



Transcript of Proceedings:

**Grievance of First Officer Michael Danford, ATL 18-14**

AIR LINE PILOTS ASSOCIATION, INT'L  
and  
DELTA AIR LINES CO.

Volume Four

December 1, 2020

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VIRTUAL ARBITRATION

GRIEVANCE OF FIRST OFFICER MICHAEL DANFORD

CASE NO. 18-14

BETWEEN

AIR LINE PILOTS ASSOCIATION, INT'L

AND

DELTA AIR LINES CO.

VOLUME FOUR

DECEMBER 1, 2020

REPORTED BY:  
CANDICE GREEN  
STORYCLOUD

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APPEARANCES

ARBITRATOR:

Mark Burdette

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Mike J. Doyle, Company Board Member  
Patrick Burns, Company Representative

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APPEARANCES, CON'T

Also Present for the Union:  
Emilio Marcos, Contract Administration  
Committee Chairman  
  
Kevin Morris, Union Board Member  
Steve Mayer, Union Board Member

Also Present:  
Michael Danford, Grievant  
Katy Hampton, Remote Technician

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DECEMBER 1, 2020

THE ARBITRATOR: I'm sorry. I was muted and no, I don't believe so. We can proceed.

MR. KASSIN: Okay.

MR. SEHAM: We call as our next witness. Amy McDougal. And Amy thank you. Ms. McDougal, thank you for your patience.

THE WITNESS: Sure.

MR. SEHAM: I believe you'll be sworn as a witness.

THE WITNESS: Okay.

THE ARBITRATOR: Absolutely. Would you raise your right hand, please. Do you swear or affirm that the testimony you're about to give in this case will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes. I do.

THE ARBITRATOR: Thank you very much. And would you please identify that there is nobody else in the room with you?

THE WITNESS: There is no one else in the room with me.

THE ARBITRATOR: Okay. And do you have access to any documents or devices that are not pertinent to the evidence in this case?



1 THE WITNESS: No, I do not.

2 THE ARBITRATOR: Thank you very much. You may  
3 proceed, Mr. Seham.

4 AMY MCDUGAL,  
5 having been first duly sworn, testifies as follows:

6 DIRECT EXAMINATION

7 BY MR. SEHAM:

8 Q. Thank you. Ms. McDougal, did there come a  
9 time in 2017 when you were required to submit to tests  
10 to confirm abstinence from alcohol?

11 A. Yes.

12 Q. I'm going to limit my inquiry into your  
13 personal affairs to the bare minimum so we can just  
14 have some context. So can you briefly tell us in what  
15 context you were required to submit to these tests?

16 A. Yes. It was a child custody case with my  
17 ex-husband regarding my two daughters.

18 Q. And what was the position or title of the  
19 individual who advised you to submit to abstinence  
20 testing for alcohol?

21 A. That was the custody evaluator.

22 Q. Very good. And in anticipation of the  
23 required testing, did you abstain from drinking  
24 alcohol?

25 A. Yes. The last time I have drank alcohol is

1 mid-July, 2017.

2 Q. And from mid-July of 2017 to the present  
3 date, have you consumed any alcoholic beverages or  
4 otherwise intentionally consumed alcohol?

5 A. None whatsoever.

6 Q. Okay. If I could have the administrator  
7 bring up Union Exhibit 39A. Okay. I'm providing you  
8 with an exhibit we've designated Ms. McDougal as 39A  
9 from USDTL that concerns a --

10 THE ARBITRATOR: Mr. Seham, you're breaking up  
11 really badly. For some reason. I'm not sure what's  
12 going on there, but I couldn't hear a thing you said.

13 MR. SEHAM: Okay. That's me. Lee Seham is  
14 breaking up?

15 THE ARBITRATOR: Yes. If you were talking. I  
16 mean, you're showing on my screen as the speaker, but  
17 --

18 MR. SEHAM: Yeah.

19 THE ARBITRATOR: I got you now though, you're good  
20 now.

21 MR. KASSIN: Okay. Actually the way we dealt with  
22 it before was lowering the volume -- I raised the  
23 volume before too because I couldn't hear the moderator  
24 or the administrator. Is it working now?

25 THE ARBITRATOR: Yes. I've got it.

1 MR. SEHAM: Okay.

2 THE ARBITRATOR: Can everybody else hear okay?

3 MR. KASSIN: Yes.

4 THE ARBITRATOR: Okay.

5 BY MR. SEHAM:

6 Q. So let me start over, Ms. McDougal. I'm  
7 providing you UX39A from USDTL that concerns a blood  
8 specimen collected on August 17th, 2017 and reporting a  
9 positive result of 24 nanograms per milliliter pursuant  
10 to a PEth test. Is this a document that you received  
11 from USDTL?

12 (Union Exhibit 39 marked for identification)

13 A. Yes, it is.

14 Q. And does the document reflect a laboratory  
15 result based on the blood sample you provided on August  
16 17th, 2017?

17 REMOTE TECH: I'm sorry, Counsel, we're having a  
18 lot of interference. I don't know if someone's unmuted  
19 and sounds like papers shuffling. So if all counsel  
20 that doesn't need to be or individuals that don't need  
21 to be unmuted. Can you please mute so that we can have  
22 a clear record?

23 Q. Okay. So let me let me start from the last  
24 question. Does the document reflect the laboratory  
25 result based on a blood sample you provided on August

1 17th, 2017?

2 A. Yes. A finger prick PETH test.

3 Q. Okay. So that was a dry blood sample?

4 A. Well, it was a finger prick PETH test going  
5 onto a card.

6 Q. And when you received this result of 24  
7 nanograms per milliliter, how did you react?

8 A. I was pretty surprised. I had been told that  
9 the PETH test had a look-back window of approximately  
10 three weeks and it had been longer than three weeks  
11 since I had consumed any alcohol. So I was surprised,  
12 but I assumed that maybe it was just picking up alcohol  
13 from prior to the three-week window. So, you know, I  
14 kind of took it in a stride, but I was -- I was pretty  
15 surprised.

16 Q. Okay. If the administrator could bring up  
17 Union Exhibit 40A, please. Okay. So you now have in  
18 front of you Union Exhibit 40A from USDTL that concerns  
19 a blood specimen collected on September 18th, 2017 and  
20 reporting a negative result. Is this a document you  
21 received from USDTL?

22 (Union Exhibit 40/40A marked for identification)

23 A. Yes, it is.

24 Q. And does the document reflect a laboratory  
25 result based on a blood sample you provided on

1 September 18th, 2017?

2 A. Yes, it does. A finger prick PEth test.

3 Q. Okay. And this result was negative?

4 A. Yes. And this was a test that I took on my  
5 own because I again, was surprised with the results  
6 that I've received before. So I went on my own and  
7 took the test just to make sure that it was going to  
8 turn out the way I expected it to, which was negative.

9 Q. Thank you. Now, if we could bring up Union  
10 Exhibit 41A. So you should have before you USDTL test  
11 report that concerns a blood specimen collected on  
12 October 18th and reporting a positive test result of 20  
13 nanograms per milliliter. Is this a document you  
14 received from USDTL?

15 (Union Exhibit 41/41A marked for identification)

16 A. Yes, it is.

17 Q. And does this document reflect a laboratory  
18 result based on a blood sample you provided on October  
19 18th, 2017?

20 A. Yes. A finger prick PEth test, yes.

21 Correct.

22 Q. So how did you react to this test?

23 A. With this test I was absolutely devastated.  
24 I did not understand what was going on. I was -- I was  
25 completely upset. I had not consumed alcohol again

1 since mid-July 2017. I fully expected the test to come  
2 back negative. And when it didn't, I was terrified,  
3 upset, everything. Every negative emotion because the  
4 custody of my kids was on the line here and this was  
5 completely incorrect.

6 Q. Did you discuss the situation with the Court  
7 appointed custody evaluator?

8 A. Yes, I did. He did not -- I'm sorry?

9 Q. No, no. And how did he respond?

10 A. He didn't really seem to understand what I  
11 was saying when I was putting the papers out in front  
12 of him trying to show that, you know, the dates. He  
13 didn't really seem to understand or care, what I was  
14 trying to say, what I was trying to show, what I was  
15 trying to prove.

16 Q. I'd like to bring up Union Exhibit 42A. I'm  
17 providing you with, or you should have before you Union  
18 Exhibit 42A from USDTL that concerns a blood specimen  
19 collected on October 25th, 2017 and reporting a test  
20 result. Is this a document you received from USDTL?

21 (Union Exhibit 42/42A marked for identification)

22 A. Yes, it is.

23 Q. And does this document reflect the laboratory  
24 result reported to you based on a blood sample you  
25 provided on October 25th, 2017?

1 A. Yes, it does, a finger prick PEth test.

2 Q. Okay. And the result here was what?

3 A. It was negative, which was what I was  
4 expecting to see, again. I had taken this test on my  
5 own, also just because at this point I didn't know what  
6 kind of results I was going to get so. I was -- I was  
7 testing when I could. These tests are pretty expensive  
8 so it is cost prohibitive to take a lot of them.

9 Q. Okay. I'm going to ask the -- normally what  
10 I would have done if we were in-person is bring up the  
11 next two exhibits together, but I'll just tell the  
12 arbitrator and the system board that Union Exhibit 3A  
13 and 4A are closely related in terms of the point we're  
14 trying to drive home, but in terms of legibility, I'm  
15 going to have to present them one at a time, so we can  
16 bring -- without introduction, we can bring up Union  
17 Exhibit 3A. Ms. McDougal, is this a USDTL PEth test  
18 result based on DBS or dry blood pinprick, reporting a  
19 59 nanogram per milliliter result that you received  
20 based on a February 13th collection?

21 (Union Exhibit 3/3A marked for identification)

22 A. Yes, it is.

23 Q. Okay. And then if we could put up Union  
24 Exhibit 4A. And maybe enlarge that just a little bit  
25 if we could. And Ms. McDougal, is this a LabCorp test

1 result using the PEth methodology that was based on a  
2 collection of a sample you provided on February 14th  
3 reporting a negative?

4 (Union Exhibit 4A marked for identification)

5 A. Yes, it is.

6 Q. Okay. And you provided blood samples for  
7 both of these?

8 A. Yes, I did.

9 Q. And why did you send blood samples to two  
10 different laboratories on two successive days? The  
11 13th and 14th of February 2018?

12 A. I had been asked on the 13th to go take the  
13 -- the finger prick PEth test at Forensic DNA. I knew  
14 at this point that I could not trust the results that I  
15 would receive, so I wanted to go take the test at a  
16 different place using a different lab so that I would  
17 have what I would believe to be accurate results, just  
18 in the event that the finger prick PEth test came back  
19 positive, falsely like it had so many times before.

20 Q. Okay. If we could scroll down -- addressing  
21 the moderator, if we could scroll down towards the  
22 latter half. Yes, you can stop right there. Perfect.  
23 Thank you. My next question, Ms. McDougal refers to  
24 this language that starts with PEth levels. Do you see  
25 where I am?



1 A. Yes, I do.

2 Q. Okay. And the background of the question is,  
3 I want to read into the record, "PEth levels in excess  
4 of 20 nanograms per milliliter are considered evidence  
5 of moderate to heavy ethanol consumption. However,  
6 alternative explanations should be explored following  
7 any positive finding. Please note that while PEth is  
8 considered relatively insensitive to incidental ethanol  
9 exposures, the possibility remains that an individual  
10 elevated PEth level may result from incidental or  
11 unintentional ethanol exposure." My question is, did  
12 any of the USDTL test results come with a similar  
13 disclaimer?

14 A. No, they do not.

15 Q. Now, I'm going to try to address in fairly  
16 quick succession the three next exhibits, starting with  
17 43A, Union Exhibit 43A. Now, could you identify this  
18 as a PEth test result that you received from LabCorp  
19 based on a blood sample that you provided on March  
20 23rd, 2017?

21 (Union Exhibit 43A marked for identification)

22 A. Yes it, is.

23 Q. Okay. If we could move to Union Exhibit 44A.  
24 Can you identify this as LabCorp test results for a  
25 blood based PEth test for which you provided the sample

1 on April 9th, 2017?

2 (Union Exhibit 44A marked for identification)

3 A. Yes, it is.

4 Q. And if we can move to Union Exhibit 45A. Can  
5 you identify this as a LabCorp PEth test result based  
6 on a blood sample that you provided on April 23rd,  
7 2017?

8 (Union Exhibit 45/45A marked for identification)

9 A. Yes, it is.

10 MR. SEHAM: Okay.

11 THE ARBITRATOR: Actually can we correct the record  
12 that the document shows 2018, Mr. Seham?

13 MR. SEHAM: Let's go back -- yes, it does, doesn't  
14 it?

15 THE ARBITRATOR: Yes.

16 BY MR. SEHAM:

17 Q. So we stand corrected on that. Thank you.  
18 And these were tests that you initiated, Ms. McDougal?

19 A. Yes, I -- I took these on my own. I wasn't  
20 asked to take these, but I needed them and felt like I  
21 needed to take the test to demonstrate that I had been  
22 abstaining from alcohol consumption during all of that  
23 time.

24 Q. Okay. Now, again, we'll move to Union  
25 Exhibit 5A. Again, I would like to address the board

1 by saying it would've been my intention if we were in  
2 person to have Union Exhibit 5A and 6A in front of you  
3 at the same time because of the similarity of  
4 collection dates. But Union Exhibit 5A is a test  
5 result that you received from USDTL based on a specimen  
6 collection for blood pinprick specimen provided on May  
7 4th, 2018; is that correct?

8 (Union Exhibit 5/5A marked for identification)

9 A. Yes -- yes.

10 Q. Okay. And if we could move to 6A. Now, this  
11 is for LabCorp. Did you provide a blood sample on the  
12 very same day as the collection indicated in the prior  
13 exhibit, Union Exhibit 5A?

14 (Union Exhibit 6/6A marked for identification)

15 A. Yes, I did.

16 Q. Okay. And -- and here the result was  
17 negative as opposed to the USDTL result being 34. Why  
18 did you provide samples on the same day for LabCorp and  
19 USDTL?

20 A. I had been asked to take a PEth test that day  
21 using a pinprick through USDTL. At this point, because  
22 of all of the false positives that I had received, I  
23 had zero confidence in the results that I would  
24 receive. I knew that the results should be negative.  
25 But again, having no confidence, I had the ability that

1 same day to go to a different lab and have my blood  
2 specimen processed through a different lab, which came  
3 back correctly. I had not been drinking alcohol again  
4 since mid-July 2017.

5 Q. Okay. If we could bring up Union Exhibit  
6 46A? Thank you. So you have before you a test result  
7 from Medtox Laboratory reporting a negative for ethyl  
8 glucuronide based on this collection of May 14th, 2018.  
9 Did you receive this test result in response to a urine  
10 specimen that you provided?

11 (Union Exhibit 46/46A marked for identification)

12 A. Yes, I did.

13 Q. Okay. And it appears towards the bottom  
14 after the results it provides alternative explanation  
15 should be explored for any positive finding. Was this  
16 sort of disclaimer ever present on any USDTL report?

17 A. No, it's not.

18 Q. Okay. Finally, in terms of documents, we'll  
19 be moving again, hopefully in quick succession to Union  
20 Exhibits 47A and 48A. So we can bring up 47A. Now,  
21 does 47A, which reflects a negative PEth test result,  
22 does that relate to a specimen that you provided on  
23 June 14th to USDTL?

24 (Union Exhibit 47/47A and 48/48A marked for  
25 identification)

1 A. Yes, it does.

2 Q. I want to point out the negative result to  
3 the board if we could move to the next Exhibit 48A.  
4 Now, this is collection madam, on the same day, June  
5 14th, 2018?

6 A. Yes.

7 Q. And the test result reflects a blood specimen  
8 through the pinprick method that you provided on that  
9 same date as Union Exhibit 47?

10 A. Yes, it does.

11 Q. Okay. And were these two results, based on a  
12 specimen you provided the same day, were they provided  
13 at different specimen drawing locations?

14 A. Yes. One of them was done at SurScan, one of  
15 them was done at Forensic DNA. So yes, I did go to two  
16 different places. They process through the same lab.

17 Q. Now, did you report your concerns about the  
18 accuracy of the USDTL PEth tests to the custody  
19 evaluator?

20 A. Yes, I did.

21 Q. And what was his response?

22 A. He, again, did not seem interested in hearing  
23 what I had to say. I felt like his mind had been made  
24 up. You know, he had indicated to me before that I  
25 didn't need to take anymore of these tests. That, yeah

1 I had already failed one, you know, he -- he had no  
2 confidence in my abstinence and I don't believe that he  
3 understood that I was taking tests same day or next day  
4 if I couldn't get in the same day to show that the  
5 tests were coming back incorrect with false positives  
6 from USDTL.

7 Q. Is the child custody dispute ongoing or has  
8 there been a final determination?

9 A. No, we have settled the case. We've settled  
10 -- I'm sorry. Go ahead.

11 Q. Was the settlement an unfavorable result in  
12 your mind?

13 A. Absolutely it was, you know, I -- I was -- I  
14 was confused and -- and, yeah, I just absolutely  
15 devastated by the false positives I was receiving and  
16 the fact that, you know, I was just watching the  
17 custody of my kids slip out through my hands through  
18 these false test results that I was receiving so, you  
19 know, as soon as I could we went to mediation and  
20 settled. It was unfavorable. I had to give up some  
21 custody of my kids and some other things just to settle  
22 the case.

23 Q. Are you testifying here voluntarily today?

24 A. Yes, I am.

25 Q. Are you receiving compensation of any kind

1 for your time?

2 A. No, no.

3 Q. Can you explain to us why you volunteered to  
4 testify today?

5 A. Yeah. My life has been severely negatively  
6 impacted by these false positive tests. My kids lives  
7 have been negatively impacted. I -- I believe that  
8 there are many other people out there whose lives have  
9 been negatively impacted by this test and the false  
10 positives that it gives. These tests are expensive.  
11 It's really difficult for, I'm sure some people to be  
12 able to afford to take all of these tests to prove the  
13 false positives. I was in a position then that I could  
14 take the test that I needed to to show that they were  
15 -- they were not accurate. However, it still  
16 negatively impacted my case. So I want to do  
17 everything I can possible to help anybody in a similar  
18 situation, because it -- it is difficult and life  
19 changing.

20 MR. SEHAM: Ms. McDougal, thank you very much for  
21 your time. The attorney for Delta may have some  
22 questions for you.

23 THE ARBITRATOR: Mr. Kassin?

24 MR. KASSIN: Could we give a few minutes, please?

25 THE ARBITRATOR: Absolutely.

1 MR. KASSIN: Just maybe 10 minutes. And we'll come  
2 back online.

3 THE ARBITRATOR: Okay. We are good.

4 MR. SEHAM: The request was for 10 minutes?

5 THE ARBITRATOR: 10 minutes.

6 MR. KASSIN: Okay. Thank you.

7 REMOTE TECH: I'm here and ready as well. It's the  
8 court reporter.

9 MR. SEHAM: We are here as well.

10 THE REPORTER: Arbitrator Burdette, are you  
11 speaking? We can't hear you.

12 THE ARBITRATOR: Sorry, I was muted. There we go.  
13 Okay. I was looking for Mr. Kasson, because I'd like  
14 to see him while he's questioning the witness. Okay,  
15 we got everybody now, looks like it.

