talking to you."

20 Q And did you --

21 A So, I didn't surmise anything. I simply went with
22 the fact that she didn't want to meet in ACS because she
23 didn't want to deal with the questions. And so, we met at
24 the hotel.

25 Q What you just described her as having told you, did

1 not cause you to believe that Ms. Petitt was concerned about
2 retaliation?

3 A Well, again, nobody knows who I am. So --

4 Q No. I'm not asking about the rationality of her --
5 of her concern. But wasn't it clear to you at that time that
6 Ms. Petitt was worried about being subject to retaliation for
7 cooperating with you.

8 A It was -- it was clear that she had concerns with
9 meeting with me where anybody in the flight ops world would
10 know. And yes, that could have been because she was
11 concerned about retaliation.

12 Q Okay. And did you ever ask her about whom she was
13 concerned?

14 A I don't know if I specifically asked her but I did
15 say to her, "I don't know anybody in the flight ops area. I
16 don't know anybody there. They wouldn't know who I was."
17 So, I did make it clear that the ASC area was not near the
18 flight ops area.

19 Q Is -- you don't remember ever -- is it correct that
20 you don't remember ever asking her of whom are you afraid --

21 A Correct.

22 Q -- in terms of Seattle flight ops?

23 A I don't remember ever asking her, "Who do you think
24 would see us?" Correct.

25 Q Now you -- you proceeded to interview her in the

1 lobby of a hotel. Correct?

2 A In a -- in an area, it's not the direct lobby, but
3 in an area of the Crowne Plaza Hotel.

4 Q Okay.

5 A Correct.

6 Q And there was no door barring entry into that area.
7 Correct?

8 A Correct.

9 Q So, anyone could have walked into that area and
10 there was -- well, let me ask that. Anyone could -- anyone
11 entering the hotel could have entered that area. Correct?

12 A Correct.

13 Q Now how many -- how far were you from the front
14 desk where you were located?

15 A It's not a large hotel area. I don't know. Ten or
16 15 feet.

17 Q Okay. Would you agree that throughout the course
18 -- and you were there over three hours. Correct?

19 A About three hours. Yes.

20 Q Okay. And during those three hours, she -- she
21 talked about Delta's noncompliance with Federal Aviation
22 standards. Correct?

23 A She talked some about that. Yes.

24 Q Okay. And she -- she talked about near
25 catastrophic accidents involving Delta aircraft. Correct?

1 A She mentioned something like that. Yes.

2 Q Okay. And she was tearful -- she became tearful at
3 times when she talked about safety-related issues.

4 A She became tearful during a number of different
5 conversations or topics during our conversation.

6 Q And it never occurred to you to move the meeting to
7 a less public venue?

8 A She never asked me to move the meeting.

9 Q I'm asking you whether it occurred to you when
10 someone is tearful and talking about near catastrophic Delta
11 aviation accidents, whether it ever occurred to you that,
12 that meeting might be better conducted in another venue?

13 A We were in an area in which there wasn't anybody
14 else around. She wasn't talking loudly. We were talking
15 quietly amongst ourselves. She wasn't emotionally throwing
16 herself on the floor. If she was tearful, this was a
17 conversation that she and I were having that, at that time,
18 was appropriate to have where it was. However, I had secured
19 a quiet conference room that would have been completely
20 confidential, that she told me that she did not want to meet
21 in.

22 Q Okay. Did you keep -- you had -- after your
23 meeting on March 8th, you had subsequent telephone calls on
24 the 21st and 23rd. Correct?

25 A Correct.

1 Q And you -- did you take notes during those
2 conversations?

3 A I did.

4 Q Okay. And you discarded those notes as well?

5 A Once I wrote up the summary, correct.

6 Q Okay.

7 MR. ROSENSTEIN: Would this be a time -- it's been
8 --

9 MR. SEHAM: Oh, sure.

10 MR. ROSENSTEIN: -- it's been two hours.

11 MR. SEHAM: Yes.

12 MR. ROSENSTEIN: Is this an appropriate time --

13 JUDGE MORRIS: Sure.

14 MR. ROSENSTEIN: -- to stretch our legs?

15 JUDGE MORRIS: Are you okay with that, Counsel?

16 MR. SEHAM: I'm fine with that, Your Honor.

17 JUDGE MORRIS: All right. It is 10:30. Let's take
18 10 minutes. See you at 20 of the hour. The hearing is in
19 recess. Ma'am, do not discuss your testimony while you are
20 on the stand.

21 (Off the record, 10:30 o'clock a.m.)

22 (On the record, 10:40 o'clock a.m.)

23 JUDGE MORRIS: All parties present when the hearing
24 last recessed are again present. You may continue with your
25 cross, Counsel.

1 BY MR. SEHAM:

2 Q Was it your testimony on direct, Ms. Nabors, that
3 it was difficult for you to get a word in edge wise with Ms.
4 Pettitt?

5 A It was at times. Yes.

6 Q At times.

7 A Correct.

8 Q Not throughout the entire conversation then.

9 A Not the entire conversation but much of it.

10 Q Much of it. And you -- you were able to ask all of
11 your questions and get answers to all of your questions.
12 Correct?

13 A I believe I was able to get many of my questions
14 answered. I don't remember having anything completely
15 outstanding.

16 Q Okay. Well, okay. So -- so, if you look at JX-J
17 2002, starting at the caption, "EO Complaints," about a third
18 down the page --

19 A So 2002, okay.

20 Q Okay. And you go from -- in the lighter ink are --
21 is that what you inserted as the answers to the questions --
22 questions identified by --

23 A Correct.

24 Q -- the bullet point? So, if you look at the next
25 page, J003, well, if you look at the first -- J002, you got

1 answers to all of your questions on that page. Correct?

2 A Yes.

3 Q And you got answers to all of your questions on
4 page three. Correct?

5 A Correct.

6 Q And you got answers to all of your questions on
7 page four. Correct?

8 A Correct.

9 Q And you got answers to all of your questions on
10 page five. Correct?

11 A Correct.

12 Q Okay. And you got answers to all of your questions
13 on page six. Correct?

14 A Correct.

15 Q And you got answers to all of your questions right
16 up to the caption of "Miscellaneous". Correct?

17 A Correct.

18 Q Okay. And then "Miscellaneous," was that -- were
19 those questions that you asked and obtained answers for?

20 A We talked about that. That came up either by her
21 during -- by Ms. Petitt during our conversation. So, yeah.
22 So, it was information that -- that she had brought up at
23 some point.

24 Q Would you agree with me that during the -- her --
25 her -- your interview of her on March 8th, 2016, that Ms.

1 Petitt never said that there was a threat to her life?

2 Correct?

3 A She didn't use those specific words.

4 Q Okay. And would you agree with me that she never
5 articulated that she was going to be assaulted physically?

6 Correct?

7 A She said that she thought somebody was going to
8 harm her.

9 Q So, she never used the term "physical harm".
10 Correct?

11 A She did not that I remember.

12 Q Okay. But did you tell other people at Delta that
13 Ms. Petitt had said that she was fearful of physical harm?

14 A I told other people at Delta what my conversation
15 with her was, which was, she was concerned about her safety.

16 I asked her specifically, "If you were concerned about your
17 safety, have you alerted the authorities outside of Delta?"

18 She said, "No, because nothing had happened yet." She never
19 said that she was not worried about her physical safety. And
20 by her saying to me that, "If something happens to her, she
21 has provided her mother documents that were in a locked safe
22 in her home and instructed her to take those documents to the
23 media." I inferred that she was concerned about her physical
24 safety and well-being.

25 Q I want you to listen very carefully to the question

1 I ask.

2 A Okay.

3 Q Did you ever tell anyone at Delta that Ms. Pettitt
4 had articulated that she was concerned about being physically
5 harmed by another person?

6 A I don't know if I used the word "physically
7 harmed," but I absolutely told somebody at Delta that she was
8 concerned about her safety.

9 Q Okay. Would you agree that you're not even certain
10 if she ever used the term "harm" in her conversations with
11 you?

12 A No. I wouldn't agree with that. I don't remember
13 whether she did or didn't.

14 Q Okay. So, you inferred from the fact that Ms.
15 Pettitt was giving certain documents to her mother that Ms.
16 Pettitt was concerned about her safety?

17 A Not just that. As I've said --

18 Q Well, is part -- it's part of the reason.

19 A That's part of it.

20 Q Part of the reason. And -- and the documents that
21 she referred to in terms of leaving with her mother, those
22 were documents, or that was the report that Ms. Pettitt
23 provided to Captain Graham. Correct?

24 A That was one of the things that she said she had
25 given to her mother.

1 Q Okay. Now in your teleconference on March 17th,
2 you -- with Captain Graham and Dr. Altman and Dr. Faulkner,
3 you specifically referenced the fact that Ms. Petitt had left
4 documents with her mother. Correct?

5 A Yes. I --

6 Q And the reason you referenced that was as evidence
7 of Ms. Petitt's concern about her personal safety.

8 A Correct.

9 Q Okay. And did -- did Captain Graham, at any time,
10 advise you that he had already heard Ms. Petitt reference the
11 fact that she was leaving safety-related documents with her
12 mother?

13 A No. He did not share that with me that I can
14 recall.

15 Q Okay. Now in fact, during your interview with Ms.
16 Petitt, you concluded that Ms. Petitt felt that something bad
17 would eventually happen to her on a Delta flight. Correct?

18 A No. I said that I -- she seemed to believe that
19 something bad was going to happen to her. Not necessarily on
20 a Delta flight. But that something bad could happen to her
21 and/or a Delta flight.

22 Q Well, the way she articulated -- oh, I'm sorry, say
23 that again.

24 A And/or a Delta flight, if I remember --

25 Q Okay.

1 A -- correctly.

2 Q The way she articulated her concern that -- that
3 there was a threat to her safety.

4 A Correct. There -- yes. That's the way that she
5 articulated that to me.

6 Q Okay. And she told you that she considered Delta
7 Airlines not to be a safe airline. Correct?

8 A To an extent, yes.

9 JUDGE MORRIS: Well, wait a minute. You're nodding
10 your head up and down slightly while you're saying, "To an
11 extent, yes." So, what is it?

12 THE WITNESS: Oh, and I think I was -- I think, to
13 an extent, I think she had some safety concerns, again, that
14 were being investigated by the safety group.

15 JUDGE MORRIS: All right. So, go ahead, Counsel.

16 MR. SEHAM: Yeah.

17 BY MR. SEHAM:

18 Q If you could turn to page 85 of CX-202.

19 A Okay. I'm here.

20 Q Okay. So, at line 13, it reads:

21 "QUESTION: Did she ever say at any
22 time that she was upset about issues of
23 personal safety as distinguished from
24 being in a plane that might crash?"

25 "ANSWER: She felt as though -- that

1 Delta was unsafe. That's -- that's what
2 she said. And because of that, she felt
3 as though her personal safety was at
4 risk."

5 Was that your testimony in November 20th, 2018?

6 MR. ROSENSTEIN: Objection.

7 JUDGE MORRIS: Basis.

8 MR. ROSENSTEIN: Same objection that I made before
9 that, that sentence continues to the way that it's been
10 described is -- mischaracterizes the --

11 MR. SEHAM: Well, that --

12 MR. ROSENSTEIN: -- testimony.

13 MR. SEHAM: This is more than objection. This is
14 coaching the witness.

15 JUDGE MORRIS: Well, hold on. Your objection is
16 sustained to the extent of, read the entire answer into the
17 record.

18 MR. SEHAM: M'hmm.

19 BY MR. SEHAM:

20 Q Your answer was:

21 "ANSWER: She felt as though -- that
22 Delta was unsafe. That's -- that's what
23 she said. And because of that, she felt
24 as though her personal safety was at
25 risk. She said to me that somebody said

1 to her, "They're out for more than just
2 your job" and that she took that as
3 somebody was going to harm her, not
4 necessarily in an airplane but somebody
5 was going to harm her."

6 Okay. Was that the testimony that you gave on
7 November 20th, 2018?

8 A Yes.

9 Q Okay. And so, would you agree with me that she
10 said that her personal safety was at risk because Delta was
11 not a safe airline?

12 A That's a portion of the reason that her personal
13 safety was at risk.

14 Q Okay. And that she was also afraid of retaliation,
15 that someone had put a target on her back, correct, she
16 advised you of that.

17 A She did not tell me that because of retaliation
18 somebody was going to harm her.

19 Q In the context of her training experience, hadn't
20 she expressly told you that she was subject to retaliation?

21 A She told me that she felt as though she was not
22 being treated fairly.

23 Q Wasn't part of your assignment to investigate
24 whether her training had been sabotaged by another Delta
25 employee? You don't recall that?

1 A Yes. To an extent, yes.

2 Q Okay. And wasn't part of your assignment to
3 investigate whether she had been subject to a retaliatory
4 line check?

5 A If somebody was retaliating against --

6 Q Ms. Nabors, wasn't it part of your EO investigatory
7 assignment to investigate whether she had been subject to a
8 retaliatory line check?

9 A I would --

10 Q It's a "yes" or "no". Was that part of your
11 assignment?

12 MR. ROSENSTEIN: Objection.

13 THE WITNESS: The retaliatory --

14 MR. ROSENSTEIN: I don't think that's

15 THE WITNESS: -- line check --

16 JUDGE MORRIS: Hold on.

17 MR. ROSENSTEIN: Does that call for a "yes" or
18 "no"? I don't believe that question is a "yes" or "no".

19 JUDGE MORRIS: Overruled. Answer.

20 THE WITNESS: The retaliatory line check was not
21 specifically set -- written out. What I was trying to
22 determine is, was she treated fairly or not.

23 BY MR. SEHAM:

24 Q And in the context of her allegations that she had
25 been subject to a retaliatory line check. Correct?

1 A I don't know that she used those words,
2 "retaliatory line check". I -- I think -- again, was the
3 line check that she had complained about, was it handled
4 appropriately.

5 Q She told you that because Delta Airlines -- hold
6 on.

7 Now you disagreed with her in terms of the safety
8 of Delta Airlines. Correct? In terms of its flight
9 operations.

10 A I don't know that I outright disagreed with her. I
11 know at the moment -- well, I don't know our safety record
12 but my point being is, I didn't have anything to base or
13 substantiate or not substantiate what her claims were. And
14 from a safety perspective, it's not what I was looking into
15 completely. It was the conduct and behavior around the way
16 she was treated.

17 Q If you would please turn to page 34 of your
18 transcript.

19 A Okay. I'm at 34.

20 Q Okay. Now I don't -- I don't think the whole
21 answer is pertinent but in view of the tribunal's recent
22 ruling, I'll read the entire question and answer, starting at
23 lien eight.

24 "QUESTION: And how would you know
25 that with respect to flight operations?"

1 "ANSWER: (A) from a company
2 perspective, we're very transparent on
3 what we expect and what we do. And the
4 training I feel though, again, our safety
5 record speaks for itself. But from a
6 detailed perspective of flight operations
7 and reviewing some of this and looking at
8 our concerns, I did go back, obviously,
9 and ask some follow-up questions
10 regarding some of Ms. Petitt's concerns
11 but I don't have specific information.
12 You asked if I feel as though the company
13 is safe. I do."
14 Was that your testimony during your deposition?

15 A It's accurate.

16 Q So, and that was your perspective as you talked to
17 Ms. Petitt that you considered Delta to have a safety record
18 that speaks for itself.

19 A That would have been.

20 Q Okay.

21 A I mean, that's --

22 Q During the interview -- aside from her -- the
23 references to retaliation in her -- in her report, she -- she
24 also told you during the interview that she was concerned
25 about being subject to retaliation at Delta. Correct?

1 MR. ROSENSTEIN: Objection. Asked and answered
2 several times, I think.

3 JUDGE MORRIS: Overruled.

4 THE WITNESS: I should answer?

5 JUDGE MORRIS: Yes.

6 THE WITNESS: Thank you. I don't know specifically
7 if she said to me during our conversation, retaliation is a
8 concern. I know we talked about it. I know I addressed it.
9 But I don't remember specifically if she said it.

10 MR. SEHAM: All right.

11 BY MR. SEHAM:

12 Q Now you -- you would you agree with me that your
13 concerns about Ms. Pettitt, in terms of what prompted you to
14 report to Ms. Seppings and Mr. Puckett, was based in terms of
15 her -- both her fear of unsafe aircraft operations and her
16 fear of being subject to retaliation at Delta?

17 A Can you repeat the question?

18 Q That your concerns -- what prompted you to express
19 your concerns to Ms. Seppings and Mr. Puckett, with respect
20 to Ms. Pettitt, were based on both her expressions of concern
21 related to unsafe aircraft operations and her fear of
22 retaliation.

23 A What prompted me to --

24 Q If you could answer that "yes" or "no".

25 A I was concerned about her well-being. It's not a

1 "yes" or "no" question for me. I'm sorry.

2 Q Was part of your concern about her well-being
3 prompted by her fear of retaliation by Delta co-workers?

4 A It was not my main -- some of that was.

5 Q Okay. Was part of your concern about her
6 well-being prompted by her remarks related to Delta's unsafe
7 operations?

8 A Yes.

9 Q And when we're refer to unsafe operations, we're
10 speaking specifically, would you agree with me, aircraft
11 operational issues?

12 A From what she had talked about, yes --

13 Q Okay.

14 A -- those were her concerns.

15 Q And you felt that her -- her expressions of concern
16 with respect to Delta flight operations were not normal.
17 Correct?

18 MR. ROSENSTEIN: Objection. Vague.

19 JUDGE MORRIS: Sustained. Reword, Counsel.

20 MR. SEHAM: Well, let me handle it this way.

21 BY MR. SEHAM:

22 Q If you could turn to page 86 of your deposition.

23 A Okay. I'm there.

24 Q Okay. And I'm going to start at line one.

25 "QUESTION: And that was the basis

1 for your concern about Ms. Petitt's
2 mental health."

3 "ANSWER: It was horribly concerning
4 to me."

5 "QUESTION: I was saying, was that the
6 basis, what you just described, was that
7 the basis?"

8 "ANSWER: It was a portion of where I
9 was very concerned. That doesn't -- when
10 I'm talking with people and they're --
11 it's rare that I've never had anybody --
12 I've never had somebody say to me, "I've
13 given these documents to my mom and told
14 them to go to the media if anything -- if
15 anything ever happens to me
16 specifically." And separate and apart
17 from that, she said, "And if anything
18 happens to Delta aircraft, I will take
19 these documents and I will go
20 immediately." Two separate situations,
21 these were both very concerning to me."

22 "QUESTION: Okay."

23 "ANSWER: Her actions."

24 "QUESTION: And in both instances,
25 that related to aircraft operational

1 issues."

2 "ANSWER: No. The one instance was an
3 aircraft operational issue, and the other
4 instance was her personally directly
5 being impacted or harmed by somebody at
6 Delta. She didn't tell me who. She
7 didn't tell me how they would harm her."

8 "QUESTION: Which of these two were
9 the source of your concern about her
10 mental health?"

11 "ANSWER: The entire interview was the
12 source of my concern. Both of those
13 things were not normal to me and they
14 were very concerning. When an employee
15 feels as though they, in some way, shape,
16 or form are going to be harmed by
17 somebody at Delta, I take that seriously.

18 But there was nothing to base that off
19 of."

20 Is that, that testimony that you provided on
21 November 20th, 2018?

22 A Yes.

23 Q And that was accurate testimony in terms of your
24 thought process on that day?

25 A That was accurate testimony.

1 Q And you determined during the March 8th interview
2 that there was -- that Ms. Petitt had provided you with no
3 basis in any way, shape or form that someone at Delta was
4 going to harm her?

5 A Correct.

6 Q At the -- I think you referred to Ms. Petitt as --
7 and I'm not sure I remember but either as crying or being
8 tearful when she -- do you draw --

9 A Crying is --

10 Q -- a distinction between those terms crying and
11 being tearful?

12 A She was crying tears. I mean, there were tears. A
13 constant crying for the full three hours? No, that didn't
14 happen.

15 Q Okay. Well, did she ever break down in sobs?

16 A No. I don't believe she broke down in sobs but
17 there were times that she had to stop and take a break and
18 take a breath for a minute, and I encouraged that. I was not
19 trying to rush her through anything, and wanted to be
20 empathetic to the situation.

21 Q M'hmm. And can you recall the subject matter that
22 was being discussed at the time that she became tearful or
23 cried?

24 A Much of that is when she felt as though she was in
25 harm's way for some reason. She talked very passionately

1 about the fact that somebody was trying to harm her and
2 because of that, she had taken these documents to her
3 mother's home.

4 Q M'hmm.

5 A That was a very emotional time for her. Her body
6 language, her tone, everything, her tears were -- they were
7 very real.

8 Q Isn't it true that the conversation about leaving
9 documents with her mother occurred at the very end of the
10 interview?

11 A It could have occurred towards the end. But the
12 entire conversation had that -- she had talked about feeling
13 as though she was being harmed because it was towards the
14 beginning of the conversation, if I remember correctly, that
15 I asked her that if she felt that she was physically -- or
16 threatened in any way, shape or form, if she had gone to the
17 authorities.

18 Q M'hmm.

19 A And she specifically said and told them, "Why?
20 Nobody has done anything yet." So, she didn't correct me in
21 saying, "I don't feel physically threatened. She simply
22 said, "I don't have anything to go to the authorities yet,"
23 which is, again, part of my problem is, she wasn't giving me
24 anything specific to tell me how or why she was so concerned
25 about her safety.

1 Q What -- what had she said -- well, when you
2 discussed about leaving -- the issue of leaving documents
3 with them -- with her mother, that was as you walked to the
4 front desk with her. Isn't that correct?

5 A Absolutely not. That's not a conversation I would
6 have walked to the front desk about.

7 Q Did you comfort --

8 A We were continuing to be at that table. Our
9 conversation was completely finished. I had talked about
10 contacting her if she had questions. She had different
11 things she wanted to send me. I told her -- we ensured we
12 had each other's contact as we did. She knew she had my
13 e-mail address. That's not a conversation I would have had
14 walking out of anywhere.

15 Q Okay. Would you -- is it your view that the two
16 topics she was most upset about were providing Mr. Graham's
17 -- her report from Mr. Graham to her mother, and the
18 possibility of an aviation accident at Delta?

19 MR. ROSENSTEIN: Objection to the form.

20 JUDGE MORRIS: Overruled. You may answer.

21 THE WITNESS: That would be relatively accurate.
22 She -- there was a lot that concerned her but those were the
23 two things that I think stuck out for me especially. But
24 they were concerning to her for sure.

25 BY MR. SEHAM:

1 Q Did you determine that Ms. Delta (sic) was --
2 excuse me, that Ms. Pettitt was paranoid about her concerns
3 with respect to Delta operations and retaliation?

4 A I used the word "paranoid". I'm not a doctor. I
5 can't give you the definition of that. What my perception
6 was, is somebody that was unusually concerned about something
7 that -- that they couldn't articulate as to why.

8 Q You determined that she was unrealistically
9 concerned about the safety of Delta operations. Correct?

10 A From the information that she provided, yes.

11 Q Okay.

12 A And her well-being. I want to be clear. It wasn't
13 just the operation of the airline.

14 Q Okay.

15 A It was the safety of herself.

16 Q Okay. And you never spoke to anyone in flight
17 operations about her flight operation concerns. Correct?

18 A I didn't specifically. I was working with Chris
19 Puckett.

20 Q Okay. And -- and she told you she expected --
21 specifically told you that she expected to be subject to
22 retaliation for raising safety issues. Correct?

23 A I don't remember if she specifically said that or
24 not.

25 Q And can -- okay, so, if you could turn to CX-202

1 page 94.

2 A CX-202, page 94.

3 Q And go down to line 18.

4 A Okay. I'm there.

5 Q Okay. And the question was:

6 "QUESTION: Now Ms. Petitt told you
7 she might be subject to retaliation for
8 raising safety issues. Correct?"

9 "ANSWER: We did talk about that and
10 where, I could not remember. If I told
11 her about retaliation before, I
12 absolutely said that during the
13 conversation."

14 So, is that testimony accurate?

15 A I believe it is. And like I said, I can't remember
16 exactly when all of that came up --

17 Q M'hmm.

18 A -- and whether I was the one bringing it up or
19 whether she was the one to bring it up, but I believe this is
20 accurate.

21 Q Okay. And she told you that her fellow pilots had
22 told her to watch her back. Correct?

23 A She did say that.

24 Q Okay. And she identified a pilot who -- who had
25 warned her of retaliation. Correct?

1 A When you say, "identified," I don't know if she
2 gave me a name or not. I don't remember that but she did
3 tell me that somebody warned her not about retaliation
4 specifically but --

5 Q All right. So, if you could turn to your
6 deposition, at page 95, starting at line 14, and let me know
7 when you're there.

8 A I'm there.

9 Q Okay. So, the question:

10 "QUESTION: Isn't it true that she
11 communicated that reference, "Watch your
12 back," as coming from pilots who were
13 giving her a friendly warning?"

14 "ANSWER: That's what she said and
15 that they were out for more than her job
16 and that she took that to mean that they
17 were going to harm her."

18 "QUESTION: Did you ask her the
19 identity of those pilots?"

20 "ANSWER: We did talk about who
21 specifically made her -- gave her the
22 warnings and/or who they were talking
23 about."

24 "QUESTION: So, who were those pilots
25 that she identified for you?"

1 "ANSWER: And I'm sorry for that, a
2 name perspective, I can't remember
3 specifically the names. I know that
4 Albain, I'm sorry, I don't remember his
5 first name, was one that she felt as
6 though she had not been treated
7 appropriately by."

8 "QUESTION: Well, Albain never gave
9 her a friendly warning. Correct?"

10 "ANSWER: Correct."

11 "QUESTION: So I'm asking" --

12 "ANSWER: Who gave her the friendly
13 warnings?"

14 "QUESTION: Correct."

15 "ANSWER: I do not remember."

16 "QUESTION: She gave you some names at
17 the time?"

18 "ANSWER: She gave me one name that I
19 remember and I don't specifically
20 remember the name."

21 "QUESTION: Did you interview that
22 person?"

23 "ANSWER: Interviews were conducted
24 after I left by Equal Opportunity role
25 and so I don't know if that particular

1 person had been interviewed after I
2 left."

3 Is that the testimony -- is that testimony you gave
4 during your deposition?

5 A Yes. That's testimony.

6 Q And is that accurate testimony?

7 A I believe it is. Yes.

8 Q Okay. Would you agree with me that from an EO
9 perspective, a pilot warning a fellow pilot that she had a
10 target on her back is an occurrence that should be
11 investigated?

12 A It really kind of depends on -- on what that is.
13 If someone just says, "Hey, be careful, watch your back," I
14 don't know what that person had anything to base anything off
15 of. So, it -- it could or couldn't have been concerning.
16 She didn't give me any context around why he would say that
17 -- he or she would say that and/or what -- what position that
18 person was in.

19 Q Well, did you ask her any questions to that effect?

20 A We did have a conversation about that. And again,
21 I don't remember what she gave me specifically to suggest
22 somebody would say that to her.

23 Q Okay. If you could turn to page 97 of your Q&A --
24 excuse me, your deposition, CX-202.

25 A I'm there.

1 Q Okay. And at line three:

2 "QUESTION: When male pilots come up
3 to a female pilot and tell her that, "You
4 have a target on your back," would you
5 agree that, that contributes to a hostile
6 work environment for that female pilot?"

7 "MR. ROSENSTEIN: Objection."

8 "THE WITNESS: I agree if there was some basis
9 for that, then we should look into it for
10 sure."

11 That -- that was your testimony at your deposition.

12 Correct?

13 A Yes.

14 Q Okay. Now if you could -- and over the next four
15 months, until July 2016 --

16 MR. ROSENSTEIN: I'm sorry. Where are we reading
17 from?

18 MR. SEHAM: No, no. This is a question.

19 MR. ROSENSTEIN: Oh. I'm sorry.

20 BY MR. SEHAM:

21 Q From the -- from March 8 to July 2016, you didn't
22 interview -- or did you interview any other pilots concerning
23 Ms. Petitt's matter?

24 A Phil Drennon.

25 Q Anyone else?

1 A And other doing some follow-up with Chris Puckett,
2 I did not interview, that I can remember --

3 Q M'hmm.

4 A -- anybody else.

5 Q Okay. Would you agree with me that pilot fatigue
6 is a flight safety issue?

7 A It's a concern, certainly, yes.

8 Q Would you agree with me that having a fatigued
9 pilot at the controls of an aircraft would jeopardize the
10 lives of the plane's passengers as well as the lives of the
11 flight deck crew members?

12 A It certainly could. I'm not an expert but --

13 Q Would you agree with me that the coercion of a
14 pilot to fly fatigued represents an appropriate topic for
15 investigation by flight operations as a safety concern?

16 MR. ROSENSTEIN: Objection.

17 JUDGE MORRIS: Sustained.

18 BY MR. SEHAM:

19 Q Do you know if flight ops ever investigated Ms.
20 Petitt's concerns about being coerced into flight fatigued?

21 A I don't.

22 Q All right. But Ms. Petitt communicated to you --
23 well, it was actually in her -- in the JX-B safety report
24 that she was subject to coercion, coercive efforts to have
25 her fly fatigued. Correct?

1 MR. ROSENSTEIN: Objection. Mischaracterizes.

2 BY MR. SEHAM:

3 Q Do you have any recollection of Ms. Petitt raising
4 fatigue issues in her safety report?

5 A The safety report that was investigated by flight
6 ops, I didn't look into. I don't know whether it was or
7 wasn't in there for them.

8 Q If you could turn to JX-D, the fourth page thereof,
9 JX-D-004.

10 A All right. I'm there.

11 Q Okay. Now actually, if you turn to the prior page
12 there, you see the heading, "Harassment and Unequal Treatment
13 Concerns".

14 A Yes.

15 Q And you see at the bullet point, the dark bullet
16 point four, up from the bottom on the next page, so, please
17 turn to the next page --

18 A Yes.

19 Q -- you see the bullet point reference, "Forced to
20 fly even though fatigued due to caring for hospitalized
21 husband. Pilot claims PFC representative Stearns told her,
22 her sick husband does not qualify as sick for her."

23 A Correct.

24 Q Isn't -- isn't it true that you were expected, as
25 part of your EO investigation, to investigate Ms. Petitt's

1 allegations that she was being coerced into flying fatigued?

2 A It wasn't the fatigued part. I was looking into
3 the conduct as far as the hospitalization of her husband and
4 her feeling as though she didn't get the appropriate time
5 off. The safety aspect of that was flight ops'
6 responsibility.

7 Q During the course of your investigation of -- or
8 interview of Ms. Petitt on March 8th, 2016, isn't it true
9 that you concluded that Ms. Petitt felt pressure to accept
10 flight assignments notwithstanding her fatigue?

11 A She did talk about the fact that she felt she was
12 fatigued at times, I believe, if I remember correctly. And
13 again, tried to help her -- remind her that flight ops would
14 be looking into the safety portions of those things.

15 Q If you could turn to your deposition, page 123.

16 JUDGE MORRIS: CX-202 for ID.

17 MR. SEHAM: Thank you.

18 BY MR. SEHAM:

19 Q Let me know when you're there.

20 A Okay. I'm there.

21 Q Okay. Line four, there's a question:

22 "QUESTION: Okay. And would you agree
23 with me that what's being conveyed here
24 is that Ms. Petitt feels coerced into
25 flying when fatigued."

1 "MR. ROSENSTEIN: Objection."

2 "THE WITNESS: I" --

3 "QUESTION: Is that how you understood
4 it?"

5 "ANSWER: No. That's not."

6 "QUESTION: How did you understand
7 it?"

8 "ANSWER: I understood it, that she
9 felt as though she didn't want to turn
10 down this assignment because she had an
11 issue with management, but the
12 generalized statement that you made, I
13 looked at the specific situation, and
14 yes, she had a concern about turning it
15 down."

16 "QUESTION: Okay. And who was that
17 manager that was referenced?"

18 "ANSWER: I don't remember."

19 "QUESTION: Did you interview him?"

20 "ANSWER: I don't remember who it was.
21 So, I don't know if I interviewed him."

22 "QUESTION: Okay. Did you recall any
23 steps you took to investigate the
24 incident that I just read from this
25 report?"

1 "ANSWER: I don't know what specific
2 -- what specific steps I took on this
3 fatigue."

4 "QUESTION: Do you recall ever asking
5 Ms. Petitt for the name of the manager?"

6 "ANSWER: I don't remember
7 specifically."

8 "QUESTION: Do you have any basis
9 either then or now for concluding that
10 Ms. Petitt was reporting these facts in
11 bad faith?"

12 "ANSWER: I don't consider anything
13 that she was doing in bad faith. That
14 was the point is, I wanted to be able to
15 interview her because I wanted to take
16 her concerns very seriously."

17 Is that testimony that you gave during your
18 deposition?

19 A Yes.

20 Q And was that accurate testimony?

21 A Yeah, based on the questions you were asking.

22 Q Okay. And would you agree with me that during the
23 March 8th interview, that Ms. Petitt expressed concerns that
24 she was being pressured to fly when she was fatigued?

25 A She talked about flying fatigued. Yes.

1 Q That's -- it's a more specific question I asked
2 you. Didn't she convey to you during the March 8th interview
3 that she felt pressured to fly a Delta aircraft in a fatigued
4 condition?

5 A I'm trying to remember if she was specific about
6 flying fatigued or flying when she had concerns about her
7 husband and needed to be off. And it was all around that
8 same conversation.

9 Q Well, that issue with her husband had to do with
10 her being at his hospital bedside and being up all night
11 caring for him. Correct?

12 A Correct. Which is where the fatigue came in. But
13 again, the fatigue flying as it relates to safety is a flight
14 ops situation. So, we were talking about the way she felt
15 she had been treated --

16 Q M'hmm.

17 A -- because her husband had been hospitalized and
18 the fact that she couldn't get the time off that she wanted
19 or felt as though she needed.

20 Q My question isn't whether you were responsible for
21 investigating the issue. My question is, during the March
22 8th interview, you became aware that Ms. Petitt felt that she
23 had been pressured into flying while fatigued. Correct?

24 MR. ROSENSTEIN: Objection. Asked and answered.

25 JUDGE MORRIS: Overruled.

1 THE WITNESS: You're -- you're trying to get me to
2 specifically say that that's what she said. It was all in
3 conjunction --

4 MR. SEHAM: No. I'm not.

5 THE WITNESS: -- with the time that she was with
6 her husband. Yes. Did she feel as though she was too tired
7 that particular day to fly because she had been with her
8 husband all night? The answer is, "Yes."

9 BY MR. SEHAM:

10 Q And your -- but you understood from her safety
11 report that there was a more -- she had a more general
12 concern that Delta's policy, as a general matter, was to
13 pressure pilots to fly fatigued. Correct?

14 A I know that she had concern about that, of which I
15 was not looking into.

16 Q But you were aware that -- that she had reported
17 that Delta managers had referred to fatigue as the other "F"
18 word. Correct?

19 A She brought that up. Correct.

20 Q She also brought to your attention that she was
21 flying with pilots who had not been adequately trained.
22 Correct?

23 A She brought up the fact that she felt recurrent
24 training and such were -- there were concerns with it.
25 Specifically, I can't remember again because that was out of

1 my scope.

2 Q All right. But you were aware of her concerns with
3 respect to inadequacy of training. Correct?

4 A Correct.

5 Q All right. And would you agree with me if a pilot
6 is flying fatigued, they would have cause to anticipate the
7 potential for harm occurring to the pilot?

8 A I think anybody operating a large piece of
9 machinery, and they are fatigued --

10 Q M'hmm.

11 A -- it would be concerning.

12 Q Okay. And would you agree with me that a pilot,
13 who has co-pilots who are inadequately trained, would have
14 concern about harm occurring to her?

15 A Training is obviously critical. And so, yes,
16 adequate training would be appropriate. And if it's not
17 there, that would be concerning.

18 Q And isn't it true that Ms. Petitt, during the March
19 8th interview, had told you that she had requested additional
20 training to compensate for the deficiencies in training that
21 she had been subjected to?

22 A I don't know if she used those specific words. I
23 remember her saying that she had asked for additional
24 simulator time.

25 Q M'hmm. And that her request had been denied.

1 Correct?

2 A For a particular time. I -- if I remember
3 correctly, she said something about there wasn't simulator
4 time available, if I remember correctly. I don't think she
5 was ever told that she can't have additional simulator time
6 ever in life.

7 Q Right. But -- but the -- the response -- wasn't it
8 your understanding that the response that there was not
9 simulator time available came after Ms. Petitt had
10 represented to Delta that she had not been adequately trained
11 for the aircraft she was flying?

12 A I don't remember the timing sequence. I'm sorry.

13 Q Okay. If you could turn to CX-202, page 144, line
14 four. And let me know when you're there.

15 A All right. I'm at 144.

16 Q Okay. And starting at line four:

17 "QUESTION: And isn't it true that Ms.
18 Petitt advised you that she had requested
19 additional training to compensate for the
20 shortfalls and deficiencies in the
21 training that she had received?"

22 "ANSWER: I remember talking to her
23 about that."

24 "QUESTION: And that she had been
25 denied the additional training she had

1 requested."

2 "ANSWER: I don't remember. I don't
3 know the facts, whether she was denied or
4 not. She felt as though she was denied
5 during our conversation."

6 "QUESTION: So, Ms. Petitt -- you
7 determined that Ms. Petitt considered
8 herself not to have received adequate
9 training."

10 "MR. ROSENSTEIN: Objection."

11 "THE WITNESS: I don't."

12 "QUESTION: What did you conclude or
13 what did you understand her to be
14 stating?"

15 "ANSWER: What I understood from her
16 is that she felt that she didn't get the
17 training that she was supposed to have
18 had. I don't know that she did or did
19 not."

20 Is that testimony that you provided on November
21 20th, 2018?

22 A Yes.

23 Q And is that accurate testimony in terms of your
24 discussion with Ms. Petitt on March 8th regarding that issue?

25 A It was, yes, based on this -- the way this

1 questioning was laid out. Correct.

2 Q Do you remember Ms. Petitt telling you during the
3 March 8th interview that a Delta 737 had come within 186 feet
4 of impact with a decent rate of 2,000 plus feet per minute?

5 A We talked about an incident. I don't remember feet
6 and that level of detail.

7 Q Okay. But -- but something that sounds familiar to
8 you?

9 A She talked about an incident like that. Correct.

10 Q Okay. Did you ever investigate whether an incident
11 like that had occurred?

12 A It's a safety issue that I would not have any scope
13 over.

14 Q So, the answer is "no, you didn't investigate
15 that"?

16 A Correct.

17 Q Okay.

18 A It was being investigated through the safety
19 concerns.

20 Q Okay. Did you ever talk to anyone at flight ops to
21 ask whether that was an incident that occurred?

22 A No. The safety aspect was not in scope. No.

23 Q No. Okay. During the March 8th interview, Ms.
24 Petitt told you about an incident in which she was on an
25 aircraft with a captain engaged in an initial line check with

1 the check airman in the right seat, and the pilots engaged in
2 non-standard talk resulting in the airplane sinking below the
3 glide slope with the pull up warning blaring to which the
4 pilots did not react. Correct? She described that incident
5 to you.

6 A She talked about an incident. Yes, like that.

7 Q Okay.

8 A And I don't remember specifics.

9 Q And -- and that's -- whether that happened or not
10 is -- isn't -- something you never investigated. Correct?

11 A Out of my scope.

12 Q Okay.

13 A Correct.

14 Q And you never raised this issue with flight ops.
15 Correct?

16 A It was out of my scope.

17 Q So, no, you didn't bring it up with flight ops to
18 see whether Ms. Pettitt had -- was accurately reporting a
19 dangerous aircraft incident?

20 A I would have shared with -- with Chris Puckett to
21 make sure that whatever their investigation was --

22 Q M'hmm.

23 A -- included something like that, if that was --

24 Q Okay. So --

25 A -- what she had already brought up --

1 Q Okay.

2 A -- as a concern. I wasn't investigating safety.
3 So, if she brought safety concerns, those were being
4 investigated and should have been given to the safety team.
5 Her bringing up a safety issue to me was -- wouldn't have
6 been appropriate. So, if she had had that concern, I would
7 have expected and anticipated that she would have put that in
8 her safety document and shared that with somebody doing a
9 safety investigation.

10 Q Did you ever tell Mr. Puckett about this incident?

11 A I don't remember if I specifically said that
12 particular incident or not.

13 Q And --

14 A I know I shared with him details of my conversation
15 with her.

16 Q Okay. And you don't record whether you referenced
17 this glide slope incident with the pull up warning?

18 A I don't. I --

19 Q Okay. And with respect to the other incident that
20 I described, the 737 within 186 feet of impact with a decent
21 rate of 2,000 feet, did you ever bring that up to Mr.
22 Puckett?

23 A What I did was when she brought these things up, I
24 told her to ensure that she was talking with the safety team
25 about those if she had not already shared that information.

1 Out of my scope.

2 Q Okay. And neither of those incidents are reflected
3 in your -- in any iteration of your report of Ms. Pettitt?

4 A Not that I can remember. No.

5 JUDGE MORRIS: When you use the words, "out of my
6 scope," did you tell her those words, "out of my scope"?

7 THE WITNESS: Yes. I was clear with her from the
8 beginning what was in my scope, what's out of my scope,
9 what's not in my purview. I used a couple of different words
10 but out of my scope was something when I was talking about
11 this particular -- because there were things in scope and out
12 of scope for me.

13 JUDGE MORRIS: Okay. Thank you.

14 THE WITNESS: Yes.

15 BY MR. SEHAM:

16 Q And you defined your scope in terms of -- of
17 safety, aircraft safety?

18 A That is not my scope. That is out of my scope.

19 Q All right.

20 A Aircraft safety --

21 Q How about compliance with training standards?

22 A Again, being treated fairly, the reason and
23 rationale that she felt as though the training standards
24 weren't being followed were different than training standards
25 not being followed.

1 Q Okay. And you explained that to Ms. Petitt?

2 A I did.

3 Q Okay. And do you -- going back to your -- from
4 March 8th, going to the March 17th conversation with Graham,
5 Drs. Faulkner and Dr. Altman, and Mr. Puckett was attending
6 that teleconference as well?

7 A Correct.

8 Q Okay. And do you recall how long you were on the
9 phone?

10 A I don't recall.

11 Q Was it less than 20 minutes, more than 20 minutes?

12 A Probably less than 30 minutes.

13 Q And did you take any notes of that conversation?

14 A I did not.

15 Q And do you have any recollection of any questions
16 that Dr. Altman posed to you?

17 A I don't remember the questions that were posed
18 specifically. They were more questions for clarity and
19 understanding about some of the things that I had portrayed
20 but I don't remember specific questions.

21 Q Who -- who asked the questions?

22 A I don't remember that either. I know that Dr.
23 Faulkner asked a couple of clarifying questions if I remember
24 correctly. But there could have been others. I don't
25 remember.

1 Q During this teleconference, did you address Ms.
2 Petitt's alleged violations of Delta social media policy?

3 A I talked about my conversation with her and why I
4 was concerned. That's what I relayed at that point in time.

5 Q Did you make any reference to social media policy?

6 A Not that I remember.

7 Q Did you make any reference to uniform policy?

8 A Not that I remember.

9 Q Did you make any reference to improper context with
10 the press?

11 A Not that I remember.

12 Q And your -- you said your meeting on March 8th was
13 about three hours long?

14 A Correct.

15 Q Did you know at that time that Ms. Petitt's
16 children were all in their 30s?

17 A I don't know if she gave me specific ages of her
18 children or not.

19 Q You made -- your -- in your account, you
20 represented that Ms. Petitt was concerned about her husband
21 taking care of their children?

22 A She said that specifically to me that if --

23 Q That wasn't my question. My question was, did you
24 put that in your report?

25 MR. ROSENSTEIN: Objection. That wasn't -- that

1 wasn't his question. His question -- that wasn't his
2 question. I believe the witness was answering the question
3 he actually asked. We don't have a court reporter. I don't
4 believe --

5 JUDGE MORRIS: Can you play it back?

6 COURT REPORTER: Yes.

7 (Off the record, 11:37 o'clock a.m.)

8 (On the record, 11:38 o'clock a.m.)

9 BY MR. SEHAM:

10 Q Do you know how many educational degrees that Ms.
11 Petitt was pursuing at the time you interviewed her on March
12 8th, 2016?

13 A I don't.

14 Q Okay.

15 A I don't.

16 Q Do you know if Ms. Petitt ever applied to become a
17 flight instructor?

18 A I believe we talked about that. And I believe she
19 said, yes. I don't remember specifically but I believe
20 that's the discussion we had.

21 JUDGE MORRIS: Do you mean a line check airman?

22 MR. SEHAM: A flight instructor.

23 JUDGE MORRIS: Okay.

24 MR. SEHAM: Yeah.

25 BY MR. SEHAM:

1 Q Just to nail this down, after March 17th, you have
2 no recollection of any conversation with either Dr. Faulkner
3 or Dr. Altman. Correct?

4 A Correct.

5 Q Okay. And if you could turn to CX-4.

6 THE WITNESS: This one here?

7 JUDGE MORRIS: No. The next one right here. That
8 one.

9 THE WITNESS: Oh.

10 JUDGE MORRIS: The one behind it.

11 THE WITNESS: This one here?

12 JUDGE MORRIS: Yes, ma'am.

13 THE WITNESS: Okay. Thank you. Sorry. CX-4.

14 MR. SEHAM: Okay.

15 BY MR. SEHAM:

16 Q And you've never seen this document before.
17 Correct?

18 A Not that I remember.

19 Q Okay. And did anyone at -- within Delta ever
20 advise you that Federal Aviation Standard issues or -- or
21 violations raised by Ms. Petitt had been substantiated?

22 A Not that I remember.

23 Q Okay. And you're -- you -- again, you headed up
24 this investigation related to Ms. Petitt until July of 2016.
25 Correct?

1 A Correct.

2 Q And your successor was Brian San Souci?

3 A Correct.

4 Q Did he ever report back to you his findings?

5 A I don't believe he reported his findings back to
6 me. Brian and I may have talked about some of this just to
7 ensure he understood where he was picking up. But as far as
8 I know, he didn't report his findings back to me.

9 Q Okay. And do you have any knowledge of what his
10 findings were?

11 A I do not.

12 Q Do you know whether the EO investigation was
13 completed?

14 A I do not. Once I left and somebody else took over,
15 it then became Brian's investigation to complete.

16 Q Did you ever describe Ms. Pettitt to anyone at Delta
17 as being a threat to herself?

18 A I wasn't qualified to know if she was a threat to
19 herself or not.

20 Q Well, the question that I asked is whether you ever
21 described her as a threat to herself to anybody at Delta?

22 A Not that I can recall.

23 Q Okay. But you say you were concerned about her
24 well-being on March 8th, 2016.

25 A Absolutely I was.

1 Q Okay. And you -- and you called someone after the
2 interview. Correct?

3 A I called Meg Taylor.

4 Q And why did you call Meg Taylor?

5 A Meg Taylor is legal counsel and she, quite frankly,
6 knows the way I conduct interviews and I was concerned.

7 Q M'hmm.

8 A I had very deep concerns. And I contacted Meg to
9 talk to her about those. I didn't have much time before I
10 had to get on my flight back to Atlanta. Meg didn't answer.
11 I didn't sleep that night and I called her as quickly as I
12 could that following morning.

13 Q Okay. Did you call Ms. Petitt's husband?

14 A No.

15 Q Did you try to make arrangements for someone to
16 contact anyone in Ms. Petitt's family?

17 A No.

18 Q Did you call back Ms. Petitt to recommend EAP or
19 other counseling?

20 A We talked about EAP during our conversation.

21 Q During March 8th?

22 A Yes.

23 Q Okay. Is that referenced anywhere in your written
24 reports?

25 A I don't know that it is. Again, standard for me

1 when -- when I'm talking with the boys who have different
2 concerns and/or who feel as though their concerned about
3 their safety. But as I referenced her contacting the
4 external authorities if she felt threatened, because EAP
5 couldn't help her with the threats, that would have been the
6 police agency or somebody that could help her with that.