16 MR. KASSIN: Think we do. Mr. Burdette, what --  
17 this is very similar to the situation with Mr.  
18 Stepanian and what we'd like to do is ask Mr. Seham or  
19 the witness if they could provide us the name of the  
20 court that this proceeding within this custody dispute,  
21 as well as the case number. And then I just had two  
22 clarification questions to ask the witness at this  
23 time, but we'd like to reserve the right to recall her  
24 after we have the opportunity to look at the court file  
25 and if we can get that information soon, we'll go get



1 the file. Try to get it today.

2 THE ARBITRATOR: Okay.

3 MR. SEHAM: I want to state an objection,  
4 Arbitrator Burdette.

5 THE ARBITRATOR: Okay.

6 MR. SEHAM: That this witness has submitted  
7 documentary evidence concerning samples provided, test  
8 results received. I would ask the company counsel  
9 explain the relevance of probing further into this  
10 individual's personal proceedings. What matters in  
11 terms of her testimony is that tests were taken on  
12 certain dates, sent to the -- or samples were provided  
13 on certain dates, provided to different laboratories  
14 and sometimes the same laboratory and produced  
15 different results. And there's nothing to be achieved  
16 by probing further into personal and very painful life  
17 issues. We elicited the minimum testimony in that  
18 regard in order to provide the context and explanation,  
19 but probing further is completely irrelevant in terms  
20 of the relevance of the documentary evidence.

21 MR. KASSIN: I think it's important to put the  
22 witness's testimony into a context and the context is  
23 what was going on in that court? I do have a couple of  
24 clarifying questions, only one or two for the witness  
25 to try to get a little bit of background on the

1 context. But I think the court records are public  
2 record, and we just need to know the name of the court  
3 and the court number and we'll take care of the rest of  
4 it from there. And we'll obviously, you know, what we  
5 report back to the system board, the arbitrator will be  
6 -- we'll assure that we'll be circumspect. And we need  
7 to understand the context. I mean, there's a lot of  
8 questions about context and I don't want to speculate,  
9 so I just need to know the facts.

10 MR. SEHAM: That's an explanation devoid of  
11 substance in my view. We need to know the context,  
12 because we need to know the context. Well, these are  
13 working people who've made themselves available and  
14 they should not be chilled from participating in these  
15 proceedings. And therefore, I want to restate my  
16 objection. I do not see how the prejudice to this  
17 individual, the invasion of her private life outweighs  
18 the relevance which is not yet been explained by the  
19 company. We'll await the arbitrators ruling.

20 THE ARBITRATOR: Mr. Kassin?

21 MR. KASSIN: I was just going to say we can just  
22 strike her testimony. I mean, we don't have the  
23 context, we don't understand why. I mean, here's an  
24 individual apparently from Dallas, Texas, Mr. Stepanian  
25 is from Dallas, Texas. And we have testing. We don't

1 know the beginning or the end of the story, and it's  
2 important to see the court file, I see no harm in that.  
3 And I know the arbitrator will make sure that we are  
4 circumspect in terms of if there's any reference to the  
5 court file.

6 THE ARBITRATOR: Okay. I'm going to sustain the  
7 objection at this point, because I mean, we have the  
8 test results. I don't know that the context in which  
9 they were taken, the tests were taken, has any further  
10 bearing on the results. The results are what they are.  
11 And I'm going to sustain the objection to requesting  
12 the court information.

13 MR. KASSIN: Okay. I do have a couple of questions  
14 for, Ms. McDougal.

15 THE ARBITRATOR: Okay.

16 CROSS EXAMINATION

17 BY MR. KASSIN:

18 Q. And one of them is you referred to the -- you  
19 recall the name of the custody evaluator and was that  
20 custody evaluator the judge in the case?

21 MR. SEHAM: Objection on the same basis we've  
22 stated before. I think the arbitrator's already ruled  
23 that this kind of probing and questioning is  
24 irrelevant.

25 MR. KASSIN: She testified about the custody

1 evaluator. We'd like to understand what the role of  
2 this individual was and was it the same role as the  
3 judge in the case.

4 THE ARBITRATOR: I will allow it only because she  
5 testified to it on direct, Mr. Kassin, but please let's  
6 move along.

7 MR. KASSIN: I understand.

8 THE WITNESS: Okay. So what is the question?

9 BY MR. KASSIN:

10 Q. The pending question was, do you recall the  
11 name of the custody evaluator and what was the role of  
12 that individual? Was it the judge?

13 A. His last name is Albritton, Dr. Albritton and  
14 no, he's not the judge. He was the custody evaluator.

15 Q. When you said doctor, is he a medical doctor?

16 A. He's a psychologist.

17 Q. Got you. How is it that you came to know  
18 about this case of a Delta pilot?

19 A. There are Internet forums that we've posted  
20 on to share our experience and to connect with other  
21 people who had similar experiences with this PEth test  
22 and USDTL.

23 MR. KASSIN: What I wanted to do is that, and you  
24 pointed this out in your direct. I noticed that there  
25 are multiple collection sites involved in all the

1 different exhibits. And if you could help us in, let's  
2 just run through the whole litany of the cases that are  
3 the Exhibits that Mr. Seham asked you about. We'll  
4 start with 39A. And I don't -- Mr. Seham, are you  
5 going to provide us with a version of the  
6 documentation?

7 MR. SEHAM: Sure. I think that's available through  
8 StoryCloud, but I can -- I can email that to you as  
9 well.

10 MR. KASSIN: Okay. If you would, please and will  
11 --

12 THE ARBITRATOR: Hold on -- hold on. Mr. Kassin,  
13 start over please -- start over, please.

14 MR. KASSIN: Okay. What I wanted to do is ask just  
15 questions about the collection sites for the different  
16 tests. I understand some of the tests were performed  
17 by USDTL and some were performed by Lab Corp, and I  
18 just wanted to make sure we understood the collection  
19 site process here. So I was going to start with Union  
20 Exhibit 39, which is what I have, and I understand  
21 there's an a version of this according to Mr. Seham,  
22 and you'll provide those to the arbitrator and the  
23 board members and the parties?

24 THE ARBITRATOR: It's up on the screen right now.

25 BY MR. KASSIN:

1 Q. Okay. Ms. McDougal, on this one 39, can you  
2 tell us which collection site was that? Was it  
3 the Forensic DNA and Drug Testing services?

4 A. Yes, That's Forensic DNA downtown Dallas.  
5 That's the finger prick PEth test done on the card.

6 Q. Okay. And is that the one that the court  
7 sends you to?

8 A. Yes. The custody evaluator insisted that I  
9 use his facility, which was the Forensic DNA. Any test  
10 he ordered me to take that was taken there.

11 Q. And then we'll go to Union Exhibit 40. I  
12 know you've got the A version, I only have the 40  
13 version, but I'll just refer to them by number. We'll  
14 note that there's a difference, and 40 is the same  
15 location the Forensic DNA and Drug Testing downtown  
16 Dallas?

17 A. Yes, same thing.

18 Q. And the next one was 41. And that's the same  
19 thing, that's Forensic DNA and Drug Testing Services?

20 A. Yes.

21 Q. Okay. And then I believe we go to 42 and we  
22 see the same pattern. The collection site is Forensic  
23 DNA and Drug Testing Services?

24 A. Yes.

25 Q. There was a jump back to Union Exhibit 3. So

1 we can go back there real quick. And that one on Union  
2 3 is also Forensic DNA and Drug Testing Services?

3 A. Yes.

4 Q. Okay. And all the ones we've done so far are  
5 the ones that the location that the court sent you to,  
6 correct?

7 A. Right. Some of those I did do on my own, but  
8 at that time that was the only place that I knew that  
9 gave the PEth test. I was not familiar with the test  
10 when all of this started. So I, you know, just  
11 naturally went back to the same place until I realized  
12 that there were different ways to collect the  
13 specimens, that there were different labs to test. So  
14 yeah, until I realized that I did go back to the same  
15 place over and over again.

16 Q. Thank you. Union Exhibit 4 and that is the  
17 LabCorp patient report. What was the collection site  
18 for that one?

19 A. That one if -- I believe it's called LabCorp,  
20 I mean it's a different facility, but I believe that  
21 the name on the door of the collection place is  
22 LabCorp.

23 Q. And then Union Exhibit 4A. We just did that,  
24 we covered that so that we're going back to Union  
25 Exhibit 40. Well, as long as we're here, let's just

1 make it easy and skip ahead to Union Exhibit 5 and that  
2 went back to the Forensic DNA and Drug Testing Service?

3 A. Yes.

4 Q. That's court ordered. Union Exhibit 6. At  
5 the top on that one it says, "Request A Test LTD,  
6 Brecksville, Ohio." Was that a collection site?

7 A. Yes. That's actually the name of the  
8 company. When you go onto the website to find a place  
9 to take the PEth test, that was the place that I found.  
10 The website is Request A Test, and then it goes through  
11 LabCorp.

12 Q. What was the location of the facility that  
13 you went to? You didn't go to Ohio, is what I'm  
14 getting at.

15 A. Oh, no -- no -- no -- no -- no. There was a  
16 collection facility in Plano and then there's a  
17 collection facility, I believe in either Allen or  
18 McKinney, and I went to one or the other of those for  
19 these tests.

20 Q. And all those are in the Dallas area?

21 A. Yes. All, yes.

22 Q. Let's go back up to the 40s. Union Exhibit  
23 44. Do you recall where you went for that collection  
24 site, Union 44?

25 A. It would either be in Plano or in Allen,



1 McKinney, but no, I don't know if it doesn't say on  
2 here. I don't remember.

3 Q. Okay. Union Exhibit 45. Same answer, you  
4 know?

5 A. If it does not say on this sheet then I don't  
6 know, no.

7 Q. Union Exhibit 46, looks like the Medtox test  
8 was collected for Forensic DNA and Drug Testing  
9 Services again?

10 A. Yes.

11 Q. And then we're almost done. Union Exhibit  
12 47, "Report to David Leonard SurScan Inc. in Plano,  
13 Texas?

14 A. Yes -- yes. This was under SurScan, which is  
15 a different collection facility that uses USDTL.

16 Q. And then Union Exhibit 48. And that's back  
17 to the Dallas site for Forensic DNA and Drug Testing  
18 Services?

19 A. Yes.

20 MR. KASSIN: Okay. Mr. Burdette, I just have one  
21 short minute here. Thank you.

22 THE ARBITRATOR: Sure

23 MR. KASSIN: Arbitrator Burdette, I just have one  
24 final question.

25 THE ARBITRATOR: Sure.

1 BY MR. KASSIN:

2 Q. And you had mentioned that you had kind of  
3 connected through a Internet forum. Do you recall the  
4 forum that you connected with Mr. Danford on?

5 A. No, I don't remember the name of it.

6 MR. KASSIN: Okay. Arbitrator Burdette, that's all  
7 we have on cross.

8 THE ARBITRATOR: Okay. Anything on redirect, Mr.  
9 Seham?

10 MR. SEHAM: No, Arbitrator Burdette. No redirect.

11 THE ARBITRATOR: Okay. With that, Ms. McDougal,  
12 you may be excused. Thank you very much for your time.

13 MR. SEHAM: Thank you.

14 THE WITNESS: Thanks.

15 MR. SEHAM: Arbitrator Burdette, if we could take  
16 just a five-minute break and we can proceed with our  
17 next witness who will be the grievant, Mr. Danford.

18 THE ARBITRATOR: Okay. Five-minutes break. Go off  
19 the record.

20 MR. KASSIN: Let me ask, just have a luncheon  
21 question. Do we have an esti -- I mean, I'm just  
22 thinking ahead. Do we have an estimate on how long his  
23 direct might be, Mr. Seham?

24 MR. SEHAM: My -- my -- my best guess is two hours.

25 MR. KASSIN: Okay.

1 THE ARBITRATOR: Okay. With that being said, do  
2 you guys want to take a lunch break now then or before  
3 we start with Mr. Danford?

4 MR. SEHAM: I'll defer to counsel. Mr. Kassin,  
5 what would you prefer?

6 MR. KASSIN: I think if we -- probably we need a  
7 short break to organize things for cross, so maybe we  
8 can take our lunch break when you finish with the  
9 direct.

10 THE ARBITRATOR: Okay.

11 MR. SEHAM: Okay. Yeah. If -- if -- if I can  
12 endure that long. I'm halfway to hypoglycemic so. But  
13 we'll start in five minutes.

14 THE ARBITRATOR: Yes, we'll be back in five  
15 minutes.

16 MR. KASSIN: And Mr. Seham, if you just pick a time  
17 that's convenient for you to take a break in the middle  
18 of his direct and we'll just go from there.

19 MR. SEHAM: Okay. Well, see how loud my tummy is  
20 rumbling.

21 THE ARBITRATOR: Okay.

22 MR. KASSIN: Got it. Thank you.

23 THE ARBITRATOR: Thank you.

24 MR. SEHAM: Arbitrator Burdette, if you'll swear  
25 him in we'll commence the questioning.

1 THE ARBITRATOR: Mr. Danford, would you raise your  
2 right hand, please. Do you swear or affirm that the  
3 testimony you're about to give in this case will be the  
4 truth, the whole truth, and nothing but the truth?

5 THE WITNESS: I do.

6 THE ARBITRATOR: Thank you very much.

7 MICHAEL DANFORD,  
8 having been first duly sworn, testifies as follows:

9 DIRECT EXAMINATION

10 BY MR. SEHAM:

11 Q. Good morning, Mr. Danford.

12 A. Good morning.

13 Q. All right. Can you please give us a brief  
14 overview of your aviation career?

15 A. When I was seven, I started building control  
16 and model airplanes, a hobby I -- I still enjoy to this  
17 day. The age of 10 I took my first flying lesson. I  
18 had to stay out of school and go fly over to a small  
19 country school house that I attended at the time. At  
20 the age of 15, I started regular flying lessons. So I  
21 could solo on my 16th birthday, which I did and that  
22 was in 1984, I didn't fly again substantively really, I  
23 flew a little bit after that, but until after college I  
24 got accepted into Navy Flight School in 1990. I flew  
25 T-34s, got advanced strike T2s and A4s. I went to the

1 fleet through S-3 Vikings for a fleet tour on the west  
2 coast, then came back as an instructor to Meridian,  
3 Mississippi where I flew TA-4Js again, and then got out  
4 of the Navy in 1999, mid 1999. I went to work for  
5 American Eagle for a short time. I got hired by  
6 American. I didn't fly for them. I was only there for  
7 about a month and then got hired by Delta and I was  
8 there for the last 18 years.

9 Q. And could you tell us in terms of training at  
10 Delta Airlines, how many training programs or events  
11 did you go through?

12 A. I got hired in basically 2000, December 29,  
13 1999 and 911, kind of set a chain of events in motion.  
14 I started as a 727 engineer. In less than a year I got  
15 L 1011 engineer. I got displaced from that went to the  
16 right seat of the 727. Got displaced from that, I went  
17 to the right seat of the MD-88. Then upgraded to  
18 757/767 domestic. Did that for about a year, I guess.  
19 I got displaced off of that. Went back to being a --  
20 or maybe before that. Was a 727 engineer again, went  
21 back to the MD-88 again. Then I get displaced  
22 eventually from that even and went to the right seat of  
23 the 737 for exactly one trip. Got furloughed, came  
24 back to the MD-88. I did the 757/767 again  
25 International. Then got the Airbus A330 on the right

1 seat and then I got upgraded to captain on the left  
2 seat of the MD-88 for a couple of years. And then for  
3 schedules went back to the right seat of the Airbus  
4 A330.

5 Q. So if you -- if you -- if you can, in terms  
6 of totaling all that up, how many training programs did  
7 you go through at Delta?

8 A. I think I've been to 14 full schools, maybe  
9 15 more of those that I have recurrence.

10 Q. And can you tell us the different aircraft  
11 for which you've been rated?

12 A. I have a regular type rating in DC-9s, which  
13 is MD-80, Airbus A330 and the Boeing 757/67 I -- I  
14 would have, but they didn't do them in those days  
15 second command qualifications for 727/737s and Saab  
16 340s.

17 Q. Of all the 14 or so training programs that  
18 you went through, did you ever fail a training program  
19 or a check rack?

20 A. No, sir.

21 Q. You broke up for a second.

22 A. No, sir, I did not.

23 Q. Okay. And were you ever -- prior to your  
24 termination that is the subject of this arbitration  
25 process. Prior to that, were you ever disciplined by

1 Delta Airlines in any manner?

2 A. No, sir, I was not.

3 Q. Is flying and being a pilot important to you?

4 A. It is. Very much. Of course.

5 Q. And are you currently licensed to fly?

6 A. Yes, sir, I am.

7 Q. And you have the -- you have your full  
8 medical rating?

9 A. Yes, sir. I have a first-class medical and I  
10 hold an ATP and a certified flight instructor and  
11 certified flight instructor instrument ratings.

12 Q. Did there come a time when you became a  
13 participant in Delta's alcohol recovery program?

14 A. Yes, sir.

15 Q. Were you a volunteer under the terms of that  
16 program?

17 A. Yes, sir. I was.

18 Q. Okay. Were you experiencing any health issue  
19 that caused you to volunteer for the program?

20 A. No, sir, I did not.

21 Q. But what prompted you -- what was the event  
22 underlying your participation in the program?

23 A. Very early 2017, I -- I got an OWI in  
24 Wisconsin. That's a DWI or a DUI. I drove a car while  
25 drinking.

1 Q. Okay. Have you ever been diagnosed with a  
2 physical health issue related to alcohol consumption?

3 A. I'm not sure.

4 Q. With respect to the OWI or DWI or DUI, were  
5 you required to appear in court?

6 A. No, sir, I was not.

7 Q. Okay. Did you report the incident, the DUI  
8 incident to anyone?

9 A. I immediately reported it to my AME and then  
10 I followed the FAA guidelines for reporting it in the  
11 way they wanted it. It's kind of a two-step process  
12 and require certain timing, but I did all that.

13 Q. Okay. Did any issues arise with respect to  
14 your medical renewal?

15 A. When I told my AME -- I just got my medical,  
16 I think so it was another six months that bill was  
17 being renewed, he said we do not need to do anything  
18 until then which surprised me, but that's what he said  
19 and that's what we did. When he went to renew it by  
20 then he had found out the BAC and he said because of  
21 that, he could not renew it. He would have to defer to  
22 a -- a regional level and he was unable to get in touch  
23 with them in time. So -- so that's what prompted me  
24 calling the union ad start to figure out what I needed  
25 to do.



1 Q. So at some point you got ALPA, the union  
2 involved?

3 A. Yes, sir. It was roughly six months. It was  
4 -- it would've been June, early June or mid June, maybe  
5 late June of 17. Yes, sir.

6 Q. And what advice, if any, did you receive from  
7 ALPA?

8 A. They told me it was -- it was late in the  
9 week. I think it was a Friday. And they said, well,  
10 it is completely okay to call out sick at this point.  
11 I had a -- a trip starting in a few days. So they said  
12 call out sick and call us back on Monday. And we will  
13 -- we'll advise you what to do then.

14 Q. And to who -- did you speak to someone on  
15 Monday?

16 A. I did. They give me a couple of numbers and  
17 they're both HIMS related. At the time, I did not know  
18 what HIM stood for or DEPAC, quite frankly, and the  
19 names they gave me were Fred Beardsley and Scott Monjoe  
20 and I -- and I had both their numbers and ultimately I  
21 spoke with both of them.