7 Q Why did you contact Meg Taylor as opposed to your
8 superior, Ms. Seppings?

9 A Again, Meg Taylor and I have worked together much
10 longer than I had worked with Ms. Seppings. She knows who I
11 am. And I reached out to her for counsel, quite frankly,
12 which is something that I do routinely, if you will, during
13 some investigations.

14 Q Isn't it true that -- that Ms. Petitt gave you more
15 than one example of -- of being coerced into flying fatigued
16 or pressured into being flying fatigued?

17 A I don't really remember how many examples she did
18 give me.

19 Q Okay. Could you turn to page 214 of CX-202?

20 A I'm there.

21 Q Okay. And if you're -- I would direct you to line
22 15.

23 "QUESTION: And Ms. Petitt gave you
24 further examples of being coerced into
25 flying fatigued. Correct?"

1 "ANSWER: We talked a little bit more
2 about her flying fatigued in here. Yes."

3 "QUESTION: And she expressed to you
4 that, that was the source of her fear,
5 that she was being forced to fly
6 fatigued."

7 "ANSWER: She had concern about that.
8 Yes, amongst numerous other things."
9 Was that your testimony on November 20th, 2018?

10 A That's accurate but I didn't say that she gave me
11 more examples.

12 Q Okay.

13 A I simply said we talked more about it.

14 Q But that's accurate testimony that you gave?

15 A Yes.

16 MR. SEHAM: Okay. Thank you. No further
17 questions.

18 JUDGE MORRIS: Redirect.

19 MR. ROSENSTEIN: Just a couple of questions.

20 REDIRECT EXAMINATION

21 BY MR. ROSENSTEIN:

22 Q When you conduct an EO investigation, are you
23 assessing the credibility of the complaining party? Is that
24 something that you're doing?

25 A I'm trying to determine what their complaints are

1 specifically, and for them to give me information. I'm not
2 there to -- to accurately account whether they're being
3 honest or not if that's your question. I ask as many
4 questions as I can to get the best understanding of a
5 situation.

6 Q You go in with the presumption that anybody you
7 interview is being honest or dishonest or do you --

8 A I walk into an investigation assuming that
9 everybody has been honest with me. Yes.

10 Q When you were interviewing Ms. Pettitt on March 8th,
11 did you believe that -- have any reason to believe that she
12 would be dishonest with you during that interview?

13 A No. None at all.

14 Q You said that you had some conversations with Mr.
15 Puckett prior to March 8th.

16 A Correct.

17 Q Did Mr. Puckett give you any instruction as to how
18 you -- other than giving you the document that you used to
19 gather or that you prepared to gather, did he give you any
20 instruction as to how to conduct the interview?

21 A He didn't. I conduct my own interviews. I -- my
22 -- my boss doesn't tell me how to conduct my interviews. I
23 approach those appropriately and professionally. And quite
24 frankly, even if he had, it wasn't something I would have
25 listened to if I didn't think it was appropriate for that

1 investigation.

2 Q Did you believe that it was within the scope of
3 your interview with Ms. Petitt to recommend any discipline
4 based on any behaviors that you became aware of during that
5 interview?

6 A No. Absolutely not. That was not within my scope.

7 Q Do you know when the incident -- the timing of when
8 the incident occurred on which Ms. Petitt wrote to the chief
9 executive officer Anderson, you know, when that was?

10 A I don't remember that timing.

11 Q Was it something that just happened recently, or
12 was it something that had happened in the past? Or if you
13 don't remember, that's fine.

14 A I believe it had -- it was something that had
15 happened somewhat in the past. I want to say, I can't
16 remember if he was still the CEO or if Ed Bastian had taken
17 over at that time, so, I just know that.

18 Q Did you reach a conclusion -- was it within the
19 scope of your interview with Ms. Petitt to determine whether
20 or not she had engaged in violations of Delta's social media
21 policy?

22 A I'm sorry. Will you repeat the question?

23 Q Was it within the scope of your interview with Ms.
24 Petitt to determine whether or not Ms. Petitt had engaged in
25 violations of Delta's social media policy?

1 A No. That was flight ops.

2 MR. ROSENSTEIN: One second. No further questions.

3 MR. SEHAM: No further questions from Complainant.

4 JUDGE MORRIS: All right. I have questions.

5 THE WITNESS: Okay.

6 EXAMINATION

7 BY JUDGE MORRIS:

8 Q Are you aware about Delta's policies on letters of
9 correction?

10 A Corrective action letters?

11 Q Yes.

12 A Yes. I -- yes.

13 Q And how long are they supposed to be retained in a
14 pilot's personnel file?

15 A So, I will say this. Flight ops works a little
16 differently sometimes than -- than the division I support
17 now. Many of those letters have an expiration date written
18 on them. If they don't, they usually are in the file for the
19 career of that employee.

20 Q So, a letter of correction once filed could be in a
21 pilot's file in perpetuity.

22 A It could.

23 Q Okay.

24 A I don't know specifics.

25 Q Are you aware if there's a policy that talks about

1 how long letters of correction are supposed to be retained?

2 A There is a policy outside of flight ops. I am not
3 aware of the flight ops policy.

4 Q Okay. Well, what is the policy outside of flight
5 ops?

6 A It depends on the level of the letter. Some
7 letters are in the file for 18 months, 24 months, or three
8 years.

9 Q Okay.

10 A And it's specifically written on that letter.

11 Q Well, let's take the worst case example, three
12 years.

13 A Okay.

14 Q What's supposed to happen after three years to that
15 letter?

16 A The letter is purged and not considered after that.

17 Q Okay. So, is the letter of correction -- let's use
18 the three-year example.

19 A Okay.

20 Q But let's assume that the subsequent conduct occurs
21 five years later, is that letter, that letter that was
22 supposed to be expunged, supposed to be used for discipline
23 or corrective action in any fashion?

24 A So, I'm going to make one amendment to the levels.
25 If it's harassment, retaliation, discrimination, drug or

1 alcohol issue, or work place violence issue, those do remain
2 in the file always and are considered if there's another
3 situation that is similar.

4 Q Okay. Let's assume that's not the case.

5 A Okay.

6 MR. ROSENSTEIN: Your Honor, are we talking
7 non-pilots here?

8 THE WITNESS: Yeah. That's --

9 JUDGE MORRIS: Yeah. We're talking non-pilots.

10 MR. ROSENSTEIN: Non-pilots.

11 JUDGE MORRIS: I'm just trying to figure out what
12 the Delta policy --

13 MR. ROSENSTEIN: I just --

14 THE WITNESS: So, yeah. So, if the letter had
15 expired, no, we shouldn't be taking it into consideration if
16 it's past that three-year mark.

17 JUDGE MORRIS: All right.

18 BY JUDGE MORRIS:

19 Q And do you have any knowledge as to what the policy
20 is for expungement dealing with flight crews?

21 A I do not. I don't know it for flight ops
22 specifically.

23 Q Well, who does know it for flight ops?

24 A Yeah. I -- they have an HR -- somebody that
25 oversees HR in flight ops. I'm guessing --

1 Q Well, that leads me to a whole other question. Why
2 are you from outside of flight ops and HR investigating this
3 issue when, what I'm hearing is, is at least two of the three
4 buckets are in flight ops and the third bucket is intertwined
5 I think was the word used in the testimony for this, if you
6 know?

7 A Yeah. So, there are absolutely times when somebody
8 is bringing forward a serious issue like this that we -- we,
9 from an EO perspective, partner with the division, whatever
10 that division is. But if -- if someone brings forward
11 something like this, and doesn't come directly to their
12 leader, but it's brought forward in the manner in which Ms.
13 Petitt brought it forward, we get compliance calls, something
14 like that, it often times fell on Equal Opportunity to do
15 those investigations specifically, mainly because we wanted
16 to be a complete third party. I don't know anybody involved.

17 Their HR person, if I remember correctly, he had
18 been there for some time. He may know the players. We are
19 an impartial party. That's part of what EO does. I'm not
20 there to take sides. I'm not saying HR would be but --

21 Q You said, "HR, he" so is HR a one-person shop on
22 the flight ops side?

23 A In flight ops, there was a gentleman named Calvin
24 Mason who would have been like the equivalent as I am now in
25 ACS.

1 Q Were there other people in HR besides him?

2 A He reported to somebody. I mean, there was a group
3 that supported flight ops but I think he specifically had
4 oversight of flight ops.

5 Q Do the people at the flight ops HR, do they have a
6 greater familiarity with -- with the area of flight
7 operations, what pilots and flight attendants and mechanics
8 do? If you know.

9 A Yeah. I would assume. I -- we handle in flights
10 and mechanics. We handle all of those investigations as
11 well. They also have their own HR person. But yes, I'm
12 guessing there would have been somebody that was more versed,
13 if you will, in flight ops policy than I was. But --

14 Q Have you seen the letter of correction that was
15 involved in this case?

16 A I have not.

17 Q Okay. Turn to JX-E, please.

18 A Okay. I'm there.

19 Q And I want to start with JX-E, page 005.

20 A Okay. I'm there.

21 Q And to follow along with some of the questions I
22 have heard, if you look down at the bottom where it talks
23 about allegations that she has been told not to communicate.

24 A M'hmm.

25 Q Again, there's brackets 2010. Is that from Mr.

1 Puckett would have inserted that, or did you insert that?

2 A I believe it was Mr. Puckett.

3 Q Under "Unfair Treatment," if you look on JX-E 006
4 for example.

5 A Yes.

6 Q The last bullet, it says:

7 "If you were to use a Delta trademark on a book
8 cover without permission, would that
9 violate the social media policy?"

10 A Yes.

11 Q What's that got to do with EO?

12 A Well, I think it's because it's policy specific as
13 far as -- we talk a lot about social media. If somebody
14 violates the social media policy, it could result in
15 discipline or verbal coaching, things like that outside of
16 flight ops. So, I think that's probably why that was
17 included.

18 Q Okay. Turn to page JX-E-007.

19 A Yes, sir.

20 Q Deals for the good old boys, third bullet down.

21 A Yes.

22 Q "Would travel to Atlanta while you're on
23 reserve present any issues [she is based
24 in Seattle and would need to be there to
25 fly if called]."

1 What's that got to do with EO?

2 A I think her claims of, "I'm being treated
3 differently," others were allowed to fly for things to be in
4 Atlanta -- that they needed to be in Atlanta for but I was
5 not. So, again, kind of an unfair treatment, different
6 treatment.

7 Q But why would you need to know from her travelling
8 to Atlanta while you're on reserve would present any issues?

9 A If I remember correctly, it was brought up by her.
10 So, and again, it was because she was not being treated like
11 others who were travelling to Atlanta.

12 Q JX-E-008.

13 A Yes.

14 Q The opened bullets, the fourth one down:

15 "Are you familiar with the FAA rules on the
16 amount of recurrent training carriers are
17 required to provide?"

18 What does that have to do with EO?

19 A I honestly don't -- couldn't tell you.

20 Q So why is it on one of your lists of questions?

21 A I don't -- I really don't remember.

22 Q You mentioned that JX-J, your investigatory summary
23 was a living, breathing document, if I recall correctly.

24 A Yes.

25 Q At each stage of this living, breathing document,

1 when you updated it, for example, if I understand your
2 testimony, you updated it we'll say on -- I'm turning to page
3 JX-J-009, you would have updated it on March 21st, following
4 that interview. Is that correct?

5 A Correct.

6 Q Once you updated it, did you then transmit that to
7 Mr. Puckett or anyone else?

8 A I don't remember when, and or how many times I
9 transmitted it to Mr. Puckett or anybody else.

10 Q Would it be the normal course of your business as
11 you're doing an investigation to provide updates to -- I'll
12 call them your fellow investigator? Did you consider him a
13 fellow investigator?

14 A I -- I wouldn't have considered him a fellow
15 investigator because he wasn't really looking into -- I was
16 working with him on what flight ops was doing so I wasn't
17 interfering with that, kind of maybe a partner in this. I'm
18 not sure exactly how to describe that. But I would, at
19 times, it would depend on, again, what the situation is, but
20 yes, in this case, I would have given him a copy in some way,
21 shape or form. Chris and I -- Mr. Puckett's and I's office
22 is right kind of across -- we're in different buildings but
23 across the street from each other. So --

24 Q That was my next series of questions.

25 A Okay.

1 Q Where are you actually --

2 A Yeah.

3 Q -- how far are you from Mr. Puckett's office?

4 A Kind of a stone's throw, literally just -- there's
5 an in and out that -- so, people are in and out, and we're
6 just across the walkway. So, buildings aren't far.

7 Q Okay. In the normal course of business, do you --
8 would you communicate with Mr. Puckett by e-mail, or would
9 you hand carry this?

10 A It really would depend. If I was working with
11 somebody in a different state, I obviously would send it via
12 e-mail. When folks are right there on campus, a lot of
13 times, we want to just get out of our environment. And it
14 may very well have been something that I walked over to him.

15 I don't remember how I got this to him. I would have
16 thought that I would have e-mailed it to him at some point
17 but sometimes with living, breathing documents, and if
18 they're still in not completed form, I may have given him a
19 portion of that to be able to look at. Obviously, too, if he
20 needed to talk with Dr. Faulkner or anybody else about it.

21 Q Did you ever learn who, over in flight ops, was
22 conducting the safety investigation?

23 A Mr. Puckett probably gave me names. What I
24 understood, it wasn't one person. There were different folks
25 that were scheduled to talk with her and look into those

1 situations but I -- I don't know specifically.

2 JUDGE MORRIS: Okay. Questions based on mine?

3 MR. SEHAM: None from the Complainant.

4 MR. ROSENSTEIN: One second. I might have one
5 question. I do have one question. Actually, a couple of
6 questions.

7 FURTHER DIRECT EXAMINATION

8 BY MR. ROSENSTEIN:

9 Q When you were answering questions about Delta's
10 policy on -- on discipline and retention, just to be clear,
11 were you -- do you have knowledge of what the collective
12 bargaining agreement, the pilots' working agreement says
13 about those subjects?

14 A I do not.

15 Q Okay. And you were asked by the tribunal in JX-E
16 on page six, there was a reference to social media policy in
17 the outline.

18 A Correct.

19 Q Was -- did you have an understanding as to whether
20 or not Ms. Petitt was -- has raised any fairness issues
21 related to her treatment by Delta that related to the social
22 media policy?

23 A If I remember correctly, it was something about
24 that, being able to use trademarks or something like that,
25 that crossed over into the social media policy. I can't

1 remember specifics though.

2 MR. ROSENSTEIN: Okay. That's all I have.

3 JUDGE MORRIS: Do you have anything?

4 MR. SEHAM: No further questions.

5 JUDGE MORRIS: I have one.

6 EXAMINATION

7 BY JUDGE MORRIS:

8 Q Turn back to JX-E-005, this is the one I was
9 looking for.

10 A Okay.

11 Q The very last bullet at the bottom of JX-E-005
12 reads:

13 "Since 2010, you have continued to
14 send e-mails and communication.
15 Correct?"

16 MR. ROSENSTEIN: Wait. I'm sorry. Where are you
17 read? Oh, I see.

18 JUDGE MORRIS: The very bottom.

19 THE WITNESS: Last bullet.

20 BY JUDGE MORRIS:

21 Q If you're an investigator, one tends to ask
22 open-ended questions as opposed to what appears to me to be
23 an accusatory question.

24 A Understood.

25 Q Explain this to me.

1 A It's a good question. I likely didn't phrase my
2 question that way to her. I do need to ask open-ended
3 question. I -- and this, very well, could have been a living
4 document, too, so, I don't know when it's completed form, if,
5 indeed, that's the way that question was there -- or you
6 know, again, was articulated to her.

7 JUDGE MORRIS: Questions based on mine?

8 MR. ROSENSTEIN: Let's see.

9 MR. SEHAM: Not from the Complainant.

10 MR. ROSENSTEIN: No questions.

11 JUDGE MORRIS: Thank you, ma'am. You may step
12 down. Do not discuss your testimony with anyone until the
13 conclusion of this hearing which is supposed to be tomorrow.

14 THE WITNESS: Thank you.

15 JUDGE MORRIS: Thank you.

16 (Witness excused, 12:08 o'clock p.m.)

17 JUDGE MORRIS: Is --

18 MR. ROSENSTEIN: I hope you're not wavering on
19 that.

20 JUDGE MORRIS: We're either going to go late or
21 we're going to finish on Wednesday so --

22 MR. ROSENSTEIN: Okay.

23 JUDGE MORRIS: -- do you want to break now and then
24 start with Mr. Puckett after lunch?

25 MR. ROSENSTEIN: Yeah. If that's okay.

1 JUDGE MORRIS: That's fine.

2 MR. ROSENSTEIN: He's either here or downstairs.

3 But we may need more than 25 minutes just because I think he
4 was having some trouble getting a taxi.

5 MR. SEHAM: Are we not having lunch now?

6 JUDGE MORRIS: No, no, no. We're going to break
7 for lunch.

8 MR. ROSENSTEIN: Yeah. I was just asking how long
9 that lunch would be.

10 MR. SEHAM: Oh.

11 MR. ROSENSTEIN: Yesterday, it was 25 minutes.

12 JUDGE MORRIS: All right.

13 MR. ROSENSTEIN: And I'm getting texts from him.
14 He thought he was going to be late but that doesn't really
15 tell me anything. But I think he's here. He certainly
16 should be here -- should have been here.

17 JUDGE MORRIS: Is -- what time is it. It's 12:09.

18 Let's reconvene at quarter of one. We -- I anticipate us
19 getting through at least Mr. Puckett today. And if we need
20 to, then we'll put -- it's my understanding it's Mr. Puckett
21 then Captain David. Right?

22 MR. ROSENSTEIN: Right. Captain David should be a
23 relatively shorter witness, I would expect. Mr. Puckett, I
24 -- my direct will be short but -- but cross seems to be a
25 little bit longer. But I -- I respect that we finished Ms.

1 Nabors before lunch. I appreciate that very much.

2 JUDGE MORRIS: All right. Well, I anticipate we're
3 going to finish Mr. Puckett today.

4 MR. SEHAM: Okay.

5 JUDGE MORRIS: We're going to go late.

6 MR. SEHAM: That could mean we're going to go
7 beyond 5:00.

8 JUDGE MORRIS: Okay. Understood.

9 MR. ROSENSTEIN: All right.

10 JUDGE MORRIS: All right. Court is in recess. See
11 you quarter of.

12 (Whereupon, the lunch recess was taken from 12:10
13 o'clock p.m. to 12:50 o'clock p.m.)

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1 AFTERNOON SESSION

1:01 O'CLOCK P.M.

2 JUDGE MORRIS: All parties present when the hearing
3 last recessed are again present. Mr. Puckett is the next
4 witness. Is that correct?

5 MR. ROSENSTEIN: Yes.

6 JUDGE MORRIS: Please stand and raise your right
7 hand.

8 Whereupon,

9 CHRISTOPHER BRIAN PUCKETT,

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

12 JUDGE MORRIS: Please take a seat. Mr. Puckett,
13 please provide your full name and business contact
14 information.

15 THE WITNESS: Sure. Christopher Brian Puckett,
16 Delta Airlines, 1010 Delta Boulevard, Atlanta, Georgia 30354.
17 My office phone number is 404-715-1152.

18 JUDGE MORRIS: Okay. Thank you. Do you have any
19 FAA certificates and ratings?

20 THE WITNESS: No, sir.

21 JUDGE MORRIS: All right. Go ahead, Counsel.

22 MR. ROSENSTEIN: Okay.

23 DIRECT EXAMINATION

24 BY MR. ROSENSTEIN:

25 Q Mr. Puckett, when did you start working for Delta?

1 A January of 2012.

2 Q And in what capacity?

3 A I'm an attorney assigned to the labor relations
4 department.

5 Q What did you do prior to working at Delta?

6 A I was an attorney at a couple of law firms, and I
7 clerked for a year for -- in the middle district of Alabama.

8 Q You graduated from what law school and when?

9 A Emory University in 2005.

10 Q And you said you worked for law firms. Which law
11 firms was that?

12 A I worked for King & Spalding for three years, and I
13 worked for Greenberg Traurig for three years.

14 Q And did you have a specialty as an attorney?

15 A I was labor employment.

16 Q Okay. How many years were you out of law school
17 when you went to Delta, seven or eight years?

18 A Seven years.

19 Q Seven years. And what -- where did you get your
20 undergraduate, by the way?

21 A (Inaudible)

22 Q What was your degree in?

23 A History.

24 Q What did you -- what was your first job at Delta?

25 A My first job at Delta was labor relations attorney.

1 Q And can you describe the -- the makeup of the labor
2 relations -- well, who do you report to? Let's start that
3 way?

4 A Right now, I report to --

5 Q Then. Start when you first got hired.

6 A Sure. I was hired by Brendan Branon was my
7 supervisor. At the time, Brendan was the director of labor
8 relations. He recently left Delta. Within the past year, he
9 left.

10 Q So when you were hired, you reported to Brendan
11 Branon who was the director of labor relations. Correct?

12 A Sure.

13 Q Okay. And describe the structure of the labor
14 relations group generally.

15 A Generally, so there's a director. And the way
16 Delta does it, labor relations is set in HR. So, we all
17 report up through the HR apparatus at Delta. So Brendan, it
18 varied back and forth, Brendan, for a while reported to
19 different people, the senior vice president in charge of
20 Global Compensation and Employee Relations. That's Rob
21 Knight. That's where he ended. When he was there, there was
22 a gentleman named Mike Campbell who was the executive vice
23 president of Human Resources and Labor Relations. Brendan
24 reported to him for a while. And then Mike was replaced by
25 JoAnn Smith in that role. And then, you know, Brendan

1 reported to her as well. So, I reported up to Brendan to
2 those -- to those folks.

3 Q And did that remain constant through 2017?

4 A Yes. Through 2017, yes.

5 Q Okay. So, what does labor relations mean at Delta?
6 What -- what is -- what -- whose the labor?

7 A Well, we're primarily responsible for our unionized
8 employee groups, domestically and in Canada. So, at Delta,
9 that's a relatively small number of groups, but a large
10 number of employees, the biggest being, of course, our pilot
11 group. There's 14,000 pilots in that group. So, we work to
12 support the flight operations department. We have a smaller
13 group, the dispatchers, who are unionized are (inaudible).
14 We work with them as well. And then I also worked with the
15 gate agents up in Canada who are unionized with the steel
16 workers.

17 Q Okay. And what's your -- what was your role
18 between 2012 and 2017? And if it changed, tell us.

19 A It's evolved a bit. But my primary role is the
20 day-to-day operational issues within flight ops and
21 supporting supply ops management. And you know, employee ad
22 union issues. I oversee the grievance and arbitration
23 process at Delta. And I also administer the Pilot Working
24 Agreement at Delta. In addition to that --

25 Q What does it mean, before -- I want to hear the

1 rest, but what does it mean to administer the Pilot Working
2 Agreement?

3 A Right. Well, the Pilot Working Agreement dictates
4 the pay and the work rules for our 14,000 pilots. And issues
5 come up on a daily basis, interpretation issues, application
6 issues, and I'm called upon to resolve disputes, interpret --
7 provide interpretations, figure out ways to -- ways to keep
8 things moving.

9 Q Got it. And I interrupted you as you were
10 describing what your duties were. So, there was more.

11 A Additional duties, we're responsible for
12 negotiating the Pilot Working Agreement as well. So, I've
13 been part of the team since 2012 that's negotiated -- I think
14 we've negotiated, since I've been, two Pilot Working
15 Agreements. So, I've been, you know, worked on various
16 sections within the agreement and negotiated contracts up in
17 Canada as well as our refinery in Pennsylvania. We have a
18 wholly owned subsidiary of a refinery that we own. And I
19 went there and helped negotiate that contract as well.

20 Q Okay. Any other responsibilities that you want to
21 tell us about?

22 A I get generally involved in some corporate matters
23 here and there, but they're on an ad hoc basis.

24 Q Okay. How does -- you said you're an attorney. Is
25 the labor relations group part of Delta's legal group or

1 general counsel's office?

2 A It's actually separate but we work very closely
3 together. So, but we are -- we report up through HR whereas
4 the legal group reports separately.

5 Q Are you part of flight operations itself, or are
6 you --

7 A I'm not. I'm -- and that's another -- that's a
8 deliberate piece of structure is that we do not report within
9 flight operations. Sometimes I have to give folks in flight
10 operations bad news. So, we want to keep those reporting
11 chains separate.

12 Q You're managed and receive reviews yourself on your
13 performance from year to year.

14 A I'm sorry.

15 Q You're managed and receive performance reviews and
16 other things from year to year.

17 A Sure. Yes.

18 Q Are those performed by flight operations, by legal,
19 by -- by labor relations or some other group?

20 A By labor relations. Yeah.

21 JUDGE MORRIS: Who's a non-attorney?

22 THE WITNESS: Well, Brendan is an attorney, or
23 was -- still is. He's just not at Delta anymore. Mike
24 Campbell is an attorney. JoAnn is not an attorney and
25 neither is Rob.

1 BY MR. ROSENSTEIN:

2 Q So it's a mix of attorneys and non-attorneys in
3 labor relations?

4 A Right, right. And we've added since I was hired.
5 When I got there, it was me and Brendan and then we have a
6 benefits specialist named Lourdes DiPietro. Since then, we
7 hired an additional attorney, a Lilia Bell. And Lilia is
8 generally responsible for the PER aspects at Delta, which is
9 everybody else. And some of the issues -- and various issues
10 that come up in the other employee groups, you know, in
11 flight, being the largest, but also our domestic agents and
12 our ramp folks.

13 Q Can I safely presume that you have knowledge of the
14 PWA?

15 A Yes.

16 Q Take a look. It's a stand-alone volume three.
17 It's a blue binder. You'll probably have to stand up to get
18 it. It's probably in the pile in front of you, actually,
19 maybe by the wall.

20 A Okay.

21 Q There should be volume three, and it should say
22 RX-7 on it. It's a bit of a mess over there by now.

23 A I've one -- one, six, two, and five.

24 Q I'm thinking it's in front of you. Chris, if you
25 could literally stand up and --

1 A Oh.

2 Q No.

3 A Volume two.

4 Q I'm going to do it for you. Okay. Could you tell
5 us, turning to RX-7 in there, can you identify it?

6 A Yeah. This is the PWA.

7 Q Okay. Does the PWA provide for discipline for --
8 for pilots?

9 A There's a section that talks about how discipline
10 is administered for pilots.

11 Q So does that explain how the system under the PWA
12 works for -- if there's going to be any kind of discipline or
13 -- or anything that is related to discipline.

14 A Sure, sure. So, I think the place you start there
15 is Section 18.

16 Q Section 18.

17 A Right.

18 Q Can you send us to the page?

19 A Well, hold on. Let's see. Sixteen, right, so
20 Section 18 is RX-7-194.

21 Q Okay. And you don't need to refer -- you can refer
22 to it if you want to but --

23 A Sure.

24 Q -- basically describe how the disciplinary process
25 for pilots works at Delta.

1 A It's a pretty standard waiver agreement. It's got
2 a process for conducting investigation that you need to
3 follow, you know, the threshold of that, it contemplates if a
4 pilot is subject to a disciplinary investigation, they're
5 given the opportunity to have ALPA representation. Right?
6 ALPA is the elected representative of the pilot group. After
7 that, at some point in the process, if it's determined that a
8 pilot has done something that merits discipline, the pilot is
9 given a document, call it a NOI in the agreement. It's a
10 formal list of the charges. Right? But we call it a notice
11 of intent. And that notice of intent is, you know, we
12 conduct an investigation, here's all the things that we've
13 found, and we intend to give you this discipline, whatever it
14 is, you know, termination on down.

15 After that, the pilot has grievance rights. So,
16 you can submit a grievance and then it goes into this
17 grievance process where there's an initial hearing. Right?
18 And an initial hearing officer hears the case, you know, hey,
19 you're saying that we're wrong here, we messed up. Tell us
20 how we messed up. At that point, the hearing officer can
21 issue a determination that reduces the discipline, you know,
22 gets rid of the discipline or upholds it. If, at that point,
23 the discipline is upheld, or it's not reduced to a point the
24 pilot wants, they have an opportunity to appeal that to the
25 system board of adjustment.

1 So the system board of adjustment is something you
2 need to -- air carriers, and of course, the railroads, we're
3 all subject to the Railway Labor Act. I don't want to get
4 into too much detail but the Railway Labor Act contemplates
5 the system of arbitration called the system board of
6 adjustment. And that's when you go to Section 19. Section
7 19 covers the appropriate ways that the system board is run,
8 all the procedures there. Delta actually has a somewhat
9 unique system, different from other carriers where we have a
10 four-member board process and a five-member board process.

11 So, a four-member board process is made up of two,
12 I guess, management pilots and two ALPA pilots. And they
13 hear the case. The case is presented to them. And they make
14 a decision on it. And that decision is binding. Now if you
15 don't like what you get at the four-member, you can go up to
16 the five-member. Now the five-member is chaired by a neutral
17 arbitrator. And we have a panel of arbitrators, just like
18 everybody else. But -- but it's just the general overview of
19 how it works. And so, you know, we take some pride at Delta
20 in being able to resolve disciplinary disputes at the lowest
21 level before it gets into the grievance process. But if it
22 does get into the grievance process, we try to resolve them
23 at the four-member. If we can't get them resolved at the
24 four-member, the last resort we go and we all take place.

25 Q Got it. Thank you. And is there something called

1 progressive discipline under this program?

2 A Yeah. It doesn't expressly call for progressive
3 discipline. So, I know in some contracts, it's written in
4 there. We do, do our best to try to practice the principles
5 of progressive discipline. We get somebody in that's, you
6 know, there's mitigating circumstances to whatever they did.

7 They don't have any previous disciplinary history, a lot of
8 seniority, all these different things. We try to start low.

9 And that's the idea of progressive discipline. Right? This
10 is -- you know, this is a shot across the battle. You know,
11 this is just a literal warning. The next time -- and then
12 you go -- you do something else. Right? There you are
13 again. Wow, you know, now we're -- you know, now you -- now
14 you've got an issue. Now it starts ratcheting up. And
15 that's just the -- that's really the whole idea behind
16 progressive discipline. And we definitely try to practice --
17 there's principles but without -- you know, there's no
18 mandatory provision in the contract that calls for it.

19 Q Are you familiar with the concept of a letter of
20 counsel within Delta.

21 A Right. Yeah. A letter of counsel --

22 Q What is that?

23 A Well, it's a tool available to chief pilots at
24 Delta. And when I say "chief pilots", that's how Delta
25 flight operations structures its management organization. We

1 have different bases. And those bases are manned -- there's
2 a regional director who is the chief pilot of the base that
3 heads it up. And then he has, or she has, a series of
4 assistant chief pilots, which are first officers, and then
5 chief pilots which are captains working. And they -- they
6 are responsible for supervising the pilot groups in those
7 bases.

8 So, you know, periodically, you know, pilots will
9 do things that, for whatever reason, the company doesn't feel
10 like it should rise to the level of a formal discipline where
11 we're going to give you a notice of intent, and we're going
12 to go through this whole thing. And instead, it's more than
13 something that's just a verbal talking to. It's a -- so it's
14 between what we would consider the formal disciplinary
15 process and a verbal talking to. And a letter of counsel is
16 just documented counseling, saying, we've talked about this
17 and here you go. Here's a letter for you. And you know,
18 that's the end of it at that point.

19 JUDGE MORRIS: So I'm clear, it's not in your union
20 contract but it's a practice within Delta for this letter of
21 counsel.

22 THE WITNESS: That's correct, Judge.

23 JUDGE MORRIS: Okay. Thank you.

24 BY MR. ROSENSTEIN:

25 Q And do you have a practice as to what the letter of

1 counsel can be used for or --

2 A Not -- you know, it's -- it's just -- it's by feel,
3 you know, it's -- a lot of it is the discretion of the
4 regional director. And then, of course, he reports up to the
5 managing director of flying operations. A lot of it's based
6 on just the history on the property, you know, hey, if
7 somebody does something, you know, we try to -- you know, we
8 try as hard as we can to follow consistent precedent. I
9 mean, that's, you know, not, you know, you need to -- you
10 denies properties, right? You know, you don't go and -- you
11 know, you have one pilot that does something, and another
12 pilot does the same thing, you know, just because it's a
13 different base or different supervisor, you don't give them
14 different discipline. We try to give them the same level of
15 discipline.

16 For something that may be in Detroit had risen to
17 the level of a letter of counsel, we try to apply that to the
18 -- if they're the same facts in Atlanta, we try to apply the
19 same deal in Atlanta.

20 Q Can you -- I'm sorry. Are you done?

21 A So, yeah, it's something that really isn't -- I
22 would say not bad but, you know, something that -- that
23 merits a little bit -- a little bit more than a talking to, I
24 guess, that's the best description I could give of it.

25 Q Okay. Can letters of counsel be grieved?

1 A They can be. There's a provision in the contract
2 that says basically, all critical correspondence can be
3 grieved. It -- I can't think of time where it's ever
4 happened, at least since I've been at Delta. Again, I think
5 that most pilots and their reps understand that, you know,
6 this is what it is. This was just -- you know, we're
7 documenting this conversation that we had. We're putting you
8 on notice that we don't want to -- we don't want to have to
9 do this again. And we don't want to have to go down this
10 road again.

11 Q Other than receipt of the letter of counsel, is
12 there any consequence to the pilot or employee, I guess, who
13 receives one?

14 A No, no. They can and -- they're allowed to write a
15 rebuttal, a letter to it, and that's the same for all
16 critical correspondence. And every now and then, it will
17 happen. You'll give somebody a letter of counsel. They may
18 not agree with it and they can write up -- write a letter.
19 And that's, you know, that's out there as well. Basically,
20 we just staple it to the letter of counsel.

21 Q Are you familiar --

22 MR. ROSENSTEIN: One second. Yeah.

23 BY MR. ROSENSTEIN:

24 Q Is there a formal retention period for letters of
25 counsel, or any form of letter?

1 A Well, all the letters go in personnel files.
2 Right? So, they're there. Now there is a provision in the
3 contract that considers admissibility in future proceedings.
4 So what that means is that, let's say you get a letter of
5 warning. It's just a -- I don't want to get too far in the
6 weeds but the cut off for timing at Delta is a suspension
7 period. So, if you get something with less than a 30-day
8 suspension, so, if you get a letter of warning and a 29-day
9 suspension, and sometimes you see those --

10 Q M'hmm.

11 A -- because it's -- a little bit of it is negotiated
12 -- if you get a letter of warning and a 29-day suspension,
13 that letter after two years, cannot be admitted into an
14 arbitration proceeding. So, you get a letter of warning and
15 a 29-day suspension, and two years and a day later you do
16 something. And you get in trouble. And the company goes,
17 okay, now we're going to give you -- you know, we're going to
18 terminate you. Well, at the termination hearing, you can't
19 get that letter in, you know, as evidence that, you know,
20 supports whatever conclusions you reached. It's just not
21 admissible is the terminology.

22 However, the letter stays in the -- you know, in
23 the personnel file just as a reference, just like anything,
24 you know.

25 Q So, you don't go in and take a letter of counsel

1 and throw it in a fire after a certain period of time?

2 A No.

3 Q Are you familiar with Section 15 of the pilots'
4 working agreement?

5 A Yes.

6 Q How did you obtain familiarity with that section?

7 A You know, it's -- Section 15 doesn't come up very
8 often. But, you know, when it does, it falls on
9 accommodation of labor relations and flight operations and,
10 of course, you met Dr. Faulkner yesterday, the director of
11 health services, to go through and just depending on the
12 circumstance, you know, follow the process in Section 15.

13 Q Okay. Is Section 15 in this exhibit?

14 A Yes. It is.

15 Q Can you just send us to the page?

16 A Sure.

17 Q Seven dash 181.

18 A Yes.

19 Q Okay. So, what, if anything -- do you have a role
20 in Section 15 as an attorney in the labor relations group?

21 A Other than just advice -- advice and counsel, I
22 don't have a -- I don't usually play a role.

23 Q When you say "advice and counsel," describe what
24 you mean by that.

25 A As different scenarios will come up, you know, the

1 question may be posed, you know, do we, you know, can you
2 interpret -- can you help us interpret these provisions? Do
3 we feel like we have a reason to believe? Is this something
4 we should send to Dr. Faulkner? You know, depending on, you
5 know, it comes up every now and then, return to work issues,
6 you know, because one of the provisions in here is, if you're
7 out for more than four months, you have to come back in
8 through the medical review process. So, you know, it pops up
9 here and there. And periodically, you get questions about
10 it.

11 Q Does labor relations, or you, personally, have a
12 role in determining whether Section 15 should be implemented?

13 A No.

14 Q No. Am I understanding your testimony correctly
15 that your role is to provide counsel on the compliance with
16 the collective bargaining agreement in connection with
17 Section 15, or is there more or less to that?

18 A I think that's -- that -- provide compliance is
19 very accurate, an accurate statement.

20 Q Is Section 15 disciplinary or part of the
21 discipline process within the PWA?

22 A Absolutely not. No.

23 Q Why do you say that with such conviction?

24 A Well, I mean, Section 15 is a -- we view it as --
25 it's a safety function. You know, you start with -- you

1 know, where pretty much everything starts in the airline
2 industry. You know, we have a duty to operate with the
3 highest degree of safety in the public interest. And Section
4 15 is a big part of that. And part of that duty is making
5 sure that our pilots are fit to fly. Right? We simply
6 don't, you know, the stakes and liability are just too high.

7 If you find out that a pilot may not meet the medical
8 standards to safely operate an aircraft, there has to be some
9 mechanism to address that. We can't put our heads in the
10 sand. We can't ignore it. And Section 15 is the process to
11 go about addressing those scenarios where you determine that
12 they're -- a pilot may have a fitness issue.

13 Q And what's -- walk us through -- we've heard a lot
14 about how Section 15 works.

15 A M'hmm.

16 Q So, I might stop you part of the way.

17 A Sure.

18 Q But walk us through your understanding of how
19 Section 15 gets implemented and how it works.

20 A Sure. Well, I'll get the -- actually, the part
21 about -- where most of the Section 15 cases go, I'll start
22 there because it's the quickest. Those are the four-month --
23 more than four month out returns to work. So, they come back
24 through Dr. Faulkner. And so, that's the bulk of --

25 Q When you say, "Dr. Faulkner," what role does Dr.

1 Faulkner --

2 A The director of health services.

3 Q Okay.

4 A So, if you're a pilot and you're out for, you know,
5 and some pilots are out, I mean, we've got a pilot right now
6 that's been out for at least nine-and-a-half years, and
7 trying to come back to work. It goes up to 10 years. You're
8 allowed to be out 10 years before -- if you're not back in 10
9 years, then you're removed from the seniority list. It
10 doesn't mean that you're taken off disability. You're just
11 removed from the seniority list.

12 The pilots, you know, have all kinds of medical
13 issues and need to -- you know, they're working their way to
14 get back. So, that's where most of them happen. But you
15 know, obviously, what we're here for today is to talk about
16 the provision in here that says, you know, the director of
17 health services --

18 Q Where are you reading from --

19 A I'm (inaudible). I'm in B.1.

20 Q M'hmm.

21 A B.1., A, B, and C here kind of way out where, you
22 know, how you get into Section 15. And this -- this when,
23 there is a reason to believe that he may not meet the
24 physical standards, that's the fitness for duty removal from
25 service provision.

1 Q Was -- was -- was this -- I assume this was
2 negotiated with the airline pilot association, this language.

3 A Absolutely, yeah.

4 Q And -- and it says, "When there is reason to
5 believe..." What -- was that negotiated?

6 A Yes.

7 Q Do you know what that means?

8 MR. SEHAM: Can there be a reference in the
9 document to that.

10 MR. ROSENSTEIN: B.C.

11 JUDGE MORRIS: B.1.

12 THE WITNESS: 15.B.1.C.

13 BY MR. ROSENSTEIN:

14 Q Do you know what that means, "reason to believe"?

15 A It means exactly what it says. It means, if you
16 have a reason to believe that a pilot may not meet the
17 standards, then you can exercise whatever rights you have
18 under this provision.

19 Q Who would make that -- what's your understanding of
20 what -- who would make that determination that there's reason
21 to believe?

22 A Right. That's typically the director of health
23 services. And he works with the chief pilot at Delta. If
24 we're going to remove a pilot from service, that's at that
25 level, the chief pilot at Delta, and at the time in this

1 case, was Captain Graham, as a vice president of flight
2 operations.

3 Q If a pilot is placed under medical review, under
4 this Section of the PWA, does Delta notify the FAA at that
5 time?

6 A No.

7 Q Why not?

8 A Well, Section 15, it contemplates a pilot that has
9 a medical certificate. So, there's nobody at Delta that can
10 take a pilot's medical certificate away from him. Right? So
11 Section 15 is premised on the idea of a pilot who has a
12 medical certificate but may have some issue that means that
13 they really shouldn't have it. You know, some pilots, you
14 know, may not like to go to the doctor. And it's -- in this
15 context, it can be a little bit counter-intuitive but one of
16 the ways we view Section 15 is that it's actually a way to
17 help the pilot. We have pilots that are, you know, out there
18 that may have medical conditions. And because you're medical
19 fitness is a prerequisite to go fly, they may not be wanting
20 to tell anybody about it. They may be not wanting to go and
21 volunteer that, "Hey, I've got something going on. I've got
22 something wrong with me. I've got some problem." And that's
23 where Section 15 comes in is that we want to pull that person
24 in and find out what's going on. And we either want to say,
25 "Okay. You're good to go. You're back to flying." Or we

1 want to find out what the problem is and help them address
2 it.

3 Q Does the collective bargaining agreement have any
4 provision that deals with communication to the FAA?

5 A Yeah. It actually expressly says in here that the
6 CME will not report his determination to the FAA. So, what
7 that means is, you know, the CME is a couple of steps down
8 from what we were just talking about. And I know you --

9 Q You should presume some knowledge on that.

10 A -- guys have been going through it. Without
11 re-creating it but you know, the DHS makes his assessment.
12 If the DHS decides that it's going to go to CME, at that
13 point, the CME does his review and reaches a determination,
14 the pilot still has a first class medical at that point.
15 Nothing has happened. Nobody in that process can take that
16 away. So, that's a negotiated provision that I think serves
17 to benefit both the pilot. Right? The pilot is getting
18 pulled into this process involuntarily in a lot of cases.
19 So, there's no need to go and tell them and essentially, you
20 know, I think the way some would view it is, get them and,
21 you know, visibility in front of the FAA with something. And
22 at the same time, from the company's standpoint, it protects
23 the process.

24 Q How does it protect the company?

25 A Well, it protects the process.

1 Q What --

2 A They have the process here.

3 Q Explain.

4 A We want to get the pilot in and get him through.

5 If the CME reaches a negative determination, there's this

6 tripartite system that we have in place to try to, again,

7 protect the integrity of the process. And having the FAA

8 come into that just really isn't, you know, isn't necessarily

9 a helpful issue. And it doesn't really --

10 JUDGE MORRIS: Wait a minute.

11 MR. ROSENSTEIN: Yeah.

12 JUDGE MORRIS: Tell me how this promotes the

13 highest level of safety in air commerce for the public. Not

14 the company. Not the pilot. The public.

15 THE WITNESS: Because they're -- because they're --

16 they're not allowed to fly in this process. We take them

17 down off of the -- off of the -- off of the -- the flight, a

18 bit of schedule, now they're papertected (sic) but they can't

19 -- they can't go fly. So, we've stopped them from flying.

20 Now there's only -- there's only so much we can do,

21 Judge. We can't go and prevent somebody. Now Delta has

22 provisions where we can stop them from going and flying

23 commercially because they have policies and procedures that

24 they have to report that to us but we can't go and control --

25 that's just a step too far from the -- for the company to be

1 able to do that.

2 JUDGE MORRIS: And again, this is where I'm trying
3 to find out is, okay, you do not provide this information to
4 the FAA.

5 THE WITNESS: Right.

6 JUDGE MORRIS: You say you can't fly for the
7 public. This person can hop into a barren, no limitation, go
8 out and have an accident. How does this help the public
9 because you have not provided this information, particularly
10 at the CME level, where you have an adverse finding?

11 THE WITNESS: Right. Well, we have an adverse
12 finding but we don't have a complete finding at that point.
13 There's still -- there's still some benefit of a doubt here.
14 Right? It still has to run through the process because,
15 look, doctors can disagree on these things. We -- two
16 doctors can certainly disagree. So, that's where the other
17 -- that's where the other two doctors come in to fill out the
18 process.

19 JUDGE MORRIS: It's your position that, at that
20 point, when there's a question, even a medical question,
21 that, that does not need to be relayed to the FAA because,
22 according to the company and the pilot, not the public,
23 there's no safety interest involved here when you have
24 affirmative information that there's a problem potentially
25 with this pilot.

1 THE WITNESS: Judge, I wouldn't say there's no
2 safety interest but this is what was negotiated between the
3 company and the union. And this is what we have to follow.
4 Now I think that we have severely mitigated any harm by
5 pulling the pilot down off of -- from Delta flying certainly.

6 JUDGE MORRIS: Well, but --

7 THE WITNESS: But, yeah, whether they could go out
8 and they're going to go out and fly, that's certainly an
9 ethical and a moral issue on the pilot's part at that point.
10 Because they are definitely on notice, particularly if they
11 have a negative determination, and they've got a DHS and a
12 CME telling them they shouldn't do that.

13 JUDGE MORRIS: Can --

14 THE WITNESS: They shouldn't do it.

15 JUDGE MORRIS: Can the company utilize a pilot that
16 is not otherwise qualified to operate the aircraft has a
17 known or potentially known --

18 THE WITNESS: No.

19 JUDGE MORRIS: -- medical deficiency?

20 THE WITNESS: No. We cannot. We cannot -- and we
21 wouldn't -- Judge, we won't utilize them during this process.
22 That's what I'm saying is, we don't fly them. They're not
23 flying while they're in this process.

24 JUDGE MORRIS: They're not flying for you.

25 THE WITNESS: For Delta, right.

1 JUDGE MORRIS: So, what I'm hearing is, this
2 contract protects Delta and Delta's liability. It's not
3 protecting the public.

4 THE WITNESS: It's -- it's -- there is, again, this
5 is what was negotiated and for the pilots -- and I can tell
6 you, I'll -- for the pilot's union, they would say, "There's
7 not a final determination here yet." You just -- you just
8 have had a suspicion that they're not -- they're not okay.
9 And just the CME's determination, it still has to run through
10 this tripartite process before we'll call it final and
11 binding. At that point, you can actually tell the FAA and
12 you can tell the world. But until that point, it's still in
13 -- we still just don't believe you have a medical. Right?
14 Now in the --

15 JUDGE MORRIS: Who is "we" don't believe you have?

16 THE WITNESS: "We," the company, the company has
17 come down and said, "We don't believe that you -- you should
18 have a medical." And particularly if the CME has made that
19 decision, then, yeah, we definitely believe it at that point
20 but it's not finalized. They still have a medical.

21 Now if the pilot were to go and try to renew their
22 medical during this process, that's a whole different animal.
23 At that point, now, you're on your Form 8500. You have to
24 disclose certain things. You know, then, yeah --

25 JUDGE MORRIS: Who does?

1 THE WITNESS: The pilot does. The pilot is
2 obligated to disclose that.

3 JUDGE MORRIS: The company has affirmative
4 information that there's potentially a serious medical
5 deficiency.

6 THE WITNESS: Right.

7 JUDGE MORRIS: Are you saying that the company is
8 under no obligation to report that to the FAA?

9 THE WITNESS: That's what I'm saying, Judge. And
10 I'm saying that I'm under a contractual obligation to not
11 report it.

12 JUDGE MORRIS: All right. Continue.

13 BY MR. ROSENSTEIN:

14 Q In fact, how long has that -- that Section 15 been
15 in this contract and this form to your knowledge?

16 A This provision has been in since 2000. The
17 contract in 2000 was rewritten. The tripartite medical
18 challenge process has been in since, you know, I think it
19 goes back to the -- maybe the '70s or '80s. I'm not sure
20 exactly how far back it goes but it's been around a while.
21 And these are -- these are pretty common.

22 Q Are you familiar with industry practice?

23 A Yes. This is --

24 Q Is this unique to Delta and ALPA?

25 A No, no. This is a relatively common way of doing

1 this. Everybody has their nuances but this is, you know, the
2 attempt of the company and the union to create a balanced and
3 fair process for evaluating pilots' medical fitness.

4 Q Does the FAA have to review collective bargaining
5 agreements? Does the FAA have an opportunity to see what's
6 in it?

7 A No. The FAA does not see them.

8 Q Do you know whether the FAA is aware of -- of -- of
9 these -- these policies and programs?

10 MR. SEHAM: Just an objection.

11 THE WITNESS: I'm certain the FAA is aware of --
12 BY MR. ROSENSTEIN:

13 Q How are you so certain?

14 A Well, I can tell you that right now the federal air
15 surgeon used to perform the role at Delta that Dr. Faulkner
16 performs.

17 Q Who is that?

18 A That's Dr. Berry.

19 JUDGE MORRIS: So, the company's former flight
20 surgeon is now responsible for the FAA's --

21 THE WITNESS: He's our former flight surgeon but he
22 performed -- he performed medical reviews for -- on behalf of
23 Delta in the late '90s. And this issue, these issues have
24 come up periodically. I mean, Delta was in, you know,
25 litigation in the '90s over different things. This is -- you

1 know, and it's gone on and on. And of course, in this case,
2 the FAA was made aware of what was going on in this --

3 BY MR. ROSENSTEIN:

4 Q What do you mean, "in this case"? You mean, Ms.
5 Petitt's case?

6 A Yes.

7 Q What do you mean the FAA was made aware?

8 A Well, I think that it was disclosed to the FAA that
9 this process was going on in the middle of it. So, you know,
10 they were, at that point, made aware of it.

11 Q You're talking about disclosures that were made in
12 2017.

13 A Yes, sir.

14 Q Okay. But when -- you're familiar with Ms.
15 Petitt's situation. We haven't gotten there yet but --

16 A Right.

17 Q -- I'm laying a foundation for you.

18 A Okay.

19 Q You are familiar with that. Right?

20 A I am.

21 Q And you want -- you would agree that Delta complied
22 with the collective bargaining agreement and did not inform
23 the FAA of the Section 15 process in 2016. Correct?

24 A In 2016, I think that is accurate.

25 Q Okay. And what were the circumstances under which

1 Delta ultimately discussed this Section 15 process for Ms.
2 Petitt with the FAA?

3 A My understanding of it is that Ms. Petitt --

4 MR. SEHAM: Objection. It's his understanding.

5 JUDGE MORRIS: Well, I've allowed hearsay quite
6 extensively. So, I'm going to allow it. Go ahead.

7 THE WITNESS: That she went in the middle of the
8 process, after the CME had reached a determination, went and
9 obtained a medical, first class medical, and notified the DHS
10 that she had obtained a first class medical.

11 MR. ROSENSTEIN: Okay.

12 BY MR. ROSENSTEIN:

13 Q And so, my question was, how did -- what were the
14 circumstances under which Delta communicated with the FAA?
15 You started that, I guess.

16 A The director of health services, I believe, asked
17 the question, as, "Hey, how has this happened?" Because
18 again, you're in this -- this area where, you know, with this
19 particular determination, the FAA's own procedure say, "Hey,
20 this needs to be deferred." Or alternatively, on the Form
21 8500, you know, maybe you just don't know, maybe it wasn't
22 divulged. Right? Which is, it's under criminal liability --

23 Q What do you mean by, "The FAA's own procedure, this
24 has to be deferred"? Explain that.

25 A So, the -- with the bipolar diagnosis, that's

1 something that an AME can't provide --

2 MR. SEHAM: I'm going to object. This is -- this
3 is a labor relations representative. He's not a doctor.
4 He's never served in the Federal Aviation Administration.

5 MR. ROSENSTEIN: Is it an objection to my question?
6 What do you mean by that? Because that was the question.

7 MR. SEHAM: There's no foundation for this witness
8 to testify on these issues.

9 JUDGE MORRIS: Rephrase.

10 MR. ROSENSTEIN: Rephrase from what did he mean by
11 that, or -- because I don't remember the other -- the
12 question.

13 JUDGE MORRIS: That's what I don't remember is the
14 earlier question.

15 MR. ROSENSTEIN: All right. I can do it. I think
16 I can do it.

17 BY MR. ROSENSTEIN:

18 Q So, Mr. Puckett, you testified -- if I understood
19 your testimony correctly, you testified that you became aware
20 that, at some point in 2017, Ms. Petitt had obtained her
21 certificate from the FAA.

22 A Correct.

23 Q Is that correct?

24 A Right.

25 Q And you -- were you -- were you surprised by that

1 in any way, or did you find that to be completely normal?

2 A It was a surprise.

3 Q Why were you surprised?

4 A Because again, she had just received a
5 determination from the CME of bipolar disorder.

6 Q Okay. So, it was your --

7 JUDGE MORRIS: And -- and wait a minute. And so
8 what? You've hid it from them -- hid it from the FAA so far
9 so what's the difference?

10 THE WITNESS: Well, because the difference is, for
11 the pilot, a pilot has to disclose that information.

12 JUDGE MORRIS: So, you're relying on 6153 --

13 THE WITNESS: Yes.

14 JUDGE MORRIS: -- on the pilot. What about 121.383
15 for the operator?

16 THE WITNESS: I'm not familiar with that one,
17 Judge.

18 JUDGE MORRIS: So, you don't believe that the
19 company has any obligation to report when there's a
20 diagnosis, a disqualifying diagnosis --

21 THE WITNESS: According to this contract --

22 JUDGE MORRIS: I'm talking about the FAA, the
23 regulations.

24 THE WITNESS: That's -- yes. Because at that
25 point, it's still -- it's still -- as part of this process,

1 it's still ongoing and has not been finalized. So, I would
2 say that the company would not, at that point, have an
3 obligation until the process has run its course.

4 JUDGE MORRIS: But that same rationale does not
5 apply to the pilot.

6 THE WITNESS: I think the pilot has to disclose on
7 that form that they have that diagnosis and give the FAA the
8 opportunity to explore that.

9 JUDGE MORRIS: And what makes you think that --
10 what gives you a basis to believe that they didn't disclose
11 and the FAA decided to issue it anyhow?

12 THE WITNESS: That's the -- that was the point,
13 Judge. Nobody knew the answer to that question. So, that's
14 why Dr. Faulkner felt like he was in a difficult position and
15 needed to find out what was going on.

16 JUDGE MORRIS: Do you understand the optics that
17 I'm seeing here is that it's okay when it's beneficial for
18 the company not to disclose information to the FAA, but when
19 it's not beneficial to the company, it is being disclosed to
20 the FAA.

21 THE WITNESS: Well, I think the difference is, is
22 that the pilot was under no obligation to go get a medical at
23 that point. There is nothing to say, "Yeah. I have to go
24 renew my medical because" --

25 JUDGE MORRIS: Where does it say that?

1 THE WITNESS: Well, it doesn't say it anywhere but
2 it's not able to operate an airplane for Delta --

3 JUDGE MORRIS: For Delta.

4 THE WITNESS: -- unless it's complete.

5 JUDGE MORRIS: Okay.

6 THE WITNESS: Right.

7 JUDGE MORRIS: With a first class medical, can't
8 you operate as a GA pilot?

9 THE WITNESS: I would assume you can.

10 JUDGE MORRIS: Okay. You need to have a medical.
11 You need to have at last a basic medical. And if there's
12 something disqualifying, you have to have a special issuance.
13 So, explain to me this inconsistency.

14 THE WITNESS: By consistency, I mean, what's on the
15 forms for the FAA when the pilot goes in and gets a medical,
16 they are voluntarily going and doing that. They're saying,
17 "I'm here and I'm going to go do this, and I'm going to be
18 honest and upfront on all of these forms." And that's fine.

19 If all of that is disclosed, the FAA gets to look at it and
20 makes its decision.

21 The company, on the other hand is -- is -- has no
22 -- I don't think, an obligation until we went all the way
23 through this process. We were trying to follow the process
24 and get to the end of it. And if we could have gotten to the
25 end of it, then, at that point, then we have an obligation.

1 That's when our obligation is triggered.

2 Now that's the best that I can explain it where I
3 believe that -- where our requirements are under that.

4 JUDGE MORRIS: And you understand the consequences
5 to a pilot if they lie on their medical application. Don't
6 you?

7 THE WITNESS: I do.

8 JUDGE MORRIS: What are they?

9 THE WITNESS: Well, you can permanently lose your
10 license and you can lose your liberty.

11 JUDGE MORRIS: Well, that's not quite true.

12 THE WITNESS: It's criminal It's a criminal law.

13 JUDGE MORRIS: It's -- revocation is a one-year
14 revocation. There's a couple of exceptions for life-time
15 revocation which this wouldn't apply but go ahead.

16 BY MR. ROSENSTEIN:

17 Q Well, the tribunal asked you a question about -- or
18 it's common that not reporting to the FAA was somehow
19 beneficial to Delta. Do you agree with that?

20 A No.

21 Q Why not?

22 A I mean, Delta -- for Delta, as long as -- I don't
23 really -- can you rephrase that? I'm not sure I understand
24 it.

25 Q Yeah. Would the -- would -- would Delta benefit by

1 this provision that prohibits them from reporting to the FAA
2 the fact that they placed a pilot in the Section 15 process?

3 I understand the -- why -- why Delta would be protected by
4 taking a pilot off the ground. What I'm wondering is,
5 whether you think Delta would be benefitted by this provision
6 to not report to the FAA, or whether you think that it's ALPA
7 that would have wanted that to protect the pilot until the
8 process has been finished, or something else? So, I'm not
9 leading you.

10 A Well, I don't think Delta would benefit. I think
11 that the provision is in there, probably at the behest of the
12 union, to make sure that the pilot is given every opportunity
13 to get through and get a second opinion and make it through
14 the medical process.

15 Q Can you think of any way that Delta --

16 MR. SEHAM: Objection, objection, objection. Move
17 to strike. Probably. This is just blank speculation.

18 BY MR. ROSENSTEIN:

19 Q I mean, all of this is, perhaps not -- more
20 interesting than it is if not relevant. But can you think of
21 any way that Delta benefits from not reporting to the FAA?
22 How does Delta benefit from that, if you can think of a
23 reason or a way that Delta would? I mean, and the answer
24 might be, "No," but I'm just asking.

25 A I can't really think of a reason.

1 Q Okay. All right. So, just to follow where this
2 line has taken us, you said that Section 15 is not
3 disciplinary. Correct?

4 A Correct.

5 Q Is it punitive in any way?

6 A No.

7 Q Are there provisions -- what provisions, if any,
8 are in place in this Section 15 process to ensure or, at
9 least, support your testimony that it is not to be used to
10 discipline or to punish?

11 A Well, I think probably the big one is that it's,
12 you know, under the control of the director of health
13 services. So, it's taken out of the chief pilot's office.
14 So, the director of health services, once this Section 15
15 process is started, really exercises his medical judgment and
16 discretion and how to best run this. And he's independent of
17 the chief pilot's offices at Delta. So, I think that's
18 probably the first one.

19 And then the second one is what we mentioned
20 earlier, that the way the process is structured, with this,
21 you know, three-party system, or three-doctor system, you
22 know, of course, if, you know, two doctors disagree, there's
23 a neutral tie breaker. Right? Doctors disagree all the
24 time. Well, there's a neutral that can come in and break
25 that tie --

1 Q How does that --

2 A -- and reach a decision.

3 Q -- how does that prevent it from being disciplinary
4 or punitive?

5 A Well, it, again, lends fairness and balance to the
6 process. And that's the -- that's the goal.

7 Q Are there other provisions that are designed to
8 prevent Section 15 from being used for discipline or for
9 punitive that you're aware of?

10 MR. SEHAM: Objection. There's no foundation.
11 This is not an individually-negotiated provision. These
12 provisions, which date from the 1970s, and the contract
13 speaks for itself.

14 MR. ROSENSTEIN: He's Delta's prime expert on this
15 collective bargaining agreement. I would think his
16 interpretation of this section would be, at least, relevant.

17 MR. SEHAM: Well, there you have it. It's
18 interpretation of a legal document, which, in our view, would
19 be within the purview of either an arbitrator, which we don't
20 have --

21 JUDGE MORRIS: And I've already ruled on that.

22 MR. ROSENSTEIN: Already ruled on what? I'm sorry.

23 JUDGE MORRIS: On the collective bargaining
24 agreement and the interpretation or not the interpretation.

25 MR. ROSENSTEIN: Right. But I'm asking this

1 witness to testify as to whether or to we do -- if there's
2 anything in this process that will protect against it being
3 used for discipline or punishment, which it's, I believe, the
4 heart of Claimant's (sic) case that we abused this Section
5 15. I think that's what this case is about, that -- if I
6 understand it from the Complaint, that the allegation is that
7 this Section 15 process was misused in order to retaliate
8 against Complainant for safety -- raising safety concerns.
9 So, I'd like the tribunal to hear about whether or not there
10 are protections in place in the language itself to keep that
11 from happening.

12 JUDGE MORRIS: Well, I'm going to allow it.
13 Whether or not I'll give weight to it is a different matter
14 but go ahead.

15 THE WITNESS: Well, I think the big ones were just
16 the DHS having control and, of course, the tripartite, you
17 know, medical expert process. And of course, there's pay
18 provisions in here. One of the changes was --

19 BY MR. ROSENSTEIN:

20 Q What do you mean pay provisions?

21 A Oh, there's pay, like shifting pay. If the company
22 -- there's incentives so, for whatever reason, the
23 determination is -- the CME's determination is disputed and
24 ultimately the NME disagrees and the company goes back and
25 pays the different medical costs. So, again, that's just,

1 again, another thing to, you know, sort of --

2 Q And what happens to the pilot's compensation when
3 they're placed in the process?

4 A Well, that's the thing. The pilots are pay
5 protected through the process and through the -- you get to
6 the CME and then if the CME has a negative determination, the
7 pilot is allowed to use their sick. There was the plan, the
8 disability plan was actually amended to allow a pilot to go
9 on disability if they have exhausted their sick. You know,
10 and ideally the process is wrapped up before you get too far
11 into that. But you know, we want to make sure that nobody
12 loses pay over it.

13 JUDGE MORRIS: Other than pay, what else does the
14 pilot retain when they're placed in this status? For
15 example, do they have non-rev privileges? Do they have jump
16 seat privileges? Do they get recurrency training? Do they
17 get any of those type of benefits?

18 THE WITNESS: They get a certain number of
19 benefits. Recurrency training, no. They're off the line.
20 They're not flying. So, they're not going into the
21 simulator. They're not doing that. They're removed from
22 flight status. And it depends on -- on the -- what's going
23 on as far as, you know, the jump seat because we don't
24 believe they're medically qualified and are removed from the
25 jump seat. But we do allow them to continue to non-rev

1 through the process. So, their other benefits are also
2 intact, medical, dental, things of that nature. Nothing
3 changes on that front. The only difference is, they're just
4 not flying.

5 JUDGE MORRIS: Do you, or have you heard, or do you
6 know that a certain proficiency or in-flying is a perishable
7 skill?

8 THE WITNESS: Yes, sir.

9 JUDGE MORRIS: The longer you're away from it, the
10 greater the degradation of your skills and your particular
11 performance, whether it be the type of aircraft, or a type of
12 flying?

13 THE WITNESS: I'm aware. Yes, sir.

14 JUDGE MORRIS: All right. Continue.

15 BY MR. ROSENSTEIN:

16 Q As part of your role, you assisted in a situation
17 that involved First Officer Petitt. Correct?

18 A Correct.

19 Q Okay. And that arose -- when did that arise?

20 A That arose in --

21 Q For you, anyway.

22 A -- March of 2016.

23 Q Okay. Take a look at -- well, how did it arise,
24 before I even show you the documents? What do you remember?

25 A Well, I remember -- I mean, I know that First

1 Officer Petitt came to Atlanta, and met with Captain Graham
2 and Captain Dickson. And she raised a number of issues with
3 them. And then --

4 Q You were aware of that meeting.

5 A Yes.

6 Q Okay. Take a look at -- it's Joint Exhibit -- it's
7 a -- it will have a green cover, if I remember. Yeah, a
8 green cover.

9 A Okay.

10 Q And look at B please.

11 JUDGE MORRIS: As in Delta?

12 MR. ROSENSTEIN: B as in boy.

13 JUDGE MORRIS: Okay.

14 MR. ROSENSTEIN: What's the right term if I
15 would --

16 JUDGE MORRIS: Bravo.

17 MR. ROSENSTEIN: Bravo, of course.

18 THE WITNESS: I'm sorry. Joint Exhibit --

19 MR. ROSENSTEIN: I embarrassed myself by asking
20 that question. I'm sorry.

21 THE WITNESS: Oh, here we go.

22 BY MR. ROSENSTEIN:

23 Q And tell me when you get it.

24 A Okay.

25 Q And just ignore the first page but turn to the

1 second page.

2 A Okay.

3 Q Do you recognize this document?

4 A I'm in the --

5 Q Are you in Joint Exhibit B as in Bravo and on the
6 second page?

7 A Yes.

8 Q Now do you recognize this document?

9 A Yes.

10 Q What is it?

11 A So, this is the assessment document that First
12 Officer Petitt provided to Captain Graham and Captain
13 Dickson.

14 Q Okay.

15 A I believe that was at the end of January, I think.

16 Q January of --

17 A I think

18 Q -- 2016?

19 A I believe yes.

20 Q And when did you first see it?

21 A Sometime after that. I'm not sure exactly what the
22 date was. But Captain Graham sent me a copy.

23 Q Do you know -- do you have an understanding as to
24 why it was being sent to you?

25 A Yeah. I mean, she had raised a number of different

1 allegations across the board. Some of them against, you
2 know, other pilots. And he wanted me to take a look at that.

3 I believe he also sent it to our legal department as well.

4 Q Did the subject of Section 15 come up at that
5 point?

6 A No.

7 Q What did you do when he sent you that document?

8 A Well, I talked to my counterpart in the legal
9 department about it. And then, eventually, we got together
10 with Captain Graham and went through the document.

11 Q Who was your counterpart?

12 A Meg Taylor.

13 Q Okay. And why did you get together and go through
14 the document?

15 A We just -- it -- we just wanted to walk through and
16 we'd all kind of given it a read. And so, there was a lot
17 going on in here. And we thought it would be beneficial to
18 try to parse out the different --

19 Q Who's the "we" in that?

20 A The we would be a combination of Captain Graham,
21 Meg, and I, and parsed out just the different -- the
22 allegations or determine allegations, but just the different
23 things that she was trying to bring forward.

24 Q Why?

25 A Well, I think a lot of them, we had a duty to do

1 it. We had a duty to investigate these. There were several
2 complaints that I think would fall into the discrimination,
3 harassment territory. There were several that were safety
4 complaints. And we had a responsibility to run down what she
5 was saying and investigate.

6 Q What -- from where did you derive that
7 responsibility in your view?

8 A In my view, it's an obligation for Delta Airlines
9 to do it.

10 Q And you said that you had to break it down. Why
11 did you feel like you had to break it down?

12 A Well, it's just -- everything was kind of mixed
13 together. The safety allegations, and then it would be
14 followed by, you know, allegation of harassment, then
15 followed by safety allegations. It was just kind of mixed
16 together. And it was clear to -- upon reading, you know,
17 that she was definitely trying to say things. You just had
18 to kind of draw them out a little bit and organize it in a
19 manner that, you know, so we could address the issues.

20 Q And did Jim Graham give you any specific
21 instructions on what to do?

22 A Yeah. I mean, he came up with the three buckets of
23 different types of complaints that were being made. And
24 there was the first bucket was what we would term EO
25 complaints. And that's employment based issues, harassment,

1 retaliation, discrimination. There were safety complaints.
2 And then there was a third, what we call just miscellaneous
3 bucket. But those were generally contract issues and really
4 just, what I guess what I would term just, you know,
5 questions about, you know, various contract issues.

6 Q Okay. And other than organizing your thoughts, or
7 organizing Exhibit B in a way that would help you understand
8 it better, did you have any other rationale for breaking it
9 into those buckets?

10 A Well, yeah. We needed to figure out who was going
11 to investigate what. And so, the way that Captain Graham
12 wanted to break it down was to have the safety issues
13 addressed by the various safety experts at Delta. So, that
14 was really the safety apparatus at Delta between corporate
15 safety and flight safety, to look at that and look at the
16 issues that she was raising. A lot of them were just
17 systemic safety issues, that those were the folks that would
18 need to address them.

19 The EO type of issues, well, there's an EO
20 department at Delta that does that. These were serious
21 claims. I mean, she was making some pretty serious
22 allegations, some of them involving fraud, you know,
23 destruction of records, things of that nature. From what we
24 could glean, it looked like some of the allegations were
25 against senior members of flight operations management. So,

1 we felt like, you know, we wanted to make sure that the EO
2 department took charge of that and that's their function at
3 Delta.

4 And then on the contract issues, Captain Graham
5 just wanted to handle those by himself and he was more than
6 capable of answering her questions and explaining the way the
7 contract worked.

8 Q Does flight op have HR people?

9 A Flight ops has HR people but, you know, a lot of
10 that is attune to different benefits, and you know, how the
11 various benefits work at Delta. For an employment -- for
12 some of the employment allegations of this size and this
13 nature, EO is really the place that we thought it was
14 appropriate for -- for the case to go.

15 Q Do the internal HR people conduct investigations
16 into EO?

17 A Periodically. But the larger scale investigations
18 at Delta, EO handles. And again, EO, it gets a little bit --
19 EO works within HR. EO reports up to HR at Delta whereas
20 they're maybe an HR representative that's assigned to the
21 flight operations department. That's typically a relatively
22 junior HR employee that's there to help with benefits whereas
23 the EO department, they will support flight operations. They
24 support the other -- the other departments as well. They're
25 running investigations over in -- in flight, you know, and

1 ACS, tech ops, pretty much all the time.

2 Q Take a look at Respondent's Exhibit 29. It's in
3 another binder.

4 A Okay.

5 Q And this one is a blue volume four. That one, I
6 think, is -- we've used enough that it's probably on the
7 desk.

8 A Which one?

9 Q Respondent's Exhibit 29 in volume four. Are you
10 there?

11 A M'hmm.

12 Q Can you identify what this is and why you -- why it
13 was sent?

14 A All right. So, this is an e-mail from me to
15 Melissa Seppings. So, Melissa is the director that oversees
16 the EO department at Delta. So, I cc'd Meg and Kelley
17 Nabors. This was 2/19. So, at this point, I believe that we
18 had already communicated with Melissa. After meeting with
19 Jim, Jim had said, "Hey, I want this going to EO" and I
20 believe Jim had contacted Melissa. And I was aware of that.
21 So, this looks like this was an effort by me to send her the
22 document that we were -- you know, that her group was going
23 to be tasked that we were investigating part of what was in
24 that document. And then, I'm setting up a meeting here just
25 to discuss how they're going to go about doing it.

1 Q The attachment is not here but is the attachment
2 that same Exhibit B that we talked about or is --

3 A Yes. It was the same.

4 Q Okay. And why did you say you copied Ms. Nabors?

5 A At that point, Melissa had already assigned her to
6 -- to conduct the investigation.

7 Q Did you -- did you have anything to do with this
8 selecting Ms. Nabors?

9 A No.

10 Q Did Captain Graham?

11 A I don't think so. I don't know.

12 Q Did you know Ms. Nabors at all prior --

13 A I did. I did.

14 Q Had you worked with her professionally, or did you
15 know her socially?

16 A No. I had worked with her professionally. She had
17 handled a couple of other investigations within flight ops
18 into harassment allegations. And did a really, really good
19 job.

20 Q Okay. Do you know whether Ms. Nabors ever met with
21 Ms. Pettitt?

22 A I do.

23 Q Okay. And did you know that was going to happen
24 before it happened, or did you learn of it after, or --

25 A Oh, no. I knew before.

1 Q Did you speak with her before she was to meet with
2 Ms. Petitt?

3 A You know, I don't -- I know we corresponded. I
4 don't remember speaking to her. But I'm looking at this
5 e-mail and I'm certain we set up a meeting of some sort. I
6 don't have any direct recollection of the discussion but I --
7 it looks like we did, we did discuss what she was going to be
8 doing.

9 Q Discuss in person, or by phone, or in some way?

10 A In some way. In some way, yeah.

11 Q Okay. And what was the reason for you to
12 communicate with Ms. Nabors prior to her meeting on March
13 8th?

14 A Well, I mean, I -- we had already kind of done the
15 -- the work and parsing out the -- the document with Captain
16 Graham and Meg. So, what I remember is communicating to her
17 and saying, "Hey, we'll just -- we'll send you the claims.
18 Just stand by. We'll get those to you. Go ahead and get
19 rolling on it and, you know, we'll put together a summary for
20 you, and send those to you."

21 Q You worked with her on that summary or outline?

22 A Eventually, yes.

23 Q Okay. And take a look at Respondent's 32, same
24 binder.

25 A Yeah.

1 Q Can you identify what this is? This looks like an
2 e-mail back to you --

3 A Right.

4 Q -- dated February 29th.

5 A And again, "Per the discussion today..." So,
6 yeah. I don't remember but it looks like it happened. Yeah,
7 "Connect with Meg and send the EO-related issues." So, yeah,
8 this is just the follow-up where we told her, you know, we'll
9 get it together. We've done this work. Don't worry about
10 it. We'll -- you know, we'll get you -- get you what you
11 need.

12 Q And did you send something to her subsequent to
13 that?

14 A I did. I did.

15 Q Take a look at Joint Exhibit E. It's in the Joint
16 Exhibit binder. And turn to page three. And tell me if you
17 can identify what pages JX-E-003 through JX-E-009 are.

18 A Okay. Okay. This looks like -- this is the --
19 this is the report that Kelley put together after she had --

20 Q Are you in JX-E and only looking at pages JX-E-003
21 through 009?

22 A Yes.

23 Q Okay. So, it starts out -- read it. Don't just
24 assume what it is, please, and then tell us what it is. Take
25 your time.

1 MR. SEHAM: I'm going to object to the interruption
2 of the testimony, which I consider to be significant.
3 Counsel stopped this witness from testifying. There was a
4 pending question. And Counsel didn't like the argument and
5 stopped the answer.

6 MR. ROSENSTEIN: I don't think he was arguing with
7 me.

8 JUDGE MORRIS: Read back the question.

9 (Off the record, 1:54 o'clock p.m.)

10 (Testimony read back off the record.)

11 (On the record, 1:55 o'clock p.m.)

12 THE WITNESS: Meaning that she had, with First
13 Officer Petitt, and it's -- it's got -- it looks like an
14 outline of the various issues that we had worked to break out
15 of the assessment document that Ms. Petitt submitted.

16 BY MR. ROSENSTEIN:

17 Q Did you send Ms. Nabors an outline on -- after your
18 February 29th e-mail?

19 A I sent -- yeah. It wasn't right after the 29th but
20 before she went out. I did help put together --

21 Q Okay.

22 A -- between her and Meg, put together a document.
23 Yeah.

24 Q And if you look at page JX-E-003, can you read the
25 first two paragraphs?

1 A Okay.

2 Q Did you write those two paragraphs?

3 A I don't recall writing them but it's definitely
4 something that I could have written. It's consistent with
5 what our thinking was going in to her interview. This is
6 exactly how we had broken down -- broken down the assessment
7 document.

8 Q Okay. And at the top of it, it says, "Subject to
9 attorney-client privilege and work product doctrine."
10 Correct?

11 A Right.

12 Q So, you're an attorney. Correct?

13 A Correct.

14 Q Okay. Ms. Nabors is not an attorney. Right?

15 A Correct.

16 Q Okay. And then there's a section in there that
17 says, "Safety Complaints". Do you see that with a bunch of
18 bullet points?

19 A Right.

20 Q Okay. Do you recall providing Ms. Nabors with --
21 with that information before she met with Ms. Pettitt?

22 A Yes.

23 Q And why?

24 A We just wanted her to be aware of all of the other
25 things in the document. I mean, she was tasked with going

1 out there to address the EO issues. But in case they came
2 up, we just wanted her to be aware of what else was in there.

3 And we had broken it down. I think we put the contract
4 stuff in here somewhere as well, too.

5 Q Were the --

6 JUDGE MORRIS: Just a minute. When you said, "we"
7 had broken down, who is "we"?

8 THE WITNESS: The combination of Captain Graham,
9 Meg and I in that meeting, when we went through and parsed
10 out the document. We had broken it down into safety -- a
11 safety bucket, an EO bucket and then a miscellaneous bucket.

12 So, we just --

13 JUDGE MORRIS: Again, so I'm understanding your
14 testimony, the three of you broke these down and did these
15 bullets?

16 THE WITNESS: We didn't do these bullets. I think
17 I -- I probably wrote it up, these bullets, and then sent
18 them out to -- I remember sending them out Kelley and Meg.

19 JUDGE MORRIS: Well, what happened to Captain
20 Graham?

21 THE WITNESS: I don't know that, at that point,
22 Captain Graham was being included on -- this was really just
23 executing what he had drafted and directed to happen.

24 JUDGE MORRIS: Do you know if he reviewed these
25 bullets ahead of time?

1 THE WITNESS: I don't think he did.

2 JUDGE MORRIS: All right. Go ahead.

3 BY MR. ROSENSTEIN:

4 Q So just to be clear, your recollection is that you
5 worked on an outline with Ms. Nabors prior to her meeting
6 with -- with Ms. Petitt. Correct?

7 MR. SEHAM: Objection.

8 BY MR. ROSENSTEIN:

9 Q That was your testimony. Am I remembering it
10 correctly?

11 MR. SEHAM: That's not the recent testimony. Or
12 maybe it's one of two or three different accounts but the
13 most recent testimony was, he worked with -- I'm not
14 recalling now but I think it was worked with Meg Taylor.

15 JUDGE MORRIS: Meg Ryan.

16 MR. ROSENSTEIN: That was different, I think.

17 THE WITNESS: I think I can clear it up. There was
18 an initial meeting with Captain Graham and Meg to go through
19 and just break out the document.

20 BY MR. ROSENSTEIN:

21 Q Take a look at Joint Exhibit -- I want to be -- I
22 want everybody to be clear. I don't agree with the objection
23 but I will go back and try to clear it up. Take a look at
24 Joint Exhibit D. Tell us if you know what Joint Exhibit D
25 is, as in Delta.

1 A Right. So, this is a -- this is a document that
2 Captain Graham had written up which was a result of that
3 initial meeting where we went and parsed out the document
4 into the three -- the three categories.

5 Q So, just to make sure that I understand. Joint
6 Exhibit D is -- is the document that you worked on with
7 Graham and Taylor. Is that what you're saying, or Graham?

8 A What I'm saying, yeah, we -- when we talked about
9 it. But then Captain Graham went and wrote this. I didn't
10 work on this with him or helped him write it.

11 Q Got you.

12 A You know, but after we had, had that meeting and --
13 and again, broken up into the categories, then he -- he
14 created this.

15 Q Okay. And then Joint Exhibit E, I think you also
16 testified that -- that you had spoken to or met with Ms.
17 Nabors and gone through an outline.

18 A Right.

19 Q Right. That's not Joint Exhibit D though.
20 Correct? D is the one we just looked at.

21 A Right. No, it's not D.

22 Q All right. And now I'm looking at Joint Exhibit E,
23 and I'm wondering whether or not you had -- whether reading
24 through that document, whether or not it refreshes your
25 recollection --

1 A Yeah.

2 Q -- that you had anything to do with this -- this
3 document?

4 A I did. And this is the one that --

5 Q Okay.

6 A -- this is basically the shell of what we provided
7 to Kelley --

8 Q Okay.

9 A -- before she went out and did the interview.

10 Q Okay.

11 A And I included the safety information in three as a
12 reference in case it came up. And then the EO stuff that she
13 -- the EO issues that she was tasked with going in and
14 investigating. And I thought I put the miscellaneous issues
15 in here as well.

16 Q Okay. But it was your --

17 JUDGE MORRIS: And Kelley is Ms. Nabors. Right?

18 THE WITNESS: Kelley Nabors.

19 JUDGE MORRIS: Okay. Thank you.

20 BY MR. ROSENSTEIN:

21 Q And it was your decision to -- to include this
22 first page, the safety complaints --

23 A I -- yes --

24 Q -- for Ms. Nabors?

25 A Right, right.

1 Q Okay. And then going through the pages four
2 through nine, what was the -- what was your rationale for Ms.
3 Nabors having this document before she met with Ms. Petitt?

4 A Just it's good practice. I mean, before you're
5 going to go and meet with -- meet with anybody, you know,
6 particularly somebody that the goal is to try to flesh out
7 the allegations that have been made, just to go in with a
8 plan.

9 Q Well, Ms. Nabors is very experienced. Correct?

10 A Right.

11 Q So, why did you get involved?

12 A Really, because we had already just -- it felt like
13 we had just already done it. We had already gone and broken
14 it out. I was sensitive to her time, and I told her, since
15 we've already kind of gone and looked at this and broken it
16 up with Captain Graham, I'll just go ahead and -- and write
17 it up for you and send it to you. And then she could take it
18 at that point and edit it and do whatever she wanted. My --
19 my goal was just to get it all on a page and get it organized
20 for her to take it and run with it. So, that was the --

21 JUDGE MORRIS: Why not just give her JX-D?

22 THE WITNESS: I -- I -- actually, I don't -- I
23 don't know, Judge. I didn't -- I'm not sure why I didn't
24 send her that.

25 BY MR. ROSENSTEIN:

1 Q Do you know if you had JX-D?

2 A I'm not even sure if I had it at that point.

3 Q Well, do you know if JX-D was -- was -- was
4 finished by then?

5 A I don't. I don't. I don't know.

6 Q Fair enough. Did you -- what was -- did you give
7 -- other than working on the outline, did you give Ms. Nabors
8 any instruction on -- on how to conduct her interview or what
9 to do?

10 A No.

11 Q Did you have any understanding as to what the
12 outcome of that -- well, let me withdraw that question.

13 Did you understand that Ms. Petitt was being
14 investigated, herself, in some way?

15 A Oh, no. No.

16 Q Did you consider whether or not Ms. Petitt ought to
17 have a union representative or -- with her during Ms. Nabors'
18 interview?

19 A No. We didn't consider that at all.

20 Q Why not?

21 A Well, that's what we talked about with Section 18,
22 earlier, when you're subject to a disciplinary investigation,
23 you have certain rights. One of them being the right to a
24 union representative. She was not subjected to a
25 disciplinary investigation. This was Kelley Nabors going out

1 and, again, really fleshing out what the claims were there.
2 A lot of them, there really wasn't enough information to
3 really do anything with. We didn't know, really, where do
4 you go? Who do you follow up with? We didn't know who a lot
5 of these people were. And so, really, Kelley's goal as to go
6 out there and come back with a greater understanding of what
7 the allegations were that Ms. Petitt was trying to make. And
8 then, EO and flight ops could go and -- and follow up as --
9 as required and complete the investigation.

10 Q So, how did you decide what fell in the scope of
11 Ms. Nabors' responsibilities and what would be outside the
12 scope? How did you decide what was EO and what was not EO?

13 A Right. And that was just going in and -- and
14 reading -- reading the document and identifying, you know, I
15 think first we identified the safety claims and moved those
16 out. And the, you know, just identify the different claims
17 that we felt like would fall into, you know, these -- your
18 pretty broad categories, discriminatory, harassing, you know,
19 retaliatory conduct, threats being made, you know, just
20 inappropriate conduct in the work place. Those are all the
21 things that went into the -- to the EO bucket.

22 Q When -- when something fell in the safety bucket
23 and not the EO bucket, did that mean that Ms. Nabors was
24 prohibited from learning about it or asking questions about
25 it?

1 A No, no. And again, that's -- we put those
2 references in there in case they came up. Now she was tasked
3 with EO but we, you know, just like everything else, there's
4 -- it could very well come up in conversation or their
5 questions could be raised about it, and we wanted it there
6 for her reference.

7 Q So, might there be some subjects that were in sort
8 of a gray area, whether they were EO or safety related?

9 A I'm sure there -- there could have been. Yeah.

10 Q Did you -- if you look at some of the pages, for
11 example, page JX-E-004, and tell me when you get there.

12 A Okay.

13 Q There's a line sort of in the middle of the page,
14 there's a bullet that says, "When did this occur?" And then
15 there's a bracket that says, "Reasonably certain it was
16 2010." And there are brackets in other places, too.

17 A M'hmm.

18 Q Do you recall whether you added things that were in
19 brackets or whether someone else did or whether -- you tell
20 me.

21 A I may very well have.

22 Q Do you have a recollection as to why you might have
23 said, "Reasonably certain it was 2010"?

24 A I don't. I must have read the document and had
25 gleaned something from the document that somehow gave an

1 indication that that was in 2010 or thereabouts.

2 Q Had you formed an impression in March of -- or
3 February and March of 2016 as to the veracity of Ms. Petitt's
4 claims?

5 A No, no. We didn't understand the claims at that
6 point.

7 Q Did you believe that she was acting in bad faith in
8 raising claims?

9 A No.

10 Q Did you believe that her claims were invalid and --
11 and should be discredited?

12 A No.

13 Q Did you provide dates in order to discredit Ms.
14 Petitt's claims?

15 A No, no.

16 Q If you turn to page JX-E-006, there's another
17 bullet there, and it says, starting at the bottom, again,
18 it's talking about unfair treatment. Right? Do you remember
19 what Ms. -- I mean, again, you can refer back to Joint
20 Exhibit B if you need to, but do you remember what Ms. Petitt
21 claimed to be, in your view, unfair treatment?

22 A No. I mean, I need to -- I need to read through
23 these.

24 Q Take a look at B then, or maybe look at D if it's
25 helpful, but whatever, if you need to look at a document to

1 help answer that question.

2 MR. SEHAM: I'm going to object that the document
3 -- the two documents referenced speak for themselves.

4 JUDGE MORRIS: Overruled. Substance of the meaning
5 of the documents and the brackets, for example, have been
6 raised by, if not both parties, at least this tribunal.

7 THE WITNESS: From what I can tell, from -- I just
8 read through the questions --

9 MR. ROSENSTEIN: M'hmm.

10 THE WITNESS: -- the unfair treatment allegation
11 centered on a letter of counsel, and I think what she was
12 saying is that there were other -- other pilots at Delta who
13 had some similar things but were treated differently. It
14 goes back to a little bit of what we were talking about
15 earlier.

16 BY MR. ROSENSTEIN:

17 Q Was that a dividing line for you, whether -- in
18 determining what was EO, or whether or not there was
19 comparison between Ms. Petitt and other people?

20 A Well, certainly. It's -- you know, we're looking
21 at male pilots here being treated differently. But
22 certainly, you know, equal -- equal opportunity, you know, we
23 want to strive to treat our -- our employees the same in
24 similar circumstances. So, certainly, yeah.

25 Q In that same section, in that -- under "Unfair

1 Treatment," it starts off by talking about male captain
2 giving permission and asking questions about, you know, that
3 subject line. And then it goes on to say, "Are there" --
4 "You mentioned that the blog did not state you worked for
5 Delta but could a reader infer from other materials on your
6 site that you were a Delta pilot?" And then say, "Are there
7 any other examples of times you have been told not to
8 publicly identify yourself as a Delta pilot when publicly
9 opining on the aviation industry." And then it's in
10 brackets, it says, "Multiple times." And then it says, "Or
11 to not use Delta trademarks on published materials." And
12 then again, it says, "Multiple times."

13 What was your thought process in including that, if
14 you remember, in this outline, assuming that -- that you put
15 that in?

16 A Yeah. I mean, I think that goes back to, you know,
17 some of the issues that Ms. Petitt had had in the work place
18 with her chief pilots. One issue was sort of this continued
19 -- where she would write -- she writes books, and a desire to
20 put Delta trademark information or associate the books with
21 the Delta brand. And that had come up on -- on more than one
22 -- more than one occasion, I believe.

23 And then there had been issues with, you know,
24 going out and -- and again, concerns about identifying as a
25 Delta pilot when opining on -- on issues within the -- the

1 airline industry, you know, and Delta's media policies, you
2 know, Delta wants to control the message that's coming from
3 Delta and reserves the right to -- you know, who's out
4 talking on behalf of Delta. So, I think that's probably
5 where that -- that was coming from.

6 Q Do you remember what -- what you meant by multiple
7 times?

8 A I don't. I'm not - I'm not really certain, other
9 than I -- my recollection is that -- that had been a
10 recurring -- or occurring issue.

11 Q Was that something that was raised by Ms. Petitt in
12 her January 28th report?

13 A I'm not -- I'm not certain.

14 Q Well, why don't you take a look?

15 A Okay. Which one is that?

16 Q It's B.

17 A D?

18 Q B as in --

19 JUDGE MORRIS: B, Bravo.

20 MR. SEHAM: I'm sorry. I'll object to the
21 vagueness of the question. Is that something is the question
22 whether she raised that she had violated these policies
23 multiple times?

24 MR. ROSENSTEIN: I'll be happy to make it more
25 clear for Counsel.

1 BY MR. ROSENSTEIN:

2 Q Is the -- is the -- and the tribunal, is the issue
3 of whether Ms. Petitt was complaining about unfair treatment
4 with regard to Delta's social media policy contained within
5 her January 28th report?

6 A Yeah. That's -- that's -- yeah, so this goes back
7 to the blog post in 2011 and that's exactly, I think, what
8 she was complaining about is the --

9 Q Where are you reading from?

10 A I'm on -- I'm on page nine in JX-Bravo.

11 Q JX-B-009?

12 A Oh, I'm on page nine, on JX-B-010. JX-B-009, I
13 think, is where it starts. Yes. So, the blog negatively
14 impacting business relationships.

15 Q Okay.

16 A And it continues on to JX-Bravo-010.

17 Q Okay. Going back --

18 A That's -- yeah. That's where -- that's where that
19 came from. And if you look at one of the bullet points
20 there, I've put in page nine as a reference to where that was
21 in the assessment document in case she needed to go back and
22 review it.

23 Q What was your ultimate purpose in putting
24 information into this document for Ms. Nabors?

25 A To help her. To help her -- give her things to ask

1 about, read it, read it with page numbers, go back and read
2 the assessment document, just to be as prepared as -- as
3 possible before she went out and met with Ms. Petitt.

4 Q Did Captain Graham direct you to provide support to
5 Ms. Nabors?

6 A I don't think he did.

7 Q Did anybody in flight operations direct you to
8 provide support to Ms. Nabors?

9 A No.

10 Q Can you turn to the page JX-E-009? And you
11 testified earlier about a miscellaneous category. Do you see
12 the reference there on the bottom of JX-E-009?

13 A Right, right.

14 Q What is -- what was that bucket?

15 A So, that's what we were talking about with the ones
16 that -- the items that Captain Graham was going to address
17 individually, and those are references to different parts, at
18 least on the first two -- actually the first two and then the
19 bottom one there, too, portions of the PWA, the green slip
20 policy is a way of picking up open time and receiving premium
21 pay for it, sick leave, of course, Delta has a sick leave
22 provisions for pilots. Seattle marketing opportunities, I'm
23 not sure what that was about. But trip buys and ways to
24 maximize flying opportunities on reserve was something that
25 she was --

1 Q Was that something --

2 A -- she was --

3 Q -- for Ms. Nabors to investigate or was that
4 something else?

5 A Again, just a reference as, you know, she had been
6 told that these were the different buckets. This is divided
7 up. In case this comes up, you know, Ms. Petitt may want to
8 talk to you about green slips or about trip buys or about any
9 of this and that's just there. And I think we probably, you
10 know, said, "Hey, this is just here. And here's where it is
11 on the document if you want to know a little bit about it."
12 But she wasn't there to answer those questions.

13 Q It's your recollection that you would have sent a
14 version of this document sometime after that February 29th
15 e-mail?

16 A I did. I did. I definitely did.

17 Q And do you know when Ms. Petitt and Ms. Nabors met?

18 A It's March 8th, I think.

19 Q And did -- did Ms. Nabors contact you at any point
20 after her meeting with Ms. Petitt?

21 A She did.

22 Q Okay. Tell me what -- what happened -- what she
23 said what happened during that meeting?

24 A Well, she went out on March 8th. And then she
25 actually contacted Meg Taylor who contacted me.

1 Q Okay.

2 A So, I was traveling that week and was out of the
3 office. When I got back to the office, however, we met. And
4 I believe that was March 10th. That was the day --

5 Q Met in person?

6 A Met in person. Meg had called me and said that we
7 needed to get together and talk and invited Melissa Seppings,
8 who was Kelley's supervisor in EO. So, it was Melissa,
9 Kelley, Meg and I met in Labor Relations.

10 Q What did -- what did -- what did you learn from
11 that meeting?

12 A Well, I learned about how the interview went. You
13 know, Kelley had some significant concerns after -- after the
14 interview.

15 Q What do you recall her saying?

16 A Well, I recall her -- first off, I just recall her
17 being -- being very upset. She was emotional. She was --

18 Q Ms. Nabors was?

19 A Yeah. She was -- she was very concerned.

20 Q Okay.

21 A And she basically described her interactions with
22 Ms. Petitt.

23 Q What did she say?

24 A She said that Ms. Petitt's demeanor and the way she
25 was speaking, she was really just all over the map. She was

1 changing topics rapidly. She said that she believed that
2 there were people at Delta that were out to harm her. And
3 Kelley clarified that, that meant there were people at Delta
4 that were out to physically harm her. And that she had
5 taken, you know, affirmative steps in case she was harmed to
6 protect important documents that she had created. I believe
7 she said she had contacted someone and put them in a safe in
8 case something -- something happened to her.

9 And so, Kelley was very concerned. I think she
10 continued that -- I remember that Ms. Petitt indicated that
11 she was on a day-to-day basis scared, and scared for her
12 safety, and just generally scared of her employer.

13 Q What was your reaction to that?

14 A Shocked, concerned, taken aback. It's not
15 something you hear every day. It certainly wasn't what I was
16 expecting when I came in that day. I was expecting a report
17 on -- hey, we fleshed this out and this is the -- the people
18 that we need to go interview and here's our updated plan.
19 So, I -- you know, it was -- it was -- I was concerned at
20 that point.

21 Q Did you take any steps?

22 A I did.

23 Q What did you do?

24 A I felt like it was something that Dr. Faulkner
25 needed to be involved in.

1 Q How did you know Dr. Faulkner?

2 A It's the director of health services.

3 Q Had you worked with Dr. Faulkner before?

4 A I have.

5 Q And what -- what caused you to believe that this
6 was something that Dr. Faulkner should be involved in?

7 A Again, based on what Kelley was saying, it sounded
8 to me very much like there were mental fitness issues in
9 play. And so, I just wanted to -- that needed to go to the
10 director of health services. That's -- you know, that's who
11 needed to address those issues.

12 Q When -- when did you make that decision?

13 A We actually made it there in the meeting. We
14 decided that, you know, I think that it would be a good idea
15 for her -- for Kelley to speak with Dr. Faulkner.