22 Q. Okay. Did Mr. Monjoe give you any specific  
23 advice?

24 A. He said, and I think I did speak with him on  
25 Monday or Tuesday or very, very early. He said because

1 of the blood alcohol content, I would need -- it was a  
2 rather intensive process I was going to need to go  
3 through and -- and he told me what to do and -- and  
4 that's -- and I just followed his advice.

5 Q. Okay. Did -- did -- did he refer you to  
6 Talbott Recovery campus?

7 A. He did. He said I would go there to attend  
8 an inpatient rehab program. And -- and we figured a  
9 time for me to go there and do all of that.

10 Q. Okay. So you did intend -- did attend a  
11 Talbott program as recommended?

12 A. Yes, sir, I did.

13 Q. And what did the program consist of?

14 A. It started with an evaluation and then a  
15 recommendation to attend, and -- and that was it. So  
16 you show up, just planning to stay for the recommended  
17 35 or 40 days.

18 Q. So the duration of it was 35 to 40 days?

19 A. Yes, sir. My case was 42.

20 MR. SEHAM: Okay. If we could bring up Union  
21 Exhibit 63. So we don't have to go through the  
22 entirety of this document.

23 THE ARBITRATOR: Hold on. Hold on. You're  
24 breaking up, Mr. Seham, start over.

25 MR. SEHAM: Okay. Yeah.

1 THE ARBITRATOR: You're good now.

2 BY MR. SEHAM:

3 Q. Okay. We'll see. The problem is to address  
4 the breakup, I reduce the volume and then I can't hear  
5 anyone else. So I may have to go back-and-forth, but  
6 please tell me if I'm breaking up, I appear to know a  
7 way to fix that, but that brings its own issues. So  
8 looking at Union Exhibit 63, I don't mean to go through  
9 it line by line just to ask you, did Talbott provide  
10 you with this document upon your completion of the  
11 Talbott program?

12 A. Well, actually they did not present that to  
13 me, I found that in my medical records after the fact,  
14 honestly, but that is the comprehensive treatment  
15 summary as it says, and that's where they memorialize,  
16 if you will, in a relatively short document, you know,  
17 your stay, what they diagnosed and how they treated  
18 you, and how they perceived your acceptance of that  
19 treatment.

20 Q. Okay. And where it refers to date of  
21 discharge in the second line is 9/14/2017, is that when  
22 you completed your program at Talbott?

23 A. Yes, sir. It is.

24 Q. Okay. And how would you describe your  
25 experience at Talbott?

1           A. It was awful for me. Some people find it  
2 life changing and great, and some people don't, but for  
3 me it was difficult. They didn't explain rules well,  
4 and most pilots like to have a set of rules. They  
5 would get onto you for violating rules you didn't know  
6 about. So you'd ask about rules to avoid that sort of  
7 confrontation in the future, and they'd tell you to  
8 quit asking questions. They ruined me with -- I had  
9 read on the website about the place before I went and  
10 it said it catered to professionals, and I thought that  
11 was good. Mostly doctors and lawyers and veterinarians  
12 and pilots. But my roommate happened to be a convicted  
13 felon. It taught me an awful lot about how to rob  
14 convenience stores.

15           Q. When you say that it's because he told you  
16 about robbing convenience stores?

17           A. Oh, yeah. He had lots of good advice about  
18 how to break up spark plugs because they're heavy and  
19 put them in socks so you could beat the clerks into  
20 submission. And -- and -- and it was hard. I mean, he  
21 -- he showed up in the midst of detoxing and was very  
22 discoherent, would not participate. It's all about  
23 group participation, that's about all you do and he  
24 would not participate. They just simply didn't make  
25 him participate and he was my roommate, you're expected

1 to kind of do a buddy system if you will and it was  
2 extremely distracting to say the least.

3 Q. How would you describe his language in terms  
4 of his discussions with you?

5 A. I wasn't sure he spoke English when he showed  
6 up. Quite frankly, he was so discoherent and  
7 extremely racist, extremely profane. I hesitate to  
8 really characterize in detail how he spoke.

9 Q. Did you ask for a change in roommates?

10 A. I did. I went to my -- my case manager, that  
11 was Sam McKennas who I believe wrote that document  
12 that's on the screen. And she said, well, we'll  
13 confront him right now and went and got him and that's  
14 what we did. And he gave me quite a look. He squared  
15 away on me later. I just kind of employed my life  
16 skills to de-escalate that situation and get along with  
17 him for the rest of the time without -- without  
18 bringing that up again because I was afraid of the  
19 retaliation I would either get from him or from  
20 Talbott. There was other incidents with lots of other  
21 patients with this guy. The very first thing he did  
22 when he showed up there was call a guy a racist for  
23 asking him to sit in the back of a bus. That was the  
24 rule that the men sat in the back and the women sat in  
25 the front. And he called the guy racist. That guy was

1 threatened to be discharged against medical advice and  
2 lose his medical and never fly again. Later, that guy,  
3 my roommate because he didn't get to sit where he  
4 wanted inside my truck that I provided to provide  
5 transportation for the place, called a guy a nigger.  
6 And nothing was ever done. They just let it slide.

7 Q. And did he confront you verbally after you  
8 reported his misconduct to Talbott?

9 A. Oh, yeah -- yeah. He immediately took me  
10 aside, got a defensive posture with me and asked me why  
11 the fuck, I went to that bitch. I just started  
12 honestly dancing around it to de-escalate the situation  
13 which I managed to do without getting in a physical  
14 confrontation with him.

15 Q. Were you required to continue bunking with  
16 this individual?

17 A. Yes, sir, I was. I was told to fix his  
18 problems by Sam McKennas.

19 Q. How did you deal with that? Living with  
20 someone like this? Were there any special arrangements  
21 you tried to enter into?

22 A. The other roommates just graduated out of the  
23 room, and we were just left us two. There was normally  
24 four, they just didn't put anybody else back in there  
25 with us. And he would either sleep on the couch or I

1 would and the other guy got the bedroom and I would --  
2 just to stay away from each other as much as possible  
3 and try to prevent future conflicts.

4 Q. Can you describe the neighborhood where  
5 Talbott is located?

6 A. Not so flattering. Apartment complex down  
7 south of Atlanta, not too far from the airport. I  
8 remember going to another group's room, one evening. I  
9 came, I said man, there must be a skunk nearby, and  
10 they all looked at me and start laughing and clearly  
11 the joke was on me. I said, what's up? And they said  
12 that's pot, Mike. Those guys sitting outside the door  
13 are smoking a lot of pot, I'm like oh. That was kind  
14 of normal. Most of us that lived in the area -- I was  
15 only a couple of hours away, I brought my own truck so  
16 that we could get around. They didn't have enough of  
17 their own indigenous or organic transportation to move  
18 us around. Many people had their vehicles broken into.  
19 I just left mine open, that way, I wouldn't get a  
20 window broken. They could go in and look around and  
21 find there was nothing to take.

22 Q. Was there any signs of crime in the immediate  
23 vicinity in terms of cars?

24 A. Well, the other patients at Talbott got their  
25 cars broken into while we were there. It was lots of

1 drugs and related activity and gang related activity in  
2 the area.

3 Q. In terms of the professional staff during  
4 your evaluation or initial diagnosis process, did you  
5 consider yourself to have been treated with respect?

6 A. It started off with a quote, unquote  
7 evaluation. And about halfway through that first day,  
8 I met with a gentleman, Dr. Bedi, B-E-D-I. He was the  
9 medical director of Talbott at the time, probably he  
10 still is. And was appointed as my attending physician.  
11 After about 15 minutes of interviewing me, just about  
12 my path, my drinking history which all of course,  
13 completely appropriate. He just said, well Mike, many  
14 times it's hard for me to make a decision but your case  
15 is very easy. You have alcohol use disorder severe,  
16 and I'm going to recommend you go to treatment. Well,  
17 I knew I was going to go to treatment, but I was  
18 surprised that it was characterized as severe. I  
19 thought that man, other people must be really in bad  
20 shape. And he said, but and I think the surprise on my  
21 face. I was just surprised it was characterized that  
22 way. You said well, you are entitled to a second  
23 opinion and that will come from the doctor next door  
24 should you elect to get that. That doctor works for  
25 me. And quite frankly, Mike his opinion doesn't



1 matter. I'm like, okay, I accept your -- your wrong  
2 diagnosis then. I would like to stay for treatment.

3 Q. How soon after the completion of the Talbott  
4 program did you get your FAA medical clearance back?

5 A. They don't apply for the medical until about  
6 a three-month period that you jumped through a bunch of  
7 hoops, which I did successfully. I had no problems.  
8 And they applied for the medical and it usually takes  
9 about eight to 11 weeks and I think it took about 12  
10 weeks for my medical to come back so I was very  
11 pleased. It was a very streamlined process, which is  
12 what it was designed to be.

13 Q. Could we bring up Union Exhibit 64? And did  
14 you receive this letter from the FAA?

15 THE ARBITRATOR: Hold on, Mr. Seham.

16 MR. SEHAM: Sorry?

17 A. I did receive that letter. Yes, sir.

18 MR. SEHAM: I'm sorry.

19 THE ARBITRATOR: Hold on -- hold on. Is it on my  
20 end or is everybody having trouble?

21 MR. SEHAM: With what?

22 THE REPORTER: I can hear him.

23 THE ARBITRATOR: Candice?

24 THE REPORTER: Yes, Arbitrator Burdette. This is  
25 the court reporter. I can hear attorney Seham fine. I

1 haven't had him break up yet, so I'm thinking it's on  
2 your end.

3 THE ARBITRATOR: Okay.

4 MR. SEHAM: You know what. It seems to -- the  
5 prior occasion on when it happened also coincided with  
6 putting up an exhibit.

7 THE REPORTER: Yeah.

8 MR. SEHAM: I don't know if that can be related.  
9 So what I'll do is when exhibits are posted, I might  
10 pause a few seconds.

11 THE ARBITRATOR: Good idea.

12 MR. SEHAM: Both for dramatic effect and to improve  
13 the auditory experience.

14 THE ARBITRATOR: Okay. So if Mr. Danford answered  
15 a question I did not catch it.

16 BY MR. SEHAM:

17 Q. We'll backtrack. That's fine. This letter  
18 dated February 26th, 2018 from the FAA shortly after  
19 that date?

20 A. Yes. That is the letter I received from the  
21 FAA.

22 Q. Now I see the subject line reads  
23 authorization for special issuance of an airman medical  
24 certificate. If I could ask the administrator to  
25 scroll down to the last page of the document. Is that

1 the medical -- it's sideways. But I just want you to  
2 identify the -- thank you. Is that the medical  
3 certificate that was issued to you at this time?

4 A. Yes, sir, it was.

5 Q. Okay. When did you return to flying for  
6 Delta Airlines?

7 A. I got that in February and reported, of  
8 course, right away and they scheduled me for training  
9 within a couple of weeks and within a couple week --  
10 and it was only four days, I think my training. And  
11 then a week or two after that I did my first trip.  
12 What they call initial operating experience, IOP.

13 Q. And --

14 A. IO -- IO -- IOE, I'm sorry.

15 Q. And to the administrator, if you could take  
16 that document down. I think I can see more people when  
17 you bring it down. Can you describe your first three  
18 trips after your return to duty?

19 A. Yes. They were -- I was on an Airbus A330  
20 out of Atlanta. They were standard three-day Europe  
21 trips. I think two were to England, one was to Paris.

22 Q. Okay. And were there any flight incidents  
23 during this trip?

24 A. No, sir.

25 Q. Were there any issues with your fellow crew

1 members?

2 A. No, sir.

3 Q. Were there any complaints from management  
4 representatives at Delta concerning your performance?

5 A. No, sir.

6 Q. Now, what happened after the last of these  
7 three trips?

8 A. Oh, I thought somebody had said something.  
9 No. After those three trips, I had a little bit of a  
10 break and -- and I got a call for a random screening on  
11 -- on May 1st.

12 Q. Okay. And from whom did you receive this  
13 call?

14 A. From -- from Choice Labs. My point of  
15 contact at Choice Labs was, I guess the case manager  
16 was Michele Gable and she owns the company. So you  
17 would get a -- a text message from her by about 6:00 in  
18 the morning and you are expected to screen that day.

19 Q. Okay. And so on May 1, you reported to a  
20 collection site?

21 A. I did, sir.

22 Q. Okay. And where was that collection site  
23 located?

24 A. It was near my girlfriend's home in Atlanta,  
25 up in Marietta, a place called Any Lab Test Now on

1 lower Roswell Road, but I believe kind -- kind of in  
2 the middle Marietta area.

3 Q. Okay. And can you identify the -- actually,  
4 I'll ask the administrator to bring up Union Exhibit  
5 65. If we could briefly scroll down to the bottom of  
6 this document, I think there should be a -- okay, yes.  
7 I'm going to make a note to the board here that as  
8 these both in Part 40 testing and apparently in this  
9 programs testing five part forms are used. The first  
10 page goes to the laboratory. The last page is what the  
11 donor gets. So in some of these exhibits, the -- the  
12 -- the print on the final page, the donor page, is  
13 fairly faint. And what we've done is we've paired  
14 these, the collection receipts with the underlying lab  
15 page. Again, the lab page being the top page, the  
16 donor copy being the last page. So with that, by way  
17 of an explanation, if you could scroll back to the top  
18 of this document. And the writing is very faint, but  
19 in terms of the numbers under the barcode, can you  
20 confirm that this is what you were provided with in  
21 terms of your collection receipt on May 1, 2018?

22 (Union Exhibit 65 marked for identification)

23 A. Yes, sir. That is what -- what we call a  
24 donor collection copy. And when I was with Delta in  
25 this program, they would give us these five part

1 triplicate, you know, triplicate literal carbon papers  
2 for forms. And -- and I have the original and verified  
3 that is the correct page.

4 Q. Okay. And then back to the second page, and  
5 in terms of comparison of the barcode number, and I  
6 probably should have done that beforehand, can you go  
7 to the top, and note the end of the -- yeah. Thank  
8 you. Yeah. At the very top, please. I think there.  
9 There we go. We note that there's a barcode and a  
10 number ending with a specimen ID number 2382. And if  
11 we can go down to the second page, which is the  
12 laboratory copy. Okay. And note that the specimen ID  
13 numbers 2382. Mr. Danford, can you confirm that these  
14 two documents correlate to the same specimen collection  
15 on May 1?

16 A. Yes, sir. They do.

17 Q. Okay. So what type of specimen was obtained  
18 from you on May 1? We use the term matrix and then to  
19 distinguish between hair, or toenails, or blood, or  
20 urine. So what type of specimen or matrix came from  
21 you on May 1?

22 A. Urine. It was a urine sample.

23 Q. Okay. And could you please describe the  
24 collection process to provide the specimen?

25 A. You check in with the gal at the desk at a

1 collection facility in a strip mall basically. She  
2 confirms your ID, you're presented with this form, fill  
3 it out. When it's your turn, you go back with her in a  
4 more private area, you select a kit off a shelf. And  
5 get a large cup, a couple of small cups, chain of  
6 custody form. And then you provide the sample.

7 Q. Well, let's go back to the beginning of that.  
8 When you were initially provided with a cup into which  
9 you urinated, was that cup wrapped in plastic or was  
10 that exposed to the elements?

11 A. It -- it has a peel top, similar to a yogurt  
12 container. So it's sealed with the contents inside.

13 Q. And you provided urine in that cup?

14 A. Yes, sir.

15 Q. And when you -- after urinating into that cup  
16 that you provided -- did you provide that cup to the  
17 specimen collector?

18 A. I did.

19 Q. And what did he or she do with that sample  
20 that you provided?

21 A. Inside that cup are a couple of smaller  
22 containers, they divided it into two smaller  
23 containers.

24 Q. Okay. So I imagine she remained back with  
25 the two smaller specimen bottles while you urinated

1 into the collection container; is that right?

2 A. Yes, sir. Yes, sir. Those are unmonitored  
3 collection, so I -- I go into a room and -- and as, you  
4 know, tamper protocols in place and then you provide  
5 the cup back to her, yes.

6 Q. Okay. And the two smaller specimen bottles,  
7 did they remain sealed until you came back with the  
8 urine in your collection container?

9 A. Yes, sir. As far as I know.

10 Q. Okay. Can you describe the condition of your  
11 urine when you provided it on May 1?

12 A. Well -- well, there was always lots of talk  
13 about not providing a dilute sample, so it -- is -- is  
14 part of the briefing process in monthly meetings. And  
15 so you just kind of always make a note of it. You're  
16 always kind of scared of that. And I just noticed that  
17 day that my urine was extremely dark because I was -- I  
18 was happy and like good. I won't want to have any  
19 problems with the diluted sample. And the collector  
20 even made a note, she figured I must have been fairly  
21 dehydrated to have such as a dark sample.

22 Q. Yeah. And were you dehydrated at that time?

23 A. Yes, sir.

24 Q. If we could take down -- I'm going to ask the  
25 moderator to take down that exhibit again so I can see



1 more of the gallery. Where you advised by anyone why  
2 your specimen, why the urine that you provided in the  
3 collection cup was split into two separate bottles?

4 A. We were again told at these briefings where  
5 they explained the monitoring process. That it was --  
6 it was kind of a luxury to have a split collection  
7 because if there was a problem, there was a second  
8 sample that can be verified.

9 Q. And did you ever have any discussion along  
10 those lines with Michele Gable?

11 A. I mean, she's the one who briefed us and told  
12 us about that, yes.

13 Q. Okay. In the context of FAA mandated urine  
14 based testing for drugs, are you familiar with the  
15 effect of a split sample negative on an original  
16 positive test result?

17 A. It was always my understanding that that is a  
18 case where it come back positive and they automatically  
19 check the second sample and comes back negative that  
20 they would then cancel the test.

21 Q. Okay. How were you first notified of the  
22 test results for the May 1, urine collection?

23 A. I -- I believe it was a text. It was from  
24 Michele Gable and it might have been a phone call,  
25 about 90 percent sure it was just a text message saying

1 that there was a problem with that test and -- and, you  
2 know, and we'd all heard about that it was not  
3 completely uncommon and she needed me to do another  
4 test.

5 Q. Did she at any point explain what the problem  
6 was?

7 A. She said that -- did someone else speak?

8 Q. No.

9 A. Okay. She said that the test had come back  
10 positive for one of the markers and that I needed to  
11 provide a second sample.

12 Q. Did she provide any characterization of the  
13 overall result?

14 A. She said it was not a true positive, that I  
15 shouldn't worry about it and that I would be doing a --  
16 a blood based PEth test next.

17 Q. Okay. Now, if the facilitator could put up  
18 the Union Exhibit 66. Can you identify Union 66, Mr.  
19 Danford, as an email thread between you and Ms. Gable?

20 (Union Exhibit 66 marked for identification)

21 A. I cannot.

22 Q. Okay. Now, if you could locate for us in  
23 Union 66, there's a point here where she refers to the  
24 EtG result as being not considered a true positive  
25 because the EtS was negative.

1           A. Might need to scroll down a little bit. She  
2 had called it a split test then. And because of my  
3 general knowledge of what a split test was, I assumed  
4 that the one bottle tested positive and the other  
5 negative and she said no. There's actually two things  
6 we're testing for. We'd always known it as an EtG  
7 test, but apparently they just also for EtS. And  
8 apparently the EtG was just barely positive at a level  
9 that was very low and she told us it was low and  
10 created nuisances and that the EtS negative. And --  
11 and that's why I asked if that second bottle was  
12 tested. And she said no, that -- that they only test  
13 the one bottle ever. So it -- it -- it was kind of  
14 confusing to me.