16 Q Did you consult with anyone from flight ops before
17 you did that?

18 A No.

19 Q Did you consult with Jim Graham before you did
20 that?

21 A No.

22 Q Did you talk to Phil Davis before you did that?

23 A No.

24 Q What did you do -- what -- what -- once you made
25 that decision on March 10th, what happened next?

1 A Well, we walked next door and called -- we walked
2 next door to my office --

3 Q Who is the "we"?

4 A -- to a conference room -- me and Kelley --

5 Q Okay.

6 A -- Nabors.

7 Q Just the two of you?

8 A Just the two of us. Melissa and Meg, at that point
9 -- Melissa and Meg were there for the discussion and we --
10 you know, we discussed the decision to call Dr. Faulkner.
11 But then they left. They had other meetings to go to and
12 attend. And it was really important for Kelley, at that
13 point, to talk to Dr. Faulkner, not really any of us.

14 Q Okay. And so, what happened next?

15 A I called him. Got on the phone. And I just let
16 Kelley talk to him on my -- my office phone.

17 Q Were you present when she was talking to Dr.
18 Faulkner?

19 A I stepped out. After making the introduction and
20 describing who she was and what she had been doing, I stepped
21 out of the room and let her - let her talk to him.

22 Q Did you -- after the call ended, how long was she
23 on the phone, first of all, with Dr. Faulkner, approximately?

24 A You know, I'm not a hundred percent sure. Maybe --
25 maybe 30 minutes. I mean, I don't know exactly.

1 Q And after that call ended, did you speak to Dr.
2 Faulkner yourself?

3 A I did. I did.

4 Q And when was that?

5 A It was that day -- it was either that morning or
6 early in the afternoon. I'm not sure exactly when I caught
7 up with Dr. Faulkner. I'm a little blurry on that. But I
8 definitely -- I definitely spoke to him.

9 Q And what happened during that conversation?

10 A Well, the conversation was between Dr. Faulkner and
11 Meg -- Meg Taylor. We spoke to him together.

12 Q Okay.

13 A And we just said, "Hey, what do you think?"

14 Q What did Dr. Faulkner tell you?

15 A He said, "Well, you know, that's -- that was pretty
16 concerning behavior that was being relayed to him." It had
17 him -- he was very concerned. He explained that, in
18 situations like this, he wants -- he wants the report to come
19 to him in writing.

20 Q Okay.

21 A So, he had asked Kelley to go back and write up --
22 write up what she remembered. Think about it and make sure
23 she remembered as many details as she could. And put it down
24 on a piece of paper, and then, you know, he would, you know,
25 revisit it again. Yeah.

1 Q Okay. And to your knowledge, did Ms. Nabors follow
2 through and write up?

3 A She did.

4 Q Okay. And did you do anything else as a result of
5 your conversation with Dr. Faulkner that day? Were there any
6 other steps besides getting the write-up from Ms. Nabors?

7 A Yeah. I mean, we talked to him about perhaps
8 consulting a specialist in the area, somebody with a
9 psychiatric background.

10 Q Why?

11 A It just lent itself to somebody with a psychiatric
12 background. We were trying to figure out, you know, what we
13 had here, what -- you know, what our options were. You know,
14 we wanted to -- you know, proceed deliberately and learn as
15 much as we could. And so, we talked about, perhaps bringing
16 in somebody to consult on -- on -- you know, what we were
17 looking at.

18 Q Was a decision made to do that?

19 A There was. Yes.

20 Q And what was that decision?

21 A The decision was to contact Dr. David Altman.

22 Q Okay. Why Dr. David Altman?

23 A Dr. Altman is a psychiatrist. He's been in
24 practice for a long time. He's done a lot of work with the
25 FAA, a lot of work with pilots. Very experienced. I know we

1 -- we bandied about some different names but settled on Dr.
2 Altman as somebody who could lend his experience and have a
3 good perspective on what we were looking at, and probably
4 provide some pretty good feedback.

5 Q You, personally, have worked with Dr. Altman
6 before?

7 A I had. I had worked with Dr. Altman before.

8 Q Did you reach out to Dr. Altman, or did Dr.
9 Faulkner, or did somebody else?

10 A I -- I ended up each out to Dr. Altman.

11 Q Okay. Take a look at --

12 MR. ROSENSTEIN: Actually, can I ask for a very
13 short restroom break?

14 JUDGE MORRIS: Sure. Let's take 10 minutes. We'll
15 be back at 25 of the hour. It's 10 minutes.

16 (Off the record, 2:24 o'clock p.m.)

17 (On the record, 2:35 o'clock p.m.)

18 JUDGE MORRIS: Back on the record. All parties
19 present when the hearing last recessed are again present.
20 You may continue, Counsel.

21 MR. ROSENSTEIN: Okay. And thank you for the
22 indulgence of the break.

23 BY MR. ROSENSTEIN:

24 Q You said that you contacted Dr. Altman after the
25 March 10th conversation that you had with Dr. Faulkner.

1 A I did.

2 Q Okay. Take a look at Respondent's 40. All right.

3 So, what is it? What is Respondent's 40?

4 A Right.

5 Q Please describe what it is.

6 A Oh. It's an e-mail dated March 10th, 2016 at 4:24
7 in the afternoon. It's from me to Dr. Altman.

8 Q Okay. And what was your purpose in sending this to
9 Dr. Altman?

10 A This was just to reach out to him after we had
11 talked about it and decided that we'd like to get his
12 perspective. And just sending him a note to set up -- set up
13 a discussion.

14 Q Okay. And you wrote in the letter:

15 "The pilot has made a few statements that have
16 raised some mental fitness concerns. As
17 with most things, I want to ensure we do
18 not over-react."

19 Do you see that?

20 A Correct.

21 Q Was that an accurate assessment of your views as of
22 March 11th?

23 A That's accurate. Yes.

24 Q Or March 10th. I'm sorry.

25 A Yes.

1 Q Did you have -- did you reach any conclusions on
2 March 10th as to whether or not Ms. -- First Officer Petitt
3 was qualified to fly on --

4 A No, no.

5 Q Do you recall speaking to Dr. Altman? It says, "We
6 can give you a call whenever convenient." Do you recall
7 having a conversation with him?

8 A Yes. We did.

9 Q When was that call?

10 A I believe it was the 16th.

11 Q March 16th?

12 A Right. Yes.

13 Q And was anyone else on that call besides you and
14 Dr. Altman?

15 A That was -- yeah, me and Meg Taylor and Dr. Altman.

16 Q Was Dr. Faulkner on that call?

17 A Dr. Faulkner was not. We -- we tried to dial him
18 in and we just couldn't connect him. But we went ahead with
19 the call.

20 Q Okay. Did you provide Dr. Altman with any
21 materials in advance of that March 16th call?

22 A I did.

23 Q What did you send him?

24 A I sent him the assessment document. And by that
25 time, we had gotten Kelley's report, the report that Dr.

1 Faulkner had asked her to write up. So, I sent that to him.

2 And then I sent him a link to Ms. Petitt's blog post -- or
3 blog.

4 Q Take a look back at Claimant's -- I'm sorry, Joint
5 E. First of all, we can finally look at page one of the
6 document.

7 A Okay.

8 Q What's page one of this document, JX-E-001?

9 A So, it's an e-mail from me to Dr. Altman with Meg
10 cc'd. It's March 16th at 9:18 in the morning.

11 Q Okay. And you sent, essentially, the -- this
12 breakout document that we've been looking at?

13 A Yes.

14 Q Okay. And if you look at page 10, under additional
15 notes, what's that, if you know?

16 A Right. And that's the -- that's the write up that
17 -- that Kelley had done just reflecting what she had heard
18 from Ms. Petitt during her interview.

19 Q So, the part under additional notes was what Dr.
20 Faulkner was -- was Kelley's response to Dr. Faulkner, asking
21 her to write up her recollections of the meeting. Is that
22 right?

23 A Yes.

24 Q Okay. And why did you send that to Dr. Altman?

25 A I -- I wanted Dr. Altman to have some background

1 before we just started talking to him. I mean, we were
2 calling him up and asking for help. It made sense to let him
3 know what we were looking at, why we were there, and it would
4 be more efficient to give him a pre-read of the situation
5 before we actually got on the phone and started -- started
6 talking.

7 Q Do you know if that -- if this report, this
8 document, was sent to Dr. Faulkner as well?

9 A Yes. It was.

10 Q How do you know?

11 A I -- I gave it to him.

12 Q Oh, how did you give it to him?

13 A I -- I literally handed -- handed him a copy of it.

14 Q Was that around the same time frame?

15 A It was -- it was in the same time frame. I don't
16 know if it was the same day or -- I think this had come in
17 maybe either the 15th of the 16th. I'm not sure exactly
18 which one.

19 Q Did you talk to Dr. Faulkner again between March
20 10th and March 16th about Ms. Petitt? Do you recall?

21 A I don't recall having any conversations with him.

22 Q Did Dr. Altman provide any -- give you any insights
23 into his views during the March 16th call?

24 A Yeah. I mean, he gave us -- it was pretty boring
25 but he was very high level just overview. You know, he --

1 you know, he -- obviously, there needed a lot more
2 information. You know, he wasn't on the phone to give a
3 diagnosis or anything. But he talked a lot about just the
4 VAA and how the VAA reviews these, just some of the different
5 mental fitness standards and how they're applied. And he
6 effectively said, based on the statements that he was
7 reading, that this was -- this was concerning behavior.

8 Q Concerning behavior?

9 A Concerning behavior, yes.

10 Q Okay. And were there any steps -- any additional
11 steps taken with regard to Ms. Nabors' report of Ms. Pettitt's
12 alleged behavior after March 16th?

13 A Yes. I think she -- I think she made a separate
14 report, a different report where she refined -- or am I off
15 on --

16 Q No, no.

17 A There was --

18 Q Well, that wasn't my question but you can answer.

19 A Yeah. There was -- she eventually mad a separate
20 report where she just basically refined it and moved it
21 around. There wasn't any real substantive change to it but
22 it was in the front of the report now instead of the back.
23 And yeah, it was more of a full reporting on her -- her
24 interactions, you know, including the EO provisions of the EO
25 sections that she had been asked to run down. And so, she

1 had filled that in.

2 Q And I'm going to get to that but what I asked you
3 was, whether or not there were any other actions taken after
4 March 16th as a result of Ms. Nabors reporting of Ms.
5 Petitt's alleged activity during their meeting.

6 A Oh, I'm sorry. Yes. There was.

7 Q That's okay.

8 A A meeting was convened with Captain Graham.

9 Q When was that?

10 A That was -- that occurred on March 17th.

11 Q Okay. And were you present for that meeting?

12 A I was there. Yes.

13 Q Okay. And tell us what you recall happening during
14 that?

15 A Well, that was a meeting for Captain Graham to get
16 briefed. Kelley Nabors was there. And Kelley told him the
17 story. Right? She basically walked through everything she
18 had done, all the interactions. Dr. Faulkner was also
19 involved and Dr. Altman, actually, as well. So, there were
20 two doctors involved in that meeting.

21 Q And what -- had you spoken to Captain Graham about
22 this situation before the March 17th meeting?

23 A Just a heads up that this was, you know, this was
24 going. I mean, this was -- he was aware of the EO
25 investigation. But just that, yeah, there was, you know,

1 some concerns were raised by the EO investigator that needed
2 to be addressed. I think I told him effectively that it was
3 with Dr. Faulkner.

4 Q Okay. And what occurred during the -- as best as
5 you recall during that March 17th meeting?

6 A What I recall is, again, I recall Kelley explaining
7 to Captain Graham her impressions and what she'd seen and
8 what she'd heard. I -- Captain Graham asked a few follow-up
9 questions and then he wanted to speak to the -- speak to Dr.
10 Faulkner. I know he talked to Dr. Faulkner about, you know,
11 what we had here. And I remember him asking Dr. Faulkner
12 directly, "Do I have a reason to believe that she doesn't
13 meet the standards to hold a medical?" And Dr. --

14 Q Who was present when that question was asked of Dr.
15 Faulkner?

16 A I was -- I was there. And I think Dr. Altman was
17 also dialed in.

18 Q Was Ms. Nabors there then?

19 A I don't -- I think -- I think the way it broke down
20 is, I think that Kelley had already left at that point.

21 Q So, what exactly did -- did Captain Graham ask Dr.
22 Faulkner?

23 A He just asked him point blank, almost quoting the
24 contract, "Do I have a reason to believe that she doesn't
25 meet the medical standards?" So he was effectively asking

1 for a recommendation.

2 Q And what did Dr. Faulkner say?

3 A "Yes, yes. I think she needs to be placed in a
4 Section 15 process."

5 Q Do you recall Dr. Altman expressing an opinion
6 during that?

7 A Yeah. Dr. -- or Captain Graham asked Dr. Altman
8 the same question. And Dr. Altman concurred and said he
9 thinks it merited -- I think he merited additional medical
10 investigation, I think was the way he said it.

11 Q Do you recall a discussion about any other issues
12 besides Ms. Nabors' report during that March 17th meeting?

13 A I don't have any direct recollection of anything.
14 I know there was some back and forth and discussion but I
15 can't remember specifically what was -- what was talked
16 about.

17 Q Do you have a -- did you form an opinion as to why
18 Ms. Petitt was being placed in Section 15 process as a result
19 -- after the March 17th meeting?

20 A Yeah. It was because of her interactions with
21 Kelley Nabors.

22 Q Have you spoken to Captain Davis about Ms. Petitt's
23 -- Ms. Nabors' report of Ms. Petitt's conduct at that point?

24 A Not at that point. Not at that point.

25 Q When -- when did -- when, if you know, when was

1 Captain Davis made aware of the situation?

2 A Immediately after that meeting.

3 Q How was he made aware?

4 A I called him.

5 Q So, when you called him, he didn't know what was
6 happening?

7 A No.

8 Q Okay. And when did you call him? Did you call him
9 that day?

10 A I called him -- yeah, that night. I called him
11 right after the meeting.

12 Q What did you say during that call?

13 A I just said, "Hey, a decision has been made no one
14 of your pilots. They're being placed into Section 15." I
15 identified Ms. Petitt. I told him the reason that she was
16 being placed in a Section 15, and she had made some
17 concerning statements to an EO investigator, who is out there
18 meeting with her to investigate claims that she had made, and
19 that -- you know, we would get him the appropriate paper work
20 and asked him to get the process moving.

21 Q Why notify Captain Davis?

22 A Captain Davis is Ms. Petitt's or was Ms. Petitt's
23 direct supervisor. He was the regional director for the
24 western region. And in that capacity, he was responsible for
25 the pilots in the Seattle base.

1 Q Was a CME selected at -- at the conclusion of the
2 March 17th meeting?

3 A No.

4 Q What was your understanding of what the next steps
5 would be in the Section 15 process at the conclusion of the
6 March 17th meeting?

7 A Well, the next steps are -- there are some
8 formality to it. The pilot is given a letter. It's just
9 basically a form letter that says, "You're in Section 15."
10 And I think hers said, "You're in Section 15 for concerns
11 regarding mal-fitness. And then, at that point, it's the
12 DHS. It's his show to run. He will, typically, reach out to
13 the pilot and set up a meeting. And he is going to begin his
14 assessment at that point as to what he wants to do and how he
15 wants to do it. And so, I'm not sure exactly when Dr.
16 Faulkner reached out but I know he did. And I know that
17 Captain Davis executed on giving Ms. Petitt the letter and
18 getting her going on the Section 15 process?

19 Q How do you know that?

20 A I just know.

21 Q Take a look at -- did Captain Davis tell you that
22 he'd done it?

23 A Yes,

24 Q Okay. Take a look at Joint Exhibit F as in --

25 JUDGE MORRIS: Fox trot.

1 MR. ROSENSTEIN: -- fox trot. I'm going to write
2 them all down for my next case.

3 JUDGE MORRIS: Hopefully, you'll remember Delta.

4 MR. ROSENSTEIN: That one is going to haunt me for
5 20 years, if I'm lucky.

6 THE WITNESS: Okay.

7 BY MR. ROSENSTEIN:

8 Q What is Joint Exhibit F?

9 A This is -- this is the letter that Ms. Petitt was
10 given to begin the Section 15 process.

11 Q Would you have had any involvement in preparation
12 of this?

13 A I may have. I just don't remember. I think that
14 it could have been written by somebody in flight operations.
15 I might have been written by me. I'm just not sure who
16 actually drafted it. Like I said, it's a -- it's really just
17 a standard template that we use for these to start the
18 process.

19 Q Got it. And take a look at Respondent's 47.

20 A Okay.

21 Q What is that?

22 A It looks like -- it looks like I sent him -- sent
23 Captain Davis the Section 15 letter. I mention -- I
24 reference a conversation from yesterday. So, yeah, I talked
25 to him on March 17th and then I sent this on March 18th. And

1 then Captain Davis is just responding to me on 3/18/2016 at
2 4:47 telling me that he would get it -- get it done in Monday
3 morning.

4 Q Got it. Do you know whether Dr. Faulkner ever
5 chose the CME?

6 A Eventually, yes. He chose the CME.

7 Q Do you know approximately when that was
8 accomplished?

9 A I think it went into May. I think he ended up
10 choosing Dr. Altman as the CME, if I'm not mistaken.

11 Q Did you have any involvement in choosing Dr. Altman
12 as the CME?

13 A No.

14 Q Did Dr. Faulkner consult you as to whether or not
15 to choose Dr. Altman?

16 A No.

17 Q Do you know if Dr. Faulkner consulted with anyone
18 else in Delta on choosing Dr. Altman?

19 A I'm not aware. No.

20 Q How did you become aware that Dr. Altman had been
21 selected as the CME?

22 A I believe Dr. Faulkner -- well, Dr. Faulkner told
23 me, I'm not exactly sure how. I don't know if he called, or
24 if he sent an e-mail out. But Dr. Faulkner sent out notice
25 that he had decided to have a CME conduct a review.

1 Q Did you have occasions to interact with Dr. Altman
2 while he was engaged with CME?

3 A I did.

4 Q What was that? What was your role?

5 A Well, after he was appointed as the CME, Dr.
6 Faulkner had a conversation with them about, "You know, okay,
7 how are we going to do this, or what do you want to do?" And
8 he'd indicated to Dr. Faulkner that he would like to get some
9 documents, some documents from the company.

10 Q Did --

11 A Dr. --

12 Q I'm sorry. Go ahead.

13 A At the time, I believe it was, you know, he wanted
14 scheduling documents, documents related to her employment,
15 things like that. Dr. Faulkner called me. And so, rather
16 than, you know, have Dr. Faulkner as the intermediary, we
17 talked about it internally and just labor relations kind of
18 being sort of at the intersection of all of this between the
19 EO issues and the medical review, made a decision to have
20 labor relations, me, reach out to Dr. Altman, which I did,
21 and you know, helped facilitate his review. And so,
22 basically, I called him and said, "What can I do to help
23 facilitate you doing your job?"

24 Q And what did he respond? What did he want?

25 A Well, you know, he said, "I'd like to get some

1 background on her and understand" -- I believe the way it
2 came, he wanted to see some scheduling information but he
3 also wanted to see effectively what her interactions were
4 with the company, what her communications were within the
5 company. That's really somewhat broad. He just wanted us to
6 put together really an overview of really kind of her company
7 history.

8 Q Did anyone from Delta direct you as to what to
9 provide Dr. Altman?

10 A No. I didn't -- nobody directed me, other than
11 just being told to -- to facilitate it and give him what he
12 needs.

13 Q Okay. And did anybody at Delta tell you to provide
14 any particular documents to Dr. Altman?

15 A No.

16 Q How did you determine what to give Dr. Altman then?

17 A Well, so we -- when we -- I talked to him, you
18 know, and I got an understanding that he was looking for,
19 again, it was somewhat broad, you know, interactions with the
20 company. And I -- you know, we looked at, you know, the
21 assessment document. And we tried to figure out, okay, what
22 do we want to do here and you know, how far back do we want
23 to go, those types of things. And you know, we basically
24 measured and we said, "Well, this is -- these are things that
25 have her quite upset." And it goes back a fair number of

1 years. It goes back to the 2010 time frame, 2011 time frame.

2 So, what I endeavored to do was to collect her interactions
3 with the company going back to the 2010-2011 time frame. And
4 in order to do that, I got copies of her communications with
5 her chief pilots. I secured her -- the letter of counsel
6 that we were discussing and some of the files or I think all
7 of the files, actually, associated with that. I got her
8 assessment document. I got, you know, anything that I could
9 find related to any issues that she had had with her chief
10 pilots and with the company. And I put it together -- put it
11 together in a package and got it ready to send to him.

12 Q Were you exercising discretion as to what to give,
13 or were you picking and choosing? Were you trying to give
14 him --

15 A No.

16 Q What were you doing?

17 A My goal was to give him everything that I had,
18 everything that I could find.

19 Q Why?

20 A Well, we said going in that we wanted to be -- we
21 wanted to error on the side of being over inclusive.

22 Q Why?

23 A Well, what I didn't want to do was to be in a
24 position of withholding information. This was documents
25 going to a medical professional. It was really up to him as

1 to what to do with them, and how to utilize them. And I
2 wanted to give him the option of making that decision and not
3 having anybody at Delta making that decision. So, within the
4 confines of what, you know, he had told me, I just sent
5 everything that I could find to him.

6 Q Okay. Take a look at Claimant's binder. This may
7 or may not be in your desk. I have it was binder two but
8 it's Claimant's 98.

9 A Binder --

10 MR. SEHAM: Are you talking about Exhibit 98?

11 MR. ROSENSTEIN: Exhibit 98. Claimant's Exhibit
12 98.

13 MR. SEHAM: It should be in volume four.

14 JUDGE MORRIS: I have a question.

15 MR. ROSENSTEIN: Volume four of Claimant's binder.

16 JUDGE MORRIS: Does the personnel files retain the
17 medical certificates of the pilots?

18 THE WITNESS: No, sir.

19 JUDGE MORRIS: Does Delta retain any of the medical
20 certificates of the pilots?

21 THE WITNESS: I believe we do. I'm not sure
22 exactly sure where we retain those though.

23 JUDGE MORRIS: Okay. Did you look for those to
24 provide them to the doctors?

25 THE WITNESS: I'm not aware of providing her

1 medical certificate to the doctors. I'm not sure if Dr.
2 Faulkner got that independently or not. I'm not aware.

3 JUDGE MORRIS: Do you know if anyone provided the
4 blue ribbon copy of her medical records to the doctors?

5 THE WITNESS: I'm not aware.

6 JUDGE MORRIS: All right. Go ahead.

7 THE WITNESS: Which -- which one are we on?

8 MR. ROSENSTEIN: Ninety-eight. Binder --
9 Claimant's binder four, and it's Exhibit 98. If you don't
10 have it, it's the white cover.

11 THE WITNESS: So, over here?

12 MR. ROSENSTEIN: Probably.

13 MR. SEHAM: Yeah. It's the second from the last
14 one to the right. There you go.

15 MR. ROSENSTEIN: And 98.

16 THE WITNESS: Okay.

17 BY MR. ROSENSTEIN:

18 Q What is that?

19 A This is the table of contents on that book or group
20 of documents that I mentioned that I put together to send to
21 Dr. Altman.

22 Q Did you have any position as to what the outcome of
23 Dr. Altman's evaluation would be?

24 A No.

25 Q I think you referenced -- did you ever meet with

1 Dr. Altman in person?

2 A We did. Yes.

3 Q When was that?

4 A That was in June of 2016.

5 Q Why did you meet with Dr. Altman?

6 A Well, we'd sent him information that we felt like
7 was responsive to what he was looking for, and knew that they
8 were going --

9 Q Who is "we"?

10 A Me, but ultimately Captain Davis and I met. So
11 Labor Relations was handling the interactions with Dr. Altman
12 but in that process, I wanted to make sure that I had a pilot
13 involved as well.

14 Q Why?

15 A In case any technical issues came up, any questions
16 about why, anything that I would be out of my lane trying to
17 answer. I just wanted to make sure that, you know, Captain
18 Davis was also -- also involved. And then the other thing is
19 that Captain Davis, as her supervisor, had access to the
20 types of documents, the types of company interactions that
21 Dr. Altman was wanting to see.

22 Q And so, you were answering my other question of why
23 you were meeting with Dr. Altman in June of 2016.

24 A Sure. So, we knew he was going to have questions.
25 And indeed he did. And I wanted to figure out a way to do

1 this as efficiently as possible. I think, you know, trying
2 to get on the phone with him would have been very difficult.

3 Q Why?

4 A It -- he's a very detailed individual. He asks a
5 lot of questions. He's extremely thorough. I just thought
6 it would be much easier to sit face to face with him and be
7 able to answer his questions. The other thing is, is that he
8 had requested scheduling data, which, in itself, is just kind
9 of a vague term. I didn't know quite what to send him with
10 respect to scheduling. Do I send her schedules? Do I send,
11 you know, the PWA section on scheduling? So, I thought it
12 would be a good idea to go and meet directly with him and
13 while Captain Davis and I are there, with our laptops, to be
14 able to pull up any scheduling issues that he wanted to talk
15 about and get a better understanding of.

16 Q Did you know why Dr. Altman was asking for all of
17 this information?

18 A I think he just wanted to get a better
19 understanding--

20 MR. SEHAM: Objection.

21 BY MR. ROSENSTEIN:

22 Q Well, do you know? Yeah.

23 A Yeah. I do know. He wanted to get an
24 understanding of who he was dealing with --

25 MR. SEHAM: Objection.

1 THE WITNESS: -- and who he was evaluating.

2 JUDGE MORRIS: Hold up.

3 MR. SEHAM: Hearing no explanation -- no
4 articulation of what Dr. Faulkner or Dr. Altman communicated
5 to this witness, so far, it just sounds like speculation.

6 MR. ROSENSTEIN: Yeah. That's fine.

7 BY MR. ROSENSTEIN:

8 Q I mean, do you know what Dr. Altman was -- I mean,
9 you weren't in Dr. Altman's head. Do you know why Dr. Altman
10 wanted information?

11 A I was not in Dr. Altman's head. No.

12 Q And were you directed by Captain Davis as to how to
13 respond to Dr. Altman's requests?

14 A No.

15 Q Do you recall speaking to Dr. Altman in person
16 during the meeting?

17 A I do.

18 Q Yeah. Was -- that was in Chicago. Am I
19 remembering that right?

20 A That was in Chicago. Yes.

21 Q Okay. And -- and what do you remember saying to
22 Dr. Altman and what do you remember him saying to you? It
23 was a long meeting. I don't expect everything but in
24 substance, what do you remember?

25 A All right. Well, I remember we got up there and

1 one thing that just really sticks out in my memory is that we
2 were in a hotel and they gave us a room that had a runaway
3 heater.

4 Q Yeah.

5 A And this was June. And so --

6 Q Yeah.

7 A -- we spent a good bit of time kind of bouncing
8 around. But once we got settled in, I -- you know, I opened
9 it up with a -- kind of a, here we are, and you know, we're
10 going to get through this. We're here to serve you and help
11 you and facilitate the process. But I re-emphasized, again,
12 what I understood Dr. Faulkner had emphasized to him. And I
13 told him, "Look, you're here to call balls and strikes. We
14 want you to do a thorough job. We want you to do your due
15 diligence. And we want you to feel comfortable with this one
16 way or the other. Either thumbs up or thumbs down. It
17 doesn't matter to us. Balls and strikes. What can we do to
18 help you?" And at that point, it was very clear that Dr.
19 Altman had read what we had sent him because he dived in and
20 started -- just started asking questions.

21 You know, all of these different documents, this
22 table of contents, I mean, there's -- there's a lot here.
23 But he -- you know, we didn't follow a script and spend more
24 time than I remember on any one. But you know, he went
25 through and he picked out a lot of things that he wanted to

1 talk about. He asked a little bit about policies here,
2 policies there. He was very interested in the scheduling
3 process and the infrastructure at Delta, how the chief
4 pilots' offices worked, how safety at Delta works. He had
5 identified SMS as one of the issues that Ms. Petitt was very
6 concerned about. So, we spent a lot of time trying to learn
7 about SMS during the meeting. And we really just bounced
8 around from topic to topic and did our best to answer his
9 questions, which, you know, in a lot of ways, spurred
10 additional questions.

11 JUDGE MORRIS: Who was at this meeting, again?

12 THE WITNESS: It was me, Captain Davis, and Dr.
13 Altman.

14 JUDGE MORRIS: And did I hear your testimony
15 correct that you were trying to learn about SMS?

16 THE WITNESS: He had asked us about SMS. I was not
17 familiar. I do not consider myself an SMS expert by any
18 stretch of the imagination. But that is something that he
19 had picked out as an item in -- in something that Ms. Petitt
20 had written and was asking questions about it. I spent a
21 good -- a fair amount of time finding the subject matter
22 experts at Delta that handle SMS -- at the time were handling
23 SMS implementation and trying to find out who he could talk
24 to and try to get answers to his questions, his eventual
25 questions that he was going to have on that.

1 So, it was more -- that would be more of
2 identifying an issue that we were going to eventually need to
3 run down for him.

4 JUDGE MORRIS: Do you remember who you tracked down
5 for that?

6 THE WITNESS: It resides in our corporate safety
7 department. There's a gentleman named Jason Rigonia. I may
8 be mispronouncing his name. He used to work at the NTSB.
9 He's now a director in our corporate safety department. And
10 he was in charge of Delta's SMS program implementation. And
11 he reported up through the corporate safety department to
12 John (inaudible). He's the vice president at Delta.

13 JUDGE MORRIS: Okay.

14 BY MR. ROSENSTEIN:

15 Q Did Dr. Altman ever ask to interview anybody at
16 Delta?

17 A No. He never -- he never asked us to do that.

18 Q Do -- was there any prohibition against him
19 interviewing or did you --

20 A No. In fact, we offered to schedule an interview
21 with anybody that he wanted to speak to. He took it -- you
22 know, the way he said he would take it under advisement and
23 let us know and then he ultimately decided that he could not
24 -- did not want to interview anybody.

25 Q Did you ultimately learn about Dr. Altman's

1 conclusion?

2 A I did.

3 Q By the way, did you take any action to either
4 expedite or delay Dr. Altman's efforts?

5 A I did my best to expedite it.

6 Q Why?

7 A As best I could. Well, part of the contract, part
8 of Section 15 is that -- it says that you need to try to work
9 through the process as expeditiously as possible. And just
10 in the interest of the situation, right, you have a pilot who
11 is sitting in this process. We wanted to move it along. But
12 we also wanted to strike that balance of, we're not looking
13 for a rush job here. And we told him, we want you to do a
14 thorough job and we want you to feel good about your
15 determination one way or the other, whatever it is.

16 Q Was Dr. Altman limited in any way in terms of how
17 much time he spent or what he did?

18 A He was not.

19 Q Why not?

20 A Because once again, it was -- that was his -- I
21 felt like that was up to him and he needed to take the time
22 that, in his judgment, he felt like he needed to take to get
23 to the determination that he felt comfortable with.

24 Q And you said you ultimately learned about his --
25 his diagnosis. Is that right?

1 A I did.

2 Q Did you -- did you ever see a copy of his report?

3 A Eventually, I did.

4 Q Around when was that?

5 A It was -- I believe it was in 2017.

6 Q Okay.

7 A It was -- she had filed a grievance.

8 Q Who is "she"?

9 A I'm sorry. Ms. Petitt had filed a grievance that
10 we were preparing to arbitrate. And somewhere around the
11 time that the arbitration was scheduled, in an effort to get
12 ready and prepare, I got a copy of the report from -- from
13 Dr. Faulkner and started reading it.

14 Q Had you learned about his diagnosis prior to seeing
15 the actual report?

16 A I -- I heard it. I just hadn't read the report.

17 Q Who did you hear it from?

18 A I actually heard it from Dr. Altman. Dr. Altman
19 told me of the determination that he had reached.

20 Q Did you believe that to be violative (sic) of the
21 Section 15 process that Dr. Altman disclosed of you?

22 A No.

23 Q Why not?

24 A Well, he's there as a -- you know, for the company.
25 He's the company medical examiner, and we certainly have an

1 interest in what his determination his. You know, he needed
2 to -- he needed to tell us.

3 Q So, once Dr. Altman reached that determination,
4 what role, if any, did you play in the Section 15 process?

5 A At that point, I started thinking about -- for me,
6 it's next steps. What are we going to do? So, I started
7 thinking about the administrative side, which means, you
8 know, talking to the folks in flying operations, making sure
9 that Ms. Pettitt is transitioned appropriately to sick or
10 disability, just depending on what she has available to her.

11 I start thinking about the next steps. I -- you know, I
12 believe she has 30 days at that point to -- whether or not
13 she's going to retain a pilot medical examiner to go and, I
14 guess, basically that's effectively getting a second opinion.

15 I'm talking to ALPA about that, about the process and making
16 sure that the process runs. So, that's really -- that's what
17 was going through -- through my head at the time, was just,
18 you know, what -- how are we going to continue on and get her
19 through.

20 Q And did you continue to play a role through the
21 Section 15 process after Dr. Altman's report?

22 A I did.

23 Q What role did you play?

24 A Again, my role is to -- at that point, is to
25 administrate the process and get it to completion.

1 Q What does that entail?

2 A That -- well, that entails, like I said, making
3 sure that administratively she's taken care of in the way
4 she's -- you know, as far as pay and, you know, sick use
5 disability, all these different things. But also, you know,
6 make sure that the steps and the process are followed
7 appropriately. Okay. She's selected a pilot medical
8 examiner. Now the pilot medical examiner submits its
9 determination. Okay. Now the next step is, the CME and the
10 PME need to go pick an NME, right, when you have dueling
11 opinions like that. So, I did -- I get involved trying to
12 help -- help Dr. Altman select an NME, that process was kind
13 of --

14 Q What was your role in helping Dr. Altman select an
15 NME?

16 A Well, what happened was, the PME in this case was
17 the Mayo Clinic. It was a group of doctors at the Mayo
18 Clinic who had issued a contrary opinion to what Dr. Altman
19 had issued. So, per the contract, the CME is supposed to,
20 you know, work with the PME. They're supposed to work
21 together to come up with an NME.

22 Dr. Altman was just having a lot of trouble getting
23 in touch and having anybody communicate with him with the
24 PME. Now they had given him three names but he didn't
25 necessarily -- they didn't meet the qualifications that he

1 thought were appropriate. So, you know, he was trying and he
2 was e-mailing them. He was calling them and he was trying to
3 set up meetings and communication and he was -- it looked to
4 me like he was just getting blown off.

5 At one point, he received an e-mail saying that the
6 PME would not be participating in the process. So, he's
7 coming to me and going, "Hey, you know, you're -- you're
8 telling me my job now is to go and pick this NME. I don't
9 have anybody to pick an NME with. What can we do?" So, you
10 know, we were trying to help him, you know, trying to help
11 him communicate with them. I was talking to ALPA and saying,
12 "You know, hey guys, we're -- you know, we're joint
13 custodians of this process. You need to help us and you need
14 to give some direction to, you know, help get this moving
15 along. These folks should be able to get together and pick a
16 qualified medical examiner out of this."

17 So, to that extent, I did get involved. And then,
18 eventually, it worked out. They were able to somehow, you
19 know, bury whatever differences they had and come up with Dr.
20 Huff as the neutral medical examiner.

21 Q Did you have any involvement in selecting Dr. Huff?

22 A I had no involvement.

23 Q Did anybody at Delta have involvement in selecting
24 Dr. Huff to your knowledge?

25 A No.

1 Q And did you learn about Dr. Huff's report?

2 A I did.

3 Q And you learned that Dr. Huff disagreed with Dr.
4 Altman. Correct?

5 A That is correct.

6 Q And what -- what -- did you have any involvement in
7 Ms. Pettitt's employment at Delta after Dr. Huff's report?

8 A To the extent that the contract, at that point
9 says, she's -- she goes back to flying. You're done with
10 Section 15 at that point. The neutral medical examiner has
11 essentially spoken and reached the determination that's going
12 to bind you. So, at that point, it was a matter of getting
13 her back. And then that works -- the benefits folks and
14 flying operations work together to, you know, make sure that
15 she's made whole.

16 Q What do you mean by "made whole"?

17 A Made whole, you know, they go back in and they look
18 at, you know, fixing any kind of sick bank use, things of
19 that nature, making sure that her pay is correct, essentially
20 that there's no financial harm done to her as a result of the
21 process that she just went through.

22 Q And is that dictated by the PWA?

23 A It is.

24 Q And to your knowledge --

25 JUDGE MORRIS: After the NME --

1 THE WITNESS: Yes.

2 JUDGE MORRIS: -- was any of the medical evidence
3 turned over to the FAA by Delta?

4 THE WITNESS: Not that I'm aware of.

5 JUDGE MORRIS: Continue.

6 BY MR. ROSENSTEIN:

7 Q Did -- just so I can be clear, since you answered
8 that question, do you have an idea of what medical evidence
9 means as you answer that --

10 MR. ROSENSTEIN: Or maybe the Court could clarify
11 that.

12 JUDGE MORRIS: The reports, the medical reports,
13 the three medical reports.

14 THE WITNESS: I'm not aware. I'm not aware of
15 that.

16 JUDGE MORRIS: Well, the neuropsychological testing
17 that was done.

18 THE WITNESS: I'm not aware that, that was given to
19 the FAA.

20 JUDGE MORRIS: Okay.

21 BY MR. ROSENSTEIN:

22 Q And do you know whether any of that information was
23 requested by the FAA?

24 A I don't. I don't know.

25 JUDGE MORRIS: How would they know?

1 MR. ROSENSTEIN: Well, I -- well, because of the --
2 I think because of the communications that we talked about
3 earlier and the testify. They had -- they were aware -- I
4 think there was communications between Faulkner and people at
5 the FAA. I think that's in evidence in the case.

6 BY MR. ROSENSTEIN:

7 Q Are you aware that Dr. Faulkner spoke to the FAA
8 about --

9 A I knew that he was speaking to the FAA but I was
10 not -- he was not telling me, you know, what he was giving
11 them or what they were asking for. I'm not aware of that.

12 JUDGE MORRIS: And so the record was clear and my
13 recollection of the testimony was, the only evidence that
14 came out was the company's medical exam is when he went to
15 the FAA. They had no information that subsequently the
16 pilots' medical exam, or the neutral medical examiners'
17 reports went to the FAA.

18 THE WITNESS: Right.

19 JUDGE MORRIS: Now if I'm missing something, you
20 know --

21 MR. ROSENSTEIN: Well, I think the evidence in the
22 record, and we'll look at the record, and it will be that Dr.
23 Faulkner spoke to somebody at the FAA beginning in the Summer
24 of 2017. So, I don't think he remembered the exact date.
25 But the documents are in the record for -- as events for the

1 tribunal. Obviously, my statement is not evidence. But
2 that's what I recall him saying. So, that would be the
3 timing of when it was. But back to you.

4 BY MR. ROSENSTEIN:

5 Q You were talking about being made whole. Describe,
6 you know, your understanding of how that comes about. I
7 think you were starting to do that.

8 A Again, you just want to go back and try to figure
9 out and make sure that, you know, there's just no financial
10 harm as a result. The process and the -- and the contract
11 plays it out. You know, the steps that you're supposed to
12 take as far as that goes. And I know there was -- again,
13 this isn't something that I was directly involved in but I
14 understand there were interactions without ALPA, again, the
15 other party to the contract to make sure that the Section 15
16 process was adhered to, to the end, to its conclusion.

17 Q To your understanding, has Delta complied with its
18 obligations under Section 15?

19 A I believe that Delta has complied in full with its
20 obligations under Section 15.

21 Q Do you have any view as to whether or not any
22 allegations that Ms. Petitt made related to safety in any way
23 influenced the decision to place her in the Section 15
24 process?

25 A I do not think that any safety allegations had any

1 bearing on whether to put her in the Section 15 process.

2 Q We had talked about Ms. Nabors EO investigation
3 earlier in your testimony. Do you recall that?

4 A I do.

5 Q Did you have any involvement after you assisted
6 with the -- with that outline, prior to March 8th, that you
7 continued to have any involvement in the EO investigation?

8 A I did. I did.

9 Q What was -- describe what that was.

10 A So, you know, the EO investigation continued. And
11 there was a bit of a break in it when this happened. I think
12 there was a need to get Ms. Pettitt into Section 15, get that
13 process running. And then after that happened, the EO
14 investigation was re-engaged, if you will.

15 Part of Kelley's work, in addition to just writing
16 up what Dr. Faulkner had asked her to write up, is she had
17 done what she went out to Seattle to do. She had fleshed out
18 the claims, the EO claims, and she had come back with
19 information that would provide the company with the ability
20 to go and investigate the merit of those claims, who these
21 people were that were doing this. Who was the instructor
22 that was alleged to have falsified records? Who was the
23 managing director that was doing this and that? All of these
24 different things that she needed to know.

25 So, at that point, you know, it got back on track.

1 And I, you know, it was in parallel, it was running in
2 parallel with Dr. Altman's investigation. So, I was --
3 again, I was monitoring it. I was still somewhat on the
4 periphery. It was being run through EO but my role there, I
5 was, you know, back and forth. We were communicating with
6 Dr. Altman about it. There were things coming out of the EO
7 investigation that he was very interested in seeing. He was
8 interested in seeing the continuing communications between
9 her and the company.

10 As his review went forward, there were questions
11 that he had that could be answered through the EO
12 investigation. So, I continued to play a role in that
13 respect of essentially facilitating information. And I was
14 trying to facilitate the EO investigation as well to move
15 that along. We wanted it to -- we needed it to get going and
16 move at a much faster pace than it had been moving.

17 Q And take a look at JX-J. You testified that you
18 thought that Ms. Nabors, I think you said, had done what she
19 set out to do.

20 A Right.

21 Q Was -- were -- can you identify was JX-J is, if
22 you've seen it before?

23 A M'hmm. Yes. So, this is the report that Ms.
24 Nabors put together after she had put together that
25 preliminary report for Dr. Faulkner and Dr. Altman to review.

1 But this was the more detailed report that, you know,
2 wrapped up her meeting with Ms. Petitt and went through and
3 answered a lot of the questions that she had gone out there
4 to get answers to.

5 Q Did Ms. Nabors finish her own investigation, the
6 one that she had started at least?

7 A No. Actually, Ms. Nabors ended up having some
8 health issues. So, when she left, it was, you know, more
9 delay in the EO process. She was replaced by a gentleman
10 named Brian San Souci, who also was a manager over in the EO
11 department.

12 Q Okay. And are you familiar with what Mr. San Souci
13 -- generally familiar with what Mr. San Souci did as part of
14 the continuing investigation?

15 A He did. He picked up where Kelley had left off.
16 And he started running down the allegations by setting up
17 various interviews to investigate the alleged wrongdoing and
18 see if they had any merit.

19 Q And -- and did you -- are you aware of whether such
20 interviews took place?

21 A I am aware. Yes.

22 Q Did you participate in those interviews?

23 A I didn't participate in them but I was certainly
24 aware of them and was receiving reports about how they went.

25 Q Take a look at Respondent's 112. That may be in a

1 different binder than the one you have. That's volume six.

2 A Respondent's 112.

3 Q It's volume six of Respondent's -- I'm guessing
4 you're going to have to go in front of your desk to get that
5 one. I don't think we've done --

6 A I'll do a little housekeeping here.

7 Q And 112 is what I'm asking about.

8 A M'hmm.

9 Q Have you seen this document before or do you know
10 what it is?

11 A It -- it looks familiar. If not this, I think I
12 may have seen some version of it. I -- it looks like a
13 preliminary report early. It's a summary of what the EO
14 investigation, and I know they didn't go to a final report
15 but it looks like a summary of the folks that they
16 interviewed and I'm not sure if there's conclusions in here
17 to not. I don't know.

18 Q Okay.

19 MR. ROSENSTEIN: Could we just take two minutes? I
20 need to look through my notes and see if I have any other
21 questions.

22 JUDGE MORRIS: All right. We'll take five,
23 reconvene at 3:30.

24 (Off the record, 3:24 o'clock p.m.)

25 (On the record, 3:34 o'clock p.m.)

1 JUDGE MORRIS: Back on the record. All parties
2 present when the hearing last recessed are again present.
3 Counsel, any more questions?

4 MR. ROSENSTEIN: Not at this time.

5 JUDGE MORRIS: All right. Cross.

6 MR. SEHAM: Yes.

7 CROSS-EXAMINATION

8 BY MR. SEHAM:

9 Q Did -- did you hear Respondent's Counsel describe
10 you as the leading expert on the ALPA Delta PWA?

11 A I didn't hear it. No. I didn't hear that.

12 Q Okay. Are you the leading expert on the PWA?

13 A Yeah. I don't -- I -- I'm not even sure how to
14 answer that. I mean, do you want me to compare me to who?
15 Compared to who?

16 Q Are you an expert on the PWA?

17 A I think, yeah. Part of my job is to be an expert
18 on the PWA and make sure that we comply with it. Yes.

19 Q Okay. Now you said you didn't get the actual
20 Altman report until 2017.

21 A That's correct.

22 Q And when in 2017 did you --

23 JUDGE MORRIS: Hold on one second. Was he notified
24 as being an expert?

25 MR. ROSENSTEIN: An expert in general as a -- as a

1 -- testifying expert? Absolutely not.

2 JUDGE MORRIS: Okay. Well, I'm not going to treat
3 him as an expert since he wasn't noticed as an expert.

4 MR. ROSENSTEIN: No. We're not presenting him as
5 an expert.

6 MR. SEHAM: Well, we'll cross-examine him as an
7 expert then -- or cross-examine him on the questions that he
8 was addressing on the PWA.

9 BY MR. SEHAM:

10 Q But you -- so, I'm sorry. You got a written
11 version of the Altman report sometime in 2017. Correct?

12 A I think it was 2017. I'm not exactly sure when I
13 got it. All I got -- I got it in preparation for a grievance
14 arbitration.

15 Q Okay.

16 A But I don't know the exact date but that's when I
17 -- that's when I went and got a copy.

18 Q So, it would not have been 2018. Correct?

19 A I'm not a hundred percent sure and I'm not sure
20 when -- when we scheduled that arbitration with Arbitrator
21 Wittenburg. I can't remember the exact date.

22 Q Might it have been 2016?

23 A I don't think it was 2016.

24 Q You got a preliminary report from Dr. Altman prior
25 to getting the written report. Correct?

1 A I did not get a preliminary report. No.

2 Q He never advised you that he was reaching a
3 diagnosis that would ground Ms. Petitt?

4 A Sure. Verbally, he told me. Verbally, he told me
5 that -- you know, what the diagnosis was but I didn't get a
6 copy of a draft of his report or anything like that. No.

7 Q So, when did he tell you? When you say "verbal,"
8 you mean over the phone?

9 A Correct.

10 Q Okay. So, when did he tell you over the phone that
11 he was rendering a particular diagnosis?

12 A He told me that he had reached a determination and
13 was working on getting the report finalized on the end of
14 October in 2016.

15 Q He told you that he expected to finish the report
16 in October of 2016?

17 A No. He said he was finishing the report and he had
18 reached a determination and he was getting the report
19 finished. The purpose of the call was a status call to find
20 out where he was with the report and when it was going to be
21 done. And that's when he advised me that -- that he was
22 wrapping it up and he had reached his decision.

23 Q Okay. And he told you at that time that he would
24 be diagnosing her with a bipolar disorder. Correct?

25 A He did.

1 Q And that's in October of 2016.

2 A That was the end of October. I believe it was
3 Halloween actually, October 31st.

4 Q Okay. And you said that you made efforts to
5 expedite Dr. Altman's process?

6 A By asking him, you know, where are we with this,
7 trying to move it along as best I could without, again,
8 tripping that balance of trying to pressure him to get it
9 done but wanting him to move it along and get it to a
10 conclusion. Yes.

11 Q Did you ever send him an e-mail asking him to move
12 it along or expedite it?

13 A I did not.

14 Q Okay. So, any effort to expedite the process would
15 always have been telephonic.

16 A Telephonic and by expedite, I mean, just managing
17 the process and, you know, asking him to report, knowing that
18 we wanted it moved along. But I didn't give him any, you
19 know, out and out direction to get anything done. I just
20 wanted him to move it along and work diligently. And I was
21 always satisfied that he was working as hard as he could to
22 finish his work.

23 Q Have you ever been involved in a Section 15 process
24 that took as long as this one?

25 A I have not.

1 Q Have you ever been involved in a Section 15 process
2 that cost as much as this one?

3 A I have not.

4 Q Okay. And there was no e-mail to you raising
5 concerns about the duration or the cost. Correct?

6 A Not that I recall.

7 Q Okay. Now you met with Dr. Altman on June 2nd in
8 Chicago and accompanied by Captain Phil Davis. Correct?

9 A Correct.

10 Q And during that meeting, face-to-face in Chicago,
11 he asked the two of you for an explanation of SMS. Correct?

12 A It wasn't asking for an explanation of SMS. He
13 just noted that, that was something that was very concerning
14 for her. And he asked us what we knew about SMS.

15 Q Well, what did you tell him as to what you knew?

16 A I told him -- I told him I am not a subject matter
17 expert on SMS but I will find out for you where Delta's SMS
18 program is, what we're doing to implement SMS, and I'll give
19 you whatever information you want about it. I'll make sure
20 that, that happens.

21 Q Well, how about Captain Davis? What information
22 did he offer on SMS?

23 A I believe it was much the same. I don't believe
24 that Captain Davis was a subject matter expert but, again,
25 along with me, we would work together to get him -- get him

1 as much information as he felt like he needed regarding
2 Delta's SMS program.

3 Q Okay. So, Captain Davis was unable to provide any
4 explanation of the scope of SMS on June 2nd?

5 A I really don't recall exactly what Captain Davis
6 said about SMS.

7 JUDGE MORRIS: Do you recall what the doctor
8 thought he needed about SMS?

9 THE WITNESS: I think he was, at that point, Judge,
10 he was just more -- more interested in wanting to learn about
11 what it was. It was something that significantly bothered
12 her. And so, he had pulled that out of one of the documents
13 that he had reads. And so, he just wanted to get an
14 understanding of what this is, what's it about, why does it
15 bother her so much. And so, that was just the initial foray
16 into, you know, us trying to get him up to speed on it.

17 JUDGE MORRIS: All right, Counsel.

18 MR. SEHAM: Okay.

19 BY MR. SEHAM:

20 Q If you could turn to Complainant Exhibit 98, which
21 is the table of contents document.

22 A Which volume is that?

23 JUDGE MORRIS: Four.

24 MR. SEHAM: Four. And it was one of the more
25 recent references you were making. Oh, there you go.

1 THE WITNESS: Which one?

2 MR. SEHAM: Ninety-eight, 9-8. It begins with an
3 e-mail from you to Dr. David Altman on May 30th, 2016.

4 THE WITNESS: M'hmm. Right.

5 MR. SEHAM: Okay.

6 BY MR. SEHAM:

7 Q Now in the course of this litigation, were you ever
8 called upon to produce documents in your possession that were
9 responsive to document requests from Ms. Petitt?

10 A Yes.

11 Q Okay. And you notice here, at the bottom
12 right-hand corner, it's marked as DA000818. Would you agree
13 with me that those are documents whose providence is from Dr.
14 Altman?

15 A No. I haven't been involved in the discovery of
16 that.

17 Q Okay.

18 A But that sounds reasonable to me.

19 Q Okay. Well, did you ever produce the actual
20 contents A through N to Delta for transferal to the
21 Complainant of the contents of the binder that you sent to
22 Dr. Altman?

23 A Yes.

24 Q You did. Okay. Now if in H, the interview notes
25 from EO investigator Kelley Nabors, would that correspond --

1 and you sent this on May 30th. Correct?

2 A Correct.

3 Q Would that correspond to JX-J?

4 A Where is JX-J? Joint Exhibit.

5 Q That's in one of the folders with the green cover.

6 A I think so. But I'm not -- I'm not certain without
7 looking at the actual documents.

8 Q Okay. Did you ever get -- you know, you've
9 reviewed JX-J. Correct?

10 A Correct.

11 Q Okay. Have you ever -- did you ever, other than
12 JX-E, which has some content from Ms. Nabors, and JX-J, which
13 appears to be a report from Ms. Nabors, did you ever get any
14 report from Ms. Nabors with respect to her Petitt interview?

15 A No. To my knowledge, there were only two reports
16 from Ms. Nabors.

17 Q Do you know when you first -- again, you're sending
18 this binder on May 30th, the Nabors documented JX-J is dated
19 May 27th. Do you have any recollection of when you first
20 received JX-J?

21 A I do not.

22 Q You said that Dr. Petitt (sic) in terms of his
23 request for documents --

24 A Dr. Altman?

25 Q Excuse me. Thank you. Dr. Altman, in his request

1 for documents, you said he requested background, scheduling,
2 interactions and communications with the Company.

3 A That's correct, in that initial conversation.

4 Yeah. He later requested a lot of specific documents but
5 just in that initial, you know, what can we do to help you,
6 that's what I remember him kind of weighing out as to what he
7 would like to see.

8 Q And those requests were oral -- were all oral.

9 A Correct.

10 Q So, prior to your sending the binder on May 30th,
11 there are no e-mail requests for information from Dr. Altman,
12 other than for pilot scheduling information. Correct?

13 A I think that's correct.

14 Q Did he give you, in terms of Exhibit CX-98, the
15 second page is table of contents, did he tell you to lay it
16 out in these tabs A through N?

17 A No.

18 Q Okay. Whose decision was it to lay that -- to
19 organize the information in those categories?

20 A I -- that was my decision.

21 Q And in terms of identifying documents that would be
22 -- that you considered to be appropriate to send to Dr.
23 Altman, you referenced JX-B. Correct?

24 A JX --

25 Q You referenced -- I believe you referenced in our

1 direct testimony that you looked to Ms. Petitt's assessment
2 to identify what documents you would send to Dr. Altman. Was
3 that your direct testimony?

4 A Right. We looked at just, again, how -- one of the
5 things that jumped out was just how far back this had gone
6 and that these were issues that she had been carrying with
7 her and that clearly bothered her. So, that's what I used as
8 -- as a starting point to say, you know, here's what I'm
9 going to strive to do. I'm going to try and go back around
10 that time and try to cover that ground up through the present
11 and put together everything I can that would show those
12 interactions with the company to give him the background that
13 I felt like he wanted.

14 Q I want to make sure we're clear on this. Do you
15 recall on your direct testimony saying that you looked to her
16 assessment to assist you in determining what documents to
17 send to Dr. Altman? Do you remember --

18 A That's --

19 Q -- using the term "assessment"?

20 A I -- I don't have any reason to dispute that but
21 yeah, that was part of what we were -- what we were looking
22 at. Yeah.

23 Q When you used the term "assessment," are you
24 referring to JX-B?

25 A Yes.

1 Q Okay. There's more than one meeting on March 17th
2 that related to Ms. Petitt. Isn't that correct?

3 A I'm not sure.

4 Q Do you know who a Mr. Carter is at Delta Airlines?

5 A I do.

6 Q Okay. And what's his full name and position?

7 A Peter Carter is the general counsel at Delta
8 Airlines.

9 Q And there's also a Mr. Shinkel.

10 A That's correct.

11 Q Okay. And isn't it true that they were involved
12 with meetings related to Ms. Petitt on March 17th?

13 A That's right. There was a meeting before the
14 meeting I described. There was just a meeting amongst
15 lawyers and Mr. -- I believe Mr. Shinkel was there. Yeah.

16 Q And did you participate in that meeting?

17 A I was there. Yes.

18 Q And who else, other than Mr. Carter and Mr.
19 Shinkel?

20 A Meg Taylor was there.

21 Q Okay. And who else?

22 A Jim Grant.

23 Q Jim Grant. And neither of the doctors was involved
24 in that meeting?

25 A No.

1 Q Can you tell us the general purpose of that
2 meeting?

3 A I think the general purpose is -- as I remember,
4 was primarily align with communications and I think there
5 were some concerns raised about Ms. Petitt's desire to go to
6 press and what the communications plan would be in the event
7 something like that happened.

8 Q Can you recall anything else from that meeting?

9 A No. That's the -- that's really what I -- what I
10 remember about it.

11 MR. ROSENSTEIN: Can we just take a second? He
12 needs water.

13 MR. SEHAM: I'm sorry.

14 MR. ROSENSTEIN: The witness just needed a
15 water.

16 MR. SEHAM: Okay.

17 MR. ROSENSTEIN: My apologies.

18 JUDGE MORRIS: That's okay. You're doing the
19 talking.

20 MR. ROSENSTEIN: I can't tell you it's cold but
21 yesterday I didn't have any.

22 BY MR. SEHAM:

23 Q If you could turn to JX-E. You're saying -- is it
24 your testimony that JX-E, starting at JX-E-003 is a document
25 that you sent to Ms. Nabors?

1 A No. That's not my testimony.

2 Q Was there a document similar to this that you sent
3 to Ms. Nabors?

4 A Yes.

5 Q Okay. But there's no e-mail traffic connected with
6 your transmission of this document to Ms. Nabors? Did you
7 hand this to her physically?

8 A I mean, is it in evidence? Is that what you're
9 asking me?

10 Q I'm asking you, how did you transfer -- you -- you
11 drafted -- would you agree with me that from JX-E-003 to
12 JX-E-009, that was a document that you drafted?

13 A That looks about right. Yes.

14 Q Okay. And is it your testimony that you provided
15 this -- at least that portion of this document to Ms. Nabors
16 at some time?

17 A My testimony is I provided it to Meg Taylor and Ms.
18 Nabors.

19 JUDGE MORRIS: How?

20 THE WITNESS: Via e-mail. Sorry.

21 JUDGE MORRIS: E-mail.

22 BY MR. SEHAM:

23 Q And your testimony is that you physically handed
24 JX-E from 003 to 011, that you handed that to Dr. Faulkner.

25 A That's correct.

1 Q Okay. If you can turn to R41. Okay -- and this --
2 looking -- this is an e-mail that you sent to Dr. Altman on
3 March 15th, 2016. Correct?

4 A Correct.

5 Q And you say in the second sentence, "Attached is a
6 document" -- I'll read the whole thing.

7 "Dr. Altman, In advance of our call
8 tomorrow, I wanted to provide some
9 background on the pilot we will be
10 discussing. Attached is a document she
11 submitted to our chief pilot."

12 That document would have been JX-B. Correct?

13 A Yes.

14 Q Okay. And at this point, you had not yet sent any
15 written report from Ms. Nabors. Correct?

16 A That I'm not sure of. I'm not sure what the order
17 was. I don't remember if, at this point, I had Ms. Nabors'
18 report or not. I know I eventually sent it to him. I don't
19 know if it was before or after. It doesn't look like it was
20 a part of this e-mail. I just can't recall but I did send it
21 to him. But I did send it to him.

22 Q Are you comfortable with the term, "pejorative"?
23 Do you understand what that means?

24 A Do you want me to define it?

25 Q No. I'm just asking you if you're comfortable --

1 if you have an understanding of what that means.

2 A I have a general understanding.

3 Q Okay. If you look at the second sentence -- the
4 third sentence, rather, which reads, as you can see, it was a
5 litany of complaints, many going back several years to the
6 time right after the Northwest-Delta merger.

7 A Okay.

8 Q Would you agree with me, in this context, you
9 intended the word "litany" to have a pejorative meaning?

10 A I would not.

11 Q Are you familiar with the CASS system?

12 A CASS?

13 Q The acronym C-A-S-S?

14 A Yes.

15 Q Okay. And if a pilot is removed from the CASS
16 system, he or she would lose their jump seat privileges.
17 Correct?

18 A That's correct.

19 Q And in fact, Captain Graham removed Ms. Petitt from
20 the CASS system on March 17th, 2016. Correct?

21 A I believe Captain Davis did. But I'm not certain
22 of that. I'm not sure.

23 Q Okay. But in any case, Delta Airlines flight ops
24 removed Ms. Petitt from the CASS system as of March 17th,
25 2016.

1 A That's our standard practice for a Section 15 case.
2 So, I don't know for certain when she was removed from CASS

3 Q All right.

4 JUDGE MORRIS: When you say "standard practice," is
5 that standard practice documented anywhere?

6 THE WITNESS: Not that I'm aware of, Judge. No.

7 JUDGE MORRIS: In other words, you know, pilots are
8 full of checklists. Okay? Section 15, you check, check,
9 check. They do that.

10 THE WITNESS: Exactly. But Section 15 comes up --
11 doesn't come up very often so there's always a discussion and
12 it's always, you know, okay, we're putting this pilot into
13 Section 15, for whatever the issue may be. And then the
14 regional director, at that point, who is engaged in the
15 conversation simply knows to go and do it via the -- but I
16 don't know that there's any kind of checklist written down.

17 JUDGE MORRIS: Okay. And again, I don't mean to be
18 bantering you, or badgering you in any fashion, but the
19 pilots also have things that don't happen very often called
20 "Emergency checklists".

21 THE WITNESS: Right.

22 JUDGE MORRIS: Okay. Check, check, check in case
23 there's an emergency. So, are you saying, even though this
24 doesn't happen very often, there is no written standard
25 procedure on the series of events that are to occur once this

1 Section 15 is activated.

2 THE WITNESS: I'm just not aware of it, Judge.

3 JUDGE MORRIS: All right.

4 THE WITNESS: If the managing director of flying
5 operations keeps one of those, I'm not aware of it. But he
6 may very well have something along those lines. The managing
7 director of flying operations is the administrative head of
8 flight operations. So, technically, he has administrative
9 control over this process. So, when a pilot goes into it, he
10 may very well have a document somewhere that he references to
11 make sure that he's doing all of that, or he may just call me
12 and say, "Hey, we've got this going." But I'm just not aware
13 of having created it or having seen it.

14 JUDGE MORRIS: All right. Go ahead.

15 MR. SEHAM: Okay.

16 BY MR. SEHAM:

17 Q If you can turn to JX-E, again, 003. Okay. Are
18 you there?

19 A Yes.

20 Q Okay. And if you can go to the second paragraph, I
21 think it's the second sentence. It reads:

22 "The miscellaneous items will be addressed by
23 Jim. Most involve contractual or policy
24 issues where she has a fundamental
25 misunderstanding of the contract

1 language, or how a particular policy
2 works."

3 Now this is part of the document -- when you say,
4 "she has a fundamental misunderstanding," you're referring to
5 Ms. Petitt. Correct?

6 A That's correct.

7 Q Okay. And this as a -- this was an outline that
8 you sent to Ms. Nabors. Correct?

9 A That's correct.

10 Q And she reported back in part on the miscellaneous
11 items, notwithstanding the reference that "Jim would handle
12 it". Correct?

13 A I believe she did glean some information from Ms.
14 Petitt on those -- on those issues. Yeah.

15 Q Okay. And "Jim," refers to Jim Graham?

16 A Yes.

17 Q Okay. And you referenced that Ms. Petitt got a
18 letter of counsel. Do you know what the underlying issue
19 was?

20 A The underlying issue was a blog post in 2009 --
21 2011, I believe, 2011, regarding an Air France accident. An
22 Air France 8330 plane crash. Ms. Petitt made a blog post
23 that the leadership at the time in flight operations felt
24 like it merited a -- a letter of counsel.

25 Q Okay. And had she violated a policy of Delta in

1 posting that blog?

2 A She had violated the social media policy.

3 Q In what respect had she violated the social media
4 policy?

5 A The social media policy that was in place at the
6 time, laymen's terms, basically says, "You don't go an air
7 dirty laundry out in a public forum. If you have an issue
8 with the company and how the company does something take that
9 up with the company before you go and -- and publish that on
10 social -- on social media." And that, I think, I don't have
11 the letter in front of me but I think that's what it was
12 referencing. I think there were also references to the fact
13 that she was a Delta pilot on her blog. And at the time,
14 that would have violated the social media policy as well.

15 Q She had -- on the blog, she identified herself as a
16 Delta pilot.

17 A That's my understanding. This predates me at
18 Delta. So, I go off of what, you know, what was basically in
19 the letter and in the files.

20 Q So, that's your understanding is that the violation
21 connected with this blog had to do with her identifying
22 herself as a Delta pilot.

23 A I think in part. And I think there were just --
24 there were other reasons. And I believe they were listed in
25 the letter of counsel.

1 Q Okay. Well, have -- subsequent to the issuance of
2 that letter of counsel, had she -- did she ever violate the
3 policy that you've referenced thereafter?

4 A I'm not aware of -- I'm not aware of any
5 violations, as least that I was made aware of.

6 Q And the purpose of a letter of counsel is a shot
7 across the bow to the pilot that they should desist from the
8 conduct referenced in that letter of counsel. Correct?

9 A That's accurate. Yes.

10 Q And the company is free in any subsequent
11 disciplinary proceeding to reference that prior letter of
12 counsel to justify an increased level of discipline for
13 violations of the same kind.

14 A I think it would depend. We would -- we would most
15 likely look at it and look at -- and give it the -- give it
16 the effect of a two-year look back before we would try to get
17 something like that admitted in an arbitration. I've never
18 tried it. I don't think it's necessarily addressed but we
19 would consider that critical correspondence and we would
20 probably give it that effect. But I haven't -- again, that's
21 not issue that I've come up against.

22 Q Okay. But it -- but it's still -- if it did, to
23 address the caveat or the condition you identified of two
24 years, if there was similar -- if they were a similar policy
25 violation within those two years --

1 A Sure.

2 Q -- the company would most likely refer to that has
3 a piece of evidence justifying a further step of discipline.
4 Correct?

5 A Sure. It would serve just as any other counseling
6 would serve for whatever decision -- the decision maker would
7 be aware of, just as if, you know, it had been verbal
8 counseling.

9 Q M'hmm.

10 A The decision maker, I think, would give it that
11 weight.

12 Q And is -- I think you used the term "a critical
13 writing," Is that a term of art?

14 A I use the term "critical correspondence".

15 Q Critical correspondence. Is that -- is that a term
16 of art?

17 A No. That's a PWA term.

18 Q Well, that's what I really mean.

19 A Okay.

20 Q That is a - that's a term used within the PWA.

21 A Yes.

22 Q Did I understand your testimony correctly that
23 there's some period of time after which a disciplinary letter
24 cannot be referenced to justify a higher step in discipline?

25 A No. My testimony was that, after a certain amount

1 of time, depending on the level of discipline, a disciplinary
2 letter is not admissible in an arbitration proceeding.

3 Q Okay. And did -- was it your testimony that, in
4 order to be subject to that temporal limitation in terms of
5 reference in a disciplinary proceeding, that the discipline
6 had to be a minimum of 30-day suspension?

7 A Right. That's the -- the cut off. Anything more
8 than 30 days is permanent. So, it could be 10-years old and
9 you could get it admitted into the arbitration. But you
10 know, again, then you're -- then most arbitrators are still
11 going to look at the temporal proximity to the event, and
12 whether or not the conduct was consistent. All the same
13 things that you go through in any analysis.

14 JUDGE MORRIS: Like a 609 equivalency? Federal
15 Rule of Evidence 609?

16 THE WITNESS: It's been a little while, Judge.

17 JUDGE MORRIS: Prior convictions, more than 10
18 years old, they get a little or no weight --

19 THE WITNESS: Yes.

20 JUDGE MORRIS: -- and they're not considered.
21 Okay.

22 BY MR. SEHAM:

23 Q I guess I'm confused. Is the cut off -- if that --
24 it's under 29 days --

25 A If it's under 30 days. So if it's 29 days, he gets

1 the two years.

2 Q Okay.

3 A Anything more than 29 days, 30 or more, it's --
4 it's there indefinitely. Yes.

5 Q M'hmm. Could you --

6 A For admissibility purposes. Right.

7 Q Okay. And could you refer to RX-7? Maybe you can
8 get that volume. It's volume three.

9 JUDGE MORRIS: And when you're done, Counsel, with
10 your questions on RX-7, let me know because I have a question
11 about that. But I don't want to -- I'm trying to minimize
12 the interruption.

13 MR. SEHAM: Okay.

14 BY MR. SEHAM:

15 Q I think I just have -- well, I have a few,
16 actually. If you could turn to RX-7-197. And you see item
17 four.

18 A M'hmm.

19 Q It reads:

20 "Prior discipline and/or
21 correspondence of a critical nature will
22 not be admissible at a board hearing
23 involving subsequent discipline provided
24 (a) the prior discipline consisted of a
25 warning, reprimand, or suspension of less

1 than 30 days, and (b) the pilot has
2 completed two years of aggregate service
3 since the issuance of the prior
4 discipline without being discipline in
5 any manner."

6 A M'hmm.

7 Q Now that -- that provision of the PWA would apply
8 to a letter of counsel. Correct?

9 A Well, I don't believe that the letter of counsel is
10 -- is disciplinary. I don't think it rises to the level of
11 discipline. I've never confronted that issue. I would argue
12 that the letter of counsel is not discipline and it's not a
13 warning, reprimand, or suspension.

14 A warning has a connotation of a letter of warning.
15 I don't think it's a reprimand. It's counseling. And it's
16 certainly not a suspension.

17 Q Well, here, it says -- did you not testify a few
18 minutes ago that a letter of counseling was correspondence of
19 a critical nature?

20 A It is.

21 Q And here, in item four, it says:

22 "Prior discipline and/or
23 correspondence of a critical nature will
24 not be admissible."

25 So, would you agree with me that this would apply

1 to a letter of counsel?

2 A I think it's -- I think it's critical
3 correspondence. And what I testified to earlier is, we would
4 give it the benefit of two years. We wouldn't try to do it.
5 It's never come up in the time that I've been at Delta. But
6 I don't think that a letter of counsel -- I'll agree that
7 it's critical correspondence. I just don't agree that it's a
8 warning, a reprimand or a suspension. I think that under the
9 Delta system, discipline, formal discipline starts at a
10 letter of warning and moves up through the different stages
11 that exist. I consider a letter of counsel just that,
12 "counseling".

13 Q So, Delta's policy is to have progressive stages of
14 discipline?

15 A Delta doesn't have anything that's contract that
16 says that we need to do that but we do try to adhere to
17 progressive discipline policies. Yes. And there are times
18 where we, you know, just like in any written progressive
19 discipline policy that you're allowed to deviate from that,
20 just depending on the severity of the conduct and the
21 circumstances.

22 JUDGE MORRIS: All right. So I'm clear, your
23 testimony is a letter of counsel is correspondence of a
24 critical nature.

25 THE WITNESS: It depends, Judge. I mean, it could

1 be. It just -- it really just depends on what the content of
2 the letter of counsel is. I think that whether it's critical
3 correspondence, or it's critical of the pilot, I think most
4 likely it would be. I'm straining to think of time that it
5 wouldn't be but it really just depends on the subject nature
6 of the letter itself.

7 JUDGE MORRIS: Is that term of art defined anywhere
8 in PWA?

9 THE WITNESS: No.

10 BY MR. SEHAM:

11 Q The PWA references the concept of just cause as the
12 standard being applicable to pilot discipline. Correct?

13 A That's correct.

14 Q So, the company contractually is prohibited from
15 disciplining a pilot without just cause. Correct?

16 A That's correct.

17 Q Have you been involved in many disciplinary
18 arbitrations processes?

19 A A few. Yes.

20 Q And would you -- are you familiar with the Elkouri
21 and Elkouri, How Arbitration Works?

22 A Yes.

23 Q Are you familiar with the Carroll Daugherty
24 decision with respect to The Seven Pillars of Just Cause?

25 A I've -- yes, I've heard of it.

1 Q Would you agree that virtually every labor
2 arbitrator in the hairline industry would consider
3 progressive discipline to be an element of just cause?

4 A I would not agree with that.

5 Q It's one of the seven pillars identified by
6 Arbitrator Daugherty. Correct?

7 A Well, I --

8 MR. ROSENSTEIN: I'm going to object to this line.

9 UNIDENTIFIED SPEAKER: What -- what -- where are
10 we?

11 MR. SEHAM: This is to counter the testimony of
12 this witness that Delta doesn't have a progressive discipline
13 policy.

14 JUDGE MORRIS: Yeah. I will hear this.

15 THE WITNESS: The policy is in the contract. And
16 there is not a progressive discipline in the contract.
17 There's not a progressive discipline policy in the FOM. And
18 I haven't seen an arbitrator on the Delta property cite to
19 the seven steps that you're talking about.

20 BY MR. SEHAM:

21 Q The Seven Pillars.

22 A The Seven Pillars.

23 Q So, it would be Delta's position that progressive
24 discipline is not an element of just cause?

25 A I would depend on the circumstances.

1 Q Now is it your testimony that it was Captain Graham
2 that decided how the different buckets of issues -- strike
3 that.

4 With respect to JX-B, the safety report, the
5 division of that - of that report into three separate buckets
6 of issues, that was Captain Graham's decision?

7 A Yes.

8 Q And he wrote the action plan found in JX-D?

9 A I believe so. I don't have it in front of me but I
10 think so.

11 MR. ROSENSTEIN: D as in Delta?

12 MR. SEHAM: Yes.

13 MR. ROSENSTEIN: Okay.

14 MR. SEHAM: I'm sorry. I may be leaving RX-7, Your
15 Honor. I think you said you wanted to ask questions.

16 JUDGE MORRIS: I already answered it.

17 MR. SEHAM: Oh, okay.

18 JUDGE MORRIS: It was the critical correspondence.

19 MR. SEHAM: Okay.

20 BY MR. SEHAM:

21 Q Were you able to locate JX-D?

22 A Which volume is that?

23 Q It's one of the green -- I can't find mine either.

24 A Oh, JX-D?

25 Q JX-D, it's one of the green cover -- I'm going from

1 memory here. Yes. It's one of the -- there's one green
2 Joint Exhibit binder that has just one document. And then
3 one has all the other remaining Joint Exhibits. So, it's the
4 first volume of the Joint Exhibits. Do you have it?

5 A Yes.

6 Q Okay. In JX-D, you testified that was written by
7 Captain Graham.

8 A That's my understanding. Yes.

9 Q Okay. And JX-E, other than the additional notes at
10 the end, starting at JX-E-010, that was written by you.
11 Correct?

12 A I wrote the -- I wrote the template that this was
13 based on. I'm not sure if the final version was exactly but
14 the bulk of this was written by me. Yes.

15 Q And do you not know which was written first, JX-D
16 or JX-E?

17 A I'm not sure. I'm not sure which one was written
18 first.

19 Q Okay. Now you said that when Ms. Pettitt was
20 referred on a Section 15, that she was pay protected? Was
21 that your testimony?

22 A That's correct.

23 Q Okay. And how long was she pay protected?

24 A She -- well, the way it works, I believe, is that
25 you're -- when you're removed from service, it's basically an

1 administrative code on the pilot's lien, which allows the
2 pilot to essentially shadow bid for trips, meaning it's
3 pretend bidding and you get paid for what those trips would
4 be. Up until the CME reaches a determination.

5 And then, at that point, the pilot transitions to
6 sick, which is basically full pay. The Delta sick bank is --
7 or not sick bank, but the Delta sick plan for pilots allows
8 for a pretty lengthy period of sick leave. And then at that
9 point, the pilot transitions if they don't have any other --
10 any sick leave and they're still in the process, they would
11 transition to disability, notwithstanding the fact that they
12 still do have a first class medical.

13 Those are all paid -- you're getting paid during
14 that time period.

15 Q Well, sick leave is a contractual entitlement that
16 a pilot accrues with the passage of time. Correct?

17 A It's not an accrual at Delta. Delta does it on a
18 year-to-year basis. So, it maxes out, depending on
19 seniority, you can have up to 270 hours of sick leave. And
20 then it just rolls over the next year.

21 JUDGE MORRIS: When can one use sick leave at
22 Delta?

23 THE WITNESS: When -- when you're sick. When the
24 pilot --

25 JUDGE MORRIS: So, there's a medical deficiency.

1 THE WITNESS: Exactly. Well, when you're unable to
2 execute your first class medical and able to fly. Yeah.

3 MR. SEHAM: All right.

4 BY MR. SEHAM:

5 Q So, after the CME decision, the pilot is required,
6 if she wants to be paid, she's required to reduce her sick
7 leave allowance.

8 A Right. Yeah. You start working into whatever sick
9 hours you have. Yeah. The pilot goes on sick leave.

10 Q And then once she exhausts her sick leave
11 allowance, then she has to go to disability pay. Correct?

12 A Transition to disability pay.

13 Q Okay. And is the disability pay one hundred
14 percent of the salary?

15 A I believe it's 50 percent of final average
16 earnings. And then it just depends on whether the pilot is
17 carrying -- there's a type of insurance at Delta where it
18 grosses the pilot up but I'm not -- that's between the pilot
19 and the insurer.

20 Q And there's a two-year limit on that disability pay
21 when you enter it through Section 15. Correct?

22 A I'm not sure about that.

23 Q Now if you -- if a pilot outside of the Section 15
24 hurts his back, and receives disability --

25 A M'hmm.

1 Q -- there is no time limit on the disability
2 payments. Correct?

3 A I believe that's correct. It will run until the --
4 assuming the pilot is still disabled, up to 65 years old.

5 Q Well, if -- and to use an analogy that might help
6 close the gap here, if a pilot enters a -- self-identifies as
7 having a drug or alcohol problem, are they limited to two
8 years of disability?

9 A I'm -- that's -- I'm not exactly sure. I know it
10 is less than a physical disability but I'd have to look at
11 the plan document. I'm not sure exactly what it is. And I'm
12 not sure it's two years. I think that's changed a couple of
13 times but I don't know the exact time limit. But I will
14 agree with you, it is less. I'm not sure it's two years,
15 though. I think it might be a little bit more.

16 Q Okay. And isn't it true that the Section 15
17 disability is treated the same as the drug and alcohol-
18 related disability.

19 A I believe that -- it depends. It depends on what
20 the disability is.

21 Q If it's a mental health disability --

22 A Sure, sure.

23 Q -- it's treated the same as a drug and alcohol
24 disability.

25 A Yes.

1 Q So the person is limited to a finite number of
2 years of disability payments if it's a Section 15 mental
3 health disability.

4 A That would be correct. Yes.

5 Q How long have you been at Delta Airlines?

6 A Seven years.

7 Q And you participate in the collective bargaining
8 process with -- on behalf of Delta with Airline Pilots
9 Association?

10 A That's correct.

11 Q Okay. So, how many -- and I know under the Railway
12 Labor Act contract in sense is in perpetuity and subject to
13 (inaudible).

14 A M'hmm.

15 Q Correct?

16 A Correct.

17 Q Okay. And so, how many new contracts have you
18 negotiated since you've been at Delta?

19 A Since I've been at Delta, there have been three
20 tentative agreements and two complete agreements, two
21 ratified agreements.

22 Q Okay. Did you -- in any of those agreements, were
23 there changes to the language in Section 15?

24 A No.

25 Q So, you wouldn't be -- so, you never sat at a

1 negotiating process in which Section 15 was -- was
2 negotiated?

3 A No, no.

4 Q You don't have any negotiating notes in your
5 possession as to how an agreement on Section 15 was reached?
6 Correct?

7 A I think we do have negotiating notes from 2000,
8 from how Section 15 was negotiated.

9 Q And have you reviewed those recently?

10 A Not recently. No.

11 Q And prior to March 8th, had you been involved in
12 any matters related to Ms. Petitt?

13 A I've been, I guess, to the extent involved, I was
14 aware of some issues that had come up with her. But other
15 than just knowing they were occurring, I would say very
16 limited involvement.

17 Q What -- what issues were you aware of related to
18 Ms. Petitt prior to March 8th?

19 A The ones I recall are -- there was an issue with
20 wanting to put a Delta -- the Delta widget, I believe, on the
21 cover of one of her books. There were some issues with -- I
22 want to say that she raised some issues about a line check
23 that she had received and she felt like the line check was
24 done in retaliation for a complaint she had raised. And I
25 think -- I'm blanking but I think there may have been another

1 one that I just can't -- I can't remember but yeah, I think
2 there's just a handful of just being generally aware they
3 were going on.

4 Q When you say a -- did you say a "Delta widget," on
5 a book cover?

6 A Right. Just the Delta -- that's what we call
7 deliver on the airplane. It's -- it's -- we call it the
8 Delta widget.

9 Q Okay. And that was -- under what circumstances
10 does flight ops contact you concerning a pilot?

11 A Typically, where I find out about them, there's a
12 meeting that occurs through the managing director of flying
13 operations called the Deals Meeting. And it's a weekly
14 meeting where all of the regional directors get together to
15 discuss personnel issues. Labor Relations is always invited
16 to that meeting. And I try to make as many of them as I can.

17 So, most of the time, I'll find out about whatever issues
18 are going on in the Deals Meeting. If it's something that's
19 -- they can't wait, I'll get a phone call or somebody will
20 come by -- come by my office and talk to me. But more often
21 than not, I find out about things through Deals.

22 Q Other than the Delta Widget issue and the issues on
23 the line check, can you identify any other issues related to
24 Ms. Pettitt that were brought to your attention prior to March
25 8th?

1 A Yeah. I'm not -- I'm just not remembering any.

2 Q Okay.

3 A I'm not saying there weren't. I just don't
4 remember them right now.

5 Q And how is the Delta Widget on a book cover, how
6 was that resolved?

7 A I believe she was told that she couldn't do that.

8 Q Well, had she come and asked permission?

9 A I'm not sure exactly how it came about. It -- as
10 memory serves, it somehow made its way into corporate
11 communications. It came back through the flight office,
12 through Captain Davis, I believe, and then eventually her
13 request was denied.

14 Q But had she published with the Widget or had she
15 come and asked permission prior?

16 A I think she had asked permission but in a
17 roundabout way, if I remember. I think that she had gone
18 directly to Corporate Communications rather than first asking
19 her Chief Pilot and that was more of the issue. Yeah. A
20 little short on the specifics but that's my recollection of
21 it.

22 Q So, it was a chain of command problem?

23 A I wouldn't call it a chain of command but just --
24 that other thing going on there, it had been a recurring
25 issues n utilizing Delta and Northwest books. And at the

1 time, the current managing director of flying operations had
2 previously been the chief pilot in Seattle and was just aware
3 of the history of what's going on or what had gone on with
4 Ms. Petitt in relation to her wanting to use Delta and
5 Northwest as part of her book writing, and then, of course,
6 just part of her blog.

7 Q Well, did -- did that Delta Widget issue come to
8 your attention before or after her January 28th, 2016 meeting
9 with Captains Graham and Dickson?

10 A I believe it was before.

11 Q Okay. And how about the issues on the line check?
12 Was that brought to your attention before or after the
13 January 28th, 2016 meeting with Captain Graham and Captain
14 Dickson?

15 A That's I'm not a hundred percent sure of. I think
16 it was before, maybe shortly before but I'm not certain on
17 that.

18 Q Prior to March 8th, were any issues -- well, let me
19 change the date to prior to January 28th, were any issues
20 relating to her uniform use brought to your attention?

21 A I think I heard something about a desire to wear
22 her uniform to different events. And there's a -- you know,
23 Delta has a policy on that. Basically, Delta wants to
24 approve of the different events you're going to wear a
25 uniform to. But again, I just -- nothing that really, you

1 know, struck me as something significant. But I was generally
2 aware of some items where she had wanted to wear her uniform
3 and I don't know if she was denied. I don't know exactly
4 what the issue is. But there were some -- there were, again,
5 some recurring uniform wear issues and going out to public
6 events and things like that. But I -- I -- again, it didn't
7 reach me to the point where I really got heavily involved in
8 it.

9 Q Do you recall any incidents related to uniform use
10 that consisted of an actual violation of that policy?

11 A Not that I'm aware of.

12 Q And do you recall any -- prior to January 28th,
13 were you aware of any issues related to her purported
14 violations of Delta's social media policy?

15 A Say the first part again.

16 Q Prior to -- well, actually let me change the date
17 again. Prior to March 8th, 2016, were you aware of any
18 violations of social media policy by Ms. Pettitt?

19 A Just in the most general sense. I have access to
20 all of the letters of counsel and letters of warning and
21 termination letters and everything written at Delta just
22 because, you know, we want to try to maintain consistency and
23 precedents. So, at some point, going through that file, I
24 had seen that letter of counsel from 2011. But I wouldn't
25 have considered myself to be really, you know, in the weeds

1 on it, other than just knowing about it and seeing her name
2 associated with it.

3 Q Did Ms. Petitt ever receive a -- the letter of
4 counsel, other than the 2011 letter of counsel that you've
5 just referenced?

6 A No.

7 Q No. And isn't it true that she -- Ms. Petitt, in
8 her career at Delta, has never received formal discipline of
9 any kind?

10 A That's true. Yes.

11 Q And it's Delta's position that respect to a letter
12 of counsel, such a letter is not grievable for the pilot.
13 Correct?

14 A I wouldn't say. It just doesn't happen. But it's
15 invariably going to one -- one day. But it just doesn't --
16 it rarely gets that far. But I think a pilot probably would
17 have the right to file a grievance on it.

18 Q I'm sorry. I may not have heard that last part.
19 Wouldn't you agree with me that it's Delta's position that a
20 letter of counsel is not grievable?

21 A I think we would resist it to the extent that it
22 doesn't go through the normal grievance process. Right? The
23 grievance initial hearing process. A letter of counsel, it
24 literally is just a letter with a signature on it. Whereas
25 the process that I described earlier with the notice of

1 intent, and then you get to file a grievance, and then you go
2 to initial hearing. It's a very different process and
3 apparatus where there's a lot of interaction before you get
4 to a final letter. So, from that standpoint, I would say a
5 letter of counsel is very different. But you know, I would
6 say there would be some issues that we would raise with
7 regards to that. It's never come up but, you know, I could
8 see some day a pilot is going to want to file a grievance on
9 it. And you know, we would take it through the grievance
10 process I would imagine. I'm not sure what arguments we
11 would make. But one of them probably would be that it was
12 outside of the -- outside of what we would consider the
13 formal disciplinary process. But this is hypothetical.

14 Q Would it be Delta's position that the letter of
15 counsel is not part of progressive discipline?

16 A Yeah. I would say that's accurate. Yeah. I would
17 say that the lowest level of discipline that a pilot could
18 receive at Delta would be a letter of warning, which, again,
19 goes through the formal notice of intent process and a lot of
20 back and forth between the Union and the company.

21 Q Okay.

22 MR. SEHAM: Could I go off the record for 20
23 second? I only have --

24 JUDGE MORRIS: Off the record.

25 (Off the record 4:33 o'clock p.m.)

1 (On the record, 4:34 o'clock p.m.)

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

4 (Claimant Exhibit No. CX-203
5 was marked for identification.)

6 JUDGE MORRIS: The witness has been handed CX-203.

7 BY MR. SEHAM:

8 Q And what I'd like to do is refer you to page 26 and
9 let me know when you've gotten there.

10 A Twenty-six, okay.

11 Q Okay. And I'm going to direct you to line 17 which
12 reads a question by Mr. Seham:

13 "QUESTION: What's the company's
14 position with respect to whether, for a
15 letter of counsel, a pilot could obtain
16 an arbitration, well, a Labor Act
17 arbitration to dispute a letter of
18 counsel?"

19 "ANSWER: We would argument against
20 that if it ever came up. It's something
21 that we would argue against. We would
22 argue that it's not progressive
23 discipline. Whether we would win that, I
24 don't know. We'll see. I'm sure it will
25 come up some day."

1 "QUESTION: So, you've referenced
2 progressive discipline. What is the
3 first step in progressive discipline?"

4 "ANSWER: Typically, it's a letter of
5 warning and then it goes from there. It
6 can go up to a letter of warning with a
7 suspension. It can go to a final letter
8 of warning of then, you know, obviously
9 termination. And there are different
10 varieties of suspensions, different days,
11 different amounts of time."

12 So, is that -- that testimony that you provided
13 during your deposition on January 31st, 2019?

14 A Yes.

15 Q Okay. And when you said, "we" would argue against
16 -- it's something "we" would argue against, you're referring
17 to Delta Airlines? Correct?

18 A Correct.

19 Q And that you consider the testimony that I've just
20 read to continue to be accurate?

21 A I do. I think there would be jurisdictional
22 issues.

23 Q Okay.

24 A The system board or something like that. But
25 again, I guess we'll see it when it happens.

1 Q Okay. And what's your -- when you get involved in
2 an individual pilot matter that's brought to your attention,
3 what -- what's your role in terms of your interface with
4 flight ops?

5 A It really varies. It just depends on what the
6 matter is really. Sometimes, I'm heavily involved.
7 Sometimes I'm as far removed from it as I can get. It just
8 depends.

9 Q Okay. Now prior to -- I'm going to us the cutoff
10 date January 28th, again, and the significance of that is
11 that's the date of the meeting with Captain Graham and
12 Captain Dickson, prior to January 28th, were you receive
13 communications from flight ops personnel relating to Ms.
14 Petitt's communications related to SMS and safety issues?

15 A I was. I think that's accurate. I'm not sure
16 about SMS and safety issues. I was receiving communications
17 about her desire to come to Atlanta to speak to Captain
18 Graham and Captain Dickson.

19 Q Well --

20 A And I don't know, I can't remember whether it got
21 into what she wanted to talk about, other than she just
22 wanted to talk about some safety issues.

23 Q Okay. We'll prior to January 20th, were you
24 receiving communications from flight ops personnel relating
25 to Ms. Petitt's communications with CEO Anderson or CEO

1 Bastian?

2 A I believe that's accurate. Yes.

3 Q Prior to January 28th --

4 A Well, wait. I don't know if it was communications
5 with Mr. Anderson. I think she had gone to a -- an industry
6 meeting where Mr. Anderson had spoken. And that was
7 referenced in one of the e-mails indicating that she wanted
8 to come to Atlanta to speak to Captain Graham and Captain
9 Dickson. But I don't know about any interaction with her and
10 Mr. Anderson. I'm not sure about that.

11 Q So, that -- that was forwarded to you prior to
12 January 28th, 2016?

13 A Yeah. There were some e-mails -- maybe an
14 e-mail -- I'm not sure how many, telling me that, yeah, there
15 was a pilot that wanted to come speak to Captain Graham and
16 Captain Dickson.

17 Q Do you have any knowledge as to whether flight ops
18 personnel were considering a Section 15 referral for Ms.
19 Petitt prior to January 28th, 2016?

20 A I've see the e-mail that I think you're referencing
21 where Captain Graham references Section 15 but no one in
22 flight ops talked to me about Ms. Petitt or Section 15 or
23 putting her in Section 15.

24 Q When did you -- when did you -- so, you -- there's
25 an e-mail -- you know that there's an e-mail that references

1 it.

2 A I know there's an e-mail. Yes.

3 Q And when -- when did you first see that e-mail?

4 A I believe I was cc'd or it was forwarded to me at
5 some point. And I saw it in preparation for the hearing.

6 Q Preparation for this hearing?

7 A I believe it was one of the documents that I
8 reviewed in preparation for the hearing. I think. I saw a
9 lot of them. I'm pretty sure that was one of them. And
10 actually, I saw it in my deposition. You showed it to me in
11 my deposition as well.

12 Q Okay. So, you --

13 A I'm remembering.

14 Q You didn't -- so, you didn't see this e-mail until
15 January of 2019?

16 A I didn't -- it was sent to me before that. I'm
17 telling you, I didn't focus on it until probably well after
18 that. It was one of those e-mails that came into me and I
19 just didn't really give it a ton of thought, other than
20 there's a pilot coming and wants to talk about this, or talk
21 about safety issues. And then I -- before that meeting, and
22 before Captain Graham sent me the documents she had
23 presented, I really did not give it a lot of thought, really
24 any thought frankly.

25 Q All right. Well, I mean, if you could turn to your

1 deposition, page 75.

2 JUDGE MORRIS: That's CX-203.

3 MR. SEHAM: Yes. CX-203, page 75.

4 BY MR. SEHAM:

5 Q And I'm going to refer you to line 12. And you
6 were asked the question:

7 "QUESTION: Did you ever -- do you
8 have any knowledge as to whether Delta
9 Airlines, or any of its management
10 personnel had ever considered a Section
11 15 referral for Ms. Petitt prior to March
12 of 2016?"

13 "ANSWER: I don't think so."

14 A Right.

15 Q Is it your testimony today that you did have
16 knowledge prior to March of 2016 that Delta management
17 personnel had considered a Section 15 referral for Ms.
18 Petitt?

19 MR. ROSENSTEIN: Objection. Asked and answered.

20 JUDGE MORRIS: Overruled. Go ahead.

21 THE WITNESS: I don't know what Captain Graham
22 considered. I mean, I know that that was -- the e-mail that
23 you're talking about but I -- no one, Captain Graham in
24 particular, talked to me or told me what he was thinking or
25 what he was considered with regard to Section 15. I never

1 had any conversations with him about that. But yeah, I think
2 that e-mail was one of the ones that was -- was forwarded to
3 me. And I don't know -- even sitting here, I'm not really
4 sure what that e-mail says, whether it says he's considering
5 it or not.

6 BY MR. SEHAM:

7 Q And you don't have any recollection as to when --
8 so -- so your recollection is today that there is an e-mail
9 prior to March 2016 in which Captain Graham references a
10 Section 15 referral for Ms. Petitt. Correct?

11 A There's -- I don't know exactly what he says in it
12 but there is an e-mail that mentions Section 15. And I don't
13 know specifically what he says. But I know it's out there
14 because you showed it to me in my deposition.

15 Q Okay. My question is, when did you first become
16 aware of that e-mail?

17 A I don't know. I really don't. I'd have to look at
18 the date on the e-mail. I don't deny receiving it but I do
19 deny putting any focus whatsoever on it.

20 Q Well, isn't a Section 15 a significant even in a
21 pilot's life?

22 A I would agree that it is a significant event. Yes.

23 Q So, if someone from the flight department sent you
24 correspondence referencing a Section 15 referral of a Delta
25 pilot, isn't that something that you would have taken special

1 notice of?

2 A Not necessarily. No.

3 Q Okay. Now is -- do you know who Captain O.C.
4 Miller is?

5 A I do.

6 Q Okay. And then the first quarter of -- let's say
7 in the last quarter of 2015, do you know what position he
8 held with the company?

9 A He was the managing director of flying operations.

10 Q Okay. Did he ever communicate to you prior to
11 March 8th that he considered Ms. Petitt to be delusional?

12 A I don't recall Captain Miller telling me that. No.

13 Q Do you recall seeing any correspondence in which he
14 described Ms. Petitt as delusional?

15 A It might have been the e-mail that you're talking
16 about but I'm not -- I'm not sure.

17 Q I'm going to give you a heads up. It may take me
18 longer than you but I'm going to refer you to CX-65.

19 JUDGE MORRIS: While you're doing that, Counsel, I
20 have a question. We're talking about this Section 15.

21 THE WITNESS: Yes, sir.

22 JUDGE MORRIS: I want you to turn to CX-11.

23 MR. SEHAM: Could you hold off for a bit? I was
24 actually going there.

25 JUDGE MORRIS: All right. Go ahead. Sorry.

1 MR. SEHAM: Okay. I'd rather you look at CX-65.

2 THE WITNESS: I'm not finding it.

3 MR. SEHAM: It's volume --

4 JUDGE MORRIS: Three.

5 MR. SEHAM: Volume three. It might -- I can't see
6 from here but it might be there.

7 THE WITNESS: Okay.

8 MR. SEHAM: Okay.

9 BY MR. SEHAM:

10 Q So, you see there's an e-mail dated January 22nd
11 from Captain Graham to Phil Davis, O.C. Miller and to you.
12 Correct?

13 A Correct.

14 Q And you received this e-mail on or about January
15 22nd, 2016?

16 A I -- yes.

17 Q Okay. And did you ever ask Captain Graham why he
18 was forwarding to you an e-mail in which Ms. Petitt
19 referenced Mr. Anderson and SMS safety culture?