15           Q. Well, let's break that down. I think the  
16 moderator helped us find it if it's four lines up from  
17 the bottom of the page that's currently framed on the  
18 screen. Don't change it.

19           A. I see it there.

20           Q. It's five lines up. But where it says, "This  
21 is not considered a true positive because the EtS was  
22 negative." Did she ever recant or withdraw that  
23 characterization of the test result?

24           A. She did not.

25           Q. Okay. Okay. And if we could keep scrolling

1 down. I'm sorry. It might've been up. It might've  
2 been up. Let's see. And so yes, that's perfect. That  
3 what I'm referring to here is you talked about the  
4 discussion respect to your split tests. You could see  
5 towards the bottom of the page under the date May 9th,  
6 where it says could I get the results of the split test  
7 for my records. That's a request that you submitted to  
8 Ms. Gable?

9 A. Yes, that is correct. I wanted to see both  
10 of them. I wanted all the information I could get and  
11 so I asked her for that and that's where she told me  
12 that the split is not tested.

13 Q. Okay. Were you ever offered the opportunity  
14 to have the second bottle tested?

15 A. I was not.

16 Q. And did you ask to have the second bottle  
17 tested?

18 A. Yes, sir. I did.

19 Q. Whom did you ask?

20 A. Everybody in the world. I asked Michele.  
21 Eventually I talked to Harry Miller and I asked him and  
22 those are the primary ones, but I -- I asked everybody.

23 Q. And what was the response?

24 A. It was always no.

25 Q. Okay. So to the best of your knowledge, was

1 any split sample test ever conducted for either the EtG  
2 or EtS tests originating from your May 1 collection?

3 A. No, sir. Not that I can tell.

4 Q. Did you receive any further directive from  
5 Michele Gable as to how to proceed with a blood test?

6 A. As she said, she asked me where I would like  
7 to go for the test. I told her the same location that  
8 -- and that she could -- she said she would have to get  
9 them the materials. Apparently, they don't carry those  
10 in stock. So was in town, she got them to him I  
11 believe that day. I spoke with her morning and I went  
12 that afternoon and -- and tested.

13 Q. Did you have any discussion with -- I'm  
14 sorry. Did she make any comment, Ms. Gable, concerning  
15 the relative importance of the blood based PEth test in  
16 relation to the urine based EtG and EtS tests?

17 A. Yes, sir. She'd called it abnormal and it  
18 wasn't a true positive and that this kind of thinking  
19 caused problems with the FAA. So to protect me from  
20 the AA -- or from the FAA worrying about this, they  
21 would just administer a PEth test and when it came back  
22 negative, they would not report the -- the EtG, EtS  
23 test and they would just report the PEth test negative  
24 and -- and nothing would happen. It would be no  
25 official action whatsoever.

1 Q. Did you have any discussion with Michele  
2 Gable concerning how the collection facility would  
3 obtain the collection materials for the PEth test?

4 A. She said she would get them to them and --  
5 and apparently she did.

6 Q. Do you know who Captain Harry Miller is?

7 A. Yes, sir, I do.

8 Q. Okay. What position did he hold during this  
9 period of time?

10 A. A pilot in Atlanta. He was also the one who  
11 is trained to do the monthly HIMS meetings with all the  
12 Atlanta based HIMS participants at Delta.

13 Q. Okay. And I'm not sure -- for me you may  
14 have broken up for a millisecond. He was a chief pilot  
15 at that time?

16 A. Yes.

17 Q. Okay. And did you have any discussions with  
18 him in May of 2018 concerning the EtS and EtG tests?

19 A. Yes. I was notified of the result of the  
20 EtG, EtS test, I think on May 9th, it was a Tuesday.  
21 And I'd spoken with Michele and I -- and I did the --  
22 the PEth test. The next day was what is referred to in  
23 this program is big Wednesday, the second Wednesday of  
24 every month is when they have a large group meeting  
25 with all the HIMS participants to satisfy the FAA

1 requirement to meet with the chief pilot once a month.  
2 And so I went to that meeting and like I always did and  
3 sought out Harry really quickly. And he said, Mike, I  
4 heard about your test. Don't worry, this is not  
5 uncommon. And when we -- but, you know, we're going to  
6 have you not fly, which is what I was going to do  
7 anyway, until we get the result of the PEth test and  
8 you should be good to go.

9 Q. Okay. Did you comply with the request to  
10 provide a blood sample?

11 A. I did, sir.

12 Q. Okay. On what day did that collection of the  
13 blood sample take place?

14 A. The 9th of May.

15 Q. And where did that collection take place?

16 A. Coincidentally was the same place that I  
17 provided the EtG or the urine sample on 1st of May.

18 Q. And was the same -- was it the same specimen  
19 collector as the May 1 urine collection?

20 A. No, it was not. Just by coincidence again.

21 Q. And can you describe how the process began?

22 A. It was a very similar check-in process and  
23 when it was my turn, we went through a -- a small,  
24 little private room and -- and that's where I noticed  
25 she had some -- I wasn't really paying attention. I

1 was sitting down in a chair rolling up my sleeve. I  
2 thought they were taking blood. And -- and it turns  
3 out it was a finger prick type of thing where they  
4 prick your finger as I remember when I was a kid. And  
5 you drip the blood onto a card and they submit that.

6 Q. Okay. Did the collector prepare your finger  
7 in any manner prior to applying the lancet for the  
8 finger prick?

9 A. Used a similar -- a little moist towelette, I  
10 guess the kind of things we'd clean our oxygen mask  
11 with in a small pouch. She tore it open and took out a  
12 little -- little cloth and just wipe my finger with it.

13 Q. Okay. Did you see where she got this  
14 towelette from?

15 A. I -- I did not specifically notice. I saw  
16 her take it out of the foil package, but before that I  
17 don't recall.

18 Q. Did you see her -- well, previously, we  
19 provided Delta and the arbitrator with a baggie of the  
20 USDTL collection materials which we examined, Dr.  
21 Jones. Was a bag of this type containing the  
22 collection materials, was that something that you saw  
23 at the collection site?

24 A. I -- I did not see it specifically. I don't  
25 recall it.



1 Q. Do you recall seeing an open plastic bag of  
2 this type in the vicinity as the collection was  
3 initiated on May 9?

4 A. I -- I just don't recall.

5 Q. Okay. Now, to be clear, did you apply the  
6 Lancet to your finger or did the collector perform  
7 that?

8 A. The collector did.

9 Q. Okay. And did she come in any further  
10 contact with you after she applied the Lancet to your  
11 finger and the blood began to emerge?

12 A. Only to hold my hand to squeeze the blood  
13 out.

14 Q. Okay. After she got the blood to flow and --  
15 I'm sorry.

16 A. Yes, she did, she got my hand --

17 THE REPORTER: I'm sorry, repeat the question. I'm  
18 sorry. Sorry to interrupt. Mr. Seham, that last  
19 question?

20 MR. SEHAM: Yes.

21 THE REPORTER: Repeat that.

22 Q. Yes. I certainly will. Can you describe  
23 what she did in terms of holding your hand when she  
24 commenced the process?

25 A. She -- she mostly held my finger. I believe

1 it was my first finger and stuck it and then squeezed  
2 the drop of blood out, wiped it off and turned my hand  
3 over and squeezed the blood out onto the card.

4 Q. Now, after she got the blood to flow, did she  
5 allow you to proceed unassisted or did she remain in  
6 contact with you?

7 A. She performed the whole operation, had her  
8 hand and squeezed my finger the whole time.

9 Q. So was each circle filled with a single  
10 contact of your finger to the card?

11 A. It -- it -- whatever it took. It usually was  
12 kind of coloring in the circles, if you will.

13 Q. So were there just a single contact or  
14 repeated contacts?

15 A. Yes. It was kind of continuous finger  
16 painting if you will.

17 Q. After the five circles were filled with  
18 blood, what was done with the card?

19 A. Then the card was -- I know she just folded  
20 over and stuck it in a box. Once it was in the box,  
21 she produced a little red seal that I'm used to being  
22 put over the urine containers in the Navy days. It's a  
23 little bit different the barcode they used on the other  
24 ones, but this one had the very similar little red.  
25 Looks like a dog bone and she went all the way around

1 the box both ends so that you could tell that if anyone  
2 tampered with that box, but it was presumably, you  
3 know, showed up to the laboratory for evaluation.

4 Q. And then what was done with that box  
5 containing the card?

6 A. That box and -- and the collection form were  
7 put it into a clear plastic specimen transport bag like  
8 the urine bottles are.

9 Q. Okay. And was that plastic bag sealed?

10 A. It's got a self-adhesive strip that you  
11 remove the protector from and then folded it over like  
12 the other ones and press it shut and it was sealed up,  
13 yes.

14 Q. So how soon after the five circles were  
15 filled with your blood did that occur? By which I  
16 mean, how soon after was the bag put in this sealed  
17 plastic bag?

18 A. It was continuous --

19 Q. In that sealed plastic bag.

20 A. It -- it was a continuous operation, so my  
21 guess is around a minute or less.

22 Q. Okay. Now, other than you referred to the  
23 collection card and the chain of custody document being  
24 put in the sealed plastic bag. Was anything other than  
25 those two items put in the bag?

1 A. No, sir.

2 Q. There were no pouches of desiccants placed in  
3 the bag?

4 A. No, sir.

5 Q. Did the collector provide you with any sort  
6 of certification of training before she commenced the  
7 collection?

8 A. No, sir.

9 (Union Exhibit 11 marked for identification)

10 Q. Okay. I'm going to ask the facilitator here  
11 if you could post Union Exhibit 11. Mr. Danford, are  
12 you familiar with this document, Union Exhibit 11?

13 A. Yes, sir. I am.

14 Q. Okay. And how did you obtain this document?

15 A. I started researching PEth testing quite a  
16 bit. I immediately found this on the USDTL website.

17 Q. And when did you first see this document?

18 A. It would've been probably days after I was  
19 notified of the positive PEth test so somewhere in the  
20 third week of May, I suppose.

21 Q. Was a document of this kind provided to you  
22 at the time of the collection?

23 A. No, sir.

24 Q. Was any kind of document detailing the  
25 collection process provided to you at the time of the

1 collection?

2 A. No, sir.

3 Q. Was any oral overview of the collection  
4 process provided to you by the collector prior to the  
5 initiation of the collection process?

6 A. No, sir.

7 Q. Okay. Now, for the record, referring to the  
8 first full sentences on Union Exhibit 11, it states,  
9 "Dried blood spot collection is a donor performed  
10 collection. In some cases, it may be beneficial for  
11 the collector to assist the donor or perform the  
12 collection completely. It is imperative to follow the  
13 steps carefully in order to ensure a proper specimen  
14 collection." Now, moving down the document, maybe just  
15 move it to half an inch down if we could. There we go.  
16 That's fine. If we look at the first three steps  
17 following that title, collection and donor. The  
18 reference to washing hands with soap and water, the use  
19 of latex gloves, verifying identity with government  
20 issued photo ID. Were these steps followed during your  
21 May 9 collection?

22 A. Yes, sir. They were.

23 Q. If you could read step 4 to yourself and let  
24 us know whether step 4 was followed during your May 9th  
25 collection?

1 A. It was not.

2 Q. Okay. And can you describe in what sense  
3 this was not followed?

4 A. Well, it was -- it was -- she squeezed a lot  
5 and to get the blood out to fill these. I thought she  
6 might have to stab me a second time, but we got it  
7 done. And later on when I read that, I thought that  
8 would've been a good idea to hold your hand out so  
9 you'd bleed better. So that was not -- that was not  
10 done. I kind of wish it had been.

11 Q. Okay. Now, moving to step 5 where it says,"  
12 Wipe the finger with an Isopropyl alcohol pad.  
13 Caution: Do not use an Ethanol based alcohol pad." Do  
14 you know whether this step was complied with during  
15 your May 9th collection?

16 A. I have no idea. I do know that since then  
17 I've noticed that many of the alcohol pads in these  
18 facilities are -- are alcohol based because they try to  
19 get me to use them nowadays with the COVID scare and I  
20 tell them I can't use them and I refuse to, but -- but  
21 I did not check on those days.

22 Q. If we could scroll so that we can see steps  
23 6, 7, and 8. So six says, "Allow the finger to air  
24 dry." Seven says, "Twist off the protective cap on the  
25 sterile safety lancet to break the seal." Eight, I'll

1 ask you to read that to yourself rather than take too  
2 much time filling up the record. But my question after  
3 you complete the review of steps 6, 7 and 8 would be,  
4 were those steps followed during your May 9th  
5 collection?

6 A. Yes.

7 Q. And if we can move down to nine, which says,"  
8 Wipe away the first drop of blood with a tissue or  
9 gauze. Note: wiping what will be the first drop  
10 improves the blood flow." Was that step followed during  
11 your May 9th collection?

12 A. It was.

13 Q. Okay. Moving down to step 10. I think we  
14 may have to move that down. Thank you. 10 reads,  
15 "Wait for the formation of a large drop of blood before  
16 attempting to fill the collection circle. There should  
17 be a big enough blood drop to reasonably assume that it  
18 will fill the collection circle in a single attempt,  
19 allow the drop of blood to come in contact with the  
20 center of the collection circle and then in bold with  
21 the first word capitalized, Note: Allow the collection  
22 paper to wick blood out of the puncture. Do not press  
23 the finger against the collection paper and do not  
24 layer successive drops." Was that step 10 complied with  
25 during your May 9th collection?

1 A. Not at all.

2 Q. Well, can you describe in what way there was  
3 non-compliance with that step?

4 A. She squeezed out a drop blood and we touched  
5 the finger to the card. And if it didn't fill it we'd  
6 -- we'd roll my finger around try to fill it up.  
7 Didn't pick it up, squeeze out more and just keep doing  
8 this back and forth until we kind of finger painted  
9 them all in.

10 Q. Okay. And we could move down to step 11,  
11 which reads, "Continue this process until all  
12 collection circles are filled by single applications.  
13 Be sure to wait for a large drop of blood to form  
14 between each attempt at filling the collection circles  
15 and then in bold, avoid "milking" the finger as this  
16 will cause more interstitial fluid to surround the  
17 puncture and will speed clotting (will slow/stop the  
18 bleeding). Do not layer successive drops." Was this  
19 step followed during your May 9th collection?

20 A. No, sir.

21 Q. Okay. I'm going to skip down to step 14,  
22 which reads, "Affix one of the small barcode stickers  
23 from the bottom of the custody and control form above  
24 the donor name on the collection card. And then in  
25 bold, caution: Do not tuck the cover or let the cover



1 touch the collection circles." Was this step followed  
2 in your May 9th collection?

3 A. I -- I don't really know what they mean by  
4 tuck the cover. The card was bent over and slid into a  
5 box and the end of the box were immediately closed.

6 Q. Okay. I'm going to ask you to review just to  
7 speed this up a little bit. If you could review steps  
8 15, 16, 17, and 18.

9 A. Okay.

10 Q. And after you review them, were those steps  
11 followed?

12 A. 15 was, 16 was, 17 was, 18 was. Yes, sir.

13 Q. Okay. And then if we can move down to step  
14 19, which reads, " Place the sealed box and the custody  
15 and control form in a non-plasticized envelope or other  
16 form of USDTL approved package. If sending more than  
17 one collection card, be sure to use separate drying  
18 boxes for each collecting card. In bold lettering,  
19 caution: Do not place inside an airtight plastic  
20 specimen transport bag." Was that step followed?

21 A. It was not. It was placed inside an airtight  
22 plastic specimen transport bag.

23 Q. Okay. I'm going to ask the moderator to take  
24 down this document and put up Union Exhibit 67. And if  
25 we could enlarge the type on that if possible. Thank

1 you. And I'm going to ask -- and you can -- that's  
2 fine. I'm going to draw your attention to the  
3 subheading. First of all, are you familiar with this  
4 document?

5 (Union Exhibit 67 marked for identification)

6 A. Yes, sir. I am.

7 Q. Okay. And the -- where did you obtain this  
8 document?

9 A. Again from the USDTL website.

10 Q. And under the subheading, what to avoid?  
11 That's on the right side of this document. Which of  
12 any of these actions described below were not avoided?

13 A. I don't know about the ethanol based hand  
14 sanitizer. I didn't check it. My finger was milked.  
15 It was pressed against the collection paper. We did  
16 layer successive drops. We retouched already filled  
17 collection circles to get them filled up. Said they  
18 air flow to completely drying. Do not -- it was --  
19 there was no chance for drying and it was placed in a  
20 plastic -- in a plastic envelope or plastic bag.

21 Q. If we can bring up Union Exhibits 68, please.  
22 Now, this is -- you felt familiar with this envelope  
23 under -- under the USDTL heading?

24 A. This envelope? Yeah. I mean, I've seen that  
25 before, yes.

1 Q. Yeah. And was a paper envelope of this  
2 nature used while you were at the collection site?

3 A. I did not see one like that, no.

4 Q. Before you left the collection site, were you  
5 provided with any document?

6 A. I don't think -- custody control form similar  
7 to the UDS collections.

8 Q. Okay. And if we could bring up Union  
9 Exhibits 69. Okay. Can you identify this -- this  
10 document?

11 A. Yes, sir. That's the donor collection card  
12 form I received.

13 Q. And I want to believe -- if we could scroll  
14 down to the second page. Yeah, second page. And is  
15 this -- is this the laboratory test document that  
16 correlates to the collection document?

17 A. Yes, sir, it is.

18 Q. Okay. Now, we can take that document down.  
19 Who was the first person to contact to you about the  
20 results of your DBS dried blood spot PEth test?

21 A. Captain Harry Miller.

22 Q. Okay. Were -- representative, laboratory  
23 representative or medical review officer?

24 THE REPORTER: I'm sorry?

25 THE WITNESS: That question was broken up --

1 THE REPORTER: Excuse me.

2 THE WITNESS: -- I didn't hear it at all.

3 THE REPORTER: Yeah. Could you please repeat?

4 Thank you.

5 BY MR. SEHAM:

6 Q. Sure. Did you receive any prior contact --  
7 prior to receiving word from chief pilot Harry Miller,  
8 did you receive any prior contact from any collection  
9 site representative, laboratory representative or  
10 medical review officer?

11 A. No, sir, I did not.

12 Q. And when did the contact from Captain Harry  
13 Miller occur?

14 A. On the afternoon of, I think May 14th. I was  
15 out in Jasper, Tennessee where I -- I live on a boat.

16 Q. And what did Captain or Chief Pilot Harry  
17 Miller say to you?

18 A. I normally don't get good cell coverage, my  
19 phone rang. I -- it was a number. I -- 404 number.  
20 I assumed it was Harry. Frankly, I answered it and he  
21 said, Mike, we got the results from your test. I was  
22 glad to hear that. He said they're positive and I was  
23 devastated.

24 Q. Okay. Did he say anything regarding what  
25 steps he was going to require you to take?

1           A. He -- he said, "Because you're positive, you  
2 needed to go back to treatment to a place called Mar  
3 tomorrow."

4           Q. Okay. And how did you respond?

5           A. I was just shocked. I had -- I had no clue  
6 how that could happen. And so I just said, but Harry,  
7 I -- I haven't been drinking. There's either something  
8 wrong with me or the test. So there's got to be  
9 something we can do or -- or something we can check or  
10 retest something other than going to Mar tomorrow. I  
11 mean I -- I -- I just pleaded with him. He was on his  
12 way to dinner, so we kept that phone call short and I  
13 talked to him later that day.

14          Q. Okay. Did he make any response to your  
15 protestation or your explanation that you had nothing  
16 to drink of an alcoholic nature?

17          A. He did not. He said he had spoken with  
18 Michele and because the level was so high, which even  
19 shocked me more because I figured, I don't know, it  
20 just shocked me, like it was -- he just characterized  
21 it as so high, I had to be drinking and I've got to go  
22 back to treatment or I'll get fired.

23          Q. When you say Michele, are you referring to  
24 Michele Gable?

25          A. Yes, sir, I am.

1 Q. Did you -- did he ever refer to anybody other  
2 than Michele Gable as an interpreter of the PEth test  
3 result?

4 A. He did not.

5 Q. Is Michele Gable employed by USDTL  
6 Laboratory?

7 A. She is not.

8 Q. Is she a forensic toxicologist?

9 A. She is not.

10 Q. Is she a medical doctor?

11 A. She is not.

12 Q. Is she a nurse?

13 A. She's not.

14 Q. Did -- did you ever ask that your PEth test  
15 result be medically reviewed?

16 A. Of -- yes, sir, I did.

17 Q. Okay. And to -- to -- whom did you ask or to  
18 whom did you make that request?

19 A. Harry Miller.

20 Q. Now -- and how did he respond?

21 A. He just said no.

22 Q. Okay. Did she -- did -- we just went through  
23 a list of things that Ms. Gable is not. Did she ever  
24 -- did you ever have a discussion with her about her  
25 qualifications to interpret a PEth test?

1           A. No, I didn't actually just ask her her  
2           qualifications. She did volunteer to me that she has  
3           done lots of these tests and I must have been drinking  
4           and that people lie, the test doesn't.

5           Q. Okay. When did you -- when did you contact  
6           Michele Gable concerning the PEth test result?

7           A. It would've been the next day on May 15.

8           Q. Was this in person or by telephone?

9           A. By telephone.

10          Q. Okay. And did you offer her any explanation  
11          or did you address whether or not you consumed  
12          alcoholic drinks?

13          A. I -- I only told her I had not been drinking  
14          at all. I was concerned if there was any condition I  
15          have. I figured I have -- must have suddenly came down  
16          with diabetes really or something. I had no idea. But  
17          I -- I just said there's something wrong with the test  
18          or me and I will -- surely we can investigate this.

19          Q. And how did Michele Gable respond?

20          A. She said, no, you've been drinking and that  
21          was it.

22          Q. Was there any discussion between you and Ms.  
23          Gable about getting retested?

24          A. I -- I -- I mentioned by then -- I looked up  
25          a little bit that night and I said, what was such a

1 high level I should still be positive. How about me  
2 getting another test right now?

3 Q. And how did Ms. Gable respond to your --

4 A. She said, well, if you did, you would need to  
5 do it today. She offered to set it up for me and I  
6 said, And I just -- I said a little suspicious. I said  
7 I'll do that on my own. And she said I would have to  
8 pay for it, but she said that that would be okay to get  
9 another one that -- that once the provider with that  
10 result if it was negative and she characterize it as  
11 being -- to find out how negative, if you will.

12 Because it's just reported as above the cutoff or  
13 below. If it's below, you don't know what the number  
14 is. She said, I can request this test with a lower  
15 limit of detection, and I was happy to hear that so she  
16 gave me the details. She didn't request LOD 8 and get  
17 another PEth test and we'll take a look at it.

18 Q. Did anyone else recommended obtaining  
19 additional testing to demonstrate your abstinence from  
20 alcohol?

21 A. I did on Thursday eventually get in touch  
22 with my doctor, who is Dr. Charles Harper Junior. And  
23 he said the same thing that if I had another test, it  
24 would basically have to be zero. He would have to look  
25 at it very carefully. But if I did that, he would look



1 at it and -- and make a further determination at that  
2 time.

3 Q. Okay. Now, how soon after your exchange with  
4 Ms -- well, I guess I didn't lay a foundation here.  
5 Did you proceed with obtaining additional testing in  
6 order to demonstrate your abstinence?

7 A. On -- on May -- I found out from Harry on May  
8 14th in the evening. The next day on May 15th, I went  
9 got another PEth test.

10 Q. Okay. And to which collection facility did  
11 you go for the collection?

12 A. I went to a different facility that had the  
13 same brand. So it was Any Lab Tests Now. This one was  
14 up off of Barrett Parkway instead of off of lower  
15 Roswell Road, four or five miles up the road, I guess.

16 Q. Okay. And if we could bring up Union  
17 Exhibits 70. If I could ask the moderator to scroll  
18 from top to the very bottom to make sure I have the  
19 document. Yes. Okay. Very good. Thank you. If you  
20 could scroll back to the top. You had talked before  
21 about seeking a limit of detection -- specifying a  
22 limit of detection. Is there a request here?

23 (Union Exhibit 70 marked for identification)

24 A. Yes. In -- in the kind of blue shaded area,  
25 toward bottom of the exhibit screen there it says

1 remarks and it says limit of detection eight. And then  
2 she put in parentheses LOD at my request so we can get  
3 it processed that way.

4 Q. Okay. If we could take that down. And well,  
5 let me ask you this before we proceed to the next  
6 document. Were there any variations in the collection  
7 process from your initial PEth test collection on May  
8 9?

9 A. Yes. I was concerned about them being able  
10 to do a PEth test because they might not have the  
11 materials, you know, that we'd gone through on -- on  
12 May 9, when she asked me to -- I said no, we can do a  
13 PEth test. Well, good. So I showed up and that one  
14 was a whole blood draw. They, you know, they stuck the  
15 needle in my arm pulled out a vile of blood, so it just  
16 -- it was completely different.

17 Q. Okay. And if we could put up Union Exhibit  
18 71. Now, is this the result that you received in  
19 response to the specimen or the blood that you provided  
20 on May 15th?

21 (Union Exhibit 71 marked for identification)

22 A. Yes, sir.

23 Q. Okay. And if we could scroll down a little  
24 bit here. Now, did you have any -- make any further  
25 contact with Lab Corp concerning their testing of this

1 specimen?

2 A. When we got the results, they said it would  
3 take about 10 days to get the results. I was told I  
4 was being fired in three, but when they did come in,  
5 they were processed at a level of detection 20. So I  
6 tried to get in touch with them to get it reprocessed  
7 at a level of detection eight. And I was never --  
8 never able to do that.

9 Q. Okay. Was your testing on May 15th limited  
10 to the PEth test?

11 A. No, sir. I told them what I was doing and  
12 they said, well, you might want to consider an EtG hair  
13 test, which at that time I'd never heard of. They said  
14 it has a longer detection window. So if you're trying  
15 to prove you're absent during this whole time, that  
16 would do it. I'm like, well, great. She then looked  
17 at my head, I had shorter hair at the time she said,  
18 well, that's a problem. I'm like -- she goes, do you  
19 have any other hair? I was wearing a T-shirt and I'm  
20 like I got chest hair and she's like, well, good, that  
21 will work. And so we did a hair EtG test based on  
22 chest hair.

23 Q. Okay. And when you said just to be clear,  
24 when you're saying, you were having this conversation,  
25 would that have been with the staff at Any Lab Now?

1 A. Yes, sir. At Barrett Parkway. Yes, sir.

2 Q. Okay. So this collection was performed by  
3 the same personnel as the personnel who performed the  
4 PEth test for the May 15th collection?

5 A. Yes, sir. Yes.

6 Q. Okay. And if we could bring up Union Exhibit  
7 72. Are you familiar with this document?

8 (Union Exhibit 72 marked for identification)

9 A. Yes, sir.

10 Q. Okay. Now, it refers that the confirmed  
11 cutoff 2pg/mg and describes Teetotalers as lower than  
12 7pg/mg. This is the test result that you -- and it  
13 also states non-detected. Did you received this test  
14 result from ExperTox in response to the chest hair that  
15 you provided on May 15th?

16 A. Yes, sir. And that's when I noticed that, I  
17 guess because the length of hair or something, they  
18 gave it a six-month window instead of the three-month I  
19 thought it would have.

20 Q. Okay. Now, you referred to before to a Dr.  
21 Charles Harper Junior. And what role did he have in  
22 terms of your employment or your medical situation?

23 A. He is the leader of my HIMS team as I guess  
24 described or promulgated in my Contract A.

25 Q. Okay. Did you have any conversations with

1 him about going to a treatment program?

2 A. Yes. I -- I called him on Wednesday. His  
3 secretary or lady in the office said, I would not be  
4 able to speak with him until Saturday. I was  
5 supposedly getting fired on Monday. So that was  
6 disconcerting, but he called me back on Thursday and I  
7 filled him in. I told him I'd taken a PEth test and he  
8 said, you know, that's when he offered to interpret it.  
9 And he said, you need to go to treatment to save your  
10 job.

11 Q. Okay. Did he --

12 A. He made no characterization that he thought I  
13 was having -- having any relapse problems at all.

14 Q. Did you have similar conversations with chief  
15 pilot Harry Miller concerning the issue of treatment  
16 and why you would have to go?

17 A. Harry Miller frequently told me that I needed  
18 to go to save my job. In fact, at a meeting with him  
19 in July, where I presented my notice of intent to  
20 terminate, he said Mike even if you didn't drink, you  
21 need to go to treatment and fight this from there.

22 Q. Did you seek any additional testing on or  
23 about May 16th?

24 A. I did because on May 15th, they said it would  
25 take 10 days to get the results. I just kept calling

1 and on the morning of the 16th, I found this place  
2 called Fast Test Labs of Atlanta. And they said they  
3 could give me the results of a PEth test in four or  
4 five days, I thought was great. So I went over there  
5 and got another one.

6 Q. Okay. And was that whole blood or dried  
7 blood spot process?

8 A. Ironically, it was a dried blood spot just  
9 like I'd had the first time. When Michele Gable read  
10 the sample -- the packages, I guess, to Any Lab Test  
11 Now.

12 Q. Okay. So that collection process took place  
13 on May 16th, 2018?

14 A. Yes, sir, it did.

15 Q. Okay. During that collection process, did  
16 the collector milk your fingers after your finger had  
17 been pricked?

18 A. She did not. I have no idea why she stuck my  
19 finger. She wiped it off and it just bleed right onto  
20 the card very easily. It was not problematic at all.

21 Q. Okay. Did the collector during that  
22 collection of May 16th press your finger into direct  
23 contact with the cardboard card?

24 A. She didn't.

25 Q. Okay. And contact with the circles on the

1 card during the May 16th collection?

2 A. It didn't, it was really easy.

3 Q. Okay. Was the drying box containing your  
4 card with your blood sample sealed in your presence?

5 A. It was.

6 Q. And to which laboratory was the May 16th  
7 dried blood sample sent?

8 A. When I got the results, I realized that it  
9 was the same lab that did the first finger-prick PETH  
10 test, USDTL in Des Plaines, Illinois.

11 Q. And did you make any level of detection  
12 request with respect to this test for which the  
13 collection was performed on May 16th?

14 A. I did exactly like I did the day before, so  
15 would like -- I would like this to be processed at an  
16 LOD 8 or Limit of Detection 8. And they were happy to  
17 write that on the collection form as I had done the day  
18 before.

19 Q. If we could bring up Union Exhibit 73. Okay.  
20 Can you identify this document?

21 (Union Exhibit 73 marked for identification)

22 A. That was the -- the donor collection form I  
23 left with that day on the 16th.

24 Q. Okay. Although it's faint, we're going to  
25 have another document coming up, but can you point out

1 the Limit of Detection reference?

2 A. In the large box G, there's some numbered  
3 things, 5-17 across from 16-17, there's a box says  
4 other and just to the right of that you can see where  
5 she wrote LOD 8.

6 Q. Okay. Now, if we could bring up the Union  
7 Exhibit 74. Can you identify this document?

8 (Union Exhibit 74 marked for identification)

9 A. Yes, sir. I can.

10 Q. Okay. What is that?

11 A. And that is the results of that test and much  
12 to my dismay, I realized that they processed it again  
13 at a limit of detection 20.

14 Q. Okay. If we can move down to the -- well,  
15 when you saw that they had applied the higher cutoff of  
16 20, what action did you take?

17 A. The same. I did this quicker because this  
18 came back in five days and I hadn't yet even got the  
19 first results yet. I just called the place back. It  
20 was a smaller, easier to deal with place. And I talked  
21 directly with the owner, Brian. I explained the whole  
22 thing to him again, I speak -- spoken with him the day  
23 I showed up for this test. And he said let me make  
24 some calls and he called up USDTL presumably. He  
25 called me back and said, yep, we can do it, but I need



1 to give them a couple 100 more bucks. So I did and we  
2 had the same sample re-ran at a lower limit of  
3 detection LOD 8.

4 Q. If we could scroll to the, I think it's the  
5 second page of this document. Can you identify this as  
6 the test at the lower cutoff level of 8?

7 A. Yes. I eventually got those results as well  
8 and that's where it clearly had been ran at the lower  
9 limit of detection and came back negative as I expected  
10 as well.

11 Q. This was as indicated in this document that  
12 was based on the dried blood spot you provided on May  
13 16th, 2018?

14 A. Yes, sir.

15 Q. Now, did you report these various test  
16 results to Michele Gable?

17 A. I tried.

18 Q. Could you explain?

19 A. Yes, sir. I called her up and said I have  
20 the results of those tests. She says -- she told me  
21 she didn't care to hear them, that she would no longer  
22 speak with me because there was a conflict of interest  
23 with Delta.

24 Q. Okay. Did you report your three negative  
25 test results to Captain -- to chief pilot Harry Miller?

1 A. Yes. I told him about them verbally.

2 Q. Okay. And what response, if any, did he  
3 make?

4 A. He said I could present those at an  
5 arbitration if I care to.

6 Q. Okay. He made no offer to consider the  
7 results at that time?

8 A. That is correct.

9 Q. Now, why did you not elect the path of going  
10 to inpatient rehabilitation treatment as a way to avoid  
11 termination?

12 A. Because I didn't drink. I understand that I  
13 had to go there the first time. You know, it wasn't a  
14 great experience, I'm not going to lie, but I  
15 understood I had to go and I did, but I could not even  
16 fathom doing that when I didn't drink, just didn't make  
17 sense to me.

18 Q. Aside from the test results that we've been  
19 discussing up until now, did you engage in any  
20 additional testing?

21 A. Yes. In June, I went and got another hair  
22 test just to make sure I would have overlapping  
23 coverage and continuous monitoring because I fully  
24 intended to get my medical back. And I thought, well,  
25 I'm going to -- no one else going to manage my program,

1 I guess I will. So I -- I got another hair test in  
2 June.

3 Q. And what was your understanding as to the  
4 look-back effect of the hair testing in terms of  
5 determining non-abstinence from alcohol?

6 A. They told me it was a three-month window. So  
7 my intentions were until I found a doctor that would  
8 take my case, that I was just going to get one of these  
9 every month and then I would be a couple of months of  
10 overlap even with that.

11 Q. And can you, if we can bring up Union Exhibit  
12 75. Can you identify this document and does it bear  
13 any relation to the hair test that you took?

14 (Union Exhibit 75 marked for identification)

15 A. Yes, sir. That's where I went back to Any  
16 Lab Test Now, but I went to the Lower Roswell Road  
17 location and they did hair test instead of chest hair,  
18 which I hadn't really grown yet anyway. And -- and  
19 this is the document that came back. It said detected  
20 and positive, but it is at a level that is consistent  
21 with abstinence and I immediately started researching  
22 that when I saw this.

23 Q. Now, you had a grievance appeal hearing after  
24 your termination with Captain Jim Graham who testified  
25 earlier in this proceeding?

1 A. It -- it was prior to my termination.

2 Q. Okay. And did you present him with the  
3 testing evidence you had accumulated and to which  
4 you've testified concerning in this proceeding?

5 A. I did.

6 Q. Okay. And did Captain Graham ever request  
7 any supplementary information related to the testing  
8 information that you provided?

9 A. He did not.

10 Q. How did he respond when you presented him the  
11 documents of your several negative tests results?

12 A. He said -- he sounded sympathetic and said  
13 that he would give these very careful and due  
14 consideration and have them looked at by experts and  
15 would make a determination.

16 Q. Did he ever get back to you to explain why he  
17 would not credit the results of your test?

18 A. No, sir. He did not.

19 Q. Did he ever tell you that his consideration  
20 of mitigating test results depended on Delta or its  
21 agents controlling the testing process?

22 A. He did not.

23 Q. Did your ALPA representatives, at the time or  
24 shortly after your meeting with Captain Graham, did  
25 they make any recommendations to you after the meeting?

1           A. My union representative at the meeting with  
2 Captain Graham was Captain Scott Martin. And after the  
3 meeting he said, "Mike, you need to get a -- a  
4 polygraph test."

5           Q. And without going into the substance of it,  
6 did you select the polygraph examiner who conducted the  
7 test of you?

8           A. I did not.

9           Q. Okay. Now, after your positive PEth test,  
10 did Dr. Harper at some point discontinue his role as  
11 your AME?

12           A. Similar to Michele Gable, I guess, I called  
13 him up when I got the results and I got his -- the lady  
14 in the office again and she said, "Well, Mike he has  
15 quit your case." And I -- it was the first I heard of  
16 it. I'm like, "He has quit my case or is quitting my  
17 case? I mean, I -- I have stuff that he asked me to --  
18 to relay to him." And she said, "No, he's quit your  
19 case and that's all." And that was -- that was the end  
20 of that. So I -- I was kind of surprised over the  
21 phone and called her right back and said, "Well, please  
22 send me a copy of all my records. I'm probably going  
23 to need them." and she agreed to do that. I never  
24 spoke with Dr. Harper again.

25           Q. Did you obtain a new AME, a new aero medical

1 examiner?

2 A. It -- it took a while. Michele Gable said  
3 that she had a contact for me before she quit talking  
4 to me when I called her back after she -- I said,  
5 "Would you give me that name, please? " And she said,  
6 "No, I can't. He's not taking anybody." It was just --  
7 it was very difficult. But eventually I found -- I got  
8 in touch with Dr. Tom Faulkner and -- and I went to  
9 him.

10 Q. Okay. And is there any reason why you  
11 decided it was appropriate to proceed with Dr.  
12 Faulkner?

13 A. He -- he was a trained AME, so he was  
14 appropriate and he was the first one I got in touch  
15 with. He was conveniently located where I was  
16 primarily living in Atlanta. So that was the -- that  
17 was the main reason I went to him. I didn't learn  
18 until later that he's Delta's director of Health  
19 Services.

20 Q. And in terms of your continuing treatment or  
21 monitoring with respect to alcohol, what did he  
22 prescribe?

23 A. He said, Well Mike, I -- I'm not being -- an  
24 expert, I'm not going to attest to any stuff that  
25 happened before I knew you. And that made sense to me.

1 He said, so what I'd like to do is -- is to start a  
2 monitoring program for you right now. And he said,  
3 have you been monitored? I said, well, there was about  
4 a month where, you know, Dr. Harper had quit before I  
5 found you. I went and got my own test and I gave him  
6 the results of that. And then he said, that's fine.  
7 That's good. And we will just get you right back onto  
8 the same 14 times a year and, you know, we're going to  
9 go through Choice Labs again. But because you're not  
10 with Delta at a different point of contact, that was  
11 Rhonda. And -- and he said, I'm going to monitor you  
12 for three months and then we will reapply for your  
13 medical.