20 A No. I don't remember having a conversation about
21 that.

22 Q And if you could turn to the CX-66. And here
23 Captain Graham is sending you an e-mail -- you and Meg Taylor
24 and Brendan Brandon. Who is Brendan Brandon? Is that
25 another attorney?

1 A Yes.

2 Q So, Doc -- Captain Graham is sending to three
3 attorneys this e-mail dated January 25th. Did you receive
4 this?

5 A I believe I did. Yes.

6 Q And the attachment refers to structural redesign of
7 pilot training, pilot training and the safety culture, SMS
8 and next gen demands.

9 A Correct.

10 Q Do you see that reference?

11 A Yes.

12 Q And did you ask Captain Graham why this was being
13 forwarded to you?

14 A I just don't recall talking to him about it. But
15 this looks to me like it's something he's just wanting to
16 keep labor relations and legal informed of.

17 Q Well, why was it --

18 A It wasn't really uncommon for flight ops to do with
19 the variety of pilots and a variety of issues.

20 Q And if you could turn to CX-11. Are you there?

21 A I am.

22 Q Okay. And so, is this an e-mail that Dr. Altman
23 sent to you and Phil Davis on or about July 3rd, 2016?

24 A Yes.

25 Q And it says:

1 "Dear Chris and Paul, Attached are the pages
2 from the binder regarding e-mails from
3 Jim Graham and O.C. Miller which the
4 Section 15 is discussed after F.O. Petitt
5 wrote an e-mail after she heard a speech
6 by Richard Anderson. I cannot find this
7 e-mail, except in the forwarded version.

8 I would prefer to review it with F.O.
9 Petitt without the distraction of the
10 other e-mails and without the yellow
11 highlighting. If it is in the binder,
12 can you tell me where to look or can I
13 get a copy before my interview Wednesday
14 afternoon?"

15 Did you send Dr. Altman, in the original binder of
16 documents, a copy of a letter in which Captain Graham was
17 considering a Section 15 referral for Ms. Petitt?

18 A Yes.

19 Q Okay. And then if you turn the page, would this be
20 an e-mail or a forward of an e-mail that you received from
21 O.C. Miller on or about November 9th, 2015?

22 A Yes. This is the one we were talking about. Yes.

23 Q Okay. So, as of November 9th, 2015, you were in
24 possession of an e-mail in which Captain Graham was
25 considering a referral of Ms. Petitt for a Section 15

1 referral. Correct?

2 A Yes.

3 Q Okay. And as of November 9th, 2015, you were in
4 possession of an e-mail from O.C. Miller describing Ms.
5 Petitt as a little delusional. If you look down to the third
6 to the last line on this page.

7 A Which page?

8 Q On the -- it's CX-11-002.

9 A Yes.

10 Q Okay. And you took no note of those reference when
11 you received this. Correct? Is that your testimony?

12 A I don't know what you mean by "took no note".

13 Q Did you make any note to the file?

14 A What file?

15 Q You don't have personnel files?

16 A We have personnel files but I wouldn't put a e-mail
17 -- I mean, I -- that's not something that typically -- we
18 don't typically put e-mails referencing every pilot that we
19 get e-mails on, in their personnel file.

20 MR. SEHAM: Oh. I'm sorry, did you --

21 JUDGE MORRIS: Yeah. I have a follow-up.

22 MR. SEHAM: Okay.

23 JUDGE MORRIS: We're referring to one e-mail
24 dealing with Section 15. Did you know there were two?

25 THE WITNESS: I did not, Judge. No.

1 JUDGE MORRIS: Would you turn to CX-7?

2 THE WITNESS: CX-7. All right.

3 JUDGE MORRIS: If you look at the e-mail on
4 November -- it starts November 17th and actually goes down to
5 November 16th, 2015.

6 THE WITNESS: Okay.

7 JUDGE MORRIS: It says, "She could be a candidate
8 for a Section 15." This is an e-mail from Captain Graham to
9 Captain Dickson.

10 THE WITNESS: Correct.

11 JUDGE MORRIS: So, we've got one from Captain
12 Graham to Captain Dickson on November 16th, 2015, a week
13 after the one from Captain Graham to O.C. Miller. You still
14 talking about a Section 15?

15 THE WITNESS: Is he still? Well, Captain Graham is
16 in here.

17 JUDGE MORRIS: Right.

18 THE WITNESS: What I'm saying is, no, Captain
19 Graham, Captain Dickson, Captain Miller did not engage me and
20 ask me about the appropriateness of a Section 15.

21 JUDGE MORRIS: Okay. So, you had the VP thinking
22 about a Section 15 or First Officer for a week. And they
23 didn't engage you on this?

24 THE WITNESS: That's correct. Yes. Yes, Judge.
25 That's what I'm telling you.

1 JUDGE MORRIS: Okay.

2 BY MR. SEHAM:

3 Q Under -- under the PWA and -- well, let me back up.

4 Do you h which -- what you're thinking about and I
5 can try to answer it.

6 Q Well, let me -- I don't want to spend time on this
7 but I'm going to use the term, a purported EO victim. What's
8 your understanding of what Delta EO policy prohibits?

9 A Discrimination, harassment, retaliation.

10 Q Well, so if -- if the -- if Delta management has
11 identified someone whom it considers to be a victim of a
12 violation of EO policy --

13 A Right.

14 Q -- and that person doesn't want to take --

15 A Oh, the person doesn't want to --

16 Q -- doesn't want -- doesn't want to participate in
17 an EO investigation, does company policy provide that the
18 company may compel that person, nonetheless, to participate
19 in that investigation?

20 A I'm -- you know, I'm not aware of any kind of
21 policy that would compel somebody that doesn't want to pursue
22 a claim. But I think the company -- the company may be
23 compelled to pursue the claim just depending on the
24 circumstances of what it is, whether the victim participates
25 or not.

1 Q Okay. And --

2 A If you know somebody is being harassed and the
3 harassee doesn't want to participate, I think you still have
4 a duty to try to -- try to curb the harasser.

5 Q Okay. And you used the term "harasee".

6 A I'm sure that's not --

7 Q I think we all understand what's meant by that. Is
8 the harasee, in the context of an EO investigation, entitled
9 to union representation?

10 A I wouldn't think so because they're not subject to
11 discipline. They're not being investigated for purpose --
12 they haven't done anything wrong. Right?

13 Q M'hmm.

14 A The only time the ALPA representation issue comes
15 up is when you're subject to a disciplinary investigation or
16 some alleged wrongdoing that you've been alleged to have
17 done. And so, that's when that comes into play, when you're
18 the person making an allegation or a victim, or a fact
19 witness or something like that, there's no right to
20 representation.

21 Q Okay.

22 MR. SEHAM: Can we take a short bathroom break?

23 JUDGE MORRIS: Certainly. Let's take 10 minutes.

24 See you at 10 after the hour.

25 (Off the record, 4:57 o'clock p.m.)

1 (On the record, 5:10 o'clock p.m.)

2 JUDGE MORRIS: Back on the record. All parties
3 present when the hearing last recessed are again present.
4 You may continue.

5 BY MR. SEHAM:

6 Q Now was it Dr. -- excuse me, was it -- excuse me,
7 Captain Graham who decides what issues Ms. Nabors would
8 investigate?

9 A Well, it was really a combination. There were
10 three people in the room, Captain Graham, myself, and Meg
11 Taylor. And we just worked through the document and parsed
12 things out. But it was Captain Graham's idea, definitely, to
13 say, in his decision, that these issues that were in that EO
14 bucket, needed to go get investigated by EO. The safety
15 issues needed to be investigated by the safety folks. And
16 then he was going to handle the miscellaneous issues.

17 Q And you've reviewed JX-D, the action plan, and
18 JX-E, the outline for Ms. Nabors.

19 A I --

20 Q Correct?

21 A Correct.

22 Q And would you agree with me that essentially be
23 assigned the same issues under EO and unfair treatment in
24 both documents?

25 A I think yes. I think that's their rough

1 equivalent. Yes.

2 Q And you don't know which of the two came first but
3 would you agree that one resulted in the production of the
4 other? Maybe -- what I'm saying is, was this the (inaudible)
5 an independent creation of these two documents?

6 A I think they were on separate tracks. I think
7 Captain Graham was putting together this action plan. And I
8 didn't have any involvement in -- in writing it or drafting
9 it. And I'm not certain exactly where he sent it. And then
10 the EO investigation was, again, that was, you know, me
11 working with legal to tell EO, you know, what this is done
12 will get you something together so you don't have to go do
13 it. And so, I wasn't paying attention to what was going on
14 with Captain Graham and the action plan. I was just focused
15 on my role in it and writing up for Kelley, some sort of
16 summary outline that she could go and use. I don't remember
17 referring to this at all during that process.

18 Q Okay. So, do you recall when you got the JX-D, the
19 action plan?

20 A I just don't. I know -- I know it was sent to me.
21 I just don't remember exactly when I got it.

22 Q Do you recall whether you received it prior to
23 March 8th?

24 A I don't. I'm not sure.

25 Q Now you -- did you have any discussions with Ms.

1 Nabors prior to March 8th concerning the scope of her
2 investigatory responsibility.

3 A All right. We referenced earlier the e-mails
4 showing that we would set up a meeting. I didn't remember
5 that. I don't remember having a discussion. I know we had
6 an e-mail exchange where I sent her what we had written up.
7 But I can't dispute that we had a meeting. I just don't
8 remember it occurring. But it sounds like something that we
9 probably would have done. I would have certainly talked to
10 and said, "Hey, here's what we're -- we're trying to get
11 done. We've already gone through the document. And we
12 expect you to go out and run down these EO claims and come
13 back with some more information on what needs to be
14 investigated. But I just don't have a direct recollection of
15 that meeting.

16 Q Okay. Well, I mean, if you could turn to your
17 deposition on page 29, which is CX-203. And are you -- tell
18 me when you've gotten to page 29.

19 A I'm there.

20 Q And starting at line -- the last line on page 29,
21 the question is:

22 "QUESTION: And prior to March 8th,
23 did you have a discussion with Ms. Nabors
24 about the scope of her investigatory
25 responsibility."

1 "ANSWER: I didn't have any
2 discussions with Ms. Nabors prior to
3 March 8th."

4 A Right.

5 Q Now that was your testimony January 31st, 2019.
6 And you considered that accurate testimony at the time.
7 Correct?

8 A That's correct.

9 Q And now -- now you're just not certain one way or
10 the other?

11 A Now I'm not because I've seen the document where
12 we're scheduling meetings. And then she's referencing a
13 discussion after the fact. Which tells me it happened. I
14 just don't -- I don't have any recollection of it. I wish I
15 did. I wish I could remember meeting and remember what we
16 talked about. I just -- that's just -- I just can't.

17 Q Now if I recall correctly, on March 10th, there was
18 a meeting with you, Ms. Nabors, Meg Taylor and Melissa
19 Seppings. Correct?

20 A That's correct.

21 Q Okay. And at that point, Ms. Nabors did not have a
22 written report to provide that group. Correct?

23 A That's correct.

24 Q And did you (sic) provide you with any notes at
25 that time?

1 A No. I don't believe she did.

2 Q Did you take any notes of this March 10th meeting

3 A I did not.

4 Q Did you recall observing anyone -- any other
5 participant in this meeting taking notes?

6 A I don't remember if Meg or Melissa were taking
7 notes.

8 Q And how long did this meeting last?

9 A I'm not exactly sure. Maybe an hour, maybe a
10 little less. I'm not sure.

11 Q And can you remember during this meeting any
12 quotations that she ascribed to Ms. Petitt?

13 A Any quotations that she --

14 Q Yes. I mean aside from -- yes. Well, let me just
15 say "yes". That's my question.

16 A I'm not sure.

17 Q Okay.

18 A I don't know.

19 Q And she described to you -- I think you testified
20 that Ms. Nabors described Ms. Petitt shifting back and forth
21 between topics.

22 A Yes.

23 Q And what -- did she describe what the topics were
24 that she was shifting back and forth between?

25 A I believe there was some -- some discussion about

1 the substance of what they talked about. But I can't --
2 sitting here today, I can't remember exactly where the shifts
3 were, other than just remembering that Kelley was very
4 concerned by just a lot of the back and forth and just the --
5 sort of the tangential nature of it.

6 Q Would you agree with me that there is no Nabors
7 written report that quotes Ms. Petitt as referring to having
8 been threatened by physical harm?

9 A I could go back and look at the two written reports
10 that exist and see if it's -- I don't have any reason to
11 dispute what you're saying.

12 Q Okay. Well, would you agree with me that Ms.
13 Nabors inferred that Ms. Petitt was afraid of physical harm?

14 A I don't think she inferred it. That's what she
15 told us.

16 Q She told you that Ms. Petitt was afraid of physical
17 harm?

18 A Ms. Petitt was afraid for her physical safety.
19 Yes.

20 Q Okay. And -- but she did not provide any quoted
21 language from Ms. Petitt to that effect.

22 A Not that I can remember.

23 Q Well, what did she reference Ms. Petitt as having
24 said that produced that conclusion on Ms. Nabors part?

25 A Basically, I think that, if I remember it, the

1 context that she was raising was that Ms. Petitt was worried
2 about her physical safety because she wanted to bring to
3 light various issues at Delta Airlines. And that she had
4 talked with other pilots and was worried that, because they
5 were telling her and she had concluded after talking to them
6 that Delta would not just threaten her job. Delta would harm
7 you physically. And that's the report that Kelly came back
8 with.

9 Q Well, if you could turn to JX-E and look at page 10
10 and direct your attention to the caption, "Additional Notes".

11 A Okay.

12 Q Okay. Starting at the third line, halfway in, it
13 says "Karlene said that when," do you see where I am?

14 A M'hmm.

15 Q "Karlene said that when she is talking to
16 other line pilots, they have told her
17 that, 'Delta is out to get you,' and 'You
18 won't ever get promoted.'"

19 She said to them that they can't damage her career
20 but the response to her is, "you should fear more than losing
21 your job." Is there anything other than this in terms of
22 quotations from either Ms. Petitt or these fellow pilots on
23 which Ms. Nabors based her conclusion that Ms. Petitt was
24 afraid of physical harm.

25 MR. ROSENSTEIN: Objection.

1 THE WITNESS: You got to ask Ms. Nabors that
2 question.

3 BY MR. SEHAM:

4 Q Did she identify anything to you, other than this
5 quoted language as a basis for her concluding that Ms. Petitt
6 was afraid of physical harm?

7 A I remember her saying that Ms. Petitt is scared for
8 his physical safety. And she -- day in and day out, in fear
9 for that safety, and that she's taken affirmative steps to
10 protect documentation in case something happens. That's what
11 she reported back to us. I don't remember the exact
12 language. I don't remember what she quoted or what she said
13 but that's the substance of what she came back with.

14 Q But nothing in her written reports ever expressed
15 the view in that manner. Correct?

16 MR. ROSENSTEIN: Asked and answered.

17 THE WITNESS: Well --

18 JUDGE MORRIS: Overruled.

19 MR. ROSENSTEIN: The report is in evidence. He
20 says it four times. What's in the report is the exact same
21 question.

22 JUDGE MORRIS: Well, we just got evidence that was
23 not in the report based on this question.

24 MR. ROSENSTEIN: Right. But now this -- I didn't
25 object to that question only --

1 JUDGE MORRIS: Well, I know you wouldn't. It's
2 overruled. Go ahead.

3 THE WITNESS: I don't see -- I don't see that
4 particular language in here. But this -- this is what she
5 wrote.

6 BY MR. SEHAM:

7 Q Now wasn't it true that a core purpose of Ms.
8 Nabors EO investigation was to focus on individuals who had
9 either harmed or threatened to harm Ms. Petitt?

10 A I think the core focus was to identify who Ms.
11 Petitt was complaining about. Yes.

12 Q Well, wasn't it true that Ms. Nabor's EO
13 investigation was supposed to investigate threats of multiple
14 retaliatory line checks?

15 A I think so.

16 Q Okay. It's in the outline. I think it's in here.

17 A Let me see. I say the one here on page JX-Echo 009
18 where there was an issue with the line check her captain
19 received in September 2015.

20 Q Okay.

21 A I don't see -- I -- I -- multiple line checks,
22 multiple -- I don't see that.

23 Q Okay.

24 A And here -- I'm not saying it's not in here but
25 certainly retaliatory line checks were -- were an issue that

1 she was raising.

2 Q If you could look at JX-D, page three.

3 A JX-D?

4 Q Yes, page three.

5 A Okay.

6 Q And under the subheading, "Harassment and Unequal
7 Treatment Concerns," do you see that a little further down?

8 A Okay.

9 Q And then if you look at the second solid bullet
10 point, "Pilot (inaudible) supposedly made by senior FOP
11 managers, the two most egregious at Delta. We have the power
12 to do what we want. You're not the first to receive multiple
13 retaliatory line checks."

14 Would you agree with me that it was Captain
15 Graham's expectation that Ms. Nabors would be investigating
16 Ms. Pettitt's concerns relating to retaliatory line checks?

17 A Yeah. I think -- I think what she wanted to do was
18 find out --

19 Q We fear for that safety, and that she's taken
20 affirmative steps to protect documentation in case something
21 happens. That's what she reported back to us. I don't
22 remember the exact language. I don't remember what she
23 quoted or what she said but that's the substance of what she
24 came back with.

25 Q But nothing in her written reports ever expressed

1 the view in that manner. Correct?

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15 particular language in here. But this -- this is what she
16 wrote.

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19 Nabors EO investigation was to focus on individuals who had
20 either harmed or threatened to harm Ms. Pettitt?

21 A I think the core focus was to identify who Ms.
22 Pettitt was complaining about. Yes.

23 Q Well, wasn't it true that Ms. Nabors' EO
24 investigation was supposed to investigate threats of multiple
25 retaliatory line checks?

1 A I think so.

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4 where there was an issue with the line check her captain
5 received in September 2015.

6 Q Okay.

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8 multiple -- I don't see that.

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11 certainly retaliatory line checks were -- were an issue that
12 she was raising.

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14 A JX-D?

15 Q Yes, page three.

16 A Okay.

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18 Treatment Concerns," do you see that a little further down?

19 A Okay.

20 Q And then if you look at the second solid bullet
21 point, "Pilot (inaudible) supposedly made by senior FOP
22 managers, the two most egregious at Delta. We have the power
23 to do what we want. You're not the first to receive multiple
24 retaliatory line checks."

25 Would you agree with me that it was Captain

1 Graham's expectation that Ms. Nabors would be investigating
2 Ms. Petitt's concerns relating to retaliatory line checks?

3 A Yeah. I think -- I think what she wanted to do was
4 find out --

5 Q Well, I'm really just looking for a "yes" --

6 A -- who's receiving -- who's receiving the line
7 checks. I think that was the question that Ms. Nabors wanted
8 to get answered was, okay, you're making an allegation that
9 these retaliatory line checks are occurring. Well, what's
10 the basis for that allegation so we can go and investigate
11 it? If there's pilots out there getting line checks based on
12 something they're doing for some inappropriate purpose --
13 first you got to find out who the pilots are. And then you
14 go, and -- and take the next step and identify whether or not
15 the line check was inappropriate. So, I think that's --

16 Q This is a different -- this is --

17 A -- what that was about.

18 Q -- a different question.

19 A Okay.

20 Q The different question is this. Captain Graham
21 expected Ms. Nabors to investigate Ms. Petitt's concern that
22 she could be subject to harm based on retaliatory line
23 checks. Correct?

24 A I -- I think so. Yeah.

25 Q Okay.

1 A I think that's -- yeah.

2 Q And isn't it true that Ms. Nabors EO investigation
3 was supposed to investigate what Ms. Petitt considered to be
4 an unjust letter of counsel that had remained in her file for
5 five years.

6 A It was part of it -- part of what her allegations
7 were --

8 Q Okay.

9 A -- was that it was an inappropriate letter of
10 counsel.

11 Q Okay. And that was within --

12 A Yeah.

13 Q -- within the scope of what Ms. Nabors was supposed
14 to be investigating.

15 A Yeah. I'm not sure about the -- the last part, the
16 characterization of being in the file for five years. I'm
17 not -- not clear on that, if that was one of the allegations.

18 I don't remember but --

19 Q Okay.

20 A -- I think we've -- we've killed that horse about
21 where these things go after they're drafted.

22 Q Isn't it true that Ms. Nabors EO investigation was
23 supposed to investigate the denial of training opportunities
24 to Ms. Petitt when she had reported that her training was
25 inadequate.

1 A I'm not sure.

2 Q Well, it was Captain Graham's expectation that Ms.
3 Nabors would be investigating --

4 A So, this might --

5 Q -- that?

6 A -- and you know, were these in the -- I'm not sure
7 if these crossed over into -- or if they came up in Kelley
8 Nabors' questioning. I mean, I want to go back and --

9 Q Okay. Well, my --

10 A -- read --

11 Q -- question --

12 A -- read what she actually did --

13 Q If you could list to my --

14 A -- in the other document.

15 Q -- question. My question was that it was Captain
16 Graham's expectation that one of the forms of harm that would
17 be investigated by Ms. Nabors --

18 A Right.

19 Q -- was the harm of not providing Ms. Petitt with
20 the training she required when she identified there was a
21 training deficiency. Isn't that -- is that part of Captain
22 Graham's expectation of what would be investigated?

23 A By Kelley Nabors?

24 Q Correct.

25 A See, that's what I'm not sure of. I'm not sure --

1 now we're talking about the safety investigation that was
2 going on, or if we're talking about the EO investigation.
3 That's what I'm not sure of.

4 Q Okay. So, if you could go to the fourth page of
5 JX-D, right, and this is just a page after the subtitle,
6 "Harassment and Unequal Treatment Concerns," do you see the
7 first dark bullet point states:

8 "Free Captain Doyle after being notified about
9 issues with pilots 330 training
10 experiences noted above, responded in the
11 following manner, 'did not allow pilot to
12 return to training when alleged
13 inadequate training brought to his
14 attention, dismissed her assertions,
15 stated to him that she might not be
16 safe.'"

17 So, wouldn't you agree with me that Captain
18 Graham's expectation was that this form of harm was going to
19 be investigated by Ms. Nabors?

20 A I would agree that it was going to be investigated
21 by either Ms. Nabors or it was going to come out as part of
22 the safety investigation into her claims.

23 Q Well, it was under --

24 A I know it's under --

25 Q -- the heading --

1 A I know it's --

2 Q -- of "Harassment and Unequal Treatment Concerns".

3 Right?

4 A Right. I know it's under that heading in this --
5 in this document. I'm not sure where it eventually ended up,
6 if it ended up in the safety investigation or if it ended up
7 in the EO investigation.

8 Q Okay. So --

9 A I want to go back and look at the EO investigation
10 to see if it was --

11 Q Yeah. But that's not --

12 A -- investigated. And actually, I know that Captain
13 Doyle was interviewed --

14 Q I'm going to ask --

15 A -- as part of that.

16 Q -- I'm going to ask you to respond to the question
17 I asked you. If you look -- if you look under that subtitle,
18 "Harassment and Unequal Treatment Concerns," the first
19 sentence is: "The following points have been delivered to EO
20 and legal for an independent investigation."

21 A Okay.

22 Q Do you see that?

23 A Right.

24 Q Okay. So, you had this document certainly --
25 certainly by March 17th, you had this document. Correct?

1 JX-D.

2 A I believe that's probably right. Yeah.

3 Q When you received this document, did you read it?

4 A I -- I don't remember focusing on this document
5 very much. I'm sure I got it in an e-mail, but I don't
6 remember sitting down and really putting a lot of study into
7 this document.

8 Q You received -- you received a document from the --
9 he was the vice president of flight at the time. Correct?

10 A But I was also aware of what the allegations
11 were --

12 Q Listen to my questions, please.

13 A Okay.

14 MR. ROSENSTEIN: Objection.

15 BY MR. SEHAM:

16 Q He was --

17 MR. ROSENSTEIN: Judge, objection.

18 BY MR. SEHAM:

19 Q -- He was vice --

20 MR. ROSENSTEIN: Listen --

21 BY MR. SEHAM:

22 Q -- president --

23 MR. ROSENSTEIN: listen --

24 BY MR. SEHAM:

25 Q -- he was the --

1 MR. ROSENSTEIN: listen.

2 BY MR. SEHAM:

3 Q -- vice --

4 MR. ROSENSTEIN: I --

5 BY MR. SEHAM:

6 Q -- president --

7 MR. ROSENSTEIN: I --

8 BY MR. SEHAM:

9 Q He was --

10 MR. ROSENSTEIN: I --

11 BY MR. SEHAM:

12 Q -- vice --

13 MR. ROSENSTEIN: I --

14 BY MR. SEHAM:

15 Q -- president --

16 MR. ROSENSTEIN: I --

17 BY MR. SEHAM:

18 Q -- of --

19 MR. ROSENSTEIN: I --

20 BY MR. SEHAM:

21 Q -- flight --

22 MR. ROSENSTEIN: I can't --

23 BY MR. SEHAM:

24 Q -- at --

25 MR. ROSENSTEIN: I can't --

1 BY MR. SEHAM:

2 Q -- that --

3 MR. ROSENSTEIN: I can't --

4 BY MR. SEHAM:

5 Q -- time.

6 JUDGE MORRIS: Well, both of you, let me go --

7 MR. ROSENSTEIN: I just want to --

8 JUDGE MORRIS: -- one at a time.

9 MR. ROSENSTEIN: Thank you.

10 JUDGE MORRIS: Counsel.

11 MR. ROSENSTEIN: All right. I can't -- I
12 understand it's late and I understand there can be
13 frustrations but we've -- we've all tried to be professional
14 to the witnesses. Mr. Puckett doesn't deserve to be yelled
15 at even though there's frustration. And -- and -- he should
16 be -- there should be proper decorum when he's asked the
17 questions.

18 JUDGE MORRIS: Mr. Seham.

19 MR. SEHAM: This goes back to the goose and the
20 gander issue in terms of the treatment of my client for an
21 entire day, and expecting "yes" or "no" answers. And when
22 I'm asking this witness for a "yes" or "no" answers, he talks
23 over me and doesn't answer.

24 MR. ROSENSTEIN: May I --

25 MR. SEHAM: If I raise my voice somewhat, it's

1 because this witness is not listening to the questions, not
2 answering the questions, and not responding when I intervened
3 to try to get him to answer the question.

4 MR. ROSENSTEIN: May I --

5 MR. SEHAM: I'll defer to the tribunal to give this
6 witness instruction but it is a frustrating experience
7 because there's been three or four questions pretty much
8 back-to-back where I'm not getting an answer. I'm getting
9 argument.

10 MR. ROSENSTEIN: May I respond? I didn't -- I
11 didn't object on -- to the questions. I -- I -- I just made
12 a statement about respectful tone and questioning the
13 witness. That's all I'm -- and not speaking over him. The
14 -- the tribunal is capable of -- of listening and deciding,
15 you know, what is responsive to the question and what's not
16 responsive to the question of course. And we rely on you to
17 do that. But my point is just to be respectful to the
18 witness.

19 MR. SEHAM: Perhaps --

20 JUDGE MORRIS: All right.

21 MR. SEHAM: -- to resolve the issue, I would
22 respectfully request that the tribunal instruct this witness
23 that when he receives a "yes" or "no" question, that he
24 provide a "yes" or "no" answer.

25 JUDGE MORRIS: That's exactly what I'm going to do

1 is -- if the question is designed for "yes" or "no," it can
2 be cured if there is something that needs to be elaborated
3 on, on redirect if that opportunity is elected to by
4 Respondent's Counsel. Now I know the nature, one it's late,
5 two you're a lawyer and you like to argue as well, it's the
6 nature of the beast. Okay? And I --

7 THE WITNESS: Maybe I'm just not understanding the
8 question, Judge. But I'll focus and I will -- I will -- I
9 will limit that. I understand exactly what you're saying.

10 JUDGE MORRIS: All right. Now having said that,
11 Mr. Seham, also if he's being nonresponsive, I ask that you
12 have him move to strike --

13 MR. SEHAM: Okay.

14 JUDGE MORRIS: -- the response as being
15 nonresponsive. Go ahead.

16 MR. SEHAM: Okay.

17 BY MR. SEHAM:

18 Q Do you understand the question, "what was Captain
19 Graham's position in March of 2016?"

20 A I do not. I don't know what you mean by Captain
21 Graham's position. If -- I -- I can read the document. I
22 will agree with you that he wrote down what he wrote down in
23 the harassment section. But I just don't understand --

24 Q What was Captain Graham's title, job classification
25 title, in March of 2016?

1 A Chief Pilot at Delta Airlines.

2 Q Chief Pilot. Wasn't he a vice president?

3 A He was a vice president. Yes.

4 Q And you received sometime prior to March 17th, you
5 received the document JX-D. Correct?

6 A I believe I did. Yes.

7 Q All right. And you don't remember whether you read
8 it or not. Is that your testimony?

9 A I just don't remember putting a lot of focus on it.
10 I believe I did read it but I don't remember really spending
11 a lot of time going through the document. I'm not sure that
12 Captain Graham was asking me to really do anything with the
13 document. My understanding or my recollection is that he
14 simply sent it to me as an FYI.

15 Q Okay. Now after the March 8th interview, do you
16 know if Ms. Nabors had any additional investigatory
17 interviews with Ms. Petitt?

18 A I don't think Ms. Nabors did.

19 Q Okay.

20 A But I think Brian San Souci did.

21 Q Brian San Souci had an interview with Ms. Petitt?

22 A I believe he did.

23 Q And do you know what the result -- concerning what
24 subject?

25 A I believe it was part of the continuing EO

1 investigation.

2 Q Do you remember getting a report of the result of
3 that investigation?

4 A I remember hearing about it. Yes.

5 Q Did Dr. Altman, after March 17th, ever request that
6 you set up a contact with Ms. Pettitt?

7 A He definitely -- after March 17th, he definitely
8 interviewed her. I'm not sure I was the one that set it up,
9 but Delta Airlines certainly facilitated his interviews of
10 Ms. Pettitt. I think there were three, if I'm not mistaken.

11 Q I'm sorry. I may have misspoke. My -- my -- the
12 question I intended to ask was, did Dr. Altman have a -- ever
13 have an interview with Ms. Nabors after March 17th?

14 A I'm -- I'm not aware that he did.

15 Q Okay. Did he ever ask you to set up such a
16 meeting?

17 A He did not ask me to do that.

18 Q Have you, during your employment at Delta, have you
19 ever had to deal with incidents relating to incidents of
20 physical violence between pilots?

21 A I have not.

22 Q Would you -- would you agree that even in the
23 context of a -- of a -- of a confrontation involving physical
24 violence between two Delta employees, there could be a host
25 of mitigating circumstances?

1 A Actually, strike that. I have -- there has been a
2 recent, a very recent incident of physical violence that's an
3 ongoing and subject to investigation. I'm sorry. I just
4 didn't even --

5 Q Okay.

6 A I just didn't -- just didn't even remember. That's
7 within the past couple of months that, that happened. So, I
8 apologize. I just forgot that.

9 Q Well, in these -- in -- in situation whether it's
10 pilots or non-pilots, if it's just two Delta employees
11 involved in a violent altercation, would you agree with me
12 that it's Delta pilot policy to -- to interview both of those
13 individuals?

14 A I would say, yes. I think that would be an
15 accurate statement.

16 Q And part of the purpose of the interview is to
17 determine mitigating factors in terms of -- that apply to the
18 confrontation.

19 A Yes.

20 Q Now under the -- under the PWA, the collective
21 bargaining agreement, Delta has the -- has the ability to
22 ground a pilot during the pendency of a disciplinary
23 investigation. Correct?

24 A That's correct. Yes.

25 Q Okay. Is there any time limitation with respect to

1 how long Delta can ground a pilot during the pendency of a
2 disciplinary investigation?

3 A No.

4 Q Okay. And during the pendency of that
5 investigation, is that pilot generally on paid status?

6 A Yes.

7 Q Did you contact -- did you ever contact Ms. Pettitt
8 to obtain her account of what -- what had transpired between
9 her and Ms. Nabors?

10 A Did I contact her?

11 Q Yes.

12 A No. I did not.

13 Q And prior to the issuance of the Section 15 letter,
14 did anyone reach out to Ms. Pettitt to obtain her account of
15 what transpired with Ms. Nabors?

16 A I don't believe anyone did. No.

17 Q You understood that the March 8th interview
18 transpired in a hotel lobby.

19 A That's my understanding. Yes.

20 Q Okay. Was there any effort to interview hotel
21 employees?

22 A No.

23 Q Was there any request of a hotel to produce
24 videotape of the lobby?

25 A Not that I'm aware of.

1 Q Did you contact Ms. Petitt to provide her with any
2 EAP or other mental health resources?

3 A No.

4 Q Did anyone else in the company reach out to Ms.
5 Petitt to provide her with any EAP or mental health
6 resources?

7 A Not that I'm aware of.

8 Q Now Ms. Nabors, in her discussions with you and
9 Melissa Seppings and Meg Taylor, she -- she referenced that
10 Ms. Nabors had -- that Ms. Petitt had left documents with her
11 mother. Correct? With Ms. -- with Ms. Petitt's mother.

12 A I believe that's accurate. Yes.

13 Q And that was a -- that was a -- occurrence of
14 particular note from -- from Ms. Nabors' perspective.
15 Correct?

16 A Yes.

17 Q And these documents that were being left with Ms.
18 Petitt's mother were safety-related documents that Ms. Petitt
19 had prepared for Jim Graham. Correct?

20 A I believe that's accurate. Yes.

21 Q Now you had conversations with Captain Graham in
22 which the reference to Ms. --

23 MR. SEHAM: Okay, hold on.

24 BY MR. SEHAM:

25 Q Ms. Nabors repeated this -- this occurrence with

1 respect to the -- the depositing of safety-related documents
2 -- strike that. Sorry. Getting tired.

3 In the -- in the teleconference in which Ms. Nabors
4 recounted her interview with Ms. Petitt, Ms. Nabors recounted
5 and placed emphasis on this incident or this report of Ms.
6 Petitt leaving safety-related documents with her mother.
7 Correct?

8 A You -- the March 17th --

9 Q Yes.

10 A -- meeting? Yes. Yes. She did. Yes.

11 Q Okay. And did -- did -- did Captain Graham, after
12 Ms. Nabors had made that reference, did he, at any time,
13 reference the fact that Ms. Petitt had already made that
14 comment to him in the past, that she, Ms. Petitt, had been
15 leaving safety-related documents with her mother?

16 A I don't -- I don't remember. I don't remember
17 that.

18 Q Now on March 10th -- as of March 10th, Ms. Nabors
19 had no written report. Correct? Of her -- of her March 8th
20 meeting.

21 A That's accurate. Yes.

22 Q Okay. And you later learned that Dr. Faulkner had
23 instructed Ms. Nabors to write on piece of paper everything
24 Ms. Nabors could remember about her conversations with Ms.
25 Petitt. Correct?

1 A Yes.

2 Q And the result or the product that was produced
3 pursuant to that instruction from Dr. Faulkner was JX-E.
4 Correct?

5 A I believe so. Yes.

6 Q JX-E was never provided to Dr. Altman. Correct?

7 MR. ROSENSTEIN: Okay. What?

8 THE WITNESS: I think -- I think it was.

9 MR. SEHAM: Okay.

10 MR. ROSENSTEIN: Sorry, Judge. Did you speak --

11 JUDGE MORRIS: Did you mean --

12 BY MR. SEHAM:

13 Q JX-E was -- was -- was provided and then later
14 supplemented with JX-J.

15 A Yeah. He got --

16 Q Okay.

17 A -- he got both of them.

18 Q He got both.

19 A Yeah.

20 Q Okay. Now after you had the meeting with Meg
21 Taylor, Ms. Nabors, and Melissa Seppings, and after -- it was
22 after that, you arranged for a direct consultation or
23 conference between Dr. Faulkner and Ms. Nabors. Correct?

24 A That's correct. Yes.

25 Q Okay. Okay. And was it you who raised the issue

1 of involving a psychiatrist?

2 A Yeah. I'm not sure exactly who raised it. It was
3 part of the collective conversation where it came up. I know
4 my memory is, I think, that was something that Meg asked for
5 and wanted to do but I think we were all in agreement that it
6 would be -- it wouldn't be a bad idea.

7 Q And who -- who was it who suggested Dr. Altman?

8 A You know, I -- I think it was Dr. Faulkner. That's
9 what I remember. But we -- we kind of just went back and
10 forth. And then ultimately, just mutually agreed that Altman
11 -- Dr. Altman would be the better -- the better -- better
12 person to fill -- fill the role that we were looking to fill.

13 Q You -- isn't it true that you had previously
14 received complaints from ALPA alleging that Dr. Altman had
15 acted in an unethical manner in the context of a Section 15
16 determination?

17 A I'm not sure if it was unethical. They certainly
18 weren't happy with him and they were asking that he'd be
19 removed as the CME.

20 Q Do you recall what ALPA's complaints consisted of?

21 A I don't recall directly, no.

22 Q Well, isn't it true that ALPA reported that Dr.
23 Altman had threatened to render a diagnosis permanently
24 barring Captain Protak from flying if Captain Protak filed a
25 complaint against the doctor with the state medical board?

1 MR. ROSENSTEIN: Objection. Captain Protak? Is
2 there foundation for -- for talking about some other -- other
3 person?

4 JUDGE MORRIS: Well, if he's got a good-faith basis
5 to ask the question, he can ask the question on
6 cross-examination. So, go ahead.

7 THE WITNESS: That sounds accurate. That sounds
8 like what you showed me in that letter that you had.

9 BY MR. SEHAM:

10 Q When you say, "the letter that" I "showed you,"
11 you --

12 A You showed it to me during the deposition --

13 Q The deposition.

14 A -- and asked me if we had responded. And I said,
15 "Yes, we had responded" and disagreed.

16 Q Okay. So, if you can turn to Complainant Exhibit
17 92.

18 A Yes, sir.

19 Q Okay. Are you -- are you -- oh. Do you know who
20 -- Gordon Rose is a senior labor relations counsel for ALPA.
21 Correct?

22 A That's correct.

23 Q Okay. And on May 22nd, 2014, on or about, you
24 received this letter from Mr. Rose. Is that correct?

25 A That's correct.

1 MR. ROSENSTEIN: I just state my objection to this
2 document coming or the subject matter coming in.

3 MR. SEHAM: Okay.

4 JUDGE MORRIS: It's already in.

5 MR. SEHAM: Yeah.

6 MR. ROSENSTEIN: Well, I believe it should be
7 excluded.

8 JUDGE MORRIS: Well, we did this two weeks ago.
9 So, the objection is overruled. Go ahead, Counsel.

10 MR. SEHAM: Okay.

11 BY MR. SEHAM:

12 Q And if you turn to the -- the second page of Mr.
13 Rose's letter, the second paragraph, it reads:

14 "Finally, and most disturbing is Dr.
15 Altman's threat of giving Captain Protak
16 a diagnosis that would 'permanently bar'
17 him from flying if Captain Protak takes
18 any 'legal action' or files any complaint
19 'against Dr. Altman' conditioning the
20 severity of his diagnosis on whether or
21 not Captain Protak 'maintains that the
22 evaluation has no legitimacy,' the very
23 subject of the pending grievance crosses
24 the line of professionalism and
25 appropriate conduct. Certainly Dr.

1 Altman cannot remain as CME given the
2 legal and ethical questions raised by his
3 conduct."

4 A Okay.

5 Q Now you received this letter and read that
6 paragraph. Correct?

7 A Yes.

8 Q Did you -- did you conduct any investigation into
9 ALPA'S allegations?

10 A We --

11 MR. ROSENSTEIN: Objection.

12 JUDGE MORRIS: Basis.

13 MR. ROSENSTEIN: This is a 2014 allegation in -- in
14 another pilot's case. I -- I -- there's no relevance to this
15 case and whether or not he conducted an investigation. We
16 can't -- we can't put in all of the documents of Captain
17 Protak's case in here to have you -- you be able to have any
18 -- for any of the probative value in this case. The fact
19 that this witness was aware of -- of -- received this letter,
20 I suppose, is in evidence by virtue of the fact that the
21 letter exists. It was produced in this case. But going
22 beyond that, I believe, is inappropriate. We object.

23 JUDGE MORRIS: Your objection is noted. One, it
24 was waived by not objecting to it at the very beginning of
25 the hearing. Two, as I understand this, this is going to the

1 credibility of the selection of Dr. Altman in the first place
2 to be the PME. So, overruled. Go ahead, Counsel.

3 MR. ROSENSTEIN: CME.

4 JUDGE MORRIS: CME.

5 BY MR. SEHAM:

6 Q If you could turn to company (sic) Exhibit 90,
7 excuse me, Complainant Exhibit 90. And the part I would like
8 to reference is at the top, it says:

9 "How Captain Protak responds to this
10 report will help clarify whether he has
11 one of the diagnoses which would
12 permanently bar him from aviation or
13 whether the diagnosis offers a
14 possibility of returning to active flight
15 status. If he responds to the report by
16 any of the following, this response would
17 suggest one of the diagnoses which would
18 be a permanent bar."

19 "One, he would further delay the
20 evaluation. Two, he would begin legal
21 action against me. He would file a
22 complaint with the medical board of the
23 state of Illinois."

24 This -- this portion of the report was what the
25 ALPA attorney, Gordon Rose, was quoting from. Correct?

1 A I believe that's right.

2 Q I want to refer you to Exhibit 91, on the
3 letterhead of the office of Executive Inspector General. And
4 I'll refer you to the middle paragraph which reads:

5 "Please be aware that there are
6 stringent Whistleblower protections
7 provided in this state. Officials and
8 employee ethics 5ILCS430.15-5, that
9 prohibit retaliation against those who
10 make good faith allegations of
11 misconduct."

12 And my faith is, isn't it -- isn't it true the time
13 that ALPA was making these complaints about Dr. Altman's
14 conduct, that you were aware that there were Whistleblower
15 protections protecting individuals from retaliation for
16 reporting medical misconduct in the state of Illinois?

17 MR. ROSENSTEIN: Objection, again. This is a
18 letter to Mr. Protak. There's no foundation.

19 THE WITNESS: This is 2017. I'm not --

20 MR. SEHAM: In respect to the reference.

21 JUDGE MORRIS: Hold it. Hold it. Don't answer.
22 Don't answer. Counsel.

23 MR. SEHAM: Yeah. In respective of the documentary
24 reference, the question stands is whether the witness will
25 acknowledge that -- that state law protects an individual

1 from retaliation when he reports medical misconduct.

2 JUDGE MORRIS: And the relevance of that is to
3 these proceedings?

4 MR. SEHAM: Is that the company retained a known --
5 a doctor who was knew to be -- to have a track record of
6 retaliating against Whistleblowers.

7 JUDGE MORRIS: Well --

8 MR. SEHAM: You know, I can withdraw the question.
9 I mean, it's sufficient -- I think the documents that we
10 submitted are sufficient so.

11 JUDGE MORRIS: No. I don't think this line of
12 questioning is going to be fruitful because there's --

13 MR. SEHAM: Okay.

14 JUDGE MORRIS: -- I don't have evidence there's
15 been an actual finding.

16 MR. SEHAM: That's really -- that's not the
17 purpose. The purpose is to show that the company had not
18 only the ALPA allegations but had the substantive evidence
19 that showed that there was by Dr. Altman a quit pro quo in
20 terms of preventing Whistleblower activity.

21 JUDGE MORRIS: Well, that's arguments.

22 MR. SEHAM: Yeah. Okay. And it is argument and
23 that's -- I was trying to substantiate why this was a
24 relevant line. But I'm going to withdraw that question and
25 I'll keep going.

1 BY MR. SEHAM:

2 Q Well, let me ask you this question. Did it raise
3 any concerns with you that Dr. Altman would consider, as a
4 factor in diagnosis, whether a pilot initiated a legal action
5 against him?

6 A Not in this particular case, no.

7 Q That when doctor -- when the name Dr. Altman was
8 bandied about by this group, was -- did you make any
9 reference to the Protak case?

10 A No. I mean, we were certainly aware and Dr.
11 Faulkner was aware that he had been a CME in Captain Protak's
12 evaluation.

13 Q Was Dr. Faulkner aware that there had been this
14 issue raised by Gordon Rose?

15 A I -- I'm not sure of that. I'm not sure.

16 Q Did you ask Dr. Faulkner if he had any suggestions
17 for any other psychiatrist that could be consulted?

18 A You know, we did talk -- we talked about a few that
19 we -- we -- we knew.

20 Q And they -- they were discarded in favor of Dr.
21 Altman.

22 A That's correct.

23 Q Can you remember the names of any of the other
24 psychiatrists?

25 A The only one I remember is -- we've used a

1 psychiatrist who is based down in Houston, who works for
2 NASA. And in this case, we felt like, he didn't really have
3 direct FAA experience that we felt like we -- we wanted. So,
4 we went back to Dr. Altman. We felt like his experience
5 would be -- would be helpful in lending some perspective.

6 Q You had no -- did you have any concern about Dr.
7 Altman being appointed as the CME in view of the fact that he
8 had participated in the Section 15 referral decisional
9 process?

10 A I did not.

11 Q And Dr. Altman's compensation for participating in
12 the pre-Section 15 determination process was -- was folded or
13 lumped into his compensation for his CME work. Correct?

14 A I think that's right but I'm not certain. I'm not
15 sure exactly how he got paid but I'm reasonably certain we
16 would have paid him for providing services to Delta.

17 Q Okay. If you could turn to your deposition, page
18 107.

19 JUDGE MORRIS: Two zero three?

20 MR. SEHAM: Yes. CX-203.

21 BY MR. SEHAM:

22 Q I'm going to direct your attention to line 23,
23 where it says:

24 "QUESTION: Is he on a monthly
25 retainer for Delta?"

1 "ANSWER: No. He's not."

2 "QUESTION: You mean, lumped into his
3 invoice for the CME work?"

4 "ANSWER: Sure."

5 That testimony is referring to the --

6 A I'm -- I'm -- oh, you're on the next page. Okay.

7 Q Yeah. Now that -- that -- that testimony is
8 referring to how he is compensated -- that how Dr. Altman was
9 compensated for his pre --

10 JUDGE MORRIS: Wait a minute, Counsel. Oh, there
11 it is.

12 MR. SEHAM: Yeah, okay.

13 JUDGE MORRIS: CX-203, what page?

14 MR. SEHAM: Page 107.

15 JUDGE MORRIS: Okay. Thank you.

16 MR. ROSENSTEIN: I -- I would suggest -- not really
17 object but suggest that maybe reading the whole thing would
18 be a more easier (sic) --

19 MR. SEHAM: Okay.

20 MR. ROSENSTEIN: -- question -- question to --

21 MR. SEHAM: Well, you know, given the later hour.
22 But I can -- I can -- I can -- I can take -- I can read more.
23 So, I can read more.

24 BY MR. SEHAM:

25 Q So, let's go back up to page 107 line eight.

1 "QUESTION: Was Dr. Altman compensated
2 for his participation in the
3 teleconferences with you and the larger
4 group?"

5 "ANSWER: I think eventually he was."

6 "QUESTION: What do you base that on
7 that he was eventually compensated?"

8 "ANSWER: I'm just basing it on the
9 fact that we were asking him to perform a
10 consulting function for us. So, I don't
11 have any -- I don't remember cutting him
12 a check right after the call but I think
13 it was probably lumped into his overall
14 bill to Delta."

15 "QUESTION: Overall."

16 "ANSWER: Yeah. His bill for work for
17 services rendered to Delta at the
18 conclusion of the evaluation."

19 "QUESTION: He is on a monthly
20 retainer for Delta?"

21 "ANSWER: No. He's not."

22 "QUESTION: You mean, lumped into his
23 invoice for the CME work?"

24 "ANSWER: Sure."