14 Q. Did Dr. Faulkner ever require you to return  
15 to Talbott's or go to MARR, M-A-R-R or any other  
16 inpatient treatment program?

17 A. That was the first question I asked him if I  
18 needed to do that and he said, I don't think so. I --  
19 I don't -- I don't require it. I don't believe the FAA  
20 going to require it. And I -- you know, and I met with  
21 him monthly during that time as well. And even more, I  
22 just stayed in close -- close contact with him. And --  
23 so I did not go to any inpatient or outpatient  
24 treatment whatsoever.

25 Q. Okay. And what transpired with your medical

1 certificate?

2 A. He applied for it just when he said in late  
3 September, maybe early October. And -- and they had  
4 made a determination by December. I got it in the mail  
5 the following January or February. The same sort of  
6 time frame I had gone through after I came out of  
7 Talbott.

8 Q. Okay. And can you tell us who David Prewett  
9 is?

10 A. David Prewett is a aviation psychologist. He  
11 is -- you take a class with him when you're in Talbott.  
12 When you come out, you're required to do as many  
13 meetings with him as you can weekly while you're not  
14 flying and then after that, just as your schedule  
15 allows for an -- group therapy, if you will. And I --  
16 I -- I just continued staying with him. I previously  
17 attended a group that is for Delta pilots. So after I  
18 got fired, I went to him again. He had a separate  
19 group for other airline -- or other pilots. Other --  
20 whether it'd be general aviation or -- or just another  
21 airline or another company.

22 Q. And who is Dr. Steven Lynn?

23 A. Dr. Steven Lynn is the aviation psychiatrist  
24 that I'm required to see once a year. It was -- my  
25 year was up to go see him kind of right in the middle



1 of this. So I just called him up and said I -- and  
2 scheduled my appointment about a month earlier. I  
3 think I went to him in August. That's right after I  
4 got back -- got on with Faulkner while I was waiting.  
5 He was just monitoring for a few months before we  
6 reapplied for my medical. And I of course told him the  
7 whole story, and he listened, and did his normal  
8 interview with me, and he had no problems with me and  
9 wrote me a favorable recommendation to continue.

10 Q. And David Dodge, who is David Dodge?

11 A. David Dodge was -- when I was with Delta I  
12 was required to have a peer monitor. You're not under  
13 a special issuance that substance abuse related when  
14 you're general aviation. But David and I developed a  
15 -- a very good friendship and -- and I asked him if he  
16 would continue acting as a peer monitor. And we -- the  
17 once a month, we'd never just -- it isn't once a month.  
18 We'd just stay in close in contact. But he would write  
19 me reports every month just as he did before and give  
20 them to Dr. Faulkner which he was happy for. Faulkner  
21 did not require them, but he was happy to have them and  
22 -- and they were all favorable reports as well.

23 Q. So what position did David Prewett, Dr.  
24 Steven Lynn, and David Dodge take with respect to your  
25 application for the reissuance of your FAA special

1 issuance medical?

2 A. None of them had any concerns that I had a  
3 relapse and they all had no concerns with me being any  
4 kind of safety risk while flying. And all recommended  
5 that I fly.

6 Q. And if we could bring up Union Exhibit 76.  
7 And can you identify this document?

8 (Union Exhibit 76 marked for identification)

9 A. Yes. That is a -- a -- a medical I got from  
10 Tom Faulkner.

11 Q. And you continue to hold an FAA special  
12 issuance medical that allows you to fly?

13 A. Yes, sir.

14 Q. Can you describe -- we can take that document  
15 down. Can you describe the testing you have undergone  
16 since regaining your FAA medical?

17 A. It's -- it's precisely the -- the same  
18 regiment as before, 14 random tests a year. I've  
19 gotten a couple of PEth tests. I respectfully  
20 requested for -- from Rhonda that I -- that I do a  
21 whole blood PEth test rather than a dried blood spot  
22 which I have lost confidence in.

23 Q. And have you retained your first-class  
24 medical at all times since its re-issuance?

25 A. Yes, I have.

1 Q. How many times has it been renewed?

2 A. Three, four

3 Q. And have you continued to fly over the last  
4 two years?

5 A. Yes. As soon as I got my medical back I -- I  
6 -- I -- I had spoken with them sometime before when I  
7 went out to Channing to sky dive and I asked if they  
8 need -- needed someone to help fly. And then they --  
9 got a great lower planes, it's called Pack 750 XL.  
10 It's all -- it's single engine turbine designed just  
11 for jumping. And I -- I'm now their senior pilot. I  
12 conduct all their company checkouts and scheduling of  
13 -- of four pilots there now and fly their other  
14 airplane. I do bi-annual flight reviews, some flight  
15 structure and fly airplanes and fly a couple of my own  
16 flight similar planes with my son.

17 Q. How frequently are you flying over the last  
18 few months?

19 A. Continuously, hundreds of hours.

20 Q. Did the FAA ever demand that you re-enter a  
21 inpatient rehabilitation program in order to obtain  
22 re-issuance of your medical?

23 A. They required no retreatment whatsoever.

24 Q. Did you ever file a Freedom of Information  
25 Act request with the FAA in order to obtain information

1 related to their consideration of your case?

2 A. Yes, sir. I did.

3 Q. Okay. Can we bring up Union Exhibit 35,  
4 please. We're looking at a document titled Federal  
5 Aviation Administration memorandum, date December 31st,  
6 2018, from Alan Sager, MD, Psychiatric Consultant to  
7 Manager, Aerospace Medical Certification Division,  
8 subject, Michael Danford. Is this a document you  
9 obtained from the FAA pursuant to the Freedom of  
10 Information Act?

11 A. Yes, sir.

12 Q. If we could go down to the third page. And  
13 I'm going to focus, I may stumble a little bit here, so  
14 patience with me. We're going to go down to the first  
15 full paragraph, it looks like this second paragraph.  
16 There we go, that's perfect. By way of background, the  
17 FAA document reads, "There is a psychiatric evaluation  
18 report dated October 11th, 2018 by Steven Lynn, MD,  
19 which indicates that the pilot was first seen on  
20 November 8th, 2017 after four months of continuous  
21 sobriety. The pilot returned to flying in April 2018  
22 and states that in May 1, 2018, he was asked to give a  
23 random drug screen, which he did. Noted that he was  
24 notified that the EtG was positive at 117 nanograms per  
25 milliliter with a negative EtS. He stated he did not

1 drink and was given a PEth test on May 9th, 2018, which  
2 was 99 nanograms per milliliter. He stated that the  
3 results of the positive EtG and PEth test was that he  
4 enters MARR. He thought about it for three days and  
5 decided not to go MARR. He was subsequently terminated  
6 from employment in August 18th by Delta. He stated  
7 that after the positive test on May 15th, 2018, he  
8 arranged for another PEth test and hair which were both  
9 negative." I would like to move down. Let's see. To  
10 the last paragraph.

11 THE REPORTER: Attorney Seham, I think your Wi-Fi  
12 bandwidth is lowering right now. So you're buffering a  
13 bit. So I don't know if you want to cut your video  
14 entirely just for now, just so that we can get the  
15 audio clear?

16 MR. SEHAM: I can do that. I can do that. We're  
17 still seeing circle, a blue arc circling around.  
18 Candice?

19 THE REPORTER: Yes. I'm here. I didn't hear what  
20 you said.

21 MR. SEHAM: Okay. I wanted the document moved down  
22 to the final paragraph that begins with, "I spoke --

23 THE REPORTER: It's there.

24 BY MR. SEHAM:

25 Q. -- with Dr. Nicholas". But if you could

1 scroll down further. Okay, perfect. Thank you. So  
2 continuing with the background. "I spoke with Dr.  
3 Nicholas Lomangino in December 21st, 2018 and discussed  
4 the case of Mr. Danford. He believed that the positive  
5 test was not sufficient in terms of the level of  
6 positivity to state without a doubt that the pilot had  
7 an episode of drinking or relapsed. Dr. Lomangino  
8 noted that subsequent testing has all been negative and  
9 therefore recommended that the pilot continue on his  
10 special issuance". My question, Mr. Danford is, since  
11 the issuance of this December 31st, 2018 memorandum,  
12 has the FAA ever notified you that it has changed its  
13 position that your positive test was not sufficient to  
14 state without a doubt that the pilot had an episode of  
15 drinking or relapsed?

16 A. They have not.

17 Q. Now, the termination letter in this case  
18 says, non-compliance with Contract A "could result in  
19 being terminated." Did you consider your termination to  
20 have been with just cause?

21 A. I do not.

22 Q. And did you drink at any time during the  
23 period that you were covered by Contract A?

24 A. I did not.

25 Q. Did you at any time breach your obligations

1 under Contract A?

2 A. I did not.

3 MR. SEHAM: All right. We have no further  
4 questions at this time.

5 MR. KASSIN: Okay. Arbitrator Burdette, this might  
6 be a good time for a lunch break and it's -- let's see,  
7 East Coast time is 1:45-ish. Can we resume at  
8 2:45-ish?

9 THE ARBITRATOR: I mean that's fine with me. Mr.  
10 Seham, okay?

11 MR. SEHAM: My hope would -- I prefer to start  
12 earlier, if that's possible, but you have no place to  
13 eat nearby?

14 MR. KASSIN: Yeah. Let's just take an hour, and  
15 we'll be ready to go at 2:45 East Coast.

16 MR. SEHAM: Okay.

17 THE ARBITRATOR: 1:45 Central. See you then.

18 MR. KASSIN: Okay. Thank you.

19 THE ARBITRATOR: Okay. Mr. Kassin is going to  
20 cross-examine Mr. Danford. Go ahead, please.

21 CROSS EXAMINATION

22 BY MR. KASSIN:

23 Q. Mr. Danford, I'd like to start out with a  
24 reference to Company Exhibit 11, and if our  
25 administrator could pull that up on the monitor. These

1 are questions about your OWI that you had in Wisconsin  
2 back on January 5th, 2017. That was an accident that  
3 you had up in Winnebago County, Township of Black Wolf;  
4 is that correct?

5 (Company Exhibit 11 marked for identification)

6 A. That's correct.

7 Q. And the accident was about 5:45 in the  
8 afternoon?

9 A. Actually, it was about maybe an hour before  
10 that, or so or more.

11 Q. Okay. Why would the report refer to the  
12 officer given the call at 17:49 hours or 5:45?

13 A. That's when the call was. I just thought it  
14 was earlier. It was dark, but it -- it took them a  
15 long time to get there. That's all I was referring to.

16 Q. Okay. And you were driving a Dodge pickup  
17 truck and you hit a Ford Explorer from behind as it was  
18 stopping at a stop sign at an intersection?

19 A. That's correct.

20 Q. And the investigating officer asked you to do  
21 a breathalyzer and you said no?

22 A. That's correct.

23 Q. And at that point he arrested you?

24 A. I don't recall officially being arrested. He  
25 asked -- I -- I told him I would rather do a blood test



1 than breathalyzer is all. And he took me to a place to  
2 do that.

3 Q. Right. He took you to a hospital and they  
4 did a blood test?

5 A. I don't think it was a hospital, I think it  
6 was a -- just a clinic or something. I think it was a  
7 sheriff's office.

8 Q. Okay. And they drew blood around 7:00 p.m.  
9 that evening?

10 A. That sounds about right.

11 Q. And the -- the results of your blood alcohol  
12 test was a 0.229?

13 A. That's correct.

14 Q. Next, I'd like to go through some of the  
15 events just -- just to make sure we're clear on the  
16 chronology. I'd like the monitor to bring up the  
17 Company Exhibit 1. So you covered some of this, but I  
18 wanted to make sure we have the right sequencing of the  
19 events. So after your report of the OWI and the blood  
20 alcohol of 0.229 to the FAA, you were required to do an  
21 assessment?

22 A. Yes, sir. Yeah.

23 Q. And you did that at the Talbott Recovery  
24 Center?

25 A. I did.

1 Q. And that was on July 31st, 2017, correct?

2 A. I thought it was the 1st of August I -- but  
3 maybe it was July 31st.

4 Q. Well, and I guess the end result of it was on  
5 August 1st, 2017 that you entered the Talbott Recovery  
6 Center for treatment?

7 A. It was all the same day.

8 Q. Okay. I got it. Signed your contract day  
9 with Delta on September 13th of 2017?

10 A. Yes, sir.

11 Q. And then you completed Talbott Recovery  
12 Center on September 14th, 2017?

13 A. Yes, sir.

14 Q. And during the period of time that you were  
15 at Talbott Recovery Center, did you have -- you did  
16 have the opportunity to speak with Captain Harry Miller  
17 who would come to visit, correct?

18 A. He never came to visit me that I recall.

19 Q. Okay. Did you meet with him when you had  
20 your assessment on either July 31st or August 1st?

21 A. Nobody showed up when I showed up at all from  
22 Delta.

23 Q. Okay. Did you have anybody from Delta come  
24 there for the -- what they call the midterm meeting  
25 while you were in Talbott?

1 A. Yes, sir.

2 Q. And who was that?

3 A. I don't recall. I was just -- came into a  
4 room, there were people there, there were names said  
5 and I -- I can't remember who was there.

6 Q. Okay. Once you've --

7 A. I did not have a chance to speak with -- with  
8 anybody in private or personally, or even while I was  
9 being -- during the meeting.

10 Q. So you did not have -- so you say you didn't  
11 have a -- what the Delta refers to as the midterm  
12 meeting with one of the Delta chief pilots?

13 A. The midterm meeting, I was told there was a  
14 representative there from Delta, they pointed them out.  
15 I didn't recognize them or know them nor that I speak  
16 with them.

17 Q. Okay. You mentioned that you met with Dr.  
18 Prewett, correct? The psychologist?

19 A. Yes, sir.

20 Q. And he did a neuro -- what's referred to as a  
21 neuropsych test?

22 A. A couple of -- a couple of times. Yes, sir.

23 Q. And that was all in early November of 2017?

24 A. Well, we did it when we entered Talbott, we  
25 did it some time afterwards, yes.

1 Q. Okay. And then you had an evaluation with  
2 Dr. Steven Lynn, the psychiatrist that you referred to  
3 earlier?

4 A. Yes, sir.

5 Q. And then you had a series of alcohol test  
6 starting on November 28th, 2017. If you look at that  
7 chronology, you can see them.

8 A. Yes, sir.

9 Q. So you had one in November 8th, 2017 -- I'm  
10 sorry, November 28th, 2017?

11 A. Yes, sir.

12 Q. It was followed up by one on December 14th,  
13 2017?

14 A. Yes.

15 Q. And then one on January 4th, 2018?

16 A. Yes, sir.

17 Q. And then you had another negative random  
18 alcohol test on February 12th, 2018?

19 A. Yes.

20 Q. And following those tests and the neuropsych  
21 with Dr. Prewett, you were able to have your FAA  
22 special issuance reinstated, and you pointed that out  
23 on your testimony on February 26th, 2018, correct?

24 A. Yes, sir.

25 Q. And at that point then you start going to

1 retraining and go back to line flying for Delta?

2 A. Yes, sir.

3 Q. Then you had another series of alcohol tests,  
4 one on March 9th, 2018 was negative, correct?

5 A. Yes.

6 Q. Then one on March 27th, 2018, and that was  
7 negative?

8 A. Yes.

9 Q. And you had one on April 26th, 2018 and that  
10 was negative?

11 A. Yes.

12 Q. Then we had the May 1st, 2018, that's when  
13 you had the test where the EtG was positive and the EtS  
14 was negative?

15 A. That's correct.

16 MR. SEHAM: We object for the record. We object to  
17 the characterization of the EtG as a positive.

18 MR. KASSIN: I think the document says that it's  
19 positive for EtG. It does say negative for EtS.

20 MR. SEHAM: I think Dr. Sample testified that it  
21 was positive because Delta wanted it to be positive at  
22 that cut off level.

23 MR. KASSIN: But it was still -- okay, the document  
24 will speak for itself.

25 MR. SEHAM: Yeah. Then Sample's testimony will

1 speak for itself.

2 BY MR. KASSIN:

3 Q. Okay. And then on May 9th, that's when you  
4 had the PEth test that was positive, and then we had  
5 some testimony following that, correct?

6 A. I don't know about the testimony following,  
7 but yeah, May 9th is when I was administered the PEth  
8 test.

9 Q. Okay. I want to move to -- well, I want to  
10 talk about the appeal hearing that you had on July 30th  
11 of 2018 with Captain Graham and Captain Burns, correct?  
12 And administrator, you can take the document down at  
13 this point. Thank you. So on July 30th, 2018, you had  
14 an appeal hearing with Captain Graham and Captain  
15 Burns?

16 A. Yes, sir.

17 Q. And you had ALPA representation with you?

18 A. I did.

19 Q. Okay. And I believe you told us the name of  
20 the ALPA rep.

21 A. Scott Martin.

22 Q. Scott Martin, thank you. At that appeal  
23 hearing, did you have the opportunity to tell Captain  
24 Graham and Captain Burns why you believed that you  
25 didn't have a relapse?

1 A. Yes, sir.

2 Q. And what did you say to them?

3 A. My primary basis for not having a relapse was  
4 I didn't drink. I demonstrated it forensically by  
5 showing overlapping multiple tests that were all  
6 negative, that covered the same time period and one of  
7 those tests didn't agree with the rest of them and that  
8 was the positive. The rest of them are all -- all in  
9 harmony, if you will.

10 MR. KASSIN: Well, let's take a look at what you  
11 gave to Captain Graham and Captain Burns. I'd like the  
12 administrator to -- well, the monitor to bring up  
13 Company Exhibit 20.

14 REMOTE TECH: Sorry, Mr. Kassin. I only have up to  
15 19. Let me check for it on the back end. One moment.

16 MR. KASSIN: Okay. Thank you. For the monitor, we  
17 sent an email to StoryCloud Exhibits. I hope that's  
18 where they showed up.

19 MR. SEHAM: We were never provided with a Company  
20 Exhibit 20 either.

21 MR. KASSIN: We will be sure you get one. I'm not  
22 sure what the best procedure is with StoryCloud in  
23 terms of how we do this. I know like it seems to be  
24 the practice that we provide them with documents and  
25 then later provide people with copies of them. I mean,

1 I'm open to anything on that.

2 THE ARBITRATOR: I'm showing that they were copied  
3 on Company Exhibit 19 from Chris Puckett on October the  
4 30th.

5 MR. KASSIN: Okay. We'll have Chris send out those  
6 exhibits now that we're going to use for this cross  
7 examination.

8 MR. SEHAM: Is there any reason -- is there any  
9 reason why these exhibits was not provided prior to the  
10 commencement of these hearings.

11 MR. KASSIN: So it's rebuttal, that's why.

12 MR. SEHAM: How is it rebuttal that have to do with  
13 a termination hearing?

14 MR. KASSIN: I'm sorry. It's not rebuttal, it's  
15 cross examination. I'm sorry, I was thinking ahead to  
16 tomorrow. No, it's cross examination and it has to do  
17 with testimony that Mr. Danford has provided.

18 MR. SEHAM: Well, we'd like to object to the  
19 admission of Company Exhibit 20 based on the company's  
20 violation of the terms of the pilot working agreement  
21 that document exhibits are required to be disclosed  
22 prior to commencement of hearing. This is something  
23 clearly that they've had for two years.