25 Now that was -- that was your testimony at the

1 deposition.

2 A Yes.

3 Q And you consider that to be accurate testimony.

4 A I think so.

5 Q Okay. Was -- and you were the first to contact Dr.
6 Altman with respect to the Petitt case?

7 A Yes.

8 Q And you then arranged to have a teleconference with
9 him on March 16th. Correct?

10 A That's correct. Yes.

11 Q And that teleconference did not include Dr.
12 Faulkner. Correct?

13 A No. Dr. Faulkner was not on --

14 Q Okay.

15 A -- not on that call.

16 Q And that -- that call on March 16th was just the
17 two of you?

18 A No. It was Meg Taylor, myself, and Dr. Altman.

19 Q Okay. And did -- what did you discuss during the
20 March 16th teleconference?

21 A Again, it's just a very broad overview. He was
22 familiar with what we had seen. He had read the reports that
23 we had sent him. And I -- again, it's pretty boring but I
24 remember kind of walking through some of the FAA -- the way
25 the FAA approaches psychiatric issues, you know, I think he

1 really said, "Look. I think it would be a good idea to get a
2 lot more information on this before you do anything." And he
3 ultimately concluded that he through it merited additional
4 investigation. He was concerned about the -- about the work
5 from Kelley Nabors. He thought it was -- he thought it was
6 substantial."

7 Q Did he ask for anything -- anything else
8 specifically, other than the --

9 A I think we may have given him just a general
10 overview of her history on the property. And by that, I
11 simply mean, dates of employment, kind of what we've talked
12 about earlier today, hasn't been in any trouble, you know,
13 there's a letter of counsel that's out there that's
14 obviously, you know, an issue that she's -- she's been very
15 concerned about. But it was just really a -- a standard
16 overview. We talked a lot about how we got here, you know,
17 the issuance -- giving the document to Captain Graham and
18 Captain Dickson, you know, the EO investigation, the three
19 buckets, just the whole story as to how we had gotten
20 chronologically up to the point that we were on a phone call
21 with him trying to figure out the best way -- the best way to
22 proceed. And try to evaluate, you know, what we needed to do
23 -- do here.

24 Q Other than a report from Ms. Nabors, did -- did he
25 specifically ask for any other document?

1 A I remember there was just an organizational call.
2 And he just said he would like a little bit of background, if
3 we could, on it. He didn't get into details on exactly what.
4 And so, made the decision to send him the assessment
5 document. And then, like I said, I sent him a link to her
6 blog as well because that would give him, or inform him,
7 about who we were talking about. And I thought was just a
8 good way to -- to make sure that the call wasn't a cold call,
9 and that when we got on, it wouldn't waste a lot of time in
10 -- in back and forth.

11 Q So, he -- he didn't specifically -- would you agree
12 with me that he didn't specifically request, prior to March
13 17th, a copy of Ms. Petitt's safety report that she provided
14 to Captains Graham and Dickson on January 28th, 2016?

15 A I'm not sure if he specifically -- I can't remember
16 if I -- I may have mentioned it to him as part of, again,
17 background.

18 Q Well, why --

19 A I think he did. I think he may have but I can't --
20 I can't remember right -- right now off the top of my head
21 whether he did that or not.

22 Q Why was it not sufficient to simply provide him Ms.
23 Nabors' report?

24 A Well, we wanted to, again, give him just the
25 chronology of how we had arrived at this. And we had gone

1 from, here's the report that was given. This was converted
2 into the three buckets. Here's Kelley Nabors' report or
3 write up and this is what happened. And then, here we are on
4 the call. And so, I just felt like it was -- it was
5 worthwhile to give him that background and he could see, you
6 know, the fact that this report, and these complaints, had
7 generated the EO investigation. Again, it generated the
8 report from Kelley via, you know, Dr. Faulkner's instructions
9 so.

10 Q Okay. So, was it -- would it be fair to -- in
11 terms of your rationale at the time, you were trying to
12 explain -- or by providing that document to Dr. Altman, you
13 were trying to provide context as to how Delta had gotten to
14 its position where it was considering a mental health
15 referral --

16 A Yes.

17 Q -- of Ms. Petitt? Well, that's true. Okay. And
18 would you agree that Dr. Altman subsequently engaged in
19 substantial analysis of Ms. Petitt's safety report, the
20 document she provided to Captains Graham and Dickson on
21 January 28th?

22 A It certainly was a part of his analysis. Yes.

23 Q Okay. And his analysis included a review of her
24 ethnographic report that was provided to the company in April
25 of 2016. Correct?

1 A That's correct. Yes. He asked us to see that and
2 we sent it to him.

3 Q And -- and he concluded, as part of his report,
4 that there were inaccuracies and inconsistencies in her two
5 safety reports. Correct?

6 A I believe that's right. I think the way he would
7 phrase it would be accuracies in reporting.

8 Q Okay.

9 A But yeah, that's correct. Yeah.

10 Q And would you agree that his analysis of these two
11 safety reports submitted to the company by Ms. Petitt
12 contributed to his diagnosis of Ms. Petitt?

13 A I think that's a -- doctor -- a question for Dr.
14 Altman to ask -- to answer.

15 Q You don't recall reading the report and reading
16 direct references?

17 A Certainly, there were references, yeah.

18 Q To --

19 A I think he referred to lots of document in that
20 report.

21 Q M'hmm.

22 A But he think he would have to tell you what amount
23 of weight he placed on it in reaching his determination.

24 Q Well, that's why I asked -- used the term
25 "contributed to". There were references in that report in

1 which the -- the doctor is referencing the safety reports and
2 concluding that they provided indicia of mania.

3 MR. ROSENSTEIN: Objection. I mean, the document
4 will -- says what it says. This witness didn't write the
5 document. And he doesn't have the document in front of him.

6 And even if he did, all he would be doing was -- would be
7 reading and -- Mr. Seham could read it. All of us could read
8 what's in the -- in the document. It doesn't seem like a
9 question for the witness.

10 MR. SEHAM: Well, let me --

11 JUDGE MORRIS: Counsel.

12 MR. SEHAM: Well, the question is -- the follow-up
13 question -- maybe -- maybe -- if I may be permitted to leap
14 frog over that for the -- for the time being, and ask the
15 question.

16 BY MR. SEHAM:

17 Q Do you know whether Delta concurred with Dr.
18 Altman's findings of inaccuracies in Ms. Petitt's safety
19 reports?

20 A I know that Delta conducted its own independent
21 investigation into those safety allegations. There was
22 actually a two-prong investigation that Delta conducted and
23 Delta reached its own conclusions.

24 Q I'm not sure. My -- my question is -- I'm not sure
25 I heard an answer to my question. My question is, did Delta

1 Airlines concur with Dr. Altman's findings of inaccuracies in
2 Ms. Petitt's safety reports?

3 A I don't know.

4 Q If you could --

5 JUDGE MORRIS: Have you seen any type of safety
6 report resulting from the allegations made by First Officer
7 Petitt?

8 THE WITNESS: Yes, Judge. She was given -- she was
9 issued a letter that responded to, I believe it was the --
10 the things of the -- the points that she had listed on the
11 ethnographic study, which, essentially said that -- thanked
12 her for, you know, offering them, and I don't have the letter
13 in front of me. I'm going off of memory. But the -- the
14 gist was that the company didn't believe that her claims had
15 any -- any merit.

16 JUDGE MORRIS: Okay.

17 THE WITNESS: That's it.

18 MR. SEHAM: Okay.

19 BY MR. SEHAM:

20 Q So, and -- and -- if you could refer to your
21 deposition, page 36 --

22 JUDGE MORRIS: CE-203, page 36.

23 MR. SEHAM: Yes.

24 BY MR. SEHAM:

25 Q Let me know when you're at the page.

1 A Okay.

2 Q Okay. And so -- so the question is, did Delta
3 Airlines, and I'm starting at line six:

4 "QUESTION: Did Delta Airlines adopt
5 Dr. Altman's findings of inaccuracies or
6 better said, did Delta Airlines concur
7 with Dr. Altman's findings of
8 inaccuracies in Ms. Petitt's safety
9 report?"

10 "ANSWER: I don't think so. I don't
11 know. I don't know. Concur. I don't
12 think Delta Airlines was asked to concur
13 with that. Like I said, Delta Airlines
14 conducted its own independent
15 investigation into the claims that Ms.
16 Petitt raised and reached its own
17 conclusions."

18 So, you consider that testimony to be accurate?

19 A Yes.

20 Q Okay. Do you know whether Delta ever responded to
21 Ms. Petitt and identified to her any errors in her two safety
22 reports?

23 MR. ROSENSTEIN: Objection. Didn't -- I thought
24 that -- didn't he just answer that question?

25 JUDGE MORRIS: Yeah. I'm --

1 MR. SEHAM: I'm asking whether Delta ever responded
2 to Ms. Petitt.

3 MR. ROSENSTEIN: Right.

4 JUDGE MORRIS: I believe that he --

5 MR. SEHAM: Okay.

6 JUDGE MORRIS: -- just testified that he -- they
7 did in a letter where they disagreed, at least to one of
8 them.

9 MR. SEHAM: Yeah.

10 JUDGE MORRIS: I don't know about two but I know
11 about one.

12 THE WITNESS: So, there --

13 MR. SEHAM: There was a --

14 THE WITNESS: -- but there --

15 MR. SEHAM: Maybe --

16 THE WITNESS: -- was the --

17 MR. SEHAM: -- I didn't --

18 THE WITNESS: --- there's the -- there's two
19 different tracks of the safety report went down. There was
20 an outside consultant retrained to look at and I'm blanking
21 on the name. It's late. And I can't remember who they were
22 but they were brought in to examine the safety culture at
23 Delta. And they produced a very detailed report and analysis
24 that essentially refuted much of what Ms. Petitt was
25 alleging.

1 Now there was a separate track which was the
2 recommendations that she had made at the end of her
3 ethnographic document where the subject matter experts at
4 Delta reviewed those suggestions and responded to her with a
5 letter explaining either that they had already followed them,
6 or that the other -- they just didn't have any merit, one of
7 the two.

8 MR. SEHAM: Okay.

9 BY MR. SEHAM:

10 Q So the -- the first document you referred to, they
11 were outside auditors.

12 A Right. And I cannot -- I'm blanking on the name of
13 -- of who that company was. But they were brought in to
14 study the safety culture at Delta.

15 Q And was that document ever provided to Ms. Petitt?

16 A I'm not sure it was. I'm not -- I'm not -- I don't
17 know the answer to that.

18 Q And the second letter you're referring to was
19 authored by whom?

20 A I believe it was Captain Tabai but I'm not certain
21 on that.

22 Q And were you ever -- if you could turn to CX-4.

23 A Okay.

24 Q And just reading the first couple of sentences:

25 "Dear Ms. Petitt, The FAA's flight

1 standard service has completed their
2 investigation of your air carrier safety
3 allegations in case number EWB-16637.

4 The investigation substantiated that a
5 violation of a order, regulation or
6 standard of the FAA related to air
7 carrier safety occurred. Accordingly,
8 the FAA is taking appropriate corrective
9 and/or enforcement action. Our office
10 will monitor these actions until
11 complete."

12 Did anyone within Delta ever advise you that the
13 Federal Aviation Administration had substantiated in response
14 to Ms. Petitt's reports that a violation of an order,
15 regulation or standard of the FAA related to air carrier
16 safety had been violated?

17 A No.

18 JUDGE MORRIS: Is this the first time you're seeing
19 this document?

20 THE WITNESS: I saw it for the first time in my
21 deposition.

22 JUDGE MORRIS: Okay.

23 MR. SEHAM: Can we have a five-minute break?

24 JUDGE MORRIS: Sure. See you at 20 after.

25 MR. SEHAM: Okay.

1 (Off the record, 6:15 o'clock p.m.)

2 (On the record, 6:21 o'clock p.m.)

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

5 BY MR. SEHAM:

6 Q If you could turn to CX-3. Just if you could turn
7 to page CX-3 006. And you see after that first paragraph on
8 that page, and this is -- this is an e-mail you sent to Dr.
9 Altman on March 15th. Correct?

10 A Correct.

11 Q Okay. And you provided him with a -- a personal
12 website for Ms. Pettitt. Correct?

13 A That's correct.

14 Q And from whom did you obtain that blog site?

15 A I don't remember if I obtained it from anybody. It
16 might have just been from googling her name. I'm not
17 certain.

18 JUDGE MORRIS: Why would you google her name?

19 THE WITNESS: I'm just saying that. Actually, I
20 was aware that she had a blog, too, because of the whole
21 letter of counsel thing and posting -- posting information.
22 But I don't -- I'm not sure how I came into -- into
23 possession of the link.

24 JUDGE MORRIS: Go ahead.

25 BY MR. SEHAM:

1 Q Now --

2 A If you google her name, it comes up.

3 Q Now pursuant to Section 15, the second -- the
4 referral to initiate the Section 15 process, that decision
5 was Captain Graham's to make. Correct?

6 A Ultimately, yes. That's Captain Graham's to make.

7 Q Right. And but there's no -- there's no language
8 in Section 15 addressing the -- the discretion of the chief
9 pilot to make that initial referral. Correct?

10 A No.

11 Q And the role of any other participant in terms of
12 the initial referral is simply to make recommendations.
13 Correct?

14 A That's accurate. Yes.

15 Q Okay. Now in the March 17th teleconference with
16 Captain Graham, Ms. Nabors, Dr. Faulkner, Dr. Altman, and
17 you, am I leaving anyone out? Let me pause there.

18 A I think that's yeah. I think it's right.

19 Q Is it those five people?

20 A Sorry. I hate to do this to you. Can you say it
21 again?

22 Q Well, no, no.

23 A That's it.

24 Q I'm -- I'm getting very tired myself. So, I
25 believe it's Ms. Nabors, Captain Graham, Dr. Altman, Dr.

1 Faulkner, and you.

2 A That's -- yeah, I believe that's right. Yes.

3 Q I don't know if I'm leaving Meg out, perhaps, or --

4 A Yeah. I think Meg left with the -- the earlier
5 crowd.

6 Q Those -- those -- those were the five remaining --

7 A Right.

8 Q -- people. And -- and how long -- how long did
9 that telephone conference last?

10 A I don't remember that taking all that long. Kelley
11 did most of the talking. She addressed Jim directly and told
12 -- told her story and said what she had seen.

13 Q That -- that would have been Captain Graham's first
14 exposure to Ms. Nabors. Correct?

15 A Yes.

16 Q And he didn't have any written report from Ms.
17 Nabors. Correct?

18 A I am reasonably certain he got a copy of the report
19 that we had sent to Dr. Altman and given to Dr. Faulkner, who
20 I am not one hundred percent certain.

21 Q Okay. And -- and after Ms. Nabors had provided her
22 account, Captain Graham asked her some questions directly.
23 Correct?

24 A I -- I remember there was an exchange. I can't
25 remember the specifics of it but he had some follow-up

1 questions that he asked her.

2 Q Okay. Do you recall Dr. Faulkner asking Ms. Nabors
3 any follow-up questions?

4 A I don't remember Dr. Faulkner, during that call,
5 addressing Ms. Nabors directly.

6 Q Okay.

7 A I just don't remember it. I'm saying it didn't
8 happen. I just don't remember it.

9 Q Okay. And do you have any recollection of Dr.
10 Altman asking any questions?

11 A I don't -- I don't remember that happening.

12 Q And -- and then Captain Graham asked -- after --
13 after Captain Graham finished with his questions, did Ms.
14 Nabors depart from the teleconference?

15 A She left, yeah.

16 Q Okay. And then after she departed, Captain Graham
17 asked a direct question to Dr. Faulkner as to whether Captain
18 Graham had a reason to believe that Ms. Pettitt did not meet
19 medical standards. Correct?

20 A He did.

21 Q Okay. And then he asked that same direct question
22 to Dr. Altman.

23 A He did.

24 Q Okay. And both -- both of the doctors expressed an
25 opinion that they thought he had a reason to believe that Ms.

1 Petitt did not meet medical standards.

2 A They did. Yes.

3 Q Okay. And do you recall whether either of them
4 provided any rationale?

5 A I -- the rationale was based on what Kelley Nabors
6 had reported.

7 Q Well, did you -- can you -- can you remember the
8 words used by Dr. Altman or Dr. Faulkner?

9 A They just -- "Yes, you do."

10 Q Okay.

11 A I think Dr. Altman specifically said, "This
12 requires additional medical investigation."

13 Q Okay. And did you keep any notes of this
14 teleconference?

15 A I didn't.

16 Q Okay. Now the -- the Section 15 letter, I don't
17 think we have to fumble with the lines to pull this out, but
18 the Section 15 letter sent to -- or delivered to Ms. Petitt
19 was dated March 17th. Correct?

20 A Correct.

21 Q Okay. But it was not delivered until March 22nd.
22 Correct?

23 A Correct.

24 Q And that's because you thought it was more
25 appropriate to have face-to-face meeting between Captain

1 Davis and Ms. Petitt. Correct?

2 A Correct.

3 Q Yeah. And that was motivated -- motivated, in
4 part, because you considered the initiation of the Section 15
5 process to be a serious decision from Delta's perspective.
6 Correct?

7 A That's accurate. Yes.

8 Q Yeah. And would you say that it's Delta's policy
9 to carefully investigate all relevant factual issues prior to
10 making a Section 15 decision?

11 A That's accurate. Yes.

12 Q Okay. And you -- you -- you understood this to be
13 a serious matter impacting on Ms. Petitt's ability to fly.
14 Correct?

15 A I -- excuse me, yes. I understood that it could
16 potentially have a negative impact on her ability to fly.

17 Q And because of this serious impact on Ms. Petitt,
18 you felt that she was entitled to have union representation
19 at the March 22nd meeting with Captain Davis?

20 A I don't know that necessarily she was entitled. At
21 Delta, we have a pretty -- we're pretty open with -- with
22 union represents -- represents with that -- representatives.

23 And we invite them into a variety of meetings. And I -- I
24 think Captain Davis had a policy in his region of -- of doing
25 that. And felt like it would be -- be appropriate to have

1 union representation there. I'm not -- you'd have to ask
2 him. I'm not sure if he offered it to Ms. Petitt or if he
3 invited them. I don't know exactly how it played out but --
4 my -- my understanding is the union rep was present when
5 Captain Davis gave her the letter.

6 Q And -- and the -- the importance of having Captain
7 Davis have a face-to-face meeting with Ms. Petitt was to
8 answer any questions that Ms. Petitt had concerning the
9 matter?

10 A Yes. I think that's -- that's -- that's correct.
11 Yeah.

12 Q But Captain Davis had no involvement in the
13 decisional process. Correct?

14 A Not in the decisional process. No.

15 Q You did provide some kind of explanation to Captain
16 Davis for the Section 15 referral?

17 A Yes.

18 Q Did you specify -- you -- you explained to him that
19 it was based on something that Ms. Nabors had reported.
20 Correct?

21 A Yes.

22 Q Did you specify what Ms. Nabors had said?

23 A I believe I did. Yes.

24 Q Well, what did you tell him?

25 A Just the same thing that we've been talking about,

1 that Ms. Nabors had reported a conversation as part of an EO
2 investigation where, you know, Ms. Pettitt had, you know,
3 indicated that she was -- feared for her safety, that, you
4 know, her -- her mannerisms and speech were rapid and
5 changing, and that, you know, the doctor had recommended, Dr.
6 Faulkner had recommended and Captain Graham had accepted that
7 recommendation to put her into -- into Section 15. And then,
8 you know, more to follow, give her the letter, and then Dr.
9 -- Dr. Faulkner will -- will take it from there.

10 Q You told him all that?

11 A I -- that's, again, you asked me just generally.
12 That's my -- my recollection of the -- the call with him, and
13 just kind of laying it out of here's -- here's what you got.

14 This is a pilot in your region, and this is the decision
15 that was made. So, I tried to get him up to speed on it.
16 I'm not certain if that's my exact words or my exact language
17 but it was to -- to that effect I think.

18 Q M'hmm. Okay. Now if you can turn to your
19 deposition, page 40. And that's CX-203.

20 A Page 40.

21 Q Yes.

22 Q And I guess I'll maybe -- just because I know
23 Respondent's Counsel wants me to be complete, I'll move it up
24 to 39, at line 20. Tell me when you're there with me.

25 A You said 20 -- I'm on --

1 Q Page 39 --

2 A I'm on -- oh.

3 Q -- line 20.

4 A Yeah.

5 Q Okay. And you see, the question was:

6 "QUESTION: Do you recall having any
7 discussion with Captain Davis as to the
8 reasons underlying the issuance of the
9 March 17th Section 15 letter?"

10 "ANSWER: Yes. Yeah. I'm sure that
11 there was a discussion with Captain Davis
12 before he issued the letter. Yes."

13 "QUESTION: A conversation that you
14 had with Captain Davis?"

15 "ANSWER: Yes. I did. I talked with
16 Captain Davis."

17 "QUESTION: And did you explain to him
18 at that time what the reasons were for
19 the Section 15 letter?"

20 "ANSWER: Yes. I just explained that
21 Captain Graham had made a decision to
22 enter Ms. Pettitt into the Section 15
23 process. And I just told him the reason
24 is that, you know, based on some
25 responses that she had given as part of

1 the ongoing EO investigation. The EO
2 investigator had met with her and had
3 just provided some just very concerning
4 responses."

5 "QUESTION: Did you describe with
6 particularity what the responses were
7 that gave the company concern?"

8 "ANSWER: I can't remember the
9 specific conversation. But I wouldn't --
10 it sounds like something that we probably
11 would have told Captain Davis what those
12 responses were that triggered this
13 Section 15. Yes. But I can't remember
14 exactly what I told him."

15 And my question is, would -- would -- would you
16 agree that even today, that you can't remember exactly what
17 you told Captain Davis concerning the reason -- the -- the
18 comments that Ms. Petitt had made that reacted -- that --
19 that caused this Section 15 referral?

20 A I agree.

21 Q Okay. So, as of March 17th, Delta had already
22 decided there was a potential psychiatric issue. Correct?

23 A Yes.

24 Q Okay. And the next step in the process was for Dr.
25 Faulkner, as the DHS, to meet with Ms. Petitt. Correct?

1 A After the letters were issued -- the letter was
2 issued, yes. That's correct.

3 Q And would you agree with me that the DHS in the
4 Section 15 context has a lot of discretion in terms of how he
5 proceeds?

6 A I would agree with that. Yes.

7 Q He can seek whatever information he thinks is
8 relevant. Correct?

9 A I believe he can. Yes.

10 Q Okay. And as DHA, Dr. Faulkner was acting as an
11 agent of Delta. Correct?

12 A Yes.

13 Q And prior to Dr. Faulkner's -- oh, excuse me. No.
14 Prior to the referral to -- to Dr. Faulkner to perform his
15 DHS duties, are you aware of any effort by any Delta
16 management representative to contact Ms. Pettitt to review Ms.
17 Nabors' account?

18 A I'm not -- I'm not aware of any. No.

19 Q Okay. Was there -- was there any contact with Ms.
20 Pettitt to simply advise her of what Ms. Nabors had said about
21 her?

22 A That I'm not sure of.

23 Q Okay. So, once -- once this Section 15 referral is
24 made, Dr. Faulkner, acting as the DHS has the discretion to
25 exercise his medical judgment. Correct?

1 A Correct.

2 Q And there -- there are no contractual limits with
3 respect to how he exercises that discretion. Correct?

4 A Correct.

5 Q And would you agree that -- that the reason the DHS
6 exists as a second step in the Section 15 process is to make
7 an independent judgment as to whether the individual requires
8 a psychiatric evaluation?

9 A I -- I -- can you -- can you repeat that question,
10 please?

11 Q Yes.

12 A I'm not sure I --

13 Q I can. Would you agree that the reason the DHS
14 exists as a second step in the Section 15 process is to make
15 an independent judgment as to whether the individual pilot
16 requires a psychiatric evaluation?

17 A I'm sorry. I'm getting hung up on "a second step".
18 You mean after the referral and the DHS meeting with the
19 pilot or --

20 Q Well, Captain Graham made a decision --

21 A Sure.

22 Q -- to refer --

23 A Right.

24 Q -- Ms. Petitt to the DHS. Correct?

25 A Right. And so, the second step you're talking

1 about is the DHS meeting and --

2 Q Correct.

3 A Okay.

4 Q Do -- do you need the question read again?

5 A No, no. I think I understand it. And I think what
6 you're saying sounds -- sounds reasonable.

7 Q Okay. Well, I believe -- would you -- so, you --
8 you -- you agree --

9 A I would agree that --

10 Q -- with that.

11 A Yeah. That the DHS, at that point, is expected to
12 exercise his medical judgment and decide what he wants to do
13 and he has different options available to him and it's up to
14 him to -- to -- you know, to figure out which one is the best
15 course.

16 Q Okay. And would you agree with me that in light of
17 the role assigned to the DHS under the Pilot Working
18 Agreement, that reviewing medically relevant information
19 prior to exercising his DS function would be a reasonable
20 thing to do?

21 A Yes.

22 Q And did Dr. Faulkner ever ask for any information
23 related to Ms. Petitt's performance as a pilot?

24 A I -- I don't recall him asking me that question.
25 He may have asked somebody else. I'm not sure.

1 Q Well, did you ever offer to provide such
2 information?

3 A I don't recall having that discussion with him.
4 No.

5 Q And did you -- was -- was Dr. Faulkner already in
6 possession of Ms. Petitt's January 28th safety report at this
7 time?

8 A I think he was. I'm not -- I'm not certain. By
9 "by this time," do you mean by March 17th or --

10 Q Correct.

11 A I believe he was but I'm not -- I'm not a hundred
12 percent certain on that.

13 Q Did you -- did you ever provide him with a copy of
14 the January 28th safety report?

15 A I think I did but again, I'm not a hundred percent
16 certain.

17 Q Okay. And do -- do you know at what stage in the
18 process you would have provided that to Dr. Faulkner?

19 A It would have been roughly -- to say it would have
20 been somewhere between March 10th and March 17th, I would
21 think. But I can't be certain.

22 Q At -- at the time of the March 17th decision by
23 Captain Graham, was there any discussion with Dr. Faulkner as
24 to who his contact would be within HR if he required further
25 information?

1 A I don't -- I don't remember --

2 Q Okay.

3 A -- any discussions like that.

4 Q Well, was there any discussion as to a contact he
5 might have with the flight department if he required further
6 information?

7 A No. I'm not sure it would be necessary. Dr.
8 Faulkner works with pilots throughout, you know, flight
9 operations management. He works with HR. He works with LR.
10 He's pretty integrated into the Delta network so.

11 Q Do you -- does Delta -- is it -- is it Delta's
12 position that the intended purpose of a Section 15 mental
13 health referral is help the pilot get better or recover from
14 a potential problem?

15 A I think that could be one potential outcome of a
16 Section 15 referral. Yes.

17 Q Well, do you have knowledge of any pilot recovering
18 their flight status after having been referred for a Section
19 15 mental health evaluation, other than Ms. Petitt?

20 A I can't remember names but yes. There have been
21 pilots referred to the Section 15 process that have gone back
22 to -- gone back to flying.

23 Q For -- referred to a Section 15 mental health
24 referral?

25 A I'm not familiar with any other --

1 Q Okay.

2 A -- anybody that's been referred for a mental
3 health.

4 Q Okay. Did you tell Dr. Faulkner that he should
5 consider himself free to communicate the CME's determination
6 to the FAA?

7 A Okay. Say that again, please.

8 Q Sure. Isn't it true that you told Dr. Faulkner
9 that he should consider himself free to communicate the CME's
10 determination to the FAA?

11 A I believe that's accurate. Yes.

12 Q If you could turn to CX-32.

13 A CX --

14 Q Again, you might beat me here. Oh, here it is.

15 JUDGE MORRIS: Did you say "32"?

16 MR. SEHAM: Thirty-two, 3-2. Charlie X x-ray 32.

17 THE WITNESS: So, is it two?

18 MR. SEHAM: Yeah.

19 THE WITNESS: Oh, I got it. I got it.

20 MR. SEHAM: Okay.

21 BY MR. SEHAM:

22 Q Are you -- are you -- tell me when you're there.

23 A I'm there.

24 Q It's a -- it's a -- you're looking for the pilot
25 fitness aviation rule making committee report dated November

1 18th, 2015.

2 A Yes.

3 Q Okay. So, are you familiar with this document?

4 A Yes.

5 Q And -- and you had some participation in the group
6 that worked on this document. Correct?

7 A Yes.

8 Q And would you agree with it, this was a joint FAA
9 airline industry committee formed in the aftermath of the
10 German wings incident to examine aviation industry response
11 to pilot mental health issues?

12 A Yes.

13 Q Okay. Would you agree with me that this document
14 recognizes setting procedures for best practices in the
15 aviation industry with respect to pilot mental health issues?

16 A I'm -- I'm not certain about that. I think you
17 would have to go to the individual carriers and ask them what
18 they consider best practices are.

19 Q After -- after January 28th, 2016, Ms. Petitt gave
20 another safety presentation on April 27th, 2006 -- 2016.
21 Correct?

22 A Correct.

23 Q And you advised Dr. Altman that Ms. Petitt had
24 given a second safety presentation. Correct?

25 A I can't remember if I told him that, or if Dr.

1 Faulkner told him that, but yeah, he was aware.

2 Q Okay. And after you told Dr. Altman about the
3 second safety presentation, Dr. Altman asked for a copy of --
4 of her safety presentation. Correct?

5 A He did.

6 Q And you provided him a copy?

7 A I did.

8 Q Okay. And that -- that document contributed to Ms.
9 -- to his diagnosis of Ms. Petitt. Correct?

10 A That document, I believe, was noted in the -- in
11 the report --

12 Q Okay.

13 A -- that he wrote.

14 Q Okay. Now Dr. Altman, would you agree with me,
15 billed over \$73,000 for his services related to Ms. Petitt?

16 A I think that's accurate. Yes.

17 Q Now do you know who Dr. Gitlow is?

18 A I'm familiar with Dr. Gitlow. Yes.

19 Q And you're -- you're knowledgeable of the fact that
20 Ms. Petitt had contacted Dr. Gitlow to perform the services
21 of -- of a PME. Correct?

22 A I know she had contacted him. I'm not aware that
23 she had asked him to be a PME -- be her PME though.

24 Q M'hmm. Isn't it true that you discussed Ms. Petitt
25 with Dr. Gitlow?

1 A I did have occasion to discuss Ms. Petitt with Dr.
2 Gitlow. Yes.

3 Q And you advised him that Delta would only use his
4 services, Dr. Gitlow's services, if he ceased working for Ms.
5 Petitt. Correct?

6 A No. That's not exactly how we advised -- or how
7 that came about.

8 THE WITNESS: Judge, it might help for you to have
9 some context here. We had another case in roughly February
10 of 2017 for a pilot who had been involved in a -- you know,
11 horrific DUI accident where folks were killed. He had been
12 out for a while and was coming back to try to get his job
13 back and we were going into arbitration. And throughout, you
14 know, work with ALPA, we were aware that arguments were going
15 to be made about alcoholism, alcohol recovery, essentially, a
16 lot of post-termination evidence was going to come in
17 regarding alcohol treatment.

18 Dr. Gitlow is a noted addictive -- addiction and
19 recovery specialist who's done a lot of work in the
20 psychiatric world, in that space. And he was one of a couple
21 of different doctors that were referred to us because we were
22 in the market for a consulting expert on that case.

23 We called him. We, my co-counsel and I, both got
24 on the phone with him and introduced ourselves, explained how
25 we had been referred. And I talked to him a little bit about

1 what we were looking at. We went through the conversation.
2 I think he could sense that it was going pretty well. And he
3 told us at that point, "Hey, I've got to advise you of
4 something. One of your pilots, Karlene Petitt, has sent me
5 what looks like a medical report for a fitness for duty
6 case." We asked him, "Hey, have you been retained by Ms.
7 Petitt?" And he said, no, he had not.

8 And we talked some more and said, "You know, we
9 think the fact that she has recently filed an Air 21
10 complaint against us, as well as a grievance," and I'm not
11 sure if it was multiple grievances at that point, we said,
12 "That would -- that would likely create a bit of a conflict
13 for us if you were to handle -- handle her case." And we
14 told him, "Look, it's up to you. We like you but we're going
15 to be just fine in this case without you. We'll find another
16 testifying consulting expert."

17 And he called me back a couple of days later and
18 said, "I'd like to work with Delta." And that's -- that's
19 the extent of our interactions on that. And we've since used
20 Dr. Gitlow on a few other cases.

21 MR. SEHAM: Okay. Okay.

22 BY MR. SEHAM:

23 Q So, you met in Chicago -- well, this meeting in
24 Chicago on June 2nd with Dr. Altman and Captain Davis, would
25 you agree that you anticipated a -- a long meeting --

1 A I did.

2 Q -- with Dr. -- and why did you anticipate a long
3 meeting?

4 A I'm aware that Dr. Altman is a very detailed --
5 detailed guy. And I knew he was going to have a lot of
6 questions. We'd sent him -- sent him a fair amount of
7 information to review. And I -- I just was anticipating that
8 he was going to really have a lot of things that he wanted to
9 talk about. I was also anticipating that he was going to
10 want to get into a lot of scheduling issues and things of
11 that nature. So, I was prepared for -- prepared for a long
12 meeting that day. Yes.

13 Q So, you discussed, during that meeting on June --
14 well, first of all, approximately how long did that June 2nd
15 meeting last?

16 A You know, it was -- it was pretty substantial. I
17 think it was around seven or eight hours. That factors in
18 lunch but it was -- we spent a lot of time up there with him.

19 Q Okay. And you discussed scheduling and SMS issues.
20 Correct?

21 A Among other things, yeah.

22 Q What other topics can you recall?

23 A A lot about the structure at Delta, a lot about how
24 just generally things work, a lot about how safety reporting
25 works at Delta. He was interested in a lot of the things in

1 the e-mails and reports that we had sent him. And he
2 followed up with questions about those.

3 Q I'm sorry. Which -- which e-mails and which
4 reports?

5 A Just the general -- the various e-mails that we had
6 -- we had provided to him. We had looked for her
7 communications with management officials. And we had -- you
8 know, what we were able to locate, we sent to him.

9 Q M'hmm.

10 A And he had read through them and he wanted to know,
11 "Hey, this, you know, this First Officer Steve Lee, who is
12 he? Where does he work?" You know, we went through the
13 whole -- "How does Seattle chief pilots' office works?" And
14 he wanted to know about trip buys. "Well, Steve Lee is
15 writing about trip buys. Tell me about trip buys." I mean,
16 it just went -- you know, he just went from topic to topic.

17 Q M'hmm.

18 A And we spent a lot of time explaining to him and
19 then, as those explanations came out, there were additional
20 requests for more documents. But that's really what we spent
21 the day doing in between taking breaks to go try to find
22 people to get documents from, or get information from. And
23 you know, at that point, I think both Captain Davis and I
24 respectfully took some breaks to do our day jobs as well.
25 So, yeah, it was -- that's -- I'm sorry. That's the best

1 summary I can give you of the --

2 Q Okay.

3 A -- meeting that occurred three years ago. But it
4 was filled with -- it was filled with information and a lot
5 of questions.

6 Q Okay. You -- you referenced e-mails and reports.
7 And e-mails, I understand. What -- what reports were you
8 referring --

9 A Well, we -- we -- the reports that we had sent him.
10 We sent him the safety presentation that she had give --
11 given. We sent him the -- the report that she had submitted
12 Captain Graham and Captain Dickson.

13 Q You went through those reports with him?

14 A Well, he -- he had copies but they were part of the
15 package that we sent him. So, I guess he had two copies
16 then. He would -- he cherry picked different items in all of
17 the documents and just kind of went through and just asked
18 questions. He had gone through it all. He had read
19 everything we'd sent him. He was -- he was prepared and
20 ready to go when we got there. It wasn't a "me needing to go
21 through the report with him". It was the other way around.
22 He was taking us through -- through documents and asking --
23 asking follow-up questions so.

24 Q Okay. And the documents that you had sent him
25 included the -- the two Graham e-mails in which the Section

1 15 referral for Ms. Petitt had been discussed?

2 A They were in there. Yes.

3 Q Okay. Did -- did you keep any notes of that
4 meeting with Dr. Altman on -- of June 2nd?

5 A I did not.

6 Q How much -- did you provide Dr. Altman with Delta's
7 fatigue policy?

8 A I did or Captain Davis did. I'm not sure which one
9 of us. I thought it was Captain Davis --

10 Q Okay.

11 A -- that -- that did that but somebody did. Yeah.
12 He -- that's something he wanted to see.

13 Q Okay. And you provided her safety issue reporting
14 programs at Delta. Correct?

15 A Yeah. He had a lot of questions about the safety
16 apparatus at Delta and how it worked. Yeah.

17 Q Okay. And if you look at -- if you look at Exhibit
18 -- well -- do -- do -- did he ask -- was there any discussion
19 during this June 2nd meeting concerning Ms. Nabors' report?

20 A I believe there was some but it really wasn't -- I
21 don't remember a lot of detail about that. He was -- at that
22 point, he'd -- he was pretty -- he'd heard it, read it, and
23 he was -- he was moving along.

24 Q If you could turn to your deposition, page 138,
25 that's Exhibit CX-203. And I'm going to refer you to page

1 138, starting at line 23. And tell me when --

2 A One three.

3 Q Line 23 on --

4 A Oh, okay.

5 Q -- page 138, which reads:

6 "QUESTION: Well, we won't worry about the
7 reference. I'll just give you the
8 specific context. Do you recall any
9 discussion about the Nabors-Petitt
10 interview during this meeting?"

11 "ANSWER: Not really, no. Other than, you know,
12 knowing it existed. Here it is. Here is
13 why we're here. I don't remember at that
14 meeting any real substantive discussion
15 about the
16 Kelley Nabors' interview."

17 Is -- do you consider that to be accurate
18 testimony, what I just read?

19 A Yes.

20 Q Okay. Now did you ever, during this June 2nd
21 meeting, did you ever ask him with respect to the various
22 categories of information he was requesting, why he
23 considered those categories relevant to a mental health
24 evaluation?

25 A No.

1 Q Did Dr. Altman know prior to the June 2nd meeting
2 that you were bringing Captain Davis, or that you were
3 traveling there with Captain Davis?

4 A I think he did. Yes.

5 Q Whose decision was it to let Dr. -- that Captain
6 Davis attend?

7 A I -- I -- I think it was my -- my decision.

8 Q Okay. Well, can you -- can you explain why Ms.
9 Nabors wasn't brought to Chicago on June 2nd?

10 A Well, at this point, this was about getting him
11 started in the case. I had, you know, no idea if he would
12 want to eventually speak to Ms. Nabors or focus on her. That
13 was up to him. This was about going over the material that
14 we had sent him and finding out what else we could do to
15 facilitate the case. So, I didn't -- I didn't even consider
16 bringing Ms. Nabors. In fact, I think she might have
17 actually been out by then. I'm not even sure.

18 Q Out on disability?

19 A Out -- I think she had a medical issue of some
20 sort. I'm not sure but I didn't -- I did -- it wouldn't
21 matter if she was on disability or not. I wouldn't consider
22 bringing her to this. That would have been up to Dr. Altman
23 if he wanted to talk to her.

24 Q She, in fact, wasn't on disability until October of
25 that year.

1 A I don't know. I'm not sure.

2 Q Okay. I'm going to be looking for CX-69.

3 A Volume three.

4 UNIDENTIFIED SPEAKER: Sixty-nine?

5 MR. SEHAM: Sixty-nine. Thank you.

6 UNIDENTIFIED SPEAKER: I think that's the right
7 page.

8 BY MR. SEHAM:

9 Q So, are you there?

10 A Yeah.

11 Q Okay. So, this is an e-mail from you to -- to Dr.
12 Altman. Correct?

13 A Yes.

14 Q And on that -- the text on the second page reads:

15 "Dr. Altman, one of the questions we were trying
16 to figure out is First Officer Petitt's
17 total flight time in eleven years as a
18 Second Officer, she only flew 3,881
19 hours. Since the merger, she is a little
20 over 2,600 hours."

21 And had you made a determination that, that was a
22 number of hours that reflected poorly on Ms. Petitt?

23 A No.

24 Q Okay. So, why did you say she "only" -- why did
25 you use the term "only"?

1 A Because my understanding is, that in 11 years, for
2 a Second Officer to fly that amount of hours, that was less
3 than what you would normally fly.

4 Q Okay. And would you -- Ms. Petitt was also, during
5 this period, a flight instructor. Correct?

6 A That's correct. Yeah.

7 Q Did you include her hours as a flight instructor in
8 this calculation?

9 A I don't know if they were concluded (sic) in this.
10 We got -- what we got was what Delta and Northwest track.
11 So, we basically requested from flight records her hours.
12 And that's essentially, what we produced. That's -- again,
13 that's something that I didn't think to include in the first
14 group of documents and it's something that Dr. Altman asked
15 us to track down. But I -- we basically produced what --
16 what they gave us.

17 Q Okay. If you could turn to document 70, it's the
18 next document.

19 A Right.

20 Q And this was from you -- excuse me, from Dr. Altman
21 to you and Captain Davis. Correct?

22 A M'hmm.

23 Q And you received this on or about the -- June 13th,
24 2016?

25 A That's correct.

1 Q At -- the very last paragraph, the first two
2 sentences read:

3 "With this data, it is possible to
4 answer the question over time is FO
5 Petitt changing the amount of time flying
6 and the number of times is piloting the
7 plane. The strategy is to graph time
8 against cumulative hours or cumulative
9 flights."

10 Did you have any understanding of what strategy Dr.
11 Altman was developing here?

12 A No.

13 Q Did you ever ask him what strategy he was
14 developing?

15 A No. I don't -- I didn't -- I don't remember
16 following up with him on this specific e-mail. But
17 ultimately he was very interested in understanding how much
18 she was flying and how much she was flying relative to other
19 pilots. And I think -- I think that's what he was getting at
20 in some of this. Eventually, that was refined into some data
21 that we were able to provide for him.

22 Q Did -- did -- did you feel any discomfort upon
23 reading an e-mail from the psychiatrist using the term
24 "strategy"?

25 A No.

1 Q If you could turn to Exhibit CX-71.

2 MR. SEHAM: Now -- you know what, let me -- no.

3 That's duplicative so, I'll keep moving.

4 JUDGE MORRIS: How much more do you have, Counsel?

5 MR. SEHAM: I guess 45 minutes.

6 JUDGE MORRIS: All right. We'll drive on.

7 MR. SEHAM: Yeah.

8 BY MR. SEHAM:

9 Q And you say you eventually did review Dr. Altman's
10 report. Correct?

11 A Eventually, yes. I did.

12 Q And would you agree that the data you provided Dr.
13 Altman regarding Ms. Petitt's flight hours contributed to Dr.
14 Altman's adverse diagnoses?

15 A Same answer as the other ones. It was a part of
16 his report and it's clear that he had -- he had utilized that
17 data in forming -- forming his report.

18 Q Are you aware of Delta ever having engaged in the
19 degree of data collection in a Section 15 case of this
20 magnitude?

21 A I'm not aware of any Section 15 cases, no. Delta
22 collects data all the time.

23 Q Well, I know Delta -- but my question -- I want to
24 make sure you understood my question. Do -- do -- do -- do
25 -- aware -- are you aware of any other Section 15 case in

1 which the collection of data reached this level of magnitude?

2 A No.

3 Q Okay. And did you ever raise a question concerning
4 the propriety of Dr. Altman's data collection?

5 A I don't understand that question.

6 Q Which part of it don't you understand?

7 A What do you mean by "propriety"?

8 Q You don't -- you don't understand that term?

9 A I don't understand it in the way --

10 Q Okay.

11 A -- you're trying to use it.

12 Q Did you ever raise a question as to whether -- I'm
13 trying to think of synonyms for propriety. Did you ever
14 raise a question as to whether it was appropriate to engage
15 in this level of data collection?

16 A No.

17 Q Did you ever call for a discussion with respect to
18 the magnitude of data collection that was proceeding?

19 A I did.

20 MR. SEHAM: Fifty-seven, is that here?

21 UNIDENTIFIED SPEAKER: No.

22 BY MR. SEHAM:

23 Q Now I'm going to ask you -- turn you to Complainant
24 Exhibit 57.

25 A Okay.

1 Q Okay. Just to give some context. This is the
2 e-mail that you sent to Dr. Altman and Captain Davis and Dr.
3 Faulkner on or about July 18th, 2016.

4 A Right.

5 Q Correct? And just to provide some context, the
6 e-mail below states:

7 "Dr. Phil and Chris, The issue of how
8 much FO Petitt is flying continues to be
9 an issue."

10 Moving up to your e-mail -- well, let me -- let me
11 move down to the second sentence.

12 "Dr. Altman refers to it involving --
13 comparing her to her peers and seeing if
14 she is outlayer or not. It would involve
15 identifying all the A330 first officers
16 in Seattle who worked an entire calendar
17 year. They would be listed as the rows
18 of an Excel spreadsheet starting with the
19 shortest seniority and continuing to the
20 longest. Here is what it would look
21 like. Each cell would be the number for
22 the whole year" [skipping over the grid
23 he proposes]. "It might be necessary to
24 have data for more than one year to show
25 a definitive pattern. With this data, a

1 qualitative opinion could be made or it
2 could be turned over to a person with a
3 statistical background for more rigorous
4 opinion. Let me know if this idea is
5 possible."

6 And -- and you've written in response:

7 "We have done things like this before.

8 I am not adverse to anything that will
9 allow for a fair and balanced
10 determination but I think before we go
11 down this road, we should discuss where
12 we are at in the process and figure out
13 how important this type of analysis is to
14 the evaluation. In any event, probably a
15 good time for a status check, including
16 Dr. Faulkner."

17 Did -- did you ever have the -- a teleconference
18 including Dr. Faulkner to discuss the data that Dr. Altman
19 was pursuing in this correspondence?

20 A I believe we did.

21 Q You did. And what was discussed during that
22 teleconference?

23 A Well, I just -- again, I wanted to know, you know,
24 (a) how important is this to you. We were kind of at a point
25 where, you know, we've given them a pretty fair amount of

1 information. I'm looking at the date. I'm not a hundred
2 percent sure where he was with interviewing her. But you
3 know, I was trying to figure out, okay, you know, how much
4 longer are we going to do this, you know, what kind of time
5 table are you on. And the outcome of it was, he was just
6 insistent that he thought this was very important. It was
7 important to him as part of his analysis to look at her
8 flight time as compared to other pilots. And so, we spent
9 most of the time kind of talking about how we would go about
10 gathering up the information that he wanted -- he wanted.
11 And we ended up -- we ultimately ended up producing that for
12 him.

13 Q Well, you -- you say in your e-mail, you mention:

14 "...before we go down this road, we should
15 discuss where we are at in the process
16 and figure out how important this type of
17 analysis is to the evaluation."

18 Did he ever explain to you where this information
19 fit in to what he was doing?

20 A He just said that it was very important to his
21 analysis. And again, I was deferring to his expertise as a
22 four-year psychiatrist to do his job. He thought it was
23 important. He wanted to measure her flight time versus other
24 pilots. And that was something that he felt like would help
25 him reach a determination. My concern was also, you know,

1 I'm taking resources from other places in the company. And I
2 wanted to just make sure that this was something that he
3 really -- really wanted to do. All he had to do was tell me
4 that that's what he wanted. And so, I went from there and
5 found the folks that do this kind of work in crew resources
6 and we got him -- we got him the information that he was
7 looking for."

8 Q So, you -- you never -- his -- his explanation
9 during this -- you -- you asked for this teleconference.
10 Correct?