24 MR. KASSIN: That does not apply to cross  
25 examination or rebuttal.



1 THE ARBITRATOR: All right. I'm going to overrule  
2 the objection. Let's hear it and proceed on.

3 MR. KASSIN: I guess we're up to the -- we're up to  
4 the administrator to see if they can find the documents  
5 --

6 THE ARBITRATOR: Actually, I don't see that I have  
7 number 20 either. I have 18 and 19 that were sent on  
8 the 30th. But I don't see --

9 MR. KASSIN: Mr. Arbitrator, Chris Puckett is going  
10 to send them out now to --

11 THE ARBITRATOR: Okay.

12 MR. KASSIN: -- you and everybody else that's on  
13 the thing, on this call. We want to make sure we get  
14 all the board members in.

15 REMOTE TECH: Okay. We should receive it shortly  
16 once you send it.

17 MR. KASSIN: Okay. So from StoryCloud, have you  
18 not received the earlier -- so we're should we send it?  
19 We've been sending it to exhibits@StoryCloud.

20 REMOTE TECH: That's the correct email address.  
21 We're having someone check right now.

22 MR. KASSIN: Okay.

23 REMOTE TECH: We'll double-check.

24 BY MR. KASSIN:

25 Q. Let me try some questions while we're looking

1 for that and then hopefully we'll be able to pull up  
2 the packet of tests that Mr. Danford provided to  
3 Captain Graham and Captain Burns. So --

4 A. Okay.

5 Q. Mr. Danford, you did provide a packet of  
6 tests to Captain Graham and Captain Burns at your  
7 appeal hearing, correct?

8 A. Yes, sir. Yeah.

9 Q. Sorry, I didn't hear you. I'm sorry.

10 A. Yes, I did.

11 Q. Okay. And in your testimony, what you said  
12 is that you have provided them with the negative tests.  
13 Actually, the question was asked by Mr. Seham, did you  
14 provide them with the negative test that you had up to  
15 that point in time and your answer was yes. Do you  
16 recall what test that you provided to Captain Graham  
17 and Captain Burns?

18 A. Not precisely.

19 Q. Okay. That's why I was hoping this packet  
20 would help refresh your memory and --

21 A. As I recall it was two PEth tests and a first  
22 hair test.

23 Q. Right. And if it helps refresh your  
24 recollection, you also provided the PEth test from May  
25 the 16th, 2018 that was negative at a cutoff of 20

1 nanograms and also the PEth test from May 16th that was  
2 negative at a cutoff of eight nanograms. Does that  
3 sound about right?

4 A. Yes, sir.

5 Q. Okay. And so, what did you say to Captain  
6 Graham and Captain Burns about those tests?

7 A. I said because we were following tests I got  
8 that they -- it had even been recommended by my doctor  
9 and Michele Gable and that they confirm abstinence.  
10 And that I hadn't been drinking and that I wish they  
11 would talk to my doctor, my psychologist, my  
12 psychiatrist and my peer monitor and see what they  
13 thought that would -- might help him make a better  
14 decision. And anybody that he wanted to speak with  
15 that was related to me, my girlfriend, my family, my  
16 friends. I offered him anything he would like.

17 Q. Now could you look at Union Exhibit 75,  
18 please?

19 (Union Exhibit 75 marked for identification)

20 A. Yes. Union Exhibit 75.

21 MR. KASSIN: Now, I'll ask our monitor to  
22 StoryCloud if you could pull that up while you're  
23 looking for the other documents.

24 THE WITNESS: I've got it.

25 Q. Okay. And that's the hair test from June the

1 20th of 2018 --

2 A. Yes, sir.

3 Q. And that was done by ExperTox; is that  
4 correct?

5 A. Well, I guess. I -- I -- I went to Any Lab  
6 Tests Now and they collected the sample. I didn't know  
7 where they were going to send it.

8 Q. Okay. And in that first block of information  
9 where it says test result, it says positive, correct?

10 A. It does say that there, yes.

11 Q. Okay. And it shows that the test result was  
12 released on June 27th, 2018?

13 A. Yes, sir.

14 Q. And it shows the next block of information  
15 that ethyl glucuronide was detected; is that correct?

16 A. Yes, sir.

17 Q. And you didn't give this test result to  
18 Captain Graham and Captain Burns did you?

19 A. That's correct.

20 Q. Okay. And you knew that that was significant  
21 information, but you choose not to -- chose not to give  
22 it to him?

23 A. No, sir. I did not believe that was  
24 significant information. I was afraid him not being a  
25 toxicologist would -- would take it wrong. Quite

1 frankly, I consulted with my doctor at that time and --  
2 and he agreed with me.

3 Q. Okay. So you thought they would take it  
4 wrong because it showed a positive result?

5 A. Because it says positive at a level  
6 consistent with abstinence. Yes, sir.

7 Q. And what --

8 MR. SEHAM: I'm going to object because it actually  
9 -- it's misreading and mischaracterizing the document.  
10 The document has a definition of positive. The  
11 document states a positive is a reading above seven  
12 pg/mg. So counsel has mischaracterized the document.  
13 The document speaks for itself.

14 MR. KASSIN: Well, the document does say -- I'm  
15 sorry, but the document says test result positive.

16 MR. SEHAM: No, it doesn't.

17 MR. KASSIN: Let me ask Mr. Danford --

18 MR. SEHAM: That's what I'm objecting to. Is  
19 because the document speaks for itself. It defines a  
20 positive as a measurement above seven. And the  
21 quantitative result is 4.8. So I'm going to reiterate  
22 my objection that counsel is even after being counseled  
23 on the issue, continues to misrepresent,  
24 mischaracterized this document.

25 THE ARBITRATOR: Well, that -- let me just say the

1 document does speak for itself. We'll take it under  
2 advisement. Let's move on.

3 Q. Mr. Danford, I'm just trying to understand  
4 why you would intentionally not tell Captain Graham and  
5 Captain Burns about this document?

6 A. I did not think it was necessary. I thought  
7 the other ones completely demonstrated that I had been  
8 abstinent, as well as all other clinical and behavioral  
9 information.

10 Q. But I mean, if you're representing to them  
11 that you're showing them all the tests that you had  
12 taken since your positive PEth, that was not an  
13 accurate representation, was it? Because this was  
14 another test you took?

15 A. I didn't say specifically I gave him every  
16 test I took. I gave him ones I thought were  
17 appropriate and easier to read.

18 Q. Okay. And you made that determination as to  
19 what was appropriate and easier to read?

20 A. In -- in consultation with a medical doctor.

21 Q. Okay.

22 A. Who is -- who is Delta's Director of Health  
23 Services.

24 Q. Well, I mean, in this situation, he was --  
25 you represented that he was your AME. He's not serving

1 in any capacity for Delta in this situation?

2 A. That's correct.

3 Q. Okay. Let's be clear about that distinction.  
4 In the course of the appeal hearing, did you tell  
5 Captain Graham and Captain Burns that you were seeing  
6 Dr. Faulkner?

7 A. I don't think so.

8 Q. Okay. And you didn't think that was  
9 significant information either?

10 A. I had not gotten my medical back, so I did  
11 not think that was pertinent. I thought the more  
12 pertinent thing was whether I had drank, not what I was  
13 trying to do in the future.

14 Q. Now, you didn't have your medical back at the  
15 time you met with Captain Graham or Captain Burns, did  
16 you?

17 A. That's correct, sir.

18 Q. Okay. You didn't get your medical back until  
19 February of 2019?

20 A. That's correct, sir. February, I think '19.

21 Q. Okay. Can you look at Union Exhibit 75,  
22 please. Sorry, that's where you are. I got the wrong  
23 number. That's something that's my fault. That's it.  
24 I need you to look at Union Exhibit 50. Let's try that  
25 one. Mr. Danford, are you with us, do you see Union

1 Exhibit 50?

2 (Union Exhibit 50 marked for identification)

3 A. Yes, sir.

4 Q. Okay. And I'd like for our monitor to turn  
5 to -- just to identify this. This is the report,  
6 Theodore Shults MD JD dated January 30, 2020, correct?

7 A. Yes, sir.

8 Q. Okay. And you provided Dr. Shults with  
9 information on your testing history, correct?

10 A. Yes, sir.

11 Q. And if the monitor can turn to page four of  
12 this Exhibit, please. And if you look at -- if we  
13 could scroll down to look at, -- if we can get it  
14 focused numbers 10,11,12, 13, and 14. There it goes.  
15 Thank you. So you did not provide Mr. Shults with your  
16 positive hair test from June 20, 2018?

17 A. I'm sure I did.

18 MR. SEHAM: Objection. Please stop. Objection.  
19 It was not a positive. This is now the third time this  
20 is being misrepresented. Enough is enough. The  
21 document speaks for itself. This is the third time  
22 counsel is deliberately misrepresenting that test  
23 result, which specifically defines a positive as seven  
24 or above, that test was a negative. This has got to  
25 stop. This is the third time, that there's been a



1 deliberate misrepresentation concerning that document.

2 THE ARBITRATOR: Okay. Hold on. We're in  
3 cross-examination but in any event, the document speaks  
4 for itself and the fact is -- the question is whether  
5 or not he provided that document to this person.

6 Q. So Mr. Danford, the June 20 test of 2018, the  
7 hair test, did you provide that to Mr. Shults?

8 A. I think I did.

9 Q. Do you know why he left that out of the  
10 chart?

11 A. No, sir.

12 Q. Okay. And as you look at -- as you look at  
13 the table on which he bases his opinion, he does not  
14 include the June 20, 2018 tests, does he?

15 A. I would have to look at that, sir.

16 Q. Okay. Could you take it -- you can take a  
17 look. I mean, you can see the sequence right there.

18 A. Which -- where's that?

19 Q. Mr. Danford, it should be on your screen.  
20 Can you look at --

21 A. I'm still in the one that's got seven through  
22 16 test on it.

23 Q. Well, let's just start with number 9. So  
24 that's number 9 is your May 1, urine test that we've  
25 been talking about?

1 A. Yes.

2 Q. May 9, 2018 is your PEth test?

3 A. Yes.

4 Q. May 15, 2018 is the hair EtG that you did?

5 A. Yes.

6 Q. May 15, 2018 is the whole blood PEth that you  
7 did?

8 A. Yes.

9 Q. May 26, 2018, is the Dried Blood Spot that  
10 you did with the -- I guess the two cutoffs one at 20  
11 and one at 18, ran twice?

12 A. Yeah. Yes, sir.

13 Q. And then we skip to August 2, 2018, where you  
14 did a urine EtG that was negative, correct?

15 A. Yes, sir.

16 Q. There's no June 20, 2018 tests referred to in  
17 the Shults' reports?

18 A. Correct. Not right there yes -- yes, I  
19 understand, yes. I's not referred to there.

20 MR. KASSIN: Okay. Let me ask the monitor from  
21 StoryCloud if they've gotten the company exhibits that  
22 we sent earlier.

23 REMOTE TECH: Mr. Kassin, we received 21 through  
24 25. We still haven't gotten 20. The someone should  
25 have emailed back to you to let you know.

1 THE ARBITRATOR: I think maybe perhaps 20, I'm  
2 looking at the email that I got just now. I think 20  
3 may not had been identified as an icon. If it's a  
4 letter from -- handwritten letter?

5 MR. KASSIN: Arbitrator Burdette, 20 should say,  
6 self test packet or something to that effect. Well, --  
7 we'll get that squared away before this is over. What  
8 --

9 MR. MORRIS: Yeah, I didn't receive that either.

10 MR. KASSIN: Yeah. What I'd like to do is have the  
11 monitor take us to Company Exhibit 21.

12 THE REPORTER: I'm sorry. Who said they didn't  
13 receive that either just now?

14 MR. MORRIS: That's Kevin Morris. I was just  
15 indicating I did not receive -- I haven't received 20  
16 either.

17 THE REPORTER: Okay. Thank you.

18 MR. KASSIN: So nobody's received Company Exhibit  
19 20 yet, but have you-all received Company Exhibit 21?

20 THE ARBITRATOR: Yes, 21, 23, 24, 25, I think.

21 MR. KASSIN: But not 22?

22 THE ARBITRATOR: What is 22?

23 MR. KASSIN: 22 is another -- it's a letter to the  
24 FAA dated May 29, 2018.

25 THE ARBITRATOR: Yeah. That's a handwritten letter

1 --

2 MR. KASSIN: Yes, sir.

3 THE ARBITRATOR: -- from Mike Danford? Yeah.

4 Okay. That's there, but it comes up not as an icon,  
5 but as the actual document itself on the email that was  
6 sent.

7 MR. KASSIN: I'm going to ask Chris if he could  
8 resend Company Exhibits 20 and then 22, and they should  
9 all be marked in sequence, like, Company Exhibit 20 and  
10 Company CX 26, 22. But for right now, if we could have  
11 the monitor pull up Company Exhibit 21?

12 REMOTE TECH: It's up.

13 (Company Exhibit 21 marked for identification)

14 BY MR. KASSIN:

15 Q. Okay. So Mr. Danford, this is a letter that  
16 you wrote to the FAA on October 24, 2018; is that  
17 correct?

18 A. Yes, sir.

19 MR. KASSIN: Did we lose somebody? Mr. Burdette,  
20 can we take a five-minute break and see if we can  
21 straighten out all these exhibits real fast?

22 THE ARBITRATOR: Sure.

23 MR. KASSIN: We will be sure we send them to  
24 everybody.

25 THE ARBITRATOR: Okay.

1 BY MR. KASSIN:

2 Q. And the question for Mr. Danford is: so this  
3 is a letter you wrote to the FAA back on October 24,  
4 2018, correct?

5 A. Yes, sir.

6 Q. I couldn't hear you, sir.

7 A. It's correct. Yes, sir.

8 Q. Okay. Thank you. And that was part of your  
9 application for the special issuance that you've been  
10 testifying to, correct?

11 A. Yes, sir. It is.

12 Q. Okay. And if I could get the monitor to go  
13 to the last paragraph in the first page. Right there.  
14 Stop. So that last paragraph says, "My life, other  
15 than a very significant and stressful career change,  
16 has remained awesome. I do wish to continue flying  
17 privately. We'd like to flight instruct and volunteer  
18 flying for the Experimental Aircraft Association, which  
19 requires commercial capability. The reason for seeking  
20 a higher class medical. That's what your letter to the  
21 FAA; is that correct?

22 A. That is correct.

23 Q. Okay. So you mentioned your flying for the  
24 sky diver club in Chattanooga, but you haven't done any  
25 flying for the EAA, have you?

1           A. I have not had an opportunity to. That is  
2 correct.

3           Q. And they have the volunteer flying that the  
4 EAA offers to pilots is something called their Young  
5 Eagle Program?

6           A. They do.

7           Q. And you're saying that that requires a  
8 first-class medical?

9           A. It requires a second class or higher.

10          Q. Okay. But you were applying for first-class  
11 and you told the FAA that volunteer flying through  
12 Experimental Aircraft Association requires commercial  
13 capability. The reason for seeking a higher class  
14 medical?

15          A. Yes.

16          Q. So what the FAA was hearing from you is that  
17 you wanted your medical certificate so you could fly  
18 privately, flight instruct, and do volunteer flying for  
19 the EAA, correct?

20          A. That is correct.

21          Q. Okay. You didn't say in there that you  
22 wanted to apply for a part 121 carrier, did you?

23          A. I did not.

24          Q. Okay.

25          A. A different part 121 carrier. I was not

1 intending on seeking -- seeking that, but I did ask for  
2 first class medical. I did not see a reason not to.

3 Q. But would you agree that it's different  
4 flying someone around in a small private airplane  
5 instead of a commercial jet carrying 300 passengers?

6 A. I do not see a difference. I operate both as  
7 safe as I can.

8 REMOTE TECH: Mr. Kassin, we do have 20 available  
9 now, just so you know.

10 Q. Thank you. I appreciate you working through  
11 that with us. Let's look up two paragraphs above that.  
12 That starts out, the one thing I do fear. And I'd like  
13 you to look at that last line of that paragraph. The  
14 last two sentences. "Therefore, I accepted the  
15 consequences and no longer work for Delta Airlines and  
16 do not wish to start over in part 121 flying, flying  
17 for another airline. Simply stated my recovery is more  
18 important." That's what you told the FAA, correct?

19 A. That is correct.

20 (Company Exhibit 22 marked for identification)

21 Q. Okay. And I'd like to now turn to Company  
22 Exhibit 22 and I would like to ask the monitor if you  
23 can -- have that one now. That's the handwritten  
24 letter. Mr. Danford, this is a letter from you to the  
25 FAA dated May 29, 2018, correct?

1 A. Yes, sir.

2 Q. And in there, you were asking for  
3 reconsideration. Considering additional testing I have  
4 performed to demonstrate invalidity of positive PEth  
5 test of 9th May, I will forward test results. Did you  
6 forward all your test results to the FAA?

7 A. I gave all of my test results to Dr. Tom  
8 Faulkner and he took care of any correspondence that I  
9 needed to do with the FAA.

10 Q. Yeah. I'd like you to look at Union Exhibit  
11 35, please. The monitor can pull that up. This is the  
12 Dr. Sager memorandum that you referred to earlier?

13 A. It is.

14 Q. Okay. If the monitor could take us to page 2  
15 of that exhibit, please. Okay. Yeah. So at the top  
16 of the page, Dr. Sager says "There is a test dated May  
17 1, 2018 which indicates that urine testing that was  
18 positive for EtG at 117 nanograms per milliliter".  
19 That's what the memo says, correct?

20 A. Yes, sir. Oh, yes. Yes, I see it.

21 Q. Okay. And then, Dr. Sager goes on to say  
22 "There was a lab test dated May 9th of 2018, which  
23 indicate the pilot had positive PEth test at 98  
24 nanograms per milliliter", correct?

25 A. Yes, sir.



1 Q. And then, he refers to a hair test that you  
2 did on May 15, 2018 which was negative for EtG,  
3 correct?

4 A. Yes, sir.

5 Q. Then, he says "There was a test dated May 15,  
6 2018 for PEth which was negative", correct?

7 A. Yes, sir.

8 Q. Then, he said, "There was a PEth test dated  
9 May 16, 2018, which was negative".

10 A. Yes, sir.

11 Q. Then, he said "There was a negative EtG test  
12 for urine collected on August 21, 2018", correct?

13 A. Yes, sir.

14 Q. He says "There's a negative EtG urine test  
15 collected on September 12, 2018", correct?

16 A. Yes, sir.

17 Q. Then, he says "There's a negative EtG test  
18 collected on October 5, 2018", correct?

19 A. Yes, sir.

20 Q. He makes no reference at all to your June 20  
21 of 2018 hair test, does he?

22 A. No, sir. Not there.

23 (Company Exhibit 23 marked for identification)

24 Q. If our monitor could bring up Company Exhibit  
25 23, which is the Dr. Lynn report of October of 2018.

1 So you saw Dr. Steven Lynn on October 11, 2018 for a  
2 re-evaluation in connection with your special issuance?

3 A. Yes, sir.

4 Q. And you told Dr. Lynn that you would like to  
5 get a Class 1 medical certificate so you could fly  
6 general or corporate aviation; is that correct?

7 A. Yes, sir.

8 Q. And so what Dr. Lynn understood is that you  
9 told him that you were applying for a Class 1 medical  
10 in hopes of flying general aviation, correct?

11 A. Well, I was just applying for a Class 1  
12 medical. I don't know if I characterized exactly what  
13 I was going to fly or not.