11 A That's correct.

12 Q Okay. And he told you the data he was asking for
13 was important to him. Correct?

14 A That's correct.

15 Q But he never provided you with an explanation as to
16 what he was --

17 A Well, he told me --

18 Q -- using the data for?

19 A It was clear that he was looking to compare her to
20 what other people do. Where that was, I didn't talk to him
21 about how that factored into his determination or what he was
22 doing, or where his analysis was. Again, that's his job.
23 And I was going to deter to him. My job was to provide
24 information that he felt like he wanted and needed, and help
25 him get his job done.

1 Q So, you -- you -- you -- after this teleconference,
2 you -- you -- you didn't know where this data fit into what
3 he was doing. Correct?

4 MR. ROSENSTEIN: Objection.

5 THE WITNESS: I did not.

6 MR. ROSENSTEIN: Asked and answered.

7 THE WITNESS: But I did feel good that he was -- he
8 was working towards the conclusion. I felt like he was, you
9 know, putting in the due diligence to get this thing moving
10 along. And that's the other thing that I was really
11 interested in was finding out, you know, okay, we're -- I --
12 where are we, July 18th, we're -- you know, a month into
13 this, or a month -- a little over a month into this. Is it
14 moving along? And I felt pretty comfortable that he was --
15 he was working hard on it. And that's what I -- really what
16 I wanted to hear. And then we most likely talked about
17 additional documentation and information that we could
18 provide for him.

19 BY MR. SEHAM:

20 Q I'm going to ask you to turn to JX-L.

21 A JX-L

22 MS. BROWN: It's probably in its own binder.

23 MR. SEHAM: Yeah.

24 MS. BROWN: It's the other green binder.

25 THE WITNESS: Okay.

1 MS. BROWN: It might be able to work.

2 MR. SEHAM: I think that's what you were telling
3 me, it's -- all right.

4 JUDGE MORRIS: It's probably over there. Actually,
5 it's right over there.

6 THE WITNESS: All right.

7 MR. SEHAM: Okay.

8 BY MR. SEHAM:

9 Q Now I'm going to ask you to turn to page 231 --
10 JX-L 231.

11 A Okay.

12 Q Okay. And you see at the top, it reads:

13 "FO Petitt had already sent an e-mail
14 to Mr. Bastian on 3/5/16 inviting him to
15 come to the SMS presentation. This note
16 was forwarded to Captain Graham and
17 Captain Dickson."

18 There follows a cut and paste of an e-mail. This
19 is an e-mail that -- that you provided to Dr. Altman.

20 A I think so. I don't know. I'm not certain but --

21 Q Okay.

22 A -- it's likely that I provided it to him. Either
23 me or Captain Davis provided it to him.

24 Q Okay. And on the next page, you see there's a
25 handwritten note signed at the bottom, "Karlene" and starting

1 with the simple salutation, "Ed". Do you see that?

2 A Yeah.

3 Q Okay. And -- and did you -- did -- did you cut --
4 or did Captain Davis provide this e-mail to Dr. Altman?

5 A I'm sure we did.

6 Q Okay. Were -- were these documents that -- in the
7 -- in the original table of contents, there's a separate
8 heading -- there's a separate heading topic G. And I'm
9 referring to CX-98, topic G, Communications from FO Petitt
10 directly to Delta CEO is Richard Anderson, and then Ed
11 Bastian.

12 A M'hmm.

13 Q Would -- would those e-mails have been transmitted
14 to Dr. Altman under that tab G?

15 A I think so.

16 Q Okay.

17 A Without seeing tab G, I'm --

18 Q Okay.

19 A -- I'm not sure but I don't think there were a lot
20 of e-mails in the CEO category.

21 Q Okay. You -- you note that on page 231, the second
22 to the last sentence, which is a stand-alone paragraph, it
23 reads:

24 "Also, note that she addresses Mr. Bastian as
25 'Ed'. Undue familiarity is associated

1 with mania."

2 Do you see that?

3 A Sure.

4 Q Did you ever convey to Dr. Altman that Mr. Bastian
5 actually encourages employees to refer to him as Ed?

6 A I did not.

7 Q Okay. And how did you -- did you ever advise Dr.
8 Altman that Delta has an open-door policy?

9 A I don't remember talking to Dr. Altman about open
10 door policies.

11 Q But Delta does have an open door policy. Correct?

12 A It does.

13 JUDGE MORRIS: Well, wait a minute. Do you know if
14 Mr. Bastian does prefer to be called by Ed?

15 THE WITNESS: I don't know that to be a fact.

16 JUDGE MORRIS: Okay.

17 THE WITNESS: I hear it -- I hear his name like
18 people would say, "Richard". A lot I hear, "Ed". But I
19 don't know what he -- what he likes. I don't.

20 BY MR. SEHAM:

21 Q Doesn't he -- doesn't -- isn't there a website --

22 A He's very -- I -- he's a very congenial guy. I
23 wouldn't be surprised if that's the case but I don't know
24 personally.

25 Q Is there not a Delta website titled, "Ask Ed"?

1 A There is, yeah.

2 Q Okay. Did you ever tell Dr. Altman that there was
3 no published chain of command policy at Delta?

4 A No.

5 Q Prior to sending the -- the information and --
6 listed in CX-98, did you ever state to Dr. Altman that the
7 sole basis for the Section 15 referral was Ms. Petitt's March
8 8th interview with Ms. Nabors?

9 A I'm -- I'm sorry but where -- I -- prior to what
10 did I --

11 Q Prior to sending all of this information listed in
12 the table of contents in CX --

13 A Right. So, after he had been appointed as the CME,
14 but before sending him --

15 Q Yes.

16 A -- the package of information before we were going
17 to meet with him --

18 Q Did -- did --

19 A -- did I -- I don't remember talking to him about
20 that. No.

21 Q If you could turn to CX-102. Are you there?

22 A Yep.

23 Q Okay. And you see it's an e-mail that you sent to
24 Dr. Altman on June 15th, 2016. Correct?

25 A That's correct.

1 Q And you're providing him with the most recent
2 flight ops organizational chart. Correct?

3 A That's correct.

4 Q Did you have any understanding how this information
5 related to Ms. Petitt's mental health?

6 A I did not.

7 Q Okay. Did you have -- ever have any discussion
8 with Dr. Altman as to the use he was going to put this to?

9 A No.

10 Q Would this organizational chart be construed as a
11 chain of command?

12 A I -- I suppose it could be. I mean, it shows the
13 reporting structure. We talked earlier about the LR
14 reporting structure. If you were to look at an
15 organizational chart, my boss would be above me. His boss
16 would be above him. And I think that's what the flight ops
17 organizational charts that we sent him showed.

18 Q If you can turn to -- and I'm -- I'm -- and okay.
19 I think you already answered that. If you can turn to
20 CX-103.

21 A Okay.

22 Q And this is an e-mail which you sent to Dr. Altman
23 on or about June 10th, 2016. Correct?

24 A Right.

25 Q And it was for the purpose of responding to his

1 inquiries relating to the -- the stages of SMS
2 implementation. Correct?

3 A Right.

4 Q Is -- is there any chain of command embodied within
5 the Delta SMS program? Do you know?

6 A I'm really not sure I understand that.

7 Q Well, SMS -- do you have any understanding of SMS?

8 A Safety Management System that resides at --

9 Q Oh.

10 A -- I think what you're asking me, it resides in
11 corporate safety if that's -- is that what you're -- the
12 folks that receive the SMS program?

13 Q No. Well, what I'm asking -- well, let me ask it
14 this way. The -- SMS, the SMS mandate from the FAA requires
15 that Delta develop a reporting culture. Correct?

16 A Okay. Yes.

17 Q Okay. And at Delta, is that reporting culture
18 subject to a chain of command?

19 A I -- I -- I'm not -- I don't think so. I don't
20 know. I don't know the answer to that question.

21 Q And he wanted -- Dr. Altman asked you for
22 information related to Ms. Petitt's concerns about aircraft
23 operational stalls. Correct?

24 A At some point, yes. That did come up.

25 Q Okay. And did you arrange for Dr. Altman to

1 interview any -- any management pilots with respect to the
2 issue of aircraft operational stalls?

3 A I offered Dr. Altman the opportunity to interview
4 anybody he wanted at Delta.

5 Q And did he ever take you up on that offer?

6 A He did not.

7 Q Okay. So -- so, the only persons he interviewed
8 were Ms. Nabors and Ms. Petitt.

9 MR. ROSENSTEIN: Objection. Foundation.

10 BY MR. SEHAM:

11 Q Do -- do you know of any persons that he
12 interviewed other than Ms. Petitt and Ms. Nabors?

13 MR. ROSENSTEIN: Objection. Foundation. Is there
14 foundation that Dr. Altman interviewed Ms. Nabors?

15 JUDGE MORRIS: Do you --

16 MR. SEHAM: Well, okay.

17 BY MR. SEHAM:

18 Q He -- he heard from Ms. Nabors on the March 17th
19 teleconference.

20 A M'hmm.

21 Q Correct?

22 A Yes.

23 Q Yes. And he never spoke to her after that.

24 Correct? To your knowledge.

25 A To my knowledge, no.

1 JUDGE MORRIS: Do you know who he interviewed other
2 than the Complainant in this case?

3 THE WITNESS: I'm not aware of anybody, Judge, that
4 he interviewed.

5 JUDGE MORRIS: So, is that he did not interview --

6 THE WITNESS: He did not interview anyone as far as
7 I know.

8 MR. SEHAM: Thank you.

9 BY MR. SEHAM:

10 Q Now you sent Dr. Altman a link to a training video
11 that related to aircraft stalls. Correct?

12 A No. I did not.

13 Q Well, you -- you did send him a link to a training
14 video though. Correct?

15 A I did.

16 Q Okay. And was that at his request?

17 A Yes.

18 Q Okay. So, if you look at CX-106, this is your
19 e-mail of June 25th to Dr. Altman, with the first sentence
20 saying:

21 "Link to the training video is below. Let me
22 know if you have trouble opening. The
23 reference to First Officer Petitt's
24 safety culture paper is in Captain
25 Tovani's e-mail."

1 Now in this thread, there's no -- there's no
2 reference to a request from Dr. Altman that I see here. Are
3 you saying there was a separate e-mail in which Dr. Altman
4 asked you for this -- this video that you're providing him?

5 A I think there was an e-mail where he asked me for
6 the transcript of it. I think he just asked us or asked us
7 to produce the -- the -- the video itself. Again, this is
8 something that he pulled out of some materials that he was
9 given. He was interested in it. He wanted to see it. So,
10 this was our -- our way of providing it. I do remember
11 producing a transcript of it later on for him to -- to review
12 as well.

13 Q And the purpose of providing this information was
14 to assist Dr. Altman in disputing Ms. Petitt's assessment of
15 the adequacy of Delta training. Correct?

16 A I don't know that that's correct.

17 Q If you -- if you look again at 106, there's an
18 e-mail from John Tovani to Chris Puckett.

19 A One zero six?

20 Q Yes.

21 A Okay.

22 Q The same document we were looking at.

23 A Okay.

24 Q Okay. It says:

25 "Chris, here's a link to the

1 six-minute video lesson. Karlene's
2 document discusses this video starting on
3 page 22. At SME scenario two, her
4 description of the video is very
5 different than the content of the video.
6 I'm available to discuss most of this
7 afternoon. Just a couple of meetings.
8 Let me know if you would like to arrange
9 a call."
10 Now you -- you forwarded this e-mail to Dr. Altman.

11 Correct?

12 A I did.

13 MR. SEHAM: I can't find my deposition transcript.

14 Oh, here it is.

15 UNIDENTIFIED SPEAKER: Maybe -- okay.

16 BY MR. SEHAM:

17 Q I -- I want to take you back to CX-11. And this is
18 the -- the O.C. Miller --

19 A Okay.

20 Q Okay. Was it your -- was it your understanding
21 that O.C. Miller was forwarding this e-mail to you at this
22 time, by which I mean the -- the Graham e-mail referencing
23 the Section 15 --

24 A M'hmm.

25 Q -- in anticipation of Ms. Petitt's trip to Atlanta

1 to meet with Captain Graham and Dickson.

2 UNIDENTIFIED SPEAKER: Object.

3 MR. ROSENSTEIN: Objection. Yeah. The witness
4 testified he -- I mean, we've gone through this ground.

5 MR. SEHAM: But I didn't ask this question.

6 MR. ROSENSTEIN: But he didn't remember getting the
7 e-mail. So, how could he answer that question about what
8 else Miller was thinking in 2016?

9 MR. SEHAM: It's what he understood.

10 JUDGE MORRIS: Well, I don't think the question is
11 about what O.C. Miller understood. What was your question,
12 again?

13 MR. ROSENSTEIN: It's -- it's --

14 MR. SEHAM: I think three was already an answer but
15 -- but the question is, "Was it your understanding at this
16 time that the reason that this was being forwarded was in
17 anticipation of the meeting of Ms. Petitt with Captains
18 Dickson and Graham."

19 MR. ROSENSTEIN: Well, how could the witness --

20 MR. SEHAM: I'm going to ask him what his
21 understanding --

22 UNIDENTIFIED SPEAKER: No. It was --

23 MR. ROSENSTEIN: All right. I don't want to slow
24 things down. I'll --

25 THE WITNESS: I think O.C. -- he's FYI e-mailing

1 this. He's letting me know, "Hey, this is out here. Here
2 you go." O.C. sent lots of FYI e-mails on any variety of
3 topics and this was one where, you know, Ms. Petitt was,
4 you're right, coming to Atlanta and -- or wanting to come and
5 meet with, you know, Captain Dickson and Captain Graham. So,
6 this was him forwarding this to my attention, just a FYI.
7 There wasn't any follow-up that I recall with him, any calls
8 or anything like that. Not uncommon for O.C. to send e-mails
9 to a whole (inaudible) to just make sure that we're aware of
10 something. Hard to believe but they don't always include the
11 lawyers in all the e-mails.

12 MR. SEHAM: Okay.

13 BY MR. SEHAM:

14 Q I'd like you to refer to CX-78. So, I'm going to
15 ask you to refer to 78-003, and that's the third page.

16 A Okay. This is an e-mail that Dr. Altman sent you
17 and Captain Davis on or about June 8th, 2016. Correct?

18 A M'hmm.

19 Q And --

20 A Yes.

21 Q -- you see an item three below, after addressing
22 you as "Dear Chris and Phil," item three is:

23 "Regarding the document tab F,

24 ASS.DAL Flight Operations Safety

25 Culture,"

1 Let me pause here. Would you agree that this
2 reference is a reference to her January 28th safety report?

3 A I'm not sure about that. I don't -- I don't know.

4 JUDGE MORRIS: Look at JX-B.

5 BY MR. SEHAM:

6 Q If you can turn to 98, CX-98.

7 A CX-98?

8 Q Yeah. Second page.

9 A Okay.

10 Q Okay. So, again, the second page, this is a table
11 of contents of the binder documents that you provided --

12 A Okay.

13 Q -- Dr. Altman in late May. Correct?

14 A Right.

15 Q Okay.

16 A Yep.

17 Q And tab F there is the document FO Petitt provided
18 to Captains Graham and Dickson containing safety and EO
19 allegations.

20 A I agree. Yes.

21 Q Okay. So, now would you agree with me that item
22 three in CX-78, 003 the first reference here to tab F, was --
23 is a reference to her January 28th safety report?

24 A Yes.

25 Q Okay. And it goes on to say:

1 "Page six, lack of information sharing
2 'why is there not a formal system with
3 processes in place to answer these
4 questions?' If her assertion is
5 incorrect, is it possible to provide me
6 documentation of the existence of the
7 formal system? If yes, has -- did she
8 use it for these four items? Has she
9 ever used it?"

10 Isn't it true that you provided him information to
11 support an argument that Ms. Pettitt was incorrect in -- with
12 respect to her assessment of safety culture?

13 A Not sure I was supporting an argument or that he
14 made an argument. What we did is, we supplied him everything
15 we could think of that let a pilot, not just report about
16 safety, but just report. And we sent him, again, as -- a
17 large amount of information educating him on the ways that
18 you can report a variety of issues at Delta.

19 Q And you understood at this time that the
20 information -- and, in fact, the -- the commencement of the
21 information that you were providing to him with respect to
22 this item three is -- is referenced in the first page of this
23 Exhibit. Correct?

24 A This was one of a number of different documents and
25 e-mails that we -- that we sent regarding this topic.

1 Q Okay.

2 A But I can't remember all of them. They were --
3 there were a pretty fair number. Again, there's a lot of
4 ways to report on Delta. And this, again, we gathered them
5 up and said, "Here you go." And -- and that was our attempt
6 to answer his question. Yeah.

7 Q And did you not understand at this time that Dr.
8 Altman was going to be using this information to discredit
9 Ms. Petitt's --

10 A I -- I --

11 Q -- position on --

12 A -- I don't know --

13 Q -- SMS issues?

14 A -- about -- I wouldn't use the term "discredit". I
15 think he -- he -- it says what it says. He's trying to
16 verify what she's saying. And he's trying to verify the
17 accuracy of it. And he's not asking us to go and discredit.
18 He's just asking for the documentation and then he was going
19 to do whatever it is he felt like he needed to do with it.
20 So, I -- I didn't take that -- I didn't take that
21 characterization that you're making away from what he said.
22 But certainly, it was clear that he was -- he was looking at
23 what she was saying, and he was looking for documentation to
24 say, "Hey, is this -- you know, is this the case?" So, I --

25 Q Okay.

1 A -- that's -- that's --

2 Q He was asking you for information to establish that
3 she was incorrect with respect to her SMS assessment.
4 Correct?

5 A Or correct. I mean, he was trying to verify what
6 he was seeing and what he was being told. That was clear.

7 Q But he --

8 A He would write that and say that. Our job, again,
9 wasn't to try to discredit or do anything like that. It was
10 to respond and give him the documents that were responsive to
11 his request. And then he would go and do whatever -- what
12 he, you know, in his expertise, he -- he felt like he needed
13 to do with them.

14 Q You provided him with information that would
15 support a conclusion that Ms. Petitt was incorrect in her SMS
16 assessment.

17 MR. ROSENSTEIN: Objection. Asked and --

18 THE WITNESS: I don't --

19 MR. ROSENSTEIN: -- answered. Argumentative.

20 JUDGE MORRIS: Sustained.

21 BY MR. SEHAM:

22 Q Now you reviewed Ms. Petitt -- during -- during the
23 pendency of this Section 15 process and Dr. Altman's
24 analysis, you reviewed Ms. Petitt's blogs. Correct?

25 A Start --

1 MR. ROSENSTEIN: Objection.

2 THE WITNESS: -- start -- start at the beginning of
3 that.

4 MR. ROSENSTEIN: Vague.

5 THE WITNESS: When did I -- when did I review her
6 blogs.

7 MR. SEHAM: During the Section 15 process.

8 THE WITNESS: Yes.

9 MR. SEHAM: Okay. Okay.

10 BY MR. SEHAM:

11 Q Can you turn to CX-54?

12 A Okay.

13 Q I may be on the wrong document. Hold on.

14 JUDGE MORRIS: I'll also note for the record that
15 you've had your 45 minutes, Counsel. How much more do you
16 need?

17 MR. SEHAM: Yeah. I apologize for underestimating.

18 MR. ROSENSTEIN: Well, we get one question every --

19 MR. SEHAM: You know, I -- at this point, you know,
20 I could see it being another 30 to 40 minutes frankly, seeing
21 where I am.

22 JUDGE MORRIS: Do you want to keep going or do you
23 want to stop?

24 MR. SEHAM: Take a break to talk about it, if
25 that's okay with the tribunal.

1 MR. ROSENSTEIN: Yeah. The --

2 JUDGE MORRIS: Take five.

3 (Off the record, 7:44 o'clock p.m.)

4 (On the record, 7:50 o'clock p.m.)

5 JUDGE MORRIS: On the record. All parties present
6 when the hearing last recessed are again present. Continue,
7 Counsel.

8 MR. SEHAM: Okay.

9 BY MR. SEHAM:

10 Q If you could turn to --

11 JUDGE MORRIS: Counsel, you're also on the clock at
12 this point. You have until 9:00, no more.

13 MR. SEHAM: Okay.

14 BY MR. SEHAM:

15 Q If you could turn to CX-112.

16 A Okay.

17 Q Okay. So, this is an e-mail exchange between you
18 and Dr. Altman on -- in -- in -- on October 26th, 2016.
19 Correct?

20 A Correct.

21 Q And pursuant to this e-mail, you set up a
22 teleconference for the three of you, Puckett, Davis and
23 yourself.

24 A That's correct.

25 Q No, excuse me. Altman, Puckett -- Altman, Davis

1 and yourself. Correct?

2 A Yes.

3 Q All right. And it was at this teleconference that
4 Dr. Altman advised you that he was -- had made a
5 determination that Ms. Petitt was medically unfit. Correct?

6 A I think that's right. Yes.

7 Q And in that teleconference, he actually told you
8 that he was diagnosing her as having bipolar disorder.
9 Correct?

10 A That's correct. Yes.

11 Q Was Dr. Faulkner included in this teleconference?

12 A Again, I think we had a scheduling issue with Dr.
13 Faulkner but I don't think he was on this -- on this
14 particular call.

15 Q Okay. If you could turn to CX-110.

16 A Okay.

17 Q Okay. And this is an e-mail from -- from you to
18 Dr. Altman on Sunday, February 19th, 2017. Correct?

19 A Correct.

20 Q Dr. Altman had already completed his analysis at
21 this point. Correct?

22 A February of 2016. Yes. That's correct.

23 Q So, why were you communicating to him at this
24 point?

25 A Again, this was just a -- it was a book that she

1 had written. I knew that he had written or read the books, I
2 think, the other books that she had written. I just flip
3 this to him, just thinking he might be interested in -- in
4 seeing it. Didn't have any bearing on what he was doing or
5 on the case. It was just something that I -- I sent him
6 thinking he might be interesting (sic) considering the amount
7 of time he had invested in the case.

8 Q Okay. And at this point, you knew that Dr. Altman
9 had diagnosed her as having bi-polar disorder. Correct?

10 A That's correct.

11 Q And you say:

12 "Doctor A, FYI, here's the latest
13 and greatest from First Officer
14 Petitt."

15 Would you agree with me when you -- when you wrote
16 the words "latest and greatest" you were being sarcastic?

17 A I would agree. Yes.

18 Q And Ms. Petitt had written a blog in 2009
19 concerning a fatal Air France accident. Correct?

20 A That's correct.

21 Q And you provided Dr. Altman with that blog
22 publication. Correct?

23 A I believe I did. Yes. Yes.

24 Q And your understanding of the Air France accident
25 was that it involved a Pilot-static system that was faulty,

1 leading to high altitude stalls. Correct?

2 A That's -- yeah, that's my understanding.

3 Q And -- but you didn't -- Dr. Altman considered this
4 information very important -- or -- or your understanding was
5 Dr. Altman felt that this information was very important.
6 Correct?

7 A Yes. Dr. Altman was very interested. He was very
8 interested in the response that Delta had to that -- to that
9 accident. He wanted to see the communications that were
10 coming out of the 330 fleet to Delta pilots. He wanted to
11 understand how Delta was reacting to -- to that -- to that
12 crash.

13 Q If you could turn to Exhibit CX-64.

14 A Okay.

15 Q Okay. In CX-64, you're providing him with an FAA
16 advisory circular. Correct?

17 A Correct.

18 Q And this circular relates to RVSM air space issues.
19 Correct?

20 A Correct.

21 Q And did you understand how this related to Ms.
22 Petitt's mental health?

23 A This was something that he was interested in but it
24 relates to that video that you were talking about where we
25 had given him the transcripts. This was to fall on -- fall

1 on information to that -- to that workplace management video
2 that he had asked about. And he was interested in seeing
3 this but we never actually -- we never discussed it. I -- I
4 sensed that he saw it and decided that it was probably better
5 not to just try to get into it. But that eventually -- he
6 eventually just dropped that. We didn't have much
7 communication -- or any communication after this about the
8 video.

9 Q And RVSM air space issues, that was a topic brought
10 up in Ms. Petitt's January 28th, 2016 safety report.
11 Correct?

12 A I'm not sure about that. I thought it was in the -
13 - in the video that was -- unless that's what she was talking
14 about was the workplace management video that Dr. Altman
15 wanted to see. That's what I'm -- that's where I understand
16 this to be connected to and why he wanted to see it so.

17 Q If you could turn to CX-52. Wait a minute. I may
18 have this wrong. No. It's not CX-52. Oh, CX-80. Sorry.
19 CX-80.

20 JUDGE MORRIS: We're back to the other binder.

21 BY MR. SEHAM:

22 Q Okay.

23 A Okay.

24 Q Now this is a portion of -- this is a portion of
25 Dr. Altman's analysis of Ms. Petitt's flight hours that were

1 -- was later incorporated into Dr. Altman's analysis.

2 Correct?

3 A Correct.

4 Q Okay. And he asked you to review drafts of this
5 portion of his analysis. Correct?

6 A He sent Captain Davis and I an e-mail and asked us
7 to verify that these were accurate flight hours.

8 Q Okay. And if you turn to CX-81, would that -- that
9 would be his -- would that be his request to confirm the
10 accuracy of the data in CX-80?

11 A I'm not sure. I'm not sure what this relates to,
12 work record data. I'm not sure this is work record data. I
13 -- I -- I remembered him sending something with -- with a
14 grid, a flight time, and just specifically saying, can you
15 verify that the flight hours are accurate.

16 Q All right.

17 A And I just took what we sent him and said, you
18 know, it looks like what we sent you.

19 Q Okay. Perhaps that CX-111, if you could pull that
20 out.

21 A Okay.

22 Q Okay. So, would you agree with me that this
23 documentation confirms that he was asking you to look at more
24 than one iteration of this excerpt of his analysis of Ms.
25 Petitt's flight hours?

1 A I think so. He's saying, "latest revision," but I
2 -- I'm not sure -- I remember him just saying -- or
3 e-mailing -- I thought there was an e-mail where he just
4 wanted us to -- just, can you verify the flight hours --

5 Q Okay.

6 A -- or confirm all the data. These are -- these are
7 from -- this is from data that we sent him. And he's -- he's
8 just wanting us to go and pull up the spread sheets and just
9 say, "Hey, is this -- did I get this wrong?" And that's what
10 we did.

11 Q Okay.

12 A But yeah, that's right.

13 Q The attachment refers to 1030-16 accuracy check.

14 A Right.

15 Q So, he was asking you to confirm the accuracy of
16 this -- this portion of his analysis.

17 A The accuracy of the flight record.

18 Q Okay.

19 A The flight -- the flight hours. Yes. I think
20 that's correct. Yes. And I think there were issues with the
21 -- when she was employed -- when she was hired. I think
22 there was just -- there were some stuff like that, that he
23 was asking us to go in and double check him on. I -- I --
24 I'm failing on the specifics now but you know.

25 Q And I think you testified on direct that, at one

1 point, you did become involved in the NME selection process.

2 A That's correct. Yes.

3 Q Okay. And you were aware that at one point, Dr.
4 Altman was refusing to participate in the NME selection.
5 Correct?

6 A I don't think that's accurate. No.

7 Q Okay. If you could look at CX-117. Do you have
8 that document in front of you?

9 A I do.

10 Q Okay. And this was a draft letter that Dr. Altman
11 sent to you concerning the NME selection process and calling
12 for you to -- to edit it. Correct?

13 A That's correct. Yes.

14 Q Okay.

15 A Well, I don't know that he was asking me to edit
16 it. This was in response to a letter that he had received
17 from Dr. Steinkraus at the Mayo Clinic. And this was, I
18 think I mentioned it earlier in my direct, this was the
19 letter that just basically said, we're not going to
20 communicate with you. I think he said, we're actually,
21 literally done with the process. We're not going to do this
22 anymore. And so, Dr. Altman was -- was frustrated but he was
23 trying to get it done. And so, he was trying to figure out
24 the best way to -- the best way to respond and just,
25 essentially, how do we -- how do we get, you know, these guys

1 to participate. I -- I can't pick a NME without having the
2 PME as part of it.

3 Q M'hmm.

4 A Yeah.

5 Q Well, if -- if you look at this letter, which --
6 which this draft letter he sent to you, it says:

7 "Dear Dr. Steinkraus, I apologize for
8 the delay in responding to your e-mail.
9 The information you provided was a
10 significant surprise to me. You are
11 correct in your first paragraph that I
12 believe that this was a formal
13 negotiation under collective bargaining
14 agreement. I believe that you provided
15 for her, the PME that she required under
16 the collective bargaining agreement. My
17 assumption was incorrect. As you
18 described, you have a different role.
19 Thus, she is not -- she has not yet had
20 the PME assessment which is required
21 under the collective bargaining
22 agreement. For us, at this point, to
23 settle on a name for an NME would be
24 inappropriate and only added to the
25 confusion in her case."

1 A All right. So, this is what he was interpreting
2 what Dr. Steinkraus was saying. His -- the way he read it is
3 that Steinkraus was saying, "We were never a party to this.
4 We didn't sign up for this. We're not a PME. I don't know
5 what you're talking about." Now it was a misinterpretation.

6 Q Okay. Well --

7 A And he didn't -- you know, we didn't -- you know,
8 he didn't end up doing that.

9 Q Okay.

10 A We eventually got them together and got them to
11 pick an NME. But that was his read on that letter from
12 Steinkraus that, you know, that is what he said, basically,
13 "We're -- you know, I don't know what you're talking about.
14 We're not a part of this."

15 Q If --

16 A And so, he was -- he was reading into it a little
17 bit. And I -- I -- I -- frankly, I was also pretty confused
18 about what Dr. Steinkraus was talking about as well. I
19 couldn't get my head about him -- around what he was trying
20 to say as far as just refusing to participate.

21 Q Okay. You -- you -- you actually engaged in
22 conversations with Dr. Altman to -- to try to dissuade him
23 from taking the position he was taking in this draft letter.
24 Correct?

25 A I didn't really try to dissuade him. I just said,

1 you know, we need to -- there -- they are the PME. No matter
2 what he says. They conducted a medical assessment. We need
3 to figure out a way to get you and that guy over there
4 together and pick out -- figure out a way to pick out an NME.

5 And so, that's when we started moving to -- at this point,
6 he had tried a lot of different things. He had been writing
7 them, calling them. He'd been ignored. This is the point, I
8 believe, when I started calling ALPA. And I'm pretty sure,
9 this is also the point where Captain Graham wrote Ms. Petitt
10 a letter stating our -- our objection to how this was being
11 handled.

12 Q Okay. If -- if you look at Exhibit CX-118. It's
13 signed at the bottom by Dr. David Altman and reads:

14 "Karlene Petitt, 6/19/17, telephone
15 call Chris Puckett. The Mayo Clinic
16 report probably would represent the PME
17 report despite the statement by Dr.
18 Steinkraus that the Mayo Clinic is not a
19 party to the collective bargaining
20 agreement. He will discuss it with Mr.
21 Wahl before a final conclusion. She has
22 made additional safety allegations and is
23 telling other pilots not to follow the
24 training. Delta has concluded that her
25 allegations are not valid. I will not

1 have the telephone call with Dr.
2 Steinkraus until this issue is resolved."
3 Now looking -- looking at -- this -- this relates
4 to a telephone call he had with you in June of 2017.
5 Correct?

6 A Correct.

7 Q And at this point, his -- his analysis had already
8 been completed over six months ago. Correct?

9 A Correct. Yeah. He's still trying to pick a NME.

10 Q Okay. And -- and you reported to him at this time
11 that Ms. Petitt had made additional safety allegations.

12 A It came up in the -- I -- again, I don't -- I'll
13 tell you, I don't remember having this conversation. I don't
14 dispute it. This is what he wrote down. I don't dispute
15 that we were talking. We were certainly talking about Dr.
16 Steinkraus and what he was saying. And I -- I -- I must have
17 brought it up in conversation to him and mentioned it. But
18 that is something that she had done. She had raised issues
19 about a -- a procedure that Delta was implementing in its
20 flight training for unusual attitudes (sic). I forget
21 exactly what it's called. But basically, when a plane is --
22 takes it, you know, unusual attitudes (sic) -- low altitude,
23 I can't -- and the Navy was angled and dangled, I don't know
24 what it was called. I'm blanking on it. But she had
25 attended a meeting where, you know, allegedly a group of

1 pilots had said, "Don't follow it. Don't do it." And in her
2 letter, it appeared that she was adopting that position.
3 Additionally, she took the position that the FAA had -- that
4 this procedure, this particular procedure that was being
5 implemented violated -- violated the Federal Air -- or
6 Federal Aviation regulations.

7 Q M'hmm.

8 A So, that's -- that came up in the conversation
9 because that was fresh on my mind at the time.

10 Q Okay. Was it your intent that he pass this
11 information on to the NME?

12 A No.

13 Q Okay. And was any disciplinary action taken
14 against Ms. Petitt for this -- for this issue?

15 A No.

16 Q Okay.

17 A She was responded to in writing. I believe a
18 couple of times by flight ops.

19 Q Did you -- and this last sentence, it says:

20 "I will not have the telephone call
21 with Dr. Steinkraus until this issue is
22 resolved."

23 Did you tell Dr. Altman to not participate in a
24 call with Dr. Steinkraus?

25 A I told him not to contact Dr. Steinkraus. I said,

1 "Look, let's -- we're going to try to take another route on
2 this."

3 Q Okay.

4 A And I guess that's when we -- that's when we got on
5 the horn with ALPA and I believe -- I'm pretty sure this was
6 the time we wrote Ms. Petitt a letter as well, or Captain
7 Graham did.

8 Q Now -- now you sent Dr. Altman Delta's fatigue
9 policy. Correct?

10 A That's correct. Yes.

11 Q Okay. And did you know how that related to the
12 analysis of Ms. Petitt's mental health?

13 A I did not. Upset recovery.

14 Q Okay.

15 A Sorry. I'm tired.

16 Q Now your -- your -- was it your testimony that
17 Brian San Souci had a subsequent interview with Ms. Petitt?

18 A I thought he did.

19 Q Okay.

20 A I'm not a hundred percent certain --

21 Q Okay.

22 A -- if it was Brian that -- that did that.

23 Q All right. Isn't it true at this subsequent
24 interview, Ms. Petitt was afforded union representation?

25 A I don't think so.

1 Q Do you know who Scott Woolfrey is?

2 A I do.

3 Q Okay. And he's an ALPA representative. Correct?

4 A No.

5 Q No.

6 JUDGE MORRIS: Who is he?

7 THE WITNESS: Scott Woolfrey is a management pilot
8 who was assigned to the EO investigation.

9 MR. SEHAM: Oh, okay.

10 THE WITNESS: And this requires a little bit of an
11 explanation, Judge, but one of the nuances on the Delta
12 property is that we allow our Chief Pilots to conduct
13 disciplinary investigations. And that's a little different
14 than other places. A lot of places, you'll see HR doing or
15 God forbid, they'll let a lawyer go in there and do it. But
16 at Delta, it's a cultural issue. A Chief Pilot is generally
17 assigned to conduct disciplinary investigations.

18 In this case, she had raised a number of EO
19 allegations that implicated Delta pilots. And so, those
20 Delta pilots need to be -- needed to be go -- needed to be
21 investigated and interviewed. Those pilots, who were subject
22 to discipline were given the opportunity for ALPA
23 representation as well, since we were addressing a flight
24 operations issue, conducting interviews in flight ops and
25 potential discipline was on the line, we assigned a

1 management pilot. And that was Captain Woolfrey

2 MR. SEHAM: Okay.

3 THE WITNESS: Captain Woolfrey was not in the Chief
4 Pilot's office at the time. He was a former line check --
5 lead line check pilot. And I think he was the head of
6 training as well at Northwest. At the time, he was a 767
7 instructor. And so, he was helping Brian carry out the --
8 the EO investigation.

9 BY MR. SEHAM:

10 Q And he -- he participated, this Scott Woolfrey, in
11 the second interview of Ms. Petitt.

12 A I believe he did.

13 MR. SEHAM: No further questions.

14 JUDGE MORRIS: Redirect.

15 MR. ROSENSTEIN: Just a couple.

16 REDIRECT EXAMINATION

17 BY MR. ROSENSTEIN:

18 Q You testified that -- on cross that ALPA's position
19 stated to you in the Protak case didn't affect your decision
20 to utilize Dr. Altman in March of 2016. Am I remembering
21 that right?

22 A That's correct. Yes.

23 Q Why -- why not?

24 A Well, I think you need to understand Captain Protak
25 and his case a little bit to understand -- to see why that

1 didn't matter. One of the issues, and for a little bit of
2 background, Captain Protak is a -- was a Delta pilot who was
3 put into the Section 15 process for physical issues. He came
4 up with a back problem of some sort, or actually, I should
5 say a cervical spine problem. And his conduct in the Section
6 15 process was so unusual and bizarre that he was also placed
7 on a mental fitness review. While he was in the process, Dr.
8 Altman -- or Dr. Faulkner came to the company and said, "I
9 think that we need to amend the Section 15 to also include a
10 mental fitness review." And he selected Dr. Altman as a CME
11 for that -- that project.

12 Part of the reason that it got to that point is
13 that no one from the company could have a conversation with
14 Captain Protak without some threat being made, particularly
15 with respect to litigation.

16 MR. SEHAM: I'm going to --

17 THE WITNESS: And I'm not talking about --

18 MR. SEHAM: -- I'm going to object because this is
19 beyond hearsay. "No one in the company could have a
20 conversation with Captain Protak without threats or profanity
21 or whatever the comment was," but this is just one man who
22 can testify about what his experience is.

23 JUDGE MORRIS: Overruled. I allowed him the stuff
24 about Captain Protak. Therefore, I think this is fair game.
25 Continue.

1 THE WITNESS: So there was -- there just seemed to
2 be multiple, you know, I'm going to sue him or do this.
3 There were lawyers. He had a number of lawyers. At all
4 times, we would get different letters from different lawyers
5 about different subjects. And so, I -- that was something
6 that was just ongoing with him. And that was, frankly, part
7 of the problem. Now just to be clear, we're not talking
8 about taking away anybody's rights to avail themselves of the
9 judicial process. It's absolutely not what we're about. But
10 Captain Protak had taken it to a different level.

11 So, while, didn't have a really -- necessarily an
12 opinion on, you know, what Dr. Altman had written, it was
13 certainly -- it was -- it was understandable in the context
14 of what he was doing.

15 BY MR. ROSENSTEIN:

16 Q And you didn't believe that Dr. Altman was a person
17 who -- all right, forget it.

18 Do you believe that Dr. Altman could be fair in his
19 assessment?

20 A Absolutely.

21 Q Do you know whether ALPA was made aware of Dr.
22 Altman's selection as the CME?

23 A In?

24 Q In this case.

25 A Yes. Most certainly they were.

1 Q And how -- how do you know that?

2 A We communicate quite often with ALPA. I attend at
3 least monthly meetings with them. I have, frankly, a lot of
4 more meetings with ALPA than with -- but you know, we discuss
5 all kinds of topics and somebody at a Section 15 process is
6 something they're always going to ask about and want to know
7 about. So, I would provide them with just periodic
8 updates --

9 Q Was there a communication --

10 A -- of where we're at.

11 Q -- from ALPA about Dr. Altman's selection in this
12 case?

13 A No. Actually, I believe Dr. Faulkner had a
14 discussion with the AMAS position, about assigning Dr. Altman
15 to the case in the AMAS position. I concurred.

16 Q And do you know that AMAS physician's name, do you
17 know?

18 A I believe it was Dr. Riccitello.

19 Q Now in your testimony on both direct and on cross,
20 but mostly on cross, you testified that you -- you were
21 trying very hard to give Dr. Altman everything that he
22 wanted. Am I remembering your testimony accurately?

23 A That's accurate. Yes.

24 Q Okay. And I think you testified that he -- as far
25 as you were concerned, he could interview anyone he wanted.

1 Is that correct?

2 A That's correct. Yes.

3 Q And I think you said that there were no cost
4 restraints on what he was doing. Correct?

5 A Absolutely not.

6 Q You were asked some questions about this being very
7 expensive. Correct?

8 A Right.

9 Q And that the data was sort of voluminous and
10 unique. Is that true as well?

11 A That is -- that is true.

12 Q Okay. And you testified that you had sometimes
13 utilized Delta resources in order to get Dr. Altman what he
14 was looking for. Is that right?

15 A That's correct.

16 Q And I assume you've had other things that you were
17 doing besides managing or administering this process during
18 those -- those -- those weeks and months. Correct?

19 A We were in -- we were actually in contract
20 negotiations while that was going on. So, it was -- it was
21 quite a busy time. Yes.

22 Q So, why -- why were you motivated to spend that
23 much effort and do that many things for Dr. Altman?

24 A Well, we felt like it was just our obligation to
25 make sure that we got a good assessment. Thumbs up or thumbs

1 down --

2 Q What does that mean, "good assessment"? What do
3 you mean by that?

4 A Well, that, again, that he had done a -- a thorough
5 job, that he had looked at everything, and whatever the
6 result was, if it was to -- a finding that wouldn't be
7 disqualifying and come back to work, we wanted to make sure
8 that he had -- you know, was comfortable with that decision
9 and had done the work to lead to it. And the flip side is,
10 is if it was a disqualifying condition, and that was his
11 determination, we wanted to make sure that he had done the
12 work to get there as well. You know, we just didn't do -- we
13 didn't want to be in a position where we had withheld
14 information or, you know, gotten cheap on it, or anything
15 like that. The stakes are just too high on these things and
16 it was just too important. And so, we felt like we wanted --
17 that's what we were looking for.

18 Q You testified --

19 A And we were willing to do what we needed to do to
20 assist him.

21 Q You testified -- I think you used that term, "the
22 stakes are too high" a few times. What -- what -- what did
23 you understand the stakes to be?

24 A Well, like we testified, it's a safety issue. But
25 also one that I'm sure is important to First Officer Pettitt

1 as well. It's a significant -- a significant event when you
2 start looking at a pilot's -- a pilot's medical status. That
3 is a prerequisite for, you know, what they -- you know, what
4 their -- for their profession. So, I think all around, from
5 a safety perspective, from a human perspective, it's
6 incredibly important to do a thorough and fair job on it.

7 Q When you were providing information to Dr. Altman,
8 were you influenced by the fact that First Officer Petitt had
9 raised safety concerns in the past to -- to management?

10 A Not at all.

11 Q Other -- were you -- was there anyone responsible
12 for interacting with Dr. Altman and providing him with
13 information, other than you and Captain Davis?

14 A Dr. Faulkner as well.

15 Q Anyone else?

16 A I believe that's it. That's it.

17 Q Were you being directed by anybody within flight
18 operations?

19 A No.

20 MR. ROSENSTEIN: That's all I have.

21 JUDGE MORRIS: Re-cross.

22 MR. SEHAM: Just a couple questions.

23 MR. ROSENSTEIN: This should be limited to my
24 questions, I hope, since it's "re". This is not redirect,
25 right?

1 JUDGE MORRIS: Right. Go ahead, Counsel.

2 RECROSS-EXAMINATION

3 BY MR. SEHAM:

4 Q You say that Dr. Faulkner consulted with an AMAS
5 contact named Dr. Riccitello?

6 A That's my understanding. Yes.

7 Q Okay. Do you know when that happened?

8 A I don't.

9 Q Would that have happened sometime after he
10 concluded his interviews with Ms. Petitt?

11 A I'm not sure when he did it, honestly. I don't
12 know. I just don't know when it happened. But I -- I do
13 believe that he consulted with Dr. Riccitello. I just don't
14 know.

15 Q Are you aware that Dr. Faulkner sent an e-mail to
16 Dr. Altman retaining him as the CME prior to concluding his
17 interviews with Ms. Petitt?

18 A I'm not aware of that. No.

19 Q Was there ever any assessment -- you're -- you're
20 familiar with the concept of SMS reporting culture. Correct?

21 MR. ROSENSTEIN: Objection. Beyond the scope.

22 JUDGE MORRIS: Over --

23 MR. SEHAM: No. It's not. No. It's not.

24 JUDGE MORRIS: -- overruled.

25 THE WITNESS: I -- I'm not sure I would -- it's a

1 little out of my lane to go and define it but I understand
2 what a reporting culture is.

3 BY MR. SEHAM:

4 Q Has Delta --

5 A You have to feel comfortable to raise issues at
6 work is what you're saying. Correct?

7 Q Correct.

8 A Okay.

9 Q Has -- has Delta ever conducted an assessment of
10 the damage to its reporting culture inflicted by the referral
11 of Ms. Petitt to a Section 15 process?

12 MR. ROSENSTEIN: Same objection.

13 JUDGE MORRIS: Overruled.

14 THE WITNESS: I'm not aware of one. No.

15 MR. SEHAM: No further questions.

16 JUDGE MORRIS: Anything else?

17 MR. ROSENSTEIN: No.

18 JUDGE MORRIS: And I've got one question. And as
19 the Judge, I only have one question, or one area.

20 EXAMINATION

21 BY JUDGE MORRIS:

22 Q If you turn to JX-E 003. That's the green one.

23 A Okay, Judge.

24 Q Page 003. Are you there?

25 A Yes, sir.

1 Q The second paragraph.

2 A The second paragraph.

3 Q The second sentence.

4 A The second sentence. Okay.

5 Q The third sentence. It starts with, "Most involved
6 contractual policy issues..."

7 A One moment. Right.

8 Q The sentence reads:

9 "Most involved contractual policy issues where
10 she was a fundamental misunderstanding of
11 the contract language or how a particular
12 policy works."

13 A Right.

14 Q What contract language or what policies did she
15 fundamentally misunderstand?

16 A The ones that I can recall are the green slip
17 policy. Again, I'm going off memory here but I believe she
18 wanted to eliminate the green slip policy because she felt
19 like it contributed to fatigue issues. Whereas, you know,
20 the green slip policy is -- is a provision in the PWA. It's
21 negotiated with ALPA. It's a function of open time flying.
22 And it's just, you know, something you don't just
23 unilaterally eliminate.

24 There were issues with the sick policy as well.
25 Delta's, you know, Section 14 of the PWA is devoted to the

1 Delta sick policy and its management. It's a high profile
2 issue within the Delta pilot group. I can't remember the
3 specifics. But she was pretty far off on what that was.

4 JUDGE MORRIS: Let me mark it as Claimant's Exhibit
5 204.

6 (Claimant's Exhibit CX-204
7 was marked for identification
8 and admitted.)

9 JUDGE MORRIS: All right. Thank you, sir. You're
10 excused. Do not discuss your testimony with anyone. This
11 hearing should conclude tomorrow and then you can talk all
12 you want. All right? And you're excused.

13 THE WITNESS: Thank you.

14 (Witness excused, 8:28 o'clock p.m.)

15 JUDGE MORRIS: Anything else before we conclude for
16 today?

17 MR. ROSENSTEIN: Captain Davis is going to be the
18 next witness but I was -- I was thinking, since we've been
19 able to finish this witness and he's the last witness, other
20 than rebuttal case, that perhaps we can start at 9:00 instead
21 of 8:30 given the late hour tonight?

22 JUDGE MORRIS: Agreed. 9:00 o'clock tomorrow
23 morning.

24 MR. SEHAM: Very good. Thank you.

25 JUDGE MORRIS: All right.

1 (Whereupon, hearing was adjourned on Tuesday, April
2 30th, 2019 at 8:29 o'clock p.m. to reconvene on Wednesday,
3 May 1, 2019 at 8:30 o'clock a.m.

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1 REPORTER'S CERTIFICATE

2 TITLE: KARLENE PETITT, Complainant versus DELTA AIRLINES,

3 INC., Respondent

4 CASE NUMBER: 2018-AIR-00041

5 DATE: TUESDAY, APRIL 30, 2019

6 LOCATION: DES MOINES, IOWA

7

8

9 This is to certify that the attached proceedings

10 before the United States Department of Labor, were held

11 according to the record and that this is the original,

12 complete, true and accurate transcript which has been

13 compared to the reporting or recording accomplished at the

14 hearing.

15

16

17

18

19 _____
SIGNATURE OF REPORTER

DATE