14 Q. But I mean, you told him that you were going  
15 to fly. You wanted to fly general or corporate  
16 aviation, right?

17 A. Oh, yes, sir.

18 Q. Okay. If the monitor can take us to page 3  
19 of that document, please. Just one second, please.  
20 Okay. Where it says "mental status exam" in the middle  
21 of that document, Dr. Lynn says that "He does have a  
22 tendency towards narcissistic defenses".

23 A. Sir-- sir, I cannot hear you.

24 Q. Okay. In the middle of that where it says  
25 "mental status exam".

1 A. Yes, sir.

2 Q. Dr. Lynn says that "He has a tendency towards  
3 narcissistic defenses". Do you see that?

4 A. Um, no, but that's what he always says. Oh,  
5 I see. Yes, sir. I have it, yes.

6 Q. Okay. Did he discuss that with you?

7 A. Not really. No, sir.

8 Q. Okay. Can we go down to the bottom of that  
9 page, page 3? That's the discussion area. One of the  
10 things Dr. Lynn says that he recommended that you  
11 settle on a sobriety date. Is that because you  
12 couldn't --

13 A. Yes.

14 Q. Is that because you couldn't tell him what  
15 your sobriety date was?

16 A. I don't remember exactly what day my last  
17 drink was. That is correct, sir.

18 Q. Okay. He also said in his letter that "you  
19 were not familiar with steps six and seven of the AA  
20 program"; is that correct?

21 A. That is correct.

22 Q. And he recommended that you talk with your  
23 sponsor about re-visiting steps six and seven?

24 A. I -- yes, sir.

25 Q. And that which focused on character defects

1 such as narcissism?

2 A. Okay, sir.

3 Q. Okay. Did you provide Dr. Lynn with a copy  
4 of your June 20th hair EtG test?

5 A. I didn't give him copies of any test, sir.

6 Q. Okay. Could you turn to Union Exhibit 63,  
7 please. And this document that you referred to earlier  
8 in your direct testimony and this was the comprehensive  
9 treatment summary of the Talbott Recovery Center?

10 (Union Exhibit 63 marked for identification)

11 A. Yes, sir.

12 Q. In the Dimension three, in the middle of  
13 treatment summary, the last sentence, statements made  
14 that he referring to you, "Also was recommended to a  
15 group called New Path where he learned more about his  
16 narcissistic and compulsive traits interact with the  
17 disease of alcoholism," correct?

18 A. Yes, sir.

19 Q. What have you learned about how your  
20 narcissistic and compulsive traits interact with the  
21 disease of alcoholism?

22 A. That was never brought up at New Path with me  
23 specifically. He talked a lot about lots of things  
24 with just different personality types and that kind of  
25 thing. It was group therapy like the rest of the

1 treatment there. I don't remember anything  
2 specifically about that.

3 Q. Okay. You've had some exchanges and emails  
4 with Dr. Faulkner about whether or not you would have  
5 your special issuance back in time for the originally  
6 scheduled January 2019 hearing date in this case?

7 A. I believe we did talk about that. Yes, sir.

8 Q. And it was important to you to have your  
9 special issuance back before you had the hearing in  
10 this case?

11 A. It was important for me to get my special  
12 issuance as quickly as I could. I started working on  
13 that immediately.

14 Q. And at what point did you realize that you  
15 did not have it back in time for the January 2019?

16 A. I was never not worried about having it in  
17 time. I was ready to proceed with my -- I did not --  
18 that -- the two were not related.

19 (Company Exhibit 25 marked for identification)

20 Q. Could I get the monitor to bring up Company  
21 Exhibit 25, please. This is an e-mail from you to Dr.  
22 Faulkner on Saturday, August 11th, 2018, correct?

23 A. Yes -- yes, sir.

24 Q. And your second sentence says, "I got fired  
25 last Wednesday." Arbitration is scheduled for sometime

1 in January. You think we might have a decision from  
2 the FAA by then, correct?

3 A. Yes, sir.

4 (Company Exhibit 24 marked for identification)

5 Q. Okay. If the monitor can bring up Company  
6 Exhibit 24, please. And I did this earlier. I was  
7 trying to keep all this in sequence. This is a  
8 psychiatric progress note and it's dated on August the  
9 10th, 2017, correct?

10 A. Yes, sir.

11 Q. And if you look towards the bottom of  
12 paragraph that starts out, I reviewed the results of  
13 his lab work with him. Second to the last sentence  
14 says, "I also made him aware of his personality profile  
15 and how his histrionic -- histrionic.

16 THE ARBITRATOR: Histrionic.

17 Q. Thank you. I actually need my glasses. "I  
18 also made aware of how his both personality profile and  
19 how histrionic compulsive and narcissistic trait  
20 interact with his disease of addiction. And he might  
21 benefit from being in the New Path program." That was  
22 Dr. Bedi; is that correct?

23 A. I believe that he wrote this. Yes, sir.

24 Q. And did he talk about how your narcissistic  
25 traits interact with the disease of alcoholism at all

1 with you?

2 A. No, not really.

3 Q. Okay.

4 A. Our meetings were extremely short and not  
5 specific.

6 Q. So did he not mention these concerns that he  
7 puts in this report about your narcissistic traits?

8 A. That is correct, sir.

9 Q. Okay. So between Dr. Bedi and Dr. Lynn,  
10 anybody else at Talbott, nobody stepped down and talked  
11 to you about how those traits interact with the disease  
12 of alcoholism?

13 A. Not with me specifically. They told every  
14 single pilot there the exact same thing. We all  
15 talked.

16 Q. Want to go back to when you found out about  
17 your positive PEth test result. You can take that  
18 down. You mentioned that you had a call with Dr.  
19 Harper on the Saturday after you got the test results  
20 back; is that correct?

21 A. No, sir. On Thursday, I thought I was going  
22 to get to speak with him on Saturday, but it was  
23 Thursday.

24 Q. It was Thursday. Okay. Thank you. What did  
25 he ask you or what did you tell him?

1           A. I told him that I wasn't drinking. That I  
2 couldn't go back to relapse treatment when I hadn't  
3 been drinking and I asked for help.

4           Q. Okay. And did he did he ask you any  
5 additional questions as you talked to him?

6           A. I can't remember any specifically, sir.

7           Q. Did he take time to listen to you as to your  
8 explanation as to why you didn't think that should be a  
9 positive PEth test?

10          A. I didn't have any explanation as to why other  
11 than I wasn't drinking, I -- I had no clue. That's why  
12 I was asking for help.

13          Q. His recommendation to you was that you should  
14 go to re-treatment, correct?

15          A. Just to save my job. Yes, sir.

16          Q. So let's talk about that for a second. You  
17 referenced something that Captain Harry Miller had  
18 said to you also. So you were hearing from Dr. Harper,  
19 you were hearing from Captain Miller that the best  
20 course of action for you was to go to re-treatment,  
21 correct?

22          A. No. They said to go to save my job.

23          Q. But they were telling you to go to  
24 re-treatment. I mean, that would save your job if you  
25 went to re-treatment. But they were telling you that



1 the best course of action was to go to re-treatment,  
2 correct?

3 MR. SEHAM: Objection.

4 A. No, sir. They told me to go to save my job.  
5 They never characterized it as the best thing to do.  
6 They said go to save your job.

7 Q. Where were they telling you to go?

8 A. Where?

9 Q. Yeah.

10 A. To MARR.

11 Q. Okay. And MARR would have been a course of  
12 re-treatment?

13 A. Yes.

14 Q. Okay. You testified about a brief  
15 discussion, sounds like you had with your ALPA rep at  
16 the appeal hearing. That was Scott Martin, correct?

17 A. Yes, sir.

18 Q. Did Scott Martin urge you to go to  
19 re-treatment?

20 A. He did not.

21 Q. Okay. Did you have discussions with the  
22 DEPAC chair, a Warren Mallory, Captain Warren Mallory?

23 A. I did.

24 Q. And did he urge you to go to re-treatment?

25 A. He said I needed to go to the save my job.

1 He said he was glad he went. Can I explain more?

2 Q. I'm sorry. I didn't hear what you said, sir.

3 A. Can I explain more about that discussion with  
4 Mr. Mallory?

5 Q. Please.

6 A. He said that he admitted to relapse and he  
7 was glad he didn't. I told him I did not relapse. He  
8 said, well congratulations, you might be the first  
9 person to ever get a false positive, but even so you  
10 need to go. He also told me even if I did not drink,  
11 that I should go.

12 Q. And did he also tell you that going into  
13 re-treatment was a requirement for Part 121 Air Carrier  
14 pilots in order to get back in the cockpit?

15 A. No.

16 Q. Okay. Do you know that re-treatment is a  
17 requirement for Part 121 Air Carrier pilots before they  
18 --

19 MR. SEHAM: Objection to form. Objection.

20 THE ARBITRATOR: What's the objection, Mr. Seham?

21 MR. SEHAM: Well, he -- he's asking him in the  
22 first instance that's not the case and the second  
23 instance, he's asking him legal questions that are best  
24 resolved by the system board. He's not an expert in  
25 FAR. He can only address the fact that he got his

1 special issuance without going to re-treatment.

2 THE ARBITRATOR: That's not the way I heard the  
3 question. I heard the question was, do you know that  
4 Part 121 would require you to go to treatment? Was  
5 that the question, Mr. Kassin?

6 MR. KASSIN: Yes, sir, it was.

7 THE ARBITRATOR: Okay. So the answer is do you  
8 know that or not?

9 THE WITNESS: I do not know that, sir.

10 THE ARBITRATOR: Okay. That's fine.

11 BY MR. KASSIN:

12 Q. Mr. Danford, if you didn't know that, why did  
13 you tell the FAA that you wanted a higher class medical  
14 certificate to do volunteer flying for the EAA?

15 A. I wanted a higher class medical so I could  
16 fly commercially.

17 Q. Well, you didn't say that. You said to the  
18 FAA that you wanted a higher class medical so you could  
19 do volunteer flying for the EAA and that was why you  
20 had to have a higher class medical.

21 A. It was required by the EAA to be able to fly  
22 commercially to fly Young Eagles.

23 Q. I mean, isn't it true that you can apply for  
24 the EAA with a third-class medical?

25 A. No, it is not true for Young Eagles at the

1 EAA's museum where they provide the gas and it was  
2 determined that in order to do that -- in fact, we had  
3 a couple of volunteer pilots had had to quit flying  
4 because they had a third-class medical and couldn't get  
5 a higher class medical.

6 Q. Okay. But at the end of the day you've never  
7 flown for the EAA?

8 A. Yes, I have.

9 Q. I had asked you that earlier and you said you  
10 had not?

11 A. No, not since then. But I had planned to and  
12 I've not had an opportunity to go up there and do that.

13 Q. I got it --

14 A. They were paused all last season for COVID.

15 Q. But --

16 A. But I did apply for them. I got 100s of  
17 Young Eagle flights for them out of Pioneer field and  
18 where it required a higher class medical.

19 Q. We're talking about the period of time after  
20 you got your special issuance back from the FAA to now,  
21 and my understanding of your testimony and you can  
22 correct me, is that you've not flown for them since  
23 that period of time?

24 A. That is correct. I have not -- I've not had  
25 the opportunity.

1 Q. Okay. Let's talk about your discussions with  
2 Captain Harry Miller. So the first discussion was  
3 right after you got your positive PEth test; is that  
4 correct?

5 A. Yes, sir.

6 Q. And you've told us about that. Did you have  
7 an opportunity to explain to Captain Miller why you  
8 didn't think you should have a positive PEth test?

9 A. I had no reason why I didn't -- why it was  
10 positive. I did not know why. I told him I just  
11 hadn't been drinking. Something must be wrong.

12 Q. And how many discussions did you have with  
13 Captain Miller between the time of your positive PEth  
14 test until you got the notice of intent to terminate in  
15 July?

16 A. Two or three. Maybe more, but I -- I had him  
17 on my phone and I talked to him several times. I -- I  
18 don't recall the precise number.

19 Q. And could you tell us what he was telling you  
20 in those phone calls?

21 A. Always told me I needed to go to treatment  
22 just to save my job and that I could fight this battle  
23 I'm having now from treatment.

24 Q. Okay. So why did you think that was not a  
25 good course of action?

1           A. Because I have been through a treatment  
2 facility and you can't fight anything from there.  
3 You're not allowed to have a cell phone. And -- and I  
4 didn't relapse. I did not need to be there when  
5 someone else might, like Warren. Warren's discussions  
6 with me led me to believe that those beds are very  
7 important for people that need to be there, not for  
8 someone who hasn't relapsed or just to save a job, make  
9 it easier for me to fight this.

10           Q. Were you unwilling to sell it -- to sign the  
11 Contract B, basically, the last chance agreement?

12           A. Not when I had not relapsed. No, sir. I'm  
13 not willing to sign that.

14           Q. So your answer is you're not -- you were not  
15 willing to sign the Contract B, correct?

16           A. I was not willing to go to treatment and sign  
17 that. That is correct.

18           Q. Okay. You went into some detail about your  
19 experience at the Talbott Recovery Center and your  
20 roommate. Did you tell Captain Miller at all about  
21 your experience with your roommate?

22           A. I did not. Can I explain?

23           Q. Sure.

24           A. I did not tell him or anybody else much about  
25 that because I deserved to be there the first time. I

1 did not deserve that when I had not drank. Did not  
2 intend to -- expose myself to that again, for no good  
3 reason.

4 Q. So if you wanted to correct that situation,  
5 did you not recognize that Captain Miller could  
6 intervene and help you?

7 A. No, sir. I tried with the people and -- that  
8 directly cared for me and was unsuccessful. I thought  
9 there were -- had ways to resolve it than to go to the  
10 company.

11 Q. Okay. So and when you had your appeal  
12 hearing with Captain Graham and Captain Burns on July  
13 30th, 2018, you did not share with them what your  
14 experience had been with the roommate at TRC?

15 A. He did not ask. I did not answer that  
16 question. I told him I had not been drinking.

17 Q. Okay. But if it's important enough to tell  
18 the arbitrator about it, why wasn't it important enough  
19 to tell Captain Graham and Captain Burns?

20 A. Because to help reinforce the notion that  
21 there's no reason to go to treatment just to save a  
22 job. If I needed that because I was sick and they  
23 could help, I'd put up with it again. I did not drink.  
24 I was not sick. I did not need re-treatment treatment.

25 Q. But I'm still not understanding. I mean,

1 it's okay for you to tell the arbitrator and the board  
2 members, and that's your right to do that. There's no  
3 issue with that. But why wouldn't you have told  
4 Captain Graham and Captain Burns when you had that  
5 opportunity to just to fully talk about your case?

6 A. I was fully talking about the fact that I  
7 hadn't drink and that didn't have anything to do with  
8 the fact that I didn't drink.

9 Q. Okay. You went into some detail about your  
10 experience at the collection site for the May 9, 2018  
11 PEth test. And then you referred to some of the  
12 information that was on the website for US Drug Testing  
13 Lab. And I think those were -- one of those was Union  
14 Exhibit 11, I believe. The other exhibit was that you  
15 referred to might have been Union Exhibit 68. I don't  
16 need to refer to those, but in Union Exhibit 69 -- so  
17 there were several things that you went into about  
18 collection on your PEth test. Did you take the time to  
19 tell Captain Graham and Captain Burns about those  
20 collection issues?

21 (Union Exhibit 69 marked for identification)

22 A. I did not.

23 Q. Why not?

24 A. I did not know there were problems at that  
25 time.



1 Q. You did your research. You said you did the  
2 research right after you got that positive PEth result  
3 on your May 9th test. So you had that information in  
4 your possession at the time of the July 30th appeal  
5 hearing, correct?

6 A. I -- I had seen those documents by then. I  
7 did not know it was very important.

8 MR. KASSIN: Can I have like 10 minutes? I think  
9 I'm almost done. And I just want to pose out a couple  
10 of questions here internally and then we'll come back  
11 in about 10 minutes.

12 THE ARBITRATOR: Go off the record for 10 minutes  
13 and be back at 5:24? Oh, wait, sorry. It's 3:25. It  
14 will be 3:25 Central Time and 4:25 Eastern time, sorry.

15 MR. KASSIN: Yes, sir. Thank you.

16 (OFF THE RECORD)

17 THE ARBITRATOR: All right. On the record then,  
18 Mr. Kassin.

19 BY MR. KASSIN:

20 Q. Yes, sir. Only a couple of questions to Mr.  
21 Danford. The roommate that you mentioned at TRC, when  
22 did he first become your roommate?

23 A. Probably the second or third week. Second  
24 week.

25 Q. Okay. And then was he there with you for the

1 duration?

2 A. From when he showed up till I left so not the  
3 whole time. I -- maybe there for the first week,  
4 week-and-a-half, two weeks, something like that.

5 Q. Okay. On that June 20th hair test that we've  
6 been talking about from June 22, 2018. Isn't it true  
7 that you've never showed that to Dr. Faulkner?

8 A. I did show that to Tom Faulkner.

9 MR. KASSIN: Okay. Arbitrator Burdette, that's all  
10 we have for cross.

11 THE ARBITRATOR: Thank you very much. Mr. Seham,  
12 would you have any redirect?

13 MR. SEHAM: No. Arbitrator Burdette, no redirect.

14 THE ARBITRATOR: Okay. Very good. Then Mr.  
15 Danford, you may be excused. Thank you very much.

16 THE WITNESS: Thank you, sir.

17 THE ARBITRATOR: We have another witness, Mr.  
18 Seham?

19 MR. SEHAM: No. Per our prior communications, we  
20 just had the two witnesses today. Our last witness is  
21 Ted Shults who I think he's available at 9:30 Eastern  
22 tomorrow or 8:30 your time unless you wanted to start  
23 later.

24 THE ARBITRATOR: That's fine.

25 MR. KASSIN: Arbitrator Burdette. Could we start

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1 at 10:00 am Eastern? Would that work and 9:00 a.m.  
2 Central?

3 THE ARBITRATOR: Works for me, but it's fine.

4 MR. KASSIN: Mr. Seham?

5 MR. SEHAM: Yeah. I just -- this is a -- let me be  
6 frank. This is a very expensive witness. I would  
7 agree to that as a courtesy, but with the expectation  
8 that we complete direct and cross tomorrow.

9 MR. KASSIN: Oh, absolutely. Absolutely.

10 THE ARBITRATOR: Okay. Then I guess we're going to  
11 adjourn until 9:00 a.m. Central, 10:00 a.m. Eastern  
12 time tomorrow.

13 MR. KASSIN: Okay.

14 MR. SEHAM: Thank you very much.

15 THE ARBITRATOR: Thank you. See you tomorrow.

16 MR. KASSIN: Goodbye.

17 THE ARBITRATOR: Bye-bye.

18 (Whereupon the proceeding concluded.)

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REPORTER CERTIFICATE

I, CANDICE GREEN, hereby certify that the foregoing proceedings were recorded by audio by me, a disinterested person, and that the proceedings were thereafter transcribed to typewriting, by computer;

That I am neither attorney for nor a relative or employee of any of the parties to the action; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this December 1, 2020.

  
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CANDICE GREEN  
STORYCLOUD

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SCOPIST CERTIFICATE

I, the undersigned, do hereby affirm:

That the foregoing electronically-recorded proceedings were scoped by me to the best of my ability.

I further affirm I am neither certified or financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: December 16, 2020

*Stephanie Morano*  
\_\_\_\_\_  
STEPHANIE MORANO

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